

CHAPTER 4**APPEALS****Authority**

N.J.S.A. 18A:4-1 through 18A:4-20, 18A:6-27 through 18A:6-29, 18A:6-39, 18A:7A-15 and 18A:12-29.

Source and Effective Date

R.2000 d.229, effective May 5, 2000.
See: 32 N.J.R. 749(a), 32 N.J.R. 2049(b).

Chapter Expiration Date

Chapter 4, Appeals, expires on May 5, 2005.

Chapter Historical Note

Chapter 4, Appeals, was originally codified in Title 6 as Chapter 2, Appeals. Chapter 2, Appeals, was filed and became effective prior to September 1, 1969.

Chapter 2, Appeals, were repealed and adopted as new rules by R.1989 d.67, effective February 6, 1989. See: 20 N.J.R. 2615(a), 21 N.J.R. 288(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, Appeals, was readopted as R.1994 d.17, effective December 8, 1993. See: 25 N.J.R. 4548(a), 26 N.J.R. 198(b).

Pursuant to Executive Order No. 22(1994), the expiration date of Chapter 2, Appeals, was extended from December 8, 1998 to June 8, 2000. See: 26 N.J.R. 3783(a), 26 N.J.R. 3942(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Appeals, was readopted as R.2000 d.229, effective May 5, 2000. Chapter 2 was recodified as N.J.A.C. 6A:4 by R.2000 d.229, effective June 5, 2000. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 6A:4-1.1 Appealable decisions
- 6A:4-1.2 Who may appeal
- 6A:4-1.3 Time for appeal
- 6A:4-1.4 Computation of time
- 6A:4-1.5 Extensions of time
- 6A:4-1.6 How to appeal
- 6A:4-1.7 Contents of notice of appeal and notice of cross appeal
- 6A:4-1.8 Record on appeal
- 6A:4-1.9 Correction or supplementation of the record
- 6A:4-1.10 Filing and service of briefs, motions, applications, and exceptions
- 6A:4-1.11 Time for serving and filing of briefs
- 6A:4-1.12 Failure to meet filing deadlines
- 6A:4-1.13 Contents of briefs
- 6A:4-1.14 Appendices
- 6A:4-1.15 Length of briefs
- 6A:4-1.16 Inadequacy or impropriety of briefs and papers
- 6A:4-1.17 Exceptions to reports of the Legal Committee
- 6A:4-1.18 Motions
- 6A:4-1.19 Relaxation of the rules

SUBCHAPTER 2. MISCELLANEOUS PROCEEDINGS

- 6A:4-2.1 Motion to appear as amicus curiae
- 6A:4-2.2 Motion for stay of a decision of the Commissioner or State Board of Examiners
- 6A:4-2.3 Motion for leave to appeal an interlocutory order, decision or action
- 6A:4-2.4 Emergency relief

- 6A:4-2.5 Appeal from the grant or rejection of an application to establish a charter school
- 6A:4-2.6 Issuance of an administrative order creating a State-operated school district
- 6A:4-2.7 Motions for clarification and/or reconsideration of a State Board decision

SUBCHAPTER 3. REVIEW AND DECISION

- 6A:4-3.1 Functions of the Legal Committee
- 6A:4-3.2 Oral argument
- 6A:4-3.3 Authority to decide applications for emergency relief
- 6A:4-3.4 Decision of the State Board

SUBCHAPTER 1. GENERAL PROVISIONS**6A:4-1.1 Appealable decisions**

(a) Final decisions of the Commissioner of the Department of Education, of the State Board of Examiners, and of the School Ethics Commission are appealable to the State Board of Education as of right. Final decisions include the following:

1. Any determination of the Commissioner, including, as to those separable issues upon which the Commissioner has rendered a final decision, a decision remanding all or part of a controverted case;
2. Any decision of the State Board of Examiners pertaining to the revocation or suspension of a certificate issued by the Board of Examiners; and
3. Any decision of the School Ethics Commission finding a violation of the School Ethics Act (N.J.S.A. 18A:12-29d) at such time as the Commissioner's decision regarding the sanction has been rendered.

(b) The State Board, upon application made pursuant to N.J.A.C. 6A:4-2.3, may grant leave to appeal from an interlocutory order, decision or action of the Commissioner, or his or her representative, or of the Board of Examiners, or of the School Ethics Commission. A decision by the School Ethics Commission finding a violation of the School Ethics Act shall be considered to be an interlocutory decision for purposes of appeal to the State Board.

Amended by R.2000 d.229, effective June 5, 2000.

See: 32 N.J.R. 749(a), 32 N.J.R. 2049(b).

In (a), inserted "as of right" following "Board of Education"; in (b), amended N.J.A.C. reference and added last sentence.

6A:4-1.2 Who may appeal

(a) Any party aggrieved by a decision of the Commissioner, or a decision by the Board of Examiners to revoke or suspend certification, or by the School Ethics Commission finding a violation of the School Ethics Act may appeal to the State Board of Education.

(b) Parties jointly interested in a decision or action may join in an appeal therefrom or may appeal separately.

(c) A respondent may cross appeal as provided by N.J.A.C. 6A:4-1.3(b).

Amended by R.2000 d.229, effective June 5, 2000.
See: 32 N.J.R. 749(a), 32 N.J.R. 2049(b).
In (c), amended N.J.A.C. reference.

6A:4-1.3 Time for appeal

(a) Appeals from final decisions of the Commissioner, or of the Board of Examiners, or of the School Ethics Commission shall be taken within 30 days of the filing date of the decision from which appeal is taken.

(b) Cross appeals may be taken by filing notice of cross appeal within 10 days of service of notice of appeal.

(c) Applications for leave to appeal from interlocutory orders, decisions or actions shall be made within the time provided by N.J.A.C. 6A:4-2.3.

Amended by R.2000 d.229, effective June 5, 2000.
See: 32 N.J.R. 749(a), 32 N.J.R. 2049(b).
In (c), amended N.J.A.C. reference.

6A:4-1.4 Computation of time

(a) A decision of the Commissioner or State Board of Examiners shall be deemed filed three days after the date of mailing to the parties.

(b) For purposes of appeal to the State Board, a decision of the School Ethics Commission finding a violation of the School Ethics Act shall be deemed filed upon the filing of the Commissioner's decision regarding the sanction.

(c) In computing any period of time fixed by this chapter, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday or legal holiday.

Amended by R.1994 d.17, effective January 3, 1994.
See: 25 N.J.R. 4548(b), 26 N.J.R. 198(b).

Case Notes

Appeal to State Board of Education from commissioner's decision dismissed after appeal filed outside statutory 30-day limit. *Sheridan v. Orange Township Board of Education*, 96 N.J.A.R.2d (EDU) 142.

Parents' appeal to State Board of Education untimely when filed four months after commissioner's decision. *Cranford Township Board of Education v. McGuire*, 96 N.J.A.R.2d (EDU) 140.

6A:4-1.5 Extensions of time

(a) No extension of time may be granted to enlarge the time specified for appeal or for cross appeal.

(b) By notice to the Legal Committee of the State Board of Education, extensions with consent of all parties for filing briefs or exceptions to the report of the Legal Committee may be obtained for a period of time not to exceed an accumulated total of 60 days for all extensions in one case.

(c) Requests for extensions of time without the consent of all parties may be granted only by leave of the Legal Committee.

(d) Extensions of time in excess of an accumulated total of 60 days for all extensions in one case may be granted only by leave of the Legal Committee upon a showing of good cause.

Amended by R.2000 d.229, effective June 5, 2000.
See: 32 N.J.R. 749(a), 32 N.J.R. 2049(b).

In (b), substituted "60" for "30" preceding "days"; rewrote (c) and (d).

6A:4-1.6 How to appeal

(a) An appeal or cross appeal shall be taken by serving a copy of the notice of appeal or cross appeal upon all other parties and by filing the original with the Legal Committee of the State Board of Education at 100 River View Plaza, PO Box 500, Trenton, New Jersey 08625-0500, and a copy with the Commissioner of Education, the State Board of Examiners, or the School Ethics Commission.

(b) An appeal or cross appeal shall be considered filed upon receipt of notice of appeal by the Legal Committee if hand delivered or upon mailing if appended thereto is a proof of mailing including either:

1. An affidavit of the person mailing the appeal or a certified mail receipt; or
2. A certificate of mailing signed by the attorney for the party filing the appeal.

(c) Where there is no accompanying affidavit or certificate of mailing, the appeal shall be deemed to have been mailed three days before receipt of the appeal by the State Board.

Amended by R.1994 d.17, effective January 3, 1994.
See: 25 N.J.R. 4548(b), 26 N.J.R. 198(b).
Amended by R.2000 d.229, effective June 5, 2000.
See: 32 N.J.R. 749(a), 32 N.J.R. 2049(b).

In (a), amended address; in (b)1, inserted reference to certified mail.

6A:4-1.7 Contents of notice of appeal and notice of cross appeal

(a) A notice of appeal or notice of cross appeal shall set forth the name of the party taking the appeal and his or her address or that of his or her attorney if he or she is represented, the names of all other parties, and shall specifically designate the decision appealed from, or such part as appealed from.

(b) Each notice of appeal shall be signed by the attorney of record representing the party taking the appeal or, if such party is appearing pro se, signed by the party.

(c) Each notice of appeal shall have appended thereto a copy of the decision being appealed.

(d) Proof of service shall be appended to notice of appeal or cross appeal in the form of one of the following: