

# Proposed NLRB Rule Dials Back to Obama Era

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## **What You Should Know**

The National Labor Relations Board has [proposed three policy changes](#) to its election procedure for union representation, which would give employees greater rights to choose union representation.

The proposed rule, the "[Election Protection Rule](#)" would amend regulations governing the filing and processing of petitions for secret ballot union elections, affecting three aspects of the rule:

- The effect of "blocking charges" filed by a union during a decertification election.
- The election bar after an employer voluntarily recognizes a union.
- The election bar after an employer in the building and construction industry voluntarily recognizes a union.

President Trump-appointed NLRB Chairman John Ring said the board's majority believes that the changes further the goal of protecting employees' right to choose-or refrain from choosing-a labor organization to represent them. [Changes in the proposed rule are not new](#), as they would adopt the Board's prior Pre-Obama era position on these issues.

## **What's Next?**

There is a 60-day comment period for the proposed rule. The proposed rule was published in the Federal Register on August 12th, and employers, workers and interested members of the public have until October 11 to respond.

Change is coming. The NLRB is taking proactive steps (they are not waiting for decisionmaking) to protect employee rights to directly impact their choice of representation status, and we can expect to see further moves in this direction.

## **What Should You Do?**

- Employers should submit comments for the NLRB to consider.
- Employers should continue to monitor their workplaces for union activity and prepare for quickie elections until the rule is adopted.
- Employers should continue to monitor NLRB activity as this and other rules are going through the proposal and enactment process.

If you have any questions about this proposed rule, or would like assistance in crafting comments to the NLRB, please [contact me](#) or anyone in the [Barley Snyder Employment Practice Group](#).