

NATIONAL LABOR RELATIONS BOARD
BOARD RESOLUTION NO. 2011-1

WHEREAS on June 22, 2011, the National Labor Relations Board published a Notice of Proposed Rulemaking (NPRM) (76 FR 36812), proposing to amend its rules and regulations governing the filing and processing of petitions relating to the representation of employees for purposes of collective bargaining with their employer; and

WHEREAS on July 18 and 19, 2011, the Board held a public meeting at which it heard testimony from sixty-six witnesses concerning the rule proposed in the NPRM; and

WHEREAS the Board has received over 65,000 written comments pursuant to the NPRM and has reviewed all of the comments received;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board take the following action on the NPRM:

1. Prepare a final rule to be published in the Federal Register containing the following significant elements:
 - a. Amend Sections 102.64(a) and 102.66(a) of the Board's Rules and Regulations (R&R) to state that the purpose of the hearing described in Section 9(c) of the Act is to determine if a question of representation exists that should be resolved by an election and to give the hearing officer authority to limit the evidence introduced at the hearing to that relevant to a genuine issue of fact material to whether a question of representation exists;
 - b. Amend R&R Section 102.66 to provide that post-hearing briefs may be filed with permission of the hearing officer;
 - c. Amend R&R Section 102.67 to eliminate parties' right to seek Board review of regional director's pre-election rulings while allowing parties to seek post-election review of all such rulings that have not been rendered moot by the election;
 - d. Eliminate the language in Section 101.21(d) of the Board's Statements of Procedure that states that the regional director normally will not schedule an election until a date 25 days after the direction of election in order to permit the Board to rule on any request for review;
 - e. Amend R&R Section 102.65 to clarify the standard for seeking special permission to appeal to the Board;
 - f. Amend R&R Sections 102.62(b) and 102.69 to make Board review of a regional director's or judge's disposition of post-election disputes discretionary after both stipulated and directed elections;
 - g. Substitute a revised statement of the general course and method by which the Board's functions are channeled and determined, to be published in the final rule, for current Part 101, Subpart C, of the Board's Statements of Procedure; and
 - h. Make such other amendments as may be needed to effectuate the purposes of, or conform the remainder of the existing rules to, the amendments described above;

Provided, that no final rule shall be published until it has been circulated among the members of the Board and approved by a majority of the Board.

2. Continue to deliberate on the remainder of the amendments proposed in the NPRM.