

NLRB Precedential Changes On The Horizon

Publication

10.17.12

Over the past few years, private sector union membership rates have hit an all-time low. Since its primary objective is to oversee the interaction between unions and employers under federal labor law, the National Labor Relations Board has attempted to remain relevant in this climate, seeking "creative" ways to extend its reach to both unionized and non-unionized work forces by arguing novel theories of federal labor law. Consequently, both unionized and nonunionized employers are faced with a board that is changing years of precedent at a rapid-fire pace.

The board's expansive view of its mission will no doubt continue into 2013. Among the items to watch for include the board's attempt to implement its "quickie election" process, despite being struck down earlier this year by the U.S. District Court for the District of Columbia on technical grounds.

In addition, the board likely will move forward with its requirement that all employers (whether or not unionized) display a poster notifying employees of their right to join and form a union, an effort that was previously enjoined by the same court that rejected the board's "quickie election" process. These steps and others yet unknown are likely to be taken by a board that views itself as an agency whose goal is to increase the number of unionized workplaces in the U.S.

This article appeared on October 17, 2012 on [Employment Law360](#).

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