

the Regional Director, within the times set forth in the Board's Rules and Regulations, on one or more of the grounds specified therein. Any such request for review must be a self-contained document permitting the Board to rule on the basis of its contents without the necessity of recourse to the record, and must meet the other requirements of the Board's Rules and Regulations as to its contents. The Regional Director's action is not stayed by the filing of such a request or the granting of review, unless otherwise ordered by the Board. Thus, the Regional Director may proceed immediately to make any necessary arrangements for an election, including the issuance of a notice of election. However, unless a waiver is filed, the Director will normally not schedule an election until a date between the 25th and 30th days after the date of the decision, to permit the Board to rule on any request for review which may be filed. As to administrative dismissals prior to the close of hearing, see §101.18(c).

(e) If the election involves two or more labor organizations and if the election results are inconclusive because no choice on the ballot received the majority of valid votes cast, a runoff election is held as provided in the Board's Rules and Regulations.

**Subpart D—Unfair Labor Practice and Representation Cases Under Sections 8(b)(7) and 9(c) of the Act**

**§ 101.22 Initiation and investigation of a case under section 8(b)(7).**

(a) The investigation of an alleged violation of section 8(b)(7) of the Act is initiated by the filing of a charge. The manner of filing such charge and the contents thereof are the same as described in §101.2. In some cases, at the time of the investigation of the charge, there may be pending a representation petition involving the employees of the employer named in the charge. In those cases, the results of the investigation of the charge will determine the cause of the petition.

(b) The investigation of the charge is conducted in accordance with the provisions of §101.4, insofar as they are applicable. If the investigation reveals

that there is merit in the charge, a complaint is issued as described in §101.8, and an application is made for an injunction under section 10(1) of the Act, as described in §101.37. If the investigation reveals that there is no merit in the charge, the Regional Director, absent a withdrawal of the charge, dismisses it, subject to appeal to the General Counsel. However, if the investigation reveals that issuance of a complaint may be warranted but for the pendency of a representation petition involving the employees of the employer named in the charge, action on the charge is suspended pending the investigation of the petition as provided in §101.23.

**§ 101.23 Initiation and investigation of a petition in connection with a case under section 8(b)(7).**

(a) A representation petition<sup>1</sup> involving the employees of the employer named in the charge is handled under an expedited procedure when the investigation of the charge has revealed that:

- (1) The employer's operations affect commerce within the meaning of the Act;
- (2) Picketing of the employer is being conducted for an object proscribed by section 8(b)(7) of the Act;
- (3) Subparagraph (C) of that section of the Act is applicable to the picketing; and
- (4) The petition has been filed within a reasonable period of time not to exceed 30 days from the commencement of the picketing.

In these circumstances, the member of the Regional Director's staff to whom the matter has been assigned investigates the petition to ascertain further: the unit appropriate for collective bargaining; and whether an election in that unit would effectuate the policies of the Act.

(b) If, based on such investigation, the Regional Director determines that an election is warranted, the Director

<sup>1</sup>The manner of filing of such petition and the contents thereof are the same as described in §101.17, except that the petitioner is not required to allege that a claim was made on the employer for recognition or that the union represents a substantial number of employees.

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may, without a prior hearing, direct that an election be held in an appropriate unit of employees. Any party aggrieved may file a request with the Board for special permission to appeal that action to the Board, but such review, if granted, will not, unless otherwise ordered by the Board, stay the proceeding. If it is determined that an election is not warranted, the Director dismisses the petition or makes other disposition of the matter. Should the Regional Director conclude that an election is warranted, the Director fixes the basis of eligibility of voters and the place, date, and hours of balloting. The mechanics of arranging the balloting, the other procedures for the conduct of the election, and the post-election proceedings are the same, insofar as appropriate, as those described in § 101.19, except that the Regional Director's rulings on any objections to the conduct of the election or challenged ballots are final and binding, unless the Board, on an application by one of the parties, grants such party special permission to appeal from the Regional Director's rulings. The party requesting such review by the Board must do so promptly, in writing, and state briefly the grounds relied on. Such party must also immediately serve a copy on the other parties, including the Regional Director. Neither the request for review by the Board nor the Board's grant of such review operates as a stay of any action taken by the Regional Director, unless specifically so ordered by the Board. If the Board grants permission to appeal, and it appears to the Board that substantial and material factual issues have been presented with respect to the objections to the conduct of the election or challenged ballots, it may order that a hearing be held on such issues or take other appropriate action.

(c) If the Regional Director believes, after preliminary investigation of the petition, that there are substantial issues which require determination before an election may be held, the Director may order a hearing on the issues. This hearing is followed by Regional Director or Board decision and direction of election, or other disposition. The procedures to be used in connection with such hearing and posthearing

proceedings are the same, insofar as they are applicable, as those described in §§ 101.20 and 101.21, except that the parties may not file briefs with the Regional Director or the Board unless special permission therefor is granted, but may state their respective legal positions fully on the record at the hearing, and except that any request for review must be filed promptly after issuance of the Regional Director's decision.

(d) Should the parties so desire, they may, with the approval of the Regional Director, resolve the issues as to the unit, the conduct of the balloting, and related matters pursuant to informal consent procedures, as described in § 101.19(a).

(e) If a petition has been filed which does not meet the requirements for processing under the expedited procedures, the Regional Director may process it under the procedures set forth in subpart C.

### **§ 101.24 Final disposition of a charge which has been held pending investigation of the petition.**

(a) Upon the determination that the issuance of a direction of election is warranted on the petition, the Regional Director, absent withdrawal of the charge, dismisses it subject to an appeal to the General Counsel in Washington, DC.

(b) If, however, the petition is dismissed or withdrawn, the investigation of the charge is resumed, and the appropriate steps described in § 101.22 are taken with respect to it.

### **§ 101.25 Appeal from the dismissal of a petition, or from the refusal to process it under the expedited procedure.**

If it is determined after investigation of the representation petition that further proceedings based thereon are not warranted, the Regional Director, absent withdrawal of the petition, dismisses it, stating the grounds therefor. If it is determined that the petition does not meet the requirements for processing under the expedited procedure, the Regional Director advises the petitioner of the determination to process the petition under the procedures described in subpart C. In either event, the Regional Director informs