

CHAPTER 4

RULES OF PRACTICE AND PROCEDURE

Authority

N.J.S.A. 10:5-8, 10:5-12, 10:5-18 and 34:11B-16.

Source and Effective Date

R.2011 d.073, effective January 28, 2011.
See: 42 N.J.R. 2571(a), 43 N.J.R. 436(a).

Chapter Expiration Date

Chapter 4, Rules of Practice and Procedure, expires on January 28, 2016.

Chapter Historical Note

Chapter 4, Rules of Practice and Procedure, was adopted and became effective prior to September 1, 1969.

Subchapter 13, Proposed Findings and Final Order, was repealed by R.1985 d.697, effective January 21, 1986. See: 17 N.J.R. 2682(a), 18 N.J.R. 198(b).

Pursuant to Executive Order No. 66(1978), Chapter 4, Rules of Practice and Procedure, was readopted as R.1991 d.67, effective January 17, 1991. See: 22 N.J.R. 3689(a), 23 N.J.R. 608(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, Rules of Practice and Procedure, was readopted as R.1996 d.42, effective December 20, 1995. See: 27 N.J.R. 4128(a), 28 N.J.R. 271(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, Rules of Practice and Procedure, was readopted as R.2000 d.503, effective November 20, 2000. See: 32 N.J.R. 3716(a), 32 N.J.R. 4452(a).

Chapter 4, Rules of Practice and Procedure, was repealed and Chapter 4, Rules of Practice and Procedure, was adopted as new rules by R.2005 d.324, effective September 19, 2005. See: 37 N.J.R. 1138(a), 37 N.J.R. 3701(a).

Chapter 4, Rules of Practice and Procedure, was readopted as R.2011 d.073, effective January 28, 2011. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 13:4-1.1 Scope of rules
- 13:4-1.2 Liberal construction of provisions
- 13:4-1.3 Practice where rules do not govern
- 13:4-1.4 Definitions
- 13:4-1.5 Validity of rules if any portion declared invalid
- 13:4-1.6 Attorneys; form of appearance on behalf of parties

SUBCHAPTER 2. COMMENCEMENT OF ACTIONS

- 13:4-2.1 Manner of commencing actions
- 13:4-2.2 Who may file a verified complaint
- 13:4-2.3 Rights of parties; notification of settlement
- 13:4-2.4 Preparation and contents of verified complaint
- 13:4-2.5 Time period for filing verified complaints
- 13:4-2.6 How to file verified complaints
- 13:4-2.7 Notification of filing
- 13:4-2.8 Service of verified complaints
- 13:4-2.9 Amendment of verified complaints
- 13:4-2.10 Verified complaints involving minors or other confidential information; use of pseudonym

SUBCHAPTER 3. ANSWERS

- 13:4-3.1 Time for filing answers
- 13:4-3.2 Form and content of answers
- 13:4-3.3 Service of answers

SUBCHAPTER 4. INVESTIGATIONS

- 13:4-4.1 Timing of investigations
- 13:4-4.2 Investigatory procedures
- 13:4-4.3 Interrogatories
- 13:4-4.4 Subpoenas
- 13:4-4.5 Depositions by Division and parties
- 13:4-4.6 Enforcement of depositions, interrogatories, subpoenas, other investigatory orders
- 13:4-4.7 Fact finding conferences
- 13:4-4.8 Director's investigations

SUBCHAPTER 5. DEFAULTS

- 13:4-5.1 Applicability of default procedure
- 13:4-5.2 Default procedure
- 13:4-5.3 Vacation of default
- 13:4-5.4 Default hearing and final order

SUBCHAPTER 6. ADMINISTRATIVE DISMISSALS

- 13:4-6.1 Administrative dismissals

SUBCHAPTER 7. MOTIONS AND OTHER CASE ACTIONS

- 13:4-7.1 Motions
- 13:4-7.2 Motions to intervene
- 13:4-7.3 Motions for consolidation or severance of verified complaint
- 13:4-7.4 Motions for reconsideration
- 13:4-7.5 Service of motions and other pleadings

SUBCHAPTER 8. WITHDRAWAL OF COMPLAINTS

- 13:4-8.1 Withdrawals

SUBCHAPTER 9. CONCILIATION AND MEDIATION

- 13:4-9.1 Timing of conciliation proceedings
- 13:4-9.2 Confidentiality of conciliation and mediation records
- 13:4-9.3 Mediation proceedings
- 13:4-9.4 Conciliation conference proceedings

SUBCHAPTER 10. ORDERS OF THE DIRECTOR

- 13:4-10.1 Orders and findings of Director
- 13:4-10.2 Findings of probable cause
- 13:4-10.3 Service of Director's orders

SUBCHAPTER 11. HEARINGS

- 13:4-11.1 When hearings ordered
- 13:4-11.2 Conduct of hearings
- 13:4-11.3 Temporary injunction

SUBCHAPTER 12. PROTECTION OF COMPLAINANTS AND WITNESSES

- 13:4-12.1 Protection of witnesses: preventing reprisals

SUBCHAPTER 13. ACCESS TO DIVISION'S INVESTIGATORY FILES

- 13:4-13.1 Confidentiality of Division's investigatory files
- 13:4-13.2 Discovery of Division's investigatory files by parties to the verified complaint
- 13:4-13.3 Discovery of Division's investigatory files by non-parties
- 13:4-13.4 Copying costs

SUBCHAPTER 1. GENERAL PROVISIONS

13:4-1.1 Scope of rules

The following provisions shall constitute the practice and procedure and shall govern all proceedings in the Division on Civil Rights. When a case is transmitted to the Office of Administrative Law, or the Director elects to hear the contested case, the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, shall govern proceedings in that case. Whenever these rules refer to procedures to be followed after transmittal to the Office of Administrative Law, such references shall also be deemed to apply to instances where the Director elects to hear a contested case pursuant to N.J.S.A. 52:14F-8.

13:4-1.2 Liberal construction of provisions

(a) These provisions shall be liberally construed by the Director to permit the Division on Civil Rights to discharge its statutory functions and to secure just and expeditious determinations of all matters before the Division on Civil Rights.

(b) The Director may, upon notice to all parties, in the interest of justice, relax the application of these rules.

13:4-1.3 Practice where rules do not govern

(a) The Director may rescind, amend or expand these rules from time to time as necessary to comply with the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., or the Family Leave Act, N.J.S.A. 34:11B-1 et seq., and such new rules shall be filed with the Office of Administrative Law.

(b) In any matter that arises not governed by these rules, the Director shall exercise his or her discretion.

13:4-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Administrative law judge” means any person appointed pursuant to N.J.S.A. 52:14F-5(1).

“Aggrieved person” includes any person who:

1. Claims to have been injured by a discriminatory practice; or
2. Believes that such person will be injured by a discriminatory housing practice that is about to occur.

“Attorney for the Division” means an attorney appointed or assigned by the Attorney General of New Jersey.

“Complainant” means any person filing a verified complaint alleging discrimination under the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., or the Family Leave Act, N.J.S.A. 34:11B-1 et seq.

“Director” means the Director of the Division on Civil Rights who shall act for the Attorney General of New Jersey as chief executive officer of the Division in his or her place and with his or her powers.

“Division” means the State Division on Civil Rights, Department of Law and Public Safety.

“Investigator” means any employee of the Division designated under the Department of Personnel as “Investigator, Division on Civil Rights.”

“Investigatory files” means all pleadings, dispositions and orders relating to the verified complaint and all materials, documents, notes, statements, communications, including electronic communications, and recorded proceedings made or received by the Division during the course of the Division’s investigation of the verified complaint.

“Office of Administrative Law” or “OAL” refers to the agency created by N.J.S.A. 52:14F-1 et seq.

“Office of the Division” means the offices located at 31 Clinton Street, Newark, New Jersey; 100 Hamilton Plaza, Paterson, New Jersey; 140 East Front Street, Trenton, New Jersey; One Port Center, 2 Riverside Drive, Camden, New Jersey; 26 South Pennsylvania Avenue, Atlantic City, New Jersey; 574 Newark Avenue, Jersey City, New Jersey; and any additional offices that may from time to time be established and listed on the Division’s website, www.njcivilrights.gov.

“Respondent” means any party charged with unlawful discrimination under the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., or the Family Leave Act, N.J.S.A. 34:11B-1 et seq.

Amended by R.2011 d.073, effective February 22, 2011.
See: 42 N.J.R. 2571(a), 43 N.J.R. 436(a).

In definition “Office of the Division”, substituted “that” for “which” and updated the Division’s web address.

13:4-1.5 Validity of rules if any portion declared invalid

If any rule, sentence, paragraph or section of these rules, or the application thereof to any persons or circumstances, shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any rule shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of these rules.

13:4-1.6 Attorneys; form of appearance on behalf of parties

(a) An attorney may appear on behalf of a party by completing a Division Notice of Appearance form or by providing all of the information requested on such form in a letter or similar document. The Notice of Appearance form is available from the Division’s offices or its website, www.njcivilrights.gov. To constitute an appearance, a form, letter or document shall contain the names of the parties, the Division’s docket number, the name of the party or parties