



NLRB Finalizes Quickie Election Rules for April Implementation

Insights

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The National Labor Relations Board (NLRB) has finally implemented its long awaited “quickie election” rules, which will speed up union elections while requiring employers to turn over personal email addresses and telephone numbers. A substantially identical rule was issued by the Board three years ago, only to be struck down by a federal judge for lack of a voting quorum. With all five confirmed NLRB members voting, the 733-page final rule passed by a narrow margin along party lines. It seems that the holidays have come early for unions this year. Slated to take effect on April 14, 2015, the new procedures will have a profound impact on union organizing tactics and representation elections.

How Union Elections Will Change

The NLRB has shifted the playing field by allowing unions to take advantage of modern communication methods while streamlining the handling of disputed matters. The clear objective is to expedite the period between representation petition and election, thereby reducing the time for educating employees on the benefits of retaining union-free status. Here are the highlights of the changes.

- **Voter Email Addresses and Phone Numbers.** Employers will have to provide available personal email addresses and telephone numbers for all eligible voters, which will presumably facilitate more effective union communications earlier in the process.
- **Limited Pre-Election Hearings.** The only issues to be addressed during a pre-election hearing are those necessary to determining whether an election should take place. Disputes over voter eligibility and inclusion in the voting unit will typically be deferred until after the election, at which point they would only be resolved if they would have an impact on the election. The end result is elections that were traditionally conducted approximately six weeks after the representation petition will now be concluded in less than three.
- **Post Hearing Briefs.** All parties will be permitted to argue their positions at the hearing, but the NLRB will have the unfettered discretion to decide whether post hearing briefs will even be allowed.
- **Election Not Stayed Pending Review of Regional Rulings.** Although the parties may seek review of all representation-case rulings in a single post-election request, the election will typically proceed as scheduled while those requests remain pending.

Practical Impact

The “streamlined” representation process should prompt you to prepare for potential union organizing efforts and elections now. You should consider suspending the collection of personal email addresses absent compelling business reasons. If you have not obtained workers’ email addresses, you will not have any to provide for potential voters, taking away that easy mode of communication by the union with your employees. In the process, businesses may be hard-pressed to properly identify, train and prepare their statutory supervisors for the rigors of an educational campaign that is governed by a web of complex labor laws.

That being said, it is more important than ever to properly identify and train your statutory supervisors on recognizing the early warning signs of union activity. The reduced time between a petition and election affords you less time to educate employees, so being proactive early in an organizing campaign will be crucial. Your supervisors also need to know what they can and cannot do during a campaign under the complex labor laws that govern the process.

There is no question that the new procedures will provide a boost to unions that are eager to stem the tide of membership decline, and we can expect an immediate uptick in organizing activity as a result. Quicker elections mean more employees will be voting on union representation on the heels of the negative emotions that drove the organizing activity to begin with. At the same time, putting email addresses and phone numbers in the hands of union organizers earlier in the process will subject those employees to substantial pressure out of the gate. This procedural pendulum will fuel an increase in union activity, so take steps now to prepare for new organizing efforts within your ranks.

If you have any questions about this ruling, please contact your regular Fisher Phillips attorney. Visit our website at www.fisherphillips.com.

This Legal Alert provides an overview of a specific NLRB decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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