**Section 1110.160 Petitions for Clarification of the Bargaining Unit**

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

1) the name and address of the employer;

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

3) a description of the existing bargaining unit; and

4) the nature of the proposed clarification and the reasons for the clarification.

b) The exclusive representative or employer may file an answer to the petition within 14 days following service of the petition. Failure to answer without good cause shall be deemed a waiver of objections to the petition and a waiver of a hearing. Good cause will include when there is no prejudice to another party or the other parties have consented to a hearing without the filing of a timely answer.

c) The Executive Director or his or her agent shall investigate the petition and, if the petition does not present unresolved questions of material fact, the Executive Director shall then issue a Recommended Decision and Order. Parties may file exceptions to the Executive Director's recommendation and briefs in support of those exceptions no later than 14 days after receipt of the recommendation. Copies of all exceptions and briefs shall be served upon all other parties and a certificate of service shall be attached. Any party to the proceeding may file a response to any exceptions and supporting briefs within 14 days from receipt of a party's exceptions and supporting brief. The response shall be filed with the Board and served on all parties. If no exceptions have been filed within the 14 day period, the parties will be deemed to have waived their exceptions. The Board will review the Executive Director's recommendation upon request by a party or on its own motion. If the petition presents unresolved questions of material fact, the Executive Director shall set it for a hearing.

1) Interested persons desiring to intervene in the hearing shall submit a written request to the hearing officer. The hearing officer shall base his or her decision on whether to allow intervention upon the timeliness of the request, the degree to which the person requesting intervention has a real interest at stake, the ability of the parties to represent the interests of the person requesting intervention, and the complexity of the proceeding.

2) The hearing officer shall inquire into all matters in dispute and shall obtain a full and complete record. The hearing officer shall file and serve upon the parties a recommended disposition of the matter. The hearing officer's recommended decision shall issue within 21 days after the conclusion of the presentation of evidence, the receipt of the transcript, and the receipt of any post-hearing briefs. Any findings of fact in the decision must be based exclusively upon the evidence in the record and on matters of which official notice has been taken.

3) Exceptions and Responses

A) Parties may file exceptions to the hearing officer's recommendations and briefs in support of their exceptions within 14 days after receipt of the recommendation. Those exceptions and briefs shall be filed with the General Counsel. Copies of all exceptions and supporting briefs shall be served upon all other parties, and a certificate of service shall be attached.

B) Any party to the proceeding may file a response to any exceptions and supporting briefs within 14 days from receipt of a party's exceptions and supporting brief. The response shall be filed with the General Counsel. Copies of the response shall be served on all parties, and a certificate of service shall be attached.

C) A party may also file cross-exceptions and a supporting brief within 14 days from receipt of another party's exceptions and supporting brief. Those cross-exceptions and briefs shall be filed with the General Counsel. Copies of all cross-exceptions and supporting briefs shall be served upon all other parties, and a certificate of service shall be attached.

D) Any other party may file a response to any cross-exceptions and supporting briefs within 14 days from receipt of a party's cross-exceptions and supporting brief. The response shall be filed with the General Counsel. Copies of the response shall be served on all parties, and a certificate of service shall be attached.

E) If no exceptions have been filed within 14 days after service of the hearing officer's recommended decision, the parties will be deemed to have waived their exceptions. If no cross-exceptions have been filed within 14 days after receipt of another party's exceptions and supporting brief, the parties will be deemed to have waived their cross-exceptions.

4) The Board will review the hearing officer's recommendation if a party has filed exceptions, or on the Board's own motion. The Board will issue and serve upon the parties a written decision giving the Board's reasons for its decision.

d) The parties may clarify the composition of the bargaining unit by stipulation. The stipulation shall be filed with the Board. A notice of the stipulation shall be posted on bulletin boards and at other places where notices for employees in the bargaining unit are customarily posted. The notice shall advise employees of the terms of the stipulation and direct persons objecting to the stipulation to file objections with the Board. The notice shall remain posted for at least 20 school days. The employer shall attempt to insure that the notice is not removed or defaced during the posting period and shall replace any notice that is removed or defaced.

e) During the posting period, interested persons may file objections with the Board. Objections shall be served on the employer and the exclusive representative prior to, or simultaneously with, their filing with the Board.

f) Following the posting period, if no objections have been filed, the Board shall approve or disapprove the clarification depending upon whether the clarification is consistent with the Act. If objections have been filed, the Board shall proceed in accordance with subsection (c).

g) The Board will issue a certification of the clarified unit or dismiss the petition no later than 120 days after the petition was filed. However, if all parties agree, this 120-day period may be extended one or more times to a date certain.

h) An order of the Board dismissing or granting a petition for clarification of an existing bargaining unit, or dismissing or granting an amendment of certification, is a final order.

(Source: Amended at 41 Ill. Reg. 10587, effective August 1, 2017)