

ADD-ON UNITS

INTRODUCTION

The Board sometimes receives applications to “add on” a group of employees to an existing certificate. For example, a union may be certified for “All employees except delivery drivers.” Subsequently, the union may wish incorporate the delivery drivers into its certificate. To do so, the union may file a reconsideration application with the Board. This chapter addresses these “add-on units” by covering:

- add-on units vs. extension of a certificate;
- add-on units vs. modification of a certificate;
- reconsideration applications;
- receiving the application;
- processing the application; and
- the disposition of the application.

ADD-ON UNITS vs. EXTENSION OF A CERTIFICATE

A union may be certified for some of an employer’s employees and also be voluntarily recognized for another group. If the employer terminates the voluntary recognition pursuant to Section 43(1), the union may apply to extend its certificate under Section 44. See: [[Extension of Certificate, Chapter 26\(c\)](#)]. The Board then conducts a vote of the voluntarily recognized employees. If a majority of the add-on employees support the union, the Board then varies the union’s certificate to include these employees. If the vote fails, then the voluntary recognition is discontinued at the end of the notice period specified in Section 43. The extension of a certificate is different than an add-on unit because the union has no bargaining rights for an add-on unit. Rather, it is seeking to acquire these rights by adding this unit into an existing certificate.

ADD-ON UNITS vs. MODIFICATION OF A CERTIFICATE

Bargaining relations change over time. For example, a union and an employer may over- or under-bargain a certificate. Section 45 allows either party to apply to the Board to modify their certificate to reflect these changes. See: [[Modification of a Certificate, Chapter 26\(a\)](#)]. The modification of a certificate is different than an add-on unit because the union has no bargaining rights for an add-on unit. Rather, it is seeking to acquire these rights by adding this unit into an existing certificate.

RECONSIDERATION APPLICATIONS

Unions often apply to represent an add-on unit by filing a reconsideration application. See: [[Reconsiderations, Chapter 29\(a\)](#)]. Section 12(4) of the [Code](#) provides:

12(4) The Board has exclusive jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Board on them is final and conclusive for all purposes, but the Board may, at any time, whether or not an application has commenced under section 19(2), reconsider any decision, order, directive, declaration or ruling made by it and vary, revoke or affirm the decision, order, directive, declaration or ruling.

The Board's reconsideration power is broad and allows for the Board to vary a certificate. Despite the broad nature of the power, however, the Board cannot use this general power to get around specific statutory directions. This means that, when the Board reconsiders a certificate to include an add-on group, the Board ensures the application is compliant with the certification provisions of the [Code](#). See: [[Certification, Chapter 21](#)].

RECEIVING THE APPLICATION

A reconsideration application is usually in the form of a letter with supporting documents. The applicant must serve the application (excepting evidence of support) on the respondents. See: [[Rules of Procedure 5.1 and 6](#)]. The Director of Settlement checks the application for:

- the names and contact information of all affected parties and their counsel (if any);
- the certificate affected;
- the description of the current bargaining unit and the add-on unit; and
- evidence of support from at least 40% of the add-on unit.

Bring any deficiencies to the attention of the applicant. Have them provide missing information before accepting the application. Enter the matter in the database and open a process file. The Director of Settlement, usually with the officer, decides on a dispute resolution strategy. See: [[Dispute Resolution Initiatives, Chapter 19\(c\)](#)].

PROCESSING THE APPLICATION

The Board normally treats these reconsideration applications like they were certification applications. See: [[Certification, Chapter 21](#)]. This means the Board:

- provides notice to all affected parties including posting a Notice to Employees and Employer and scheduling a hearing within 10 working days;
- seeks information from the employer about the existing and add-on units;
- investigates the application and issuing an officer's report;
- holds a hearing; and
- if necessary, conducts any vote ordered by the Board.

As noted above, including an add-on unit into an existing certificate is another route to certification. This requires that an officer's report consider the following factors:

Employer name: The identity of the employer must be the same as the employer on the existing certificate.

- **Trade union status:** The union must have the necessary status to file the application. This is normally a foregone conclusion given that a certificate has already been issued but it is important to verify. In construction, it may be necessary to check to ensure the add-on group is within the union's territorial jurisdiction.
- **Bargaining unit appropriateness:** The unit comprising the existing unit and the add-on unit must be appropriate. This may be of particular issue in health-care applications where the Board has prescribed standard functional bargaining units.
- **Timeliness:** If there are existing collective agreements affecting the add-on unit, this may pose a barrier to the application. At the very least, this may create questions about which agreement governs the employees.
- **Employees:** It is necessary for the Board to know which employees in the add-on are eligible to support the application. Apply the Voting Rules and statutory exclusions to determine this. It is also important to know how many employees are covered by the current certificate.
- **Evidence of support:** The application must be supported by at 40% of the employees in the add-on unit. Typically, this support is through petition evidence but membership evidence is also acceptable.
- **Voting arrangements:** The officer normally discusses voting arrangements with the parties. Normally, the vote is just of the add-on unit. If there is more than one add-on unit, units may vote separately.

The officer's report is issued to the parties who may then file written objections.

DISPOSITION OF THE APPLICATION

If there are no objections (or if the officer is able to settle the objections), the Board may cancel the hearing and have the matter heard by a Chair or Vice-Chair sitting alone. If the panel is satisfied the application meets the requirements of the [Code](#), it may then order a vote of the add-on unit(s).

If the officer is unable to resolve any disputes, the matter proceeds to hearing. See: [[Hearing and Scheduling, Chapter 34\(a\)](#)]. Once the panel has decided the application, it may direct a vote be held of the add-on unit(s).

If a majority of voters support the application, the Board revokes the existing certificate and issues a new certificate with an amended bargaining unit. Advise the parties in writing. Update the database and close the file.