

NMB Makes Rule Change

After nearly half a year of receiving public comment, deliberation and crafting a final opinion, the National Mediation Board decided on May 10 to change union representation election rules. Elections held after June 10 will not count those who don't vote as votes against a union.

During the public comment period the Board received 24,962 submissions. Over 23,000 of these were in favor of the change, including over 200 U.S. Representatives and Senators from both parties.

Delta Air Lines Corporate Leadership Team has been a virulent opponent of this democratic measure which would bring airline election rules into line with every other election held in the United States. Deltanet was filled with letters and memos opposing the rule change, quickly after the decision was made.

Their opposition can be summarized in the following points:

- 1- The NMB does not have the legal authority to make the rule change.
- 2- The rule has been in place for a long time.
- 3- It will be nearly impossible for workers to vote a union out once it is certified.
- 4- A minority could force the majority to belong to a union.

Each of these objections was clearly answered in the NMB's decision.

- 1- Last year the Supreme Court ruled specifically, in *Federal Communications Commission vs. Fox Television Stations*, 129 Supreme Court 1880, 1881 (2009) that Federal agencies have the right

to make and change their rules. The NMB also noted that Congress intended the Board to have final say in union representation elections.

- 2- Many unjust rules, laws and institutions stay in place for a great many years, slavery and segregation, to name a few. This is simply not a sensible argument. The Board noted, as well, that the rule was in place "not on the basis of legal opinion and precedents, but on what seemed to the Board best from an administrative point of view." Because of technology and communication advances that allow all employees to be informed about the election process, there is no longer the risk that "an informed minority will overwhelm an oblivious majority", the Board said.
- 3- The NMB said, "Currently, an individual employee or group of employees who no longer desire to be represented by a union must solicit a showing of interest from their fellow employees and file an application with the Board." The group, if successful would then decertify the union. The Delta Ground Pilot Instructors just recently did this and were then outsourced to Delta Global Services.
- 4- The Board said, "The current rule is contrary to common standards of democracy where the outcome of an election is determined by a majority of those who vote." Those who oppose the union need simply to vote.

No longer will indifference, inertia or fear dictate whether employees are able to unionize or not.