

74 FLRA No. 73

UNITED STATES
DEPARTMENT OF AGRICULTURE
RESEARCH, EDUCATION AND ECONOMICS
AGRICULTURAL RESEARCH SERVICE
SOUTHEAST AREA
(Agency)

and

NATIONAL FEDERATION
OF FEDERAL EMPLOYEES
AFFILIATED WITH
THE INTERNATIONAL ASSOCIATION
OF MACHINISTS AND AEROSPACE
WORKERS, AFL-CIO
LOCAL 1752
(Incumbent Labor Organization)

AT-RP-26-0003

ORDER DENYING
APPLICATION FOR REVIEW

July 10, 2026

Before the Authority: Colleen Duffy Kiko, Chairman,
and Anne Wagner and Charles O. Arrington, Members

I. Statement of the Case

In the attached decision and order (decision), Federal Labor Relations Authority (FLRA) Regional Director Brent S. Hudspeth (the RD) found that the Agency demonstrated a good-faith doubt as to whether the Incumbent Labor Organization (the Union) continues to represent a majority of employees in an existing bargaining unit at the Agency. The RD ordered an election to resolve the representation question.

The Agency filed an application for review of the RD's decision (application) under § 2422.31 of the Authority's Regulations,¹ arguing that there is an absence of Authority precedent that governs the particular

circumstances of this case. For the following reasons, we deny the Agency's application.

II. Background and RD's Decision

The Union was certified in 1977 as the exclusive representative of a unit that included the Agency's non-professional employees in the Agency's "Southern Region, Florida-Antilles Area."² In 2011, the FLRA amended the Union's certification to conform to the Agency's then-existing organization. The Agency and the Union last negotiated a collective-bargaining agreement in 2013. In August 2018, in accordance with a procedure in the parties' agreement, the Agency notified the Union that it was terminating the 2013 agreement.

In September 2019, the Agency filed a petition arguing that the Agency had a good-faith doubt as to whether the Union continued to represent a majority of employees in the unit. The FLRA's Atlanta Regional Director at the time (the former RD) found that a good-faith doubt existed as to the Union's continued majority status, and he ordered an election to resolve the issue. Fifteen of the 242 eligible voters cast ballots, and twelve of those fifteen voted in favor of continued representation. Although the Agency objected to the election based on low voter turnout, the former RD denied those objections. Then, in August 2020, the FLRA certified the Union to represent the Agency's non-professional employees in Florida, Puerto Rico, and the U.S. Virgin Islands.

In December 2025, the Agency filed the current petition arguing that there is a good-faith doubt as to whether the Union continues to represent a majority of the approximately 105 bargaining-unit employees currently in the unit. The RD analyzed the Agency's petition using the framework set forth in *Export-Import Bank of the United States*,³ which evaluates objective criteria of union activities performed on behalf of bargaining-unit employees, and is ultimately based on the totality of the circumstances in each case.⁴ Before the RD, the parties stipulated that, since its 2020 recertification, the Union has not: demanded to bargain over a new agreement or the implementation of workplace changes, filed grievances or appeals of Agency actions, or designated any officers. Additionally, the bargaining unit has had no dues-paying Union members since 2023. Based on these factors, the RD found that the Agency "sustained its burden of

¹ 5 C.F.R. § 2422.31 (2025). We note that the Agency filed the petition on December 18, 2025, before the Authority published an interim final rule announcing its intention to revise, among other provisions, § 2422.31 of the Authority's Regulations. See Representation Proceedings, 91 Fed. Reg. 13933, 13933 (Mar. 24, 2026), *vacated sub nom. AFGE, AFL-CIO et al. v. U.S. FLRA*, No. 26-CV-11747-DJC, 2026 WL 1870987 (D. Mass. June 26, 2026). We apply the Regulations in effect on

the filing date throughout this decision, including § 2422.31, which, as relevant here, allows a party to seek – and the Authority to grant – review of a regional director's decision on the basis that it raises an issue for which there is an absence of precedent.

² Decision at 2.

³ 70 FLRA 907, 908-09 (2018) (*Export-Import Bank*) (Member DuBester concurring).

⁴ *Id.* at 909.

showing that a good[-]faith doubt exists” as to the Union’s continued majority status.⁵

Citing Authority precedent, the RD noted that, even where “a reasonable doubt [as to continued majority status] exists, the Authority does not conclude that the Union no longer continues to represent employees[, because] the decision of continued representation belongs to the employees.”⁶ Rather, he found that the Authority orders elections in those circumstances. Consistent with this practice, the RD directed an election to determine whether the bargaining-unit employees “wish to continue to be represented by [the Union] or no labor organization.”⁷

The Agency filed the application on June 2, 2026.

III. Analysis and Conclusions: The Agency has not established that the RD’s decision raises an issue for which there is an absence of precedent.

In its application, the Agency argues that there is an absence of precedent concerning repeated efforts to decertify an inactive union, and that the precedent and procedures that the RD applied do not “address the[se] unique circumstance[s].”⁸ Section 2422.31(c) of the Authority’s Regulations provides, in relevant part, that the Authority may grant an application for review of a regional director’s decision where “[t]he decision raises an issue for which there is an absence of precedent.”⁹ The Authority

has rejected absence-of-precedent claims where, for example, “existing legal standards support” the regional director’s decision.¹⁰

The Agency argues that an agency “asserting that a [u]nion is basically defunct for a second time should not be subject to an election to determine whether certification is appropriate.”¹¹ The Agency claims that, where the “Union has clearly demonstrated that it does not represent the interests” of the bargaining unit, ordering another election that will be determined by “a simple majority does [not] appropriately address the issue at hand.”¹²

Having determined that the Agency met its burden of establishing good-faith doubt as to the Union’s continued majority status, the RD correctly stated that, under established Authority precedent, “the decision of continued representation belongs to the employees,” not the Authority.¹³ In this regard, the Authority has emphasized that “employees’ right to self-determination” is an “essential tenet” of the Federal Service Labor-Management Relations Statute (the Statute).¹⁴ For this reason, if an agency demonstrates that there is a good-faith doubt as to a union’s majority status, then the Authority will order a regional director to conduct an election so that employees can make that determination themselves.¹⁵ Although the Agency asserts that filing two good-faith-doubt petitions in six years raises a “unique” situation, we disagree.¹⁶ The Statute¹⁷ and the FLRA’s Regulations¹⁸ permit repeated filings in various circumstances. For example, they allow individuals to file

⁵ Decision at 4.

⁶ *Id.* at 3 (citing *Overseas Priv. Inv. Corp.*, 36 FLRA 480, 487 (1990) (*OPIC*)).

⁷ *Id.* at 4.

⁸ Application at 1.

⁹ 5 C.F.R. § 2422.31(c)(1).

¹⁰ *U.S. Gov’t Publ’g Off.*, 74 FLRA 264, 269 (2025) (*GPO*) (citing *U.S. DHS, U.S. CBP*, 62 FLRA 78, 83 (2007); *USDA, Food Safety & Inspection Serv.*, 61 FLRA 397, 400-01 (2005) (finding no absence of precedent where party requested that Authority establish a particular standard but did not demonstrate that “the Authority’s existing standard . . . [could not] be applied appropriately to resolve the issues in th[e] case”)); see also *U.S. Forest Serv., Collbran Job Corps, Civilian Conservation Ctr., Collbran, Colo.*, 73 FLRA 436, 438 (2023) (*Forest Serv.*) (finding party had not demonstrated absence of precedent where “sufficient relevant precedent” supported regional director’s decision).

¹¹ Application at 2.

¹² *Id.*

¹³ Decision at 3 (emphasis added) (citing *OPIC*, 36 FLRA at 487).

¹⁴ *U.S. Dep’t of the Army, Fort Wainwright Law Ctr., Fort Wainwright, Alaska*, 71 FLRA 471, 474 (2019) (Member DuBester concurring) (quoting *Export-Import Bank*, 70 FLRA at 909) (internal quotation marks omitted); see also *OPIC*, 36 FLRA at 487 (finding the determination of an exclusive representative “is one that rightfully belongs to the

employees in the bargaining unit consistent with the rights granted by the Statute to self-determination, through secret[-]ballot election”).

¹⁵ *Export-Import Bank*, 70 FLRA at 909; see also *Dep’t of the Interior, Nat’l Park Serv., W. Reg’l Off., S.F., Cal.*, 15 FLRA 338, 341 (1984) (finding that it “effectuate[s] the purposes and policies of the Statute to afford the employees in . . . units [in which good-faith doubt exists] the opportunity to express their desires with respect to continued exclusive representation by that labor organization”); *OPIC*, 36 FLRA at 487 (stating that, in statutory scheme based on elections, it is “neither [the Authority’s] purpose nor . . . role” to conclude that a union “does not, in fact, continue to represent a majority of employees in the bargaining unit”). But see *Duluth Int’l Airport, 4787th Air Base Grp., Duluth, Minn.*, 15 FLRA 858, 860-61 (1984) (granting agency’s good-faith-doubt petition and decertifying union that notified the agency “it would no longer function” after a specified date and no evidence supported finding that a different local union sought to represent the employees).

¹⁶ See Application at 2.

¹⁷ See 5 U.S.C. § 7111(b) (stating that representation elections “shall not be conducted in any appropriate unit” that had such an election “in the preceding [twelve] calendar months”); *id.* § 7111(f) (describing various bars to certification of exclusive representatives).

¹⁸ See 5 C.F.R. § 2422.12 (describing various bars to representation proceedings).

representation petitions – including those for decertification – as soon as a year after an exclusive representative is certified¹⁹ and bar elections only for up to three years after a collective-bargaining agreement goes into effect.²⁰ Therefore, the Agency’s assertion does not provide a basis for finding that there is an absence of precedent governing this case.

Alternatively, the Agency argues that if the Authority does not decertify the Union without an election, then the Authority should require the Union “to seek a showing of interest [from the bargaining-unit employees] prior to an election being held.”²¹ According to the Agency, failure to do so “will most likely” lead to the Agency filing a third good-faith-doubt petition “in a few years.”²²

Although it is unclear whether the Agency presented its showing-of-interest argument to the RD,²³ even assuming that it is properly before us,²⁴ we reject it. The Agency provides no legal arguments or statutory support for its assertion that the Union should be required to demonstrate a showing of interest for a unit that it is currently certified to represent.²⁵ The Agency asserts – without explanation – that an election with a “simple majority does [not] appropriately address the issue.”²⁶ To the extent that the Agency is challenging the validity of low-turnout elections – something that occurred in 2020 but is not necessarily preordained to happen again – the Agency’s challenge lacks merit. In this connection, the Authority has consistently held that, where all employees have the opportunity to vote, there is no requirement under the Statute that a specified number of eligible voters must cast ballots in order for a representation election to be valid.²⁷ As for the Agency’s claim that denying its application will lead it to file a third good-faith-doubt

petition “in a few years,”²⁸ that scenario not only presumes that a majority of voters will vote to recertify the Union – a presumption that we decline to make – but it also is a scenario that is contemplated by the fact that, as discussed above, the Statute and the FLRA’s Regulations permit repeated filings in certain circumstances.²⁹

Because existing legal standards support the RD’s decision, we find that the Agency has not established an absence of precedent.³⁰ Therefore, we decline to grant review of the Petitioner’s application under § 2422.31(c)(1) of the Authority’s Regulations.

IV. Decision

We deny the application.

¹⁹ 5 U.S.C. § 7111(f)(4); 5 C.F.R. § 2422.12(b); see *U.S. Dep’t of the Interior, Nat’l Park Serv., Blue Ridge Parkway, N.C.*, 73 FLRA 526, 532-33 (2023) (then-Member Kiko concurring) (finding petitioner had to wait one year following unit-consolidation certification to file petition for decertification).

²⁰ 5 U.S.C. § 7111(f)(3); 5 C.F.R. § 2422.12(d); see *Nat’l Aeronautics & Space Admin., Goddard Space Flight Ctr., Wallops Island, Va.*, 67 FLRA 670, 672-78 (2014) (Member Pizzella concurring) (finding contract bar applies to decertification elections).

²¹ Application at 1; see also *id.* at 2 (same).

²² *Id.* at 2.

²³ See Agency Resp. to Info. Request, at 2-3 (discussing first good-faith-doubt petition and relying on evidence of Union’s subsequent inactivity, including its failure to provide contact information, as grounds for current petition).

²⁴ See 5 C.F.R. § 2422.31(b) (“An application may not raise any issue or rely on any facts not timely presented to the . . . Regional Director.”); *Forest Serv.*, 73 FLRA at 437 (citing 5 C.F.R. §§ 2429.5 and 2422.31(b) when declining to consider argument that party could have, but did not, present to regional director).

²⁵ See Application at 1-2.

²⁶ *Id.* at 2.

²⁷ *U.S. Dep’t of Interior, Bureau of Indian Affs., Rosebud, S.D.*, 34 FLRA 67, 69-70 (1989); cf. *U.S. Dep’t of the Interior, Bureau of Land Mgmt., Phx., Ariz.*, 56 FLRA 202, 205 (2000) (finding no “specific percentage or number of members must vote” in an election in order for affiliation change to be effective); *U.S. Dep’t of the Army, Rock Island Arsenal, Rock Island, Ill.*, 46 FLRA 76, 83 (1992) (finding election valid where only two unit employees voted); see also *Lemco Constr., Inc.*, 283 NLRB 459, 460 (1987) (holding that “election results should be certified where all eligible voters have an adequate opportunity to participate in the election, notwithstanding low voter participation”).

²⁸ Application at 2.

²⁹ While we agree that, in the circumstances of this case, the RD properly directed an election, and that adequate precedent exists to deny the application, we note that repeated low-turnout elections following good-faith-doubt petitions could raise an issue for which there was an absence of precedent. Member Wagner notes that she does not join the majority on this point.

³⁰ See, e.g., *GPO*, 74 FLRA at 269.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS
AUTHORITY
ATLANTA REGION

UNITED STATES
DEPARTMENT OF AGRICULTURE
RESEARCH, EDUCATION AND ECONOMICS
AGRICULTURAL RESEARCH SERVICE
SOUTHEAST AREA
(Agency)

and

NATIONAL FEDERATION
OF FEDERAL EMPLOYEES,
AFFILIATED WITH THE
INTERNATIONAL ASSOCIATION
OF MACHINISTS & AEROSPACE WORKERS
AFL-CIO, LOCAL 1752
(Incumbent Labor Organization)

AT-RP-26-0003

DECISION AND ORDER

I. Statement of the Case

The U.S. Department of Agriculture Research, Education, and Economics Agricultural Research Service Southeast Area (Agency or Petitioner) filed this petition on December 18, 2025 with the Atlanta Region of the Federal Labor Relations Authority (FLRA). The Agency seeks a determination whether a good faith doubt exists as to the National Federation of Federal Employees, affiliated with the International Association of Machinists & Aerospace Workers, AFL-CIO, Local 1752's (Local 1752 or Union) continues majority status with respect to the representation of the existing unit of Agency employees. The Region investigated the matter and the Parties entered into a Stipulation of Facts that are not in dispute.

For the reasons discussed below, I find that the Petitioner has shown that a good faith doubt exists. Accordingly, I find that an election is necessary to resolve the question concerning continued representation of the at-issue unit of Southeast Area employees by Local 1752.

II. Findings

On October 19, 1977, in Case No. 42-3891 (RO), the Union was certified as the exclusive representative of the following unit of employees:

Included: All non-professional General Schedule and Wage Grade employees of the United States Department of Agriculture, Agricultural Research Service, Southern Region, Florida-Antilles Area.

Excluded: All professional employees, management officials, employees engaged in Federal personnel work in other than a purely clerical capacity, and supervisors as defined in Executive Order 11491, as amended.

On October 17, 2011, in Case No. AT-RP-11-0022, the Atlanta Region of the FLRA amended the certification granted to Local 1752 to read as follows:

Included: All non-professional General Schedule and Wage Grade employees of the South Atlantic Area (SAA), U.S. Department of Agriculture (USDA), Agricultural Research Service (ARS), Research, Education, and Economics (REE) in Florida, Puerto Rico, and the U.S. Virgin Islands.

Excluded: All professional employees, management officials, supervisors, and employees described in 5 U.S.C. sections 7112(b)(2), (3), (4), (6), and (7).

Local 1752 and the Agency entered into their last collective bargaining agreement ("CBA") on or about September 30, 2013, representing the last time the Union demanded, and participated in, term bargaining with the Agency. On August 20, 2018, the Agency notified Local 1752 of its intention to terminate the CBA. The termination letter stated ".....notice to NFFE that it intends to terminate the Agreement effective upon receipt of this memorandum."

On September 11, 2019, in Case No. AT-RP-19-0035, the Agency filed a good-faith doubt petition with this office. The Region conducted an investigation into the petition and found that a good-faith doubt existed as to the Union's majority status, and

thereafter directed an election among the eligible employees as to whether they continued to wish representation by Local 1752. Fifteen eligible voters cast ballots in that election with 12 voting in favor on continuing to be represented by Local 1752. The Agency timely filed an objection to the election based on low voter turnout. On May 10, 2020, the Region issued a decision denying the objections. Thereafter, On August 14, 2020, the Region certified NFFE Local 1752 as the exclusive representative of the following unit:

Included: All non-professional General Schedule and Wage Grade employees of the Southeast Area (SEA), Agricultural Research Service (ARS), Research Education and Economics (REE), U.S. Department of Agriculture (USDA), in Florida, Puerto Rico, and the U.S. Virgin Islands.

Excluded: All professional employees; management officials; supervisors; and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

Since the issuance of the August 20, 2020 certification, Local 1752 has not engaged in any representational activity. The Union has not initiated a demand to bargain a new CBA. There have been no Union grievances, or other appeals of Agency initiated actions such as removal actions for performance or conduct related issues of employees represented by the Union. Since at least August 20, 2020, the Local has not designated any Local 1752 Union officers. Since at least August 20, 2020, the Union has not submitted any demands to bargain or responded to any notices of workplace changes. There are currently no dues-paying members out of the approximate 105 bargaining unit employees in the unit. There was at least one dues payer in the unit until September of 2023.

III. Analysis

The analytical framework for evaluating an agency's claim of a good faith doubt as to the continued majority status of an incumbent exclusive representative is outlined in *Export-Import Bank of the United States*, 70 FLRA 907 (2018). As set forth in that case, the Authority looks to objective criteria such as the status of a negotiated agreement, the filing -- or lack thereof -- of grievances and requests to negotiate over changes in conditions of employment, the number of dues-paying members, and other activities performed by a union on behalf of its bargaining-unit employees. *Export-Import Bank*, 70 FLRA at 908-09. There is no single indicator of good faith doubt. Rather, "the issue of whether an

employer has questioned a union's majority in good faith cannot be resolved by resort to any simple formula. It can only be answered in light of the totality of all the circumstances involved in a particular case" and "factors asserted to support a good faith doubt . . . must be viewed both in their context and in combination with each other." *Id.* at 909.

Where the Authority finds that a reasonable doubt exists, the Authority does not conclude that the Union no longer continues to represent employees. Rather, the decision of continued representation belongs to the employees. *Overseas Private Inv. Corp.*, 36 FLRA 480, 487 (1990). In *OPIC*, the Authority emphasized:

We stress that our conclusion here is only that a reasonable doubt exists that the Union continues to enjoy majority status and we do not conclude that it does not, in fact, continue to represent a majority of employees in the bargaining unit. That is neither our purpose nor our role. That determination is one that rightfully belongs to the employees in the bargaining unit consistent with the rights granted by the Statute to self-determination, through secret ballot election, in their choice of which, if any, labor organization will represent them exclusively.

Id. at 487-488. See also *Dep't of the Army, Fort Wainwright Law Ctr., Fort Wainwright, Alaska*, 71 FLRA 471, 474 (2019)(employees' right to self-determination is an essential tenet of the Statute).

In this case, the totality of the circumstances reveals that in 2020, employees voted to retain Local 1752 as its representative. In the five plus years since the election, there has been no representational activity by the Union. There is no collective bargaining agreement. The Union has also not demanded to bargain a new collective bargaining agreement. There is no indication of the Local filing a grievance, representing employees in any third-party proceedings, demanding to bargain changes in employees' working conditions, or even responding to notifications of proposed changes. There are no Union officers and currently no dues-paying members out of the approximately 105 bargaining unit employees. There is evidence that the last dues-paying member discontinued membership in 2023.

The above referenced circumstances warrant a finding of good-faith doubt as to whether Local 1752 continues to represent a majority of employees in the Southeast Area unit. For all the forgoing reasons, I find that Petitioner has sustained its burden of showing that a

good faith doubt exists as to the continued majority status of Local 1752 for the purposes of collective bargaining.

IV. Order

IT IS ORDERED that the Agency's petition is granted on grounds of a good faith doubt of Local 1752's majority status. Based on my findings, I am directing an election for the following unit of employees, to determine whether the employees wish to continue to be represented by Local 1752 or no labor organization:

Included: All non-professional General Schedule and Wage Grade employees of the Southeast Area (SEA), Agricultural Research Service (ARS), Research Education and Economics (REE), U.S. Department of Agriculture (USDA), in Florida, Puerto Rico, and the U.S. Virgin Islands.

Excluded: All professional employees; management officials; supervisors; and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

If a majority of the votes cast are in favor of representation by Local 1752, I will issue a certification to that effect. If a majority of the employees vote against representation by Local 1752, I will issue a certification indicating the employees have chosen not to be represented by Local 1752.

VI. Right to Seek Review

Under section 7105(f) of the Statute and section 2422.31(a) of the Authority's Regulations, a party may file an application for review with the Authority within sixty days of this Decision. The application for review must be filed with the Authority by **June 2, 2026**, and addressed to the Chief, Office of Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 300, 1400 K Street, NW, Washington, DC 20424-0001. The parties are encouraged to file an application for review electronically through the Authority's website, www.flra.gov.¹

Brent S. Hudspeth
Regional Director
Federal Labor Relations Authority
Atlanta Region
International Tower, Suite 900
229 Peachtree Street N.E.
Atlanta, GA 30303

Dated: April 3, 2026

¹ To file an application for review electronically, go to the Authority's website at www.flra.gov, select **eFile** under the **Filing a Case** tab and follow the instructions.