

RULES AND REGULATIONS

Title 34—LABOR AND INDUSTRY

LABOR RELATIONS BOARD

[34 PA. CODE CHS. 91, 93 AND 95]

Board Rules and Regulations

The Labor Relations Board (Board) amends 34 Pa. Code, Part V (relating to Labor Relations Board), §§ 91.2, 93.11, 93.12, 95.11, 95.13, 95.31, 95.41, 95.42 and 95.98 to read as set forth in Annex A.

Effective Date

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

This final-form rulemaking is authorized by section 4(f) of the Pennsylvania Labor Relations Act (PLRA) (43 P.S. § 211.4(f)) which provides that “[t]he board, by and with the approval of the Secretary of Labor and Industry, shall have authority, from time to time, to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this act,” and section 502 of the Public Employe Relations Act (PERA) (43 P.S. § 1101.502) which provides that “[t]he board shall have authority from time to time to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this act.” The amendments to the Board’s rules and regulations were approved by the Secretary of Labor and Industry on November 6, 2018.

Background and Purpose

This final-form rulemaking updates the Board’s office locations and addresses, allows electronic filing of certain documents with the Board and permits parties to serve certain documents on other represented parties by e-mail.

Section 9(e) of the PLRA (43 P.S. § 211.9(e)) provides that “[n]o petition or charge shall be entertained which relates to acts which occurred or statements which were made more than six weeks prior to the filing of the petition or charge” and established a 6-week statute of limitations for filing a Charge of Unfair Labor Practices with the Board. Police and Firefighters who have the right to organize under the Policemen and Firemen Collective Bargaining Act (P.L. 237, No. 111) are governed by the procedures and rules and regulations promulgated under the PLRA. *Philadelphia Fire Officers Association v. Pennsylvania Labor Relations Board*, 470 Pa. 550, 369 A.2d 159 (1977). Section 1505 of PERA (43 P.S. § 1101.1505) states “[n]o petition or charge shall be entertained which relates to acts which occurred or statements which were made more than four months prior to the filing of the petition or charge” and similarly provides for a 4-month statute of limitations period for Charges of Unfair Practice involving public sector collective bargaining.

Additionally, there are other statutes and provisions governing the timeliness of documents filed with the Board, such as a request for fact-finding under Act 88 of 1992. See 24 P.S. § 11-1122-A or the 20-day period for filing of exceptions under 34 Pa. Code § 95.98(a) (relating to decisions of the Board) of the Board’s rules and regulations.

As presently promulgated, the Board’s rules and regulations provide that documents submitted to the Board are filed only when received by the Board or in the case of

exceptions under § 95.98, when mailed through the United States Postal Service with a Form 3817 Certificate of Mailing. This has on occasion resulted in untimely filing of charges and exceptions precluding an administrative remedy.

Use of e-mail to communicate and submit documentation has become standard and reliable in both the private and public sector. Updating the Board’s rules and regulations to allow for e-mail filing of certain documents would utilize this commonly accepted technology to alleviate some of the inconveniences in timely filing documents with the Board. Further, the electronic filing of documents would alleviate the requirement for numerous paper copies to be filed with the Board.

Summary of Amendments

Chapter 91. Private and Public Employees

§ 91.2. Appearances.

Amendments to this section provide the option of allowing the attorney or representative for a party to indicate, in an entry of appearance, that they would accept service of filings by other parties by e-mail.

Chapter 93. Private Employees

§ 93.11. Institution of proceedings.

Amendments to this section update the regulations to reflect that the Board no longer has a regional office in Philadelphia.

§ 93.12. Service and filing of papers.

Amendments to subsection (a) eliminate the requirement of service by “registered mail” while retaining the requirement of service on an unrepresented party by certified mail. The amendments to subsection (a) would also add that where an attorney or representative has elected to accept e-mail service, that service of documents by a party on the attorney or representative of another party may be made by e-mail at the designated e-mail address. The amendments to § 93.12 retain the requirement that service of complaints, orders and other processes and papers issued by the Board on a party or their representative or attorney be made by certified mail.

The amendments create a new subsection (b), methods of filing with the Board. Subsection (b)(1) retains the current method of filing with the Board by actual receipt, and clarifies that charges and petitions sent to the Board by mail will be filed on the date of receipt by the Board. Subsection (b)(2) adds the option of filing any document, except a petition with a “showing of interest,” see § 95.1 (relating to definitions), by e-mail to a resource e-mail account established exclusively for receipt of documents for filing with the Board.

Previous subsection (b) is renamed as subsection (c). Subsection (c) retains the requirement that filings with the Board must be received by the Board before the close of business on the last day for filing.

Prior subsection (c) is renamed (d) and continues to require that filings be legible.

Previous subsection (d) requiring filing of multiple copies is deleted.

Chapter 95. Public Employees

§ 95.11(b)(8).

Amendments to this section reflect the current address of the Board’s office in Harrisburg, PA.

§ 95.13(c).

Amendments to this section reflect the current address of the Board's office in Harrisburg, PA.

§ 95.31. *Charges.*

Amendments to this section eliminate the need to file multiple paper copies of charges of unfair practices with the Board.

§ 95.41. *Service of papers.*

Amendments to this section eliminates the requirement of service by "telegram" while retaining the requirement of service on an unrepresented party by mail or in person. The amendments also add the provision that where an attorney or representative has elected to accept e-mail service, that service of documents by a party on the attorney or representative of other parties may be made by e-mail at the designated e-mail address. The amendments to § 95.41 retain the requirement that service of complaints, orders and other processes and papers issued by the Board on a party or their representative or attorney continue to be made by certified mail.

§ 95.42. *Filing of papers.*

Subsection (a) is unchanged and retains the requirement that filings with the Board must be received by the Board before the close of business on the last day for filing.

Subsection (b) is amended to reflect that the Board no longer has a regional office in Philadelphia, PA.

The amendments to this section create a new subsection (c), methods of filing with the Board. Subsection (c)(1) retains the current method of filing with the Board by actual receipt and clarifies that charges and petitions sent to the Board by mail will be filed on the date of receipt by the Board. Subsection (c)(2) adds the option of filing any document, except a joint election request or petition with a "showing of interest," by e-mail to a resource e-mail account established for the Board set up exclusively for receipt of documents for filing.

Previous subsection (c) is renamed as subsection (d). Subsection (d) retains the requirement that the first paper filed with the Board contain an address of the parties for initial service of documents issued by the Board.

Prior subsection (d) is renamed subsection (e) and continues to require that filings be legible.

Previous subsection (e), requiring filing of multiple copies is deleted.

§ 95.98. *Decisions of the Board.*

Existing § 95.98(a)(1), regarding exceptions to a hearing examiner decision, allows the filing of exceptions to the Board based on "actual receipt" by the Board, or on the date deposited in the United States mail as shown on a Form 3817 Certificate of Mailing. Subsection (a)(1) amends "actual receipt" to the methods of filing in §§ 93.12 and 95.42 (relating to service and filing of papers; and filing of papers). Provisions in § 95.98(a)(1) allowing the filing of exceptions by United States mail with a Form 3817 would be retained.

Amendments to § 95.98(a) and (c) also eliminate the need to file multiple copies of exceptions with the Board and eliminate the requirement to serve a copy of a response to exceptions on the hearing examiner.

Comment and Response

Notice of the proposed rulemaking was published at 49 Pa.B. 1657 (April 6, 2019), with a public comment period as required by law. The Board did not receive public comments. The Board did receive comments from the Independent Regulatory Review Commission (IRRC) regarding the proposed rulemaking.

IRRC commented that proposed changes to § 91.2 (relating to appearances) to allow a representative to identify an e-mail address on the entry of appearance appeared to conflict with section 10 of the PLRA (43 P.S. § 211.10) and section 1606 of the PERA (43 P.S. § 1101.1606), which govern the Board's service of documents. Those statutory provisions provide as follows:

Complaints, orders and other process and papers of the board, its members or agent may be served, either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served.

However, the amendments to § 91.2 do not govern how the Board serves orders or papers on parties or representatives. Section 91.2 provides that attorneys or representatives may identify an e-mail address and indicate if they would accept service of papers by e-mail.

However, consistent with IRRC's comments and concerns vis-à-vis section 10 of the PLRA and section 1606 of PERA, §§ 91.2, 93.12 and 95.42 of the proposed rulemaking have been amended in this final-form rulemaking to reflect that the e-mail address on an entry of appearance in § 91.2 is to identify if the representative or attorney would allow other parties to serve them by means of e-mail. Having an e-mail address on file with the Board in an entry of appearance would assist the Board in verifying service by a party. Additionally, upon request of a representative or attorney, the Board may provide courtesy copies of documents and orders by e-mail, but such courtesy copies would not constitute or replace the required service by the Board under section 10 of the PLRA and section 1606 of PERA. Sections 93.12 and 95.42 of this final-form rulemaking continue to require that formal service by the Board of its orders and papers be in person or by certified mail.

IRRC also posed questions regarding language in §§ 93.12(b)(2) and 95.42(c)(2) that the filer bears "the risk that the e-mailed document may not be properly received or timely filed." This language was proposed as a reiteration that filers should exercise due diligence to ensure that documents filed with the Board are legible, §§ 93.12(d) and 95.42(e), and are received by a Board officer or agent by close of business on the last day to file, §§ 93.12(c) and 95.42(a).

IRRC asked "if an e-mailed document is not properly received, will the Board allow a party to resubmit the document? Will the Board allow a party to resubmit filings that are not properly received on the last day of a time limit for filing? [W]hat does the Board consider 'timely filed' when a party submits documents by e-mail?"

In response, the amendments to §§ 93.12 and 95.42 to allow e-mail filing will not change the Board's practice, nor its jurisdiction regarding timely filed submissions. Section 1505 of PERA and section 9(e) of the PLRA, providing that charges of unfair labor practices must be filed within 4 months and 6 weeks, respectively, are jurisdictional and cannot be extended by the Board. Likewise, under § 95.98(a) of the Board's regulations, a

Proposed Decision and Order becomes final and binding if no exceptions are filed within 20 days of issuance.

Further, under the Board's current regulations, renumbered as §§ 93.12(c) and (d) and 95.42(a) and (e), documents filed with the Board must be legible, and must be received by a Board agent or officer by close of business (that is 5 p.m.) on the last day to file. Currently under Board regulations and practice, and under the amended regulations for e-mail filing, if a document is not received by a Board officer or agent by close of business on the last business day for filing, the filing will be dismissed as untimely under section 1505 of PERA and section 9(e) of the PLRA, 34 Pa. Code §§ 93.12(c), 95.42(a) or 95.98(b). If a filing is received, but unable to be read, it will be dismissed for failure to comply with §§ 93.12(d) or 95.42(e). Under the Board's current practice and regulations, the Board does not notify the filer of a deficient filing nor does the Board allow resubmission of an untimely filing. However, exceptions may be filed to the Board challenging dismissal of an untimely filed, or illegible, charge or document, and reconsideration may be sought from a Board order dismissing exceptions as untimely or illegible. See 34 Pa. Code § 95.98(g).

Succinctly, in response to IRRC's questions, filings submitted to the Board by e-mail must be actually received by a Board officer or agent and must be able to be read by a Board officer or agent no later than the close of business (that is 5 p.m.) on the last day for filing of the document. The intended purposes of the proposed language in §§ 93.12(b)(2) and 95.42(c)(2), that the filer bears "the risk that the e-mailed document may not be properly received or timely filed," was a reminder that filers should ensure proper receipt and readability of the document by the Board agent or officer prior to close of business on the last day to file. As this proposed language was a restatement of existing regulations, renumbered §§ 93.12(c) and (d) and 95.42(a) and (e), to avoid confusion, the language in the proposed rulemaking, that the filer bears "the risk that the e-mailed document may not be properly received or timely filed," has been deleted from this final-form rulemaking, and replaced with "[t]he date of filing of an e-mailed document shall be the date of receipt by a Board officer or agent. . ." in accordance with §§ 93.12(c) or 95.42(a).

IRRC also noted comments for clarifying language in the preamble in the proposed rulemaking discussing §§ 93.12(b)(2) and 95.42(c)(2), the discussion of those sections has been amended to reflect the changes in this final-form rulemaking. IRRC also questioned whether § 95.98(a)(1) should continue to require filing of multiple copies of a statement of exceptions. This final-form rulemaking has been amended in § 95.98(a)(1) to eliminate the need to file multiple copies of exceptions.

Fiscal Impact and Requirements

The jurisdiction of the Board extends to public employers, including but not limited to the Commonwealth, political subdivisions, municipalities, school districts and State-related universities. Board jurisdiction includes employees of public employers and employee representatives. The Board has very limited jurisdiction over private employers under the PLRA.

Benefits. The amendments to the Board's rules and regulations to allow filing by e-mail, and to eliminate the need for parties to file multiple copies of documents, is a significant benefit to filers.

Requirements. The amendments to the Board's rules and regulations to allow filing by e-mail, and to eliminate

the need for parties to file multiple copies of documents, does not require filing by e-mail or eliminate existing means of filing with the Board. Charge of Unfair Practice (PERA-9) and Charge of Unfair Labor Practice (PLRA-15) forms currently utilized by the Board, will remain in existence and per the amendments may also be filed by e-mail. Existing forms may be found on the Board's web site at <https://www.dli.pa.gov/Individuals/Labor-Management-Relations/plrb>.

Costs. The amendments to the Board's rules and regulations to allow filing by e-mail and to eliminate the need for parties to file multiple copies of documents will not have any adverse financial impact for persons with cases and petitions before the Board.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 28, 2019, the Board submitted a copy of the notice of proposed rulemaking, published at 49 Pa.B. 1657, to IRRC and the Chairpersons of the House and Senate Committees on Labor and Industry for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Board has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on December 4, 2019, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 5, 2019, and approved this final-form rulemaking.

Contact Persons

For further information, contact Warren R. Mowery, Jr., Chief Counsel, 651 Boas Street, Room 418, Labor and Industry Building, Harrisburg, PA 17121, (717) 783-6016, wamowery@pa.gov; or Nathan Bortner, Secretary, 651 Boas Street, Room 418, Labor and Industry Building, Harrisburg, PA 17121, (717) 783-6018.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments to this final-form rulemaking do not enlarge the scope of the proposed rulemaking published at 49 Pa.B. 1657.

(4) This final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Pennsylvania Labor Relations Act, the Public Employee Relations Act and other acts administered by the Board.

Order

The Board, acting under the Pennsylvania Labor Relations Act and the Public Employee Relations Act, orders that:

(a) The regulations of the Board, 34 Pa. Code Chapters 91, 93 and 95, are amended by amending §§ 91.2, 93.11, 93.12, 95.11, 95.13, 95.31, 95.41, 95.42 and 95.98 to read as set forth in Annex A.

(b) The Secretary of the Board shall submit this order and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act.

(c) The Secretary of the Board shall submit this order and Annex A to the Office of Attorney General for approval as to legality and form as required by law.

(d) The Secretary of the Board shall certify this order and Annex A to the Legislative Reference Bureau as required by law.

(e) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

NATHAN BORTNER,
Secretary

(Editor's Note: See 49 Pa.B. 7544 (December 21, 2019) for IRRC's approval order.)

Fiscal Note: Fiscal Note 104-1 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART V. LABOR RELATIONS BOARD

CHAPTER 91. PRIVATE AND PUBLIC EMPLOYEES

GENERAL PROVISIONS

§ 91.2. Appearances.

(a) An attorney or other representative desiring to participate in a proceeding before the Labor Relations Board (Board) or a designated agent of the Board, and who wishes to be served with papers, shall file an appearance either by letter, or by a form provided by the Board or by oral request at the hearing. The entry of appearance shall indicate whether the attorney or representative will allow other parties to serve papers filed with the Board by e-mail and, if so, provide a valid e-mail address for service.

(b) A person who has been employed by the Board is not permitted to appear as attorney or representative for a party in a case which was pending before the Board during the period of his employment.

CHAPTER 93. PRIVATE EMPLOYEES

PREHEARING PROVISIONS

§ 93.11. Institution of proceedings.

(a) Charges and petitions instituting proceedings before the Board may be filed with the principal office of the Board in Harrisburg, or with the regional office of the Board in Pittsburgh. Charge and petition forms are available at Board offices.

(b) Charges and petitions may be filed by a person entitled to do so under the act, shall be in writing, shall contain pertinent information required by the act and shall be verified by the person filing the charges and petitions.

(c) In actions before the Board, the first paper filed on behalf of each party shall contain an address at which service of complaints, orders and other processes and papers of the Board may be made. Thereafter, a party may file with the Board an entry of appearance under § 91.2(a) (relating to appearances), which shall form part of the record in the case, setting forth a new address at

which the service may be made. If he does not do so, notice sent to him by registered mail at his last address of record shall be equivalent to service.

§ 93.12. Service and filing of papers.

(a) Service of papers on a party shall be made personally, or by certified mail, or by leaving a copy thereof with the person then in charge at the principal office or place of business of the person to be served. Where an attorney or representative has entered his appearance under § 91.2(a) (relating to appearances), complaints, orders and other processes and papers of the Board shall be served on the attorney or representative and need not be served on the party. Service by a party on an attorney or representative who has entered an appearance under § 91.2(a), may be made personally, by United States Postal Service first-class mail, or where the attorney or representative has approved service by e-mail in an entry of appearance, by e-mail to the e-mail address provided in the entry of appearance.

(b) Methods of Filing with the Board.

(1) In person at the principal office of the Board in Harrisburg, or with the regional office of the Board in Pittsburgh. If mailed to the Board through the United States Postal Service or third-party courier, the date of filing shall be the date of receipt by the Board in its Harrisburg or Pittsburgh office.

(2) Filings, other than a petition or other document with a showing of interest as defined by § 95.1 (relating to definitions), may be filed with the Board by electronic mail by e-mailing a portable document format (PDF) file of the scanned complete signed document, including attachments and exhibits thereto, to the Board at the Board's designated e-mail address. The date of filing of an e-mailed document shall be the date of receipt by the Board officer or agent in accordance with subsection (c).

(c) When the acts, or this chapter or an order of the Board requires the filing of a motion, brief, exception or other paper in a proceeding, the document shall be received by the Board or the officer or agent designated by the Board to receive the document before the close of business of the last day of the time limit, if any, for the filing. Exceptions to this requirement will be at the discretion of the Board.

(d) Papers, pleadings, briefs or other documents filed with the Board shall be legibly typed, printed or otherwise legibly duplicated.

CHAPTER 95. PUBLIC EMPLOYEES

INSTITUTION OF REPRESENTATION PROCEEDINGS

§ 95.11. Request for certification.

(a) A public employe, employe organization or group of employes and the public employer may, when the public employe organization represents a majority of the employes in an appropriate unit, jointly submit to the Board a request for certification upon a form to be supplied by the Board.

(b) The request for certification shall set forth the following:

(1) The name, address and telephone number of the public employer and the person to contact, including his title, if known.

(2) The name, address and affiliation, if any, of the employe organization and the name, address and telephone number of its representative.

(3) A description and factual statement in support of the unit claimed to be appropriate for the purpose of exclusive representation.

(4) The budget submission date of the public employer.

(5) The signatures of the parties, including their titles and telephone numbers.

(6) A statement that the employe organization represents a majority of the employes in the unit and the method of determining the representative majority. Proof of the representative majority shall be submitted to the hearing examiner, if requested.

(7) The names and addresses of known employe representatives, individuals, labor organizations or groups claiming to represent any of the employes in the bargaining unit.

(8) Five days prior to the submission to the Board of the joint request for certification, the employer shall post on the bulletin boards at all locations where employes in the requested unit work a copy of the joint request for certification and a statement that the request will be filed with the Pennsylvania Labor Relations Board, 418 Labor and Industry Building, 651 Boas Street, Harrisburg, Pa. 17121, for the purpose of securing from that Board a certification of _____ as the exclu-

(Name of employe representative)

sive bargaining representative for the employes within the unit.

(9) Other relevant facts.

(c) A 15% showing of interest among employes within the requested unit is required before an employe representative may be permitted to intervene.

(d) When the request for certification serves to effectuate the policies of the act, the Board Representative will issue an appropriate order of certification.

§ 95.13. Consent to election request.

(a) If a public employer consents to an election request by a public employe, a group of public employes or an employe organization, the consent shall be given in writing to the party giving notice within 10 days of the receipt of an election request.

(b) Upon consent to an election request, a joint election request shall be submitted to the Board, in triplicate, upon forms prepared by the Board, which shall include the following:

(1) A description and factual statement in support of the unit deemed appropriate.

(2) The basis for alleging a 30% interest or more.

(3) A list of all unit employes prepared by the employer in the order requested by the Board with occupations or classifications of those agreed upon as eligible to vote.

(4) Suggested times and places of holding the election.

(5) The budget submission date of the public employer.

(6) A 1% showing of interest among employes within the requested unit is required before another employe representative may be placed on the ballot. A 10% showing of interest among employes within the requested unit is required before another employe representative may be permitted to intervene as a party.

(7) If a public employer refuses to consent within the 10-day period to an election, the party making the request may file a petition for representation election. A public employer may file a petition for representation

election if, after receiving a notice for an election request, the moving party thereafter fails to submit a joint election request within 10 days after consent is given by the employer.

(c) Five days prior to the submission to the Board of the joint election request, the employer shall post on the bulletin boards at all locations where employes in the requested unit work, a copy of the joint election request and a statement that the request will be filed with the Pennsylvania Labor Relations Board, 418 Labor and Industry Building, 651 Boas Street, Harrisburg, Pa. 17121, for the purpose of securing from that Board a certification of _____ as the exclu-

(Name of employe representative)

sive bargaining representative for the employes within the unit.

UNFAIR PRACTICES PROCEEDINGS

§ 95.31. Charges.

(a) Charges shall be in writing on forms supplied by the Board and shall be signed and sworn to before a person authorized to administer oaths. An original of the charge shall be filed with the Board by one or more public employes, or an employe organization, acting in their behalf, or by a public employer.

* * * * *

PREHEARING PROVISIONS

§ 95.41. Service of papers.

Service of papers on a party shall be made personally, by United States mail, or by leaving a copy of the papers with the person then in charge at the principal office or place of business of the person to be served. Where an attorney or representative has entered his appearance under § 91.2(a) (relating to appearances), complaints, orders and other processes and papers of the Board shall be served on the attorney or representative and need not be served on the party. Service by a party on an attorney or representative who has entered an appearance under § 91.2(a) may be made personally, by United States Postal Service first-class mail, or where the attorney or representative has approved service by e-mail in an entry of appearance, by e-mail to the e-mail address provided in the entry of appearance.

§ 95.42. Filing of papers.

(a) When the act, this chapter or an order of the Board requires the filing of a motion, brief, exception or other paper in a proceeding, the document shall be received by the Board or the officer or agent designated by the Board to receive the document before the close of business of the last day of the time limit, if any, for the filing. Exceptions to this requirement will be at the discretion of the Board.

(b) Charges and petitions may be filed with the principal office of the Board in Harrisburg, or with the regional office of the Board in Pittsburgh. Charge and petition forms are available at Board offices.

(c) *Methods of Filing with the Board.*

(1) In person at the principal office of the Board in Harrisburg, or with the regional office of the Board in Pittsburgh. If mailed to the Board through the United States Postal Service or third-party courier, the date of filing shall be the date of receipt by the Board in its Harrisburg or Pittsburgh office.

(2) Except for a Joint Election Request (Form PERA-3), Petition (Form PLRB-13 or Form PERA-4), or other document with a showing of interest, filing by electronic

mail by e-mailing a portable document format (PDF) file of the scanned complete signed document, including attachments and exhibits thereto, to the Board at the Board's designated e-mail address. The date of filing of an e-mailed document shall be the date of receipt by a Board officer or agent in accordance with subsection (a).

(d) Actions before the Board, the first paper filed on behalf of each party shall contain an address including zip code at which service of complaints, orders and other processes and papers of the Board may be made. Thereafter, a party may file with the Board an entry of appearance under § 91.2(a) (relating to appearances), which shall form part of the record in the case, setting forth a new address at which the service may be made. If he does not do so, notice sent to him by United States mail at his last address of record shall be equivalent to service.

(e) Papers, pleadings, briefs or other documents filed with the Board shall be legibly typed, printed or otherwise legibly duplicated.

PROVISIONS FOR FORMAL PROCEEDINGS

§ 95.98. Decisions of the Board.

(a) *Exceptions to a hearing examiner decision.* Filing of statements of exceptions to a hearing examiner decision will be as follows:

(1) A party may file with the Board within 20-calendar days of the date of issuance with the Board an original of a statement of exceptions and a supporting brief to a proposed decision issued under § 95.91(k)(1) (relating to hearings) or a nisi order issued under § 95.96(b) (relating to exceptions) certifying a representative or the results of an election. Exceptions will be deemed filed in accordance with § 93.12 (relating to service and filing of papers) or § 95.42 (relating to filing of papers), or on the date deposited in the United States mail, as shown on a

United States Postal Form 3817 Certificate of Mailing enclosed with the statement of exceptions. The statement of exceptions shall:

(i) State the specific issues of procedure, fact or law, or other portion of the proposed decision to which each exception is taken.

(ii) Identify the page or part of the decision to which each exception is taken.

(iii) Where possible, designate by page citation or exhibit number the portions of the record relied upon for each exception.

(iv) State the grounds for each exception.

(2) No reference may be made in the statement of exceptions to any matter not contained in the record of the case.

(3) An exception not specifically raised shall be waived.

(4) The party shall, concurrent with its filing of the statement of exceptions and supporting brief, serve a copy of the same upon each party to the proceeding. Proof of service shall be filed with the Board.

(b) *Failure to file exceptions.* When no exceptions are filed to a proposed decision, it will become final upon the expiration of 20-calendar days from the date of issuance.

(c) *Response to exceptions.* Within 20-calendar days following the date of receipt of the statement of exceptions and supporting brief, a party may file a response to the statement of exceptions and a supporting brief with the Board. Copies of these documents shall be served concurrently on each party, and proof of service shall be filed with the Board.

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[Pa.B. Doc. No. 20-183. Filed for public inspection February 7, 2020, 9:00 a.m.]