

(g) In addition to the requirements at (a) through (f) above, the following shall apply when an application for disability retirement is filed:

1. An application for a physical disability retirement must be supported by at least two medical reports. One must be provided by the member's personal or treating physician on a form prescribed by the Division. The other may be either hospital records supporting the claim of disability or a report from a second physician on a form prescribed by the Division. The medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application. Further, in the case of a member filing for an accidental disability retirement, only those disabilities associated with the purportedly disabling event shall be considered. **A member applying for disability retirement may only amend or change the medical condition on their application prior to evaluation by an independent medical examiner arranged by the Division. Once the member has been evaluated by an independent medical examiner as arranged by the Division, the member seeking to amend or change their claimed medical condition must withdraw their application and file a new application for a future retirement date.** If the member is denied an accidental disability retirement application, but qualifies for an ordinary disability retirement based on the disabilities associated with the purportedly disabling event identified on the original accidental disability application, no additional application needs to be filed, pursuant to (g)6 below. The required documentation must be received within six months of the date of filing the disability retirement application. If it is not received, the retirement will be canceled and the member will be required to complete a new disability application for a future retirement date;

2. An application for a mental health disability retirement must be supported by at least two medical reports. One must be provided by the member's personal or treating psychiatrist or psychologist on a form prescribed by the Division. The other "medical report" may be in the form of either hospital records supporting the claim of disability, a report from a second psychiatrist or psychologist on a form prescribed by the Division, or a report from the member's personal or treating physician, or licensed clinical social worker. The required documentation must be received within six months of the date of filing the disability retirement application. If it is not received, the retirement will be canceled and the member will be required to complete a new disability retirement application for a future retirement date. The medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application. **A member applying for disability retirement may only amend or change the medical condition on their application prior to evaluation by an independent medical examiner arranged by the Division. Once the member has been evaluated by an independent medical examiner, as arranged by the Division, the member seeking to amend or change their claimed medical condition must withdraw their application and file a new application for a future retirement date. Further, in the case of a member filing for an accidental disability retirement, only those disabilities associated with the purportedly disabling event shall be considered;**

3.-6. (No change.)

(i)-(j) (No change.)

17:2-6.10 Involuntary disability application

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by an employer for one of its employees enrolled in the System before May 21, 2010, the member will be promptly notified by letter that:

1.-2. (No change.)

3. The member has a period of 30 days to contest the involuntary disability retirement by submitting a written statement before the Board acts on the employer's application[;]. **If not contested, the member may be required to submit additional documentation upon request to assist in processing the application. This may include signing a HIPAA release and medical questionnaire, when requested as part of the application process;**

4.-6. (No change.)

17:2-6.26 Disability retirement applications; examinations; physicians

(a) In addition to the reports required with the application pursuant to N.J.A.C. 17:2-6.1(g)1 and 2, applicants for a disability retirement shall submit with their applications all the medical information they can supply relative to their disability, including reports of their personal physicians and consulting physicians, hospital records, diagnostic test results, and any other medical information that would assist the independent medical examiner, Medical Review Board, and the Board in determining eligibility of the applicants for a disability retirement. The Division shall forward the applications and the accompanying medical information to the Medical Review Board. **Further, the member may be required to sign a HIPAA release and medical questionnaire, when requested as part of the application process.**

1. (No change.)

(b)-(e) (No change.)

(f) The member's disability retirement application will be processed on the basis of the medical conditions described on the submitted application. **The member may only amend or change the medical condition on their application prior to evaluation by an independent medical examiner arranged by the Division. Once the member has been evaluated by an independent medical examiner, as arranged by the Division, the member seeking to amend or change their claimed medical condition must withdraw their application and file a new application for a future retirement date.** If the disability retirement application is denied, the member may file an appeal within 45 days, based on the medical conditions described on the submitted application. An applicant who files an appeal of a denial of disability retirement may qualify for a deferred retirement during the pendency of the appeal in the Office of Administrative Law. An applicant that wishes to accept the deferred retirement must include a written statement accepting deferred retirement at the time of the appeal.

(g) (No change.)

OTHER AGENCIES

(a)

PUBLIC EMPLOYMENT RELATIONS COMMISSION Representation Procedures

Proposed Readoption with Amendments: N.J.A.C. 19:11

Authorized By: Public Employment Relations Commission, Mary E. Hennessy-Shotter, Chair.

Authority: N.J.S.A. 34:13A-5.4.e, 34:13A-6.d, and 34:13A-11.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-008.

Submit comments by March 22, 2025, to:

Mary Beth Hennessy-Shotter, Chair
Public Employment Relations Commission
PO Box 429
Trenton, New Jersey 08625-0429

Comments may also be submitted through email at rulecomments@perc.nj.gov or by facsimile to 609-777-0089.

The agency proposal follows:

Summary

In accordance with N.J.S.A. 52:14B-5.1, the Public Employment Relations Commission (Commission) proposes to readopt N.J.A.C. 19:11 with non-substantial amendments. N.J.A.C. 19:11 was scheduled to expire on January 25, 2025. As the Commission submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to July 24, 2025, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., at 34:13A-5.3, provides that when a majority of public

employees in a unit select or vote for a majority representative, that majority representative shall be the exclusive representatives for collective negotiations concerning the terms and conditions of employment of the employees in such unit. N.J.S.A. 34:13A-6.d and e empower the Commission to resolve questions concerning representation of public employees by conducting secret ballot elections or other means to ascertain employee free choice, to decide which unit of employees is appropriate for collective negotiation using formal hearings, if necessary, and to determine the rules for the conduct of such elections and hearings.

The rules at N.J.A.C. 19:11 allow the Commission to resolve all questions concerning the representation of public employees in units appropriate for collective negotiations pursuant to the New Jersey Employer-Employee Relations Act. The rules describe: the types of petitions that can be filed; the parties permitted to file petitions; the required contents of petitions; the processing of petitions; hearing procedures; requests for Commission review; Commission review of hearing officer recommendations; and procedures for representation elections.

Several non-substantial changes are proposed throughout N.J.A.C. 19:11. Most filing rules that had required the submission of multiple copies of a document are changed to require only the submission of an original and "one copy." N.J.A.C. 19:11-6.12(e) is changed to require "two copies" instead of five copies of a brief during a hearing. All rules that require contact information for certain parties are changed to require an "email address." N.J.A.C. 19:11-1.6(b) adds both "email address" and "telephone number" to the list of required information for the public employer and the petitioner in an amendment of certification case. N.J.A.C. 19:11-1.1(b) updates the Commission's website to <https://www.nj.gov/perc/>. N.J.A.C. 19:11-1.3(a)3 changes "per cent" to "percent."

A summary of each section at N.J.A.C. 19:11, including the proposed amendments, follows:

Subchapter 1, Representation Petitions, describes the various types of representation petitions and the persons or parties permitted to file each petition, and specifies the contents of a petition for certification, decertification, clarification of unit, and amendment of certification.

Subchapter 2, Processing of Petitions, provides that the Director of Representation shall determine the validity of a showing of interest, including authorization cards, and provides that the showing of interest and authorization cards are confidential. Subchapter 2 provides that the Director will investigate any petition to determine the facts and whether a question concerning the representation of employees has been raised, provides for the employer to post a notice to employees after a representation petition has been filed, and provides that after investigating a petition, the Director may: request the petition be withdrawn and absent such withdrawal, dismiss it; issue a decision dismissing the petition; issue a decision directing an election; issue a decision clarifying a unit; issue a decision amending a certification or take other measures deemed appropriate. Subchapter 2 further specifies how parties may intervene in representation proceedings and provides the time periods for filing certain representation petitions.

Subchapter 3, Recognition as Exclusive Representative, specifies the procedure by which a public employer may grant recognition as a majority representative to an employee organization, without Commission intervention.

Subchapter 4, Agreement for Consent Election, provides that the parties may sign an agreement consenting to a representation election to be conducted by the Commission.

Subchapter 5, Directed Elections, provides that, where the Director or Commission has ordered that an election be held, the parties may agree on the election details (subject to the Director's approval) or, absent agreement, the Director may set them.

Subchapter 6, Hearings, provides the procedures and timelines for representation hearings, specifies the duties and powers of a hearing officer, and provides that hearings may be conducted by a hearing officer, the Director of Representation, or the Commission, or one of its members. Subchapter 6 further provides that interlocutory rulings in representation cases shall not be appealed directly to the Commission except by special permission, and that objections not raised to a hearing officer are deemed waived.

Subchapter 7, Hearing Officer's Report, Transfer of Case to the Commission, and Action by the Commission, provides, after hearing, for the preparation by the hearing officer of a report and recommendations to be served on the parties and to be filed with the Commission. Subchapter 7 further provides the procedures and timelines for filing exceptions and cross-exceptions to a hearing officer's report to the Commission.

Subchapter 8, Request for Commission Review, provides that a party may file a request for a review with the Commission of a Director of Representation decision, order, or direction, specifies the contents of a request for review and opposition thereto, and specifies the grounds that must be shown for the Commission to grant a request for review.

Subchapter 9, Transfer to the Commission; Reconsideration, provides that the Commission may, at any time, transfer a case to itself, allows a party to request oral argument before the Commission, and allows a party, after a Commission decision has been issued, to move for reconsideration based upon extraordinary circumstances and allows any party opposing reconsideration to file a response.

Subchapter 10, Election Procedures, provides that in all representation elections, the public employer shall file 10 days before the election an election eligibility list, provides that the Director shall furnish election notices to the employer, and specifies the posting requirements. Subchapter 10 sets forth the procedures for conducting a Commission representation election, including voting methods, election observers, ballot challenges, ballot counting, election objections, and investigations. Subchapter 10 authorizes the Director to conduct a rerun election and sets forth the procedures for such elections. Subchapter 10 provides that the exclusive representative shall be determined by a majority of the valid ballots cast in the election.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The readoption of these rules is necessary to allow the Commission to continue to carry out its statutory mandate to resolve questions concerning the representation of public employees in units appropriate for collective negotiations. The rules proposed for readoption with amendments would help representation cases proceed smoothly and, thus, effectuate the Act's purposes concerning the right to seek representation.

Economic Impact

The readoption of these rules will have no discernible economic impact on the public. The rules proposed for readoption with amendments outline the procedures for resolving questions concerning the representation of public employees in units appropriate for collective negotiations.

Federal Standards Statement

The National Labor Relations Act excludes from its coverage "any State or political subdivision thereof." 29 U.S.C. § 152(2). Thus, no Federal law, rule, or regulation applies to the subject matter of these rules. As there is no comparable Federal rule or standard upon which the Commission can rely to achieve the aim of the New Jersey Employer-Employee Relations Act, the readoption of these rules with amendments is necessary.

Jobs Impact

The Commission does not expect that any jobs will be generated or lost as a consequence of the rules proposed for readoption with amendments.

Agriculture Industry Impact

The Commission's jurisdiction is limited to employer-employee relations in public employment. The rules proposed for readoption with amendments impose no requirements for the agriculture industry.

Regulatory Flexibility Statement

Neither the Commission nor any employer or employee covered by its rules is considered a small business pursuant to the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as the rules proposed for readoption with amendments concern employer-employee relations in public employment. Therefore, a regulatory flexibility analysis is not necessary.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments would not have an impact on the average costs associated with housing or on the affordability of housing because the rules are designed to resolve questions concerning the representation of public employees in units appropriate for collective negotiations with their public employers.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the rules are designed to resolve questions concerning the representation of public employees in units appropriate for collective negotiations with their public employers.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The rules proposed for readoption with amendments will not have an impact on pre-trial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:11.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. REPRESENTATION PETITIONS**19:11-1.1 Petitions**

(a) (No change.)

(b) An original and [four copies] **one copy** of all petitions shall be filed with the Director of Representation. All petitions shall be in writing. The Director of Representation shall serve a copy of the petition upon the other parties. Forms for filing such petitions will be supplied upon request. Address such requests to: Public Employment Relations Commission, PO Box 429, Trenton, New Jersey 08625-0429. Forms may also be downloaded from the Commission's website: [<http://www.state.nj.us/perc>] **<https://nj.gov/perc>**.

19:11-1.2 Contents of petition for certification

(a) A petition for certification of public employee representative filed by a public employee, a group of public employees, any individual, or an employee organization shall [contain] **include**:

1.-2. (No change.)

3. The name, address, **email address**, and telephone number of the recognized or certified exclusive representative, if any, and the date of such certification or recognition and the expiration date of any applicable collective negotiations agreement, if known to the petitioner;

4. The names, addresses, **email addresses**, and telephone numbers of any other interested employee organizations, if known to the petitioner;

5. (No change.)

6. The name and affiliation, if any, of the petitioner and its address, **email address**, and telephone number;

7.-10. (No change.)

19:11-1.3 Contents of petition for decertification

(a) A petition for decertification of public employee representative shall [contain] **include**:

1.-2. (No change.)

3. The petition for decertification shall be accompanied by a showing of interest of not less than 30 [per cent] **percent** of the employees in the unit in which an exclusive representative has been recognized or certified. A showing of interest shall indicate that the employees no longer desire to be represented for purposes of collective negotiations by the recognized or certified employee representative or by any other employee representative.

19:11-1.6 Petition for amendment of certification

(a) (No change.)

(b) A petition for amendment of certification shall [contain] **include**:

1. (No change.)

2. The address, **email address**, and **telephone number** of the public employer;

3.-4. (No change.)

5. The name, the affiliation, if any, and the address, **email address**, and **telephone number** of the petitioner;

6.-7. (No change.)

(c)-(d) (No change.)

SUBCHAPTER 2. PROCESSING OF PETITIONS**19:11-2.3 Withdrawal or dismissal of petition**

(a)-(b) (No change.)

(c) Within 15 days after the date a petition has been dismissed, a petitioner may file a motion to reopen with the Director of Representation. The petitioner shall file an original and [two copies] **one copy** of such motion, together with proof of service of a copy on all other parties. Any party opposing the motion may file an original and [two copies] **one copy** of its response within five days of receipt of the motion, together with proof of service of a copy on all other parties. The motion may be granted based on a showing of extraordinary circumstances or to prevent an injustice.

SUBCHAPTER 6. HEARINGS**19:11-6.9 Motions**

(a) All written motions shall briefly state the order or relief sought and, if appropriate, shall be supported by affidavits.

1. An original and [two copies] **one copy** of a motion and any response to a motion made before the designation of a hearing officer shall be filed with the Director of Representation, together with proof of service of a copy on all other parties.

2. An original and [two copies] **one copy** of a motion and any response to a motion made after the designation of a hearing officer and before the issuance of hearing officer's report and recommendations shall be filed with the hearing officer, together with proof of service of a copy on all other parties.

3. An original and [nine copies] **one copy** of a motion and any response to a motion made after the issuance of hearing officer's report and recommendations shall be filed with the Commission, together with proof of service of a copy on all other parties.

(b)-(f) (No change.)

19:11-6.12 Filing of brief and oral argument at hearing

(a)-(d) (No change.)

(e) [Five] **Two** copies of any brief or proposed findings and conclusions shall be filed with the hearing officer, together with proof of service of a copy on all other parties.

SUBCHAPTER 7. HEARING OFFICER'S REPORT, TRANSFER OF CASE TO THE COMMISSION, AND ACTION BY THE COMMISSION**19:11-7.3 Exceptions; cross-exceptions; briefs; answering briefs**

(a) Within 10 days of service on it of a report and recommendations or such longer period as the Commission may allow, any party may file with the Commission an original and [nine copies] **one copy** of any exceptions to the report and recommendations or to any other part of the record or proceedings (including rulings upon motions or objections), together with an original and [nine copies] **one copy** of a brief in support of the exceptions. Any party may, within the same period, file an original and [nine copies] **one copy** of a brief in support of the report and recommendations. A request for an extension of time to file exceptions or briefs shall be in writing and shall state the other parties' positions with respect to such request. Filings [under] **pursuant to** this subsection shall be accompanied by proof of service of a copy on all other parties.

(b)-(e) (No change.)

(f) Within five days of service on it of exceptions, or such longer period as the Commission may allow, a party opposing the exceptions may file an original and [nine copies] **one copy** of an answering brief, limited to the questions raised in the exceptions and in the brief in support of exceptions, together with proof of service of a copy on all other parties.

Filing, service, and proof of service of a request for an extension of time shall conform to [N.J.A.C. 19:11-7.3(a)] **(a) above**.

(g) Within five days of service on it of exceptions, or such longer period as the Commission may allow, any party that has not previously filed exceptions may file an original and [nine copies] **one copy** of cross-exceptions to any portion of the hearing officer's report and recommendations, together with a supporting brief, in accordance with [N.J.A.C. 19:11-7.3(b)] **(b) above**, together with proof of service of a copy on all other parties. Filings, service, and proof of service of a request for an extension of time shall conform to [N.J.A.C. 19:11-7.3(a)] **(a) above**.

(h) Within five days of service on it of cross-exceptions, or such longer period as the Commission may allow, any other party may file an original and [nine copies] **one copy** of an answering brief in accordance with the provisions [of N.J.A.C. 19:11-7.3(f)] **at (f) above**, limited to the questions raised in the cross-exceptions, together with proof of service of a copy on all other parties. Filing, service, and proof of service of a request for an extension of time shall conform to [N.J.A.C. 19:11-7.3(a)] **(a) above**.

(i)-(j) (No change.)

SUBCHAPTER 8. REQUEST FOR COMMISSION REVIEW

19:11-8.1 Filing of request

(a) (No change.)

(b) An original and [nine copies] **one copy** of a request for review shall be filed with the Commission, together with proof of service of a copy on all other parties. The filing of a request for review with the Commission shall not operate, unless otherwise ordered by the Commission, as a stay of any action taken, ordered, or directed by the Director of Representation.

19:11-8.4 Statement in opposition to a request for review; further statements

Within seven days of service on it of a request for review, any party may file with the Commission an original and [nine copies] **one copy** of a statement in opposition to the request, together with proof of service of a copy on all other parties. No further submissions shall be filed except by leave of the Commission. A request for leave shall be in writing, accompanied by proof of service of a copy on all other parties.

SUBCHAPTER 10. ELECTION PROCEDURES

19:11-10.3 Election procedures

(a)-(g) (No change.)

(h) Within five days after the tally of ballots has been furnished, a party may file with the Director of Representation an original and [four copies] **one copy** of objections to the conduct of the election or conduct affecting the results of the election, together with proof of service of a copy on all other parties. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. A party filing objections must furnish evidence, such as affidavits or other documentation, that precisely and specifically shows that conduct has occurred which would warrant setting aside the election as a matter of law. The objecting party shall bear the burden of proof regarding all matters alleged in the objections and shall produce the specific evidence supporting its claim of irregularity in the election process. Failure to submit such evidence may result in the immediate dismissal of the objections.

(i)-(l) (No change.)