

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 2021-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:

528 Cottage Street N.E., Suite 400
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).