

**11 Things for the Hearing Officer to keep in mind as the hearing opens:**

- 11.1 Recesses for breaks, lunch, etc.:** The Hearing Officer provides the parties with recesses for breaks, lunch, etc., when necessary, consistent with the requirement to develop a full and complete record as expeditiously as possible. The Hearing Officer decides the number and length of any break.
- 11.2 Smoking:** Rules on smoking at the hearing are consistent with the smoking policy of the building where the hearing is held. Otherwise, the smoking policy is within the discretion of the Hearing Officer.
- 11.3 Decorum of parties and witnesses:** Parties and witnesses are expected to conduct themselves appropriately at all times and to cooperate with the Hearing Officer. If any party behaves inappropriately or fails to cooperate, the Hearing Officer promptly and firmly instructs the offending individual(s) that this behavior is not tolerated. If the misconduct or lack of cooperation continues, the Hearing Officer recesses the hearing and contacts his/her supervisor for guidance. Sanctions may be imposed dependent on the offensive individual's role at the hearing. [See § 2422.15 of the regulations, HOG 2.2(e), and CHM 22, 25.10 and 25.11].
- 11.4 Things to discuss with the court reporter:** The Hearing Officer knows in advance of the hearing the required forms and takes them with him/her. At the hearing, the Hearing Officer checks with the court reporter to ascertain what forms to complete for the court reporting service. If the Hearing Officer wants to conduct part of the hearing outside normal business hours, the Hearing Officer ascertains the court reporter's availability and checks the court reporting contract.
- 11.5 Hearing Officer's demeanor towards parties:** The Hearing Officer is keenly aware that the representation hearing is a formal proceeding and that the Hearing Officer represents the FLRA. The Hearing Officer's demeanor sets the tone for the hearing. By dressing and conducting himself/herself in a manner consistent with the formality of the proceeding, the Hearing Officer lends credibility to the hearing process. The parties' representatives are treated with courtesy and respect. They are addressed by their surnames at all times while on the record.

At all times, the Hearing Officer avoids making inappropriate or "off the cuff" remarks - such as accusing a party rep of "playing games;" allowing a witness to testify about an issue the Hearing Officer believes is irrelevant but states "put it on for whatever its worth."

- 11.6 *Hearing Officer's demeanor towards witnesses:*** Normally, the witnesses' participation in representation hearings is voluntary. They are:
- a) treated with courtesy and respect;
  - b) if necessary, offered assistance in taking the witness stand;
  - c) if requested, provided with an explanation of hearing procedures; and
  - d) always thanked upon completion of their testimony.

- 11.7 *Off the record remarks:*** Off-the-record discussions may prove useful in narrowing or resolving issues. The Hearing Officer ensures that pertinent off-the-record discussions are summarized on the record to:
- a) document the progression of the hearing,
  - b) prevent abuse of the hearing process, and
  - c) permit a resolution of the issues consistent with the Statute .

When appropriate, the Hearing Officer asks the parties' representatives to restate for the record their interests and/or positions expressed while off the record.

- 11.8 *When the parties elect to allow the Hearing Officer to act as the primary examiner:*** In very rare circumstances, the parties may ask the Hearing Officer to act as the primary examiner of the witnesses. In effect, the parties are allowing the Hearing Officer to "make the record." This role is discouraged and only used when the parties are so inexperienced that the record would be lengthy, cumbersome and inadequate without the Hearing Officer's involvement. The Hearing Officer obtains approval from the Regional Director prior to assuming this role and ensures the record reflects that the parties agreed to the Hearing Officer assuming the lead questioning and have no objection to it.

- 11.9 *When the Hearing Officer is uncertain on how to proceed:*** If at any point during the hearing, the Hearing Officer is uncertain on how to proceed, s/he recesses the hearing and contacts the supervisor. It is never wrong to "call home."