

Upcoming Labor Changes—“Micro Units”

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Nearly a year after his inauguration, President Biden has completed the shift of the National Labor Relations Board (“NLRB”) to a pro-union majority. See our prior article [here](#). The reconstituted NLRB will devote significant time reviewing and changing important labor law precedents and rules during the coming year. These changes will likely make it increasingly challenging for employees and employers to remain union-free.

One of the NLRB’s first reversals will likely relate to the use of “micro-units” when unionizing a facility. Typically, a union seeks to represent all employees who share a “community of interest,” which generally results in a plant-wide group of employees. To prevail, a union must convince the majority of eligible employees to support the union. That is often difficult for the union, especially in the southeast where unionization rates are very low. A micro-unit, however, allows a union to reduce opposition by focusing on a sub-set of employees and unionizing them.

Historically, the NLRB has carefully examined whether employees in a proposed micro-unit share a community of interest with the other employees within the facility. Earlier this month, however, the NLRB announced that it will soon reconsider the legal precedent used when deciding whether a micro-unit is appropriate. The likely result will be the NLRB setting a legal standard that makes it easier for a union to establish a micro-unit within a facility as part of a unionization effort.

In addition to micro-units, in 2022 the NLRB will likely make other significant changes directly impacting employees and employers, ranging from the content of employee handbooks to the union campaign process. Nexsen Pruet will continue highlighting these important, upcoming labor law changes in the coming weeks.