



Fact Sheet: NLRB's Election Rule Reforms

The National Labor Relations Board's (NLRB) proposed amendments to election rules would modernize the system that workers use to decide if they want to form a union. These reforms would strengthen workers' rights by preventing delays and frivolous litigation from interfering with their ability to vote for or against forming a union in a fair and timely fashion.

The Modest Reforms Provide Consistency and Remove Unnecessary Obstacles to Voting

- **The Existing election system is vulnerable to abuse and delays.** Under the current system, employers can delay an election through litigation, appeals, and duplicative procedures. If an employer takes advantage of opportunities for delay that involve a decision by the Labor Board, the average time before workers can vote is 198 days – and in some cases getting to a vote can take years. These extensive delays hurt workers because they provide opportunities for intimidation. [[University of California, Berkeley – Center for Labor Research and Education](#), 6/11]
- **The election process impedes workers' ability to organize.** Although 53% of workers want to be represented in their workplace, the broken election process results in 7% of private sector workers have a union. Between 1997 and 2009, the number of union elections conducted by the NLRB declined by 60%. This low rate is a result of process plagued by coercion and hostility towards workers. One in five workers who openly advocate for unions during an election campaign are fired. As a result of these tactics, 35% of workers give up and withdraw from the election before a vote is held. [[EPI](#), 2/28/07; [CEPR](#), 1/07; [Cornell University](#), 2008; [BLS](#), accessed on 4/16/12]
- **The new rules would eliminate opportunities for obstruction.** In December, 2011, the NLRB finalized a rule creating a uniform process for resolving pre- and post-election disputes so that disagreements can't be used to halt the election process. The new NLRB rule gives both sides a chance to make their case, while removing barriers that workers now face when they want a simple up-or-down vote. The rule is set to take effect on April 30, 2012. [[NLRB](#), accessed on 4/12/12]

These Reforms Create a Level Playing Field that Ensures Employee Rights

- **Employers already communicate with workers well before an election petition is filed.** As evidence, almost half of the instances where employers retaliate against union supports occur before an election petition is filed. [[Columbia University](#), 1/11]

- **The NLRB rule doesn't change employers' right to communicate with workers.** Employers can still require workers to meet one-on-one with supervisors, or to participate in repeated large group meetings to watch anti-union videos, and can still say anything they want to workers that is legal under current law. [[NLRB](#), accessed on 4/12/12]
- **The new, more efficient procedures will apply to decertification elections as well.** Since the same rules will apply to decertification elections, the proposed rule will ensure that employees who have union representation will be able to have a timely up-or-down vote to get rid of the union. [[NLRB](#), accessed on 4/12/12]

Many Businesses Support Reforms Like These

- **Coalitions of large employers recognize that they system is broken.** Starbucks, Whole Foods, and Costco have embraced even more dramatic reforms than the NLRB rule to address the flawed election process. [[Reuters](#), 3/21/09]
- **Many employers recognize that the new rules are fair.** Catholic Healthcare West, a company with 31,000 employees, filed comments stating that the “reforms proposed by the NLRB are not pro-union or pro-business, they are pro-modernization.” And Willie West, founder and owner of West Sheet Metal Company in Sterling, VA, wrote that “[t]hese seemingly minor changes certainly do not create uncertainty for me and they will not affect my ability to create jobs. In fact, if the NLRB standardizes the election process, it seems to me that this will reduce uncertainty and turmoil in the workplace — especially for small businesses.” [[Catholic Healthcare West](#), 7/18/11; [The Hill](#), 10/26/11]