

# CHAPTER IV

## SUBCHAPTER A

### *Labor Relations Board*

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#### PART 250

#### DEFINITIONS

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#### § 250.1 [Use of terms.]

The terms *person*, *employer*, *employees*, *representatives*, *labor organization*, *company union*, *unfair labor practice* and *labor dispute*, as used herein, shall have the meanings set forth in section 701 of the New York State Labor Relations Act.

#### § 250.2 Act; board.

The term *Act*, as used herein, shall mean the New York State Labor Relations Act, and the term *board* shall mean the New York State Labor Relations Board.

#### § 250.3 Regional attorney.

The term *regional attorney*, as used herein, shall mean the agent designated by the board as regional attorney for a particular local area.

#### § 250.4 Board's attorney.

The term *board's attorney*, as used herein, shall mean the agent designated by the board to act as its attorney in any proceeding or hearing before the board or its trial examiner.

**§ 250.5 Trial examiner.**

The term *trial examiner*, as used herein, shall mean the board, its member, agent or agency conducting a hearing.

**§ 250.6 Labor relations examiner.**

The term *labor relations examiner*, as used herein, shall mean the agent designated by the board to conduct conferences and to investigate charges of unfair labor practice and petitions for investigation and certification of representatives filed with the board.

**§ 250.7 Parties.**

The term *party* or *parties* as used herein in connection with proceedings under section 706 of the Act, shall mean the respondent-employer, or employers, the person or organization making the charge, and any other persons or labor organizations whose intervention in the proceeding has been permitted by the board or trial examiner, except as limited by the board or trial examiner in granting such permission. As used herein in connection with proceedings under section 705 of the Act, *party* or *parties* shall mean the employer, or employers, the person or labor organization filing the petition, any other person or organization designated in the notice of hearing and served therewith, and any other persons or labor organizations whose interventions has been permitted by the board or trial examiner, except as limited by the board or trial examiner in granting such permission.

**PART 251****PROCEDURE UNDER SECTION 705 OF THE ACT FOR INVESTIGATION  
AND CERTIFICATION OF REPRESENTATIVES**

(Statutory authority: Labor Law, art. 20)

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**PETITION****§ 251.1 Petition; filing.**

A petition for investigation pursuant to section 705 of the Act may be filed with the board by employees, employers or their representatives. The petition shall be in writing. The original shall be signed and verified before any person authorized to administer an oath. The original and three copies of the petition shall be filed with the board. Petition forms will be supplied by the board upon request.

**§ 251.2 Petition of employee or representative; contents.**

A petition when filed by an employee or his representative shall contain:

- (a) the name and address of the petitioner;
- (b) the name and address of the employer or employers concerned and the general nature of the business and the approximate number of employees;
- (c) the approximate percentage and volume of sales to and purchases from, points outside New York State, and any other facts concerning interstate commerce, if any. If such information is unknown to the petitioner, the petition shall so state;
- (d) the classification of employees in the bargaining unit or units claimed to be appropriate, the number of employees therein, the names and addresses of any other individuals or labor organizations who claim to be the representatives of any of the employees in the alleged bargaining unit or units;
- (e) an allegation that a question or controversy exists concerning representation and a concise statement setting forth the nature thereof;
- (f) a request that the board certify the petitioner as the collective bargaining representative of the employees within the bargaining unit or units claimed to be appropriate.

**§ 251.3 Petition of employer or representative; contents.**

Such petition, when filed by an employer shall contain:

- (a) the names and address of the petitioning employer;
- (b) the general nature of the business and the approximate number of employees;

(c) the approximate percentage and volume of sales to and purchases from, points outside New York State and any other facts concerning interstate commerce, if any;

(d) the classification of employees in the bargaining unit or units claimed to be appropriate, and the number of employees employed in such bargaining unit or units;

(e) the names and addresses of any individuals or labor organizations who claim to represent any of the employees in the alleged bargaining unit or units;

(f) an allegation that a question or controversy exists concerning representation and a concise statement setting forth the nature thereof.

#### **§ 251.4 Sufficiency of petition.**

No petition in a proceeding under section 705 of the Act shall be dismissed for failure of the petitioner to set forth in the petition all the information required.

#### **§ 251.5 Notice of pending petitions.**

Upon the filing of a petition under section 705 of the Act, notice thereof, including the date when such petition was filed, the name and address of the employer affected and the nature of his business, the unit claimed to be appropriate and the name of the person or organization filing the same, shall be posted on the public docket maintained by the board.

#### **§ 251.6 Petition; withdrawal or amendment.**

At any time before the issuance of a notice of hearing on a petition for investigation and certification, the board may permit the amendment of the petition or its withdrawal in whole or in part. At any time after the issuance of such notice of hearing, the board, upon motion, may permit withdrawal of the petition in whole or in part, and the board of the trial examiner may permit amendment thereof.

### **INVESTIGATION AND ELECTIONS**

#### **§ 251.15 Investigation; ascertainment of desires of employees; notice.**

In the course of its investigation of a question or controversy concerning representation, the board may direct an election or elections, or use other suitable methods to ascertain the wishes of employees, either in conjunction with a proceeding instituted under section 706 of the Act or otherwise. When a hearing has been directed, the board or its agent shall prepare and cause to be served upon the parties a notice of hearing before a trial examiner, at a time and place fixed therein. A copy of the petition shall be served with the notice of hearing.

#### **§ 251.16 Elections; terms and conditions.**

If the board determines, as part of its investigation of a question or controversy concerning representation, that an election or elections by secret ballot shall be held, it shall provide that such election or elections be conducted by an agent of the board at such time and place and upon such terms or conditions as he or the board may specify.

#### **§ 251.17 Determination of representatives on consent.**

Subject to the approval of the board, the parties to a representation proceeding may waive a hearing and agree on the method by which the board shall determine the question of representation.

#### **§ 251.18 Procedure following elections; objections.**

Upon the conclusion of any election or elections, the board, its labor elections supervisor or other agent shall prepare a report as to the result of the election or elections. The board shall cause this report to be served upon the parties. Within five days thereafter, any party may serve upon all other parties, and file with the board (with proof of service) an original and three copies of objections to the election or elections or to the report thereon. The objections shall contain a concise statement of the facts constituting the grounds of objection. The board may direct oral

argument to be heard before it, or direct that hearings be held before a trial examiner, or otherwise investigate or make its determination with respect to the objections or to any challenged ballots.

### CERTIFICATIONS

#### § 251.25 Certification of representatives.

The board, upon the completion of its investigation, shall certify to the parties the name or names of the representatives selected, if any, or make other disposition of the matter.

#### § 251.26 Certification; life of; exceptions.

When a representative has been certified by the board, such certification shall remain in effect for one year from the date thereof, and thereafter until such time as it shall be made to appear to the board that the certified representative does not represent a majority of the employees within an appropriate unit. In any case where unusual or extraordinary circumstances require such action, or where probable cause is shown that such action may be necessary to prevent the occurrence or continuation of an unfair labor practice, the board, in its discretion, may shorten or extend the life of the original certification. When the board shall find that during the life of a certification the employer has refused to bargain collectively with the certified representative, the time of the continuance of such refusal to bargain shall not be a part of the time limited in computing the life of the certification.

**PART 252****PROCEDURE UNDER SECTION 706 OF THE ACT FOR PREVENTION OF UNFAIR LABOR PRACTICES**

(Statutory authority: Labor Law, art. 20)

Sec.

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**CHARGE****§ 252.1 Charge.**

A charge that any employer has engaged in or is engaging in any unfair labor practice may be made by any person or labor organization.

**§ 252.2 Charge; form; filing.**

A charge shall be in writing. The original shall be signed and verified before any person authorized to administer an oath. The original and three copies of the charge shall be filed with the board. Charge forms will be supplied by the board upon request.

**§ 252.3 Contents of charge.**

A charge shall contain:

- (a) the full name and address of the person or labor organization making the charge;
- (b) the full name and address of the employer or employers against whom the charge is made;
- (c) upon information and belief, the general nature of the employer's business, the approximate number of its employees, the approximate percentage and volume of sales to and purchases from, points outside New York State, and any other facts concerning interstate commerce, if any;
- (d) an enumeration of the subdivision or subdivisions of section 704 of the Act which are alleged to have been violated by the employer or employers, and, in the event it is alleged that any employee has been discharged, refused employment, or suffered discrimination in violation of the Act, the name of such employee.

**§ 252.4 Charge; withdrawal.**

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

**§ 252.5 Charge; amendment.**

A charge or any part thereof may be amended in the discretion of the board or the trial examiner, at any time before the issuance of the final decision and order by the board.

**§ 252.6 Charge; not part of complaint; other disposition.**

(a) A charge shall not be part of the complaint.

(b) If the board in its discretion shall determine that no complaint shall issue on a charge filed with it, the board may make such other disposition of the charge or any part thereof as it may deem proper.

## COMPLAINT

**§ 252.15 Complaint; notice of hearing.**

After a charge has been filed, if it appears to the board that formal proceedings should be instituted, the board may issue and cause to be served upon the parties a complaint in the name of the board, containing a concise statement as to the alleged violations of the Act and a notice of hearing before a trial examiner at a place fixed therein, and at a time not less than seven days after the service of the complaint.

**§ 252.16 Complaint; supplemental complaint; amendment.**

In the discretion of the board or the trial examiner, a supplemental complaint may be issued or a complaint may be amended upon motion of the board's attorney or upon the board's own motion, upon due notice to all parties, at any time before the issuance of the final decision and order.

**§ 252.17 Complaint; withdrawal.**

A complaint or supplemental complaint or amended complaint, or any part thereof, may be withdrawn by the board on its motion, or on motion of board's attorney, at any time before the issuance of a final decision and order, upon notice to all parties.

## ANSWER

**§ 252.25 Answer; filing; service.**

The party or parties against whom the complaint is issued shall have the right to file an answer within five days after service of the complaint. Upon application the board may extend the time within which the answer shall be filed. One copy of the answer shall be served on each party and board's attorney, and the original with proof of due service and two copies shall be filed with the board.

**§ 252.26 Answer; verification.**

The answer shall be verified by the party filing it.

**§ 252.27 Answer; denials.**

The answer shall contain a specific denial of each allegation of the complaint controverted by the party filing the answer, or of any knowledge or information thereof sufficient to form a belief. An allegation in the complaint not specifically denied in the answer, unless the party asserts that it is without knowledge or information thereof sufficient to form a belief, shall be deemed admitted and may be so found by the board.

**§ 252.28 Answer; defense; new matter.**

The answer shall contain a concise statement of the facts constituting the grounds of defense. Allegations of new matter in the answer shall be deemed denied without the necessity of a reply.

**§ 252.29 Answer; amendment.**

In the discretion of the board or the trial examiner, an answer may be amended upon motion of the party filing it, upon due notice to all parties and board's attorney, at any time before the issuance of the final decision and order.

**§ 252.30 Answer; failure to file.**

If the party or parties against whom the complaint is issued fails to file an answer in the manner and within the time herein provided, it may be limited to cross-examination of witnesses called by the board's attorney or trial examiner and shall have such other rights as the trial examiner may deem proper.

**§ 252.31 Pleadings; construction.**

All pleadings shall be liberally construed.

**PART 253****GENERAL PROVISIONS RELATING TO ALL PROCEEDINGS**

(Statutory authority: Labor Law, art. 20)

Sec.

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**JOINDER****§ 253.1 Parties; nonjoinder and misjoinder.**

No proceeding will be dismissed because of nonjoinder or misjoinder of parties. Upon motion of any party or board's attorney, parties may be added, dropped or substituted at any stage of the proceedings, upon such terms as may be deemed proper.

**§ 253.2 Joinder of parties; relief.**

All persons alleged to have engaged in any unfair labor practices may be joined as parties, whether jointly, severally, or in the alternative, and a decision may be rendered against one or more of them, upon all of the evidence without regard to the party by or against whom such evidence has been introduced.

**MOTIONS****§ 253.5 Motions during hearing.**

All motions made during a hearing, except as otherwise provided, shall be made orally at the hearing and shall be decided by the trial examiner. All such motions and the rulings and orders thereon shall be part of the record of the proceeding.

**§ 253.6 Motions before or after hearing.**

All motions, other than those made during a hearing, shall be made in writing to the board, shall briefly state the relief sought and shall be accompanied by affidavits setting forth the grounds for such motion. The moving party shall serve copies of all motion papers on all other parties and in a proceeding under section 706 on board's attorney, and shall within three days thereafter file the original and three copies thereof with proof of service with the board. Answering affidavits, if any, must be served on all parties, and in a proceeding under section 706 on board's attorney, and the original thereof together with three copies and proof of service shall be filed with the board within three days after service of the moving papers unless the board directs otherwise. All such motions shall be decided by the board upon the papers filed with it, unless the board decides to hear oral argument or take testimony thereon, in which case the board shall notify the parties of such fact and of the time and place for such argument or for the taking of such testimony.

**WAIVER****§ 253.10 Objections; waiver.**

An objection not duly urged before the board or its trial examiner shall be deemed waived unless the failure to urge such objection shall be excused by the board because of extraordinary circumstances.

**INTERVENTION****§ 253.15 Procedure; contents; filing; service.**

A person, employer or labor organization desiring to intervene in any proceeding shall file with the board a verified written application and three copies thereof, setting forth the facts upon which such person, employer or organization claims an interest in the proceeding. Such application must be served on all parties, and in a proceeding under section 706 on board's attorney. Applications must be filed with the board with proof of service at least two days before the first hearing. Failure to serve or file such application, as above provided, shall be deemed sufficient cause for the denial thereof, unless good and sufficient reason exists why it was not served or filed as herein provided. The trial examiner shall rule upon all such applications and may permit intervention to such an extent and upon such terms as he shall determine may effectuate the policies of the Act.

**CONSOLIDATION OR SEVERANCE****§ 253.20 Consolidation; severance.**

Two or more proceedings under sections 705 and 706 of the Act, or either, may be consolidated by the board. Such proceedings may be severed by the board or trial examiner in its or his discretion.

## WITNESSES AND SUBPOENAS

### § 253.25 Witnesses; examinations; record; depositions.

Witnesses at all hearings shall be examined orally under oath or affirmation, and a record of the proceeding shall be made and kept by the board. If any witness resides outside the State or through illness or other cause is unable to testify before the board or its member, agent or agency conducting the hearing or investigation, his or her testimony or deposition may be taken within or without this State, in such form as may be directed. All applications for taking such testimony or deposition must be made by motion.

### § 253.26 Subpoenas; application for.

A party or board's attorney may apply to a member of the board for the issuance of subpoenas or subpoenas duces tecum. Such application shall be timely. It shall specify the name of the witness or the documents or things the production of which is desired, with such particularity as will enable such documents to be identified for purposes of production, the return date desired, and the general nature of the facts to be proved by the witness or the documents or things sought to be produced. The original and two copies of such application shall be filed with the board and need not be served on any other party or on board's attorney. The board may grant or deny such application in whole or in part and may make such subpoena returnable at any time.

### § 253.27 Subpoenas; issuance; production of books, etc.

A member of the board may issue subpoenas at any time, requiring persons, parties or witnesses to attend and be examined or give testimony, and to produce any document or thing that relates to any matter under investigation or any question before the board, trial examiner, labor relations examiner, agent or agency conducting a hearing or investigation.

### § 253.28 Subpoenas; parties; failure to obey or testify.

If a party refuses or fails, without reasonable excuse (a) to obey any subpoena or subpoenas duces tecum, or (b) to answer any question which has been ruled pertinent or proper, the trial examiner may strike from the record the pleading and/or all testimony offered in behalf of such party at the hearing, or may strike those portions of the testimony which are related to the question which the party has refused to answer, or to the matter called for in the subpoena. When the party so refusing or failing to obey a subpoena, or to answer any question which has been ruled pertinent and proper, is the person or labor organization making the charge, then the trial examiner shall have the same power to strike all or part of the evidence presented by the board's attorney at the hearing. The trial examiner may preclude the reintroduction of any testimony so stricken. If a party fails or refuses, without reasonable excuse, to obey any subpoena duces tecum, the trial examiner may preclude such party from introducing any proof concerning such documents or things, or from introducing them in evidence. If a party is a corporation or a labor organization, this section shall apply to failures and refusals of its officers or agents.

### § 253.29 Witness fees.

Witness fees and mileage shall be paid by the party at whose instance the witnesses appear, or by the board if the witnesses appear at the board's instance. The person taking a deposition shall be paid by the party at whose instance the deposition is taken, or by the board if the deposition is taken at its instance.

## HEARINGS

### § 253.35 Hearings; conduct.

Hearings shall be conducted by a trial examiner designated by the board. At any time, a trial examiner may be designated to take the place of the trial examiner previously designated to conduct the hearing. All hearings shall be open to the public.

**§ 253.36 Hearings; powers and duties of trial examiner.**

During the course of any hearing, the trial examiner, in addition to the other powers specifically conferred upon him, and subject to the limitations imposed upon him by this Subchapter, 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 of the issues. The trial examiner shall have the right to call and examine witnesses, to direct the production of papers or other matter present in the hearing room, and to introduce documentary or other evidence, except as may otherwise be limited herein.

**§ 253.37 Hearings; rights of parties.**

In any hearing all parties and board's attorney 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 this subchapter.

**§ 253.38 Hearings; stipulations.**

At a hearing, stipulations may be introduced in evidence with respect to any issue, where such stipulation has been joined in by all parties and the board's attorney.

**§ 253.39 Hearings; continuation of.**

Subject to the board's approval, 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.

**§ 253.40 Hearings; contemptuous conduct.**

The trial examiner may exclude from the hearing room or from further participation in the proceeding any person who engages in contemptuous conduct before him.

**§ 253.41 Hearings; oral argument or briefs; unfair labor practice cases.**

In a proceeding under section 706, the trial examiner may permit the parties and board's attorney to argue orally before him at the close of the hearing or to file briefs or written statements with him. The time for oral argument or filing briefs or memoranda shall be fixed by the trial examiner. Argument shall not be included in the stenographic report unless the trial examiner shall so direct.

**§ 253.42 Hearings; oral argument or brief; representation cases.**

At the close of hearings in a proceeding under section 705, the trial examiner shall permit the parties to file briefs or written statements, which shall be addressed and submitted to the board. The time for filing such briefs or written statements shall be fixed by the trial examiner. An original and three copies, with proof of service, must be filed. Requests for oral argument before the board must be submitted to the trial examiner at the close of the hearing. The granting or denial of permission to argue orally before the board shall be within the discretion of the board. Argument shall not be included in the stenographic report unless the board shall so direct.

**§ 253.43 Hearings; variance between pleadings and proof.**

A variance between an allegation in a petition under section 705 or a pleading in a proceeding under section 706, and the proof, is not material unless it is so substantial as prejudicially to mislead the board or any party or board's attorney. If a variance is not material, the trial examiner may admit such proof and the facts may be found accordingly.

**§ 253.44 Hearings; motions; objections.**

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

the stenographic report of the hearing. Argument shall not be included in the stenographic report unless the trial examiner shall so direct.

**§ 253.45 Hearings; reopening.**

(a) Motions for leave to reopen a hearing because of newly discovered evidence shall be timely made.

(b) The board may, in its discretion or on its own motion, reopen a hearing and take further testimony at any time.

**§ 253.46 Hearings; evidence as to transactions had at informal conferences.**

No testimony or evidence shall be given or received at any hearing concerning transactions had or statements or communications made during the conduct or course of any informal conference called and held by the board, or any of its members or agents, concerning charges or petitions previously filed with the board, unless at the hearing all parties and board's attorney shall expressly waive this provision. This provision shall not apply to the giving or receipt of evidence concerning a consent comparison pursuant to section 251.17 hereof.

**§ 253.47 Trial examiner's intermediate report; recommended findings of fact, conclusions of law and order; exceptions; oral argument.**

(a) After the close of a hearing in an unfair labor practice proceeding and the filing of the record with the board, the trial examiner shall issue his intermediate report and the board shall cause it to be served on all parties to the proceeding and the board's attorney. The intermediate report shall contain, but need not be limited to:

- (1) a statement of the case and the preliminary procedure before the board;
- (2) such discussion of the evidence and credibility of the witnesses as the trial examiner may deem necessary and proper;
- (3) recommended findings of fact;
- (4) recommended conclusions of law;
- (5) recommended order.

(b) Within seven days after service of the intermediate report, a party or board's attorney may file with the board written exceptions thereto or to any other part of the record, including rulings upon all motions or objections made at the hearing. Exceptions shall specify the errors assigned and contain a concise statement of the grounds on which the exceptions are taken. A copy of such exceptions shall be served upon all other parties and board's attorney and an original and three copies thereof, with proof of service, must be filed with the board.

(c) A request for oral argument may be filed with the exceptions. Upon such request, or upon its own motion, the board shall issue a notice to all parties and to board's attorney, informing them of the time and place set for oral argument. Argument shall not be included in the stenographic report unless the board shall so direct. The parties and board's attorney shall have the right to file briefs not later than seven days after the filing of exceptions. Such briefs shall be served on all other parties and board's attorney at or before the time of filing. Answering briefs may be served and filed within seven days thereafter. An original and three copies, with proof of service, must be filed. The board in its discretion may extend for good cause shown the time to serve and file exceptions or briefs.

**§ 253.48 Proposed findings of fact, conclusions of law and order; exceptions; oral argument.**

(a) The board, in its discretion, at any time after the close of a hearing under section 706 of the Act, and the filing of the record with the board, may direct that the record of all proceedings theretofore held be submitted directly to the board, for purpose of the issuance by the board of proposed findings of fact, conclusions of law and order, instead of the issuance by the trial examiner of his intermediate report. Such proposed findings of fact, conclusions of law and order shall contain, but need not be limited to:

- (1) a statement of the case and the preliminary procedure before the board;
- (2) proposed findings of fact;
- (3) proposed conclusions of law;
- (4) proposed order.

(b) The provisions of section 253.47 hereof relating to exceptions, oral argument and briefs, shall apply to proposed findings of fact, conclusions of law and order hereunder.

#### **§ 253.49 Exceptions; failure to file; waiver.**

If any party or board's attorney shall fail to file exceptions, he shall be deemed to have agreed to the recommended findings of fact, conclusions of law and order contained in the trial examiner's intermediate report or in the board's proposed findings of fact, conclusions of law and order, or to so much thereof to which exceptions have not been taken, and the board may proceed to issue its final decision and order. Whether or not exceptions are filed, the board may redetermine the whole or any part of the recommended or proposed findings, conclusions or order.

#### **§ 253.50 Waiver of intermediate report and proposed findings.**

If all parties and board's attorney, the trial examiner consenting, shall waive the issuance of the trial examiner's intermediate report, or proposed findings of fact, conclusions of law and order, the board may proceed on the entire record before it to issue its final decision and order. If all parties to the proceeding and board's attorney shall waive the issuance of any part of the trial examiner's intermediate report, the trial examiner consenting, or of the proposed findings of fact, conclusions of law and order, the trial examiner or the board may issue such portions thereof as have not been waived, and all proceedings may be taken thereafter as though a full intermediate report or full proposed findings, conclusions and order had been issued under section 253.47 or section 253.48 hereof.

#### **§ 253.51 Record in proceedings under section 706.**

(a) The record in proceedings under section 706 shall consist of the charge or amended charge, the pleadings, notices of hearing, notices of argument, motions, orders, stipulations, stenographic minutes, exhibits, depositions, trial examiner's intermediate report (or the board's proposed findings of fact, conclusions of law and order), exceptions and the final decision and order.

(b) If a proceeding under section 706 is predicated in whole or in part upon a prior proceeding under section 705, the record of such prior proceeding shall be deemed a part of the record in the proceeding under section 706 for all purposes.

#### **§ 253.52 Record in proceedings under section 705.**

The record in proceedings under section 705 shall consist of the petition or amended petition, notices of hearing, notices of argument, motions, orders, stipulations, stenographic minutes, exhibits, depositions, decision and direction of election, report on secret ballot, objections thereto, and certification, dismissal or decision.

#### **§ 253.53 Public record.**

The record as defined in sections 253.51 and 253.52 shall constitute the public record of the case and shall be made available for inspection or copying under such conditions as the board may prescribe.

### **PRACTICE BEFORE THE BOARD**

#### **§ 253.60 Practice before the board.**

Any person who has been employed by the board shall not be permitted to appear as attorney or representative for any party until the expiration of six months from the termination of his employment with the board, nor shall he at any time be permitted to appear in any case which was pending before the board during the period of his employment.

**PART 254****DESIGNATION, POWERS AND DUTIES OF BOARD'S AGENTS**

(Statutory authority: Labor Law, art. 20)

Sec.	
254.1	Trial examiners; powers and duties
254.2	Attorneys; powers and duties
254.3	Labor relations examiners and labor elections supervisor; powers and duties
254.4	General

**§ 254.1 Trial examiners; powers and duties.**

All trial examiners now or hereafter in the employ of the board, in addition to all powers hereinabove conferred upon them, are hereby designated by the board as its agents:

- (a) to conduct and be in full charge and control of any and all hearings;
- (b) in connection with such hearings, to have access to and the right to copy evidence, to administer oaths and affirmations, to examine witnesses, to receive evidence, and in connection therewith, to do any and all things necessary and proper to effectuate the policies of the Act and this Subchapter.

**§ 254.2 Attorneys; powers and duties.**

All attorneys now or hereafter in the employ of the board, in addition to all powers hereinabove conferred upon them, are hereby designated by the board as its agents:

- (a) to conduct any inquiry necessary to the functions of the board;
- (b) to investigate concerning the representation of employees;
- (c) to represent the board at hearings;
- (d) to appear for and represent the board in any case in court;
- (e) to have access to and the right to copy evidence, to apply to the board for subpoenas and subpoenas duces tecum, to administer oaths and affirmations and to examine witnesses;
- (f) to engage in any effort to obtain voluntary adjustments and compliance with the terms and provisions of the Act, following the authorization of a complaint.

**§ 254.3 Labor relations examiners and labor elections supervisor; powers and duties.**

All labor relations examiners and the labor elections supervisor now or hereafter in the employ of the board, in addition to all powers hereinabove conferred upon them, are hereby designated by the board as its agents:

- (a) to conduct any inquiry necessary to the functions of the board;
- (b) to investigate concerning representation of employees;
- (c) to have access to and the right to copy evidence, to apply to the board for subpoenas and subpoenas duces tecum, to administer oaths and affirmations and to examine witnesses;
- (d) to engage in any effort to obtain voluntary adjustments and compliance with the terms and provisions of the Act.

**§ 254.4 General.**

The foregoing designations are not to be construed to limit the power of the board to make such special designations of agents as may be necessary to effectuate the purposes of the Act, nor shall the foregoing designations be construed as limiting the power of the board at any time to confer upon its agent or agents additional duties.

**PART 255**  
**SERVICE OF PAPERS**

(Statutory authority: Labor Law, art. 20)

Sec.	
255.1	Method; proof
255.2	Service by a party
255.3	Service upon attorney

**§ 255.1 Method; proof.**

Complaints, orders and other process and papers of the board, its members, agent or agency, may be served personally, by registered mail, by telegraph, or by leaving a copy at the principal office or place of business of the person to be served. The verified return by the server, setting forth the manner of such service, or the return post-office receipt or telegraph receipt therefor, when registered and mailed or telegraphed as aforesaid, shall constitute proof of service.

**§ 255.2 Service by a party.**

Service of papers by a party may be made personally or by mail. When service is made by mail, a return post-office receipt, or affidavit of service by mail, shall constitute proof of service.

**§ 255.3 Service upon attorney.**

If a party appears by attorney, all papers other than the complaint and notice of original hearing may be served as hereinabove provided upon such attorney, with the same force and effect as though served upon the party.

**PART 256****CERTIFICATION AND SIGNATURE OF DOCUMENTS**

(Statutory authority: Labor Law, art. 20)

Sec.

- 256.1 Executive secretary; certification of papers; notices and reports  
256.2 Associate general counsel; issuance of complaints

**§ 256.1 Executive secretary; certification of papers; notices and reports.**

The executive secretary of the board, or in the event of his absence or disability, the acting executive secretary of the board, or such other person as may be designated, is authorized to certify copies of all papers and documents which are a part of any of the files or records of the board, to sign and issue all notices or reports of the board and to assign any trial examiner previously designated by the board.

**§ 256.2 Associate general counsel; issuance of complaints.**

The associate general counsel of the board, or, in the event of his absence or disability, the acting associate general counsel of the board, or such other person as may be designated, is authorized to sign and issue all complaints and notices of hearing in connection therewith authorized to be issued by the board.

**PART 257****CONSTRUCTION, AMENDMENT AND APPLICATION OF RULES**

(Statutory authority: Labor Law, art. 20)

Sec.	
257.1	Construction
257.2	Amendments
257.3	Application

**§ 257.1 Construction.**

These rules and regulations shall be liberally construed and shall not be deemed to limit the powers conferred on the board by the Act.

**§ 257.2 Amendments.**

Any rule or regulation may be amended or rescinded by the board at any time, but such amendment or rescission shall not be effective until published by filing with the Secretary of State.

**§ 257.3 Application.**

These rules and regulations and any amendments thereto shall govern all proceedings filed with the board on and after May 1, 1951. They shall also govern all proceedings then pending, except to the extent that in the judgment of the board their application to such pending proceedings would not be feasible or would work injustice, in which event the general rules and regulations effective on February 1, 1943, as amended, shall apply.