

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]