

Is It A Union? That Is The Question

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As we have previously reported, due to declining private sector membership unions have explored [new organizing tactics](#) . One “new” union tactic involves the creation and support of so-called “Worker Centers.” These Worker Centers are usually formed as community groups but are often backed by labor organizations, i.e. unions. Service Employees International Union (SEIU) has been heavily involved in the formation of such community based “centers” as a means to advocate for higher minimum wage and better benefits for employees working in fast food and big box employers. As many readers will recall there were large and disruptive protests that looked like picketing directed at such employers over such issues. As we [recently reported](#) , employers and employer groups have been asking the Department of Labor (DOL) to look into whether Worker Centers should be considered labor organizations, i.e. a union. Republicans in Congress have also repeatedly raised these questions. Just last week the Chamber of Commerce [released a report](#) recommending legal changes to find that Worker Centers are labor organizations. The questions being raised and their answers are not inconsequential. If such “Worker Centers” are found to be labor organizations, i.e. unions, then labor laws, including the Labor Management Reporting and Disclosure Act (LMRA) and its reporting requirements, would apply to them. Coverage would require significant financial disclosures, and application of other labor laws might give employers additional tools to counter protests directed by Worker Centers. Yesterday a DOL letter to Republican lawmakers from a month ago detailed some of DOL’s plans as it investigates certain Worker Centers. It confirms there are ongoing investigations but provides little in the way of detail. The letter does not identify which Worker Centers are the subject of DOL’s investigation. The letter, however, confirms that DOL is not headed toward adopting a new test for Worker Centers, but instead will proceed on a case by case basis. The letter states: “Because Worker Centers vary in their activities and their structure, OLMS cannot provide a blanket rule on whether Worker Centers constitute labor organizations.” However, the letter indicates DOL will investigate complaints or other evidence indicating that a particular Worker Center is operating as a labor organization, i.e. union. Bottom line: whether Worker Centers are labor organizations under the law remains very much a live question; and currently one with no clear answer.

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