

115-025-0025

Withdrawal or Dismissal of Petition

(1) **Withdrawal of Petition.** A petitioner may withdraw its petition with the approval of the Board or its agent. If a petition is withdrawn after the Recommended Order is issued, after a Consent Election Agreement is executed by the parties or after a representation election is requested under OAR 115-025-0070 in response to a petition seeking certification without an election, the withdrawal will be granted with prejudice and the petitioner may not submit a new petition for the bargaining unit for a period of six months from the date the withdrawal was approved.

(2) **Dismissal of Petition.** If the Board determines after an investigation that the petition has not been timely or properly filed, that no valid question concerning the representation of employees exists in an appropriate unit, or that the petition should not be processed for other reasons, it may request the party filing such a petition to withdraw the petition without prejudice or, in the absence of such withdrawal, it may dismiss the petition. Such action may be taken by the Board at any time prior to the closing of the case. A petitioner may, within 14 days of the date of service of the dismissal, request reconsideration of such action by the Board. This request shall contain a complete statement setting forth the facts and reasons upon which the request is based. On its own motion, the Board may or may not hear oral argument on a request for reconsideration. The Board may affirm the dismissal, or set the dismissal aside and remand the matter for hearing.

Stat Auth.: ORS 243.766(7)

Stats Implemented: ORS 243.682

Hist.: ERB 1-1980, f & ef. 1-9-80; ERB 1-1991, f. 11-21-91, cert. ef. 12-1-91

115-025-0030

Posting Notice of Petition

(1) Upon receipt of a petition under OAR 115-025-0010(1), (2), (3) or (4), a Board Agent will cause a notice of the petition to be posted in the work areas granting maximum access to employees in the existing or proposed unit. Copies of the notice shall be served on the public employer and any known exclusive representative. The notice shall set forth:

(a) The name of the petitioning organization or employer.

(b) A description of the unit involved.

(c) A statement that parties and interested persons will have 14 days from the date of the notice to file:

(A) Objections to the appropriateness of the proposed unit;

(B) Objections to the positions to be included or excluded;

(C) Objections to the petitioner's designation of the issue(s) in cases filed under OAR 115-025-0005;

(D) Petition to intervene as provided in OAR 115-025-0035.

(d) Interested persons may notify the Board Agent of their specific objections. Such objections must also be served on the petitioner. Upon good cause shown, the Board Agent may call an interested person as a witness.

(2) Upon receipt of a petition for certification without an election under OAR 115-025-0010(5), a Board Agent will cause a notice of the petition to be posted in the work areas granting maximum access to employees in the proposed bargaining unit. Copies of the notice shall be served on the public employer. The notice shall set forth:

(a) A statement that certification without an election has been requested;

(b) The name of the labor organization which seeks certification;

(c) A description of the proposed bargaining unit;

(d) A statement that there are 14 days from the date of the notice to file:

(A) Objections to the appropriateness of the unit;

(B) Objections that a labor organization is currently certified or recognized as the exclusive representative of one or more employees in the proposed unit;

(C) Objections to the positions to be included or excluded; or

(D) A request for an election pursuant to ORS 243 682(3).

(e) Interested persons may notify the Board Agent of their specific objections. Such objections must also be served on the petitioner. Upon good cause shown, the Board Agent may call an interested person as a witness.

Stat Auth.: ORS 243 766(7)

Stats. Implemented: ORS 243 682 & ORS 243 686

Hist : ERB 1-1980, f. & ef. 1-9-80; ERB 6-1985, f. 10-29-85, ef. 10-31-85; ERB 1-1988, f. & cert. ef. 4-25-88; ERB 1-1991, f. 11-21-91, cert. ef. 12-1-91

115-025-0065

Certification Without Election

(1) Upon receipt of a petition under OAR 115-025-0010(5) for certification without an election, a Board Agent shall commence an investigation and shall cause a notice of the petition to be posted as described in OAR 115-025-0030(2).

(2) Authorization Cards.

(a) An authorization card submitted in support of a petition for certification without an election must, at a minimum, contain the following:

(A) The employee's name typed or legibly printed;

(B) The employee's signature;

(C) The date of the employee's signature;

(D) A statement that the employee designates the named labor organization as the employee's exclusive representative for purposes of collective bargaining with the employee's employer; and

(E) A statement that the employee understands that the employee's signature on the card may be used to obtain certification of the named labor organization as the exclusive bargaining representative without an election.

(b) An employee authorization card must be signed and dated within the 90-day period before the petition was filed.

(c) Authorization cards shall be submitted in alphabetical order.

(d) An employee authorization card that does not comply with this subsection shall be deemed invalid.

(3) Eligible Employees. For the purpose of determining the adequacy of the authorization cards, public employees who were employed on the filing date of the petition for certification without an election are included in the proposed bargaining unit and are considered eligible in the processing of the petition. The Board may also include as eligible other employees who have a reasonable expectation of continuing employment, including but not limited to seasonal employees or employees on layoff.

(4) List of Eligible Employees. Within 7 days after a public employer receives notice under OAR 115-025-0030(2) that a petition has been filed seeking certification without an election, it will submit to the Board an alphabetical list of employees in the proposed bargaining unit, including their names, addresses and job classifications. The Board will provide a copy of the list to the labor organization named in the petition.

(5) Challenges to the List of Eligible Employees

(a) Challenges to the inclusion of a name on or exclusion of a name from the list of eligible employees must be filed with the Board within 7 days after the Board provides the labor organization a copy of the list under subsection (5) of this section.

(b) The Board Agent shall determine whether a majority of employees on the list supplied by the employer has signed valid authorization cards. The Board Agent shall then determine whether there is a sufficient number of challenged names to affect the result

(A) If the number of challenges is insufficient to potentially affect the result, then the challenges shall be dismissed.

(B) If the number of challenges is sufficient to potentially affect the result, the Board Agent shall investigate and, when appropriate, issue a notice of hearing on the challenges. The hearing will be conducted as set forth in OAR 115-025-0045. The challenging party shall bear the burden of proof.

(6) [(7)] Authentication. The Board shall determine whether each otherwise valid authorization card was signed by an eligible employee;

(7) [(8)] Objections. Objections to a petition for certification without an election must be filed within 14 days of the date of the notice posted pursuant to OAR 115-025-0030(2). Hearings on such objections shall be conducted under OAR 115-025-0045.

(8) [(9)] Certification. If it is determined that a majority of an appropriate unit has signed valid authorization cards designating the labor organization named in the petition as the exclusive representative, and that no other labor organization is currently certified or recognized as the exclusive representative for any employee in the proposed bargaining unit, then the Board shall certify the labor organization named in the petition as the exclusive representative without an election unless a timely petition for election is filed under OAR 115-025-0075.

Stat Auth: ORS 243 766(7)

Stats Implemented: ORS 243 682

Hist :