

- 24 ISSUE ANALYSIS:** Once the agent gathers all of the facts, obtains the positions of the parties, outlines the issues and the relevant facts needed to decide the representation matters, the agent is ready to analyze the case. This analysis becomes the basis for the agent's recommendation ([CHM 26](#)). Agents also analyze the case as part of his/her preparation for any meeting held pursuant to § 2422.13 to identify, narrow and resolve issues prior to the Regional Director's decision, or as part of the prehearing process ([CHM 25](#)). The same process is used when writing the Decision and Order ([CHM 53](#)).

Although there is no set formula for issue analysis, having a complete picture of the facts and a thorough understanding of the issue(s), standards and factors makes it possible to apply the facts and resolve the representation matter. This subsection offers guidance on analyzing issues that arise in representation matters. Refer to [CHM 23](#) for a discussion on identifying issues.

- a. Ensure the facts are complete.
- b. Ensure that all affected parties have been notified of the petition; obtain positions from those parties who have responded to the notification letters. Confirm whether incumbent labor organizations, employing agencies or other potential automatic parties are participating in the case.

NOTE: if an automatic party or employing agency fails or refuses to respond to the Region's efforts to secure a position or participate, contact the Office of the General Counsel. [CHM 58.3.5](#).

- c. Identify all issues presented by the petition and identified by the region during its investigation.

NOTE: at this point, nearly all procedural issues, such as curing defective petitions, are resolved. Any procedural issues that are not resolved, such as timeliness, standing to file, become threshold issues of the case analysis.

- d. Conduct appropriate research; **the primary source are Authority decisions.** The Assistant Secretary Decisions are a secondary source and decisions of the National Labor Relations Board are a

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third resource. The *RCL* provides background and an overview of the issues and relevant cases for substantive and certain procedural issues. The *HOG* is used at hearings after the preliminary work is completed and the agent has a complete grasp of all of the issues.

- (i) Read all cases relating to the specific issue. Cross reference and “shepardize” cases to ascertain whether the Authority has changed its standards. See e.g. *Naval Facilities Engineering Service Center, Port Hueneme, California*, 50 FLRA 363 (1995); compare with *Department of Energy, Western Area Power Administration*, 3 FLRA 77 (1980).
- (ii) Read a variety of related cases to obtain a perspective of the factors considered by the Authority when making specific findings on a case.

NOTE: If there are no Authority decisions on the issues, remember that 5 U.S.C. 7135(b) provides that policies, regulations and procedures established under prior Executive Orders remain in full force and effect until revised or revoked by the President or unless superceded by the provisions of the Statute, regulations or decisions issued by the Authority. See [CHM 53.4f](#) for further discussion.

- e. Use the outline prepared for the investigation ([CHM 23.3](#)), noting the Authority-established issues and standards required for decision ([CHM 23.6](#)). Determine which facts are relevant, weigh and apply them to the standards ([CHM 23.5](#)). Note when the factors are applicable and when they are not, based on the facts presented.
- f. Consider whether a meeting pursuant to § 2422.13(b) would help the parties narrow and resolve the issues. If not appropriate, prepare the case for the Regional Director’s determination. [CHM 26](#).
- g. If a § 2422.13(b) meeting is held and does not result in an election agreement or stipulation, the agent prepares the case to present to the Regional Director in accordance with the quality standards outlined in [CHM 1.1](#), the region’s practice and [CHM 26](#).