RULES AND REGULATIONS
OF THE
ILLINOIS LABOR RELATIONS BOARD

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

PART 1200
GENERAL PROCEDURES

Section

AUTHORITY: Implementing and authorized by the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1991, ch. 48, pars. 1601 et seq.) [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, 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.

Section 1200.10 Definitions

a) The term "Act" shall mean the Illinois Public Labor Relations Act, (Ill. Rev. Stat. 1991, ch. 48, pars. 1601 et seq.) [5 ILCS 315].

b) This part incorporates the definitions contained in Section 3 of the Act.

c) The term "Board" shall refer to the Illinois State Labor Relations Board and the Illinois Local Labor Relations Board or each Board individually as applicable, or an agent designated by the Board.

d) The term "charging party" shall mean the person who files an unfair labor practice charge.

e) The term "respondent" shall mean the party named in an unfair labor practice charge or complaint as having allegedly committed the unfair labor practice.

f) The term "complaint" shall mean 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.

g) An administrative law judge's recommended decision and order is not a final decision of the Board, but rather a recommended opinion in the name of the administrative law judge, setting forth findings of fact and conclusions of law and reasons therefor. Such a recommended opinion or decision and order will be reviewed by the Board upon the filing of exceptions or on the Board's own motion.

h) An Executive Director's Report is a report concerning challenges and/or objections to an election. Such a report shall be reviewed by the Board upon the filing of an appeal by a party. Such reports are not intended to be final decisions of the Board, but rather contain the results of investigations and a determination regarding the existence of questions of law or fact sufficient to warrant a hearing. An Executive Director's Dismissal is a document which indicates that no questions of law or fact exist sufficient to warrant a hearing.

(Source: Amended at 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.20 Filing and Service of Documents

a) All charges, petitions, mediation requests and other initial documents relating to any proceeding before the Illinois State Labor Relations Board shall be filed in the Board's Springfield office, which office shall be designated as the State Board's principal office. All subsequent documents 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 Illinois Local Labor Relations Board shall be filed with the Board's

office in Chicago which shall be designated as the Local Board's principal office. Two copies of each document shall be filed.

b) Whenever these rules require that a document be on a form developed by the Board, the document may be prepared on a form obtained from the Board or on a facsimile thereof. 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 which therefore do not prejudice the other parties to a proceeding.

c) All petitions, unfair labor practice charges, intervening claims and amendments thereto shall be served on the appropriate parties by the Board by certified mail.

d) All documents, except those listed in subsection (c) above, shall be served by the party filing the document on all other parties to the proceedings. Evidence submitted to the Board in the course of an investigation shall not be subject to this requirement. 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 be 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.

e) In all matters, a document shall be considered filed with the Boards on the date that it is postmarked, tendered to a delivery service or received by personal delivery in the office of the appropriate Board. However, in cases of filing of exceptions to an administrative law judge's recommended decision and order, responses thereto and briefs in connection therewith, where the filing period has been extended pursuant to the request of a party, the document shall be considered filed with the Boards on the date that it is received by the appropriate Board.

f) Unless specifically requested by the Board or its agent, the filing of documents with the Board by electronic transmission, such as telefax machine or computer modem, shall not be accepted.

(Source: Amended at 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.30 Computation and Extensions of Time

a) In computing any period of time prescribed by the Act or this Part, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included. If the last day falls on a Saturday, Sunday, or legal holiday, the time period shall be automatically extended to the next day that is not a Saturday, Sunday or legal holiday.

b) When a time period prescribed under the Act or these rules is less than seven days, intervening Saturdays, Sundays, or legal holidays shall not be included.

c) Service of a document upon a party by mail shall be presumed complete three days after mailing, if proof of service shows the document was properly addressed. This presumption may be overcome by the addressee, with evidence establishing that the document was not delivered or was delivered at a later date. A party's failure to accept or claim a document served by mail shall not be grounds overcoming the presumption.

d) Requests for postponements of hearings, investigations or conferences scheduled by the Board or its agents or extensions for the filing of briefs, exceptions or responses must be made prior to the then existing deadlines and will not be granted unless good and sufficient cause is shown and the following requirements are met:

1) the requests must be in writing directed to the investigator, administrative law judge, Executive Director or General Counsel responsible for the proceeding;

2) the grounds for the request must be set forth in detail;

3) the requesting party must specify alternate days for scheduling the hearing or conference or for the due date of any documents;

4) the position of all parties concerning both the postponement or extension requested and the proposed alternate dates must be ascertained in advance by the requesting party and set forth in the request;

5) for purposes of this Section, good and sufficient cause may include a showing to the satisfaction of the Board or its agents that a postponement or extension will result in settlement of the case;

6) except for good cause shown no request for postponement will be granted on any of the three days immediately preceding the date of a hearing, investigation or conference. All continuances must be to a date and time certain; in no event shall an indefinite continuance be granted.

(Source: Amended at 20 Ill. Reg. 7391, effective May 10, 1996)

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 these ends including (but not limited to) the authority to:

a) Hold pre-hearing conferences for settlement, simplification of the issues, or any other related purposes;

b) Regulate the proceedings of the case, and the conduct of the parties and their counsel;

c) Administer oaths and affirmations;

d) Receive relevant testimony and evidence;

e) Examine witnesses and direct witnesses to testify;

f) Issue subpoenas and rule upon motions to revoke subpoenas;

g) Rule on objections, motions and questions of procedure;

h) Authorize the submission of briefs and set the time for the filing thereof;

i) Hear oral argument;

j) Render and serve the recommended decision and order on the parties to the proceeding;

k) Carry out the duties of administrative law judge as provided or otherwise authorized by these rules and regulations or the Act.

(Source: Section repealed, new Section added at 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.50 Recording of Hearings

Whenever a representation hearing, unfair labor practice hearing, strike investigation hearing or similar hearing is held by the Board or its administrative law judge under the Act or these rules, it shall be recorded by stenographic or other means which adequately preserves the record. The administrative law judge or the Board may order that the recording be transcribed. Parties may order transcripts and shall bear the costs of any transcripts that they order.

(Source: Amended at 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.60 Oral Argument and Briefs

A party is entitled upon request to a reasonable period of time at the close of the hearing for oral argument, which shall be made part of the record. A party is entitled, upon request made before the close of the hearing, to file a brief with the administrative law judge, who may fix a reasonable time for the filing based

upon the nature of the proceedings and the particular issues. The Board or the administrative law judge shall direct the filing of briefs when the filing is, in the opinion of the Board or administrative law judge, warranted by the nature of the proceedings or the particular issues involved. All briefs, whether filed with the Board or an administrative law judge, unless prior approval has been granted by the General Counsel or the administrative law judge, shall be no more than 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. Such approval will only be granted 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 20 Ill. Reg. 7391, effective May 10, 1996)

Section 1200.70 Representation of Parties

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.

Section 1200.80 Ex Parte Communications

No party may engage in any ex parte communications with an administrative law judge or with any member of the Board regarding matters pending before the Board.

(Source: Amended at 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.90 Subpoenas

a) Following the issuance of a complaint for hearing or a notice of representation hearing, *the Board shall have the power to issue subpoenas* upon written application of a party. The Board or the administrative law judge may require the party requesting issuance of subpoenas to demonstrate, among other factors, that the request is reasonably required to carry out the proceedings before the Board. The application shall contain the name and address of the party and its representative, and the name of the person to be subpoenaed, and a description of any documents to be produced, and the date, time and place of the appearance to be commanded. The date and time may be prior to the hearing when the application seeks to subpoena documents only. Applications seeking to subpoena documents must be filed with the Board at least five days prior to the date on which the documents are to be produced and at least five days prior to the date of the hearing.

b) A person objecting to the subpoena may file a motion to revoke the subpoena. Grounds for revocation shall include irrelevance, burdensomeness and privilege. The motion must be filed no later than five days after service of the subpoena.

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

d) 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 47 of Part 4 of the Fees and Salaries Act. (Ill. Rev. Stat. 1991, ch. 53, par. 65) [55 ILCS 45/47]. The party at whose request the subpoena was issued shall be responsible for service of the subpoena and for ensuring that witness fees and mileage are paid.

e) Board employees shall not be subpoenaed.

(Source: Amended at 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.100 Transfer of Jurisdiction

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

b) Whenever one Board has transferred a case to the other Board, the other Board can refuse to accept the transfer if it believes that it does not have jurisdiction. The other Board's refusal to accept the transfer shall automatically initiate a joint Board proceeding to resolve the jurisdictional issue.

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

Section 1200.105 Consolidation of Proceedings

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

a) The cases involve common issues of law or fact 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.

Section 1200.110 Amicus Curiae Briefs

The Board will accept amicus curiae briefs in its proceedings. The filing of such briefs shall not serve to postpone or delay the proceedings.

(Source: Amended at 17 Ill. Reg. 15588, effective September 13, 1993)

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 which 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 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.130 Rules of Evidence

Considering the nature of the case and the representatives of the parties, the administrative law judge will, insofar as practicable, apply the rules of evidence applicable in Illinois courts.

(Source: Amended at 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.140 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 (Ill. Rev. Stat. 1991, ch. 127, par. 1005-150) [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, 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.

    4) Any party desiring oral argument shall request oral argument in writing prior to or at the time of the filing of its brief. Oral argument shall be held no later than seven days after the filing of the briefs.

5) The General Counsel shall issue a declaratory ruling no later than 30 days after the filing of the petition.

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 five 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, 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) 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.

4) Any party desiring oral argument shall request oral argument in writing prior to or at the time of the filing of its brief. Oral argument shall be held no later than seven days after the filing of the briefs.

5) The General Counsel shall issue a declaratory ruling no later than 30 days after the filing of the petition.

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 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.150 Conflicts of Interest

No person who has been a Board member or an employee of the Board shall engage in practice before the Board or its agents in any respect in connection with any case or proceeding which was pending during person's membership on or employment with the Board.

(Source: Amended at 17 Ill. Reg. 15588, effective September 13, 1993)

Section 1200.160 Variances and Suspensions of Rules

The provisions of these rules may be waived or suspended by the Board when it finds that:

a) The provision from which the variance is granted is not statutorily mandated;

b) No party will be injured by the granting of the variance; and

c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

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

PART 1210
REPRESENTATION PROCEEDINGS

Section

AUTHORITY: Implementing Section 9 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1991, ch. 48, pars. 1609, 1605(i) and (j)) [5 ILCS 315/9, 5(i) and (j)].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 16014, effective August 22, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1870, effective January 25, 1985; amended at 11 Ill. Reg. 6461, effective March 27, 1987; amended at 12 Ill. Reg. 20110, effective November 18, 1988; amended at 14 Ill. Reg. 19930, effective November 30, 1990; amended at 17 Ill. Reg. 15612, effective September 13, 1993; amended at 20 Ill. Reg. 7396, effective May 10, 1996.

Section 1210.10 General Statement of Purpose

The regulations contained in this Part detail the procedures that employers, employees and labor organizations should use for employer voluntary recognition of a labor organization and for instituting representation and related proceedings. These procedures are the exclusive means by which a public employer may recognize a labor organization after the effective date of these rules. Any other purported recognition effected after the effective date of these rules shall not bar representation petitions, nor shall any collective bargaining agreement negotiated by the parties pursuant to the purported recognition bar representation petitions pursuant to the Illinois Public Labor Relations Act ("Act") (Ill. Rev. Stat. 1991, ch. 48, pars. 1601 et seq.) [5 ILCS 315].

(Source: Amended at 17 Ill. Reg. 15612, effective September 13, 1993)

Section 1210.20 Labor Organization Options in Seeking Recognition

a) A labor organization seeking recognition in a proposed appropriate bargaining unit in which no other labor organization has attained recognition rights in accordance with the Act, may request that the employer voluntarily recognize it or may file a representation petition with the Board.

b) A labor organization seeking recognition in a proposed appropriate bargaining unit in which another labor organization is recognized in accordance with the Act may pursue its request only by filing a representation petition with the Board.

Section 1210.30 Employer Options in Responding to Recognition Requests

a) An employer faced with a request for recognition in a bargaining unit that is not currently represented by a labor organization may agree to resort to the voluntary recognition procedures set forth in Section 1210.160 of this Part; may consent to a representation election; may file a representation petition with the Board; or may decline to respond to the request.

b) An employer faced with a request for recognition in a bargaining unit in which another labor organization is recognized in accordance with the Act may file a representation petition with the Board or may decline to respond to the request. The employer may not voluntarily recognize the labor organization.

(Source: Amended at 14 Ill. Reg. 19930, effective November 30, 1990)

Section 1210.40 Representation Petitions

a) A representation petition may be filed by:

1) an employee, a group of employees, or a labor organization; or

2) an employer, *alleging that one or more labor organizations have presented a claim to be recognized as an exclusive bargaining representative of a majority of the employees in an appropriate unit*. (Section 9(a)(2) of the Act).

b) Representation petitions shall be signed by a representative of the petitioning party and shall contain:

1) the name, address and telephone number of the employer;

2) the name, address, telephone number and affiliation, if any, of the labor organization;

3) the name, address and telephone number of petitioner's representative;

4) a specific and detailed description of the proposed bargaining unit which petitioner claims to be appropriate, including employee classifications or job titles to the extent known;

5) a statement of whether the proposed unit combines professional and non-professional employees;

6) a statement of whether the proposed unit combines craft and noncraft employees;

7) the approximate number of employees in the proposed bargaining unit;

8) the name of any existing exclusive representative of any employees in the proposed bargaining unit;

9) a brief description of any collective bargaining agreements covering any employees in the proposed bargaining unit, and the expiration dates of the agreements;

10) the date that the employer recognized any existing exclusive representative of any employees in the proposed bargaining unit, and the method of recognition;

11) election and/or recognition history prior to July 1, 1984, to the extent known; and

12) in the case of a petition filed by an employer, a statement that one or more labor organizations has demanded recognition.

c) The Board shall serve the representation petition on the appropriate parties as follows:

1) Employer petitions shall be served on the labor organizations that have demanded recognition, and on the existing exclusive representative, if any.

2) Employee and labor organization petitions shall be served on the employer and on the existing exclusive representative, if any.

d) Employee and labor organization petitions shall be accompanied by a showing of interest that at least 30 percent of the employees in the petitioned for bargaining unit wish to be represented by the labor organization.

e) A petition may seek joint representation by two or more labor organizations if an instrument, such as a joint council, has been established to effectuate the joint representation. In such instances, the petition shall describe the instrument, and the showing of interest shall expressly designate joint representation.

f) A labor organization may withdraw its representation petition as follows:

1) If there are no intervenors, at any time. However, any such withdrawal which occurs after the direction of an election or the approval of a consent election agreement shall bar the labor organization from petitioning for an election in a bargaining unit covering all or part of the petitioned for unit for six months following the withdrawal.

2) If there are intervenors, the labor organization may not withdraw its petition without the consent of all parties. However, the labor organization may file a statement signed by its authorized representative that it no longer wishes to appear on the ballot. The statement shall be filed no later than 10 days prior to the election. Upon receipt of such a statement, the Board shall strike the labor organization's name from the ballot.

(Source: Amended at 14 Ill. Reg. 19930, effective November 30, 1990)

Section 1210.50 Intervention Petitions

a) An intervention petition may be filed by an employee, a group of employees, or a labor organization.

b) Intervention petitions shall be signed by a representative of the petitioning party and shall contain the same information as is required for representation petitions.

c) Intervention petitions may be filed with the Board no later than 15 days prior to the date of the election. However, any intervenor who files after the commencement of the hearing or, if no hearing is held, after the

approval of a consent election agreement or the direction of an election, shall have waived objections to the bargaining unit.

d) Intervention petitions shall be accompanied by a showing of interest that at least 10 percent of the employees in a bargaining unit substantially similar to the petitioned for unit or at least 30 percent of the employees in a bargaining unit that is not substantially similar to the petitioned for unit wish to be represented by the labor organization. In determining whether the proposed bargaining units are substantially similar, the Board will consider the number and type of employees included in each of the proposed units. The proposed units will not be considered substantially similar whenever less than 50 percent of the employees in the originally proposed unit are included in the unit proposed by the intervenor.

(Source: Amended at 14 Ill. Reg. 19930, effective November 30, 1990)

Section 1210.60 Decertification Petitions

a) The purpose of a decertification proceeding is to determine whether a majority of the employees in an appropriate bargaining unit maintain their desire to be represented by the existing exclusive bargaining representative.

b) A petition to decertify an existing exclusive representative may be filed with the Board. The petition shall be served by the Board on the exclusive representative and on the employer. The petition shall be on a form developed by the Board. It shall be signed and shall contain the following:

1) the name, address and telephone number of the petitioner and of the petitioner's representative;

2) the name, address, telephone number and affiliation, if any, of the exclusive representative;

3) the name, address and telephone number of the employer;

4) a specific and detailed description of the bargaining unit including employee classifications or job titles;

5) the approximate number of employees in the bargaining unit;

6) the date that the exclusive representative was recognized and the method of recognition, if known; and

7) a brief description of any collective bargaining agreements covering any employees in the bargaining unit, and the expiration dates of the agreements.

c) A petition to decertify an existing exclusive representative must be supported by a 30 percent showing of interest.

d) An employer may not instigate a decertification petition filed by an employee or group of employees.

e) The Executive Director, when convinced that the petition is filed in accordance with subsection (c) and Section 1210.70 of this Part, and contains no issues of law or fact sufficient to warrant a hearing, shall direct an election as expeditiously as possible. The parties shall be given 10 days after service of the Executive Director's Order Directing Election to appeal the Order to the Board.

(Source: Amended at 14 Ill. Reg. 19930, effective November 30, 1990)

Section 1210.70 Timeliness of Petitions

a) Representation and decertification petitions may not be filed:

1) within 12 months following a valid Board-conducted election among all or some of the employees in the bargaining unit. The 12-month period shall run from the date on which the Board certifies the results of the election;

2) within 12 months following voluntary recognition and Board certification of an exclusive representative of all or some of the employees in the bargaining unit. The 12-month period shall run from the date of certification; or

3) whenever there is in effect a collective bargaining agreement of three years or shorter duration covering all or some of the employees in the bargaining unit. Collective bargaining agreements of longer than three years duration shall serve as a bar for the first three years of their existence. In all cases, representation and decertification petitions may be filed between 90 days and 60 days prior to the scheduled expiration date of a collective bargaining agreement of three years or less duration, or between 90 and 60 days prior to the end of the third year of an agreement of more than three years duration or anytime after the end of the third year of an agreement of more than three years duration.

b) A collective bargaining agreement shall not bar the filing of a representation or decertification petition if the agreement is between an employer and an employee organization recognized by the employer after the effective date of this Part without having used the voluntary recognition or representation election procedures specified in the Act and these regulations.

(Source: Amended at 14 Ill. Reg. 19930, effective November 30, 1990)

Section 1210.80 Showing of Interest

a) Representation petitions filed by employees, groups of employees and labor organizations, and all decertification petitions must be accompanied by a 30 percent showing of interest.

1) The showing of interest in support of a representation petition may consist of authorization cards, petitions, or any other evidence which demonstrates that at least 30 percent of the employees wish to be represented by the labor organization.

2) The showing of interest in support of a decertification petition may consist only of cards or petitions clearly stating that the employee does not want the incumbent labor organization to continue serving as exclusive representative.

b) A petition to intervene in an election must be supported by a 10 percent showing of interest when the petition alleges a bargaining unit substantially similar to the unit originally petitioned for. When the intervenor alleges a bargaining unit substantially different from the unit originally petitioned for, the petition must be supported by a 30 percent showing of interest. However, an incumbent exclusive representative shall automatically be allowed to intervene without submitting any showing of interest.

c) If authorization cards or petitions are submitted as a showing of interest, each signature appearing thereon must be dated by the employee.

d) Each signature appearing on an authorization card or petition shall be effective for 12 months from the date it was given.

e) Whenever an employee has signed authorization cards or petitions for two or more labor organizations, each card or petition shall be counted in computing the required showing of interest. Duplicates for the same labor organization shall be counted as one.

f) The Board shall maintain the confidentiality of the showing of interest. The evidence submitted in support of the showing of interest shall not be furnished to any of the parties.

g) The adequacy of the showing of interest shall be determined administratively by the Board or its agent. The showing of interest shall not be subject to collateral attack. However, any person who has evidence that the showing of interest was obtained improperly may bring the evidence to the attention of the Board's agent investigating the petition.

Section 1210.90 Posting of Notice

Following the filing of a representation or decertification petition, the Board shall provide the employer with a notice which shall be posted on bulletin boards and

other places where notices for employees in the proposed bargaining unit are customarily posted. Notice shall remain posted until the date of the election or until the petition is withdrawn or dismissed.

Section 1210.100 Processing of Petitions

a) Within seven days after service of a petition, an employer shall file a list containing the full names of the employees in the proposed bargaining unit. In the event the employer does not supply the list within seven days, the Board shall administratively determine the adequacy of the showing of interest, based on the information provided by the union.

b) All employers served with a representation petition and all unions served with a decertification petition shall file a written response to the petition. Any response filed shall set forth the party's position with respect to the matters asserted in the petition, including, but not limited to, the appropriateness of the bargaining unit and, to the extent known, whether any employees sought by petitioner to be included in the unit are supervisory, managerial or confidential. If a party agrees to the appropriateness of the unit proposed in the petition, it shall so indicate. If a party disagrees with the unit proposed in the petition, it shall describe with particularity what it considers to be an appropriate unit, and shall include a description of the job titles and classifications of the employees to be included and of those to be excluded.

c) The setting forth of a party's position with respect to the appropriate unit shall not be deemed to waive or otherwise preclude the right of that party to subsequently assert a different position with respect to what unit it considers to be appropriate.

d) Petitions to intervene in the election may be filed with the Board no later than 15 days prior to the date of the election. However, any intervenor who files after the date set for hearing or, if no hearing is held, after the approval of a consent election agreement or the direction of an election, shall have waived objections to the bargaining unit.

e) Upon receipt of the petition, the Board or its agent shall investigate the petition. If, for any reason during the investigation, the Board or its agent discovers that the petition may be inappropriate, the Board or its agent may issue an order to show cause requesting that the petitioner provide sufficient evidence to overcome the inappropriateness. Failure to provide sufficient evidence of the petition's appropriateness can result in the dismissal of the petition. Moreover, in conjunction with subsection (b) above, if, for any reason during the investigation, the Board or its agent discovers that the employer's objections to the representation petition or the union's objections to the decertification petition are insufficient in either law or fact, the Board or its agent may issue an order to show cause requesting that the employer or union provide sufficient evidence to support its defenses. Failure to provide sufficient evidence can result in the waiver of defenses.

f) After the investigation, the Executive Director shall dismiss a petition, or the administrative law judge shall recommend to the Board that a petition be dismissed, when a petition has been filed untimely; when the bargaining unit is clearly inappropriate; when the showing of interest is not adequate; when the employer is not covered by the Act; when the employees are not covered by the Act; and when for any other reason there is no reasonable cause to believe that a question of representation exists. The parties shall be given 10 days after service of the Executive Director's Dismissal or the Administrative Law Judge's Recommended Dismissal to appeal the dismissal to the Board. If the investigation discloses that there is reasonable cause to

believe that a question concerning representation exists the Board shall set the matter for hearing before an administrative law judge. All parties shall be given a minimum of 14 days notice of the hearing. If the only issues remaining between the parties after the investigation are logistical, e.g. the date of the election, the Executive Director or administrative law judge may issue an Order Directing an Election. The parties shall be given 10 days after service of the Order Directing Election to appeal the Order to the Board. Each party shall serve appeals of such Dismissals, Recommended Dismissals and Orders on the other parties.

g) Interested persons, other than labor organizations, who may be necessary to the proceedings, who wish to intervene in the hearing shall direct such requests to the administrative law judge. The request shall be in writing and shall state the grounds for intervention. The administrative law judge shall have discretion to grant or deny the request for intervention. The decision shall be based upon the interests of the intervenor, whether those interests will be adequately protected by existing parties, and the timeliness of the intervenor's request.

h) The administrative law judge may schedule a prehearing conference or request statements of position when it appears to the administrative law judge that such would expedite the procedure.

i) The hearing shall be non-adversarial in nature. All parties may present evidence and make arguments, subject to the control of the administrative law judge.

j) Intermediate rulings of the administrative law judge shall not be subject to interlocutory appeal. Parties may raise objections to such intermediate rulings in their exceptions to the administrative law judge's recommended decision.

k) The administrative law judge shall inquire fully into all matters in dispute, and shall obtain a full and complete record. The administrative law judge shall file and serve on the parties a recommended disposition of the case as expeditiously as possible.

l) In the event the administrative law judge becomes unavailable to the Board during the proceeding, for reasons including but not limited to death or resignation, the General Counsel or the General Counsel's agent may designate another administrative law judge.

m) Exceptions

1) Parties may file exceptions to the administrative law judge's recommendation and briefs in support of those exceptions no later than 14 days after service of the recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions.

Each party shall serve its exceptions, responses, and briefs on the other parties. Parties desiring oral argument before the Board shall request oral argument and provide the reasons for the requests in their exceptions or responses. The Board will grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

2) Requirements

A) Each exception

i) shall set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken;

ii) shall identify that part of the administrative law judge's recommended decision and order to which objection is made; and

iii) shall state the grounds for the exceptions and shall include the citation of authorities unless set forth in a supporting brief.

B) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which 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, in the order indicated, the following:

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 to be argued.

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

4) Briefs in support of responses to exceptions shall be limited to the questions raised in the exceptions and in the brief in support thereof. It shall present clearly the points of fact and law relied upon in support of the positions taken on each question.

n) The Board will review the administrative law judge's recommendation upon request by a party or on its own motion. The Board may adopt

all, part, or none of the recommendation depending on the extent to which it is consistent with the record and the applicable law. 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.

o) Within seven days following the Board's direction of an election, the employer shall furnish the Board and the labor organizations with a list of the full names, alphabetized by last name, and addresses of the employees eligible to vote in the election. The lists shall be provided by personal delivery or certified mail. The employer shall obtain receipts verifying delivery.

p) Where the Board orders an election in a unit different from the one petitioned for, the petitioner and intervenors, if any, shall have five days to submit a showing of interest in the new unit.

(Source: Amended at 20 Ill. Reg. 7406, effective May 10, 1996)

Section 1210.110 Consent Elections

a) Following the filing of a petition, a stipulation for a consent election may be filed as follows:

1) The stipulation must be signed by the petitioner, the employer, the labor organization seeking to represent the employees, and any intervenor that has filed a timely petition.

2) The stipulation must specify the bargaining unit; the eligibility date for participation in the election; the date, place and hours of the election; and a reasonable number of observers allowed to each party.

b) A notice of the stipulated election shall be posted in accordance with Section 1210.90 of this Part.

c) All consent elections shall be conducted under the direction and supervision of the Board. Upon receipt of a stipulation for a consent election the Executive Director shall review the stipulation. If the Executive Director determines that the stipulation is consistent with the Act and this Part, the Executive Director shall direct the holding of the consent election.

d) Within seven days following the Executive Director's approval of the consent election agreement, the employer shall furnish the Board and the labor organizations with a list of the full names, alphabetized by last name, and addresses of the employees eligible to vote in the election. The lists shall be provided by personal delivery or certified mail. The employer shall obtain receipts verifying delivery.

(Source: Amended at 14 Ill. Reg. 19930, effective November 30, 1990)

Section 1210.120 Bargaining Unit Determinations

a) In determining the appropriateness of a unit for purposes of collective bargaining, the Board shall consider all relevant factors, including, *but not limited to, such factors as historical pattern of recognition; community of interest including employee skills and functions; degree of functional integration; interchangeability and contact among employees; fragmentation of employee groups; common supervision, wages, hours and other working conditions of the employees involved; and the desires of the employees.*

b) Whenever a representation petition proposes a bargaining unit which includes craft and noncraft employees, the petition shall so state. Pursuant to Section 1210.50 of this Part, a labor organization may file a petition to intervene in a unit limited to a craft. Whenever a party has so intervened, the election shall proceed in accordance with Section 1210.140(c) of this Part.

c) Whenever a petition is filed alleging a bargaining unit that includes or that may include professional and nonprofessional employees, the petition shall so state. Pursuant to Section 1210.50 of this Part, a labor organization may file a petition to intervene in a unit limited to professional employees or limited to nonprofessional employees. The election shall be conducted in accordance with Section 1210.140(d) of this Part.

(Source: Amended at 14 Ill. Reg. 19930, effective November 30, 1990)

Section 1210.130 Eligibility of Voters

a) To be eligible to vote in an election, an employee must have been in the bargaining unit as of the last day of the payroll period immediately prior to the date of the direction of the election or the approval of a consent election agreement, and must still be in the bargaining unit on the date of the election.

b) To be eligible to vote in a runoff election, an employee must have been eligible to vote in the original election and still be in the bargaining unit on the date of the runoff.

Section 1210.140 Conduct of the Election

a) The election shall be conducted under the supervision of the Board. Voting shall be by secret ballot. Whenever the Board determines that a mail ballot will better effectuate the purposes of the Act, it shall conduct the election by mail ballot. In all other cases, it shall conduct the election on site.

b) Ballots shall list all labor organizations that properly petitioned or intervened in the election, the incumbent exclusive representative, and the choice of "No Representation".

c) Where an election involves a bargaining unit that includes craft employees, and there has been a proper petition for a separate craft unit, craft employees shall be given two ballots: one to vote for or against craft severance and a second to vote on choice of representative, if any. Noncraft employees shall only be given ballots for voting on choice of representative.

d) Where an election involves a bargaining unit containing professional and nonprofessional employees, all employees shall be given two ballots: one for indicating whether they desire a combined professional/nonprofessional unit and a second for indicating choice of representative, if any.

e) When the election is conducted on site, the following procedures shall apply:

1) Each party shall be entitled to an equal number of observers as determined by the Board or its agent or as provided for in a Board-approved stipulation. Observers for the employer may not be individuals who supervise any of the employees in the bargaining unit. The conduct of observers is subject to such reasonable limitations as the Board or its agent may prescribe.

2) The Board's agent shall prescribe the area in proximity to the polling place in which electioneering shall be prohibited. Cameras, video equipment, and similar equipment shall be prohibited within the actual polling area while employees are voting.

3) Ballot boxes shall be examined in the presence of the observers immediately prior to the opening of the polls and shall be sealed at the opening of the polls. The seal shall allow for one opening on the top of the ballot box for voters to insert their ballots.

4) The Board's agent or any authorized observer may challenge the eligibility of any voter. The observer must state the reason for the challenge. A voter whose identity has been challenged may establish identity by showing a driver's license or any other piece of identification acceptable to the Board's agent. A challenged voter shall be permitted to vote in secret. The challenged voter's ballot shall be placed in a "challenged ballot" envelope. The envelope shall be sealed by the Board's agent and initialed by the observers. The reason for the challenge and the voter's name shall be marked on the envelope and the envelope shall be placed in the ballot box.

5) A voter shall mark a cross (X) or check (✓) in the circle or block designating the voter's choice in the election. The intent of the voter shall be followed in the marking of the ballot. If the ballot is defaced, torn, marked in such a manner that it is not understandable, or identifies the voter, the ballot shall be declared void. If the voter inadvertently spoils a ballot, it may be returned to the Board's agent who shall give the voter another ballot. The spoiled ballot shall be

placed in a "spoiled ballot" envelope. The envelope shall be sealed by the Board's agent and initialed by the observers, and the Board's agent shall place the envelope in the ballot box.

6) A voter shall fold the ballot so that no part of its face is exposed and, on leaving the voting booth, shall deposit the ballot in the ballot box. If the election is continued for more than one period, the ballot box shall be sealed by the Board's agent and initialed by the observers until the subsequent opening of the polls and shall remain in the custody of the Board's agent until the counting of the ballots.

7) The Board's agent may privately assist any voter who, due to physical or other disability, is unable to mark the ballot.

8) Each party shall designate a representative to observe the tallying of the ballots.

9) Upon conclusion of the polling, ballots shall be tallied in accordance with subsection (h). If there was only one polling location, ballots shall be tallied at the polling site. If there was more than one polling location, the Board's agent shall seal the ballot boxes, which shall be initialed by the observers, and bring them to a predetermined central location. When all of the ballot boxes have arrived, they shall be opened by the Board's agent and the ballots shall be commingled for tallying.

f) When the election is to be conducted by mail ballot, the following procedures shall apply:

1) Each eligible voter shall be mailed a packet containing a ballot, ballot envelope, a pre-addressed stamped return envelope, and instructions.

2) The instructions shall advise the voter to mark the ballot without using a self-identifying mark, place the ballot in the ballot envelope, seal the ballot envelope and place it in the return envelope, seal the return envelope, both print and sign the return envelope across the seal, and mail it to the Board. The instructions will also advise the voter of the date, set by the Board, by which return envelopes must be postmarked.

3) When the election includes a vote on a combined professional/ nonprofessional unit, or a vote on craft severance, the appropriate voters shall be mailed separate ballots and ballot envelopes for unit preference or craft severance, and for choice of representative. These voters shall be instructed to mark the ballots separately, place them in their respective ballot envelopes, and return both ballot envelopes in the return envelope.

4) The parties may designate an equal number of representatives, as set by the Board, to observe the tallying of the ballots. Ballots shall be tallied on a date set by the Board.

5) Ballots shall remain unopened in their return envelopes until the date set for tallying. On the date set for tallying, the representatives and the Board's agent shall have an opportunity to challenge any ballots prior to the opening of the return envelopes. Challenged ballots shall be handled in accordance with subsection (e)(4) of this Part. All ballots that have not been challenged shall be separated from their return envelopes and commingled prior to tallying.

6) The ballots shall be tallied in accordance with Section 1210.140(h) of this Part.

g) The Board's agent shall attempt to resolve ballot challenges before the ballots are counted.

h) In mail and on site elections, ballots will be tallied in the presence of the parties' representatives attending the count as follows:

1) The Board's agent shall segregate the challenged ballots. The challenged ballots shall only be opened and counted if they could be determinative of the outcome of the election.

2) If challenges to ballots have not been resolved, and if the challenges could affect the outcome of the election, the Board will treat the challenges in the same manner as objections to the election.

3) When the election includes a vote on craft severance, the craft employee ballots on craft severance shall be tallied first. If a majority of the craft employees casting valid craft severance ballots choose craft severance, the craft and noncraft ballots on choice of representative, if any, shall be tallied separately. If a majority of the craft employees casting valid ballots do not choose craft severance, the ballots on choice of representative, if any, shall be tallied together.

4) When the election includes a vote on a combined professional/ nonprofessional unit, the ballots on unit preference shall be tallied first. Separate tallies shall be made for professional and nonprofessional employees. If a majority of the employees casting valid ballots in each group vote for a combined unit, the ballots on choice of representative, if any, shall be tallied together. If a combined unit fails to receive a majority vote in either or both groups, the ballots on choice of representative, if any, shall be tallied separately.

i) When there are only two choices on the ballot and each receives 50 percent of the vote, the following shall apply:

1) In representation elections, absent valid objections or challenges, the Board shall certify that a majority of the employees have not voted to select the labor organization as their exclusive representative.

2) In decertification elections, absent valid objections or challenges, the Board shall certify that a majority of the employees have not maintained their desire to be represented by the labor organization.

j) Where there are three or more choices on the ballot (two or more labor organizations and "No Representation") and no choice receives a majority of the valid ballots cast, the Board shall conduct a runoff election between the two choices that received the most votes. When there is a tie for first place among more than two choices, the runoff shall be among those choices involved in the tie. When there is a tie for second place, the runoff shall be among the first place choice and those tying for second place. The results of votes taken during the first election on craft severances and/or combined professional/nonprofessional units, if applicable, shall be binding on the runoff election.

k) The Board shall preserve all ballots until such time as any objections to the election have been resolved and the results have been certified.

(Source: Amended at 17 Ill. Reg. 15612, effective September 13, 1993)

Section 1210.150 Objections to the Election

a) Any party to the election may file objections with the Board alleging that the result was not fairly and freely chosen by a majority of the employees. The party must serve its objections on the other parties to the election prior to or simultaneously with their filing with the Board.

b) Objections must be received by the Board no later than five days after the final tally was served on the representatives. Pending challenges to ballots shall not stay the time for filing objections.

c) The objecting party shall, within five days after filing objections, submit to the Board a statement of material facts and issues and a summary of material evidence.

d) The Executive Director shall promptly investigate the allegations, and at the conclusion of the investigation, issue a Report on the Challenges and/or Objections. The parties shall be given 10 days after service of the Report to appeal it to the Board. If the Executive Director finds reasonable cause to believe that the result of the election was not fairly and freely chosen by a majority of the employees, he shall set the matter for hearing regarding the objections. If the Board determines, after hearing, that the result was not fairly and freely chosen by a majority of the employees, it shall order a new election and shall order corrective action which it finds necessary to insure the fairness of the new election. If the Board

determines, upon investigation or after hearing, that the result was fairly and freely chosen by a majority of the employees, it shall promptly certify the election results.

(Source: Amended at 14 Ill. Reg. 19930, effective November 30, 1990)

Section 1210.160 Voluntary Recognition Procedures

a) These voluntary recognition procedures may not be used under the following circumstances:

1) whenever a labor organization is recognized in accordance with the Act as the exclusive representative of all or some of the employees in the bargaining unit;

2) whenever there has been a valid representation or decertification election in a bargaining unit containing all or some of the employees within the preceding 12 months;

3) whenever the proposed bargaining unit would include both professional and nonprofessional employees;

4) whenever the employer does not believe that the proposed bargaining unit is appropriate; and

5) whenever the employer does not believe that the labor organization requesting voluntary recognition represents a majority of the employees in the proposed bargaining unit.

b) When an employer and a labor organization agree to use the voluntary recognition procedures, the employer and labor organization must file a request for voluntary recognition with the Board. The request shall be on a form developed by the Board. The request shall be signed by both parties and shall contain the following:

1) the name, address and telephone number of the employer;

2) the name, address, telephone number and affiliation, if any, of the labor organization;

3) the name, addresses and telephone numbers of the parties' representatives;

4) a specific and detailed description of the proposed bargaining unit, including job titles and classifications;

5) the number of employees in the proposed bargaining unit and whether the proposed bargaining unit includes professional employees;

6) a statement describing why the employer and the labor organization are satisfied that the labor organization represents the majority of the employees in the proposed bargaining unit; and

7) a statement describing why the employer and the labor organization are satisfied that the proposed unit is an appropriate bargaining unit within the meaning of Section 9 of the Act.

c) The request must be supported by objective evidence of the majority status of the labor organization. (See Section 1210.80 of this Part).

1) If authorization cards are offered as evidence, they may be jointly submitted to the Board or may be submitted by the labor organization confidentially to the Board.

2) If authorization cards are offered as evidence, those cards that would not qualify as evidence in support of a representation petition will not be considered sufficient evidence of majority status.

3) If employees signing such authorization cards have also signed cards authorizing other labor organizations to represent them, those cards will not be considered sufficient evidence of majority status.

d) Following the filing of a request for voluntary recognition, the Board shall provide the employer with a Notice of Voluntary Recognition which shall be posted on bulletin boards and other places where notices for employees in the bargaining unit are customarily posted. The Board's Notice shall have the following information:

1) statement that, subject to Board certification, the employer intends to recognize the employee organization if no competing claims of representation are filed with the Board;

2) the name and address of the employer;

3) the name and address and affiliation, if any, of the labor organization;

4) a specific and detailed description of the proposed bargaining unit, including job titles and classifications;

5) the number of employees in the proposed bargaining unit;

6) the date of posting; and

7) the signature of the employer's representative.

e) The notice shall remain posted for a period of 20 days. The employer shall take steps reasonably necessary to insure that the notice is not removed or defaced.

f) During the 20-day posting period, any competing labor organization may file a petition with the Board seeking to represent all or some of the employees in the unit. Prior to, or simultaneously with its filing with the Board, the competing organization shall serve the petition on the employer and the labor organization that was to have been voluntarily recognized. The petition shall be on a form developed by the Board and shall contain:

1) the name, address, telephone number and affiliation, if any, of the labor organization;

2) the name, address, telephone number and signature of petitioner's representative;

3) the names of the employer and labor organization that the employer intended to voluntarily recognize, and the names and addresses of the employer and labor organization representatives;

4) a specific and detailed description of the proposed bargaining units, including job titles and classifications to the extent known, proposed by the petitioner and on the voluntary recognition notice and designate any positions included in both units;

5) the date the voluntary recognition notice was posted; and

6) the date the posting period is scheduled to terminate.

g) A competing labor organization's petition must be supported by a showing of interest of *at least 10 percent of the employees in an appropriate bargaining unit which includes all or some of the employees in the unit* that was to have been voluntarily recognized. (Section 9(g) of the Act).

h) Upon the filing of a competing labor organization's petition and proper showing of interest, the Board shall treat the voluntary recognition proceeding as a representation proceeding. The Board shall proceed in accordance with Section 9(a) of the Act and Sections 1210.80 through 1210.150 of this Part.

i) If no competing labor organization petitions have been filed with the Board by the termination of the posting period, the employer and the labor organization shall file with the Board a certification of posting. This certification of posting shall be on a form developed by the Board. The certification of posting shall contain the following:

1) the Board case number assigned to the request for voluntary recognition and date filed;

2) the name, address and telephone number of the employer;

3) the name, address, telephone number and affiliation, if any, of the labor organization;

4) the names, addresses and telephone numbers of the parties' representatives;

5) a specific and detailed description of the proposed bargaining unit, including job titles and classifications;

6) the number of employees in the proposed bargaining unit;

7) the dates, locations and termination date of the posting of the voluntary recognition notice;

8) a statement that the notice was not removed or defaced during the posting period;

9) a statement that the parties desire certification of the voluntary recognition issue; and

10) a statement that no intervening petition was filed.

j) The Board will investigate the employer-labor organization voluntary recognition certification request.

1) If the Board concludes that the labor organization represents a majority of the employees in an appropriate bargaining unit, and that the petition is otherwise consistent with the Act and this Part, the Board shall certify the employee organization as the exclusive representative of the employees.

2) If the Board determines that there is insufficient evidence to support the claim of majority status, that the proposed bargaining unit is not appropriate, or that the petition otherwise contravenes the Act or this Part, the Board shall dismiss the petition without prejudice to the filing of a representation petition by either the employer or the labor organization or the commencement of voluntary recognition proceedings in an appropriate unit in which the labor organization has majority status.

k) If, after the Board directs an election in a representation proceeding, the employer decides to voluntarily recognize the labor organization, the Request for Voluntary Recognition must be filed within 14 days after service of the Board's Direction of Election. Within seven days after receipt of the Request, if the Board determines that there is insufficient evidence to support the claim of majority status, an election shall be scheduled as expeditiously as possible.

(Source: Amended at 17 Ill. Reg. 15612, effective September 13, 1993)

Section 1210.170 Petitions for Amendment or Clarification of the Bargaining Unit

a) An exclusive representative or an employer may file a petition to clarify or amend an existing bargaining unit. The petition shall be served on the other party by the Board. The petition shall be signed and shall contain the following:

1) the name, address and telephone number of the employer;

2) the name, address and telephone number of petitioner's representative;

3) the name, address, telephone number and affiliation, if any, of the exclusive representative;

4) a specific and detailed description of the existing bargaining unit including job titles and classifications; and

5) the nature of the proposed amendment or clarification and the reasons therefor.

b) Following the filing of a petition to amend or clarify an existing unit, the Board shall provide the employer with a notice which shall be posted on bulletin boards and other places where notices for employees in the bargaining unit are customarily posted. Notice shall remain posted for at least 20 days.

c) The respondent may file an answer to the petition within 20 days following service of the petition.

d) The Board or its agent shall investigate the petition and, if necessary, set it for hearing.

1) Interested persons desiring to intervene in the hearing shall submit a written request to the administrative law judge. The administrative law judge shall have discretion to grant or deny intervention. The decision shall be based upon the interests of the intervenor, whether those interests will be adequately protected by existing parties, and the timeliness of the intervenor's request.

2) The administrative law judge may schedule a prehearing conference or request prehearing briefs when it appears that such would expedite the procedure.

3) The administrative law judge shall inquire into all matters in dispute and shall obtain a full and complete record. Following the close of the hearing, the administrative law judge shall file and serve upon the parties a recommended disposition of the matter.

4) Exceptions.

A) Parties may file exceptions to the administrative law judge's recommendation and briefs in support of their exceptions no later than 14 days after service of the recommendation. Parties may file responses to exceptions and briefs in support of the responses, no later than 10 days after service of the exceptions. Each party shall serve its exceptions, responses and briefs on the other parties. Parties desiring oral argument before the Board shall request oral argument and provide the reasons for the requests in their exceptions or responses. The Board will grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

B) Each exception

i) shall set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken;

ii) shall identify that part of the administrative law judge's opinion or decision to which objection is made; and

iii) shall state the grounds for the exceptions and shall include the citation of authorities unless set forth in a supporting brief.

C) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

D) Any brief in support of exceptions shall be confined to the scope of the exceptions and shall contain, in the order indicated, the following:

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

ii) A specification of the questions involved and to be argued.

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

E) Briefs in support of responses to exceptions shall be limited to the questions raised in the exceptions and in the brief in support thereof. It shall present clearly the points of fact and law relied upon in support of the position taken on each question.

5) The Board will review the administrative law judge's recommendation upon request of a party or on its own motion. The Board may adopt all, part, or none of the recommendation.

e) The parties may stipulate to an amendment or clarification of the bargaining unit. The stipulation shall be filed with the Board. A notice of the stipulation shall be posted on bulletin boards and at other places where notices for employees in the bargaining unit are customarily posted. The notice shall advise employees of the terms of the stipulation and direct persons objecting to the stipulation to file objections with the Board. The notice shall remain posted for at least 20 days. The employer shall take reasonable steps to insure that the notice is not removed or defaced during the posting period.

f) During any posting period under this Section, interested parties may file objections with the Board. Objections shall be served on the employer and the exclusive representative prior to, or simultaneously with, their filing with the Board. If objections are not timely filed and/or properly served, the objections shall be deemed waived.

g) Following the posting period, if no objections have been filed, the Board shall approve or disapprove the amendment or clarification depending upon whether the amendment or clarification is consistent with the Act. If

objections have been filed, the Board shall proceed in accordance with Section 1210.170(d) of this Part.

(Source: Amended at 20 Ill. Reg. 7406, effective May 10, 1996)

Section 1210.180 Petitions to Amend Certification

a) An exclusive representative shall file a petition with the Board to amend its certification whenever there is a change in its name or structure. An employer or exclusive representative shall file a petition to amend a unit certification whenever there is a change in the structure of the unit's employing entity. The petition shall be served by the Board on any employer, or exclusive representative, who is not the petitioner. The petition shall be signed, under penalty of perjury, and shall contain:

1) the name, address and telephone number of the employer;

2) the name, address, telephone number and affiliation, if any, of the exclusive representative, as certified by the Board;

3) the name, address and telephone number of petitioner's representative;

4) a description of the proposed amendment; and

5) the reasons for the proposed amendment.

b) The employer shall post a notice of the proposed amendment in accordance with Section 1210.170(b) of this Part.

c) Interested persons, including the employer, may file objections to the proposed amendment with the Board during the posting period. Objections shall be served on the petitioner prior to, or simultaneously with, filing with the Board.

d) If, at the conclusion of the posting period, no objections have been filed, the Board may approve or disapprove the amendment or take any other action on it necessary to effectuate the purposes and policies of the Act.

e) If objections have been filed during the posting period, the Board shall proceed in accordance with Section 1210.170(d) of this Part.

(Source: Amended at 17 Ill. Reg. 15612, effective September 13, 1993)

Section 1210.190 Expedited Elections Pursuant to Section 10(b)(7)(C) of the Act

a) Whenever a labor organization is engaged in activities as set forth in Section 10(b)(7)(C) of the Act, the employer may file a petition for an expedited election.

b) Labor organizations and employees may not file petitions for expedited elections.

c) A petition for an expedited election shall contain the same information as set forth in Section 1210.40 of this Part for representation petitions. A petition for an expedited election shall also contain a detailed statement describing the picketing, including the date the picketing began. The petition shall be accompanied by evidence, including relevant documents and affidavits, supporting the employer's allegation of activities as set forth in Section 10(b)(7)(C) of the Act. The petition shall be served by the Board on the labor organization.

d) The Board shall investigate the petition. The investigation shall include an expedited hearing where one is necessary to resolve disputed issues of fact concerning the appropriateness of the bargaining unit or the appropriateness of an expedited election. The parties shall be given at least 24 hours notice of the hearing.

e) If, after investigation, the Board determines that recognitional or organizational picketing within the meaning of Section 10(b)(7)(C) of the Act is continuing, it shall direct an expedited election. The order directing an expedited election shall establish the bargaining unit, the date for the election, and the number of observers that the parties may have.

f) The expedited election shall be conducted on site, in accordance with Section 1210.140 of this Part. Objections to the election may be filed in accordance with Section 1210.150 of this Part.

g) After completion of the election, any continuation of the activities as set forth in Section 10(b)(7)(C) of the Act or any threat to continue such activities shall constitute a violation of Section 10(b)(7)(B) of the Act.

(Source: Amended at 14 Ill. Reg. 19930, effective November 30, 1990)

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

PART 1220
UNFAIR LABOR PRACTICE PROCEEDINGS

Section

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 5(i) of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1991, ch. 48, pars. 1610, 1611, and 1605(i)) [5 ILCS 315/10, 11, 5(i)].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 16043, effective August 22, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1898, effective January 25, 1985; amended at 11 Ill. Reg. 6481, effective March 27, 1987; amended at 12 Ill. Reg. 20122, effective November 18, 1988; amended at 14 Ill. Reg. 19959, effective November 30, 1990; amended at 17 Ill. Reg. 15628, effective September 13, 1993; amended at 20 Ill. Reg. 7415, effective May 10, 1996.

Section 1220.10 General Statement of Purpose

The regulations contained in this Part detail the procedures for initiating, processing and resolving charges that an employer or a labor organization has committed, or is committing, an unfair labor practice in violation of Sections 10(a) and 10(b) of the Illinois Public Labor Relations Act ("Act") (Ill. Rev. Stat. 1991, ch. 48, pars. 1601 et seq.) [5 ILCS 315].

(Source: Amended at 17 Ill. Reg. 15628, effective September 13, 1993)

Section 1220.20 Filing of a Charge

a) An unfair labor practice charge may be filed with the Board by an employer, a labor organization, or an employee.

b) Unfair labor practice charges shall be on a form developed by the Board, shall be signed by the charging party, and shall contain:

   1) The name, address, telephone number and affiliation, if any, of the charging party;

   2) the name, address, telephone number and affiliation, if any, of the respondent;

   3) the name, address and telephone number of the charging party's representative;

   4) a clear and complete statement of facts supporting the alleged unfair labor practice, including dates, times and places of occurrence of each particular act alleged, and the sections of the Act alleged to have been violated; and

   5) a statement of the relief sought, provided that the statement shall not limit the Board's ability to award relief based on the record.

c) The Board shall serve a copy of the charge upon the respondent.

d) Unfair labor practice charges may be filed no later than six months after the alleged unfair labor practice occurred.

e) A charging party may withdraw a charge at any time.

Section 1220.30 Appointment of Counsel

a) A charging party may file a request for appointment of counsel simultaneously with or after filing a charge. The request shall be on a form developed by the Board. It shall be accompanied by an affidavit attesting to the charging party's *inability to pay or inability to otherwise provide for adequate representation*. (Section 5(k) of the Act). It shall also be

accompanied by affidavits, documents or other evidence supporting the charge.

b) A charging party shall be deemed unable to pay or provide for adequate representation if the party's "Adjusted Income" is less than the amount set forth in Table A to this Part for a "Family Unit" of the applicable size, and if this person is not entitled to representation from a labor organization (or such representation would be inappropriate) or under the provisions of a prepaid legal services plan or similar arrangement. As an example, instances when representation by a labor organization would be inappropriate include when an individual files charges against a labor organization.

c) For purposes of this Section, "Adjusted Income" refers to all gross income available to the charging party for the prior year from wages, pensions, annuities, insurance or public assistance benefits, interest and dividends, and other such sources, including liquid assets such as savings and checking accounts, stocks, bonds and similar investments, less the following deductions for the prior year:

1) Child care and court-ordered child support payments;

2) That portion of educational and medical expenses which exceeds five percent of total gross income;

3) Unreimbursed expenses of obtaining and maintaining employment; and

4) An amount equivalent to 20 percent of wages earned, to approximate withholding for taxes and social security and the like.

d) For purposes of this Section, "Family Unit" means the charging party and all other persons related to the charging party by blood, marriage or adoption who reside in the charging party's household and are dependent upon the charging party for at least one half of their support.

e) If the Board or its designated representative determines that the charging party is unable to pay or is otherwise unable to provide for adequate representation, and that the charge is not *clearly without merit*, the charging party shall select counsel from a list of attorneys maintained by the Board.

f) Counsel selected by the charging party shall certify to the Board:

1) That they are licensed to practice law in Illinois under the rules of the Illinois Supreme Court (Ill. Rev. Stat. 1991, ch. 110A, pars. 701 et seq.).

2) That they have previous experience as the representative of parties in the trial or hearing of contested cases. An attorney without trial experience, including a law student certified to practice under Rule

711 of the Illinois Supreme Court, shall satisfy this requirement if actively supervised and accompanied at hearing by an attorney with previous trial experience, in which case the supervising attorney shall make the certification.

3) That they accept appointment in return for compensation from the Board at the rate of 50 dollars per hour (30 dollars per hour for the time of law students and paralegals) plus costs, i.e., copying documents, subpoena fees, and subject to a maximum compensation limit of 3500 dollars in any single cause. The maximum limit of 3500 dollars may be increased in a particular case upon application to the Board if the circumstances of the case, including the number and complexity of the issues, demand the investment of time and expenses exceeding the limitation.

4) That they will maintain contemporaneous, careful records of time and expenses devoted to the case and will supply copies or summaries to the Board, together with bills for services rendered, at least monthly for each month in which time or costs are accrued.

g) Payment for personal services at the hourly rate is due upon completion of the Board proceedings in the cause. Payment of costs up to a total of 500 dollars are payable on a monthly basis for the month in which the costs are incurred. Costs totaling more than 500 dollars are payable at the completion of the proceedings before the Board and may be incurred only with prior approval of the Board e.g., in instances in which issues presented are numerous or call for numerous witnesses.

h) An attorney appointed by the Board to represent a charging party pursuant to this Section shall not withdraw from such employment without approval of the Board or its administrative law judge.

(Source: Amended at 17 Ill. Reg. 15628, effective September 13, 1993)

Section 1220.40 Charge Processing and Investigation, Complaints and Responses

a) Upon receipt of a charge, the Board or its Executive Director shall review the charge to determine whether the charge was filed in accordance with the Act. If the review reveals that the charge was not filed in accordance with the Act, the charge shall be summarily dismissed. Notice of dismissal shall state the reasons therefor, and be served upon the respondent and the charging party. If the charge is dismissed by the Executive Director of the Board, the charging party may appeal the dismissal to the Board. Notice of appeal and all supporting materials shall be filed with the General Counsel no later than 10 days after service of the notice of dismissal.

b) The Board or its designated representative shall investigate the charge. The investigation may include an investigatory conference with the parties.

1) The charging party shall submit to the Board or its designated representative all evidence relevant to or in support of the charge. Such evidence may include documents and affidavits.

2) Upon request by the Board or its designated representative, the respondent may submit a complete account of the facts, a statement of its position in respect to the allegations set forth in the charge and all relevant evidence in support of its position. Such evidence may include documents and affidavits.

3) If the investigation reveals that the charge involves *an issue of law or fact* [5 ILCS 315/11(a)] sufficient to warrant a hearing, the Board or its designated representative shall issue a complaint for hearing. The complaint shall state the issues that warrant a hearing and shall be served on the respondent and the charging party.

4) If the investigation reveals that there is not an issue of law or fact sufficient to warrant a hearing, the Board or its Executive Director shall dismiss the charge. Notice of dismissal shall state the reasons therefor, and be served on the respondent and the charging party. If the charge is dismissed by the Executive Director of the Board, the charging party may appeal the dismissal to the Board. Notice of appeal and all supporting materials shall be filed with the General Counsel no later than 10 days after service of the notice of dismissal. Parties may file responses to the appeal and all materials in support of the responses no later than five days after service of the appeal.

c) Whenever a complaint for hearing is issued, the respondent must file an answer within 15 days after service of the complaint.

1) The answer shall include a specific admission, denial or explanation of each allegation or issue of the complaint or, if the respondent is without knowledge thereof, it shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall fairly meet the circumstances of the allegation.

2) The answer shall also include a specific, detailed statement of any affirmative defenses including, but not limited to, allegations that the violation occurred more than six months before the charge was filed, that the Board lacks jurisdiction over the matter, or that the complaint fails to allege an unfair labor practice.

3) Parties who fail to file timely answers shall be deemed to have admitted the material facts and legal conclusions alleged in the complaint. The failure to answer any allegation shall be deemed an admission of that allegation. Failure to file an answer shall be cause for the termination of the proceeding and the entry of an order of default. Filing of a motion will not stay the time for filing an answer.

(Source: Amended at 20 Ill. Reg. 7415, effective May 10, 1996)

Section 1220.50 Hearings

a) Upon the issuance of a complaint for hearing, the Board shall set the matter for hearing before an administrative law judge. The hearing shall be set *not less than five days after serving of such complaint*. (Section 11(a) of the Act).

b) Interested persons who wish to intervene in the hearing shall direct such requests to the administrative law judge. The request shall be in writing and shall state the grounds for intervention. The administrative law judge shall have discretion to grant or deny the request for intervention. The decision shall be based upon the interests of the intervenor, whether those interests will be adequately protected by existing parties, and the timeliness of the intervenor's request.

c) The administrative law judge may schedule a prehearing conference when it appears that such a conference would expedite the procedure.

d) Intermediate rulings of the administrative law judge shall not be subject to interlocutory appeal. Parties may raise objections to such intermediate rulings in their exceptions to the administrative law judge's recommended decision.

e) The charging party shall present the case in support of the charge. The respondent may present evidence in defense against the charges.

f) The administrative law judge, on the judge's own motion or on the motion of a party, may amend a complaint before the hearing concludes to conform to the evidence presented in the hearing.

g) The administrative law judge shall inquire fully into all matters in dispute, and shall obtain a full and complete record either by evidentiary hearing and/or stipulation. After the close of the hearing, the administrative law judge shall file and serve on the parties a recommended decision.

h) In the event the administrative law judge designated to conduct the hearing becomes unavailable to the Board after the hearing has been opened, for reasons including but not limited to death or resignation, the General Counsel or the General Counsel's agent shall designate another administrative law judge for the purpose of further hearing or the appropriate action.

i) 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. Such motion shall be in writing to 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 appoint another administrative law judge to hear the case.

(Source: Amended at 17 Ill. Reg. 15628, effective September 13, 1993)

Section 1220.60 Consideration by the Board

a) No later than 30 days after service of the recommended decision and order, parties may file exceptions to the administrative law judge's recommendation and briefs in support of those exceptions. A party not filing timely exceptions waives its right to object to the administrative law judge's recommended decision and order. Unless overturned by the Board, the parties shall comply with 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. Each party shall serve its exceptions, responses, and briefs on the other parties. Parties desiring oral argument before the Board shall request oral argument and state the reasons for the requests in their exceptions and responses.

1) Each exception

A) shall set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken;

B) shall identify that part of the administrative law judge's opinion or decision to which objection is made; and

C) shall state the grounds for the exceptions and shall include the citation of authorities unless set forth in a supporting brief. Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived.

2) Any exception which fails to comply with the foregoing requirements may be disregarded.

3) Any brief in support of exceptions shall be confined to the scope of the exceptions and shall contain, in the order indicated, the following:

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 to be argued.

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

4) Briefs in support of responses to exceptions shall be limited to the questions raised in the exceptions and in the brief in support thereof. It shall present clearly the points of fact and law relied upon in support of the position taken on each question.

b) 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 recommendation 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. The Board will retain jurisdiction over the case to ensure the parties' compliance with the Board order.

(Source: Amended at 17 Ill. Reg. 15628, effective September 13, 1993)

Section 1220.70 Requests for Preliminary Relief

The charging party may request the Board to seek preliminary relief pursuant to Section 11(h) of the Act. The charging party shall have the burden of demonstrating to the General Counsel that if preliminary relief is not sought it will suffer irreparable harm and that the remedies available from the Board will be inadequate. Any request to seek such preliminary relief shall be in writing and accompanied by affidavits, documents or other evidence supporting the request. All requests shall be filed with the General Counsel and shall be served on the other party simultaneously with their filing with the Board.

(Source: Amended at 17 Ill. Reg. 15628, effective September 13, 1993)

Section 1220.80 Compliance Procedures

a) Whenever it is determined that an unfair labor practice has been committed, a copy of the Board's decision and order, or a copy of the administrative law judge's recommended decision and order in cases where the Board has declined to review such recommended decision and order, shall be sent to the compliance officer who shall be responsible for monitoring the respondent's compliance therewith.

b) Parties may request that the Board seek enforcement of the Board's order pursuant to Section 11(f) of the Act. Such requests shall be in the form of a petition for enforcement filed with the Board and served upon the other parties. The petition shall set forth specifically the manner in which the respondent has failed to voluntarily comply with the Board's order, or administrative law judge's recommended order in cases where the Board has declined to review such order.

c) The compliance officer shall investigate the information in the petition and shall issue and serve upon the parties, no later than 30 days after the filing of the petition, an order dismissing the petition, directing specifically the actions to be taken by the respondent or setting the matter for hearing before an administrative law judge.

d) No later than seven days after service of the compliance officer's order dismissing the petition or directing action by the respondent, the parties may file objections to the compliance order. The objections shall:

1) set forth specifically the finding, order or omission to which the objection is taken; and

2) set forth specifically the grounds for the objection, and be accompanied by any available supporting documentation and requests for subpoenas.

e) Any objection to a finding, order or omission not specifically urged shall be deemed waived. In the event that objections are filed by any party the Board shall set the matter for hearing before an administrative law judge.

f) The administrative law judge shall, with or without an evidentiary hearing, inquire fully into all issues raised by the objections and shall issue and serve upon the parties a recommended compliance decision and order.

1) No later than 10 days after service of the recommended compliance decision and order, the parties may file, and serve upon the other parties, exceptions to the recommendation and briefs in support of those exceptions. Parties may file, and serve upon the other parties, responses to the exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. Such exceptions, responses and briefs shall comply with and be governed by Section 1220.60(a)(1), (2) and (3) of this Part.

2) The Board will review the administrative law judge's recommended decision and order upon timely request by a party or at any time on its own motion. The Board may adopt all, part or none of the recommendation 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.

g) All proceedings under this Section shall be suspended during the pendency of any appeal from the Board's decision finding a violation of the Act.

(Source: Former 1220.80 renumbered to 1220.100, new Section added at 17 Ill. Reg. 15628, effective September 13, 1993)

Section 1220.90 Sanctions

a) *The Board's order may in its discretion...include an appropriate sanction, based on the Board's rules and regulations, if the other party has made allegations or denials without reasonable cause and found to be untrue or has engaged in frivolous litigation for the purpose of delay or needless increase in the cost of litigation. The State of Illinois or any agency thereof shall be subject to* these *provisions in the same manner as any other party.* (Section 11 of the Act).

b) The Board may award sanctions for such written or recorded *allegations* or *denials* including statements recorded during the course of Board proceedings.

c) The sanction may include an admonition or reprimand; striking offending *allegations or denials; an order to pay the other party or parties' reasonable expenses including costs and reasonable attorney's fees* or an appropriate portion thereof; and/or any other appropriate sanction. (Section 11 of the Act). Sanctions are to be awarded only against a party or parties to the proceeding.

d) Any party to an unfair labor practice proceeding may move for sanctions. The motion for sanctions must be a succinct statement identifying the *allegations* and/or *denials* and/or incidents of *frivolous litigation* alleged to be subject to sanctions, with citations to the record, and succinct arguments. (Section 11 of the Act). The party subject to the motion for sanctions shall have 14 days after service of the motion to respond or withdraw the paper or position that is the basis of the motion. Neither the motion for sanctions nor the response may be used as an additional brief on the merits of the underlying case.

1) Motions for sanctions may be filed with the Executive Director while an unfair labor practice charge is pending before the Executive Director. Such motions shall be filed no later than seven days after receipt of the Executive Director's notice that investigation of the unfair labor practice charge has been completed, or that a party has withdrawn the unfair labor practice charge. Sanctions before the Executive Director may only be sought for instances of frivolous litigation.

2) Once an unfair labor practice complaint has been issued, motions for sanctions may be filed with the administrative law judge. Such motions shall be filed no later than seven days after receipt of the last post-hearing brief scheduled to be filed, or no later than seven days after the close of the hearing, if no briefs are to be filed. Sanctions before the administrative law judge may be sought for both *allegations or denials* made *without reasonable cause and found to be untrue* and/or instances of *frivolous litigation.* (Section 11 of the Act).

3) Once the administrative law judge has issued a recommended decision and order, or the Executive Director has issued a recommended decision and order dismissing an unfair labor practice charge, the recommended decision and order is pending before the Board. Such motions shall be filed no later than seven days after receipt of the last brief scheduled to be filed with the Board, or no later than seven days after oral argument before the Board, if such argument occurs after all briefing is completed. Sanctions before the Board may be sought for both *allegations or denials* made *without reasonable cause and found to be untrue* and/or instances of *frivolous litigation*. (Section 11 of the Act).

e) A party may request sanctions from the Board for *allegations or denials* made *without reasonable cause and found to be untrue* even though it did not move for sanctions on that allegation or denial before the administrative law judge, and even though the administrative law judge did not recommend sanctions on such *allegations or denials*. (Section 11 of the Act).

f) A party may not request sanctions from the Board for alleged *frivolous litigation for the purpose of delay or needless increase in the cost of litigation* before the Executive Director or administrative law judge, unless it requested sanctions from the Executive Director or administrative law judge as to such alleged incident of *frivolous litigation*, or unless the Executive Director or administrative law judge recommended sanctions as to such alleged incident of *frivolous litigation*. (Section 11 of the Act).

g) Except as provided in subsection (h) below, an order for sanctions shall be included in the Executive Director's recommended decision and order, the administrative law judge's recommended decision and order, or the Board opinion and order.

h) If neither party has moved for sanctions, the Executive Director, administrative law judge, or Board may sua sponte issue an order to show cause why this rule has not been violated. The party or parties to whom the order to show cause is directed shall have 14 days from the service of that order to file a response. The order to show cause shall recite the conduct or circumstances at issue.

i) An order leveling sanctions shall recite the conduct or circumstances for which sanctions are sought, and explain the basis for the sanction imposed.

(Source: Added at 17 Ill. Reg. 15628, effective September 13, 1993)

Section 1220.100 Unfair Labor Practice Charges Involving Fair Share Fees

a) Unfair labor practice charges that proportionate share fees violate the Act shall be filed and processed in accordance with this Part.

b) The Board shall consolidate charges involving proportionate share fees in accordance with 80 Ill. Adm. Code 1200.105. Specifically, the Board shall consolidate in a single proceeding all proportionate share fee charges involving the same bargaining unit. The Board shall consolidate charges involving two or more bargaining units whenever it determines that the exclusive representatives are affiliated with a common employee organization, the exclusive representatives use similar methods for determining fair share fees, the consolidation would not prejudice the constitutional and statutory rights of the objecting employees, and the consolidation would resolve the charges in an efficient manner.

c) In hearings on fair share fee charges, the exclusive representative shall have the burden of proving how the fair share fee was calculated and that the fee did not exceed the employee's proportionate share of *the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and conditions of employment*. (Sections 3(g) and (e) of the Act).

(Source: Section 1220.100 renumbered from 1220.80 at 17 Ill. Reg. 15628, effective September 13, 1993)

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

PART 1230
IMPASSE RESOLUTION

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SUBPART E: ILLINOIS PUBLIC EMPLOYEE MEDIATION/ARBITRATION ROSTER

Section
1230.220 Mediation/Arbitration Roster

AUTHORITY: Implementing Sections 7, 12, 13, 17 and 18 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1991, ch. 48, pars. 1607, 1612, 1613, 1617, 1618, 1605(i) and (j)) [5 ILCS 315/7, 12, 13, 17, 18, 5(i) and (j)].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17322, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1857, effective January 25, 1985; Part repealed, new Part adopted at 11 Ill. Reg. 6434, effective March 27, 1987; amended at 12 Ill. Reg. 20102, effective November 18, 1988; amended at 14 Ill. Reg. 19903, effective November 30, 1990; amended at 17 Ill. Reg. 15599, effective September 13, 1993.

SUBPART A: STATEMENT OF PURPOSE AND DEFINITIONS

Section 1230.10 General Statement of Purpose

a) In creating this Part, it is the Illinois State and Local Labor Relations Boards' ("Board") intent to be cognizant of the interests of labor organizations, public employers and employees, and the general public in assuring stable labor relations in the public sector. In pursuit of this objective, it is incumbent upon both labor organizations and public employers to adhere to and comply with the rules and regulations set forth herein, particularly those provisions which set forth time periods and those provisions which set forth requirements for filing, with the Board, contracts, bargaining notices and other documents.

b) The regulations contained in this Part detail the procedures for giving required notices during collective bargaining, for resolving impasses in collective bargaining, for making appointments to the Illinois Public Employees Mediation/Arbitration Roster, and for the selection of mediators, fact-finders and arbitrators from the Roster. The regulations in this Part implement the policies of the Illinois Public Labor Relations Act ("Act") (Ill. Rev. Stat. 1991, ch. 48, pars. 1601 et seq.) [5 ILCS 315] to provide peaceful and orderly procedures to protect the rights of public employers, public employees, labor organizations and the general public, to prevent labor strife and to protect the public health and safety.

(Source: Amended at 17 Ill. Reg. 15599, effective September 13, 1993)

Section 1230.20 Definitions

In addition to the following definitions, the definitions in the Board's General Rules (80 Ill. Adm. Code 1200.10) also apply to this Part.

"Fact-finding" shall mean 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" shall mean 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" shall mean 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" shall mean 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 a dispute over the interpretation or application of an existing collective bargaining agreement.

"Initial contract" shall refer to negotiations for a collective bargaining agreement covering a bargaining unit that is not currently covered by a collective bargaining agreement between the exclusive representative and the employer.

"Interest arbitration" shall mean a process whereby an employer and an exclusive representative submit their disputes concerning the terms of 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.

"Mediation" shall mean 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.

"Protective services unit" shall mean 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).

"Successor contract" shall refer to 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 14 Ill. Reg. 19903, effective November 30, 1990)

SUBPART B: IMPASSE PROCEDURES FOR PROTECTIVE SERVICES UNITS

1230.30 General Purpose of this Subpart

Security officers of public employers, and peace officers, firefighters and fire department and fire protection district paramedics may not withhold services, nor may public employers lock out or prevent such employees from performing services at any time. (Section 14(m) of the Act). This subpart implements *the public policy of the State of Illinois that where the right of employees to strike is prohibited by law, it is necessary to afford an alternate, expeditious, equitable and effective procedure for the resolution of labor disputes subject to approval procedures mandated by the Act*. (Section 2 of the Act). To achieve this policy objective, it is incumbent upon the parties to comply with the procedures established and to observe the time periods provided in this Subpart.

(Source: Amended at 14 Ill. Reg. 19903, effective November 30, 1990)

Section 1230.40 Filing of Contracts

a) To enable the Board to fulfill its responsibilities under the Act and to ensure peaceful and orderly procedures for the resolution of collective bargaining disputes and to provide for expeditious and effective processing of requests for Board impasse resolution services, the following requirements shall apply:

1) Within 60 days after a collective bargaining agreement has been reached, each labor organization and each employer shall be responsible for filing with the Board two copies of any collective bargaining agreement that is subject to the Act. The collective bargaining agreements shall be accompanied by Board form 035, setting forth the names, addresses and telephone numbers of the parties and their representatives, the contract's execution and expiration dates, the composition of the bargaining unit and whether the unit is a general public employee unit or a protective services unit.

2) Upon receipt of the contract, the Board shall assign a contract number and shall notify the exclusive representative and the employer in writing of that number. The parties shall refer to the contract number when filing notices pursuant to this Part, or requests for Board impasse resolution services.

b) The Board's acceptance of the contract for filing and assigning of a contract number is not determinative of 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 1210.70.

(Source: Amended at 14 Ill. Reg. 19903, effective November 30, 1990)

Section 1230.50 Bargaining Notices for Protective Services Units

a) The following notice requirements shall apply where the parties are bargaining for a successor contract:

2) Pursuant to Section 7 of the Act, any party wishing to terminate or modify an existing collective bargaining agreement shall serve on the other party a written notice of their intent to terminate or modify. The notice shall be served on the other party 60 days prior to the scheduled termination date of the existing agreement. A copy of the notice shall be filed with the Board by the party wishing to terminate or modify at the same time it is served on the other party. The notice filed with the Board shall reference the existing contract's number as assigned pursuant to Section 1230.40 of this Part.

2) If, no later than 30 days after service of the notice of the intent to terminate or modify, the parties have not reached agreement on a new contract, the party who filed the notice shall serve on the other party and the Board a Notice of No Agreement. Such Notice shall be on Board form 036 and shall set forth:

A) whether the parties are engaged in mediation and, if so, with whom;

B) if the parties are not in mediation, whether the parties desire the Board's assistance in obtaining mediation;

C) if the parties are not in mediation and do not require the Board's assistance in obtaining mediation, a statement from the parties that they are fully aware of Section 14's mandate that they engage in mediation 30 days prior to the expiration of a contract.

b) The following notice requirements shall apply where the parties are bargaining for an initial contract:

1) Any time after the Board certifies an exclusive representative or at any time where there exists a valid historical bargaining relationship but no current contract, any party may serve on the other party a written demand for bargaining. A copy of the demand for bargaining shall be filed with the Board by the party making the demand at the same time it is served on the other party. The parties shall begin bargaining at any reasonable time thereafter.

2) Thirty days after the initial bargaining session between the parties, the party who filed the demand for bargaining shall file with the Board a Notice of Status of Negotiations. Such Notice shall be on Board form 037 and set forth:

A) whether the parties are engaged in mediation and, if so, with whom;

B) if the parties are not in mediation, whether the parties desire the Board's assistance in obtaining mediation.

c) Upon completing negotiations for either a successor or initial contract, the parties shall file with the Board a copy of the contract pursuant to Section 1230.40(a)(1) of this Part.

(Source: Amended at 14 Ill. Reg. 19903, effective November 30, 1990)

Section 1230.60 Mediation

a) Parties concerned with protective services units shall commence mediation as follows, unless provided for in an alternate impasse procedure under Section 14(p) of the Act:

1) In bargaining for a successor contract, *unless the parties mutually agree to some other time limit,* 30 days prior to expiration of the contract (Section 14(a) of the Act).

2) In bargaining for an initial contract *mediation shall commence upon 15 days of notice from either party or at such later time as the mediation services chosen pursuant to subsection (b) of Section 12 can be provided to the parties* (Section 14(a) of the Act).

b) If the parties desire Board assistance in engaging a mediator, they shall file a Request for Mediation with the Board on Board form 038. The Board shall provide the parties with a panel of at least three mediators listed on the Public Employees Mediation/Arbitration Roster. The parties shall have seven days from receipt of the list to choose one of the persons on the panel or any other person they choose to serve as mediator. If, at the end of this seven-day period, the parties have not notified the Board of their selection, the Board shall appoint a mediator.

c) Mediation shall be conducted as follows:

1) *The function of the mediator shall be to communicate with the employer and the exclusive representative or their representatives and to endeavor to bring about an amicable and voluntary settlement*. (Section 12(a) of the Act).

2) The mediator may hold joint and separate conferences with the parties. The conferences shall be private unless the parties otherwise agree.

3) Information disclosed by a party to a mediator in the performance of mediation functions shall not be disclosed voluntarily or by compulsion. All files, records, reports, documents, or other papers prepared by a mediator shall be considered confidential. The mediator shall not produce any such confidential records of, or testify in regard to, any mediation conducted by him, on behalf of any party to any cause pending in any type of proceeding.

4) The mediator shall keep the Board apprised of the status of the negotiations.

d) Compensation for the mediator shall be paid equally by the parties, however, *if either party requests the use of mediation services from the Federal Mediation And Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source*. (Section 14(a) of the Act).

(Source: Amended at 14 Ill. Reg. 19903, effective November 30, 1990)

Section 1230.70 Demand for Compulsory Interest Arbitration

a) When negotiating for an initial contract or a successor contract, *if any dispute has not been resolved within 15 days after the first meeting of the parties and the mediator, or within such other time limit as may be mutually agreed upon by the parties* (Section 14(a) of the Act), either party may file on the other party a Demand for Compulsory Interest Arbitration.

b) Demands for compulsory interest arbitration shall also be filed with the Board on Board form 117 and shall include the names, addresses and telephone numbers of the parties and their representatives, the contract number and expiration date of the existing contract if there is one, the date mediation began or was waived or refused, the date the Notice of No Agreement was filed or, in initial contract negotiations, the date the Notice of Status of Negotiations was filed.

c) *Arbitration procedures shall be deemed to be initiated by the filing of* a request for mediation (Section 14(j) of the Act).

(Source: Amended at 14 Ill. Reg. 19903, effective November 30, 1990)

Section 1230.80 Composition of the Arbitration Panel

a) Unless otherwise agreed to in writing by the parties, the arbitration panel shall consist of three members: the employer's delegate, the exclusive representative's delegate and the neutral chairman.

b) Selection of the neutral chairman shall proceed as follows:

1) Within seven days of receipt of a timely filed Demand for Compulsory Interest Arbitration, the Board shall send the parties a list of seven interest arbitrators selected from the Illinois Public Employees Mediation/Arbitration Roster, unless the parties have notified the Board of an agreement to use an alternate source of interest arbitrators. The parties may agree to use an alternate source of interest arbitrators at any time prior to appointment of an arbitrator by the Board.

2) *The parties may select an individual on the list provided by the Board or any other individual mutually agreed upon by the parties. Within* seven *days following the receipt of the list, the parties shall notify the Board of the person they have selected. Unless the parties agree on an alternate selection procedure, they shall alternatively strike one name from the list provided by the Board until only one name remains. A coin toss shall determine which party shall strike the first name*. (Section 14(c) of the Act).

3) *If the parties fail to notify the Board of their selection for neutral chairman, the Board shall appoint, at random, a neutral chairman*

from the Illinois Public Employees Mediation/Arbitration Roster. (Section 14(c) of the Act).

4) If the neutral chairman is unable or unwilling to commence the hearing within 15 days following his appointment or within such additional time period to which the parties may agree pursuant to Section 1230.90(a) of this Part, or if the neutral chairman is otherwise unable or unwilling to serve, the parties shall notify the Board within five days. The Board shall provide the parties with a second list of seven interest arbitrators from the Illinois Public Employees Mediation/Arbitration Roster. Within seven days after the Board provides the list, the parties shall select an individual from the list or any other individual to serve as neutral chairman. If the parties fail to notify the Board of their selection, the Board shall appoint a neutral chairman. Except in exceptional circumstances, the Board shall not supply the parties with more than two lists of interest arbitrators.

c) Within 10 days following the filing of the demand for compulsory interest arbitration, each party shall notify the Board of the name, address and telephone number of its delegate to the interest arbitration panel. Delegates who are public officers or public employees shall continue on the payroll of the public employer during the arbitration proceeding without loss of pay.

d) Upon receipt of the names of the delegates and upon selection of a neutral chairman, the Board shall notify the neutral chairman in writing of the Chairman's appointment. The date of receipt of such notice shall be the date of the neutral chairman's appointment.

(Source: Amended at 17 Ill. Reg. 15599, effective September 13, 1993)

Section 1230.90 Conduct of the Interest Arbitration Hearing

a) The neutral chairman of the arbitration panel shall provide the parties with reasonable notice of a hearing to commence within 15 days following the Chairman's appointment. The parties may agree in writing to extend the time for commencement of the hearing for a period of time not to exceed 90 days. The hearing shall conclude within 30 days following its commencement, unless the parties agree to extend this period.

b) The arbitration panel shall be responsible for choosing the location of the hearing and securing the premises. The Board hereby deems it appropriate for hearings to take place at the location selected by the panel. Requests to use the hearing rooms at the Board's offices must be made to the Board at least 10 days in advance, and will only be granted if space is available.

c) The neutral chairman *shall preside over the hearing and shall take testimony*. (Section 14(d) of the Act). The neutral chairman shall control the hearing to ensure that it is concluded expeditiously within 30 days after its commencement or within such longer period to which the parties may agree.

d) The neutral chairman shall have the authority to issue subpoenas in accordance with this Section. Subpoenas shall be secured by the neutral chairman from the Board's office. *If any person refuses to obey a subpoena, or refuses to be sworn or to testify, or if any witness, party or representative is guilty of contempt while in attendance at the hearing*, (Section 14(e) of the Act) the neutral chairman may advise the Board's General Counsel. The General Counsel shall request the assistance of the Attorney General to *invoke the aid of the circuit court within the jurisdiction in which the hearing is being held*. (Section 14(e) of the Act).

e) The arbitration proceeding shall be informal. *Technical rules of evidence shall not apply and the competence of evidence shall not thereby be deemed impaired*. (Section 14(d) of the Act).

f) *The arbitration panel may administer oaths, require the attendance of witnesses and the production of books, papers, contracts, agreements, and documents as may be deemed by it to be material to a just determination of the issues in dispute*. (Section 14(e) of the Act). (Ill. Rev. Stat. 1991, ch. 48, par. 1614(e)) [5 ILCS 315/14(e)].

g) The hearing proceedings shall be transcribed. The arbitration panel shall arrange for the recording and transcription of the proceedings. The costs of recording and transcribing the hearing shall be shared equally by the parties. Any party that desires a copy of the transcript shall be responsible for the cost of its copy.

h) The neutral chairman, *if he is of the opinion that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed two weeks*. (Section 14(f) of the Act). The chairman shall notify the Board in writing of any such remand. If the dispute is remanded to the parties, the running of the time period for conclusion of the hearing shall be stayed.

i) *Majority actions and rulings shall constitute the actions and rulings of the arbitration panel*. (Section 14(d) of the Act).

j) *Arbitration proceedings shall not be interrupted or terminated by reason of any unfair labor practice charges involving either party*. (Section 14(d) of the Act).

k) Whenever one party has objected in good faith to the presence of an issue before the arbitration panel on the ground that the issue does not involve a subject over which the parties are required to bargain, the arbitration panel's award shall not consider that issue. However, except as provided in subsections (l) and (m) of this Part, the arbitration panel may consider and render an award on any issue that has been declared by the Board, or by the General Counsel pursuant to 80 Ill. Adm. Code 1200.140(b), to be a subject over which the parties are required to bargain.

l) In arbitration proceedings involving peace officers, the arbitration panel shall not consider or render an award on residency requirements, the total number of employees employed by the department, mutual aid and assistance agreements to other units of government, and the criteria by which force, including deadly force, can be used. The panel shall consider the type of equipment, other than uniforms, issued or used, or manning levels only if it finds that the issue involves *a serious risk to the safety of a peace officer beyond that which is inherent in the normal performance of police duties*. (Section 14(i) of the Act).

m) In arbitration proceedings involving firefighters or paramedics employed by fire departments or fire protection districts, the arbitration panel shall not consider or render an award on residency requirements, the total number of employees employed by the department, mutual aid and assistance agreements to other units of government, and the criteria by which force, including deadly force, can be used. The panel shall consider the type of equipment, other than uniforms, issued or used, only if it finds that the issue involves *a serious risk to the safety of a fire fighter beyond that which is inherent in the normal performance of fire fighter duties.* (Section 14(i) of the Act). These limitations shall not apply to any provision of a firefighter collective bargaining agreement in effect and applicable as of January 1, 1986.

n) If issues of peace officer manning, or peace officer, firefighter or paramedic equipment are raised, unless otherwise agreed to by the parties, the panel shall receive evidence concerning the existence of a serious safety risk beyond that which is inherent in the normal performance of the employee's duties and evidence concerning the merits of the issue in the same proceeding.

o) The arbitration panel shall:

1) determine which issues are in dispute and which of those issues are economic issues and serve a copy of that determination on the parties; and

2) require the parties to submit their final offers of settlement on each economic issue in dispute;

3) The panel need not determine whether, with regard to protective service employees, equipment or manning issues involve serious safety risks beyond that which is inherent in the normal performance of the employees' duties at this stage of the proceeding.

4) The panel may allow the parties reasonable additional time, as determined by the number and the complexity of the issues, for presenting written or oral arguments in support of their positions. The hearing shall be considered concluded when final offers are submitted or when written or oral arguments are presented, whichever is later.

p) The neutral chairman's fee, and costs of recording and transcribing the hearing, the rent, if any for the hearing room, and all other costs of the proceeding, except for supplemental proceedings necessitated by an

employer's rejection of an arbitration award, shall be shared equally by the parties.

(Source: Amended at 17 Ill. Reg. 15599, effective September 13, 1993)

Section 1230.100 The Arbitration Award

a) *Within 30 days after the conclusion of the hearing or such further additional periods to which the parties may agree* (Section 14(g) of the Act), the panel shall issue, serve on the parties, and file with the Board its award and findings of fact. The award shall be considered issued on the date it is served on the parties. The panel shall file a certificate of service with the Board.

b) The award shall contain findings of fact and a written opinion concerning each issue in dispute. *The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive.* (Section 14(g) of the Act). With respect to each economic issue in dispute, the panel shall adopt the final offer of one of the parties, based on the following factors:

1) *The lawful authority of the employer* (Section 14(h)(1) of the Act);

2) *Stipulations of the parties* (Section 14(h)(2) of the Act);

3) *The interests and welfare of the public and the financial ability of the unit of government to meet these costs*. (Section 14(h)(3) of the Act).

4) *Comparison of the wages and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:*

A) *In public employment in comparable communities.*

B) *In private employment in comparable communities.* (Section 14(h)(4) of the Act).

5) *The average consumer prices for goods and services, commonly known as the cost of living.* (Section 14(h)(5) of the Act).

6) *The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.* (Section 14(h)(6) of the Act).

7) *Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.* (Section 14(h)(7) of the Act).

8) *Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.* (Section 14(h)(8) of the Act).

c) With respect to each noneconomic issue in dispute, the panel shall base its award on the applicable factors set forth in subsection (b).

d) If peace officer manning issues, or peace officer, fire fighter or paramedic equipment issues are in dispute, the panel shall first make its findings and conclusions concerning the presence of a serious risk to employee safety beyond that which is inherent in the normal performance of the employee's duties. If the panel finds that such a serious risk exists, the panel shall render an award in accordance with this Part.

e) *The commencement of a new municipal fiscal year after the initiation of arbitration procedures* (Section 14(j) of the Act) shall not render the proceeding moot. Awards of wage increases may be effective only at the start of the fiscal year beginning after the date of the award; however, if a new fiscal year began after the initiation of arbitration proceedings, an award of wage increases may be retroactive to the beginning of that fiscal year.

(Source: Amended at 14 Ill. Reg. 19903, effective November 30, 1990)

Section 1230.110 Employer Review of the Award

a) *All of the terms decided upon by the arbitration panel shall be included in an agreement to be submitted to the public employer's governing body for ratification and adoption by law, ordinance or equivalent appropriate means.* (Section 14(n) of the Act).

b) *The governing body shall review each term decided by the arbitration panel*. (Section 14(n) of the Act).

c) The governing body may reject any terms of the award *by a three-fifths vote of those duly elected and qualified members of the governing body.* (Section 14(n) of the Act). Such rejection vote must occur within 20 days after service of the award. The governing body shall provide written reasons for its rejection and shall serve those reasons on the parties and the neutral chairman no later than 20 days after the rejection vote. The governing body shall file a copy of its reasons and a certificate of service with the Board. The reasons for rejection shall be considered issued on the date that they are served on the neutral chairman.

d) Any terms not rejected in accordance with this Section shall become a part of the parties' collective bargaining agreement.

e) The neutral chairman shall call together the panel and convene a supplemental interest arbitration hearing within 30 days after issuance of the reasons for rejection. The supplemental hearing shall be conducted in accordance with Section 1230.90 of this Part.

f) The parties may mutually agree to select a different neutral chairman for the supplemental hearing, provided they notify the Board and the original neutral chairman within seven days after service of the reasons for rejection of the award.

g) *All reasonable costs of such supplemental proceedings, including the exclusive representative's reasonable attorney's fees, shall be paid by the employer.* (Section 14(o) of the Act). If the employer refuses to pay any costs or attorney's fees, the exclusive representative may submit the costs and/or fees to the Board's General Counsel for a determination of reasonableness. The General Counsel shall certify the amount determined to be reasonable and the employer shall promptly pay such amount to the exclusive representative.

h) Any supplemental award rendered by the arbitration panel shall be subject to governing body review in accordance with this Section.

(Source: Amended at 14 Ill. Reg. 19903, effective November 30, 1990)

SUBPART C: IMPASSE PROCEDURES FOR GENERAL PUBLIC EMPLOYEE UNITS

Section 1230.120 General Purpose of This Subpart

This Subpart governs employees with the right to strike, provided that certain conditions are met. The Act requires that the parties attempt to mutually resolve their bargaining disputes prior to resorting to a strike. To facilitate amicable settlement between the parties, the Board shall provide, in accordance with this Subpart, services of mediators, interest arbitrators and fact-finders. All costs of such services shall be shared equally by the parties.

Section 1230.130 Filing of Contracts

a) To enable the Board to fulfill its responsibilities under the Act and to ensure peaceful and orderly procedures for the resolution of collective bargaining disputes and to provide for expeditious and effective processing of requests for Board impasse resolution services, the following requirements shall apply:

1) Within 60 days after a collective bargaining agreement has been reached, each labor organization and each employer shall be responsible for filing with the Board two copies of any collective bargaining agreement that is subject to the Act. The collective bargaining agreements shall be accompanied by Board form 035,

setting forth the names, addresses and telephone numbers of the parties and their representatives, the contract's execution and expiration dates, the composition of the bargaining unit and whether the unit is a general public employee unit or a protective services unit.

2) Upon receipt of the contract, the Board shall assign a contract number and shall notify the exclusive representative and the employer in writing of that number. The parties shall refer to the contract number when filing notices pursuant to this Part, or requests for Board impasse resolution services.

b) The Board's acceptance of the contract for filing and assigning of a contract number is not determinative of 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 1210.70.

Section 1230.140 Bargaining Notices for General Public Employee Units

The following notice requirements shall apply when the parties are bargaining for a successor contract for a general public employee unit:

a) Pursuant to Section 7 of the Act, any party wishing to terminate or modify an existing collective bargaining agreement shall serve on the other party a written demand for bargaining. The demand for bargaining shall be served on the other party 60 days prior to the scheduled termination date of the existing agreement. Service of the demand for bargaining *continues in full force and effect, without resort to strike or lockout, all the terms and conditions of the existing contract for a period of 60 days after such demand notice is given to the other party or until the expiration date of such contract, whichever occurs later*. (Section 07(4) of the Act). A copy of the demand for bargaining shall be filed with the Board by the party making the demand at the same time it is served on the other party. The demand for bargaining shall reference the existing contract's number as assigned pursuant to Section 1230.130 of this Part.

b) Upon completing negotiations for either a successor or initial contract, the parties shall file with the Board a copy of the contract pursuant to Section 1230.130(a)(1) of this Part.

c) Any time after the parties have commenced negotiations, either party may request fact finding or mediation/arbitration services. Such requests shall be filed in accordance with this Subpart.

(Source: Amended at 14 Ill. Reg. 19903, effective November 30, 1990)

Section 1230.150 Mediation

a) Requests for mediation shall be on Board form 038. Joint requests for mediation may be made by telephone, provided that a written request follows immediately.

b) Requests for mediation in negotiations for either successor or initial contracts may be made at any time after the parties have commenced negotiations.

c) Requests for mediation shall generally be made jointly. Unilateral requests for mediation may be made only after the party requesting mediation has asked the other party to join in the request and the other party has refused. Unilateral requests for mediation shall be accompanied by a written statement setting forth the circumstances of the other party's refusal to join in the request. Upon receipt of a unilateral request for mediation, the Board shall investigate the request. If the Board's investigation discloses that the request was properly filed under this Part, that bargaining has not resulted in an agreement, and that mediation would assist the parties, the Board shall grant the request. Unilateral requests filed by the exclusive representative in conformance with this Section shall satisfy the precondition for a lawful strike set forth in Section 17(a)(4) of the Act.

d) Whenever the Board grants a request for mediation it shall provide the parties with a panel of at least three mediators listed on the Public Employees Mediation/Arbitration Roster. The parties shall have seven days from receipt of the list to choose one of the persons on the panel or any other person they choose to serve as mediator. If at the end of this seven-day period the parties have not notified the Board of their selection, the Board shall appoint a mediator.

e) Mediation shall be conducted as follows:

1) *The function of the mediator shall be to communicate with the employer and the exclusive representative or their representatives and to endeavor to bring about an amicable and voluntary settlement*. (Section 12(a) of the Act).

2) The mediator may hold joint and separate conferences with the parties. The conferences shall be private unless the parties otherwise agree.

3) Information disclosed by a party to a mediator in the performance of mediation functions shall not be disclosed voluntarily or by compulsion. All files, records, reports, documents, or other papers prepared by a mediator shall be considered confidential. The mediator shall not produce any confidential records of, or testify in regard to, any mediation previously conducted, on behalf of any party to any case pending in any type of proceeding.

4) The mediator shall keep the Board apprised of the status of the negotiations.

f) Compensation of the mediator shall be paid equally by the parties, however, *if either party requests the use of mediation services from the Federal Mediation And Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source*. (Ill. Rev. Stat. 1991, ch. 48, par. 1617(a)(5)) [5 ILCS 315/17(a)(5)].

(Source: Amended at 17 Ill. Reg. 15599, effective September 13, 1993)

Section 1230.160 Fact-finding

a) The parties may agree in writing to the use of fact-finding in resolving their disputes.

b) Requests for fact-finding shall be filed on Board form 038 and shall be accompanied by a copy of the parties' agreement to use fact-finding.

c) Upon receipt of the request for fact-finding, the Board shall supply the parties with a list of seven fact-finders listed on the Public Employees Mediation/Arbitration Roster. The parties shall select one individual from the list to serve as fact-finder within 10 days of service of the list. If the parties advise the Board that they are unable to select one of the seven individuals on the list, the Board shall provide a second list. Except in extraordinary circumstances, the Board shall not provide more than two lists. The parties shall notify the Board of the name of the individual they select to serve as fact-finder. Upon being so notified, the Board shall appoint the fact-finder.

d) If fact-finding follows mediation, the parties may agree to use the mediator as fact-finder, provided that the mediator is not a Board employee.

e) The fact-finding hearing shall be conducted as follows:

1) *The person appointed as fact-finder shall immediately establish the dates and place of hearing.*

2) *Upon request the Board shall issue subpoenas for hearings conducted by the fact-finder.*

3) *The fact-finder may administer oaths*. (Ill. Rev. Stat. 1991, ch. 48, par. 1613(b)) [5 ILCS 315/13(b)].

f) The fact-finder shall issue a report and findings as follows:

1) The fact-finder shall serve these findings and report on the parties and the Board within 45 days after the fact finder's appointment, unless the parties mutually agree to extend the time period.

2) Within five days after service of the findings and report, the fact-finder shall mail the findings and report to all newspapers of general circulation in the community as mutually designated by the parties, unless the parties mutually request otherwise.

g) The costs of the fact-finding proceeding shall be shared equally by the parties.

(Source: Amended at 17 Ill. Reg. 15599, effective September 13, 1993)

Section 1230.170 Voluntary Interest Arbitration

a) The parties may voluntarily agree in writing to use interest arbitration.

b) The parties may request a list of interest arbitrators from the Board by filing Board form 038 and a copy of their agreement to use interest arbitration. Upon receipt of the request, the Board shall provide the parties a list of up to seven interest arbitrators from the Public Employees Mediation/Arbitration Roster. If the parties are unable to select an arbitrator from the list provided by the Board, upon request, the Board shall provide a second list of interest arbitrators to the parties. Except under extraordinary circumstances, the Board shall provide no more than two lists.

c) The neutral interest arbitrator selected by the parties shall conduct the voluntary interest arbitration in accordance with the agreement of the parties. The interest arbitrator or interest arbitration panel shall use the factors set forth in Section 1230.100(b) of this Part as guidelines in rendering the award.

Section 1230.180 Strikes

Employees in general public employee units have the right to strike, provided that the following conditions have been met:

a) *The employees are represented by an exclusive bargaining representative* (Ill. Rev. Stat. 1991, ch. 48, par. 1617(a)(1)) [5 ILCS 315/17(a)(1)] that has been certified by the Board or that has a valid claim to status as an historical bargaining representative pursuant to Section 3(f) of the Act;

b) *The collective bargaining agreement between the public employer and the public employees, if any, has expired, or such agreement does not prohibit the strike.* (Ill. Rev. Stat. 1991, ch. 48, par. 1617(a)(2)) [5 ILCS 315/17(a)(2)]. Pursuant to Section 8 of the Act, a collective bargaining agreement must contain provisions prohibiting strikes for the agreement's duration and providing for a grievance procedure culminating in final and binding arbitration of disputes over the interpretation of the agreement unless the parties agree to forgo these provisions.

c) *The public employer and the labor organization have not mutually agreed to submit the disputed issues to final and binding arbitration.* (Ill. Rev. Stat. 1991, ch. 48, par. 1617(a)(3)) [5 ILCS 315/17(a)(3)].

d) *The exclusive representative has requested a mediator pursuant to Section 12* of the Act and Section 1230.150 of this Part *and mediation has been used.* (Ill. Rev. Stat. 1991, ch. 48, par. 1617(a)(4)) [5 ILCS 315/17(a)(4)].

e) *At least five days have elapsed after a notice of intent to strike has been given by the exclusive representative to the public employer.* (Ill. Rev. Stat. 1991, ch. 48, par. 1617(a)(5)) [5 ILCS 315/17(a)(5)]. A copy of the notice shall be filed with the Board and shall reference the contract number in cases of negotiations for successor contracts or the certification case number in cases of negotiations for initial contracts. The five day

time period shall be calculated in accordance with 80 Ill. Adm. Code 1200.30(a) and (b).

(Source: Amended at 17 Ill. Reg. 15599, effective September 13, 1993)

Section 1230.190 Petitions for Strike Investigations

a) *If a strike, which may constitute a clear and present danger to the health and safety of the public is about to occur or is in progress, the public employer concerned may* (Ill. Rev. Stat. 1991, ch. 48, par. 1618(a)) [5 ILCS 315/18(a)] file with the Board a petition for a strike investigation.

b) A petition for a strike investigation shall be on form 039 by the Board and shall contain:

1) the name, address and telephone number of the petitioner;

2) the name, address, telephone number and affiliation, if any, of the labor organization that is threatening or conducting the strike;

3) the name, address and telephone number of the parties' representatives;

4) the date that the strike began or is threatened to begin;

5) a detailed description of the danger posed by the strike to the public health and safety.

c) Petitioner shall attach to its petition copies of all relevant evidence, including affidavits, of the existence of a strike or the threat of a strike, and of the existence of a *clear and present danger to the health and safety of the public.* (Section 18 of the Act).

d) The employer shall serve a copy of the petition on the labor organization prior to or simultaneously with its filing with the Board. Service shall be in person or by overnight delivery.

e) The Board shall investigate the petition. If there are disputed issues of material fact, the Board shall hold an expedited hearing. The Board shall issue its findings within 72 hours following the filing of the petition.

f) If the Board finds that there is no strike or threat of a strike, or that there is no *clear and present danger to the health and safety of the public,* (Section 18 of the Act) or that the employer is otherwise not entitled to relief pursuant to Section 18 of the Act, the Board shall serve its findings on the parties. The employer may refile its petition for a strike investigation only if it alleges that circumstances have changed since the filing of the Board's findings.

g) If the Board finds that there is a strike or a threat of a strike that poses a *clear and present danger to the health and safety of the public,* (Section 18 of the Act) and the Board finds that the employer is otherwise entitled to relief pursuant to Section 18 of the Act, the Board shall serve its findings on the parties.

h) Whenever a court enjoins a strike and orders interest arbitration in

accordance with Section 14 of the Act, Section 1230.80 through 1230.110 of this Part shall govern the arbitration.

(Source: Amended at 17 Ill. Reg. 15599, effective September 13, 1993)

SUBPART D: GRIEVANCE ARBITRATION AND MEDIATION

Section 1230.200 Grievance Arbitration

a) Unless mutually agreed otherwise, every collective bargaining agreement between an employer and a labor organization which covers employment subject to the Act shall contain a grievance procedure which has as its last step final and binding grievance arbitration. The parties may use the Illinois Public Employees Mediation/ Arbitration Roster or any other source for selection of grievance arbitrators.

b) Whenever either party requests, unless the collective bargaining agreement provides for an alternative source, the Board shall provide a panel of up to seven grievance arbitrators selected from the Illinois Public Employees Mediation/Arbitration Roster. Requests shall be submitted on Board form 132. If the parties are unable to select an arbitrator from the first panel, the Board shall provide a second panel. The Board shall not provide more than two panels.

(Source: Amended at 14 Ill. Reg. 19903, effective November 30, 1990)

Section 1230.210 Grievance Mediation

If the parties desire an individual from the Public Employees Mediation/ Arbitration Roster to mediate one or more grievances, requests shall be made and processed in the same manner as requests for grievance arbitrators.

SUBPART E: ILLINOIS PUBLIC EMPLOYEES MEDIATION/ARBITRATION ROSTER

Section 1230.220 Mediation/Arbitration Roster

a) The Boards shall establish an Illinois Public Employees Mediation/Arbitration Roster and shall make its services available for mediation, fact-finding, interest arbitration, grievance arbitration, and grievance mediation. The Roster shall list qualified mediators, fact-finders, interest arbitrators, and grievance arbitrators. A person may be qualified in more than one category.

b) Appointment to the Roster shall be based upon a majority vote of the members of both Boards, after application by the individual. The application shall be on a form developed by the Boards.

c) In making appointments to the Roster, the Boards shall consider such factors as experience and training, membership on other recognized mediation or arbitration panels, education, prior published awards, current advocacy in employment relations matters, letters of recommendation supporting the application, and any other relevant material supplied by the applicant or requested by the Boards. Individuals appointed to the Roster shall be residents of the State of Illinois. The members of the Public Employees Mediation/Arbitration Roster are persons who are on the labor arbitration panels of either the American Arbitration Association or the Federal Mediation and Conciliation Service or who are members of the National Academy of Arbitrators.

d) Individuals appointed to the Roster shall file with the Boards a brief biographical sketch, a concise resume of their experience relevant to the position for which they are listed and a fee schedule. Whenever an individual is selected to serve in a case, that individual shall not charge a fee greater than that listed in the fee schedule an individual has filed with the Boards. A minimum of 30 days notice shall be given to the Board for changes in fee schedules.

e) Requests for panels from the Roster shall be submitted on a form developed by the Boards and shall include:

1) The name, address, telephone number and affiliation, if any, of the parties submitting the request;

2) The name, address and telephone number of the parties' representatives;

3) The type of service requested; and

4) A brief description of the nature of the dispute, including unresolved issues, to the extent known.

f) Whenever the Board provides the parties with a panel selected from the Roster, the Board shall provide copies of the biographical sketches and fee schedules of the panelists.

g) The parties may jointly request that panels submitted to them contain or omit specific individuals. No party may unilaterally make such a request.

h) Individuals listed on the Roster shall abide by the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes, as amended, effective May 29, 1985, and adopted by the National Academy of Arbitrators and the American Arbitration Association, and shall take the constitutional affirmation of office. This incorporation by reference does not contain any further amendments.

(Source: Amended at 17 Ill. Reg. 15599, effective September 13, 1993)

Table A

"Adjusted Income" Standards for

Appointment of Counsel in

Unfair Labor Practice Cases

Size of Family Unit	Adjusted Annual Income Limit
1	7,875.00
2	10,575.00
3	13,275.00
4	15,975.00
5	18,675.00
6	21,375.00
7	24,075.00
8	26,775.00
each additional person add	2,700.00