

## SUBCHAPTER 6. SERVICES AND REMOVAL DURING INVESTIGATION

## 3A:10-6.3 Information provided to parent, caregiver, and relative

(a) (No change.)

(b) A child protective investigator shall immediately:

1. Serve, or attempt to serve, written notice upon the parent, caregiver, or employee of an institution from which the child was removed, whenever a child has been taken into protective custody pursuant to N.J.S.A. 9:6-8.16; and

2. (No change.)

(c) The Department representative shall notify each adult relative of a child's out-of-home placement in accordance with N.J.A.C. 3A:11-1.6(c).

## SUBCHAPTER 7. FINDINGS AND DOCUMENTATION

## 3A:10-7.1 Informing the alleged child victim, caregiver, and temporary caregiver about the investigation

(a) (No change.)

(b) When an investigation is conducted in an institution, and any child, other than the child that is the subject of the investigation, is interviewed without the knowledge and consent of the parent, the Department shall not be obligated to notify the parents of those children of the investigation.

(c) (No change.)

(d) The child protective investigator shall provide the following information to those people specified in (a) above:

1. That a report has been made, the nature of the allegation, and that an investigation will be conducted;

2.-3. (No change.)

(e)-(g) (No change.)

## 3A:10-7.6 Notification of finding

(a) The Department representative shall provide notification of the finding to those persons specified in (c), (d), and (e) below. The Department representative shall delay the notification, as long as the delay does not appear to put the alleged child victim at risk, when a case is in litigation or a report is under criminal investigation and the police, prosecutor, or deputy attorney general has determined that notification of the investigation findings to persons in (c), (d), and (e) below, would interfere with the litigation.

1. (No change.)

2. The Department representative shall provide written notification by either personal service or regular and certified mail to the perpetrator of each substantiated or established allegation.

3. (No change.)

(b) The child protective investigator shall notify persons specified in (c), (d), and (e) below of the finding no later than 10 days from the date upon which the Department made a finding unless for good cause approved by a supervisor.

(c) The child protective investigator shall advise each person identified as a perpetrator in a report of substantiated or established abuse or neglect that:

1. He or she has been identified as a perpetrator of abuse or neglect;

2. (No change.)

3. He or she shall have an opportunity to dispute a finding of either substantiated or established abuse or neglect, in accordance with N.J.A.C. 3A:5.

(d) (No change.)

(e) The child protective investigator shall advise the following people that the investigation has been completed and the finding of the investigation, upon completion of the investigation:

1. (No change.)

2. The parent with whom the alleged child victim normally resides;

3.-4. (No change.)

## 3A:10-7.8 Other notification at conclusion of investigation

(a) The child protective investigator shall advise the following people whether further services shall be offered or provided to an alleged child victim or to his or her family, upon completion of the investigation:

1. (No change.)

2. The parent with whom the alleged child victim normally resides; and

3. (No change.)

(b) The child protective investigator shall advise each alleged child victim of the completion of the investigation in a manner determined to be consistent with, and appropriate to, the alleged child victim's age, condition, and ability to understand the basis for the Department's involvement; the alleged child victim's ability to cope with the information; and the alleged child victim's ability to participate in the development, discussion, or implementation of the case plan pursuant to N.J.S.A. 9:6-8.10a(c).

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

(e) The written information regarding the report of abuse or neglect shall include:

1.-7. (No change.)

8. A summary of the circumstances of the incident, including a description of the child victim's injuries, if any, and a statement about the severity of the incident;

9.-10. (No change.)

(f) (No change in text.)

(g) The child protective investigator shall advise the police, in writing, to destroy the information regarding the substantiated report, if a substantiated finding is later reversed by an appeal, a court order, or an internal Departmental decision, and a Department representative had notified the police of the substantiated report in accordance with (d) and (e) above.

(h) (No change in text.)

## SUBCHAPTER 8. EXPUNCTIONS

## 3A:10-8.1 Expunction limited to a record that consists of an unfounded report; contents of record to be expunged

(a) A Department employee shall expunge a record in any format relating to an unfounded finding within the time frames set forth in N.J.A.C. 3A:10-8.2, pursuant to N.J.S.A. 9:6-8.40a, unless one of the exceptions listed in N.J.A.C. 3A:10-8.3 exists. A record scheduled for expunction shall be expunged of identifying information regarding the alleged perpetrator.

(b) (No change.)

**COMMUNITY AFFAIRS****(a)****DIVISION OF LOCAL GOVERNMENT SERVICES****Local Unit Charitable Funds****Adopted New Rules: N.J.A.C. 5:30-8.9 and 18 and 5:33-1.9****Adopted Amendments: N.J.A.C. 5:33-1.6 and 4.5**

Proposed: November 5, 2018, at 50 N.J.R. 2247(a).

Adopted: April 30, 2019, by Melanie R. Walter, Director, Division of Local Government Services.

Filed: April 30, 2019, as R.2019 d.052, **without change**.

Authority: N.J.S.A. 54:4-66.12 and P.L. 2018, c. 11.

Effective Date: April 30, 2019.

Expiration Dates: January 15, 2023, N.J.A.C. 5:30;

September 13, 2020, N.J.A.C. 5:33.

**Summary of Public Comment and Agency Response:****No comments were received.****Federal Standards Statement**

On August 23, 2018, the Internal Revenue Service (IRS) proposed new regulations under section 170 of the Internal Revenue Code regarding the treatment of payments and property tax transfers under state and local credit programs. The proposed IRS regulations would limit the amount that a donor could claim as a charitable donation against Federal income taxes to only the portion of the donation not credited toward the donor's state and local tax obligation. For example, if a donor contributed \$10,000

to a municipal charitable fund and received property tax credit of \$9,000, the donor would only be eligible to receive a charitable deduction of \$1,000, which was not credited. However, the proposed IRS regulations include an exception or "safe harbor" provision wherein a donor may claim the full amount of their donation as a charitable deduction against Federal income taxes if the donor receives a credit of no more than 15 percent or some other lesser amount against state and local taxes.

The new rules and amendments adopted by the Director are consistent with the proposed IRS regulations, insofar as any local unit charitable fund would be required to incorporate the permitted 15 percent *de minimus* exception as an option for potential donors to elect, along with an option for donors to elect a percentage of 90 percent by which charitable contributions would be credited against the donor's property tax obligation. If the proposed IRS regulations are adopted, such donors electing the 90 percent option would not be able to claim the entirety of their credited donation as a charitable contribution deduction on the Federal tax return against their Federal income tax obligations.

The Division maintains that the regulations constitute regulatory overreach on the part of the IRS, and that the IRS proposed regulations are arbitrary and capricious. As tax law experts have identified, 33 states collectively have 100 programs under which taxpayers receive such credit. Pursuant to a February 4, 2011 Memorandum from the IRS Office of the Chief Counsel (No. 201105010), a payment of cash in the form of a charitable contribution to a state or local agency for which the taxpayer is entitled to a transferable state tax charitable credit is a proper deduction pursuant to section 170 of the Internal Revenue Service Code. A long history of judicial decisions has found that the tax benefit of a Federal or state charitable contribution deduction is not regarded as a return benefit that negates charitable intent, and tax credits are viewed as indistinguishable from tax deductions for purposes of charitable intent; the amount of the donor's charitable contribution deduction is not reduced by the value of state tax benefits. The Division also notes that the alleged "quid pro quo" argument raised by the IRS clearly applies to donations to school voucher programs, which are not impacted by the proposed IRS regulations.

Full text of the adoption follows:

CHAPTER 30  
LOCAL FINANCE BOARD

SUBCHAPTER 8. FINANCIAL ADMINISTRATION

5:30-8.9 Annual Financial Statement; reporting requirement for charitable funds

(a) For a municipality's or county's current year property tax levy, the Annual Financial Statement shall report any charitable fund donations that are creditable toward the current year property tax levy as an offset to the same, including any spillover fund proceeds that may be credited toward the current year property tax levy. Pursuant to N.J.A.C. 5:30-18.3, municipal or county charitable contributions shall be deposited into a dedicated trust fund without independent spending authority.

(b) For county and school district taxes payable by a municipality, the municipality's Annual Financial Statement shall reflect any offset resulting from a county or school district charitable fund, including any spillover fund proceeds.

SUBCHAPTER 18. MUNICIPAL AND COUNTY CHARITABLE FUNDS

5:30-18.1 Definitions

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

"Administrative costs" means costs attributable to operating a municipal or county charitable fund.

"Annual property tax credit cap" means the annual credit-eligible donation cap establishing the maximum total dollar amount of donations in a particular charitable fund that may be credited against an annual property tax bill.

"Charitable fund" means a fund established pursuant to N.J.S.A. 54:4-66.7 for one or more specific public purposes.

"Custodian of public funds" means the chief financial officer of a municipality or county or the person designated as the custodian of public funds for a school district.

"Delinquent property" means a property that has delinquent property taxes and/or municipal charges billed by the municipality. This term includes a property that has had delinquent taxes and/or municipal charges purchased by a lien holder at a tax sale.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Individual credit-eligible donation cap" means the maximum dollar amount or percentage of a property tax bill that may be credited against the municipal, county, or school property taxes of an individual property owner.

"Local unit" means a municipality, county, or school district.

"Maximum cumulative credit-eligible donation cap" means the local unit budget multiplied by 85 percent, unless the Director approves a different percentage upon application by a local unit.

"Spillover fund" means a fund that holds donations for application against future annual property tax bills.

5:30-18.2 Creation of a charitable fund; specified public purposes

(a) A municipality may establish one or more charitable funds by ordinance; a county may establish one or more charitable funds by resolution or ordinance, as appropriate. Multiple charitable funds may be authorized by a single ordinance. The resolution or ordinance shall set forth:

1. The name of the charitable fund;
2. The specific purpose or purposes of the fund; and
3. The initial annual property tax credit cap and the individual credit-eligible cap, which may be amended by resolution or ordinance, as appropriate.

(b) A charitable fund shall be dedicated to one or more of the following public purposes:

1. Public safety;
2. Capital improvement;
3. Public works;
4. Public health;
5. Social services;
6. Housing and code enforcement;
7. Redevelopment and economic development;
8. Recreation;
9. Open space;
10. Public library; and
11. The operation, management, or administration of other services, with the approval of the Director of the Division of Local Government Services.

(c) A charitable fund dedicated to the purpose of public safety may be utilized for expenses relating to police, fire, emergency medical services, first aid squads, office of emergency management, 9-1-1 and dispatch, and lifeguards, as well as volunteer fire and emergency medical services. A county may also fund its sheriff's office and county prosecutor's office through a public safety charitable fund.

(d) A charitable fund dedicated to the purpose of capital improvement may be utilized for any construction, reconstruction, demolition, or alteration work that has a useful life of at least five years, along with the payment of any debt service connected with same. Such a fund may also be utilized for any acquisition and/or development of land; acquisition of major equipment, furniture, or other personal property; acquisition, construction, improvement, and/or renovation of buildings, roads, utilities, structure improvements, or public works; or any other matter described in N.J.S.A. 40A:2-22 of the Local Bond Law, with an expected useful life of five years or more and a prospective individual or cumulative cost in any year of \$25,000 or more, regardless of the financing sources.

(e) A charitable fund dedicated to the purpose of public works may be utilized for the routine maintenance of infrastructure and public facilities, including, but not limited to, trash and/or recycling collection, within the municipality or county.

(f) A public library or open space charitable fund may be utilized for the same purposes as funds raised through a library tax or open space tax.

Creditable donations made for said purposes shall be applied against the municipality's or county's open space tax or library tax.

(g) A charitable fund may not be established for a public purpose that is solely funded by revenues other than municipal or county property taxes.

(h) The proceeds deposited into a charitable fund shall be utilized toward the specific purposes of the fund and for reasonable expenses attributable to administering the fund; however, only those funds attributable to non-creditable portions of charitable fund donations may be utilized for administrative expenses.

(i) Each municipality or county that creates a charitable fund, and a spillover fund if any, shall:

1. Have its own dedicated bank account, which shall be with a depository subject to the Governmental Unit Deposit Protection Act, P.L. 1970, c. 236 (N.J.S.A. 17:9-41 et seq.);

2. The bank account shall be in the name of the municipality or county establishing the charitable fund; and

3. If a county or school district shares services with a municipality to have contributions collected by the tax collector's office and deposited into the bank account of the county's or school district's charitable fund or spillover fund, the bank accounts for the county's or school district's charitable funds and any associated spillover funds shall be kept in one of the municipality's depositories.

(j) If a municipality or county has more than one charitable fund, donations to said funds shall be made to the specific fund, rather than by a single payment for multiple funds.

(k) If a single charitable fund has multiple purposes, donors may not restrict the use of their donations to select purposes of the fund.

(l) Any interest or investment income generated from charitable fund proceeds shall be utilized for the specific purpose or purposes of the charitable fund and for reasonable expenses attributable to administering the fund.

(m) Any interest or investment income generated from spillover fund proceeds is to be utilized for the purposes supported by the levy that are authorized under subsection (e) of N.J.S.A. 54:4-66.7.

(n) Each municipality or county creating a charitable fund shall provide the Division of Local Government Services with a copy of the adopted ordinance or resolution within five days of adoption.

#### 5:30-18.3 Annual cap on property tax credits

(a) Prior to the beginning of each budget year, the governing body of a municipality or county that has established a charitable trust fund shall establish an annual property tax credit cap for each charitable fund; except that for 2018, the governing body may establish an annual property tax credit cap no later than the date on which each charitable fund begins to accept donations. Starting in 2019, county budgets and municipalities with calendar year budgets may amend a charitable fund's annual property tax credit cap upon certification of the current-year budget tax levy.

(b) The maximum cumulative credit-eligible donation cap for the subsequent budget year for all local unit charitable funds shall not exceed 85 percent of the tax levy. The maximum cumulative credit-eligible donation cap for the 2018 budget year shall not exceed 85 percent of the total tax levy in the 2018 budget year. When calculating the annual property tax credit cap, the percentage of the appropriation attributable to the tax levy shall not exceed 85 percent, unless the Director approves the use of a greater percentage.

The annual property tax credit cap shall be calculated as follows:

Step one:  $\text{tax levy} \div \text{local unit budget} = \text{percentage of appropriation attributable to tax levy.}$

Step two:  $(\text{appropriation(s) for specific purpose(s) of charitable fund}) \times (\text{percentage of appropriation attributable to tax levy}) = \text{cap on credit-eligible donations to charitable fund.}$

Step three:  $(\text{cap on credit-eligible donations to charitable fund}) \times 90\% = \text{annual property tax credit cap for charitable fund.}$

A municipality, county, or school district may apply to the Director to change from 85 percent, the percentage by which the total tax levy is multiplied, or from 90 percent, the percentage by which the cap on credit-eligible donations to the charitable fund is multiplied.

(c) The property tax credit cap shall not be construed to limit all donations to the charitable fund; rather the caps under (b) above shall only

limit the amount of donations that are credit-eligible in relation to property tax payments.

#### 5:30-18.4 Cap on individual donation to charitable fund creditable toward property taxes

The governing body of a municipality or county shall establish an individual credit-eligible donation cap for each charitable fund, which shall set the maximum dollar amount or percentage that an individual or entity may be credited toward property taxes in a given year. The individual credit-eligible donation cap shall not be construed to limit all donations to the charitable fund; rather the cap shall only limit the amount of total donations creditable toward property tax obligations.

#### 5:30-18.5 Percentage of donation that may be credited toward property taxes

(a) Ninety percent of an individual charitable contribution is creditable toward a donor's property tax obligation; however, the local unit shall permit donors the alternate option of having their individual charitable contributions creditable towards 15 percent of the donor's property tax obligation. If this calculation results in a repeating decimal number, the creditable portion shall be rounded up to the nearest cent. The Director may promulgate another alternate percentage through a Local Finance Notice.

(b) A municipal or county charitable fund shall utilize the remaining non-creditable balance of the donation, and all other donations not transferred to a spillover fund, for the specific purpose(s) of the charitable fund and for the cost of administering the fund. The non-creditable portion utilized for a charitable fund's specific purpose shall be either: recorded as a special item of revenue pursuant to N.J.S.A. 40A:4-87 and transferred into the general fund dedicated to the charitable fund's specific purpose(s) or brought into the following year's budget as revenue for the specific purpose, which shall be spent on the specific purpose in that budget year and not permitted to lapse into surplus. The non-creditable portion utilized for a charitable fund's administrative costs shall be recorded as Municipal Revenue Not Anticipated (MRNA), except that in subsequent years, historical use can be relied upon to record such revenue as miscellaneous revenue.

(c) The municipality may charge a county or school district an administrative fee to defray administrative expenses attributable to the tax collector's office and municipal finance officer's office as a result of applying property tax credits associated with the county or school district's charitable fund or funds. This administrative fee shall be set by ordinance and shall not be greater than two percent of the donation creditable to an annual property tax bill or quarterly installment thereof, as applicable. The county or school district shall pay any administrative fee charged to it by a municipality from the non-creditable portion of the donation.

#### 5:30-18.6 Spillover fund

(a) The ordinance or resolution creating a charitable fund may establish a separate spillover fund to be utilized for the purpose supported by the levy that is authorized under subsection (e) of N.J.S.A. 54:4-66.7, in the event the amount of the donation exceeds the amount that can be credited toward the donor's annual property tax obligation. The approved uses of a spillover fund shall be set forth in the ordinance establishing the spillover fund.

(b) Creditable donations in a spillover fund shall be applied to consecutive annual property tax bills until exhausted, except that donations in a spillover fund shall not be credited against more than five consecutive annual property tax bills issued for a specific parcel; any funds remaining after the five years shall be refunded to the donor. Spillover fund proceeds shall be reported on the balance sheet as a separate pre-paid tax line from the charitable fund.

(c) Monies in a spillover fund shall be utilized by a municipality or county solely for the budget year corresponding to the year in which a taxpayer will receive a credit against their municipal or county purposes property taxes.

5:30-18.7 Administration of charitable and spillover funds; chief financial officer as fund administrator

(a) The chief financial officer shall administer a municipality's and county's charitable funds and spillover funds, if any. Responsibilities shall include, but are not necessarily limited to:

1. Disbursement of funds donated to charitable funds and any spillover fund in accordance with their specified public purposes;
2. Investing donated funds pursuant to the cash management plan adopted by the municipal or county governing body, so long as the investments do not interfere with the ability to use the donated funds for their specified public purpose; and
3. Ensuring compliance with applicable State rules governing accounting, audits, budgeting, and financial administration.

(b) Local units may not jointly administer a charitable fund or spillover fund; however, a chief financial officer who serves a municipality by virtue of a shared services agreement shall be the fund administrator for the charitable funds and spillover fund of the municipality receiving the service.

(c) A county or school district may enter into a shared services agreement with a constituent municipality to have the municipal tax collector's office collect donations and deposit said funds into the county or school district charitable fund account, so long as the charitable fund account is with a depository of the municipality providing the service.

5:30-18.8 Reporting charitable fund donations for application to annual property taxes

(a) On an annual basis, the governing body of a municipality shall adopt a resolution setting a deadline by which local unit creditable donations must be reported by a local unit to the tax collector in order to be applied to the next upcoming annual property tax bill.

(b) The municipal governing body has the sole discretion to permit the application of creditable donations against an annual property tax bill that has already been issued. In order to permit the application of creditable donations against an annual property tax bill that has already been issued, the governing body shall adopt, on an annual basis, a resolution setting a deadline by which creditable donations must be reported to the tax collector in order to be applied to the next upcoming quarterly property tax installment. The deadline shall be no earlier than one month prior to the installment due date, except for 2018, which may be sooner, regardless of whether the municipality has established a grace period for quarterly property tax payments.

(c) Donations reported after the deadline set by the governing body must be applied to the annual property tax bill issued the following year or the next quarterly due date, as applicable.

5:30-18.9 Information donors must provide in connection with their donation; payment method

(a) When making a donation to a charitable fund, the donor must provide the local unit's fund administrator or the fund administrator's designee with, at minimum, the following information:

1. Name, mailing address, e-mail address, and telephone number of the donor;
2. The name of the charitable fund or funds to which the donation is being made;
3. For each charitable fund:
  - i. The total amount of the contribution;
  - ii. The total creditable portion of the contribution and, if the donor seeks a credit against multiple parcels within the municipality, the amounts that the donor seeks to credit against each parcel;
  - iii. The block, lot, qualifier, and property address of each parcel located within the local unit for which the donor seeks a credit against the annual property tax obligation, along with a copy of the most recent tax bill, or advice copy thereof, for each parcel;
  - iv. A certification that the donor is not delinquent in payment of property taxes or municipal charges;
  - v. The annual tax bill, or advice copy thereof, and, if applicable, the quarter or quarters, against which the credit should be applied; and
  - vi. The disposition of the balance of a creditable donation in excess of the amount that can be credited against the annual property tax bill; and
4. If the donation will be funded from the donor's mortgage escrow, the contact information of the mortgagee, servicing organization, or

property tax processing organization, as defined by N.J.A.C. 5:33-4.2, that will be making the donation to the charitable fund on behalf of the donor.

(b) At the discretion of the municipality or county, the donor may make a donation by any of the following means:

1. Cash;
2. Money order;
3. Check, including cashier's check, certified check, electronic check, or personal check;
4. Automated clearing house (ACH) transfer;
5. Wire transfer; or
6. Credit or debit card.

(c) The donor may not place any additional restrictions on the use of creditable charitable fund contributions.

5:30-18.10 Circumstances when a creditable charitable donation exceeds the amount that can be credited against a donor's annual local property tax bill; refunds to donors

(a) When an otherwise creditable donation to a municipal or county charitable fund exceeds the amount that can be credited against a donor's annual local property tax bill, the donor shall elect one of the following options:

1. Rescind and elect a refund on the excess portion of the donation;
2. Authorize transfer of the balance of the donation to another charitable fund, if one exists, with instructions on how to apply the balance to multiple parcels, if any;
3. Authorize the transfer of the balance of the creditable donation to a spillover fund, if one exists, with instructions on how to apply the balance to multiple parcels, if any; and/or
4. If no spillover fund exists, allow the municipality or county charitable fund to retain the entirety of the non-creditable portion of the donation.

(b) At the time a donation is made, the donor shall instruct the municipality or county on the treatment of the portion of the donation that is not creditable.

(c) Any refund of a charitable donation to a donor by a municipality or county shall be authorized pursuant to N.J.S.A. 40A:5-17, except that the governing body of a municipality or county may, pursuant to N.J.S.A. 40A:5-17.1, authorize the fund administrator to refund to a donor sums of less than \$10.00.

(d) In the event an otherwise creditable donation cannot be applied to a donor's local property tax obligation due to the donor being delinquent on their property taxes or other municipal charges, the donor shall have at least 10 business days to seek a refund. If the donor does not make such a request within the required timeframe, the entirety of the donation shall be refunded to the donor minus 10 percent. The 10 percent may be used for the specific purposes of the fund and for administrative costs associated with the fund.

(e) If the tax collector finds that the credit toward a donor's annual property tax obligation should be adjusted downward, the donor may elect any of the options set forth in (a) above, as applicable.

(f) Request for refunds of charitable donations, including donations that have been applied to a donor's annual property tax obligation or deposited into a spillover fund for said purpose, shall not be honored by a municipality or county to the donor.

5:30-18.11 No representations as to Internal Revenue Service treatment of charitable fund contributions

(a) A municipality or county may not make any representations to a donor, or prospective donor, concerning Internal Revenue Service treatment of donations made to a charitable fund.

(b) When donating to a charitable fund, the donor shall sign a statement acknowledging that the municipality or county makes no representations with respect to the treatment of charitable fund donations by the Internal Revenue Service.

5:30-18.12 Receipt to donor from a charitable fund regarding donation

(a) A donor must be provided, by the municipality or county, with a receipt in connection with their donation to a municipal or county charitable fund. This receipt must contain, at minimum, the following information:

1. Name and mailing address of the donor;

- 2. Name of fund or funds to which donation was made;
- 3. The total amount of the charitable contribution;
- 4. The date on which the contribution was made and, if applicable, the date on which the contribution cleared;
- 5. The percentage and dollar amount of the administrative fee as a component of the donor's charitable fund contribution;
- 6. The block, lot, qualifier, and property address of each parcel located within the local unit, if any, for which the donor seeks a credit against the annual property tax obligation;
- 7. The donation amount that is creditable against the donor's annual municipal or county property tax obligation;
- 8. A statement that no goods or services were provided in exchange for this donation; and
- 9. A statement that the municipality or county makes no representations with respect to the treatment of charitable fund donations by the Internal Revenue Service.

(b) A municipality or county may elect to provide a summary receipt at the request of the donor featuring, at a minimum, only the information set forth in (a)1, 2, 3, 4, and 8 above.

(c) If a portion of a charitable donation gets deposited into a spillover fund established by the municipality or county, the receipt shall so state and also contain the following information in addition to that required under (a) above:

- 1. The dollar amount of the portion of the donation deposited into the spillover fund;
- 2. The block, lot, qualifier, and property address of each parcel located within the local unit, if any, for which the donor seeks a credit against the annual property tax obligation from the portion of the donation deposited into the spillover fund; and
- 3. A statement that the donation, or portion thereof, in the spillover fund may be carried over to be applied against no more than the next five consecutive annual property tax bills.

5:30-18.13 Charitable funds to function as dedicated trust fund without independent spending authority; impact on property tax levy cap

(a) The fund administrator of a municipal or county charitable fund shall deposit charitable fund contributions into a dedicated trust fund without independent spending authority, wherein monies cannot be spent directly from the fund.

(b) The creation of a charitable contribution fund shall not impact a municipality's or county's property tax levy cap calculation.

5:30-18.14 The reporting of creditable donations to the tax collector and municipal finance officer; fund administrator having online access to municipal tax records

(a) If a local unit charitable fund takes charitable fund donations directly instead of delegating the task to the tax collector, the donation shall be reported to the tax collector within five business days unless the municipality assents to a differing period and arrangement (for example, periodic batch upload). In any case in which the medium used to make the donation requires a certain period to clear, the donation shall not be reported to the tax collector (or posted to the charitable fund if being handled directly by the tax collector) until the transaction clears.

(b) The information provided pursuant to N.J.A.C. 5:30-18.12, along with a copy of the tax bill or bills for the parcels to be credited, shall be provided to the tax collector when a donation is reported by the charitable fund.

(c) A county or school district operating a charitable fund shall have access to the property tax records of donors to such an extent as to ascertain whether said donors are delinquent in their property taxes and/or municipal charges.

(d) Once county and school district charitable contributions are credited toward the donor's annual property tax bill by the tax collector, the municipal finance officer shall enter the creditable portion of the donation as a debit against the county or school district tax levy, and as a credit against property taxes receivable. The county or school district shall reduce the amount of tax dollars sought from the municipality in proportion to the property tax credits applied in the municipality.

5:30-18.15 Creditable donation must come from property owner or agent thereof

In order to be eligible for a property tax credit, the donation must come from the property owners or their agents. A purchaser of a tax sale certificate pursuant to N.J.S.A. 54:5-114.1 et seq., may not receive property tax credit against a property on which the purchaser holds a tax sale certificate. Nothing in this section shall preclude a person or entity from donating to a local unit charitable fund.

5:30-18.16 Certain documents exempt from disclosure under the Open Public Records Act

(a) In addition to the exemptions in N.J.S.A. 47:1A-1 et seq., the following records are exempt from disclosure under the Open Public Records Act:

- 1. Any form or forms containing donor information required pursuant to N.J.A.C. 5:30-18.9; and
- 2. Any receipt issued to the donor pursuant to N.J.A.C. 5:30-18.12.

CHAPTER 33  
TAX COLLECTION ADMINISTRATION

SUBCHAPTER 1. TAX COLLECTION PROCEDURES

5:33-1.6 Definitions

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

"Charitable fund" shall have the meaning defined in N.J.S.A. 54:4-66.6 and N.J.A.C. 5:30-18.1.

...

5:33-1.9 Applying charitable fund donation credits to a taxpayer's property tax obligation

(a) A local unit fund administrator shall report to the tax collector the amount of credits resulting from a donor's charitable fund donation to be applied to the donor's next upcoming annual property tax bill or, if the municipality so permits, an annual property tax bill already issued by the municipality. Once a local unit has reported a creditable charitable fund contribution to the tax collector, the tax collector shall apply the credit to the taxpayer-donor's annual property tax obligation upon confirming that the donor is not delinquent to the municipality for property taxes and/or municipal charges.

1. If a tax collector applies the credit to an annual property tax bill that has yet to be issued, the amount of the credit shall appear on said bill.

2. If a tax collector applies the credit to an annual property tax bill that has already been issued, the credit shall appear on a statement to be made available to the donor online and/or on paper.

(b) The statement issued to a donor by a tax collector must contain, at minimum, the following information:

- 1. Name and mailing address of the donor;
- 2. The total amount of the contribution;
- 3. The date on which the contribution was made and, if applicable, the date on which the contribution cleared;
- 4. The total creditable portion of the contribution against either the annual tax bill, or the quarterly installment thereof, and, if the donor sought a credit against multiple parcels within the municipality, the amounts credited against each parcel; and
- 5. The block, lot, qualifier, and property address of each parcel located within the local unit for which a credit has been applied against the annual property tax obligation.

(c) Any donation deposited into a spillover fund for credit against a donor's future annual property tax obligation or obligations shall be reported in its entirety to the tax collector, and the municipal finance officer if the local unit is a county or school district, concurrently with the reporting of the charitable fund donation to be credited against the current tax bill or in advance of the next upcoming property tax bill.

(d) A tax collector shall report to the fund administrator and, in the case of a county or school district charitable fund, the municipal finance officer, the amount of the credit applied to the donor's property tax obligation. If the amount of the credit applied differs from the amount reported as creditable by the charitable fund, the tax collector shall

provide the reason therefor. The tax collector's monthly report to the chief financial officer shall include all charitable fund contributions made.

(e) Credits applied to a donor's annual property tax obligation, or spillover fund donations reported to and recorded by the tax collector as "pre-paid" shall not be rescinded.

(f) Tax bill vendors shall establish a designated identifier code for each local government charitable fund.

#### SUBCHAPTER 4. MORTGAGE ESCROW ACCOUNT TRANSACTIONS

##### 5:33-4.5 Escrow account transactions

(a)-(c) (No change.)

(d) If a donor is a mortgagor whose mortgagee servicing organization or property tax processing organization pays the property taxes on the mortgaged parcel, and the donor makes a donation to the charitable fund, the creditable portion thereof shall be reported by the tax collector to the mortgagee, servicing organization, or property tax processing organization. If a credit has been applied to the donor's property tax obligation, the tax collector shall report the credit to the mortgagee, servicing organization, or property tax processing organization and any tax payment made by the mortgagee, servicing organization, or property tax processing organization toward the credited amount shall be refunded to the mortgagee, servicing organization, or property tax processing organization by the municipality.

(e) If a mortgagor elects to have a portion of his or her mortgage escrow account paid to a local unit charitable fund in lieu of property taxes, the mortgagor shall provide the following information to the mortgagee, servicing organization, or property tax processing organization handling such payments:

1. The name of the local unit or units, and the charitable fund or funds being donated to;
2. Total contribution amount to each charitable fund; and
3. The amount of the contribution creditable toward the mortgagor's property taxes.

(f) If a mortgagor elects to have a portion of his or her mortgage escrow account paid to a local unit charitable fund in lieu of property taxes, the mortgagee, servicing organization, or property tax processing organization shall provide the charitable fund with the information required under N.J.A.C. 5:30-18.9, except for the copy of the tax bill required under N.J.A.C. 5:30-18.9(a)3v.

(g) If a mortgagor elects to have a portion of his or her mortgage escrow account donated to a local unit charitable fund in lieu of property taxes, the mortgagee, servicing organization, or property tax processing organization shall provide the following information to the tax collector:

1. Name of property owner;
2. Address of property;
3. Contact information of the mortgagee, servicing organization, or property tax processing organization;
4. Property block, lot, and qualifier;
5. The mortgagee's legal interest in the property;
6. Payment amount;
7. The identity of the charitable fund or, if payment is to be made to multiple charitable funds of the local unit, the identity of each such local unit charitable fund and the amount of payment to be made to each such charitable fund; and
8. The portion of the charitable fund donation creditable toward the property tax obligation.

(a)

## NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

### Low Income Housing Tax Credit Qualified Allocation Plan

**Adopted Amendments: N.J.A.C. 5:80-33.2, 33.4 through 33.8, 33.10, 33.12, 33.15, 33.16, 33.17, 33.19, 33.25, 33.28, and 33.32**

**Adopted Repeals and New Rules: N.J.A.C. 5:80-33 Appendices A and B**

Proposed: November 19, 2018, at 50 N.J.R. 2282(a).

Adopted: April 18, 2019, by New Jersey Housing and Mortgage Finance Agency, Charles A. Richman, Executive Director.

Filed: May 7, 2019, as R.2019 d.058, **with non-substantial changes** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 55:14K-5.g and 26 U.S.C. § 42(m).

Effective Date: June 3, 2019.

Expiration Date: September 14, 2024.

#### Summary of Hearing Officer's Recommendation and Agency Response:

Anne Hamlin, New Jersey Housing and Mortgage Finance Agency's ("NJHMFA" or "Agency") Director of Tax Credit Services, conducted a public hearing in the boardroom of NJHMFA at 637 South Clinton Avenue, Trenton, New Jersey at 10:00 A.M. on Tuesday, December 11, 2018. No persons from the public testified at the hearing and no written comments were submitted during the hearing. Subsequent to the hearing, the hearing officer recommended that no changes be made to the rulemaking based on the hearing; the hearing officer's recommendations were accepted by the Agency. Copies of the transcript of the public hearing are available at the following address: New Jersey Housing and Mortgage Finance Agency, Division of Tax Credit Services, Attn: Johanna Peña, 637 South Clinton Avenue, PO Box 18550, Trenton, New Jersey 08650-2085.

#### Summary of Public Comments and Agency Responses:

The Agency received comments from the following persons:

1. William D. Jones, Executive Director, Housing Authority of the City of Elizabeth, Elizabeth, NJ;
2. Stuart Portney, President, The Metro Company, Jersey City, NJ;
3. Tracee Battis, Director of Project Development, Project Freedom, Inc., Lawrence, NJ;
4. Anthony R. Fanucci, Mayor, City of Vineland, Vineland, NJ;
5. Lara Schwager, Vice President of Development, PIRHL, Hamilton, NJ;
6. Barbara K. Schoor, Vice President, Community Investment Strategies, Inc., Lawrenceville, NJ;
7. Joseph Del Duca, Partner, Walters Group, Barnaget, NJ;
8. Adam M. Gordon, Esq., Associate Director, Fair Share Housing Center, Cherry Hill, NJ;
9. Staci A. Berger, President and CEO, Housing and Community Development Network of New Jersey, Trenton, NJ;
10. Lynn Bartlett, Executive Director, Housing Authority of Bergen County, Hackensack, NJ;
11. Peter J. O'Connor, Executive Director, Fair Share Housing Development, Mount Laurel, NJ;
12. Christopher Gigliotti, President and CEO, Parkside Redevelopment, LLC, Camden, NJ;
13. Kris Kolluri, Esq., CEO and President, Cooper's Ferry Partnership, Camden, NJ;
14. Christopher J. Laurent, President, Cinnare Solutions, Lansing, MI;
15. Olivette Simpson, Interim Executive Director, Camden Redevelopment Agency, Camden, NJ; and
16. Michael Knab, Senior Vice President of Development, RPM Development, Montclair, NJ.