

§ 102.70

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section exceeds 20 pages, it shall contain a subject index with page references and an alphabetical table of cases and other authorities cited.

(2) The party filing with the Board exceptions to a report, a supporting brief, or an answering brief shall serve a copy thereof on the other parties and shall file a copy with the regional director. A statement of such service shall be filed with the Board together with the document.

(3) Requests for extensions of time to file exceptions to a report, supporting briefs, or answering briefs, as permitted by this section, shall be filed with the Board on the Regional Director, as the case may be. The party filing the request for an extension of time shall serve a copy thereof on the other parties and, if filed with the Board, or the Regional Director. A statement of such service shall be filed with the document.

[38 FR 3961, Feb. 8, 1973, as amended at 46 FR 45923, Sept. 15, 1981; 47 FR 40772, Sept. 15, 1982; 47 FR 42569, Sept. 28, 1982; 51 FR 23747, July 1, 1986; 51 FR 32919, Sept. 17, 1986; 56 FR 49144, Sept. 27, 1991; 60 FR 56235, Nov. 8, 1995]

§ 102.70 Runoff election.

(a) The regional director shall conduct a runoff election, without further order of the Board, when an election in which the ballot provided for not less than three choices (i.e., at least two representatives and “neither”) results in no choice receiving a majority of the valid ballots cast and no objections are filed as provided in §102.69. Only one runoff shall be held pursuant to this section.

(b) Employees who were eligible to vote in the election and who are in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(c) The ballot in the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

(d) In the event the number of votes cast in an inconclusive election in which the ballot provided for a choice among two or more representatives and “neither” or “none” is equally divided among the several choices; or in the event the number of ballots cast for one choice in such election is equal to

the number cast for another of the choices but less than the number cast for the third choice, the regional director shall declare the first election a nullity and shall conduct another election, providing for a selection from among the three choices afforded in the original ballot; and he shall thereafter proceed in accordance with paragraphs (a), (b), and (c) of this section. In the event two or more choices receive the same number of ballots and another choice receives no ballots and there are no challenged ballots that would affect the results of the election, and if all eligible voters have cast valid ballots, there shall be no runoff election and a certification of results of election shall be issued. Only one such further election pursuant to this paragraph may be held.

(e) Upon the conclusion of the runoff election, the provisions of §102.69 shall govern, insofar as applicable.

[26 FR 3891, May 4, 1961]

§ 102.71 Dismissal of petition; refusal to proceed with petition; requests for review by the Board of action of the regional director.

(a) If, after a petition has been filed and at any time prior to the close of hearing, it shall appear to the regional director that no further proceedings are warranted, the regional director may dismiss the petition by administrative action and shall so advise the petitioner in writing, setting forth a simple statement of the procedural or other grounds for the dismissal, with copies to the other parties to the proceeding. Any party may obtain a review of such action by filing a request therefor with the Board in Washington, DC, in accordance with the provisions of paragraph (c) of this section. A request for review from an action of a regional director pursuant to this subsection may be granted only upon one or more of the following grounds:

(1) That a substantial question of law or policy is raised because of (i) the absence of, or (ii) a departure from, officially reported Board precedent.

(2) There are compelling reasons for reconsideration of an important Board rule or policy.

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(3) The request for review is accompanied by documentary evidence previously submitted to the regional director raising serious doubts as to the regional director's factual findings, thus indicating that there are factual issues which can best be resolved upon the basis of a record developed at a hearing.

(4) The regional director's action is, on its face, arbitrary or capricious.

(5) The petition raises issues which can best be resolved upon the basis of a record developed at a hearing.

(b) Where the regional director dismisses a petition or directs that the proceeding on the petition be held in abeyance, and such action is taken because of the pendency of concurrent unresolved charges of unfair labor practices, and the regional director, upon request, has so notified the parties in writing, any party may obtain a review of the regional director's action by filing a request therefor with the Board in Washington, DC, in accordance with the provisions of paragraph (c) of this section. A review of an action of a regional director pursuant to this subsection may be granted only upon one or more of the following grounds:

(1) That a substantial question of law or policy is raised because of (i) the absence of, or (ii) a departure from, officially reported Board precedent.

(2) There are compelling reasons for reconsideration of an important Board rule or policy.

(3) The regional director's action is, on its face, arbitrary or capricious.

(c) A request for review must be filed with the Board in Washington, DC, and a copy filed with the regional director and copies served on all the other parties within 14 days of service of the notice of dismissal or notification that the petition is to be held in abeyance. The request shall be submitted in eight copies and shall contain a complete statement setting forth facts and reasons upon which the request is based. Such request shall be printed or otherwise legibly duplicated: *Provided, however*, That carbon copies of typewritten materials will not be accepted. Requests for an extension of time within which to file the request for review shall be filed with the Board in Wash-

ington, DC, and a statement of service shall accompany such request.

[39 FR 4080, Feb. 1, 1974, as amended at 40 FR 6204, Feb. 10, 1975; 51 FR 23748, July 1, 1986]

§ 102.72 Filing petition with general counsel; investigation upon motion of general counsel; transfer of petition and proceeding from region to general counsel or to another region; consolidation of proceedings in same region; severance; procedure before general counsel in cases over which he has assumed jurisdiction.

(a) Whenever it appears necessary in order to effectuate the purposes of the Act, or to avoid unnecessary costs of delay, the general counsel may permit a petition to be filed with him in Washington, DC, or may, at any time after a petition has been filed with a regional director pursuant to § 102.60, order that such petition and any proceeding that may have been instituted with respect thereto:

(1) Be transferred to and continued before him, for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a regional office or with him; or

(2) Be consolidated with any other proceeding which may have been instituted in the same region; or

(3) Be transferred to and continued in any other region, for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such region; or

(4) Be severed from any other proceeding with which it may have been consolidated pursuant to this section.

(b) The provisions of §§ 102.60 to 102.71, inclusive, shall, insofar as applicable, apply to proceedings before the general counsel pursuant to this section, and the powers granted to regional directors in such provisions shall, for the purpose of this section, be reserved to and exercised by the general counsel. After the transfer of any petition and any proceeding which may have been instituted in respect thereto from one region to another pursuant to this section, the provisions of this subpart shall, insofar as applicable, govern such petition and such proceedings as if the petition has originally been filed