

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW Special Hearing Rules Civil Service Commission Hearings Proposed New Rules: N.J.A.C. 1:4A

Authorized By: Laura Sanders, Acting Director, Office of Administrative Law.

Authority: N.J.S.A. 52:14F-5.e, .f, and .g.

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

Proposal Number: PRN 2017-044.

Submit comments by May 19, 2017, to:

Thomas E. Harris Jr., Esq., Assistant Director
Office of Administrative Law
Quakerbridge Plaza, Bldg. 9
PO Box 049
Quakerbridge Road
Trenton, New Jersey 08625
E-mail address: Rules.comments@oal.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the special rules for Civil Service Commission hearings expired on June 2, 2015.

The summary of proposed new rules follows:

Subchapter 1 establishes the applicability of the rules to hearings involving major discipline, resignation not in good standing, and termination from service at the conclusion of a working test period due to unsatisfactory performance.

Subchapters 2 through 9 are reserved for potential future use.

Subchapter 10 describes discovery procedures for cases other than major discipline termination cases. The employee is entitled to review the appointing authority file and obtain copies of any document not subject to a bona fide claim of privilege. In addition, each party shall provide the other with information regarding witnesses and expert witnesses, witness summaries and copies of documents at least 10 days before the hearing. Any other discovery shall be by motion to the judge for good cause.

Subchapters 11, 12, and 13 are reserved for potential future use.

Subchapter 14 limits post-hearing submissions.

Subchapters 15 and 16 are reserved for potential future use.

Subchapter 17 provides that where a case proceeding under this chapter is based upon a termination of a law enforcement officer from an approved school or program for failure to meet the standards of N.J.S.A. 52:17B-71, which has been appealed to the Police Training Commission

pursuant to N.J.A.C. 13:1-9.1, that an order consolidating the matters shall be issued and the Police Training Commission shall be deemed to have the predominant interest. Parties may file arguments opposing or supporting the order with the agency heads within 5 working days from receipt of the order.

As the OAL has provided a 60-day comment period on this notice, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new rules provide a fair and expeditious discovery and post-hearing submission process in the specified civil service cases. Access to the appointing authority's file and the exchange of documents and witness list prior to the hearing should ordinarily provide an employee in these cases with adequate discovery, but ensures that the appointing authority will not be unduly burdened with extensive discovery requests.

Economic Impact

By providing a just but expeditious discovery process, the proposed new rules seek to ensure rapid resolution of these civil service matters and thus limit back pay awards or delays in restitution of withheld salary.

Federal Standards Statement

A Federal standards analysis is not required because the contested case hearing procedures are proposed in the implementation of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1 et seq., and are not subject to any Federal standards or requirements.

Jobs Impact

The proposed new rules will not generate or cause the loss of any jobs if adopted.

Agriculture Industry Impact

The proposed new rules will not have an impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed new rules do not impose any reporting, recordkeeping, or compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required. The rules set forth procedures for conduct of certain civil service hearings.

Housing Affordability Impact Analysis

The proposed new rules will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules set forth procedures for contested case hearings.

Smart Growth Development Impact Analysis

The proposed new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules set forth procedures for contested case hearings.

Full text of the proposed new rules follows:

CHAPTER 4A
CIVIL SERVICE COMMISSION HEARINGS

SUBCHAPTER 1. APPLICABILITY

1:4A-1.1 Applicability

(a) The rules in this chapter shall apply to hearings involving:

1. Major discipline arising under N.J.A.C. 4A:2-2.2;
2. Resignation not in good standing arising under N.J.A.C. 4A:2-6.2; and
3. Termination from service at the conclusion of a working test period due to unsatisfactory performance under N.J.A.C. 4A:2-4.1.

(b) Any aspect of the hearing not covered by these special rules shall be governed by the Uniform Administrative Procedure Rules (UAPR) at N.J.A.C. 1:1. To the extent that these rules are inconsistent with the UAPR, these rules shall apply.

SUBCHAPTERS 2 THROUGH 9. (RESERVED)

SUBCHAPTER 10. DISCOVERY

1:4A-10.1 Discovery

(a) Except for major discipline termination cases, discovery shall be provided pursuant to this section. Discovery in termination cases shall be pursuant to N.J.A.C. 1:1-10.

(b) The employee shall be permitted to review the appointing authority's entire file or files on the matter. Copies of any document in the file or files shall be provided to the employee upon request and for a reasonable copying charge. See N.J.S.A. 47:1A-5. The appointing authority may refuse to disclose any document subject to a bona fide claim of privilege.

(c) Each party shall provide each other party copies of any documents and a list with names, addresses, and telephone numbers of any witnesses, including experts, which the party intends to introduce at the hearing. A summary of the testimony expected to be provided by each witness shall be included. These items shall be exchanged at least 10 days prior to the hearing, unless the judge determines that the information could not reasonably have been disclosed within that time.

(d) Any discovery other than that permitted in (a) and (b) above shall be by motion to the judge and for good cause shown.

(e) The hearing date shall not be adjourned to permit discovery.

SUBCHAPTERS 11 THROUGH 13. (RESERVED)

SUBCHAPTER 14. CONDUCT OF CASES

1:4A-14.1 Conduct of hearing; limitation on post hearing submissions

No proposed findings of fact, including conclusions of law, briefs, forms of order, or other dispositions may be offered or required after the final argument, except for the purpose of expressing the terms of a settlement, unless expressly permitted by the judge for good cause.

SUBCHAPTERS 15 THROUGH 16. (RESERVED)

SUBCHAPTER 17. CONSOLIDATION AND PREDOMINANT INTEREST IN CASES INVOLVING POLICE TRAINING COMMISSION

1:4A-17.1 Consolidation and predominant interest

In any instance where a case proceeding under this chapter is based upon the termination of a law enforcement officer from an approved school or program for failure to meet the standards of N.J.S.A. 52:17B-

71, which has been appealed to the Police Training Commission pursuant to N.J.A.C. 13:1-9.1, an order consolidating the matters shall be issued, and the Police Training Commission shall be deemed to have the predominant interest.

1:4A-17.2 Review of orders involving consolidation with a Police Training Commission case

In any instance where a case proceeding under this chapter is consolidated with a Police Training Commission case, a party may file arguments opposing or supporting the consolidation and predominant interest order with the agency heads within five working days from receipt of the order.

BANKING

(a)

**DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING**

Savings Account Promotions

Proposed New Rules: N.J.A.C. 3:37

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-15.e and P.L. 2015, c. 236.

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

Proposal Number: PRN 2017-041.

Submit comments by May 19, 2017, to:

Denise Illes, Chief
Legislation and Regulation
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

The agency proposal follows:

Summary

P.L. 2015, c. 236 (the Act), which was titled "An Act concerning certain savings account promotions and supplementing Title 17 and Title 5 of the Revised Statutes" was signed into law in January 2016. The Department of Banking and Insurance (Department) is authorized by the Act to promulgate rules necessary to effectuate the provisions of the Act. The Department, therefore, proposes these new rules to permit banks, savings banks, savings and loan associations, and credit unions to conduct savings account promotion raffles if they so choose.

Proposed new N.J.A.C. 3:37-1.1 sets forth the purpose and the scope of the chapter.

Proposed new N.J.A.C. 3:37-1.2 sets forth the required definitions.

Proposed new N.J.A.C. 3:37-1.3 sets forth the required minimum standards and disclosures that a financial institution must make to customers participating in the savings account promotion and the criteria that must be met to establish eligibility for participation.

Proposed new N.J.A.C. 3:37-1.4 requires financial institutions conducting savings account promotions to maintain appropriate books and records.

The Department's proposal provides for a comment period of 60 days and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is excepted from the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed new rules will encourage consumers to engage in savings programs and develop habits for regular savings, which should lead to the creation of wealth. These proposed new rules, therefore, should have a positive social impact on banking consumers and the banking and credit union industries.