

# Dechert<sub>LLP</sub>

## Winning Union Elections

Sixth Edition

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*You can and must win the election—  
without committing unfair labor practices  
that can turn the sweet taste of victory sour.*



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## PREFACE

Most employers want to be free from union interference in running their businesses. When a union comes around looking to get in the door, it's an opportunity to significantly improve your organization. The result depends upon what action you take. A frequent response is knee-jerk—interrogate employees, terminate the “troublemakers,” try to stamp out the fire as quickly as possible. Experience shows that approach does not work—in fact, it usually backfires.

More often than not, mistakes are made in the first days following discovery of union activity that put employers on the defensive, jeopardize a campaign and cause expensive legal problems later, including the possibility of the employer being saddled with a union that its employees don't really want.

It is extremely important that legal counsel be brought in at the very first indication of any union or employee organizing activity. The situation must be analyzed correctly at the outset so that the employer and counsel can work together to formulate an informed, effective and, most important, winning game plan.

We hope this guide will give you insight into the union election process that will better prepare you and your managers to meet the challenges of union organizing.

## THE UNION ELECTION PROCESS

Employees choose whether or not they will be represented by a union according to rules established under the National Labor Relations Act (NLRA). This process may be informal; an employer may simply acknowledge that a majority of its employees want a union as their representative. However, employers usually fight union organization and insist on a secret ballot election conducted by the National Labor Relations Board (“Board”).<sup>1</sup>

Established unions are not the only “unions” that can be chosen by employees. Employees may form an independent organization and designate one of their own as their bargaining representative. This type of activity is given the same protection by the NLRA as activity involving an established union. Moreover, employees who have the right to organize are not limited to traditionally blue-collar job groups. In recent years we have seen unions increase their efforts to organize traditionally non-union white-collar job groups, including professionals. For example, when the Teamsters try to organize clerical workers, it looks and is non-traditional, but it’s still a real threat.

### Initial Union Activity

An employer never sees the first union organizing activity. That takes place in bars, restaurants and people’s homes and on the telephone—secretly. Unions want their seeds well planted before coming out into the daylight. The first “public” signs are usually leaflets and cautious employee conversation. When any activity is spotted, it’s time to get labor counsel guidance *immediately* to analyze, plan and then carry out a winning game plan.

<sup>1</sup> Certain employers, such as airlines, agricultural ventures and school districts, may not be covered by the National Labor Relations Act, and these employers may be subject to other federal or state labor laws. This guide will address only representation proceedings conducted under the jurisdiction of the National Labor Relations Board.

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Unions want their seeds well planted before coming out into the daylight.

## The Election Process

The first formal step a union takes to gain representation rights is to sign up interested employees. The most common method is getting employees to sign petitions or authorization cards or “union cards.” The cards typically look like this:

The union will always try to get as many authorization signatures as possible before management discovers that organizing is taking place.

| <b>APPLICATION</b>   |                                  |                                       |
|--|----------------------------------|---------------------------------------|
| <p>I, the undersigned, do hereby make application to become a member of the AMALGAMATED FOOD AND ALLIED WORKERS' UNION, LOCAL 56, AFL-CIO.</p> <p>I hereby designate the said Amalgamated Food and Allied Workers' Union, Local 56, AFL-CIO, to represent me as my exclusive collective bargaining agent in all matters affecting my employment. I pledge to abide by all the laws and rules of the said Union and the terms of the contract between it and my employer.</p> <p>The Union is further authorized to enter into and negotiate agreements with my employer in my behalf, including agreements requiring membership in the Union as a condition of continued employment.</p> |                                  |                                       |
| NAME .....   |                                  |                                       |
| ADDRESS .....  |                                  |                                       |
| CITY .....   | STATE .....                      | ZIP .....                             |
| Employer: .....  | Wage Rate .....                  | Time Clock No. ....                   |
| Date of Birth .....  | Soc. Sec. No. ....               |                                       |
| Signature .....  |                                  |                                       |
| Date .....   | Regular <input type="checkbox"/> | Probationary <input type="checkbox"/> |

The rules of the Board provide that a union must demonstrate that at least 30% of the affected employees want the union to be their bargaining agent before an election can be held. The union will always try to get as many authorization signatures as possible before management discovers that union organizing is taking place, and usually will not go to the Board unless 50-70% have signed.

Employees often sign petitions or cards because “everyone else is doing it” or to avoid being badgered by a union organizer or a fellow employee. Employees who sign often do not understand the significance of

signing or may not have decided that a union is really in their best interests. Most important, employees should be told that a signature on a petition or card is not a promise to vote for the union, and the employee is *not* bound to vote for the union. **Employees who have signed cards can and must be persuaded to vote against the union.** Employee education on this score at the very onset of a campaign is important and has lasting consequences.

A union often claims that it represents a majority of employees and offers to show the signed petitions or cards to the employer or meet with the employer before filing a petition for an election with the Board. The union usually demands that the employer recognize the union as the exclusive bargaining agent, thus trying to avoid the secret-ballot election. This demand may be in writing, in person or by telephone. **You should not meet with any union representative or “employee representative.”** You are not obligated to meet, and you are not required to believe the union’s claim. You do not have to and should not poll your employees to confirm your belief that your employees do not want the union.

Normally, there is good reason to doubt the union’s claims. If the demand is in writing, a written response should be prepared. A demand by a union representative in person or by telephone should be refused.

If a union representative offers to meet with you to prove that the union does indeed have a majority of the employees signed up and to show you the signed petitions or cards as so-called “proof”—**don’t do it!** If the union suggests having an independent third party examine them—**don’t do it!**

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“Card-check” strategy is being hailed by unions as a key weapon in their strategies...

- Don’t agree to meet with any union representative.
- Don’t look at any petitions or cards.
- Don’t agree to have any third party examine petitions or cards.

You should not agree to meet with any union representative. You should not look at any petitions or cards. You should not agree to have any third party examine them. Otherwise, you may be waiving your rights and your employees' rights to a secret-ballot election conducted by the Board and may be forced to recognize the union and enter into collective bargaining. Don't let that happen!

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Any indication to the union that it has miscalculated its position and therefore does not have enough signatures will only show the union what it needs to do.

Sometimes a union tries to force a meeting. A union representative might barge into the office or demand a meeting in front of employees in an attempt to make you embarrassed to refuse. Just say no! Don't engage in debate or argument. State emphatically and in a firm, businesslike manner that you do not believe that a majority of the employees want to be represented by a union, that the employees are guaranteed a secret-ballot election by law, and that you believe that the employees should be allowed to exercise their guaranteed right to vote.

Curiosity about the actual number of signatures a union has is unavoidable and tempting. Human nature makes us want to find out the real strength of the union's position by questioning employees or talking to the employee organizer. The fantasy is that by pointing out that the union support falls short of what is required by the rules, the union will think that a majority of employees are not really interested and will go away. Another fantasy is that the active employees will become discouraged from their organizing efforts. That is just wishful thinking, and acting on such fantasy should be avoided. Any indication to the union that it has miscalculated its position and therefore does not have enough signatures will only show the union what it needs to do. Further, such questioning and conversations can backfire on the company and cause big legal problems later.

## The Recognition Petition

Formal election proceedings before the Board begin with a union filing a petition for recognition, based on a showing of “interest,” with the Board. This petition contains an identification of the job groups the union considers to be an appropriate “bargaining unit” and the number of employees in those groups. Appendix 1 is a copy of the petition form supplied by the Board. The petition must be accompanied by petitions or cards signed by at least 30% of the employees in the identified bargaining unit. Unions usually do not file unless they have signed up at least 50-70% of the employees in the bargaining unit.

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The Board then notifies the employer that a petition has been filed by sending a copy of the petition (but not the signatures) and asks the employer to furnish a list of employees in the bargaining unit, by job classification. Within a day or two, a Board agent telephones the employer to try to set up an election date. [If the employer has failed to bring in labor counsel before, it must bring in help now.](#)

## Board Determination of Showing of Interest

The Board alone determines whether the union has provided sufficient showing of interest. The purpose of supplying the initial employee list is to allow the Board to determine if the petitioning union has the required evidence of interest—signatures of at least 30% of the employees in the bargaining unit described in the petition. The Board counts but conducts no investigation of the signatures unless there is some hard evidence of illegality.

Failure to submit the initial list could be costly to the employer, because the Board will assume that the union's estimate of the number of employees in the unit is accurate and that those employees designating the union as their bargaining agent by signing union petitions or cards are employed in that unit.

Often, employees who are sympathetic to a union's efforts may sign as a demonstration of "solidarity," but they may not be in the bargaining unit. Some may have left the employer's payroll. In such cases those signatures would not be counted by the Board in its verification of the evidence of interest—the 30% test.

Perhaps even more important is the definition of which employees are included in the bargaining unit. Questions may exist about the bargaining units and size and whether it should be expanded or reduced. It is very important that labor counsel look at these questions and participate fully in the process that determines the bargaining unit. [Elections can be won or lost on this point alone.](#)

### Challenges to the Bargaining Unit

The employer may challenge the makeup of the bargaining unit claimed by the union. In such cases, a formal hearing is conducted by a representative of the Board at which all parties present evidence regarding the proper makeup of the bargaining unit, followed by formal written briefs based on the evidence and the law.

Typically, challenges dispute the inclusion or exclusion of categories of workers in the unit. If the union claims that an appropriate unit should be only one or two

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An employer may challenge the makeup of the bargaining unit claimed by the union. These battles sometimes can decide the ultimate outcome of an election.

departments of an integrated work force, the employer might want the entire work force to vote. Challenges often arise when the employer believes that the nature of the business has changed so that the makeup of the unit at the proposed date of election is or will be substantially different from the unit at the time the petition was filed.

One of the most common disputes is whether certain employees are supervisors or “management” and therefore should not be in the bargaining unit. These battles sometimes can decide the ultimate outcome of an election.

After considering the evidence and briefs, the Regional Director of the Board determines what the bargaining unit should be and directs that an election be held. If either side disagrees, it may ask the Board in Washington to review the case. Bargaining unit hearings may delay the election for months or even years, although usually the union, the employer and the Board try to resolve the issues by agreement rather than by hearings.

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### The Consent-Election Agreement or Stipulation

If the Board determines that the 30% test has been met, it tries to obtain an agreement for a “consent-election.”<sup>2</sup> This agreement avoids the more time-consuming procedures of a formal hearing on the case. Usually, this agreement is initially sought by telephone between the Board agent and the employer and the union.

<sup>2</sup> There are two types of agreements: the consent-election agreement and a stipulation for certification under consent-election. Under the infrequently used consent-election agreement, disputes arising in connection with the election are determined by the Regional Director of the Board. Under the stipulation election, disputes are determined by the full Board that sits at the national office in Washington, D.C.

After the initial discussions, the agent calls a joint conference with the employer and the union. Union representatives, employer representatives and counsel are present. A final determination of the proper makeup of the unit is made (if possible) and agreement is reached on details of the election, such as date and hours and place of election. The consent-election agreement is then approved by the Regional Director of the Board. The election is usually held 30 to 45 days after the agreement is approved.

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Even though the parties may agree to a consent-election, each retains its right to challenge voters at the polls.

Preparation of the “Excelsior List,” which often is not a clear-cut process, can have a significant effect on the election.

Within seven days from the agreement, the employer must furnish a voter eligibility list showing the names and home addresses of all employees in the unit. This list is referred to as the “Excelsior List” and is immediately supplied to the union by the Board. Even though the parties may agree to a consent-election, each retains its right to challenge voters at the polls.

Any voter whose name is not on the Excelsior List is automatically challenged by the Board. Occasionally, the parties will agree to a list of eligible voters and the only challenges at the polls would be to the actual identity of the person trying to vote. Preparation of the “Excelsior List,” which often is not a clear-cut process, can have a significant effect on the election.

The Board prepares and furnishes a standard election notice, which contains a sample ballot, a description of the bargaining unit and the date, place and hours of election. Appendix 2 is a sample notice of the election furnished by the Board. Copies of the election notice must be posted by the employer in conspicuous places such as on employee bulletin boards and near timecard racks.

## The Election Campaign

Both the employer and the union campaign. Historically election campaigns have included a combination of written materials such as letters, handbills and posters; gimmicks such as coupon books, coffee mugs and t-shirts; and personal contact. Today's election campaigns include new and sophisticated methods of communication and persuasion, both by employers and by unions.

The content of the employer's campaign, its timing and the avoidance of unfair labor practices require expert planning and experience from the outset. You must win the election—and do so without committing unfair labor practices that can turn the sweet taste of victory sour.

In the interest of preserving what the Board has called a “laboratory atmosphere,” in which employees are to have full and complete freedom of choice, there is a detailed and complex set of limitations on employer conduct that has evolved from Board decisions. Unfortunately, the one consistency is that the Board is skeptical about any move the employer makes when there is union activity.

Simply put, an employer has to avoid “taking stupid penalties”—be aware of “do's and don'ts,” avoid reflex reactions and carry out a carefully planned campaign. If the Board finds that the employer has acted improperly, the Board may overturn an election and order a new election be held. If the Board determines that misconduct by the employer is sufficiently egregious, the Board may go so far as to order the employer to recognize and bargain with the union even though the union lost the election. No matter what, unfair labor practice charges are expensive and difficult to defend.

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You can and must win the election—without committing unfair labor practices that can turn the sweet taste of victory sour.

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Unlike typical political elections, employers are not permitted to win votes by promising to give what the employees do not have or threatening to take away what they already have.

## Do's and Don'ts

It is an unfair labor practice for an employer to “interfere with,” “restrain” or “coerce” employees in the exercise of their “protected” rights to form or join a union. The most common unfair labor practice charges involve alleged attempts to influence employees against the union by making promises of benefits or threats of reprisal or firing “ring leaders.” Unlike typical political elections, employers are not permitted to win votes by promising to give what the employees do not have or threatening to take away what they already have.

This guide cannot lay out employer election strategies—there is no cookie-cutter solution. While strategies need to be tailored to the situation, there are some general rules of the game:

## GROUND RULES ON WHAT AN EMPLOYER MAY DO

1. **Listen to employees and supervisors.** What they are saying or not saying is very, very important.
2. **Tell supervisors what is happening and define their roles in the campaign for them.** Supervisors are important! They played a role in getting you where you are. They can help, or they can hurt. They rarely are a neutral factor.
3. **Communicate to employees in person.** You may, on company time and company property, speak to small groups or to the unit as a whole so long as no speeches are given to mass assemblies of employees during the full 24-hour period immediately before the election polls are

scheduled to open. Employees may be spoken to individually so long as they are not required to meet in the supervisor's or plant manager's office where they might feel intimidated. However, this is risky and generally *not* a good idea.

4. **Express your views regarding labor unions.** Although it might seem obvious, you should make it clear to employees at the very outset that you do not believe a union is necessary or desirable.
5. **Explain wage policies and other practices.**
6. **State the advantages for employees in dealing directly with you, without the interference of outsiders.**
7. **Point out that the union cannot guarantee wage increases or other benefit improvements.** Any and all benefits must be agreed to by you. Point out that you do not have to grant any demand and that the union cannot force the employer to agree to the promises the union may have made.
8. **Answer union arguments or charges.**
9. **Make sure the employees understand that signing authorization cards for a union does not bind them to vote for the union.** They are free to vote as they please, by secret ballot, regardless of what they might have signed.
10. **Discuss union dues, initiation fees, assessments, fines and strikes.**

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You may not SPIT:

- Spy
- Promise
- Interrogate
- Threaten

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You may not SPIT:

- Spy
- Promise
- Interrogate
- Threaten

11. Discuss the dues “Check-Off” system.
12. Discuss the meaning of the “Union Shop” or “Right to Work.”
13. Discuss union tactics and election results in other plants.
14. Answer questions asked by employees. Of course, the answers must not threaten or promise new benefits for the employees.
15. Tell employees about the election procedures, the importance of voting and the secrecy of the ballot. The election will be decided by a majority of the votes cast, not by the number of “yes” votes as a percentage of the total employees in the unit. Therefore, “getting the vote out” is critical in an election.
16. Continue to lay off, discipline and discharge employees for cause. However, such action must follow customary practices and be done without regard to union activity. Most serious unfair labor practice charges arise in this context.

All of these “do’s” should be carried out forthrightly, factually and effectively in a carefully planned and managed campaign.

#### GROUND RULES ON WHAT AN EMPLOYER MAY NOT DO—DIRECTLY OR INDIRECTLY

1. Spy on the union by watching which employees enter and leave a union hall or by

watching specific employees as they go about their daily activities, as examples.

2. Encourage employees to spy on the union.
3. Go to a union meeting or near where a union meeting is being held.
4. State or imply to any employees that you know of their membership in the union or of their union activity; this could be interpreted by the employees as a “threat of reprisal.”
5. State or imply to any employee that you know of another employee’s union membership or union activity.
6. Make any veiled or express threats or take actions because of union activity, such as blacklisting employees, cutting out overtime, removing privileges, transferring employees to undesirable work, laying off, discharging, closing the plant or moving the plant.
7. Make any promises of benefits to discourage or encourage employees in their union activity, such as promises of pay increases, promotions, retirement benefits or special favors.
8. Make any statement that could be interpreted as a promise of benefit or a threat of reprisal.
9. Question employees about their union activity or the activity of any other employee.
10. Question employees about their feelings toward or opinion of the union.

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You may not SPIT:

- Spy
- Promise
- Interrogate
- Threaten

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You may not SPIT:

- Spy
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- Threaten

11. Visit the homes of employees to urge them to reject the union, even though the union may and probably will visit employees in their homes. The reason for this is that under the law, the union is entitled to have a reasonable amount of access to the employees to be able to communicate its side of the story. The employer obviously has access during the entire workday. The union does not.
12. Poll the employees to determine union sentiment.
13. Impose a new plant rule forbidding union solicitation when other forms of solicitation are permitted.
14. Impose new work rules that prohibit union solicitation before or after work or in any free periods, such as lunch or coffee break.
15. Make any statement, in the absence of outside substantiation, that might suggest to the employees that certain adverse events might occur if a union were to win the election.

While there are a lot of “don’ts” in this list, there is every opportunity to carry out a strong, persuasive and tough election campaign that will swing votes and win the election. Most elections are lost by employers—not won by the union. These “don’ts” are listed in detail so that you will not ruin a winning election campaign because of mistakes.

## The Secret Ballot Election

The date, place and hours of the election in most cases are agreed upon during the pre-election conference negotiating the consent-election agreement. Where the parties cannot agree, or in cases of elections directed by the Board, the Regional Director of the Board sets the date, place and hours of the election.

The Board agent provides all equipment necessary to run the election—voting booths, ballot boxes, ballots, challenge envelopes and pencils. The election normally is held on the employer’s premises, in areas such as the lunch room or auditorium. The polling area itself and immediate surrounding areas must be free from supervisory or management personnel. The hours are scheduled to accommodate all eligible voters on all shifts. Voting is usually on company time.

Each party to the election is entitled to an equal, predesignated number of observers. The function of the observers is to represent their principals and to assist in the conduct of the election—checking voters’ names as they arrive and making challenges. Employer observers must be non-supervisory employees. They may or may not be in the unit of eligible voters.

Shortly before the polls open, the Board agent gathers the observers and any other representatives to inspect the election facilities. Observers are given instructions and badges. The ballot box is sealed in the presence of all observers.

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While there are a lot of “don’ts,” there is every opportunity to carry out a strong, persuasive and tough election campaign that will swing votes and win the election.

No electioneering is permitted near the election facilities; outsiders should be escorted off the premises.

When the polls open, voters enter and give their names at the check-in table. Both sets of observers take the voter names, and each make checkmarks indicating the voter's identification. The agent then gives the voters printed ballots. The voters go to the booth, mark their votes, place the ballots in the ballot box and leave the polling place.

### Counting of the Ballots—Challenges

Observers have the right to challenge voters for cause. The Board agent challenges any voter whose name is not on the Excelsior List. Typically, challenges are made when there is a question whether employees properly belong in the bargaining unit or were "employed" on the requisite date for voting purposes. Challenged voters are still permitted to vote. Their ballots are placed in "challenge envelopes," which are sealed prior to being placed in the ballot box.

At the close of the voting, the unchallenged ballots are counted by the Board agent with the assistance of the observers. The Board agent announces that a majority of the valid votes cast will decide the election. Any ballots that contain a means of identifying the voter are void. However, any ballots that clearly reflect the intention of the voter are counted, even if the marking is unorthodox (for example, if the voter writes "yes" rather than marking a box).

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No electioneering is permitted near the election facilities; outsiders should be escorted off the premises.

Challenged ballots are kept separately. If, when added to the losing count, they would not shift the result to a new majority or tie in favor of the employer, challenged ballots are disregarded and not opened. Remember that a union must receive *more* than 50% of the valid votes actually cast to win.

### Disposition of Challenges

If the votes of the challenged voters will affect the outcome of the election, the challenged ballots are collected by the Board agent and are held separately, under seal, while the Board investigates the challenges. Each party is asked to prepare, in writing, its position on each challenge, including supporting arguments, precedents and names of witnesses. The Board agent either interviews the witnesses or obtains written affidavits.

The Board has the authority to conduct a hearing on the challenged ballots. On the basis of all the evidence, the Board then issues a report containing its final conclusions as to which challenged votes will be eligible to be counted and which will not. The parties thereafter have the right to file exceptions to the report or request a review.

If the number of challenges sustained (votes ineligible to be counted) renders the remaining challenged ballots insufficient in number to affect the outcome of the election, the Board does not count the remaining challenged ballots. If the number of challenges overruled (votes that are eligible) is sufficient to affect the results, the challenged ballots are then opened following a procedure designed to protect the anonymity of the voters. The Board then issues a revised tally of the votes.

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Remember that a union must receive more than 50% of the valid votes actually cast to win.

## Certification

The ultimate result of an election is the “certification” by the Board. If the union does not receive a majority of the votes cast, a “certification of results” is issued by the Board. Appendix 3 is a sample of this type of certification. Following a certification of results by the Board, another election for the same bargaining unit may not be held for 12 months after the date of the election.

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Following a certification of results by the Board, another election for the same bargaining unit may not be held for 12 months after the date of the election.

If the union has received a majority of the valid votes, a “certification of representative” is issued. Appendix 4 is a sample of this type of certification. Thereafter, the employer is under a duty to enter into good faith collective bargaining with the union to arrive at an agreement governing the wages and terms and conditions of employment of the workers in the unit. Under certain circumstances, the employer must decline to bargain with the certified union in order to challenge the propriety of the Board’s decision in the courts.

Following a certification of representative, another election may not be held for 12 months after the date of the certification.

## Decertification, Deauthorization and Employer Petitions

An employee, a group of employees or another union seeking representation of the employees may file a petition for “decertification” asserting that the certified or currently recognized bargaining agent is no longer the representative of the unit. Decertification petitions may be filed only during an “open period” preceding the end of the term of a collective bargaining agreement.

Employees may also file a “deauthorization” petition for an election concerning whether the union security clause in the collective bargaining agreement—the union shop clause requiring employees to join the union and pay dues in order to keep their jobs—should continue to exist. Where a deauthorization election defeats the union security clause, the union’s strength and bargaining position are often substantially diminished.

An employer also has the right during the “open period,” or after a collective bargaining agreement has expired, to file its own petition for an election to determine whether the majority of the employees continue to want a union. The employer must have objective grounds for believing that the union has lost its support before the Board will process such a petition. These objective grounds might include a letter or petition from the employees to the employer stating that they no longer want to be represented by the union, mass withdrawals from the union or a dramatic and sudden change in the size or composition of the work force.

Board procedures similar to those described previously govern decertification, deauthorization and employer petition proceedings, including the filing of the petition, the election campaign, the secret ballot election and certification of the results by the Board.

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An employer also has the right during the “open period,” or after a collective bargaining agreement has expired, to file its own petition for an election to determine whether the majority of the employees continue to want a union.

## CONCLUSION

Union organizing is usually well under way before it is discovered. Careful, informed planning and execution of an aggressive campaign are the keys to winning a union election. The election process is governed by a complex set of highly technical procedures and rules, many of which are contrary to what common sense would dictate, so expert guidance is key. This booklet is a guide, but it is not a “do-it-yourself” kit. We hope you and your managers find that this information strengthens your organization and better prepares you. Our labor and employment attorneys are ready and eager to help—whenever and wherever you may need us.

Dechert LLP

Winning Union Elections

INTERNET  
FORM NLRB-502  
(3-96)

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
PETITION

FORM EXEMPT UNDER 44 U.S.C. 3512

| DO NOT WRITE IN THIS SPACE |            |
|----------------------------|------------|
| Case No.                   | Date Filed |

**INSTRUCTIONS: Submit an original and 4 copies of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located. If more space is required for any one item, attach additional sheets, numbering them accordingly.**

The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

1. **PURPOSE OF THIS PETITION** (If box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.) (Check One)

**RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.

**RM-REPRESENTATION (EMPLOYER PETITION)** - One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.

**RD-DECERTIFICATION (REMOVAL OF REPRESENTATIVE)** - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.

**UD-WITHDRAWAL OF UNION SHOP AUTHORITY (REMOVAL OF OBLIGATION TO PAY DUES)** - Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.

**UC-UNIT CLARIFICATION** - A labor organization is currently recognized by Employer, but Petitioner seeks clarification of placement of certain employees: (Check one)  In unit not previously certified.  In unit previously certified in Case No. \_\_\_\_\_

**AC-AMENDMENT OF CERTIFICATION** - Petitioner seeks amendment of certification issued in Case No. \_\_\_\_\_  
Attach statement describing the specific amendment sought.

2. Name of Employer \_\_\_\_\_ Employer Representative to contact \_\_\_\_\_ Telephone Number \_\_\_\_\_

3. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code) \_\_\_\_\_ Telecopier Number (Fax) \_\_\_\_\_

4a. Type of Establishment (Factory, mine, wholesaler, etc.) \_\_\_\_\_ 4b. Identify principal product or service \_\_\_\_\_

5. Unit involved (in UC petition, describe present bargaining unit and attached description of proposed clarification.)  
Included \_\_\_\_\_  
Excluded \_\_\_\_\_

6a. Number of Employees in Unit:  
Present \_\_\_\_\_  
Proposed (By UC/AC) \_\_\_\_\_

6b. Is this petition supported by 30% or more of the employees in the unit?  Yes  No  
\*Not applicable in RM, UC, and AC

(If you have checked box RC in 1 above, check and complete EITHER item 7a or 7b, whichever is applicable.)

7a.  Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about (Date) \_\_\_\_\_ (If no reply received, so state.)

7b.  Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8. Name of Recognized or Certified Bargaining Agent (if none, so state.) \_\_\_\_\_ Affiliation \_\_\_\_\_

Address, Telephone No. and Telecopier No. (Fax) \_\_\_\_\_ Date of Recognition or Certification \_\_\_\_\_

9. Expiration Date of Current Contract. If any (Month, Day, Year) \_\_\_\_\_ 10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day, and Year) \_\_\_\_\_

11a. Is there now a strike or picketing at the Employer's establishment(s) Involved? Yes \_\_\_\_\_ No \_\_\_\_\_

11b. If so, approximately how many employees are participating? \_\_\_\_\_

11c. The Employer has been picketed by or on behalf of (Insert Name) \_\_\_\_\_, a labor organization, of (Insert Address) \_\_\_\_\_ Since (Month, Day, Year) \_\_\_\_\_

12. Organizations or individuals other than Petitioner (and other than those named in items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in item 5 above. (If none, so state.)

| Name | Affiliation | Address | Date of Claim |
|------|-------------|---------|---------------|
|      |             |         |               |
|      |             |         |               |

13. Full name of party filing petition (If labor organization, give full name, including local name and number) \_\_\_\_\_

14a. Address (street and number, city, state, and ZIP code) \_\_\_\_\_ 14b. Telephone No. \_\_\_\_\_

14c. Telecopier No. (Fax) \_\_\_\_\_

15. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filed in when petition is filed by a labor organization) \_\_\_\_\_

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) \_\_\_\_\_ Signature \_\_\_\_\_ Title (if any) \_\_\_\_\_

Address (street and number, city, state, and ZIP code) \_\_\_\_\_ Telephone No. \_\_\_\_\_

Telecopier No. (Fax) \_\_\_\_\_

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

# UNITED STATES OF AMERICA ★ NATIONAL LABOR RELATIONS BOARD

# NOTICE OF ELECTION



**GENERAL**

**PURPOSE OF THIS ELECTION** — This election is to determine the representative, if any, desired by the eligible Employees for purposes of collective bargaining with their Employer. (See the Notice of Election for a description of eligible employees.) A majority of the valid ballots cast will determine the results of the election.

**SECRET BALLOT** — The election will be by SECRET ballot under the supervision of the Regional Director or his authorized representative. The Board will not be permitted at or near the polling place, in person, or by proxy, to observe the voting process. Violations of these rules should be reported immediately to the Regional Director or the agent in charge of the election. Your attention is called to Section 10 of the National Labor Relations Act:

**ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES AS SUCH, SHALL BE DEEMED TO HAVE COMMITTED A VIOLATION OF SECTION 10 OF THE ACT AND SHALL BE SUBJECT TO A FINE OF NOT MORE THAN \$5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.**

Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will check the voter's name against the list of eligible voters and mark their ballot in secret. DO NOT SIGN YOUR BALLOT. Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

A sample of the official ballot is shown at the center of this Notice.

**ELIGIBILITY RULES** — Employees eligible to vote are those described under VOTING UNIT in this Notice of Election, including employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also including employees who were laid off or discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are not eligible to vote.

**SPECIAL ASSISTANCE** — Any employee or other participant in this election who has a handicap and who in order to participate in this election needs special assistance, such as a sign language interpreter, should notify the Regional Director as soon as possible and request the necessary assistance.

**CHALLENGE OF VOTERS** — If your eligibility to vote is challenged, you will be allowed to vote through the voting booth. If you are challenged, you are eligible to vote, the polling area is not the place to resolve the challenge. If you are challenged, you are eligible to vote, the polling area is not the place to resolve the challenge. If you are challenged, you are eligible to vote, the polling area is not the place to resolve the challenge. If you are challenged, you are eligible to vote, the polling area is not the place to resolve the challenge.

**AUTHORIZED OBSERVERS** — Each of the interested parties may designate an equal number of observers, the names to be determined by the Board agent, to observe the voting process at the election. These observers (a) act as checkers at the voting place and at the counting of ballots; (b) assist in the identification of voters; (c) challenge voters and ballots; and (d) otherwise assist the Regional Director or agent.

**INFORMATION CONCERNING ELECTION** — The Act provides that only one valid representation may be maintained in the same bargaining unit. Any employee who desires to obtain any further information concerning the terms and conditions of the election, the voting unit, or eligibility rules, may do so by communicating with the Regional Director or agent in charge of the election.

**WARNING: THIS IS THE ONLY OFFICIAL NOTICE OF THIS ELECTION AND MUST NOT BE DEFACED BY ANYONE. ANY MARKINGS THAT YOU MAY SEE ON ANY SAMPLE BALLOT OR ANYWHERE ON THIS NOTICE HAVE BEEN MADE BY SOMEONE OTHER THAN THE NATIONAL LABOR RELATIONS BOARD, AND HAVE NOT BEEN PUT THERE BY THE NATIONAL LABOR RELATIONS BOARD. THE NATIONAL LABOR RELATIONS BOARD IS AN AGENCY OF THE UNITED STATES GOVERNMENT, AND DOES NOT ENDORSE ANY CHOICE IN THE ELECTION.**

7-331

GPO : 1999 O - 452-899

**RIGHTS OF EMPLOYEES**  
Under the National Labor Relations Act, employees have the right

- To self-organize
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purpose of collective bargaining or other mutual aid or protection
- To refrain from any of the above activities if they have chosen to accept a contract where such agreements are permitted, enter into a lawful union-security agreement requiring employees to join a union, or accept a contract where such agreements are permitted, enter into a lawful union-security agreement requiring employees to join a union
- To pay the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of their rights. The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employer interfere with your right to a free, fair, and honest election, the Board will take action against them. This includes, but is not limited to, the following, including backpay from the party responsible for their discharge:

- Threatening loss of jobs or benefits by an Employer or a Union
- Threatening loss of jobs or benefits by a Union or other benefits to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making false statements to either an Employer or a Union of racial or religious prejudice by inflammatory or defamatory remarks
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

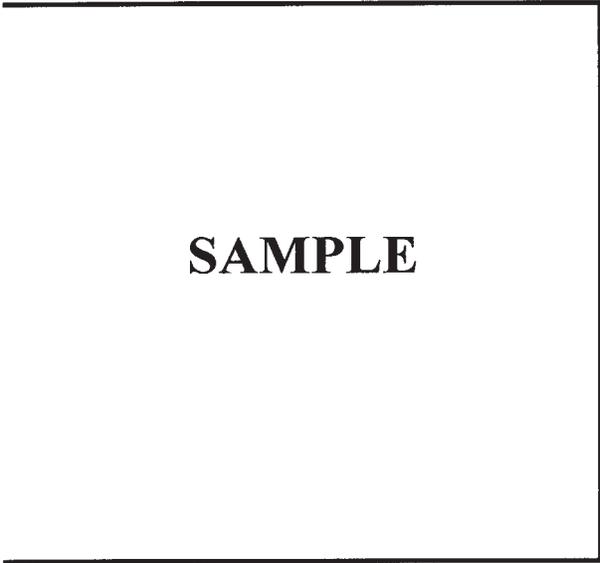
**The National Labor Relations Board protects your right to a free choice**

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board, as an agency of the United States Government does not endorse any choice in the election.



NATIONAL LABOR RELATIONS BOARD  
an agency of the  
UNITED STATES GOVERNMENT

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD



TYPE OF ELECTION  
(CHECK ONE)

- CONSENT
- STIPULATED
- RD DIRECTED
- BOARD DIRECTED

RC—RM—RD

(ALSO CHECK BOX BELOW WHEN  
APPROPRIATE)

8(b)(7)

CASE: XXXXXXXX

**CERTIFICATION OF RESULTS OF ELECTION**

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that no collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board,

It is certified that a majority of the valid ballots have not been cast for any labor organization and that no labor organization is the exclusive representative of the employees in the bargaining unit described below:

**INCLUDED:** XXXXXXXXXXXXXXXX

**EXCLUDED:** XXXXXXXXXXXXXXXX



Signed at Philadelphia, Pennsylvania  
on the xxxx day of xxxxxxxx, 2XXX.

XXXXXXXXXXXXXXXXXXXXXXXXXXXX  
Regional Director, Region Four  
National Labor Relations Board

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

SAMPLE

TYPE OF ELECTION  
(CHECK ONE)

- CONSENT
- STIPULATED
- RD DIRECTED
- BOARD DIRECTED

CASE XXXXXXXX

RC—RM—RD

(ALSO CHECK BOX BELOW  
WHEN APPROPRIATE)

8(b)(7)

CERTIFICATION OF REPRESENTATIVE

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots have been cast for XXXXXXXXXXXX and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

INCLUDED: XXXXXXXXXXXX

EXCLUDED: XXXXXXXXXXXX



Signed at Philadelphia, Pennsylvania  
on the xxxx day of xxxxxxxx, 2XXX.

XXXXXXXXXXXXXXXXXXXXXXXXXXXX  
Regional Director, Region Four  
National Labor Relations Board

NOTE – SEE ATTACHMENT “A” – NOTICE OF BARGAINING OBLIGATION



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### **About Dechert LLP**

Dechert LLP advises clients on international and domestic transactions, litigation, regulatory issues, and tax matters. With more than 750 lawyers in the United States, the United Kingdom, and Continental Europe, we have the resources to help clients succeed wherever they do business.

Dechert<sub>LLP</sub>