

extended before sixty (60) days before its expiration date, the extension will not serve as a basis for dismissal of a petition seeking an election filed in accordance with this section.

(h) *Contract requirements.* Collective bargaining agreements, including agreements that go into effect under 5 U.S.C. 7114(c) and those that automatically renew without further action by the parties, are not a bar to a petition seeking an election under this section unless a clear effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation.

**§ 2422.13 How are issues raised by your petition resolved?**

(a) *Meetings before filing a representation petition.* All parties affected by the representation issues that may be raised in a petition are encouraged to meet before the filing of the petition to discuss their interests and narrow and resolve the issues. If requested by all parties, a representative of the appropriate Regional Office will participate in these meetings.

(b) *Meetings to narrow and resolve the issues after the petition is filed.* The Regional Director may require all affected parties to meet to narrow and resolve the issues raised in the petition.

**§ 2422.14 What is the effect of your withdrawal or the Regional Director's dismissal of a petition?**

(a) *Withdrawal/dismissal less than sixty (60) days before contract expiration.* (1) If you withdraw a timely filed petition seeking an election, or the Regional Director dismisses the petition less than sixty (60) days before the existing agreement between the incumbent exclusive representative and the agency or activity expires, or any time after the agreement expires, another petition that seeks an election will not be considered timely if filed within a ninety (90) day period beginning with either:

(i) The date on which the Regional Director approves the withdrawal; or

(ii) The date on which the Regional Director dismisses the petition when

the Authority does not receive an application for review; or

(iii) The date on which the Authority rules on an application for review.

(2) Other pending petitions that have been timely filed under this part will continue to be processed.

(b) *Withdrawal by petitioner.* If you submit a withdrawal request for a petition seeking an election that the Regional Director receives after the notice of hearing issues or after approval of an election agreement, whichever occurs first, you will be barred from filing another petition seeking an election for the same unit or any subdivision of the unit for six (6) months from the date on which the Regional Director approves the withdrawal.

(c) *Withdrawal by incumbent.* When an election is not held because the incumbent disclaims any representation interest in a unit, an incumbent's petition seeking an election involving the same unit or a subdivision of the same unit will be considered untimely if filed within six (6) months of cancellation of the election.

**§ 2422.15 Do parties have a duty to provide information and cooperate after a petition is filed?**

(a) *Relevant information.* After you file a petition, all parties must, upon request of the Regional Director, provide the Regional Director and serve all parties affected by issues raised in the petition with information concerning parties, issues, and agreements raised in or affected by the petition.

(b) *Inclusions and exclusions.* After you file a petition seeking an election, the Regional Director may direct the agency or activity to provide the Regional Director and all parties affected by issues raised in the petition with a current alphabetized list of employees and job classifications included in and/or excluded from the existing or claimed unit affected by issues raised in the petition.

(c) *Cooperation.* All parties are required to cooperate in every aspect of the representation process. This obligation includes cooperating fully with the Regional Director, submitting all required and requested information, and participating in prehearing conferences and hearings. The Regional

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Director may take appropriate action, including dismissal of the petition or denial of intervention, if parties fail to cooperate in the representation process.

### **§ 2422.16 May parties enter into election agreements, and if they do not will the Regional Director direct an election?**

(a) *Election agreements.* Parties are encouraged to enter into election agreements.

(b) *Regional Director directed election.* If the parties are unable to agree on procedural matters, specifically, the eligibility period, method of election, dates, hours, or locations of the election, the Regional Director will decide election procedures and issue a Direction of Election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.

(c) *Opportunity for a hearing.* Before directing an election, the Regional Director must provide affected parties an opportunity for a hearing on non-procedural matters, and then may:

(1) Issue a Decision and Order; or

(2) If there are no questions regarding unit appropriateness, issue a Direction of Election without a Decision and Order.

(d) *Challenges or objections to a directed election.* A Direction of Election issued under this section will be issued without prejudice to the right of a party to file a challenge to the eligibility of any person participating in the election and/or objections to the election.

### **§ 2422.17 What are a notice of hearing and prehearing conference?**

(a) *Purpose of notice of a hearing.* The Regional Director may issue a notice of hearing involving any issues raised in the petition.

(b) *Contents.* The notice of hearing will advise affected parties about the hearing. The Regional Director will also notify affected parties of the issues raised in the petition and establish a date for the prehearing conference.

(c) *Prehearing conference.* A prehearing conference will be conducted by the Hearing Officer, either by meet-

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ing or teleconference. All parties must participate in a prehearing conference and be prepared to fully discuss, narrow, and resolve the issues set forth in the notification of the prehearing conference.

(d) *No interlocutory appeal of hearing determination.* A party may not appeal to the Authority a Regional Director's determination of whether to issue a notice of hearing.

### **§ 2422.18 What is the purpose of a representation hearing and what procedures are followed?**

(a) *Purpose of a hearing.* Representation hearings are considered investigatory and not adversarial. The purpose of the hearing is to develop a full and complete record of relevant and material facts.

(b) *Conduct of hearing.* Hearings will be open to the public unless otherwise ordered by the Hearing Officer. There is no burden of proof, with the exception of proceedings on objections to elections under § 2422.27(b). Formal rules of evidence do not apply.

(c) *Hearing officer.* The Regional Director appoints a hearing officer to conduct a hearing. Another hearing officer may be substituted for the presiding Hearing Officer at any time.

(d) *Transcript.* An official reporter will make the official transcript of the hearing. Copies of the official transcript may be examined in the appropriate Regional Office during normal working hours. Parties should contact the official hearing reporter to purchase copies of the official transcript.

### **§ 2422.19 When is it appropriate for a party to file a motion at a representation hearing?**

(a) *Purpose of a motion.* After the Regional Director issues a Notice of Hearing in a representation proceeding, a party who seeks a ruling, an order, or relief must do so by filing or raising a motion stating the order or relief sought and the grounds in support. The Regional Director or Hearing Officer may treat challenges and other filings referenced in other sections of this subpart as a motion.

(b) *Prehearing motions.* Parties must file prehearing motions in writing with the Regional Director. Any response