

Questions and Answers

About Card-Check

Q: *How do card-check procedures work under current law?*

A: Under current law, employers can recognize a union if a majority of employees demonstrates that they wish to be represented by a union—usually by signing forms designating the union as their collective bargaining representative. It is illegal for employers to recognize a union that does not have majority support. On the other hand, employers are under no obligation to recognize a union even if 100 percent of employees have signed such authorization forms. For this reason, employees in many workplaces ask management to enter into so-called “card-check” agreements, in which management agrees to voluntarily recognize the union if a majority of employees sign authorization forms or “cards.” Employers may enter into these agreements to maintain good relations with their employees, to maintain good relations with unions at their other worksites or to maintain a favorable public image. Respected community leaders or professional arbitrators typically are designated as neutral third parties to monitor the agreement and to verify that authorization forms have been signed by a true majority.

Q: *How do card-check 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 sign union authorization forms, they can file a petition with the National Labor Relations Board (NLRB) and the NLRB must investigate the petition. If the NLRB determines that authorization forms have been signed by a majority of employees, the board must certify the union as the employees’ collective bargaining representative. The principal difference with current law is that the union must be certified when authorization forms have been signed by a majority of employees, whereas under current law the employer can refuse to recognize the union and insist instead on an NLRB election. Another difference is that the NLRB, rather than another neutral third party, must directly determine whether a majority of employees have designated the union as their collective bargaining representative.

Q: *What do union authorization forms/cards actually say?*

A: Union authorization forms typically contain language designating a particular union to represent the employee in collective bargaining negotiations on wages, hours and working conditions. Authorization forms also typically request other necessary information, such as name, address and Social Security number, and they must be signed and dated. The Employee Free Choice Act directs the NLRB to develop model language for union authorization forms, which will ensure that the authorization form accurately advises employees of the consequences of signing the card.

Q: *Do card-check procedures and NLRB elections require the same measure of majority support?*

A: No. Card-check procedures—under current law as well as the Employee Free Choice Act—require a higher standard of majority support. Under card-check procedures, a

majority of *all* the employees in the bargaining unit must support union representation, and employees who cannot be identified or located are presumed not to support union representation. In NLRB elections, only a majority of those employees who actually vote is required.

Q: *Why aren't secret ballot elections supervised by the NLRB more democratic than card-check procedures?*

A: NLRB elections actually are *less* democratic than card-check procedures. Card-check procedures are better at ensuring employee free choice by allowing employees to express their true wishes free from employer coercion. Card-check procedures avoid the anti-democratic and inherently coercive anti-union campaigns that are typical of the NLRB election process.

Q: *How do card-check procedures protect employees against pressure and coercion by union organizers?*

A: It is illegal for anyone to coerce employees to sign a union authorization form. 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 the Canadian provinces where card-check procedures similar to those of the Employee Free Choice Act have been implemented. It would be ludicrous to compare peer pressure from fellow employees with the inherently coercive power that management exercises over the livelihood of employees.

Q: *How can the authenticity of union authorization forms be guaranteed?*

A: There is no evidence that falsification of authorization forms is a problem in either the United States or in Canada. Procedures commonly used to verify authorization forms include comparison of signatures on the form to signatures from the employer's 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 authorization forms.

Q: *Why is there an effort to enact card-check legislation now, when traditional NLRB elections have worked for almost 70 years?*

A: Actually, the NLRB election process is more recent than card-check procedures and has not been the means by which most collective bargaining relationships have been established in the United States, either before or after enactment of the National Labor Relations Act. The Employee Free Choice Act is necessary today because employers have become increasingly bold in violating employees' rights and violating the law under the NLRB election process. The NLRB process was 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 the massive legal and illegal violation of employee rights that is commonplace today.