

**CHAPTER 6B****DEPARTMENT OF EDUCATION TENURE HEARINGS****Authority**

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

**Source and Effective Date**

R.2004 d.177, effective April 1, 2004.  
See: 36 N.J.R. 5(a), 36 N.J.R. 2195(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 6B, Department of Education Tenure Hearings, expires on September 28, 2009. See: 41 N.J.R. 1295(a).

**Chapter Historical Note**

Chapter 6B, Department of Education Tenure Hearings, was adopted as R.1999 d.81, effective March 15, 1999. See: 30 N.J.R. 4307(a), 31 N.J.R. 761(a).

Chapter 6B, Department of Education Tenure Hearings, was re-adopted as R.2004 d.177, effective April 1, 2004. See: Source and Effective Date.

Subchapter 17, Consolidation and Predominant Interest, was adopted as new rules by R.2008 d.148, effective June 16, 2008. See: 40 N.J.R. 834(a), 40 N.J.R. 3618(a).

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**SUBCHAPTER 1. APPLICABILITY****1:6B-1.1 Applicability**

The rules in this chapter shall apply to any hearings arising under the Tenure Employees Hearing Law, N.J.S.A. 18A:6-10 et seq., except those cases in which criminal charges are also filed. The rules in this chapter implement the provisions of P.L. 1998, c.42. Any aspect of the hearing not covered by these special 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.

**SUBCHAPTERS 2 THROUGH 3. (RESERVED)****SUBCHAPTER 4. AGENCY RESPONSIBILITY BEFORE TRANSMISSION TO THE OFFICE OF ADMINISTRATIVE LAW****1:6B-4.1 Notice of referral**

(a) Pursuant to N.J.S.A. 18A:6-16, when the Commissioner of Education (Commissioner) or the person appointed to act in the Commissioner's behalf determines that a charge is sufficient to warrant dismissal or reduction in salary of the charged individual, the matter shall be referred for determination to the Office of Administrative Law within 10 days, except that the Commissioner may retain a matter for purposes of determining a summary decision motion made prior to referral.

(b) On the same date as the transmittal of the matter to the Office of Administrative Law, the Commissioner shall issue a notice of referral to the parties to the matter.

**SUBCHAPTERS 5 THROUGH 8. (RESERVED)**

SUBCHAPTER 9. SCHEDULING; CLERK'S NOTICES;  
ADJOURNMENTS; INACTIVE LIST

**1:6B-9.1 Scheduling of proceedings**

The hearing shall be held within 30 days after the end of the discovery period.

SUBCHAPTER 10. DISCOVERY

**1:6B-10.1 Discovery**

(a) The parties shall commence discovery immediately upon receipt of the notice of referral.

(b) A party may notify another party to provide discovery by one or more of the following methods: written interrogatories; production of documents or things; permission to enter upon land or other property for inspection or other purposes; and requests for admissions. These discovery requests shall be initiated by transmitting the request to the receiving party within 30 days of receipt of the notice of referral.

(c) Answers to discovery requests shall be made within 30 days of receipt of the request.

(d) Depositions upon oral examination or written questions and physical and mental examinations are available only upon motion for good cause or upon consent of the parties. A motion for additional discovery shall be filed with the administrative law judge no later than 10 days after the due date for filing of answers to discovery available pursuant to (b) above.

(e) Additional discovery must be completed within 30 days of receipt of an order granting the motion or, if upon the consent of the parties, no later than 30 days from the due date of answers to initial discovery requests.

(f) The judge may extend the discovery period for no more than 30 days due to disputes over sufficiency, completion, or other just cause.

SUBCHAPTERS 11 THROUGH 12. (RESERVED)

SUBCHAPTER 13. PREHEARING CONFERENCES AND PROCEDURES

**1:6B-13.1 Prehearing conferences**

A prehearing conference shall be held within 30 days of referral of the case to the Office of Administrative Law.

SUBCHAPTER 14. CONDUCT OF CASES

**1:6B-14.1 Ordering a transcript**

Any party requesting a transcript shall file the request within 24 hours of the conclusion of the hearing. Failure to timely request a transcript shall not result in an extension of the time for filing of briefs.

**1:6B-14.2 Filing of briefs**

(a) Briefs shall be filed with the judge within 30 days of conclusion of the hearing, except in cases where a transcript has been ordered.

(b) In matters where a transcript has been ordered, briefs shall be filed with the judge within 30 days of receipt of the transcript by the parties, but in no event later than 45 days after conclusion of the hearing.

SUBCHAPTERS 15 THROUGH 16. (RESERVED)

SUBCHAPTER 17. CONSOLIDATION AND PREDOMINANT INTEREST

**1:6B-17.1 Consolidation and predominant interest**

In any instance where a case proceeding under this chapter is based upon allegations of child abuse or neglect instituted by the Department of Children and Families Division of Youth and Family Services (DYFS) or by the Department of Children and Families Institutional Abuse Investigations Unit (IAIU), an order consolidating the matters shall be issued, and DYFS or IAIU, as appropriate, shall be deemed to have the predominant interest with regard to issues relating to the charges of child abuse or neglect.

**1:6B-17.2 Review of orders involving consolidation with a Division of Youth and Family Services case**

In any instance where a case proceeding under this chapter is consolidated with a Division of Youth and Family Services or an Institutional Abuse Investigations Unit case, a party may file arguments opposing or supporting the consolidation and predominant interest order with the agency heads within five working days from receipt of the order.