

RULE PROPOSALS

INTERESTED PERSONS

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 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.

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Equal Employment Opportunity and Affirmative Action

Proposed Amendment: N.J.A.C. 4A:7-3.1

Authorized By: Civil Service Commission, Allison Chris Myers, Chairperson.

Authority: N.J.S.A. 11A:2-6.d and 11A:7-1 et seq.

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

Proposal Number: PRN 2025-162.

A **public hearing** concerning the proposed amendment will be held on: January 14, 2026, at 10:00 A.M.
Civil Service Commission Room
44 South Clinton Avenue
Trenton, New Jersey 08609

Please call Erika Barash at (609) 690-8049 if you wish to be included on the list of speakers.

Submit written comments by February 13, 2026, to:

Nicholas F. Angiulo, Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
PO Box 312
Trenton, New Jersey 08625-0312
Rule.comments@csc.nj.gov

The agency proposal follows:

Summary

N.J.A.C. 4A:7 provides policies and procedures related to equal employment opportunity and affirmative action, the Division of Equal Employment Opportunity and Affirmative Action (EEO/AA), and the State Policy Prohibiting Discrimination in the Workplace.

N.J.A.C. 4A:7-3 sets forth the policy prohibiting discrimination in the workplace and procedures for complaints and appeals. N.J.A.C. 4A:7-3.1, State Policy Prohibiting Discrimination in the Workplace (State Policy), articulates the State Policy, which includes a confidentiality provision. It is proposed that the confidentiality provision at N.J.A.C. 4A:7-3.1(j) be amended.

N.J.A.C. 4A:7-3.1(j) currently provides that “[a]ll complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigative process. In the course of an investigation, it may be necessary to discuss the claims with the person(s)

against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter. In order to protect the integrity of the investigation, minimize the risk of retaliation against the individuals participating in the investigative process, and protect the important privacy interests of all concerned, the EEO/AA Officer/investigator shall request that all persons interviewed, including witnesses, not discuss any aspect of the investigation with others, unless there is a legitimate business reason to disclose such information.” In *In the Matter of Viktoriya Usachenok v. Department of the Treasury (Usachenok)*, 257 N.J. 184 (2024), the New Jersey Supreme Court struck down the last sentence of N.J.A.C. 4A:7-3.1(j), finding that it was overbroad pursuant to the State Constitution. The Supreme Court noted that N.J.A.C. 4A:7-3.1(j) seeks to advance legitimate interests that include “to protect the integrity of the investigation, minimize the risk of retaliation ... and protect the important privacy interests of all concerned.” However, it found that the regulation reaches too far to achieve those aims and chills protected speech pursuant to the free speech clause of the State Constitution. Therefore, the Supreme Court struck down the last sentence at N.J.A.C. 4A:7-3.1(j).

Accordingly, in compliance with the Supreme Court’s opinion, the Civil Service Commission (Commission) proposes that N.J.A.C. 4A:7-3.1(j) be amended by deleting the last sentence. The Commission further proposes that the remaining provisions of subsection (j) be reordered with technical amendments for clarity. A technical amendment is proposed to highlight the potential need for the EEO/AA Officer or investigator(s), specifically, to discuss the claim(s) at issue with relevant persons. This amendment also makes clear who will be making contact during the investigation of the claim(s) at issue. Finally, the Commission proposes that the remaining existing language regarding confidentiality be retained, but relocated to the end of subsection (j). It is the opinion of the Commission that these amendments would, consistent with the *Usachenok* Court’s decision, reasonably advance the State’s legitimate interest in maintaining confidentiality in the subject investigative process, while adhering to the limits of the State Constitution’s free speech clause.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments at N.J.A.C. 4A:7-3.1 are expected to have a positive social impact by maintaining the confidentiality of the investigative process without chilling free speech.

Economic Impact

No economic impact is expected from the proposed amendments.

Federal Standards Statement

The proposed amendments are not subject to any Federal requirements or standards. Therefore, a Federal standards analysis is not necessary.

Jobs Impact

It is not anticipated that any jobs will be generated or lost if the proposed amendments are adopted. The proposed amendments concern the existing procedures for internal complaints alleging discrimination in a State agency workplace.

Agriculture Industry Impact

The proposed amendments concern the existing procedures for internal complaints alleging discrimination in a State agency workplace and, therefore, will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed amendments will have no effect on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules will regulate employment in the public sector.

Housing Affordability Impact Analysis

As the proposed amendments concern procedures for internal complaints alleging discrimination in a State agency workplace, they would have no impact on the average cost of housing in New Jersey or on the affordability of housing.

Smart Growth Development Impact Analysis

As the proposed amendments concern procedures for internal complaints alleging discrimination in a State agency workplace, they would have no impact on smart growth or on new construction within Planning Areas 1 and 2, or within designated centers, pursuant to the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 3. POLICY PROHIBITING DISCRIMINATION IN THE WORKPLACE; COMPLAINT PROCEDURES AND APPEALS

4A:7-3.1 State Policy Prohibiting Discrimination in the Workplace (State Policy)

(a)-(i) (No change.)

(j) All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. [To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigative process. In] **However, in** the course of an investigation, it may be necessary **for the EEO/AA Officer or investigator(s)** to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter. [In order to protect the integrity of the investigation, minimize the risk of retaliation against the individuals participating in the investigative process, and protect the important privacy interests of all concerned, the EEO/AA Officer/investigator shall request that all persons interviewed, including witnesses, not discuss any aspect of the investigation with others, unless there is a legitimate business reason to disclose such information.] **To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigative process.**

(k)-(l) (No change.)

EDUCATION

(a)

STATE BOARD OF EDUCATION

State Board of Examiners and Certification

Proposed Amendments: N.J.A.C. 6A:9B-7.5, 14.3, and 14.4

Authorized By: New Jersey State Board of Education, Kevin Dehmer, Commissioner, Department of Education, Secretary, State Board of Education.

Authority: N.J.S.A. 18A:4-15 and 18A:40-3.6, 3.7, 3.8, and 3.9; and N.J.A.C. 1:30-4.2(a)3.

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

Proposal Number: PRN 2025-161.

Submit written comments by February 13, 2026, to:

Jorden Schiff, Assistant Commissioner
Division of Teaching and Learning Services
New Jersey Department of Education
PO Box 500
Trenton, New Jersey 08625-0500
Email: chapter9b@doe.nj.gov

The agency proposal follows:

Summary

The Department of Education (Department) proposes to amend N.J.A.C. 6A:9B, State Board of Examiners and Certification, to expand the type of professional nurse licenses that candidates must hold to be eligible for the school nurse or school nurse/non-instructional endorsements and the substitute school nurse/non-instructional credential. Specifically, the Department proposes to amend N.J.A.C. 6A:9B-7.5, 14.3, and 14.4 to add a valid multistate registered professional nurse license issued by the licensing board of a state that is a member of the Nurse Licensure Compact (NLC) as an option for the required professional license.

The proposed amendments are the result of a petition for rulemaking submitted by Rosemary Catton, R.N., Executive Director of the New Jersey State School Nurses Association. The petitioner requested amendments at N.J.A.C. 6A:9B-7.5 and 14.3 to allow holders of a multistate registered professional nurse license issued by a state board of nursing that participates in the NLC to qualify for a substitute school nurse/non-instructional credential or an educational services certificate with a school nurse endorsement. The petitioner indicated that the NLC allows nurses with a license in one state to practice in other participating states without needing a separate license in each state. New Jersey joined the NLC on November 15, 2021.

In accordance with N.J.S.A. 18A:26-2.3, the Department sought the assistance of the New Jersey State Board of Nursing to discuss the petition, as well as the policies and process related to the multistate registered professional nurse license. The New Jersey Board of Nursing advised the Department that standards for nurse licensure must be uniform across NLC member states. As an NLC member state, New Jersey fully recognizes a multistate nursing license issued by another NLC member state; therefore, any holder of a multistate license is permitted to serve as a registered professional nurse in New Jersey. The New Jersey Board of Nursing also confirmed that the NLC has a discipline reporting process that can result in an encumbrance on a multistate license or deactivation. The Department will be able to use the publicly available national nurse licensure verification system—Nursys.com—to verify a candidate's multistate license and whether the candidate's license is encumbered and/or deactivated.

After further deliberations and discussing the petition with the New Jersey State Board of Nursing, the Department, on September 22, 2025, granted the petitioner's request with changes (see 57 N.J.R. 2452(a)). Pursuant to the rules governing petitions for rulemaking at N.J.A.C. 1:30-4.2(a)3, the Department is required to initiate a rulemaking to effectuate the approved request within 90 days of approving a petition.