

**CHAPTER 15****SCOPE****Authority**

N.J.S.A. 34:1-5, 34:1-20, 34:1A-3(c), 34:1A-3(e), 43:21-1 et seq., 43:21-3(c), 43:21-4(e), 43:21-7(b)(3), 43:21-7.3(e), 43:21-19(t), 43:21-27, 43:21-40, 43:21-41 and 44:8-114.

**Source and Effective Date**

R.2000 d.280, effective June 12, 2000.  
See: 32 N.J.R. 1487(a), 32 N.J.R. 2442(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 15, Scope, expires on December 9, 2005. See: 37 N.J.R. 2295(a).

**Chapter Historical Note**

Chapter 15, Scope, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 15, Scope, was readopted as R.1990 d.419, effective June 30, 1990. See: 22 N.J.R. 1895(b), 22 N.J.R. 2508(a).

Pursuant to Executive Order No. 66(1978), Chapter 15, Scope, was readopted as R.1995 d.389, effective June 23, 1995. See: 27 N.J.R. 1946(a), 27 N.J.R. 2693(a).

Subchapter 2, Disclosure of Information, was adopted as R.1997 d.141, effective March 17, 1997. See: 29 N.J.R. 89(a), 29 N.J.R. 896(a).

Pursuant to Executive Order No. 66(1978), Chapter 15, Scope, was readopted as R.2000 d.280, effective June 12, 2000. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL PROVISIONS****12:15-1.1 Purpose and scope of rules and regulations**

(a) Under the Unemployment Compensation Law and the Temporary Disability Benefits Law, benefits financed from tax or contributions are paid to eligible workers who become unemployed or disabled.

(b) The unemployment benefits are paid from moneys contributed to a State Unemployment Compensation Fund, and temporary disability benefits from moneys contributed to the State Disability Benefits Fund or from private plans approved by the Department of Labor and established by employers for such purposes.

(c) The rules and regulations contained in this subchapter are agency statements of general applicability, and are intended to assist in the implementation of the basic provisions of the laws pertaining to unemployment compensation and temporary disability benefits.

New rule, R.1985 d.423, effective August 19, 1985.  
See: 17 N.J.R. 1378(a), 17 N.J.R. 2046(b).

This section expired December 31, 1984 and was readopted as a new rule pursuant to Executive Order 66(1978) effective August 19, 1985. Amended by R.1995 d.389, effective July 17, 1995.  
See: 27 N.J.R. 1946(a), 27 N.J.R. 2693(a).

**Case Notes**

Employer's control and employee's financial dependence precluded determination that boat broker qualified as independent contractor. *SFB Associates, Inc. v. New Jersey Department of Labor*, 96 N.J.A.R.2d (LBR) 59.

Employer owed unemployment compensation benefit contributions for payments made to employer's vice president where employer failed to prove that vice president was engaged in independently established business or trade. *Technical Testing, Inc. v. New Jersey Department of Labor*, 96 N.J.A.R.2d (LBR) 57.

Employer was liable for unemployment contributions, based upon its failure to show that sales representatives customarily engaged in independently established trade. *Holmdel Mausoleum, Inc. v. New Jersey Department of Labor*, 96 N.J.A.R.2d (LBR) 35.

Individual who derived majority of his income from one company qualified as employee for purposes of unemployment benefits eligibility. *R.D. Restoration, Inc. v. New Jersey Department of Labor*, 96 N.J.A.R.2d (LBR) 29.

Claimant working as consultant was not entitled to unemployment compensation benefits. In the Matter of D.D.W., 96 N.J.A.R.2d (UCC) 12.

Lump-sum distribution of full employer-contributed pension benefits upon discharge precluded award of unemployment compensation benefits. In the Matter of S.J.R., 96 N.J.A.R.2d (UCC) 9.

School board employee was not eligible for unemployment compensation benefits for summer before start of renewal contract, despite fact that board failed to give employee actual notice that contract had been renewed. In the Matter of V.C.G., 96 N.J.A.R.2d (UCC) 8.

Repeated tardiness and excessive absences which resulted in discharge constituted misconduct which rendered claimant ineligible for unemployment compensation benefits. In the Matter of T.D., 96 N.J.A.R.2d (UCC) 6.

Claimant who left job after employer repeatedly shorted paycheck was not disqualified from receiving unemployment compensation benefits. In the Matter of R.B., 96 N.J.A.R.2d (UCC) 5.

Claimant who refused employment without good cause for doing so was not entitled to unemployment compensation benefits. In the Matter of M.A.T., 96 N.J.A.R.2d (UCC) 5.

Claimant was not in school full-time and was not entitled to additional unemployment benefits during training. *Matter of A.P.*, 95 N.J.A.R.2d (UCC) 23.

Previous workers' compensation award for back injury did not preclude unemployment claimant's state plan disability award for pregnancy. Matter of A.E.D., 95 N.J.A.R.2d (UCC) 22.

Unemployment claimant's work filling in for employee on maternity leave was not outside employer's usual course of business. Matter of M.S., 95 N.J.A.R.2d (UCC) 21.

Unemployment claimant could not be paid benefits for disability that was compensable under workers' compensation. Matter of J.T.S., 95 N.J.A.R.2d (UCC) 18.

Discharge of unemployment claimant for failure to renew license necessary to his employment was misconduct. Matter of R.F.B., 95 N.J.A.R.2d (UCC) 17.

Unemployment claimant's resignation to avoid probation for absenteeism was without good cause. Matter of D.G.A.B., 95 N.J.A.R.2d (UCC) 16.

Late appeal by unemployment claimant misinformed as to timely appeal procedure was for good cause. Matter of C.B., 95 N.J.A.R.2d (UCC) 15.

Claimant laid off from preschool/day care facility during summer was not disqualified from unemployment. Matter of J.S.R., 95 N.J.A.R.2d (UCC) 14.

Resignation after unemployment claimant's position was changed was without good cause attributable to work. Matter of A.L.R., Jr., 95 N.J.A.R.2d (UCC) 13.

Unemployment claimant was ineligible for workforce development program grant and additional benefits during training. Matter of L.J.B., 95 N.J.A.R.2d (UCC) 10.

Acceptance of early retirement option was voluntary without good cause attributable to unemployment claimant's work. Matter of B.O., 95 N.J.A.R.2d (UCC) 9.

Unemployment claimant's acceptance of early retirement was voluntary with good cause attributable to work. Matter of E.F.B., 95 N.J.A.R.2d (UCC) 8.

Requirements for a work search waiver in connection with unemployment claim were met. Matter of G.A.W., 95 N.J.A.R.2d (UCC) 5.

Expression of an inability to work by unemployment claimant was not a refusal to perform available, suitable work. Matter of D.M.D., 95 N.J.A.R.2d (UCC) 4.

Leaving work and accepting employer's early retirement plan upon plant shutdown was voluntary without good cause on part of unemployment claimant. Matter of W.F.B., 95 N.J.A.R.2d (UCC) 3.

Employee who was incarcerated disqualified from unemployment benefits. In the Matter of J.J.L., 95 N.J.A.R.2d (U.C.C.) 1.

Separation after unemployment claimant's incarceration due to conviction of criminal offense was voluntary without good cause. Matter of J.J.L., 95 N.J.A.R.2d (UCC) 1.

Driving instructors were employees for purposes of assessment of unemployment and temporary disability contributions. Dual Control Auto Driving School v. New Jersey Department of Labor, 94 N.J.A.R.2d (LBR) 65.

Security guards were not independent contractors; unemployment and temporary disability contributions. J. DiSanti Concrete Corp. v. Department of Labor, 94 N.J.A.R.2d (LBR) 55.

Company supplying personnel to churches; unemployment insurance contributions. Church Personal Services, Inc. v. Department of Labor, 94 N.J.A.R.2d (LBR) 51.

Travel agency failed to prove that employees were independent contractors. Ro-Burt Travel, Inc. v. Department of Labor, 94 N.J.A.R.2d (LBR) 46.

Contractor failed to prove that employees were independent contractors. Taylor v. Department of Labor, 94 N.J.A.R.2d (LBR) 33.

Bandleader ordered to pay unemployment and disability contributions as employer. Koza v. Department of Labor, 94 N.J.A.R.2d (LBR) 16.

Installers and salespersons were not independent contractors but employees. Beautyguard Manufacturing Company of Middlesex, Inc. v. Department of Labor, 94 N.J.A.R.2d (LBR) 13.

Contractors were not independent operators but were employees. Tri-County Appliance Service Company, Inc., v. Department of Labor, 94 N.J.A.R.2d (LBR) 7.

Monetary determination for unemployment was based on both school and non-school employment and wages. Matter of D.E.E., 93 N.J.A.R.2d (UCC) 42.

Resignation in lieu of imminent discharge was not an unemployment disqualification. Matter of D.S., 93 N.J.A.R.2d (UCC) 41.

Termination while on disability did not disqualify claimant from unemployment. Matter of M.M.S., 93 N.J.A.R.2d (UCC) 40.

Remuneration while performing in employer's usual course of business constituted wages required for valid unemployment claim. Matter of A.S., 93 N.J.A.R.2d (UCC) 39.

Resignation in face of probable discharge to protect record was involuntary separation in unemployment case. Matter of A.P., Jr., 93 N.J.A.R.2d (UCC) 37.

Earlier insubordination was not reason for discharge and was not disqualifying misconduct in unemployment case. Matter of J.J.M., 93 N.J.A.R.2d (UCC) 36.

Acceptance of gratuity in performance of duties as town sanitation laborer was work connected misconduct disqualifying claimant from unemployment. Matter of L.L.M., 93 N.J.A.R.2d (UCC) 35.

Failure of unemployment claimant to supply medical note for extended leave was misconduct connected with work. Matter of J.L.C., 93 N.J.A.R.2d (UCC) 35.

Refusal of unemployment claimant to accept work between which there was little difference was not voluntary without good cause. Matter of E.M.P., 93 N.J.A.R.2d (UCC) 34.

Recurring negligence in duties as bank teller was misconduct disqualifying unemployment claimant from benefits. Matter of V.L., 93 N.J.A.R.2d (UCC) 33.

Gross misconduct in discharge of duties as sheriff's officer operated as an unemployment disqualification. Matter of L.S., 93 N.J.A.R.2d (UCC) 31.

Services for employer operating three bridges connecting New Jersey with Pennsylvania were in New Jersey employment for unemployment purposes. Matter of G.W.M., 93 N.J.A.R.2d (UCC) 29.

Separation which occurred when unemployment claimant's own conduct resulted in loss of a prerequisite of employment was voluntary. Matter of M.K., 93 N.J.A.R.2d (UCC) 28.

Unemployment claimant ineligible for summer benefits when under reasonable assurance of performing similar services in next academic year. Matter of M.A.K., 93 N.J.A.R.2d (UCC) 27.

Summer lull between nonprofessional services in one school year and professional services in next school year was not a period of unemployment eligibility. Matter of J.M.B., 93 N.J.A.R.2d (UCC) 25.

Resignation after disability due to non-work connected accident was voluntary and disqualifying. Matter of S.D.G., 93 N.J.A.R.2d (UCC) 25.

Resignation after confrontation with co-worker was voluntary without good cause attributable to work. Matter of R.G., 93 N.J.A.R.2d (UCC) 24.

pensation benefit years and periods of disability commencing on or after January 1, 2006.

R.1984 d.520, effective November 5, 1984.

See: 16 N.J.R. 2345(b), 16 N.J.R. 3050(c).

Amended by R.1985 d.542, effective November 4, 1985 (operative January 1, 1986).

See: 17 N.J.R. 2080(b), 17 N.J.R. 2668(a).

Alternative earnings amount raised from \$4,100 to \$4,600.

Amended by R.1986 d.454, effective November 17, 1986 (operative January 1, 1987).

See: 18 N.J.R. 1788(a), 18 N.J.R. 2331(c).

Alternative earnings raised from \$4,600 to \$4,900.

Amended by R.1987 d.471, effective November 16, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1623(b), 19 N.J.R. 2196(e).

Alternative earnings raised from \$4,900 to \$5,200.

Amended by R.1988 d.535, effective November 7, 1988.

See: 20 N.J.R. 2187(a), 20 N.J.R. 2786(a).

Alternative earnings raised from \$5,200 to \$5,500.

Amended by R.1989 d.565, effective November 6, 1989.

See: 21 N.J.R. 2700(a), 21 N.J.R. 3535(a).

Alternative earnings amount raised to \$6,000 for 1990.

Amended by R.1990 d.597, effective December 3, 1990.

See: 22 N.J.R. 2885(a), 22 N.J.R. 3627(a).

Alternative earnings amount raised to \$6,200 for 1991.

Amended by R.1991, d.573, effective November 18, 1991.

See: 23 N.J.R. 2611(a), 23 N.J.R. 3519(a).

Alternative earnings amount raised to \$6,600 for 1992.

Amended by R.1992 d.454, effective November 16, 1992.

See: 24 N.J.R. 3014(a), 24 N.J.R. 4269(a).

Revised text.

Amended by R.1993 d.589, effective November 15, 1993.

See: 25 N.J.R. 3922(a), 25 N.J.R. 5351(a).

Amended by R.1994 d.552, effective November 7, 1994.

See: 26 N.J.R. 3592(b), 26 N.J.R. 4410(a).

Recodified from 12:15-1.7 and amended by R.1995 d.389, effective July 17, 1995.

See: 27 N.J.R. 1946(a), 27 N.J.R. 2693(a).

Amended by R.1995 d.628, effective December 4, 1995.

See: 27 N.J.R. 3760(a), 27 N.J.R. 4898(a).

Amended by R.1996 d.513, effective November 4, 1996.

See: 28 N.J.R. 4044(a), 28 N.J.R. 4789(a).

Amended by R.1997 d.464, effective November 3, 1997.

See: 29 N.J.R. 3768(a), 29 N.J.R. 4689(b).

In (a), changed the benefit rate; and in (a) and (b), substituted "1998" for "1997".

Amended by R.1998 d.546, effective November 16, 1998.

See: 30 N.J.R. 3150(a), 30 N.J.R. 4052(a).

In (a), raised the alternative earnings amount from \$8,300 to \$8,700 and changed the calendar year from 1998 to 1999; and in (b), changed the calendar year from 1998 to 1999.

Amended by R.1999 d.438, effective December 20, 1999.

See: 31 N.J.R. 3035(a), 31 N.J.R. 4284(a).

Increased alternative earnings amounts, and substituted references to 2000 for references to 1999 throughout.

Amended by R.2000 d.488, effective December 4, 2000.

See: 32 N.J.R. 3379(a), 32 N.J.R. 4258(c).

In (a), increased dollar amount; and in (a) and (b), changed the calendar year from 2000 to 2001.

Amended by R.2001 d.298, effective August 20, 2001.

See: 33 N.J.R. 1849(a), 33 N.J.R. 2814(b).

Amended N.J.S.A. reference and substituted "\$5,200" for "\$9,500"; deleted (b).

Amended by R.2001 d.406, effective November 5, 2001.

See: 33 N.J.R. 2945(a), 33 N.J.R. 3752(a).

Substituted "2002" for "2001".

Amended by R.2002 d.391, effective December 2, 2002.

See: 34 N.J.R. 3056(a), 34 N.J.R. 4222(a).

Substituted "2003" for "2002".

Amended by R.2003 d.505, effective December 15, 2003.

See: 35 N.J.R. 4038(a), 35 N.J.R. 5546(b).

Substituted "2004" for "2003".

Amended by R.2004 d.473, effective December 20, 2004.

See: 36 N.J.R. 3986(a), 36 N.J.R. 5684(c).

Substituted "2005" for "2004".

Amended by R.2005 d.449, effective December 19, 2005.

See: 37 N.J.R. 3219(a), 37 N.J.R. 5045(a).

Increased the earnings amount from \$5,200 to \$6,200; updated the calendar year from 2005 to 2006.

## SUBCHAPTER 2. DISCLOSURE OF INFORMATION

### 12:15-2.1 Disclosure of information; general prohibition

No disclosure of information obtained at any time from, and identifiable to, specific workers, employers or other persons in the course of administering the New Jersey Unemployment Compensation and Temporary Disability Benefits Laws shall be made directly or indirectly, except as authorized by the Commissioner or his or her representative in accordance with this subchapter.

### 12:15-2.2 Authorized disclosure of information

(a) Disclosure of any information in the course of administering the New Jersey Unemployment Compensation and Temporary Disability Benefits Laws may be authorized in the following cases for the following purposes:

1. To individual applicants and employers to the extent necessary for the efficient performance of recruitment, placement, employment counseling, and other employment service functions.

2. To any properly identified claimant for benefits or payments under an unemployment compensation or trade readjustment allowance law of the Federal government, or of a state or territorial government, or of a foreign government with which reciprocal arrangements have been made, or to his or her duly authorized representative, information which directly concerns the claimant and is reasonably necessary for the proper presentation of his or her claim;
  - i. Requests for claim-related information received directly from a claimant or employers who are parties to a claim, in writing, in person or by telephone are to be honored once the identity of the claimant or employer has been verified and provided that the intended use of such information does not conflict with the provisions of N.J.S.A. 43:21-11(g).
  - ii. Telephone, informal, or written requests from an attorney or other individual who states that he or she is the claimant's representative are not to be honored unless the claimant provides the Department with a signed and dated authorization for the release of the specified information;

3. To claimants, employers, and the public, disclosure of the names, geographic location and standard industrial

classification (SIC) or North American Industry Classification (NAIC) of employers except where the disclosure of physical location may jeopardize the health and/or safety of an employer, its workforce or its clients. Such release shall not include number of employees, employment rank, employment size class, wages, taxes, client information or any other data identifiable to individual employers, to more than one employer with the same trade name, or to employees;

4. To officers or employees of any agency of the Federal government or any state, territorial or local government (or officers or employees of a foreign government agency with which reciprocal arrangements have been made and which is lawfully charged with the administration of an unemployment compensation or trade readjustment allowance law) if such disclosures will not impede the operation of, and are not inconsistent with, the purposes of the New Jersey Unemployment Compensation and Temporary Disability Benefits Laws.

i. Requests by law enforcement agents for the release of Departmental information shall be made in writing, and the identity of the requester shall be verified prior to the release of information by the showing of a badge, warrant, written and signed request on agency letterhead, or some other similar indication of official purpose.

(1) Information which may be released includes the claimant's name, current address, current or most recent employer, and the next scheduled reporting date; and

(2) A request for surveillance or photography in connection with an investigation must be approved in writing by the Director of the Division of Unemployment Insurance or the Director of Temporary Disability Insurance as appropriate.

ii. Public officials shall establish that the information requested is to be used in furtherance of their public duties and shall certify in writing that the confidentiality of the disclosed information shall be maintained.

(1) Telephone inquiries from public officials may be answered verbally, provided that the identity of the caller can be verified; and

(2) Written requests by public officials on official letterhead shall be honored, provided that the information shall be used in furtherance of their public duty or provided that the claimant has requested that the information be released.

iii. Information may be disclosed to third parties under contract to public agencies if the disclosure of such information is for the sole purpose of assisting

officials in the furtherance of their public duties. Both the third party and the public agency official must certify in writing that the disclosed information will be used only for this purpose and that the confidentiality of the disclosed information will be maintained as mandated by State and/or Federal law.

5. To officers or administrators of public or private organizations such as colleges, universities, or foundations to perform research or engage in public service activities, which can be expected to benefit the residents of New Jersey by improving or promoting their health, safety, economic or social well-being, provided that the benefit of such research or public service activity to New Jersey residents is certified in writing by the administrator of the New Jersey municipal, county or State executive agency, or his or her designated representative, and provided that such disclosure shall not impede the operation of, and is not inconsistent with, the purposes of the New Jersey Unemployment Compensation and Temporary Disability Benefits Laws, and provided that the officer or administrator of the agency engaged in research or other public service activities certifies in writing that the confidentiality of the disclosed information shall be maintained and provided that the agency agrees to share the results of any research based on the disclosed information with the Department of Labor upon request.

(b) Individuals may be assessed reasonable administrative costs for the copying of records and any other costs for obtaining the information requested in accordance with the New Jersey Right-to-Know Law, N.J.S.A. 47:1A-2.

Amended by R.1998 d.547, effective November 16, 1998.  
See: 30 N.J.R. 3152(a), 30 N.J.R. 4052(b).  
In (a), rewrote 3, 4iii and 5.

### 12:15-2.3 Benefit appeal related information

Any request for the release of information connected with the proper presentation of an unemployment or temporary disability insurance claim before the Appeal Tribunal or the Board of Review shall be considered in accordance with N.J.A.C. 1:12-10.1.

New Rule, R.1998 d.547, effective November 16, 1998.  
See: 30 N.J.R. 3152(a), 30 N.J.R. 4052(b).

Former N.J.A.C. 12:15-2.3, Unauthorized disclosure of information, was recodified to N.J.A.C. 12:15-2.4.

### 12:15-2.4 Unauthorized disclosure of information

Nothing contained in this subchapter shall, or shall be construed to, contravene 20 C.F.R. 401.1 et seq., relating to the disclosure of official records and information.

Recodified from N.J.A.C. 12:15-2.3 by R.1998 d.547, effective November 16, 1998.  
See: 30 N.J.R. 3152(a), 30 N.J.R. 4052(b).