

if the student so chooses and with the opportunity to demonstrate such competence through one of the alternative means set forth below:

1. For the graduating classes of [2016, 2017,] 2018[,] and 2019, students who did not take both the ELA 10 and the Algebra I end-of-course PARCC assessment or who [take,] took but [do] did not achieve a passing score on **one or both** assessments, as required by (a)6i above, may satisfy the State requirement to demonstrate proficiency in English language arts [and] **and/or** mathematics, **as applicable**, in one of the following ways:

i. Achieve a passing score, as determined by the Commissioner, on a corresponding substitute competency test in English language arts and/or mathematics, as applicable[, or substitute a passing score on another end-of-course PARCC assessment, including ELA 9, ELA 11, Geometry, or Algebra II]; or

ii. Meet the criteria of the portfolio appeals process; [and]

2. For the graduating classes of 2020 **through 2025**, **all students who have completed coursework in Algebra I and/or ELA grade 10 aligned to the NJSLs in a New Jersey public school shall take** [all applicable high school end-of-course PARCC assessments for all courses in which they are enrolled, including those students who received a waiver for ELA 11 pursuant to N.J.A.C. 6A:8-4.1(c)3i, as of September 6, 2016, and thereafter, but do not achieve] **the requisite assessments in ELA 10 and Algebra I in furtherance of meeting the requirements of (a)6i above. Beginning in 11th grade, students who have not yet achieved a passing score on one or both of the [ELA 10 and Algebra I end-of-course PARCC] requisite assessments pursuant to (a)6i above after remediation and being offered multiple opportunities to take the assessments**, may satisfy the State requirement to demonstrate proficiency in English language arts and/or mathematics in one of the following ways:

i. Achieve a passing score, as determined by the Commissioner **in consultation with the State Board of Education**, on a corresponding substitute competency test in English language arts and/or mathematics, as applicable[, or substitute a passing score on another end-of-course PARCC assessment, including ELA 9, ELA 11, Geometry, or Algebra II]; or

ii. Meet the criteria of the portfolio appeals process[.]; **and**

3. **For the graduating classes of 2019 through 2025, students who completed the required coursework at a school that did not offer assessments allowing the student the opportunity to satisfy (a)6i above shall satisfy the State requirement to demonstrate proficiency in ELA and/or mathematics in one of the following ways:**

i. **Take and achieve a passing score on the State ELA 10 and Algebra I; or**

ii. **Achieve a passing score, as determined by the Commissioner in consultation with the State Board of Education, on a corresponding substitute competency test, as determined by the Commissioner, in ELA and/or mathematics, as applicable; or**

iii. **Meet the criteria of the portfolio appeals process.**

[(g) Beginning with the graduating class of 2021, students who take all applicable high school end-of-course PARCC assessments for all courses in which they are enrolled, including those students who received a waiver for ELA 11 pursuant to N.J.A.C. 6A:8-4.1(c)3i, as of September 6, 2016, and thereafter, but do not achieve a passing score on both the ELA 10 and Algebra I end-of-course PARCC assessments pursuant to (a)6 above, by the conclusion of their senior year and after multiple opportunities to take the assessments, may satisfy the State requirement to demonstrate proficiency in English language arts and mathematics by meeting the criteria of the portfolio appeals process.]

[(h)] (g) All ELLs shall satisfy the requirements for high school graduation, except ELLs may demonstrate they have attained State minimum levels of proficiency through passage of the portfolio appeals process in their native language, when available, and passage of a [Department approved] **Department-approved**, English fluency assessment.

[(i)] (h) Students with disabilities as defined in N.J.A.C. 6A:14-1.3 or eligible under Section 504 of the Rehabilitation Act who participate in the alternative assessment for students with disabilities are not required to participate in repeated administrations of high school [end-of-course

PARCC] assessment[s] **components required under N.J.A.C. 6A:8-4.1(c).**

6A:8-5.2 High school diplomas

(a) (No change.)

(b) District boards of education shall not issue a high school diploma to any student not meeting the criteria specified in the rule provisions referenced in (a) above.

1. (No change.)

2. District boards of education shall allow any out-of-school individual to age 20 who has otherwise met all State and local graduation requirements but has failed to pass [high school end-of-course PARCC] **State assessments in ELA 10 or Algebra I** to demonstrate proficiency as set forth in N.J.A.C. 6A:8-5.1(f) pursuant to the standards applicable to the student's graduating class. Students in graduating classes prior to [2016] **2018** shall demonstrate proficiency as set forth **for the classes of 2018 and 2019** in N.J.A.C. 6A:8-5.1(f)1. Upon certification of passing the test applicable to the student's class in accordance with this chapter, a State-endorsed diploma shall be granted by the high school of record.

(c)-(d) (No change.)

(e) District boards of education shall award a State-endorsed high school diploma to any currently enrolled student, regardless of grade level, who:

1. Has demonstrated proficiency in [the high school end-of-course PARCC assessments in] ELA 10 and Algebra I[, or] as set forth in N.J.A.C. 6A:8-5.1(f);

2.-3. (No change.)

(f) Pursuant to N.J.S.A. 18A:7C-7 and 18A:7E-3, the chief school administrator or lead person of a charter school shall report annually to the district board of education or the charter school board of trustees at a public meeting not later than September 30, and to the Commissioner:

1.-5. (No change.)

6. The number of students denied graduation from the 12th grade class solely because of failure to pass the [high school end-of-course PARCC] **State ELA 10 or State Algebra I** assessments, substitute competency tests, or portfolio appeals process based on the provisions of this chapter.

## HUMAN SERVICES

### (a)

#### DIVISION OF FAMILY DEVELOPMENT

#### Work First New Jersey Program

#### Removing the Term "Foster" from the Work First New Jersey Program

#### Proposed Amendments: N.J.A.C. 10:90-2.7, 2.8, 3.19, 3.20, 6.1, 6.4, 9.1, and 19.3

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

Authority: N.J.S.A. 30:1-12.

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

Proposal Number: PRN 2018-096.

Submit comments by January 4, 2019, to:

Miguel Mendez, Administrative Practice Officer  
 Division of Family Development  
 PO Box 716  
 Trenton, New Jersey 08625-0716  
 E-mail: [Miguel.Mendez@dhs.state.nj.us](mailto:Miguel.Mendez@dhs.state.nj.us)

The agency proposal follows:

#### Summary

As the Department is providing a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Department is proposing amendments to the Work First New Jersey rules to reflect the terminology utilized in N.J.S.A. 30:4C-27.3 et seq., since it was amended.

The term “foster care” is proposed to be amended to “resource family care,” “resource family home,” “out-of-home placement,” or “outside of the home,” as appropriate, at N.J.A.C. 10:90-2.7(a)4, 6.1(d), 6.4(b)1ii, 9.1(d)7, and 19.3(d)1.

The term “foster parent” is proposed to be amended to “resource family parent” at N.J.A.C. 10:90-2.8(a)13.

The term “foster child” is proposed to be amended to “child in resource family care” as appropriate at N.J.A.C. 10:90-2.8(a)13, 3.19(a)13viii, and 3.20(a)14viii.

**Social Impact**

The proposed amendments will have no social impact on the State.

**Economic Impact**

The proposed amendments will have no impact on the State economy.

**Federal Standard Analysis**

The Department has reviewed the applicable Federal laws and regulations and that review indicates that the proposed amendments do not exceed Federal standards. Therefore, a Federal standards analysis is not required.

**Jobs Impact**

The proposed amendments will not result in the generation or loss of jobs.

**Agriculture Industry Impact**

The proposed amendments will have no impact on the agriculture industry.

**Regulatory Flexibility Statement**

The proposed amendments have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments impose no reporting, recordkeeping, or other compliance requirements on small businesses and, thus, a regulatory flexibility analysis is not required.

**Housing Affordability Impact Analysis**

The proposed amendments will not have an impact on housing affordability in New Jersey. It is highly unlikely the proposed amendments would evoke a change in the average costs associated with housing because the proposed amendments concern the deletion of the term “foster parent” from the Work First New Jersey Program.

**Smart Growth Development Impact Analysis**

The proposed amendments will not have an impact on smart growth. It is highly unlikely the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan because the proposed amendments concern the deletion of the term “foster parent” from the Work First New Jersey Program.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 2. NON-FINANCIAL ELIGIBILITY REQUIREMENTS

10:90-2.7 Composition of the WFNJ/TANF and WFNJ/GA eligible assistance unit

(a) Composition of the eligible WFNJ/TANF assistance unit is as follows:

1.-3. (No change.)

4. Any child [receiving] **for whom** a payment or subsidy [through] **is received from** CP&P, including, but not limited to, a [foster care]

**resource family care** payment, guardianship subsidy, or adoption subsidy, shall not be included in the eligible assistance unit. Such child’s parent(s) may be eligible to receive cash assistance for himself or herself and all other eligible children in the household.

5. (No change.)

(b) (No change.)

10:90-2.8 Individuals ineligible for WFNJ TANF/GA

(a) The following persons shall not be eligible for assistance and shall not be considered to be members of the WFNJ/TANF or WFNJ/GA assistance units:

1.-12. (No change.)

13. A [foster] **resource family** parent[(s)] who is unable to prove a legal or blood relationship with [the foster] **a child in resource family care**, (as defined at N.J.A.C. 10:90-2.7(a)1), when there are no other eligible children in the household;

14.-16. (No change.)

(b)-(c) (No change.)

SUBCHAPTER 3. FINANCIAL ELIGIBILITY—INCOME, RESOURCES, BENEFITS

10:90-3.19 Exempt income

(a) Exempt income is not considered in determining initial and continued eligibility for assistance or in computing the amount of WFNJ cash assistance payments; however, as part of the determination of eligibility for emergency assistance, the agency shall evaluate all potential contributions of support to the household in accordance with N.J.A.C. 10:90-6.1(c)2. The following sources of income shall be exempt:

1.-12. (No change.)

13. The following funds are considered as exempt income and are also identified as exempt resources designated for special purposes at N.J.A.C. 10:90-3.20(a)14:

i.-vii. (No change.)

viii. Monies received on behalf of [foster] **a child in resource family care**, including extra payments received for special services; and

ix. (No change.)

14.-17. (No change.)

10:90-3.20 Exempt resources

(a) Exempt resources are not subject to any requirement for liquidation and are not considered in determining WFNJ eligibility or in determining the cash assistance benefit. In addition to the exempt income set forth at N.J.A.C. 10:90-3.19, the following resources shall be exempt for each assistance unit:

1.-13. (No change.)

14. Resources designated for special purposes as follow:

i.-vii. (No change.)

viii. Monies received on behalf of [foster] **a child in resource family care**, including extra payments received for special services; and

ix. (No change.)

SUBCHAPTER 6. EMERGENCY ASSISTANCE

10:90-6.1 Availability of emergency assistance

(a)-(c) (No change.)

(d) The county agency may authorize EA to a family on behalf of a child in order to facilitate the return of a child from [foster care placement] **resource family care** when the appropriate Local Officer Manager (LOM) of the Division of Child Protection and Permanency (CP&P) has approved a specific plan for the return of a child from [foster care placement] **resource family care** and all of the following conditions exist:

1.-4. (No change.)

(e) (No change.)

10:90-6.4 Time limitations

(a) (No change.)

(b) Additional emergency assistance shall be granted beyond the 12-month maximum when, in the judgment of the county or municipal agency, the WFNJ or SSI recipient has taken all reasonable steps to resolve the emergent situation, but the emergency nonetheless continues, or a new emergency occurs, which causes extreme hardship to the family.

1. The following listing is not intended to be exhaustive, nor should it be interpreted as preventing county or municipal agencies from considering other situations not specifically mentioned in the list. Nevertheless, the agency shall confer with DFD if individual and/or family circumstances [which] **that** are offered as a reason for extending EA represent a departure from the categories provided herein. An extension of emergency assistance based on extreme hardship shall be provided when:

- i. (No change.)
  - ii. There is imminent danger of the immediate breakup of the family unit, with children needing to be placed in [foster] **resource family** care;
  - iii.-v. (No change.)
2. (No change.)  
(c)-(f) (No change.)

#### SUBCHAPTER 9. NOTICES AND HEARINGS IN WFNJ

##### 10:90-9.1 Notice to applicant/recipient

- (a)-(c) (No change.)
- (d) Timely notice may be dispensed with, but adequate notice shall be sent not later than the effective date of the action when:
  - 1.-6. (No change.)
  - 7. An eligible child is removed from the home as a result of a judicial determination, an intervention by the Division of Child Protection and Permanency, or is voluntarily placed [in foster care] **outside of the home** by his or her legal guardian;
  - 8.-13. (No change.)

#### SUBCHAPTER 19. KINSHIP CARE SUBSIDY PROGRAM (KCSP)

##### 10:90-19.3 Determining eligibility for the KCSP

- (a)-(c) (No change.)
- (d) Sources of countable income reflect WFNJ/TANF income definitions found at N.J.A.C. 10:90-3.9(b) and include, but are not limited to, employment (including self-employment), rental income, Social Security (disability, retirement, or survivor's) benefits, State disability, rental property managed by an agent, worker's compensation, pensions/annuity/401K payments, alimony received, railroad retirement, General Assistance payments, TANF payments (excluding payments for the kinship child), unemployment, interest and dividend income, [veterans] **veterans'** benefits, and any child support received.

1. For purposes of determining kinship family eligibility, exempt income, as stipulated at N.J.A.C. 10:90-3.19, includes, but is not limited to, SSI benefits, and [foster care] payments **for resource family care** and shall be excluded from the 150 percent FPL income eligibility test in the same manner that such benefits are excluded when determining WFNJ/TANF eligibility. Any member of the family who receives SSI or [foster care benefits] **any child for whom CP&P is making a resource family care payment** is not counted as a member of the kinship family for this determination.

- (e)-(i) (No change.)

## INSURANCE

### (a)

#### DEPARTMENT OF BANKING AND INSURANCE DIVISION OF INSURANCE

##### Actuarial Services

**Proposed Readoption with Amendments: N.J.A.C. 11:4**

**Proposed Repeals and New Rules: N.J.A.C. 11:4-13.3**

**Proposed New Rules: N.J.A.C. 11:4-13.4, 16.2A, 16.6A, and 19.2A**

**Proposed Repeals: N.J.A.C. 11:4-15 and 11:4-56 Appendix A**

Authorized By: Justin Zimmerman, Acting Commissioner,  
Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1 and 17:1-15.e.

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

Proposal Number: PRN 2018-103.

Submit comments by January 4, 2019, to:

Denise Illes, Chief  
Office of Regulatory Affairs  
New Jersey Department of Banking and Insurance  
20 West State Street  
PO Box 325  
Trenton, NJ 08625-0325  
Fax: (609) 292-0896  
E-mail: [legsregs@dobi.nj.gov](mailto:legsregs@dobi.nj.gov).

The agency proposal follows:

#### Summary

In accordance with N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 11:4 were scheduled to expire on September 28, 2018. In accordance with N.J.S.A. 52:14B-5.1.c(2), the timely filing of this notice of re-adoption with the Office of Administrative Law extends the expiration date by 180 days to March 27, 2019. The rules in this chapter were promulgated to implement many of the statutory requirements in Titles 17 and 17B of the New Jersey Statutes. N.J.A.C. 11:4 includes rules concerning life, health insurance, and property casualty insurance. N.J.A.C. 11:4 contains the following subchapters:

- Subchapter 1, New Jersey Insolvent Health Maintenance Organization Assistance Association;
- Subchapter 2, Life Insurance and Annuities Replacement;
- Subchapter 3, Coupon Policies and Policies Containing Guaranteed Annual Endowment Benefits;
- Subchapter 4, Passbooks Used in Connection with Coupon Policies or Policies Containing Guaranteed Annual Endowment Benefits;
- Subchapter 5, (Reserved);
- Subchapter 6, Minimum Reserve Standards for Individual and Group Health Insurance Contracts;
- Subchapter 7, Procedure for the Regulation of Consent to Higher Rate Filings;
- Subchapter 8, Charitable Annuities;
- Subchapter 9, Personal Lines Insurance: Prospective Loss Costs Filing Procedures;
- Subchapter 10, (Reserved);
- Subchapter 11, Life Insurance Disclosure;
- Subchapter 12, Student Life Insurance;
- Subchapter 13, Group Student Health Insurance;
- Subchapter 14, Home Health Care Insurance Coverage;
- Subchapter 15, Alcoholism Benefits (proposed for repeal);
- Subchapter 16, Minimum Standards for Individual Health Insurance;
- Subchapter 17, Health Insurance Solicitation;
- Subchapter 18, Individual Health Insurance Rate Filings;