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Employees Urge NLRB To Overturn The 'Ambush Election Rule'

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Few developments at the National Labor Relations Board (NLRB) in recent years caused as much consternation for employers as the agency's 2015 "ambush election rule." That rule significantly truncated the amount of time a company has to express its opinion to its workforce on potential unionization by its employees prior to an election being held. The [NLRB announced on Dec. 12](#), however, that it was seeking input from the public regarding the rule. According to the agency's press release, the NLRB specifically is evaluating whether the rule should remain as is, be modified, or rescinded in its entirety. The press release provides instructions for submitting feedback. The agency subsequently [announced](#) on March 14 that it was extending the deadline for public comment to April 18.

It appears the agency is being inundated with commentary from various groups, including employees (i.e., the people with the right to unionize under the National Labor Relations Act). In fact, *Bloomberg* is [reporting](#) that at least 100 employees have submitted correspondence urging the agency to undo the ambush election rule. Accordingly, it appears at least some workers share the same concerns as companies in terms of the effect that the ambush rule may have on employees' ability to make an informed decision in a union election.

A recently released [report from the NLRB](#) confirms that the agency's ambush election rule has shortened the time employers have to conduct union

campaigns. Under the old rules, from April 14, 2014, through Jan. 12, 2015, the [median time](#) from a union petition being filed to election was 38 days. For fiscal year 2017, the median time from petition to election was 23 days – more than two full weeks shorter. In other words, that's two weeks less time for companies to vet the issues giving rise to a petition and to implement a communications plan neutralizing those issues in order to remain union free. This follows a [similar report issued by the NLRB](#) previously that also showed shorter campaign windows since the rules went into effect.

A determination on the fate of the ambush rule is expected later this year. Stay tuned.