

NOTE: This is a courtesy copy of this rule. The official version can be found in the *New Jersey Administrative Code*. Should there be any discrepancies between this text and the official version, the official version will govern.

CHAPTER 6. RELOCATION ASSISTANCE

CHAPTER EXPIRATION DATE:

Expires on May 9, 2024.

SUBCHAPTER 1. GENERAL PROVISIONS

16:6-1.1 Purpose

The purpose of this chapter is to establish rules concerning the State's oversight, through the Department of Transportation, of the standards for relocation services to displaced persons and businesses, in compliance with the provisions of the Uniform Transportation Replacement Housing and Relocation Act, N.J.S.A. 27:7-72 et seq., as amended by P.L. 1989, c. 50, 42 U.S.C. §§ 4601 et seq., Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.

16:6-1.2 Scope

(a) This chapter applies to the State of New Jersey, the New Jersey Department of Transportation (Department), and any public or private entity, including counties, municipalities, authorities, and other agencies, utilizing State or Federal funds under a transportation aid program administered by the Department, in accordance with N.J.S.A. 27:7-84(d).

(b) The Department of Transportation may exercise, on behalf of any county, municipality, or other entity, as the case may be, the powers granted to these agencies under P.L. 1989, c. 50 (N.J.S.A. 27:7-72 et seq., as amended), and under this chapter.

(c) The Division of Right of Way and Access Management will be responsible for administering this chapter and all applicable Federal and State laws and regulations.

(d) Relocation services are to be provided in a fair manner and without discrimination in accordance with applicable Federal laws and with the New Jersey Law Against Discrimination (N.J.S.A. 10:5-12).

16:6-1.3 Incorporation by reference

Pursuant to N.J.S.A. 27:7-72 et seq., the Department adopts and incorporates by reference 42 U.S.C. §§ 4601 et seq., Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The Federal regulations can be found at <http://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=bd45f92844d4bea927907062777ae2500&mc=true&tpl=/ecfrbrowse/Title49/49subtitleA.tpl>.

16:6-1.4 (Reserved)

16:6-1.5 (Reserved)

16:6-1.6 (Reserved)

SUBCHAPTER 2. DEFINITIONS

16:6-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Agency" means the entity, public or private, including the State of New Jersey, Department of Transportation, counties, municipalities, and other public or private entities, utilizing State or Federal funds under an aid program administered by the State of New Jersey, Department of Transportation.

"Commissioner" means the Commissioner of the New Jersey Department of Transportation or such person as the Commissioner may designate, when legally permissible.

"Displaced person" means any individual, partnership, corporation, or association who moves from real property or removes personal property from real property as a result of an acquisition of part or all of a lot or tract of land or a building thereon.

"Federal Highway Administration" or "FHWA" means the agency in the United States Department of Transportation delegated the responsibility for oversight of relocation benefits for Federal agencies and for State agencies that receive Federal funds for a project.

"Last resort housing" means the provision of additional relocation payments in excess of the Federal relocation maximums for certain residential payment categories. These payments are only made where necessary to assure an appropriate and equitable relocation service. Appropriate written justification must be submitted to the Department.

"Local public agency" or "LPA" means the term used by FHWA to refer to any municipality, county, authority, other departments, or any other sub-recipient of Federal aid from the FHWA through the Department of Transportation.

"Workable Relocation Assistance Plan" or "WRAP" means a plan that identifies the relocation needs for persons or other entities being displaced and the proposed relocation services required to address those needs for a specific project.

SUBCHAPTER 3. ADMINISTRATION OF RELOCATION ASSISTANCE

16:6-3.1 General provisions

(a) Information relating to the Department's right-of-way acquisition and relocation policies is located at the following: <http://www.state.nj.us/transportation/eng/#Manuals>.

(b) The administration of relocation assistance shall be provided consistent with applicable Federal law and regulations, except where State statute provides for a higher relocation benefit. Under 23 CFR 710.203(b)(2)(ii), FHWA must approve additional funds to reimburse a State statutory relocation requirement that exceeds Federal limits.

(c) FHWA will not reimburse a State regulatory relocation requirement that exceeds the Federal relocation limits.

(d) If FHWA does not approve reimbursement of the higher State statutory requirement, the agency will need to contribute the additional portion from agency funds. In addition, where FHWA has set a maximum grant amount, the higher State requirement does not automatically increase the grant amount for Federal funds.

(e) If amounts above the Federal standards are authorized, the overage will require the utilization of State funds or LPA funds. Authorization to exceed Federal standards including, but not limited to, last resort housing, must be properly documented and the payments must be justified as reasonable, necessary, and reflecting a public good.

16:6-3.2 Notices to displaced persons

Pursuant to 49 CFR 24.203, displaced persons are required to be given notice of minimum time frames before being required to relocate. A longer period can be used by the agency at its discretion. If required by State statute, relocation notices providing a longer period than those prescribed by Federal relocation requirements shall be used in place of the minimum Federal notice periods.

16:6-3.3 Workable Relocation Assistance Plan (WRAP)

(a) All projects shall be reviewed to minimize the adverse impacts of displacement. The agency shall prepare a Workable Relocation Assistance Plan (WRAP) indicating the proposed relocations (if any) and, when relocations are required, lists the persons and/or entities to be relocated, the relocatee needs, and the agency plan to address those relocation services required.

(b) Prior to acquiring the property for a project, the local public agency shall submit the WRAP to the Division of Right of Way and Access Management for its review. The WRAP shall address the relocation needs of any persons displaced by the project.

16:6-3.4 (Reserved)

SUBCHAPTER 4. APPEALS

16:6-4.1 Appeal of agency determination

(a) Any displaced person may file a written appeal with the agency conducting the relocation in any case in which the person believes that the agency has failed to properly consider the person's application for assistance under this chapter. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a relocation payment.

(b) The written appeal must be submitted to the agency conducting the relocation within 90 days after the displaced person receives written notification of the agency's determination on the displaced person's claim.

(c) In deciding an appeal, the agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(d) A person has the right to be represented by legal counsel or other representative in connection with the appeal, but solely at the person's own expense. The person shall be permitted to inspect and request copies of all materials pertinent to the appeal, except materials that are classified as privileged by the agency. The agency may impose reasonable conditions on the person's right to inspect, consistent with applicable laws. Copying fees shall be in accordance with N.J.S.A. 47:1A-5 and copies will be provided upon full payment of the copying fees, by check or money order made payable to "New Jersey Department of Transportation."

(e) The LPA shall designate a person within its agency to hear any initial appeals of its relocation assistance determinations. In the event that the LPA is unable to provide a person with sufficient expertise, the LPA may request that the Department hear the initial appeal.

(f) The Division of Right of Way and Access Management (Division) shall conduct all initial appeals of Department relocation determinations. The Division shall also conduct initial appeals on behalf of an LPA when an LPA is unable to do so.

(g) Within 60 days after receipt of all information submitted by a person in support of an appeal, the agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy.

(h) If the matter is not resolved to the person's satisfaction at the initial appeal conducted by the Department or the LPA, the displaced person may request an in-person review by writing to:

Director of Right of Way & Access Management
New Jersey Department of Transportation
PO Box 600
Trenton, New Jersey 08625-0600

(i) If the relief requested is not granted during the final appeal to the Department, the Division shall advise the person of his or her opportunity to request a contested case before the Office of Administrative Law, conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.