

NLRB Appointments In The Works?

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Published reports indicate that two appointments are in the works for the NLRB that will bring the Board up to its full complement and finally swing the Board's majority back to the Republicans. [Bloomberg BNA is reporting](#) that the Trump Administration has narrowed the field down to Marvin Kaplan and William Emanuel to fill the two openings on the Board. Kaplan is an attorney for the Occupational Safety and Health Review Commission, an independent federal agency. Emanuel is a management-side lawyer in private practice in Los Angeles. The Trump Administration has already named existing Board member Philip A. Miscimarra (R) as Chairman of the Board, but that appointment carries little sway as of today because the two remaining Board members, Mark Gaston Pearce (D) and Lauren McFerran (D), are Democratic appointees and solid pro-union votes. Miscimarra's current term ends December 16, 2017; Pearce's term runs through August 27, 2018; and McFerran's term ends December 16, 2019. Critically, however, current Board General Counsel, Richard Griffin will likely remain in place through the end of his term on November 4, 2017. Griffin is the former general counsel of the International Union of Operating Engineers and he has pushed a staunchly pro-union agenda during his terms as general counsel. The Board's general counsel has a unique role among the federal agencies as he serves as both a legal advisor to the Board as well as the investigator and prosecutor on alleged violations of the National Labor Relations Act. As such, he has the ability to shape Board policy as well as its active litigation agenda. Once nominated, the two new appointees will have to be confirmed by the Senate, so, for now, the Board, with its 2-1 Democratic majority, will continue pushing the pro-union agenda established during the Obama Administration.

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