

UNDERSTANDING LABOR RELATIONS IN THE AMERICAN HEALTHCARE WORKFORCE

Joe Ciavarro Jr., DMSc, MBA, PA-C
AAPA Executive Leadership Conference
March 2025

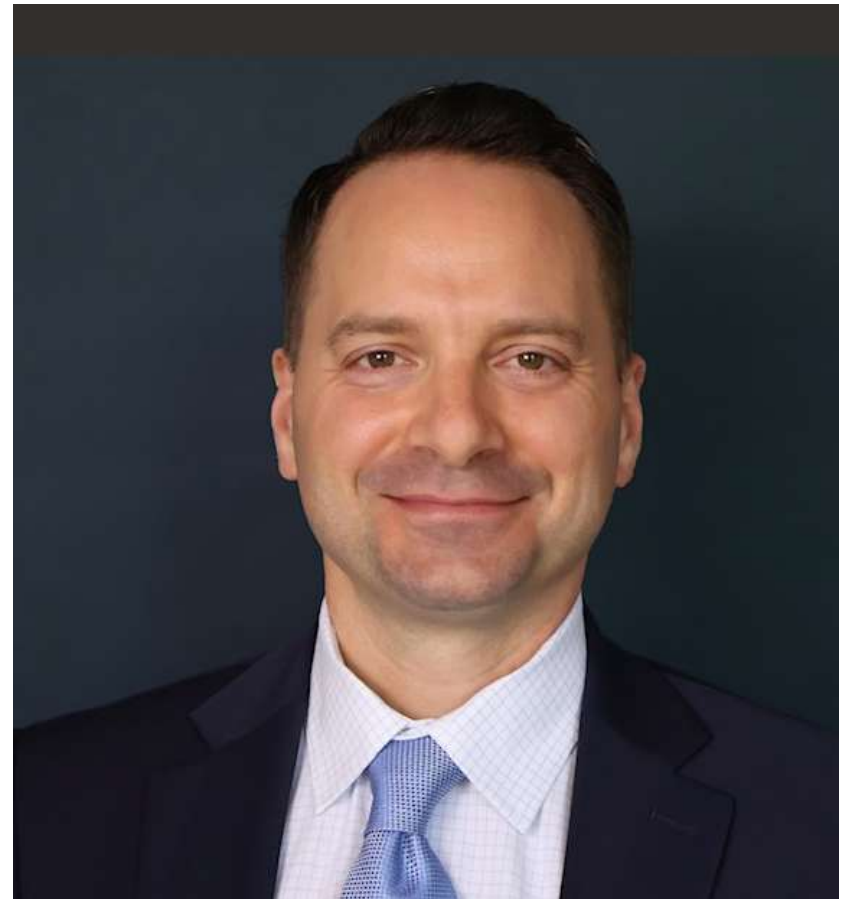
INTRODUCTION

Director of PA Services
New York-Presbyterian
Brooklyn Methodist Hospital
Brooklyn, NY

*No financial relationships to disclose

**I'm not a lawyer or HR expert

How did I get here?



PRE-PA

- 2001-2005 Taekwondo instructor
- 2005 Aquarium tour guide and mascot
- 2007-2008 Respiratory Technician
- 2008-2012 Respiratory Therapy



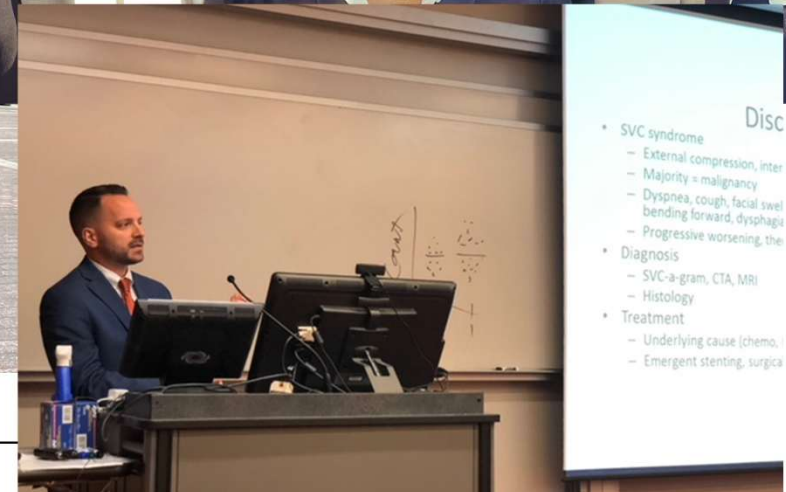
PA

- Northeastern University
- 2012-2020 Staff PA (Hospitalist, Pediatrics, IR)
- 2020-2021 Site Director
 - Mount Sinai West/Morningside
- 2021- Director of PAs
 - NYP Brooklyn



PROFESSIONAL

- NYSSPA BOD
 - AAPA, HLNy Leadership Lecturer
 - Lecturer
 - Mercy College PA Program (NY)
 - Sacred Heart PA Program (CT)
 - Weill Cornell Medicine
 - MBA, DMSc
-



PERSONAL



PLAYBILL®



CURRENT

- 156 PAs total
 - 1199SEIU



OBJECTIVES

Understand

Understand the history and recent trends of labor relations in the U.S.

Describe

Describe basic principles of the National Labor Relations Act

Apply

Apply best practices for effective management of an organized workforce

INTRO



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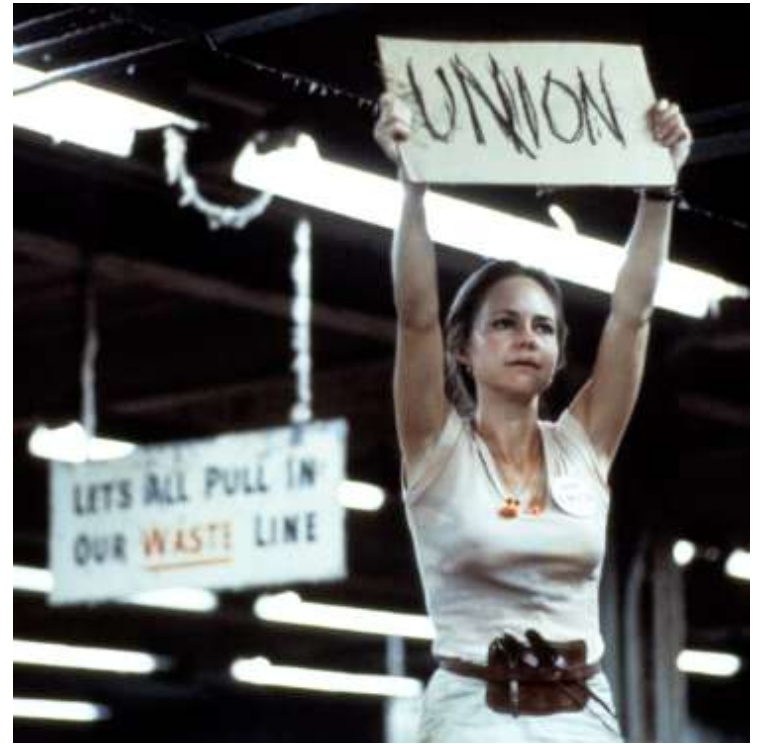


INTRO



Crystal Lee Sutton

Sally Field as Norma
Rae in *Norma Rae*



INTRO



INTRO



INTRO



Cast of *Newsies* on Broadway

Newspaper boys,
Newark, NJ 1909



BACKGROUND

BACKGROUND

- To first understand organized labor in the healthcare workforce, one must first understand the nature of organized labor:
- What is a union?

BACKGROUND

AFL-CIO:

“teams of individuals
coming together to
guarantee the things
[employees] care about”

Writers Guild of America
East:

“a collective of workers
who organize to improve
their workplace”

BACKGROUND

- National Labor Relations Act (NLRA) 1935 (aka Wagner Act)
 - Determined rights of the employee to organize and choose representation
 - Defined harmful (union busting) practices by employers
 - Establish procedure for organizing with a union
 - Created National Labor Relations Board (NLRB) to administer and enforce the NLRA

BACKGROUND



REMEMBER
THIS

- Section 7 of the National Labor Relations Act (known as “Section 7 Rights”)
 - “[...] right to self-organization to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining [...]”
 - Employees (2+) can form a union, join a union, assist a union, go on strike, or refrain from union activity
 - Labor unions qualify for 501(c)(5) tax-exempt status
 - Special regulations around lobbying activity
-

BACKGROUND

- To summarize:
 - A non-profit organization comprised of elected individuals purposed to advocate on behalf of a collective group of employees for certain working conditions and benefits from their employer.

 - Can any employee unionize?
-

BACKGROUND

- Who isn't covered by the NLRA?
 - Agricultural workers
 - Domestic servants
 - Individuals employed by a parent or spouse
 - Independent contractors
 - Supervisors*
 - Individuals subject to the Railway Labor Act
 - Public Employees
 - May have rights under state law
-

BACKGROUND

- NLRB Process:

- Group of employees file to form or join a union (“petition”)
 - NLRB approves, election is held



The “certification” process

- Negotiate a terms of employment contract (the ‘collective bargaining agreement’) with employer
 - May already have CBA if joining an existing union
 - Hold a vote to approve/disapprove the contract
-

BACKGROUND

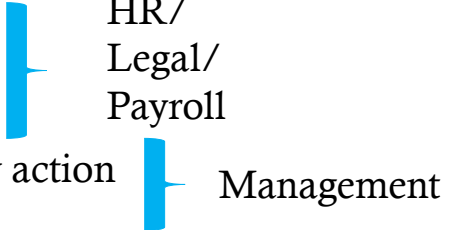
- NLRB Process:
 - After certification:
 - Employees pay the union dues to fund bargaining activity
 - Employer pays union fees to fund benefit programs
 - Union represents employees in labor disputes or disciplinary action



BACKGROUND

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- 
- The diagram consists of two vertical blue bars. The first bar is positioned to the right of the first two list items and has horizontal lines extending to the right, pointing towards the text 'HR/ Legal/ Payroll'. The second bar is positioned to the right of the third list item and has a horizontal line extending to the right, pointing towards the text 'Management'.
- HR/
Legal/
Payroll
- Management



BACKGROUND

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Weingarten Rights

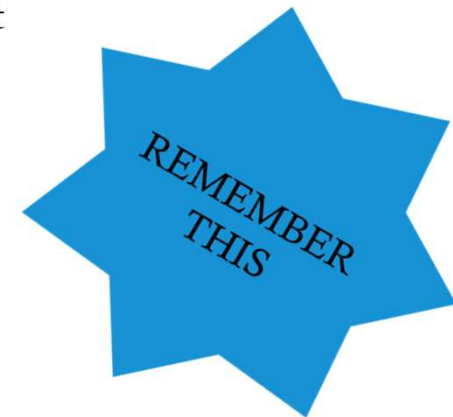


BACKGROUND

- “Union-Security”
 - The NLRA *permits* the union and employer to enter into a union-security agreement, requiring employees to make payments (dues) to the union in order to retain their job.
 - States can *prohibit* union-security agreements
 - Prohibits compulsory union membership as a condition of employment
 - Doesn't make unions ‘illegal’

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 - **Known as “right to work” laws**



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 - Doesn’t make unions ‘illegal’
 - **Known as “right to work” laws**

 - Why are unions *less* focused on Right to Work states?
-

BACKGROUND

- Terms to know:
 - Collective bargaining agreement (CBA)- the employment contract
 - Memorandum of Understanding (MOA)- modifications/amendments to the CBA
 - Member or “the members”- term meaning employee who is a dues-paying member of the union
 - Bargaining unit- group or sub-group of employees who share a ‘community of interest’
 - Bargaining work- work done by a unionized workforce that is protected by the contract
 - Dues- monies paid by the *employee* to the union to fund their representation duties
 - Contributions- monies paid by the *employer* to the union to fund benefit programs
 - Seniority- time spent in the union
 - Bargaining unit seniority- time in the union within the bargaining unit (ie: employer)
 - Classification seniority- time in the specific negotiated classification group (ie: Neurosurgery PAs)
-

BACKGROUND

- Terms to know:
 - Accretion- act of adding employees into a bargaining unit without a vote
 - Bargaining (or labor) activity- protected acts related to the work of the union
 - Union representative- employee of the union tasked with assisting members with union business
 - Union delegate- employee of the company elected by Members to serve as a liaison
 - Certification- process of officially recognizing the union as the labor representative of the bargaining unit
 - Protected concerted activity- engagement in discussion or activity related to sharing concerns about the workplace
-

BACKGROUND

- Terms to know:
 - **Leadership Tip:**
 - Know appropriate labor terminology, even in non-organized settings
 - Unintended usage can cause confusion
 - Organizing
 - Collective
 - Bargain



BACKGROUND

- Terms to know:
 - Protected concerted activity- engagement in discussion or activity related to sharing concerns about the workplace
 - Applies in union and non-union workspaces



BACKGROUND

- What's in the CBA?
 - Union-security clause, Membership qualifications
 - Wages, pay increases/bonuses, overtime stipulations, hours/shifts of work
 - Benefits (provided by union vs employer)
 - Grievance procedures, safety practices, seniority, job preferencing
 - Procedures for termination, voluntary separation, transfers, promotions
 - Procedures for arbitration/mediation
 - Voluntary subjects (not required, but can be negotiated into contracts)
 - Uniforms, meal discounts, housing, childcare



LABOR HISTORY IN U.S.

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- Increasing shift towards industrial and factory work in the U.S. post Civil War
 - Increase in corporate employment, growth of capitalism and vertical integration
 - How were jobs different for workers?

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- Increasing shift towards industrial and factory work in the U.S. post Civil War
 - Increase in corporate employment, growth of capitalism and vertical integration
 - How were jobs different for workers?
 - Poor, unsafe working conditions lead to violent, sometimes deadly protests
 - Largely coal mining, railroad, and steel production employees
 - Spread to law enforcement agencies, textile factories, manufacturing
-

LABOR HISTORY IN U.S.

- Support for unions has waxed and waned over time
 - Early unions had little federal support, were often dismembered by government action or maligned as being discriminatory
 - Federal Society of Journeymen Cordwainers 1806 strike
 - American Railway Union 1894 strike
 - Colorado Coalfield War, 1914
 - ATC strike 1981
 - Railway Labor Act 1926
 - Fed involvement in railway and airline labor disputes
 - Taft-Hartley Amendment 1947
 - FDR's administration increased union support, passed National Labor Relations Act, Fair Labor Standards Act
 - NLRB Board Member shake-up, 2025
-

LABOR HISTORY IN U.S.

- Unions have long been engaged in legislative activism
- Significant changes in U.S. labor laws and practices attributed to pro-labor sentiment
 - Child labor laws
 - Weekends
 - 8-hour workdays
 - Overtime
 - Employer sponsored benefits
 - Employer provided safety practices, barriers, PPE, training
 - *Clinical staffing ratios??*



Boston Teachers Union picketing for climate change legislation

LABOR HISTORY IN U.S.

- What about healthcare workers?
 - Original NLRA interpreted to have covered non-profit hospital employees
 - Overruled by 1947 Taft-Hartley Amendments, which asserted that healthcare was not 'commerce'
 - Created discrepancy between for and not-for profit hospital workforces
 - 1974 Amendments addressed healthcare workforce
 - Firmly included non-profit hospitals as qualifying employer for collective bargaining
 - Added requirement of 10 days notice of work stoppage (strike notice)
 - Can unionized healthcare workers go on strike?



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STATE OF THE (LABOR) UNION

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- Significant increase in unionization activity in the U.S. since 2020:
 - 50% increase in new union petitions to NLRB from 2021 to 2022
 - ~460,000 workers involved in a strike in 2023 (4x more than annual average pre-2020)
 - Highest percentage of Americans who approve of unions (67%)
 - Huge wage increases across many industries:
 - UAW saw 68% increase in starting pay, 25% salary increases over 4 years, restored COLA
 - UPS starting wages increased to \$49/hr (\$100K/year), highest ever
 - Hotel industry workers saw 40-50% wage increases
 - However, still lowest rate of unionized workforce since 1930s
-

STATE OF THE (LABOR) UNION

- Newer workforces are unionizing:
 - Grad students (resident physicians, MIT grad students)
 - Retail giants (REI, Starbucks, Amazon, Trader Joe's)
 - Skilled healthcare workers (NP, PA, MD, SW, etc.)

STATE OF THE (LABOR) UNION

- What about the healthcare workforce?
 - COVID-19 pandemic fueled union activity, both new unionization and union strikes
 - Increase in percentage of new union petitions to NLRB from healthcare workers
 - No great central repository/peer reviewed source of reasons *why* healthcare workers unionize
 - So why now?
-

STATE OF THE (LABOR) UNION

New York City nurses end strike after reaching a tentative agreement

JANUARY 12, 2023 · 8:49 AM ET

By Emily Olson



- “Higher pay and better conditions”
 - “Safe patient staffing ratios”
-

STATE OF THE (LABOR) UNION

- “Systemic understaffing”
- “Job security”
- “Violating labor law by refusing to bargain with nurses...”

Providence nurses, and some doctors, walk out as open-ended strike begins



By Amelia Templeton (OPB)

Jan. 10, 2025 9:26 a.m. Updated: Jan. 10, 2025 2:25 p.m.

Gov. Tina Kotek is urging all parties to continue bargaining



STATE OF THE (LABOR) UNION

Thousands of resident doctors in Philadelphia want to unionize

They say patient care suffers because of bad working conditions and long hours.



By [Alan Yu](#) · Updated Nov. 25, 2024 1:54 pm

- “Safer staffing levels, better sick leave policies...”
 - “Limits on working hours”
 - “They feel entitled to treat us however they want”
-

STATE OF THE (LABOR) UNION

- “Corporatization of health care, physician access issues, and systemic challenges”
- “Things have gotten more and more impossible as a primary care doctor”
- “Severe burnout [...] quitting frequently due to the large workload”



LOCAL NEWS

Mass General Brigham primary care doctors file to unionize, citing burnout

WBZ NEWS

By Riley Rourke
Updated on: November 19, 2024 / 5:25 AM EST / CBS Boston

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STATE OF THE (PA-NP LABOR) UNION

HEALTH CARE

WORK & MONEY

Allina Health clinicians vote by overwhelming margin to unionize in historic election

BY: MAX NESTERAK - OCTOBER 13, 2023 5:59 PM



- “Burnout is high”
 - “[...] advocate for working conditions that will improve care for patients”
 - “We had to go somewhere. We couldn’t afford to do it on our own”
-

STATE OF THE (PA-NP LABOR) UNION

Business and Economic News

Dan Kraker · Duluth · July 24, 2024 12:00 PM

Some Essentia Health nurse practitioners and other advanced providers vote to unionize

- “66% of people who voted chose to support the union”
 - “Stronger voice to address their concerns”
 - “Better compensation, a healthier work-life balance and patient loads”
-

STATE OF THE (LABOR) UNION

December 27, 2022

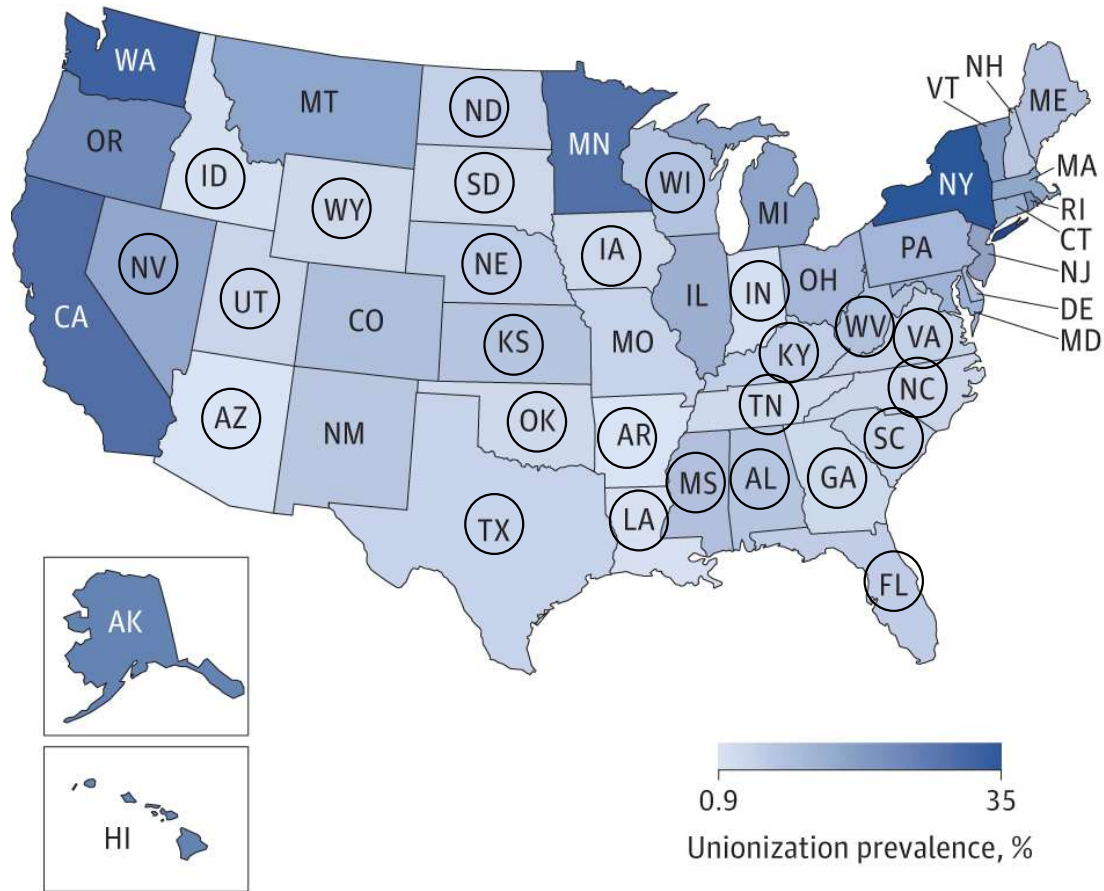
Trends in Labor Unionization Among US Health Care Workers, 2009-2021

Ahmed M. Ahmed, MPP, MSc¹; Kushal Kadakia, MSc¹; Alwiya Ahmed, MD, MPH²; [et al](#)

[» Author Affiliations](#) | [Article Information](#)

JAMA. 2022;328(24):2404-2411. doi:10.1001/jama.2022.22790

- Motivating factors?
 - Unionized healthcare workers reported:
 - Higher wages
 - *Than before?*
 - *Compared to what?*
 - Having a pension or retirement benefit
 - Employer paid full premium for health insurance.



December 27, 2022

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BEST PRACTICES

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Basic concepts



Legal pitfalls



Union relations



Employee relations

BEST PRACTICES

- Basic concepts
 - There should be no difference in how you treat staff who are unionized vs non-unionized
 - Union membership is not a free pass to violate policy or clinical practice guidelines
 - Keep detailed records of corrective action(s)
 - Yes, you can fire a unionized employee
 - Section 7 always applies!

BEST PRACTICES

- Basic concepts
 - Never act unilaterally without discussing with HR/legal/labor relations team
 - Rely on your HR team for contract interpretation
 - Reinforce using management to escalate concerns

BEST PRACTICES

- Legal pitfalls- Unfair Labor Practices of Employers
 - Interference with Section 7 Rights:
 - Can't influence or punish employees from participating in organization process
 - Threaten jobs or benefits, grant/promise additional benefits/pay as a condition of voting 'no'
 - Threaten to close down unit/work area if employees unionize/ don't de-certify
 - Questioning employees about union membership, activity in a manner received as to restrain or coerce
 - Granting higher status or pay in exchange for lobbying employees to vote 'no'
 - Discriminating against an employee who filed a complaint to NLRB
 - Attempting to influence or assist with decertifying the union
-

BEST PRACTICES

- Legal pitfalls- Unfair Labor Practices of Employers
- Interference with Section 7 Rights:
 - Must make good-faith effort to negotiate
 - Duty to supply information
 - Duty to meet and confer- meet at reasonable times and of reasonable medium (ie: conference room, virtual meeting, etc.)
 - Granting plant access to union representatives



BEST PRACTICES

- Legal pitfalls- Unfair Labor Practices of Employers
- Interference with Section 7 Rights:
 - Can't impede or prevent union access to employees
 - Can't block/prohibit union staff from entering workplace
 - Must provide union with staff information
 - Spying on union meetings/gathering
 - "Badmouthing" union or union representatives



BEST PRACTICES

- Legal pitfalls- Unfair Labor Practices of Employers
- Interference with Section 7 Rights:
 - Duty to refrain from unilateral action
 - Can't give salary raises, bonuses, etc. without bargaining
 - Must bargain when making 'plant changes'
 - Ie: closing a unit and moving APP positions



BEST PRACTICES

- Legal pitfalls- Unfair Labor Practices of Labor Organizations
 - Restraint and coercion of employees
 - Acts against an employee (threats to non-striking employees, etc.)
 - Threatening union jobs to employees that don't support the union
 - Fining or expelling employees for crossing picket line, filing NLRB complaints against union
 - Refusing to represent an employee in a grievance
 - Discrimination against non-dues paying employees (right to work states)
 - Coercing employer to hire preferred union staff/members
 - Threatening employees for not favoring/speaking in favor of the union
 - Refusal to bargain in good faith
-

BEST PRACTICES

- Legal pitfalls- Unfair Labor Practices of Labor Organizations
 - Prohibited Strikes and Boycotts
 - Inducing an unlawful strike or work stoppage
 - (External picket line)
 - Threaten or coerce a person or company engaged in commerce with employer
 - (Coercing a vendor to stop supplying)
 - Compelling recognition of another union
 - Union “A” striking at hospital because hospital refuses to recognize union “B”
 - Striking at health care institution without providing legal notice
 - (Picketing is protected by free-speech and Section 7 rights)



BEST PRACTICES

- Legal pitfalls- Unfair Labor Practice Case Studies
 - Wal-Mart Stores, Inc., Richmond CA, 2013
 - Walmart stores implemented a dress code policy requiring that the only hat to be worn is a blue (Walmart) hat
 - Employees filed an NLRB complaint because the policy prohibits them from wearing hats with union insignia
 - *What do you think?*
-

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 - Employees filed an NLRB complaint because the policy prohibits them from wearing hats with union insignia
 - *NLRB found Wal-Mart to have violated Section 7 of the Act*
 - *Policy is not justified by Special Circumstances*
-

BEST PRACTICES

- Legal pitfalls- Unfair Labor Practice Case Studies
 - Starbucks Employees (Memphis 7) SCOTUS Case
 - Starbucks employees were terminated after announcing their intent to unionize, Starbucks argued they were fired for violating policy (allowing camera crews into the store). Employees filed a complaint with NLRB who ordered an injunction and reinstatement of employees while investigating.
 - TN Federal District Courts, 6th U.S. Circuit Court of Appeals agreed with NLRB
 - SCOTUS agreed to take up case, *Starbucks Corp. v. McKinney* (June 2024)
 - *What do you think?*
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 - *SCOTUS sided with Starbucks*
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BEST PRACTICES

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 - Employee vs. California Truck Driving Academy, LLC, Aug 2022
 - Employee approached supervisor regarding team's wages, hours, and working conditions
 - Employee engaged in concerted activity with other employees by engaging in a work stoppage in protest of management's failure to timely pay employees
 - Employee was subsequently demoted and issued disciplinary action
 - *What do you think?*
-

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 - Employee was subsequently demoted and issued disciplinary action
 - *NLRB found employer in violation of Section 7*
 - *Ordered reinstatement of title, backpay, reversal of disciplinary action*
-

BEST PRACTICES

- Legal pitfalls- union busting activity
 - Union suppression- any tactics to avoid the growth of union positions
 - Delegating bargaining work to non-union employees
 - Scheduling mandatory meetings during known union meeting/business time
 - Refusing to provide space for union activity (ie: a conference room for union meeting)
 - Disciplining employees for attending union activity, wearing union insignia
 - Within reasonable constraints

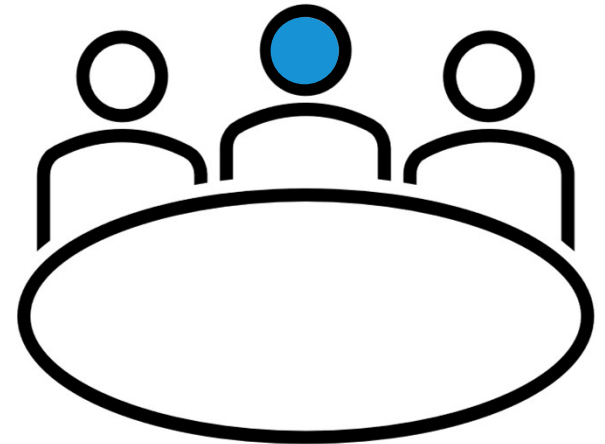


BEST PRACTICES

- Union Relations
 - Speak to facts, not speculation
 - Don't blame union for how things are- this was a negotiation that both parties agreed to!
 - Know your lane
 - Don't speak on behalf of the union- let them
 - Don't unreasonably hinder or interrupt union activity
 - Keep an open line of communication
 - Know your contract!
-

BEST PRACTICES

- Union Relations
 - Weingarten Rights
 - Employee can request union rep at meetings related to employee's performance, discipline
 - Delegates are usually employees
 - Assure management adheres to contract, fair treatment of employee
 - Union can't invite themselves to staff/department meetings



BEST PRACTICES

- Employee Relations
 - Rely on your HRBPs, Compensation, and legal teams
 - Have a low threshold to escalate concerns
 - Have competitive pay/benefits
 - Provide for safety/support at work
 - Frequent rounding/communication
 - Friendly, open communication



BEST PRACTICES

- Employee Relations
 - Know terms of the contract and implications (talk with HR)
 - Don't interrupt scheduled break times
 - Avoid calling/communicating off-hours
 - Comply now, grieve later
 - Don't stray from the contract
 - You (your management) made an agreement. Stick to it



BEST PRACTICES



Management Rights

Management has a right to run the organization as they see fit



Review major changes with HR/legal



Assume union is always listening

Never say anything to staff that you would not say on a podium in front of the union

SUMMARY

- Employees have a right to discuss work grievances, to unionize
 - Employers/managers should be mindful of Section 7 rights
 - Management and union must play by the same rules
 - Union or non-union status should not change how you treat employees
 - Know the union contract, revisit it often
 - Keep open lines of communication with union reps/delegates, be strategic
-

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THANK YOU!

- Q&A?

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