



New NLRB “Quickie” Election Rules – To Become Effective April 14, 2015

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In December of 2014, the National Labor Relations Board (“NLRB”) issued new regulations that govern how union representation elections will be conducted. The new rules are set to become effective on April 14, 2015. Although the U.S. Chamber of Commerce and business groups are challenging the new regulations, Employers should pay careful attention to the new rules because the rules will require Employers to act much more quickly and to be proactive when responding to a union organizing campaign and subsequent election. This blog post highlights key aspects of the new rules.

WHY DID THE NLRB ISSUE THE “QUICKIE” ELECTION REGULATIONS?

Typically, in an NLRB Representative Election, there is a substantial amount of disagreement between the employer and the union as to: (1) whether it is appropriate to conduct an election and (2) who should be able to participate in the election. The newly appointed NLRB appears to be taking the position that the old election rules resulted in lengthy and unnecessary pre-election litigation. In issuing the Quickie Election Rules, the NLRB is seeking to “modernize” and “streamline” the election process.

KEY ASPECTS OF THE NEW NLRB QUICKIE ELECTION RULES

1. **Electronic Filing of Documents** – Election Petitions may now be filed electronically.
2. **Mandatory & More Detailed Posting Requirements** – After the employer receives notice that an Election Petition has been filed, the employer must post and distribute official NLRB election notice forms. Copies of the forms can be downloaded [here](#).
3. **Mandatory Use of Electronic Election Notices** – If the employer customarily communicates with its employees electronically then it must distribute all election notices electronically, *in addition to* posting and distributing paper notices in the workplace.
4. **Prospective Voter Lists** – At least 1 business day before the pre-election hearing, the employer must disclose a list of prospective voters to the union and the NLRB regional director. The list must contain each prospective voter’s name, job classification, shifts and work locations.
5. **Electronic Voter Lists** – Within 2 business days after the NLRB has directed an election, the employer must *electronically transmit* a final list of voters to the union and the NLRB regional director. Like the Prospective Voter List, the Electronic Voter List must include each voter’s job classification, shifts and work locations. However, it must also include “more modern forms of contact information such as *personal e-mail addresses* and *phone numbers* if the employer has such contact information in its possession.”
6. **Must Identify Representation Issues That Require Litigation, Subsequent Inconsistent Positions Prohibited** – At least 1 day before the pre-election hearing, the employer must identify representation issues that it wishes to litigate before the election occurs in its Statement of Position. The employer cannot subsequently take positions that are inconsistent with those expressed in its Statement of Position.
7. **No More Automatic Stays** – Elections will not be stayed when a party seeks review of a Regional Director’s holding on representational issues.

IF THE RULES GO INTO EFFECT ON APRIL 14, 2015 WHAT CAN EMPLOYERS DO TO BE PROACTIVE?

1. Most importantly, employers must be prepared for a campaign and be diligent in watching for the signs of possible union organizing. If the Quickie rules are successfully implemented, employers will be working from behind in union avoidance efforts if those efforts do not begin until the organizing petition is filed.
2. Train your supervisors to spot potential union organizing and to be consistent in applying the company’s policies

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and in supervision of employees.

3. Employers should consider having their policy manuals and/or stand-alone policies reviewed for compliance with recent NLRB cases. The NLRB has focused heavily on policies over the past few years and policies that were up to date a few years ago are likely now out of compliance with the NLRB.
4. Work with counsel to have a plan in place to deal with union organizing and the Quickie Election rules.