



STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

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Via Email Only

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Deficiency Notice

Case 136342-E-23, Washington State Department of Corrections
Nonsupervisory Community Corrections Bargaining Unit

Dear Oliver Beatty, Jessica Erickson, and Daniel Thenell:

On March 28, 2023, the Washington Community Corrections Association (Association) filed a representation petition, seeking to replace the Washington Federation of State Employees (WFSE) as exclusive bargaining representative of certain employees at the Washington State Department of Corrections (employer or department). The Association's petition has been reviewed for general compliance with the applicable statute and rules and appears to be deficient. The Association will be provided with an opportunity to show cause as to why its petition should not be dismissed.

Following receipt of the petition, this agency sent a routine request to the employer to provide a list of employees as provided for in WAC 391-25-130. On March 30, 2023, the employer asked for clarification as to which bargaining unit the Association was seeking to represent as the Association's petition described the bargaining unit as either the "Bargaining Units Represented by the Washington Federation of State Employees" or Community Corrections Officers and Support Staff currently represented by AFSCME/WFSE." Agency staff informed the employer that it appeared the Association was seeking to represent the nonsupervisory Community Corrections bargaining unit described in *State – Corrections*, Decision 10429 (PSRA, 2009).

On April 5, 2023, the employer provided its list of employees for the nonsupervisory community corrections bargaining unit. The list included 1047 employees in the petitioned-for bargaining unit. The employer also provided lists of employees for the other bargaining units that WFSE represents at the department.

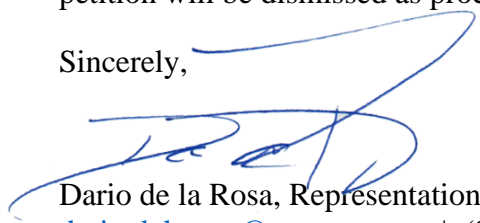
In order for the Association's petition to be properly supported, the petition needed to be "accompanied by a showing of interest indicating that the petitioner has the *support of at least 30 percent of the employees* in the bargaining unit which the petitioner claims to be appropriate." WAC 391-25-110(1). The showing of interest requirement is mandatory, not discretionary. *State – Labor and Industries*, Decision 9052 (PSRA, 2005). In this instance, the Association needed to submit 315 valid cards for its petition to be properly supported.¹

The Association failed to provide the requisite number of cards to allow this petition to move forward. In reaching this conclusion, it was determined that 12 showing of interest cards were signed by employees who were represented by WFSE but includes other bargaining units within the department. Two showing of interest cards were rejected because they were duplicates of cards already counted as valid cards. Furthermore, 16 cards were signed by employees whose names did not appear on any list provided by the employer.

Finally, "[t]he showing of interest must be filed under the *same timeliness standards applicable to the petition . . . in the bargaining unit claimed appropriate.*" WAC 391-25-110(1) (emphasis added). Because the statutory window period has closed, any representation filed concerning employees subject to chapter 41.80 RCW would be deemed untimely and therefore the Association cannot supplement its showing of interest by the filing of additional cards.

PLEASE TAKE NOTICE that, unless good cause is shown on or before April 21, 2023, the petition will be dismissed as procedurally insufficient.²

Sincerely,



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¹ Thirty percent of the 1047 is equal to 314.1. Because the petition must be supported by *at least 30 percent* of the employees in the bargaining unit, all decimal points are rounded up to the next whole number when determining the requisite number of cards needed to support a representation petition.

² It should be noted that "[t]he question of whether a showing of interest requirement for a petition or for intervention has been satisfied is a matter for administrative determination by the agency and may not be litigated at any hearing." WAC 391-25-110(4)(b). Any arguments forwarded by the Association are subject to the limitations set forth by this rule.