

45 Severance

Severance issues arise when a petitioner seeks to "carve out" or sever employees from an established bargaining unit to establish a separate unit. Any election petition requesting severance from an existing unit requires a 30 percent showing of interest in the petitioned-for unit, not 30 percent of the existing bargaining unit. *Office of Hearings and Appeals, Social Security Administration*, 16 FLRA 1175 (1984).

Standard: Severance is granted only in the rare circumstances where:

- (1) the existing unit continues to be appropriate under the criteria set forth in section 7112(a)(1) of the Statute; and
- (2) unusual circumstances are present which justify removing the particular group of employees from the existing unit.

In addition to obtaining a complete record on the appropriateness of the existing unit, and evidence of unusual circumstances warranting consideration of severance, the Hearing Officer obtains a complete record as to the appropriateness of the proposed unit of severed employees (*RCL 1* and *HOG 37*). This is not inconsistent with the Authority's finding in *Carswell Air Force Base*. Since only the Regional Director is empowered to make representation case determinations, the Hearing Officer obtains a complete and adequate record, without pre-judging the results.

Relevant information in a severance case includes:

- 1) Copy of the certification;
- 2) Copy of the collective bargaining agreement or any memorandum of understanding currently in effect, including any extensions of the agreement, signed by the parties, so that the expiration date of the contract can be determined;
- 3) Testimony regarding contractual provisions covering petitioned-for employees;
- 4) Evidence showing incumbent's representation of the unit (e.g., grievances filed on behalf of employees; unfair labor practice charges filed on behalf of employees, etc.);
- 5) Evidence showing incumbent's representation of the unit, with respect to the petitioned-for employees (e.g., grievances filed on behalf of these employees; unfair labor practice charges filed which

involved these employees, etc.); and

- 6) Disclaimers of interest filed by the exclusive representative and any other documents which establish that the exclusive representative is not interested in further representation of these employees.
- 7) If the issue arises in the context of a reorganization or realignment in which the existing unit is still appropriate:
 - a) do the employees make up a distinct functional grouping of employees? If so, are they new hires or employees from the pre-existing unit?
 - b) if the employees are new hires, do all of the parties agree to the severance?
 - c) if the incumbent filed a disclaimer for the employees, were its subsequent actions consistent with its disclaimer?

For more guidance on this topic see RCL 9.