

CHAPTER 12C

DEPARTMENT OF LABOR AND COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED VOCATIONAL REHABILITATION CASES

Authority

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

Source and Effective Date

R.1997 d.474, effective November 3, 1997.
See: 29 N.J.R. 3758(a), 29 N.J.R. 4677(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 12C, Department of Labor and Commission for the Blind and Visually Impaired Vocational Rehabilitation Cases, expires on May 2, 2003. See: 34 N.J.R. 4017(a).

Chapter Historical Note

Chapter 12C, Department of Labor Vocational Rehabilitation Cases, was adopted as R.1997, d.474, effective November 3, 1997. See: 29 N.J.R. 3758(a), 29 N.J.R. 4677(a).

Chapter 12C, Department of Labor Vocational Rehabilitation Cases, was renamed "Department of Labor and Commission for the Blind and Visually Impaired Vocational Rehabilitation Cases" by R.1999 d.293, effective September 7, 1999. See: 31 N.J.R. 1552(a), 31 N.J.R. 2604(a).

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SUBCHAPTER 1. HEARING APPLICABILITY

1:12C-1.1 Applicability

The rules in this chapter shall apply to vocational rehabilitation cases transmitted by the Department of Labor arising under N.J.S.A. 34:16-20 et seq. or by the Commission for the Blind and Visually Impaired arising under N.J.S.A. 30:6-11. Any aspect of the OAL hearing not covered by these special rules shall be governed by the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1. To the extent that these special rules are inconsistent with the UAPR, these rules shall apply.

Amended by R.1999 d.293, effective September 7, 1999.

See: 31 N.J.R. 1552(a), 31 N.J.R. 2604(a).

Rewrote the first sentence.

SUBCHAPTER 2. DEFINITIONS

Authority

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

Source and Effective Date

R.1999 d.293, effective September 7, 1999.
See: 31 N.J.R. 1552(a), 31 N.J.R. 2604(a).

1:12C-2.1 Definition of Commissioner

As used in this chapter, "Commissioner" means the Commissioner of the Department of Labor if the case was transmitted to OAL for hearing pursuant to this chapter by the Department of Labor, or the Commissioner of the Department of Human Services if the case was transmitted to the OAL for hearing pursuant to this chapter by the Commission for the Blind and Visually Impaired.

SUBCHAPTERS 3 THROUGH 4. (RESERVED)

SUBCHAPTER 5. REPRESENTATION

1:12C-5.1 Representation

Pursuant to 34 C.F.R. 361.1 et seq., the applicant or client may be represented by himself or herself, by an attorney, by a parent, guardian, or friend, or by the Client Assistance Program located in New Jersey Protection and Advocacy, Inc., pursuant to the procedures set forth in N.J.A.C. 1:1-5.4.

SUBCHAPTERS 6 THROUGH 8. (RESERVED)

(b) The Commissioner shall provide both parties the opportunity to submit additional information relevant to a final decision within 15 days of receipt of the request for review.

SUBCHAPTER 9. SCHEDULING; CLERKS
NOTICES, ADJOURNMENT; INACTIVE LIST**1:12C-9.1 Scheduling**

Upon filing of a case pursuant to this chapter, a hearing shall be scheduled which shall be no later than 45 days from the date of the request for a hearing.

(c) The Commissioner shall not overturn or modify the decision of the administrative law judge, or part of the decision, that supports the position of the applicant or eligible individual unless the Commissioner concludes, based on clear and convincing evidence, that the decision of the administrative law judge is clearly erroneous on the basis that it is contrary to the approved State Plan, the Workforce Investment Act, P.L. 105-220 (1998), Federal regulations implementing the Act, or State rules or policies that are consistent with Federal requirements.

SUBCHAPTERS 10 THROUGH 17. (RESERVED)

(d) The final decision shall be issued by the Commissioner no later than 30 days from receipt of the request for review.

SUBCHAPTER 18. INITIAL DECISION;
EXCEPTIONS; FINAL DECISION; REMAND;
EXTENSIONS OF TIME LIMITS

Amended by R.1999 d.293, effective September 7, 1999.
See: 31 N.J.R. 1552(a), 31 N.J.R. 2604(a).
Rewrote the section.

1:12C-18.1 Initial decision

An initial decision shall be issued in writing no later than 30 days from the conclusion of the hearing.

1:12C-18.3 Extensions

Except for the time limitation for the parties to request a review of the initial decision set forth in N.J.A.C. 1:12C-18.2(a), at the request of a party for good cause shown, the time limits established by these special rules may be extended for a reasonable time.

1:12C-18.2 Final decision

(a) Either party may request a review by the Commissioner of the initial decision within 20 days of its mailing to the applicant and to the Director of Vocational Rehabilitation Services or to the Executive Director of the Commission for the Blind and Visually Impaired. If neither party requests review of the initial decision by the Commissioner within 20 days, the decision of the administrative law judge shall be deemed final.

Amended by R.1999 d.293, effective September 7, 1999.
See: 31 N.J.R. 1552(a), 31 N.J.R. 2604(a).

Substituted "parties to request a review of" for "Director to elect to review" following "for the".