The Impact of Reorganizations on Bargaining Units

Web-based Training Course

Provided by

Federal Labor Relations Authority Office of General Counsel

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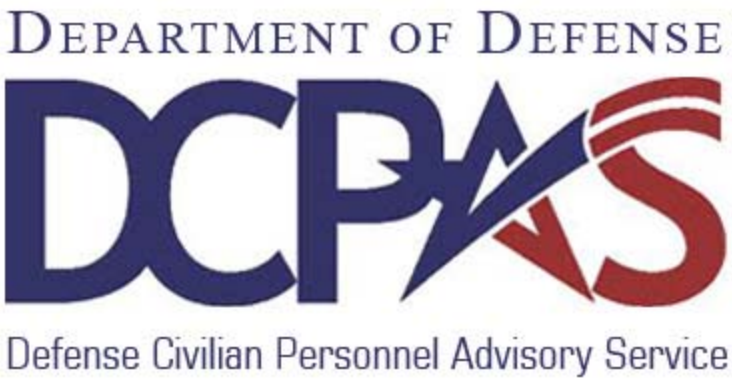
Impact of Reorganizations on Bargaining Units

This course was produced through an Interagency Agreement with the Labor and Employee Relations Division (LERD) of the U.S. Department of Defense, under which LERD provided all technical support and production facilities. The Federal Labor Relations Authority (FLRA) Office of General Counsel (OGC) is solely responsible for the substantive content and gratefully acknowledged LERD for its support of this project.



This course is intended to address issues that arise when agencies or units reorganize or merge, creating new organizations or changing existing organizations. When this occurs, the question of which union represents bargaining unit employees may arise.

This course is designed to meet the needs of federal managers, union representatives, and employees supporting and interacting with changing organizations by addressing issues that arise when agencies or units reorganize or merge. Foundational knowledge and skills that are needed to determine the correct union representation for bargaining units following a reorganization are taught in this training.

Lesson 1: How to Use This Course

The Impact of Reorganizations on Bargaining Units Web-based training (WBT) addresses the representation issues faced when agencies and other entities reorganize. This course introduces foundational knowledge on how reorganization impacts bargaining units. Interactive scenarios are used to simulate the real-world thought process and analysis skills that are needed to identify correct representation for bargaining units following reorganization.

This Representation Cases course is designed to address the needs of a broad audience, from beginners to experienced agency or union officials alike. The design allows for a high level of self-direction and provides different learning modes so that you can explore the content that is relevant to you.

After completing this course, you will be able to

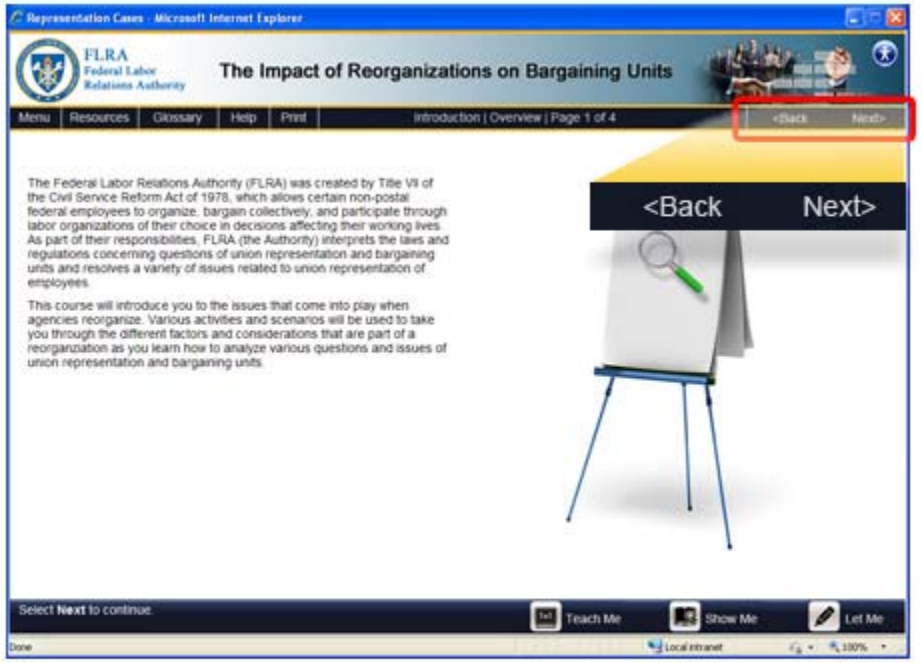
- Describe the standards and criteria you will need to apply to balance the rights of management and bargaining units
- Answer questions regarding the effects of reorganization
- Recognize if a union should become the exclusive representative of a bargaining unit or whether elections are needed

Completion Requirements

Because this course is designed to allow you to access only the content that you need, you do not need to access every page in the course to complete the course. Only the evaluation scenario is required to receive your completion certificate. This interactive scenario describes a reorganization fact pattern. You must analyze the situation, apply the appropriate decision criteria, and identify which union, if any, represents the new unit or whether an election must be held. If elections must be held, you must also decide what should be voted on as part of those elections. A scenario of average difficulty and common considerations is used.

Sequential Navigation

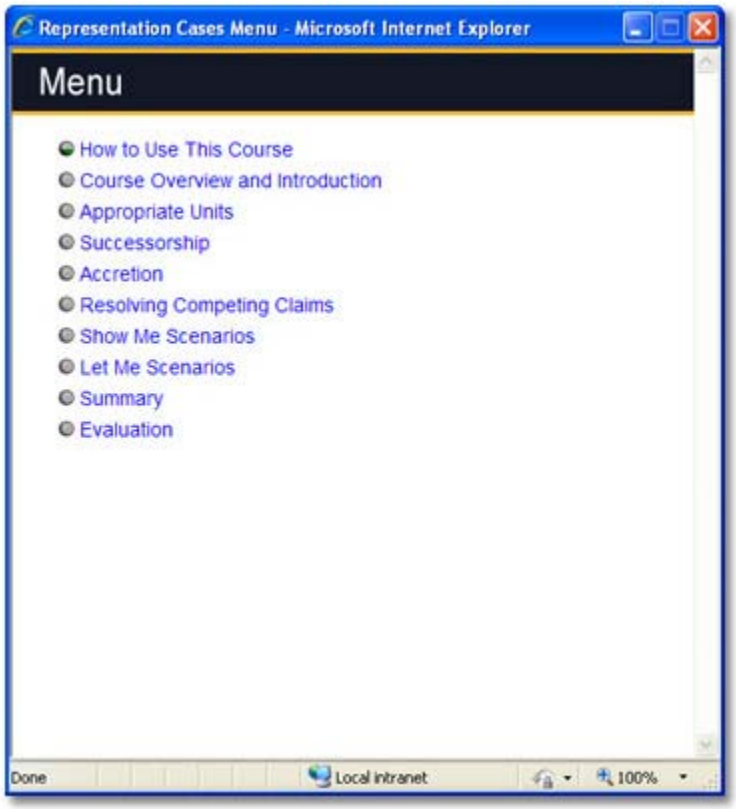
You can navigate sequentially by using the Next and Back buttons. Using this option, you can start at the beginning of the course with foundational instructional content and continue through increasingly advanced examples and exercises to the end of the course.
Sequential navigation is an appropriate option for beginners and others needing to review foundational instruction.



Selecting a Lesson

A menu is available that allows you to go directly to any lesson or topic that you choose.

This method is appropriate for those who have previous experience with, or knowledge of, representation cases involving reorganizations and their impact on bargaining units.



Instructional Modes

This course uses three modes to present the instructional material:

- **Teach Me** – addresses the foundational concepts needed to evaluate the consequences of a reorganization. This mode is first accessed by proceeding sequentially through the main content.
- **Show Me** – uses example cases and scenarios to demonstrate the reasoning used by experts when evaluating a reorganization.
- **Let Me** – allows you to apply what you have learned by working through different scenarios to come to your own conclusions.

These buttons display in the applicable lessons (lessons 3 - 8).

Accessibility

An accessibility option button displays in the upper right screen. Clicking this button displays a page with detailed information regarding accessibility features.

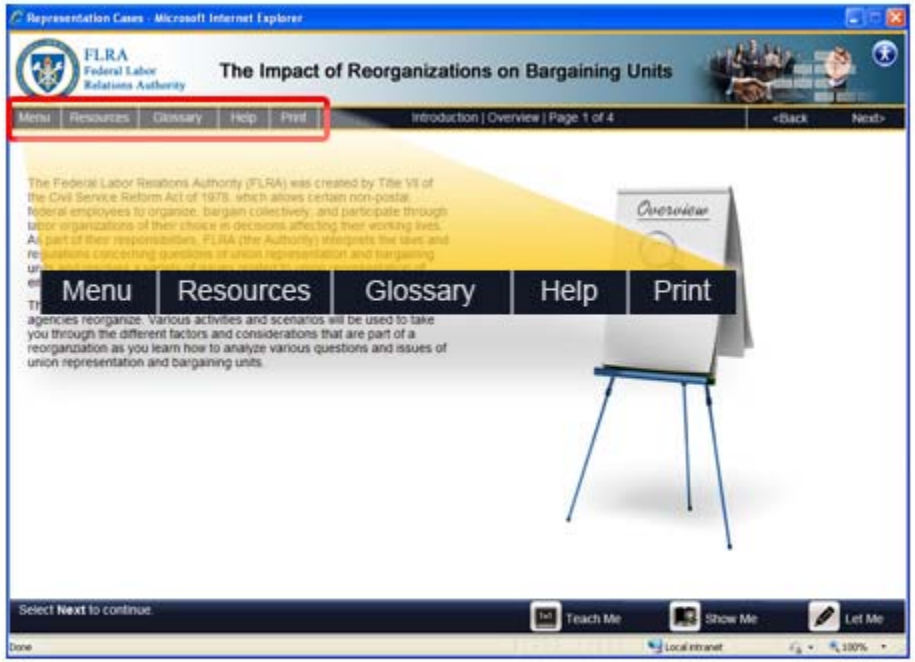
The table on the right shows the key commands that are available for keyboard accessibility.

Keyboard Shortcut	Command
Menu	Alt - M
Resources	Alt - R
Glossary	Alt - G
Help	Alt - H
Print	Alt - P
Back	Alt - B
Next	Alt - N
Accessibility Help	Alt - A

Course Menu

The menu bar is in the upper left of the screen and provides access to course resources controls for the course. It includes the following buttons:

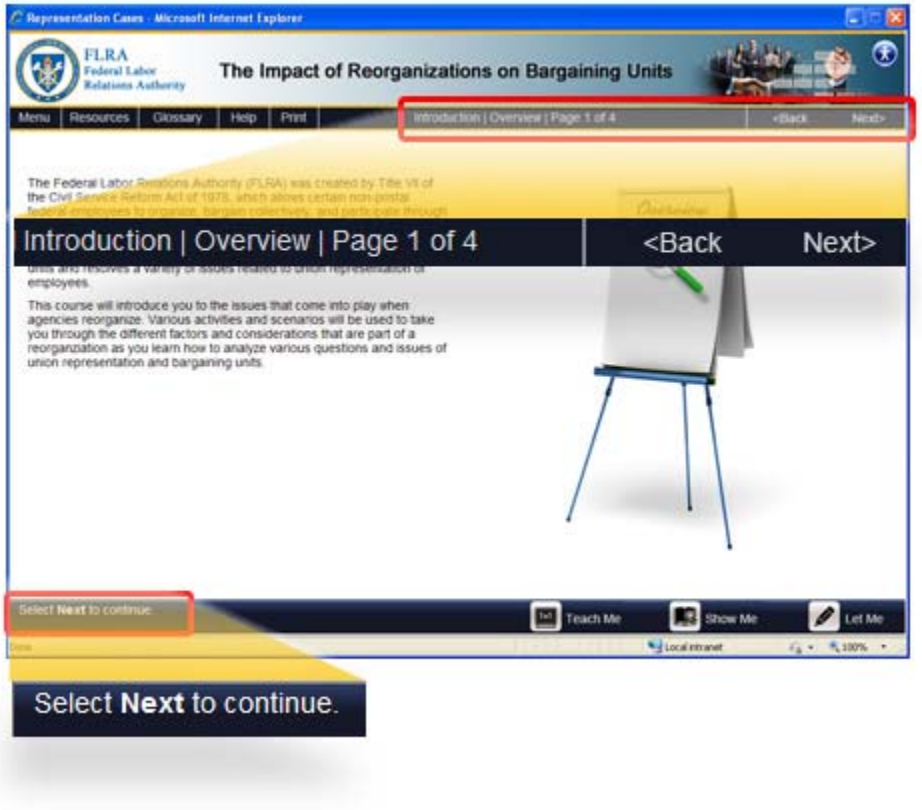
- **Menu:** Opens a menu page that provides links to the first page of each lesson. Selecting a lesson title will expand the lesson and display the lesson topics.
- **Resources:** Opens a page that provides links to supplemental documents and other resources that provide more information on the subjects taught in this course.
- **Glossary:** Opens a page that contains the terms used in this course and their definitions.
- **Help:** Opens a page that provides detailed information on technical requirements for running the course, course organization, course navigation, and accessibility options.
- **Print:** Opens a printable PDF version of the course. You can print or save the file for later reference.



Navigation Controls

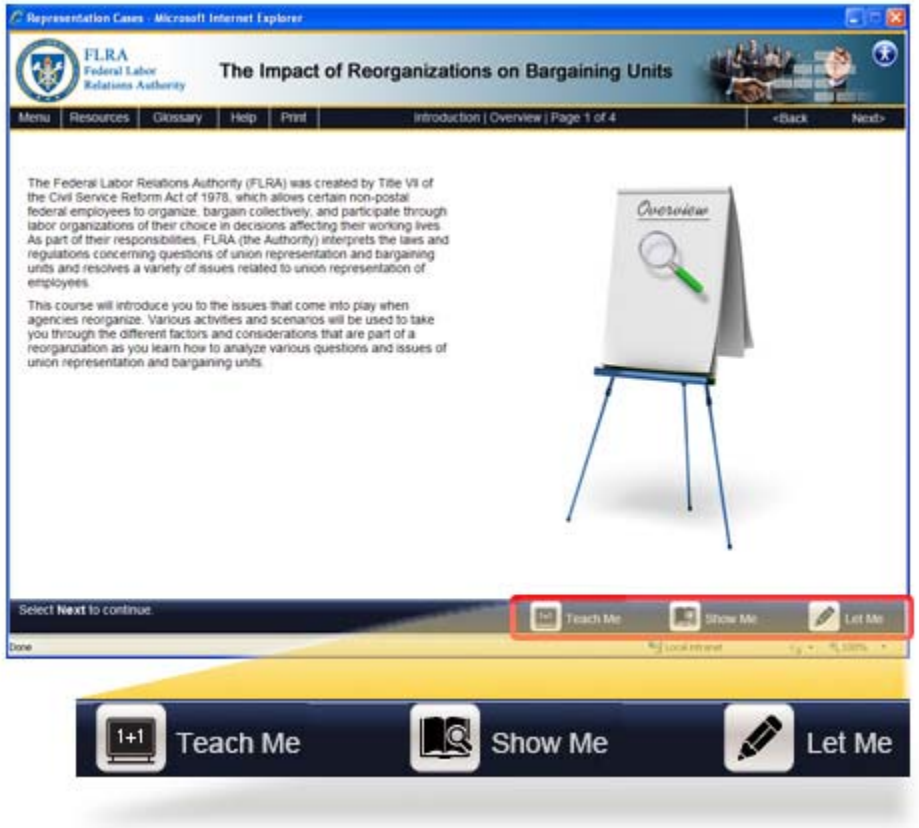
The menu bar also provides controls that help you move through the course.

- **Breadcrumb Trail** - helps you identify your current location in the course. It indicates the mode, topic, and current page number.
- **Navigation Buttons** - include Back and Next buttons which allow you to move from one page to the next.
- **Screen Prompt** – displays at the bottom of the screen and provides instructions for the current screen.



Instructional Mode Buttons

Three buttons display along the bottom of the screen. These buttons allow you to jump directly to the first page of the first lesson within that mode. When you select one of these buttons, a message displays reminding you that you will be directed away from the current content and that the Back button will not return you to the page you are leaving.



Lesson 2: Course Overview and Introduction

The Federal Labor Relations Authority (FLRA) was created by Title VII of the Civil Service Reform Act of 1978, which allows certain non-postal federal employees to organize, bargain collectively, and participate through labor organizations of their choice in decisions affecting their working lives. As part of their responsibilities, FLRA (the Authority) interprets the laws and regulations concerning questions of union representation and bargaining units and resolves a variety of issues related to union representation of employees.

This course will introduce you to the issues that come into play when agencies reorganize. Various activities and scenarios will be used to take you through the different factors and considerations that are part of a reorganization as you learn how to analyze various questions and issues of union representation and bargaining units.

After completing this course, you will be able to:

- Define the standards and criteria you need to apply to balance the rights of management and employees
- Answer questions regarding the effects of reorganization
- Recognize if a union should become the exclusive representative of a bargaining unit or whether elections are needed

Need to Reorganize

Agencies reorganize for many reasons. But with the tightening federal budget and other economic pressures, agencies are often confronted with the need to reorganize as they attempt to streamline their operations. When this happens, agencies may be renamed, downsized, or combined with other agencies, and employees may be transferred to new activities, existing activities, or even new locations.

Lesson Objectives

After completing this lesson, you will be able to:

- Describe management and employee rights as they relate to reorganizations
- Explain the implications of reorganization

Management and Employee Rights

An agency's right to perform such a reorganization falls within the "Management Rights" defined in Section 7106(a), which include the right to organize and reorganize its operations and structure. Employees also have the right, pursuant to Section 7102 of the Statute, to be represented by a union and bargain collectively with management.

The Statute: § 7106. Management rights

(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency--

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws--

(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

The Statute: § 7102. Employees' rights

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right--

(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

Successorship - Standard to Address Effects of Reorganization on Bargaining Units

Reorganization raises the question of how employee representation will be affected.

- Will the bargaining unit employees continue to be represented by the same union or will a new union now be its representative?
- What are the considerations if some of the employees forming the new unit are represented and others are not?
- What if multiple unions are involved?

This course will teach you the standards and criteria you need to apply to balance the rights of management and employees, answer questions regarding the effects of reorganization, and help you determine the correct union to represent a bargaining unit or whether elections are needed.

Review of Lesson Objectives

This lesson introduced the concept of reorganization and its effect on bargaining units.

Now that you have completed this lesson, you should be able to:

- Describe management and employee rights
- Explain the implications of reorganization as they relate to reorganizations

End of Lesson

This is the end of this lesson. Use the navigation controls to select where you would like to go next:

To go to...	Select...
The first page in the next lesson	**Next**
A new lesson	**Menu**
Instruction of foundation concepts	**Teach Me**
Example scenarios that demonstrate an expert's reasoning	**Show Me**
Interactive scenarios that let you work through an example	**Let Me**
Evaluation scenario	**Menu**

Lesson 3: Appropriate Units

A fundamental concept underlying representation issues is the concept of an "appropriate unit." Bargaining units can be certified only if they are appropriate.

This lesson will introduce the concept of an appropriate unit and the criteria for identifying an appropriate unit.

After completing this lesson, you will be able to:

- Identify an appropriate unit
- Explain what an "appropriate unit" is, including the three criteria

Bargaining Units

A "bargaining unit" is a group of employees who are represented by a union. Organizations can have many appropriate bargaining units. Bargaining units may be established on a functional or craft basis. Examples of functional or craft units are units of firefighters or units of quality assurance specialists.

Identifying Appropriate Units

Think about a military base that has bargaining units of firefighters, police officers, and all other nonprofessional employees. All three are appropriate units.

At a different military base, there may be a single unit of all nonprofessional employees, including firefighters and police officers. That unit is also an appropriate unit under the Statute.

Eligible Employees

Employees who are not supervisors or managers are eligible to be in a bargaining unit except for those with certain roles and responsibilities. Section 7112(b) of Title 5 lists several exceptions. These exceptions are shown in the image on the right. Select each image for more information.

Appropriate Unit Criteria

Section 7112(a) of the Statute establishes three criteria for an appropriate bargaining unit:

- Community of Interest
- Effective Dealings
- Efficiency of Operations

Remember, bargaining units can be based on function or craft. Whatever the unit or its function, it must meet the three criteria to be considered an "appropriate unit."

You can read about the three criteria at: http://flra.gov/statute_7112.

Criterion 1: Community of Interest

A community of interest is intended to ensure that employees can deal collectively with management. When employees have working conditions in common, they can bargain collectively with management.

There are many community of interest factors. All don't need to be present to conclude that the employees in a proposed unit share in a community of interest. Here are examples of the factors:

- Are the employees in the proposed unit are part of the same organizational component?
- Do they support the same mission?
- Are they subject to the same chain of command?
- Do they have similar or related duties, job titles and work assignments?
- Are they subject to the same general working conditions?
- Are they serviced by the same personnel office?
- Do they share geographic proximity, unique conditions of employment or distinct local concerns?
- Do the employees interact with other organizational components, or are they separated from them by function or operation?

Factors you should consider when determining whether a community of interest exists and examples of each are shown in the diagram on the right.

Knowledge Check: Community of Interest

Each situation describes two groups of employees. Decide whether the situation supports finding that the employees share in a community of community of interest or does not support finding a community of interest.

Situation	Decision
1. ☐ For RIF, the employees in the Western Region would be in one area of consideration. The employees in the Eastern Region would be in a different area of consideration.	A. Yes B. No
2. ☐ The support employees report to the Assistant Director. The technicians also report to that Assistant Director.	
3. ☐ The Western Region employees work at one location in California. The Central Region employees work at a different location, 1500 miles away.	
4. ☐ The District Director of the Eastern District establishes working conditions for Eastern District employees. The Central District Director sets working conditions for Central District employees.	
5. ☐ The firefighters prevent and fight fires. The fire inspectors inspect buildings for fire hazards and train the firefighters.	
6. ☐ Employees of one District work on a unique research project. The employees of the neighboring district do not work on this project.	

Criterion 2: Effective Dealings

The second criterion is the promotion of effective dealings. Effective dealings pertain to the relationship between management and a union.

Keep the following in mind when considering whether effective dealings are possible:

Consideration	Explanation
Past collective bargaining experience of the parties	Preserving units promotes effective dealings when parties have a long history of collective bargaining.
Level at which LMR policies and working conditions are set	Bargaining with managers who do not have the authority to set policies and conditions for that unit does not result in effective dealings.
Location and scope of authority of the personnel office that will administer these policies	It may not be effective if more than one human resources office is involved in administering policy for the proposed bargaining unit.

As with community of interest, these factors are not all-inclusive, and all need not be present to conclude that the proposed unit promotes effective dealings. But, you can see that these factors relate to bargaining units being able to deal effectively with management.

Knowledge Check: Effective Dealings

Decide whether each situation below supports effective dealings.

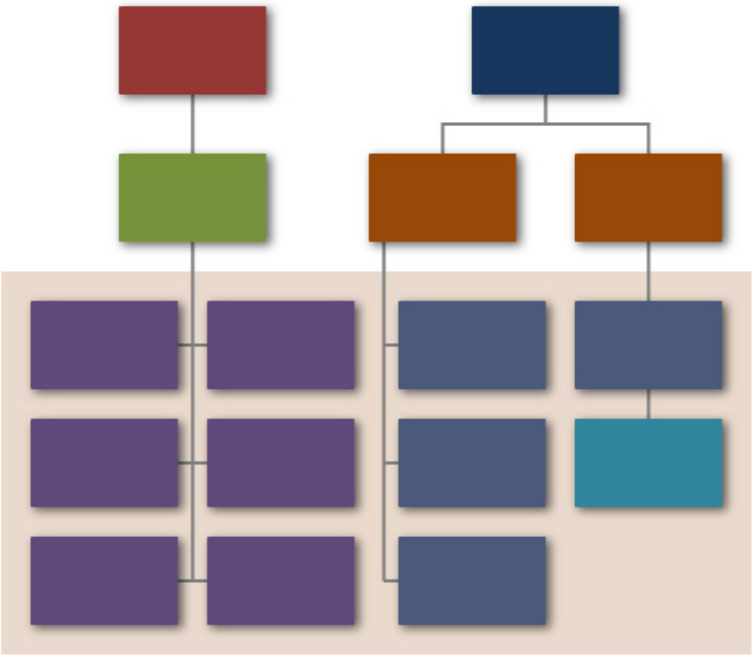
Situation	Decision
1. ☐ The management head of the proposed unit has full authority to set policies and working conditions.	A. Yes
2. ☐ All employees receive personnel servicing from the same office.	B. No
3. ☐ The office responsible for administering policy for the proposed unit is in a different district than the proposed unit.	
4. ☐ Labor policies for the proposed unit are under the authority of a different organization.	
5. ☐ The district manager of the proposed unit is delegated certain authorities to negotiate.	
6. ☐ The commanding officer for the proposed unit establishes all LMR policies.	

Criterion 3: Efficiency of Operations

A bargaining unit must promote the efficiency of agency operations. Here, the Authority considers whether the proposed unit bears a rational relationship to the operational and organizational structure of the agency.

Consider the following when determining whether a unit promotes efficiency of operations:

Consideration	Explanation
Effect of the bargaining unit on agency costs, productivity, and use of resources	A proposed unit that will be costly for management to administer, in terms of resources, does not promote efficiency of operations.
Whether the proposed unit bears a rational relationship to the agency's organizational structure	A proposed unit that crosses organizational boundaries can create inefficiencies. For example, if one agency official sets working conditions for some employees in the unit and a different official sets conditions for others, conflicts and differences can occur.
Level at which labor-management relations policy is set	It is inefficient to deal with managers who do not have the authority to set policy.
Location and scope of authority of the personnel office that will be administering these policies	It may be inefficient if two personnel offices, rather than one, will be administering the policies.



Knowledge Check: Efficiency of Operations

Decide whether each situation below promotes efficient operations.

Situation	Decision
1. ☐ Personnel and LMR servicing is provided elsewhere in the organization, but the proposed bargaining would not involve additional costs	A. Yes B. No
2. ☐ The proposed unit would result in some employees being managed by directors in a different organization.	
3. ☐ The proposed unit operates independently of its district office, so the new unit would not lead to fragmentation or inefficiencies of operation.	
4. ☐ The proposed unit would duplicate efforts and be an ineffective use of resources.	
5. ☐ The proposed office unit is physically isolated from other offices in the district, and organizationally, the office is an identifiable organization of the district.	
6. ☐ Unions propose a separate bargaining unit for each of four fire stations. The Fire Chief would have to negotiate four separate contracts if the unit were found appropriate.	

Appropriate Units: Challenge

Appropriate Unit?

A union filed a petition to represent a bargaining unit of all nonprofessional employees of the Defense Plant Representative Office – Thiokol in Brigham City, Utah. The Thiokol Office is part of the North Central District of the Defense Contract Management Command. Employees of the Thiokol Office monitor a contract between the Federal Government and a private corporation, which is producing booster rockets for NASA's shuttle program.

Summary of Facts

A union filed a petition to represent a bargaining unit of all nonprofessional employees of the Defense Plant Representative Office – Thiokol in Brigham City, Utah. The Thiokol Office is part of the North Central District of the Defense Contract Management Command. Employees of the Thiokol Office monitor a contract between the Federal Government and a private corporation, which is producing booster rockets for NASA's shuttle program.

Management's Position

Management says that the employees of the Thiokol Office do not have a community of interest that is distinct from all other employees of the North Central District, and the unit would not promote effective dealings or efficiency of operations. But, the union disagrees.

Union's Position

The Union says that the nonprofessional employees of the Thiokol Office are an appropriate bargaining unit.

Operation Factors - Thiokol Office's Operations

Here are the facts about the Thiokol Office employees' conditions of employment:

- The Thiokol Office is physically isolated from other offices of the North Central District, and most work at a modern plant of the private corporation which is producing the booster rockets.
- The Thiokol Office employees are the only ones of the North Central District who work on booster rocket contracts.
- Working at the corporation's plant presents safety hazards, given the presence of rocket propellant.
- Although the organizational structure of the Thiokol Office is similar to other North Central District offices, the Quality Assurance Staff of the Thiokol Office is very large, due to the NASA shuttle program work.
- The Quality Engineering Branch of the Thiokol Office deals exclusively with the shuttle program and was created at NASA's request to perform technical quality assurance functions.
- Four sections of the Thiokol Office perform only shuttle program quality inspections.
- North Central District employees are essentially interchangeable in terms of functions, job series, and position descriptions.
- Only a limited number of employees have been reassigned within the District.
- Little interchange or transfer of employees exists between the Thiokol Office and other offices of the North Central District.
- Temporary duty assignments of Thiokol Office employees to other offices were infrequent.
- The Thiokol Office employees are in their own area of consideration for reduction-in-force.
- Many policies concerning conditions of employment of Thiokol Office employees are governed by agency regulations common to all in the North Central District.
- The Commander who heads the Thiokol Office can determine numerous conditions of employment (e.g., overtime assignments and budgets; leave schedules; performance standards; career-ladder promotions; adverse weather condition policies).
- The North Central District provides employee relations and labor-management relations for the Thiokol Office.
- Other North Central District employees are in various bargaining units, and the North Central District administers these collective bargaining agreements.

What Do You Think?

Answer the questions below to analyze the appropriate unit criteria, then decide whether a community of interest exists.
Select the **Ask the Expert** tab above to review the Authority's analysis and feedback and learn the final results.

1. Appropriate Unit Criteria

- Does a unit of Thiokol employees represent a community of interest that is separate and apart from other employees of the North Central District?
- Would a unit of Thiokol employees promote effective dealings?
- Would a unit of Thiokol employees promote efficiency of operations?

2. Your Decision

Do the Thiokol employees share in a community of interest that is separate and apart from other employees of the North Central District?

Ask the Expert

1. Appropriate Unit Criteria

- Does a unit of Thiokol employees represent a community of interest that is separate and apart from other employees of the North Central District?

  Yes. The Thiokol employees share a clear and identifiable community of interest that is separate and apart from other employees of the North Central District. The employees of the Thiokol Office have numerous concerns that are local in nature. These are tied to the unique rocket-booster work of the Thiokol Office. Thiokol Office employees have little interchange with other employees of the North Central District. The Commander of the Thiokol Office has authority to set certain conditions of employment.

- Would a unit of Thiokol employees promote effective dealings?

  Yes. The unit would promote effective dealings, since the Commander does have the authority to establish conditions of employment. There could be effective labor-management relations at the level of the Thiokol Office.

- Would a unit of Thiokol employees promote efficiency of operations?

  Yes. The unit would promote efficiency of operations. The Thiokol Office is a separate organizational component of the North Central District. The Thiokol Office operates independently of the other offices of the North Central District, so the unit of Thiokol Office employees would not lead to fragmentation or inefficiencies of the operation of the North Central District.

2. Your Decision

- Do the Thiokol employees share in a community of interest that is separate and apart from other employees of the North Central District?

  Yes. The unit meets the criteria for an appropriate unit.

Case citation:
Defense Logistics Agency, Defense Contract Management Command, Defense Contract Management District North Central, Defense Plant Representative Office-Thiokol, Brigham City, Utah, 41 FLRA 316 (1991)

Review of Lesson Objectives

This lesson introduced the concept of an appropriate unit and the criteria for identifying an appropriate unit.

Now that you have completed this lesson, you should be able to:

- Identify an appropriate unit
- Explain what an "appropriate unit" is, including the three criteria

End of Lesson

This is the end of this lesson. Use the navigation controls to select where you would like to go next:

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The first page in the next lesson	**Next**
A new lesson	**Menu**
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Example scenarios that demonstrate an expert's reasoning	**Show Me**
Interactive scenarios that let you work through an example	**Let Me**
Evaluation scenario	**Menu**

Lesson 4: The Successorship Standard

The successorship standard was developed to address what happens to collective bargaining units and the employees' elected representative when an agency reorganizes its operations. It attempts to balance management's right to reorganize and employees' rights to be represented by a union and bargain collectively with management.

This lesson will describe the successorship standard and the criteria used to determine whether a new entity is the successor of a prior entity.

After completing this lesson, you will be able to:

- Determine whether the successorship standard applies to a given reorganization
- Explain what the successorship standard is, including the three criteria
- Determine if an election is needed
- Determine if a majority exists
- Determine if a union is sufficiently predominant

The Port Hueneme Decision

The lead Authority decision on successorship is U.S. Navy, Naval Facilities Engineering Service, Port Hueneme, 50 FLRA 363 (1995), commonly called Port Hueneme (pronounced "why-knee-me"). In the Port Hueneme decision, the Authority changed the standard it applies to determine if a union continues to represent a group of employees after a reorganization has occurred.

The Port Hueneme criteria are used to analyze reorganizations and determine successorship. This lesson will teach you how to apply these criteria when analyzing a reorganization.

You can read about the Port Hueneme decision at: http://www.flra.gov/decisions/v50/50-056.html.

50:0363(56)CU - - Naval Facilities Engineering Service Center (NFESC), Port Hueneme, CA and NAGE, Local R12-28; NFESC and NAGE Local R12-196 - - 1995 FLRAdec RP - - v50 p363

Before the Authority: Phyllis N. Segal, Chair; Tony Armendariz and Pamela Talkin, Members.

I. Statement of the Case

In Naval Facilities Engineering Service Center, Port Hueneme, California, 50 FLRA 26 (1994) (NFESC), the Authority granted the labor organization's (NAGE's) application for review of the Acting Regional Director's (RD's) decision and order dismissing NAGE's clarification of unit (CU) petitions. We granted the parties to this case and other interested persons the opportunity to file briefs addressing the following questions:

(1) In considering the second factor for determining successorship set forth in DOE [Department of Energy, Western Area Power Administration, 3 FLRA 77 (1980)], what criteria should be applied to determine whether the appropriateness of a bargaining unit remains unimpaired as a result of a reorganization when accretion is claimed? How do those criteria apply in this case?

(2) In considering the third factor for determining successorship set forth in DOE, does the filing of an RA petition questioning the continued appropriateness of a bargaining unit raise a question concerning representation so as to preclude a finding that a successor relationship exists between an established bargaining unit and gaining agency?

(3) Should the factors for determining successorship set forth in DOE be modified or clarified in any other respect?

NFESC, 50 FLRA at 32.[1]

The Department of Navy (Navy) and NAGE filed supplemental briefs,[2] and the Department of the Interior; NAGE, Hampton, Virginia Regional Office; the American Federation of Government Employees; and the Office of the General Counsel, Federal Labor Relations Authority filed briefs as amicus curiae.[3] For the following reasons, we reverse the RD's decision and order.

II. RD's Decision

As set forth fully in 50 FLRA 26, the Naval Civil Engineering Laboratory (NCEL) was disestablished in a reorganization and the Naval Facilities Engineering Service Center (NFESC) was established. The NFESC included former NCEL employees represented by NAGE and unrepresented employees of other Navy entities. NAGE claimed in its CU petitions that the NFESC was the successor employer to its former NCEL bargaining units. The Activity claimed in its RA petitions that the character and scope of the NAGE units had changed substantially and that the units were no longer appropriate.

The RD dismissed the CU petitions and directed that representation elections be conducted, finding that the NFESC was not the successor to the NCEL because the second and third DOE factors had not been satisfied. As to the second factor, the RD concluded that the appropriateness of the former units had been impaired because the reorganization substantially changed the character and scope of the units. As to the third factor, the RD found that a QCR had been raised by the filing of the RA petitions. The RD determined that appropriate units for exclusive recognition were: (1) all nonprofessional GS and WG employees of NFESC and (2) all professional employees of NFESC, and the RD directed that representation elections be conducted in those units.

Port Hueneme Criteria

The successorship standard has three parts.

- Characteristics of the Unit
- Continuity of Operations
- Need for Election

A gaining entity is a successor, and a union remains the exclusive representative of employees, when the successorship criteria are met. The successorship standard is applied both when reorganizations involve newly-created activities and when reorganizations involve existing activities.

Criterion 1: Characteristics of the Unit

The first part concerns the movement or transfer of bargaining unit employees. *Transfer of employees* is a generic term and refers to any organizational movement of employees within or between agencies. In this first criterion for successorship, all or some employees of a bargaining unit are transferred; the transferred employees must be in an appropriate unit after the transfer; and the transferred employees must constitute a majority of the employees in the new unit.

Three factors relate to the characteristics of the unit. Select each factor to learn more.

- Organizational movement
- Appropriate unit following transfer
- Constitute a majority in the new unit

Organizational movement
Organizational movement refers to movement or transfer of employees. Employees can be transferred in a realignment, a transfer of function, or by applying for positions. The main consideration, regardless of the type of movement, is that it occurs in relation to the reorganization.

Appropriate unit following transfer
Employees must be in an **appropriate unit** following transfer. Under Section 7112(a) of the Statute, representation is only determined for appropriate units.

For more information on determining appropriate units, see the Appropriate Units lesson of this course.

Constitute a majority in the new unit

Finally, the employees transferred from bargaining units must constitute a **majority** of employees in the new unit. Majority means 50% + 1.

Knowledge Check: Movement or Transfer of Employees

Review the following descriptions and determine whether transferred employees constitute a majority in the new unit.

Reorganization	Majority
1. ☐ A new entity is created of 75 employees -- 39 came from a bargaining unit represented by Union A and 36 from a bargaining unit represented by Union B.	A. Majority
2. ☐ An existing entity consists of 100 bargaining-unit-eligible employees, and no union represents the employees. A reorganization takes place, and 29 employees, who were represented by Union A, were transferred to the existing entity.	B. No Majority

Criterion 2: Continuity of Operations

The second criterion for successorship looks at the continuity of operations between the losing and gaining entities. The gaining entity must have a similar mission as the losing entity or entities, and the employees must be performing similar duties, under similar working conditions. Note that the losing and gaining entities do not need to have exactly the same missions.

Often, part of an entity's mission is transferred to the gaining entity. Also, employees do not need to be performing the same duties after their transfer. They need to be performing similar duties. The question is: for the employees, was the change of employer transparent?

Criterion 3: Need for Election

The third factor is whether an election is needed. If the first two criteria (characteristics of the unit and continuity of operations) are met, a union continues as the unit employees' exclusive representative, unless other factors require an election to be held among the employees of the post-transfer unit.

When an Election is not Needed

An election is not needed if one union is involved and the majority of the employees in the post-transfer unit had been in that union's bargaining unit. Majority is 50% plus 1.

If more than one union is involved, an election is not needed if one union is sufficiently predominant. To be sufficiently predominant, more than 70% of the employees in the post-transfer unit must have been represented by that union.

When Do You Assess Numbers of Employees?

When do you assess the numbers of employees transferred to the gaining entity to determine if an election is necessary? Is it done at the time of the reorganization, when the representation petition is filed, or some other time?

The Authority has not specified. The FLRA's successorship standard is based upon the standard applied by the National Labor Relations Board (or NLRB), enforcing the National Labor Relations Act. Under the NLRB's decisions, the numbers are counted at the time of the reorganization. The exception is when the new entity experiences a start-up period in its operations. In that case, assess the employee numbers when a substantial and representative complement exists.

To learn more about a substantial and representative complement, read U.S. Department of Transportation, U.S. Coast Guard Finance Center, Chesapeake, Virginia, 34 FLRA 946 (1990).

When an Election Is Needed

We will consider two scenarios:

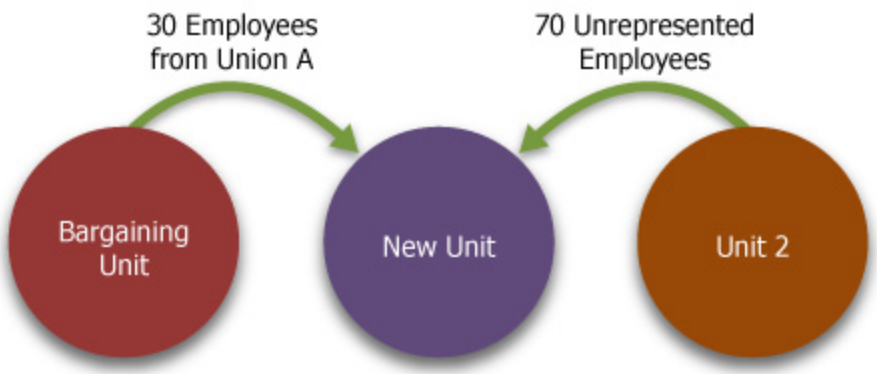
- When a simple majority is not met
- When no union is sufficiently predominant

The Question of Representation

Let's assume that only one union is involved in a reorganization and the union did not meet the majority standard. FLRA will hold an election if a genuine question of representation exists. A question of representation exists in an organization when 30% of employees in a proposed unit seek an election (note that the standard is 30%, not one-third). In the case of reorganization, the question of representation exists when 30% of the employees in the post-transfer unit were previously part of a bargaining unit.

When the Simple Majority Standard Is not Met

Suppose that 30 employees were transferred from a bargaining unit to a new unit and 70 other, unrepresented employees were also transferred to the same unit. These 70 employees were eligible to be in a bargaining unit but were not represented by a union. The post-transfer unit includes 100 bargaining unit employees, 30 of whom had been represented by Union A.



Select each of the following questions to read more and determine if an election is needed.

1. What election standard applies?
2. Does the new unit meet the applicable majority standard?
3. Is there a question of representation?
4. Is an election needed? If so, what will be voted on?

What election standard applies?
A single union is involved, so we may apply the simple majority standard.

Does the new unit meet the applicable majority standard?
To meet the simple majority standard, 51 employees must have been represented before the transfer. In this case, only 30 were represented; the union does not meet the simple majority standard.

Is there a question of representation?
The fact that 30 employees had been represented establishes that a question of representation exists.

Is an election needed? If so, what will be voted on?
FLRA will hold an election and ask the employees if they wish to be represented by Union A or no union.
If a majority of the votes are cast for representation by the union, the FLRA will certify the union as the exclusive representative of this bargaining unit.

When No Union is Sufficiently Predominant

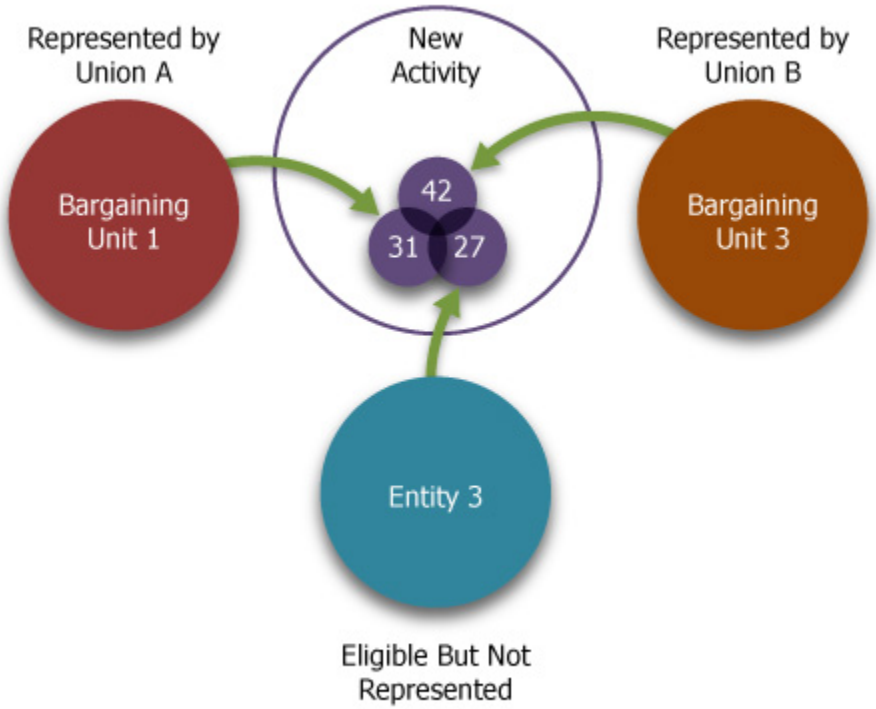
Additional considerations come into play when multiple unions are involved.

Assume that a new entity is created, is staffed with employees from two bargaining units, and two unions are involved:

- Union 1 = 31 nonprofessionals
- Union 2 = 42 nonprofessionals
- Eligible to be in a bargaining unit but are not = 27 nonprofessionals

Select each of the following questions to determine if an election is needed.

1. What standard applies - majority or sufficiently predominant?
2. Is an election needed?
3. What will be voted on?



What standard applies - majority or sufficiently predominant?
More than one union is involved, so the sufficiently predominant standard applies.

Is an election needed?
Yes. Neither union is sufficiently predominant.

What will be voted on?
The employees will be given a ballot to vote for Union A, Union B, or neither.

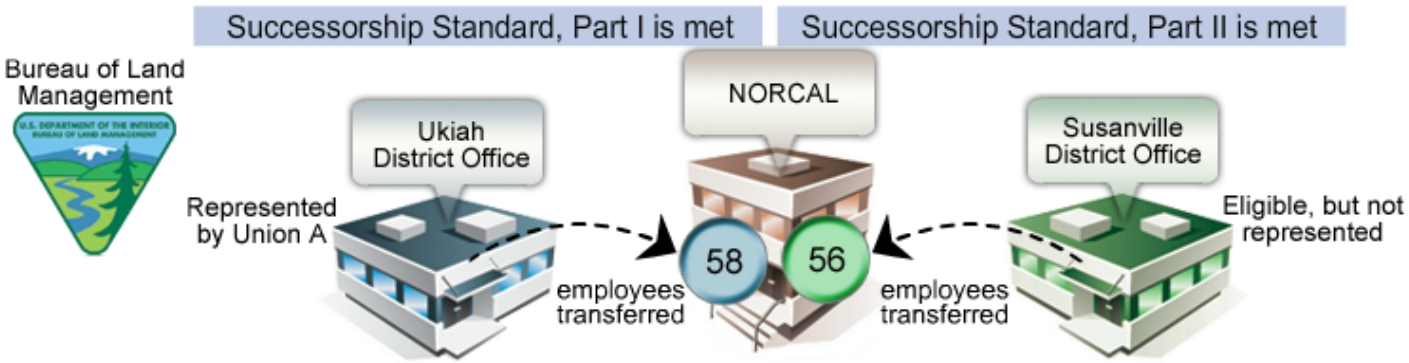
Considerations

You should consider the following factors when determining if the successorship standard is met:

Consideration	Explanation
Were employees members of a bargaining unit before reorganization?	The successorship standard is used to ensure continuing representation for employees following reorganization. It does not pertain to unrepresented employees seeking initial representation.
Is the new unit an appropriate unit?	A bargaining unit must meet the statutory, appropriate unit criteria.

Successorship: Challenge

THE REORGANIZATION



The Bureau of Land Management reorganized. Before the reorganization, the Union represented a bargaining unit of 58 nonprofessional employees of the Ukiah District Office.

The employees in that bargaining unit were transferred to a new entity, Northern California Resource Areas (NORCAL).

Fifty-six nonprofessional employees who were employed by the Susanville District Office were also transferred to NORCAL. These 56 employees were eligible to be in a bargaining unit, but not represented by any union.

Both NORCAL and the Union agree that after the reorganization, a bargaining unit of all nonprofessional employees of NORCAL is appropriate, and all aspects of Part I of the Port Hueneme successorship test are met.

Both NORCAL and the Union agree that Part II of the Port Hueneme successorship test is met, since there is sufficient continuity between the mission and functions of the two former District Offices and NORCAL, and the employees are performing similar work, under similar working conditions.

Reorganization Summary

- **New Entity**
  Northern California Resource Area (NORCAL)

- **Transfers**
  58 from Ukiah District Office, represented by Union A
  56 from Susanville District Office, eligible but unrepresented

Management's Position

NORCAL asserts that an election is necessary to determine if the Union should be named as the exclusive representative of the bargaining unit, because the numbers of represented to non-represented employees are so close.

Union's Position

The Union says that an election is not necessary, because a majority of the employees in the NORCAL bargaining unit were from the Union's bargaining unit.

Operation Factors – Important Facts

Here is information about the NORCAL Office reorganization:

- A unit of nonprofessional employees of NORCAL is an appropriate unit.
- NORCAL and the Union agree that the NORCAL nonprofessional employees share in a community of interest and that the unit promotes effective dealings and efficiency of operations.
- The Authority agrees with the parties that this is an appropriate unit.
- There is sufficient continuity between the mission and functions of the two former District Offices and NORCAL.
- Employees are performing similar work, under similar working conditions.

WHAT DO YOU THINK?

1. Your Decision

- Is an election necessary?

Hint: The questions below will lead you through that analysis.

Select **Ask the Expert** to review the Authority's analysis and feedback and learn the final results.

2. Election Standard

- What election standard applies?
- Is the majority standard met?

ASK THE EXPERT

1. Your Decision

- Is an election necessary?

  No. The union is correct; an election is not necessary.

2. Election Standard

- What election standard applies?

  A single union is involved, so a simple majority is required.

- Is the majority standard met?

  The NORCAL unit is comprised of 114 employees. Here's the math:
  58 (from the Union's unit)
  +56 (unrepresented, unit-eligible employees)
  114 divided by 2 = 57 +1 = 58. Fifty-eight is the majority (51%). The union is correct; an election is not necessary.

  To meet this majority, 58 employees must have been represented by a single union. This is the number of transferred employees from Union A.

Case citation:
Department of the Interior, Bureau of Land Management, Sacramento, California, 53 FLRA 1417 (1998)

Review of Lesson Objectives

Now that you have completed this lesson, you should be able to:

- Determine whether the successorship standard applies to a given reorganization situation
- Explain what the successorship standard is, including the three criteria
- Determine if an election is needed
- Determine if a majority exists
- Determine if a union is sufficiently predominant

End of Lesson

This is the end of this lesson. Use the navigation controls to select where you would like to go next:

To go to...	Select...
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A new lesson	**Menu**
Instruction of foundation concepts	**Teach Me**
Example scenarios that demonstrate an expert's reasoning	**Show Me**
Interactive scenarios that let you work through an example	**Let Me**
Evaluation scenario	**Menu**

Lesson 5: Reorganization and Accretion

When a reorganization occurs, parties may argue that the transferred employees have become part of an existing unit. This is called accretion.

This lesson will explain accretion and what should be considered when employees accrete into an existing unit.

After completing this lesson you will be able to:

- Describe what happens when employees accrete into an existing unit
- Define accretion
- Describe what happens when unrepresented employees accrete into an existing unit
- Describe what happens when represented employees accrete into an existing unit

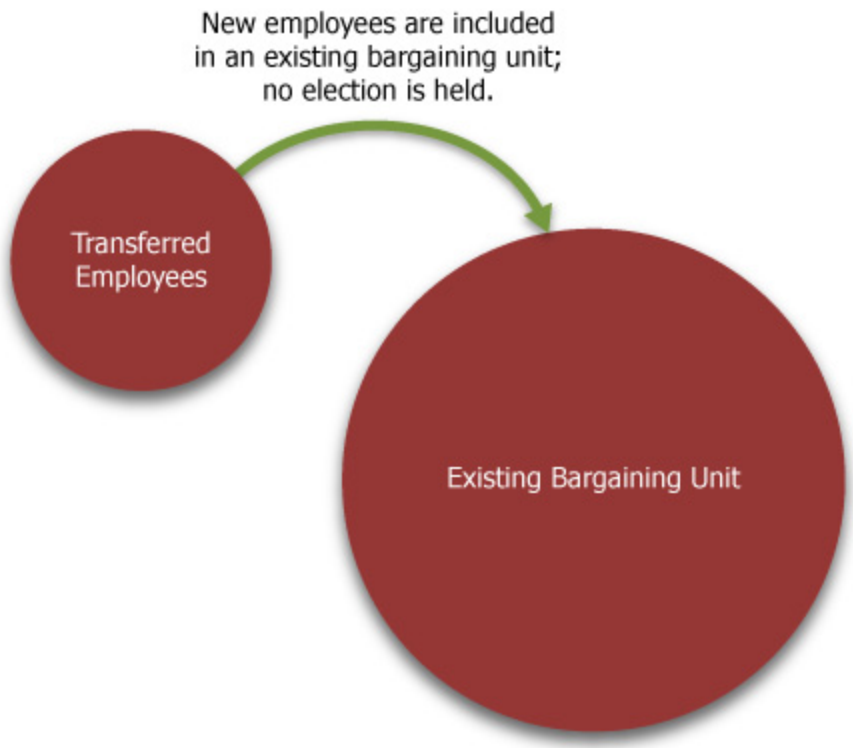
Inclusion in an Existing Unit

Accretion means including employees in an existing unit without an election. Whereas successorship applies when new units are created, accretion occurs when new employees become part of an existing unit with established representation.

Two questions must be answered affirmatively to find accretion:

- Have the transferred employees become operationally and organizationally integrated into that entity?
- Does the existing bargaining unit remain appropriate, with the inclusion of the transferred employees?

Accretion is applied narrowly because employees do not have the opportunity to vote on whether they should be accreted to an existing unit.

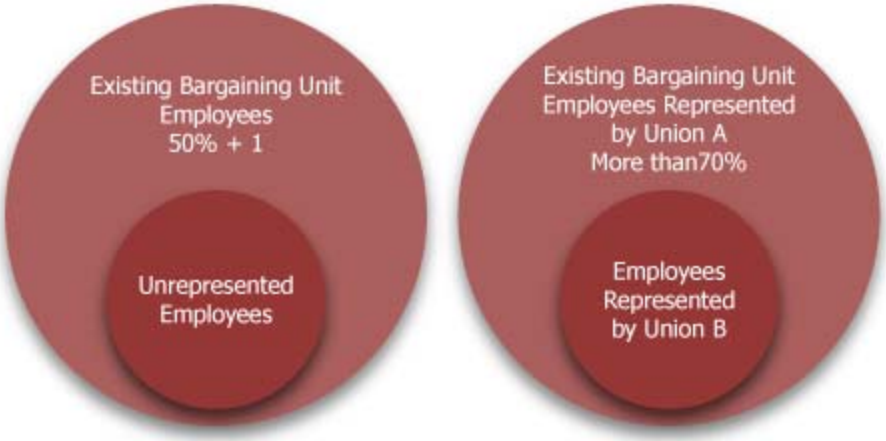


When Employees Accrete

Unrepresented Employees
If unrepresented employees accrete into an existing unit, the existing unit employees must constitute a simple majority in the expanded unit. If they don't, an election is needed.

Represented Employees
If employees who are represented by a union accrete into an existing bargaining unit that is represented by a different union, the sufficiently predominant standard applies.

Applying the sufficiently predominant standard means that employees in the existing unit must constitute more than 70% of the employees in the expanded unit. If they don't, an election is needed.



Accretion of Unrepresented Employees

Accretion of Represented Employees

Review of Lesson Objectives

This lesson introduced accretion and what should be considered when employees accrete into an entity.

Now that you have completed this lesson, you should be able to:

- Describe what happens when employees accrete into an existing unit
- Define accretion
- Describe what happens when unrepresented employees accrete into an existing unit
- Describe what happens when represented employees accrete into an existing unit

End of Lesson

This is the end of this lesson. Use the navigation controls to select where you would like to go next:

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Example scenarios that demonstrate an expert's reasoning	**Show Me**
Interactive scenarios that let you work through an example	**Let Me**
Evaluation scenario	**Menu**

Lesson 6: Resolving Competing Claims

Some reorganizations can involve many parties, and the parties may argue different theories. Here are examples of what may happen. A reorganization takes place. One party argues successorship to an appropriate unit, while another party argues successorship to a different, appropriate unit. In a different reorganization, one party may argue successorship, while another party argues accretion to an existing unit. What does the Authority do in these situations?

After completing this lesson, you will be able to determine which party has a valid claim when competing claims exist.

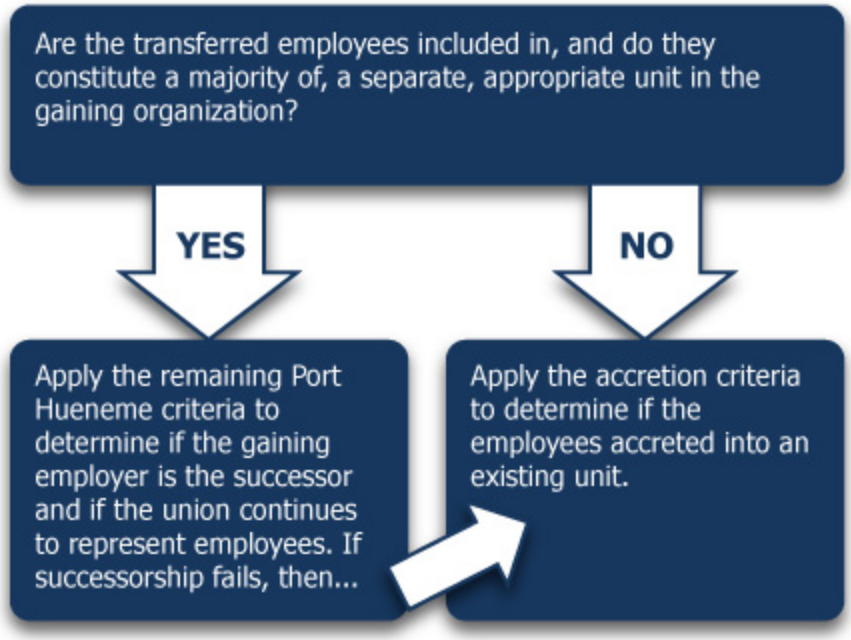
Two Successorship Claims

Let's say parties argue successorship to two different, appropriate units. If an existing bargaining unit of the transferred employees continues to be appropriate, that bargaining unit claim will be chosen over the other proposed bargaining unit. The Authority chooses the existing bargaining unit claim since it more fully preserves the status quo in terms of unit structure and the relationship of employees to their union.

Successorship versus Accretion

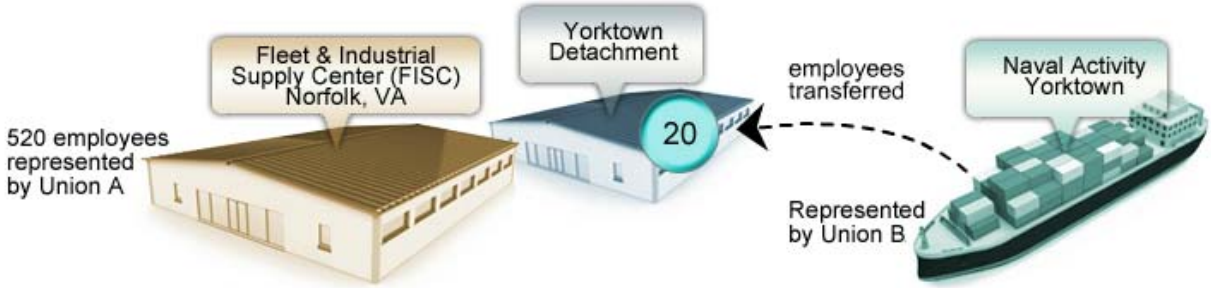
In a reorganization, one union claims that through successorship it remains the exclusive representative of an appropriate unit. Other parties claim that the transferred employees accreted to an existing unit. Where successorship and accretion are claimed, first determine if there is successorship. If successorship fails, then look at accretion.

Why does the FLRA proceed in this manner? Because successorship more fully preserves the status quo in terms of unit structure and the relationship of employees to their union. The next exercise illustrates this situation.



Differing Theories: Case Study

THE REORGANIZATION



The Fleet and Industrial Supply Center, Norfolk, Virginia (FISC) was providing purchasing and supply functions for many Naval activities in the Norfolk, Virginia area. Union A represented the nonprofessional, general schedule employees of FISC. There were about 520 employees in this unit.

FISC established a Yorktown Detachment at Yorktown, Virginia. Employees who had been working at a Naval activity at Yorktown, and who had been providing purchasing and supply work for that activity were transferred to the Yorktown Detachment. About 20 nonprofessional, general schedule employees from the Yorktown activity were transferred to the Yorktown Detachment, and those 20 employees constitute the entire Yorktown Detachment workforce. These employees were represented by Union B.

REORGANIZATION SUMMARY

- **New Entity**
  Yorktown Detachment

- **Transfers**
  20 nonprofessional, general schedule employees from Naval Activity, Yorktown, represented by Union B

- **Work**
  Transferred employees continued to perform similar work.

Management's Position

FISC says that the Yorktown Detachment general schedule employees accreted to Union A's bargaining unit.

Union's Position

Union B says that the Yorktown Detachment is the successor employer, and Union B should be named the exclusive representative of a unit of nonprofessional, general schedule employees of the Yorktown Detachment.

Operation Factors – Yorktown Detachment Operations

Here is how the Yorktown Detachment operates, now that it is a part of FISC:

- The FISC Commander has full authority to establish conditions of employment for all employees, including those of the Yorktown Detachment.
- The Director of the Yorktown Detachment does not have authority to establish working conditions of Detachment employees.
- The Yorktown Detachment is under FISC's Customer Operations Department.
- The general schedule employees of FISC, including those of the Yorktown Detachment, do similar work and have similar job titles.
- The employees who were transferred to the Yorktown Detachment continue to work at the same location, and do similar work.
- All FISC employees, including those of the Yorktown Detachment, are subject to the same personnel policies.
- If the Yorktown Detachment is named a successor, FISC headquarters' employees would have to travel to that location to negotiate and administer contracts with Union B.
- One organization provides personnel servicing for all employees of FISC, including the Yorktown Detachment.
- One organization provides labor-management relations services for FISC, including the Yorktown Detachment.

What Do You Think?

1. Your Decision

- Is this a case of successorship or accretion?

Hint: The questions below will lead you through that analysis.

Select **Ask the Expert** to review the Authority's analysis and feedback and learn the final results.

2. Successorship Standard

- Are the transferred Yorktown Detachment employees included in, and do they constitute a majority of, a separate appropriate unit in FISC, the gaining organization?
- Did the Yorktown Detachment employees accrete into Union A's existing unit of FISC nonprofessional, general schedule employees?

Ask the Expert

1. Your Decision

- Is this a case of successorship or accretion?

  The Yorktown Detachment employees are not an appropriate unit. Rather, the employees are operationally and organizationally integrated into the FISC operations and organization. This is a case of accretion, not successorship.

2. Successorship Standard

- Are the transferred Yorktown Detachment employees included in, and do they constitute a majority of, a separate appropriate unit in FISC, the gaining organization?

  A bargaining unit of nonprofessional, general schedule Yorktown Detachment employees is not an appropriate unit. These Detachment employees do not have a community of interest that is separate and apart from other FISC employees. Like all other FISC employees, the Yorktown Detachment employees' conditions of employment are determined by the FISC Commander. The Director of the Yorktown Detachment does not have authority to establish working conditions. The Yorktown Detachment employees do the same type of work as other FISC employees, and they are in the same job titles and

positions. The Yorktown Detachment employees are governed by the same personnel policies as other FISC employees, and one personnel office administers these policies for all FISC employees.

A bargaining unit of Yorktown Detachment employees would not promote effective dealings. The Director of the Yorktown Detachment has no authority to establish policies for the Detachment or to negotiate with a union. Representatives of the FISC headquarters' organization would be responsible for negotiating and administering contracts for Yorktown, which makes effective dealings more cumbersome.

A bargaining unit of Yorktown Detachment employees does not promote efficiency of operations. If a bargaining unit of Yorktown Detachment employees was found appropriate, there would be costs of negotiating separate collective-bargaining agreements for this bargaining unit.

Weighing the three appropriate unit factors, a bargaining unit of nonprofessional, general Schedule employees of the Yorktown Detachment is not an appropriate unit. Therefore, Union B's successorship claim fails.

- Did the Yorktown Detachment employees accrete into Union A's existing unit of FISC nonprofessional, general schedule employees?

  Yes. The Yorktown Detachment and its employees are operationally and organizationally integrated into the FISC operations and organization. The Yorktown Detachment is part of the FISC organization. The FISC Commander establishes working conditions for all FISC employees. The work performed by the Yorktown Detachment employees is part of the FISC mission. Inclusion of the Yorktown Detachment employees in Union A's existing unit would result in an appropriate unit. All FISC employees share in a community of interest, and a unit which includes the Yorktown Detachment would promote effective dealings and efficiency of operations.

3. Result

The Yorktown Detachment employees accreted to the Union A's bargaining unit, and the FLRA will issue a clarification of unit, showing that the nonprofessional, general schedule Yorktown Detachment employees are included in Union A's bargaining unit.

Case citation:
U.S. Department of the Navy, Fleet and Industrial Supply Center Norfolk, Virginia, 52 FLRA 950 (1997)

Review of Lesson Objectives

This lesson discussed what happens when there are competing claims for the right to represent a bargaining unit.

Now that you have completed this lesson, you should be able to determine which party has a valid claim when competing claims exist.

End of Lesson

This is the end of this lesson. Use the navigation controls to select where you would like to go next:

To go to...	Select...
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Example scenarios that demonstrate an expert's reasoning	**Show Me**
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Evaluation scenario	**Menu**

Lesson 7: Show Me Scenarios

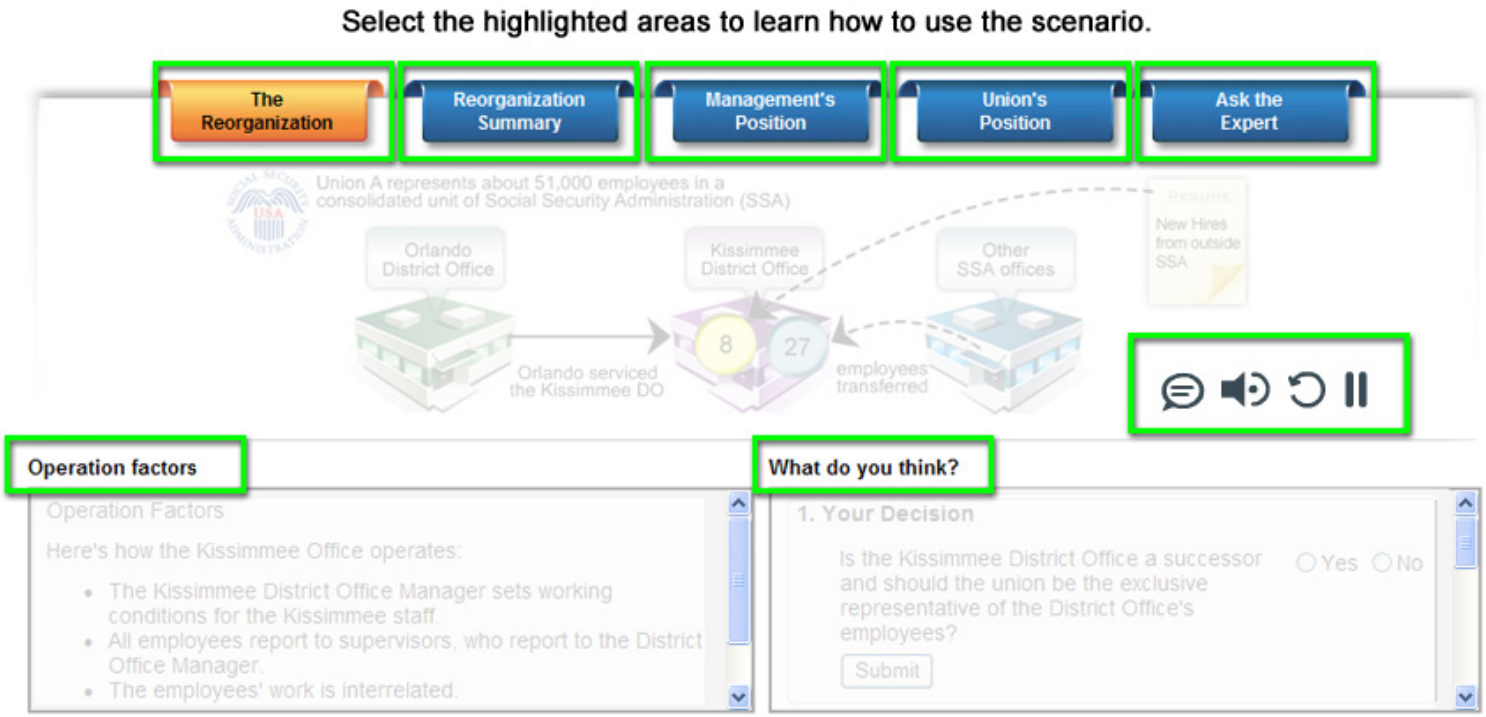
In the **Show Me** mode, you will review how experts evaluated several reorganizations. As you progress through each scenario, questions will be used to give you the opportunity to compare your thoughts with the expert's analysis. Three scenarios are available:

- Beginner
- Intermediate
- Advanced

You can explore several areas in the scenario interactions. Tabs across the top of the screen allow you to select the content to display in the top half of the scenario. **Operation Factors** and **What Do You Think?** areas always display in the lower half of the scenario. The next screen provides instructions on how to use the interactions.

After completing this lesson, you will be able to categorize the outcome of a representation scenario.

Scenario Interactions



The Reorganization tab

Step 1. Learn the details of the reorganization scenario by watching the animation on the **Reorganization** tab.

Animation Controls

Animation Controls are available in the lower right of the animation:

- Audio Script - opens a window that displays the narration text.
- Audio - toggles audio on and off.

- Restart - restarts the animation from the beginning.
- Play / Pause - allows you to start and pause the animation without restarting.

Reorganization Summary tab
Step 2. Get an at-a-glance summary of the reorganization details of the **Reorganization Summary** tab.

Management's Position tab
Step 3. Review management's position on the reorganization by selecting the **Management's Position** tab.

Union's Position tab
Step 4. Review an explanation of the union's position on nthe reorganization by selecting the **Union's Position** tab. If more than one union is involved, the position(s) of all unions involved are described here.

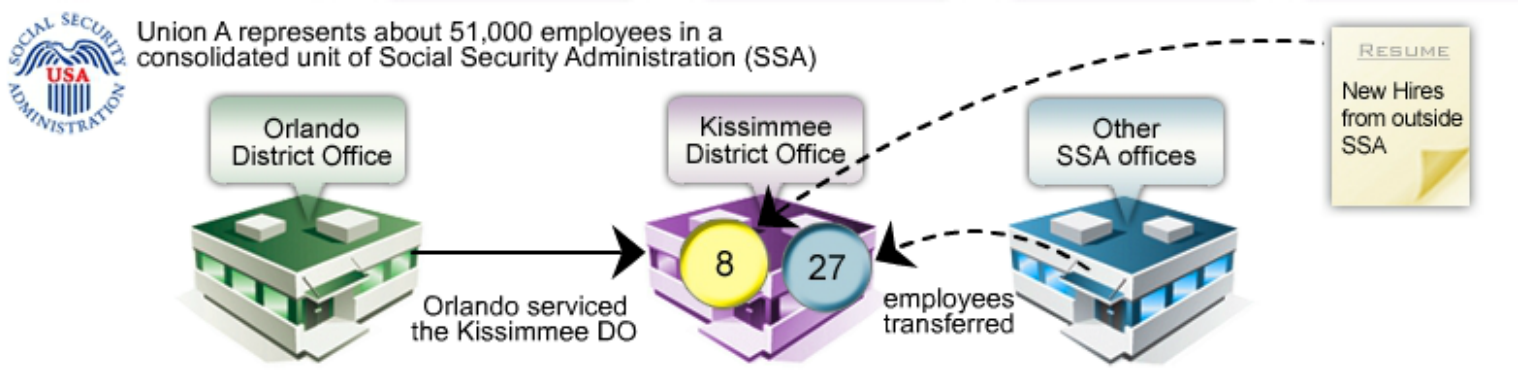
Operation Factors text
Step 5. Consider the details provided in the **Operation Factors** area. These details will help you answer the analysis questions in the **What Do You Think?** area.

What Do You Think text
Step 6. Make your final determination of the situation by answering the questions in the **What Do You Think?** area. The analysis starts with the primary questions. If you are unsure how to answer the **Your Decision** questions, review the remaining questions to follow the step-by-step analysis process.
Each question group contains a **Submit** button. When you have answered all the questions in a section, select **Submit** to view the correct responses. You may complete the sections in any order. Detailed feedback is provided on the **Ask the Expert** tab.

Ask the Expert tab
Step 7. Get detailed feedback to the **What do you think?** questions by selecting the **Ask the Expert** tab.

Show Me Scenarios: Beginner

THE REORGANIZATION



This exercise involves successorship in a consolidated unit. The Union represents about 51,000 employees in a consolidated unit of Social Security Administration (SSA) employees. The nonprofessional employees of the Orlando District Office are in the consolidated unit. SSA created the Kissimmee District Office, because of the population growth in the area. The Orlando District Office had been servicing Kissimmee. The organizational structure of the Kissimmee District Office mirrors other District Offices, and job titles and skill requirements of the employees are the same.

The Kissimmee District Office staff came from two sources: Employees who had been working for SSA in other District Offices and new hires. Twenty-seven SSA employees voluntarily transferred to the Kissimmee District Office. All 27 came from the Union's consolidated bargaining unit. At the Kissimmee District Office, these employees performed work that was similar to what they had done in their prior offices.

SSA hired 8 additional employees, none of whom had worked for SSA.

Reorganization Summary

- **New Entity**
  Kissimmee District Office

- **Transfers**
  27 from other SSA Offices, all members of the Union's consolidated bargaining unit

- **New Hires**
  8 newly hired employees who had not worked for SSA

- **Work**
  Transferred employees continued to perform similar work.

Management's Position

SSA took the position that successorship was not the appropriate analysis, because the creation of the Kissimmee Office wasn't due to a reorganization. SSA also argued that no employees were "transferred" to the Kissimmee Office by SSA, because the employees voluntarily sought employment there.

Unions' Position

The Union took the position that the Kissimmee District Office was a successor, and that the Union should become the exclusive representative of the employees.

Operation Factors – Kissimmee Office Operations

Here's how the Kissimmee Office operates:

- The Kissimmee District Office Manager sets working conditions for the Kissimmee staff.
- All employees report to supervisors, who report to the District Office Manager.
- The employees' work is interrelated.
- SSA sets many Agency-wide conditions of employment.

- The Kissimmee District Office Manager is delegated certain authorities to negotiate.
- One SSA entity provides personnel servicing to Kissimmee District Office employees.
- One SSA entity provides labor-management relations services to the Kissimmee District Office.

WHAT DO YOU THINK?

1. Your Decision

- Is the Kissimmee District Office a successor and should the union be the exclusive representative of the District Office's employees?

Hint: The questions below will lead you through that analysis.

Select **Ask the Expert** to review the Authority's analysis and feedback and learn the final results.

2. Primary questions raised by the reorganization

- Is this a "reorganization" as envisioned by the successorship test?
- Are the 27 employees "transferred" as envisioned by the successorship test?

3. Successorship Test

Part I

- Is there movement of employees?
- Are the employees in an appropriate unit following transfer?
- Do the transferred employees constitute a majority?

Part II

- Is there continuity of operations?

Part III

- Is an election needed?

ASK THE EXPERT

1. Your Decision

- Is the Kissimmee District Office a successor and should the union be the exclusive representative of the District Office's employees?

  Yes. Review the analysis of the Successorship test below.

2. Primary Questions Raised by the Reorganization

- Is this a "reorganization" as envisioned by the successorship test?

  Yes. SSA decided to restructure its workload, and it created the Kissimmee District Office.

- Are the 27 employees "transferred" as envisioned by the successorship test?

  Yes. A wide variety of factual situations have been considered to be transfers for successorship. They have included employees who transferred in a "transfer of function," employees who applied for positions because their facility was being closed; and employees who were reassigned to a new entity. The nature of the personnel action is not controlling. The involuntary nature of the transfer is not controlling.

3. Successorship Test

Part I

- Is there movement of employees?

  Yes. A portion of a bargaining unit was transferred to the new entity. SSA established the new Kissimmee District Office and the 27 employees who were in the Union's bargaining unit were transferred to the District Office.
- Are the employees in an appropriate unit following transfer?

  The unit of all nonprofessional employees of the Kissimmee District Office is an appropriate unit.

  The employees share in a community of interest. Employees work together in the District Office and report through supervisors to the Kissimmee District Office Manager. This District Office Manager has the authority to establish certain working conditions of the District Office staff. The employees' work is interrelated. The Kissimmee District Office Manager has authority to negotiate agreements with a union. One organization provides personnel services to everyone in the Kissimmee District Office.

The unit promotes effective dealings, given the Kissimmee District Office Manager's authority to negotiate agreements with a union. The unit promotes efficiency of operations, since it consists of all nonprofessional employees of the Kissimmee District Office.

Additionally, since the Kissimmee District Office unit would be included in the Union's consolidated unit, there is sufficient evidence that inclusion of this District Office unit in the consolidated unit would not disturb the appropriateness of the existing consolidated unit.

- Do the transferred employees constitute a majority?

  Twenty-seven employees who were in the Union's bargaining unit were transferred to the District Office. They constitute a majority of that Office's workforce of 35 unit-eligible employees.

Part II
There is continuity of operations between the Kissimmee District Office and the Orlando District Office. Essentially, the Kissimmee District Office took on the mission and function of the Orlando District for persons in a geographic area. The employees who transferred to the Kissimmee District Office are doing similar SSA work under similar working conditions.

Part III
An election is not necessary. The Kissimmee District Office consists of 35 employees, and 27 of them had been in the Union's consolidated unit. Therefore, the majority (in this case, 77%) of the employees had been represented by the Union.

4. Determination
The Kissimmee District Office is the successor employer. The majority of employees (77%) had been represented by the union; therefore, the union will represent the new bargaining unit.

Case citation:
Social Security Administration, Kissimmee District Office, Kissimmee, Florida, 62 FLRA 18 (2007)

Show Me Scenarios: Intermediate

The Reorganization

The Department of the Army reorganized its operations It disestablished two commands, and created a new command, the Army Aviation Missile Command. The Army Aviation Missile Command assumed the mission and functions of the two commands, as well as the workforce.

Two different Unions had represented these employees. Union A had represented 1,384 employees, and Union B had represented 4,711 employees. These employees comprise the Army Aviation Missile Command workforce that is eligible to be in a bargaining unit.

Reorganization Summary

- **New Entity**
  Army Aviation Missile Command

- **Transfers**
  1384 employees represented by Union A
  4711 employees represented by Union B
- **Missions and Work**
  The Army Aviation Missile Command assumed the mission and functions of the two commands, as well as the workforce

Management's Position

The Army Aviation Missile Command agrees with the unions that a bargaining unit of Army Aviation Missile Command nonprofessional employees is an appropriate unit. The facts of the case support the parties' position.

Union's Position

Union A and B agree with management that a bargaining unit of Army Aviation Missile Command nonprofessional employees is an appropriate unit. The facts of the case support the parties' position.

Operation Factors – Army Aviation Missile Command Operations

Here's how the Army Aviation Missile Command operates:

- The Commander of the Army Aviation Missile Command establishes conditions of employment for all Army Aviation Missile Command employees.
- The employees who transferred to the Army Aviation Missile Command perform work similar to what they had prior to their transfer.
- The employees' job locations did not change, some experienced changes in supervisors.

What Do You Think?

1. Your Decision

- Is the Army Aviation Missile Command a successor employer?
- Is an election needed to determine representation?

Hint: The questions below will lead you through that analysis.

Select **Ask the Expert** to review the Authority's analysis and feedback and learn the final results.

2. Successorship Test

Part I

- Is there movement of employees?
- Are the employees in an appropriate unit?
- Do the transferred employees constitute a majority?

Part II

- Is there continuity of operations?

Part III

- Is more than 1 union involved?
- Is the sufficiently predominant requirement met?
- Is an election needed?

ASK THE EXPERT

1. Your Decision

- Is the Army Aviation Missile Command a successor employer? Yes
- Is an election needed to determine representation?

2. Successorship Test

Part I

- Is there movement of employees?
- Are the employees in an appropriate unit?
- Do the transferred employees constitute a majority?

Portions of two bargaining units were transferred to the new entity, the Army Aviation Missile Command. The transferred employees are in an appropriate unit. The transferred employees constitute a majority of the employees in this bargaining unit. The Part I requirements have been met.

Part II

- Is there continuity of operations?

  There is continuity of operations between the former commands and the Army Aviation Missile Command, because the Army Aviation Missile Command assumed the former commands' missions. There is no evidence that an entirely new mission was created. The transferred employees are performing similar functions, under similar working conditions. The Part II requirements have been met.

Part III

- Is more than 1 union involved?
- Is the sufficiently predominant requirement met?
- Is an election needed?

  There are 6,095 employees in the appropriate bargaining unit. Of this number, 1,384 had been in Union A's bargaining unit, and 4,711 had been in Union B's bargaining unit. So, 77% of the employees had been in Union B's bargaining unit. Therefore, Union B is substantially predominant (more than 70% standard). There is no question concerning the representation of the Army Aviation Missile Command nonprofessional employees. Stated another way, an election is not necessary.

3. Determination

Two unions are involved in this reorganization. Seventy-seven percent of the employees had been in Union B's bargaining unit. Union B meets the sufficiently predominant standard.

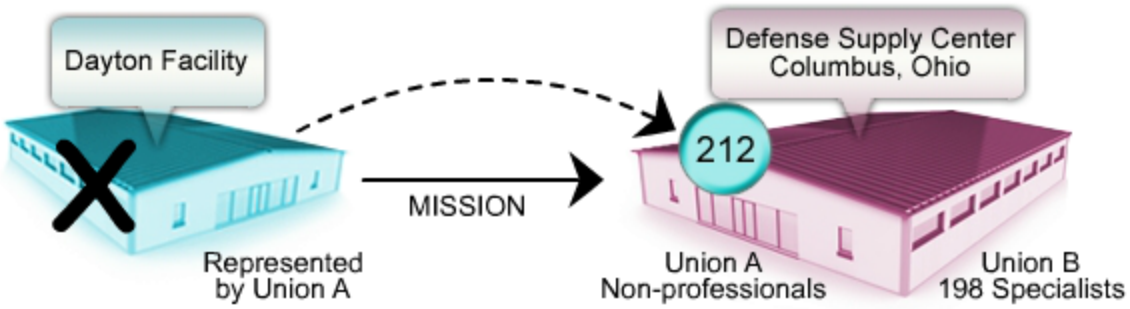
There is no question concerning the representation of the Army Aviation Missile Command nonprofessional employees. FLRA issues a certification of representative to Union B as the exclusive representative of all nonprofessional employees of the Army Aviation Missile Command.

Case citation:

Department of the Army, U.S. Army Aviation Missile Command (AMCOM), Redstone Arsenal, Alabama, 56 FLRA 126 (2000)

Show Me Scenarios: Advanced

THE REORGANIZATION



The Defense Logistics Agency reorganized its operations, closing its facility at Dayton, Ohio. The nonprofessional employees at Dayton were represented by Union A. The Defense Supply Center at Columbus, Ohio assumed the mission of the Dayton facility.

Many employees from the Dayton facility applied for, and obtained, positions at Defense Supply Center Columbus.

The nonprofessional employees of Defense Supply Center Columbus were also represented by Union A, with one exception. Union B represented a unit of equipment and quality assurance specialists (specialists bargaining unit). This was a functional bargaining unit that had existed since 1968. At the time of the reorganization there were 198 specialists in Union B's bargaining unit.

In the reorganization, 212 equipment and quality assurance specialists from Dayton were transferred to Defense Supply Center Columbus.

Reorganization Summary

- **New Entity**
  Defense Supply Center, Columbus

- **Unit Members**
  198 Specialists in Union B's bargaining unit
  212 Specialists transferred from the Dayton facility, Union A's bargaining unit

- **Mission**
  The Defense Supply Center at Columbus, Ohio assumed the mission of the Dayton facility.

Management's Position

Defense Supply Center Columbus took the position that due to the reorganization, the specialists in Union B's bargaining unit accreted to Union A's bargaining unit. Of course, the 212 specialists from Dayton accreted to Union A's bargaining unit, also.

Unions' Position

Union A: Union A takes the position that Union B's unit remains appropriate, but that Union A should become the exclusive representative of that bargaining unit since the 212 specialists who transferred from Dayton outnumber the 198 specialists at Columbus.
Union A also indicated that it did not want to represent specialists in a specialist-only unit, and that it would represent specialists in a unit of all nonprofessional employees of Defense Supply Center Columbus (i.e., a single unit of all nonprofessional employees).
Union B: Union B takes the position that its specialist unit remains appropriate, and there is no reason to include its unit employees in Union A's bargaining unit.

Operation Factors – Important Considerations

The operation factors are not relevant for this scenario. Instead, you should consider the following important decisions:

- Identifying appropriate units
- Determining which unit the employees should join

If more than one unit is appropriate, identify what should be covered in an election.

WHAT DO YOU THINK?

1. Your Decision

- Do you apply criteria for successorship or accretion?
- Is an election needed?

Hint: The questions below will lead you through that analysis.

Select **Ask the Expert** to review the Authority's analysis and feedback and learn the final results.

2. Primary questions raised by the reorganization

- Are the Dayton specialists included in, and do they constitute a majority of, a separate unit in Defense Supply Center Columbus?
- Is a unit of Defense Supply Center Columbus specialists an appropriate unit?

3. Successorship Criteria

Next, apply the successorship standard to determine whether successorship exists.

Part I

- Is there movement of employees?
- Are the employees in an appropriate unit?
- Do the transferred employees constitute a majority?

Part II

- Is there continuity of operations?

Part III

- Is either union sufficiently predominant?

- Is an election needed?
- Successorship is not found because an election is needed.

4. Inclusion in Union A's Bargaining Unit

Now evaluate the outcome if the specialists are included in Union A's bargaining unit.

- Will including the specialists in Union A's bargaining unit result in an appropriate unit?

Ask the Expert

1. Your Decision

- Do you apply criteria for successorship or accretion?

  Because the Dayton specialists are included in and constitute a majority of a unit of Defense Supply Center Columbus specialists, the successorship criteria are applied.
- Is an election needed?

  Yes. Two appropriate units are found, represented by two different unions. In this case, a self-determination election is held in which employees vote on which bargaining unit, if any, they wish to be included in.

2. Primary questions raised by the reorganization

- Are the Dayton specialists included in, and do they constitute a majority of, a separate unit in Defense Supply Center Columbus?

  Yes. The Dayton specialists are included in, and constitute a majority of, a unit of Defense Supply Center Columbus specialists.

- Is a unit of Defense Supply Center Columbus specialists an appropriate unit?

  Yes. Union B's unit remains an appropriate, functional unit. The employees share in a community of interest, in that they are the only employees at Defense Supply Center Columbus performing a specialized type of work. The unit promotes effective dealings, as witnessed by the long collective-bargaining history of Union B with Defense Supply Center Columbus. The unit promotes efficiency of operations. There was no evidence that the continuation of this functional unit would impair the

operations of Defense Supply Center Columbus. The specialists formerly represented by Union A constitute a majority of this bargaining unit.

3. Successorship Criteria

Part I

- Is there movement of employees?
- Are the employees in an appropriate unit?
- Do the transferred employees constitute a majority?

  Part I is satisfied.

Part II

- Is there continuity of operations?

  Part II is satisfied because there is similarity between the missions of the Dayton facility and Defense Supply Center Columbus. The specialists are doing similar work under similar working conditions.

Part III

- Is either union sufficiently predominant?

  No.

- Is an election needed?

  Yes. Part III is not satisfied. An election will have to be conducted, because neither Union B nor Union A is sufficiently predominant (more than 70% standard).

4. Inclusion in Union A's Bargaining Unit

- Will including the specialists in Union A's bargaining unit result in an appropriate unit?

  Yes. This would result in an appropriate unit. The specialists share in a community of interest with all other employees of Defense Supply Center Columbus. The unit would continue to promote effective dealings, because all nonprofessional employees would be in one bargaining unit, under one contract. The unit would promote efficiency of operations, because the bargaining unit would consist of all Defense Supply Center Columbus nonprofessional employees.

5. When Employees Can Be Included in Two Different Bargaining Units

- What does the Authority do when employees can be included in two different bargaining units, represented by two different unions?

  The Authority lets the employees decide in which unit they wish to be and if they want a uniont to represent them. This is called a self-determination election. In this case, Union A said that it did not want to represent specialists in a specialist-only unit, and that it would represent specialists in a unit of all nonprofessional employees of Defense Supply Center Columbus.

6. Result

Conduct an election among all specialists. Have them choose among the following options:

1. Do you want to be included in a functional unit of all specialists of Defense Supply Center Columbus and be represented by Union B?
2. Do you want to be included in a bargaining unit with all other nonprofessional employees of Defense Supply Center Columbus and be represented by Union A?
3. Do you not want to be represented by a union?

Case citation:
Defense Logistics Agency, Defense Supply Center Columbus, Columbus, Ohio, 53 FLRA 1114 (1998)

Review of Lesson Objectives

In this lesson, you reviewed how experts evaluated several reorganizations.

Now that you have completed this lesson, you should be able to categorize the outcome of a representation scenario.

End of Lesson

This is the end of this lesson. Use the navigation controls to select where you would like to go next:

To go to...	Select...
The first page in the next lesson	**Next**
A new lesson	**Menu**
Instruction of foundation concepts	**Teach Me**
Example scenarios that demonstrate an expert's reasoning	**Show Me**
Interactive scenarios that let you work through an example	**Let Me**
Evaluation scenario	**Menu**

Lesson 8: Let Me Scenarios

The **Let Me** mode gives you the opportunity to work through various reorganizations on your own. As you progress through each scenario, questions will give you the opportunity to make a final choice as to the outcome.

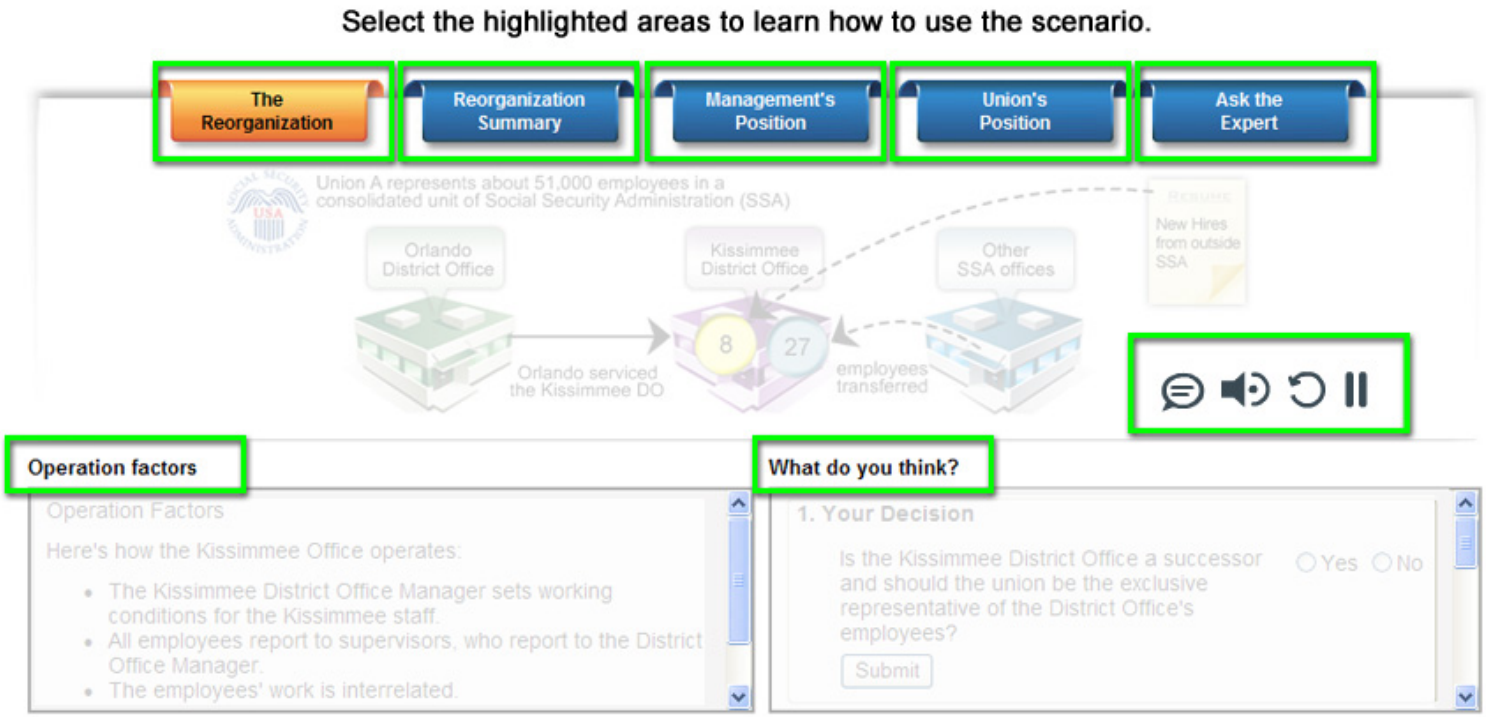
Three scenarios are available:

- Beginner
- Intermediate
- Advanced

You can explore several areas in the scenario interactions. Tabs across the top of the screen allow you to select the content to display in the top half of the scenario. **Operation Factors** and **What Do You Think?** areas always display in the lower half of the scenario. The next screen provides instructions on how to use the interactions.

After completing this lesson, you should be able to evaluate a reorganization scenario and select the correct union as the new unit's representative.

Scenario Interactions



The Reorganization tab

Step 1. Learn the details of the reorganization scenario by watching the animation on the **Reorganization** tab.

Animation Controls

Animation Controls are available in the lower right of the animation:

- Audio Script - opens a window that displays the narration text.
- Audio - toggles audio on and off.
- Restart - restarts the animation from the beginning.

- Play / Pause - allows you to start and pause the animation without restarting.

Reorganization Summary tab
Step 2. Get an at-a-glance summary of the reorganization details of the **Reorganization Summary** tab.

Management's Position tab
Step 3. Review management's position on the reorganization by selecting the **Management's Position** tab.

Union's Position tab
Step 4. Review an explanation of the union's position on nthe reorganization by selecting the **Union's Position** tab. If more than one union is involved, the position(s) of all unions involved are described here.

Operation Factors text
Step 5. Consider the details provided in the **Operation Factors** area. These details will help you answer the analysis questions in the **What Do You Think?** area.

What Do You Think text
Step 6. Make your final determination of the situation by answering the questions in the **What Do You Think?** area. The analysis starts with the primary questions. If you are unsure how to answer the **Your Decision** questions, review the remaining questions to follow the step-by-step analysis process.
Each question group contains a **Submit** button. When you have answered all the questions in a section, select **Submit** to view the correct responses. You may complete the sections in any order. Detailed feedback is provided on the **Ask the Expert** tab.

Ask the Expert tab
Step 7. Get detailed feedback to the **What do you think?** questions by selecting the **Ask the Expert** tab.

Let Me Scenarios: Beginner

THE REORGANIZATION

Employees were transferred from two naval activities to the newly-created Carrier Planning Activity, Chesapeake, Virginia.

Nineteen nonprofessional employees were transferred to the Carrier Planning Activity from one naval activity. These 19 employees were represented by Union A.

Ten nonprofessional employees were transferred to the Carrier Planning Activity from a different naval activity. These 10 employees were represented by Union B.

In the reorganization, part of the naval activities' missions was transferred to the Carrier Planning Activity.

The transferred employees continued to perform the same work, under similar working conditions.

Reorganization Summary

- **New Entity**
  Carrier Planning Activity, Chesapeake, VA

- **Transfers**
  19 from Union A
  10 from Union B

- **Missions**
  Part of the naval activities' missions was transferred to the Carrier Planning Activity.

- **Work**
  Transferred employees continued to perform the same work, under similar working conditions.

Management's Position

The Carrier Planning Activity agrees that it is the successor employer. One unit of all nonprofessional employees of the Carrier Planning Activity is appropriate. And, an election is necessary to see which Union represents the employees.

Unions' Position

Both unions take the position that the Carrier Planning Activity is the successor to the former Naval activities, and that each Union should be named as the exclusive representative of separate bargaining units of Carrier Planning Activity employees. The Unions would describe their bargaining units along Division lines.

Operation Factors – Carrier Planning Activity Organization

Here is how the Carrier Planning Activity is organized:

- A Program Manager heads the Carrier Planning Activity and has the authority to establish working conditions for all Carrier Planning Activity employees.
- All Carrier Planning Activity employees support the same mission.

- Union A represented all 17 employees who work in the Availability Planning Division.
- The Engineering Division consists of 10 employees from Union B's bargaining unit and two from Union A's bargaining unit.
- Although the employees work in their Divisions, they coordinate tasks with employees of other Divisions.
- Employees report to a first-line supervisor, then to a Division head, and ultimately, to the Program Manager.
- All employees, regardless of Division assignment, receive personnel servicing from the same office.
- One office gives labor-management relations services to the Carrier Planning Activity.

WHAT DO YOU THINK?

- All parties argue successorship, but which party's position do you start with?

1. Your Decision:

- Is successorship found for either of the union's claims?
- Is an election needed to determine representation?

Hint: The questions below will lead you through that analysis.

You can also select **Ask the Expert** to review the Authority's analysis and feedback.

2. Unions' Claims - Successorship Criteria

- Is there movement of employees?
- Are separate units of Union A employees and Union B employees appropriate units?
- Is successorship found for the proposed units?

If the proposed units are not appropriate, successorship cannot be found to those units. Next, apply the successorship standard to the Carrier Planning Activity's successorship argument.

3. Carrier Planning Activity's Claim - Successorship Criteria

Part I

- Is there movement of employees?

- Is a single unit of all non-professional employees an appropriate unit?
- Do the transferred employees constitute a majority of the bargaining unit?

Part II

- Does the Carrier Planning Activity have a similar mission to the former entities and are employees performing similar duties under similar working conditions?

Part III

- Is the election standard met?
- Is an election needed?

Ask the Expert

- All parties argue successorship, but which party's position do you start with?

  Each Union's, because if successorship is found (as each Union argues) the existing unit-structure and collective-bargaining relationship would be preserved.

1. Your Decision

- Is successorship found for either of the union's claims?

  No. See details under the Unions' Claims explanation.
- Is an election needed to determine representation?

  Yes. Because successorship is not found for either union, an election is needed.

2. Unions' Claims

- Is there movement of employees?

  Yes. Movement of employees exists because parts of previous bargaining units were transferred.

- Are separate units of Union A employees and Union B employees appropriate units?

No. The employees do not have different communities of interest. All employees' conditions of employment are established by the Program Manager. The employees do work in separate divisions, but they coordinate tasks among the divisions. Employees share supervision, which culminates in the Program Manager. All Carrier Planning Activity employees receive personnel servicing from the same office. All Carrier Planning Activity employees share in a community of interest, which mitigates against finding bargaining units, based on Division assignment. Separate units would not promote effective dealings because the Program Manager sets everyone's conditions of employment, and employees working in Divisions do not have unique employment concerns. Separate units would not promote efficiency of operations; the proposed units would lead to fragmentation.

- Is successorship found for the proposed units?

  No. Because the unions' proposed units are not appropriate, successorship cannot be found to those units.

3. Management's Claim

Part I

- Is there movement of employees?

  Yes. As with the unions' claims, movement of employees exists because parts of previous bargaining units were transferred.

- Is a single unit of all non-professional employees an appropriate unit?

  A unit of all nonprofessional employees of Carrier Planning Activity is an appropriate unit. Several factors favor a community of interest:
  - Program Manager sets conditions of employment.
  - Employees work in Divisions and with those of other Divisions.
  - One personnel office services everyone.
  - One unit promotes effective dealings and efficiency of operations.

- Do the transferred employees constitute a majority of the bargaining unit?

  Yes. The transferred employees constitute 100% of the bargaining unit.

Part II

- Does the Carrier Planning Activity have a similar mission to the former entities and are employees performing similar duties under similar working conditions?

  Yes. The Carrier Planning Activity has a similar mission to the former entities and employees are performing similar duties under similar working conditions.

Part III

- Which election standard applies?
  Because two unions are involved, the sufficiently predominant standard applies.

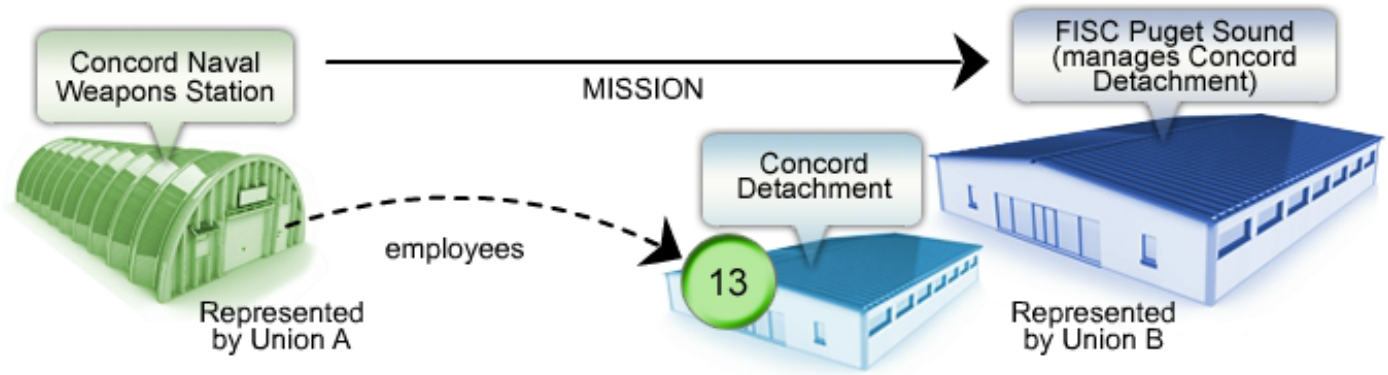
- Is the standard met?
  With 29 employees in the bargaining unit, one of the unions would need to represent more than 20 employees to meet the standard. Neither union meets this requirement.

- Is an election needed?
  Yes. An election is needed to determine representation.

Case citation:
U.S. Department of the Navy, Carrier Planning Activity, Chesapeake, Virginia, 63 FLRA 63 (2009)

Let Me Scenarios: Intermediate

THE REORGANIZATION



A group of employees worked for Concord Naval Weapons Station, California. They were represented by Union A.

The Navy reorganized. Thirteen nonprofessional employees from Union A's bargaining unit were transferred to a new entity, the Concord Detachment of the Fleet Industrial Supply Center (FISC) Puget Sound.

These employees had performed supply functions for the Concord Naval Weapons Station. The Concord Naval Weapons Station supply mission and function were transferred to FISC Puget Sound.

The transferred employees continued to perform similar work, under similar working conditions after they were transferred to the Concord Detachment.

The nonprofessional employees of FISC Puget Sound are represented by Union B.

Reorganization Summary

- **New Entity**
  Concord Detachment of the Fleet Industrial Supply Center (FISC) Puget Sound

- **Transfers and Unions**
  Union A represented 13 employees.
  Union B represented the nonprofessional employees of FISC Puget Sound.

- **Missions**
  The supply mission and function of the Concord Naval Weapons Station were transferred to FISC Puget Sound.

- **Work**
  The transferred employees continued to perform similar work, under similar working conditions after they were transferred to the Concord Detachment.

Management's Position

FISC Puget Sound takes the position that a bargaining unit of 13 employees of the Concord Detachment is not an appropriate unit, and the employees accreted to Union B's bargaining unit.

Union's Position

Union A says that the FISC Puget Sound's Concord Detachment is the successor employer, and it should continue to be the exclusive representative of the 13 employees who work for the Concord Detachment.

Operation Factors – Concord Detachment Operations

Concord Detachment Operations

The Concord Detachment Director has full authority over day-to-day operations and some authorities to establish certain working conditions.

- Concord Detachment employees report to Supervisors, who report to the Detachment Director. The Detachment Director reports to the Commanding Officer of FISC Puget Sound.
- Concord Detachment employees perform supply functions for Concord Naval Weapons Station, which has unique ordnance needs.
- FISC Puget Sound employees perform supply functions for Naval entities in the Puget Sound area.
- Concord Detachment has no details or reassignments with FISC Puget Sound.
- Concord Detachment does not interchange employees with FISC Puget Sound, which is 700 miles away.
- Concord Detachment follows FISC Puget Sound policies in performing work in California.
- Concord Detachment vacancies are not announced at FISC Puget Sound.
- Only Detachment-only area employees are considered in the event of a RIF.
- The Concord Detachment Director has authority to set most conditions of employment for Concord Detachment employees.
- FISC Puget Sound provides personnel and LMR servicing, but having a bargaining unit at the Concord Detachment would not involve additional costs.

WHAT DO YOU THINK?

1. Your Decision

- Which party's position is analyzed first?
- Is the Concord Detachment a successor?

Hint: The questions below will lead you through that analysis.

Select **Ask the Expert** to review the Authority's analysis and feedback and learn the final results.

2. Successorship Standard

Part I

- Is there movement of employees?
- Do the employees in the Concord Detachment unit share in a separate community of interest?
- Does a separate Concord Detachment unit promote effective dealings?
- Does a separate Concord Detachment unit promote efficiency of operations?

- Is the Concord Detachment an appropriate unit?
- Do the transferred employees constitute a majority of the Concord Detachment unit?

Part II

- Does continuity of operations exist?

Part III

- Which election standard applies?
- Are elections needed?

ASK THE EXPERT

1. Your Decision

- Which party's position is analyzed first?

  Because the union argues successorship, whereas management argues accretion, the union position is analyzed first. Accretion should only be sought when successorship fails.

- Is the Concord Detachment a successor?

  Yes. Successorship is found to a unit of nonprofessional employees of the Concord Detachment.

2. Successorship Criteria

Part I

- Is there movement of employees?
- Do the employees in the Concord Detachment unit share in a separate community of interest?
- Does a separate Concord Detachment unit promote effective dealings?
- Does a separate Concord Detachment unit promote efficiency of operations?
- Is the Concord Detachment an appropriate unit?

Movement of employees exists as all employees of the new unit are transfers. Factors that determine appropriate unit include:

- Community of Interest. No interchanges or reassignments have occurred between FISC Puget Sound and the Concord Detachment, vacancies are announced across areas, and each unit is a unique area of consideration for RIF. These factors indicate that the Concord Detachment has a community of interest that is separate from FISC Puget Sound.
- Efficiency of Operations. While FISC Puget Sound performs personnel servicing, a bargaining unit at the Concord Detachment does not impose additional costs or affect the efficiency of operations.
- Effective Dealings. Since the Concord Detachment Director has authority over day-to-day operations, working conditions, and conditions of employment, and since the two locations are 700 miles apart, a separate unit at the Concord Detachment promotes effective dealings.

- What majority standard applies?

  A single union is involved so only a simple majority is required.

- Do the transferred employees constitute a majority of the Concord Detachment unit?

  Yes, the Concord Detachment unit is comprised 100% of transferred employees.

Part II

- Does continuity of operations exist?

  Yes. Continuity of operations exists because the Concord Detachment employees continue to perform functions for the Concord Naval Weapons Station.

Part III

- Are elections needed?

  The Concord Detachment is the successor employer, and Union A remains the representative union; no elections are needed.

3. Management's Claim for Accretion

Since the Concord Detachment is the successor employer and Union A remains the exclusive representative, management's claim does not need to be analyzed.

Case citation:
Department of the Navy, Naval Supply Center Puget Sound, Bremerton, Washington, 53 FLRA 173 (1997)

Let Me Scenarios: Advanced

THE REORGANIZATION

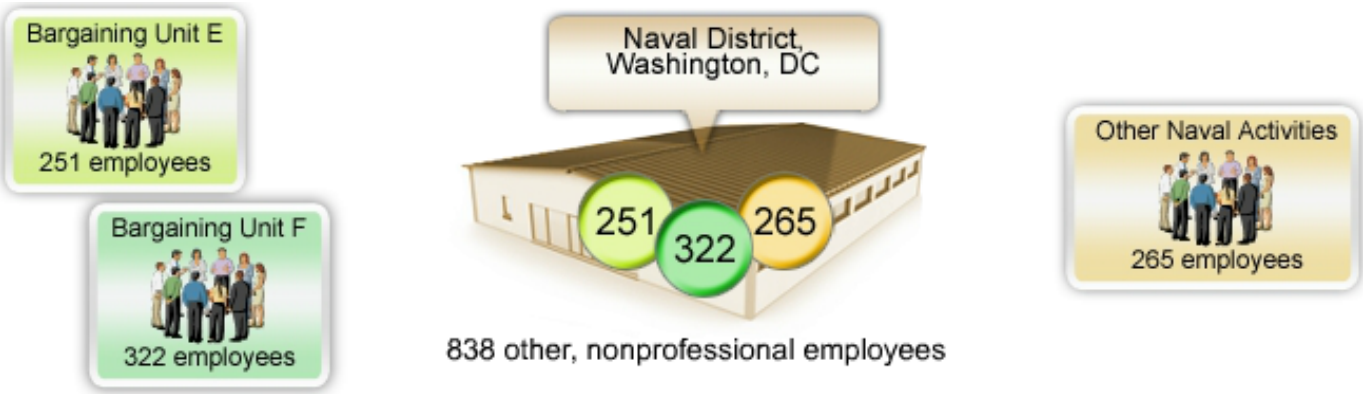
The Navy reorganized its base operations support in the Washington, D.C. area. Base operations support comprises services such as fire and police, military housing, and so forth. Many employees who were performing support services for Naval activities in the Washington, D.C. area were transferred to the Naval District Washington.

Employees' work locations did not change. They continued to perform similar work under similar conditions. The base operations support mission and functions of the Naval activities were transferred to Naval District Washington.

Employees from several units were affected. First let's look at transferred firefighters. All of these 259 bargaining-unit eligible employees were represented by Unions. Some bargaining units were transferred in their entirety to Naval District Washington. For others, only a portion of the unit (firefighters only) was transferred.

Here are the numbers of employees transferred:

- 86 employees were transferred from Union A
- 72 employees were transferred from Union B
- 32 employees were transferred from Union C
- 69 employees were transferred from Union D



Other, nonprofessional employees were transferred to Naval District Washington. They totaled 838 employees. Some were in bargaining units, and others were not. Some units were transferred intact, others were not.

Here are the numbers:

- 251 employees were transferred from Union E
- 322 employees were transferred from Union F
- 265 employees were eligible to be in a bargaining unit but were not

Naval District Washington and Unions A, B, C and D agree that a bargaining unit of all firefighters of Naval District Washington is an appropriate bargaining unit, because firefighters have such unique employment concerns. Unions E and F say that one unit, comprised of all nonprofessional employees (including firefighters) of the Naval District Washington is an appropriate unit.

Reorganization Summary

- **New Entity**
  Naval District, Washington

- **Firefighters Transferred**
  - 86 employees were transferred from Union A.
  - 72 employees were transferred from Union B.

- 32 employees were transferred from Union C.
- 69 employees were transferred from Union D.

- **Other Nonprofessional Employees Transferred**
  - 251 employees were transferred from Union E.
  - 322 employees were transferred from Union F.
  - 265 employees were eligible to be in a bargaining unit but were not represented

- **Mission**
  The base operations support mission and functions of the Naval activities were transferred to Naval District Washington.

- **Work**
  Work locations did not change, and employees continued to perform similar work under similar conditions.

Management's Position

Naval District Washington claims that a bargaining unit of all firefighters of Naval District Washington is an appropriate bargaining unit because firefighters have such unique employment concerns.

Union's Position

Unions A, B, C, and D claim that a bargaining unit of all firefighters of Naval District Washington is an appropriate bargaining unit because firefighters have such unique employment concerns.

Unions E and F say that one unit comprised of all nonprofessional employees (including firefighters) of the Naval District Washington is an appropriate unit.

Operation Factors – Naval District Washington Operations

Here's how Naval District Washington operates:

- The Commanding Officer of Naval District Washington establishes conditions of employment for all employees.

- All employees support the same mission.
- The employees report to supervisors and the chain of command ends with the Commanding Officer of Naval District Washington.
- Some employees are transferred among Naval District Washington work sites.
- All employees work in the greater Washington, D.C. area.
- One personnel office provides employee and labor-relations servicing to Naval District Washington and its employees.
- The firefighters have unique conditions of employment when compared to other nonprofessional employees of Naval District Washington.
    - Firefighters report to supervisors, who report to the Fire Chief of Naval District Washington. The Fire Chief heads the Naval District Washington Fire Department.
    - The Commanding Officer has given the Fire Chief authority to determine certain conditions of employment of firefighters.
    - The Fire Chief has been delegated authority by the Commanding Officer to enter into collective bargaining agreements.
    - The firefighters work 24-hour shifts.
    - They work and live in firehouses.
    - Some firefighters transfer between Naval District Washington's firehouses, to ensure that there is minimum manning.
    - The firehouses are on Naval bases where other nonprofessional employees of Naval District Washington work.
    - Firefighters' retirement system is different from the retirement system of other nonprofessional employees.
    - Firefighters wear special uniforms and use special apparatus and equipment when performing their jobs. They have special, firefighter training needs.

WHAT DO YOU THINK?

1. Your Decision

- Is successorship found for a unit of all firefighters of Naval District Washington (Unions A, B, C, and D's claim)?
- Is successorship found for a unit of all nonprofessional employees (including firefighters) of the Naval District Washington (Unions E and F's claim)?

Select **Ask the Expert** to review the Authority's analysis and feedback and learn the final results.

2. Elections

Which of the following should be part of the election?

- Firefighters decide if they want to be in a firefighter-only unit?
- For a firefighter-only unit, they would choose from Unions E, F, or none?
- If a firefighter-only unit is selected, nonprofessional employees would choose from Unions E, F, or none?
- If the majority of firefighters do not choose a firefighter-only unit, all employees vote, choosing from Unions A through F or no union?

Ask the Expert

1. Your Decision

- Is successorship found for a unit of all firefighters of Naval District Washington?

  No. While the unit is appropriate and there is continuity of operations, an election is necessary, because no Union is sufficiently predominant (more than 70% rule).

- Is successorship found for a unit of all nonprofessional employees of the Naval District Washington?

  No. While the unit is appropriate and there is continuity of operations, an election is necessary, because no Union is sufficiently predominant (more than 70% rule).

2. Elections

Since successorship is not found for either claim, an election should be ordered. Let the firefighters decide if they want to be in a firefighter-only bargaining unit and if so, which Union should represent them.

This would be a two-question ballot:

- Do you wish to be represented in a unit of firefighters (Yes or No)?
- In the second part of the ballot, they would choose among Unions A through D, and none.

If a majority answers yes to the first question, then the second question would be tabulated. A second election would be held later for the other, nonprofessional employees who are not firefighters. They would choose Union E, F, or no union.

If a majority of the firefighters answers no to the first question, the tabulation stops. Then, an election is conducted among all nonprofessional employees (including firefighters), asking them if they wish to be represented by Unions A through F or no union.

Case citation:
U.S. Department of the Navy, Naval District Washington, 60 FLRA 469 (2004)

Review of Objectives

In this lesson, you had the opportunity to work through various reorganization scenarios on your own.

Now that you have completed the lesson, you should be able to evaluate a reorganization scenario and select the correct union as the new unit's representative.

End of Lesson

This is the end of this lesson. Use the navigation controls to select where you would like to go next:

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A new lesson	**Menu**
Instruction of foundation concepts	**Teach Me**
Example scenarios that demonstrate an expert's reasoning	**Show Me**
Interactive scenarios that let you work through an example	**Let Me**
Evaluation scenario	**Menu**

Lesson 9: Review

As you have seen throughout this course, agencies have many ways to reorganize and many factors to consider when they do so. The question of representation is a primary concern following reorganization. Frequently, different parties have different opinions about who represents the new unit.

This course provided examples of how experts analyze a reorganization, and you had the chance to practice your own evaluation skills in different scenarios.

The main concepts you applied in this course include:

- Appropriate Unit
- The Successorship Standard / Port Hueneme Criteria
- Determining When an Election is Needed
- Determining When Accretion Applies

This lesson provides a quiz on these concepts.

Appropriate Unit Criteria

What are the three criteria for an appropriate bargaining unit? (Select all that apply)

- ☐ A. Community of interest
- ☐ B. Continuity of operations
- ☐ C. Efficiency of operations
- ☐ D. Effective dealings
- ☐ E. Movement of employees
- ☐ F. No election is needed

Community of Interest

What is the purpose of the community of interest criterion?

- A. Ensures a good relationship exists between management and a union.
- B. Ensures that a union represents a majority of employees.
- C. Ensures that employees can deal collectively with management.
- D. Ensures that operations run smoothly.

The Successorship Standard

What are the criteria for the successorship standard? (Select all that apply)

- ☐ A. Community of interest
- ☐ B. Continuity of operations
- ☐ C. Efficiency of operations
- ☐ D. Effective dealings
- ☐ E. Characteristics of the unit
- ☐ F. No election needed

Applying the Successorship Standard

When is the successorship standard applied?

- A. When reorganizations involve newly-created activities
- B. When reorganizations involve existing activities
- C. Both A and B

Election Standard

Match the term on the left with the definition on the right by typing the letter corresponding to the correct definition in the space provided and then selecting Submit.

Term	Definition
1. ☐ Simple Majority.	A. The requirement is met if the same union represented more than 70% of the employees in the post-transfer unit.
2. ☐ Sufficiently Predominant	B. The requirement is met if the same union represented 50% + 1 of the employees in the post-transfer unit.

Accretion

What is accretion?

- A. Transfer of employees to a new unit
- B. Transfer of employees to an existing unit, where the transferred employees remain a separate, appropriate unit
- C. Inclusion of employees, without an election, into an existing unit which has established representation

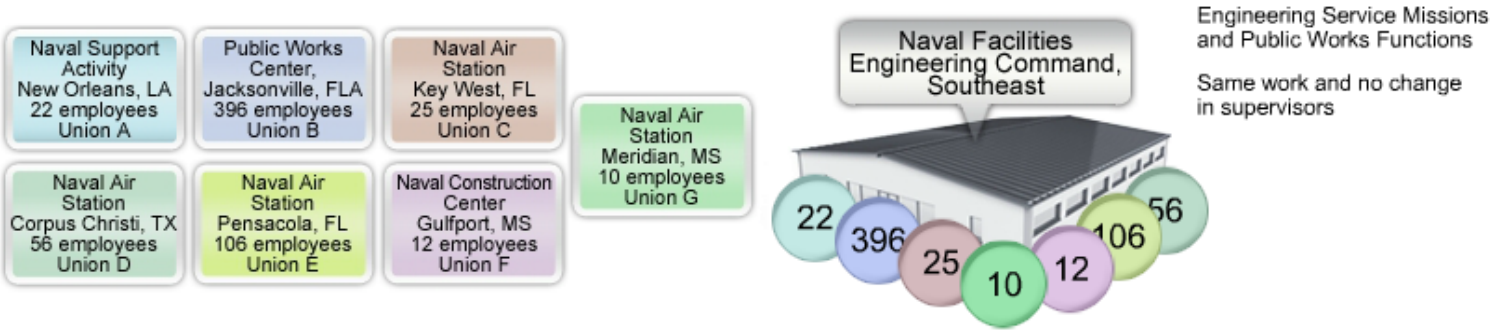
Lesson 10: Evaluation Scenario

This lesson provides a final scenario as an evaluation. You must complete this scenario to receive your course completion certificate.

Advance to the next screen to complete the scenario.

Evaluation

THE REORGANIZATION



The Department of the Navy created a new entity, the Naval Facilities Engineering Command, Southeast. Headquarters of the Naval Facilities Engineering Command, Southeast is in Jacksonville, Florida. The mission of the Naval Facilities Engineering Command, Southeast is to provide engineering services and public works services to naval activities in the southeast of the United States.

The Naval Facilities Engineering Command, Southeast assumed the engineering service missions and the public works functions of 7 naval activities in the Southeast. The 7 Naval activities continue to exist. But, the employees who performed the engineering and public works functions for these 7 Naval activities were transferred to Naval Facilities Engineering Command, Southeast. The transferred employees continue to work at the same work locations. No employees were relocated as a result of the reorganization.

After the reorganization, these employees continue to perform the same work as they had performed prior to the reorganization. Their first-line supervisors did not change.

Here is information about the employees who were transferred, their former employer, and which Union represented them:

- 22 employees, represented by Union A, were transferred from Naval Support Activity, New Orleans, LA
- 396 employees, represented by Union B, were transferred from Public Works Center, Jacksonville, FLA

- 25 employees, represented by Union C, were transferred from Naval Air Station, Key West, FL
- 56 employees, represented by Union D, were transferred from Naval Air Station, Corpus Christi, TX
- 106 employees, represented by Union E, were transferred from Naval Air Station, Pensacola, FL
- 12 employees, represented by Union F, were transferred from Naval Construction Center, Gulfport, MS
- 10 employees, represented by Union G, were transferred from Naval Air Station, Meridian, MS

You work in the personnel office that services the Naval Facilities Engineering Command, Southeast. You are preparing to file a representation petition on behalf of the Naval Facilities Engineering Command, Southeast. You will be management's representative in the petition. You are not sure what positions the Unions will take in this case. But, you think that a bargaining unit of all nonprofessional employees of the Naval Facilities Engineering Command, Southeast is an appropriate bargaining unit.

Reorganization Summary

- **New Entity**

  Naval Facilities Engineering Command, Southeast, Jacksonville, FL

- **Transfers**

Former Employer	Number of Employees	Representing Union
Naval Support Activity, New Orleans, LA	22	Union A
Public Works Center, Jacksonville, FL	396	Union B
Naval Air Station, Key West, FL	25	Union C
Naval Air Station, Corpus Christi, TX	56	Union D
Naval Air Station, Pensacola, FL	106	Union E
Naval Construction Center, Gulfport, MS	12	Union F
Naval Air Station, Meridian, MS	10	Union G

- **Missions**
  The Naval Facilities Engineering Command, Southeast assumed the engineering service missions and the public works functions of 7 Naval activities in the Southeast.

- **Work**
  The transferred employees continue to work at the same work locations. No employees were relocated as a result of the reorganization. After the reorganization, these employees continue to perform the same work as they had performed prior to the reorganization. Their first-line supervisors did not change.

Management's Position

You will be management's representative in the petition. You are not sure what positions the Unions will take in this case. But, you think that a bargaining unit of all nonprofessional employees of the Naval Facilities Engineering Command, Southeast is an appropriate bargaining unit.

Union's Position

The unions' positions are unknown.

Operation Factors – Naval Facilities Engineering Command Operations

Here is how the Naval Facilities Engineering Command, Southeast is organized:

- A Commanding Officer has the authority to establish working conditions for all Naval Facilities Engineering Command, Southeast employees.
- All Naval Facilities Engineering Command, Southeast employees support the same mission.
- The Commanding Officer of Naval Facilities Engineering Command, Southeast makes all staffing and budget decisions for the organization.
- Employees at the seven sites have shared supervision, meaning that their supervisors report to their superiors and the supervisory hierarchy ends with the Commanding Officer.
- Employees at the seven sites support the same mission.
- The positions held by bargaining unit employees at the seven sites are similar.

- Employees at the seven locations sometimes (but not often) communicate with one another by telephone and email in order to accomplish the mission.
- The employees are widely dispersed across the Southeast of the United States.
- There have been no transfers or details of employees among the seven sites.
- The employees of Naval Facilities Engineering Command, Southeast are subject to the same personnel policies, which are established by the Commanding Officer.
- One personnel office provides personnel servicing for all employees of the Naval Facilities Engineering Command, Southeast.

WHAT DO YOU THINK?

1. Your Decision

- Can one of the Unions be certified (without an election) as the exclusive representative of a bargaining unit of all nonprofessional employees of the Naval Facilities Engineering Command, Southeast?

Hint: The questions below will lead you through that analysis.

Select **Ask the Expert** to review the Authority's analysis and feedback and learn the final results.

2. Successorship Standard

Part I

- Is there movement of employees?
- Is a unit of all nonprofessional employees of the Naval Facilities Engineering Command, Southeast an appropriate unit?
- Do the transferred employees constitute a majority of the bargaining unit?

Part II

- Does the Naval Facilities Engineering Command, Southeast have a similar mission to and function as the seven entities?
- Are employees performing similar duties under similar working conditions?

Part III

- Which majority standard applies?

- Is any union sufficiently predominant?
- Is an election needed?

Ask the Expert

1. Your Decision

- Can one of the Unions be certified (without an election) as the exclusive representative of a bargaining unit of all nonprofessional employees of the Naval Facilities Engineering Command, Southeast?

  No. An election is needed to determine representation.

2. Successorship Standard

Part I

- Is there movement of employees?

  Yes. Portions of bargaining units were transferred.

- Is a unit of all nonprofessional employees of the Naval Facilities Engineering Command, Southeast an appropriate unit?

  Yes. A unit of all nonprofessional employees of the Naval Facilities Engineering Command, Southeast is an appropriate unit. The following factors favor a community of interest:
  - The unit promotes effective dealings, because the Commanding Officer sets working conditions
  - All employees are under the same personnel policies
  - One personnel office services all employees of the Naval Facilities Engineering Command, Southeast.

  The unit promotes efficiency of operations.

  The unit would represent all nonprofessional employees of the Naval Facilities Engineering Command, Southeast. Therefore, the unit bears a rational relationship to the organization and operation of the Naval Facilities Engineering Command, Southeast.

- Do the transferred employees constitute a majority of the bargaining unit?

  Yes. All employees in the new unit were transferred.

Part II

- Does the Naval Facilities Engineering Command, Southeast have a similar mission to and function as the seven entities?

  Yes. The Naval Facilities Engineering Command, Southeast assumed the engineering service missions and the public works functions of seven naval activities in the Southeast.

- Are employees performing similar duties under similar working conditions?

  Yes. The transferred employees continue to work at the same work locations. No employees were relocated as a result of the reorganization. After the reorganization, these employees continue to perform the same work as they had performed before the reorganization. Their first-line supervisors did not change.

Part III

- Which majority standard applies?

  Several unions are involved; therefore the sufficiently predominant standard applies.

- Is any union sufficiently predominant?

  No. There are 627 employees in the new bargaining unit. No union has more than 70% of the 627 (or more than 439 employees).

- Is an election needed?

  Yes. An election is needed to determine representation.

Case citation:
U.S. Department of the Navy, Naval Facilities Engineering Command, Southeast, Jacksonville, Florida, 62 FLRA 480 (2008)