

# PROCEDURE TO ELECT OCCUPATIONAL SAFETY AND HEALTH COMMITTEE

JANUARY 31, 2022 | [www.bdo.com.pe](http://www.bdo.com.pe)

Ministry Resolution No. 245-2021-TR sets out the procedure to elect the employees' representatives on the Occupational Safety and Health Committee (OSHC) and the Occupational Safety and Health Sub-committee (Subcommittee), as well as the Occupational Safety and Health Supervisor (OSHS).

The main provisions of the referred resolution are explained below:

Scope of application	All economic and service sectors nationwide, including employers and employees subject to the Occupational Safety and Health Law (Law No. 29783), its regulations and amending provisions, except for those subject to special regimes (e.g., construction sector).
How many employees does an employer must have to be required to have an OSHC and how many employees does such committee have?	<ul style="list-style-type: none"><li>▶ To have an OSHC, the entity must have more than 20 employees on its payroll.</li><li>▶ The OSHC must have at least 4 members at a maximum of 12 members. The employer is required to communicate the required number of OSHC members to employees, through a means of massive communication (e.g., corporate email, intranet, panels, etc.).</li></ul>
How can employees run to be OSHC members at the election?	They can run independently or through an electoral list.
Who is in charge of calling the election?	The largest or most representative labor union will be in charge of calling new elections, unless any of the following events occur, which will entitle the employer to call the election: <ul style="list-style-type: none"><li>▶ If there are no labor unions.</li><li>▶ If labor unions fail to opportunely call the election.</li><li>▶ If the labor unions do not comply with the election schedule.</li></ul>
Who are the bodies responsible for the electoral process?	<ul style="list-style-type: none"><li>▶ <b>Electoral Board:</b> Body in charge of the electoral process until the elected members are announced. The body which called the election will appoint the members of the Board.</li><li>▶ <b>Poll watcher:</b> Employee appointed by the labor union, the electoral lists, or the candidates.</li></ul>

<b>How are the votes cast?</b>	<ul style="list-style-type: none"> <li>▶ In person or online.</li> <li>▶ The electoral process may be entirely or partially subcontracted.</li> <li>▶ Tied elections will be resolved by draw in the presence of the candidates.</li> </ul>
<b>How is the President of the OSHC elected?</b>	<ul style="list-style-type: none"> <li>▶ By consensus among the members of the OSHC.</li> <li>▶ If in two election calls, there is no consensus to elect a president, such appointment will be decided by draw and the other part will automatically act as secretary.</li> </ul>
<b>When must the OSHC be recomposed?</b>	<p>When 50% of the employees' representatives, including permanent and substitute members, cease their employment relationship or face a cause for removal, provided that the remaining term of the employees' representatives on the OSHC is equivalent or greater than 6 months.</p>
<b>Subcommittees and Supervisor</b>	<ul style="list-style-type: none"> <li>▶ When an employer has several workplaces, it will be possible to have a Subcommittee or a Supervisor at each workplace.</li> <li>▶ To elect them, it will be necessary to follow the same procedure as to elect the OSHC and these may be elected together with the OSHC or separately.</li> <li>▶ The members of the Subcommittee or the OSHS must not necessarily be members of the OSHC.</li> </ul>

## IMPORTANT FACTS

- ▶ In order to elect the OSHC, the Subcommittee, or the Supervisor, employers must consider the number of employees at their organizations, establishments, and/or branches, as well as the term of each one of them.
- ▶ The failure to elect a Committee or a Supervisor is considered as a serious occupational safety and health infraction, which may give rise to a penalty ranging between PEN 6,908.00 (1.57 tax units) and PEN 114,928.00 (26.12 tax units).

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