

53 N.J.R. 1170(a)

VOLUME 53, ISSUE 13, JULY 6, 2021

RULE ADOPTIONS

Reporter

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Agency

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Administrative Code Citation

Readoption: N.J.A.C. 19:15

Text

Notice of Readoption

Subpoenas

Authority: N.J.S.A. 34:13A-5.4.c and d, 34:13A-6(e), and 34:13A-11.

Authorized By: The Public Employment Relations Commission, Joel M. Weisblatt, Chair.

Effective Date: June 7, 2021.

New Expiration Date: June 7, 2028.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 19:15 were scheduled to expire on March 24, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 104, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 104, this notice of readoption is timely filed.

The rules apply to subpoenas to secure the testimony of witnesses and/or the production of documents in proceedings before the Public Employment Relations Commission (Commission) involving all areas of its jurisdiction. See *Newark Bd. of Ed. and Newark Teach. Union, Local No. 481, AFT, 152 N.J. Super. 51* (App. Div. 1977). The rules describe: the procedures for applying for and issuing subpoenas; the consequences for failing to comply with a subpoena; witness fees; and when and how to file a petition to quash a subpoena. The rules have worked well and enabled smooth processing of Commission cases for several years, so no amendments are proposed. A summary of each section at N.J.A.C. 19:15 follows:

N.J.A.C. 19:15-1.1 provides that the Commission, or any designated officer of the Commission, may issue subpoenas.

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N.J.A.C. 19:15-1.2 provides that a party may file a written application for a subpoena, without naming or providing notice of the witness or the books, papers, or other materials sought. The section further provides that the Commission or designated officer shall furnish all subpoenas requested, but that the party requesting the subpoenas shall be responsible for serving them.

N.J.A.C. 19:15-1.3 provides that no person served with a subpoena shall refuse to comply with its terms without first having timely filed a petition to quash. The section reflects court practice that an application to enforce a subpoena may be made by the Commission or the party requesting it.

N.J.A.C. 19:15-1.4 provides that witness fees for attendance and travel shall be paid by the Commission for witnesses that it has decided to subpoena and that witness fees for attendance and travel shall be paid by the party requesting the subpoena.

N.J.A.C. 19:15-2.1 provides that a petition to quash a subpoena may be filed within five days of service of the subpoena and that the Commission or its designated officer shall give notice of the filing of a petition to quash. The section allows a party to file an answer to the petition within five days after being notified of the petition to quash, but does not permit further replies or responses without leave of the Commission or the designated officer.

N.J.A.C. 19:15-2.2 provides that a subpoena may be quashed because: it does not reasonably relate to the case; it does not adequately describe the evidence sought; or the evidence sought from the witness is privileged. The Commission or officer shall state the basis of the ruling on the petition to quash.

N.J.A.C. 19:15-2.3 provides that the failure to file a timely petition to quash bars a later filing of a petition to quash.

N.J.A.C. 19:15-2.4 provides that the aggrieved party may request that the petition to quash, any answers, and the ruling be made part of the record.

The Commission has reviewed these rules and determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), the rules are readopted and shall continue in effect for a seven-year period.

NEW JERSEY REGISTER

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