

**3 PURPOSES AND TYPES OF PETITIONS:**

**3.1 Overview:** Representation cases are initiated by the filing of a petition under appropriate sections of the Statute. **Petitions serve a variety of purposes:**

**3.2 To request:**

- a. An election pursuant to 5 U.S.C. 7111(b)(1)(A), to determine if employees in an appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative [see § 2422.1(a)(1)(i)]; and/or
- b. A determination of eligibility for dues allotment pursuant to 5 U.S.C. 7115(c), in an appropriate unit without an exclusive representative [see § 2422.1(a)(1)(ii)]; or
- c. An election, pursuant to 5 U.S.C. 7111(b)(1)(B), to determine if employees in a unit no longer wish to be represented for the purpose of collective bargaining by an exclusive representative [see § 2422.1(a)(2)].

**NOTE:** *The Statute requires that petitions described in [CHM 3.2](#) are accompanied by an appropriate showing of interest.*

**3.3 To clarify and/or amend, pursuant to 5 U.S.C. 7111(b)(2):**

**3.3.1 A recognition or certification then in effect:** After a labor organization has been recognized or certified as the exclusive representative in an appropriate unit, a petition may be filed requesting, for example: 1) clarification of the bargaining unit status of certain employees/positions; and/or 2) amendment of the recognition or certification to conform to technical or nominal changes which have occurred that affected the original designation or identity of either party (such as a change in the name of the exclusive representative, a change in the name or location of the agency or activity, or a change in the title of the employees); [see § 2422.1(b)(1)] **and/or**

**3.3.2 Any other matter relating to representation:** Examples include:

- a. questions relating to the continued appropriateness of an existing unit(s) due to a substantial change in the character and scope of the unit(s), (i.e. changes in operations due to a reorganization, realignment or merger); or
- b. questions relating to the majority status of the currently recognized or certified labor organization. [see § 2422.1(b)(2)]

- 3.4 To consolidate** pursuant to 5 U.S.C. 7112(d), two or more units, with or without an election, in an agency and for which a labor organization is the exclusive representative [see § 2422.1(c)].
- 3.5 To grant:**
- 3.5.1 National consultation rights**, pursuant to 5 U.S.C. 7113(a), to a labor organization which is the exclusive representative of a substantial number of employees of the agency (see §2426.1); or
- 3.5.2 Consultation rights**, pursuant to 5 U.S.C. 7117(d), to a labor organization which is the exclusive representative of a substantial number of employees with respect to any government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment (see § 2426.11).

**NOTE: Section 57 of this manual concerns petitions seeking national consultation rights and consultation rights on government-wide rules and regulations filed under Part 2426 of the regulations.**

- 3.6 Petitions raising claims pursuant to 5 U.S.C. 7111(f)(1):** Petitions raising claims pursuant to 5 U.S.C. 7111(f)(1) may be filed and addressed by the Authority even though the regulations do not provide for such a petition. Section 7111(f)(1) states that:

- (f) Exclusive recognition shall not be accorded to a labor organization—  
(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

Such petitions seek to revoke the certification of an incumbent exclusive representative or claim that a labor organization should not be accorded exclusive recognition in an election proceeding. See *New York National Guard (NYNG)*, 53 FLRA 111 (1997) and *U.S. Information Agency (USIA), Washington, DC*, 53 FLRA 999 (1997). These petitions are based on two tenets: 1) only the Authority has jurisdiction to decide issues relating to the granting of exclusive recognition to labor organizations representing employees in the Federal sector; and 2) freedom from corrupt and anti-democratic influences is a requirement that is to be met before the Authority can certify a labor organization as an exclusive representative.

- 3.7 Petitions with multiple purposes or that affect more than one unit:** Note that in accordance with § 2422.1, a petition may serve more than one purpose or affect more than one unit. **Regional Offices review petitions carefully to**

ensure that the issues raised in the petition are consistent with the Statute.

**3.7.1** An example of a petition with multiple purposes that is filed consistent with the Statute:

- < a petition may be filed for an election to determine the exclusive representative in an appropriate unit as well as for a determination of eligibility for dues allotment, provided it meets all of the criteria established in the Statute (for instance, the unit does not have an exclusive representative).

**3.7.2 Reorganizations** may create more difficult questions. When parties have an established bargaining relationship, they have a stake in what happens to the employees they represent when the employees are affected by an agency reorganization or realignment of operations. These parties may file a petition: 1) to clarify or amend a certification in effect or 2) to clarify a matter relating to the representation of employees who comprise any unit(s) that is (are) affected by a reorganization. Some of the employees remain at the agency; while others are transferred to another agency(ies). Normally, petitions to clarify or amend existing recognitions or certifications focus on the status of employees who remain with the existing employer or who are transferred to a single employer. However, a labor organization could file a single petition to resolve questions relating to the status of all its unit members, whether they remained with the employing agency or were acquired by another agency(ies). When the regions assist parties involved in major reorganizations in the filing of petitions, regions may suggest, but cannot require, that the parties confine the issues to a single employer. In that way, the petitions do not involve wholesale clarifications or amendments involving multiple employers.

Examples of petitions with multiple purposes:

- < As a result of an agency-wide reorganization, a petition is filed by a newly created or established agency seeking to clarify a matter relating to the representation of any units affected by the reorganization; i.e., any unit transferred to or created by the new entity. This single petition raises a variety of issues relating to representation, including defining a new unit(s), finding successorship, or accretion. Although the appropriateness of the units and the certifications are unclear with respect to each unit transferred to the new entity, the distinguishing factor is that there is a single employer. See *Naval Facilities Engineering Service Center, Port Hueneme, California*, 50 FLRA 363 (1995) and *Navy Public Works Center*, 6 A/SLMR 142 (1976). Note that in the scenario described above, the newly established agency or activity and the labor organizations that represented employees who were transferred to the new entity could file this petition jointly. See [CHM 4.2](#).

- < At the same agency, a labor organization represents several units that were affected by a transfer of certain employees from those units to a new entity(ies). This labor organization could file separate petitions for each unit to show the status of the employees who remain at the predecessor activity. Or, the labor organization could also file a single petition to clarify the status of all of the units that remain at that one activity. Note that the units are related to each other because they have a common employer. Any of these petitions could be filed jointly by the labor organization and the agency/activity.
  
- < A cumbersome, but not inappropriate, petition is one involving multiple employers, labor organizations and units. Using the example above, a petition is filed by multiple employers and labor organizations to clarify the status of the employees they acquired from a former agency. This petition raises multiple issues regarding the status of employees who remain at the predecessor, the status of employees who transferred to several different entities and the status of the labor organization that represented these employees in one unit. One petition involving questions relating to employees who transferred to different agencies can be difficult to process because it involves multiple employers. In this situation, the region may suggest, but cannot require, that the parties file separate petitions to clarify the status of employees for each agency that acquired employees from previously represented units.

Questions regarding the appropriateness of any petition filed for multiple purposes are treated as **issues** and are processed as part of the case in accordance with [CHM 20](#) and [23](#). **The regions contact the Office of the General Counsel whenever questions arise concerning the appropriateness of petitions with multiple purposes.**