

Public Notice

Education

State Board of Education

Notice of Action on Petition for Rulemaking

Managing for Equity in Education

Definitions

Affirmative Action Officer

Professional Development

Equity in School and Classroom Practices

Accountability

N.J.A.C. 6A:7-1.3, 1.5, 1.6, 1.7, and 1.8

Petitioner: Shawn Hyland, Director of Advocacy, New Jersey Family Policy Center.

Take notice that on August 8, 2023, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner, requesting the State Board repeal specific amendments adopted at N.J.A.C. 6A:7 as part of the recent readoption with amendments (see 55 N.J.R. 1877(a)). The petitioner also requested new amendments that allow Christian students to opt out of any curriculum forcing them to affirm beliefs contrary to their religion.

The purpose of N.J.A.C. 6A:7 is to ensure all students, regardless of housing status, socioeconomic status, immigration status, or any protected category as stated at N.J.S.A. 10:5-1 et seq., such as race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy or breastfeeding, sex, gender identity or expression, religion, disability, atypical hereditary cellular or blood trait, service in the Armed Forces of the United States, or nationality, are provided equal access to educational activities and programs by district boards of education. The educational

activities and programs include the teaching of challenging curriculum based on the New Jersey Student Learning Standards (NJSLS), differentiated instruction, formative assessments aligned to the NJSLS, qualified teachers, and professional standards for teachers and school leaders. The rules specify standards for district boards of education in establishing policies and procedures for the provision of educational activities and programs for all students, pursuant to: Article I, Paragraph 5 of the New Jersey State Constitution; the New Jersey Law Against Discrimination (NJLAD) (N.J.S.A. 10:5-1 et seq.); N.J.S.A. 18A:35-1 et seq., 18A:36-20, and 18A:38-5.1; Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq. and 2000e et seq.); Title IX of Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701 et seq.); and the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400 et seq.).

The petitioner requested that the State Board repeal all recent amendments at N.J.A.C. 6A:7 that eliminated gendered nouns and pronouns from the text of the State Board's regulations in places where use of those nouns and pronouns was not intended to have a substantive effect.

The petitioner also requested that the State Board repeal the amendments to the revised term "equitable educational opportunity" at N.J.A.C. 6A:7-1.3, as well as the amendments at N.J.A.C. 6A:7-1.6(a)2 and 1.7(b)2i and 7 and (d)2.

The petitioner sought to repeal the amendments at N.J.A.C. 6A:7, alleging, among other things, that the amendments violate principles of Equal Protection, and the First Amendment of the United States Constitution (specifically, with respect to free speech, the free exercise of religion, and the Establishment Clause). The petitioner also argued that the State Board should accommodate the religious beliefs of students by including new amendments allowing Christian students to opt out of any curriculum deemed contrary to their religion, and by repealing the amendments that the petitioner contends violate students' and parents' rights to religious

freedom. Finally, the petitioner argued that some of the amendments at N.J.A.C. 6A:7 are not required by the New Jersey Law Against Discrimination and otherwise violate parental rights.

A notice acknowledging receipt of the petition was published in the September 18, 2023, New Jersey Register at 55 N.J.R. 2025(a). In accordance with applicable law, the President of the State Board has reviewed the petition and, in consultation with the Commissioner, has determined that further deliberations are required before taking action on the petition. In addition to the petitioner's request, the State Board has received more than 370 petitions seeking changes to, or the repeal of, N.J.A.C. 6A:7. Given the volume of petitions related to N.J.A.C. 6A:7, additional time is necessary to allow the Department of Education to fully evaluate all of the petitions and coordinate the final action on the requests.

Accordingly, pursuant to N.J.A.C. 1:30-4.2(a)3 and 6A:6-4.2(b)3, this matter will be referred for further deliberations for a period not to exceed 90 days.