

59 MOTIONS AND ORDERS:**59.1 Motions:**

59.1.1 Purpose of a motion: Section 2422.19(a) states: “Subsequent to the issuance of a Notice of Hearing in a representation proceeding, a party seeking a ruling, order, or relief must do so by filing or raising a motion stating the order or relief sought and the grounds therefor. Challenges and other filings referenced in other sections of this subpart may, in the discretion of the Regional Director or Hearing Officer, be treated as a motion.”

59.1.2 Service of motion: Motions are served according to §§ 2422.4 and 2429.25.

59.1.3 Specific rule: An original and four (4) copies of any motion must be filed with the Regional Director or the Hearing Officer by the party filing the motion (§ 2429.25). Copies must be served by the filing party on all other parties to the proceeding. A statement of service must accompany the original motion. See [HOG 16 through 19](#) for a discussion of motions filed prior to and during the hearing. [CHM 31.5](#) discusses posthearing motions.

59.2 Orders: Orders are issued by the Regional Director to rule on a motion or to issue a direction or instruction to the party(ies). A Hearing Officers is authorized to issue Orders closing a hearing when the record has been held open to except an exhibit or after an indefinite postponement.

59.2.1 Examples of Orders that respond to motions include:

- a. *Order Denying a Motion to Postpone;*
- b. *Order Denying a Motion to Dismiss;*
- c. *Order Granting a Motion to Postpone; or*
- d. *Order Closing a Hearing* (two types: [Figures 59.2](#) and [59.3](#)).

59.2.2 Examples of Orders issued by the Regional Director without a party motion:

- a. *Order Consolidating Cases* ([FLRA Form 45](#));
- b. *Order to Reschedule a Hearing* ([FLRA Form 48](#));
- c. *Order Setting Time or Location of Hearing*;
- d. *Order to Show Cause*: these Orders are sent by the Regional Director to a particular party or all parties (if necessary and appropriate) when an issue is raised that requires the affected party(ies) to state a position immediately. Copies are sent to the other parties who may respond to the Order. See *Federal Mediation and Conciliation Service*, 52 FLRA 1509 (1997), in which the Authority found that the Regional Director's resolution of the petition, based on an *Order to Show Cause*, did not constitute a prejudicial or substantial factual error. See also *U.S. Army Corps of Engineers, Seattle, Washington*, Case No. SF-RP-70066, (1998), an unnumbered Authority Decision in which the Authority denied an application for review stating that it found "nothing improper in the RD's use of the *Order to Show Cause*." See also [CHM 15.8](#) that discusses issuing an *Order to Show Cause* to a Petitioner.

59.3 Minimum requirements for Orders: Orders issued by the Regional Director include the following information:

- a. Jurisdiction and purpose of the Order;
- b. The material facts and issues (see, e.g., the sample *Orders to Show Cause* in [Figures 20.1A](#) and [20.1B](#));
- c. The region's analysis;
- d. The decision (i.e., that the hearing is rescheduled) or the direction/instruction (i.e., that the party to whom the Order is directed is required to furnish information or provide a position on the issue raised in the Order);
- e. If appropriate, a date for the response to the Order.

Attached to the Order is a statement of service that the Order is being served on all parties. See also [Figures 59.2](#) and [59.3](#) for samples.