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THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
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Understanding and Preparing for New Union Representation Procedures

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Slide 2

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WHAT WE'LL BE DISCUSSING TODAY

- The Old Rules (We don't know where we're going unless we know where we've been)
- The New Rules
- Legal Rules Governing Union Organizing
- Impact on Contractors – Union and Open Shop
- Going Forward – What Can You Do to Prepare for the New Rules and Make Your Company a Preferred Choice for Today's Work Force

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NATIONAL LABOR RELATIONS ACT

- "NLRA"
- Creates mechanism for employees to obtain union representation
- Defines lawful and unlawful activities for unions, employers and employees
- Establishes National Labor Relations Board ("NLRB") to administer and enforce Act



The National Labor Relations Board Fundamentals

- The NLRB is a federal administrative agency
- 26 Regional Offices around the U.S.
- 2 principle types of cases: Representation (R-case) OR Unfair Labor Practice (C-case)
- 5 Member Board in Washington, D.C.
 - Issue decisions/act as appellate judges

NLRB
National Labor Relations Board

Site Map | Search: All of NLRB.Gov | Search Key Word | Go

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Friday, October 23, 2009

What We Do

The **National Labor Relations Board** is an independent federal agency created by Congress in 1935 to administer the National Labor Relations Act, the primary law governing relations between unions and employers in the private sector. The statute guarantees the right of employees to organize and to bargain collectively with their employers, and to engage in other protected concerted activity with or without a union, or to refrain from all such activity.

→ Learn more about the NLRB
→ Questions & Answers

I am new to this Website

- Can the NLRB help me?
- Site tour (video)
- What is the National Labor Relations Act?
- How do I file a charge against an employer or union?
- How do I file a petition to start or remove a union?
- What are my rights as an employee?...employer?...union?
- What are protected concerted activities?

I am a labor professional

- Board Decisions
- ALJ Decisions
- GC, OM & Advice Memos
- Appellate Court Branch Briefs and Motions
- Rules & Regulations
- ULP Casehandling Manual
- R Casehandling Manual
- Compliance Manual
- FOIA Manual

What's New

- HELP Committee votes on three NLRB nominees
- Video Posted On Representation Case Processing
- Supreme Court is asked to settle the question of two-member rulings by the NLRB
- Chairman Liebman Statement On Laurel Baye Decision
- News Room
- Frequently Requested Documents

My NLRB

Welcome to My NLRB - where you can interact with the NLRB online.

Go to My NLRB or registered users sign in:

User Name:

Password:

Not Registered? | Forgot Password?

FirstGov

Español | Inspector General | FOIA | No Fear Act

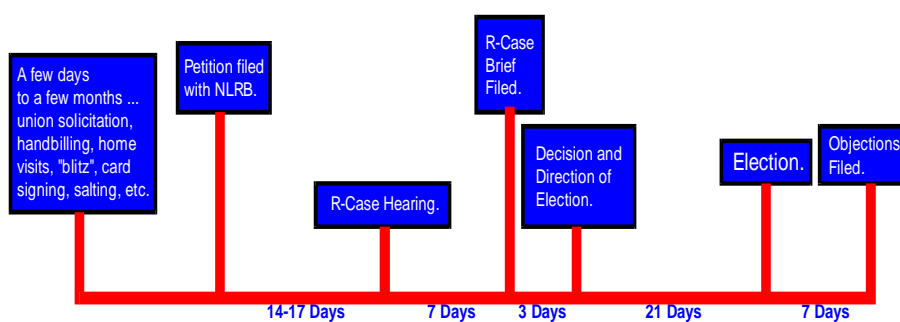
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CURRENT NLRB REPRESENTATION PROCEDURES (But Not For Long)

- How Unions Obtain Bargaining Authority
 - Voluntary Recognition
 - NLRB Certification
- The Petition
 - 30% Showing of Interest
 - Identify Bargaining Unit Inclusions and Exclusions
- Getting to a Vote
 - Stipulation vs. Hearing
 - Time Lines
 - 42 days if enter into a stipulation
 - Roughly 42-50 days after a hearing?

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NLRB Election Timetable



Total 42-50 days
NLRB "Target Dates"

Unique Voter Rules for the Construction Industry

- Who is Eligible to Vote?
 - The Steiny/Daniel Formula
 - Employed 30 days in the preceding 12 months or 45 days in the preceding 24 months
- What is an Appropriate Bargaining Unit
 - By Craft
 - Wall to Wall
 - Scope
 - By Project?
 - Area Wide?

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THE NEW RULES

- Effective April 14, 2015
- Key Changes – Need for Speed
 - Accelerated Process to Get to Election More Quickly
 - Petition and Posting of Election Notice (Electronic Filing)
 - Pre-Election Hearings Set for 8 days after service of Notice of Hearing
 - Employer Statement of Position Due by Noon on the Business Day Before Hearing Opens
 - Issue Preclusion/Waiver
 - At Hearing
 - Hearing Officer Given Wide Discretion on Evidence to be Taken

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THE NEW RULES (continued)

- Do Not Have to Resolve Disputes over Voter Eligibility and Inclusion/Exclusions – Can be Resolved After Vote
- Post Hearing Briefs – Not a Right
- The Voter Eligibility (Excelsior) List
 - Due within 2 days not 7
 - Expanded information
 - Produced to NLRB and Union
- Election Date:
 - Determined by Regional Director's discretion ("at earliest date practicable")
 - Minimum 10 days after production of voting list (unless waived)
 - Petition + 8 + 10 = 21 days
 - NLRB review of Regional Director's decision more limited

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IMPACT ON CONTRACTORS

- Open Shop
 - Unit?
 - Scope?
- Union Shop
 - 8f to 9a
 - Union jurisdictional disputes

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LEGAL RULES GOVERNING UNION'S ORGANIZING

- TIPS and FOE
- ULP's and Objections and a Gissel Order

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GOING FORWARD

- Preparing for the New Rules
 - Identification of Bargaining Units
 - Identification of Supervisors
 - Advance Preparation of Position Statements
 - Campaign Foundations
 - Communications
 - SWAT Team
 - Information Data Bases
- Be the Contractor of Choice or How to Proactively Reduce Vulnerability
- Establish a Good Record on Wages, Benefits, etc.

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- Train Management on Positive Leadership Techniques and Expectations
- Review Policies and Procedures for Legal and Practical Sufficiency and Fairness
- Train Supervisors
 - Fair and consistent enforcement of policies
 - How to handle concerted activity
 - Managing salts
 - Communicating Employer's position
 - Identify early warning signs

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Questions?



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