



# Arbitration Rules and Regulations

established by the  
New Jersey State  
Board of Mediation

Christopher Christie  
*Governor*

# **NEW JERSEY STATE BOARD OF MEDIATION**

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**Effective July 2009**

# Table of Contents

Article/Section	Page
Preamble	1
I. Administration Functions of the Board	1
A. Establish Panel of Arbitrators	1
B. Quality Arbitrators	2
1. Experience	2
2. Education	2
3. Residence	2
4. Neutrality	2
C. Review the credentials of applicants	2
D. Establish and review per diem fees	3
E. Discipline Arbitrators	3
II. Administrative Functions of the Staff	3
A. Appoint Arbitrators	3
B. Arrange for hearing room	3
C. Maintain normal business records	3
III. 12:105-1 Rules of Procedures for Arbitration codified in Chapter 15, Title 12 of The New Jersey Administrative Code (12 NJR 423)	3
1.1 Rules Incorporated in arbitration agreements	3
1.2 Interpretation and application of rules	4
12:105-2 Initiation of Arbitration	4
2.1 Collective Bargaining Agreement Designation	4
2.2 Collective Bargaining Agreement Non-Designation	4
2.3 Mutual request for Arbitration	4
2.4 Expedited Arbitration	4
2.5 Procedural Determinations	5

12:105-3 Appointment of Arbitrators	5
3.1 Nomination of Arbitrators	5
3.2 Conflict of Interest	6
3.3 Vacancies	7

12:105-4 The Hearing	7
4.1 Date, Time and Place	7
4.2 Oath of Arbitrator	7
4.3 Submission	7
4.4 Status of Arbitrator after Appointment	7
4.5 Postponements and Adjournments	7
4.6 Representation by Counsel	8
4.7 Taking of Stenographic Records	8
4.8 Attendance at hearings	8
4.9 Majority Decision	8
4.10 Evidence	8
4.11 Inspection	9
4.12 Close of Hearings	9
4.13 Reopening of Hearings	9

12:105-5 The Award	9
5.1 Time	9
5.2 Form	10
5.3 Award of Settlement	10
5.4 Delivery of Award	10
5.5 Finality of Award	10
5.6 Arbitrator's Status subsequent to rendering a Decision	11
5.7 Waiver of Right to Object	11

## Appendixes

A. Application for Selection to the Arbitration Panel	12
B. Oath of Arbitrator	14
C. Submission	15

**ARBITRATION RULES AND REGULATIONS**  
**established by**  
**NEW JERSEY STATE BOARD OF MEDIATION**

**Adopted by the Board December 19, 1985 and**  
**Supersedes all previous rules and regulations of the Board**

**PREAMBLE**

The New Jersey State Board of Mediation (hereinafter referred to as the Board), in order to fulfill its duty to promote the "health, welfare, comfort and safety of the people of the State" by professional and prompt settlement of labor disputes between unions and private employers, shall set policy for and provide and administer a Panel of Arbitrators (hereinafter called the Panel), under authority vested in the Board by the New Jersey Employer-Employee Relations Act (P.L. 1941, c.100; C. 34:13A-1 to 34:13A-13), as amended January 20, 1975.

The Panel shall consist of qualified, competent, acceptable and ethical arbitrators who have voluntarily applied to and have been accepted by the Board in accordance with its selection criteria. These arbitrators shall be offered to disputing parties for the resolution of disputes involving interpretation of existing labor agreements. Arbitrators' fees shall be paid by the disputing parties with maximum rates set by the Board in order to keep arbitration services economically feasible and available for the parties and particularly for smaller employers and union groups. Each arbitrator shall abide by the New Jersey Arbitration Law (C. 24:2A:21-1 to 2A:24-11) New Jersey Statutes annotated and shall conform to the ethical standards and procedures set forth in the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes approved by the Joint Steering Committee of the National Academy of Arbitrators.

To carry out the administration of its Panel on a fair and equitable basis for all parties, the Board has established the following rules and regulations which may be amended from time to time at the sole discretion of the Board. All arbitrators applying to the Panel and selected by the Board and all parties utilizing the services of the Panel shall be obligated by direction of the Board to be bound by and to accept these rules and regulations.

**I. ADMINISTRATIVE FUNCTIONS OF THE BOARD**

**A. Establish Panel of Arbitrators**

The Board shall establish and maintain a list of arbitrators. The Board, at its discretion, may also maintain a list of technical specialists who may serve as arbitrators in matters which require specialized knowledge in such areas as job classification and time and motion studies. The Board may establish special arbitration panels as required.

## B. Qualify Arbitrators

The Board shall establish the qualifications for all Panel members. The Board shall consider:

### 1. *Experience*

Applicants must provide proof of five (5) years of demonstrated competence and acceptability in an impartial, third-party role, such as mediator, factfinder or arbitrator, in the resolution of disputes between labor and management, or a minimum of five (5) years of demonstrated experience in labor-management relations including collective bargaining or equivalent experience satisfactory to the Board.

a. "Competence" would include the ability to conduct hearings in an orderly manner, to physically and mentally withstand the tensions of an adversary proceeding, to speak clearly and concisely, and to render fair and impartial decisions. It also indicates a basic understanding of business and union operations and a thorough knowledge of current practices, principles and developments in the field of labor-management relations.

b. "Acceptability" implies that the applicant is acceptable to both labor and management on a wide variety of issues.

### 2. *Education*

A college degree is most desirable, preferably in industrial and labor relations. Applicants will be considered who have high school diplomas and experience satisfactory to the Board.

### 3. *Residence*

Strong preference will be given to residents of New Jersey, New York, Pennsylvania and Connecticut. First priority shall be given to New Jersey residents.

### 4. *Neutrality*

Applicants who are advocates for or consultants to labor or management shall not be eligible for acceptance on the Panel. An advocate or consultant is defined as one who represents labor or management in matters of labor relations. An arbitrator must keep the Board apprised of his status as an employee of, advocate for or representative of labor or management. Such information will be noted on the applicant's biographical sketch which is submitted to the parties.

## C. Review the credentials of applicants

Applicants must submit a detailed resume for consideration by the Board. The decision of the Board is final. Appendix A is the required format.

D. Establish and review per diem fees

The Board shall establish and review per diem fees set by each arbitrator. The arbitrator's per diem fee will be shown on the biographical sketch which is mailed to the parties. No arbitrator may change fees without the prior approval of the Board and no change in fee shall be effective until sixty (60) days after such approval is given.

E. Discipline Arbitrators

The Board reserves the right to remove arbitrators from the Panel for violation of its rules and regulations, misconduct or other just cause. The decision of the Board shall be final.

**II. ADMINISTRATIVE FUNCTIONS OF THE STAFF**

A. Appoint Arbitrators

The staff receive all requests for arbitration, and compile and forward to the parties involved a list of arbitrators chosen from the Board's Panel. Upon return of the Panel indicating order of preference from the parties, the staff shall appoint the arbitrators.

B. Arrange for hearing room

If requested to do so by the arbitrator, and if space is available, the staff shall make arrangements for the hearing room.

C. Maintain normal business records

The staff shall maintain normal business records. This shall include but not be limited to maintaining records or arbitrator selection, biographies and fees. The staff may, at the direction of the Board, monitor arbitrator compliance with the rules and regulations of the Board. The staff shall perform those support services normally associated with a complex governmental agency.

**III. RULES OF PROCEDURE FOR ARBITRATION CODIFIED IN CHAPTER 15, TITLE 12 OF THE NEW JERSEY ADMINISTRATIVE CODE (12 NJR 423)**

**Chapter 105 ARBITRATION  
SUBCHAPTER 1 GENERAL PROVISIONS  
12:105-1.1 RULES INCORPORATED IN ARBITRATION AGREEMENTS**

(a) The rules and regulations contained in this chapter shall be deemed a part of an arbitration agreement between parties whenever in their collective bargaining agreements or submissions they have provided for arbitration through the New Jersey State Board of Mediation or under its rules.

(b) This chapter, or any amendments thereof, properly adopted by the Board, shall apply in the form obtaining at the time the procedure is instituted.

## **12:105-1.2 INTERPRETATION AND APPLICATION OF RULES**

(a) The arbitrator shall interpret and apply the rules in this chapter insofar as they relate to his powers and duties.

(b) If there is more than one arbitrator and a difference arises among them concerning the meaning or application of any such rules, it shall be decided by a majority vote.

(c) All other rules shall be interpreted by an authorized representative of the Board.

## **SUBCHAPTER 2 INITIATION OF ARBITRATION**

### **12:105-2.1 COLLECTIVE BARGAINING AGREEMENT DESIGNATION**

(a) Arbitration proceedings may be instituted in any one of the following methods:

1. Under collective bargaining agreements wherein the Board is designated as the agency through which action is to be taken as the final step of the grievance procedure.

2. Either party to such collective bargaining agreement may demand arbitration under the terms of the agreement by sending to the other party and to the Board a statement outlining the nature of the dispute and the remedy sought. The statement to the Board also should contain a copy of the collective bargaining agreement or the contract grievance procedure.

### **12:105-2.2 COLLECTIVE BARGAINING AGREEMENT NON-DESIGNATION**

Request for arbitration may be made by either party under a general arbitration clause in a collective bargaining agreement where the parties have agreed by stipulation or otherwise to arbitrate under the administration and rules of the Board.

### **12:105-2.3 MUTUAL REQUEST FOR ARBITRATION**

Arbitration may also be initiated by the Board, whether or not a collective bargaining agreement exists, upon filing of a copy of a written agreement by the parties to arbitrate under the rules and regulations of the Board.

### **12:105-2.4 EXPEDITED ARBITRATION**

(a) Pursuant to written mutual agreement by the parties,



certain provisions of the arbitration appointment procedure (as prescribed in Subchapter 3) may be modified in order to provide the expedited designation of an arbitrator.

(b) The Board will endeavor to conform with the wishes of the parties wherever possible.

(c) Upon designation of an arbitrator, all rules and regulations not specifically modified shall remain in force.

(d) Pursuant to written mutual agreement by the parties in disputes where pension and welfare fund payments delinquencies is the sole issue alleged, the moving party may request an expedited designation of an arbitrator by proceeding directly to a "third list" panel as prescribed in N.J.A.C. 12:105-3.1). The Board will notify the employer representative of the claimed dispute and the request for expedited arbitration by certified mail, return receipt requested. Immediately thereafter, the Board will proceed in accordance with the provisions of N.J.A.C. 12:105-3.1 (c).

### **12:105-2.5 PROCEDURAL DETERMINATIONS**

(a) Should questions arise in connection with the request of either party to combine grievances to be heard before the arbitrator, said questions shall be determined by the arbitrator as a threshold issue and in no way will a determination be made by the Board.

(b) Should questions arise in connection with arbitrability of a grievance, said questions shall be determined by the arbitrator as a threshold issue and in no way will a determination be made by the Board.

## **SUBCHAPTER 3 APPOINTMENT OF ARBITRATORS**

### **12:105-3.1 NOMINATION OF ARBITRATORS**

(a) First List (A Panel):

1. Upon receipt of a Demand or Submission for arbitration, the Board shall submit simultaneously to the parties an identical list of ten names chosen from the panel, including a biographical sketch and a per diem fee for each arbitrator.

2. Each party; within ten working days from the date of mailing said lists shall strike those names deemed unacceptable and return said list to the Board. Parties may list a preference among those deemed acceptable.

3. The Board shall designate as arbitrator a person available from those lists who is acceptable to both parties.

4. If either party objects to the complete list of ten names as submitted, it may request that the Board submit a new list of ten names.

(b) Second List (B Panel):

1. If requested, the Board will forward a second list of ten names to the parties.
2. Each party; within five working days from the date of mailing said list shall strike those names deemed unacceptable and return said list to the Board. Parties may list a preference among those deemed acceptable.
3. The Board shall designate as arbitrator a person available from those lists who is acceptable to both parties.
4. If either party objects to the complete second list of ten names submitted, it may request a third and final list of three names.

(c) Third List (C Panel):

1. If requested, the Board will forward a third and final list of three names to the parties.
2. The parties shall have five working days from the date of mailing the third list to return it to the Board.
3. The parties may strike one name; however, any name not stricken shall be deemed acceptable.
4. If the parties in writing make a joint request to waive the third list and authorize the Board to appoint an arbitrator, the Board shall honor such joint request.

(d) If at any point in the arbitrator appointment process:

1. Both parties fail to return a list within the specified time period, all arbitrators shall be deemed acceptable and the Board shall be empowered to designate any arbitrator so listed.
2. One party fails to return a list within the specified time period, the Board shall appoint an arbitrator from the list received, by order of listing, if any.

(e) Where a collective bargaining agreement calls for an Arbitration Board as the final step of a grievance procedure and where the Board is designated as the Agency to appoint an impartial arbitrator in situations when the company and union appointed arbitrators cannot agree upon such arbitrator, the parties shall submit the names and addresses of their arbitrators in a letter to the Board. In such case, a list of ten panel members will be sent to the parties or to their arbitrators, as requested, for selection as prescribed in this section.

## **12:105-3.2 CONFLICT OF INTEREST**

A member of the panel shall not serve as an arbitrator in any

proceeding if he has any financial or personal interest in the result of the arbitration unless the parties, in writing, waive such disqualification.

### **12:105-3.3 VACANCIES**

If after designation any arbitrator resigns, dies, withdraws, refuses or is unable to perform his duties, the Board shall rescind the appointment and shall fill the vacancy in the same manner as the original appointment (as prescribed in section 1 of this subchapter) and the matter shall be heard in its entirety by the new arbitrator.

## **SUBCHAPTER 4 THE HEARING**

### **12:105-4.1 DATE, TIME AND PLACE**

(a) An arbitrator, once appointed, shall communicate with the parties and endeavor to make satisfactory arrangements for the date, time and place of the hearing. In the event that satisfactory arrangements cannot be made with the parties, the arbitrator shall have the power to set the date and time.

(b) If satisfactory arrangements cannot be made as to the place of the hearing, the arbitrator may use the offices of the Board subject to availability. Arbitrators are required to keep the Board informed of arrangements made and of any changes.

### **12:105-4.2 OATH OF ARBITRATOR**

Prior to the hearing, arbitrators shall sign an Oath of Arbitrator (see Appendix B). The arbitrator is required to provide the Board with a signed oath.

### **12:105-4.3 SUBMISSION**

The parties to the arbitration shall sign an original and three copies of the submission form prior to arbitration (see Appendix C). The original shall be retained by the Board, the arbitrator and the parties to the dispute shall each retain a copy.

### **12:105-4.4 STATUS OF ARBITRATOR AFTER APPOINTMENT**

After appointment, the legal relationship of an arbitrator is with the parties and not with the Board.

### **12:105-4.5 POSTPONEMENTS AND ADJOURNMENTS**

(a) The postponing of a scheduled hearing or the adjourning of a hearing is entirely within the discretion of the arbitrator.

(b) If either or both of the parties seek a postponement or cancellation within seven (7) calendar days of the time agreed

upon for the conduct of a hearing or the continuance of a hearing, the party or parties responsible for the postponement or cancellation shall be liable for payment of the arbitrator's full fee for the cancelled or postponed day.

#### **12:105-4.6 REPRESENTATION BY COUNSEL**

Any party may be represented at the hearing by counsel, subject to existing state laws, provided that any party intending to be so represented shall notify the other party and the Board at least three days prior to the date set for the hearing at which counsel is to first appear. When the initiation of any arbitration is made by counsel or the reply of the other party is given by counsel, such notice is deemed to have been given.

#### **12:105-4.7 TAKING OF STENOGRAPHIC RECORD**

A stenographic record of arbitration proceedings may be taken. Should one of the parties desire to make such a record at its own expense and the other party refuse to share in the cost, it shall not be necessary for the party arranging for such record to supply a copy to the other party, but a copy, if transcribed, shall be sent to the arbitrator.

#### **12:105-4.8 ATTENDANCE AT HEARINGS**

(a) Persons having direct interest in the arbitration are entitled to attend hearings, but it shall be discretionary with the arbitrator to determine the propriety of attendance of any other persons.

(b) Such arbitrator shall have the power to require the retirement of any witness or witnesses during the testimony of other witnesses.

(c) Failure of a party to appear at or participate in a hearing duly scheduled may be deemed by the arbitrator, at his discretion, as a waiver of the right to appear at or participate in such hearing. The arbitrator, at his discretion, may proceed with the hearing in the absence of or without participation of said party.

#### **12:105-4.9 MAJORITY DECISION**

Where more than one arbitrator is sitting in a case, all decisions of the Arbitration Board shall be by majority vote unless the power of making such decision is delegated to the chairperson; all awards shall be by majority vote unless concurrence of all is specifically required in the arbitration agreement.

#### **12:105-4.10 EVIDENCE**

(a) At the arbitration hearing, the parties may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary. Conformance to legal rules of evidence is not necessary, and the arbitrator shall be the judge of

the relevancy and materiality of the evidence offered.

(b) All evidence shall be taken in the presence of all the arbitrators and of all the parties, except where any of the parties is absent in default or has waived his right to be present.

(c) The arbitrator may accept or require briefs to aid in his determination of the case where arrangement for exchange of such briefs are made at the hearing.

(d) Time limits for submission of such briefs shall be determined by the arbitrator and the right to submit briefs shall be waived unless they are submitted within the time limits or an extension of time is granted.

#### **12:105-4.11 INSPECTION**

If the arbitrator deems it necessary, he may make an inspection in connection with the subject matter of the dispute after written notice to the parties who may, if they so desire, be present at such inspection.

#### **12:105-4.12 CLOSE OF HEARINGS**

(a) The arbitrator shall specifically ask the parties whether they have further evidence or witnesses to produce before terminating the hearings. If not, the arbitrator shall declare the hearings closed.

(b) The arbitrator shall declare the hearing closed as of the final date established for the submission of briefs or other evidence by the parties.

(c) In the absence of other agreements by the parties, the time limit within which the arbitrator is required to make and submit his award shall start as of the closing date.

#### **12:105-4.13 REOPENING OF HEARINGS**

The hearing may be reopened by the arbitrator upon his own motion or at the request of either party for good cause shown at any time before the award is made, with the arbitrator to be the sole judge of the sufficiency of the reason. When hearings are reopened, the effective date of closing the hearings shall be the closing date of the reopened hearings.

### **SUBCHAPTER 5 THE AWARD**

#### **12:105-5.1 TIME**

(a) The award shall be made promptly within the time limit set in the agreement between the parties or a mutually agreed upon extension but in no case more than 30 days after the closing of hearing.

(b) If a decision is not rendered after 30 days, it is the obligation of the parties to contact the Board so it can attempt to expedite a decision. If a decision is not rendered after 60 days, either party can request in writing that the hearing be voided and another arbitrator be selected by means of the normal selection procedure, such a request will be automatically granted unless the parties individually agree to an extended award date. If the Board invalidates a hearing due to a late decision, the parties shall not be obligated to pay the arbitrator's fee.

(c) The arbitrator shall not release arbitration decisions for publication or distribution without the written consent of the parties.

### **12:105-5.2 FORM**

(a) The award shall be in writing, signed by the sole arbitrator or by the majority of the Arbitration Board and the signature or signatures shall be witnessed by a qualified notary.

(b) The award may or may not be followed by or accompanied by an opinion by the sole arbitrator or the majority of the Arbitration Board.

(c) An opinion, if written, shall set forth the findings of facts, conclusions and remedial actions.

(d) Dissenting opinion, if any, shall be mailed to the parties and the Board.

### **12:105-5.3 AWARD OF SETTLEMENT**

If a dispute is settled during the course of an arbitration, the arbitrator may, upon request of the parties, set forth the terms of the agreed settlement in an award.

### **12:105-5.4 DELIVERY OF AWARD**

The award shall be sent to the parties and to the Board. The parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail addressed to such parties or their attorneys at their last known addresses. It is the responsibility of the parties to inform the arbitrator of the names and addresses of the persons to be served the award.

### **12:105-5.5 FINALITY OF AWARD**

After an award has been delivered to the parties, such award shall be final and binding upon them subject only to due process of law.

## **12:105-5.6 ARBITRATOR'S STATUS SUBSEQUENT TO RENDERING A DECISION**

An arbitrator becomes functus officio upon signing his award and he may not add to, subtract from or in any way explain, correct or modify his award unless all parties, in writing, agree to reinstate his authority.

## **12:105-5.7 WAIVER OF RIGHT TO OBJECT**

Any party who proceeds with an arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state his objections thereto in writing shall be deemed to have waived his right to appeal.

(APPENDIX A)

NEW JERSEY STATE BOARD OF MEDIATION

Application for Selection to the Arbitration Panel



NEW JERSEY STATE BOARD OF MEDIATION  
Application for Selection to the Arbitration Panel

Name \_\_\_\_\_  
Residence Street Address \_\_\_\_\_  
City, State, ZIP code \_\_\_\_\_  
Telephone \_\_\_\_\_ This number is a  land line  cell phone

**Current Employment or Professional Status**

retired  
 employed employer \_\_\_\_\_ title \_\_\_\_\_  
Business Street Address \_\_\_\_\_  
City, State, ZIP code \_\_\_\_\_  
Telephone \_\_\_\_\_

**Education**

Academic Degree(s)	College/University	Year Graduated
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Associations**

List any Arbitration Association(s) you belong to:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List any Labor Relations or Industrial Relations Organization(s) you belong to:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Related Experience**

In how many cases have you served as a fact finder? \_\_\_\_\_  
Mediator? \_\_\_\_\_ Arbitrator? \_\_\_\_\_

Have you ever been an advocate for or consultant to labor or management, or have you been associated with an employee or labor organization in a capacity that could impair your ability to be impartial?

- No
- Yes – Give specific  
Business, or union name \_\_\_\_\_  
Dates of your association \_\_\_\_\_

List recent or outstanding cases in which you have been involved.

Company/ Public Employer	Union/ Employer	Organization	Type of Dispute (use key* below)	Date

<b>*Key:</b> CT - Contract Terms WR - Wage Reopening SC - Subcontracting	D - Discipline JE - Job Evaluation INT - Interpretation	INC - Incentive S - Seniority F - Fact finder
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**References**

Give two references representing management

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City, State, ZIP code \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 How you came to know this person: \_\_\_\_\_

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City, State, ZIP code \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 How you came to know this person: \_\_\_\_\_

Give two references representing labor

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City, State, ZIP code \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 How you came to know this person: \_\_\_\_\_

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City, State, ZIP code \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 How you came to know this person: \_\_\_\_\_

Give three references representing civic, business or community leaders:

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City, State, ZIP code \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 How you came to know this person: \_\_\_\_\_

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City, State, ZIP code \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 How you came to know this person: \_\_\_\_\_

Name \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City, State, ZIP code \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 How you came to know this person: \_\_\_\_\_

By checking this box, you agree to accept the per diem fee for arbitration set by the New Jersey State Board of Mediation. The current rate is posted online at [www.state.nj.us/mediation](http://www.state.nj.us/mediation).

Provide five reports or decisions you rendered as either a fact finder or arbitrator. If this information is unavailable, you may submit a suitable writing sample (minimum of 2 pages; 3 or more preferred).

Please attach a detailed resume.

Signature \_\_\_\_\_

Date \_\_\_\_\_

(APPENDIX B)

NEW JERSEY STATE BOARD OF MEDIATION

CASE NO \_\_\_\_\_

In the matter of the Arbitration

between

Employer

Oath of Arbitrator

and

Employer or Union Representative

being duly sworn according to the Law, on his/her oath deposes and says that he/she will faithfully and impartially hear and examine the grievance and dispute in question and discharge his/her duties as such Arbitrator according to the best of his/her skill and understanding.

\_\_\_\_\_  
Arbitrator

Sworn to and subscribed before me this  
day of \_\_\_\_\_ A.D.,

(APPENDIX C)

NEW JERSEY STATE BOARD OF MEDIATION

CASE NO \_\_\_\_\_

In the matter of the arbitration

between

Employer

and

Employer or Union Representative

Submission

We, the undersigned, hereby agree to submit the following controversy to Arbitration: (No. persons involved)

A Collective Bargaining Contract exists between

and

a copy of which is annexed hereto.

We hereby agree to submit such controversy for decision to:

We further agree that we will faithfully abide by and perform any award made pursuant to this agreement and that such award shall be binding and conclusive upon us.

(For Employer)

\_\_\_\_\_

\_\_\_\_\_

(For Union)

\_\_\_\_\_

\_\_\_\_\_

Witness: \_\_\_\_\_

Dated: \_\_\_\_\_

