

LAW AND PUBLIC SAFETY

DIVISION ON CIVIL RIGHTS

Rules of Practice and Procedure

Proposed Readoption with Amendments: N.J.A.C. 13:4

Authorized By: Chinh Q. Le, Director, Division on Civil Rights.

Authority: N.J.S.A. 10:5-8, 10:5-12, 10:5-18 and 34:11B-16.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-254

Submit comments by December 31, 2010 to:

Gary LoCassio, Deputy Director

Division on Civil Rights

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The agency proposal follows:

Summary

The Division on Civil Rights (Division), pursuant to its rulemaking authority found at N.J.S.A. 10:5-8, proposes to readopt N.J.A.C. 13:4 concerning the Division's rules of practice and procedure, with certain amendments. The rules are set to expire on March 18, 2011,

pursuant to N.J.S.A. 52:14B-5.1c. The Division enforces both the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 et seq. and the New Jersey Family Leave Act (FLA), N.J.S.A. 34B:11B-1 et seq. As a method of enforcement, both statutes provide for the Division to accept and investigate complaints. The Legislature has required that the Division establish rules of practice to govern the agency's processes in enforcing the LAD. See N.J.S.A. 10:5-18. The procedures provided in these rules by reference also apply to the Division's receipt and investigation of FLA complaints. See N.J.A.C. 13:14-1.16 and N.J.S.A. 34:11B-16.

In 2005, the Division conducted a comprehensive review of its rules of practice and procedure and determined that the rules in many respects were difficult to follow and not fully reflective of the current practices before the agency. At that time, the Division undertook to reorganize the rules in a manner consistent with how a case is processed through the agency, to update the rules where appropriate to reflect the agency's current practices and to make the rules more clear, so that parties before the agency and the public are sufficiently informed of the current procedures used by the Division in processing cases before the agency. Further, the Division sought certain new procedural rules in 2005, in order to ensure that the Division's rules are consistent with the Federal Fair Housing Act (FHA), 42 U.S.C. §§3601 et seq., and regulations promulgated thereunder. These new rules were required in order for the Division to achieve certification as a substantially equivalent agency by the Department of Housing and Urban Development (HUD), which permitted the Division to enter into a work-sharing relationship with HUD. Upon adoption of those new rules, a work-sharing agreement allowed the Division to be eligible for funding from HUD for case processing and other initiatives related to housing discrimination. To effectuate these purposes, the Division repealed its rules of

practice and procedure, and adopted the rules currently proposed for readoption.

The Division has conducted a review of the rules adopted in 2005, and has determined that they are reasonable, necessary and effective for the purposes for which they were originally promulgated. However, the Division has determined that in certain areas the rules could be more clearly written, and has proposed some stylistic, non-substantive changes. In other areas, the Division determined that some minor modification of practices is necessary to allow the Division to operate more efficiently and effectively. These changes are summarized below.

A summary of the rules proposed for readoption follows, along with an explanation of any proposed amendments.

Subchapter 1 sets forth general provisions under the rules. The Division proposes amending N.J.A.C. 13:4-1.4 and 1.6 to reflect the correct web address of the Division. The Division also proposes amending N.J.A.C. 13:4-1.6 to require attorneys making an appearance on behalf of a party to provide an email address. Having a representative's email address would allow the Division to communicate with parties more efficiently and economically.

Subchapter 2 sets forth the rules pertaining to the commencement of actions. The Division proposes non-substantive, clarifying language to N.J.A.C. 13:4-2.3. The Division proposes an amendment to N.J.A.C. 13:4-2.4(a) to delete the requirement that a complaint be on a printed form. This amendment would permit the Division to accept complaints electronically, should all other requirements for the complaint be met. An amendment to N.J.A.C. 13:4-2.4(b) is proposed to make clear that the Division may modify any complaint delivered by a complainant to meet the Division's jurisdictional and formatting requirements. The Division proposes clarifying language to N.J.A.C. 13:4-2.4(d), and to delete the requirement that

complaints contain a notarized signature of the complainant. The rules would still require that a complaint contain a verification by the person filing the complaint. The proposed deletion of the notarized signature requirement would make the rules consistent with the New Jersey Court Rules, which do not require a notarized signature for verified complaints, and would improve the efficiency of the Division's investigative processes. Currently neither HUD or the Equal Employment Opportunity Commission require notarized signatures for filing a complaint. When one of these agencies refers a complaint to the Division for investigation, substantial investigative time is lost in attempting to arrange for the complainant's notarized signature. Since the complainant will still need to execute a verification in support of a complaint, the notarized signature requirement was deemed unnecessary. An amendment is proposed to N.J.A.C. 13:4-2.8 to clarify that the Division may send any form of discovery request, not just a document and information request, to a respondent along with a verified complaint. The Division proposes to amend N.J.A.C. 13:4-2.9 to provide a procedure for amending verified complaints when the complainant dies.

Subchapter 3 sets forth the rules pertaining to the filing of answers.

Subchapter 4 sets forth the rules pertaining to the conduct of investigations. The Division proposes a non-substantive amendment to N.J.A.C. 13:4-4.2 to delete reference to each of the specific protected classes covered by the LAD. This amendment would save the Division from having to amend this section each time the LAD is amended to add an additional protected classification. The Division proposes to amend subsection (d) to delete the requirement that a respondent be a corporation in order for the Division to be able to issue a notice in lieu of subpoena. The amendment would permit the agency to issue a notice in lieu of subpoena to any

respondent before the agency, whether a corporation or not, that is represented by counsel. This proposed amendment is consistent with New Jersey Court Rules, which permit the use of a notice in lieu of subpoena for any party to an action. See R. 1:9-1. The Division proposes deleting N.J.A.C. 13:4-4.4(g), which requires a fee be provided with any subpoena issued by the Division. The Division proposes the deletion of the fee requirement to improve the efficiency of its operations. The value of the relatively small fee provided with any subpoena is overborne by the administrative burdens associated with obtaining and providing the fee. The Division proposes clarifying, non-substantive amendments to N.J.A.C. 13:4-4.5.

Subchapter 5 sets forth the rules pertaining to defaults. The Division proposes clarifying, non-substantive amendments to N.J.A.C. 13:4-5.2.

Subchapter 6 sets forth the rules pertaining to administrative dismissals. The Division proposes an amendment to N.J.A.C. 13:4-6.1(a) to provide that the Division may administratively dismiss a complaint when it determines that a complainant has brought the same claim filed with the Division in Federal court. The current rule provides that the Division may administratively dismiss a complaint when it determines the same claim has been brought in State Superior Court.

Subchapter 7 sets forth the rules pertaining to motions and other case actions. The Division proposes an amendment to N.J.A.C. 13:4-7.5(a) to delete the requirement that motions be served by certified mail or commercial courier. Motions would need to be served on other parties, and a certification of service filed with the Division to demonstrate such service, but the parties would not need to accrue the burden and cost of delivery by certified mail or by a commercial courier.

Subchapter 8 sets forth the rules pertaining to the withdrawal of complaints.

Subchapter 9 sets forth the rules pertaining to conciliation and mediation. The Division proposes to amend N.J.A.C. 13:4-9.2 to govern those occasions when a law, such as the Open Public Records Act, would require the Division to make a conciliation or mediation agreement available to the public even when the parties to the agreement seek to keep an agreement confidential. The Division proposes a clarifying amendment to N.J.A.C. 13:4-9.4.

Subchapter 10 sets forth the rules pertaining to orders of the Director.

Subchapter 11 sets forth the rules pertaining to hearings.

Subchapter 12 sets forth the rules pertaining to protection of complainants and witnesses.

Subchapter 13 sets forth the rules pertaining to access to Division's investigatory files. The Division proposes an amendment to N.J.A.C. 13:4-13.2 to make clear that an investigator's notes of settlement discussions with the parties are not to be disclosed to the other party.

Because the Director has determined that the comment period for this notice of proposal shall be 60 days, the notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Division believes that the rules proposed for readoption with amendments will have a beneficial impact for those involved in all cases before the Division, whether as complainants or respondents, since the parties will have available to them clearly defined and easy-to-follow rules for how the Division conducts its investigations and hearings. The rules proposed for readoption with amendments will allow the Division to continue its work-sharing agreement with HUD, which permits victims of housing discrimination to pursue rights under both Federal

and State law without having to separately pursue a complaint with HUD and the Division. Such an arrangement also is beneficial to those entities charged with housing discrimination, as they would only be subject to a single investigative proceeding.

Economic Impact

The Division believes that the rules proposed for readoption with amendments will not have a substantial economic impact on complainants or respondents, but merely sets forth the rules of procedure to be followed in Division investigations and hearings. The rules proposed for readoption will have a positive economic impact on the Division, as the rules permit the Division to maintain a work-sharing agreement with HUD, allowing the Division to receive Federal funding for case processing and other outreach initiatives. The Division believes the proposed amendments will have an additional positive economic impact, since the Division may operate more efficiently. There would be no significant adverse economic impact on businesses or the real estate industry since all legal obligations arising under the rules proposed for readoption with amendments have been mandated by the existing rules of existing Federal or State law.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments relate to the rules of practice before the Division and are not intended to implement or comply with any program established under Federal law or under a State statute that incorporates or attempts to effectuate Federal law, standards or requirements. While not imposing standards, the rules proposed for readoption with amendments relate to the procedure for investigation and hearings for complaints of housing discrimination are intended to be

consistent with the rules utilized by HUD for such purposes. See 24 CFR Part 103 (Fair Housing -- Complaint Processing) and 24 CFR Part 180 (Consolidated HUD Hearing Procedures For Civil Rights Matters).

Jobs Impact

The Division believes that the rules proposed for readoption with amendments will have no impact on the number of jobs in the State.

Agriculture Industry Impact

The Division believes that the rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

Neither the rules proposed for readoption nor the proposed amendments directly impose any general reporting, recordkeeping or other compliance requirements on any businesses. Rather, the rules describe how the Division conducts investigations and hearings of complaints filed with the agency. There are some small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., that may be affected by the rules proposed for readoption with amendments to the extent that any of these small businesses are employers, housing providers or owners of places of public accommodation that have complaints filed against them with the Division. In other cases, small businesses could file complaints with

the Division to the extent that a business has been the victim of unlawful discrimination. In either case, there are no reporting or recordkeeping requirements, but there may be compliance requirements related to being a party to a complaint before the Division that apply to all parties, including a small business. For example, Subchapter 2 contains compliance requirements for filing a complaint, including time limits. Complaints must be filed within 180 days of the alleged act of discrimination. Subchapter 3 contains compliance requirements for filing an answer, which is to be filed within 20 days of service of a complaint. Subchapter 4 contains compliance requirements for responding to requests for documents or information by the Division during an investigation, as well as the requirement that a party attend a fact-finding conference when deemed necessary by the Division. Subchapter 5 contains compliance requirements when a party who has failed to respond to a Division request for documents or information wishes to avoid or vacate a default. Subchapter 7 contains compliance requirements related to filing, serving and responding to motions before the Division, including time limits for various motions and necessary forms of service. Subchapter 9 contains compliance requirements related to conciliation and mediation, including the requirement that a party attend a conciliation or mediation session at the Division's offices when required by the Division. Subchapter 11 contains compliance requirements for requesting a hearing before an Administrative Law Judge, including the requirement that a party complete any forms required to transmit a case to the Office of Administrative Law. Subchapter 13 contains compliance requirements for a party to obtain access to material in the Division's investigative file.

Because the compliance requirements of the rules proposed for readoption with amendments are not onerous, and would vary based on the nature of the investigation, it is not

feasible for the Division to propose separate requirements for small businesses to respond to Division requests for information or relevant materials. Further, the proposed amendments will not impose any reporting, recordkeeping or other compliance requirements on small businesses beyond those in the existing rules of practice and procedure for responding to the Division's requests during an investigation. While some small businesses choose to retain an attorney during an investigation by the Division, neither an attorney nor any other outside professional services are required to comply with the rules proposed for readoption or the proposed amendments. To the extent that the proposed amendments clarify the existing rules, a small business may be better able to take part in an investigation by the Division without retaining counsel.

Smart Growth Impact

The Division does not anticipate that the rules proposed for readoption with amendments will have any impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan, otherwise known as the State Plan.

Housing Affordability Impact

The Division does not anticipate that the rules proposed for readoption with amendments will have any impact on affordable housing in New Jersey, and there is an extreme unlikelihood that the rules would evoke change in the average costs associated with housing because the rules proposed for readoption with amendments contain rules that address the practices and procedures to be followed by the Division in receiving and investigating complaint under the LAD and FLA.

Smart Growth Development Impact

The Division does not anticipate that the rules proposed for readoption with amendments

will have any impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments contain rules that address the practices and procedures to be followed by the Division in receiving and investigating complaint under the LAD and FLA.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:4.

Full text of the proposed amendments follow (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

13:4-1.4 Definitions

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

...

"Office of the Division" means the offices located at 31 Clinton Street, Newark, New Jersey; 100 Hamilton Plaza, Paterson, New Jersey; 140 East Front Street, Trenton, New Jersey; One Port Center, 2 Riverside Drive, Camden, New Jersey; 26 South Pennsylvania Avenue, Atlantic City, New Jersey; 574 Newark Avenue, Jersey City, New Jersey; and any additional offices [which] **that** may from time to time be established and listed on the Division's website, [www.njcivilrights.org] www.njcivilrights.gov.

...

13:4-1.6 Attorneys; form of appearance on behalf of parties

(a) An attorney may appear on behalf of a party by completing a Division Notice of Appearance form or by providing all of the information requested on such form in a letter or similar document. The Notice of Appearance form is available from the Division's offices or its website, [www.njcivilrights.org] www.njcivilrights.gov. To constitute an appearance, a form, letter or document shall contain the names of the parties, the Division's docket number, the name of the party or parties [which] **that** the attorney is representing and the attorney's address, telephone number, [and] facsimile number **and email address**. Any document constituting an appearance shall be personally signed by the attorney filing the appearance.

(b) - (c) (No change.)

SUBCHAPTER 2. COMMENCEMENT OF ACTIONS

13:4-2.3 Rights of parties; notification of settlement

(a) (No change.)

(b) [If any complainant files a verified complaint with the Division on behalf of any individual or individuals, the] **The** proceeding initiated by [such] **any** verified complaint shall, if the Director finds the continuation of the proceeding is in the public interest, proceed to conclusion, including the issuance of any lawful order by the Director, even if the grievances of any individual person represented by the above complainants have been satisfactorily ameliorated.

(c) - (e) (No change.)

13:4-2.4. Preparation and contents of verified complaint

(a) A verified complaint shall be filed [upon a printed form] **in a format** approved by the Director.

(b) The Division shall aid the complainant in the completion of the verified complaint, except where aid is refused by the complainant or where the complainant appears at an office of the Division or before an officer of the Division with a completed verified complaint. **The Division reserves the right to modify any verified complaint completed by the complainant to meet the Division's jurisdictional and formatting requirements.**

(c) (No change.)

(d) The verified complaint shall set forth in separate numbered paragraphs the following:

1. -2. (No change.)

[3. A statement of the specific prohibited basis or bases set forth in the Law Against Discrimination or Family Leave Act that gave rise to the alleged discrimination;]

[4.] **3.** A brief statement setting forth the facts deemed to constitute the alleged discrimination, **including the specific prohibited basis or bases that gave rise to the alleged discrimination;**

[5.] **4.** (No change in text.)

[6.] **5.** A statement giving all pertinent facts as to whether any other action, either criminal or civil, has been instituted in the matter. A complainant shall notify the Division if at any time during the pendency of the verified complaint, he or she files a [verified] complaint with any other agency or court concerning the matter

which is the subject of the [Verified Complaint] **verified complaint**;

[7.] **6.** A [notarized signature and] verification by the person or persons filing the verified complaint; and

[8.] **7.** (No change in text.)

13:4-2.8 Service of verified complaints

(a) (No change.)

(b) In its discretion, the Division may serve a Document and Information Request, **interrogatories or any other type of discovery request along** with the copy of the verified complaint.

13:4-2.9 Amendment of verified complaints

(a) - (d)

(e) If a complainant should die while a verified complaint is pending, an executor or administrator for the complainant's estate may file a motion to be substituted as the complainant.

SUBCHAPTER 4. INVESTIGATIONS

13:4-4.1 Timing of investigations

(a) An investigation by the Division may be [conducted] **commenced** either prior to or subsequent to the filing of a verified complaint.

(b) - (c) (No change.)

13:4-4.2 Investigatory [Procedures] **procedures**

(a) - (b) (No change.)

(c) In connection with an investigation of the operation of any real property, as defined by N.J.S.A. 10:5-5n, the Division may require the submission of information concerning the [race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, familial status, disability, nationality or source of lawful income to be used for rental or mortgage payments] **protected classes or protected characteristics** of the occupants of **or applicants for** such real property, the terms and conditions on which the sale or lease of said real property is to be made to the general public, the vacancy rate of such real property subject to rent, the plans for advertising or notifying the public of the availability of said real property for rental or sale, the standard form documents used in the rental or sale of such real property[,] and such other information as may be reasonably necessary to carry out the provisions of the Law Against Discrimination.

(d) In connection with an investigation of any employer, as defined by N.J.S.A. 10:5-5e, the Division may require the submission of information concerning:

1. The [race, creed, color, national origin, ancestry, age, marital status, domestic partnership status, affectional or sexual orientation, genetic information, sex, disability, atypical hereditary cellular or blood trait, military status or nationality] **protected classes or protected characteristics** of employees **or applicants**;

2. - 6. (No change.)

13:4-4.4 Subpoenas

(a) - (c) (No change.)

(d) Where a respondent [is a corporation and] is represented by an attorney who has filed a notice of appearance with the Division, the Director may issue a notice in lieu of subpoena requiring respondent to produce documents or to produce its employees to attend any investigatory proceeding. Said notice in lieu of subpoena shall be served upon respondent's attorney in the manner set forth in (f) [and (g)] below.

(e) - (f) (No change.)

[(g) Accompanying all subpoenas shall be a check in an amount sufficient to cover the costs for one day's attendance and such mileage as may be allowed by law in civil matters in the courts of the State of New Jersey; but no fee shall be allowed where a subpoena requires only the production of documents which may be produced by mailing copies of said documents to the Division.]

13:4-4.5 Depositions by Division and parties

(a) On written motion of any party prior to transmittal of a case to OAL, the Director may order that the testimony of any material witness residing within or without the State be taken by deposition in the manner prescribed by law for depositions in civil actions. Such motion may be granted only if it sets forth:

1. - 2. (No change.)

3. A showing that the witness will be unable to attend, or cannot be compelled to attend, [the hearing] **any future proceeding**. Said motion shall request an order requiring the witness to appear and testify before an officer, representative[,], or agent of the Division.

(b) - (d) (No change.)

SUBCHAPTER 5. DEFAULTS

13:4-5.2 Default [Procedure] **procedure**

(a) The Director shall initiate the [Default Procedure] **default procedure** by serving the following notice and order:

"NOTICE is hereby given that a verified complaint has been served upon you charging you with a violation of the Law Against Discrimination (and/or Family Leave Act as is applicable). Pursuant to this Division's authority under N.J.S.A. 10:5-8(i), a verified complaint and/or request for information or documents (as is applicable) has/have been served upon you. [Said the] **The** verified complaint and/or request for information or documents has/have not been answered and filed within the time as therein prescribed. Should you fail to fully answer and file the answers to verified complaint and request for information or documents within ten days, a default shall be entered in this case. Said default shall constitute:

(a) An admission that the verified complaint and/or request for information or documents, if answered, would have established facts in accordance with the claim of the complainant;

(b) A waiver of your right to have this Division conduct further investigation, find whether or not there is probable cause, make conciliation efforts or hold a public hearing;

(c) A waiver of your right to present any and all defenses.

THEREFORE it is on this _____ day of _____, _____, ORDERED:

1. Respondent(s) shall fully answer and file answers to the verified complaint and/or request for information or documents previously served.
2. Respondent(s) shall file said answers on or within the tenth day following the date of this order."

(b) If, after the expiration [date of the Director's order extending time to answer the verified complaint and/or request for information or documents] **of the time period set forth by the Director in any Notice and Order served pursuant to (a) above**, the respondent has failed to file an answer to the verified complaint and/or to fully answer and file the request for information or documents with the Director, **the Director shall order the entry of a default on the docket of the Division. The entry of such default shall:**

1. [Said failure shall constitute] **Constitute** a waiver of the respondent's right to an investigation, finding of probable cause, conciliation efforts or public hearing;
2. [Said failure shall result] **Result** in the suppression of any and all defenses of the respondent; **and**
3. [Said failure shall result, with] **With** respect to **any** request for information or documents, [in the matters regarding which questions were asked being taken as established for the purposes of the case] **deem that the requested evidence establishes facts** in accordance with the claim of the complainant[; and].
- [4. The Director shall order the entry of a default on the docket of the Division.]

(c) Any order for entry of default must be supported by an affidavit of a field investigator or other Division employee authorized by the Director. The affidavit shall recite:

1. That a verified complaint was filed by the complainant alleging a timely violation of the Law Against Discrimination or Family Leave Act.

[1.] **2.** (No change in text.)

[2.] **3.** That the respondent has failed to file an answer to the verified complaint and/or to reply to the request for information or documents within the time required by the Director's order as it may have been extended[,] or respondent has made a motion to strike the request for information or documents and following denial thereafter by the Director has failed to answer within the time required by the Director's order; **and**

[3.] **4.** That respondent has been given notice of the consequences of failure to answer the verified complaint and/or to respond to request for information or documents[; and].

[4. That the complainant had filed his or her allegation of discrimination within the time prescribed by law.]

(d) - (e) (No change.)

SUBCHAPTER 6. ADMINISTRATIVE DISMISSALS

13:4-6.1 Administrative dismissals

(a) The Director may, in his or her discretion, administratively dismiss verified complaints for reasons including, but not limited to, the following:

1. - 3. (No change.)

4. The complainant has initiated an action in Superior Court pursuant to N.J.S.A.

10:5-13, **or raised the same claim in Federal court;**

5. (No change.)

6. The verified complaint, on its face, fails to state a claim for relief under the New Jersey Law Against Discrimination or Family Leave Act[, N.J.S.A. 10:5-1 et seq.]; or

7. (No change.)

(b) - (c) (No change.)

SUBCHAPTER 7. MOTIONS AND OTHER CASE ACTIONS

13:4-7.5 Service of motions and other pleadings

(a) Prior to transmittal to OAL, unless otherwise instructed by the Director, every motion and every written notice, brief or memorandum of law shall be served by the filing party by mailing copies to all parties[, by registered or certified mail, return receipt requested or by overnight mail by commercial courier,] within three days of said filing.

(b) - (e) (No change.)

SUBCHAPTER 9. CONCILIATION AND MEDIATION

13:4-9.2 Confidentiality of conciliation and mediation records

Settlement proposals or other information exchanged during a conciliation conference or mediation proceedings shall be kept confidential by all persons involved in the conciliation

conference or mediation proceedings and shall not be admissible as evidence unless obtained from a source independent of the conciliation or mediation. Conciliation and mediation agreements shall be available to the public unless the complainant and respondent otherwise agree and the Attorney General determines that disclosure is not required to further the purposes of the law **or otherwise required by law**.

13:4-9.4. Conciliation conference proceedings

(a) - (d) (No change.)

(e) Any conciliation agreement arising out of conciliation efforts by the Division shall be an agreement between the respondent and the complainant **or complainants**, and shall be subject to the approval of the Division.

(f) (No change.)

SUBCHAPTER 13. ACCESS TO DIVISION'S INVESTIGATORY FILES

13:4-13.2 Discovery of Division's investigatory files by parties to the verified complaint

(a) After a finding of probable cause has been issued by the Director, after transmittal to OAL pursuant to N.J.S.A. 10:5-13, after any final determination has been issued, or after any other agency closure, a party to a verified complaint may, upon written request and notice to all other parties, receive discovery of the following information in the Division's investigatory file of that verified complaint:

1. Statements made by any person during the course of the Division's investigation, other than work product of Division employees, intra-

agency communications, **notes of settlement discussions** and attorney-client communications;

2. - 4. (No change.)

(b) (No change.)