

Process for Certification as the Exclusive Representative for Collective Bargaining



- Collective bargaining is a process by which an employer (such as APS), negotiates with a group of employees (a bargaining unit) that is represented by a bargaining agency (such as union or association or exclusive representative) over terms and conditions of employment.

- Since 1977, collective bargaining has been prohibited in Virginia by local governments, including school boards.
- In 2020, the Virginia General Assembly passed legislation, that was signed by the Governor, authorizing local governments, including school boards, to adopt an ordinance or resolution to collectively bargain with its employees.
- Virginia Code §40.1-57.2 became effective on May 1, 2021, and it states that any collective bargaining agreement must set forth procedures for certification and decertification of exclusive bargaining units, including a means for other employee groups to participate in this process.

- The authorizing resolution sets forth the structure of collective bargaining in APS to more formally allow employee groups to organize and express their views as a group through an exclusive representative.

- APS has identified the following bargaining units, grouping employees with similar interests:
 - Licensed Personnel
 - Support Personnel
 - Administrative Personnel

- APS School Board adopted the authorizing resolution regarding collective bargaining on May 26, 2022.

- The resolution includes:
 - Scope of Collective Bargaining
 - Rights of Employees, Employee Associations, and Employer
 - Certification and Decertification of Exclusive Representatives
 - Role of Director of Labor Relations
 - Collective Bargaining Duties, Impasse and Procedures
 - Prohibited Conduct

- Employee Association is any union or organization in which School Board Employees participate that exists for the purpose, in whole or in part, of dealing with school boards concerning collective bargaining, wages, benefits, or terms and conditions of employment.

- Exclusive Representative is an Employee Association certified by the School Board as the **ONLY** Employee Association to represent an Employee bargaining unit in the collective bargaining process.
 - Right to act for, represent, bargain, and negotiate agreements for the benefits of all Employees in the bargaining unit.
 - Right to intervene and be afforded an opportunity to be present, to offer its view, and fully participate in any meetings or hearings in any grievance, dispute, hearing, or legal action relating to the terms, applicability, validity, interpretation, or enforceability of any collective bargaining agreement.

- For certification by the APS School Board, Employee Association seeking certification as the Exclusive Representative must:
 - Obtain evidence of interest from at least thirty (30) percent of the Employees in the bargaining unit(s).
 - File a request of certification interest with the Director of Labor Relations.
 - Demonstrate the thirty (30) percent threshold is met should the School Board invoke the verification process.
 - Receive the majority of the votes from the Employees in the bargaining unit(s) participating in the secret ballot election.

Thirty (30) Percent Employee Interest

- Employee Association seeking certification as the Exclusive Representative can obtain evidence of interest from at least thirty (30) percent of the Employees in the bargaining unit(s) through:
 - Membership cards,
 - Dues payment,
 - A Petition,
 - Authorization forms, or
 - Other evidence of an Employee's desire to be represented by an Employee Association for purposes of collective bargaining.

- Employer is precluded from having access to or ownership of the above, or any other information that would reveal Employee identities.

- Employee Association seeking certification as the Exclusive Representative must file a request with the Director of Labor Relations including:
 - Employee Association's name and address,
 - Which of the bargaining unit(s) it seeks to represent,
 - A statement certifying that at least thirty (30) percent of Employees wish to be represented by the Employee Association,
 - Proposed date, time, place, or method for the secret ballot election.

Response to Certification Request

- School Board may invoke the verification process, and Employee seeking certification as the Exclusive Representative must demonstrate that the thirty (30) percent interest threshold is met for each bargaining unit.
- Director of Labor Relations notifies all Employees in the bargaining unit(s) by electronic mail of the date, time, place, or method for the election.
- Notice is posted in common area at each worksite of Employees in the bargaining unit(s).
- Notice states that other labor organizations or Employee Associations have an opportunity to be included on the election ballot by filing a request to intervene with the Director of Labor Relations.

- Employee Association seeking the opportunity to be included on the election ballot must file a request to intervene with the Director of Labor Relations including:
 - Employee Association's name and address,
 - Which of the bargaining unit(s) it seeks to represent,
 - A statement certifying that at least thirty (30) percent of Employees in the bargaining unit(s) wish to be represented by the Employee Association, and that it wishes to be included on the secret ballot.

- School Board or the Employee Association that filed the original request for certification may invoke the verification process, and the intervening Employee Association must demonstrate that the thirty (30) percent threshold is met for each bargaining unit.
- If the Employee Association successfully intervenes, a new election notice will be provided.

- The ballot will include:
 - Employee Association seeking certification as the Exclusive Representative
 - Employee Association that successfully intervenes
 - Option to select no representation
- An Employee Association must receive the majority of the votes from the Employees in the bargaining unit(s) participating in the election to be certified as the Exclusive Representative.
- There will be a run-off election if necessary.

- The School Board will certify an Employee Association as the Exclusive Representative for Employee bargaining unit(s) after receiving confirmation that the Employee Association received the majority of the votes from the Employees in the bargaining unit(s) participating in the secret ballot election.

- The Exclusive Representative makes a written request for information relevant to the negotiation of a collective bargaining agreement.
- Director of Labor Relations and Exclusive Representatives meet to negotiate over wages, benefits, and terms and conditions of employee.