

**CHAPTER 86**

**ADVERTISING STANDARDS**

**Authority**

N.J.S.A. 27:25-5(e), (k), (l) and (s).

**Source and Effective Date**

R.2003 d.195, effective May 19, 2003.  
See: 34 N.J.R. 4050(a), 35 N.J.R. 2262(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 86, Advertising Standards, expires on November 15, 2008. See: 40 N.J.R. 3597(a).

**Chapter Historical Note**

Chapter 86, Advertising Standards, was adopted as new rules by R.1997 d.180, effective April 21, 1997. See: 28 N.J.R. 4384(a), 29 N.J.R. 1515(b).

Chapter 86, Advertising Standards, expired on April 21, 2002.

Chapter 86, Advertising Standards, was adopted as new rules by R.2003 d.195, effective May 19, 2003. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**16:86-1.1 Purpose**

(a) The purpose of these rules is to implement a ban on advertisements that contain tobacco and tobacco related products and obscene, false, controversial, deceptive, misleading or illegal goods, services or activities from being displayed on properties owned by NJ TRANSIT. The purpose of these rules is to announce that NJ TRANSIT is a responsible member of the community; to establish that NJ TRANSIT is not desirous of lending its name, directly or indirectly, to the promotion of the use of tobacco and tobacco related products, especially among minors; and, independently, to promote the general health and welfare of NJ TRANSIT passengers many of whom may be minors.

(b) The standards in this chapter shall apply to all contracts to set forth the standards for the installation, display and maintenance of advertising on properties and facilities owned by the New Jersey Transit Corporation and/or its subsidiaries (collectively "NJ TRANSIT") executed after October 21, 1997.

**16:86-1.2 Limitation upon advertisements**

(a) The contractor, meaning any person, firm, corporation or other entity which provides advertising services pursuant to a contract with NJ TRANSIT, shall not display or maintain any advertisement that falls within one or more of the following categories.

1. The advertisement proposes a commercial transaction and the advertisement or information contained in it is false, misleading or deceptive;
2. The advertisement or information contained in it promotes unlawful or illegal goods, services or activities;
3. The advertisement or information contained therein declares an endorsement by NJ TRANSIT of any service, product or point of view without prior written authorization of NJ TRANSIT;
4. The advertisement contains obscene material as defined by N.J.S.A. 2C:34-3 as such definition as may be amended, modified or supplemented from time to time;
5. The advertisement is controversial and, therefore, can promote vandalism of advertising materials and associated NJ TRANSIT property;
6. The advertisement proposes and promotes tobacco or tobacco-related products; or
7. The advertisement is not in the best business interest of NJ TRANSIT or is not in the best interest of mass transportation.

**16:86-1.3 Advertising Standards Committee**

The Executive Director is hereby authorized by the Board of Directors of NJ TRANSIT to establish a three member Advertising Standards Committee ("Committee"). Such Committee shall be independent and its determinations shall constitute NJ TRANSIT's final agency determinations.

**16:86-1.4 Review of advertisements**

(a) NJ TRANSIT's advertising firm shall review each advertisement submitted for installation, display and maintenance on NJ TRANSIT properties and facilities to determine whether the advertisement falls within, or may fall within, one or more of the categories set forth in N.J.A.C. 16:86-1.2. NJ TRANSIT may also review such advertisement for compliance with N.J.A.C. 16:86-1.2. If NJ TRANSIT or an NJ TRANSIT advertising contractor determines that an advertisement falls within or may fall within one or more of the categories set forth in N.J.A.C. 16:86-1.2:

1. The NJ TRANSIT advertising firm shall promptly provide the advertiser with a copy of these standards and written notice of the determination, the reason(s) for the

determination and the advertiser's right to request a prompt review before the Committee.

2. The NJ TRANSIT advertising firm shall provide the Committee with a copy of the written notice to the advertiser and the advertisement at issue.

3. Upon request of the advertiser, the Committee shall conduct a prompt review to determine whether the advertisement at issue falls within one or more of the categories set forth in N.J.A.C. 16:86-1.2.

4. The Committee shall promptly provide the advertiser and the advertising contractor with a written notice of its determination. The Committee's determination shall be final as per N.J.A.C. 16:86-1.3.

#### **16:86-1.5 Dispute resolution**

In the event of a dispute arising under these rules, an aggrieved party shall transmit its grievance in writing to the Committee. If no factual issues are presented, the decision by

the Committee shall constitute the final agency action of NJ TRANSIT and shall be appealable to the Appellate Division of the Superior Court. In the event of a dispute of the facts the Committee shall within 45 days transmit the matter for the development of a record and an initial decision by the Office of Administrative Law in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The Committee shall then render a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey.

#### **16:86-1.6 Severability**

If any category set forth in N.J.A.C. 16:86-1.2 is determined to be invalid as applied to any particular type of NJ TRANSIT property or facility, the category shall remain applicable to other types of NJ TRANSIT properties and facilities.