

## GUIDE FOR REPRESENTATION PETITIONS

### *If You are Contemplating Filing a Representation Petition:*

- **You can call the Director of Representation** at the Office of Collective Bargaining (“OCB”) for assistance at (212) 306-7160. The Director of Representation maybe able to answer your questions.

- **Review the Rules of the Office of Collective Bargaining** (Rules of the City of New York, Title 61, Chapter 1) (“OCB Rules”). Section 1-02 of the OCB Rules describes all the procedures necessary to file a representation petition. Complete copies of OCB Rules and the New York City Collective Bargaining Law (“NYCCBL”) are available by calling our office or on the OCB website: [www.ocb-nyc.org](http://www.ocb-nyc.org).

- **Review prior Board of Certification decisions.** You can research Board of Certification (“Board”) decisions that may pertain to your petition at [www.citylaw.org/decisions](http://www.citylaw.org/decisions) or at the OCB library, for which an appointment must be made in advance.

- **Make sure your petition is timely.** Be aware that petitions for certification and decertification may be filed only during certain window periods prior to the expiration of the collective bargaining agreement. With limited exceptions, petitions for certification or decertification are not timely if they are filed after the expiration of a collective bargaining agreement. Review OCB Rule §1-02(g) before filing a petition, or contact the Director of Representation to assist you in determining whether a petition is timely.

### *If You Decide to File, Below are Instructions to Help You Complete Your Petition:*

- **Item 1 - Purpose of the Petition:** Determine the type of petition you are filing. Choose only one: Certification of Representative (“RU”), Representation (Employer Petition) (“RE”), Decertification (Removal of Representative) (“RD”) or Amendment of Certification (“AC”). See the description of the types of petitions set forth on the form and on the OCB website.

- **Item 2 - Public Employer Information:** List the name and contact information for the agency which employs the employees who are the subject of the petition.

- **Item 3(a) - Unit Description:** List a sufficient number of bargaining unit titles to make clear which bargaining unit is being referenced. Include the Certification Number (the number of the Board decision that created the bargaining unit), if available.

- **Item 3(b) -** For AC cases only, list the titles you request to be added to an existing bargaining unit.

- **Item 4 - Number of Employees:** List the approximate number of employees in the

affected bargaining unit.

- **Item 5 - Showing of Interest:** For RU and RD petitions, a showing of interest is required to prove that 30% or more of the employees in the bargaining unit support the petition. See OCB Rule §1-02(f). This showing of interest must include a dated signature from at least 30% of the individuals in the bargaining unit. Note that each signature must be dated separately. Original signatures must be submitted to OCB. (Keep a copy for your records.)

- **Item 6 - Current Bargaining Representative:** If it exists, list the name, address and phone number of the current collective bargaining representative. If there is none, please write “none” in the space provided.

- **Item 7 - Expiration Date of Collective Bargaining Agreement:** If the employees described in Item 3 are covered by a collective bargaining agreement, list the date upon which that agreement expires.

- **Item 8 - Other Interested Labor Organizations:** Be sure to include the name and address of any labor organization, other than the Petitioner or the currently certified bargaining representative, known to have a representative interest in any of the employees included in the unit or title(s) described in Item 3 of the petition.

- **Item 9 - Petitioner Information:** Provide the correct name and contact information for the Petitioner. For RU and RD petitions, the Petitioner may be an individual employee filing on behalf of the bargaining unit. For some RU, AC, and RD petitions, the Petitioner is the labor organization or union seeking to represent the employees. For RE and some AC petitions, the Petitioner is the City or a municipal agency. The petition must be signed by an authorized representative of the Petitioner.

- **Submission of Additional Information:** In certain instances, a Petitioner may wish to submit, along with the petition, a statement or brief containing details to support its assertion of a question concerning representation, the appropriateness of the petitioned for bargaining unit, or other issues which the petition may raise. In most instances, OCB Rules do not require such information to be submitted with the petition, but such submission may expedite the processing of the case. OCB will provide such submissions to all other parties in the case if the Petitioner has not already done so.

### ***How to File the Representation Petition:***

The Petitioner must file an original and three copies of the petition with OCB. OCB Rules do not require the Petitioner to serve other parties to the proceeding simultaneously with the filing; however, it is suggested that the Petitioner send a courtesy copy of the petition to all other parties.

### ***What Happens After the Petition is Filed:***

- **Docketing:** The petition is assigned a docket number that a party should use when writing or calling OCB.
- **Publication:** A notice of the petition is published in the City Record, and OCB notifies the parties to the petition that a petition has been filed.
- **Responses:** Parties are given a period of time to respond to the petition in writing. The amount of time given to respond to the petition varies depending on the type of petition filed. *See* OCB Rule §1-02. Responses should include a concise statement of all objections to the petition and explain the legal basis for those objections.
- **Extensions of time to file a response:** Reasonable requests for extensions of time to file a response to a petition are generally granted. The requesting party should first call the other party or parties and ask for consent. Then the party seeking the extension files a written request to the Director of Representation and advises whether the other parties have consented. The decision about whether to grant an extension will be made by OCB, not the parties.
- **Always copy all parties:** A copy of all correspondence sent to OCB concerning the case, such as requests for extensions of time, documents, additional information, etc., **must** also be sent to all parties or their attorney(s) so that they may review the materials and, if appropriate, respond.
- **Review by Director of Representation:** Petitions are reviewed by the Director of Representation for sufficiency, timeliness, and adequacy of the showing of interest. Such review may be conducted either before or after a response is filed. Petitions which are untimely, lack a sufficient showing of interest, or are otherwise insufficient, may be dismissed administratively. In such instances, Petitioner will receive a written notice of dismissal and the reasons therefore. Petitioner may obtain review of the dismissal by filing an appeal with the Board. *See* OCB Rule §1-02(j)(2).
- **Conference/Hearing:** If the petition has been timely filed and is otherwise sufficient, a conference will be scheduled at OCB's offices. All parties are expected to attend the conference in order to discuss any issues in the case and to determine whether the matter can be settled and/or whether a hearing will be necessary. The Director of Representation or a Trial Examiner assigned to the case will inform you whether a hearing, another conference, or additional documents are necessary before your case is reviewed by the Board. *See* OCB Rule §1-02(j)(1).
- **Elections:** In certain instances, the parties may agree to or the Board may order an election to ascertain the employees' preference concerning union representation. All elections conducted by the Board are by secret ballot. For details regarding the conduct of elections see OCB Rules §1-02(n) through §1-02(r).

***The Board's Decision:***

- **Review by the Board:** The length of time it takes for the Board to review a case depends on many factors. The Board meets in executive session, discusses the facts and issues raised by the petition, and renders a decision.

- **Final decision:** After the Board rules on the case, OCB sends all parties a copy of the signed decision by certified mail.

***DISCLAIMER: This guide is not a legal document. In the event this guide conflicts with the NYCCBL or the OCB Rules, the NYCCBL and/or the OCB Rules will take precedence.***