

CHAPTER 4B**CIVIL SERVICE COMMISSION
LAW ENFORCEMENT OFFICER
AND FIREFIGHTER CASES****Authority**

N.J.S.A. 40A:14-208 and 52:14F-5(e), (f) and (g).

Source and Effective Date

R.2009 d.210, effective May 29, 2009.
See: 41 N.J.R. 2716(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 4B, Civil Service Commission Law Enforcement Officer and Firefighter Cases, expires on November 28, 2010. See: 42 N.J.R. 985(a).

Chapter Historical Note

Chapter 4B, Civil Service Commission Law Enforcement Officer and Firefighter Cases, was adopted as special new rules by R.2009 d.210, effective May 29, 2009. See: Source and Effective Date.

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(a) The rules in this chapter shall apply to any hearings arising under N.J.S.A. 40A:14-200 et seq., the act concerning suspensions of certain law enforcement officers and firefighters, and implement the provisions of that act.

(b) These rules shall not apply when a complaint or charge relates to the subject matter of a pending criminal investigation, inquiry, complaint, or charge, whether pre-indictment or post indictment or when a complaint or charge allege conduct that would constitute of a violation of the criminal laws of the state or any other jurisdiction.

(c) These special rules should be read in conjunction with the Civil Service Commissions' rule at N.J.A.C. 4A:2-2.13.

(d) Any aspect of the Office of Administrative Law hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1. To the extent that these special rules are inconsistent with the UAPR, these rules shall apply.

SUBCHAPTER 2. DEFINITIONS**1:4B-2.1 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Law enforcement agency" or "agency" means any public agency, police force, department, or division within the State, or any county or municipality thereof which, is empowered by statute to act for the detection, investigation, arrest, conviction, detention, or rehabilitation of persons violating the criminal laws of this State. Law enforcement agency shall include the Juvenile Justice Commission, but shall not otherwise include the Department of Law and Public Safety.

"Law enforcement officer" or "officer" means any person who is employed as a permanent full-time member of any State, county, or municipal law enforcement agency who is statutorily empowered to act for the detection, investigation, arrest, conviction, detention, or rehabilitation of persons violating the criminal laws of this State and statutorily required to successfully complete a training course approved by, or certified as being substantially equivalent to such an approved course, by the Police Training Commission pursuant to N.J.S.A. 52:17B-66 et seq.

"Paid firefighter" or "firefighter" means any full-time paid firefighter employed by a public fire department as provided in N.J.S.A. 40A:14-200.

"Public fire department" or "department" means any department of a municipality, county, fire district or the State or any agency thereof having employees engaged in firefighting provided that such firefighting employees are included in a negotiating unit exclusively comprised of firefighting employees.

SUBCHAPTER 3. COMMENCEMENT OF CONTESTED CASES; TIME FOR FILING

1:4B-3.1 Commencement of contested cases

(a) All appeals by a law enforcement officer or firefighter shall be simultaneously filed with the Clerk of the Office of Administrative Law and with the Civil Service Commission. Appeals shall be submitted on the Law Enforcement Officer and Firefighter Removal Appeal form, incorporated herein by reference as the chapter Appendix.

(b) A copy of the Preliminary Notice of Disciplinary Action and of the Final Notice of Disciplinary Action must be attached to the Notice of Appeal.

(c) Failure to provide the information specified in (a) and (b) above may result in dismissal of the appeal.

1:4B-3.2 Time for filing

(a) All appeals shall be filed within 20 days from the date of receipt of the final notice of disciplinary action.

1. If a party properly files an appeal with either the Office of Administrative Law or the Civil Service Commission, but does not simultaneously file the appeal with the other agency, the appeal shall be deemed timely, provided, however, that the calendar days that accrue pending filing in both agencies shall not be used in calculating the date on which the officer or firefighter is entitled to receive his or her base salary pending a final determination of the appeal.

(b) If an appeal is not timely filed, the Office of Administrative Law will notify the Civil Service Commission. The Civil Service Commission will dismiss any untimely appeal.

(c) Notwithstanding (b) above, the appointing authority may raise the issue of the timeliness of the appeal at any time.

SUBCHAPTERS 4 THROUGH 9. (RESERVED)

SUBCHAPTER 10. DISCOVERY

1:4B-10.1 Discovery

(a) Except as provided by (b) below, discovery shall be available pursuant to N.J.A.C. 1:1-10.

(b) The parties shall commence discovery immediately upon receipt of the notice of filing. Discovery requests shall be initiated no later than 30 days of receipt of the notice of filing.

SUBCHAPTERS 11 THROUGH 13. (RESERVED)

SUBCHAPTER 14. CONDUCT OF HEARING; LIMITATION ON POST HEARING SUBMISSIONS

1:4B-14.1 Conduct of hearing; limitation on post hearing submissions

No proposed findings of fact, including conclusions of law, briefs, forms of order or other dispositions, may be offered after the final argument, except for the purpose of expressing the terms of a settlement, unless expressly permitted by the judge for good cause.

SUBCHAPTERS 15 THROUGH 17. (RESERVED)

SUBCHAPTER 18. EXTENSIONS OF TIME LIMITS

1:4B-18.1 Extensions of time limits

(a) Extensions of time limits for filing an initial decision and for filing exceptions shall be governed by N.J.A.C. 1:1-18.8.

(b) The Civil Service Commission may, at its discretion, extend the period for issuance of the final decision by no more than 15 additional days. If the Commission requires additional time to render the final decision, it shall sign and forward an order of extension to the Director of the Office of Administrative Law and serve copies on all parties.

(c) Any order granting an extension must set forth the factual basis constituting good cause for the extension, and establish a new time for filing the decision or exceptions and replies.