

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

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DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 115

EMPLOYMENT RELATIONS BOARD

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CONTACT: April Bathurst

503-378-3807

april.bathurst@ERB.oregon.gov

1225 Ferry St S.E.

Salem, OR 97301

Filed By:

April Bathurst

Rules Coordinator

RULES:

115-025-0021, 115-030-0000

AMEND: 115-025-0021

REPEAL: Temporary 115-025-0021 from ERB 1-2023

RULE TITLE: Showing of Interest Requirements

NOTICE FILED DATE: 10/30/2023

RULE SUMMARY: Adopt rule amendments.

RULE TEXT:

- (1) Many petitions must be supported by a valid showing of interest.
- (2) A petitioner can fulfill the showing of interest requirement by submitting authorization documents (typically cards) signed by eligible employees. An authorization document 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 (if applicable); and
 - (e) A statement that the employee understands how the authorization document may be used. The statement must be consistent with the type of petition being filed. Model language for card check petitions is provided below, in section (4) of this rule.
- (3) An authorization document must be signed and dated within the 180-day period before the petition is filed.
- (4)(a) The Board has developed the following model language that may be used for the showing of interest for a card check petition (to certify a new bargaining unit or to add unrepresented employees to an existing unit):

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]

(b) The authorization document may use different language than subsection (4)(a) of this rule, but the document must include the same information for the authorization to be valid.

(5)(a) When authorization cards are used for the showing of interest, the petitioner should arrange the cards alphabetically by last name. Authorizations that do not substantially comply with this rule will not be counted.

(b) An electronic record and an electronic signature, as those terms are defined in ORS 84.004, may be used to prepare and sign authorizations.

(c) Notwithstanding section (2) of this rule, and except as otherwise provided in subsection (d) of this section, a petition submitted under this Division as an electronic record that includes a signed authorization using an electronic signature must:

(A) Include the following information:

(i) The name of the signer;

(ii) The signer's email address or social media account;

(iii) The signer's telephone number;

(iv) The exact language that the signer is assenting to by providing the electronic signature;

(v) The date of submission of the electronic signature; and

(vi) The name of the public employer that employs the signer; and

(B) Be accompanied by a verification declaration by the petitioning party:

(i) Specifying the technology used to obtain and verify the signatures;

(ii) Providing the methods used to ensure the authenticity of the signature; and

(iii) Confirming that the information transmitted to the signer was the same information to which the signer assented.

(d) If the technology used to provide the signed authorization does not support digital signatures that are suited to satisfy the requirements of the verification declaration described in subsection (c) of this section, the petitioning party must submit evidence that, after the petitioning party obtained an electronic signature, the party promptly transmitted a confirmation transmission to the signer confirming that all of the information described under subparagraphs (c)(A)(i) to (vi) of this section is true.

(6)(a) The showing of interest submitted under these rules will not be furnished to any of the parties except the party that filed the showing of interest, which may examine cards or petitions when signatures are deemed invalid.

(b) The showing of interest will be destroyed when the file is closed unless the party filing the showing of interest requests that its showing of interest be returned. The Board will return the original showing of interest to a petitioner upon request if the petition is withdrawn.

STATUTORY/OTHER AUTHORITY: ORS 240.086(3), 243.766(7)

STATUTES/OTHER IMPLEMENTED: ORS 240

REPEAL: 115-030-0000

RULE TITLE: Deauthorization

NOTICE FILED DATE: 10/30/2023

RULE SUMMARY: Adopt rule amendments.

RULE TEXT:

(1) Petition.

(a) A petition to rescind a fair share agreement in the collective bargaining agreement between a public employer and a labor organization may be filed by an employee or group of employees. The petition must be accompanied by a statement signed by 30 percent or more of the employees in the bargaining unit stating that they desire to rescind the fair share agreement. To be valid, signatures must be obtained after the subject collective bargaining agreement is enforceable under ORS 243.672(1)(h) and (2)(e).

(b) The petition must be filed not more than 90 days after the collective bargaining agreement is executed and only one such election shall be conducted in a bargaining unit during the term of a collective bargaining agreement.

(c) The petition shall be filed in writing with the Board on a form provided by the Board.

(d) Upon receipt of the petition, the Board or Board Agent shall serve a copy on the parties disclosed in the petition.

(2) Withdrawal or Dismissal of Petition.

(a) Withdrawal. A petitioner may withdraw its petition with approval of the Board.

(b) Dismissal of Petition. If the Board determines after an investigation that the petition has not been timely or properly filed, it may request the petitioner to withdraw the petition, or in the absence of such withdrawal it may dismiss the petition. In the event of dismissal of the petition for deauthorization, the petitioner may, within 14 days from 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 for the request.

(3) Election.

(a) Directed Election. After investigating the petition and determining that 30 percent or more of the employees in the bargaining unit desire to rescind the fair share agreement, the Board shall direct a secret ballot election.

(b) Election Notices. Notices of election shall be furnished by the Board Agent to the public employer for posting. Such notices shall set forth the details and procedures for the election, a definition of eligible voters and the date(s), hour(s), and place(s) of the election and shall contain a sample ballot. The public employer shall promptly post such notices in areas granting maximum access to affected employees.

(c) Eligibility to Vote. Employees eligible to vote in an election will be bargaining unit members employed on the date of the election who were employed on a payroll date specified by the Board. The Board may include as eligible voters other employees who have reasonable expectation of continued employment, including but not limited to, seasonal employees or employees on layoff.

(d) List of Eligible Voters. The public employer shall submit an alphabetical list of eligible voters, their names, home addresses and job classifications to the labor organization(s), petitioner and to the Board at least 20 days before the election.

(e) Election Procedures. To the extent not inconsistent herewith, election procedures provided in these rules for representation elections, including the period for filing objections, shall be applicable. However, nothing in these rules shall be construed to afford the parties a hearing before the election as a matter of right. The Board may, in its discretion, set such a hearing if its investigation reveals that a hearing is necessary under the circumstances of the case;

(f) Post Election Hearings. When objections are filed or where the challenged ballots are sufficient in number to affect the results of the election, the Board shall conduct an investigation and shall, where appropriate, issue a notice of hearing designating a Board Agent to hear the matters alleged and to issue a report and recommendations. The objecting or challenging party shall bear the burden of proof regarding all matters alleged in its objections to the conduct of the election or conduct affecting the results of the election. The findings and recommendations shall be brought before the Board in the manner provided in these rules for all other Board Agent findings and

recommendations.

(4) Certification of Results of Election. If no objections are filed within the time set forth above and if any challenged ballots are insufficient in number to affect the results of the election, the Board or its agent shall certify the results of the election to the parties. If a majority of the votes cast in the election do not favor the fair share agreement, the Board shall certify deauthorization. If a majority of the votes cast favor continuation of the fair share agreement, the Board shall so certify.

STATUTORY/OTHER AUTHORITY: ORS 240.086(3), 243.766(7)

STATUTES/OTHER IMPLEMENTED: ORS 243