

Top Five Labor Law Developments for December 2023

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Meet the Authors



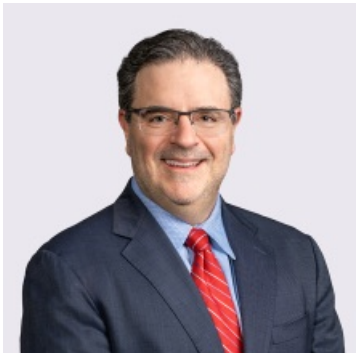
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1. *The National Labor Relations Board's General Counsel provided guidance on the "reinstated" expedited election rules governing union representation procedures.* [Memorandum GC 24-02](#). The memo stems from the new election rules – issued through an August 2023 Final Rule – that establish tight timelines for hearing dates and elections, thus shortening the amount of time for employers to respond to union election petitions. Pre-election litigation will be limited to issues “necessary to determine whether an election should be conducted,” and any resulting hearings will happen more quickly. Further, any litigation regarding employee eligibility will be deferred until after the election, which will be scheduled for the “earliest date practicable.” Expedited election rules first went into effect in April 2015 under the Obama-Board, but they were overhauled by the Trump-Board in December 2019. The current election rules went into effect on Dec. 26, 2023.
2. *The Board's Republican seat remains open despite a year-long vacancy.* The Board has been without a second Republican member since December 2022, when Board Member John Ring retired. As discussed during a recent House Committee on Education and the Workforce hearing, President Joe Biden has not announced a replacement, despite the Senate confirming Democratic Board Member Gwynne Wilcox to a second term in September. The vacancy means each three-member panel selected to rule on a case has had a Democratic majority. Although Republicans were assured during Wilcox's confirmation vote that a Republican nominee would soon follow, that has not yet happened.
3. *The Biden Administration announced a final rule requiring project labor agreements (PLAs) for most large-scale federal construction projects.* [88 Fed. Reg. 88708](#). The rule implements an executive order issued in 2022 that requires PLAs (“pre-hire collective bargaining agreement[s] unique to construction”) on projects where the estimated cost to the federal government totals at least \$35 million dollars, unless an exception applies. In a press release, the White House stated the rule will increase efficiency on construction projects because all parties – including contractors, subcontractors, and unions – are required to negotiate the set terms. The rule also aims to improve efficiency in procurement by reducing the risk of delays associated with work stoppages, ensure a steady supply of workers, promote competition, and ensure parties agree to dispute resolution procedures. The new rule will take effect Jan. 22, 2024.
4. *Microsoft and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) announced a partnership to incorporate labor in technology.* In a press release, Microsoft explained the alliance is aimed “to

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create an open dialogue to discuss how artificial intelligence (AI) must anticipate the needs of workers and include their voices in its development and implementation.” The partnership’s goals include sharing information on AI trends, incorporating worker perspectives in the development of AI technology, and helping shape public policy to support frontline workers. The alliance appears to mark the first partnership between a union and a technology company.

5. *Washington Post* journalists and staffers reached a tentative agreement with the newspaper following a one-day strike. The agreement between the Washington Post and the Post Guild, which represents approximately 1,000 of the newspaper’s workers, ends 18 months of contentious contract negotiations. If ratified, the agreement will provide the workers with an immediate \$30 per week wage increase, with an additional 2.5 percent increase in April 2024. It also provides additional wage increases over the three-year contract. Further, the newspaper will be required to give 60 days’ notice before changing the current hybrid work schedule. The agreement was reached after workers went on strike for the first time in 50 years.

Please contact a Jackson Lewis attorney if you have any questions about these developments.

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