

CHAPTER 20**HEARINGS BEFORE THE PUBLIC EMPLOYMENT RELATIONS APPEAL BOARD****Authority**

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

Source and Effective Date

R.2002 d.198, effective May 30, 2002.
See: 34 N.J.R. 983(a), 34 N.J.R. 2309(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 20, Hearings Before the Public Employment Relations Appeal Board, expires on November 26, 2007. See: 39 N.J.R. 2393(a).

Chapter Historical Note

Chapter 20, Rules of Special Applicability for Hearings before the Public Employment Relations Appeal Board, was adopted as R.1983 d.305, effective August 1, 1983. See: 14 N.J.R. 862(a), 15 N.J.R. 1243(b).

Chapter 20, Rules of Special Applicability for Hearings before the Public Employment Relations Appeal Board, was repealed and Chapter 20, Hearings Before the Public Employment Relations Appeal Board, was adopted as new rules by R.1987 d.200, effective May 4, 1987 (operative July 1, 1987). See: 18 N.J.R. 728(a), 18 N.J.R. 1728(a), 19 N.J.R. 715(a).

Pursuant to Executive Order No. 66(1978), Chapter 20, Hearings Before the Public Employment Relations Appeal Board, 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 20, Hearings Before the Public Employment Relations Appeal Board, was readopted as R.1997 d.158, effective March 10, 1997. See: 29 N.J.R. 282(a), 29 N.J.R. 1295(a).

Chapter 20, Hearings Before the Public Employment Relations Appeal Board, was readopted as R.2002 d.198, effective May 30, 2002. See: Source and Effective Date.

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SUBCHAPTERS 19 THROUGH 21. (RESERVED)**SUBCHAPTER 1. APPLICABILITY****1:20-1.1 Applicability**

The rules in this chapter shall apply to any hearing initiated before the Public Employment Relations Commission Appeal Board pursuant to P.L. 1979, c.477 (N.J.S.A. 34:13A-5.5 et seq.). Any aspect of the hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that these rules are inconsistent with the U.A.P.R., these rules shall apply.

SUBCHAPTER 2. DEFINITIONS**1:20-2.1 Definitions**

(a) "Appeal Board" means the Public Employment Relations Commission Appeal Board established by N.J.S.A. 34:13A-5.6 to consider complaints concerning the amount of fees paid by nonmembers who pay a representation fee in lieu of dues.

(b) "Demand and return system" means the procedure established and maintained pursuant to N.J.S.A. 34:13A-5.6 by

a majority representative to provide a public employee who pays a representation fee in lieu of dues the right to demand and receive from the majority representative that portion of the fee returnable under the circumstances as described by N.J.S.A. 34:13A-5.5(c).

(c) "Employer" means, for purposes of these rules only, the public employer which is signatory to the agreement requiring payment by the petitioner nonmember of representation fee in lieu of dues.

(d) "Nonmember" means a public employee who is not a member of the majority representative which represents the employee's collective negotiations unit but who pays a representation fee in lieu of dues to the majority representative.

(e) "Petition" means the document described in N.J.A.C. 1:20-6 and which initiates a complaint before the Appeal Board about the amount of representation fee in lieu of dues.

(f) "Petitioner" means the nonmember who is filing a petition.

(g) "Representation fee" means the fee in lieu of dues defined in N.J.S.A. 34:13A-5.5, deducted from a nonmember's wages or salary and paid to the majority representative of the nonmember's unit.

(h) "Respondent" means the majority representative which represents the petitioner's collective negotiations unit and which receives petitioner's representation fee.

SUBCHAPTER 3. COMMENCEMENT OF PROCEEDING

1:20-3.1 Commencement of proceeding before the Appeal Board

A nonmember may initiate a proceeding before the Appeal Board to review the amount of a representation fee in lieu of dues by filing a petition with the Appeal Board pursuant to this chapter.

1:20-3.2 Who may commence a proceeding before the Appeal Board

A petition may be filed by any nonmember public employee who pays a representation fee in lieu of dues to a majority representative. Neither a public employer nor a majority representative may file a petition.

SUBCHAPTERS 4 THROUGH 5. (RESERVED)

SUBCHAPTER 6. PLEADINGS

1:20-6.1 Time for filing of petition; exhaustion of demand and return system

(a) At any time after the nonmember has exhausted, or has made a good faith attempt to exhaust, the demand and return system required to be maintained by the majority representative, the nonmember may file a petition with the Appeal Board.

(b) If during the administrative processing of the petition of appeal, it is determined that the majority representative's demand and return system has either not been utilized to resolve the dispute or that the demand and return proceeding has not been completed, the Appeal Board may take whatever action it deems appropriate, including but not limited to dismissing the petition of appeal, staying the proceedings before the Board pending the completion of the majority representative's demand and return system, or continue to process the petition.

(c) A nonmember of a majority representative who has a claim pending in the majority representative's demand and return system may intervene in a proceeding before the Appeal Board involving the same majority representative, collective negotiations agreement, public employer and the same period of time, notwithstanding that the nonmember has not yet exhausted the majority representative's demand and return system.

1:20-6.2 Time for filing answer

No later than 20 days from the date of service of the petition upon the respondent by the petitioner, the respondent shall file with the Appeal Board and serve upon the petitioner an answer to the petition. For good cause, the Appeal Board may extend the time for answer. Failure to file and serve an answer on time may result in a default judgment against the respondent.

1:20-6.3 Contents of petition

(a) A petition shall be in writing and signed by the nonmember(s) making the complaint. More than one nonmember in the same negotiations unit may sign a petition.

(b) A blank form for filing such a petition will be supplied upon request. Requests shall be addressed to: Public Employment Relations Commission Appeal Board, 429 East State Street, Trenton, NJ 08608.

(c) The petition shall contain the following: