

RULE PROPOSALS

INTERESTED PERSONS

The Department of Corrections provides notices of rule proposals in the New Jersey Register (N.J.R.), a semi-monthly official publication of the Office of Administrative Law which contains all State agency rule proposals and adoptions. The following paragraph is quoted from the Proposal section of the New Jersey Register:

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CORRECTIONS

THE COMMISSIONER

Tenure; Teachers and Other Certified Professional Educators

Proposed Readoption with Amendments: N.J.A.C. 10A:15

Authorized By: Gary M. Lanigan, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-121.

Submit written comments by September 1, 2017, to:

Kathleen Cullen
Administrative Rules Unit
Office of the Commissioner
New Jersey Department of Corrections
PO Box 863
Trenton, NJ 08625-0863
or via e-mail: ARU@doc.nj.gov

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:15 was scheduled to expire on January 10, 2018. Pursuant to N.J.S.A. 52:14B-5.1.c(2), as the Department of Corrections (Department) submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter expiration date was extended 180 days to July 9, 2018. The Department has reviewed these rules and, with the exception of the amendments proposed herein, has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules are, therefore, proposed for re adoption at this time.

The Department proposes to re adopt the rules at N.J.A.C. 10A:15 with amendments intended to update the rules to reflect changes in day-to-day application of the rules and changes to eligibility to earn tenure.

Subchapter 1, General Provisions, sets forth the applicability of tenure on teachers and other certified professional educators of the Department of Corrections in accord with N.J.S.A. 18A:60-1 et seq. The Department proposes to update the definition of "Director, Office of

Educational Services" in N.J.A.C. 10A:15-1.3 in order to delete the words "and recreational services" to reflect current functions and practice.

Subchapter 2, Tenure, sets forth rules for practical application of tenure on Department of Corrections employees. The Department proposes to readopt the rules in this subchapter with amendments to eligibility to earn tenure in accordance with N.J.S.A. 18A:6-117 and 118 and 18A:28-5. In order to reflect the tenure eligibility changes, the Department proposes to change the words "three consecutive years" to "four consecutive years and one day" at N.J.A.C. 10A:15-2.2(a) and to add new N.J.A.C. 10A:15-2.2(a)1, which sets forth the rules from N.J.S.A. 18A:6-117 and 118 and 18A:28-5 on eligibility to earn tenure before and after August 6, 2012, when the tenure rule was changed. At N.J.A.C. 10A:15-2.3(c)1, the Department proposes to modify the number of observations conducted for evaluation purposes from one to two to reflect current practice.

The Department of Corrections has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

Social Impact

The rules proposed for readoption with amendments benefit all employees of the Department of Corrections who are certified by the New Jersey Department of Education as teachers or other professional educators. The rules proposed for readoption with amendments continue to provide employees and supervisory personnel with guidelines to follow regarding implementation of tenure rights granted by the Legislature through N.J.S.A. 18A:60-1 et seq. These employees are granted the right to continuation of employment, subject to dismissal for cause. Further, the rules proposed for readoption with amendments establish procedures regarding

tenure rights of educational staff employed by the Department as teachers and other certified professional educators, and enable the Department of Corrections to provide consistent professional educational services to the adult offenders within its facilities, by attracting and maintaining a high quality professional staff.

Economic Impact

Additional funding is not necessary to implement the requirements of the rules proposed for readoption with amendments. The cost of meeting and maintaining the requirements of the rules proposed for readoption with amendments is met by the Department through the established budget with funds allocated by the State.

Federal Standards Statement

The rules proposed for readoption with amendments are promulgated under the authority of the rulemaking requirements of the Department of Corrections as established at N.J.S.A. 30:1B-6 and 30:1B-10. The rules proposed for readoption with amendments are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

Jobs Impact

The Department of Corrections does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption with amendments.

Agriculture Industry Impact

The rules proposed for readoption with amendments shall have no impact on the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments will impose no reporting,

recordkeeping, or other compliance requirements upon small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments affect teachers and other certified professional educators who are employed by the Department of Corrections and certified by the Department of Education. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on housing affordability. The rules proposed for readoption with amendments establish provisions for the tenure of teachers and other certified professional educators. As such, this rulemaking affects the New Jersey Department of Corrections and governmental entities responsible for the enforcement of the rules and would not invoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on smart growth development and would not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The rules proposed for readoption concern the tenure of teachers and other certified professional educators in the New Jersey Department of Corrections and governmental entities responsible for the enforcement of the rules.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:15.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

10A:15-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Director, Office of Educational Services" means the Director of Educational Services in the New Jersey Department of Corrections who supervises the educational programs[,] **and** library services [and recreational activities] in all adult correctional facilities operated by the Department (see N.J.S.A. 18A:7B-8).

...

SUBCHAPTER 2. TENURE

10A:15-2.2 Eligibility

(a) Those individuals who meet the requirements set forth at N.J.A.C. 10A:15-1.2 shall be eligible for tenure **as follows:**

1. For teaching staff hired prior to August 6, 2012, after the expiration of continuous employment for three consecutive years in tenure eligible assignments with satisfactory evaluations within the scope of a specific standard certificate[.]; **and**

2. For teaching staff hired on or after August 6, 2012, in accordance with N.J.S.A. 18A:6-117 and 118 and 18A:28-5, after the expiration of continuous employment for **four years and one day, consecutively in tenure eligible assignments with satisfactory evaluations within the scope of a specific standard certificate.**

(b) - (c) (No change.)

10A:15-2.3 Appropriate performance assessments

(a) - (b) (No change.)

(c) For the purposes of evaluation of tenured teachers and other tenured certified professional educators, the annual performance assessment shall consist of a minimum of:

1. [One] **Two** observations;

2. - 3. (No change.)

(d) - (f) (No change.)