



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7931.000] (Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES [1000 - 3599.84] (Division 4 enacted by Stats. 1943, Ch. 134.)

CHAPTER 12. Higher Education Employer-Employee Relations [3560 - 3599] (Chapter 12 added by Stats. 1978, Ch. 744.)

ARTICLE 5. Employee Organizations: Representation, Recognition, Certification and Decertification [3573 - 3578] (Article 5 added by Stats. 1978, Ch. 744.)

3573. An employee organization may become the exclusive representative for the employees of an appropriate unit for purposes of meeting and conferring by filing a request with a higher education employer alleging that a majority of the employees in an appropriate unit wish to be represented by such organization and asking the employer to recognize it as the exclusive representative. The request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall certify that proof of majority support has been submitted to either the board or to a mutually agreed upon third party. Notice of any such request shall immediately be posted conspicuously on all employee bulletin boards in each facility of the employer in which members of the unit claimed to be appropriate are employed.

(Added by Stats. 1978, Ch. 744.)

3574. The higher education employer shall grant a request for recognition filed pursuant to Section 3573 unless any of the following occurs:

(a) The employer reasonably doubts that the employee organization has majority support or reasonably doubts the appropriateness of the requested unit. In that case, the employer shall notify the board, which shall conduct a representation election or verify proof of majority support pursuant to Section 3577 unless subdivision (c) or (d) applies.

(b) Another employee organization either files with the employer a challenge to the appropriateness of the unit or submits a competing claim of representation within 15 workdays of the posting of notice of the written request. If the claim is evidenced by the support of at least 30 percent of the members of the proposed unit, a question of representation shall be deemed to exist and the board shall conduct a representation election pursuant to Section 3577. Proof of that support shall be submitted to either the board or to a mutually agreed upon third party.

(c) There is currently in effect a lawful written memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees included in the unit described in the request for recognition, unless the request for recognition is filed not more than 120 days and not less than 90 days prior to the expiration date of the memorandum of understanding, provided that, if the memorandum of understanding has been in effect for three years or more, there shall be no restriction as to the time of filing the request. The existence of a memorandum of understanding, or current certification as the exclusive representative, shall be the proof of support necessary to trigger a representation election pursuant to Section 3577 to determine majority support when a request for recognition is made by another employee organization.

(d) Within the previous 12 months, either another employee organization has been lawfully recognized or certified as the exclusive representative of any employees included in the unit described in the request for recognition, or a majority of the votes cast in a representation election held pursuant to Section 3577 were cast for "no representation."

(Amended by Stats. 2003, Ch. 216, Sec. 1. Effective January 1, 2004.)

3575. A petition may be filed with the board, in accordance with its rules and regulations, requesting it to investigate and decide the question of whether employees have selected or wish to select an exclusive representative or to determine the appropriateness of a unit, by:

(a) An employee organization alleging that it has filed a request for recognition as an exclusive representative with an employer and that the request has been denied or has not been acted upon within 30 days after the filing of the request; or

(b) An employee organization alleging that it has filed a competing claim of representation pursuant to subdivision (b) of Section 3574; or

(c) An employee organization wishing to be certified by the board as the exclusive representative. Such petition for certification as the exclusive representative in an appropriate unit shall include proof of a 30-percent showing of interest designating the organization as the exclusive representative of the employees.

(Added by Stats. 1978, Ch. 744.)

3576. A petition may be filed with the board, in accordance with its rules and regulations, requesting it to investigate and decide the question of whether the employees wish to decertify an exclusive representative or to reconsider the appropriateness of a unit. Such petition may allege that the employees in an appropriate unit no longer desire a particular employee organization as their exclusive representative, provided that such petition is supported by 30 percent of the employees in the unit indicating support for another organization or lack of support for the incumbent exclusive representative.

(Added by Stats. 1978, Ch. 744.)

3577. (a) (1) (A) Upon receipt of a petition filed pursuant to Section 3575, the board shall conduct inquiries and investigations, or hold hearings, as it deems necessary in order to decide the questions raised by the petition. The determination of the board may be based upon the evidence adduced in the inquiries, investigations, or hearings.

(B) If the board finds, on the basis of the evidence, that a question of representation exists, or a question of representation is deemed to exist pursuant to subdivision (a) or (b) of Section 3574, it shall, in a case where the criteria of subparagraph (A) of paragraph (2) are not met, order that an election shall be conducted by secret ballot placing on the ballot all employee organizations evidencing support of at least 10 percent of the members of an appropriate unit, and it shall certify the results of the election on the basis of which ballot choice received a majority of the valid votes cast. There shall be printed on the initial ballot the choice of "no representation."

(C) If, at any election, no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted. The ballot for the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(2) (A) If the petitioning employee organization provides proof of support of more than 50 percent of the members of the appropriate unit, and no other employee organization has provided proof of support of at least 30 percent of the members of the appropriate unit, the employee organization providing the proof of support of more than 50 percent of the appropriate unit shall be certified by the board as the exclusive representative, as provided in subdivision (a) of Section 3563 and, where applicable, in Section 3579. The procedures for determining proof of support shall be defined by regulations of the board.

(B) In the event the petitioning employee organization does not provide proof of support of more than 50 percent of the members of the appropriate unit, or another employee organization provides proof of support of at least 30 percent of the members of the appropriate unit, then the procedures of paragraph (1) shall apply.

(C) The existence of a memorandum of understanding, or current certification as the exclusive representative, shall be the proof of support necessary to trigger a representation election pursuant to this section to determine majority support when a request for recognition is made by another employee organization.

(3) An employee organization shall, at its discretion, submit proof of support for the purposes of this section either to the board or to a mutually agreed-upon third party.

(b) No election shall be held and the petition shall be dismissed whenever either of the following occurs:

(1) There is currently in effect a memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees included in the unit described in the petition, unless the petition is filed not more than 120 days and not less than 90 days prior to the expiration date of that memorandum. If the memorandum has been in effect for three years or more, there shall be no restriction as to time of filing the petition.

(2) Within the previous 12 months, either an employee organization other than the petitioner has been lawfully recognized or certified as the exclusive representative of any employees included in the unit described in the petition, or a majority of the votes cast in a representation election held pursuant to subdivision (a) were cast for "no representation."

(Amended by Stats. 2003, Ch. 216, Sec. 2. Effective January 1, 2004.)

3578. The employee organization recognized or certified as the exclusive representative shall represent all employees in the unit, fairly and impartially. A breach of this duty shall be deemed to have occurred if the employee organization's conduct in representation is arbitrary, discriminatory, or in bad faith.

(Added by Stats. 1978, Ch. 744.)