

(G) An employee performing service with the United States Postal Service or the Postal Regulatory Commission; or

(H) A member performing honorable active service in the Army, Navy, Air Force, Space Force, or Marine Corps, including full-time National Guard duty and active duty performed by a member of the Reserves of the Army, Navy, Air Force, or Marine Corps, but not including service in the Coast Guard or in the commissioned corps of the Public Health Service.

(2) * * *

(v) An employee of the Veterans Health Administration who is covered by a leave system established under 38 U.S.C. 7421 (see also 38 U.S.C. 7425(c)).

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■ 3. Amend § 630.1202 by adding, in alphabetic order, the definitions for “Active duty”, “Active service”, and “Full-time National Guard duty” to read as follows:

§ 630.1202 Definitions.

* * * * *

Active duty, as used in § 630.1201(b)(1)(ii)(H), has the meaning given that term in 10 U.S.C. 101(d)(1).

Active service has the meaning given that term in 10 U.S.C. 101(d)(3).

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Full-time National Guard duty has the meaning given that term in 10 U.S.C. 101(d)(5).

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FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2421, 2422, 2426, and 2429

Meaning of Terms as Used in This Subchapter; Representation Proceedings; National Consultation Rights and Consultation Rights on Government-Wide Rules or Regulations; Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Federal Labor Relations Authority (FLRA) publishes this document to implement the vacatur of the interim final rule published March 24, 2026 (Interim Final Rule). Except for certain minor or technical changes that were part of the Interim Final Rule but were not vacated, this document reinstates the wording of the affected regulations as they appeared before the Interim Final Rule took effect.

DATES: This final rule is effective on October 15, 2026.

FOR FURTHER INFORMATION CONTACT: Thomas Tso, Solicitor, at solmail@flra.gov or at (771) 444–5778.

SUPPLEMENTARY INFORMATION:

I. Background

On March 24, 2026, the FLRA published the Interim Final Rule with a request for comments. Meaning of Terms as Used in This Subchapter; Representation Proceedings; National Consultation Rights and Consultation Rights on Government-wide Rules or Regulations; Miscellaneous and General Requirements, 91 FR 13933 (Mar. 24, 2026) (Member Anne Wagner dissenting). The Interim Final Rule was effective April 23, 2026. *Id.* at 13933. In a memorandum and order on June 29, 2026, the United States District Court for the District of Massachusetts held that the Interim Final Rule and its April 23, 2026, effective date were arbitrary and capricious. *See AFGE, AFL–CIO v. FLRA*, 838 F.Supp.3d 90 (D. Mass. June 29, 2026). In a final judgment on July 8, 2026, the District Court vacated the Interim Final Rule, except for certain minor or technical changes that are discussed in Section II below. *See id.*, Final J., Dkt. No. 45 (D. Mass. July 8, 2026). In order to implement the District Court’s vacatur, this document reinstates the wording of the affected regulations as they appeared before the Interim Final Rule took effect—except for the minor or technical changes that the vacatur did not affect. These reinstated regulations were already in effect as a matter of law due to the District Court’s decision, but this publication restores their appearance in the *Code of Federal Regulations*. The FLRA has sought reconsideration of the District Court’s decision. The FLRA will issue a superseding notice in the **Federal Register** if the District Court’s decision is vacated.

II. Minor or Technical Changes

The Interim Final Rule’s minor or technical changes that the District Court did not vacate are set forth in 5 CFR 2422.3; 2422.5; 2422.6; 2422.34; 2426.2(b)(2)(i), (iv), & (v), and (b)(3)(ii); 2426.12(b)(2)(i), (iv), & (v), and (b)(3)(ii); 2429.7; and 2929.24(f)(7) and (f)(9). *See id.* Because these revisions have remained unchanged since the Interim Final Rule’s effective date, they are not changed in this final rule.

III. Procedural and Other Matters

Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), provides that when an agency for good cause finds that notice-and-comment

procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for comment. The FLRA has determined that there is good cause for dispensing with an opportunity for comment, inasmuch as this rule merely conforms the text in the *Code of Federal Regulations* to the requirements of the District Court’s decision.

Additionally, the FLRA finds that providing notice and an opportunity to comment is unnecessary because the FLRA is simply conducting the ministerial task of implementing the final judgment of the District Court.

Further, the FLRA finds good cause to make the revisions immediately effective under § 553(d)(3) of the Administrative Procedure Act. *See id.* 553(d)(3). Section 553(d)(3) provides that final rules shall not become effective until 30 days after publication in the **Federal Register**, “except . . . as otherwise provided by the agency for good cause,” among other exceptions. *Id.* The purpose of this provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996). The FLRA has determined that there is good cause for making this final rule effective immediately because it merely implements the District Court’s decision that already vacated the Interim Final Rule (except for minor or technical changes). Accordingly, this final rule is effective immediately upon publication.

E.O. 12866

Pursuant to E.O. 12866 (“Regulatory Planning and Review”), as amended by E.O. 14215, a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the E.O.

E.O. 13563 (“Improving Regulation and Regulatory Review”) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866.

This final rule was drafted and reviewed in accordance with E.O. 12866 and E.O. 13563. OMB has determined that this final rule is not a “significant regulatory action” as defined in section 3(f)(1) of E.O. 12866.

E.O. 14192 (“Unleashing Prosperity Through Deregulation”) requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. The

FLRA must adopt this final rule to comply with a court decision and does not anticipate any new incremental costs associated with the rule.

Regulatory Flexibility Act Certification

Pursuant to § 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the FLRA has determined that this final rule will not have a significant impact on a substantial number of small entities, because this final rule applies only to federal agencies, federal employees, and labor organizations representing those employees.

E.O. 13132, Federalism

The FLRA is an independent regulatory agency, and as such, is not subject to the requirements of E.O. 13132.

This final rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, this final rule does not have sufficient federalism implications to warrant preparation of a federalism assessment.

E.O. 12988, Civil Justice Reform

This final rule meets the applicable standard set forth in section 3(a) and (b)(2) of E.O. 12988.

E.O. 13175, Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications under E.O. 13175, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

E.O. 14294, Overcriminalization of Federal Regulations

E.O. 14294 requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the *mens rea* standard applicable to each element of those offenses. This final rule does not impose a criminal regulatory penalty and is thus exempt from E.O. 14294's requirements.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by state, local, and tribal

governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects

5 CFR Part 2421

Administrative practice and procedure, Federal employees, Federal Labor Relations Authority, Labor management relations.

5 CFR Part 2422

Administrative practice and procedure, Federal employees, Labor management relations, Representation proceedings.

5 CFR Part 2426

Administrative practice and procedure, Federal employees, Labor management relations.

5 CFR Part 2429

Administrative practice and procedure, Federal employees, Labor management relations.

For the reasons stated in the preamble, the Federal Labor Relations Authority amends 5 CFR parts 2421, 2422, 2426, and 2429 as follows:

PART 2421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

■ 1. The authority citation for part 2421 continues to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

■ 2. Revise § 2421.6 to read as follows:

§ 2421.6 Regional Director.

Regional Director means the Director of a region of the Authority with geographical boundaries as fixed by the Authority.

■ 3. Revise § 2421.20 to read as follows:

§ 2421.20 Election agreement.

Election agreement means an agreement under part 2422 of this subchapter signed by all the parties, and approved by the Regional Director, concerning the details and procedures of a representation election in an appropriate unit.

§ 2421.23 [Removed]

■ 4. Remove § 2421.23.

PART 2422—REPRESENTATION PROCEEDINGS

■ 5. The authority citation for part 2422 continues to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

■ 6. Revise § 2422.4 to read as follows:

§ 2422.4 What service requirements must you meet when filing a petition?

You must serve every petition, motion, brief, request, challenge, written objection, or application for review on all parties affected by issues raised in the filing. The service must include all supporting documentation, with the exceptions of a showing of interest, evidence supporting challenges to the validity of a showing of interest, and evidence supporting objections to an election. You must submit a statement of service to the Regional Director.

■ 7. Amend § 2422.7 by revising paragraph (a) to read as follows:

§ 2422.7 Will an activity or agency post a notice of filing of a petition?

(a) *Posting notice of petition.* After you file a petition, when appropriate, the Regional Director will direct the agency or activity to post copies of a notice to all employees in places where notices are normally posted for the employees affected by issues raised in the petition and/or distribute copies of a notice in a manner by which notices are normally distributed.

* * * * *

■ 8. Amend § 2422.9 by revising paragraph (b) to read as follows:

§ 2422.9 How is the adequacy of a showing of interest determined?

* * * * *

(b) *Regional Director investigation of showing of interest and Decision and Order.* The Regional Director will conduct an investigation if deemed appropriate. A Regional Director's determination that the showing of

interest is adequate is final and binding and not subject to collateral attack at a representation hearing or on appeal to the Authority. If the Regional Director determines that a showing of interest is inadequate, the Regional Director will issue a Decision and Order dismissing the petition, or denying a request for intervention.

■ 9. Amend § 2422.10 by revising paragraphs (b) and (e) to read as follows:

§ 2422.10 How do you challenge the validity of a showing of interest?

* * * * *

(b) *Validity challenge.* The Regional Director or any party may challenge the validity of a showing of interest.

* * * * *

(e) *Regional Director investigation and Decision and Order.* The Regional Director will conduct an investigation if deemed appropriate. The Regional Director's determination that a showing of interest is valid is final and binding and is not subject to collateral attack or appeal to the Authority. If the Regional Director finds that the showing of interest is not valid, the Regional Director will issue a Decision and Order dismissing the petition or denying the request to intervene.

■ 10. Amend § 2422.12 by revising the section heading and paragraphs (a) through (e), (g), and (h) to read as follows:

§ 2422.12 What circumstances does the Region consider to determine whether your petition is timely filed?

(a) *Election bar.* Where there is no certified exclusive representative, a petition seeking an election will not be considered timely if filed within twelve (12) months of a valid election involving the same unit or a subdivision of the same unit.

(b) *Certification bar.* Where there is a certified exclusive representative of employees, a petition seeking an election will not be considered timely if filed within twelve (12) months after the certification of the exclusive representative of the employees in an appropriate unit. If a collective bargaining agreement covering the claimed unit is pending agency head review under 5 U.S.C. 7114(c) or is in effect, paragraph (c), (d), or (e) of this section applies.

(c) *Bar during 5 U.S.C. 7114(c) agency head review.* A petition seeking an election will not be considered timely if filed during the period of agency head review under 5 U.S.C. 7114(c). This bar expires upon either the passage of thirty (30) days absent agency head action, or upon the date of any timely agency head action.

(d) *Contract bar where the contract is for three (3) years or less.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of three (3) years or less from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days before the expiration of the agreement.

(e) *Contract bar where the contract is for more than three (3) years.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of more than three (3) years from the date on which it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days before the expiration of the initial three (3) year period, and any time after the expiration of the initial three (3) year period.

* * * * *

(g) *Premature extension.* Where a collective bargaining agreement with a term of three (3) years or less has been extended before sixty (60) days before its expiration date, the extension will not serve as a basis for dismissal of a petition seeking an election filed in accordance with this section.

(h) *Contract requirements.* Collective bargaining agreements, including agreements that go into effect under 5 U.S.C. 7114(c) and those that automatically renew without further action by the parties, are not a bar to a petition seeking an election under this section unless a clear effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation.

■ 11. Revise § 2422.13 to read as follows:

§ 2422.13 How are issues raised by your petition resolved?

(a) *Meetings before filing a representation petition.* All parties affected by the representation issues that may be raised in a petition are encouraged to meet before the filing of the petition to discuss their interests and narrow and resolve the issues. If requested by all parties, a representative of the appropriate Regional Office will participate in these meetings.

(b) *Meetings to narrow and resolve the issues after the petition is filed.* The Regional Director may require all affected parties to meet to narrow and resolve the issues raised in the petition.

■ 12. Amend § 2422.14 by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 2422.14 What is the effect of your withdrawal or the Regional Director's dismissal of a petition?

(a) *Withdrawal/dismissal less than sixty (60) days before contract expiration.* (1) If you withdraw a timely filed petition seeking an election, or the Regional Director dismisses the petition less than sixty (60) days before the existing agreement between the incumbent exclusive representative and the agency or activity expires, or any time after the agreement expires, another petition that seeks an election will not be considered timely if filed within a ninety (90) day period beginning with either:

(i) The date on which the Regional Director approves the withdrawal; or
(ii) The date on which the Regional Director dismisses the petition when the Authority does not receive an application for review; or
(iii) The date on which the Authority rules on an application for review.

(2) Other pending petitions that have been timely filed under this part will continue to be processed.

(b) *Withdrawal by petitioner.* If you submit a withdrawal request for a petition seeking an election that the Regional Director receives after the notice of hearing issues or after approval of an election agreement, whichever occurs first, you 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 on which the Regional Director approves the withdrawal.

* * * * *

■ 13. Revise § 2422.15 to read as follows:

§ 2422.15 Do parties have a duty to provide information and cooperate after a petition is filed?

(a) *Relevant information.* After you file a petition, all parties must, upon request of the Regional Director, provide the Regional Director and serve all parties affected by issues raised in the petition with information concerning parties, issues, and agreements raised in or affected by the petition.

(b) *Inclusions and exclusions.* After you file a petition seeking an election, the Regional Director may direct the agency or activity to provide the Regional Director and all parties affected by issues raised in the petition with a current alphabetized list of employees and job classifications included in and/or excluded from the existing or claimed unit affected by issues raised in the petition.

(c) *Cooperation.* All parties are required to cooperate in every aspect of

the representation process. This obligation includes cooperating fully with the Regional Director, submitting all required and requested information, and participating in prehearing conferences and hearings. The Regional Director may take appropriate action, including dismissal of the petition or denial of intervention, if parties fail to cooperate in the representation process.

■ 14. Amend § 2422.16 by revising the section heading and paragraphs (b) and (c) to read as follows:

§ 2422.16 May parties enter into election agreements, and if they do not, will the Regional Director direct an election?

* * * * *

(b) *Regional Director directed election.* If the parties are unable to agree on procedural matters, specifically, the eligibility period, method of election, dates, hours, or locations of the election, the Regional Director will decide election procedures and issue a Direction of Election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.

(c) *Opportunity for a hearing.* Before directing an election, the Regional Director must provide affected parties an opportunity for a hearing on non-procedural matters, and then may:

(1) Issue a Decision and Order; or

(2) If there are no questions regarding unit appropriateness, issue a Direction of Election without a Decision and Order.

* * * * *

■ 15. Amend § 2422.17 by revising the section heading and paragraphs (a) and (b), and adding paragraph (d) to read as follows:

§ 2422.17 What are a notice of hearing and prehearing conference?

(a) *Purpose of notice of a hearing.* The Regional Director may issue a notice of hearing involving any issues raised in the petition.

(b) *Contents.* The notice of hearing will advise affected parties about the hearing. The Regional Director will also notify affected parties of the issues raised in the petition and establish a date for the prehearing conference.

* * * * *

(d) *No interlocutory appeal of hearing determination.* A party may not appeal to the Authority a Regional Director's determination of whether to issue a notice of hearing.

■ 16. Amend § 2422.18 by revising paragraphs (c) and (d) to read as follows:

§ 2422.18 What is the purpose of a representation hearing and what procedures are followed?

* * * * *

(c) *Hearing officer.* The Regional Director appoints a hearing officer to conduct a hearing. Another hearing officer may be substituted for the presiding Hearing Officer at any time.

(d) *Transcript.* An official reporter will make the official transcript of the hearing. Copies of the official transcript may be examined in the appropriate Regional Office during normal working hours. Parties should contact the official hearing reporter to purchase copies of the official transcript.

■ 17. Revise § 2422.19 to read as follows:

§ 2422.19 When is it appropriate for a party to file a motion at a representation hearing?

(a) *Purpose of a motion.* After the Regional Director issues a Notice of Hearing in a representation proceeding, a party who seeks a ruling, an order, or relief must do so by filing or raising a motion stating the order or relief sought and the grounds in support. The Regional Director or Hearing Officer may treat challenges and other filings referenced in other sections of this subpart as a motion.

(b) *Prehearing motions.* Parties must file prehearing motions in writing with the Regional Director. Any response must be filed with the Regional Director within five (5) days after service of the motion. The Regional Director may rule on the motion or refer the motion to the Hearing Officer.

(c) *Motions made at the hearing.* During the hearing, parties may make oral motions on the record to the Hearing Officer unless required to be in writing. Responses may be oral on the record or in writing, but must be provided before the hearing closes, absent permission of the Hearing Officer. When appropriate, the Hearing Officer will rule on motions made at the hearing or referred to the Hearing Officer by the Regional Director.

(d) *Posthearing motions.* Parties must file motions made after the hearing closes in writing with the Regional Director. Any response to a posthearing motion must be filed with the Regional Director within five (5) days after service of the motion.

■ 18. Amend § 2422.20 by revising paragraph (d) to read as follows:

§ 2422.20 What rights do parties have at a hearing?

* * * * *

(d) *Briefs.* A party will be given an opportunity to file a brief with the Regional Director.

(1) A party must file an original and two (2) copies of a brief with the Regional Director within thirty (30) days from the close of the hearing.

(2) No later than five (5) days before the date the brief is due a party must file and the Regional Director must receive a written request for an extension of time to file a brief.

(3) Absent the Regional Director's permission, parties may not file a reply brief.

■ 19. Revise § 2422.21 to read as follows:

§ 2422.21 What are the duties and powers of the Hearing Officer?

(a) *Duties of the Hearing Officer.* The Hearing Officer receives evidence and inquires fully into the relevant and material facts concerning the matters that are the subject of the hearing. The Hearing Officer may make recommendations on the record to the Regional Director.

(b) *Powers of the Hearing Officer.* After the Regional Director assigns a case to a Hearing Officer and before the close of the hearing, the Hearing Officer may take any action necessary to schedule, conduct, continue, control, and regulate the hearing, including ruling on motions when appropriate.

■ 20. Amend § 2422.23 by revising paragraphs (a) through (c) and (e) through (h) to read as follows:

§ 2422.23 What election procedures are followed?

(a) *Regional Director conducts or supervises election.* The Regional Director will decide to either conduct or supervise the election. In supervised elections, agencies will perform all acts as specified in the Election Agreement or Direction of Election.

(b) *Notice of election.* Before the election the activity posts a notice of election, prepared by the Regional Director. The notice is posted in places where notices to employees are customarily posted and/or distributed in a manner by which notices are normally distributed. The notice of election contains the details and procedures of the election, including the appropriate unit, the eligibility period, the date(s), hour(s), and location(s) of the election, a sample ballot, and the effect of the vote.

(c) *Sample ballot.* The reproduction of any document that claims to be a copy of the official ballot and that suggests either directly or indirectly to employees that the Authority endorses a particular choice in the election may constitute grounds for setting aside an

election if objections are filed under § 2422.26.

* * * * *

(e) *Intervenor withdraws from ballot.* When two or more labor organizations are included as choices in an election, an intervening labor organization may, before the approval of an election agreement or before the direction of an election, file a written request with the Regional Director to remove its name from the ballot. If the Regional Director does not receive the request before the approval of an election agreement or before the direction of an election, the intervening labor organization will remain on the ballot, unless the parties and the Regional Director agree otherwise. The Regional Director's decision on the request is final, and no party may file an application for review with the Authority.

(f) *Incumbent withdrawal from ballot in an election to decertify an incumbent representative.* When there is no intervening labor organization, an election to decertify an incumbent exclusive representative is not held if the incumbent provides the Regional Director with a written disclaimer of any representation interest in the unit. When there is an intervenor, an election is held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Regional Director.

(g) *Petitioner withdraws from ballot in an election.* When there is no intervening labor organization, an election is not held if the petitioner provides the Regional Director with a written request to withdraw the petition. When there is an intervenor, an election is held if the intervening labor organization presents a thirty percent (30%) showing of interest within the time period established by the Regional Director.

(h) *Observers.* Subject to the Regional Director's approval, all parties may select representatives to observe at the polling location(s).

(1) A party who wants to name observers must file a written request with specific names with the Regional Director. This request must be filed at least fifteen (15) days before an election. The Regional Director may grant an extension of time to file a request for named observers for good cause where a party requests an extension or on the Regional Director's own motion. The request must name and identify the observers requested.

(2) An agency or activity may use as its observers any employees who are not eligible to vote in the election, except:

(i) Supervisors or management officials;

(ii) Employees who have any official connection with any of the labor organizations involved; or

(iii) Non-employees of the Federal government.

(3) A labor organization may use as its observers any employees eligible to vote in the election, except:

(i) Employees on leave without pay status who are working for the labor organization involved; or

(ii) Employees who hold an elected office in the labor organization.

(4) Within five (5) days after service of the request for observers, any party that objects must file an objection with the Regional Director that states the reasons.

(5) The Regional Director's ruling on requests for and objections to observers is final and binding, and parties may not file an application for review with the Authority.

■ 21. Revise § 2422.24 to read as follows:

§ 2422.24 What are challenged ballots?

(a) *Filing challenges.* A party or the Regional Director may, for good cause, challenge the eligibility of any person to participate in the election.

(b) *Challenged ballot procedure.* An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the Region are unable to resolve the challenged ballot(s) before the tally of ballots, the Region will impound and preserve the unresolved challenged ballot(s) until the Regional Director makes a determination, if necessary.

■ 22. Amend § 2422.25 by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 2422.25 When does the Region tally the ballots?

(a) *Tallying the ballots.* When the election is concluded, the Regional Director will tally the ballots.

(b) *Service of the tally.* When the tally is completed, the Regional Director will serve the tally of ballots on the parties in accordance with the election agreement or direction of election.

* * * * *

■ 23. Amend § 2422.26 by revising paragraph (a) to read as follows:

§ 2422.26 How are objections to the election processed?

(a) *Filing objections to the election.* Any party may file objections to the procedural conduct of the election or to conduct that may have improperly affected the results of the election. A party must file an objection and the

Regional Director must receive it within five (5) days after the tally of ballots has been served. Any objections must be timely regardless of whether the challenged ballots are sufficient in number to affect the results of the election. The objections must be supported by clear and concise reasons. A party must file an original and two (2) copies of the objections.

* * * * *

■ 24. Amend § 2422.27 by revising the section heading and paragraphs (a) and (c), and adding paragraphs (d) and (e) to read as follows:

§ 2422.27 How does the Region address determinative challenged ballots and objections?

(a) *Investigation.* The Regional Director investigates objections and/or determinative challenged ballots that are sufficient in number to affect the results of the election.

* * * * *

(c) *Regional Director action.* After investigation, the Regional Director takes appropriate action consistent with § 2422.30.

(d) *Consolidated hearing on objections and/or determinative challenged ballots and an unfair labor practice hearing.* When appropriate, and under § 2422.33, a Regional Director may consolidate objections and/or determinative challenged ballots with an unfair labor practice hearing. An Administrative Law Judge conducts these consolidated hearings, except the following provisions do not apply:

(1) Sections 2423.18 and 2423.19(j) of this subchapter concerning the burden of proof and settlement conferences are not applicable;

(2) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted as provided by § 2423.26(a) of this subchapter.

(e) *Party exceptions filed with the Authority.* A party may file exceptions and related submissions with the Authority, and the Authority then issues a decision under part 2423 of this chapter.

■ 25. Amend § 2422.28 by revising paragraph (a) to read as follows:

§ 2422.28 When is a runoff election required?

(a) *When a runoff may be held.* A runoff election is required in an election involving at least three (3) choices, one of which is "no union" or "neither," when no choice receives a majority of the valid ballots cast. However, a runoff may not be held until the Regional Director has ruled on objections to the

election and determinative challenged ballots.

* * * * *

■ 26. Revise § 2422.29 to read as follows:

§ 2422.29 How does the Region address an inconclusive election?

(a) *Inconclusive elections.* An inconclusive election is one where challenged ballots are not sufficient to affect the outcome of the election and one of the following occurs:

(1) The ballot provides for at least three (3) choices, one of which is “no union” or “neither,” and the votes are equally divided; or

(2) The ballot provides for at least three (3) choices, the choice receiving the highest number of votes does not receive a majority, and at least two other choices receive the next highest and same number of votes; or

(3) When a runoff ballot provides for a choice between two labor organizations and results in the votes being equally divided; or

(4) When the Regional Director determines that there have been significant procedural irregularities.

(b) *Eligibility to vote in a rerun election.* The Region uses the latest payroll period to determine eligibility to vote in a rerun election.

(c) *Ballot.* If the Regional Director determines that the election is inconclusive, the election will be rerun with all the choices that appeared on the original ballot.

(d) *Number of reruns.* There will be only one rerun of an inconclusive election. If the rerun results in another inconclusive election, the tally of ballots will show a majority of valid ballots has not been cast for any choice, and the Regional Director will issue a certification of results. If necessary, a runoff may be held when an original election is rerun.

■ 27. Revise § 2422.30 to read as follows:

§ 2422.30 When does a Regional Director investigate a petition, issue notices of hearings, take actions, and issue Decisions and Orders?

(a) *Regional Director investigation.* The Regional Director will investigate the petition and any other matter as the Regional Director deems necessary.

(b) *Regional Director notice of hearing.* The Regional Director will issue a notice of hearing 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.

(c) *Regional Director action.* After investigation or hearing, the Regional

Director can direct an election, or approve an election agreement, or issue a Decision and Order.

(d) *Appeal of Regional Director Decision and Order.* A party may file with the Authority an application for review of a Regional Director Decision and Order.

(e) *Contents of the Record.* When there has not been a hearing all material submitted to and considered by the Regional Director during the investigation becomes a part of the record. When a hearing has been held, the transcript and all material entered into evidence, including any posthearing briefs, become a part of the record.

■ 28. Add § 2422.31 to read as follows:

§ 2422.31 When do you file an application for review of a Regional Director Decision and Order?

(a) *Filing an application for review.* A party must file an application for review with the Authority within sixty (60) days of the Regional Director's Decision and Order. The sixty (60) day time limit under 5 U.S.C. 7105(f) may not be extended or waived. The filing party must serve a copy on the Regional Director and all other parties, and must also file a statement of service with the Authority.

(b) *Contents.* An application for review must be sufficient for the Authority to rule on the application without looking at the record. However, the Authority may, in its discretion, examine the record in evaluating the application. An application must specify the matters and rulings to which exception(s) is taken, include a summary of evidence relating to any issue raised in the application, and make specific references to page citations in the transcript if a hearing was held. An application may not raise any issue or rely on any facts not timely presented to the Hearing Officer or Regional Director.

(c) *Review.* The Authority may grant an application for review only when the application demonstrates that review is warranted on one or more of the following grounds:

(1) The decision raises an issue for which there is an absence of precedent;

(2) Established law or policy warrants reconsideration; or,

(3) There is a genuine issue over whether the Regional Director has:

(i) Failed to apply established law;

(ii) Committed a prejudicial procedural error; or

(iii) Committed a clear and prejudicial error concerning a substantial factual matter.

(d) *Opposition.* A party may file with the Authority an opposition to an

application for review within ten (10) days after the party is served with the application. The opposing party must serve a copy on the Regional Director and all other parties, and must also file a statement of service with the Authority.

(e) *Regional Director Decision and Order becomes the Authority's action.* A Decision and Order of a Regional Director becomes the action of the Authority when:

(1) No party files an application for review with the Authority within sixty (60) days after the date of the Regional Director's Decision and Order; or

(2) A party files a timely application for review with the Authority and the Authority does not undertake to grant review of the Regional Director's Decision and Order within sixty (60) days of the filing of the application; or

(3) The Authority denies an application for review of the Regional Director's Decision and Order.

(f) *Authority grant of review and stay.* The Authority may rule on the issue(s) in an application for review in its order granting the application for review. Neither filing nor granting an application for review will stay any action ordered by the Regional Director unless specifically ordered by the Authority.

(g) *Briefs if review is granted.* If the Authority does not rule on the issue(s) in the application for review in its order granting review, the Authority may, in its discretion, give the parties an opportunity to file briefs. The briefs will be limited to the issue(s) referenced in the Authority's order granting review.

■ 29. Revise § 2422.32 to read as follows:

§ 2422.32 When does a Regional Director issue a certification or a revocation of certification?

(a) *Certifications.* The Regional Director issues an appropriate certification when:

(1) After an election, runoff, or rerun:

(i) No party files an objection or challenged ballots are not determinative; or

(ii) The Region decides and resolves objections and determinative challenged ballots; or

(2) The Regional Director issues a Decision and Order requiring a certification and the Decision and Order becomes the action of the Authority under § 2422.31(e) or the Authority directs the issuance of a certification.

(b) *Revocations.* Without prejudice to any rights and obligations that may exist under the Statute, the Regional Director revokes a recognition or certification, as appropriate, and provides a written statement of reasons when:

(1) An incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit; or

(2) Due to a substantial change in the character and scope of the unit, the unit is no longer appropriate and an election is not warranted.

■ 30. Revise § 2422.33 to read as follows:

§ 2422.33 Relief under part 2423 of this chapter.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief under part 2423 of this chapter. But related matters may be consolidated for hearing as noted in § 2422.27(d) of this subpart.

§ 2422.35 [Removed]

■ 31. Remove § 2422.35.

PART 2426—NATIONAL CONSULTATION RIGHTS AND CONSULTATION RIGHTS ON GOVERNMENT-WIDE RULES OR REGULATIONS

■ 32. The authority citation for part 2426 continues to read as follows:

Authority: 5 U.S.C. 7134.

■ 33. Amend § 2426.2 by revising paragraph (b) to read as follows:

§ 2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.

* * * * *

(b) Issues relating to a labor organization's eligibility for, or continuation of, national consultation rights shall be referred to the Authority for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for national consultation rights under criteria set forth in § 2426.1 may be filed by a labor organization.

(2) A petition for determination of eligibility for national consultation rights shall be submitted on a form prescribed by the Authority and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address, telephone number, and email address;

(ii) A statement that the petitioner has submitted to the agency or the primary national subdivision and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties

of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title, telephone number, and email address;

(v) The name, address, telephone number, and email address of the agency or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(vi) A showing that petitioner holds adequate exclusive recognition as required by § 2426.1; and

(vii) A statement as appropriate:

(A) That such showing has been made to and rejected by the agency or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that agency or primary national subdivision;

(B) That the agency or primary national subdivision has served notice of its intent to terminate existing national consultation rights, together with a statement of the reasons for termination; or

(C) That the agency or primary national subdivision has failed to respond in writing to a request for national consultation rights made under paragraph (a) of this section within fifteen (15) days after the date the request is served on the agency or primary national subdivision.

(3) The following regulations govern petitions filed under this section: (i) A petition for determination of eligibility for national consultation rights shall be filed with the Regional Director for the region wherein the headquarters of the agency or the agency's primary national subdivision is located.

(ii) A statement of any other relevant facts and of all correspondence shall be filed.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Regional Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the agency or primary national subdivision of its refusal to accord national consultation rights pursuant to a request under paragraph (a) of this section or its intention to terminate existing national consultation rights. If an agency or a primary national subdivision fails to respond in writing to a request for national consultation rights made under paragraph (a) of this

section within fifteen (15) days after the date the request is served on the agency or primary national subdivision, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an agency or primary national subdivision wishes to terminate national consultation rights, notice of its intention to do so shall include a statement of its reasons and shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the agency or primary national subdivision pending disposition of the petition. If no petition has been filed within the provided time period, an agency or primary national subdivision may terminate national consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the agency or primary national subdivision shall file a response thereto with the Regional Director raising any matter which is relevant to the petition.

(vii) The Regional Director shall make such investigations as the Regional Director deems necessary and thereafter shall issue and serve on the parties a Decision and Order with respect to the eligibility for national consultation rights which shall be final: *Provided, however,* That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17 of this subchapter. A determination by the Regional Director to issue a notice of hearing shall not be subject to the filing of an application for review. The Regional Director, if appropriate, may cause a notice of hearing to be issued to all interested parties where substantial factual issues exist warranting a hearing. Hearings shall be conducted by a Hearing Officer in accordance with §§ 2422.9 through 2422.15 of this subchapter and after the close of the hearing a Decision and Order shall be issued by the Regional Director in accordance with § 2422.16 of this subchapter.

■ 34. Amend § 2426.12 by revising paragraph (b) to read as follows:

§ 2426.12 Requests; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.

* * * * *

(b) Issues relating to a labor organization's eligibility for, or continuation of, consultation rights on Government-wide rules or regulations

shall be referred to the Authority for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for consultation rights under criteria set forth in § 2426.11 may be filed by a labor organization.

(2) A petition for determination of eligibility for consultation rights shall be submitted on a form prescribed by the Authority and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address, telephone number, and email address;

(ii) A statement that the petitioner has submitted to the agency and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title, telephone number, and email address;

(v) The name, address, telephone number, and email address of the agency in which the petitioner seeks to obtain or retain consultation rights on Government-wide rules or regulations, and the persons to contact and their titles, if known;

(vi) A showing that petitioner meets the criteria as required by § 2426.11; and

(vii) A statement, as appropriate:

(A) That such showing has been made to and rejected by the agency, together with a statement of the reasons for rejection, if any, offered by that agency;

(B) That the agency has served notice of its intent to terminate existing consultation rights on Government-wide rules or regulations, together with a statement of the reasons for termination; or

(C) That the agency has failed to respond in writing to a request for consultation rights on Government-wide rules or regulations made under § 2426.12(a) within fifteen (15) days after the date the request is served on the agency.

(3) The following regulations govern petitions filed under this section:

(i) A petition for determination of eligibility for consultation rights on Government-wide rules or regulations shall be filed with the Regional Director for the region wherein the headquarters of the agency is located.

(ii) A statement of any other relevant facts and of all correspondence shall be filed.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on the agency, and a written statement of such service shall be filed with the Regional Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the agency of its refusal to accord consultation rights on Government-wide rules or regulations pursuant to a request under § 2426.12(a) or its intention to terminate such existing consultation rights. If an agency fails to respond in writing to a request for consultation rights on Government-wide rules or regulations made under § 2426.12(a) within fifteen (15) days after the date the request is served on the agency, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an agency wishes to terminate consultation rights on Government-wide rules or regulations, notice of its intention to do so shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the agency pending disposition of the petition. If no petition has been filed within the provided time period, an agency may terminate such consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the agency shall file a response thereto with the Regional Director raising any matter which is relevant to the petition.

(vii) The Regional Director shall make such investigation as the Regional Director deems necessary and thereafter shall issue and serve on the parties a Decision and Order with respect to the eligibility for consultation rights which shall be final: *Provided, however*, That an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.17 of this subchapter. A determination by the Regional Director to issue a notice of hearing shall not be subject to the filing of an application for review. The Regional Director, if appropriate, may cause a notice of hearing to be issued where substantial factual issues exist warranting a hearing. Hearings shall be conducted by a Hearing Officer in accordance with §§ 2422.9 through 2422.15 of this chapter and after the close of the hearing a Decision and Order shall be issued by the Regional Director in

accordance with § 2422.16 of this subchapter.

Subpart C [Removed]

■ 35. Remove Subpart C, consisting of § 2426.21.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

■ 36. The authority citation for part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134; § 2429.18 also issued under 28 U.S.C. 2112(a).

■ 37. Revise § 2429.2 to read as follows:

§ 2429.2 Transfer and consolidation of cases.

In any matter arising pursuant to parts 2422 and 2423 of this subchapter, whenever it appears necessary in order to effectuate the purposes of the Federal Service Labor-Management Relations Statute or to avoid unnecessary costs or delay, Regional Directors may consolidate cases within their own region or may transfer such cases to any other region, for the purpose of investigation or consolidation with any proceedings which may have been instituted in, or transferred to, such region.

■ 38. Revise § 2429.5 to read as follows:

§ 2429.5 Matters not previously presented; official notice.

The Authority will not consider any evidence, factual assertions, arguments (including affirmative defenses), requested remedies, or challenges to an awarded remedy that could have been, but were not, presented in the proceedings before the Regional Director, Hearing Officer, Administrative Law Judge, or arbitrator. The Authority may, however, take official notice of such matters as would be proper.

■ 39. Amend § 2429.12 by revising paragraph (a) to read as follows:

§ 2429.12 Service of process and papers by the Authority.

(a) *Methods of service.* Notices of hearings, decisions and orders of Regional Directors, decisions and recommended orders of Administrative Law Judges, decisions of the Authority, complaints, amended complaints, withdrawals of complaints, written rulings on motions, and all other papers required by this subchapter to be issued by the Authority, the General Counsel, Regional Directors, Hearing Officers, Administrative Law Judges, and Regional Directors when not acting as a party under part 2423 of this subchapter, shall be served personally,

by first-class mail, by facsimile transmission, by certified mail, or, as described below with respect to documents issued by the Authority, by electronic mail (hereinafter, “email”). Where facsimile equipment is available, rulings on motions; information pertaining to prehearing disclosure, conferences, orders, or hearing dates, and locations; information pertaining to subpoenas; and other similar or time sensitive matters may be served by facsimile transmission. Where a party using the FLRA’s eFiling system has consented to electronic service of documents issued by the Authority in a particular case, the Authority shall serve documents on that party exclusively by email to the email address provided by the party.

* * * * *

■ 40. Amend § 2429.22 by revising paragraph (c) to read as follows:

§ 2429.22 Additional time for filing with the FLRA if you are filing in response to a document that has been served on you by first-class mail or commercial delivery.

* * * * *

(c) *Exception for applications for review filed under 5 CFR 2422.31.* You do not get an additional 5 days to file an application for review of a Regional Director’s Decision and Order under 5 CFR 2422.31, regardless of the method of service of that Decision and Order.

* * * * *

■ 41. Amend § 2429.24 by revising paragraphs (f)(1) and (2) to read as follows:

§ 2429.24 Place and method of filing; acknowledgement.

* * * * *

(f) * * *

(1) Applications for review under 5 CFR 2422.31(a) through (c);

(2) Oppositions to applications for review under 5 CFR 2422.31(d);

* * * * *

By the Authority,
Rebecca J. Osborne,
Deputy Solicitor.

[FR Doc. 2026–21078 Filed 10–14–26; 8:45 am]

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2641

RIN 3209–AA72

Post-Employment Conflict of Interest Restrictions; Revision of Departmental Component Designations

AGENCY: Office of Government Ethics.

ACTION: Final rule; technical amendment.

SUMMARY: The U.S. Office of Government Ethics (OGE) is issuing this final rule to update the name of an existing departmental component that was previously designated for purposes of the one-year post-employment conflict of interest restriction for senior employees.

DATES: Effective October 15, 2026.

FOR FURTHER INFORMATION CONTACT: Kimberly L. Sikora Panza, Associate Counsel; Telephone: 202–482–9300; Email: usoge@oge.gov.

SUPPLEMENTARY INFORMATION:

I. Substantive Discussion; Revision of Existing Departmental Component

The Director of OGE (Director) is authorized by 18 U.S.C. 207(h) to designate distinct and separate departmental or agency components in the executive branch for purposes of 18 U.S.C. 207(c), the one-year post-employment conflict of interest restriction for senior employees. Under 18 U.S.C. 207(h)(2), component designations do not apply to persons employed at a rate of pay specified in or fixed according to subchapter II of 5 U.S.C. chapter 53 (the Executive Schedule). Component designations are listed in appendix B to 5 CFR part 2641.

The representational bar of 18 U.S.C. 207(c) usually extends to the whole of any department or agency in which a former senior employee served in any capacity during the year prior to termination from a senior employee position. However, 18 U.S.C. 207(h) provides that whenever the Director “determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that there exists no potential for use of undue influence or unfair advantage based on past Government service,” the Director shall by rule designate that agency or bureau as a separate component of that department or agency. As a result, a former senior employee who served in a designated component of a parent department or agency is barred from communicating to or making an appearance before any employee of that component, but is not barred as to any employee of the parent, of another designated component, or of any other agency or bureau of the parent that has not been designated. Likewise, a former senior employee who served in a “parent” department or agency is not barred by 18 U.S.C. 207(c) from making

communications to or appearances before any employees of any designated component of that parent, but is barred as to employees of that parent or of other components that have not been separately designated.

The Director regularly reviews the component designations listed in appendix B to part 2641, and in consultation with the department or agency concerned, makes adjustments as are necessary. Pursuant to the procedures prescribed in 5 CFR 2641.302(e), the Department of Transportation has requested that OGE revise the name of one component currently listed in appendix B to part 2641. Specifically, the Department of Transportation requested that OGE revise Saint Lawrence Seaway Development Corporation to read “Great Lakes St. Lawrence Seaway Development Corporation.” The revision is requested because the Saint Lawrence Seaway Development Corporation was legally renamed the Great Lakes St. Lawrence Seaway Development Corporation as part of the 2021 Consolidated Appropriations Act (Section 512 of Division AA of P.L. 116–260), signed into law on December 27, 2020. The Department of Transportation advised that there have been no substantive changes to this component, and that the component name update is purely a technical change. OGE is therefore amending the Department of Transportation listing in appendix B to reflect the current name of this component.

The designation of Saint Lawrence Seaway Development Corporation in appendix B to part 2641 was effective as of January 1, 1991. *See* 56 FR 3961. The component name change being made in this rule, which does not affect the underlying component designation date, is effective on October 15, 2026, the date this rule is published in the **Federal Register**.

II. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, as the Acting Director of the Office of Government Ethics, I find that good cause exists for waiving the general requirements for notice of proposed rulemaking, opportunity for public comment, and a 30-day delayed effective date. As the change effectuated by the final rule is a minor, technical amendment to the current regulation, notice and comment is unnecessary. Furthermore, it is important and in the public interest that the component name change, which reflects the current organization of the concerned