

United States Senate

HEALTH, EDUCATION, LABOR, AND PENSIONS COMMITTEE

Bernard Sanders, Chair

Majority Staff Report

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No Company is Above the Law

Myth-Busting Starbucks' Claims That it Has Not Violated Federal Labor Law with Impunity

Over the past 18 months, Starbucks has waged an aggressive and illegal union-busting campaign. That campaign has been directed and led by Howard Schultz, the multi-billionaire CEO and founder of Starbucks. Under Schultz's leadership, Starbucks has adopted an aggressively anti-union stance that is reflected in Schultz's public statements, the company's communications to workers, and its scorched-earth approach to blocking unionization activity.

Though the coffee giant claims they are a "progressive" company, there is mounting evidence that the \$113 billion-dollar company's anti-union efforts include a pattern of flagrant violations of federal labor law. The National Labor Relations Board (NLRB) has filed over 80 complaints against Starbucks for violating federal labor law and there have been over 500 unfair labor practice charges lodged against this company.¹ These violations include the illegal firing of more than a dozen Starbucks workers for "the crime" of exercising their right to form a union and collectively bargain for better wages, benefits, and working conditions.

Under Schultz's leadership, Starbucks has become the most aggressive union-busting company in America. Since the first Starbucks union was certified by the NLRB more than 450 days ago, Starbucks has refused to bargain a first contract in good faith.² Since the first store voted to unionize in December 2021, in Buffalo, New York, workers at more than 360 stores across nearly 40 states have held union elections. More than eighty percent of these elections have resulted in a union victory leading to nearly 300 unionized Starbucks coffee shops throughout the country, despite an aggressive and illegal anti-union campaign waged by Starbucks under the leadership of Howard Schultz.

At Schultz's direction, Starbucks has fought the attempts of workers every step of the way, resorting to delay tactics and significant escalation in union busting, including unlawfully firing employees, having the police called in response to a peaceful and lawful congregation of workers who were attempting to present their request for union recognition, and illegally shutting down unionized stores.

Workers in America have the constitutional right to organize unions and engage in collective bargaining to improve their wages and benefits. For far too long, Starbucks and its multi-billionaire owner have acted as though those laws do not apply to them.

On March 29, 2023, the U.S. Senate Committee on Health, Education, Labor, and Pensions (HELP Committee) will hear testimony from Schultz and begin to hold him accountable. In advance of that hearing, the HELP Committee Majority Staff have documented a series of

misleading claims made by Starbucks in order to set the record straight and to encourage the company to negotiate a fair first contract with union workers as required by law.

MYTH: Starbucks says they respect the rights of workers to organize.

Starbucks says their employees “have the right to make their voice heard when it comes to union issues” and that the company respects employees’ right to organize.³ According to Starbucks “no Starbucks partner has been or will be disciplined or separated for supporting, organizing, or otherwise engaging in lawful union activity.”⁴

FACT: Starbucks has violated the constitutional right of workers to form unions with impunity.

Starbucks has taken a firmly anti-union position and is willing to do whatever it takes to stop workers from organizing.

- As of August 2022, Starbucks faced the most National Labor Relations Board (NLRB) cases of any private employer over the preceding year. The number of cases is “30 percent more than its closest peer UPS, which has nearly twice the number of employees as Starbucks.”⁵
- NLRB judges have found that Starbucks broke the law 130 times across six states since workers began organizing in fall 2021, including firing or forcing out 12 pro-union workers and firing another two because they cooperated with NLRB investigations. The NLRB is also currently taking Starbucks to trial in 70 additional cases.
- On March 1, 2023, an Administrative Law Judge found Starbucks guilty of “egregious and widespread misconduct” and showed “a general disregard for the employees’ fundamental rights” in a union organizing campaign that started in Buffalo, New York in 2021.⁶
- In a 220-page ruling, this judge found that Starbucks illegally retaliated against employees for unionizing; promised improved pay and benefits if workers rejected the union; conducted illegal surveillance of pro-union workers; refused to hire prospective employees who supported the union; relocated union organizers to new stores and overstaffed stores ahead of union votes – all clear violations of federal labor law.
- The judge also found that Starbucks “widespread coercive behavior over six months had permeated every store in the Buffalo market.”⁷
- The judge ordered Starbucks to reinstate seven workers who were wrongfully terminated, re-open a pro-union store in Buffalo that was illegally shut down, rescind dozens of disciplinary actions taken against Buffalo-area employees, and pay “reasonable consequential damages” to more than two dozen workers whose rights were violated by Starbucks.⁸
- The situation has gotten so bad that federal courts in Tennessee and Michigan have stepped in to issue emergency injunctions requiring Starbucks to reinstate workers who were illegally fired and preventing the company from firing workers for supporting unionization efforts in the future.⁹
- David Almond, a former store manager in Buffalo, New York, testified under oath to an NLRB judge that he was instructed to find reasons to discipline pro-union workers, such as for wearing purple pants. According to *Bloomberg*, “In one case, a district manager

asked him whether a particular person...had committed any past infractions. When Almond responded that this person was a great employee, his superior told him to come up with something. ‘She said go through her files...She’s a long-term partner. I’m sure there’s something in there we can use against her.’”

- Almond recalled that a corporate Starbucks employee told him to surveil pro-union workers to “discourage union chatter.”¹⁰

Many workers were fired for reasons that border on the absurd.

- Brian Nuzzo, who was the “point-man” for organizing at a Starbucks store in Rochester, New York, was fired on March 21, 2022 because he showed up before his shift started to set up the store after his colleagues called out sick.¹¹
- Daniel Rojas was fired in March 2022 for showing up 26 minutes late to at a Starbucks store in Buffalo, New York.¹²
- Shift supervisor and union leader, Joselyn Chuquillanqui, was allegedly fired for being three minutes late to her shift in the summer of 2022 in an ultimately successful effort to chill union activity at her store in Great Neck, New York.¹³
- In two cases, workers were fired or allegedly fired in part for wearing suicide awareness pins. Buffalo shift supervisor Angel Krempa, the leader of her store’s union drive, faced discipline for wearing a suicide awareness pin.¹⁴ Buffalo-area barista William Westlake faced a similar fate soon after his store’s union was certified. Over the course of several months, Starbucks denied his request for transfers, prohibited him from picking up shifts at other stores, and then allegedly fired him in October 2022 for attendance and dress code violations, including wearing a suicide awareness pin.¹⁵

Starbucks also took actions to chill organizing efforts without firing workers.

- In Scottsdale and Phoenix, Arizona, in March 2022, Starbucks is accused of committing eight violations of labor law when it disciplined, fired, and forced out workers because they cooperated with NLRB investigations.¹⁶ A pro-union Starbucks worker in Phoenix said that hours had been cut “25 to 50 [percent]” especially for workers who wore union pins.¹⁷

MYTH: Howard Schultz is not involved in decisions about labor relations.

Starbucks maintains that Schultz “does not have an academic background, legal license, or professional practice in labor law” and that “Howard Schultz delegated decision-making regarding actions to be taken on union issues to a small team of executives.”¹⁸

FACT: Howard Schultz is, and has always been, the architect of Starbucks’ anti-union campaign.

Schultz’s animosity towards unions goes back decades.

- Schultz originally acquired Starbucks in the late 1980s when the company had unionized stores and a unionized roasting plant. He played a crucial role in decertifying the union over the next few years in coffee shops and the roasting plant as he built Starbucks national profile.¹⁹

Months before Schultz officially returned as Starbucks CEO, he engaged in a failed and illegal attempt to block workers from unionizing.

- In September 2021, when he had no formal relationship to Starbucks, Schultz visited Buffalo, New York to address local managers. Schultz told them he was not anti-union but “pro-Starbucks.”²⁰
- Two months later, he was back in Buffalo in an increasingly public effort to stop the unionization efforts. In November 2021, just days before the Buffalo-area stores held their union elections, Starbucks ordered all Buffalo-area Starbucks closed to convene a captive audience meeting with Schultz.²¹ The meeting was intended to attempt to persuade workers to vote against forming a union – an unsuccessful last-ditch effort that the NLRB has found to be a violation of federal labor law.²²

Schultz did not give up his anti-union campaign when the first stores unionized. Instead, he returned to the company in early 2022 as “interim” CEO and escalated his anti-union efforts.

- In June 2022, when asked why he opposes the unionization effort, Schultz said the “third party” union was “threatening” the company.²³ When asked if he could ever imagine Starbucks embracing the union, he said “No.”²⁴
- In February 2023, Schultz said on CNN that “I don’t think a union has a place at Starbucks.”²⁵
- In April 2022, Schultz asked a pro-union worker, “If you hate Starbucks so much, why don’t you go work somewhere else?”²⁶
- Schultz faces nearly 100 accusations of violations of federal labor law for statements he made during “collaboration” and “co-creation” sessions he convened nationwide with Starbucks workers in which he promised to fix issues if workers stopped organizing a union.²⁷

Beyond stating his own opinion, Schultz has also made a series of public statements that appear calculated to disrupt worker organizing efforts.

- Between April and May 2022, Schultz promised to increase benefits and improve working conditions for workers who stopped union organizing.²⁸
- He said publicly that Starbucks was “going to make better long-term decisions that are going to have a short-term benefit for you.”²⁹ He threatened workers that organizing was futile and they would not offer new benefits to unionized stores.³⁰
- Schultz made similar comments on Starbucks’ 2022 Quarter 2 Earnings Call with investors, indicating that Starbucks would take steps to improve wages and benefits only at stores that had not unionized – an effort to create a two-tier workforce that would slow worker organizing efforts.³¹

The illegal anti-union actions taken by Schultz were so egregious that the NLRB is asking Schultz to record a video personally apologizing to workers at Starbucks for violating their rights.

- On August 22, 2022, the General Counsel of the NLRB demanded Schultz record a video apologizing to workers at Starbucks for threatening pro-union workers, repeatedly telling workers that it would be “futile” to join a union, and withholding benefits from employees in unionized stores including “higher pay, faster sick time accrual” and “increased training” – all violations of labor law.³²

- This is not without precedent. On March 1, 2023, an Administrative Law Judge ordered Schultz to record and distribute a video of himself reading a 14-page notice to Starbucks employees about their rights under the National Labor Relations Act, how Starbucks violated those rights, and to assure that Starbucks will not infringe upon those rights in the future. The judge also ordered that this notice be posted in all Starbucks stores and shared digitally to all of Starbucks' employees.³³
- Schultz has refused to record these videos, apologize to workers or admit to any of his clear, unambiguous, egregious, and widespread violations of federal labor law.

MYTH: Starbucks says they are bargaining in good faith.

In a letter to Chair Sanders and members of the Senate HELP Committee, Starbucks General Counsel Zabrina Jenkins stated that the company has “extensively engaged in good faith bargaining at more than 200 locations.”³⁴ Starbucks further claims they have “come to the table in-person and in good faith for more than 85 single-store contract bargaining sessions since [October] 2022 – with more than 60 additional single-store sessions scheduled or proposed across the country since March 2023.”

FACT: Starbucks has a clear pattern of refusing to bargain with its unionized employees.

It has been over 450 days since the first Starbucks stores voted to form a union. Starbucks has not taken any meaningful steps to make progress toward actually negotiating a contract in that time period.

In the meantime, Starbucks has been repeatedly sanctioned for failing to bargain.

- On November 30, 2022, the NLRB found that Starbucks has unlawfully refused to recognize and bargain with the union at its Reserve Roastery Store in Seattle following an election in May 2022. Starbucks has appealed the NLRB's decision to the Ninth Circuit.
- The NLRB is also currently taking Starbucks to trial in at least 18 cases over their refusals to bargain at 45 stores.
- In just one of those cases, Starbucks is accused of refusing to bargain with 21 unionized stores across the Pacific Northwest.³⁵
- Another case centers on their refusal to bargain with three Ithaca-area unionized stores and even closing a store to retaliate against them for unionizing.³⁶ One of the workers at the closed store put it simply: “They closed the store because we went on strike,” adding “I think they wanted to scare partners out of unionizing. This is a whole city that unionized three stores all within a couple miles of each other. [The workers] are very outspoken. This is the perfect opportunity to make them an example.”³⁷

MYTH: Starbucks is a model employer that other companies should follow.

- Starbucks claims that the company has a “long history of providing comprehensive benefits” reflecting the “mission and commitment to be a different kind of company and put [its] employees first.”³⁸
- In a letter to the HELP Committee, Starbucks General Counsel Zabrina Jenkins claims that Starbucks “has and continues to be a model employer and the categorical leader

across industries for its comprehensive compensation, and partner forward benefit packages and incentives.”³⁹

FACT: Howard Schultz’s own family foundation says Starbucks is near the bottom of food and retail employers with respect to how it treats its workers.

In a study of economic outcomes for workers at America’s 250 largest companies, funded in part by the Schultz Family Foundation, Starbucks received the lowest possible rating on its pay and frequency of internal promotions.⁴⁰

- Out of the 11 food and retail companies studied, Starbucks ranked second to last as to how it treats its workers with respect to good jobs, pay, promotions, and retention – worse than Dollar Tree, Walmart, Dollar General, and Kroger and just slightly better than McDonald’s.
- Starbucks has seen a huge increase in the number of baristas who quit their jobs within the first 90 days.⁴¹ In fact, as many as one in four Starbucks baristas quit their job within the first 90 days of being hired in 2022, up from only 10 percent in previous years.

The company’s benefits do not match those offered by its peers and competitors.

- Starbucks’ \$15 per hour minimum wage came more than three years after Costco raised its starting wage to \$15 per hour and two years after Target and Best Buy did the same.⁴²
- Though Starbucks offers a limited free college tuition benefit for first-time bachelor’s degree students who wish to attend Arizona State University’s online program, other similarly situated companies provide far more generous and flexible options. As just one example, Chipotle covers the full cost of tuition for more than 75 associates and bachelor’s programs, more than 80 Master’s degree programs, and more than 50 professional certificate programs throughout the country.⁴³
- Starbucks also announced that it would introduce tipping on credit and debit card transactions in late 2022, at least four years after Peet’s Coffee implemented the same option. The company still refuses to offer this option at stores that have voted to unionize.⁴⁴
- Starbucks’ health insurance pays 70 to 75 percent of health insurance premiums for employees and offers a Silver plan that would require up to \$5,300 per year in out of pocket costs and has a \$70 copay for a 30-day supply of prescription medications like insulin.⁴⁵
- Between premiums and out of pocket costs, the average Starbucks worker would need to work as many as 375 hours—or nearly one-fifth of the year for a full-time employee—just to cover annual health expenses.

Even those benefits are at risk for workers choosing to exercise their right to organize.

- NLRB judges have found Starbucks has unlawfully threatened to withhold benefits, including health insurance, for workers in Denver, Colorado; Buffalo, New York; Overland Park, Kansas; Seattle, Washington; and Ann Arbor, Michigan.⁴⁶
- The pattern in all of these stores is clear: Leaders at Starbucks repeatedly tell employees that they will lose benefits like tuition reimbursement, health insurance, break time, and transportation benefits if they voted to unionize.

Starbucks has withheld some especially sensitive benefits from union workers, such as gender-affirming care for transgender employees and travel benefits for employees seeking abortions who live in states where that procedure is illegal.

- One Starbucks worker said that Starbucks' threats against pro-union workers in Overland Park, Kansas to cut health and gender-affirming care benefits "ruined me" and that "gender-affirming surgeries are lifesaving and if I were to lose access to those it puts me in an extremely bad place."⁴⁷
- Recently unionized Starbucks workers in Missouri went on strike in July to protest Starbucks threats against both gender-affirming care and abortion travel expense reimbursement. One worker said, "I understand that Missouri had trigger laws in place, but Starbucks not being willing to help us out, especially because they're willing to help other stores that aren't unionized is just union busting [...] There's no other answer to that."⁴⁸

MYTH: Starbucks has not been found in violation of any law because they have not exhausted all of their appeals in federal courts, up to and including the Supreme Court.

Starbucks notes that "NLRB decisions are frequently the subject of review by the courts of appeals and, in some cases the U.S. Supreme Court. Significantly, to date, Starbucks has not been found to have violated the law as part of any enforced order of the NLRB."⁴⁹

FACT: This is a deliberate attempt by Starbucks to delay a first contract for union workers.

The NLRB has more than 500 pending cases of Starbucks' flagrant disregard for the law.

- NLRB judges have found Starbucks has violated the law over 100 times.
- The NLRB has found Starbucks illegally refused to bargain for a first contract with the union at its flagship Roastery store in Seattle.⁵⁰
- Though the company is free to appeal those decisions, they cannot hide behind the slow-moving federal court system to hide their obvious violations of the National Labor Relations Act.

Even within the NLRB, the apparent slowness of NLRB judges' decisions does not reflect Starbucks' innocence.

- Instead, the NLRB has lacked needed funding for years and remains understaffed to do its job.
- Starbucks has taken advantage of this understaffing through procedural stalling tactics that result in further clogging the NLRB adjudication process.

MYTH: Starbucks says organizing only reflects a tiny portion of the workforce and that this shows the vast majority do not want a union.

Starbucks repeatedly emphasizes that the unionized workforce is only a small portion of their company. In a letter responding to the HELP Committee announcing a vote to subpoena Schultz, Starbucks claimed this fact was evidence that those employees "have deliberately chosen not to seek union representation."⁵¹

FACT: Contrary to Starbucks' claims, it has been their relentless union-busting and stall tactics at bargaining which has slowed down organizing.

The union organizing wave has spread far and wide at Starbucks.

- The NLRB has certified union election results for 348 Starbucks stores.
- Workers have successfully voted to form a union in 83 percent of these elections.
- In total, 71 percent of Starbucks workers who have participated in union elections have voted to form a union versus just 29 percent who have cast a vote in opposition to the union.
- 290 Starbucks locations throughout the country that employ over 7,000 workers now have a union, but none have a first contract.
- Over 1,000 workers participated in their Red Cup Day strike last year.⁵² Workers went on strike again this March at 100 stores across 40 cities.⁵³

Workers repeatedly say that organizing in Buffalo inspired their own efforts.

- Hannah McCown, a Kansas Starbucks worker who got her job back after Starbucks fired her for her union drive, said, “We were inspired by the partners in Buffalo that managed to do something many of us have dreamed of for a long time [...] It's something we didn't think was possible, but they really pushed through and showed the rest of us across the nation that we could use our voices and actually unionize.”⁵⁴

There are increasing signs that organizing may begin among white-collar corporate employees, in part due to their disapproval of the company's retail store union busting campaign.

- A petition from white-collar support and tech workers called on Starbucks “to commit to a policy of neutrality and respect federal labor laws by agreeing to follow Fair Election Principles, and allow store partners, whether pro- or anti-union, to decide for themselves, free from fear, coercion, and intimidation.”⁵⁵
- The letter goes on to reflect on how Starbucks isn't living up to its own values. For example, retail workers who have lived up to Starbucks' commitment to “Acting with courage, challenging the status quo and finding new ways to grow our company and each other” have been “coerced, intimidated, and punished in violation of federal labor laws.”
- In a survey of Starbucks office workers, only 52 percent said they “completely agree” that Starbucks “behaves in an ethical and responsible manner” and just 48 percent said they completely agreed that they were “proud of the role Starbucks has in making a social impact.”⁵⁶
- Just 42 percent of staff fully endorsed the statement that Starbucks “lives up to its mission and values,” while fewer than a quarter fully agreed that “Starbucks leaders make the right decisions for the company.”

CONCLUSION

Starbucks has engaged in the most significant union-busting campaign in modern history. It has been led by Howard Schultz, the company's founder and three-time CEO, who is synonymous with the brand.

Just because Starbucks is a \$113 billion company and Howard Schultz is a billionaire with a net worth of \$3.7 billion does not mean that they are above the law. They must be held accountable for creating a culture that allows widespread violations of federal labor law in an effort to stop workers from exercising their constitutional right to organize.

The good news is that it is not too late to change course. If Starbucks and Howard Schultz publicly apologize to their workers for breaking federal labor law, adequately compensate workers whose rights have been violated, respect the rights of workers to form unions, and negotiate a fair contract in good faith with union workers that pays workers a living wage with good benefits and reliable schedules, they can lead by example.

They can show the rest of corporate America that it must value not just an increase in the bottom line for the benefit of wealthy shareholders, but that it must also value the workers responsible for making those profits a reality. That would truly make Starbucks the progressive company that it claims to be.

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² National Labor Relations Board, Case 03-RC-282115, <https://www.nlr.gov/case/03-RC-282115>.

³ Starbucks, Partner and Customer Experience Expectations, Correcting the Misinformation about Unlawful Activities (Aug. 31, 2022), <https://one.starbucks.com/2022/08/31/get-the-facts-protected-and-unprotected-activities/>; Viktoria Hallikaar, “One year later: The impact of Buffalo Starbucks’ unionization,” SPECTRUM NEWS 1 (Aug. 4, 2022), <https://spectrumlocalnews.com/nys/buffalo/business/2022/08/04/one-year-later--the-impact-of-buffalo-starbucks--unionization>.

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⁷ *Id.* at 181.

⁸ *Id.* at 201.

⁹ Lauren Kaori Gurley, “Judge orders Starbucks to reinstate seven fired baristas,” WASH. POST (Aug. 18, 2022), <https://www.washingtonpost.com/business/2022/08/18/starbucks-fired-baristas-reinstated-memphis/>; Noam Scheiber, “Judge Scales Back Ruling Against Starbucks in Union Fight,” N.Y. TIMES (Feb. 23, 2023), <https://www.nytimes.com/2023/02/23/business/economy/starbucks-union-ruling.html>.

¹⁰ Josh Eidelson, “Starbucks Ex-Manager Says He Was Told to Punish Pro-Union Employees,” BLOOMBERG (Oct. 11, 2022), <https://www.bloomberg.com/news/articles/2022-10-11/starbucks-manager-says-he-was-told-to-punish-pro-union-employees-in-buffalo#xj4y7vzkg>.

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¹² *Starbucks Corp.*, Cases 03-CA-285671 et al., slip op. at 91 n. 309 (Mar. 1, 2023); Khaleda Rahman, “Starbucks Fires Another Union Leader as Fight With Workers Intensifies,” NEWSWEEK (Mar. 7, 2022), <https://www.newsweek.com/starbucks-worker-leading-labor-union-drive-says-fired-lost-job-1685452>.

¹³ Briana Bonfiglio, “Great Neck Starbucks Illegally Fired Union Organizer, NLRB Lawsuit Claims,” LONG ISLAND PRESS (Dec. 2, 2022), <https://www.longislandpress.com/2022/12/02/great-neck-starbucks-nlr-lawsuit/>; Natalie Sherman, “‘Starbucks Fired Me for Being Three Minutes Late,’” BBC (Aug. 15, 2022), <https://www.bbc.com/news/business-62426940>.

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¹⁷ *Id.*

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²⁸ *Starbucks Corp.*, Case No. 19-CA-294579, Consolidated Complaint at 5-8 (Oct. 10, 2022).

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³⁰ *Id.* at 5-8.

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