

5:23-5.25 Revocation of licenses and certifications and alternative sanctions

(a) The Department may revoke or suspend a license or certification, and/or assess a civil penalty in accordance with N.J.A.C. 5:23-2.31, if the Department determines that the person involved, at any time during the preceding 10-year period:

1. (No change.)
2. Has obtained a license or certification by fraud or misrepresentation, or the person named in the license or certification has obtained it by fraud or misrepresentation;
3. Has aided or abetted in practice as a licensed code enforcement official or certified special inspector any person not authorized to practice as a licensed code enforcement official or certified special inspector under the provisions of these regulations;
4. Has fraudulently or deceitfully practiced as a licensed code enforcement official or certified special inspector;
- 5-11. (No change.)

(b) The Department, in addition or as an alternative, as the case may be, to revoking or suspending a license or certification, or assessing a penalty, may issue a letter of warning, reprimand, or censure or require additional training with regard to any conduct which, in the judgment of the Department, warrants a letter of warning, reprimand, or censure, or requires additional training. Such letters, in addition to any other filing of requirements, shall be made a part of the licensing file of the individual.

(c) Conviction of a crime, or conviction of an offense in connection with one's performance as a licensed code enforcement official or inspector or certified special inspector, or a determination by the Department that a licensee or certified person has engaged in conduct constituting a conflict of interest under N.J.A.C. 5:23-4.5(j)2 or 4.14(f), shall constitute grounds for revocation of a license or certification.

(d)-(e) (No change.)

(a)

LOCAL FINANCE BOARD

Annual Budget

Municipal Budgets, User-Friendly Budget Section

Adopted New Rule: N.J.A.C. 5:30-3.8

Proposed: October 20, 2014, at 46 N.J.R. 2057(a).

Adopted: January 14, 2015, by the Local Finance Board, Timothy J. Cunningham, Chair.

Filed: January 26, 2015, as R.2015 d.031, **without change**.

Authority: N.J.S.A. 40A:4-22, 40A:4-83, and 40A:5-48.

Effective Date: February 17, 2015.

Expiration Date: March 23, 2016.

Summary of Public Comments and Agency Responses:

Public comments were submitted by William G. Dressel, Jr., Executive Director of the New Jersey League of Municipalities, on behalf of the League, and Eric Maurer, Business Administrator for the Borough of Hawthorne (Passaic County), which are summarized below.

COMMENT: The League of Municipalities and Mr. Maurer ask that the Board modernize the overall municipal budget document by incorporating the intent of the user-friendly budget, rather than incorporate the user-friendly budget form as a separate section of the municipal budget. As proposed, the user-friendly budget rule appears to combine the Annual Financial Statement, the Annual Debt Statement, and the municipal budget, resulting in an inefficient, duplicative reporting requirement creating additional burden on municipalities having to do more with less. Having a modernized, electronically-filed municipal budget that populates much of the information needed for the user-friendly budget form would avoid this issue, and fit within the Division of Local Government Services' overall efforts toward automating various reporting documents.

RESPONSE: The Board does not find that the municipal user-friendly budget rule would cause a substantial burden to municipalities. The information sought in the proposed user-friendly budget should be readily

available to municipal officials, and the form's design will minimize data entry wherever possible by automatically populating certain fields through formulas. Reporting the information contained in the user-friendly budget is essential for local elected officials and the overall public to have meaningful access and input during the budget process.

The Board notes that user-friendly budget section of the annual municipal budget is a first step towards eventual automation of the overall municipal budget document, integrating the now primarily paper-based municipal budget with the electronic user-friendly budget form. As with the user-friendly budget, the Board will welcome recommendations from the regulated community and the overall public as the electronic municipal budget process is developed.

In addition to the above-referenced comment, the New Jersey League of Municipalities ("League") has additional comments which are summarized below.

COMMENT: The League agrees with making detailed municipal budget information more accessible to the ordinary public; however, the League does not think this platform will make it easier for the public to understand the municipal budget. There is too much detail on the proposed reporting platform. Instead of raw data, it should be a simple summary.

RESPONSE: The Board disagrees with commenter's assertion that the user-friendly budget rule will not permit the public to have greater understanding of their municipal budget. The rule requires a summary of anticipated revenue and appropriations, along with a concise yet more detailed view of key revenue and cost drivers. Combining a budget summary with concisely-presented detail of critical budget areas will enhance the ability of both the public and of local elected officials to understand their municipality's fiscal state and its impact on their tax bills. The proposed rule better enables those not possessing professional certifications to engage in the "comptroller function" that N.J.S.A. 40A:4-22 requires the municipal budget to facilitate. Moreover, N.J.S.A. 40A:5-48 requires that the user-friendly budget contain both a summary of the budget and additional information to help the public's understanding of their municipality's fiscal matters and condition. The rule also better enables the Division of Local Government Services to capture and tabulate certain data for purposes of assessing a municipality's fiscal health and analyzing overall trends.

COMMENT: The League is concerned that the reporting platform will mandate a new reporting requirement, and thus strongly recommends making the user-friendly budget reporting platform subject to the rulemaking process.

RESPONSE: The Board disagrees with commenter's suggestion that the user-friendly budget form be incorporated by reference in the rule. N.J.A.C. 5:30-3.8(b) directs the Director of the Division of Local Government Services to develop a standard user-friendly budget form that implements the rule. Technical guidance will be issued to the regulated community as necessary. As part of its review of automating the municipal budget process, the Board will consider the appropriateness of incorporating an overall electronic municipal budget form into a new or amended rule by reference.

COMMENT: Please clarify that N.J.A.C. 5:30-3.8(c), which states that the "Director shall have the discretion to require any current year data and information to be compared versus the prior year," would only apply to the immediate prior year.

RESPONSE: The reference to the prior year means the budget year prior to the current budget year. For example, the prior year for Calendar Year 2015 budgets would be 2014.

COMMENT: N.J.A.C. 5:30-3.8(d)1 requires that the municipality provide property tax data for prior and current year for each taxing district. Municipalities should not have to report on school, fire district, or county tax information because doing so will continue to give the appearance that municipalities have control over those levies, despite the fact the municipalities only bill and collect rather than set those levies.

RESPONSE: The Board finds that setting forth information on the other tax levies constituting a resident's property tax obligation would clarify that their municipality is not directly responsible for what is often a substantial portion of a taxpayer's total property tax obligation. However, the Board encourages the Director of the Division of Local

Government Services to include a statement in the user-friendly form which emphasizes this point.

COMMENT: N.J.A.C. 5:30-3.8(d)4 requires information on how personnel are budgeted amongst the various departments. The budget document requires a breakdown of salary and wages according to Flexible Chart of Accounts (FCOA) coding. This proposed requirement does not consider an employee whose salary is charged against multiple FCOA codes.

RESPONSE: The above-referenced requirement takes into account an employee whose salary is charged against multiple FCOA codes. For example, if a full-time employee is budgeted 50 percent to Land Use Administration (FCOA 21) and 50 percent to Uniform Construction Code (FCOA 22), the budgeted position would be 0.5 to Land Use Administration and 0.5 to Uniform Construction Code.

COMMENT: N.J.A.C. 5:30-3.8(d)8 requires information pertaining to the budgetary impact of property tax appeals as of the prior year. Will the municipality be required to provide the overall tax appeals that have been filed on both the State and county levels? It is important to note that appeals to State Tax Court can take several years to adjudicate; is the municipality to provide data for appeals filed in the current tax year or appeals that are currently active? Furthermore, if the spreadsheet is completed by the statutory deadline for municipalities with calendar year budgets (March 20 of current year), the current year tax appeals will be unknown as the deadline to file a tax appeal is April 1. Finally, the League questions why this data is to be collected, and recommends eliminating this provision because it is a new requirement that does not exist on current budget forms and is not required by statute.

RESPONSE: The Board is not seeking final information on tax appeals filed in the current budget year. The budgetary impact of property tax appeals as of the prior year would be the reflected by the following: the amount the municipality paid in the prior year to taxpayers as a result of tax appeals; the number of appeals filed before the County Tax Board and State Tax Court in the prior year; the number of County Tax Board decisions that have been appealed to the State Tax Court; and how many appeals remain pending before the State Tax Court or other court.

The budgetary impact of tax appeals can have a substantial impact on the ratable base of a municipality, particularly in instances where a large number of appeals have been settled or adjudicated, or where a substantial ratable achieves a reduction in their valuation. Separating out this information is important to understanding how tax appeals may be impacting a municipality's finances.

COMMENT: The following items sought in N.J.A.C. 5:30-3.8(d)9, 17, and 19 should not be included as they do not exist on current budget forms and are not required by statute:

- The number and value of outstanding five-year tax exemptions/abatements awarded pursuant to N.J.S.A. 40A:21-1 et seq.;
- The per capita gross/net debt based on most recent census data; and
- The bond rating, with the year of last rating.

RESPONSE: The above-referenced items are important components to understanding a municipality's fiscal picture, and including them better enables the Division of Local Government Services, local elected officials, and the overall public to engage in the comptroller function that N.J.S.A. 40A:4-22 requires municipal budgets to facilitate. While five-year exemptions and abatements can be a useful redevelopment tool, displaying the awards in number and dollar amount can help local elected officials and the public assess their cost versus benefit. The Board notes that the user-friendly budget specifically requires information on the number and amount of long-term tax exemptions/abatements, and including five-year exemptions/abatements in the user-friendly budget form helps give a more complete picture of redevelopment incentives that a municipality may be awarding.

By breaking down the amount of outstanding municipal debt per person, displaying the per capita gross/net debt allows the public to see more vividly the volume of outstanding municipal debt. Finally, a municipality's bond rating, should it have one, is critical to determining the amount of interest a municipality may be charged to borrow funds.

Federal Standards Statement

No Federal standards analysis is required because the new rule is not being adopted in order 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.

Full text of the adoption follows:

5:30-3.8 Municipal budgets, user-friendly budget section

(a) The annual budget for every municipality shall include a section called the "User-Friendly Budget." The user-friendly budget section shall be part of and incorporated into both the introduced and adopted budgets, and be made available to the public.

(b) The user-friendly budget shall be in a format set forth by the Director, who shall provide standard forms for required use by each municipality, and be submitted electronically and in such other manner as may be set forth by the Director.

(c) All user-friendly budget data and information shall be for the current budget year unless otherwise stated; however, the Director shall have the discretion to require any current year data and information to be compared versus the prior year.

(d) The user-friendly budget section shall include the following:

1. For the prior and current year as appropriate, information pertaining to the tax levy and tax rate for each local government taxing entity;

2. Information pertaining to the prior year's tax collection rate, as well as the calculation for the current budget year of the reserve for uncollected taxes;

3. A summary of anticipated revenue for all operating funds for the current budget year, with a comparison versus the prior budget year. This item shall also include surplus;

4. A summary of appropriations by service type, with a comparison versus the prior budget year. This item shall also include information on how personnel are budgeted amongst various departments;

5. An individual listing of all structural imbalances, including any offsets, with the amount and a description for each;

6. Aggregate values of assessed and exempt properties, divided by category, as of the prior year;

7. The average ratio of assessed to true value and the equalized valuation of all taxable properties as of the prior year;

8. Information pertaining to the budgetary impact of property tax appeals as of the prior year;

9. As of the close of the prior budget year, the number and value of outstanding five-year tax exemptions/abatements awarded pursuant to N.J.S.A. 40A:21-1 et seq., divided by category;

10. As of the close of the prior budget year, the number and value of outstanding long-term tax exemptions awarded pursuant to N.J.S.A. 40A:20-1 et seq. For long-term tax exemptions, the Director may require that each project be broken down individually by project name and type;

11. Budgeted personnel costs, which shall also include costs relating to elected officials;

12. A statement as to whether the municipality is subject to the provisions of the New Jersey Civil Service Law, Title 11A of the New Jersey Statutes;

13. The net employer cost of medical and prescription health benefits provided to employees, retirees, and elected officials;

14. As of the final day of the prior budget year, the gross number of days of accumulated absences, the dollar value thereof, and the legal basis for the benefit. All non-unionized employees eligible for the benefit shall be displayed individually. For unionized employees, the number of days and the dollar value of same shall be broken down by bargaining unit;

15. Gross and net municipal and utility fund(s) debt;

16. Outstanding principal and interest for bonds, bond anticipation notes, utility fund(s), loans, guarantees, capital/equipment leases, and other debt. In addition to the current year, such information may be displayed for the prior year and future years at the discretion of the Director;

17. Per capita gross/net debt based on most recent census data;

18. Net debt as percentage of the average property valuation over three years;

19. If rated, the bond rating along with the year of last bond rating; and

20. A listing of each shared service provided or received, what entity or entities are providing or receiving the service, the beginning and end date of the agreement as applicable, and the amount either received or paid for the service.

EDUCATION

(a)

STATE BOARD OF EDUCATION

School District Operations

Readoption with Amendments: N.J.A.C. 6A:32

Adopted New Rules: N.J.A.C. 6A:32-14

Proposed: August 18, 2014, at 46 N.J.R. 1775(a).

Adopted: January 16, 2015, by the State Board of Education, David C. Hespe, Commissioner, Department of Education and Secretary, State Board of Education.

Filed: January 16, 2015, as R.2015 d.025, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 18A:4-10, 18A:4-15, 18A:6-50, 18A:7A-1, 18A:7A-1.1, 18A:10-6, 18A:12-21 et seq., 18A:13-14, 18A:16-1, 18A:17-14 to 14.3, 18A:27-15, 18A:17-17, 18A:17-20, 18A:17-32, 18A:22-14, 18A:22-19, 18A:24-11, 18A:28-9, 18A:28-13, 18A:29-6 to 16, 18A:38-1, 18A:40-12.1, and 18A:49-1 to 8.

Effective Date: January 16, 2015, Readoption;

February 17, 2015, Amendments and New Rules.

Expiration Date: January 16, 2022.

Summary of Public Comments and Agency Responses:

The following is a summary of the comments received from members of the public. Each commenter is identified at the end of the comment by a number that corresponds to the following list:

1. Elizabeth Athos
Education Law Center
2. Francine Pfeffer
New Jersey Education Association
3. Randy Kanter
Califon Consultants, LLC

1. COMMENT: The commenter objected to the amendments proposed at N.J.A.C. 6A:32-7.1(g)1, 6, and 7 to add "school" in "10 days" or "10-day." The commenter stated the proposed amendment would significantly impede parent and student access to records as a school year is only 180 days and a calendar year is 365 days. Additionally, the commenter stated that "days" as written in the current rule implies "calendar days" and should remain. (1)

RESPONSE: The Department agrees the proposed amendment to the timeframes in N.J.A.C. 6A:32-7.1(g)1, 6, and 7 inadvertently limits the access to student records, or requests from a parent or adult student to exclude information from the student directory, to within the school year only. Therefore, the Department proposes not to adopt the proposed amendments and to maintain the current language, which will not negatively impact school district operations.

The commenter's statement that "days" implies "calendar days" does not always hold true. The definition of "days" may have a different meaning depending upon the use of the word and whether there is an existing definition. Therefore, the Department will propose in a future rulemaking to add "calendar" in "10 days" and "10-day."

2. COMMENT: The commenter disagreed with the removal during a previous rulemaking of the former N.J.A.C. 6A:32-4.2, Full-time employment of teachers, which mandated the length of a teacher's day and his or her lunch period. The commenter requested the section be returned to N.J.A.C. 6A:32. (2)

RESPONSE: The Department disagrees that former N.J.A.C. 6A:32-4.2, Full-time employment of teachers, needs to be restored. The State Board of Education adopted the section's repeal during a previous

rulemaking to provide greater flexibility to district boards of education in meeting the needs of students and teachers by allowing the teacher's length of day and lunch period to be determined through collective bargaining.

3. COMMENT: The commenter stated that current N.J.A.C. 6A:32-10.4 creates an equivalency in the number of seat hours (60 hours) for both remediation and advanced course work in summer school sessions. The commenter said students typically are required to take double the amount of credits when seeking credit for a course they have not yet taken; which differs from situations where a student seeks credit for remediation purposes. (2)

RESPONSE: The Department did not adopt a proposed amendment during the previous rulemaking that would have created an equivalency in summer session seat hours. Therefore, no amendments were adopted to the assignment of advanced coursework credit during summer school session. As proposed in the current rulemaking without amendments, N.J.A.C. 6A:32-10.4(c) states: "to receive advanced credit for a subject not previously taken, the student shall receive class instruction in summer session under standards equal to those during the regular term." The current Administrative Code differentiates remedial versus advanced course work credit assignment during summer school sessions.

4. COMMENT: The commenter requested a definition or a list of elementary education special field endorsements to be included in N.J.A.C. 6A:32-5.1(l), which articulates the categories of employment at each teaching and administrative level in a school and how those categories determine seniority. (3)

RESPONSE: The Department disagrees that a definition or a list of elementary education special field endorsements should be included in N.J.A.C. 6A:32-5.1(l). This information is available in N.J.A.C. 6A:9B, State Board of Examiners and Certification.

Summary of Agency-Initiated Changes:

1. The Department proposes to add at N.J.A.C. 6A:32-2.1 a definition for "endorsement." The definition will direct the reader to the definition found in N.J.A.C. 6A:32-9. The proposed definition will clarify for school district employees where they can find the definition of endorsements, to assist in determining seniority.

2. Based upon Comment 4, the Department reviewed N.J.A.C. 6A:32-5.1 to examine the use of "endorsement" to ensure clarity and alignment with language regarding the various endorsements in N.J.A.C. 6A:9B. At N.J.A.C. 6A:32-5.1(f) and (l)17i and ii, upon adoption the Department is deleting "subject-area" before "endorsements" because "subject-area" is redundant when talking about an "endorsement" and does not impact the calculation of seniority. Additionally, at N.J.A.C. 6A:32-5.1(l)17iii and iv and (l)18ii and iii, upon adoption the Department is replacing "special subject field endorsements" with "instructional endorsement." The Department no longer uses "special subject field endorsements" but instead uses "instructional endorsement". The proposed amendments will not impact the calculation for seniority because it will be clear an instructional endorsement is necessary when determining seniority and the subject is not relevant.

3. The Department is not adopting the proposed amendment at N.J.A.C. 6A:32-7.6(a)4 and 5 to add "school" in "three days" and "five days," respectively. The amendments originally were proposed to clarify the meaning of "three days" and "five days" but could inadvertently limit to only the school year the timeframe for notification of disclosure of student records or the denial of access to student records. Therefore, the Department will propose in a future rulemaking to add "calendar" in the rules to clarify the meaning of "days."

Federal Standards Statement

The readopted rules and adopted amendments and new rules require school districts to comply with several State or Federal laws and regulations. Specifically, the New Jersey Law Against Discrimination; N.J.S.A. 18A:36-20, Conduct of Schools in General; P.L. 88-352, Title VII of the Civil Rights Act of 1964, as amended by the Employment Opportunity Act of 1972; P.L. 88-38, the Equal Pay Act of 1963 as amended, and 20 U.S.C. § 681, Title IX of the Education Amendments of 1972 (Higher Education Act). Requirements for bilingual and English as a second language education are found in N.J.S.A. 18:35-15 to 26, Curriculum and Courses; P.L. 1991, c. 12 and P.L. 1995, c. 59 and c. 237.