

National Labor Relations Board

§ 102.99

§ 102.95 Priority of cases pursuant to section 10(l) and (m) of the Act.

(a) Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of paragraph (4) (A), (B), (C), or (7) of section 8(b) of the Act, or section 8(e) of the Act, the regional office in which such charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like character and cases under paragraph (4)(D) of section 8(b) of the Act in which it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the Act.

(b) Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of subsection (a)(3) or (b)(2) of section 8 of the Act, the regional office in which such charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like character and cases under section 10(l) of the Act.

§ 102.96 Issuance of complaint promptly.

Whenever the regional attorney or other Board officer to whom the matter may be referred seeks injunctive relief of a district court pursuant to section 10(l) of the Act, a complaint against the party or parties sought to be enjoined, covering the same subject matter as such application for injunctive relief, shall be issued promptly, normally within 5 days of the date upon which such injunctive relief is first sought, except in those cases under section 10(l) of the Act in which the procedure set forth in §§ 102.90 to 102.92, inclusive, is deemed applicable.

§ 102.97 Expedited processing of section 10(l) and (m) cases in successive stages.

(a) Any complaint issued pursuant to § 102.95(a) or, in a case in which it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the Act, any complaint issued pursuant to § 102.93 or notice of hearing issued pursuant to § 102.90 shall be heard expeditiously and the case shall be given priority in such successive steps following its issuance (until ultimate enforcement or dismissal by

the appropriate circuit court of appeals) over all cases except cases of like character.

(b) Any complaint issued pursuant to § 102.95(b) shall be heard expeditiously and the case shall be given priority in its successive steps following its issuance (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all cases except cases of like character and cases under section 10(l) of the Act.

Subpart H—Declaratory Orders and Advisory Opinions Regarding Board Jurisdiction

§ 102.98 Petition for advisory opinion; who may file; where to file.

Whenever an agency or court of any State or territory is in doubt whether the Board would assert jurisdiction over the parties in a proceeding pending before such agency or court, the agency or court may file a petition with the Board for an advisory opinion on whether the Board would decline to assert jurisdiction over the parties before the agency or the court (1) on the basis of its current standards, or (2) because the employing enterprise is not within the jurisdiction of the National Labor Relations Act.

[24 FR 9102, Nov. 7, 1959, as amended at 51 FR 15613, Apr. 25, 1986; 61 FR 65182, Dec. 11, 1996]

§ 102.99 Contents of petition for advisory opinion; contents of request for administrative advice.

(a) A petition for an advisory opinion, when filed by an agency or court of a State or territory, shall allege the following:

(1) The name of the agency or court.
(2) The names of the parties to the proceeding and the docket number.

(3) The nature of the proceeding, and the need for the Board's opinion on the jurisdictional issue to the proceeding.

(4) The general nature of the business involved in the proceeding and, where appropriate, the nature of and details concerning the employing enterprise.

(5) The findings of the agency or court or, in the absence of findings, a statement of the evidence relating to the commerce operations of such business and, where appropriate, to the nature of the employing enterprise.

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(b) Eight copies of such petition or request shall be submitted to the Board in Washington, DC. Such petition or request shall be printed or otherwise legibly duplicated. Carbon copies of typewritten matter will not be accepted.

[24 FR 9102, Nov. 7, 1959, as amended at 51 FR 15613, Apr. 25, 1986; 61 FR 65182, Dec. 11, 1996]

§ 102.100 Notice of petition; service of petition.

Upon the filing of a petition the petitioner shall immediately serve in the manner provided by § 102.114(a) of these rules a copy of the petition on all parties to the proceeding and on the director of the Board's regional office having jurisdiction over the territorial area in which such agency or court is located. A statement of service shall be filed with the petition as provided by § 102.114(b) of the rules.

[51 FR 23749, July 1, 1986]

§ 102.101 Response to petition; service of response.

Any party served with such petition may, within 14 days after service thereof, respond to the petition, admitting or denying its allegations. Eight copies of such response shall be filed with the Board in Washington, DC. Such response shall be printed or otherwise legibly duplicated: *Provided however*, That carbon copies of typewritten materials will not be accepted. Such response shall immediately be served on all other parties to the proceeding, and a statement of service shall be filed in accordance with the provisions of § 102.114(b) of these rules.

[51 FR 23749, July 1, 1986]

§ 102.102 Intervention.

Any person desiring to intervene shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the petition. Eight copies of such motion shall be filed with the Board in Washington, DC. Such motion shall be printed or otherwise legibly duplicated: *Provided, however*, That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted.

[29 FR 15922, Nov. 28, 1964]

29 CFR Ch. I (7-1-13 Edition)**§ 102.103 Proceedings before the Board; briefs; advisory opinions.**

The Board shall thereupon proceed, upon the petition, responses, and submission of briefs, to determine whether, on the facts before it, the commerce operations of the employer involved are such that it would or would not assert jurisdiction. Such determination shall be in the form of an advisory opinion and shall be served upon the parties. No briefs shall be filed except upon special permission of the Board.

§ 102.104 Withdrawal of petition.

The petitioner may withdraw his petition at any time prior to issuance of the Board's advisory opinion.

§ 102.105 Petitions for declaratory orders; who may file; where to file; withdrawal.

Whenever both an unfair labor practice charge and a representation case relating to the same employer are contemporaneously on file in a regional office of the Board, and the general counsel entertains doubt whether the Board would assert jurisdiction over the employer involved, he may file a petition with the Board for a declaratory order disposing of the jurisdictional issue in the cases. Such petition may be withdrawn at any time prior to the issuance of the Board's order.

§ 102.106 Contents of petition for declaratory order.

A petition for a declaratory order shall allege the following:

(a) The name of the employer.
(b) The general nature of the employer's business.

(c) The case numbers of the unfair labor practice and representation cases.

(d) The commerce data relating to the operations of such business.

(e) Whether any proceeding involving the same subject matter is pending before an agency or court of a State or territory. Eight copies of the petition shall be filed with the Board in Washington, DC. Such petition shall be printed or otherwise legibly duplicated: *Provided, however*, That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted.