

OBJECTIONS & RESPONSES

INTRODUCTION

Two processes go on at the same time during a revocation application:

1. an officer investigates facts for the Board, and then the Board makes a ruling; and
2. the people affected (i.e., the employer, union and employees) decide whether they oppose the application or want to raise concerns over particular issues.

It is critical that the parties get the information they need with enough time to make informed decisions. Late reports deny the parties the time they need to assess their position and prepare their cases.

Throughout the process, find out what concerns parties or employees have about the application. Work to resolve these issues if possible. Mention the facts pertaining to unresolved issues in the report. This alone may help disclose and resolve the dispute. Even if it does not, keep working with the parties up to and after the hearing.

This part of the policy describes:

- how employees get notice of the application and how they can raise their concerns; and
- how employers, unions and other affected parties file objections.

EMPLOYEE NOTICES AND INVOLVEMENT

The Board notifies employees that the applicant has made an application for revocation. It does this by having the employer post a Notice to Employer and Employees at the worksite. This notice describes the application and gives the hearing date. It tells employees how to contact the Board if they want to make any submissions about the application. See: [*Standard Letters & Documents, Chapter 23(i)*].

The employer gets the notice with its first letter. This letter directs the employer to post the notice at the worksites and then to confirm posting with the Board officer. Officers record this confirmation in the LRO Comments section of the database if the employer does not confirm the posting in writing. Officers must contact the employer if they fail to confirm posting within a reasonable time. When employers fail or refuse to post notices, officers should arrange posting themselves.

The notice is the only information the Board gives directly to employees before the hearing. If employees want to become involved in the application further, they must contact the Board. There are several levels of employee involvement:

- Employees may telephone the officer for information about the application.
- Employees may express their support for or opposition to the application by filing a petition. Petitions signed after the application was filed have little effect on it. This is because revocations, except those filed by former employers or trade unions, go to vote anyway. Petitions signed before the filing of the application may affect the 40% support question.
- Employees (other than the spokesperson for the petitioners in an employee-initiated revocation application) may wish to become formal intervenors in the application. Add and link them through the database. Give them full notice of the proceedings. The Board panel will give directions on the extent they will be able to participate in any hearing.
- Employees may write to the Board to express their point of view. If the letter suggests the employee might wish further information or more formal involvement in the proceedings, the officer should contact that employee by telephone.

The Board has a 1-800 toll-free telephone number with a message and an answering machine. This is to make it easier for employees to contact the Board about applications, and to file objections if they wish. Treat employees who choose to register formal objections and become involved as intervenors in the same way as any other affected party, as described below.

FORMAL OBJECTIONS AND RESPONSES

Employers, trade unions and employees may choose to object to an application for revocation. To do so, they must register an objection with the Board. This must be done in writing in a clear, specific and detailed manner. The Board expects more than a general objection without particulars. Rather than saying “the application is not timely” the objector should say why that is so.

Often, affected parties file a first letter setting out their interest in the application and raising their general concerns. They may then wait for the officer’s report before raising more specific objections.

The Board normally requires all objections to be in at least a full business day before the scheduled hearing. The Board has the discretion to accept late objections or to adjourn a hearing, but only does so cautiously.

Parties may raise concerns before the officer completes the report. In any event, the officer should talk to all affected parties about the application and find out their concerns. The officer should try to resolve as many issues as possible. The report should provide all the information available to let the Board decide the issues the parties are likely to raise. Do not, however, delay the report just in the hope of achieving settlement.

The Director of Settlement's letter sending out the officer's report tells all affected parties they must file their formal objections to the officer's report so the Board and the parties get one full business day of notice of the objections before the hearing. Parties must particularize their objections to the officer's report. If the report goes out late, the Board may change the deadline or the hearing date with suitable notice to the parties.

Acknowledge all correspondence and formal objections. **Be careful to protect employee petition support information.** Send copies of all correspondence to all affected parties and their counsel. Parties should send all letters and objections to each other. Officers should make sure all parties have all the necessary correspondence before the hearing.

Parties who need Notices to Attend must follow the procedures set out in [Information Bulletin #5](#). See: [[Notice to Attend/Produce, Chapter 32](#)].

The Board usually avoids dealing with inclusion or exclusion disputes at the hearing unless they affect the 40% support. If the 40% support is jeopardized, the Chair or Vice-Chair orders a vote (based on the initial investigation report) with the ballot box sealed at the end of the vote. Then the Board conducts a panel hearing with the parties to deal with the 40% issue and any other objections. Sometimes the hearing into the 40% objections is held as scheduled before the vote is ordered. This should not prevent the officer from trying to sort out these issues wherever possible during the process. Record any agreement as this will reduce delays after the vote. If such disputes remain, the returning officer makes a ruling at the polling station if the disputed individual attends to vote. If someone challenges the ruling, the returning officer seals the ballot boxes and returns them to the Board. The Board then schedules the dispute for hearing as soon as possible. See: [[Representation Votes, Chapter 28\(a\)](#); [Employee Vote Procedures, Chapter 28\(f\)](#)].