Weston Hurd LLP
Attorneys at Law

Weston Hurd Client Advisory - March 2012

Effective Date For NLRB's "Quickie" Election Rules Quickly Approaching: Start Your Anti-Union Campaign Now

Prepared by Morris L. Hawk

As we have told you in prior client alerts, the National Labor Relations Board proposed significant changes to its union election rules last summer designed to dramatically shorten the time period between the filing of a union election petition and the holding of an election. Some of these rules are currently scheduled to go into effect on April 30, 2012.

These rules will speed up the union election process by:

1. Taking away an employer's right to challenge certain aspects of the election before the election is conducted;
2. Giving NLRB Hearing Officers the discretion to deny a request for a pre-election hearing or limit the issues that can be raised at the hearing;
3. Eliminating the 25 day waiting period between the issuance of the Hearing Officer's decision and the election date;
4. Giving the full Board in Washington, D.C., the discretion to refuse to consider employer appeals of pre- or post-election challenges.

The takeaway for employers is that it is more important than ever to establish proactive policies to remain a union-free workplace. For example, a meaningful open door policy is vital to keep the lines of communication open with employees. Your managers should not just tell employees what to do. They must also be good listeners. Employees should feel that their complaints of unfair or arbitrary treatment will get a fair hearing by management and that, where appropriate, management will correct an unfair policy or make clear to a supervisor that it is not acceptable to play favorites or otherwise treat an employee unfairly.

In addition, successful union-free employers provide wages and benefits that are comparable to their competitors in their geographic region and, just as importantly, keep their employees advised as to how their compensation compares with others. Employees with that knowledge will not easily fall prey to a union's claim that the "grass is greener on the other side."

Employers may even want to consider implementing an alternative dispute resolution procedure for employees who feel that they have been wrongfully terminated. A properly structured ADR program can not only blunt a union's claim that unions are necessary to protect employees from being unfairly discharged but also provide a way for an employer to avoid expensive court litigation.

Finally, employers should regularly communicate with employees about the tactics of union organizers and the disadvantages of unionization. Employees need to understand that signing an authorization card *does not* just mean that employees get a chance to vote on whether or not they want a union. Employers also need to educate their employees about the competitive disadvantages faced by unionized employers and the dues and assessments that unions charge to their members. Union-free education needs to be a component of the ongoing conversation between an employer and its employees. Under the new Board Rules, an employer that waits until after a union files a petition to start that conversation may not get a meaningful chance to have that conversation at all.

If you have any questions about this or any other labor-related matter, please contact your Weston Hurd attorney.

Morris L. Hawk is a Partner with Weston Hurd LLP. He represents privately-owned and publicly-held corporations in matters involving labor and employment law, commercial litigation, construction and gaming law. Mr. Hawk can be reached at 216.687.3270 or MHawk@westonhurd.com.

For more information about Mr. Hawk and Weston Hurd, please visit Weston Hurd's web site at *www.westonhurd.com*.

About Weston Hurd LLP
With offices in Cleveland, Columbus and Beachwood, Weston Hurd LLP provides comprehensive legal counsel to Fortune 500 companies, insurance carriers, financial institutions, healthcare providers, small- and medium-sized businesses, the real estate industry, governmental agencies, non-profit enterprises and individuals.

For additional information regarding Weston Hurd's Labor publications, please visit the *Publications* page on Weston Hurd's web site. Information about Weston Hurd's Labor Practice Group and its attorneys, can be found on the *Practice Areas* page.

www.westonhurd.com