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*Organizing*  
**Workers Routinely Subject to Threats  
Over Organizing Activity, EPI Study Says**

Workers are routinely subjected to threats and harassment from employers during the National Labor Relations Board election process, according to a report set for release May 20 by the Economic Policy Institute and American Rights at Work.

The report, *No Holds Barred: The Intensification of Employer Opposition to Organizing*, was written by Cornell University professor Kate Bronfenbrenner, who reviewed primary NLRB documents from a random sample of 1,004 NLRB certification elections that occurred between Jan. 1, 1999, and Dec. 31, 2003, and conducted an in-depth survey of 562 campaigns.

“Our findings suggest that the aspirations for representation are being thwarted by a coercive and punitive climate for organizing that goes unrestrained due to a fundamentally flawed regulatory regime that neither protects their rights nor provides any disincentives for employers to continue disregarding the law,” the study said.

The study said that within the NLRB election process it is “standard practice for workers to be subjected to threats, interrogation, harassment, surveillance, and retaliation for union activity.” The study said employers threatened to close the business in 57 percent of the elections, fired workers in 34 percent, and threatened wage cuts in 47 percent.

The study said that workers were forced to attend anti-union one-on-one sessions with a supervisor at least weekly in 66 percent of elections. In 63 percent of elections, the study said that employers used supervisor one-on-ones to interrogate workers about who they or other workers supported, and in 54 percent of elections, used such sessions to threaten workers.

### **Intensified Employer Opposition**

“Employer opposition has intensified: the incidence of elections in which employers used 10 or more tactics more than doubled compared to three earlier periods we studied, and the nature of campaigns has changed so that the focus is on more coercive and punitive tactics designed to intensely monitor and punish union activity,” the study said.

Although the use of management consultants, captive audience meetings, and supervisor one-on-ones has remained fairly constant, the study said, there has been an increase in more coercive and retaliatory tactics such as plant closing threats and actual plant closings, discharges, harassment and other discipline, surveillance, and alteration of benefits and conditions.

At the same time, the study said employers are less likely to offer “carrots,” noting a gradual decrease in tactics such as granting of unscheduled raises, positive personnel changes, promises of improvement, bribes and special favors, social events, and employee involvement programs.

The study said that the highest percentage of incidents involved threats, discharges, interrogation, surveillance, and alterations in wages and benefits for union activity.

Highlights of the study regarding NLRB unfair labor practice (ULP) charges include:

- Twenty-three percent of all ULP charges and 24 percent or more of serious charges, such as discharges for union activity, interrogation, and surveillance, were filed before the petition for an election was filed, and 16 percent were filed more than 30 days before the election petition was filed.
- About 37 percent of the cases where ULPs are filed are found meritorious by the NLRB and complaints are issued. Some 26 percent are withdrawn by the union prior to the complaint being issued, and 23 percent are found to have no merit.
- Employers tend to appeal most administrative law judge decisions. The study said this means that in the most egregious cases the employer is able to ensure that the case is delayed by three to five years, and in all the cases in the study, the worst penalty an employer had to pay was back pay, averaging a few thousand dollars per employee.

“Moreover, many of the employer tactics that create a punitive and coercive atmosphere are, in fact, legal,” the study said. “Unless serious labor law reform with real penalties is enacted, only a fraction of the workers who seek representation under the NLRB will be successful. If recent trends continue, then there will no longer be a functioning legal mechanism to effectively protect the right of private-sector workers to organize and collectively bargain.”

Michael Eastman, executive director of labor policy at the U.S. Chamber of Commerce, said he had not yet viewed the report, but said that EPI's methodology on previous reports was “usually entertaining.”

“It's not true that employers engage in that kind of illegal behavior,” Eastman said, noting that “more filings, more frequently” would occur if it were true.