

U.S. signed agreement with Mexico to teach immigrants to unionize

BY SEAN HIGGINS | MARCH 30, 2015 | 5:00 AM

The federal government has signed agreements with three foreign countries — Mexico, Ecuador and the Philippines — to establish outreach programs to teach immigrants their rights to engage in labor organizing in the U.S.

The agreements do not distinguish between those who entered legally or illegally. They are part of a broader effort by the National Labor Relations Board to get immigrants involved in union activism.

The five-member board is the agency that enforces the National Labor Relations Act, the main federal law covering unions. In 2013, Lafe Solomon, the board's then-acting general counsel, signed a "memorandum of understanding" with Mexico's U.S. ambassador. The current general counsel, Richard Griffin, signed additional agreements with the ambassadors of Ecuador and the Philippines last year.

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"Those are the only countries that the NLRB has MOUs with," said spokeswoman Jessica Kahanek.

The agreements are substantially similar, with several sections repeated verbatim in each one. All three documents state that the No. 1 outreach goal is "to educate those who may not be aware of the Act, including those employees just entering the work force, by providing information designed to clearly inform [that nation's] workers in the United States of America their rights under the Act and to develop ways of communicating such information (e.g., via print and electronic media, electronic assistance tools, mobile device applications, and links to the NLRB's web site from the [country's] web sites) to the ... workers residing in the United States of America and their employers."

The board has said the law's protections for workers engaged in union organizing extend even to people who are not legally authorized to work in the U.S. An employer who fires an illegal immigrant worker — which is required under federal immigration law — can be sanctioned by the board if it decides the worker's union activism was the real reason for the dismissal.

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In the documents, the countries' foreign consulates agree to help locate foreign nationals living in the U.S. "who might aid the NLRB in investigations, trials or compliance matters" involving businesses and to develop a system for the consulates to refer complaints from foreign

workers to the board's regional offices.

The documents also call for systems to inform foreign businesses operating in the U.S. of their responsibilities to their employees under federal labor law. In testimony before the House Appropriations Committee on March 24, Griffin characterized that as the principal focus of the agreements.

"We have executed letters of agreement with foreign ministries designed to strengthen collaborative efforts to provide foreign business owners doing business in the United States, as well as workers from those countries, with education, guidance and access to information regarding their rights and responsibilities under our statute," he told lawmakers.

Griffin, formerly a top lawyer for the International Union of Operating Engineers, testified that the agreements save taxpayer money because they would "pay dividends as employers will be able to avoid unintentionally violating our statute and workers will be educated about their statutory rights to engage with one another to improve their conditions of employment, both of which benefits taxpayers, and the country as a whole, through increased economic growth."

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If the main intention is to provide legal information to foreign employers, it is not clear why the board pursued agreements with those countries, which represent a relatively small portion of businesses operating in the U.S.

A November study by the Bureau of Economic Analysis found that Mexican businesses operating in the U.S. employ slightly less than 69,000 people total. The numbers employed by Ecuadorian and Philippine businesses operating in the U.S. are so small, the bureau doesn't publish a measurement for either one.

By comparison, Canadian businesses employ well over a half-million people in the U.S. British businesses employ nearly a million, Japanese nearly 720,000 and German 620,000.

Mexico and the Philippines, on the other hand, represent two of the countries providing the most immigrants to the U.S. Mexico accounts for 11.6 million immigrants living in the U.S., the most from any single country, according to the Migration Policy Institute. The Philippines is fourth overall, accounting for 1.8 million.

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A 2013 board press release stated the Mexican agreement was "an outgrowth of initial negotiations between the NLRB's Chicago office and the Mexican Consulate in Chicago. The framework has been used by other federal labor agencies, including the Department of Labor and the Equal Employment Opportunity Commission, which have similar agreements with the Mexican Embassy and its consulates."

The release quoted Solomon saying, "With coordination from the consulates, we expect to meet with Mexican workers around the country to help forge innovative solutions to issues specific to their needs."

Last month, Griffin instituted a new policy in which the board will "facilitate" obtaining visas for illegal immigrants if their status impedes it from pursuing a labor violation case against a business. The policy gives illegal immigrants living in the U.S. a strong incentive to engage in labor activism, because doing so will make employers reluctant to fire them and potentially get them a visa, and therefore legal status, if they are fired.