



UNITED STATES OF AMERICA FEDERAL LABOR RELATIONS AUTHORITY

STATEMENT OF STANDARD PROCEDURES IN REPRESENTATION HEARINGS BEFORE HEARING OFFICERS

The hearing will be conducted by a designated Hearing Officer at the time and place specified in the Notice of Hearing, and in accordance with the provisions of Part 2422 of the Regulations of the Federal Labor Relations Authority. In regard to the hearing, the parties should be aware of the following:

1. PURPOSE OF HEARING: The representation case hearing is a formal proceeding that is part of the investigation in a representation case. Its purpose is to inquire into any matter about which a material issue of fact exists, and any time there is reasonable cause to believe a question exists regarding unit appropriateness.

The purpose of a representation hearing is to develop a full and complete factual record. The rules of relevancy and materiality are paramount. There is no burden of proof, except in cases involving objections to the procedural conduct of an election or to conduct which may have improperly affected the outcome of an election. The technical rules of evidence do not apply.

2. DUTY OF THE HEARING OFFICER: The Hearing Officer will receive evidence, inquire fully into relevant and material facts concerning the matters that are the subject of the hearing, and may make recommendations on the record to the Regional Director.

3. PREHEARING CONFERENCE: A prehearing conference will be conducted by the Hearing Officer. 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.

4. STIPULATIONS IN LIEU OF HEARINGS: Stipulations in lieu of hearings are permissible and encouraged in most representation matters. Section 2422.30(b) of the Regulations states that when the Regional Director has reasonable cause to believe a question exists regarding unit appropriateness, the Regional Director will issue a notice of hearing. The parties may waive a hearing by entering into a stipulation for the purpose of entering into an election agreement, subject to the Regional Director's approval. Absent an election agreement, the parties may enter into a stipulation addressing all appropriate unit issues in lieu of a hearing if the stipulation includes a waiver of the parties' right to a hearing.

5. PREHEARING MOTION TO POSTPONE HEARING: Unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements will not be granted unless good and sufficient grounds are shown and the following requirements are met: (a) the request must be in writing and served on the Regional Director; (b) the reasons for the request must be set forth in detail; (c) alternate dates for any rescheduled hearing must be given; (d) the positions of all other parties must be ascertained in advance by the requesting party

and set forth in the request; and (e) copies must be served on all other parties and that fact must be noted on the request. Except under the most extraordinary circumstances, no request for postponement will be granted during the five (5) days immediately preceding the date of hearing.

6. PREHEARING EXCHANGE OF EXHIBITS: Any party intending to introduce documentary exhibits at the hearing is expected to furnish a copy of each proposed exhibit to each of the other parties at least five (5) days before the hearing. This will facilitate the expeditious development of a full record for decision by the Regional Director.

Where a copy of the exhibit is not tendered to the other parties because it was not contemplated prior to the opening of the hearing, a copy of the exhibit should be furnished to the other parties at the time it is offered in evidence.

Two (2) copies of each documentary exhibit must be submitted to the Hearing Officer at the time it is offered in evidence at the hearing. Objections to any exhibit should be reserved for the hearing when the exhibit is offered in evidence.

7. RIGHTS OF THE PARTIES: A party at a hearing will have the right to appear in person or by a representative; to examine and cross-examine witnesses and introduce into the record documentary or other relevant evidence.

8. OFFICIAL TRANSCRIPT: An official reporter makes the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the Regional Director for the Regional Director's approval. Copies of the official transcript may be examined in the appropriate Regional Office during normal working hours. Requests to purchase copies of the official transcript should be made to the official hearing reporter.

9. OFF-THE-RECORD DISCUSSION: All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the Hearing Officer specifically directs an off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the Hearing Officer and not to the official reporter. Pertinent off-the-record discussions will be summarized on the record.

10. MOTIONS AND OBJECTIONS: Statements of reasons in support of motions and objections should be specific and concise. Automatic exception will be allowed to all adverse rulings, and upon appropriate request, an objection or exception may be permitted to stand to an entire line of questioning.

11. ORAL ARGUMENT: Any party shall be entitled to a reasonable period of time prior to the close of the hearing for oral argument. Any oral argument will be included in the official transcript of the hearing. Presentation of a closing oral argument does not preclude a party from filing a brief (see Item 12). The Hearing Officer may also ask for a statement of position concerning any issue in the case or theory in support thereof, if at the close of the hearing the Hearing Officer believes that such oral argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

12. FILING OF BRIEFS: Any party desiring to file a brief with the Regional Director must file the original and two (2) copies within thirty (30) days after the close of the hearing and serve a copy of the brief on each of the parties. A statement of such service must be filed with the Regional Director.

13. REQUESTS FOR ADDITIONAL TIME TO FILE BRIEFS AFTER THE CLOSE OF THE HEARING: Requests for an extension of time within which to file briefs must be made to the Regional Director in writing and received no later than five (5) days before the date such briefs are due. Copies of the request for an extension must be served on all other parties, and a statement of service must be filed with the Regional Director.