

16 NOTICE OF PETITION:

16.1 Purpose: The purpose of a notice of petition is to inform employees about the petition (see § 2422.7). A notice of petition has no other purpose. The 1996 revisions to the regulations significantly diminished the purpose and effect of the posting requirement. The posting of the notice no longer establishes the time period for filing intervention requests, challenges to the showing of interest or other challenges to the proceeding.

16.2 When posting occurs: The regulations provide that the Regional Director will direct an agency or activity to post a notice of petition “when appropriate.” The Office of the General Counsel interprets this provision to require a posting **only when the petition is opened** (see [CHM 1.2](#) and [CHM 12](#)). Thus, a posting cannot be sent until a petition is amended and the defect is cured. The region mails the notice of petition to the agency/activity when the purpose of the petition is clear and/or the petition appears to merit investigation. If a petition is unclear, i.e., the region is unable to inform the employees adequately about the petition, the notice is not forwarded until the petition is amended. If the petition appears to lack merit, a notice may never be appropriate.

Examples of petitions that never require postings include:

- < A petition that is not accompanied by a timely submitted prima facie showing of interest.
- < A petition that is clearly untimely because it is filed outside the open period of an agreement covering a claimed unit. In such cases, the Regional Director issues an Order to Show Cause to the petitioner requesting its position on the timeliness issue (see [CHM 20.1](#)). Copies of the Order to Show Cause is served on all parties. In these circumstances, the Regional Director does not ask the agency/activity to post the notice of petition.
- < A petition seeking an election among a group of employees that are part of a consolidated unit is filed by a petitioner who is unaware that the proposed unit is already part of a consolidated unit. In this example the petitioner is not seeking to sever the unit from the consolidated unit.

Regional Offices err on the side of posting a notice of election if there is any question about whether such posting is appropriate.

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16.3 Contents of notice: The regulations require only that the notice of petition advise affected employees about the petition. [FLRA Form 30](#) is used for all notices of petitions filed under Part 2422 of the regulations. The notice identifies:

- a. the name of the agency/activity that employs employees affected by issues raised in the petition;
- b. the name of the petitioner; and
- c. the purpose of the petition.

Since no action or right flows from the posting, the Office of the General Counsel standardized the language that the regions use to describe the purpose of the petition. The regions select one of the following statements to reflect the purpose of the petition (the *italics* indicate when the region may add clarifying information). When the petition has more than one purpose, the notice includes all appropriate statements.

1. an election to determine the exclusive representative of certain employees at the agency (*the region may describe briefly the name and location of the activity*);
2. a determination of eligibility for dues allotment in an appropriate unit without an exclusive representative;
3. an election to determine if employees no longer wish to be represented for the purpose of collective bargaining by the exclusive representative (*the region may describe briefly the name of the labor organization involved*);
4. to clarify, and/or amend:
 - (i) a recognition or certification (then) in effect (*the region may add "for employees at (and name the activity)";* and/or
 - (ii) any other matter relating to representation (*the region may state that the petitioner wishes to disclaim interest for the unit at the "named" activity*);
5. to consolidate two or more units, with or without an election, in an agency (*the region may name the agency involved*) and for which a labor organization (*the region may name the labor organization involved*) is the exclusive representative. Thirty percent (30%) or

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more of the employees in the proposed consolidated unit may request an election on the proposed consolidation prior to the Regional Director taking action on the case pursuant to § 2422.30 of the regulations.

- 16.4 Duration and location of posting:** The regulations require that the Regional Director direct the agency/activity to post the notice conspicuously for ten (10) days in places where notices are normally posted for the employees affected by issues raised in the petition and/or distribute copies of the notice in a manner by which notices are normally distributed. Notices can not be altered, defaced or covered by other material.

The requirement to post the notice in places where notices are normally posted or in a manner by which notices are normally distributed includes faxing notices or forwarding the notices via electronic mail, if other notices to employees are normally distributed in that manner. During the agent's first contact with the agency or activity, the agent discusses how notices are normally delivered to agency personnel. The agent also offers guidance to the agency representative on posting the notice.

If notices are normally distributed to employees by fax or e-mail, the agency is only required to notify the employees once. If notifying by fax, the agency certifies to the Regional Office that it faxed a copy of the notice to all employees and send a copy of it to the Regional Office. If notice is sent via e-mail, the agency certifies to the Regional Office that the e-mail was sent to the employees. A copy of the e-mail is attached to the certification.

- 16.5 Certification of posting:** The agency/activity is not required to provide the Regional Director with a certification of posting.
- 16.6 What happens if the agency refuses to post:** Contact the Office of the General Counsel for guidance if an agency refuses to post the notice of petition.
- 16.7 Status of petition during posting period:** Regional Offices do not delay processing the petition during the posting period.
- 16.8 Effect of amending a petition:** Regional Directors are required to send an amended notice of petition to the activities whenever an amended petition changing the scope and character of the unit or the purpose of the petition is filed ([CHM 13.9](#) and [13.10](#)). The "generic" language set forth in [CHM 16.3](#) is used. The posting of an amended notice of petition does not delay processing the petition.

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