

HEALTH

PUBLIC HEALTH SERVICES BRANCH

DIVISION OF FAMILY HEALTH SERVICES

New Jersey Early Intervention System

Procedures for Public Notice, Public Hearing, and Public Comment

Proposed New Rules: N.J.A.C. 8:17-19

Authorized By: Kaitlan Baston, MD, MSc, DFASAM, Commissioner, Department of Health.

Authority: N.J.S.A. 26:1A-36.6 et seq., particularly 26:1A-36.8; 20 U.S.C. § 1435; and 34 CFR Part 303.

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

Proposal Number: PRN 2025-096.

A **public hearing** on the proposed new rules will be held on the following date at the following location:

Tuesday, September 9, 2025 from 3:00 to 5:00 P.M.

Judith M. Persichilli Building

New Jersey Department of Health

55 North Willow Street

1st Floor Conference Room

Trenton, NJ

The Department of Health (Department) will provide public, web-based remote access to observe and participate in the hearing.

Directions to the hearing room may be found at <https://www.nj.gov/health/directions.shtml>. The Department requests that persons who want to be placed on the list of speakers or require accommodation to attend the hearing, notify the Department at least five days before the hearing by telephoning (609) 913-5490. Persons who wish to participate remotely by web-based access may do so by telephoning the Department in advance of the hearing date to request the online login information for the web-based meeting platform. The Department requests that speakers provide a written copy of their remarks to the hearing officer at the hearing, if convenient.

Submit written comments by October 3, 2025, electronically to www.nj.gov/health/legal/ecomments.shtml or by regular mail postmarked by October 3, 2025, to:

Kimberly E. Jenkins, Director
Office of Legal and Regulatory Compliance
Office of the Commissioner
New Jersey Department of Health
PO Box 360
Trenton, NJ 08625-0360

The agency proposal follows:

Summary

In the mid-1970s, with the advent of the Federal Education for All Handicapped Children Act, P.L. 94-142 (approved November 29, 1975) (EAHCA), New Jersey, through an interdepartmental effort of the Departments of Education, Human Services, and Health, implemented a system for the provision of early intervention services. Early intervention services are designed to meet the developmental needs of a child under three years of age with disabilities, and the needs of the child's family, to assist appropriately in the child's physical, cognitive, communicative, social or emotional, or adaptive development. 34 CFR 303.13. The 1990 reauthorization of the EAHCA (P.L. 110-476) renamed EAHCA to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400 et seq.

Part C of the IDEA, 20 U.S.C. §§ 1431 through 1444, and the implementing regulations at 34 CFR Part 303, establish standards for the provision of early intervention services applicable to states receiving Federal IDEA Part C funds. 20 U.S.C. § 1435 establishes minimum requirements for a statewide system of early intervention services.

In 1993, the New Jersey Department of Education implemented early intervention services in accordance with rules it promulgated at N.J.A.C. 6A:14-10, Special Education. P.L. 1993, c. 309, codified in part at N.J.S.A. 26:1A-36.6 through 36.8, transferred lead agency responsibility for the early intervention system to the Department of Health.

The Department has implemented the State's early intervention system since at least 1993, based on an annual application for Federal Part C funds submitted to the

United States Secretary of Education (Secretary). 34 CFR 303.208, Public participation policies and procedures, at subsection (a), requires states to issue a public notice announcing the availability for public review and comment of its application for Part C funds, at least 60 days prior to submission of the application to the Secretary, and to accept comments on the application during this 60-day period for at least 30 days.

20 U.S.C. § 1437, State application and assurances, at paragraph (a)(8), requires states submitting Part C fund applications to provide “a description of state policies and procedures that ensure that, prior to the adoption by the state of any other policy or procedure necessary to meet the requirements of [Part C], there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities.”

In addition, 20 U.S.C. § 1437(b)(7) requires an application for Part C funds to “provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the state, in the planning and implementation of all the requirements of [Part C].”

34 CFR 303.208, Public participation policies and procedures, reiterates the responsibility of a state system of early intervention services to describe, in its application for Part C funds, the policies and procedures the state will use to ensure that, before adopting a new or revising an existing policy or procedure that is needed to comply with Part C and its implementing regulations, the state holds a public hearing on the new or revised policy or procedure; provides notice of the hearing at least 30 days

before conducting the hearing to enable public participation; and provides a comment period of at least 30 days on the new or revised policy or procedure. In addition, 34 CFR 303.227, Traditionally underserved groups, at subsection (a), requires a state “to ensure that policies and practices have been adopted to ensure [that] traditionally underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, are meaningfully involved in the planning and implementation of all the requirements of [Part C].” The Secretary has approved each of the Department’s annual Part C applications for Federal funds.

In 2008, the Department promulgated new rules at N.J.A.C. 8:17, New Jersey Early Intervention System, to fulfill its rulemaking obligations pursuant to Part C and its implementing rules, and N.J.S.A. 26:1A-36.8. The Department has traditionally relied on the requirements for public notice, public hearing, and public comment of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. (APA), consistent with, and subject to, applicable requirements at Part C, for these actions. For example, the APA requires an agency that convenes a public hearing on a proposed rulemaking to provide at least 15 days advance public notice of the hearing. N.J.S.A. 52:14B-4(a)3; N.J.A.C. 1:30-5.5(b). In contrast, the IDEA, at 30 CFR 303.208(a) requires a state, prior to submitting an application for Part C funds to the Secretary, to provide at least 60 days advance notice and circulation of the application, and at least 30 days during those 60 days for public comment thereon. Moreover, 30 CFR 303.208(b)(2) requires a state to provide at least 30 days’ notice before conducting a public hearing, and paragraph (b)(3) requires a state to provide at least 30 days for submission of public comments on

proposals to establish new or revise existing policies and procedures for implementation of the state early intervention system.

In accordance with the Federal and State laws described above, the Department is proposing new rules at N.J.A.C. 8:17-19, to specify the manner in which it will provide public notice and opportunity for public comment on applications for submission of Part C funds and proposals to establish new and/or revise existing policies and procedures that are needed to comply with Part C, and conduct public hearings, in accordance with the requirements of Part C.

At N.J.A.C. 8:17, the Department proposes new Subchapter 19, Procedures for Public Notice, Public Hearing, and Public Comment. Proposed new N.J.A.C. 8:17-19.1, Public notice of proposed policy, procedure, or rule implementation or change, would establish standards for the Department's issuance of public notice of a new or revised policy or procedure. Subsection (a) would state that the Department will make available for public review and comment and the scheduling of a public hearing on a proposed policy, procedure, or rule implementation or change that is required to comply with Part C. Subsection (b) would establish the methods by which the Department will issue public notice of a proposed action. Subsection (c) would state the information that a public notice is to include.

Proposed new N.J.A.C. 8:17-19.2, Public hearing on proposed policy, procedure, or rule implementation or change, would establish standards for a public hearing on a proposed implementation of a new or revised policy, procedure, or rule that is required to comply with Part C. Subsection (a) would identify the location at which, and/or the mechanisms by which, the Department would convene a public hearing. Subsection (b)

would establish ways in which, in advance of a public hearing, one could request accommodation or placement on a list of speakers who will receive priority in the order of speakers at the hearing. Subsection (c) would establish the manner in which a hearing officer is to conduct a public hearing. Subsection (d) would provide that the Department will treat testimony at a public hearing on a proposed action as a public comment.

Proposed new N.J.A.C. 8:17-19.3, Public comment, would establish procedures by which the public could comment on a proposal to implement a new or revised policy or procedure. Subsection (a) would state that the Department will accept public comments on proposals to implement new or revised policies, procedures, or rules, and the length of the comment period. Subsection (b) would establish the methods by which one can submit a comment on the proposed action to the Department, that is, by regular mail or through an online portal on the Department's website. Subsection (c) would establish the Department's requested minimum content of a public comment.

Proposed new N.J.A.C. 8:17-19.4, Public notice of availability of Department application for IDEA Part C funding application, would establish procedures by which the Department will notify the public of the availability of a proposed application to the Secretary for IDEA Part C funds and identify the minimum content of the notice, which would include the manner by which one could obtain the proposed application and submit a comment thereon to the Department, and the period during which the Department would accept comments on the proposed application.

The Department is providing a 60-day comment period on this notice of proposal, as authorized at 34 CFR 303.208(b)(3). Therefore, 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 new rules at N.J.A.C. 8:17-19 would have a beneficial social impact by identifying the procedures by which the Department will notify the public of its proposed implementation of new or revised policies, procedures, and rules required to comply with Part C, and applications for Part C funds, and by which the public can attend and participate in public hearings, as applicable, and submit comments on these proposed actions. This will promote the engagement of persons interested in or affected by the early intervention system in the discussion and formulation of policies and procedures by which the early intervention system operates and thereby facilitates the Department's compliance with the IDEA and the terms and conditions of the Part C funding it receives.

Economic Impact

The proposed new rules may cause individuals choosing to travel to a public hearing site for public comment to incur travel costs. The Department proposes minimizing this burden by offering opportunities for persons to participate at regional locations throughout the State and/or by means of web-based meeting platforms. Persons who submit written comments by regular mail would incur costs for postage and stationery.

The proposed new rules might cause the Department to incur administrative costs associated with the publication of public notices to alert the public of upcoming

public hearings and public comment periods. In addition, the Department might incur rental or other use fees for the conduct of public hearings at locations throughout the State to which it might not have free access to meeting spaces and telecommunication hardware and infrastructure, such as the internet or telephone service.

Federal Standards Statement

The Department is proposing the new rules at N.J.A.C. 8:17-19 pursuant to the authority at N.J.S.A. 26:1A-36.6 through 36.8, particularly 26:1A-36.8; and 20 U.S.C. § 1435. The proposed new rules would ensure that the procedures by which New Jersey provides early intervention services are consistent with the IDEA, Part C of 34 CFR Part 303, and the terms and conditions applicable to its receipt of Part C funds. The proposed new rules would meet, but not exceed, these requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

The proposed new rules would neither generate new jobs nor result in the loss of any jobs.

Agriculture Industry Impact

The proposed new rules would not have an impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed new rules at N.J.A.C. 8:17-19 would establish standards applicable to the Department to fulfill its rulemaking obligations pursuant to Part C to establish policies and procedures for issuing public notices, convening public hearings, and providing opportunities for public comment, when the Department is proposing new

policies or revisions to existing early intervention system policies, procedures, or rules required to comply with Part C or announcing the availability of its preliminary application to the Secretary for Part C funding; and applicable to individuals wishing to receive public notices of early intervention system actions and comment thereon. Neither of these are a “small business” within the meaning of that term in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed new rules at N.J.A.C. 8:17-19 would neither have an impact on the affordability of housing in New Jersey, nor evoke a change in the average costs associated with housing because the proposed new rules would establish standards for public notice, public comment, and, as applicable, public hearings as to proposed changes to the State early intervention system and applications to the Secretary for Part C funding, and would have no bearing on housing costs.

Smart Growth Development Impact Analysis

The proposed new rules at N.J.A.C. 8:17-19 would neither have an impact on the achievement of smart growth, nor 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 new rules would establish standards for public notice, public comment, and, as applicable, public hearings as to proposed changes to the State early intervention system and applications to the Secretary for Part C funding, and would have no bearing on smart growth or housing production.

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.

Therefore, no further analysis is required.

Full text of the proposed new rules follows:

SUBCHAPTER 19. PROCEDURES FOR PUBLIC NOTICE, PUBLIC HEARING, AND PUBLIC COMMENT

8:17-19.1 Public notice of proposed policy, procedure, or rule implementation or change

(a) Prior to the implementation of a new policy or amendment to an existing policy, procedure, or rule that is required to comply with Part C, the Department shall issue a public notice announcing the availability of a full written description of the proposed action for public review and comment and the scheduling of a public hearing thereon.

(b) The Department shall issue a public notice of the proposed action in the following ways to ensure circulation throughout the State for at least 60 days prior to initiation or adoption of the proposed action:

1. Publication of the notice of proposed action in the New Jersey Register, which shall occur at least 30 days prior to the convening of a public hearing thereon, pursuant to 34 CFR 303.208(b)(2);

2. Publication of a news release on the Department's website at <https://www.nj.gov/health/news>;

3. Issuance of a notice by electronic mail to interested parties who subscribe to receive New Jersey Early Intervention System informational notices at

<https://www.nj.gov/health/fhs/eis/subscribe.shtml>;

4. Dissemination of a news release through the Department's standard distribution channels for news releases; and

5. In the discretion of the Department, issuance of additional methods of publicity that are reasonably ensured to reach those that may be interested in or affected by the proposed action, depending on factors pursuant to the circumstances, such as the subject matter of the proposed action and the categories of members of the regulated community whom the proposed action is likely to affect.

(c) The public notice of the proposed action shall set forth the following:

1. A link to the website on which the full notice of proposed action is posted;

2. The opening and closing dates of the period during which the Department will accept public comments on the proposed action, which shall be for at least 30 days, in accordance with 34 CFR 303.208(b)(3);

3. The manner by which one may submit a written public comment on the proposed action;

4. The location(s), time, and date of public hearing(s) on the proposed action, which shall take place no sooner than 30 days after the issuance of the notice, pursuant to 34 CFR 303.208(b)(2); and

5. Contact information for the Department in the form of a telephone number, mailing address, and electronic mail address to which one can submit a request for:

i. A printout of the full written description of the proposed action;

ii. Placement on the list of speakers who will provide oral testimony at the public hearing;

iii. Information about the public hearing or the comment period; and

iv. Accommodation that an interested person might need to facilitate that person's participation at the public hearing (preferably to be requested at least five business days prior to the hearing).

8:17-19.2 Public hearing on proposed policy, procedure, or rule implementation or change

(a) A public hearing on the proposed implementation of a new policy or amendment to an existing policy, procedure, or rule that is required to comply with Part C shall be held in-person or by use of a web-based meeting application at one or more publicly accessible satellite venues throughout the State, or by means of a hybrid of these methods, as necessary, to facilitate the Statewide involvement and participation in policy development of families who are enrolled in the Early Intervention System, and other stakeholders.

(b) Persons planning to attend a public hearing can contact the Department, as indicated pursuant to N.J.A.C. 8:17-19.1(c)5, preferably at least five days before the scheduled hearing date, to request reasonable accommodation to facilitate their participation at the hearing and/or placement on a list of speakers.

1. The Department will request that persons who contact the Department to obtain accommodation or placement on the list of speakers provide the following information:

i. The person's name, address, electronic mail address, and telephone number, unless the person will provide testimony as a member or representative of a child or family that is enrolled in the early intervention system and wishes to remain anonymous, in whole or in part, to protect the privacy of that family, in which case, the person will be assigned a pseudonym, as necessary, to facilitate the orderly conduct of the public hearing;

ii. If applicable, the organization or entity on behalf of which the individual will provide testimony or that the individual is representing;

iii. Contact information for the individual and, if applicable, the organization at (b)1ii above, including a mailing address, a telephone number, and an electronic mail address; and

iv. If the public hearing is to take place at more than one venue, the venue at which the person plans to attend.

2. The hearing officer will prioritize the order of speakers at the public hearing by persons who preregister to speak, followed by persons who did not preregister, in the order in which they sign in at the entrance to the hearing and request placement on the list of speakers.

(c) A hearing officer will conduct the public hearing in accordance with the following:

1. The public hearing will be recorded and/or transcribed, and the hearing officer will so inform the attendees at the commencement of the hearing;

2. The hearing officer will request that each person state:

i. The person's name, unless the person is providing testimony as a member or representative of a child or family that is enrolled in the early intervention

system and wishes to remain anonymous, in whole or in part, to protect the privacy of that family, in which case the person may use a pseudonym, as necessary, to facilitate the Department's organization of comments submitted at the public hearing;

ii. If applicable, the name and address of the entity on behalf of which the speaker is providing testimony as the entity's authorized representative; and

iii. If the person is providing testimony as a member or representative of a child or family who is enrolled in the early intervention system, the county in which the eligible child resides;

3. Depending on the number of persons who register to provide testimony and the hearing length, the hearing officer will typically allow each speaker an initial time of five minutes to provide testimony.

i. After all registered persons have spoken, and time allowing, the hearing officer may allow persons wishing to supplement their testimony an additional five minutes to speak;

4. The hearing officer will request that each speaker, at the speaker's option, provide a written copy of the speaker's testimony; and

5. The hearing officer shall conclude the hearing upon the earlier of the following:

i. All registered speakers wishing to speak have been given the opportunity pursuant to (c)3 above;

ii. The specified time as indicated in the public notice for oral testimony has elapsed; or

iii. No persons wishing to speak remain.

(d) The Department shall treat testimony submitted during a public hearing as a public comment on a proposal in accordance with N.J.A.C. 8:17-19.3(a)1.

8:17-19.3 Public comment

(a) The Department shall provide an opportunity for public comment when it:

1. Proposes a new or an amendment to an existing policy, procedure, or rule that is required to comply with Part C, and shall accept public comments thereon for at least 30 days, pursuant to 34 CFR 303.208, or longer, if necessary to comply with N.J.S.A. 52:14B-1 et seq., the Administrative Procedure Act, and N.J.A.C. 1:30, the Rules for Agency Rulemaking; or

2. Announces the preliminary completion of an application for Part C funds at least 60 days prior to submission thereof to the Secretary, pursuant to 34 CFR 303.208, and the procedures by which it will accept public comments thereon in accordance with this subchapter.

(b) For the duration of a public comment period as specified at (a) above, the public will be able to submit comments:

1. In writing by regular United States Postal Service mail to the address indicated in the notice, postmarked by the end date of the comment period; or

2. By the close of the comment period, through an online comment portal at a website address (uniform resource locator or URL) that the Department will announce in the public notice of the action that the Department issues pursuant to N.J.A.C. 8:17-19.1.

(c) The Department requests that a person submitting a comment during a public comment period, as specified at (a) above, provide the following information:

1. The commenter's name, address, electronic mail address, and telephone number, unless the person is commenting as a member or representative of a child or family who is enrolled in the early intervention system and wishes to protect the privacy of that family, in which case the person may provide pseudonymous information, in whole or in part, at the election of the commenter;

2. If applicable, the name, address, and telephone number of the entity on behalf of which the person is commenting as the entity's authorized representative; and

3. If the person is commenting as a member or representative of a family that is enrolled in the early intervention system, the county in which the eligible child in the family resides.

8:17-19.4 Public notice of availability of Department application for IDEA Part C funding application

(a) Pursuant to 34 CFR 303.208, the Department shall issue public notice announcing the availability of its application for Part C funds for public review and comment in the following ways, to ensure circulation throughout the State for at least 60 days prior to submission of the application to the Secretary:

1. Publication of a notice of availability in the New Jersey Register;

2. Publication of a news release on the Department's website at

<https://www.nj.gov/health/news>;

3. Notification by electronic mail to interested parties who subscribe to receive New Jersey Early Intervention System informational notices at

<https://www.nj.gov/health/fhs/eis/subscribe.shtml>;

4. Dissemination of a news release through the Department's standard distribution channels for news releases; and

5. In the discretion of the Department, issuance of additional methods of publicity that are reasonably ensured to reach those who may be interested in or affected by the proposed application, depending on factors such as the subject matter and the categories of members of the regulated community whom the proposed application is likely to affect.

(b) The public notice of the availability of the proposed application shall set forth the following:

1. A link to the website on which the application for Part C funds is posted;

2. The opening and closing dates of the period during which the Department will accept public comments on the proposed application, which shall be for at least 30 days, in accordance with 34 CFR 303.208; and

3. The manner by which one may submit a comment on the proposed application to the Department.