

FOR BETTER OR WORSE?

President Biden's Union and Employee Empowerment Efforts

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The President's Words

"I want you to know I'm a union guy..."

"I intend to be the most pro-union president leading the most pro-union administration in American history."



2021 Union Density

Overall 10.3% (10.8% in 2020)

- Public-sector 33.9%
- Private-sector 6.1%



2021 Union Density

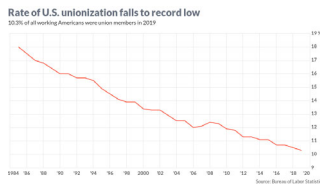
- By age, 45 to 54 highest at 13.1%
✓ Ages 16-24 lowest at 4.2%
- Full time at 11.1%
✓ Part time at 6.1%



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Union Membership



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2022 Pro Labor Narrative

- Employers prevent employees from union representation by:
 - Captive audience presentations
 - Unlawful conduct during organizing drives
- Economic Policy Institute (2019)
 - "Policymakers must enact labor law reform to protect workers right to organize."

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Union Winning Percentage Under Current Law

Source: Organizing Work—“we want labor to win”



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Union Membership Earnings

Per BLS, in 2021, nonunion workers median **weekly** earnings were 83% of union members earnings:
– \$975 versus \$1,169

“The comparisons ... are on a broad level and do not control for many factors that can be important in explaining ...differences.”

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Union v Non-Union Earnings

- ✓ Data excludes all self-employed people.
Per SBA, self-employed are worth nearly four times that of employees.
- ✓ Highly concentrated in police and fire.
- ✓ Density highest in 45-to-64 ages.
- ✓ Density highest in full-time versus part time.

• Source: Forbes August 2021

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The President's Strategy

- Utilize the power of the NLRB
 - GC Jennifer Abruzzo
- Use the power of the DOL
 - Labor Secretary Marty Walsh
- Executive Actions



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The President's Strategy

- White House Task Force on Worker Organizing and Empowerment
(EO 14025)

Explicit Goal: ***"to promote ..worker power, worker organizing, and collective bargaining"***

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Task Force Stated Goals

February 2022 :

1. Position Federal Government as Model Actor.
2. Use Federal Authority to support worker empowerment.
3. Leverage Federal Purchasing and Spending Power.

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Task Force Recommendations

February 2022 :

- ✓ Leverage Project Labor Agreements
- ✓ Davis-Bacon Regulatory reform
- ✓ Limit Employer Anti-Union Campaigns
 - Prohibit Persuader Activity

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Task Force Recommendations

February 2022 :

- ✓ First contract negotiations
 - ❖ Mandatory mediation training
- ✓ NLRB outreach to enhance organizing education
- ✓ More enforcement for employee misclassifications

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Task Force Recommendations

- ✓ Name unions as "lead applicants" for federal grants.
- ✓ Use DOL to collect and publish data about "problematic employers"



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NLRB Activism

- Card check representation rights
 - Reviving 50 year old precedent
- Prohibit captive audience speeches
 - Reversing 75 year old precedent
- Increase employer fines to include:
 - ✓ Punitive damages
 - ✓ Emotional distress
- Reinstatement while discharge challenges are pending
- Collective bargaining for college athletes

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NLRB Activism

- Independent contractors
- Handbook rules “chilling effect”
- Confidentiality of Investigations
- Separation Agreements
- Emails
- Protected Concerted activity

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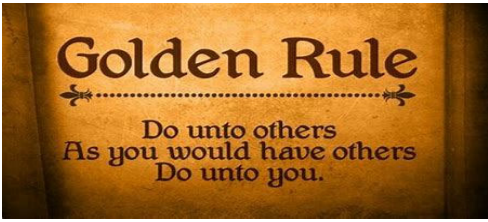
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Best LR Strategy of All Time?



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Questions?

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