

# RULE ADOPTIONS

## HUMAN SERVICES

### (a)

#### DIVISION OF DEVELOPMENTAL DISABILITIES

##### Notice of Redoption

##### Community Residences for Individuals with Developmental Disabilities

##### Redoption: N.J.A.C. 10:44A

Authority: N.J.S.A. 30:6-32, 30:11B-1 et seq., specifically, 30:11B-4.

Authorized By: Carole Johnson, Commissioner, Department of Human Services.

Effective Date: March 29, 2019.

New Expiration Date: March 29, 2026.

**Take notice** that pursuant to paragraph 6 of Executive Order No. 1 (2010), the chapter expiration date was extended from April 18, 2010, until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The chapter is now being readopted pursuant to the Administrative Procedure Act. This chapter contains the rules to establish minimum requirements for the provision of residential services to individuals with developmental disabilities residing in a variety of program models, to include group homes, supervised apartments, and support living.

The Department of Human Services (Department) recognizes that further rulemaking is necessary to update these rules to be consistent with best practices and to include the provisions of the Fee for Services Initiative; the Centers for Medicare and Medicaid Services guidelines for funding; the Central Registry of Offenders Against Individuals with Developmental Disabilities (N.J.S.A. 30:4D-77); Danielle's Law, P.L. 2003, c. 191; Stephen Komnino's Law, P.L. 2017, c. 238; and updated organizational changes. To that end, the Department is preparing a rulemaking with substantive amendments to this chapter to be published in a future issue of the New Jersey Register.

The Department has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated, as required by N.J.S.A. 30:6-32 et seq. In accordance with N.J.S.A. 52:14B-5.1.c(1), these rules should be readopted and continue in effect for a seven-year period and until substantive amendments are adopted.

The following is a summary of the subchapters of N.J.A.C. 10:44A:

Subchapter 1 specifies general provisions and licensing procedures, including purpose and scope; severability; definitions; application for licensure; procedure manual; issuance of an initial license; renewal of a license; denial, revocation, non-renewal, or suspension of a license; administrative hearings; waiver or variance; complaints; and voluntary closure.

Subchapter 2 specifies requirements for organization and administration, including general requirements; development and maintenance of procedure manual; implementation of procedure manual; personnel; minimum staff qualifications; orientation; staff training; staff coverage; records for individuals receiving services; and individual financial records for individual funds.

Subchapter 3 specifies requirements for advocacy and rights, including general requirements; rules governing a residence; and self-advocacy.

Subchapter 4 specifies requirements for service delivery/habitation, including pre-admission and admission; changes in supports/services; and individual habilitation plan.

Subchapter 5 specifies requirements for health and safety, including general health care; prescription medication; over-the-counter medications; emergency telephone numbers; food; clothing; vehicle safety; and workplace safety.

Subchapter 6 specifies requirements for fire safety and physical environment, including fire safety; fire evacuation plans; egress protocols; use group classification requirements; fire extinguishers; general home requirements; certificate of occupancy; exits; heat sources; water; railings, stairs, and hallways; windows; bedrooms; bathrooms; kitchens; basement use; and maintenance requirements.

### (b)

#### COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

##### Notice of Redoption

##### Vocational Rehabilitation Services Program

##### Redoption: N.J.A.C. 10:95

Authority: N.J.S.A. 30:6-11; 29 U.S.C. §§ 701 et seq.; and 34 CFR Parts 76, 77, 79, 82, 86, 361, 363, 395, and 397.

Authorized By: Carole Johnson, Commissioner, Department of Human Services.

Effective Date: April 2, 2019.

New Expiration Date: April 2, 2026.

**Take notice** that pursuant to paragraph 6 of Executive Order No. 1 (2010), the chapter expiration date was extended from February 23, 2010, until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The chapter is now being readopted pursuant to the Administrative Procedure Act. N.J.A.C. 10:95 establishes the general policy provisions for vocational rehabilitation (VR) services at the Commission for the Blind and Visually Impaired (CBVI), which derive from a Federally funded program emanating out of the Rehabilitation Act of 1973, as amended, which is Title IV of the Workforce Innovation and Opportunity Act of 2014 (the Act). The services provided under the Act are designed to assess, plan, develop, and provide a full array of vocational rehabilitation services for individuals who are blind, vision-impaired, or deaf-blind, consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that they may gain competitive integrated employment. The Department of Human Services (Department) recognizes that further rulemaking is necessary to update this chapter to be consistent with best practices; incorporate any relevant updates from the Rehabilitation Services Administration, 29 U.S.C. §§ 702 et seq., Vocational Rehabilitation Services 29 U.S.C. §§ 720 et seq., the Workforce Innovation and Opportunity Act, 29 U.S.C. §§ 3101 et seq., and 34 CFR Parts 76, 77, 79, 82, 86, 361, 363, 395, and 397; and update organizational changes. To that end, the Department is preparing a notice of proposal with substantive amendments to be published in a future issue of the New Jersey Register.

The Department has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated, as required by N.J.S.A. 30:6-11, with the exceptions noted above. In accordance with N.J.S.A. 52:14B-5.1.c(1), these rules should be readopted and continue until substantive amendments are adopted.

The following is a summary of the subchapters of N.J.A.C. 10:95:

Subchapter 1 provides an overview of the vocational rehabilitation program, the purpose and scope of the program, and the definitions that are utilized throughout the chapter.

Subchapter 2 describes the eligibility standards for vocational rehabilitation, including the purpose of the eligibility determination and how eligibility is determined.

Subchapter 3 describes the diagnostic and evaluation services available. This includes preliminary diagnostic study, comprehensive assessment, extended evaluation, and trial work.

Subchapter 4 details the purpose and scope of informed choice and includes the consumer choice principles, as well as a description of how informed choice is implemented in the agency.

Subchapter 5 explains the purpose and scope of the Individualized Plan for Employment (IPE), the development of the IPE, the need to annually review the IPE, and describes how amendments can be made to the IPE.

Subchapter 6 provides a description of the physical and mental restoration services provided by the Commission, including low vision services, as well as the provision of prosthetic, orthotic, and other assistive devices.

Subchapter 7 describes the general purpose and scope of training services and the services that are available to eligible individuals.

Subchapter 8 describes the Commission operated vocational rehabilitation services available to individuals. This includes orientation and mobility services, rehabilitation teaching, college services, on the job training services, deaf-blind services, transition summer services, services provided at the Commission operated Joseph Kohn Rehabilitation Center, and reader/amanuensis and book/supplies services.

Subchapter 9 describes the provision of training and adaptive equipment and the replacement of equipment in the client's last year of high school.

Subchapter 10 describes the general purpose and scope of guidance and counseling services, transition services, and career development services.

Subchapter 11 describes the general purpose and scope of maintenance services.

Subchapter 12 describes the general purpose and scope of placement services and describes the business enterprise and small business programs. Competitive, non-competitive, and extended (sheltered) employment are also explained in this subchapter.

Subchapter 13 describes the purpose and scope of post-employment services.

Subchapter 14 describes the general purpose and scope of services available to clients' families.

Subchapter 15 describes the general purpose and scope of transportation services.

Subchapter 16 describes other training and placement related services that are available.

Subchapter 17 describes the criteria for case closure in referral and applicant status, competitive and non-competitive case closure, homemaker closure, and closure as not rehabilitated after the initiation of services.

Subchapter 18 describes the follow-up for ineligibility decisions and reviews of individuals in extended employment.

Subchapter 19 is a description of the client appeals rights and procedure, including the right to an administrative review, mediation, and/or fair hearing.

The Appendix is a sample form for loaning tools, equipment, initial stock, and other material items to clients for educational and training purposes.

## LAW AND PUBLIC SAFETY

### (a)

#### DIVISION ON CIVIL RIGHTS

#### Display of Official Posters of the Division on Civil Rights

#### Redoption with Amendments: N.J.A.C. 13:8

Proposed: May 20, 2019, at 51 N.J.R. 707(a).

Adopted: August 28, 2019, by the New Jersey Division on Civil Rights, Rachel Wainer Apter, Director.

Filed: September 26, 2019, as R.2019 d.112, **without change**.

Authority: N.J.S.A. 10:5-6, 10:5-8.g, 10:5-12, and 34:11B-6 and 16.

Effective Dates: September 26, 2019, Redoption;  
October 21, 2019, Amendments.

Expiration Date: September 26, 2026.

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

The official comment period ended July 19, 2019. **No comments were received.**

#### Federal Standards Statement

The rules readopted with amendments relate to compliance with the notice posting requirements in the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 et seq., and the New Jersey Family Leave Act (FLA), N.J.S.A. 34:11B-1 et seq. Accordingly, the rules readopted with amendments are not intended to implement or comply with any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements. However, rules readopted with amendments by the Division on Civil Rights (Division) are similar to Federal regulations that require the posting of different notices under various Federal laws. Accordingly, some persons and entities covered by the LAD's and FLA's posting requirements are also required to post notices regarding unlawful discrimination or family leave under various Federal laws.

Specifically, 29 CFR 1601.30(a) requires employers and labor organizations, as defined by Title VII of the Civil Rights Act and by the Americans With Disabilities Act (ADA), to display posters that advise the public of the pertinent provisions of these Federal laws. Similarly, 24 CFR 110.10 and 110.25, promulgated pursuant to the Fair Housing Act, impose an obligation on persons who rent or sell real estate to display posters advising that it is a violation of Federal law to engage in unlawful housing discrimination based on race, color, religion, sex, national origin, handicap, or familial status. Moreover, Federal regulations require certain state and local entities to disseminate information about the ADA. These regulations include the posting of notices as one of several suggested means of meeting this requirement. 28 CFR 35.106. Further, the Federal Family and Medical Leave Act (FMLA) and its implementing regulations require that employers covered by the FMLA post notices explaining the act's provisions and providing information concerning the filing of complaints. 29 U.S.C. § 2619 and 29 CFR 825.300.

The rules readopted with amendments do not unnecessarily exceed or duplicate such Federal regulations. Instead, the rules readopted with amendments articulate requirements to display posters that explain provisions of the LAD and FLA. Accordingly, the Division's rules readopted with amendments regarding the display of official Division posters continue to be necessary to further the statutory mandate to prevent and eliminate unlawful discrimination that violates the LAD and to fulfill the statutory notice requirements of the FLA. Although the requirement to display Division posters may reach some individuals and entities that are also covered by corresponding Federal notice requirements described above, the LAD and FLA cover more individuals and entities under their respective definitions of "employer" than their Federal counterparts. Moreover, there are significant differences in the coverage of Federal and State laws that are reflected in the contents of the Division's official posters.

The LAD prohibits discrimination on some bases not explicitly covered by Federal anti-discrimination laws, such as marital status and source of lawful income, and applies to some entities that are exempt from Federal anti-discrimination laws, and the FLA provides leave in some situations not covered by the Federal Family and Medical Leave Act. As a result, the notice provided by the Division's posters is not duplicative of notices or posters regarding Federal laws.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:8.

**Full text** of the adopted amendments follows:

#### SUBCHAPTER 1. LAW AGAINST DISCRIMINATION POSTERS

##### 13:8-1.2 Display of employment poster

All labor organizations, employment agencies, and employers of employees covered by the Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) shall display the official employment poster of the Division in places easily visible to all employees and applicants for employment. The official employment poster of the Division is available for downloading and printing on the Division's website, [www.njcivilrights.gov](http://www.njcivilrights.gov), or at any of the Division's offices. Any poster printed from the Division's website