



Unblocked: Labor Board Declines To Delay Decert Election Based On Pending ULPs

June 4, 2021 | [Labor And Employment, National Labor Relations Board, Union Organizing](#)



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Last year, the National Labor Relations Board (NLRB) issued a new rule that significantly altered its “[blocking charge policy](#)” that unions often invoke to delay employee efforts to decertify them. The new rule recently was seen in practice when an NLRB region declined to delay a decertification vote based on pending unfair labor practice charges.

[As reported by Bloomberg Law](#): “An NLRB regional director rejected a union’s request to delay a decertification vote due to separate unfair labor practice charges pending against the company in federal court—in effect, declining to provide an exception to a Trump-era election rule that favors management when election disputes arise. The National Labor Relations Board regional director on Tuesday scheduled a decertification election involving workers at Wendt Corp., a New York-based machinery company, who are represented by Iron Workers Shopmen’s Local 576.”

The regional director determined that under the NLRB’s new policy, pending appeals over disputed unfair labor were not, alone, sufficient grounds to delay a vote. He explained in his written opinion: “Notwithstanding the Union’s request, the Board’s blocking charge policy does not contemplate delaying the conduct of an election. Rather, it provides that the Region may impound ballots cast during an election or impede the issuance of a certification of results pending resolution of any outstanding unfair labor practice charge.”

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Under the NLRB's prior "blocking charge" policy, the Board generally allowed unions to block a union election merely by filing a charge alleging unlawful conduct by the employer that would affect employee votes. Unions often used this tactic to delay decertification elections and in situations where they did not believe they had the necessary support to win a certification election.

Under the new policy, however, the NLRB uses a vote-and-impound procedure. Elections are no longer blocked by pending unfair labor practice charges, as seen in this case, but the ballots are impounded until the charges are resolved. This new policy is a welcome change for companies and employees seeking to oust unions.