

Texas Public Employer Labor Relations Annual Workshop



National Public Employer
Labor Relations Association



The NLRB and Collective Bargaining: Nuts and Bolts

February 7, 2018

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Why Do Employees Turn To Unions?

- Failure to solve employee problems
- Poor communications (up and down)
- Perceptions of unfair treatment
- Broken promises
- Lack of courtesy, respect and recognition for a job well done
- Feelings of job insecurity

Under the National Labor Relations Act, Employees Have the Right to:

- Self-Organize
- To Form, Join and Assist Labor Organizations
- To Bargain Collectively
- To Engage in Other Protected, Concerted Activities; AND
- To Refrain From Any and All of the Above

Protected Concerted Activity

Q: What is it?

A: Two or more employees (or one acting as a representative) acting together to improve their wages, hours or working conditions

National Labor Relations Act

Who is an “employee” having primary rights under the NLRA?

Everyone who is not a “supervisor” under the NLRA!



National Labor Relations Act

Who is a “supervisor” under the NLRA?

- Those with ability to hire, fire and discipline employees, or effectively make such recommendations.
 - 24/7
 - On or off site



Non-Union Workplaces

Can you prohibit employees from discussing their wages in the workplace?

NLRB Protections

If employees are discussing terms and/or conditions of employment such as wages, discipline may be inappropriate because the employees are arguably engaged in “protected activity.”

Unfair Labor Practices

The National Labor Relations Act Prohibits “Unfair Labor Practices”

- Interference with Protected Employee Rights
- Treating Employees Differently because of Union Support or Sympathy

Collective Bargaining

- General issues related to Bargaining:
 - No legally-imposed time limit
 - 1st contracts can take a long time to negotiate (sometimes more than a year)
 - But employees cannot get rid of the union for at least one year

Collective Bargaining

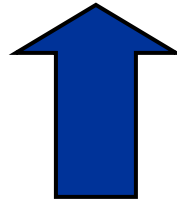
- Must bargain in “good faith”
 - Meet periodically at reasonable times/places, listen, and respond (yes, no, or make counterproposal)
 - Neither union or employer has to agree to any proposals that are made
 - No agreement is required under the law (NLRA sec. 8(d))
 - While both parties must *try* (in good faith) to reach a contract, there is no requirement that agreement must be *ever* be reached

Collective Bargaining

Bottom Line: there are 3 potential outcomes if a contract is reached

As a result of bargaining, you may end up with:

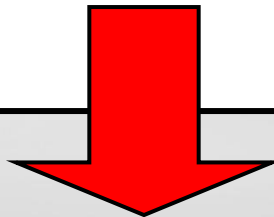
MORE:



SAME:



LESS:



HOW DOES COLLECTIVE BARGAINING WORK?

- Company and union each appoint representatives to meet and bargain.
- Committees meet at intervals to discuss proposals.
- Both parties must try in good faith to reach an agreement.
- Neither party is required to accept any particular proposal.

WHAT DO WE DO DURING NEGOTIATIONS?

- Basic rule:
 - No wages, benefits, or company policies or procedures can be changed without bargaining with the union until an agreement or an impasse is reached.

WHAT DOES THIS MEAN?

- You cannot:
 - Change policies.
 - Start enforcing policies that weren't enforced in the past.
 - Quit enforcing policies that were enforced in the past.
 - Convert unwritten policies into writing.
 - Interpret policies differently than you have interpreted them in the past.

WHAT DOES THIS MEAN (cont'd)

- You can
 - Continue to manage your employees just as you always have
 - Enforce existing policies and procedures concerning attendance, discipline, etc. as you have in the past.
 - Insist upon the same quality and quantity of performance that you have in the past.

DISCIPLINARY PROCEDURES

- All discipline should be reviewed in advance by H.R.
- Existing rules must be followed.
- Rules must be applied uniformly.
- Everything must be documented.

WHAT HAPPENS IF WE CAN'T AGREE?

- Union may stage demonstrations and start PR campaign.
- Union may file charges under NLRB, EEOC, SCHAC, and OSHA.
- Union may consider a strike.

Collective Bargaining

- The Process
 - Employer Negotiating Committee
 - Union Negotiating committee
 - Paid union reps & few employees
 - Negotiations are a “give and take” not a “give away”

Collective Bargaining

- If the two sides cannot agree = impasse:
 - FMCS – offers mediation
 - “Last, Best & Final Offer”
 - Accept (ratify)
 - Reject/strike
 - Employer implements

Is it “Only a Contract When You Say It Is?” Really...?

- During bargaining, at some
- point the Employer may make
- it's last, best and final offer.
- If the union rejects the
- Employer's last, best and
- final offer...

...if impasse is reached, the Employer can impose the terms of it's last, best and final offer... even if those terms are take-aways!

Oh, No!
I didn't want
this!!



Collective Bargaining

- With collective bargaining, nothing is guaranteed
- If the parties reach a contract, you could lose, stay the same or get more
- All of the Union's proposals in bargaining are subject to the Employer's agreement
- Remember, the Union is legally allowed to make promises but the Employer cannot promise you anything because if the Employer makes a promise, the Employer can make the promise come true

Collective Bargaining

- If the Union makes promises, ask them to put them in writing and guarantee them
 - Will they at least guarantee that they can get the Employer to give all of you at least 28¢ more an hour (union dues that you currently are not paying) so you will come out the same as what you have now? And if they don't, will they pay you the difference out of their huge salaries?

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