

AFL-CIO

AMERICA'S UNIONS

Testimony prepared for the Senate Committee on Health, Education, Labor and Pensions for a hearing on Defending the Right of Workers to Organize Unions Free from Illegal Corporate Union-Busting

Elizabeth H. Shuler
President, AFL-CIO

March 8, 2023

Chairman Sanders, Ranking Member Cassidy and members of the HELP Committee, thank you for holding this hearing and inviting me to testify today.

My name is Liz Shuler and I am the president of the AFL-CIO, a federation of 60 unions that represents 12.5 million working people across the country, in every industry, in every state, from actors and athletes to bus drivers and electricians to nurses, scientists and video game developers...and every job in between.

We want all working people in this country, who want to, to be able to exercise their legal right to join or form a union. Because we've seen throughout America's history: **Unions get results.** If you enjoy the weekend...*unions* made it happen. If you get overtime pay...*unions* got it done. Unions are the single most powerful tool we have to demand the fair, just and equitable treatment of workers.

Right now, the labor movement's fight is more critical than ever. We are working across dozens of industries every day to ensure all workers receive not just a "livable" wage, but a wage we can thrive on—along with the better benefits, safer working conditions and fair treatment on the job that come with a collective bargaining agreement.

Yet at this moment, the very right to organize is under attack. It is under attack from corporations that made billions in record profits last year...but refuse to pay their employees enough to afford rent or groceries. It is under attack from CEOs who have yachts so big they need bridges in ports to be modified...but balk at providing workers in their factories with bathroom breaks.

These corporations and executives can buy many things. **We cannot let them buy the basic rights of working people.** Today I'm here to bring the voices of workers into the room. I meet and talk to workers all across this country who are in the middle of a fight to form a union—and I'm here to talk about why it's important to support our struggle to obtain a real voice on the job.

I have spoken with workers across the country from all kinds of industries and backgrounds, with different experiences, skill sets and responsibilities. And there is one common theme throughout every conversation: “Why am I doing *more* work for *less* pay...even as my company’s profits skyrocket?”

The numbers back them up. Delta Air Lines, for example, recently boasted an operating revenue of \$13.4 billion and a double-digit operating margin (10.9%). This is 17% higher than three years ago (when revenue was \$11.44 billion).¹ In a statement to investors, the company says it expects revenue in 2023 to grow by another 15%–20%.² Alphabet, Google’s parent company, just last year enjoyed the fastest revenue growth rate the company had seen in 15 years. And Apple’s margin has been steadily rising; the company closed 2021 with its biggest quarter ever for sales, at nearly \$124 billion.

What do workers have to show for it? While pay for corporate CEOs has increased over 1,000% between 1978 and 2019, worker pay has risen only 13.7%. Since 1979, the wages of the top 1% grew nearly 160.3%, but the wages of the bottom 90% combined grew just 26.0%.³ That is over the past 44 years! Even as we emerge from a pandemic—one in which workers showed up at our own peril, day after day, to keep the country running—corporations continue to put profit over people.

Issues go beyond wages. It’s no coincidence that labor standards have plummeted as union density has declined in America. Workers face unpredictable schedules, understaffed and unsafe workplaces, and a lack of basic dignity on the job. By seeking the lowest costs possible, corporations encourage contractors and subcontractors to cut corners, often at the expense of human life and human dignity. Recent violations show that companies like Hyundai and major meatpacking companies hire contractors in their supply chain who exploit child labor, often placing migrant children in dangerous working conditions.

Unions are the counterweight. Workplaces with unions provide more predictable schedules, safer workplaces and better benefits.⁴ Union members not only receive higher wages than workers without a union—but research shows that even nonunion workers benefit from the mere presence of unions in their community. Unions effectively set higher labor standards—including higher wages—that drive nonunion employers in the community to raise their standards, in order to hire and retain workers. According to the Economic Policy Institute (EPI),

¹ [cnbc.com/2023/01/13/delta-air-lines-dal-earnings-q4-2022.html](https://www.cnbc.com/2023/01/13/delta-air-lines-dal-earnings-q4-2022.html)

² [prnewswire.com/news-releases/delta-air-lines-announces-december-quarter-and-full-year-2022-profit-301720870.html?tc=eml_cleartime](https://www.prnewswire.com/news-releases/delta-air-lines-announces-december-quarter-and-full-year-2022-profit-301720870.html?tc=eml_cleartime)

³ [epi.org/blog/wages-for-the-top-1-skyrocketed-160-since-1979-while-the-share-of-wages-for-the-bottom-90-shrunk-time-to-remake-wage-pattern-with-economic-policies-that-generate-robust-wage-growth-for-vast-majority](https://www.epi.org/blog/wages-for-the-top-1-skyrocketed-160-since-1979-while-the-share-of-wages-for-the-bottom-90-shrunk-time-to-remake-wage-pattern-with-economic-policies-that-generate-robust-wage-growth-for-vast-majority)

⁴ [epi.org/publication/unionization-2022](https://www.epi.org/publication/unionization-2022)

had union density not declined over the past few decades, the typical worker today would earn \$3,250 more per year. Let me ask every working person watching today a simple question: *What would you do with an extra \$3,250 per year?*

The union difference is even higher for women and workers of color. Wages for women represented by a union are 4.7% higher than their nonunion counterparts. Black union members earn 13.1% more than nonunion workers, and Latino union members earn 18.8% more than their nonunion Latino peers.⁵

Contrast that to where we are right now. In 2021, nearly 48 million workers quit their jobs. We at the AFL-CIO talked to nearly 10,000 people to understand this: What drove them to leave? The bottom line is that people are fed up, they're fired up and tired of bad jobs for worse pay. Our research found that nearly 50% of the workforce has negative feelings about work. And while many people quit their jobs over intuitive issues like pay, *more* respondents reported that poor treatment at work led them to quit their jobs.

We heard workers talk about unfair treatment, poor management and toxic work environments. It is not difficult to understand why these workers sought better jobs. And, importantly, we found that workers largely thought that collective action would improve their jobs.

We now know that working people are not standing idle, waiting for employers to suddenly see the light and provide higher-quality jobs. Workers are excited. They're energized. They are organizing in new areas. They're ready to make change, and they're connecting the dots: they can do it through forming a union in their workplace. They know what we know: that unions improve outcomes for all workers, both union and nonunion, and their communities.

And despite the false narratives pushed by corporations, these same people are realizing: Unions are not some third-party outsider that comes in, negotiates a contract and leaves. **Workers are the union. Workers negotiate the terms. Unions are workers.** Unions are about YOU having a say in your own future.

That's why polling puts support for the labor movement at 71%—even higher among younger workers and people of color. Petitions at the National Labor Relations Board (NLRB) are up by 58%. Workers are expressing their desire to form unions across the country and across various industries. Many of the early successes at Starbucks were in places not famous for labor activism. One of the first Apple stores to organize was in Oklahoma, a state with very few unions. This is a truly national revival of organizing that goes beyond the partisan divide that seems to dominate our society. We are also seeing activism in new industries from video game developers to solar installers. And it's not slowing down. The number of people searching “How

⁵ *Id.*

to form a union” went up 680% from July 2018 to April 2022. Why is this the case? It’s because workers, especially young workers, women and workers of color know that organizing a union is the only way to achieve fair treatment and some measure of equity.

Employers are not responding to the uptick in union organizing by respecting their workers’ right to organize. Instead, workers who choose to organize to improve their jobs face an endless barrage of anti-union tactics designed to intimidate and break their spirits. This union-busting playbook is not new, but employers—even those like Starbucks who boast progressive, worker-centered values—have grown increasingly brazen in the face of increased worker organizing.

But it’s not just Starbucks. We are seeing blatant union-busting across the nation. When workers organize, employers turn to anti-union consultants to try to stomp out the campaign. According to EPI, employers spend \$340 million per year on law firms and consultants to help them intimidate their workers. EPI also found that consultants can get paid \$350 or more per hour, or more than \$2,500 a day, for these tactics. Employers are charged with illegally coercing, threatening or retaliating against workers for supporting a union in nearly one-third (29.2%) of all elections.⁶

These tactics run the gamut: mandatory anti-union meetings while threatening to discipline or terminate workers who do not attend, firing union activists, threatening to close stores if workers organize (or actually closing them), refusing to bargain, and promising raises or new incentives for nonunion workers—this is union-busting 101. The goal is to scare workers into thinking a union is impossible, and losing your job or new benefits if you support the union is a very real possibility.

At charter schools in Ohio and Kansas, where teachers are organizing with the American Federation of Teachers (AFT), classroom teachers are being pulled out of their classrooms to listen to anti-union propaganda. At a casino in Nevada, an employer tried to punish workers who had voted to organize by giving fully paid health care to employees other than those who had voted to organize.

Amazon, for example, spent nearly \$4.3 million in 2021 on labor consulting firms to fight unionization efforts.⁷ FedEx spent \$837,000⁸ in union-busting costs between 2014 and 2018.

⁶ epi.org/publication/unlawful-employer-opposition-to-union-election-campaigns

⁷ marketplace.org/2022/04/12/companies-like-amazon-spend-millions-on-anti-union-efforts-wheres-that-money-going

⁸ *Id.*

UPS paid union-busters over \$2,000 per day.⁹ Quest Diagnostics spent \$200,000 between 2015 and 2017.¹⁰

Nearly 6,000 workers, mostly Black workers and women, in Bessemer, Alabama, fought hard to form a union at Amazon. These workers, organizing with the Retail, Wholesale and Department Store Union-UFCW (RWDSU-UFCW), knew that they were in for a fight, but organized anyway. The lengths of Amazon's union-busting campaign, however, exceeded what many thought possible. The company engaged in a brutal and targeted campaign meant to separate workers. The company hired highly experienced union-busting consultants, paying them more than \$3,000 per day, plus expenses¹¹—more than Amazon warehouse workers earn in a month.

The company's campaign was so demeaning and invasive that it included posters placed in bathroom stalls, urging workers to vote against the union. Amazon required workers to sit through mandatory anti-union meetings and photographed the IDs of workers who were brazen enough to question the tactic. Amazon sent text messages every day with coercive messages to not abandon the team. The company went so far as to have the U.S. Postal Service install a specialized mailbox where workers knew cameras could see them, to give the impression that they were under Amazon's surveillance. Amazon even got the local authorities to change the timing of local traffic signals so organizers couldn't safely talk to workers as they were leaving the facility. This is just one example of what workers can expect when they simply ask for a seat at the table to bargain over their working conditions. As of this month, there are more than 150 open unfair labor practice cases involving Amazon.¹²

Adding insult to injury, corporations like Amazon are able to write off union-busting costs as a general business expense. Taxpayers, workers and the federal government are effectively subsidizing these dehumanizing and anti-worker corporate efforts.

The laws meant to help employees know when union-busting consultants are targeting their workplace are woefully weak. Under current law, union-busting consultants are required to file mandatory reports with the U.S. Department of Labor (DOL) under the Labor-Management Reporting and Disclosure Act (LMRDA). But DOL filings show that in 2021, over 82% of anti-union persuaders violated the law¹³ by failing to meet filing deadlines. These violations strip

⁹ prospect.org/labor/companies-required-to-report-their-union-busting-many-dont

¹⁰ marketplace.org/2022/04/12/companies-like-amazon-spend-millions-on-anti-union-efforts-where-that-money-going

¹¹ documentcloud.org/documents/20476227-russ-brown-rwp-labor

¹² [nlrb.gov/search/case/amazon?ff0\]=case_type:C&s\[0\]=Open](https://nlrb.gov/search/case/amazon?ff0]=case_type:C&s[0]=Open)

¹³ prospect.org/labor/companies-required-to-report-their-union-busting-many-dont

workers of the right to know, in a timely fashion, when employers are hiring anti-union consultants to influence their fight for a union.

These union-busting tactics are rampant because corporations see no downside or negative consequence. Anti-union corporations know that the National Labor Relations Board is woefully underfunded, making labor law enforcement more difficult. They know employers face extremely limited penalties when the NLRB is able to investigate and find a violation. And when the NLRB requires an employer to post a notice in the break room, reinstate a worker or provide back pay, the expense for the violator is negligible. Many times, the corporation has already successfully busted the union. For them, a labor law violation is simply the price of doing business.

Every other workplace law—whether it is the Fair Labor Standards Act, Occupational Safety and Health Act or the Civil Rights Act—includes much more robust penalty structures for employers who violate workers’ rights. The National Labor Relations Act essentially stands alone in this regard. In fact, the fine for violating fishing laws in some states may be greater than the penalty for violating workers’ federally protected right to organize, in many cases, because again, there are no fines for violating workers’ rights.

And for the workers who withstand these union-busting tactics and win their union? They must gear up for the next fight—the fight for a first contract. It takes more than 450 days for workers to get their first contract, and that delay time is getting longer. Employers refuse to bargain because they know there are no real consequences.

This is why we need to pass the Richard L. Trumka Protecting the Right to Organize (PRO) Act as soon as possible—to protect collective action, remove the barriers to worker voice and hold employers accountable when they violate workers’ rights.

It is important to point out that it does not have to be this way. There are employers who recognize that worker voice through a union is an *asset* not a liability. Companies under the law today have the ability to voluntarily recognize a union. If workers come together and ask for recognition from the company, the company can voluntarily recognize them, but most companies don’t.

We have some examples of employers who have taken the high road. The University of Vermont Medical Center remained neutral when 2,000 hospital staff organized just a few months ago. Similarly, the Rooted School, a charter school in New Orleans, decided to voluntarily recognize their employees’ union after a majority requested representation. Now, they are building on that to engage in a collaborative bargaining process.

There are employers like Microsoft that said: “You know what? If our workers want to join a union, we should let that happen.” So the company pledged neutrality with the

Communications Workers of America (CWA). Microsoft recognized the trend of workers seeking to organize, and sought to work with the union because the company acknowledged the benefits of stable labor relations and collective bargaining.

There are examples all over the country, where employers embrace, rather than evade, their employees' desire to bargain collectively to improve outcomes for all. Whether it's Google cafeteria workers with UNITE HERE, cooks and servers who are working as contractors at Compass Group and Guckenheimer, or Sodexo workers in Atlanta who presented their managers with a plan to organize, and the companies said, "You know what? If workers win the election, we won't block it."

The fact is: all employers, including those who claim to "respect workers' right to organize," should make it real. If a corporation is going to pride itself on corporate social responsibility in its mission statement or offer grand announcements on inclusivity, respect and a commitment to treating workers well, and if they're going to call their workers "partners," then they have to act like it. And those businesses who rely on federal funds—our taxpayer dollars—or contract with the government should be held to the highest standard when it comes to following the law and respecting worker voice.

Corporations who truly appreciate their workers' contributions must support the drive that most humans have to be heard, respected and have dignity on the job. The simple act of hiring a marketing firm to put together messaging on respect without truly demonstrating that respect is inadequate. The employers who embrace worker voice have an open, transparent approach, and actually follow through on the commitments they make. They welcome the opportunity to sit across the table and bargain collectively with their workers. To listen and solve problems together. Because workers are the ones who know how to do our jobs the best and make the company more successful.

Everyone wins when workers have a voice. The benefits of unions and collective bargaining extend far beyond the workplace. Communities do better when unions are present. Unions increase civic engagement, reduce racial resentment among white workers¹⁴ and increase legislative responsiveness toward the poor.¹⁵

The 17 U.S. states with the highest union densities: have state minimum wages that are on average 19% higher than the national average and 40% higher than those in low-union-density states; have median annual incomes that are \$6,000 higher than the national average; have a higher share of those who are unemployed that actually receive unemployment insurance; have an uninsured (without health insurance) population 4.5 percentage points lower, on average, than that of low-union-density states; have all elected to expand Medicaid, protecting their

¹⁴ scholar.princeton.edu/sites/default/files/pfrymer/files/ajps12537_rev.pdf

¹⁵ cambridge.org/core/journals/perspectives-on-politics/article/abs/reducing-unequal-representation-the-impact-of-labor-unions-on-legislative-responsiveness-in-the-us-congress/D72A0BDB4EA513DFE988331D5380E8DE

residents from falling into the “coverage gap”; have significantly fewer restrictive voting laws; are more likely to have passed paid sick leave laws and paid family and medical leave laws than states with lower union densities.¹⁶

The way I see it, we gather today with two potential paths forward. Unions and the labor movement stand ready and willing to work together *with* businesses all across this country: innovating together, becoming more skilled and efficient, and creating better outcomes for everyone. All we demand in exchange is for companies to respect the basic and legal right of workers to organize: for a living wage, for good health care, for safety in our workplaces and for dignity. That is our preferred path—one we know that can power America’s economy into a new era.

But make no mistake: We are more than prepared for the other path. The path that is more prevalent today, where some of the country’s largest and most profitable corporations fight workers’ will and are intent on pushing us down. One in which workers are antagonized, dehumanized and pushed to the breaking point every single day. Let me be clear: Working people are fed up. We are organizing, striking and walking out to protect our rights everywhere, from Buffalo to Bessemer. We are coming together in incredible numbers at the grassroots level. And we are prepared to fight for as long as it takes.

What will help immensely is a Congress that levels the playing field: One that provides the NLRB with the funding it desperately needs to enforce the law and protect workers, ends corporate tax breaks for union-busting, holds CEOs accountable for their actions, and passes the PRO Act, so that every worker has the simple right to choose for themselves whether a union makes sense. These are not radical ideas. They are simple steps to ensure fairness for everyone. If we fix our broken system, I guarantee you: Working people will keep coming together in greater and greater numbers. Our movement will continue to grow and fight for the issues that matter to millions of working people across this country. And we will deliver. Thank you.

¹⁶ epi.org/publication/unions-and-well-being