

FEDERAL JUDGE STRIKES DOWN THE NLRB'S NEW ELECTION RULES

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A federal district court has ruled that the new election procedures recently adopted by the National Labor Relations Board (NLRB) are invalid because they were enacted without the requisite three-member quorum.

Although the court indicated that nothing prohibited the NLRB from assembling a proper quorum and re-enacting the new election procedures, there is some uncertainty about the NLRB's ability to do so. Litigation challenging President Obama's appointments of three NLRB members is currently pending. If a court rules that those appointments are invalid, any rules enacted based on those members' votes could be invalid as well.

The court's ruling is a victory for employers. The new procedures, designed to "streamline" union representation elections, went into effect on April 30, 2012. As many observers recognized, the practical effect of the procedures would have been to reduce employers' ability to communicate with their employees about collective bargaining before an election.

In light of the court's decision invalidating the new procedures, the NLRB has stated that it will process any election petitions filed on or after May 15, 2012, in accordance with its previous procedures and practices.

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