



Issue Date: 24 January 2020

Case No.: 2020-MIS-00002

In Re:

BALCA EN BANC PROCEDURE.

MEMORANDUM

This Memorandum provides notice of the procedures employed by the Board of Alien Labor Certification Appeals (“BALCA”) on calls for en banc hearings and petitions for en banc rehearings.

a. Call or Petition for En Banc Hearing or Rehearing

i. Before issuing a decision, a panel of three administrative law judges (“ALJ”) may *sua sponte* call for a matter to be heard en banc if at least two ALJs on the panel agree that

- (1) en banc consideration is necessary to secure or maintain uniformity of the Board’s decisions; or
- (2) the proceeding involves a question of exceptional importance.

In making such a suggestion, the panel will submit a short statement explaining why the matter merits en banc review and forward the case to the Board’s paralegal. The Board’s paralegal will circulate the panel’s statement in support of en banc review for a vote in accordance with the procedures outlined in section b.

ii. After a three-ALJ panel has issued a decision, a party to the case may file a petition for en banc rehearing on the grounds that

- (1) en banc consideration is necessary to secure or maintain uniformity of the Board’s decisions; or
- (2) the proceeding involves a question of exceptional importance.

Upon receipt of such a petition, the Board's paralegal will circulate it for a vote in accordance with the procedures outlined in section b.

b. Voting Process

i. Calls for en banc hearings and petitions for en banc rehearings will be evaluated by a panel of the Chief ALJ and all ALJs designated to BALCA to review PERM appeals under 20 C.F.R. Part 656.

ii. Upon receipt of a call or petition for en banc review, the Board's paralegal will circulate an email to the en banc panel and request a vote on whether the matter should be heard or reheard en banc. A matter will only be heard or reheard en banc if, within two weeks of the date on which the email is circulated, a majority of the ALJs on the en banc panel vote to hear or rehear the matter en banc.

iii. If a majority of the ALJs on the en banc panel vote to hear or rehear the matter en banc, then the matter will be heard or reheard en banc and the en banc panel will preside over the en banc hearing or rehearing.

Last revised and effective February 26, 2019.

SO NOTICED.

STEPHEN R. HENLEY
Chief Administrative Law Judge
Chair, Board of Alien Labor Certification Appeals