

HUMAN SERVICES

COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

Blindness Education Program of the Commission for the Blind and Visually Impaired

Proposed Readoption: N.J.A.C. 10:92

Authorized By: Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:6-1 et seq., and P.L. 2007, c. 111.

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

Proposal Number: PRN 2016-054.

Submit comments by June 17, 2016, to:

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The agency proposal follows:

Summary

N.J.A.C. 10:92 sets forth the rules describing the Commission for the Blind and Visually Impaired Blindness Education Program. The Commission for the Blind and Visually Impaired (“Commission” or “CBVI”) was designated by N.J.S.A. 30:6-1 to operate a “Statewide itinerant blindness educational services program for eligible children that facilitate their inclusion in the least restrictive, most appropriate, educational setting.” Pursuant to N.J.S.A. 52:14B-5.1,

N.J.A.C. 10:92 was scheduled to expire on March 12, 2016. Pursuant to N.J.S.A. 52:14B-5.1.c(2), as the Department filed this notice of rules proposed for readoption prior to that date, the expiration date is extended 180 days to September 8, 2016. The Department of Human Services (Department) has reviewed N.J.A.C. 10:92 and has determined the rules to be necessary, reasonable, and proper for the purposes they were originally promulgated to serve.

Following is a summary of the rules proposed for readoption:

Subchapter 1. Overview of Educational Services

N.J.A.C. 10:92-1 describes the purpose and scope of the Blindness Education Program and the definitions of terms and words used in the chapter.

Subchapter 2. Eligibility Standards for Educational Services

N.J.A.C. 10:92-2 describes the eligibility criteria for blindness education services through the Commission. Blindness education is provided to children ages 21 and younger with central visual acuity that does not exceed 20/70 in the better eye with correction and/or visual fields that are so limited that the widest diameter of visual field subtends an angle of no greater than 40 degrees or field cuts caused by hemianopsia. In order for children to be eligible, they must not have completed secondary school and they must meet the residency requirements as set forth in N.J.A.C. 10:91-2.6. Children receiving blindness services through the Commission need not be classified “eligible for special education” by their local board of education to be eligible for Commission services. The Commission’s responsibility for notification of ineligibility for blindness education services of the Commission must be provided by mail to the parent or guardian of the ineligible children, and in the event that the school district does not enter into a provider service agreement with the Commission, the parent or guardian is notified in writing that the child will be closed from blindness education services. Children closed from blindness

education services because the school district did not request these services may be referred for other services provided by the Commission including orientation and mobility services and other independent living services, as well as vocational rehabilitation services as set forth in N.J.A.C. 10:95.

Subchapter 3. Itinerant Education Services

N.J.A.C. 10:92-3 describes the Commission's provision of a wide range of itinerant blindness education services to blind and vision impaired children and their families. For children ages three to 21 years, blindness education services are provided in collaboration with local school districts through provider service agreements that may be adjusted based on student need. The itinerant instructor shall provide instruction in Braille literacy, Nemeth Braille, and any other necessary instruction in other compensatory or alternative skills, as well as follow-up instruction to support a student's participation in higher level subject area instruction. Specialized deaf-blind services shall be provided to students who have auditory impairment as well as vision impairment. Deaf-blind students are eligible to receive all other services provided to blind or vision impaired students who do not have auditory impairment. When a school district chooses not to enter into a provider service agreement with the Commission for blindness education services, the student can receive independent living services and American Printing House for the Blind materials. Services are provided to infants and toddlers (birth up to three years) with blindness or vision impairment, their families, and early intervention service providers. Services are provided to students with multiple disabilities, including blindness or vision impairment, and shall include appropriate assessment of the student's vision functioning, technical assistance to facility's education staff and support staff, and educational aids, equipment, and materials.

Subchapter 4. Loan and Provision of Material, Aids, and Equipment

N.J.A.C. 10:92-4 describes the protocols of accessing instructional materials and adaptive equipment through the George F. Meyer Instructional Resource Center to students receiving blindness education services throughout the State. These instructional materials and equipment include: American Printing House materials, low vision devices and equipment, electronic devices, media players, Braille books, large print books, and Braille writing devices. These materials are provided to all students receiving blindness education services through the Commission, as well as those receiving blindness education services through private teachers of blind or visually impaired.

Subchapter 5. Commission Services Available to Eligible Children

N.J.A.C. 10:92-5 describes additional services to eligible children and their families including recreational and developmental programs operated by the Commission, physical education/recreation in-service training, reader service, and specialized evaluation and/or instruction in all areas of independent living, including orientation and mobility and other independent living skills.

Subchapter 6. Educational Program Options

N.J.A.C. 10:92-6 describes the Commission's role in determining the educational placements of eligible children receiving blindness education services. Such placement determination is the responsibility of the local school district, however, the itinerant teacher of the Commission shall collaborate with the school district and assist by identifying characteristics of an optimal educational placement and offering guidance with regard to instructional and environmental accessibility within the educational placement to assure that the student is

educated in the least restrictive environment (LRE) as defined in the Individuals with Disabilities Education Improvement Act (IDEIA) of 2004.

As the Commission 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

In the State fiscal year 2015, the Commission provided blindness education services to a total of 2,268 eligible children including children birth to three years and children who attend Department of Children and Families school programs. Of the 2,268 children served, 1,729 were identified as “legally blind.” The remaining 539 children were identified as having vision impairment, but were not considered “legally blind.” A total of 1,687 eligible children received blindness education services that were funded by provider service agreements with local school districts or charter schools. The number of local school districts that entered into provider service agreements with the Commission totaled 364 and served 1,660 eligible children who were enrolled in school. There were also 27 charter schools that entered into provider service agreements with the Commission and served 27 students. A total of 581 eligible children also received blindness education services from the Commission without provider service agreements because they were either served within the New Jersey Early Intervention System or attended Department of Children and Families school programs. The provider service agreement system does not include these entities. This chapter benefits the people of New Jersey, including blind or vision impaired children, by providing them with an array of blindness education services that

are determined by the child's full individualized education plan (IEP) team with consultation from the child's Commission teacher.

The Commission provides schools programs where the children receive blindness education services with resources and opportunities for training in issues and approaches relevant to the education of blind or vision impaired children.

Society benefits from the Commission's blindness education services through the agency's provision of itinerant instruction and consultation from a certified teacher of the blind or visually impaired because these services foster high quality education and positive adult outcomes for children receiving these services. This leads to greater opportunities for post high school education, including college attendance and greater employability, so that these children become adults who are prepared to seek higher education, enter the workforce, and lead independent and productive lives.

Economic Impact

The rules in this chapter have a positive economic impact on eligible Commission students. Eligible children will have greater access to the array of appropriate Commission services, and eligible children will have greater access to their assigned Commission instructor. Local school districts will continue to pay fees for services provided by the Commission, via funding transfer through the New Jersey Department of Education.

Blindness education services provided by the Commission were funded through three funding sources including provider service agreements, Federal Quota funds, and State funds. During State fiscal year 2015, the Commission received \$4,069,516 from provider service agreements. These funds provided for salaries and benefits to the Commission itinerant teachers.

The Commission also received \$515,242 (\$298.00 per eligible child) in Federal Quota funds through American Printing House for the Blind (APH). Federal Quota funds were used for alternative format textbooks and specialized APH materials and equipment. There were 1,093 APH eligible children who received alternate format books, specialized materials, and equipment from APH. State funds were used to provide all Commission eligible children with other specialized technology equipment and software applications. The total expenditure of State funds for these equipment items and software applications was \$1.2 million. Specialized training provided directly to eligible children in the use of specialized technology and software applications through the contract vendor, Advancing Opportunities totaled \$278,000.

Federal Standards Statement

The rules proposed for re adoption do not contain any standards or requirements that are subject to Federal requirements or standards. As a result, an analysis of the rules pursuant to Executive Order No. 27 (1994) is not required.

Jobs Impact

The rules proposed for re adoption are not anticipated to impact the number of jobs within the State of New Jersey.

Agriculture Industry Impact

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

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for re adoption do not impose reporting, recordkeeping, or other compliance requirements on small businesses in accordance with N.J.S.A. 52:14B-16 et seq. The rules proposed for re adoption reflect procedures, standards, and services as they apply to and benefit the education of Commission students that are blind and visually impaired.

Housing Affordability Impact Analysis

The rules proposed for re adoption will have no impact on the affordability of housing in New Jersey and would not evoke a change in the average costs associated with housing because the rules reflect procedures, standards, and services as they apply to and benefit the education of Commission students that are blind and visually impaired.

Smart Growth Development Impact Analysis

The rules proposed for re adoption will have an insignificant impact on smart growth development and there is an extreme unlikelihood that the rules 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 reflect procedures, standards, and services as they apply to and benefit the education of Commission students that are blind and visually impaired.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:92.