



Can The AFL-CIO Block The NLRB's New Election Rule?

March 13, 2020 | [Labor And Employment, National Labor Relations Board, Unions And Union Membership](#)

Back in December 2019, employers learned that the National Labor Relations Board's dreaded "ambush" election rules would be rolled back, with the NLRB instituting a more reasonable and [employer-friendly approach to union elections](#) in April 2020. However, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) is doing all it can to stop that from happening.

You will recall that [ambush election rules truncated the time period](#) between union petition and election, putting employers in a precarious situation with so little time to educate workers on the benefits of remaining union-free. That is slated to change in April 2020 with the NLRB's new election rules, which will revert back to a longer period between union petition and election, among other positive changes.

This past week, however, [the AFL-CIO sued the NLRB](#) in federal court, arguing that the Board violated administrative law by publishing its rule without going through the notice and comment rulemaking process, and by being arbitrary and capricious. The AFL-CIO seeks to prevent the rule from coming into effect in April. The notice and comment rulemaking process, which was used recently by the Board in establishing its [joint employer rule](#), invites public comment and generally takes much longer to come into force. It remains to be seen whether the AFL-CIO will be successful and if we will have to wait longer than April to see the new rules come into effect.

RELATED PRACTICE AREAS

Labor and Employment
Labor Relations
National Labor Relations Board (NLRB)

RELATED TOPICS

Election Rules