

## NLRB Adopts Quickie Election Rule

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On December 12, 2014 the National Labor Relations Board (NLRB) issued new regulations, which it claims are designed to "modernize representation - case procedures." In referring to "modernization" the NLRB means that the rules are designed to provide for union representation elections much more quickly than under the old rules. As a result, employers will have less time to present their views to employees. Among other things, the new rules provide for the following:

- Petitions will be able to be filed and served electronically.
- Election petitions will also be served on the employer at the same time they are filed.
- Litigation will be eliminated (or reduced) by allowing hearing officers to limit the presentation of evidence in a pre-election hearing.
- Post-hearing briefs will only be allowed with the hearing officer's permission; employers no longer have a right to file post-hearing briefs.
- The new rules delete older language indicating that elections will take place 25 to 30 days after the Regional Director issues a decision following a hearing. Elections now can be held "at the earliest practical date," which will surely shorten the timeframe considerably.
- The new rules require that employers provide voter lists with personal e-mail addresses, phone numbers, shift, job classification, and work locations.

The new rules also eliminate the requirement that the NLRB review decisions on a post-election basis, making such review discretionary.

It is likely that this rule will again be tested in court. But until a final court decision is issued invalidating the rule, employers will need to play the game under the Board's new schedule. This means that any employer at risk of a union organizing campaign should identify, well in advance of any petition, those employees who may be eligible to vote in a particular bargaining unit. Further, the employer should also develop in advance any materials, including letters, handouts, videos, or the substance of talks the employer wants to give to employees. Time to complete these tasks will not be sufficient once the new rules take effect on April 14, 2015. After that date, it is anticipated that elections will be held approximately 20 to 25 days from the filing of the petition, as compared to an average of about 38 days previously.

Barley Snyder's attorneys stand ready to assist employers in preparing campaign materials and identifying bargaining units and potential voting employees. For assistance, contact a member of our [Labor Group](#).