

# FACT SHEET

## Workers' Rights

### Employer Interference with Workers' Freedom to Form Unions:

- The National Labor Relations Act (NLRA) was enacted to guarantee workers' freedom to form unions free from employer interference, but today the NLRA provides no such guarantee. Loopholes and weaknesses in U.S. law allow employers to engage with impunity in tactics designed to suppress workers' freedom to organize. Indeed, studies show that workers who seek to exercise this fundamental right are routinely harassed, threatened, intimidated, retaliated against and even fired.
- According to recent studies, 25 percent of employers whose workers try to organize a union fire at least one worker for union activity. Although discrimination against union supporters is prohibited by the NLRA, the penalties are so weak and ineffective they fail to deter employers from engaging in such conduct. Employers who violate the law also can easily drag out legal proceedings until long after union supporters have been fired or intimidated.
- Employers don't have to resort to illegal tactics to suppress their workers' freedom to organize, because many forms of employer interference and coercion are perfectly legal under the NLRA. For example, the NLRA's one-sided communication rules allow employers to wage coercive anti-union campaigns in the workplace while unions are severely limited in their ability to communicate with workers.
- There is a burgeoning industry of consultants who train employers in how to thwart their employees' desire for union representation. Seventy-five percent of employers faced with organizing campaigns hire anti-union consultants who specialize in implementing campaigns to convince employees that forming a union would have a negative impact on their lives.
- To avoid the lengthy and bitter anti-union campaign that typically occurs when workers seeking union representation petition for a National Labor Relations Board (NLRB) election, workers and employers increasingly are bypassing NLRB-sponsored elections, instead determining whether a majority of workers wants a union through a less confrontational procedure known as card-check. Under this process, the employer and the union agree that when a majority of the workers sign a union authorization card or petition, the employer will voluntarily recognize the union and negotiate a first contract. Employers who enter into a card-check agreement often—though not always—agree to remain neutral through the process, and unions in return often agree to refrain from engaging in picket lines, protests or strikes during the organizing campaign.

### Protecting the 40-Hour Workweek:

- After decades of struggle by workers for reasonable working hours, Congress in 1938 enacted the Fair Labor Standards Act (FLSA), which requires employers to pay workers one-and-a-half times their regular rate of pay for work performed in excess of 40 hours per week. The overtime pay requirement works to protect workers against excessive work hours and, in addition, millions of workers depend on cash overtime to make ends meet.



# TALKING POINTS

## Workers' Rights

- The freedom to form a union and bargain collectively is a fundamental right, but because of loopholes and weaknesses in the law, workers in fact face enormous obstacles when they seek to exercise this basic right.
- Penalties against employers who illegally fire or discriminate against workers because of their union activities are too weak to effectively deter employers from engaging in such conduct. Moreover, many forms of employer interference and coercion actually are considered perfectly legal under the National Labor Relations Act (NLRA).
- Employers' anti-union campaigns not only interfere with workers' fundamental rights to organize, they also have tremendous negative consequences for employer-employee relations that can last for a long time.
- Under the Fair Labor Standards Act (FLSA), employers are required to pay workers one-and-a-half times their regular rate of pay for work performed in excess of 40 hours per week. This is the only protection against excessive hours that workers have, and many workers also depend on their earnings from overtime to make ends meet.
- "Comp time" legislation that has been proposed in Congress would allow employers to offer compensatory time off instead of time-and-a-half overtime. Proponents say this would give workers more flexibility and control over their schedules, but the truth is that it would cut worker pay, lead to longer hours of work and give employers more control over workers' schedules.

### Action Steps—Tell Your Members of Congress:

- **Members of Congress should defend the freedom to form a union and bargain collectively by showing support for workers in their communities who are attempting to exercise this fundamental right.**
- **Congress should oppose any legislation that would ban or in any way limit the ability of employers to voluntarily recognize unions on the basis of authorization cards or other reliable evidence of majority support for the union, or that would limit the ability of unions and employers to enter into neutrality agreements.**
- **Congress should oppose proposals that would substitute comp time for overtime pay. If Congress truly is concerned about giving workers more control over their schedules, it should instead give priority to enacting legislation giving workers the right to refuse excessive overtime.**

