

## STATE

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## NEW JERSEY CULTURAL TRUST

## New Jersey Cultural Trust Rules

## Proposed New Rules: N.J.A.C. 15:27

Authorized By: Tahesha Way, Secretary of State.

Authority: N.J.S.A. 52:16A-72 et seq., specifically, 52:16A-72.a.

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

Proposal Number: PRN 2023-096.

Submit written comments by December 1, 2023, to:

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The agency proposal follows:

**Summary**

Pursuant to P.L. 2000, c. 76 (N.J.S.A. 52:16A-72 et seq.), the New Jersey Cultural Trust (Cultural Trust) was established to build a permanent, stable, and additional source of funding to support private, non-profit arts, history, and humanities organizations. The Cultural Trust's purpose is to help build endowments, create institutional stability, and fund capital projects of qualified cultural organizations in New Jersey.

The New Jersey Cultural Trust meets this purpose by allocating funds from the New Jersey Cultural Trust Fund (Fund) in accordance with the purposes and procedures established by the New Jersey Cultural Trust Act (the Act), N.J.S.A. 52:16A-72 et seq.

The New Jersey Cultural Trust promulgated rules for the New Jersey Cultural Trust Fund Program in September 2001, for the designation of qualified organizations, the certification of donations to the endowments of qualified organizations, the distribution of matching funds to the endowments of eligible organizations, and the award of grants for endowments, capital facilities projects, and financial and institutional stabilization in accordance with the New Jersey Cultural Trust Act.

The Cultural Trust proposes to adopt the expired rules at N.J.A.C. 15:27 as new rules. The rules in this chapter expired on January 20, 2022.

N.J.A.C. 15:27 sets forth the rules of the Cultural Trust for the New Jersey Cultural Trust Fund Program for the award of grants for endowments, capital facilities projects, and financial and institutional stabilization in accordance with the New Jersey Cultural Trust Act, N.J.S.A. 52:16A-72 et seq.

A summary of the subchapters at N.J.A.C. 15:27 follows:

N.J.A.C. 15:27-1 concerns the organization of the Cultural Trust, including a summary of its Board composition and its mission. Subchapter 1 also includes the Cultural Trust's contact information.

N.J.A.C. 15:27-2 concerns the Cultural Trust's grant program, including its purpose, ethical principles, general eligibility requirements, and other procedural details regarding the application for and disbursement of funds. Subchapter 2 also includes the procedures for appeals and release of funds from the Trust Fund, as well as for grant monitoring and reporting.

The Cultural Trust proposes to adopt the expired rules as new rules without change. The Cultural Trust has reviewed the expired rules proposed herein as new rules and has determined that they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The expired rules proposed herein as new rules, thus, will continue to provide the regulatory framework to enable the Cultural Trust to function at its current status.

As the Cultural Trust has provided for 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 expired rules proposed herein as new rules will have a positive social impact by continuing the Cultural Trust Program for the award of grants for endowments, capital facilities projects, and financial and institutional stabilization. This program, which is in high demand, provides a stable source of funding to assist in the improvement, expansion, stability, and long-term health of arts, history, and humanities organizations in New Jersey.

The Cultural Trust was originally formed to address the issue of undercapitalization at cultural nonprofit organizations. This issue of undercapitalization persists and continues to threaten to disrupt the delivery of arts and cultural programming across the State.

Arts, history, and humanities contribute greatly to the quality of life in New Jersey, to the health and vitality of its cities, towns, and neighborhoods, to sound education, to the teaching of tolerance and understanding, and to the celebration of the State's rich cultural diversity and identity. All organizations funded through the Cultural Trust must demonstrate public benefit through a mission devoted to the advancement of arts, history, or the humanities. The Cultural Trust Board evaluates each organization's mission and the organization's public benefit through the process of qualification, as set forth at N.J.A.C. 15:27-2.6.

The funding awarded from the Cultural Trust Fund will continue to ensure stronger, financially stable arts, history, and humanities organizations, and improved facilities for arts, history, and humanities organizations, for decades to come. Stable arts and culture organizations are the ones that can contribute most to their communities.

**Economic Impact**

The expired rules proposed herein as new rules will continue to facilitate the distribution of moneys from the Cultural Trust Fund and provide a means by which moneys are made available for endowments and for capital facilities projects and institutional and financial stabilization projects. The funds provided to organizations play an important role in improving the economic stability of the organizations and the communities they serve, and in generating jobs in the non-profit sector. The organizations receiving funds from the Cultural Trust may incur some administrative costs during the application process and when complying with post-funding requirements. However, certain factors will affect the costs incurred. Some of these factors are: the number of staff at the organization awarded the funding, availability of qualified volunteers, and the size and complexity of the project.

**Federal Standards Statement**

A Federal standards analysis is not required because the expired rules proposed herein as new rules are not subject to any Federal standards or requirements.

**Jobs Impact**

The expired rules proposed herein as new rules have the potential to ensure the continuation of jobs within the arts, history, and humanities fields and to create new jobs in the institutions that develop their endowments and receive funds from the Cultural Trust. Additionally, there is the potential for a continued increase in education and commercial art, cultural tourism, and collateral businesses serving tourists.

**Agriculture Industry Impact**

Pursuant to P.L. 1998, c. 48, and N.J.S.A. 52:14B-1 et seq., the Cultural Trust has evaluated the proposed Cultural Trust program in order to determine the nature and extent of the impact on the agriculture industry. The Cultural Trust has determined the expired rules proposed herein as new rules will have no impact on the agriculture industry.

**Regulatory Flexibility Statement**

Qualifying organizations, some of which may be small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., must follow the application procedure and comply with the conditions imposed by the Cultural Trust. The administrative costs of applying for, and complying with the conditions of, the funding allocation are minor and are minimized by the Cultural Trust staff being available for technical

assistance in the application process. Additionally, organizations will be able to receive technical assistance from the staff of the New Jersey State Council on the Arts, the New Jersey Historical Commission, and the New Jersey Historic Trust for the parts of the program they manage.

Organizations must keep financial records to comply with Cultural Trust requirements. Most organizations receiving funds from the Cultural Trust will need the services of a professional accountant to prepare a financial audit. This cost, which will vary depending on the audit's complexity and the professional fees, is required in order for the Cultural Trust to establish a uniform basis for ensuring the integrity of the use of State funds. Past amendments to the rules reduced this cost for some applicants with smaller operating budgets by linking the Cultural Trust's audit requirements to those applied by the New Jersey Division of Consumer Affairs Charities Registration Section. Specifically, those organizations with an annual total gross income of more than \$100,000, but less than \$500,000, must submit independent financial reviews for their past two fiscal years, as opposed to independent certified audits of financial statements. Those organizations with annual total gross income of less than \$100,000 must submit their tax returns and board-approved budgets for the past two fiscal years, as opposed to independent certified audits of financial statements. Not only does this comport with the audit requirements of the Division of Consumer Affairs, but it also reduces costs to the regulated community in a commonsense manner. Among the other factors that will affect total cost of compliance are the following: number of staff at the institution awarded the funding, the availability of qualified volunteers, and the size and complexity of the project.

**Housing Affordability Impact Analysis**

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Cultural Trust has evaluated the expired

rules proposed herein as new rules to determine the impact, if any, on the affordability of housing. The Cultural Trust has determined that the expired rules proposed herein as new rules will have no impact on housing affordability and that there is an extreme unlikelihood that the expired rules proposed herein as new rules would evoke a change in the average costs associated with housing in New Jersey because the expired rules proposed herein as new rules concern the Cultural Trust Program and the award of grants to nonprofits.

**Smart Growth Impact Analysis**

The expired rules proposed herein as new rules will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The expired rules proposed herein as new rules are unlikely to evoke a change in housing production within Planning Areas 1 or 2, or within designated centers pursuant to the State Development and Redevelopment Plan because the expired rules proposed herein as new rules concern the Cultural Trust Program and the award of grants to nonprofits.

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

The Cultural Trust has evaluated this rulemaking and determined that there is an extreme unlikelihood it would 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 expired rules proposed herein as new rules may be found in the New Jersey Administrative Code at N.J.A.C. 15:27.