

NLRB Relaxes Trump-Era Financial Disclosure Requirements for Unions

By Barry Y. Freeman

Last week, the NLRB's General Counsel rolled back Trump-era financial disclosure requirements for unions. Even without a complaint, unions were required to explain fees charged to nonmembers. Now, beyond routine financial reporting, unions are only required to make extra disclosures if nonmember employees complain about union fees. For those unfamiliar, unions are certified to represent a defined bargaining unit, but often the bargaining unit includes individual employees who decline to join the union. Think of them as "conscientious objectors."

The specific rollbacks are: (1) Employees challenging nonmember fees bear the burden to demonstrate the fees are unreasonable, whereas the Trump-era policy made unions bear the burden to prove the nonmember charges are reasonable; and (2) unions are not required to disclose the difference between member and nonmember fees until an employee asks, whereas the Trump-era policy required unions to automatically inform employees how much they could save by being nonmembers.

NLRB General Counsel appears to justify the rollbacks because (1) pre-existing NLRB financial disclosure requirements were adequate and (2) the Trump-era measures were unnecessarily hurting unions and their mission to protect workers' rights. Union supporters believed the Trump-era regulations crossed from adequate disclosure into anti-union lobbying. Those who supported the Trump-era measures countered the disclosures made it harder for unions to disguise lobbying expenses as charges for representing the interests of workers. Regardless, the change has been made.

Doug Spiker
Practice Group Manager
Employment Services
216.696.7125 | dspiker@ralaw.com

Karen Adinolfi
330.849.6773 | kadinolfi@ralaw.com

Aretta Bernard
330.849.6630 | abernard@ralaw.com

Amanda Connelly
614.723.2012 | aconnelly@ralaw.com

Monica Frantz
216.820.4241 | mfrantz@ralaw.com

Barry Freeman
216.615.4850 | bfreeman@ralaw.com

Paul Jackson
330.849.6657 | pjackson@ralaw.com

Stephanie Olivera Mittica
330.849.6671 | solivera@ralaw.com

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