

PROPOSAL VOTES

INTRODUCTION

The [Code](#) provides for a Board-conducted vote on a proposal to settle a collective bargaining dispute. We call these “proposal votes.” The [Code](#) allows a proposal vote on:

- a party’s most recent collective bargaining offer;
- the recommendations of a mediator; or
- the recommendations of a Disputes Inquiry Board (DIB).

Proposal votes often take place when a strike or lockout is about to start or is in progress. For this reason, the Board conducts a proposal vote as soon as possible. This policy sets out the Board’s procedures and supplements the [Voting Rules](#) and [Information Bulletins #14](#) and [15](#).

WHEN CAN THE APPLICATION BE FILED?

Applicants can apply for a vote on their most recent offer **after** it has been presented to the other party. The parties must have exchanged proposals and engaged in collective bargaining before applying for a vote. See: [[Section 69](#)].

A party can request a vote on the mediator’s recommendations. See: [[Section 66\(3\)](#)]. The applicant must, however, first accept those recommendations. This must be done within the time frame fixed for accepting the mediator’s recommendations.

The Board has no discretion with proposal votes. A party can insist on them being held. The only exception may be where asking for a proposal vote without prior bargaining amounted to a failure to bargain in good faith.

Inform applicants that the [Code](#) allows only one proposal vote. If the proposal is rejected by the voter(s), the applicant cannot ask for a second vote.

INITIAL RECEIPT OF APPLICATION

A party seeking a vote on the mediator’s recommendations or on its last offer must make its application on the Board’s approved form. No formal application form is necessary for a vote on a Disputes Inquiry Board’s recommendations.

Applications arrive by mail, fax, or personal delivery. For more information on handling and coding, see: [[Incoming Mail, Courier and Fax, Chapter 11\(a\)](#)]. Forward them immediately for a Board officer or Director of Settlement review. Encourage applicants who come in person to discuss the application with a Board officer. That way, obvious problems can be corrected right away. Do not date and time stamp applications until reviewed by a Board officer.

REVIEW OF THE APPLICATION

Examine the application and the related documents in detail for completeness and obvious errors. Applications must contain:

- a completed Board application form;
- a certified true copy of the proposal or recommendation;
- a copy of the most recent collective agreement between the parties; and
- an alphabetical voters list of affected employees or employers.

If there are no problems with the personally delivered application, date and time stamp it. Ensure the applicant has served a copy on the respondent.

Discuss any changes with the applicant. Have them make any changes they choose to and initial them. The applicant may also choose to file a new application. After stamping, enter the application in the database and make up a GE file.

REVIEWING THE APPLICATION FOR APPROVAL

At this stage, the Board officer must make sure the proposal vote meets all of the Board's requirements before forwarding it for Board approval. Areas to check include:

- the identity of the parties and the dispute;
- that they are polling all the right people; and
- the timeliness of the vote.

Details of the Parties and the Dispute

Check areas 1 and 2 on the application form. These areas indicate the complete names and addresses of the applicant and respondent. Where a trade union has individual locals, the application must show the proper local union number.

Make sure the parties listed are indeed the parties to the dispute. For example, if an employer engages in formal employers' association group bargaining, it is the association, not the employer, that must apply for any vote.

On the second page, check the Collective Bargaining Information in area 4. Make sure you get a clear understanding of who is involved in the dispute. This may mean checking with Mediation Services, reviewing the collective agreement and reviewing the Board's records concerning the bargaining relationship.

Polling the Right People

The proposal vote application must have a full voters list in alphabetical order. The voters list must be complete before you accept the application. See: [[Voting Rule 18\(e\)](#)]. Confirm the completeness of the voters list with the other party.

Review area 5 for information on the unit of affected voters. Check to make sure the applicant is polling the right group of people. The unit of voters must match the dispute. The [Voting Rules](#) define who is eligible to vote. See the section on voter eligibility below.

At the approval stage, it is not necessary to resolve all objections to the voters list. It is essential, however, that the general description of the voting group is correct. For example, do not approve one proposal vote among employees of several employers unless they are engaged in formal multi-employer bargaining under Section 62. The parties may be trying to combine two disputes. Check with Mediation Services to see if Section 62 group bargaining occurred.

If not, only accept separate applications for each dispute. This means a separate vote for each employer. Difficulty identifying affected employees can occur if the parties are bargaining over changes in the scope of their certificate.

Timeliness

Check area 3 to determine the type of proposal vote requested. For a vote on a party's most recent offer to occur, the applicant must meet the conditions set out in Section 69. These include:

- commencement of bargaining and exchange of bargaining proposals [[Section 60\(1\)](#)];
- tabling an offer which could form a collective agreement [[Section 69\(2\)](#)]; and
- no prior Section 69 vote or poll during the dispute [[Section 69\(3\)](#)].

When the applicant requests a vote on the mediator's recommendations, confirm with Mediation Services that the mediator issued recommendations under Section 65(5)(c). Also, see if the applicant accepted within the time fixed by the mediator. If not, the Board cannot conduct a vote. Sometimes a mediator will not issue recommendations under that section and will write out of the dispute. Later on, the mediator may become involved again and make recommendations for settlement. Often these are called "suggestions for settlement." Such "extra" recommendations do not trigger the right to a vote under Section 66(3). Be sure that the applicant has accepted the offer unconditionally, before you accept the proposal vote application. Acceptance subject to ratification does not qualify.

Check area 4 for background information. The information should show whether the vote is timely for the type of requested vote. This ties into the issues discussed before.

DISPUTES INQUIRY BOARD VOTES

Adopt similar procedures for DIB votes. The [Code](#) requires the Board to conduct a proposal vote on any unaccepted recommendations of a Disputes Inquiry Board. See: [[Section 107\(2\)](#)]. If the Board conducts such a vote, treat it as a Board-initiated application. This includes coding it as an application under the established procedures discussed previously.

Obtain a copy of the recommendations directly from the DIB. Make sure the parties to the dispute have not accepted the recommendations within the required time frame. Normally this is 10 days from issuance of the recommendations. See: [[Section 107\(2\)](#)]. If further clarification of the recommendations was required under Section 109, then the 10-day period commences after issuance of the clarification. The Board **must** wait until the 10-day period has expired before holding the vote or poll.

[Voting Rule 20\(3\)](#) states voter eligibility is determined as of the date of the Disputes Inquiry Board's recommendations or decision.

For a vote involving employees, obtain an alphabetical list of affected employees from the bargaining agent or the employer. Use this for the preliminary voters list.

For a vote where the party is an employers' organization, obtain the list of affected employers from the employers' organization.

In the case of a registered employers' organization, ask the union to provide the names and addresses of other affected employers. Add the names to the list provided by the employers' organization. The union may have additional bargaining rights with various employers that the employers' organization is not aware of. These employers may not be members of the registered employers' organization. The registered employers' organization hold their bargaining rights regardless of whether they are members or not.

Find out, from the employers' organization, if they have a weighted vote system for ratification under [Section 61\(6\)](#). If there is, conduct the vote and determine the vote results on the basis of the weighted vote system.

If the vote involves a single employer, obtain the name and address of the employer from the Disputes Inquiry Board. Confirm the completeness of the voters list with the other party.

Discuss the details of the vote with both parties. Determine suitable vote arrangements with the parties. For more information, see *Preliminary Directions* below.

Distribute the DIB's recommendations as you would any other proposal being voted on. See *Distribution of Proposal* below. Conduct the vote as outlined in *Conduct of the Vote* below.

When the vote involves a single employer, conduct the poll in the same way as a lockout poll. Issue a ballot to the employer to mark.

ACKNOWLEDGEMENT AND PROCESSING

Call the respondent immediately after accepting the application. If the applicant hasn't served the application on the respondent, advise of the application and forward a copy of the proposal and the voters list right away.

Send Mediation Services a copy of the application. Make a check mark at the top of the first page to confirm this is done.

Prepare the appropriate acknowledgement letters. Input these letters as well as later letters and vote documents as supporting documents. Review the letters for typographical errors. Send the respondent a copy of the [Voting Rules](#) and [Information Bulletin #15](#), along with their letter.

THE PROPOSAL

Where the vote concerns a mediator's recommendation, the applicant provides a true copy of the recommendation. See: [[Voting Rule 18](#)]. The Board gets a copy of the report directly if the proposal is a Disputes Inquiry Board report.

Where a party applies for a vote on its last collective bargaining offer, that offer may not be entirely in writing. The Board expects the applicant to provide an accurate and complete written version of its last contract offer. An authorized representative of the applicant must certify the offer true and complete. See: [[Voting Rule 19\(1\)\(b\)](#)]. There should be no editorial comment in this last offer.

The offer must have already been **presented** directly to the other party before seeking a Board-conducted proposal vote. Proposal votes are an aid to bargaining, not a substitute. The purpose of the vote is not to circumvent the presentation of a proposal to the other party. That approach leaves no room to seek explanation of the offer or the opportunity for acceptance.

[Voting Rule 19\(1\)\(c\)](#) says the applicant has to serve the respondent with a copy of the proposal. If this has not occurred, send a copy of the proposal to the respondent immediately. The proposal voted upon must be the same offer presented in bargaining. Confirm that the one filed is the same, in substance, as the original offer.

The Board encourages applicants to draft last-offer proposals in clear and concise language. If it is in summary form, voters can easily compare the proposal to the last collective agreement. Voters should be able to understand all changes of substance without difficulty. The Director of Settlement may find that a last-offer proposal is confusing or too long. In such cases the Director can recommend amending the proposal in form (for example, by reducing a draft collective agreement to a summary of changed terms). The Director can return the proposal to the applicant for

amendment or clarification. See: [[Voting Rule 8\(i\)](#)].

PRELIMINARY DIRECTIONS

The Director of Settlement is the Chief Returning Officer for proposal votes. Upon receipt of an application, the Director appoints a Returning Officer.

The applicant should have served a copy of the proposal and the voters list to the respondents. If not, give a copy of the proposal to the respondent as soon as possible. Ask the respondent if the proposal is an accurate and complete version of the applicant's most recent offer. If the respondent objects that the proposal, if accepted, could not form a collective agreement, or does not represent the most recent offer, try to informally resolve the dispute between the parties. If unable to resolve it, schedule the objection for hearing on a rush basis.

The Returning Officer contacts the parties to discuss the details of the vote. Review the information provided in areas 4, 5, 6 and 7 of the application to help determine suitable vote arrangements. The officer tries to secure early agreement on the date, time and place of the vote and distribution of the proposal. Set these details so that the maximum number of eligible people can vote. The Board must provide eligible voters with adequate notice of the vote. Normally, it gives a minimum of 24 hours notice. The Returning Officer makes preliminary directions over disputed arrangements.

Hold a proposal vote for employees on the employer's premises or at a work site where a significant number of employees work. The exception is where a strike or lockout is already in effect or will take place by the time of the vote. In cases such as these, choose an alternate location such as a hotel, community hall or other close facility.

The Director of Settlement may direct an advance poll or mail-in vote. Because of the urgent nature of most proposal votes, advance polls will be rare. Mail-in votes are ordered only when there is no threat of an imminent strike or lockout.

A trade union can seek a vote among employers represented by an employers' organization only under Section 60 or construction registration bargaining. The Returning Officer may require the employers' organization to provide this information.

If a party objects to a preliminary direction of a Returning Officer or the Director of Settlement, it can make written objection to the Board under [Voting Rule 12](#). It must provide reasons for the objection within 24 hours of notification of the direction. The Board holds an expedited hearing to deal with the objection.

VOTER ELIGIBILITY

The applicant is responsible for providing a preliminary list of voters. Eligible voters must meet the requirements of [Voting Rules 16 and 17](#) where the vote involves a mediator's recommendations or a party's most recent offer. [Voting Rule 20\(3\)](#) determines voter eligibility in a vote on a Disputes

Inquiry Board's recommendations.

The Board does not hear challenges to the eligibility of individual voters in advance of the vote. If a party objects that the voters list is unrepresentative of the bargaining unit (for example, entire groups or classes of employees are wrongly included or excluded), it can formally object in writing. The Board may convene an expedited hearing to resolve this kind of objection.

Even if there is a dispute about eligibility, it is possible to proceed with the vote, using double-sealed ballots. If the returning officer cannot resolve the disputed ballots at the close of the poll, the Board can deal with them at an expedited hearing.

DISTRIBUTION OF THE PROPOSAL

The Returning Officer decides how to distribute the proposal to voters. See: [[Voting Rule 21](#)]. In votes of employees, the preferred method is posting a Notice of Vote with the proposal (and often the most recent collective agreement) attached. In larger bargaining units, use multiple postings. Post notices in locations where the employees will see them such as the work site, union hall, employee bulletin board.

For votes among employers, the normal practice is to mail or courier the proposal. When using a mail-in vote, send a ballot with the proposal. Handle mail-in votes in the same fashion as representation votes.

The applicant should pay for courier costs whenever possible. Also the applicant should provide an adequate number of copies of its proposal or collective agreement for distribution. This reduces the Board's cost and enables the vote to proceed faster.

HEARINGS

The Board does not hold formal hearings before all proposal votes take place. It holds hearings before the vote to deal with certain raised objections. Where there are no objections, a Chair or Vice-Chair sitting alone deals with the vote without a formal hearing.

Before presenting the proposal vote application to the Board, the officer must be satisfied that the applicant meets all of the statutory requirements and the rules. If they have not, raise the deficiencies with the Board.

The Board panel must satisfy itself that the offer, if accepted, could form the basis of a collective agreement. The Board will examine the proposal to ensure that voters can understand the terms of the proposed agreement. Also the Board must be satisfied that the last offer being voted upon is indeed the party's most recent offer presented to the other party. Where the Board is sure that the vote is proper, it orders a Board-conducted vote. Prepare a hearing summary to reflect the Board's decision. See: [[Hearing Summaries, Chapter 34\(b\)\(ii\)](#)].

CONDUCT OF THE VOTE

Upon setting the vote details and resolving all preliminary questions, conduct a proposal vote in exactly the same manner as a representation vote. Prepare and send letters as well as [Notice of Vote](#) confirming the details of the vote. The locations and method of posting the Notice of Vote together with the proposal are covered under *Distribution of the Proposal* above. Enter these letters as supporting documents as well as any later letters and documents.

The wording of the ballots is:

- **Mediator's Recommendations:** Are you in favour of the Mediator's recommendations? Yes/No.
- **Disputes Inquiry Board:** Do you accept the recommendations of the Disputes Inquiry Board? Yes/No.
- **Trade Union's Latest Proposal:** Do you accept the Trade Union's most recent offer? Yes/No.
- **Single Employer's Latest Proposal:** Do you accept the Employer's most recent offer? Yes/No.
- **Multiple Employers' Latest Proposal:** Do you accept the Employers Organization's latest offer? Yes/No.

Objections to voter eligibility may arise at the polling station. Voting Rules 16 and 17 determine voter eligibility. The Returning Officer can deal with objections over voter eligibility at the time of the vote. See: [[Voting Rule 11\(e\)\(g\)](#)].

If unable to resolve them, make a ruling on the objection. Then proceed to count the ballots unless there are disputed ballots outstanding

The scrutineer does not automatically waive objections by signing the Scrutineers Certificate. Objections can still be filed under Rule 12. The scrutineers certificate does not have to be signed in order to count the ballots.

The rules also allow objections after the vote. See: [[Voting Rule 12](#)]. The objecting party must submit its objections to the Board, in writing, within 24 hours of the closing of the polls. If necessary, objections can be filed in writing and given to the Returning Officer, for example, on a weekend.

In multiple polls, seal the ballot boxes and transport to one location for counting. Before counting, examine the sealed ballot boxes for evidence of tampering. If the seals are intact, mix the contents of the individual boxes before counting the ballots.

DECLARATION OF VOTE

At the end of the vote, resolve any remaining objections. Fill out the Scrutineers Certificate immediately upon completion of the vote and before counting the ballots. Upon counting the ballots, complete the Declaration of Vote.

In some instances an employers' organization requires ratification by the employers using a weighted vote system. See: [[Section 61\(6\)](#)]. If this is the case, this weighted vote system also governs the proposal vote. See: [[Section 70\(4\)](#)].

Complete the declaration in full with the results shown. Have the Returning Officer and each scrutineer sign the declaration.

Do not release the vote results to outside parties, such as the media, until the Board tells the affected parties and the 24-hour objection period has passed. Send Mediation Services a copy of the declaration results immediately after the vote count. Enter the vote results into the database immediately. After the 24-hour objection period has passed, send the Vote Declaration results to the parties. Conclude the matter on the Board's database.