

ii. All weather radial or snow tires from November 15 through April 1; and

iii. A removable, moisture-free, and dust-proof first-aid kit, which shall be located in the vehicle and fastened to the vehicle structure if located in the passenger compartment.

(d) The program or agency shall ensure that the following safety practices are followed:

1. A staff person is always present when a child or adolescent is in the vehicle;

2. All passengers who are eight years of age and older or weigh 80 pounds or more are secured in an operable seat belt or car seat while the vehicle is in motion;

3. All passengers, who are under eight years of age and weigh less than 80 pounds are secured in car seats (child passenger restraint systems) that meet Federal motor vehicle safety standards in accordance with the provisions of the New Jersey Motor Vehicles Law, pursuant to N.J.S.A. 39:3-76.2a;

4. All adolescent and children enter and exit from the curbside of the vehicle;

5. Children are not permitted to ride in the backs or beds of trucks; and

6. Children and staff members are not permitted to smoke tobacco products or use smokeless tobacco in the vehicle.

(e) When transporting more than six children below six years of age, the program or agency shall ensure that one adult in addition to the driver remains in the vehicle.

(f) The program or agency shall maintain transportation records, as specified at N.J.A.C. 3A:58-3.11(b).

(g) If the program utilizes a Type I School Bus, Type II School Bus, or a Type S School Vehicle, the program shall:

1. Meet all appropriate Motor Vehicle Commission (MVC) rules, Department of Education rules, and/or Department of Children and Families rules; and

2. Ensure that the drivers of such vehicles possess a valid Commercial Driver License (CDL) in at least Class B or Class C, with passenger endorsement, as required by the MVC for the gross vehicle weight rating (GVWR) of the vehicle or an out-of-State equivalent license, as approved by the MVC.

(h) Youth and adults served by the same agency shall have no contact with each other during program time or while being transported by program staff or in program-furnished vehicles.

3A:58-7.2 Vehicle insurance requirements

(a) The program or agency shall maintain vehicle liability insurance for bodily injury or death in minimum amounts of \$250,000 per person and \$500,000 per accident for every vehicle that is:

1. Owned or leased by the program or agency; and
2. Utilized to transport children served in the program.

(b) If the program or agency contracts transportation services, the program shall ensure that the company maintains insurance coverage as set forth at (a) above.

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Licensure of Certain Local Government Officers

Proposed Amendments: N.J.A.C. 5:32-1.1, 2.5, 2.6, 4.2, 4.4, and 5.3

Proposed New Rule: N.J.A.C. 5:32-1.2

Authorized By: Jacquelyn A. Suárez, Director, Division of Local Government Services.

Authority: N.J.S.A. 40A:9-28.7, 40A:9-133.11, 40A:9-140.16, 40A:9-145.3.c, 40A:11-9.i, and 52:27D-18.5.

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

Proposal Number: PRN 2022-024.

Please submit written comments on the proposal by April 23, 2022, via email to dllgs@dca.nj.gov or by regular mail to:

Jason R. Martucci, Esq.
Administrative Practice Officer
Division of Local Government Services
Department of Community Affairs
PO Box 803
Trenton, NJ 08625-0803

For comments submitted via email, please name the subject heading "Rule Proposal–N.J.A.C. 5:32."

The agency proposal follows:

Summary

The Director of the Division of Local Government Services (Division) is responsible for the process of certifying municipal and county chief financial officers, municipal tax collectors, municipal clerks, qualified purchasing agents, and certified public works managers. The rules at Chapter 32 address coursework, examination, certification, continuing education, and certification renewal requirements for all licensed officials save for certified municipal public works managers. Also addressed are requirements for reappointment of a temporary chief financial officer, temporary qualified purchasing agent, or acting municipal clerk, as well as the appointment and reappointment of a private entity to temporarily perform the duties of a chief financial officer. As used in this rulemaking, the terms license and certification are interchangeable.

At the Director's discretion, and as staffing permits, N.J.A.C. 5:32-1.1 allows licensure of applicants who failed to pass the examination to review the exam under the supervision of a Division representative. The effects of the COVID-19 pandemic have required the Division to hold examination reviews in a group setting at a location other than the Division's offices. This arrangement has enabled the Division to schedule examination reviews more efficiently and, thus, better allocate the time of certification staff. Proposed amendments at N.J.A.C. 5:32-1.1(b) would codify the Division's ability to offer examination reviews in a group setting, and at an off-site location, outside of the COVID-19 pandemic. N.J.A.C. 5:32-1.1(a) would also be amended to encompass applicants for certified public works manager examination.

N.J.S.A. 52:27D-18.5 extended, by one year, the certification renewal periods for municipal and county finance officers, tax collectors, registered municipal clerks, qualified purchasing agents, certified public works managers, and tax assessors, that were in effect as of the May 15, 2020, signing of P.L. 2020, c. 34, exclusive of any grace periods or extensions that may be granted by statute. Proposed new N.J.A.C. 5:32-1.2 would allow an individual holding a Division-issued license or certificate to carry over continuing education contact hours to the next following renewal period during the term in which the expiration date of the applicant's license or certificate was extended pursuant to P.L. 2020, c. 34. Following procedures established by the Director, the applicant could, during the time when the ordinary statutory period of the license or certificate was extended, carry over to the next licensure renewal period a number of earned continuing education contact hours not to exceed 50 percent of the total number of credits required to renew the individual's license or certificate. With the proposed addition of N.J.A.C. 5:32-1.2, the Division would also change the heading of Subchapter 1 from "Examination Reviews" to "General Provisions."

For qualified purchasing agent certificate renewal cycles commencing on or after the effective date of this rulemaking, proposed amendments at N.J.A.C. 5:32-4.2(a)1, 2, and 3 would increase from 20 hours to 25 hours, the total number of continuing education contact hours that an individual must earn to maintain qualified purchasing agent certification. The minimum number of contact hours that a qualified purchasing agent must achieve in the required subject area of procurement procedures would also be increased to five hours from the current two hours. The Division has determined that the above-referenced increases will reinforce and advance the knowledge and skills of qualified purchasing agents with respect to their core duties, as well as increase the awareness of new developments in the law governing public procurement. However, notwithstanding the

increase in minimum contact hours for the procurement procedures subject area, if an applicant earns at least 25 continuing education contact hours within the renewal period, but has not achieved the minimum number of contact hours in the procurement procedures subject area, the Director continues to retain the discretion to waive the required minimum upon application and good cause shown, provided that the applicant has earned at least one contact hour in the procurement procedures subject area.

After a licensed chief municipal finance officer vacates the position, N.J.S.A. 40A:9-140.13f permits a municipality to appoint an individual without a chief municipal finance officer license to serve as a temporary chief financial officer for up to one year. The municipality may, with Director approval, reappoint a temporary chief financial officer for no more than two consecutive one-year terms. The Division proposes amending N.J.A.C. 5:32-2.5(a) to clarify that the Director may approve a municipality's application to appoint a different unlicensed individual to serve as a temporary chief financial officer for the second or third one-year term. In the absence of a chief financial officer, N.J.S.A. 40A:9-140.10.b also allows a municipality to seek Director approval to appoint a private entity to temporarily perform the duties of a chief financial officer for no more than two consecutive one-year terms. N.J.A.C. 5:32-2.5 currently only permits a private entity to fulfill the duties of a chief financial officer after a licensed chief municipal finance officer vacates the position. The Director proposes adding new N.J.A.C. 5:32-2.5(c) to permit a municipality to seek Director approval for appointing a private entity if a temporary chief financial officer vacates the position. If a temporary chief financial officer is not appointed or reappointed in the year next following the initial appointment of a temporary chief financial officer, no private entity may perform chief financial officer duties for more than two consecutive one-year terms. In the event a temporary chief financial officer is not appointed or reappointed for a third one-year term, a private entity may be appointed but for no more than one year. Upon conclusion of the three-year period, a municipality must either appoint a licensed chief municipal finance officer or enter into a shared services agreement with one or more municipalities to share a chief financial officer.

A government entity subject to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., has a statutory maximum bid threshold of \$17,500, while the Public School Contracts Law (N.J.S.A. 18A:18A-1 et seq.) establishes a maximum bid threshold for boards of education that the State Treasurer adjusts every five years (last increased to \$32,000 effective July 1, 2020). N.J.S.A. 18A:18A-3 and 40A:11-3 authorize a board of education or local government, respectively, to increase their maximum bid threshold beyond these amounts if the entity's governing body appoints an individual with a qualified purchasing agent certificate to administer the entity's procurement functions. As of July 1, 2020, the maximum bid threshold for local governments or boards of education who have a qualified purchasing agent in charge of their purchasing is \$44,000, an amount adjusted every five years by the State Treasurer.

After an individual with a qualified purchasing agent certificate vacates the purchasing agent position, a government entity subject to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., or the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq., may appoint an individual without a qualified purchasing agent certificate to administer its procurement functions as a "temporary purchasing agent" for up to one year, with the reappointment of a temporary purchasing agent for a second and final one-year term subject to Director approval. An entity with a temporary purchasing agent may maintain the increased bid threshold, currently up to \$44,000, notwithstanding the lack of a qualified purchasing agent certification. The proposed amendment at N.J.A.C. 5:32-4.4(a) would clarify that a different unlicensed individual may be approved by the Director to serve as temporary purchasing agent for the second and final one-year term. N.J.A.C. 5:32-4.4(b) would also be amended to require a local government or board of education that appoints a purchasing agent with a qualified purchasing agent certificate to notify its auditor whenever such an individual vacates their purchasing agent position. Such notification will enable the entity's auditor to more easily confirm whether the proper bid threshold was observed in the procurement process. Further language changes are proposed at subsection (b) to restate, in more explicit language, the current

requirements for governing body appointment of a temporary purchasing agent and the bid thresholds applicable to local governments and boards of education.

Finally, the Director proposes amending N.J.A.C. 5:32-2.6(a) and 5.3(a) to clarify that a different unlicensed individual may be approved by the Director to serve as a temporary chief financial officer for a county for a second consecutive one-year term and as an acting municipal clerk for a second or third consecutive one-year term.

As the Division 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 will maintain the positive social impact of the rules governing licensure of key local government positions while increasing flexibility in limited areas. Allowing the carry-over of a portion of credits earned during the continuing education term extended due to COVID-19 at P.L. 2020, c. 34 will further incentivize officials licensed by the Division of Local Government Services to continue burnishing their skills through continued learning. For qualified purchasing agents, increasing the required continuing education contact hours during a three-year period from 20 to 25, and increasing the minimum number of hours for the category of procurement procedures from two to five, will further reinforce the knowledge and skills of these licensed officials' and help ensure local government entity compliance with public procurement law. Requiring a local government entity to notify their auditor if a qualified purchasing agent vacates their position will enhance transparency and help ensure the auditor can verify that the entity is observing the bid threshold required under the Local Public Contracts Law or the Public School Contracts Law.

Economic Impact

The proposed amendments pertain to licensure of various key local government positions by the Division of Local Government Services and appointment of certain unlicensed individuals to provisionally fill said positions. The Division's substantial oversight is critical to ensuring the overall fiscal and operational integrity of local government. There may be additional costs for qualified purchasing agents attributable to registration fees for additional mandatory continuing education credits; however, continuing education courses are sometimes offered free of charge.

Local governments receive a positive economic benefit from the implementation of measures allowing additional flexibility for temporary appointments, particularly where there may be a shortage of potential licensed candidates; thereby granting the local government both additional time to find a satisfactory candidate and added leverage when negotiating the level of compensation for a licensed official.

Federal Standards Statement

No Federal standards analysis is required because the proposed amendments are not proposed to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The proposed amendments, which pertain to certain local government officials licensed by the Division of Local Government Services in the New Jersey Department of Community Affairs, and temporary appointments to licensed positions, are not anticipated to have an impact on jobs.

Agriculture Industry Impact

The proposed amendments will not have an impact on the agriculture industry, as they pertain to certain local government positions licensed by the Division of Local Government Services in the Department of Community Affairs.

Regulatory Flexibility Statement

The proposed amendments would primarily impact local governments and officials thereof, rather than "small businesses" as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16. The proposed amendments at N.J.A.C. 5:32-2.5 permitting a private entity to fulfill the duties of a chief municipal finance officer upon a temporary chief financial officer vacating their position would create greater flexibility for

small businesses, such as accounting firms or consultants with staff licensed by the Division of Local Government Services as chief municipal finance officers. Currently, a private entity may only assume the duties of a chief municipal finance officer upon a licensed chief municipal finance officer vacating the position. In the case of qualified purchasing agents, the proposed amendments would not change the ability of the licensed official to apply to the Division for a waiver from the five minimum contact hours required for the procurement procedures subject area, so long as good cause is demonstrated for the waiver and a minimum of one credit hour was attained in the subject area.

Housing Affordability Impact Analysis

The proposed amendments pertain to certain local government positions licensed by the Division of Local Government Services in the New Jersey Department of Community Affairs and, as such, would not evoke a change in the average costs associated with housing or with the affordability of housing.

Smart Growth Development Impact Analysis

The proposed amendments pertain to certain local government positions licensed by the Division of Local Government Services in the New Jersey Department of Community Affairs and, as such, would not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed amendments will have no impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because they pertain to certain local government positions licensed by the Division of Local Government Services in the New Jersey Department of Community Affairs.

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

SUBCHAPTER 1. [EXAMINATION REVIEWS] **GENERAL PROVISIONS**

5:32-1.1 Examination reviews

(a) The Director, at his or her discretion, may authorize, as staffing permits, review of a particular examination by applicants who were not successful in passing an examination to obtain a certificate for municipal finance officer, county finance officer, tax collector, registered municipal clerk, [or] qualified purchasing agent, **or certified public works manager.**

(b) If authorized by the Director, [under] **pursuant to** (a) above, examination reviews shall be conducted [in the offices of the Division of Local Government Services, 101 South Broad Street, Trenton, New Jersey] by a representative or representatives of the Division of Local Government Services **on a date and time and at a location determined by the Division.** No one other than representatives of the Division of Local Government Services and the unsuccessful applicant **or applicants** for whom the review is being conducted shall be present at the examination review. No applicant will be permitted to take any notes or copy any questions or answers.

(c) Requests for examination reviews must be made in writing and must take place within 60 days of the date that appears on the notice of the mailing of the examination results. To arrange an examination review, an unsuccessful applicant must make a written request to the Division of Local Government Services, 101 South Broad Street, PO Box 803, Trenton, New Jersey 08625, [setting forth] **proposing** at least three alternative dates and times that would be convenient to attend such a review. **If multiple applicants make written requests for review of an examination, the Division may allow said applicants to review their respective exams at a single location.**

(d) At the discretion of the Director, as staffing permits, the examination review may consist of the following:

- 1.-2. (No change.)

3. In limited circumstances, as staffing permits, the **Division** representative [of the Division] conducting the review may discuss and review a specific question with the applicant.

5:32-1.2 **Carrying over continuing education credits to the following renewal period**

An individual holding a license or certificate issued by the Division of Local Government Services may not carry over continuing education contact hours to the next following renewal period, unless the expiration date of the applicant’s license or certificate was extended pursuant to P.L. 2020, c. 34, in which case, subject to procedures established by the Director, the applicant may, during the period of time in which the statutory period of the license or certificate was extended, carry over to the next renewal period a number of earned continuing education contact hours not to exceed 50 percent of the total number of credits required to renew the individual’s license or certificate.

SUBCHAPTER 2. MUNICIPAL AND COUNTY CHIEF FINANCIAL OFFICERS

5:32-2.5 Vacancy in the office of chief municipal finance officer

(a) When a vacancy occurs in the office of chief financial officer following the appointment of a certified municipal finance officer to that office, the municipality’s governing body or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a municipal finance officer certificate to serve as a temporary chief financial officer. [Any person so appointed may, with the] **With** approval of the Director[, based on] **pursuant to** (a)2 and 3 below, [be reappointed as] **the municipality may appoint or reappoint** a temporary chief financial officer for up to two additional one-year terms following the end of the first temporary appointment. No municipality shall employ a temporary chief financial officer for more than three consecutive years.

1. Prior to the end of the first-year appointment of a temporary chief financial officer, the governing body, or chief executive officer, as appropriate, shall request, in writing, permission from the Director to **appoint or** reappoint a temporary chief financial officer for a second consecutive one-year term. A questionnaire approved by the Director shall be completed and included with the written request. A request for Director approval of a third one-year term shall follow the same procedure. The completed questionnaire and any documents submitted in support of said questionnaire shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

2. Before granting approval to **appoint or** reappoint a temporary chief financial officer for a second or third consecutive one-year term, the Director shall be satisfied that the individual is of good moral character and can satisfactorily fulfill the duties of a chief financial officer. Any request to the Director shall provide the following information:

- 1.-iv. (No change.)
- 3. (No change.)
- (b) (No change.)

(c) **When a vacancy occurs in the office of chief financial officer resulting from the departure of a temporary chief financial officer, the municipality’s governing body or chief executive officer, as appropriate to the form of government, may, pursuant to (b) above, apply for Director approval to appoint a private entity to perform the duties of a chief financial officer.**

1. **If a temporary chief financial officer is not appointed or reappointed in the year next following the initial appointment of a temporary chief financial officer, a private entity may not perform the duties of a chief financial officer for more than two consecutive one-year terms, after which the municipality must appoint a licensed municipal finance officer or share a chief financial officer with another municipality or municipalities under a shared services agreement entered into pursuant to N.J.S.A. 40A:65-1 et seq.**

2. **If a temporary chief financial officer is not appointed or reappointed in the second year after the initial appointment of a temporary chief financial officer, a private entity may not perform the duties of a chief financial officer for more than a single one-year**

term, after which the municipality must appoint a licensed municipal finance officer or share a chief financial officer with another municipality or municipalities under a shared services agreement entered into pursuant to the provisions at N.J.S.A. 40A:65-1 et seq.

Recodify existing (c)-(e) as **(d)-(f)** (No change in text.)

5:32-2.6 Vacancy in the office of chief financial officer; counties

(a) When a vacancy occurs in the office of chief financial officer following the appointment of a certified county finance officer to that office, the [county's governing body] **board of county commissioners** or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a county finance officer certificate to serve as a temporary chief financial officer. [Any person so appointed] **A county** may, with the approval of the Director, [under] **pursuant to** (a)2 and 3 below, [be reappointed as] **appoint or reappoint** a temporary chief financial officer for an additional one-year term following the end of the first temporary appointment. No county shall employ a temporary chief financial officer for more than two consecutive one-year terms.

1. Prior to the end of the first-year appointment of a temporary chief financial officer, the county's governing body, or chief executive officer, as appropriate, shall request, in writing, permission from the Director to **appoint or** reappoint a temporary chief financial officer for an additional one-year term. A questionnaire approved by the Director shall be completed and included with the written request. The completed questionnaire and any documents submitted in support of said questionnaire shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

2. Before granting approval to **appoint or** reappoint a temporary chief financial officer, the Director shall be satisfied that the individual is of good moral character and can satisfactorily fulfill the duties of a chief financial officer. Any request to the Director shall provide the following information:

i.-iv. (No change.)

3. (No change.)

SUBCHAPTER 4. QUALIFIED PURCHASING AGENTS

5:32-4.2 Continuing education requirements

(a) Renewal of a qualified purchasing agent certificate shall be required every three years, subject to the applicant's fulfillment of continuing education requirements, the submission of an application for renewal, and payment of a \$35.00 fee payable to the order of the Treasurer, State of New Jersey.

1. [Applicants] **For certificate renewal cycles commencing before (the effective date of this rulemaking), applicants shall obtain 20 continuing education contact hours in the subject areas of procurement procedures, office administrative/general duties, ethics, and green purchasing. For certificate renewal cycles commencing on or after (the effective date of this rulemaking), applicants shall obtain 25 continuing education contact hours in the subject areas of procurement procedures, office administrative/general duties, ethics, and green purchasing.** Said credits shall be approved by the Director as relevant to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter, with the following minimum contact hours for each subject area:

i. Two contact hours in the subject area of procurement procedures **for certificate renewal cycles commencing before (the effective date of this rulemaking), or for certificate renewal cycles commencing on or after (the effective date of this rulemaking), five contact hours in the subject area of procurement procedures;**

ii.-iv. (No change.)

2. At the option of the applicant, contact hours in the subject area of information technology approved by the Director for relevance to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter may be applied toward the [20] **number of** continuing education contact hours[,] required [under] **pursuant to** (a)1 above, in addition to the required minimum contact hours.

3. If an applicant has earned at least [20] **the minimum number of** continuing education contact hours **required pursuant to (a)1 above**

within the renewal period[,] but has not achieved the minimum number of contact hours in a given subject area, the Director has discretion to waive the required minimum upon application and good cause shown, provided that the applicant has earned at least one contact hour in the given subject area. [This waiver discretion shall not apply to the minimum number of green purchasing contact hours for certificate renewal cycles expiring no later than June 30, 2019.]

4.-7. (No change.)

5:32-4.4 Vacancy in the office of purchasing agent

(a) Following the appointment of a purchasing agent for a contracting unit, if the person appointed no longer performs such duties, the governing body or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a qualified purchasing agent certificate to serve as a temporary purchasing agent. [Any person so appointed may, with] **With** the approval of the Director, [be reappointed as] **a contracting unit may appoint or reappoint** a temporary purchasing agent for a maximum of one additional year following the end of the first temporary appointment. No contracting unit shall employ a temporary purchasing agent for more than two consecutive years.

1. (No change.)

2. Before granting approval to appoint **or reappoint** a temporary purchasing agent for a second year, the Director shall be satisfied that the individual is of good moral character and can satisfactorily fulfill the duties of a purchasing agent. Any request to the Director shall provide the following information:

i.-iv. (No change.)

3. (No change.)

(b) During the term of appointment of a temporary purchasing agent, a contracting unit's bid threshold may remain at **an amount up to** the maximum [amount] allowed **for a contracting unit having appointed a person possessing a qualified purchasing agent certificate to serve as the purchasing agent, [as] so long as the governing body has [passed] adopted** a resolution authorizing such amount. **Contracts awarded after a vacancy occurs in the office of a purchasing agent shall be subject to a bid threshold of \$17,500, or in the case of boards of education, the bid threshold established by the State Treasurer pursuant to N.J.S.A. 18A:18-3(b), until either the subsequent appointment of a person possessing a qualified purchasing agent certificate to serve as the purchasing agent or the appointment of a temporary purchasing agent pursuant to this section. A contracting unit shall notify its auditor upon a vacancy occurring in the office of a purchasing agent.**

SUBCHAPTER 5. REGISTERED MUNICIPAL CLERKS

5:32-5.3 Vacancy in the office of municipal clerk by reason of departure of a registered municipal clerk

(a) When a vacancy occurs in the office of municipal clerk by reason of departure of a registered municipal clerk, the municipality's governing body may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a registered municipal clerk certificate to serve as acting municipal clerk. [Any person so appointed may, with] **With** the approval of the Director based [on] **upon** (a)2 and 3 below, [be reappointed as] **a municipality may appoint or reappoint** an acting municipal clerk for up to two additional one-year terms following the end of the first temporary appointment. No municipality shall have an acting municipal clerk for more than three consecutive years.

1. Prior to the end of the first year appointment of an acting municipal clerk, the governing body shall request, in writing, permission from the Director to **appoint or** reappoint an acting municipal clerk for an additional one-year term. A questionnaire approved by the Director shall be completed and included with the written request. A request for Director approval of a third one-year term shall follow the same procedure. The completed questionnaire and any documents submitted in support of said questionnaire shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

2. Before granting approval to **appoint or** reappoint an acting municipal clerk for a second or third consecutive one-year term, the Director shall be satisfied that the individual is of good moral character

and can satisfactorily fulfill the duties of a municipal clerk. Any request to the Director shall provide the following information:

- i.-v. (No change.)
3. (No change.)

CORRECTIONS

(a)

THE COMMISSIONER

Substance Use Disorder Treatment Programs

Proposed Readoption with Amendments: N.J.A.C. 10A:24

Proposed Repeal and New Rule: N.J.A.C. 10A:24-1.2

Proposed Repeals: N.J.A.C. 10A:24-2.11 and 2.14

Authorized By: Victoria L. Kuhn Esq., Acting 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 2022-023.

Submit written comments by April 23, 2022, to:

Kathleen Cullen
Administrative Rules Unit
New Jersey Department of Corrections
PO Box 863
Trenton, New Jersey 08625-0863
or through email to 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:24 was scheduled to expire on January 22, 2022. 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 21, 2022. The Department has reviewed these rules and, with the exception of the proposed amendments, has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules are, therefore, proposed for readoption with amendments at this time.

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.

The Department strives to continually provide quality care to inmates with substance use disorders and it has replaced the Mutual Agreement Program (MAP) and the Therapeutic Community (T.C.) approach, with a treatment program consistent with the American Society of Addiction Medicine (ASAM) criteria and guidelines. The ASAM guidelines approach substance use disorder treatment in a more individualized manner and include a continuum of care to increase the likelihood of success. The proposed amendments reflect the upgraded treatment program along with some administrative updates.

Subchapter 1 sets forth the purpose and scope of the chapter, as well as the forms used in evaluations and definitions for the terms used in the chapter. The Department proposes to condense the three paragraphs into a single cohesive sentence by replacing “procedures” with “high level guidelines or a framework “since step-by-step procedures appear in internal management procedures; adding “substance use disorder (SUD)” before “treatment programs”; and deleting existing paragraphs (a)2 and 3 and adding “including eligibility criteria for placement and treatment, education and support programs, guidance for treatment, and a continuum of care for inmates who are identified as having substance use disorders.”

At N.J.A.C. 10A:24-1.2, the Department proposes to repeal and replace the section to add a description of the levels of care using the American

Society of Addiction Medicine (ASAM) criteria and guidelines for programs. These guidelines are based on the addiction treatment needs of each individual inmate as determined by formal SUD clinical screening and assessment and individually prescribed addiction treatment programs that include short-term residential treatment, long-term residential treatment, outpatient treatment, and intensive outpatient treatment.

At N.J.A.C. 10A:24-1.3, Definitions, to reflect the evolving SUD treatment programs, the Department proposes to delete the definition for “Addiction Severity Index (A.S.I.),” as it no longer applies with use of the American Society of Addiction Medicine (ASAM) criteria and guidelines and deletion of “Alternative Substance Use Disorder Program,” “File review assessment,” “Mutual Agreement Program (MAP),” “Therapeutic Community (T.C.),” “Therapeutic Community Liaison,” and “Therapeutic Community program eligibility list,” as they no longer apply. The Department will also add definitions “psychoeducational program,” “SUD assessment,” and “SUD Treatment Eligibility List” to reflect the components of the upgraded ASAM based treatment programs. The Department proposed to amend “continuum of care” to replace facility-based therapeutic community (T.C.) with licensed substance use disorder (SUD) treatment program at paragraph 1 and delete reference to MAP at paragraph 2 because it does not apply when using ASAM criteria and guidelines.

At N.J.A.C. 10A:24-1.5, the Department proposes to remove detailed information included in the seven paragraphs containing form names related to the former treatment program and make grammatical and name changes.

Subchapter 2 sets forth information regarding the relationship of treatment programs and Zero Tolerance Drug/Alcohol Policy and references related sanctions, the clinical screening of inmates; assignment to substance use disorder continuum of care at institutional classification and by referrals; the Therapeutic Community and Mutual Agreement Program (MAP); alternative substance use disorder program and education and support programs and ancillary services; the roles of the Therapeutic Community Liaison, Institution Classification Committee (I.C.C.); inmate non-acceptance of treatment assignment; the role of the Office of Substance Abuse Programming and Addictions Services; interactions with State Parole Board programs and internal management procedures.

N.J.A.C. 10A:24-2.1 sets forth that there is a zero tolerance drug/alcohol and prohibited substance policy (see N.J.A.C. 10A:1-2.2) and contains references to related disciplinary sanctions for related infractions. Recently, there has been a number of changes to disciplinary sanctions at N.J.A.C. 10A:4, Inmate Discipline, and the Department proposes to replace references to N.J.A.C. 10A:4-12 with N.J.A.C. 10A:4-4.1 and 5.1 at N.J.A.C. 10A:24-2.1(a) because the citation for the Zero Tolerance Drug/Alcohol Policy rule infractions sanctions was relocated in a separate rulemaking (see 52 N.J.R. 1375(a)). In addition, the proposed change includes merging paragraph (a)1 into subsection (a) and deleting paragraph (a)2, which is language better suited to internal management procedures or policy statements.

The Department proposes to delete and replace N.J.A.C. 10A:24-2.2(a) with: “clinical screening of inmates for substance use disorders (SUDs) shall take place during the initial classification process and at any time deemed necessary by administrative staff including but not limited to the disciplinary process set forth at N.J.A.C. 10A:4-4.1(a)6, for Category F infractions and the voluntary Drug Diversion Program and as a result of related Category F disciplinary sanctions set forth at N.J.A.C. 10A: 4-5.1(p).” The new language provides an example of when administrative staff may find SUD screening necessary outside of the initial classification process by referencing the Drug Diversion Program recently added to the disciplinary rules in a separate rule action (see 52 N.J.R. 1375(a)).

At N.J.A.C. 10A:24-2.2(b), the Department proposes to replace “Office of Substance Abuse Programming and Addictions Services” with “contracted medical provider,” to replace “Addiction Severity Index (A.S.I.), or an equivalent clinical screening and assessment instrument TCU” with “clinical screening tool” and to add the word “those” in front of the word “inmates” in the first sentence and to delete and replace the second sentence to indicate that an inmate with a score of one or above shall be referred to the SUD provider for a complete SUD assessment and determination of the appropriate level of care.