

Blog Post

The Biden Administration Takes Aim at Increasing Worker Empowerment

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By [Ryan Krone](#)

When President Biden took office in 2021, he vowed to be the “most pro-union president” this country has ever seen. Although Biden was unable to deliver some key worker legislation during his first year in office, he is upping the ante to fulfill his promise of a pro-union presidency. Biden’s newly created White House Task Force on Worker Organizing and Empowerment (the Task Force) just released its much-anticipated report (Report) detailing countless recommendations for revising labor laws.

By way of background, in April 2021, Biden issued Executive Order 14025 establishing the Task Force with its stated goal to identify executive branch policies, practices, and programs that could be used to promote the Biden Administration’s policy of support for worker power, worker organizing, and collective bargaining. Less than a year later, on February 7, 2022, the Task Force released its Report, providing more than 60 recommendations, divided into four categories:

- **Federal Employees:** Making the Federal Government a Model Employer;
- **All Employees:** Increasing Visibility, Support, Awareness, and Promotion of Collective Bargaining;
- **All Employees:** Ensuring Effective Enforcement of Existing Laws; and

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- **All Employees:** Developing Research and Collecting Data to Advance Policy About Worker Organizing and Empowerment.

While each recommendation is important and impacts many private sector employers, below is Akerman's list of the Task Force's most notable recommendations:

Increasing Transparency of Anti-Union Campaigns

The Report states that employers frequently (in connection with as many as 75 percent of union organizing campaigns) consult third-party consultants for assistance in defeating union organizing drives. This is known as "persuader" activity. To that end, the Task Force recommended more transparency and disclosure requirements for companies that hire anti-union consultants, particularly for federal contractors that use anti-union consultants.

Launch a "Know Your Rights Initiative" on the Rights to Organize and Collectively Bargain

The Task Force also recommended that federal agencies, including the National Labor Relations Board (NLRB), Federal Labor Relations Authority, and Federal Mediation and Conciliation Service prioritize expanding outreach at the national and regional levels, with an emphasis on targeting young workers and underserved communities. The ultimate goal is to expand union visibility, particularly through social media platforms, as well as through an expanded and improved version of the Department of Labor's website: worker.gov.

Connect Small Business Owners with Resources on Unionization

The Task Force wants to ensure that unionization efforts in small businesses are not unknowingly

stopped because small businesses are not aware of labor laws. The Task Force believes that the Small Business Administration can enhance unionization efforts by providing small businesses with materials and programs to ensure employers understand how to lawfully and fairly respond to worker organizing.

Improve Efforts Regarding Anti-Retaliation Enforcement

The Task Force believes illegal retaliation is one of the biggest factors that chills workers in the exercise of their organizing rights. Accordingly, more cooperation and coordination between the NLRB, Department of Labor (DOL), and other agencies would ensure more workers are protected from retaliation.

Prevent and Address Worker Misclassification

Although misclassification has been a hot topic for years, the Report suggests that the DOL will ramp up action to prevent and remedy misclassification of employees as independent contractors. The Report recommends partnerships with other agencies (e.g., the Internal Revenue Service and Department of Transportation), guidance documents, and outreach to workers, employers, unions, and worker advocates.

Ensure Unions Have a Seat at as Many Federal Advisory Tables as Possible

The Report describes the benefits unions can offer federal agencies and recommends including union voices in their formal advisory discussions.

Implications for Employers

At a time when public opinion of labor unions is at its highest since 1965, the Task Force recommends that the federal government maximize efforts across the board to increase union participation and

strengthen workers' rights to organize. This could result in the perfect storm that impacts employers in ways not seen in decades.

All private employers can expect to see wide-ranging implications from the Report, including:

- An increase in employee access to educational resources outlining employee rights under the National Labor Relations Act, thereby increasing organizing activity.
- An uptick in union organizing activity for small business that generally have not seen a substantial amount of union activity.
- More scrutiny on misclassification of employees as independent contractors, including more coordination between agencies, as demonstrated by the NLRB and DOL's recent Memorandum of Understanding on this very issue.

For federal contractors, in particular, the following Task Force recommendations will have a direct, and immediate impact:

- Increased enforcement of Executive Order 13494, which disallows use of federal contract dollars for persuader costs.
- Mechanisms that will make it more difficult for employers to obtain federal funding if they decline to execute a project labor agreement, or speak out against unionization.
- Greater union access to employees on federal property, which will help workers become more involved in unionization efforts.

All employers that want to maintain union-free status must be aware of the widespread ramifications the Report could have. As always, Akerman attorneys will continue to monitor changes in NLRB guidance and policies. For any labor or workforce concerns, contact your Akerman labor attorney for further information and guidance.

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