

NATIONAL LABOR RELATIONS BOARD

Notice of Procedures To Be Followed In The Event Board Offices Are Closed Due To A Lapse In Appropriated Funds

AGENCY: National Labor Relations Board

ACTION: The National Labor Relations Board is issuing this notice to advise the public of procedures to be followed in the event that Board offices are closed, in compliance with the Anti-Deficiency Act, 31 U.S.C. 1341, *et seq.*, due to a lapse in appropriated funds.

1. Timeliness and Filing of Charges, Petitions and Other Papers During A Shutdown

In the event the Board's offices are closed due to a lapse in appropriated funds, documents may not be filed electronically at www.nlr.gov. The Board hereby grants, sua sponte, an extension of time to file or serve any document for which the grant of an extension is permitted by law. The terms of the extension are that for each day on which the Agency's offices are closed for all or any portion of the day, one day shall be added to the time for filing or service of the document.

Extensions of time for filing cannot apply to the 6-month period provided by Section 10(b) of the Act for the filing of charges, 29 U.S.C. 160(b), or to Applications for awards of fees and other expenses under the Equal Access to Justice Act, 5 U.S.C. 504. However, with respect to time computations for filing and serving charges filed pursuant to Section 10(b) or applications filed pursuant to the Equal Access to Justice Act, the Board hereby gives notice of its intention to construe the phrase "Saturday, Sunday, or a

legal holiday” in its rules pertaining to filing and service, Section 102.111(a), 29 C.F.R. 102.111(a), to encompass any day on which the Agency’s offices are closed for all or any portion of the day due to lack of appropriated funds.

Notwithstanding the foregoing, persons wishing to file a charge pursuant to Section 10(b) of the Act, and for whom the 6-month period of Section 10(b) may expire during the interruption in the Board’s normal operations, are cautioned that the operation of Section 10(b) during an interruption in the Board’s normal operations is uncertain. Consequently, it would be prudent to file the charge during the interruption in the Board’s operations by faxing a copy of the charge to the appropriate Regional Office. The fax numbers for Regional Offices may be found on the Agency’s website, www.nlr.gov.

Moreover, persons filing a charge are reminded that it is their responsibility, pursuant to Section 102.14 of the Board’s Rules and Regulations, 29 C.F.R. 102.14, to serve a copy of the charge upon the person against whom the charge is made. While Regional Directors ordinarily serve a copy of the charge on a person against whom the charge is made as a matter of courtesy, they do not assume responsibility for such service, and it is unlikely that the Agency will be able to serve charges during any period of shutdown due to a lapse in appropriated funds.

2. Postponement of Unfair Labor Practice Hearings Before Administrative Law Judges

In the event the Board’s offices are closed due to a lapse in appropriated funds, the parties to hearings before an Administrative Law Judge scheduled for the first week of the closure will be notified that the hearing has been postponed.

In every case with a hearing scheduled to begin during the week of October 7, 2013, if by the close of business on Friday, October 4, 2013, there has been no appropriations bill enacted into law or legislation authorizing the Board to operate during the week of October 7, 2013, the hearing will be postponed indefinitely.

In every case with a hearing scheduled to begin on or after October 14, 2013, if by the close of business on the Monday preceding the Monday of the week in which the hearing is scheduled there has been no appropriations bill enacted into law or legislation authorizing the Board to operate during the week in which the hearing is scheduled, then the hearing will be postponed indefinitely. For example, if there has been no appropriations bill enacted by the close of business Monday, October 7, 2013, all hearings scheduled for the week of October 14, 2013 will be postponed indefinitely.

3. Postponement of Representation Elections and Hearings

All elections and pre and post election hearings scheduled to be conducted any day from October 1, through October 11, 2013 have been postponed indefinitely.

In the event the Board's offices are closed due to a lapse in appropriated funds, in every case with an election or pre or post election hearing scheduled to be conducted on or after October 14, 2013, if by the close of business on the Tuesday preceding the Monday of the week in which the election or pre or post election hearing is scheduled there has been no appropriations bill enacted into law or legislation authorizing the Board to operate during the week in which the election or pre or post election hearing is scheduled to be conducted, then the election or pre or post election hearing will be postponed indefinitely. For example, if there has been no appropriations bill enacted by the close of business Tuesday, October 8, 2013, all elections and pre and post election

hearings scheduled to be conducted during the week of October 14, 2013 will be postponed indefinitely.

In each case until the election is postponed per the schedule noted above, it is the Employer's obligation to post the Notice of Election for 3 full working days prior to the day of the election and failure to do so shall be grounds for setting aside the election.

4. Notice To Be Posted in the Event of a Shutdown Due to a Lapse in Appropriated Funds

In the event the Board's offices are closed due to a lapse in appropriated funds, the Board will post this notice on its Website, www.nlr.gov. A related notice will be posted at each of its offices to advise the public of procedures to be followed during the period of the shutdown. In addition, the recorded message set forth below will be available on the main phone numbers in each of the Agency's offices to provide persons with information regarding how to contact the Agency during the shutdown:

"You have reached [OFFICE NAME] at the National Labor Relations Board. The Agency is currently closed due to a lapse in appropriated funds. You may leave a message after the tone, but this voicemail will not be monitored during the shutdown, and your call will not be returned until after the Agency resumes normal operations. Please consult the Agency website at www.nlr.gov for information on the effect of the shutdown on filing deadlines, scheduled hearings, representation elections, and the timeliness of charges and petitions. If you are calling about an imminent threat to human life or property as a result of a violation of the National Labor Relations Act, you should call (202) 273-1000, send a fax to (202) 273-4483, or send an email to EmergencyContact@NLRB.gov. Thank you."

FOR FURTHER INFORMATION CONTACT: Gary Shinnars, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Washington, D.C. 20570, (202) 273-3737 (this is not a toll-free number), 1-866-315-6572 (TTY/TDD).

By direction of the Board.

Dated: Washington, DC, October 1, 2013.

William B. Cowen, Solicitor.