

Submit written comments by April 8, 2022, to:

Eric Taylor, Esq.
 Director, Office of Licensure
 Office of the Secretary of Higher Education
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 Trenton, NJ 08625-0542
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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 18A:3B-14.e, the Secretary of Higher Education (Secretary) is responsible for the adoption of a code of ethics applicable to colleges and universities in New Jersey. To fulfill this requirement, the rules at N.J.A.C. 9A:3 were last readopted in 2014 to serve as a general model for institutions to use in designing their own ethics codes for their officers and employees. The rules proposed for readoption outline broad criteria in existing statutory standards for ethical conduct by public officers and employees and require each public institution’s code of ethics to address those criteria.

Pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 9A:3 were scheduled to expire on January 23, 2021. Pursuant to Executive Order No. 127 (2020) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) was extended through January 1, 2022. Therefore, this chapter has not yet expired and is extended 180 days from the later of the existing expiration date or the date of publication of this notice of proposed readoption, whichever is later, which date is June 19, 2022, pursuant to N.J.S.A. 52:14B-5.1.c, Executive Order No. 244 (2021), and P.L. 2021, c. 103.

The staff of the Office of the Secretary of Higher Education conducted an administrative review of the regulatory language and concluded that the existing rules continue to serve their intended purpose. Therefore, the Secretary proposes the readoption of N.J.A.C. 9A:3 without amendment.

The rules proposed for readoption are organized in one subchapter, General Standards, as follows:

N.J.A.C. 9A:3-1.1 sets forth the purpose of the rules.

N.J.A.C. 9A:3-1.2 presents the various legal sources applicable to institutional codes of ethics at public institutions.

N.J.A.C. 9A:3-1.3 sets forth the general minimum standards for institutional codes of ethics at public institutions.

N.J.A.C. 9A:3-1.4 sets forth specific requirements for inclusion in the code of ethics for every institution governed by the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq.

As the Secretary has provided a 60-day comment period on this notice of the proposal, this notice is exempted from the rulemaking calendar requirements at N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption provide guidelines that allow each public college and university the latitude to develop a code of ethics tailored to its own needs. Such general guidance recognizes that codes of ethics are already governed by applicable statutes, rules, and executive orders and acknowledges the proper locus of responsibility for adopting said codes are the institutions themselves. The rules proposed for readoption foster institutional autonomy and accountability within the existing statutory framework.

Economic Impact

The rules proposed for readoption would not create any new costs for institutions of higher education. Institutional codes of ethics are important tools to minimize impropriety and the waste or misuse of public and institutional funds, and, therefore, create a general cost savings for the State and its residents.

Federal Standards Statement

The rules proposed for readoption are not subject to a Federal standards analysis pursuant to N.J.S.A. 52:14B-1 et seq., because the Secretary’s institutional code of ethics is not subject to any Federal requirements or standards.

Jobs Impact

The rules proposed for readoption will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption do not impose requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption pertain strictly to public colleges and universities in New Jersey, none of which qualify as a small business, as no public colleges and universities are businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The rules proposed for readoption will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules proposed for readoption would evoke a change in the average costs associated with housing because the rules proposed for readoption govern codes of ethics for State and county colleges and universities.

Smart Growth Development Impact Analysis

It is extremely unlikely that the rules proposed for readoption would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the rules proposed for readoption govern codes of ethics for State and county colleges and universities.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Secretary 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 rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 9A:3.

(a)

**SECRETARY OF HIGHER EDUCATION
 Residency Requirements for Tuition Purposes at
 Public Colleges and Universities
 Proposed Readoption with Amendments: N.J.A.C.
 9A:5**

Authorized By: Dr. Brian K. Bridges, Secretary of Higher Education.

Authority: N.J.S.A. 18A:62-4 and 18A:62-4.4.

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

Proposal Number: PRN 2022-013.

Submit written comments by April 8, 2022, to:

Eric Taylor, Esq.
 Director, Office of Licensure
 Office of the Secretary of Higher Education
 1 John Fitch Plaza, 10th Floor
 PO Box 542
 Trenton, NJ 08625-0542
 Email: eric.taylor@oshe.nj.gov

The agency proposal follows:

Summary

In accordance with the provisions of the Executive Reorganization Plan No. 005-2011, the Commission on Higher Education was eliminated, and its powers, functions, and duties were transferred to the Secretary of Higher Education (Secretary), who is responsible for the rules governing

residency requirements for tuition purposes. The existing rules elaborate and clarify the basic statutory provisions at N.J.S.A. 18A:62-4 and 18A:62-4.4, including the requirement of domicile and the right to challenge a presumption of non-domicile, specifying means of demonstrating and verifying residency, and rules to implement in-State tuition rates for undocumented immigrants attending New Jersey's public colleges and universities.

Pursuant to N.J.S.A. 52:14B-5.1.b, the rules at N.J.A.C. 9A:5 were scheduled to expire on March 14, 2021. Pursuant to Executive Order No. 127 (2020) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) was extended through January 1, 2022. Therefore, this chapter has not yet expired and is extended 180 days from the later of the existing expiration date or the date of filing of this notice of proposed re-adoption, whichever is later, which date is June 19, 2022, pursuant to N.J.S.A. 52:14B-5.1.c, Executive Order No. 244 (2021), and P.L. 2021, c. 103.

The staff of the Office of the Secretary of Higher Education conducted an administrative review of the regulatory language and concluded that the existing rules continue to serve their intended purpose. Therefore, the Office of the Secretary of Higher Education proposes the re-adoption of N.J.A.C. 9A:5 with amendments to replace gender specific pronouns with non-gender specific pronouns.

The rules proposed for re-adoption are organized in three subchapters, as follows:

N.J.A.C. 9A:5-1.1 reiterates and expands on statutory requirements regarding domicile as the fundamental eligibility criterion for in-State tuition purposes. N.J.A.C. 9A:5-1.2 concerns the documentation of domicile and N.J.A.C. 9A:5-1.3 concerns the determination of domicile, as well as reconsideration of an initial decision.

N.J.A.C. 9A:5-2.1 presents eligibility criteria for qualifying for county resident tuition.

N.J.A.C. 9A:5-3.1, which defines an undocumented immigrant student, sets forth the eligibility criteria for these students to receive an in-State tuition rate, indicates where students can obtain the affidavit they are required to complete, states that the information provided in the implementation of this section shall remain confidential, and clarifies that the in-State tuition rates for eligible undocumented immigrant students apply at county colleges.

Pursuant to N.J.A.C. 1:30-3.3(a)5, as the Secretary has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements at N.J.A.C. 1:30-3.1 and 3.2.

Social Impact

The rules proposed for re-adoption with amendments at N.J.A.C. 9A:5 implement and clarify State law regarding domicile in New Jersey for purposes of paying resident tuition at public colleges and universities. These rules proposed for re-adoption with amendments will maintain the clear and transparent processes both for determining student domicile by public institutions of higher education and for when a student chooses to seek reconsideration of an institution's initial determination. The rules proposed for re-adoption with amendments will also continue to create an incentive for New Jersey residents to attend in-State public institutions, as well as for out-of-State residents to permanently relocate to New Jersey. The rules proposed for re-adoption with amendments will also continue to increase access to higher education to undocumented immigrants, an underserved community that has historically encountered considerable barriers to access.

Economic Impact

Higher education plays a vital role in the economic development of the State of New Jersey by providing education and training for the workforce of the future, by advancing knowledge through research, and by providing lifelong learning opportunities for all citizens. The rules proposed for re-adoption with amendments at N.J.A.C. 9A:5 will continue to allow New Jersey residents to obtain in-State tuition rates, therefore, contributing to the economic development of the State. The rules proposed for re-adoption with amendments will continue the State's investment in its students by enabling further educational attainment within the State and encouraging students to remain after graduation as future contributing members of the State's workforce and tax base. Public institutions of higher education will

continue to economically benefit from the rules proposed for re-adoption with amendments through the standardized process for determining domicile, which allows those institutions to offer competitive in-State tuition rates to New Jersey residents. The rules proposed for re-adoption with amendments also support institutional efforts to increase enrollment by enabling greater access to higher education to undocumented immigrants through the provision of in-State tuition rates for those individuals.

Federal Standards Statement

The rules proposed for re-adoption with amendments at N.J.A.C. 9A:5 are not subject to a Federal standards analysis pursuant to Executive Order No. 27 (1994). While the rules proposed for re-adoption with amendments reference section 101(a)(15) of the Federal Immigration and Nationality Act (8 U.S.C. § 1101(a)(15)), the Office of the Secretary of Higher Education's regulation of eligibility requirements for undocumented students to receive in-State tuition rates at the State's public colleges and universities is not subject to any Federal requirements or standards.

Jobs Impact

The rules proposed for re-adoption will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The rules proposed for re-adoption with amendments have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for re-adoption with amendments do not impose requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for re-adoption with amendments pertain strictly to public and publicly funded colleges and universities in New Jersey, none of which qualify as a small business.

Housing Affordability Impact Analysis

The rules proposed for re-adoption with amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules proposed for re-adoption with amendments would evoke a change in the average costs associated with housing because the rules proposed for re-adoption with amendments govern residency tuition requirements for tuition purposes at the State's public colleges and universities.

Smart Growth Development Impact Analysis

The Secretary believes there is an extreme unlikelihood that the rules proposed for re-adoption with amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules proposed for re-adoption with amendments govern residency tuition requirements for tuition purposes at the State's public colleges and universities.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Secretary 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 rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 9A:5.

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

SUBCHAPTER 1. ELIGIBILITY FOR STATE RESIDENT TUITION

9A:5-1.1 State domicile required

(a) Domicile is defined as the place where a person has [his or her] **their** true, fixed, permanent home and principal establishment, and to which, whenever [he or she is] **they are** absent, [he or she has] **they have** the intention of returning.

(b)-(h) (No change.)

- 9A:5-1.2 Evidence of domicile
 - (a) (No change.)
 - (b) A student may present and/or an institution may require supplementary evidence of being domiciled in New Jersey, which may include the following:
 - 1.-3. (No change.)
 - 4. A sworn, notarized statement from the student and/or [his or her] **their** parent(s) or legal guardian(s) declaring domicile in New Jersey;
 - 5. (No change.)
 - (c)-(d) (No change.)

SUBCHAPTER 3. ELIGIBILITY REQUIREMENTS FOR UNDOCUMENTED IMMIGRANTS TO RECEIVE IN-STATE TUITION

- 9A:5-3.1 Eligibility requirements for undocumented immigrants to receive in-State tuition
 - (a) Notwithstanding the provisions of any law or rule to the contrary, a student, other than a nonimmigrant alien within the meaning of section 101 (a)(15) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(15)), shall be eligible to pay in-State tuition at a public institution of higher education if the student attended high school in this State for three or more years or graduated from a high school in this State or received the equivalent of a high school diploma in this State. The student must also register as an entering student or be currently enrolled in a public institution of higher education, not earlier than the fall semester of the 2013-2014 academic year. In the case of a person without lawful immigration status, who files an affidavit with the institution of higher education stating that the student has filed an application to legalize [his or her] **their** immigration status or will file an application as soon as [he or she is] **they are** eligible to do so.
 - (b)-(d) (No change.)

LAW AND PUBLIC SAFETY

(a)

DIVISION OF STATE POLICE

Motor Vehicle Race Track Rules

Proposed Readoption with Amendments: N.J.A.C. 13:62

Proposed New Rules: N.J.A.C. 13:62-4.27 and 17

Authorized By: Colonel Patrick Callahan, Office of the Superintendent, Division of State Police, with the approval of Andrew J. Bruck, Acting Attorney General.
 Authority: N.J.S.A. 5:7-8; and Attorney General Executive Directive 1982-2.
 Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2022-011.

Submit comments by April 8, 2022, to:
 Colonel Patrick Callahan, Office of the Superintendent
 Attn: Traffic and Public Safety Office–Motor Vehicle Racing Control Squad
 New Jersey State Police
 PO Box 7068
 West Trenton, New Jersey 08628
 or through email to: MVRaceTrackRegulations@njsp.org.

The agency proposal follows:

Summary

N.J.S.A. 5:7-8 requires the regulation of the operation or conduct of motor vehicle races and exhibitions of motor vehicle driving and the regulation of tracks or places at which the same are operated and conducted, providing for the issuance of licenses. Pursuant to this statute and Attorney General Executive Directive 1982-2, the Division of State Police (Division) is entrusted with the regulation of motor vehicle races

and exhibitions of motor vehicle driving. The rules for licensing and operation of motor vehicle race tracks at N.J.A.C. 13:62 were scheduled to expire on August 1, 2021. Pursuant to Executive Order No. 127 (2020) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) was extended through January 1, 2022. The Division filed this notice of readoption on December 20, 2021, therefore, this chapter has not yet expired and is extended 180 days from the later of the existing expiration date or the date of filing of this notice of proposed readoption, whichever is later, which date is June 18, 2022, pursuant to N.J.S.A. 52:14B-5.1.c, Executive Order No. 244 (2021), and P.L. 2021, c. 103.

The Division of State Police has reviewed the existing rules and has determined that they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The Division of State Police is proposing to amend certain rules in accordance with the Division’s statutory responsibility.

Subchapter 1 contains definitions. The proposed amendments at N.J.A.C. 13:62-1.1 would add a definition for “driving experience,” in order to properly categorize this form of driving skill and the rules that are applicable. The amendments also modify “vintage race car” to ensure vehicles meet current safety standards before participation in a race.

Subchapter 2 contains general rules on motor vehicle racetrack license requirements and licensee responsibilities applicable to all racing events.

N.J.A.C. 13:62-2.1 describes the license application procedure. Proposed new N.J.A.C. 13:62-2.1(a)7 will make it easier for the general public to find the necessary application documents.

N.J.A.C. 13:62-2.2 describes a licensee’s responsibilities regarding violations.

N.J.A.C. 13:62-2.3 outlines restrictions that may be imposed upon a licensee.

N.J.A.C. 13:62-2.4 describes procedures for approval of unspecified events.

N.J.A.C. 13:62-2.5 describes the application process to modify an existing rule for an event.

N.J.A.C. 13:62-2.6 describes inspection of infield pit areas.

N.J.A.C. 13:62-2.7 prohibits alcohol and drugs and their use in certain areas during an event.

N.J.A.C. 13:62-2.8 describes the procedure for issuance of pit credentials.

N.J.A.C. 13:62-2.9 requires licensees to make certain public address announcements before and during the sanctioned program.

N.J.A.C. 13:62-2.10 requires licensees to file specific monthly reports.

N.J.A.C. 13:62-2.11 describes the procedure for reporting accidents and impounding of certain vehicles.

N.J.A.C. 13:62-2.12 requires licensees to report any deaths to local police and the Superintendent.

N.J.A.C. 13:62-2.13 requires inspection of vehicles.

N.J.A.C. 13:62-2.14 is reserved.

N.J.A.C. 13:62-2.15 describes refueling procedures.

N.J.A.C. 13:62-2.16 describes water overflow tank requirements.

N.J.A.C. 13:62-2.17 describes security and protection required at events.

N.J.A.C. 13:62-2.18 describes medical safety personnel. Proposed new N.J.A.C. 13:62-2.18(b)3 will allow emergency medical technicians (EMT) to have the authority over patient transportation.

N.J.A.C. 13:62-2.19 describes firefighting and safety equipment. The Division proposes updating to the Snell Memorial Foundation Testing Standard 2015, from 2010, at N.J.A.C. 13:62-2.19(c)1i.

N.J.A.C. 13:62-2.20 outlines wreckers operation during an event.

Subchapter 3 contains safety requirements for vehicles and personnel participating in road racing and high-performance driving schools.

N.J.A.C. 13:62-3.1 requires racing events to take place only at licensed facilities. The Division proposes adding “driving experience” to the list of events that must occur in licensed facilities, to ensure proper safety standards for those events.

N.J.A.C. 13:62-3.2 states the minimum requirements for safe design and construction of a road/racecourse.

N.J.A.C. 13:62-3.3 describes fencing requirements.