

**Notice of Proposal Regarding Proposed Amendments at N.J.A.C. 6A:13A,  
Elements of High-Quality Preschool Programs**

The following is the accessible version of the notice of proposal for N.J.A.C. 6A:13A. The notice of proposal document includes two sections – [summary](#) and [proposed amendments](#).

## **Education**

### **Commissioner of Education**

#### **Elements of High-Quality Preschool Programs**

#### **Proposed Amendments: N.J.A.C. 6A:13A-4.1, 7.1, and 9.1**

Authorized By: Kevin Dehmer, Commissioner, Department of Education.

Authority: P.L. 2007, c. 260.

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

Proposal Number: PRN 2025-068.

Submit written comments by August 15, 2025, to:

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The agency proposal follows:

### **Summary**

The Department of Education (Department) proposes to amend N.J.A.C. 6A:13A, Elements of High-Quality Preschool Programs, to revise the square footage requirements for State-funded preschool classrooms.

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 to amend the requirement to 42 square feet of usable space per child, per classroom.

The Department is proposing the amendments in concert with the Department of Children and Families (DCF), 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. DCF has proposed a rulemaking, published elsewhere in this issue of the New Jersey Register (see 57 N.J.R. 1187(a)), to amend N.J.A.C. 3A:52, Manual of Requirements for Child Care Centers, to change the requirements of newly licensed child care facilities to 42 square feet of usable space per child.

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 childcare officials, as communities across New Jersey look to establish or expand State-funded preschool and childcare programs.

The Department's proposed amendments 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. The Department's 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.

The proposed amendments also will eliminate the need for school districts to seek an equivalency from the Commissioner of Education (Commissioner) to use classrooms that do not meet the existing requirement of 950 square feet. Designed to provide school districts and charter schools with a mechanism to seek relief from State education regulations, the equivalency and waiver process at N.J.A.C. 6A:5 requires school districts and charter schools to develop an application, seek educator, parent, and community input, as applicable, and secure approval from

the district board of education before submitting to the executive county superintendent for processing to the Commissioner for a final decision. As this process takes time and Commissioner approval must occur before the school district or charter school can begin utilizing the preschool classroom, eliminating the need to submit an equivalency application will save school districts and charter schools valuable staff and planning time. From 2022 through 2024, the Commissioner approved approximately 90 equivalency applications regarding the square footage requirement for preschool classrooms.

The proposed amendments will also allow for fewer than 15 students in a State-funded preschool classroom, as long as there are at least 42 square feet for each child. State-funded preschool programs will continue to be required to have an enrollment that does not exceed 15 preschool students per classroom.

*Caring for Our Children: National Health and Safety Performance Standards Guidelines for Early Care and Education Programs*, which are national standards for early care and education programs jointly reissued in 2019 by the American Academy of Pediatrics, the American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, indicate that the designated area for activity should be between 42 and 54 square feet of usable floor space per child.

After consultation with DCF and the Department of Human Services (DHS), and hearing comments regarding DCF and the square footage alignment from the early childhood community, the Department has determined that 42 square feet of usable space per child is optimal for State-funded preschool classrooms.

The Department is confident that the new square footage requirement per child for State-funded preschool classrooms will foster continued growth in the availability of space to serve three- and four-year-old children, especially in school districts that rely on contracts with private

providers and Head Start programs or that have difficulty finding or building facilities due to space constraints and dense populations.

The Department will propose amendments to the rules at N.J.A.C. 6A:26, Educational Facilities, that delineate the educational facility planning standards that apply to the design and construction of school facilities housing preschool students to revise the square footage requirement to mirror N.J.A.C. 6A:13A, as proposed for amendment.

The Department also proposes, at N.J.A.C. 6A:13A-4.1(b) and 9.1, to correct cross-references to the DCF's Manual of Requirements for Child Care Centers at N.J.A.C. 3A:52 from N.J.A.C. 10:122.

## **Subchapter 7. Facilities**

### **N.J.A.C. 6A:13A-7.1 Space Requirements**

This section sets forth space requirements for any school district or charter school that received Preschool Education Aid in August 2017 or thereafter, as well as the space requirements for contracted private providers and local Head Start preschool classrooms, playgrounds, and playground equipment. This section also requires that school districts shall engage in systematic, long-range facilities planning to ensure that adequate facilities exist in the community to meet the elements of a high-quality preschool established pursuant to this chapter. Lastly, this section requires that beginning in the 2027-2028 school year, a district board of education, contracted provider, or Head Start program shall not use temporary classroom units (TCUs) or other similar temporary facilities for preschool classrooms without prior approval, pursuant to N.J.A.C. 6A:5.

The Department proposes to amend N.J.A.C. 6A:13A-7.1(a) to replace the requirement for at least 950 square feet per classroom and the specific components with the requirement for any school district or charter school that received Preschool Education Aid in August 2017 or

thereafter to utilize classrooms that are a minimum of 42 square feet of usable space per child and have an enrollment that does not exceed 15 preschool students pursuant to N.J.A.C. 6A:13A-4.3(a).

Proposed new N.J.A.C. 6A:13A-7.1(a)1 will require toilet rooms to be located within the classroom, in addition to the required usable space, or outside the classroom on the same floor as the classroom space. The proposed rule will require preschool toilet rooms located outside of the classroom to be designated for use by only preschool and kindergarten students, and for the district board of education or charter school to guarantee supervision of preschool students when utilizing the toilet rooms. The proposed rule will allow for the onboarding of additional classrooms while ensuring that children are under continual visual supervision.

The Department proposes to amend recodified N.J.A.C. 6A:13A-7.1(a)2 to replace “August 15, 2022” with the effective date of this rulemaking. The Department also proposes to delete the reference to a space not previously occupied for preschool to ensure that all relocating preschool classrooms immediately meet the requirements at N.J.A.C. 6A:13A-7.1(a), regardless of the new space’s previous use.

The Department proposes to delete existing N.J.A.C. 6A:13A-7.1(a)2 because the amended square footage requirement will alleviate the need for a school district or charter school to seek an equivalency to, or waiver of, the requirements at N.J.A.C. 6A:13A-7.1(a) through the process at N.J.A.C. 6A:5. Furthermore, school districts and charter schools can apply at any time for an equivalency to, or waiver of, education regulations, pursuant to N.J.A.C. 6A:5, as long as the requested relief is not related to State law, Federal law or regulation, or rules related to special education or educator certification.

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 proposed amendments are intended to ensure that both new and existing preschool programs can provide high-quality preschool education to age-eligible children in the State in furtherance of the State's goal to make high-quality preschool programs available to all age-eligible preschool students. The proposed amendments will lead to additional State-funded preschool classrooms to serve more children, align the Department's and DCF's rules, eliminate confusion for private providers that work with the DCF and the Department, enable participation from more private providers, and help to expedite growth for school districts that receive Preschool Education Aid as they work toward offering preschool services to 90 percent of their universe.

### **Economic Impact**

The proposed amendments will assist school districts in implementing high-quality preschool programs in a cost-effective and efficient manner, and to serve a larger number of children by enabling additional facilities to qualify as preschool classrooms eligible for State funding. The Department anticipates that private providers will also see an economic boost either by being eligible to partner with school districts and/or to open new classrooms that will serve additional children. Further, more families will benefit financially from the expanded availability of free preschool services.

### **Federal Standards Statement**

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

### **Jobs Impact**

The Department anticipates that the proposed amendments will result in the generation of jobs. Additional certified teachers, paraprofessional/instructional assistants, family workers, coaches, and nurses will be required to staff the additional classrooms.

### **Agriculture Industry Impact**

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

### **Regulatory Flexibility Statement**

The proposed amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments impact New Jersey school districts. School districts may voluntarily contract with private providers and local Head Start agencies to provide preschool programs. Therefore, a regulatory flexibility analysis is not required.

### **Housing Affordability Impact Analysis**

The proposed amendments will not have an impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the proposed amendments would evoke a change in the average costs associated with housing in the State, as the proposed amendments set forth requirements for school districts and charter schools in providing high-quality preschool educational programs.

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

The proposed amendments will have an insignificant impact on smart growth. 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 proposed amendments set forth requirements for school districts and charter schools in providing high-quality preschool educational programs.

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

There is an extreme unlikelihood the proposed amendments would have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the proposed amendments set forth requirements for school districts and charter schools in providing high-quality preschool educational programs. Accordingly, no further analysis is required.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### Subchapter 4. Program Staffing

##### 6A:13A-4.1 Administrative oversight

- (a) (No change.)
- (b) Each private provider and local Head Start agency shall provide a director pursuant to the regulations at N.J.A.C. [10:122] **3A:52**, Manual of Requirements for [Childcare] **Child Care Centers**.
  - 1. (No change.)
  - 2. The director shall hold, at a minimum, the credentials set forth at N.J.A.C. [10:122] **3A:52**.
  - 3. (No change.)
  - 4. If the director is required to be [off-site] **off site**, the director shall assign an on-site designee, pursuant to N.J.A.C. [10:122] **3A:52**. The designee shall not be a classroom teacher or teacher assistant.

## Subchapter 7. Facilities

### 6A:13A-7.1 Space requirements

- (a) For any school district or charter school that received Preschool Education Aid in August 2017 or thereafter, the district board of education or charter school shall ensure all preschool classrooms in-district or in the charter school, as applicable, and at the contracted private provider and local Head Start agency are a minimum of [950] **42** square feet **of usable space** 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] **child and have an enrollment that does not exceed 15 preschool students, pursuant to N.J.A.C. 6A:13A-4.3(a).**

**1. Preschool classroom toilet rooms shall be located:**

- i. **Within the classroom, in addition to the usable space required at (a) above; or**

- ii. **Outside the classroom on the same floor as the classroom space.**

**Preschool toilet rooms located outside of the classroom shall be designated for use by only preschool and kindergarten students, and the district board of education or charter school shall require direct supervision of preschool students when utilizing the toilet rooms.**

- [1.] **2.** Any preschool classroom that is relocating as of, or after, [August 15, 2022 to a space not previously occupied for preschool] **(the effective date of this rulemaking)**, shall immediately meet **the** minimum space requirements set forth at (a) above.

- [2. A district board of education may seek a waiver of, or equivalency for, the requirements set forth at (a) above pursuant to the process at N.J.A.C. 6A:5, Regulatory Equivalency and Waiver.]

(b)-(g) (No change.)

Subchapter 9. School District Contracts with Private Providers and Local Head Start Agencies  
for Providing Preschool Services

6A:13A-9.1 Contract

- (a) (No change.)
- (b) The district board of education shall utilize a private provider or local Head Start agency that maintains appropriate licensure pursuant to N.J.A.C. [10:122] **3A:52** and adheres to the requirements of this chapter for programmatic and fiscal accountability to provide preschool children with services that meet the elements of a high-quality preschool program.
- (c) Each private provider or local Head Start agency entering into a contractual arrangement with a district board of education to provide full-day preschool program pursuant to this chapter shall be willing and able to meet the following criteria to be eligible for a contract:
- 1.-3. (No change.)
4. Present to the district board of education evidence of compliance with Department of Children and Families background check procedures for child abuse record information pursuant to N.J.A.C. [10:122-4.9] **3A:52-4.10** and criminal history background check procedures pursuant to N.J.S.A. 30:5B-6.10 through 6.18.
5. (No change.)

6. Keep all pupil records in strictest confidence in accordance with N.J.A.C.

[10:122] **3A:52** and 6A:32, and the Federal Family Education Rights and Privacy

Act (20 U.S.C. § 1232g; 34 CFR Part 99);

7.-9. (No change.)

(d)-(e) (No change.)