

# Employee Free Choice Act

## Questions & Answers

Most religious denominations affirm the right of workers to form unions. If asked, most people would say that a group of workers should have the right to organize and be represented by a union if that was what the majority of workers wanted, just as they should have the right to reject unionization. In fact, the majority of U.S. workers have told pollsters that they themselves would join a union if they could, to have a strong voice on the job and to work together to improve their wages, benefits and working conditions.

Currently, employers can voluntarily recognize a union when the majority of workers signs up for a union (by signing authorization cards). However, employers often insist that workers vote on the proposal in an “NLRB election” (National Labor Relations Board). This gives employers the opportunity to run a campaign opposing the union, and many do everything possible to “persuade” their employees to vote no, if the election even occurs.

The Employee Free Choice Act would give the workers the choice to have an NLRB election in addition to signing cards. Opponents of the Employee Free Choice Act have argued that allowing workers to only sign cards and not also go through a “secret ballot” election will undermine the fabric of democracy itself. Let’s separate the rhetoric from the reality.

### What does the Employee Free Choice Act do?

The Employee Free Choice Act is a common-sense bill that would make it easier for workers to form unions and achieve fair contracts. It would:

- allow workers who have gathered signatures from the majority of workers (on union authorization cards) to have their union recognized, and proceed directly to contract negotiations (called “majority sign-up”), if they choose;
- increase penalties against employers who violate labor laws;
- resolve first-contract impasses through neutral arbitrators.

### Would the Employee Free Choice Act eliminate secret ballot elections?

No. Under the bill, workers would choose the union formation process – elections or majority sign-up. Under current law, the employer chooses the process.

### We’re a democracy, so what’s wrong with choosing a union through a secret ballot election?

Trick question. Union elections bear little or no resemblance to the political elections with which most of us are familiar. A free election would have to include the following elements, all of which

workers and unions lack under the current NLRB system:

- *Equal Access to the Media.* Employers have a monopoly on communications at work.
- *Freedom of Speech:* Speech is monitored, and wearing union buttons, passing out literature, or even telling a co-worker that you think a union is a good idea can lead to extremely negative consequences, including losing your job.
- *Equal Access to Voters:* Unions can only try to find workers after business hours. Employers have access eight hours a day and more at the job.
- *Free Choice:* Voters have little protection from employer coercion during the campaign period leading up to an NLRB election. The campaigns frequently involve legal and illegal pressure tactics, intimidation, threats, and bribes; During union drives, workers are routinely forced to go to meetings at work to learn the horrors of unions, are forced to have one-on-one sessions with their supervisors to talk about their union allegiance, and are threatened with bad shift changes and closure of the business.
- *A Secret Ballot:* Employers almost always know which way a worker plans to vote, through intimidating meetings with supervisors, when workers are coerced into telling their own

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and others' positions, and even by spying on workers' meetings.

- *Campaign Finance Regulations:* There are no limits on what can be spent in a union representation election campaign. Employers know that they must share power and increase employee costs if the union wins, and the 80% of employers who launch anti-union campaigns often spend beyond what is even rational to defeat the union.
- *Timely Implementation of the Voters' Will:* Delays in implementing union election results can take years, with legal and sometimes illegal delaying tactics used, including numerous appeals of the election results. An employer can claim an impasse if a contract is not reached after one year and then decertify the union.

### Won't union organizers coerce workers into signing cards?

Hardly. The Employee Free Choice Act does not change the fact that workers must sign cards stating that they want a union. What it does is place the approval process for union sign-up into the hands of workers, who themselves will choose card check or an NLRB election. And signing a union card can place a worker at tremendous risk of retaliation from an employer – but workers sign cards anyway when they want to form a union.

Although it is possible that employees may feel some pressure from union organizers or fellow workers, neither the union organizers nor the fellow worker holds power over a worker. On the other hand, an employer holds real power over an employee – the power to hire or fire, set pay levels, determine work schedules, approve vacation schedules and dozens more issues that are serious matters for workers and their families.

In fact according to a recent poll from American Rights at Work, fewer than one in twenty (4.6 percent) workers who signed a card with a union organizer reported that the presence of the organizer made them feel pressured to sign the card, while 46 percent of workers felt that management coerced them to oppose the union in an NLRB election.

Intimidation and coercion from employers is very real. They can and do, under current law, fight union organizing drives through coercion:

- 80 percent of employers hire expensive, outside consultants to wage an anti-union campaign.
- 90 percent of employers require employees to attend closed-door, one-on-one meetings with their supervisor when they are told why the union is bad and why they should vote against it.
- 50 percent of employers illegally coerce union opposition through bribes and favors.
- 25 percent of employers illegally fire pro-union employees.
- 49 percent of employers threaten to eliminate all workers' jobs if they form a union.
- One-third of employers never negotiate a contract when workers vote to form a union.

### So employers always choose an NLRB election?

No. Actually, many employers allow their workers to decide on unionization in peace under

majority-sign up ("voluntary recognition") every year. These employers recognize that this process encourages less contentious organizing campaigns and the development of constructive, positive labor-management relations.

*For more information and a faith perspective on this issue, read "Why Unions Matter," available on the Interfaith Worker Justice website at [www.iwj.org](http://www.iwj.org).*

The freedom to join trade unions and the effective action of unions...are meant to deliver work from the mere condition of 'a commodity' and to guarantee its dignity.... The right of association is a natural right of the human being.... Indeed, the formation of unions cannot...be prohibited by the state because the state is bound to protect natural rights....

(Pope John Paul II, *Centesimus Annus*, 1992)