

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Adopted and Filed

Rule making related to collective bargaining

The Public Employment Relations Board hereby amends Chapter 2, “General Practice and Hearing Procedures,” Chapter 4, “Bargaining Unit and Bargaining Representative Determination,” Chapter 5, “Elections,” Chapter 6, “Negotiations and Negotiability Disputes,” Chapter 7, “Impasse Procedures,” and Chapter 13, “Mediators,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 20.6(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 20.

Purpose and Summary

The agency adopted emergency rules effective August 10, 2017, to implement provisions of 2017 Iowa Acts, House File 291. These adopted amendments clarify those rules, add rules where required by House File 291 and make changes based on elections conducted in the fall of 2017.

Items 1 and 2 are conforming amendments based on renumbering in Chapters 5 and 4, respectively. The amendments in Items 3 through 13 and 15 restructure the chapter with additions for explanation and clarification of petitions and procedures. Item 14 is based on constituent feedback and allows employee organizations to wait for Board approval before filing final agency reports for dissolved organizations in amendment of certification proceedings.

A number of amendments to Chapter 5 are adopted. The amendments in Item 16 change the time period for the payment of election fees; eliminate election fee refunds when the employee organization has paid the fee but the election does not occur; and align the chapter to the voter eligibility changes contained in Item 17. The amendments in Item 17 change voter eligibility for retention and recertification elections to a date certain prior to the start of the election period, clarify the responsibilities of the employer and the employee organization in providing the voter list and updating the list, summarize the challenges for all the types of elections and change the deadline for telephonic/web-based election challenges. Due to the cutoff date for voter eligibility and the change to challenge deadlines, additional amendments in Item 17 allow postelection challenges for retention and recertification elections. The amendments in Item 18 allow the agency to utilize voting machines for in-person elections, allow the Board to extend an election period for telephonic/web-based elections when the systems are inoperable for an extended period, and further clarify existing election practices. The amendments in Item 19 clarify the objection procedure to reflect current practice, specify the parties that may object pursuant to changes required by House File 291, and clarify what constitutes objectionable conduct regarding speeches. The amendments in Items 20 and 22 align the rules to voter eligibility changes in Item 17 and restructure the rules regarding certification and decertification elections for clarification to constituents. The amendments in Item 21 fulfill the same purpose for retention and recertification elections and align postelection challenges for these types of elections. The amendments also set the date upon which an extension of an agreement must be executed, require the parties to notify the agency of the extension, and allow the agency the option of conducting elections for education-related entities in October. The amendments in Items 23 and 24 restructure rules which cover professional/nonprofessional and amendment of unit elections. The amendment in Item 25 reflects the accurate name of the order issued by the agency.

The amendments in Items 26 and 27 reflect current word usage. The amendments in Item 28 change the dates by which public safety status stipulations are due to the agency. The amendment in Item 29 revises the rule.

The amendments in Item 30 renumber subrules due to the addition of a new subrule contained in Item 31 and due to rule restructuring. In Item 31, a new subrule sets forth the requirements for state contract negotiations when a new governor takes office as set forth in House File 291.

An amendment in Item 32 adds arbitration as a type of proceeding in which a mediator shall not testify, as set forth in House File 291.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 14, 2018, as **ARC 3671C**. A public hearing was held on April 4, 2018, at 2 p.m. in the Vocational Rehabilitation Services' Starkweather Conference Room, 510 East 12th Street, Des Moines, Iowa.

The agency received questions and concerns at the hearing. There were questions about situations in which the agency will not refund election fees. As a result, in Item 16, the language in subparagraph 5.1(2)"d"(2) was clarified. There were questions about the employer-provided lists, and as a result, language in paragraph 5.2(2)"b"(2)"1" in Item 17 was clarified. Significant concern was raised about the addition of a registration requirement for elections, and as a result, in Item 18, paragraph 5.3(3)"b" was not adopted, which eliminated registration as an option from the adopted rules. Because of this change, subsequent paragraphs were relettered accordingly.

The agency has received comments from both public employers and employee organizations regarding the eligibility lists, with both parties contending that their respective duties are too onerous. The employee organizations contend House File 291 and related rules are unconstitutional.

Adoption of Rule Making

This rule making was adopted by the Board on April 18, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

These rules do not provide for a waiver of their terms but are instead subject to the agency's general waiver provisions found at rule 621—1.9(17A,20).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on June 13, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 621—2.4(20) as follows:

621—2.4(20) Intervention and additional parties. Any interested person may request intervention in any proceeding before the public employment relations board. An application for intervention shall be in writing, except that applications made during a hearing may be made orally to the hearing officer, and shall contain a statement of the reasons for such intervention. When an application for intervention is filed regarding a petition for bargaining representative determination, 621—subrules 4.3(2), 4.4(4), 5.1(2), 5.5(2), and ~~5.5(3)~~ 5.5(4) shall apply.

Where necessary to achieve a more proper decision, the board or administrative law judge may, on its own motion or the motion of any party, order the bringing in of additional parties. When so ordered, the board shall serve upon such additional parties all relevant pleadings and allow such parties a reasonable time to respond thereto where appropriate.

ITEM 2. Amend rule 621—2.23(20) as follows:

621—2.23(20) Informal disposition. The board may assign an administrative law judge to assist the parties in reaching a settlement of any dispute which is the subject of an adjudicatory proceeding. However, no party shall be required to participate in mediation or settle the dispute pursuant to this rule. An administrative law judge assisting the parties under this rule shall not serve as a presiding officer in any proceeding related to the dispute. Adjudicatory proceedings may be voluntarily dismissed without consent of the board except as provided in rule 621—3.6(20) and 621—subrule ~~4.1(3)~~ 4.1(5).

ITEM 3. Renumber subrules **4.1(1)** to **4.1(3)** as **4.1(3)** to **4.1(5)**.

ITEM 4. Adopt the following **new** subrule 4.1(1):

4.1(1) General.

a. The agency shall determine an appropriate bargaining unit when requested by petition. Once a unit is initially determined, parties may request by petition: reconsideration of the unit, amendment of the unit, or clarification of the unit.

b. The agency may certify an employee organization to be the exclusive bargaining representative for a unit when requested by a petition or an application for intervention. Once certified, the employee organization will be subject to retention and recertification elections and may be subject to decertification if a petition is filed by an employee of the bargaining unit. The employee organization's certification may be amended when requested by petition by the employee organization or by the public employer, or when the agency files notice.

c. The employee organization shall have its certification revoked for failure to pay its election fees, or its certification may be revoked for failure to comply with the requirements of Iowa Code section 20.25.

ITEM 5. Adopt the following **new** subrule 4.1(2):

4.1(2) Representation elections.

a. Initial certification, retention and recertification, and decertification elections. The initial certification, retention and recertification, and decertification of an employee organization require elections in accordance with 621—Chapter 5. The three types of elections affecting the bargaining representative determination or an employee organization's certification status are as follows:

(1) A certification election, which is initiated by the filing of a petition by the employee organization or the public employer, for the initial certification of an employee organization to be the exclusive bargaining representative for a bargaining unit of public employees;

(2) A retention and recertification election, which is initiated by the filing of notice by the agency, for the retention and recertification of a certified employee organization; and

(3) A decertification election, which is initiated by a public employee of a bargaining unit, for the decertification of an existing certified employee organization that represents the unit.

b. Other elections—professional/nonprofessional unit and amendment of unit. When a bargaining unit is determined or amended, an election may be required as provided in 621—Chapter 5. The two types of other elections are as follows:

(1) A professional and nonprofessional election occurs when the agency files an order directing the election after determining that professional and nonprofessional employees are appropriately included in the same bargaining unit.

(2) An amendment of unit election occurs when the agency files an order directing the election after determining that a job classification or classifications are appropriately amended into a bargaining unit, but a question of representation exists. A question of representation exists when the amended classifications existed at the time the bargaining unit was originally determined and those classifications would separately constitute an appropriate unit.

ITEM 6. Amend renumbered subrule 4.1(3) as follows:

4.1(3) *Separate or combined petitions.* ~~Request~~ Requests for the initial bargaining unit determination and the bargaining representative determination certification shall be by petitions which may be filed separately or on a combined petition form pursuant to rule 621—4.4(20). ~~Where~~ When a request has been made to a public employer to bargain collectively with a designated group of public employees and the ~~board~~ agency has not previously determined the bargaining unit, the petitions shall be filed jointly or on a combined form ~~provided by the board~~ prescribed by the agency.

ITEM 7. Adopt the following **new** subrule 4.1(6):

4.1(6) *Method of filing of all petitions.* All petitions and subsequent documents submitted pursuant to this chapter shall be electronically filed pursuant to 621—Chapter 16, unless otherwise stated in these rules.

ITEM 8. Amend rule 621—4.2(20) as follows:

621—4.2(20) Unit determination.

4.2(1) *Content of petition.* A petition for bargaining unit determination shall be on an agency-prescribed form and filed with the agency. The petition shall ~~contain an identification and description of~~ identify and describe the proposed unit and indicate the unit's status as a public safety or non-public safety unit.

4.2(2) *Notice to parties.* Upon the filing of a proper petition, the agency shall serve copies thereof upon other interested parties by certified mail, return receipt requested. The agency shall file a notice to employees, giving notice that the petition has been filed and setting forth the rights of employees under ~~the Aet Iowa Code chapter 20.~~ The employer shall promptly post the petition and notice to employees in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by ~~e-mail~~ email or hard copy, the public employer shall also promptly distribute the petition and notice to employees by those means.

4.2(3) *Notice of hearing.* The board or administrative law judge shall file a notice of hearing setting forth the time, date and place of the hearing and any other relevant information. The public employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by ~~e-mail~~ email or hard copy, the employer shall also promptly distribute the notice to employees by those means.

4.2(4) *Intervention.* See rule 621—2.4(20).

4.2(5) *Professional and nonprofessional unit elections.* Should the agency determine, in any case, that professional and nonprofessional employees are appropriately included in the same bargaining unit, the agency shall file an order directing that an election be conducted to determine whether the professional and nonprofessional employees wish to be represented in a single bargaining unit. The election shall be conducted in accordance with rule 621—5.8(20).

4.2(6) *Informal settlement of bargaining unit determination.* Cases on bargaining unit determination may be informally settled in the following manner:

a. The parties may stipulate to the composition of the unit.

(1) The petitioning party shall prepare a stipulation setting forth in detail the composition of the bargaining unit as agreed upon by all parties. The stipulation shall be signed by the authorized

representatives of the parties involved and shall be filed with the agency for informal review and tentative approval. In the event the parties agree to a combined unit of professional and nonprofessional employees, the stipulation shall set forth both those job classifications included within the professional category and those job classifications included within the nonprofessional category.

(2) If the agency fails to tentatively approve the stipulation, the agency shall notify the parties and, unless the parties amend the stipulation in a manner to gain tentative approval of the agency, the matter shall proceed to hearing.

(3) If the agency tentatively approves the stipulation, the agency shall file a public notice of proposed decision. The public employer shall promptly post copies of the notice of the proposed decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public and in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by ~~e-mail~~ email or hard copy, the employer shall also promptly distribute such notice to employees by those means. The public employer shall also have copies of the notice available for distribution to the public upon request.

b. Notice of the proposed decision shall identify the parties; specify the terms of the proposed decision; list the names, addresses, ~~and~~ telephone numbers, and email addresses of the parties or their authorized representatives to whom inquiries by the public should be directed; and, further, state the date and method by which written objection to the proposed decision must be filed with the agency ~~and the address to which such objections should be sent~~.

c. Objections to the proposed decision must be filed with the agency, electronically, by ordinary mail or by personal delivery, by the date posted in the notice of proposed decision. Objections shall be in writing and shall set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address, ~~and~~ telephone number, and email address, if available. The agency shall promptly advise the parties of the objections and make any investigation deemed appropriate. If the agency deems the objections to be of substance, the parties may, with agency approval, amend their proposed decision to conform therewith, and the objecting party shall be notified by the agency of the amendment. If the objections cannot be informally resolved, they may be dismissed or resolved at hearing.

d. Final board decision on the ~~informed~~ informal settlement shall be reserved until expiration of the time for filing of objections. If no objections have been filed; or if filed objections have been resolved through amendment of the proposed decision; or if filed objections, after inquiry by the board, were found to be frivolous, the board shall endorse the proposed decision as final.

e. If interested parties are unable to informally settle a case on bargaining unit determination within 15 days of service of a petition, the board or administrative law judge may order any interested party to file ~~with the board~~ its proposed unit description.

ITEM 9. Amend rule 621—4.3(20) as follows:

621—4.3(20) Bargaining representative determination (election petitions).

4.3(1) Form of petition. Petitions for bargaining representative determination (election petition) shall be on an agency-prescribed form and filed with the agency. These petitions shall be of three types:

a. A certification petition, filed by an employee organization requesting that through an election it be certified as the exclusive bargaining representative of an appropriate unit of public employees. The name of the employee organization which appears on the petition, or the petition as amended, shall be the name which appears on the election ballot.

b. A decertification petition, filed by ~~an~~ a bargaining unit employee requesting an election to determine whether a majority of the employees in the bargaining unit wish to continue to be represented by a certified employee organization.

c. A representation petition, filed by a public employer requesting an election to determine the bargaining representative, if any, of the employees in the bargaining unit.

4.3(2) Showing of interest—certification—decertification—intervention. Whenever a petition for certification or decertification is filed, or whenever intervention is requested for the purpose of being

placed on an election ballot, the petitioner or intervenor shall submit, by ordinary mail or personal delivery, evidence that the petition or application for intervention is supported by 30 percent of the employees in the bargaining unit. In petitions for certification or applications for intervention, such ~~interest~~ showing of interest shall be dated and signed not more than one year prior to its submission; shall contain the job classification of the signatory; and shall contain a statement that the signatory is a member of the employee organization or has authorized it to bargain collectively on the signatory's behalf. In petitions for decertification, evidence of interest shall be as provided above, except the evidence of interest shall instead contain a statement that the signatory no longer wishes to be represented by the certified employee organization. When a representation petition is filed by an employer, no ~~show~~ showing of interest will be required.

4.3(3) *Determination of showing of interest.* The public employer shall, within seven days of receipt of notice of a certification or decertification petition, ~~submit to file with~~ submit to file with the agency a list of the names and job classifications of the employees in the unit which is the subject of the petition or, in the case of a combined petition, the employees in the unit requested by the petitioner. The agency shall administratively determine the sufficiency of the showing of interest upon receipt of the list. This determination, including the identification and number of signers of the showing of interest, shall be confidential and not subject to review, and parties other than the party submitting the ~~interest~~ showing of interest shall not be entitled to a copy or examination of the showing of interest. If the employer fails to furnish the list of employees, the agency shall determine the sufficiency of the showing of interest by whatever means it deems appropriate.

4.3(4) *Notice.* Upon the filing of a petition for certification, decertification or representation, the agency shall file a notice to employees, giving notice that an election petition has been filed and setting forth the rights of employees under ~~the Act~~ Iowa Code chapter 20. The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by ~~e-mail~~ email or hard copy, the employer shall also promptly distribute the notice to employees by those means.

4.3(5) *Direction of election.* Whenever an election petition is filed which conforms to these rules and ~~the Act~~ Iowa Code chapter 20 and the appropriate bargaining unit has been previously determined, an election shall be directed and conducted under the provisions of 621—Chapter 5.

4.3(6) *Intervention.* See 4.1(2) rule 621—2.4(20).

ITEM 10. Amend rule 621—4.4(20) as follows:

621—4.4(20) Concurrent (combined) petitions.

4.4(1) *When to file.* A combined petition for both bargaining unit determination and bargaining representative ~~determination~~ certification shall be filed whenever ~~a question of representation exists~~ and the bargaining unit has not been previously determined and a representative has not been certified by the ~~board~~ agency.

4.4(2) *Content of petition.* A combined petition for unit determination and representative ~~determination (election)~~ certification shall be on a an agency-prescribed form provided by the board and shall be filed by delivery to the board.

4.4(3) *Notice of petition, hearing, and notice to employees.* Upon ~~receipt~~ the filing of a combined petition, notice shall be as provided in subrules 4.2(2), 4.2(3) and 4.3(4).

4.4(4) *Showing of interest.* Showing of interest shall be as provided in subrules 4.3(2) and 4.3(3). Should the board determine an appropriate unit different than that requested, any employee organization affected may request a reasonable period of time to submit additional evidence of interest sufficient to satisfy the requirements of ~~the Act~~ Iowa Code chapter 20.

4.4(5) *Scope of hearing.* Hearings on combined petitions shall resolve all issues with regard to both bargaining unit determination and bargaining representative ~~determination~~ certification.

4.4(6) *Intervention.* See 4.1(2) rule 621—2.4(20).

4.4(7) *Professional and nonprofessional elections.* See subrule 4.2(5) and rule 621—5.8(20).

ITEM 11. Amend rule 621—4.5(20) as follows:

621—4.5(20) Unit reconsideration. A petition for reconsideration of an agency-established bargaining unit may be filed by an employee organization, public employer, or an employee of the public employer. This petition may be filed only in combination with a certification petition. Rules 621—4.1(20), 621—4.2(20), 621—4.3(20) and 621—4.4(20) shall apply. A petition for reconsideration of an agency-established bargaining unit covering state employees may not be filed for at least one year after the initial unit determination. The agency may dismiss the petition for unit reconsideration if the petitioner fails to establish that the previously determined bargaining unit is inappropriate.

ITEM 12. Amend rule 621—4.6(20) as follows:

621—4.6(20) Amendment of unit.

4.6(1) Petition. A petition for amendment of an agency-determined bargaining unit may be filed by the public employer or the certified employee organization. The petition shall contain:

- a. The names, addresses, telephone numbers and ~~e-mail~~ email addresses of the public employer, and the employee organization, ~~and~~ or their respective representatives.
- b. An identification and description of the proposed amended unit.
- c. The names and addresses of any other employee organizations which claim to represent any employees affected by the proposed amendment or a statement that the petitioner has no knowledge of any other such organization.
- d. Job classifications of the employees as to whom the issue is raised, the number of employees, if any, in each classification, and whether each job classification qualifies as a public safety employee.
- e. A statement identifying the current status of the unit as either a public safety or a non-public safety unit and the change, if any, to the status of the unit which would result from the requested amendment.
- f. A specific statement of the petitioner's reasons for seeking amendment of the unit and any other relevant facts.

4.6(2) Procedure—decision. Insofar as applicable, rule 621—4.2(20) shall apply.

4.6(3) Elections; when required. When a question of representation exists, the agency will conduct an amendment of unit election pursuant to rule 621—5.9(20). A question of representation exists when the job classification(s) sought to be amended into a bargaining unit was in existence at the time the employee organization was certified to represent the bargaining unit and the job classification(s) separately constitutes an appropriate bargaining unit.

ITEM 13. Amend rule 621—4.7(20) as follows:

621—4.7(20) Unit clarification. A petition to clarify the inclusion or exclusion of job classifications or employees in an agency-determined bargaining unit may be filed by the public employer, an affected public employee, or the certified employee organization. Such petition ~~must~~ may be ~~in the absence of a question of representation~~ filed only if the bargaining unit is represented by a certified bargaining representative. Insofar as applicable, the procedures for such filing shall be as provided in subrule 4.6(1).

ITEM 14. Amend subrule 4.8(2) as follows:

4.8(2) Employee organization. The employee organization must file its petition with the following:

- a. An affidavit(s) that establishes:
 - (1) The act or occurrence, which the requested amendment would reflect, was authorized by and accomplished in accordance with the certified employee organization's constitution and bylaws, which provided members with adequate due process; and
 - (2) Substantial continuity of representation has been maintained.
- b. Updated agency reports if there is a change in the employee organization's name or if there is a change to the employee organization's governing body. The reports shall include the following:
 - (1) An updated PERB annual report that covers the time period from the last annual report to the time of the filing of the petition.

(2) An updated PERB registration report.

(3) An updated constitution and bylaws.

c. Final agency reports for dissolved organizations resulting from a merger. The final agency report shall include a PERB annual report that covers the time period from the last annual report to the time of the merger and shall reflect the closing of the books and accounts of the dissolved employee organization. The certified employee organization may wait and submit its final agency reports following the board's tentative approval of the amendment of certification.

ITEM 15. Amend subrule 4.8(5) as follows:

4.8(5) Public employer posting, decisions and objection period. When a petition for amendment of certification is filed which the agency deems sufficient to fulfill the requirements of this rule, the agency shall file a public notice of its proposed decision to amend the employee organization's certification upon the non-petitioning interested parties. Upon receipt, the public employer shall promptly post the notice of proposed decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public and in the manner and locations customarily used for the posting of information to employees. If the public employer customarily distributes information to employees by additional means, such as by ~~e-mail~~ email or hard copy, the employer shall also promptly distribute such notice to employees by those means. The public employer shall also have copies of the proposed decision available for distribution to the public upon request.

a. The notice of the proposed decision shall identify the parties; specify the terms of the proposed decision; list the names, addresses, ~~and~~ telephone numbers, and email addresses of the parties or their authorized representatives to whom inquiries by the public should be directed; and state the date and method by which written objection to the proposed decision must be filed.

b. Objections to the proposed decision must be filed with the agency, electronically, by ordinary mail or by personal delivery, by the date specified in the notice. Objections shall be in writing and shall set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address, telephone number and ~~e-mail~~ email address. The agency shall promptly advise the parties of the objections and make any investigation deemed appropriate. When an objection is raised, the agency may investigate and dismiss the objection or conduct a hearing pursuant to 621—Chapter 2.

c. A final agency decision shall be reserved until the expiration of the time for filing objections. If no objections have been filed, the agency may endorse the proposed decision as final.

ITEM 16. Amend subrules 5.1(2) and 5.1(3) as follows:

5.1(2) Election fees.

a. For certification, retention and recertification, and decertification elections, the employee organization is responsible for and shall prepay the election fees in accordance with this chapter and rules relevant to the specific election. Employee organizations intervening in a certification election shall pay a proportionate share of the election fees.

b. A certified employee organization may make file a written request to ~~with~~ the agency for an extension of time in which to pay its election fees. The employee organization may make file the request after the filing of a certification or decertification petition, but no later than 7 days after the agency's filing of an order ~~of directing an election~~. For a retention and recertification election, a certified employee organization may make file a request after the agency's filing of its intent to conduct an election, but shall file the request no later than 30 days prior to the commencement of the election period ~~the date the election fee is due as provided in the notice of intent to conduct an election~~. In no event will the agency conduct an election prior to an employee organization's payment of election fees.

c. A certified employee organization may file notice of nonpayment to indicate that it will not pay the election fees for a decertification or retention and recertification election. The notice of nonpayment may be filed at any time, but must be filed no later than 7 days after the agency's filing of an order for a decertification election or no later than 30 days prior to the commencement of a retention and recertification election period. The notice shall be signed by an authorized representative of the organization, state that the organization will not pay the election fees, and acknowledge that the agency will not conduct the applicable election and the employee organization's certification will be revoked.

d. ~~The~~ For retention and recertification elections, the applicable election fee is based upon the number of employees on the voter eligibility list submitted to the agency pursuant to ~~paragraph 5.2(2)“a.”~~ subrule 5.2(2). For certification and decertification elections, the applicable election fee is based upon the list provided pursuant to 621—subrule 4.3(3) to verify the showing of interest.

(1) When the list contains 10 or fewer eligible voters, the election fee is ~~\$10.00~~ \$10. When the list contains more than 10 eligible voters, the election fee is ~~\$1.00~~ \$1 per eligible voter. When the list contains more than 50 eligible voters and subsequent increases or decreases as contemplated by ~~paragraph 5.2(2)“b”~~ subparagraph 5.2(2)“a”(2) or 5.2(2)“b”(2) or successful challenges pursuant to subrule 5.2(3) alter the number of eligible voters by 5 percent or more, the employee organization shall make an additional payment to reflect the increased number of eligible voters or, in the case of a decrease, the agency shall reimburse the employee organization for its overpayment.

(2) The agency will not request additional payment and will not reimburse the employee organization for an amount less than \$10. The agency will not refund the election fee in the event the election fee is paid and the agency has performed duties to conduct the election but the election does not occur.

5.1(3) *Date of elections election.* For purposes of this chapter, the date of an election shall be the date on which the ballots were ~~counted~~ tallied.

ITEM 17. Amend rule 621—5.2(20) as follows:

621—5.2(20) Eligibility—voter eligibility list lists.

5.2(1) *Eligible voters.* ~~Eligible voters are those employees who:~~

a. Certification, decertification, professional/nonprofessional, amendment of unit elections. For certification, decertification, professional/nonprofessional, or amendment of unit elections, eligible voters are those employees who:

(1) Were employed and included in the bargaining unit during the payroll period immediately preceding the direction of on the date of the order directing an election unless another date is agreed upon by the parties and the agency, and

~~b.~~ (2) Are employed in the bargaining unit on the date of the election.

b. Retention and recertification elections.

(1) For retention and recertification elections, eligible voters are those employees who were employed and included in the bargaining unit on the date of the order directing the election, or were employed on another date or dates agreed upon by the parties and the agency.

(2) In addition to voter eligibility challenges made pursuant to subrule 5.2(3), employee organizations may make postelection challenges to the total number of bargaining unit employees for their respective retention and recertification elections.

1. The certified employee organization may file a postelection challenge to the number of bargaining unit employees if an eligible voter has left employment and is no longer in the bargaining unit prior to the close of the election or election period. The employee organization shall file this postelection challenge within ten days of the filing of the tally of ballots. The agency shall attempt to resolve the dispute. Whenever postelection challenges are unresolved and determinative of the outcome of an election, a hearing to determine whether an eligible voter left employment and was no longer in the bargaining unit prior to the close of the election or election period shall be scheduled and conducted. The board may make appropriate adjustments to the tally or order a new election based on the board’s findings and conclusions.

2. The employer is responsible for ensuring the accuracy of the list after its submission and throughout the election period. The employer shall promptly notify the certified employee organization whenever an eligible voter leaves employment and is no longer in the bargaining unit prior to the close of the election or election period.

5.2(2) *Eligible voter list.*

a. Certification, decertification, professional/nonprofessional, and unit amendment elections—eligible voter list.

(1) List for determining fees. The agency will determine the election fee based on the initial employer-provided list of employees used to verify the showing of interest pursuant to 621—subrule 4.3(3).

(2) Voter eligibility list.

1. When the agency files a notice of intent to conduct a retention and recertification election or an order that an election, other than a retention and recertification election, be conducted, the employer shall, within seven days of the notice or order, e-mail email to the agency an alphabetical list of the names; addresses; e-mail email addresses, if known; telephone numbers; and job classifications of the employees eligible to vote, except as provided in subrule 5.6(8). Where When a telephonic/Web-based telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency.

b. 2. The agency shall file the list of eligible voters' names and job classifications. This list shall become the official voting list for the election to be conducted. The agency shall provide to the employee organization the voter list with the employees' contact information. The employer or employee organization shall e-mail email proposed additions or deletions of employees' names, changes in job classifications, or addresses, contact information, or other eligible voter changes to the agency to reflect the current status of eligible voters and to the other party. The parties may further amend the list by agreement.

b. Retention and recertification elections—eligible voter list.

(1) List for determining fees.

1. The agency will determine the election fee based on the following initial employer-provided list of employees. When the agency files a notice of intent to conduct a retention and recertification election, the employer shall, within seven days of the notice, email to the agency an alphabetical list of the names; addresses; email addresses, if known; telephone numbers; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was emailed to the agency and the number of employees on the list.

2. The agency shall file the list of eligible voters' names and job classifications. The agency shall provide to the employee organization the voter list with the employees' contact information.

(2) Voter eligibility list.

1. When the agency files an order that the retention and recertification election be conducted, the employer shall, within seven days of the order, email to the agency a second alphabetical list of the names; addresses; email addresses, if known; telephone numbers; and job classifications of the employees eligible to vote. If the original list the employer provided for determining fees is unchanged, the employer does not need to email this second list. The original list, if unchanged, or this second list will become the final list. The agency shall file the list of eligible voters' names and job classifications. This list shall become the official eligible voter list for the election to be conducted. The agency shall provide to the employee organization the voter list with the employees' contact information.

2. The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the list of employees' names prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

5.2(3) Challenges.

a. Types of challenges.

(1) A party may challenge, for good cause, the eligibility of any voter in accordance with subrule 5.3(2), 5.3(3) or 5.3(4), whichever is applicable to the election being conducted. The agency shall attempt to resolve the challenge. Whenever challenged ballots are unresolved and determinative of the outcome of an election, a hearing to determine the eligibility of the challenged voter(s) shall be scheduled and conducted. After the conclusion of the hearing, the board may, if necessary, order a new election, and the cost may be taxed to the nonprevailing party.

(2) In addition to voter eligibility challenges made pursuant to this subrule, employee organizations may make postelection challenges to the total number of bargaining unit employees for the employee organizations' respective retention and recertification elections in accordance with paragraph 5.2(1) "b."

b. Methods of voter eligibility challenges. A party may challenge the eligibility of a voter as follows:

(1) In-person elections. A party shall challenge a voter's eligibility prior to the time the voter deposits the voter's ballot in the ballot box. In the event of a challenge, the challenged voter may mark the ballot in secret, and the election agent shall segregate the ballot by causing it to be placed in a challenged-ballot envelope with appropriate markings and depositing it in the ballot box.

(2) Mail-ballot elections. A party shall challenge a voter's eligibility prior to the time the outer envelope containing the voter's secret envelope and ballot is opened. In the event of a challenge, both the secret envelope and the outer envelope shall remain sealed until the challenge is resolved.

(3) Telephonic/web-based elections. A party shall challenge a voter's eligibility in writing to the agency with a copy to the other interested party. For retention and recertification elections, a party shall challenge that voter's eligibility at least seven days prior to the commencement of the election period for telephonic/web-based elections. For all other elections utilizing this method, a party shall challenge that voter's eligibility prior to the end of the election period.

ITEM 18. Amend rule 621—5.3(20) as follows:

621—5.3(20) Method Methods of voting — general procedures.

5.3(1) Types of elections. The agency may conduct an election, in whole or in part, in person, by mail ~~balloting~~ ballot, or through a ~~telephonic/Web-based~~ telephonic/web-based system.

5.3(2) 5.3(1) In-person election. An eligible voter shall cast the voter's ballot by marking the voter's choice on the ballot and depositing it in the ballot box or inserting it in a voting machine, whichever is applicable. If a voter inadvertently spoils a ballot, the ballot may be returned to the agent who shall void and retain it and provide another ballot to the voter. Eligible voters may be asked to cast their votes via a nondocument ballot when there is a voting machine present that accommodates this technology.

a. Absentee ballot. An absentee ballot shall be delivered to an eligible voter upon the voter's written notice to the agency of the voter's inability to be present at the election ~~for good cause.~~ The ~~voted~~ marked absentee ballot must shall be in the possession of the election agent prior to the close of the in-person election in order to be counted ~~and.~~ The marked absentee ballot shall be contained in the official envelopes secret envelope provided for this purpose to the voter, and the postage-paid, return-addressed outer envelope provided for the return of the ballot to the agency shall be signed by the voter in order for the ballot to be counted.

~~a. b.~~ Observers. Each party to an election may designate an equal number of representatives, ~~not to exceed one per voting site,~~ to act as the party's observers during the election and tally of ballots. Unless agreed to by the parties, observers shall not be supervisory employees of the public employer.

~~b. c.~~ Ballot box. Upon examination by the observers and prior to the opening of the polls, the election agent shall seal the ballot box so that entry thereto is limited to one slot. In the event that the election is continued for more than one polling period or at more than one polling place, the ballot box shall be sealed in its entirety and shall remain in the custody of the election agent until immediately prior to the next polling period or the counting of the ballots.

d. Voting machines. The agency may utilize voting machines to assist with the casting or tabulation of votes.

e. e. Challenges and tally Tally. A challenge to a voter's eligibility shall be made with good cause prior to the time the voter deposits the voter's ballot in the ballot box. In the event of a challenge, the

~~challenged voter may mark the ballot in secret and the election agent shall segregate the ballot by causing it to be placed in a challenged ballot envelope with appropriate markings and depositing it in the ballot box. The agency shall tally the ballots by manual count or electronic count and file the tally of ballots after the close of the election. Void ballots are those which do not indicate a preference or the clear intent of the voter or which appear to identify the voter. The employer shall promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~

~~5.3(3)~~ **5.3(2)** *Mail-ballot election.* When conducting a ~~mail-ballot~~ mail-ballot election, the agency shall send an official voting package to each eligible voter by ordinary mail and direct a date by which voted ballots must be received by the agency in order to be counted.

a. Contents of official voting packages. Voting packages sent to eligible voters shall consist of voting instructions, a ballot, a secret envelope in which said the marked ballot is to be inserted, and a postage-paid, return-addressed outer envelope which identifies the voter for purposes of proposing challenges to the voter's eligibility. In the event of a challenge, both envelopes shall remain sealed until such time as the challenge is resolved.

b. Tally of ballots—observers—challenges. The agency shall set a time and place for the tally of ballots, at which time ~~representatives of~~ observers designated by the parties to the election shall be entitled to be present and challenge for good cause the eligibility of any voter. ~~Challenges must be made prior to the time the outer envelope containing the voter's secret envelope and ballot is opened. In the event of a challenge, both the secret envelope and the outer envelope shall remain sealed until the challenge is resolved. In the absence of a challenge, the~~ The voter's outer envelope shall be opened, and the secret envelope containing the voter's ballot shall be deposited in the ballot box commingled with the other secret envelopes. The agency shall tally the ballots and file the tally of ballots after the close of the election. Void ballots are those which do not indicate a preference or the clear intent of the voter, which appear to identify the voter, which are not enclosed in the secret envelope provided to the voter, or which are returned in an outer envelope which does not bear the voter's signature. The employer shall promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.

~~5.3(4)~~ **5.3(3)** *Telephonic/Web-based election.* The agency may utilize an election services vendor for the receipt of telephonic and ~~Web-based~~ web-based ballots and for the ~~tallying~~ tabulation of those ballots.

a. Notice of election. When conducting a ~~telephonic/Web-based~~ telephonic/web-based election, whether in whole or in part, the agency shall include in the notice of election the telephone number the voter is to call to cast a ballot, ~~and the Web-site~~ website address for ~~Web-based~~ web-based voting, ~~as well as the script of the ballot and a sample ballot or script.~~

b. Tally and challenges. ~~The agency shall file the tally of ballots after the close of the election period. A party wishing to challenge for good cause the eligibility of any voter shall do so at least two hours prior to the close of the election period. In the event of a challenge, the tally of ballots will not include such vote until the challenge is resolved. Following the close of the election period and the agency's receipt of the ballot tabulation from the election services vendor, the agency shall tally the ballots and file the tally. Void or blank ballots are those which do not indicate a preference or clear choice by the voter in favor of one of the voting options presented by the ballot. The employer shall promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~

c. Inoperable voting system. The board may extend the period of the election due to inoperable voting systems.

~~5.3(5)~~ **5.3(4)** *Alternate voting method.* When a voter promptly informs the agency of the voter's inability to cast a ballot using the designated ~~method~~ methods of voting, the agency shall assist the voter in using an alternate method to cast a secret ballot.

ITEM 19. Amend rule 621—5.4(20) as follows:

621—5.4(20) Objections to an election.

~~5.4(1)~~ **5.4(1)** *Objections.* ~~Whenever a party, or the board on its motion, files a timely objection, a hearing shall be scheduled. Objections~~ Written objections to an election may be filed by any public employee, public employer, or employee organization involved in the election or by the board on its own motion. Objections must be filed with the agency within ten days of the filing of the tally of ballots, even when challenged ballots are challenges to eligible voters may be determinative of the outcome of the election, and. The objection must identify the objecting party; provide the objecting party's mailing address, telephone number, and email address, if available; and contain a statement of facts upon which the objections are based. The objections shall be electronically filed with the agency. The agency shall promptly advise the parties of the objections and make any investigation deemed appropriate. If the objections cannot be informally resolved, they may be dismissed or resolved at hearing. Hearings on objections shall be conducted pursuant to 621—Chapter 2. The objecting party shall present its evidence first.

5.4(2) *Objectionable conduct during election campaigns.* The following types of activity, if conducted during the period beginning with the filing of an election petition with the agency or the agency's filing of a notice of intent to conduct a retention and recertification election and ending at the conclusion of the election, if determined by the agency that such activity could have affected the results of the election, shall be considered to be objectionable conduct sufficient to invalidate the results of an election:

- a. Electioneering within 300 feet or within sound of the polling place established by the agency during the conduct of an in-person election;
- b. Misstatements of material facts by any party to the election or its representative without sufficient time for the adversely affected party to adequately respond;
- c. Any misuse of agency documents, including an indication that the agency endorses any particular choice appearing on the ballot;
- d. Campaign speeches by an employer to assembled groups of employees during working hours within the 24-hour period beginning 24 hours before the opening of the polls in an in-person election, the mailing of ballots in a mail-ballot election, or the commencement of the telephonic/web-based telephonic/web-based election period and extending until the close of the in-person polls, the deadline for the agency's receipt of mail ballots, or the close of the election period in a telephonic/web-based election;
- e. Any polling of employees by a public employer which relates to the employees' preference for or against a bargaining representative;
- f. Commission of a prohibited practice;
- g. Any other misconduct or other circumstance which prevents employees from freely expressing their preferences in the election.

ITEM 20. Amend rule 621—5.5(20) as follows:

621—5.5(20) Certification elections.

5.5(1) *General procedures—notice of election.*

~~a.~~ Upon the agency's determination that a certification petition is supported by an adequate showing of interest in accordance with rule 621—4.3(20), the agency shall file an order directing that an election be conducted in a specified manner and that the employer ~~submit~~ email a list of eligible voters to the agency pursuant to rule 621—5.2(20).

~~b.~~ Following the employer's submission of the list of eligible voters, the agency shall file a notice of election containing a sample ballot and setting forth the date, time, place, method, and purpose of

the election, and such additional information as the agency may deem appropriate. The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by e-mail or hard copy, the public employer shall also promptly distribute such notice to employees by those means.

5.5(2) *Payment of election fee.*

a. The election fee shall be based on the initial employee list provided by the employer to verify the showing of interest pursuant to 621—subrule 4.3(3). Upon the filing of a certification petition, but no later than seven days after the agency’s filing of an order directing an election, an employee organization shall pay the applicable election fee to the agency, unless an extension of time, upon written request, is granted by the agency. The agency will not conduct an election prior to receiving the applicable election fee from the petitioner. An employee organization’s failure to pay the applicable election fee in a timely manner will result in the agency’s dismissal of the certification petition. The election fee shall be paid by check payable to the agency and is deemed paid upon receipt by the agency or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was mailed.

b. An intervening employee organization shall pay the applicable election fee to the agency within seven days after the agency’s grant of its application to intervene. Failure to pay the applicable election fee in a timely manner will result in the intervenor’s exclusion from the ballot.

5.5(3) *Notice of election.* Following the employer’s submission of the list of eligible voters, the employee organization’s payment of the applicable election fee and the expiration of the time for intervention as provided in subrule 5.5(4), the agency shall file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election and such additional information as the agency may deem appropriate. The employer shall promptly post copies of the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.

5.5(3) 5.5(4) *Time for intervention Intervention.*

a. No employee organization other than the petitioner shall be placed on the ballot unless application for intervention, as provided in rule 621—2.4(20), is filed with the agency within seven days after the filing of the agency’s order directing the election in which intervention is sought. An employee organization seeking intervention shall submit to the agency, by ordinary mail or personal delivery, an adequate showing of interest as provided in 621—subrule 4.3(2) within seven days after the agency’s direction of an election.

b. An intervening employee organization shall pay the applicable election fee to the agency within seven days after the agency’s grant of its application to intervene. The election fee shall be paid by check payable to the agency and is deemed paid upon receipt by the agency or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was mailed. Failure to pay the applicable election fee in a timely manner will result in the intervenor’s exclusion from the ballot.

5.5(4) *c. Withdrawal from ballot.* An intervening employee organization may, upon its filing of a written request, be removed from the ballot with the approval of the agency.

5.5(5) *Ballots.* Ballots shall contain the question required by Iowa Code section 20.15 as amended by 2017 Iowa Acts, House File 291, section 9. The question in an election where only one employee organization appears on the ballot shall ask, “Do you wish to be represented for purposes of collective bargaining by [name of employee organization]?” followed by the choices “Yes, I wish to be represented by [name of employee organization]” or “No, I do not wish to be represented”; the.” The question in an election where more than one employee organization appears on the ballot shall ask: “Do you wish to be represented for purposes of collective bargaining by:” and shall then list horizontally or vertically thereafter the choices available, including the name of each employee organization and the choice of “Neither” or “No Representative,” as is applicable.

5.5(6) *Certification of results and compliance with Iowa Code section 20.25.*

a. Upon completion of a valid certification election in which an employee organization received the votes of a majority of the employees in the bargaining unit and the employee organization complies with the provisions of Iowa Code section 20.25, the agency shall file an order certifying that employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

b. Upon completion of a valid certification election in which none of the employee organizations on the ballot received the votes of a majority of the employees in the bargaining unit, the agency shall file an order of noncertification.

c. If an employee organization which received the votes of a majority of the employees in the bargaining unit fails to comply with the provisions of Iowa Code section 20.25 within 90 days of the completion of a valid certification election, the agency shall file an order of noncertification; provided, however, that extensions of time to comply may be granted by the board upon good cause shown.

5.5(7) Bars to certification elections.

a. The agency shall not consider a petition for certification of an employee organization as the exclusive representative of a bargaining unit unless a period of two years has elapsed from the date of any of the following:

(1) The last certification election in which an employee organization was not certified as the exclusive representative of that bargaining unit.

(2) The last retention and recertification election in which an employee organization was not retained and recertified as the exclusive representative of that bargaining unit.

(3) The last decertification election in which an employee organization was decertified as the exclusive representative of that bargaining unit.

b. The agency shall not consider a petition for certification of an employee organization as the exclusive bargaining representative of a bargaining unit if the bargaining unit is already represented by a certified bargaining representative.

ITEM 21. Amend rule 621—5.6(20) as follows:

621—5.6(20) Retention and recertification elections.

5.6(1) Timing of election periods.

a. The agency shall conduct an election, prior to the expiration of a collective bargaining agreement between an employer and a certified employee organization, to determine if the employees in a represented bargaining unit wish to retain and recertify the unit's certified representative. Elections will be conducted not less than once every five years.

b. For a certified employee organization that is a party to a collective bargaining agreement with a June 30 expiration date, the organization's retention and recertification election shall occur not earlier than June 1 nor later than November 1 in the year prior to the expiration of the agreement.

c. For a certified employee organization that is a party to a collective bargaining agreement with an expiration date other than June 30, the organization's retention and recertification election shall occur not earlier than 365 days nor later than 270 days prior to the expiration of the agreement, except as provided in subrule 5.6(10).

d. If the certified employee organization has paid the applicable election fee in a timely manner as provided in subrule 5.6(4) ~~5.6(5)~~, the organization's status shall not be adversely affected if the election is not concluded ~~or the results of the election are not certified~~ in compliance with this rule.

e. When scheduling a retention and recertification election, the agency will presume the collective bargaining agreement is for a term of one year commencing July 1 and ending June 30 unless the agreement clearly states an alternate term and effective dates.

f. Should an employer fail to file a collective bargaining agreement with the agency as required by Iowa Code section 20.29 ~~as amended by 2017 Iowa Acts, House File 291, section 15~~, or if the parties have no agreement, the agency will, for purposes of scheduling the election, presume a maximum expiration date of five years pursuant to Iowa Code section 20.9 ~~as amended by 2017 Iowa Acts, House File 291, section 6~~, or two years pursuant to Iowa Code section 20.15 ~~as amended by 2017 Iowa Acts, House File 291, section 9~~, whichever is applicable, unless the employer subsequently submits a collective bargaining agreement that allows the agency to conduct an earlier election in accordance with subrule 5.6(1).

g. An extension of a collective bargaining agreement will alter the timing of the retention and recertification election only if the parties have reached agreement on the extension and have notified the agency in writing prior to the date the fee is due as set forth in the notice of intent to conduct the election. Should the parties' collective bargaining agreement inclusive of any extensions exceed five years, the agency will, for purposes of scheduling the election, presume a maximum duration of five years pursuant to Iowa Code section 20.9 as amended by 2017 Iowa Acts, House File 291, section 6, or two years pursuant to Iowa Code section 20.15 as amended by 2017 Iowa Acts, House File 291, section 9, whichever is applicable.

h. A At least 30 days prior to the commencement of the retention and recertification election period, a public employer shall notify the agency if the certified employee organization has not been correctly identified as one which requires an upcoming election. The public employer shall submit to the agency all relevant information requested. The agency shall conduct an investigation to determine whether the election is required by statute and rule.

5.6(2) General procedure.

a. Upon determining that a retention and recertification election is required, the agency shall file a notice of intent to conduct an election which shall contain the dates of the election period; the place, method, and purpose of the election; the date the voter list for determining fees is due; and the date upon which the employee organization shall pay the applicable election fee. The agency shall order the public employer's submission of the voter eligibility list in accordance with rule 621—5.2(20) and subrule 5.6(4).

b. Following the public employer's submission of the list of eligible voters as provided in subrule 5.6(4) and the agency's receipt of the applicable election fee from the certified employee organization, the agency will file an order directing a retention and recertification election. and

~~e. The agency will file~~ a notice of election, copies of which shall be promptly posted by the employer in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by ~~e-mail~~ email or hard copy, the public employer shall also promptly distribute such notice to employees by those means. Such notices shall contain a sample ballot or script and shall set forth the dates of the election period; time, place, method, and purpose of the election; and such additional information as the ~~board~~ agency may deem appropriate.

5.6(3) Objection to notice of intent to conduct an election.

a. The certified employee organization or public employer may file an objection asserting that the election should not be conducted for reasons set forth in the objection. The objection shall be in writing and electronically filed no later than seven days following the date of the notice of intent to conduct an election.

b. The agency may conduct a preliminary investigation of the objection and determine if the objection has merit. The agency will dismiss objections without merit and schedule hearings for all other objections. Hearings on objections shall be conducted pursuant to 621—Chapter 2. The objecting party shall present its evidence first.

5.6(4) Eligible voter list for determining election fee.

a. The public employer shall submit email to the agency by e-mail a list of the employees in the bargaining unit in question within seven days of the filing of the notice of intent to conduct an election, except as provided in subrule 5.6(8). This list shall be organized alphabetically and contain the names;₂ addresses, e-mail; email addresses, if known; job classifications;₂ dates of birth;₂ the last four digits of the employees' social security numbers;₂ and any other information required by the agency. The employer shall separately email the certified employee organization to confirm that the employer provided the agency with the voter list and will provide the date the list was emailed to the agency and the number of employees on the list. The agency shall file the list following its redaction of employee dates of birth and partial social security numbers. This list shall become the official voting list for the election to be conducted. The employer shall e-mail additions or deletions of employees' names or any other changes in the list to the agency. The parties may further amend the list by agreement of eligible voters' names and job classifications. The agency shall provide to the certified employee organization the list with the

employees' contact information. The certified employee organization shall use this list to determine the election fee as provided in subrule 5.6(5).

b. If the public employer fails to submit the list of eligible voters to the agency in a timely fashion by the deadline set in the notice, the agency will refrain from conducting not conduct the election, and will file an order recertifying the employee organization, and may require the employer to reimburse the agency or the employee organization for the cost of the election.

5.6(5) Payment of election fee. A certified employee organization shall pay the applicable election fee at least 30 days prior to the commencement of the election period as set forth in the notice of intent to conduct the election, except as otherwise authorized by this subrule or provided in subrule 5.6(8). The election fee shall be paid by check payable to the agency and is deemed paid upon receipt by the agency or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was mailed. The agency may grant a certified employee organization's written request for an extension of time to pay the fee for good cause if the request is filed at least 30 days prior to the commencement of the election period as set forth in the notice of intent to conduct the election. The agency will not conduct an election prior to receiving the applicable election fee. The certified employee organization's failure to pay the applicable election fee in a timely manner by the deadline set in the notice shall result in revocation of the organization's certification.

5.6(6) Voter eligibility list.

a. When the agency files an order directing that the retention and recertification election be conducted, the employer shall, within seven days of the order, email to the agency a second alphabetical list of the names; addresses; email addresses, if known; telephone numbers; and job classifications of the employees eligible to vote. If the list the employer previously provided pursuant to subrule 5.6(4) is unchanged, the employer does not need to email a subsequent list. The agency shall file the list of eligible voters' names and job classifications. This list shall become the official eligible voting list for the election to be conducted. The agency shall provide to the certified employee organization the voter list with the employees' contact information.

b. The employer shall not add to or delete from the list any employee name after the submission of the above-described voter eligibility list. By contacting the employer, the certified employee organization may propose additions to or deletions from the list of employees' names prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections. The parties may amend the list by agreement prior to the date of the election for in-person elections, prior to the date the ballots are mailed for mail-ballot elections, or seven days prior to the commencement of the election period for telephonic/web-based elections.

5.6(6) 5.6(7) Ballots. Ballots shall contain the question required by Iowa Code section 20.15 as amended by 2017 Iowa Acts, House File 291, section 9, asking "Do you want [name of certified employee organization] to be retained and recertified and continue to be your exclusive bargaining representative?" followed by the choices "Yes, I want [name of certified employee organization] to continue to represent me" or "No, I do not want [name of certified employee organization] to continue to represent me."

5.6(8) Postelection challenges.

a. In addition to voter eligibility challenges made pursuant to subrule 5.2(3), a certified employee organization may make postelection challenges to the total number of bargaining unit employees for their respective retention and recertification elections. The certified employee organization may file a postelection challenge to the number of bargaining unit employees if an eligible voter has left employment and is no longer in the bargaining unit prior to the close of the election or election period. The employee organization shall file this postelection challenge within ten days of the filing of the tally of ballots. The agency shall attempt to resolve the dispute. Whenever postelection challenges are unresolved and determinative of the outcome of an election, a hearing to determine whether an eligible voter left employment and was no longer in the bargaining unit prior to the close of the election or election period shall be scheduled and conducted. The board may make appropriate adjustments to the tally or order a new election based on the board's findings and conclusions.

b. The employer is responsible for ensuring the accuracy of the list after its submission and throughout the election period. The employer shall promptly notify the certified employee organization whenever an eligible voter leaves a position of employment in the bargaining unit prior to the close of the election or election period.

~~5.6(7)~~ **5.6(9)** *Certification of results.*

a. Upon completion of a valid retention and recertification election in which an employee organization received the votes of a majority of employees in the bargaining unit, the agency shall file an order recertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

b. Upon completion of a valid retention and recertification election in which an employee organization did not receive the votes of a majority of employees in the bargaining unit, the agency shall file an order decertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

~~5.6(8)~~ **5.6(10)** *Elections for employee organizations that represent employees of school districts, area education agencies and community colleges.*

~~a. If a certified employee organization representing employees of a school district, area education agency, or community college is scheduled for a retention and recertification election to be held in September of any given year, the following timeline applies:~~

~~The employer shall submit to the agency an employee list as described in subrule 5.6(4) at least 15 days prior to the commencement date of the election period. The certified employee organization shall pay the applicable election fee at least 10 days prior to the commencement of the election period.~~

~~b. If certified employee organizations representing employees of a school district, area education agency, or community college would otherwise be scheduled for a retention and recertification election to be held between May 1 and August 31 September 30, the agency will postpone those elections until October of that calendar year and the timelines of subrules 5.6(2), 5.6(4), and 5.6(5) will apply.~~

ITEM 22. Amend rule 621—5.7(20) as follows:

621—5.7(20) Decertification election elections.

~~5.7(1) General procedure—eligibility list—notice of election~~ *Eligible voter list.*

~~a. Upon the agency's determination that a decertification petition is supported by an adequate showing of interest in accordance with rule 621—4.3(20), the agency shall file an order directing that an election be conducted in a specified manner not less than 150 days before the expiration date of the bargaining unit's collective bargaining agreement and that the employer submit a list of eligible voters pursuant to rule 621—5.2(20), unless the election is barred by subrule 5.7(5) 5.7(6).~~

~~b. Following the employer's submission of the list of eligible voters, the agency shall file a notice of election containing a sample ballot and setting forth the date, time, place, method, and purpose of the election, and such additional information as the board may deem appropriate. The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by e-mail or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~

5.7(2) Payment of election fee. The election fee shall be based on the initial employee list provided by the employer to verify the showing of interest pursuant to 621—subrule 4.3(3). After the filing of a decertification petition, but no later than seven days after the agency's filing of an order directing an election, a the certified employee organization shall pay the applicable election fee to the agency, unless the organization's written request for an extension of time, upon written request, to pay the fee for good cause is granted by the agency. The election fee shall be paid by check payable to the agency and is deemed paid upon receipt by the agency or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was mailed. The agency will not conduct an election prior to receiving the applicable election fee. A certified employee organization's failure to pay the applicable election fee in a timely manner shall result in the revocation of the employee organization's certification.

5.7(3) Notice of election. Following the employer's submission of the list of eligible voters and the employee organization's payment of the applicable election fee, the agency shall file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election, and such additional information as the agency may deem appropriate. The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.

~~5.7(3)~~ 5.7(4) Ballots. Ballots shall contain the question required by Iowa Code section 20.15 as amended by 2017 Iowa Acts, House File 291, section 9, asking "Do you want [name of certified employee organization] to be decertified by the Public Employment Relations Board and cease to be your exclusive bargaining representative?" followed by the choices "Yes, I no longer wish to be represented by [name of certified employee organization]" or "No, I want to continue to be represented by [name of certified employee organization]."

~~5.7(4)~~ 5.7(5) Certification of results.

a. Upon completion of a valid decertification election in which a majority of the employees in the bargaining unit voted to decertify the employee organization, the agency shall file an order decertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

b. Upon completion of a valid decertification election in which a majority of the employees in the bargaining unit did not vote to decertify the employee organization, the agency shall file an order continuing the certification of the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

~~5.7(5)~~ 5.7(6) Bars to decertification election.

a. The agency shall not consider a petition for decertification of an employee organization unless the collective bargaining agreement exceeds two years in duration. ~~The agency shall not consider a decertification petition during the pendency of a retention and recertification proceeding.~~

b. The agency shall not consider a decertification petition during pendency of a retention and recertification proceeding.

~~b. c.~~ The agency shall not schedule a decertification election within one year of a prior certification, retention and recertification, or decertification election involving the bargaining unit.

ITEM 23. Amend rule 621—5.8(20) as follows:

621—5.8(20) Professional and nonprofessional election elections.

~~5.8(1) General procedure—eligibility list—notice of election.~~

~~a.~~ Should the agency determine, in any case, that professional and nonprofessional employees are appropriately included in the same bargaining unit, the agency shall file an order directing that an election be conducted to determine whether those professional and nonprofessional employees agree to be represented in a single bargaining unit and that the employer ~~submit by e-mail~~ email separate lists of eligible professional and nonprofessional voters pursuant to rule 621—5.2(20).

~~b.~~ The public employer shall e-mail the lists of employees in the professional and nonprofessional categories to the agency within seven days of the agency's order. The lists shall be organized alphabetically and contain the names, addresses, e-mail addresses, and job classifications of the employees eligible to vote, and any other information required by the agency. The lists submitted by the employer shall be filed by the agency and shall become the official voting lists for the election to be conducted. The employer shall e-mail additions or deletions of employees' names or any other changes in the list to the agency. The lists may be further amended by agreement of the parties.

~~c.~~ Following the employer's submission of the lists of eligible voters, the agency shall file a notice of election containing a sample ballot for each category of employee and setting forth the date, time, place, method, and purpose of the election, and such additional information as the agency may deem appropriate. The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to

employees by additional means, such as by e-mail or hard copy, the public employer shall also promptly distribute such notice to employees by those means.

d.—No election fee is assessed for an election held pursuant to this rule.

5.8(2) Voter eligibility list.

a. The public employer shall email the lists of employees in the professional and nonprofessional categories to the agency within seven days of the agency's order. The lists shall be organized alphabetically and contain the names; addresses; email addresses, if known; and job classifications of the employees eligible to vote; and any other information required by the agency. The agency shall file the lists of eligible voters' names and job classifications. These lists shall become the official voting lists for the election to be conducted. The agency shall provide to the employee organization the voter lists with the employees' contact information.

b. The employer or employee organization shall email proposed additions or deletions of employees' names, changes in job classifications, addresses, contact information, or other eligible voter changes to the agency and other party. The parties may amend the lists by agreement.

5.8(3) Notice of election. Following the employer's submission of the lists of eligible voters, the agency shall file a notice of election containing a sample ballot or script for each category of employee and setting forth the date, time, place, method, and purpose of the election, and such additional information as the agency may deem appropriate. The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.

5.8(4) Election fee. No election fee is assessed for an election held pursuant to this rule.

5.8(2) 5.8(5) Ballots. Ballots shall contain the following question, "Do you agree to the inclusion of professional and nonprofessional employees in the same bargaining unit?" followed by the choices "Yes" or "No."

5.8(3) 5.8(6) Certification of results.

a. Upon completion of a valid professional/nonprofessional election in which separate majorities of the eligible voters in both the professional and nonprofessional employees in the proposed unit categories voted in favor of their inclusion in the same bargaining unit, the agency shall define a bargaining unit which includes both professional and nonprofessional employees.

b. Upon completion of a valid professional/nonprofessional election in which separate majorities of the eligible voters in one or both of the professional and nonprofessional employees in the proposed unit categories did not vote in favor of their employees' inclusion in the same bargaining unit, the agency shall not define a bargaining unit which includes both professional and nonprofessional employees.

ITEM 24. Amend rule 621—5.9(20) as follows:

621—5.9(20) Amendment of unit elections.

5.9(1) General procedure—eligibility list—notice of election. Should the agency determine that a job classification or classifications are appropriately amended into a bargaining unit, but that those classifications existed at the time the employee organization was certified and would separately constitute an appropriate unit, the agency shall file an order directing that an election be conducted. The election will determine whether a majority of the employees in those classifications wish to be represented by the existing certified employee organization. The order shall further require the employer shall submit by e-mail to email a list of the employees in those classifications pursuant to rule 621—5.2(20).

a.—The public employer shall e-mail the list of employees to the agency within seven days of the agency's order. The list shall be organized alphabetically and contain the names, addresses, e-mail addresses, and job classifications of the employees eligible to vote. The agency shall file the list, which shall become the official voting list for the election to be conducted. The employer shall e-mail additions or deletions of employees' names or any other changes in the list to the agency. The parties may further amend the list by agreement.

b.—Following the employer's submission of the list of eligible voters, the agency shall file a notice of election containing a sample ballot and setting forth the date, time, place, method, and purpose of

~~the election, and such additional information as the board may deem appropriate. The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by e-mail or hard copy, the public employer shall also promptly distribute such notice to employees by those means.~~

~~c. No election fee is assessed for an election held pursuant to this rule.~~

5.9(2) Voter eligibility list. The public employer shall email the list of employees to the agency within seven days of the agency's order. The list shall be organized alphabetically and contain the names; addresses; email addresses, if known; and job classifications of the employees eligible to vote; and any other information required by the agency. The agency shall file the list of eligible voters' names and job classifications, which shall become the official voting list for the election to be conducted. The employer or employee organization shall email proposed additions or deletions of employees' names, changes in job classifications, addresses, contact information or other eligible voter changes to the agency and other party. The parties may further amend the list by agreement.

5.9(3) Notice of election. Following the employer's submission of the list of eligible voters, the agency shall file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election, and such additional information as the board may deem appropriate. The employer shall promptly post the notice in the manner and locations customarily used for the posting of information to employees. If a public employer customarily distributes information to employees by additional means, such as by email or hard copy, the public employer shall also promptly distribute such notice to employees by those means.

5.9(4) Election fee. No election fee is assessed for an election held pursuant to this rule.

~~5.9(2) 5.9(5) Ballots.~~ Ballots shall contain the following question, "Do you wish to be represented for purposes of collective bargaining by [name of employee organization]?" followed by the choices "Yes, I wish to be represented by [name of employee organization]" or "No, I do not wish to be represented."

~~5.9(3) 5.9(6) Certification of results.~~

a. Upon completion of a valid amendment of unit election in which a majority of the eligible voters cast ballots in favor of representation by the certified employee organization, the agency shall file an order amending the unit as previously determined to be appropriate by the agency.

b. Upon completion of a valid amendment of unit election in which a majority of the eligible voters did not cast ballots in favor of representation by the certified employee organization, the agency shall file an order dismissing the amendment of unit petition.

ITEM 25. Amend rule 621—5.10(20) as follows:

621—5.10(20) Destruction of ballots. In the absence of litigation over the validity or outcome of an election and after a period of 60 days has elapsed from the date of the filing of an order of certification, noncertification, ~~retention and~~ recertification, decertification or continued certification of an employee organization pursuant to the election, the agency will cause the ballots cast in the election to be destroyed.

ITEM 26. Amend subrule 6.3(2) as follows:

6.3(2) Petitions for expedited resolution.

a. In the event that a negotiability dispute arises between the employer and the certified employee organization, either party may petition the agency for expedited resolution of the dispute. The petition shall be filed and set forth the following:

- (1) The name and address of the petitioner and the name, address, telephone number, and ~~e-mail~~ email address of the petitioner's representative;
- (2) The name and address of the respondent and the name, address, telephone number, and ~~e-mail~~ email address of the respondent's representative;
- (3) The material facts of the dispute; and
- (4) The verbatim text of the proposal at issue.

b. The petitioner shall promptly serve the other party with a copy of the petition and file proof thereof with the agency in accordance with 621—subrules 2.15(3) and 16.10(1).

ITEM 27. Amend subrule 6.4(5) as follows:

6.4(5) Agreement and stipulation. If the parties are in agreement, the parties shall complete a stipulation form prescribed by the agency. The stipulation shall be signed by the authorized representatives of the parties, and the certified employee organization shall submit it to the agency by ~~e-mail~~ email, ordinary mail, or personal delivery.

ITEM 28. Amend subrule 6.4(7) as follows:

6.4(7) Deadlines. The stipulation shall be submitted or a petition filed on or before the dates indicated:

- a. ~~July 1~~ August 1 for contracts that expire January 1 to March 31 of the subsequent year.
- b. ~~October 1~~ November 1 for contracts that expire April 1 to June 30 of the subsequent year.
- c. ~~January 1~~ February 1 for contracts that expire July 1 to September 30 of the same year.
- d. ~~April 1~~ May 1 for contracts that expire October 1 to December 31 of the same year.

ITEM 29. Amend rule 621—6.6(20) as follows:

621—6.6(20) Filing of agreement. A public employer shall file a copy of the collective bargaining agreement entered into between a the public employer and a certified employee organization and made final under Iowa Code chapter 20 shall be filed with the agency by the public employer. The public employer shall file the copy within ten days of the date on which the agreement is entered into.

ITEM 30. Renumber subrules **7.7(2)** to **7.7(5)** as **7.7(3)** to **7.7(6)**.

ITEM 31. Adopt the following **new** subrule 7.7(2):

7.7(2) Procedures for state agreements effective in a year following an Iowa Code section 39.9 gubernatorial election.

a. A ratification election referred to in Iowa Code section 20.17(4) shall not be held and the parties shall not request arbitration pursuant to Iowa Code section 20.22(1) until at least two weeks after the beginning date of the governor's term of office.

b. Within five days from the beginning date of the governor's term of office, the governor shall accept or reject a proposed statewide collective bargaining agreement if one exists. If the proposed agreement is rejected, the parties shall commence bargaining anew in accordance with Iowa Code section 20.17 and exchange initial proposals within the same five-day period.

c. Negotiations shall be complete not later than March 15 of that year unless the parties mutually agree to a different deadline.

d. The parties shall mutually agree to alternative deadlines for the completion of bargaining procedures set forth in Iowa Code sections 20.19, 20.20, and 20.22 to ensure the completion of negotiations not later than March 15 or other mutually agreeable deadline.

ITEM 32. Amend subrule 13.7(2) as follows:

13.7(2) Mediator privilege. In accordance with Iowa Code section 20.31(2), a mediator shall not testify in judicial, administrative, arbitration, or grievance proceedings regarding any matters occurring in the course of a mediation, including any verbal or written communication or behavior, other than facts relating exclusively to the timing or scheduling of mediation. A mediator shall not produce or disclose any documents, including notes, memoranda, or other work product, relating to mediation, other than documents relating exclusively to the timing or scheduling of mediation.

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