

## CHAPTER 14

## UNFAIR PRACTICE PROCEEDINGS

## Authority

N.J.S.A. 34:13A-11.

## Source and Effective Date

R.1995 d.489, effective August 8, 1995.  
See: 27 N.J.R. 2555(a), 27 N.J.R. 3387(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 14, Unfair Practice Proceedings, expires on August 8, 2000.

## Chapter Historical Note

Unless otherwise expressly noted, all provisions of this chapter were adopted pursuant to authority of N.J.S.A. 34:13A-11 and were filed and became effective prior to September 1, 1969. Revisions were filed and became effective on January 20, 1975, as R.1975 d.10. See: 7 N.J.R. 78(a).

Subchapter 9, Interim Relief, was adopted as R.1975 d.90, effective April 1, 1975. See: 7 N.J.R. 242(a). Subsequent revisions were filed and became effective on August 2, 1977, as R.1977 d.272. See: 9 N.J.R. 298(a), 9 N.J.R. 448(a).

Pursuant to Executive Order No. 66(1978), Chapter 14 was readopted as R.1995 d.489, effective August 8, 1995. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. CHARGE

## 19:14-1.1 Who may file

A charge that any public employer or public employee organization has engaged or is engaging in any unfair practice listed in subsections (a) and (b) of N.J.S.A. 34:13A-5.4 may be filed by any public employer, public employee, public employee organization, or their representatives.

Amended by R.1995 d.489, effective September 5, 1995.  
See: 27 N.J.R. 2555(a), 27 N.J.R. 3387(a).

## 19:14-1.2 Where to file

Such charge shall be filed with the Commission. Upon receipt, such charge shall be date stamped, and assigned a

docket number indicating that the charging party is a public employer (CE), one or more individual public employees (CI), or a public employee organization (CO). A copy of each charge shall be retained in a public docket until the case is closed.

Amended by R.1995 d.489, effective September 5, 1995.  
See: 27 N.J.R. 2555(a), 27 N.J.R. 3387(a).

### 19:14-1.3 Forms; contents

(a) Such charge shall be in writing. Forms for filing such charges will be supplied upon request. Address such requests to: Public Employment Relations Commission, CN 429, Trenton, New Jersey 08625-0429. The party or representative filing the charge shall make this dated and signed certification: "I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief." Such charge shall contain the following:

1. The full name, address and telephone number of the public employer, public employee or public employee organization making the charge (the charging party);
2. The full name, address and telephone number of the public employer or public employee organization against whom the charge is made (the respondent); and
3. A clear and concise statement of the facts constituting the alleged unfair practice. The statement must specify the time and place the alleged acts occurred, the names of the persons alleged to have committed such acts and the subsection(s) of the Act alleged to have been violated.

Amended by R.1995 d.489, effective September 5, 1995.  
See: 27 N.J.R. 2555(a), 27 N.J.R. 3387(a).

#### Case Notes

Unfair practice charge. Galloway Twp. Bd. of Ed. v. Galloway Twp. Assn. of Educational Secretaries, 78 N.J. 25, 393 A.2d 218 (1978).

### 19:14-1.4 Number of copies; service

The charging party shall file an original and nine copies of such charge, together with proof of service of a copy on all other parties. The Director of Unfair Practices will send a copy to the respondent, but the charging party will remain responsible for formal service of the charge.

Amended by R.1995 d.489, effective September 5, 1995.  
See: 27 N.J.R. 2555(a), 27 N.J.R. 3387(a).

### 19:14-1.5 Amendment; withdrawal; dismissal

(a) Before a complaint issues, the Director of Unfair Practices may permit the charging party to amend a charge upon such terms as may be deemed just. After a complaint issues, any amendment of the charge shall be filed with the hearing examiner.

1. Filing, service, and proof of service of an amended charge shall conform to the provisions of these rules relating to the original charge.

(b) An unfair practice charge and any complaint shall be dismissed and the case closed if the charging party files a notice of withdrawal before the respondent serves an answer or a motion for summary judgment. Unless otherwise stated in the notice of withdrawal, a withdrawal and dismissal under this subsection is without prejudice.

(c) Except as provided by (b) above, a charge may be withdrawn by the charging party, and any complaint dismissed and the case closed, only with the consent of the Director of Unfair Practices, or if a hearing examiner's report and recommended decision has issued, with the consent of the Chairman. Unless otherwise provided by the Chairman or the Director of Unfair Practices, a withdrawal and dismissal under this subsection is without prejudice.

(d) The Director of Unfair Practices or the assigned hearing examiner may request the charging party to withdraw its charge. Where it appears to the Director of Unfair Practices or the assigned hearing examiner that the charging party has no further interest in processing its charge, the Director or hearing examiner may, upon appropriate notice, deem the charge to have been withdrawn. Unless otherwise stated, a withdrawal and dismissal under this subsection is without prejudice.

(e) Within 15 days after the date a charge has been deemed withdrawn, a charging party may file a written motion to reopen with the Director of Unfair Practices. The charging party shall file an original and two copies of such motion, together with proof of service of a copy on all other parties. Any party opposing the motion may file an original and two copies of its response within five days of receipt of the motion, together with proof of service of a copy on all other parties. The motion may be granted on a showing of extraordinary circumstances or to prevent an injustice.

As amended, R.1975 d.89, eff. April 1, 1975.

See: 7 N.J.R. 243(a).

Amended by R.1995 d.489, effective September 5, 1995.

See: 27 N.J.R. 2555(a), 27 N.J.R. 3387(a).

### 19:14-1.6 Processing of charge

(a) The Director of Unfair Practices will normally assign a charge to a staff member for processing. All parties will be notified of such assignment and will be requested to submit to the staff member:

1. An executed copy of any current or recently expired collective negotiations agreement between the parties; and
2. A written statement of position including an explanation as to why the allegations contained in the charge, if true, would or would not constitute unfair practices on the part of the respondent.