

**CERTIFICATIONS AND REVOCATIONS
CHM 56**

56 CERTIFICATIONS AND REVOCATIONS: Section 2422.32 concerns certifications and revocations.

56.1 Requirements for certifications: Section 2422.32(a) states that the Regional Director will issue an appropriate certification when:

- a. After an election, runoff, or rerun,
 - (i) No objections are filed, or challenged ballots are not determinative, or
 - (ii) Objections and determinative challenged ballots are decided and resolved; or
- b. The Regional Director issues a Decision and Order requiring a certification, and the Decision and Order becomes the action of the Authority under § 2422.31(e) or the Authority otherwise directs the issuance of a certification.

NOTE: 1) [CHM 55](#) for policy considerations when scheduling elections or taking other action during the sixty day appeal period. 2) The certification, clarification, amendment or revocation is issued as a separate document. It is not included as part of the Decision and Order ([CHM 53.4j](#)).

56.2 Types of certifications:

56.2.1 Certification of Representative: [FLRA Form 28](#), Certification of Representative, is used to:

- a. certify that a majority of the employees have selected the named labor organization as exclusive representative of the employees in the unit involved; or
- b. reflect that a new agency has acquired employees who were previously represented by a labor organization in an appropriate unit, and the acquiring employer has satisfied the successorship criteria (*RCL 3*). In this scenario: 1) the predecessor unit may be disestablished and the region also may revoke the original

certification; or 2) the predecessor unit still exists and continues to be appropriate, but a new unit consisting of the portion of the employees acquired from the old employer is also appropriate. A Certification of Representative is issued for the new unit.

56.2.1.1 Names appearing on the caption of the certification: This section applies to all certifications, clarifications, amendments or revocations.

The full name of the agency, then the activity and the labor organization as it appears on the Election Agreement or in the Decision and Order, including the designation of the local, if any, appears in the caption of the certification and in the unit description ([CHM 28.18.1](#)). **The order of the agency and the activity, if there is one, may differ from the order of these parties in the unit description. The level of recognition is controlled by the unit description ([CHM 28.14.2](#)).** The caption is significant for record-keeping purposes.

NOTE: Particular care is taken to ensure that when a consolidated unit is involved, the certification of consolidated units which issues sets forth in full the designation of the exclusive representative of the consolidated unit.

56.2.1.2 Unit description: The unit as agreed to by the parties in the Election Agreement or Direction of Election or as found appropriate by the Regional Director in the Decision and Order and Direction of Election, or the Decision and Order in successorship cases, is the unit described in the certification.

NOTE: It is important to track the unit description in the certification as it appeared in the election agreement or the Decision and Order. The unit description includes the name of the agency as appropriate and depending on the level of certification. ([CHM 28.14](#)).

56.2.1.3 Maintaining a record of the unresolved challenged ballots: Prior to issuing the Certification for Inclusion in Existing Unit, the Regions insure that a list of the employees in the 15% “agree to disagree” group, whose status was not resolved as part of reaching the certification or any other unresolved challenged ballot of an employee whose challenge was based on unit status, are clearly listed in the case file. **This list is also maintained with the certification in the Regional Office and added to the certification database when the certification is entered.**

56.2.2 Certification of Results: [FLRA Form 27](#), Certification of Results of Election, is issued to certify that a majority of the valid ballots has not been cast for any labor organization appearing on the ballot. Follow the instruction in [CHM 56.2.1.1](#) and [56.2.1.2](#) for completing the certification. Normally, Certifications of Results are not entered into the Certification Database.

If, in a raid situation, neither the petitioning labor organization nor the incumbent win the election, the Regional Director issues a Certification of Results. However, in this situation the certification of the incumbent is also revoked. Thus, such certification of results are added to the Certification Database to reflect that the certification originally issued to the incumbent is revoked.

56.2.3 Certification for Inclusion in Existing Unit: This type of certification ([FLRA Form 192](#)) is limited to two instances:

- a. Residual elections where a majority of the valid ballots has been cast by residual professional or nonprofessional employees for inclusion in the unit currently represented by the petitioner ([CHM 28.15.4](#)); or
- b. Add-on elections: where a union petitions for an election to add employees to an existing unit and the majority of valid ballots has been cast by the employees for inclusion in the unit currently represented by the petitioner ([CHM 28.16](#)).

FLRA Form 192 requires a description of the unit in which the election was held and a description of the newly defined existing unit. Note that when completing a Certification for Inclusion in an Existing Unit for a nationwide or agency-level consolidated unit, it is not necessary to add the unit to the n:\drive document which holds the certifications for these documents or to rewrite the broader unit description. The unit is described on FLRA Form 192. FLRA Form 192 is issued with a copy of the current nationwide or consolidated unit description printed from the n:\drive attached to it. OGC Headquarters will add the unit to the main document.

Similar to the Certification of Representative, prior to issuing the Certification for Inclusion in Existing Unit, the Regions insure that a list of the employees in the 15% “agree to disagree” group, whose status was not resolved as part of reaching the certification or any other unresolved challenged ballot of an employee whose challenge was based on unit status, are clearly listed in the case file. **This list is also maintained with the certification in the**

Regional Office and added to the certification database when the certification is entered.

- 56.2.3.1 Certification bar limitations:** Where the unit currently represented by the petitioner was established by a previous certification, the issuance of a Certification for Inclusion in Existing Unit does not constitute a recertification. Thus, no one year certification bar arises with respect to the newly defined unit. The timeliness requirements for filing another petition seeking the larger unit is based upon the expiration of the current agreement covering the employees in the overall unit.
- 56.2.4 Certification of Consolidation of Existing Units:** [FLRA Form 29](#) is used to issue a certification when an agency and a labor organization consolidate units for which the union currently holds exclusive recognition. Each unit originally certified included in the consolidation is listed in the certification unless the parties rewrite a comprehensive unit description that is approved by the Regional Director.
- 56.3 Conditions precedent to issuance of certification after election:** Issuance of any certification after an election does not occur until all of the following conditions are met:
- a. The five (5) day period for filing objections to an election has expired and no objections to the election have been received by the Regional Director from any of the parties within five days after the tally of ballots has been served;
 - b. A rerun or runoff election has been conducted, when necessary, and no objections were received timely within the five (5) day period;
 - c. Challenged ballots, if any, are not sufficient to affect the results of the election; and
 - d. The Authority has decided any application for review pending before it pursuant to § 2422.31(e).
- 56.4 Clarifications of Units and Amendments of Recognitions and Certifications:** These documents are not “certifications” as defined in § 2421.13 in that they do not determine “the results of an election, or the results of a petition to consolidate existing exclusively recognized units.” However, they constitute a permanent record of changes to existing

appropriate units resulting from petitions to clarify or amend a recognition or certification then in effect and/or any other matter relating to representation. They are also entered into the Certification Database. There are no preprinted FLRA Forms for amendments or clarifications since they are subject to modification depending on the circumstances of the case.

There are, however, certain requirements for any Clarification or Amendment. These requirements are illustrated in [Figure 56.C](#), Clarifications, and [Figure 56.A](#), Amendments. Clarifications and Amendments include:

- a. the date and case number of the original certification of representative or recognition and the dates and case numbers of any certifications, clarifications or amendments that updated the original document;
- b. a description of the existing unit before the petition was filed; and
- c. the action taken, including the revised unit description, and the clarification and amendment ordered. For example:
 - < A clarification stating that the certification will “include Secretary, GS-6” refers to the original certification, including case number and unit description. If the unit description as clarified or amended, the revised unit description is also reflected on the clarification. Note that a clarification of positions includes the name of the position, title, series and grade. Including the name of the incumbent is avoided. Exceptions include: when the clarification is limited to one person or several persons who are part of a major classification of employees.
 - and
 - < Any amendment reflecting a change in affiliation references the case number, certified representative and unit description originally certified and the change in the designation of the unit as a result of the reaffiliation or merger. **Further, the labor organization originally granted recognition and the new certified representative (listed as “Interested Party”) are referenced in the caption.**

NOTE: 1. When necessary and appropriate, these forms are combined to clarify and amend units as a result of a substantial change in the

unit.

NOTE: 2. *As discussed in CHM 56.2.3, when completing a Clarification or Amendment of an existing Unit for a nationwide or agency-level consolidated unit, it is not necessary to add the clarified or amended unit to the n:\drive document which holds the certifications for these documents. The unit is described in a formal Clarification or Amendment. This document is then issued with a copy of the current nationwide or consolidated unit description printed from the n:\drive attached to it. OGC Headquarters will add the unit to the main document.*

- 56.5 Determination of Eligibility for Dues Allotment:** This certification is issued when the Regional Director determines that a labor organization has complied with 5 U.S.C. 7115 and is eligible for dues allotment in an appropriate unit without an exclusive representative. There are no preprinted forms for a certification of eligibility for dues allotment.
- 56.6 Revocations:** The regulations also provide at § 2422.32(b) that without prejudice to any rights and obligations which may exist under the Statute, the Regional Director will revoke a recognition or certification, as appropriate, and provide a written statement of reasons when:
- a. An incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit; or
 - b. Due to a substantial change in the character and scope of the unit, the unit is no longer appropriate and an election is not warranted.
- 56.6.1 Revocations issued upon a disclaimer by an incumbent exclusive representative:** If a labor organization files a disclaimer of any representational interest in a unit for which it holds exclusive recognition, a Revocation of Recognition or Certification, [FLRA Form 191](#), is issued by the Regional Director under the following circumstances:
- a. Following investigation of a petition filed by an incumbent labor organization seeking to disclaim representational interest, the Regional Director issues a Decision and Order. The region encourages the petitioner to waive its right to appeal the decision. If the Regional Director issues a

Decision and Order finding that the disclaimer is valid, s/he will state his/her intent to issue a Revocation of Recognition or Certification, FLRA Form 191 ([CHM 5.9](#) and [20.9](#)).

- b. During the processing of a representation petition, the incumbent labor organization files a disclaimer of any representational interest in the unit. As discussed in [CHM 20.9.2](#), a FLRA Form 191, Revocation of Recognition or Certification is issued when:
- (i) The incumbent labor organization disclaims interest in the unit for which another labor organization has filed a timely petition seeking an election. In this instance if an election is held, a Certification of Representative or Results is issued, as appropriate, and a Revocation is not issued. If the election is not held, a Revocation of Recognition or Certification is issued after the Regional Director issues a Decision and Order approving the disclaimer in accordance with [CHM 20.9.1](#).
 - (ii) The incumbent labor organization disclaims interest in the unit which is the subject of a decertification petition and the election is not held [unless another labor organization has intervened - § 2422.23(f) and [CHM 28.37.2.2](#)]. In cases where there is no intervenor, the Regional Director dismisses the petition on the basis of the disclaimer stating that no question of representation exists (absent a withdrawal) and issues a Revocation of Recognition or Certification at the same time the petitioner's withdrawal is approved or the case is dismissed as moot ([CHM 53](#)- Decisions and Orders).
 - (iii) A disclaimer by a labor organization that is named as an incumbent or an intervenor in a representation petition based on its current or prior representation of employees affected by a reorganization may have no affect on the processing of the petition. The disclaimer may, however, affect the issues raised by the petition. In this situation, the region is not required to issue a Decision and Order as a result of the incumbent's disclaimer. The case continues to be processed, but the incumbent labor organization is simply not a party and the affected employees are not represented by it. If the Regional Director finds in a Decision and Order, however, that the reorganization did

not affect the continued appropriateness of the existing unit, the Regional Director contacts the incumbent to confirm that it still seeks to disclaim interest. If the incumbent continues to disclaim, the Regional Director issues a Decision and Order that includes a statement that the incumbent disclaimed interest in representing the employees in the unit and states his/her intent in issuing a Revocation of Recognition or Certification. Thereafter, the Regional Director issues a Revocation of Recognition or Certification to reflect that the exclusive representative has disclaimed interest for an appropriate unit of employees. [CHM 20.9.3](#).

- 56.6.2 Revocations issued when the unit is no longer appropriate due to a substantial change in the character and scope of the unit and an election is not warranted:** Following investigation and/or hearing, the Regional Director may issue a Decision and Order finding that due to a substantial change in the character and scope of the unit, the unit is no longer appropriate. If the Regional Director decides that an election is not warranted, s/he may revoke the recognition or certification by issuing a FLRA Form 191, Revocation of Recognition or Certification. See also [CHM 20.9.3](#).
- 56.7 Correcting a Certification or Revocation:** A corrected certification or revocation is issued only to correct a typographical error. It is not used to correct a party designation or to amend a unit description that had been described incorrectly throughout a proceedings.
- 56.8 Permanent copy of certification:** A copy of any certification, clarification, amendment or revocation issued by the Regional Director is retained in a permanent certification file by the region.
- 56.9 Certification database:** A copy of any certification, clarification, amendment or revocation issued by the Regional Director is forwarded to the Office of the General Counsel to be entered onto the Certification Database.
- 56.10 Copies to Other Regional Offices:** Copies of certification, clarifications, amendments and revocations are sent to other Regional Offices when:
- a. any certification involves a unit or portion of a unit which falls within the geographic jurisdiction of a region other than the region issuing the certification, clarification etc.;

- b. any certification, clarification, amendment or revocation involves units that are part of nationwide units for which a labor organization holds exclusive recognition or are part of agency-level consolidated units.

