

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Notice of Readoption

Special Hearing Rules

Civil Service Commission Hearings

Readoption: N.J.A.C. 1:4A

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

Authorized By: Barry E. Moscovitz, Acting Director, Office of Administrative Law.

Effective Date: May 29, 2024.

New Expiration Date: May 29, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the special rules for Civil Service Commission hearings were scheduled to expire on July 3, 2024.

A summary of the readopted 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 must provide the other with information regarding witnesses, including expert witnesses; witness summaries; and copies of documents at least 10 days before the hearing. Any other discovery must 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 when a case proceeds pursuant to this chapter, is based upon a termination of a law enforcement officer from an approved school or program for failure to meet the standards at N.J.S.A. 52:17B-71, and has been appealed to the Police Training Commission pursuant to N.J.A.C. 13:1-9.1, an order must issue consolidating the cases and deeming the Police Training Commission as having the predominant interest. Parties may file arguments opposing or supporting the order with the agency heads within five working days from receipt of the order.

Generally, the process provided by this chapter has proven to be effective and efficient. The Office of Administrative Law has reviewed these rules and determined them to be necessary, reasonable, and adequate for the purpose for which they were originally promulgated. Therefore, pursuant to 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

Civil Service Commission

Law Enforcement Officer and Firefighter Cases

Readoption: N.J.A.C. 1:4B

Authority: N.J.S.A. 40A:14-208 and 52:14F-5.e, f, and g.

Authorized By: Barry E. Moscovitz, Acting Director, Office of Administrative Law.

Effective Date: May 29, 2024.

New Expiration Date: May 29, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the special rules for Civil Service Commission hearings pertaining to law enforcement officers and firefighter cases were scheduled to expire on December 20, 2024.

P.L. 2009, c. 16 (N.J.S.A. 40A:14-200 et seq.), signed into law on March 5, 2009, and effective on June 1, 2009, established a 180-day time limit for the appeal process for terminations of certain law enforcement officers and firefighters. The Office of Administrative Law adopted special rules, which were effective on May 29, 2009, establishing hearing procedures for the conduct of these cases, according to the requirements at N.J.S.A. 40A:14-208 (see 41 N.J.R. 2716(a)). At that time, the rules were set to expire on July 1, 2010, the first day of the 13th month following their effective date, in accordance with P.L. 2009, c. 16. The Office of Administrative Law (OAL) readopted the rules without change, effective September 7, 2010, see 42 N.J.R. 985(a); 2321(a); and again, effective December 20, 2017, see 49 N.J.R. 3385(a); 50 N.J.R. 283(a).

A summary of the readopted sections follows:

Pursuant to N.J.A.C. 1:4B-1.1, these rules apply to hearings arising pursuant to N.J.S.A. 40A:14-200 et seq., concerning the suspension of certain law enforcement officers and firefighters. The rules do not apply when the charge relates to a pending or potential criminal charge. These rules should be read in conjunction with the rules of the Civil Service Commission at N.J.A.C. 4A:2-2.13.

N.J.A.C. 1:4B-2.1 defines “law enforcement agency,” “law enforcement officer,” “firefighter,” and “public fire department.”

Pursuant to N.J.A.C. 1:4B-3.1, appeals are filed simultaneously with the Clerk of the Office of Administrative Law and the Civil Service Commission and must use the law enforcement officer and firefighter removal appeal form, incorporated at the chapter Appendix. Appellants must provide a copy of the preliminary and final notice of disciplinary action. Failure to provide the required information may result in the appeal’s dismissal.

The time for filing an appeal and the procedure when an appeal is not simultaneously or timely filed are set forth at N.J.A.C. 1:4B-3.2.

N.J.A.C. 1:4B-10.1 requires the parties to commence discovery no later than 30 days from receipt of the notice of filing.

Post hearing submissions are prohibited, except for settlements or if expressly permitted by the judge for good cause, pursuant to N.J.A.C. 1:4B-14.1.

N.J.A.C. 1:4B-18.1 sets forth the process for extending the period for issuing a final agency decision.

Generally, the process provided by this chapter has proven to be effective and efficient. The OAL has reviewed these rules and determined them to be necessary, reasonable, and adequate for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(c)

OFFICE OF ADMINISTRATIVE LAW

Notice of Readoption

Special Hearing Rules

Special Education Program

Readoption: N.J.A.C. 1:6A

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

Authorized By: Barry E. Moscovitz, Acting Director, Office of Administrative Law.

Effective Date: May 29, 2024.

New Expiration Date: May 29, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the special rules for Special Education cases at N.J.A.C. 1:6A were scheduled to expire on August 24, 2024. The Office of Administrative Law (OAL) is currently