

Article 35 - Unfair Labor Practices

Section 35.1 Charge

A charge that any employee organization, or its agents, or employer, or its agents, has engaged in or is engaging in an unfair labor practice may be made by an employee, employee organization or employer.

Section 35.2 Charge; Form; Filing

A charge shall be in writing. The original shall be signed and verified before any person authorized to administer an oath.

Section 35.3 Contents of Charge

A charge shall contain:

- (A) The full name and address of the person or organization making the charge;
- (B) The full name and address of the employee organization, or its agent, or employer, or its agent, against whom the charge is made; and
- (C) A concise statement alleging the applicable sections of the Act which are alleged to have been violated and a brief statement of facts concerning the alleged violations.

Section 35.4 Service

Upon the filing of a charge, the charging party shall serve a copy upon the respondent or respondents.

Section 35.5 Conformity of Charge with Rules

If the filed charge does not conform to Section 35.2 and Section 35.3, the Board shall notify the charging party of the defects of the charge and provide the party with a reasonable amount of time, but not less than 10 calendar days, to amend the charge. If the charge is not amended within the stated time, the Board shall dismiss the charge.

Section 35.6 Board Assistance

The Board may assist a party in drafting a charge in order to ensure its compliance with Sections 35.2 and 35.3.

Section 35.7 Answer to Charge

Upon receipt of a valid charge, but prior to issuance of a complaint, the Board may require the respondent(s) to file an answer to the charge stating the position of respondent(s), within a time specified by the Board.

Section 35.8 Board Investigation

The Board may assign a Board member or agent to conduct an informal conference or conferences in furtherance of the Board's investigation of the charge, for clarifying issues and to explore the possibility of voluntary resolution of the case. The Board member or agent so assigned shall not make known to the Board any discussions with the parties relating to voluntary resolution of the case. A Board member so assigned shall not be assigned to any subsequent evidentiary hearing on the charge or participate in the post-hearing decision.

Section 35.9 Scope of Bargaining Disputes

Where the primary basis of the dispute between the parties in an unfair labor practice case is alleged to be disagreement as to whether a particular issue or issues is a mandatory subject of bargaining, either party may request that the Board expedite the matter. After investigation by an assigned board member or agent, the Board shall inform the parties whether it will expedite the matter.

Section 35.10 Complaint; Notice of Hearing

After a charge has been filed, if it appears to the Board that a formal proceeding should be instituted, the Board may issue and have served upon the parties a complaint in the name of the Board, containing a concise statement as to the alleged violations of the Act and a notice of hearing at a time and place fixed therein.

Section 35.11 Answer; Filing; Service

The respondent ordinarily shall have the right to file an answer within 10 days after service of the complaint. The Board may shorten the time within which the respondent shall have the right to file an answer in cases in which a hearing is set in less than 10 days after service of the complaint. The answer shall admit or deny each specific allegation of the complaint, unless the party asserts that it is without knowledge or information thereof sufficient to form a belief. An allegation in the complaint not specifically denied in the answer, unless the party asserts that it is without knowledge or information thereof sufficient to form a belief, shall be deemed admitted and shall be so found by the Board. Allegations of new matter in the answer shall be deemed denied by the party filing the charge without the necessity of a reply.

Section 35.12 Stipulation of Facts

After the issuance of a complaint by the Board, the parties may submit to the Board a signed stipulation of facts and a request for a decision by the Board without an evidentiary hearing. The request shall state whether the parties desire to present oral argument and/or file briefs.

Section 35.13 Burden of Going Forward

In hearings before the Board in unfair labor practice cases, the charging party shall have the burden of going forward with the evidence.

Section 35.14 Joinder of Parties; Relief

All persons alleged to have engaged in any unfair labor practices may be joined as parties and a decision may be rendered against one or more of them.