



LEXSTAT 41 NJR 850(A)

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**RULE PROPOSALS**

**LABOR AND WORKFORCE DEVELOPMENT  
DIVISION OF WORKFORCE DEVELOPMENT  
PRIVATE TRAINING PROVIDERS**

*41 N.J.R. 850(a)*

**Proposed Readoption: N.J.A.C. 12:41**

[Click here to view Interested Persons Statement](#)

Authorized By: David J. Socolow, Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:4-16, 18A:4-24, 18A:4-25, 18A:7A-1 et seq., 18A:54-1 et seq., 18A:69-1 et seq., 34:1A-38, P.L. 2004 c. 39 and Reorganization Plan 001-2004.*

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

Proposal Number: PRN 2009-57.

A **public hearing** on the proposed readoption will be held on the following date at the following location:

Tuesday, March 10, 2009  
10:00 A.M. to 12:00 Noon  
NJ Department of Labor and Workforce Development  
John Fitch Plaza  
2nd Floor Conference Room  
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by April 18, 2009 to:  
David Fish, Regulatory Officer  
Office of Legal and Regulatory Services  
NJ Department of Labor and Workforce Development  
P.O. Box 110--13th Floor  
Trenton, New Jersey 08625-0110

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The agency proposal follows:

## Summary

Pursuant to N.J.S.A. 52:14B-5.1c, *N.J.A.C. 12:41*, concerning private training providers, is scheduled to expire on July 8, 2009. The chapter sets forth the procedures for obtaining a certificate of approval to operate a private training school in New Jersey. The Department has reviewed *N.J.A.C. 12:41* and has determined the chapter to be necessary, reasonable and proper for the purposes for which it was originally promulgated. Accordingly, the Department proposes that *N.J.A.C. 12:41* be readopted.

The Department is also currently in the process of undertaking a thorough review of the chapter for purposes of assessing whether amendments are needed in order to reflect changes in law or policy. The Department intends to complete that supplemental review within the next six months and, where the Department determines that such amendments are necessary, a notice of proposal containing same will appear in a later issue of the New Jersey Register.

A summary of the chapter follows:

N.J.A.C. 12:41-1 sets forth the purpose and scope of the chapter and contains definitions for words and terms used throughout the chapter.

N.J.A.C. 12:41-2 sets forth the authority for the Department to promulgate rules pertaining to private training providers, delineates the standards and procedure for obtaining a certificate of approval for a private training provider and addresses the appeal procedure when the holder of a certificate of approval wishes to contest the revocation or withholding of same.

N.J.A.C. 12:41-3 addresses the issuing of certificates of approval to private vocational schools, out-of-State private vocational schools and correspondence schools.

N.J.A.C. 12:41-4 addresses the approval by the Commissioner of customized training providers.

[page=851] N.J.A.C. 12:41-5 concerns the approval of "Chapter 531 private training providers."

As the Department has provided 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*.

## Social Impact

The rules proposed for readoption clarify the lines of organizational authority necessary to approve occupational programs and institutions operated by private training providers, customized training and Chapter 531 providers. The rules proposed for readoption benefit more than 100,000 students enrolled in private training schools and/or programs conducted under the auspices of the Workforce Development Partnership Program and/or Title I of the Workforce Investment Act. Providers are required to use standard academic and business procedures, which are educationally sound and generally accepted. Students, training providers and employers will continue to benefit from the opportunity to participate in occupational programs, services and activities that are held accountable to sound educational standards.

## Economic Impact

The rules proposed for readoption will continue to have a positive economic impact on the general public. These rules provide assurance that the workforce readiness system is effectively administered and adequate to provide a quality educational experience. An effective workforce readiness system results in adult students acquiring the skills that are relevant to current employment needs and necessary to obtain and maintain employment in their chosen careers. Adult students will be assured that training providers meet educational requirements, so that training funds are expended on recommended programs and students have the opportunity to improve their earning capacity through skills acquisition and upgrading. The rules proposed for readoption are designed to prevent misuse of funds for programs that are not educationally sound. They enhance the general economy in that they provide a process to encourage effective training of job seekers to the benefit of both employers and the general public. They are not expected to cause increased cost to providers.

## Federal Standards Statement

Private training provider rules must be in compliance with the requirements of the Higher Education Act of 1965, 20 U.S.C. §§1061 et seq., and New Jersey law, P.L. 2005, c. 354. The rules proposed for readoption are in compliance

with Federal law. There are several provisions in these rules that define the process by which the Department will meet the Federal and State statutory requirements. Rules in these areas assist in the implementation of Federal requirements by assuring consistency in the procedures for determining approved private providers of training and for providing uniform and reasonable Statewide standards for private training programs. They include the specific content of the application for program approval and facility approval and the operation requirements.

The rules proposed for readoption, *N.J.A.C. 12:41*, are in compliance with and do not exceed Federal requirements.

### **Jobs Impact**

It is not anticipated that any significant generation or loss of jobs will occur as a result of the readoption of the private training provider rules. The rules require providers of private training programs to employ a minimum level of appropriately educated and trained staff to deliver quality occupational education programs. Opening a new school will create the opportunity for new jobs. The Department expects that, on an annual basis, the number of new jobs resulting from the opening of new schools will be offset by the loss of jobs resulting from the closure of existing schools. Thus, the rules proposed for readoption, *N.J.A.C. 12:41*, would not result in any significant job generation or loss.

### **Agriculture Industry Impact**

The rules proposed for readoption will have no impact on the agriculture industry in New Jersey.

### **Regulatory Flexibility Analysis**

The rules proposed for readoption apply to all private providers of training to the general public that are not regulated by any other regulatory entity. Most of the approved private vocational schools could be considered small businesses as that term is defined by the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., as they do not employ more than 100 full-time employees.

Costs incurred by payment of the application fees and renewal fees and in order to comply with accreditation process, audit and the tuition performance bond requirements, are considered by the private school industry to be standard business expenses and may be recovered through tuition charges. In these instances, the Department is unable to change the requirements based on business size or make the requirement different because the providers serve adult students and must meet both Federal and State standards for private training schools.

The Department believes the rules are necessary to assure consistency in the procedures for determining approved private providers of training. The rules proposed for readoption will assure that all private training providers, regardless of size, offer comparable educationally sound programs that prepare adults for a competitive job market.

The proposed readoption of these rules may require the services of accountants, insurers, legal practitioners and other professional service providers.

### **Smart Growth Impact**

The rules proposed for readoption will have no impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

### **Housing Affordability Impact**

The rules proposed for readoption would not evoke a change in the average costs associated with housing. The basis for this finding is that the rules proposed for readoption pertain to the approval of private training providers and have nothing whatsoever to do with housing.

### **Smart Growth Development Impact**

The rules proposed for readoption would not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for readoption pertain to the approval of private training providers and have nothing whatsoever to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at *N.J.A.C. 12:41*.