

Sec. 31-101-12. Duties of agent

(a) When a petition for an election has been filed, the agent shall confer with and may hold informal conferences with the interested parties and ascertain the facts. The agent shall ascertain whether a substantial number of employees desire the petitioner to represent them or whether a substantial number of employees wish to decertify an existing employee representative by making a card check or by such other appropriate means as the agent shall determine. In making a card check the agent may use the criteria set out in subsection (b) of this section. The agent shall encourage the parties to agree upon the appropriate unit and a suitable method by which the representative is to be determined by the board. In cases where the parties agree that an election be held to ascertain the wishes of the employees, the agent shall as soon as possible conduct an election by secret ballot. In cases where the parties agree upon other suitable methods by which the representative is to be determined, the agent as soon as possible shall by such method ascertain the employee's wishes and report the agent's findings promptly to the board. Whenever the agent, after investigation, has reasonable cause to believe that a question of representation exists, including but not limited to finding that the parties are unable to agree upon the appropriate unit and he is unable to settle the controversy concerning representation, the agent shall issue a direction of election within 30 days of the investigation and conduct a secret ballot election within thirty (30) days of the issuance of the direction of election to determine whether and by which employee organization the employees desire to be represented. The election shall be conducted in accordance with the terms and conditions set forth in Sections 31-101-14, 31-101-14a, 31-101-15, and 31-101-16 of these regulations and the agent shall report the agent's action to the board. In the event that the agent determines that there is no reasonable cause to believe that a question of representation exists, the agent shall issue a recommendation to dismiss the petition within thirty (30) days after the investigation and report the agent's action to the board. In the event the agent is unable to determine whether or not a question of representation exists, the agent may, within 30 days of the agent's investigation, refer the petition directly to the board for a hearing without either having conducted an election or issuing a recommendation for dismissal, in which event the board shall conduct an appropriate hearing upon due notice as set forth in these regulations.

(b) Proof of an employee's desire with regard to representation may be established as follows:

The petitioner may present to the agent membership or application for membership cards or collective bargaining authorization cards.

The cards shall be dated and signed by the employees prior to the filing of the petition with the board, and shall contain the printed or typewritten name of the signer.

The cards will be void if signed more than a year before the filing of the petition with the board.

The card itself shall indicate the employee's desire with regard to representation.

(c) If the agent determines either to conduct a secret ballot election or to recommend dismissal of the petition, the parties may object to the agent's determination by filing objections in the form of a brief within fourteen (14) days of the service of the order directing an election or within 14 days of the agent's recommendation for a dismissal filed with the board. Briefs shall be certified to all parties.

(d) If objections are timely filed, the agent shall prepare a record for the board which shall include the following: the petition, the agent's order directing an election, or the agent's recommendation for dismissal and any briefs filed by a party.

(e) The board, after considering the agent's direction of election or the agent's recommendation for dismissal, together with the briefs submitted, shall as appropriate within thirty (30) days of receiving the record:

(1) Issue an order confirming the agent's direction of election and certifying the election results,

(2) issue an order confirming the agent's recommendation for dismissal,

(3) order further investigation, or

(4) order a hearing.

(f) In the event the agent has directly referred the petition to the board for a hearing without either directing an election or recommending dismissal or if the board has ordered a hearing, a hearing will be held pursuant to Section 31-101-13.

(g) If no objections are filed, the board shall certify the results of the election or dismiss the petition.

(Effective October 5, 1993; Amended October 11, 2013)