

## Instructions for Filing the Public Employee Petition for Representation or Unit Changes

This is the form that public employees in Oregon (excluding federal government employees) must use if they wish to join an existing union, form a new union, change which employees are represented by an existing union, take action to cease being represented by a union, or eliminate a fair share agreement in a collective bargaining agreement. Petitions must be submitted to the Employment Relations Board (ERB). ERB is the state agency that administers the Public Employee Collective Bargaining Act (PECBA)—the state law that grants Oregon public employees the right to form and participate in the activities of a labor organization.

This process can be complex. These instructions are intended to help employees understand how to initiate the process and the requirements needed for each type of action. Definitions are provided below for some labor relations terms that may not be familiar, but that are used regularly in cases about union representation. There is also step-by-step guidance on the information that must be included on, or attached to, the petition form.

The most extensive sources for information on election petitions are the PECBA, Oregon Revised Statutes 243.650 through 243.782, and ERB's administrative rules, specifically in Divisions 10 and 25. (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 Election Coordinator at ERB handles petitions and conducts elections. The Election Coordinator cannot provide legal advice, but can provide assistance and answer procedural questions to help you through the process. You may call the Election Coordinator at (503) 378-6471.

### How to File a Petition

You can file a petition with ERB in 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. Be sure to include any required information with the petition, including copies of collective bargaining agreements and any required showing of interest. ERB's 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](mailto:ERB.Filings@ERB.oregon.gov)

**Showing of Interest Submission** - Many petitions must be supported by a valid showing of interest. A petitioner can fulfill the showing of interest requirement by submitting authorization documents (typically cards) signed by eligible employees. When authorization cards are used for the showing of interest, the petitioner should arrange the cards alphabetically by last name. See OAR 115-025-0021.

**Section 1—Purpose of the Petition:** Check the box that most accurately describes the purpose of the petition. More information about each specific petition type is available in ERB's administrative rules, which are available online.

**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 the employer's representative, leave that box blank.

**Section 3—Labor Organization Information:** Provide the name and contact information for the current labor organization or the proposed labor organization. If known, please also provide the name and contact information for the individual who represents the labor organization in such matters. This is often a local president or officer in the labor organization, a business agent, or an attorney. It may also be the petitioner when a new labor organization is being created. If you do not know the representative, leave that box blank.

**Section 4—Bargaining Unit Description:** If the petition involves any employees in an existing bargaining unit, a description of the existing bargaining unit must be provided. The existing bargaining unit description is usually included in the collective bargaining agreement or in an ERB certification order. Additionally, if the petition is seeking to modify the existing unit (rather than decertify it or deauthorize a fair share agreement), a description of the proposed new unit must be provided.

If the purpose of the petition is to create a new bargaining unit, describe which employees (by position) the petitioner seeks to include in the proposed unit. Petitioners need to carefully draft the description of the proposed unit because ERB will use this description as the basis for reviewing whether the petition was properly filed. Be certain to state that confidential, managerial (only for State agencies and certain public universities), and supervisory employees are excluded from the proposed bargaining unit. (Those terms are defined in ORS 243.650(6), (16), and (23), respectively.)

**Section 5—Effective Dates of Collective Bargaining Agreement:** This applies only when the employees filing the petition are currently represented by a labor organization and there is a collective bargaining agreement in effect. Collective bargaining agreements should have a specific provision establishing the beginning and end dates of that agreement. In addition to providing these dates, parties need to submit a copy of the collective bargaining agreement with the petition. This information will be used to determine whether the contract bar applies and if so, whether the petition was timely filed.

**Section 6—Number of Employees:** If the petition proposes to create a new bargaining unit, provide the number of employees you believe would be included in that new unit. For petitions to decertify an existing bargaining unit or to deauthorize a fair share agreement, provide the number of employees who are currently represented by the labor organization in the existing bargaining unit. For petitions to add employees to an existing unit, provide both the number of employees in the existing unit and the number of employees to be added.

Parties may disagree about the number of employees in a proposed or existing bargaining unit. ERB has processes in place to resolve such disputes. Additionally, these numbers can fluctuate on a daily basis, particularly in large bargaining units. ERB will not generally dismiss petitions if these numbers are incorrect. However, petitioners should make an effort to submit the most accurate number possible, as the number of employees at issue in a petition can affect several key aspects of the representation process (for example, the showing of interest required to support a petition or the number of signatures necessary to have a majority for card check cases).

**Section 7—Additional Relevant Information:** Provide any information required by ERB rules (and not provided for elsewhere in the petition), or information you believe ERB needs to know about the purpose for the petition. This information can be provided in an attachment instead of the box provided on the form.

### **Explanation of Key Words and Phrases**

**PECBA:** The acronym 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 provisions of the PECBA are set out in Oregon Revised Statutes 243.650 through 243.782.

**Labor Organization:** An organization that represents employees in their employment relations (including 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:** Oregon law allows employees to use two different processes to show that they want to join or form a union: an election or “card check.”

In an election process, ERB will conduct a secret ballot election where employees have the opportunity to submit ballots (by mail or by ballot box in the workplace) on the action being proposed (e.g. joining a labor organization, expanding a bargaining unit, etc.).

In the card check process, employees sign documents (often through “authorization cards”) that state that they wish to be represented by a particular union without the formality of an election. In card check cases, employees effectively cast their votes for representation by signing these documents. If a majority of employees sign authorization cards, ERB will certify the labor organization as the exclusive representative. However, an election may still be held if 30% or more of the affected employees submit a petition showing that they prefer that an election be held to determine whether a majority of employees want to be represented by a labor organization.

**Showing of Interest:** The support that must be shown before ERB will act on a petition. A showing of interest is a document, normally in the form of a union authorization card or a petition sheet. It must include the employee’s name (legibly printed) and signature, the date the employee signed, and a statement that the employee supports the action being proposed. The showing of interest documents must be signed within 180 days before the petition is filed. They are considered confidential, and are not shared with employers or with labor organizations (unless the labor organization filed the petition). For many petition types, 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.

**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

**Fair Share Agreement:** A “fair share” agreement is an agreement between an employer and a labor organization (that has been recognized or certified as the exclusive representative of a group of its employees) that requires employees in a bargaining unit who choose not to join the labor organization to pay a certain amount of money in-lieu-of-dues. See ORS 243.650(10).

**Certification, Contract and Election Bars:** Depending on the purpose of a 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 ERB’s administrative rules.

- **The Certification Bar** regulates how often a group of employees can change the labor organization representing them. A petition may not be filed if a different labor organization was certified as the representative of the same group of employees during the 12 months before petition was filed, even if there is no current contract 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 has developed in the labor organization 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).
- **The Contract Bar** regulates when a petition can be filed if a collective bargaining agreement is in effect. 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. The contract bar will not bar an election if the agreement is no longer a stabilizing influence and an election should be held to restore stability to the representation of employees in the unit. See OAR 115-025-0015(2).

- **The Election Bar** regulates how often a petition for election or certification without an election can be filed. The Board will not conduct an election or accept a card check petition 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).