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ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE C: LABOR RELATIONS  
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARD

PART 1200  
GENERAL PROCEDURES

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AUTHORITY: Implementing and authorized by the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17314, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1846, effective January 25, 1985; amended at 11 Ill. Reg. 6428, effective March 27, 1987; amended at 12 Ill. Reg. 20096, effective November 18,

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1988; amended at 14 Ill. Reg. 19896, effective November 30, 1990; amended at 17 Ill. Reg. 15588, effective September 13, 1993; amended at 20 Ill. Reg. 7391, effective May 10, 1996; amended at 27 Ill. Reg. 7365, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 15557, effective September 22, 2003, for a maximum of 150 days; emergency amendment expired February 18, 2004; amended at 28 Ill. Reg. 4166, effective February 19, 2004; emergency amendment at 28 Ill. Reg. 7540, effective May 12, 2004, for a maximum of 150 days; emergency expired October 8, 2004; amended at 28 Ill. Reg. 15154, effective November 1, 2004; emergency amendment at 37 Ill. Reg. 5897, effective April 22, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 14064, effective August 23, 2013; amended at 37 Ill. Reg. 20637, effective December 13, 2013; emergency amendment at 39 Ill. Reg. 10641, effective July 15, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 15803, effective November 25, 2015; amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1200.5 Board Information and Business Hours**

- a) The Springfield office of the Illinois Labor Relations Board is located at:

One Natural Resources Way, First Floor  
Springfield IL 62702  
telephone: 217-785-3155  
facsimile: 217-785-4146

- b) The Chicago office of the Board is located at:

160 N. LaSalle St., Suite S-400  
Chicago IL 60601  
telephone: 312-793-6400  
facsimile: 312-793-6989

- c) The Board's website address is [www.Illinois.gov/ilrb-www.state.il.us/ilrb](http://www.Illinois.gov/ilrb-www.state.il.us/ilrb). [The Board's designated email address for electronic filing purposes is ILRB.Filing@Illinois.gov.](mailto:ILRB.Filing@Illinois.gov)

- d) The official business hours of the Board are 8:30 a.m. to 5:00 p.m., Monday through Friday.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**[Section 1200.7 Board Meetings](#)**

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- a) Notice of meetings is given on the Board's website, [www.Illinois.gov/ilrb](http://www.Illinois.gov/ilrb), and at each of the Board's offices in accordance with the provisions of the Open Meetings Act [5 ILCS 120/2.02].
- b) After the Board has considered pending cases, members of the public shall be permitted to address the Board during the open portion of a Board meeting on subjects relevant to the Board's functions. The comments by each member of the public shall be limited to a reasonable period of time, not to exceed five minutes, without permission of the Chairman.
- c) Any person may record, by tape, film or other means, the meetings of the Illinois Labor Relations Board's State Panel, Local Panel or the Panels meeting in joint session that are required to be open by Illinois law. However, if the recording process interferes with the overall decorum and proceeding of a meeting, the recording shall be discontinued at the request of the Chairman or other presiding officer.

(Source: Added at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.10 Definitions**

TheThis Part incorporates the definitions contained in Section 3 of the Act shall apply to this Part, as well as the following:other definitions.

"Act" means the Illinois Public Labor Relations Act [5 ILCS 315].

"Administrative Law Judge" means either the agency head or an attorney licensed to practice in Illinois.

"Administrative Law Judge's recommended decision and order" means findings of fact and conclusions of law and reasons for those findings and conclusions. It is not a final decision of the Board. Such a recommended decision and order will be reviewed by the Board upon the filing of exceptions or on the Board's own motion.

"Board" means the Illinois Labor Relations Board or State or Local Panel, individually as applicable, or an agent designated by the Board.

"Board agent" means any Board employee who is designated by the Board to perform the acts and/or responsibilities outlined in the relevant sections of the

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rules.

"Charging party" means the person, employer or labor organization filing an unfair labor practice charge.

"Complaint" means a Board document issued to the parties in an unfair labor practice proceeding, notifying them of a hearing and setting forth the issues of fact or law to be resolved at the hearing.

"Employer" means "public employer" or "employer" as defined in Section 3(o) of the Act or the party named in a representation petition, unit clarification petition, decertification petition or voluntary recognition petition as the employer of the unit described in the petition.

"Exclusive representative" means "exclusive representative" as defined in Section 3(f) of the Act.

"Executive Director's Order" includes reports concerning challenges and objections to an election; deferrals to arbitration; orders holding cases in abeyance; dismissals; directions of election; and other similar orders. These orders are not final decisions of the Board but are the results of investigations. The Board, upon the filing of an appeal, shall review such orders except that orders and parts of orders finding sufficient issues of law and fact sufficient to warrant a hearing are not appealable.

"Fact-finding" means a process whereby an employer and an exclusive representative submit their disputes concerning the terms of a new collective bargaining agreement to a neutral third party for non-binding findings of fact and recommendations.

"General public employee unit" means any bargaining unit of employees who, because they are not subject to Section 14 of the Act, have the right to strike in accordance with Section 17 of the Act.

"Grievance arbitration" means a process whereby an employer and an exclusive representative submit a dispute concerning the interpretation or application of an existing collective bargaining agreement to a neutral third party for resolution.

"Grievance mediation" means a process whereby an employer and an exclusive representative employ a neutral third party to communicate with the parties and

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endeavor to bring about an amicable, voluntary resolution of a dispute over the interpretation or application of an existing collective bargaining agreement.

"Initial contract" means ~~negotiations for~~ a first collective bargaining agreement between an exclusive representative and an employer, covering a bargaining unit, following certification of that exclusive representative, ~~that is not currently covered by a collective bargaining agreement between the exclusive representative and the employer.~~

"Interest arbitration" means a process ~~in which~~ whereby an employer and an exclusive representative submit their disputes concerning the terms to be included ~~in~~ a new collective bargaining agreement for resolution by a neutral third party.

"Compulsory interest arbitration" shall refer to interest arbitration engaged in pursuant to Section 14 of the Act. "Voluntary interest arbitration" shall refer to all other interest arbitration engaged in under the Act.

"Labor organization" means "labor organization" as defined in Section 3(i) of the Act.

"Mediation" means a process whereby an employer and an exclusive representative employ a neutral third party to communicate with the parties and endeavor to bring about an amicable, voluntary resolution of negotiations over the terms of a new collective bargaining agreement.

"Petitioner" means the party named in a representation petition, unit clarification petition, decertification petition or voluntary recognition petition as having filed the petition.

"Protective services unit" means any bargaining unit subject to Section 14 of the Act in which the employees accordingly do not have the right to strike. Such units *are units of security employees of a public employer, peace officer units, or units of firefighters or paramedics.* (Section 14(a) of the Act)

"Representation petition" means either a traditional representation petition to determine a union's majority support through an election (election petition) as set forth in Section 9(a)(1) and (2) of the Act or a petition filed pursuant to the Board's card check procedures (majority interest petition) as set forth in Section ~~9(a-5)(a)(5)~~ of the Act.

"Respondent" means the party named in an unfair labor practice charge or

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complaint as having allegedly committed the unfair labor practice.

"Successor contract" means negotiations for a collective bargaining agreement covering a bargaining unit that is currently covered by a collective bargaining agreement between the exclusive representative and the employer.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.20 Filing and Service of Documents**

- a) ~~All charges, petitions, mediation requests and other initial documents relating to any proceeding before the State Panel of the Illinois Labor Relations Board shall be filed in the Board's Springfield office, which shall be designated as the State Panel's principal office. All subsequent documents may shall be filed in either the Board's Springfield or Chicago office, as directed by the Board. All documents relating to any proceeding before the Local Panel of the Illinois Labor Relations Board shall be filed with the Board's office in Chicago which shall be designated as the Local Panel's principal office. Two copies of each document shall be filed. The Board shall post, and from time to time revise as appropriate, a list containing the street and mailing addresses for filing by actual delivery of papers and the telephone numbers for filing by electronic telefacsimile transmission (fax).~~
- b) Whenever this Part or 80 Ill. Adm. Code 1210, 1220 or 1230 requires that a document be on a form developed by the Board, the document may be prepared on a form obtained either from a Board office or from the Board's website. ~~from the Board or on a facsimile.~~ Minor deviations in the form of a document shall not be grounds for objecting to the document. Minor deviations are those concerning form rather than substance that do not prejudice the other parties to a proceeding.
- c) Documents may be filed by any of the following methods:
  - 1) By actual delivery of documents to the Board;
  - 2) By first class, registered or certified United States mail or by commercial parcel delivery company; or
  - 3) By email, to the Board's designated email address for electronic filing, provided that any and all attachments are in Microsoft Word format (.doc or .docx) or in Portable Document Form (.pdf). The Board may direct parties to provide hard copies of documents filed by e-mail. ~~By fax, subject~~

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~~to the following limitations:~~

- ~~A) Parties shall transmit one copy of the documents, accompanied by a cover sheet or form identifying the party filing the documents, the total number of pages in the fax transmission, and the name, address, telephone number and fax number of the person sending the fax;~~
- ~~B) The original documents filed by fax shall be mailed or delivered to the appropriate Board office on the same day the fax is transmitted, together with a fax confirmation receipt;~~
- ~~C) The appropriate case numbers shall be indicated on the front page of each document filed by fax, unless the document is being filed to initiate proceedings before the Board;~~
- ~~D) If receipt of a fax transmission commences after the close of the Board's business hours, the documents will be deemed filed on the next business day; and~~
- ~~E) A fax shall not be used to submit authorization cards for purposes of a showing of interest within the meaning of 80 Ill. Adm. Code 1210.80.~~

- d) All petitions ~~and~~ intervening claims filed in representation proceedings, and all amendments to those documents, shall be served on the appropriate parties by the Board by certified mail or by regular mail accompanied by affidavit or certificate of service.
- e) All ~~unfair labor practice charges and all~~ documents, except those listed in subsection (d), shall be served by the party filing the document on all other parties to the proceedings. The following documents ~~Evidence submitted to the Board in the course of an investigation~~ shall not be subject to this requirement:-
  - 1) position statements and evidence submitted to the Board in the course of any investigation of an unfair labor practice charge;
  - 2) position statements and evidence submitted to the Board in the course of any investigation of an objection to an election;

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3) showing of interest evidence described in Section 1210.80; and

4) evidence of majority support referenced in Section 1210.160(c).

f) When a party is represented in a proceeding before the Board, service shall be on the party's representative. When a party is not represented, service shall be on the party. The document shall not be considered properly served unless accompanied by proof of service. Proof of service shall consist of a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service.

g) In all matters, a document shall be considered filed with the Board on the date that it is

1) postmarked;

2) tendered to a delivery service;

3) transmitted by e-mail, in accordance with Section 1200.20(c)(3); or

4) received before the close of the Board's business hours by personal delivery in either of the Board's offices.~~office of the appropriate Panel before the close of the Board's business hours. Service made by fax shall be regarded as completed upon production by the fax machine of confirmation of transmission, together with the same day mailing of a copy of the papers, postage pre-paid and properly addressed, to the person being served.~~

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.40 Authority of Administrative Law Judges**

The Administrative Law Judge shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order and to ensure development of a clear and complete record. The Administrative Law Judge shall have all powers necessary to achieve these ends, including, but not limited to the discretionary authority to:

a) Require the parties to participate in a pre-hearing conference and/or mediation before proceeding with a hearing;

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- b) Require all parties to submit pre-hearing information, including, but not limited to, a detailed written statement of the issue to be resolved at hearing and its position; a list of witnesses each party intends to call, the nature of their testimony, the estimated time for each witness' testimony, and the estimated time for the party's case in chief; a list of exhibits to be offered by each party in its case in chief and a copy of each exhibit; and all other information the Administrative Law Judge requests;
- c) Regulate the proceedings of the case, and the conduct of the parties and their counsel;
- d) Administer oaths and affirmations;
- e) Receive relevant testimony and evidence;
- f) Establish reasonable limits on the frequency and duration of the testimony of any witness and limit repetitious or cumulative testimony;
- g) Examine witnesses and direct witnesses to testify; however, this provision does not lessen any party's burden of proof;
- h) Issue subpoenas and rule upon motions to revoke subpoenas;
- i) Take administrative notice of generally recognized facts of which Illinois courts may take judicial notice and of other facts within the specialized knowledge and experience of the Board;
- j) Rule on objections, motions and questions of procedure;
- k) Authorize the submission of briefs and set the time for their filing;
- l) Hear closing argument;
- m) Order a hearing reopened prior to the issuance of the Administrative Law Judge's recommended decision and order;
- n) Render and serve the recommended decision and order on the parties to the proceeding;
- o) Carry out the duties of Administrative Law Judge as provided or otherwise

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authorized by this Part or 80 Ill. Adm. Code 1210, 1220 or 1230 or the Act.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.45 Motions**

- a) Motions during the course of an investigation must be filed with the Executive Director. In matters set for hearing, all motions must be filed with the assigned Administrative Law Judge. Once the Administrative Law Judge's recommended decision and order has issued, all motions ~~must~~should be filed with the General Counsel ~~in the Board's Chicago office.~~ Any briefs related to a motion filed before an Administrative Law Judge or General Counsel must comport with Section 1200.140.
- b) Motions must be made in writing unless made during the hearing, at which time the motions may be made verbally, on the record. Motions must briefly state the grounds for the motion and any relief requested. Written motions must be served in accordance with Section 1200.20.
  - 1) Motions to extend time for the filing of documents must contain a statement that the moving party discussed the requested extension with the other parties. If no objections were raised, the moving party must certify that the other parties were consulted and authorized the moving party to represent that they have no objections. If objections were raised, the moving party must describe those objections and its response.
  - 2) Motions for continuance of a hearing must contain a statement that the moving party consulted with the other parties to determine whether they have any objection to the requested continuance. Where there are no objections, the moving party must certify that it has consulted with the other parties and that they authorized the moving party to represent that they have no objections. Where objections are raised, the moving party must describe those objections and its response. The motion for continuance must contain a statement that the moving party contacted the other parties to determine their availability for hearing on subsequent dates and it must indicate those dates in the motion.
  - 3) At any time prior to the issuance of the recommended decision and order, a party may move to disqualify the Administrative Law Judge on the grounds of bias or conflict of interest. The motion shall be in writing to

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the General Counsel, with a copy to the Administrative Law Judge, setting out the specific instances of bias or conflict of interest. An adverse decision or ruling, in and of itself, is not grounds for disqualification. The General Counsel may decline to disqualify the Administrative Law Judge or may appoint another Administrative Law Judge to hear the case.

- 4) Motions to defer an unfair labor practice matter to arbitration may be made in accordance with Section 1220.65.
- c) Responses and any other answering documents, including memoranda and affidavits, must be filed within 5 days after service of the motion, or as otherwise required by the Executive Director, Administrative Law Judge or the Board. Responses must be served in accordance with Section 1200.20.
- d) Rulings on motions shall be made in writing and served on all parties to the proceeding. The Administrative Law Judge may reserve ruling on any motion until the issuance of his or her recommended decision and order.
- e) Rulings on motions are not appealable to the Board, unless as otherwise provided by the Board.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.60 Closing Arguments and Briefs Before An Administrative Law Judge**

Upon request, a party is entitled to a reasonable period of time at the close of the hearing for oral argument, which shall be made part of the record. The Administrative Law Judge may direct the filing of briefs when the filing is, in the opinion of the Administrative Law Judge, warranted by the nature of the proceedings or the particular issues involved. All briefs filed shall be in accordance with Section 1200.140.~~All briefs shall be no more than a total of 50 double-spaced pages with margins of at least 1/2 inch, including attachments. All of the pages in excess of the 50 page limit will be rejected. The General Counsel may grant approval of exceptions and briefs containing more than 50 pages only in extraordinary circumstances (e.g., in cases involving extremely complex issues, in cases involving factual or legal issues of first impression, or in cases involving a lengthy factual record).~~

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.70 Representation of Parties**

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A party may be represented by counsel or any other representative of the party's choosing. The representative shall file a Notice of Appearance with the Board referencing the case number and caption, and the postal address, email address and telephone number of the representative. Filing pleadings on behalf of a party shall be equivalent to filing a Notice of Appearance, provided the pleadings include the required information.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.80 Ex Parte Communications**

No party or other persons legally interested in the outcome of a matter pending before an Administrative Law Judge or any Board panel hearing may communicate ex parte regarding the matter, either directly or indirectly, with ~~any~~ Administrative Law Judge or with any member of the Board regarding matters pending before the Board.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.90 Subpoenas**

Following the issuance of a complaint for hearing or a notice of representation hearing, *the Board*, upon the request of an Administrative Law Judge or upon the written application of a party, *shall have the power to issue subpoenas* for witnesses and subpoenas for documents. [5 ILCS 315/11(b)]

a) Subpoenas for Witnesses

- 1) A party's written application for subpoenas for witnesses must be directed to the Administrative Law Judge, and must contain the following information:
  - A) the title and case number of the proceeding;
  - B) the name, address, e-mail address and phone number of the party requesting the subpoena and its representative;
  - C) the name of the person to be subpoenaed; and
  - D) the date, time and place of the appearance to be commanded.
- 2) Applications must be filed with the Board and served on the other parties

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to the case at least 10 days before the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request. Upon request, the Board will mail the subpoenas to the applicant.

- 3) The party requesting the subpoenas shall be responsible for serving the subpoenas on the witnesses at least 5 days before the hearing date. The party requesting the subpoenas shall also be responsible for payment of the witness fees for attendance, subsistence and mileage. Witnesses appearing at a hearing pursuant to subpoena are entitled to the same fees and mileage as are allowed witnesses in civil cases in the courts of the State of Illinois, pursuant to Section 4.3 of the Fees and Salaries Act [705 ILCS 35/4.3]. The requesting party must tender all fees with the subpoena. A witness appearing at the request of the Board shall submit the subpoena with a voucher when claiming reimbursement.
  - 4) Board employees shall not be subpoenaed to testify regarding matters that occurred during their employment with the Board.
  - 5) Subpoenas shall remain in effect throughout the course of the proceedings.
- b) Subpoenas for Documents (Subpoena Duces Tecum)
- 1) A party's written application for subpoenas for documents must be directed to the Administrative Law Judge and must contain the following information:
    - A) the title and case number of the proceeding;
    - B) the name, address and phone number of the party requesting the subpoena and its representative;
    - C) a detailed description of the books, papers, documents or other objects to be produced pursuant to the subpoena;
    - D) the name of the person to be served with the subpoena; and
    - E) the date, time and place of production to be commanded.
  - 2) Applications must be filed with the Board and served on the other parties

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to the case at least 10 days before the hearing and 10 days before the date on which the documents are to be produced. The date and time for production of documents may be prior to the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request. Upon request, the Board will mail the subpoenas to the applicant.

3) The party requesting the subpoenas shall be responsible for serving the subpoenas at least 5 days before the hearing date and 5 days before the date on which the documents are to be produced.

4) Confidential Board documents as defined in 2 Ill. Adm. Code 2501.220(a)~~2501.20(e)~~ shall not be subpoenaed.

c) Motions to Revoke Subpoenas

A person objecting to the subpoena may file a motion to revoke the subpoena. The motion must be filed at least 3 days prior to the hearing and 3 days before the date on which the documents are to be produced. The motion shall be filed with the Administrative Law Judge assigned to the case. Grounds for revocation shall include irrelevance, undue burden and privilege.

d) Subpoenas in Impasse Proceedings

Subpoenas in impasse proceedings shall be handled in accordance with 80 Ill. Adm. Code 1230.90. Motions to revoke the subpoena in such proceedings shall be filed with the arbitrator or fact-finder.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.100 Transfer of Jurisdiction**

a) Whenever a proceeding is instituted before either the State or Local Panel of the Illinois Labor Relations Board and it appears that the matter is properly subject to the other Panel's jurisdiction, the first Panel shall transfer the case to the other Panel.

b) Whenever one Panel has transferred a case to the other Panel, the other Panel ~~can~~ refuse to accept the transfer if it believes that it does not have jurisdiction. The other Panel's refusal to accept the transfer shall automatically initiate the scheduling of a joint meeting of the State and Local Panels~~Panel proceeding~~ to resolve the jurisdictional issue.

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- c) Whenever only one member of either Panel believes that a case before that Panel is subject to the jurisdiction of the other Panel, that member shall initiate a joint Panel proceeding to resolve the jurisdictional issue.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.105 Consolidation of Proceedings**

The Board shall consolidate two or more representation or unfair labor practice cases when the following 3 conditions are met.

- a) The cases involve common parties or issues of law or fact and/or grow out of the same transaction or occurrence;
- b) Consolidation would not prejudice the rights of the parties; and
- c) Consolidation would result in the efficient and expeditious resolution of cases.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.120 Voluntary Settlement or Adjustment of Disputes**

The Board, as a matter of policy, encourages the voluntary efforts of the parties to settle or adjust disputes involving issues of representation, unfair labor practices, and interest and rights disputes. Any such efforts at resolution or conciliation and any resulting settlements shall be in compliance with the provisions, purposes and policies of the Act. Any facts, admissions against interest, offers of settlement or proposals of adjustment that have been submitted pursuant to this Section shall not be used as evidence of ~~an admission of~~ a violation of the Act.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.135 Appeals Procedures, Board Review and Court Review**

- a) Executive Director's Orders
- 1) Parties may appeal to the Board ordersOrders of the Executive Director, except orders setting matters for hearing, ~~may be appealed to the Board.~~ Notice of appeal and all supporting materials shall be filed with the Board's General Counsel, in the Board's Chicago office, no later than 10

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days after service of the Executive Director's order. The appeal shall be served on all other parties in accordance with Section 1200.20.

- 2) A party may file a response to the appeal and all materials in support of the response no later than 5 days after service of the appeal. The response shall be served on all other parties in accordance with Section 1200.20.
- 3) The Board will review an Executive Director's order only upon the timely filing of an appeal. ~~Parties desiring oral argument before the Board shall request oral argument and state the reasons for the requests in their appeals and responses. The Board shall grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. In addition, the Board may, on its own motion, request oral argument, depending upon the significance, complexity and novelty of the issues.~~ The Board may adopt all, part or none of the order depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve on all parties its decision and order.

b) Administrative Law Judge's Recommended Decision and Order

1) Proceedings

A) In representation proceedings, parties may file exceptions to the Administrative Law Judge's recommended decision and order, and briefs in support of those exceptions, no later than 14 days after service of the recommended decision and order. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's decision. Within 5 days from the filing of the cross-exceptions, parties may file cross-responses to the cross-exceptions. Cross-responses shall be limited to the questions raised in the cross-exceptions. All exceptions, responses, cross-exceptions and cross-responses shall be filed in accordance with Section 1200.135. Each party shall serve its exceptions, cross-exceptions, responses, cross-responses, and briefs on the other parties. If the original exceptions are withdrawn, then all subsequent exceptions are moot.

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**B)** In unfair labor practice proceedings, parties may file exceptions to the Administrative Law Judge's recommended decision and order, and briefs in support of those exceptions, no later than 30 days after service of the recommended decision and order. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's decision. Within 7 days from the filing of such cross-exceptions, parties may file cross-responses to the cross-exceptions. Cross-responses shall be limited to the questions raised in the cross-exceptions. All exceptions, responses, cross-exceptions and cross-responses shall be filed in accordance with Section 1200.135. Each party shall serve its exceptions, cross-exceptions, responses, cross-responses, and briefs on the other parties.

**C)** In either type of proceeding, exceptions, responses, cross-exceptions, cross-responses and briefs, shall be filed with the Board's General Counsel in the Board's Chicago office. A party not filing timely exceptions waives its right to object to the Administrative Law Judge's recommended decision and order.

2) Exceptions and/or cross-exceptions shall specifically set forth the questions of procedure, fact, law or policy to which exception is taken, shall identify that part of the Administrative Law Judge's recommended decision and order to which objection is made, and shall state the grounds for the exceptions and shall include the citation of authorities and citations to the record unless set forth in a supporting brief. Any exception to a ruling, finding, conclusion or recommendation that is not specifically urged shall be deemed to have been waived. Any exception that fails to comply with the foregoing requirements may be disregarded.

3) Any brief in support of exceptions shall be confined to the subjects raised in the exceptions and shall contain:

A) a clear and concise statement of the case containing all that is material to the consideration of the questions presented;

B) a specification of the questions involved and the issues to be

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argued; and

C) an argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question.

4) The Board will review the Administrative Law Judge's recommended decision and order upon timely filing of exceptions or at any time on its own motion. The Board may adopt all, part or none of the recommended decision and order depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve on all parties its decision and order.

A) In representation proceedings, if the Board determines that a question concerning representation exists, the Board shall direct the holding of an election on a date and at a time and place set by the Board. The Board shall direct the posting of a Notice of Election. Within 7 days following the Board's direction of an election, the employer shall furnish the Board and the labor organization with ~~an excelsior list, which is~~ a list of the full names, alphabetized by last name, and addresses of the employees eligible to vote in the election. The ~~list~~lists shall be provided by personal delivery or certified mail. The employer shall obtain receipts verifying delivery.

B) In unfair labor practice proceedings, the Board will retain jurisdiction over the case to ensure the parties' compliance with the Board order. Unless overturned by the Board, the parties must comply with the recommended decision and order.

5) If no exceptions to the Administrative Law Judge's recommended decision and order have been filed within the prescribed time period, the parties will be deemed to have waived their exceptions. Unless the Board reviews the recommended decision and order upon its own motion, it will not be legal precedent and shall be final and binding only on the parties to that proceeding. The Board's General Counsel shall issue an order so providing.

c) Requests for Oral Argument  
Parties desiring oral argument before the Board shall request oral argument and state the reasons for the requests in their appeals, exceptions and responses. The

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Board shall grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. In addition, the Board may, on its own motion, request oral argument, depending upon the significance, complexity and novelty of the issues.

- de) Court Review of Board Orders  
Appeals to a Board's decision shall be made in accordance with Sections 9(i)9-i) and 11(e)11-e) of the Act.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.140 ~~Amicus Curiae~~ Briefs**

- a) For purposes of this Section, "briefs" shall be deemed to include:
- 1) post-hearing briefs before an Administrative Law Judge;
  - 2) briefs in support of appeals from Executive Director's orders and responses to those orders, inclusive of any separate appeal or response document filed with the brief;
  - 3) briefs in support of exceptions and cross-exceptions to an Administrative Law Judge's recommended decision and order and responses to that decision and order, inclusive of any separate exceptions, cross-exceptions or response document filed with the brief;
  - 4) briefs in support of or opposition to petitions for declaratory ruling;
  - 5) objections to compliance orders; and
  - 6) amicus curiae briefs filed pursuant to subsection (c).
- b) All briefs, including supporting materials, shall be no more than a total of 50 double-spaced pages with margins of at least ½ inch, including attachments. All of the pages in excess of the 50 page limit will be rejected, unless leave is granted. In the extraordinary circumstance that a case involves extremely complex issues, issues of first impression, or a lengthy factual record, a party may seek leave to file a brief in excess of 50 pages by filing a motion requesting leave. Motions seeking leave must be filed before the deadline for filing the brief at issue and should be directed to the Administrative Law Judge with whom the brief is

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pending or the General Counsel if the brief is on a matter before the Board.

- c) ~~Interested non-parties~~**Parties** may file a motion with the Board to request leave to file an amicus curiae brief or the Board, on its own motion, may solicit such briefs. The Board's standards by which to grant leave to file an amicus brief will include the importance of the issue presented, the general application of the issue presented and the need perceived by the Board for additional briefing on the issue presented. The amicus curiae brief shall conform to any conditions imposed by the Board for briefs in the case in which the brief is filed. These interested non-parties~~Amicus curiae parties~~ may be invited to participate in oral arguments heard by the Board. The Board will accept amicus curiae briefs in its proceedings. The filing of ~~thesesuch~~ briefs shall not serve to postpone or delay the proceedings.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.143 Declaratory Rulings**

Parties may petition the Board's General Counsel for a declaratory ruling, pursuant to Section 5-150 of the Illinois Administrative Procedure Act [5 ILCS 100/5-150], as follows:

- a) In general public employee bargaining units covered by 80 Ill. Adm. Code 1230.Subpart C, if, after the commencement of negotiations and before reaching agreement, the exclusive representative and the employer have a good faith disagreement over whether the Act requires bargaining over a particular subject or particular subjects, they may jointly petition for a declaratory ruling concerning the status of the law.
- 1) The petition must be signed by both parties and must contain the name, address, email address, telephone number and person to contact for each party, the date negotiations began, a statement of the legal issue on which a declaratory ruling is sought, and a copy of the most recently negotiated contract, if any.
  - 2) Declaratory rulings shall not be issued concerning factual issues that are in dispute.
  - 3) Each party shall file a brief no later than 10 days after the filing of the petition, unless an extension has been granted by the General Counsel.
  - 4) Any party desiring oral argument shall request oral argument in writing

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prior to or at the time of the filing of its brief. The General Counsel shall determine whether oral argument is warranted by the particular issues involved. Oral argument shall be held no later than 7 days after the filing of the briefs.

- 5) The General Counsel shall issue a declaratory ruling no later than 4530 days after receipt of the parties' briefs. Pursuant to Board practice and caselaw, the Board considers General Counsel declaratory rulings to be non-binding advisory opinions. Consequently, the Board's General Counsel declaratory rulings are not appealable.
  - 6) The parties shall continue to have a duty to bargain in good faith during the pendency of a declaratory ruling petition. The pendency of a declaratory ruling petition shall not stay the running of the 60 and 30 day notice periods provided in 80 Ill. Adm. Code 1230.140(a), (b), and (c). Nor shall the pendency of a declaratory ruling petition stay the running of the 5 day notice of intent to strike required under Section 17(a)(5) of the Act.
- b) In protective service employee bargaining units covered by 80 Ill. Adm. Code 1230.Subpart B, if, after the commencement of negotiations and before reaching agreement, the exclusive representative and the employer have a good faith disagreement over whether the Act requires bargaining over a particular subject or particular subjects, they may jointly petition for a declaratory ruling concerning the status of the law. If a request for interest arbitration has been served in accordance with 80 Ill. Adm. Code 1230.70 and either the exclusive representative or the employer has requested the other party to join it in filing a declaratory ruling petition and the other party has refused the request, the requesting party may file the petition on its own, provided that the petition is filed no later than the first day of the interest arbitration hearing.
- 1) A joint petition must be signed by both parties. A petition filed by only one party must contain a statement that the other party has refused a request to join in the petition, and must contain a copy of the request for interest arbitration. All petitions must contain the name, address, email address, telephone number and person to contact for each party, the date negotiations began, a statement of the legal issue on which a declaratory ruling is sought, and a copy of the most recently negotiated contract, if any.

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- 2) Declaratory rulings shall not be issued concerning factual issues that are in dispute. In the case of a unilateral petition for declaratory ruling in which the General Counsel has determined that material issues of fact are in dispute, the General Counsel may either dismiss the petition without prejudice to the requesting party's right to file an unfair labor practice charge, or, where the General Counsel determines that a fact-finding of the disputed factual issues will facilitate a determination of the issues that are the subject of the petition, the issuance of the declaratory ruling may be deferred and the disputed issues of fact referred to the Interest Arbitration Panel for determination.
- 3) ~~The Board shall serve a copy of a petition filed by only one party on the other party.~~ Each party shall file a brief no later than 10 days after the filing of a joint petition, or no later than 10 days after the service of a petition filed by only one party, unless an extension has been granted by the General Counsel.
- 4) Any party desiring oral argument shall request oral argument in writing prior to or at the time of the filing of its brief. The General Counsel shall determine whether oral argument is warranted by the particular issues involved. Oral argument shall be held no later than 7 days after the filing of the briefs.
- 5) The General Counsel shall issue a declaratory ruling no later than ~~45~~ 30 days after receipt of the parties' briefs. Declaratory rulings shall not be appealable.
- 6) The parties shall continue to have a duty to bargain in good faith during the pendency of a declaratory ruling petition. The pendency of a declaratory ruling petition shall not stay mediation or interest arbitration proceedings required under the Act.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1200.145 Filing of Contracts**

- a) Within 60 days after a new collective bargaining agreement that is subject to the Act has been signed by the parties, the parties shall be jointly reached, each labor organization and each employer shall be responsible for filing with the Board a copy of the agreement in .pdf and paper form. 2 copies of any collective

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~~bargaining agreement that is subject to the Act.~~

- b) The collective bargaining agreements shall be accompanied by a designated Board form setting forth the following information:
  - 1) names, addresses, email addresses, telephone and fax numbers of the parties and their representatives;
  - 2) the contract's execution and expiration dates; and
  - 3) the composition of the bargaining unit and whether the unit is a general public employee unit or a protective services unit.
- c) The Board's acceptance of the contract for filing is not determinative of any substantive issues in any proceedings before the Board, such as the existence of a valid historical unit or of a valid collective bargaining relationship between the parties or that the contract is sufficient to establish a contract bar under 80 Ill. Adm. Code 1210.
- d) Failure of the parties to comply with the above filing requirements may cause any representation petitions or requests for mediation and/or arbitration to be delayed until that such information is submitted to the Board.

(Source: Amended at 40 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)