

POLICY FOR SUSPENSION, REMOVAL OR DISCIPLINE OF MEMBERS OF THE GRIEVANCE PANEL

Consistent with N.J.S.A. 34:13A-16(e), the Commission promulgated rules governing the suspension, removal or discipline of members of the special panel of arbitrators for interest disputes involving the uniformed services. There is no legislative mandate to establish such a provision by rule-making for the grievance panel. The Chairman, in agreement with the Commission's General Counsel and Ethics Officer, has decided to set forth a policy governing oversight of the grievance panel.

Arbitrators listed on the Commission's grievance panel are required to abide by the Code of Professional Responsibility for Arbitrators of Labor Management Disputes of the National Academy of Arbitrators, American Arbitration Association, and Federal Mediation and Conciliation Service. Applicants seeking a place on PERC's grievance panel must demonstrate: experience, competence and acceptability in decision-making roles in resolving labor relations disputes; experience in the collective negotiations process; and a capacity to conduct orderly hearings, analyze evidence and write concise decisions. Applicants may not be advocates or hold public office. Applications, which include writing samples and references from labor and management advocates and labor relations neutrals, are evaluated by a committee consisting of the Director of Arbitration and Conciliation, the Commission's Ethics Officer, and the Director of Administration. Decisions to discipline or remove a grievance panel member shall be made by the same committee, with a right to appeal to the Commission.

Reasons for discipline or removal include:

- (1) failure to conform to the Code of Professional Responsibility for Arbitrators of Labor Management Disputes;
- (2) failure to maintain the criteria for admission to the panel;
- (3) assumption of an advocacy role or public office;
- (4) complaints by parties using the Commission's grievance panel of conduct which, after investigation, demonstrates grounds for disciplinary action;
- (5) a demonstration that the panel member is unacceptable to the parties based on Commission records showing the number of times the arbitrator's name has been proposed to the parties and the number of times the arbitrator has been selected over a reasonable length of time on the panel.

If it appears that discipline or removal may be warranted, the committee shall provide a written statement to the arbitrator specifying the reasons for the action being considered. The arbitrator shall have an opportunity to submit a written response, and to meet with the committee to discuss the matter. The arbitrator may also request a hearing, and, if it appears that substantial and material facts are in dispute, the committee may appoint a hearing officer to make findings of fact.

Based upon the arbitrator's response, the meeting with the arbitrator, and any findings of fact made at a hearing, the committee may decide to reprimand, suspend or remove the arbitrator from the panel, or to take no action. This decision shall be in writing and sent to the arbitrator, who will have two weeks to file a written appeal to the full Commission. The appeal must state the grounds for disagreeing with the committee's decision. The Commission, or its designee may sustain, modify, or reverse the action taken by the committee and shall notify the arbitrator in writing of its decision. The committee or its designee may, pending its investigation or the appeal of its decision, temporarily suspend the arbitrator, after giving the arbitrator notice of the allegations and an opportunity to respond.