



White paper

Employee Free Choice: The Employee's Right to a Secret Ballot Election Should be Protected

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March 16, 2009

The very foundation of American democracy is centered on the right to cast a secret ballot vote. We watched in great enthusiasm during in November 2008, when millions of Americans exercised their right to determine their representatives through the election process. At the end of the day, we should be grateful how this right to voice our opinion is protected and can lead to promising change. The Employee Free Choice Act championed by labor unions is in stark contradiction to these very core rights of American democracy. Over the last two years, our hospitals have experienced how unions can subvert employees' right to determine whether or not they want to be represented by a union.

In October of 2007, nurses from two hospitals at Fremont Rideout Health Group filed a decertification petition to remove CNA as their legal bargaining representative. Instead of allowing nurses to exercise their right to vote, CNA did everything in its power to prevent the NLRB from holding an election. Finally, nurses had enough and filed a petition signed by a majority of nurses seeking withdrawal of recognition from CNA. The withdrawal of recognition came two years after nurses voted in CNA to be their legal bargaining representative. In evaluating this case, it becomes clear that withdrawal of recognition was the only practical course of action since the employees had changed their minds on wanting union representation, but would not ever have the chance to vote if CNA had its way and continued to file unfair labor practice charge after another. This dramatic change in employee's decision requires a closer look at the organization itself.

The Hospital System

Shortly after the nurses voted in CNA, FRHG ushered in a whole new senior leadership team, and the culture began to change. The new leadership team began to effectively execute a comprehensive communication plan, which included rounding, monthly open forums, media communications, and frequent internal newsletter communications, among many other positive workplace initiatives.

These efforts were effective, as evidenced by the organization's recent employee satisfaction survey results in 2008. Overall employee satisfaction nearly tripled the percentile ranking for the hospital system. The results showed improvement in all twelve categories measured, including management, job security, pay, benefits, work environment overall organization impression, work environment, staffing, teamwork/coworkers, participation and recognition. This employee satisfaction result is particularly remarkable given that the organization also went through three strikes, informational picketing, and negative publicity driven by the union.



The Union (CNA/NNOC)

On the other side of the coin, after a year of unsuccessful negotiations, union posturing, delays at the bargaining table, and intimidation tactics, nurses began to notice and comment that CNA had an agenda all to its own which did not match what was in the best interests of the nurses, the patients, or the community. Union negotiators pushed nurses to reject a contract offer that provided substantial wage increases (FRHG and CNA had reached agreement on the amounts of the increase) and benefit improvements for the nurses because the offer did not contain mandatory dues provisions that benefited the union.

Other key factors that led nurses to this realization included CNA calling the FRHG nurses out on strike twice at the same time as another larger, unrelated healthcare system mile away from FRHG. Nurses began to express concern that their representatives were largely absent and hard to reach. Other factors the nurses cited included not getting straight and honest answers from their union representatives, the representative's obvious eagerness to trump up charges to file against the hospitals, and the union's attempt to use nurses to harass senior leadership and Board members. Many nurses stated "this is not what we signed up for."

Decertification Petitions Resulted

Ultimately, these factors resulted in decertification petitions filed by nurses who wanted to decide their own future. In September 2007, one of the smaller units, Feather River Surgery Center, successfully filed a majority signed petition to remove the union as their legal bargaining representative. One month later the Fremont and Rideout hospital nurses (the largest unit of about 500 nurses) filed a decertification petition signed by over 30% of the nurses seeking an election to determine whether or not they wanted continued representation by CNA.

CNA pursued a strategy designed to prevent the nurses from voting. They filed numerous Unfair Labor Practice charges to block the election process. Nurses became weary of these delays and CNA tactics, however, and continued to collect signatures. Finally, on November 13, 2008, over a year after the original petition seeking an election was filed, nurses presented human resources with a majority signed petition requesting immediate withdrawal of recognition from CNA.

Employees' Deserve the Right to Decide

Unfortunately, CNA still refuses to respect the rights of the nurses. They have filed charges challenging the withdrawal of recognition, and the NLRB initiated a hearing on the charges. Even though the judge's decision on the matter is pending, CNA and the NLRB are asking a court to re-impose CNA on the nurses – no matter whether the nurses want CNA or not.

This case demonstrates how the existing labor system is fraught with flaws that already make it difficult for employees to change their minds once a union is in place. If employees are dissatisfied, they should be able to revisit their decision and vote whether to continue with union



representation. If the Employee Free Choice Act is passed into law it will not resolve the existing flaws in the system, and it will take away employees' rights to vote by secret ballot on whether they want representation in the first place. Ultimately, this Act would undermine the very core of what we value the most as American citizens and that is our freedom to confidentially decide what is best for ourselves and our families.

For more information on FRHG's story or more information go to www.cnaalert.org.