

CHAPTER 15
RETENTION AND RECERTIFICATION ELECTIONS

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/7/28

621—15.1(20) General procedures. When an employer and certified employee organization are parties to a collective bargaining agreement, the agency shall conduct an election, prior to the expiration of a collective bargaining agreement between an employer and a certified employee organization, to determine if the employees in a represented bargaining unit wish to retain and recertify the unit's certified representative. The agency shall determine the date of the election or election period and the place, method, and other procedural aspects of conducting a retention and recertification election held pursuant to Iowa Code chapter 20. Elections shall be conducted under the direction and supervision of the agency or its election agent and shall be by secret ballot.

Official notices relevant to the election will be delivered through secure upload PERB (suPERB). Each election will be assigned a "BU" number in suPERB. A party shall file electronically all documents in the party's respective BU case file in suPERB unless the rules specify otherwise. Notification of events requiring attention of parties shall be produced by suPERB. The election fee shall be calculated and delivered to employee representatives through suPERB.

Employers and certified employee organizations shall have a representative or agent for service listed in suPERB and the electronic document management system (EDMS). Employers and certified employee organizations have a continuing duty to update the representative or agent for service in suPERB and EDMS. Employees in a bargaining unit designated as a transit unit will not be subject to retention and recertification elections.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.2(20) Election calendar.

15.2(1) Fall election.

a. The fall election shall be conducted by electronic voting provided for by a vendor selected by the agency.

b. The fall election shall commence on the second Tuesday in October at 8 a.m. and shall apply to all collective bargaining agreements which expire the following year on June 30 or on a date between 270 and 365 days after the end of the election.

c. Voting in the fall election shall cease at 9 a.m. on the fourth Tuesday in October following the commencement of the election.

d. The fall election calendar shall be as follows (if any event designated by this subrule occurs on a Saturday or Sunday or any day on which the agency's office is closed due to a state holiday, the time for the event shall be extended to include the next business day):

Event Date	Event
August 1	Employers may voluntarily begin to upload voter lists in suPERB.
August 15	The agency files notices of intent to conduct a retention/recertification election.
August 18	Any contract extensions must be received by the agency. If the parties reach an agreement on an extension and have notified the agency in writing by this date, an election will not be conducted. Additionally, if either party chooses to file an objection to the notice of intent to conduct a recertification/retention election, such objections must be filed in EDMS.
August 25	Deadline for an employer to upload a voter list in suPERB.
August 26	If an employer fails to upload the voter list, the agency will file a notice of show cause hearing to be held.
August 28	Employer show cause hearings, if necessary, must be completed.
September 1	Deadline for employee organizations to approve the employer's voter list in suPERB.

September 2	If an employee organization fails to approve the voter list, the agency will file a notice of show cause hearing to be held.
September 4	Employee organizations' show cause hearings, if necessary, must be completed.
September 9	The agency shall notify employee organizations of the applicable fees for the retention/recertification election.
September 19	Deadline for employee organizations to submit the retention/recertification fee. This is also the last day for the parties to agree to changes to the voting list.
September 20	The agency shall issue the order directing the retention/recertification election.
Second Tuesday in October	Commencement of election period beginning at 8 a.m.
Fourth Tuesday in October	Cessation of election period at 9 a.m.
Ten days following the fourth Tuesday in October	Deadline for e-filing of objections.

15.2(2) Spring election.

- a. The spring election shall be carried out by mail ballot.
- b. The spring election shall commence with the mailing of ballots to eligible voters no later than the first Tuesday in March and shall apply to all collective bargaining agreements that expire the following year on a date between 270 and 365 days after the end of the spring election.
- c. The spring election will end with the tallying of the ballots on the fourth Friday in March at 9 a.m. All ballots must be received by the agency by this time, or they will not be counted.
- d. The spring election calendar shall be as follows (if any event designated by this subrule occurs on a Saturday or Sunday or any day on which the agency's office is closed due to a state holiday, the time for the event shall be extended to include the next business day):

Event Date	Event
January 1	Employers may voluntarily begin to upload voter lists in suPERB.
January 15	The agency files notices of intent to conduct a retention/recertification election.
January 18	Any contract extensions must be received by the agency. If the parties reach an agreement on an extension and have notified the agency in writing by this date, an election will not be conducted. Additionally, if either party chooses to file an objection to the notice of intent to conduct a recertification/retention election, such objections must be filed in EDMS.
January 25	Deadline for an employer to upload a voter list in suPERB.
January 26	If an employer fails to upload the voter list, the agency will file a notice of show cause hearing to be held.
January 28	Employer show cause hearings, if necessary, must be completed.
February 1	Deadline for employee organizations to approve the employer's voter list in suPERB.
February 2	If an employee organization fails to approve the voter list, the agency will file a notice of show cause hearing to be held.
February 4	Employee organizations' show cause hearings, if necessary, must be completed.
February 9	The agency shall notify employee organizations of the applicable fees for the retention/recertification election.
February 19	Deadline for employee organizations to submit the retention/recertification fee. This is also the last day for the parties to agree to changes to the voting list.
February 20	The agency shall issue the order directing the retention/recertification election.
First Tuesday in March	Commencement of election period begins with the mailing of ballots.
Fourth Friday in March	Cessation of election period at 9 a.m. All ballots must be received to the agency.

Ten days following the fourth Deadline for e-filing of objections.
Friday in March

15.2(3) *Date of the election.* For the purposes of this chapter, the date of an election shall be the date on which the ballots were tallied.

The board will determine which bargaining units are subject to retention and recertification election in the immediate state fiscal year based on the contract uploaded to suPERB. Changes or extensions to contracts uploaded to suPERB after August 18 for fall elections and January 18 for spring elections will not alter the date of the election. If a collective bargaining agreement indicates the agreement is for a term of one year but does not clearly specify the effective commencement and termination dates, the agency will presume the collective bargaining agreement is for a term of one year commencing July 1 and ending June 30 unless the agreement clearly states an alternate term and effective dates.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.3(20) General election procedures.

15.3(1) *Notice of intent to conduct an election.* PERB will issue a notice of intent to conduct an election on August 15 for fall elections and January 15 for spring elections to both the employer and employee representatives designated in suPERB.

15.3(2) *Initial filing of approved list by employer.*

a. When the agency files a notice of intent to conduct a retention and recertification election, the employer shall, no later than August 25 for fall elections and no later than January 25 for spring elections, submit to the agency through suPERB an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall include an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; job classifications of the employees; each employee's date of birth; the last four digits of each employee's social security number; and any other information required by the agency.

b. The employer shall email the certified employee organization's representatives that it submitted the list in suPERB. The suPERB system shall notify the parties that the employer filed the list.

c. For each election, the employer is obligated to file a new list. If the employer uploaded a current list of employees and their relevant information in the designated bargaining unit satisfying this subrule prior to August 1, the employer will approve the previously uploaded list in suPERB. For spring elections, this date will be January 1. The employer may upload a list prior to the filing by the agency of the notice of intent to conduct an election. The employer may do so any time after August 1 for fall elections and any time after January 1 for spring elections. Lists uploaded prior to the filing of the notice of intent to conduct an election shall be used for the upcoming election.

15.3(3) *Failure to upload an employee list.*

a. If an employer fails to file and approve the voter list by the deadlines established in subrules 15.2(1) and 15.2(2), the agency will order an in-person show cause hearing. The agency may provide reasonable accommodation to extend the filing period up to three days after the hearing in cases of demonstrated inability to create and file a list beyond the control of the employer.

b. Providing the employer an extension will automatically provide the employee organization an extension of a commensurate number of days to approve the list and pay the election fee.

c. The agency may take official notice of a failure to comply with Iowa Code chapter 20.

d. Failure of an employer to file a list will result in automatic recertification of the bargaining unit.

15.3(4) *Employer organization approval of the list.*

a. An employee organization shall have the periods established in subrules 15.2(1) and 15.2(2) to approve an eligible voter list. Eligible voters are those employees who were employed and included in the bargaining unit on the date of the deadline for the employer to submit the list as established in subrules 15.2(1) and 15.2(2). There will be no additions to the list after August 31 and February 1.

b. An employee organization shall utilize suPERB to suggest modifications to the list. The employer shall promptly review changes and make appropriate changes to the list when in agreement. The employer shall securely file any mutually agreed upon amended list in suPERB prior to the close of the list.

Intentional or unreasonable obstruction by either party of list amendment shall be grounds for election objection.

c. If an employer of a respective bargaining unit fails to file a list and the board grants an extension, the employee organization shall be granted the same extensions for approval of eligible voters and payment of the election fee.

d. If an employee organization fails to approve a voter list by the deadlines established in subrules 15.2(1) and 15.2(2), the agency will order a show cause hearing. The agency may provide reasonable accommodation to extend the upload period up to three days after the hearing in cases of demonstrated inability to suggest changes and approve an eligible voter list.

e. If the employee organization fails to approve a list by the deadlines established in subrules 15.2(1) and 15.2(2), the agency will use the list currently uploaded to suPERB by the employer for the current election cycle.

15.3(5) *Employer's responsibility.*

a. It is the employer's responsibility to maintain accuracy of the list. It is the employer's responsibility to add or remove any employees who become employed or are no longer employed by the employer up until the list is final.

b. For any employees on the final list who become unemployed prior to the close of the election and after the deadline for changes to the list, the employer shall notify the agency and the employee organization. If, after the tally of the ballot, the removal of the voter would be outcome determinative, the agency will re-tally the ballots as if the employee who is no longer employed was never on the list.

c. If the employer fails to notify the agency and the employee organization that an employee is no longer employed with the employer, such failure shall constitute grounds for an objection.

15.3(6) *Final voter list.* The final voter list will be the contents of the list filed in suPERB as of the dates established in subrules 15.2(1) and 15.2(2). No additions or subtractions will occur after those dates.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.4(20) Election fee.

15.4(1) *Computation of election fee.*

a. *Fall election fee.* The fee for fall elections shall be the greater of \$2 per voter or \$20 per bargaining unit. Employee organizations will be notified by suPERB on September 9 of the required fee and will have until September 19 to pay the election fee in accordance with subrules 15.2(1) and 15.4(5).

b. *Spring election fee.* The fee for spring elections shall be the greater of \$3 per voter or \$50 per bargaining unit. Employee organizations will be notified by suPERB on February 9 of the required fee and will have until February 19 to pay the election fee in accordance with subrules 15.2(2) and 15.4(5).

15.4(2) *Employee organization responsibility for the fee.*

a. The employee organization is responsible for and shall prepay the election fee in accordance with this chapter. PERB will send notice to employee organizations through suPERB on the dates provided for in subrules 15.2(1) and 15.2(2) of the amount due for each specific bargaining unit based on the number of eligible voters on the final list in a unit times the fee determined in subrule 15.4(1).

b. The number of voters on the eligible voter list at the end of the period for the employee organization to approve the voter list as provided for in subrules 15.2(1) and 15.2(2) shall be the number of voters used to calculate the fee for the election.

15.4(3) *Failure to pay election fee.* Failure to pay the election fee by the deadline shall result in an automatic revocation. If the election fee is not paid by the deadline, the agency shall issue an order decertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit in accordance with subrule 15.6(3).

15.4(4) *Election cost shortfall.* If the amount submitted in aggregate for all elections occurring in the current year does not exceed the amount due for services provided by a designated election vendor, PERB may pay the difference and assess the amount to the election in the following year.

15.4(5) *Payment of election fee.* The employee organization shall pay the election fee by check payable to the agency, and the fee is deemed paid upon receipt by the agency or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was made.

15.4(6) Refunds. The agency will not refund the election fee in the event the election is paid and the agency has performed duties to conduct the election but the election does not occur.

15.4(7) Extension requests to pay election fee. At any time prior to the date upon which the election fee is due, the employee organization may request an extension of time to pay the election fee. The agency shall grant the extension of time to pay the election fee for good cause.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.5(20) Election notice and electioneering. Following the public employer's submission of the list of eligible voters as provided in rule 621—15.3(20) and the agency's receipt of the applicable election fee from the certified employee organization, the agency will file an order directing a retention and recertification election in suPERB. Notice shall be provided to the employer representative and employee representative. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees. Such notice shall contain a sample ballot or script and shall set forth the dates of the election period; the time, place, method, and purpose of the election; and such additional information as the agency may deem appropriate.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.6(20) Tallying and certification of results.

15.6(1) Ballots. Ballots shall contain the question, "Do you want [name of certified employee organization] to be retained and recertified and continue to be your exclusive bargaining representative?" followed by the choices "Yes" or "No."

15.6(2) Recertifying employee organization. Upon completion of a valid retention and recertification election in which an employee organization received the votes of a majority of employees in the bargaining unit, the agency shall file an order recertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit. This notice shall be filed in suPERB and be available to both the employer and employee representative.

15.6(3) Decertifying employee organization. Upon completion of a valid retention and recertification election in which a majority of the public employees in the bargaining unit did not vote to retain and recertify the representative, the agency, after the period for filing objections has lapsed, shall immediately file an order decertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit. The public employees shall not be represented by the employee organization except when pursuant to the filing of a subsequent petition for certification of an employee organization as provided in Iowa Code section 20.14 and an election conducted pursuant to such petition.

15.6(4) Inoperable voting system. The board may extend the period of the election due to inoperable voting systems.

15.6(5) Alternate voting method. When a voter promptly informs the agency of the voter's inability to cast a ballot using the designated methods of voting, the agency shall assist the voter in using an alternate method to cast a secret ballot.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.7(20) Objections.

15.7(1) Objection and notice regarding notice of intent to conduct an election.

a. The certified employee organization or public employer may file an objection asserting that the election should not be conducted for reasons set forth in the objection. The objection shall be in writing and electronically filed in EDMS no later than seven days following the date of the notice of intent to conduct an election. The agency may conduct a preliminary investigation of the objection and determine if the objection has merit. The agency may informally resolve objections and will dismiss objections without merit. The agency will schedule hearings for all other objections. Hearings on objections shall be conducted pursuant to 621—Chapter 2. The objecting party shall present its evidence first.

b. If the agency fails to file a notice of intent to conduct an election, the public employer or certified employee organization may file with the agency in suPERB a notice asserting the election should be conducted for reasons set forth in the notice. The notice shall be electronically filed no later than seven

days following the date the notice of intent to conduct an election should have been filed pursuant to the retention and recertification election schedule as set forth by the agency. The parties shall submit to the agency all relevant information requested. The agency shall conduct an investigation to determine whether the election is required by statute and rule.

15.7(2) Voter eligibility challenges.

a. General. A party may challenge, for good cause, the eligibility of any voter. The agency shall attempt to resolve the challenge. Whenever challenged ballots are unresolved and determinative of the outcome of an election, a hearing to determine the eligibility of the challenged voter(s) shall be scheduled and conducted. After the conclusion of the hearing, the board may, if necessary, determine the appropriate remedy, which may include ordering a new election, and the cost of the new election may be taxed to the nonprevailing party.

b. Methods and timing of voter eligibility challenges. A party may challenge the eligibility of a voter by electronically filing a completed voter eligibility form in suPERB and in accordance with the following:

(1) In-person elections. A party shall challenge a voter's eligibility prior to the time the voter deposits the voter's ballot in the ballot box. In the event of a challenge, the challenged voter may mark the ballot in secret and the election agent shall segregate the ballot by causing it to be placed in a challenged-ballot envelope with appropriate markings and depositing it in the ballot box.

(2) Mail-ballot elections. A party shall challenge a voter's eligibility prior to the time the outer envelope containing the voter's secret envelope and ballot is opened. In the event of a challenge, both the secret envelope and the outer envelope shall remain sealed until the challenge is resolved.

(3) Telephonic/web-based elections. A party shall challenge a voter's eligibility at least seven days prior to the commencement of the election period for telephonic/web-based elections.

c. Postelection challenges. A certified employee organization may make postelection challenges to the total number of bargaining unit employees for their respective retention and recertification elections. The certified employee organization may file a postelection challenge in EDMS to the number of bargaining unit employees if an eligible voter has left employment and is no longer in the bargaining unit prior to the close of the election or election period. The employee organization shall file in EDMS this postelection challenge within ten days of the filing of the tally of ballots. The agency shall attempt to resolve the dispute. Whenever postelection challenges are unresolved and determinative of the outcome of an election, a hearing to determine whether an eligible voter left employment and was no longer in the bargaining unit prior to the close of the election or election period shall be scheduled and conducted. The board may make appropriate adjustments to the tally or order a new election based on the board's findings and conclusions.

d. Objections to an election. 621—subrule 5.4(2) contains information about objections to an election.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.8(20) Spring elections. Spring elections will be conducted with mail-ballot election procedures described in 621—subrule 5.3(2). The ballots will be mailed by the agency in accordance with subrule 15.2(2).

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.9(20) Elections not 270 days to 365 days after fall or spring election. If the date of expiration of a collective bargaining agreement requires an election not 270 days to 365 days after the fall or spring election, suPERB will immediately alert the agency, the employer and the employee representatives. In this event, PERB will within 14 days establish a future date of election to be held beginning on a Monday of the first full week in an appropriate month that allows for compliance with Iowa Code section 20.15(2) "a." All applicable dates will be established upon the selection of the election time period and will follow the same general procedures and timelines described in this chapter.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.10(20) Transit units. Units recognized as transit units under Iowa Code section 20.32 and designated as such in suPERB pursuant to 621—subrule 6.6(3) will not be served a notice of intent to

conduct an election. If a transit unit does receive a notice in error, the unit may immediately petition the board to be removed from the election. The agency may informally determine the unit's transit status and remove the unit from the recertification election. Once a transit determination has been made, the unit shall be considered transit by default unless designated otherwise.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

These rules are intended to implement Iowa Code chapter 20.

[Filed ARC 4458C (Notice ARC 4366C, IAB 3/27/19), IAB 5/22/19, effective 6/26/19]

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