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Rules of Procedure

Secs. 31-91-1—31-91-MBA5.

Repealed, January 30, 1981.

Organization and Policies of the State Board of Mediation and Arbitration

Description of the Organization

Sec. 31-91-1a. Creation and authority

(a) The Connecticut State Board of Mediation and Arbitration (hereinafter referred to as the “board”) was created by Sec. 31-91 of the Connecticut General Statutes, and administers various statutes that provide for mediation and arbitration services to private and public sector employers and employee organizations and appeals pursuant to Sec. 53-303e of the Connecticut General Statutes. The board is composed of six members appointed by the Governor, for six year terms as provided in Sec. 4-9a of the Connecticut General Statutes, with the public, labor, and management each represented by two members. One of the public members is designated by the Governor as the chairman and the other public member shall be the deputy chairman. The members shall have the power to complete any matter pending at the expiration of the terms for which they were appointed.

(b) Alternate members of the board are appointed by the Governor upon request of the Labor Commissioner or the chairman of the board for a term of up to one year or until a replacement is appointed. The number of alternate members appointed shall depend upon necessity and demand. Alternate members shall serve when duties are delegated. While performing such delegated duty, alternate members shall have all the powers of members of the board. Alternate members shall have the power to complete any matter pending after the expiration of the terms for which they were appointed.

(c) Board members and alternates shall take the applicable oath of office described in Sec. 31-92a of the Connecticut General Statutes before assuming their duties for the term of appointment. The director shall record the date that each board member or alternate took the oath as well as the name and title of the person administering the oath.

(d) Wherever any provisions of the Connecticut General Statutes refer to the Secretary of the Board of Mediation and Arbitration, they are construed to refer to the board director. The duties of the board director shall include but are not limited to serving as:

- (1) secretary to the board;
- (2) agent for service of civil process directed to the board;
- (3) agent for the board when so authorized;
- (4) custodian of the board’s records;
- (5) provider of certified copies of documents; and
- (6) mediator in high priority cases.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-2. Functions

(a) The six member board establishes policy and promulgates regulations for the operation of the board. It provides advice and consent to the Labor Commissioner on the appointment of full time mediators who shall be responsible to the board.

(b) The board provides employers and employee organizations with mediators for the purpose of settlement of grievances or mediation of impasses in contract negotiations. It also makes available arbitration services for the purpose of arbitration of disputes over the interpretation or application of the terms of the written collective agreements.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-3. Meetings of the board

(a) The board shall hold regular meetings on the third Monday of every other month, except when an emergency arises. A quorum shall consist of four members, provided there is at least one public, labor, and management member present. A member who is unable to attend a meeting may, by completing a proxy form, designate an appropriate alternate member to serve as a substitute. The minutes of the meeting shall be recorded in a formal book of minutes, and these official minutes shall be signed by the director of the board.

(b) The chairman may convene special and emergency meetings.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-4. Official address

(a) All communications should be addressed to the State Board of Mediation and Arbitration, 38 Wolcott Hill Road, Wethersfield, Connecticut, 06109.

(b) Except as otherwise provided in this subsection, faxes shall be accepted by the board for communication purposes with the board. To meet any mandated time frame, faxes shall be received by the close of the business day of the board. The close of the business day is 4:30 p.m. Faxes shall not be accepted for last best offers in interest arbitration or for briefs in any proceedings.

(c) Any civil process directed to the board shall be served on the board director at the board's office during regular business hours. Regular business hours are 8:30 a.m. to 4:30 p.m.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-5. Public information

The public may inspect only the regulations, decisions and public records of the board at its offices in Wethersfield. Written requests should be submitted to the board at its above-stated official address.

(Effective January 30, 1981)

Rules of Procedure for Grievance Arbitration

Sec. 31-91-22. Purpose and scope of arbitration services

Arbitration is the procedure of submitting disputes between an employer and the employee organization designated to represent his employees to a third party neutral or tripartite panel for decision. The arbitration services of the board are available to employers and employee organizations.

(Effective January 30, 1981)

Sec. 31-91-23. Conditions for initiation of arbitration procedure

(a) A grievance or dispute will be heard by the board when any of the following conditions is met:

(1) The board is specifically named as arbitrator within a collective bargaining agreement or;

(2) The parties to the dispute submit in writing their mutual request for arbitration and mutual agreement to be bound by the board's decision; or

(3) An employee files a written claim alleging that he was discharged in violation of Sec. 53-303e of the Connecticut General Statutes.

(b) A party claiming the dispute is not arbitrable shall submit notice of such claim and the reasons therefor, to the board and to the opposing party at least ten days prior to the initial hearing date.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-24. Demand for arbitration services, payment of filing fee and types of cases

(a) A submission or demand for arbitration services shall be submitted on a completed and signed grievance arbitration request form which shall include a general statement of the dispute and the position of the filing party. The purpose of the general statement is to provide the board with the general outline of the dispute. A demand for arbitration shall be accompanied by the twenty five (25) dollar filing fee. A confirmation letter and a copy of the request for grievance arbitration form will be forwarded to the parties involved in the case.

(b) A bill for the filing fee will be sent to the non-demanding party and is due within thirty (30) days of the date of the confirmation letter. The failure of the non-demanding party to pay the twenty five (25) dollar filing fee will not delay the arbitration process. Where payment of the filing fee is not timely made, the board may seek such payment through all available legal means.

(c) Except as set forth in subsection (d) and subsection (e) of this section and subsection (h) of Section 31-91-36 of the Regulations of Connecticut State Agencies, the board shall schedule cases in chronological order.

(d) Priority cases are cases involving terminations, suspensions of thirty (30) days or more, or layoffs. In these cases the board requests the parties to set a mutually acceptable date as soon as possible and notify the board of such date so a hearing date can be scheduled. Where the parties do not agree on a date, the board shall assign a date.

(e) Expedited cases are cases where the parties mutually request the expedited process before a panel or single arbitrator.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-25. Notice of hearing

The board shall provide notice of the date, time, and location of the formal hearing no later than twenty-one (21) days prior to such hearing.

Two cases a day may be scheduled for any employer and employee organization having more than one case awaiting a hearing before the board. Where two cases are scheduled they shall be cases between the employer and the same bargaining unit. When letters are sent to the parties scheduling hearings, two cases may be listed rather than one. Cases shall be heard in the order listed.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-26. Location of hearings

(a) Arbitration hearings shall be scheduled in the labor department, 38 Wolcott Hill Road, Wethersfield, or at such other locations as may be designated by the board.

(b) The cost of hearing rooms for arbitrations held at locations other than the labor department at Wethersfield, shall be shared equally by the parties.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-27. Postponements

(a) Where the board has scheduled a case a party may within 15 days of receipt of the hearing notice request one postponement per case by: (1) obtaining from the opposing party an agreement for the postponement, (2) confirming a new mutually acceptable hearing date, (which must be at least three months but not longer than six months from the date of the postponement request), and (3) notifying the case manager, who originally scheduled the case, of the agreement to postpone and the new mutually acceptable hearing date. Unless the parties have agreed on a postponement and a new hearing date, and have so notified the case manager within 15 days, the request for postponement shall proceed under the board's formal postponement policy set forth in subsection (c) of this section.

(b) In priority and expedited cases where a hearing date has been scheduled a party may within 15 days of receipt of the hearing notice, request one postponement per case by: (1) obtaining from the opposing party an agreement for the postponement, (2) confirming a new mutually acceptable hearing date, and (3) notifying the case manager who originally scheduled the case of the agreement to postpone and the new mutually acceptable hearing date. Where the parties have not agreed on a postponement or a new hearing date within 15 days and have not so notified the case manager, the request for postponement shall proceed under the board's formal postponement policy set forth in subsection (c) of this section.

(c) Any formal postponement shall be granted by the board only where the requesting party or parties have demonstrated to the board that there is sufficient cause for such postponement.

(d) For the purposes of this section sufficient cause includes, but is not limited to:

(1) death or illness;

(2) spokesman handling the case is required to appear in court and cannot be available at a later time that day; (evidence of court appearance is required);

(3) a previously scheduled vacation; or,

(4) a previously scheduled interest arbitration hearing.

In all postponement requests the board may require written documentation, which shall become part of the record.

(e) The board shall contact the non-requesting party to give them an opportunity to comment prior to granting a postponement where the request for postponement is for a reason other than those enumerated in subsection (d) of this section.

(f) The board shall notify the parties to the case that a postponement has been granted.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-28. Appointment of the panel

(a) The board shall be represented at arbitration proceedings by a tripartite panel of three of its members, unless the parties have jointly agreed that a single public member of the board shall represent the board.

(b) Whenever a tripartite panel is used, the employer and employee organization may each select their advocate member from the appropriate permanent advocate members of the board, who will represent their interests on the panel. If either party fails to designate its advocate arbitrator or the advocate arbitrator is unavailable, the board shall select an advocate arbitrator for that party in the following manner:

(1) One of the permanent advocate board members shall be designated, if one is available; or

(2) If neither permanent advocate board member is available, an alternate advocate board member shall be designated by the board.

(c) The public member of the panel shall serve as chairman and shall be selected by the board pursuant to the following procedure:

(1) The chairman of the board shall be designated if he is available.

(2) If the chairman is not available, the deputy chairman shall be designated.

(3) If both the chairman and the deputy chairman are not available, an alternate public member shall be designated by the board.

(d) Where a single arbitrator has been selected to hear a case, he shall have all the powers of a panel.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-29. Waiver of oral hearings

The parties may provide, by written agreement, for the waiver of oral hearings. If the parties are unable to agree as to the procedure, the panel chairman shall specify a fair and equitable procedure. If the panel assigned to hear the case feels that a hearing is necessary to make a full and fair decision, it may order a hearing.

(Effective January 30, 1981)

Sec. 31-91-30. Stenographic records

The board does not provide stenographic service during arbitration hearings. If either or both parties feel it is necessary to have their respective arbitration hearings recorded, they should make the necessary arrangements with a private reporting service at their own expense. Whenever a transcript is ordered by a party, three copies shall be sent to the board. In single member proceedings, one copy shall be required.

(Effective January 30, 1981)

Sec. 31-91-31. Adjournments

The chairman may adjourn a hearing either upon his own initiative or in response to a request by either party if good cause is shown.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-32. Arbitration in the absence of a party

An arbitration hearing may proceed in the absence of any party, who, after due notice, fails to be present or fails to obtain a postponement or adjournment. An award shall not be made solely on the default of a party. The panel members shall require the appearing party to submit such evidence as may be required for the making of an award.

(Effective January 30, 1981)

Sec. 31-91-33. Principal spokesperson

Each party shall be represented at the hearing by a principal spokesperson who shall present his party's case. The principal spokesperson may be an attorney or other authorized representative.

(Effective January 30, 1981)

Sec. 31-91-34. Attendance at hearings; subpoenas

(a) Persons having a direct interest in the arbitration proceedings are entitled to attend the hearings. It shall be discretionary with the chairman and subject to the agreement of all parties whether other persons may attend.

(b) The subpoena power of the board may be used at the discretion of the panel only when it becomes evident that the panel will be unable to render a fair and

just decision without the appearance of a material witness or pertinent records or documents.

(Effective January 30, 1981)

Sec. 31-91-35. Opening the hearing

(a) Hearings shall open with the recording of the time, date and place of the hearing, the identity of the panel members present, the identity of parties and their representatives present.

(b) The parties shall present to the panel prior to proceeding with the merits of the case, a carefully worded statement of the issue or issues in dispute between them on which the board is requested to rule. Where the parties are unable to agree upon the issue or issues to be decided, the panel shall frame the issue or issues prior to proceeding on the merits of the case.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-36. Order of proceedings

(a) The party who has filed the grievance will normally proceed first with the presentation of evidence, except that the employer shall proceed first in disciplinary cases, and the panel shall have discretion to vary the normal procedure but shall afford full and equal opportunity to all parties for presentation of relevant evidence.

(b) Each party will be permitted to make an opening statement through its principal spokesperson.

(c) Each party will have a full opportunity to present relevant evidence and to cross-examine witnesses, subject to the rulings of the panel or single arbitrator.

(d) Each party's representative will have an opportunity to make a closing statement to the panel.

(e) Once a hearing has commenced, the panel may continue the hearing to a specific date: (1) on its own initiative or, (2) on the request of a party where the panel finds that good cause is shown.

(f) The board expects all parties to be prepared to conclude the hearings without delay.

(g) The filing party may withdraw a grievance from arbitration at any time prior to the issuance of the panel's decision, upon filing a written withdrawal with the board. When a withdrawal is filed, the grievance shall be dismissed with prejudice unless a written statement is received from the filing party stating the withdrawal is without prejudice. A notice to withdraw a grievance before the hearing date shall be received by the board before the close of business, five (5) business days prior to the date of the hearing. Where said notice has not been received within this time limit, the parties are required to appear before the panel assigned to hear the issue(s). The parties may choose to have only one representative appear before the panel to withdraw a grievance.

(h) Where a grievance which has been scheduled by the board for a hearing is withdrawn or settled prior to the hearing date, the parties may mutually choose to substitute another grievance which has not already been scheduled for a hearing. The parties may mutually choose any pending grievance, regardless of its chronological order. It shall be the responsibility of the parties to select the case which they choose to have heard in lieu of the case originally scheduled, and to notify the board accordingly. Only where the board has approved such substitutions prior to the hearing date may the hearing proceed.

(i) Where the parties withdraw a grievance scheduled for a hearing and do not choose the option of substituting another grievance of their choice in lieu of the

withdrawn grievance, the board may substitute the next grievance listed in chronological order in lieu of the case being withdrawn. Such substitutions may only be made by the board where the withdrawal is submitted at least three (3) weeks prior to the hearing date.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-37. Evidence

(a) The parties may offer such evidence as they desire and shall produce such additional evidence as the panel members may deem necessary to an understanding and determination of the dispute. The panel members shall be the judge of the relevance and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all panel members and both parties, except where any of the parties is absent, in default or has waived his right to be present.

(b) Documents, records and other pertinent data, when offered by either party, may be received in evidence by the panel. Written evidence must be submitted either in the original or proper copies thereof. The names and addresses of all witnesses and exhibits in order received shall be made a part of the case file and recorded on the official hearing forms supplied by the board. The panel shall not be required to return exhibits.

(c) In tripartite proceedings the parties shall be required to submit five copies of each exhibit to the chairman at the hearing; one copy for each of the three panel members; one copy for the other party; and one copy for the case file. In proceedings before a single arbitrator, three copies of each exhibit must be submitted.

(Effective January 30, 1981)

Sec. 31-91-38. Witnesses

(a) All witnesses shall be sworn. The chairman of the panel shall administer the following oath to all witnesses: "You solemnly swear that the evidence you shall give, concerning the case now in question, shall be the truth, the whole truth and nothing but the truth, so help you God." When any person, required to take an oath, from scruples of conscience declines to take it in the usual form or when the chairman is satisfied that any person called as a witness does not believe in the existence of a supreme being, a solemn affirmation may be administered to him in the form of the oath prescribed, except that instead of the word "swear" the words "solemnly and sincerely affirm and declare" shall be used and instead of the words "so help you God" the words "upon the pains and penalties of perjury or false statement" shall be used. The parties shall be advised that all sworn testimony is subject to the Connecticut Statutes on perjury.

(b) All witnesses called shall be subject to cross examination by the other party's chief spokesperson.

(c) The panel members may question witnesses at any point in the hearing.

(d) The chairman of the panel shall have the power to require the retirement of any witness or witnesses during the testimony of other witnesses, and a request by either party that a witness or witnesses be so retired may be granted if any possibility exists that denial of such a request could affect the testimony of the witnesses provided the following persons shall not be so retired:

(1) Persons who are a direct party in interest; except that if such person is to be a witness, such person shall be first to present testimony;

(2) The principal spokesperson for a party; or

(3) Persons whose duty it is to assist the principal spokesperson in preparing the case.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-39. Evidence by affidavit and filing of documents

(a) The panel members may receive and consider the evidence of witnesses by affidavit, but shall only give it such weight as deemed proper after consideration of any objection made to its admission.

(b) All documents not filed with the panel at the hearing, but which are arranged at the hearing or subsequently by agreement of the parties to be submitted, shall be filed with the board for transmission to the panel. All parties shall be afforded opportunity to examine such documents.

(Effective January 30, 1981)

Sec. 31-91-40. Inspection

Whenever the panel judges it necessary, an on site inspection may be made of the premises in connection with the subject matter of the dispute, after written notice to the parties, who may be present at such inspection.

(Effective January 30, 1981)

Sec. 31-91-41. Briefs

(a) After the presentation of evidence, each party shall be permitted to file a brief.

(b) The panel may require the parties to submit briefs on the issue or issues of the dispute and may require a brief on a particular point or question.

(c) The briefing schedules agreed upon by the parties and the arbitrator or arbitrators shall be strictly adhered to and the parties shall submit their briefs directly to the panel and to the opposing party with a copy to the board in accordance with such schedule. Parties wishing to reserve their right to a reply brief shall do so at the hearing. Any request for extension of the briefing schedule shall be made only to the board. The board shall forward all such requests to the panel. The panel may grant a request for extension only where sufficient cause is shown by the requesting party or parties. For purposes of this subsection sufficient cause means an occurrence which could not have been known or anticipated by a reasonable person at the time the briefing schedule was agreed to and which the requesting party or parties argues created the need for delay. An extension may be considered by the panel only where the request has been received by the board at least one week prior to the due date, unless sufficient cause has been shown for making the request later. Late briefs shall be returned to the filing party.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-42. Closing of hearings

(a) The panel members shall inquire of both parties whether they have any further evidence to offer or witnesses to be heard. Upon receiving negative replies, the chairman of the panel shall declare the hearings closed.

(b) If briefs or other documents are to be filed, the hearings shall be declared closed as of the final date set by the panel members for the filing of said summary briefs or documents with the board.

(Effective January 30, 1981)

Sec. 31-91-43. Reopening of hearings

Prior to the rendering of an award, a party may move to reopen a hearing for good cause shown such as the emergence of new evidence, but a hearing shall be reopened contingent solely upon the discretion of the panel chairman.

(Effective January 30, 1981)

Sec. 31-91-44. Award

The award for termination cases shall be rendered by the panel members not more than forty-five (45) days from the date of the final executive panel session held to decide the case, or, where heard by a single arbitrator not more than forty-five (45) days from the date of the last hearing or the briefing date, whichever is later. The award for all cases other than terminations shall be rendered by the panel members within seventy-five (75) days from the date of the final executive panel session held to decide the case or, where heard by a single arbitrator, not more than seventy-five (75) days from the date of the last hearing or the briefing date, whichever is later.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-45. Executive panel sessions; form of award

(a) The executive panel session is the session held to decide the case after the last hearing or the briefing date, whichever is later. The panel shall schedule an agreed upon date for an executive panel session which shall be held not more than thirty days after the last hearing or the briefing date, whichever is later.

(b) Oral awards may be rendered upon mutual request of the parties. Whether or not an oral award has been rendered, an award shall be reduced to writing and signed by the members of the panel.

(c) Decisions shall be made by majority vote of the panel members. A panel member may express his disapproval of the majority decision by adding the word "dissenting" after his signature on the award or said panel member may also prepare a dissenting opinion which shall be sent to the board's office and will be made part of the award proper.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-46. Award upon settlement

If the parties settle their dispute during the course of the arbitration, the arbitrator, upon their request, may set forth the terms of the agreed settlement in an award.

(Effective January 30, 1981)

Sec. 31-91-47. Delivery of award

The award, incorporating the panel's decision, will be sent by first class mail to the parties.

(Effective January 30, 1981)

Sec. 31-91-48. Expenses

With the exception of the filing fee, arbitration services of the board are supplied to Connecticut employers and employee organizations without charge.

(Effective January 30, 1981)

Sec. 31-91-49. Communication with panel members

There shall be no communication concerning the pending case between the parties and the panel members after the chairman of the panel has declared the arbitration hearing or hearings closed. Any other oral or written communication, other than the briefs and reply briefs, from the parties to the panel members shall be directed to the director of the board for transmittal to the respective panel members. It shall be the duty of the board to notify a party of any communication of the other party.

(Effective January 30, 1981; amended April 5, 1999)

Sec. 31-91-50.

Repealed, April 5, 1999.

Sec. 31-91-51. Request for expedited arbitration

(a) Upon mutual request by both parties to a dispute, the board will process the dispute according to the following expedited arbitration procedure.

- (1) There shall be no stenographic record;
 - (2) There shall be no briefs;
 - (3) There shall be no written opinion accompanying the award;
 - (4) A single arbitrator may hear the case at the option of the parties;
 - (5) All other requirements of the board's regulations concerning arbitration, which are not in conflict with this section, shall apply;
 - (6) Arbitrability may not be claimed; and
 - (7) Only one day of hearings shall be allowed for each case.
- (Effective January 30, 1981; amended April 5, 1999)

Mediation

Sec. 31-91-52. Purpose and scope of mediation services

Mediation is the use of third party neutrals to assist two contending parties to reach agreement on matters in dispute. The mediation services of the board are available to State employers and employee organizations for purposes of settlement of grievances or mediation of impasses in contract negotiations.

(Effective January 30, 1981)

Sec. 31-91-53. Appointment and powers of mediators

The full time mediators appointed by the Labor Commissioner, with the advice and approval of the board, shall be available to investigate and adjust labor disputes between State employers and employee organizations. Each mediator shall have all the powers of the board to enter establishments, to examine payrolls or other records, to issue subpoenas and to administer oaths.

(Effective January 30, 1981)

Sec. 31-91-54. Goals and duties of mediators

Every labor dispute is unique, therefore, no techniques or procedures can be established to govern the conduct of mediators in every dispute. However, to assure the parties the greatest degree of equity and professional conduct by mediators, the board and its mediators will adhere to the "Code of Professional Conduct for Labor Mediators" which has been adopted by the federal mediation and conciliation service and the association of labor relations agencies. In the performance of mediation services, mediators shall be responsible to the board.

(Effective January 30, 1981)

Sec. 31-91-55. Function of the board in strikes and lockouts

In cases where the board has knowledge of a potential or actual strike or lockout, the chairman of the board or a panel of said board shall establish communications with both parties to the controversy and endeavor by the process of mediation to secure a settlement of such strike or lockout.

(Effective January 30, 1981)

Sec. 31-91-56. Testimony by mediators

To maintain the effectiveness of mediation the parties must be assured that their discussions with mediators shall not be disclosed. Mediators shall not testify, even if subpoenaed, concerning information disclosed during the mediation process.

(Effective January 30, 1981)

Fact Finding**Secs. 31-91-57—31-91-63.**

Repealed, April 5, 1999.

**Rules of Procedure for Municipal Mediation Fact Finding,
and Binding Interest Arbitration****Sec. 31-91-64. Notice of contract expiration; form; contents**

(a) The board shall provide municipal employers with a notice form, which shall be completed by the municipal employer and returned to the board within thirty days after the approval of each municipal collective bargaining agreement.

(b) The information provided by the municipal employer on the notice form shall include, but shall not be limited to, the following:

(1) The name and address of the municipality and the name of the official who will represent the municipality in impasse resolution procedures.

(2) The name and address of the employee organization and the name of the official who will represent the employee organization in impasse resolution procedures.

(3) The approval date and expiration date of the contract.

(4) The number of employees covered by the contract.

(5) The subject matter and sections of the contract which may be subject to a reopener clause.

(Effective January 30, 1981)

Secs. 31-91-65—31-91-70.

Repealed, April 5, 1999.