

CHAPTER 12B

DEPARTMENT OF LABOR CONTRACTOR
DEBARMENT CASES

Authority

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

Source and Effective Date

R.1996 d.89, effective February 20, 1996.
See: 27 N.J.R. 4475(a), 28 N.J.R. 1197(a).

Executive Order No. 66(1978) Expiration Date

Chapter 12B, Department of Labor Contractor Debarment Cases,
expires on February 20, 2001.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. APPLICABILITY

1:12B-1.1 Applicability

SUBCHAPTERS 2 THROUGH 7. (RESERVED)

SUBCHAPTER 8. FILING AND TRANSMISSION OF
CONTESTED CASES IN THE OFFICE OF
ADMINISTRATIVE LAW

1:12B-8.1 Agency filing with the Office of Administrative Law; settle-
ment efforts

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

1:12B-9.1 Scheduling of proceedings
1:12B-9.2 Adjournments

SUBCHAPTER 10. DISCOVERY

1:12B-10.1 Discovery

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. MOTIONS

1:12B-12.1 Motions

SUBCHAPTER 13. PREHEARING CONFERENCES AND
PROCEDURES

1:12B-13.1 Prehearing conferences

SUBCHAPTER 14. CONDUCT OF CASES

1:12B-14.1 Conduct of hearing

SUBCHAPTERS 15 THROUGH 17. (RESERVED)

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

1:12B-18.1 Initial decision
1:12B-18.2 Exceptions; replies
1:12B-18.3 Final decision
1:12B-18.4 Extensions of time limits

SUBCHAPTER 1. APPLICABILITY

1:12B-1.1 Applicability

The rules in this chapter shall apply to contractor debarment cases transmitted by the Department of Labor pursuant to N.J.S.A. 34:11-56.37. 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.

SUBCHAPTERS 2 THROUGH 7. (RESERVED)

SUBCHAPTER 8. FILING AND TRANSMISSION
OF CONTESTED CASES IN THE OFFICE OF
ADMINISTRATIVE LAW1:12B-8.1 Agency filing with the Office of Administrative
Law; settlement efforts

(a) Upon receipt of an appeal of a debarment notice, the agency shall either immediately notify the Clerk of the Office of Administrative Law or, if the agency determines to retain the case under the provisions of N.J.S.A. 52:14F-8, notify all parties of the decision to retain. If the agency intends to transmit the case to the Office of Administrative Law, it shall forward to the Clerk, by facsimile transmission, two copies of the transmittal form, debarment notice and appeal.

(b) Pending the commencement of the hearing, the agency may attempt settlement. However, the agency shall either transmit the contested case to the Office of Administrative Law immediately or commence a hearing with the timeframe of N.J.A.C. 1:12B-9.1(a).

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

1:12B-9.1 Scheduling of proceedings

(a) Upon transmittal of a debarment appeal, a plenary hearing shall be scheduled to commence five days following the appeal filing date as determined by N.J.A.C. 12:60-8.4(a)5.

(b) The individual appealing the debarment may waive the right to a hearing scheduled pursuant to (a) above and may proceed with an accelerated proceeding pursuant to N.J.A.C. 1:1-9.4, provided, however, that the individual shall be debarred by the Department of Labor pending issuance of a final decision.

1:12B-9.2 Adjournments

Adjournments may be granted for extraordinary circumstances, provided, however, that if the adjournment is granted at the request of the individual appealing the debarment, the individual shall be debarred by the Department of Labor pending issuance of a final decision. The individual may apply to the Commissioner of the Department of Labor for a stay of the debarment pursuant to the emergency relief procedures set forth in N.J.A.C. 1:1-12.6.

SUBCHAPTER 10. DISCOVERY

1:12B-10.1 Discovery

(a) The individual appealing the debarment shall be permitted to review the agency's entire file or files on the matter. Copies of any document in the file or files shall be provided to the individual upon the individual's request and for a reasonable copying charge as provided by N.J.S.A. 47:1A-2. The agency may refuse to disclose any document subject to a bona fide claim of privilege.

(b) No other discovery shall be provided.

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. MOTIONS

1:12B-12.1 Motions

Other than motions for summary decision, a party shall not file a motion in advance of the scheduled hearing date.

SUBCHAPTER 13. PREHEARING CONFERENCES AND PROCEDURES

1:12B-13.1 Prehearing conferences

A prehearing conference may be scheduled in any proceeding conducted under this chapter, provided, however, that the time for commencing a hearing pursuant to N.J.A.C. 1:12B-9.1(a) shall not be extended.

SUBCHAPTER 14. CONDUCT OF CASES

1:12B-14.1 Conduct of hearing

Unless permitted by the judge, there shall be no proposed findings of fact, conclusions of law, briefs, forms of order or other post-hearing submissions permitted after the final argument. If permitted, post-hearing submissions shall not extend the deadline for initial decision.

SUBCHAPTERS 15 THROUGH 17. (RESERVED)

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

1:12B-18.1 Initial decision

(a) An initial decision shall be issued in writing no later than 10 days from the conclusion of the hearing.

(b) The initial decision shall include a caption; date record closed; appearances by the parties and representatives, if any; a brief statement of the case; a brief summary of findings of fact and conclusions of law and reasons therefor; and appropriate remedies.

(c) The initial decision shall be provided immediately to the agency head and to the parties via facsimile or electronic transmission.

1:12B-18.2 Exceptions; replies

(a) If a party wishes to take exception to the initial decision, such exceptions must be submitted in writing to the Commissioner of the Department of Labor, the judge, and to all parties. Exceptions must be received by the Department of Labor and the parties within three business days of issuance of the initial decision.

(b) Replies or cross-exceptions must be received by the Department of Labor within one day of receipt of exceptions.

1:12B-18.3 Final decision

The Commissioner of the Department of Labor shall issue a final decision which shall adopt, reject or modify the initial decision no later than five days from the date of receipt of the initial decision.

1:12B-18.4 Extensions of time limits

Time limits for filing an initial decision, exceptions, and for issuing a final decision shall not be extended.