

Big Labor's Push for Micro-Unions

The NLRB needs to protect against Big Labor's efforts to create a fractured workplace

Throughout the Obama administration, organized labor pushed unelected bureaucrats at the National Labor Relations Board (NLRB) to make sweeping policy changes aimed at increasing union membership rolls at the expense of employees and employers. One of the Board's most controversial actions was its decision in Specialty Healthcare, in which the Board allowed for the formation of "micro-unions," or smaller-than-traditional bargaining units. In order to roll back this damaging Board action, the Senate should immediately confirm President Trump's nominees to the NLRB and encourage them to take steps to mitigate the impact of the Specialty Healthcare decision. Congress should also immediately pass the Representation Fairness Restoration Act (S. 1217 and H.R. 2629), and H.R. 2776, the Workforce Democracy and Fairness Act; all of which would reinstate the previous understanding of what constitutes an "appropriate" bargaining unit.

THE PROBLEM

In *Specialty Healthcare*, the Board announced a new standard for determining composition of bargaining units, allowing organized labor to gerrymander units and disenfranchise employees that oppose unionization. This new standard made it easier for unions to divide the workplace into multiple siloed bargaining units. For example, a union may attempt to organize a small group of employees working on one machine or one product rather than all machinists in a manufacturing facility if the majority of machinists do not want union representation. Likewise, a union may now organize only the greeters at a retail store, because cashiers and floor associates don't want to unionize. These "micro-unions," or fractured units, can greatly limit an employer's ability to cross train and meet customer and client demands via lean, flexible staffing as employees could not perform work assigned to another unit. Employees will also suffer from reduced job opportunities, such as promotions and transfers.

The *Specialty Healthcare* decision has already negatively impacted employers and employees alike. In one recent case, one of the Board's Regional Directors ruled that full and part-time employees in the fragrance and cosmetics department of a single Macy's store constituted an appropriate bargaining unit. This ruling came approximately a year and a half after the petitioning union had lost an election involving a proposed unit that included all store sales employees. On July 22, 2014, the Board ruled against Macy's, determining the bargaining unit was in fact an appropriate unit, because the employees made up a single department within the store. *Macy's* thus makes clear the insidious effect of *Specialty Healthcare*, allowing unions to pick apart groups of employees who for decades would have been considered a single bargaining unit and focusing on isolated sub-groups.

SOLUTIONS ARE NEEDED

On May 24, 2017, Senator Isakson and Representative Rooney reintroduced the Representation Fairness Restoration Act (S. 1217 and H.R. 2629, respectively), which would roll back the Board's action and reinstate the previous standard for determining an appropriate bargaining unit. Additionally, on June 6, 2017, Representative Walberg reintroduced H.R. 2776, the Workforce Democracy and Fairness Act, which would also codify the previous standard into law. CDW strongly urges Congress to quickly pass these bills in order to return balance to our workplace laws and provide an atmosphere that is conducive to economic growth. In the meantime, the Senate should quickly confirm President Trump's nominees to the NLRB and encourage them to take steps to mitigate the impact of the *Specialty Healthcare* decision.