

borrower and/or recipient shall immediately notify the I-Bank when such an allegation or evidence comes to its attention and shall periodically advise the I-Bank of the status and ultimate disposition of any related matters.

#### 19:50-5.55 Noncompliance

(a) In addition to any other remedies as may be provided by law or in the loan agreement or grant agreement, in the event of noncompliance with any Transportation Bank loan or Transportation Bank grant condition, requirement of this subchapter, or contract requirement or specification, the I-Bank may take any of the following actions or combinations thereof:

1. Issue a notice of noncompliance pursuant to N.J.A.C. 19:50-5.56;
2. Withhold Transportation Bank loan and/or Transportation Bank grant monies pursuant to N.J.A.C. 19:50-5.50; and/or
3. Terminate the Transportation Bank loan and/or Transportation Bank grant pursuant to N.J.A.C. 19:50-5.51.

#### 19:50-5.56 Notice of noncompliance

Where the I-Bank determines that the borrower and/or recipient is in noncompliance with any condition or requirement of these rules or with any contract specification or requirement, it shall notify the borrower and/or recipient, its engineer, and/or the contractor of the noncompliance. The I-Bank may require the borrower and/or recipient, its engineer, and/or contractor to take and complete corrective action within 10 business days of receipt of notice. If the borrower and/or recipient, its engineer, and/or contractor fails to take corrective action or if the action taken is inadequate, then the I-Bank may withhold disbursement.

#### 19:50-5.57 Waivers

(a) The I-Bank and the NJDOT shall not grant waivers or other relief from design standards or other provisions of this subchapter unless the waiver can be granted without substantial detriment to the safety and operation of the project and without substantially impairing the intent and purpose of this subchapter.

(b) Any party desiring a waiver or release from the express provisions of this subchapter may submit a written request to the I-Bank and/or the NJDOT. The request for waiver shall state the reasons why a waiver is appropriate and include documentation to support the waiver. A request to the I-Bank must be submitted to the attention of the Executive Director. A request to the NJDOT must be submitted to the NJDOT's State Transportation Engineer.

(c) With respect to the I-Bank, waivers may be granted only by the I-Bank's Board when such waiver would not contravene the provisions at N.J.S.A. 58:11B-1 et seq., and upon a finding that, in granting the waiver, the Board will be promoting the statutory purposes of the Transportation Bank.

(d) With respect to NJDOT, waivers may be granted by the Commissioner when such waiver would not contravene the provisions at N.J.S.A. 58:11B-1 et seq., and upon a finding that, in granting the waiver, the Commissioner will be promoting the statutory purposes of the Transportation Bank.

(e) If a waiver is granted, the I-Bank shall incorporate the waiver approval and any associated conditions into the loan agreement and/or grant agreement.

#### 19:50-5.58 Administrative hearings

(a) The I-Bank shall make the determination regarding all disputes arising pursuant to Transportation Bank financing. The Commissioner shall make the determination regarding all disputes arising pursuant to Transportation Bank project eligibility. The project sponsor, borrower, and/or recipient shall specifically detail, in writing, the basis for its appeal. When a project sponsor, borrower, and/or recipient so requests, the I-Bank and/or Commissioner shall produce a decision, in writing, based on a written record review and furnish a copy thereof to the project sponsor, borrower, and/or recipient.

(b) If a project sponsor, borrower, and/or recipient wishes to appeal the I-Bank and/or Commissioner's decision pursuant to (a) above, the project sponsor, borrower, and/or recipient shall request an administrative hearing within 15 calendar days of a decision by the I-Bank and/or Commissioner. The request for an administrative hearing must specify in detail the basis for the appeal.

(c) Following receipt of a request for a hearing pursuant to (b) above, the I-Bank and/or Commissioner may attempt to settle the dispute by conducting such proceedings, meetings, and conferences, as deemed appropriate.

(d) If such efforts at settlement pursuant to (c) above fail, and the I-Bank Board of Directors and/or Commissioner determines that the request pursuant to (b) above is a contested case, the I-Bank Executive Director and/or the Commissioner shall file a request for an administrative hearing with the Office of Administrative Law. Administrative hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

#### 19:50-5.59 Basis for determinations

In evaluating whether a project has complied with or satisfied any requirement or criteria pursuant to this subchapter, or such other applicable law or in determining what course of action the I-Bank and/or the NJDOT may decide upon regarding those rules, the I-Bank and NJDOT shall be entitled to rely upon any advice, certifications, or opinions which may be provided to it by the engineering, professional, or legal staff of the I-Bank or of any other State governmental unit upon which it may call for assistance pursuant to N.J.S.A. 58:11B-5(f).

## CHILDREN AND FAMILIES

### (a)

#### OFFICE OF LICENSING

#### Manual of Requirements for Child Care Centers Reproposed Amendment: N.J.A.C. 3A:52-5.3

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

Authority: N.J.S.A. 9:3A-7f, 9:6-8.15, 26:2H-5, and 30:4C-4(h).

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

Proposal Number: PRN 2025-088.

Submit written comments by September 5, 2025, to:

Joseph Pargola, Director  
Office of Policy and Regulatory Development  
PO Box 717  
Trenton, New Jersey 08625  
Email: [rules@dcf.nj.gov](mailto:rules@dcf.nj.gov)

The agency proposal follows:

**Take notice** that the Department of Children and Families ("Department" or "DCF"), Office of Licensing (Office) is reproposing the notice of proposal published at 57 N.J.R. 1187(a). The purpose of this notice of reproposal is to adjust the three compliance dates being added from "the effective date of this rulemaking" to "six months after the effective date of this rulemaking."

#### Summary

To ensure consistency and uniformity across various standards promulgated by New Jersey State agencies impacting child care centers, the Office proposes this amendment to increase the required square footage of classrooms utilized in licensed child care centers from 35 square feet per child to 42 square feet per child for centers initially licensed on, or after, six months following the promulgation of this rulemaking. The intent is to align standards applicable to all child care programs with those applicable to those participating in the State's universal preschool program, modified pursuant to a separate rulemaking published in the New Jersey Register at 57 N.J.R. 1188(a).

Existing rules require school districts or charter schools that received Preschool Education Aid in August 2017, or thereafter, to ensure all preschool classrooms in-district and/or at contracted private providers and local Head Start agencies are a minimum of 950 square feet per classroom, consisting of 750 square feet of usable space, 150 square feet of storage and equipment or furnishings that are either built-in or not easily movable,

and 50 square feet of toilet room. The Department proposes changing the requirement from 35 square feet of usable space per child, per classroom, to 42 square feet of usable space per child, per classroom.

The Department is proposing the amendments in concert with the New Jersey Department of Education (DOE) as part of Governor Phil Murphy's plan to streamline space requirements for facilities that serve children from birth through age four across the two State agencies. DOE has proposed, through a notice of proposal published in the New Jersey Register at 57 N.J.R. 1188(a), to modify standards for preschool programs to conform to the floor space requirement of 42 square feet per child proposed more broadly here.

The Governor's cross-agency effort aims to bolster the State's mixed delivery model by addressing one of the most frequently cited barriers faced by local education and child care officials as communities across New Jersey look to establish or expand State-funded preschool and child care programs.

This rulemaking, in concert with DOE's simultaneous rulemaking, will ensure that State-funded preschool programs continue to utilize adequate square footage of usable space, while providing flexibility for school districts and charter schools in selecting appropriate in-district, private provider, and/or Head Start facilities. These proposed amendments also will make it easier for private providers and Head Start programs to partner with school districts to serve children through State-funded preschool programs.

As the Office has provided a 60-day comment period on this notice of reproposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The Office anticipates a positive social impact of the repropoed amendments, which will ensure that child care centers operating as preschool classrooms, pursuant to the Department of Education's rulemaking and other preschools are subject to one clear, and universal, standard.

#### Economic Impact

The repropoed amendments will have a net positive economic impact insofar as they will open new revenue streams to impacted child care centers by way of their eligibility to participate in State-funded universal pre-school programs, increase options available to public schools in the design and establishment of those programs, and thereby allow for more efficient and effective use of public funding. These positive economic impacts are anticipated to offset the potentially negative economic impact resulting from any increase in the compliance cost associated with increased floor space requirements for new child care centers.

#### Federal Standards Statement

There are no Federal standards or requirements that will have an impact on the repropoed amendments. Therefore, a Federal standards analysis is not necessary.

#### Jobs Impact

The DOE anticipates that its changes will increase the number of potentially funded classrooms and create more jobs. While the DOE anticipates that the repropoed amendments, taken in combination, will have a positive jobs impact, DCF does not expect this rulemaking to increase the square footage requirement to match DOE's requirement, considered in isolation, to have either a negative or positive impact on the job creation front for its child care centers, given that DCF's repropoed amendments are not as expansive as those proposed by the DOE.

#### Agriculture Industry Impact

The repropoed amendments will have no impact on the agriculture industry in New Jersey.

#### Regulatory Flexibility Analysis

The repropoed amendments impact New Jersey licensed child care centers. The repropoed amendments do not impose reporting or recordkeeping requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The repropoed amendments would impose an additional compliance requirement on newly licensed child care centers, insofar as the required floor space per child served would increase from 35 square feet per child to 42 square feet per child.

#### Housing Affordability Impact Analysis

The repropoed amendments will have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendments would evoke a change in the average costs associated with housing because the repropoed amendments pertain to child care centers, not to residential housing.

#### Smart Growth Development Impact Analysis

The repropoed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the repropoed amendments set forth requirements for child care centers.

#### 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 reproposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

### SUBCHAPTER 5. PHYSICAL FACILITY REQUIREMENTS

#### 3A:52-5.3 Physical plant requirements for all centers

(a)-(p) (No change.)

(q) Space and room requirements are as follows:

1.-2. (No change.)

3. Indoor space requirements for play rooms and sleep rooms are as follows:

i. There shall be a minimum of 30 square feet of usable activity indoor floor space for each child in centers that:

(1) (No change.)

(2) Began operating on [or after July 1, 1989] **(six months after the effective date of this rulemaking)**, and serve fewer than 16 children.

ii. There shall be a minimum of 35 square feet of usable activity indoor floor space for each child in centers that began operating on or after July 1, 1989, **and prior to (six months after the effective date of this rulemaking)**, and serve 16 or more children.

iii. **There shall be a minimum of 42 square feet of usable activity indoor floor space for each child in centers that began operating on or after (six months after the effective date of this rulemaking).**

[iii.] iv. (No change in text.)

[iv.] v. Centers serving sick children shall comply with the variation provisions on determining net indoor floor space per child, as specified [in] **at N.J.A.C. 3A:52-8.4(a).**

[v.] vi. (No change in text.)

vii. **For the purposes of this paragraph, the date a center begins operating shall be the date the center was initially licensed pursuant to this chapter.**

4. (No change.)

(r) (No change.)