

## National Labor Relations Board

## § 102.62

### **§ 102.62 Election agreements; voter list; Notice of Election.**

(a) *Consent-election agreements with final Regional Director determinations of post-election disputes.* Where a petition has been duly filed, the employer and any individual or labor organizations representing a substantial number of employees involved may, with the approval of the Regional Director, enter into an agreement providing for the waiver of a hearing and for an election and further providing that post-election disputes will be resolved by the Regional Director. Such agreement, referred to as a consent election agreement, shall include a description of the appropriate unit, the time and place of holding the election, and the payroll period to be used in determining what employees within the appropriate unit shall be eligible to vote. Such election shall be conducted under the direction and supervision of the Regional Director. The method of conducting such election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to §§102.69 and 102.70 except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect, in that case, as if issued by the Board, and except that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

(b) *Stipulated election agreements with discretionary Board review.* Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of the employees involved may, with the approval of the Regional Director, enter into an agreement providing for the waiver of a hearing and for an election as described in paragraph (a) of this section and further providing that the parties may request Board review of the Regional Director's resolution of post-election disputes. Such agreement, referred to as a stipulated election agreement, shall also include a description of the appropriate bargaining unit, the time and place of

holding the election, and the payroll period to be used in determining which employees within the appropriate unit shall be eligible to vote. Such election shall be conducted under the direction and supervision of the Regional Director. The method of conducting such election and the post-election procedure shall be consistent with that followed by the Regional Director in conducting elections pursuant to §§102.69 and 102.70.

(c) *Full consent election agreements with final Regional Director determinations of pre- and post-election disputes.* Where a petition has been duly filed, the employer and any individual or labor organizations representing a substantial number of the employees involved may, with the approval of the Regional Director, enter into an agreement, referred to as a full consent election agreement, providing that pre- and post-election disputes will be resolved by the Regional Director. Such agreement provides for a hearing pursuant to §§102.63, 102.64, 102.65, 102.66, and 102.67 to determine if a question of representation exists. Upon the conclusion of such a hearing, the Regional Director shall issue a decision. The rulings and determinations by the Regional Director thereunder shall be final, with the same force and effect, in that case, as if issued by the Board. Any election ordered by the Regional Director shall be conducted under the direction and supervision of the Regional Director. The method of conducting such election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to §§102.69 and 102.70, except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect, in that case, as if issued by the Board, and except that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

(d) *Voter list.* Absent agreement of the parties to the contrary specified in the election agreement or extraordinary

circumstances specified in the direction of election, within 2 business days after the approval of an election agreement pursuant to paragraph (a) or (b) of this section, or issuance of a direction of election pursuant to paragraph (c) of this section, the employer shall provide to the Regional Director and the parties named in the agreement or direction a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular “cell” telephone numbers) of all eligible voters. The employer shall also include in separate sections of that list the same information for those individuals who will be permitted to vote subject to challenge. In order to be timely filed and served, the list must be received by the Regional Director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction unless a longer time is specified in the agreement or direction. The list of names shall be alphabetized (overall or by department) and be in an electronic format approved by the General Counsel unless the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list shall be filed electronically with the Regional Director and served electronically on the other parties named in the agreement or direction. A certificate of service on all parties shall be filed with the Regional Director when the voter list is filed. The employer’s failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of §102.69(a)(8). The employer shall be estopped from objecting to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

(e) *Notice of Election.* Upon approval of the election agreement pursuant to paragraph (a) or (b) of this section or

with the direction of election pursuant to paragraph (c) of this section, the Regional Director shall promptly transmit the Board’s Notice of Election to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided). The employer shall post and distribute the Notice of Election in accordance with §102.67(k). The employer’s failure properly to post or distribute 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)(8). A party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

[84 FR 69588, Dec. 18, 2019, as amended at 88 FR 14911, Mar. 10, 2023]

**§ 102.63 Investigation of petition by Regional Director; Notice of Hearing; service of notice; Notice of Petition for Election; Statement of Position; withdrawal of Notice of Hearing.**

(a) *Investigation; Notice of Hearing; notice of petition for election.* (1) After a petition has been filed under §102.61(a), (b), or (c), if no agreement such as that provided in §102.62 is entered into and if it appears to the Regional Director that there is reasonable cause to believe that a question of representation affecting commerce exists, that the policies of the Act will be effectuated, and that an election will reflect the free choice of employees in an appropriate unit, the Regional Director shall prepare and cause to be served upon the parties and upon any known individuals or labor organizations purporting to act as representatives of any employees directly affected by such investigation, a Notice of Hearing before a Hearing Officer at a time and place fixed therein. Except in cases presenting unusually complex issues, the Regional Director shall set the hearing for a date 8 days from the date of service of the notice excluding intervening Federal holidays, but if the 8th day is