

Public Notice

Education

State Board of Education

Notice of Receipt of Petition for Rulemaking

Educational Facilities

Use of Lease-Purchase Agreements

N.J.A.C. 6A:26-10.1

Petitioner: Gerald Reiner.

Take notice that on February 6, 2020, 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:26-10.1 to include language that prohibits lease purchases for equipment from being used to fund a project unless the lease-purchase agreement is approved before the project is awarded.

The petitioner specifically requests the State Board adopt an amendment at N.J.A.C. 6A:26-10.1(a), which allows a school district to acquire improvements or additions to school facilities through lease-purchase agreements of five years or less if the lease-purchase agreement provides for the funding in full to the school district upon commencement of construction of the school facilities project. The rule also prohibits school districts from entering into lease-purchase agreements of more than five years in duration. The petitioner seeks to add a provision stating that school districts may only enter into a contract to spend the funds from the proceeds of a lease-purchase if the the financing is approved by a district board of education resolution before incurring the obligation or award.

The petition states it is common sense that a school district should only award and incur an obligation if the school district has sufficient funds within the obligation, but the concept of a lease-purchase and how the rules are currently written leave too much open to interpretation. The petitioner also states the purposes of a lease-purchase are to stretch out the payment cycle of an item and to not fill a gap in the appropriation that is not there.

The petitioner's requested amendment at N.J.A.C. 6A:26-10.1(a) is as follows (addition indicated in boldface **thus**):

- (a) A school district may acquire improvements or additions to school facilities through lease-purchase agreements of five years or less provided that the lease-purchase agreement provides for the funding in full to the school district upon commencement of construction of the school facilities project. School districts shall not enter into lease purchase agreements of more than five years' duration. **School districts may only enter into a contract to spend the funds from the proceeds of a lease-purchase if the financing is approved by a district board of education resolution before the incurring of the obligation or award.**

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.