

CHAPTER 106

ELECTIONS

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SUBCHAPTER 1. FUNCTIONS OF THE BOARD

12:106-1.1 Limitation

(a) The New Jersey State Board of Mediation established by the "New Jersey Labor Mediation Act" (N.J.S.A. 34:13A-1 et seq.) is restricted in its functions to voluntary mediation and arbitration and is not authorized by statute, except in public utility disputes, to order elections, to fix an appropriate bargaining unit or to determine eligibility of voters.

(b) The Board will conduct elections to select an exclusive collective bargaining agent in those instances where the employer and the labor organization(s) involved enter into an agreement setting forth the appropriate unit, the time and place of holding the election and the payroll to be used in determining what employees shall be eligible to vote; provided, that any question raised by the parties relating in any manner to the election and not specifically covered by the agreement shall be subject to final decision by the chairman of the Board.

SUBCHAPTER 2. ELECTION PROCEDURES

12:106-2.1 Request for election

(a) A request for an election may be made by representatives of either an employer or a labor organization and shall contain the following:

1. Name and address of the employer;
2. Name and address of the labor organization or organizations concerned in the representation question;

3. Other facts relevant to the controversy.

(b) If an agreement or understanding to conduct an election has not been reached prior to a request having been made, the Board shall utilize the mediation facilities to accomplish such an agreement if possible.

12:106-2.2 Intervenors

(a) Prior to accepting a consent stipulation for the conduct of an election the Board will advise the regional office of the AFL-CIO and the independent unions of New Jersey regarding the pendency of a consent election.

(b) Within five days after receipt of notice of pendency of an election another labor organization must demonstrate to the chairman of the Board or his designated agent that it has a sufficient interest in the matter in question to warrant being accorded a place on the ballot. Determination of what constitutes sufficiency of interest shall be made by the chairman in each case. Objections to the conduct of an election by a party which cannot demonstrate an interest shall not stay the proceedings.

12:106-2.3 Conditions of election

Elections shall be conducted under the supervision of the chairman who may designate a representative to act on behalf of the Board. All elections shall be by secret ballot which shall be prepared by the Board. Where parties to the consent election so agree, mail ballots shall be sent where necessary to cover employees who are ill, temporarily laid off or on vacation.

12:106-2.4 Observers

Parties to the election will be permitted to station authorized observers at the polling place during the election to assist in its conduct, to challenge the eligibility of voters and to verify the tally. Upon conclusion of the balloting, a tally of ballots will be prepared and furnished to each of the parties.

12:106-2.5 Challenged ballots

If the right of an employee to vote is challenged, the employee shall be permitted to vote, but his ballot shall be sealed by him in a separate envelope and the employee shall deliver the envelope to the agent duly designated to conduct the election. If the challenged ballots are insufficient to affect the election results, no determination as to their validity shall be made. Where challenged ballots are sufficient in number to affect the results of an election, the agent shall prepare a concise statement setting forth the reasons and grounds for each challenge and shall forward this statement to the chairman. The chairman shall forward copies of this report to all parties concerned, and within five days thereafter any party may object to the report on challenged ballots by filing with the Board and all other parties, a concise

statement of the facts constituting the grounds for objection. If no objections to the report of the agent are made, the chairman may make his decision with respect to the challenged ballots. If objections are filed within the five-day period, the Board shall, either with or without a hearing, make a determination.

12:106-2.6 Other objections

Objections to the conduct of an election may be filed with the Board within five days after closing of the polls, with copies of such objections being forwarded to each of the other parties. The Board or its agent shall investigate the issues raised by the objections and the Board shall, either with or without a hearing, make its determination with respect to the objections. The Board shall have authority to invalidate the election results and to recommend a new election if the facts warrant.

12:106-2.7 Runoff elections

In the event that two or more labor organizations are to appear on a ballot together with a choice of "no union," the parties shall agree in advance of the election regarding conditions for a second or runoff election should no choice on the ballot receive a majority of the valid votes cast.

12:106-2.8 Certification

The chairman, upon disposition of all questions pertaining to the election, shall either certify to the parties the results of the election or make other appropriate disposition of the matter.