

Operational Policies and Procedures

TITLE 1. Provisions of General Application

Agency

State Contracting Standards Board

Subject

Organization and Rules of Practice

Inclusive Sections

§§ 1-4e-1 — 1-4e-69

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Organization and Rules of Practice

I. DEFINITIONS

Sec. 1-4e-1. General definitions

(a) As used in section 1-4e-1 to section 1-4e-69, inclusive, of the current operational policies and procedures of the State Contracting Standards Board, the following words and phrases shall have the same definitions as those contained in chapter 54 of the general statutes, except where any such word or phrase is used in a context which clearly indicates the contrary: “agency,” “contested case,” “final decision,” “hearing officer,” “intervenor,” “license,” “licensing,” “party,” “person,” “presiding officer,” “proposed final decision,” “proposed regulation,” “regulation,” and “regulation-making.” If a conflict arises between any of the above definitions contained in chapter 54 and any definition of the same word or phrase contained in chapter 62, as defined in subdivision (5) of subsection (b) of this section, the definition contained in chapter 62 shall prevail.

(b) In addition, as used in section 1-4e-1 to section 1-4e-69, inclusive, of the current operational policies and procedures of the State Contracting Standards Board, the following words and phrases shall have the following meanings, except where any such word or phrase is used in a context which clearly indicates the contrary:

(1) “Advisory opinion” means a “declaratory ruling” as used in chapter 54 of the general statutes. The term “advisory opinion” in any board record shall refer to a “declaratory ruling,” as herein defined.

(2) “Board” means the State Contracting Standards Board of the state of Connecticut.

(3) “Board member” means an individual appointed to serve as a member of the board when acting in such capacity.

(4) “Chair” means the appointed chair of the board.

(5) “Chapter 62 of the general statutes” means that portion of the general statutes dealing with procurement and contracting as defined in that chapter, and which establishes and empowers the State Contracting Standards Board.

(6) “Complaint” means an appeal to the board under chapter 62 of the general statutes.

(7) “Complainant” means a person who brings a complaint to the board.

(8) “Executive director” means the board’s executive director.

(9) “Hearing” means that portion of the board’s proceedings in the disposition of matters delegated to its jurisdiction by law wherein an opportunity for the presentation of evidence and argument occurs. Any such hearing shall be a public hearing.

(10) “In camera inspection” means a review by the board or a presiding officer of records received as evidence, or a proceeding during which such records are reviewed, in which unauthorized persons are not permitted to inspect, copy or otherwise learn of the contents of such records, except as provided in these operational polices and procedures.

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(11) “Petitioner” or “applicant” means any person that has filed a petition or application respectively.

(12) “Respondent” means the person or agency against which a complaint is brought to the board.

(13) “State Contracting Standards Board” means the state agency established and empowered under sections 4e-1 to 4e-69 of the general statutes.

(Effective June 23, 2023)

II. DESCRIPTION OF ORGANIZATION

Sec. 1-4e-2. Description

The State Contracting Standards Board is empowered and described in sections 4e-1 to 4e-69 of the general statutes.

(Effective June 23, 2023)

Sec. 1-4e-3. Functions

The board is generally empowered to exercise specified grants of authority for the administration of statutes that provide procurement and contracting authority, as set forth in of chapter 62 of the general statutes.

(Effective June 23, 2023)

Sec. 1-4e-4. Official address and principal office

The official address and principal office of the board shall be 165 Capitol Avenue, Suite 1060, Hartford, Connecticut 06106. The board shall provide notice in the Connecticut Law Journal if its official address or principal office is changed, in which case the official address or principal office published in such notice shall be deemed to be the board’s official address or principal office, as the case may be, until this operational policy and procedure and proposed regulation is amended. Unless otherwise provided, the principal office of the board shall be open from 8:00 a.m. to 4:00 p.m. each weekday, except Saturdays, Sundays, and legal holidays.

(Effective June 23, 2023)

Sec. 1-4e-5. Public information

The public may inspect the public records of the board at its principal office in Hartford. There is no prescribed form for requests for information. Written requests should be submitted to the board at its official address.

(Effective June 23, 2023)

Sec. 1-4e-6. Administration

(a) The executive director shall be the chief executive and administrative officer of the board. The duly authorized and official documents of the board of every description shall be signed on behalf of the board by the chair, executive director, chief procurement officer or such director’s designee. The signature of the chair, executive director, chief procurement

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officer or such director's designee shall be presumed to be duly authorized by the board unless and until the contrary is demonstrated in any board proceeding or hearing. The executive director shall keep and maintain in an accessible place all the public records of the board.

(Effective June 23, 2023)

Sec. 1-4e-7. Clerk of the board; acting clerks

(a) The executive director may designate a clerk of the board, and such acting clerks as may be necessary, who shall carry out such ministerial duties as the board shall require to provide the assistance needed to conduct the board's business pursuant to the directions of the executive director or his or her designee acting on behalf of the board.

(b) The clerk and any acting clerk of the board shall be empowered to sign and to certify as true and correct copies of records of the board.

(c) Upon the direction of the executive director or his or her designee acting on behalf of the board, the clerk or any acting clerk of the board shall sign and issue in the name of the board such orders to show cause, notices, and any other orders, findings, directions, forms, instructions and official acts of every description as shall be required for the performance of the duties of the board under the law.

(Effective June 23, 2023)

Sec. 1-4e-8. Hearing officers

(a) The board, by its chair or executive director, may designate a member of the board or any other person authorized by statute to be a hearing officer for the purpose of conducting any contested case or other proceeding the board shall conduct under of chapter 62 of the general statutes.

(b) By such designation the hearing officer shall be empowered to exercise on behalf of the board all of the authority to conduct a contested case, hearing, including reopening a hearing, investigation, or other proceeding delegated to the board under chapter 62 of the general statutes and chapter 54 of the general statutes.

(1) The hearing officer shall convene and conduct all public hearings required by law within the scope of the board's designation. No oral testimony or argument shall become a part of the record or form a basis for any finding of the hearing officer unless the hearing officer is present and personally hears or receives the testimony and argument there offered.

(2) The hearing officer shall administer oaths, examine witnesses, receive oral and written evidence, rule on the admissibility of evidence, rule on the order in which the hearing is conducted and on all other aspects of the hearing on behalf of the board. Upon conclusion of the hearing, the hearing officer shall submit a proposed final decision to the board which proposed final decision shall contain the hearing officer's findings of fact, conclusions of law and recommended order.

(Effective June 23, 2023)

Sec. 1-4e-9. Assistance to board or presiding officer

The executive director or his or her designee may assign a person to provide technical

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assistance to the board or any presiding officer. The person so designated may act as legal and procedural advisor and may perform necessary clerical functions.

(Effective June 23, 2023)

Sec. 1-4e-10. Reserved

III. RULES OF PRACTICE

ARTICLE 1

GENERAL PROVISIONS

Part 1

Scope and Construction of Rules

Sec. 1-4e-11. Procedure governed

Sections 1-4e-1 to 1-4e-69, inclusive, of these operational policies and procedures govern practice and procedure before the State Contracting Standards Board except where otherwise provided by law.

(Effective June 23, 2023)

Sec. 1-4e-12. Reserved

Sec. 1-4e-13. Waiver of Operational Policies and Procedures

Where good cause appears, the board or any presiding officer may permit deviation from sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures, except where precluded by statute.

(Effective June 23, 2023)

Sec. 1-4e-14. Construction and amendment

Sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures of the State Contracting Standards Board shall be so construed by the board and any presiding officer as to secure just, speedy and inexpensive determination of the issues presented hereunder.

(Effective June 23, 2023)

Sec. 1-4e-15. Computation of time

Computation of any period of time referred to in sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures of the State Contracting Standards Board begins by first counting the day after the day on which the precipitating event occurs and ends on the last day of the period so computed. The last day of the period is to be included unless it is a day on which the principal office of the board is closed, in which event the period shall run until the end of the next following business day. If the period of time, including the intervening Saturdays, Sundays and legal holidays,

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is five (5) days or less, such Saturdays, Sundays and legal holidays shall be excluded from the computation; otherwise such days shall be included in the computation.

(Effective June 23, 2023)

Sec. 1-4e-16. Extensions of time

Except as may hereinafter be provided, in the discretion of the board or the presiding officer, for good cause shown any time limit prescribed or allowed by sections 1- 4e-1 to 1-4e-69, inclusive, the operational policies and procedures may be extended. All requests for extensions shall be made before the expiration of the period originally prescribed or as previously extended.

(Effective June 23, 2023)

Sec. 1-4e-17. Effect of filing, public records

The filing with the board of any complaint, petition for declaratory ruling, or any other petition, application, motion, or request shall not relieve any person of the obligation to comply with any statute, or with any regulation or order of the board. Any complaint, petition, motion, application or request filed for the purpose of securing from the board relief authorized by the State Contracting Standards Board act shall be part of the public records of the board.

(Effective June 23, 2023)

Sec. 1-4e-18. Consolidation of proceedings

The board, chair, presiding officer or the executive director or his or her designee may consolidate proceedings involving related questions of law or fact or involving the same parties.

(Effective June 23, 2023)

Sec. 1-4e-19. Rules of conduct

Board members and board employees are subject to all applicable statutes, codes and regulations governing their conduct as state officials and employees.

(Effective June 23, 2023)

Sec. 1-4e-20. Ex parte communication

(a) Unless required for the disposition ex parte of matters authorized by law, no board member or hearing officer who, in a contested case, is to render a final decision or to make a proposed final decision shall communicate, directly or indirectly, in connection with any issue of fact with any person or party, or in connection with any issue of law, with any party or the party's representative, without notice and opportunity for all parties to participate.

(a) Notwithstanding the provisions of subsection (a) of this section, a board member, in conformity with the Title 4e of the Connecticut General Statutes, may communicate with other board members regarding a matter pending before the board, and board members or a hearing officer may receive the aid and advice of employees or agents of the board if those employees or agents have not received communications prohibited by subsection (a) of

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this section. In a contested case, this state contracting standards board policy and procedure and proposed regulation shall not be construed to preclude such routine communications as are necessary to permit the board staff, not assigned to render a decision or to make findings of fact and conclusions of law in a contested case, to investigate facts and to conduct the informal conferences that may be held pursuant to sections 1-4e-1 to 1-4e-69, inclusive, of the State Contracting Standards Board's operational policies and procedures at any time before, during and after the hearing thereof.

(c) Unless required for the disposition of ex parte matters authorized by law, no party or intervenor in a contested case, no other agency, and no person who has a direct or indirect interest in the outcome of the case, shall communicate, directly or indirectly, in connection with any issue in that case, with a hearing officer or board member, or with any employee or agent of the board assigned to assist the hearing officer or members in such case, without notice and opportunity for all parties to participate in the communication.

(d) The provisions of this section shall apply from the date the matter pending before the board commences as a contested case, as set forth in section 1-4e-27 of the state contracting standards board policy and procedure and proposed regulation of Connecticut state agencies, to and including the effective date of the final decision.

(Effective June 23, 2023)

Part 2

Formal Requirements

Sec. 1-4e-21. Reserved

Sec. 1-4e-22. Date and mode of filing

All papers and other recorded information governed by sections 1-4e-1 to 1-4e-69 of the operational policies and procedures, shall be deemed to have been filed on the date they are recorded as having been received by the board at its principal office. The board shall accept papers and other recorded information transmitted by electronic mail or fax to the same extent permitted by the rules of the superior court in civil actions.

(Effective June 23, 2023)

Sec. 1-4e-23. Signatures

Every complaint, application, notice, motion, petition, brief and memorandum shall be signed on behalf of the person filing same.

(Effective June 23, 2023)

Sec. 1-4e-24. Identification of communications to the board

Communications shall contain the name and address of the sender and an appropriate file reference to the subject of the communication. When the subject matter pertains to a proceeding pending before the board, the title of the proceeding and the board docket number shall be given.

(Effective June 23, 2023)

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Sec. 1-4e-25. Number of documents to be filed in board proceedings

Except as provided in the next sentence, each person submitting a document to the board in a board proceeding shall submit:(1) an electronic copy of the documents; or (2) submit an original and one copy hard copy to the board. In a contested case, after the issuance of the transmittal of proposed final decision, each person submitting a document shall submit an original and the number of copies thereof indicated in the transmittal of proposed final decision.

(Effective June 23, 2023)

Sec. 1-4e-26. Service

(a) **General rule.** Service of all documents filed in all proceedings shall be in the same manner as permitted by the superior court in civil actions.

(b) **On whom served.** Service of all documents in board proceedings shall be served by the person filing the same on every party and intervenor in the proceeding and on all such additional persons as the board or presiding officer shall direct.

(c) **Service by the board.** A copy of any document served by the board, showing the name and address of the person served, and the date, shall be placed in the board's records and shall be prima facie evidence of such service and the date thereof.

(d) **Service of briefs, memoranda, exceptions, or written argument.** Unless otherwise provided by these operational policies and procedures, the board or the presiding officer, all briefs, memoranda of law, exceptions or other written argument shall be served upon the board on or before the Wednesday of the week immediately prior to the proceeding at which the subject matter of such documents is scheduled to be discussed or acted upon by the board. For good cause shown, the board or the presiding officer may extend the time for serving any of the aforesaid documents.

(Effective June 23, 2023)

ARTICLE 2

CONTESTED CASES

Part 1

Commencement, Complaint, Response, Parties, Intervention and Participation

Sec. 1-4e-27. Commencement of contested case

A contested case shall be deemed to have commenced on the date the complaint is recorded as having been docketed as a contested case by the board.

(Effective June 23, 2023)

Sec. 1-4e-28. Form of complaint

All complaints shall be in writing and shall include the following components:

(a) The complainant's name, address, and telephone and Email addresses, if any.

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(b) A concise statement of the relevant facts, including but not limited to the items that
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follow:

(1) The date of the alleged violation of chapter 62 of the general statutes.
(2) The name, title, address, and telephone and Email addresses, if known, of the public agency and any public agency official alleged to have been involved in the complainant.

(3) A copy of any pertinent correspondence or other documents.

(4) An explanation of any unusual circumstances involved in the complaint, to which the board shall be expected to direct its particular attention, including the existence of emergency conditions or any request for the granting of interlocutory relief by way of an interim order.

(Effective June 23, 2023)

Sec. 1-4e-29. Procedure in response to complaint

(a) The chair, executive director or his or her designee shall order a hearing at a designated time and place for the purpose of conducting an investigation of the complaint as a contested case. The chair, executive director or his or her designee may issue an order requiring the attendance of the complainant and all other parties at an informal conference at a designated time and place prior to the hearing. The board shall give notice of the hearing in the form and manner provided in section 1-4e-34 of the operational policies and procedures of the State Contracting Standards Board. Such notice shall be sent to the public agency and public agency official against whom the complaint is asserted and to the vendor, contractor or bidder, together with a copy of the complaint. The notice shall advise all parties that the board may provide the opportunity for an informal conference prior to the formal hearing.

(b) The chair, executive director or his or her designee, to the extent possible, shall schedule each contested case for hearing in the order in which it is received. To the extent possible, the chair, executive director or his or her designee shall accord priority in the assignment for hearing of any contested case for which there is a timely written request setting forth the reasons necessitating a hearing by a date certain after which available remedies would no longer be adequate. The chair, executive director or his or her designee shall immediately review such request together with the complaint and any other associated materials. The chair, executive director or his or her designee shall cause the complaint to be scheduled on a priority basis if he or she believes: (1) the materials reviewed demonstrate that the complaint requires expedited treatment because of an event or circumstance on a date certain after which date available remedies would no longer be adequate; and (2) the board is able to render a final decision by that date. A decision not to grant a priority assignment for hearing may be appealed to the board which shall consider the matter at its next regular meeting. A decision to grant priority assignment may be appealed to either the presiding officer, who shall consider the matter at the hearing, or to the board, which shall consider the matter at its next regular meeting. Where such priority is granted, the chair, executive director or his or her designee shall

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assign the case for hearing at the earliest possible date consistent with due process of law, but in no event later than thirty (30) days after commencement of the contested case. Where such priority is granted, the chair executive director or his or her designee also shall assign the case for final decision at the earliest possible date consistent with due process of law, but in no event later than sixty (60) days after the conclusion of the hearing therein.

(c) When the chair, executive director or his or her designee does not schedule a complaint pursuant to subdivision (2) of subsection (b) of section 1-206 of the general statutes because he or she has reason to believe that a complaint: (1) presents a claim beyond the board's jurisdiction; (2) would perpetrate an injustice; or (3) would constitute an abuse of the board's administrative process; and the matter is referred to the board for summary disposition, no oral argument shall be permitted.

(d) Upon the commencement of a contested case, the chair, executive director or his or her designee may appoint an ombudsman for that case. The ombudsman shall attempt to settle the case in whole or in part; and if the case is not settled, to limit the issues of fact and law necessary to be determined at the hearing, and to encourage stipulations which would expedite the proceedings at the hearing. In furtherance of these duties, the ombudsman may communicate ex parte with the parties or their representatives and conduct informal conferences in person or otherwise. Neither the ombudsman nor any party in a contested case shall communicate the contents of any communication made or received in the course of the ombudsman process without the express consent of all parties.

(Effective June 23, 2023)

Sec. 1-4e-30. Designation of parties

(a) In issuing the notice of hearing described in section 1-4e-34 of the operational policies and procedures of the State Contracting Standards Board, the chair, executive director or his or her designee shall designate as a party any person known to the board whose legal rights, duties or privileges are required by statute to be determined by a board proceeding and who is required by law to be a party in a board proceeding, and any person whose participation as a party is then deemed to be necessary to the proper disposition of such proceeding. Subsequent to the issuance of the notice of hearing no other person before the board shall have standing as a party, and no party having been designated as such shall be removed as a party, except upon the express order of the board or the presiding officer.

(b) Subsequent to the issuance of the notice of hearing, the board or the presiding officer shall grant a person status as a party in a contested case if the board or the presiding officer finds that: (1) such person has submitted a written petition to the board and served copies on all parties, at least five (5) days before the date of hearing; and (2) the petition states facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the board's decision in the contested case. The five-day requirement in this subsection may be waived at any time before or after commencement of the hearing by the board or the presiding officer on a showing of good cause.

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(c) The board or the presiding officer may remove as a party any person whose rights, duties or privileges are determined not to be at issue in the contested case.

(d) The conferring of party status by the board or the presiding officer shall not be deemed to be an admission by the board that such party may be aggrieved by any decision, order or ruling of the board.

(Effective June 23, 2023)

Sec. 1-4e-31. Intervenors

(a) The board or the presiding officer may grant any person status as an intervenor in a contested case if the board or the presiding officer finds that: (1) such person has submitted a written petition to the board and served copies on all parties and intervenors, at least five (5) days before the date of hearing; and (2) the petition states facts that demonstrate that the petitioner's participation is in the interests of justice and shall not impair the orderly conduct of the proceeding. The five-day requirement in this subsection may be waived at any time before or after commencement of the hearing by the board or the presiding officer on a showing of good cause. The board or presiding officer may define an intervenor's participation in the manner set forth in subsection (d) of section 4-177a of the general statutes.

(b) The conferring of intervenor status by the board or the presiding officer shall not be deemed to be an admission by the board that such intervenor may be aggrieved by any decision, order or ruling of the board.

(Effective June 23, 2023)

Sec. 1-4e-32. Representation of parties and intervenors

Each person authorized to participate in a contested case as a party or as an intervenor shall file a written notice of appearance with the clerk. Such appearance may be filed on behalf of parties and intervenors by an attorney, an agent, or other duly authorized representative subject to the rules hereinabove stated. The filing of a written appearance may be excused by the presiding officer.

(Effective June 23, 2023)

Part 2

Hearings

Sec. 1-4e-33. Place of hearings

Unless otherwise provided by the board or the presiding officer, all hearings of the board shall be held at Hartford at the principal office of the board.

(Effective June 23, 2023)

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Sec. 1-4e-34. Notice of hearings

(a) **Persons notified.** Except when the board or the presiding officer shall otherwise direct, the board shall give written notice of a hearing in any pending matter to all parties, to all persons who have been permitted to participate as intervenors, to all persons otherwise required by statute to be notified, and to such other persons as have filed with the board their written request for notice of hearing in a particular matter. Written notice shall be given to such additional persons as the board shall direct. The board or the presiding officer may give such public notice of the hearing as the board or the presiding officer, as the case may be, shall deem appropriate within the provisions of the Freedom of Information Act.

(b) **Contents of notice.** Notice of a hearing shall include, but shall not be limited to, the following: (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and regulations involved; and (4) a short and plain statement of the matters asserted or, in lieu thereof, a copy of the complaint.

(Effective June 23, 2023)

Sec. 1-4e-34a. Continuances or postponements of hearings

(a) Prior to the issuance of the order and notice of hearing set forth in sections 1-4e-29 and 1-4e-34 of the operational policies and procedures, any party to a contested case may request in writing that such case be heard at a designated time and date. The chair, executive director or his or her designee shall give due consideration to such request subject to the requirements set forth in section 1-206(b) of the general statutes and the convenience of the board or presiding officer.

(b) After the order and notice of hearing set forth in sections 1-4e-29 and 1-4e-34 of the operational policies and procedures have been issued, no request for continuance or postponement of hearing shall be granted or permitted unless such request: (1) is in writing signed by each party to the contested case, or by each such party's attorney, agent or other duly authorized representative; and (2) states as the reason for the continuance or postponement that the parties are in the process of negotiating a settlement or other resolution of the case and that a continuance or postponement of the hearing is necessary to facilitate the successful completion of such settlement or resolution.

(Effective June 23, 2023)

Sec. 1-4e-35. General provisions

(a) **Purpose of hearing.** The purpose of any hearing the board conducts under chapter 54 of the general statutes shall be to provide to all parties an opportunity to present evidence and argument on all issues to be considered by the board.

(b) **Order of presentation.** In hearings on complaints, applications and petitions, the party that shall open and close the presentation of any part of the matter shall be the complainant, applicant or petitioner, unless otherwise provided by the board or the presiding officer for good cause shown.

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(c) **Limiting number of witnesses.** To avoid unnecessary cumulative evidence, the board or the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(d) **Written testimony.** The board may by order of the presiding officer permit any party to offer testimony in written form. Such written testimony shall be received in evidence with the same force and effect as though it were stated orally by the witness who has given the evidence, provided that each such witness shall be present at the hearing at which testimony is offered, shall adopt the written testimony under oath, and shall be made available for cross examination as directed by the presiding officer. Prior to its admission such written testimony shall be subject to objections by parties.

(Effective June 23, 2023)

Sec. 1-4e-36. Witnesses, subpoenas, and production of records

(a) The board, or any board member or presiding officer authorized by the board to conduct any inquiry, investigation or hearing, shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation.

(b) At any hearing, the board or the presiding officer may require the production of records, documents and other evidence pertinent to such inquiry. Any party may request that such process be issued. The request shall be in writing and contain the following: the name and address of each person upon whom such process is to be served; an adequate description of any records, documents and evidence sought to be produced; and a short explanation of the testimony or evidence to be offered at the hearing and its materiality to the subject thereof. It shall be the sole responsibility of the party requesting such process to cause it to be served in accordance with law.

(Effective June 23, 2023)

Sec. 1-4e-37. Rules of evidence

The following rules of evidence shall be followed with respect to the admission of evidence in all hearings held under the Chapter 62 and chapter 54 of the general statutes:

(a) **General.** Any oral, documentary or other evidence may be received; but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. The board or presiding officer shall give effect to the rules of privilege recognized by law in Connecticut where appropriate to the conduct of the hearing. Subject

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to these requirements and subject to the right of any party to cross examine, any testimony may be received in written form as herein provided.

(b) **Documentary evidence, copies.** Documentary evidence may be received at the discretion of the board or presiding officer in the form of copies or excerpts, if the original is not found readily available. Upon request by any party an opportunity shall be granted to compare the copy with the original, which shall be subject to production by the person offering such copies, within the provisions of section 52-180 of the general statutes.

(c) **Cross examination.** Cross examination may be conducted as the presiding officer shall find to be required for a full and true disclosure of the facts.

(d) **Facts noticed, scope and procedure, board records.** The board may take administrative notice of judicially cognizable facts, including generally recognized technical or scientific facts within the board's specialized knowledge and the records, decisions and orders in other board cases. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in preliminary reports, proposed final decisions or otherwise of the material noticed. The board shall nevertheless employ the board's experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making its finding of facts and arriving at a final decision.

(e) Any testimony or exhibit admitted in evidence in another board case may be offered as evidence in a subsequent hearing and admitted as an exhibit therein.

(f) **In camera inspection.** The procedure for an in camera inspection of records shall be as follows:

(1) Any party or intervenor may request an in camera inspection of the records claimed to be exempt from disclosure in a contested case; and the presiding officer or the board may order such an inspection on request, on such presiding officer's or the board's own initiative.

(2) If an in camera inspection is ordered, the party having custody of the records claimed to be exempt from disclosure shall be required to submit a copy of the records together with an in camera inspection index referencing each record, and each item within each record, claimed to be exempt from disclosure. All parties shall be informed of their rights and obligations under these procedures.

(3) In each case in which an in camera inspection is ordered, the presiding officer, a boarder or an authorized staff member, shall verify that each record submitted for such inspection has been identified by the party having custody of the record by reference to an individual reference number or numbers prescribed by the board and included in an accompanying in camera inspection index.

(4) In each case in which an in camera inspection is ordered, an in camera inspection index shall be prepared in triplicate by the party having custody of the records submitted for such inspection on forms which shall be provided or approved by the board. One part of the form shall be given to the party submitting the records as a receipt, indicating the records and date received and the name of the person authorized to receive and sign for

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such records on behalf of the board. The receipt shall also certify that neither the records received for in camera inspection, nor their contents, shall be disclosed to any unauthorized person, except as provided by board or court order and as provided below. The second part of the form shall be retained by the board and kept for both inventory and decision-making purposes as part of the secure file in which the subject records themselves are kept. The third part of the form shall be retained by the board as a public record and kept as part of the public file of the contested case. A copy of the completed index form shall be given to all other parties to the proceedings.

(5) It shall be the responsibility of the party submitting records for in camera inspection to certify that the copies of the records so submitted are true copies of the records at issue in the contested case. It shall also be the responsibility of such party to make available for examination and cross-examination at a board hearing on the matter the official who issued the certification.

(6) After receiving records submitted for in camera inspection, the authorized person who signed the receipt for them on the index on behalf of the board shall personally deliver the records for storage in a secure board file.

(7) Ordinarily only board members, the presiding officer, the executive director, and board counsel are authorized access to inspect records submitted for in camera inspection. In any particular case, however, the presiding officer or the board may authorize greater or lesser access to such records and the executive director and board counsel may authorize greater or lesser access by board personnel to such records. All persons having access to the records submitted for in camera inspection shall be identified on the related in camera inspection index.

(8) The copying of records submitted to the board for in camera inspection shall not be permitted. Likewise, no person authorized access to such records may take any notes making reference to specific information contained in such records and claimed to be exempt from disclosure. References to specific records submitted for in camera inspection, or the contents of such records, in proposed final decisions or final decisions shall be by the assigned reference numbers as endorsed on the records themselves or by reference to generic descriptions or characterizations as set forth in the related in camera inspection index or in other public records.

(9) At board meetings open to the public, all mention of the specific contents of records submitted for in camera inspection shall be avoided. Mention of specific records submitted for in camera inspection, however, may be made by use of the assigned reference numbers as endorsed on the records themselves or by reference to generic descriptions or characterizations as set forth in the related in camera inspection index or in other public records.

(10) If it proves necessary for the board to discuss the specific contents of records submitted for in camera inspection at one of its meetings, it shall first convene in executive session, as provided by law. Only board members and persons authorized access to the subject records and invited by the board to present testimony or opinion shall attend the executive session, as provided by law.

(11) Unless a court appeal is filed in a particular contested case, the board shall disclose

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on request those records in its possession submitted for in camera inspection and ordered disclosed by the board in that case (A) after the expiration of forty-five (45) days from the mailing of the notice of final decision, or (B) if a request for reconsideration is received by the board within such 45-day period, after the expiration of forty-five (45) days from the mailing of the notice denying that request or after the expiration of forty-five (45) days from the mailing of the notice of the final decision issued after reconsideration has been granted, as the case may be. If no court appeal is filed, the records submitted for in camera inspection and ordered disclosed shall be transferred from their secure file to the board's corresponding public file after the expiration of the applicable time period.

(12) Unless a court appeal is filed, after issuing its final decision in a particular contested case, the board shall notify the party that submitted records for in camera inspection in writing that it may make appropriate arrangements with the board staff to take possession of such records after the expiration of the operative time periods set forth in subdivision (11) of this subsection. The party taking possession shall be required to sign a receipt for the records returned. If no arrangements are made for the return of such records, the board shall cause the records to be destroyed any time after the expiration of the time periods for the retention of contested case evidence in the board's current schedule for the retention and destruction of records, as approved by the state public records administrator.

(13) If a court appeal is filed in a particular contested case, the board shall notify in writing all known parties to the appeal that, as part of the board's record to be delivered to the court, the board intends to deliver the records submitted for in camera inspection. The notice shall also advise the parties that the board shall not move the court to seal such records, but that other parties may do so if they desire; and that any party seeking to seal the records should notify the board of its intent to do so before the date by which the board must certify the record of its proceedings into court. If notified that a motion to seal shall be made, the board shall not transfer such records until the court makes its determination on the motion.

(14) Records submitted for in camera inspection which form part of a board record on appeal shall, until delivered to the reviewing court, continue to be kept in their secure file and separately from the remainder of the record on appeal. When the record on appeal is to be delivered to court, a person authorized access to such records on behalf of the board shall personally deliver such records to the clerk of the applicable court. If the court has ordered such records sealed, such authorized person shall so notify the clerk on delivery.

(15) Records submitted for in camera inspection, returned to the board by a court and which records were held by the court to be exempt from disclosure shall be returned to their secure file immediately by a person authorized access to such records on behalf of the board. Any records submitted for in camera inspection, returned to the board

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by a court and held by the court to be disclosable shall be placed in the board's public files. In either case, the board shall notify the party that submitted such records for in camera inspection in writing that such party may make appropriate arrangements with the board staff to take possession of those records or they shall be destroyed as provided in subdivision (12) of this subsection.

(Effective June 23, 2023)

Sec. 1-4e-38. Filing of added exhibits and testimony

After the close of evidence at the hearing, and before the submission of any proposed final decision by the presiding officer to the board, the presiding officer may permit any party or intervenor to file added exhibits or written testimony, subject to the provision of such comment, reply and contest as due process shall require.

(Effective June 23, 2023)

Part 3

Decision in a Contested Case

Sec. 1-4e-39. Uncontested disposition of complaint, application or petition

Unless precluded by law, where any matter is uncontested, a complaint, application or petition may be resolved by stipulation, agreed settlement, consent order, dismissal, administrative withdrawal without hearing or default. Upon such disposition a copy of the board's action shall be served on each party.

(Effective June 23, 2023)

Sec. 1-4e-40. Proposed final decision in a contested case

(a) The board shall proceed in the following manner in contested cases where a majority of the board has not heard the case or read the record. A final decision shall not be adopted by the board until a proposed final decision is served upon all of the parties, and until an opportunity has been afforded to each party adversely affected by the proposed final decision to file exceptions, to present briefs, and to make oral argument before the board at a board meeting. Compliance with this requirement concerning the proposed final decision may be waived by a written stipulation of the parties.

(b) In no event shall new evidence, not admitted into evidence under sections 1-4e-35 to 1-4e-38, inclusive, of the operational policies and procedures, be submitted to, or considered by, the board at the board meeting at which the proposed final decision is considered. In addition, no party or intervenor shall present any argument at the board meeting at which the proposed final decision is considered unless such argument has been raised (1) at the hearing in the contested case; or (2) in a bill of exceptions or brief filed with the board on or before the Wednesday of the week immediately prior to the meeting at which the proposed final decision is scheduled to be discussed and/or acted upon by the board; or (3) in the proposed final decision itself. The board

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may limit the period of time for argument by serving notice of such limitation upon all of the parties simultaneously with the proposed final decision. For good cause shown, the board may enlarge the period of time for argument, if the request is made in writing, stating the reasons therefor, and filed with the board on or before the Wednesday of the week immediately prior to the proceeding at which such proposed final decision is scheduled to be discussed or acted upon by the board. Upon the request of a party or intervenor, the board shall tape record that portion of its meeting, open to the public, concerning the proposed final decision concerning such party or intervenor.

(c) In the proposed final decision to be served upon the parties, the board or presiding officer shall set forth such board's or such presiding officer's summary of each issue of fact and law that such board or such presiding officer finds necessary to reach the conclusions contained in the proposed final decision.

(Effective June 23, 2023)

Sec. 1-4e-41. Contents of the record in a contested case

The record in a contested case shall include: (1) written notices related to the case; (2) all petitions, pleadings, motions and intermediate rulings; (3) evidence received or considered; (4) questions and offers of proof, objections and rulings thereon; (5) the official transcript, if any, of proceedings relating to the case, or, if not transcribed, any recording or stenographic record of the proceedings; (6) proposed final decisions and exceptions thereto; and (7) the final decision. The board or presiding officer may designate other documents or portions of the board's proceedings as part of the record in a contested case. Requests to so designate other material as part of the record shall be made to the board or presiding officer at the time the final decision is adopted.

(Effective June 23, 2023)

Sec. 1-4e-42. Final decision in a contested case

All final decisions and orders of the board concluding a contested case shall be in writing or orally stated and shall be made a part of the record of such case. The board shall serve a copy of its final decision on each party and intervenor in the manner required by sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures of the State Contracting Standards Board and by chapter 54 of the general statutes.

(Effective June 23, 2023)

ARTICLE 3

MISCELLANEOUS PROCEEDINGS

Part 1

Petitions Concerning Adoption of Regulations

Sec. 1-4e-43. General rule

Sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures of the Connecticut State Contracting Standards Board set forth the procedure to be followed by the board in the disposition of a petition concerning the promulgation, amendment, or repeal of regulations.

(Effective June 23, 2023)

Sec. 1-4e-44. Form of petition

Any person may petition the board, or the board may on its own motion initiate a proceeding, to promulgate, amend, or repeal any regulation. The petition shall conform to sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures of the Connecticut State Contracting Standards Board, where applicable, and shall set forth clearly and concisely the text of the proposed regulation, amendment, or repeal. The petition shall contain the name and address of the petitioner. Such petition shall also state the facts and arguments that favor the action it proposes by including such data, facts, and arguments in the petition or in a brief annexed thereto. The petition shall be addressed to the board and delivered to it at its principal office.

(Effective June 23, 2023)

Sec. 1-4e-45. Procedure after petition filed

(a) **Decision on petition.** Upon receipt of the petition the board shall within thirty (30) days determine whether to deny the petition or to initiate regulation-making proceedings in accordance with law.

(b) **Procedure on denial.** If the board denies the petition, the board shall give the petitioner notice in writing, stating the reasons for the denial based upon the data, facts, and arguments submitted with the petition by the petitioner and upon such additional data, facts and arguments as the board shall deem appropriate.

(Effective June 23, 2023)

Part 2

Petitions For Declaratory Rulings

Sec. 1-4e-46. General rule

Sections 1-4e-46 to 1-4e-69, inclusive, of the operational policies and procedures of the Connecticut State Contracting Standards Board set forth the procedure to be followed by the board in the disposition of a petition for declaratory ruling as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the board's jurisdiction.

(Effective June 23, 2023)

Sec. 1-4e-47. Form of petition for declaratory ruling

Any person may petition the board, or the board may on its own motion initiate a proceeding, for a declaratory ruling as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the board's jurisdiction. The petition shall conform to sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures of the Connecticut State Contracting Standards Board, where applicable. Such petition shall be addressed to the board at its principal office. The petition shall contain the name and address of the petitioner. The petition shall (1) state clearly and concisely the substance and nature of the petition; (2) identify the statute, regulation or order concerning which the petition is made; and (3) identify the particular aspect thereof to which the petition is directed. The petition for a declaratory ruling shall be accompanied by a statement of any supporting data, facts and arguments that support the position of the petitioner.

(Effective June 23, 2023)

Sec. 1-4e-48. Procedure after petition for declaratory ruling filed

(a) **Notice.** Within thirty (30) days after receipt of a petition for a declaratory ruling, the board shall give notice of the petition to all persons to whom notice is required by any provision of law and to all persons who have requested notice of the declaratory ruling petitions on the subject matter of the petition.

(b) **Parties and intervenors.** If the board finds that a timely petition to become a party or to intervene has been filed according to sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures of the Connecticut State Contracting Standards Board, the board may grant a person: (1) status as a party if the board finds that the petition states facts demonstrating that the petitioner's legal rights, duties or privileges shall be specifically affected by the board proceeding; or (2) status as an intervenor if the board finds that the petition states facts demonstrating that the petitioner's participation is in the interests of justice and shall not impair the orderly conduct of the proceedings. The board or presiding officer may define an intervenor's participation in the manner set forth in subsection (d) of section 4-177a of the general statutes.

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(c) **Board action.** Within sixty (60) days after receipt of a petition for a declaratory ruling, the board in writing shall: (1) issue a ruling declaring the validity of a regulation or the applicability of the provision of the general statutes, the regulation, or the final decision in question to the specified circumstances; (2) order the matter set for specified proceedings; (3) agree to issue a declaratory ruling by a specified date; (4) decide not to issue a declaratory ruling and initiate regulation-making proceedings, under section 4-168 of the general statutes, on the subject; or (5) decide not to issue a declaratory ruling, stating the reasons for its action.

(d) **Provision for hearing.** If the board deems a hearing necessary or helpful in determining any issue concerning a petition for declaratory ruling, the board shall schedule such hearing and give such notice thereof as shall be appropriate. The provisions of sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures of the Connecticut State Contracting Standards Board concerning contested cases govern the practice and procedure of the board in any hearing concerning a declaratory ruling.

(Effective June 23, 2023)

Part 3

Investigations

Sec. 1-4e-49. Generally

The chief procurement officer under the direction of the board may at any time institute investigations for such purposes as may be authorized by law, including those purposes set forth in subsection (g) of section 4e-2 of the general statutes.

(Effective June 23, 2023)

Sec. 1-4e-50. Procedure

The rules of practice and procedure set forth in sections 1-4e-1 to 1-4e-69, inclusive, of the operational policies and procedures of the Connecticut State Contracting Standards Board concerning contested cases govern any hearing held in the course of such an investigation.

(Effective June 23, 2023)

Sec. 1-4e-51 — 1-4e-69. Reserved