

Chapter ERC 19

DISCRETIONARY MUNICIPAL SECTOR DECLARATORY RULINGS UNDER CH. 227, STATS.

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ERC 19.01 Scope. This chapter governs the general procedure relating to discretionary declaratory rulings requested under s. 227.41 (2), Stats., concerning the Municipal Employment Relations Act and rules concerning its administration.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 19.02 Petition. (1) WHO MAY FILE. Any interested person may file a petition requesting that the commission issue a declaratory ruling about the applicability to any person, property or state of facts of any provision of the Municipal Employment Relations Act or any rule concerning its administration.

(2) FORM, NUMBER OF COPIES, FILING AND SERVICE. The petition shall be in writing in the form described below and shall include the signature or a facsimile of the signature of the party or representative filing the petition. A petition is not filed unless it contains the required signature or signature facsimile and unless and until the petition has been actually received by the commission at its Madison office during normal business hours specified in s. ERC 10.06 (1). The petition shall be transmitted to the commission as set forth in s. ERC 10.06 (1). If the petition is filed in paper form, a total of 2 copies of the petition shall be included. The petition shall be captioned as follows:

“STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Petition of
(NAME OF PETITIONER)
Requesting a Sec. 227.41 (2) Stats., Declaratory Ruling
Involving a Dispute Between the Petitioner and
(NAME OF OTHER PARTY)

The party filing the petition shall, at the same time, serve a copy, as set forth in s. ERC 10.07, on any other party the petitioner seeks to bind to the declaratory ruling.

(3) CONTENTS. The petition shall include all of the following:

(a) The name and address of the petitioner, and the name, address and phone number of its principal representative. Fax numbers and e-mail addresses shall be included, if available.

(b) The name and address of any other party the petitioner seeks to bind to the declaratory ruling, and the name, address and phone number of its principal representative, if any. Fax numbers and e-mail addresses shall be included, if available.

(c) A statement identifying the rule or statute about which the declaratory ruling is requested.

(d) A clear and concise statement of the declaratory ruling the petitioner is requesting the commission to issue.

(4) STATEMENT IN SUPPORT OF PETITION. The petitioner shall attach to each copy of the petition a clear and concise statement

of the facts and arguments relied upon by the petitioner in support of the position taken by the petitioner.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 19.03 Statement in response to petition.

(1) WHO SHALL FILE. Any party named in the petition other than the petitioner may, within a time established by the commission, file with the commission a statement in response to the petition.

(2) FORM, NUMBER OF COPIES, FILING AND SERVICE. The statement in response shall be in writing and shall include the caption of the case and the signature or a facsimile of the signature of the party or representative filing the statement. The statement shall be transmitted to the commission as set forth in s. ERC 10.06 (1). If the statement is filed in paper form, a total of 2 copies shall be provided to the commission. The party filing the statement in response shall, at the same time, serve a copy on the petitioner or its designated representative, as set forth in s. ERC 10.07.

(3) CONTENTS. The statement in response shall include all of the following:

(a) A statement of the position taken by the responding party as to what action the commission should take regarding the petition.

(b) A clear and concise statement of the facts and arguments relied upon by the responding party in support of its position regarding the petition.

(c) Corrections, as necessary, of the names, addresses, phone numbers, fax numbers, e-mail addresses, affiliations and representatives in the petition.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 19.04 Withdrawal of petition. Any petition may be withdrawn at any time prior to the issuance of a final order based on it, by motion granted by the commission. A motion to withdraw shall be granted unless withdrawal would result in an injustice to any party.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 19.05 Motions. Practice and procedure regarding motions in discretionary declaratory ruling proceedings shall be as set forth in s. ERC 18.06.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06; CR 10-019: am. Register June 2010 No. 654, eff. 7-1-10.

ERC 19.06 Commission action on petition. Within a reasonable time after receipt of a petition under this chapter, the commission may either deny the petition in writing or schedule the matter for hearing. If the commission denies the petition, it shall promptly notify the person who filed the petition of its decision, including a brief statement of the reasons for the denial.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 19.07 Notice of hearing. (1) WHEN ISSUED. If the commission determines that a hearing is warranted, the commis-

sion or examiner shall schedule a date and time for the hearing and serve all parties and their representatives with a notice of hearing.

(2) **CONTENTS.** The notice of hearing shall include all of the following:

(a) A statement of the time, place, and nature of the hearing, including a statement that the declaratory ruling proceeding under s. 227.41 (2), Stats., is a class 1 proceeding as defined in s. 227.01

(3) (a) to (c), Stats. Unless the parties have agreed otherwise or unless the commission or examiner finds that unusual circumstances require otherwise, the hearing shall be held not less than 10 days after the notice of hearing is served. The hearing may be rescheduled in the manner prescribed in s. ERC 18.06 (2) (d).

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

(c) A short and plain statement of the matters asserted, by reference to the pleadings on file, or otherwise.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 19.08 Hearings. Practice and procedure for hearings in discretionary declaratory ruling proceedings shall be as set forth in s. ERC 18.08.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06; **CR 10-019: am. Register June 2010 No. 654, eff. 7-1-10.**

ERC 19.09 Findings of fact, conclusions of law and declaratory ruling. Practice and procedure regarding commission issuance of findings of fact, conclusions of law and declaratory ruling in discretionary declaratory ruling proceedings shall be as set forth in s. ERC 18.09.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06; **CR 10-019: am. Register June 2010 No. 654, eff. 7-1-10.**

ERC 19.10 Effect of declaratory ruling. Unless it is altered or set aside by a court, a declaratory ruling issued under this chapter shall bind the commission and all parties to the proceedings on the facts found and issues determined by the commission.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 19.11 Petition for rehearing. Any person aggrieved by a final order of the commission may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. Practice and procedure for filing and processing of a petition for rehearing in a discretionary declaratory ruling proceeding shall be as set forth in s. ERC 18.11.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.