

**WAC 391-25-440 Election for inclusion of unrepresented employees.** (1) Where only one employee organization seeks to add an employee or group of previously unrepresented employees to an appropriate bargaining unit, which it already represents, under this chapter and the relevant statute, the organization may petition for a self-determination election to ascertain the employees' desire to be included in its existing bargaining unit.

(2) In order to invoke the self-determination election procedures under this section, the petitioning organization shall:

(a) Demonstrate that it has the support of at least thirty percent or more of the unrepresented employees to be included in the appropriate existing unit;

(b) Affirmatively state on the petition filed under WAC 391-25-070 that it requests a self-determination election to add the petitioned-for employees into an existing appropriate bargaining unit;

(c) Provide an accurate description of the existing bargaining unit that the petitioning organization seeks to merge the unrepresented employees into; and

(d) Demonstrate that the resulting bargaining unit is appropriate under the appropriate statute.

(i) If the propriety of the proposed resulting unit is disputed, the executive director or his or her designee shall make a determination following a hearing.

(ii) If the propriety of the proposed resulting unit is stipulated, the executive director or his or her designee shall determine whether the proposed unit is, on its face, an appropriate unit under the applicable statute.

(3) Any notice to employees required to be posted under WAC 391-25-140 shall affirmatively indicate that the petitioning organization seeks to merge the petitioned-for employees into an existing bargaining unit of employees represented by that organization through a self-determination election.

(4) If the resulting bargaining unit is determined to be appropriate, the agency shall conduct a self-determination election under this chapter for the petitioned-for employees to ascertain whether they desire to become part of the existing unit.

(a) Only the petitioned-for employees are eligible to vote in a self-determination election.

(b) Cross-check procedures under WAC 391-25-391 and 391-25-396 are applicable to this section.

(c) In such an election, if a majority of the eligible employees voting in the election vote for inclusion, they are deemed to have indicated their desire both to become part of the existing unit and to be represented by the petitioner. If a majority of voters vote against inclusion in the existing unit, they are considered as indicating a desire to remain unrepresented.

(5)(a) Should another organization seek to intervene in a proceeding filed under this section, it must demonstrate both:

(i) That it has support from at least thirty percent of the employees subject to the original petition; and

(ii) That if the same group of employees were added to an appropriate unit that it already represents under this chapter and the appropriate statute, the resulting unit would be an appropriate unit.

(b) If either (a)(i) or (ii) of this subsection are not established, the request for intervention will be denied, and the petition processed in accordance with this section.

(c) In the event the requirement of both (a)(i) and (ii) of this subsection are met, the election shall be for representation by the petitioner as part of the larger unit proposed by the petitioner, or representation by the intervener as part of the larger unit proposed by the intervener, or no representation.

(6) In the event a petition for representation of the same employees sought to be added to a larger unit by the petitioner under this section is filed pursuant to WAC 391-25-010 or 391-25-012, along with the requisite thirty percent showing of interest, and the petitioned-for unit is appropriate under the applicable statute, then the self-determination election petition filed under this section shall be dismissed. If either of those requirements is not met, the petition filed pursuant to WAC 391-25-010 or 391-25-012 will be dismissed and the original self-determination election petition processed in accordance with this section.

(7) The existence of a valid collective bargaining agreement does not preclude the processing of a petition filed under this rule.

(8) Petitions filed under this rule do not raise a question concerning representation for the existing appropriate bargaining unit.

(a) The issuance of a certification for the existing appropriate bargaining within the previous twelve months will not bar the filing and processing of a petition under this rule.

(b) The alteration of the composition of the existing appropriate bargaining unit as a result of an amended certification issued under this rule does not affect the certification bar of the existing unit; nor does it create a new certification bar as described in WAC 391-25-030(2).

[Statutory Authority: RCW 28B.52.080, 41.06.340, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, and 49.39.060. WSR 10-20-172, § 391-25-440, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.100, 41.76.060, 41.80.070. WSR 08-17-119, § 391-25-440, filed 8/20/08, effective 9/20/08.]