

changes to the solar energy systems sections to correct these assignments as noted by the commenter.

3. COMMENT: The commenter noted that section R321 of the One- and Two-Family Dwelling Subcode has been deleted and that the enforcement responsibilities currently assigned to R321 and its subsections are, therefore, unnecessary. Finally, the commenter recommended departmental review of section R326 of the One- and Two-Family Dwelling Subcode, stating, "It appears the ISPSC sections need to be relocated under R326 in lieu of after R327 sections (NJAC 5:23-3.4(a)6). Also the *International Swimming Pool and Spa Code* ISPSC sections noted may need to be changed along with assigned responsibilities due to amendments made to the ISPSC, other code sections, and the regulations. (2015 Code editions versus 2018 Code editions. Example - No 'Exceptions' in 2018 ISPSC section 305.1, so '(Except safety covers pursuant to Section 305.1, Exception I which shall be Electrical)' needs correction.)"

RESPONSE: The Department agrees that further revision of the one- and two-family dwelling subcode responsibilities, along with the ISPSC, needs to be undertaken. Due to the amount of time needed to fully undertake the revision, and in the interest of correcting this more substantive item first, these changes are not included as a part of the substantive changes requiring further public comment, as the Department intends to undertake separate rulemaking to address these sections.

**Effect of Proposed Changes on Impact Statements Included in the Original Proposal**

The changes to the proposed amendment will not affect the impact statements included in the original rule proposal. Reassigning the plan review and inspection responsibilities for code officials does not affect the Social, Economic, Jobs, Agricultural Industry, or Racial and Ethnic Community Criminal Justice and Public Safety Impact Statements; the Regulatory Flexibility Analysis, Housing Affordability Impact Analysis, and Smart Growth Development Impact Analysis are similarly not affected by the proposed amendment.

**Full text** of the proposed substantial changes to the proposed amendments follows (additions to proposal indicated in italicized boldface *thus*; deletions from proposal indicated in italicized cursive brackets {thus}):

SUBCHAPTER 3. SUBCODES

5:23-3.4 Responsibilities

(a) The enforcement responsibilities of the adopted subcodes are as follows:

1. Building Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
...			
Ch. 31	Special Construction		
...			
	[3111	Building/Fire	Fire]
	<b>3111.1</b>	<b>Building</b>	<b>Building</b>
	<b>3111.2</b>	{ <i>Electrical/Fire/Plumbing</i> } <i>Building/Fire/Plumbing</i>	{ <i>Electrical</i> } <i>Plumbing</i>
	<b>3111.3.1</b>	<b>Electrical</b>	<b>Electrical</b>
	<b>3111.3.2</b>	<b>Building</b>	<b>Building</b>
	<b>3111.3.3</b>	<b>Building</b>	<b>Building</b>
	<b>3111.3.4</b>	<b>Fire</b>	<b>Fire</b>
	<b>3111.3.5</b>	{ <i>Electrical/Fire</i> } <i>Building/Fire</i>	{ <i>Electrical</i> } <i>Building</i>
	<b>3111.3.5.1</b>	<b>Building/Fire</b>	<b>Building</b>
	<b>3112</b>	<b>Building</b>	<b>Building</b>
...			

2.-5. (No change.)

6. One- and Two-Family Dwelling Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
Ch. 3	Building Planning		
...			
	[R324.2-R324.3] <b>R324.2</b>	[Electrical] { <i>Electrical/Fire/Plumbing</i> } <i>Building/Fire/Plumbing</i>	{ <i>Electrical</i> } <i>Plumbing</i>
	<b>R324.3</b>	<b>Electrical</b>	<b>Electrical</b>
...			
	R324.7	{ <i>Electrical/Fire</i> } <i>Building/Fire</i>	{ <i>Electrical</i> } <i>Plumbing</i>
...			

7.-9. (No change.)  
(b)-(d) (No change.)

**HIGHER EDUCATION**

**(a)**

**SECRETARY OF HIGHER EDUCATION**

**Rules and Procedures for Implementation of the Higher Education Equipment Leasing Fund Act Proposed Readoption with Amendments: N.J.A.C. 9A:14**

Authorized By: Dr. Brian K. Bridges, Secretary of Higher Education.

Authority: N.J.S.A. 18A:72A-40; and P.L. 1993, c. 136 and P.L. 2012, c. 42.

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

Proposal Number: PRN 2021-067.

Submit written comments by November 19, 2021, to:

Eric Taylor, Esq.  
Director, Office of Licensure  
Office of the Secretary of Higher Education  
1 John Fitch Plaza, 10th Floor  
PO Box 542  
Trenton, NJ 08625-0542  
Email: [eric.taylor@oshe.nj.gov](mailto:eric.taylor@oshe.nj.gov)

The agency proposal follows:

**Summary**

Enacted June 5, 1993, N.J.S.A 18A:72B-15 et seq., the Higher Education Equipment Leasing Fund Act (Act) (P.L. 1993, c. 136) established the Higher Education Equipment Leasing Fund ("equipment leasing fund" or "leasing fund") in the New Jersey Educational Facilities Authority (Authority). The Act authorizes the Authority to issue bonds to finance the purchase of scientific, engineering, technical, computer, communications, and instructional equipment for lease to New Jersey public and independent institutions of higher education and to enter into lease agreements with New Jersey's institutions of higher education to finance the acquisition of such equipment by the institutions.

Amendments to the Act in 2012 (the Amending Act) reflect the replacement of the New Jersey Commission on Higher Education with the Secretary of Higher Education (Secretary) as the State entity statutorily responsible for the coordination and planning of higher education in New Jersey. The Secretary of Higher Education, in consultation with the Authority, promulgates the implementing rules, which specify approval processes for institutional purchases supported by leasing funds and ensure the moneys are distributed consistent with the intent of the Act. Although the Act provides for the Authority to issue bonds, it limits the maximum amount of bonds outstanding at any one time to \$100 million.

As bonds are paid off, new bonding capacity is created. Approvals for equipment purchases using the initial \$100 million of bonds have been issued. Some of the bonds have now been paid off, thereby resulting in the ability to issue additional bonds to fund new purchases. The issuance of additional bonds is subject to the approval of the State Treasurer.

Pursuant to N.J.S.A. 52:14B-5.1.b, the rules governing the equipment leasing fund grants were scheduled to expire on May 6, 2020. Pursuant to Executive Order No. 127 (2020) and P.L. 2021, c. 104, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) was extended through January 1, 2022. Therefore, this chapter has not yet expired and is extended 180 days from the later of the existing expiration date or the date of publication of this notice of proposed readoption, whichever is later, which date is January 29, 2022, pursuant to N.J.S.A. 52:14B-5.1.c, Executive Order No. 244 (2021), and P.L. 2021, c. 104.

The Secretary is proposing to readopt these rules with amendments to provide for the allocation of money available if the State Treasurer authorizes new bonds as a result of the retirement of bonds previously issued by the Authority. The rules proposed for readoption with amendments went through an administrative review conducted by the Secretary, along with an extensive consultation with the Authority; this process resulted in suggested revisions to the equipment leasing fund rules.

As the Secretary has provided a 60-day comment period on this notice of the proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5. The rules proposed for readoption with amendments are organized into eight sections, as follows.

N.J.A.C. 9A:14-1.1 sets forth that the rules implement the Act and establishes that the rules are adopted in order to provide the mechanism by which eligible institutions may apply for, and receive, grants from the equipment leasing fund.

N.J.A.C. 9A:14-1.2 provides definitions for the terms used in the rules and includes a cross-reference to the definitions section of the Act and the Amending Act.

N.J.A.C. 9A:14-1.3 delineates the process for applying for approval of a higher education equipment purchase and specifies the information that must be included in applications. The application requirements at N.J.A.C. 9A:14-1.3(a) are proposed for amendment to simplify the process for institutions.

At N.J.A.C. 9A:14-1.3(b), it is proposed that the application minimum be changed from \$500,000 to \$50,000 to allow more institutions the opportunity to take advantage of the program. The proposed update to the reference to the description of the equipment at N.J.A.C. 9A:14-1.3(c) is to align it with the proposed amendments to the application requirements outlined at N.J.A.C. 9A:14-1.3(b). It is also proposed that the existing language at N.J.A.C. 9A:14-1.4(c) be expanded to reflect that the Secretary shall require that an institution demonstrate that the proposed equipment has been approved by the institution's governing board.

N.J.A.C. 9A:14-1.4, Application review and approval process, explains the Secretary's evaluation process and sets forth the criteria the Secretary will use in reviewing the applications. Proposed amendments at N.J.A.C. 9A:14-1.4(b) are designed to realign the objectives with the original intent of the statute, as well as the State Plan for Higher Education. The proposed amendments highlight the connection of the Equipment Leasing Fund to supporting the role that higher education plays in the State's economic development and to emphasize that access to an updated inventory of instructional and research equipment is crucial to the quality of teaching, learning, and research being done at the State's colleges and universities. Specifically, the Authority is deleting existing paragraphs (b)1, 4, 5, 8, and 9; adding paragraphs (b)4, 6, 7, and 8; and recodifying the remaining paragraphs. Additionally, new subsection (c) is added to state that preference will be given for projects promoting energy efficiency.

N.J.A.C. 9A:14-1.5 delineates the grant authorization process.

N.J.A.C. 9A:14-1.6 specifies when the Secretary may reduce or cancel an approved purchase amount. New N.J.A.C. 9A:14-1.6(d) describes the process by which an institution may seek a modification from the Secretary. This proposed amendment creates a clear process by which the Secretary can act to ensure that a project continues to serve the purposes of the State.

N.J.A.C. 9A:14-1.7 describes how the principal and interest on bonds will be paid and specifies action that will be taken if an institution fails to pay the appropriate amounts due to the Authority. For clarity, proposed amendments at N.J.A.C. 9A:14-1.7(c) clarify the State's options when the institution fails to pay obligations to the Authority.

N.J.A.C. 9A:14-1.8 summarizes reporting requirements. New N.J.A.C. 9A:14-1.8(b) and (c) concern reporting requirements that reflect current administrative practices.

#### **Social Impact**

More than 440,000 students are enrolled in New Jersey colleges and universities. The rapid technological changes occurring throughout the world have a considerable impact on the quality of teaching, learning, and research at colleges and universities. The current inventory of instructional and research equipment at the colleges and universities within the State is aging both chronologically and technologically, and much of it has been rendered obsolete. To be prepared for careers in a world of rapidly changing technology, New Jersey students must be educated using state-of-the-art instructional equipment. The equipment leasing fund supports instructional, computing, or research requirements and helps meet emerging technology needs. The 11 senior public colleges and universities and 14 institutions eligible for aid under the Independent College and University Assistance Act (N.J.S.A. 18A:72B-15 et seq., and P.L. 1979, c. 132) may apply for grants from the fund. Having rules in place if, and when, the fund is renewed will expedite institutional purchases with leasing fund moneys.

#### **Economic Impact**

Higher education plays a vital role in the economic development of the State and the nation by providing education and training for the workforce of the future by advancing science and technology through research. New Jersey has a large concentration of high-technology industry and research facilities and is home to some of the world's most productive corporations. The leasing fund helps New Jersey institutions meet educational demands, which helps the State compete in the global marketplace. The rules proposed for readoption with amendments prescribe how institutions may obtain leasing fund moneys for equipment acquisitions.

#### **Federal Standards Statement**

The rules proposed for readoption with amendments do not require a Federal standards analysis pursuant to N.J.S.A. 52:14B-22 et seq., because the equipment leasing fund was established by New Jersey legislation, and debt service on the bonds issued to fund the Equipment Leasing fund is wholly supported by State appropriations and is not subject to any Federal requirements or standards.

#### **Jobs Impact**

The rules proposed for readoption with amendments for the Equipment Leasing fund govern only the process eligible institutions must follow to receive approval for projects supported with leasing fund moneys. There will be short-term and long-term job increases associated with funded projects. The rules proposed for readoption with amendments will not result in the loss of any jobs.

#### **Agriculture Industry Impact**

The rules proposed for readoption with amendments have no impact on the agriculture industry.

#### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments do not impose requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments pertain strictly to public and publicly funded independent colleges and universities and private institutions of higher education in New Jersey, none of which qualify as a small business.

#### **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments do not impact housing affordability because the rules proposed for readoption with amendments govern the implementation of the Equipment Leasing fund. There is an extreme unlikelihood that the rules proposed for readoption

with amendments will evoke a change in the average costs associated with housing.

#### Smart Growth Development Impact Analysis

The Secretary believes there is an extreme unlikelihood that the rules proposed for readoption with 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 because the rules proposed for readoption with amendments govern the implementation of the Higher Education Equipment Leasing Fund Act.

#### Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Secretary has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 9A:14.

**Full text** of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 9A:14-1.3 Process for approval of a higher education equipment purchase

(a) Following approval by its governing board, an institution of higher education may apply to the Secretary for approval of a higher education equipment purchase(s) to be financed by the equipment leasing fund. The institution's application shall include the following:

1.-3. (No change.)

**4. A description of how the proposed purchase supports industry-valued credentialing programs and experiential learning opportunities;**

[4.] **5.** (No change in text.)

5. The equipment and number of units to be purchased;

6. The estimated cost of the equipment to be purchased;]

**6. A description of the equipment to be purchased;**

**7. For each item of equipment described at (a)6 above, where the estimated per unit cost of the equipment to be purchased exceeds \$10,000, the estimated cost and number of units of the equipment to be purchased;**

[7.] **8.** The useful life of the equipment either by reference to the Internal Revenue Service's Class Life Asset Description Range System set forth [in] at Revenue Procedure 87-56, **incorporated herein by reference**, as amended[, ] and supplemented[, or superseded], or by appraisal of any independent engineering or accounting firm, as appropriate;

Recodify existing 8.-10. as **9.-11.** (No change in text.)

**12. Any information regarding the energy efficiency of the proposed project, including manufacturer information or engineer reports; and**

[11.] **13.** Any additional information the institution deems necessary to demonstrate how the institution's proposed purchase meets the objectives identified [in] at N.J.A.C. 9A:14-1.4(b)[; and].

[12.] **14.** (No change in text.)

(b) No application shall be for an amount totaling less than [\$500,000] **\$50,000**, unless it is for the final portion of an institution's allocation, or the submission of an application for such smaller amount has been authorized by the Secretary.

(c) Descriptions of the equipment submitted pursuant to [(a)5] **(a)6** above may be illustrative and the equipment to be purchased may be changed as a result of the bidding processes, advances in technology, or for other reasons, provided that the [new] **equipment is consistent with the application approved by the governing board of the affected institution and by the Secretary, and is authorized pursuant to the lease agreement. The Secretary shall require that an institution demonstrate that the proposed** equipment has been approved by the institution's governing board [and by the Secretary].

(d) (No change.)

#### 9A:14-1.4 Application review and approval process

(a) (No change.)

(b) In determining whether a proposed higher education equipment purchase shall be approved, the Secretary shall consider the degree to which the proposed purchase supports the following objectives:

[1. Advancement of student education in the State of New Jersey;]

Recodify existing 2.-3. as **1.-2.** (No change in text.)

[4. Promotion of innovation and improvement in the delivery of higher education;

5. Advancement of study at all levels in science, technology, engineering, and mathematics education;]

[6.] **3.** (No change in text.)

**4. Consistency with the institution's long-range facilities plan;**

[7.] **5.** (No change in text.)

[8. Consistency of the project with the State's goals and priorities for development and redevelopment, including the promotion of industry clusters, job and business opportunities in areas designated by the State for growth, transportation choice and efficient mobility of goods and people, and promotion of access to opportunity for all New Jersey residents; and

[9. Whether it serves the best interests of higher education in the State as a whole;]

**6. Demonstrated commitment over the past 10 years to appropriate maintenance of equipment previously funded by State of New Jersey grant programs;**

**7. Supports industry-valued credentialing programs and experiential learning opportunities; and**

**8. Enrichment of existing material and coursework in support of current academic curricula.**

**(c) Preference will be given to projects that promote energy efficiency.**

#### 9A:14-1.6 Cancellation or reduction in approved amounts

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

**(d) In the event that an institution requires a modification to an approved project, a formal request must be sent to the Secretary, prior to any action being taken by the institution, in order for the Secretary to evaluate the merits of the proposed project modification against the objectives set forth at N.J.A.C. 9A:14-1.4(b). The Secretary may exercise discretion to allow a grantee to modify its project if such modification is reasonable and consistent with the scope, objectives, purpose, and intent of the originally approved project and if such modification does not constitute a material change. Material changes to the grant agreement will not be allowed. Project modifications will be reviewed on a case-by-case basis and must be authorized under the terms and conditions of the lease agreement, tax certificate, and any other applicable bond documents. Additionally, the Secretary may, in a manner consistent with the allocations provided in the Act, allocate any balance to another approved grant of the same institution.**

#### 9A:14-1.7 Payment of principal and interest

(a)-(b) (No change.)

(c) If an institution fails or is unable to pay to the Authority in full, when due, any such obligation of an institution to the Authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or [an] **any other State** appropriation [payable] **allotted** to the institution. As used in this subsection, "obligation of an institution" means any amount payable by the institution under a lease agreement to meet principal and interest on the bonds issued to acquire equipment for the institution under this program. The Authority shall notify the State Treasurer of the amount to be retained to satisfy the obligation of each institution. A copy of such notification shall be submitted to the Secretary.

#### 9A:14-1.8 Reporting requirements

(a) The Authority shall report its equipment purchases to the Secretary once in each year in which equipment purchases are made. The Secretary shall then report to the Governor and the Legislature on equipment purchases that have been approved by the Secretary and financed through this chapter.

(b) Each institution shall annually submit by May 31st, or such other date as determined by the Secretary, a report to the Authority pursuant to the requirements set forth by the grant agreement.

(c) Each institution shall, whenever requested by the Authority, provide and certify, in a form satisfactory to the Authority, such information concerning the institution and the project, the operations and finances of the institution, and any other matters that the Authority considers to be necessary in order to enable the Authority to make any reports, including reports to the Secretary, which are required by any law or governmental regulations in connection with the bonds issued under the Act.

## CORRECTIONS

### (a)

#### THE COMMISSIONER

#### Inmate Records and Information Sharing by County Correctional Facilities

#### Proposed Amendment: N.J.A.C. 10A:31-6.8

Authorized By: Victoria L. Kuhn Esq., Acting Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

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

Proposal Number: PRN 2021-093.

Submit written comments by November 19, 2021, to:

Kathleen Cullen  
 Administrative Rules Unit  
 Office of the Commissioner  
 New Jersey Department of Corrections  
 PO Box 863  
 Trenton, New Jersey 08625-0863  
 or email to [ARU@doc.nj.gov](mailto:ARU@doc.nj.gov)

The agency proposal follows:

#### Summary

The sharing of inmate records and information by all correctional facilities in the State of New Jersey must be done in compliance with the New Jersey Attorney General’s Immigrant Trust Directive, issued in 2018 and revised in 2019. The rules at N.J.A.C. 10A:31-6.8(a) and (c)4 are not clear in that respect. The Department of Corrections (Department), therefore, proposes to amend, by adding “except that any release of information to law enforcement authorities, including Federal law enforcement authorities, shall comply with any Attorney General law enforcement directives governing information sharing with other law enforcement agencies and officers” at the end of the sentence at N.J.A.C. 10A:31-6.8(a); and replacing the word “above” with “, except that any release of information to law enforcement authorities, including Federal law enforcement authorities, shall comply with any Attorney General law enforcement directives governing information sharing with other law enforcement agencies and officers” at N.J.A.C. 10A:31-6.8(c)4. The Department also proposes to amend N.J.A.C. 10A:31-6.8(c) to change “shall” to “may,” so that it will be consistent with subsection (b).

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

#### Social Impact

The proposed amendments better align the Department of Corrections’ administrative rules specific to county correctional facilities with the requirements of the Attorney General’s Immigrant Trust Directive. The Department anticipates a positive overall social impact on the general public and inmate population resulting from the proposed amendments. Some county correctional facilities may have concerns about these proposed amendments based on policy disagreements relating solely to

their more limited ability to assist in the enforcement of Federal civil immigration law.

#### Economic Impact

The cost of meeting and maintaining the requirements of the proposed amendments are accommodated within the existing budget.

#### Federal Standards Statement

The proposed amendments are promulgated under the authority of the rulemaking requirements of the Department, as established at N.J.S.A. 30:1B-6 and 10. The proposed amendments, which better align the Department of Corrections’ administrative rules specific to county correctional facilities with the requirements of the Attorney General’s Immigrant Trust Directive, do not alter any Federal laws or standards. To the contrary, the Attorney General’s Immigrant Trust Directive explicitly states that nothing in the directive shall be construed to restrict, prohibit, or in any way prevent a State, county, or local law enforcement from complying with all applicable Federal laws.

#### Jobs Impact

The proposed amendments will have no impact on jobs.

#### Agriculture Industry Impact

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

#### Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments align with existing requirements of the Attorney General’s Immigrant Trust Directive and other New Jersey Department of Corrections rules.

#### Housing Affordability Impact Analysis

The proposed amendments shall have no impact on housing affordability and there is an extreme unlikelihood that the proposed amendments would evoke a change in the average costs associated with housing. The proposed amendments set forth requirements in the Attorney General’s Immigrant Trust Directive on County Correctional Facilities operating in the State of New Jersey.

#### Smart Growth Impact Development Analysis

The proposed amendments will have no impact on the achievement of smart growth and there is an extreme unlikelihood the proposed amendments will evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments set forth requirements in the Attorney General’s Immigrant Trust Directive on County Correctional Facilities operating in the State of New Jersey.

#### Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department of Corrections has evaluated this rulemaking and determined that the proposed amendments will better align the Department of Corrections’ administrative rules specific to County Correctional Facilities with the requirements of the Attorney General’s Immigrant Trust Directive. The proposed amendments will also help further the common legislative goals of the Department of Corrections and the Attorney General in promoting a more unified system of criminal justice.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 6. MANAGEMENT INFORMATION SYSTEM AND RECORDS

10A:31-6.8 Availability of information to non-institutional persons or outside agencies

(a) Information from adult inmate records shall be provided to law enforcement agencies or persons, who request it in the performance of their public duties, **except that any release of information to law enforcement authorities, including Federal law enforcement authorities, shall comply with any Attorney General law enforcement**