

## **TEACHER NEGOTIATING REPRESENTATIVES** *(Exclusive or Multiple Representatives)*

Unless otherwise governed by law, the Phelps Co. R-III School District will use the following process to recognize a union to represent teachers for collective bargaining purposes. The superintendent or designee is authorized to make additional rules governing the election process as needed.

All employees other than teachers must apply for certification of their employee representative with the State Board of Mediation in accordance with law.

### **Initial Recognition**

The Board will not voluntarily recognize an organization, association, union or professional group (a "union") as a representative for district teachers without a secret ballot election. To request an election to select a union, a district teacher must first submit to the superintendent or designee:

1. A description of the bargaining unit requesting representation. The description will include the general classifications of employees sought to be included and excluded and the approximate number of teachers in the proposed bargaining unit.
2. The name of the union seeking recognition as the representative and the name, address, e-mail address and telephone numbers of the union's contact person.
3. A petition requesting an election by secret ballot signed by at least 30 percent of the district teachers in the proposed bargaining unit. No signature can be older than six (6) months from the date the petition is submitted to the superintendent or designee. The petition will be submitted in a sealed envelope separate from the other required information and labeled "Petition."

Once the superintendent or designee receives such a request, he or she will post notice of receipt of the request in the same location that notices for Board meetings are posted. The notice will set a date no earlier than 20 business days from the first date of posting for teachers interested in representation by a different union to submit a request as described in the "Other Interested Unions" section of this policy.

The superintendent or designee and the contact person for the union seeking recognition will identify a person mutually acceptable to both the district and the union to review the petition. The person will not be an agent or representative of either the district or the union. The superintendent or designee will provide the designated person a list of names of district teachers meeting the definition of the proposed bargaining unit. The envelope labeled "Petition" will remain sealed until the

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designated person opens it to verify that signatures from at least 30 percent of the teachers in the proposed bargaining unit were obtained. The designated person will not disclose the petition, which employees signed the petition, or the total number of employees who signed the petition to any person unless required by law. The designated person will notify the superintendent or designee whether 30 percent of the signatures were obtained, but will not provide additional information unless required by law.

The superintendent or designee, and the person designated to review the petition, will have 30 business days to verify that the required information is present and to examine the description of the proposed bargaining unit. The superintendent or designee will notify the contact person for the union seeking recognition of any missing information, so that the problem can be corrected immediately.

If the information is complete, the superintendent or designee will submit to the Board a written recommendation on the appropriateness of the bargaining unit description and a list of the district teachers who would belong to the unit, if formed. If the superintendent or designee determines that the description is appropriate and the Board agrees, the Board will set a date for the election to take place.

If the superintendent or designee determines that the proposed bargaining unit is not appropriate, the Board will set a date and time for a public hearing on the issue, unless the district and the union agree that a hearing is not necessary to resolve the dispute. If a hearing is held, the contact person for the union seeking recognition will receive notice of the hearing. The superintendent or designee and the entity seeking recognition will have an opportunity to present witnesses and arguments. The Board will make a determination as to the appropriateness of the description of the proposed bargaining unit within ten (10) business days of the hearing. The Board's decision will be final.

If the description of the proposed bargaining unit is not approved, a district teacher may submit a revised description. The superintendent or designee will provide the designated person a list of names of district teachers meeting the revised definition of the proposed bargaining unit so that the designated person can determine if signatures from at least 30 percent of the teachers in the revised proposed bargaining unit were obtained. If so, the superintendent or designee will submit to the Board a written recommendation on the appropriateness of the proposed bargaining unit, as described above. If the appropriate number of signatures was not obtained, the teacher must resubmit the request for an election as described above.

### **Other Interested Unions**

Once the district has posted notice that a request has been made to select a union or to change union representation, any teacher interested in being represented by a different union may submit a request to the superintendent or designee. The teacher must submit the same information as required above

for initial recognition, except that only ten (10) percent of the teachers need to sign the sealed petition. All information must be submitted to the superintendent or designee no later than the date set in the district's posted notice. The Board will delay setting a date for the election until the information is reviewed by the superintendent or designee and the person designated to review the petition. If the request was submitted before the deadline and at least ten (10) percent of the teachers in the bargaining unit signed the petition, the union will be listed on the ballot.

### **Multiple Representative Unions**

If completed and timely requests are received for representation from different unions for the same bargaining unit, the district may need to hold more than one (1) election.

In the first election, the teachers will be asked to decide among:

1. Exclusive representation, in which only one (1) union will represent the teachers in collective bargaining;
2. Multiple representation, in which two (2) or more unions will be allowed to represent the teachers in collective bargaining; or
3. No representation, in which teachers decline representation from any union for collective bargaining purposes.

If any choice receives a majority of the ballots submitted, that choice will prevail once the Board has voted to certify the election results.

If the majority of the ballots submitted in the first election select exclusive representation, another election will be held for the proposed bargaining unit to determine which union will represent the unit, if any.

If the majority of the ballots submitted in the first election select multiple representation, another election will be held. If the district has received a completed and timely request for representation by any union, that union will be listed on the ballot as well as an option where a teacher may vote not to be represented by any union. All unions that receive at least 30 percent of the ballots submitted in the second election will be considered representatives of the bargaining unit once the Board votes to certify the election results. All negotiations will be held simultaneously between the district and all representative unions.

If the majority of the ballots submitted in the first election select no representation, the process is complete. A petition requesting another election will not be accepted by the Board for a minimum of one (1) year after the Board voted to certify the results of the previous election.

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If none of the choices receive a majority of the ballots cast in the first election, the Board will assume that district teachers are not sufficiently interested in being represented by multiple unions. The Board will set the date for an election in which the bargaining unit will select a union as an exclusive representative or decide not to be represented by any union.

### **Conducting the Election for Representation**

The Board will approve the ballot language after receiving recommendations from the superintendent or designee and any union that will appear on the ballot. All ballots will include an option where a teacher may vote not to be represented by any union.

The superintendent or designee will provide notice of the election in writing, electronically or otherwise, to all teachers in the proposed bargaining unit. In addition, the superintendent or designee will post notice of the election at the superintendent's office and in all instructional buildings in the district no less than ten (10) business days prior to the election.

The notice shall contain:

1. The date, hours and place of the election.
2. A copy of Board policies and regulations regarding the election of a teacher representative.
3. A description of the proposed bargaining unit.
4. A sample ballot with A Sample clearly marked on its face.

The election will be held in one (1) or more polling places reasonably convenient to the teachers voting and at times when the teachers in the proposed bargaining unit may vote without leaving their assigned duties. The election will be conducted by secret ballot. The superintendent or designee will appoint one (1) or more district employees or other persons who do not belong to the proposed bargaining unit, or to any union listed on the ballot, to check the names off of a list of all teachers in the proposed bargaining unit, and distribute and collect the ballots.

The superintendent and each union seeking recognition will select observers so that there is one (1) observer representing the district and one (1) observer from each union at each polling place during the election. Any observer may challenge a teacher's eligibility to vote. Challenged ballots shall be folded and placed in a sealed envelope with the name of the voter plainly written on the outside. Challenged ballots will not be considered unless the votes could affect the results of the election. If the ballots might affect the results of the election, the challenged ballots will be presented to the Board for a determination.

Ballots will not be tallied until after the posted time for closing the polls, unless all eligible voters have cast their ballots. The ballots will be tallied by the superintendent or designee in the presence of designated observers from the district and the union(s) listed on the ballot. Tallied ballots will be placed in a sealed envelope and saved until all objections are resolved and the Board votes to certify the election results. The tentative results will be recorded in writing and signed by the observers present when the ballots were tallied. The results will remain tentative until the Board votes to certify the results.

Within ten (10) business days after the votes are tallied, any district teacher may file with the Board an objection to the conduct of the election or conduct affecting the results of the election, which shall contain a statement of the reasons for the objection. A copy of the objection will be provided to all members of the Board, as well as the contact person(s) for the union(s) seeking to represent the proposed bargaining unit. The superintendent or designee will investigate all claims.

Unless the district and the persons objecting to or challenging the ballots agree otherwise, the Board will hold a hearing for all objections received and for all challenged ballots if the challenged ballots might impact the election. If a hearing is held, the contact person(s) for the union(s) seeking recognition and the person(s) filing the objection or challenging the ballots will receive notice of the hearing. The superintendent or designee, the person(s) who filed the objection and the person(s) challenging the ballots will have an opportunity to present witnesses and arguments. The Board will make a decision within ten (10) business days of the hearing. The Board's decision will be final.

The final results of the election will be presented to the Board after the time for filing objections has expired or the Board has made a decision on all objections and, if necessary, challenged ballots.

### **Election Results**

Unless the district's teachers have decided to allow for multiple unions to represent them, a union will become the bargaining representative if it receives a majority of the votes cast, once the Board has voted to certify the election. The following rules apply to the election results in elections in which employees are asked to select a union to represent the bargaining unit. The rules for the determination of whether the bargaining unit will be represented by multiple unions are addressed in the "Multiple Representative Unions" section of this policy.

An inconclusive election is an election in which the ballot provides for not less than three (3) choices, including at least two (2) unions and an option for no representation, and where no choice received a majority of the ballots cast. When the results of an election are inconclusive, the Board will set a date for a runoff election as described in this policy. Unless otherwise directed by the Board, there will only be one (1) runoff election.

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A null election is an election where all choices received an equal number of votes, or where two (2) choices received an equal number of votes and a third choice received a higher, but less-than-majority vote. When this happens, the Board will declare the election a nullity and set another date to run a new election. If the second election results in another nullity, the Board will dismiss the petition and a bargaining unit will not be formed. If the second election results are inconclusive, a runoff election will be held.

Where two (2) or more choices receive an equal number of votes, another receives no votes, and all eligible voters have voted, neither a runoff nor a rerun election will be conducted. The Board will vote to certify the election results. Because there is no winning choice, no change is made in current district practices.

Once a final decision is made regarding representation of a bargaining unit, a petition requesting another election will not be accepted by the Board for a minimum of one (1) year after the Board voted to certify the results of the previous election.

### **Runoff Elections**

The ballot in the runoff election shall provide for a selection among two (2) or more choices receiving the largest number of votes in the last election, the sum of whose votes aggregate at least one (1) more than half of the total votes cast. After voting to certify the first election, the Board will set a date for the runoff election. The election will follow the notice and election process detailed in this policy. All teachers in the bargaining unit may vote in the runoff election.

### **Changing Representation**

Any teacher in the bargaining unit may request to change the representative(s) of the bargaining unit. The Board will not accept such a petition until a minimum of one (1) year after the Board voted to certify the results of the previous election. A district teacher must submit to the superintendent or designee the following:

1. The bargaining unit for which representative change is sought.
2. The name of the union seeking recognition and the name, address, e-mail address and telephone numbers of the union's contact person.
3. A petition requesting an election by secret ballot signed by at least 30 percent of the district teachers in the bargaining unit. No signature can be older than six (6) months from the date the petition is submitted to the superintendent or designee. The petition will be submitted in a sealed envelope separate from the other required information and labeled "Petition."

Once the superintendent or designee receives such a request, he or she will post notice of receipt of the request in the same location that notices for Board meetings are posted. The notice will set a date no earlier than 20 business days from the first date of posting for teachers interested in representation by a different union to submit a request, as detailed in the "Other Interested Unions" section of this policy.

The superintendent or designee and the contact person(s) for the union(s) seeking recognition will identify a person mutually acceptable to the district and the union(s) to review the petition. The person will not be an agent or representative of either the district or the union(s). The superintendent or designee will provide the designated person the names of district teachers in the existing bargaining unit. The envelope labeled "Petition" will remain sealed until the person designated opens it to verify that signatures from at least 30 percent of the teachers in the bargaining unit were obtained. The designated person will not disclose the petition, which employees signed the petition, or the number of employees who signed the petition to any person unless required by law. The designated person will notify the superintendent or designee whether 30 percent of the signatures were obtained, but will not provide additional information unless required by law.

The superintendent or designee and the person designated to review the petition will have 30 business days to verify that the required information is present. If the information is complete, the Board will set a date for the election to take place.

The ballot will include the existing union(s), the union(s) challenging representation, and an option for a teacher to vote for no union representation. The election will be conducted in accordance with the process detailed in this policy.

### **Election Expenses**

All actual expenses of the election will be divided between the district and the union(s) seeking to represent the district teachers. "Actual expenses" include the additional costs incurred in running the election, such as the printing costs for notices and ballots, the costs of renting machinery, the costs incurred in providing poll workers other than observers and the costs incurred in providing necessary security at the election, as determined by the district. The district may require the union(s) to pay the district the union's proportional share prior to incurring costs.

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***Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.***

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Adopted:

Revised:

Legal Refs: Mo. Const. art. I, ' 29  
' ' 105.500 - .530, RSMo.  
*Independence - Nat'l Educ. Ass'n v. Independence Sch. Dist.*, 223 S.W.3d 131 (2007)  
U.S. Const. amend. I

Phelps Co. R-III School District, Edgar Springs, Missouri