

TABLE OF CONTENTS

Collective Bargaining for State Employees

Article I

Description of Organization and Definitions

Creation and authority 5-273- 1
 Functions 5-273- 2
 Official address 5-273- 3
 Public information 5-273- 4
 Signature of documents 5-273- 5
 Act; board; petitioner; complainant; respondent; agent 5-273- 6
 Other terms 5-273- 7
 Time limitations 5-273- 8

Article II

Certifications and Elections of Representatives

Notification; form; contents 5-273- 9
 Notification of an interested organization 5-273-10
 Challenges 5-273-11
 Notification and posting 5-273-12
 Duties of agent 5-273-13
 Hearing; notice 5-273-14
 Amendment 5-273-15
 Withdrawal 5-273-16
 Elections; terms and conditions 5-273-17
 Conduct of elections 5-273-18
 Challenged ballots 5-273-19
 Procedure following elections; challenges and objections 5-273-20
 Certification of representatives 5-273-21

Article III

Prohibited Practice Complaints

Complaint 5-273-22
 Complaint; form and filing; certification of service 5-273-23
 Contents of complaint 5-273-24
 Withdrawal of complaint 5-273-25
 Reference of complaint to agent; investigation; more specific statement 5-273-26
 Report by agent to board 5-273-27
 Action by board upon agent's report; notice of hearing 5-273-28
 Acceleration of hearing 5-273-29
 Amendment to complaint 5-273-30
 Service and filing of answer 5-273-31
 Denial 5-273-32
 Defense and new matter 5-273-33
 Extension of time to answer 5-273-34
 Amendment of answer; following amendment of complaint 5-273-35
 Failure to file answer 5-273-36
 Pleadings; construction 5-273-37

Back pay proceedings 5-273-38

Article IV

Miscellaneous Proceedings

Declaratory ruling; form of petition 5-273-39
Declaratory ruling; procedure after filing. 5-273-40
Scope of bargaining determination 5-273-41
Petitions concerning adoption of regulations 5-273-42
Settlement of cases 5-273-43
Pre-trial hearings. 5-273-44

Article V

**General Provisions Relating to Parties and Procedure
Applicable to All Proceedings**

Quorum of board 5-273-45
Nonjoinder and misjoinder of parties. 5-273-46
Parties; relief. 5-273-47
During pendency of hearing. 5-273-48
Motion made before or after hearing 5-273-49
Intervention; procedure; contents; filings and service 5-273-50
Consolidation or severance 5-273-51
Witnesses; examination; record; depositions 5-273-52
Application for subpoenas. 5-273-53
Witness fees 5-273-54
Board shall conduct hearings 5-273-55
Hearings; powers and duties of the board 5-273-56
Examination of witnesses; introduction of evidence 5-273-57
Hearings; evidence 5-273-58
Hearings; stipulations 5-273-59
Continuation of hearings 5-273-60
Contemptuous conduct at hearings 5-273-61
Waiver of hearing; consent order 5-273-62
Oral argument or briefs; requests for findings of fact or conclusions at
the close of hearings 5-273-63
Variance between pleading and proof 5-273-64
Motions and objections at hearings. 5-273-65
Application for leave to reopen a hearing on grounds of newly discovered
evidence. 5-273-66
Findings of fact; conclusions of law; decision and order; exception 5-273-67
Record of proceedings before the board; prohibited practice cases 5-273-68
Records of proceedings before the board; representation cases 5-273-69
Public record. 5-273-70
Practice before the board 5-273-71

Article VI

Service of Complaints, Orders and Other Processes

Method; proof; complaints; orders; and other processes and papers of
the board and agent. 5-273-72

Service by a party	5-273-73
Service upon attorney	5-273-74

Article VII

Construction, Amendments, or Application of Regulations

Construction of regulations	5-273-75
Amendments; general regulations	5-273-76
Collective bargaining units in the executive branch of the state government	5-273-77

Collective Bargaining for State Employees

Article I

Description of Organization and Definitions

Sec. 5-273-1. Creation and authority

The Connecticut State Board of Labor was established in 1945 by section 31-102 of the General Statutes and administers various labor relations statutes including the Act Concerning (collective Bargaining for State Employees, sections 5-270 to 5-280 of the General Statutes.

The three board members are appointed by the governor with the advice and consent of the general assembly. Pursuant to section 31-103, the Board appoints an agent and a general counsel for four year terms of office, and may appoint such assistant agents and other employees as are needed to carry out the work of the Board without undue delay.

(Effective May 7, 1980)

Sec. 5-273-2. Functions

It is the function of the quasi-judicial board to enforce the collective bargaining statutes by deciding prohibited practice and representation cases. The Board also promulgates regulations and exercises other powers necessary to the administration of the collective bargaining statutes under its jurisdiction.

The agent and assistant agents hold informal investigation and mediation conferences with parties to a complaint or petition in an effort to resolve the labor relations dispute before a Board hearing. If settlement is not possible the agent may recommend dismissal of a complaint or assign the matter for a hearing before the Board. The agent and assistant agents conduct secret ballot elections to determine the desire of employees for collective bargaining representation.

The general counsel is the legal advisor to the board and staff and represents the Board in court appeals, enforcement proceedings and other judicial and administrative proceedings to which the Board is a party or is interested.

(Effective May 7, 1980)

Sec. 5-273-3. Official address

All communications should be addressed to the State Board of Labor Relations, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109.

(Effective May 7, 1980)

Sec. 5-273-4. Public information

The public may inspect the regulations, decisions and public records of the Board at its offices in Wethersfield. There is no prescribed form for requests for information. Written requests should be submitted to the Board at its above stated official address.

(Effective May 7, 1980)

Sec. 5-273-5. Signature of documents

The duly authorized and official documents of the Board of every description, and without exception, including but not limited to the Board decisions, orders, notices, subpoenas, and communications shall be signed in behalf of the Board by any board member, the agent, the general counsel, or any staff member empowered to sign in the Board's behalf. Such a signature shall be presumed to be duly authorized

by the Board unless and until the contrary is demonstrated in any Board proceeding or hearing.

(Effective May 7, 1980)

Sec. 5-273-6. Act; board; petitioner; complainant; respondent; agent

The term “Act” as used herein means the Act Concerning Collective Bargaining for State Employees, of the General Statutes, and the term “Board” means the Connecticut State Board of Labor Relations. In proceedings for certification or election of representatives, the term “Petitioner” means the party filing a notification, i.e., petition for such certification or election. In proceedings under Section 5-272, the party charging a prohibited practice shall be called the “Complainant”; and the party alleged to have committed such prohibited practice shall be called the “Respondent.” The term “Agent” herein shall mean the Agent of the Board and shall include the Assistant Agents or other representatives of the Agent.

(Effective May 7, 1980)

Sec. 5-273-7. Other terms

The terms defined in Sections 5-270 to 5-280 inclusive, shall have the same meanings in these Regulations.

(Effective May 7, 1980)

Sec. 5-273-8. Time limitations

Whenever the time limited in these Regulations for any Act is less than seven (7) day, Saturdays, Sundays, holidays, and other non-work days as may be designated by the Governor shall be excluded in making the computation. Whenever the time limited in these Regulations for any Act is seven (7) days or more, such days shall be included in making the computation.

(Effective May 7, 1980)

Article II

Certifications and Elections of Representatives

Sec. 5-273-9. Notification; form; contents

A notification under subdivision (1) of subsection (a) of Section 5-275 may be filed with the Board in writing by an employee organization as defined in subsection (d) of Section 5-270 and shall state the following:

That thirty per cent (30%) or more of the employees in a bargaining unit established or sought to be established under the Act, desire to be exclusively represented for the purposes of collective bargaining within the unit by the petitioning organization and request the designation of said organization as their exclusive representative.

(Effective May 7, 1980)

Sec. 5-273-10. Notification of an interested organization

(a) Notification pursuant to subsections (a) and (b) of section 5-275 may be filed by an employee organization and may be in the form of a petition and shall be signed and sworn to by any person authorized to administer an oath and the original and four (4) copies thereof shall be filed with the board. The petition shall include a certification also signed and sworn to before any person authorized to administer an oath, stating that a copy of the petition has been served upon the employer and any union claiming to represent the employees by registered or certified mail or in person. If an employer files a petition it shall be served on all unions claiming to

represent the employees. Notification forms will be supplied by the board on request. A notification shall contain the information required by the form supplied by the board, including the following:

(1) the name and address of the interested organization and the length of time it has been in existence;

(2) the name of the employer or any subdivision thereof, as defined in section 5-270;

(3) the types, classifications or groups of employees in the bargaining unit or units claimed to be appropriate, the number of employees therein, the names and addresses of other employee organizations who claim to be the representatives of any of the employees in the claimed bargaining unit or units and a brief description of any contract covering any employees in such unit or units;

(4) a request that the board certify the name or names of the representatives who have been designated or selected for the purposes of collective bargaining by the majority of the employees in the unit or units appropriate for such purposes.

(b) A notification will be considered timely if it is filed between August 1 and August 31 inclusive of the year prior to the expiration of the collective bargaining contract covering the employees who are the subject of the petition. After the agent has determined the existence of the requisite showing of interest by the employee organization filing the notification and any party filing a challenge, the board may order an election or a hearing to show cause why an election should not be held. The show cause hearing, if ordered, shall be held by September 15, and the board shall use its best efforts to schedule elections prior to October 1. The board may consider petitions filed at other times if compelling reasons are shown for deviation from the above rule.

(Effective September 22, 1981)

Sec. 5-273-11. Challenges

Whenever a notification had been filed with the Board under subdivision (1) of subsection (a) of Section 5-275 any other employee organization may file with the Board a challenge in writing which states that ten per cent (10%) or more of the employees have expressed the desire to have the intervenor as exclusive representative in writing in the manner specified in subdivision (2) of subsection (a) of Section 5-275. The employer may also file a challenge as to the appropriateness of the unit.

Such challenge shall be deemed to include a petition for intervention in the proceedings and shall, in addition to the requirements specified in this section, conform to the requirements set forth in section 5-273-10 (a), *supra*. A challenge must be filed within thirty (30) days of the filing of the notification.

(Effective May 7, 1980)

Sec. 5-273-12. Notification and posting

When an employer receives a copy of the notification it shall place copies of said notification in conspicuous places where the employees in the unit customarily assemble, and leave posted for a period of thirty (30) days. No certification shall issue within thirty (30) days after the posting of the notification.

(Effective May 7, 1980)

Sec. 5-273-13. Duties of agent

(a) When a notification has been filed, the Agent shall confer with and may hold informal conferences with the interested parties and ascertain the facts. He shall ascertain the number of employees desiring the petitioner to represent them by

making a card check or by such other appropriate means as he shall determine. In making a card check the Agent may use the criteria set out in subsection (b) of this section. He shall encourage the parties to agree upon the appropriate unit.

(b) Proof of an employee's desire for representation may be established as follows: The organization may present to the Agent membership or application for membership cards or collective bargaining authorization cards containing the following information:

(1) The date the cards are signed by the employees.

(2) The cards must be dated and signed prior to the filing of notification by the organization with the Board, and must contain the printed or typewritten name of the signer as well as his signature.

(3) The cards will be void if signed beyond a year before the filing of notification with the Board.

(4) The cards must be obtained during the organizational campaign which culminated in the petition.

(5) The card itself must state the employee's wish to be represented by the organization.

(c) Whenever the Agent, after investigation, has reasonable cause to believe that a question of representation exists, including but not limited to finding that the parties are unable to agree upon the appropriate unit and he is unable to settle the controversy concerning representation, he shall issue a direction of election within 30 days of his investigation and conduct a secret ballot election within 30 days of the issuance of the direction of election to determine whether and by which employee organization the employees desire to be represented. The election shall be conducted in accordance with the terms and conditions set forth in Sections 5-273-17, 5-273-18, and 5-273-19 of these regulations and the Agent will report his action to the Board. In the event that the Agent determines that there is no reasonable cause to believe that a question of representation exists, he shall issue a recommendation to dismiss the petition within 30 days after his investigation and report his action to the Board. In the event the Agent is unable to determine whether or not a question of representation exists, the Agent may, within 30 days of his investigation, refer the petition directly to the Board for a hearing without either having conducted an election or issuing a recommendation for dismissal, in which event the Board shall conduct an appropriate hearing upon due notice as set forth in these regulations.

(d) If the Agent determines either to conduct a secret ballot election or to recommend dismissal of the petition, the parties may object to the Agent's determination by filing objections in the form of a brief within 14 days of the issuance of the order directing an election or within 14 days of the Agent's recommendation for a dismissal filed with the Board.

(e) If objections are timely filed, the Agent shall prepare a record for the Board which shall include the following: the petition, the Agent's order directing an election, or the Agent's recommendation for dismissal and any briefs filed by a party.

(f) The Board, after considering the Agent's direction of election or the Agent's recommendation for dismissal, together with the briefs submitted, shall, as appropriate within 30 days of receiving the record:

(1) issue an order confirming the Agent's direction of election and certifying the results, or

(2) issue an order confirming the Agent's recommendation for dismissal, or

(3) order further investigation, or

(4) order a hearing upon due notice.

(g) In the event the Agent has directly referred the petition to the Board for a hearing without either directing an election or recommending dismissal, or if the Board has ordered a hearing, a hearing shall be held pursuant to Section 5-273-14.

(h) If no objections are filed, the Board shall certify the results of the election or dismiss the petition.

(Effective October 5, 1993)

Sec. 5-273-14. Hearing; notice

The Board shall hold a hearing upon reasonable notice and may either dismiss the petition or direct an election or elections. When a hearing has been directed, the Board or its Agent shall prepare and cause to be served upon the parties a notice of hearing before the Board, at a time and place fixed therein. Hearings relative to petitions for representation elections shall have precedence over all other cases. A copy of the petition shall be served with the notice of hearing.

(Effective May 7, 1980)

Sec. 5-273-15. Amendment

Any notification may be amended, in whole or in part, by any party or by the Board, to conform to the issues litigated. Such amendment shall be permissible before the first ballot is cast in an election, upon such conditions as the Board may deem proper and just.

(Effective May 7, 1980)

Sec. 5-273-16. Withdrawal

Any notification may be withdrawn, by the petitioner before the first ballot is cast in an election, upon such conditions as the Board may deem proper and just.

(Effective May 7, 1980)

Sec. 5-273-17. Election; terms and conditions

(a) If the board or the Agent determines that an election shall be held, it shall order that such election or elections shall be conducted by the Agent, an Assistant Agent, or by such other person as may be designated by the Board.

(b) All elections shall be held at such times and places and upon such terms or conditions as the Board or the Agent may specify. All elections shall be by secret ballot.

(c) The employees eligible to vote shall be those on the payroll on the date of the filing of the petition or such other date as the Board or the Agent may order upon the showing of extraordinary circumstances or by consent of the parties, and who remain on the payroll on the date of the election.

(d) At least seven (7) days prior to the election, or at least three (3) weeks prior thereto in cases where units exceed five hundred (500) employees, the employer shall furnish, to each interested organization which is a party to the proceeding, a list of the names and addresses of the employees in the appropriate unit who were on the payroll on the date of the filing of the petition, or such other date as the Board or the Agent may order upon the showing of extraordinary circumstances or by consent of the parties, and who are on the payroll at the time of the submission of the list.

(Effective October 5, 1993)

Sec. 5-273-18. Conduct of elections

(a) During the course of a representation campaign, the following conduct may interfere with the rights of employees and may result in the setting aside of the election:

- (1) Threatening loss of jobs or other disadvantages by employer or union.
 - (2) Misstating important facts by a union or an employer where the other party does not have a fair chance to reply.
 - (3) Promising or granting promotions, pay raises, or other benefits to influence the employee's vote by a party capable of carrying out such promises.
 - (4) An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity.
 - (5) Threatening physical force or violence to employees by a union or an employer to influence their votes.
- (b) In the absence of extraordinary circumstances, a party having knowledge of grounds for objection to an election is required to make his objection to the agent prior to the election. Failure to do so will result in a waiver of the right to raise objection.
- (Effective September 22, 1981)

Sec. 5-273-19. Challenged ballots

At any election, if the right of an employee to vote is challenged by the Board or any party to the proceedings, the employee shall be permitted to vote, but his ballot shall be sealed by him in a separate envelope provided for such purpose and the employee shall then deliver the envelope to the Agent or person duly designated by the Board to conduct the election, who shall deliver the challenged ballot to the Board for determination, provided, if the challenged ballots are insufficient in number to affect the result of the election, no determination with respect to them shall be made.

(Effective May 7, 1980)

Sec. 5-273-20. Procedure following elections; challenges and objections

- (a) Upon the conclusion of any election or elections, the Board or its Agent or a person designated by the Board to conduct the election shall prepare a report as to the result of the election or elections and, in cases where the right of an employee to vote has been challenged and the challenged ballots are sufficient in number to affect the results of the election, the report shall contain a plain statement of the grounds for the challenge. The Agent shall cause this report to be served upon the parties.
 - (b) Within five (5) days thereafter, any party who intends to make an objection shall serve upon all other parties, with proof of service, and file with the Board an original and four (4) copies of objections to the election or elections or to the report thereon. The objections shall contain a plain statement of the grounds of objection. The Board may, either with or without a hearing, make its determination with respect to the objections or to any challenged ballots, provided that if the Board finds any such objection presents a substantial or material issue of fact or law it shall hold a hearing thereon.
- (Effective May 7, 1980)

Sec. 5-273-21. Certification of representatives

The Board, after ascertaining the wishes of the employees, shall certify to the parties the name or names of the representatives or make other disposition of the matter. Such certification may issue without an election if the statutory conditions for such certification exist.

(Effective May 7, 1980)

Article III

Prohibited Practice Complaints

Sec. 5-273-22. Complaint

A complaint that any person, the employer, or an employee organization has engaged in or is engaging in any prohibited practice under the Act may be filed by an employee, a group of employees, and employee organization or by the employer, any of whom may hereafter be referred to as the person filing the complaint.

(Effective May 7, 1980)

Sec. 5-273-23. Complaint; form and filing; certification of service

A complaint shall be in writing. The original shall be signed and sworn to before any person authorized to administer an oath. The original and four (4) copies of the complaint shall be filed with the Board. The complaint shall include a certification also signed and sworn to before any person authorized to administer an oath stating that a copy of the complaint has been served upon the respondent by registered or certified mail or in person. Blank forms for making the complaint shall be supplied by the Board upon request.

(Effective May 7, 1980)

Sec. 5-273-24. Contents of complaint

A complaint shall contain the following:

(a) The full name and address of the person making the complaint.

(b) The full name and address of the employer or union or the division thereof against whom the complaint is filed.

(c) A clear and concise description of the acts which are claimed to constitute prohibited practices, including, where known, the appropriate dates and places of such acts and names of respondent's agents or other representatives by whom committed, or if, in any such case, the required specification is impossible, the reason why it is impossible. Other facts shall be stated which are sufficient to describe the nature of the conduct complained of.

(d) An enumeration of the subdivision or subdivisions of Section 5-272 claimed to have been violated.

(e) A statement of the relief to which the complainant deems itself entitled. Such claim for relief shall not limit the powers of the Board vested in it by the Act.

(Effective May 7, 1980)

Sec. 5-273-25. Withdrawal of complaint

A complaint, or any part thereof, may be withdrawn only with the consent of the Board and upon such conditions as the Board may deem proper.

(Effective May 7, 1980)

Sec. 5-273-26. Reference of complaint to agent; investigation; more specific statement

All complaints filed with the Board shall be automatically referred to its Agent who shall investigate the same with due diligence; provided, however, that the agent may return to the complainant without investigation any complaint which does not comply with section 5-273-24 of these regulations.

(Effective May 7, 1980)

Sec. 5-273-27. Report by agent to board

Within three (3) months of the date when the complaint was filed, the Agent shall report to the Board upon each complaint referred to him, recommending its dismissal or a hearing upon it. If the Agent recommends dismissal, he shall do so in writing and shall forthwith serve a copy of his recommendation upon all parties in interest. If any such party files a written objection to the Agent's recommendation of dismissal within fourteen (14) days of its service upon him, the Board shall order a hearing to be held upon the complaint. Unless such objection is so filed, the Board will dismiss the complaint.

(Effective May 7, 1980)

Sec. 5-273-28. Action by board upon agent's report; notice of hearing

The Board shall act promptly upon the Agent's report. If it orders a hearing, it shall cause to be issued and served upon each person complained of a copy of the complaint and a notice of hearing before the Board at the time and place therein fixed, to be held not less than seven (7) days after the service of such complaint. Notice of the hearing shall be given to the person filing the complaint or his representatives.

(Effective May 7, 1980)

Sec. 5-273-29. Acceleration of hearing

The parties to the proceedings may consent by stipulation to a hearing within less than seven (7) days after the service of such complaint.

(Effective May 7, 1980)

Sec. 5-273-30. Amendment to complaint

Any complaint may be amended by any party or the Board to conform to the issues litigated at any time before final decision or order, upon such terms and conditions as the Board deems just and proper.

(Effective May 7, 1980)

Sec. 5-273-31. Service and filing of answer

The respondent against whom the complaint is issued shall have the right to file an answer thereto within five (5) days from the service of the complaint. Such answer shall be in writing, the original being signed by the respondent or his, or its, attorney. The respondent, or his, or its attorney, shall file the answer and four (4) copies thereof with the Board and serve copies of the answer on each party to the proceeding.

(Effective May 7, 1980)

Sec. 5-273-32. Denial

The respondent shall admit or deny each of the allegations contained in the complaint unless the respondent is without knowledge or information sufficient to form a belief as to the truth of an averment, in which case the respondent shall so state, such statement operating as a denial. The answer may contain a plain statement of any explanation or new matter which constitutes the grounds of the defense.

(Effective May 7, 1980)

Sec. 5-273-33. Defense and new matter

Any allegations of new matter contained in the answer is to be deemed denied or avoided without the necessity of a reply.

(Effective May 7, 1980)

Sec. 5-273-34. Extension of time to answer

Upon the Board's own motion or upon application of the respondent, the Board may extend the time within which the answer may be filed. The answer may be amended at any time with the permission of the Board, upon such terms and conditions as it deems just.

(Effective May 7, 1980)

Sec. 5-273-35. Amendment of answer; following amendment of complaint

In any case where a complaint has been amended, the respondent shall have an opportunity to amend his answer within such period as may be fixed by the Board.

(Effective May 7, 1980)

Sec. 5-273-36. Failure to file answer

Notwithstanding any failure of the respondent to file an answer within the time provided, the Board may proceed to hold a hearing at the time and place specified in the notice of hearing, and may make its findings of fact and enter its order upon the testimony so taken. In any case where a respondent fails to answer and appear at the hearing the Board may take the allegations in the complaint as admitted and may issue an appropriate order.

(Elective May 7, 1980)

Sec. 5-273-37. Pleadings; construction

All pleadings shall be liberally construed.

(Effective May 7, 1980)

Sec. 5-273-38. Back pay proceedings

(a) After a Board order directing the payment of back pay has been issued or after enforcement of such order by the superior court, if informal efforts to dispose of the matter prove unsuccessful, the agent is then authorized in his discretion to issue a back pay specification in the name of the Board and a notice of hearing before the Board, both of which shall be sent by registered or certified mail to the parties involved. The specification sets forth the computations showing gross and net back pay due and any other pertinent information. The respondent must file an answer within fifteen (15) days of the receipt of the specification setting forth a particularized statement of its defense.

(b) In the alternative, and in his discretion, the agent under the circumstances specified above, may issue and send to the parties a notice of hearing only without a specification. Such notice shall contain in addition to the time and place of hearing before the Board, a brief statement of the matters in controversy.

(Effective May 7, 1980)

Article IV**Miscellaneous Proceedings****Sec. 5-273-39. Declaratory ruling; form of petition**

Whenever there is a substantial and immediate threat to rights protected by the Act Concerning Collective Bargaining for State Employees a person or organization may request a declaratory ruling by the Board with respect to the applicability to such person or organization of any statute, regulation, or order enforced, administered or promulgated by the Board in the following form:

(a) A petition stating the factual background of the issue must be in writing and sent to the Board by mail or delivered in person during normal business hours.

(b) The petition shall be signed by a person or representative of an organization in whose behalf the inquiry is made and shall state the address of such person or organization and the name and address of the petitioner's attorney, if applicable.

(c) A petitioner shall send a copy of the petition by registered or certified mail to any person or organization that may be immediately affected by the petition. The petition shall state the persons or organizations so notified. If the petitioner is in doubt as to who should be notified it may apply to the Board for an order of notice.

(d) The petition shall state clearly and concisely the substance and nature of the request. It shall identify the statute, regulation or order concerning which the request is made and shall identify the particular aspect thereof to which the question or applicability is directed.

(e) The petition shall state the position of the petitioner with respect to the question of applicability.

(f) The petition or brief attached thereto may include an argument in support of the position of the petitioner with such legal citation as may be appropriate.

(Effective May 7, 1980)

Sec. 5-273-40. Declaratory ruling; procedure after filing

(a) The Board may give notice to any other person or organization that such a declaratory ruling has been requested and may receive and consider facts, arguments, and opinions from persons other than the petitioner.

(b) If the Board deems a hearing necessary or helpful in determining any issue concerning the request for declaratory ruling, the Board shall schedule such hearing and give such notice thereof as shall be appropriate.

(Effective May 7, 1980)

Sec. 5-273-41. Scope of bargaining determination

Any employee organization, employer, or arbitrator may request the Board to determine the scope of collective bargaining if

(1) during the course of collective negotiations one party seeks to negotiate with respect to a matter or matters which the other party contends is not a mandatory subject for collective negotiations or

(2) a party alleges that an illegal subject of bargaining is improperly submitted to a grievance arbitrator. A request for such a determination shall be submitted to the Board in the same form as a request for a declaratory ruling and shall be subject to the same procedure. If such a request has the effect of delaying negotiations or arbitration, the Board shall make every effort to expedite the proceeding.

(Effective May 7, 1980)

Sec. 5-273-42. Petitions concerning adoption of regulations

(a) Any person or organization may at any time petition the Board to promulgate, amend or repeal any regulation. The petition shall set forth clearly and concisely the text of the proposed regulation, amendment, or repeal. Such petition shall also state the facts and arguments that favor the action it proposes by including such data, facts and arguments in the petition or in a brief annexed thereto. The petition shall be signed by the petitioner and shall furnish the address of the petitioner and the name of petitioner's attorney, if applicable.

(b) Within thirty (30) days following receipt of the petition, the Board shall determine whether to deny the petition, or to initiate regulation making proceedings

in accordance with the petition. If the petition is denied, the petitioner shall be notified in writing of the reasons for said denial.

(Effective May 7, 1980)

Sec. 5-273-43. Settlement of cases

Informal disposition may be made of any complaint or petition by stipulation, agreed settlement, consent order, or default.

(Effective May 7, 1980)

Sec. 5-273-44. Pre-trial hearings

Prior to any scheduled hearing the Board or agent may order the parties to meet with a Board member, agent or other staff member for the purpose of obtaining stipulations of fact, joint exhibits, disclosure of evidence and identification of witnesses and issues to be raised at the formal hearing. Failure to disclose evidence, witnesses or issues at the pre-trial hearing may result in the Board's denying the introduction of such evidence, testimony or issues at the formal hearing.

(Effective May 7, 1980)

Article V

General Provisions Relating to Parties and Procedure Applicable to All Proceedings

Sec. 5-273-45. Quorum of board

A vacancy in the Board, or the absence or disqualification of a member of the Board, shall not impair the right of the remaining members to exercise all of the powers of the Board, and two members of the Board shall at all times constitute a quorum.

(Effective May 7, 1980)

Sec. 5-273-46. Nonjoinder and misjoinder of parties

No proceeding under the Act will be dismissed because a person directly concerned is not a party thereto. If it is necessary for the determination of the matter in dispute so to do, the Board may allow parties to be added or substituted and unnecessary parties to be dropped at any time in the proceeding.

(Effective May 7, 1980)

Sec. 5-273-47. Parties; relief

All persons alleged to have engaged in any prohibited practices may be joined as respondents, whether jointly, severally or in the alternative, and a decision may be rendered against such one or more of the respondents as is appropriate upon all the evidence. The Board may award any relief appropriate under law and the facts found proven, and shall not be limited to the relief demanded.

(Effective May 7, 1980)

Sec. 5-273-48. During pendency of hearing

All motions made at a hearing shall be stated orally, shall be included in the stenographic report of the hearing and shall be decided by the Board. All motions, rulings, decisions and orders shall be and become part of the record in the proceeding.

(Effective May 7, 1980)

Sec. 5-273-49. Motion made before or after hearing

All motions made, other than those made during a hearing or hearings, shall be filed in writing with the Board and shall state the order or relief applied for and the grounds for such motion. The moving party shall serve copies of all such papers on all parties and shall, within three (3) days thereafter, file an original, with proof of due service, and four (4) copies of all papers with and for the use of the Board. Answering statements, if any, shall be served on all parties and an original thereof, with proof of due service, and four (4) copies shall be filed with the Board within three (3) days after service of the moving party or parties, unless otherwise directed by the Board. All motions shall be decided by the Board upon the papers filed with it, unless the Board, in its discretion, shall decide to hear oral argument, or take testimony, in which event the Board shall notify the parties of such fact and of the time and place for such argument or for the taking of such testimony.

(Effective May 7, 1980)

Sec. 5-273-50. Intervention; procedure; contents; filings and service

Any person, employer or subdivision thereof, or employee organization desiring to intervene in any proceeding shall file with the Board a sworn petition and four (4) copies thereof in writing, setting forth the facts upon which such person, employer or its subdivision thereof, or employee organization claims an interest in the proceedings. Such petition shall be served on all parties. Petitions shall be filed with the Board, with proof of service, at least two (2) days prior to the first hearing. Failure to serve or file such petition, as above provided, shall be deemed sufficient cause for the denial thereof, unless it shall be determined that good and sufficient reason exists why it was not served or filed as herein provided. The Board shall rule upon all such petitions and may permit intervention to such an extent and upon such terms or conditions as it shall determine may effectuate the policies of the Act.

(Effective May 7, 1980)

Sec. 5-273-51. Consolidation or severance

Two or more proceedings under this Section of the Act may be consolidated by the Board, in its discretion, and such proceedings may be severed by the Board, in its discretion.

(Effective May 7, 1980)

Sec. 5-273-52. Witnesses; examination; record; depositions

Witnesses at all hearings shall be examined orally, under oath or affirmation, and a record of the proceedings shall be made and kept by the Board. If a witness resides outside the state or through illness or other cause is unable to testify before the Board, his or her testimony or deposition may be taken within or without the state in such manner and in such form as may be directed by the Board. All applications for the taking of such testimony or depositions shall be made by motion to the Board in accordance with the motion practice herein set forth.

(Effective May 7, 1980)

Sec. 5-273-53. Application for subpoenas

Any party to a proceeding may apply to the Board for the issuance of a subpoena or subpoena duces tecum, requiring the attendance during a hearing of any person, party or witness and directing the production at a hearing of any books, records or correspondence or other evidence relating to any matter under investigation or any question before the Board. Such application shall be timely, shall be in writing and

shall specify the name of the witness or the documents or things, the production of which is desired, with such particularity as will enable such documents to be identified for purposes of production and the return date desired. Such application shall be made and filed with the Board and need not be served on any other party. Any subpoena issued by the Board shall be mailed or delivered forthwith to the party applying therefor. Arrangements for the service of the subpoena, according to law, shall be made by such party.

(Effective May 7, 1980)

Sec. 5-273-54. Witness fees

Witnesses summoned before the Board or its Agent shall be paid the same fees and mileage that are paid witnesses in the courts of the state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the state. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear and shall be paid by the Board when they appear by the Board's instance, and the person taking the deposition shall be paid by the party at whose instance the deposition is taken or by the Board if the deposition is taken at its instance.

(Effective May 7, 1980)

Sec. 5-273-55. Board shall conduct hearings

A hearing for the purpose of taking testimony upon a complaint, or upon a complaint and answer, or upon a petition for an election shall be conducted by the Board. Such hearings shall be open to the public.

(Effective May 7, 1980)

Sec. 5-273-56. Hearings; powers and duties of the board

During the course of any hearing, the Board shall have the full authority to control the conduct and procedure of the hearings, and the records thereof, to admit or exclude testimony or other evidence, and to rule upon all motions and objections made during the course of the hearing. The Board shall provide that a full inquiry is made into all the facts in issue and shall obtain a full and complete record of all facts necessary for a fair determination of the issues. In any hearing, the Board shall have the right to call and examine witnesses, to direct the production of papers or documents and to introduce into the record such papers or documents.

(Effective May 7, 1980)

Sec. 5-273-57. Examination of witnesses; introduction of evidence

In any hearing, the Agent and all parties shall have the right to call, examine and cross-examine witnesses and to introduce into the record papers and documents or other evidence subject to the ruling of the Board.

(Effective May 7, 1980)

Sec. 5-273-58. Hearings; evidence

The Board shall not be bound by technical rules of evidence. All findings of the Board as to facts shall be supported by substantial evidence.

(Effective May 7, 1980)

Sec. 5-273-59. Hearings; stipulations

At a hearing, stipulations may be introduced in evidence with respect to any issue, subject to the ruling of the Board.

(Effective May 7, 1980)

Sec. 5-273-60. Continuation of hearings

In the discretion of the Board, the hearing may be continued from day to day or adjourned to a later date, or to a different place, by announcement thereof at the hearing by the Board or by other appropriate notice designated by the Board.

(Effective May 7, 1980)

Sec. 5-273-61. Contemptuous conduct at hearings

Any person who engages in contemptuous conduct before the Board may, in the discretion of the Board, be excluded from the hearing room or further participation in the proceeding.

(Effective May 7, 1980)

Sec. 5-273-62. Waiver of hearing; consent order

Nothing shall prevent the entry of an order with the consent of the respondent, and on notice to all parties and without the holding of any hearing or the making of any findings of fact or conclusions of law, if the respondent shall waive the holding of any hearing and making of the findings of fact and conclusions of law.

(Effective May 7, 1980)

Sec. 5-273-63. Oral argument or briefs; requests for findings of fact or conclusions at the close of hearings

In all hearings under this Act the Board may, in its discretion, permit the parties to argue orally before it at the close of the hearing or to file briefs, requests for findings of fact or conclusions with it. The time for oral argument, filing briefs or requests for findings of fact or conclusions shall be fixed by the Board. Any request for oral argument before the Board shall be submitted at the close of the hearing. The granting or denial of permission to argue orally before the Board shall be within the discretion of the Board. Arguments shall be included in the stenographic report unless the Board directs otherwise.

(Effective May 7, 1980)

Sec. 5-273-64. Variance between pleading and proof

(a) A variance between an allegation in a petition for an election or a pleading in a prohibited practice proceeding and the proof shall be considered immaterial unless it prejudicially misleads any party or the Board. Where a variance is not material, the Board may admit such proof and the facts may be found accordingly. Where a variance is material, the Board may permit an amendment at any time before the final order of the Board, upon such terms as it deems just. Any party or the Board may move to conform the pleadings to the proof.

(b) The Board shall disregard all defects in pleading and procedure wherever this may be done without impairing the substantial rights of any party, if justice so requires.

(Effective May 7, 1980)

Sec. 5-273-65. Motions and objections at hearings

Motions made during the hearing and objections with respect to the conduct of the hearing, including objections to the introduction of evidence, shall be stated orally and shall be included in the stenographic report of the hearing.

(Effective May 7, 1980)

Sec. 5-273-66. Application for leave to reopen a hearing on grounds of newly discovered evidence

No motion for leave to reopen a hearing because of newly discovered evidence shall be entertained unless it is shown that such additional evidence is material, that the motion has been timely made and that there were reasonable grounds for the failure to adduce such evidence at the hearing. Nothing contained in this section shall be deemed to limit the right and power of the Board in its discretion and on its own motion to reopen a hearing and take further testimony.

(Effective May 7, 1980)

Sec. 5-273-67. Findings of fact; conclusions of law; decision and order; exception

The Board shall, within a reasonable time after the close of a hearing under the provision of this Act, issue its findings of fact, conclusions of law, decision and order. Such findings of fact, conclusions of law, decision and order shall contain, but need not be limited to (a) a statement of the case and preliminary procedure before the Board; (b) findings of fact; (c) conclusions of law; (d) decision and order.

(Effective May 7, 1980)

Sec. 5-273-68. Record of proceedings before the board; prohibited practice cases

(a) The record of the proceedings before the Board in prohibited practice cases shall consist of the complaint or amended complaint, any other pleadings, notices of hearings, motions, orders, stenographic report, exhibits, depositions, findings of fact, conclusions of law, the decision and order.

(b) If a prohibited practice proceeding is predicated in whole or in part upon a prior representation proceeding, the record of such prior representation proceeding shall be deemed a part of the record in the prohibited practice proceeding for all purposes.

(Effective May 7, 1980)

Sec. 5-278-69. Records of proceedings before the board; representation cases

The record of the proceedings before the Board in representation cases shall consist of the notification, petition or amended petition, notices of hearings, motions, orders, agreement, stenographic report, exhibits, decision and direction of election, report upon secret ballot, objections thereto, certification, dismissal or decision and order.

(Effective May 7, 1980)

Sec. 5-273-70. Public record

The record shall constitute the public record of the cases and shall be made available for inspection or copying under such conditions as the Board may prescribe.

(Effective May 7, 1980)

Sec. 5-273-71. Practice before the board

Any person who at any time has been a member of or employed by the Board shall not be permitted to appear as attorney or representative for the employer or its subdivisions thereof or employee organization until the expiration of six (6) months from the termination of his employment with the Board, nor shall he at any time be permitted to appear in any case which was pending before the Board during the period of his employment with the Board.

(Effective May 7, 1980)

Article VI

Service of Complaints, Orders and Other Processes

Sec. 5-273-72. Method; proof; complaints; orders; and other processes and papers of the board and agent

Complaints, decisions and orders and other processes and papers of the Board and Agent may be served personally, by registered or certified mail, by telegraph or by leaving a copy thereof in the principal office or place of business of persons to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same and the return post office receipt or telegraph receipt, therefor, when registered or certified and mailed or telegraphed as aforesaid, shall be proof of service of the same.

(Effective May 7, 1980)

Sec. 5-273-73. Service by a party

Service of papers by a party to the proceeding shall be made by registered or certified mail or in person. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of such service. When service is made by registered or certified mail, the return post office receipt shall be proof of service.

(Effective May 7, 1980)

Sec. 5-273-74. Service upon attorney

If a party appears by its attorney, all papers other than the complaint, notice of original hearings, and final decisions and orders may be served, as therein provided, upon such attorney with the same force and effect as though served upon the party.

(Effective May 7, 1980)

Article VII

Construction, Amendments, or Application of Regulations

Sec. 5-273-75. Construction of regulations

These Regulations shall be liberally construed and shall not be deemed to limit the powers conferred upon the Board by the Act.

(Effective May 7, 1980)

Sec. 5-273-76. Amendments; general regulations

Any regulation may be amended or rescinded by the Board at any time, in the manner provided by statute.

(Effective May 7, 1980)

Sec. 5-273-77. Collective bargaining units in the executive branch of the state government

(a) Non-professional units.

(1) State Police - uniformed and investigatory.

(2) Service, maintenance, building trades and crafts. This constitutes a traditional blue collar unit and includes all employees not engaged in clerical administrative or office-related tasks excepting employees engaged in security, law enforcement and health care.

(3) Administrative clerical employees. This constitutes a traditional unit composed largely of clerical and other office-related employees in all departments of the executive branch of the state government (including those employed in corrections, protection and health care functions). It also includes employees performing nonprofessional inspection functions concerned primarily with contents of papers and documents.

(4) Corrections officers. This unit includes employees in correctional institutions concerned with custody, education, and counseling of inmates confined to institutions under the jurisdiction of the Corrections Department.

(5) Protective services. This unit includes employees engaged in the protection of property (e.g. guards, firefighters) and in law enforcement functions, excluding state police.

(6) Health care unit. This unit includes all non-professional employees engaged in health care functions (except clerical and blue collar employees).

(b) Professional units.

(1) Health Care unit. This includes doctors nurses, and other professionals engaged in health care functions.

(2) Social and human services. This unit includes all professional employees who are responsible for administering social welfare and social insurance programs and distributing benefits provided thereunder, as well as for providing counseling services to a range of clients.

(3) Education. This unit includes all professional employees engaged in functions related to education except those included in units defined in the Act itself.

(4) Engineering, science, and related. This unit includes professional engineers, architects, and other scientific personnel except those specifically included in other units.

(5) Administrative and residual. This unit includes white collar professional employees and complements unit number (a) (3) (administrative clerical employees).

(c) Deviations from model units. The units defined by these regulations are not intended to exclude:

(1) other units upon which all interested parties agree; or

(2) other units determined by the Board in response to individual petitions which deviate from the models for good cause shown.

(Effective May 7 1980)