

PROPOSED REGULATION AMENDING SECTION 20335(C)

It is proposed that section 20335 (c) be amended as follows:

~~Whenever~~ Where a petition under Labor Code Section 1156.3(e e) is filed, objecting to the conduct of the election or conduct affecting the results of the election pursuant to section 20365 or where challenges to the eligibility of voters to cast ballots are submitted to the Board pursuant to section 20363 ~~is on file~~, the Executive Secretary shall notify the General Counsel of such filing(s), under either of these sections, and provide to the General Counsel a copy of the documents filed, by no later than the close of business of the following work day on which the documents were received by the Executive Secretary. Simultaneously, the Executive Secretary will identify the date upon which the 21 day period for Board action under either section 20365 or 20363 will expire.

(1) The General Counsel may thereby proceed to determine whether there are currently any charges filed under Chapter 4 of the Act that mirror the objections or challenges received and there is concurrently on file a charge under Chapter 4 of the Act alleging by containing the same or some of the same matter which form the basis of said objection or challenge. petition., the Board may request that the unfair labor practice charge receive expedited investigation and processing and, in appropriate circumstances after issuance of a complaint, Where the General Counsel has decided to seek consolidation of said mirroring charge with the objections or challenges set for hearing, the General Counsel, by motion, must request that the Board consolidate the mirror unfair labor practice charge complaint. In order for the Board to consider such motion for consolidation, the Board must receive the General Counsel's motion prior to the date set for expiration of the 21 day period under section 20365 and/or section 20363.

(2) Should the General Counsel determine that his or her investigation and/or issuance of the complaint on mirror unfair labor practices cannot occur prior to the scheduled expiration date of the 21 day period, the General Counsel may make, pursuant to Labor Code section 1156.3(i)(3), a motion to show good cause why the applicable 21 day period of time for determining which objections or challenges must be set for hearing should be extended for the purposes of consolidation. Alternatively, and also pursuant to Labor Code section 1156.3(i)(3), all affected parties may sign a stipulation extending the time period for consolidation. may order that the concurrent unfair labor practice charge and the petition under Labor Code Section 1156.3(e) be consolidated.

For the purposes of this subdivision, good cause will be established when the General Counsel avers that it is his or her intent to move the Board to consolidate any enumerated mirror charges he or she has determined may merit complaint but that the investigation of those charges have not been completed and additional time is required to complete the investigation and/or issue complaint and move for consolidation. As a result of this averment, the Board will grant a 30 day continuance for the purpose requested so as to allow for a motion for consolidation.

(3) No other additional continuance will be granted for the purpose of section 20335(c) consolidation and the Board will proceed after the expiration of the 30 day continuance to hearing on the objections or challenges with or without consolidated charges. For purposes of any stipulation by the affected parties to extend the timeline set by Labor Code section 1156.3(i)(1)(A)(i), and pursuant to section 20130, the General Counsel is not an affected party.

(4) Any resulting hearing will be governed by the procedures set forth in Chapters 4 and 6 of the Act. The General Counsel ~~general counsel~~ or his or her representative may participate ~~as a party~~ in any such ~~proceeding~~ hearing only when an unfair labor practice complaint has been consolidated with the objections or as required by the provisions of section 20370(c).