

NLRB Member Kent Y. Hirozawa's Term Expires – But He Left His Mark On U.S. Labor Law

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Kent Y. Hirozawa's term as a National Labor Relations Board ("Board") member expired on August 27, 2016, leaving the Board with three members (the minimum number needed for a quorum). Hirozawa originally was sworn in as an appointee of President Barack Obama on August 5, 2013. Widely viewed as a "pro-labor" Board member, he participated in numerous Board decisions / actions during his three years that pose profound implications for employers. To wit:

- He participated in passing the Board's union election rule changes that took effect in April 2015 and have drastically reduced the time employers have to coordinate and implement union-free campaigns.
- He rendered countless decisions against non-union and union companies alike for maintaining personnel policies that were determined to have violated Section 7 of the National Labor Relations Act, including social media policies and "confidential information" policies.
- He participated in two separate decisions that significantly impact companies using contingent workforces – one decision greatly expanded the Board's definition of "joint-employers" for purposes of liability and collective bargaining, while the other allows both temporary and regular employees of a company to be included in the same bargaining unit even in the absence of consent by both a staffing company and the end user.
- He participated in the blockbuster decision issued a few weeks ago that allows student assistants at private universities to form unions.

These are just *some* of the highlights from his tenure. While President Obama has attempted to re-appoint Hirozawa to a new five year term, it is doubtful the Senate will confirm him. Rather, the Board is likely to continue on with three members until the next president is sworn into office next year, which will give him or her an opportunity to appoint members most aligned with his or her views on labor law.

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