

CHAPTER 86
ADVERTISING STANDARDS

Authority

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

Source and Effective Date

R.2008 d.349, effective October 20, 2008.
Sec: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 86, Advertising Standards, expires on October 20, 2015. Sec: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 86, Advertising Standards, was adopted as new rules by R.1997 d.180, effective April 21, 1997. Sec: 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. Sec: 34 N.J.R. 4050(a), 35 N.J.R. 2262(a).

Chapter 86, Advertising Standards, was readopted as R.2008 d.349, effective October 20, 2008. As a part of R.2008 d.349, Subchapter 2, Procedures, and Subchapter 3, Severability, were adopted as new rules, effective November 17, 2008. Sec: Source and Effective Date. See, also, section annotations.

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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 or controlled by the New Jersey Transit Corporation and/or its subsidiaries (collectively "NJ TRANSIT").

(c) The display of advertising on property owned or controlled by NJ TRANSIT does not constitute an endorsement by NJ TRANSIT of any of the products, services or messages so advertised, unless authorized in writing by NJ TRANSIT and so stated within the advertisement.

Amended by R.2008 d.349, effective November 17, 2008.
Sec: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

In (b), inserted "or controlled" and deleted "executed after October 21, 1997" from the end; and added (c).

16:86-1.2 Limitation upon advertisements

(a) No advertisement located on property owned or controlled by NJ TRANSIT shall be displayed or maintained 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 or implies 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 may be amended, modified or supplemented from time to time;
5. The advertisement portrays graphic violence;
6. The advertisement displays weapons that appear to be aimed or pointed at the viewer or observer in a menacing manner;
7. The advertisement is controversial and, therefore, can promote vandalism of advertising materials and associated NJ TRANSIT property;
8. The advertisement proposes the use of or promotes tobacco or tobacco-related products; or
9. The advertisement is not in the best business interest of NJ TRANSIT or is not in the best interest of public transportation.

Amended by R.2008 d.349, effective November 17, 2008.
Sec: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Rewrote the introductory paragraph of (a); in (a)3, inserted "or implies"; in (a)4, inserted a comma following "2C:34-3" and deleted

“as” following “definition”; added new (a)5 and (a)6; recodified former (a)5 through (a)7 as (a)7 through (a)9; in (a)8, substituted “the use of or” for “and”; and in (a)9, substituted “public” for “mass”.

16:86-1.3 (Reserved)

Recodified to N.J.A.C. 16:86-2.1 by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Section was “Advertising Standards Committee”.

16:86-1.4 (Reserved)

Recodified to N.J.A.C. 16:86-2.2 by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Section was “Review of advertisements”.

16:86-1.5 (Reserved)

Recodified to N.J.A.C. 16:86-2.3 by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Section was “Dispute resolution”.

16:86-1.6 (Reserved)

Recodified to N.J.A.C. 16:86-3.1 by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Section was “Severability”.

SUBCHAPTER 2. PROCEDURES

16:86-2.1 Advertising Standards Committee

The Executive Director shall establish a three member Advertising Standards Committee (“Committee”). Such Committee shall be independent and its determinations shall constitute NJ TRANSIT’s final agency determinations.

Recodified from N.J.A.C. 16:86-1.3 and amended by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Substituted “shall” for “is hereby authorized by the Board of Directors of NJ TRANSIT to”.

16:86-2.2 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 its advertising firm 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 firm with a written notice of its determination. The Committee’s determination shall be final as per N.J.A.C. 16:86-2.1.

Recodified from N.J.A.C. 16:86-1.4 and amended by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

In the introductory paragraph of (a) and in (a)4, substituted “firm” for “contractor”; in the introductory paragraph of (a), substituted “its” for “an NJ TRANSIT”; and in (a)4, updated the N.J.A.C. reference.

16:86-2.3 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.

Recodified from N.J.A.C. 16:86-1.5 by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

SUBCHAPTER 3. SEVERABILITY

16:86-3.1 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. If any category set forth in N.J.A.C. 16:82-1.2 is determined to be invalid as applied to all NJ TRANSIT property and facilities, the remaining categories shall remain valid.

Recodified from N.J.A.C. 16:86-1.6 and amended by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Inserted the last sentence.