

From Petition to Election: The Facts

The Impact of NLRB Election Rule Changes 2010-2025

ABA Committee on Practice and Procedure under the NLRA

March 2026

Robert S. Giolito, Santa Monica CA¹

Over the past fifteen years, the NLRB has made three significant changes in its election rules, in 2014, 2019, and 2023. The rule changes in 2014 and 2023 that sought to shorten the time period between petition and election elicited typical howls of dissent from the management bar. For example:

On August 24, 2023, the National Labor Relations Board (NLRB) announced a new final rule for union elections that revives the prior “ambush election” rules. The new rule compresses the time period between the time a representation petition is filed and the actual election. The impact of the rule

¹ I wish to recognize the contribution of the intrepid Matthew Bruenig, publisher of NLRB Edge (<https://www.nlrbedge.com/>), who provided the statistical analysis of NLRB raw data contained in this paper. Matt described his method as follows:

“1. I grab all of the case information from 2010 to present that is available through this form: <https://www.nlr.gov/advanced-search>.

2. For each case number listed in that file (344,000 or so), I download its docket. So, for instance, for case number 06-RC-376503, I download <https://www.nlr.gov/case/06-RC-376503>, which has all of the docket entries in it.

3. Once I have downloaded all of the dockets in (2), I compile every docket entry into a big csv file, and then with that big csv file, I can do this kind of analysis.

So the source of the raw data is just the NLRB website.”

is to make it more difficult for employers to educate employees about unions and unionization prior to a vote.²

The 2019 rule changes that lengthened the petition-election time period and imposed additional delays on the holding of elections elicited similar protests from the union bar:

Under the 2019 rules, employers had more opportunities to bog down organizing and delay voting with expensive and time-consuming litigation and appeals over what job positions to include or exclude, whether certain individuals can vote, or whether multiple facilities should bargain together. These delays too often give employers a longer window of opportunity to harass, intimidate, and discourage workers and hamper organizing.³

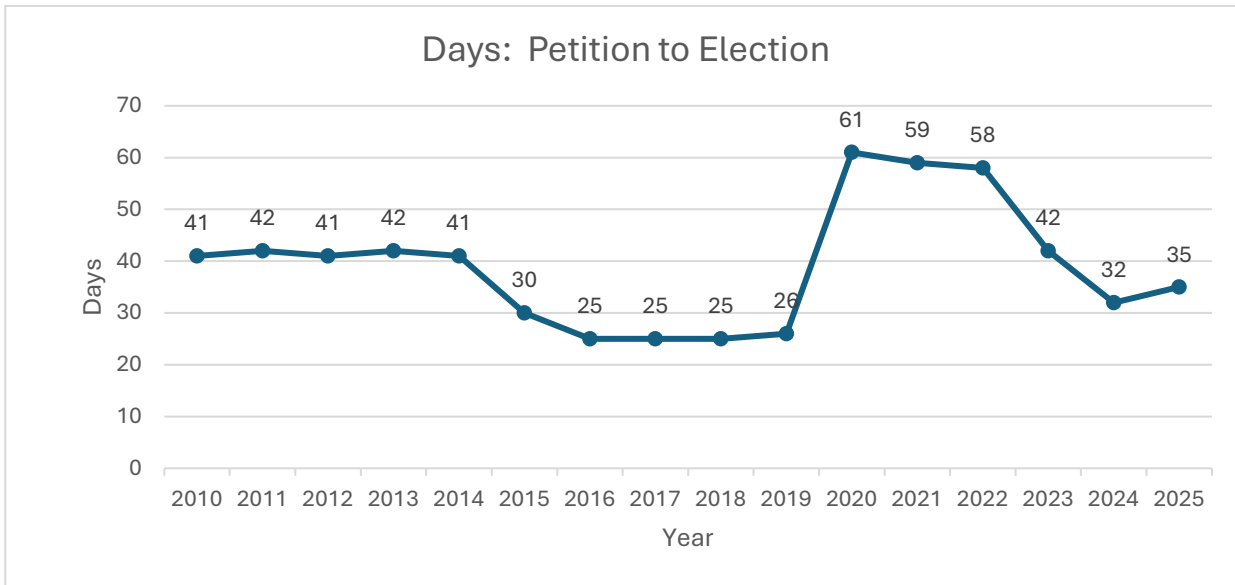
The three rule changes did have the intended effect of either shortening or lengthening the time between petition and election:

Year	Count	Avg Days	Median Days	Min Days	Max Days
2010	806	47.5	41	0	1075
2011	681	61.9	42	0	3472
2012	1011	60.4	41	6	3003
2013	1302	57	42	3	1135
2014	1354	52.6	41	0	1121
2015	1380	39.1	30	2	1702
2016	1164	35.5	25	9	1186
2017	1146	32.5	25	0	1309
2018	937	33.6	25	9	1107
2019	936	34.7	26	0	914
2020	731	71.8	61	13	1079
2021	826	70.3	59	15	791
2022	1239	66.8	58	0	664
2023	1313	53	42	9	654
2024	1520	42.3	32	1	655
2025	1031	42.3	35	8	296

² <https://ogletree.com/insights-resources/blog-posts/nlrb-reverts-to-quick-union-elections-rules/>

³ <https://www.wwdlaw.com/new-rule-restores-faster-simpler-election-procedures-at-nlrb/>

The below chart more vividly shows the effect of the 2019 changes in election times:

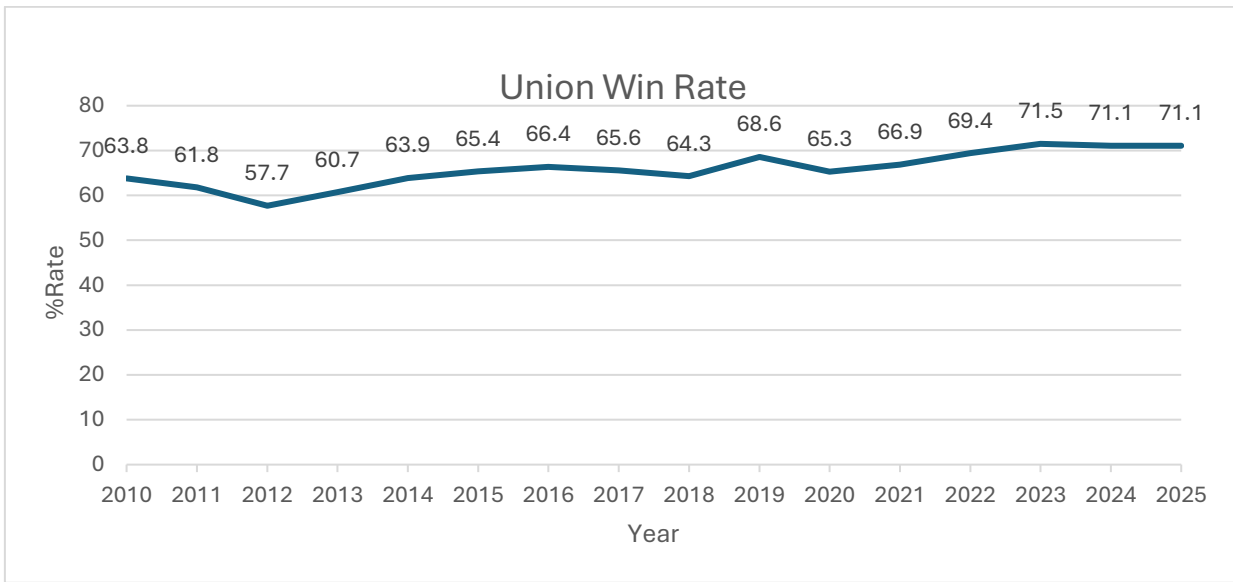


As was anticipated, the 2019 rule changes more than doubled the time between petition and election from a median of 25 days under the 2014 rule to 58.5 days. The changes even increased the election times that existed under the pre-2014 rule, which the 2019 rule allegedly was supposed to restore. On average, the 2019 changes provided employers almost two months’ time to “educate employees about unions.” But the increased times to election, dramatic as they were, failed to achieve the election results that the rule’s advocates expected would result from a longer period of “education.”

In fact, even including the 2019 changes, the Board’s rule changes over the entire 2010-2025 time period have had a remarkably insignificant impact on the actual union election results. Here are the numbers:

Year	Wins	Losses	Other	Total	Win Rate %	Vote %	Workers Unionized
2010	1239	704	40	1983	63.8	62.1	126481

2011	991	612	31	1634	61.8	56.2	70492
2012	940	689	25	1654	57.7	54.6	56667
2013	984	637	26	1647	60.7	60	96735
2014	1070	604	24	1698	63.9	57.6	68690
2015	1179	624	51	1854	65.4	57.8	65991
2016	1046	529	36	1611	66.4	58.4	67048
2017	1046	549	43	1638	65.6	56.5	57862
2018	843	468	19	1330	64.3	56.2	55170
2019	961	439	15	1415	68.6	61.3	53079
2020	633	337	17	987	65.3	57.2	36835
2021	765	378	29	1172	66.9	60.4	39079
2022	1206	533	62	1801	69.4	63.7	69603
2023	1299	518	84	1901	71.5	69.7	101038
2024	1480	601	134	2215	71.1	68	111233
2025	1029	419	175	1623	71.1	64	61926
Total	16737	8655	860	26252	65.9	60.5	1138895



During the entire 2010-2025 period, the union “win rate” has averaged almost 66 percent, deviating slightly from year to year despite significant rule changes. The original 2014 “ambush election” rule caused little change in the win rate. Surprisingly, the 2019 rule reversion also had little effect on the rate. The recent increase in union wins starting in 2023 can likely be explained by the impact

of the national Starbucks campaign that began in 2022 as well as the noticeable increase in popular support for labor unions.⁴ That campaign dramatically increased the number of petitions filed and resulted in over 600 stores winning union certification despite intense management opposition.

So the question for Board policy-makers and advocates on both sides is why spend so much time, effort, and political capital arguing over changes to the election rule when they apparently have little if any effect on the real issue: union election wins. Having practiced extensively under all the rule changes, I can tell you that the 2019 changes, while having minimal impact on election outcomes, did require substantially more form filing, brief writing, and overall litigation. Cui bono?

For those interested, the appendix to the digital file of this paper contains a Region by Region breakdown during the 2010-2025 time period of the days between the filing of the petition and the election held in that Region. There are some significant disparities. Again, kudos to Matt Bruenig for this statistical feat.

/rsg

⁴ Popular support for unions has recently reached levels not seen since the 1960s. See, e.g., <https://www.americanprogress.org/article/everybody-likes-unions/>