

CHAPTER 31

ORGANIZATION OF THE OFFICE OF ADMINISTRATIVE LAW

Authority

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

Source and Effective Date

R.1997 d.158, effective March 10, 1997.
See: 29 N.J.R. 282(a), 29 N.J.R. 1295(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 31, Organization of the Office of Administrative Law, expires on September 6, 2002. See: 34 N.J.R. 983(a).

Chapter Historical Note

Chapter 31, Organization of the Office of Administrative Law, was adopted as Subchapter 1, Operation and Procedures of the Office of Administrative Law, by R.1982 d.291, effective August 12, 1982. See: 14 N.J.R. 976(a). Pursuant to Executive Order No. 66(1978), Subchapter 1 was readopted as R.1987 d.286, effective June 17, 1987. See: 19 N.J.R. 1291(a). N.J.A.C. 1:31-1.2, Procedure to petition for a rule, was recodified as N.J.A.C. 1:31-2.1 under new Subchapter 2, Procedures of the Office of Administrative Law, by R.1987 d.287, effective July 20, 1987. See: 19 N.J.R. 677(a), 19 N.J.R. 1291(b). Subchapter 3, Discipline of Administrative Law Judges, was adopted as R.1992 d.17, effective January 6, 1992. See: 23 N.J.R. 2901(a), 23 N.J.R. 3179(a), 24 N.J.R. 87(a).

Pursuant to Executive Order No. 66(1978), Chapter 31 was readopted as R.1992 d.213, effective April 21, 1992. See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Pursuant to Executive Order No. 66(1978), Chapter 31 was readopted as R.1997 d.158, effective March 10, 1997. See: Source and Effective Date.

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SUBCHAPTER 1. OPERATION AND PROCEDURES OF THE OFFICE OF ADMINISTRATIVE LAW

1:31-1.1 Functions of the Office

(a) The Office of Administrative Law (OAL), created by statute in 1978, is independent of any executive department, board, division, commission, agency, council, authority, office or officer of the State of New Jersey. The OAL performs four major functions:

1. Conducts contested case hearings, as provided in N.J.S.A. 52:14B-10 and N.J.S.A. 52:14F-8, and with the consent of the Director conducts other administrative hearings if requested by an agency head. In general, the Office of Administrative Law acquires contested case jurisdiction over a matter after an agency head determines that a contested case exists and subsequently files the case with the OAL, as provided in N.J.A.C. 1:1-1;

2. Promulgates rules for the conduct of contested case hearings. Rules are promulgated to assist judges, attorneys, and contested case parties by clarifying legal requirements;

3. Supervises, coordinates and records rulemaking proceedings within the Executive Branch. Under the authority of N.J.S.A. 52:14F-5(f), the OAL oversees agency compliance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.) and through N.J.A.C. 1:30-1 has established standards to guide agency rulemaking.

4. Publishes the New Jersey Register, and the New Jersey Administrative Code; distributes New Jersey Administrative Reports, Volumes 1-13; and contracts with a private vendor to publish New Jersey Administrative Reports Second. The publication function of the OAL is multifaceted:

i. Publication of proposed rules in the New Jersey Register gives an interested person an opportunity to comment and object;

ii. Publication of adopted rules in both the New Jersey Register and New Jersey Administrative Code provides a ready, updated reference to State agency rules; and

iii. Publication of contested cases in the New Jersey Administrative Reports and New Jersey Administrative Reports Second provides the public with access to administrative adjudications.

Amended by R.1992 d.213, effective May 18, 1992.

See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Revised text.

1:31-1.2 (Reserved)

Recodified by R.1987 d.287, effective July 20, 1987.

See: 19 N.J.R. 677(a), 19 N.J.R. 1291(b).

Section "Procedure to petition for a rule" recodified to 1:31-2.1.

1:31-1.3 Public information requests and submissions

(a) A member of the public may obtain information or make a submission or a request, or file a petition concerning any program of the Office of Administrative Law by contacting the Office of the Director, Office of Administrative Law, Quakerbridge Plaza, Building No. 9, PO Box 301, Trenton, New Jersey 08625-0301.

(b) Each initial decision prepared by an administrative law judge of the Office of Administrative Law is available for inspection or copying during regular working hours at the libraries of the New Jersey Office of Administrative Law, Quakerbridge Plaza, Building No. 9, PO Box 301, Trenton, New Jersey 08625-0301, and 185 Washington Street, Newark, New Jersey 07101.

(c) Any person may obtain copies of initial decisions or State agency rules, or may obtain information about or subscriptions to the New Jersey Register, Administrative Code or Administrative Reports by written request to Administrative Publications and Filings, Quakerbridge Plaza, Building No. 9, PO Box 301, Trenton, New Jersey 08625-0301. Copies of decisions published in the New Jersey Administrative Reports Second and subscription information may be obtained by contacting Barclays Law Publishers, File No. 52030, P.O. Box 60000, San Francisco, CA 94160-2030.

(d) The cost for copies of documents is:

1. First page to 10th page: \$0.50 per page;
2. Eleventh page to 20th page: \$0.25 per page;
3. All pages over 20: \$0.10 per page.

Payment may be made by check payable to Administrative Publications, Office of Administrative Law (OAL).

Amended by R.1992 d.213, effective May 18, 1992.

See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Revised (c).

SUBCHAPTER 2. PROCEDURES OF THE OFFICE OF ADMINISTRATIVE LAW

1:31-2.1 Procedure to petition for a rule

(a) An interested person may petition for the promulgation, amendment or repeal of any rule of the Office of Administrative Law. A petition shall be in writing, shall be legible and intelligible and shall be signed by the petitioner. Each petition shall contain the following information:

1. The full name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request;
4. The statutory authority under which the Office of Administrative Law may take the requested action.

(b) The Office of Administrative Law shall immediately date stamp and log each document submitted as a petition. Upon filing, the Office of Administrative Law shall forthwith publish the notice of petition for a rule in the New Jersey Register pursuant to the requirements of N.J.A.C. 1:30-3.6(a).

(c) No later than 30 days after receiving a petition, the Office of Administrative Law shall mail to the petitioner and file for publication in the New Jersey Register, a notice of action on the petition which shall contain the information prescribed by N.J.A.C. 1:30-3.6(b). The notice of action shall include either:

1. A statement denying the petition;
2. A notice of proposed rule or a notice of pre-proposal for a rule for publication in the Register; or
3. A statement that the matter is being referred for further deliberations, the nature of which shall be specified and which shall conclude upon a date certain. The results of these further deliberations shall be mailed to the petitioner and shall be submitted for publication in the Register.

Recodified from 1:31-1.2 by R.1987 d.287, effective July 20, 1987.

See: 19 N.J.R. 677(a), 19 N.J.R. 1291(b).

1:31-2.2 Extension of comment period on proposed rulemaking activity

(a) The designated public comment period for any rule proposed by the Office of Administrative Law shall be extended for a period of 30 additional days when sufficient public interest is demonstrated in an extension of the time for comment submission or whenever deemed appropriate by the Director.

1. Sufficient public interest for granting an extension of the public comment period exists whenever 10 or more individuals or entities have requested an extension of the comment period to the Office of Administrative Law. This communication must be submitted in writing to the individual designated to receive comments in the notice of rule proposal within 30 days of publication of the proposal.

New Rule, R.2002 d.100, effective April 1, 2002.

See: 33 N.J.R. 4049(a), 34 N.J.R. 1421(a).

1:31-2.3 Public hearing on proposed rulemaking activity

(a) The Office of Administrative Law shall conduct a public hearing on a proposed rule if, within 30 days following publication of the proposed rule in the New Jersey Register:

1. A public hearing is requested by a committee of the Legislature;
2. A public hearing is requested by a governmental agency or subdivision;
3. Sufficient public interest in a public hearing is demonstrated. Sufficient public interest in a public hearing shall be demonstrated whenever 10 or more individuals or entities request, in writing, such hearing. Such notice shall include the basis for the request; or
4. Whenever deemed appropriate by the Director.

New Rule, R.2002 d.100, effective April 1, 2002.
See: 33 N.J.R. 4049(a), 34 N.J.R. 1421(a).

1:31-2.4 Additional notice of rulemaking activity

(a) The Office of Administrative Law shall provide at least 30 days notice of all proposed rulemaking. Notice shall be provided in the following manner:

1. Publication in the New Jersey Register;
2. Distribution of a notice or statement of the substance of the proposed rulemaking activity to the news media maintaining a press office in the New Jersey State House Complex;
3. Posting of the notice or statement of the substance of the proposed rulemaking activity on the official website of the New Jersey Office of Administrative Law at www.state.nj.us/oal; and
4. Mailing of the notice or a statement of the substance of the proposed rulemaking activity to all persons

who have made timely requests to the Office of Administrative Law for advance notice of its rulemaking proceedings and to persons or organizations likely to be affected by or interested in the intended action, including, but not limited to, the New Jersey State Bar Association and to any appropriate committees thereof; the New Jersey Office of Attorney General; New Jersey State administrative agencies; public interest groups, New Jersey Legal Services; and labor and trade unions.

(b) Notice may also be provided through publication in the New Jersey Law Journal, New Jersey Lawyer, or other appropriate publication.

New Rule, R.2002 d.100, effective April 1, 2002.
See: 33 N.J.R. 4049(a), 34 N.J.R. 1421(a).

**SUBCHAPTER 3. DISCIPLINE OF
ADMINISTRATIVE LAW JUDGES****1:31-3.1 General causes for discipline**

(a) The Director of the Office of Administrative Law may discipline an administrative law judge for:

1. Willful misconduct including misconduct which, although not directly pertaining to judicial duties, brings the office into disrepute or is prejudicial to the administration of justice;
2. Willful, persistent, or negligent failure of a judge to perform judicial duties, including incompetent performance of judicial duties;
3. Intemperance, including injudicious personal conduct, recurring loss of temper or control, abuse of alcohol, or the abuse of controlled dangerous substances;