



Congress Must Fully Fund the National Labor Relations Board (NLRB)

NLRB LACKS THE RESOURCES TO FULLY ENFORCE THE LAW

The NLRB is in a funding crisis, leaving the agency unable to do its law-mandated job — which entails conducting hearings and elections, investigating unfair labor practices charges, settling and litigating meritorious cases, and obtaining full and prompt remedies when employers violate workers' rights.

Unlike other worker protection agencies, the NLRB has not received a budgetary increase in nearly 10 years, since fiscal year (FY) 14. Adding in inflation amounts to a 25 percent budget decrease. The agency's staffing level has fallen well behind the growth of the national private sector workforce. Between 2006 and 2019, the number of full-time NLRB employees dropped by nearly 31 percent. At current funding levels, the agency will likely need to initiate a furlough, both harming public employees and exacerbating existing problems.

A ROBUST NLRB IS CRITICAL AS CASELOAD SURGES NATIONWIDE

In FY 22, workers filed 2,510 union representation petitions — a 53 percent increase from FY 21 — and the highest number of union representation petitions filed in five years. Workers and their unions also filed 19 percent more unfair labor practice (ULP) charges this year than in the previous year. The total caseload (both ULP and union representation cases) increased by 23 percent — the single largest increase in 46 years and the largest percentage increase in more than 60 years.

Undermining Government Service by Underfunding the NLRB Hurts Workers and Management

Congress must fund the NLRB so that the agency can hire the appropriate level of staff, procure the necessary resources to conduct hearings and elections, investigate ULP charges, and obtain full and prompt remedies for workers whose rights are violated. The lack of NLRB staff and delays in processing contributes to a hostile environment for organizing unions and filing ULPs. Workers are far more hesitant to engage with the agency in order to enforce their rights or form a union when their case could take a year or more to be resolved. Employers also must spend additional resources as ULP charges languish because of staffing challenges at the NLRB.

**The final Appropriations Package
for FY 23 must include
\$368 million for the NLRB**

Examples of NLRB Delays on ULP and Union Elections

- **USW District 7 / NLRB Region 25: In Columbus, Indiana, we filed a charge against Westrock on December 3, 2021, alleging that the Company was refusing to comply with a midterm wage increase agreement.** After the Region found merit in May 2022, they had to assign the case to a Field Attorney in Subregion 33 (Peoria) because they did not have enough staff in the Indianapolis office. We signed a settlement agreement in late September 2022, providing for full back pay and the Company agreed to send the Region the backpay checks for distribution. The Company says they did this in mid-October, but no one has received checks yet. The Local leadership is fielding a lot of questions from the membership as to why this process has taken so long.
- **USW District 8 / NLRB Region 6: In West Virginia, during April 2022, USW filed a charge against AMG Resources, a successor employer to Herman Strauss.** We were attempting to bargain the first collective bargaining agreement (CBA) with AMG. The charge alleges a few things, mainly that AMG was insisting on changes to the scope of the bargaining unit and insisting on bargaining two CBAs. AMG has a subsidiary, Weirton Scrap Processing. There are two scrap yards—one in Wheeling and one in Weirton. AMG was insisting that AMG and WSP are two separate employers; therefore, they needed two separate CBAs. In the charge, we were arguing that they are a single employer and cannot insist on splitting the unit. However, it took months for the Region to investigate and decide. Even the investigating agent expressed frustration with how long it was taking and understood that we needed a decision. Eventually, we gained all of the substantive terms of the CBAs (which were identical) and the sole remaining issue was whether it should be two agreements or one. By September 12, 2022, we still did not have a decision from the Region and the Local was frustrated. We ultimately let them vote and they ratified the two CBAs, so we withdrew the charge.
- **USW District 8 / NLRB Region 6: In Anmoore, West Virginia, we filed seven charges against Amsted Graphite Materials relating to unilateral changes (including one resulting in an employee's discharge) and failure to provide information between February 2021 and September 2021.** Despite the expeditious conclusion of the Union's submission of evidence on all charges by October, merit determinations were not made until late January 2022. The vast majority of these charges were withdrawn pursuant to a non-Board settlement in March prior to the Region's issuance of a complaint.
- **USW District 8 / NLRB Region 9: In Glen Dale, West Virginia, we have filed 11 charges against Tecnocap, including one alleging unlawful discharge of a union officer, others dealing with refusals to meet to bargain, and another dealing with the unilateral implementation of a new contract proposal, between January and June 2022.** No complaint has been issued on any, and the vast majority are still pending a merit determination. The Field Attorney assigned to most of these cases has been pulled into multiple, complex trials on other cases because they are the only experienced attorney in the office; and unfortunately, this Field Attorney is retiring at the end of the year.
- **USW District 8 / NLRB Region 10: In Paducah, Kentucky, we filed a charge against Four Rivers Nuclear Partnership on January 6, 2022.** The charge alleges that the Company failed to provide information, hired subcontractors during bargaining in violation of the status quo, and engaged in surface bargaining. At one point, the investigating agent told us that the Region was just too busy with either Amazon or Starbucks cases. Just recently, we were told from the Region that they are going to find merit, but have not heard any updates since then. Still, it's been almost a year, and in the meantime, we have been trying to negotiate a first contract.
- **USW District 9 / NLRB Region 12: In Florida, we filed charges against Pepsi alleging the unlawful assistance to a decertification campaign on April 27, 2022.** A USW member attempted to contact Board agents and introduce supplemental evidence with no response. USW was told it was moved to a different agent, who also never responded. It was not until the decertification petitions were filed (July 29) that she received a response, this time from an entirely new Board agent who was unfamiliar with the charges.