

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CORRECTIONS

(a)

STATE PAROLE BOARD

Parole Release Hearings

Factors Considered at Parole Hearings; Adult Inmates

Proposed Amendment: N.J.A.C. 10A:71-3.11

Authorized By: New Jersey State Parole Board, Samuel J. Plumeri, Jr., Chairman.

Authority: N.J.S.A. 30:4-123.48.d

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

Proposal Number: PRN 2020-055.

Submit comments by July 31, 2020 to:

Steven Tallard
Executive Director
New Jersey State Parole Board
PO Box 862
Trenton, NJ 08625-0862
Fax: 609-292-4493
Email: SPB-RulemakingComments@spb.nj.gov

The agency proposal follows:

Summary

On January 31, 2020, the State Parole Board (Board) received a petition for rulemaking. The petitioner suggested that the Board consider immaturity and attributes of youth at the time a criminal act is committed by an offender under age 18 and maturity and growth during the course of incarceration. In assessing the matter, the Board recognized that the maturity developed by an offender over the length of incarceration has been a factor taken into consideration by Board members in the assessment of an offender for parole release. In recognition that this factor is utilized in the parole decision-making process in appropriate cases, the Board agreed with the petitioner that N.J.A.C. 10A:71-3.11(b) be amended accordingly. The Board proposes that N.J.A.C. 10A:71-3.11 be amended to include a new paragraph (b)24, stating that subsequent growth and increased maturity of the inmate during incarceration.

The notice of proposal is excepted from the calendar requirement at N.J.A.C. 1:30-3.3(a) because the Board has provided a 60-day comment period pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendment would codify an additional factor to be taken into consideration during the parole-decision making process. The proposed amendment may, therefore, have an impact on certain inmates

who become eligible for parole consideration and participate in the parole release hearing process.

Economic Impact

The proposed amendment provides for an additional factor to be taken into consideration during the parole decision-making process. The implementation of the proposed amendment does not require additional staffing or the development of additional administrative procedures. Accordingly, additional funding is not required to implement the proposed amendment.

Federal Standards Statement

The proposed amendment is not proposed under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under State statute that incorporates or refers to Federal law, standards, or requirements. An analysis of the proposed amendment pursuant to Executive Order No. 27 (1994), P.L. 1995, c. 65 is, therefore, not required.

Jobs Impact

The proposed amendment pertains to the Board's parole decision-making process. It is not anticipated that any jobs will be lost or created as a result of the proposed amendment.

Agriculture Industry Impact

The proposed amendment pertains to the Board's parole decision-making process. The proposed amendment, therefore, will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendment imposes no reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment pertains to the Board's parole decision-making process. A regulatory flexibility analysis is, therefore, not required.

Housing Affordability Impact Analysis

The proposed amendment pertains to the Board's parole decision-making process. The proposed amendment will, therefore, have no impact on the affordability of housing nor will the proposed amendment increase or decrease the average cost of housing.

Smart Growth Development Impact Analysis

The proposed amendment pertains to the Board's parole decision-making process. The proposed amendment will, therefore, not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed amendment pertains to the Board's parole decision-making process. The additional factor may be a consideration in the cases

of certain adult inmates confined in correctional facilities serving a term of incarceration and who become eligible for parole consideration and participate in the parole release hearing process. However, the proposed amendment has no impact on sentencing.

Full text of the proposal follows (additions indicated in boldface **thus**):

SUBCHAPTER 3. PAROLE RELEASE HEARINGS

10A:71-3.11 Factors considered at parole hearings; adult inmates

(a) (No change.)

(b) The hearing officer, Board panel, or Board shall consider the following factors and, in addition, may consider any other factors deemed relevant:

1.-23. (No change.)

24. Subsequent growth and increased maturity of the inmate during incarceration.

(c) (No change.)

OTHER AGENCIES

(a)

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

Requests for Access to Government Records

Proposed New Rules: N.J.A.C. 19:33

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

Authority: P.L. 2007, c. 137, § 4k (N.J.S.A. 52:18A-238k) (rulemaking authority); P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.); P.L. 2007, c. 137 (N.J.S.A. 52:18A-235 et seq.) (enabling statutes); and N.J.S.A. 47:1A-1 et seq. (Open Public Records Act).

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

Proposal Number: PRN 2020-056.

Submit written comments by July 31, 2020, to:

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

The agency proposal follows:

Summary

The New Jersey Schools Development Authority (“SDA” or “Authority”), an independent State authority charged with the construction and funding of school facilities projects pursuant to a school construction program authorized by the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c. 72, N.J.S.A. 18A:7G-1 et seq., as amended by P.L. 2007, c. 137, N.J.S.A. 52:18A-235 et seq., proposes new rules governing the process for requesting government documents from the SDA under the Open Public Records Act (OPRA), P.L. 2001 c. 404 (N.J.S.A. 47:1A-1 et seq.), and defining certain categories of documents exempted from disclosure under OPRA. The new rules are proposed at N.J.A.C. 19:33.

As the Authority 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.

Subchapter 1 establishes the process to be followed by members of the public who seek access to government records made, maintained, kept on file, or received in the ordinary course of business by the SDA. Subchapter 2 of the proposed new rules defines certain categories of documents that are excepted from disclosure under OPRA. A description of the proposed rules follows.

Proposed new N.J.A.C. 19:33-1.1 states the scope, applicability, and definitions of words and terms for the new rules. The new rules govern government record requests submitted to the New Jersey Schools Development Authority.

Proposed new N.J.A.C. 19:33-1.2 provides that the Chief Executive Officer of the SDA will designate a person to be the SDA records custodian. The records custodian shall be responsible for responding to requests directed to the Authority for access to government records. The contact information for the records custodian shall be made available to the public on the SDA’s website.

Proposed new N.J.A.C. 19:33-1.3 provides that all requests for access to government records under OPRA must be submitted in writing on a form approved by the SDA, or in a written document that includes the information specified at N.J.A.C. 19:33-1.3(b). The requestor will be required to provide certain information in the written request. Among other things, the required information would include: a description of the specific, identifiable government record sought, the method of access requested (inspection or copies), the format in which the requested documents are to be provided (for example, electronic or hard-copy), the preferred mode of delivery (for example, email or electronic access, mail, or in-person), a certification that the requestor has not been convicted of an indictable offense under the laws of the State of New Jersey, any other state, or of the United States, the maximum cost the requestor has authorized to pay, and the date of submission of the request. The requestor’s certification concerning conviction of an indictable offense is required to ensure compliance with the provision of the law that prohibits a person convicted of an indictable offense under the laws of this State or any other state, or the United States, from receiving personal information concerning the victim of the offense, or the victim’s family, as provided at N.J.S.A. 47:1A-2.2. A request form is available on the SDA’s website, and copies of the form are available at the office of the SDA’s records custodian.

Proposed new N.J.A.C. 19:33-1.4 establishes the procedure for submitting requests for access to government records under OPRA. Written requests shall be addressed or directed to the SDA’s records custodian, and may be hand-delivered during normal business hours, mailed, faxed, or transmitted electronically through electronic mail. A written request for access to government records that is addressed to the SDA records custodian and mailed or delivered to the SDA’s main address will constitute delivery to SDA’s records custodian. A written request must be delivered to the SDA’s records custodian in order for the request to be considered filed, and, thereby, trigger the requirements of OPRA. Sending a records request to the wrong officer or employee may result in a delay of the fulfillment of the request. If the request is delivered to an SDA employee other than the records custodian, the employee shall advise the requestor that he or she is not authorized to accept the request and shall direct the requestor to the records custodian.

The custodian shall review the request for clarity and completeness and may deny a request that is unclear or incomplete. The records custodian will estimate the costs of providing the record, in accordance with the rates set forth at N.J.S.A. 47:1A-5, and shall require the prepayment of the estimated sum. A request is not complete until the required deposit is received by the records custodian. In the event the actual cost for reproduction of a government record exceeds the rates set forth at N.J.S.A. 47:1A-5, the records custodian is permitted to charge the actual costs of reproducing the record. The custodian will provide the requestor with a copy of the signed and dated written request, with the estimated fee and tracking number indicated.

The custodian may charge a special service charge whenever the nature, format, manner of collation, or volume of a government record or records to be inspected, examined, or reproduced is such that the record or records cannot be reproduced by ordinary document copying equipment in ordinary business size, or otherwise requires an extraordinary expenditure of time and effort to accommodate the request. The custodian will charge an additional fee representing the cost of postage or delivery, if applicable. The custodian will not provide access to, or copies of, the requested records until the custodian has received payment in full of all costs and fees associated with the request. The custodian can deny a request for failure or refusal to pay the required fees.