

NLRB Publishes Final Rule Revising Union Election Procedures

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The National Labor Relations Board has again issued its final rule revising union election procedures, which will greatly shorten the time between when the union files an election petition and when the election is held. This new final rule mirrors the Board's previous attempts to speed the union election process that courts invalidated on procedural grounds. The rule changes will take effect on **April 14, 2015**.

In the meantime, employers need to remain especially diligent in their efforts to maintain a union-free environment. By the time an employer receives an election petition, it may already be too late to effectively respond to a union election, unless you are already prepared.

The election rule changes provide for many changes to current NLRB election rules, purportedly simplifying and expediting the union election process. The changes include:

- Allowing election petitions to be filed electronically.
- Requiring election petitions to be served on the employer at the same time they are filed.
- Requiring the employer to post and distribute a Board notice about the petition and potential for an election to follow.
- Requiring any pre-election hearing to be scheduled within eight calendar days of the filing of the petition.
- Giving NLRB hearing officers' authority to limit the presentation of evidence in a pre-election hearing to genuine issues of fact material to the existence of a question concerning representation.
- Providing for post-hearing briefs only with the permission of a hearing officer, rather than as a matter of right.
- Eliminating a party's right to seek Board review of regional directors' pre-election rulings while allowing parties to seek post-election review of such rulings.
- Eliminating language in NLRB's current statement of procedure that recommends a regional director include a 25 days "waiting period" after the Decision and Direction of the Election is issued before the date of the election.
- Codifying long-standing practice that the election date will be scheduled for the earliest date practical, effectively reducing the amount of time between the filing of the petition and the election.
- Adding the requirement that employee voter lists provided by the employer to the union include personal email addresses and phone numbers, as well as shift, job classification and work locations.
- Requests for special permission to appeal a regional director's pre-election ruling will be granted only in extraordinary circumstances.
- NLRB review of post-election disputes is now discretionary.

Business groups such as the U.S. Chamber of Commerce and the National Association of Manufacturers have been outspoken opponents of the rules and are considering legal challenges prior to the April 2015 effective date.