

§967. Determination of bargaining agent

1. Voluntary recognition. Any public employee organization may file a request with a public employer alleging that a majority of the public employees in an appropriate bargaining unit wish to be represented for the purpose of collective bargaining between the public employer and the employees' organization. Such request must describe the grouping of jobs or positions that constitute the unit claimed to be appropriate and must include a demonstration of majority support. Such request for recognition may be granted by the public employer.

[PL 2019, c. 135, §1 (AMD).]

1-A. Majority sign-up. If a request by a public employee organization for recognition pursuant to subsection 1 is not granted by the public employer, the executive director of the board or a designee shall examine the demonstration of support. If the executive director of the board or a designee finds that a majority of the employees in a unit appropriate for bargaining have signed valid authorizations designating the employees' organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the board may not direct an election but shall certify the employees' organization as the representative. However, if the majority status of the employees in the appropriate unit is in question, the executive director of the board or a designee shall call an election to determine whether the organization represents a majority of the members in the bargaining unit.

[PL 2019, c. 135, §1 (NEW).]

2. Elections. The executive director of the board, or a designee, pursuant to subsection 1-A, or upon signed petition of at least 30% of a bargaining unit of public 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 in 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.

The ballot must contain the name of such organization and that of any other organization showing written proof of at least 10% representation of the public employees within the unit, together with a choice for any public employee to designate that the public employee does not desire to be represented by any bargaining agent. When more than one organization is on the ballot and no one of the 3 or more choices receives a majority vote of the public employees voting, a run-off election must be held. The run-off ballot must contain the 2 choices that received the largest and 2nd-largest number of votes. When an organization receives the majority of votes of those voting, the executive director of the board shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit must be recognized by the public employer 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 is held and the bargaining agent declared by the executive director of the board as not representing a majority of the unit.

Whenever 30% of the employees in a certified bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question are the same as for representation as bargaining agent as established in this section.

[PL 2019, c. 135, §1 (AMD).]

3. Merger of bargaining agents. Two or more bargaining agents who are certified by the executive director of the board and who are members or affiliates of the same public employee organization may elect to merge. Bargaining agents seeking to merge shall file with the executive director of the board, or a designee, a petition describing the proposed merger. On receipt of a petition under this subsection, the executive director of the board shall conduct an election among the employees represented by the petitioning bargaining agents in which the only question on the ballot is the proposed

merger of the bargaining agents. On an affirmative vote of the majority of the employees represented by each petitioning bargaining agent, the executive director of the board shall order the merger. After a merger is ordered, the parties to a contract in which one party to that contract is one of the merged bargaining agents shall honor the terms of the contract unless the public employer and the merged bargaining agent agree to different terms.

[PL 2023, c. 240, §1 (NEW).]

A question concerning representation may not be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, a question concerning unit or representation may not be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement. The not more than 90-day nor less than 60-day period prior to the expiration date of an agreement regarding unit determination and representation does not apply to matters of unit clarification. [PL 2019, c. 135, §1 (AMD).]

The bargaining agent certified by the executive director of the board as the exclusive bargaining agent shall represent all the public employees within the unit without regard to membership in the organization certified as bargaining agent, except that any public employee at any time may present that public employee's grievance to the public employer and have such grievance adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect and if the bargaining agent's representative has been given reasonable opportunity to be present at any meeting of the parties called for the resolution of such grievance. [PL 2019, c. 135, §1 (AMD).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 1969, c. 578, §§4,5 (AMD). PL 1971, c. 609, §§5-8 (AMD). PL 1975, c. 564, §21 (AMD). PL 1979, c. 199 (AMD). PL 1991, c. 622, §07 (AMD). PL 2019, c. 135, §1 (AMD). PL 2023, c. 240, §1 (AMD).

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