CHAPTER 105

ARBITRATION

Authority

N.J.S.A. 34:1-20, 34:1A-3(e) and 34:13A-1 et seq., specifically 34:13A-11.

Source and Effective Date

R.2006 d.192, effective April 21, 2006.
See: 37 N.J.R. 4517(a), 38 N.J.R. 2165(a).

Chapter Expiration Date

Chapter 105, Arbitration, expires on April 21, 2011.

Chapter Historical Note

Chapter 105, Arbitration, was adopted and became effective prior to September 1, 1969.

Chapter 105, Arbitration, was repealed and Chapter 105, Arbitration, was adopted as new rules by R.1980 d.397, effective September 17, 1980. See: 12 N.J.R. 423(a), 12 N.J.R. 605(a). Pursuant to Executive Order No. 66(1978), Chapter 105 expired on September 17, 1985.

Chapter 105, Arbitration, was adopted as new rules by R.1985 d.702, effective January 21, 1986. See: 17 N.J.R. 2526(b), 18 N.J.R. 198(a).

Pursuant to Executive Order No. 66(1978), Chapter 105, Arbitration, was readopted by R.1991 d.54, effective January 11, 1991. See: 22 N.J.R. 3616(a), 23 N.J.R. 310(c).

Pursuant to Executive Order No. 66(1978), Chapter 105, Arbitration, was readopted as R.1996 d.26, effective December 13, 1995. See: 27 N.J.R. 4126(a), 28 N.J.R. 270(b).

Pursuant to Executive Order No. 66(1978), Chapter 105, Arbitration, was readopted as R.2000 d.489, effective November 8, 2000. See: 32 N.J.R. 3554(a), 32 N.J.R. 4259(a).

Chapter 105, Arbitration, was readopted as R.2006 d.192, effective April 21, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

12:105-1.1 Rules incorporated in arbitration agreements

(a) The rules and regulations contained in this chapter shall be deemed a part of an arbitration agreement between parties whenever in their collective bargaining agreements or submissions they have provided for arbitration through the New Jersey State Board of Mediation or under its rules.

(b) This chapter, or any amendments thereof, properly adopted by the board, shall apply in the form obtaining at the time the procedure is instituted.

Case Notes

Former employee, as third-party beneficiary of collective bargaining agreement, had right to bring action to compel arbitration on employee's claims against employer. D'Arrigo v. New Jersey State Bd. of Mediation, 228 N.J.Super. 189, 549 A.2d 451 (A.D.1988), certification granted 115 N.J. 73, 556 A.2d 1217, reversed 119 N.J. 74, 574 A.2d 44.

12:105-1.2 Interpretation and application of rules

(a) The arbitrator shall interpret and apply the rules in this chapter insofar as they relate to his or her powers and duties.

(b) If there is more than one arbitrator and a difference arises among them concerning the meaning or application of any such rules, it shall be decided by a majority vote.

(c) All other rules shall be interpreted by an authorized representative of the board.

Amended by R.1996 d.26, effective January 16, 1996.
See: 27 N.J.R. 4126(a), 28 N.J.R. 270(b).

SUBCHAPTER 2. INITIATION OF ARBITRATION

12:105-2.1 Collective bargaining agreement designation

(a) Arbitration proceedings may be instituted in any one of the following methods:

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1. Under collective bargaining agreements wherein the board is designated as the agency through which action is to be taken as the final step of the grievance procedure.

2. Either party to such collective bargaining agreement may demand arbitration under the terms of the agreement by sending to the other party and to the board a statement outlining the nature of the dispute and the remedy sought. The statement to the board also should contain a copy of the collective bargaining agreement or of the contract grievance procedure.

Case Notes

Former employee could proceed with arbitration claim against employer, despite claim of failure to comply with collective bargaining agreement's express time limitations. D'Arrigo v. New Jersey State Bd. of Mediation, 228 N.J.Super. 189, 549 A.2d 451 (A.D.1988), certification granted 115 N.J. 73, 556 A.2d 1217, reversed 119 N.J. 74, 574 A.2d 44.

12:105-2.2 Collective bargaining agreement non-designation

Request for arbitration may be made by either party under a general arbitration clause in a collective bargaining agreement where the parties have agreed by stipulation or otherwise to arbitrate under the administration and rules of the Board.

12:105-2.3 Mutual request for arbitration

Arbitration may also be initiated by the board, whether or not a collective bargaining agreements exists, upon filing a copy of a written agreement by the parties to arbitrate under the rules and regulations of the board.

12:105-2.4 Expedited arbitration

(a) Pursuant to written mutual agreement by the parties certain provisions of the arbitration appointment procedure (as prescribed in subchapter 3) may be modified in order to provide the expedited designation of an arbitrator.

(b) The board will endeavor to conform with the wishes of the parties wherever possible.

(c) Upon designation of an arbitrator, all rules and regulations not specifically modified shall remain in force.

(d) Pursuant to written mutual agreement by the parties in disputes where pension and welfare fund payments delinquencies is the sole issue alleged, the moving party may request an expedited designation of an arbitrator by proceeding directly to a "third list" panel (as prescribed in N.J.A.C. 12:105-3.1). The board will notify the employer representative of the claimed dispute and the request for expedited arbitration by certified mail, return receipt requested. Immediately thereafter, the board will proceed in accordance with the provisions of N.J.A.C. 12:105-3.1(c).

12:105-2.5 Procedural determinations

(a) Should questions arise in connection with the request of either party to combine grievances to be heard before the arbitrator, said questions shall be determined by the arbitrator as a threshold issue and in no way will a determination be made by the board.

(b) Should questions arise in connection with arbitrability of a grievance, said questions shall be determined by the arbitrator as a threshold issue and in no way will a determination be made by the board.

SUBCHAPTER 3. APPOINTMENT OF ARBITRATORS

12:105-3.1 Nomination of arbitrators

(a) First list:

1. Upon receipt of a Demand or submission for arbitration, the board shall submit simultaneously to the parties an identical list of 10 names chosen from the panel, including a biographical sketch and a per diem fee for each arbitrator.

2. Each party within 10 working days from the date of mailing said lists shall strike those names deemed unacceptable and return said list to the board. Parties may list a preference among those deemed acceptable.

3. The board shall designate as arbitrator a person available from those lists who is acceptable to both parties.

4. If either party objects to the complete list of 10 names as submitted, it may request that the board submit a new list of 10 names.

(b) Second list:

1. If requested, the board will forward a second list of 10 names to the parties.

2. Each party within five working days from the date of mailing said list shall strike those names deemed unacceptable and return said list to the board. Parties may list a preference among those deemed acceptable.

3. The board shall designate as arbitrator a person available from those lists who is acceptable to both parties.

4. If either party objects to the complete second list of 10 names as submitted, it may request a third and final list of three names.

(c) Third list:

1. If requested, the board will forward a third and final list of three names to the parties.