

## **Quickie Union Elections: Back on the NLRB's Agenda**

Your workforce is union-free? Great, but watch your back. The NLRB has [proposed rule changes](#) that could saddle your company with a union in 10 days flat. Sounds like a union sneak-attack.

Unions thrive on the element of surprise. Many successful unionization drives start with the union secretly courting your employees for months. The union quietly hunts for unresolved employee concerns and exploits them. Union bosses promise to fix your employees' concerns at the collective bargaining table, hoping to foster an "us vs. them" mentality against management. Riding that momentum, the union files a petition with the NLRB to hold a union election. That's often the first time management gets wind of the union trouble.

Your window of opportunity is now short. Over the few weeks leading up to the union election, you must combat the groundwork that the union has been covertly laying for months. Every single day counts.

The NLRB's rule changes would tighten several already-stringent deadlines. The net effect is that union elections likely would be held 10 to 21 days after the union files an election petition. That could cost you several weeks' of time to educate your employees on how a union would hurt them.

The proposed changes also strip away critical pre-election appeal rights. One example tells the story. If a union gerrymanders the group of employees who will vote in the union election, you can currently challenge the gerrymandering before the election. But the rule changes would delay your challenge until after the election, so long as the gerrymandering impacted less than 20% of the employees eligible to vote. In close elections, just 10% of the vote is often plenty to swing the result.

The sole Republican member of the NLRB dissented from the proposed changes because they would "effectively eviscerate an employer's legitimate opportunity to express its views about collective bargaining." He even took a shot at the NLRB's pro-union motives in proposing the changes:



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For more insight into how solid HR practices impact your company's strategic operations, visit Alan's employment law blog at [hrriskybusiness.com](http://hrriskybusiness.com).

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In truth, the “problem” which my colleagues seek to address through these rule revisions is not that the representation election process generally takes too long. It is that unions are not winning more elections.

Facing the threat of a union sneak attack even under the current union election rules, companies can push back. Many companies take measures to stay union-free long before union organizers come knocking. For example, you can:

- Identify employees who qualify as "supervisors" in the NLRB's eyes, so they can be trained how to spot and react to union activity.
- Personally communicate with your employees on their job satisfaction and address any concerns before a union does.
- Task a rapid deployment team who is armed with an action plan to execute if you detect union activity.
- Check your employee handbook for provisions that could trigger an unfair labor practice charge, such as overly broad social media policies.

Union avoidance is all about advance preparation. Without some basic fundamentals, it may be too late when the union election petition crosses your desk. And the NLRB's proposed rule changes hope to seal the deal.

