

...U.S. Senate confirms Trump nominees to the NLRB

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prosecute allegations that employers or unions have committed “unfair labor practices.”

The other part of the agency is the five-member Board itself, which functions like a Supreme Court of labor law cases, issuing rulings that interpret the National Labor Relations Act. Under the Act, the president may appoint up to three members from his party to this Board. In practice, that has meant in recent years that the Board has toggled between pro-labor majorities under Democratic presidents and pro-business majorities under Republicans.

The National Labor Relations Act was never a strong law to begin with. Remedies for unfair labor practice violations are minimal, and the process for prosecuting them is slow.

But for the last eight years, the NLRB has worked hard to modernize, and to fulfill the law’s stated purpose, which is to encourage collective bargaining.

It’s likely many NLRB decisions that favored workers and

“Mr. Emanuel has every right to spend his career representing corporations. But a guy who has never even once represented workers should not serve on the NLRB. An individual who has spent his career working with some of the most ruthless union busting firms, fighting off union efforts at every turn, has absolutely no business at the helm of an agency whose job is to encourage collective bargaining.”



— U.S. Sen. Elizabeth Warren (D-Mass.) before the Sept. 25 confirmation vote

unions will now be overturned, given the background of the new Trump-appointed majority.

Emanuel was an attorney for Littler Mendelson, one of the nation’s top antiunion law firms.

And as an attorney for a Republican House Committee,

Kaplan drafted legislation to overturn Obama-era NLRB rulings and make it easier for employers to fight unionization campaigns. Before that, in the George W. Bush-era Department of Labor, he drafted newly onerous union “LM-2” report-

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Five pro-worker NLRB reforms that are now threatened by Trump appointees

- No more legal delays to union elections** It’s already a stacked deck: Employers can require workers to attend anti-union meetings, while excluding union organizers from the property. Under those conditions, delaying a union election gives employers more time to bust a union campaign. So employers used legal technicalities to delay elections. Then in 2015 the NLRB decided it would hold the elections first, and resolve employer legal challenges later. Business groups howled in protest at what they called the “ambush election” rule. It used to take 40-45 days to schedule a union election. Now it takes an average of 25 days.
- Joint employers are still employers** Employers sometimes try to get out of the obligation to bargain with a union by dividing control between two entities, like a company and an outside staffing agency. But in 2015, the NLRB made it clearer that when two or more businesses share control over a worker’s terms of employment, they’re “joint employers” and still must deal with the union.
- Grad students can be workers too** Colleges increasingly rely on low-paid grad students for teaching and research, while saying they’re students, not employees. But in 2016 the NLRB said they can indeed be employees, and therefore have the right to unionize.
- No more employee handbooks that deny workers rights** Even nonunion workers have rights under the NLRA, such as the right to talk with coworkers about conditions, and to take collective action. To protect those rights, the NLRB has been cracking down on employers for employee handbooks that say workers can’t tell coworkers how much they’re paid, or that ask workers to give up their right to class action suits.
- Email and Facebook are the new water cooler** If workers have the right to talk with each other about pay and conditions, that means they can talk about them on email or Facebook too, the NLRB has ruled. So employer rules barring those things are illegal.

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