

United States Senate
WASHINGTON, DC 20510

April 1, 2019

The Honorable Kyle Fortson
Chairman
National Mediation Board
1301 K Street NW
Suite 250E
Washington, DC 20005

Re: Proposed Rule on “Decertification of Representatives,” Docket No. C-7198

Dear Chairman Fortson:

We write in support of the National Mediation Board’s (NMB) proposed rule to strengthen and streamline its procedures for the decertification of collective bargaining representatives.

The *Railway Labor Act* (Act) states that one of the law’s purposes is “to forbid any limitation upon freedom of association among employees.”¹ The United States Supreme Court has further explained that under the Act, covered employees have the right to determine their collective bargaining representatives, including “whether they shall have any representation at all.”²

To best carry out the law, the processes for certifying and decertifying collective bargaining representatives should be similarly straightforward. Unfortunately, the current decertification process is needlessly convoluted and confusing for employees who no longer wish to be represented by a union.

In order to begin decertifying, employees must first identify a person who is willing to use his or her own name as the preferred representative, known as a “straw man.” This straw man must then collect cards from at least fifty percent of employees in the class or craft affirming their choice of the straw man as their representative. If successful, an election is held in which the employees choose from among the following options: (i) the name of the current representative, (ii) the straw man, (iii) “no union”; and (iv) a write-in option. Employees must choose “no union” in order to vote in favor of decertifying. Notably, nothing in the Act compels this counterintuitive process.

By contrast, the proposed regulation would eliminate the requirement to identify a straw man. Instead, a decertification ballot would include options for (i) incumbent union, (ii) no

¹ 45 U.S.C. §151a (2017).

² *Bhd. of Ry. and S.S. Clerks, Freight Handlers, Exp. and Station Emps. v. Ass’n. for the Benefit of Non-Contract Emps.* 380 U.S. 650, 670 (1965).

representation, and (iii) a write-in option. The proposal simply provides a more effective means for employees to exercise their freedom to choose or reject union representation.

Workers choosing whether to continue to remain represented by a labor organization deserve a straightforward process. We support the NMB's proposal to eliminate the confusing straw man requirement.

Sincerely,



Johnny Isakson
Chairman
Senate Subcommittee on Employment and
Workplace Safety



Lamar Alexander
Chairman
Senate Committee on Health, Education,
Labor, and Pensions