

# Labor Board Pushes to Clear Cases

**Ruling Could Limit  
Union Organizing;  
Pace Draws Fire**

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The National Labor Relations Board has issued dozens of labor-law rulings in recent days, including a major decision that would limit unions' ability to organize workers.

The decisions come in a push to clear up cases before the terms of several members expire. Organized labor, which has long criticized the board under the Bush administration, charges that the recent activity is a partisan push, following several decisions reversing rulings made during the Clinton administration. Three of the board's five members are Republicans; the terms of two Republican and one Democratic board member are set to expire soon.

NLRB Chairman Robert J. Battista, who is a Republican, denies labor's characterization. "We have a statute to enforce," said Mr. Battista, whose five-year term expires in December. "Whether it helps the union or an employer is irrelevant." The board says that decisions on any cases left open when the three members' terms expire could be delayed for a year or more.

On six major decisions issued in the last two weeks, the board was split down party lines -- Republicans backing probusiness positions; Democrats backing unions' stands -- on such issues as union organizing, employing replacement workers following a strike and granting back pay to workers fired illegally.

Perhaps the most far-reaching decision limits how unions can organize using a method known as a card check, in which a company agrees to recognize the union once a majority of workers have signed cards showing their support. Businesses have argued that such an approach leaves workers open to union pressure. Unions favor card checks, which can be conducted quickly and without the company knowing about initial efforts. Secret balloting can be a longer process and companies often wage campaigns against the organizing attempt.

In its recent decision, the NLRB said a minority of workers can seek an election to decertify a union within 45 days of it being formed through a card check. In the past, workers had to wait six months to challenge the formation of a union via card check. The six-month period gives unions more time to negotiate a contract with an employer. Under federal labor law, once a contract is signed, workers can't challenge a union for the length of the contract, or three years, whichever is less. In a dissenting opinion, the two Democratic board members said the decision goes against "promoting the practice of collective bargaining."

In the other key decisions, the board ruled that it could limit the amount of back pay an employer would owe to a fired worker who allegedly joined the company only to organize. In another decision, the board overturned a precedent that permitted unions to challenge the permanent status of replacement workers.

Craig Becker, staff counsel for the AFL-CIO, said that some decisions will be appealed and that the unions involved are expected to seek Congressional hearings on the board's decisions. "I think that the majority [of the board] was certainly influenced by the prospect that they may not be the majority for that much longer," he said.

In addition to Mr. Battista, two other board members, one Republican and one Democrat, will see their terms expire when Congress recesses at the end of the year, and major decisions are typically made by a full five-member board. President Bush could make recess appointments early next year to ensure a Republican majority on the board and bypass the Senate confirmation process. If he doesn't do so, the process of naming replacements and resuming work could delay decisions until after the next presidential election.

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