

## **PUBLIC NOTICE**

### **EDUCATION**

#### **STATE BOARD OF EDUCATION**

##### **Notice of Receipt of Petition for Rulemaking**

##### **Interdistrict Public School Choice**

##### **Scope**

##### **N.J.A.C. 6A:12**

Petitioner: Robert Lorfink.

**Take notice** that on January 12, 2018, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner requesting the State Board of Education amend N.J.A.C. 6A:12 to conform the chapter's scope to the Interdistrict Public School Choice Program Act (Act).

The petitioner specifically requests the State Board adopt amendments to N.J.A.C. 6A:12-1.2(c), which currently prohibits a district board of education from maintaining at the same time both a tuition program pursuant to N.J.S.A. 18A:38-3 and a choice program in the grade levels that the school district has made available to choice students, to delete the language restricting the prohibition to only grade levels that are part of the choice program.

The petitioner's request indicates the specific amendments to N.J.A.C. 6A:12-1.2(c) would more closely align the rule to the Act. The petitioner's request states the current rule expands what the New Jersey Legislature provided in the Act at N.J.S.A. 18A:36B-21.b, which states a choice district shall not be eligible to enroll students on a tuition basis pursuant to N.J.S.A. 18A:38-3 while participating in the choice program. The petitioner's request also states the Legislature did not qualify the provision and, instead, required a school district to choose between a choice program and a tuition program.

The petitioner's request further states N.J.A.C. 6A:12-1.2(c) alters the terms of N.J.S.A. 18A:36B-21.b and, therefore, cannot have any legal effect. The petitioner's request cited Parsons

ex rel. *Parsons v. Mullica Twp. Bd. of Educ.*, 226 N.J. 297, 314 (2016) (quoting *Terry v. Harris*, 175 N.J. Super. 482, 496 (Law Div. 1980)) and *N.J. State Chamber of Commerce v. N.J. Elec. Law Enforcement Commission*, 82 N.J. 57, 82 (1980).

In accordance with N.J.A.C. 1:30-4.2, the Department shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.