

June 14, 2022

The Honorable Lauren McFerran
Chair
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570

Dear Chair McFerran:

The undersigned organizations write to express serious concerns with several issues coming before the National Labor Relations Board (NLRB or “the Board”). Specifically, we urge you to reject the legally-flawed arguments that the Board should impose card check organizing via case law and interfere with employer speech rights that are protected under the National Labor Relations Act (NLRA).

In a case called *Cemex*, the General Counsel (GC) has asked the Board to consider overturning long-standing precedent, and ignore Supreme Court decisions and the plain text of the NLRA. With regard to card check, the GC has asked the Board to revive the long-discredited *Joy Silk* doctrine. Under *Joy Silk*, if a union presented an employer with signature cards allegedly indicating interest by 50% +1 of workers in joining a union, the burden of proof would be on the employer to demonstrate why the cards were invalid. Short of satisfying what, in the eyes of the NLRB is likely to be a high bar, the employer would be compelled to recognize the cards and commence collective bargaining.

In two seminal Supreme Court cases, *Gissel Packing* and *Linden Lumber*, the Court rejected the concept of mandatory card check recognition. In fact, in the *Gissel* decision, the Court specifically stated that “secret ballot elections are generally the most satisfactory—indeed the preferred—method of ascertaining whether a union has majority support.” Moreover, Congress has repeatedly rejected efforts to amend the NLRA to impose card check, including the Employee Free Choice Act and the Protecting the Right to Organize Act.

With regard to employer speech, in *Cemex* the GC has asked the Board to find that mandatory staff meetings to discuss union issues are “inherently coercive” and to prohibit them. This completely disregards section 8(c) of the NLRA which states that “the expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.” Leaving aside potential Constitutional issues, this section of the Act was included in 1947 specifically to protect employer speech rights, and the Board and GC are not at liberty to disregard it.

These issues, should the Board agree with the GC's position, will have a real world impact on our member companies and make it far more difficult for them to manage their businesses. We urge you to reject the legally-flawed arguments put forward by the GC in *Cemex* and to maintain current law.

Thank you for your consideration.

cc: The Honorable Bobby Scott, Chairman, House Committee on Education and Labor
The Honorable Virginia Foxx, Ranking Member, House Committee on Education and Labor
The Honorable Patty Murray, Chair, Senate Committee on Health, Education, Labor & Pensions
The Honorable Richard Burr, Ranking Member, Senate Committee on Health, Education, Labor & Pensions

Signed:

U.S. Chamber of Commerce

Alabama

Enterprise Chamber of Commerce
Mobile Chamber
Opelika Chamber of Commerce
Prattville Area Chamber of Commerce
Shoals Chamber

Alaska

Haines Chamber of Commerce

Arizona

Apache Junction Area Chamber of Commerce
Chandler Chamber of Commerce
Glendale Chamber of Commerce
Greater Flagstaff Chamber of Commerce
Greater Oro Valley Chamber
Greater Phoenix Chamber
Green Valley Sahuarita Chamber of Commerce & Visitor Center
Lake Havasu Area Chamber of Commerce
Mesa Chamber of Commerce
Nogales-Santa Cruz County Chamber of Commerce
Scottsdale Area Chamber of Commerce
Sierra Vista Area Chamber of Commerce

Tempe Chamber of Commerce
Tucson Metro Chamber

Arkansas

Arkansas State Chamber/AIA
Little Rock Regional Chamber
Rogers Lowell Area Chamber of Commerce

California

Brea Chamber of Commerce
California Chamber of Commerce
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Fresno Chamber of Commerce
Garden Grove Chamber of Commerce
Gateway Chambers Alliance
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater Riverside Chambers of Commerce
Laguna Niguel Chamber of Commerce
Los Gatos Chamber of Commerce
Modesto Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
Norwalk Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
Rancho Mirage Chamber of Commerce
Redondo Beach Chamber of Commerce
Roseville Area Chamber of Commerce
Sacramento Metropolitan Chamber of Commerce
San Juan Capistrano Chamber of Commerce
San Pedro Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce

Tracy Chamber of Commerce
Tulare Chamber of Commerce
Valley Industry & Commerce Association
West Ventura County Business Alliance

Colorado

Colorado Springs Chamber and EDC

Grand Junction Area Chamber of Commerce

Delaware

Delaware State Chamber of Commerce

Florida

Florida Chamber of Commerce

Greater Boca Raton Chamber of Commerce

Greater Zephyrhills Chamber of Commerce

The Osceola Chamber

Georgia

Georgia Chamber of Commerce

Hawaii

Maui Chamber of Commerce

Idaho

Boise Metro Chamber

Greater Idaho Falls Chamber of Commerce

Idaho Association of Commerce and Industry

Idaho Chamber Alliance

Illinois

Chicagoland Chamber of Commerce

Edwardsville/Glen Carbon Chamber of Commerce

GLMV Chamber Of Commerce

Illinois State Black Chamber of Commerce

Lombard Chamber of Commerce

Pekin Area Chamber of Commerce

Western DuPage Chamber of Commerce

Indiana

Greater Lawrence Chamber

Indiana Chamber of Commerce

South Bend Regional Chamber

Iowa

Council Bluffs Area Chamber of Commerce

Dubuque Area Chamber of Commerce

Iowa Association of Business and Industry

Mason City Chamber of Commerce

Kansas

Leavenworth-Lansing Area Chamber of Commerce
Wichita Regional Chamber of Commerce

Kentucky

Commerce Lexington Inc.
Greater Louisville Inc. - The Metro Chamber of Commerce
Kentucky Chamber of Commerce

Louisiana

Central Louisiana Regional Chamber of Commerce
Louisiana Association of Business and Industry

Maine

Maine State Chamber of Commerce

Maryland

Maryland Chamber of Commerce

Michigan

Greater Niles Chamber
Lansing Regional Chamber of Commerce
Michigan Chamber of Commerce

Minnesota

Austin Area Chamber of Commerce
Minnesota Chamber of Commerce
St. Cloud Area Chamber of Commerce

Mississippi

Mississippi Economic Council

Missouri

Liberty Area Chamber of Commerce
Missouri Chamber of Commerce and Industry

Montana

Kalispell Chamber of Commerce
Montana Chamber of Commerce

Nebraska

Kearney Area Chamber of Commerce
Lincoln Chamber of Commerce

Nebraska Chamber of Commerce & Industry

Nevada

Henderson Chamber of Commerce

Vegas Chamber

White Pine Chamber of Commerce/Information Center

New Hampshire

Business and Industry Association of New Hampshire

New Jersey

New Jersey State Chamber of Commerce

New Mexico

Gallup McKinley County Chamber of Commerce

New Mexico Chamber of Commerce

New York

Buffalo Niagara Partnership

Capital Region Chamber

North Country Chamber of Commerce

The Business Council of New York State

North Carolina

North Carolina Chamber

North Dakota

Greater North Dakota Chamber

The Chamber Grand Forks / East Grand Forks

Ohio

Dayton Area Chamber of Commerce

Marian Area Chamber of Commerce

Ohio Chamber of Commerce

Reynoldsburg Chamber of Commerce

Solon Chamber of Commerce/Western Reserve Safety Council

Union County Chamber of Commerce

Oklahoma

Broken Arrow Chamber of Commerce

The State Chamber of Oklahoma

Oregon

Heppner Chamber of Commerce
Oregon Business & Industry
Oregon State Chamber of Commerce
Salem Area Chamber of Commerce

Pennsylvania

Hanover Area Chamber of Commerce
Pennsylvania Chamber of Business and Industry
Schuylkill Chamber of Commerce
Williamsport/Lycoming Chamber of Commerce

Rhode Island

Northern Rhode Island Chamber of Commerce

South Carolina

Hilton Head Island-Bluffton Chamber of Commerce
South Carolina Chamber of Commerce
Greater Sioux Falls Chamber of Commerce

Tennessee

Chattanooga Area Chamber of Commerce
Tennessee Chamber of Commerce & Industry

Texas

Abilene Chamber of Commerce
Central Fort Bend Chamber
Greater Magnolia Parkway Chamber of Commerce
Greater Waco Chamber of Commerce
Ingleside Chamber of Commerce
Longview Chamber of Commerce
Nacogdoches County Chamber of Commerce
Rowlett Area Chamber & Visitors Center
San Antonio Chamber of Commerce
Sherman Chamber of Commerce
Texarkana Chamber of Commerce

Utah

Salt Lake Chamber
South Salt Lake Chamber of Commerce

Virginia

Hopewell/Prince George Chamber of Commerce

Loudoun County Chamber of Commerce
Virginia Chamber of Commerce

Washington

Greater Issaquah Chamber of Commerce
Greater Yakima Chamber of Commerce
Moses Lake Chamber of Commerce

West Virginia

Weirton Area Chamber of Commerce
West Virginia Chamber of Commerce

Wisconsin

Greater Green Bay Chamber
Oshkosh Chamber of Commerce
Wisconsin Manufacturers & Commerce

Wyoming

Greater Cheyenne Chamber of Commerce