

# RULE ADOPTIONS

## ADMINISTRATIVE LAW

### (a)

#### OFFICE OF ADMINISTRATIVE LAW

##### Notice of Readoption

##### Uniform Administrative Procedure Rules

##### Readoption: N.J.A.C. 1:1

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

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the Uniform Administrative Procedure Rules of the Office of Administrative Law (OAL) were scheduled to expire on May 18, 2022. The Office of Administrative Law has reviewed N.J.A.C. 1:1 and has found the chapter to be necessary, reasonable, and proper for the purpose for which it was originally promulgated in 1980. The last amendments to the rules were effective in 2014.

A summary of each subchapter in N.J.A.C. 1:1 follows:

Subchapter 1 provides that the rules shall govern all contested case hearings, that other agencies may no longer propose rules to regulate the conduct of contested cases, and that in the absence of a rule, the judge may proceed in accordance with the New Jersey Court Rules.

Subchapter 2 defines words and terms relating to the chapter.

Subchapter 3 provides that cases shall originate in the agency with the appropriate subject matter jurisdiction, that the Office of Administrative Law acquires jurisdiction only after transmittal by the agency, and that a case may be returned to the transmitting agency upon written notice from the agency head. This subchapter also provides that the Director of the Office of Administrative Law (Director) is the agency head for purposes of review of issues impacting the administration of the Office of Administrative Law.

Subchapter 4 provides that agencies shall determine whether a matter is a contested case and that the agency may attempt settlement prior to transmitting the matter to the OAL.

Subchapter 5 sets forth standards and procedures for representation by attorneys and authorized non-lawyer representatives and when an agency may proceed on the papers.

Subchapter 6 provides that pleading requirements shall be established by the agency with the subject matter jurisdiction and that pleadings may be freely amended.

Subchapter 7 specifies the method for service and filing of papers.

Subchapter 8 sets forth the method of transmittal of a contested case to the Office of Administrative Law.

Subchapter 9 establishes the method for scheduling proceedings, describes the required notices, and establishes policies for adjournments and the use of the inactive list.

Subchapter 10 describes the types and availability of various discovery mechanisms.

Subchapter 11 describes the process for subpoenaing witnesses or documents.

Subchapter 12 explains the procedure for filing motions, including motions for emergency relief.

Subchapter 13 establishes the procedure for prehearing conferences.

Subchapter 14 establishes the procedures for plenary hearings, in-person hearings, and proceedings on the papers. It also sets forth the policy for use of interpreters, the procedure to be followed when a party fails to appear, the procedure for interlocutory review, for obtaining a transcript, and for disqualifying a judge.

Subchapter 15 sets forth the evidence rules applicable to contested case hearings.

Subchapter 16 sets forth the standards and procedures for intervention and participation in a contested case.

Subchapter 17 explains the mechanism for consolidating two or more cases and for determining predominant interest.

Subchapter 18 describes the required elements of initial decisions, whether written or oral; for exceptions; and for final agency decisions. It also establishes the procedure for requesting an extension of time.

Subchapter 19 describes the settlement and withdrawal processes.

Subchapter 20 describes the mediation process.

Subchapter 21 sets forth the procedures that will be followed when the OAL conducts a hearing in certain uncontested cases.

The chapter Appendix sets forth the Code of Judicial Conduct for Administrative Law Judges.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

### (b)

#### OFFICE OF ADMINISTRATIVE LAW

##### Notice of Readoption

##### Special Hearing Rules

##### Family Development Hearings

##### Readoption: N.J.A.C. 1:10

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

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the special hearing rules for matters transmitted to the Office of Administrative Law (OAL) by the Division of Family Development (DFD) were scheduled to expire on May 18, 2022. A summary of the readopted subchapters follows:

Subchapter 1 sets forth the applicability of these rules.

Subchapter 5 sets forth that applicants or recipients may or may not be represented by an attorney, relative, friend, or spokesperson at the hearing.

Subchapter 9 sets forth the process of adjournments in the various types of Family Development hearings. The subchapter states time requirements for the notice and scheduling of hearings.

Subchapter 10 sets forth that the county welfare agency (CWA) or municipal welfare department (MWD) will provide the applicant or recipient with discovery consisting of the entire case file and all relevant documents. Other discovery shall be by motion to the administrative law judge. Cases will not be adjourned to permit discovery.

Subchapter 12 outlines the process by which emergency fair hearings are transmitted and heard at the OAL. The subchapter provides that the case shall be scheduled at the OAL within three days of the hearing request and that the administrative law judge shall issue a decision no later than the day after the hearing. The subchapter states that exceptions must be filed the day after the initial decision and provides for the subsequent three-day timeline for DFD to issue its final decision.

Subchapter 14 provides who will be in attendance at the hearing. The subchapter also states that at an intentional program violation hearing, the charged applicant or recipient has the right to remain silent. For good cause, the administrative law judge may order an independent medical assessment at the expense of the CWA or MWD.

Subchapter 18 outlines the deadlines for initial decisions corresponding to each type of Family Development case. The subchapter describes the process of filing exceptions and notes that initial decisions must be in writing. Extensions of time for issuing initial or final decisions or for filing exceptions will not be granted.

Subchapter 19 sets forth the settlement process and the information needed in a Stipulation of Settlement and Withdrawal when it is executed by the parties.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

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**(a)**

**OFFICE OF ADMINISTRATIVE LAW**

**Notice of Readoption**

**Special Hearing Rules**

**Department of Children and Families Hearings**

**Readoption: N.J.A.C. 1:10A**

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

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the special rules for matters transmitted to the Office of Administrative Law (OAL) by the Department of Children and Families (DCF) were scheduled to expire on November 5, 2022. The summary of the readopted subchapters follows:

Subchapter 1 provides for applicability of the rules to cases involving issues of abuse and neglect transmitted by the Department of Children and Families.

Subchapter 2 defines agency head for Department of Children and Families cases.

Subchapters 3 through 11 are reserved.

Subchapter 12 sets forth the process to move for access to the hearing, the record of the hearing, the initial decision, or other material protected by an order to seal.

Subchapter 13 is reserved.

Subchapter 14 sets forth the process to seal the record and close the hearing in DCF matters and the process to seal the record and close the hearing to the extent necessary to protect DCF records and reports where the DCF matter is consolidated with a matter transmitted from another State agency.

Subchapters 15 and 16 are reserved.

Subchapter 17 describes the procedure when a DCF case involving allegation of abuse and neglect is consolidated with a case transmitted by another State agency.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

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**(b)**

**OFFICE OF ADMINISTRATIVE LAW**

**Notice of Readoption**

**Special Hearing Rules**

**Insurance Filing Hearings**

**Readoption: N.J.A.C. 1:11**

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

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the Special Hearing Rules for Insurance Filing Hearings were scheduled to expire on October 3, 2021. These rules outline procedures for evidence and testimony in insurance filing matters. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

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**(c)**

**OFFICE OF ADMINISTRATIVE LAW**

**Notice of Readoption**

**Special Hearing Rules**

**Motor Vehicle Commission Cases**

**Readoption: N.J.A.C. 1:13**

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

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the special rules for matters transmitted to the Office of Administrative Law (OAL) by the Motor Vehicle Commission (Commission) were scheduled to expire on May 18, 2022. The summary of the readopted subchapters follows:

Subchapter 1 sets forth the applicability of the chapter.

Subchapter 4 outlines the process of the agency settlement conference and determines at what point the Commission may transmit the matter to the OAL. Additionally, the subchapter states what information should be gathered at the settlement conference.

Subchapter 10 sets forth that the documents available in discovery are limited to the Commission records. The Commission will provide certain documents in excessive points and violator cases. The Commission will provide a copy of the records to the licensee and the licensee may make any discovery request as part of the hearing request or at a pretransmission conference conducted by the Commission.

Subchapter 14 sets forth the documents that will be used by the Commission in excessive points and persistent violator cases. It states that the judge shall issue an immediate suspension or continued suspension of the licensee's driving privileges where the licensee has failed to appear after he or she was provided with appropriate notice at a preliminary fatal accident hearing.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.