

Chapter ERC 29

AUTHORIZATION CARD MAJORITY DETERMINATION OF REPRESENTATIVE OF UNREPRESENTED RESEARCH ASSISTANTS

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ERC 29.01 Scope. This chapter governs the procedure for filing and processing of a petition filed on or after July 1, 2010, under s. 111.935, Stats., to determine a collective bargaining representative for unrepresented research assistants in a bargaining unit defined in s. 111.825 (2) (g), (h), or (i), Stats., by authorization cards in lieu of a secret ballot election. The procedure provided in this chapter is an available alternative to the secret ballot election procedures in ch. ERC 21 and ss. 111.83 and 111.825 (4), Stats. The procedure provided in this chapter does not apply to research assistants in bargaining units with an existing representative.

History: CR 10-019; cr. Register June 2010 No. 654, eff. 7-1-10.

ERC 29.02 Petition for certification based on authorization card majority. (1) WHO MAY FILE. A petition to determine a collective bargaining representative for a bargaining unit of unrepresented research assistants may be filed by a labor organization.

(2) FORM, NUMBER OF COPIES, AND FILING. The petition shall be in writing and shall include the signature or a facsimile of the signature of the representative filing the petition. A petition is not filed unless it contains the required signature or signature facsimile and unless and until the petition has been actually received by the commission at its Madison office during normal business hours specified in s. ERC 10.06 (1). The petition shall be transmitted to the commission as set forth in s. ERC 10.06 (1). If the petition is filed in paper form, a total of two copies of the petition shall be included. The original authorization cards required by sub. (3) shall be transmitted to the commission in paper form by physical delivery or mail. The petition is not filed until both the petition and the authorization cards have been received by the commission at its Madison office during normal business hours specified in s. ERC 10.06 (1).

(3) AUTHORIZATION CARDS. (a) The petition shall be supported by authorization cards, signed within one year of the filing of the petition, by a majority of the research assistants in the collective bargaining unit involved.

(b) Authorization cards shall either substantially conform to the model card set forth in par. (c) or shall include all of the following:

1. The name, campus and department of the research assistant, in printed or otherwise legible form.
2. The name of the labor organization referred to in the card, in printed or otherwise legible form.
3. Statements reflecting that the research assistant favors establishment of a bargaining unit of research assistants exclusively represented for collective bargaining by the labor organization and understands that such representation may be based upon a majority of authorization cards without an election.
4. A statement reflecting that the research assistant has signed the card freely and without coercion by anyone.
5. The signature of the research assistant.
6. The date of signature.

(c) Model authorization card.

Research Assistant Authorization Card

Name (please print) _____

Campus and Department (please print) _____

Labor Organization (please print) _____

I favor establishment of a bargaining unit of research assistants exclusively represented for collective bargaining by the above labor organization. I understand that such representation may be based upon a majority of authorization cards without an election. I have signed this card freely and without coercion by anyone.

Research Assistant's Signature

Date of Signature.

(d) Authorization cards shall be effective for one year after the date the card is signed and shall not be subject to revocation.

(e) The signing of a card shall not prevent the research assistant from signing another such card supporting representation by another labor organization.

(4) CONTENTS. The petition shall include all of the following:

(a) The name, address and affiliation, if any, of the petitioner, and the name, address and phone number of its principal representative. Fax numbers and e-mail addresses shall be included, if available.

(b) The name and address of the employer involved, and the name, address and phone number of its principal representative. Fax numbers and e-mail addresses shall be included, if available.

(c) A description of the collective bargaining unit involved, specifying inclusions and exclusions, as well as the approximate number of employees in the unit.

(d) A statement that the collective bargaining unit involved is not currently represented for purposes of collective bargaining.

(e) Any other relevant facts.

(5) EFFECT OF PENDENCY ON OTHER PROCEEDINGS. The pendency of a petition for certification by authorization card majority shall have the following effects on other proceedings:

(a) The pendency of the petition shall preclude the petitioner from separately filing another petition for certification by authorization card majority regarding the same bargaining unit.

(b) The pendency of the petition shall have no effect on the petitioner's right to separately file a petition for a secret ballot election regarding the same bargaining unit, except as provided in s. ERC 29.07 (4).

History: CR 10-019; cr. Register June 2010 No. 654, eff. 7-1-10.

ERC 29.03 Withdrawal of petition. Any petition may be withdrawn at any time prior to the issuance of a final order based on it, by motion granted by the commission. A motion to withdraw shall be granted unless withdrawal would result in an injustice to any party.

History: CR 10-019; cr. Register June 2010 No. 654, eff. 7-1-10.

ERC 29.04 Commission action on petition. (1) SERVICE OF PETITION. Upon receipt of a petition, the commission shall serve a copy of the petition on all interested parties identified in the petition.

(2) DETERMINATION OF AUTHORIZATION CARD MAJORITY. (a) The commission shall determine whether the authorization cards, signed within one year of the filing of the petition, are sufficient to constitute a majority of the employees in the bargaining unit involved.

(b) *Furnishing of employee list by employer.* The employer involved shall, within 14 days, furnish in writing to the commission a list containing the names of the employees, in alphabetical order, employed in the collective bargaining unit involved during the payroll period which includes the date the petition was filed. For good cause shown, the commission may extend the time for furnishing a list of employees or establish a different date or dates when an employee must have been employed to be included on the list.

(c) *Determination.* The commission shall determine the sufficiency of the authorization cards upon the receipt from the employer of the names of the employees in the bargaining unit. Except as provided in s. ERC 29.06 (1), no party, other than the party submitting the authorization cards to the commission, may receive a copy of, or examine, the authorization cards. The commission shall inform all parties as to its determination whether the authorization cards are sufficient to constitute a majority of the employees in the bargaining unit involved. The commission shall also provide all parties with a tally specifying the number of employees in the collective bargaining unit, the total number of cards submitted in support of the petition, and the number of valid authorization cards.

History: CR 10-019; cr. Register June 2010 No. 654, eff. 7-1-10.

ERC 29.05 Objections to determination. (1) FILING; FORM; COPIES. Within 8 days after the commission's issuance of its determination and tally, any party may file with the commission objections to the conduct of the determination or to conduct affecting the results of the determination. Objections shall be in writing and shall include the signature or a facsimile of the signature of the party or representative filing the objections. The objections shall contain a brief statement of facts upon which the objections are based. A statement of objections is not filed unless it contains the required signature or signature facsimile and unless and until it has been actually received by the commission at its Madison office during normal business hours specified in s. ERC 10.06 (1). The objections shall be transmitted to the commission as set forth in s. ERC 10.06 (1). If the objections are filed in paper form, a total of two copies of the objections shall be included.

(2) SERVICE ON OTHER PARTIES. The party filing objections shall, at the same time, serve each of the other parties with a copy as set forth in s. ERC 10.07.

History: CR 10-019; cr. Register June 2010 No. 654, eff. 7-1-10.

ERC 29.06 Commission action on objections.

(1) HEARING. If the objections potentially affect the determination outcome and raise a substantial question which cannot be resolved without a hearing, the commission may issue and serve a notice of hearing concerning the issues to be resolved. Practice and procedure for hearings on objections shall be as set forth in ss. ERC 18.06 to 18.08, except that authorization cards submitted in support of the petition shall not be disclosed to anyone other than the petitioner unless one or more objections cannot be fairly resolved without such disclosure.

(2) AFTER HEARING. (a) As soon as possible after submission of the case, the commission shall, in writing, either sustain or overrule each objection.

(b) If the commission's resolution of the objections affects the previously issued determination or tally, the commission shall issue a revised determination and tally.

(c) If the commission overrules all objections, it shall promptly issue a certification of the results of the determination as provided in s. ERC 29.07.

History: CR 10-019; cr. Register June 2010 No. 654, eff. 7-1-10.

ERC 29.07 Certification of results of determination.

(1) WHEN ISSUED. If no timely objections are filed, or after disposition of any timely-filed objections, the commission shall issue a certification of the results of its determination based on authorization cards.

(2) CONTENTS. The certification shall either certify the petitioner as exclusive representative of the bargaining unit involved or dismiss the petition.

(3) EFFECT OF COMPETING PETITION. (a) *Petitions filed 10 or fewer days later.* If one or more competing petitions for certification by authorization card majority regarding the same bargaining unit are filed within 10 days of the filing of a petition, each of the petitions will be processed. If more than one of the petitions would support the certification of a representative, then the commission shall direct a secret ballot election to determine the representation of the bargaining unit involved.

(b) *Petitions filed more than 10 days later.* If a competing petition for certification by authorization card majority is filed more than ten days after the filing of a petition regarding the same bargaining unit, the later-filed petition will be processed only if and when the earlier-filed petition is dismissed. If the earlier-filed petition results in certification of a representative, the later-filed petition will be dismissed without being processed.

(4) EFFECT ON PENDING PETITION FOR ELECTION. The processing of a petition for certification by authorization card majority shall take precedence over the processing of a petition for an election regarding the same bargaining unit. If a petition for certification by authorization card majority is filed during the pendency of a petition for election regarding the same bargaining unit, the processing of the election petition shall be held in abeyance until the processing of the petition for certification by authorization card majority has been completed. If the petition for certification by authorization card majority results in the certification of a representative, the petition for election will be dismissed.

(5) EFFECT OF CERTIFICATION OF REPRESENTATIVE. A certification of representative based on authorization card majority shall have the same effect as provided in s. 111.83 (1), Stats., for a certification of representative based on a secret ballot election. A representative certified based on authorization card majority shall be subject to a change or discontinuance of representation as provided in s. 111.83 (6), Stats., for a representative certified on the basis of a secret ballot election.

History: CR 10-019; cr. Register June 2010 No. 654, eff. 7-1-10.

ERC 29.08 Petition for rehearing. Any person aggrieved by a final order of the commission may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. Practice and procedure for filing and processing a petition for rehearing shall be as set forth in s. ERC 18.11.

History: CR 10-019; cr. Register June 2010 No. 654, eff. 7-1-10.