

Preface to the November 2025 Edition

Federal Labor Law: NLRB Practice, now written by Dr. James Ottavio Castagnera, summarizes the rules, regulations, and decisions which have guided the National Labor Relations Board, courts, and labor lawyers through the years, including areas such as contract administration and enforcement, internal union affairs, and antitrust issues.

Among the materials updated in this November 2025 edition of *Federal Labor Law: NLRB Practice* are:

- **§ 1:1. Historical perspective:** In recent decades, as the trend has been for one party's NLRB to create a set of rules and standards, and then, when the other party takes over, many of those rules will be swept away in whole or in part.
- **§ 1.5 The NLRB in 2025 [New]:** President Trump, in the beginning of his second term, fired a number of higher-level federal employees, including NLRB General Counsel Jennifer Abruzzo and NLRB Member Gwynne Wilcox.
- **§ 2:1. NLRB structure:** General Counsel Abruzzo's various memoranda are, in essence, moot, since her firing by President Trump.
- **§ 2:2. Representation election function:** Nothing better exemplifies the political pendulum that has held sway over the NLRB better than the foregoing yin and yang of representation-election rules.
- **§ 3:2. Standard of review:** Whether the courts of appeal will feel compelled to revisit the deference they have traditionally given the NLRB remains to be seen.
- **§ 4:1. Scope and overview of NLRB jurisdiction and coverage:** The NLRB at present is becalmed by the President's apparent reluctance to, or at least disinterest in, nominating additional Members to bring the agency up to strength.
- **§ 4:18. Supervisors:** Supervisors may form a union, but if they do, they can be fired with impunity, so far as federal labor law is concerned.
- **§ 4:23. Collegiate athletes [Retitled]:** Unless Member Wilcox ultimately is reinstated and/or President Trump nominates new Members, the issue of collegiate athlete employee status under the NLRA must remain in limbo.
- **§ 4:24. Independent contractors:** The vast expansion of remote work during the COVID-19 pandemic, as well as the proliferation of so-called "gig workers" with the advent

of Uber, Lyft and similar Internet-based services, combined to further blur the distinction between employees and independent contractors

- **§ 4:25. Immigrants [Renumbered]:** Upon being inaugurated, President Trump wasted no time in initiating actions to make good on the campaign promise to deport a million or more undocumented migrants.
- **§ 5:1. Introduction to organizational and representation rights:** As of mid-2025, the NLRB was comprised of only two of the required five Members, and lacking a quorum (at least three Members), it was unable to meaningfully act.
- **§ 5:2. Concerted activity:** Although only a tiny fraction (roughly 6%) of the private-sector workforce is unionized in 2025, it is essential for all private-sector enterprises and organizations to realize that Section 7 applies to them and their non-unionized employees.
- **§ 6:6. Neutrality agreements and card-check recognition agreements:** Whether *Cemex* will survive the second Trump Administration remains to be seen.
- **§ 8:9. Contract bar rules:** The Fair Choice-Employee Voice Final Rule, codified at 29 C.F.R. § 103.20-21, became effective on September 30, 2024.
- **§ 9:20. Prehire contracts in building and construction:** The Fair Choice-Employee Voice rule, effective September 30, 2024, grants parity between unions in the construction industry and other unions, and allows construction-worker unions to more readily establish the same protections as other unions, providing a more stable foundation for collective bargaining.
- **§ 16:7. Employment laws—Fair Labor Standards Act:** The DOL's 2020 Joint Employer Rule, which narrowed the scope of joint employer liability, was rescinded, reverting to a broader standard.
- Statutes, regulations, and forms in the Appendices.

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