

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND INDUSTRIAL RELATIONS ACT

7 CCR 1101-1

Rule 1. DEFINITIONS

- 1.1 "Executive Director" refers to the Director of the Colorado Department of Labor and Employment.
- 1.2 "Director" refers to the head of the Division of Labor Standards and Statistics or his or her designee, unless otherwise specified in these rules.
- 1.3 "Division" refers to the Colorado Division of Labor Standards and Statistics, created by C.R.S. § 24-1-121.
- 1.4 "Accretion" refers to the merging of two or more bargaining units into one unit by virtue of the involved employer and labor organization's agreement or by a certification by the National Labor Relations Board as one unit merged by reasons of accretion. The collective bargaining agreement and all its supplements of the unit absorbing the other unit(s) will be covered by the terms and conditions of such agreement.
- 1.5 "Mail" refers to first class mail, postage prepaid.
- 1.6 "Email" refers to electronic transmission of documents via the internet.
- 1.7 "Successor Agreements" means an agreement which succeeds the initial agreement between original parties, consisting of a labor organization recognized as the exclusive bargaining representative of the employees in a collective bargaining unit and their employer or successor employers. A successor agreement exists where the employer and labor organization negotiates or adopts a predecessor's agreement, or where there is a substantial continuity in the identity of the business, enterprise, work force, or bargaining relationship.
- 1.8 In computing any period of time prescribed or allowed by these rules, consistent with Rules 6(a) and 6(e) of the Colorado Rules of Civil Procedure, shall be calculated as set forth below:
 - 1.8.1 The last day of the period computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.
 - 1.8.2 If the notice or paper is served upon him or her by mail, three days shall be added to the prescribed period.
- 1.9 All-Union Agreement has the meaning as defined by C.R.S. § 8-3-104.
- 1.10 Collective Bargaining Agreement has the meaning as defined by C.R.S. § 8-3-104.

Rule 2. NOTICES BY EMPLOYERS

- 2.1 Whenever notice is required to be given to employees by these rules, notice shall mean the posting of required information at those places customarily used in and about the employer's premises for the posting of notices of information. If such places are not customarily used, posting shall be in such places and at such times as will reasonably give all affected employees the required notice.
- 2.2 In all employment situations where employees are engaged in their duties away from the employer's principal or permanent place of business, notice shall be given in writing by such methods as shall reasonably be calculated to apprise all employees of that notice. This shall include posting of the notice at remote sites, such as on construction sites.
- 2.3 If posting in the manner set forth in rules 2.1 and 2.2 cannot reasonably be effectuated, the Director may order any other reasonable manner of giving notice.

Rule 3. SERVICE

- 3.1 Except as otherwise provided by these rules, whenever service of a document is required by these rules, service shall be made by delivering a copy to the party or by mailing it to him or her at his or her address as listed in the files of the Division or at his or her last known address. If none is listed in the files of the Division, delivery of a copy within the meaning of this rule shall mean: handing it to the party; leaving it at his or her office with his or her clerk or other person in charge thereof; if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed, or if the person to be served has no office, leaving it at his or her place of residence or usual place of abode with some member of his or her family over the age of eighteen years then residing therein.
- 3.2 All documents shall be filed by either personal delivery or mail and shall be deemed filed upon receipt by the Division.
- 3.3 The originals of all pleadings and other documents shall be filed with the Division at the office of the Director.
- 3.4 When a party has the technical capability, a party shall file document(s) with the Director and all opposing parties by sending via facsimile transmission, email, or other electronic methods available to the Division at the time of filing provided however, that the Director shall be furnished the original document(s) within five (5) working days of such transmission.

Rule 4. RATIFICATION AND CERTIFICATION OF ALL-UNION AGREEMENTS IN CONSTRUCTION INDUSTRY

- 4.1. A request to certify that an agreement, entered into by an employer and a labor organization which is limited in its coverage to employees who, upon their employment subsequent to the entering into the agreement, will be engaged in the building and construction industry, and complies with the provisions of C.R.S. § 8-3-104(1) and § 8-3-109 shall:
 - 4.1.1 Attach a copy of the signed agreement, or, if such signed copy is not available, an unsigned copy shall be submitted with a notarized statement that the agreement has in fact been duly executed by the parties.
 - 4.1.2 In the case of an agreement which invoices multi-employer groups or associations the request for certification shall include a list of the members of the group or association which have delegated their bargaining rights and/or the names of the employers who,

although they have not delegated bargaining rights to a group or association, have individually signed such agreements, together with the addresses of such employers.

- 4.1.3 Any request for certification shall include a statement of authority by the party submitting the request establishing that he or she is acting in an official capacity on behalf of an employer, employee or employee organization, and includes his or her title, if any, relationship, and address.
- 4.1.4 The Director shall cause a copy of the document, indicating certification, be mailed to the requesting party as well as all employers who are listed as signatories to the agreement on the date that such certification is executed, and to all other parties of interest. The original of the document showing certification shall be retained on file as a public record in the offices of the Division.
- 4.1.5 In the event that the Director does not certify the agreement, he or she shall either give written notice to the signatory parties stating his or her reasons for not certifying said agreement, or set the matter for hearing prior to issuing such determination.
- 4.1.6 Within two (2) weeks of the date of certification by the Director, the employer, or in the case of multi-employer associations, each member or signatory employer, shall post or give written notice to all of its employees covered by the certified all-union agreement, that the agreement has been ratified and certified pursuant to the provisions of the Labor Peace Act, and that those employees have the right to demand an election by filing a petition in accordance with C.R.S. § 8-3-108(1) (c) (II) (D). The rights set forth in C.R.S. § 8-3-108(1) (c) (II) (D) shall be stated explicitly in the notice. Proof of giving of this notice shall be filed with the Director within twenty (20) days after the date of certification by the Director of the all-union agreement.

Rule 5. TYPES OF ELECTIONS

- 5.1 Pursuant to these rules there are four types of elections. They are:
 - 5.1.1 Collective Bargaining Unit Election. An election to determine whether a labor organization shall be the representative of a group of employees of an employer or employers in a craft, division, department, plant or other subdivision.
 - 5.1.2 Election for Approval of an All-Union Agreement. An election to authorize an all-union agreement.
 - 5.1.3 Election to Ratify an All-Union Agreement. An election to ratify an all-union agreement in existence on June 29, 1977, and in continuous effect between an employer or a multi-employer association and a labor organization. These elections may occur, if twenty (20) percent of the covered employees file a petition within forty-five (45) days of the ratification requesting such election, or to the ratification of an all-union agreement in the construction industry.
 - 5.1.4 Revocation of an All-Union Agreement. An election held to determine whether employees subject to an all-union agreement desire to revoke the authority of the employer and the labor organization to remain in an all-union agreement.
- 5.2 Collective Bargaining Unit Elections
 - 5.2.1 Petitions for the selection of a collective bargaining unit shall be filed with the Division on forms specified by the Division. Such petitions may be filed by a single employee, a

group of employees, an employer, or the representative of either the employer or employees.

- 5.2.2 When a petition for collective bargaining unit election is filed with the Division the Director shall determine the unit or units of employees in which representation is being sought and shall include on any ballot the names or suitable descriptions of each labor organization seeking representation.
- 5.2.3 Upon receipt of a petition for a collective bargaining unit election, the Division shall provide a preliminary notice to the employer for posting in prominent places in and about each plant or operational area of the employer.
- 5.2.4 Requests for a separate unit or to show separately the wishes of employees in a craft, division, department or plant as to the selection of a labor organization shall be submitted to the Division within ten (10) days of the date of the notice.

5.3 Approval of an All-Union Agreement Election

- 5.3.1 Petitions for the approval of an all-union agreement shall be filed with the Division on forms specified by the Division. Such petitions may be filed by a single employee, a group of employees, an employer, or the representative of either of them. The collective bargaining unit shall have been certified by the National Labor Relations Board or the Division and such certification must be attached to the petition.
- 5.3.2 The agreements referred to in rule 5.1.2 shall be approved if at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, cast affirmative votes in favor of the agreement in a secret-ballot election held under the supervision of the Director.

5.4 Revocation of an All-Union Agreement Election

- 5.4.1 Petitions for the revocation of an all-union agreement shall be filed with the Director of the Division on forms specified by the Division. Such petitions may be filed by the employer or by twenty (20) percent of the employees covered by such agreement.
- 5.4.2 The petition for revocation may only be filed within a time period between one hundred twenty (120) and one hundred five (105) days prior to the end of the collective bargaining agreement or prior to a triennial anniversary of the date of such agreement.
- 5.4.3 The Division must complete the election within sixty (60) days prior to the termination of the agreement or the triennial anniversary of the agreement.
- 5.4.4 The Director may conduct an election for revocation within a collective bargaining unit no more often than once during the term of any collective bargaining unit or once every three (3) years in the case of agreements for a period longer than three (3) years.
- 5.4.5 The Director shall declare an all-union agreement terminated if, pursuant to the petition filed in accordance with rule 5.4.1, there is an affirmative vote of at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater in the election conducted under the supervision of the Director.
- 5.4.6 Upon the filing of an employee's petition, the Director, based upon his or her investigation, shall verify the employment status and eligibility of the petitioning employees and shall determine whether such petitions have been properly signed by at

least twenty (20) percent of the employees covered by such agreement on the date of the filing of the petition.

- 5.5 Whenever an election is held involving an all-union agreement, all employees covered by the agreement shall be eligible to vote. The Director shall determine whether the employers have signed as part of an association or multi-employer bargaining unit or have signed individually.
- 5.6 When an election is held to approve or revoke an all-union agreement, the results of said election shall be construed as granting or denying authorization to the employer and the labor organization to enter into any form of all-union agreement. Such election shall not be construed as approving or revoking only the specific contract terms proposed or agreed upon.
- 5.7 Any petitions filed by employees seeking an election to approve or revoke an all-union agreement shall remain confidential and shall not be available to any person or party.

Rule 6. ELECTION PROCEDURES

6.1 Procedures

- 6.1.1 Upon the filing of a petition for an election, the Director shall verify the employment status and eligibility of the employees to vote, based upon an investigation and subsequent findings. Such investigation shall include seeking data relative to whether the unit is the result of an accretion of a unit or whether the agreement is the result of a successor agreement.
- 6.1.2 The Director shall then request a list of employees from the employer who shall within seven (7) working days submit such a list. Said list shall contain the names of all employees in the collective bargaining unit employed by said employer. In the event the employer fails or refuses to furnish a list of employees, the Director will accept as a tentative polling list any list the petitioner may be able to supply or the Director may prepare such a list based on his or her own investigation.
- 6.1.3 Within twenty (20) working days after receipt of a petition, the Director shall meet with the parties in a conference to set the date of the election. The Director, at his or her discretion, may allow for such conference to be conducted by telephone. In the event that the parties are unable to agree and set such a date, the Director shall set a date for the election as soon as is practicable following receipt of a petition.
- 6.1.4 Having obtained or prepared a tentative polling list and established a date, the Director shall direct the service upon the employer and labor organization a Notice of Election and copies of the tentative polling list that must be displayed or posted in prominent places in and about each plant or operational area of the employer or by an alternative method approved by the Director if posting is not practicable.
- 6.1.5 The Notice of Election shall specify the time or times and place or places when and where a secret ballot election, according to the purpose of the petition, shall be conducted and shall specify the source of the request for the election except, in the case of an election called by employee petition for ratification or revocation of an all-union agreement, the notice shall simply indicate the request was by employee petition.
- 6.1.6 In the case of a collective bargaining unit election, the notice of election shall include a description of the unit or units to be formed including classification, crafts and work locations.

- 6.1.7 Any party may file written objections to an election or the tentative polling list subsequent to the filing of the petition for an election, but not later than seven (7) days after being served the Notice of Election. Within seven (7) days after service of the objections, any interested party may file and serve upon the other parties a written response to the objections.
- 6.1.8 The Director shall investigate the objections and issue a determination based on the facts. The Director shall, as promptly as practicable, determine whether a petition for an election is proper. The Director shall forthwith cause copies of his or her determination to be served on all parties. If the Director is unable to decide upon the objections prior to the scheduled election, the election will be cancelled and rescheduled following resolution of the objections.
- 6.1.9 The Division will not consider any petition for a collective bargaining unit election, election for approval of an all-union agreement, or election to approve the ratification of an all-union agreement more often than once in any twelve (12) month period.
- 6.1.10 After resolution of any objections to the tentative polling list or the conducting of an election or in the absence of any objections, the Director shall certify a poll list of qualified voters not later than twenty-four (24) nor earlier than forty-eight (48) hours preceding the time of balloting. The certified poll list shall be available in the office of the Director and to any interested party.

6.2 Conduct of Elections

- 6.2.1 For each election the Director shall cause suitable ballots to be prepared. The Director shall appoint such agents as are necessary to conduct or aid in conducting the election. In situations where the Director shall deem it appropriate, he or she shall have the discretion to prepare bilingual ballots.
- 6.2.2 In his or her discretion, the Director may establish more than one suitable polling place for the same election, and may either provide a separate suitable ballot box and election officials for each place, or establish different times for the reception of ballots by the same officials at different places. In either event, the notice posted at each polling place shall specify that day and hours during which ballots may be cast at that place, and that a voter's ballot shall not be received at a place other than that at which his or her name is so listed, unless the Notice of Election shall specifically authorize voters to vote at other polling places.
- 6.2.3 Each eligible organization requesting recognition as a collective bargaining unit or the union involved in an all-union election, the employer and the employees may designate an individual, who is not a supervisor or administrator and who is not a paid union official, for each polling place who shall be allowed to inspect the poll list and observe the casting of the ballots. No others than the Director and his or her agents shall be allowed to do so, nor shall others remain at the polling place. Any employer, supervisor, administrator or paid union official may be present for the counting of the ballots.
- 6.2.4 Copies of the certified poll list shall be in the possession of the Director or his or her agents during the balloting.
- 6.2.5 Only those persons whose names are on the poll list shall be entitled to vote at the election. Any employee whose name appears on the list of persons eligible to vote, and who has not been lawfully and contractually terminated before the election occurs but had his or her name omitted from the polling list shall be allowed to vote, and his or her ballot shall be received by the Director as a challenged ballot.

- 6.2.6 The individuals selected according to rule 6.2.3 may challenge the right of any person to vote upon the grounds of identity. If the challenged person is unable to provide adequate proof of identity, the Director shall receive the ballot as a challenged ballot.
- 6.2.7 If any employee is unable to prepare his or her ballot by reason of illiteracy, or unfamiliarity with the English language, or for any other reason, he or she may be assisted in preparing his or her ballot by the Director or his or her agents.
- 6.2.8 Solicitation of votes and electioneering shall not be permitted within fifty (50) feet of the polling place.
- 6.2.9 At the time specified in the Notice of Election for the closing of balloting, the Director or his or her agents shall receive the ballots of those employees present at the polling place, and no others.
- 6.2.10 Elections may be conducted by mail at the discretion of the Director.

6.3 Counting of Ballots and Certification of Results

- 6.3.1 At the conclusion of the balloting the Director or his or her agents shall fix and state a time and the place at which the ballots will be counted, taking whatever measures are necessary to ensure secrecy for the election process and the ballots, and to protect the identity of all voters participating in such election. Each party shall be entitled to have one watcher present at the counting of the ballots.
- 6.3.2 If any ballot shall be found to have conflicting marks or if in the opinion of the Director or his or her agents, any ballot is spurious, such ballot shall be disregarded and not counted, and shall be recorded as a spoiled ballot.
- 6.3.3 Any ballot challenged under rules 6.2.5 and/or 6.2.6 will be noted and the challenged ballot will be retained by the Director or his or her designee in a sealed envelope and after having impounded all ballots to protect the identity of the voters, shall receive evidence pertaining to eligibility from the parties and attempt to resolve any challenges. If there is not sufficient evidence presented at that time to make a decision all ballots cast will be sealed in the ballot box and impounded by the Director. The parties will have five (5) days to submit any additional evidence which may assist the Director in reaching a decision. In the event that no decision is reached, the Director shall cause the matter to be heard at a hearing for resolution and decision. Any challenged ballot determined to be invalid shall be declared void and impounded. Those challenged ballots declared to be valid shall be mixed with the unchallenged ballots and counted at a time and place to be fixed by the Director.
- 6.3.4 If there are no challenged ballots the Director or his or her designee shall proceed to count the ballots at such time and place as fixed at the conclusion of the balloting.
- 6.3.5 The Director or his or her agents shall prepare and certify over their signatures, on a form furnished by the Director, a certificate containing a tabulation of the ballots cast, and shall immediately file such certificate and shall deposit all ballots in a sealed container, with the Director.
- 6.3.6 Within five (5) working days after the filing and certification of the results of an election, any party may file an appeal in writing with the Director to review the certificate based on error or fraud to the results certified therein. The Director will cause a copy to be served to all interested parties giving each seven (7) working days to file and serve written

responses. The Director may cause an investigation to be undertaken, or may set the matter for hearing.

Rule 7. UNFAIR LABOR PRACTICES

7.1 Parties and Pleading

- 7.1.1 The party filing a complaint shall be designated the plaintiff. Complaints shall be filed on forms provided by the Division and shall clearly set forth the names and addresses and phone numbers of all parties, the plaintiff's interest, the sections of the Act violated and a clear and concise statement of the facts constituting the unfair labor practice. Upon receipt of a complaint, the Division shall mail a copy of the complaint to the person or parties charged.
- 7.1.2 The party against whom a complaint is filed shall be designated the respondent. Any respondent has a right to file an answer to the complaint within ten (10) working days of service of the complaint.
- 7.1.3 The Director may, in his or her discretion, shorten the ten (10) day period for response to the complaint for good cause. In such cases, the respondent must be notified of the hearing date, the period in which they may respond, and, must be served with a copy of the complaint in as short a period of time as possible by service by an agent of the Division.
- 7.1.4 Other persons who shall be made parties shall be designated as intervenors or shall be joined as plaintiffs or respondents, as the Director may decide based upon their application.

7.2 Notice of Hearing

- 7.2.1 Upon receipt of the answer or in default of an answer, the Director shall docket the case for hearing, giving written notice to the parties in interest by mailing the same to the Post Office addresses given in the pleadings, or as otherwise provided by statute. The hearing date shall be fixed not less than ten (10) days nor more than forty (40) days following the date of filing of the complaint.
- 7.2.2 Hearings may be conducted by the Director or by a deputy or a hearing officer designated by the Director. Such hearing may be held at such times and places as the Director designates and may be adjourned from time to time at the discretion of the Director or his or her agents. Hearings may be held via video or teleconferencing, including taking of witness testimony as determined by the Director or his or her agents.
- 7.2.3 The burden of proof of establishing an unfair labor practice is upon the party plaintiff and he or she shall present his or her evidence first.
- 7.2.4 Upon conclusion of a hearing the Director or the deputy or hearing officer in charge of the case shall prepare written findings of fact and conclusions and enter his or her order or recommendation therein. If within twenty (20) days after receipt of the recommendation by a hearing officer or deputy, the Director has taken no action, the findings of fact, and conclusions and order of the deputy or hearing officer shall be deemed to be those of the Director.
- 7.2.5 The Director may remove any matter to himself or herself or may conduct such further proceedings as appear appropriate in his or her discretion. Copies of the findings of fact

and the order shall be furnished to the parties in the manner prescribed for serving notice of hearings and shall constitute the final agency action.

7.2.6 In cases where it shall conclusively appear to the Director that an emergency exists and that temporary relief must be granted pending the filing of an answer or pending final hearing, the Director may hold a preliminary hearing and at the conclusion thereof enter an interlocutory order which shall remain in effect pending the final hearing and order of the Director.

7.3 Any hearings hereunder will be conducted pursuant to the provisions of the Administrative Procedure Act, specifically C.R.S. § 24-4-105, as amended.

Rule 8. NOTICE OF INTENT TO STRIKE

8.1 Those bargaining units recognized by the National Labor Relations Act and subject to the notification provisions of said Act may submit the Federal Mediation and Conciliation Service form in lieu of the Notice of Intent to Strike form within the time limits established in Rule 8.2.

8.2 Notice of Intent to Strike Employers Other Than Authorities

8.2.1 Where the exercise of the right to strike by the employees of an employer engaged in the State of Colorado in the production, harvesting, or initial processing (the latter after having left the farm) of any farm or dairy product produced in this state would tend to cause the destruction or serious deterioration of such product, such employees shall file with the Division a written Notice of Intent to Strike no less than thirty (30) days prior to the date contemplated for such strike.

8.2.2 Employees of other industries or occupations, excluding authorities, shall file with the Division a written Notice of Intent to Strike no less than twenty (20) days prior to the date contemplated for such strike.

8.2.3 All Notices of Intent to Strike shall be filed with the Division in writing and served upon all other parties by certified mail, and shall specify: the exact nature of the dispute; the names, addresses and telephone numbers of the parties and their representatives, if any; the date of the last conference between the parties; and contain a Certificate of Service upon the other party. The Director may request the employer and the employees to meet with him or her to discuss the dispute. In the event that the parties do not resolve the dispute, the Director may recommend mediation.

8.2.4 If the parties consent to mediating the dispute the parties shall file with the Director a written status of the ongoing mediation every thirty (30) days from the filing of the Consent to Mediate, or such other period of time as the Director may order until mediation is concluded.

8.2.5 Either party may notify the Division in writing of any impasse or of the failure of mediation to resolve the dispute. Upon filing of the written notice of impasse or failure of mediation, the Director may meet with the parties to discuss voluntary arbitration of the dispute. If the parties consent to arbitration, the parties shall file with the Division a written agreement to arbitrate the dispute signed by both parties or their representatives. The agreement to arbitrate shall include a request that the Director either conduct the arbitration of the dispute or appoint an arbitrator.

8.3 Notice of Intent to Strike Employers Who Are Authority

8.3.1 Employees of Authorities shall file with the Division a written Notice of Intent to Strike no less than forty (40) days prior to the date contemplated for such strike.

Rule 9. REQUEST FOR INTERVENTION (INDUSTRIAL RELATIONS ACT, C.R.S. TITLE 8, ARTICLE 1)

9.1 Intervention by the Director

9.1.1 The Director may intervene in a dispute affecting conditions of employment or concerning wages or hours, when; either, or both parties jointly, to a dispute request his or her intervention, or when the Executive Director on his or her own volition determines that the dispute affects the public interest.

9.1.2 Requests for the intervention of the Director in a dispute shall be filed with the Division on forms provided by the Division.

9.1.3 In the event that the Division receives a request for intervention by only one party to a dispute, the Director shall advise the non-responding party of the filing of the request. The non-responding party shall have ten (10) working days from the date of notice of the request to file a corresponding request for intervention. The non-responding party's failure to file a request for intervention may result in a determination by the Executive Director as to whether the dispute affects the public interest and, therefore, warrants intervention by the Director.

9.1.4 A joint request for intervention of the Director shall set forth the facts, issues, or demands involved in the controversy or dispute, and each party to the dispute shall furnish such information as requested by the Director. Upon receipt of such joint request the Director shall cause a meeting with the parties and discuss with them the use of facilitation, conciliation, mediation, or voluntary arbitration to assist in resolving the dispute.

9.1.5 In the event the Director elects to exercise jurisdiction over a dispute, the parties shall be advised in writing of such decision. The notice shall also advise the parties that the relation of the employer and employee shall continue uninterrupted by the dispute or anything arising out of the dispute until the final determination thereof by said director. The director shall issue his or her final award or order terminating jurisdiction within one hundred eighty (180) days from the date of his or her notice of election to exercise jurisdiction. Neither the employer nor any employee affected by any such dispute shall alter the conditions of employment with respect to wages or hours or any other condition of said employment; neither shall they on account of such dispute, do or be concerned in doing directly or indirectly anything in the nature of a lockout, strike, or suspension or discontinuation of work or employment. If the Director elects to decline jurisdiction over a dispute, the parties shall be advised in writing of such decision.

9.2 Hearing and Final Awards

9.2.1 The Director or his designee may conduct a hearing regarding the dispute and issue his final award in writing as soon as administratively practicable after receipt of the mutual request of the employer and employees or as soon as administratively practicable after notification of the parties where the dispute affects the public interest.

9.2.2 The Director may conduct an investigation, hold hearings in the interim, and issue temporary orders which may authorize and encourage facilitation, conciliation, mediation, or voluntary arbitration prior to his issuing a final order.

9.2.3 Any final hearing required to be held by the Director shall be conducted in accordance with C.R.S. § 24-4-105, and the final award shall be in writing.

9.3 Relinquishment of Jurisdiction

9.3.1 If, after intervening in a dispute which may affect the public interest, the Director after investigating the facts determines that the dispute does not affect the public interest, he or she shall notify the parties in writing within ten (10) working days of his or her decision that he or she is declining to assert jurisdiction in the matter.

Annotations

Trujillo v. Industrial Commission, No. 81CA1217, Colorado Court of Appeals, April 22, 1982, held claimant's attorney's neglect constituted "good cause" for claimant's failure to appear at hearing.

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- 1.3 ___ “Division” refers to the Colorado Division of Labor Standards and Statistics, created by C.R.S. § 24-1-121, C.R.S.
- 1.4 ___ “Accretion” refers to the merging of two or more bargaining units into one unit by virtue of the involved employer and labor organization’s agreement or by a certification by the National Labor Relations Board (NLRB) as one unit merged by reasons of accretion. The collective bargaining agreement and all its supplements of the unit absorbing the other unit(s) will be covered by the terms and conditions of such agreement.
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- 1.76 ___ “Successor Agreements” means an agreement which succeeds the initial agreement between original parties, consisting of a labor organization recognized as the exclusive bargaining representative of the employees in a collective bargaining unit and their employer or successor employers. A successor agreement exists where the employer and labor organization negotiates or adopts a predecessor’s agreement, or where there is a substantial continuity in the identity of the business, enterprise, work force, or bargaining relationship.
- 1.78 ___ In computing any period of time prescribed or allowed by these rules, consistent with Rules 6(a) and 6(e) of the Colorado Rules of Civil Procedure, shall be calculated as set forth below:
 - 1.78.A-1 ___ The last day of the period ~~so~~-computed shall be included, unless it is a Saturday, ~~a~~-Sunday, or ~~a~~-legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or ~~a~~-legal holiday.
 - 1.78.B-2 ___ ~~If T~~If the notice or paper is served upon him or her by mail, three days shall be added to the prescribed period.
- 1.9 ___ All-Union Agreement (AUA) has the meaning as defined by C.R.S. § 8-3-104.
- 1.10 ___ Collective Bargaining Agreement (CBU) has the meaning as defined by C.R.S. § 8-3-104.

Style Definition: Title1

Style Definition: Title2: Font: Not Bold, Space After: 12 pt, Tab stops: Not at 0.5" + 1" + 1.5"

Style Definition: Title3: Indent: Left: 0.5", Space After: 12 pt, Tab stops: Not at 0.5" + 1" + 1.5"

Rule 2. NOTICES BY EMPLOYERS

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- 2.2 In all employment situations where employees are engaged in their duties away from the employer's principal or permanent place of business, notice shall be given in writing by such methods as shall reasonably be calculated to apprise all employees of that notice. This shall include posting of the notice at remote sites, such as on construction sites.
- 2.3 If posting in the manner set forth in sections rules A-2.1- and B-2.2 cannot reasonably be effectuated, the Director may order any other reasonable manner of giving notice, including mailing to each affected employee.

Rule 3. SERVICE

- 3.1 Except as otherwise provided by these rules, whenever service of a document is required by these rules, service shall be made by delivering a copy to the party or by mailing it to him or her at his or her address as listed in the files of the Division of Labor or at his or her last known address. If none is listed in the files of the Division of Labor, delivery of a copy within the meaning of this rule shall mean: handing it to the party; leaving it at his or her office with his or her clerk or other person in charge thereof; if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed, or if the person to be served has no office, leaving it at his or her place of residence-dwelling-house or usual place of abode with some member of his or her family over the age of eighteen years then residing therein.
- 3.2 All documents shall be filed by either personal delivery or mail and shall be deemed filed upon receipt by the Division.
- 3.3 The originals of all pleadings and other documents shall be filed with the Division at the office of the Director.
- 3.4 A party may file a document with the Director by sending it via facsimile transmission to a facsimile number to the Director, providing When a party has the technical capability, a party shall file document(s) with the Director and all opposing parties by sending via facsimile transmission, email, or other electronic methods available to the Division at the time of filing provided however, that the Director shall be furnished the original document(s) within five (5) working days of such facsimile transmission.

Rule 4. RATIFICATION AND CERTIFICATION OF ALL-UNION AGREEMENTS IN CONSTRUCTION INDUSTRY

4.1 RATIFICATION AND CERTIFICATION IN THE CONSTRUCTION INDUSTRY

- 4.1.A A request to certify that an agreement, entered into by an employer and a labor organization which is limited in its coverage to employees who, upon their employment subsequent to the entering into the agreement, will be engaged in the building and construction industry, and complies with the provisions of C.R.S. 4973, § 8-3-104(1) and § 8-3-109 shall:

- 4.1.1A(1) Attach a copy of the signed agreement, or, if such signed copy is not available, an unsigned copy shall be submitted with a notarized statement that the agreement has in fact been duly executed by the parties.

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- 4.1.A(2) In the case of an agreement which invoices multi-employer groups or associations the request for certification shall include a list of the members of the group or association which have delegated their bargaining rights and/or the names of the employers who, although they have not delegated bargaining rights to a group or association, have individually signed such agreements, together with the addresses of such employers.
- 4.1.A(3) Any request for certification shall include a statement of authority by the party submitting the request establishing that he or she is acting in an official capacity on behalf of an employer, employee or employee organization, and includes his or her title, if any, relationship, and address.
- 4.1.A(4) The Director shall cause a copy of the document, indicating certification, be mailed to the requesting party as well as all employers who are listed as signatories to the agreement on the date that such certification is executed, and to all other parties of interest. The original of the document showing certification shall be retained on file as a public record in the offices of the Division of Labor.
- 4.1.A(5) In the event that the Director does not certify the agreement, he or she shall either give written notice to the signatory parties stating his or her reasons for not certifying said agreement, or set the matter for hearing prior to issuing such determination.
- 4.1.A(6) Within two (2) weeks of the date of certification by the Director, the employer, or in the case of multi-employer associations, each member or signatory employer, shall post or give written notice to all of its employees covered by the certified all-union agreement, that the agreement has been ratified and certified pursuant to the provisions of the Labor Peace Act, and that those employees have the right to demand an election by filing a petition in accordance with C.R.S. § 8-3-108(1) (c) (II) (D). The rights set forth in C.R.S. § 8-3-108(1) (c) (II) (D) shall be stated explicitly in the notice. Proof of giving of this notice shall be filed with the Director within twenty (20) days after the date of certification by the Director of the all-union agreement.

Rule 5. TYPES OF ELECTIONS

5.1 TYPES OF ELECTIONS

5.1 Pursuant to these Rules there are four types of elections. They are:

~~5.1.A1 Collective Bargaining Unit Election. COLLECTIVE BARGAINING UNIT ELECTION.~~

~~This is an~~ election to determine whether a labor organization shall be the representative of a group of employees of an employer or employers in a craft, division, department, plant or other subdivision.

5.1.2 Election for Approval of an All-Union Agreement.

~~5.1.B ELECTION FOR APPROVAL OF AN ALL-UNION AGREEMENT~~

An election to authorize an all-union agreement.

~~5.1.C3 Election to Ratify an All-Union Agreement. ELECTION TO APPROVE THE RATIFICATION OF AN ALL-UNION AGREEMENT.~~

An election to approve the ratification of an all-union agreement in existence on ~~June 29, 1977, and in continuous effect~~ between an employer or a multi-employer association and a labor organization. These elections may occur, if twenty (20) percent of the covered

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employees file a petition within forty-five (45) days of the ratification requesting such election, or to the ratification of an all-union agreement in the construction industry.

5.1.4 Revocation of an All-Union Agreement ~~D~~ **REVOCAION OF AN ALL-UNION AGREEMENT ELECTION:**

~~This is a~~An election held to determine whether employees subject to an all-union agreement desire to revoke the authority of the employer and the labor organization to ~~enter into~~remain in an all-union agreement.

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5.2 Collective Bargaining Unit Elections **COLLECTIVE BARGAINING UNIT ELECTIONS:**

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~~5.2.1A~~ 5.2.1A Petitions for the selection of a collective bargaining unit shall be filed with the Division ~~of Labor~~ on forms specified by the Division. Such petitions may be filed by a single employee, a group of employees, an employer, or the representative of either the employer or employees.

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~~5.2.2B~~ 5.2.2B When a petition for collective bargaining unit election is filed with the Division the Director shall determine the unit or units of employees in which representation is being sought and shall include on any ballot the names or suitable descriptions of each labor organization seeking representation.

~~5.2.C3~~ 5.2.C3 Upon receipt of a petition for a collective bargaining unit election, the Division shall provide a preliminary notice to the employer for posting in prominent places in and about each plant or operational area of the employer.

~~5.2.D4~~ 5.2.D4 Requests for a separate unit or to show separately the wishes of employees in a craft, division, department or plant as to the selection of a labor organization shall be submitted to the Division within ten (10) days of the date of the notice.

~~5.2.C~~ 5.2.C Requests for an election to select a bargaining unit subsequent to that requested in the original petition must be submitted to the Director no later than ten (10) days prior to the election.

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~~5.2.D~~ 5.2.D Requests to show separately the wishes of employees in a craft, division, department or plant as to the selection of a labor organization shall be submitted no later than ten (10) days prior to the election.

~~5.2.E~~ 5.2.E Requests to have the polling list prepared in such a manner so as to show which employees are entitled to vote separately for craft representation or representation of any one of several plants of a common employer shall be submitted to the Director no less than ten (10) days prior to the election, unless a request for a separate unit is submitted as set forth above.

5.3 Approval of an All-Union Agreement Election **APPROVAL OF AN ALL-UNION AGREEMENT ELECTIONS:**

~~5.3.1~~ 5.3.1 Petitions for the approval of an all-union agreement shall be filed with the Division ~~of Labor~~ on forms specified by the Division. Such petitions may be filed by a single employee, a group of employees, an employer, or the representative of either of them. ~~The collective bargaining unit shall have been certified by the NLRB National Labor Relations Board or the Division and such certification must be attached to the petition.~~

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~~5.3.B2~~ 5.3.B2 The agreements referred to in ~~ruleSection~~ ruleSections 5.1.2B; 5.1.C; and 5.1.D above, shall be approved if at least a majority of all the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, cast affirmative votes in

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favor of the agreement in a secret-ballot election held under the supervision of the Director.

~~5.3.C Upon filing of an employees' petition, the Director, based upon his investigation, shall verify the employment status, and eligibility of the petitioning employees and shall determine whether such petitions have been properly signed by at least twenty (20) percent of the employees covered by such agreement on the date of the filing of the petition.~~

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5.4 APPROVAL OF THE RATIFICATION OF AN ALL-UNION AGREEMENT ELECTION:

~~5.4.A Petitions for the approval of the ratification of an all-union agreement election shall be filed with the Director of Labor on forms specified by the Division. Such petitions must be filed by at least twenty percent of the employees covered by such agreement.~~

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~~5.4.B The petitions for the approval of a ratification election must be filed within forty-five (45) days after the certification of the agreement by the Director.~~

~~5.4.C The agreement shall be conclusively deemed ratified if at least a majority of all the employees eligible to vote or three-quarters or more of the employees eligible to vote or three-quarters or more of the employees who actually voted, whichever is greater, cast affirmative votes in favor of approving the ratification.~~

~~5.4.D The Director shall hold such an election as promptly as practical following the filing of the petition.~~

~~5.4.E In the event that a certified contract expires or is terminated prior to the conduction of such an election, such certification shall be applicable to any subsequent agreement between the same parties until such election shall be held.~~

~~5.4.F Upon the filing of an employee's petition the Director, based upon his investigation, shall verify the employment status and eligibility of the petitioning employees and shall determine whether such petitions have been properly signed by at least twenty (20) percent of the employees covered by such agreement on the date of the filing of the petition.~~

5.54 Revocation of an All-Union Agreement Election ~~REVOCATION OF AN ALL-UNION AGREEMENT ELECTION:~~

~~5.54.1A~~ _____ Petitions for the revocation of an all-union agreement shall be filed with the Director of the Division ~~of Labor~~ on forms specified by the Division. Such petitions may be filed by the employer or by twenty (20) percent of the employees covered by such agreement.

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~~5.54.2B~~ _____ The petition for revocation may only be filed within a time period between one hundred twenty (120) and one hundred five (105) days prior to the end of the collective bargaining agreement or prior to a triennial anniversary of the date of such agreement.

~~5.54.3C~~ _____ The Division must complete the election within sixty (60) days prior to the termination of the agreement or the triennial anniversary of the agreement.

~~5.54.D4~~ _____ The Director may conduct an election for revocation within a collective bargaining unit no more often than once during the term of any collective bargaining unit or once every three (3) years in the case of agreements for a period longer than three (3) years.

~~5.54.5E~~ _____ The Director shall declare an all-union agreement terminated if, pursuant to the petition filed in accordance with ruleSection 5.4.A1 above, there is not an affirmative vote of at least a majority of all the employees eligible to vote or three-quarters or more of the

employees who actually voted, which ever is greater in the election conducted under the supervision of the Director.

5.54.F6 Upon the filing of an employee's petition, the Director, based upon his or her investigation, shall verify the employment status and eligibility of the petitioning employees and shall determine whether such petitions have been properly signed by at least twenty (20) percent of the employees covered by such agreement on the date of the filing of the petition.

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5.65 ELIGIBILITY TO VOTE IN ALL-UNION AGREEMENT ELECTION

Whenever an election is held involving an all-union agreement, all employees covered by the agreement shall be eligible to vote. The Director shall determine whether the employers have signed as part of an association or multi-employer bargaining unit or have signed individually.

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5.76 SCOPE OF APPROVAL OR REVOCATION

When an election is held to approve or revoke an all-union agreement, the results of said election shall be construed as granting or denying authorization to the employer and the labor organization to enter into any form of all-union agreement. Such election shall not be construed as approving or revoking only the specific contract terms proposed or agreed upon.

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5.87 CONFIDENTIALITY OF PETITIONS FILED BY EMPLOYEES IN ALL-UNION ELECTIONS.

Any petitions filed by employees seeking an election to approve or revoke an all-union agreement shall remain confidential and shall not be available to any person or party.

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Rule 6. ELECTIONS PROCEDURES

6.1 PROCEDURES

6.1.A1 Upon the filing of a petition for an election, the Director shall verify the employment status and eligibility of the employees to vote, based upon an investigation and subsequent findings. Such investigation shall include seeking data relative to whether the unit is the result of an accretion of a unit or whether the agreement is the result of a successor agreement.

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6.1.2B The Director shall then request a list of employees from the employer who shall within seven (7) working days submit such a list. Said list shall contain the names of all employees in the collective bargaining unit employed by said employer as of the date of the request, which date shall be determinative of eligibility to vote. In the event the employer fails or refuses to furnish a list of employees, the Director will accept as a tentative polling list any such a list as the petitioner may be able to supply or the Director may prepare such a list based on his or hiser own investigation.

6.1.3C Within twenty (20) working days after receipt of a petition, the Director shall meet with the parties in a conference to set the date of the election. The Director, at his or her discretion, may allow for such conference to be conducted by telephone. In the event that the parties are unable to agree and set such a date, the Director shall set a date for the election as soon as is practicable following receipt of a petition.

6.1.D4 Having obtained or prepared a tentative polling list and established a date, the Director shall direct the service upon the employer and labor organization that a Notice of Election

and copies of the tentative polling list that must be displayed or posted in prominent places in and about each plant or operational area of the employer or by an alternative method approved by the Director if posting is not practicable.

~~6.1.E The Director shall cause a copy of the Notice of Election and tentative polling list to be served by mailing first-class postage prepaid, to all interested parties.~~

6.1.F~~E5~~ _____ The Notice of Election shall specify the time or times and place or places when and where a secret ballot election, according to the purpose of the petition, shall be conducted and shall specify the source of the request for the election except, in the case of an election called by employee petition for ratification or revocation of an all-union agreement, the notice shall simply indicate the request was by employee petition.

6.1.G~~F6~~ _____ In the case of a collective bargaining unit election, the notice of election shall include a description of the unit or units to be formed including classification, crafts and work locations.

6.1.H~~G7~~ _____ Any party may file written objections to an election or the tentative polling list subsequent to the filing of the petition for an election, but not later than seven (7) days after being served the Notice of Election. Within seven (7) days after service of the objections, any interested party may file and serve upon the other parties a written response to the objections.

6.1.I~~8~~ H The Director shall investigate the objections and issue a determination based on the facts. The Director shall, as promptly as practicable, determine whether a petition for an election is proper. The Director shall forthwith cause copies of his or her determination to be served on all parties. If the Director is unable to decide upon the objections prior to the scheduled election, the election will be cancelled and rescheduled following resolution of the objections.

6.1.J~~9~~ _____ The Division ~~of Labor~~ will not consider any petition for a collective bargaining unit election, election for approval of an all-union agreement, or election to approve the ratification of an all-union agreement more often than once in any twelve (12) month period.

6.1.K~~10~~ J _____ After resolution of any objections to the tentative polling list or the conducting of an election or in the absence of any objections, the Director shall certify a poll list of qualified voters not later than twenty-four (24) nor earlier than forty-eight (48) hours preceding the time of balloting. The certified poll list shall be available in the office of the Director and to any interested party, ~~and the Director shall cause it to be posted at those places where the Notice(s) of Election were posted.~~

~~6.1.L At any time prior to ten (10) days before the commencement of balloting for the selection of a collective bargaining unit, other petitions may be filed with the Director for any other organizations as representative of the employees or for the designation of a separate unit from that or those specified in the Notice of Election.~~

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6.2 Conduct of Elections CONDUCT OF ELECTIONS

6.2.A~~1~~ _____ For each election the Director shall cause suitable ballots to be prepared. The Director shall appoint such agents as are necessary to conduct or aid in conducting the election. In situations where the Director shall deem it appropriate, he or she shall have the discretion to prepare bilingual ballots.

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6.2.2 ~~B~~ In his or her discretion, the Director may establish more than one suitable polling place for the same election, and may either provide a separate suitable ballot box and election officials for each place, or establish different times for the reception of ballots by the same officials at different places. In either event, the notice posted at each polling place shall specify that day and hours during which ballots may be cast at that place, and that a voter's ballot shall not be received at a place other than that at which his or her name is so listed, unless the Notice of Election shall specifically authorize voters to vote at other polling places.

6.2.3 ~~C~~ Each eligible organization requesting recognition as a collective bargaining unit or the union involved in an all-union election, the employer and the employees may designate an individual, who is not a supervisor or administrator and who is not a paid union official, for each polling place who shall be allowed to inspect the poll list and observe the casting of the ballots. No others than the Director and his or her agents shall be allowed to do so, nor shall others remain at the polling place. Any employer, supervisor, administrator or paid union official may be present for the counting of the ballots.

6.2.4 ~~D~~ Copies of the certified poll list shall be in the possession of the Director or his or her agents during the balloting.

6.2.5 ~~E~~ Only those persons whose names are on the poll list shall be entitled to vote at the election. Any employee whose name appears on the list of persons eligible to vote, and who has not been lawfully and contractually terminated before the election occurs but ~~has~~ had his or her name ~~removed-omitted~~ from the polling list shall be allowed to vote, and his or her ballot shall be received by the Director as a challenged ballot.

6.2.6 ~~F~~ The individuals selected according to ~~r~~Rule 6.2.3C ~~supra~~, may challenge the right of any person to vote upon the grounds of identity. If the challenged person is unable to provide adequate proof of identity, the Director shall receive the ballot as a challenged ballot.

6.2.7 ~~G~~ If any employee is unable to prepare his or her ballot by reason of illiteracy, or unfamiliarity with the English language, or for any other reason, he or she may be assisted in preparing his or her ballot by the Director or his or her agents.

6.2.8 ~~H~~ Solicitation of votes and electioneering shall not be permitted within fifty (50) feet of the polling place.

6.2.9 ~~I~~ At the time specified in the Notice of Election for the closing of balloting, the Director or his or her agents shall receive the ballots of those employees present at the polling place, and no others.

6.2.10 ~~J~~ Elections may be conducted by mail ~~at~~in the discretion of the Director.

6.3 Counting of Ballots and Certification of Results ~~COUNTING OF BALLOTS AND CERTIFICATION OF RESULTS~~

6.3.1 ~~A~~ At the conclusion of the balloting the Director or his or her agents shall fix and state a time and the place at which the ballots will be counted, taking whatever measures are necessary to ensure secrecy for the election process and the ballots, and to protect the identity of all voters participating in such election. Each party shall be entitled to have one watcher present at the counting of the ballots.

6.3.2 ~~B~~ If any ballot shall be found to have conflicting marks ~~, and/or,~~ if in the opinion of the Director or his or her agents, any ballot is spurious, such ballot shall be disregarded and not counted, and shall be recorded as a spoiled ballot.

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- 6.3.3 ~~C~~ Any ballot challenged under ~~r~~Rules 6.2.E5 and/or 6.2.F6 will be noted and the challenged ballot will be retained by the Director or his or her designee in a sealed envelope and after having impounded all ballots to protect the identity of the voters, shall receive evidence pertaining to eligibility from the parties and attempt to resolve any challenges. If there is not sufficient evidence presented at that time to make a decision all ballots cast will be sealed in the ballot box and impounded by the Director. The parties will have five (5) days to submit any additional evidence which may assist the Director in reaching a decision. In the event that no decision is reached, the Director shall cause the matter to be heard at a hearing for resolution and decision. Any challenged ballot determined to be invalid shall be declared void and impounded. Those challenged ballots declared to be valid shall be mixed with the unchallenged ballots and counted at a time and place to be fixed by the Director.
- 6.3.4 ~~D~~ If there are no challenged ballots the Director or his or her designee shall proceed to count the ballots at such time and place as fixed at the conclusion of the balloting.
- 6.3.5 ~~E~~ The Director or his or her agents shall prepare and certify over their signatures, on a form furnished by the Director, a Ccertificate containing a tabulation of the ballots cast, and shall immediately file such Ccertificate and shall deposit all ballots in a sealed container, with the Director.
- 6.3.6 ~~F~~ Within five (5) working days after the filing and certification of the results of an election, any party may file an appeal in writing with the Director to review the certificate based on error or fraud to the results certified therein. The Director will cause a copy to be served to all interested parties giving each seven (7) working days to file and serve written responses. The Director may cause an investigation to be undertaken, or may set the matter for hearing in accordance with the procedures for hearing unfair labor practices under these rules.

Rule 7. UNFAIR LABOR PRACTICES

7.1 Parties and Pleading PARTIES AND PLEADINGS

- 7.1.1 ~~A~~ The party filing a complaint shall be designated the plaintiff. Complaints shall be filed on forms provided by the Division and shall clearly set forth the names and addresses and phone numbers of all parties, the plaintiff's interest, the sections of the Act violated and a clear and concise statement of the facts constituting the unfair labor practice. Upon receipt of a complaint, the Division shall mail a copy of the complaint to the person or parties charged.
- 7.1.2 ~~B~~ The party against whom a complaint is filed shall be designated the respondent. Any respondent has a right to file an answer to the complaint within ten (10) working days of service of the complaint, days from the date of mailing by the Division. If the hearing is to be held on the merits of the complaint within 15 days of the filing of the complaint, complainant shall use such means of service so as to preserve a 10-day period in which respondent may file his answer.
- 7.1.3 ~~C~~ The Director may, in his or her discretion, shorten the ten (10)-day period for response to the complaint for good cause. In such cases, the respondent must be notified of the hearing date, the period in which they may respond, and, must be served with a copy of the complaint in as short a period of time as possible by service by an agent of the Division of Labor.

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7.1.~~D4~~ Other persons who shall be made parties shall be designated as intervenors or shall be joined as plaintiffs or respondents, as the Director may decide based upon their application.

7.2 Notice of Hearing ~~NOTICE OF HEARING~~

7.2.~~A1~~ Upon receipt of the answer or in default of an answer, the Director shall docket the case for hearing, giving written notice to the parties in interest by mailing the same to the Post Office addresses given in the pleadings, or as otherwise provided by statute. The hearing date shall be fixed not less than ten (10) ~~days~~ nor more than forty (40) days following the date of filing of the complaint.

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7.2.~~2~~ ~~B~~ Hearings may be conducted by the Director or by a deputy or a hearing officer designated by the Director. Such hearing may be held at such times and places as the Director designates and may be adjourned from time to time at the discretion of the Director or his ~~or her~~ agents. ~~Hearings may be held via video or teleconferencing, including taking of witness testimony as determined by the Director or his or her agents.~~

7.2.~~3C~~ The burden of proof of establishing an unfair labor practice is upon the party plaintiff and he ~~or she~~ shall present his ~~or her~~ evidence first.

7.2.~~4~~ ~~D~~ Upon conclusion of a hearing the Director or the deputy or hearing officer in charge of the case shall prepare written findings of fact and conclusions and enter his ~~or her~~ order or recommendation therein. If within ~~thirty (30)-twenty (20)~~ days after receipt of the recommendation by a hearing officer or deputy, the Director has taken no action, the findings of fact, and conclusions and order of the deputy or hearing officer shall be deemed to be those of the Director.

7.2.~~E5~~ ~~—~~The Director may remove any matter to him~~self or herself~~ or may conduct such further proceedings as appear appropriate in his ~~or her~~ discretion. Copies of the findings of fact and the order shall be furnished ~~to~~ the parties in the manner prescribed for serving notice of hearings ~~and shall constitute the final agency action.~~

7.2.~~6~~ ~~F~~ In cases where it shall conclusively appear to the Director that an emergency exists and that temporary relief must be granted pending the filing of an answer or pending final hearing, the Director may hold a preliminary hearing and at the conclusion thereof enter an interlocutory order which shall remain in effect pending the final hearing and order of the Director.

7.3 PROCEDURE _____

Any hearings hereunder will be conducted pursuant to the provisions of the Administrative Procedure Act, specifically C.R.S. ~~1973, §~~ 24-4-105, as amended.

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Rule 7.4 PETITION FOR REVIEW

~~Any party in interest who is dissatisfied with the findings or order of the Director may file a petition for review of the findings and order based upon newly discovered evidence, mistake or error within five (5) days from the date such order is entered.~~

8. NOTICE OF INTENT TO STRIKE

8.1 ~~8.1 NOTICE OF INTENT TO STRIKE IN UNITS COVERED BY~~ National Labor Relations Act (NLRA)

Those bargaining units recognized by the [National Labor Relations Act](#) ~~NLRANational Labor Relations Act~~ and subject to the notification provisions of said Act may submit the Federal Mediation and Conciliation Service form in lieu of the Notice of Intent to Strike form [within the time limits established in SectionRule 8.2.](#)

8.2 ~~Notice of Intent to Strike Employers Other Than Authorities~~ **NOTICE OF INTENT TO STRIKE EMPLOYERS OTHER THAN AUTHORITIES.**

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8.2.1A Where the exercise of the right to strike by the employees of an employer engaged in the State of Colorado in the production, harvesting, or initial processing (the latter after having left the farm) of any farm or dairy product produced in this state would tend to cause the destruction or serious deterioration of such product, such employees shall file with the Division a written Notice ~~o~~^Of Intent ~~t~~^To Strike no less than thirty (30) days prior to the date contemplated for such strike.

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8.2.2B Employees of other industries or occupations, excluding authorities, shall file with the Division a written Notice ~~o~~^Of Intent ~~t~~^To Strike no less than twenty (20) days prior to the date contemplated for such strike.

8.2.3 ~~C~~^E All Notices ~~o~~^Of Intent ~~t~~^To Strike shall be filed with the Division in writing and served upon all other parties by certified mail, and shall specify: the exact nature of the dispute; the names, addresses and telephone numbers of the parties and their representatives, if any; the date of the last conference between the parties; and contain a Certificate ~~o~~^Of Service upon the other party. The Director may request the employer and the employees to meet with him ~~o~~^or her to discuss the dispute. In the event that the parties do not resolve the dispute, the Director may recommend mediation.

8.2.4 ~~D~~^E If the parties consent to mediating the dispute the parties shall file with the ~~Division~~ Director a written status of the ongoing mediation every thirty (30) days from the filing of the Consent to Mediate, or such other period of time as the Director may order until mediation is concluded.

8.2.5 ~~E~~ Either party may notify the Division in writing of any impasse or of the failure of mediation to resolve the dispute. Upon filing of the written notice of impasse or failure of mediation, the Director may meet with the parties to discuss voluntary arbitration of the dispute. If the parties consent to arbitration, the parties shall file with the Division a written agreement to arbitrate the dispute signed by both parties or their representatives. The agreement to arbitrate shall include a request that the Director either conduct the arbitration of the dispute or appoint an arbitrator.

8.3 ~~Notice of Intent to Strike Employers Who Are Authority~~ **NOTICE OF INTENT TO STRIKE EMPLOYERS WHO ARE AUTHORITY.**

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~~8.3.1~~ ~~8.3.A~~ Employees of Authorities shall file with the Division a written Notice of Intent to Strike no less than forty (40) days prior to the date contemplated for such strike.

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Rule 9. INDUSTRIAL RELATIONS ACT – TITLE 8, ARTICLE 1 C.R.S. – REQUEST FOR INTERVENTION (INDUSTRIAL RELATIONS ACT, C.R.S. TITLE 8, ARTICLE 1)

9.1 Intervention by the Director INTERVENTION BY THE DIRECTOR.

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9.1.1A ——— The Director may intervene in a dispute affecting conditions of employment or concerning wages or hours, when; either, or both parties jointly, to a dispute request his or her intervention, or when the Executive Director on his or her own volition determines that the dispute affects the public interest.

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9.1.2B ——— Requests for the intervention of the Director in a dispute shall be filed with the Division on forms provided by the Division.

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9.1.3C ——— In the event that the Division receives a request for intervention by only one party to a dispute, the Director shall advise the non-responding party of the filing of the request. The non-responding party shall have ten (10) working days from the date of notice of the request to file a corresponding request for intervention. The non-responding party's failure to file a request for intervention may result in a determination by the Executive Director as to whether the dispute affects the public interest and, therefore, warrants intervention by the Director.

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9.1.4D ——— A joint request for intervention of the Director shall set forth the facts, issues, or demands involved in the controversy or dispute, and each party to the dispute shall furnish such information as requested by the Director. Upon receipt of such joint request the Director shall cause a meeting with the parties and discuss with them the use of facilitation, conciliation, mediation, or voluntary arbitration to assist in resolving the dispute.

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9.1.5E ——— In the event the Director elects to exercise jurisdiction over a dispute, the parties shall be advised in writing of such decision. — The notice shall also advise the parties that the relation of the employer and employee shall continue uninterrupted by the dispute or anything arising out of the dispute until the final determination thereof by said director. The director shall issue his or her final award or order terminating jurisdiction within one hundred eighty (180) days from the date of his or her notice of election to exercise jurisdiction. — Neither the employer nor any employee affected by any such dispute shall alter the conditions of employment with respect to wages or hours or any other condition of said employment; neither shall they on account of such dispute, do or be concerned in doing directly or indirectly anything in the nature of a lockout, strike, or suspension or discontinuation of work or employment. If the Director elects to decline jurisdiction over a dispute, the parties shall be advised in writing of such decision.

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9.2 Hearing and Final Awards HEARING AND FINAL AWARDS

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9.2.1A ——— The Director or his designee may conduct a hearing regarding the dispute and issue his final award in writing as soon as administratively practicable after receipt of the mutual request of the employer and employees or as soon as administratively practicable after notification of the parties where the dispute affects the public interest.

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9.2.2B ——— The Director may conduct an investigation, hold hearings in the interim, and issue temporary orders which may authorize and encourage facilitation, conciliation, mediation, or voluntary arbitration prior to his issuing a final order.

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9.2.3C ——— Any final hearing required to be held by the Director shall be conducted in accordance with the C.R.S. § 24-4-105, C.R.S., and the final award shall be in writing.

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9.3 Relinquishment of Jurisdiction RELINQUISHMENT OF JURISDICTION

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9.3.1A ~~_____~~ If, after intervening in a dispute which may affects the public interest, the Director after investigating the facts determines that the dispute does not affect the public interest, he or she shall notify the parties in writing within ten (10) working days of his or her decision that he or she is declining to assert jurisdiction in the matter.

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Editor's Notes

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HistoryAnnotations

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Trujillo v. Industrial Commission, No. 81CA1217, Colorado Court of Appeals, April 22, 1982, held claimant's attorney's neglect constituted "good cause" for claimant's failure to appear at hearing.

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