

[Home](#) » [News & Media](#) » [News Releases](#)

# Board proposes rules to reform pre- and post-election representation case procedures

June 21, 2011

## Contact:

Office of Public Affairs  
202-273-1991  
[publicinfo@nlrb.gov](mailto:publicinfo@nlrb.gov)  
[www.nlrb.gov](http://www.nlrb.gov)

The National Labor Relations Board will publish in the *Federal Register* tomorrow a Notice of Proposed Rulemaking, which proposes amendments to its existing rules and regulations governing procedures in representation cases. The proposed amendments are intended to reduce unnecessary litigation, streamline pre- and post-election procedures, and facilitate the use of electronic communications and document filing.

"One of the most important duties of the NLRB is conducting secret-ballot elections to determine whether employees want to be represented by a labor union," said Chairman Wilma B. Liebman in a statement. "Resolving representation questions quickly, fairly, and accurately has been an overriding goal of American labor law for more than 75 years." [Click here to view her full statement.](#)

If finally adopted after a public notice-and-comment process, the proposed amendments would:

- Allow for electronic filing of election petitions and other documents.
- Ensure that employees, employers and unions receive and exchange timely information they need to understand and participate in the representation case process.
- Standardize timeframes for parties to resolve or litigate issues before and after elections.
- Require parties to identify issues and describe evidence soon after an election petition is filed to facilitate resolution and eliminate unnecessary litigation.
- Defer litigation of most voter eligibility issues until after the election.
- Require employers to provide a final voter list in electronic form soon after the scheduling of an election, including voters' telephone numbers and email addresses when available.
- Consolidate all election-related appeals to the Board into a single post-election appeals process and thereby eliminate delay in holding elections currently attributable to the possibility of pre-election appeals.
- Make Board review of post-election decisions discretionary rather than mandatory.

For details on the proposed amendments, [view our fact sheet here and summary here.](#)

As the Notice of Proposed Rulemaking states:

The Board believes that the proposed amendments would remove unnecessary barriers to the fair and expeditious resolution of questions concerning representation. The proposed amendments would simplify representation-case procedures and render them more transparent and uniform across regions, eliminate unnecessary litigation, and consolidate requests for Board review of regional directors' pre- and post-election determinations into a single, post-election request. The proposed amendments would allow the Board to more promptly determine if there is a question concerning representation and, if so, to resolve it by conducting a secret ballot election.

Board Member Brian Hayes dissented from the proposed rulemaking. In his opinion,

## In this Section

[Home](#)  
[Rights We Protect](#)  
[What We Do](#)  
[Who We Are](#)  
[Cases & Decisions](#)  
[News & Outreach](#)  
[Reports & Policies](#)

[Get E-mail Updates](#)

[Sign up for updates or to access your subscriber preferences](#)

## Resources

[The NLRB Process](#)

[Find a Case Page](#)

[File Case Documents](#)

[Fact Sheets](#)

[Graphs & Data](#)

[Find Your Regional Office](#)

[FAQs](#)

[Forms](#)

[National Labor Relations Act \(NLRA\)](#)

[Related Agencies](#)

[SHARE](#) 

The Board and General Counsel are consistently meeting their publicly-stated performance goals under the current representation election process, providing an expeditious *and fair* resolution to parties in the vast majority of cases, less than 10 percent of which involve contested preelection issues. Without any attempt to identify particular problems in cases where the process has failed, the majority has announced its intent to provide a more expeditious preelection process and a more limited postelection process that tilts heavily against employers' rights to engage in legitimate free speech and to petition the government for redress. Disclaiming any statutory obligation to provide any preliminary notice and opportunity to comment, the majority deigns to permit a limited written comment period and a single hearing when the myriad issues raised by the proposed rules cry out for far greater public participation in the rulemaking process both before and after formal publication of the proposed rule. The majority acts in apparent furtherance of the interests of a narrow constituency, and at the great expense of undermining public trust in the fairness of Board elections.

[His dissent may be found here.](#)

In the Notice of Proposed Rulemaking, the Board responded to the dissent.

Public comments are invited on all aspects of the proposed rules and should be submitted within 60 days of publication in the *Federal Register*, either electronically to [www.regulations.gov](http://www.regulations.gov), or by mail or hand-delivery to Lester Heltzer, Executive Secretary, NLRB, 1099 14<sup>th</sup> Street NW, Washington DC 20570. Reply comments to the initial comments may be filed during an additional 14 day period. In addition, members of the public will be invited to attend a public hearing, to be scheduled for July 18 and July 19, if necessary, to comment on the proposed amendments and make other suggestions for improving the Board's representation case procedures.

###

[Printer-friendly version](#)