



# VOTING RULES

## PART I: GENERAL

Pursuant to section 15(4)(a) of the *Labour Relations Code*, the Board has the authority to make rules with respect to the manner and procedure for any votes conducted, or supervised by the Board.

### *Definitions*

1. In these Rules,
  - (a) “Board” means the Alberta Labour Relations Board,
  - (b) “Code” means the *Labour Relations Code*,
  - (c) “conducted vote” includes a representation vote, a proposal vote, and a vote directed pursuant to section 15(3) of the Code,
  - (d) “Director of Settlement” means a person appointed to that position by the Chair and any person designated by the Chair to act in the Director’s absence, or for the purposes of Rule 5 and Rule 23, where the powers referred to in those rules have been delegated, the Manager of Settlement.
    - (d.1) “electronic vote” means a conducted vote or a supervised vote that is conducted by means of electronic ballot.
    - (d.2) “electronic ballot” means a ballot submitted by the voter through a secure software platform that records and transmits ballot information electronically. [Amended June 2023]
  - (e) “person” includes an employer, employers’ organization, a trade union, a group of trade unions, an employee and a group of employees,
  - (f) “proposal vote” means
    - (i) a vote on the most recent offer of a party to collective bargaining under section 69 of the Code,
    - (ii) a vote on the recommendations of a mediator under section 68 of the Code, or
    - (iii) a vote on the recommendations of a disputes inquiry board under section 107 of the Code,
  - (g) “representation vote” means a vote to select a bargaining agent or to revoke the bargaining rights of a bargaining agent, and

- (h) “supervised vote” means a strike vote or a lockout vote supervised by the Board pursuant to section 76 of the Code.

### ***Application***

- 1.1 These Rules apply, with any necessary modifications, to votes under the *Public Service Employee Relations Act* and any other statute under which the Board exercises jurisdiction.

### ***Proxy Votes***

- 2. No person shall vote by proxy in a vote conducted or supervised by the Board.

### ***Spoiled Ballots***

- 2.1 Every eligible person shall be entitled to vote by marking a ballot as directed by the Board. Ballots containing any other markings shall be considered spoiled.

### ***Electioneering***

- 3.(1) No person shall electioneer, issue propaganda or interfere with voters at or in the immediate vicinity of a polling station while a vote is in progress.
- (2) The Board may in any case make such further direction with respect to electioneering under section 15(4)(f) of the Code as it deems appropriate.
- 3.1 When it is required or permitted under the Code, the Chair or a Vice-Chair sitting alone may determine who is eligible to vote on any matter.

## **PART II: CONDUCTED VOTES**

### **A. General**

#### ***Director of Settlement***

- 4. The Director of Settlement shall be the chief returning officer for any vote conducted pursuant to the Code.

#### ***Delegation to Manager of Settlement***

- 5. The powers of the Director of Settlement in respect of conducted votes may be delegated to and exercised by the Board’s Manager of Settlement.

### ***Returning Officers***

6. The Director of Settlement may appoint one or more Returning Officers to assist the Director in the administration of a vote.

### ***Deputy Returning Officers***

7. The Director of Settlement may appoint one or more Deputy Returning Officers to prepare and conduct a poll or polls in a vote.

### ***Powers of Returning Officers***

8. Subject to these Rules and any specific directions of the Board, the Director of Settlement or a Returning Officer may
  - (a) Set the date, time, duration, and place for the taking of the vote, including an electronic vote,
  - (b) fix the number and location of polling places,
  - (c) post or cause to be posted notices of a forthcoming vote,
  - (d) set the form of ballot to be used in the vote,
  - (e) direct that an advance poll be conducted of eligible voters who expect to be unavailable to attend the polling station on the date of the vote,
  - (f) direct that a vote be conducted by mail-in ballot or electronic ballot, [*Amended June 2023*]
  - (g) require an affected party to place a specified portion of its premises at the disposal of the Board in order to conduct the vote,
  - (h) require any person to furnish such verbal or written information as the Director considers necessary to establish or verify the eligibility of a person to vote, or
  - (i) give such special directions or instructions as the Director may consider necessary for the proper conduct of the vote, including an electronic vote.

8.1 When considering whether a conducted vote should proceed by electronic ballot or mail-in ballot under 8(f), the Director of Settlement may consider the following factors:

- (a) nature of the workplace, including whether the employees have varying hours of work or different shift schedules;
- (b) size of the bargaining unit or proposed bargaining unit;
- (c) location(s) and number of worksite(s);
- (d) the overall accessibility of the vote; and
- (e) any other relevant factor(s).

8.2 Where a representation vote proceeds by electronic ballot, the employer shall provide the email addresses for employees on the voting list in a form acceptable to the Board so that the Board can use this information for the purposes of conducting the vote.

8.3 Where a representation vote proceeds by mail-in ballot, the employer shall provide the mailing addresses for the employees on the voting list in a form acceptable to the Board so that the Board can use this information for the purposes of conducting the vote.

[Amended June 2023]

### ***Powers of Deputy Returning Officers***

9. Subject to these Rules and any specific directions of the Board, a Deputy Returning Officer may
- (f) post or cause to be posted notices of a forthcoming vote, or
  - (g) require any person to furnish such verbal or written information as he or she considers necessary to establish or verify the eligibility of a person to vote.

### ***Objection to preliminary direction***

10. An affected party may object to a decision or direction of the Director of Settlement, a Returning Officer, or a Deputy Returning Officer under Rule 8 or 9 by filing written objection, with reasons for the objection, with the Board, within twenty-four (24) hours of receiving notice of the decision or direction, or such longer period as the Board may allow upon being satisfied that the objector has acted expeditiously in all the circumstances.

### ***Conduct of In-Person Vote***

11. The officer presiding at an in-person conducted vote shall
- (a) allow each party affected by the vote to appoint scrutineers in writing,
  - (b) allow one scrutineer, or in the officer's discretion more than one scrutineer, for each party to be present at a polling station at one time during the taking or counting of a vote,
  - (c) prior to balloting, examine the ballot box in the presence of the scrutineers, remove the contents, and then secure it,
  - (d) keep a record of the persons to whom ballots are issued,
  - (e) where the eligibility of a person to vote is contested, either rule on the question or direct that the question be referred to the Board,
  - (f) administer such affirmations and take such declarations as the officer may consider necessary to determine whether a person is eligible to vote,
  - (g) where a party objects to the officer's ruling as to the eligibility of a person to vote, segregate that person's ballot, deposit each ballot so contested in a separate sealed envelope, and identify each such ballot by endorsing on the envelope the name of the voter and the reason for the challenge to eligibility,
  - (h) in any vote where a ballot or ballots have been segregated, seal the ballot box pending a ruling of the Board as to eligibility,
  - (i) prior to opening the ballot box, refer any segregated ballot to the Board for a ruling,

- (j) following the Board's ruling as to any segregated ballot, open the ballot box and count the ballots in the presence of any scrutineers present, and
- (k) following the counting of ballots, prepare and sign a report of the result of the vote and file the report with the Director of Settlement.

### ***Conduct of Electronic Vote***

11.1 The officer overseeing an electronic vote shall:

- (a) allow each party affected by the vote to appoint scrutineers in writing in advance of the vote,
- (b) prior to the date of the electronic vote, and upon the request of one or more scrutineers, review the process that will be followed during the electronic vote,
- (c) prior to the electronic vote, send the individuals on the voting list an email containing voting instructions, including contact information should they encounter technical difficulties
- (d) keep a record of the persons to whom electronic ballots are issued,
- (e) where the eligibility of a person to vote is contested, either rule on the question or direct that the question be referred to the Board,
- (f) administer such affirmations and take such declarations as the officer may consider necessary to determine whether a person is eligible to vote,
- (g) where a party objects to the officer's ruling as to the eligibility of a person to vote, segregate that person's electronic ballot and keep a record the reason for the challenge to eligibility,
- (h) refer any segregated ballot to the Board for a ruling prior to generating the results of an electronic vote;
- (i) after the Board's ruling, or where there are no objections to voter eligibility or otherwise, generate the results of the electronic vote in the presence (in-person or via video-conference) of any scrutineers appointed, and
- (j) After generating and reviewing the results of an electronic vote, prepare and sign a report of the result of the vote and file the report with the Director of Settlement.

11.2 The Director of Settlement or the presiding officer may make any necessary modifications to Rule 11.1, or issue any further directions that are necessary for the purposes of conducting an electronic vote, including referring any procedural issues that arise to the Board for a ruling.

### ***Objection to conduct of vote***

12.(1) Any person or party affected by a conducted vote may object to the manner in which the officer has conducted the vote by filing written objection, with detailed reasons for the objection, with the Board within twenty-four (24) hours of the close of the vote, or such longer period as the Board may allow upon being satisfied that the objector has acted expeditiously in all the circumstances.

(2) Upon receiving an objection under subsection (1), the Board may cause the objection to be investigated and may do one or more of the following:

- (a) dismiss the objection,
- (b) direct that the result of the vote not be released pending a decision on the objection,
- (c) if the result of the vote has been released, suspend the operation of any certificate, order, decision or directive dependent upon the result of the vote pending a decision on the objection,
- (d) declare that the result of the vote shall stand,
- (e) declare the vote or a poll thereof to be null and void and make such direction as it considers necessary to remedy the impropriety, including the ordering of a replacement vote or poll under such conditions as it may stipulate, or
- (f) make any other direction it considers necessary.

### ***Notification of result***

13. If no objection to the manner in which the officer conducts the vote is filed within twenty-four (24) hours of the close of the vote, or if an objection is filed and it is subsequently declared by the Board that the result of the vote shall stand, the Director of Settlement shall notify the affected parties and persons of the results in any manner considered appropriate.

### ***Disputed result***

14. Any affected party or person desiring to dispute the accuracy of the reported results of the vote or to make representations as to the conclusions the Board should reach shall give notice to the Board of its intention to make representations, within twenty-four (24) hours of the time it receives notice of the result of the vote, or such longer period as the Board may allow upon being satisfied that the party or person has acted expeditiously in all the circumstances.

### ***Disposition***

15. Where no notice of intention is given pursuant to Rule 14, the Board may proceed to dispose of the matter without further notice to any person affected.

## ***Eligibility***

16.(1) Unless the Board otherwise directs, the following persons employed in the bargaining unit shall be deemed to be eligible to vote in a representation vote:

- (a) employees at work on the date of application,
- (b) full-time or regular part-time employees, who are not at work on the date of application, but who:
  - i) worked at any time during the 30 days preceding the application, and
  - ii) in the opinion of the officer presiding at the vote, are likely to return to work during the 30 days following the date of application; and
- (c) employees absent from work on the date of application because of parental leave.

(2) Unless the Board otherwise directs, those persons eligible to vote in a representation vote during a lawful strike or lockout shall be:

- (a) those full-time or regular part-time employees employed at the commencement of the strike or lockout, including those on parental leave at that time; who
- (b) in the opinion of the officer presiding at the vote, are likely to return to work in the bargaining unit at the end of the strike or lockout, or of their parental leave.

(3) For this Rule, absent from work because of parental leave means absent from work because of maternity, paternity, adoption or similar contractual or statutory leave, unless the person has advised their employer of an intention not to return to work at the conclusion of their leave.

## ***Eligibility in construction industry***

17. Rule 16 applies to representation votes held in respect of construction industry bargaining units with the following modifications:

- (a) the time periods in Rule 16(1)(b) shall be 14 days not 30 days;

*[Amended September, 2017]*

## **B. Proposal Votes**

### ***Application for proposal vote***

18. A party applying to the Board to conduct a proposal vote shall include with its application

- (a) a copy of
  - i) the mediator's recommendation made pursuant to section 65(6) of the Code, or

- ii) a copy of the party's most recent offer presented to the other party, as the case may be,
- (b) a copy of the most recent collective agreement entered into by the parties, if any,
- (c) information as to
- i) whether a strike or lockout vote has been taken,
  - ii) whether a strike or lockout notice has been served, and
  - iii) whether and when a strike or lockout has commenced,
- (d) where the application is made by an employer or employers' organization, a statement of the number of employees affected by the application and a list of the locations at which employees are employed,
- (e) a list of the persons eligible to vote; and
- (f) where applicable, a statement indicating whether the party applying is requesting that the proposal vote proceed by electronic ballot or mail-in ballot, and information in support of that request.

18.1 Where there is no objection to a request under Rule 18(f), the Director of Settlement may grant the request. If a party to a proposal vote objects to a request under Rule 18(f), the party shall notify the Director of Settlement and the Director of Settlement shall refer the objection to the Board for disposition.

18.2 When ruling on an objection under Rule 18.1, the Board may consider the factors identified in Rule 8.1.

18.3 Rules 11.1 and 11.2 apply where a proposal vote is conducted as an electronic vote.

18.4 Rules 8.2 and 8.3 apply to proposal votes.

[Amended June 2023]

***Filing of last offer***

- 19.(1) An offer filed under Rule 18(a)(ii) by a party applying for a vote under section 69 of the Code shall
- (a) disclose all proposed changes to the most recent collective agreement entered into by the parties, if any, whether such changes are made by way of addition, substitution or deletion,
  - (b) be certified by an officer or authorized representative of the application as a true and complete version of the most recent offer presented to the other party to collective bargaining, and
  - (c) be served upon the other party to collective bargaining concurrently with the filing of the application with the Board.

- (2) Any objection that the content of an offer filed under Rule 18(a)(ii) is incomplete or inaccurate shall be made forthwith to the Director of Settlement, who shall refer the objection to the Board for disposition.
- (3) Where the Board directs under section 69(2) of the Code that a vote or poll be conducted on the most recent offer of a party, the Director of Settlement may, with the concurrence of the parties, amend the format in which the applicant's offer shall be presented to eligible voters.

### ***Voting constituency***

20.(1) The Director of Settlement or a Returning Officer may require any party affected by an application for a proposal vote to provide such information as may be necessary to conduct the vote, including

- (a) the names of persons employed in the affected bargaining units,
- (b) the name of the employer's representative(s);
- (c) the names of employers on behalf of whom an employer's organization is bargaining collectively;
- (d) where, pursuant to Rule 18.1 or an order under Rule 18.2, a proposal vote is proceeding by electronic ballot or mail-in ballot, the email addresses or mailing addresses of employees in the affected bargaining unit(s), the employer, or the employers on behalf of whom an employer's organization is bargaining collectively.

[Amended June 2023]

- (2) Subject to subsection (3), for purposes of determining the eligibility of employees to vote in a proposal vote, Voting Rules 16 and 17 apply.
- (3) In the case of a vote on the recommendations of a disputes inquiry board pursuant to section 107(2) of the Code, eligibility to vote shall be determined as of the date of the Board's recommendations or decision under that subsection.

[Amended December, 1989]

## **PART III. SUPERVISED VOTES**

### ***Director of Settlement***

22. The Director of Settlement shall be responsible for the supervision of all supervised votes.

### ***Delegation to Manager of Settlement***

23. The Director of Settlement may delegate the powers in respect of any vote supervised by the Board to the Manager of Settlement.

***Time limits***

- 24.(1) An application to supervise a strike vote shall be made at least seven (7) calendar days prior to the date of the vote proposed by the party.
- (2) An application to supervise a lockout vote shall be made at least fourteen (14) calendar days prior to the date of the vote proposed by the party.
- (3) The required period of notice may be enlarged or abridged by the Board as it deems necessary, or by the Director of Settlement upon consent of the other party to the bargaining relationship.

***Supervising Officers***

25. The Director of Settlement may appoint one or more Supervising Officers to assist in respect of the vote.

***Returning Officers***

26. The Applicant shall appoint a Returning Officer and may appoint Deputy Returning Officers, who shall ensure that the vote is conducted in accordance with these Rules and with the particulars in the approved application for a Board-supervised vote.

***Powers of Supervising Officers***

27. The Director of Settlement or a Supervising Officer may
- (a) investigate the application for completeness and refer it back to the applicant for further information, if necessary,
  - (b) approve, or amend with the concurrence of the applicant, the proposed time, date, place or procedures for the taking of the vote,
  - (c) approve, or amend with the concurrence of the applicant, the list of eligible voters supplied by the applicant,
  - (d) forward a copy of the endorsed list of voters to the other party affected by the application,
  - (e) recommend a specific time extension if necessary to process the application, and
  - (f) give such directions as to the giving of notice of a supervised vote as deemed necessary to inform eligible voters of the vote.

***Reference to Board***

- 28.(1) If the Director of Settlement is of the opinion that the application is incomplete, or that the proposed procedures for the vote may not disclose the true wishes of the persons entitled to vote, or that the proposed procedures may not give all eligible voters a

reasonable opportunity to vote, or that the vote as proposed does not ensure the secrecy of the ballots cast, the Director shall refer the application to the Chair or a Vice-Chair.

- (2) Where an application is referred to the Chair or a Vice-Chair by the Director of Settlement, the Chair or Vice-Chair may make such orders or give such directions as deemed appropriate.

### ***Advance polls, Mail-in Ballots, and Electronic Ballots***

29. The Director of Settlement or a Supervising Officer may
  - (a) approve an application providing for an advance poll of eligible voters who expect to be unavailable to attend the polling station on the date of the vote, provided that ballot boxes employed in an advance poll are sealed until the conclusion of voting and ballots from the advance poll are mixed with the ballots from other polls prior to counting the ballots, or
  - (b) approve an application to conduct a vote by mail-in ballot or electronic ballot where appropriate, and where the Director of Settlement or Supervising Officer is satisfied that the vote can be conducted in a secure and reliable manner.

[Amended September 2023]

### ***Form of ballot***

30. The ballots provided by the applicant to persons on the list of voters shall be in a form approved by the Director of Settlement.

### ***Notice of strike vote***

- 31.(1) A party applying for a Board-supervised strike vote shall provide eligible voters with notice of the strike vote at least seventy-two hours in advance of the opening of the polls.
- (2) Notice of a strike vote may be given by posting Notices to Employees in a form approved by the Board, at the employer's place of business or elsewhere, in sufficient numbers and locations that eligible voters will have a reasonable opportunity to see them, or by any other means that the Director of Settlement may approve.
- (3) An employer shall permit such Notices to Employees to be posted and remain posted until the day after the last poll is completed.

### ***Notice of lockout vote***

- 32.(1) An employers' organization applying for a Board-supervised lockout vote shall provide employers eligible to vote with notice of the lockout vote at least seventy-two hours in advance of the opening of the poll.

- (2) Notice of a lockout vote may be given in any fashion by which an employer may be given notice under the Rules of Procedure, or by any means that the Director of Settlement may prescribe or approve in writing.
- (3) The applicant for a lockout vote shall in any case provide each eligible employer with a copy of a Notice of Lockout Vote in a form prescribed or approved by the Board.

***Preliminary objection to voting constituency***

- 33.(1) Any person or party affected by a supervised vote may object to the Board that the vote should not be conducted or that the List of Voters is unrepresentative of those persons entitled to vote by filing written objection, with detailed reasons for the objection, at least forty-eight (48) hours prior to the opening of the poll or polls, or such shorter period as the Board may allow upon being satisfied that the objector has acted expeditiously in all the circumstances.
- (2) Upon receiving an objection under subsection (1), the Board may cause the objection to be investigated and may, with or without a hearing,
  - (a) order the vote to proceed,
  - (b) order the vote to proceed on such terms as to segregation of ballots and sealing of ballot boxes as it considers appropriate,
  - (c) postpone the vote for such time as it considers appropriate,
  - (d) amend the List of Voters, or
  - (e) make any other order it considers appropriate in the circumstances.

***Objection to eligibility***

- 34.(1) Where the eligibility of a person to vote in a supervised vote is disputed, the Returning Officer shall not count the ballots or generate the results of an electronic vote at the close of voting but shall forward the disputed ballots to the Supervising Officer.
- (2) The Board may cause any dispute over the eligibility of a person to vote to be investigated and may, with or without a hearing decide the question.

***Declaration of results***

35. Where no ballots remain disputed, the Returning Officer shall cause the results of a vote to be counted, or in the case of an electronic vote, cause the results of the vote to be generated, and shall
  - (a) record the results in a declaration in the form provided by the Board,
  - (b) sign the declaration, and
  - (c) forward the declaration to the Supervising Officer.

### ***Objection to conduct of vote***

- 36.(1) Any person or party affected by a supervised vote may object to the Board that there was impropriety in the conduct of the vote by filing written objection, with detailed reasons for the objection, within twenty-four (24) hours of the closing of the last poll of the vote, or such longer period as the Board may allow upon being satisfied that the objector has acted expeditiously in all the circumstances.
- (2) Upon receiving an objection under subsection (1), the Board may cause the objection to be investigated and may
- (a) dismiss the objection,
  - (b) direct that the result of the vote not be released pending a decision on the objection,
  - (c) if the result of the vote has been released, declare the vote to be of no force pending a decision on the objection,
  - (d) declare that the result of the vote shall stand,
  - (e) declare the vote or a poll thereof to be null and void and make such direction as it considers necessary to remedy the impropriety, including the ordering of a replacement vote or poll under such conditions as it may stipulate, or
  - (f) make any other direction it considers necessary.
- (3) The Board may dismiss an objection under rule 36(1) without a hearing where it is satisfied that the impropriety alleged, even if proven, would not have altered the result of the vote.

### ***Notification of results***

37. When a declaration of the result of the vote has been filed and no objection to the conduct of the vote has been filed within twenty-four (24) hours of closing of the last poll, the Director of Settlement shall release the result of the vote to the parties affected by the vote and may require a notice of the results of the vote to be posted in an area where it is likely to come to the attention of affected employees.