

4. A statement that all interested parties are to advise the Director of Representation in writing of their interest as soon as possible.

(c) The notice shall remain posted for a period of 10 days from the date of receipt by the public employer. The public employer shall certify to the Director of Representation that the notice has been conspicuously posted for a period of 10 days where notices are normally posted and that the notice has not been covered by other material, altered or defaced.

(d) In addition, the public employer shall furnish the Director of Representation with the names, addresses and telephone numbers of all employee organizations which have within the preceding 12 months claimed to represent any of the employees in the requested unit.

(e) The failure of the Director of Representation to direct the posting of such notices or the failure of the public employer to post notices normally shall not serve to delay or invalidate any subsequent Commission action which occurs pursuant to the filing of a petition.

As amended, R.1974 d.127, effective May 24, 1974.

See: 6 N.J.R. 127(a), 6 N.J.R. 285(b).

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.2005 d.448, effective December 19, 2005.

See: 37 N.J.R. 3273(a), 37 N.J.R. 5053(a).

In (b), added 3 and recodified former 3 as 4.

19:11-2.5 Public docket

The Director of Representation shall maintain (at the Commission's offices in Trenton) a public docket of all petitions. Such docket shall contain a copy of the petition but shall not include any showing of interest. The petition shall remain in the public docket until the case is closed.

Amended by R.1995 d.488, effective September 5, 1995.

See: 27 N.J.R. 2544(b), 27 N.J.R. 3381(a).

19:11-2.6 Investigation of petition; disposition

(a) If no agreement for consent election has been reached pursuant to N.J.A.C. 19:11-4.1, the Director of Representation shall conduct a further investigation. The petitioner, the public employer, and any intervenor(s) shall present documentary and other evidence, as well as statements of position, relating to the matters and allegations set forth in the petition. Such submissions shall be simultaneously served upon the parties.

(b) Where the petitioner is seeking to be certified as the majority representative of an appropriate unit on the basis of authorization cards and no other employee organization is seeking to be the majority representative, the Director of Representation shall determine whether a majority of employees in the unit have signed valid authorization cards.

(c) Information disclosed to a staff member in confidence regarding any representation matter shall not be divulged. All

files, records, reports, documents or other papers received or prepared by a staff member for purposes of settlement shall be classified as confidential. The staff member shall not produce any confidential records of, or testify in regard to, any settlement discussions conducted by him or her, on behalf of any party in any type of proceeding.

(d) After the investigation of such petition, the Director of Representation shall either:

1. Request the petitioner to withdraw the petition, or in the absence of withdrawal, dismiss the petition, pursuant to N.J.A.C. 19:11-2.3;

2. Issue a decision dismissing the petition, if it appears to the Director of Representation that there is not reasonable cause to believe that a valid question concerning representation exists in an appropriate unit;

3. Issue a decision directing an election in an appropriate unit, if it appears to the Director of Representation that there is reasonable cause to believe that a valid question concerning representation exists in an appropriate unit and that an election reflecting the free choice of the employees in the appropriate unit will effectuate the policies of the Act (N.J.S.A. 34:13A-1.1 et seq.);

4. Issue a decision clarifying a unit;

5. Issue a decision amending a certification;

6. Certify the petitioner as the majority representative based on its submission of valid authorization cards signed by a majority of the employees in the appropriate unit; or

7. Take other measures the Director of Representation deems appropriate.

(e) Action by the Director of Representation pursuant to (d) above shall be based on an administrative investigation or a hearing conducted pursuant to N.J.A.C. 19:11-6.1 (Hearings).

(f) A hearing shall be conducted:

1. If it appears to the Director of Representation that substantial and material factual issues exist which, in the exercise of reasonable discretion, may more appropriately be resolved after a hearing; or

2. If it appears to the Director of Representation that the particular circumstances of the case are such that, in the exercise of reasonable discretion, the Director determines that a hearing will best serve the interests of administrative convenience and efficiency.

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), added a third sentence; inserted a new (b); recodified former (b) through (d) as (c) through (e); and in the new (d), made an internal reference change.

Amended by R.2005 d.448, effective December 19, 2005.
See: 37 N.J.R. 3273(a), 37 N.J.R. 5053(a).
Rewrote the section.

19:11-2.7 Intervention

(a) Any party seeking to intervene in a representation proceeding must submit a written request to the Director of Representation.

(b) To intervene in a proceeding initiated by a petition for certification, an incumbent employee organization must submit either:

1. Evidence that it is currently certified or recognized in accordance with N.J.A.C. 19:11-3.1 (Recognition as exclusive representative) as the exclusive representative of any of the employees sought by the petition; or

2. A current or recently expired collective negotiations agreement covering any of the petitioned-for employees.

(c) An employee organization other than the incumbent representative seeking to intervene in a proceeding initiated by a petition for certification must submit a showing of interest of not less than 10 percent of the employees in the petitioned-for unit or not less than 30 percent of the employees in the unit it claims to be appropriate if it seeks to represent a unit different from that sought by the petitioner.

(d) To intervene in a proceeding initiated by a petition for decertification, the incumbent representative must submit evidence as set forth in (b)1 or 2 above, and express in writing its continued interest in representing the unit of employees named in the petition. Whenever the incumbent representative fails to intervene pursuant to this subsection, the Director may, upon adequate notice, determine without an election that the incumbent organization is no longer the majority representative.

(e) To intervene in a proceeding initiated by a petition for clarification of unit, an employee organization must submit either:

1. Evidence that it is the currently certified or recognized representative of any of the employees named in the petition; or

2. A current or recently expired collective negotiations agreement covering any of the employees named in the petition.

(f) To intervene in a proceeding initiated by a petition for amendment of certification, an employee organization must submit evidence that it is an organization that is part of the currently certified representative of the employees named in the petition.

(g) A request by an employee organization to intervene in a representation proceeding may be made at any time before:

1. The opening of a hearing held pursuant to N.J.A.C. 19:11-6.1 (Hearings); or

2. The issuance of a decision by the Director of Representation without a hearing, pursuant to N.J.A.C. 19:11-2.6 (Investigation of petition; disposition); or

3. Approval by the Director of Representation of an agreement for consent election, pursuant to N.J.A.C. 19:11-4.1 (Agreement for consent election).

(h) A motion to intervene during a hearing shall comply with N.J.A.C. 19:11-6.9 (Motions), but shall not be granted unless it is accompanied by a valid showing of interest and upon good cause shown which reasonably prevented the moving party from having filed a timely notice to intervene.

R.1974 d.344, eff. December 18, 1974.

See: 6 N.J.R. 457(a), 7 N.J.R. 35(b).

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 the section.

Amended by R.2005 d.248, effective August 1, 2005.

See: 37 N.J.R. 961(a), 37 N.J.R. 2890(a).

Added new (f), recodified existing (f)-(g) as (g)-(h).

19:11-2.8 Timeliness of petitions

(a) Where there is no recognized or certified exclusive representative of the employees, a petition for certification of public employee representative will be considered timely filed provided there has been no valid election within the preceding 12-month period in the requested negotiations unit or any subdivision of the unit.

(b) Where there is a certified or recognized representative, a petition for certification or decertification will not be considered timely filed if during the preceding 12 months an employee organization has been certified by the Commission as the exclusive representative of employees in an appropriate unit, or an employee organization has been granted recognition by a public employer pursuant to N.J.A.C. 19:11-3.1 (Recognition as exclusive representative).

(c) During the period of an existing written agreement containing substantive terms and conditions of employment and having a term of three years or less, a petition for certification of public employee representative or a petition for decertification of public employee representative normally will not be considered timely filed unless:

1. In a case involving employees of the State of New Jersey, any agency of the State or any State authority, commission or board, the petition is filed not less than 240 days and not more than 270 days before the expiration or renewal date of such agreement;

2. In a case involving employees of a county or a municipality, any agency of a county or municipality or any county or municipal authority, commission or board, the petition is filed not less than 90 days and not more than 120 days before the expiration or renewal date of such agreement;