



## Representation of Bargaining Units

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5 U.S.C. 7111(a)

- P The Statute gives the union specific representational rights and obligations
- P The bargaining unit defines the employees who fall within those rights and obligations
- P Bargaining units are initially established through an election

## Certification of Representation

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5 C.F.R. 2422.32

- P Document issued by the Authority that certifies that specific employees have selected a particular labor organization
- P Almost always, the place to start when you have a representation issue

## Bargaining units must be “appropriate”

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5 U.S.C. 7112

- P There must be a clear and identifiable community of interest
- P The unit must promote effective dealings between the union and the agency
- P The unit must promote the efficiency of agency operations

## **How do you apply the three criteria?**

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- P The Authority applies the three criteria in a wide variety of circumstances, with careful consideration of the specific facts of each case
- P You should look at cases involving similar situations and employees, to determine how the criteria would apply to particular employees
- P If you do not have access to a library, try the search page at [WWW.FLRA.GOV](http://WWW.FLRA.GOV)

## **Keep your certification current**

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- P Otherwise, you can not be sure:
  - < who is covered by your collective bargaining agreement
  - < who can be a dues paying member
  - < that your unit is still appropriate

## Technical Changes Matter

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- P Update a certificate, by requesting to amend it, when there is a change in the name of the union or the name of the agency or its offices
- P There are specific election requirements where the affiliation of a union changes

## Changes in employee status

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- P Sometimes, bargaining unit status of particular employees can be affected by changes in their duties
- P For example, bargaining unit status may be affected if supervisors are reclassified as team leaders

## Consolidation of Units

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5 U.S.C. 7112(d)

- P If the same union represents two or more bargaining units in the same agency, it may petition to consolidate them into a single larger unit
- P The new, larger unit must be appropriate

## Danger Ahead - Reorganizations

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- P Agency reorganizations that establish and disestablish units, or change organizational lines of authority, can play havoc with established certifications
- P You do not want to discover that your certification is already inaccurate when you are in the middle of a major reorganization.

## Transferred employees

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### *Successorship*

- P Under certain circumstances, if a bargaining unit or portion of a bargaining unit is transferred from one entity to another, the union may remain the exclusive representative
- P The transferred employees must continue to be the majority of a separate appropriate unit

## Transferred employees

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### *Accretion*

- P If there is a change in agency operations that results in the integration of a group of employees into an existing unit, these employees may become part of the unit

## Decertification petitions

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5 U.S.C. 7111(b)(1)(B)

- P Employees may file a petition requesting an election to end a union's status as the exclusive representative
- P The petition must be supported by signatures of 30 per cent of the employees in the bargaining unit

## Agency challenges to representative status

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- P An agency may file a petition if it questions the continued majority status of the exclusive representative

## Advice from the FLRA

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- P You may file a petition to resolve any matter relating to the representation of employees
- P FLRA regional offices are available to provide technical assistance to parties considering filing a representation petition
- P If requested by all parties, a representative of the regional office staff will meet with the parties and discuss the issues presented by a potential petition

## When you do not need the FLRA

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- P Where the parties agree on a representation matter, and the matter does not require a modification of the certificate, there is no need to file a petition with the FLRA
- P For example, if new positions are created and the union and agency agree that they fall within the definition of the current bargaining unit, a petition does not need to be filed