

**Forms and Instructions**  
**Application to Decertify a Union**

**Ontario**  
(Non-Construction)

## Table of Contents

<b>Overview</b> .....	<b>3</b>
Timing your Decertification .....	3
If There is a Collective Agreement .....	3
If There is No First Collective Agreement .....	3
What is a “No Board Report” and When Does it “Expire”? .....	3
First Contract Arbitration .....	4
If Your Collective Agreement Has Expired and There is No Renewal Collective Agreement .....	4
<b>Get the Forms</b> .....	<b>4</b>
Collecting Employee Support – How to Decide Between a Petition or Individual Decertification Forms? .....	4
Using Individual Decertification Forms .....	4
Using a Petition .....	5
<b>Avoiding Mistakes</b> .....	<b>5</b>
General Mistakes .....	5
Application Support Form Mistakes .....	5
<b>Gather Support</b> .....	<b>6</b>
<b>Prepare the Forms</b> .....	<b>6</b>
<b>Deliver the Forms</b> .....	<b>6</b>
To The Union: .....	6
To Your Employer: .....	7
To the Labour Relations Board .....	7
A Final Word on Delivering Your Documents .....	8
<b>Conclusion</b> .....	<b>8</b>

### Terms of Use:

The LabourWatch web site and all materials provided by it are intended to provide information of general interest to the public.

They are not intended to offer legal or consulting advice. Accessing information or documents from the LabourWatch web site is not intended to create a solicitor-client relationship.

Although we try to ensure the information we provide is accurate, we cannot guarantee that it is complete, correct, or timely, and make no warranties of any kind. The information on this web site should be used in combination with appropriate professional advice obtained from a qualified professional who understands your particular situation.

Links to any other web site or reference to any product or service does not suggest or imply an endorsement or recommendation of those products, services or web sites (or the material contained on those web sites).

### Copyright

The Canadian LabourWatch Association encourages the use of our content including copying, emailing and faxing as needed by users. There are no restrictions on the use of our FAQ's, any Downloads related to labour law proceedings, our Newsletters, etc. Any documents or materials housed on this web site that are the product of organizations other than LabourWatch may be viewed but further copying and distribution should only be done in accordance with copyright law.

Employees, whether unionized or not, who want to be more informed, should refer fellow employees to this web site and may certainly download, print, copy, transmit and distribute these materials to fellow employees or any interested parties by any means whatsoever. You do not need to contact us for permission to do so.

Employers may do the same, for management training and communication purposes, whether within their organization or with other interested parties. In some situations, employers may provide these materials to their employees. However, we suggest, in the strongest possible terms, that you only do so in consultation with a labour lawyer who knows your individual situation.

Unions may do the same, for training and communication purposes, whether within their union or with other interested parties such as their Members and or non-Members they may represent.

Updated April 5, 2010

Copyright© 2010 Canadian LabourWatch Association.

## Overview

Decertification basically means getting rid of a union. It happens when a majority of employees no longer support the union or don't want the union to represent them. If you can prove this you may be able to decertify the union. But, there are a few rules you need to follow.

Using our step-by-step instructions, you should be able to apply to decertify your union. If you need help, go to our "Contacts" pages and get in touch with someone listed there. By the way, others may call decertification "revocation of bargaining rights" or "termination of bargaining rights."

### Timing your Decertification

You can only apply to decertify the union during an open time period. Those are:

#### If There is a Collective Agreement

- After the start of the last 3 months of a collective agreement that has a length of 3 years or less.
- If the length of the collective agreement is more than 3 years, then the open periods are:
  1. In the last 3 months of the 3<sup>rd</sup> year.
  2. The last 3 months of any full year after the 3<sup>rd</sup> year.
  3. After the start of the last 3 months of the collective agreement (occurs, for example, if an agreement is for more than 3 years but not for an even 4, 5 or 6 years).

#### An Example:

A collective agreement that lasts for 5 and a half (5 ½) years or 66 months, would have the following 4 open periods for a decertification Application:

1. In the last 3 months of the 3<sup>rd</sup> year (months 34, 35, 36).
2. The last 3 months of the 4<sup>th</sup> year (months 46, 47 and 48) plus the last three months of the 5<sup>th</sup> year (months 58, 59 and 60).
3. After the start of the last 3 months of the collective agreement (months 64, 65 and 66).
4. If the collective agreement says that it will continue unless the union or the employer gives notice to end it or renegotiate it, also during the last 3 months of the collective agreement and the last 3 months of each year it is continued.

#### If There is No First Collective Agreement

If there is no first collective agreement 1 year after you are unionized (meaning 1 year after a union was "certified" to represent a bargaining unit of employees), then employees may be able to apply to decertify the union EXCEPT when the employer or union managed to get the Ontario Minister of Labour to appoint a Conciliation Officer. If a Conciliation Officer has been appointed then the open period gets delayed. This can get complicated, but generally the delayed open period when there is no first collective agreement works like this. The open period starts 30 days after the release of a "No Board Report", but is closed again if a strike or a lockout occurs and will only reopen on the later of:

- 6 months after the first day of a legal strike by the union or lockout by the employer.
- 7 months after the release of the "No Board Report" issued by the Conciliation Officer.

#### What is a "No Board Report" and When Does it "Expire"?

When a Conciliation Officer is appointed, they try to work with the union and employer to get a collective agreement negotiated and then voted on by employees who then accept rather than reject the agreement.

Sometimes a Conciliation Officer is not able to get a union and employer to agree to a proposed contract for the employees to vote on. At some point, one of the parties will ask the Officer to issue a “No Board Report”. This means that a Conciliation Board (more than one Conciliation Officer) will not be appointed to work with the union and employer to try to get a deal. Unions cannot go on strike and employers cannot lockout employees unless certain things happen first and one of those things is that a No Board Report is issued and has “expired”. No Board’s expire 14 days after they are “deemed” to be released to the union and employer. Under the Labour Relations Act, a No Board is “deemed” to be released 2 days after it is written. Therefore, the No Board will expire at 12:01 a.m. on the 17<sup>th</sup> day after the No Board is written.

Once a first agreement is ratified in a secret ballot vote of employees, then the delayed or reopened window is closed. If employees vote to reject the proposed agreement, then the issue affecting the open period to apply to get rid of the union depends on whether or not a No Board Report has been issued or a strike or lockout has occurred (see above).

## First Contract Arbitration

In Ontario an employer or union can apply to the Labour Board and ask for a ruling to require the union and employer to finish bargaining for a first contract with officials known as Arbitrators. When first contract arbitration is ordered, there will be a contract that lasts for at least two years and employees lose their right to vote for or against the contract and instead it is imposed on the employees. Any open periods that may have been coming up are basically cancelled and your open periods for getting rid of the union are moved out to the end of the collective agreement (see above for when open periods take place for collective agreements).

## If Your Collective Agreement Has Expired and There is No Renewal Collective Agreement

If your collective agreement has expired then the open period that started 3 months prior to its expiration will continue EXCEPT when a Conciliation Officer has been appointed. Once a Conciliation Officer is appointed and the agreement expires, the open period stops and will not reopen until at least 1 year has passed since the Officer was appointed or 30 days have passed since the release of the No Board Report (whichever is later).

## Get the Forms

Ontario has the most complex decertification process in Canada. Our website has ALL of the forms you need in one download. The Ontario Labour Relations Board website has some of the forms, but not all and each one is a separate download. If you call them they will mail you their forms including the multiple copies that you will need, but any forms they do not have official versions of will not be provided. You will still need the ones we have developed and included in our download or you will have to make up your own forms based on Ontario law.

Ontario Labour Relations Board  
2nd Floor – 505 University Avenue  
Toronto, ON M5G 2P1 - (416) 326-7500 – main phone number  
See the Links section on the website to connect to the Labour Board’s website.

## Collecting Employee Support – How to Decide Between a Petition or Individual Decertification Forms?

**Using Individual Decertification Forms** means you have one Form for each person who supports the Application. If the people you work with are worried about privacy the Individual Decertification Forms might be better than a Petition.

**TIP:** If you are using the Individual Decertification Forms, print one page (3 forms per page) and pre-fill in the employer and union name, (don’t forget the union Local number if there is one) before making copies. Then, when you cut the pages into three separate forms, you have made sure everyone has the correct employer and union information. Don’t pre-fill any more than the union’s name though, read more about Avoiding Mistakes on the next page.

**Using a Petition** means that you can have many names on one page and you don't have to keep track of a lot of individual pieces of paper.

We have been told that people prefer a Petition because seeing the other names shows that they have support for their decertification Application, it motivates others to sign. If you think that would be good, you may want to use a Petition. But with other employee groups, privacy may be a big concern and some employees may not sign a Petition because other employees might or will see their name and signature. The Individual Decertification Form will be better to use instead. The choice is yours.

Whether you use a Petition or the Individual Decertification Forms, make sure you avoid some mistakes that might help the union and the Labour Board block your effort to become union-free.

## Avoiding Mistakes

### General Mistakes

To succeed, you may have to show that your employer wasn't involved in decertifying the union in ways that are not allowed. So, you should make sure that:

- It was not your employer's idea to start the Application.
- No one from management offered anyone any reward or benefit for starting or continuing the Application.
- No one from management threatened anyone, if they would not support the Application.
- You have not been led to believe your Application will be funded in whole or in part by your employer.
- It is better to avoid using equipment at work such as computers, copiers and fax machines for your paperwork. It's a good idea that if you make copies at a store where you have to pay for them – keep all receipts as further proof that you did not use employer equipment. The union can accuse you of doing that as part of their effort to use a minor technicality to stop your Application.

### Application Support Form Mistakes

Whether you and your supporters chose to use the “one page per person” Individual Decertification Forms or the “many person per page” Petition. It is important to notice that same statement wording must be on whatever you use. If you make a mistake and, as an example, you are in a hurry and use a blank piece of paper instead of a copy of the Petition page, the Board may refuse to accept that support document. There are some simple mistakes that you should not make.

- Anything people sign to support the Application must have the wording that is at the top of the Petition. You cannot use a blank page of signatures and just attach it, the Board will reject that. That is why the wording on our blank Petition is identical to the wording on our blank Individual Decertification Forms.
- People who support your Application should not sign an Individual Decertification Form or a Petition when they are working – they must be on a break during work or do it before or after work. The reason is that you are supposed to be working. If the employer knows it is happening on working time and does nothing, the union might accuse the employer of supporting the decertification by “turning a blind eye” to your efforts.
- As well as signing, they have to print their name so that it is easy to read. This is a recommendation not a rule.
- Every person who signs must write in the date while they are signing. You should not go back and get it later and you should not fill it in for them either before or after they sign.
- If the union has a Local number make sure to include it in the union name on anything you send to the Labour Board, including support forms.
- If you are using Petitions, number the pages that you use a format of page “1 of 5”, then “2 of 5” and so on. If you have more than one Petition in circulation this will become important.

## Gather Support

Check your collective agreement and read the section or definition about "bargaining unit." This is often called the "Recognition" clause, and is usually located near the beginning of the collective agreement. You will need to collect the names and signatures of at least 40% of the group mentioned in that definition.

You should also remember that it is quite likely that you will have to prove the signatures on your petition were given "freely" and "voluntarily."

As mentioned above, people who support your Application should not sign an Individual Decertification Form or a Petition when they are working – they must be on a break during work or do it before or after work. The reason is that you are supposed to be working. If the employer knows it is happening on working time and does nothing, the union might accuse the employer of supporting the decertification by "turning a blind eye" to your efforts during work time suggesting that the employer wants everyone to know they support the decertification campaign.

## Prepare the Forms

To properly complete your Application form, you will need:

- The name, address, and phone number of the applicant, and a contact person at the union and for your employer.
- A description of your "bargaining unit" (see a copy of your collective agreement). Only use the full union name.
- The addresses of all locations where bargaining unit employees work.
- Approximate number of employees in your organization and in your bargaining unit.
- The date the collective agreement was signed, when it became effective and when it expires.
- A brief description about what kind of business your employer is involved in.
- "Evidence" that employees don't want the union – The Individual Decertification Form or Petition mentioned above.
- A list of the names of the employees who signed "evidence" forms. This list must be alphabetical and on a separate page – we have provided a form for you to do this.
- You also need to recommend a date, time and place for an employee vote. The vote will normally take place 5 days (excluding weekends and public holidays) after the day on which your Application for decertification was filed with the Ontario Labour Relations Board. You should recommend who you want to "scrutinize" the counting of the votes. This person should not be a supervisor or manager working for your employer. It can be you.

## Deliver the Forms

To The Union:

Deliver your forms package to the most senior union official responsible for your bargaining unit – likely the President of your local. Generally your Shop Steward is not likely to be considered to be the "most senior" and unions have been known to fight employee decertifications on the technicality of who is and is not the "most senior".

You can deliver your Application and supporting documents to the union by hand-delivery, courier or fax. Make sure you deliver these documents to the union before you send them to the Ontario Labour Relations Board. One of the forms you have to give the Labour Board (the Certificate of Delivery, near the end of the Form A-6) asks you about how you sent the forms to the union.

You are required to deliver the following documents to the union:

1. A completed Form A-6: Application for Termination of Bargaining Rights.
2. A completed Form C-3: Notice to Union of Application for Termination of Bargaining Rights Under Section 63 of the Act.
3. A blank Form A-7: Response to Application for Termination of Bargaining Rights Under Section 63 of the Act.
4. A copy of Information Bulletin No. 2: Termination of Bargaining Rights Under Section 63 of the Labour Relations Act.
5. A copy of Information Bulletin No. 3: Vote Arrangements.
6. A copy of Information Bulletin No. 5: Status Disputes in Termination Applications.
7. A copy of Part III of the Ontario Labour Relations Board Rules of Procedure.

Yes, you really do have to provide copies of these Information Bulletins even though there is nothing you have to fill out on them.

Our website has ALL of the forms you need in one download. The Ontario Labour Relations Board website has some of the forms, but not all and each one is a separate download. They will also mail their forms if you call them – but again they don't provide all of the forms you need, but LabourWatch does.

### **To Your Employer:**

You can deliver your Application and supporting documents to your employer by hand-delivery, courier or fax. Make sure you deliver these documents to your employer before you send them to the Labour Board. One of the forms you have to give the Labour Board (Certificate of Delivery near the end of the Form A-6) asks you about how you sent the forms to your employer.

You are required to deliver the following documents to your employer:

1. A completed Form A-6: Application for Termination of Bargaining Rights.
2. A completed Form C-4: Notice to Employer of Application for Termination of Bargaining Rights.
3. A blank Form A-8: Intervention in Application for Termination of Bargaining Rights Under Section 63 of the Act.
4. A blank Schedule C: list of employees for your employer to fill in.
5. A copy of Information Bulletin No. 2: Termination of Bargaining Rights Under Section 63 of the Labour Relations Act.
6. A copy of Information Bulletin No. 3: Vote Arrangements.
7. A copy of Information Bulletin No. 5: Status Disputes In Termination Applications.
8. A copy of Part III of the Board's Rules of Procedure.

Yes, you really do have to provide copies of these Information Bulletins. Our website has ALL of the forms you need in one download. The Ontario Labour Relations Board website has some of the forms, but not all and each one is a separate download.

They will also mail their forms if you call them – but again they don't provide all the forms you might want.

### **To the Labour Relations Board**

You will need to file originals NOT copies of either the Petition or the Individual Decertification Forms you used to collect employee support signatures with the Ontario Labour Relations Board only and NOT with the union or your employer.

You can file your Application and all necessary documents by hand delivery or courier. You may not send your documents to the Board by Registered Mail, e-mail or fax.

You must deliver the following documents to the Ontario Labour Relations Board:

1. 2 copies of the completed Form A-6: Application for Termination of Bargaining Rights
2. "Evidence" (Individual Decertification Forms or Petition mentioned above) proving that the employees do not wish to be represented by the union. The evidence must be in writing, signed by each employee who no longer wishes to be represented by the union and the date that the employee's signature was obtained (If you haven't yet, read the section above about our Forms and their use.) Look at your current Collective Agreement to ensure that you put the full union name in the proper space on all evidence. Keep copies for yourself and send the original Petition pages or Individual Decertification Forms.

3. A completed list of employees who signed the Petition or Individual Decertification Forms, in alphabetical order (you can use the suggested form for this that is on our website in the download package – you don't use the employer's Schedule C form).
4. Completed form A-9: Declaration Verifying Evidence of employee wishes.

Our website has ALL of the forms you need in one download. The Ontario Labour Relations Board website has some of the forms, but not all and each one is a separate download.

### **A Final Word on Delivering Your Documents**

The union and the employer must receive their documentation BEFORE the Labour Board does. You must also complete the Certificate of Delivery form located at the end of Form A-6 after you have completed delivery to the union and the employer. The Board must receive its documentation within 2 days after you delivered the required documentation to the union and the employer or your Application can be dismissed.

NOTE: If you are filing your Application on the last day it is not clear whether or not you still have 2 days to file with the Labour Board or not. We strongly recommend you take no chances and if filing on the last day make sure the Labour Board gets their documents from you BEFORE 5 pm Eastern time, when the Board officially closes. Any documents received after 5 pm Eastern time are considered to have been received on the next business day that the Board is open.

## **Conclusion**

Once the Labour Relations Board gets your Application, it'll review it to make sure that the correct procedures have been followed and that all required information is present. If the Application passes this review, the Board will order the holding of a vote approximately 5 to 8 business days after the Application is filed.

If the union complains about the process used, or questions the "voluntariness" of the Application, the Board will likely "seal" the ballot box and not count the ballots until at least after all issues have been resolved. Remember, if your employer (members of management) were involved in your decertification Application the Board could throw it out and not count the vote and you might have to wait for the next open period which could be at least a couple of years away.

If the Board agrees your Application was voluntary, it was made at the right time and enough employees support it, the Board will count the ballots. If a majority of employees who cast a ballot vote for decertification, your Application will be successful and the union will be decertified.

**Form A-6**

LABOUR RELATIONS ACT, 1995

**APPLICATION FOR TERMINATION OF BARGAINING RIGHTS  
UNDER SECTION 63 OF THE ACT**

BEFORE THE ONTARIO LABOUR RELATIONS BOARD

**Between:**

**Applicant,**

- and -

**Responding Party  
(Trade Union).**

**PLEASE READ INFORMATION BULLETIN NO. 2 - TERMINATION OF  
BARGAINING RIGHTS UNDER SECTION 63 OF THE LABOUR RELATIONS ACT  
BEFORE COMPLETING THIS FORM.**

The applicant applies to the Ontario Labour Relations Board under [ ] section 63(1) or [ ] section 63(2) of the Act for a declaration that the responding party no longer represents the employees in the bargaining unit for which it is the bargaining agent.

**The applicant states:**

1. (a) Name, address, telephone number, facsimile number and e-mail address of the applicant:

## Form A-6

- (b) Name, address, telephone number, facsimile number and e-mail address of a contact person for the applicant (Please Note: this individual must be regularly available by phone during the five (5) days leading up to the date set for the vote. Your contact person should be an individual with the authority to enter into agreements on your behalf.):

**[Periods of time referred to in this application, in other Board forms and notices, and in the Board's Rules of Procedure do not include weekends, statutory holidays, or any other day that the Board is closed.]**

- (c) Name, address, telephone number, facsimile number and e-mail address of the responding party and contact person:

**[Before you file your application with the Board, you must deliver to the responding party: a Notice to Union of the application (Form C-3) with the names of the parties and the date inserted, a copy of your application, a blank response form, copies of Information Bulletin Nos. 2, 3 and 5, and a copy of Part III of the Board's Rules of Procedure. You must also complete the attached Certificate of Delivery.]**

2. Name, address, telephone number, facsimile number and e-mail address of the employer of employees affected by the application and contact person:

**[Before you file your application with the Board, you must deliver to the employer: a Notice to Employer of the application (Form C-4) with the names of the parties and the date inserted, copies of your application, a blank intervention form, a blank Schedule C, copies of Information Bulletin Nos. 2, 3 and 5, and a copy of Part III of the Board's Rules of Procedure. You must also complete the attached Certificate of Delivery.]**

3. Detailed description and geographic location of the unit of employees for which the responding party is the bargaining agent. (This description is usually found in the recognition or scope clause of the collective agreement, if there is one).

## Form A-6

4. Number and addresses of locations where affected employees work (please list):
  
  
  
  
  
  
  
  
  
  
5. If this application is made under section 63(1) of the Act, provide the date on which the union was certified:

If this application is made under section 63(2) of the Act, provide the following information about the most recent collective agreement:

Date on which it was signed:

Effective date:

Expiry date:

6. The number of employees the applicant believes to be in the bargaining unit (Please provide a breakdown by location listed in paragraph 4 as well as a total number):
  
  
  
  
  
  
  
  
  
  
7. Documentary evidence from employees who have expressed a wish not to be represented by the trade union accompanies this application and

does

does not

represent the wishes of 40 percent or more of the employees in the bargaining unit.

**[Section 63(4) of the Act provides that an application to terminate bargaining rights shall be accompanied by a list of names of the employees in the bargaining unit who have expressed a wish not to be represented by the trade union and evidence of the wishes of those employees, but the applicant shall not give this information to the trade union or employer. Rule 10.2 provides that the evidence must be in writing and signed by each employee concerned.]**

## Form A-6

**Vote Arrangements** (Please read Information Bulletin No. 3 -- Vote Arrangements before completing this portion of the form).

8. Please state the date on which you believe the vote should take place, and explain why:
  
  
  
  
  
  
  
  
  
  
9. Please list below your proposed hours for the vote specifying start and finish times and either a.m. or p.m.:

Please explain the reasons for your proposed vote times (e.g. shift change, employee start times etc.):

10. Please indicate the location you propose for the poll(s):

**Poll #1**

Room, or other description of the location:

Floor:

Address:

City:

## Form A-6

### **Poll #2 (only if multiple locations are necessary):**

Room, or other description of the location:

Floor:

Address:

City:

Please explain the reason for your proposed poll location(s):

11. Please state the name of the Scrutineer you have selected to represent you at each poll:

#### **Poll #1:**

#### **Poll #2 (only if multiple locations are necessary):**

12. Please state the name of the Agent you have selected to represent you at the counting of the ballots:

13. Other relevant statements (attach additional pages if necessary):

**DATED** \_\_\_\_\_.

---

**Signature for the Applicant**

**Form A-6**

**CERTIFICATE OF DELIVERY**

1. I certify that the following documents were delivered to the senior union official responsible for the bargaining unit on behalf of the responding party:
- a completed copy of the Notice to Union of Application for Termination of Bargaining Rights under Section 63 of the Act (Form C-3);
  - a completed copy of the Application for Termination of Bargaining Rights under Section 63 of the Act (Form A-6);
  - a blank copy of a Response to Application for Termination of Bargaining Rights (Form A-7);
  - a copy of Information Bulletin No. 2 - Termination of Bargaining Rights under Section 63 of the Act;
  - a copy of Information Bulletin No. 3 - Vote Arrangements;
  - a copy of Information Bulletin No. 5 - Status Disputes in Termination Applications; and
  - a copy of Part III of the Board's Rules of Procedure.

\_\_\_\_\_  
Name of Organization and name  
and title of person to whom  
documents were delivered

\_\_\_\_\_  
Address or facsimile number to  
whom documents were delivered

\_\_\_\_\_  
Name of Organization and name  
and title of person to whom  
documents were delivered

\_\_\_\_\_  
Address or facsimile number to  
whom documents were delivered

2. I certify that the following documents were delivered to the employer in the following order:
- a completed copy of the Notice to Employer of Application for Termination of Bargaining Rights under Section 63 of the Act (Form C-4);
  - a completed copy of the Application for Termination of Bargaining Rights under Section 63 of the Act (Form A-6);
  - a blank copy of an Intervention in Application for Termination of Bargaining Rights (Form A-8), including Schedule C (List of Employees);
  - a copy of Information Bulletin No. 2 - Termination of Bargaining Rights under Section 63 of the Act;
  - a copy of Information Bulletin No. 3 - Vote Arrangements;

**Form A-6**

- a copy of Information Bulletin No. 5 - Status Disputes in Termination Applications; and
- a copy of Part III of the Board's Rules of Procedure.

\_\_\_\_\_  
Name of Organization and name  
and title of person to whom  
documents were delivered

\_\_\_\_\_  
Address or facsimile number to  
which documents were delivered

[Complete either section 3 or section 4 below.]

3. The documents were delivered by [ ] facsimile transmission or [ ] hand delivery on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.  
(Date)

4. The documents were given to \_\_\_\_\_ on \_\_\_\_\_,  
(Name of Courier) (Date)  
and I was advised that they would be delivered not later than \_\_\_\_\_,  
(Date)  
at \_\_\_\_\_ a.m./p.m.

**WARNING: Failure to deliver the above documents to the appropriate union official may result in delay in processing the application and/or the vote being delayed. Please read Information Bulletin No. 2 for information on who the appropriate union official is.**

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

## Form A-6

### IMPORTANT NOTES

YOU MUST FILE WITH THE BOARD ONE SIGNED ORIGINAL AND ONE COPY OF THIS APPLICATION.

THE FOLLOWING DOCUMENTS MUST ACCOMPANY THIS APPLICATION WHEN IT IS FILED WITH THE BOARD:

- (A) ANY EVIDENCE RELATING TO THIS APPLICATION THAT EMPLOYEES DO NOT WISH TO BE REPRESENTED BY THE TRADE UNION;
- (B) A LIST OF EMPLOYEES, IN ALPHABETICAL ORDER, CORRESPONDING WITH THE EVIDENCE FILED; AND
- (C) A DECLARATION VERIFYING EVIDENCE OF EMPLOYEE WISHES (FORM A-9).

NOTE: EVIDENCE THAT EMPLOYEES DO NOT WISH TO BE REPRESENTED BY THE UNION, THE LIST OF EMPLOYEES CORRESPONDING WITH THAT EVIDENCE, AND THE DECLARATION VERIFYING EVIDENCE OF EMPLOYEE WISHES ARE NOT TO BE DELIVERED TO THE UNION OR EMPLOYER.

THE BOARD'S RULES OF PROCEDURE DESCRIBE HOW AN APPLICATION MUST BE FILED, WHAT INFORMATION MUST BE PROVIDED AND THE TIME LIMITS THAT APPLY. YOU CAN OBTAIN A COPY OF THE BOARD'S RULES FROM THE BOARD'S OFFICE LOCATED AT 505 UNIVERSITY AVENUE, 2ND FLOOR, TORONTO, ONTARIO, M5G 2P1 (TEL. (416) 326-7500) OR FROM THE BOARD'S WEBSITE AT [WWW.OLRB.GOV.ON.CA](http://WWW.OLRB.GOV.ON.CA).

BOARD HEARINGS ARE OPEN TO THE PUBLIC UNLESS THE PANEL DECIDES THAT MATTERS INVOLVING PUBLIC SECURITY MAY BE DISCLOSED OR IF IT BELIEVES THAT DISCLOSURE OF FINANCIAL OR PERSONAL MATTERS WOULD BE DAMAGING TO ANY OF THE PARTIES. HEARINGS ARE NOT RECORDED AND NO TRANSCRIPTS ARE PRODUCED.

THE BOARD ISSUES WRITTEN DECISIONS, WHICH MAY INCLUDE THE NAME AND PERSONAL INFORMATION ABOUT PERSONS APPEARING BEFORE IT. DECISIONS ARE AVAILABLE TO THE PUBLIC FROM A VARIETY OF SOURCES INCLUDING THE ONTARIO WORKPLACE TRIBUNALS LIBRARY, AND OVER THE INTERNET AT [WWW.CANLII.ORG](http://WWW.CANLII.ORG), A FREE LEGAL INFORMATION DATA BASE. SOME SUMMARIES AND DECISIONS MAY BE FOUND ON THE BOARD'S WEBSITE UNDER *HIGHLIGHTS* AND RECENT DECISIONS OF INTEREST AT [WWW.OLRB.GOV.ON.CA](http://WWW.OLRB.GOV.ON.CA).

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.

Confidential Statement: Make copies of this page. Each employee wanting to decertify the union must sign a copy of the form below no more than 6 months before the date you file your application with the Ontario Labour Board.

-----  
cut here

### Individual Decertification Form (Ontario)

This document indicates that I do not wish to be represented by:

\_\_\_\_\_  
*(Write the full name of the union, including the Local, if applicable)*

As it relates to the following employer:

\_\_\_\_\_  
*(Write the full name of your employer)*

\_\_\_\_\_  
*(Full Name - PRINT - do not write)*

Signature: \_\_\_\_\_  
*(Signed by employee)*

Date: \_\_\_\_\_  
*(Filled in by employee on date signed)*

-----  
cut here

### Individual Decertification Form (Ontario)

This document indicates that I do not wish to be represented by:

\_\_\_\_\_  
*(Write the full name of the union, including the Local, if applicable)*

As it relates to the following employer:

\_\_\_\_\_  
*(Write the full name of your employer)*

\_\_\_\_\_  
*(Full Name - PRINT - do not write)*

Signature: \_\_\_\_\_  
*(Signed by employee)*

Date: \_\_\_\_\_  
*(Filled in by employee on date signed)*

-----  
cut here

### Individual Decertification Form (Ontario)

This document indicates that I do not wish to be represented by:

\_\_\_\_\_  
*(Write the full name of the union, including the Local, if applicable)*

As it relates to the following employer:

\_\_\_\_\_  
*(Write the full name of your employer)*

\_\_\_\_\_  
*(Full Name - PRINT - do not write)*

Signature: \_\_\_\_\_  
*(Signed by employee)*

Date: \_\_\_\_\_  
*(Filled in by employee on date signed)*







**Form C-3**

LABOUR RELATIONS ACT, 1995

**NOTICE TO UNION OF APPLICATION FOR TERMINATION OF  
BARGAINING RIGHTS UNDER SECTION 63 OF THE ACT**

BEFORE THE ONTARIO LABOUR RELATIONS BOARD

**Between:**

**Applicant,**

- and -

**Responding Party  
(Trade Union).**

**TO THE RESPONDING PARTY:**

1. The applicant has initiated an application with the Ontario Labour Relations Board for a declaration that the responding party no longer represents the employees in a bargaining unit described in the Application for Termination of Bargaining Rights enclosed with this notice.
2. This notice and other material are being sent to you because you are the Responding Party. **An application for termination of bargaining rights is a legal proceeding and may affect your legal rights and obligations. You may wish to seek legal advice immediately.**
3. Enclosed with this notice are the following documents:
  - (a) a copy of the Application for Termination of Bargaining Rights under Section 63 of the Act (Form A-6);
  - (b) a blank Response to Application for Termination of Bargaining Rights under Section 63 of the Act (Form A-7);
  - (c) a copy of Information Bulletin No. 2 - Termination of Bargaining Rights under Section 63 of the Act;

## Form C-3

- (d) a copy of Information Bulletin No. 3 - Vote Arrangements;
- (e) a copy of Information Bulletin No. 5 - Status Disputes in Termination Applications; and
- (f) a copy of Part III of the Board's Rules of Procedure.

4. **Your Response must be filed with the Board no later than two (2) days after the Application for Termination of Bargaining Rights was delivered to you.**

**You may file your Response with the Board by facsimile transmission. The Board's facsimile number is (416) 326-7531.**

**You must also ensure that a copy of your Response is delivered to the applicant and to the employer before you file it with the Board. You may deliver these documents by facsimile transmission. You must also complete a Certificate of Delivery.**

5. Please note that periods of time referred to in this notice, in other Board forms and notices, and in the Board's Rules of Procedure do not include weekends, statutory holidays, or any other day that the Board is closed.
6. If the Board determines that 40 percent or more of the employees in the bargaining unit appear to have expressed a wish not to be represented by the trade union at the time the application was filed, the Board will likely direct that a representation vote be taken among the employees in the bargaining unit.

(However, the Board may not order a vote if the application was made outside of the time periods provided for in the Labour Relations Act, or if the Board finds that the employer or a person acting on behalf of the employer initiated the application or threatened, coerced or intimidated employees in connection with the application.)

7. **Any direction from the Board to conduct a representation vote will be contained in a Decision of the Board which will be sent to you. If the Board directs that a representation vote be taken, a notice indicating the time and the place the vote will be taken will be sent to you, and to the employer for posting in the workplace.**
8. The Board's Rules of Procedure require the applicant to deliver the enclosed application to the employer and to you before filing it with the Board. Once the application is filed, the Board sends to the parties a confirmation of the filing and a Board File Number. If you do not hear from the Board within two (2) days after you receive the application, you may wish to contact the Board.

## Form C-3

9. In the normal course, an Officer of the Board will be contacting you to discuss this application with you.

**DATED** \_\_\_\_\_.

The Registrar  
Ontario Labour Relations Board

**NOTE:** All communications should be addressed to:

The Registrar  
Ontario Labour Relations Board  
505 University Avenue  
2nd Floor  
Toronto, Ontario  
M5G 2P1  
Tel. (416) 326-7500

### **IMPORTANT NOTES**

YOU HAVE THE RIGHT TO COMMUNICATE WITH, AND RECEIVE AVAILABLE SERVICES FROM, THE BOARD IN EITHER ENGLISH OR FRENCH.

VOUS AVEZ LE DROIT DE COMMUNIQUER AVEC LA COMMISSION ET DE FAIRE APPEL À SES SERVICES EN ANGLAIS OU EN FRANÇAIS.

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.



## Form A-7

- (c) Name, address, telephone number, facsimile number and e-mail address of a contact person for the responding party (Please Note: this individual **must** be regularly available by telephone during the five (5) days leading up to the date set for the vote. Your contact person should be a person with the authority to enter into agreements on your behalf):

**[Periods of time referred to in this response, in other Board forms and notices, and in the Board's Rules of Procedure do not include weekends, statutory holidays, or any other day that the Board is closed.]**

2. Name, address, telephone number, facsimile number and e-mail address of employer of employees affected by the application:

3. Detailed description of the unit of employees for which the responding party is the bargaining agent, including the municipality or other geographic area affected:

4. Has the application been made within one of the time periods provided for in the Act for the making of such applications?

Yes

No

If the answer is no, explain why not:

5. Does the responding party agree with the applicant's statement in paragraph 6 of the application regarding the number of employees in the bargaining unit on the date the application was made?

Yes

No

## Form A-7

If the answer is no, please set out the number of employees on the date the application was made (and provide a breakdown by location):

6. The date of certification, if any, of the responding party as bargaining agent of the employees in the unit:

7. Is or was the responding party bound by a collective agreement?

Yes

No

8. If the answer to paragraph 7 is yes, state the date on which the collective agreement was signed, its effective date and expiry date, and enclose a copy with this response.

9. Does the responding party wish to continue to represent the employees in this bargaining unit?

Yes

No

**[Section 63(17) of the Act provides that the Board may declare that a trade union no longer represents employees in the bargaining unit where the trade union concerned informs the Board that it does not desire to continue to represent the employees.]**

10. Is the responding party seeking the dismissal of this application without a vote under section 63(16) of the Act?

Yes

No

If the answer is yes, you must provide in this response detailed representations in support of your position. Include **all** of the material facts on which you rely including the circumstances, what happened, where and when it happened, and the names of any persons said to have acted improperly. Your detailed representations must also be delivered to all other parties.

## Form A-7

11. Other relevant statements (attach additional pages if necessary):

**Vote Arrangements** (Please read Information Bulletin No. 3 -- Vote Arrangements before completing this portion of the form.)

12. Do you agree with the date of the vote proposed in the applicant's Form A-6 at paragraph 8?

Yes  
 No

If the answer is no, please explain fully and state the date(s) on which you believe the vote should take place and the reasons why:

13. Do you agree with the hours of vote proposed in the applicant's Form A-6 at paragraph 9?

Yes  
 No

If the answer is no, please explain fully and state your suggested hours (specify start and finish times and either a.m. or p.m.), and the reasons for them:

14. Do you agree with the location of the poll(s) proposed in the applicant's Form A-6 at paragraph 10?

Yes  
 No

If the answer is no, please explain fully and state your suggested location of the poll(s), and the reasons for them:

**Form A-7**

15. Please state the name of the Scrutineer you have selected to represent you at each poll:

**Poll #1:**

**Poll #2 (only if multiple locations are necessary):**

16. Please state the name of the Agent you have selected to represent you at the counting of the ballots:

17. Please state the name of the responding party as you wish it to appear on the Notice in the voting booth:

**DATED** \_\_\_\_\_.

\_\_\_\_\_  
**Signature for the Responding Party**

**Form A-7**

**CERTIFICATE OF DELIVERY**

1. I certify that a completed copy of the Response to Application for Termination of Bargaining Rights under Section 63 of the Act (Form A-7) was delivered to [ ] the applicant and [ ] the employer as follows:

\_\_\_\_\_  
Name of Organization and name  
and title of person to whom  
documents were delivered

\_\_\_\_\_  
Address or facsimile number to  
which documents were delivered

\_\_\_\_\_  
Name of Organization and name  
and title of person to whom  
documents were delivered

\_\_\_\_\_  
Address or facsimile number to  
which documents were delivered

**[Complete either section 2 or section 3 below.]**

2. The documents were delivered by [ ] facsimile transmission or [ ] hand delivery on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.  
(Date)

3. The documents were given to \_\_\_\_\_ on \_\_\_\_\_,  
(Name of Courier) (Date)  
and I was advised that they would be delivered not later than \_\_\_\_\_,  
(Date)  
at \_\_\_\_\_ a.m./p.m.

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

## Form A-7

### IMPORTANT NOTES

YOU MUST FILE WITH THE BOARD ONE SIGNED ORIGINAL AND ONE COPY OF THIS RESPONSE AND ANY MATERIALS THAT ACCOMPANY IT.

PLEASE CONSULT THE BOARD'S RULES OF PROCEDURE BEFORE COMPLETING THIS RESPONSE. A COPY OF PART III OF THE BOARD'S RULES WAS DELIVERED TO YOU WITH THE APPLICATION. THE BOARD'S RULES OF PROCEDURE DESCRIBE HOW A RESPONSE MUST BE FILED WITH THE BOARD, WHAT INFORMATION MUST BE PROVIDED AND THE TIME LIMITS THAT APPLY.

ADDITIONAL COPIES OF THE BOARD'S RULES MAY BE OBTAINED FROM THE BOARD'S OFFICE LOCATED AT 505 UNIVERSITY AVENUE, 2ND FLOOR, TORONTO, ONTARIO, M5G 2P1 (TEL. (416) 326-7500) OR FROM THE BOARD'S WEBSITE AT [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca).

BOARD HEARINGS ARE OPEN TO THE PUBLIC UNLESS THE PANEL DECIDES THAT MATTERS INVOLVING PUBLIC SECURITY MAY BE DISCLOSED OR IF IT BELIEVES THAT DISCLOSURE OF FINANCIAL OR PERSONAL MATTERS WOULD BE DAMAGING TO ANY OF THE PARTIES. HEARINGS ARE NOT RECORDED AND NO TRANSCRIPTS ARE PRODUCED.

THE BOARD ISSUES WRITTEN DECISIONS, WHICH MAY INCLUDE THE NAME AND PERSONAL INFORMATION ABOUT PERSONS APPEARING BEFORE IT. DECISIONS ARE AVAILABLE TO THE PUBLIC FROM A VARIETY OF SOURCES INCLUDING THE ONTARIO WORKPLACE TRIBUNALS LIBRARY, AND OVER THE INTERNET AT [WWW.CANLII.ORG](http://WWW.CANLII.ORG), A FREE LEGAL INFORMATION DATA BASE. SOME SUMMARIES AND DECISIONS MAY BE FOUND ON THE BOARD'S WEBSITE UNDER *HIGHLIGHTS* AND RECENT DECISIONS OF INTEREST AT [WWW.OLRB.GOV.ON.CA](http://WWW.OLRB.GOV.ON.CA).

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.

## Form C-4

LABOUR RELATIONS ACT, 1995

### NOTICE TO EMPLOYER OF APPLICATION FOR TERMINATION OF BARGAINING RIGHTS UNDER SECTION 63 OF THE ACT

BEFORE THE ONTARIO LABOUR RELATIONS BOARD

**Between:**

**Applicant,**

- and -

**Responding Party  
(Trade Union).**

#### **TO THE EMPLOYER:**

1. The applicant has initiated an application with the Ontario Labour Relations Board for a declaration that the responding party no longer represents employees in a bargaining unit described in the Application for Termination of Bargaining Rights under Section 63 of the Act enclosed with this notice.
2. This notice and other material are being sent to you because you are the employer of the employees in the bargaining unit to which this application relates. **An application for termination of bargaining rights is a legal proceeding and may affect your legal rights and obligations. You may wish to seek legal advice immediately.**
3. Enclosed with this notice are the following documents:
  - (a) a copy of the Application for Termination of Bargaining Rights under Section 63 of the Act (Form A-6);
  - (b) a blank Intervention in Application for Termination of Bargaining Rights under Section 63 of the Act (Form A-8), including Schedule C (List of Employees);
  - (c) a copy of Information Bulletin No. 2 - Termination of Bargaining Rights under Section 63 of the Act;

## Form C-4

- (d) a copy of Information Bulletin No. 3 - Vote Arrangements;
  - (e) a copy of Information Bulletin No. 5 - Status Disputes in Termination Applications; and
  - (f) a copy of Part III of the Board's Rules of Procedure.
4. **Your Intervention must be filed with the Board no later than two (2) days after the Application for Termination of Bargaining Rights was delivered to you. Whether or not you file an Intervention, you must file Schedule C with the Board no later than two (2) days after the application was delivered to you.**

**You may file your Intervention and Schedule C with the Board by facsimile transmission. The Board's facsimile number is (416) 326-7531.**

**You must also ensure that copies of your Intervention and Schedule C are delivered to the applicant and to the union before you file them with the Board. You may deliver these documents by facsimile transmission. You must also complete a Certificate of Delivery.**

5. Please note that periods of time referred to in this notice, in other Board forms and notices, and in the Board's Rules of Procedure do not include weekends, statutory holidays, or any other day that the Board is closed.
6. **It is an offence punishable on summary conviction to fail to comply with a direction of the Board -- see section 104 of the Labour Relations Act.**
7. If the Board determines that 40 percent or more of the employees in the bargaining unit appear to have expressed a wish not to be represented by the trade union at the time the application was filed, the Board will likely direct that a representation vote be taken among the employees in bargaining unit.

(However, the Board may not order a vote if the application was made outside of the time periods provided for in the Labour Relations Act, or if the Board finds that the employer or a person acting on behalf of the employer initiated the application or threatened, coerced or intimidated employees in connection with the application.)

8. Any direction from the Board to conduct a representation vote will be contained in a Decision of the Board which will be sent to you. If the Board directs that a representation vote be taken, a notice indicating the time and the place the vote will be taken will be sent to you for posting in the workplace.

## Form C-4

9. The Board's Rules of Procedure require the Applicant to deliver the enclosed application to the union and to you before filing it with the Board. Once the application is filed, the Board sends to the parties a confirmation of the filing and a Board file number. If you do not hear from the Board within two days after you receive the application, you may wish to contact the Board.
10. In the normal course, an Officer of the Labour Relations Board will be contacting you to discuss this application with you.

**DATED** \_\_\_\_\_.

Registrar  
Ontario Labour Relations Board

**NOTE:** All communications should be addressed to:

The Registrar  
Ontario Labour Relations Board  
505 University Avenue  
2nd Floor  
Toronto, Ontario  
M5G 2P1  
Tel. (416) 326-7500

### **IMPORTANT NOTES**

YOU HAVE THE RIGHT TO COMMUNICATE WITH, AND RECEIVE AVAILABLE SERVICES FROM, THE BOARD IN EITHER ENGLISH OR FRENCH.

VOUS AVEZ LE DROIT DE COMMUNIQUER AVEC LA COMMISSION ET DE FAIRE APPEL À SES SERVICES EN ANGLAIS OU EN FRANÇAIS.

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.

**Form A-8**

File No. \_\_\_\_\_

LABOUR RELATIONS ACT, 1995

**INTERVENTION IN APPLICATION FOR TERMINATION OF  
BARGAINING RIGHTS UNDER SECTION 63 OF THE ACT**

BEFORE THE ONTARIO LABOUR RELATIONS BOARD

**Between:**

- and -

**Applicant,**

**Responding Party  
(Trade Union).**

**PLEASE READ INFORMATION BULLETIN NO. 2 - TERMINATION OF  
BARGAINING RIGHTS UNDER SECTION 63 OF THE LABOUR RELATIONS ACT  
BEFORE YOU COMPLETE THIS FORM.**

\_\_\_\_\_ **intervenes in this proceeding and**  
(Name of Intervenor)

**states in response to the application:**

1. (a) Names, address, telephone number, facsimile number and e-mail address of the intervenor:
  
  
  
  
  
  
  
  
  
  
- (b) Name, address, telephone number, facsimile number and e-mail address of a contact person for the intervenor (Please Note: this individual **must** be regularly available by telephone during the five (5) days leading up to the date set for the vote. Your contact person should be a person with the authority to enter into agreements on your behalf.):

## Form A-8

**[Periods of time referred to in this intervention, in other Board forms and notices, and in the Board's Rules of Procedure do not include weekends, statutory holidays, or any other day that the Board is closed.]**

2. The intervenor is the employer of the employees in the bargaining unit to which this application relates:

Yes

No

If the answer is no, please state the nature of the intervenor's interest in the application:

3. In support of its intervention, the intervenor relies on the following material facts:

(Include **all** of the material facts on which you rely including the circumstances, what happened, where and when it happened, and the names of any persons said to have acted improperly. Please note that you will not be allowed to present evidence or make any representations about any material fact that was not set out in the intervention and filed promptly in the way required by the Board's Rules of Procedure, except with the permission of the Board.)

4. Detailed description of the unit of employees for which the responding party is the bargaining agent, including the municipality or other geographic area affected:

5. Has the application been made within one of the time periods provided for in the Act for the making of such applications?

Yes

No

If the answer is no, explain why not:

## Form A-8

6. Does the intervenor agree with the applicant's statement in paragraph 6 of the application regarding the number of employees in the bargaining unit on the date the application was made?

Yes

No

If the answer is no, please state the number of employees on the date the application was made (and provide a breakdown by location):

7. Other relevant statements (attach additional pages if necessary):

**Vote Arrangements** (Please read Information Bulletin No. 3 -- Vote Arrangements before competing this portion of the form).

8. Do you agree with the date of the vote proposed in the applicant's Form A-6 at paragraph 8?

Yes

No

If the answer is no, please explain fully and state the date(s) on which you believe the vote should take place and the reasons why:

9. Do you agree with the hours of vote proposed in the applicant's Form A-6 at paragraph 9?

Yes

No

If the answer is no, please explain fully and state your suggested hours (specifying start and finish times and either a.m. or p.m.), and the reasons for them:

**Form A-8**

10. Do you agree with the location of the poll(s) proposed in the applicant's Form A-6 at paragraph 10?

Yes

No

If the answer is no, please explain fully and state your suggested location of the poll(s), and the reasons for them:

11. Please state the name of the Scrutineer you have selected to represent you at each poll:

**Poll #1:**

**Poll #2 (only if multiple locations are necessary):**

12. Please state the name of the Agent you have selected to represent you at the counting of the ballots:

**DATED** \_\_\_\_\_.

---

**Signature for the Intervenor**

**Form A-8**

**CERTIFICATE OF DELIVERY**

1. I certify that:

[ ] a completed copy of the Intervention in Application for Termination of Bargaining Rights under Section 63 of the Act (Form A-8), including Schedule C;

**OR**

[ ] a completed copy of the Schedule C;

was delivered to [ ] the applicant and to [ ] the union as follows:

\_\_\_\_\_  
Name of Organization and name  
and title of person to whom  
documents were delivered

\_\_\_\_\_  
Address or facsimile number to  
which documents were delivered

\_\_\_\_\_  
Name of Organization and name  
and title of person to whom  
documents were delivered

\_\_\_\_\_  
Address or facsimile number to  
which documents were delivered

**[Complete either section 2 or section 3 below.]**

2. The documents were delivered by [ ] facsimile transmission or [ ] hand delivery on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.  
(Date)

3. The documents were given to \_\_\_\_\_ on \_\_\_\_\_,  
(Name of Courier) (Date)

and I was advised that they would be delivered not later than \_\_\_\_\_,  
(Date)

at \_\_\_\_\_ a.m./p.m.

## Form A-8

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

### **IMPORTANT NOTES**

YOU MUST FILE WITH THE BOARD ONE SIGNED ORIGINAL AND ONE COPY OF THIS INTERVENTION AND/OR SCHEDULE C AND ANY MATERIALS THAT ACCOMPANY IT.

PLEASE CONSULT THE BOARD'S RULES OF PROCEDURE BEFORE COMPLETING THIS INTERVENTION. A COPY OF PART III OF THE BOARD'S RULES WAS DELIVERED TO YOU WITH THE APPLICATION. THE BOARD'S RULES OF PROCEDURE DESCRIBE HOW A RESPONSE (WHICH INCLUDES AN INTERVENTION) MUST BE FILED WITH THE BOARD, WHAT INFORMATION MUST BE PROVIDED AND THE TIME LIMITS THAT APPLY.

ADDITIONAL COPIES OF THE BOARD'S RULES MAY BE OBTAINED FROM THE BOARD'S OFFICE AT 505 UNIVERSITY AVENUE, 2ND FLOOR, TORONTO, ONTARIO, M5G 2P1 (TEL. (416) 326-7500) OR FROM THE BOARD'S WEBSITE AT [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca).

BOARD HEARINGS ARE OPEN TO THE PUBLIC UNLESS THE PANEL DECIDES THAT MATTERS INVOLVING PUBLIC SECURITY MAY BE DISCLOSED OR IF IT BELIEVES THAT DISCLOSURE OF FINANCIAL OR PERSONAL MATTERS WOULD BE DAMAGING TO ANY OF THE PARTIES. HEARINGS ARE NOT RECORDED AND NO TRANSCRIPTS ARE PRODUCED.

THE BOARD ISSUES WRITTEN DECISIONS, WHICH MAY INCLUDE THE NAME AND PERSONAL INFORMATION ABOUT PERSONS APPEARING BEFORE IT. DECISIONS ARE AVAILABLE TO THE PUBLIC FROM A VARIETY OF SOURCES INCLUDING THE ONTARIO WORKPLACE TRIBUNALS LIBRARY, AND OVER THE INTERNET AT [WWW.CANLII.ORG](http://WWW.CANLII.ORG), A FREE LEGAL INFORMATION DATA BASE. SOME SUMMARIES AND DECISIONS MAY BE FOUND ON THE BOARD'S WEBSITE UNDER *HIGHLIGHTS* AND RECENT DECISIONS OF INTEREST AT [WWW.OLRB.GOV.ON.CA](http://WWW.OLRB.GOV.ON.CA).

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.

**Form A-9**

LABOUR RELATIONS ACT, 1995

**DECLARATION VERIFYING EVIDENCE OF EMPLOYEE WISHES  
BEFORE THE ONTARIO LABOUR RELATIONS BOARD**

**Between:**

**Applicant,**

- and -

**Responding Party  
(Trade Union).**

I, ....., on behalf of the applicant,  
(name)

declare that, to the best of my knowledge, information and belief:

1. The document(s) submitted in support of the application represent evidence that ..... persons who were employees of the employer in the bargaining unit on the (number) application date do not wish to be represented by the trade union.
2. There were ..... persons who were employees of the employer in the bargaining (number) unit on the application date.
3. On the basis of my personal knowledge or inquiries I have made, the document(s) were signed by the employees indicated on the document(s), except in the following instances:

**DATED** \_\_\_\_\_.

.....  
Signature

**SCHEDULE C**

List all employees who were in the bargaining unit for which the applicant seeks to terminate bargaining rights who had an employment relationship with the employer on the Date of Application.<sup>1</sup> Please list the full-time employees in alphabetical order first, followed by part-time employees in alphabetical order, followed by students in alphabetical order. Employees having an employment relationship on the Date of Application includes employees on maternity leave, sick leave, vacation, workers' compensation, lay-off, etc. so long as there is a reasonable expectation of their return to employment.

1. Please contact the Board in order to determine the Date of Application if the Board has not already notified you of it.

				If not at work on the date of Application.				
	*	**	***	Name	Job Classification	Last Day Worked	Reason for Absence	Expected Date of Return/Recall
	FT	S	PT					
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								
15.								
16.								

\*persons employed for more than 24 hours per week

\*\*students employed for more than 24 hours per week during the school vacation period

\*\*\*persons regularly employed for not more than 24 hours per week

**This list has been prepared by me or on my instructions, and I confirm that it is accurate.**

\_\_\_\_\_  
Signature

**ONTARIO LABOUR RELATIONS BOARD  
INFORMATION BULLETIN NO. 2**

**Termination of Bargaining Rights  
Under Section 63 of the Labour Relations Act**

This Information Bulletin describes the procedures that must be followed when an employee or group of employees applies under section 63 of the Labour Relations Act to terminate the bargaining rights of their union. This Information Bulletin does not describe the procedures that apply in applications made with respect to workplaces in the construction industry. For information on those procedures, please refer to Information Bulletin No. 7 - Termination of Bargaining Rights Under Section 63 or 132 of the Labour Relations Act in the Construction Industry.

**It is important that the parties involved in a termination application read and comply with the directions in this Bulletin and the Board's Rules of Procedure. Failure to do so may result in the application or other materials not being processed by the Board.**

If 40 percent or more of the employees in the bargaining unit appear to have expressed a wish not to be represented by the union, a representation vote will usually be held five (5) to eight (8) days after the termination application is filed with the Board. The Board may not order a vote if the application is made outside of the time periods provided for in the Act (please see page 7-8 for information on when these time periods are) or if the Board finds that the employer or a person acting on behalf of the employer initiated the application or threatened, coerced or intimidated employees in connection with the application.

Employees can get all of the materials that are necessary to file a termination application from the Board at any time. The materials that are necessary for a union to respond to a termination application, or for an employer to intervene in a termination application, are delivered to them by the applicant. (The term "applicant" means the employee or group of employees who are applying to terminate the union's bargaining rights.)

Parties to a termination application are required to "deliver" to the other parties and "file" with the Board a variety of documents within a specified number of "days". The words "day", "deliver" and "file" are defined in the Board's Rules of Procedure to have very specific meanings. It is very important that you apply the following meanings to each of these words whenever they appear in this Bulletin.

"Day" - does not include weekends, statutory holidays or any other day on which the Board is closed. (Rule 1.5)

"Delivered" - Material is considered to be "delivered" on the day that it is actually received by the party to whom it is sent. (Rule 6.7) Where delivery is permitted and is accomplished by facsimile transmission, the fax confirmation sheet should be retained by the sender in case delivery, or the time of delivery, is later challenged.

"Filed" - Material is considered to have been "filed" with the Board on the date it is actually received by the Board, provided that it is received between the hours of 8:30 a.m. and 5:00 p.m. on a day on which the Board is open. Materials received after 5:00 p.m. will be deemed to have been filed with the Board on the following business day. (Rules 3.4 and 3.5)

## **I. DELIVERY AND FILING OF THE TERMINATION APPLICATION**

In order to apply to terminate a union's bargaining rights, an applicant must fulfil the following delivery and filing requirements.

### **1) Delivery of Termination Package (Union) to the Union**

The applicant must deliver a Termination Package (Union) to the union before it files its Application with the Board. The Package may be delivered by hand delivery, courier, or facsimile transmission and must be delivered to the senior union official responsible for the bargaining unit. The senior union official may be a paid staff representative of the union, a senior elected member of the bargaining unit, or some other individual exercising official responsibility for the bargaining unit on behalf of the union.

The Termination Package (Union) consists of the following materials arranged in the following order:

- (i) one **Notice to Union of Application for Termination of Bargaining Rights Under Section 63 of the Act** (Form C-3). The applicant must fill in its name and the union's name on page 1 and the date on page 3 of the Notice before making the delivery;
- (ii) one copy of the completed **Application for Termination of Bargaining Rights Under Section 63 of the Act** (Form A-6);
- (iii) one blank **Response to Application for Termination of Bargaining Rights Under Section 63 of the Act** (Form A-7);
- (iv) one **Information Bulletin No. 2 - Termination of Bargaining Rights Under Section 63 of the Labour Relations Act**;
- (v) one **Information Bulletin No. 3 - Vote Arrangements**;
- (vi) one **Information Bulletin No. 5 - Status Dispute in Termination Applications**; and
- (vii) one copy of Part III of the **Board's Rules of Procedure**.

(Rule 10.3)

## 2) **Delivery of Termination Package (Employer) to the Employer**

The applicant must also deliver a Termination Package (Employer) to the employer before it files its application with the Board. This Package may be delivered by hand delivery, courier or facsimile transmission.

The Termination Package (Employer) consists of the following materials arranged in the following order:

- (i) one **Notice to Employer of Application for Termination of Bargaining Rights Under Section 63 of the Act** (Form C-4). The applicant must fill in its name and the union's name on page 1 and the date on page 3 of the Notice before making the delivery;
- (ii) one copy of the completed **Application for Termination of Bargaining Rights Under Section 63 of the Act** (Form A-6);
- (iii) one blank **Intervention in Application for Termination of Bargaining Rights Under Section 63 of the Act** (Form A-8);
- (iv) one blank **Schedule C** (List of Employees);
- (v) one **Information Bulletin No. 2 - Termination of Bargaining Rights Under Section 63 of the Labour Relations Act**;
- (vi) one **Information Bulletin No. 3 - Vote Arrangements**;
- (vii) one **Information Bulletin No. 5 - Status Disputes in Termination Applications**; and
- (viii) one copy of Part III of the **Board's Rules of Procedure**.

(Rule 10.3)

Note: The applicant is NOT to deliver to the union or employer a list of names of people who have expressed a wish not to be represented by the union, evidence of those wishes, or a copy of the Declaration Verifying Evidence of Employee Wishes (Form A-9).

## 3) **Filing of Termination Application with the Board**

Not later than two (2) days after delivering the Termination Packages to the union and employer, the applicant must file its application with the Board. The application may be filed by any means, except Registered Mail, e-mail or facsimile transmission. The application must include the following materials:

- (i) one (1) signed original and one (1) copy of the completed **Application for Termination of Bargaining Rights Under Section 63 of the Act** (Form A-6);
- (ii) any **evidence** that employees do not wish to be represented by the union. This evidence must be in writing, signed by each employee concerned, and indicate the date on which each signature was obtained;
- (iii) a **list of employees**, in alphabetical order, corresponding with the evidence filed; and
- (iv) a **Declaration Verifying Evidence of Employee Wishes** (Form A-9).

(Rules 6.2 and 10.1)

If the applicant does not file the application with the Board within two (2) days after delivering the Termination Packages to the union and employer, the matter will be terminated. (Rules 6.11 and 6.13)

## **II. BOARD CONTACTS THE PARTIES TO CONFIRM THAT THE APPLICATION HAS BEEN FILED**

On the Application Filing Date (the day the application is received by the Board), the Board sends by facsimile transmission a Confirmation of Filing of Application for Termination of Bargaining Rights Under Section 63 of the Act (Form B-5) to the applicant, union and employer. This letter confirms that the application has been filed with the Board, provides the Application Filing Date and Board File Number, reiterates the union's and employer's obligations that are set out in their Notices of Application (Forms C-3 and C-4), and directs the employer to make and post copies of the Application (Form A-6) and the Notice to Employees of Application for Termination of Bargaining Rights under section 63 of the Act (Form C-5).

The Board also contacts the union and employer by telephone on the Application Filing Date, or the following day, to again confirm that the application has been filed, to clarify the union's and employer's obligations, to advise that any vote that is held will likely take place five (5) to eight (8) days after the Application Filing Date, and to inform them that they can expect a Board Officer to contact them after they file their response and intervention.

The union and employer should contact the Board to determine whether or not the application has been filed only if it has not received a Confirmation of Filing of Application by the end of the second day after they received their Termination Packages. If an application is not filed within two (2) days after the union and employer received their Packages, they will be advised by the Board that the matter is terminated. (Rule 6.13)

### **III. UNION DELIVERS AND FILES RESPONSE**

The Union is required to deliver a completed Response to Application for Termination of Bargaining Rights Under Section 63 of the Act (Form A-7) to the applicant and employer, and file it with the Board, no later than two (2) days after it received the Termination Package (Union) from the applicant.

The response may be delivered by hand delivery, courier, or facsimile transmission. The response may be filed with the Board by any means, including facsimile transmission, except e-mail or Registered Mail. One copy of the response should be filed with the Board if it is filed by facsimile transmission; otherwise one (1) signed original and one (1) copy must be filed.

At the earliest opportunity, the union is required to advise the Board as to whether the employer has complied with its posting obligations (as described in the next section) by filing with the Board, by facsimile transmission, a Confirmation of Posting (Form A-10). (Rules 10.5 and 6.11-6.13)

### **IV. EMPLOYER'S OBLIGATIONS**

#### **1) Post Application and Notice to Employees**

Upon receipt of the Confirmation of Filing, the employer must IMMEDIATELY make and post copies of both the Application for Termination of Bargaining Rights (Form A-6) and the Notice to Employees of Application for Termination of Bargaining Rights (Form C-5). These documents are to be posted adjacent to one another in a sufficient number of locations so that they are likely to come to the attention of all employees affected by the application. The employer must then confirm to the Board that it has completed the postings by filing with the Board by facsimile transmission the completed Confirmation of Posting (Form A-10).

The Notice to Employees of Application for Termination of Bargaining Rights advises employees that an employee or group of employees is applying to terminate the union's bargaining rights and directs them to the adjacent Application for Termination of Bargaining Rights for details about the application. The notice also notifies the employees that a secret ballot vote will likely be held, and, if it is, that it will normally take place five (5) to eight (8) days after the Application Filing Date. In addition, the Notice advises the employees of their rights, including the right to make statements to the Board about the application, and alerts them to look for future postings that will inform them of voter eligibility, the date, time and location of the vote, and **the date and location of meetings with Labour Relations Officers and Hearings.**

2) **File and Deliver Schedule C (List of Employees)**

Whether or not the employer wishes to participate in the proceedings, it must file with the Board and deliver to the applicant and union a completed Schedule C (List of Employees) no later than two (2) days after it received the Termination Package (Employer). The Schedule may be filed with the Board by any means, including facsimile transmission, except e-mail or Registered Mail. It may be delivered to the applicant and union by hand delivery, courier, or facsimile transmission. One copy of the Schedule C should be filed with the Board if it is filed by facsimile transmission; otherwise one (1) signed original and one (1) copy must be filed.

The Schedule C assists the Board in determining which employees are eligible to vote. All employees who are within the bargaining unit who have an ongoing employment relationship with the employer on the Application Filing Date are to be included on the Schedule. For example, employees who are on vacation, maternity leave, sick-leave or other leave, workers' compensation, or lay-off on the Application Filing Date are to be included on the Schedule if there is a reasonable expectation of their return to employment.

(Rules 10.5 and 6.11-6.13)

3) **File and Deliver an Intervention If it Wishes to Participate in the Proceedings**

If the employer wishes to participate in the application, it must file with the Board and deliver to the applicant and union a completed Intervention in Application for Termination of Bargaining Rights Under Section 63 of the Act (Form A-8) no later than two (2) days after it received the Termination Package (Employer).

The Intervention may be delivered to the applicant and union by hand delivery, courier, or facsimile transmission. It may be filed with the Board by any means, including facsimile transmission, except e-mail or Registered Mail.

(Rules 6.3, 6.4, 6.8 and 6.9)

One copy of the intervention should be filed with the Board if it is filed by facsimile transmission; otherwise one (1) signed original and one (1) copy must be filed.

(Rules 6.2 and 6.3)

V. **BOARD ORDERS THE VOTE**

1) **Vote Arrangements Determined**

The Board's Vote Co-ordinator examines the vote arrangement proposals filed by the applicant and union (and employer if it is participating in the application), and sets the vote arrangements.

In setting the vote arrangements, the Co-ordinator considers the parties' submissions, the number of voters, the employees' regular working hours, and the cost to the Board. The Co-ordinator typically accommodates any agreed upon arrangements, but if it is determined that they are unsuitable because they are too costly or do not adequately allow employees the opportunity to vote, or if there is no agreement, the Co-ordinator normally sets the arrangements without further consultation with the parties.

In the normal course, the vote takes place on the employer's premises between five (5) and eight (8) days after the Application Filing Date.

For more detailed information on vote arrangements, refer to Information Bulletin No. 3 - Vote Arrangements.

## 2) **Vote Ordered**

If 40 percent or more of the employees in the bargaining unit appear to have expressed a wish not to be represented by the union, the Board orders that a vote be held among the employees in the bargaining unit.

The Board may not order a vote at this point if the applicant, union or employer provides information that raises an issue about the timeliness of the application. In order to be timely, applications must be made during one of the "open periods" provided for in the Act. Generally, these open periods are:

### (i) Existing Collective Agreement

If there is an existing collective agreement that is for a term of three (3) years or less, the application can be made only after the commencement of the last three (3) months of its operation. If there is an existing collective agreement that is for a term of more than three (3) years, the application can be made in the last three (3) months of its third year of operation, the last three (3) months of each following year, and after the commencement of the last three (3) months of its operation.

### (ii) Following Expiry of Agreement

The entitlement to make an application after the expiry of the collective agreement depends on whether a conciliation officer has been appointed and whether a legal strike has started. If a conciliation officer has been appointed, an application cannot be made until at least a year after the appointment.

(iii) Union Certified but no Collective Agreement

If the union has been certified (as opposed to voluntarily recognized) and no collective agreement has yet been made, an application can be made one (1) year after the date of the certification. This one year period may be extended if the union and employer are in the conciliation process or if a legal strike or lock-out is in progress.

For more detailed information on the open periods, please refer to sections 63 and 67 of the Labour Relations Act.

The vote may also be delayed if the union alleges that the employer or someone acting on behalf of the employer initiated the application or threatened, coerced or intimidated employees in connection with the application. The Board considers the nature of the allegations and determines whether it is appropriate to hold a hearing into the matter before ordering a vote.

The vote may also be delayed if there is disagreement between the applicant, union and/or employer about the number of employees in the bargaining unit.

If a vote is ordered, a Board Decision ordering the vote and a Notice of Vote and of Hearing (Form B-6) is sent by the Board by facsimile transmission to the applicant, union and employer. These documents set out the date, time and place of vote, the directions concerning sealing the ballot box or segregating or counting the ballots where appropriate, and the dates, times and locations of the Regional Meeting with a Labour Relations Officer and of the Hearing before the Board. The union and employer are also provided with a copy of the Declaration Verifying Membership Evidence of Employee Wishes (Form A-9) at this time.

**3) Employer to Post Decision and Notice to Employees**

Upon receipt, the employer must immediately post copies of the Decision and the Notice of Vote and of Hearing adjacent to each of the earlier posted Notices to Employees of Application for Termination of Bargaining Rights. The employer must then confirm to the Board that it has completed the postings by filing with the Board by facsimile transmission a completed Confirmation of Posting (Form A-10). The applicant and the union must also, at the earliest opportunity, advise the Board as to whether the employer has completed the postings by filing with the Board by facsimile transmission a Confirmation of Posting (Form A-10).

## **VI. PRE-VOTE CONSULTATION PROCESS**

After the vote has been ordered but before it is held, a Board Officer contacts the parties, usually over the telephone, in an effort to reach agreement between the parties on all issues surrounding the vote, including: the voters list, which is developed from the Schedule C (List of Employees) provided by the employer; the correct bargaining unit description; the correct name of the union and the employer; and the timeliness of the application.

Agreements reached by the parties during the pre-vote consultation process are confirmed by the Officer in writing and sent to the parties by facsimile transmission. In the interests of fairness and finality, parties cannot later raise issues about matters to which they have earlier agreed.

## **VII. VOTING DAY**

### **1) Conduct of the Vote**

The vote is conducted by a Board Officer. Individuals who have been selected by the parties to be scrutineers must arrive at the polling place 15 minutes in advance of the voting to receive instructions, examine the ballot box, and otherwise assist the Board Officer in the preparation of the polling place.

At the outset of the voting, each scrutineer is provided with a copy of the agreed upon voters list (if any). They are asked to assist in the identification of voters and to mark voters' attendance on the list as they present themselves to the Officer to vote. Scrutineers are advised that any questions asked by individuals regarding their eligibility to vote or any other matter should be directed to the Board Officer.

The names of any individuals whose eligibility to vote is challenged are marked as such on the voters list at the outset and their ballots are segregated. Individuals whose names do not appear on the voters list are permitted to vote and their ballots are also segregated.

Generic ballots that do not identify the union or employer by name are used. Instead, a Notice that sets out their names is placed in every voting booth.

The scrutineers are given an opportunity to sign a Conduct of Vote form after the vote is completed. Signatories to this form certify that the balloting was fairly conducted, that all eligible voters were given an opportunity to cast their ballots in secret, and that the ballot box was protected in the interest of a fair and secret vote.

2) **Further settlement discussions**

On the day of the vote, the Officer who conducts the vote engages the parties in settlement discussions on any issues that remain in dispute. All agreements are recorded in writing.

If the parties have resolved all issues raised up to that point, or agree to the point that a hearing is not required to resolve outstanding issues, they are asked to sign a Termination Worksheet. This document sets out the parties' agreements and confirms that the signatories have waived their right to a hearing subject to their right to file representations relating to any new matter in the five (5) days following the vote or to respond to representations filed by any other party.

3) **Counting the Ballots**

Ballots may or may not be counted on the day of the vote, depending on the directions of the Board, the agreements of the parties, and the discretion of the Board Officer. It may be necessary in some circumstances to seal the ballot box until outstanding disputes have been resolved.

4) **Report of Vote Provided and Posted**

The Board Officer who conducts the vote normally provides a Board Officer's Report of Vote to the parties on the day of the vote. This Report sets out whether the ballots were counted and, if so, the outcome of the vote, and explains that parties and employees have five (5) days to file objections to the vote. Upon receipt, the employer is required to immediately post copies of the Report adjacent to each of the earlier posted Notices to Employees of Application for Termination of Bargaining Rights and then confirm that it has completed the postings by filing with the Board by facsimile transmission a Confirmation of Posting (Form A-10). The applicant and the union must also, at the earliest opportunity, advise the Board as to whether the employer has completed the postings by filing with the Board by facsimile transmission a Confirmation of Posting (Form A-10).

**VIII. AFTER THE VOTE**

1) **Statement of Representations**

Any person who wishes to say something to the Board concerning the vote or any other previously unidentified issue remaining in dispute must file a statement of representations with the Board and deliver a copy of the statement to the applicant, union and employer, whose names and addresses can be found on the Application for Termination. This statement may be filed using any means, including facsimile transmission, except e-mail or Registered mail, and must be received by the Board and the other parties no later than five (5) days after the day of the vote. (Rule 11.3)

The Board reviews any representations it receives. If the parties have agreed on all issues in dispute and no relevant representations have been received, a final decision will normally issue and the Regional Meeting and Hearing will be cancelled. If issues remain in dispute and/or relevant representations are received, the matter will proceed to the Post-Vote Mediation ("Waiver") Process.

2) **Post-Vote Mediation ("Waiver") Process**

A Board Officer contacts the parties, usually by telephone, to discuss and attempt to resolve all outstanding issues. This contact normally takes place in the period after the end of the five (5) day representation period and before the scheduled Regional Meeting. If issues remain in dispute after the Post-Vote Mediation ("Waiver") process, the matter proceeds to a Regional Meeting.

3) **Regional Meeting**

A Regional Meeting is a meeting with a Board Officer ordinarily held in the regional centre closest to the workplace on the Wednesday of the third week after the week in which the vote is held. At this meeting, a Board Officer again assists the parties in an attempt to resolve, or at least narrow, the remaining issues.

For information on what occurs at and after the Regional Meeting when there is a dispute as to whether an individual is properly on the voters list, see Information Bulletin No. 5 - Status Disputes in Termination Applications (Non-Construction).

4) **Hearing**

If issues remain in dispute after the Regional Meeting, a hearing begins at the Board's offices in Toronto on the Monday of the fourth week after the week in which the vote is held.

Board hearings are open to the public unless the panel decides that matters involving public security may be disclosed or if it believes that disclosure of financial or personal matters would be damaging to any of the parties. Hearings are not recorded and no transcripts are produced.

The Board issues written decisions, which may include the name and personal information about persons appearing before it. Decisions are available to the public from a variety of sources including the Ontario Workplace Tribunals Library, and over the internet at [www.canlii.org](http://www.canlii.org), a free legal information data base. Some summaries and decisions may be found on the board's website under *Highlights* and Recent Decisions of Interest at [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca).

**ONTARIO LABOUR RELATIONS BOARD  
INFORMATION BULLETIN NO. 3**

**Vote Arrangements**

All parties to certification applications and to termination applications made under section 63 of the Labour Relations Act are required to file proposals for vote arrangements as part of their application, response, or intervention. The purpose of this Information Bulletin is to assist these parties in completing their proposals.

The Board typically accommodates any arrangements that are agreed upon by all parties. However, if it is determined that the vote arrangements agreed to by the parties are not suitable because they are too costly or do not adequately allow employees the opportunity to vote, or if the parties do not agree on vote arrangements, the Board normally sets the arrangements without further consultation with the parties. As such, it is important for the parties to clearly set out all of their reasons for their proposed arrangements when completing their form.

Please read the following before completing the vote arrangements portion of your form.

**1) DATE OF VOTE**

In certification applications, the date of the vote is usually the fifth day (excluding weekends and holidays on which the Board is closed) after the date on which the application is filed with the Board (the "Application Filing Date").

In termination applications, the date of the vote will usually be five (5) to eight (8) days after the Application Filing Date.

If there is a specific date or dates close to the date on which the vote may reasonably be expected to be held that would not be appropriate for a vote to be held, you should identify such dates and state why they are not appropriate.

The Board does not conduct advance polls or allow voting by proxy. Only in very unusual circumstances is mail-in balloting allowed. The Board does not use mail-in balloting to accommodate employees who are absent from the workplace on the day of the vote because of illness, vacation, or any other reason.

**2) HOURS OF VOTE**

When proposing the hours for the vote, parties should balance the need to economically use the Board's resources with the general rule that the vote should be arranged so that most employees have the opportunity to vote during regular working hours.

Generally, not more than one hour should be allowed for each sixty (60) eligible voters. If multiple polling locations are necessary, parties should make every effort to allow for one Officer to travel to different locations rather than requiring more than one Officer at simultaneous polls.

3) **LOCATION OF POLL(S)**

The vote takes place on the employer's premises in all but the most unusual circumstances. The polling place should be as free from noise as circumstances permit, readily recognizable by name or description, and easily accessible to all employees. Votes are typically held in places such as lunchrooms, cafeterias, and empty offices.

The polling place should be equipped with a table and chairs for the Board Officer and each party's Scrutineer. A second table that is large enough to accommodate a voter's screen and ballot box (both provided by the Board Officer) and allows for privacy while voters cast their ballots should also be available.

4) **CONTACT PERSON**

Each party must provide the Board with the name, phone number and facsimile number of an individual who is regularly available by phone during the period of time (excluding weekends and holidays on which the Board is closed) leading up to the vote to discuss the application. These individuals should have authority to act for the party they represent and to bind them with their agreements.

5) **FORM OF BALLOT**

Generic ballots that do not identify the union or employer by name are used when there is only one union involved in the application. Instead, the names of the union and employer are set out in a Notice in every voting booth. In Certification Applications where the applicant is applying to displace an incumbent union, both unions' names appear on the ballot. The name of the incumbent union appears at the top of the ballot with the name of the applicant union below it.

In both Applications for Certification and Applications to Terminate Bargaining Rights, the union(s) is asked to indicate its name as it wishes it to appear on the Notice in the voting booth or on the ballot. The name that appears is usually the union's correct legal name. If a union's correct legal name is long and/or cumbersome and it is known by a shorter name, the union may ask to have the shorter name used.

6) **NAMES OF SCRUTINEERS TO ATTEND AT THE POLLING PLACE**

Each party must select one Scrutineer for each polling place. Individuals may act as Scrutineer at more than one polling place as long as the polling places are not open simultaneously. Scrutineers have the following duties and privileges:

- a) to assist in the identification of voters;
- b) to mark voters' attendance on the Voters List;
- c) to challenge prospective voters on the basis of identity, or to challenge any person whose right to vote appears doubtful; and
- d) to otherwise assist in the conduct of the vote as required by the Board Officer.

Parties should select as their Scrutineer a person who is familiar with the individuals in the plant or operation who will be voting and who is available to act during the entire time the poll is open. Scrutineers should report to the Board Officer at least 15 minutes before the poll opens to receive instructions, examine the ballot box and assist in the preparations for the opening of the poll.

7) **NAMES OF REPRESENTATIVES TO ACT AS AGENTS AT THE COUNTING OF THE BALLOTS**

Each party must select a representative to act as its agent at the counting and tabulation of the ballots. The person you select to act as your representative will be presumed to have your authority to participate in discussions with the Board Officer and enter into agreements on your behalf. Following the vote, the Board Officer will attempt to resolve any outstanding issues, including the bargaining unit description, any challenges to whether persons/employees are in or out of the bargaining unit, and spoiled ballots. At the conclusion of these discussions, the parties will be requested to sign a worksheet confirming any agreements reached. Each party will be provided with a copy of the worksheet for their records.

**IMPORTANT NOTE**

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.

**ONTARIO LABOUR RELATIONS BOARD  
INFORMATION BULLETIN NO. 5**

**Status Disputes in Termination Applications (Non-Construction)**

This Information Bulletin describes how the Board deals with "status" disputes in the context of termination applications. Because the composition of the bargaining unit is fixed in most termination applications, status disputes rarely arise. However, when they do arise, they typically focus on whether certain individuals exercise managerial functions, are employed in a confidential capacity in matters relating to labor relations, or perform work of a classification that is in the bargaining unit.

This Bulletin does not describe the Board's procedures with respect to status disputes in the construction industry. Please refer to Information Bulletin No. 10 - Status Disputes in Termination Applications in the Construction Industry for information on those procedures.

**I. IDENTIFICATION OF INDIVIDUALS IN DISPUTE**

Where there is a dispute about whether certain individuals should or should not be on the voters list or in the bargaining unit, each party must identify in writing those individuals whose inclusion on the list or in the bargaining unit it is challenging not later than the conclusion of the balloting on the day of the representation vote. Challenges that are made after the conclusion of the balloting will not be considered except in exceptional circumstances. In addition, in the interests of fairness and finality, parties cannot raise issues about the voters list to which they have earlier agreed.

**II. SETTLEMENT DISCUSSIONS**

A Board Officer contacts the parties at various stages in the processing of the application in an effort to reach an agreement on the status disputes, and all other issues surrounding the application. These contacts are made before the vote is held, on the day of the vote, during the period after the end of the five-day representation period after the vote and before the Regional Meeting with an Officer, and at the Regional Meeting, which is ordinarily held in the regional centre closest to the workplace on the Wednesday of the third week after the week in which the vote was held.

### **III. WHAT HAPPENS IF STATUS ISSUES REMAIN IN DISPUTE AFTER SETTLEMENT DISCUSSIONS EXHAUSTED**

a) Hearing postponed one week

All termination applications in which issues remain in dispute after the Regional Meeting are automatically scheduled to be heard by a panel of the Board on the Monday of the fourth week after the week in which the vote was held. If status disputes form any part of these outstanding issues, the hearing is postponed one week. This postponement is made in order to allow time for the parties to provide a written summary of the material facts upon which they intend to rely detailing the reasons for their positions and to permit an opportunity for the procedural issues connected with the hearing to be determined by the Board.

b) **Settlement Discussions and Submissions With Respect To Procedural Aspects of Hearing**

Once it is evident at the Regional Meeting that there are unresolved status disputes going to a hearing, the meeting is devoted to assisting the parties in reaching agreement on the procedural aspects of the upcoming hearing. Procedural aspects include the identification of "representative witnesses", the question of who is responsible for ensuring that the individuals in dispute attend the hearing (by summons or otherwise), the sequence in which individuals will be called as witnesses, and the days on which witnesses will be called.

**The party that asserts that an individual should be on the voters list or in the bargaining unit has the responsibility for ensuring that individual's attendance at the hearing, unless the Board orders otherwise.**

**The party that has the responsibility for ensuring an individual's attendance at the hearing will be responsible for calling that individual as a witness. There may be circumstances in which a party calling a witness is allowed to cross-examine that individual. The Board may itself question a witness.**

If the parties cannot agree on all of the procedural aspects of the upcoming hearing, each party must file with the Board and deliver to the other party written submissions detailing its position on the outstanding procedural aspects by 5:00 p.m. on the Friday following the Regional Meeting. The Board considers the parties' submissions and ordinarily issues a decision on the procedural aspects on the Monday or Tuesday of the following week.

c) **Parties File and Deliver Submissions on the Substantive Issues**

Each party that asserts that an individual or individuals should not be on the voters list or in the bargaining unit must file with the Board and deliver to the other party written submissions providing the reasons for each of their challenges and a summary of the material facts upon which they intend to rely by 5:00 p.m. on the Friday following the Regional Meeting. Each party that resists a challenge to the status of an individual must file with the Board and deliver to the other party its response to each of the challenges, summarizing the material facts upon which they intend to rely by 5:00 p.m. on the following Wednesday.

**IV. THE HEARING**

The hearing into the status disputes and all other outstanding issues ordinarily begins at the Board's offices in Toronto on the Monday of the fifth week following the vote.

Board hearings are open to the public unless the panel decides that matters involving public security may be disclosed or if it believes that disclosure of financial or personal matters would be damaging to any of the parties. Hearings are not recorded and no transcripts are produced.

The Board issues written decisions, which may include the name and personal information about persons appearing before it. Decisions are available to the public from a variety of sources including the Ontario Workplace Tribunals Library, and over the internet at [www.canlii.org](http://www.canlii.org), a free legal information data base. Some summaries and decisions may be found on the board's website under *Highlights* and Recent Decisions of Interest at [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca).

**IMPORTANT NOTE**

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.

## **PART III — CERTIFICATION AND TERMINATION APPLICATIONS and REPRESENTATION VOTES**

### **RULE 9 CERTIFICATION**

<b>Form No.</b>	<b>Form Name</b>
<a href="#">A-01</a>	Application for Certification
<a href="#">A-02</a>	Response to Application for Certification
<a href="#">A-03</a>	Intervention in Application for Certification
<a href="#">A-04</a>	Declaration Verifying Membership Evidence
<a href="#">A-05</a>	Confirmation of Posting - Application for Certification
<a href="#">C-01</a>	Notice to Employer of Application for Certification
<a href="#">C-02</a>	Notice to Employees of Application for Certification
<a href="#">Information Bulletin #01</a>	Certification of Trade Unions
<a href="#">Information Bulletin #03</a>	Vote Arrangements
<a href="#">Information Bulletin #04</a>	Status Disputes in Certification Applications (Non-Construction)
<a href="#">Schedule A</a>	Schedule A
<a href="#">Schedule B</a>	Schedule B

- 9.1 An application for certification as bargaining agent must also include:
- any membership evidence relating to the application;
  - a list of employees, in alphabetical order, corresponding with the membership evidence filed; and
  - a declaration verifying the membership evidence (Form A-4).
- 9.2 Membership evidence will not be considered by the Board unless the evidence is in writing and signed by each employee concerned. Membership evidence must also accompany the application for certification and disclose the date upon which each signature was obtained.
- 9.3 Before, or at the same time as, filing the application with the Board, the applicant must deliver to the responding party:
- a completed copy of the application (but not including the material described in paragraphs (a), (b), and (c) of Rule 9.1);
  - a blank copy of the form set by the Board for responding to the application (Form A-2), including Schedules A and B (List of Employees);
  - a completed copy of the Notice to Employer of Application for Certification (Form C-1);
  - a copy of Information Bulletin No. 1 -- Certification of Trade Unions;

- e) a copy of Information Bulletin No. 3 -- Vote Arrangements;
- f) a copy of Information Bulletin No. 4 -- Status Disputes in Certification Applications; and
- g) a copy of Part III of the Board's Rules of Procedure.

9.4 If the applicant has identified an affected trade union in its application, the applicant must deliver the following to the affected trade union before or at the same time as filing its application with the Board:

- a) A completed copy of the application (but not including the material described in paragraphs (a), (b), and (c) of Rule 9.1);
- b) a blank copy of the form set by the Board for intervening in the application (Form A-3);
- c) a copy of Information Bulletin No. 1 -- Certification of Trade Unions;
- d) a copy of Information Bulletin No. 3 -- Vote Arrangements;
- e) a copy of Information Bulletin No. 4 -- Status Disputes in Certification Applications; and
- f) a copy of Part III of the Board's Rules of Procedure

9.5 A responding party must file a response to the application, including Schedules A and B, not later than two (2) days after the application was delivered to it.

## **RULE 10 TERMINATION OF BARGAINING RIGHTS UNDER SECTION 63 OF THE ACT**

<b>Form No.</b>	<b>Form Name</b>
<a href="#">A-06</a>	Application for Termination of Bargaining Rights under Section 63 of the Act
<a href="#">A-07</a>	Response to Application for Termination of Bargaining Rights under Section 63 of the Act
<a href="#">A-08</a>	Intervention in Application for Termination of Bargaining Rights under Section 63 of the Act
<a href="#">A-09</a>	Declaration Verifying Evidence of Employee Wishes
<a href="#">A-10</a>	Confirmation of Posting - Application for Termination of Bargaining Rights under Section 63 of the Act
<a href="#">C-03</a>	Notice to Union of Application for Termination of Bargaining Rights under Section 63 of the Act
<a href="#">C-04</a>	Notice to Employer of Application for Termination of Bargaining Rights under Section 63 of the Act
<a href="#">C-05</a>	Notice to Employees of Application for Termination of Bargaining Rights under Section 63 of the Act
<a href="#">Information Bulletin #02</a>	Termination of Bargaining Rights Under Section 63 of the Labour Relations Act

[Information Bulletin #03](#)    Vote Arrangements

[Information Bulletin #05](#)    Status Disputes in Termination Applications (Non-Construction)

[Schedule C](#)                    SCHEDULE C- Termination (Industrial)

10.1 An application for termination of bargaining rights under section 63 of the Act must also include:

- a) any evidence relating to the application that employees do not wish to be represented by the trade union
- b) a list of employees, in alphabetical order, corresponding with the evidence filed; and
- c) a declaration verifying evidence of employees wishes (Form A-9)

10.2 Evidence that employees do not wish to be represented by a trade union will not be considered by the Board unless the evidence is in writing and signed by each employee concerned. The evidence must also accompany the application and disclose the date upon which each signature was obtained.

10.3 Before or at the same time as filing the application with the Board, the applicant must deliver to the responding party

- a) a completed copy of the application (but not including the material described in paragraphs (a), (b) and (c) of Rule 10.1);
- b) a blank copy of the form set by the Board for responding to the application (Form A-7);
- c) a completed copy of the Notice to Union of Application for Termination of Bargaining Rights under Section 63 of the Act (Form C-3);
- d) a copy of Information Bulletin No. 2 -- Termination of Bargaining Rights under Section 63 of the Act;
- e) a copy of Information Bulletin No. 3 -- Vote Arrangements;
- f) a copy of Information Bulletin No. 5 -- Status Disputes in Termination Applications; and
- g) a copy of Part III of the Board's Rules of Procedure

and must also deliver to the employer

- h) a completed copy of the application (but not including the material described in paragraphs (a), (b) and (c) of Rule 10.1);
- i) a blank copy of the form set by the Board for intervening in the application (Form A-8), including Schedule C (List of Employees);
- j) a completed copy of the Notice to Employer of Application for Termination of Bargaining Rights under Section 63 of the Act (Form C-4);
- k) a copy of Information Bulletin No. 2 -- Termination of Bargaining Rights under Section 63 of the Act;
- l) a copy of Information Bulletin No. 3 -- Vote Arrangements;

- m) a copy of Information Bulletin No. 5 -- Status Disputes in Termination Applications; and
  - n) a copy of Part III of the Board's Rules of Procedure
- 10.4 Delivery by the applicant to the responding party under Rule 10.3 should be made to the senior union official responsible for the bargaining unit.
- 10.5 A responding party (which includes an intervenor) must file a response to the application (which includes an intervention) not later than two (2) days after the application was delivered to it. Whether or not it otherwise responds to the application, the employer must file Schedule C (List of Employees) with the Board not later than two (2) days after the application was delivered to it.

## **RULE 11 REPRESENTATION VOTES**

- 11.1 Where the Board directs the taking of a representation vote, the Registrar may make all necessary directions and arrangements.
- 11.2 After the vote, or after the ballots have been counted where the ballot box was sealed, the returning officer will prepare a report of the vote which will be given or sent to the parties and which must be posted in the workplace by the employer.
- 11.3 Any party or person who wishes to make representations about the vote or the report must file those representations in writing promptly, and in any event within five (5) days of the date the report was first posted. If a party or person wants an oral hearing, this request must be set out in the representations together with the reasons for the request in the way required by these Rules.