

Fact Sheet

NLRB Poised to Eliminate Collective Bargaining Rights for Millions of Workers

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Three cases currently pending at the Bush-appointed National Labor Relations Board will have a significant impact on workers' right to form and join unions in this country. The cases are often referred to as the "Kentucky River" decisions because they will serve to clarify issues left open by the Supreme Court's Kentucky River decision in 2001.

The three decisions will affect the way the term "supervisor" is interpreted by the board, and could strip between 1 and 2 million workers of their right to union protection. This blow could be particularly dramatic in the health care industry, in construction, and in other skilled occupations where it is common for higher skilled workers to direct the work of lower skilled employees.

Unlike other employees, supervisors do not have protected rights under the National Labor Relations Act to form and join unions, and employers often try to classify workers as supervisors in order to deny them the right to union representation. In the upcoming decisions, skilled workers who — because of their greater knowledge and expertise — give instructions to lesser skilled employees about how and when to perform certain tasks are particularly vulnerable to reclassification. For example, registered nurses who tell nurse's aides to perform certain tasks for particular patients and journeymen/building trades workers who direct other workers on a crew are in real danger of being falsely categorized as management under a new interpretation of the law.

When will the so-called "Kentucky River" decisions come out?

It is anticipated that the decision could be announced within the next couple of months. The NLRB has stated that the "Kentucky River" decisions are a high priority.

What will the decisions say?

Employer groups ranging from the Chamber of Commerce to the American Hospital Association have filed briefs with the NLRB urging them to adopt a broad interpretation that would allow employers to reclassify many employees as supervisors, in effect shrinking or wiping out existing bargaining units, and stripping federal protection for the freedom to organize for hundreds of thousands of non-union workers. If the board majority does what these employer groups are urging — as it has in virtually all of the most significant cases decided since "Bush Board appointees" attained a majority on the board — the result will be disastrous for U.S. workers.