

Insights, News & Events

LABOR BOARD SEES MAJOR UPTICK IN ACTIVITY DURING FIRST HALF OF FISCAL YEAR: 3 TAKEAWAYS FOR EMPLOYERS

Insights
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The new union representation process installed by the National Labor Relations Board unsurprisingly led to an astronomical increase in election petitions filed in the first half of FY 2024. The Labor Board also saw a significant increase in unfair labor practice charges filed this year, according to its April 9 announcement. What does this mean for employers? Here are three important takeaways, and a few best practices to help your organization maintain a positive work environment while also complying with evolving federal labor law requirements.

1. Recent Ruling Led to Huge Spike in Union Election Petitions

The Labor Board recently reported a significant increase in union election petitions. In fact, 35% more were filed in the first half of Fiscal Year 2024 than the same period in 2023 (October 1 – March 31.)

The surge in petitions is largely due to the number of “RM petitions” filed by employers in the wake of the Board’s August 2023 decision in [*Cemex Construction Materials Pacific, LLC*](#). That decision drastically changed how employers respond to union recognition demands in order to ensure a secret ballot election ultimately determines whether employees wish to be represented.

Under *Cemex*, in the absence of a representation petition filed directly by the union with the NLRB, employers confronting union recognition demands must either recognize the union as the exclusive bargaining

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representative based on a claim of majority status or file an RM petition for a secret-ballot vote within 14 days of receiving the recognition demand. [You can read more about the impact of the Cemex decision here.](#)

As expected, the *Cemex* ruling resulted in a sharp uptick in employer-filed RM petitions as of August 2023 — and so far in 2024, the number of these filings has already exceeded the total for all of 2023, according to the NLRB's data. Indeed, while employers have filed an average of about 46 RM petitions each fiscal year over the last decade, Bloomberg Law [noted](#) that employers are on pace to file about 630 in FY 2024, illustrating the profound impact of the ruling.

2. Unfair Labor Practice Charges Are Also on the Rise

You should also note that unfair labor practice (ULP) charges filed with the NLRB increased by 7% in the first half of FY 2024. The NLRB said this spike continues a trend over the last few years, since ULP charges were up 10% in FY 2023 over the year before, and 19% in FY 2022 compared to FY 2021.

This should come as no surprise, as ULP charges often accompany union organizing campaigns and representation elections. Unfortunately, this boost in ULP litigation comes on the heels of a series of enforcement initiatives undertaken by the agency's General Counsel in a concentrated effort to shift the remedial framework toward the interests of organized labor and – in so doing – stem the tide of union membership decline.

3. You Can Keep Informed with FP's Union Organizing Activity Map

The uptick in union election petitions and unfair labor practice charges makes it more important than ever for employers to stay ahead of the curve. While you may think labor unions only impact large corporations or specific industries, [FP's new Union Organizing Activity Map](#) actually shows that smaller businesses are more likely to confront an organizing drive. The map also reveals those unions responsible for the most petition filings broken down by region and date, along with the most common geographic hot spots when it comes to such activity.

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Want to discover more trends? Our complimentary activity map is searchable by region, state, and date, allowing you to stay up to speed on what's happening in your own backyard in real time. [Click here to check out FP's Union Organizing Activity Map.](#)

What Should You Do?

Following these best practices can help your organization maintain a positive work environment while also complying with federal labor law requirements:

- **Encourage Communication:** Ensure employees feel comfortable expressing their ideas and concerns and that the company makes its goals, plans, and priorities clear.
- **Offer Competitive Compensation and Benefits Packages:** You can promote a positive work experience by paying fair compensation and offering benefits that meet the needs of your workforce, such as healthcare, paid time off, flexible work arrangements, and retirement plans.
- **Address Employee Concerns Promptly and Consistently:** Be sure employees know who to contact to resolve workplace concerns. Open lines of communication and prompt resolutions can have a positive impact on employee morale.
- **Keep Up to Date on Evolving Labor Board Standards:** Many employers have had trouble keeping up with the dizzying pace of new directives from the NLRB in recent years. These changes have prompted employers to regularly review and update employee relations policies and practices with an eye for compliance.
- **Train Managers and Supervisors:** Be sure your managers and supervisors know how to effectively and legally handle labor relations matters and that they know who in the organization can help them resolve any complex issues that arise.
- **Work with Experienced Labor Counsel:** This can help ensure your policies and practices align with the latest rules and standards that impact your workplace. Rather than taking a one-size-fits-all approach, employers are encouraged to collaborate with their internal stakeholders and labor counsel to tailor an appropriate compliance

strategy around the unique aspects of their workplace cultures.

Conclusion

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