

- 51 HEARINGS ON OBJECTIONS:** [HOG 36](#) discusses Hearings on Objections and sets forth procedures for handling credibility disputes. [CHM 51](#) discusses issuing a notice of hearing and other procedural matters relating to the conduct of the hearing.
- 51.1 General:** There are significant distinctions between hearings on objections and hearings on other representation matters:
- a. The objecting party bears the burden of proof in a hearing on objections, unless the Regional Director decides pursuant to § 2422.29(a)(4) to expand the scope of the hearing;
  - b. In cases where the objections involve the conduct of Authority personnel, the Regional Director may assign an attorney, designated as Counsel for the Regional Director, to appear at the hearing ([HOG 36.4](#) and [36.7](#));
  - c. The Regional Director has discretion only to allow the Hearing Officer to make recommendations on credibility issues, not the objections themselves ([HOG 36.6](#) and [36.8](#)).
- 51.2 Notice of hearing:** The Notice of Representation Hearing, [FLRA Form 46](#), is appropriate for a hearing notice on objections or determinative challenged ballots. The letter accompanying the notice of hearing advises the parties of the nature of the hearing and the date for the prehearing conference. In objections cases the region attach a copy of the objections to the election, rather than an outline of the information necessary to address the issues raised by the objections. In the rare exception when the Regional Director decides to issue a notice of hearing pursuant to § 2422.29(a)(4) on matters that raise questions relating to the conduct of the election, the region informs the parties of the issues it intends to explore. See [CHM 29](#) for guidance on issuing a notice of hearing.
- 51.3 Conducting the hearing:** See *HOG* and [HOG 36](#).
- 51.4 Hearing Officer's Report:** The Hearing Officer is required to prepare a Hearing Officer's Report and submit it to the Regional Director with the record. The report is a modified version of the Hearing Officer's Report submitted in other representation matters ([HOG 34](#)). Specifically, it includes:
- a. Item 1(c)--Pleadings and Parties: Enter the name of each party as stated on the record. If amended, the name is shown as amended.

Note the date(s) of the hearing and its location.

- b. Item 2--Objection(s): Summarize the objections that were in issue at the hearing and the pertinent evidence presented with respect to each objection. Any objection or issue litigated, other than those listed, is checked under the heading "Other" and discussed in Item 8.
- c. Item 3 --Procedure: Discuss any unusual or significant procedural problems affecting the proceeding and/or any rulings made about which the Hearing Officer is in doubt.
- d. Item 4--Stipulations: List the stipulations.
- e. Item 5--Recommendations made on the record regarding credibility issues: Review the Regional Director's instructions regarding recommendations on the record. Note the issue and the recommendation made.
- f. Item 6--Other issues or problems: Summarize relevant facts regarding any issue(s) or problem(s) not covered under any of the above paragraphs; e.g., status of labor organization.
- g. Item 7--Briefs: State whether the parties intend to file briefs and the due date established for filing any brief(s).
- h. Item 8--Reporter's estimate of transcript pages: Insert the number of estimated pages.

**51.5 Consolidated hearing on objections and/or determinative challenged ballots and an unfair labor practice complaint:** There may be situations in which an unfair labor practice case is filed alleging violations of the Statute based on conduct that could also constitute a valid objection to an election [§ 2422.27(d)]. When such cases are filed, and there are also pending objections and/or determinative challenged ballots, the Regional Director may consolidate the representation case(s) and the unfair labor practice case(s) for hearing. The Regional Director consolidates all of the objections and/or determinative challenged ballots with the unfair labor practice case; the Director may not bifurcate any objections and deal with them separately. The only exception is when there is independent conduct that warrants setting aside the election that is unrelated to the unfair labor practice case [such as § 2422.29(a)(4)].

Where a representation case has been consolidated with an unfair labor practice case for purposes of hearing, the consolidated hearing is conducted and decisions issued by an Administrative Law Judge in accordance with § 2422.27(d) of the regulations. In such circumstances, the Notice of Hearing discussed in [CHM 29](#) is modified. The procedures for obtaining an Administrative Law Judge and arranging for an official reporter, described in the Unfair Labor Practice Case Handling Manual, are followed in these consolidated hearings. Exceptions and related submissions are filed with the Authority, and the Authority issues a decision in accordance with Part 2423 of this chapter, except for the following:

- a. Sections 2423.18 and 2423.19(j) of the regulations concerning the burden of proof and settlement conferences are not applicable;
- b. The Administrative Law Judge may recommend a decision; he may not recommend remedial action to be taken or notices to be posted as provided by § 2423.26(a); and,
- c. References to “charge” and “complaint” in § 2423.26(b) will be omitted.

