**Section 1200.143 Declaratory Rulings**

Parties may petition the Board's General Counsel for a declaratory ruling, pursuant to Section 5-150 of the Illinois Administrative Procedure Act [5 ILCS 100/5-150], as follows:

a) In general public employee bargaining units covered by 80 Ill. Adm. Code 1230.Subpart C, if, after the commencement of negotiations and before reaching agreement, the exclusive representative and the employer have a good faith disagreement over whether the Act requires bargaining over a particular subject or particular subjects, they may jointly petition for a declaratory ruling concerning the status of the law.

1) The petition must be signed by both parties and must contain the name, address, email address, telephone number and person to contact for each party, the date negotiations began, a statement of the legal issue on which a declaratory ruling is sought, and a copy of the most recently negotiated contract, if any.

2) Declaratory rulings shall not be issued concerning factual issues that are in dispute.

3) Each party shall file a brief no later than 10 days after the filing of the petition, unless an extension has been granted by the General Counsel.

4) Any party desiring oral argument shall request oral argument in writing prior to or at the time of the filing of its brief. The General Counsel shall determine whether oral argument is warranted by the particular issues involved. Oral argument shall be held no later than 7 days after the filing of the briefs.

5) The General Counsel shall issue a declaratory ruling no later than 45 days after receipt of the parties' briefs. Pursuant to Board practice and caselaw, the Board considers General Counsel declaratory rulings to be non-binding advisory opinions. Consequently, the Board's General Counsel declaratory rulings are not appealable.

6) The parties shall continue to have a duty to bargain in good faith during the pendency of a declaratory ruling petition. The pendency of a declaratory ruling petition shall not stay the running of the 60 and 30 day notice periods provided in 80 Ill. Adm. Code 1230.140(a), (b), and (c). Nor shall the pendency of a declaratory ruling petition stay the running of the 5 day notice of intent to strike required under Section 17(a)(5) of the Act.

b) In protective service employee bargaining units covered by 80 Ill. Adm. Code 1230.Subpart B, if, after the commencement of negotiations and before reaching agreement, the exclusive representative and the employer have a good faith disagreement over whether the Act requires bargaining over a particular subject or particular subjects, they may jointly petition for a declaratory ruling concerning the status of the law. If a request for interest arbitration has been served in accordance with 80 Ill. Adm. Code 1230.70 and either the exclusive representative or the employer has requested the other party to join it in filing a declaratory ruling petition and the other party has refused the request, the requesting party may file the petition on its own, provided that the petition is filed no later than the first day of the interest arbitration hearing.

1) A joint petition must be signed by both parties. A petition filed by only one party must contain a statement that the other party has refused a request to join in the petition, and must contain a copy of the request for interest arbitration. All petitions must contain the name, address, email address, telephone number and person to contact for each party, the date negotiations began, a statement of the legal issue on which a declaratory ruling is sought, and a copy of the most recently negotiated contract, if any.

2) Declaratory rulings shall not be issued concerning factual issues that are in dispute. In the case of a unilateral petition for declaratory ruling in which the General Counsel has determined that material issues of fact are in dispute, the General Counsel may either dismiss the petition without prejudice to the requesting party's right to file an unfair labor practice charge, or, where the General Counsel determines that a fact-finding of the disputed factual issues will facilitate a determination of the issues that are the subject of the petition, the issuance of the declaratory ruling may be deferred and the disputed issues of fact referred to the Interest Arbitration Panel for determination.

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

4) Any party desiring oral argument shall request oral argument in writing prior to or at the time of the filing of its brief. The General Counsel shall determine whether oral argument is warranted by the particular issues involved. Oral argument shall be held no later than 7 days after the filing of the briefs.

5) The General Counsel shall issue a declaratory ruling no later than 45 days after receipt of the parties' briefs. Declaratory rulings shall not be appealable.

6) The parties shall continue to have a duty to bargain in good faith during the pendency of a declaratory ruling petition. The pendency of a declaratory ruling petition shall not stay mediation or interest arbitration proceedings required under the Act.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)