

CHAPTER 17

PUBLIC EMPLOYMENT RELATIONS
COMMISSION APPEAL BOARD

Authority

N.J.S.A. 34:13A-5.9.

Source and Effective Date

R.1998 d.320, effective June 1, 1998.
See: 30 N.J.R. 1214(a), 30 N.J.R. 2516(b).

Executive Order No. 66(1978) Expiration Date

Chapter 17, Public Employment Relations Commission Appeal Board, expires on June 1, 2003.

Chapter Historical Note

Chapter 17, Public Employment Relations Commission Appeal Board, was adopted as R.1983 d.310, effective August 1, 1983. See: 14 N.J.R. 903(a), 15 N.J.R. 1257(a).

Subchapter 3, Amount of Representation Fee in Lieu of Dues, and Subchapter 4, Review of Representation Fee in Lieu of Dues, were adopted as R.1987 d.248, effective June 15, 1987. See: 19 N.J.R. 196(a), 19 N.J.R. 1105(a).

Pursuant to Executive Order No. 66(1978), Chapter 17, Public Employment Relations Commission Appeal Board, was readopted as R.1988 d.301, effective June 8, 1988. See: 20 N.J.R. 891(a), 20 N.J.R. 1571(d).

Pursuant to Executive Order No. 66(1978), Chapter 17, Public Employment Relations Commission Appeal Board, was readopted as R.1993 d.322, effective June 7, 1993. See: 25 N.J.R. 1842(b), 25 N.J.R. 2907(a).

Pursuant to Executive Order No. 66(1978), Chapter 17, Public Employment Relations Commission Appeal Board, was readopted as R.1998 d.320, effective June 1, 1998. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION

- 19:17-1.1 Description of the Appeal Board
- 19:17-1.2 Staff of the Appeal Board
- 19:17-1.3 Delegation of authority to staff of the Division of Public Employment Relations, officers of the Appeal Board

SUBCHAPTER 2. PROCEDURES

- 19:17-2.1 Rules to be read in conjunction with the rules of the Office of Administrative Law

SUBCHAPTER 3. AMOUNT OF REPRESENTATION
FEE IN LIEU OF DUES

- 19:17-3.1 Designation of fiscal year
- 19:17-3.2 Designation of dues year
- 19:17-3.3 Annual notice to nonmembers; copy of demand and return system to public employer
- 19:17-3.4 Amount of representation fee in lieu of dues; annual adjustment

SUBCHAPTER 4. REVIEW OF REPRESENTATION FEE
IN LIEU OF DUES

- 19:17-4.1 Period for filing of requests for review
- 19:17-4.2 Fees of nonmembers filing requests for review; escrow of amounts reasonably in dispute
- 19:17-4.3 Time for completion of demand and return system
- 19:17-4.4 Results of demand and return system, payment of interest on amounts returned
- 19:17-4.5 Time for filing petitions with Appeal Board

SUBCHAPTER 1. DESCRIPTION OF
ORGANIZATION

19:17-1.1 Description of the Appeal Board

The Public Employment Relations Commission Appeal Board (the "Appeal Board") is the board established by N.J.S.A. 34:13A-5.6 to consider petitions of appeal of public employees, who are not members of the employee organization which represents the employees' collective negotiations unit, concerning the amount of the representation fee in lieu of dues paid by the nonmember employees.

Case Notes

Tender by union of disputed fees rendered moot teachers' challenge to fees. *Daly v. High Bridge Teachers' Ass'n*, 242 N.J.Super. 12, 575 A.2d 1373 (A.D.1990), certification denied 122 N.J. 356, 585 A.2d 366.

19:17-1.2 Staff of the Appeal Board

The staff of the Appeal Board shall consist of the personnel of the Division of Public Employment Relations (N.J.S.A. 34:13A-5.1), and the Appeal Board may utilize the services of the personnel of the Division of Public Employment Relations as well as the offices and equipment of the said Division, to process those matters which come before it and to otherwise perform its functions pursuant to N.J.S.A. 34:13A-5.6.

19:17-1.3 Delegation of authority to staff of the Division of
Public Employment Relations, officers of the
Appeal Board

When the personnel of the Division of Public Employment Relations are carrying out functions on behalf of the Appeal Board, it shall be understood that such personnel are acting as officers of the Appeal Board and that the Appeal Board has delegated all the powers necessary to permit the discharge of the duty or duties delegated.

SUBCHAPTER 2. PROCEDURES

19:17-2.1 Rules to be read in conjunction with the rules of
the Office of Administrative Law

These rules are to be read in conjunction with the Uniform Administrative Procedure Rules of Practice (UAPRP),

N.J.A.C. 1:1-1, and the rules of special applicability for hearings initiated in contested cases before the Public Employment Relations Commission Appeal Board, N.J.A.C. 1:20.

Amended by R.1987 d.248, effective June 15, 1987.
See: 19 N.J.R. 196(a), 19 N.J.R. 1105(a).

Added text "in contested cases"; substituted "N.J.A.C. 1:20" for "hereafter adopted by the Office of Administrative Law."

SUBCHAPTER 3. AMOUNT OF REPRESENTATION FEE IN LIEU OF DUES

19:17-3.1 Designation of fiscal year

(a) Every majority representative which collects a representation fee in lieu of dues shall establish a fiscal year system of accounting for the expenditures of such organization.

(b) The fiscal year may be the calendar year or any other 12 month period.

19:17-3.2 Designation of dues year

(a) Every majority representative which collects a representation fee in lieu of dues shall establish a dues year.

(b) The dues year may be the calendar year or any other 12 month period, except that the dues year may not commence prior to the start of the fiscal year.

19:17-3.3 Annual notice to nonmembers; copy of demand and return system to public employer

(a) Prior to the commencement of payroll deductions of the representation fee in lieu of dues for any dues year, the majority representative shall provide all persons subject to the fee with a notice adequately explaining the basis of the fee, which shall include:

1. A statement, verified by an independent auditor or by some other suitable method, of the expenditures of the majority representative for its fiscal year ending within 12 months prior to the date the notice required by this section is served on all persons subject to the fee. The statement shall set forth the major categories of expenditures and shall also identify expenditures of the majority representative and its affiliates which are in aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment or applied toward the cost of benefits only available to members of the majority representative.

2. A copy of the demand and return system established by the majority representative pursuant to N.J.S.A. 34:13A-5.6, including instructions to persons paying the representation fee in lieu of dues as to how to request review of the amount assessed as a representation fee in lieu of dues.

3. The name and address of the financial institution where the majority representative maintains an account in which to escrow portions of representation fees in lieu of dues which are reasonably in dispute. The interest rate of the account in effect on the date the notice required by (a) above is issued shall also be disclosed.

4. The amount of the annual representation fee in lieu of dues, or an explanation of the formula by which the representation fee is set, and the schedule by which the fee will be deducted from pay.

(b) The majority representative shall provide a copy of the demand and return system referred to in (a)2 above to the public employer.

Amended by R.1993 d.322, effective July 6, 1993.

See: 25 N.J.R. 1842(b), 25 N.J.R. 2907(a).

Amended by R.1998 d.320, effective July 6, 1998.

See: 30 N.J.R. 1214(a), 30 N.J.R. 2516(b).

In (a)1, rewrote the first sentence.

19:17-3.4 Amount of representation fee in lieu of dues; annual adjustment

(a) The maximum representation fee in lieu of dues assessed nonmembers in any dues year shall be the lower of:

1. Eighty-five percent of the regular membership dues, fees and assessments charged by the majority representative to its own members.

2. Regular membership dues, fees and assessments, charged by the majority representative to its own members, reduced by the percentage amount spent during the most recently completed fiscal year by the majority representative and any affiliate of the majority representative which receives any portion of the representation fees in lieu of dues paid or payable to the majority representative on benefits available to or benefitting only its members and in aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment. The amount shall be based upon the figures contained in the statement provided nonmembers prior to the start of the dues year in accordance with N.J.A.C. 19:17-3.3(a)1.

(b) Every majority representative shall annually recalculate its representation fee in lieu of dues in accordance with (a) above.

Law Review and Journal Commentaries

Public Employment—Representation Fees, P.R. Chenoweth, 134 N.J.L.J. No. 16, 61 (1993).

Case Notes

Regulation requiring representative body to deduct political-activity portion of fee as to all nonmembers. *New Jersey Educ. Ass'n v. New Jersey Public Employment Relations Com'n*, 266 N.J.Super. 66, 628 A.2d 789 (A.D.1993), certification denied 134 N.J. 569, 636 A.2d 526.

**SUBCHAPTER 4. REVIEW OF
REPRESENTATION FEE IN LIEU OF DUES**

19:17-4.1 Period for filing of requests for review

(a) Each nonmember shall be afforded a period of at least 30 days after the majority representative has provided

the information described in N.J.A.C. 19:17-3.3(a) within which to file a request for review of the amounts assessed by the majority representative as the nonmember's representation fee in lieu of dues.