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**NATIONAL MEDIATION BOARD**  
WASHINGTON, D.C. 20572

49 NMB No. 1  
November 19, 2021

NOTICE

TO: All Carriers and Labor Organizations

FROM: Maria-Kate Dowling, Acting General Counsel

RE: Comment Period for Proposed Changes to the  
National Mediation Board's Representation Manual

The National Mediation Board (NMB or Board) intends to revise **Section 14.305** to add language regarding the authority of the Investigator to interpret and apply the rules governing the election and make determinations regarding the validity of ballots with unorthodox or extra markings. The revised **Manual Section 14.305** also contains new language explaining that where a voter's intent is clear, the ballot should be counted in accordance with that intent. The revised **Manual Section 14.305-4** provides for appeal of the Investigator's determination where that challenge is based on good cause, the number of ballots being challenged is determinative to the outcome of the election, and written notice of such appeal is submitted to the **General Counsel** on the day of the tally. The complete provisions of Manual Sections dealing with Ballot Determinations are included below; the proposed changes are in bold.

Participants have 30 days from the date of this Notice to submit their comments to [legal@nmb.gov](mailto:legal@nmb.gov) with a subject of "Proposed Manual Changes."

14.305 Ballot Determinations

**The election will be supervised by the Investigator. The Investigator will interpret and apply the rules governing the election and shall make all ballot determinations. If the voter's intention is clear, the ballot should be counted in accordance with that intent.**

14.305-1 Invalid Ballot Return Envelopes

Ballot envelopes returned without a signed attest are invalid. Ballot envelopes from individuals not on the Official Eligibility List are invalid. Invalid envelopes are not opened. When a voter returns both the original and the duplicate ballot envelope, the original will be counted and the duplicate will be marked invalid.

14.305-2 Valid Ballots

Voters will have the opportunity to vote for representation by an organization or individual or for “no representative.” Where the voter’s intent to vote for representation is clear, the ballot is valid and will be counted as a vote for representation. If an organization or individual receives a majority of votes cast, it will be certified as the representative. If the majority of votes cast are for “no representative,” there will be no representative certified. In the event of a tie vote between votes for representation and votes for no representation, no representative will be certified. Valid ballots cast for representation include “write-in” ballots which clearly indicate the voter’s desire for representation. Voters must “write-in” the name of a specific organization or individual to cast a valid vote.

14.305-3 Void Ballots

The following ballots are void and will not be counted:

- 1) ballots cast for a carrier or carrier official;
- 2) ballots marked in more than one square, where the voter’s intent is unclear;
- 3) blank ballots;
- 4) ballots where the voter selected “write-in” but did not identify a specific organization or individual;
- 5) ballots where the voter has “written-in” the phrase “Any Other Organization or Individual”;

- 6) ballots where the voter has “written-in” “self,” “self representation” or the equivalent; and,
- 7) ballots which identify the voter, unless the voter has placed his/her name in the “write-in” space on the ballot and is not identified elsewhere on the ballot.

**14.305-4**

**Appeal of Investigator Determinations Made at the Tally**

**The Investigator’s ballot determinations shall be final as to the immediate conduct of the election, but appeal may be made to the NMB provided that the challenge to the determinations is based on good cause, the number of challenged ballots is determinative to the outcome of the election, and written notice of such appeal is directed to the General Counsel and filed electronically at [ola-efile@nmb.gov](mailto:ola-efile@nmb.gov) on the day of the tally.**