

56 N.J.R. 2303(a)

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RULE ADOPTIONS

Reporter

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Agency

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Administrative Code Citation

Readoption with Amendments: N.J.A.C. 19:18

Text

Contested Transfer Determinations

Proposed: August 5, 2024, at 56 N.J.R. 1553(a).

Adopted: October 28, 2024, by the Public Employment Relations Commission, Mary E. Hennessy-Shotter, Chair.

Filed: October 28, 2024, as R.2024 d.115, **without change**.

Authority: N.J.S.A. 34:13A-11 and 34:13A-27.

Effective Dates: October 28, 2024, Readoption;

December 2, 2024, Amendments.

Expiration Date: October 28, 2031.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

As these readopted rules with amendments are not subject to Federal standards or requirements, a Federal standards analysis is not required. The National Labor Relations Act excludes from its coverage "any State or political subdivision thereof." 29 U.S.C. § 152(2).

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 19:18.

Full text of the adopted amendments follows:

SUBCHAPTER 2. INITIATION OF PROCEEDINGS

19:18-2.1 Who may file

Any employee, as defined at N.J.S.A. 34:13A-22, or the employee's majority representative may initiate a contested transfer proceeding by filing with the Commission, an original and one copy of a petition for contested transfer determination together with proof of service of a copy of the petition on the employer. A copy of each petition filed shall be retained in a public docket until the case is closed.

19:18-2.2 Contents of petition for contested transfer determination

(a) A petition<1> shall be in writing and the party or representative filing the petition shall make this dated and signed certification: "I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief."

(b) Such petition shall contain the following:

1. The full name, address, email address, and telephone number of the petitioner;
2. The full name, address, email address, and telephone number of the affected employee if the petitioner is an employee organization;
3. The full name, address, email address, and telephone number of the employer who has notified the employee of a transfer;
- 4.-8. (No change.)

<1>Petition forms will be supplied upon request. Address such requests to: Public Employment Relations Commission, 495 West State Street, PO Box 429, Trenton, New Jersey 08625-0429. Forms may also be downloaded from the Commission's website: <https://www.nj.gov/perc/>.

SUBCHAPTER 3. PROCEDURE

19:18-3.1 Intervention

A motion for leave to intervene in proceedings pursuant to this chapter shall be filed, in writing, with the Commission, stating the grounds upon which an interest in the proceeding is claimed and stating the extent to which intervention is sought. An original and one copy of such motion shall be filed, together with proof of service of a copy of such motion upon the parties. The Chair, or such other Commission designee, in his or her discretion, may permit intervention to such extent and upon such terms as may be deemed just.

[page=2304] 19:18-3.5 Where to file; number of copies; service

An original and one copy of the answer shall be filed with the Commission, together with proof of service of a copy of the answer on the petitioner and any intervenor.

19:18-3.7 Reply

Within five days of receipt of the answer, the petitioner may file an original and one copy of a reply and any supporting documents and affidavits together with proof of service of a copy of the reply on the respondent and any intervenor. No further replies shall be permitted without permission of the Chair, or such other Commission designee.

19:18-3.8 Request for evidentiary hearing

(a) Any party desiring an evidentiary hearing shall file with the Commission an original and one copy of a request therefor, together with proof of service of a copy of the request on the other party. Either party may file a request for

an evidentiary hearing no later than 10 days after the informal conference is conducted or, in the absence of an informal conference, no later than 21 days after the date the respondent's answer is due. Failure to file a timely request for an evidentiary hearing shall constitute a waiver of any claim to such hearing. Any such request shall set forth in detail the specific factual issues which the requesting party contends necessitate an evidentiary hearing and shall explain why these issues are substantial and material. Factual allegations not raised shall be deemed to be undisputed for purposes of determining whether there shall be an evidentiary hearing.

(b) Within five days of receipt of a request for a hearing, the other party shall file with the Commission an original and one copy of a written response, together with proof of service of a copy of the response on the requesting party. The response shall specifically reply to each factual issue alleged to be in dispute by the requesting party and shall also state what, if any, additional factual issues not raised by the requesting party are alleged to be in dispute. Any factual issue not specifically responded to or raised in the response shall be deemed to be undisputed for purposes of determining whether there shall be an evidentiary hearing.

(c) (No change.)

19:18-3.9 Briefs

(a) In the absence of a hearing, the Chair, or such other Commission designee, shall notify each party that it has 14 days from the date of notification to file an original and one copy of a supporting brief, with proof of service of a copy of such brief on the other party.

(b) Within seven days after receipt of the initial brief, each party may file with the Commission an original and one copy of a reply brief, together with proof of service of a copy of such brief, on the other party. No other briefs shall be served or filed without leave of the Chair, or such other Commission designee.

(c) The Chair, or such other Commission designee, in his or her discretion, may grant written requests for extensions of time within which to file briefs. Such request shall set forth the reasons for the request and the position of the other party regarding the requested extension.

19:18-3.12 Oral argument

Proceedings pursuant to this chapter shall be submitted for the Commission's consideration without argument unless ordered by the Chair, or such other Commission designee. Requests for oral argument shall be filed by any party along with its initial brief, or where a hearing has been conducted, along with its exceptions or cross-exceptions. Such request shall be made by a separate paper, an original and one copy of which shall be filed with the Commission, together with proof of service of a copy of such request on the other party. The Chair, or such other Commission designee, shall notify the parties of the assigned argument date, if permission to argue orally is granted. The Commission may terminate any argument permitted at any time it deems the issues adequately argued.

19:18-3.15 Interim relief

Upon the filing of a petition, the petitioner may apply to the Commission for an order requesting the respondent to show cause why specified interim relief should not be granted pending the disposition of the proceeding. Such a request shall be governed by the provisions at N.J.A.C. 19:14-9.1 through 9.6 on unfair practice proceedings, insofar as applicable.