

§ 102.34

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proceeding which may have been instituted in a regional office or with him; or

(2) Be consolidated with any other proceeding which may have been instituted in the same region; or

(3) Be transferred to and continued in any other region for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such other region; or

(4) Be severed from any other proceeding with which it may have been consolidated pursuant to this section.

(b) The provisions of §§102.9 to 102.32, inclusive, shall, insofar as applicable, govern proceedings before the general counsel pursuant to this section, and the powers granted to regional directors in such provisions shall, for the purpose of this section, be reserved to and exercised by the general counsel. After the transfer of any charge and any proceeding which may have been instituted with respect thereto from one region to another pursuant to this section, the provisions of this subpart shall, insofar as applicable, govern such charge and such proceeding as if the charge had originally been filed in the region to which the transfer is made.

(c) The regional director may, prior to hearing, exercise the powers in paragraph (a)(2) and (4) of this section with respect to proceedings pending in his region.

(d) Motions to consolidate or sever proceedings after issuance of complaint shall be filed as provided in §102.24 and ruled upon as provided in §102.25, except that the regional director may consolidate or sever proceedings prior to hearing upon his own motion. Rulings by the administrative law judge upon motions to consolidate or sever may be appealed to the Board as provided in §102.26.

[32 FR 9549, July 1, 1967, as amended at 36 FR 9132, May 20, 1971]

HEARINGS

§ 102.34 Who shall conduct; to be public unless otherwise ordered.

The hearing for the purpose of taking evidence upon a complaint shall be conducted by an administrative law

judge designated by the chief administrative law judge in Washington, DC, or by the associate chief judge, San Francisco, California, by the associate chief judge in New York, New York, or by the associate chief judge in Atlanta, Georgia, as the case may be, unless the Board or any member thereof presides. At any time an administrative law judge may be designated to take the place of the administrative law judge previously designated to conduct the hearing. Such hearing shall be public unless otherwise ordered by the Board or the administrative law judge.

(49 Stat. 449; 29 U.S.C. 151-166, as amended by (61 Stat. 136; 29 U.S.C. Sup. 151-167), (65 Stat. 601; 29 U.S.C. 158, 159, 168), (73 Stat. 519; 29 U.S.C. 141-168), (88 Stat. 395-397; 29 U.S.C. 152, 158, 169, 183))

[45 FR 51193, Aug. 1, 1980, as amended at 62 FR 1668, Jan. 13, 1997]

§ 102.35 Duties and powers of administrative law judges; stipulations of cases to administrative law judges or to the Board; assignment and powers of settlement judges.

(a) It shall be the duty of the administrative law judge to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice affecting commerce as set forth in the complaint or amended complaint. The administrative law judge shall have authority, with respect to cases assigned to him, between the time he is designated and transfer of the case to the Board, subject to the Rules and Regulations of the Board and within its powers:

(1) To administer oaths and affirmations;

(2) To grant applications for subpoenas;

(3) To rule upon petitions to revoke subpoenas;

(4) To rule upon offers of proof and receive relevant evidence;

(5) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(6) To regulate the course of the hearing and, if appropriate or necessary, to exclude persons or counsel from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question;