



Interpretive Notice & Formal Opinion (“INFO”) #15B: The Collective Bargaining by County Employees Act (“COBCA”), [S.B. 22-230](#)

Overview

- The **Collective Bargaining by County Employees Act** (“[COBCA](#)”) covers rights and responsibilities for certain counties and their employees (effective July 1, 2023), as to:
 - **employee rights to seek representation** by an employee organization (typically, but not always, a union) by election, or other means, in certain cases;¹
 - **county responsibilities to engage in collective bargaining** if an employee organization is certified as the exclusive representative of any of its employees; and
 - **certain unfair labor practices (ULPs) prohibited** for both counties and employee organizations.
- The **County Collective Bargaining Rules** (“[COBCA Rules](#)” or “Rules”), 7 CCR 1103-16, effective July 1, 2023, implement and clarify application of COBCA, and set procedures for disputes, elections, or other COBCA matters. Parties to any COBCA matters should review not only COBCA, but the Rules as well.

Coverage. COBCA covers **all counties** in Colorado, **except** any:

- county with a **population under 7,500** — currently, 23 counties (as determined by census every 10 years);
- combined **City and County** government — currently, Denver and Broomfield; and
- **other local government or state subdivision** (municipality, school or special district, public hospital, etc.).

Employee Rights. County employees have a right to engage in, or refrain from, any of the following activities:

- **employee organizing** — organizing, forming, joining, assisting, or communicating with an employee organization for exclusive representation;
- **collective bargaining** — with an employer, through their chosen representatives, for a contract (a “Collective Bargaining Agreement” or “CBA”) setting wages, benefits, hours, or other working conditions; or
- **concerted activity** — acting together, or communicating with, other employees for purposes of collective bargaining or “other mutual aid or protection,” even if activities aren’t directly union-related.²

Certifying or Decertifying an Employee Organization to Represent Employees.

1. Employees or proposed representatives must file a **petition** at the Division to certify or decertify an employee organization as **exclusive representative** of a defined **collective bargaining unit**. A petition:
 - must be supported by a “**showing of interest**” of **30%** of the proposed bargaining unit;³
 - may have “**written or ... electronic signature[s]**”;⁴
 - must be kept **confidential** by the Division;⁵ and
 - may be **filed** as of July 1, 2023, without restriction on **signing or collecting** a petition before that date.⁶

¹ No election is needed if a union recognized before July 1, 2023, was: (1) recognized by secret ballot election; (2) voluntarily recognized before 2022; or (3) voluntarily recognized in 2022-23 based on majority support. C.R.S. 8-3.3-108(2).

² County employees are prohibited from strikes, work stoppages or slowdowns, group sick-outs, or another action that disrupts, on a widespread basis, the day-to-day functioning of a county. C.R.S. 8-3.3-115(6)(a).

³ C.R.S. 8-3.3-108(1)(a).

⁴ C.R.S. 8-3.3-102(22); *accord* NLRB Casehandling Manual § 11001.7 (electronic signing, per Gen’l Counsel Mem. 15-08).

⁵ C.R.S. 8-3.3-108(1)(b) (“not disclose ... [any] employee who has participated in the showing of interest to any person”).

⁶ C.R.S. 8-3.3-108(1)(a) (election occurs if “[o]n or after July 1, 2023, ... a petition is filed”).

2. The Division will determine the **scope of the bargaining unit** if the scope is disputed, or if the Division finds that COBCA requires modification of the proposed unit (e.g., positions that must be excluded).⁷
 - a. All parties have an **opportunity to be heard** on whether a proposed unit is appropriate under COBCA — which, depending on the case, may include exchanging information and/or a hearing. (Rule 4.4.)
 - b. After the bargaining unit scope is determined, the Division will determine the **sufficiency of the 30% showing of interest**, in “an administrative determination ... not subject to challenge by any person.”⁸
3. A **secret ballot election** will be held once the bargaining unit scope and petition sufficiency are determined.
 - a. Within 10 days of finding a sufficient showing of interest, the Division will set a **pre-election conference**, or otherwise solicit input from the parties, on election procedures. (Rule 4.6.1.)
 - i. At least three business days before the pre-election conference, or another date the Division orders, the county must provide the petitioner **contact information of employees** in the proposed unit.⁹
 - ii. After the pre-election conference, the Division will issue an **election notice** and set a date for the county to **post and distribute** the **election notice** as described in Rule 2.16.
 - b. Election procedures and scheduling shall be established by the Division absent an agreement by the parties and may be conducted **in-person, and/or by mail**, at the discretion of the Division. (Rule 4.6.1.)
 - c. Notices and ballots for any election shall be in English, in Spanish if any party or eligible voter credibly indicates a need, and in other languages if possible in the time provided. (Rule 4.6.2.)
 - d. Ballots shall reflect the name of any employee organization supported by a “showing of interest” and a choice of “no representation” as an option for county employees. (Rule 4.6.3.)
 - e. Representation elections will follow certain procedures outlined in the Labor Peace and Industrial Relations (“LPIR”) Rules, also effective on July 1, 2023 (specifically, LPIR Rules 5.3.2(C) - 5.3.3, 5.5.3 - 5.5.5, and 5.6.2 - 5.8.3), unless the Division orders different procedures. (Rule 4.6.4.)
4. **Election results:**
 - a. A **majority of valid ballots cast** will determine whether the employee organization is certified (or de-certified) to represent the unit. (Rule 4.6.6.)
 - b. If **no one option receives a majority** of votes — neither any one proposed representative, nor the choice of “no representative” — the election will proceed to a runoff within 28 days. (Rule 4.6.7.)
 - c. Within seven days after certification of results, a party may file, with supporting proof, any **objection** to the conduct of the election, or conduct affecting the results. Any other party may respond before the Division makes any findings or considers any remedies, including a new election. (Rule 4.6.8.)

County Rights & Responsibilities. Once an employee organization is certified, counties must:

- **collectively bargain in good faith** with the employee organization, which precludes the unilateral alteration of “wages, hours, and other terms and conditions of employment”;¹⁰
- **allow representation at grievance meetings** for covered employees; and
- **facilitate administration** through various forms of information-sharing¹¹ and (where authorized by the employee) deduction of dues.
- **Executive powers:** C.R.S. 8-3.3-105 protects certain county rights, including that COBCA and CBAs can’t restrict, duplicate, or usurp responsibility or authority **granted by a home rule charter or state law**.¹²

⁷ C.R.S. 8-3.3-110(2) lists factors as to proper bargaining unit scope; C.R.S. 8-3.3-102(1) lists employee types excluded.

⁸ C.R.S. 8-3.3-109(3) (determination of sufficiency), 8-3.3-108(1)(b) (determination not subject to challenge).

⁹ C.R.S. 8-3.3-109(4)(a) lists the employee contact information to be furnished by the county.

¹⁰ C.R.S. 8-3.3-115(1); *but see* C.R.S. 8-3.3-105 (protecting county discretion on various topics without a duty to bargain).

¹¹ *E.g.*: sharing employee contact information; access for new employee orientation and other times; annual rights notice.

¹² For more on home rule counties, see Colo. Const. Art. XIV, § 16, and C.R.S. 30-35-103 and 30-35-201 to -202.

Unfair Labor Practice (“ULP”) Complaints can be filed at the Division by employees, employee organizations, or counties, by **six months** after they knew or reasonably should have known of the violation.¹³

- Only **specific labor/management relations matters** listed in COBCA qualify as ULPs, not all “unfair” acts.
- After investigating (and typically without a live hearing, unless one proves necessary), the Division **determines** whether a ULP occurred, and may **order remedies** such as:
 - fines and compliance orders (stop ULPs, post notices of rights, fix policies, etc.);
 - decertification of a union, under certain circumstances; and/or
 - orders to make whole an employee whose job a ULP impacted (reinstatement, pay replacement, etc.).
- ULP determinations may be **appealed** to a hearing officer for a **hearing**, with findings of *law* reviewed “de novo” (as if a decision was not previously made) and findings of *fact* reviewed for “clear error.”

Impasse Resolution procedures for CBA negotiation can be set by the parties¹⁴ — otherwise, the following applies.

- **Mediation:** After the earlier of 90 days of unsuccessful negotiation or 120 days before a CBA expires, a party can require an agreed-on mediator (splitting costs) or the Federal Mediation and Conciliation Service.
- **Fact finding:** If mediation fails, a party may request a fact finder from a Division roster who recommends an outcome — and if the employee organization votes to accept it, the County must hold a vote on whether to accept or reject the fact finder recommendation.

For More Information: Visit the Division [website](#), call 303-318-8441, or email cdle_labor_standards@state.co.us.

¹³ For these and other details on ULP complaints and proceedings, see C.R.S. 8-3.3-115 and Rule 5.

¹⁴ C.R.S. 8-3.3-114(1).