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**JUVENILE JUSTICE COMMISSION****Transfer of Adjudicated Delinquents to the New Jersey Department of Corrections****Proposed Readoption with Amendments: N.J.A.C. 13:91**

Authorized By: Executive Board of the Juvenile Justice Commission, by Matthew J. Platkin, Acting Attorney General and Chair, Derick D. Dailey, Acting Attorney General's Designee, and Victoria Kuhn, Esq., Commissioner, Department of Corrections.

Authority: N.J.S.A. 52:17B-170, 52:17B-171, and 52:17B-175.

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

Proposal Number: PRN 2022-112.

Submit written comments by November 5, 2022, to:

Christina O. Broderick  
Chief, Legal & Regulatory Affairs  
New Jersey Juvenile Justice Commission  
1001 Spruce Street-Suite 202  
Trenton, New Jersey 08638  
or electronically at: [regulatory.affairs@jjc.nj.gov](mailto:regulatory.affairs@jjc.nj.gov).

The agency proposal follows:

**Summary**

The Juvenile Justice Commission (Commission) is the New Jersey agency responsible for providing juvenile corrections and parole services. In carrying out its responsibilities, the Commission seeks to maintain a safe and respectful environment for the youth under its supervision, while at the same time delivering effective educational and rehabilitative services individually tailored to each juvenile under its care. Pursuant to N.J.S.A. 52:17B-175, the Commission and the New Jersey Department of Corrections (DOC) are jointly proposing to readopt the rules at N.J.A.C. 13:91, with amendments. More specifically, the Commission and the DOC are proposing amendments to the rules found at N.J.A.C. 13:91-1.4 and 2.3A.

Pursuant to N.J.S.A. 52:14B-5.1.c, the rules for the transfer of a juvenile waived to adult criminal court, N.J.A.C. 13:91, were scheduled to expire on November 10, 2022. As the Commission filed this notice of readoption with the Office of Administrative Law prior to November 10, 2022, that date is extended 180 days to May 9, 2023, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Commission and DOC have reviewed these rules and have determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Accordingly, in addition to minor typographical changes, the Commission and DOC propose to readopt the rules with proposed amendments related to the transfer of juveniles waived under the provisions of N.J.S.A. 2A:4A-26.1 as follows.

Chapter 91 sets forth procedures for the transfer of certain juveniles from the Commission to the DOC, as authorized pursuant to N.J.S.A. 52:17B-175(e).

N.J.A.C. 13:91-1, General Provisions, provides the chapter purpose, scope, definitions, and forms.

N.J.A.C. 13:91-2, Transfer and Requirement for Transfer Hearing, sets forth the criteria upon which an adjudicated delinquent may be considered for transfer, transfer recommendation and approval, transfer procedures, including the requirement for a due process hearing in the case of an involuntary transfer, and confidentiality of information and records.

N.J.A.C. 13:91-3, Transfer Hearing, sets forth provisions for the designation and authority of the hearing officer, procedural requirements, and due process procedural safeguards.

The law governing waiver of juveniles to adult criminal court pursuant to the provisions at N.J.S.A. 2A:4A-26.1 provides that a waived juvenile would serve their sentence in a Commission facility, rather than a DOC facility, until the juvenile reaches the age of 21, and a juvenile may continue to serve their sentence in a Commission facility after reaching the age of 21 in the discretion of the Commission. However, N.J.A.C.

13:91-2.3A(c) requires that in any event, the juvenile shall be transferred to the DOC upon reaching age 25.

The Commission believes that if a juvenile is making substantial progress toward their goal(s) and residing in a Residential Community Home, as defined at N.J.A.C. 13:103-1.3, that juvenile may, subject to the approval of the Commission, be allowed to continue their residence with the Commission until the juvenile completes their term when certain conditions exist. Accordingly, the Commission and DOC jointly propose to amend N.J.A.C. 13:91-2.3A(c) to provide an exception for the existing rule that requires juveniles to be transferred to the DOC when they reach age 25. All other procedural steps for transfer, including all due process requirements, remain unchanged for waived juveniles. For the purposes of making such requests, the Commission proposes to amend N.J.A.C. 13:91-1.4, Forms, to add Forms 104(a) and 104(b), Request of Waived Juvenile to Remain in Commission Custody.

The notice of proposal is excepted from the calendar requirements at N.J.S.A. 52:14B-3(4), as the Commission is providing a 60-day comment period, pursuant to N.J.A.C. 1:30-3.3(a)5.

**Social Impact**

The Commission and DOC believe that the rules proposed for readoption with amendments will have a positive social impact by ensuring compliance with State law and providing for more waived juveniles to serve their custodial sentences in an environment more conducive to juveniles.

**Economic Impact**

The rules proposed for readoption with amendments will not result in any economic impact because additional funding is not necessary to implement the rules proposed for readoption with amendments. The cost of meeting and maintaining the requirements established by the rules proposed for readoption with amendments will be met by the Commission through the budgetary process with monies allocated by the State.

**Federal Standards Statement**

The rules proposed for readoption with amendments comply with 28 CFR 31.303, and do not exceed the standards or requirements imposed by Federal law.

**Jobs Impact**

The Commission and DOC do not believe that the rules proposed for readoption with amendments will result in the generation or loss of jobs in New Jersey.

**Agriculture Industry Impact**

The Commission and DOC do not believe that the rules proposed for readoption with amendments will have an impact on the agriculture industry in New Jersey.

**Regulatory Flexibility Statement**

The rules proposed for readoption with 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. Therefore, a regulatory flexibility analysis is not required. The rules proposed for readoption with amendments impact juveniles incarcerated in facilities of, and employees of, the New Jersey Juvenile Justice Commission, and have no effect on small businesses.

**Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments will have an insignificant impact on the affordability of housing in New Jersey, and there is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in the average costs associated with housing, because the rules and proposed amendments concern only the transfer of youth from juvenile to adult correctional facilities.

**Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments will have an insignificant impact on smart growth development, and 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 in New Jersey, because the rules proposed for

readoption with amendments concern only the transfer of youth from juvenile to adult correctional facilities.

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

By implementing a procedure by which a juvenile can remain in a Commission facility beyond reaching the age of 25 years old in certain circumstances, the Commission and DOC believe that the rules proposed for readoption with amendments will allow more juveniles the opportunity to serve their custodial sentences in an environment conducive to juveniles. Implementing the rules proposed for readoption with amendments will increase the likelihood that each juvenile will experience a successful transition upon returning to the community, thereby enhancing public safety, fairness, and equity, and safeguarding against any racial or ethnic disparities in the transfer process.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:91.

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

SUBCHAPTER 1. GENERAL PROVISIONS

13:91-1.4 Forms

(a) The following forms related to the transfer of juveniles are available through the Juvenile Reception Classification Committee:

1.-2. (No change.)

3. Form 103, Voluntary Transfer Request Form; [and]

4. Form 104(a), Request of Waived Juvenile to Remain in Commission Custody[.]; and

**5. Form 104(b), Request of Waived Juvenile to Remain in Commission Custody.**

SUBCHAPTER 2. TRANSFER AND REQUIREMENT FOR TRANSFER HEARING

13:91-2.3 Forwarding of recommendation to Commissioner and Commissioner action for a juvenile who has been adjudicated delinquent

(a) The Executive Director or designee shall transmit Form 101 to the Commissioner together with a formal request to transfer a juvenile to the Department:

1. Upon receiving the written determination provided for [in] at N.J.A.C. 13:91-[3.14]**3.13** that the hearing officer has approved the transfer of a juvenile; or

2. (No change.)

(b)-(c) (No change.)

13:91-2.3A Transfer of a juvenile waived [under] pursuant to the provisions of N.J.S.A. 2A:4A-26.1

(a) The Executive Director or designee has the discretion to transfer a juvenile under the age of 21 who has been convicted of a crime and who is serving a custodial sentence in a Commission facility [under] pursuant to the provisions [of] at N.J.S.A. 2A:4A-26.1:

1. Upon receiving the written determination provided for [in] at N.J.A.C. 13:91-[3.14]**3.13** that the hearing officer has approved the transfer of a juvenile; or

2. (No change.)

(b) Upon reaching the age of 21, a juvenile who has been convicted of a crime and who is serving a custodial sentence in a Commission facility [under] pursuant to the provisions [of] at N.J.S.A. 2A:4A-26.1, shall be transferred to the Department of Corrections, unless:

1. The juvenile has completed Form 104(a), Request of Waived Juvenile to Remain in Commission Custody; and

2. The Form 104(a) request has been approved by the Executive Director or designee.

(c) [In any event, upon] Upon reaching the age of 25, the juvenile shall be transferred to the Department of Corrections, **unless**:

**1. The juvenile is assigned Custody Level 1, as defined at N.J.A.C. 13:96-1.2, residing in a Residential Community Home, as defined at N.J.A.C. 13:103-1.3, and meeting program expectations and**

**standards described within the Residential Community Home Program Agreement and resident handbook;**

**2. The juvenile is gainfully employed in the community, absent a public health emergency or other exigent circumstances, as determined at the discretion of the Commission;**

**3. The juvenile will reach their maximum date, as defined at N.J.A.C. 13:96-1.2, within 24 months;**

**4. The juvenile has submitted Form 104(b), Request of Waived Juvenile to Remain in Commission Custody; and**

**5. The Form 104(b) request has been approved by the Executive Director or designee.**

**(d) If a juvenile residing with the Commission beyond age 25 is removed from the Residential Community Home for disciplinary reasons, they shall be returned to the appropriate Secure Facility, as defined at N.J.A.C. 13:95-1.3. Upon a finding by the Disciplinary Hearing Officer, as designated by N.J.A.C. 13:101-6.1, that the juvenile is guilty of the disciplinary charge, the juvenile shall be transferred to the Department of Corrections pursuant to (c) above as soon as practical.**

## OTHER AGENCIES

### (a)

#### NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

##### Section 15 Grant Procedures

##### Proposed New Rules: N.J.A.C. 19:32

Authorized By: New Jersey Schools Development Authority,  
Manuel M. Da Silva, Chief Executive Officer.

Authority: P.L. 2007, c. 137, § 4k (N.J.S.A. 52:18A-238k; 52:18A-240) (rulemaking authority); P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.); and P.L. 2007, c.137 (N.J.S.A. 52:18A-235 et seq.) (enabling statutes).

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

Proposal Number: PRN 2022-114.

Submit written comments by November 5, 2022, to:

Cecelia Haney, Administrative Practice Officer  
New Jersey Schools Development Authority  
PO Box 991  
Trenton, NJ 08625-0991  
[chaney@njsda.gov](mailto:chaney@njsda.gov)

The agency proposal follows:

#### Summary

The Section 15 Grant Procedures rules of the New Jersey Schools Development Authority (SDA), codified at N.J.A.C. 19:32-1 through 4, were originally adopted to implement Section 15 of the Educational Facilities Construction and Financing Act (“EFCFA” or “the Act”), P.L. 2000 c. 72 (N.J.S.A. 18A:7G-1 et seq.). Section 15 of the Act established a grant program for those school districts that were not included in the category of “SDA Districts” eligible to have their school facilities projects fully funded and constructed by the SDA. The Section 15 Grant Procedures rules expired on July 1, 2022, therefore, the SDA is now proposing the expired rules as new rules, with technical changes, not otherwise discussed, and with three minor substantive changes that are discussed below.

The Section 15 Grant Procedures rules will govern the SDA’s continued administration of the grant program for non-SDA districts, which funds the State share of the final eligible costs of qualifying school facilities projects in non-SDA districts, pursuant to Section 15 of the Act.

As the SDA 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.

A summary of the expired rules proposed herein as new rules follows.