

## Amending a Petition

- 13 AMENDING A PETITION:** The petitioner on his/her own initiative may add or delete from the original or last amended petition, irrespective of the developments of the pending investigation. This section provides guidance on determining when to require an amended petition and on assisting petitioners in filing an amended petition.
- 13.1 General requirements:** No change or correction can be made in a petition after it has been filed and docketed unless an amended petition is filed. An amended petition is required when:
- a. The petition is defective and cannot be opened as filed;
  - b. The petitioner changes the identity or size of the unit; or
  - c. The petitioner significantly changes the purpose(s) of the petition, issues raised by the petition, and/or the results sought by the petition.
- 13.2 Purposes of amending a petition:** There are three (3) basic purposes in amending a petition with respect to the unit:
- a. to correct defects due to omissions or ambiguities;
  - b. to change the identity or size of the unit; and/or
  - c. to change the purpose(s) of the petition.
- 13.3 How to file:** A petition is amended only by completing the appropriate new form. Thus, except as noted below, a petition cannot be amended by oral or written request. An amended petition is designated by inserting "AMENDED", "FIRST AMENDED" or "SECOND AMENDED" etc. before the word "petition." Since an amended petition replaces the original petition, all items in the original petition which are not changed by the amended petition are restated in the amended petition. For example, when filing an amended petition to correct the name of the activity or agency, all remaining entries contained in the original petition are restated, unaltered, in the amended petition. **Any change, however slight, from the original petition, constitutes an amendment with respect to that item.**
- An exception to the rule that a petition is amended by submitting a new form occurs when the petitioner seeks to amend its petition during a hearing (see [HOG 18.7](#)).

- 13.4 Who may file:** An amended petition may be filed only by the petitioner or the petitioner's designated representative.
- 13.5 Service and filing requirements:** The service and filing requirements discussed in [CHM 7 through 10](#) apply to amended petitions.
- 13.6 When to file:** The regions contact the Office of the General Counsel whenever questions arise concerning any timeliness issues raised by the filing of an amended petition. See *RCL 12*.
- 13.7 Regional Office assistance provided in amending petitions:**
- 13.7.1 Policy:** A single petition permits a flexible approach to resolving issues concerning the representation of employees by labor organizations covered by the Statute. Regional Office personnel may render assistance to the petitioner, including soliciting amended petitions when such amendments clarify the purpose for which the petition was originally filed or assist the affected parties in narrowing or resolving the issues raised by the petition. Regional Office personnel exercise the same care and judgement in discussing amending a petition as in any other phase of case processing.
- 13.7.2 Assisting the petitioner:** Regional Office personnel may provide assistance to the petitioner, as appropriate, by talking to or meeting separately with the petitioner or jointly with all parties known to be affected by issues raised in the petition. Regional Office personnel may provide reasonable technical assistance by furnishing appropriate forms or suggesting wording on the petition form itself. Regional Office personnel may also assist the petitioner in defining issues consistent with § 2422.13. To the extent the Regional Office personnel utilize alternative dispute resolution techniques to discuss, narrow and if possible, resolve issues, Regional Office personnel are cognizant at all times of the requirement to be consistent with the Statutory requirements for appropriate units and unit eligibility (see also [CHM 1 and 25](#), and [HOG 2.3](#)).
- 13.7.3 Ethical considerations:** Regional Office personnel ensure that their actions do not lead to an appearance of undue assistance to a party. Regional Office personnel are the Authority's representative, and that all parties expect objective consideration of their interests and positions.
- 13.8 Guidance on determining whether to require an amended petition:**
- 13.8.1 Defective petitions that prevent a petition from being opened:** Any omissions from the petition form, or the failure to submit a showing of interest, preclude the case from being opened. As discussed in [CHM 12.3](#), such defects are corrected by amending the petition before a case can be opened.

**13.8.2 Defective petitions that may prevent the Regional Director from taking action on a case:** Certain defects as discussed in [CHM 12.4](#) may be corrected during the initial stages of processing without filing an amended petition. The Regional Director has discretion in these circumstances to require an amended petition. Listed below are some examples of petitions defective because of omissions or ambiguities, and guidance on determining whether to require an amendment.

- a. Editing the unit description in an election petition to reflect statutory exclusions does not require an amended petition, but can be accomplished in the agreement for election and subsequent Notice of Election.
- b. Providing proof of service does not require an amended petition (if a party alleges it was not served), but rather a letter certifying that service was effectuated; however, the failure to actually effect service of copies of petitions could be the basis for dismissal of petition (see [CHM 7](#) and *Presidio*, 34 FLRA at 1034).
- c. Clarifying a poorly worded unit description or statement of the purpose of petition may not necessarily require an amended petition if in the Director's view the intent is clear and/or the existing certification is accessible and reflects substantially the same unit.
- d. The regulations require the petitioner to submit an alphabetized list constituting the showing of interest with the actual showing of interest([CHM 18.2 and 18.9](#)). The Regional Director has discretion to require an amended petition if the petitioner fails to submit an alphabetized list of names. The Regional Director may also exercise discretion in requiring the alphabetized list in cases where the unit is very small. Otherwise, this list is obtained during the investigation.

**13.9 Amendments to change the identity of the unit:** A petition is usually amended when the identity of the unit is changed:

- a. A unit changes its identity when there is a change in the scope of a unit. For example:
  - < an entirely different classification of employees is added to a proposed unit or the geographical boundaries of a proposed unit are expanded, thus changing the scope, i.e., the identity of a unit.
- b. A unit may change its identity if the size of the unit changes. Employees may be added to a proposed unit without involving the inclusion of any new job categories. For example:

- < a unit of General Schedule employees may be amended to include regular part-time employees each of whom is classified as a General Schedule employee. In this instance, the petition is amended because of a change in the size of the unit. Regional Directors have discretion to decide if changes in the size of a unit affect the identity of a unit and thus, require an amended petition.

Absent an amended petition, parties that may be affected by issues raised in the petition cannot be identified and notified of the petition and be given the opportunity to intervene. Parties already named also have no opportunity to respond to changes in the petition if an amendment is not filed.

- 13.9.1 Exceptions to requirement to amend petition:** A labor organization files a petition for a unit of employees and during the course of the investigation, issues are raised with respect to the eligibility of certain employees in the unit pursuant to 5 U.S.C. 7112(b). In these cases, the region has discretion to require the union to amend the petition to exclude the disputed employees if it indicates that it may be willing to proceed to an election on the employees who are found to be eligible. See *National Mediation Board*, 54 FLRA 1474 (1998), where the Authority stated the petitioner was not required to amend its petition when it did not intend to change the unit description. An amendment is not required to exclude positions based on the statutory exclusions if the unit description otherwise remains valid.

Another exception is during a hearing. An amended petition is not required when the Hearing Officer requests the petitioner at a hearing whether it is willing to go to an election on a unit different than what was petitioned for in the event the Regional Director finds an alternative unit appropriate. See [HOG 32.12](#) and [35.8](#).

- 13.10 Amendments to change the purpose(s) of the petition:** A petitioner is required to amend the petition when the petitioner changes the purposes for which the petition was initially filed. Examples include:

- < A petition is filed to clarify a matter relating to a reorganization following a reorganization. During the processing of the petition, the petitioner realizes the extent of the reorganization and seeks to amend the purpose of the petition to reflect the impact of the reorganization on other units, parties, etc.
- < A labor organization files a petition seeking an election to represent a unit of employees without an exclusive representative. While the petition is being processed, the petitioner concludes that it might not have the showing of interest to support its petition, but would have the showing of membership to support a petition for dues allotment.

**NOTE: An amended petition is not required when the petitioner decides to add a proposed unit to an existing unit. The purpose of the petition has not changed nor have the showing of interest requirements regardless of the petitioner's intent to represent the employees in a separate appropriate unit or as part of an existing unit.**

- 13.11 Effect of amended petitions on parties, timeliness, posting, showing of interest:** Amended petitions may change the scope or purpose of the petition, and the parties who may be affected by issues raised in the petition. Amended petitions that change the scope of the petition may also change the showing of interest requirements. See applicable sections of this manual for a discussion of the effects of an amended petition on:
- a. notification of parties affected by issues raised by an amended petition - [CHM 15.11](#);
  - b. posting requirements - [CHM 16.8](#);
  - c. effect on showing of interest - the showing of interest is re-evaluated whenever there is a change in the size of the unit, due either to an amendment on the petitioner's own motion or to the Regional Director's or Authority's decision on eligibility or unit issues - [CHM 18](#); **NOTE: a petitioner is required to submit the requisite showing of interest at the time the amended petition is filed** [see *U.S. Department of the Interior, National Park Service, Washington, DC, 55 FLRA 311, 315 (1999)*] and [CHM 18.1](#) and [CHM 18.13.6](#); and
  - d. timeliness - *RCL 12*, [HOG 48](#) and [CHM 11](#).

