

**Subdivision (d) of section 200.11 is being amended as follows:**

(d) *Proof of Service* shall mean evidence that any document required to be filed with the Board or any of its agents was delivered to all other parties or other mandated recipients as required by these rules or by the Act. Proof of service shall consist of an affirmation by the individual who served the document, specifying the document served, the person or persons upon whom it was served, and the means by which it was served. Such affirmation shall be signed and shall state “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.” Proof of service may also take the form of a United States Postal Service tracking receipt or report, or by other United States Postal Service issued document establishing the date of mailing, the identity and address of the recipients, or an acknowledgment of receipt, whether sworn or unsworn, by the party or parties upon whom service is required, or by an agent thereof.

**Section 200.12 is amended as follows:**

(a) All filings under this Title, except proof of the showing of interest in representation matters, may be submitted electronically. Instructions for electronic filing shall be available on the board’s website. Parties wishing to file and receive pleadings, memoranda, correspondence and any case-related information in paper form must file an application with the board. Such application will only be granted if the party demonstrates hardship, inability to comply with the procedure, or other good cause. Application forms shall be available on the board’s website.

[Notwithstanding any provisions of this Chapter to the contrary including section 200.11 of this part, the director or administrative law judge before whom a matter is pending may permit the

electronic filing and electronic service of any or all pleadings or related documents by and upon a party to a proceeding if such party expressly so consents to electronic service in a form provided by the board. Such permission and consent must be on notice to all parties.(b)

Notwithstanding any provisions of this Chapter to the contrary including section 200.11 of this part, the chairperson, in consultation with the board, may generally authorize the electronic service and/or filing of any documents for any or all proceedings before it or before an administrative law judge provided that: such general authorization is posted on the board's website and such general authorization becomes effective no sooner than sixty days from the date of such posting; provision is made to permit unrepresented individuals to choose to file and receive all pleadings, memoranda, correspondence and any case-related information in paper form; and the board or its designees retain discretion in determining whether to grant the application of a party to file and serve in paper form due to hardship, inability to comply with the procedure, or other good cause shown.

(c)](b) The term electronic filing as used in this Chapter, shall mean a document submitted by means specified by the agency on its website. Such documents shall be: (i) in a format that can be read using software that is readily available and is in widespread use by government, businesses, and individuals; and (ii) electronically searchable unless the party providing the document certifies in a written attachment to document served and/or in any required proof of service that it does not have the capacity to produce a searchable file.

[(d)](c) The term electronic service as used in this Chapter, shall mean delivery before the latest time designated for service by electronic mail to a party sent to an electronic mail address designated by the recipient. Electronic service is deemed complete upon sending unless an error

message or other notification that the served document has not been successfully dispatched or received is returned, in which case the service is null and void.

**Section 200.14 is amended as follows:**

Any affirmation submitted pursuant to these rules shall be signed and shall state “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.” The board will prescribe forms consistent with this section. Any requirement in this Chapter for an affirmation may alternatively be satisfied by submitting a writing signed and sworn to before any person authorized to administer oaths.

**Subdivision (c) of section 201.2 is amended as follows:**

(c) Petitions under this section shall be on a form prescribed by the board. In cases filed by paper filing, a signed original [and four copies] of the petition shall be filed with the director. In electronically filed cases, a signed [paper original] copy will be submitted [in addition to the electronically filed petition]. Prior to an administrative law judge issuing a decision, a petition may be withdrawn only with the consent of the director. After the issuance of a decision by the administrative law judge, the petition may be withdrawn only with the consent of the board.

Whenever the director or the board, as the case may be, approves withdrawal of any petition, the case shall be closed.

**Subdivision (d) of section 201.4 is amended as follows:**

(d) A declaration of authenticity shall be filed by the petitioner or, in the case of a motion to intervene, the movant, with the director simultaneously with the filing of the showing of interest. Such declaration shall contain the following:

- (1) the name of the individual executing the declaration, and a statement of the declarant's authority to execute it;
- (2) a declaration that, upon the declarant's personal knowledge or upon the declarant's inquiries, the persons whose names appear on the evidence submitted have themselves signed such evidence on the dates specified thereon, and that the persons specified as current members are in fact current members and, that inquiry was made regarding their inclusion in the negotiating unit which is the subject of the representation petition. If the declaration is upon inquiries the declarant has made, and not upon the declarant's personal knowledge, the declarant shall specify the nature of those inquiries; and
- (3) a signed affirmation stating, "I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law."

**Subdivision (d) of section 201.5 is amended as follows:**

(d) Response. Except for the petitioner, all parties shall file [either an original and four copies of] a response to the petition[, or, in electronically filed cases, a paper original in addition to the electronically filed copy,] with the director within 10 working days after receipt of a copy of the petition from the director, with proof of service of a copy thereof upon all other parties. The response shall include a specific admission, denial or explanation of each allegation made by the petitioner, a description of the unit claimed to be appropriate by the responding party for the purpose of collective negotiations and a clear and concise statement of any other facts which the

responding party claims may affect the processing or disposition of the petition, along with a signed declaration of its truthfulness by an identified representative of the responding party.

**Paragraphs (2) and (3) of subdivision (d) of section 201.8 are amended as follows:**

(2) Any party may file with the director [an original and four copies of] objections to the conduct of the election or conduct affecting the results of the election within five working days after its receipt of a final tally of ballots. Such objections shall contain a clear and concise statement of the facts constituting the bases for the objection, including the names of the individuals involved and the time and place of occurrence of each particular act alleged. The objections shall be in writing and shall contain a signed affirmation stating, “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.” Copies of such objections shall simultaneously be served upon each of the other parties by the party filing them, and proof of service shall be filed with the director. [Should the chairperson authorize electronic filing of objections, the filing of a paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

(3) An [original and four copies of an] answer shall be filed with the director within five working days after receipt from the director of notice of processing of the objections, with proof of service on all other parties. The answer shall contain a specific admission, denial or explanation of each allegation of the objection and a clear and concise statement of any other relevant facts. The original shall be signed and shall contain a signed

affirmation stating, “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.” [Should the chairperson authorize electronic filing of objections, the filing of a paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

If a party fails or refuses to file an answer, such failure or refusal may be deemed to constitute that party’s admission of the material facts in the objections and a waiver by that party of a hearing.

**Subdivisions (a) and (e) of section 201.9 are amended as follows:**

(a) Application; parties

(1) An application by a public employer seeking a designation by the board of certain persons as managerial or confidential as defined in section 201.7(a) of the act shall be on a form prescribed by the board for that purpose and shall be filed with the director.

[Unless the board has mandated or permitted electronic filing with respect to such applications, an original and four copies of the application shall be filed with the director.] Prior to the issuance of a decision by the administrative law judge pursuant to section 201.10 of this Part, an application may be withdrawn only with the consent of the director. After the issuance of a decision by the administrative law judge, the application may be withdrawn only with the consent of the board. Whenever the director or the board, as the case may, be approves withdrawal of any application, the case shall be closed. [Should the chairperson authorize electronic filing of applications, the filing of a

paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

(2) The parties are the applicant and the persons who are within any of the job titles which the public employer is seeking to have designated as managerial or confidential; provided, however, that if any such persons are represented by a recognized or certified employee organization, such employee organization is a party in their stead.

(e) Response. The parties, as defined by paragraph (a)(2) of this section, except the applicant, shall file with the director within 10 working days after receipt of a copy of the application from the director, [an original and four copies of] a response to the application containing a signed declaration of its truthfulness by an identified representative of the responding party, with proof of service of a copy thereof upon all other parties. [Should the chairperson authorize electronic filing of applications, the filing of a paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.] The response shall include a specific admission, denial or explanation of each allegation made by the applicant and a clear and concise statement of any other facts which may bear on the application. If a responding party objects to the processing of an application on the ground that it was filed earlier than the time provided in subdivision (b) of this section, the response shall include a specific, detailed statement of why the application is untimely. Such objection to the processing of the application, if not duly raised, may be deemed waived.

**Section 202.2 is amended as follows:**

A petition to review a question concerning the certification of an employee organization under procedures established by a local government pursuant to section 206.1 of the act (hereinafter called a petition for review), may be filed by one or more public employees within the affected

negotiating unit or any employee organization acting in their behalf, or by a public employer; provided, however, that individual employees may not seek certification. Petitions under this section shall be in writing and signed and [. An original and four copies of the petition] shall be filed with the director. Petition forms will be supplied by the board upon request, or will be available on the agency's website. [Should the chairperson authorize electronic filing of petitions, the filing of a paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.] Before the submission of a case to the board pursuant to section 202.8 of this Chapter, the petition may be withdrawn only with the consent of the director. After the submission of a case to the board, the petition may be withdrawn only with consent of the board. Whenever the director or the board, as the case may be, approves withdrawal of any petition, the case shall be closed.

**Section 203.1 is amended as follows:**

An [original and four copies of an] application may be filed by a local government which, acting through its legislative body, has adopted or amended by local law, ordinance or resolution its own provisions and procedures, for a determination by the board that such provisions and procedures are substantially equivalent to the provisions and procedures set forth in the act and these rules. Applications under this section shall be in writing and signed. [Should the chairperson authorize electronic filing of applications, the filing of a paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.] Application forms will be supplied by the board upon request, and will be available on the agency's website. Such an application may be filed at any time after the applicant has given public notice of its intention to so file, and may be withdrawn by the applicant at any time before disposition of it by the board and after giving public notice of such withdrawal. Such public notice shall be by posting in a conspicuous place at suitable offices of the applicant for not less than five working days, and inclusion in a public advertisement in a newspaper of general circulation in the area of the applicant for not less than one day.

**Subdivisions (a) and (b) of section 203.8 are amended as follows:**

(a) The fact that a local government has not adopted rules and regulations within 45 days after the board has determined that its provisions and procedures are substantially equivalent to the provisions and procedures set forth in the act and this Chapter shall be prima facie evidence that the local government has not implemented its provisions and procedures in a manner substantially equivalent to the provisions and procedures set forth in the act and this Chapter.

(b) Petitions: filing. A petition to review the question of whether provisions and procedures of a local government are being implemented in a manner substantially equivalent to the provisions and procedures set forth in the act and this Chapter (hereinafter called a petition for review) may be filed by any person. Petitions under this section shall be in writing and signed. [An original and four copies of the petition shall be filed with the board. Should the chairperson authorize electronic filing of such petitions, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.] Petition forms will be supplied by the board upon request and will be available on the agency's website. The petition may be withdrawn only with the consent of the board. Whenever the board approves withdrawal of any petition, the case shall be closed.

**Subdivisions (a) and (d) of section 204.1 are amended as follows:**

(a) Filing of charge.

(1) A[n original and four copies of a] charge that any public employer or its agents, or any employee organization or its agents, has engaged in, or is engaging in, an improper practice may be filed with the director by one or more public employees or any employee organization acting in their behalf, or by a public employer, within four months of when the charging party first knew, or reasonably should have known, of the alleged improper practice. [Should the chairperson authorize electronic filing of such charge, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

(2) If the facts constituting the alleged improper practice also are alleged to support a claim by an employee organization that a public employer or its representatives engaged

in such acts of extreme provocation as to detract from the responsibility of the employee organization for a strike, then the charge may not be filed after the date on which the employee organization is required to file its answer to the strike charge pursuant to section 206.5 of this Chapter.

(3) The charge shall be in writing on a form provided by the director and shall be signed and shall contain a signed affirmation stating, “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.”

(d) Amendments. [The director or administrative law judge designated by the director may permit a] A charging party may file a motion to amend the charge upon good cause shown [before, during or after the conclusion of the hearing] at any time prior to the issuance of the administrative law judge’s decision and recommended order, upon such terms as may be deemed just and consistent with due process. The motion shall include a statement of good cause to justify the amendment, a proposed amended charge, and proof of service upon all other parties. A respondent may file a response to the motion within five working days after its receipt thereof, with proof of service of the response on all other parties.

**Section 204.3 is amended as follows:**

(a) Filing. The respondent shall file [with the director an original and four copies of] an answer to the charge, with proof of service of a copy thereof on all other parties within 10 working days after receipt of a copy of the charge [from the director]. [Should the chairperson authorize electronic filing of such answer, the filing of a signed paper original consistent with this section

and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.] The original shall be signed and shall contain a signed affirmation stating, “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.”

(b) Motion for particularization of the charge. If the respondent believes that a charge is so vague and indefinite that it cannot reasonably be required to frame an answer, the respondent may, within 10 working days after receipt of a copy of the charge [from the director,] file[, in the same manner as would be applicable to the filing of an answer,] a motion with the administrative law judge, with proof of service on all other parties, for an order directing the charging party to file a verified statement supplying specified information. The charging party may likewise file a response to the motion within five [seven] working days after its receipt thereof, with proof of service of a copy of the response on all other parties. The filing of such motion will extend the time during which the respondent must file and serve its answer until 10 working days after receipt of the ruling of the administrative law judge on the motion, or until such later date as the administrative law judge may set. The failure of a party to timely comply with an order of particularization may, in the discretion of the administrative law judge, constitute ground for precluding the party from offering any evidence as to the matters dealt with by the order.

(c) Contents.

(1) The answer shall include a specific admission, denial or explanation of each allegation of the charge or, if the respondent is without knowledge thereof, the answer shall so state and such statement shall operate as a denial. Admissions or denials may be

made to all or part of an allegation, but shall fairly meet the circumstances of the allegation.

(2) The answer shall include a specific, detailed statement of any affirmative defense, including but not limited to an allegation that the violation occurred more than four months before the filing of the charge. A clear and concise statement of the facts supporting any affirmative defense, including the names of the individuals involved and the date and place of the occurrence of each particular act alleged, shall be set forth. An answer to an alleged violation of section 209-a.1(g) of the act shall identify the statute, interest arbitration award, collectively negotiated agreement, policy, or practice that forms the basis of the employer's affirmative defense, if any.

(d) Motion for particularization of the answer. If the charging party believes that the statement of facts supporting any affirmative defense is so vague and indefinite that such charging party cannot reasonably be expected to address them in an expeditious manner at a hearing, such charging party may, within 10 working days after receipt of the answer, file [with the administrative law judge in the same manner applicable to the filing of the charge] a motion with the administrative law judge for an order directing the respondent to file a verified statement supplying specified information. The respondent may file a response to the motion within five[seven] working days after its receipt thereof, with proof of service of a copy of the response on all other parties. The failure of a party to timely comply with an order of particularization may, in the discretion of the administrative law judge, constitute grounds for precluding the respondent from offering any evidence as to the matters dealt with by the order.

(e) Amendment. [The administrative law judge may permit the] A respondent may file a motion to amend the answer upon good cause shown [at any time before or during the hearing, or] at any

time prior to the issuance of the administrative law judge's decision and recommended order, upon such terms as may be deemed just, consistent with due process. The motion shall include a statement of good cause to justify the amendment, a proposed amended charge, and proof of service upon all other parties. A charging party may file a response to the motion within five working days after its receipt thereof, with proof of service of the response on all other parties.

(f) Admission by failure to answer. If the respondent fails to file a timely answer, the administrative law judge may deem such failure to constitute an admission of the material facts alleged in the charge and a waiver by the respondent of a hearing.

(g) A public employer which is made a party to an improper practice charge pursuant to section 209-a.3 of the act may file responsive pleadings in accordance with subdivisions (a)-(e) of this section. The administrative law judge may deem the public employer's failure to file any responsive pleading to constitute a waiver of the public employer's right to participate in any hearing held on the allegations of impropriety set forth in the charge.

**Section 204.7 is amended as follows:**

(a) Filing of application. A party filing an improper practice charge pursuant to Part 204 of this Chapter may apply to the board for injunctive relief pursuant to section 209-a.4 of the act by filing with the office of counsel at the board's Albany office either by electronic or hardcopy mail[, or by filing an original and two copies of a signed application for injunctive relief]. [An application filed] The post office and electronic mailing addresses designated by the board for the purpose of filing an application for injunctive relief are published on the agency's website. To file by electronic mail, a party shall file a signed application for injunctive relief with the email address designated by the board for such purpose. To file by hardcopy mail, a party shall file an original signed application by mail or overnight delivery service, which shall be filed in

an envelope or container prominently bearing the legend “INJUNCTIVE RELIEF APPLICATION” in capital letters on its front. An application that is filed by electronic mail [at an address designated by the board for such purpose and published on the agency’s website] shall state in the subject line “APPLICATION FOR INJUNCTIVE RELIEF.” An application, in any format, received by the office of counsel after 5:00 p.m. on the day of filing shall be deemed filed when processed on the next business day and the 10-day review period referenced in section 204.9 of this Part shall not commence until the application has been processed on the next business day.

(b) Application form. The application shall be filed on a form prescribed by the board which shall give notice of the right to respond pursuant to section 204.8 of this Part. The application form shall include the following:

- (1) the name, address, telephone number, and electronic mail address[, fax number,] and affiliation, if any, of the charging party;
- (2) the name, title, address, telephone number, and electronic mail address[, and fax number] of any representative filing the application on behalf of the charging party;
- (3) the name, title, address, telephone number, and electronic mail address[, and fax number] of any attorney or other representative who will represent the charging party during the processing of the application, if different from the representative named in response to paragraph (2) above;
- (4) the name, address, electronic mail address [if known], and telephone number of any public employer or employee organization named as a party to the improper practice charge, including the name, address, electronic mail address, and telephone number for

the Chief Legal Officer upon which the application has been delivered, as referred to in section 204.7 (c)(4) of this Part;

(5) the date when the improper practice charge was filed; and

(6) the case number of the improper practice charge, if available.

(c) Additional contents of application . The charging party shall attach to the application form the following documents:

(1) a copy of the improper practice charge;

(2) an affirmation or affirmations stating, in a clear and concise manner: (i) 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 (ii) why the alleged injury, loss, or damage is immediate, irreparable, and will render a resulting judgment on the merits of the improper practice charge ineffectual if injunctive relief is not granted by the court, and why there is a need to maintain or return to the status quo in order for the board to provide meaningful relief. Such affirmations shall be signed and shall state “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.” If filed electronically, the affirmation or affirmations shall be in text searchable format[ and shall not be scanned copies of the original documents];

(3) copies of any documentary evidence in support of the application;

(4) proof of service on all parties to the charge and proof that a copy of the completed application for injunctive relief and all supporting documents was delivered to the respondent's chief legal officer in an envelope bearing the legend "ATTENTION: CHIEF LEGAL OFFICER" in capital letters on its front, and the method and date that such delivery was made[, and proof of service on all other parties to the charge]. If delivery to respondent's chief legal officer is made by electronic mail, the email shall state in the subject line "APPLICATION FOR INJUNCTIVE RELIEF." If delivery to the respondent's chief legal officer is not by electronic mail or personal service, proof of delivery must establish when the respondent's chief legal officer actually received the completed application and all supporting documents. An application for injunctive relief filed without proof of service on respondent and delivery to respondent's chief legal officer will be rejected [Delivery by facsimile or by electronic mail will not be accepted, unless the charging party provides a written acknowledgment from the respondent's chief legal officer that such officer accepts delivery by that means, and when such officer received the completed application and all supporting documents]; and

(5) charging party may file, at its option, a memorandum of law in support of the application for injunctive relief. If filed electronically, the application for injunctive relief shall be in text searchable format[ and shall not be scanned copies of the original documents].

**Section 204.8 is amended as follows:**

(a) Filing of response. A party to whom an application for injunctive relief is delivered pursuant to section 204.7 of this Part may file with the office of counsel by either electronic or hardcopy mail within five days after the application was served on respondent and delivered to its chief

legal counsel; or, if service and delivery were effected on different dates prior to filing, the five day response period runs from the latter date. [an original and two copies of a response to the application, with proof of service of a copy on all parties within five days after the application was actually delivered. Alternatively, an original and one copy of a response, with proof of service on all parties, may be filed with the office of counsel by either electronic mail at an electronic mail address designated by the board for that purpose, or by fax at a fax number designated by the board for that purpose within five days after delivery of the application. If the response is filed by fax, the responding party shall mail or deliver an original and two copies of the response to the office of counsel by the next working day.] Unless otherwise authorized by the office of counsel, copies of the response shall be served on all other parties in the same manner in which the application is filed with the office of counsel; or, if consent for alternative service has been given by the applicant, it shall be the responsibility of respondent to notify the office of counsel of the same. The response shall be signed and shall contain a signed affirmation stating, “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.” The response shall be deemed filed when received by the office of counsel and any response, in any format, received by the office of counsel after 5:00 p.m. on the day of filing shall be deemed filed when processed the next business day.

(b) Contents of response.

- (1) The response, if any, shall assert any defense that the responding party, at the time of filing, believes it could rightfully assert in an answer or responsive pleading to the improper practice charge, including any affirmative defenses pursuant to section

204.3(c)(2) of this Part. The response shall not constitute an answer or responsive pleading to the improper practice charge pursuant to section 204.3 of this Part, and asserting or not asserting any affirmative defense or other defense in the response shall not prejudice any party with regard to defenses or affirmative defenses that party may plead or not plead in an answer or responsive pleading filed pursuant to that section.

(2) Any affirmation submitted in support of the response shall be made on the basis of personal knowledge of the relevant facts and documentary evidence attached to the affidavit. Such affirmation shall be signed and shall state “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.” If filed electronically, the affirmation or affirmations shall be in text searchable format [and shall not be scanned copies of the original documents].

(3) The response may be accompanied by a memorandum of law in opposition to the application for injunctive relief. If filed electronically, the affidavit or affidavits shall be in searchable format and shall not be scanned copies of the original documents.

(c) Accelerated response. Upon presentation of clear evidence of a compelling need for determination of an application for injunctive relief in fewer than 10 days from its receipt by the board, and upon a determination by the office of counsel that such compelling need exists, the office of counsel may direct that a response, if any, be filed within a specified time earlier than otherwise required by this section.

**Section 204.9 is amended as follows:**

Within 10 days after receipt by the office of counsel of a completed application for injunctive relief, the board, by its office of counsel, shall determine whether a sufficient showing has been made pursuant to section 209-a.4 of the act. If a sufficient showing has been made, the board, by its office of counsel, shall petition supreme court for injunctive relief upon notice to all parties or shall issue an order, with notice to all parties, permitting the charging party to seek injunctive relief by petition to supreme court. Where a sufficient showing has not been made, notice of that determination, stating the reasons for it, shall be issued by the board by its office of counsel to all parties within 10 days after receipt of the application by the board. Orders permitting the charging party to seek injunctive relief by petition to supreme court and notices to the parties that a sufficient showing has or has not been made may be issued by[ ~~fax or~~] electronic mail.

**Subdivision (a) of section 205.4 is amended as follows:**

(a) Filing. A[n original and three copies of a] petition requesting the director of conciliation to refer an impasse to a public arbitration panel may be filed by an employee organization or public employer after 15 days have elapsed following appointment of a mediator to such impasse by the director of conciliation. A copy of the petition shall also be served upon the other party to the impasse simultaneously. [Should the chairperson authorize electronic filing of the petition, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

**Section 205.9 is amended as follows:**

The determination and award of the arbitration panel shall be in writing, signed and acknowledged by each member of the arbitration panel, and shall be delivered to the parties either personally or by registered or certified mail, return receipt requested. Within five working

days of rendering the determination and award, the arbitration panel shall file [~~two copies of~~] the determination and award with the director of conciliation.

**Section 205.10 is amended as follows:**

Sections 205.11 through 205.20 of this Part relate to impasses in collective negotiations between any of the entities [the New York City Transit Authority and Metropolitan Transportation Authority and their subsidiaries and recognized or certified employee organizations] covered by the provisions of section 209.5 of the act.

**Subdivision (a) of section 205.14 is amended as follows:**

(a) Either party to the impasse may file [an original and three copies of] a petition requesting the director of conciliation to refer their dispute to a public arbitration panel after 15 days have elapsed following appointment by the director of conciliation of a mediator to such dispute. [Should the chairperson authorize electronic filing of the petition, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

**Subdivision (a) of section 205.16 is amended as follows:**

(a) Response. A[n original and three copies of a] response shall be filed within 10 working days of receipt of the petition requesting arbitration. A copy of the response shall be simultaneously served, by the same means as the petition was served, upon the petitioning party.

**Section 205.20 is amended as follows:**

The determination and award of the arbitration panel shall be in writing, signed and acknowledged by each member of the arbitration panel and shall be delivered to the parties either personally or by registered or certified mail, return receipt requested. Within five working days

of rendering the determination and award, the arbitration panel shall file [two copies] one copy of the determination and award with the director of conciliation.

**Section 206.2 is amended as follows:**

(a) A charge that any employee organization or agent thereof is engaging in, causing, instigating, encouraging or condoning a strike may be [made] filed by the chief legal officer of the government involved or [the] counsel for the board on its [upon his or her] own motion. A charge shall be filed electronically with the board at its Albany office. Instructions for filing electronically shall be available on the board's website. Such a charge shall be in writing and signed and shall contain a signed affirmation stating, "I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law." A strike charge shall be filed with the board[. An original and four copies of the charge,] with proof of service upon the employee organization respondent, [shall be filed with the board, ]and, if the charging party is [the] counsel for the board, such counsel shall simultaneously deliver [serve] a copy of the charge to [on] the chief legal officer of the government involved. Charge forms [will be supplied by the counsel upon request, and/or will be] shall be available on the agency's website. [Should the chairperson authorize electronic filing of the charge, the filing of a signed paper original consistent with this section and electronic filing and service of a copy to an address specified by the agency on its website shall constitute compliance with the filing and service requirements herein contained.]

(b) The chief legal officer of a government involved or counsel for the board may intervene as a party in any proceeding initiated by the other pursuant to section 212.1 of this chapter.

**Section 206.4 is amended as follows:**

After receipt of a charge filed by the chief legal officer of a government involved or ~~[the]~~ counsel for the board, the board shall issue to the parties a notice setting forth the time and place of the hearing, which time shall be not less than eight working days after the receipt of the notice.

**Subdivisions (a) and (b) of section 206.5 are amended as follows:**

(a) The employee organization against whom the charge is issued shall file electronically [in the same manner as the petition] an answer, with proof of service of a copy on all other parties[, by such means as the petition was served,] within eight days after receipt of a copy of the charge; or, if consent for alternative service has been given by the charging party, it shall be the responsibility of the employee organization to notify the board of the same.

(b) The answer shall be in writing and signed and shall contain a signed affirmation stating, "I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law."

**Section 206.6 is amended as follows:**

~~[(a)]~~ The board may designate an administrative law judge to conduct a hearing pursuant to Part 212 of this Chapter.

**Subdivision (a) of section 207.4 is amended as follows:**

(a) Demand for arbitration (request made by one party to the other). Petitioner shall serve on the respondent a demand for arbitration which shall serve as notice of intention to arbitrate pursuant to CPLR section 7503. Such notice shall be served in the same manner as the summons or by

registered or certified mail, return receipt requested. In addition, [~~two copies~~] one copy of the demand for arbitration shall be filed with the director of conciliation together with proof of service on the respondent. [Should the board permit or mandate electronic filing of the petition, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

**Section 207.17 is repealed.**

**Subdivision (a) of section 210.1 is amended as follows:**

(a) Filing of petition. Any person, employee organization or employer may file with the director [an original and four copies] one copy of a petition for a declaratory ruling with respect to the applicability of the act to it or any other person, employee organization or employer, or with respect to the scope of negotiations under the act. The petition shall be in writing on a form provided by the director and contain a signed affirmation stating, “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.” [Should the chairperson authorize electronic filing of the petition, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

**Section 211.3 is amended as follows:**

(a) The administrative law judge may issue a subpoena only when the party applying for it files a written affirmation[, with four copies, unless the chairperson has authorized electronic filing of such requests], conforming to the requirements of this Part[, in which case the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall

constitute compliance with the filing and service requirements herein contained]. The affirmation shall be signed and shall state “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.”

(b) Contents of affirmation for a witness subpoena. Such affirmation must specify: (1) the name and address of each individual for whom the subpoena is sought; [and] (2) facts sufficient to establish the relevancy of the testimony to be adduced pursuant to the subpoena; and (3) that a copy of the subpoena request and affirmation has been served upon all other parties.

(c) Contents of affirmation for subpoena requiring the production of books, papers, documents or other objects[; response]. Such affirmation must specify: (1) the books, papers, documents or other objects to be produced pursuant to the subpoena; (2) facts sufficient to establish the relevancy of the materials to be produced; and (3) that a copy of the subpoena request and affirmation has been served upon all other parties.

(d) A party may file with the administrative law judge a response to the subpoena request, with proof of service upon [copy to] all other parties, within five working days after its receipt of the subpoena request.

(e[d]) Nothing in this section shall in any way affect any rights of any person or entity under law.

**Subdivision (a) of section 212.1 is amended as follows:**

(a) One or more public employees, an employee organization acting in their behalf, or a public employer may be permitted to intervene in an improper practice charge or representation petition. The intervenor must file with the administrative law judge [an original and four copies] one copy of a motion setting forth the grounds for the intervention, with proof of service of such

motion on all other parties. [Should the chairperson authorize electronic filing of motions, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained. Upon receipt of a motion to intervene, the administrative law judge shall set a schedule for the parties to respond to the motion.] Any party to the proceeding may file a response to the motion within five working days after its receipt thereof, with proof of service of the response on all other parties.

**New section 212.3 *Offers of proof and pre-hearing motions to dismiss.* is added as follows:**

(a) At any stage of the proceeding, the administrative law judge may request an offer of proof from a party on an issue(s) upon such schedule and manner as the administrative law judge shall set.

(b) At any time after the conference, the administrative law judge may authorize the filing of a prehearing motion to dismiss by a party and shall permit a response from the opposing parties or parties upon such schedule and manner as the administrative law judge shall set.

(c) The basis to request an offer of proof or authorize a pre-hearing motion to dismiss shall be whether it appears to the administrative law judge that there is a substantial question as to whether the allegations, if true, constitute a viable legal claim or defense. Whether to request an offer of proof or authorize a motion to dismiss shall be at the discretion of the administrative law judge.

(d) The administrative law judge may make rulings and decisions based upon such offers of proof or pre-hearing motions to dismiss.

**Existing section 212.3 is renumbered 212.4.**

**Existing section 212.4 is renumbered 212.5 and amended as follows:**

(a) A formal hearing for the purpose of taking evidence relevant to the proceeding before the agency shall be conducted as necessary by the administrative law judge designated by the director. At any time, an administrative law judge may be substituted by the director for the administrative law judge previously assigned.

(b) [The hearing will not be adjourned unless good and sufficient grounds are established by the requesting party, who shall file, consistent with the manner in which the petition was filed, with the administrative law judge an application, on notice to all other parties, setting forth the factual circumstances of the application, and the previously ascertained position of the other parties.]

The failure of a party to appear at the hearing may, in the discretion of the administrative law judge, constitute grounds for dismissal of the absent party's pleading and a default determination.

(c) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the administrative law judge shall have the power to call and examine witnesses, and to introduce into the record documentary and other evidence. Witnesses shall be examined orally under oath.

(d) Stipulations of fact may be introduced into evidence with respect to any issue. The administrative law judge is authorized to administer oaths and affirmations, and to exercise discretion in regulating the course of the proceeding, including, but not limited to, sequestering witnesses, and controlling the order and method of presentation of relevant evidence. In exercising this discretion, the administrative law judge may require oral or written offers of proof, and may direct the production of supporting documentary evidence as exhibits to such

offers of proof. The administrative law judge may entertain motions based upon such offers of proof. Interlocutory appeal of a decision, ruling, or order of an administrative law judge that does not resolve the entirety of a case shall be permissible only as provided in section 213.4 of this Part. All such non-dispositive decisions, rulings, or orders of an administrative law judge may be appealed to the board in exceptions pursuant to section 213.2 of this Part to a final decision rendered by the administrative law judge.

(e) Stipulations of undisputed facts or stipulations regarding the authenticity of documents to be admitted into evidence may be introduced with respect to any relevant issue.

(f) Except as to the rules of privilege recognized by law, compliance with the technical rules of evidence shall not be required.

(g) A party shall, upon offering an exhibit into evidence at the hearing, simultaneously furnish copies to all other parties, unless excused by the administrative law judge.

[(h) (1) An administrative law judge may recuse himself/herself from a case whenever he/she believes it to be appropriate. (2) Any party to a proceeding may file a motion with the assigned administrative law judge requesting that the administrative law judge recuse himself/herself from further participation in that case. A motion for recusal shall be made as soon as reasonably possible after the basis for such motion becomes known to the party making it. Unless made at a hearing, such motion shall be filed with the administrative law judge in the same manner as was the petition, shall set forth all of the known grounds for the motion, and shall be accompanied by proof of service of a copy thereof upon all other parties. Unless such motion is made at a hearing, any party may file in the same manner with the administrative law judge a response to such motion within three working days of its receipt of a copy thereof, with proof of service of a copy of the response on all other parties, unless otherwise directed by the administrative law judge.

Motions for recusal made at a hearing, and responses thereto, shall be made upon such terms as the administrative law judge shall direct. The administrative law judge's ruling on the motion shall be made either in writing or on the record at the hearing and the ruling, the recusal motion and any response shall be part of the record of the proceeding.]

(h[i]) All motions and rulings made at the hearing shall be part of the record of the proceeding and, unless expressly authorized by the board, shall not be appealed directly to the board, but shall be considered by the board whenever the case is submitted to it for decision. Any objection to the conduct of a hearing, including an objection to the introduction of evidence, may be oral or written, must be accompanied by a short statement of the grounds for such objection, and shall be included in the record. Any objection not duly taken at the hearing shall be deemed waived, unless excused because of extraordinary circumstances.

(i[j]) The refusal of a witness to answer any question which has been ruled to be proper shall, at the discretion of the administrative law judge, be grounds for striking all testimony previously given by such witness on related matters, or the basis of an adverse inference on the subject of the question.

(j[k]) At the discretion of the administrative law judge, the hearing may be continued from day to day or to a later day or another place, by announcement thereof at the hearing or by other appropriate notice.

(k[l]) A motion may be made to dismiss an improper practice charge, or the administrative law judge may dismiss a charge, on the ground that the alleged violation occurred more than four months prior to the filing of the charge, but only if the failure of timeliness was first revealed during the hearing. An objection to the timeliness of the charge, if not duly raised, shall be deemed waived.

**Existing section 212.5 is renumbered 212.6 and amended as follows:**

**§ 212.6[5] Oral Summations and Briefs [and proposed findings]**

(a) At the conclusion of the hearing, while on the record, the parties will be afforded the opportunity to present oral summations setting forth proposed findings of fact and conclusions of law to the administrative law judge.

(b) [Any party shall be entitled upon request made before the close of the record to file as directed by the administrative law judge a brief or proposed findings and conclusions of fact and conclusions of law, or both, within such time as fixed by the administrative law judge.] The administrative law judge may, in lieu of oral summations, direct the filing of briefs when requested by a party or where [the submission of briefs is] warranted by the nature of the proceeding or [the] particular issues therein. Any such brief shall set forth [or] proposed findings [and conclusions] of fact and conclusions of law, and shall be [filed with the administrative law judge must be] accompanied by proof of service [of a copy thereof] upon all other parties. Reply or supplemental briefs, however denominated, will not be permitted without prior request to and approval by the administrative law judge. Such requests will not be approved unless the opponent's brief properly raises issues for the first time which are material to the disposition of the matter.

**Existing section 212.6 is renumbered 212.7.**

**New section 212.8 *Recusal* is added as follows:**

(a) An administrative law judge may recuse themselves from a case whenever they believe it to be appropriate.

(b) Any party to a proceeding may file a motion with the assigned administrative law judge requesting that the administrative law judge recuse themselves from further participation in that

case. A motion for recusal shall be made as soon as reasonably possible after the basis for such motion becomes known to the party making it. Unless made at hearing, such motion shall be filed with the administrative law judge with proof of service of a copy upon all other parties and shall set forth all the known grounds for the motion. Unless such motion is made at a hearing, any party may file a response to such motion within five working days of its receipt of a copy thereof, with proof of service of a copy of the response on all other parties, unless otherwise directed by the administrative law judge.

(c) Motions for recusal made at a hearing, and responses thereto, shall be made upon such terms as the administrative law judge shall direct. The administrative law judge's ruling on the motion shall be made either in writing or on the record at the hearing. The ruling, the recusal motion and any response shall be part of the record of the proceeding.

**Subdivision (a) of section 213.2 is amended as follows:**

(a) Within 15 working days after receipt of a final decision or report by the director, the director of conciliation, an assistant director or administrative law judge, a party may file with the board a statement in writing setting forth exceptions thereto or to any other part of the record or proceedings and a separate brief in support thereof, along with proof of service on all other parties. Exceptions and supporting briefs shall be filed electronically. Instructions for electronic filing shall be available on the board's website. [by mail or overnight delivery service. An original and four copies shall be filed, to be accompanied with an original and four copies of a separate brief in support thereof, along with proof of service on all other parties. Should the chairperson authorize electronic filing of exceptions, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance

with the filing and service requirements herein contained. A copy of such exceptions and briefs shall be simultaneously served upon all other parties.]

**Section 213.3 is amended as follows:**

Within seven working days after receipt of exceptions, any party may file [in the same manner as the exceptions were filed,] a response thereto, or cross exceptions and a brief in support thereof, together with proof of service of copies of these documents upon each party to the proceeding.

Responses and cross exceptions shall be filed electronically. Within seven working days after receipt of cross exceptions, any party may file [in the same manner as the cross-exceptions were filed] a response thereto, together with proof of service of a copy thereof upon each party. No pleading other than exceptions, cross-exceptions or a response thereto and no brief other than that filed in support of such pleading will be accepted or considered by the board unless it is requested by the board or filed with the board's authorization. If any additional pleading or brief is requested or authorized by the board, the board shall notify the parties regarding the conditions under which that pleading will be permitted.

**Subdivision (a) of section 213.4 is amended as follows:**

(a) Within 10 working days after any interim decision, order or ruling, a party may, consistent with section 212.4(d) of this Chapter, file with the board [an original and four copies of] a motion seeking leave to file interlocutory exceptions to such interim decision, order or ruling. A[n original and four copies of a] brief in support thereof shall be filed simultaneously as a separate document. A motion seeking leave to file interlocutory exceptions shall be filed electronically. A copy of the motion and briefs shall be served simultaneously upon all other parties and proof of such service shall be filed with the board. [Should the chairperson authorize electronic filing of such motions and responses thereto, the filing of a signed paper original

consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

**Section 213.5 is amended as follows:**

Within five working days after notification from the deputy chair or other agent of the board so designated that the motion for leave will be considered by the board, any other party may file [an original and four copies of] a response and brief in opposition as a separate document. A response and supporting brief shall be filed electronically. A copy of the response and brief shall be served simultaneously upon all other parties and proof of such service shall be filed with the board. [Should the chairperson authorize electronic filing of such motions and responses thereto, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

**Section 213.7 is amended as follows:**

A request for an extension of time within which to file exceptions, motions for leave to file exceptions, cross-exceptions, responses and briefs shall be in writing, and filed with the board before the expiration of the required time for filing them, provided that the time during which to request an extension of time may be extended because of extraordinary circumstances. A party requesting an extension of time shall notify all parties of its request and shall indicate to the board the position of each other party with regard to such request. Requests for an extension of time shall be filed electronically.

**Subdivision (b) of section 213.9 is amended as follows:**

(b) Non-Party Initiated Amicus Procedure

- (1) A non-party seeking to file an Amicus brief in a matter pending before the board may file [an original and four copies of] a motion for leave along with a proposed brief with

proof of service of one copy on each party. Motions and proposed briefs shall be filed electronically. [Should the chairperson authorize electronic filing of such motions, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.]

(2) Criteria. A motion for amicus curiae relief shall demonstrate that the movant can identify legal or policy arguments under the act that might otherwise escape the board or that may provide assistance to the board in some other manner.

(3) Positions of the Parties. The parties may file [in the same manner as the motion] papers in support or opposition to the motion with proof of service on the other parties consistent with the schedule for the motion as set by the board. Papers shall be filed electronically.

(4) Upon receipt of a motion to file an amicus curiae brief, the board shall set a schedule for the parties to respond to the motion.

(5) Should the board grant the motion to file briefs amicus curiae, such briefs will be in the manner and time frame set forth by the board in its order granting the motion.

**Subdivisions (b) and (c) of section 213.11 is amended as follows:**

(b) Request for enforcement. A party seeking enforcement by the board must file such a request with the office of counsel electronically. Any request for enforcement must state [an original and four copies of a written request stating] the reason(s) why a judicial order of enforcement is necessary, supported by [an original and four copies of] affirmations of persons with personal knowledge of the facts set forth therein, attesting to the alleged refusal or failure to comply with the remedial order. Such affirmations shall be signed and shall state “I affirm under penalties of

perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may also be filed in an action or proceeding in a court of law.” [Should the chairperson authorize electronic filing of such requests, the filing of a signed paper original consistent with this section and electronic filing and service of a copy shall constitute compliance with the filing and service requirements herein contained.] Said request and supporting affirmations shall be accompanied by proof of service on all other parties before the board.

(c) Response. Pursuant to a schedule set by the office of counsel, all other parties before the board may file [in the same manner as the request was filed] with the office of counsel[ an original and four copies of] a written response to the request for enforcement stating why enforcement is not necessary, supported by affirmations of persons with personal knowledge of the facts set forth therein. Such affirmations shall be signed and shall state “I affirm under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document will be filed in a proceeding before the Public Employment Relations Board and may be filed in an action or proceeding in a court of law.” Said response and supporting affirmations shall be accompanied by proof of service on all other parties before the board.

**Sections 214.1 and 214.2 are repealed and new sections 214.1-214.4 are added as follows:**

**§ 214.1 Scope.**

This Part applies to the required professional and courteous conduct of parties, persons, and witnesses appearing or practicing before the agency. This Part does not include complaints about or against agency personnel.

### **§ 214.2 Misconduct defined.**

The term misconduct, as used in this Part, includes, but is not limited to:

- (a) repeated, redundant, or frivolous filings of charges, motions, or other submissions which fail to comply with the agency's rules of procedure;
- (b) repeated disregard of orders, instructions, directives and/or the authority of the board or its designee;
- (c) submission of fraudulent testimony, documents, or information including but not limited to non-existent legal authority generated by artificial intelligence;
- (d) physical disruption and/or repeated verbal disruption of agency proceedings; and
- (e) abusive conduct toward any party, advocate, witness, administrative law judge, board member, agency personnel, or other board designee.

### **§ 214.3 Misconduct by any party, advocate or other person.**

- (a) Misconduct by any party, advocate or other person at any stage of a case before the director, an administrative law judge, board designee, or the board, may be grounds for immediate exclusion of that person from pending agency proceedings; temporary or permanent suspension from practice before the agency; the striking of pleadings, exhibits and/or testimony; imposition of a requirement of pre-approval of submissions; dismissal of the charge or petition; and/or such other remedies and relief as are appropriate under the circumstances.
- (b) Nothing in this Part shall be deemed to limit the authority of the administrative law judge to regulate the course of the proceeding at any time as provided in section 212.4 of this Part.

### **§ 214.4 Procedure**

- (a) Upon observation of perceived misconduct, or upon the complaint of any person to the administrative law judge, other board designee or board where it appears there are

sufficient grounds to believe there has been misconduct, an administrative law judge, other board designee, or the board shall notify in writing the alleged offending party, advocate or other person of the alleged behavior perceived to be misconduct and the proposed action to be taken, and shall allow the alleged offending party, advocate or other person at least ten (10) working days to respond.

(b) The administrative law judge, other board designee, or board may, in their discretion, request the other parties in the proceeding respond to the notice.

(c) If material issues of disputed fact exist, a hearing may be held to resolve such issues. In the case of a proceeding before an administrative law judge or other board designee, the administrative law judge or other board designee may, in their discretion, hear the matter or may request that the board appoint a different hearing officer. In the case of a proceeding before the board, the board may designate a hearing officer to conduct a hearing and issue a report and recommendation to the board.

(d) Upon receipt and review of the response(s), and where necessary after a hearing, the administrative law judge, other board designee, or board shall issue a determination setting forth the misconduct and responsive action. Such determinations will be subject to exceptions to the board pursuant to Part 213 of this Title or, where a final order of the board, a proceeding pursuant to section 213 of article 14 of the Civil Service Law.