



## COALITION FOR A **DEMOCRATIC WORKPLACE**

March 14, 2024

The Honorable Tammy Baldwin  
Chair  
Senate Appropriations Committee  
Subcommittee on Labor, Health and Human  
Services, Education, and Related Agencies  
Washington, DC 20510

The Honorable Robert Aderholt  
Chair  
House Appropriations Committee  
Subcommittee on Labor, Health and Human  
Services, Education, and Related Agencies  
Washington, DC 20515

The Honorable Shelley Moore Capito  
Senate Appropriations Committee  
Subcommittee on Labor, Health and Human  
Services, Education, and Related Agencies  
Washington, DC 20510

The Honorable Rosa DeLauro  
Ranking Member  
House Appropriations Committee  
Subcommittee on Labor, Health and Human  
Services, Education, and Related Agencies  
Washington, DC 20515

Dear Chairs Baldwin and Aderholt and Ranking Members Capito and DeLauro:

The Coalition for a Democratic Workplace (CDW) urges you to maintain the long-standing policy rider in the Labor, Health and Human Services, Education, and Related Agencies appropriations package prohibiting the National Labor Relations Board (NLRB) from using its appropriated funding to implement electronic voting in union representation elections. CDW also urges you to condition any increase to the NLRB's budget on additional riders targeting the agency's current efforts that exceed its Congressional mandate to the detriment of employees, small businesses, and students.

CDW is a broad-based coalition of hundreds of organizations representing hundreds of thousands of employers and millions of employees in various industries across the country concerned with a longstanding effort by some in the labor movement to make radical changes to the National Labor Relations Act (NLRA) without regard to the severely negative impact they would have on employees, employers, and the economy. CDW was formed in 2005.

A few members of Congress have requested the House Appropriations Committee remove the long-standing rider prohibiting the NLRB from expending funds to implement electronic voting in union representation elections.<sup>1</sup> They argue electronic voting would “modernize” the Board's processes and procedures, but implementing electronic voting would actually have destructive consequences for the Board and stakeholders. Electronic voting would break with NLRB precedent, would remove the existing safeguards guaranteed by secret ballots increasing the risk of coercion and fraud in representation elections, and waste the NLRB's limited resources.

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<sup>1</sup> Letter to Chair and Ranking Member of the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, February 22, 2024, available at <https://norcross.house.gov/cache/files/e/c/ecfbbf91-6e0c-463e-942d-c765b9dd540c/00E0619F3AB2E24E0BCF7729CAA50579.nlr-approps-letter-final-1.pdf>.



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The NLRB has routinely recognized “that representation elections should, as a general rule, be conducted manually, either at the employees’ workplace or some other appropriate location.”<sup>2</sup> In-person elections provide the privacy of the voting booth, the security of Board supervision over elections, and the accessibility of voting in the workplace, all of which provide credibility to the process and guarantee workers are not pressured by others to vote a certain way. Members of Congress, the NLRB, federal courts, and stakeholders have historically understood that in-person elections are the best means for ensuring workers can freely vote their conscience and providing secure and credible elections.

The policy rider in question prohibits the NLRB from utilizing its appropriated funds to move away from in-person, secret ballot elections and implement electronic voting. The rider has been in place for decades and has been supported on a bipartisan basis in both chambers of Congress. This broad support stems from the fact that electronic voting would be an inherently flawed method of determining union representation.

Electronic voting would be conducted with no Board supervision. Employees would be to access their ballots and vote at any time, in any location, and potentially in the presence of anyone. It would therefore provide no privacy guarantees for voters, and it would invite voter intimidation, coercion, and fraud. Workers would undoubtedly be exposed to pressure campaigns by colleagues, union organizers, or employers to vote a certain way. Moreover, it would be difficult to detect when or to what extent such intimidation or interference might occur.

Additionally, in-person voting routinely results in higher voter turnout, meaning more workers actually participate in the representation process. The NLRB should strive to achieve the highest voter participation rates possible in representation elections to ensure the workplace accurately reflects the desires of the workforce.

Examples abound of the dangerous consequences online and electronic voting can have on the credibility and reliability of elections. CDW issued a white paper in July 2022 highlighting numerous instances of government agencies, state governments, and foreign governments attempting to implement electronic voting in various situations, but all of them experienced significant setbacks.<sup>3</sup>

Our white paper also highlights how costly implementing and safeguarding electronic voting can be. The costs of such efforts often dwarf that of in-person elections. Importantly, the NLRB itself has complained of insufficient funds for its operations. As General Counsel Abruzzo and Chair McFerran explained in a letter to Congress in November 2022,<sup>4</sup> “the Agency has exhausted its

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<sup>2</sup> *Aspirus Keweenaw*, 370 NLRB No. 45, slip op. at 2 (Nov. 9, 2020) (citing *San Diego Gas & Elec.*, 325 NLRB 1143, 1144 (1998)).

<sup>3</sup> CDW White Paper, “Online Voting in Union Representation Elections: The Latest Attempt to Eliminate Workers’ Right to Secret Ballots,” July 2022, available at [https://myprivateballot.com/wp-content/uploads/2022/07/Online-Voting-in-Union-Representation-Elections\\_Latest-Attempt-to-Eliminate-Secret-Ballots\\_July-2022.pdf](https://myprivateballot.com/wp-content/uploads/2022/07/Online-Voting-in-Union-Representation-Elections_Latest-Attempt-to-Eliminate-Secret-Ballots_July-2022.pdf).

<sup>4</sup> Abruzzo and McFerran Letter to Senate and House Appropriators, November 18, 2022, available at <https://www.nlr.gov/sites/default/files/2022-11-18-letter-to-appropriators.pdf>.



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ability to absorb cost increases through staff attrition and operational efficiencies... The Agency has already implemented a hiring freeze and, without additional funding, will likely be forced to pursue furloughs.” They asked for additional funding in the FY2023 appropriations cycle “to simply maintain current operations without any investments in critical infrastructure and cybersecurity needs.” Things are clearly dire for the Board, and redirecting limited resources towards the deeply flawed and inefficient electronic voting would be a waste of the agency’s limited resources.

President Biden and a handful of members of Congress have also urged dramatic increases to the NLRB’s budget for FY2025. The NLRB, however, is currently wasting existing resources on long-shot litigation aimed at increasing the agency’s jurisdiction, including rulings that will limit employees’ access to secret ballots in representation elections, joint employer and independent contractor mandates that are contrary to governing court decisions and threaten entrepreneurs and small businesses, and enforcement efforts focused on applying the NLRA to collegiate athletes, which is clearly beyond the intent of the NLRA and will diminish opportunities for student athletes. Any increase to the agency’s budget should be accompanied by additional riders that keep NLRB resources focused on the agency’s mission as set forth by Congress and interpreted by the courts.

CDW urges Congress to maintain the electronic voting policy rider and condition any increase in NLRB funding on additional riders that will rein in the Board’s actions.

Sincerely,

Kristen Swearingen  
Chair  
Coalition for a Democratic Workplace

cc: Majority Leader Chuck Schumer, U.S. Senate  
Minority Leader Mitch McConnell, U.S. Senate  
Speaker Mike Johnson, U.S. House of Representatives  
Minority Leader Hakeem Jeffries, U.S. House of Representatives  
Senator Bernie Sanders, Chair, Senate HELP Committee  
Senator Bill Cassidy, Ranking Member, Senate HELP Committee  
Representative Virginia Foxx, Chair, House Education and the Workforce Committee  
Representative Bobby Scott, Ranking Member, House Education and the Workforce Committee