

PUBLIC NOTICE

EDUCATION

STATE BOARD OF EDUCATION

Notice of Receipt of Petition for Rulemaking

Standards and Assessment

N.J.A.C. 6A:8-1.1, Purpose

N.J.A.C. 6A:8-1.2, Scope

N.J.A.C. 6A:8-1.3, Definitions

N.J.A.C. 6A:8-4.1, Statewide assessment system

Propose N.J.A.C. 6A:8-6, Opting Out of Standardized Testing

Petitioners: Tova Felder, Andrew Pfaff, Gabrielle Alstadter, Michelle Thomas, and Sharon Smith.

Take notice that on February 20, 2015, the New Jersey State Board of Education received a petition for rulemaking from the above petitioners requesting the State Board of Education amend N.J.A.C. 6A:8 and adopt new rules that would establish a uniform process by which parents or guardians could opt their children out of taking and preparing for standardized assessments.

The petitioners specifically request the State Board of Education adopt amendments to N.J.A.C. 6A:8-1.1, 1.2, 1.3, and 4.1, and establish a new subchapter (N.J.A.C. 6A:8-6, Opting Out of Standardized Testing).

The petitioners' request for amendments would allow the Statewide assessment system to be considered as one of many factors in measuring college and career readiness and student progress in attainment of the Core Curriculum Content Standards, and in evaluating schools and

school districts. The requested amendments also would require, in conjunction with the announcement of the standardized assessment results, a balanced discussion of conflicting expert opinion and debate about the purposes for which standards assessments, generally, and the Statewide assessment, specifically, can be validly and scientifically used. The discussion also would be required to include matters that are not fully or accurately measured by a standardized assessment, generally, or the Statewide assessment, specifically.

The petitioners also requested an amendment to require students who have been opted out of standardized tests to be assessed in a manner prescribed by the Commissioner of Education or the district board of education and to prohibit the prescribed manner from being a standardized assessment.

The petitioners requested new rules to establish a uniform process for parents and guardians to opt their children out of taking and preparing for standardized assessments and to require district boards of education to provide an alternative learning environment for students who have been opted out. The petitioners' request would require the alternative learning environment to be in the school the student regularly attends and would permit instructional, self-learning, project learning, or equivalent learning environments. The petitioners also requested new rules prohibiting punishment related to students who are opted out of taking or preparing for a standardized assessment or rewards for students who are not opted out of taking or preparing for a standardized assessment.

The petitioners state the amendments and new rules are necessary because of ambiguity in prior non-regulatory guidance from the Department of Education and differences in the guidance's implementation by school districts. The petitioners also asserted there is substantial doubt in the social science literature about the validity and worth of standardized assessments,

including the current Statewide standardized assessment. The petitioners further stated the time associated with taking or practicing for standardized assessments, or learning test-taking strategies for such assessments, takes up otherwise usable time for instruction and/or more appropriate methods of assessing students and imposes adverse impacts on the manner and means of educating students.

In accordance with N.J.A.C 1:30-4.2, the Department shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.