

Frequently Asked Questions: Commissioner Appeals

Q. What decisions can be appealed to the Commissioner?

A. Effective July 7, 2008, the Commissioner of Education has the authority pursuant to P.L. 2008, c. 36, to hear appeals – previously heard by the [State Board of Education](#) – of determinations made by the the School Ethics Commission finding that the *School Ethics Act* has been violated and decisions made by the State Board of Examiners to suspend or revoke an individual's certification. The Commissioner's determination on any such appeal is a final agency action appealable to the [Appellate Division of the Superior Court](#).

Important note: The procedures below do not apply to appeals from actions of local district boards of education or from decisions of the State Board of Examiners denying issuance of a certificate, which proceed as [controversies and disputes under school law](#). Similarly, the procedures below do not apply to [School Ethics Commission](#) findings of no probable cause or to penalty recommendations where the underlying finding of violation is not being appealed.

Q. How much time is allowed for an appeal to be filed?

A. Appeals must be received within 30 days of the filing date of the decision that is being appealed. The filing date of a decision is three days after the date the decision was mailed to the parties.

Q. How is an appeal to the Commissioner filed?

A. To file an appeal to the Commissioner, notice of appeal must be sent to the Commissioner c/o Director, Office of Controversies and Disputes, 100 River View Plaza, P.O. Box 500, Trenton, N.J. 08625-0500, Attention: Appeals. A copy of the notice of appeal also must be sent to the School Ethics Commission or the State Board of Examiners, depending on the decision being appealed. A copy also must be sent to all of the parties to the matter. It is advisable to send all copies by certified mail, return receipt requested. Submissions may not be faxed without prior permission from the Director.

Q. What must be included in a notice of appeal?

A. Notice of appeal must clearly indicate which decision is being appealed. It also must include the petitioner's name, address and phone number (plus fax if available), or that of an attorney if the petitioner is represented, and the names of all of the other parties to the matter. The notice of appeal must be signed by the attorney of record if the petitioner is represented, or by the petitioner if he or she is not represented by an attorney.

A copy of the decision that is being appealed must be attached to the notice, as well as proof of service showing that the School Ethics Commission or the State Board of Examiners, as the case may be, and all of the parties to the matter have been sent a copy of the notice. Proof of service may be shown by an acknowledgement of service signed by the other party or his or her attorney, an affidavit or a certified-mail receipt, or a certificate of service signed by the petitioner's attorney.

Q. How many copies of the notice of appeal must be sent to the Commissioner?

A. Only the original notice needs to be sent to the Commissioner. No additional copies are necessary.

Q. What must be done after a notice of appeal is filed?

A. Petitioners filing an appeal are required to file a brief in support of the appeal within 20 days of when the notice is filed. The other parties to the appeal then have 20 days in which to file an answer brief. A reply to the answer(s) can be filed if it is done within 10 days.

Q. How many copies of briefs must be submitted to the Commissioner?

A. Only the originals of all briefs and any other documents need to be filed with the Commissioner. However, a copy of any brief or other document filed with the Commissioner must be provided to all other parties.

Q. Where can additional information about the appeals process be obtained?

A. Additional information may be obtained from the regulations at [N.J.A.C. 6A:4, Appeals](#), or by contacting the Office of Controversies and Disputes at (609) 292-5706. Please specify if inquiring about appeals of a State Board of Examiners or School Ethics Commission decision.