

National Labor Relations Board

§ 102.177

§ 102.173 Relation to other collection efforts.

(a) Tax refund offset is intended to be an administrative collection remedy to be utilized consistent with IRS requirements for participation in the program, and the costs and benefits of pursuing alternative remedies when the tax refund offset program is readily available. To the extent practical, the requirements of the program will be met by merging IRS requirements into the Agency's overall requirements for delinquent debt collection.

(b) As appropriate, debts of an individual debtor of \$100 or more will be reported to a consumer or commercial credit reporting agency before referral for tax refund offset.

(c) Debts owed by individuals will be screened for administrative offset potential using the most current information reasonably available to the Agency, and will not be referred for tax refund offset where administrative offset potential is found to exist.

§ 102.174 Debtor notification.

(a) The Agency shall send appropriate written demand to the debtor in terms which inform the debtor of the consequences of failure to repay debts or claims owed the Board.

(b) Before the Agency refers a debt to IRS for tax refund offset, it will make a reasonable attempt to notify the debtor that:

(1) The debt is past-due;

(2) Unless the debt is repaid or a satisfactory repayment agreement is established within 60 days thereafter, the debt will be referred to IRS for offset from any overpayment of tax remaining after taxpayer liabilities of greater priority have been satisfied; and

(3) The debtor will have a minimum of 60 days from the date of notification to present evidence that all or part of the debt is not past due or legally enforceable, and the Agency will consider this evidence in a review of its determination that the debt is past due and legally enforceable. The debtor will be advised where and to whom evidence is to be submitted.

(c) The Agency will make a reasonable attempt to notify the debtor by using the most recent address information available to the Agency or ob-

tained from the IRS, unless written notification to the Agency is received from the debtor stating that notices from the Agency are to be sent to a different address.

(d) The notification required by paragraph (b) of this section and sent to the address specified in paragraph (c) of this section may, at the option of the Agency, be incorporated into demand letters required by paragraph (a) of this section.

§ 102.175 Agency review of the obligation.

(a) The Agency official responsible for collection of the debt will consider any evidence submitted by the debtor as a result of the notification required by § 102.174 and notify the debtor of the result. If appropriate, the debtor will also be advised where and to whom to request a review of any unresolved dispute.

(b) The debtor will be granted 30 days from the date of the notification required by paragraph (a) of this section to request a review of the determination of the Agency official responsible for collection of the debt on any unresolved dispute. The debtor will be advised of the result.

§ 102.176 Prior provision of rights with respect to debt.

To the extent that the rights of the debtor in relation to the same debt have been previously provided under some other statutory or regulatory authority, including administrative offset procedures set forth in subpart U, the Agency is not required to duplicate those efforts before referring a debt for tax refund offset.

Subpart W—Misconduct by Attorneys or Party Representatives

§ 102.177 Exclusion from hearings; Refusal of witness to answer questions; Misconduct by attorneys and party representatives before the Agency; Procedures for processing misconduct allegations.

(a) Any attorney or other representative appearing or practicing before the Agency shall conform to the standards of ethical and professional conduct required of practitioners before the

courts, and the Agency will be guided by those standards in interpreting and applying the provisions of this section.

(b) Misconduct by any person at any hearing before an administrative law judge, hearing officer, or the Board shall be grounds for summary exclusion from the hearing. Notwithstanding the procedures set forth in paragraph (e) of this section for handling allegations of misconduct, the administrative law judge, hearing officer, or Board shall also have the authority in the proceeding in which the misconduct occurred to admonish or reprimand, after due notice, any person who engages in misconduct at a hearing.

(c) The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the administrative law judge or hearing officer, be grounds for striking all testimony previously given by such witness on related matters.

(d) Misconduct by an attorney or other representative at any stage of any Agency proceeding, including but not limited to misconduct at a hearing, shall be grounds for discipline. Such misconduct of an aggravated character shall be grounds for suspension and/or disbarment from practice before the Agency and/or other sanctions.

(e) All allegations of misconduct pursuant to paragraph (d) of this section, except for those involving the conduct of Agency employees, shall be handled in accordance with the following procedures:

(1) Allegations that an attorney or party representative has engaged in misconduct may be brought to the attention of the Investigating Officer by any person. The Investigating Officer, for purposes of this paragraph, shall be the Associate General Counsel, Division of Operations-Management, or his/her designee.

(2) The Investigating Officer or his/her designee shall conduct such investigation as he/she deems appropriate and shall have the usual powers of investigation provided in Section 11 of the Act. Following the investigation, the Investigating Officer shall make a recommendation to the General Counsel, who shall make the determination

whether to institute disciplinary proceedings against the attorney or party representative. The General Counsel's authority to make this determination shall not be delegable to the Regional Director or other personnel in the Regional Office. If the General Counsel determines not to institute disciplinary proceedings, all interested persons shall be notified of the determination, which shall be final.

(3) If the General Counsel decides to institute disciplinary proceedings against the attorney or party representative, the General Counsel or his/her designee shall serve the Respondent with a complaint which shall include: a statement of the acts which are claimed to constitute misconduct including the approximate date and place of such acts together with a statement of the discipline recommended; notification of the right to a hearing before an administrative law judge with respect to any material issues of fact or mitigation; and an explanation of the method by which a hearing may be requested. Such a complaint shall not be issued until the Respondent has been notified of the allegations in writing and has been afforded a reasonable opportunity to respond.

(4) Within 14 days of service of the disciplinary complaint, the respondent shall file an answer admitting or denying the allegations, and may request a hearing. If no answer is filed or no material issue of fact or relevant to mitigation warranting a hearing is raised, the matter may be submitted directly to the Board. If no answer is filed, then the allegations shall be deemed admitted.

(5) Sections 102.24 through 102.51, rules applicable to unfair labor practice proceedings, shall be applicable to disciplinary proceedings under this section to the extent that they are not contrary to the provisions of this section.

(6) The hearing shall be conducted at a reasonable time, date, and place. In setting the hearing date, the administrative law judge shall give due regard to the respondent's need for time to prepare an adequate defense and the need of the Agency and the respondent

for an expeditious resolution of the allegations.

(7) The hearing shall be public unless otherwise ordered by the Board or the administrative law judge.

(8) Any person bringing allegations of misconduct or filing a petition for disciplinary proceedings against an attorney or party representative shall be given notice of the scheduled hearing. Any such person shall not be a party to the disciplinary proceeding, however, and shall not be afforded the rights of a party to call, examine or cross-examine witnesses and introduce evidence at the hearing, to file exceptions to the administrative law judge's decision, or to appeal the Board's decision.

(9) The respondent will, upon request, be provided with an opportunity to read the transcript or listen to a recording of the hearing.

(10) The General Counsel must establish the alleged misconduct by a preponderance of the evidence.

(11) At any stage of the proceeding prior to hearing, the respondent may submit a settlement proposal to the General Counsel, who may approve the settlement or elect to continue with the proceedings. Any formal settlement reached between the General Counsel and the respondent, providing for entry of a Board order reprimanding, suspending, disbarring or taking other disciplinary action against the respondent, shall be subject to final approval by the Board. In the event any settlement, formal or informal, is reached after opening of the hearing, such settlement must be submitted to the administrative law judge for approval. In the event the administrative law judge rejects the settlement, either the General Counsel or the respondent may appeal such ruling to the Board as provided in §102.26.

(12) If it is found that the respondent has engaged in misconduct in violation of paragraph (d) of this section, the Board may issue a final order imposing such disciplinary sanctions as it deems appropriate, including, where the misconduct is of an aggravated character, suspension and/or disbarment from practice before the Agency, and/or other sanctions.

(f) Any person found to have engaged in misconduct warranting disciplinary

sanctions under paragraph (d) of this section may seek judicial review of the administrative determination.

[61 FR 65331, Dec. 12, 1996]

APPENDIX A TO PART 102—NLRB
OFFICIAL OFFICE HOURS

NLRB Headquarters,	
Business Hours (Local Time):	
Washington, DC	8:30 a.m.-5 p.m.
Division of Judges, Business Hours (Local Time):	
Washington, DC	8:30 a.m.-5 p.m.
San Francisco	8:30 a.m.-5 p.m.
New York	8:30 a.m.-5 p.m.
Atlanta	8 a.m.-4:30 p.m.
Regional Office Business Hours (Local Time):	
1—Boston	8:30 a.m.-5 p.m.
2—New York	8:45 a.m.-5:15 p.m.
3—Buffalo	8:30 a.m.-5 p.m.
Albany	8:30 a.m.-5 p.m.
4—Philadelphia	8:30 a.m.-5 p.m.
5—Baltimore	8:15 a.m.-4:45 p.m.
Washington, DC	8:15 a.m.-4:45 p.m.
6—Pittsburgh	8:30 a.m.-5 p.m.
7—Detroit	8:15 a.m.-4:45 p.m.
Grand Rapids	8:15 a.m.-4:45 p.m.
8—Cleveland	8:15 a.m.-4:45 p.m.
9—Cincinnati	8:30 a.m.-5 p.m.
10—Atlanta	8 a.m.-4:30 p.m.
Birmingham	8 a.m.-4:30 p.m.
11—Winston-Salem	8 a.m.-4:30 p.m.
12—Tampa	8 a.m.-4:30 p.m.
Jacksonville	8 a.m.-4:30 p.m.
Miami	8 a.m.-4:30 p.m.
13—Chicago	8:30 a.m.-5 p.m.
14—St. Louis	8 a.m.-4:30 p.m.
15—New Orleans	8 a.m.-4:30 p.m.
16—Fort Worth	8:15 a.m.-4:45 p.m.
Houston	8 a.m.-4:30 p.m.
San Antonio	8 a.m.-4:30 p.m.
17—Kansas City	8:15 a.m.-4:45 p.m.
Tulsa	8:15 a.m.-4:45 p.m.
18—Minneapolis	8 a.m.-4:30 p.m.
Des Moines	8 a.m.-4:30 p.m.
19—Seattle	8:15 a.m.-4:45 p.m.
Anchorage	8:15 a.m.-4:45 p.m.
Portland	8 a.m.-4:30 p.m.
20—San Francisco	8:30 a.m.-5 p.m.
Honolulu	8 a.m.-4:30 p.m.
21—Los Angeles	8:30 a.m.-5 p.m.
San Diego	8:30 a.m.-5 p.m.
22—Newark	8:45 a.m.-5:15 p.m.
24—Puerto Rico	8:30 a.m.-5 p.m.
25—Indianapolis	8:30 a.m.-5 p.m.
26—Memphis	8 a.m.-4:30 p.m.
Little Rock	8 a.m.-4:30 p.m.
Nashville	8 a.m.-4:30 p.m.
27—Denver	8:30 a.m.-5 p.m.
28—Phoenix	8:15 a.m.-4:45 p.m.
Albuquerque	8:15 a.m.-4:45 p.m.
El Paso	8:15 a.m.-4:45 p.m.

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Las Vegas	8:30 a.m.-5 p.m.
29—Brooklyn	9 a.m.-5:30 p.m.
30—Milwaukee	8 a.m.-4:30 p.m.
31—Los Angeles	8:30 a.m.-5 p.m.
32—Oakland	8:30 a.m.-5 p.m.
33—Peoria	8:30 a.m.-5 p.m.
34—Hartford	8:30 a.m.-5 p.m.

[57 FR 4158, Feb. 4, 1992]

PART 103—OTHER RULES

Subpart A—Jurisdictional Standards

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- 103.1 Colleges and universities.
- 103.2 Symphony orchestras.
- 103.3 Horseracing and dogracing industries.

Subpart B—Election Procedures

- 103.20 Posting of election notices.

Subpart C—Appropriate Bargaining Units

- 103.30 Appropriate bargaining units in the health care industry.

Subpart E [Reserved]

Subpart F—Remedial Orders

- 103.100 Offers of reinstatement to employees in Armed Forces.

AUTHORITY: 29 U.S.C. 156, in accordance with the procedure set forth in 5 U.S.C. 553.

Subpart A—Jurisdictional Standards

§ 103.1 Colleges and universities.

The Board will assert its jurisdiction in any proceeding arising under sections 8, 9, and 10 of the Act involving any private nonprofit college or university which has a gross annual revenue from all sources (excluding only contributions which, because of limitation by the grantor, are not available for use for operating expenses) of not less than \$1 million.

[35 FR 18370, Dec. 3, 1970]

§ 103.2 Symphony orchestras.

The Board will assert its jurisdiction in any proceeding arising under sections 8, 9, and 10 of the Act involving any symphony orchestra which has a gross annual revenue from all sources (excluding only contributions which are because of limitation by the grant-

or not available for use for operating expenses) of not less than \$1 million.

[38 FR 6177, Mar. 7, 1973]

§ 103.3 Horseracing and dogracing industries.

The Board will not assert its jurisdiction in any proceeding under sections 8, 9, and 10 of the Act involving the horseracing and dogracing industries.

[38 FR 9507, Apr. 17, 1973]

Subpart B—Election Procedures

§ 103.20 Posting of election notices.

(a) Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Office in the mail. In all cases, the notices shall remain posted until the end of the election.

(b) The term *working day* shall mean an entire 24-hour period excluding Saturdays, Sundays, and holidays.

(c) A party shall be estopped from objecting to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 working days prior to the commencement of the election that it has not received copies of the election notice.

(d) Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of § 102.69(a).

[52 FR 25215, July 6, 1987]

Subpart C—Appropriate Bargaining Units

§ 103.30 Appropriate bargaining units in the health care industry.

(a) This portion of the rule shall be applicable to acute care hospitals, as defined in paragraph (f) of this section: Except in extraordinary circumstances and in circumstances in which there