

4117-1-05 Continuances and extensions of time.

- (A) Except as otherwise provided in Chapter 4117. of the Revised Code, the board, board member, or administrative law judge may, upon its own motion or upon the motion of any party, continue the hearing, extend the time to file any document, or change the place at which the hearing is to be held and shall so notify the parties, provided that this provision shall not apply to hearings conducted pursuant to divisions (C) and (G) of section 4117.14 of the Revised Code. The executive director or the office of the general counsel may rule on extensions of time to file exceptions to a proposed order or recommended determination, cross-exceptions, or responses to exceptions, **or any non-dispositive motions in cases pending before the board.**
- (B) Before a party files a motion for an extension of time to file any document or for a continuance of a hearing, the moving party shall consult all other parties to determine whether they have any objection to the motion. If no objections are raised, the moving party shall state that the other parties have been consulted and that they authorize the moving party to represent that they have no objection to the motion. Compliance with this rule does not supplant the service requirement of rules 4117-1-02 and 4117-1-04 of the Administrative Code.

4117-1-08 Notice of hearing; consolidation.

(A) Whenever a hearing is to be conducted, the board shall issue and serve upon all parties a ~~notice of hearing~~ notification specifying the date, time, and place of the hearing. Such ~~notice shall include a statement of the purpose of the hearing, the legal authority under which the hearing is to be held, with a reference to the particular sections of the statutes and rules involved, and, if~~ If the hearing is not conducted by the board, the notification shall include the name of the board member, or administrative law judge, or other designated agent who shall conduct the hearing. Such ~~notice~~ notification shall be served upon all parties at least ten days prior to the scheduled hearing, except in the case of hearings conducted pursuant to division (B) of section [4117.12](#) of the Revised Code.

(B) A party contending that the administrative law judge or other agent designated to conduct a hearing is biased or partial in the proceeding may raise an objection by filing with the board a sworn statement setting forth the facts relevant to the objection. Such statement must be filed with the board prior to five days before the hearing. The board in its discretion may disqualify the administrative law judge or agent and designate another administrative law judge or agent to conduct the hearing.

(C) Upon direction of the board, separate cases involving the same facts, same or similar issues of law, or the same or related parties may be consolidated. Any party may file a written objection to the consolidation within ten days of service of the notice of consolidation. Unless otherwise specified by the board, all filings relating to any of the consolidated cases shall list all case numbers.

R.C. [119.032](#) review dates: 06/29/2010 and 06/29/2015

Promulgated Under: [119.03](#)

Statutory Authority: [4117.02\(K\)\(8\)](#)

Rule Amplifies: [4117.02](#), [4117.11](#), [4117.12](#), [4117.14](#), [4117.16](#), 4117

Prior Effective Dates: 6-24-84; 5-26-84 (Emer.); 5-18-87; 1-2-05.

4117-1-11 Powers of individuals conducting hearings or inquiries.

(A) Individuals conducting hearings or inquiries, other than fact-finding or conciliation hearings, shall have the authority to take the following actions:

- (1) To administer oaths and affirmations;
- (2) To receive relevant evidence and exclude irrelevant, immaterial, or unduly repetitious evidence;
- (3) To question witnesses;
- (4) To cause depositions to be taken and to regulate the scope and course of prehearing discovery;
- (5) To regulate the time, place, and course of the hearing or inquiry;
- (6) To dispose of procedural requests or other similar matters;
- (7) ~~Either prior to or during the course of hearing, to~~ To hold conferences with the parties at any time for the settlement, simplification, or adjustment of the issues by consent of the parties;
- (8) To subpoena witnesses and the production of books, papers, documents, or other evidence;
- (9) To exclude any person for improper conduct; and
- (10) To take any other action necessary and authorized under Chapter 4117. of the Revised Code or Chapters 4117-1 to 4117-25 of the Administrative Code.

(B) No party may take an interlocutory appeal from any ruling issued by an administrative law judge or a board agent or designee under this rule or any oral ruling issued by an administrative law judge or a board agent or designee during a public hearing, or prehearing conference, or inquiry unless the appeal presents a new or novel question of interpretation, law, or policy, or is taken from a ruling that represents a departure from past precedent or board practice, and an immediate determination by the board is needed to prevent the likelihood of undue prejudice or expense to one or more of the parties, should the board ultimately reverse the ruling in question.

(C) For fact-finding and conciliation hearings, paragraph (H) of rule [4117-9-05](#) and paragraph (F) of rule [4117-9-06](#) of the Administrative Code apply.

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Prior Effective Dates: 5/26/84 (Emer.), 6/24/84, 5/18/87

4117-1-13 Exceptions and briefs in support.

(A) Exceptions to a proposed order pursuant to section [4117.12](#) of the Revised Code in unfair labor practice cases and briefs in support thereof shall be filed with the board within twenty days after service of the proposed order. Exceptions to a recommended determination and briefs in support in all other cases thereof shall be filed with the board within ten days after service of the recommended determination. Exceptions to an inquiry report are not permitted. Exceptions filed in all other cases shall be filed with the board within ten days after service of the recommendation.

(B) Where exceptions have been filed, any other party may file a response and/or cross-exceptions within ten days after service of the exceptions. Within ten days after service of cross-exceptions, a party may file a response to the cross-exceptions, but such response must be limited to only new issues raised in the cross-exceptions. No other responses may be filed, unless allowed by the board.

(C) Exceptions to a proposed order or recommended determination shall contain, in addition to the requirements of rule [4117-1-02](#) of the Administrative Code, a brief statement of each issue with which the party takes exception, the reason for the exception, and a statement of the precise relief sought. All exceptions shall be filed in a read-only document.

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Rule Amplifies: [4117.02](#), [4117.11](#), [4117.12](#)

4117-5-04 Investigation of petitions.

(A) Subsequent to the filing of a petition for a representation or decertification election, the board shall conduct an investigation to determine if there is reasonable cause to believe that a question of representation exists. If the board determines that there is not reasonable cause to believe that a question of representation exists, it shall dismiss the petition and notify all parties.

(B) Subsequent to the filing of a petition for clarification or amendment, the board shall conduct an investigation to determine whether there is evidence to support the petition. After investigation or hearing, the board may order clarification or amendment, as the case may be, or may dismiss the petition. The board shall notify all parties of the disposition of the petition.

(C) ~~Ten days after the service on the employer,~~ Upon the filing of a petition for representation or decertification election, the board's agent shall notify the employer, in writing, that within fourteen days, the employer must file with the board and serve upon the other parties an alphabetized, numbered payroll list of all employees employed in the proposed unit as of the pay period ending just prior to the filing of the petition. With the list, the employer must provide proof of service upon the other parties pursuant to paragraph (B) of rule [4117-1-02](#) of the Administrative Code. The board may require an employer to provide such other information as it deems necessary to conduct a thorough investigation pursuant to division (A) of section [4117.07](#) of the Revised Code and to this rule.

(D) Subsequent to the filing of a petition for representation or decertification election, the employer shall post a board-provided notice notifying employees that a petition has been filed and setting forth the rights of employees under Chapter 4117. of the Revised Code. Such notice shall be placed in conspicuous locations where employees will be reasonably apprised of the contents. The employer shall take reasonable steps to ensure that the notices are not altered, defaced, or covered by other material. Immediately upon posting the notice, the employer shall submit to the board a certification of posting verifying the date and places of posting together with a copy of the notice.

(E) Intervention for the purpose of this rule shall be in accordance with paragraph (B) of rule [4117-1-07](#) of the Administrative Code.

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Statutory Authority: [4117.02\(K\)\(8\)](#)

Rule Amplifies: [4117.02](#), [4117.07](#)

Prior Effective Dates: 5/26/84 (Emer.), 6/24/84, 5/18/87.

4117-5-05 Hearing or inquiry on questions of representation.

(A) If the board determines that there is reasonable cause to believe that a question or questions of representation requiring a hearing or inquiry exist, the board shall issue to the parties a ~~notice of hearing~~ notification specifying the date, time, and place of the hearing or inquiry. Immediately upon receipt, an employer shall post such notice notification in a conspicuous place where employees will be reasonably apprised of its contents. The notice shall remain posted until the hearing is concluded. The employer shall take reasonable steps to ensure that such notices are not altered, defaced or covered by other materials.

(B) The board, a board member, ~~or~~ an administrative law judge, or a board agent or designee will conduct a hearing to determine whether a question of representation exists. In a written prehearing statement, each party shall state all issues to be raised at the hearing. Parties failing to submit a prehearing statement may be denied the opportunity to present evidence at the hearing.

(C) If the board finds upon the record of the hearing that a question of representation exists, it shall direct an election in accordance with section [4117.07](#) of the Revised Code and Chapter 4117-5 of the Administrative Code. If the board finds that a question of representation does not exist, it shall dismiss the petition and notify all parties.

(D) If the board determines from the investigation that there is a question of majority representation requiring an election and that there are no other disputed issues, the board may direct an election without a hearing.

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Statutory Authority: [4117.02\(K\)\(8\)](#)

Rule Amplifies: [4117.02](#), [4117.07](#)

Prior Effective Dates: 6-24-84; 5-26-84 (Emer.); 5-18-87; 10-19-87; 1-2-05.

4117-5-06 Notice of election; access to employees.

(A) Whenever an election is to be conducted, the board shall issue and serve upon the parties a notice of election which shall contain the following information:

- (1) A description of the bargaining unit;
- (2) The dates, times, and places where and manner in which the election will be conducted;
- (3) The date that will be utilized to determine voter eligibility;
- (4) A sample ballot.

(B) Within three days of receipt, and in no event less than ten days before the election, the employer shall post copies of the notice of election at each facility in conspicuous locations where employees will be reasonably apprised of the election. The copies of the notice of election shall remain posted until the balloting has been completed. The employer shall take reasonable steps to ensure that the notices are not altered, defaced, or covered by other materials.

(C) Failure to file with the board a written objection to the form or content of the notice of election not later than three days prior to the commencement of the election shall constitute a waiver of the objection if the objecting party knew of the defect prior to the election, or through the exercise of reasonable diligence should have known.

(D) To ensure a free atmosphere for the development of opinions and the dissemination of information and ideas for and against representation for purposes of collective bargaining, no party should be given advantage over any other party in gaining access to employees during organizational or campaign activity. Issues as to whether fair access was available shall be determined on the facts of each case through election objection procedures set forth in rule [4117-5-10](#) of the Administrative Code or unfair labor practice procedures set forth in sections [4117.11](#) and [4117.12](#) of the Revised Code.

(E) During organizational or campaign activity, the employer or employee organization(s) may hold meetings to discuss representation or election issues, but attendance must be voluntary and available to all employees in the proposed or determined unit. An employer who holds such a meeting during work time must provide the employee organization(s) with equal access to all employees in the proposed or determined unit during work time.

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Promulgated Under: [119.03](#)

Statutory Authority: [4117.02\(K\)\(8\)](#)

Rule Amplifies: [4117.02](#), [4117.07](#)

Prior Effective Dates: 5/26/84 (Emer.), 6/24/84, 5/18/87.

4117-5-07 Election eligibility lists.

(A) After the board directs an election, the employer shall file with the board and serve upon each party to the election an alphabetized, numbered election eligibility list containing the names and home addresses of all eligible voters. Unless otherwise directed by the board **or with the consent of the parties**, the eligibility list must be filed and served by the earlier of these two dates:

(1) Ten days after the board issues the direction of election; or

(2) Ten days prior to the commencement of the election.

(B) The board may require the employer to arrange the list ~~according to polling sites or~~ in any ~~other~~ manner that it deems appropriate.

(C) Failure to object, in writing, to the board to the form or content of the election eligibility list prior to the commencement of an election shall constitute a waiver of the objection if the objecting party knew of the defect prior to the election, or through the exercise of reasonable diligence should have known.

(D) At any time prior to or during the pre-election conference, **or under special circumstances, prior to the counting of ballots** the parties may jointly agree in writing to additions to or deletions from the eligibility list.

(E) If the employer fails to timely file a proper eligibility list, the board may, at its discretion, compile a list from any sources available to it.

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Statutory Authority: [4117.02\(K\)\(8\)](#)

Rule Amplifies: RC [4117.02](#), [4117.07](#)

Prior Effective Dates: 6-24-84; 5-26-84 (Emer.); 5-18-87; 1-2-05.

4117-5-08 Election procedure.

The board or its agent shall conduct all representation elections. All elections shall be by secret ballot cast and, at the board's discretion, shall be conducted by mail or electronically or in person. Proxy ballots shall not be allowed. Upon the filing of a petition and a sufficient showing of interest, the board or its agent will schedule a pre-election conference. ~~No later than five days before the pre-election conference, the~~ **The** employer shall provide to the board **and serve upon each party to the election** a list of all eligible voters with their home addresses **in accordance with rule 4117-5-07 of the Administrative Code and in the manner prescribed by the board or its agent.** ~~The board will promptly provide the list to the employee organizations that are parties to the election.~~

(A) For elections by mail ballot, ~~a notice and~~ ballot materials shall be mailed by the board or its agent to each eligible employee and any employee that a party to the election claims to be an eligible voter. ~~No~~ **The polling period shall be no** less than fourteen days ~~shall be provided between the date on which ballot materials are mailed and the deadline for return of the ballots.~~

(1) Where more than one employee organization is a party in the election, the incumbent **employee organization** shall have first choice as to the position of the ~~employee organization's~~ **incumbent's** name on the ballot. For ~~nonincumbent~~ **non-incumbent** ~~employee organizations~~ **organization(s)**, choices as to ballot position shall be made in the order in which the ~~non-incumbent~~ **employee organizations** **organization(s)** filed.

(2) Any party to the election or an agent of the board may challenge for good cause the eligibility of any person to participate in the election. Prior to the counting of the ballots in a mail-ballot election, the parties may, by written mutual agreement and with the consent of the agent of the board, resolve the challenge to the eligibility of a person to participate in the election. If the unresolved, challenged ~~ballots~~ **ballot(s)** are sufficient in number to affect the results of the election, the challenging party shall file with the board **post-election objections** with affidavits and any other ~~data~~ **documentation** in support of its challenge within ten days ~~of the election~~ after service of the tally of ballots.

(3) The agent of the board shall place mail ballots returned to the board in a ballot box kept in a secured location within the board's offices. ~~After the deadline for the return of ballots has transpired, the~~ **The** ballot box shall ~~be sealed~~ remain in the secured location until the designated date and time set by the agent of the board for the ballot count.

(4) Upon the date and time set for the counting of the ballots, the agent shall count the ballots at the designated time at the board's offices. Each party may be present through its designated representatives at the counting of ballots. Upon completion of the count, a written tally of ballots shall be supplied to each party.

(B) If the board determines that the circumstances of a particular case indicate that an on-site election would be more efficient or appropriate than a mail-ballot election, a notice shall be posted at appropriate locations. Ballot materials shall be brought to polling sites by an agent of the board. Absentee ballots shall not be allowed.

(1) ~~Where~~ For an on-site election, where more than one employee organization is a party in the election, the incumbent ~~employee organization~~ shall have first choice as to the position of the ~~employee organization's incumbent's~~ name on the ballot. For ~~nonincumbent non-incumbent employee organizations~~ ~~organization(s)~~, choices as to ballot position shall be made in the order in which the non-incumbent employee ~~organizations~~ ~~organization(s)~~ filed.

(2) In an on-site election, each party to the election may be represented by an equal number of observers at each polling site. The selection and number of observers shall be subject to the approval of the board chairperson or board agent. Observers may be bargaining-unit employees who shall be ~~non-supervisory~~ ~~non-management~~ ~~non-management~~ ~~non-management~~ non-supervisory, non-management employees of the employer. No later than ten days prior to the election, each party shall file with the board and shall serve upon the other parties a list of those individuals whom the party intends to use as observers or alternate observers, unless for good cause shown, a shorter time period is required. The employer shall release employee observers without loss of pay from their regular job assignments to enable them to serve as observers.

(3) No person shall be permitted to come within twenty-five feet of the entrance to any polling site from the time of opening to the time of closing of the polls, except for voters who are engaged in the actual process of voting, agents of the board, and election observers. The entrance to the polling site shall be determined solely by the agent of the board who conducts the election. Distribution or posting of campaign literature within twenty-five feet of the entrance of any polling site during polling hours is prohibited.

(4) An observer for any party to the election or an agent of the board may challenge for good cause the eligibility of any person to participate in the election. Prior to the counting of ballots, the parties may, by written mutual agreement and with the consent of the agent of the board, resolve the challenge to any challenged ballot. If the unresolved, challenged ballots are sufficient in number to affect the results of the election, the challenging party shall file with the board ~~post-election objections with affidavits and any other data~~ ~~documentation~~ ~~in support of its challenge within ten days of the election~~ ~~after service of the tally of ballots~~.

(5) Upon conclusion of the voting, the agent of the board shall count the ballots, allowing observers and other representatives of the parties to the election to be present. Upon completion of the count, a written tally of ballots shall be supplied to each party. In elections where the ballot box must be transported by the board agent to another site for the tally, observers and representatives of each party may be present at the sealing of the ballot box by the board agent.

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Rule Amplifies: [4117.02](#), [4117.07](#)

Prior Effective Dates: 5/26/84 (Emer.), 6/24/84, 5/18/87.

4117-5-09 Determining results of election.

(A) In order to prevail in an election, a choice must receive more than fifty per cent of the ~~number equal to the total~~ **number of** valid ballots cast; ~~provided, however, that in~~ **In** any representation election in which the choices are an employee organization and "no representative," and the resulting vote is equally divided, it will be determined that "no representative" has prevailed; ~~provided, further, that in~~ **In** a decertification election in which the resulting vote is equally divided between the incumbent representative and "no representative," it will be determined that the incumbent has prevailed.

(B) When an election in which the ballot provided for three or more choices results in no choice receiving a majority of the valid ballots cast, the board shall direct a runoff election. The ballot in a runoff election shall ~~provide for selection~~ **be** between the two choices receiving the highest and the second highest number of votes in the first election. Only employees who were eligible to vote in the first election and who remain eligible on the date of the runoff election shall be eligible to vote in the runoff election, unless the board directs otherwise.

(C) In a runoff election between two employee organizations, **with one of the employee organizations being the incumbent, and** where the results of the runoff election are equally divided between the employee organizations, the incumbent prevails.

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Rule Amplifies: [4117.02](#), [4117.07](#)

Prior Effective Dates: 5/26/84 (Emer.), 6/24/84, 5/18/87.

4117-5-10 Post-election objections; determination of challenges.

(A) Within ten days after service of the tally of ballots, any party may file with the board objections relating to the conduct of the election or conduct affecting the results of the election. Such objections shall contain a brief statement of the reasons therefor and shall be accompanied by ~~data~~ **documentation**, including but not limited to affidavits, in support of the allegations in the objections. Objections without supporting **data documentation** may be dismissed by the board. Responses to any post-election objections may be filed with the board within ten days after service of the objections.

(B) If post-election objections are filed or if challenged ballots are sufficient in number to affect the results of the election, the board shall investigate such objections or challenges. Position statements on challenged ballots must be filed within ten days of the service of the tally of ballots. The board shall issue a directive resolving relevant issues based upon the investigation; provided, however, that disputed issues of material fact may be determined upon ~~an evidential~~ a hearing. The board may dismiss the post-election objections or challenges, direct the counting of some or all of the challenged ballots, or where warranted, set aside the previous election and direct another election. Should another election be directed by the board, it shall be conducted pursuant to the procedures set forth in Chapter 4117-5 of the Administrative Code. Only employees who were eligible to vote in the first election and who remain eligible on the date of the rerun election shall be eligible to vote in the rerun election, unless the board directs otherwise.

(C) Objections shall not be accepted for filing with the board unless they contain proof of service pursuant to paragraph (B) of rule [4117-1-02](#) of the Administrative Code.

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Prior Effective Dates: 3/26/84, 6/24/84, 5/18/87

4117-9-05 Fact-finding.

When the statutory procedures of divisions (C)(2) to (C)(6) of section [4117.14](#) of the Revised Code apply, fact-finding shall be conducted in accordance with these terms:

(A) Subsequent to receipt of a request via electronic mail from either party for fact-finding and to the appointment of a mediator, the board shall send to the parties a list of five fact finders from the board's roster of neutrals. Other than a joint request by the parties, a request via electronic mail for fact-finding must be filed with the board, served upon the other party, and include proof of service pursuant to rule [4117-1-02](#) of the Administrative Code. A second list shall be issued only pursuant to a statement showing good cause.

(B) Not later than seven days after the date that the board sent to the parties a list of fact finders, the parties shall submit to the board via electronic mail a mutually selected fact-finding panel of one or three members. The names of mutually selected alternates to the preferred panel also shall be submitted to the board via electronic mail at this time. Such selections shall be made by alternate striking of the names, unless the parties mutually agree to another means of selection. If the parties **do not select a fact finder or** cannot agree to the number of members on the panel, the board shall appoint a one-member panel.

(C) The parties may mutually select any fact finder from the board's roster of neutrals instead of selecting from the list provided by the board, **or the parties may select a fact finder not listed on the board's roster of neutrals. However, selection of a fact finder not listed on the roster shall constitute a mutually agreed-upon dispute settlement procedure and preclude appointment of the fact-finding panel by the board. The parties' selection of a fact finder not listed on the board's roster of neutrals does not constitute a mutually agreed-upon dispute settlement procedure within the meaning of rule 4117-9-03 of the Administrative Code unless the parties have complied with the requirements set forth in rule 4117-9-03 of the Administrative Code.**

(D) Upon receipt of notice of the fact-finding panel selected by the parties, the board shall appoint a fact-finding panel no later than fifteen days after receipt of the request for fact-finding or the appointment of a mediator, whichever occurs later. If the parties have not submitted a selected fact-finding panel to the board within the time designated in these rules, the board shall, in its sole discretion, appoint a fact-finding panel consisting of one member.

(E) In those cases where selected fact finders are unavailable, the parties may select another fact finder from the same list and notify the board via electronic mail within three days. If no selection is made, the board shall appoint a fact finder at its discretion.

(F) Pursuant to division (C)(3)(a) of section [4117.14](#) of the Revised Code, upon notice of appointment of the fact-finding panel and no later than five p.m. on the last business day prior to the hearing, each party shall submit via electronic mail to the fact-finding panel and the other party a position statement. A failure to submit via electronic mail

such a position statement to the fact finder and the other party no later than five p.m. on the last business day prior to the hearing, shall cause the fact-finding panel to take evidence only in support of matters raised in the written statement that was submitted prior to the hearing. The statement shall include:

- (1) The name of the party and the name, mailing address, email address, and telephone number of the principal representative of the party;
- (2) A description of the bargaining unit including the approximate number of employees;
- (3) A copy of the current collective bargaining agreement, if any; and
- (4) A statement defining all unresolved issues and summarizing the position of the party with regard to each unresolved issue.

(G) The parties may mutually agree to an extension of the statutory fact-finding timelines at any time subsequent to the appointment of the fact-finding panel. An extension must be specific as to duration, agreed to by both parties, and submitted to the panel and filed with the board via electronic mail within five days of its execution. An extension may be continued, provided the original extension procedures are followed. The fact-finding panel has no authority to extend the statutory timelines absent mutual agreement of the parties.

(H) The fact-finding panel must hold an evidential hearing except that the parties may stipulate facts and waive hearing. For purposes of hearing, the fact-finding panel shall have the power to regulate the time, place, course, and conduct of the hearing, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and request the board to issue ~~subpoenas~~ subpoenas to compel attendance of witnesses and the production of books, papers, and records relating to any matter before the fact-finding panel. The fact-finding panel may not choose a hearing location at a cost to the parties unless the parties fail to agree to an alternate cost-free location. Costs associated with a meeting room shall be the obligation of the parties.

(I) Fact-finding hearings are to be held in private.

(J) The fact-finding panel, in making findings of fact, shall take into consideration all reliable information relevant to the issues before the fact-finding panel.

(K) The fact-finding panel, in making recommendations, shall take into consideration the following factors pursuant to division (C)(4)(e) of section [4117.14](#) of the Revised Code:

- (1) Past collectively bargained agreements, if any, between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

(4) The lawful authority of the public employer;

(5) Any stipulations of the parties;

(6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

(L) No later than fourteen days after the appointment of the fact-finding panel, unless the parties mutually agree to an extension, the fact-finding panel, acting by a majority of its members, shall serve on the parties and the board via electronic mail findings of fact, recommendations on the unresolved issues, and a separate summary of each recommendation. Any subsequent change or adjustment by the fact-finding panel in the fact-finding report must be based upon error or omission and must be submitted by the fact-finding panel to the board for consideration and imposition of new time periods. If the fact-finder's report contains an error that needs correction, the parties shall contact the fact finder to raise the concern. If the report contains a substantive error that requires an adjustment to the report, the fact finder shall file a request with the board for authorization to adjust the report. Unless the parties agree to extend the voting period, the parties should conduct a vote upon the report as issued without correction. Once the board grants authorization for the fact finder to adjust the report, new timelines will be established for conducting a new vote to accept or reject the report as adjusted. Obvious typographical errors admitted by the fact finder do not require a board authorized adjustment.

(M) Immediately upon receipt, the exclusive representative shall make available, by posting or by other method reasonably calculated to inform the members of the employee organization in the unit, the findings, recommendations, and summaries of the fact-finding panel together with a notice of the dates, times, and places where the employee organization's members in the unit may vote to approve or reject the recommendations of the fact-finding panel. A secret ballot election shall be conducted by the exclusive representative at the dates, times, and places set forth in the notice. Such election shall be conducted not later than seven days after the findings, recommendations, and summaries of the fact-finding panel are served pursuant to paragraph (C) of rule [4117-1-02](#) of the Administrative Code. Each member of the employee organization in the unit shall at the time and place of election be issued a ballot containing a choice of "approve" and a choice of "reject" the recommendations of the fact-finding panel. There shall be no voting by proxy. The ballots shall be tallied immediately upon the conclusion of the election. Verification by electronic mail of the date of the election, the vote tally, and the number of members of the employee organization in the unit shall be served upon the board and served upon the employer within twenty-four hours after the tally of ballots, but in no event later than twenty-four hours after the expiration of the seven-day voting period. The verification must contain

proof of service upon the employer pursuant to rule [4117-1-02](#) of the Administrative Code. Failure to serve upon the board and the employer the required voting information within twenty-four hours of the expiration of the seven-day voting period shall constitute failure to reject the recommendations, and the recommendations shall be deemed accepted as the resolution of issues submitted to fact-finding. Oral notification to the board or the employer shall not constitute timely compliance with this rule.

(N) Immediately upon receipt, the employer's representative shall make available to the appropriate legislative body the findings, recommendations, and summaries of the fact-finding panel. Not later than seven days after the findings, recommendations, and summaries of the fact-finding panel are served pursuant to paragraph (C) of rule [4117-1-02](#) of the Administrative Code, the legislative body shall meet and vote to accept or reject the recommendations of the fact-finding panel. Verification by electronic email of the date of the vote, the vote tally, and the number of members of the legislative body shall be served upon the board and the exclusive representative within twenty-four hours after the vote count but in no event later than twenty-four hours after the expiration of the seven-day voting period. The verification must contain proof of service upon the employee organization pursuant to rule [4117-1-02](#) of the Administrative Code.

Failure to serve upon the board and the employee organization the required information within twenty-four hours of the expiration of the seven-day voting period shall constitute failure to reject the recommendations, and the recommendations shall be deemed accepted as the resolution of issues submitted to fact-finding. Oral notification to the board or the employee organization shall not constitute timely compliance with this rule.

(O) If neither party rejects by a three-fifths vote the recommendations of the fact-finding panel, not later than seven days after the recommendations are sent, the recommendations shall be deemed agreed upon as the final resolution of the issues submitted to the fact-finding panel and a collective bargaining agreement shall be executed, including the fact-finding panel's recommendations, except as otherwise modified by the parties by mutual agreement.

(P) If the recommendations of the panel are rejected by a three-fifths vote of either party and the rejection information required by paragraph (M) or (N) of this rule is timely served upon the board and the other party, the board shall post a copy of the fact-finding report and the notice of rejection in its Columbus offices and shall mail copies to the press, with recipients determined at the board's discretion. A board-provided notice of the rejection and a copy of the fact-finding report shall be posted by the employer and the employee organization in conspicuous locations where employees will be reasonably apprised of the contents. The "date of publication" is the date the board mails the notice and report to the press. A notice of rejection shall remain posted for a period of thirty days or until settlement occurs, whichever is earlier.

(Q) The parties shall share the cost of the fact-finding panel in a manner agreed to by the parties. If the parties cannot agree on how to share the cost of fact-finding, the parties shall each pay one-half of the remaining cost.

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R.C. [119.032](#) review dates: 07/21/2010 and 10/25/2015

Promulgated Under: [119.03](#)

Statutory Authority: [4117.02\(K\)\(8\)](#)

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