

In Less Than A Year, Trump Has Stripped Back Workers' Ability To Unionize

His revamped labor board issued a slew of new policies at the end of 2017 that will make collective bargaining harder.

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[HuffPost](#) |

Candidate Donald Trump pitched himself as the right choice for union workers. He [bragged](#) that he'd had good relations with labor unions during his real estate career. He argued that he [deserved](#) the AFL-CIO labor federation's electoral endorsement, which ultimately went to his opponent, Hillary Clinton.

But in less than a year as president, Trump has wiped away several of the modest policy gains that organized labor made during the Obama years. The nominees he's chosen to fill crucial regulatory roles are already making it more difficult for some workers to join unions and bargain collectively.

These policy reversals have drawn enthusiastic cheers from business lobbies and made a joke of one of Trump's campaign boasts: "[I have great relationships with unions.](#)" Meanwhile, union ranks are hovering near [historic lows](#).

In the last weeks of 2017, the National Labor Relations Board issued a slew of decisions that rolled back worker- and union-friendly reforms from the preceding eight years. The NLRB is the independent federal agency responsible for interpreting collective bargaining law and refereeing disputes between employers, unions and workers.

The new rulings were made possible by Trump's two nominees to the five-member NLRB — William Emanuel and Marvin Kaplan — which flipped the board's majority from liberal to conservative. The board managed to get several contentious decisions out the door before Dec. 16, when the term of the third Republican member, Philip Miscimarra, expired, deadlocking the board at 2-2.

In one of the most consequential changes, the NLRB reversed a 2011 ruling that helped workers form smaller unions within a single larger workplace. The precedent set during the Obama years allowed, say, [nursing home assistants](#) to hold a union election without including all the facility's dietary aides, maintenance workers and other employees who don't share similar job duties, wages and gripes with management.

Employers hated that standard, complaining that it led to "micro unions." By overturning it, the Trump-shaped board made organizing workers at a large facility a far more daunting task. Consider the [case](#) they ruled on: After 100 welders unionized at a manufacturing plant, the NLRB found the smaller organizing unit to be illegitimate and said any union election would

have to include all 2,500 different types of workers at the company, spanning 120 job classifications.

The board ruled 3-2 along partisan lines in the case. The two dissenting Democratic members said it was “unconscionable” for the Republican majority to make such a sweeping change without at least soliciting briefs from unions and employers. “It is a dereliction of the duty we owe to the parties and the labor-management community,” they wrote.

It goes against everything President Trump promised working people during the campaign. Sen. Patty Murray (D-Wash.)

The Republican majority took an ax to another major precedent set during the Obama years known as the “joint employer” standard.

Back in 2015, the NLRB ruled that companies [can't dodge their responsibilities](#) to their workers just by outsourcing management duties to subcontractors or franchisees. The ruling made it easier for workers to file labor complaints against big companies like McDonald's, which claim they aren't the employers of the masses of people who labor at their franchise restaurants. The ruling also opened the door for fast food workers to potentially unionize in large groups, rather than store by store.

But the new board flipped that decision, reverting the joint employer test to a standard more favorable to fast-food chains and other big companies that contract out work. McDonald's is [likely to benefit](#) almost immediately in a current case over its responsibilities as a potential joint employer.

Sen. Patty Murray (D-Wash.), the top Democrat on the Senate committee overseeing the NLRB, said in a statement that the change in the joint employer standard would make it harder for workers to bargain for higher wages. “And it goes against everything President Trump promised working people during the campaign,” she added.

In addition to the two board members, Trump has also chosen a new NLRB general counsel, who functions as a kind of prosecutor and brings cases before the board. While President Barack Obama's nominees aggressively pursued employers for unfair labor practices, Trump's pick, Peter Robb, has already signaled that he intends to unwind much of what his predecessors did.

In a December memo first reported by HuffPost, Robb told the agency's regional directors that any expansion of workers' rights under Obama was [effectively on hold](#) for now. He also rescinded several guidance memos that were issued under the previous more-liberal board and that employers argued were too favorable to unions and workers. Robb had represented employers and business groups in labor and employment disputes as a private attorney before Trump plucked him for the general counsel's position.

For now, the deadlocked NLRB won't be able to rule on contentious cases, making it unlikely that other Obama-era policies will be undone in the near future. But Trump will have the chance

to nominate a fifth member to the board in 2018. The GOP Congress will need only a simple majority to confirm the nominee and give the board a 3-2 Republican majority once again.

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