

CHAPTER 1E

DEPARTMENT OF LAW AND PUBLIC SAFETY

Authority

N.J.S.A. 47:1A-1, 52:14B-3, 52:14B-4, 52:17B-4 and 52:17B-4d; and Executive Order No. 9 (Hughes 1963).

Source and Effective Date

R.2007 d.161, effective April 19, 2007.
See: 39 N.J.R. 2124(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 1E, Department of Law and Public Safety, expires on October 16, 2014. See: 46 N.J.R. 751(a).

Chapter Historical Note

Chapter 1E, Department of Law and Public Safety, was adopted as new rules by R.2002 d.201, effective June 5, 2002. See: 34 N.J.R. 2317(b).

Subchapter 4, Rulemaking, was adopted as new rules by R.2003 d.42, effective January 21, 2003. See: 34 N.J.R. 2952(a), 35 N.J.R. 449(a).

Subchapter 1, Organization, was readopted as R.2007 d.161, effective April 19, 2007. See: 39 N.J.R. 2124(a).

Subchapter 4, Rulemaking, was readopted as R.2007 d.277, effective August 1, 2007. See: 39 N.J.R. 1990(a); 39 N.J.R. 3774(a).

Subchapter 1, Organization, and Subchapter 4, Rulemaking, were scheduled to expire on April 19, 2012.

Subchapter 3, Confidentiality of Records, was adopted as new rules by R.2011 d.287, effective December 5, 2011. See: 42 N.J.R. 2569(a), 43 N.J.R. 3188(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 1E, Department of Law and Public Safety, was scheduled to expire on April 19, 2014. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. ORGANIZATION

13:1E-1.1 Attorney General

The Attorney General is the chief executive officer of the Department of Law and Public Safety. The Attorney General is a constitutional officer who is appointed by the Governor with the advice and consent of the Senate to serve during the term of office of the Governor. The Attorney General functions as the sole legal advisor to State agencies and the chief law enforcement officer for criminal matters.

13:1E-1.2 Divisions and offices within the Department

(a) The Office of the Attorney General provides administrative support to the Attorney General and coordinates the administration of the divisions and agencies in the Department that are subject to the supervision of the Attorney General. The Office is responsible for establishing Departmental policies and procedures and acts as liaison with the Legislature. The Office of State Police Affairs is located in the Office of the Attorney General. The telephone number for the Office of the Attorney General Citizens Services is (609) 984-5828. Further information about the Department of Law and Public Safety is available at www.state.nj.us/lps.

(b) The Division of Law provides legal advice and representation to State officers, departments, boards, bodies, commissions and instrumentalities. The telephone number for the Division of Law is (609) 984-3900.

(c) The Division of Criminal Justice directs the enforcement and prosecution of criminal matters of the State. The Police Training Commission in the Division sets the standards for and approves all aspects of police training and certification. The Office of the State Medical Examiner enforces the State Medical Examiner Act and supervises county medical examiners. The Office of Government Integrity Fiscal Integrity in School Construction Unit performs integrity screening on pre-qualification applicants, compliance reviews and investigations for the Schools Construction Corporation. The Professional Responsibility Unit investigates allegations of misconduct or unconstitutional actions by law enforcement or professional personnel in the Department of Law and Public Safety or the 21 county prosecutors' offices. The Office of Victim-Witness Advocacy provides assistance to victims and witnesses and their families and has oversight of the 21 County Offices of Victim-Witness Advocacy within the county prosecutors' offices. The Office is also responsible for administering several Federal grant programs and the State Victim-Witness Advocacy Fund. The Office of Insurance Fraud Prosecutor (OIFP) is headed by an Insurance Fraud Prosecutor, appointed by the Governor, approved by the Senate and under the direction and supervision of the Attorney General. OIFP was created to provide for a more effective investigation and prosecution of fraud, and is responsible for conducting both civil and criminal investigations of allega-

tions of insurance fraud. The telephone number of the Division of Criminal Justice is (609) 984-6500.

(d) The Division of State Police has general law enforcement jurisdiction throughout the State. State Police provide primary law enforcement in municipalities that do not have their own police force. State Police provide Statewide enforcement of motor vehicle, criminal, marine and alcoholic beverage control laws. The Division regulates the business of private detectives and the operation of motor vehicle race tracks. The Office of Emergency Management operates under the direction of the Governor and the State Director of Emergency Management, who is the Superintendent of State Police. The telephone number of the Division of State Police is (609) 882-2000.

(e) The Division of Gaming Enforcement investigates all applications for casino or casino-related licenses, certificates and permits. The Division also reviews and audits casino operations, provides the Casino Control Commission with information necessary for the Commission's enforcement proceedings and prosecutes criminal violations of the Casino Control Act and violations of casino regulations. The State Athletic Control Board regulates boxing and other combative sports. The telephone number of the Division of Gaming Enforcement is (609) 292-9394.

(f) The Division of Alcoholic Beverage Control supervises and regulates the manufacture, distribution and sale of alcoholic beverages. The telephone number of the Division of Alcoholic Beverage Control is (609) 633-6078.

(g) The Division of the New Jersey Racing Commission has jurisdiction over thoroughbred and harness racing tracks and has the authority to regulate racing and licensing of all persons engaged in the racing industry. The telephone number of the Division of the New Jersey Racing Commission is (609) 292-0613.

(h) The Division on Civil Rights enforces the New Jersey Law Against Discrimination and is empowered to prevent and eliminate unlawful discrimination in employment, housing and places of public accommodation. The Director of the Division is empowered to order remedial action and award damages to successful claimants. The telephone number of the Division on Civil Rights is (609) 292-4605.

(i) The Division of Consumer Affairs administers and enforces the Consumer Affairs Act of 1971 and other laws related to consumer protection. The Bureau of Securities enforces State law concerning the registration and sale of securities and the licensing of brokers. The Office of Weights and Measures enforces State laws concerning packaging and weighing of commodities and the certification of scales and other delivery mechanisms. The Legalized Games of Chance Control Commission supervises the administration of the Bingo Licensing Law, the Raffles Licensing Law and the Amusement Games Licensing Law. The Division also includes professional boards that license and regulate profes-

sions and occupations. The telephone number of the Division of Consumer Affairs is (973) 504-6200.

(j) The Office of Highway Traffic Safety is responsible for establishing a Statewide highway traffic safety program and for coordinating State and local efforts to reduce highway deaths and injuries. The telephone number of the Office of Highway Traffic Safety is (609) 633-9300.

(k) The Division of Elections oversees mandated voter registration agencies in the State and reports to the Federal Elections Commission. The Division of Elections is the filing office for nomination petitions for Federal and State elective offices and certifies all such candidates to the 21 county clerks for placement on the primary and general election ballots. The Division is the repository for counties' vote totals and prepares the certifications of the general election results for the Board of State Canvassers. The Division acts as liaison to the United States Census Bureau regarding election district maps that are prepared by the county boards of election. The Division administers the regulatory authority of the Attorney General regarding voter registration, absentee ballots, election district maps and polling place accessibility. The telephone number of the Division of Elections is (609) 292-3760.

(l) The New Jersey Boat Regulation Commission promulgates rules concerning the operation, equipment and safety of vessels on the waters of the State. Administrative support to the Commission is provided by the Division of State Police Marine Services Bureau.

Amended by R.2007 d.161, effective April 19, 2007.
See: 39 N.J.R. 2124(a).

In (a), deleted "The Office of Government Integrity and the Office of Counter-Terrorism are also located in the Office of the Attorney General.", deleted "also" following "The Office of State Police Affairs is", and inserted the last sentence; rewrote (c); in (l), inserted "New Jersey" and substituted "Bureau" for "Unit" at the end; and deleted (m).

13:1E-1.3 Other agencies

(a) The following agencies are allocated to the Department of Law and Public Safety, but are not subject to the supervision of the Attorney General:

1. The Human Relations Council develops policy proposals for the State and assists with coordinating efforts to promote prejudice reduction and prevention and deter crimes based upon the victim's race, color, religion, national origin, sexual orientation, ethnicity, gender or physical or cognitive disability;

2. The State Ethics Commission initiates, receives, hears and reviews complaints regarding violations of the New Jersey Conflicts of Interest Law. The Commission also reviews and approves codes of ethics issued by executive branch agencies and is responsible for enforcing sections of the Casino Control Act concerning pre-employment interests and post-employment restrictions on mem-

bers of the Casino Control Commission and employees of the Division of Gaming Enforcement.

3. The Election Law Enforcement Commission enforces the New Jersey Campaign Expenditures and Reporting Law;

4. The Victims of Crime Compensation Board administers the Criminal Injuries Compensation Act. The Board provides Statewide victim-witness programs and information and conducts a victim counseling service;

5. The Juvenile Justice Commission is responsible for the management and operation of all State facilities and programs for juveniles involved in the juvenile justice system, adopts a Statewide Master Plan for effective provision of juvenile justice services and sanctions at the State, county and local level, administers the State/Community Partnership Grant Program, establishes county youth services commissions to implement the Partnership, and adopts standards for county juvenile detention facilities and programs; and

6. The Office of Homeland Security and Preparedness was established by Executive Order No. 5 (Corzine 2006). Included in the Office are the former Office of Counter Terrorism and the Domestic Security Preparedness Task Force. The Office of Homeland Security and Preparedness is responsible for planning, overseeing and distributing discretionary State and Federal homeland security and preparedness funding and is designated as the State Administrative Agency for all Federal homeland security funding. The Office of Homeland Security and preparedness is the central State agency responsible for gathering and disseminating intelligence and information relating to counterterrorism to other law enforcement agencies. The main telephone number of the Office is (609) 584-4000. To report suspicious activity the public should call 1-866-4-SAFE-NJ (1-866-472-3365).

Amended by R.2007 d.161, effective April 19, 2007.
See: 39 N.J.R. 2124(a).

In (a)2, substituted "State Ethics Commission" for "Executive Commission on Ethical Standards"; in (a)4, deleted "and" at the end; in (a)5, substituted "; and" for the period at the end; and added (a)6.

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. CONFIDENTIALITY OF RECORDS

13:1E-3.1 Scope and applicability

The rules in this subchapter apply to the Department of Law and Public Safety and all divisions and agencies in the Department, including those agencies allocated to the Department to satisfy the requirements of Article V, Section 4, Paragraph 1 of the New Jersey Constitution, commonly known as "in but not of" agencies.

13:1E-3.2 Records designated confidential

(a) In addition to records designated as confidential pursuant to the provisions of N.J.S.A. 47:1A-1 et seq., as amended and supplemented, any other law, regulation promulgated under the authority of any statute or Executive Order of the Governor, resolution of both houses of the Legislature, Executive Order of the Governor, Rules of Court, or any Federal law, Federal regulation, or Federal order, the following records shall not be considered government records subject to public access pursuant to N.J.S.A. 47:1A-1 et seq., as amended and supplemented:

1. Records concerning background investigations or evaluations for public employment, appointment to public office, or licensing, whether open, closed, or inactive;

2. Records, including standard operating procedures, manuals, and training materials, that may reveal: the identity of a confidential informant, a confidential source, a citizen informant, or undercover personnel; or an agency's surveillance, security, tactical, investigative, or operational techniques, measures, or procedures, which, if disclosed, would create a risk to the safety of persons, property, electronic data, or software, or compromise an agency's ability to effectively conduct investigations;

3. Records, including standard operating procedures, manuals, and training materials that may reveal: case or matter specific legal strategy or advice, attorney work product, attorney-client privileged material, or other privileged material;

4. Records, specific to an individual employee or employees – other than those records enumerated in N.J.S.A. 47:1A-10 as available for public access – and relating to or which form the basis of discipline, discharge, promotion, transfer, employee performance, employee evaluation, or other related activities, whether open, closed, or inactive, except for the final agency determination;

5. That portion of any inventory of State and local emergency resources compiled and any policies or plans compiled by an agency pertaining to the mobilization, deployment, or tactical operations involved in responding to emergencies, including employee emergency contact information, which, if disclosed, would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequences of potential acts of terrorism or sabotage;

6. Records pertaining to the collective negotiations process; and

7. The duty assignment of an individual law enforcement officer or any personally identifiable information that may reveal or lead to information that may reveal such duty assignment, including, but not limited to, overtime data pertaining to an individual law enforcement officer.

Amended by R.2014 d.056, effective April 7, 2014.
See: 45 N.J.R. 2023(a), 46 N.J.R. 627(c).

In the introductory paragraph of (a), inserted a comma following the second occurrence of "regulation"; deleted former (a)1; recodified former (a)2 and (a)3 as (a)1 and (a)2; in (a)1, inserted a comma following "office" and following "closed"; rewrote (a)2 and (a)4, and added new (a)3.

SUBCHAPTER 4. RULEMAKING

13:1E-4.1 Applicability of rules

This subchapter applies to all rules proposed under the authority of the Attorney General or under the authority of a division, office or board in the Department of Law and Public Safety that is subject to the supervision of the Attorney General. Agencies allocated to the Department of Law and Public Safety to fulfill the purposes of N.J. Const., Art. 5, Sec. 4, Par. 1, which are not subject to the supervision of the Attorney General, may incorporate this rule by reference into rules of practice adopted by such agencies.

13:1E-4.2 Additional time for public comments

(a) If sufficient public interest is demonstrated within 30 days of the publication of a rulemaking proposal in the New Jersey Register, the proposing agency shall provide an additional 30 days for submission of comments on the proposal. Agencies that provide an initial comment period of at least 60 days in the notice of proposal may elect to extend the comment period beyond 60 days but are not required by this rule to do so.

(b) Public interest in additional time to submit comments shall be determined by the agency based on written requests to the address to which comments are to be sent contained in the proposal. Public interest in additional time shall be sufficient to require an additional 30 days to submit comments if written comments received within 30 days of publication of the proposal in the New Jersey Register request additional time to present data, arguments or views that raise a substantial issue as to the impact of the proposal on the regulated community or the general public that has not been anticipated by the agency. Persons requesting additional time shall specify the impact or issue to be addressed.

13:1E-4.3 Public hearings

(a) The agency shall hold a public hearing on a rulemaking proposal at the request of a committee of the Legislature, or a governmental agency or subdivision, or if sufficient public interest in a public hearing is demonstrated within 30 days of the publication of the proposal in the New Jersey Register.

(b) Public interest in holding a public hearing shall be determined by the agency based on written requests to the address to which comments are to be sent contained in the proposal. Public interest in holding a public hearing shall be sufficient if:

1. At least 50 persons submit written requests to hold a public hearing to present data, arguments or views that raise a substantial issue as to the impact of the proposal on the regulated community or the general public that has not been anticipated by the agency; and

2. No other public hearing on the proposal has been scheduled or held by the agency under this rule or other applicable law or rule.

(c) For the purposes of (b)1 above, a professional organization or law firm that submits a request for a public hearing on behalf of a group of interested parties shall be considered one person.

(d) Any public hearing held under (a) above may be held in conjunction with an open public meeting of the proposing agency or as otherwise determined by the agency, consistent with the requirements of N.J.A.C. 1:30-5.5. The agency shall not be required to hold more than one public hearing on any proposal.

13:1E-4.4 Additional public notice

(a) In addition to publication of the proposal in the New Jersey Register, agencies shall provide additional notice of the proposal using the following methods:

1. Distribution of a press release to the news media maintaining a press office in the State House Complex;

2. Posting the proposal or a summary of the substance of the proposal on the agency's website during the comment period, or if the agency does not maintain its own website, on the Department of Law and Public Safety website; and

3. One or more of the following methods:

i. Publication of the full text of the proposal or a summary of the substance of the proposal in a trade, industry or government publication generally used by the agency for distribution of official notices and information;

ii. Mailing of the full text of the proposal to a distribution list either electronically or through regular mail if the circumstances in (a)3i above do not apply and the agency uses a distribution list to communicate with the regulated community and interested parties generally;

iii. Publication of a notice summarizing the substance of the proposal and the time and method of submitting public comments in at least two newspapers of general circulation if the circumstances in (a)3i or ii above do not apply and the agency determines that the cost is justified; or

iv. Distribution of a general press release summarizing the substance of the proposed action if none of the circumstances in (a)3i, ii or iii above apply.