

CHAPTER 6

STATE BOARD OF EDUCATION
RULEMAKING PROCESS

Authority

N.J.S.A. 18A:4-15 and 52:14B-1 et seq.

Source and Effective Date

R.2007 d.281, effective August 2, 2007.
See: 39 N.J.R. 1566(a), 39 N.J.R. 3737(a).

Chapter Expiration Date

Chapter 6, State Board of Education Rulemaking Process, expires on August 2, 2012.

Chapter Historical Note

Chapter 6, State Board of Education Rulemaking Process, was adopted as new rules by R.2002 d.133, effective May 6, 2002. See: 34 N.J.R. 658(a), 34 N.J.R. 1665(a).

Chapter 6, State Board of Education Rulemaking Process, was readopted as R.2007 d.281, effective August 2, 2007. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

6A:6-1.1 Scope

This chapter sets forth the rulemaking process for the State Board of Education of New Jersey pursuant to Administrative Procedure Act (APA), N.J.S.A. 52:14B-1 et seq., as amended under P.L. 2001, c. 5. This chapter also establishes rules pursuant to N.J.S.A. 52:14B-4(f) that apply to all persons interested in making a petition to adopt a new rule or amend or repeal an existing rule in Title 6 or 6A.

6A:6-1.2 Definitions

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

“Act” means the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

“Commissioner” means the Commissioner of the New Jersey Department of Education.

“Department” means the New Jersey Department of Education.

“Discussion level document” means a draft of a summary memo and rule text to be discussed by the State Board prior to the notice of proposal.

“New Jersey Register” means the journal of New Jersey State agency rulemaking published by the Office of Administrative Law pursuant to N.J.S.A. 52:14B-7(b).

“Notice of adoption” means that document described in N.J.A.C. 1:30-6.1 which must be submitted to the Office of Administrative Law for filing and then published in the New Jersey Register. When it is presented to the State Board at a public meeting, a notice of adoption includes a summary memo and rule text and a comment/response form which contains the Department’s responses to comments received during the comment period.

“Notice of proposal” means that document described in N.J.A.C. 1:30-5.1 which must be submitted to the Office of Administrative Law for filing and then published in the New Jersey Register and distributed to the Legislature and interested persons. When it is presented to the State Board at a public meeting, a notice of proposal includes a summary memo and rule text.

“Person” means any individual, association, board, venture, partnership, corporation, organization, institution and governmental instrumentality recognized by law for any purpose whatsoever.

“Policy discussion paper” means a paper prepared by Department staff, which sets forth the broad policy issues related to a proposed new rule, amendment or repeal.

“Pre-proposal” means a preliminary proceeding for the purpose of eliciting ideas, views and comments of interested persons on a contemplated rulemaking proceeding, pursuant to N.J.A.C. 1:30-5.3(b).

“Public hearing” means a legislative type proceeding conducted either as part of a rulemaking or to consider a potential rulemaking which affords the public an opportunity to present the promulgating agency oral and written comments, argu-

ments, data and views on the rulemaking or the contemplated rulemaking.

“Public testimony session” means a Department forum at which a panel of State Board members has the opportunity to listen to comments from interested persons regarding new rules, amendments and/or repeals.

“Rulemaking process” means the systematic process followed by the State Board for the development and promulgation of rules. The process includes those activities that the State Board deems necessary to develop and promulgate rules, including but not limited to those activities designed to meet the requirements of the Administrative Procedure Act (APA) and N.J.A.C. 1:30, Rules for Agency Rulemaking.

“Stakeholder” means any individual, group or association that will be directly impacted by the force and effect of the proposed new rule, amendment or repeal.

“State Board” means the New Jersey State Board of Education.

“Work session” means a State Board forum, conducted in compliance with the Open Public Meetings Act, N.J.S.A. 10:4-1 et seq., at which the State Board and the Commissioner discuss a policy discussion paper, pre-proposal or other issues that may require an in depth discussion.

1. The State Board may also, at a work session, take formal action to vote on an item of action requiring notice to the public pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-1 et seq.

Amended by R.2007 d.281, effective September 4, 2007.
See: 39 N.J.R. 1566(a), 39 N.J.R. 3737(a).

Rewrote definitions “Discussion level document” and “Work session”.

SUBCHAPTER 2. NOTICE OF ANTICIPATED RULEMAKING ACTIVITY

6A:6-2.1 Notice of State Board meeting dates and rulemaking activity

(a) The State Board shall adopt annually by resolution a calendar of meeting dates that include the State Board’s public monthly meetings, work sessions and public testimony sessions. The Department will post the calendar of meeting dates on the Department’s website at <http://www.state.nj.us/education/>. The Department will distribute the calendar of meeting dates to school districts, the news media maintaining a press office to cover the State House Complex, education associations and other interested persons.

(b) The State Board shall provide notice of new rules, amendments or repeals to be discussed or acted upon by the State Board on its agenda for each public monthly meeting. In addition, the Department will post a schedule on the Depart-

ment’s website at <http://www.state.nj.us/education/> of new rules, amendments and repeals to be discussed or acted upon by the State Board.

(c) The Department shall publish in the New Jersey Register quarterly calendars of its anticipated proposed rulemaking activities pursuant to N.J.A.C. 1:30-3. These calendars shall be amended as necessary in accordance with N.J.A.C. 1:30-3.2.

1. The Department will include a copy of the quarterly rulemaking calendar on the Department’s website at <http://www.state.nj.us/education/>.

2. The Department will provide notice of the availability of its quarterly rulemaking calendar for the fee established in accordance with the copying fee schedule at N.J.A.C. 1:30-1.9(a), in the same manner as it publicizes its proposed rulemakings pursuant to N.J.A.C. 6A:6-3.1(d) and 1:30-5.2, to inform those persons most likely to be affected or interested by the proposed rules.

3. As an alternative to calendar publication requirements under this subsection, the Department may determine to use one of the five calendar exceptions available to it pursuant to N.J.A.C. 1:30-3.

Amended by R.2007 d.281, effective September 4, 2007.
See: 39 N.J.R. 1566(a), 39 N.J.R. 3737(a).
Added (c)3.

SUBCHAPTER 3. STATE BOARD RULEMAKING PROCESS

6A:6-3.1 State Board rulemaking process

(a) The Department may prepare a policy discussion paper and present it to the State Board and to stakeholders for input before documents related to a new rule, amendment or repeal are presented to the State Board for consideration.

(b) The Department may develop a discussion level document for any new rule, amendment or repeal and present such document to the State Board. The State Board may decide to:

1. Place the discussion level document on the State Board’s monthly agenda at one or more public meetings in accordance with the Open Public Meetings Act (N.J.S.A. 10:4-1 et seq.);

2. Provide a written comment period of at least 30 days for the discussion level document; and/or

3. Take oral testimony at one or more public testimony sessions scheduled after the State Board discusses the discussion level document at a public meeting and before the notice of proposal is published in the New Jersey Register pursuant to the Act. The State Board also accepts written comment at this time.