



RULES OF  
**Department of Labor and Industrial  
Relations**  
**Division 40—State Board of Mediation**  
**Chapter 2—General Rules**

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**TITLE 8 – DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
**Division 40 – State Board of Mediation**  
**Chapter 2 – General Rules**

**8 CSR 40-2.010 Definitions**

*PURPOSE: This rule sets out definitions used in the rules of the State Board of Mediation.*

(1) The following definitions are listed to clarify the terminology applicable to these rules unless otherwise specifically provided or unless plainly repugnant to the intent of the law or the context:

(A) Board means the Missouri State Board of Mediation;

(B) Chair means the chief administrator of the State Board of Mediation or an officer designated by the chair to act on the chair's behalf in instances when the chief administrator cannot perform his or her duties;

(C) Certification means the designation by the board of an employee organization selected as the majority representative of employees through an election in an appropriate bargaining unit;

(D) Officer means any member, counsel, election officer, chair, or any other individual or employee specifically designated as an officer of the board to act on the board's behalf. The board may delegate to such officer all of the powers conferred upon the board in connection with the discharge of the duties so delegated;

(E) Party means any person, employee, group of employees, organization, or public employer filing a petition, request or application under these rules; any person, organization, or public employer named as a party in a complaint, request, application, or petition filed under these rules; any incumbent majority representative; or any other person, organization, or public employer whose intervention in a proceeding has been permitted or directed by the board, but nothing in this rule shall be construed to prevent the board or any designated officer from limiting any party's participation in the proceedings to the extent of his/her interest;

(F) Showing of interest means a designated percentage of employees as determined by the board who have provided signatures indicating the desire to have or not to have a named employee organization as a representative; and

(G) Voluntary recognition means an employer has recognized an employee organization as the majority representative of an appropriate unit of its employees. The granting of such recognition is at the discretion of the employer and has been granted outside the authority of the State Board of Mediation and the certification process.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Amended: Filed March 1, 2022, effective Oct. 30, 2022. Amended: Filed Jan. 12, 2023, effective July 30, 2023.*

*\*Original authority: 295.070, RSMo 1947.*

**8 CSR 40-2.020 Petitions for Certification or Decertification**  
(Rescinded October 30, 2022)

*AUTHORITY: section 295.070, RSMo 1994. Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Rescinded: Filed March 1, 2022, effective*

*Oct. 30, 2022.*

**8 CSR 40-2.025 Practice by a Licensed Attorney, When Required**

*PURPOSE: This rule states when and how a party must be represented by a licensed attorney.*

(1) Any individual may present that individual's own case without a licensed attorney.

(2) Only a licensed attorney may represent any other person, including a corporation, limited liability company, or other legal entity. All petitions filed with the State Board of Mediation must be filed by a licensed attorney. The filing of the petition shall be deemed an entry of appearance. An attorney must provide his/her bar number when filing the petition. An attorney not authorized to practice in Missouri shall enter an appearance in accordance with Missouri Supreme Court Rules.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*

**8 CSR 40-2.030 Contents of Petitions**

*PURPOSE: This rule describes the contents of petitions.*

(1) All petitions shall be submitted through the board's website and shall contain substantially the following:

(A) Name, address, telephone number, and electronic mail address of the public employer and the person to contact including his/her title, if known;

(B) A description of the bargaining unit at issue. Such description shall indicate the general classifications of employees and the approximate number of employees in the bargaining unit;

(C) Date of the request for recognition as majority representative and date such request was declined by the public employer or a statement that no reply has been received;

(D) Name, address, electronic mail address, and telephone number of the voluntarily recognized or certified exclusive representative, if any, and the date of such certification and the expiration date of any applicable contract, if known to the petitioner;

(E) Names, addresses, electronic mail addresses, and telephone numbers of any other interested employee organizations, if known to the petitioner;

(F) Any other relevant facts;

(G) Name and affiliation, if any, of the petitioner and its address, electronic mail address, and telephone number;

(H) The signature of the petitioner's representative, including his/her title, telephone number, electronic mail address, and facsimile number; and

(I) A petition for certification or decertification shall be accompanied by a showing of interest as defined in 8 CSR 40-2.010(1)(F) of not less than thirty percent (30%) of the employees in the unit alleged to be appropriate to be approved by the board. Such showing of interest shall be dated not more than six (6) months prior to filing the petition.

(2) A petition for certification or decertification filed by a



public employer shall state that a claim for representation has been made by one (1) or more public employees, groups of public employees, individuals, or employee organizations and that the public employer has a good faith doubt concerning the majority representative of its employees.

(3) In addition to the requirements above, all petitions for decertification shall additionally include a statement that the employees in the collective bargaining unit no longer wish to be represented by their currently certified representative.

(A) If the decertification petition is submitted by a third party having a legitimate interest, the third party must also file a petition of intervention pursuant to section 8 CSR 40-2.130.

(4) Petition for Unit Clarification and Amendment of Certification may be filed by the majority representative of the public employees or the employer. A Petition for Unit Clarification may be filed when the petitioner(s) seeks clarification of the placement of certain job classifications in a bargaining unit previously certified by the board. A Petition for Amendment of Certification may be filed when the petitioner seeks an amendment to reflect changed circumstances (such as merger or affiliation) in a unit covered by a certification and where no question concerning representation exists. In addition to the requirements of 8 CSR 40-2.030(1), Petitions for Unit Clarification and Petitions for Amendment of Certification shall include:

(A) The proposed clarification of the unit or amendment of certification; and

(B) A statement by the petitioner setting forth reasons as to why clarification or amendment is requested.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Rescinded: Filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*

**8 CSR 40-2.040 Contents of Petition for Decertification**  
(Rescinded October 30, 2022)

*AUTHORITY: section 295.070, RSMo 1994. Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Rescinded: Filed March 1, 2022, effective Oct. 30, 2022.*

**8 CSR 40-2.050 Petition for Unit Clarification**  
(Rescinded October 30, 2022)

*AUTHORITY: section 295.070, RSMo 1994. Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Rescinded: Filed March 1, 2022, effective Oct. 30, 2022.*

**8 CSR 40-2.055 Petition for Amendment of Certification**  
(Rescinded October 30, 2022)

*AUTHORITY: section 295.070, RSMo 1994. Original rule filed May 3, 1999, effective Nov. 30, 1999. Rescinded: Filed March 1, 2022, effective Oct. 30, 2022.*

**8 CSR 40-2.060 Number of Copies of Petition to be Filed**  
(Rescinded October 30, 2022)

*AUTHORITY: section 295.070, RSMo 1994. Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed June 17, 1998, effective Jan. 30, 1999. Rescinded: Filed March 1, 2022, effective Oct. 30, 2022.*

**8 CSR 40-2.070 Validity of Showing of Interest**

*PURPOSE: This rule describes the validity of showing of interest.*

(1) The showing of interest submitted pursuant to 8 CSR 40-2.030 and 8 CSR 40-2.130 shall not be furnished to any of the parties. The chair shall determine the adequacy of the showing of interest and such decision shall not be subject to collateral attack at a preliminary conference or a hearing.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Amended: Filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*

**8 CSR 40-2.080 Processing of Petition**

*PURPOSE: This rule describes the processing of petition to determine the facts.*

(1) Upon the filing of any petition, the chair shall investigate the petition to determine the facts. The chair shall determine whether or not a valid question concerning the representation of employees exists in a prima facie appropriate unit.

(2) A copy of all petitions filed with the board will automatically be sent to the opposing party if an electronic mailing address of the opposing party is provided on the petition.

(3) If no electronic mailing address is provided, it is the responsibility of the party filing the petition to serve the petition on all other parties.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*

**8 CSR 40-2.090 Withdrawal or Dismissal of Petition**

*PURPOSE: This rule describes why and when a petition may be withdrawn or dismissed.*

(1) If the chair determines after an investigation that the petition has not been timely filed or that no valid question concerning the representation of employees exists in a prima facie appropriate unit, the chair may request the party filing such petition to withdraw the petition without prejudice or in the absence of such withdrawal, within a reasonable time, the chair may dismiss the petition. Such action may be taken by the chair at any time prior to the closing of the case.



*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*

### 8 CSR 40-2.100 Initial Action

*PURPOSE: This rule describes the initial action to be taken upon the filing of a petition.*

(1) Upon the filing of any petition, the chair shall confer with and may hold informal conferences with the known interested parties in an attempt to ascertain the facts. Whenever the chair shall determine that the parties are unable to agree upon any fact or matter, and the chair is unable to settle the controversy without hearing, the board shall conduct a hearing to resolve such matters. Via email or written document, the chair shall notify the parties of the time and place of such a hearing at least ten (10) business days prior to the hearing, unless both parties mutually express to the chair a desire to hold the hearing on an earlier date.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Amended: Filed March 1, 2022, effective Oct. 30, 2022. Amended: Filed Jan. 12, 2023, effective July 30, 2023.*

*\*Original authority: 295.070, RSMo 1947.*

### 8 CSR 40-2.110 Petition – Amendments or Withdrawal by Petitioning Party

*PURPOSE: This rule states when a petition may be withdrawn or amended.*

(1) At any time prior to issuance of a written notice of election for the purpose of resolving the issue of representation, a petitioning party may amend or withdraw its petition at the discretion of the petitioner or petitioner’s authorized officer.

*AUTHORITY: section 295.070, RSMo 1994.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999.*

*\*Original authority 295.070, RSMo 1947.*

### 8 CSR 40-2.120 List of Employees

*PURPOSE: This rule states that the public employer shall furnish the board with a list of employees.*

(1) The public employer shall furnish to the board in an electronic format a current list of all employees in a proposed bargaining unit to determine the adequacy of a showing of interest. The list of employees must be submitted prior to or as a first order of business of any scheduled preliminary conference or hearing. The list remains the property of the employer. If the list has not been provided to the board by the date designated, the chair or the board will determine the showing of interest using the estimated number of employees stated on the petition and the authorization signatures submitted by petitioner.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Amended: Filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*

### 8 CSR 40-2.130 Intervention

*PURPOSE: This rule describes who may intervene and the requirements needed to intervene.*

(1) Any third party having a legitimate interest in any proceedings may file a petition of intervention setting forth facts sufficient to establish such interest and requesting that the board resolve contested factual matters in its favor. For purposes of third-party intervention, legitimate interest shall be determined by the board and any approved intervenor must be able to prove it is authorized to represent at least ten percent (10%) of the employees within a proposed bargaining unit. If the board determines intervenor has provided an adequate showing of interest pursuant to 8 CSR 40-2.070, all parties shall be notified of the determination prior to the start of any hearing. Any organization which has a signed, valid collective bargaining agreement encompassing the proposed bargaining unit, or any portion, shall be considered to have a legitimate interest in any proceedings upon presentation of same.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Amended: Filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*

### 8 CSR 40-2.140 Hearings

*PURPOSE: This rule describes the issuance of notice of hearing and the contents of notice. It also states the purpose of the hearing and the procedures to be followed at the hearing.*

(1) The chair shall issue a notice of hearing if after the filing of a valid petition, the petitioner, the public employer, and all intervenors are unable to resolve the matter through an agreed-upon method of adjustment approved by the chair. The chair has the discretion to determine the time, place, and means (physical appearance, telephonic, or electronic) of the hearing if the parties cannot mutually agree to the time, place, and means.

(2) A notice of hearing shall be served on all interested parties and shall be in writing and mailed or electronically transmitted at least ten (10) days before the hearing, unless otherwise agreed to by the chair and the parties. Such notice of hearing shall include –

- (A) A statement of the time, place, and nature of the hearing;
- (B) The name of the public employer, petitioner and intervenors, if any; and
- (C) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) Hearings under these rules are considered investigatory and not adversarial. Their purpose is to develop a full and complete



factual record upon which the board may base a meaningful report and recommendation.

(4) Representation hearings and the procedures following such hearings shall be in accordance with these rules.

(5) Rights of parties are –

(A) Any party shall have the right to appear at such hearing to call, examine, and cross-examine witnesses and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent permitted by the board; and provided further, that electronic copies of documentary evidence shall be submitted to the board and to the other parties involved in the hearing; and

(B) The board at its discretion may require paper copies of documents and may permit the filing of paper documents.

(6) Rules of evidence are –

(A) The parties shall not be bound by rules of evidence whether statutory, common law, or adopted by the rules of court;

(B) All relevant evidence is admissible, except as otherwise provided;

(C) The board, in its discretion, may exclude any evidence or offer of proof if they find that its probative value is substantially outweighed by the risk that its admission will either necessitate undue consumption of time or create substantial danger of undue prejudice or confusion;

(D) The board shall give effect to the rules of privilege recognized by law;

(E) Every party shall have a right to present his/her cause by oral and documentary evidence and to submit rebuttal evidence; and

(F) Every party and the board shall have the right to examine and cross-examine as may be required for a full and true disclosure of the facts.

(7) A charging party in asserting a violation of these rules shall have the burden of proving the allegations of the charge by a preponderance of the evidence.

(8) Stipulation of Fact.

(A) In any proceeding an agreed statement of facts may be introduced into the record with respect to any issue.

(B) An agreed statement of facts may be accepted by the chair for a decision without a hearing.

(C) The acceptance of an agreed statement of facts by the chair may be deemed a waiver of a right to hearing.

(9) Objections to Conduct of Hearing.

(A) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection and included in the record.

(B) No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(C) Automatic exceptions will be allowed to all adverse rulings.

(10) Motions Before or After Hearing.

(A) All motions, other than those made during a hearing, shall be made in writing to the chair, shall briefly state the relief sought, and shall be accompanied by affidavits setting forth the grounds for such motion.

(B) The moving party shall serve a copy of all motion papers

on all other parties, and within three (3) days thereafter, excluding Saturdays, Sundays, and legal holidays, shall file with the chair the same with proof of service.

(C) Answering affidavits, if any, must be served on all parties and proof of service shall be filed with the chair within five (5) days, excluding Saturdays, Sundays, and legal holidays, after service unless the chair directs otherwise.

(D) The chair may decide to hear oral argument or to hear testimony thereon, in which case the chair shall notify the parties of such fact and of the time and place of such argument or for the taking of such testimony.

(E) All such motions, rulings and orders thereon shall be part of the record of the proceedings.

(11) Filing of Brief and Oral Argument at Hearing.

(A) Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

(B) At the discretion of the chair, the parties may be required to submit briefs within a reasonable time prior to the commencement of any hearing. The chair will determine a reasonable time by consulting both parties; however, the parties will receive a minimum of five (5) business days to prepare and file a required brief, unless all parties agree to a shorter amount of time. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the board who may fix a reasonable time for such filing.

(C) Requests for further extensions of time shall be made to the chair and may be granted at the chair's discretion.

(D) No request will be considered unless received at least three (3) days, excluding Saturdays, Sundays, and legal holidays, prior to the expiration of the time fixed for the filing of briefs or proposed findings and conclusions, unless expressly authorized by the chair.

(E) Notice of the request for any extension shall be served simultaneously on all other parties and proof of service shall be furnished.

(F) Any brief or proposed findings and conclusions shall be filed with the chair, and copies shall be served simultaneously on the other parties, and a statement of such service shall be furnished.

(12) At the discretion of the chair, the hearing may be continued from day-to-day, or adjourned to a later date or to a different place, by announcement at the hearing by the chair or by other appropriate notice.

(13) The board will provide a hearing reporter and may order that the hearing reporter make a transcript of a hearing. The hearing reporter shall file the transcript with the board. Any party may request a copy of the transcript from the board. Any costs or fees for the hearing reporter and transcript will be shared equally among the parties.

(A) Any party may move to correct the transcript no more than thirty (30) days after the hearing reporter files the transcript. The board on its own motion may order the hearing reporter to correct the transcript any time before the board finally disposes of the case.

*AUTHORITY: section 295.070, RSMo 2016.\* This version of rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed March 1, 2022, effective Oct. 30, 2022. Amended: Filed Jan. 12, 2023, effective July 30, 2023.*



*\*Original authority: 295.070, RSMo 1947.*

### 8 CSR 40-2.150 Notices of Election

*PURPOSE: This rule describes the posting of notice of election, contents of notice of election and improper use of notice of election.*

(1) Appropriate notices of election shall be furnished to all interested parties, and shall be prominently posted by the public employer, no less than six (6) days, excluding Saturdays, Sundays, and legal holidays, prior to opening of the polls. Such notice shall contain –

- (A) The date, hours, and place or type of election;
- (B) The eligibility period;
- (C) The details and procedures for an election;
- (D) The appropriate units; and
- (E) A sample ballot.

(2) The reproduction of any document purporting to be a copy of the board's official ballot, other than one (1) completely unaltered in form and content and clearly marked "sample" on its face, which suggests either directly or indirectly to employees that the board endorses a particular choice, may constitute grounds for setting aside an election upon objections properly filed.

(3) The public employer shall furnish in an electronic format to the board and to the labor organization(s) participating in an election an alphabetized list including the names, work addresses, employer-issued electronic mailing addresses (if applicable), and job titles of all eligible voters in the unit as determined by the board. Additional information, including the employee's home address, may be supplied upon the voluntary written consent of any employee. This list must be supplied to the board and to such labor organization(s) fourteen (14) working days prior to the election, excluding Saturdays, Sundays, and legal holidays. The list shall remain the property of the employer.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed Oct. 4, 1979, effective Jan. 12, 1980. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Amended: Filed March 1, 2022, effective Oct. 30, 2022. Amended: Filed Jan. 12, 2023, effective July 30, 2023.*

*\*Original authority: 295.070, RSMo 1947.*

### 8 CSR 40-2.160 Election Procedure

*PURPOSE: This rule describes the procedure to be followed in an election.*

(1) For in-person elections each of the interested parties may designate two (2) persons as observers at the polls, subject to such limitations as the chair may prescribe. Unless otherwise stipulated by the interested parties, observers must be nonsupervisory employees of the public employer.

(2) Any observer or the chair, for good cause, may challenge an employee's eligibility to vote. If submitted on paper, challenged ballots shall be folded, placed in a sealed envelope with the name of the voter plainly written on the outside. Challenged ballots will not be considered unless they might

affect the results of the election, in which case the chair shall investigate and determine the eligibility to vote of the persons whose ballots are challenged. Challenged ballots which are disallowed will be destroyed. Challenged ballots which are allowed will be counted. The names of the persons whose ballots are challenged shall be made a part of the record of the election proceedings. Challenged ballots for mail-in or electronic elections must be made prior to delivery of the ballots to voters.

(3) All elections shall be by secret ballot and shall be conducted so as to ensure, to the satisfaction of the board, the security and privacy of each public employee's vote. In addition to voting at the public body's place of business, mail-in (including e-mail or electronic) voting shall be allowed at the discretion of the chair.

(4) Ballots may not be tallied until after the posted time for the closing of the polls unless all eligible voters have cast their ballots. Upon the conclusion of the election, the chair shall furnish the parties with a tally of the ballots.

(5) An organization shall be certified if it receives a majority of the votes cast.

(6) Within ten (10) days, excluding Saturdays, Sundays, and legal holidays, after the tally of ballots has been furnished, any party may file with the board objections to the conduct of the election or conduct affecting the results of the election, which shall contain a short statement of the reasons therefore. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Copies of such objections shall be served simultaneously on the other parties by the party filing them and a statement of service shall be made.

(7) If no objections are filed within the time set forth previously, and if the challenged ballots are insufficient in number to affect the result of the election, and if no runoff election is to be held, the chair shall forthwith issue to the parties a certification of the results of the election, including certification of representative, where appropriate.

(8) If objections are filed to the conduct of the election or conduct affecting the result of the election or if the challenged ballots are sufficient in number to affect the result of the election, the chair shall investigate such objections or challenges or both.

(9) Where objections are filed or challenges are determinative, the chair shall conduct an investigation and, where appropriate, shall issue a notice of hearing for the board to hear the matters alleged and to issue a report and recommendations. The objecting party shall bear the burden of proof regarding all matters alleged in the objections to the conduct of the election or conduct affecting the results of the election.

(10) When the certification of the results of the election is issued, any petition requiring the holding of an election in any bargaining unit or subdivision of the bargaining unit is prohibited until one (1) year has lapsed from the date of issuance. Petitions prohibited are those filed on behalf of a public employee, group of public employees, any individual or employee organization or the public employer.



*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Amended: Filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*

### **8 CSR 40-2.170 Runoff Election**

*PURPOSE: This rule describes the requirements for a runoff election.*

(1) When the results of an election are inconclusive, the chair may conduct a runoff election without further order of the board. An inconclusive election is an election in which the ballot provides for not less than three (3) choices (that is, at least two (2) employee organizations and “neither”) and results in no choice receiving a majority of the valid ballots cast. Only one (1) runoff shall be held pursuant to this section, unless the board directs otherwise.

(2) The ballot in the runoff election shall provide for a selection among the two (2) or more choices receiving the largest number of votes, the sum of whose votes aggregate at least one (1) more than half of the total votes cast.

(A) Exception: Where, in the original election, all choices receive an equal number of votes, or where, two (2) choices having received an equal number of votes, a third choice receives a higher but less-than-majority vote, the chair should declare this election a nullity and conduct another (rerun) election with the same choices on the ballot. If the second election results in another such nullity, the petition should be dismissed; if the results of the second election require a runoff pursuant to the principles set forth in section (2), a runoff should be conducted.

(B) Further Exception: Where two (2) or more choices receive an equal number of votes, another receives no votes, there are no challenges, and all eligible voters have voted, neither a runoff nor a rerun election should be conducted. A certification of results should be issued.

(3) Employees who were eligible to vote in the original election and who are in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(4) Upon the conclusion of the runoff election, the provisions of 8 CSR 40-2.160 shall govern, insofar as applicable.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Amended: Filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*

### **8 CSR 40-2.180 Agreement for Consent Election**

*PURPOSE: This rule states that the parties may stipulate to an election and to the details of an election.*

(1) Where one (1) or more employee organizations assert a claim to represent employees in an appropriate unit and a petition for certification of public employee representative or a petition for decertification of public employee representative has been

filed, the parties may stipulate, subject to the approval of the chair, that a secret ballot election shall be conducted by the board among the employees in an appropriate bargaining unit to determine whether they desire to be represented for purposes of negotiations by any or none of the employee organizations involved. The parties to such proceeding shall be the public employer, the petitioner, the incumbent, if any, and any intervenors who shall have complied with the requirements set forth in 8 CSR 40-2.130.

(2) The parties shall stipulate as to the composition of the bargaining unit, the eligibility period for participation in the election, the dates, hours and places of the election and the designations on the ballot.

*AUTHORITY: section 295.070, RSMo 2016.\* Original rule filed Dec. 31, 1975, effective Jan. 10, 1976. Amended: Filed May 3, 1999, effective Nov. 30, 1999. Amended: Filed March 1, 2022, effective Oct. 30, 2022.*

*\*Original authority: 295.070, RSMo 1947.*