

i. Section 4.3.1.1, the date “Nov.1, 2007” shall be deleted and the date “(twelve months after the effective date of this amendment)” shall be inserted. Also, in four places the date “Nov.1, 2008” shall be deleted and the date “(twenty-four months after the effective date of this amendment)” shall be inserted.

ii. Section 4.3.4.4, the words “with initial testing being completed prior to (twelve months after the effective date of this amendment)” shall be added to the end of the first sentence.

5. Section 5, Surface lifts, shall be amended as follows:

i. Section 5.3.1.1, the date “Nov.1, 2007” shall be deleted and the date “(twelve months after the effective date of this amendment)” shall be inserted. Also, in three places the date “Nov.1, 2008” shall be deleted and the date “(twenty-four months after the effective date of this amendment)” shall be inserted.

6. Section 6, Tows, shall be amended as follows:

i. Section 6.3.1.1, the date “Nov.1, 2007” shall be deleted and the date “(twelve months after the effective date of this amendment)” shall be inserted. Also, the date “Nov.1, 2008” shall be deleted and the date “(twenty-four months after the effective date of this amendment)” shall be inserted.

(a)

**DIVISION OF LOCAL GOVERNMENT SERVICES**

**LOCAL FINANCE BOARD**

**Annual Publication of Municipal Practices**

**Proposed Amendments: N.J.A.C. 5:33-1.7 and 1.8**

**Proposed Repeal: N.J.A.C. 5:33-1.9**

Authorized By: Local Finance Board, Timothy J. Cunningham, Chair.

Authority: N.J.S.A. 52:27BB-10.

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

Proposal Number: PRN 2016-136.

Please submit written comments on the proposal by October 14, 2016, via e-mail to [dllgs@dca.nj.gov](mailto:dllgs@dca.nj.gov) or by regular mail to:

Patricia Parkin McNamara, Executive Secretary  
 Local Finance Board  
 Department of Community Affairs  
 PO Box 803  
 Trenton, NJ 08625-0803

For comments submitted via e-mail, please name the subject heading “NJAC 5:33-1.7 through 1.9: Tax Collection Procedures.”

The agency proposal follows:

**Summary**

N.J.A.C. 5:33-1.9, originally enacted in 1992, instituted an annual survey to be administered by the Director of the Division of Local Government Services that required each municipality to submit information with respect to their fee for issuance of duplicate property tax bills, the acceptable format(s) for replacement property tax bills, the use of printouts or electronic media for tax payment information, payment quarters when replacement bills may be used, and office and facsimile machine telephone numbers for each tax collection office. The rule requires that the results of said survey be published prior to June 14 as a public notice in the New Jersey Register. The survey is not mandated by statute and has not been conducted for a significant number of years. In reviewing the rule, the Board has determined that the survey requirement is obsolete and does not provide demonstrable value to the Division of Local Government Services, New Jersey municipalities, or the public at large. As such, the Board proposes repealing N.J.A.C. 5:33-1.9 and holding the section in reserve for future use.

N.J.A.C. 5:33-1.7 and 1.8 pertain to the payment of property tax bills and the issuance of replacement bills, respectively. The proposed amendments to N.J.A.C. 5:33-1.7 and 1.8 will acknowledge the proposed repeal of and eliminate references to N.J.A.C. 5:33-1.9.

This notice of proposal provides for a comment period of 60 days and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

**Social Impact**

The repeal of the municipal tax collection practice survey requirement in N.J.A.C. 5:33-1.9 will bring a positive social impact by eliminating a provision that is no longer necessary to the effective administration of property tax collection. Reinstating the survey would only bring red tape and administrative burden for municipalities.

**Economic Impact**

The Board anticipates that the proposed amendments and repeal will not have a measurable economic impact. The survey requirement set forth in N.J.A.C. 5:33-1.9, and the resulting reporting obligation tied to same, is no longer enforced.

**Federal Standards Statement**

No Federal standards analysis is required because the proposed amendments and repeal are not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

**Jobs Impact**

The Board does not anticipate that any jobs will be created or lost as a result of the proposed amendments and repeal, which pertain to eliminating an obsolete annual survey of certain aspects of municipal property tax collection.

**Agriculture Industry Impact**

The Board does not anticipate that the proposed amendments and repeal, which pertain to eliminating an obsolete annual survey of certain aspects of municipal property tax collection, would have an impact on the agriculture industry.

**Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the proposed amendments and repeal, which pertain to eliminating an obsolete annual survey of certain aspects of municipal property tax collection, do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

**Housing Affordability Impact Analysis**

There is an extreme unlikelihood that the proposed amendments and repeal would evoke a change in the average costs associated with housing and would have an insignificant impact on the affordability of housing. The proposed amendments and repeal pertain to eliminating an obsolete annual survey of certain aspects of municipal property tax collection.

**Smart Growth Development Impact Analysis**

There is an extreme unlikelihood that the proposed amendments and repeal would evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments and repeal pertain to eliminating an obsolete annual survey of certain aspects of municipal property tax collection.

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

SUBCHAPTER 1. TAX COLLECTION PROCEDURES

5:33-1.7 Payment of property tax bills

(a)-(b) (No change.)

(c) Notwithstanding any provision [herein] **in this section** to the contrary, at the option of the local tax collector, computer printouts or other electronically generated data formats containing property identification and payment amounts will be accepted for processing in lieu of individual tax bills. [Notice to the public of tax collector options shall be provided pursuant to N.J.A.C. 5:33-1.9.]

5:33-1.8 Use of replacement bills

(a)-(b) (No change.)

(c) The tax collector may permit non-individually printed replacement bills to be used for payment periods other than the first payment period. Such determination shall be made solely by the tax collector [and shall be published annually by the Director as provided in N.J.A.C. 5:33-1.9].

(d) (No change.)

5:33-1.9 **(Reserved)** [Annual publication of municipal practices

(a) Each year the Director shall survey each tax collector and, prior to June 14, publish, as a public notice in the New Jersey Register, a listing of the following tax collection practices for each municipality:

1. Duplicate bill fee;
2. Acceptable format(s) of replacement bills;
3. Use of printouts or electronic media for tax payment information;
4. Payment quarters when replacement bills may be used; and
5. Office and facsimile machine telephone numbers.]

## EDUCATION

### (a)

#### COMMISSIONER OF EDUCATION

##### Appeals

##### Proposed Readoption with Amendments: N.J.A.C. 6A:4

Authorized By: David C. Hespe, Commissioner, Department of Education.

Authority: P.L. 2008, c. 36.

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

Proposal Number: PRN 2016-120.

Submit written comments by October 14, 2016, to:

Diane Shoener, Director  
State Board of Education Office  
New Jersey Department of Education  
100 River View Plaza  
PO Box 500  
Trenton, New Jersey 08625-0500  
E-mail: [chapter4@doe.state.nj.us](mailto:chapter4@doe.state.nj.us)

The agency proposal follows:

##### Summary

The Department of Education (Department) proposes to readopt with amendments N.J.A.C. 6A:4, Appeals. In accordance with N.J.S.A. 52:14B-5.1, the chapter will expire on July 10, 2016. As the agency submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to January 6, 2017, pursuant to N.J.S.A. 52:14B-5.1c(2).

The rules proposed for readoption with amendments implement the administrative appeal processes established by P.L. 2008, c. 36, which became effective upon enactment on July 7, 2008. The law eliminated the role of the State Board of Education in the hearing of administrative appeals and instead requires the following: 1) Commissioner determinations, including decisions in contested cases, are final agency actions appealable to the Appellate Division of the Superior Court; 2) State Board of Examiners decisions suspending or revoking teaching certificates, School Ethics Commission decisions finding violation of the School Ethics Act, and interlocutory decisions of the State Board of Examiners or the School Ethics Commission are appealable to the Commissioner, whose decision on appeal will constitute final agency action; and 3) requests for relief arising out of previously issued State Board of Education decisions are to be made to the Commissioner.

The rules proposed for readoption with amendments establish standards and procedures for the filing, briefing, and adjudication of the previously mentioned appeals, including settlements, withdrawals, and motions for stay, emergent relief, clarification, reconsideration, and leave to participate as amicus curiae or appeal from interlocutory actions and orders. The procedures set forth in the rules proposed for readoption with

amendments remain substantially similar to the previous rules governing appeals to the State Board of Education – which were used successfully for many years, are well known to litigants, and have been regularly reviewed and revised over time to address issues of clarity and efficiency and incorporate new developments in statutory, regulatory, and decisional law.

Rules of procedure for the hearing of appeals are critical to effectuating the Legislature's intent with respect to the administrative adjudication of education matters other than contested cases before the Commissioner, which continue to be governed by N.J.A.C. 6A:3, Controversies and Disputes. By carefully delineating the appeals process and by setting reasonable timelines for litigants, the rules proposed for readoption with amendments are intended to provide a uniform, orderly, and fair process for the administrative determination of appeals in school law disputes and to provide all parties with clear notice of the process.

Unless otherwise noted in this Summary, all proposed amendments are for clarity or stylistic or grammatical improvement.

##### Subchapter 1. General Provisions

##### N.J.A.C. 6A:4-1.1 Purpose and scope

This section sets forth the chapter's purpose and scope, which is to implement the provisions of P.L. 2008, c. 36, regarding appeals of determinations of the Commissioner, State Board of Examiners, and School Ethics Commission. The chapter also establishes standards and procedures for the filing, briefing, and adjudication of appeals.

##### N.J.A.C. 6A:4-1.2 Definitions

This section defines terms used throughout the chapter.

The Department proposes to delete the terms "Commissioner" and "Department" as the meanings are commonly known.

The Department proposes a definition for "day" to mean business day when the period specified is less than seven days, and calendar day when the period specified is seven days or more. The term's inclusion in the definitions section will allow for the deletion of the same language at N.J.A.C. 6A:4-2.3(c).

The Department proposes an amendment to the definition of "filing" to delete the last sentence stating filings received after the close of business (4:15 P.M.) are deemed filed on the next business day. The provision already is contained at N.J.A.C. 6A:4-2.3(c).

##### N.J.A.C. 6A:4-1.3 Appeal of decisions

This section states Commissioner decisions are considered final agency decisions appealable to the Appellate Division of the Superior Court. The section also specifies which State Board of Examiners and School Ethics Commission decisions are appealable to the Commissioner.

The Department proposes amendments at N.J.A.C. 6A:4-1.3(a), which requires Commissioner decisions, including decisions in controversies and disputes arising under the school laws pursuant to N.J.A.C. 6A:3, to be deemed final agency actions appealable to the Appellate Division of the Superior Court. The Department proposes to replace "[d]ecisions of the Commissioner" with "[f]inal Commissioner decisions" and to add "as of right" after "appealable." The Department further proposes to add "[i]nterlocutory Commissioner decisions may be appealed to the Appellate Division of the Superior Court by leave granted pursuant to applicable Appellate Division rules" as the second sentence. The proposed amendments are necessary to align the rule with the New Jersey Supreme Court decision in *Christina Silveira-Francisco v. Board of Education of the City of Elizabeth*, 224 N.J. 126 (2016).

The Department proposes to recodify the second part of N.J.A.C. 6A:4-1.3(c)2, which states a sanction recommended by the School Ethics Commission for a school official other than an officer or employee of the New Jersey School Boards Association will be reviewed by the Commissioner in accordance with N.J.A.C. 1:6C and 6A:3-9.1, as N.J.A.C. 6A:4-1.3(c)3. The Department also proposes an amendment to add "[i]f the School Ethics Commission's underlying finding of violation is not appealed" at the beginning for clarity. The Department further proposes an amendment to replace the reference to N.J.A.C. 1:6C, which expired in June 2010 and was not readopted, with a reference to N.J.A.C. 6A:28-10.12, which is the School Ethics Commission rules regarding sanctions. The same amendment is proposed at N.J.A.C. 6A:4-2.1(a)2.