
Unions

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Overview of Union Organizing

Union Development –

A Short History

Late 1800s and early 1900s workers in the railroad industry, coal mining industry and various working crafts were the primary organizers of unions.

Overview of Union Organizing

- In 1935 Congress established the National Labor Relations Board (NLRB or Board)
 - *NLRB's two primary Responsibility areas:*
 - Conducting Union Elections
 - Enforcing the Act's prohibitions against "unfair" conduct by employers and unions (known as "unfair labor practices")



Overview of Union Organizing

- By the late 1940s
 - *The NLRB was conducting more than 20,000 elections each year (compared to 2,300 elections in 2006).*
 - By the mid-1950s
 - *Roughly 35% of the American workforce was unionized and it was not unusual for unions to win 75% of the elections that were held in any particular year.*
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The Rise of the AFL-CIO

- American Federation of Labor (AFL)
 - *Craft Unions*
 - The Congress of Industrial Organizations (CIO) was formed for the purpose of organizing industrial workers
 - *United Mine Workers*
 - *Amalgamated Clothing Workers*
 - *Ladies Garment Workers*
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The Rise of the AFL-CIO

continued...

In a 1955 joint convention the new organization became known (and is still known) as the AFL-CIO

The Decline of Modern Unions

- Union membership began to decline steadily in the 1970s
 - Decline can be attributed to numerous factors
 - *Employer Sensitivity*
 - Competitive wages and benefits
 - Better working conditions
 - Special needs to today's employees
 - Subsidized child care
 - Flexible work schedules
 - Employers also are placing an increased emphasis on the creation and consistent enforcement of fair policies and procedures
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The Decline of Modern Unions

continued...

- Employer Training
 - *Front-line supervisors and managers*
 - Increased Protection from State & Federal Laws
 - *Child labor laws*
 - *Workers' compensation laws*
 - *Benefit protections*
 - *Notice requirements before layoffs/reductions*
 - *Occupation safety and health regulations*
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The Decline of Modern Unions

continued...

- Employment-At-Will/Alternative Dispute Resolution
 - *Developing employee handbooks*
 - *Policies and procedures*
 - *Progressive discipline procedures*
 - *Alternative dispute resolution (ADR) procedure*
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The Decline of Modern Unions

In 2003, 12.9% of wage and salary workers were union members, down from 13.3% in 2002, workers in the public sector had a union membership rate more than four times that of private-sector employees, 37.2 percent compared with 8.2 percent.

In 2003, 11.5% of those employed in Iowa were union members.

The Decline of Modern Unions

In 2008, union members accounted for 12.4 percent of employed wage and salary workers.

The union membership rate for public sector workers (36.8 percent) was substantially higher than the rate for private industry workers (7.6 percent). In 2008, 10.6% of those employed in Iowa were union members.

AFL-CIO's Emphasis on Organizing

- 30% of the AFL-CIO's budget (about \$30 million at that time) is devoted to organizing efforts
 - Service Employees (SEUI), the most successful union at organizing in 2003, currently spends almost 50% of its budget on organizing
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Steps Following a Union Petition

- Petition/showing of interest
 - Hearing to determine if there will be an election and who will be included
 - *Appropriate unit*
 - Direction of the election
 - *Notice*
 - *List of voters*
 - Election
 - Post Election Challenges
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The Petition

- Must be supported by a sufficient “showing of interest”

 - Showing of support from at least 30% of the employees
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The Hearing

- Hearings are held within 10 -14 days after petitions are filed
 - The purpose of a hearing
 - *Whether the Board has jurisdiction*
 - *Petitioning union is a labor organization*
 - *Any other reason that an election should not be conducted*
 - *Are any reasons that the election day should be delayed*
 - *Which individuals should be excluded from the voting group as supervisors, managers, confidential employees or otherwise exempt employees*
 - *Whether the voting group requested by the union is “appropriate”*
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Which Employees Are Eligible to Vote?

- “Employees” vs. “Supervisors”
 - *Supervisor:*
 - Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, **assign**, reward, or discipline other employees, **or responsible to direct them**, or to adjust their grievances, **or effectively to recommend such action**, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
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“Employees” vs. “Supervisors”

- Definition requires the resolution of three questions:
 - *Whether the employee has the authority to engage in one of the twelve activities listed in the definition;*
 - *Whether the exercise of that authority requires “the use of independent judgment;*
 - *Whether the employee holds that authority “in the interest of the employer.*
 - Exclusion of routine professional and technical judgment from the “independent judgment” factor was in clear contradiction to the express language of the Act.
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Which Employees Are Eligible to Vote?

- Part-time Employees vs. Casual Employees
 - Regular part-time employees are eligible to vote; however, so-called “casual employees” are not.
 - Laid-Off Workers
 - *Whether they have a reasonable expectation of re-employment in the near future.*
 - Undocumented Alien
 - *Undocumented aliens are entitled to vote.*
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The Appropriate Bargaining Unit

- A unit may not include both professional and nonprofessional employees unless a majority of both the professional and nonprofessional employees votes for inclusion in such a mixed unit.
 - The Board is prohibited from establishing a unit that includes both guards and other employees.
 - The Board may not establish a bargaining unit solely on the basis of the extent to which a union has organized employees in the past.
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The Appropriate Bargaining Unit

- Community of Interest Test...
 - *The degree of functional integration within the proposed unit;*
 - Common supervision;
 - *The nature of employees' skills and functions;*
 - Interchange of employees;
 - *Contact among employees;*
 - Common work locations;
 - *Common general working conditions;*
 - Similar benefits; and
 - *Similar hours and shifts.*
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The Stipulation

- The parties may stipulate to an election and avoid a hearing.
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Election

- Direction of an Election
 - *The Regional Director of the NLRB will either direct an election or dismiss the petition.*
 - Notices of Election
 - *Informs employees of the employees eligible to vote and the time and place of the election.*
 - The Excelsior List
 - *Employer must provide for eligible employees in voting unit:*
 - First and last names
 - Home address
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Election

- Ballots
 - *On election day, employees vote by secret ballot either for or against union representation.*
 - Observers
 - Observers must be non-supervisory employees.
 - The Pre-election Conference
 - Challenges
 - The Ballot Count
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Objectionable Conduct

- Sufficient to Set Aside an Election
 - *Changes in Conditions of Employment*
 - *General Shoe Doctrine*
 - *Misrepresentations*
 - *Inflammatory Propaganda*
 - *Excelsior Rule*
 - *Captive Audience Rule*
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Objectionable Conduct

continued...

- Sufficient to Set Aside an Election
 - *Threats*
 - *Interrogations*
 - *Promises made by the Union or the Employer*
 - *Surveillance*
 - *Violence & Threats of Violence*
 - *Threats of Job Loss or Plant Closure*
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Union-Organizing Tactics

continued...

- Sufficient to Set Aside an Election
 - *Threats*
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Union-Organizing Tactics

- Developing an In-Plant Organizing Committee
 - House Calls
 - Keeping the Campaign Quiet
 - Focusing on Economic Issues & Job Security
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New Union Tactics

- Developing an In-Plant Organizing Committee
 - Full-time Union Organizers
 - Employer Targeting (Wal-Mart)
 - Creating a Negative Corporate Image
 - *Product Quality or safety issues*
 - Utilizing Legal processes
 - *FLSA violations, OSHA*
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New Union Tactics

- Using the Media
 - *(Real and staged “Food Lion”)*
 - Political Efforts
 - *Employee Free Choice Act*
 - Targeting Nontraditional Groups
 - *(Physicians, IT technicians)*
 - Salting
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New Union Tactics

- Technology
 - *For large elections, unions are now custom-designing videotapes presentations that attack a particular employer.*
 - *Should Unions have access rights to company e-mail and intranet sites?*
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Managing the Union-Free Workforce

- Open-Door Complaint Procedure
 - Top-down Information
 - Attitude Surveys
 - Quality Circles
 - Employee Committees
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Handling A Union Organizing Drive

- Responding to an Organizing Drive
 - *Recognizing the Subtle Signals of Union Activity*
 - Communication Problems
 - Employee Group Discussions Immediately Stop when a Supervisor Approaches
 - Employees Begin Spending More Time on Their Breaks
 - Changes in Employees' Normal Work Patterns
 - A New Leader Appears
 - Employees No Longer Talk to Their Supervisors
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Handling A Union Organizing Drive

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- Responding to an Organizing Drive
 - *Recognizing the Subtle Signals of Union Activity*
 - Employees Start Asking About Improving Their Wages, Benefits or Working Conditions
 - Employee Complaints Increase
 - A Noticeable Division Among Employees Develops
 - The Language of the Facility Changes
 - Union Authorization Cards are Solicited or Other Union Materials are Distributed
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Handling A Union Organizing Drive

- Responding to an Organizing Drive
 - *Written or Oral Communication to Employees*
 - Threaten
 - Interrogate
 - Promise
 - Surveillance
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Handling A Union Organizing Drive

- Responding to an Organizing Drive
 - *No-Solicitation/No-Access Policies*
 - Non-employee union organizers do not have a right to access an employer's private property to distribute leaflets
 - *No-solicitation policies*
 - Promise
 - Can be prohibited during working time
 - Exclude meal and break
 - Union organizers can be denied access to all private company property where other outside solicitors have traditionally been barred
 - No-solicitation rule may not be enforceable if implemented for the first time during a union-organizing campaign
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Handling A Union Organizing Drive

- Responding to an Organizing Drive
 - *Employer's Lawful Campaign Topics & Strategies*
 - The Union Is a Business
 - Company Philosophy
 - Point Out Benefits
 - Union Promises
 - Declines in Union Membership
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Handling A Union Organizing Drive

...continued

- Responding to an Organizing Drive
 - *Employer's Lawful Campaign Topics & Strategies*
 - Job Security
 - Negotiation Process
 - Strikes
 - Compensation
 - Election Process
 - Twenty-Fifth Hour Speech
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Information About Unions

- <http://www.unionfacts.com/>
 - <http://www.nlpc.org/union-corruption-update>
 - http://www.aim.org/publications/special_reports/foodlion.html
 - LM 2 reports
 - Newspaper reports
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For More Information Contact:

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