



STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

MICHAEL P. SELLARS, EXECUTIVE DIRECTOR

112 Henry Street NE, Suite 300 • Post Office Box 40919 • Olympia, Washington 98504-0919
(360) 570-7300 • Fax: (360) 570-7334 • Email filings: filing@perc.wa.gov • Website: www.perc.wa.gov

May 7, 2025

Via Email Only

Gina L. Comeau
Office of Financial Management
labor.relations@ofm.wa.gov

Request for List of Employees

Case 143113-E-25, Washington State Language Access Providers

Dear Gina Comeau:

A representation petition has been filed with the Public Employment Relations Commission. A copy of that petition is attached.

WAC 391-25-140 requires the employer to post a copy or copies of an agency provided notice and a copy of the petition to inform employees of the representation proceeding. The notice and petition shall remain posted until either a certification or interim certification is issued or the proceeding is closed through an administrative order.

Please print and post enough copies of the notice to adequately cover the work locations of your employees, or you may ask for additional copies from this office.

Additional information is needed to facilitate the processing of this case:

1. Please supply a list containing the names and last known addresses of all the employees currently on the employer's payroll who occupy the positions or classifications of the type described on the petition. **Please submit the list as a separate attachment in Microsoft Excel format, without password protection, to filing@perc.wa.gov.**

For petitions concerning state civil service employees working at state agencies and higher education institutions, the employer shall send a copy of the list (excluding employee addresses) to all other parties in the case at the same time as the list is sent to the agency.

The employer should include **all** employees who occupy the positions or job classes described on the petition. When compiling the list, the employer should identify any position or positions that the employer wants excluded from the bargaining unit on the

basis of confidential status, supervisory status, or otherwise. The employer should provide a brief statement explaining its reasons for each proposed exclusion.

Please refer to the attachment at the end of this letter which sets forth factors used by the Commission in determining whether an employee is supervisory or confidential.

2. Please provide a listing of all other existing bargaining units along with an organizational chart for the petitioned-for employees.
3. If any or all of the employees listed are now included in any existing bargaining unit, then (a) please provide a copy of the current or latest collective bargaining agreement for that unit; and (b) indicate whether the petitioned-for employees constitute the entire existing bargaining unit.
4. The list of employees will be used to verify the showing of interest. State law requires that at least 30% of the employees in the proposed bargaining unit support the purpose of the petition. A member of the agency's staff verifies the showing of interest. Once agency staff verifies the sufficiency of the showing of interest, the parties will be contacted for an investigation conference. The investigation conference may be conducted by phone or email.

Your immediate attention to this matter, and your reply within ten (10) days following the date of this letter, is appreciated.

Dario de la Rosa
Representation Administrator
dario.delarosa@perc.wa.gov
(360) 570-7328

Emily K. Whitney
Representation Administrator
emily.whitney@perc.wa.gov
(360) 664-3047

cc: M. Kate Garcia, katie.garcia@atg.wa.gov
Cheryl L. Wolfe, cheryl.wolfe@atg.wa.gov
Juan Medina Bloise, independentlniunion@wainterpreters.org
Herb Harris, herbh@wfse.org

SUPERVISORY STATUS

The focus on supervisory cases is whether the individual holding the disputed position **exercises authority on behalf of the employer over subordinate employees.**

The best statutory definition of “supervisor” is found in RCW 41.59.020(4)(d), and PERC has used this definition as the starting point for analysis of supervisory issues, regardless of what statute is involved in a particular case. RCW 41.59.020(4)(d) defines “supervisor” as

any employee having authority, in the interest of an employer, to hire, assign, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees, or to adjust their grievances, or to recommend effectively such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment, and shall not include any persons solely by reason of their membership on a faculty tenure or other governance committee or body. The term “supervisor” shall include only those employees who perform a preponderance of the above-specified acts of authority.

WAC 391-35-340 also addresses the issue of supervisory status:

- 1) It shall be presumptively appropriate to exclude persons who exercise authority on behalf of the employer over subordinate employees (usually termed “supervisors”) from bargaining units containing their rank-and-file subordinates, in order to avoid a potential for conflicts of interest which would otherwise exist in a combined bargaining unit.
- 2) It shall be presumptively appropriate to include persons who exercise authority on behalf of the employer over subordinate employees (usually termed “supervisors”) in separate bargaining units for the purposes of collective bargaining.
- 3) The presumptions set forth in this section shall be subject to modification by adjudication.

WAC 391-35-346 applies to state civil service employees covered by chapter 41.80 RCW:

Supervisor exclusions for state civil service employees shall be determined under RCW 41.80.005(13) and 41.80.070(1).

WAC 391-35-347 applies to higher education faculty covered by chapter 41.76 RCW:

Administrator exclusions for higher education faculty employees shall be determined under RCW 41.76.005(5) and (9).

An individual does not have to perform all of the duties set forth in the statute to be considered a supervisor. The fewer duties performed, the less likely it is that the individual is a supervisor within the meaning of the statute and PERC precedent.

CONFIDENTIAL STATUS

A finding of “confidential” status means that employee is excluded from all collective bargaining rights. Accordingly, the party proposing that an employee is confidential has a heavy burden of proof.

A “confidential” employee routinely acts with or assists persons who formulate, determine, and effectuate management policies with regard to an employer’s labor relations policies and practices.

This is called the “labor nexus” test, and it has been adopted by the Washington State Supreme Court in *IAFF, Local 461 v. City of Yakima*, 91 Wn.2d 101 (1978).

WAC 391-35-320 also addresses the issue of confidential status:

Confidential employees excluded from all collective bargaining rights shall be limited to:

- 1) Any person who participates directly on behalf of an employer in the formulation of labor relations policy, the preparation for or conduct of collective bargaining, or the administration of collective bargaining agreements, except that the role of such person is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment; and
- 2) Any person who assists and acts in a confidential capacity to such person.

Mere access to an employer’s labor relations material is not enough to find that an employee is “confidential.”

RCW 41.80.005(4) defines confidential status differently for state civil service cases from any of PERC’s other statutes:

“Confidential employee” means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer’s collective bargaining policies, or who assists or aides a manager. “Confidential employee” also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(Emphasis added). See *State – Natural Resources*, Decision 8711-B (PSRA, 2006)

WAC 391-35-326 repeats the statutory criteria for determining confidentiality in state cases:

Confidential exclusions for state civil service employees shall be determined under RCW 41.80.005(4).

RCW 41.76.005(10) statutory criteria for determining confidentiality in faculty cases:

“Confidential employee” means (a) a person who participates directly on behalf of an employer in the formulation of labor relations policy, the preparation for or conduct of collective bargaining, or the administration of a collective bargaining agreement, if the role of the person is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment; and (b) a person who assists and acts in a confidential capacity to a person in (a) of this subsection.

WAC 391-35-327 repeats the statutory definition of confidentiality in faculty cases:

Confidential exclusions for higher education faculty employees shall be determined under RCW 41.76.006(5) and (10).

[RCW 41.76.005(5) defines “faculty,” and lists a number of exclusions, including “confidential” employees.]

REPRESENTATION PETITION NOTICE

ISSUED: 5/7/2025

CASE NUMBER: 143113-E-25

A petition has been filed to CHANGE the union that represents employees for collective bargaining at WASHINGTON STATE LANGUAGE ACCESS PROVIDERS.

A copy of the petition is attached.

An investigation will be conducted to determine whether these employees choose to change representation to WA INTERPRETERS.

The Washington State Public Employment Relations Commission is responsible for the impartial administration of certain state collective bargaining statutes and does not endorse any choice in the proceedings.

AS AN EMPLOYEE YOU HAVE THE RIGHT TO

- self-organize, join, or assist labor or employee organizations.
- bargain collectively through a representative of your choice.
- refuse to pay dues to a union unless you have affirmatively agreed to make such payments.

DURING ORGANIZING, THE EMPLOYER OR UNION CANNOT ATTEMPT TO INFLUENCE THE EMPLOYEES' CHOICE OF REPRESENTATION BY

- threatening with loss of jobs or benefits, physical force, or violence.
- discharging employees in connection with union activity.
- promising benefits of wages, hours, or working conditions.
- misstating important facts when the other party does not have a fair chance to reply.
- forcing employees to attend or listen to a campaign speech in the period beginning 24 hours before the election period opens through the election date.
- suggesting that the Commission or its procedures favor any choice.

More details will be sent to employees or posted regarding further proceedings. For more information about your rights under state law, visit perc.wa.gov/elections.

**THIS NOTICE MUST BE POSTED WHILE THE PETITION IS PENDING
AND MAY NOT BE ALTERED, DEFACED, OR COVERED.**



Questions? Visit perc.wa.gov or contact a PERC representation administrator:

Dario de la Rosa
dario.delarosa@perc.wa.gov
360.570.7328

Emily Whitney
emily.whitney@perc.wa.gov
360.664.3047



REPRESENTATION PETITION

Is this an amended petition? ☐ Yes ☒ No If yes, provide the case number: _____

PARTIES Include information for all parties involved.

EMPLOYER WA St. Dept. of Labor & Industries
Contact Gina Comeau
Title Labor relations section chief
Address P.O. Box 47500
City, State, ZIP Olympia, WA 98504-7500
Phone (360) 810-0166 **Ext.** _____
Email Gina.Comeau@ofm.wa.gov

PETITIONER WA INTERPRETERS
Contact Juan Bloise
Title President
Address P.O. Box 345
City, State, ZIP Auburn, WA 98071
Phone (206) 385-3287 **Ext.** _____
Email independentlniunion@wainterpreters

CURRENT BARGAINING REPRESENTATIVE

(If One Exists) WA Federation of State Employees
Contact Herb Harris
Title Manager of PERC activities
Address 1212 Jefferson St SE
City, State, Zip Olympia, WA 98501
Phone (360) 352-7603 **Ext.** _____
Email herbh@wfse.org

TYPE OF REQUEST Select ONE of the following.

- ☐ **NEW ORGANIZING** to be certified as the representative of employees currently unrepresented.
- ☐ **ADD UNREPRESENTED EMPLOYEES** to an existing bargaining unit as described in WAC 391-25-080.
- ☒ **CHANGE REPRESENTATIVE** of existing bargaining unit.
- ☐ **REMOVE REPRESENTATIVE** of existing bargaining unit.

BARGAINING UNIT

For a new organizing petition, fill out section 2. For a petition to add unrepresented employees, fill out **both** sections 1 and 2. For a petition to change or remove the representative, fill out section 1.

SECTION 1—Describe the Existing Bargaining Unit:

Language access providers for the Dept. of Labor & Industries. See Washington State Language Access Providers, Decision 13344-D (PECB, 2023).

Number of Employees in Existing Unit 439

SECTION 2—Describe the Proposed Bargaining Unit:

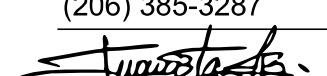
Number of Employees in Proposed Unit _____

If a CBA exists, what is the expiration date? 6/30/2025

SHOWING OF INTEREST

A showing of interest indicating the support of at least 30 percent of the employees in the bargaining unit must be filed with the petition. **See instructions for more information.**

PETITIONER REPRESENTATIVE

Name Juan Bloise
Address P.O. Box 345
Phone (206) 385-3287 **Ext.** _____
Signature 

Title President, WA INTERPRETERS
City, State, ZIP Auburn, WA 98071
Email independentlniunion@wainterpreters
Date 5/1/2025

**BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION
STATE OF WASHINGTON**

WA INTERPRETERS

Petitioner/Complainant/Filing Party

v.

WA Dept. of Labor and Industries

Respondent/Responding Party

Case Number

CERTIFICATE OF SERVICE

I certify that I served a copy of this (*title of document*) representation petition
on all parties or their counsel of record on (*date*) 5/1/2025

To:	Name	Gina Comeau		
	Organization	State of Washington	<input checked="" type="checkbox"/> E-mail	<input type="checkbox"/> First Class U.S. Mail
	Address	P.O. Box 47500	<input type="checkbox"/> Fax	<input type="checkbox"/> Certified U.S. Mail
	City, State, ZIP	Olympia, WA 98504	<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Registered U.S. Mail
	Email	Gina.Comeau@ofm.wa.gov		
	Fax			
To:	Name	Herb Harris		
	Organization	Washington Federation of State Employees	<input checked="" type="checkbox"/> E-mail	<input type="checkbox"/> First Class U.S. Mail
	Address	1212 Jefferson St SE	<input type="checkbox"/> Fax	<input type="checkbox"/> Certified U.S. Mail
	City, State, ZIP	Olympia, WA 98501	<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Registered U.S. Mail
	Email	herbh@wfsc.org		
	Fax			
To:	Name			
	Organization		<input type="checkbox"/> E-mail	<input type="checkbox"/> First Class U.S. Mail
	Address		<input type="checkbox"/> Fax	<input type="checkbox"/> Certified U.S. Mail
	City, State, ZIP		<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Registered U.S. Mail
	Email			
	Fax			

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Date signed and submitted 5/1/2025

Print Name Juan Bloise

Signature 





REPRESENTATION PETITION

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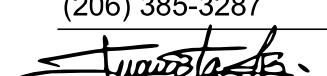
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	Fax			
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	Organization	Washington Federation of State Employees	<input checked="" type="checkbox"/> E-mail	<input type="checkbox"/> First Class U.S. Mail
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	Email	herbh@wfsc.org		
	Fax			
To:	Name			
	Organization		<input type="checkbox"/> E-mail	<input type="checkbox"/> First Class U.S. Mail
	Address		<input type="checkbox"/> Fax	<input type="checkbox"/> Certified U.S. Mail
	City, State, ZIP		<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Registered U.S. Mail
	Email			
	Fax			

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Date signed and submitted 5/1/2025

Print Name Juan Bloise

Signature 

