

The following is Information for WALA members from ALFA and Jackson Lewis.

EFCA IS COMING:

What Should Assisted Living Organizations Do Now?

Preemptive Communication to Your Staff

- Educate staff and new hires that by signing a union authorization card now they may be giving up the right to vote on whether to be in a union
- Educate staff and new hires that outside groups that appear to promote good causes may instead be seeking to collect signatures and personal information from them which is then given to unions for use in organizing and for conducting visits to their homes
- Consider possible use of EFCA video for training purposes, either for management, staff, and/or new hires. Video would have to be structured differently for legal purposes based on the particular audience

Focused Executive and Management Training

- Educate your Board/Executives and all members of management about the potential of EFCA
- Train local management on the key provisions of EFCA, the enhanced significance of union cards, the early warning signs of organizing, their role in the priority notification system and what they can and should say on this issue
- Managers should understand that, under EFCA, a card signed today may be used tomorrow as the NLRB has held that signed cards are presumptively valid for at least one year
- Emphasize issue avoidance, ensure supervisors build positive supervisor-employee relations
- Train supervisors that they may have only one bite at the apple if EFCA is introduced; there would be no election campaign
- Maintain vigilance in appropriate hiring, reference checking, and monitoring of new hires' performance and suitability during the first months of employment

- More focus on rapid and early reporting of employee dissatisfaction, the precursor to activity, employers cannot wait for activity because then it is too late
- Identify key personnel to act as communicators for rapid response to activity
- Consider creation of SWAT HR teams for deployment and development of rapid response communication plans for anticipated issues raised by the union

Further Precautions

- Conduct regular vulnerability assessments—and follow with systematic communication and problem solving with employee involvement
- Ensure management is prepared to conduct counter campaign at the first signs of union activity- it is better to err on the side of overreaction as opposed to a tardy reaction
- Use “counter-card signing” card: Ex. In exchange for signing a union authorization and waiving my right to vote privately in a federally supervised election on the union issue, the Union official guarantees me the following...
- Formulate counters to EFCA—retaining your option to vote, educating employees on their rights and the risk of losing rights under EFCA—also under EFCA risk an arbitrator will decide their contract--they lose input in the process
- Consider immediate vulnerability assessment for your organization