

5510.2010 ELECTIONS.

Subpart 1. **Showing of interest required.** The commissioner may not order an election unless there is at least a 30 percent showing of interest for the unit determined appropriate.

Subp. 2. **Election method.** If the commissioner orders an election, it must be conducted by secret ballot either at a site of employment or by mail, as determined under Minnesota Statutes, section 179A.12, subdivision 7.

Subp. 3. **Election order.** An election order must be served on all parties at least ten calendar days before the date of the on-site election or the date for mailing ballots for a mail-ballot election. The election order must:

- A. identify the appropriate unit;
- B. establish the cutoff date for voter eligibility;
- C. include a list of the eligible voters;
- D. include a sample ballot;
- E. establish campaign and election rules;
- F. provide for the parties to appoint observers;
- G. identify the date, time, and location of an on-site election and provide for absentee ballots;
- H. if applicable, identify the date for mailing ballots in a mail-ballot election;
- I. include any other conditions that are necessary for a fair election; and
- J. provide for an employer posting of the election order and attachments.

Subp. 4. **Voter eligibility.** All employees in the appropriate unit who are employed on the cutoff date and are identified on a list established by the commissioner are eligible to vote in an election under parts 5510.0110 to 5510.2310.

Subp. 5. **Correcting voter-eligibility list.**

A. The commissioner must determine questions on adding or deleting names on the voter-eligibility list.

B. Names must not be added to the voter-eligibility list after the hearing closes on the election petition unless:

- (1) names were inadvertently omitted; or
 - (2) the cutoff date for voter eligibility is changed because of an appeal or a court order.
- C. Names must be deleted from the voter-eligibility list if an:

(1) employee transfers, is promoted, or is demoted out of the unit and the action is not prohibited by the status quo order under part 5510.1910, subpart 4, item B;

(2) appeal or a court action delays the election or changes the cutoff date for voter eligibility; or

(3) eligible voter is voluntarily or involuntarily terminated and has not appealed the termination.

D. A deletion under item C must be made immediately before the polls open or ballots are tabulated.

E. A written request to correct the voter-eligibility list must be received by the commissioner within seven calendar days after the date of the election order.

Subp. 6. **Right to vote.** Eligible voters are permitted to vote during their work hours without loss of pay.

Subp. 7. **Election ballot.**

A. A certification election ballot must contain the following choices:

(1) the name of the employee organization that has submitted the required showing of interest; and

(2) no representation.

B. A representation election ballot must contain the following choices:

(1) the exclusive representative's name;

(2) the name of the employee organization that has submitted the required showing of interest; and

(3) no representation if the required showing of interest has been submitted according to part 5510.0710, subpart 2.

C. A decertification election ballot must contain the following choices:

(1) the exclusive representative's name;

(2) the name of the employee organization that has submitted the required showing of interest; and

(3) no representation.

Subp. 8. **Absentee ballot.**

A. An eligible voter unable to vote at an on-site election may secure an absentee ballot by submitting a written request to the commissioner. The request must be:

(1) received by the commissioner no later than specified in the election order under subpart 3; and

(2) dated and contain the voter's name and home mailing address, employer's name, voter's signature, bureau case number, and election date.

B. Upon receiving a timely request for an absentee ballot, the commissioner must mail to the voter a ballot, a return envelope, and a letter of explanation.

C. Absentee ballots must be received by the commissioner in the return envelope no later than specified in the election order.

Subp. 9. Election procedures.

A. An election must be held on the premises where the voters are employed during hours the commissioner determines, unless the commissioner determines that the election must be held at another location, by mail ballot, or by a combination of on-site and mail balloting.

B. The parties to an on-site election may designate one observer to be present at each polling location while ballots are cast and tabulated. The commissioner may allow each party to have more than one observer.

C. The parties to a mail-ballot election may each designate one observer to be present while ballots are tabulated. The commissioner may allow each party to have more than one observer.

D. The role of an observer is to identify employees eligible to vote, and observers are subject to commissioner orders.

Subp. 10. Marking ballot.

A. A ballot must be marked according to the ballot instructions. A ballot that is defaced or identifies the voter is void. When a voter inadvertently spoils a ballot, the voter must immediately return the ballot to the commissioner, who then must destroy the spoiled ballot and provide another ballot to the voter.

B. When a voter states that, because of physical disability or inability to read or write, the voter cannot mark the ballot, the commissioner must assist the voter privately in marking the ballot.

C. A voter who has been mailed an absentee ballot by the commissioner may not vote at the on-site election.

Subp. 11. Status of scheduled election during appeal.

A. If there is an appeal, the commissioner must proceed with any pending election unless the commissioner determines that the nature of the appeal precludes a reasonable determination of the question of representation to be decided by the election.

B. A party wishing to stay an election pending resolution of an appeal must notify the commissioner in writing within five calendar days of the appeal setting forth why the question of representation cannot be resolved while the appeal is pending.

C. The commissioner must respond to the notification under item B in writing within ten calendar days.

Subp. 12. Tabulating ballots.

A. All ballots cast by eligible voters must be tabulated by the commissioner in the presence of the election observers, if any, at the site designated in the election order under subpart 3.

B. Envelopes containing timely mail or absentee ballots must be opened in the presence of the election observers, if any, and must be placed in the ballot box and mixed with other ballots before they are tabulated.

C. The commissioner must immediately rule on each ballot as to whether it is valid, void, or blank, and the ballots must be separated accordingly.

D. Blank or void ballots must not be counted.

E. Mail ballots returned by employees whose names have been deleted from the eligibility list must not be counted.

Subp. 13. Tabulating election results.

A. After tabulating the ballots, the commissioner must prepare and sign a tabulation of election results. A copy of the tabulation of election results must be furnished to each observer under subpart 9, item B or C.

B. After the tabulation, the commissioner must keep all election ballots and election materials for at least 90 calendar days.

Subp. 14. Runoff election.

A. When a ballot contains more than two choices and none of the choices receives a majority of the valid votes cast, a runoff election must be conducted between the choices receiving the greatest and second-greatest number of votes.

B. In a representation or decertification election when the exclusive representative does not qualify for a runoff election, the election must be considered a certification election for purposes of tie votes.

Subp. 15. Tie vote. A tie vote in an election containing no more than two choices results in the following:

A. for a certification election: certification that no exclusive representative has been selected;

B. for a representation election: certification that the exclusive representative remains certified; or

C. for a decertification election: certification that the exclusive representative remains certified.

Subp. 16. **Certifying exclusive representative.** After an election, runoff election, or tie vote, the commissioner must certify the exclusive representative according to Minnesota Statutes, section 179A.12, subdivision 10.

Statutory Authority: *MS s 179.02; 179.82; 179A.04; 179A.16; 626.892*

History: *9 SR 735; L 1987 c 186 s 15; 12 SR 2712; 23 SR 1564; 46 SR 1387*

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