

VOLUME 73, #2 • SUMMER 2013

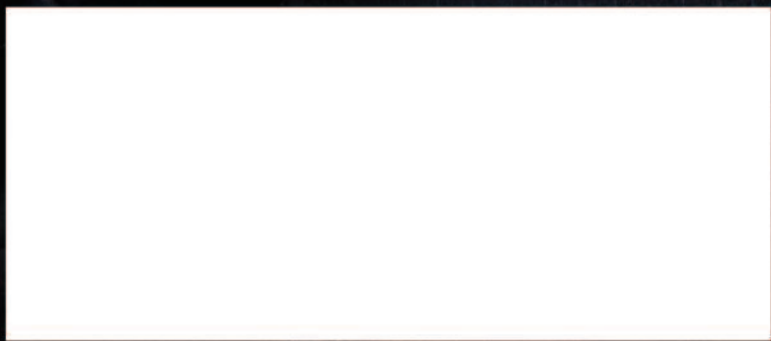
CWA news

Printed in the USA

COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO, CLC
[WWW.CWA-UNION.ORG]

A photograph of two men in dark suits and light-colored ties. One man is seated in a black leather chair, looking up and smiling broadly at the other man who is standing. They are shaking hands. The standing man is also smiling and holding a cigar in his left hand. The background is a dark wood-paneled wall.

MISSION ACCOMPLISHED



WORKING Together

Give Us Five: 80 Million Workers Deserve a Fully Functioning NLRB



Larry Cohen, CWA President

The Senate is dysfunctional. That's not news to anyone following the long list of legislation never debated and agency, executive branch and judiciary nominations that are going nowhere.

The U.S. Chamber of Commerce and its allies are cheering, much preferring that agencies like the NLRB and the Consumer Financial Protection Bureau don't function. Or that important courts like the D.C. Circuit Court of Appeals remain packed with Bush appointed pro corporate appointments while qualified candidates to that federal court can't get a vote.

But this is not what democracy looks like!

Working Americans have lost the protections of the National Labor Relations Act because current Senate rules allow the Republican minority to block President Obama's nominees even though they have majority support. That same obstructionism has led to 80 judicial vacancies on federal courts most importantly the DC Circuit Court of Appeals where 4 vacancies have led to a conservative bias. In January 2013, that court ruled that President Obama's recess appointments were invalid, along with those of predecessors Bush and Clinton. Two of the three NLRB members at that time were recess appointees so the US Chamber of Commerce then encouraged more than one hundred corpo-

rations to file suit blocking NLRB action on their cases.

Cablevision is taking an even more extreme step, declaring that decisions made by the NLRB regional offices in New York and Brooklyn are invalid. The Regional Board has issued complaints against Cablevision and ordered a hearing; Cablevision responded by filing a lawsuit to block the hearing set for early July.

The NLRB is the only agency that enforces workplace rights for more than 80 million employed in the private sector. That's why workers, whether they're in a union or not, are saying, "Give us five" and confirm all five nominations to the NLRB. We know that even under the best circumstances, justice at the workplace is hard to come by. Now, the Senate is making it virtually impossible to confirm the democratic majority on the five member board so that even those minimal protections are preserved.

Now, we're looking to the Senate majority to do what needs to be done to make sure that workers' rights are protected and labor law is enforced. The Senate Democratic majority must change the rules, as the constitution provides, to allow for an up or down vote on these presidential nominees. That's what democracy looks like, not obstructionism, not valuing Senate "decorum" over the responsibility to constituents to vote on Presidential nominees.

The corporate agenda is all too real. It's visible on Capitol Hill, where the major corporate law firms are lobbying for a split NLRB – two Republicans and two Democrats. A Board with two Democrats and two Republicans will be completely ineffective; no decisions for workers will be made.

Eight years ago, then Republican Majority Leader Bill Frist threatened to change the Senate rules to get President Bush's judicial nominations confirmed. Rule changes weren't made, but those nominations were confirmed. This

is the precedent that the Democratic majority now must follow to get this President's nominees confirmed.

If the Senate fails to confirm all five members of the NLRB before the start of the August recess, Chairman Mark Pearce's term will expire on August 27. There would be just the two recess appointed Board members remaining, not sufficient for a quorum.

The Senate majority must act, and we and our allies must mobilize NOW to ensure they act.

This issue of the CWA News makes it very clear why the NLRB matters. It matters whether we're bargaining new contracts or preventing employers from violating our current contracts.

CWA filed 175 charges related to bargaining alone in recent negotiations. If we don't get the five presidential nominations confirmed, legal backing for our negotiations disappears. Additionally, organizing rights for workers trying to join our union or any union effectively disappear.

Think about your contract. How would you get management to follow the contract if there isn't a functioning NLRB with the authority to issue complaints, hold hearings and force employers to follow the law? Short answer: there would be no enforcement of federal labor law. That's a nightmare scenario, one we can't allow to happen.

With our partners, Sierra Club, NAACP and others, we've mobilized 1 million people to sign a petition to confirm all five Board members. There have been 10,000 phone calls to Senators and many meetings with lawmakers and their staff. Over the July 4th recess, CWAers have scheduled meetings in their Senators' home offices. A lot is happening, but we need more. Call your Senators and let them know: "Workers deserve a functional NLRB. Change the rules if necessary to confirm all five nominations."

CWAnews

Volume 73, No. 2 Summer 2013



Official Publication of the Communications Workers of America (AFL-CIO, CLC)
International Union Headquarters
501 3rd Street, N.W.,
Washington, D.C. 20001-2797
Phone: (202) 434-1100

Address changes:
Inquiries or corrections for CWA News subscriptions should be addressed to CWA Membership Dues Dept.
E-Mail: subscribe@cwa-union.org

Produced by
CWA Communications Department
Director/Executive Editor
Candice M. Johnson

Senior Writer/Editor Kendra Marr Chaikind
Editorial Specialist Alicia Nestor
Technical Specialist Sarah Splitt

CWA News (ISSN 0007-9227) is published quarterly Jan/Feb/March, April/May/June, July/Aug/Sept, and Oct/Nov/Dec by Communications Workers of America, 501 3rd Street, N.W., Washington, D.C. 20001-2797. Periodical Postage Paid at Washington, D.C. and additional mailing offices

Postmaster: Send address changes to CWA News, 501 3rd Street, N.W., Washington, D.C. 20001-2797.

Printed at Kelly Press, Cheverly, Md.
Design by Chadick+Kimball, Washington, D.C.

CWA Executive Board ■ **President** Larry Cohen ■ **Secretary-Treasurer** Annie Hill ■ **Vice Presidents** District 1, Christopher M. Shelton ■ District 2-13, Edward Mooney ■ District 3, Judy Dennis ■ District 4, Linda Hinton ■ District 6, Claude Cummings ■ District 7, Mary Taylor ■ District 9, Jim Weitkamp ■ **Telecommunications and Technologies**, Ralph V. Maly Jr. ■ **Public, Health Care and Education Workers**, Brooks Sunkett ■ **Broadcast and Cable Television Workers**, Jim Joyce ■ **The Newspaper Guild-CWA**, Bernie Lunzer ■ **IUE-CWA Industrial Division**, Jim Clark ■ **Association of Flight Attendants-CWA**, Veda Shook ■ **PPMWS Executive Officer** Dan Wasser ■ **At Large Board Members:** Madelyn Elder, Nestor Soto, Carolyn Wade, Greg Wynn ■ **Director TNG-SCA Canada**, Martin O'Hanlon



What are we doing to keep the union rights they won?

In the early 1930s, in Chicago and across the country, workers protested for jobs and better conditions.

credit: American Labor: A Bicentennial History

MISSION ACCOMPLISHED? NOT SO FAST!

We can't let corporate America succeed in killing the National Labor Relations Board and workers' rights. Unions and allies are fighting back.



How Did We Get Here?

The NLRB protects private sector workers, whether union represented or not. It's where we turn to make sure our employers are honoring our contracts and for help when management breaks the law. It's where workers who are illegally fired because they want a union look for justice. It's where workers who use social media to talk about their workplace can go for protection of that right to free speech on the job.

In January 2013, our system of labor law enforcement was thrown into chaos. A radical decision by three members of the D.C. Circuit Court of Appeals said recess appointments by President Obama (plus many of Presidents Bush and Clin-

ton) were invalid because the Senate was technically not in recess when the appointments were made.

By the way, the decision was made by just three judges (all appointed by President Bush) because nominations to the court's vacancies were being blocked by Senate Republicans. Known as Noel Canning v. NLRB, the decision virtually eliminates the ability of a President to make recess appointments.

The NLRB now has three members: two who are recess appointments and one whose term expires on Aug. 27, 2013.

What's Happening Right Now?

It's no surprise that big corporations, egged on by the U.S. Chamber of

Commerce and others, are refusing to follow decisions and rules handed down by the NLRB and some of its 28 regional offices. And it's no surprise that Senate Republicans are continuing their campaign to block all of President Obama's nominations, whether to the NLRB, the Consumer Financial Protection Bureau, the Environmental Protection Agency, the federal judiciary and other federal agencies.

For the NLRB, we're down to the last few weeks. Workers need a fully functioning NLRB. The only way that will happen is if the Senate Democratic majority votes to change the Senate rules, so that the President's nominations can get an up or down vote.

What Happens If There's No NLRB

CWA filed 175 charges at the NLRB in our most recent bargaining with major employers. Overall, workers file about 4,500 charges a year. Here's what we lose if we lose the NLRB. We'd have no way to:

- Force employers to bargain as the National Labor Relations Act requires. For too many workers, contract negotiations already drag on far too long.
- Resolve disputes when an employer unilaterally changes a collective bargaining agreement or disregards a contract provision.
- Force employers to provide critical information during bargaining.
- Resolve charges of discrimination based on a worker's union activity or other protected activity like discussing working conditions with co-workers.
- Resolve workers' charges of employer retaliation for union and other protected activity.

Who Wants to Kill the NLRB? And What's Next?

You don't have to be a conspiracy theorist to know that there has been a real campaign underway for decades to eliminate workers' rights to join a union and bargain for better wages and conditions.

Back in the early 1980s, private sector workers and unions were attacked by million-dollar law firms that made union-busting a huge corporate growth industry, all under the watchful eye of the U.S. Chamber of Commerce.

Having succeeded in bringing down private sector collective bargaining coverage to 6.6 percent, this assault, over the past few years, has been turned on public workers. Teachers and hospital workers became the villains who were bankrupting state governments, not the 1 percent and corporations that don't pay taxes.

Last year, airline and transportation workers saw Congress change

federal labor law to make it even harder for workers to get to a union election.

Don't kid yourself. Corporations and their right wing supporters are coming after all union workers, whether we work for an airline, a private company or a state government.

Today it's the NLRB. Here's what the opposition is doing:

Politicians

■ In each Senate session since 2007, when Senate Democrats took over the majority, there has been a record number of Republican filibusters, on nominations and legislative issues. Only one sitting NLRB member has been confirmed by the Senate; his term expires Aug. 27.

■ Senator Lindsay Graham (R-S.C.): "The NLRB as inoperable could be considered progress."

■ House Republicans pushed through H.R. 1120, a bill that would essentially shut down the NLRB. Pil-

ing on the appeals court decision, the legislation seeks to freeze all NLRB activities that require a quorum of board members. It would also bar the NLRB from enforcing any decisions it has made since Jan. 4, 2012, when President Obama made recess appointments to the Board.

■ Republican Presidential candidate Mitt Romney: The NLRB is a tool of the "union bosses," packed with "union stooges."

Corporations and the U.S. Chamber of Commerce

■ The U.S. Chamber of Commerce and its South Carolina affiliate challenged the NLRB's 2011 rule that required employers to post a notice describing workers' rights under the National Labor Relations Act. The Fourth Circuit Court of Appeals upheld the challenge and said the NLRB didn't have the right to inform workers of their rights under the law. The DC Circuit, with three Republican

members and four vacancies, also threw out that posting, saying it would violate employers' "free speech" rights.

■ That same DC Circuit Court found President Obama's recess appointments to the NLRB to be invalid in its Noel Canning decision. Since then, many corporations are choosing to ignore the NLRB's directives and orders.

■ Cablevision filed a lawsuit to block the NLRB from taking any action on the complaints that two regional boards have issued.

■ Inside Counsel, a publication for lawyers, spells it out: "President Barack Obama's first term saw a spate of pro-labor rulings emerging from the National Labor Relations Board. **The board's rulings, including regulations covering social media, union elections and right-to-work issues, worried employers and Republican legislators alike.**" (emphasis added.)



Make Sure Your Senators Hear from You!

Call 1-888-659-4149.
Enter your zip code to be connected to your senators.

Whether you talk to a staff person or leave a recorded message, our "ask" is clear:

"I'm calling to ask the Senator to confirm all five nominees to the NLRB. And if that vote is blocked, I'm asking the Senator to vote to change the rules for nominations."

WORKERS' RIGHTS TIMELINE



NLRB CREATED 1935



In the 1930s, across the country workers took to the streets to demand better working conditions and a livable wage. Some died fighting for their rights. In response to worker unrest, the National Labor Relations Act was passed and the NLRB was created to enforce it. In a six month period in 1937, the CIO signed up 2 million workers.

NO RIGHTS PRE 1900'S

Corporations, courts and government worked hand-in-hand to destroy unions and break strikes.

CHILD LABOR 1910



Child labor was pervasive in this period. In 1910, more than 2 million children worked in mines, factories and farms. Conditions for workers were brutal and exhausting, and wages were extremely low. Women were paid just a third the wages as men for the same work.

PROSPERITY FOR WORKERS 1960-1970

Over this decade, millions of working families were lifted into the middle class because they had bargaining rights. Over this decade, more than a third of private sector workers were covered by a collective bargaining agreement.

NLRB KILLED 2013?

Today we are on the verge of losing the NLRB.

But we can stop this from happening.

50 MILLION PEOPLE

CAN CHANGE AMERICA.

Unions and allies stand up for economic and social justice.

OR

WORKERS' FUTURE

Without collective bargaining rights and without an NLRB to enforce federal law and make sure companies respect our contracts, working families will have no justice.

HELP WANTED

\$7.25 AN HOUR

PART-TIME ONLY

NO BENEFITS

NO UNION



NLRB: Why it Matters

CLARENCE ADAMS, CWA Local 1109 Cablevision

Clarence Adams is a 14-year employee of Cablevision. He's also a Marine and Iraq veteran, and a father.

"Last January, 21 co-workers and I were illegally fired and locked out by Cablevision. Why were we fired? We took management at its word when it said there was an open door policy to talk about workplace issues. We wanted to talk about getting a fair contract. Cablevision decided that it didn't want to talk about anything and fired us.

"I was out of work for at least a month and a half and that's a very scary prospect. I worried about taking care of my family, worried about paying my bills and worried about getting my job back. My union filed charges with the National Labor Relations Board and the NLRB filed a complaint against the company. If it wasn't for the NLRB, I probably wouldn't be at work right now."

A year earlier, in January 2012, about 280 Brooklyn Cablevision workers, including Clarence, voted to join CWA. They voted for a union voice despite threats from the company.

After two regional directors issued complaints against Cablevision, and elected officials and community activists rallied around the 22 workers, the workers were reinstated.

Now Cablevision has filed a suit in the U.S. Court of Appeals for the D.C. Circuit asking the court to stop the Board from pursuing complaints against it. The company claims that decisions made by the Board and its New York and Brooklyn regions are invalid.

"Working people need the NLRB. It's the only way to enforce the law and get companies like Cablevision to do the right thing. Without the NLRB, we're nowhere. Cablevision won't bargain fairly and there won't be any agency that can make it bargain. I don't want to lose my job again and have no protection. We need a fully functioning NLRB."

TYRONE RIGGS CNN

Tyrone Riggs worked at CNN and Team Video Services for 14 years before he and his co-workers were terminated in 2003. CNN fired 110 workers outright and all 250 workers, even those whom CNN kept on, lost bargaining rights, wages and benefits and their union.

Riggs was forced to reapply for his job; he was replaced by a nonunion worker. "This was the week before Christmas 2003. I have two sons, they were 12 and 9 when this happened. I lost my home, I lost vehicles, I lost my health."

In November 2008, an NLRB judge ruled that CNN violated federal law and had discriminated against employees who tried to get work at other CNN bureaus. The judge's order was clear: CNN must reinstate all 110 workers who were fired, and restore working conditions, lost earnings and other benefits to all 250 employees who worked for Team Video Services.

Riggs said, "I was out of work for about two years, then picked up some freelance work at another network. I'm working now part-time at the House of Representatives recording studio.

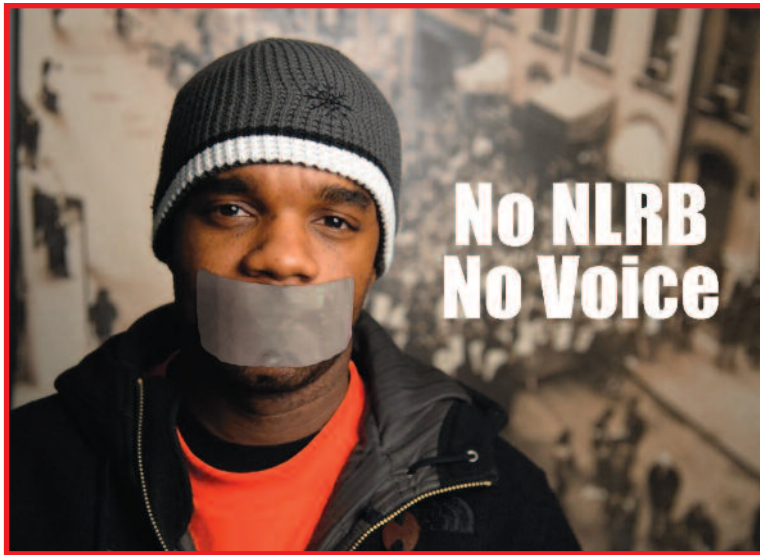
"When I'm working on the House floor, I hear members of Congress talk about 'what they're here to do for the American people.' Well, I'm the American people and I have been 10 years waiting for justice.

"I'm hoping we all can get justice and that we all can put our lives back together, financially as well as mentally."

DEBORAH ZABARENKO, TNG-CWA Local 31003 Thomson Reuters

The NLRB protects workers' right to discuss their working conditions with colleagues, whether in person or on social media.

Deborah Zabarenko is a 27 year-employee and reporter with Thomson Reuters. During contract negotiations between the Newspaper Guild and Thomson Reuters, Zabarenko was officially reprimanded by her bureau chief for tweeting that the company should deal honestly with the Guild.



Her reprimand came even as management encouraged reporters to use Twitter to discuss how to make Reuters the best place to work.

Zabarenko had a way to fight. The NLRB investigated and found that her right to communicate with her colleagues about working conditions had been violated. As a result, Thomson Reuters negotiated a new social media policy with TNG-CWA that makes clear workers can use Twitter, Facebook and other social media to discuss working conditions.

JEN TRAVIS, CWA Local 13000 Verizon



Jen Travis of Pittsburgh, a 15-year Verizon employee and mother of three with a perfect record at work, was one of 85 Verizon strikers who were suspended or fired after CWA's two-week strike against the company in the summer of 2011.

Jen did her part to support the cause during the strike, and did picket line duty. Verizon claimed the 5'2" mom, with one of her children in tow, kicked a manager. The company suspended and then fired her. She then was out of work for 14 months.

She went into debt and suffered health issues due to the stress.

The NLRB investigated and filed a complaint against Verizon for illegally firing Jen and her co-workers. When CWA settled the Verizon contract in 2012, Jen got her job back.

NEGEDE ASSEFA, CWA Local 7777 Super Shuttle

"Thanks to the NLRB, I have my job and I have my union," said Negede Assefa.

Working conditions at Super Shuttle in Denver were grim. "Super-Shuttle would just fire people, left and right without any excuse because they didn't like you. Management was verbally abusive. We were constantly getting fined and written up for no good reason."

Everything was controlled by the company.

"So we approached CWA to see how we could improve our working conditions. And we decided the best way to do this was to prove we are employees – not just independent contractors – and to get organized and get a real contract.

"It only took a day and a half to get our petition filed. But soon the company started to figure out who was behind the organizing campaign."

Assefa was fired, and drivers still on the job were hit with huge increases in franchise fees, from \$1,000 to \$3,500, to penalize them for wanting to join CWA. SuperShuttle tried to block the drivers from forming a union by claiming they

were "independent contractors," but the NLRB found otherwise.

About eight months, the drivers overwhelmingly voted for CWA. CWA prevailed in seven unfair labor practice complaints filed against management, and the NLRB ordered Super Shuttle to refund the drivers \$65,000 in franchising fees.

"I got my job back after the NLRB decided I had been terminated just because my union activity. That's why the NLRB is so important."

ROBERT NELSON California Institute of Technology Jet Propulsion Laboratory

In 2011, Robert M. Nelson and other scientists at CalTech's NASA Jet Propulsion Laboratory were issued letters of the highest level disciplinary reprimand for using their NASA email accounts to discuss the implications of a recent Supreme Court decision on the working conditions at the lab.

The scientists had filed a lawsuit and won a temporary injunction in federal court to stop CalTech's "unconstrained and intrusive background investigations into the most intimate details of our private lives." Because they used JPL's internal email system to argue their case to colleagues, "six of us received the highest level of disciplinary reprimand from our employer, the California Institute of Technology, which administers the JPL contract with NASA," Nelson said.

The scientists then filed a complaint with the National Labor Relations Board which found Caltech to have committed an unfair labor practice. Caltech appealed, but earlier this year an administrative law judge ruled that Caltech was indeed in violation of the National Labor Relations Act. The judge ruled that employees could use an open company email system to communicate with other employees about the nature and conditions of their employment. Without the support of the NLRB, "Caltech would have been free to issue a gag order against all communications between employees – a truly bizarre situation for Caltech which prides itself as a research institute dedicated to free and open inquiry," Nelson said.

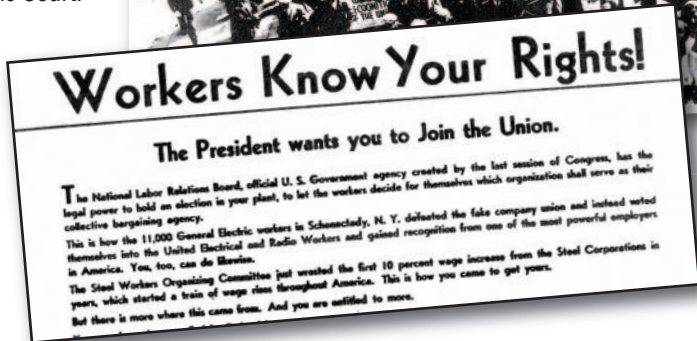
1935: Workers Get a Voice

In the 1930s, across the country and in every sector, workers took to the streets to end their poor working conditions, low wages and abusive labor practices. Some died fighting for their rights.

Newspapers were full of attacks on workers as employers refused to recognize the labor law reforms adopted in the early days of Franklin Delano Roosevelt's administration.

Then in 1935, under FDR, the National Labor Relations Act was enacted, declaring that workers had the right to organize and bargain collectively without employer interference. The National Labor Relations Board was established to provide workers a place to seek justice. It was clear whose side FDR was on.

Organizing and bargaining remained turbulent, as many employers fought against the NLRA and appealed it to the U.S. Supreme Court. In 1937, the Supreme Court reaffirmed workers' new rights: "Employees have as clear a right to organize and select their representatives for lawful purposes as a company has to organize its business..."



Credit: American Labor: A Bicentennial History

Today: How Are We Standing Up for Workers' Rights?

Earlier generations of working women and men fought for the union rights we have today. They were beaten, blacklisted and some were killed. It's our turn to defend our rights.

Right now, CWA activists and our allies are meeting with Senators and staff, writing letters and calling Senate offices to push for the confirmation of all five presidential nominations to the NLRB, and if that vote is blocked, to vote to change the

Senate rules. We need to step it up between now and the end of July. Building our movement of 50 million strong, workers, people of faith, civil rights and community activists, immigrant activists, students and more, is the way we will change America.



Make Sure Your Senators Hear from You!

Call 1-888-659-4149. Enter your zip code to be connected to your senators.

Whether you talk to a staff person or leave a recorded message, our "ask" is clear:

"I'm calling to ask the Senator to confirm all five nominees to the NLRB. And if that vote is blocked, I'm asking the Senator to vote to change the rules for nominations."

CWA's partners — NAACP, Sierra Club, National Gay and Lesbian Task Force and Alliance for Justice — join the call to confirm all five NLRB members.

A MESSAGE TO THE SENATE FROM THE SIERRA CLUB
We can't hold big polluters accountable or protect the rights of American workers and consumers if we've got no cops on the beat. But, inaction in the Senate has left key watchdog agencies like the Environmental Protection Agency and the...

A MESSAGE TO THE SENATE FROM THE NAACP
A strong labor relations board is absolutely crucial to protecting the rights and concerns of racial and ethnic minorities as well as all Americans that work under the opportunities and protections offered by labor unions. Labor unions, more than any other institution in the United States, are responsible for creating and providing a pathway for more African Americans to enter into the middle class. The Senate must protect all workers and help preserve a strong middle class by confirming all five members of the NLRB.

A MESSAGE TO THE SENATE FROM THE NATIONAL GAY AND LESBIAN TASK FORCE
The National Labor Relations Board (NLRB) is the agency that enforces federal labor law. Fewer than half the states provide any sort of anti-discrimination protections to lesbian, gay, bisexual or transgender employees. And because there is no federal law that bars workplace discrimination based on sexual orientation or gender identity, LGBT workers who suffer...

A MESSAGE TO THE SENATE FROM THE ALLIANCE FOR JUSTICE
Our democracy is rooted in both the rule of law and equal justice for all. Without a fully functioning National Labor Relations Board, 80 million workers will be denied justice. The Senate's refusal to confirm NLRB nominees is an abdication of

WHY IS PRESIDENT OBAMA BEING DENIED A SECOND TERM?

With each passing day, we fall further behind on President Obama's commitment to protect consumers, the environment, workers and citizens seeking justice through our courts.

President Obama won re-election by a strong majority and his nominations deserve an up or down vote.

The Senate majority has the power to change the rules on nominations and make the Senate work again.



giveus5nlrb.org

