Title 61: Office of Collective Bargaining

Chapter 1: Practice and Procedure

§ 1-01 Definitions.

As used in this chapter, the following terms have the meanings set forth in § 12-303 of the Administrative Code of the City of New York: "Director," "Board of Collective Bargaining," "Board of Certification," "municipal agency," "municipal employees," "mayoral agency," "public employer," "public employees," "municipal employee organization," "public employee organization," "Municipal Labor Committee," "certified employee organization," "matters within the scope of collective bargaining," "executive order," "grievance," "labor member," "city member," "impartial member," "designated representative," and "designated employee organization".

Deputy Director. The term "Deputy Director" means a deputy appointed by the Director pursuant to Section 1170 of the Charter.

Director of Representation. The term "Director of Representation" means the person appointed by the Director to administer and oversee the processing of all representation cases and all other duties as assigned by the Director.

Executive Secretary. The term "Executive Secretary" means the person appointed by the Director to carry out the responsibilities defined by 61 RCNY § 1-07(c)(2).

Improper practices. The term "improper practices" has the meaning set forth in § 12-306 of the statute; the term "improper practices proceeding" means a proceeding conducted, pursuant to § 12-309(a)(4) of the statute, to investigate and determine charges of improper practices and, when appropriate, to issue orders for the purpose of remedying such improper practices.

Representation proceeding. The term "representation proceeding" means a proceeding under § 12-309(b) of the statute to investigate and determine a question or controversy concerning the representation of public employees for the purposes of collective bargaining.

Rules. These rules shall be cited as the Rules of the Office of Collective Bargaining (61 RCNY Chapter 1).

Statute. The term "statute" means the New York City Collective Bargaining Law, Chapter 3 of Title 12 of the Administrative Code of the City of New York, as amended.

Trial examiner. The term "trial examiner" means any authorized person conducting a hearing and may include a member of either Board, a Deputy Director, or any other agent designated by the Director to conduct a hearing.

(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-02 Representation Proceedings.

(a) *Definition.*

Board. As used in this section, the term "Board" means the Board of Certification.

(b) *Petition – filing.* A petition for the investigation of a question or controversy concerning the representation of public employees may be filed by a public employer, public employees, or their representative. The petition must be filed on a form prescribed by the Office of Collective Bargaining and must be in writing and signed.

(c) *Petition by public employees or their representatives – contents; proof of interest.*

(1) Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), a petition filed by public employees or their representatives must contain:

(i) The name, address, telephone number, and email address of petitioner;

(ii) The name, address, and telephone number of the public employer;

(iii) The titles and the approximate number of employees in the units claimed to be appropriate;

(iv) An allegation that a question or controversy exists concerning representation and a concise statement of the nature thereof;

(v) The names, addresses, and telephone numbers of any other public employee organizations, known to petitioner, which claim to represent employees in the alleged appropriate bargaining units, and the expiration date of any existing collective bargaining agreement;

(vi) A request that the Board certify or designate the petitioner as the exclusive bargaining representative of the employees in the appropriate units or for other appropriate action.

(2) Simultaneously with the filing of the petition, the petitioner must:

(i) In the case of a petition for certification, submit to the Board evidence that at least 30 percent of the employees in the appropriate unit, or in each appropriate unit, desire petitioner to represent them for the purposes of collective bargaining;

(ii) In the case of a petition for designation as the collective bargaining representative of a unit for the purposes specified in paragraphs two, three or six of § 12-307(a) of the statute, submit evidence that it is the certified representative of a bargaining unit which includes more than 50 percent of the employees in the unit for which designation is sought.

(3) If such evidence is not timely submitted, the Board may dismiss the petition forthwith. Sufficiency of interest shall not be litigated.

(d) *Petition by public employer – contents.* Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), the petition must contain:

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

(2) A general description of petitioner's function and the number of its employees;

(3) The titles and the approximate number of employees in the units claimed to be appropriate;

(4) An allegation that a question or controversy exists concerning representation and a concise statement setting forth the nature thereof, and, in any case when a public employer entertains a good faith doubt concerning the continued majority status of a certified union, an allegation to that effect with a concise statement of the facts upon which the doubt is based;

(5) The names, addresses, and telephone numbers of the public employee organizations which claim to represent the employees in the alleged unit(s);

(6) A request that the Board investigate the alleged question or controversy.

(e) *Decertification petition – contents; proof of interest.*

(1) A petition alleging that a certified or designated employee organization is no longer the representative of the public employees in an appropriate bargaining unit may be filed by a public employee or group of public employees, or their representative. Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), the petition must be in writing and signed and must contain:

(i) The name, address, telephone number, and email address of petitioner;

(ii) The name, address, and telephone number of the certified or designated employee organization;

(iii) A description of the bargaining unit(s) and the approximate number of employees in the unit(s);

(iv) The expiration date of any contract covering employees in the unit(s);

(v) An allegation that the certified or designated employee organization no longer is the representative of the employees in the appropriate unit(s), and any other relevant and material facts.

(2) (i) Simultaneously with the filing of a decertification petition, the petitioner must submit to the Board evidence that at least 30 percent of the employees in each unit do not desire to be represented by the certified employee organization;

(ii) Simultaneously with the filing of a petition for revocation of a designation as collective bargaining representative of a unit for the purposes specified in paragraphs two, three or six of § 12-307(a) of the statute, the petitioner must submit to the Board evidence that the designated representative is not the certified representative of the bargaining unit or units which include more than 50 percent of the employees in the unit which it has been designated to represent;

(iii) If such evidence is not timely submitted, the Board may dismiss the petition. Sufficiency of interest shall not be litigated.

(f) *Proof of interest – current.* Designation and authorization cards and petitions, submitted as proof of interest under 61 RCNY § 1-02(c)(2), (e)(2) or (l), must be dated and signed by the employees, by hand or electronically, not more than seven months prior to the commencement of the proceeding before the Board. Proof of interest shall be based on the payroll immediately preceding the date of filing of the petition, unless the Board deems such period to be unrepresentative.

(g) *Petitions – contract bar; time to file.* A valid contract between a public employer and a public employee organization will bar the processing of any petition filed outside of the window periods described below. The time period for filing a petition for certification, designation, decertification or revocation of designation pursuant to 61 RCNY § 1-02(c), (d), or (e) of these rules is: for a contract of no more than three years' duration, a petition can be filed not less than 150 or more than 180 calendar days before the contract's expiration date; for a contract of more than three years' duration, a petition can be filed not less than 150 or more than 180 calendar days before the contract's expiration date, or not less than 150 or more than 180 calendar days before the end of the third year of that contract. No petition for certification, decertification or investigation of a question or controversy concerning representation may be filed after the expiration of a contract. However, if a window period would be eliminated or shortened, such as when a public employer and a public employee organization sign a successor contract after that contract has expired or less than 180 days before it expires, then a petition for certification, decertification or question or controversy concerning representation may be filed in the 30-day period following the date the successor contract is signed by all parties. Moreover, if the Board finds that unusual or extraordinary circumstances exist, such as when there is reason to believe that a recognized or certified employee organization is defunct or has abandoned representation of the employees in the unit for which it was recognized or certified, the Board may process a petition otherwise barred by this rule.

(h) *Petitions – notice of filing.* Upon the filing of a petition pursuant to the provisions of 61 RCNY § 1-02, the Office of Collective Bargaining will publish the notice on its website and in the City Record. The notice shall include the date the petition was filed, the name and address of the petitioner, the name and address of the public employer, and a statement of the action sought. The notice will be prepared by the Board and delivered to the employer, which must post or distribute the notice in the manner in which it customarily communicates information to employees. If posted, notices must remain for a minimum of ten business days. Within 20 business days of service of the notice, the public employer must provide the Director of Representation with a certification that the notice has been posted or distributed.

(i) *Responses – time to file.* For petitions filed pursuant to 61 RCNY § 1-02(c), (d), or (e) the public employer or an employee organization certified to represent the existing bargaining unit must file its written submission with the Director of Representation within 20 business days after service of the notice of filing of a petition pursuant to 61 RCNY § 1-02, with proof of service upon all other parties, setting forth its position on the petition. As circumstances require, the request of the public employer or employee organization for an extension of time to file its written submission, on notice to all parties, shall not be unreasonably denied. When it is the public employer's position that any of the petitioned for titles and employees are managerial or confidential, in its written submission the employer must comply with the requirements of 61 RCNY § 1-02(v) insofar as they require a statement of the factual basis of the allegation that the affected titles and employees are managerial or confidential, as the case may be. In the absence of any response from the public employer or an employee organization certified to represent the existing bargaining unit within the time specified above, the Board shall proceed with processing the petition. For petitions filed pursuant to 61 RCNY § 1-02(c) and (e), responses filed by an employer must contain an alphabetized list of all the employees in the unit(s) sought.

(j) *Investigation.*

(1) In its investigation of a question or controversy concerning representation, the Board may conduct informal conferences or hearings, may direct an election or elections, or use any other suitable method to resolve the question concerning representation.

(2) If, after a petition has been filed pursuant to 61 RCNY § 1-02 and at any time prior to the close of the record, it appears to the Director of Representation that no further proceedings are warranted because the petition does not raise a question concerning representation or is otherwise insufficient due to untimeliness, contract or certification bar or lack of a sufficient showing of interest, the Director of Representation may dismiss the petition by administrative action, and will so advise the parties in writing, setting forth the grounds for dismissal.

(3) Within 10 business days after service of a letter dismissing a petition, the petitioner may obtain review of the dismissal by filing with the Board a statement in writing setting forth the reasons for the appeal together with proof of service thereof upon all other parties. A response by a non-moving party may be filed within 10 business days of service of the appeal.

(k) *Appropriate units – determination.* In determining appropriate bargaining units, the Board will consider, among other factors:

(1) Which unit will assure public employees the fullest freedom in the exercise of the rights granted under the statute and the applicable executive order;

(2) The community of interest of the employees;

(3) The history of collective bargaining in the unit, among other employees of the public employer, and in similar public employment;

(4) The effect of the unit on the efficient operation of the public service and sound labor relations;

(5) Whether the officials of government at the level of the unit have the power to agree or make effective recommendations to other administrative authority or the legislative body with respect to the terms and conditions of employment which are the subject of collective bargaining;

(6) Whether the unit is consistent with the decisions and policies of the Board.

(l) *Determination of representatives on consent.* Subject to the approval of the Director of Representation, the parties to a representation proceeding may waive a hearing and agree in writing on the method by which the Board shall determine the question of representation.

(m) *Voluntary recognition – notification.*

(1) *Filing of notification.* When the public employer proposes voluntarily to recognize a public employee organization for the representation of public employees pursuant to § 12-303(l)(2) of the statute, the employer must file a signed written notification with the Board.

(2) *Notification of proposed recognition by public employer – contents.* Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), the notification must contain:

(i) The name, address, telephone number, and email address of the public employer;

(ii) A general description of the public employer's function and the number of its employees;

(iii) The titles and the approximate number of employees in the units which have been recognized;

(iv) A statement that no question or controversy is known to exist concerning representation thereof;

(v) The names, addresses, and telephone numbers of the public employee organization(s) which has been recognized to represent the employees in the units;

(vi) A request that the certification held by the public employee organization(s) be amended, if applicable, to reflect the voluntary recognition.

(3) *Notification of proposed recognition – notice of filing.* Upon the filing of a notification of proposed recognition pursuant to the provisions of 61 RCNY § 1-02, the Office of Collective Bargaining will publish the notice on its website and in the City Record. The notice shall include the date the notification of recognition was filed, the name and address of the public employer, the name and address of the public employee organization, and a statement of the action sought. The notice will be prepared by the Board and delivered to the employer, which must post or distribute the notice in the manner by which it customarily communicates information to employees. If posted, notices must remain for a minimum of 10 business days. Within 20 business days of service of the notice, the public employer must provide the Director of Representation with a certification that the notice has been posted or distributed.

(4) *Objection to proposed recognition.* An employee, a group of employees, or a public employee organization may file a statement with the Board objecting to the proposed recognition and alleging that a question or controversy exists regarding representation. The statement of objection, if filed in a timely manner within the period of objection, will preclude a proposed recognition from becoming effective. If an objection is timely filed, the notice of voluntary recognition will be deemed a petition pursuant to 61 RCNY § 1-02(d) and will be processed accordingly.

(5) *Period of objection.* A public employee or employee organization objecting to the recognition must file its statement of objection, with proof of service on the public employer and public employee organization, setting forth the basis for its opposition within 10 business days of publication of the notice of filing in the City Record.

(n) *Elections – participation; eligibility.*

(1) If the Board determines, as part of its investigation, to conduct an election, it shall determine who may participate in the election and appear on the ballot, the form of the ballot, the employees eligible to vote in the election, and the rules governing the election. An intervening public employee organization, other than a certified public employee organization, shall not be entitled to appear on the ballot except upon a showing of interest, satisfactory to the Board, of at least 10 percent of the employees in the unit found to be appropriate.

(2) When a public employer objects to the addition of supervisory or professional employees to a unit which contains non-supervisory employees or nonprofessional employees pursuant to § 12-309(b)(1) of the statute, an election must be held to determine whether a majority of supervisory or professional employees voting in an election are in favor of such a unit. The electorate of such an election must consist solely of such supervisory or professional employees sought to be added to such a unit. When there is a dispute as to the eligibility of the employees in question or the appropriateness of the proposed unit, those issues shall be resolved by the Board prior to the holding of an election under this subdivision.

(3) Except upon consent of the parties, no election shall be conducted in any bargaining unit or any subdivision thereof within which a valid election has been held in the preceding 12-month period.

(o) *Elections – notice.* Prior to the election, the Board will prepare a notice of election which will specify the time, place, and manner in which voting will be conducted, titles of employees in the appropriate unit in which the election is to be conducted, rules concerning eligibility to vote, the form and content of the ballot, and such additional information and instructions as the Board may determine. The public employer must post or distribute the notice in the manner by which it customarily communicates information to employees. If posted, notices must remain until the election has been concluded.

(p) *Elections.*

(1) *Conduct.* All elections must be by secret ballot and must be conducted under the supervision of an agent of the Board in the manner determined by the agent.

(2) *Observers.* Each party may be represented by observers selected in accordance with such limitations and conditions as the Board may prescribe.

(3) *Challenges.* An observer or the Board's agent conducting the election may challenge for good cause the eligibility of any person to vote in the election. Challenged ballots shall be impounded pending Board decision thereon.

(4) *Count of ballots.* After the polls have been closed, the ballots shall be counted by the Board's agent in the presence of the observers.

(5) *Report of count.* Upon the conclusion of the election, the Board or its agent shall prepare and serve upon the parties a report showing the results of the election.

(q) *Inconclusive elections; runoff.* In any election in which three or more choices (including "no representative") appear on the ballot, if no choice receives a majority of the valid ballots cast, and the valid ballots cast for "no representative" total less than 50 percent of the valid ballots cast, the Board may conduct a runoff election in which only the two public employee organizations which received the largest number of valid votes shall appear on the ballot, and the choice of "no representative" shall be omitted from the ballot.

(r) *Post-election procedure – objections; challenges.* Within seven business days after service of the report of count, any party may serve on all other parties and file with the Board (with proof of service) objections to the election, to conduct affecting the results of the election, or to the report of count. The objections must be verified and must contain a concise statement of the facts constituting the grounds of objections. The Board may direct oral argument before it, or direct a hearing, or otherwise investigate and make its determination with respect to the objections or any challenged ballots.

(s) *Certification – determination of majority; no strike affirmation; disqualification.*

(1) Upon completion of its investigation of any petition filed pursuant to 61 RCNY § 1-02, the Board shall certify the name of the representative, if any, which has been designated by a majority of the employees in the appropriate bargaining unit or, if an election is held, which has been selected by the majority of the employees casting valid ballots in the election, or make other disposition of the matter. Notice of certifications issued by the Board shall be published in the City Record.

(2) No public employee organization shall be certified as an exclusive bargaining representative unless it has filed with the Board a no strike affirmation as required by the New York State Public Employees Fair Employment Act.

(3) An employee organization shall not be eligible for certification as an exclusive bargaining representative if it:

(i) discriminates with regard to the terms and conditions of membership because of race, color, creed, religion, disability, gender, sexual orientation, age, or national origin, or

(ii) engages in or advocates the violent overthrow of the government of the United States or any state or any political subdivision thereof.

(t) *Certification; designation – life; modification.* When a representative has been certified by the Board, the certification remains in effect for one year from the date of the certification and until the Board determines, after a secret ballot election conducted in a proceeding under 61 RCNY § 1-02(c), (d), or (e), that the certified employee organization no longer represents a majority of the employees in the appropriate unit. When a representative has been designated by the Board to represent a unit for the purposes specified in paragraphs two, three or six of § 12-307(a) of the statute, the designation remains in effect for one year from the date of designation and until the Board determines that the designated employee organization no longer represents a majority of the employees in the appropriate unit. Notwithstanding the above bar on challenging a certification within one year of its issuance, in any case when unusual or extraordinary circumstances require, such as when there is reason to believe that a recognized or certified employee organization is defunct or has abandoned representation of the employees in the unit for which it was recognized or certified, the Board may modify or suspend, or may shorten or extend the life of the certification or designation.

(u) *Amendments of certifications – petition; notice of filing; response; disposition by the Board.*

(1) A public employer or the certified bargaining representative of a unit may file a petition requesting amendment of a certification to add and/or delete titles or to reflect that the certified bargaining representative has changed its name. The petition must be in writing, signed, and filed with the Board. If a proposed amendment raises a question concerning the majority status of the certified bargaining representative, the petition must be filed pursuant to 61 RCNY § 1-02(c).

(2) Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), a petition for amendment of certification must contain:

(i) The name, address, and telephone number of the certified bargaining representative of the unit(s) involved;

(ii) A description of the bargaining unit(s) involved and the date of certification of the bargaining representative;

(iii) All titles involved, the number of employees in each title, and the name of each public employer and/or municipal agency at which the employees work;

(iv) A request that the bargaining representative's certification be amended to reflect the changes recited in the petition.

(3) Upon the filing of a petition pursuant to this subdivision, the Office of Collective Bargaining will publish a notice of the filing on its website and in the City Record. The notice shall include the date the petition was filed, the names and addresses of the parties and the changes requested by the petition. The notice shall be prepared by the Board and delivered to the employer, which must post or distribute the notice in the manner by which it customarily communicates information to employees. If posted, notices must remain for a minimum of 10 business days. Within 20 business days of service of the notice, the public employer must provide the Director of Representation with a certification that the notice has been posted or distributed.

(4) A public employer or employee organization opposing the petition must file its response, with proof of service on the other parties, setting forth the basis for its opposition within 20 business days of service of the notice of filing.

(5) In the absence of a response filed by a public employer or employee organization opposing the petition or in the absence of defects revealed by the Board's investigation, the Board shall issue the amendment.

(6) When a petition filed under this subdivision is contested, the Board may conduct informal conferences or hearings, may direct an election or elections, or use any other suitable method to resolve the question concerning representation.

(v) *Petition for designation of employees as managerial or confidential – contents; time to file; notice; intervention; investigation; determination.*

(1) A petition for the designation of certain of its employees as managerial or confidential may be filed by a public employer. The petition must be in writing, signed, and filed with the Board. Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), the petition must contain:

(i) The name, address, telephone number, and email address of petitioner;

(ii) A general description of petitioner's function;

(iii) The titles of employees covered by the petition and the number of employees in each;

(iv) A statement as to whether any of the titles affected by the petition has ever been included in a collective bargaining unit for purposes of negotiation with petitioner; whether any of them has been represented at any time by a certified employee organization; and the current collective bargaining status of each title;

(v) The expiration date of any current collective bargaining agreement covering employees affected by the petition;

(vi) A request that the titles and employees affected by the petition be designated either managerial, confidential, or both, as the case may be;

(vii) A statement of the basis of the allegation that the titles and employees affected by the petition are managerial and/or confidential;

(viii) The name, address, and telephone number of any certified employee organization which represents persons affected by the petition.

(2) A petition for the designation of employees as managerial or confidential may be filed:

(i) Not less than five or more than six months before the expiration date of the contract covering the employees sought to be designated managerial or confidential; or

(ii) During the pendency of a representation proceeding in which the petitioned for unit includes the employees sought to be designated managerial or confidential; or

(iii) In the discretion of the Board when unusual circumstances are involved.

(3) Any employee affected by the petition may apply to the Board for permission to intervene in the proceeding following the general procedures prescribed in 61 RCNY § 1-12(k). The application must be made by a motion addressed to the Board and contain the basis for the request for permission to intervene, including a statement as to whether intervenor appears in support of or in opposition to the petition and a recital of the facts upon which intervenor bases its support or opposition.

(4) In its investigation of a question as to the managerial or confidential status of employees, the Board may conduct informal conferences or hearings or use any other suitable method of resolving the matter.

(5) Upon completion of its investigation, the Board shall determine whether or not the titles affected by the petition or any of the persons employed in any such title are managerial or confidential and shall communicate its determination to the parties. Notice of such determination shall also be published in the City Record.

(6) A determination by the Board made pursuant to this subdivision regarding the managerial or confidential status of a title shall be final and binding and, subject to 61 RCNY § 1-02(v)(2)(iii), the determination shall preclude a petition to represent the title and employees or a petition to designate the title and employees managerial or confidential for a period of two years or until the period specified in 61 RCNY § 1-02(v)(2)(i) above, whichever is later. A petition filed pursuant to this subdivision must include a statement of facts demonstrating such a material change in circumstances subsequent to the Board's prior determination as to warrant reconsideration of the managerial or confidential status of the title or employee.

(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-03 Collective Bargaining.

(a) *Definition.*

Board. As used in this section, the term "Board" means the Board of Collective Bargaining.

(b) *Bargaining notice – contents.* Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), a bargaining notice, served and filed pursuant to § 12-311(a) of the statute, must be on a form prescribed by the Office of Collective Bargaining and must contain:

(1) The name, address, telephone number, and email address of the party serving the notice;

(2) The name, address, telephone number, and email address of the party to whom the notice is directed;

(3) The expiration date of the current collective bargaining agreement and the date specified therein, if any, for service of a notice of intention to negotiate new contract terms, or a statement that there is no collective bargaining agreement in effect;

(4) A description of the appropriate bargaining unit, including the certification number or numbers of the units covered and the approximate number of employees in the units covered by the request for negotiation;

(5) A request that negotiations begin within 10 business days after service of the notice.

(c) *Extension of time – request.* A request for an extension of time to commence bargaining negotiations must be in writing and must be filed with the Director. A copy thereof must be served upon the other party to the proposed negotiations. The request must be filed at least three business days before the time when negotiations should start and must state the reasons for the requested extension of time. The other party may serve and file its written consent or objections to the requested extension, and its reasons therefor. The Director or the Director's designee shall notify the parties in writing whether the request is denied or granted.

(d) *Filing contracts.* Every public employer entering into a written collective bargaining agreement with a public employee organization must file copies thereof that are in electronic formats with the Board within 10 business days after the execution of the agreement. Contracts filed with the Board shall be public records and available for inspection at reasonable times.

(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-04 Mediation.

(a) *Request for mediation – contents.* Unless waived by the Deputy Director, a request for the appointment of a mediation panel or mediation assistance by the Deputy Director must be in writing, and upon notice to all parties. Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), the request must be filed on a form prescribed by the Office of Collective Bargaining and must contain:

(1) The name, address, telephone number, and email address of the other party to the collective bargaining negotiations;

(2) The date negotiations started;

(3) The termination date of the collective bargaining agreement between the parties, if any;

(4) A statement that the parties have been unable to agree on the terms of a collective bargaining agreement, and that collective bargaining will be aided by the appointment of a mediation panel or the assistance of the Deputy Director;

(5) If the request is for the appointment of a mediation panel, then the number of persons to constitute the panel, if the parties have agreed thereon;

(6) If the request is for the appointment of a mediation panel, then the names of persons who are listed on the Office of Collective Bargaining's mediation register who are to constitute the panel, if the parties have agreed thereon.

(b) *Appointment of panel.* If the Deputy Director determines that the parties have been unable to reach agreement and that collective bargaining would be aided by the appointment of a mediation panel, the Deputy Director shall appoint a panel from the mediation register. The panel shall be of the size and shall consist of the persons agreed upon by the parties, if those persons are available. In the absence of agreement thereon, the Deputy Director shall determine the size and/or membership of the panel. No panel shall be appointed within 30 calendar days of the commencement of negotiations except upon the written request of both parties.

(c) *Panel – functions.* It shall be the duty of the panel to assist the parties to reach a voluntary and satisfactory agreement. The panel may hold separate or joint meetings with the parties or their representatives, and such meetings shall be non-public unless otherwise agreed upon by the parties, the panel and the Deputy Director.

(d) *Panel – guidance by Deputy Director.* The panel shall perform its duties under the general guidance and direction of the Deputy Director, to whom it shall report the progress of the mediation and terms of any settlement reached. If the panel is of the opinion that further mediation efforts would be unavailing, it shall so report to the Deputy Director in writing unless waived by the Deputy Director.

(e) *Confidential disclosures.* Subject to the provisions of 61 RCNY § 1-04(d), any information disclosed by the parties to the mediation panel, and all records, reports and documents prepared or received by the panel in the performance of its duties shall be deemed confidential and shall not be disclosed.

(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-05 Impasse Panels.

(a) *Definition.*

Board. As used in this section, the term "Board" means the Board of Collective Bargaining.

(b) *Request for impasse panel – contents.* A request for the appointment of an impasse panel may be made jointly by the public employer and the certified or designated employee organization, or singly by either party. Unless waived by the Director, the request must be in writing and signed by the public employer and the certified or designated employee organization or by any of them, if made singly. If the request is by a single party, a copy must be served on the other party. Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), the request must be filed with the Board on a form prescribed by the Office of Collective Bargaining and shall contain:

(1) The names, addresses, telephone numbers, and email addresses of the parties;

(2) The date when negotiations began and the date of the last meeting;

(3) The nature of the matters in dispute and any other relevant facts, including a list of the specific employer and/or employee organization demands upon which impasse has been reached;

(4) A statement that collective bargaining (with or without mediation) has been exhausted and that conditions are appropriate for the creation of an impasse panel;

(5) The size of the panel to be appointed, if the parties have agreed thereon;

(6) The names of the persons who are listed on the Office of Collective Bargaining's impasse panel register and who are to constitute the panel, if the parties have agreed thereon.

(c) *Investigation by Director upon request.* Upon receipt of the request for an impasse panel, the Director may conduct or cause to be conducted an investigation to ascertain if the conditions for an impasse panel have been met, namely, that the collective bargaining negotiations have been exhausted and that the conditions are appropriate for the creation of an impasse panel.

(d) *Investigation by Director without request.* The Director may cause such investigation or hearing to be conducted without receipt of a request for the appointment of an impasse panel from either or both of the parties.

(e) *Director's recommendation.* If the Director concludes that collective bargaining negotiations have been exhausted and that conditions are appropriate for the creation of an impasse panel, the Director shall convey such conclusion either orally or in writing to the Board, with information as to the nature of the dispute as the Board may require. The parties shall be notified in writing of the Director's recommendation. If the initial request was not a joint request, the party or parties not requesting the creation of an impasse panel may object to the recommendation, in writing, within three business days after service of notice of the recommendation.

(f) *Authorization of panel.* If the Board determines that collective bargaining negotiations (with or without mediation) have been exhausted and that conditions are appropriate for the creation of an impasse panel, it shall instruct the Director to appoint such panel. In reaching its determination, the Board may conduct or direct any additional investigation, conferences or hearings as it deems advisable and proper. The Director may appoint an impasse panel, without prior consultation with the Board, upon request of both parties.

(g) *Scope of collective bargaining.* When the appointment of an impasse panel has been authorized in accordance with 61 RCNY § 1-05(f), a petition seeking a determination whether a particular demand is within the scope of collective bargaining must be filed in accordance with 61 RCNY § 1-07(b)(2) within 20 business days of the notification of the authorization. If a scope petition is filed during the pendency of an impasse proceeding, the matter shall be expedited; the impasse proceeding shall not commence until a final determination of the scope petition by the Board or withdrawal of the petition.

(h) *Size of panel.* An impasse panel shall consist of such number of persons listed on the Board's impasse panel register as the parties may have agreed upon. In the absence of agreement, the Director shall fix the size of the panel.

(i) *Selection of panel.* If the parties have not agreed on the persons to serve on the panel, each of the parties shall receive an identical list of at least seven names chosen by the Director from the impasse panel register. Each party shall have five business days within which to number at least five of the names in order of preference, and return the list to the Director. Failure to return the list within the specified time is deemed approval of all persons named. The Director shall appoint the panel from those persons who have been approved by both parties, with due consideration for the designated orders of preference. If one or more of those approved decline or are unable to serve, the Director, to the extent necessary, shall appoint the panel members without the submission of additional lists. At the parties' request, the Director may approve an alternative procedure for selecting the members of an impasse panel.

(j) *Panel – powers and duties.* An impasse panel has the powers and duties set forth in § 12-311(c)(3)(a) through (d) of the statute.

(k) *Hearing; record.*

(1) Hearings before impasse panels shall be stenographically reported and transcribed. The parties shall share the cost thereof. Hearings shall not be public unless agreed to by the parties and the panel and approved by the Director.

(2) The record shall consist of all pleadings, exhibits and other documents submitted by the parties to the panel, the transcript of testimony taken in hearings before the panel, any statements of positions as to the issues submitted by the parties prior to, during or after the hearing, the report and recommendations issued by the panel and any other documents which the Board, in its discretion, deems necessary and pertinent.

(l) *Panel reports – publication, acceptance or rejection.*

(1) *Report and recommendations.* An impasse panel shall submit its report and recommendations to the Director, to each of the parties, and to any body, agency or official whose action is required to implement the panel's recommendations.

(2) *Publication.* The report and recommendations shall be released for publication not later than seven calendar days after its submission or, upon written agreement of the parties, filed with and approved by the Director, not later than 20 business days after its submission, provided that if the parties conclude a collective bargaining agreement prior to the date on which the report and recommendations is to be released, it shall not be released except upon consent of the parties communicated to the Director.

(3) *Acceptance or rejection.* Within 10 business days after submission of the panel's report and recommendations, or such additional time (not exceeding 30 calendar days from the submission of the panel report) as the Director may permit, each party must notify the other party and the Director, in writing, of its acceptance or rejection, in whole or in part, of the panel's report and recommendations. Failure to so notify is deemed acceptance of the recommendations. The Director may release the acceptances and/or rejections for publication at such time as the Director may deem advisable.

(4) *Confidentiality.* The report and recommendations of the impasse panel and the acceptances and/or rejections of the parties shall be confidential records until released for publication by the Director.

(m) *Review of panel report and recommendations.*

(1) *Appeal of impasse panel report and recommendations.* A party who rejects in whole or in part the report and recommendations of an impasse panel pursuant to § 12-311(c)(3)(e) of the statute may appeal to the Board for review of the report and recommendations. All appeals pursuant to this subdivision must be initiated by notice of appeal and petition and may not be raised as part of an answer to the petition of another party. The record of proceedings before the impasse panel must be filed simultaneously with the filing of the petition.

(2) *Petition.*

(i) *Contents.* A petition filed pursuant to 61 RCNY § 1-05(m) must be signed and must specify:

(A) The ground upon which the appeal is taken;

(B) The alleged errors of fact and/or judgment of the panel, precisely identifying those parts and portions of the report and recommendations allegedly in error;

(C) Any part of the testimony and evidence relating to the report and recommendations or the grounds upon which the appeal is taken, to support the allegations of the petition;

(D) The modifications requested;

(E) Such additional matters as may be relevant and material.

(ii) *Service and filing.* The petition pursuant to 61 RCNY § 1-05(m) must be served upon all parties and must be filed, with proof of service, with the Board within 10 business days of the rejection of the report and recommendations.

(3) *Answer.*

(i) *Contents.* Respondent's answer to the petition must be signed and must contain:

(A) Admissions or denials of the allegations of the petition;

(B) A statement of the nature of the disagreement;

(C) Any additional facts which are relevant and material;

(D) Other affirmative matters or defenses as may be appropriate. The answer must be addressed solely to the petition and must not contain any matter relating to any objections which respondent may have to the report and recommendations.

(ii) *Service and filing.* Within 10 business days after service of the petition, respondent must serve its answer upon petitioner and any other party respondent, and must file its answer, with proof of service, with the Board.

(4) *Briefs; service and filing.* Petitioner's brief, if any, must be served and filed simultaneously with its petition. Respondent's answering brief, if any, must be served and filed simultaneously with its answer. Parties must file proof of service with the Board.

(5) *Oral argument; hearing.* The Board, in its discretion, may grant the request of a party for oral argument or, in a case involving allegations of any of the grounds set forth in subparagraphs (i), (ii), or (iii) of § 7511(b) of the New York Civil Practice Law and Rules, may grant and direct a hearing; the request must be filed within 10 business days after issue has been joined. The Board may direct that oral argument or hearing be held without a request from either party where it finds that to do so will contribute to a determination of the matter.

(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-06 Arbitration.

(a) *Definition.*

Board. As used in this section, the term "Board" means the Board of Collective Bargaining.

(b) *Request for arbitration – service and filing; waiver; contents.*

(1) Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), a public employer or certified or designated public employee organization which desires to arbitrate a grievance must:

(i) file a request for arbitration on a form and in a manner prescribed by the Office of Collective Bargaining which must contain a plain and concise statement of the grievance to be arbitrated;

(ii) serve the request for arbitration upon all parties to the agreement under which the request is being made;

(iii) when the party requesting arbitration is a public employee organization, file a waiver, signed by the grievant(s) and the public employee organization, waiving any rights to submit the contractual dispute being alleged under a collective bargaining agreement to any other administrative or judicial tribunal except for the purpose of enforcing the arbitrator's award.

(2) The request for arbitration should have copies appended of:

(i) The written grievance, if any;

(ii) The Step II and Step III decisions, if any;

(iii) The contract provision and/or the rule or regulation that was allegedly violated.

(c) *Petitions challenging arbitrability service; filing; responsive pleadings.*

(1) A petition for a final determination by the Board as to whether the grievance is a proper subject for arbitration, also known as a petition challenging arbitrability, must be served and filed within 10 business days after service of the request for arbitration and the waiver upon the other party to the grievance. If the request for arbitration and waiver are not filed simultaneously, the 10 business day time period shall run from date of service of the waiver or request for arbitration, whichever is later. Failure to file a petition challenging arbitrability within the ten-day time frame shall preclude the arbitrability of the grievance from being contested in any forum.

(2) Copies of the request for arbitration and all documents set forth in 61 RCNY § 1-06(b)(2) must be attached to a petition challenging arbitrability.

(3) Pleadings responsive to a petition challenging arbitrability must be filed in accordance with 61 RCNY § 1-07(c)(3), (4), and (5).

(d) *Consolidation of arbitration proceedings.* A public employer or a public employee organization may request the consolidation of arbitration cases involving the same grievant(s), identical issues or similar facts. In response to the request, cases may be consolidated at the discretion of the Deputy Director, after notice and an opportunity to be heard has been given to the other party. Except when a consolidation request is jointly made by a public employer and a public employee organization, consolidation of arbitration cases may not take place after arbitrators have been appointed in more than

one of the cases proposed for consolidation. The Deputy Director's determination shall be made in writing.

(e) *Appointment of arbitrator.* If no petition pursuant to 61 RCNY § 1-06(c)(1) has been timely filed, or if the Board, after such a petition, has determined that the grievance is a proper subject for arbitration, the public employer and the public employee organization shall have 10 business days to agree upon the arbitrator. If the parties fail to do so, the Deputy Director shall submit to each party an identical list of at least seven names chosen from the arbitration register. Each party shall have seven business days in which to number at least five of the names in order of preference, and to return the list to the Deputy Director. Failure to return the list within the specified time is deemed approval of all the persons named. The Deputy Director shall appoint the arbitrator with due consideration for the designated orders of preference. If one or more of those approved decline or are unable to serve, the Deputy Director, to the extent necessary, shall appoint the arbitrators without the submission of additional lists. At the parties' request, the Deputy Director may approve an alternative procedure for the selection of an arbitrator.

(f) *Hearing – powers of arbitrator.* The arbitration shall be conducted in the manner, and the arbitrator shall have all the powers, specified in §§ 7505, 7506, 7507 and 7509 of the New York Civil Practice Law and Rules, so far as those sections may be applicable. Arbitration hearings shall not be public unless agreed to by the parties and the arbitrator, and approved by the Deputy Director.

(g) *Hearing – stenographic record; cost.* A stenographic record of testimony shall be made upon the request of all parties or at the discretion of the arbitrator following a request by a party. The party or parties wishing a stenographic record must make arrangements through the Office of Collective Bargaining. The requesting party or parties must pay the cost and provide a copy to the arbitrator. If the parties agree or the arbitrator determines that the transcript is the official record of the proceedings, it must be made available to a non-requesting party for inspection at a time and place to be determined by the arbitrator.

(h) *Arbitration awards – form of award; time; publication.*

(1) The award shall be in writing, signed and acknowledged by the arbitrator, and shall be delivered to the parties and filed with the Deputy Director within 30 calendar days after the close of the hearing or the filing of briefs, whichever is later, unless the time is extended by the parties.

(2) The Board, in its discretion, may publish arbitration awards.

(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-07 Proceedings Before the Board of Collective Bargaining.

(a) *Definition.*

Board. As used in this section, the term "Board" means the Board of Collective Bargaining.

(b) *Types of proceedings before the Board.* A party may file a petition commencing a proceeding pursuant to paragraphs (1) through (4) of this subsection. When appropriate, a party may combine proceedings brought pursuant to paragraphs (2) and (4) in a single petition. The combined petition must be properly titled, must contain separately labeled sections for each proceeding, and each section must comply with the requirements set forth in 61 RCNY § 1-07(c).

(1) *Interpretation of and compliance with statute.* A public employer or public employee organization which is a party to a disagreement as to the application or interpretation of the statute may petition the Board to consider such disagreement and report its conclusions to the parties and the public.

(2) *Scope of collective bargaining.*

(i) A public employer or certified or designated public employee organization which is party to a disagreement as to whether a matter is within the scope of collective bargaining, including a claim of practical impact under § 12-307(b) of the statute, or under an applicable executive order, or pursuant to a collective bargaining agreement, may petition the Board for a final determination thereof. Pleadings responsive to a scope of bargaining petition must be filed and served in accordance with 61 RCNY § 1-07(c)(3), (4), and (5).

(ii) A scope of collective bargaining petition filed after the appointment of an impasse panel has been authorized in accordance with 61 RCNY § 1-05(f) must be filed within the time provided in 61 RCNY § 1-05(g).

(3) *Grievance arbitration.* A public employer or certified or designated public employee organization which is party to a disagreement as to whether a matter is a proper subject for the grievance and arbitration procedure established pursuant to § 12-312 of the statute or under an applicable executive order or pursuant to a collective bargaining agreement may petition the Board for a final determination thereof. The petition must be filed within the time provided in 61 RCNY § 1-06(c), and responsive pleadings must follow the procedures set forth in 61 RCNY § 1-07(c)(3), (4), and (5).

(4) *Improper practices.* One or more public employees or any public employee organization acting on their behalf or a public employer may file a petition alleging that a public employer or its agents or a public employee organization or its agents has engaged in or is engaging in an improper practice in violation of § 12-306 of the statute and request that the Board issue a determination and remedial order. The petition must be filed within four months of the alleged violation and must be on a form prescribed by the Office of Collective Bargaining.

(c) *Pleadings, Procedures and Determinations.*

(1) *Petition – contents; service and filing.*

(i) Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), a petition filed pursuant to 61 RCNY § 1-07(b) must be verified and must contain:

(A) The name, address, telephone number, and email address of the petitioner;

(B) The name, address, and telephone number of the respondent;

(C) The specific sections of the statute alleged to have been violated;

(D) A clear and concise statement, in numbered paragraphs, of the facts constituting the claim under 61 RCNY § 1-07(b). The statement must include the nature of the controversy and specify any provisions of the contract, executive order, or collective bargaining agreement involved; a copy of the provisions should be provided. If the controversy involves an alleged improper practice, the statement must include but not be limited to the names of the individuals involved in the particular act specifically alleged and the date, time, and place of occurrence of each particular act alleged. The statement may be supported by affidavits, documents, and other evidence that may be relevant and material but may not consist solely of such attachments, and any attachments or exhibits must be specifically identified and referred to in the petition;

(E) An argument with citations to legal authority in support of the claims asserted. The argument may be included either in the petition or in a separate memorandum of law;

(F) A statement of the relief requested.

(ii) Unless e-filed pursuant to 61 RCNY § 1-12(e)(2), a copy of the petition must be served upon each respondent and must be filed, with proof of service, with the Board.

(iii) The public employer shall be made a party to any improper practice charge pursuant to § 12-306(d) of the statute and must file responsive

pleadings in accordance with 61 RCNY § 1-07(c)(3) and (5).

(iv) Unless e-filing pursuant to 61 RCNY § 1-12(e)(2), a petition filed pursuant to 61 RCNY § 1-07(b) against a public employer or a public employee organization must be served upon the designated agent of the public employer or public employee organization. A listing of designated agents shall be maintained at the Office of Collective Bargaining and on its website. The public employer and/or public employee organization must keep the Office of Collective Bargaining informed of their current designated agent, including their address and email address. Service upon a designated agent listed on the Office of Collective Bargaining's designated agent list shall be deemed proper service.

(2) *Executive Secretary Review of Improper Practice Petitions.*

(i) Within 10 business days after a petition alleging improper practice is filed, the Executive Secretary shall review the petition to determine whether the facts as alleged may constitute an improper practice as set forth in § 12-306 of the statute. If, upon such review, the Executive Secretary determines that the petition is not, on its face, untimely or insufficient, notice of such determination shall be served upon the parties by email or by regular mail. The determination shall not constitute a bar to defenses of untimeliness or insufficiency which are supported by probative evidence available to the respondent. If it is determined that the petition, on its face, does not contain facts sufficient as a matter of law to constitute a violation, or that the alleged violation occurred more than four months prior to the filing of the charge, the Executive Secretary may issue a decision dismissing the petition or send a deficiency letter. Copies of such decision or deficiency letter shall be served upon the parties by email or by certified mail.

(ii) Within 10 business days after service of a decision of the Executive Secretary dismissing an improper practice petition as provided in this subdivision, the petitioner may file with the Board a written statement setting forth an appeal from the decision with proof of service upon all other parties. The statement must set forth the reasons for the appeal.

(iii) Within 10 business days after service of a deficiency letter from the Executive Secretary as provided in this subdivision, the petitioner may serve an amended petition upon each respondent and file the amended petition, with proof of service, with the Board. The amended petition shall be deemed filed from the date of the original petition. The petitioner may also withdraw the charge. If the petitioner does not seek to amend or withdraw the charge, but instead wishes to file objections to the deficiency letter, the petitioner may file with the Executive Secretary a written statement setting forth the basis for the objection with proof of service upon all other parties within 10 business days after service of the deficiency letter. If the petitioner does not timely file an amendment or otherwise respond, the charge will be deemed withdrawn and the matter closed. Upon review of the amended petition or written objection filed by the petitioner, the Executive Secretary shall issue either a notice that the petition is not on its face untimely or insufficient or a written decision dismissing the improper practice petition.

(3) *Answer – contents; service and filing.*

(i) Respondent's answer to the petition must be verified and must contain:

(A) Specific admissions or denials of the allegations in the petition in numbered paragraphs which correspond with those in the petition;

(B) A statement of facts with numbered paragraphs setting forth the nature of the controversy. The statement may be supported by affidavits, documents, and other evidence that may be relevant and material but may not consist solely of such attachments, and any attachments or exhibits shall be specifically identified and referred to in the answer;

(C) Any defenses as may be appropriate;

(D) An argument with citations to legal authority in support of the defenses raised. The argument may be included either in the answer or in a separate memorandum of law.

(ii) Within 10 business days after service of the petition, or, if the petition contains allegations of improper practice, within 10 business days of the service of the notice of finding by the Executive Secretary, pursuant to 61 RCNY § 1-07(c)(2)(i) or (iii), that the petition is not, on its face, untimely or insufficient, respondent must serve its answer upon petitioner and any other party respondent. The answer must be filed, with proof of service, with the Board. When special circumstances exist that warrant an expedited determination, it shall be within the discretion of the Director or the Director's designee to order respondent to serve and file an answer within less than 10 business days.

(4) *Reply – contents; service and filing.* Within 10 business days after service of respondent's answer, petitioner may serve and file a verified reply which must contain admissions and denials of any facts alleged in the answer. Additional facts or new matters alleged in the answer shall be deemed admitted unless denied in the reply. The reply must be limited to a response to specific facts or arguments alleged in the answer, and the Board may disregard new facts or new arguments raised. When special circumstances exist that warrant an expedited determination, the Director or the Director's designee may order petitioner to serve and file its reply within less than 10 business days. A copy of the reply must be served on each respondent and must be filed, with proof of service, with the Board.

(5) *Briefs – service and filing.* Briefs must be filed and served simultaneously with the corresponding petition, answer, or reply, unless prior permission has been granted by the Director or the Director's designee.

(6) *Case conferences and mediation.*

(i) At any time after a petition has been served and filed pursuant to 61 RCNY § 1-07(b), the Director's designee may, on notice, schedule a case conference to discuss factual, substantive, or procedural matters. Unless special circumstances exist that warrant an expedited case conference, the conference shall not be held prior to the filing of all pleadings or less than 10 business days from the date of scheduling. Absent good cause shown, the failure of a party to appear at a case conference may constitute grounds for dismissal of the absent party's pleading.

(ii) In any proceeding commenced pursuant to 61 RCNY § 1-07(b), the Deputy Director may require the parties to attend one mediation session to explore the possibility of a voluntary resolution of their disputes. After the first mediation session, subject to the parties' agreement or joint request, additional mediation sessions may be scheduled. The scheduling of a mediation session may not by itself toll any time limitations under these rules or require the adjournment of the filing of a pleading, a hearing, or other proceeding.

(7) *Amendments and withdrawals.* After a hearing and upon good cause shown, the trial examiner may permit a party to amend a pleading to conform to the evidence. The request to amend shall be on notice to all parties.

(8) *Determination – decision.* After issue has been joined, the Board may decide the dispute on the papers filed, may direct that oral argument be held, may direct a hearing before a trial examiner, or may make such other disposition of the matter as it deems appropriate and proper.

(d) *Injunctive relief for a claim of improper practice.*

(1) *Applications for injunctive relief.* A party filing an improper practice petition pursuant to 61 RCNY § 1-07(b)(4) may further petition the Board to obtain or to authorize the application for injunctive relief in the Supreme Court, New York County, in accordance with the provisions of § 209-a(5) of the New York Civil Service Law.

(2) *Petition – contents.* A petition for injunctive relief filed pursuant to 61 RCNY § 1-07(d)(1) must be verified and must contain:

(i) The name, address, telephone number, and email address of the petitioner;

(ii) The name, address, and telephone number of the respondent;

(iii) The specific sections of the statute alleged to have been violated;

(iv) A clear and concise statement, in numbered paragraphs, of the facts demonstrating that: (1) there is reasonable cause to believe an improper practice has occurred; and (2) immediate and irreparable injury, loss or damage will result, thereby rendering a resulting judgment on the merits ineffectual, and necessitating the maintenance of, or return to, the status quo in order to provide meaningful relief. The statement must include but not be limited to the names of the individuals involved in the particular act specifically alleged and the date, time, and place of occurrence of each particular act alleged. The statement may be supported by documents and other evidence that may be relevant and material but may not consist solely of such attachments, and any attachments or exhibits must be specifically identified and referred to in the petition;

(v) Affidavit(s) stating, in a clear and concise manner:

(1) those facts personally known to the deponent that constitute the alleged improper practice, the date of the alleged improper practice, the alleged injury, loss, or damage arising from it, and the date when the alleged injury, loss, or damage occurred or will occur; and

(2) those facts demonstrating why the alleged injury, loss, or damage is immediate and irreparable, and will render a resulting judgment on the merits of the improper practice charge ineffectual if injunctive relief is not granted, and indicating why there is a need to maintain or return to the status quo in order for the Board to provide meaningful relief;

(vi) An argument with citations to legal authority on the issues underlying the claims of improper practice and irreparable harm to support the application for injunctive relief. The argument may be included either in the petition or in a separate memorandum of law;

(vii) A statement of the relief requested;

(viii) A copy of the underlying improper practice petition.

(3) *Petition – service and filing.* Filing may be completed by personal service, email, or e-filing using the Office of Collective Bargaining's e-filing system. If filing is completed in person, an original and three copies of each petition, with proof of service, must be filed with the Board, in addition to a copy which must be filed by email at the address provided on the Office of Collective Bargaining's website. Due to the expedited nature of a proceeding seeking injunctive relief, service by mail shall not be permitted. A copy of the petition for injunctive relief must be served:

(i) personally upon the designated agent of the respondent(s) at or after the time the improper practice petition is served; and

(ii) by email on the designated agent of the respondent. When the respondent is a public employer, a copy of the petition for injunctive relief must also be served personally on the Mayor's Office of Labor Relations. No petition for injunctive relief shall be accepted for filing unless it appears that both the improper practice petition and the petition for injunctive relief have been served personally on the designated agent of the respondent.

(4) *Answer – contents.* Respondent's answer to the injunctive relief petition must be verified and must contain:

(i) Specific admissions or denials of the allegations of the petition in numbered paragraphs which correspond with those in the petition;

(ii) A statement of facts with numbered paragraphs setting forth the nature of the controversy. The statement may be supported by affidavits, documents, and other evidence that may be relevant and material but may not consist solely of such attachments, and any attachments or exhibits must be specifically identified and referred to in the answer;

(iii) Any defenses, including defenses that could be rightfully raised in answer to the underlying improper practice petition. The failure to assert a defense in the answer to the petition for injunctive relief shall not preclude the respondent from asserting any defenses to the underlying improper practice petition;

(iv) An argument with citations to legal authority in support of the answer to the application for injunctive relief. The argument may be included either in the answer or in a separate memorandum of law.

(5) *Answer – service and filing.* Within three business days after service of an injunctive relief petition, the respondent must serve its answer upon petitioner and any other party respondent and must file the answer, with proof of service, with the Board. The answer must be served and filed in the same manner as prescribed in 61 RCNY § 1-07(d)(3). This section shall not be construed to shorten the respondent's time to answer the underlying improper practice petition.

(6) *Reply – service and filing.* A reply is not required; any new facts alleged in the response will be deemed denied by the petitioner. If a reply is filed, it must be verified and must contain admissions and denials of any facts alleged in the answer. The reply must be limited to a response to specific facts or arguments alleged in the answer, and the Board may disregard new facts or new arguments raised. The reply must be served and filed, with proof of service, before 12:00 NOON on the fourth business day after filing of the injunctive relief petition. The reply must be served and filed in the same manner as prescribed in 61 RCNY § 1-07(d)(3).

(7) *Review and determination by the Board – meetings by telephone.* Upon receipt of a properly served and filed petition for injunctive relief, the Director shall notify the Board and propose a time and date for a special meeting to consider the petition. Within 10 business days after a petition is filed, the Board shall determine whether the charging party has made a sufficient showing in accordance with the provisions of § 209-a(5) of the New York Civil Service Law. The special meeting may be conducted by telephone, provided that all members who are available by telephone are joined as parties to the call. The quorum and voting requirements for any meeting by conference call shall be as provided in § 12-310 of the statute. After appropriate deliberation, the Board shall vote and issue a determination as to whether the charging party has made a sufficient showing that a petition for injunctive relief to the court is warranted. The determination shall be served on the parties by email and by certified mail.

(8) *Petition in the Supreme Court in New York.* If the Board determines that the charging party has made a sufficient showing in accordance with the provisions of § 209-a(5) of the New York Civil Service Law, the Board may petition the Supreme Court, New York County, upon notice to all parties, for the necessary injunctive relief, or, in the alternative, issue an order permitting the charging party to seek injunctive relief in the court, in which case the Board must be joined as a necessary party.

(9) *Expedited scheduling, hearing, and disposition of the underlying improper practice petition.* In conformity with the mandates of § 209-a(5) of the New York Civil Service Law, any improper practice case in which the Supreme Court has granted injunctive relief shall be given preference in scheduling, hearing and disposition over all other types of matters pending before the Board. The Board shall conclude the hearing process and issue a decision on the merits within the time prescribed by § 209-a(5) of the New York Civil Service Law. In order to effectuate this statutory preference and time limitation, unless the parties stipulate in writing to waive the statutory period within which the Board must render its decision on the merits, the following procedures will be enforced:

(i) The time provisions set forth in 61 RCNY § 1-07 for the filing of pleadings and briefs will be strictly enforced. Under no circumstances will requests for extensions of time to serve and file pleadings and/or briefs, or requests to adjourn scheduled hearing dates, be granted;

(ii) When, in the judgment of the Office of Collective Bargaining, material questions of fact are raised, a hearing will be scheduled to commence no later than 10 business days after service of a copy of the order of the court with notice of entry;

(iii) Once a hearing is commenced, it shall continue on consecutive business days until it is concluded; but in no event shall the hearing continue beyond a date 15 business days after service of a copy of the order of the court with notice of entry;

(iv) Post-hearing briefs must be served and filed no later than 10 business days after the last hearing date;

(v) After the record is closed, the trial examiner shall prepare a report and/or draft decision which shall be submitted to the Board for its consideration. The Director may call for a special meeting by telephone conference call, in accordance with the procedures set forth in 61 RCNY § 1-07(d)(7), whenever necessary for the Board to render a decision within the time prescribed by § 209-a(5) of the New York Civil Service Law. Copies of the decision shall be served on the parties by email and certified mail.

(10) *Notification to the court.* The Board shall promptly forward notice of its determination, together with a copy of the decision of the Board, to the court which issued the order granting injunctive relief.

(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-08 Municipal Labor Committee.

(a) *Definition.*

Board. As used in this section, the term "Board" means the Board of Collective Bargaining.

(b) *Allocation of costs.* The costs of the salary, fees and expenses of the impartial members to be paid by members of the Municipal Labor Committee, pursuant to Section 1174(a) of the Charter, shall be allocated among the members as provided in Article 7 of the Rules of the Municipal Labor Committee adopted October 13, 1967, or as duly amended thereafter, provided that any member of the Municipal Labor Committee may petition the Board for reallocation of said costs as herein provided.

(c) *Petition to reallocate costs – contents.* Any member of the Municipal Labor Committee may petition the Board to reallocate the costs of the salary, fees and expenses of the impartial members. The petition must be verified and must contain:

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

(2) An allegation that petitioner is a member of the Municipal Labor Committee required to share the costs of the salary, fees and expenses of the impartial members;

(3) A statement of the facts on which petitioner bases its contention that the current method of allocation of said costs is improper, inequitable, discriminatory or arbitrary;

(4) The proposed method of allocation of said costs which petitioner asserts should be adopted.

(d) *Petition to abrogate rule – contents.* A certified employee organization may petition the Board to abrogate a rule of the Municipal Labor Committee, which relates to voting or eligibility for membership and which is alleged to be arbitrary or discriminatory or to have been applied in an arbitrary or discriminatory manner. The petition must be verified and must contain:

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

(2) Specification of the rule or rules involved;

(3) A statement of the facts on which petitioner bases its contention that the rule is arbitrary or discriminatory or has been applied in an arbitrary or discriminatory manner.

(e) *Petition – service and filing.* A petition pursuant to 61 RCNY § 1-08(b) or (c) must be served on the Municipal Labor Committee and must be filed, with proof of service, with the Board.

(f) *Answer – service and filing.* Within 10 business days after service of the petition, the Municipal Labor Committee shall serve a copy of its answer upon the petitioner and file its answer, with proof of service, with the Board.

(g) *Answer – contents.* The answer must be verified and must contain:

(1) Admissions or denials of the allegations of the petition;

(2) Additional facts and affirmative matter as may be relevant, material and appropriate.

(h) *Reply – service; contents.* Within 10 business days after service of the answer, petitioner may serve and file a verified reply which must contain admissions and denials of any additional facts or new matter alleged in the answer. Additional facts or new matter alleged in the answer shall be deemed admitted unless denied in the reply. A copy of the reply must be served on the respondent and filed, with proof of service, with the Board.

(i) *Briefs – service and filing.* Briefs, if any, may be served and filed as provided in 61 RCNY § 1-07(c)(5).

(j) *Determination – decision.* After issue has been joined, the Board may decide the matter on the papers and briefs filed, may direct that oral argument be held, may direct a hearing before a trial examiner, or may make such other disposition of the matter as it deems appropriate and proper.

(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-09 Panel Register – Fees and Expenses.

(a) *Definition.*

Board. As used in this section, the term "Board" shall mean the Board of Collective Bargaining.

(b) *Registers.*

(1) As deemed necessary by the Director, separate registers shall be maintained of impartial and qualified persons experienced in:

(i) mediation;

(ii) impasse resolution;

(iii) arbitration.

(2) To be listed on a register, a person shall be approved by the Board as required by the statute. A person may be listed on more than one register. All mediation and impasse panels shall consist of, and all arbitrators shall be, persons listed on the applicable register except when the parties agree otherwise. A resume of the background, experience and qualifications of each person on a register shall be maintained and shall be available for inspection.

(c) *Fees and expenses.*

(1) Members of mediation and impasse panels and arbitrators shall be paid a per diem fee to be determined by the Board unless the parties to the dispute shall have agreed to a different fee, and shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. The public employer and public employee organization which are parties to the particular negotiation or grievance shall each pay 50 percent of such fees

and expenses and related expenses incidental to the handling of deadlocked negotiations and unresolved grievances.

(2) Panel members, arbitrators, reporting services and any other persons providing services, accommodations, or materials relating to the work of the panel or arbitrators shall bill the parties directly for their compensation and expenses, and shall file a copy thereof with the Board.

§ 1-10 Hearings.

(a) *Definition.*

Board. As used in this section, the term "Board" shall mean either the Board of Collective Bargaining or the Board of Certification.

(b) *Notice of hearing.* Except where otherwise provided by law or these rules, the Board shall give all parties at least seven business days notice of hearings, provided that a shorter period may be stipulated by the parties or may be prescribed by the Director or the Director's designee when the circumstances so require.

(c) *Conduct of hearings.* Hearings shall be conducted by a trial examiner. At any time, a trial examiner may be designated to take the place of the trial examiner previously designated to conduct a hearing. Except as otherwise provided, all hearings shall be open to the public. During the course of any hearing, the trial examiner, shall have full authority to control the conduct and procedure of the hearing and the record thereof, to admit or exclude testimony or other evidence, and to rule upon all motions and objections. It shall be the duty of the trial examiner to see that a full inquiry is made into all the facts in issue and to obtain a complete record of all facts necessary for a fair determination. The trial examiner shall have the right to call and examine witnesses, to issue subpoenas as permitted by law, to direct the production of evidence and to introduce evidence into the record, except as may otherwise be limited herein.

(d) *Rights of parties.* In any hearing, all parties shall have the right to call, examine and cross-examine witnesses, and to introduce documentary or other evidence, subject to the rulings of the trial examiner, except as otherwise provided in these rules.

(e) *Stipulations.* At a hearing, stipulations may be introduced in evidence with respect to any issue, if such stipulation has been joined in by all the relevant parties.

(f) *Adjournments – continuation.* The trial examiner may continue a hearing from day to day or adjourn it to a later date or to a different place by announcement thereof at the hearing or by other appropriate notice.

(g) *Contemptuous conduct.* The refusal of a witness to answer any question which has been ruled to be proper shall, at the discretion of the trial examiner, be grounds for striking testimony previously given by such witness. Misconduct at any hearing conducted under these rules shall be grounds for summary exclusion from the hearing. Such misconduct, if of an aggravating character and engaged in by an attorney or other representative of a party, shall be grounds for suspension or disbarment from further practice before the Board or its agents after due notice and opportunity to be heard.

(h) *Conclusion of proceedings.* The trial examiner may permit or direct the parties to present closing statements and/or to file briefs or memoranda in a proceeding brought under 61 RCNY § 1-02, 61 RCNY § 1-07, or 61 RCNY § 1-08. The time for closing statements or filing briefs or memoranda shall be fixed by the trial examiner. Any briefs or memoranda must be filed, with proof of service, with the Board pursuant to 61 RCNY § 1-12(e).

(i) *Variance between pleadings and proof.* A variance between an allegation in a pleading and the proof shall not be deemed material unless it is so substantial as to be misleading. If a variance is not material, the trial examiner may admit such proof and the facts may be found accordingly. A party may move to amend a pleading to conform to the evidence in accordance with 61 RCNY § 1-07(c)(7).

(j) *Motions and objections during the hearing.* The trial examiner shall have the discretion to decide all motions and objections made at the hearing and to decide whether an oral motion should be reduced to writing and submitted to the Board. All such motions and objections and the rulings and orders thereon shall be made part of the record.

(k) *Appeal of trial examiner's rulings.* Unless expressly authorized by the Director, the Board shall not entertain appeals from a trial examiner's rulings prior to the Board's consideration of the entire record for decision. Appeals from a trial examiner's rulings shall be made in writing upon notice to the other parties after the close of the hearing and may be included in post-hearing briefs, if so filed.

(l) *Reopening of hearing prior to issuance of Board decision.* Motions for leave to reopen a hearing because of newly discovered evidence shall be promptly made. The Board, in its discretion or on its own motion, may reopen a hearing and take further testimony.

(m) *Objections – waiver.* An objection not duly made at a hearing shall be deemed waived unless the failure to raise such objection should be excused because of extraordinary circumstances.

(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-11 Witnesses and Subpoenas.

(a) *Definition.*

Board. As used in this section, the term "Board" shall mean either the Board of Collective Bargaining or the Board of Certification.

(b) *Witnesses – examination; depositions.* Witnesses at all hearings shall be examined orally under oath or affirmation, and a record of the proceeding shall be made and kept. If any witness resides outside the State of New York or through illness or other cause is unable to testify at the hearing, that witness's testimony or deposition may be taken in such form as may be directed by the trial examiner. All applications for taking such testimony or deposition shall be made by motion.

(c) *Subpoenas – issuance.* A member of the Board, a Deputy Director, or a trial examiner may issue subpoenas at any time, except as limited by law, requiring persons, parties, or witnesses to attend and be examined or give testimony, or to produce any document or thing that relates to any matter under investigation or any question before the Board or trial examiner conducting a hearing. Pursuant to CPLR § 2302, attorneys admitted to the practice of law in New York State may also issue subpoenas in accordance with applicable law.

(d) *Subpoenas – parties; failure to obey or testify.* If a witness, party, or agent thereof refuses or fails, without reasonable excuse, to answer any question which has been ruled pertinent or proper, or obey any subpoena duces tecum, the trial examiner may strike from the record the pleading and/or all testimony and evidence offered on behalf of such party at the hearing, or may strike all or a portion of the testimony or evidence offered by or through the uncooperative party or witness, or strike those portions of the pleading which are related to the matter(s) called for in the subpoena, or which are based solely on testimony or evidence offered by or through the uncooperative party or witness.

(e) *Witness fees.* When determined by the trial examiner to be appropriate, witness fees and mileage in amounts allowable under the New York Civil Practice Law and Rules shall be paid by the party at whose instance the witnesses appear, or by the Office of Collective Bargaining if the witnesses appear at the request of the Board.

§ 1-12 General Provisions.

(a) *Definitions.* Unless otherwise specified, the following definitions apply to terms used in these rules.

(1) **Board.** As used in this section, the term "Board" means either the Board of Collective Bargaining or the Board of Certification.

(2) **Filing.** The term "filing" means delivery to the Office of Collective Bargaining, and unless otherwise provided in these rules, filing may be effected in person, by first class mail, certified mail, or overnight delivery, or by email. Parties may also file with the Board using the Office of Collective Bargaining's e-filing system accessible on its website, as provided in 61 RCNY § 1-12(e)(2).

(3) **Electronic filing.** "Electronic filing" or "e-filing," means internet-based submission by a means specified by the Board on its website.

(4) **Service.** The term "service" means delivery of a document to a party and may be effected by leaving a copy at the principal office or place of business of the party, mailing a copy to the party by means of first class mail, certified mail, or overnight delivery, or by email, as provided in 61 RCNY § 1-12(c) and (d).

(5) **Proof of service.** The following constitutes prima facie proof of service:

(i) A signed, notarized statement that service has been effected, including the name and address of the party served, and the date and manner of service;

(ii) A signature or "received" stamp from the designated agent of a party. The signature or stamp must be on a copy of the document being served and must indicate the date of service;

(iii) A certified mail receipt confirming delivery; or

(iv) A copy of the email transmitting the document that includes the email address of the recipient(s) and the sender, the date and time the transmission was sent, and any attachments. A separate copy of the email will not be required if the sending party simultaneously copies the Office of Collective Bargaining on the transmission.

(b) *Form of documents – docket number.* All petitions, pleadings, motions, briefs and other formal papers must bear the title of the proceeding and the docket number. Any document other than the initial petition which does not bear the docket number may be returned to the sender. However, failure to include a docket number which is promptly corrected will not be a bar to an otherwise timely filed pleading.

(c) *Service of papers by the Board.* Except as otherwise provided in these rules, notices of hearings and other process of the Board and/or its designees, may be served personally, by first class mail, certified mail, overnight delivery, or by email. Subpoenas issued by the Board shall be served personally.

(d) *Service of papers by a party.*

(1) Except as otherwise provided in these rules, bargaining notices, requests for arbitration, petitions and other papers served on behalf of a party must be served personally, by first class mail, certified mail, or overnight delivery, or by email. Subpoenas issued by a party must be served personally.

(2) Any petition required by these rules to be served on a public employer or a public employee organization must be served upon the designated agent of the public employer or public employee organization. A listing of designated agents shall be maintained at the Office of Collective Bargaining and on its website.

(3) If a party appears in a proceeding by attorney, all papers in the proceeding must thereafter be served on such attorney, unless the party requests otherwise.

(e) *Filing of papers.*

(1) *Filing by first class mail, certified mail, overnight delivery, email, or hand delivery.* Unless otherwise provided in Section (e)(2) below, all petitions, pleadings, motions, briefs and other formal papers may be filed with the Office of Collective Bargaining by first class mail, certified mail, or overnight delivery, by email at the email address provided on the Office of Collective Bargaining's website, or personally.

(i) Except as otherwise provided in these rules, the filing of papers with the Board by fax or other means not set forth in these rules is permitted only when prior approval has been granted by the Board or its designee and upon such conditions as that approval may be based.

(ii) All submissions filed with the Office of Collective Bargaining in the manner described above, which require proof of service, must be accompanied by proof of service, as set forth in 61 RCNY § 1-12(a)(5) above.

(iii) All submissions to the Office of Collective Bargaining by email, mail of any kind, or personal delivery must be filed Monday through Friday between 9:00 A.M. and 5:30 P.M. Submissions received after 5:30 P.M., the normal close of business, will be deemed filed the next business day. For e-filed cases, all submissions are deemed filed on the date submitted as set forth in 61 RCNY § 1-12(e)(2)(iii).

(2) *Electronic filing and service through the Office of Collective Bargaining's e-filing system.*

(i) Notwithstanding any provisions to the contrary, a party may initiate a matter before the Board electronically using the e-filing system on the Office of Collective Bargaining's website. To the extent possible, a party may also file a responsive pleading using the e-filing system.

(ii) With the exception of applications for injunctive relief pursuant to 61 RCNY § 1-07(d), a party filing via the e-filing system is not required to serve other parties to the matter. The Office of Collective Bargaining will serve all parties identified in the electronic filing.

(iii) A document filed using the Office of Collective Bargaining's e-filing system is deemed filed on the date submitted.

(iv) An electronic signature shall serve as a substitute for an original signature on all e-filed submissions.

(f) *Time – computation.* In computing any period of time prescribed or allowed by these rules, or by order or direction, the day of the act, event or default, after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it falls on a Saturday, Sunday, or legal holiday, in which event the period shall run to the next business day. Unless otherwise provided in these rules, when any period of time prescribed or allowed is:

(1) 10 days or fewer, they shall be considered business days, and intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation;

(2) greater than 10 days, they shall be considered calendar days, and intermediate Saturdays, Sundays, and legal holidays shall be included in the computation.

(g) *Time – date of service.*

(1) Service is complete upon the date the document is deposited in the United States mail or into the custody of an overnight delivery service, or is delivered in person.

(2) Except as noted below, where service is made by email, service is complete on the date the transmission is sent, if the email is sent between 9:00 A.M. and 5:30 P.M., unless an error message or other notification that the served document has not been successfully transmitted is received. Service made by email on a weekend, City holiday or outside of business hours is deemed complete on the next business day.

(3) In all cases initiated by e-filing under 61 RCNY § 1-12(e)(2), service of papers by email is complete upon the date the document is transmitted.

(h) *Time – Board action.* Except as prescribed by statute, the Director, or a Deputy Director acting in his/her absence, for good cause shown, may extend or shorten any time limit prescribed or allowed in these rules. When good cause exists, the Director, or Deputy Director acting in his/her absence, acting with the approval of the Board, may shorten time limits and invoke expedited procedures in bringing disputes to mediation, arbitration or to impasse proceedings. Approval of such action by the Board shall require the concurrence of at least one labor member and one city member. In the exercise of such extraordinary powers, the Director or Deputy Director acting in his/her absence is authorized to prescribe times and conditions for the service of notices, filing of pleadings and appearances of parties as the circumstances require and as considerations of due process permit.

(i) *Petition – withdrawal.* At the request of the petitioner, upon notice to all other parties, the Director or the Director's designee may permit the withdrawal of a petition. The case will be closed without consideration or review of any of the issues raised in the pleadings.

(j) *Parties – nonjoinder and misjoinder.* No proceeding will be dismissed because of nonjoinder or misjoinder of parties. Upon motion of any party, parties may be added, dropped or substituted at any stage of the proceedings, upon terms as may be deemed proper by the Director or the Director's designee.

(k) *Intervention – procedure; contents; filing; service.* A person, public employer or public employee organization desiring to intervene in any proceeding must file a verified written application setting forth the facts upon which such person, employer or organization claims an interest in the proceeding. The application must be timely made, served on all parties and filed, with proof of service, with the Board. Failure to serve or file the application as required above shall be deemed sufficient cause for the denial thereof, unless good and sufficient reason exists why it was not served or filed as required.

(l) *All other motions.* Except as otherwise provided by these rules, all motions, other than those made during a hearing, must be made in writing, must briefly state the relief sought and must be accompanied by affidavits setting forth the grounds for the motion. The moving party must serve copies of all motion papers on all other parties and must file the motion within 10 business days, with proof of service, with the Board. Answering papers, if any, must be served on all parties and must be filed within 10 business days after service of the moving papers, with proof of service, with the Board. Reply papers, if any, must be served on all parties and must be filed within 10 business days after service of the answering papers, with proof of service, with the Board. All motions shall be decided upon the papers unless oral argument, or the taking of testimony, is directed, in which event the parties will be notified of the time and place for argument or for the taking of testimony. Permission from the Director or the Director's designee shall be required prior to filing and serving a motion to dismiss in lieu of an answer.

(m) *Consolidation or severance.*

(1) Two or more proceedings may be consolidated or severed by the Director or the Director's designee on notice stating the reasons therefor, with an opportunity to the parties to make known their positions. For purposes of this subdivision the term "proceedings" includes but is not limited to representation, mediation, impasse, arbitrability, improper practice, and scope of bargaining proceedings.

(2) Two or more arbitration proceedings may be consolidated at the discretion of the Deputy Director following a request by a public employer or a public employee organization pursuant to 61 RCNY § 1-06(d)

(n) *Oral argument before the Board.* In a proceeding brought under 61 RCNY § 1-02, 61 RCNY § 1-07 or 61 RCNY § 1-08, request for oral argument before the Board must be submitted in writing to the Director with proof of service on all parties not less than five business days prior to the Board meeting for which the case has been placed on the agenda. The granting or denial of permission to argue orally before the Board shall be within the discretion of the Board. At the discretion of the Board, oral argument may be stenographically recorded.

(o) *Amicus Curiae Briefs.* In any proceeding pending before the Board of Certification or Board of Collective Bargaining, a nonparty may ask the Director for permission to file a brief as amicus curiae. The non-party's brief must be submitted with the request for leave to file and served on the parties. Leave to file may be granted in the discretion of the Director, after notice and an opportunity to be heard has been given to the parties.

OFFICE OF COLLECTIVE BARGAINING

RULES OF THE CITY OF NEW YORK

TITLE 61

OFFICE OF COLLECTIVE BARGAINING

CHAPTER 1

PRACTICE AND PROCEDURE

EFFECTIVE _____, 2018

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and

PECK SLIP STATION

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(Amended City Record 10/24/2018, eff. 11/23/2018)

§ 1-13 Designation, Powers, and Duties of Deputies and Trial Examiners.

(a) *Definition.*

Board. As used in this section, the term "Board" shall mean either the Board of Collective Bargaining or the Board of Certification.

(b) *Deputy Directors.* Deputy directors, in addition to all other powers conferred upon them by these rules and in addition to the powers of trial examiners, are authorized and empowered to sign and issue notices and reports, certify copies of papers and documents, direct trial examiners, and designate the members of mediation, impasse and arbitration panels in accordance with the provisions of the statute and these rules.

(c) *Trial Examiners.* All trial examiners duly designated by the Director, in addition to all powers otherwise conferred upon them, are hereby authorized

and empowered to:

(1) Conduct conferences, investigations and hearings, resolve discovery disputes limited to the production of documents, grant extensions of time, administer oaths and affirmations, issue or apply for subpoenas, review and copy evidence, examine witnesses, and receive evidence;

(2) Investigate concerning the representation of employees;

(3) Appear for and represent the Board and/or the Office of Collective Bargaining in court;

(4) Do any and all things necessary and proper to effectuate the policies of the statute and these rules.

§ 1-14 Construction and Amendment of Rules.

(a) *Construction.*

(1) These rules shall be liberally construed and shall not be deemed to limit any powers conferred by the statute, nor to limit the power of any impartial member or Deputy Director to serve as a member of a mediation or impasse panel or as an arbitrator in matters pending at the Office of Collective Bargaining, provided, however, that no full-time employees authorized to perform such service shall receive additional compensation for the performance of any such service.

(2) Words in the singular shall include the plural and words in the plural shall include the singular.

(b) *Amendments.* Any rule may be amended or rescinded at any time in accordance with the City Administrative Procedure Act, Chapter 45 of the Charter.