

Clarification/Amendment Petitions (CAS)

General Information

An employer or labor organization can file a Clarification and Amendment Petition (CAS) to clarify whether particular employees are included in or excluded from an existing bargaining unit.

The information that an employer or labor organization must include in a CAS petition is specified in [456 CMR 14.02\(2\)](#) and [14.03\(2\)](#). An individual employee has no right to file a CAS petition.¹ Any CAS petition found to raise a question of representation must be dismissed and the question of representation addressed by filing a representation petition.

Timeliness

CAS petitions that seek to accrete or sever positions that were in existence prior to the execution of a current collective bargaining agreement must be filed during the time for filing a representation petition unless the other party agrees to waive the contract bar and submit the issue to the DLR. However, CAS petitions seeking to accrete or sever newly-created positions of positions whose duties have been substantially changed from the bargaining unit may be filed at any time.²

Parties

Normally, the only parties to a CAS petition are the employer and the certified or recognized employee organization. In certain cases, however, other employee organizations may have an interest, or claim the same employees sought by the petition. When identified, those employee organizations are notified immediately and added to the interested parties list. No showing of interest is required for CAS petitions.

Procedure

After the DLR receives the CAS Petition, it assigns a Hearing Officer to investigate the Petition and sends a letter to the parties providing them with two options for case processing.

¹ [456 CMR 14.04\(2\)](#).

² [456 CMR 14.06\(1\)\(b\)](#).

1) Option 1 – Traditional Approach

Parties must schedule a conference at the DLR for mediation and investigation. Parties must confer and provide three dates in the quarter provided from which the DLR picks the conference date. Prior to the conference and no later than seven days before the conference, the parties must confer and e-file the following documents to the DLR:

- Position papers including facts and arguments regarding the disputed unit placement issues.
- Sworn affidavits from those with first-hand knowledge supporting any facts included in the position paper.
- Petitioned-for position(s) job description(s), or if none exists, the most recent job posting, including actual duties, qualifications, hours, supervision exercised and received. A statement explaining if the parties agree to accuracy of the job description and, if not, identifying areas of disagreement.
- The date the position was created.
- An organizational chart showing the position.
- A list of all bargaining unit titles.
- A copy of the most recent collective bargaining agreement.

Parties coordinate document production to avoid submitting duplicate copies and to clarify areas of disagreement. They then serve the other party with copies of all materials submitted to the DLR.

Parties should bring decision-makers to the conference in order to participate in mediation. If the parties are unable to resolve the dispute, the Hearing Officer holds the conference in order to clarify the issues raised in the position papers and submitted documents. The Hearing Officer may ask the parties to submit additional documents after the conference. At the Hearing Officer's discretion, parties are allowed to briefly present argument concerning their positions.

After the Hearing Officer reviews the parties' submissions and the information presented at the conference, the Hearing Officer determines if there are disputed material facts. If the Hearing Officer determines that there are no disputed facts, the Hearing Officer issues a notice to the parties to show cause why the case should not be decided based on the parties' submissions. This show cause letter generally is sent to the parties within two months of the conference.

The CERB reviews the show cause responses and either issues a decision based on the parties' written submissions or directs the Hearing Officer to hold a hearing to resolve any material disputed fact. Generally the CERB issues its decision within one month of receiving the show cause responses. If there is a hearing, it is conducted as other representation case hearings are conducted. See Section II(B)(4) and [456 CMR 14.08\(2\)](#) for further information.

2) Option 2 – Expedited Hearing

This option provides the parties a decision within forty-eight hours of the Hearing but only is used in the following circumstances.

- The parties mutually elect this procedure and sign an agreement prepared by the DLR describing their agreement.
- Parties agree to waive any and all rights of appeal to the CERB, the courts or by testing certification.

Once the agreement is signed, the DLR expeditiously schedules the hearing and a Hearing Officer issues a brief decision within 48 hours of the hearing.