

STATE OF OREGON, EMPLOYMENT RELATIONS BOARD

**LABOR ORGANIZATION PETITION FOR REPRESENTATION
OR UNIT CHANGES**

For ERB Use Only

Case No. _____

Date Filed _____

This form can *be filed only by a labor organization* that represents or wishes to represent Oregon public employees. Petitions for employees and public employers are available on the Employment Relations Board website.

Check one: Original Petition OR Amended Petition

1. PURPOSE OF PETITION

RC—Petition to Certify a New Bargaining Unit (Card Check) (ORS 243.682(2); OAR 115-025-0030): A majority of currently unrepresented employees in a proposed bargaining unit wish to be represented by a labor organization, and wish to have that labor organization certified as their bargaining representative by using the “card check” process, instead of an election.

- The petition must be accompanied by a showing of interest from more than 50% of employees in the proposed unit stating that they wish to be represented by the labor organization named below. (See Instructions for model card check authorization language.)
- This type of petition is subject to the “certification” and “election” bars under Board rules. For an explanation of these timelines, see the attached instructions and OAR 115-025-0015(1) and (3).
- The petition must not include employees who are represented by another labor organization at the time the petition is filed.

RC—Petition to Certify New Bargaining Unit or Change Exclusive Representatives (Election) (ORS 243.682(1); OAR 115-025-0031(1) or OAR 115-025-0035): At least 30% of employees in a proposed or existing bargaining unit wish to be represented by the petitioning labor organization, and the labor organization is requesting an election.

- The petition must be accompanied by a showing of interest from at least 30% of employees in the proposed unit stating that they wish to be represented by the labor organization named below.
- This type of petition is subject to the “certification,” “contract,” and/or “election” bars under Board rules. For an explanation of these timelines, see the attached instructions and OAR 115-025-0015(1), (2) and (3).
- This petition may be used either to create a new bargaining unit or to change the employees’ exclusive representative from one labor organization to another.

UC—Petition to Clarify Public Employee Status (OAR 115-025-0050(6)): Petitioner seeks to clarify whether certain employees are supervisory, confidential, or managerial employees under ORS 243.650, and, as a result, whether they can be included in the existing bargaining unit. This type of petition can be filed at any time, except the contract bar applies if the title of a position sought to be excluded is expressly included within the unit description in the certification or recognition agreement.

UC—Petition to Clarify Whether Certain Employees are in an Existing Bargaining Unit Based on Certification or Contract Language (OAR 115-025-0050(7)): Petitioner seeks to clarify whether certain employees are included in an existing bargaining unit based on the express terms of a certification or collective bargaining agreement. Before the Board considers this type of petition, the parties may be required to exhaust any applicable grievance in process.

UC—Petition to Clarify Whether Unrepresented Positions Should be Added to an Existing Unit (Election) (OAR 115-025-0050(5)): Petitioner seeks to add currently unrepresented positions to an existing unit by using the election process.

- The employees to be added to the existing unit must be *unrepresented* when the petition is filed.
- This petition must be accompanied by a showing of interest from at least 30% of the unrepresented employees stating that they wish to be represented by the petitioner.
- This type of petition is subject to the “election” bar under Board rules. Additionally, if this petition involves employees in positions that existed when the last collective bargaining agreement was negotiated, the petition may be subject to the “contract bar” under Board rules. For an explanation of these timelines, see the attached instructions and OAR 115-025-0015(2) and (3).

UC—Petition to Merge Bargaining Units (OAR 115-025-0050(10)): Petitioner represents more than one bargaining unit of the same public employer’s employees and the petitioner wishes to merge the existing units into a single unit.

- This type of petition must be filed in the open period under OAR 115-025-0015, as that rule applies to the larger of the two bargaining units.
- The petition must be supported by a petition or cards signed by more than 50% of the employees in *each* bargaining unit stating that they wish their bargaining units to be merged.

UC—Petition to Transfer Employees to a More Appropriate Bargaining Unit (OAR 115-025-0050(8)): Petitioner seeks to move employees from a different labor organization’s bargaining unit into its own unit, asserting that petitioner’s unit is more appropriate.

- This petition must be supported by a showing of interest signed by more than 50% of the employees in the affected group, stating that the employees wish to be transferred to the petitioning labor organization’s unit.
- This petition must be filed in the open period under OAR 115-025-0015, as that rule applies to the petitioner’s bargaining unit.

UC—Petition to Clarify Whether Unrepresented Employees Should be Added to Existing Unit (Card Check) (ORS 243.682(2), OAR 115-025-0050(4)): On behalf of a group of unrepresented employees, the petitioner seeks to use the “card check” process to add those employees to an existing bargaining unit represented by the petitioner.

- The employees to be added to the existing unit must be *unrepresented* when the petition is filed.
- The petition must be accompanied by a showing of interest from more than 50% of the unrepresented employees stating that they wish to be represented by this labor organization using the “card check” process instead of an election.
- This type of petition is subject to the “election” bar under Board rules. Additionally, if this petition includes employees in positions that existed when the last collective bargaining agreement was negotiated, the petition may be subject to the “contract bar” under Board rules. For an explanation of these timelines, see the attached instructions and OAR 115-025-0015(2) and (3).

UC—Petition to Amend Certification or Recognition (OAR 115-025-0050(11)): The labor organization wishes to amend the certification or recognition to reflect a change to its name, affiliation with another labor organization, or to reflect a change in the name of the public employer. In cases involving an amendment to affiliate with another labor organization, the petitioner must submit documents demonstrating that at an affiliation election was conducted with at least minimal due process.

UC—Petition to Revoke Existing Certification or Recognition (OAR 115-025-0050(12)): Petitioner no longer wants to be the exclusive representative for a group of employees. This type of petition may be filed at any time when no collective bargaining agreement is in effect, but the Board will order a revocation only if (1) no collective bargaining agreement is in effect and (2) the labor organization disclaims any further interest in representing the employees (or the labor organization is defunct).

Intervention Petition (OAR 115-025-0062): One labor organization has filed a petition to certify a new bargaining unit through the election process, but at least 10% of the employees in the same proposed unit wish to be represented by a different (the petitioning) labor organization. By filing this petition, the intervening labor organization seeks to be included as a choice on the ballot.

- The petition must be accompanied by a showing of interest from at least 10% of employees in the same proposed bargaining unit stating that they wish to be represented by the intervening labor organization.
- This petition must be filed within 14 days of the notice of the initial petition.

RC—Petition for Certification as a Result of the Merger of School Districts (OAR 115-025-0090): School districts are merging, and a labor organization that already represents a majority of the employees seeks to represent the employees of the surviving district.

- This petition may be filed only between the date of final action by the State Board of Education or by a boundary board to merge the districts and the date that the merger takes effect.
- In box 8 below, petitioner must also include: (1) a statement that it currently represents a majority of the employees who will be included in the proposed bargaining unit after the merger (this statement must be supported by collective bargaining agreements or certifications of representative, and must include the number of employees in the proposed bargaining unit and the number of employees represented by the labor organization in each current unit); (2) contact information for the superintendent of schools for each affected district; (3) the date of final action by the State Board of Education or by a boundary board to merge the districts; and (4) the effective date of the merger.

2. Name and address of public employer:

Contact information for the employer’s representative:

Name: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

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| 3. Name and address of petitioning labor organization: | Contact information for the petitioner's representative: Name: _____ Address: _____ Phone: _____ Fax: _____ Email: _____ |
| 4. Name and address of any other labor organization that represents, or has sought to represent, employees subject to the petition: | Contact information for the other labor organization's representative: Name: _____ Address: _____ Phone: _____ Fax: _____ Email: _____ |
| 5. Describe the existing or proposed bargaining unit, briefly summarizing any proposed changes: | |
| 6. Effective Dates of Any Collective Bargaining Agreement (please attach a copy of agreement): Beginning Date: _____ Expiration Date: _____ N/A | 7. Number of Employees - In Existing or Proposed Unit: _____ To be Added to Existing Unit: _____ |
| 8. Additional relevant facts (may be provided in an attachment): | |

I certify that the statements in this petition are true to the best of my knowledge and information.

Petitioner's Primary Representative: _____ Date: _____

Representative's Signature: _____ Title: _____

Address: _____

Phone: _____ Fax: _____ Email: _____

Instructions for Filing a Labor Organization Petition for Representation or Unit Changes

This is the form to be used by a labor organization that seeks to represent public employees in Oregon (excluding federal government employees), or that already represents employees but wishes to modify the scope of the group that it represents. It may be used to: obtain certification of a new bargaining unit; add or remove employees from an existing bargaining unit; merge existing bargaining units; amend an existing certification or recognition clause to reflect a change in affiliation of the labor organization; or revoke an existing certification or recognition of the labor organization as the exclusive representative for a group of employees.

These instructions are intended to help petitioners understand how to initiate the process and what the requirements are. Below you will find some definitions for labor relations terms that are used regularly in cases involving union representation. Additionally, you will find some step-by-step guidance on what information is needed on the petition form to ensure that your request is considered by the Board. However, the primary sources of information on this process can be found in the Public Employee Collective Bargaining Act (ORS 243.650 through 243.782) and the Employment Relations Board's administrative rules, specifically in Divisions 10 and 25 of the rules. (A copy of these laws and rules are available in the ERB Rulebook or by the links to the ERB website [laws and rules](#).)

The Board's Election Coordinator processes petitions and conducts elections. The Election Coordinator cannot provide legal advice, but is available to answer procedural questions to help you through the process. You may call the Elections Coordinator at (503) 378-6471.

How to File a Petition

You may file a petition by submitting it and any additional required documents (such as a showing of interest or a copy of a collective bargaining agreement) to the Employment Relations Board in one of five different ways: by mail, fax, email, upload to our [Case Management System \(CMS\)](#) platform, or by arrangement with an ERB staff member for in-person delivery. The Board contact information is as follows:

1225 Ferry St. S.E.
Salem, Oregon 97301
Fax No.: (503) 371-0021
Email address: ERB.Filings@ERB.oregon.gov

Section 1—Purpose of the Petition: Check the box that most accurately describes the purpose of the petition. More information about each of the specific petition types is available in the Board rules, which are available online. If you have questions about the procedure or process, you may contact the Board Elections Coordinator, who may be able to assist you.

Section 2—Employer Information: Provide the name and contact information for the public employer involved in this matter. If known, please also provide the name and contact information for the individual who represents the employer in labor and employee relations matters. This is often an attorney, a human resources director, or a city or county manager. If you do not know who the employer's representative is, leave that portion of the box blank.

Section 3—Petitioning Labor Organization Information: Provide the name and contact information for the petitioning labor organization, and the name and contact information for the individual who will be representing the labor organization in this matter.

Section 4—Contact Information for Other Interested Labor Organizations: If another labor organization represents, or has filed a petition seeking to represent, some or all of the employees at issue in the petition, provide the name and contact information for that organization.

Section 5—Bargaining Unit Description: Describe the existing bargaining unit. Alternatively, for petitions to form a new unit or modify the existing unit, describe the proposed unit.

For situations where some or all of the employees of the employer are already represented by a union, the existing bargaining unit description can usually be found in the collective bargaining agreement or in a certification order from the Board. For new bargaining units, carefully draft the description of the proposed unit to accurately reflect which job positions you believe should be included in the bargaining unit. This description is very important and should be carefully considered, as many aspects of the petition's sufficiency will be reviewed with that bargaining unit description in mind. You must also be careful to exclude confidential, managerial (only for State agencies), and supervisory job positions from the proposed bargaining unit. Those terms are defined in ORS 243.650(6), (16), and (23), respectively.

Section 6—Effective Dates of Collective Bargaining Agreement: Complete this section only in situations where employees affected by the petition are currently represented by a labor organization and there is a collective bargaining agreement in place. Most collective bargaining agreements will have a specific provision that establishes the beginning and end dates for the agreement. In addition to providing the effective dates, submit a copy of the collective bargaining agreement with the petition. The agreement determines whether the contract bar applies and if so, whether the petition was timely filed.

Section 7—Number of Employees: If the petition proposes to create a new bargaining unit, provide the number of employees to be included. If the petition proposes to revoke an existing certification or recognition, provide the number of employees currently represented by the labor organization in the existing bargaining unit. If the petition proposes to add or remove employees to an existing unit, provide both the number of employees in the existing unit and the number of employees to be added or removed.

Parties may disagree about the exact number of employees in a proposed or existing bargaining unit, and those numbers can fluctuate from day-to-day, particularly in large bargaining units. Petitioners should submit the most accurate number possible.

Section 8—Additional Relevant Information: Provide any other information that you believe the Board needs to understand what the petition is intended to accomplish, or that is necessary under our rules and not otherwise contained in the petition form. This can be provided in an attachment instead of the box provided on the form.

Explanation of Key Words and Phrases

PECBA: The shorthand name for the Public Employee Collective Bargaining Act, the state law that grants Oregon public employees the right to form and participate in the activities of a labor organization. The PECBA is contained in Oregon Revised Statutes 243.650 through 243.782.

Labor Organization: An organization whose purpose includes representing employees in their employment relations (including things such as wages, hours, and working conditions) with their employer. These organizations are most commonly referred to as unions, associations, or federations.

Exclusive Representative: Commonly referred to as a bargaining representative, the exclusive representative is the labor organization that represents a bargaining unit.

Bargaining Unit: The specific group of public employees that are, or seek to be, represented for collective bargaining by a labor organization. A bargaining unit can include all employees of a particular employer, or only a portion of the employees.

Unit Clarification: The process to change or verify the composition of an existing bargaining unit.

Election and Card Check Processes: The decision to join or not join a labor organization is a voluntary one. So when employees, employers or labor organizations wish to create or modify a bargaining unit, the Board must often evaluate the wishes of the involved employees. There are two general processes for the Board to assess those wishes: the traditional election process and the card check process.

In the traditional election process, the Board conducts a secret ballot election where employees have the opportunity to submit ballots (by mail or by ballot box in the workplace) on whatever action is being proposed. In the card check process, employees sign documents (often in the form of union “authorization cards”) that state

that they wish to be represented by a particular union and that they wish to forego the formality of an election. However, even if more than half of the employees sign such authorizations, an election may still be held if at least 30% of the employees submit a petition showing that they prefer to have the issue decided by an election rather than through the card check process.

Showing of Interest: For many of the petition types listed above, the Board will not act on the petition unless the party submits a showing of interest to demonstrate that enough employees support the action being proposed. A showing of interest is a document, usually either a union authorization card or a petition sheet. The authorization card or petition sheet must include each employee’s name (legibly printed) and signature, the date the employee signed, and a statement that the employee supports the action being proposed by the petitioner.

Certain types of petitions require additional information in the showing of interest. For example, in a card check petition, the law requires that the showing of interest include 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 that the employee understands that the employee’s signature may be used to obtain certification of the named labor organization as the exclusive bargaining representative without an election.

The showing of interest documents must be signed within the 180 days before the petition is filed. Showing of interest documents are confidential, and are not provided to employers (or labor organizations in cases where it is not the labor organization filing the petition).

Model Card Check Authorization Language (OAR 115-025-0021(4))

I designate [*name of labor organization*] as the exclusive bargaining representative for the purposes of collective bargaining with [*name of employer*]. I understand that my signature may be used to obtain certification of the above-named labor organization as the exclusive bargaining representative, without an election.

| Employee Name | Employee Signature | Date Signed |
|---------------|--------------------|-------------|
| | | |

Certification, Contract and Election Bars: Depending on the purpose of the petition, there are three different “bars” that might apply and prohibit the filing of a petition during certain time periods. These bars are summarized below, but each bar is explained more fully in the Board’s administrative rules.

- **Certification Bar:** Under this rule, a petition may not be filed if a different labor organization was certified as the representative of the same employees during the 12 months before petition was filed, even if no contract has been reached between the employer and the labor organization. However, the Board will consider a petition if: (1) the labor organization that was certified as the employees’ representative has become defunct; (2) a schism between the employees and the labor organization has developed that prevents effective representation of the employees; (3) the size of the bargaining unit fluctuated radically within a small period of time; (4) or some other circumstances changed that warrant the waiver of the certification bar. See OAR 115-025-0015(1).
- **Contract Bar:** Under this rule, a petition may not normally be filed if the existing bargaining unit is covered by a collective bargaining agreement with a duration of three years or less. However, the petition can be filed in the 60-90 days before the agreement expires, or after the expiration of the agreement (if no new agreement has been signed). If the existing agreement’s duration is for more than three years, a petition may be filed any time after the third year of the agreement. See OAR 115-025-0015(2).
- **Election Bar:** The Board will not conduct an election or accept a card check petition for certification without an election if: (1) an election involving the same employees was held in the 12 months before the filing of the petition; or (2) a petition for card check certification involving the same employees was filed in the 12 months before the current petition was filed. See OAR 115-025-0015(3).