

Blog Post

# Top Ten Myths About Unions

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Many employers mistakenly assume that their workforce is not likely to be organized by a union. Maybe they assume that only factory workers and public employees are the most typical members of unions. Maybe they assume they are far removed from the flurry of activity and pro-union movement sweeping across the country. Unfortunately, those assumptions are incorrect, along with other common myths about unions listed below. In order to maintain union-free status in today's perfect storm of increased pro-union activity, smart employers are well advised to be aware of their union vulnerability and take affirmative steps to minimize it.

Below we debunk the top ten myths about unions. Employers everywhere, across all industries, should take note and heed these warnings and common misconceptions to stay ahead of the current pro-union organizing environment.

**1. Myth:** Our company does not have a union, so the actions of the National Labor Relations Board (NLRB) do not affect us.

**Fact:** The National Labor Relations Act (Act) applies to almost all private sector employers, whether or not their employees are represented by a union. The Act also protects employees who work together to improve their terms and conditions of employment

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(known as “protected concerned activity”), not just employees who engage in union activity.

**2. Myth:** Because only 10% of the U.S. workforce is represented by unions, union organizing is not a significant threat for us.

**Fact:** Maintaining union-free status today is more challenging than ever, for the following reasons:

- President’s pledge to be the most pro-union ever;
- NLRB push to overturn decades of pro-employer precedents; and
- Increased union activity nationwide.

**3. Myth:** Unions only organize blue collar factory workers.

**Fact:** Recent union activities involve employees who are not traditionally associated with factories or assembly lines. For example:

- Organizing at coffee shops and multinational hardware, software, internet, and delivery companies; and
- Bargaining and strike threats in the entertainment, higher education, and logistics industries.

**4. Myth:** When union activity becomes apparent, there is enough time to counter act it.

**Fact:** Proactive union awareness programs, including the training of supervisors, should be in place before union activity starts. An NLRB election is usually held about 30 days after the union files the petition for an election. Therefore, there is usually very little time to conduct a union-free campaign which is why unions win over 70% of elections.

**5. Myth:** A union must organize all employees of an employer.

**Fact:** Unions can cherry-pick small groups of employees that it views as easy to organize (“micro units”). Unions use this as a tactic to get their foot in the door.

**6. Myth:** Because our business provides employees to our customers, and we outsource our human relations function, we will not be involved with union issues affecting our customers’ employees or our outsourced HR company.

**Fact:** Under the NLRB’s expanded “joint employer” rules, a union organizing campaign of one employer may affect other employers as well. For example: a franchisor may be combined with a franchisee; and an employer may be combined with its customer for whom it is providing labor services.

**7. Myth:** Communicating with employees today is the same as prior years.

**Fact:** A Gallup Poll indicate that public support of unions increased from 48% in 2010 to 74% today, driven largely by Gen Z. Gen Z employees are generally more interested in union representation to advance social issues (racial justice; climate; environment; pay equity; health and safety), as compared to economic issues (wages and benefits). In fact, Gen Z employees are now more interested in having a “seat at the table” to help shape an employer’s business model (the type of work performed for customers), as opposed to increasing wages and benefits.

**8. Myth:** The NLRB has not significantly changed the legal standards that employers must follow.

**Fact:** The NLRB General Counsel is advocating many changes: card check instead of secret ballot elections; eliminating employer captive audience presentations; expanding employees’ protected concerted activity rights; limiting electronic surveillance; and expanding the joint employer standard.

**9. Myth:** Union organizing campaigns are primarily based on employees' economic concerns.

**Fact:** Job security is the primary motivation of employees who are interested in union representation. Insecurity may be caused by many factors, including: poor management, favoritism, unfair treatment, uncertain national and global economy, and lack of dignity and respect.

**10. Myth:** Employers should work with a labor relations consultant or persuader to navigate the perfect storm of a pro-union NLRB, pro-union Administration, and pro-union sentiment.

**Fact:** Instead of incurring the additional cost of engaging consultants or persuaders that may create unfair labor practices, employers should partner with traditional labor law counsel with deep, nationwide experience dealing with union issues, including tried-and-tested strategies, practical tips, and guidance on maintaining union-free status, and experience with numerous unions.

For further information or specific guidance regarding labor/management relationships or other traditional labor issues, contact your Akerman labor and employment attorney. Akerman's traditional labor team has more than one hundred years of combined practice experience in representing all types of employers in all industries on a nationwide basis, and routinely represents employers dealing with union issues, labor arbitrations, negotiations, strikes, and various NLRB proceedings.

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