

of a lower-level administrative determination filed by the appellant. "Non-appellant party," for the purpose of hearings before the Board of Review, means the party, whether the claimant, the employer, or a Deputy of the Division of Unemployment Insurance, who is responding before the Board of Review to the appeal of an appeal tribunal determination filed by the appellant.

"Party" means either the claimant, the employer, or the Deputy of the Division of Unemployment Insurance who is a party to the unemployment benefit, State plan temporary disability benefit, or State plan family leave insurance benefit matter that is before the appellate body.

"Written" means handwritten or typed, hardcopy, or electronic.

## SUBCHAPTER 9. SCHEDULING

### 1:12-9.1 Notice of hearing

(a) Written notices of the time and place of any in-person or telephone hearing shall be [mailed to the parties in interest] issued to each party at least five days before the date of the hearing but a shorter notice may be given if not prejudicial to the parties.

(b) The notice of hearing shall contain at least the following information:

1. That [the parties have] each party has a right to object to an in-person or telephone hearing, whichever is scheduled; [and]

2. Written instructions as to how the hearing shall be conducted[.];

3. Written notification of the requirement that in order to participate in a hearing, each party must register with the appellate body in advance of the hearing in accordance with instructions provided to the party by the appellate body within the notice of hearing; and

4. Written instructions as to how and when the party must register with the appellate body to participate in the hearing.

### 1:12-9.2 Adjournments

(a) Adjournments shall be granted only [in exceptional situations which could not have been reasonably foreseen or prevented] where the requesting party is able to show good cause.

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

## SUBCHAPTER 14. CONDUCT OF CASES

### 1:12-14.4 Failure to register

(a) If an appellant fails to register for a hearing before the appellate body at the time and in the manner prescribed in the notice of hearing, the appellate body shall dismiss the appeal on the ground of failure to register, unless the appellate body determines pursuant to N.J.A.C. 1:12-9.2 and 14.11 that there is good cause for adjournment.

(b) If a non-appellant party fails to register for a hearing before the appellate body at the time and in the manner prescribed in the notice of hearing, the appellate body shall proceed with the hearing as scheduled without the participation of the non-appellant party, on the ground of failure to register, unless the appellate body determines pursuant to N.J.A.C. 1:12-9.2 and 14.11 that there is good cause for an adjournment.

### 1:12-[14.4]14.5 Failure to appear

(a) If [the] an appellant fails to appear for a hearing before [an appeal tribunal] the appellate body at the time and in the manner prescribed in the notice of hearing, the [appeal tribunal] may proceed to make its decision on the record or may] appellate body shall dismiss the appeal on the ground of [nonappearance] failure to appear, unless [it appears] the appellate body determines pursuant to N.J.A.C. 1:12-9.2 and 14.11 that there is good cause for an adjournment.

[(b) If an appeal tribunal issued an order of dismissal for nonappearance of the appellant, the chief appeals examiner shall, upon application made by an such appellant, within six months after the making of such order of dismissal, and for good cause shown, set aside the order of dismissal and shall reschedule such appeal for hearing in the usual manner. An application to reopen an appeal made more than six months after the making of such order of dismissal may be granted at the discretion of the chief appeals examiner.]

(b) If a non-appellant party fails to appear for a hearing before the appellate body at the time and in the manner prescribed in the notice of hearing, the appellate body shall proceed with the hearing as scheduled without the participation of the non-appellant party, on the ground of failure to appear, unless the appellate body determines pursuant to N.J.A.C. 1:12-9.2 and 14.11 that there is good cause for an adjournment.

Recodify existing N.J.A.C. 1:12-14.5 through 14.9 as **14.6 through 14.10** (No change in text.)

### 1:12-14.11 Good cause

(a) For the purpose of determining whether a party has presented "good cause" for an adjournment pursuant to N.J.A.C. 1:12-9.2, for failure to register pursuant to N.J.A.C. 1:12-14.4, or for failure to appear pursuant to N.J.A.C. 1:12-14.5, the term "good cause" shall mean that the failure to register, the failure to appear, or the reason for the adjournment request, is due to circumstances either:

1. Beyond the control of the party; or
2. Which could not have been reasonably foreseen or prevented.

## SUBCHAPTER 18. DECISIONS

### 1:12-18.4 Reopening Appeal Tribunal decisions

(a) In the absence of jurisdiction by the Board of Review, a party to a benefit claim may file a request for reopening of an Appeal Tribunal decision if:

1. (No change.)

2. The party did not register for the Appeal Tribunal hearing for good cause shown;

Recodify existing 2.-4. as **3.-5.** (No change in text.)

(b) (No change.)

(c) The Appeal Tribunal shall notify [all interested parties] each party of the request for reopening. [The parties] Each party shall have 10 days to submit written arguments. After reviewing the matter, the Appeal Tribunal will schedule a hearing, issue an amended decision, or deny the request in an order explaining the reasons. [All interested parties] Each party will be notified by the Appeal Tribunal of any subsequent decision or order which shall contain appeal rights to the Board of Review.

## CHILDREN AND FAMILIES

### (a)

#### OFFICE OF LICENSING

#### Manual of Requirements for Residential Child Care Facilities

#### Proposed Readoption: N.J.A.C. 3A:55

Authorized By: Christine Norbut Beyer, M.S.W., Commissioner, Department of Children and Families.

Authority: N.J.S.A. 30:1-14 and 15, and 30:4C-4.

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

Proposal Number: PRN 2023-106.

Submit written comments by January 5, 2024, to:

Kristin Matera  
Office of Policy and Regulatory Development  
Department of Children and Families  
PO Box 717  
Trenton, New Jersey 08625  
Email: [rules@DCF.NJ.GOV](mailto:rules@DCF.NJ.GOV)

The agency proposal follows:

#### Summary

Pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 3A:55, governing the Department of Children and Families ("Department" or "DCF") standards for inspecting, evaluating, and approving publicly and privately operated residential child care facilities, were scheduled to

expire on September 23, 2023. As the Department filed this notice of proposed readoption prior to that date, the expiration date was extended 180 days to March 21, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department has reviewed the rules proposed for readoption and has determined that, without change, they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated.

A summary of each subchapter at N.J.A.C. 3A:55 follows:

Subchapter 1 sets forth the legal authority, the definition and types of children's residential facilities, and the meanings of words and terms used in the chapter.

Subchapter 2 sets forth procedures related to certificates of approval, including requirements for applications, approval issuances and denials, suspensions, revocations, and renewal refusals. Subchapter 2 further sets forth the standards and procedures for administrative hearings, complaints, and public access to records.

Subchapter 3 provides administrative requirements for residential childcare facilities, including requirements for facilities to: maintain a statement of purpose, prepare and post a list of children's rights, provide information to parents and staff, establish a governing board, and adopt a written conflict of interest policy. Subchapter 3 further sets forth intake and admissions, reporting, records, and comprehensive general liability insurance requirements.

Subchapter 4 sets forth the physical facility requirements, including, the initial approval requirements for facilities located in New Jersey and initial approval requirements for facilities located outside of New Jersey. The provisions at Subchapter 4 further sets forth requirements for maintenance and sanitation, emergency evacuations, medical emergencies, fire prevention, first aid, and the prohibition against use of tobacco products.

Subchapter 5 describes staff requirements for residential childcare facilities, including, general requirements, staff qualifications, staff-to-child ratios, training, and development. Subchapter 5 also includes the in-State and out-of-State background check procedures and requirements for conducting Criminal History Record Information (CHRI) and Child Abuse Record Information (CARI) background checks.

Subchapter 6 sets forth program requirements, including plans for treatment and discharge, grouping of children, work and employment, money and allowance, visitation and communication, education, recreation, religion, rest, bedrooms and sleep, and food and nutrition and pets. Subchapter 6 further sets forth requirements related to discipline and control, including restrictive behavior management practices, searches and seizures of weapons and contraband, firearms and weapons, and aversive conditioning procedures.

Subchapter 7 sets forth health and medical requirements, including, health plan, health care, and medical treatments for children, as well as requirements for general medical practices, medications, including psychotropic medication, health education, and physical care for children. Subchapter 7 further describes health requirements for staff, and environmental and staff hygiene standards.

Subchapter 8 sets forth general transportation and records requirements for residential childcare facilities that provide or arrange transportation for children. Subchapter 8 further provides additional requirements for transporting physically handicapped, non-ambulatory children.

Subchapter 9 sets forth adventure activity requirements that apply to residential childcare facilities that provide or contract for adventure activities. In addition to general requirements, plans for emergency evacuation and search and rescue, and reporting requirements, the provisions at Subchapter 9 set forth requirements related to biking, canoeing, kayaking and tubing, caving, hiking, horseback riding, ropes initiatives and rock climbing, sailing and boating, solos (solitary activities), swimming, water-skiing, camping, and wagon trains. Subchapter 9 further provides requirements for qualifications for supervising staff, staff-to-child ratios, and communication and visiting.

Subchapter 10 sets forth requirements for residential childcare facilities that provide services to pregnant adolescents and adolescent parents. Subchapter 10 includes requirements related to staff and staff-to-child ratios, staff development and training, case management, discharge planning, services regarding paternal involvement, services to the adolescent's family, parenting education, infant stimulation, infant toys

and equipment, recreation, money and allowance, visiting and communication, behavior management, health plans for pregnant adolescents and infants, health care for adolescent mothers who are not pregnant, care of sick infants, general medical practices, and medication. Subchapter 10 also includes requirements for disinfecting, personal hygiene, health education and physical care for adolescents and infants, food and nutrition for infants, and life skills development.

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 rules proposed for readoption at N.J.A.C. 3A:55 provide standards for the inspection, evaluation, and approval of publicly and privately operated facilities that provide board, lodging, care, and treatment services for children who are placed or financed by the Department. The purpose of the rules proposed for readoption is to protect the health, safety, and well-being of the children who are placed in the residential childcare facilities that are regulated by the Department. The Department believes the rules proposed for readoption at N.J.A.C. 3A:55 will continue to have a positive social impact on the children who are receiving, or in need of, residential childcare. The minimum standards set forth in this chapter also benefit residential childcare operators and employees by providing necessary information and guidance to safeguard the safety and well-being of children staying in their residential childcare facilities.

#### Economic Impact

The Office of Licensing (Office) does not anticipate any economic impact on residential childcare facilities due to the proposed readoption of N.J.A.C. 3A:55. The Department contracts with residential childcare facilities and compensates the providers for the residential childcare services they provide. The Office does not believe that the readoption of the rules will cost the residential childcare facilities any additional expenditures.

#### Federal Standards Statement

The licensing standards incorporate, and do not exceed the requirements required to maintain eligibility pursuant to Title IV of the Social Security Act. Title IV-E of the Social Security Act, 42 U.S.C. § 670, authorizes funds pursuant to the Social Security Act to be appropriated to allow states to provide foster and transitional care programs and services for children in out-of-placements. Title IV-E of the Social Security Act, 42 U.S.C. §§ 671(a)(10) and (11), requires the state to establish and maintain standards for foster homes and childcare institutions. The readopted rules provide standards for residential childcare facilities and establish residential childcare inspection and reporting requirements in accordance with sections 670 and 671. The process of rule readoption is part of the periodical review of these standards. As applicable Federal standards are met, but not exceeded, a Federal standards analysis is not required.

#### Jobs Impact

The Department anticipates no impact, either positive or negative, on job creation due to the rules proposed for readoption.

#### Agriculture Industry Impact

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

#### Regulatory Flexibility Statement

The rules proposed for readoption may affect private residential childcare facility operators who are considered small businesses pursuant to N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. There are 16 residential childcare facilities with certificates of approval and no pending applications for approval. Of the 16 facilities, 14 are in New Jersey and two are out-of-State. Of the 14 New Jersey facilities, 13 are small businesses pursuant to the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The other one is part of a large non-profit organization. The licensing standard continues the existing reporting, recordkeeping, and compliance requirements on those small businesses. No capital expenditures are imposed by the rules proposed for readoption in order to meet the reporting, recordkeeping, or compliance requirements. The standards of care, safety, and recordkeeping in this

chapter are not in excess of standard practice for any childcare institution, which are also required to comply with licensing and other standards imposed by DCF. The professional services required are those that would be required of any childcare provider, regardless of whether the provider is operated by or receiving funding from DCF.

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

The Department does not believe the rules proposed for readoption will have any impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules proposed for readoption would evoke a change in the average costs associated with housing because the rulemaking addresses requirements of residential child care facilities.

#### **Smart Growth Development Impact Analysis**

The Department does not believe the proposed readoption will have any impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules proposed for readoption would 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 rules proposed for readoption concern the requirements for residential child care facilities.

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

The Department 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. 3A:55.

---

## **COMMUNITY AFFAIRS**

### **(a)**

#### **DIVISION OF CODES AND STANDARDS**

##### **Uniform Construction Code**

##### **Proposed Amendments: N.J.A.C. 5:23-2.15, 2.15A, 4.5, 4.12, and 4.14**

##### **Proposed New Rules: N.J.A.C. 5:23-2.15B and 4.22**

Authorized By: Lt. Governor Sheila Y. Oliver, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-124 and 52:27D-124.4.

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

Proposal Number: PRN 2023-109.

Submit written comments by January 5, 2024, to:

Geraldine Callahan  
Department of Community Affairs  
PO Box 800  
Trenton, New Jersey 08625  
Fax No. (609) 984-6696  
[geraldine.callahan@dca.nj.gov](mailto:geraldine.callahan@dca.nj.gov)

The agency proposal follows:

#### **Summary**

The proposed amendments and new rules codify the requirements at P.L. 2021, c. 70 (Law), which requires that all municipalities in the State of New Jersey have the ability to accept construction permit applications electronically. In order to facilitate and standardize the submission parameters, the Law charged the Department of Community Affairs (Department) with developing the Electronic Permit Processing Review System (NJEPPRS). The Law requires that the system allow for the electronic submission and approval of permit applications, as well as the electronic scheduling of inspections. The Law does not require that applications be made electronically, but rather requires that applicants have the option of submitting applications electronically, if they so

choose. The proposed amendments and new rules are being made to implement the Law.

Pursuant to the proposed amendments and new rules, local enforcing agencies have the option of utilizing either the NJEPPRS, or another system, provided it is equivalent in function to the NJEPPRS. The proposed amendments and new rules establish the functions of the NJEPPRS and, by extension, other systems that local enforcing agencies may elect to use in lieu thereof. In addition, the proposed amendments and new rules establish fees to fund the implementation of the NJEPPRS, as permitted by the Law. The following specific changes are proposed:

1. At N.J.A.C. 5:23-2.15, the proposed amendments allow for the electronic signing and sealing of plans by the design professional where plans are submitted electronically. The proposed amendments would also require, when applicable, physical signing and sealing of paper plans that are to be available at the worksite. The proposed amendments would also reduce the number of sets of plans that need to be submitted where the submission is electronic.

2. At N.J.A.C. 5:23-2.15A, the proposed amendments clarify that plans for single-family dwellings may be made electronically and that signing and sealing of plans by the design professional may be electronic for electronic submissions.

3. Proposed new N.J.A.C. 5:23-2.15B requires that the municipality be capable of accepting permit applications electronically and sets the criteria that the NJEPPRS, or equivalent system, must follow. The proposed new rule requires that the NJEPPRS, or equivalent system, be internet-based, be available to applicants on a continuous basis, be capable of accepting all materials necessary for issuance of the construction permit, incorporate a method to schedule and confirm inspections, and allow for the flow of information between the applicant and the enforcing agency. The section also specifies the format for the plans submitted in support of the construction permit, including electronic versions of permit applications with technical sections, verify code compliance, confirm compliance across multiple disciplines, plans, specifications, and calculations shall be supported in PDF, electronic document submission, and electronic application surcharge. The section further allows enforcing agencies to use other systems for the submission of electronic construction permits, provided that the equivalent system comports with the aforementioned and requires electronically filed plans to be provided in a physical copy at the worksite.

4. At N.J.A.C. 5:23-4.5, the proposed amendments require that the enforcing agency submit a report to the Department, quarterly, that accounts for the surcharge fees collected.

5. At N.J.A.C. 5:23-4.12, the proposed amendments require that third-party inspection and plan review agencies have the capability to review construction applications, including plans and supporting materials, electronically.

6. At N.J.A.C. 5:23-4.14, the proposed amendments require that any contract between a third-party inspection and plan review agency and an enforcing agency contain a provision specifying that the private agency can process the parts of the electronic permit application, for which it is responsible, using a system compatible with the enforcing agency pursuant to N.J.A.C. 5:23-2.15B.

7. Proposed new N.J.A.C. 5:23-4.22 establishes a surcharge fee of \$1.00 per \$1,000 value of construction, with a minimum surcharge fee of \$2.00 to be charged when the municipality uses NJEPPRS. In addition, the section establishes situations where no fee needs to be collected. The section also establishes the remitting of collected fees and reporting requirements, as well as where the municipality has elected to use an electronic permitting system other than that used by the Department, the municipality shall not collect fees in excess of that permitted by the section.

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**

It is anticipated that this rulemaking will have a positive social impact. The proposed amendments and new rules codify the requirements at P.L. 2021, c. 70, which requires that the Department develop an Electronic Permit Processing and Review System to allow construction permit