

April 4, 2014

Mr. Gary Shinnars
Executive Secretary
National Labor Relations Board
1099 14th Street, NW
Washington, DC 20570

Re: Notice of Proposed Rulemaking; Representation-Case Procedures
Docket ID No. NLRB-2011-0002; RIN 3142-AA08

Dear Mr. Shinnars:

I am writing to request that the National Labor Relations Board immediately withdraw the above-referenced Notice of Proposed Rulemaking. The proposal is completely unnecessary and would make drastic changes to long-standing procedures for conducting union representation elections. As President and CEO of the Ohio Grocers Association, I am concerned about the impact that this rule would have on our 400 members serving Ohio's grocery industry.

Specifically, the Board's proposal would trample employees' right to privacy and their right to make an informed choice about union representation. At the same time, the proposed rule would violate members of my Association's Due Process rights and its First Amendment right to communicate with employees about union representation.

Under the proposed rule, a company could face a representation election in as few as 10 days after a union files a petition with the NLRB—far shorter than the current median of 38 days between petition and election. Employers would need to spend the majority of that time finding and retaining legal counsel so they can understand their rights and don't inadvertently violate the law. This would leave almost no opportunity to talk to employees about union representation or respond to any promises union organizers may have made to employees, even though those promises can be and often are completely unrealistic.

The proposal also would require the NLRB hold a pre-election hearing within 7 days of the union filing the petition for election. Under the proposal, a company must raise any legal issues we have with the petition at the hearing or risk waiving our rights on those issues forever. This will leave us little to no time to understand the law and its implications. In most cases, we would simply need to object to everything in hopes we don't waive any of our rights. How does this promote better labor relations or reduce litigation? Furthermore, doesn't it violate companies' Due Process rights?

The NLRB also plans to postpone its determination of exactly which employees would be eligible to be in the union until after the election. In other words, the Board would require employees to vote without knowing specifically which employees would be in the potential bargaining unit. This is simply unfair to employees, who may decide to vote for or against the union based on who will be their fellow union members or shop stewards. Other employees could be forced to make a difficult decision about whether or not to vote to join the union and make that decision public, only to have the Board tell them afterward they are ineligible to be part of the bargaining unit. Finally, by failing to sort out who is and who is not a supervisor prior to the election, the Board creates a legal trap for companies. If an employer treats an employee

like a supervisor and the Board later determines that employee is not, the Board may decide the company's actions were unlawful. Again, how does this promote better labor relations?

I am also very concerned that the NLRB's proposed rule would force my members to turn over confidential information about employees to union organizers, including phone numbers and email addresses. The Board has not specified whether a company would have to supply employees' personal or work contact information (or both). Many employees have unlisted phone numbers, and use personal email addresses for online shopping and banking. They don't want these emails publicized for fear of identity theft. Forcing a company to disclose such personal information is irresponsible, dangerous and unfair to employees. Providing work phone numbers and emails would almost guarantee solicitation and distraction during working time. This has never been allowed in union campaigns and would disrupt and harm my company's business and my employees' lives.

The NLRB's proposed rule represents a devastating blow to free speech, privacy and Due Process rights and will eliminate employees' ability to make informed decisions about union representation. For these reasons, I respectfully urge the Board to withdraw the proposed rulemaking without delay.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nate Filler', with a long horizontal stroke extending to the right.

Nate Filler
President and CEO
Ohio Grocers Association