

EDUCATION

COMMISSIONER OF EDUCATION

Appeals

Definitions

Proposed Amendment: N.J.A.C. 6A:4-1.2

Authorized By: Lamont O. Repollet, Ed.D., Commissioner, Department of Education.

Authority: N.J.S.A. 18A:6-9.1 and P.L. 2008, c. 36.

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

Proposal Number: PRN 2018-011.

Submit written comments by March 8, 2019, to:

Samantha L. Price, Director
Office of Controversies and Disputes
New Jersey Department of Education
100 River View Plaza
PO Box 500
Trenton, New Jersey 08625-0500
E-mail: chapter4@doe.nj.gov

The agency proposal follows:

Summary

The Department of Education (Department) proposes to amend N.J.A.C. 6A:4, Appeals. This chapter sets forth the administrative procedures for filing appeals of State Board of Examiners decisions suspending or revoking teaching certificates and School Ethics Commission decisions

finding violation of the School Ethics Act, with the Commissioner of Education (Commissioner).

The Department proposes amendments to the rule to allow parties to submit appeal documents to the Department electronically. The proposed amendments complement the rulemaking for N.J.A.C. 6A:3, Controversies and Disputes, to allow electronic filings of petitions with the Commissioner in disputes arising under school laws, which is published elsewhere in this issue of the New Jersey Register.

The following summarizes the proposed amendment:

Subchapter 1. General Provisions

N.J.A.C. 6A:4-1.2 Definitions

This section defines words and terms used throughout the chapter.

The Department proposes an amendment to the definition of “filing” to replace “an original paper” with “a document, in either paper or electronic form” and “by facsimile” with “by regular or electronic mail,” respectively. The Department also proposes to delete the requirements that facsimile filings must be pre-approved, not exceed 10 pages, conform to submission requirements, and be accompanied by a statement that the original document will follow by mail or hand delivery. The proposed amendments will allow parties to submit documents to the Department electronically.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The social impact of the proposed amendments will be positive because they will allow for the electronic filing of petitions while continuing to ensure consistency, fairness, and due process

to all members of the education community and the general public in connection with the adjudication of appeal proceedings before the Commissioner under applicable school laws. The proposed amendments are intended to make the process well-defined, accessible, timely, and consistent with applicable law.

Economic Impact

The proposed amendments will not impose an economic burden on parties initiating proceedings before the Commissioner to hear and decide appeals arising under applicable school laws. The allowance of electronic filings will likely alleviate the cost of mailing or faxing the required filings by the appellant and respondent.

Federal Standards Statement

The proposed amendments will not be inconsistent with, nor exceed any, Federal standards or requirements, since no such standards or requirements address the mechanism prescribed by this chapter.

Jobs Impact

The Department anticipates no job generation or loss in other sectors of the economy as a result of the proposed amendments.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

Certain entities that qualify as small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., such as approved private schools for students with disabilities and small companies providing services or materials to district boards of education, are expected to comply with the chapter's procedures if they choose to initiate or are named as a party in an appeal

to the Commissioner. It is unlikely that a small business would initiate or be party to the type of proceeding governed by the chapter. The proposed amendments impose no reporting, recordkeeping, or further compliance requirements on small businesses; rather, the proposed amendments could alleviate the burden of mailing or faxing required filings by allowing for electronic submission.

Housing Affordability Impact Analysis

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood the proposed amendments would evoke a change in the average costs associated with housing because the proposed amendments will allow for the electronic submission of filings related to appeals to the Commissioner governed by the chapter.

Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments will allow for the electronic submission of filings related to appeals to the Commissioner governed by the chapter.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

There is an extreme unlikelihood that the proposed amendments would have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the proposed amendments concern administrative procedures for filing appeals with the Commissioner.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated

in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

6A:4-1.2 Definitions

The following words and terms shall have the following meanings when used in this chapter, unless the context clearly indicates otherwise:

...

“Filing” means receipt of [an original paper] **a document, in either paper or electronic form,** by an appropriate officer of the Department. [With the prior approval of the director of the Office of Controversies and Disputes, and generally up to a maximum of 10 pages, filings] **Filings** may be made by **regular or electronic mail, or** facsimile [when they otherwise conform to requirements for submission and are accompanied by a statement that the original document will follow by mail or hand delivery]. Parties requesting return of a stamped copy of any filing must include an extra copy of the document, together with a self-addressed envelope stamped with sufficient postage for this purpose.

...