

National Labor Relations Board

§ 102.154

within 21 days after it is served. A commenting party may not participate further in the fee application proceeding unless the administrative law judge determines that such participation is required in order to permit full exploration of matters raised in the comments.

[46 FR 48087, Sept. 30, 1981, as amended at 51 FR 23750, July 1, 1986; 51 FR 32919, Sept. 17, 1986]

§ 102.151 Settlement.

The applicant and the General Counsel may agree on a proposed settlement of the award before final action on the application. If a prevailing party and the General Counsel agree on a proposed settlement of an award before an application has been filed, the proposed settlement shall be filed with the application. All such settlements shall be subject to approval by the Board.

§ 102.152 Further proceedings.

(a) Ordinarily the determination of an award will be made on the basis of the documents in the record. The administrative law judge, however, upon request of either the applicant or the General Counsel, or on his or her own initiative, may order further proceedings, including an informal conference, oral argument, additional written submissions or an evidentiary hearing. An evidentiary hearing shall be held only when necessary for resolution of material issues of fact.

(b) A request that the administrative law judge order further proceedings under this section shall specifically identify the disputed issues and the evidence sought to be adduced, and shall explain why the additional proceedings are necessary to resolve the issues.

(c) An order of the administrative law judge scheduling further proceedings shall specify the issues to be considered.

(d) Any evidentiary hearing held pursuant to this section shall be open to the public and shall be conducted in accordance with §§ 102.30 to 102.44 of these rules, except §§ 102.33, 102.34 and 102.38.

(e) Rulings of the administrative law judge shall be reviewable by the Board only in accordance with the provisions of § 102.26.

§ 102.153 Administrative law judge's decision; contents; service; transfer of case to the Board; contents of record in case.

(a) Upon conclusion of proceedings under §§ 102.147 to 102.152, the administrative law judge shall prepare a decision. The decision shall include written findings and conclusions as necessary to dispose of the application. The administrative law judge shall file the original of his decision with the Board and cause a copy thereof to be served on each of the parties. Upon the filing of the decision, the Board shall enter an order transferring the case to the Board and shall serve copies of the order, setting forth the date of such transfer, on all the parties. Service of the administrative law judge's decision and of the order transferring the case to the Board shall be complete upon mailing.

(b) The record in a proceeding on an application for an award of fees and expenses shall include the application and any amendments or attachments thereto, the net worth exhibit, the answer and any amendments or attachments thereto, any reply to the answer, any comments by other parties, motions, rulings, orders, stipulations, written submissions, the stenographic transcript of any oral argument, the stenographic transcript of any hearing, exhibits and depositions, together with the administrative law judge's decision and exceptions, any cross-exceptions or answering briefs as provided in § 102.46, and the record of the adversary adjudication upon which the application is based.

§ 102.154 Exceptions to administrative law judge's decision; briefs; action of Board.

Procedures before the Board, including the filing of exceptions to the administrative law judge's decision and briefs, and action by the Board, shall be in accordance with §§ 102.46, 102.47, 102.48 and 102.50 of these rules. The Board will issue a decision on the application or remand the proceeding to the administrative law judge for further proceedings.