

The Employee Free Choice Act

Questions and Answers About Majority Sign-Up (Card-Check)

Q: How do majority sign-up procedures work under current law?

A: Under current law, an employer can legally recognize a union if a majority of employees demonstrates the wish to be represented by the union—usually by signing authorizations designating the union as the collective bargaining representative. However, the decision whether to recognize the union on the basis of this kind of showing of majority support is left up to the employer. Only if the employees have voted for union representation in a National Labor Relations Board (NLRB) election is an employer legally required to recognize the union. Thus, an employer can refuse to recognize the union and insist on an NLRB election even if 100 percent of the employees have signed authorizations.

Q: How do majority sign-up procedures work under the Employee Free Choice Act, and how are they different than current law?

A: Under the Employee Free Choice Act, when a majority of employees signs authorizations to form a union, the choice of whether to recognize the union will no longer be left up to the employer. The employees will be able to present the signed authorizations to the NLRB, and if the NLRB determines authorizations have been signed by a majority of employees, the employer will be required legally to recognize and bargain with the union. As under current law, the NLRB will continue to order elections when there is a genuine question as to whether the employees want a union—for example, where only a minority of the employees has signed valid authorizations. The principal difference is under Employee Free Choice Act, the NLRB will not conduct an election if it determines a majority of employees chose the union by signing authorizations.

Q: What do union authorizations actually say?

A: Authorizations contain language stating the employee signing the authorization is designating a particular union to represent the employee for purposes of collective bargaining negotiations on wages, hours and working conditions. The Employee Free Choice Act directs the NLRB to develop model language for authorizations, which will ensure the authorizations accurately advise employees of the consequences of signing.

Q: Why is majority sign-up through signed authorizations more democratic than mandatory elections?

A: Majority sign-up procedures guarantee greater employee participation because the majority of eligible workers must sign authorizations before the union is certified. In an election, only a majority of the ballots cast determines the outcome, and as with our political elections, not all eligible voters vote. Majority sign-up procedures also avoid the anti-democratic and inherently coercive anti-union campaigns typically waged by employers during the NLRB election process.

Q: How are employees protected against pressure and coercion when signing authorizations?

A: It is already illegal for anyone to coerce employees to sign a union authorization. There is no evidence that existing remedies are insufficient to deter or remedy such coercion. Nor has pro-union coercion proved to be a problem in states where majority sign-up procedures similar to those of the Employee Free Choice Act have been implemented. Any peer pressure from fellow employees who attempt to persuade workers both for and against unionization is not the same as the inherently coercive power that employers and supervisors exercise over the livelihood of employees during current NLRB election procedures.

Q: How can the authenticity of union authorizations be guaranteed?

A: There is no evidence that falsification of authorizations is a problem in either the United States or in Canada. Procedures commonly used to verify authorizations include comparison of signatures with payroll records. Signed authorizations are a widely recognized method of choosing legal representatives. The Employee Free Choice Act directs the NLRB to develop procedures to establish the authenticity of signed authorizations.

Q: Why is there an effort to enact majority sign-up legislation now when traditional NLRB elections have worked for almost 70 years?

A: The Employee Free Choice Act is necessary reform because employers have become increasingly bold in violating employees' rights and the law under the NLRB election process. Prior to the 1947 Taft-Hartley amendments to the NLRA, majority sign-up procedures were used widely by the NLRB. Election procedures were developed at a time when employer hostility to collective bargaining was much less vehement. In the 1950s and 1960s, employers did not routinely engage in massive illegal violations of employee rights that are commonplace today.

This fact sheet has been prepared by the AFL-CIO. For more information regarding the Employee Free Choice Act, please contact Maria Fiordellisi at 202-639-6239.