

CHAPTER 19
PAYROLL DEDUCTION DETERMINATIONS—
REPRESENTATION FEES

Authority

N.J.S.A. 34:13A-5.9.

Source and Effective Date

R.2003 d.99, effective March 3, 2003.
See: 34 N.J.R. 3698(a), 35 N.J.R. 1270(a).

Chapter Expiration Date

Chapter 19. Payroll Deduction Determinations-Representation Fees,
expires on March 3, 2008.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. NATURE OF PROCEEDINGS

19:19-1.1 Nature of proceedings

SUBCHAPTER 2. INITIATION OF PROCEEDINGS

19:19-2.1 Who may file

19:19-2.2 Contents of petition for payroll deduction determination

SUBCHAPTER 3. PROCEDURE

19:19-3.1 Amendment; withdrawal; dismissal; consolidation

19:19-3.2 Response

19:19-3.3 Where to file; number of copies; service

19:19-3.4 Amendment to response

19:19-3.5 Reply

19:19-3.6 Investigation; disposition

SUBCHAPTER 4. REQUEST FOR COMMISSION REVIEW

19:19-4.1 Request for Commission review

19:19-4.2 Grounds for granting a request for review

19:19-4.3 Contents of request for review; timely presentation of facts

19:19-4.4 Statement in opposition to a request for review

19:19-4.5 Waiver of right to request review

19:19-4.6 Stay of decision; record before the Commission; withdrawal;
oral argument; Commission decision

19:19-4.7 Oral argument

19:19-4.8 Decision by the Commission

**SUBCHAPTER 5. TRANSFER TO THE COMMISSION;
RECONSIDERATION**

19:19-5.1 Transfer to the Commission on its own motion

19:19-5.2 Motion for Commission reconsideration

SUBCHAPTER 1. NATURE OF PROCEEDINGS

19:19-1.1 Nature of proceedings

(a) N.J.S.A. 34:13A-5.5 requires negotiations over the subject of requiring employees in a negotiations unit who are not members of their majority representative to pay a representation fee in lieu of dues to their majority represen-

tative. As amended by P.L. 2002, c.46, effective August 1, 2002, that section permits the majority representative to petition the Commission to conduct an investigation if no agreement for representation fees in lieu of dues by payroll deduction is reached during negotiations. If the Commission determines that a majority of the negotiations unit employees are voluntary dues paying members of the majority representative and that the majority representative maintains a demand and return system as required by N.J.S.A. 34:13A-5.5(c) and 5.6, the Commission shall order the public employer to institute a payroll deduction of the representation fee in lieu of dues from the wages or salaries of the negotiations unit employees who are not members of the majority representative.

(b) These procedures are intended to avoid protracted administrative litigation. Proceedings seeking payroll deductions of representation fees will normally lend themselves to expeditious disposition on the basis of the parties' submissions, which these procedures are intended to accommodate.

SUBCHAPTER 2. INITIATION OF PROCEEDINGS

19:19-2.1 Who may file

Only the majority representative may petition for a payroll deduction determination. The majority representative must file an original and four copies of a petition for payroll deduction determination, together with a proof of service of a copy of the petition on the employer. A copy of each petition shall be retained in a public docket until the case is closed.

19:19-2.2 Contents of petition for payroll deduction determination

(a) A petition for payroll deduction determination shall:

1. Specify the full name, address, and telephone number of the petitioning majority representative;

2. Specify the full name, address and telephone number of the employer;

3. Specify that the petitioner and the employer have negotiated concerning the subject of representation fees in lieu of dues and that no agreement requiring such payments has been reached;

4. Specify the collective negotiations unit description and the number of employees in the unit represented by the petitioner, and attach any pertinent certification of majority representative issued by the Commission or recognition agreement executed by the employer or recognition clause contained in the parties' current or most recent collective negotiations agreement;

5. List the employees in the negotiations unit who are voluntary dues paying members of the majority representative as of the time of the filing of the petition, and attach any documents pertinent to verifying that list; and

6. Provide a written copy of the demand and return system, as required by N.J.A.C. 19:17-3.3(a), to be used by the majority representative if payroll deductions are ordered.

(b) A petition shall be in writing and the representative of the party filing the petition shall make this dated and signed certification: "I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief."

SUBCHAPTER 3. PROCEDURE

19:19-3.1 Amendment; withdrawal; dismissal; consolidation

(a) The Chairman or such other Commission designee may permit the petitioner to amend the petition at any time upon such terms as may be deemed just. Filing, service, and proof of service of such amended petition shall conform to the provisions of these rules relating to the original petition for payroll deduction determination.

(b) A petition for payroll deduction determination shall be dismissed and the case closed if the petitioner files a notice of withdrawal. Unless otherwise stated in the notice of withdrawal, the dismissal is without prejudice.

(c) The Chairman or such other Commission designee, in his or her discretion, may dismiss the petition on the grounds of insufficient cause for determination, failure to prosecute, or other good reason.

19:19-3.2 Response

(a) Within 10 days from receiving service of the petition, the respondent employer shall file a response. The response shall:

1. Specify whether the petitioner and the employer have negotiated concerning the subject of representation fees in lieu of dues and whether an agreement requiring such payments has been reached;

2. Specify the collective negotiations unit description and the number of employees in the unit represented by the petitioner, and attach any documents pertinent to defining the collective negotiations unit and not already supplied by the petitioner;

3. Provide a list of all the employees in the negotiations unit, together with their job titles, as of the time of the filing of the petition;

4. Verify or correct where possible the list of the negotiations unit employees who are voluntary dues paying members of the majority representative as of the time of the filing of the petition and attach any documents pertinent to establishing such a list and not already supplied by the petitioner; and

5. State any other facts which the respondent believes are material to a payroll deduction determination.

(b) If no response is filed, all allegations in the petition shall be deemed to be admitted to be true and shall be so found by the Commission, unless good cause to the contrary is shown. This mandate also applies to any allegation not specifically denied or explained in a response, unless the respondent states that it is without knowledge of the allegation.

(c) The response shall be in writing and the representative of the party filing the response shall make this dated and signed certification: "I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief."

19:19-3.3 Where to file; number of copies; service

An original and four copies of the response shall be filed with the Commission, together with proof of service of a copy of the response on the petitioner.

19:19-3.4 Amendment to response

The Chairman of the Commission or such other Commission designee may permit the respondent to amend its response at any time upon such terms as may be deemed just.

19:19-3.5 Reply

Within five days of receipt of the response, the petitioner may file an original and four copies of a reply and any supporting documents and affidavits together with proof of service of a copy of the reply on the respondent. No further replies shall be permitted without permission of the Chairman or such other Commission designee.

19:19-3.6 Investigation; disposition

(a) A Commission designee shall conduct an investigation. The designee may ask the parties to attend informal conferences and to submit additional documents, statements of position, or briefs on material legal issues.

(b) In addition, the designee may hold a hearing if it appears that there are substantial and material factual issues requiring a hearing to resolve. Such a hearing shall be governed by the provisions of N.J.A.C. 19:11-6 on representation proceedings, insofar as applicable.