

2003

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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Editor’s Note 1: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are (End of March, June, Sept, Dec) as follows:

Issue 28 - July	11, 2003: Data through	June	30, 2003 (2nd Quarter)
Issue 41 - October	10, 2003: Data through	September	29, 2003 (3rd Quarter)
Issue 2 - January	9, 2004: Data through	December	29, 2003 (Annual)
Issue 15 - April	00, 2004: Data through	March	31, 2004 (1stQuarter)

Editor’s Note 2: Submit all rulemaking documentation to the following address:

Secretary of State
Department of Index
Administrative Code Division
111 East Monroe Street
Springfield, Illinois 62756

Editor's Note3:

To: All State Agencies
From: Secretary of State
Department of Index
Administrative Code Division

The Code Division will be conducting a monthly workshop. This is the opportunity for the Administrative Code Division to ask the question "How can we help you?" Each month will consist of different discussion topics. State agencies will be able to select one or more workshops to attend. Please return the included registration form at least two weeks prior to the scheduled workshop. Topics will come from the Secretary of State's Style Manual and 1 Ill. Admn. Code 100. All workshops will be scheduled from 8:30am to 12:00pm on selected dates. unless other wise announced workshops will be held at the Illinois State Library, 300 S. Second St., Rm. 403-404, Springfield, IL. 62701. If you have any questions or concerns please contact our office (217)782-6537.

Workshop Schedule and Signup Sheet on following page:

**Secretary of State
Department of Index
Administrative Code Division
Workshop Schedule and Signup Sheet**

April 30, 2003 Topics: <ul style="list-style-type: none"> • Introduction to the Secretary of State Style Manual • Rulemaking Process in Illinois • Organization and Format of Rules 	Number Attending
May 14, 2003 Topics: <ul style="list-style-type: none"> • Authority Notes • Source Notes • Filing and Publication Procedures 	Number Attending
June 25, 2003 Topics: <ul style="list-style-type: none"> • Miscellaneous Information <ul style="list-style-type: none"> Emergency Rules Second Notices Executive Orders/Proclamations Regulatory Agenda Other Notices • Checklists 	Number Attending

Agency Name: _____
 Contact Name: _____
 Address: _____
 City/Zip: _____
 Phone Number: _____

Please return this registration sheets to:

Secretary of State
 Department of Index
 Administrative Code Division
 Attn: Brenna Boston
 111 E. Monroe
 Springfield, IL 62756
Fax Number: (217) 524-0308

All workshops will be held at:

Illinois State Library
 300 S. Second St. Rm. 403-404
 Springfield, IL 62701
 8:30am – 12:00pm

If you have any question please call (217) 782-6537.

INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register will also contain the Cumulative Index and Sections Affected Indices will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are the end of March, June, Sept, Dec.

Rulemaking activity consist of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update the Illinois Administrative code (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies'

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5ILCS 100/1-1 et seq.].

2003 REGISTER SCHEDULE VOLUME # 27

Issue#	Copy Due by 4:30 pm	Publication Date	Issue#	Copy Due by 4:30 pm	Publication Date
Issue 1	December 23, 2002	January 03, 2003	Issue 38	September 08, 2003	September 19, 2003
Issue 2	December 31, 2002	January 10, 2003	Issue 39	September 15, 2003	September 26, 2003
Issue 3	January 06, 2003	January 17, 2003	Issue 40	September 22, 2003	October 03, 2003
Issue 4	January 13, 2003	January 24, 2003	Issue 41	September 29, 2003	October 10, 2003
Issue 5	January 21, 2003	January 31, 2003	Issue 42	October 06, 2003	October 17, 2003
Issue 6	January 27, 2003	February 07, 2003	Issue 43	October 14, 2003	October 24, 2003
Issue 7	February 03, 2003	February 14, 2003	Issue 44	October 20, 2003	October 31, 2003
Issue 8	February 10, 2003	February 21, 2003	Issue 45	October 27, 2003	November 07, 2003
Issue 9	February 18, 2003	February 28, 2003	Issue 46	November 03, 2003	November 14, 2003
Issue 10	February 24, 2003	March 07, 2003	Issue 47	November 10, 2003	November 21, 2003
Issue 11	March 03, 2003	March 14, 2003	Issue 48	November 17, 2003	November 28, 2003
Issue 12	March 10, 2003	March 21, 2003	Issue 49	November 24, 2003	December 05, 2003
Issue 13	March 17, 2003	March 28, 2003	Issue 50	December 01, 2003	December 12, 2003
Issue 14	March 24, 2003	April 04, 2003	Issue 51	December 08, 2003	December 19, 2003
Issue 15	March 31, 2003	April 11, 2003	Issue 52	December 15, 2003	December 26, 2003
Issue 16	April 07, 2003	April 18, 2003			
Issue 17	April 14, 2003	April 25, 2003			
Issue 18	April 21, 2003	May 02, 2003			
Issue 19	April 28, 2003	May 09, 2003			
Issue 20	May 05, 2003	May 16, 2003			
Issue 21	May 12, 2003	May 23, 2003			
Issue 22	May 19, 2003	May 30, 2003			
Issue 23	May 27, 2003	June 06, 2003			
Issue 24	June 02, 2003	June 13, 2003			
Issue 25	June 09, 2003	June 20, 2003			
Issue 26	June 16, 2003	June 27, 2003			
Issue 27	June 23, 2003	July 04, 2003			
Issue 28	June 30, 2003	July 11, 2003			
Issue 29	July 07, 2003	July 18, 2003			
Issue 30	July 14, 2003	July 25, 2003			
Issue 31	July 21, 2003	August 01, 2003			
Issue 32	July 28, 2003	August 08, 2003			
Issue 33	August 04, 2003	August 15, 2003			
Issue 34	August 11, 2003	August 22, 2003			
Issue 35	August 18, 2003	August 29, 2003			
Issue 36	August 25, 2003	September 05, 2003			
Issue 37	September 02, 2003	September 12, 2003			

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July 2001 - 675 - GA -82

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Conservation Reserve Enhancement Program (CREP)
- 2) Code Citation: 17 Ill. Adm. Code 1515
- 3) Section Numbers: 1515.50 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Intergovernmental Cooperation Act [5 ILCS 220], the Soil and Water Conservation Districts Act [70 ILCS 405], the Fish and Aquatic Life Code [515 ILCS 5], the Wildlife Code [520 ILCS 5], the Real Property Conservation Rights Act [765 ILCS 120], and the Civil Administrative Code of Illinois (Part 13.5) [20 ILCS 805/Part 13.5].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to make revisions to the payment method for landowner enrollment.
- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Stanley Yonkauski, Jr.
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: Potential affect to landowners enrolling in the CREP Program, including not-for-profit organizations holding land that they would wish to enroll, such as The Nature Conservancy and The Wetlands Initiative.
 - B) Reporting, bookkeeping or other procedures required for compliance: Minor modification of ongoing bookkeeping within the Department and at the Soil and Water Conservation Districts.
 - C) Types of professional skills necessary for compliance: None required.
- 13) Regulatory Agenda on which this rulemaking was summarized: The decision to amend this rule was made after the January 2003 Regulatory Agenda was submitted.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER d: FORESTRYPART 1515
CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP)

Section

- 1515.10 General Provisions
- 1515.20 Eligibility Requirements
- 1515.30 Enrollment Process
- 1515.40 Exceptions to Enrollment Process
- 1515.50 Payments
- 1515.60 Violation
- EXHIBIT A Map of Eligible Area in Illinois River Watershed

AUTHORITY: Implementing and authorized by the Intergovernmental Cooperation Act [5 ILCS 220], the Soil and Water Conservation Districts Act [70 ILCS 405], the Fish and Aquatic Life Code [515 ILCS 5], the Wildlife Code [520 ILCS 5], the Real Property Conservation Rights Act [765 ILCS 120], and the Civil Administrative Code of Illinois (Part 13.5) [20 ILCS 805/Part 13.5].

SOURCE: Emergency rule adopted at 22 Ill. Reg. 18116, effective September 22, 1998, for a maximum of 150 days; emergency expired on February 19, 1999; adopted at 23 Ill. Reg. 3396, effective March 8, 1999; emergency amendment at 25 Ill. Reg. 7329, effective May 22, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 13600, effective October 9, 2001; amended at 27 Ill. Reg. _____, effective _____.

Section 1515.50 Payments

Payments will be provided to the landowner upon execution of the contract supplement or permanent easement based upon the following formulas:

- a) Bonus Payments
 - 1) Permanent Easements
 - A) The payment to a landowner for a voluntary permanent easement will be a lump sum payment equal to the CRP maximum annual

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

rental rate as determined by FSA based on soil types (exclusive of any Federal incentive payments) times 15 years times 30 percent times number of acres enrolled. A minimum of 20 acres is required for sign-up unless the total eligible acreage held by the landowner is less than 20 acres, all acres are included in the sign-up, and the acres have been approved by IDNR due to location and relationship with adjacent enrollments.

- B) If the landowner elects a permanent easement option, additional non-cropped acres or acres in another CRP sign-up may be offered for the permanent easement. The landowner will receive a lump sum payment based on the formula set forth for the CREP State bonus payment for permanent easements, using the soil types on the additional acres. The landowner must agree to a conservation plan written and approved by the SWCD and IDNR and established at the time of enrollment for the total acreage in the permanent easement, but will receive no CREP State cost-share payment for any practice established on the additional non-cropped acres or other CRP acres. If applicable, the landowner may use another Federal and/or State cost-share program to implement acceptable practices on additional acres. The criteria for a permanent easement on additional acres are:
- i) riparian acres: 100 year floodplain of the Illinois River and its tributaries within the targeted eligible area;
 - ii) acres must be adjacent to cropped acres enrolled in a CREP permanent easement; or adjacent to the stream but on opposite stream bank (same landowner);
 - iii) acres have an $EI \geq 12$ and need to be enrolled to meet the 20 acre minimum for permanent easements;
 - iv) acres have an $EI \geq 12$ and have been approved by IDNR because of location and relationship with the remainder of enrollment; and
 - v) acres must already be in acceptable practices based on soil types and wildlife benefits or the landowner must be

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

willing to put the acres in an acceptable practice at landowner's expense. If applicable, the landowner may use another Federal and/or State cost-share program to implement the practices. A site visit by appropriate IDNR field staff may be required to determine the acceptability of the additional acres (non-cropped acres or acres in another CRP sign up) offered for permanent easement.

2) 15 Year Contract Supplement

The payment to a landowner for a 15 year contract supplement will be a lump sum payment that will equal 50 percent of the payment for a voluntary, permanent easement (CRP maximum annual rental rate, exclusive of any Federal incentive payments, times 15 years, times 30 percent times number of acres enrolled).

3) 35 Year Contract Supplement

The payment to a landowner for a 35 year contract supplement will be a lump sum payment that will equal 75 percent of the payment for a voluntary, permanent easement (CRP maximum annual rental rate, exclusive of any Federal incentive payments, times 15 years, times 30 percent times number of acres enrolled).

b) Cost-Share Payments

Landowners who enter the State incentive program will also receive cost-share payments for the installation of CREP approved practices based on the following formulas:

- 1) Landowners who enter into a voluntary CREP permanent easement will receive reimbursement at a 50 percent cost-share rate based upon FSA guidelines for the installation of CREP approved practices from the State. The amount of reimbursement to a landowner from all sources may not exceed 100 percent of the cost-share rate of the practice established by FSA.
- 2) Landowners who enter into a 15 year contract supplement or 35 year contract supplement on acres defined as riparian areas, farmed wetlands,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

prior converted wetlands, or wetlands farmed under natural conditions will receive reimbursement at a 40 percent cost-share rate based upon FSA guidelines for the installation of CREP approved practices from the State. The amount of reimbursement to a landowner from all sources may not exceed 100 percent of the cost-share rate of the practice established by FSA.

- 3) Landowners who enter into a 15 year contract supplement or 35 year contract supplement on acres defined on the basis of erodibility (weighted average Erodibility Index, $EI \geq 12$) will not receive State CREP cost-share reimbursement for CREP practice implementation. Landowners may receive reimbursement from other sources.
- 4) Landowners enrolling acres that meet all eligibility requirements in Section 1515.40(d) or (e) are not eligible for State CREP cost-share payment for any practice established on these acres. If applicable, the landowner may use another Federal and/or State cost share program to implement acceptable practices on these acres.

c) Mechanics of Payment

- 1) For executed contract supplements and permanent easements, the county SWCD shall complete an invoice voucher and submit to IDNR for a lump sum bonus payment.
- 2) The county SWCD will submit an invoice voucher to IDNR for the landowner's cost-share payment with completed USDA form AD-862 and completed USDA form AD-245.
- 3) If required, the county SWCD is responsible for providing surveyors with written directions that include all necessary information to conduct an appropriate survey (exclusionary or full boundary) for an enrollment. If proper information is not provided, the county SWCD may not receive full reimbursement for costs. If written approval from IDNR is not obtained for a survey on a 15 year or 35 year contract supplement, the county SWCD will not be reimbursed for any survey costs. Attorney fees incurred for county SWCD responsibilities, as described in Attachment B of the Contract Agreement between IDNR and the SWCD, are not eligible for reimbursement by the State. Detailed attorney billing statements must be submitted with vouchers.

DEPARTMENT OF NATURAL RESOURCES

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- 4) No individual; or the combined maximum of governmental organizations, not-for-profit organizations, or mutually related benefiting organizations associated with a collective enrollment, shall receive payments greater than \$500,000.00 or 5 percent, whichever is less, of available CREP State funds for any given State fiscal year.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Procedures
- 2) Code Citation: 80 Ill. Admin. Code 1200
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1200.5	New Section
1200.10	Amended
1200.20	Amended
1200.30	Amended
1200.40	Amended
1200.45	New Section
1200.50	Amended
1200.60	Amended
1200.70	Amended
1200.80	Amended
1200.90	Amended
1200.100	Amended
1200.105	Amended
1200.110	Repealed
1200.120	Amended
1200.130	Amended
1200.135	New Section
1200.140	New Section
1200.143	Renumbered and Amended
1200.145	New Section
1200.150	Amended
1200.160	Amended
- 4) Statutory Authority: Illinois Public Labor Relations Act 5 ILCS 315
- 5) Effective Date of Rule Amendments: May 1, 2003
- 6) Does this rulemaking contain an automatic appeal date? No.
- 7) Do the amendments contain incorporations by reference? No.
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 9) Notice(s) of Proposals published in the Illinois Register: June 28, 2002, 26 Ill. Reg. 9065
- 10) Has JCAR issued a Statement of Objections to this (these) amendment(s)? No.
- 11) Difference(s) between proposals and final version: In addition to non-substantive, stylistic differences between proposals and the final version, the Board identifies the following differences:
- | | |
|-------------------------|---|
| 1200.10 | Deleted proposed definition for fact-finding and retained the current definition |
| 1200.20 c)3)d) | deleted the proposed language |
| 1200.20 f) | deleted the proposed language and retained the current language |
| 1200.45 b)2) | deleted the last sentence requiring motions for continuances be made at least 7 days before the date set for hearing |
| 1200.135 b)1) | included a sentence that states: "if original exceptions are withdrawn, then all subsequent exceptions are moot. |
| 1200.135 c)1)2) | deleted proposed language and inserted the following:
Appeals to a Board's decision shall be made in accordance with Section 9(i) and 11(e) of the Act |
| 1200.143 a)7) &
b)7) | deleted the proposed language: declaratory rulings under this Section are final and binding upon the parties |
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes.
- 13) Will this (these) amendment(s) replace any emergency amendment currently in effect?
No.
- 14) Are there any amendment(s) pending on this Part? No.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments:

Many non-substantive, stylistic changes were made to improve the readability of rules. The following amendments were made for the following purposes:

Section 1200.5 provides relevant Board contact information.

Section. 1200.20 allows parties to file specific documents by fax, so long as they meet certain guidelines. The amended section will also now require the charging party to serve the respondent with a copy of the charge.

Section 1200.40 defines in greater detail what authority the administrative law judges have. This discretionary authority includes requiring parties to participate in pre-hearing conferences; establishing time limits on witness testimony, and ordering a hearing reopened prior to the issuance of the administrative law judge's recommended decision and order.

Section 1200.45 creates a new section, which gives procedural guidelines to be followed when parties want to file various motions, and deals specifically with the following motions: motions to request extensions of time, motions for continuances, and motions to disqualify an Administrative Law Judge for bias, and motions to defer.

Section 1200.90 provides more stringent time frames and guidelines for requesting, serving and challenging subpoenas.

Section 1200.135 this section now consolidates all of the appeals procedures and Board and Court review procedures into one section. This has enabled the Board to delete repetitive language throughout the Rules.

Section 1200.143 provides that where petitions for declaratory ruling involve factual issues, the General Counsel has discretion to refer matters to the Board's unfair labor practice procedures or to an interest arbitrator for a determination of the disputed factual issues.

16) -Information and questions regarding this adopted amendment shall be directed to:

Name: Julie A. Africk
Address: 160 North LaSalle Street
Suite C-400

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

Chicago, Illinois 60601
Telephone: 312-793-6408
312-793-6989 (fax)
africk@ilrb.state.il.us

The full text of the Adopted Amendment(s) begins on the next page:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

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

<u>1200.5</u>	<u>Board Information and Business Hours</u>	
1200.10	Definitions	
1200.20	Filing and Service of Documents	
1200.30	Computation and Extensions of Time	
1200.40	Authority of Administrative Law Judges	
<u>1200.45</u>	<u>Motions</u>	
1200.50	Recording of Hearings	
1200.60	<u>Closing Arguments and Briefs Before an Administrative Law Judge</u> Oral Argument and Briefs	
1200.70	Representation of Parties	
1200.80	Ex Parte Communications	
1200.90	Subpoenas	
1200.100	Transfer of Jurisdiction	
1200.105	Consolidation of Proceedings	
1200.110	Amicus Curiae Briefs (Repealed)	
1200.120	Voluntary Settlement or Adjustment of Disputes	
1200.130	Rules of Evidence	
<u>1200.135</u>	<u>Appeals Procedures, Board Review and Court Review</u>	
1200.140	<u>Amicus Curiae Briefs</u>	
<u>1200.143</u>	Declaratory Rulings	
<u>1200.145</u>	<u>Filing of Contracts</u>	
1200.150	Conflicts of Interest	
1200.160	Variances and Suspensions of Rules	

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

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

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

1988; amended at 14 Ill. Reg. 19896, effective November 30, 1990; amended at 17 Ill. Reg. 15588, effective September 13, 1993; amended at 20 Ill. Reg. 7391, effective May 10, 1996; amended at; amended at 27 Ill. Reg. 7365, effective May 1, 2003.

Section 1200.5 Board Information and Business Hours

The State Panel of the Illinois Labor Relations Board is located at 320 West Washington, Suite 500, Springfield, Illinois 62701. The State Panel telephone number is 1-217-785-3155. The State Panel facsimile telephone number is 1-217-785-4146. The Local Panel of the Illinois Labor Relations Board is located at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601. The Local Panel telephone number is 1-312-793-6400. The Local Panel facsimile telephone number is 1-312-793-6989. The Illinois Labor Relations Board's website address is www.state.il.us/ilrb. The official business hours of the Illinois Labor Relations Board are 8:30 a.m. to 5:00 p.m., Monday through Friday.

(Source: Added at 27 Ill. Reg. 7365, effective May 1, 2003)

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 part~~ incorporates the definitions contained in Section 3 of the Act as well as other definitions.

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

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

g) ~~"Administrative Law Judge's An administrative law judge's recommended decision and order" means findings of fact and conclusions of law and reasons for those findings and conclusions. It is not a final decision of the Board, 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.~~

e) ~~The term "Board" means shall refer to~~ the Illinois ~~State~~ Labor Relations Board

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

~~and the Illinois Local Labor Relations Board or State or Local Panel, each Board~~ individually as applicable, or an agent designated by the Board

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

- d) ~~"Charging The term "charging party" means shall mean~~ the person or labor organization filing 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) ~~"Complaint" means 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.

"Employer" means the party named in a representation petition, unit clarification petition, decertification petition or voluntary recognition petition as the employer of the unit described in the petition.

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

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

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recommendations.

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

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

"Grievance mediation" means a process whereby an employer and an exclusive representative employ a neutral third party to communicate with the parties and endeavor to bring about an amicable, voluntary resolution of a dispute over the interpretation or application of an existing collective bargaining agreement.

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

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

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

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"Respondent" means the party named in an unfair labor practice charge or complaint as having allegedly committed the unfair labor practice.

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

(Source: Amended at 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.20 Filing and Service of Documents

- a) All charges, petitions, mediation requests and other initial documents relating to any proceeding before the State Panel of the Illinois ~~State~~ Labor Relations Board shall be filed in the Board's Springfield office, which ~~office~~ shall be designated as the State ~~Panel's 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 Local Panel of the Illinois ~~Local~~ Labor Relations Board shall be filed with the Board's office in Chicago which shall be designated as the Local ~~Panel's Board's~~ principal office. Two copies of each document shall be filed. The Board shall post, and from time to time revise as appropriate, a list containing the street and mailing addresses for filing by actual delivery of papers and the telephone numbers for filing by electronic telefacsimile transmission (fax).
- b) Whenever this Part or 80 Ill. Adm. Code 1210, 1220 or 1230 requires 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 ~~that which therefore~~ do not prejudice the other parties to a proceeding.
- c) Documents may be filed by any of the following methods:
- 1) By actual delivery of documents to the Board;
 - 2) By first class, registered or certified United States mail or by commercial parcel delivery company; or

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- 3) By fax, subject to the following limitations:
- A) Parties shall transmit one copy of the documents, accompanied by a cover sheet or form identifying the party filing the documents, the total number of pages in the fax transmission, and the name, address, telephone number and fax number of the person sending the fax;
 - B) The original documents filed by fax shall be mailed or delivered to the appropriate Board office on the same day the fax is transmitted, together with a fax confirmation receipt;
 - C) The appropriate case numbers shall be indicated on the front page of each document filed by fax, unless the document is being filed to initiate proceedings before the Board;
 - D) If receipt of a fax transmission commences after the close of the Board's business hours, the documents will be deemed filed on the next business day; and
 - E) A fax shall not be used to submit authorization cards for purposes of a showing of interest within the meaning of 80 Ill. Adm. Code 1210.80.
- de) All petitions, ~~unfair labor practice charges,~~ intervening claims and amendments to ~~those documents thereto~~ shall be served on the appropriate parties by the Board by certified mail.
- ed) All unfair labor practice charges and all documents, except those listed in ~~subsection-Subsection (d) (e) 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 not be considered properly served unless 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.

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- fg) In all matters, a document shall be considered filed with the ~~Board-Boards~~ on the date that it is postmarked, tendered to a delivery service or received by personal delivery in the office of the appropriate ~~Panel before the close of the Board's business hours-Board~~. ~~Service made by fax shall be regarded as completed upon production by the fax machine of confirmation of transmission, together with the same-day mailing of a copy of the papers, postage pre-paid and properly addressed, to the person being served. 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 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.30 Computation and Extensions of Time

- a) In computing any period of time prescribed by the Act or this Part, the ~~designated period of time begins to run the day after the act, event, or default and ends on the last day of the period so computed-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 ~~this Part these rules~~ is less than ~~7 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 ~~3 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 ~~for~~ overcoming the presumption.

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- d) Requests for postponements of hearings, ~~shall be filed in accordance with Section 1200.45. Requests for postponements of~~ investigations or ~~scheduled~~ conferences, ~~as well as requests for 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. ~~Such requests and~~ will not be granted unless good and sufficient cause is shown and the following requirements are met:
- 1) ~~all the~~ requests must be in writing directed to the investigator, ~~Administrative Law Judge-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 ~~alternative dates-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 ~~alternative-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 ~~3 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 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.40 Authority of Administrative Law Judges

The ~~Administrative Law Judge-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 administrative law judge~~ shall have all powers necessary to achieve these ends, including, (but not limited to), the discretionary authority to:

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- a) Require the parties to participate in a pre-hearing conference before proceeding with a hearing;
- b) Require all parties to submit pre-hearing information, including, but not limited to, a detailed written statement of the issue to be resolved at hearing and its position; a list of witnesses each party intends to call, the nature of their testimony, the estimated time for each witness' testimony, and the estimated time for the party's case in chief; a list of exhibits to be offered by each party in its case in chief and a copy of each exhibit; and all other information the Administrative Law Judge requests;
- ~~a)~~ ~~Hold pre-hearing conferences for settlement, simplification of the issues, or any other related purposes;~~
- ~~cd)~~ Regulate the proceedings of the case, and the conduct of the parties and their counsel;
- ~~de)~~ Administer oaths and affirmations;
- ~~ed)~~ Receive relevant testimony and evidence;
- f) Establish reasonable limits on the frequency and duration of the testimony of any witness and limit repetitious or cumulative testimony;
- ge) Examine witnesses and direct witnesses to testify; however, this provision does not lessen any party's burden of proof;
- hf) Issue subpoenas and rule upon motions to revoke subpoenas;
- i) Take administrative notice of generally recognized facts of which Illinois courts may take judicial notice and of other facts within the specialized knowledge and experience of the Board;
- ig) Rule on objections, motions and questions of procedure;
- kh) Authorize the submission of briefs and set the time for ~~their~~ the filing thereof;
- li) Hear ~~closing-oral~~ argument;
- m) Order a hearing reopened prior to the issuance of the Administrative Law Judge's recommended decision and order;

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- nj) Render and serve the recommended decision and order on the parties to the proceeding;
- ok) Carry out the duties of Administrative Law Judge~~administrative law judge~~ as provided or otherwise authorized by this Part or 80 Ill. Adm. Code 1210, 1220 or 1230~~these rules and regulations~~ or the Act.

(Source: Amended at 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.45 Motions

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

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- 3) At any time prior to the issuance of the recommended decision and order, a party may move to disqualify the Administrative Law Judge on the grounds of bias or conflict of interest. The motion shall be in writing to the General Counsel, with a copy to the Administrative Law Judge, setting out the specific instances of bias or conflict of interest. An adverse decision or ruling, in and of itself, is not grounds for disqualification. The General Counsel may decline to disqualify the Administrative Law Judge or may appoint another Administrative Law Judge to hear the case.
- 4) Motions to defer an unfair labor practice matter to arbitration may be made in accordance with Section 1220.65.
- c) Responses and any other answering documents, including memoranda and affidavits, must be filed within 5 days after service of the motion, or as otherwise required by the Administrative Law Judge or the Board. Responses must be served in accordance with Section 1200.20.
- d) Rulings on motions shall be made in writing and served on all parties to the proceeding. The Administrative Law Judge may reserve ruling on any motion until the issuance of his recommended decision and order.
- e) Rulings on motions are not appealable to the Board, unless as otherwise provided by the Board.

(Source: Added at 27 Ill. Reg. 7365, effective May 1, 2003)

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~~ ~~administrative law judge~~ under the Act or this Part or 80 Ill. Adm. Code 1210, 1220 or 1230 ~~these rules~~, it shall be recorded by stenographic or other means ~~that which~~ adequately preserves the record. The ~~Administrative Law Judge~~ ~~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 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.60 Closing Arguments ~~Oral Argument~~ and Briefs Before An Administrative Law

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Judge

Upon request, 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~~ administrative law judge may shall direct the filing of briefs when the filing is, in the opinion of the ~~Board or Administrative Law Judge~~ 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 a total of 50 double-spaced pages with margins of at least 1/2 inch, including attachments. All of the pages in excess of the 50 page limit will be rejected. The General Counsel may grant approval of exceptions and briefs containing more than 50 pages only ~~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 27 Ill. Reg. 7365, effective May 1, 2003)

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 ~~notice of appearance~~ with the Board. Filing pleadings on behalf of a party shall be equivalent to filing a Notice of Appearance.

(Source: Amended at 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.80 Ex Parte Communications

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

(Source: Amended at 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.90 Subpoenas

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~~a) Following the issuance of a complaint for hearing or a notice of representation hearing, *the Board*, upon the request of an Administrative Law Judge or upon the written application of a party, shall have the power to issue subpoenas for witnesses and subpoenas for documents. 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.~~

a) Subpoenas for Witnesses

- 1) A party's written application for subpoenas for witnesses must be directed to the Administrative Law Judge, and must contain the following information:
 - A) the title and case number of the proceeding;
 - B) the name, address and phone number of the party requesting the subpoena and its representative;
 - C) the name of the person to be subpoenaed; and
 - D) the date, time and place of the appearance to be commanded.
- 2) Applications must be filed with the Board and served on the other parties to the case at least 10 days before the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request. Upon request, the Board will mail the subpoenas to the applicant.
- 3) The party requesting the subpoenas shall be responsible for serving the subpoenas on the witnesses at least 5 days before the hearing date. The party requesting the subpoenas shall also be responsible for payment of the witness fees for attendance, subsistence and mileage. Witnesses appearing at a hearing pursuant to subpoena are entitled to the same fees

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and mileage as are allowed witnesses in civil cases in the courts of the State of Illinois, pursuant to Section 4.3 of the Fees and Salaries Act [705 ILCS 35/4.3]. The requesting party must tender all fees with the subpoena. A witness appearing at the request of the Board shall submit the subpoena with a voucher when claiming reimbursement.

4) Board employees shall not be subpoenaed to testify regarding matters that occurred during their employment with the Board.

5) Subpoenas shall remain in effect throughout the course of the proceedings.

b) Subpoenas for Documents (Subpoena Duces Tecum)

1) A party's written application for subpoenas for documents must be directed to the Administrative Law Judge and must contain the following information:

A) the title and case number of the proceeding;

B) the name, address and phone number of the party requesting the subpoena and its representative;

C) a detailed description of the books, papers, documents or other objects to be produced pursuant to the subpoena;

D) the name of the person to be served with the subpoena; and

E) the date, time and place of production to be commanded.

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

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

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- 4) Confidential Board documents as defined in 2 Ill. Adm. Code 2501.20(c) shall not be subpoenaed.
- c) Motions to Revoke Subpoenas
- A person objecting to the subpoena may file a motion to revoke the subpoena. The motion must be filed at least 3 days prior to the hearing and shall be filed with the Administrative Law Judge assigned to the case. Grounds for revocation shall include irrelevance, undue burden and privilege.
- d) Subpoenas in Impasse Proceedings
- Subpoenas in impasse proceedings shall be handled in accordance with 80 Ill. Adm. Code 1230.90. Motions to revoke the subpoena in such proceedings shall be filed with the arbitrator or fact-finder.
- 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.~~
- e) ~~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 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.100 Transfer of Jurisdiction

- a) Whenever a proceeding is instituted before either the State or Local Panel of the Illinois State Labor Relations Board ~~or the Illinois Local Labor Relations Board,~~

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and it ~~appears shall appear~~ that the matter is properly subject to the other Panel's jurisdiction ~~of the other Board~~, the first Panel Board shall transfer the case to the other Panel Board.

- b) Whenever one Panel Board has transferred a case to the other Panel Board, the other Panel Board can refuse to accept the transfer if it believes that it does not have jurisdiction. The other Panel's Board's refusal to accept the transfer shall automatically initiate a joint Panel Board proceeding to resolve the jurisdictional issue.
- c) Whenever only one member of either Panel Board believes that a case before that Panel Board is subject to the jurisdiction of the other Panel Board, that member shall initiate a joint Panel Board proceeding to resolve the jurisdictional issue.

(Source: Amended at 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.105 Consolidation of Proceedings

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

(Source: Amended at 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.110 Amicus Curiae Briefs (Repealed)

~~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: Repealed at 27 Ill. Reg. 7365, effective May 1, 2003)

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

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disputes involving issues of representation, unfair labor practices, and interest and rights disputes. Any such efforts at resolution or conciliation and any resulting settlements shall be in compliance with the provisions, purposes and policies of the Act. Any facts, admissions against interest, offers of settlement or proposals of adjustment ~~that 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 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.130 Rules of Evidence

Considering the nature of the case and the representatives of the parties, the Administrative Law Judge-administrative law judge will, insofar as practicable, apply the rules of evidence applicable in Illinois courts. The Administrative Law Judge may, upon proper objection, exclude evidence that is irrelevant, immaterial or unduly repetitious. Evidence may be presented in the form of testimony, exhibits, or stipulations. Testimonial evidence shall be taken only on oath or affirmation.

(Source: Amended at 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.135 Appeals Procedures, Board Review and Court Reviewa) Executive Director's Orders

- 1) Orders of the Executive Director, except orders setting matters for hearing, may be appealed to the Board. Notice of appeal and all supporting materials shall be filed with the Board's General Counsel, in the Board's Chicago office, no later than 10 days after service of the Executive Director's order. The appeal shall be served on all other parties in accordance with Section 1200.20.
- 2) A party may file a response to the appeal and all materials in support of the response no later than 5 days after service of the appeal. The response shall be served on all other parties in accordance with Section 1200.20.
- 3) The Board will review an Executive Director's order only upon the timely filing of an appeal. Parties desiring oral argument before the Board shall request oral argument and state the reasons for the requests in their appeals and responses. The Board shall grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. In

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addition, the Board may, on its own motion, request oral argument, depending upon the significance, complexity and novelty of the issues. The Board may adopt all, part or none of the order depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve on all parties its decision and order.

b) Administrative Law Judge's Recommended Decision and Order

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

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

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

- 2) Exceptions and/or cross-exceptions shall specifically set forth the questions of procedure, fact, law or policy to which exception is taken, shall identify that part of the Administrative Law Judge's recommended decision and order to which objection is made, and shall state the grounds for the exceptions and shall include the citation of authorities unless set forth in a supporting brief. Any exception to a ruling, finding, conclusion or recommendation that is not specifically urged shall be deemed to have been waived. Any exception that fails to comply with the foregoing requirements may be disregarded.
- 3) Any brief in support of exceptions shall be confined to the subjects raised in the exceptions and shall contain:
 - A) a clear and concise statement of the case containing all that is material to the consideration of the questions presented;
 - B) a specification of the questions involved and the issues to be argued; and
 - C) an argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question.
- 4) The Board will review the Administrative Law Judge's recommended decision and order upon timely filing of exceptions or at any time on its own motion. The Board may adopt all, part or none of the recommended decision and order depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve on all parties its decision and order.

In representation proceedings, if the Board determines that a question concerning representation exists, the Board shall direct the holding of an election on a date and at a time and place set by the Board. The Board shall direct the posting of a Notice of Election. Within 7 days following

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the Board's direction of an election, the employer shall furnish the Board and the labor organization with an excelsior list, which is a list of the full names, alphabetized by last name, and addresses of the employees eligible to vote in the election. The lists shall be provided by personal delivery or certified mail. The employer shall obtain receipts verifying delivery. In unfair labor practice proceedings, the Board will retain jurisdiction over the case to ensure the parties' compliance with the Board order. Unless overturned by the Board, the parties must comply with the recommended decision and order.

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

c) Court Review of Board Orders

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

(Source: Added at 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.140 Amicus Curiae Briefs

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

(Source: Old Section 1200.140 renumbered to Section 1200.143, and new Section 1200.140 adopted at 27 Ill. Reg. 7365, effective May 1, 2003.)

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Section 1200.143 Declaratory Rulings

Parties may petition the Board's General Counsel for a declaratory ruling, pursuant to Section 5-150 of the Illinois Administrative Procedure Act (~~Ill. Rev. Stat. 1991, ch. 127, par. 5-150~~) [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, unless an extension has been granted by the General Counsel.
 - 4) Any party desiring oral argument shall request oral argument in writing prior to or at the time of the filing of its brief. The General Counsel shall determine whether oral argument is warranted by the particular issues involved. Oral argument shall be held no later than 7 ~~seven~~ days after the filing of the briefs.
 - 5) The General Counsel shall issue a declaratory ruling no later than 30 days after receipt of the parties' briefs ~~the filing of the petition~~. Pursuant to Board practice and caselaw, the Board considers General Counsel declaratory rulings to be non-binding advisory opinions. Consequently, the Board's General Counsel declaratory rulings are not appealable.
 - 6) The parties shall continue to have a duty to bargain in good faith during the pendency of a declaratory ruling petition. The pendency of a

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declaratory ruling petition shall not stay the running of the 60 and 30 day notice periods provided in 80 Ill. Adm. Code 1230.140(a), (b), and (c). Nor shall the pendency of a declaratory ruling petition stay the running of the ~~5~~ **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. In the case of a unilateral petition for declaratory ruling in which the General Counsel has determined that material issues of fact are in dispute, the General Counsel may either dismiss the petition without prejudice to the requesting party's right to file an unfair labor practice charge, or, where the General Counsel determines that a fact-finding of the disputed factual issues will facilitate a determination of the issues that are the subject of the petition, the issuance of the declaratory ruling may be deferred and the disputed issues of fact referred to the Interest Arbitration Panel for determination.
 - 3) The Board shall serve a copy of a petition filed by only one party on the

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other party. Each party shall file a brief no later than 10 days after the filing of a joint petition, or no later than 10 days after the service of a petition filed by only one party, unless an extension has been granted by the General Counsel.

- 4) Any party desiring oral argument shall request oral argument in writing prior to or at the time of the filing of its brief. The General Counsel shall determine whether oral argument is warranted by the particular issues involved. Oral argument shall be held no later than 7 seven days after the filing of the briefs.
- 5) The General Counsel shall issue a declaratory ruling no later than 30 days after receipt of the parties' briefs the filing of the petition. Declaratory rulings shall not be appealable.
- 6) The parties shall continue to have a duty to bargain in good faith during the pendency of a declaratory ruling petition. The pendency of a declaratory ruling petition shall not stay mediation or interest arbitration proceedings required under the Act.

(Source: Renumbered from Section 1200.140 and amended at 27 Ill. Reg. 7365, effective May 1, 2003.)

Section 1200.145 Filing of Contracts

- a) 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 2 copies of any collective bargaining agreement that is subject to the Act.
- b) The collective bargaining agreements shall be accompanied by a designated Board form setting forth the following information:
 - 1) names, addresses, telephone and fax numbers of the parties and their representatives;
 - 2) the contract's execution and expiration dates; and
 - 3) the composition of the bargaining unit and whether the unit is a general public employee unit or a protective services unit.

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- c) The Board's acceptance of the contract for filing is not determinative of any substantive issues in any proceedings before the Board, such as the existence of a valid historical unit or of a valid collective bargaining relationship between the parties or that the contract is sufficient to establish a contract bar under 80 Ill. Adm. Code 1210.
- d) Failure of the parties to comply with the above filing requirements may cause any representation petitions or requests for mediation and/or arbitration to be delayed until such information is submitted to the Board.

(Source: Added at 27 Ill. Reg. 7365, effective May 1, 2003)

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 that ~~which~~ was pending during the person's membership on or employment with the Board.

(Source: Amended at 27 Ill. Reg. 7365, effective May 1, 2003)

Section 1200.160 Variances and Suspensions of Rules

The provisions of this Part or 80 Ill. Adm. Code 1210, 1220 or 1230 ~~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.

(Source: Amended at 27 Ill. Reg. 7365, effective May 1, 2003)

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- 1) Heading of the Part: Representation Proceedings
- 2) Code Citation: 80 Ill. Admin. Code 1210
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1210.10	Amended
1210.20	Amended
1210.30	Amended
1210.35	New Section
1210.37	New Section
1210.40	Amended
1210.50	Amended
1210.60	Amended
1210.65	New Section
1210.70	Repealed
1210.80	Amended
1210.90	Repealed
1210.100	Amended
1210.105	Amended
1210.107	New Section
1210.110	Renumbered to 1210.105
1210.120	Repealed
1210.130	Amended
1210.140	Amended
1210.150	Amended
1210.160	Amended
1210.170	Amended
1210.175	New Section
1210.180	Amended
1210.190	Amended
- 4) Statutory Authority: Illinois Public Labor Relations Act 5 ILCS 315
- 5) Effective Date of Rule Amendments: May 1, 2003
- 6) Does this rulemaking contain an automatic appeal date? No.
- 7) Do the amendments contain incorporations by reference? No.

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- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposals published in the Illinois Register: June 28, 2002,
26 Ill. Reg. 9088
- 10) Has JCAR issued a Statement of Objections to this (these) amendment(s)? No.
- 11) Difference(s) between proposals and final version: In addition to the non-substantive, stylistic differences between proposals and the final version, the Board identifies the following differences:
- 1210.30a) retained current language: "or may decline to respond to the request"
- 1210.30b) retained the current language:"or may decline to respond to the request"
- 1210.37a) replaced the word "the " with "an" in the second to last sentence: . . .a unit other than the one petitioned for is an appropriate unit
- 1210.140e)1) deleted the proposed language: unless approved by the Executive Director or by the Board agent, observers . . . and retained the stricken language: Observers for the employer.
- 1210.140e)1) deleted last proposed sentence: Parties who fail to submit the names of observers in the time prescribed may forfeit their right to have an observer present.
- 1210.140e)2) replaced 5 days with 2 days
- 1210.170a)1) deleted "less than 2 years old"
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes.
- 13) Will this (these) amendment(s) replace any emergency amendment currently in effect?

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No.

- 14) Are there any amendment(s) pending on this Part? No.
- 15) Summary and Purpose of Amendments:

In addition to the non-substantive, stylistic changes were made to improve the readability of the rules, amendments were made for the following purposes:

Section 1210.37 will allow the parties to describe the units by job function instead of job titles. This change will alleviate the current, burdensome requirement of unions to file unit clarification petitions every time a job title is changed even though there has been little or no change in job functions. This change, in turn, will decrease the time and paperwork spent by the Board processing these petitions.

Section 1210.65 now specifies that Unions must file a petition to declare its union disinterest and supply certain detailed information including: contact information for the petitioner and employer; a detailed description of the bargaining unit; details of union's original recognition; description of any collective bargaining agreements; and a specific declaration that the petitioner waives and disclaims any right to represent the bargaining unit employees.

Section 1210.100(g) is a new section, which sets forth under what circumstances a party can invoke a blocking charge. This provision allows the Executive Director to suspend or "block" the processing of a representation petition when such an unfair labor practice charge is filed.

Section 1210.140(e) has been revised to set forth in greater detail who can be an election observer and provides procedures for filing the names of the observers and their duties.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Name: Julie A. Africk
Address: 160 North LaSalle Street
Suite C-400
Chicago, Illinois 60601
Telephone: 312-793-6408
312-793-6989 (fax)
africk@ilrb.state.il.us

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The full text of the Adopted Amendment(s) begins on the next page:

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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	
1210.10	General Statement of Purpose
1210.20	Labor Organization Options in Seeking Recognition
1210.30	Employer Options in Responding to Recognition Requests
<u>1210.35</u>	<u>Timeliness of Petitions and Bars to Elections</u>
<u>1210.37</u>	<u>Bargaining Unit Determinations</u>
1210.40	Representation Petitions
1210.50	Intervention Petitions
1210.60	Decertification Petitions
<u>1210.65</u>	<u>Declaration of Disinterest Petition</u>
1210.70	Timeliness of Petitions (<u>Repealed</u>)
1210.80	Showing of Interest
1210.90	Posting of Notice (<u>Repealed</u>)
1210.100	Processing of Petitions
<u>1210.105</u>	<u>Consent Elections</u>
<u>1210.107</u>	<u>Hearings</u>
1210.110	Consent Elections (<u>Renumbered</u>)
1210.120	Bargaining Unit Determinations (<u>Repealed</u>)
1210.130	Eligibility of Voters
1210.140	Conduct of the Election
1210.150	Objections to the Election
1210.160	Voluntary Recognition Procedures
1210.170	<u>Unit Clarification Procedures</u> Petitions for Amendment or Clarification of the Bargaining Unit
<u>1210.175</u>	<u>Stipulated Unit Clarification Procedures</u>
1210.180	<u>Procedures for Amending Certifications</u> Petitions to Amend Certification
1210.190	Expedited Elections Pursuant to Section 10(b)(7)(C) of the Act

AUTHORITY: Implementing Section 9 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act [5 ILCS 315/9, 5(i) and (j)].

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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. 7406, effective May 10, 1996; amended at 27 Ill. Reg. 7393, effective May 1, 2003.

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 ~~August 22, 1984~~the effective date of these rules. The Board does not recognize and the Act does not apply to or provide for any other types of purported recognition. The Board does not recognize and the Act does not apply to collective bargaining agreements negotiated by parties pursuant to other forms of recognition. Such purported recognition or agreements will not bar the filing of representation petitions pursuant to the Illinois Public Labor Relations Act (Act) [5 ILCS 315]. 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 27 Ill. Reg. 7393, effective May 1, 2003)

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.

(Source: Amended at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.30 Employer Options in Responding to Recognition Requests

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- 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; or 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 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.35 Timeliness of Petitions and Bars to Election

- a) Contract Bar
 - 1) When 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, representation and decertification petitions may be filed during the window period (between 90 and 60 days prior to the scheduled expiration date of the collective bargaining agreement) or anytime after the expiration of the collective bargaining agreement. However, the collective bargaining agreement shall serve as a bar (contract bar) to filing representation or decertification petitions outside of the window period.
 - 2) When there is in effect a collective bargaining agreement longer than three years duration, it shall serve as a bar (contract bar) to filing representation or decertification petitions for the first three years of the collective bargaining agreement's existence. Representation and decertification petitions may be filed between 90 and 60 days prior to the end of the third year of such an agreement or anytime after the end of the third year of such an agreement.
 - 3) When an employer recognizes an employee organization without using the voluntary recognition or representation election procedures as specified by the Act, any collective bargaining agreement reached by the parties shall not serve as a bar to the filing of a representation or decertification

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petition.b) Certification Bar

The Board will dismiss a representation or decertification petition filed within 12 months following the date of Board certification of an exclusive representative for all or some of the employees in the bargaining unit, as a result of winning a representation election or voluntary recognition petition.

c) Election Bar

With respect to any bargaining unit, no election may be conducted in a bargaining unit, or subdivision thereof, when a valid Board conducted election has been held within the preceding 12 month period in which the union or petitioner has lost the election. However, representation and decertification petitions filed within the last three months of the 12 month period will be processed, and any resulting election will be held after the 12 month period has elapsed. Representation and decertification petitions filed in the first 9 months of the 12 month period will be dismissed.

(Source: Added at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.37 Bargaining Unit Determinations

- a) In determining the appropriateness of a unit for purposes of collective bargaining, the Administrative Law Judge and/or 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. If the employer alleges that the petitioned for unit is not appropriate, it shall submit a detailed statement explaining why the unit is not appropriate. The Administrative Law Judge may determine a unit other than the one petitioned for is an appropriate unit. The employer or union must inform the Administrative Law Judge whether it is willing to proceed to an election in a unit other than one petitioned for.
- b) In describing the unit found appropriate for purposes of collective bargaining, the

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Board may, at the parties' request, describe the unit in job function terms rather than by job titles. Such unit descriptions may also include those currently existing job titles that perform the job functions.

- c) A bargaining unit described as consisting of particular job titles shall also include any job titles later created that are successor job titles to the currently existing job titles or perform the same or substantially similar job functions as the currently existing job titles.

(Source: Added at 27 Ill. Reg. 7393, effective May 1, 2003)

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 that ~~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 nonprofessional employees;

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- 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)~~ 8) a statement of whether the proposed unit is to be included within an existing bargaining unit;
 - ~~98)~~ 98) the name of any existing exclusive representative of any employees in the proposed bargaining unit;
 - ~~109)~~ 109) a brief description of any collective bargaining agreements covering any employees in the proposed bargaining unit, and the expiration dates of the agreements;
 - ~~1140)~~ 1140) the date that the employer recognized any existing exclusive representative of any employees in the proposed bargaining unit, and the method of recognition;
 - ~~1244)~~ 1244) election and/or recognition history prior to July 1, 1984, to the extent known; and
 - ~~1342)~~ 1342) 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, as defined in Section 1210.80, 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

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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 ~~that 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 ~~540~~ days prior to the election. Upon receipt of such a statement, the Board shall strike the labor organization's name from the ballot.
- g) Whenever a representation petition proposes a bargaining unit that includes craft and non-craft employees, the petition shall so state.
- h) Whenever a representation petition proposes a bargaining unit that includes or that may include professional and non-professional employees, the petition shall so state.
- i) Whenever a representation petition proposes a bargaining unit that includes or that may include peace officers and civilian employees, the petition shall so state.

(Source: Amended at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.50 Intervention Petitions

- a) An intervention petition may be filed by an employee, a group of employees, or a labor organization on a Board-designated form.
- 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

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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, as defined in Section 1210.80, 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.
- e) When a proposed unit combines craft and noncraft employees, 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.
- f) When a proposed unit combines professional and nonprofessional employees, a labor organization may file a petition to intervene in a unit limited to professional employees or limited to non-professional employees. The election shall be conducted in accordance with Section 1210.140(d).
- g) When a proposed unit combines civilian employees and peace officers, a labor organization may file a petition to intervene in a unit limited to civilian employees or limited to peace officer employees. A bargaining unit determined by the Board to contain peace officers shall contain no employees other than peace officers unless otherwise agreed to by the employer and the labor organization or labor organizations involved.

(Source: Amended at 27 Ill. Reg. 7393, effective May 1, 2003)

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

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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;
 - 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 as defined by Section 1210.80.
- 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 Section 1210.35, may issue an Order Directing an Election. The Order is appealable pursuant to Section 1200.135, subsection (e) 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

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~~the Order to the Board.~~

(Source: Amended at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.65 Declaration of Disinterest Petition

- a) A labor organization that has been certified by the Board or historically recognized pursuant to Section 9 of the Act as the exclusive bargaining representative of a bargaining unit may file a Declaration of Disinterest petition with the Board to declare its disinterest in further representation of that bargaining unit. The petition shall be on a Board-designated form, signed, and shall contain the following:
- 1) the name, address, telephone number and affiliation, if any, of the petitioning labor organization and its representative;
 - 2) the name, address and telephone number of the employer;
 - 3) a specific and detailed description of the bargaining unit, including employee classifications or job titles;
 - 4) the approximate number of employees in the bargaining unit;
 - 5) the date that the exclusive representative was recognized and the method of recognition, if known;
 - 6) a brief description of any collective bargaining agreements covering any employees in the bargaining unit, and the expiration dates of the agreements; and
 - 7) A declaration that the labor organization waives and disclaims any right to represent the bargaining unit employees.
- b) The Board shall investigate the petition. If the Board determines that 12 months have passed since the certification of the labor organization, and that the petition is otherwise appropriate, the Board shall notify the labor organization that its petition has been approved and, where the labor organization had previously been certified by the Board, shall issue a revocation of the prior certification. Upon receipt of this notification of approval, the duties and responsibilities of the labor organization to that bargaining unit shall cease.

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(Source: Added at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.70 Timeliness of Petitions (Repealed)

- 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 these rules without having used the voluntary recognition or representation election procedures specified in the Act and these regulations.~~

(Source: Repealed at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.80 Showing of Interest

- a) Representation Petitions/Decertification Petitions
Representation petitions filed by employees, groups of employees and labor

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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) Intervention Petitions

A petition to intervene in an election must be supported by a 10 percent showing of interest when the petition ~~seeks~~ ~~alleges~~ a bargaining unit substantially similar to the unit originally petitioned for. When the intervenor ~~seeks~~ ~~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) Showing of Interest Requirements

- ~~1) The showing of interest in support of a representation petition may consist of authorization cards, petitions, or any other evidence that 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.~~
- ~~3) Any evidence submitted as a showing of interest, ~~if authorization cards or petitions are submitted as a~~ must contain legible signatures and each signature must be dated by the employee. ~~each signature appearing thereon must be dated by the employee.~~~~
- ~~4d) Each signature appearing on the evidence of showing of interest an~~

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~~authorization card or petition~~ shall be effective for 12 months from the date it was given.

- 5) Where signatures are used to determine showing of interest, the Board will not accept copies of the documents bearing such signatures.
 - 6) The evidence submitted as a showing of interest must indicate the employee's desire for the named labor organization to act as his/her exclusive bargaining representative.
- d) Determination of Showing of Interest
- 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.~~
- 1f) 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.
- 2) 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.
- 3g) The adequacy of the showing of interest shall be determined administratively by the Board or its agent. The showing of interest ~~determination is not subject to litigation, 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 ~~Board's~~ agent investigating the petition.
- 4) If the Board agent determines that the evidence submitted does not demonstrate the appropriate level of showing of interest, the petitioner or intervenor shall have 48 hours to provide the necessary showing of interest to the Board agent. If the petitioner or intervenor is unable to present any necessary additional evidence of showing of interest within that time, then the petition shall be dismissed.

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- 5) When the Board orders an election in a unit different from the one petitioned for, the petitioner and intervenors, if any, shall have 5 days from the date of service of the Board's Order Directing an Election to submit a showing of interest in the new unit.

(Source: Amended at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.90 Posting of Notice (Repealed)

~~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.~~

(Source: Repealed at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.100 Processing of Petitions

- a) The Board shall provide the employer with a Notice to Employees of the filing of a representation or decertification petition. The Notice to Employees shall be posted on bulletin boards and other places where notices to employees in the proposed bargaining unit are customarily posted. The Notice to Employees shall inform employees that a petition has been filed with the Board and shall outline intervention procedures. The Notice shall remain posted until replaced by the Board-issued Notice of Election, unless the petition has been dismissed or withdrawn. It shall be incumbent upon the parties to contact the Board to correct any errors that may appear on the Notice to Employees.
- b) Within seven days after service of a petition, ~~the-an~~ employer shall file with the Board a list containing the full names and titles 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.
- ~~cb)~~ All employers served with a representation petition and all unions served with a decertification petition shall file a written response to the petition. ~~The 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

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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.

- de) 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.
- ed) 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.
- fe) 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 ~~(c)-(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.
- g) The Executive Director may, in his or her discretion or at the request of the charging party, suspend the processing of a petition if an unfair labor practice charge is filed containing allegations regarding conduct that may either affect the existence of a question concerning representation or have a tendency to interfere with a fair and free election.
- hf) After the investigation, the Executive Director shall dismiss a petition, or the

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Administrative Law Judge ~~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; ~~or 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. Parties may appeal the Executive Director's order or the Administrative Law Judge's recommended decision and order in accordance with 80 Ill. Adm. Code 1200.135.~~

If, at the conclusion of the investigation, the parties agree to an election in the petitioned for bargaining unit, the parties may file a stipulation for consent election in accordance with Section 1210.105.

If, at the conclusion of the investigation, the only issues remaining between the parties are logistical, e.g., the date of the election, or the positions in dispute comprise 10% or less of the petitioned for bargaining unit, the Executive Director or Administrative Law Judge may issue an Order Directing an Election. Parties may appeal the Order in accordance with 80 Ill. Adm. Code 1200.135.

If the investigation discloses that there is reasonable cause to believe that there are unresolved issues relating to the a question concerning representation, ~~exists~~ the Board shall set the matter for hearing before an Administrative Law ~~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 Election. The parties shall be given 10 days after service of the Order Directing an 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~~

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~~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

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- ~~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.~~

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- 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 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.105 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 ~~Board-issued Notice~~ notice of ~~Election~~ the stipulated election shall be posted in accordance with Section 1210.90 of this Part. The parties shall be responsible for informing the Board of any errors that may appear on the Notice.
- 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 ~~7~~ 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

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provided by personal delivery or certified mail. The employer shall obtain receipts verifying delivery.

(Source: Section 1210.105 renumbered from Section 1210.110 and amended at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.107 Hearings

- a) Representation hearings shall be non-adversarial in nature. All parties may present evidence and make arguments, subject to the control of the Administrative Law Judge. Subject to the discretion of the Administrative Law Judge, the employer shall present its evidence first in representation hearings. Any party asserting a statutory exclusion shall have the burden of providing sufficient evidence in support of that exclusion.
- b) If the petitioner fails to appear after proper service of Notice of Hearing, the Administrative Law Judge shall dismiss the petition. If any party other than the petitioner fails to appear, the Administrative Law Judge may proceed in its absence and issue a recommended decision and order.
- c) Interested persons, other than labor organizations, who may be necessary to the proceedings, who wish to intervene in the hearing shall direct a request 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.
- d) Pursuant to 80 Ill. Adm. Code 1200.40, the Administrative Law Judge may schedule a pre-hearing conference or request statements of position when it appears to the Administrative Law Judge that such would expedite the procedure.
- e) Intermediate rulings of the Administrative Law Judge shall not be subject to interlocutory appeal, except for rulings issued in accordance with 80 Ill. Adm. Code 1220.65. Parties may raise objections to such intermediate rulings in their exceptions to the Administrative Law Judge's recommended decision.
- f) 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

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and serve on the parties a recommended decision and order of the case as expeditiously as possible.

- g) All exceptions, cross-exceptions, responses and cross-responses to the Administrative Law Judge's recommended decision and order shall be filed and served in accordance with 80 Ill. Adm. Code 1200.135.

(Source: Added at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.110 Consent Elections (Renumbered)

(Source: Section 1210.110 renumbered to Section 1210.105 at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.120 Bargaining Unit Determinations (Repealed)

- 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(e) 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: Repealed at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.130 Eligibility of Voters

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- 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.
- c) Within 7 days following the Executive Director's approval of a consent election agreement or within 7 days following a Direction of Election, the employer shall furnish the Board and the labor organizations with an excelsior 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 27 Ill. Reg. 7393, effective May 1, 2003.)

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

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second for indicating choice of representative, if any.

- e) On Site Election Procedures. 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 Executive Director or the Board agent. ~~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, other individuals closely identified with management, paid union staff, or attorneys for any party. The conduct of observers is subject to such reasonable limitations as the Executive Director or Board agent ~~Board or its agent~~ may prescribe.
 - 2) Parties must submit to the Board agent the names and job titles of each observer who will be present at the election at least 2 days prior to the election.
 - 3) Election observer duties include assisting in the identification of voters, challenging voters and/or ballots, if necessary, and otherwise assisting the Board agent.
 - 42) The ~~Board~~ 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.
 - 53) 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.
 - 64) The ~~Board~~ 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~~ 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

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~~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.

- ~~75~~) A voter shall mark a cross (X) or check mark 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 ~~or~~, 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 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 Board's~~ agent and initialed by the observers, and the ~~Board Board's~~ agent shall place the envelope in the ballot box.
- ~~86~~) 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 Board's~~ agent and initialed by the observers until the subsequent opening of the polls and shall remain in the custody of the ~~Board Board's~~ agent until the counting of the ballots.
- ~~97~~) The ~~Board Board's~~ agent may privately assist any voter who, due to physical or other disability, is unable to mark the ballot.
- ~~108~~) Each party shall designate a representative to observe the tallying of the ballots.
- ~~119~~) Upon conclusion of the polling, ballots shall be tallied in accordance with subsection ~~(g)(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 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 Board's~~ agent and the ballots shall be commingled for tallying.
- f) Mail Ballot Election Procedures. When the election is to be conducted by mail ballot, the following procedures shall apply:

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- 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 ~~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) ~~(6) (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 ~~(g) (h) of this Part~~.
- 7g) The Board ~~Board's~~ agent shall attempt to resolve ballot challenges before the ballots are counted.
- gh) Vote Tally Procedures. In mail and on site elections, ballots will be tallied in the presence of the parties' representatives attending the count as follows:

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- 1) The ~~Board~~ ~~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.
- hi) 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 ~~no longer have not maintained their~~ desire to be represented by the labor organization.
- ij) 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

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more than two choices, the runoff shall be among those choices involved in the tie. When the first place choice has not received a majority of the votes and 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.

- ~~j~~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 27 Ill. Reg. 7393, effective May 1, 2003.)

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 ~~Report~~ on the challenges ~~Challenges~~ and/or objections ~~Objections~~. If the Executive Director finds no reasonable cause to believe that the result of the election was not fairly and freely chosen, he shall issue a report dismissing the challenges and objections. Parties may appeal the Executive Director's report in accordance with 80 Ill. Adm. Code 1200.135. 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 or she shall set the matter for hearing before an Administrative Law Judge. The Administrative Law Judge will conduct the hearing in accordance with Section 1210.105 regarding the objections. ~~If it is determined the Board determines~~, after

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hearing, that the result was not fairly and freely chosen by a majority of the employees, ~~the Board it~~ shall order a new election and shall order corrective action ~~which~~ it finds necessary to ~~ensure insure~~ the fairness of the new election. If ~~it is determined the Board determines, upon investigation or after hearing,~~ that the result was fairly and freely chosen by a majority of the employees, ~~the Board it~~ shall promptly certify the election results.

(Source: Amended at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.160 Voluntary Recognition Procedures

- a) ~~Voluntary~~ Voluntary recognition ~~petitions procedures~~ may not be ~~filed 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; ~~and~~
 - ~~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;~~
 - ~~23)~~ 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;

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- 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 as required by Section 1210.80. ~~(See Section 1210.80 of this Part.)~~
- 1) If authorization cards are offered as evidence, they may be submitted jointly ~~submitted~~ to the Board or they may be confidentially submitted by the labor organization ~~confidentially~~ to the Board. Cards must be signed and dated by the employees pursuant to Section 1210.80. The authorization cards expire one year from the signing date.
 - 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

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provide the employer with a Notice of Voluntary Recognition ~~that 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 of Voluntary Recognition 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.

Parties are required to inform the Board of any errors in the Notice of Voluntary Recognition.

- e) The Notice of Voluntary Recognition ~~notice~~ shall remain posted for a 20 day period specified within the Notice. ~~period of 20 days.~~ The employer shall take steps reasonably necessary to ensure ~~insure~~ that the Notice ~~notice~~ of Voluntary Recognition is not removed or defaced. After the Notice of Voluntary Recognition has been posted for the prescribed 20 day period, the employer shall submit a Board-issued Certificate of Posting confirming that the Notice has been posted for 20 days.
- f) During the 20 day ~~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 labor 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:

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- 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 Notice of Voluntary Recognition ~~voluntary recognition notice~~ and designate any positions included in both units;
 - 5) the date the Notice of Voluntary Recognition ~~voluntary recognition notice~~ was posted; and
 - 6) the date the posting period is scheduled to end~~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 end ~~termination~~ of the posting period, the employer and the labor organization shall file with the Board a certification of posting. This Certification of Posting ~~certification of posting~~ shall be on a form developed by the Board. The Certification of Posting ~~certification of posting~~ shall contain the following:
- 1) the Board case number assigned to the Request for Voluntary Recognition ~~request for voluntary recognition~~ and date filed;
 - 2) the name, address and telephone number of the employer;

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- 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 Notice of Voluntary Recognition ~~voluntary recognition notice~~;
 - 8) a statement that the Notice of Voluntary Recognition ~~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 Request for Voluntary Recognition ~~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 labor 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.

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- 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 27 Ill. Reg. 7393, effective May 1, 2003.)

Section 1210.170 Unit Clarification Procedures ~~Petitions for Amendment or Clarification of the Bargaining Unit~~

- a) An exclusive representative or an employer may file a unit clarification petition to clarify or amend an existing bargaining unit when:
- 1) substantial changes occur in the duties and functions of an existing title, raising an issue as to the title's unit placement;
 - 2) an existing job title that is logically encompassed within the existing unit was inadvertently excluded by the parties at the time the unit was established; and
 - 3) a significant change takes place in statutory or case law that affects the bargaining rights of employees.
- b) 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 and reasons for the proposed amendment or clarification ~~and~~

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~~the reasons therefor.~~

- ~~cb)~~ Following the filing of a unit clarification petition, ~~to amend or clarify an existing unit,~~ the Board shall provide the employer with a Notice to Employees that notice ~~which~~ shall be posted on bulletin boards and other places where notices ~~to for~~ employees in the bargaining unit are customarily posted. The Notice to Employees shall remain posted for at least ~~the~~ 20 day period specified by the Board in the Notice ~~days.~~
- ~~de)~~ The responding respondent may file a response an answer to the petition within 20 days following party respondent service of the petition.
- ~~ed)~~ The Board or its agent shall investigate the petition, ~~and, if necessary, set it for hearing.~~ After the investigation, the Executive Director shall dismiss the petition, set the matter for hearing, or issue an order clarifying the unit. Parties may appeal the dismissal or the order clarifying the unit in accordance with Section 1200.135. If the matter is set for hearing, the hearing shall be held in accordance with Section 1200.105.
- 1) Interested persons desiring to intervene in the hearing shall submit a written request to the Administrative Law Judge ~~administrative law judge~~. The Administrative Law Judge ~~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 ~~administrative law judge~~ may schedule a prehearing conference or request prehearing briefs when it appears that doing so ~~such~~ would expedite the procedure.
 - 3) The Administrative Law Judge ~~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 ~~administrative law judge~~ shall file and serve upon the parties a recommended disposition of the matter.
 - 4) Parties may appeal the Administrative Law Judge's recommended decision and order in accordance with Section 1200.135. ~~Exceptions.~~

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- 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 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.~~

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- ~~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 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.175 Stipulated Unit Clarification Procedures

- a) The parties may stipulate to a unit clarification. The parties shall file with the

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Board a unit clarification petition indicating their stipulation. Following the filing of such a petition, the Board shall provide the employer with a Notice to Employees of the Stipulated Unit Clarification. The Board-issued Notice to Employees of the Stipulated Unit Clarification shall be posted on bulletin boards and at other places where notices to employees in the bargaining unit are customarily posted. The Notice to Employees 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 the 20 day period specified in the Notice to Employees. The employer shall take reasonable steps to ensure that the Notice is not removed or defaced during the posting period.

- b) 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.
- c) Following the posting period, if no objections have been filed, the Board shall approve or disapprove the unit 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(e).

(Source: Added at 27 Ill. Reg. 7393, effective May 1, 2003)

Section 1210.180 Procedures for Amending Petitions to Amend Certifications 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 employer's structure ~~of the unit's employing entity. or when the certification incorrectly identifies the bargaining unit or contains any other errors.~~ 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;

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- 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 to Employees notice~~ of the proposed amendment in accordance with Section 1210.170(~~cb~~) ~~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(~~e~~-(~~d~~) ~~of this Part~~.

(Source: Amended at 27 Ill. Reg. 7393, effective May 1, 2003)

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

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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 27 Ill. Reg. 7393, effective May 1, 2003)

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1220.90d)1) deleted last line in d) 1)

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes.
- 13) Will this (these) amendment(s) replace any emergency amendment currently in effect?
No.
- 14) Are there any amendment(s) pending on this Part? No.
- 15) Summary and Purpose of Amendments:

In addition to the non-substantive, stylistic changes that were made improve readability, the Board made amendments for the following purposes:

Section 1220.20 allows a charging party to amend its unfair labor practice charge before the Executive Director issues a complaint for hearing or a dismissal.

Section 1220.50 (f) has been revised to allow an administrative law judge to amend a complaint for hearing to include uncharged allegations at any time prior to the issuance of the administrative law judge's recommended decision and order.

Section 1220.65 is a new section that outlines the procedures for motions to defer the resolution of an unfair labor practice charge.

Section 1220.80 allows the compliance officer to make determinations based on the evidence before him if a party fails or refuses to respond to his request for information. This provision also gives the compliance officer authority to order the parties to either take certain actions or be subject to a compliance hearing. Finally, the provision gives the compliance officer more time to complete investigations.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Name: Julie A. Africk
Address: 160 North LaSalle Street
Suite C-400
Chicago, Illinois 60601
Telephone: 312-793-6408
312-793-6989 (fax)

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africk@ilrb.state.il.us

The full text of the Adopted Amendment(s) begins on the next page:

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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	
1220.10	General Statement of Purpose
1220.20	Filing of a Charge
1220.30	Appointment of Counsel (<u>Renumbered</u>)
1220.40	Charge Processing and Investigation, Complaints and Responses
1220.50	Hearings
1220.60	Consideration by the Board (<u>Repealed</u>)
<u>1220.65</u>	<u>Deferral to Arbitration</u>
1220.70	Requests for Preliminary Relief
1220.80	Compliance Procedures
1220.90	Sanctions
1220.100	Unfair Labor Practice Charges Involving Fair Share Fees
<u>1220.105</u>	<u>Appointment of Counsel</u>
TABLE A	"Adjusted Income" Standards for Appointment of Counsel in Unfair Labor Practice Cases

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 5(i) of the Illinois Public Labor Relations Act [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; amended at 27 Ill. Reg. 7436, effective May 1, 2003.

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

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Relations Act ("Act") (~~Ill. Rev. Stat. 1991, ch. 48, pars. 1601 et seq.~~) [5 ILCS 315].

(Source: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)

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~~ sections of the Act alleged to have been violated; ~~and~~
 - 5) a statement as to whether a grievance concerning the same, similar or related issue as the charge is pending; and
 - 6) 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 charging party ~~The Board~~ shall serve a copy of the charge upon the respondent. Service may be made personally, or by registered mail, certified mail, regular mail, or private delivery service. With the permission of the person receiving the charge, service may be made by fax transmission or by any other agreed-upon method. The Board shall serve a courtesy copy of the charge upon the respondent, but timely service of a copy of the charge within the meaning of Section 11(a) of the Act is the exclusive responsibility of the charging party and

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not of the Board.

- d) Unfair labor practice charges ~~must~~ may be filed with the Board and served on the respondent no later than 6 ~~six~~ months after the alleged unfair labor practice occurred.
- e) Before the Executive Director issues a complaint for hearing or dismissal, the charging party may amend its unfair labor practice charge. Filing, service, and proof of service of an amended charge shall be made in accordance with 80 Ill. Adm. Code 1200.20.
- f) The~~A~~ charging party may withdraw an unfair labor practice charge.~~a charge at any time.~~ If the charge is pending at the investigative or hearing stage, the charging party may write a letter to the Executive Director, requesting that the charge be withdrawn. Upon receipt of the request, the Executive Director will grant or deny the request for withdrawal of the charge. If the charge is pending before the Board, the charging party may write a letter to the General Counsel requesting the charge be withdrawn. Upon receipt of the request, the General Counsel will grant or deny the request for withdrawal of the charge.

(Source: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)

Section 1220.30 Appointment of Counsel (Renumbered)

(Source: Renumbered to Section 1220.105 at 27 Ill. Reg. 7436, effective May 1, 2003)

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.~~
- ab) The Board or its agent ~~its designated representative~~ shall investigate the charge.

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The investigation may include an investigatory conference with the parties.

- 1) The charging party shall submit to the Board or ~~its agent its designated representative~~ all evidence relevant to or in support of the charge. ~~The Such~~ evidence may include documents and affidavits. If the charging party does not comply with the agent's requests for information and documents, the agent may recommend dismissal of the charge.
 - 2) Upon request by the Board or ~~its agent 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. ~~The 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 ~~the Executive Director 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 ~~charge does not state a claim on its face or if the investigation reveals that investigation reveals that~~ there is ~~no 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~~ The charging party may appeal the dismissal in accordance with 80 Ill. Adm. Code 1200.135. ~~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.~~
- be) Whenever ~~the Executive Director issues~~ a complaint for hearing ~~is issued~~, the respondent ~~shall must~~ file an answer within 15 days after service of the complaint and deliver a copy to the charging party by ordinary mail to the address set forth in the complaint. Answers shall be filed with the Board with attention to the designated Administrative Law Judge.

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- 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.
- 4) Leave to file a late answer shall only be granted by the Administrative Law Judge if the late filing is due to extraordinary circumstances, which will include, among other things: fraud, act or concealment of the opposing party, or other grounds traditionally relied upon for equitable relief from judgments.

(Source: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)

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~~administrative law judge~~. The hearing shall be set *not less than 5 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~~administrative law judge~~. Motions shall be made in accordance with 80 Ill. Adm. Code 1200.45. The request shall be in writing and shall state the grounds for intervention. The Administrative Law Judge~~administrative law judge~~ shall have discretion to grant or deny the request for

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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) Pursuant to 80 Ill. Adm. Code 1200.40, the Administrative Law Judge ~~administrative law judge~~ may schedule a pre-hearing ~~prehearing~~ conference when it appears that such a conference would expedite the procedure.
- d) Intermediate rulings of the Administrative Law Judge ~~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 ~~administrative law judge~~ recommended decision.
- e) The charging party shall present ~~its the~~ case in support of the charge. The charging party shall have the burden of proving the allegations of its unfair labor practice charge. The respondent may present evidence in support of its defense. ~~The respondent may present evidence in defense against the charges.~~
- f) The Administrative Law Judge ~~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 or to include uncharged allegations at any time prior to the issuance of the Judge's recommended decision and order.
- g) The Administrative Law Judge ~~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 ~~administrative law judge~~ shall file and serve on the parties a recommended decision.
- h) If the charging party fails to appear at the hearing after proper service of notice, the Administrative Law Judge shall dismiss for want of prosecution. If the respondent fails to appear, the Administrative Law Judge shall proceed in the absence of the respondent and issue a recommended decision and order.
- 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.~~

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- ~~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.~~
- i) All exceptions, cross-exceptions, responses and cross-responses to the Administrative Law Judge's recommended decision and order shall be filed and served in accordance with 80 Ill. Adm. Code 1200.135.

(Source: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)

Section 1220.60 Consideration by the Board (Repealed)

- ~~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~~

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~~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: Repealed at 27 Ill. Reg. 7436, effective May 1, 2003)

Section 1220.65 Deferral to Arbitration

- ~~a) The Board may, on its own motion or the motion of a party, defer the resolution of an unfair labor practice charge to the grievance arbitration procedure contained in a collective bargaining agreement.~~
- ~~b) A party may file a motion to defer the resolution of an unfair labor practice~~

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charge:

- 1) at any time during the investigation prior to the issuance of a complaint for hearing, dismissal, or deferral order. The motion shall be made in writing to the Board agent investigating the unfair labor practice charge and shall be served in accordance with 80 Ill. Adm. Code 1200.20.
- 2) within 25 days after the issuance of a complaint for hearing. The motion shall be made in writing to the Administrative Law Judge assigned to the case and shall be served in accordance with 80 Ill. Adm. Code 1200.20.
- c) Responses and any other answering documents, including memoranda and affidavits, must be filed within 5 days after service of the motion, or as otherwise required by the Administrative Law Judge or the Board. Responses must be served in accordance with 80 Ill. Adm. Code 1200.20.
- d) If the motion to defer the resolution of an unfair labor practice charge is made during the investigation, the Executive Director will rule on the motion by issuance of an order or a complaint for hearing. Parties may appeal the Executive Director's orders in accordance with 80 Ill. Adm. Code 1200.135(a). Complaints for hearing are not appealable. If the motion to defer the resolution of an unfair labor practice charge is made after the issuance of a complaint for hearing, the Administrative Law Judge shall rule on the motion in accordance with 80 Ill. Adm. Code 1200.45. Parties may appeal the Administrative Law Judge's ruling on the motion to defer in accordance with 80 Ill. Adm. Code 1200.135(b).

(Source: Added at 27 Ill. Reg. 7436, effective May 1, 2003)

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 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 with the order therewith. Following an investigation, the compliance officer may order that the parties take certain actions or he or she may set the matter for a compliance hearing.

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- b) Parties may request that the Board seek enforcement of the Board's order pursuant to Section 11(f) of the Act. ~~Requests~~ ~~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 administrative law judge's recommended order in cases where the Board has declined to review ~~the Administrative Law Judge's such~~ order.
- c) The compliance officer shall investigate the information in the petition and shall issue and serve upon the parties, no later than ~~7530~~ 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~~administrative law judge~~.
- d) If a party fails or refuses to respond to a compliance officer's request for information, the compliance officer shall make the determinations based on the evidence presented.
- ed) No later than 7 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, specific calculations and requests for subpoenas.
- fe) 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~~administrative law judge~~.
- g) Parties may appeal the Administrative Law Judge's recommended compliance decision and order in accordance with 80 Ill. Adm. Code 1200.135.
- 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~~

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~~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.~~

- hg) All proceeding under this Section shall be suspended during the pendency of any appeal from the Board's decision finding a violation of the Act. However, when a court denies a request for a stay of the proceedings, the compliance officer may resume monitoring the respondent's compliance with the Administrative Law Judge's or Board's decision and order.

(Source: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)

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 an offending*

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allegation or denial; 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. Sanctions before the Executive Director may only be sought for instances of frivolous litigation. Motions shall be filed no later than ~~7 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~~administrative law judge~~. 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.) ~~Motions~~ Such motions shall be filed no later than ~~7 seven~~ days after receipt of the last post-hearing brief scheduled to be filed, or no later than ~~7 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 ~~administrative law judge~~ has issued a recommended decision and order, or the Executive Director has issued an order a recommended decision and order dismissing an unfair labor

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practice charge, the ~~motion and order recommended decision and order~~ is pending before the Board. ~~Motions for sanctions~~ ~~Such motions~~ shall be filed no later than ~~7 seven~~ days after receipt of the last brief scheduled to be filed with the Board, or no later than ~~7 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 ~~either 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* ~~an allegation or denial~~ *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~~ *administrative law judge*, and even though the ~~Administrative Law Judge~~ *administrative law judge* did not recommend sanctions on such ~~allegations or denials~~ *allegation or denial*. (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~~ *administrative law judge*, unless it requested sanctions from the Executive Director or ~~Administrative Law Judge~~ *administrative law judge* as to such alleged incident of *frivolous litigation*, or unless the Executive Director or ~~Administrative Law Judge~~ *administrative 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 administrative law judge's~~ recommended decision and order, or the Board ~~decision opinion~~ and order.
- h) If neither party has moved for sanctions, the Executive Director, ~~Administrative Law Judge~~ *administrative law judge*, or Board may sua sponte issue an order to show cause why ~~sanctions are not warranted~~ *this rule has 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.

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(Source: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)

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~~ ~~hearing~~ 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: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)

Section 1220.105 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

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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 5 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

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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 ~~\$75 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 ~~\$5000 3500-dollars~~ in any single cause. The maximum limit of ~~\$5000 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 totalling 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~~administrative law judge.

(Source: Renumbered from Section 1220.30 and amended at 27 Ill. Reg. 7436, effective May 1, 2003.)

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Section 1220.TABLE A "Adjusted Income" Standards for Appointment of Counsel in Unfair Labor Practice Cases

Size of Family Unit	Adjusted Annual Income Limit
1	\$ 8,860 \$7,875
2	11,940 10,575
3	15,020 13,275
4	18,100 15,975
5	21,180 18,675
6	24,260 21,375
7	24,075
8	26,775
each additional person	add 2,700

(Source: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)

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- 1) Heading of the Part: Impasse Resolution
- 2) Code Citation: 80 Ill. Admin. Code 1230
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1230.10	Amended
1230.20	Repealed
1230.30	Amended
1230.40	Repealed
1230.50	Amended
1230.60	Amended
1230.70	Amended
1230.80	Amended
1230.90	Amended
1230.100	Amended
1230.110	Amended
1230.130	Repealed
1230.140	Amended
1230.150	Amended
1230.160	Amended
1230.170	Amended
1230.180	Amended
1230.190	Amended
1230.200	Amended
1230.220	Amended
- 4) Statutory Authority: Illinois Public Labor Relations Act 5 ILCS 315
- 5) Effective Date of Rule Amendments: May 1, 2003.
- 6) Does this rulemaking contain an automatic appeal date? No.
- 7) Do the amendments contain incorporations by reference? No.
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposals published in the Illinois Register: June 28, 2002,

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26 Ill. Reg. 9138

- 10) Has JCAR issued a Statement of Objections to this (these) amendment(s)? No.
- 11) Difference(s) between proposals and final version:
- | | |
|-----------------|--|
| 1230.90 l) & m) | included the entire language of Section 14 (i) of the Act. |
| 1230.90 o)4) | included the following language after “where”: “the Board has issued an order or” included the following the language after ruling: “, or issue” |
| 1230.90 o)4) | included the following language after “by the”: “Board Order or”; after “General Counsel’ s”, delete “declaratory”. |
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes.
- 13) Will this (these) amendment(s) replace any emergency amendment currently in effect?
No.
- 14) Are there any amendment(s) pending on this Part? No.
- 15) Summary and Purpose of Amendments:

In addition to the non-substantive, stylistic changes that were made to improve readability, the Board made amendments for the following purposes:

Section 1230.80(b)(4) provides procedures for requesting a second panel of arbitrators and guidelines for objecting to members of the panel.

Section 1230.90 j) provides that arbitration proceedings will not be interrupted by the filing of unfair labor practice charges or any proceeding.

Section 1230.90 l) and m): these amendments conform with Section 14(I) of the Act, which provides that arbitration panel decisions may consider residency requirements.

Section 1230.90 o) 4): provides that when the General Counsel issues a declaratory ruling

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regarding mandatory/non-mandatory nature of a matter in dispute, the parties may amend aspects of their final offers affected by the declaratory ruling.

Section 1230.100: requires arbitration panels to file its findings with the Board by submitting a hard copy and computer disk copy.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Julie A. Africk
Address: 160 North LaSalle Street
Suite C-400
Chicago, Illinois 60601
Telephone: 312-793-6408
312-793-6989 (fax)
africk@ilrb.state.il.us

The full text of the Adopted Amendment(s) begins on the next page:

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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

SUBPART A: STATEMENT OF PURPOSE AND DEFINITIONS

Section	
1230.10	General Statement of Purpose
1230.20	Definitions (<u>Repealed</u>)

SUBPART B: IMPASSE PROCEDURES FOR PROTECTIVE SERVICES UNITS

Section	
1230.30	General Purpose of this Subpart
1230.40	Filing of Contracts (<u>Repealed</u>)
1230.50	Bargaining Notices for Protective Services Units
1230.60	Mediation
1230.70	Demand for Compulsory Interest Arbitration
1230.80	Composition of the Arbitration Panel
1230.90	Conduct of the Interest Arbitration Hearing
1230.100	The Arbitration Award
1230.110	Employer Review of the Award

SUBPART C: IMPASSE PROCEDURES FOR GENERAL PUBLIC EMPLOYEE UNITS

Section	
1230.120	General Purpose of this Subpart
1230.130	Filing of Contracts (<u>Repealed</u>)
1230.140	Bargaining Notices for General Public Employee Units
1230.150	Mediation
1230.160	Fact-finding
1230.170	Voluntary Interest Arbitration
1230.180	Strikes
1230.190	Petitions for Strike Investigations

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SUBPART D: GRIEVANCE ARBITRATION AND MEDIATION

Section

1230.200 Grievance Arbitration

1230.210 Grievance Mediation

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 [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; amended at 27 Ill. Reg. 7456, effective May 1, 2003.

SUBPART A: STATEMENT OF PURPOSE AND DEFINITIONS

Section 1230.10 General Statement of Purpose

- a) In creating this Part it is the ~~Board's 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 in this Part herein, particularly those provisions ~~which~~ set forth time periods and those provisions ~~that 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

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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 27 Ill. Reg. 7456, effective May 1, 2003)

Section 1230.20 Definitions (Repealed)

~~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~~

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~~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: Repealed at 27 Ill. Reg. 7456, effective May 1, 2003)

SUBPART B: IMPASSE PROCEDURES FOR PROTECTIVE SERVICES UNITS

Section 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~~ ~~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 27 Ill. Reg. 7456, effective May 1, 2003)

Section 1230.40 Filing of Contracts ~~(Repealed)~~

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- ~~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: Repealed at 27 Ill. Reg. 7456, effective May 1, 2003)

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:
- 1) 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

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served on the other party. The notice filed with the Board shall reference the existing contract's number as assigned ~~by the Board 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. ~~The Such~~ Notice shall be on ~~a Board-designated form 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 ~~the Section 14's~~ mandate ~~of Section 14 of the Act~~ that they engage in mediation 30 days prior to the expiration of a contract.
- b) The following notice requirements shall apply ~~when where~~ the parties are bargaining for an initial contract:
 - 1) Any time after the Board certifies an exclusive representative or at any time ~~when 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 ~~after the demand is filed and served 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. ~~The Such~~ Notice shall be on ~~a Board-designated form Board form 037~~ and set forth:
 - A) whether the parties are engaged in mediation and, if so, with

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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).

(Source: Amended at 27 Ill. Reg. 7456, effective May 1, 2003)

Section 1230.60 Mediation

- a) Parties concerned with protective services units shall commence mediation as follows, unless provided for in an alternative 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(b) of the Act 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 a Board-designated form Board form 038. The Board shall provide the parties with a panel of at least 3 three mediators listed on the Public Employees Mediation/Arbitration Roster. The parties shall have 7 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 7seven-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 14(a) of the Act)-

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- 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 27 Ill. Reg. 7456, effective May 1, 2003)

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 a Board-designated form ~~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.

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- 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 27 Ill. Reg. 7456, effective May 1, 2003)

Section 1230.80 Composition of the Arbitration Panel

- a) Unless otherwise agreed to in writing by the parties, the arbitration panel shall consist of 3 ~~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 7 ~~seven~~ days ~~after of~~ receipt of a timely filed Demand ~~for of~~ Compulsory Interest Arbitration, the Board shall send the parties a list of 7 ~~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~~alternative source of interest ~~arbitrator~~ 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 7 ~~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) The parties may request a second panel of arbitrators only upon agreement of the parties. In the event a party objects to one or more members of the panel, the party shall notify the Executive Director of its objection within 5 days after receipt of the list of arbitrators. If the Executive Director

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believes that it is appropriate to include the arbitrator on the list, the parties shall continue the selection process provided in Section 1230.80(b)(2). If the Executive Director believes that it is inappropriate to include the arbitrator on the list due to extenuating circumstances, such as a conflict of interest or incapacity, the Executive Director will send the parties the name of an arbitrator to replace the objectionable name. The parties will follow the procedures set forth in Section 1230.80(b)(2) after receipt of the new list. The fact that an arbitrator had previously represented unions or management in labor relations matters is not sufficient evidence of conflict of interest under this Section. The Executive Director's decision not to remove an arbitrator from the list is not appealable; the objecting party having the objection may seek relief through striking the name of the arbitrator as provided in Section 1230.80(b)(2).

- 5) If the neutral chairman is unable or unwilling to commence the hearing within 15 days following his or her 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 5 five days. The Board shall provide the parties with a second list of 7 seven interest arbitrators from the Illinois Public Employees Mediation/Arbitration Roster. Within 7seven 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 2 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 the such notice shall be the date of the neutral chairman's appointment.

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(Source: Amended at 27 Ill. Reg. 7456, effective May 1, 2003)

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**

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~~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 or she 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 2 ~~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 (1) and (m) of this Section 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's decision shall be limited to wages, hours and conditions of employment (which may include residency requirements in municipalities with a population under 1,000,000, but those residency requirements shall not allow residency outside of Illinois)* ~~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))

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~~of the Act), and shall not include the following:~~

~~residency requirements in municipalities with a population of at least 1,000,000;~~

~~the type of equipment, other than uniforms, issued or used;~~

~~manning;~~

~~the total number employees employed by the department;~~

~~mutual aid and assistance agreements to other units of government; and~~

~~the criterion pursuant to which force including deadly force, can be used;~~

~~provided nothing herein shall preclude an arbitration decision regarding equipment or manning considerations in a specific work assignment involve 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's decision shall be limited to wages, hours and conditions of employment (which may include residency requirements in municipalities with a population under 1,000,000, but those residency requirements shall not allow residency outside of Illinois)~~ 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 firefighter beyond that which is inherent in the normal performance of the firefighter 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. ~~and shall not include the following matters:~~

~~residency requirements in municipalities with a population of at least 1,000,000;~~

~~the type of equipment (other than uniforms and fire fighter turnout gear) issued or used;~~

~~the total number of employees employed by the department;~~

~~mutual aid and assistance agreements to other units of government; and~~

~~the criterion pursuant to which force, including deadly force, can be used;~~

~~provided, however, nothing herein shall preclude an arbitration decision~~

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regarding equipment levels if such decision is based on a finding that the equipment considerations in a specific work assignment involve 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) ~~shall~~ 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.;
 - ~~23)~~ ~~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.
 - ~~34)~~ ~~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.
 - ~~4)~~ where the Board has issued an order or the General Counsel has issued a declaratory ruling, or issue concerning the mandatory or non-mandatory nature of a matter in dispute between the parties, allow parties to amend those aspects of their final offers affected by the Board Order or General Counsel's declaratory ruling.
- 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

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

(Source: Amended at 27 Ill. Reg. 7456, effective May 1, 2003)

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 panel shall file a hard copy and a computer disk copy of the award and findings of fact with the Board. 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*

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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) of this Part.
- d) If peace officer manning issues, or peace officer, firefighter 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 27 Ill. Reg. 7456, effective May 1, 2003)

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*

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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)- ~~The 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 ~~7 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 ~~that 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 27 Ill. Reg. 7456, effective May 1, 2003)

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SUBPART C: IMPASSE PROCEDURES FOR GENERAL PUBLIC EMPLOYEE UNITS

Section 1230.130 Filing of Contracts (~~Repealed~~)

- ~~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: Repealed at 27 Ill. Reg. 7456, effective May 1, 2003)

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

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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 27 Ill. Reg. 7456, effective May 1, 2003)

Section 1230.150 Mediation

- a) Requests for mediation shall be on ~~a Board-designated form~~Board form 038. Joint requests for mediation must be made in writing~~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

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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 ~~3 three~~ mediators listed on the Public Employees Mediation/Arbitration Roster. The parties shall have ~~7 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 ~~7-day 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. (Section 17(a)(5) of the Act) (Ill. Rev. Stat. 1991, ch. 48, par. 1617(a)(5)) [5 ILCS 315/17(a)(5)].*

(Source: Amended at 27 Ill. Reg. 7456, effective May 1, 2003)

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- 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 a Board-designated form ~~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 7 ~~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 7 ~~seven~~ individuals on the list, the Board shall provide a second list. Except in extraordinary circumstances, the Board shall not provide more than 2 ~~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 ~~to the Board~~, the Board shall issue subpoenas for hearings conducted by the fact-finder.*
 - 3) *The fact-finder may administer oaths. (Section 13(b) of the Act (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 5 ~~five~~ days after service of the findings and report, the fact-finder shall mail the findings and report to all newspapers of general circulation

ILLINOIS LABOR RELATIONS BOARD

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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 27 Ill. Reg. 7456, effective May 1, 2003)

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 completing a Board-designated form 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 7 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 2 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.

(Source: Amended at 27 Ill. Reg. 7456, effective May 1, 2003)

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 (Section 17(a)(1) of the Act) (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*

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employees, if any, has expired, or such agreement does not prohibit the strike. (Section 17(a)(2) of the Act) (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. (Section 17(a)(3) of the Act) (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. (Section 17(a)(4) of the Act) (Ill. Rev. Stat. 1991, ch. 48, par. 1617(a)(4)) [5 ILCS 315/17(a)(4)].*
- e) *At least 5 five days have elapsed after a notice of intent to strike has been given by the exclusive representative to the public employer. (Section 17(a)(5) of the Act)(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 5 five day time period shall be calculated in accordance with 80 Ill. Adm. Code 1200.30(a) and (b).

(Source: Amended at 27 Ill. Reg. 7456, effective May 1, 2003)

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 (Section 18(a) of the Act).*
- b) A petition for a strike investigation shall be on a Board-designated form form 039 by the Board and shall contain:
 - 1) the name, address and telephone number of the petitioner;

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 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 part~~ shall govern the arbitration.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 27 Ill. Reg. 7456, effective May 1, 2003)

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 ~~that which~~ covers employment subject to the Act shall contain a grievance procedure ~~that 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 7 seven grievance arbitrators selected from the Illinois Public Employees Mediation/Arbitration Roster. Requests shall be submitted on a Board-designated form~~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 2 two panels.

(Source: Amended at 27 Ill. Reg. 7456, effective May 1, 2003)

SUBPART E: ILLINOIS PUBLIC EMPLOYEES MEDIATION/ARBITRATION ROSTER

Section 1230.220 Mediation/Arbitration Roster

- a) The Board ~~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 the Board~~both Boards~~, after application by the individual. The application shall be on a form developed by the Board~~Boards~~.
- c) In making appointments to the Roster, the Board ~~Boards~~ shall consider such factors as experience and training, membership on other recognized mediation or

ILLINOIS LABOR RELATIONS BOARD

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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 ~~Board~~~~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 ~~Board~~~~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 ~~Board~~~~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 ~~Board~~~~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

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NOTICE OF ADOPTED AMENDMENTS

of office. This incorporation by reference does not contain any further amendments.

(Source: Amended at 27 Ill. Reg. 7456, effective May 1, 2003)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Thoroughbred Breeders' Cup
- 2) Code Citation: 11 Ill. Adm. Code 1441
- 3) Section Number: 1441.60 Adopted Action: New Section
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Amendment: April 15, 2003
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) A copy of this adopted amendment including any material incorporated by reference is available for public inspection at the IRB Central Office, 100 West Randolph, Suite 11-100, Chicago, Illinois, during the hours of 9:00 a.m. and 5:00 p.m.
- 9) Notice of Proposal Published in Illinois Register: 26 Ill. Reg. 8757 – 6/21/02
- 10) Has JCAR issued a Statement of Objections to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendment: This rulemaking permits the racetrack to retain all purse money until all drug testing has been completed by the Board laboratory.
- 16) Information and questions regarding this adopted amendment shall be directed to: Mickey Ezzo, IRB, James Thompson Center, 100 W. Randolph, Suite 11-100, Chicago, IL 60601.

The full text of the adopted amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING

PART 1441
THOROUGHBRED BREEDERS' CUP

Section	
1441.10	Rules and Regulations
1441.20	Illinois as the Host State
1441.30	Entries
1441.40	Pick (n) Pools
1441.50	Turnstiles
1441.60	Distribution of Purses

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 26 Ill. Reg. 8152, effective June 1, 2002; amended at 27 Ill. Reg. [7486](#), effective [April 15, 2003](#).

[Section 1441.60](#) [Distribution of Purses](#)

[No purse money shall be distributed until all drug testing has been completed by the Board laboratory.](#)

(Source: Added at 27 Ill. Reg. [7486](#) effective [April 15, 2003](#))

DEPARTMENT OF PUBLIC AID

NOTICE OF RESPONSE TO THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Number: Action:
120.381 Complaint Review, Existing Rule
- 4) JCAR Statement of Objection to Existing Rule Published in the Illinois Register:
January 31, 2003 (27 Ill. Reg. 1701)
- 5) Summary of Action Taken by the Agency:

On January 9, 2003, the Joint Committee on Administrative Rules issued an Objection to the Department of Public Aid=s existing rule, entitled Exempt Assets (89 Ill. Adm. Code 120.381), as a result of a Complaint Review. According to the Joint Committee, subsection (a)(3) of this Section, which places certain limits on the value of resources of income producing property necessary for self-support that may be exempt, violates Section 5-2 of the Public Aid Code [305 ILCS 5/5-2]. Specifically, the Joint Committee states that Section 5-2 of the Code requires the Department to adopt the federal Supplemental Security Income (SSI) program=s position on such property; that is, to totally exempt it, without limitation.

The Department disagrees with the Joint Committee and respectfully refuses to meet its objection to this rule. The Department=s policies that are relevant to the Objection have been in effect for over 25 years, are in full compliance with all federal and State statutes, and have never been challenged by federal Medicaid authorities or in Illinois courts.

In specific response to the Joint Committee=s Objection, the portion of Section 5-2 of the Public Aid Code at issue provides:

The Department shall by rule establish the amount of assets to be disregarded in determining eligibility for medical assistance, which shall at a minimum equal the amounts to be disregarded under the Federal Supplemental Security Income Program. The amount of assets of a single person to be disregarded shall not be less than \$2000, and the amount of assets of a married couple to be disregarded shall not be less than \$3000.

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The complainant who requested the review of this rule alleges that this language requires the Department to allow every asset exclusion provided for under the SSI program.

This is an incorrect reading of the statute. First, the law does not require the Department to incorporate the same asset exclusions as are allowed under the SSI program. Illinois is known as a 209(b) state, and as such is not required to follow all the program restrictions provided for under the SSI program. Second, the State law is referring to a section of the SSI law, section 1611 of the Social Security Act, which excludes specific amounts of resources in considering eligibility, i.e., \$2000 for individuals and \$3000 for married couples. It is not referring to the portion of the SSI law which deals with exclusions, such as the exclusion for property necessary for self support, which appears in a separate section under SSI law, section 1613 of the Act. Third, the Department makes a distinction between disregards, as expressly provided for under section 5-2 of the Public Aid Code, and those assets which are exempt, such as income producing property necessary for self-support. Disregards and exemptions are two different concepts that are applied separately in the eligibility process.

Under federal law, states may elect to not automatically enroll as Medicaid recipients all persons who are eligible for the SSI program. States that choose this option are known federally as 209(b) states. There are currently eleven states in the United States that are 209(b) states. Illinois is one of these and has been a 209(b) state since 1972. Despite the Department's assertions that it is a 209(b) state, the complainant insists that section 5-2 of the Public Aid Code means that Illinois is not a 209(b) state and that, accordingly, it must follow all the SSI regulations. This is an incorrect reading of the law. Under federal law, Illinois is recognized as a 209(b) state and, as such, it is not subject to all the program restrictions provided for under the SSI Program. A letter, dated March 13, 2003, from the federal Department of Health and Human Services/Centers for Medicare & Medicaid Services, confirms that Illinois is a 209(b) state.

Section 5-2 of the Public Aid Code is referring to a specific portion of the SSI law when it provides that the amounts of the disregards established by the Department are to be equal to the amounts disregarded under SSI. The statute expressly spells out those amounts--not less than \$2000, in the case of an individual and not less than \$3000 in the case of a married couple. The disregards to which the Public Aid Code is referring in the SSI law are those provided for under section 1611 of the Social Security Act. That section specifically requires that \$2000 in the case of an individual and \$3000 in the case of a

DEPARTMENT OF PUBLIC AID

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married couple are to be disregarded in determining eligibility; ergo, the exact amounts provided for under section 5-2 of the Public Aid Code.

Furthermore, by expressly referring to Aamounts@ in the first sentence and then specifying what those amounts shall be, the statute is limiting the disregards to a number or sum. If the State statute were intended to refer to other exemptions allowed under SSI, such as income producing property necessary for self-support, or an automobile or the homestead, the statute would not have used the word, Aamounts@. Obviously, income producing property itself cannot be an Aamount@.

Indeed, if the General Assembly had intended to provide for all the exemptions allowed under SSI, including a complete exemption for all income producing property, it would have done so in section 3-1.2 of the Public Aid Code (305 ILCS 5/3-1.2). This section expressly provides for the exclusion of certain resources, including funeral and burial spaces and homestead property. Section 3-1.2 also generally provides that the Department is to allow exemptions that are permitted or required under federal Medicaid law or regulations. Clearly, the disregard tied to SSI law allowed under Section 5-2 of the Code was narrowly focused on the specific provisions of section 1611 of the SSI law and was not intended to encompass all the restrictions and exemptions allowed under other SSI provisions.

To attempt to expand the meaning of section 5-2 to include the exemptions allowed under other sections of the SSI law, in particular section 1613, is taking the meaning of the law beyond that which was intended. An exemption and a disregard are two different concepts and are treated as such by the Department. To illustrate, there are distinct steps the Department takes in determining the financial eligibility of a Medical Assistance applicant.

- § Step One: When a person applies for Medical Assistance, the Department takes into account all the person=s assets and resources in determining eligibility. This includes, among other things, the home, property, possessions automobiles and financial resources.
- § Step Two: After all assets are taken into account, the Department then excludes certain items, including certain property necessary for self-support, the person=s home, etc. After all these exemptions are subtracted, what remains are what are considered assets available to the individual to pay for his or her own care.

DEPARTMENT OF PUBLIC AID

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- § Step Three: Of these remaining assets, the Department then disregards or deducts, in the case of an individual, \$2000, and in the case of a married couple, \$3000.
- § Step Four: If nothing remains, the individual or couple is eligible for assistance. If there are assets still available, the person has a spend-down. In other words, an individual may have up to \$2000 in available assets and be eligible for Medicaid. Similarly, a married couple may have up to \$3000 in available assets and be eligible for Medicaid.

Both federal and State laws bear out the distinction between exempt assets and disregards. Under Department rules, Section 120.381 concerns Exempt Assets. This is the Section subject to the Complaint Review. Section 120.382 concerns Asset Disregards. These are two different Sections dealing with two different processes. Note that Section 120.382 complies precisely with section 5-2 of the Public Aid Code--asset disregards are allowed in the amount of \$2000 for individuals and \$3000 for couples.

In conclusion, section 5-2 of the Public Aid Code does not require the Department to provide for all the exclusions provided for under SSI law. As a 209(b) state, Illinois is not subject to all the program restrictions provided for under the SSI Program. Furthermore, section 5-2 is referring to a specific section of the SSI law, section 1611, when it refers to amounts to be disregarded and the specific amounts to be disregarded. It is not coincidence that the specific amounts provided for under section 5-2 of the Public Aid Code coincide exactly with the amounts provided for under section 1611. The Department's policies concerning income producing property have been in effect for over 25 years. They are in compliance with both federal and State law.

The Department requests that the Joint Committee reconsider its position and remove the objection. If that is not possible, then based on these responses, the Department respectfully refuses to amend or repeal Section 120.381 in response to the Joint Committee's objection.

DEPARTMENT OF STATE POLICE

NOTICE OF CORRECTIONS TO NOTICE ONLY

- 1) Heading of the Part: Firearm Transfer Inquiry Program
- 2) Code Citation: 20 Ill. Adm. Code 1235
- 3) The Notice of Adopted Amendments being corrected appeared at 27 Ill. Reg. 5998, dated April 4, 2003.
- 4) The information being corrected is as follows:

Number 11, differences between proposal and final version, should read:

In Section 1235.120, the language was changed to more clearly reflect the fee and billing process.

Number 16 did not contain the telephone number for the agency contact person and should be corrected to read:

Mr. James W. Redlich
Chief Legal Counsel
Illinois State Police
124 East Adams Street, Room 102
Post Office Box 19461
Springfield, Illinois 62794-9461
Telephone: (217) 782-7658

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Illinois Swimming Facility Code

Code Citation: 77 Ill Adm Code 820

<u>Section Numbers:</u>	820.10	820.140	820.230	820.310	820.360
	820.20	820.150	820.240	820.315	820.380
	820.100	820.170	820.250	820.320	820.400
	820.110	820.200	820.270	820.330	
	820.120	820.210	820.290	820.340	
	820.130	920.220	820.300	820.350	

Date Originally Published in the Illinois Register: 2/28/03
27 Ill. Reg. 4223

At its meeting on April 8, 2003, the Joint Committee on Administrative Rules objected to the emergency rules of the Department of Public Health titled Illinois Swimming Facility Code (77 Ill. Adm. Code 820; 27 Ill. Reg. 4223) because the only emergency that exists appears to be agency-created. The statute on which this emergency rule is based became effective June 28, 2001. DPH had sufficient time to enact these rules through the regular rulemaking process.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 1, 2003 through April 7, 2003 and have been scheduled for review by the Committee at its May 13, 2003 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
5/23/03	<u>Department of Transportation</u> , Motor Carrier Safety Regulations: General (92 Ill. Adm. Code 390)	2/7/03 27 Ill. Reg. 2042	5/13/03
5/23/03	<u>Department of Transportation</u> , Qualification of Drivers (92 Ill. Adm. Code 391)	2/7/03 27 Ill. Reg. 2065	5/13/03
5/23/03	<u>Department of Transportation</u> , Driving of Commercial Motor Vehicles (92 Ill. Adm. Code 392)	2/7/03 27 Ill. Reg. 2071	5/13/03
5/23/03	<u>Department of Transportation</u> , Parts and Accessories Necessary for Safe Operation (92 Ill. Adm. Code 393)	2/7/03 27 Ill. Reg. 2076	5/13/03
5/23/03	<u>Department of Transportation</u> , Hours of Service of Drivers (92 Ill. Adm. Code 395)	2/7/03 27 Ill. Reg. 2081	5/13/03
5/23/03	<u>Department of Transportation</u> , Inspection, Repair and Maintenance (92 Ill. Adm. Code 396)	2/7/03 27 Ill. Reg. 2088	5/13/03
5/23/03	<u>Department of Transportation</u> , Transportation of Hazardous Materials; Driving and Parking (92 Ill. Adm. Code 397)	2/7/03 27 Ill. Reg. 2092	5/13/03

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

5/24/03	<u>Department of Central Management Services,</u> Conditions of Employment (80 Ill. Adm. Code 303)	1/31/03 27 Ill. Reg. 1450	5/13/03
5/24/03	<u>Department of Central Management Services,</u> Organ Donor Leave (80 Ill. Adm. Code 332)	1/31/03 27 Ill. Reg. 1455	5/13/03
5/25/03	<u>Secretary of State,</u> Regulations Under Illinois Securities Law of 1953 (14 Ill. Adm. Code 130)	12/20/02 26 Ill. Reg. 17954	
5/25/03	<u>Teacher's Retirement System,</u> The Admin- istration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)	12/6/02 26 Ill. Reg. 17348	5/13/03
5/28/03	<u>Department of Revenue,</u> Uniform Penalty and Interest Act (86 Ill. Adm. Code 700)	1/3/03 27 Ill. Reg. 127	5/13/03

PROCLAMATIONS

2003-67**April 2003 as SEED MONTH**

WHEREAS, the abundance of Illinois crops rely on fertile soil, diligent farmers and high quality seeds; and

WHEREAS, to ensure that seeds are of the highest quality, there must be agricultural-minded seed producers, conscientious inspectors, skilled technicians and concerned dealers; and

WHEREAS, agriculture and the seed industry significantly contribute to our state's economy with value-added products marketed throughout the world; and

WHEREAS, the Bureau of Agricultural Products Inspection within the Illinois Department of Agriculture tests the purity and germination of seeds, validates the accuracy of product labels and cooperates with the Illinois Crop Improvement Association, the state's official seed-certifying agency, an independent, nonprofit organization; and

WHEREAS, in cooperation with educational and regulatory agencies, the Illinois Seed (Trade) Association has sustained an informed membership, the latest research developments, the production of high-quality seed, and has developed an effective seed program advocating pertinent legislation;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim April 2003 as SEED MONTH in Illinois in appreciation of the seed industry's contribution to supplying food and fiber to the world through the production of Illinois crops.

Issued by the Governor April 02, 2003

Filed by the Secretary of State April 14, 2003

2003-68**May 1, 2003, as DAY OF PRAYER**

WHEREAS, the National Day of Prayer is a tradition first proclaimed by the Continental Congress in 1775, and established as an annual observance by the United State Congress in 1952; and

WHEREAS, we regard our liberties as a heritage inspired by God's word to humankind, imbedded in our national documents and traditions, and inscribed on the historical Liberty Bell; and

WHEREAS, it is appropriate in this Jubilee Year that we humbly acknowledge our failures as a nation, and as citizens thereof, we prayerfully recommit ourselves to liberty and justice for all; and

WHEREAS, we desire to acknowledge openly our national dependence on Almighty God for our economic, mental, physical, moral and spiritual well-being;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim May 1, 2003, as A DAY OF PRAYER in Illinois.

Issued by the Governor March 24, 2003

Filed by the Secretary of State April 14, 2003

PROCLAMATIONS

2003-69**April 6-12, 2003, as CRIME VICTIMS' WEEK**

WHEREAS, crime and the threat of violence have profound and devastating effects on individuals, families and communities throughout America; and

WHEREAS, over 24 million people in the United States are affected by crime each year; and

WHEREAS, the threat and reality of terrorism have challenged all Americans to realize the devastating consequences of violent crime, and their important roles in providing support to individuals and communities who are victimized; and

WHEREAS, crime in America results in significant physical, psychological, financial and spiritual effects on countless innocent victims; and

WHEREAS, crime victims in every state, U.S. territories and federal jurisdictions have statutory rights to be kept informed of and involved in criminal and juvenile justice processes, and to be afforded protection, restitution and accountability from their offenders; and

WHEREAS, there are over 10,000 community and system-based victim service programs across our nation that provide a wide range of services and support to victims of crime; and

WHEREAS, in 2003, the Office for Victims of Crime within the U.S. Department of Justice commemorates 20 years of providing leadership to endure that crime victims are treated with dignity and compassion; and

WHEREAS, America, as a nation, continues to face threats to our personal and public safety, and continues to commit its collective energies to help our fellow citizens who are hurt by crime;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim April 6-12, 2003, as CRIME VICTIMS' WEEK in Illinois.

Issued by the Governor April 01, 2003

Filed by the Secretary of State April 14, 2003

2003-70**October 12-18, 2003, as ILLINOIS ARTS WEEK**

WHEREAS, arts is an integral part of life-long learning; and

WHEREAS, arts is the preservation of our cultural heritage; and

WHEREAS, the Illinois Arts Council encourages the development of the arts throughout Illinois; and

WHEREAS, the Illinois Arts Council assists artists, arts organizations and other community organizations that present arts programming by providing financial and technical assistance; and

WHEREAS, the Illinois Arts Council receives funds provided annually by the Illinois State Legislature and the National Endowment for the Arts; and

WHEREAS, the Illinois Arts Council develops the state's public arts policy, fostering quality culturally diverse programs and approving grant expenditures; and

WHEREAS, the Illinois Arts Council is committed to the cultural, educational and economic

PROCLAMATIONS

growth of the diverse people and communities of our state through support and encouragement of arts:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim October 12-18, 2003, as ILLINOIS ARTS WEEK.

Issued by the Governor March 31, 2003

Filed by the Secretary of State April 14, 2003

2003-71**April 6-12, 2003, as TEAL RIBBON-SEXUAL ASSAULT AWARENESS WEEK**

WHEREAS, sexual assault continues to be a major social crisis in our schools and our communities; and

WHEREAS, sexual assault is a serious youth issue, in which one out of every three girls and one out of every six boys in this community may be a victim of sexual violence before the age of 18; and

WHEREAS, the voices of those who survive sexual violence must be heard through public awareness and education programs; and

WHEREAS, this community recognizes the vital importance of designating a time devoted to increase the general public's awareness of sexual violence and the services available in our community to help victims; and

WHEREAS, we hold forth a vision of each community in the State of Illinois being free from sexual violence;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim April 6-12, 2003, as TEAL RIBBON-SEXUAL ASSAULT AWARENESS WEEK in Illinois and I urge all citizens to take part in working toward the elimination of all forms of sexual abuse.

Issued by the Governor March 31, 2003

Filed by the Secretary of State April 14, 2003

2003-72**April 3, 2003, as STATE FARM DAY**

WHEREAS, State Farm Insurance Company was founded on June 7, 1922, by George J. Mecherle, a farmer from Merna, Illinois; and

WHEREAS, State Farm's mission is to help people manage the risks of everyday life, recover from the unexpected, and realize their dreams; and

WHEREAS, State Farm has grown over the past 80 years from a small farm mutual auto insurer to one of the world's largest financial institutions; and

PROCLAMATIONS

WHEREAS, State Farm employs 79,200 employees, including more than 15,200 in Illinois; and

WHEREAS, more than 16,700 State Farm agents are spread around the world, including 1,000 in Illinois who provide products and services to thousands of families and businesses; and

WHEREAS, State Farm is a model corporate citizen, providing every employee with one paid day every year to volunteer in our schools, awarding 1,529 Good Neighbor Grants to schools and volunteer organizations, and donating more than 2,300 computers to schools and not-for-profit organizations across the state; and

WHEREAS, State Farm's success is built on a foundation of shared values – quality service and relationships, mutual trust, integrity, and financial strength;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim April 3, 2003, as STATE FARM DAY in Illinois in recognition of State Farm's outstanding commitment to Illinois and its citizens.

Issued by the Governor March 31, 2003

Filed by the Secretary of State April 14, 2003

2003-73**April 21-25, 2003, as PLAYGROUND SAFETY WEEK**

WHEREAS, the safety and well-being of children is a priority of this state; and

WHEREAS, more than 200,000 children are injured on playgrounds in the United States each year, equaling an average of one playground-related emergency room visit every two-and-one-half minutes; and

WHEREAS, the National Program for Playground Safety was created at the University of Northern Iowa to help inform the nation about playground injuries and possible ways to reduce the number of injuries; and

WHEREAS, the National Program for Playground Safety has identified key areas that could help substantially reduce the number of playground injuries and keep our children SAFE – providing proper Supervision, Age appropriate equipment, materials to soften Falls to the surface, and Equipment maintenance; and

WHEREAS, spring is often a time that children head to the playground and a large percentage of playground injuries occur from April through June; and

WHEREAS, schools, parks and other public facilities are preparing for summer season and playground participants; and

WHEREAS, all of us that care about children should make the commitment that no Illinois child should play on an unsafe playground;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim the April 21-25, 2003, as PLAYGROUND SAFETY WEEK in Illinois.

Issued by the Governor March 31, 2003

Filed by the Secretary of State April 14, 2003

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2003-74**May 18-24, 2003, as SAVE A LIFE WEEK**

WHEREAS, the mission of the Save a Life Foundation is training people as volunteers equipped with life supporting skills to act in an emergency; and

WHEREAS, the Save a Life Foundation heightens public awareness and trains people, especially children, in life supporting skills which are essential in maintaining the life of the injured or ill in a man-made or natural emergency until emergency medical service (EMS) arrives; and

WHEREAS, the Save a Life Foundation encourages communities to incorporate the Save a Life for Kids life supporting program for all school age children; and

WHEREAS, the Save a Life Foundation will assist organizations and councils with providing citizen training, especially for children, in emergency preparedness and life supporting first aid, including Community Emergency Response Team (CERT) training; and

WHEREAS, the Save a Life Foundation is an affiliate of the Federal Emergency Management Agency, U.S. Homeland Security's Citizen Corps; and

WHEREAS, the Save a Life Foundation encourages communities to achieve the status of SALF Certified by incorporating it into their best practices and demonstrating a commitment to emergency preparedness;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim May 18-24, 2003, as SAVE A LIFE WEEK in Illinois.

Issued by the Governor March 31, 2003

Filed by the Secretary of State April 14, 2003

2003-75**April 20-26, 2003, as MEDICAL LABORATORY WEEK**

WHEREAS, the health and protection of all Americans depends upon educated minds and trained hands; and

WHEREAS, professionals who practice in medical and public health laboratories, including clinical laboratory scientists/medical technologists, clinical laboratory technicians/medical laboratory technicians, histologic technicians, cytotechnologists, phlebotomists, clinical chemists, clinical microbiologists, pathologists' assistance, pathologists and forensic scientists are invaluable members of the health care team; and

WHEREAS, the practice of modern medicine at the exacting standards we now enjoy would be impossible without the numerous types of scientific tests performed daily in the medical laboratory; and

WHEREAS, maintenance of these standards and progress toward improvement in the quality of laboratory services depends on the dedicated efforts of professional clinical laboratory science practitioners; and

WHEREAS, through this dedication, the medical laboratories of Illinois have made a vital

PROCLAMATIONS

contribution to the quality of health care; and

WHEREAS, Medical Laboratory Week will be celebrated by the Illinois Clinical Laboratory Science Association in conjunction with other medical laboratory associations;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim April 20-26, 2003, as MEDICAL LABORATORY WEEK in Illinois and urge all citizens to recognize and support the vital service provided by the laboratory practitioner for the benefit of all citizens.

Issued by the Governor March 31, 2003

Filed by the Secretary of State April 14, 2003

2003-76**April 2003 as MDA DISABILITY AWARENESS MONTH**

WHEREAS, it is estimated that one million Americans are affected by a form of neuromuscular disease which is physically disabling; and

WHEREAS, the Muscular Dystrophy Association (MDA) assists thousands of individuals in Illinois with neuromuscular disease through eight MDA chapters; and

WHEREAS, it is the responsibility of all citizens in Illinois to assist in meeting the physical and emotional needs of individuals with disabilities; and

WHEREAS, as citizens of Illinois we must value the worth, dignity and rights of these individuals;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim April 2003 as MDA DISABILITY AWARENESS MONTH in Illinois.

Issued by the Governor March 31, 2003

Filed by the Secretary of State April 14, 2003

2003-77**April 27-May 4, 2003, as DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST**

WHEREAS, the Holocaust was the state sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945. Jews were the primary victims – six million were murdered; the handicapped and Poles were also targeted for destruction or decimation for racial, ethnic, or national reasons. Millions more, including homosexuals, Soviet prisoners of war and political dissidents, also suffered grievous oppression and death under Nazi tyranny; and

WHEREAS, the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies, and governments; and

WHEREAS, we the people of the State of Illinois should always remember the terrible events of the Holocaust and remain vigilant against hatred, persecution, and tyranny; and

WHEREAS, we the people of the State of Illinois should actively rededicate ourselves to the principles of individual freedom in a just society; and

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WHEREAS, the Days of Remembrance have been set aside for the people of the State of Illinois to remember the victims of the Holocaust as well as to reflect on the need for respect of all peoples; and

WHEREAS, pursuant to an Act of Congress (Public Law 96-388, October 7, 1980), the United States Holocaust Memorial Council designates the Days of Remembrance of the victims of the Holocaust to be Sunday, April 27 through Sunday, May 4, 2003, including the international Day of Remembrance known as Yom Hashoah, April 29;

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, proclaim April 27-May 4, 2003, as DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST in Illinois and urge all citizens to collectively and individually strive to overcome bigotry, hatred and indifference through learning, tolerance and remembrance.

Issued by the Governor March 31, 2003

Filed by the Secretary of State April 14, 2003

2003-78**March 24-28, 2003, as ACI'S TEACHERS LEAD, LEADERS TEACH WEEK**

WHEREAS, the State of Illinois faces a critical shortage of K-12 classroom teachers, with nearly 2,200 public school teaching positions already vacant affecting more than 42,000 students; and

WHEREAS, Illinois anticipates the need for as many as 64,000 teachers in the next four years; and

WHEREAS, the number of highly-qualified teachers is declining, and the number of new teachers graduating in Illinois is not increasing rapidly enough to meet demand; and

WHEREAS, Illinois requires a statewide initiative to ensure that sufficient numbers of highly-qualified teachers are available to teach all of our children, especially those in high-need districts; and

WHEREAS, the 24 colleges and universities that comprise the Associated Colleges of Illinois (ACI) represent a statewide network of private liberal arts institutions with a historic commitment to superior teacher education programs rooted in mastery of content; and

WHEREAS, ACI member institutions already are responsible for 20 percent of Illinois' new teacher education graduates, who enter Illinois classrooms at higher rates and stay in the teaching profession longer than do graduates of other institutions; and

WHEREAS, the Associated Colleges of Illinois has received a \$2.2 million Federal Department of Education Transition to Teaching grant to launch the only statewide program designed to enhance Illinois' capacity to graduate more highly-qualified teachers by offering multiple pathways to teacher certification; and

WHEREAS, ACI's new Teachers Lead, Leaders Teach initiative responds to the need to bring more highly-qualified teachers into classrooms in high-need districts and to provide teachers with mentoring and other support that encourages them to stay in those classrooms;

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, proclaim March 24-

PROCLAMATIONS

28, 2003, as ACI'S TEACHERS LEAD, LEADERS TEACH WEEK in Illinois, recognizing the critical role of the Associated Colleges of Illinois and its member colleges and universities in our state's efforts to address the teacher shortage crisis.

Issued by the Governor March 13, 2003

Filed by the Secretary of State April 14, 2003

OFFICE OF BANKS AND REAL ESTATE**NOTICE OF PUBLIC INFORMATION****NOTICE OF FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987**

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 ("the Act") and 205 ILCS 635/4-5 (H), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has issued a fine of \$1,000 against Concord Mortgage, Inc., License No. #6136 of Deerfield, Illinois a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 25, 2003.

OFFICE OF BANKS AND REAL ESTATE**NOTICE OF PUBLIC INFORMATION****NOTICE OF REVOCATION IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987**

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 ("the Act") and 205 ILCS 635/4-5 (H), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of The Loan Store, Inc., License No. #4494 of St. Louis, MO a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective April 1, 2003.

OFFICE OF BANKS AND REAL ESTATE**NOTICE OF PUBLIC INFORMATION****NOTICE OF REVOCATION IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987**

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 ("the Act") and 205 ILCS 635/4-5 (H), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of Mortgage Rite Corporation, License No. #6299 of Lansing, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective April 1, 2003.

ILLINOIS ADMINISTRATIVE CODE

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