

NLRB Postpones Effective Date of Election Protection Final Rule Until July 31, 2020

By **Stephanie Olivera Mittica**

On March 31, 2020, the National Labor Relations Board (NLRB) announced that it had finalized three amendments to its rules and regulations to protect employees' autonomy concerning representation. These amendments include changes to the NLRB's blocking charge policy, voluntary recognition bar, and Section 9(a) recognition in the construction industry.

- With regard to the blocking charge policy, the amendment provides that elections will not be blocked by pending unfair labor practice charges. Rather, a vote-and-count or a vote-and-impound procedure will govern until the charges are resolved.
- The voluntary recognition bar amendment mandates that, in order for voluntary recognition to bar a subsequent election petition, unit employees must receive notice that voluntary recognition has been granted and be given a 45-day open period to file an election petition.
- Lastly, the Section 9(a) recognition in the construction industry amendment provides that a Section 8(f) bargaining relationship cannot be converted to a Section 9(a) relationship based solely on contract language. Instead, there must be independent evidence of majority employee support. Without such evidence, Section 8(f) bargaining relationships cannot bar petitions for a Board election.

On April 8, 2020, the NLRB also announced that due to the ongoing national emergency caused by the COVID-19 pandemic, the effective date of the final rule, which was published on April 1, 2020, had been postponed for sixty days – from June 1, 2020 to July 31, 2020.

If you have any questions or would like more information, please contact any of the listed attorneys.

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