

# RULE ADOPTIONS

## CHILDREN AND FAMILIES

### (a)

#### DIVISION OF CHILD PROTECTION AND PERMANENCY

##### Adoptions

##### Readoption with Amendments: N.J.A.C. 3A:23

Proposed: January 22, 2019, at 51 N.J.R. 131(a).

Adopted: May 14, 2019, by Christine Norbut Beyer, M.S.W.,  
Commissioner, Department of Children and Families.

Filed: May 23, 2019, as R.2019 d.069, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 9:3-54.1, 9:3A-7.f, 30:4C-4(h), and 30:4C-49.

Effective Dates: May 23, 2019, Readoption;  
June 17, 2019, Amendments.

Expiration Date: May 23, 2026.

##### Summary of Public Comment and Agency Response:

Comment on the notice of proposed readoption with amendments was received from Thomas Baffuto, Executive Director, The ARC of New Jersey.

COMMENT: Mr. Baffuto thanks the Division of Child Protection and Permanency (Division) for its efforts to remove archaic language from N.J.A.C. 3A:23, Adoptions, and replace it with people first language and urges the Division to remove the word "impairment" from N.J.A.C. 3A:23-1.2(a)2 and 3.

RESPONSE: The Division supports the use of people first language and agrees with Mr. Baffuto's request to remove the word "impairment" from N.J.A.C. 3A:23-1.2(a)2 and 3 to include the word "disability."

##### Federal Standards Analysis

The rules readopted with amendments at N.J.A.C. 3A:23 are consistent with the Title IV-E of the Social Security Act, 42 U.S.C. §§ 673 et seq., Adoption and Guardianship Assistance Program.

The Department exceeds Federal standards by operating an identical State-funded adoption subsidy program for children with special needs who are not eligible for the Title IV-E Adoption Assistance program, pursuant to N.J.S.A. 30:4C-45 through 49. This program ensures that all children living with special needs have an equal opportunity to have a permanent adoptive family.

If the State-funded subsidy program was not available, the majority of these children would remain in the foster care system, to the detriment of their emotional well being and at an increased expense to the State. Not only would all the direct costs paid through subsidy be incurred by the Division while the children are in resource care, but the administrative costs which arise from the supervision of these children in their foster homes would have to be assumed by the State as well. In addition, most children who are adopted are provided with a familial support system that assists them emotionally and financially after they reach 18 and are no longer eligible for subsidy. The provision of the State subsidy program is neither administratively or financially onerous, as it utilizes the same technology as the Federal Title IV-E program.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 3A:23.

**Full text** of the adopted amendments follows (addition to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

#### SUBCHAPTER 1. ADOPTION SUBSIDY

3A:23-1.2 Determining that a child is a child with special needs

(a) A child is a child with special needs, subject to the limitations in (b) and (c) below, if the CP&P Director or designee determines that the

adoptive placement of that child is significantly burdened or prevented as a result of:

1. (No change.)

2. The child's living with any physical disability **\*[or impairment]\***, whether congenital or acquired by accident, injury, or disease, which makes, or may be expected to make, a child totally or partially incapacitated for education or for remunerative occupation;

3. The child's living with any substantial **\*[impairment]\* \*disability\***, such as the loss or deformation of facial features, torso, or extremities;

4.-10. (No change.)

(b)-(c) (No change.)

3A:23-1.3 Payments for the care and maintenance of a child with special needs (adoption subsidy)

(a) (No change.)

(b) The Department shall determine and approve the qualifications for subsidy payments prior to the completion of an adoption proceeding. In order to qualify for subsidy, a child must meet at least one criterion for a child with special needs listed in N.J.A.C. 3A:23-1.2(a). The failure of the Department to complete its determination and approval of qualification prior to the finalization of adoption shall not prevent qualification for adoption subsidy, if application for such subsidy was made in a timely manner. The Department shall issue an annual notice to each adoptive parent receiving adoption subsidy for an adopted child, affirming the adoptive parent's legal responsibility and that there has been no change in requirements, as described in N.J.A.C. 3A:23-1.4(a).

1. (No change.)

(c)-(g) (No change.)

3A:23-1.4 Duration and amount of adoption subsidy

(a)-(d) (No change.)

(e) The amount of monthly payment for care and maintenance will be 100 percent of the applicable resource care board rate.

## COMMUNITY AFFAIRS

### (b)

#### STATE PLANNING COMMISSION

##### State Planning Rules; Period of Endorsement

##### Adopted Amendment: N.J.A.C. 5:85-7.21

Proposed: March 4, 2019, at 51 N.J.R. 307(a).

Adopted: May 15, 2019, by State Planning Commission, Melanie Willoughby, Acting Director.

Filed: May 16, 2019, as R.2019 d.062, **without change**.

Authority: N.J.S.A. 52:18A-203.

Effective Date: June 17, 2019.

Expiration Date: July 22, 2022.

##### Summary of Public Comments and Agency Responses:

The Commission received written comments from the following individuals and representatives of organizations:

1. Edward Purcell, Esq., DiFrancesco Bateman;

2. Walter Lane, Director of Planning, Somerset County Planning Board;

3. Frank Marshall, New Jersey State League of Municipalities (NJLM);

4. Britta Wenzel, Executive Director, Save Barnegat Bay;

5. Jean Public

1. COMMENT: The Somerset County Planning Board expressed support for the proposed amendments. The Board agreed that given the time, effort, and expense expended on plan endorsements and center designations, the plan endorsements and center designations should be extended to prevent additional costs. The Board suggested permanent

center designations of previously designated centers or a minimum 10-year extension on existing centers.

RESPONSE: The Commission appreciates the support for the State Development and Redevelopment Plan, the Plan Endorsement process, and the work of the municipalities with designated centers. The effort and expense of plan endorsement must be juxtaposed with the impact of failing to re-establish plan endorsements or center designations. Failure to re-establish plan endorsement or center designations may only compound the problem for municipalities as these designations facilitate smart growth in myriad ways, including eligibility for economic incentives and triggering of land use standards. Accordingly, these amendments provide a limited extension to delay the potential incursion of significant costs to impacted municipalities and ensure continuity for businesses in the near-term that are considering economic development and re-development projects, while also facilitating smart growth by requiring municipalities to re-establish plan endorsements or center designations.

2. COMMENT: The NJLM expressed support for the proposed amendments, but suggested that municipalities should have a means to opt out of the proposed extensions.

RESPONSE: The Commission appreciates the support for the State Development and Redevelopment Plan, the Plan Endorsement process, and the work of the municipalities with designated centers. The amendments provide a limited extension to allow municipalities to determine whether to re-establish their plan endorsements and center designations. These amendments are appropriately limited in scope to delay the potential incursion of significant costs to impacted municipalities and ensure certainty for businesses in the near-term that are considering economic development and re-development projects, while also facilitating smart growth by requiring municipalities to re-establish plan endorsements or center designations. If they do not take further action by June 2020, their centers will expire. Creating an opt-out provision is beyond the scope of this rulemaking. However, these amendments do not affect municipalities' ability to modify their existing plan endorsements and center designations pursuant to N.J.A.C. 5:85-7.24 or seek map amendments pursuant to N.J.A.C. 5:85-8.3.

3. COMMENT: Edward Purcell, Esq., expressed opposition to the extension and suggested that an opt-out provision should be added because one of his firm's municipal clients is unable to make certain reasonable zoning changes until its center designation expires.

RESPONSE: The Commission understands that not all municipalities want to continue their center designation. See also the Response to Comment 2.

4. COMMENT: Save the Barnegat Bay expressed concerns that the population in Ocean County has increased by nearly 600,000 over the last 50 years and that the Commission should create a separate designation for Barnegat Bay municipalities to ensure that they work toward adopting better stormwater practices.

RESPONSE: Setting a separate designation for Barnegat Bay municipalities is outside the scope of this rulemaking; however, the Commission looks forward to working with all municipalities to address resiliency, sustainability, stormwater impacts, and water quality concerns through the Plan Endorsement process before re-establishing plan endorsements and center designations.

5. COMMENT: Jean Public submitted a comment stating that Raritan Township should not be a designated center, because it is not conducive to be a center.

RESPONSE: Raritan Township has not been designated as a center by the Commission.

**Federal Standards Statement**

There are no Federal standards or requirements applicable to the adopted amendment. As a result, a Federal standards analysis is not required.

Full text of the adoption follows:

SUBCHAPTER 7. PLAN ENDORSEMENT

5:85-7.21 Period of endorsement

(a)-(f) (No change.)

(g) Any center with an expiration date on or before December 31, 2019, is extended to June 30, 2020.

(a)

**LOCAL PLANNING SERVICES**

**Administration of the Main Street New Jersey Program**

**Adopted New Rules: N.J.A.C. 5:103**

Proposed: March 18, 2019, at 51 N.J.R. 400(a).

Adopted: May 23, 2019, by Lt. Governor Sheila Y. Oliver, Commissioner.

Filed: May 23, 2019, as R.2019 d.070, with a non-substantial change not requiring additional public notice or comment (N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:27D-452 et seq.

Effective Date: June 17, 2019.

Expiration Date: June 17, 2026.

Summary of Public Comment and Agency Response:

**There were no public comments.**

**Federal Standards Statement**

A Federal standards analysis is not required because these adopted new rules are not being adopted to implement, comply with, or participate in any program established under Federal law or a State law that incorporates or refers to Federal law, standards, or requirements.

Full text of the adopted new rules follows (addition to proposal indicated in boldface with asterisks \*thus\*, deletion from proposal indicated in brackets with asterisks \*[thus]\*):

CHAPTER 103

ADMINISTRATION OF THE MAIN STREET NEW JERSEY PROGRAM

SUBCHAPTER 1. GENERAL PROVISIONS

5:103-1.1 Purpose

The purpose of this chapter is to establish criteria for the designation of local downtown areas as Main Street New Jersey (MSNJ) districts and administration of the Main Street New Jersey Program authorized by N.J.S.A. 52:27D-452 et seq.

5:103-1.2 Applicability

(a) The MSNJ program seeks to support municipalities who are working with owners of small businesses and entrepreneurs to foster public and private reinvestment in managed mixed-use commercial districts operating in historic New Jersey downtowns. It does so through the criteria evaluation and designation process set forth in this chapter.

(b) With certain exceptions set forth at N.J.A.C. 5:103-3.1(c), only MSNJ district management organizations designated in accordance with this chapter are eligible to receive training and technical assistance through MSNJ.

5:103-1.3 Definitions

The following words and terms as used in this chapter shall have the following meanings unless context clearly indicates otherwise.

“Assistance” means the provision of technical support and training to MSNJ district management organizations, their staff and volunteers, and/or business and property owners who are implementing the purposes of the MSNJ program in that district.

“Award” means the dollar amount of an approved MSNJ grant.

“Awardee” means the eligible organization that is receiving an MSNJ grant.

“Commercial district” means part of a city or town where the primary land use is for commercial activities, for example, shops, offices, theaters, or restaurants.

“Commissioner” means the Commissioner of the New Jersey Department of Community Affairs and shall include any staff member