



NLRB Signals Potential Rewrite Of Contract Bar Doctrine

July 10, 2020 | [Labor And Employment, National Labor Relations Board](#)

This week, the NLRB invited briefs on the agency's contract bar doctrine, signaling that it is considering changes to the pro-union rule.

The contract bar doctrine, a creature of NLRB case law, maintains that once a collective bargaining agreement is executed, no representation election can be held in the unit covered by the agreement until it expires, or three years pass, whichever is earlier. The doctrine provides unions a shield against decertification petitions by making it more difficult for employees to petition to rid themselves of an unpopular union that no longer has the support of its members.

In the [Board's invitation to file briefs](#), it raised several issues about the doctrine that could be addressed:

1. The formal requirements for according bar quality to a contract
2. The circumstances in which an allegedly unlawful contract clause will prevent a contract from barring an election
3. The duration of the bar period during which no question of representation can be raised (including the operation of the current "window" and "insulated" periods)
4. How changed circumstances during the term of a contract (including changes in the employer's operation, organizational changes within the labor organization, and conduct by and between the parties) may affect its bar quality

Briefs are due by Sept. 22, 2020, at which point the NLRB will consider changes to the doctrine.

RELATED PRACTICE AREAS

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

RELATED TOPICS

Labor
Labor Contract