

NLRB GC Issues Guidance Memorandum on “Quickie” Election Rules That Go Into Effect On December 26, 2023

Labor Relations Update on **December 11, 2023**

As recently [discussed](#), on December 26, 2023, representation case procedures will change under a rule published by the National Labor Relations Board (“NLRB” or “Board”) in August earlier this year.

Background: When a union files a petition to represent a group of employees, the Board requires specific action from both the employer and the union prior to proceeding to an election, and may hold hearings to resolve disputed legal issues prior to the commencement of an election. The upcoming change reverts representation case procedures to the Board’s “quickie” election rules initially implemented in 2014, which will significantly accelerate the pre-election timeline and remove potential pre-election litigation over any unit scope or unit inclusion issues.

In a [guidance memorandum](#) published last week, NLRB General Counsel Jennifer Abruzzo detailed the differences between the 2023 Election Rule and the most recent reiteration, the 2019 Election Rule, providing further insight into how representation cases will proceed moving forward. Since the 2023 Rule restores provisions of the 2014 Rule, the GC indicated that the [guidance memorandum published with respect to that rule in 2015](#) will provide “valuable guidance relevant to the 2023 Election Rule.” Overall, she stated, the 2023 Election Rule will “meaningfully reduce the time from petition filing to election.”

In our previous post, we detailed the most significant aspects of the upcoming changes, including the exclusion of individual eligibility and inclusion issues from a potential pre-election hearing, which means those issues will now be litigated, if at all, after an election is conducted rather than before. Additional changes are summarized again below:

Takeaways: The GC Memo provides a good opportunity to re-emphasize that employers should pay close attention to these changes. In just a few weeks, any employer facing a representation petition will be dealing with a much shorter clock in the run-up to an election, which can limit employers' ability to publicly message any opposition in response to a union campaign.

Moreover, eliminating pre-election litigation concerning disputes over individuals' eligibility to vote or inclusion in an appropriate unit before an election will impact the timing of an election, eliminating the potentially time-consuming pre-election hearing and Regional Director's deliberation and issuance of an opinion. Prior to the 2023 Rule, this process had taken weeks or even months, depending on the case. In addition, employers will need to be more thoughtful about how they communicate during an election campaign and how they bargain an initial contract, given the potential uncertainty of whether certain employees are included in the unit or not.

In light of the new 2023 Election Rule and the [Cemex decision](#), we expect an increase in election petitions after the Christmas holiday and into 2024.

We continue to be on top of these developments, and we are here to discuss if you have questions about navigating this difficult environment.

[View original.](#)

[Related Professionals](#)

- **Joshua S. Fox**
Senior Counsel