

CHAPTER 86
ADVERTISING STANDARDS

Authority

N.J.S.A. 27:25-5 and 27:25-6.

Source and Effective Date

R.2016 d.032, effective March 10, 2016.
See: 47 N.J.R. 2663(a), 48 N.J.R. 597(b).

Chapter Expiration Date

Chapter 86, Advertising Standards, expires on March 10, 2023.

Chapter Historical Note

Chapter 86, Advertising Standards, was adopted as new rules by R.1997 d.180, effective April 21, 1997. See: 28 N.J.R. 4384(a), 29 N.J.R. 1515(b). Chapter 86, Advertising Standards, expired on April 21, 2002.

Chapter 86, Advertising Standards, was adopted as new rules by R.2003 d.195, effective May 19, 2003. See: 34 N.J.R. 4050(a), 35 N.J.R. 2262(a).

Chapter 86, Advertising Standards, was readopted as R.2008 d.349, effective October 20, 2008. As a part of R.2008 d.349, Subchapter 2, Procedures, and Subchapter 3, Severability, were adopted as new rules, effective November 17, 2008. See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 86, Advertising Standards, was scheduled to expire on October 20, 2015. See: 43 N.J.R. 1203(a).

Chapter 86, Advertising Standards, was readopted as R.2016 d.032, effective March 10, 2016. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

16:86-1.1 Purpose

(a) The purpose of these rules is to enhance and maximize NJ TRANSIT's non-farebox revenues through advertising revenue by encouraging and maintaining a professional advertising environment that helps promote the security, safety, comfort, and convenience of NJ TRANSIT's customers. Towards that end, these rules prohibit advertisements

that contain or depict tobacco and tobacco-related products, including electronic cigarettes, and advertisements that are obscene, false, political in nature, disparaging, unsafe, controversial, deceptive or misleading, or promote illegal goods, services, or activities on facilities, vehicles, equipment, electronic and digital equipment and media, and other property (collectively, "property") owned or controlled by the New Jersey Transit Corporation or its subsidiaries (collectively "NJ TRANSIT").

(b) This chapter sets forth the standards for the installation, display, and maintenance of advertising on property owned or controlled by NJ TRANSIT.

(c) The display of advertising on property owned or controlled by NJ TRANSIT does not constitute an endorsement by NJ TRANSIT of any of the products, services or messages so advertised, unless authorized in writing by NJ TRANSIT and so stated within the advertisement.

Amended by R.2008 d.349, effective November 17, 2008.
See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

In (b), inserted "or controlled" and deleted "executed after October 21, 1997" from the end; and added (c).

Amended by R.2016 d.032, effective April 4, 2016.
See: 47 N.J.R. 2663(a), 48 N.J.R. 597(b).

Rewrote (a) and (b).

16:86-1.2 Limitation upon advertisements

(a) No advertisement located on property owned or controlled by NJ TRANSIT shall be displayed or maintained that falls within one or more of the following categories:

1. The advertisement includes information that is false, misleading, or deceptive;
2. The advertisement or information contained in it promotes unlawful or illegal goods, services or activities;
3. The advertisement or information contained therein declares or implies an endorsement by NJ TRANSIT of any service, product or point of view without prior written authorization of NJ TRANSIT;
4. The advertisement contains obscene material as defined by N.J.S.A. 2C:34-3;
5. The advertisement portrays graphic violence;
6. The advertisement displays weapons that appear to be aimed or pointed at the viewer or observer in a menacing manner;
7. The advertisement is controversial and, therefore, can promote vandalism of advertising materials and associated NJ TRANSIT property;
8. The advertisement proposes the use of or promotes tobacco or tobacco-related products, including electronic cigarettes;

9. The advertisement disparages the services of NJ TRANSIT or is not in the best interest of public transportation;

10. The advertisement contains material that demeans or disparages an individual, group of individuals, or entity;

11. The advertisement promotes or opposes a political party, the election of a candidate or any group of candidates for Federal, state, or local government offices, or initiatives, referendums, or other ballot measures;

12. The advertisement encourages or depicts unsafe behavior with respect to NJ TRANSIT property or services; or

13. The advertisement expresses or advocates an opinion, position, or viewpoint on matters of public debate about economic, political, moral, religious, or social issues.

Amended by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Rewrote the introductory paragraph of (a); in (a)3, inserted "or implies"; in (a)4, inserted a comma following "2C:3-4-3" and deleted "as" following "definition"; added new (a)5 and (a)6; recodified former (a)5 through (a)7 as (a)7 through (a)9; in (a)8, substituted "the use of or" for "and"; and in (a)9, substituted "public" for "mass".

Amended by R.2016 d.032, effective April 4, 2016.

See: 47 N.J.R. 2663(a), 48 N.J.R. 597(b).

Rewrote the section.

16:86-1.3 (Reserved)

Recodified to N.J.A.C. 16:86-2.1 by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Section was "Advertising Standards Committee".

16:86-1.4 (Reserved)

Recodified to N.J.A.C. 16:86-2.2 by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Section was "Review of advertisements".

16:86-1.5 (Reserved)

Recodified to N.J.A.C. 16:86-2.3 by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Section was "Dispute resolution".

16:86-1.6 (Reserved)

Recodified to N.J.A.C. 16:86-3.1 by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Section was "Severability".

SUBCHAPTER 2. PROCEDURES

16:86-2.1 Advertising Standards Committee

The Executive Director shall establish a three member Advertising Standards Committee ("Committee") comprised of representatives from NJ TRANSIT subunits, with expertise

in real estate and economic development, communications and customer service, and government and community relations. Such Committee shall be independent and its determinations shall constitute NJ TRANSIT's final agency determinations.

Recodified from N.J.A.C. 16:86-1.3 and amended by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Substituted "shall" for "is hereby authorized by the Board of Directors of NJ TRANSIT to".

Amended by R.2016 d.032, effective April 4, 2016.

See: 47 N.J.R. 2663(a), 48 N.J.R. 597(b).

Inserted "comprised of representatives from NJ TRANSIT subunits, with expertise in real estate and economic development, communications and customer service, and government and community relations".

16:86-2.2 Review of advertisements

(a) NJ TRANSIT's advertising contractor or advertising sales entity (collectively "advertising provider") shall review each advertisement submitted for installation, display, and maintenance on NJ TRANSIT property to determine whether the advertisement falls within, or may fall within, one or more of the categories set forth in N.J.A.C. 16:86-1.2. NJ TRANSIT may also review such advertisement for compliance with N.J.A.C. 16:86-1.2. If NJ TRANSIT or its advertising provider determines that an advertisement falls within, or may fall within, one or more of the categories set forth in N.J.A.C. 16:86-1.2:

1. The NJ TRANSIT advertising provider shall promptly provide the advertiser with a copy of the standards set forth in N.J.A.C. 16:86-1.2 and written notice of the determination, the reason(s) for the determination, and the advertiser's right to request a prompt review before the Advertising Standards Committee.

2. The NJ TRANSIT advertising provider shall provide the Advertising Standards Committee with a copy of the written notice to the advertiser and the advertisement at issue.

3. Upon request of the advertiser, the Advertising Standards Committee shall conduct a prompt review to determine whether the advertisement at issue falls within one or more of the categories set forth in N.J.A.C. 16:86-1.2.

4. The Advertising Standards Committee shall promptly provide the advertiser and the advertising provider with a written notice of its determination. The Advertising Standards Committee's determination shall be final as per N.J.A.C. 16:86-2.1.

Recodified from N.J.A.C. 16:86-1.4 and amended by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

In the introductory paragraph of (a) and in (a)4, substituted "firm" for "contractor"; in the introductory paragraph of (a), substituted "its" for "an NJ TRANSIT"; and in (a)4, updated the N.J.A.C. reference.

Amended by R.2016 d.032, effective April 4, 2016.

See: 47 N.J.R. 2663(a), 48 N.J.R. 597(b).

Rewrote the section.

16:86-2.3 Dispute resolution

An aggrieved party wishing to challenge a decision of the advertising provider shall transmit its grievance in writing to the Advertising Standards Committee at NJ TRANSIT, Board Office, One Penn Plaza East, Newark, New Jersey 07105. If no factual issues are presented, the decision by the Advertising Standards Committee shall constitute the final agency action of NJ TRANSIT and shall be appealable to the Appellate Division of the Superior Court. In the event of a dispute of the facts, the Advertising Standards Committee shall within 45 days transmit the matter for the development of a record and an initial decision by the Office of Administrative Law in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The Advertising Standards Committee shall then render a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey.

Recodified from N.J.A.C. 16:86-1.5 by R.2008 d.349, effective November 17, 2008.
See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Amended by R.2016 d.032, effective April 4, 2016.
See: 47 N.J.R. 2663(a), 48 N.J.R. 597(b).
Rewrote the section.

SUBCHAPTER 3. SEVERABILITY**16:86-3.1 Severability**

If any category set forth in N.J.A.C. 16:86-1.2 is determined to be invalid as applied to any particular type of NJ TRANSIT property, the category shall remain applicable to other types of NJ TRANSIT property. If any category set forth in N.J.A.C. 16:82-1.2 is determined to be invalid as applied to all NJ TRANSIT property, the remaining categories shall remain valid.

Recodified from N.J.A.C. 16:86-1.6 and amended by R.2008 d.349, effective November 17, 2008.

See: 40 N.J.R. 3597(a), 40 N.J.R. 6650(a).

Inserted the last sentence.

Amended by R.2016 d.032, effective April 4, 2016.

See: 47 N.J.R. 2663(a), 48 N.J.R. 597(b).

Deleted "or facility" following the first occurrence of "property", substituted the second occurrence of "property" for "properties and facilities", and deleted "and facilities" following the third occurrence of "property".