

OTHER AGENCIES

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Unfair Practice Proceedings

Proposed Readoption with Amendments: N.J.A.C. 19:14

Proposed New Rule: N.J.A.C. 19:14-9.6

Authorized By: Public Employment Relations Commission, Mary E. Hennessy-Shotter, Chair.

Authority: N.J.S.A. 34:13A-5.4.c and 34:13A-11.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2024-069.

Submit comments by August 2, 2024, to:

Mary Beth Hennessy-Shotter, Chair

Public Employment Relations Commission

PO Box 429

Trenton, New Jersey 08625-0429

Comments may also be submitted through email to rulecomments@perc.state.nj.us or by

facsimile to 609-777-0089.

The agency proposal follows:

Summary

In accordance with N.J.S.A. 52:14B-5.1, the Public Employment Relations Commission (Commission) proposes to readopt N.J.A.C. 19:14 with amendments and a new rule. N.J.A.C. 19:14 was scheduled to expire on September 29, 2024, pursuant to N.J.S.A. 52:14B-5.1.c. As the Commission submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to March 28, 2025, pursuant to N.J.S.A.

52:14B-5.1.c(2). The chapter sets forth the procedures to allow the Commission, pursuant to N.J.S.A. 34:13A-5.4.c and f, to hear and resolve charges that anyone has engaged or is engaging in unfair practices proscribed at N.J.S.A. 34:13A-5.4.a or b, and to issue and to use its discretion to seek enforcement of orders requiring parties to cease and desist from any unfair practice and to remedy any unfair practice. The rules proposed for readoption with amendments and a new rule describe: who may file a charge and the required contents of any charge; amendment, withdrawal, and dismissal of charges before hearing; pre-hearing investigation and processing of charges; contents, service, amendment, and dismissal of complaints; appeal rights from a refusal to issue a complaint; contents, service, and amendment of answers; motion practice; intervention; hearing procedures, including the powers and authority of hearing examiners, the rights of parties, rules of evidence, and burdens of proof; procedures for Commission review of hearing examiner reports; procedures for interim relief applications; and procedures to secure compliance with and enforcement of Commission orders.

Proposed new N.J.A.C. 19:14-8.1(c) states that a party must file exceptions to the Commission from a hearing examiner's report to exhaust all available administrative remedies before this agency and preserve a right to appeal to the Superior Court, Appellate Division. The subsection states that parties may still seek leave to appeal from the Appellate Division according to court rules. In addition, proposed amendments for style are made and the heading is amended to include "exhaustion of remedies."

Proposed new N.J.A.C. 19:14-9.6 sets forth procedures for filing a motion for reconsideration of an interim relief decision. This rulemaking codifies existing practices and standards developed through Commission case law, which requires the movant to demonstrate

“extraordinary circumstances and exceptional importance” warranting the Commission’s reconsideration of interim relief decisions.

The proposed amendment at N.J.A.C. 19:14-8.4 modifies the pre-existing rule for motions for reconsideration of regular Commission unfair practice decisions to be uniform with the standards of both the proposed interim relief motion for reconsideration rule, N.J.A.C. 19:14-9.6, and the Commission’s rule for motions for reconsideration of Commission scope of negotiations decisions. See N.J.A.C. 19:13-3.12. This proposed amendment ensures a consistent “extraordinary circumstances and exceptional importance” standard that must be demonstrated for the Commission to grant a motion for reconsideration of a scope of negotiations, unfair practice, or interim relief decision.

Several non-substantial changes are proposed throughout N.J.A.C. 19:14. At N.J.A.C. 19:14-1.3(a), the proposed amendment also modifies the required information for the unfair practice charge form to include an “email address” for both the charging party and the respondent. References to the Commission “Chairman” are replaced with the gender-neutral “Chair.” Every filing rule that had required multiple copies is proposed for amendment to just the original and “one copy.”

A summary of each section at N.J.A.C. 19:14, including the proposed new rules, follows:

N.J.A.C. 19:14-1.1 provides that an unfair practice charge may be filed by any public employer, public employee, public employee organization, or their representatives.

N.J.A.C. 19:14-1.2 provides that a charge shall be filed with the Commission, date-stamped, and assigned a docket number.

N.J.A.C. 19:14-1.3 specifies the form and contents of an unfair practice charge and provides that forms can be obtained from the Commission.

N.J.A.C. 19:14-1.4 specifies the number of copies to be filed and service requirements.

N.J.A.C. 19:14-1.5 states how a charge may be amended, withdrawn, or dismissed before or after complaint issuance. It also gives the Director of Unfair Practices or the hearing examiner authority to dismiss a charge where a charging party fails to withdraw a charge on request and has no further interest in processing its charge.

N.J.A.C. 19:14-1.6 specifies how a charge will be processed after filing and authorizes the Commission's staff to hold an exploratory conference to clarify issues, explore settlement possibilities, or take stipulations of fact.

N.J.A.C. 19:14-2.1 authorizes the Director of Unfair Practices to issue a complaint and notice of hearing where it appears that the allegations of a charge, if true, may constitute unfair practices; it also specifies the contents of a complaint and notice of hearing.

N.J.A.C. 19:14-2.2 allows a complaint to be amended to conform to an amended charge and specifies how a complaint may be dismissed or reopened.

N.J.A.C. 19:14-2.3 provides that where the Director of Unfair Practices refuses to issue a complaint on part or all of a charge, the parties will receive written reasons. The rule also specifies the procedure to appeal to the Commission in cases where no complaint issues and that, where a partial refusal to issue occurs, such action may not be appealed prior to hearing except by special permission to appeal.

N.J.A.C. 19:14-3.1 specifies the time for filing and the contents of an answer to a complaint and requires that the party or representative filing the answer submit the same certification required with an unfair practice charge.

N.J.A.C. 19:14-3.2 provides that an original and nine copies of an answer be filed with the assigned hearing examiner, together with proof of service of a copy on all other parties.

N.J.A.C. 19:14-3.3 specifies how an answer may be amended before or after hearing.

N.J.A.C. 19:14-4.1 provides that motions should be filed after complaint issues.

N.J.A.C. 19:14-4.2 specifies with whom motions and responses to motions should be filed during the different stages of an unfair practice case.

N.J.A.C. 19:14-4.3 specifies the number of copies of motion papers to be filed and service requirements.

N.J.A.C. 19:14-4.4 specifies the time for filing answering affidavits, arguments, or documents.

N.J.A.C. 19:14-4.5 specifies the form of rulings on motions and service requirements.

N.J.A.C. 19:14-4.6 provides that all motions and rulings shall be part of the record, except for rulings on motions to quash a subpoena, which shall be part of the record on request. It further provides that rulings on motions and objections shall not be appealed to the Commission, except by special permission, pursuant to procedures specified in this section.

N.J.A.C. 19:14-4.7 provides that where a motion to dismiss the entire complaint is granted, an appeal may be made to the Commission.

N.J.A.C. 19:14-4.8 provides that motions for summary judgment shall be filed with the Chair, who shall refer the motion to either the Commission or the hearing examiner. The section also specifies the form of the motion and responses or cross-motions, filing and service requirements, standards for granting or denying such motions, the form and consequences of certain rulings, and procedures to review rulings on motions for summary judgment.

N.J.A.C. 19:14-5.1 specifies the filing and service requirements of a motion to intervene and any response and provides that the hearer may permit intervention on such terms as may be deemed just.

N.J.A.C. 19:14-6.1 provides that a hearing to take evidence on a complaint shall be conducted by a designated hearing examiner, unless the Commission or one of its members presides, and that the hearing will be public, unless otherwise ordered.

N.J.A.C. 19:14-6.2 allows the hearing examiner to conduct a pre-hearing conference to clarify the issues, explore the possibility of settlement, or take stipulations of fact.

N.J.A.C. 19:14-6.3 specifies the duties and powers of hearing examiners.

N.J.A.C. 19:14-6.4 specifies the procedure, before or after the hearing concludes, to replace a hearing examiner when the one previously designated becomes unavailable and provides that the Commission may transfer the case to itself.

N.J.A.C. 19:14-6.5 provides, subject to the hearing examiner's authority to limit participation, that a party or its representative may call, examine, and cross-examine witnesses and introduce relevant evidence into the record; and that a party ordering a transcript must notify the hearing examiner and have a copy of the transcript filed with the hearing examiner.

N.J.A.C. 19:14-6.6 provides that all relevant evidence is admissible, but that the hearing examiner may exclude evidence where its probative value is outweighed by undue time consumption, prejudice, or confusion; shall give effect to the rules of privilege recognized by law; and may take notice of administratively noticeable facts and facts within the Commission's specialized knowledge, provided that the noticed material is referred to in the hearing examiner's report and recommended decision. The noticed material may be contested by any party.

N.J.A.C. 19:14-6.7 provides that stipulations may be submitted for a decision without a hearing and that the parties may agree to waive a hearing examiner's report and recommended decision.

N.J.A.C. 19:14-6.8 provides that the charging party shall prosecute its charge and bear the burden of proof, and that the respondent will have the burden of establishing any affirmative defense in accordance with law.

N.J.A.C. 19:14-6.9 specifies how an objection may be made and that objections will be part of the record and not be waived by participation in the hearing; however, an objection not made to the hearing examiner will be deemed waived unless the Commission excuses the failure to raise the objection because of extraordinary circumstances.

N.J.A.C. 19:14-6.10 allows a party to argue orally before a hearing closes and to file a brief and proposed findings and conclusions. This rule also specifies filing and service requirements and the procedure for requesting an extension of time.

N.J.A.C. 19:14-6.11 authorizes the hearing examiner, on notice to the parties, to continue the hearing from day to day or adjourn to a later time or different place.

N.J.A.C. 19:14-6.12 specifies sanctions for misconduct at a hearing or before the Commission.

N.J.A.C. 19:14-6.13 provides that any party may submit settlement offers or adjustment proposals; that any such offers or proposals are inadmissible, absent mutual agreement; and that no Commission officer shall testify in any proceeding with respect to such submissions.

N.J.A.C. 19:14-7.1 provides that, after the hearing, or earlier with the parties' consent, the hearing examiner shall prepare a report and recommended decision containing findings of fact, conclusions of law, and recommendations as to what disposition of the case should be made, including, where appropriate, a recommendation for affirmative action. The hearing examiner shall file the original with the Commission and serve a copy on the parties.

N.J.A.C. 19:14-7.2 specifies the contents of the record in an unfair practice case.

N.J.A.C. 19:14-7.3 allows parties to file exceptions and cross-exceptions to the report and recommended decision and supporting and answering briefs. This rule specifies the contents of such submissions and requirements concerning timeliness, filing, service, and a request to extend any time limits and provides that any matter not included in exceptions or cross-exceptions may not be urged before the Commission in any proceeding.

N.J.A.C. 19:14-8.1 provides that the Commission may adopt, reject, or modify the hearing examiner's report and recommended decision, or may receive further evidence. Proposed new N.J.A.C. 19:14-8.1(c) clarifies that a party must file exceptions to the Commission from a Hearing Examiner's report to exhaust all available administrative remedies before this agency.

N.J.A.C. 19:14-8.2 allows a party to request oral argument before the Commission.

N.J.A.C. 19:14-8.3 allows the Commission to transfer a complaint and any related proceeding to itself or any member or members of the Commission.

N.J.A.C. 19:14-8.4 allows a party to move for reconsideration of a Commission decision based upon extraordinary circumstances and as modified by this rulemaking, "exceptional importance," and allows any party opposing reconsideration to file a response.

N.J.A.C. 19:14-9.1 provides that the procedures for obtaining interim relief apply to unfair practice and scope of negotiations cases.

N.J.A.C. 19:14-9.2 provides that an order to show cause seeking interim relief may be filed upon or after an unfair practice charge being filed, specifies when such order shall be returnable and specifies when the order may be issued with temporary restraints.

N.J.A.C. 19:14-9.3 specifies the time for filing, contents, and service requirements of briefs in support of and in opposition to the interim relief application.

N.J.A.C. 19:14-9.5 provides that a written decision with findings of fact and conclusions of law will be issued in interim relief proceedings; that any order shall specify the act or acts to be restrained and shall apply only to parties receiving actual notice of the order; and that the decision shall be deemed to be a final Commission decision on the application for interim relief and shall be enforceable in Superior Court.

Proposed new N.J.A.C. 19:14-9.6 sets forth procedures for motions for reconsideration of interim relief decisions. It requires the movant to demonstrate “extraordinary circumstances and exceptional importance” warranting the Commission’s reconsideration of interim relief decisions and allows a party opposing reconsideration to file a response.

N.J.A.C. 19:14-10.1 provides that compliance procedures will apply to unfair practice and scope of negotiations proceedings.

N.J.A.C. 19:14-10.2 provides that the Chair, or designee, shall have the authority and discretion to determine whether a party has complied with a Commission order. The Chair, or designee, may solicit information, convene a conference, conduct an investigation, and order a hearing. Court proceedings may also be instituted to enforce the Commission’s order, and filing an appeal from the Commission's action shall not relieve a party from compliance with an order, unless the order is stayed by the Commission or the reviewing court.

N.J.A.C. 19:14-10.3 allows a party to request that the Commission seek compliance with any Commission order and provides that the party to whom the order is directed may respond.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The readoption of this chapter with the proposed amendments and new rule is necessary to allow the Commission to continue to carry out its statutory mandate to hear and resolve charges alleging unfair practices proscribed by the New Jersey Employer-Employee Relations Act. These rules have enabled cases to be processed smoothly, so their readoption is necessary and appropriate. Public employers and employees will continue to benefit from clear procedures for resolving their labor relations disputes and the public will continue to benefit from the prompt and peaceful resolution of such disputes.

Economic Impact

The readoption of these rules with the proposed amendments and new rule will promote harmonious labor-management relations and reduce disruption in governmental services. The rules, if readopted, will have no discernible economic impact on the public because they simply outline the procedures for resolving charges of unfair practices proscribed by the New Jersey Employer-Employee Relations Act.

Federal Standards Statement

The National Labor Relations Act excludes “any State or political subdivision thereof.” See 29 U.S.C. § 152(2). No Federal law or regulation applies and the Commission cannot rely upon a comparable Federal rule or standard to achieve the aims of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. The rules proposed for readoption with amendments and new rule are, thus, necessary and proper.

Jobs Impact

The Commission does not expect that any jobs will be generated or lost as a consequence of the rules proposed for readoption with amendments and new rule.

Agriculture Industry Impact

The Commission's jurisdiction is limited to employer-employee relations in public employment. The rules proposed for re-adoption with amendments and new rule impose no requirements on the agriculture industry.

Regulatory Flexibility Statement

The Commission's jurisdiction is limited to employer-employee relations in public employment. The rules proposed for re-adoption with amendments and new rule impose no requirements on small businesses, as defined pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-1 et seq.

Housing Affordability Impact Analysis

The rules proposed for re-adoption with amendments and new rule would not have an impact on the average costs associated with housing or on the affordability of housing, as the rules proposed for re-adoption with amendments and new rule concern employer-employee relations in public employment.

Smart Growth Development Impact Analysis

The rules proposed for re-adoption with amendments and new rule would not have an impact on housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan, as the rules proposed for re-adoption with amendments and new rule concern employer-employee relations in public employment.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The rules proposed for re-adoption with amendments and new rule will not have an impact on pre-trial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:14.

Full text of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. CHARGE

19:14-1.3 Form; contents

(a) Such charge shall be in writing. The party or representative filing the charge shall make this dated and signed certification: “I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.” Such charge shall contain the following:

1. The full name, address, **email address**, and telephone number of the public employer, public employee, or public employee organization making the charge (the charging party);
2. The full name, address, **email address**, and telephone number of the public employer or public employee organization against whom the charge is made (the respondent); and
3. (No change.)

(b) (No change.)

19:14-1.4 Number of copies; service

The charging party shall file an original and [four copies] **one copy** of such charge, together with proof of service of a copy on all other parties. The Director of Unfair Practices will send a copy to the respondent, but the charging party will remain responsible for formal service of the charge.

19:14-1.5 Amendment; withdrawal; dismissal

(a)-(d) (No change.)

(e) Within 15 days after the date a charge has been dismissed [under] **pursuant to** this section, a charging party may file a written motion to reopen with the Director of Unfair Practices. The charging party shall file an original and [two copies] **one copy** of such motion, together with proof of service of a copy on all other parties. Any party opposing the motion shall file an original and [two copies] **one copy** of its response within five days of receipt of the motion, together with proof of service of a copy on all other parties. The motion may be granted on a showing of extraordinary circumstances or to prevent an injustice.

SUBCHAPTER 2. COMPLAINT WITH NOTICE OF HEARING

19:14-2.3 Refusal to issue; appeal

(a) (No change.)

(b) Where no complaint is issued, the charging party may appeal that action by filing an original and [nine copies] **one copy** of an appeal with the Commission, together with proof of service of a copy on all other parties, within 10 days from the service of the notice of such refusal to issue.

An appeal must be a self-contained document enabling the Commission to rule on the basis of its contents. An appeal may not allege any facts not previously presented, unless the facts alleged are newly discovered and could not with reasonable diligence have been discovered in time to be presented. Within five days of being served with an appeal, any party opposing the appeal may file an original and [nine copies] **one copy** of its response, together with proof of service of a copy on all other parties. The Commission may sustain the refusal to issue a complaint, stating

the grounds of its affirmance, or may direct that further action be taken. The Commission's determination shall be served on all parties.

(c) (No change.)

SUBCHAPTER 3. ANSWER

19:14-3.2 Where to file; number of copies; service

An original and [four copies] **one copy** of the answer shall be filed with the hearing examiner, together with proof of service of a copy on all other parties.

SUBCHAPTER 4. MOTIONS

19:14-4.3 Contents; number of copies; service

All written motions, referred to [in] **at** N.J.A.C. 19:14-4.2, shall briefly state the order or relief sought and, if appropriate, shall be supported by affidavits. The moving party shall file an original and [two copies] **one copy** of its motion papers, if made to the hearing examiner or Director of Unfair Practices, and an original and [nine copies] **one copy** if made to the Commission, together with proof of service of a copy on all other parties.

19:14-4.6 Motions and rulings part of the record; appeal on special permission

(a) (No change)

(b) A request for special permission to appeal shall be filed, in writing, within five days from the service of written rulings or statement of oral rulings, and shall briefly state the grounds relied on. An original and [nine copies] **one copy** of such request shall be filed with the Chair, together with proof of service of a copy on all other parties, and, if the request involves a ruling by a

hearing examiner, upon that hearing examiner. A party opposing the request may file an original and [nine copies] **one copy** of a statement in opposition within five days of service on it of the request for special permission to appeal, together with proof of service of a copy on all other parties. If the Chair grants special permission to appeal, the proceedings shall not be stayed unless otherwise ordered by the Chair. The Commission shall consider an appeal on the papers submitted to the Chair, or on such further submission as it may require.

19:14-4.7 Motion to dismiss complaint; appeal

If any motion in the nature of a motion to dismiss the complaint in its entirety is granted by the hearing examiner before the filing of a report and recommended decision, the charging party may appeal such action by filing an original and [nine copies] **one copy** of an appeal with the Commission, stating the grounds for appeal, together with proof of service of a copy on all other parties. Unless an appeal is filed within 10 days from the date of the order of dismissal, the case shall be closed. A party opposing the request may file an original and [nine copies] **one copy** of an answering statement or brief within five days of service on it of the appeal, together with proof of service of a copy on all other parties.

19:14-4.8 Motions for summary judgment

(a) Any motion in the nature of a motion for summary judgment may only be made after a complaint issues and shall be filed with the Chair, who shall refer the motion to either the Commission or the hearing examiner. The parties shall be notified, in writing, of such referral. Any request for a stay of proceedings must accompany the motion for summary judgment.

(b) A motion for summary judgment shall be, in writing, and accompanied by a brief and may be filed with supporting affidavits. An original and [nine copies] **one copy** of the motion and all supporting documents shall be filed with the Chair, together with proof of service of a copy on all other parties.

(c) Within 10 days of service on it of the motion for summary judgment or such longer period as the Chair or hearing examiner may allow, the responding party shall serve and file its answering brief and affidavits, if any. Such answering documents shall be served in accordance with (b) above and may include a cross-motion for summary judgment which shall conform to the requirements [of] **at** (b) above.

(d)-(g) (No change.)

SUBCHAPTER 7. HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION AND TRANSFER OF CASE TO THE COMMISSION

19:14-7.3 Exceptions; cross-exceptions; briefs; answering briefs

(a) Within 10 days of service on it of the hearing examiner's report and recommended decision or such longer period as the Commission may allow, any party may file with the Commission an original and [nine copies] **one copy** of exceptions to the report and recommended decision or to any other part of the record or proceedings (including rulings upon motions or objections), together with an original and [nine copies] **one copy** of a brief in support of the exceptions. Any party may, within the same period, file an original and [nine copies] **one copy** of a brief in support of the report and recommended decision. A request for an extension of time to file exceptions or briefs shall be, in writing, and shall state the other parties' positions with respect to

such request. Filings [under] **pursuant to** this subsection shall be accompanied by proof of service of a copy on all other parties.

(b)-(c) (No change.)

(d) Within five days of service on it of exceptions or such longer period as the Commission may allow, a party opposing the exceptions may file an original and [nine copies] **one copy** of an answering brief limited to the questions raised in the exceptions and in the brief in support of exceptions, together with proof of service of a copy on the other parties. Filing, service, and proof of service of request for an extension of time shall conform to (a) above.

(e) Within five days of service on it of exceptions or such longer period as the Commission may allow, any party that has not previously filed exceptions may file an original and [nine copies] **one copy** of cross-exceptions to any portion of the report and recommended decision, together with a supporting brief, in accordance with (b) above, together with proof of service of a copy on the other parties. Filing, service, and proof of service of a request for an extension of time shall conform to (a) above.

(f) Within five days of service on it of cross-exceptions or such longer period as the Commission may allow, any other party may file an original and [nine copies] **one copy** of an answering brief in accordance with (c) above, limited to the questions raised in the cross-exceptions, together with proof of service of a copy on the other parties. Filing, service, and proof of service of a request for an extension of time shall conform to (a) above.

(g)-(h) (No change.)

SUBCHAPTER 8. PROCEDURE BEFORE THE COMMISSION

19:14-8.1 Action by the Commission; decision in the absence of exceptions; **exhaustion of administrative remedies**

(a) [The] **If exceptions are filed, the** Commission shall adopt, reject or modify the hearing examiner's report and recommended decision. The Commission may decide the matter upon the record or after oral argument. It may also reopen the record and receive further evidence.

(b) (No change.)

(c) A party must file exceptions to a hearing examiner's report pursuant to N.J.A.C. 19:14-7.3 in order to exhaust administrative remedies before the Commission and preserve a right to appeal to the Superior Court, Appellate Division. A party who chooses not to file exceptions with the Commission may seek leave to appeal from the Appellate Division according to court rules.

19:14-8.4 Motions for reconsideration

After a Commission decision has been issued, a party may move for reconsideration. Any motion pursuant to this section shall be filed within 15 days of service of the Commission decision, together with proof of service of a copy on all other parties. **Reconsideration will only be granted based on a demonstration of extraordinary circumstances and exceptional importance.** The movant shall specify [the extraordinary circumstances] **and bear the burden of establishing the grounds** warranting reconsideration [and the pages of the record it relies on]. Any party opposing reconsideration may file a response within five days of service on it of the motion, together with proof of service of a copy on all other parties. No further submissions shall be filed except by leave of the Commission. A request for leave shall be, in writing, accompanied by proof of service of a copy on all other parties. The filing and pendency of a

motion for reconsideration shall not operate to stay the effectiveness of the Commission decision, unless otherwise ordered by the Commission. A motion for reconsideration need not be filed to exhaust administrative remedies.

SUBCHAPTER 9. INTERIM RELIEF

19:14-9.3 Briefs

(a) By no later than five days before the return date of an order to show cause, unless otherwise ordered by the Commission Chair, or the designee, the charging party or petitioner shall file an original and [two copies] **one copy** of its brief, together with proof of service of a copy on all other parties. The brief shall explain clearly the nature of the proceeding, the interim relief sought, and why such relief should be ordered [under] **pursuant to** the applicable legal standards.

(b) By no later than two days before the return date, unless otherwise ordered by the Commission Chair, or the designee, the respondent shall file an original and [two copies] **one copy** of its answering brief and any opposing affidavits or verified pleadings, together with proof of service of a copy on all other parties. The answering brief shall set forth the grounds of opposition, together with copies of any papers relied on which are not in the charging party's or petitioner's submissions. If no answering brief is filed, the application may be considered to be unopposed, provided, however, that an unopposed application must still satisfy the standards for granting interim relief.

(c) (No change.)

19:14-9.6 Motions for reconsideration of interim relief decisions

After an interim relief decision has been issued, a party may move for reconsideration before the Commission. Any motion pursuant to this section shall be filed within 15 days of service of the interim relief decision, together with proof of service of a copy on all other parties. Reconsideration will only be granted based on a demonstration of extraordinary circumstances and exceptional importance. The movant shall specify and bear the burden of establishing the grounds warranting reconsideration. Any party opposing reconsideration may file a response within five days of service on it of the motion, together with proof of service of a copy on all other parties. No further submissions shall be filed except by leave of the Commission. A request for leave shall be, in writing, accompanied by proof of service of a copy on all other parties. The filing and pendency of a motion for reconsideration shall not operate to stay the effectiveness of the Commission's designee's interim relief decision unless otherwise ordered by the Commission.

SUBCHAPTER 10. COMPLIANCE AND ENFORCEMENT

19:14-10.2 Procedures for compliance and enforcement

(a) The Chair, or the Commission's designee, shall have the authority and discretion to take reasonable action to ascertain if compliance with the Commission's order has been or is being achieved. Such action may include, but shall not be limited to, soliciting information from the party to whom the order is directed or any other party, convening a conference among one or more of the parties to the proceeding; conducting an investigation and/or a hearing; or taking such other action reasonably designed to determine if compliance with the Commission's order has occurred.

(b)-(c) (No change.)

19:14-10.3 Request for compliance and enforcement

(a) (No change.)

(b) Such a request shall normally take the form of a motion addressed to the Chair and shall be accompanied by affidavits, as appropriate, setting forth the facts regarding the noncompliance of the party to whom the order was directed. An original and [two copies] **one copy** of such request shall be filed with the [Chairman] **Chair**, together with proof of service of a copy on all other parties.

(c) Within five days of service on it of the request for action to ascertain compliance and enforcement, the party to whom the order is directed may respond to the request. Such response may include affidavits or other submissions. An original and [two copies] **one copy** of the response and supporting submissions shall be filed with the Chair, together with proof of service of copies of such documents on all other parties.