

## CHAPTER 11

### REPRESENTATION PROCEDURES

#### Authority

N.J.S.A. 34:13A-11.

#### Source and Effective Date

R.2000 d.320, effective July 14, 2000.  
See: 32 N.J.R. 1503(a), 32 N.J.R. 2926(b).

#### Executive Order No. 66(1978) Expiration Date

Chapter 11, Representation Procedures, expires on July 14, 2005.

#### Chapter Historical Note

Chapter 11, Representation Procedures, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 11, Representation Procedures, was readopted as R.1995 d.488, effective August 8, 1995. See: 27 N.J.R. 2544(b), 27 N.J.R. 3381(a).

Pursuant to Executive Order No. 66(1978), Chapter 11, Representation Procedures, was readopted as R.2000 d.320, effective July 14, 2000. See: Source and Effective Date. See, also, section annotations.

### CHAPTER TABLE OF CONTENTS

#### SUBCHAPTER 1. REPRESENTATION PETITIONS

- 19:11-1.1 Petitions
- 19:11-1.2 Contents of petition for certification
- 19:11-1.3 Contents of petition for decertification
- 19:11-1.4 Petition for certification filed by a public employer
- 19:11-1.5 Petition for clarification of unit
- 19:11-1.6 Petition for amendment of certification

#### SUBCHAPTER 2. PROCESSING OF PETITIONS

- 19:11-2.1 Validity of showing of interest
- 19:11-2.2 Investigation of petition
- 19:11-2.3 Withdrawal or dismissal of petition
- 19:11-2.4 Posting of notice of petition
- 19:11-2.5 Public docket
- 19:11-2.6 Investigation of petition; disposition
- 19:11-2.7 Intervention
- 19:11-2.8 Timeliness of petitions

#### SUBCHAPTER 3. RECOGNITION AS EXCLUSIVE REPRESENTATIVE

- 19:11-3.1 Recognition as exclusive representative

#### SUBCHAPTER 4. AGREEMENT FOR CONSENT ELECTION

- 19:11-4.1 Agreement for consent election

#### SUBCHAPTER 5. DIRECTED ELECTIONS

- 19:11-5.1 Directed elections

#### SUBCHAPTER 6. HEARINGS

- 19:11-6.1 Who shall conduct; to be public unless otherwise ordered
- 19:11-6.2 Notice of hearing
- 19:11-6.3 Duties and powers of hearing officer
- 19:11-6.4 Unavailability of hearing officer
- 19:11-6.5 Rights of parties

- 19:11-6.6 Rules of evidence
- 19:11-6.7 Stipulations of facts
- 19:11-6.8 Objection to conduct of hearing
- 19:11-6.9 Motions
- 19:11-6.10 Review of rulings
- 19:11-6.11 Waiver of objections
- 19:11-6.12 Filing of brief and oral argument at hearing
- 19:11-6.13 Continuance or adjournment
- 19:11-6.14 Misconduct

#### SUBCHAPTER 7. HEARING OFFICER'S REPORT; TRANSFER OF CASE TO THE COMMISSION, AND ACTION BY THE COMMISSION

- 19:11-7.1 Submission of the hearing officer's report to the Commission
- 19:11-7.2 Record in the case
- 19:11-7.3 Exceptions; cross-exceptions; briefs; answering briefs
- 19:11-7.4 Action by the Commission; consolidation or severance of proceedings; decision in the absence of exceptions

#### SUBCHAPTER 8. REQUEST FOR COMMISSION REVIEW

- 19:11-8.1 Filing of request
- 19:11-8.2 Grounds for granting a request for review
- 19:11-8.3 Contents of request for review; timely presentment of facts
- 19:11-8.4 Statement in opposition to a request for review
- 19:11-8.5 Waiver of right to request review
- 19:11-8.6 Stay of decision; filing of briefs with the Commission; Commission consideration
- 19:11-8.7 Decision by the Commission

#### SUBCHAPTER 9. TRANSFER TO THE COMMISSION; RECONSIDERATION

- 19:11-9.1 Transfer to Commission on its own motion
- 19:11-9.2 Oral argument
- 19:11-9.3 Motion for Commission reconsideration

#### SUBCHAPTER 10. ELECTION PROCEDURES

- 19:11-10.1 Eligibility list
- 19:11-10.2 Notices of election; improper use of notices
- 19:11-10.3 Election procedures
- 19:11-10.4 Runoff elections
- 19:11-10.5 Rerun elections
- 19:11-10.6 No majority representative
- 19:11-10.7 Determination of exclusive representative

#### SUBCHAPTER 1. REPRESENTATION PETITIONS

##### 19:11-1.1 Petitions

(a) Rules concerning who may file are as follows.

1. A petition for certification of public employee representative (RO) may be filed by any public employee or group of public employees, or by any individual or employee organization claiming to be the exclusive representative of public employees.

2. A petition for certification of public employee representative (RE) may be filed by a public employer alleging that one or more public employees, group of public employees, individuals or employee organizations

have presented to such employer a claim to be recognized or continue to be recognized as the exclusive representative and the public employer has a good faith doubt concerning the majority status of the representative of its employees.

3. A petition for decertification of public employee representative (RD) may be filed by any public employee or group of public employees or any individual acting on their behalf alleging that the certified or currently recognized employee representative is no longer the majority representative of such employees and that the employees no longer desire to be represented by any employee representative. A public employer may not file a petition for decertification of public employee representative.

4. A petition for clarification of unit (CU) may be filed by the exclusive representative or public employer.

5. A petition for amendment of certification (AC) may be filed by an employee organization.

(b) An original and four copies of all petitions shall be filed with the Director of Representation. All petitions shall be in writing. The Director of Representation shall serve a copy of the petition upon the other parties. Forms for filing such petitions will be supplied upon request. Address such requests to: Public Employment Relations Commission, PO Box 429, Trenton, New Jersey 08625-0429. Forms may also be downloaded from the Commission's website: <http://www.state.nj.us/perc>

Amended by R.1995 d.488, effective September 5, 1995.  
See: 27 N.J.R. 2544(b), 27 N.J.R. 3381(a).  
Amended by R.2000 d.320, effective August 7, 2000.  
See: 32 N.J.R. 1503(a), 32 N.J.R. 2926(b).  
Rewrote (b).

#### Case Notes

Consensual initiation of organizational grievance. *Red Bank Regional Education Assn. v. Red Bank Regional High School Bd. of Ed.*, 78 N.J. 122, 393 A.2d 267 (1978).

Commission has primary jurisdiction to determine employee representative identity. *Patrolmen's Benevolent Assn. v. Montclair*, 128 N.J.Super. 59, 319 A.2d 77 (Ch.Div.1974) affirmed.

#### 19:11-1.2 Contents of petition for certification

(a) A petition for certification of public employee representative filed by a public employee, a group of public employees, any individual, or an employee organization shall contain:

1. The name, address, and telephone number of the public employer and the name and title of the person to contact, if known;

2. A description of the collective negotiations unit claimed to be appropriate for the purpose of exclusive representation by the petitioner. Such description shall indicate the general classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit claimed to be appropriate;

3. The name, address and telephone number of the recognized or certified exclusive representative, if any, and the date of such certification or recognition and the expiration date of any applicable collective negotiations agreement, if known to the petitioner;

4. The names, addresses and telephone numbers of any other interested employee organizations, if known to the petitioner;

5. Any other relevant facts;

6. The name and affiliation, if any, of the petitioner and its address and telephone number;

7. The name, address, title, and telephone number of the petitioner's representative;

8. This dated and signed certification by the petitioner or its representative: "I declare that I have read the above petition and that the information is true to the best of my knowledge and belief."; and

9. A petition for certification of public employee representative shall be accompanied by a showing of interest as defined in N.J.A.C. 19:10-1.1 of not less than 30 percent of the employees in the unit alleged to be appropriate. An alphabetical list of such designations also shall be submitted to the Director of Representation.

Amended by R.1995 d.488, effective September 5, 1995.  
See: 27 N.J.R. 2544(b), 27 N.J.R. 3381(a).  
Amended by R.2000 d.320, effective August 7, 2000.  
See: 32 N.J.R. 1503(a), 32 N.J.R. 2926(b).

In (a)9, deleted a requirement that the list be typewritten in the last sentence.

#### 19:11-1.3 Contents of petition for decertification

(a) A petition for decertification of public employee representative shall contain:

1. A statement that the employee representative certified by the Commission or recognized by the public employer no longer represents a majority of the employees in the collective negotiations unit in which it is currently recognized or certified;

2. The information required by N.J.A.C. 19:11-1.2 (Contents of petition for certification), except paragraph (a)9;

3. The petition for decertification shall be accompanied by a showing of interest of not less than 30 per cent of the employees in the unit in which an exclusive representative has been recognized or certified. A showing of interest shall indicate that the employees no longer desire to be represented for purposes of collective negotiations by the recognized or certified employee representative or by any other employee representative.

Amended by R.1995 d.488, effective September 5, 1995.  
See: 27 N.J.R. 2544(b), 27 N.J.R. 3381(a).