

19 **Motions to withdraw:** A petitioner(s) may request to withdraw a petition at any time during the processing of the case. The Hearing Officer may not rule on requests to withdraw a petition(s).

Intervenors or interested parties may also request to withdraw from representation proceedings at any time. The Hearing Officer may not rule on requests from intervenors to withdraw from representation proceedings.

19.1 Prehearing motions to withdraw:

19.1.1 Petitioner requests to withdraw:

- a) If a request to withdraw is received immediately prior to the opening of the hearing, the Hearing Officer asks the petitioner to put the request in writing.
- b) The Hearing Officer calls the Regional Director and advises him/her about the request to withdraw.
- c) Once the Regional Director advises the Hearing Officer that s/he intends to approve the request, the Hearing Officer:
 - (i) notifies the parties,
 - (ii) advises the petitioner of the regulations pertaining to the effects of withdrawal after a notice of hearing issues [see § 2422.14(b) and *HOG 19.4*],
 - (iii) cancels the court reporter,
 - (iv) does not open the record, and
 - (v) forwards the withdrawal request to the Regional Director.

The approval is in the form of a Withdrawal of the Notice of Hearing and Approval of Request for Withdrawal of Petition (see FLRA Form 49) with language added that the approval request is subject to the provisions in § 2422.14(b) of the regulations.

19.1.2 Intervenor requests to withdraw: If an intervenor requests to withdraw from the case immediately prior to the opening of the hearing, the Hearing Officer:

- a) asks the intervenor to put the request in writing,
- b) contacts the Regional Director.

Once the Regional Director advises the Hearing Officer that s/he will approve the request, the Hearing Officer notifies the parties and if necessary, reassesses the need for a hearing. Thereafter, the Regional Director approves the withdrawal request in writing.

19.2 Motions to withdraw made during the hearing:

19.2.1 Petitioner requests to withdraw: If the request to withdraw is received after the hearing has opened, the Petitioner is required to put the request on the record. The hearing is recessed while the Hearing Officer contacts the Regional Director to seek approval of the withdrawal.

Once the Regional Director states that s/he will approve the withdrawal request, the Hearing Officer:

- a) goes back on the record,
- b) notifies the parties of the approval,
- c) continues the hearing indefinitely, and
- d) forwards the withdrawal request to the Director.

Thereafter, the Regional Director issues an Order Closing the Hearing and Approving the Request to Withdraw (see *CHM 59* for guidance in preparing Orders). The same provisions concerning withdrawal with prejudice that are outlined in § 2422.14(b) apply to requests to withdraw during the hearing.

19.2.2 Intervenor requests to withdraw: If the request to withdraw is received after the hearing has opened, the intervenor is required to put the request on the record. The hearing is recessed while the Hearing Officer contacts the Regional Director for approval of the withdrawal request. Once the Director states that s/he will approve the withdrawal request, the Hearing Officer goes back on the record, notifies the parties of the approval and if necessary, reassesses the need for continuing the hearing. Thereafter, the Regional Director approves the withdrawal request in writing.

19.3 Motions to withdraw made post-hearing: A motion to withdraw that is received after a hearing is closed is processed similarly to one filed after the notice of hearing issues. The Regional Director issues an Order Withdrawing the Notice of Hearing and Approval of Request to Withdraw Petition subject the provisions in § 2422.14(b) of the regulations. See *HOG 19.4*.

19.4 ***Withdrawal with prejudice:*** Section 2422.14(b) of the regulations provides that a petitioner who submits a withdrawal request for a petition seeking an election that is received by the Regional Director after the notice of hearing issues or after approval of an election agreement, whichever comes first, will be barred from filing another petition seeking an election for the same unit or any subdivision of the unit for six (6) months from the date of the approval of the withdrawal by the Regional Director. This statement is added to any Order approving a request to withdraw that is submitted within three days prior to the opening of the hearing or anytime after the hearing opens.

This section does not apply to a request to withdraw by an intervenor unless the intervenor is an incumbent that disclaims any representational interest in a unit which is subject of an election petition (see *RCL 12, HOG 48* and *CHM 11.10*).

