

BARGAINING UNIT DETERMINATIONS AND REPRESENTATIVE CERTIFICATIONS

(UNITS ARE DETERMINED; REPRESENTATIVES ARE CERTIFIED)

INCLUDING:

INITIAL UNIT DETERMINATIONS
AMENDMENT OR CLARIFICATION OF UNITS
RECONSIDERATION OF UNITS
REPRESENTATION ELECTIONS
REPRESENTATIVE CERTIFICATIONS
AMENDMENT OF CERTIFICATIONS

PUBLIC EMPLOYMENT RELATIONS BOARD
Prairie Meadows Conference Center
September 22, 2014
1:00 – 2:00 p.m.

Jan V. Berry
Administrative Law Judge
jan.berry@iowa.gov

Diana S. Machir
Administrative Law Judge
diana.machir@iowa.gov

Bargaining Unit and Election Cases before PERB

Most Relevant Statutes and Rules

Iowa Code § 20.13 - Bargaining Unit Determination
Iowa Code § 20.14 - Bargaining Representative Determination
Iowa Code § 20.15 - Elections
621 IAC ch. 4 - Bargaining Unit and Representative Determination
621 IAC ch. 5 -- Elections

Bargaining Unit Petitions

UD - (Unit Determination) Seeks PERB's original determination (formation) of a unit of employees who are not already included in a PERB-determined unit. May be filed by a public employer, public employee or employee organization (See attachments 1, 3).

CU - (Unit Clarification) Seeks clarification concerning whether particular positions or job classifications are included within or excluded from an existing bargaining unit. May be filed by the public employer, an affected public employee or the certified bargaining representative of the unit in question. (NOTE: If the existing bargaining unit description is clear and unambiguous, don't file this petition type—its purpose is to resolve ambiguities in the existing unit description) (See attachments 4, 3).

AU - (Amendment of Unit) Seeks to alter the composition/description of an existing bargaining unit. May be filed only by the public employer or the certified bargaining representative of the unit in question. May require an election under PERS subrule 4.6(3) among employees in positions/classifications sought to be added to the bargaining unit (See attachments 5, 6).

"Combined" Bargaining Unit/Election Petitions

UD/RC - (Unit Determination/Representative Certification) Seeks PERB's original determination (formation) of a unit of employees who are not already included in a PERB-determined unit (UD), followed by a representative certification election to determine whether an employee organization will be certified as the representative of the resulting unit (RC). Filed by the employee organization seeking to

become the certified representative of the new unit. Showing of 30% employee interest is required (See attachments 1, 2).

UR/RC - (Unit Reconsideration/Representative Certification) Much like a UD/RC case, except this seeks the Board's reconsideration and alteration of the composition of a previously determined but presently unrepresented bargaining unit, based upon the alleged current inappropriateness of the existing unit (UR), followed by a representative certification election to determine whether an employee organization will be certified as the representative of the reconsidered unit (RC). Showing of 30% employee interest is required (See attachments 1, 2).

Election-Only Petitions

RC - (Representative Certification) Seeks a representation election to determine whether the petitioning employee organization will be certified to represent a previously determined but presently unrepresented bargaining unit. Showing of 30% employee interest is required. Subject to time limitations specified in Iowa Code section 20.15(6)(a) and PERB subrule 5.5(1) (See attachments 1, 2).

RD - (Representative Decertification) Seeks a representation election to determine whether the currently certified representative of a bargaining unit will be decertified and cease to be the unit's representative. Must be filed by a public employee in the bargaining unit in question. Showing of 30% employee interest is required. Subject to time limitations specified in Iowa Code section 20.15(6)(b) and PERS subrule 5.5(2) (See attachments 1, 2).

RM - (Representation filed by Management) Seeks a representation election to determine whether an employee organization which has requested that the employer bargain with it concerning an existing bargaining unit of employees will be certified to represent that unit. No showing of employee interest is required.

(NOTE: There is no PERB recollection that any such petition has ever been filed, and the statute's contemplation of such a petition type seems to anticipate a situation which may never occur. One could expect that if an employee organization which was not PERB certified requested bargaining with a public employer, the employer would simply say "No thanks, get back to me if and when PERB certifies you as the representative of a unit of my employees," rather than going to the expense and trouble of petitioning for an election it may not really want anyway.) (See attachment 1.)

Steps in the Election Process

Once a bargaining unit has been determined or reconsidered as a result of a combined petition, or in the case of an election-only petition (where an unrepresented unit is already in existence), the Board will check the petitioning employee organization's showing of interest against a list of employees provided by the employer and determine whether it meets the 30% requirement of Iowa Code section 20.14(5)(a) and PERB subrule 4.3(2). If the showing of interest is adequate, the election will typically proceed on a schedule like this, subject to modifications deemed necessary or appropriate due to the particular circumstances of the case:

1. PERB will issue an order directing that an election be conducted, specifying the eligibility criteria for voters, and directing the employer to provide a list of the names, addresses and job classifications of the eligible voters within seven days.

2. When the voter eligibility list is received, PERB will provide a copy to all parties, together with a proposed election schedule which most typically follows this model:

a. Seven days for parties to consider and comment on the proposed election schedule.

b. At the conclusion of that seven-day period, Notices of Election will be forwarded to the employer for posting in conspicuous places customarily used for the posting of information to employees. The Notices will describe the eligible voters and the election schedule.

c. Seven days following issuance of the Notices of Election, voting packages will be mailed to the residences of the voters on the eligibility list. The package includes detailed instructions, an official ballot, secrecy envelope and postage-paid mailing envelope for the voter's return of the voted ballot to PERB.

d. Following the deadline for PERB's receipt of voted ballots (typically 3:00 p.m. on the 14th day following the mailing of the ballots to the voters), a PERB staff person will open, count and tally the ballots and serve the tally on the parties' representatives (personally if they are present, or by mail, fax or email).

3. If objections to the election are filed during the 10 days following service of the tally of ballots, or if challenged ballots could determine the outcome of the election, a hearing will be scheduled to resolve the issues raised.

4. If no objections to the election are filed within 10 days following service of the tally of ballots, and if challenged ballots could not determine the

outcome of the election, PERB will enter whatever order is appropriate consistent with the vote count—Order of Certification (if the unit has voted to be represented by an employee organization and the organization has complied with the registration and reporting requirements of Iowa Code section 20.25 and PERB rules 8.1 and 8.2); Order of Noncertification (if the unit has rejected representation by an employee organization); Order of Decertification (if the unit has voted to oust the existing certified representative), or Order of Continued Certification (if the unit has voted to retain the existing certified representative).

If no objections to the election are filed, and if challenged ballots could not determine the outcome of the election, the process will usually be completed approximately 45 days following PERB's order directing that the election be conducted.

Amendment of Certification Proceedings

I. Relevant Statute and Rules

Iowa Code § 20.25 - Internal Conduct of Employee Organizations
621 IAC 4.8(20) - Amendment of Certification
621 IAC 8.1(20) - Registration Report
621 IAC 8.2(20) - Annual Report

II. Purpose

To change the identification of the employee organization officially recognized and “certified” by PERB. This is typically required for a name change or when the existing certified organization merges with another organization.

III. Process (PERB rule 621-4.8(20))

A. Petition for Amendment of Certification (See attachment 7):

1. Filed by/in the name of the currently certified organization.
2. Use the correct name of the organization as certified—check the current certification document accessible from the “Units” link on the PERB website.
3. Petition is available at the "Forms" link on the PERS website.

B. Affidavit (sworn statement) in support of the Petition which establishes (See attachment 8):

1. The event which necessitates the amendment (i.e., the

name change, merger, etc.) was authorized by and accomplished in accordance with the current certified organization's constitution and bylaws, which provided members with adequate due process (minimally, adequate notice of the proposed action prior to a secret-ballot election); and

2. Substantial continuity of representation of the bargaining unit has been maintained notwithstanding the event.

C. Registration Report (See attachment 9) with Constitution and Bylaws:

1. Requirement for the newly named organization or if it was a merger and the organization taking over is not currently certified with PERB and does not have these documents on file.
2. See Iowa Code section 20.25(3) and PERB rule 8.1 for the provisions that are required in the Constitution and Bylaws.
3. The Registration Report is available at "Forms" link on website.

D. PERB Annual Report with accompanying financial report and audit statement (See attachments 10-12):

1. Requirement for the existing organization that will cease to exist in substance or in name to close out its books at the time of the event and for the newly named organization or the organization taking over if it is not currently certified and does not have these documents on file.
2. See Iowa Code section 20.25(2) and PERB rule 8.2 for information required in report and accompanying documents.
3. PERB Annual Report and audit statement available at "Forms" link on website.

E. Examination of the petition/supporting affidavit(s), the applicable Registration Report, Constitution and Bylaws, and PERB Annual Report including financial report and audit statement by PERB and conduct of any investigation deemed necessary prior to tentative approval or dismissal of the petition.

F. If tentatively approved, Public Notice of Proposed Decision to amend the certification is issued by PERB and posted in worksite for information of employees. Objections, if any, must be filed within time specified in the Notice.

G. If no objections filed, or if objections overruled after investigation or hearing, PERB will issue an amended certification consistent with its proposed decision.

Attachments

1. Multi-purpose petition form (for UD, UD/RC, UR/RC, RC, RD and RM initial filings).
2. Examples of acceptable showing of interest language and content for RC and RD cases.
3. Stipulation of Bargaining Unit (for use in UD cases where parties have agreed upon the composition of the unit).
4. Petition for Clarification of Bargaining Unit(CU).
5. Petition for Amendment of Bargaining Unit (AU).
6. Stipulation of Bargaining Unit as Amended (for use in AU cases where parties have agreed to an amendment of the existing unit).
7. Petition for Amendment of Certification (AC).
8. Example of a subrule 4.8(1) affidavit in an AC proceeding.
9. Employee Organization Registration Report.
10. Employee Organization Annual Report.
11. Financial Report.
12. Audit Statement.

THE PUBLIC EMPLOYMENT RELATIONS BOARD

PETITION

INSTRUCTIONS: Submit an original and one (1) copy of this Petition to the Board.
If more space is required, attach additional sheets.

FOR PERB USE ONLY

Case No. _____

1. PURPOSE OF THIS PETITION:

a. Check the appropriate box(es):

- UD Unit Determination—Petitioner, a public employer, employee, or employee organization, requests that the appropriate unit for collective bargaining be determined by the Board pursuant to Iowa Code section 20.13.
 - UR Unit Reconsideration—Petitioner, a public employer, employee or employee organization, alleges that a previous unit determination is now inappropriate and requests that the Board review said determination. (Attach a sheet describing how the previously determined unit is inappropriate. NOTE: A UR petition may only be filed in combination with an election petition pursuant to PERB rule 4.6.)
- Unit has previously been determined by the Board. Identify Case No., if known. _____-

b. If an election is requested, check the appropriate box.

- RC Certification—Petitioner, an employee organization, has submitted to the public employer listed below a request to bargain collectively and 30 percent of the employees in an appropriate unit are members of the Petitioner or have authorized it to bargain on their behalf. (Submit with this Petition a showing of interest as required and described by PERB subrule 4.3(2).)
- RD Decertification—Petitioner, a public employee, alleges that this certified representative does not represent a majority of the employees in the existing bargaining unit and that the employees do not wish to be represented by an employee organization. (Submit with this Petition evidence that 30 percent of the employees in the unit support the petition as required by subrule 4.3(2).)
- RM Representation—Petitioner, a public employer, alleges that one or more employee organizations have requested bargaining, and that no such organization has been certified by the Board as the bargaining representative of the employees in an appropriate unit.

2. NAME AND ADDRESS OF PUBLIC EMPLOYER

Employer's representative

Telephone

3. DESCRIPTION OF UNIT INVOLVED OR CLAIMED APPROPRIATE BY THE PETITIONER

3.a. Approximate Number of Employees in Unit _____

INCLUDED:

EXCLUDED:

4. CERTIFIED EMPLOYEE ORGANIZATION (if none, so state)

Its representative:

Telephone

5. NAME AND ADDRESS OF PETITIONER

Petitioner's representative:

Telephone

Signature

Date

**I. Showing of interest in support of representative certification
(RC) petition**

I/we, the undersigned employee(s) of (name of public employer) am/are a member/members of the (name of employee organization filing the petition), or have authorized it to bargain collectively with my employer on my behalf.

Date Signed	Name (Print)	Signature	Job Classification
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* * *

**II. Showing of interest in support of representative decertification
(RD) petition**

I/we, the undersigned employee(s) of (name of public employer) employed within a bargaining unit represented by (name of certified organization), no longer wish to be represented by that certified employee organization.

Date Signed	Name (Print)	Signature	Job Classification
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**STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD**

STIPULATION OF BARGAINING UNIT

Pursuant to a Petition filed under the Public Employment Relations Act, and subject to the approval of the Public Employment Relations Board, the undersigned parties agree that:

1. The employer is a public employer within the meaning of Iowa Code section 20.3(10).
2. The employee organization is an employee organization within the meaning of Iowa Code section 20.3(4).
3. The following constitutes an appropriate unit for purposes of collective bargaining within the meaning of Iowa Code section 20.13.

INCLUDED:

EXCLUDED:

(Employer)

(Employee Organization)

(Address)

(Address)

By _____
(Name and Title) (Date)

(Name and Title) (Date)

Tentative Approval by PERB:

By: _____
Board Member (Date)

STATE OF IOWA

THE PUBLIC EMPLOYMENT RELATIONS BOARD

PETITION FOR CLARIFICATION OF BARGAINING UNIT

INSTRUCTIONS: Submit an original and one (1) copy of this Petition to the Board.
If more space is required, attach additional sheets.

DO NOT WRITE IN THIS SPACE

Case No. _____

1. Case No. where unit was previously determined by Board, if known _____

Description of Existing Unit:
Included:

Excluded:

2. Reason for seeking clarification of unit:

3. The affected job classifications and the number of employees involved in each classification:

4. Name and Address of Public Employer:

Employer's representative:

Phone No.

5. Certified Employee Organization (if none, so state):

Representative:

Phone No.

6. Name and Address of Petitioner:

Petitioner's representative:

Phone No.

Signature

Date

STATE OF IOWA

THE PUBLIC EMPLOYMENT RELATIONS BOARD

PETITION FOR AMENDMENT OF BARGAINING UNIT

INSTRUCTIONS: submit an original and one (1) copy of this Petition to the Board.
If more space is required, attach additional sheets.

DO NOT WRITE IN THIS SPACE

Case No. _____

1. Case No. where unit was previously determined by Board, if known _____
Description of Existing Unit:
Included:

Excluded:

2. Description of proposed unit:
Included:

Excluded:

3. The affected job classifications and the number of employees involved in each classification:

4. Reason for seeking amendment of unit:

5. Name and Address of Public Employer:

Employer's representative: Phone No. EMAIL

6. Certified Employee Organization (if none, so state):

Representative: Phone No. EMAIL

7. Names and Addresses of Other Individuals or Organizations Which May Claim to Represent the Employees in the Bargaining Unit (if none, so state):

8. Name and Address of Petitioner:

Petitioner's representative: Phone No. EMAIL

Signature

Date

Revised 8/19/13

**STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD**

STIPULATION OF BARGAINING UNIT AS AMENDED

Pursuant to a Petition for Amendment of Bargaining Unit filed under the Public Employment Relations Act, and subject to the approval of the Public Employment Relations Board, the undersigned parties agree that the following constitutes an appropriate unit for the purposes of collective bargaining within the meaning of Iowa Code section 20.13:

INCLUDED:

EXCLUDED:

(Employer)

(Employee Organization)

(Address)

(Address)

By: _____
(Name and Title) (Date)

By: _____
(Name and Title) (Date)

Tentative Approval by PERB:

By: _____
Board Member (Date)

STATE OF IOWA

THE PUBLIC EMPLOYMENT RELATIONS BOARD

PETITION FOR AMENDMENT OF CERTIFICATION

INSTRUCTIONS: Submit an original and one (1) copy of this Petition. Petitions must be accompanied by an affidavit as required by PERB rule 621-4.8(20).

DO NOT WRITE IN THIS SPACE

Case No.

1. Case No. where employee organization was originally certified by Board, and any subsequent amendments:

2. Name of employee organization as certified currently:

3. Proposed name of certified employee organization:

4. Name and Address of Public Employer:

Employer's representative:

Phone No.:

5. New name of Public Employer (if applicable):

6. Reason for seeking Amendment of Certification:

7. Names and Addresses of Other Individuals or Organizations Which May Claim to Represent the Employees in the Bargaining Unit (If none, so state):

8. Name and Address of Petitioner:

Petitioner's representative:

Phone No.:

Signature

Date

TENTATIVE APPROVAL BY PERB

Board Member

Date

AFFIDAVIT

Anita Education Association has represented employees of the Anita Education Association for the purpose of collective bargaining since December 7, 1987. The Anita Education Association and the C&M Education Association have reorganized and merged as CAM Education Association pursuant to Iowa Code section 275.33(2)(a). The change in name from Anita Education Association to CAM Education Association was authorized by and accomplished in accordance with the constitution and bylaws of Anita Education Association, which provided members with adequate due process. The change in certification from Anita Education Association to CAM Education Association will not alter the continuity of representation.

Date: 5/24/11

By: JOHN W. LIZ
Name

Subscribed and sworn to before me this 24th day of May, 2011

Marilyn D. Paul
Notary Public in and for the State of Iowa



RECEIVED
2012 AUG 29 AM 8:54
PUBLIC EMPLOYMENT
RELATIONS BOARD

STATE OF IOWA
PUBLIC EMPLOYMENT RELATIONS BOARD
REGISTRATION REPORT

1(A) Name of Employee Organization	1(B) Affiliation(s):
	1(C) Unit Designation (lodge, local, etc.):
1(D) Mailing Address (include name of representative for mailing)	
	Phone Number:
	E-Mail Address:

2 Indicate Type of Employee Organization <input type="checkbox"/> Local <input type="checkbox"/> National/International <input type="checkbox"/> Other	3. Month and Day on which the Fiscal Year of the Reporting Organization Ends:
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4. An employee organization is required by law to file with this Report one (1) copy of its constitution and by-laws. In lieu of this requirement, a national or international organization may file its constitution and by-laws, providing such documents conform to the requirements of the Act. Describe the documents which are being filed or have been filed to fulfill this requirement.

5. The Public Employment Relations Act also requires that the constitution or by-laws of every employee contain certain provisions relating to the items listed below. Indicate to the right of each item below where such provisions may be located in the constitution and/or by-laws of your organization.

(A) Accurate accounts of income and expenses; availability of such accounts for inspection by any member.	
(B) Annual financial report and audit.	
(C) Loans, if available to officers and agents, also available on same terms and conditions to all members	
(D) Prohibition against business or financial interest of its officers, agents, their spouses, minor children, parents, or otherwise, that conflict with the fiduciary obligations of such persons to the organization.	
(E) Bonding of officials and employees who handle funds or other property of the organization, trusts, or subsidiary organizations [See PERB rule 621 IAC 8.3 (20)].	
(F) Provisions for periodic elections by secret ballot subject to recognized safeguards concerning the equal rights of all members to nominate, seek office and vote in such elections.	
(G) Provisions for the right of members to participate in the affairs of the organization.	
(H) Provisions for fair and equitable procedures in disciplinary actions against members.	

6. Declaration: I do hereby declare that I am an authorized representative of the reporting employee organization; that said organization agrees and pledges to comply with the laws of the State of Iowa; that said labor organization will accept members without regard to age, sex, race, religion, national origin, or physical disability as provided by law; and that all changes or amendments to the constitution or by-laws of such organization will be promptly reported to the Board.

I have read the above and say under oath that it is true and accurate to the best of my knowledge and belief.

Name and Title Date

Subscribed and sworn to me this _____ day of _____, 20____, at _____, Iowa.

Notary Public

STATE OF IOWA
PUBLIC EMPLOYMENT RELATIONS BOARD
EMPLOYEE ORGANIZATION ANNUAL REPORT

INSTRUCTIONS: An **original** of this report must be filed with the Board within 90 days of the conclusion of the fiscal year of the employee organization. (NOTE: Failure to file this report, or falsification of information herein may result in revocation of certification(s) of the organization).

1. a. NAME, ADDRESS, E-MAIL (if any) AND PHONE NUMBER OF EMPLOYEE ORGANIZATION:

b. NAME, ADDRESS, E-MAIL (if any) AND PHONE NUMBER OF AGENT FOR SERVICE:

2. NAMES AND ADDRESSES OF ANY PARENT ORGANIZATION OR OTHER ORGANIZATION(S) WITH WHICH REPORTING ORGANIZATION IS AFFILIATED:

3. DAY AND MONTH ON WHICH FISCAL YEAR ENDS: day/month _____

4. LIST THE PRINCIPAL OFFICERS AND REPRESENTATIVES OF THE ORGANIZATION:

Name

Title

5. GIVE A GENERAL DESCRIPTION OF THE PUBLIC EMPLOYEES YOUR ORGANIZATION REPRESENTS OR SEEKS TO REPRESENT:

6. a. CURRENT INITIATION FEES ASSESSED NEW MEMBERS: \$ _____

b. CURRENT DUES ASSESSED MEMBERS: \$ _____ Per Month

7. **ATTACH TO THIS ANNUAL REPORT A COMPLETE FINANCIAL REPORT.** In accordance with PERB subrule 621 IAC 8.2(2), the financial report shall contain, at a minimum, the following information: Cash balance from the previous year; a listing of sources and amounts of income; an identified listing of disbursements; and a closing balance. (A copy of Form LM-2 or LM-3 may be submitted to fulfill this requirement.)

8. **ATTACH TO THE FINANCIAL REPORT A COMPLETE AUDIT STATEMENT.** In accordance with PERB subrule 621 IAC 8.2(2), the audit shall consist of a statement that the financial report has been reviewed and found to be true and accurate. The audit must be signed by an auditing committee or a person or persons who hold no other office in the employee organization and who did not prepare the financial report.

9. NAME OF OFFICIAL SUBMITTING THIS REPORT *(Print or Type)*

Name: _____

Title: _____

10. THE UNDERSIGNED, ON BEHALF OF THE REPORTING EMPLOYEE ORGANIZATION, PLEDGES TO COMPLY WITH THE LAWS OF THE STATE OF IOWA, TO ACCEPT MEMBERS WITHOUT REGARD TO AGE, RACE, SEX, RELIGION, NATIONAL ORIGIN OR PHYSICAL DISABILITY. THE UNDERSIGNED FURTHER STATES UNDER OATH THAT THE CONTENTS OF THIS REPORT, INCLUDING ANY ATTACHMENTS, ARE TRUE AND ACCURATE.

Signed: _____

Date: _____

Subscribed and sworn to before me this _____ day of _____, 20____, at _____, Iowa.

Notary _____

(Affix Seal)

PERB-4 (Rev. 5/11)

Mail the original of this form with your financial report and audit statement to:

Public Employment Relations Board
510 East 12th Street, Suite 1B
Des Moines IA 50319

AUDIT STATEMENT AS REQUESTED IN SECTION 8

The PER Board does not require an "outside" audit. Use a local committee of non-officers. Have them sign the following statement.

The appointment of the Audit Committee should appear in the minutes of the Executive Board meeting or the minutes of the Representative Assembly meetings.

SAMPLE AUDIT STATEMENT:

"We, the undersigned, attest that we do not hold regular elected offices in the _____ local committee and have been duly appointed by the President to audit the books of the _____ for the fiscal year _____.

We further attest that we have examined the financial accounts of the _____ and have found those accounts, to the best of our knowledge, to be accurate and in good order."

Date _____

Signed _____

