

Fact Sheet on the National Labor Relations Board

What Is the NLRB?

The National Labor Relations Board is an independent federal agency created by Congress in 1935 to administer the National Labor Relations Act, the primary law governing relations between unions and employers in the private sector. The statute guarantees the right of employees to organize and to bargain collectively with their employers or to refrain from all such activity. Generally applying to all employers involved in interstate commerce--other than airlines, railroads, agriculture, and government--the Act implements the national labor policy of assuring free choice and encouraging collective bargaining as a means of maintaining industrial peace. Through the years, Congress has amended the Act and the Board and courts have developed a body of law drawn from the statute.

What Does the NLRB Do?

In its statutory assignment, the NLRB has two principal functions: (1) to determine, through [[secret-ballot elections](#),] the free democratic choice by employees whether they wish to be represented by a union in dealing with their employers and if so, by which union; and (2) to prevent and remedy unlawful acts, called [[unfair labor practices](#),] by either employers or unions. The agency does not act on its own motion in either function. It processes only those charges of unfair labor practices and petitions for employee elections that are filed with the NLRB in one of its 51 Regional, Subregional, or Resident Offices.

What Is the NLRB's Structure?

The agency has two major, separate components. The *Board* itself has five Members and primarily acts as a quasi-judicial body in deciding cases on the basis of formal records in administrative proceedings. Board Members are appointed by the President to 5-year terms, with Senate consent, the term of one Member expiring each year. The current Members of the Board are Chairman Robert J. Battista, Wilma B. Liebman, Dennis P. Walsh, Peter C. Schaumber, and R. Alexander Acosta. The *General Counsel*, appointed by the President to a 4-year term with Senate consent, is independent from the Board and is responsible for the investigation and prosecution of unfair labor practice cases and for the general supervision of the NLRB field offices in the processing of cases. The current General Counsel is Arthur F. Rosenfeld. Each Regional Office is headed by a Regional Director who is responsible for making the initial determination in cases arising within the geographical area served by the region.

How Are Unfair Labor Practice Cases Processed?

When an unfair labor practice (ULP) charge is filed, the appropriate field office conducts an investigation to determine whether there is reasonable cause to believe the Act has been violated. If the Regional Director determines that the charge lacks merit, it will be dismissed unless the charging party decides to

withdraw the charge. A dismissal may be appealed to the General Counsel's office in Washington, D.C.

If the Regional Director finds reasonable cause to believe a violation of the law has been committed, the region seeks a voluntary settlement to remedy the alleged violations. If these settlement efforts fail, a formal complaint is issued and the case goes to hearing before an NLRB Administrative Law Judge. The judge issues a written decision that may be appealed to the five-Member Board in Washington for a final agency determination. The Board's decision is subject to review in a U.S. Court of Appeals. Depending upon the nature of the case, the General Counsel's goal is to complete investigations and, where further proceedings are warranted, issue complaints if settlement is not reached within 7 to 15 weeks from the filing of the charge. Of the total ULP charges filed each year [about 30,000], approximately one-third are found to have merit of which over 90% are settled.

What Authority Does NLRB Have to Secure Injunctive Relief from a Court?

Section 10(j) of the National Labor Relations Act empowers the NLRB to petition a federal district court for an injunction to temporarily prevent unfair labor practices by employers or unions and to restore the status quo, pending the full review of the case by the Board. In enacting this provision, Congress was concerned that delays inherent in the administrative processing of unfair labor practice charges, in certain instances, would frustrate the Act's remedial objectives. In determining whether the use of Section 10(j) is appropriate in a particular case, the principal question is whether injunctive relief is necessary to preserve the Board's ability to effectively remedy the unfair labor practice alleged, and whether the alleged violator would otherwise reap the benefits of its violation.

Under NLRB procedures, after deciding to issue an unfair labor practice complaint, the General Counsel may request authorization from the Board to seek injunctive relief. The Board votes on the General Counsel's request and, if a majority votes to authorize injunctive proceedings, the General Counsel, through his Regional staff, files the case with an appropriate Federal district court.

In addition, Section 10(l) of the Act *requires* the Board to seek a temporary federal court injunction against certain forms of union misconduct, principally involving "secondary boycotts" and "recognitional picketing." Finally, under Section 10(e), the Board may ask a federal court of appeals to enjoin conduct that the Board has found to be unlawful.

Glossary of NLRB Terms

charge--An allegation made by an individual, employer or labor organization of an unfair labor practice under the Act. Charges are filed at NLRB's regional offices.

complaint--If, after investigating a charge, the regional office finds merit and no settlement is reached, the Regional Director serves a complaint in the name of the Board stating the unfair labor practices and containing a notice of hearing before an Administrative Law Judge. The complaint does not constitute a finding of wrongdoing but raises issues to be decided by the judge.

administrative law judge--As with other federal agencies (such as the Labor Department or Social Security Administration), the NLRB has a corps of judges who conduct hearings at which the parties present evidence. These judges work for the NLRB (i.e., they are not federal district court judges). Decisions of Administrative Law Judges can be appealed to the five-member Board in Washington, D.C.

good faith bargaining--Section 8(d) of the Act states in part: "To bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession..."

impasse--A deadlock in negotiating between management and officials over terms and conditions of employment. Whether an impasse in bargaining exists "is a matter of judgment," the Board said in its 1967 decision in *Taft Broadcasting Co. v. AFTRA*, and depends on such factors as "bargaining history, the good faith of the parties in negotiations, the length of the negotiations, the importance of the issue or issues as to which there is disagreement, the contemporaneous understanding of the parties as to the state of negotiations."

Further information -- Contact Dave Parker, Director of Information at 202/273-1991 [FAX 202/273-1789].



January 31, 2003

**YOUR
GOVERNMENT
CONDUCTS
an**

ELECTION

For you—on the job

**Information for Voters in
NLRB Elections**



Prepared by the
NATIONAL LABOR RELATIONS BOARD
an agency of the
UNITED STATES GOVERNMENT

General Information

Prior to any election conducted by the NLRB there will be posted at the place of your work a Notice of Election issued by the NLRB to inform you of:

- The date, hours, and place of the election
- The payroll period for voter eligibility
- A description of the voting unit of employees
- General rules as to conduct of elections.

There is a sample ballot on the Notice of Election which, except for color, is a reproduction of the ballot you will receive when you vote.

You should read the Notice of Election so that you will be familiar with the ballot.

The Voting Place

In the voting place will be a table, a voting booth, and a ballot box. At the table there will be observers for the union and the employer and a representative of the NLRB, each of whom will be wearing an official badge. The observers' badges will have "Observer" on them. The NLRB representative will wear an "Agent" badge.

The Agent is in charge of the election. If you have questions, talk only with the Agent.

The Voting Procedure

Step 1 Go to the voting table, stand in line if necessary.

Step 2 Give your name, and clock number if you have one, to the observers. The observers will find your name on the voting list and tell the Agent your name has been found. If any questions are asked, talk only with the Agent. Do not speak with the observers.

Step 3 After your name has been checked off, go to the Agent to obtain your ballot.

Step 4 Go into the vacant voting booth. Mark your selection on the ballot with one X only. Do not sign the ballot. Fold the ballot to hide the mark and leave the voting booth taking your ballot with you.

Step 5 Put your ballot in the ballot box yourself. Do not let anyone else touch it.

Step 6 Leave the polling place.

You will notice that only the Agent handled the blank ballots and only you handled your marked ballot. Once your marked ballot is in the ballot box it becomes mixed with all other ballots in the box and cannot be identified. No one can determine how you have voted.

Challenged Ballots

Questions sometimes arise about eligibility of certain persons. Any observer or the NLRB representative can challenge, however, must be for good cause and not for personal reasons; for example, a name may not appear on the eligibility list because of a clerical error.

If your vote is challenged, take your ballot into the booth, mark it, fold it to keep the mark secret, and return to the voting table. The Agent will give you a challenged ballot envelope on the stub of which are written your name and clock number and the reason for the challenge. You put the ballot in the envelope. You seal the envelope, and you deposit it in the ballot box.

You will note that while your name is on the stub of the envelope it is not on the ballot.

Secrecy of your vote is maintained because if challenged ballots must be counted and if later investigation reveals challenged voters are eligible to vote, the stub containing the name and clock number of the individual voter is first torn off and discarded. All challenged ballot envelopes are then mixed together. The ballots are then removed and counted by the Board Agent. By this method secrecy is maintained.

Rights of Employees

You are entitled by federal law to vote your free choice in a fair, honest, secret-ballot election to determine whether employees want union representation.

The National Labor Relations Board is the agency of the United States Government which protects that right as well as other important rights guaranteed by the National Labor Relations Act of 1935.

Under Section 7 of the National Labor Relations Act, employees have the right:

- To self-organization.
- To form, join, or assist labor organizations.
- To bargain collectively through representatives of their own choosing.
- To act together for the purposes of collective bargaining or other mutual aid or protection.
- To refuse to do any or all of these things. However, the union and employer, in a State where such agreements are permitted, may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administrative, and grievance adjustment).

The National Labor Relations Board wants all eligible voters to be familiar with their rights under the law and wants both employers and unions to know what is expected of them when it holds an election.

When an election is held, the Board protects your right to a free choice under the law. Improper conduct will not be permitted. We expect all parties to Board elections to cooperate fully with this Agency in maintaining basic princi-

ples of a fair election as expressed by law. The National Labor Relations Board as an agent of the United States Government does not endorse any choice in the election.

Protection of Your Rights

The Board applies rules to keep its election fair and honest. If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct which interfere with the rights of employees and may result in the setting aside of the election:

- Threatening loss of jobs or benefits by an employer or a union.
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises.
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity.
- Making campaign speeches to assembled groups of employees on company time within the 24-hour period before the election.
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals.
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

The National Labor Relations Board protects your right to a fair election and a free choice

The National Labor Relations Board
is a public service agency and welcomes visits to its
offices for information. For more information, see the
NLRB website: www.nlr.gov

MAIN OFFICE: Washington, DC 20570-0001
1099 14th Street, N.W., Telephone (202) 273-1000

Field Offices of NLRB:

Albany, NY (518) 431-4155	Los Angeles, CA (310) 235-7352
Albuquerque, NM (505) 248-5125	Memphis, TN (901) 544-0018
Anchorage, AK (907) 271-5015	Miami, FL (305) 536-5391
Atlanta, GA (404) 331-2896	Milwaukee, WI (414) 297-3861
Baltimore, MD (410) 962-2822	Minneapolis, MN (612) 348-1757
Birmingham, AL (205) 731-1062	Nashville, TN (615) 736-5921
Boston, MA (617) 565-6700	Newark, NJ (973) 645-2100
Brooklyn, NY (718) 330-7713	New Orleans, LA (504) 589-6361
Buffalo, NY (716) 551-4931	New York, NY (212) 264-0300
Chicago, IL (312) 353-7570	Oakland, CA (510) 637-3300
Cincinnati, OH (513) 684-3686	Overland Park, KS (913) 967-3000
Cleveland, OH (216) 522-3716	Peoria, IL (309) 671-7080
Denver, CO (303) 844-3551	Philadelphia, PA (215) 597-7601
Des Moines, IA (515) 284-4391	Phoenix, AZ (602) 379-3361
Detroit, MI (313) 226-3200	Pittsburgh, PA (412) 395-4400
El Paso, TX (915) 565-2470	Portland, OR (503) 326-3085
Fort Worth, TX (817) 978-2921	St. Louis, MO (314) 539-7770
Grand Rapids, MI (616) 456-2679	San Antonio, TX (210) 472-6140
Hartford, CT (860) 240-3522	San Diego, CA (619) 557-6184
Honolulu, HI (808) 541-2814	San Francisco, CA (415) 356-5130
Houston, TX (713) 209-4888	San Juan, PR (787) 766-5347
Indianapolis, IN (317) 226-7430	Seattle, WA (206) 220-6300
Jacksonville, FL (904) 232-3768	Tampa, FL (813) 228-2641
Las Vegas, NV (702) 388-6416	Tulsa, OK (918) 581-7951
Little Rock, AR (501) 324-6311	Washington, DC (202) 208-3000
Los Angeles, CA (213) 894-5200	Winston-Salem, NC (336) 631-5201

July 2000

The
National Labor Relations Board
and
YOU

Unfair Labor Practices



This pamphlet contains a general explanation of what the National Labor Relations Board is and what it does with respect to the processing of unfair labor practice charges. Although the pamphlet cannot provide answers to all questions, it does contain useful information which will be helpful to you.

What is the National Labor Relations Board?

We are an independent federal agency established to enforce the National Labor Relations Act (NLRA).

As an independent agency, we are not part of any other government Agency—such as the Department of Labor.

What Are Your Rights As An Employee Under the NLRA?

Examples of Your Rights As An Employee Under the NLRA Are:

Forming, or attempting to form, a union among the employees of your employer.

Joining a union whether the union is recognized by your employer or not.

Assisting a union in organizing your fellow employees.

Engaging in protected concerted activities. Generally, “protected concerted activity” is group activity which seeks to modify wages or working conditions.

Refusing to do any or all of these things. However, the union and employer, in a State where such agreements are permitted, may enter into a lawful union-security clause requiring employees to join the union.

The NLRA forbids employers from interfering with, restraining, or coercing employees in the exercise of rights relating to organizing, forming, joining or assisting a labor organization for collective bargaining purposes, or engaging in concerted activities, or refraining from any such activity. Similarly, labor organizations may not restrain or coerce employees in the exercise of these rights.

Examples of Employer Conduct Which Violate the NLRA Are:

Threatening employees with loss of jobs or benefits if they join or vote for a union or engage in protected concerted activity.

Threatening to close the plant if employees select a union to represent them.

Questioning employees about their union sympathies or activities in circumstances that tend to interfere with, restrain or coerce employees in the exercise of their rights under the Act.

Promising benefits to employees to discourage their union support.

Transferring, laying off, terminating or assigning employees more difficult work tasks because they engaged in union or protected concerted activity.

Examples of Union Conduct Which Violate the NLRA Are:

Threats to employees that they will lose their jobs unless they support the union's activities.

Refusing to process a grievance because an employee has criticized union officers.

Fining employees who have validly resigned from the union for engaging in protected activity following their resignation.

Seeking the discharge of an employee for not complying with a union shop agreement, when the employee has paid or offered to pay a lawful initiation fee and periodic dues.

Refusing referral or giving preference in a hiring hall on the basis of race or union activities.



What We Do Not Do . . .

We do not enforce—

Various federal laws within the jurisdiction of the Department of Labor. For example:

- Fair Labor Standards Act
- Wage Garnishment Provisions of Various Statutes
- Public Contracts Act
- Service Contract Act
- Davis-Bacon and Related Acts
- Contract Work Hours and Safety Standards Act.

Various state laws relating to employment. For example:

- Unemployment Compensation Statutes
- Workman's Compensation Statutes
- Equal Employment Statutes.

Various statutes within the jurisdiction of the Equal Employment Opportunity Commission.

IF YOU HAVE ANY QUESTION ABOUT THE RELATIONSHIP OF THESE LAWS TO OUR AGENCY OR THE APPLICATION OF OUR LAW TO YOUR SITUATION, PLEASE SEE THE INFORMATION OFFICER.

Are You Excluded From the NLRA's Coverage?

The NLRA specifically excludes from its coverage individuals who are:

employed as agricultural laborers.

employed in the domestic service of any person or family in a home.

employed by a parent or spouse.

employed as an independent contractor.

employed as a supervisor.

employed by an employer subject to the Railway Labor Act.

employed by a Federal, State or local government.

employed by any other person who is not an employer as defined in the NLRA.

IF YOU HAVE ANY QUESTION ABOUT WHETHER YOU ARE EXCLUDED FROM THE NLRA'S COVERAGE, PLEASE SEE THE INFORMATION OFFICER.

When Do We Take Action?

If you have any question regarding your work situation that you would like to discuss with this Agency, our Information Officer will be happy to speak with you. The Information Officer is a professional who is experienced in the investigation of unfair labor practice charges. The Information Officer can be contacted by phone, mail or in person to discuss the question which you wish to

present to the Agency. The Information Officer can provide you with information which will assist you in deciding whether or not to file an unfair labor practice charge.

If you wish to file a charge, we can provide you with the appropriate forms and assistance in completing these forms.

You should be aware that the Act provides that allegations of unfair labor practice violations must be filed and served within 6 months of the occurrence of the conduct alleged as violative.

What Can You Expect, If You File a Charge?

If you file a charge, you should be prepared to tell us the name and address of the employer or union against whom you are filing the charge. In addition, you must tell us the nature of your complaint. You will be required to state your current address on the charge form as well as sign the charge.

A copy of the charge will be served upon the employer or union against whom you are complaining.

After the charge is filed, we will receive your evidence in support of the charge. Receipt of your evidence, including sworn statements, may occur at the time you file the charge. If this does not happen, an NLRB agent will contact you shortly after the charge is filed for the purpose of receiving your evidence in support of the charge.

If sufficient evidence is revealed to warrant the continuation of the investigation, the Board agent assigned to your case will contact other witnesses who possess relevant information and the charged union or employer

Following the investigation of this matter, a review of the evidence will be made. If it appears that no violation of the NLRA has taken place, the Board agent will ask you to withdraw the charge. If you decide not to withdraw, the Regional Office will dismiss your charge. You will then have the opportunity, if you desire, to appeal the Region's dismissal to the Office of Appeals in Washington, D.C.

If after reviewing the evidence it appears that a violation has occurred, the charged employer or union will be asked to remedy the violation. If the charged party refuses to voluntarily remedy the matter, a formal complaint will issue against the charged party and the case will be set for a hearing before an Administrative Law Judge. During the hearing evidence will be presented concerning the allegations of the complaint. The hearing before the Administrative Law Judge and its possible review by the Board or U.S. Courts will determine what, if any, remedy you may receive as a result of your charge.

NLRB Offices:

Our office addresses are located in the telephone directory under the United States Government, National Labor Relations Board.

The address and phone number of the office closest to you is: