



CHANGE TO WIN ADMINISTRATIVE RECOMMENDATIONS TO NLRB and FMCS TRANSITION TEAMS

“It’s time you had a President who honors organized labor, who’s walked on picket lines, who doesn’t choke on the word union, who lets our unions do what they do best and organize our workers, who will finally make the Employee Free Choice Act the law of the land.” It’s time you had a partner in the White House, Oct. 31, 2008.

(<http://my.barackobama.com/page/community/post/StateUpdate3/gGgDvF>)

“Obama and Biden will strengthen the ability of workers to organize unions. He will fight for passage of the Employee Free Choice Act. Obama and Biden will ensure that his labor appointees support workers’ rights and will work to ban the permanent replacement of striking workers.” Obama-Biden Economic/Labor Plan.

(<http://www.barackobama.com/issues/economy/index.php#labor>)

The Administration Should Advocate for Working Families and Their Unions

- The White House and other federal agencies need to vocally and continually reinforce President-elect Obama’s support for workers, for their Unions and for the Employee Free Choice Act which will allow workers to exercise their right to Union representation without fear of employer interference, intimidation and retaliation. Surveys show that more than half of all non-union workers would vote for union representation if they could.
- The Administration needs to use the bully pulpit to recognize that Unions are a legitimate and important part of our society and economy to assure workers a meaningful say in the decisions that affect them and their families.
- It is critical that there are strong voices from the White House, DOL, NLRB, FMCS and other executive branch agencies that recognize that Unions and collective bargaining are part of the solution for our economic recovery and are a permanent necessary condition to rebuilding and maintaining the American middle class.
- Labor leaders and the Secretary of Labor need to have a seat at the table when economic policies are discussed and decided in recognition of the important role that workers and Unions play in our economy.
- The needs of workers and labor issues must be front and center not only at the labor agencies and departments but at every agency and department in the government.



- Every labor-related position (NLRB, NMB, FMCS and DOL) should be filled immediately. These positions are vitally important to our country and for our economy. The White House should act immediately to adequately fund these agencies which have been moribund for the last eight years so that they can return to vigorously fulfilling their traditional and statutory role as the protectors and champions of workers and their rights.
- The federal government should use its procurement powers to promote high road employers who provide good jobs and respect workers' rights. Surveys show that Americans overwhelmingly support procurement policies that incorporate fair wages and working conditions instead of automatically awarding contracts to low bidders that deny workers reasonable wages and benefits. Responsible procurement and contracting will reinforce the national labor policy endorsed by President-elect Obama.
- Labor standards and protection for workers' rights must be an integral part of any economic stimulus package and any plan for economic recovery.

Administrative Recommendations for the NLRB and FMCS

1. The purpose of the Employee Free Choice Act is to guarantee workers the right to choose union representation without fear of employer interference, intimidation and retaliation. We believe that both the NLRB and the FMCS must immediately begin taking the steps necessary to be prepared to implement the Employee Free Choice Act when it passes. The Administration should insure these agencies have the additional funding needed to hire and train personnel and take the other steps necessary to fully implement the Act. The NLRB should be given the resources necessary to fully implement and enforce all aspects of the new legislation. The FMCS should immediately be provided with the funding necessary to implement a program and to hire and train the staff necessary to implement first contract arbitration.

2. Justice delayed is justice denied and nowhere is that more true than at the NLRB. The Board's decision-making process needs to be streamlined to ensure faster decisions. Particularly in the current economy, illegally discharged workers should not be forced to wait years for the remedies required by law. There must be a commitment to streamline and expedite all aspects of the organizing and recognition process, including addressing the problem posed by recalcitrant employers who refuse to negotiate a first contract or any contract at all.

3. The NLRB must promote collective bargaining solutions to our huge economic challenges by eliminating obstacles that prevent employers and unions from reaching private agreements that effectuate the policies of the Act. Private recognition agreements should not be seen as undermining the NLRB, but rather as legitimate solutions that help carry out the NLRA's core mission to "encourage the practice and procedure of collective bargaining."



4. The NLRB General Counsel should enforce the Act to its fullest extent starting immediately by:
- Making greater use of 10(j) injunctions (and 10(l) injunctions after EFCA passes) and developing procedures for seeking these injunctions much more expeditiously.
 - Actively seeking the maximum remedies permitted by law against employers who violate the right of workers to freely choose union representation, including organizing expenses, compensatory damages, front pay, and *Fieldcrest Cannon* access remedies. The General Counsel should reinstitute the *OM 99-79 Remedial Initiatives*. The Board must pursue effective remedies for low wage employees that fully compensate them for their economic loss, including eliminating unreasonable mitigation requirements.
 - Seeking special remedies in first contract cases such as those outlined in *GC 07-08* such as scheduled bargaining orders, reports on bargaining status, minimum six month extensions of the certification year bar and the award of bargaining costs.

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