FAQ’s - Labor Relations

Q. What is the National Labor Relations Act?

A. The National Labor Relations Act is the federal law allowing workers to organize themselves into unions, bargain collectively, and strike or take other concerted action for mutual aid and protection. The NLRA requires both employees and employers to bargain in good faith over employment terms and conditions.

The NLRA applies to all employees and employers involved in interstate commerce and so covers most private-sector businesses. The act doesn't, however, apply to public-sector workers, agricultural employees, domestic employees, supervisors, independent contractors, transportation workers (who are covered by the Railway Labor Act), and certain other groups.

The NLRA governs a wide range of issues, including:

- Employees' rights to join or to refuse to join unions;
- Employers' rights and responsibilities once employees seek to unionize;
- Employers' rights to make their case to employees about not joining unions (without offering them benefits or making threats to pressure them not to unionize);
- Unions' and employers' rights and requirements in collective bargaining;
- The use of strikes, lockouts, and other economic pressure tactics; and
- Unfair labor practices, which are NLRA-prohibited actions that impinge on the rights of employees, employers, or unions.

Q. What are the U.S. Department of Labor's responsibilities?

A. The U.S. Department of Labor enforces federal employment laws dealing with wages, workplace safety, leave rights, benefits, some nondiscrimination matters, and veterans' employment protections.

DOL incorporates a number of agencies, including:

- **Employment Standards Administration**: ESA's offices and divisions include the Wage-Hour Division, which handles most minimum wage, overtime, and child labor matters; the Office of Federal Contract Compliance Programs, which oversees nondiscrimination and affirmative action laws applying to federal contractors; the Office of Labor-Management Standards, which enforces the Labor-Management Reporting and Disclosure Act; and the Office of Workers' Compensation Programs, which manages federal workers' compensation benefits for government employees, coal miners, and other groups.

- **Occupational Safety and Health Administration**: This agency deals with workplace safety matters and enforces occupational safety laws.
• **Employee Benefits Security Administration**: EBSA works with other federal agencies to enforce the Employee Retirement Income Security Act and other laws that protect employees' retirement, health, and other welfare benefits.

• **Employment and Training Administration**: ETA oversees federal training and employment programs for unemployed, dislocated, and disadvantaged workers.

• **Veterans' Employment Administration**: This agency enforces laws protecting the employment rights of veterans.

• **Bureau of Labor Statistics**: BLS compiles and publishes statistical data on labor and economics.

DOL has various other offices that serve particular groups or fulfill particular purposes, such as investigating claims of statutory violations, bringing lawsuits against employers, and educating and assisting employers on compliance issues.

**Q. What is protected concerted activity?**

**A.** Your employees don’t have to be union members and your company doesn't have to be unionized for employees to be protected by the National Labor Relations Act. Any time two or more employees express concern about working conditions in a nonviolent way, they’re engaged in protected concerted activity under the NLRA. As long as employees are acting to improve working conditions in general, as opposed to merely voicing personal gripes, they’re protected by the NLRA and you cannot retaliate against them in any way.

Protected concerted activity, of course, also refers to actions taken jointly by employees to organize or bargain collectively and for other mutual aid or protection. These actions include:

- Forming or trying to form a union among employees at their company;
- Joining a union, regardless of whether the union is recognized by their employer;
- Helping a union organize employees;
- Going out on strike to secure better working conditions (as opposed to engaging in a strictly economic strike); or
- Refraining from any of these activities.

State laws also address protected concerted activity. Check your state requirements.

**Q. What is the National Labor Relations Board?**

**A.** The National Labor Relations Board is the independent federal agency that administers the National Labor Relations Act. The board has two primary responsibilities:

- Conduct secret-ballot elections to determine if employees want to be represented by unions in dealing with their employers and, if so, by which unions; and
- Prevent or remedy unfair labor practices committed by employers or labor organizations.

**Q. Are we required to agree to employees' request to unionize?**
A. You have the right to voice your opposition to your employees seeking to have a union certified as their representative. You can’t, however, interfere with employees' right to organize by threatening them with adverse consequences if they unionize or by offering them monetary rewards or other benefits for rejecting a union. You also can't seek to dominate or interfere with the creation or running of a union or attempt to create an employer-dominated union.

If you interfere with a union's organizing drive, the National Labor Relations Board can charge you with an unfair labor practice for violating the National Labor Relations Act.

Q. Do my employees have the right to organize a union?

A. Under the National Labor Relations Act (NLRA), employees have the right to engage in organizing activity with the intent of having a labor union certified as their exclusive bargaining agent. Just as employees have the right to organize, a company has the right to communicate its opposition to unionization.

Q. Does the NLRA allow all strikes?

A. The right to strike is a critically important part of the right to organize and is considered a protected activity under the National Labor Relations Act, but not all strikes are lawful and protected. Economic strikes, in which strikers are trying to pressure employers to make economic concessions or provide better working conditions, are protected as are unfair labor practice strikes in which union members walk off the job to protest what they regard as illegal employer actions. Recognition strikes, in which employees strike for recognition of a union as their collective bargaining agent, are legal under the NLRA if another union is not already lawfully recognized by the employer or certified as the employees' bargaining agent and if a representation election has not taken place in that bargaining unit within the past 12 months. Jurisdictional strikes, in which one union's members walk out to coerce an employer to assign work to them rather than to another union's members, usually are illegal if the striking union is trying to take work away from a union that is certified as employees' bargaining representative.

Strikes and other work stoppages can't prevent employers from conducting business on their property, receiving shipments of necessary supplies or disposing of or shipping finished goods. Unions can't block entrances or exits to employer facilities, and they can't use force, intimidation, violence or threats to interfere with employers' ability to conduct business in a lawful manner. In addition, striking workers can't interfere with other employees' ability to work in an effort to pressure them to strike, and can't threaten or use force against them or their family or property.

Various states have laws governing strikes, especially recognition and jurisdictional strikes. Check your state requirements.

Q. What are unfair labor practices?

A. Unfair labor practices are violations of the National Labor Relations Act by employers, unions, or employees. As an employer, you'll commit a ULP if you:

- Interfere with employees' rights to organize by threatening to close a plant if the workers seek union representation, by questioning employees about a union, or by spying on employee meetings;
- Dominate or financially support labor organizations,
• Discriminate against or offer benefits to employees for joining or not joining unions;
• Discriminate against employees for testifying or otherwise participating in investigations by the National Labor Relations Board;
• Refuse to bargain in good faith with duly certified unions; or
• Enter into hot cargo agreements with unions (refusing to deal with another employer involved in a labor dispute).

Unions commit ULPs if they:
• Restrain or coerce employees or employers in exercising rights granted by the NLRA;
• Pressure employers to discriminate against workers who oppose unionization;
• Refuse to bargain in good faith with employers;
• Engage in prohibited types of boycotts or strikes;
• Charge excessive or discriminatory membership fees or dues;
• Engage in featherbedding (demanding that employers pay for work that isn't done);
• Enter into hot cargo agreements;
• Engage in picketing to gain recognition from employers whose employees are already represented by certified unions; or
• Strike or picket health care facilities without providing proper notice.

Many states' laws have more extensive lists of ULPs than the federal statute. Check your state requirements.