

**WAC 391-25-080 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 that it already represents, the organization may petition for a self-determination election to ascertain the employees' desire to be included in the existing bargaining unit.

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

(a) Demonstrate that it has the support of at least 30 percent 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 it seeks to merge the unrepresented employees into; and

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

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

(ii) If the propriety of the proposed resulting unit is stipulated, the executive director or 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 must affirmatively indicate that the petitioning organization seeks to include the petitioned-for employees in 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 or card check to ascertain whether the petitioned-for employees desire to become part of the existing unit.

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

(b) Card check procedures under WAC 391-25-400 apply to this section.

(c) In a self-determination 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 the eligible employees vote against inclusion in the existing unit, they are considered to have indicated a desire to remain unrepresented.

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

(i) That it has the support of at least 30 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, 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) If the requirement of both (a)(i) and (ii) of this subsection are met, the election must be for representation by the petitioner as

part of the larger unit proposed by the petitioner, representation by the intervenor as part of the larger unit proposed by the intervenor, or no representation.

(6) If a competing employee organization files a representation petition for a stand-alone bargaining unit consisting of the same employees sought by the petitioner under this rule and the petitioned-for bargaining unit is appropriate under the applicable statute, then the self-determination petition will be dismissed.

(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 unit within the previous 12 months does not bar the filing and processing of a petition under this rule.

(b) 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(3).

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-25-080, filed 11/16/22, effective 1/1/23.]