

EMPLOYERS – ARE YOU PREPARED FOR NEW NLRB ELECTION RULES?



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On April 14th, the new National Labor Relations Board (“NLRB”) election rules came into effect, creating a potential headaches for employers. Perhaps most critically, the timeline between the initial petition for union election and the election itself may be as short as 13 days, giving employers limited notice of potential union organization and activity. These accelerated elections are derisively (but maybe not unjustly) referred to as “ambush” or “quickie” elections.

Under these new rules, unions file with the NLRB electronically, simultaneously providing notice to the employer, who must then post a notice of the election with all the attendant details. Seven days later,

a pre-election hearing is held,

covering only issues concerning the election. Before this hearing, the employer is now required to submit a list of prospective voters and other relevant information such as personal e-mail addresses and telephone numbers of employees. These rules allow for union elections within 13 to 22 days after filing of the notice by the union, signaling a significant departure from the old rules which incorporated an automatic 25-day waiting period following the direction of election and allowed employers 42 days to conduct informational campaigns. The accelerated timeline and additional notice requirements placed on employers give unions additional advantages in both timing and information when it comes to initial union election.

The best strategy for employers under these rules is to adopt a policy of year-round campaigning and strategizing to counter the threat of ambush elections. Proactive measures to foster a healthy workplace culture, promote strong employee relations and educate workers on how unions can affect the workplace are crucial in the new regulatory environment.

