



State of Delaware  
Public Employment Relations Board  
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## **DECLARATORY STATEMENTS**

### Summary of Procedures under the Delaware PERB

- §4006 of the Public School Employment Relations Act (14 Del. C. Chapter 40) established the Delaware Public Employment Relations Board. This section specifically requires:
  - (h) To accomplish the objectives and to carry out the duties prescribed in this chapter, the Board shall have the following powers:
    - (4) To provide by rule a procedure for the filing and prompt disposition of petitions for a declaratory statement as to the applicability of any provisions of this chapter or any rule or order of the Board. Such procedure shall provide for, but not be limited to, an expeditious determination of questions relating to potential unfair labor practices and to questions relating to whether a matter is within the scope of collective bargaining.

This section of the statute is incorporated by reference into the Police Officers and Firefighters Employment Relations Act at 19 Del.C. §1606, and into the Public Employment Relations Act, 19 Del.C. §1306.

- Regulation 6 of the Delaware Public Employment Relations Board directly addresses Petitions for Declaratory Statement.

### **Filing of a Petition for Declaratory Statement**

- A public employer, an exclusive representative or a public employee may file a petition for a declaratory statement with the PERB.
- A petition for Declaratory Statement may be filed where there exists a controversy concerning:
  - 1) A potential unfair labor practice;
  - 2) Whether a matter is within the scope of collective bargaining as defined by statute; or
  - 3) The application of any statutory provision or regulation or order of the Public Employment Relations Board.
- A controversy exists within the meaning of Regulation 6 when:

- 1) The controversy involves the rights and/or statutory obligations of a party seeking a declaratory statement;
- 2) The party seeking the declaratory statement is asserting a statutory claim or right against a public employer, an exclusive representative, or a public employee who has an interest in contesting that claim or right;
- 3) The controversy is between parties whose interests are real and adverse; and
- 4) The matter has matured and is in such a posture that the issuance of a declaratory statement by the Board will facilitate the resolution of the controversy.

### **Contents of a Petition for Declaratory Statement**

- A Petition for Declaratory Statement is filed with the Executive Director in standard complaint format. The petition must include the following information:
  - a) The full name, address and telephone number of the party seeking the declaratory statement and any other party who may have a right and/or interest adversely affected by the petition;
  - b) A clear and concise statement of the matter or matters in dispute for which a determination by the Board is sought;
  - c) A clear and concise statement of the facts underlying the controversy which shall indicate that the controversy is one which may be properly resolved by a declaratory statement.
  - d) A statement that the dispute has arisen either:
    - 1) During the course of collective bargaining, and that one party seeks to negotiate with respect to a matter or matters which the other party contends is not a required subject of bargaining;
    - 2) Over the contemplation of an act by one of the parties that the other contends is an unfair labor practice under the Acts; or
    - 3) Concerning the application of any provision of the Acts, or regulation or order of the Board.
  - e) A statement of the reason why a declaratory statement will assist in the prompt resolution of the controversy.

### **Response to Petition**

- Each party who receives the petition may, within five (5) days after receipt of the petition respond to the petition by submitting a brief description of the nature of the controversy and a response to the petitioner's statement of the reasons why a declaratory statement would facilitate the resolution of the labor dispute.

### **Decision**

- The Executive Director/Hearing Officer shall then dispose of the petition by declining to issue a declaratory statement or by requesting the parties file briefs or by scheduling a hearing, if necessary, which shall be conducted in accordance with Regulation 7, or by issuing a declaratory statement.
- If the Executive Director/Hearing Officer issues a declaratory statement, it shall be rendered within thirty (30) days from the date upon which the record is formally closed.

### **Review of the Hearing Officer's Decision**

- The Hearing Officer's decision is subject to review by the full PERB at the request of any party or upon the Board's own motion. Any request for review must set forth the portions of the decision on which review is sought and the basis for the filing party's objection to the decision.
- A request for review must be filed within **five (5) days** of the date upon which the decision was served upon the party. Any party which does not request review of decision may file a response to the request for review within **five (5) days** after the request for review is filed with the PERB.
- The full Board may decide to hold a hearing, receive written or oral argument in connection with a Request for Review. If the PERB does conduct a hearing, it will be in accordance with the hearing procedures described above.
- The full PERB shall render a decision within thirty (30) days from the date of the close of the official appeal record, or the receipt of briefs, or the receipt of the official transcript of any hearing held, or from the date of its receipt of the appeal, whichever is appropriate.