

26 §1025. DETERMINATION OF BARGAINING AGENT

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1. Voluntary recognition. Any employee organization may file a request with the university, academy or community colleges alleging that a majority of the university, academy or community college employees in an appropriate bargaining unit as established in section 1024, wish to be represented for the purpose of collective bargaining between the university, academy or community colleges and the employees' organization. Such request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall include a demonstration of majority support. Such request for recognition shall be granted by the university, academy or community colleges unless the university, academy or community colleges desire that an election determine whether the organization represents a majority of the members in the bargaining unit. In the event that the request for recognition is granted by the university, academy or community colleges, the executive director shall certify the organization so recognized as the bargaining agent.

[1989, c. 443, §67 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

2. Elections.

A. The executive director of the board, upon signed request of the university, academy or community college alleging that one or more university, academy or community college employees or employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of university, academy or community college employees, or upon signed petition of at least 30% of a bargaining unit of university, academy or community college employees that they desire to be represented by an organization, shall conduct a secret ballot election to determine whether the organization represents a majority of the members of the bargaining unit. Such an election may be conducted at suitable work locations or through the United States mail, and the procedures adopted and employed must ensure that neither the employee organizations or the management representatives involved in the election have access to information that would identify a voter. [1991, c. 622, Pt. O, §10 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

B. The ballot shall contain the name of such organization and that of any other organization showing written proof of at least 10% representation of the university, academy or community college employees within the unit, together with a choice for any university, academy or community college employee to designate that the employee does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot, and no one of the 3 or more choices receives a majority vote of the university, academy or community college employees voting, a run-off election shall be held. The run-off ballot shall contain the 2 choices which received the largest and 2nd largest number of votes. When an organization receives the majority of votes of those voting, the executive director shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit shall be recognized by the university, academy or community colleges as the sole and exclusive bargaining agent for all of the employees in the bargaining unit unless and until a decertification election by secret ballot shall be held and the bargaining agent declared by the executive director as not representing a majority of the unit. [1989, c. 443, §68 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

C. Whenever 30% of the employees in a bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question shall be the same as for representation as bargaining agent hereinbefore set forth. [1975, c. 603, §1 (NEW) .]

D. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question concerning unit or representation may be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement. [1975, c. 603, §1 (NEW) .]

E. The bargaining agent certified by the executive director or a designee as the exclusive bargaining agent for a unit is required to represent all the university, academy or community college employees within the unit without regard to membership in the organization certified as bargaining agent, except that any university, academy or community college employee may present at any time that employee's grievance to the employer and have that grievance adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of any collective bargaining agreement then in effect and the bargaining agent's representative has been given reasonable opportunity to be present at any meeting of the parties called for the resolution of that grievance. [1991, c. 166, (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

[1991, c. 622, Pt. O, §10 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

SECTION HISTORY

1975, c. 603, §1 (NEW). 1975, c. 671, §§9,10 (AMD). 1977, c. 581, §§8,9 (AMD). 1985, c. 497, §10 (AMD). 1985, c. 506, §B25 (AMD). 1989, c. 443, §§67,68 (AMD). 1991, c. 166, (AMD). 1991, c. 622, §O10 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF).

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