

NLRB Proposes Rules To Expedite And Streamline Representation Elections

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On June 22, 2011, the National Labor Relations Board (NLRB) published a Notice of Proposed Rulemaking, which proposes amendments to its existing rules and regulations governing procedures in representation cases. According to the NLRB, the amendments are intended to reduce unnecessary litigation, streamline pre- and post-election procedures, and facilitate the use of electronic communications and document filing to ultimately “remove unnecessary barriers to the fair and expeditious resolution of representation issues.”

The major changes the proposed amendments would make include:

- Defer litigation of most voter eligibility issues until after the election.
- Require parties to identify issues and describe evidence soon after an election petition is filed to facilitate resolution and eliminate unnecessary litigation.
- Consolidate all election-related appeals to the Board into a single post-election appeals process and thereby eliminate delay in holding elections currently attributable to the possibility of pre-election appeals.
- Make Board review of post-election decisions discretionary rather than mandatory.

Additionally, the rules would allow or require the use of electronic filing to submit petitions and voter lists and standardize timeframes to resolve or litigate issues.

Employers should be mindful of these proposed rules, as well as the evolving regulatory environment at the NLRB. Thoughtful and strategic action must be taken to avoid violating the National Labor Relations Act’s rules governing employer conduct and free speech, especially in light of these proposed changes. Miller Canfield will provide updates on the proposed amendments.