



NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

RIN 3142-AA18

Representation-Case Procedures

AGENCY: National Labor Relations Board.

ACTION: Correcting amendments.

SUMMARY: On August 25, 2023, the National Labor Relations Board published a final rule that revised its representation case procedures. That final rule failed to update certain cross-references. This document corrects those cross-references.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Roxanne L. Rothschild, Executive Secretary, 1015 Half Street SE, Washington, DC 20570. Telephone: (202) 273-1940.

SUPPLEMENTARY INFORMATION:

This is the first set of corrections to the National Labor Relations Board's final rule on representation case procedures, published in the *Federal Register* on August 25, 2023 at 88 FR 58076. It corrects the cross references in § 102.66(d) from § 102.63(b)(1)(iii) and (b)(3)(iii) to § 102.63(b)(1)(i)(C) and (b)(3)(i)(D).

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

Accordingly, the National Labor Relations Board amends 29 CFR part 102 by making the following correcting amendments:

PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for part 102 continues to read as follows:

Authority: 29 U.S.C. 151, 156. Section 102.117 also issued under 5 U.S.C.

552(a)(4)(A), and § 102.119 also issued under 5 U.S.C. 552(a)(j) and (k). Sections 102.143 through 102.155 also issued under 5 U.S.C. 504(c)(1).

Subpart D—Procedure Under Section 9(c) of the Act for the Determination of Questions Concerning Representation of Employees and for Clarification of Bargaining Units and for Amendment of Certifications Under Section 9(b) of the Act

2. Amend § 102.66 by revising paragraph (d) to read as follows:

§ 102.66 Introduction of evidence: rights of parties at hearing; preclusion; subpoenas; oral argument and briefs.

* * * * *

(d) *Preclusion.* A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in § 102.63(b)(1)(i)(C), (b)(2)(iii), or (b)(3)(i)(D), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from

contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

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Dated: April 9, 2024.

Roxanne L. Rothschild,

Executive Secretary,

National Labor Relations Board.

[FR Doc. 2024-07819 Filed: 4/11/2024 8:45 am; Publication Date: 4/12/2024]