

OTHER VOTES

INTRODUCTION

Sometimes a vote is useful to get an indication of employee or employer wishes. This type of vote differs from representation, proposal, strike and lockout votes. Section 15(3) states:

15(3) The Board

- (a) may on the request of an employer, employers' organization or trade union or on receipt of a petition signed by not fewer than 50% of the employees in a unit, and
- (b) shall on the direction of the Minister,

conduct a vote on any question involving the relations between an employer and the employer's employees in a unit or between an employers' organization and the employers in the employers' organization where it is desirable to have an expression of opinion of the majority of the employees or employers, as the case may be.

This policy sets out the Board's procedures for handling Section 15(3) votes. It supplements the [Voting Rules](#), [Employee Vote Procedures, Chapter 28\(f\)](#), and [Employer Vote Procedures, Chapter 28\(g\)](#). This policy describes:

- discretionary votes;
- Minister-ordered votes;
- receipt and review of the application;
- acknowledgement and processing;
- hearings;
- conduct of the vote; and
- declaration of the vote.

DISCRETIONARY VOTES

Section 15(3) authorizes the Board to conduct votes under certain circumstances.

Who Can Apply and When?

Those eligible can apply for a Section 15(3) vote at any time. The request may be part of another application or complaint before the Board or a separate application. The Board may conduct a vote at the request of:

- an employer;
- an employer's organization;
- a trade union; or
- 50% of the employees in a unit.

In each case, the individuals must have some relationship to the issue they want voted upon. A party seeking a vote applies by letter. If a group of employees seeks a vote, they must attach a petition signed by at least 50% of the employees in the unit.

What Can Be Voted Upon?

The question voted upon can be any issue involving the parties' labour relations. The purpose of such votes is to get an expression of opinion of the employees or employers. The Board may conduct a Section 15(3) vote in any case where it makes labour relations sense to do so. The parties cannot use Section 15(3) votes to replace, or instead of, the votes specifically required under the Code, including proposal votes, strike and lockout votes or representation votes.

Examples of Discretionary Votes

There are several examples where the Board has conducted a Section 15(3) vote:

- Parties agreed on the terms of a settlement, but wanted to get the employees' input, so agreed to ask the Board to conduct a vote of the employees.
- A union narrowly lost a strike vote but wanted to settle the collective agreement. It asked the Board to conduct a Section 15(3) vote as an indicator of what a ratification vote would reveal.
- A union asked the Board to conduct a Section 15(3) vote during province-wide collective bargaining. The bargaining was actually multi-employer bargaining conducted at one table, rather than provincial bargaining through a binding employers' organization. The Board agreed to conduct the vote to assist the parties instead of their seeking individual proposal votes, which might disrupt the province-wide bargaining process.
- The union and an employer trying to work out a consensual mid-contract rollback considered asking the Board to conduct a vote amongst employees on the proposed changes.

Officers or Board members may recommend conducting a Section 15(3) vote as a part of a dispute resolution strategy.

MINISTER-ORDERED VOTES

The Board must conduct a vote if the Minister directs. In such cases, the Chair will normally receive written or verbal instructions from the Minister. Ensure the Chair immediately receives notice of any requests from the Minister's office.

Treat Minister-directed votes as a Board-initiated application. This includes coding it as an application under the established procedures discussed below. In these cases, the Board officer must determine the voters list. It may be necessary to contact the employer or employer's organization to get a complete and detailed list.

The Minister has only once directed such a vote, during a province-wide nurses dispute.

RECEIPT AND REVIEW OF THE APPLICATION

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 it immediately for review by the Director of Settlement. If accepted, date and time stamp it. Enter the application in the database and open a process file. Encourage applicants who come in person to discuss the application with a Board officer. That way, obvious problems can be corrected right away.

Examine the application and the related documents in detail for completeness and obvious errors. See: [[Particulars, Chapter 19\(b\)](#)]. Applications must contain the information required in Rule of Procedure 6 as well as:

- the bargaining relationship involved;
- the question or issue to be voted upon along with the wording for the ballot (subject to Board approval);
- the group to be polled;
- the reasons for seeking the vote; and
- the timing requested for the vote.

The officer should clearly understand who and what is involved in the dispute. Discuss any changes with the applicant. Request and obtain any additional information required. The Board normally deals with these applications quickly as they may promote the settlement of a dispute. Ensure the applicant has served a copy of the application on the respondent(s).

ACKNOWLEDGEMENT AND PROCESSING

Call the respondent immediately after accepting the application. If they haven't received a copy, advise of the application and forward a copy. Prepare the appropriate acknowledgement letters and notices.

When reviewing the application, the officer may recommend other methods of dispute resolution. See: [[Dispute Resolution Initiatives, Chapter 19\(c\)](#)]. The officer should consider:

- Whether the question involves either the relations between the employer and the employees in a unit, or the relations between an employer's organization and its member employers. If it does not, explore other ways to resolve the dispute.
- The purpose for seeking the vote.
- The likelihood of the vote assisting the parties in the dispute.
- The wording of the question to be voted upon. Is it clear? Will the results give the parties the information they require in the dispute?
- Is the applicant asking to poll the right group of people? Begin to develop the voters list. The voting rules define who is eligible to vote.
- What voting arrangements are necessary to ensure the timely conduct of the vote.

In an employee-requested vote, the officer prepares a report showing who is in the bargaining unit and if more than 50% of unit members signed the petition. See: [[Investigation and Report, Chapter 21\(d\)](#)]. These votes are much like proposal votes. For information on the question being voted upon, preliminary directions, voter eligibility, and distribution of the question, see: [[Proposal Votes, Chapter 28\(d\)](#)].

HEARINGS

The Board normally only holds hearings before the vote if someone raises objections. Where there are no objections, the Board deals with a vote request through an administrative panel. Before taking the application to the Board, the officer must be satisfied that the application meets the statutory requirements and rules. If it does not, raise the deficiencies with the Board after advising the parties. Prepare a Hearing Summary to record the panel's decision.

Section 15(3) gives the Board a discretionary power to order these votes other than in a Minister-ordered vote. The Board must be satisfied that a vote is warranted.

CONDUCT OF THE VOTE

When the Board orders a vote, the Director of Settlement is the Chief Returning Officer. The Director can appoint a Returning Officer. The Returning Officer prepares a voters list. This list consists of all affected persons who have an interest in the application. Determine voter eligibility based upon the Voting Rules. For more information, see: [[Proposal Votes, Chapter 28\(d\)](#); [Voting Rules 16, 17, 20\(2\)](#)]. Discuss the details of the vote with both parties. Determine suitable vote arrangements with the parties. Conduct the vote. For more information on votes, see: [[Proposal Votes, Chapter 28\(d\)](#); [Employee Vote Procedures, Chapter 28\(f\)](#); [Employer Vote Procedures, Chapter 28\(g\)](#)].

DECLARATION OF THE VOTE

At the end of the vote, resolve any disputed ballots. 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. 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 parties and the 24-hour objection period has passed. Enter the vote results into the database immediately. After the 24-hour objection period has passed, send the Vote Declaration results to the parties. See: [[Voting Rule 37](#)]. Conclude the matter on the Board's database.