



May 22, 2024

The Honorable Bob Good  
Chairman  
House Committee on Education and the Workforce  
Subcommittee on Health, Employment,  
Labor and Pensions

The Honorable Mark DeSaulnier  
Ranking Member  
House Committee on Education and the Workforce  
Subcommittee on Health, Employment,  
Labor and Pensions

Dear Chairman Good, Ranking Member DeSaulnier and Members of the House Committee on Education and the Workforce Subcommittee on Health, Employment, Labor and Pensions:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 23,000 members, I appreciate the opportunity to comment on today's hearing, "Exposing Union Tactics to Undermine Free and Fair Elections."

In 2023, a record 89.3% of the U.S. construction industry workforce—7.9 million people—did not belong to a union. There has never been a smaller percentage of union members in the construction industry since the BLS began tracking this data in 1973. However, under the direction of the Biden administration, the National Labor Relations Board is attempting to make it nearly impossible for employees to vote in secret ballot elections when considering whether to unionize the workplace, as they make clear their desire to curtail employer speech through Board actions. As a result, union organizing has been emboldened by the NLRB to attempt to organize the employer's workers by any means necessary.

ABC supports legislation that embraces fair play for both employers and employees, which is essential to the preservation of our free enterprise system. The law should protect the right of employees to work regardless of race, color, creed, age, sex, national origin, membership or nonmembership in a labor organization or other protected class.

### **Salting**

On March 21, ABC wrote a [letter in support](#) of [H.R. 7784](#), the Start Applying Labor Transparency Act, or SALT Act, introduced by Rep. Burgess Owens, which would amend the Labor-Management Reporting and Disclosure Act of 1959. Its purpose is to clarify that labor organizations and their consultants must report when they engage in a coercive tactic known as "salting"—a process where unions send professionally trained organizers into merit shop workplaces under the guise of seeking employment.

The SALT Act provides workers with transparency and, at the same time, protects small businesses from the toxic work environment salts often seek to create. This saves businesses significant time, money and resources that would enable them to hire more employees, invest in equipment and secure more work to grow their companies and provide additional jobs in the community.

ABC applauds Rep. Owens for introducing the SALT Act and has urged members of the U.S. House Committee on Education and the Workforce to support the legislation and further efforts to promote transparency in the workplace and counter the detrimental effects of union salting.

### **Card Check**

On Aug. 25, 2023, the National Labor Relations Board issued its decision in [Cemex](#), imposing a new framework that greatly expands the Board's ability to impose unions on employees without a secret ballot election. The Board's decision reverses a half-century of NLRB precedent and is at odds with long-standing U.S. Supreme Court rulings. The Board also made this major policy change without soliciting input from the public via comment or amicus briefs and rejected CDW's [request](#) to allow for amicus briefs. ABC, along with several other employer organizations, sued the Board challenging the decision in the Ninth Circuit.

Prior to the decision, to petition for a representation election, a union had to produce signed authorization cards from at least 30% of the workers in the proposed bargaining unit. If the union produced cards from over 50% of the proposed unit, the employer could voluntarily recognize the union without an election. Now, employers will be forced to agree to card check, a system in which union organizers can approach employees (at any time, in any place and as many times as necessary) to present them with an authorization card and ask for, or demand, their signature, in most circumstances.

Under the new standard, when a union claims majority support, an employer has two options: they can voluntarily recognize the union and begin to bargain with them as the exclusive bargaining representative of the unit; or they can file a petition for an election with the NLRB, but they must do so within two weeks. If they miss the two-week window, the Board can issue a bargaining order requiring the employer to recognize and bargain with the union.

Card check is [notoriously flawed](#). It leaves workers vulnerable to coercion and harassment by union organizers and their supporters by forcing them to express their support or opposition to union representation in front of others. Card check is also used to both hide the unionization campaign from the employer and expedite it, with the goal that employees never hear from employers about the negatives of the union and unionization, leaving workers without the information they need to make this decision.

Secret ballot elections are the best method of determining workers' true feelings about union representation in the workplace, and they should be guaranteed to all workers. Card check, which was included in the Protecting the Right to Organize Act, has been historically rejected by Congress on a bipartisan basis.

### **Union Neutrality**

The Biden administration and the general counsel of the NLRB have likewise made clear their desire to curtail employer speech through federal legislation and/or Board actions, and even some state legislators, including in California, Connecticut and Washington, want to restrict employers from simply speaking to employees about unionization in employer-sponsored meetings.

In some cases, legislators seek to condition grants with requirements that recipients “remain neutral in any union organizing effort for the term of the grant, loan or loan guarantee” or maintain any existing collective bargaining agreement during the life of the loan and for years after completing repayment of the loan.

The bottom line is that neutrality agreements limit the ability of workers to hear both sides of the argument in a unionization effort, unfairly influencing and coercing employees while shutting employers out of the process.

Neutrality agreements harm American workers by denying them important information they need to determine whether they wish to join or not join a union. In addition, neutrality agreements prevent employees from exercising their Section 7 right to make a meaningful choice about representation by allowing unions to conceal necessary information from employees.

ABC appreciates the opportunity to comment on the subcommittee's hearing.

Sincerely,



Kristen Swearingen  
Vice President, Legislative & Political Affairs