

**STATE OF OREGON, EMPLOYMENT RELATIONS BOARD**

**For ERB Use Only**

**PUBLIC EMPLOYER PETITION FOR REPRESENTATION OR UNIT CHANGES**

Case No. \_\_\_\_\_

This form can be filed *only by a public employer*. Petition forms for employees and labor organizations are available on the Employment Relations Board Website.

Date Filed \_\_\_\_\_

Check one:                                      Original Petition    OR                                      Amended Petition

**1. PURPOSE OF PETITION**

**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, unless the petition seeks to exclude a position that is expressly included in the existing certification or recognition clause; in such cases, a petition may be filed only during the open period under OAR 115-025-0015.

**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 grievance in process.

**UC-Petition to Revoke Existing Certification or Recognition (OAR 115-025-0050(12)):** A group of petitioner’s employees are represented by a labor organization that has been certified or recognized as the exclusive representative of those employees. Petitioner seeks an order revoking the certification or recognition because the labor organization is defunct or has disclaimed its interest in representing the petitioner’s employees. This type of petition may be filed at any time when no collective bargaining agreement is in effect, but the Board will order revocation only if (1) no collective bargaining agreement is in effect and (2) the labor organization is defunct or disclaims any further interest in representing the employees.

**UC-Petition for Redesignation of Bargaining Unit (OAR 115-025-0050(9)):** Employer seeks to remove employees from the existing bargaining unit that it believes are inappropriately included under the criteria in ORS 243.682(1)(a).

- This type of petition is subject to the certification, contract, and election bars under Board rules. For an explanation of these timelines, see the attached instructions and OAR 115-025-0015(1), (2) and (3).
- If a contract is in place for three years or less, then a petition may be filed within 150-180 days before the expiration of the contract. If a contract is in place for more than three years, a petition may be filed any time after three years.

**UC-Petition to Amend Certification or Recognition (OAR 115-025-0050(11)):** The employer wishes to amend the certification or recognition for certain reasons where no question of representation exists (for example, to reflect a change to its name, or a change in the name of the labor organization representing its employees).

**RC-Petition for an Election to Certify a Public Employee Representative (OAR 115-025-0031(2)):** The employer is asserting that one or more labor organizations have presented a claim for recognition, or continued recognition, as the exclusive bargaining representative of a group of its employees, but the employer has a good faith doubt as to the continued majority status of the incumbent labor organization based on reasonable objective standards. By filing the petition, the employer requests an election to determine whether the group of employees will be or will continue to be represented by a particular labor organization.

2. Name and address of employer:

Contact information for the Employer’s representative:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

<p>3. Name and address of labor organization that currently represents or seeks to represent affected employees:</p>	<p>Contact Information for the Labor Organization's representative:</p> <p>Name: _____</p> <p>Address: _____</p> <p>Phone: _____ Fax: _____</p> <p>Email: _____</p>
<p>4. Describe the existing or proposed bargaining unit, briefly summarizing any proposed changes:</p>	
<p>5. Effective Dates of Any Collective Bargaining Agreement (please attach a copy of agreement):</p> <p>Beginning Date: _____</p> <p>Expiration Date: _____</p> <p>N/A <input type="checkbox"/></p>	<p>6. Number of Employees -</p> <p>In Existing or Proposed Unit: _____</p> <p>To be Added to Existing Unit: _____</p>
<p>7. Any additional relevant facts (may be included as an attachment):</p>	

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 the Public Employer Petition for Representation or Unit Changes**

This is the form to be used by public employers in Oregon who want to take a certain actions with respect to representation of its employees by a union. 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 Election 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](mailto: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's Election 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, as well as the name and contact information for the individual who will be representing the petitioner.

**Section 3 - Labor Organization Information:** Please provide the name and contact information for any labor organization that currently represents employees at issue in the petition. 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. If you do not know who the representative is, leave that portion of the box blank.

**Section 4 - Bargaining Unit Description:** Provide the Board with a description of any existing bargaining unit, and if you are proposing to change that unit, what you are proposing as the new bargaining unit. Where employees 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.

**Section 5 - Effective Dates of Collective Bargaining Agreement:** This section only applies in situations where the employees at issue 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 of that agreement. In addition to providing the effective dates, the petitioner should also

submit a copy of the collective bargaining agreement along 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:** Provide the number of employees that might be affected by the petition, including the number of employees in any existing bargaining unit and the number of employees that are to be added or removed from a bargaining unit. Sometimes the parties disagree as to 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 they can.

**Section 7 - Additional Relevant Information:** Please provide any information that you believe the Board needs to understand what the petition is intended to accomplish, or that is necessary under the rules and not otherwise contained in the petition form. This can be provided in an attachment instead of the box provided on the form if necessary.

### 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:** This term references 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.

**Certification, Contract and Election Bars:** Depending on the purpose of the petition, there are 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 labor organization was certified as the representative of the 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).
- **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).