

Maryland State Labor Relations Board

Regulations

(Effective July 2010 and beyond)

COMAR 14.32.01 ~ .08

Title 14

INDEPENDENT AGENCIES

SUBTITLE 32 – STATE LABOR RELATIONS BOARD

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Title 14 INDEPENDENT AGENCIES

Subtitle 32 STATE LABOR RELATIONS BOARD

Chapter 01 General Provisions

Authority: State Personnel and Pensions Article, §§3-205 and 3-206, Annotated Code of Maryland

.01 Construction.

This subtitle shall be construed to effectuate the purposes and provisions of State Personnel and Pensions Article, Title 3, Annotated Code of Maryland.

.02 General Agency Description.

A. The State Labor Relations Board is an independent unit of State government. The State Labor Relations Board (SLRB or the Board) is a separate entity from the State Higher Education Labor Relations Board (SHELRB); however, the two Boards, collectively, "the State Labor Relations Boards" or "the Boards" share an Executive Director and administrative offices.

B. The purpose of the State Labor Relations Board is to implement the provisions of the Act and to adjudicate and resolve cases arising under State Personnel and Pensions Article, §§3-201—3-209 and 3-301—3-602, Annotated Code of Maryland, involving the State and employee organizations. For these purposes, the powers and duties of the Board include, but are not limited to, the following:

- (1) Determining appropriate bargaining units and amendments and clarification of bargaining units, and conducting representation elections;
- (2) Adjudicating unfair labor practice complaints and fashioning appropriate remedial relief for violations of the Act; and
- (3) Adjudication of disputes regarding negotiability.

.03 General Course and Method of Operation.

A. Receipt and Review.

- (1) Upon receipt of a petition or complaint, the Board may assign the Joint Executive Director of the State Labor Relations Boards (Executive Director) to process the case.
- (2) The Executive Director shall first screen the petition or complaint to ensure that the SLRB has jurisdiction to hear the case.

B. Dismissal for Lack of Jurisdiction.

- (1) Subject to the Board's approval, the Executive Director may dismiss the case for lack of jurisdiction.

(2) In the case of dismissal for lack of jurisdiction, the complainant shall be notified, in writing, of the Board action, as well as the reason or reasons for the dismissal.

C. Board Review.

(1) After the Executive Director's initial jurisdictional review, the Executive Director shall submit the case to the Board, which may determine that the petition or complaint is without basis and dismiss it without further proceedings.

(2) A determination shall be:

(a) Accompanied by a written decision, explaining the reasons for the dismissal; and

(b) Sent to the complainant and other interested parties.

(3) A petition or complaint not dismissed shall be scheduled for a hearing by the Board before either an administrative law judge designated by the Office of Administrative Hearings, or the Board, unless the procedures for informal settlement described in this subtitle are initially followed.

.04 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Act" means State Personnel and Pensions Article, Title 3, Annotated Code of Maryland.

(2) "Bargaining unit" means a bargaining unit defined in Executive Order 01.01.1996.13 or established through the procedures set forth in this subtitle.

(3) "Board" means the State Labor Relations Board, which consists of five members appointed by the Governor, in compliance with State Personnel and Pensions Article, §3-202, Annotated Code of Maryland.

(4) "Chairman" means the individual designated under State Personnel and Pensions Article, §3-202(c), Annotated Code of Maryland.

(5) "Collective bargaining" means:

(a) Good faith negotiations by authorized representatives of employees and their employer with the intention of:

(i) Reaching an agreement about wages, hours, and other terms and conditions of employment;

(ii) Incorporating the terms of the agreement in a written memorandum of understanding or other written understanding; and

(iii) Clarifying terms and conditions of employment;

(b) Administration of terms and conditions of employment; or

(c) Voluntary adjustment of a dispute or disagreement between authorized representatives of employees and their employer that arises under a memorandum of understanding or other written understanding.

(6) "Complainant" means the party filing a complaint alleging a violation of the Act or violations of regulations adopted under it or both.

(7) "Complaint" means an allegation of a violation of the Act or regulations adopted under it or both, and filed in accordance with COMAR 14.32.05.

(8) "Contested case" means a proceeding defined by State Government Article, §10-202(d), Annotated Code of Maryland.

(9) "Employee organization" means a labor or other organization in which State employees participate and that has as one of its primary purposes representing employees.

(10) "Employer" means the State of Maryland.

(11) "Exclusive representative" means an employee organization certified by the State Labor Relations Board under State Personnel and Pensions Article, §3-406, Annotated Code of Maryland.

(12) "Exclusive representative designee" means those individuals designated by the exclusive representative exercising the exclusive representative responsibilities under the Act including accepting responsibility to accept service pursuant to COMAR 14.32.02.12A(2), on a form provided by the Board.

(13) "Executive Director" means the individual appointed jointly by SHELRB and SLRB as Executive Director, the Executive Director's designee, or, in the absence of the Executive Director, other member or members of the Boards' staff that, with the assent of the Boards, discharges the duties of the Executive Director.

(14) "Intervenor" means a party who interposes in a proceeding with the approval of the Board, the Executive Director, or an administrative law judge.

(15) "OAH" means the Maryland Office of Administrative Hearings.

(16) "Party" means any person, employee organization, or the Employer:

(a) Who acts pursuant to this subtitle;

(b) Who has been named as a party in a complaint, petition, or other matter under this subtitle; or

(c) Whose motion to intervene has been granted by the Board.

(17) "Petition" means a request for implementation of a provision of State Personnel and Pensions Article, §3-206, Annotated Code of Maryland, filed in accordance with COMAR 14.32.03 and 14.32.06.

(18) "Petitioner" means the party filing a representation or unit petition pursuant to State Personnel and Pensions Article, §3-206, Annotated Code of Maryland.

(19) "Presiding hearing officer" means the Board or the individual the Chief Administrative Law Judge of OAH has assigned to conduct the hearing.

(20) "Respondent" means the party accused of a violation of the Act or regulation adopted under it.

(21) "Unfair labor practice (ULP)" means those practices defined in regulations adopted by the Secretary of Budget and Management.

.05 Computation of Time Periods.

A. Time periods in this subtitle refer to calendar days unless otherwise indicated.

B. For purposes of service of any document filed before the Board, absent any evidence to the contrary, it is presumed that any document served by U.S. mail was received by the addressee 3 calendar days after the date the document was mailed. Thus, a 3-day period shall be added to any time period in which service was effected by mail.

C. A time period is computed beginning with the day after the act or event that initiates the period and concludes with the last day of the period, excluding weekends and State holidays. A time period that would otherwise end on a weekend or State holiday instead ends on the following business day.

D. Extension of Time Periods. The Board or the Executive Director may extend a time period not prescribed by statute:

(1) Before the initial time period ends, without motion or notice, if good cause for the extension is shown; and

(2) After the initial time period ends, upon written motion filed with the Executive Director, if the failure to act was the result of excusable neglect or good cause.

.06 Petition for Adoption of Regulation.

A. An interested person may submit to the Board a petition for consideration of the adoption of a regulation.

B. Within 60 days after the petition is submitted, the Board shall:

(1) In writing, deny the petition and state the reasons for the denial; or

(2) Initiate the procedures for consideration of the regulation.

Title 14 INDEPENDENT AGENCIES

Subtitle 32 STATE LABOR RELATIONS BOARD

Chapter 02 General Practice and Hearing Procedures

Authority: State Personnel and Pensions Article, §§3-205 and 3-206, Annotated Code of Maryland

.01 Informal Resolution.

With the consent of all parties, any matter pending before the Board may be referred to OAH for informal resolution in accordance with the applicable provisions of COMAR 28.02.01.14. The parties shall participate in good faith in all matters referred to informal resolution and in all prehearing conferences in order to assist in the resolution of the pending matter. A party cannot be compelled to make a concession or enter into an agreement resolving a matter through informal resolution.

.02 Determination of Presiding Hearing Officer.

In hearings conducted by the Board, the Chairman shall preside for purposes of administering the hearing pursuant to this chapter. The Chairman may designate a Board member to preside in the Chairman's stead. The presiding hearing officer shall fix the time and place for all hearings.

.03 Prehearing Conference.

The presiding hearing officer may order a prehearing conference for any administrative purpose the presiding hearing officer considers necessary for the appropriate and orderly conduct of a pending matter. The parties shall cooperate in good faith with the presiding hearing officer in the appropriate and orderly conduct of any pending matter. The presiding hearing officer may order, with the consent of all parties, a prehearing conference for the purpose of seeking the voluntary resolution of a pending matter.

.04 Notice of Hearing.

A. Service by Mail. Written notice of a Board or delegated contested case hearing shall be delivered by the Board to all parties by ordinary or electronic mail.

B. Contents.

(1) Board Hearings. For Board hearings, the notice shall include:

(a) A statement of the date, time, place, and nature of the hearing;

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statutes and regulations involved;

(d) A copy of the petition or complaint; and

(e) Any other information required by State Government Article, §10-208, Annotated Code of Maryland.

(2) Hearings Delegated to OAH. The delegation of authority to OAH shall be in accordance with State Government Article, §10-205, Annotated Code of Maryland.

.05 Intervention and Additional Parties.

A. Intervention Application. Any potential intervenor with standing may request intervention as an interested party in any proceeding before the Board. An application for intervention shall be in writing, except that applications made during a hearing may be made orally, and shall contain a statement of the reasons for the intervention and the claimed basis of standing of the party to intervene.

B. When an application for intervention is filed regarding a petition for exclusive representative determination, the regulations set forth in COMAR 14.32.03.03B and .04D, and COMAR 14.32.04.01D apply.

C. Intervention Motions. The presiding hearing officer may, on its own motion or the motion of any party, order the addition of other parties. The presiding hearing officer shall give the additional party or parties all relevant information, and allow the party or parties a reasonable time to respond when appropriate.

.06 Continuance.

A. Application. A party may request a continuance upon written application to the presiding hearing officer before commencement of the hearing or other proceeding, or oral application to the presiding hearing officer during the hearing, but not ex parte.

B. Order. Board hearings or proceedings on any matter may be continued by order of the presiding hearing officer with the reasons or other conditions stated in the order, with notice to all parties.

.07 Appearances.

A. Except as otherwise provided by law, a party with standing to participate in a proceeding before the Board shall be represented by an attorney who is licensed to practice law in Maryland. However, an individual employee who is a party to an action before the Board, may appear on that individual's own behalf under Business Occupations and Professions Article, §§10-101—10-102, Annotated Code of Maryland, Maryland Rules of Civil Procedure 5.5, and Rules Governing Admission to the Bar of Maryland, Rule 16-812.

B. In the event that an out-of-State attorney wishes to represent a party before the Board, the attorney shall apply for admission under Business Occupations and Professions Article, §10-215, Annotated Code of Maryland, and Rules Governing Admission to the Bar of Maryland, Rule 14.

.08 Amendments.

A. Motion. A petition, complaint, or answer may be amended for good cause shown, but not ex parte, upon motion at any time before the decision. Allowance of amendments, including those to conform to the proof, shall be within the discretion of the presiding hearing officer.

B. Form. Motions to amend before hearing shall be in writing filed with the presiding hearing officer, and the moving party shall serve a copy upon all parties by regular mail.

.09 Briefs and Oral Arguments.

A. Oral Arguments. At the discretion of the presiding hearing officer, oral arguments may be presented by the parties with time limits determined by the presiding hearing officer.

B. Briefs. Briefs may be filed in the order and within the time limits set by the presiding hearing officer.

.10 Sequestration of Witnesses.

Upon its own motion, or the motion of a party, the presiding hearing officer may order the sequestration of witnesses in any proceeding.

.11 Subpoenas.

A. Issuance of Subpoenas. On request of a party, the presiding hearing officer or Executive Director may issue subpoenas. Subpoenas are for the purpose of securing the attendance and testimony of witnesses and the production at the hearing of any tangible items in the possession or under the control of the witness.

B. Requests.

(1) In a hearing before the Board, a request for a subpoena shall be made in writing to the Executive Director.

(2) To the extent practicable, subpoena requests shall be filed at least 10 days before the hearing.

(3) A request for a subpoena shall specify the:

(a) Name and full address of the individual to be subpoenaed; and

(b) Name, full address, and telephone number of the party requesting the subpoena.

(4) A subpoena that requests the production of tangible items, books, papers, or other documents shall describe those items with particularity.

C. Service of Subpoenas.

(1) Subpoenas may be served by:

(a) Personal delivery by an individual 18 years old or older who is not a party to the proceeding or related by blood or marriage to a party to the proceeding; or

(b) Certified mail, return receipt requested, to the individual at the address specified in the subpoena request.

(2) Unless the subpoena request specifies otherwise, the Executive Director shall mail the subpoena by regular mail to the party requesting the subpoena. The party shall serve the subpoena in accordance with §C(1) of this regulation.

(3) The subpoena may not be enforced pursuant to State Government Article, §9-1605(d)(2), Annotated Code of Maryland, absent proof of service by certified mail or personal delivery.

(4) Costs of certified mailing or personal delivery of the subpoena are the responsibility of the person requesting the service.

(5) Proof of service of the subpoena by certified mail or personal delivery is the responsibility of the person requesting the subpoena.

D. Return of service shall be made as follows:

(1) When service is by certified mail, by the filing of the original return receipt; or

(2) When service is by personal delivery, by the filing of an affidavit, signed by the individual who made service, containing:

(a) The name of the individual served;

(b) The date on which the individual was served;

(c) The particular place of service; and

(d) A statement that the server is 18 years old or older and not a party to the proceeding or related by blood or marriage to a party to the proceeding.

E. Objections to Subpoenas. A person may object to a subpoena by filing a motion to quash or for other relief.

F. Enforcement of Subpoenas. If a person fails to comply with a properly served subpoena, the Board or OAH as appropriate may apply to the appropriate circuit court for an order to show cause why an individual should not be sanctioned for refusal to comply with a subpoena.

.12 Service of Pleadings and Other Papers.

A. Service—Upon Whom Made. When service is required to be made upon a party, service shall be as follows:

(1) Upon the State by serving the Secretary or agency head for the agency or department named in the complaint, and the Secretary of the Department of Budget and Management; or

(2) Upon an employee organization, by service upon the exclusive representative designee or, if no one is so designated, by service upon the president, vice-president, secretary, secretary-treasurer, or executive director of the employee organization.

B. Service—How Made. Except as provided in Regulation .11C of this chapter and COMAR 14.32.03.02B and 14.32.03.03D, when this subtitle requires service upon any individual or party, the service shall be sufficient if made by regular or electronic mail.

C. Proof of Service.

(1) When under this subtitle service is required to be made, the form, document, pleading, or paper shall be filed with the Executive Director and shall contain or be accompanied by a certificate of service.

(2) The certificate of service shall be signed and shall contain the:

(a) Date of service;

(b) Manner of service;

(c) Name of each individual served; and

(d) Address at which each individual was served.

D. Service Computation.

(1) Mail Service. Whenever a period of time is measured from the service of a form, document, pleading, or paper, and service is by mail, 3 days shall be added to the prescribed period.

(2) Fax or Electronic Mail Service. Whenever a period of time is measured from the service of a form, document, pleading, or paper, and service is by fax or electronic mail, service shall be deemed made on the date of the fax or electronic mailing unless the individual or party receiving the service presents proof that actual service was received at a later time but not later than 3 days from the date of the fax or electronic mailing.

.13 Consolidation.

Upon application of a party or upon its own motion, the Board may consolidate for hearing any cases which involve common questions of law or fact.

.14 Prohibition Against Testimony of Mediators and Board Members or Employees.

A mediator, Executive Director, presiding hearing officer, member of the Board, or employee of the Board may not testify in a contested case or matter, pending in any jurisdiction or before the Board, with respect to any information, facts, or other matter coming to that individual's knowledge through a party or parties in an official capacity as a resolver of disputes.

.15 Delivery of Decisions and Orders.

Decisions, orders, and reports of the administrative law judge shall be delivered to the parties by electronic mail unless a party has expressed a preference for regular mail. Decisions, orders, and reports shall be issued within 30 days following the close of any hearing or filing of any post-hearing briefs, whichever is later.

.16 Ordering Transcripts for Board Review.

Upon request of any party, a transcription of a proceeding before the Board or OAH shall be ordered within 30 days of the hearing. The costs of the transcription shall be split by the parties.

.17 Dismissal and Default.

The Board or an administrative law judge may dismiss cases for want of prosecution if, after receiving notice by certified mail, the parties do not show good cause why the case should be retained.

.18 Decisions.

A. Board Hearings. A decision by the Board shall become the final decision of the agency unless the Board, on its own motion, or motion of a party, determines to review its decision.

B. Administrative Law Judge Hearings. When a hearing is presided over by an administrative law judge, the administrative law judge shall complete the procedure authorized by the Board in accordance with State

Government Article, §10-205, Annotated Code of Maryland, and, when appropriate, refer the matter or contested case back to the Board for action.

C. When appropriate under the delegation of authority to OAH, the parties may file exceptions with the Board within 20 days of OAH's service of its proposed decision. The exceptions shall:

- (1) Contain the legal or factual basis, or both, for any exceptions to the proposed findings of fact, and any legal argument or arguments in support of conclusions of law; and
- (2) Be accompanied by copies of any portions of the record referred to in the exceptions.

.19 Revocation of Delegated Hearing Authority to OAH.

A. Criteria. The Board, or the Executive Director acting on behalf of the Board, may revoke all or part of a delegation to OAH if the case:

- (1) Involves novel or unanticipated factual or legal issues;
- (2) Has significant social or fiscal consequences;
- (3) Involves policy issues of general applicability;
- (4) Is likely to have precedential value; or
- (5) Requires especially expeditious decision.

B. Procedures.

(1) The Board shall provide written notice of a revocation of hearing authority to all parties and OAH. The written notice shall contain a brief statement of the reason for the revocation and shall specify whether all or part of the delegation to hear a contested case has been revoked. If only part of the delegation has been revoked, the notice of revocation shall specify the portions of the contested case for which delegation is revoked.

(2) Delegation of authority to hear a contested case may be revoked at any time before the earlier of:

- (a) The issuance of a ruling by the administrative law judge on a substantive issue; or
- (b) The taking of oral testimony from the first witness.

.20 Review of Board Decision.

On granting a party's motion, or on its own motion, to review a Board decision, the Board may conduct a new evidentiary proceeding or utilize the record as submitted before the Board or OAH. The Board shall set a time and place of any hearing or additional argument and give notice to the parties. The decision rendered by the Board shall be a final decision.

.21 Enforcement of Board Decision.

An action to enforce a Board order can be commenced by a member of the Board in accordance with State Personnel and Pensions Article, §3-210, Annotated Code of Maryland, after notification by the member to

the Board.

.22 Petitions for Declaratory Rulings.

Any interested person may petition the Board for a declaratory ruling with respect to the applicability of any regulation, order, or statute enforceable by the Board to any person, property, or State on the facts set forth in the petition.

Title 14 INDEPENDENT AGENCIES

Subtitle 32 STATE LABOR RELATIONS BOARD

Chapter 03 Bargaining Unit and Bargaining Representative Determination

*Authority: State Personnel and Pensions Article, §§3-205, and 3-206,
Annotated Code of Maryland*

.01 General Procedures.

A. Separate or Combined Petitions. A request for bargaining unit determination and exclusive representative determination shall be by a petition which may be filed separately or jointly by the employee organization or the State.

B. Intervention and Additional Parties. An interested party with standing may request intervention in any proceeding before the Board.

C. Withdrawal of Petitions. Petitions withdrawn after the commencement of a hearing, or withdrawn after direction of an election where no hearing was conducted, may not be refiled by the withdrawing party for a period of 6 months following the Board order permitting withdrawal.

.02 Unit Determination.

A. Content of Petition.

(1) A petition for bargaining unit determination shall be on a form provided by the Board and shall be filed by delivery to the Board.

(2) The petition shall contain an identification and description of the proposed unit.

B. Notice to Parties.

(1) Upon receipt of a proper petition, the Board shall serve copies upon other interested parties by certified mail, return receipt requested.

(2) Upon the filing of a petition for unit determination, the Board shall furnish to the Employer a notice to employees, giving notice that the petition has been filed and setting forth the rights of employees under the Act.

(3) The notice shall be posted by the Employer in conspicuous places customarily used for the posting of information to employees.

C. Notice of Hearing.

(1) The Board or administrative law judge shall issue a notice of hearing by regular mail to all interested parties setting forth the time, date, and place of the hearing and any other relevant information.

(2) The Board or administrative law judge shall provide additional copies of the notice of hearing to the Employer. The notice shall be posted by the Employer in conspicuous places customarily used for the posting of information to employees.

.03 Exclusive Representative Determination (Election Petitions).

A. Form of Petition.

(1) A petition for exclusive representative determination (election petition) shall be on a form provided by the Board and shall be filed by delivery to the Board. These petitions shall be of three types:

(a) A certification petition, filed by an employee organization seeking certification as the exclusive representative in an appropriate unit through the holding of an election;

(b) A decertification petition, filed by a bargaining unit employee or employee organization requesting an election to determine whether an exclusive representative does, in fact, represent a majority of the employees in the bargaining unit;

(c) A decertification/certification petition filed by an employee organization seeking to determine whether an exclusive representative does, in fact, represent a majority of the employees in the bargaining unit, and requesting that in the same election the petitioning employee organization be certified as the exclusive representative.

(2) Under §A(1)(a) of this regulation, the name of the employee organization which appears on the petition, or the petition as amended, shall be the name which appears on the election ballot.

B. Showing of Interest, Certification, Decertification, Intervention.

(1) When a petition for certification or decertification is filed, or when intervention is requested for the purpose of being placed on an election ballot, the petitioner or intervenor shall submit evidence that the petition or application for intervention is supported by employees in the unit in the following percentages:

(a) 30 percent for certification, decertification, or a combined decertification/certification;

(b) 10 percent for intervention in election proceedings already filed; and

(c) 30 percent for any employee organization intervening in a decertification petition seeking to convert that decertification petition to a decertification/certification petition.

(2) In petitions for certification or decertification, or applications for intervention, the interest showing shall:

(a) Be dated and signed not more than 1 year before its submission;

(b) Contain the job classification or title of the signatory; and

(c) Contain a statement that the signatory is a member of the employee organization or has authorized it to bargain collectively on the signatory's behalf.

(3) In petitions for decertification, evidence of interest shall be as provided in §B(1) of this regulation and shall further contain a statement that the signatory no longer wishes to be represented by the certified employee organization.

C. Determination of Showing of Interest.

(1) The Employer shall submit to the Board a list of the names and job classifications of the employees in the bargaining unit requested by the petitioner.

(2) The Board shall administratively determine the sufficiency of the showing of interest upon receipt of the list.

(3) This determination, including the identification and number of signers of the showing of interest, shall be confidential and not subject to review, and parties other than the party submitting the interest showing are not entitled to copy or to examine the showing of interest.

(4) If the Employer fails to furnish the list of employees, the Board shall determine the sufficiency of the showing of interest by whatever means it deems appropriate.

(5) In election proceedings when the petitioner withdraws its petition pursuant to Regulation .01C of this chapter, when an intervenor is a party, the election may not be conducted unless the intervenor produces a 30 percent showing of interest within 30 days.

D. Notice.

(1) Upon the filing of a petition for certification or decertification, the Board shall serve, by certified mail, return receipt requested, on the Employer a copy of the petition and a notice to employees, that an election petition has been filed and setting forth the rights of employees under the Act.

(2) The notice shall be posted by the Employer in conspicuous places customarily used for the posting of information to employees.

E. Direction of Election. When an election petition is filed which conforms to this subtitle and the Act and the appropriate bargaining unit has been previously determined, an election shall be directed and conducted.

F. Intervention. When an application for intervention is filed regarding a petition for an exclusive representative determination, Regulations .03B and .04D of this chapter, and COMAR 14.32.04.01D apply.

G. Notification to Interested Employee Organizations.

(1) Within 5 days of determining that a valid petition has been submitted, the Board shall notify interested employee organizations of the pending election petition.

(2) Within 10 days of determining that a valid petition has been submitted under State Personnel and Pensions Article, §3-402, Annotated Code of Maryland, and this regulation, the Department of Budget and Management shall make available to all interested employee organizations reasonable and equivalent means to communicate by mail and in person, such as, employee home address, as provided in §G(3) of this regulation, with each employee in the appropriate bargaining unit for the purpose of soliciting the employee's vote in an election held under this chapter. The information shall be transmitted on a one-time basis and may be subject to reimbursement for reasonable time spent compiling the information, payable by the interested employee organization to the Department of Budget and Management.

(3) The interested employee organization shall bear the cost of mailing to employees, through a third party mailing house. Mailed materials shall be identified as originating from the employee organization and shall clearly state that employee addresses were made available by the Department of Budget and Management, pursuant to the Board's regulations, and in a manner that maintains confidentiality of employee addresses.

.04 Concurrent (Combined) Petitions.

A. When to File. A combined petition for both bargaining unit determination and exclusive representative determination shall be filed when a question of representation exists and the bargaining unit has not been previously established by the Board or by statute.

B. Content of Petition. A combined petition for unit determination and representative determination election shall be on a form provided by the Board and shall be filed by delivery to the Board.

C. Notice of Petition, Hearing, and Notice to Employees. Upon receipt of a combined petition, notice shall be as provided in Regulation .02B and C and .03D of this chapter.

D. Showing of Interest. Showing of interest shall be as provided in Regulation .03B and C of this chapter. If the Board determines an appropriate unit different than that requested, any employee organization affected may request a reasonable period of time to submit additional evidence of interest sufficient to satisfy the requirements of the Act.

E. Scope of Hearing. Hearings on combined petitions shall resolve all issues with regard to both bargaining unit determination and bargaining representative determination.

.05 Determinations of Bargaining Unit—Disputes.

A. Form and Content of Petition.

(1) The Employer, an affected State employee, or the exclusive representative may file a petition to resolve disputes concerning the:

(a) Appropriateness of a bargaining unit in accordance with the State Personnel and Pensions Article, §3-403(a) and (b), Annotated Code of Maryland; and

(b) Inclusion or exclusion of employees in established bargaining units based upon criteria set forth in or promulgated pursuant to State Personnel and Pensions Article, §3-102 (b), Annotated Code of Maryland.

(2) The petition shall be in the absence of a question concerning representation.

B. Procedure-Decision. Regulation .02 of this chapter applies, except that the Board may, with consent of the parties, conduct an investigation and issue a decision and order without a hearing.

C. Status Decision. The Board's decision with respect to disputes based upon supervisory, managerial, and confidential status shall be based upon these terms as defined in Executive Order 01.01.1996.13 or as subsequently defined by new regulations promulgated by the Secretary of Budget and Management.

.06 Established Bargaining Units.

A. Established Units. The bargaining units initially established by Executive Order 01.01.1996.13 are incorporated and recognized as the appropriate bargaining units pursuant to the Act.

B. Units. The units are:

- (1) A (Labor and trades);
- (2) B (Administrative, technical, and clerical);
- (3) C (Regulatory, inspection, and licensure);
- (4) D (Health and human service non-professionals);
- (5) E (Health care professionals);
- (6) F (Social and human service professionals);
- (7) G (Engineering, scientific, and administrative professionals);
- (8) H (Public safety and security); and
- (9) I (Sworn police officers).

.07 Amendment of Certification.

A. Form and Content. A petition for the amendment of an exclusive representative's certification to reflect affiliation or merger may be filed by the exclusive representative, and shall be accompanied by an affidavit or affidavits establishing that:

- (1) The affiliation or merger was accomplished in accordance with the exclusive representative's constitution or bylaws, or both, consistent with the State Personnel and Pensions Article, §3-404, Annotated Code of Maryland; and
- (2) Substantial continuity of representation has been maintained.

B. Procedures.

(1) Notice Posting. When a petition for amendment of certification is filed pursuant to this regulation, the Board shall issue a notice of the proposed amended certification and mail copies of the proposed amendment of certification to the Employer. The Employer shall post the proposed amendment of certification, for a period of not less than 1 calendar week, in a prominent place in the main office of the Employer in places customarily used for the posting of information to employees.

(2) Objections. Objections to the proposed amendment of certification shall be filed with the Board by the date posted in the notice of proposed decision. Objections shall be in writing and shall set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address and telephone number. The Board shall promptly advise the parties of the objections and may investigate if deemed appropriate. The Board may dismiss the objection or conduct a hearing pursuant to COMAR 14.32.02.

C. Final Decision. A final Board decision shall be reserved until expiration of the time for filing objections. If no objections have been filed, the Board shall endorse the proposed amendment of certification as final.

Title 14 INDEPENDENT AGENCIES

Subtitle 32 STATE LABOR RELATIONS BOARD

Chapter 04 Elections

*Authority: State Personnel and Pensions Article, §§3-205, and 3-206,
Annotated Code of Maryland*

.01 General Procedures.

A. Notice of Election.

(1) Within 30 days of the filing of a valid petition of election, the Executive Director shall mail or deliver a notice of election indicating that a valid petition has been filed and that an election will be held, to:

(a) The petitioner;

(b) Any intervening petitioner; and

(c) The employer.

(2) The notice of election shall provide a sample ballot and identify:

(a) The employer;

(b) The bargaining unit;

(c) Rules concerning the employees' eligibility to vote;

(d) Choices presented to the voter;

(e) If it is an on-site election:

(i) The election date, which may not be more than 90 days from the date the election petition is filed;

(ii) The location of polling places; and

(iii) The hours the polls will be open;

(f) If it is a mail ballot election:

(i) The date the ballots will be mailed or distributed to the voters, which date shall be approximately 2 days before the time period for voting;

(ii) The 14-day time period in which mail ballots may be postmarked for return to the Executive Director, the first day of which period may not be later than 90 days after the election petition is filed; and

(iii) The date and time the ballots will be counted;

(g) The place and time of ballot counting; and

(h) Further information that the Executive Director considers appropriate.

(3) Posting Notice of Election.

(a) A copy of the notice of election and the sample ballot shall be posted at the Executive Director's office at least 30 days before the election.

(b) A copy of the notice of election and the sample ballot shall be posted by the employer for the benefit of employees in the bargaining unit at all work locations where notices are customarily posted for at least 21 days before the election or distribution of mail ballots, through the end of the election.

(c) Posting requirements may be modified by a mutual written agreement of all parties, which shall be filed with and approved by the Executive Director.

(d) The Executive Director may tailor requirements to provide adequate notice to employees.

(e) The employer shall take reasonable precautions to ensure that notices of election and sample ballots are not altered, covered, defaced, or removed before the completion of the election.

B. Eligibility; Voter List.

(1) Eligible voters are those employees who:

(a) Were employed in the bargaining unit during the payroll period immediately preceding the direction of election unless another date is agreed upon by the parties and the Board; and

(b) Are employed in the bargaining unit on the date of the election.

(2) The employer shall submit to the Board, within a reasonable time from the Board's request, an alphabetical list of the names, addresses, and job classifications of the employees in the bargaining unit. The list may further be amended by agreement of the parties immediately before the election.

(3) Voter List.

(a) Within 7 days after the final election order is issued, the employer shall deliver an up-to-date voter list to the Executive Director.

(b) The voter list shall contain the following information for each employee in the unit eligible to vote:

(i) Full name;

(ii) Department;

(iii) Job title; and

(iv) Bargaining unit.

(c) The Executive Director shall promptly provide the voter list to the petitioner and all other employee organizations included in the election.

C. Election Type.

(1) An election shall be held on site, except the Board may, if necessary, in its discretion, conduct an election in whole or in part by mail ballot.

(2) When the election is conducted in whole or in part by mail ballot or is conducted on more than one date, the date of the election shall be the date on which the ballots are to be counted.

D. Time for Intervention. An employee organization may not be placed on any ballot unless application for intervention, as provided in COMAR 14.32.02.05B and 14.32.03.01B, is received by the Board within 15 calendar days after the direction of an election. Submission of an adequate showing of interest, as provided in COMAR 14.32.03.03B, must be received by the Board within 15 calendar days after the direction of the election, unless an extension of time, upon written request, is granted by the Board.

E. Filing Requirements. Before the issuance of an order directing an election, an employee organization seeking election as the exclusive representative shall file with the Executive Director a copy of its governing documents in compliance with State Personnel and Pensions Article, §3-404, Annotated Code of Maryland. The certified employee organizations shall file all subsequently enacted changes and amendments to its governing documents in a timely manner.

F. Election Order; Conduct of Election.

(1) After consulting with the parties to an election, the Board shall determine the date, place, and other procedural aspects of conducting the election and set forth the details in an order of election.

(2) Elections shall be conducted under the direction and supervision of the Board or its election agent and shall be by secret ballot.

(3) Ballots shall be provided by the Board and shall contain the information required under State Personnel and Pensions Article, §3-405, Annotated Code of Maryland.

G. Election Results; Tally of Ballots.

(1) Time and Place. At a time and place the Board prescribes, in the presence of the parties, the election agent shall open the ballot box and tabulate the results of the election.

(2) Void Ballots. Void ballots shall be those which do not indicate the clear intent of the voter or which appear to identify the voter.

H. Equal Access for Employees and Election Candidates.

(1) Eligible employees and election candidates shall enjoy the right of reasonable access to common areas of State facilities, including, but not limited to, grounds, rooms, and bulletin boards, for the purpose of conducting speech activities under this subtitle.

(2) The employer may not alter or revise existing speech access rules or practices for the community or general public at State facilities for the specific purpose of unfairly limiting or preventing employees or election candidates in organizing for collective bargaining.

(3) A privilege of access under this section extended to one election candidate shall be extended equally to other election candidates by the employer.

.02 Withdrawal from General Representation Election.

A. Before Election; Before Issuance of Order for Election Agreement; Without Prejudice. If a request is received prior to the issuance of the order for election, the request shall be granted without prejudice to a later filing of a new petition by the petitioner.

B. Before Election; After Issuance of Order for Election Agreement; Prejudice Possible.

(1) Election Petition or Petitioner, Sole Union Involved. If, after the issuance of an order for election agreement, but before the holding of the election, the petitioning employee organization, the sole employee organization involved, requests timely withdrawal of its petition, the request shall be approved with 1-year prejudice and the election shall be canceled.

(2) Intervenor Desires Election.

(a) If a petitioning employee organization seeks to withdraw the petition after issuance of an order for election, and there is an intervening employee organization that desires the election be held, the intervening employee organization shall submit a petitioner's showing of interest of 30 percent in the unit involved within thirty days of petitioner's submission of intent to withdraw.

(b) Upon proper submission by the intervenor, the petitioner shall be dropped from the ballot with prejudice applied, and the election, with the intervenor alone on the ballot, shall be held in accordance with a revised final order for election.

(c) If the intervenor requests to withdraw after the new election order, the election shall be canceled and the request shall be approved with 1-year prejudice.

(3) Decertification Petition.

(a) A timely withdrawal request filed by the decertification petitioner after the issuance of an order of election shall be approved and granted without prejudice.

(b) If an intervenor other than a certified or recognized incumbent union desires an election, and has, or can obtain within 30 days of a Board order recognizing the withdrawal, a petitioner's showing of interest of 30 percent, the election shall be held as scheduled.

C. Prejudice Period.

(1) Good Cause.

(a) A withdrawal with prejudice shall carry the condition that it is granted with prejudice to the filing of a new petition encompassing the same or substantially the same unit of employees involved for 1 year, unless good cause is shown why the Board should entertain a new petition filed prior to the expiration date of the period.

(b) Prejudice runs only to the withdrawer and does not preclude petitions filed by other labor organizations.

(2) Intervention During Prejudice Period. Even though an employee organization subject to prejudice under this section may not file a petition during a given period of prejudice in the absence of good cause, it may nevertheless intervene during the period in any petition filed by another employee organization and may participate to the extent of its showing of interest.

.03 Withdrawal from Ballot in an Election to Decertify an Incumbent Representative.

A. Incumbent Withdrawal from Ballot.

(1) If there is no intervening employee organization, an election to decertify an incumbent exclusive representative may not be held if the incumbent provides the Board with a written disclaimer of any interest to represent the unit.

(2) If there is an intervenor, an election shall be held if the intervening employee organization proffers a 30 percent showing of interest within 30 days of the incumbent's submission of intent to withdraw.

B. Withdrawal of Petitioner from Ballot in an Election.

(1) If there is no intervening employee organization, an election may not be held if the petitioner provides the Board with a written request to withdraw the petition.

(2) If there is an intervenor, an election shall be held if the intervening employee organization proffers a 30 percent showing of interest within 30 days of petitioner's submission of intent to withdraw.

.04 Bars to an Election.

A. The Board may not conduct a representation election during the 2-year period following the date of an election that resulted in an order of certification or non-certification, except as set forth in §B of this regulation.

B. If a memorandum of understanding with a duration of its terms of 3 years or less is in effect, a valid petition for decertification may be filed pursuant to COMAR 14.32.03.03A(2) and (3) and an election held if the decertification petition or combined decertification/certification petition is filed not more than 120 days and not less than 90 days before the expiration of the memorandum of understanding.

C. During a pending representation proceeding, parties are obligated to maintain existing recognitions and fulfill all other representational and bargaining responsibilities under the Act.

.05 Certifications.

The exclusive representatives elected pursuant to Executive Order 01.01.1996.13 are certified as exclusive representatives in compliance with the State Personnel and Pensions Article, §3-406, Annotated Code of Maryland.

.06 Post-Election Procedures.

A. Certification of Results.

(1) Upon completion of a valid representation certification election in which an employee organization received the votes of a majority of those employees voting, the Board shall certify that employee organization as the exclusive representative of the employees in the bargaining unit.

(2) Upon completion of a valid representation certification election in which only one employee organization appeared on the ballot and that employee organization did not receive the votes of a majority of those voting, the Board shall serve notice of non-certification.

(3) Runoff Elections.

(a) Upon completion of a valid election in which more than one employee organization appeared on the ballot and no choice on the ballot received the votes of a majority of those employees voting, the Board shall conduct a runoff election between the two choices receiving the greatest number of votes.

(b) If the runoff election is held less than 30 days after the original election, those eligible to vote shall be those who were eligible to vote in the original election and are still employed in the bargaining unit on the day of the runoff election.

(c) If the runoff election is held more than 30 days after the original election, the Board may direct the employer to submit a new eligibility list based upon a revised voter eligibility date.

(4) Upon completion of a valid election, as provided for in §A(3)(c) of this regulation, the Board shall certify as the exclusive representative the employee organization receiving the votes of a majority of those employees voting. If no employee organization on the runoff ballot receives a majority of the votes of those employees voting, the Board shall serve notice of non-certification.

(5) Upon completion of a valid decertification election, in which a majority of employees voting cast their ballots in the affirmative, the Board shall serve notice of decertification.

(6) Upon completion of a valid decertification election, in which a majority of employees voting cast their ballots in the negative, or in the case of a tie, the Board shall serve notice of continued certification.

B. Challenged Ballots. When unresolved challenged ballots are sufficient in number to determine the outcome of an election or timely objections are filed, a hearing shall be scheduled.

C. Objections.

(1) An objection to an election shall:

(a) Be filed within 10 days of service of the tally of ballots on the parties, even when challenged ballots are sufficient in number to determine the outcome of the election; and

(b) Contain a statement of facts upon which the objections are based.

(2) The objections shall be filed with the Board and a copy shall be served upon each of the other parties to the election, with certificate of service endorsed upon the original filed with the Board.

Title 14 INDEPENDENT AGENCIES

Subtitle 32 STATE LABOR RELATIONS BOARD

Chapter 05 Unfair Labor Practice Complaint Process

*Authority: State Personnel and Pensions Article, §§3-205, 3-206, and 3-306,
Annotated Code of Maryland*

.01 Complaint.

A. Party. A party alleging an unfair labor practice, as defined in State Personnel and Pensions Article, §3-306, Annotated Code of Maryland, may request relief from the Board by filing a complaint with the Executive Director, within 90 days of knowledge of the occurrence.

B. Form. A complaint shall be in writing and signed according to this subtitle, and set forth on a form provided by the Board.

C. Timeliness. The complaint shall be filed with the Board within 90 days from the later of the alleged violation or following the time that a reasonable person would, upon exercising due diligence, have discovered the occurrence of the alleged violation.

.02 Relief from Unfair Labor Practices.

A. A complaint shall:

- (1) Accurately describe the issues;
- (2) Provide a clear and concise statement of the facts constituting the alleged unfair labor practice, including the names of the individuals involved in the alleged act, the dates and places of the alleged occurrence, and the specific unfair labor practice under this chapter;
- (3) Contain the name, address, and telephone number of the complainant, respondent, and any other party named therein, including the name and title of the complainant's representative, if any, and the representative of any other named party; and

(4) Include a declaration that the complainant swears and affirms, under the penalties of perjury and upon knowledge, information, and belief, that the allegations are true and correct.

B. Service. The complainant shall serve the respondent or respondents with a copy of the complaint by certified mail, return receipt requested. The service shall be upon the person designated for service by COMAR 14.32.02.12A, and the complainant shall file proof of service with the Board.

C. Clarification. The Board may, on its own motion or motion of the respondent, require the complainant to make the complaint more specific.

D. Withdrawal or Amendment.

(1) A complaint or a part of a complaint may be withdrawn or amended with the consent of the Board, upon conditions the Board considers proper.

(2) These conditions shall include terms regarding refiling, subject to §A of this regulation.

(3) Amendments to a party's complaint or answer shall be governed by COMAR 14.32.02.08.

E. Answer to Complaint.

(1) Filing and Service. Within 20 days of service of a complaint or an amendment of a complaint, a respondent shall file a written response to the complaint or amendment, signed by the respondent or designated representative, and serve a copy on the complainant by regular mail.

(2) Extension of Time to Answer. Upon application and good cause shown, the Executive Director may extend the time to answer to a specific time and date.

(3) Contents of Answer. The response shall include a specific admission or denial of each allegation of the complaint or, if the respondent is without knowledge of the allegation, the respondent shall so state and the statement shall be considered a denial. Admissions or denials may be made to all or part of an allegation, but shall fairly address the allegations. If appropriate, the answer may include any defense.

(4) Admission by Failure to Answer. If, upon proper service of the complaint, the respondent fails to file an answer, the failure may be considered by the Board to be an admission of the material facts alleged in the complaint and a waiver by the respondent of a hearing.

F. Motions.

(1) Process.

(a) Unless otherwise provided by this chapter, a party:

(i) May move for appropriate relief before or during a hearing; and

(ii) Shall submit all motions in writing in accordance with §A(2) of this regulation, or orally at a hearing.

(b) A written motion shall:

(i) Be filed not later than 7 days before the date of a prehearing conference, or 14 days before the date of a hearing;

- (ii) State concisely the question to be determined;
 - (iii) Be accompanied by all supporting documentation;
 - (iv) Be accompanied by a memorandum of points and authorities; and
 - (v) Be served on each party.
- (c) A response to a written motion shall be filed on the earlier of:
- (i) 15 days after the service of the motion; or
 - (ii) The date of the hearing.
- (d) The Board, or the administrative law judge, as appropriate, may schedule a hearing to consider a written motion.
- (e) Ruling.
- (i) The Board, or the Administrative Law Judge, as appropriate, may reserve ruling on a motion until after a hearing.
 - (ii) The Board, or the Administrative Law Judge, as appropriate, may issue a written ruling or orally state the ruling on the record.
 - (iii) If a ruling on a motion is reserved, the ruling shall be in writing, and may be included in the final decision.
- (f) Failure of a party to attend a scheduled hearing may be grounds for a decision adverse to that party.
- (g) The filing or pendency of a motion does not alter or extend any time limit otherwise established by this chapter.

G. Investigation. Pursuant to State Personnel and Pensions Article, §§3-205(b)(3) and 3-207(a), Annotated Code of Maryland, the Board authorizes and directs the Executive Director to, subject to final review and approval by the Board:

- (1) Consider properly filed complaints to determine if an unfair labor practice has been alleged and, if so, commence an investigation of the facts;
- (2) Dismiss the complaint if the Executive Director, subject to final review and approval by the Board:
 - (a) Finds that the complaint fails to state an actionable claim under the Maryland Collective Bargaining Law, State Personnel and Pensions Article, §§3-101—3-602, Annotated Code of Maryland, or regulations under this chapter; or
 - (b) Determines that the Board holds no jurisdiction over the claims presented; and
- (3) Establish appropriate internal procedures, as considered necessary, to further implement §G(1) or (2) of this regulation, subject to final review and approval by the Board.

H. Written Report. The results of the investigation shall be set forth in a written report and served on all parties to the unfair labor practice complaint. The report shall set forth the Executive Director's recommendations to the Board as to:

- (1) Whether, based on the totality of the factual circumstances ascertained during the investigation and known at the time of the determination, probable cause exists to believe that the alleged unfair labor practice has occurred; and
- (2) The disposition of the alleged unfair labor practice, including any need for a hearing.

I. Board Action.

- (1) For a written report containing a finding of no probable cause, the complainant shall be given 15 days from service of the report to request that the Board reconsider the finding and recommended disposition. The Board shall take final action, as appropriate.
- (2) For a written report containing a finding of probable cause, the respondent shall be given 15 days from service of the report to request that the Board reconsider the finding and recommended disposition.
- (3) If no request for reconsideration of a written report containing a finding of no probable cause is filed, or, in the case of a written report finding probable cause, the written report shall be transmitted to the Board for final or further action, respectively, on the recommendations made in the report.

J. Only the unfair labor practices set forth in this chapter and specified in the complaint shall be considered in the proceeding.

K. In a hearing held to resolve the issues raised by the complaint, the filing party shall have the burden of proof by the preponderance of the evidence.

L. If the Board finds an unfair labor practice has been or is being committed, the Board shall take the action that it deems necessary to remedy the unfair labor practice including:

- (1) Issuing a cease-and-desist order;
- (2) Requiring a party to make reports from time to time showing the extent of compliance with the Board's order or ruling;
- (3) Reinstatement;
- (4) Communicating directly with employees about their rights; and
- (5) Such further action as the Board may require.

M. If it has not been shown by a preponderance of the evidence that a party has engaged in or is engaging in an unfair labor practice, then the Board shall state its findings of facts and conclusions of law and issue an order dismissing the complaint.

N. The Executive Director shall notify the parties by U.S. Mail when a complaint is dismissed.

.03 Voluntary Informal Disposition.

A. Request for Assistance. A party seeking to settle a controversy which may result in a contested case may request assistance from the Board. The Board may schedule meetings between the parties and assist the parties in reaching a settlement of the dispute, provided, however, that parties are not required to settle the controversy pursuant to this regulation or to participate involuntarily in these efforts.

B. Extension of Time. A possible complainant considering filing a complaint may request a tolling of the time for up to 30 days to file a complaint set forth in COMAR 14.32.07.01 in order to avail itself of this regulation. The Chairman or Executive Director may extend the tolling of the time if resolution of the dispute appears imminent. The Chairman or Executive Director may not grant the request without notice to the parties, and a conclusion that granting the requested additional time to a date certain would facilitate a prompt resolution of the matter.

C. Settlement. Any unfair labor practice case begun with the Board may be informally resolved by stipulation, agreed settlement, consent order, default, or by any other method agreed upon by the parties, subject, however, to approval by the Board.

.04 Inadmissible Evidence.

Evidence of efforts to resolve or proposed offers of settlement of a prohibited practice complaint are inadmissible at the hearing.

.05 Order Scheduling Hearing.

Regardless of the exercise of the procedures in Regulations .03 and .04 of this chapter, in order to conclude its responsibilities in a timely manner, the Board may exercise its authority under State Personnel and Pensions Article, §3-207, Annotated Code of Maryland, to investigate the allegation or allegations of the complaint or to hold a hearing in accordance with COMAR 14.32.02.

Title 14 INDEPENDENT AGENCIES

Subtitle 32 STATE LABOR RELATIONS BOARD

Chapter 06 Collective Bargaining, Negotiations, and Negotiability Disputes

*Authority: State Personnel and Pensions Article, §§3-206, 3-208, and 3-501,
Annotated Code of Maryland*

.01 Negotiations.

The designated representatives of the employer and of the exclusive representative shall:

- A. Establish ground rules for negotiations;
- B. Identify the participants for negotiations;
- C. Establish the amount of release time for negotiating;
- D. Set a tentative schedule and agenda for negotiations; and
- E. Establish any other matter considered pertinent and necessary before beginning any other negotiation activities.

.02 Negotiability Disputes.

A. "Negotiability dispute" means a dispute arising in good faith during the course of collective bargaining as to whether a specific issue is subject to collective bargaining under the Act.

B. Petition.

(1) If a negotiability dispute arises between the Employer and the exclusive representative, either party may petition the Board for expedited resolution of the dispute.

(2) The petition shall set forth the material facts of the dispute and the precise question of negotiability submitted for resolution, and include certificate of service upon the other party.

C. Expedited Resolution.

(1) The petition filed pursuant to §B of this regulation shall be given priority by the Board.

(2) As deemed appropriate by the Chairman or Board, the petition may be set for informal resolution, hearing, or oral argument, or decided upon submission of briefs.

.03 Procedures for Ratification of Memorandum of Understanding

A. At the close of collective bargaining negotiations, the exclusive representative shall promptly present the proposed agreement to the employees in the bargaining unit for consideration and ratification, and shall conduct the ratification vote through either a ratification meeting or a mail in ballot, as provided in this regulation.

B. The exclusive representative shall give notice of the ratification process to all employees in the bargaining unit, sufficiently in advance of the ratification vote to permit the employees in the bargaining unit a reasonable opportunity to consider the matters to be voted upon prior to the vote. The notice shall be communicated to the employees in the bargaining unit by any means which may reasonably be expected to come to the attention of the employees in the bargaining unit, including but not limited to the following:

(1) Posting in conspicuous places where notices to employees in the bargaining unit are customarily posted, including but not limited to posting on the exclusive representative's website;

(2) Personal delivery to the employees in the bargaining unit;

(3) Delivery through interoffice mail;

(4) Mailing to the employees in the bargaining unit;

(5) Advertisement in an employee newsletter distributed to the employees in the bargaining unit or in a newspaper of general circulation in the community where the employees in the bargaining unit are employed;
or

(6) Electronic mailing to the employees in the bargaining unit.

C. The exclusive representative may hold ratification meetings.

D. The notice sent to employees regarding a ratification meeting shall contain the following information:

(1) The date, time, and place of the meetings;

(2) That the meeting is open to all employees in the bargaining unit regardless of membership in the employee organization;

(3) That all employees in the bargaining unit are eligible to vote;

(4) That a copy of the terms of the proposed collective bargaining agreement is available for inspection at specified locations in the geographic area encompassed by the bargaining unit; and

- (5) That a copy of the terms of the agreement is available for inspection on the website of the exclusive representative; and
- (6) The means through which employees in the bargaining unit will be permitted to ask questions of the exclusive bargaining representative regarding the proposed agreement, in advance of the ratification vote.
- E. The vote taken at a ratification meeting shall be by secret ballot for all employees in the bargaining unit attending the meeting.
- F. At the conclusion of voting, the votes shall be publicly counted and the results announced, or, in the event circumstances prevent a public tally of the votes, the results shall be announced within 3 days of the tally.
- G. If it is necessary to conduct more than one ratification meeting:
- (1) Each meeting shall be conducted pursuant to the foregoing requirements; and
 - (2) The combined results of voting conducted at all meetings shall be announced within 3 days after the final ratification meeting.
- H. The exclusive representative may use mail ballots for the ratification vote in lieu of ratification meetings. The notice sent to employees regarding ratification by mail ballots shall contain the following information:
- (1) The mail ballot;
 - (2) A return envelope addressed to the exclusive representative containing the employee's State-issued position identification number to be used by employees to return their ballots;
 - (3) The last date for returning ballots;
 - (4) That all employees in the bargaining unit are eligible to vote regardless of membership in the employee organization serving as the exclusive representative;
 - (5) That a copy of the terms of the proposed collective bargaining agreement is available for inspection at specified locations in the geographic area encompassed by the bargaining unit;
 - (6) A copy of the terms of the agreement is available for inspection on the website of the exclusive representative;
 - (7) The means through which employees in the bargaining unit will be permitted to ask questions of the exclusive bargaining representative regarding the proposed agreement, in advance of the ratification vote; and
 - (8) When and where the exclusive representative will conduct a tally of the ballots.
- I. Ballots returned to the exclusive representative by any other means than in the preaddressed envelope may not be counted.
- J. Ballots postmarked later than the last date for returning ballots may not be counted.
- K. The tally shall be open to all employees in the bargaining unit regardless of membership in the employee organization.

L. At the conclusion of the tally of the ballots, the results shall be announced and posted on the exclusive representative's website.

M. The ballots shall be retained by the exclusive representative for a period of 30 days after the final tally and shall be available for inspection within 3 business days of receipt of a written request by an employee in the bargaining unit.

N. The majority of votes cast by all those voting shall prevail.

O. The exclusive representative shall immediately notify the employer of the results of the ratification vote.

P. The exclusive representative shall maintain a written record of the results of the vote.

Q. The parties to a memorandum of understanding (MOU) negotiated and ratified pursuant to the requirements of this chapter shall file a copy of the MOU with the Board within 30 days after it has become effective following ratification.

Title 14 INDEPENDENT AGENCIES

Subtitle 32 STATE LABOR RELATIONS BOARD

Chapter 07 Mediation Procedures

*Authority: State Personnel and Pensions Article, §§3-206 and 3-208,
Annotated Code of Maryland*

.01 Mediation.

A. Offer of or Request for Mediation.

(1) The Board may, on its own initiative, offer mediation to the parties. Either party may also request that the Board appoint a mediator. Acceptance of an offer of mediation or agreement to participate in mediation is voluntary. If either party declines mediation after it has been requested by a party or offered by the Board, that party shall decline the mediation services in writing with a brief statement of the reason for declining to participate in mediation.

(2) An original and one copy of the request for mediation shall be filed with the Board and served on the other party.

B. Mediation. Mediation is a consensual process by which the parties are assisted by a mediator in voluntarily arriving at an agreement and under which neither party is nor can be compelled to make a concession or enter into an agreement.

C. Appointment of Mediator. Upon receipt of a request for mediation, the Chairman may, with the consent of both parties and after consultation with the parties, appoint an impartial and disinterested individual as mediator, including a member of the Board, or may request mediation by Federal Mediation and Conciliation Services.

D. Confidential Nature of Mediation.

(1) Any information, either written or oral, disclosed by the parties to the mediator in the performance of mediation duties may not be discussed by the mediator voluntarily or by compulsion unless approved by the parties involved.

(2) The mediator may not disclose any information with regard to any mediation conducted on behalf of any party to any cause pending in a proceeding before a court, Board, or investigatory body. The mediator shall respectfully decline, by reason of this regulation, to divulge any information disclosed by a party in the performance of the mediator's duties.

(3) The request for mediation and the parties' responses are confidential and may not be disclosed by any party.

Title 14 INDEPENDENT AGENCIES

Subtitle 32 STATE LABOR RELATIONS BOARD

Chapter 08 Employee Notification Procedures

*Authority: State Personnel and Pensions Article, §§3-206 and 3-208,
Annotated Code of Maryland*

.01 Employer Notification of Disclosure of Information and Employee Opt-Out Provisions.

A. Employer Notification to Employees.

(1) Thirty days before providing an employee's name, addresses, telephone numbers, and work information to an exclusive representative, as provided in State Personnel and Pensions Article, §3-208, Annotated Code of Maryland, the Department of Budget and Management shall notify the employee of the provisions of that section, and include in its notice the means by which an employee may opt out as provided in §B(2) of this regulation.

(2) The Department shall provide notice to the employees by signed and dated letter.

(3) The exclusive representative requesting such information shall bear the mailing costs for the notification to employees. Additionally, the Department may charge the exclusive representative requesting the employee information a fee not to exceed the actual cost of compiling the information. For purposes of calculating the actual cost, the Department shall use the following hourly rates of compensation for the search and preparation of the requested information if the information is not readily available:

(a) For administrative tasks, an hourly rate of compensation equivalent to the midpoint step for grade 12, as established in the State of Maryland Salary Schedule consisting of 26 grades; and

(b) For programming to extract requested data, and other professional level work, as required, an hourly rate of compensation equivalent to the midpoint step for grade 18, as established in the State of Maryland Salary Schedule consisting of 26 grades.

(4) The Department may not charge any search or preparation fee for the first 2 hours of official or employee time that are needed to provide the requested information.

(5) The Department may charge a fee for providing photocopies of the requested information equivalent to the fee established in COMAR 17.02.01.04.

(6) The exclusive representative may request such information in digital or electronic format. If the requested information is available in digital or electronic format, the Department shall comply with the request at no additional charge beyond the costs incurred by the Department in compiling the information as provided in §A(3)(a) and (4) of this regulation.

B. Employee Opt-Out Provisions

(1) The provisions of §B(2)—(6) of this regulation do not apply to the distribution of ratification ballots by the exclusive representative, and do not preclude the exclusive representative from mailing ballots for a Memorandum of Understanding ratification vote to bargaining unit employees' home addresses through a third-party mailer.

(2) For the purpose of calculating an employee's response time to the Department's notice under §B(3) of this regulation, it shall be presumed that the notice was received by the employee 10 calendar days after the postmarked or metered date appearing on the envelope.

(3) The employee may, within 15 days of the Department's notice under §A of this regulation, notify the Department that the employee does not want the employee's name, addresses, telephone numbers, or work information to be provided to an exclusive representative, pursuant to §B(4) of this regulation.

(4) The employee may give the notice provided in §B(3) of this regulation by regular mail, facsimile, or in person, to the address specified in the notice, using the form described in §B(5) of this regulation, for each method of notice.

(5) Employees shall use the form provided by the Department to give the notice provided in §B(3) of this regulation. The form shall instruct the employee to provide the following information:

(a) The employee's name and home address;

(b) The employee's job title and worksite;

(c) A statement that the employee does not want the employee's information as described in §B(3) of this regulation, released to an exclusive representative;

(d) The date of the employee's response; and

(e) The employee's signature.

(6) An opt out under §B of this regulation applies only to those information requests made under State Personnel and Pensions Article, §3-208, Annotated Code of Maryland.