

**CHAPTER 12****NEGOTIATIONS AND IMPASSE PROCEDURES;  
MEDIATION, FACT-FINDING, SUPER CONCILIATION,  
AND GRIEVANCE ARBITRATION****Authority**

N.J.S.A. 34:13A-5.4(c), 34:13A-6(b), 34:13A-11 and 40A:14-211(a);  
and P.L. 2009, c. 16, § 16.

**Source and Effective Date**

R.2006 d.285, effective July 14, 2006.  
See: 38 N.J.R. 1559(a), 38 N.J.R. 3184(a).

**Chapter Expiration Date**

Chapter 12, Negotiations and Impasse Procedures; Mediation, Fact-Finding, Super Conciliation, and Grievance Arbitration, expires on July 14, 2011.

**Chapter Historical Note**

Chapter 12, originally Impasses, was filed and became effective prior to September 1, 1969.

Subchapter 3, Arbitration, was replaced by a new Subchapter 3, Arbitration, by R.1974 d.345, effective December 18, 1974. See: 6 N.J.R. 457(b), 7 N.J.R. 35(c).

Subchapter 1, Mediation, was repealed, and Subchapter 1, Purpose of Procedures, was adopted as emergency new rules, Subchapter 2, Fact-Finding, was repealed, and Subchapter 2, Commencement of Negotiations, was adopted as emergency new rules, Subchapter 3, Arbitration, was recodified as Subchapter 5, and Subchapter 3, Mediation, and Subchapter 4, Fact-Finding, were adopted as emergency new rules, by R.1975 d.10, effective January 20, 1975. See: 7 N.J.R. 78(a).

Pursuant to Executive Order No. 66(1978), Chapter 12, Negotiations and Impasse Procedures, was readopted as R.1986 d.354, effective August 7, 1986. See: 18 N.J.R. 1357(a), 18 N.J.R. 1838(c).

Pursuant to Executive Order No. 66(1978), Chapter 12, Negotiations and Impasse Procedure; Mediation, Fact-Finding and Arbitration, was readopted as R.1991 d.424, effective July 17, 1991. See: 23 N.J.R. 1296(b), 23 N.J.R. 2524(a).

Pursuant to Executive Order No. 66(1978), Chapter 12, Negotiations and Impasse Procedures; Mediation, Fact-Finding and Arbitration, was readopted as R.1996 d.364, effective July 12, 1996. As a part of R.1996 d.364, Chapter 12, Negotiations and Impasse Procedures; Mediation, Fact-Finding and Arbitration, was renamed Negotiations and Impasse Procedures; Mediation, Fact-Finding and Grievance Arbitration, effective August 5, 1996. See: 28 N.J.R. 2797(a), 28 N.J.R. 3813(a).

Pursuant to Executive Order No. 66(1978), Chapter 12, Negotiations and Impasse Procedures; Mediation, Fact-Finding and Grievance Arbitration, was readopted as R.2001 d.214, effective June 4, 2001. See: 33 N.J.R. 1169(a), 33 N.J.R. 2281(a).

Chapter 12, Negotiations and Impasse Procedures; Mediation, Fact-Finding and Grievance Arbitration, was renamed Negotiations and Impasse Procedures; Mediation, Fact-Finding, Super Conciliation, and Grievance Arbitration; and Subchapter 4, Fact-Finding, was renamed Fact-Finding and Super Conciliation, by R.2004 d.20, effective January 20, 2004. See: 35 N.J.R. 4049(a), 36 N.J.R. 531(b).

Chapter 12, Negotiations and Impasse Procedures; Mediation, Fact-Finding, Super Conciliation, and Grievance Arbitration, was readopted by R.2006 d.285, effective July 14, 2006. See: Source and Effective Date. See, also, section annotation.

Subchapter 6, Binding Arbitration to Review Disciplinary Terminations, Not Involving Alleged Criminal Conduct, of Non-Civil Service Law Enforcement Officers and Firefighters, was readopted as R.2010 d.236, effective September 23, 2010. See: 42 N.J.R. 1344(a), 42 N.J.R. 2433(c).

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**SUBCHAPTER 1. PURPOSE OF PROCEDURES****19:12-1.1 Purpose of procedures**

N.J.S.A. 34:13A-5.4(e) provides that the Commission shall adopt such rules as may be required to regulate the time of

commencement of negotiations and of institution of impasse procedures so that there will be full opportunity for negotiations and the resolution of impasse prior to required budget submission dates. Further, N.J.S.A. 34:13A-6(b) provides that whenever negotiations between the public employer and exclusive representative concerning the terms and conditions of employment shall reach an impasse, the Commission is empowered upon the request of either party to provide mediation to effect a voluntary resolution of the impasse, and in the event of a failure to resolve the impasse by mediation, to recommend or invoke fact-finding with recommendation for settlement. Accordingly, the provisions of this chapter establish a mandatory time period for the commencement of negotiations, utilizing the public employer's required budget submission date as a definitive reference point to afford the parties a full opportunity for negotiations and resolution of impasses which are reached prior to the required budget submission date and for utilization of impasse procedures for parties who reach impasse during alternative time periods. N.J.A.C. 19:12-2.1 through 19:12-4.3 do not apply to negotiations between a public fire or police department as defined by N.J.S.A. 34:13A-15 and an exclusive representative. See N.J.A.C. 19:16.

Amended by R.1996 d.364, effective August 5, 1996.  
See: 28 N.J.R. 2797(a), 28 N.J.R. 3813(a).

#### Case Notes

Alternative time period cannot continue beyond required budget submission date. *New Jersey State Policemen's Benevolent Assn. v. East Orange*, 164 N.J.Super. 436, 396 A.2d 1158 (Ch.Div.1978).

## SUBCHAPTER 2. COMMENCEMENT OF NEGOTIATIONS

### 19:12-2.1 Commencement of negotiations

(a) The parties to a collective negotiations agreement shall commence negotiations for a successor agreement, or in the case of an agreed reopener provision shall commence negotiations pursuant to such reopener provision, no later than 120 days prior to the public employer's required budget submission date. The term "required budget submission date" shall refer to the first budget implementing the successor agreement or the agreement pursuant to the reopener provision, as the case may be. In circumstances where the Commission has not determined the public employer's required budget submission date, the public employer shall notify the employee representative in writing of the required budget submission date no later than 150 days prior to such date. The foregoing provisions shall not preclude the parties from agreeing to the automatic renewal of the collective negotiations agreement unless either party shall have notified the other party of its intention to terminate or modify the agreement, nor shall it preclude the parties from establishing by mutual agreement an alternative date for the commencement of negotiations.

(b) The party initiating negotiations shall, no later than 15 days prior to the commencement date of negotiations required by this section or any alternate commencement date agreed to by the parties, notify the other party in writing of its intention to commence negotiations on such date.

(c) Nothing in this section shall be construed to abrogate or alter obligations of parties to newly established collective negotiations relationships, whether created by recognition or by certification.

Amended by R.1996 d.364, effective August 5, 1996.  
See: 28 N.J.R. 2797(a), 28 N.J.R. 3813(a).  
Amended by R.2001 d.214, effective July 2, 2001.  
See: 33 N.J.R. 1169(a), 33 N.J.R. 2281(a).  
Rewrote (b).

#### Case Notes

Alternative time period cannot continue beyond required budget submission date. *New Jersey State Policemen's Benevolent Assn. v. East Orange*, 164 N.J.Super. 436, 396 A.2d 1158 (Ch.Div.1978).

## SUBCHAPTER 3. MEDIATION

### 19:12-3.1 Initiation of mediation

(a) In the event that a public employer and a certified or recognized employee representative have failed to achieve an agreement through direct negotiation, either the public employer, the employee representative, or the parties jointly, may notify the Director of Conciliation, in writing, of the existence of an impasse and request the appointment of a mediator. An original and four copies of such notification and request shall be filed and shall be signed and dated and shall contain the following information.

1. The name and address of the public employer who is a party to the collective negotiations; the name, address, telephone number, and title of its representative to be contacted; and the name, address and telephone number of any attorney/consultant representing the public employer;
2. The name and address of the employee representative who is a party to the collective negotiations; the name, address, telephone number, and title of its representative to be contacted; and the name, address and telephone number of any attorney/consultant representing the employee representative;
3. A description of the collective negotiations unit, including the approximate number of employees in the unit;
4. The dates and duration of negotiations sessions;
5. The termination date of the current agreement, if any;
6. The public employer's required budget submission date;