

The
National Labor Relations Board
and
YOU

Representation Cases



This pamphlet contains a general explanation of what the National Labor Relations Board (NLRB) is and what it does concerning the processing of representation petitions. For future information, contact the nearest NLRB office and ask to speak with the Information Officer.

What is the National Labor Relations Board?

We are an independent Federal agency established to enforce the National Labor Relations Act (NLRA). As an independent agency, we are not part of any other government agency—such as the Department of Labor.

Congress has empowered the NLRB to conduct secret-ballot elections so employees may exercise a free choice whether a union should represent them for bargaining purposes. A secret-ballot election will be conducted only when a petition requesting an election is filed. Such a petition should be filed with the Regional Office in the area where the unit of employees is located. All Regional Offices have petition forms that are available on request and without cost.

Types of Petitions

1) Certification of Representative (RC)

This petition, which is normally filed by a union, seeks an election to determine whether employees wish to be represented by a union. It must be supported by the signatures of 30 percent or more of the employees in the bargaining unit being sought. These signatures may be on paper. Generally, this designation or “showing of

interest” contains a statement that the employees want to be represented for collective-bargaining purposes by a specific labor organization. The showing of interest must be signed by each employee and each employee’s signature must be dated.

2) *Decertification (RD)*

This petition, which can be filed by an individual, seeks an election to determine whether the authority of a union to act as a bargaining representative of employees should continue. It must be supported by the signatures of 30 percent or more of the employees in the bargaining unit represented by the union. These signatures may be on separate cards or on a single piece of paper. Generally, this showing of interest contains a statement that the employees do not wish to be represented for collective-bargaining purposes by the existing labor organization. The showing of interest must be signed by each employee and each employee’s signature must be dated.

3) *Withdrawal of Union-Security Authority (UD)*

This petition, which can also be filed by an individual, seeks an election to determine whether to continue the union’s contractual authority to require that employees make certain lawful payments to the union in order to retain their jobs. It must be supported by the signatures of 30 percent or more of the employees in the bargaining unit covered by the union security agreement. These signatures may be on separate cards or on a single piece of paper. Generally, this showing of interest states that the employees no longer want their collective-bargaining agreement to contain a union-security provision. The showing of interest must be signed by each employee and each employee’s signature must be dated.

4) *Employer Petition (RM)*

This petition is filed by an employer for an election when one or more unions claim to represent the employer’s employees or when the employer has reasonable grounds for believing that the union, which is the current collective bargaining representative,

no longer represents a majority of employees. In the latter case, the petition must be supported by the evidence or “objective considerations” relied on by the employer for believing that the union no longer represents a majority of its employees.

5) Unit Clarification (UC)

This petition seeks to clarify the scope of an existing bargaining unit by, for example, determining whether a new classification is properly a part of that unit. The petition may be filed by either the employer or the union.

6) Amendment of Certification (AC)

This petition seeks the amendment of an outstanding certification of a union to reflect changed circumstances, such as changes in the name or affiliation of the union. This petition may be filed by a union or an employer.

What is a Bargaining Unit?

A bargaining unit is a group of two or more employees who share a “community of interest” and may reasonably be grouped together for collective-bargaining purposes. The NLRB is responsible for ensuring that any election in a representation case is conducted in an appropriate unit. A unit is usually described by the type of work done or job classification of employees—for example, production and maintenance employees or truckdrivers. In some cases, the number of facilities to be included in a bargaining unit is at issue, and a unit may be described by the number of locations to be involved. For example, in the retail industry, the NLRB may need to determine whether employees at a single or whether a bargaining unit consisting of several stores is appropriate. Generally, the appropriateness of a bargaining unit is determined on the basis of the community of interest of the employees involved. The NLRB may also consider factors such as any history of collective bargaining and the desires of the affected employees.

If you file a decertification petition (RD) or petition for the withdrawal of union-security authority (UD), the bargaining unit in which any election is conducted will be the same as the unit that is certified or recognized. You should check your contract for a description of the existing bargaining unit in these cases.

Workers Excluded from NLRA Coverage

The NLRA does not include coverage for all workers. The Act specifically excludes from its coverage individuals who are:

- employed as agricultural laborers
- employed in the domestic service of any person or family in a home
- employed by a parent or spouse
- employed as an independent contractor
- employed as a supervisor
- employed by an employer subject to the Railway Labor Act, such as railroads and airlines
- employed by Federal, state, or local government
- employed by any other person who is not an employer as defined in the NLRA

NLRB's Jurisdiction

In addition, the NLRB has established standards for determining whether it will exercise its juris-

diction over an employer. These jurisdictional standards are based on the volume and nature of business done by an employer, and vary by industry.

For example, the NLRB asserts jurisdiction over employers in the retail business, which have an annual volume of business of at least \$500,000 and which receive or send merchandise across state lines.

When Can A Petition Be Filed?

The NLRB has established certain rules relating to the filing of petitions affecting employees who are covered by an existing contract. Generally, under these “contract-bar” rules, a valid contract for a fixed period of 3 years or less will bar an election for the period covered by the contract. However, in such situations, a petition filed more than 60 days but not more than 90 days before the end of the contract will be accepted and may bring about an election. These time periods for filing petitions involving health care institutions are more than 90 days but not more than 120 days before the end of the contract.

In addition, the NLRB will not hold a representation election in any collective-bargaining unit in which a valid election has been held during the preceding 12 months. This rule does not apply, however, to a withdrawal of union-security (UD) election conducted within 12 months of a representation election (RC, RM, RD), or to a representation election conducted within 12 months of a withdrawal of union security election.

If an election is held and a union is certified by the NLRB, that certification is normally binding for 1 year and a petition for another election in the same unit will be dismissed if filed during the 1-year period after the NLRB's certification.

What Can You Expect, If You File a Petition?

The Information Officer in the NLRB Regional Office nearest you can answer your questions regarding representation petitions and can assist you in completing the petition forms.

If you file a petition, you should be prepared to tell us the name and address of the employer and any labor organization(s) involved. In addition, you must describe the bargaining unit that is the subject of the petition, and the approximate number of employees in the unit. You also will need to tell us whether there is a labor organization that represents you, any other interested labor organization, or any collective-bargaining agreements in effect. If available, you should provide a copy of any current contract between the employer and the union.

You will need to state your current address on the petition form as well as sign it. A copy of the petition will be served on all parties involved.

The showing of interest in support of an RC, RD, or UD petition or the objective considerations in support of an RM petition (whichever is applicable) must be filed with the petition, or within 48 hours after its filing and, when RC and RD petitions are involved, no later than the last day on which the petition might timely be filed. If such proof is not timely submitted, or if the NLRB considers the showing of interest or objective considerations to be insufficient, the petition is subject to dismissal.

After the petition is filed, the case will be assigned to an NLRB agent for processing. If the Region determines that the petition should be processed further, the agent will attempt to secure agreement of the parties regarding the appropriate unit and the eligibility of voters as well as the date, time, and place of the election.

If all parties reach an agreement that is approved by a Regional Director, an election will be

conducted. If agreement cannot be reached, a representation hearing will be conducted before an NLRB Hearing Officer. All parties will have the opportunity to appear and present evidence about the issues in dispute. After the hearing closes, a Regional Director's or Board decision will issue in which an election will be ordered or the petition will be dismissed. Exceptions to a Regional Director's decision can be filed by any party with the NLRB in Washington, D.C.

NLRB Offices

Our office addresses are located in the telephone directory under the United States Government-National Labor Relations Board.

The address and phone number of the office closest to you is: