**Section 1210.100 Processing of Petitions**

a) Representation Petitions Seeking an Election

1) The Board shall provide the employer with a Notice to Employees of the filing of a representation or decertification petition. The Notice to Employees shall be posted on bulletin boards and other places where notices to employees in the proposed bargaining unit are customarily posted. The Notice to Employees shall inform employees that a petition has been filed with the Board and shall outline intervention procedures. The Notice shall remain posted until replaced by the Board-issued Notice of Election, unless the petition has been dismissed or withdrawn. It shall be incumbent upon the parties to contact the Board to correct any errors that may appear on the Notice to Employees.

2) Within 7 days after service of a petition, the employer shall file with the Board a list containing the full names and titles of the employees in the proposed bargaining unit. In the event the employer does not supply the list within 7 days, the Board shall administratively determine the adequacy of the showing of interest, based on the information provided by the union.

3) All employers served with a representation petition and all unions served with a decertification petition shall file a written response to the petition. The response filed shall set forth the party's position with respect to the matters asserted in the petition, including, but not limited to, the appropriateness of the bargaining unit and, to the extent known, whether any employees sought by petitioner to be included in the unit are supervisory, managerial or confidential. If a party agrees to the appropriateness of the unit proposed in the petition, it shall so indicate. If a party disagrees with the unit proposed in the petition, it shall describe with particularity what it considers to be an appropriate unit, and shall include a description of the job titles and classifications of the employees to be included and of those to be excluded.

4) The setting forth of a party's position with respect to the appropriate unit shall not be deemed to waive or otherwise preclude the right of that party to subsequently assert a different position with respect to what unit it considers appropriate.

5) Petitions to intervene in the election may be filed with the Board no later than 15 days prior to the date of the election. However, any intervenor who files after the date set for hearing or, if no hearing is held, after the approval of a consent election agreement or the direction of an election shall have waived objections to the bargaining unit.

6) Upon receipt of the petition, the Board or its agent shall investigate the petition. If, for any reason during the investigation, the Board or its agent discovers that the petition may be inappropriate, the Board or its agent may issue an order to show cause requesting that the petitioner provide sufficient evidence to overcome the inappropriateness. Failure to provide sufficient evidence of the petition's appropriateness can result in the dismissal of the petition. Moreover, in conjunction with subsection (a)(3), if, for any reason during the investigation, the Board or its agent discovers that the employer's objections to the representation petition or the union's objections to the decertification petition are insufficient in either law or fact, the Board or its agent may issue an order to show cause requesting that the employer or union provide sufficient evidence to support its defenses. Failure to provide sufficient evidence can result in the waiver of defenses.

7) Results of the Investigation

A) After the investigation, the Executive Director shall dismiss a petition, or the Administrative Law Judge shall recommend to the Board that a petition be dismissed, when a petition has been filed untimely; when the bargaining unit is clearly inappropriate; when the showing of interest is not adequate; when the employer is not covered by the Act; when the employees are not covered by the Act; or for any other reason there is no reasonable cause to believe that a question of representation exists. Parties may appeal the Executive Director's order or the Administrative Law Judge's recommended decision and order in accordance with 80 Ill. Adm. Code 1200.135.

B) If, at the conclusion of the investigation, the parties agree to an election in the petitioned-for bargaining unit, the parties may file a stipulation for consent election in accordance with Section 1210.105.

C) If, at the conclusion of the investigation, the only issues remaining between the parties are logistical, e.g., the date of the election, or the positions in dispute comprise 10% or less of the petitioned for bargaining unit, the Executive Director or Administrative Law Judge may issue an Order Directing an Election. Parties may appeal the Order in accordance with 80 Ill. Adm. Code 1200.135.

D) If the investigation discloses that there is reasonable cause to believe that there are unresolved issues relating to the question concerning representation, the Board shall set the matter for hearing before an Administrative Law Judge. All parties shall be given a minimum of 14 days notice of the hearing.

8) The Executive Director may, in his or her discretion or at the request of the charging party, suspend the processing of a petition if an unfair labor practice charge is filed containing allegations regarding conduct that may either affect the existence of a question concerning representation or have a tendency to interfere with a fair and free election.

b) Representation Cases Involving Majority Interest Petitions

1) The Board shall provide the employer with a Notice to Employees of the filing of a majority interest petition. The Notice to Employees shall be posted on bulletin boards and other places where notices to employees in the proposed bargaining unit are customarily posted. The Notice to Employees shall inform employees that a petition has been filed with the Board in accordance with Section 9(a)(5) of the Act. The Notice shall remain posted for 14 days. It shall be incumbent upon the parties to contact the Board to correct any errors that may appear on the Notice to Employees.

2) Within 7 days after service of a petition, the employer shall file with the Board a list containing the full names and titles of the employees in the proposed bargaining unit, along with signature exemplars of the employees in the proposed unit. The Board's agent shall grant reasonable requests for extentions of time to prepare the signature exemplars based upon the size or scope of the petitioned for unit. In the event the employer does not supply the aforementioned information within 7 days, and it has not been granted an extension of the 7 day period, the Board or its agent shall administratively determine the adequacy of the showing of interest, based on the information provided by the union.

3) All employers served with a majority interest petition shall file a written response to the petition within 14 days after service of the petition. The response filed shall set forth the party's position with respect to the matters asserted in the petition, including, but not limited to, the appropriateness of the bargaining unit and, to the extent known, whether any employees sought by petitioner to be included should be excluded from the unit. The employer must also provide at this time clear and convincing evidence of any alleged fraud or coercion in obtaining majority support. If a party agrees to the appropriateness of the unit proposed in the petition, it shall so indicate. If a party disagrees with the unit proposed in the petition, it shall describe with particularity what it considers to be an appropriate unit, and shall include a description of the job titles and classifications of the employees to be included and of those to be excluded. The Board's agent shall grant reasonable requests for extensions of time to prepare a position statement based upon the size or scope of the petitioned for unit.

4) The setting forth of a party's position with respect to the appropriate unit shall not be deemed to waive or otherwise preclude the right of that party to subsequently assert a different position with respect to what unit it considers appropriate.

5) Fraud or Coercion

A) A party or individual alleging that the petitioner’s evidence of majority support was obtained fraudulently or through coercion must provide evidence of that fraud or coercion to the Board or its agent. If a party has not provided evidence demonstrating a material issue of fact or law relating to fraud or coercion, the Board will certify the union as the unit’s exclusive representative if it is determined to have majority support.

B) If the Board finds a party has provided evidence demonstrating a material issue of fact or law relating to fraud or coercion, it will conduct a hearing to determine whether there is clear and convincing evidence of fraud or coercion. All parties shall be given a minimum of 14 days notice of the hearing. If the Board finds clear and convincing evidence of fraud or coercion, the Board will conduct an election in the petitioned for unit to determine majority support for the petitioner. If the Board finds clear and convincing evidence of fraud or coercion to be lacking, it will determine majority support for the petitioner based upon the evidence filed with the petition. As an alternative to submitting the issue of clear and convincing evidence to hearing, the parties may agree to a Board-conducted election in the unit.

6) Upon receipt of the petition, the Board or its agent shall investigate the petition. If, for any reason during the investigation, the Board or its agent discovers that the petition may be inappropriate, the Board or its agent may issue an order to show cause requesting that the petitioner provide sufficient evidence to overcome the inappropriateness. Failure to provide sufficient evidence of the petition's appropriateness can result in the dismissal of the petition. Moreover, in conjunction with subsection (b)(3), if, for any reason during the investigation, the Board or its agent discovers that the employer's objections to the majority interest petition are insufficient in either law or fact, the Board or its agent may issue an order to show cause requesting that the employer or union provide sufficient evidence to support its defenses. Failure to provide sufficient evidence can result in the waiver of defenses.

7) Results of the Investigation

A) After the investigation, the Executive Director shall dismiss a petition, or the Administrative Law Judge shall recommend to the Board that a petition be dismissed, when a petition has been filed untimely; when the bargaining unit is clearly inappropriate; when the showing of interest is not adequate; when the employer is not covered by the Act; when the employees are not covered by the Act; or for any other reason there is no reasonable cause to believe that a question of representation exists. Parties may appeal the Executive Director's order or the Administrative Law Judge's recommended decision and order in accordance with 80 Ill. Adm. Code 1200.135.

B) Where there are no unit appropriateness or exclusion issues, or any other issues necessitating a hearing, the Executive Director will prepare a tally of the finding of majority support and certify the petitioner as the unit’s exclusive representative within 20 days after the service of the petition. Where there are unit or exclusion issues, but the number of the contested positions is not sufficient to affect the determination of majority support, then the Executive Director will, within 20 days after service of the petition, prepare a tally of the finding of majority support and issue a certification and the tally concerning the employees not in dispute. The disputed employees’ inclusion in the unit will be subject to the Board’s unit clarification procedures. Where the number of contested employees is determinative of the outcome, the Board will impound the showing of interest and will resolve the unit appropriateness and exclusion issues through its hearing procedures.

C) If the investigation discloses that there is reasonable cause to believe that there are unresolved issues relating to the question concerning representation, the Board shall set the matter for hearing before an Administrative Law Judge. All parties shall be given a minimum of 14 days notice of the hearing.

8) No intervention petitions will be permitted in majority interest cases. If a labor organization seeks to file a representation petition for the same or a similar unit to the one described in a majority interest petition, it may file an election petition pursuant to the procedures of this Part. Where more than one petition exists for the same or a similar unit of employees, the Board will direct an election in the appropriate unit to determine the employees' choice of representative.

(Source: Amended at 28 Ill. Reg. 4172, effective February 19, 2004)