

173-14-27**Decertification of a representative or removal of a candidate for certification.**

(A) In all cases where the SLTCO seeks to decertify a representative of the office, or to remove a candidate for certification, the SLTCO shall give notice to the party against whom action is to be taken, as well as to the regional program with which the party is affiliated and the regional program's sponsoring agency, if applicable.

Upon receipt of the notice, the sponsoring agency shall ensure the representative or the candidate is relieved of all complaint-handling duties requiring contact with consumers or providers until such time as all appeals have been exhausted and a final determination has been made.

Notice shall be given by registered mail, return receipt requested, and shall include all of the following:

- (1) The charges or other reasons for the proposed action.
- (2) The law or rule directly related to the charges or reasons for the proposed action.
- (3) A request that any explanation or extenuating circumstances connected to the SLTCO's decision be provided in writing to the SLTCO.
- (4) A request for the return of the representative's or candidate's identification card after all appeals have been exhausted, and a statement as to the consequences for failure to return the card.
- (5) A statement informing the representative or candidate that the representative or candidate is entitled to a hearing if the representative or candidate so requests such a hearing within thirty days after receiving the notice.
- (6) A statement informing the representative or candidate that, at the hearing, the representative or candidate may be represented by the regional program board, director, attorney, or other such representative as is permitted to practice before the agency; or, that the representative or candidate may present its position, arguments, or contentions in writing; and, that the representative or candidate may present evidence and examine witnesses appearing for and against the representative or candidate at the hearing.

(B) Whenever a party requests a hearing in accordance with this rule, the SLTCO shall set the date, time, and place for the hearing and shall notify the party thereof within ten business days after receiving the request for a hearing. The date set for the hearing shall be within fifteen days after the date on which the party requested the hearing unless otherwise agreed to by the parties.

(C) ODA's director shall designate a hearing officer who has not participated in the decision to decertify the representative or candidate to preside over the hearing. Upon completion of the hearing, the hearing officer shall make a recommendation and forward it to the SLTCO. The SLTCO shall make the final decision within thirty days after the hearing concludes. The SLTCO shall inform the candidate or representative who made the request for the hearing, of the decision through registered mail, return receipt requested. The SLTCO's decision shall be the final administrative form of appeal. If the representative's appeal is successful, the representative shall be reinstated to the performance of all duties of the office.

Replaces: 173-14-26

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03

Statutory Authority: 173.01, 173.02; 42 U.S.C. 3025(a)(1)(C), 3058g(a)(5) (D); 45 C.F.R. 1321.11, 1324.11(e)(6), 1324.13(b)(1), 1324.15(b)

Rule Amplifies: 173.15, 173.17, 173.21; 42 U.S.C. 3058g; 45 C.F.R. 1321.11, 1324.11(e)(6)

Prior Effective Dates: 07/11/1991, 12/27/2001, 12/28/2006