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LEGISLATIVE ACTION ALERT



United States National Labor Relations Board

December 23, 2019 – Washington DC – In a decision released today in *United Parcel Service, Inc.*, 369 NLRB 1 (2019):

The National Labor Relations Board returned to its traditional standard for post-arbitral deferral. The post-arbitral deferral standard is used by the Board to decide whether to defer to an arbitrator's prior resolution of a grievance concerning an employee's discipline or discharge that has been alleged to violate the National Labor Relations Act. Under the restored standard, the Board will defer to the arbitrator's decision where (1) the arbitral proceedings appear to have been fair and regular, (2) all parties have agreed to be bound, (3) the arbitrator considered the unfair labor practice issue, and (4) the arbitrator's decision is not clearly repugnant to the Act.

Today's decision overrules *Babcock & Wilcox Construction Co., Inc.*, 361 NLRB (2014), and represents a return to the post-arbitral deferral standards set forth in *Spielberg Mfg. Co.*, 112 NLRB 1080 (1955), and *Olin Corp.*, 268 NLRB 573 (1984). In addition, the decision restores policies for pre-arbitral deferral established in *United Technologies Corp.*, 268 NLRB 557 (1984), and for deferral to pre-arbitral settlement agreements set forth in *Alpha Beta Co.*, 273 NLRB 1546 (1985).

Under the restored traditional standard, the Board will continue to safeguard the exercise of Section 7 rights—particularly by ensuring that arbitral awards are not clearly repugnant to the Act—while better promoting the strong federal policy in favor of arbitration as the parties' agreed-upon mechanism for resolving employment disputes.

Chairman John F. Ring and Members Marvin E. Kaplan and William J. Emanuel participated in the case.

The decision can be found [here](#).