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UPDATE: D.C. Circuit Strikes Down NLRB Successor Bar in Major Post-Loper Bright Ruling

Labor Relations Update on **July 22, 2026**

On July 21, 2026, the D.C. Circuit issued a significant post-*Loper Bright* decision rejecting the National Labor Relations Board's ("Board") successor-bar doctrine. In *Hospital Menonita de Guayama, Inc. v. NLRB*, No. 22-1163 (D.C. Cir. July 21, 2026), a divided panel held that the Board lacked statutory authority to impose the successor bar—a rule that temporarily prevents challenges to an incumbent union's majority status after a new employer acquires a unionized business. The ruling is among the first appellate decisions to reject an NLRB doctrine following the Supreme Court's elimination of *Chevron* deference, signaling that courts may no longer defer to Board policy judgments lacking a clear statutory basis.

The decision follows the Supreme Court's remand of the case for further consideration in light of *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024), discussed here.

The Successor Bar

The successor-bar doctrine applies when a new employer acquires a unionized business and must recognize the incumbent union. Under the doctrine, the union's status as bargaining representative is insulated from challenge for up to one year after the transition, which the Board has defended as promoting labor-relations stability during ownership changes.

Background

The case arose after Hospital Menonita de Guayama ("Hospital") acquired a unionized hospital and became a successor employer. Though the Hospital initially recognized the incumbent union, it later received evidence that employees in each of the five bargaining units no longer supported the union and withdrew recognition.

The Board found a violation of the National Labor Relations Act ("NLRA"), reasoning that the successor bar required the Hospital to recognize and bargain with the union for a reasonable period regardless of majority support.

The D.C. Circuit initially upheld the Board's decision. After *Loper Bright* overruled *Chevron* deference, the Supreme Court vacated that ruling and remanded the case.

The D.C. Circuit's Decision

On remand, the D.C. Circuit held that the successor bar is inconsistent with the NLRA. The majority emphasized that the doctrine "effectively compels employers to bargain" with an incumbent union even where the union lacks majority support, violating Sections 7 and 9 of the Act. The court also rejected the Board's policy arguments for the successor bar.

After *Loper Bright*, the majority explained, the question was not whether the successor bar was a "reasonable" policy, but whether the Board had statutory authority to impose it. The court held the Board "lacks authority to impose such a rule."

Takeaways

This decision is a major development in the post-*Loper Bright* landscape. While there was some question as to whether and how the Supreme Court's decision applied to the NLRA's statutory framework (as we covered here), the D.C. Circuit's ruling signals that this key court may no longer automatically defer to NLRB policy judgments (as it did under *Chevron*), and will instead independently examine whether the Board acted within the authority Congress granted. Notably, all reviewable Board orders can be appealed to the D.C. Circuit, in addition to the circuit with jurisdiction over the relevant NLRB Region.

For successor employers, the decision does not overturn the successor bar doctrine at the Board level. Employers will need to wait for the Board itself to reconsider the doctrine or for the Supreme Court to weigh in.

We will continue to monitor whether the Board seeks further review and whether other NLRB doctrines face similar challenges in the wake of *Loper Bright*.

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