

Labor Relations / Unions Glossary

Master List for 2010 LaborFest Jeopardy Contest

History of Unions

Molly Maguires

A legendary group of union organizers in the coal mine fields in 1875. After a failed strike, they were accused and convicted of murder and arson.

The Railway Strike of 1877

20 day strike where Maryland workers were killed striking because railroad companies were providing large dividends to their wealthy stockholders while the railroad company was losing money, and raising rates and cutting wages. Strike ended after the federal troops were called in to suppress the strike.

The Haymarket Square Riot

A 1886 strike in Chicago where laborers were striking to demand an eight-hour workday. A peaceful meeting ended with a bomb thrown into a group of policemen. One policeman was killed along with several strikers.

Knights of Labor OR The Noble Order of the Knights of Labor (KOL)

Organization was founded in 1869 whose goals were higher wages, fewer working hours, and better conditions through legislation. They were accused of engineering the Haymarket Square Riot but really had nothing to do with it.

The Pullman Strike of 1894

This violent strike in 1894 was stopped by the Federal Government applying the Sherman Antitrust Act because railway owners added mail cars to trains, thus claiming that strikers were 'interfering' with mail delivery. Federal troops were brought in to break the strike.

Eugene Debs

Founder of the American Railway Union, this individual fulfilled the goal of earlier unions by successfully organizing national industrial union capable of staging a united strike. He became a socialist after witnessing government's intervention on the side of owners in labor disputes.

The American Federation of Labor (AFL)

Formed in 1886 under Samuel Gompers. Its goal was to improve the position of skilled labor. The AFL dominated the labor scene after the KOL began losing support.

Samuel Gompers

He was the founder of AFL and believed the major emphasis for the labor movement was on economic and industrial action in the workplace as opposed to political action.

Industrial Workers of the World (IWW)

This organization originated in the Colorado mine fields in reaction to the mine owners breaking strikes by bringing in armed guards.

Industrial Workers of the World (IWW)

Known as "Wobblies," this organization advocated both a labor and social agenda, advocating an overthrow of capitalism. After the Russian Revolution, the socialist advocates, like IWW, lost support in the U.S.

Injunctions

The demise of the conspiracy theory led the Courts to adopt the use of these against labor unions to stop worker boycotts of employers.

Congress of Industrial Organizations (CIO)

This organization supported the first "sit-in strike" when UAW workers occupied auto plant in Flint, Michigan in 1936.

The Cordwainers Conspiracy Cases

In this 1806 case the court held the mere "combination" of workers to raise wages was an illegal act because the combinations were formed to benefit the workers and injure the non-participants.

Commonwealth v. Hunt

In this case union members caused dismissal of a journeyman who repeatedly broke union rules. His complaint led to criminal conspiracy charges. The court held that criminal conspiracy required either an illegal purpose or resorts to illegal means. In this case, the purpose was to induce the worker to become a union member and abide by union rules; thus, it was not illegal. The court is upholding the workers' right to organize and to compel workers to abide by union rules.

John L. Lewis

Nevertheless, unskilled laborers turned to the leadership of this person, a United Mine Workers leader, for a new era in industrial unionizations.

The Clayton Act

This act sought to limit the use of the injunction against labor unions. The act stated that labor organizations were not prohibited by antitrust. This act was not very effective as the courts continued to apply the Sherman Antitrust Act.

John L. Lewis

The CIO was formed in 1935 by John L. Lewis and advocated a workplace agenda for unions of unskilled workers

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The National War Labor Board

This board was created to prevent labor disputes from disrupting the war effort
During WWII

The Erdman Act (1898)

This act was limited to employees operating interstate trains. It gave certain employment protection to union members and offered facilities for mediation and conciliation of railway labor disputes

The Railway Labor Act

This act required railroad employers to negotiate with their employees' representative and provided for voluntary submission to arbitration. In 1936, the Act was expanded to include the airline industry.

Davis-Bacon Act

This act was passed in 1931 and required construction companies that used federal dollars to pay employees the "prevailing wage rate" of the community where work was done. Prevailing wage generally meant union wage.

The Norris-La Guardia Act

This act took away the power of the federal courts to issue injunctions in nonviolent labor disputes and states that courts cannot restrict the formation of union activities

The National Labor Relations Act (The Wagner Act) 1935

This act gave most employees the right to organize and bargain collectively through representatives of their own choosing

The National Labor Relations Act (The Wagner Act) 1935

Defined unfair labor practices on the part of the employer

The National Labor Relations Act (The Wagner Act) 1935

Interfering with employee rights under the act, refusing to bargain in good faith with the employees' representative, discriminating against union members for pursuing rights under the act, and attempting to dominate or interfere with the unions were defined as unfair labor practices under this act.

The National Labor Relations Board (NLRB)

This board was established to administer and interpret provisions of the NLRA

Walsh-Healy Act,

This act, passed in 1936, foreshadowed the Fair Labor Standards Act and guaranteed that employers with federal contracts would pay their employees time and one-half for any time worked over an eight-hour day.

FLSA

Establishing a federal minimum wage, shorter working hours and the abolition of child labor were the three main objectives of this act.

The Labor-Management Relations Act (Taft-Hartley Amendments)

This act defined unfair labor practices on the part of the union.

The Labor-Management Relations Act (Taft-Hartley Amendments)

This act put prevented the restraint or coercion on employees in exercise of their rights, prevented an employers' refusal to bargain in good faith and prohibited secondary boycotts and strikes.

The Labor-Management Relations Act (Taft-Hartley Amendments)

This act gave preference to state right-to-work laws over bargained provisions in Collective bargaining agreements.

The Labor-Management Reporting and Disclosure Act of 1959 AKA Landrum-Griffin Act

This act required controls on internal handling of union funds, established safeguards for union elections, and established due process rules for disciplining members.

Landrum-Griffin Act

This act assured participation by the rank and file in union affairs

Executive Order 10988

This executive order established framework for labor management relations in the federal government

Landrum-Griffin Act

Requires high standards of ethical conduct by union officials

Union members given access to financial reports of union

Executive Order 10988

This executive order established framework for labor management relations in the federal government

Pendleton Act

This act protected federal employees from firing for political stances

Lloyd-LaFollette Act

This act allowed public sector lobbying by Federal employees

The Sovereignty Doctrine

This doctrine was defined as the supreme, absolute and uncontrollable power by which an independent state is governed, and was used by government to resist collective bargaining. The doctrine became outdated by subsequent court decisions

Landrum-Griffin Act

Protects union members' right to participate in election process

The Civil Service Reform Act of 1978

This act gave central authority to a three-member panel—Federal Labor Relations Authority—to oversee labor-management relations within the federal government.

Federal Labor Relations Authority

This entity oversees creation of bargaining units, conducts elections, decides representation cases, determines unfair labor practices, and seeks enforcement in court for Federal employees

The Civil Service Reform Act of 1978

This act mandates inclusion of grievance procedure with binding arbitration for all federal collective bargaining agreements

National Partnership Council (NAC)

Council formed in 1993 by Bill Clinton

The National Labor Relations Board

This entity recognizes a labor organization as the bargaining representative of a specific group of employees; determines that a specific group of employees is an appropriate bargaining unit; and determines violations of the "duty to bargain" and "unfair labor practice" provisions of the NLRA.

1935

The National Labor Relations Act created the NLRB in what year.

EO 12871

This executive order by Bill Clinton created the National Partnership Council (NAC) to advise the president on labor-management issues.

National League of Cities v. Usery,

Court case that confirms state has sovereignty over own employees.

Fannie Sellins

Sometimes called "Labor's Martyr", this person was killed during a union strike. Deputies, hired by a coal company to "protect" company property, shot her in the back. Their activities included assaulting strikers and she had pictures to prove it. When she tried to leave the area with the pictures, she was killed.

History of Unions

The Landrum-Griffin Act

This act attempted to protect union members from corrupt leadership.

Wagner Act (NLRA)

This act

1. Gave employees the right to organize
2. Required employers to meet and bargain with their employees
3. Protected the “right to strike”
4. Created the National Labor Relations Board

Taft-Hartley Amendments (LMRA)

This act

1. Recognized employees’ right not to organize
2. Required unions to bargain in good faith
3. Subjected unions to charges of unfair labor practices
4. Gave preference to state “right-to-work” laws over contract provisions requiring all workers to join a recognized union.

Landrum-Griffin Act (LMRDA)

This act

1. Put controls on the power of union officials
2. Established safeguards for union elections
3. Established due process rules for disciplining members

Civil Service Reform Act of 1978

Title VII of this act governs Federal government public sector labor relations.

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The Collective Bargaining Process

What is Collective Bargaining

A continuous process between employer and designated labor union that begins with the negotiation of the contract. Includes terms of employment: wages, work rules, hours of work, job classification, and methods of enforcement and administration of contract-grievance resolution.

The National Labor Relations Board (NLRB)

This board was created by the NLRA

The National Labor Relations Board (NLRB)

Five-member board appointed by President with advice and consent of Senate for a term of five years to Encourage use of collective bargaining, Recognition of majority representation, administer the NLRA, and Impose sanctions

Labor dispute

any controversy concerning term, tenure, or condition of employment.

Agricultural workers, Domestic servants, Persons employed by spouse or parent, Independent contractors, Supervisors, Individuals subject to Railway Labor Act, Employees of U.S. Government, Federal Reserve Bank, states, or political subdivisions

Name two categories of workers exempted from the jurisdiction of the NLRB?

Government or wholly owned governmental corporation, except U.S. Postal, Federal Reserve Bank, State or political subdivision, Anyone subject to Railway Labor Act, Any labor organization,

Which organizations are exempted from the NLRB?

NLRB

This board is given power to determine an appropriate unit of employees for collective bargaining.

Bargaining unit

That group of employees that is represented by a union in collective bargaining

Community of interests

Similarity of job function and earnings, benefits received, hours worked, job training, skills, geographical proximity, or common supervision

History of bargaining.

Prior bargaining relationships are favorably considered.

Employee wishes

Global doctrine states NLRB is to give weight to employee wishes.

Accretion

This doctrine allows the NLRB to add new classes of employees to existing units if their work satisfies the same criteria as original unit.

Stipulated units

Company and union may stipulate what they consider an appropriate unit if it doesn't violate NLRA or NLRB policy.

Statutory consideration

Workers not included in definition of employee may not be included in a unit.

Federal level determined by Federal Labor Relations Act

What act determines the bargaining unit in the public sector?

Community of Interest

When you analyze common skills, similar working conditions, and common supervision you are likely determining what? In the context of determining the appropriate bargaining unit for public sector employment?

Union Structure

Craft unions

Workers organized in accordance with craft/skill

Craft unions

Seeks to organize all practitioners of a trade employed by a certain employer or in a specified geographical area

Industrial Union

Mostly unskilled laborers, organize workers at one workplace, regardless of job

Levels of Unions

Local union

Handle day-to-day operations of CB agreement; handle grievances, strikes, and discipline members

National (International) Unions

Parent of local union Charter provides a contract between national and local. Provides service and assistance to local

Intermediate Organizational Unit

Regional/district bridge between national and local

Federation of Unions (AFL-CIO)

National spokesperson for labor movement and coordinates union activities

Independent Unions

Unions not affiliated with national or international unions

Independent Unions

These types of unions have experienced a growth because more unions are being formed among professional and government workers and national/international unions are not attracting them.

National Education Association, (NEA)

This union began in 1906 and is the largest professional organization in the world with over 2.4 million members.

American Federation of State, County and Municipal Employees (AFSCME)

Second largest public union in U.S., and second largest union in AFL-CIO.

NLRB

Employee Elections are regulated by?

Regional Director

When there is an attempt to organize a union a petition is filed at office of the _____ of NLRB who determines whether an election will take place?

Union Decertification. UD

30% or more of employees file to rescind union shop

RC petition.

Filed by employer, employees or union representative seeking certification.

RM petition.

Filed by employer where employer questions the status of the labor organization or filed when employer has proof the union no longer holds majority status.

UC petition.

Request clarification of composition of certified unit

AC petition.

Change of circumstances be recognized

30%

Petitions requesting certification or decertification should show support of what % of employees in unit.

10%

Another union may enter an election with a showing of interest of at least what % of those in the unit.

Regional director

Investigation conducted by whom to determine whether to proceed with election?

24

Employers and unions can't make speeches to employees on company time within how many hours of election.

Runoff Election

This type of election will be held where no union receives a majority

1 year / 3 years

If a union gets certified, the NLRB will not allow petitions for rival certification neither within how long of certification, or within how long? If a valid contract is in force

Gissel doctrine

Court gave approval for authorization cards as a substitute for an election when employers' actions amounted to unfair labor practice.

Decertification Election

Election to vote to terminate an existing unions right to represent a union.

Employees

Only this group can file decertification petitions with a show of 30% support

Against

In decertification votes a tie vote counts for or against the union?

Exclusive Representative

This term provides that all workers in same unit are represented by one union—thereby giving a union strength.

Exclusive Representative

As a legal principle, under NLRA once a union is selected, it legally represents all the employees of the unit whether they are union members or not.

1 year

A labor union is certified as the exclusive bargaining agent for how long a period of time following a representation election.

NLRA

This act guaranteed employees' freedom to choose representative, companies prohibited from forming company unions, or discriminating against union members, Yellow dog contracts made illegal and blacklisting of union sympathizers illegal

Taft-Hartley Act

This act guaranteed employee's right not to organize and engage in union activity

Taft-Hartley Act

This act outlaws the closed shop clause

Taft-Hartley Act

This act allowed union shop clauses; however states could prohibit with right-to-work laws.

Taft-Hartley Act

This act limited dues check-off provision by requiring written authorizations

Forms of Union Security**Closed shop.**

This form of union security required union membership before person could be hired

Open shop.

This form of union security has no requirement to join or support a union.

Union shop.

This form of union security required union membership on or after 30th day of employment

Union hiring hall.

This form of union security is where employers have to hire employees referred by union, provided they refer sufficient union and nonunion applicants

Agency shop.

This form of union security does not require union membership, but does require that employees financially support the union

Maintenance of membership.

This form of union security required employees who are union members to remain members for duration of contract

Preferential shop.

This form of union security gives preference to union members in hiring

Dues check-off.

This is when an employer withholds dues to union from employee's wages.

Super seniority

This is when union leaders are given top seniority for layoff purposes but is limited to officials who are necessary to administration of contract

Right-to-work

A person has a right to work with or without joining or supporting a union

Free Riders

Employees in a unit represented by a union and covered by a collective bargaining agreement who do not join union or pay dues

Cheap Riders

Employees in a unit represented by a union who only pay to the union the part of the dues determined to support the activities of the union in collective bargaining and grievance process. No other union activity is included, such as lobbying or social events

Duty of Fair Representation

Requirement that a union must represent all fairly

Corporatism

This refers to a nationally centralized system of collective bargaining

National Labor Relations Act

The NLRB was created to enforce and effectuate the purposes of what act?

NLRB

This board has jurisdiction over persons when there is a labor dispute affecting commerce or when there is a controversy involving an employer, employee, or a labor organization

National Labor Relations Act.

The rights of employees include the right to self-organization, to form labor organizations, to bargain collectively, and to engage in concerted activities for purposes of collective bargaining. In addition, employees have the right to refrain from such activities are rights spelled by what act?

Sections 7 & 8

Under what 2 sections of the NLRA is federal law possessing exclusive jurisdiction over state regulation?

Appropriate bargaining units

The NLRB considers the following criteria when determining what? = the community of interests, history of bargaining, desire of employees, prior union organization, relationship of the unit to the organizational structure of the company, public interest, accretion, stipulated units, and statutory considerations.

If the election was in order, the board certifies the results

What is the final step for the NLRB in the representation election process?

Union security

This refers to a union's ability to grow and to perform its exclusive collective bargaining role without interference from management, other unions, or other sources.

Union security provisions

These guarantee the union a steady source of income to continue its work and increase its bargaining power.

14(b)

This is the right-to-work section of the Taft-Hartley Amendments

Collective bargaining process

This process requires the employer and the employee to meet and negotiate terms and conditions of employment.

Employee protected rights

Section 7 of the NLRA, as amended by the Taft-Hartley Amendments, enumerated what?

7

The right to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of your own choosing are rights protected in what section of the NLRA?

Unfair labor practice

If you interfere with, restrain or coerce employees in rights guaranteed under section 7 of the NLRA you are committing what type of practice?

Unfair labor practice

If you are dominating or interfering with the formation or administration of a labor union you are committing what type of practice?

Unfair labor practice

If you are discriminating against union members for their union membership you are committing what type of practice?

Unfair labor practice

If you are discriminating against an employee for pursuing the rights under the NLRA you are committing what type of practice?

Unfair labor practice

If you are refusing to bargain collectively with representatives of a union's employees you are committing what type of practice?

ORGANIZATIONAL CAMPAIGNS

Section 8(a)(1)

What section of the NLRA prohibits interfering, restraining, or coercing employees in the exercise of their right to unionize?

Reasonable probability test

This NLRB test eliminates the need to prove actual interference, restraint, or coercion by the employer if it can be shown that the activity tends to interfere with the free exercise of protected rights.

Reasonable probability test

This NLRB test eliminates the need to prove actual interference, restraint, or coercion by the employer if it can be shown that the activity tends to interfere with the free exercise of protected rights.

If there were other reasonable means to reach employees

If a company has a rule that restricts NON-employees from organizing on company property the courts will rule that this is NOT an unfair labor practice under what condition?

Trespass Access

Common law term referring to non-employee union organizers' access to a company' property as part of an organizing drive to distribute information.

During nonworking times

When is oral solicitation by employees allowed when soliciting union membership?

During nonworking times

When is distribution of union literature allowed when soliciting union membership?

Work "time"

That time when an employee is actually working and no solicitation may occur.

Work "hours"

Those hours when the company is open, including personal times such as lunch and breaks, during which the employee may be solicited.

Valid

Is a no-solicitation rule valid or invalid for both employees and non employees during work time at either the work or non-work location?

Invalid

If you have a rule that says employees and non-employees, during work hours at either work or non-work locations cannot solicit union membership would this rule be valid or invalid?

Invalid

If you have a rule that says employees and non-employees, during non-work hours at either work or non-work locations cannot solicit union membership would this rule be valid or invalid?

Valid

If you have a rule that says employees at and during work cannot distribute union literature would this rule be valid or invalid?

Invalid

If you have a rule that says employees during non-work times at the worksite cannot distribute union literature would this rule be valid or invalid?

Invalid

If you have a rule that says employees during work times at a non-worksites cannot distribute union literature would this rule be valid or invalid?

Invalid

If you have a rule that says employees during both a non-work time and site cannot distribute union literature would this rule be valid or invalid?

Valid

If you have a rule that says non-employees during work and at the worksite cannot distribute union literature would this rule be valid or invalid?

Valid

If you have a rule that says non-employees during non-work work but at the worksite cannot distribute union literature would this rule be valid or invalid?

Valid

If you have a rule that says non-employees during work but not at the worksite cannot distribute union literature would this rule be valid or invalid?

Valid

If you have a rule that says non-employees outside of work and off the worksite cannot distribute union literature would this rule be valid or invalid?

The Cincinnati Enquirer Case (1986)

In this case the NLRB found an unfair labor practice when the company denied the union access to employee mailboxes that the union had been using to distribute literature for 40 years. Although the company claimed that the union could reach employees by other means, their denial was found discriminatory because other groups were allowed access to the mailboxes.

Section 7

What section of the NLRA impacts employer rights to regulate electronic mail (e-mail) use?

A Work area

In general, if the use of workplace email is significant, it can be considered one of these, under the NLRA, and thus the employer may not totally restrict employee email use because it is the equivalent to oral solicitation.

Union Organizing Strategies

Build an organizing committee, determine the issues, choose a union recognition strategy and achieve union recognition or status.

What are the four steps suggested by the IWW for a union organizing campaign?

Build an organizing committee

What is the first step suggested by the IWW for a union organizing campaign?

Determine the issues

What is the second step suggested by the IWW for a union organizing campaign?

Choose a union recognition strategy

What is the third step suggested by the IWW for a union organizing campaign?

Achieve union recognition or status

What is the fourth step suggested by the IWW for a union organizing campaign?

Card check recognition

If the right number of employees have signed authorization cards this occurs when the employer voluntarily agrees to recognize the union as the legal bargaining agent for the designated bargaining unit.

Salting

This is when union members are encouraged to seek employment with target companies that are not unionized.

Salting resolutions

These allow union members to receive permission from the union to work nonunion without being subject to disciplinary action by their union.

3

How many types of salting are there?

AFL-CIO

A key 1996 report advised local union leaders and members that the union movement must focus on new organizing efforts to increase union membership. This report was written by what entity?

Became a member of the governing body/ board of directors

In 1998 an organizer for the Hotel Worker's and Restaurant Workers International Unions was able to use a new tactic to gain recognition. What were two of the union members able to accomplish?

Union Avoidance Strategies by Management

TIPS

This acronym used by managers and supervisors refers to the things a manager may not do when opposing a union organizing attempt.

FORE

This acronym used by managers and supervisors refers to the things a manager may do when opposing a union organizing attempt.

Threaten

The "T" in TIPS

Interrogate

The "I" in TIPS

Promise

The "P" in TIPS

Spy

The "S" in TIPS

Facts

The "F" in FORE

Opinion

The "O" in FORE

Rules

The "R" in FORE

Experience

The "E" in FORE

Threaten

"Don't tell your employees that you will terminate their employment because of their union activities" is advice in what part of the TIPS acronym

Threaten

"Don't imply that employees will lose their wages and benefits during negotiations" is advice in what part of the TIPS acronym

Interrogate

"Don't ask employees how they are going to vote in an election" would be advice from what part of the TIPS acronym

Interrogate

"Don't ask employees their opinion of the union organizer" would be advice from what part of the TIPS acronym

Promise

"Don't promise employees a pay increase if they vote against the union" would be advice from what part of the TIPS acronym

Promise

"Don't imply that an employee will receive a promotion if they vote against a union" would be advice from what part of the TIPS acronym

Spy

"Don't attend a union meeting, even if invited" would be advice from what part of the TIPS acronym

Spy

"Don't spy on any union activities" would be advice from what part of the TIPS acronym

Facts

"Telling your employees that signing the authorization card does not mean they must vote for the union" would be advice from what part of the FORE acronym

TIPS

Don't threaten your workers if they chose to support a union is TIPS or FORE

Facts

"Telling your employees that they can actively campaign against the union" would be advice from what part of the FORE acronym

Facts

"Telling your employees that if a union is voted in, everything would go on the bargaining table" would be advice from what part of the FORE acronym

Opinion

"Telling your employees that management does not believe the employees need third party representation" would be advice from what part of the FORE acronym

Opinion

"Telling your employees that management believes in the open-door policy and are willing to discuss any subject with them" would be advice from what part of the FORE acronym

Rules

"Telling your employees that law permits the company to permanently replace them if there is a strike" would be advice from what part of the FORE acronym

Rules

"Telling your employees that unions cannot make the company agree to anything it does not want during negotiations" would be advice from what part of the FORE acronym

Experience

Sharing personal experiences you may have had with a unionized workplace would be advice from what part of the FORE acronym

Prohibited conduct

Activities used to interfere with union organizational efforts such as the threat of loss of benefits, misrepresentation of campaign materials, and interrogation of employees.

Midland National Life Insurance Company case

In this case the NLRB stated that it would intervene in cases in which forgery would render the voters unable to discern the propagandistic nature of a publication.

Houston Chronicle Publishing

In this NLRB case an employer was found to have interfered with an election when it provided a \$250 prize to the employee who scored highest on a test that determined knowledge of the process used in decertifying a union.

Gissel case

Under this case an employer is not prohibited from communicating general views about unionism or predictions of the effect of unionization on the company as long as such predictions involve consequences outside the employer's control.

24 hours

A NLRB test provides that employers may not distribute propaganda regarding possible loss of benefits if workers are unionized within how many hours of the opening of the polls in an election.

Kalin Construction Company

In this NLRB case the employer distributed two separate paychecks to workers as they approached the polls in a representation election. One check showed what the average worker would earn if the union won, the second showed those benefits that would be lost if the union won. The union lost the election and filed an unfair labor charge, and was able to get the NLRB to order a new election.

NLRA

The promise of economic benefits by the employer if employees reject unionization will violate what act.

NLRA

The promise or grant of economic benefits during an organizational campaign to influence the outcome of an election or to discourage organizational activities will violate what act?

No violation

Granting free access to vending machines during an organizational campaign will violate what act?

Struksnes Construction Company

In this NLRB case the board set standards for polling of employees during organizing campaigns listing several safeguards that must be in place.

Good-faith reasonable doubt

A rule by the NLRB that provides an employer who entertains a good-faith reasonable doubt that the employees support the incumbent union may request an election, withdraw recognition and refuse to bargain with that union, or conduct an informal poll of employees.

NLRA

Surveillance in almost any form has been held a violation of the unfair labor practices section of what act?

24-hour rule

In this rule the company and unions are prohibited from making organizational campaign speeches within 24 hours of a scheduled election.

Unfair Labor Practices by Employers

NLRA

Under this act employers' domination of and assistance to labor organizations are also unfair labor practices.

Support

In the context of unfair labor practice, this term refers to mere assistance to a favored union.

Domination

In the context of unfair labor practices, this term refers to actual control of the union.

Unfair labor practice

When an employer provides friendly cooperation with the creation or operation of a labor organization this would be considered what type of practice?

NO

Can an employer stop negotiating with the existing union if another union files a representation petition?

Electromation

In this case a nonunion company announced several changes in its personnel policies, including no wage increase for the upcoming year, resulting in employee anger. In response, the employer established five action committees made up of management representatives and employees who volunteered to participate. The NLRB ruled that the committees were obviously labor organizations under the NLRA and dominated by the employer.

Negative

A Cornell study of 200 companies found that employee participation programs had what effect on success rates of union organizing drives?

Employer domination

What will result in disestablishment of the union by the NLRB? Employer support or employer domination of a union

8(a)(3) / 8(a)(5) / 8(a)(1)

What three sections of the NLRA detail the top three most violated unfair labor practices, that management should avoid?

Antiunion animus

When an employer's conduct is not motivated, or at least not entirely motivated by legitimate and substantial business reasons but by a desire to penalize or reward employees for union activity or the lack of it.

Dual-motive discrimination case

A case in which the employer puts forth two explanations for taking an action – one constitutes a legitimate business reason, and the other is a reason prohibited under the National Labor Relations Act as an unfair labor practices.

Pretext discrimination case

An unfair labor practice charge in which an employer puts forth a legitimate business reason for taking an action but the employee asserts that the true reason is one prohibited under the NLRA.

Concerted activities

Any legitimate action taken by employee to further their common but not individual interests, such as wages, hours, and working conditions.

Primary strike

A strike called by a union for economic reasons to achieve its bargaining objectives

Weingarten rule

Under this case decision, a union employee may request the presence of a union official during questioning by management in a disciplinary situation

Totality of conduct

A test or review of the total bargaining process used to determine whether a negotiating party has acted in good faith as opposed to isolated acts that may have occurred during negotiations. Generally requires some give and take by a negotiating party to warrant good faith.

Good-faith bargaining obligation

Refers to the reasonable efforts demonstrated by both management and labor during labor negotiations. Generally, it requires both sides to meet, confer, and make written offers. It does

not require either side to concede or agree but rather to show reasonable intent to set the terms of employment in a collective bargaining agreement.

Boulwarism

A collective bargaining approach in which management presents its entire proposal as its final offer, holding nothing back for further negotiations. This approach lacks any give and take in bargaining.

Surface bargaining

The act by either negotiating party of simply going through the motions without any real intention of arriving at an agreement.

Auction bargaining

The willingness to make concessions during negotiations, demonstrated by both parties stating their positions, presenting their proposals, and then trading off the proposals to arrive at agreeable terms.

Delaying tactics

The methods used by either negotiating party to impair the negotiation process, such as the cancellation of meetings, lengthy speeches, or the infrequent scheduling of meetings.

Negotiate directly with employees

It is a violation of the NLRA for an employer to bypass the union by attempting to negotiate directly with employees.

Dual-motive discrimination case and pretext discrimination case

Discrimination cases fall into two categories .. What are they?

60%

Approximately what percentage of unfair labor practice cases presented to the board involve a charge of discrimination for union activity?

Strike

What is the most common form of concerted activity?

Primary strike

A type of concerted activity protected under the NLRA if it is called for economic reasons or to protest unfair labor practices.

Unfair labor practice strike

Employees participating in this type of strike are entitled to reinstatement and back pay, even if they have been replaced

Economic strike

Under this type of strike the company doesn't have to reinstate striking workers unless there are vacant positions open.

Epilepsy Foundation vs. NLRB

In this case the NLRB decided that the Weingarten right should be extended to include the nonunion workplace.

Unfair labor practices by labor organizations

Pattern Maker's League vs. NLRB,
The Supreme Court held that a union was guilty of an unfair labor practice when it attempted to fine its members for resigning from the union and returning to work during a strike.

8(b)(1)(A)

Under what section of the NLRA are unions prohibited from the threat or use of violence against no supportive employees.

United Broadcasting Company of New York case

In this case a union steward told an employee he would be blacklisted and could never work again in New York, and the union ultimately lost this case.

Duty to Bargain in Good Faith

Wagner Act / NLRA

This act itself made it an unfair labor practice for an employer to refuse to bargain with representatives of his employees.

Good faith efforts test

The following criteria are used in what NLRB test?

- (1) active participation in deliberations with an intention to find a basis for agreement
- (2) a sincere effort to reach a common ground
- (3) binding agreements on mutually acceptable terms

Duty to Bargain in Good Faith

To meet at reasonable times; to confer in good faith with respect to rates of pay, wages, hours of employment or other conditions of employment; and to execute a written contract if the parties reach an agreement.

Totality of conduct test

What test is applied to determine the fulfillment of the good-faith bargaining obligation?

Totality of conduct test

Under this test, in total conduct, a party has negotiated with an open mind in a sincere attempt to reach an agreement; isolated acts will not prove bad faith.

Boulwarism

This is known as a take-it-or-leave-it bargaining technique.

Lemuel R. Boulware

Who was the famous Boulwarism bargaining tactic named after?

Surface bargaining

This refers to simply going through the motions without any real intention of arriving at an agreement.

Duty to Furnish Information

Duty to furnish information

Under this duty the employer has the duty to provide information to the union enabling it to carry on the negotiation process.

Chapter 5 Negotiations

3

How many stages are there for the bargaining process?

Preparation stage

What is the first stage in the bargaining process?

Bargaining stage

What is the second stage in the bargaining process?

Resolution stage

What is the third stage in the bargaining process?

Preparation stage

During this stage of the bargaining process, information is gathered, and bargaining items are decided on, narrowing the issues to a manageable size.

Borg-Warner

This case distinguished between the treatment accorded bargaining subjects determined by the NLRB to be mandatory and the treatment accorded subjects determined to be permissive or illegal.

Mandatory subject

If a bargaining subject is THIS, a party may insist on its inclusion and the other party cannot refuse to discuss it.

Wages

The NLRB defined this term to mean direct and immediate economic benefits, flowing from the employment relationship

Mandatory and Mandatory

Rates of pay & wages: Are each of these mandatory, permissible or illegal bargaining items?

Mandatory and Illegal

Holidays & Whistleblowing: Are each of these mandatory, permissible or illegal bargaining items?

Mandatory & Mandatory

Holidays & Union security: Are each of these mandatory, permissible or illegal bargaining items?

Permissible Permissible

Indemnity bonds & Plant closings: Are each of these mandatory, permissible or illegal bargaining items?

Illegal & Permissible

Closed shop & Preferential hiring: Are each of these mandatory, permissible or illegal bargaining items?

Permissible & Permissible

Employer child care & prices in cafeteria: Are each of these mandatory, permissible or illegal bargaining items?

Mandatory & Mandatory

Pensions and Vacations: Are each of these mandatory, permissible or illegal bargaining items?

Mandatory & Permissible

Rates of pay and use of union label: Are each of these mandatory, permissible or illegal bargaining items?

Mandatory & Illegal

Management-union relationship and hot cargo clause: Are each of these mandatory, permissible or illegal bargaining items?

Permissible & Illegal

Scope of the bargaining unit and featherbedding: Are each of these mandatory, permissible or illegal bargaining items?

Permissive issues

If a bargaining issue is this, a party must withdraw it from bargaining if the other party does not voluntarily agree to its inclusion in the discussion.

Permissive issues

Both parties must agree for these types of bargaining issues to be bargained.

Illegal issues

These types of bargaining issues may not be proposed for discussion and, even if agreed to by both parties, would not be enforced by any court.

Separability clause

A contract clause stating that any portion of a contract declared invalid by state or federal law shall be declared null and void while still holding the remainder of the contract valid

Ground rules

The general procedures and policies that each party agrees to adhere to during negotiations.

Posturing

The pattern established during the initial bargaining session in which each negotiating party demonstrates its willingness to negotiate, identifies its basic bargaining positions, and generally sets the tone of the negotiations.

Distributive bargaining

A type of labor negotiations viewed as a 'win-lose' situation. Resources are viewed as fixed and limited, and each side wants to maximize its share

Interest-based bargaining IBB

With this type of bargaining the negotiators become joint problem solvers seeking a consensus resolution of an issue, not one side winning at the expense of the other.

Principled negotiations

A negotiating process developed by the Harvard Negotiations Project in which attention is focused on the merits of the negotiating items rather than on the attitudes of the negotiating parties.

Collective bargaining by objectives CBO

A method of collective bargaining developed by Reed C. Richardson in which the negotiating parties list the bargaining items, evaluate them according to feasibility and priority, and list their initial position on each.

Pressure bargaining

A negotiating technique in which one side that believes it holds a superior position pressures the other side to accept its position on each issue.

Pressure bargaining

If the union believes the employer cannot withstand even a short strike, it may use its position of strength by threatening to strike over many issues. This would be an example of what type of bargaining?

Impasse

A stalemate that occurs in negotiations between union and management over the terms and conditions of employment.

Primary strike

A strike called by a union for economic reasons to achieve its bargaining objectives

Economic strike

An employee strike over the failure to negotiate economic issues such as wages, benefits, or other conditions of employment.

Economic strike

During one of these types of strikes, the employer is entitled to replace strikers permanently and need only reinstate those for whom it has vacant positions

Unfair labor practice strike

A strike called over an employer's action determined by law to be an unfair labor practice, such as employee discrimination because of union activity.

Rolling strike

A strike technique used by unions that moves a strike against an employer from location to location so that hiring replacement workers become more difficult.

Mackay doctrine

A court-created rule that construes the NLRA as allowing employers to replace striking workers with permanent workers unless it is determined that the strike was an unfair labor strike.

Permanent replacement workers

Under the NLRB, when workers are engaged in an economic strike management can hire these types of workers.

Sit-down strike

In this type of strike the union takes over the employer's property.

Wildcat strike

An economic strike conducted by a minority of the workers without the approval of the union and in violation of a no-strike clause in an existing contract.

Partial strike

This type of strike involves various types of job actions, such as a work slowdown or refusal to work overtime.

Sickout

An illegal, partial strike in which employees call in sick to protest a working condition.

Jurisdictional strike

A strike called as the results of a dispute between two competing unions over who has the legal authority in a specific situation.

Featherbedding

A labor practice that unions use to create work for their members, sometimes unnecessary work.

Recognitional strike

This type of strike is called to gain recognition for another union if a certified union already represents employees.

Selective strike

A strategy used by a union to have a strike at one location that supplies many other locations, resulting in an industry wide shutdown.

Outsourcing

When work that could be performed within a bargaining unit is given by management to outside, nonunion providers.

Lockout

An employer's refusal to allow employees to return to work until an agreement is signed.

Lockout

This is the employer's equivalent of an economic strike and is intended to bring pressure on workers to accept management's terms.

Mediation

The introduction of a neutral third party into collective bargaining when the union and management are unable to reach an agreement.

Arbitration

A process in which the parties involved agree to submit an unresolved dispute to a neutral third party, whose decision is final and binding.

Interest arbitration 245

A process used to resolve an impasse in negotiations where the parties submit the unresolved items to a neutral third party to render a binding decision.

Final-offer arbitration

This method of resolving impasses requires both parties to submit their final offer to an arbitrator or a panel that has the authority to select one of the proposals.

Mediation-Arbitration (med-arb)

A combination of mediation and interest arbitration, where the parties agree to bring in a mediator with authority to arbitrate any unresolved issues.

Fact-finding

A dispute resolution procedure in which a neutral third party reviews both sides of a dispute and then publicly recommends a reasonable solution.

Bilateral bargaining

A typical bargaining situation involving two parties, each with the authority to commit to the negotiated agreement.

Multilateral bargaining

Refers to negotiations in the public sector where the authority to commit to a collective bargaining agreement may be shared by the executive and legislative branches.

Sunshine clauses

Sunshine laws

Statutes requiring that public sector collective bargaining sessions be open to the public.

Right to strike

For employees in the private sector, this right is guaranteed by the NLRA, but public employees don't have this right.

Good guy/ bad guy

This pressure tactic is where one negotiator opens with tough, often unrealistic positions that are presented with threats, foul language, and obnoxious behavior. Then the second negotiator tries to reach a quick agreement on an issue before the bad partner returns.

Highball / lowball

This pressure tactic is where you rely on a ridiculously high or low opening offer. The other side then reevaluates its positions on the issue and moves closer to the resistance point, while the opening negotiator has not moved at all.

The nibble

This pressure tactic occurs when a negotiator asks for a small concession on an item not yet discussed in order to close the deal on a large issue.

Chicken

This pressure tactic involves threats made by one party to the other that may be real or a bluff, forcing the other side to contend with the consequences of the threat.

Awfulisms

The tactic of proposing something that simply does not work, or is unreasonable, and requires the other side to debunk.

Concealment

This refers to when parties often hide their real goals and objectives from the other side to enhance their opportunity for the best possible settlement.

Packaging items

This is when you lump together various negotiable items into one issue to allow both sides to achieve their goal on one or more items and thus establish trust in the process.

Throwaway items

Items that have no real value to a negotiation side, thus providing items to trade in exchange for others of high priority to their side.

Saving face

Often after a negotiation, the union claims a victory and the company stays silent. The company is doing this to allow the union to increase the chances of getting the contract ratified by its members. If the company also claims victory and lists items publicly that the union lost this would threaten the ratification. The silence by the company is likely motivated by letting the union do what?

Accidental model

This model suggests that negotiators (both union and management) act rationally and have substantial incentives to avoid strikes. Thus, they usually seek to reach a settlement without a strike. Strikes, therefore, occur only accidentally because of bargaining errors, such as unrealistic expectations by union or management leaders.

Joint strike costs

This model suggests that strikes are more likely to occur when the joint costs to management and the union are relatively low

Rational tactics

This model suggests that strikes occur when the two parties have substantially different information.

Accidental model

What model best explains what research is revealing about why strikes in the manufacturing industries from 1982 to 1999 occurred?

1997 UPS Strike

In this famous strike the teamsters union idled over 180,000 workers and crippled delivery of packages worldwide.

Selective strike

In early may 1993, the United Mine Workers began this type of strike against coal producers after contract negotiations failed to result in a new master agreement with the Bituminous Coal Operators Association.

Wage and Salaries Issues

Annual salary

A worker's wages based on performing the functions of a job on a yearly basis

Back-loaded contract

A multiyear contract that provides a lower wage adjustment in the first year, with higher wage increases in the later years

Base compensation

An employee's general rate of pay per unit or hour, disregarding payments for items such as overtime, pension benefits, and bonuses.

Cost-of-living adjustment (COLA)

The negotiated compensation increase given an employee based on the percentage by which the cost of living has risen, usually measured by a change in the consumer price index CPI

Deferred wage rate increase

Wage rate increases that become effective at later dates as specified in the collective bargaining agreement.

Dual-career ladder pay systems

A dual-pay system within an organization that puts technical, non-managerial employees on a separate but comparable pay scale to executive and managerial employees in order to ensure adequate pay increases to keep the technical employees.

Exempt

Most executive, administrative, professional, and outside sales employees are considered this, and thus are not subject to the overtime provisions of the FLSA

Falling piece rate

A pay system in which an employee is paid more on the basis of how many pieces are produced over an established standard but the rate per piece decreases at predetermined levels.

Front-end loading

A deferred wage increase in which a larger proportion of the total increase occurs in the first year of a multiyear contract.

Hourly wage

A worker's wages based on an established pay rate per hour worked.

Job evaluation

A systematic method of determine the worth of a job to an organization. This is usually accomplished by analysis of the internal job factors and comparison to the external job market.

Lump-sum payment

A method of providing a general wage increase as a one-time payment rather than adding the increase to the hourly or annual salary of the employee.

Non-exempt

Employees not considered exempt under the provisions of the FLSA must be paid time and a half their normal rate of pay when they work over 40 hours per week.

Pay equity

An historic union doctrine of 'equal pay for equal work' that provides for one standard pay rate for each job and all-employees who perform it.

Piece work

Employee wage rate based on the number of units produced

Productivity theory

The negotiating position that employees should share in increased profits gained by the greater productivity achieved because of their efforts.

Profit sharing

A pay incentive system in which employees receive a share of the employers profits in addition to their regular wages.

Pyramiding

The payment of overtime on overtime that occurs if the same hours of work qualify for both daily and weekly overtime payments.

Rising piece rate

A pay system in which an employee is paid on the basis of units produced but the rate per unit increases when the employee goes over the standard level.

Standard hour plans

A pay plan based on paying an employee on the basis of a standard time to complete a particular job

Two-tier wage system

A wage system that pays newly hired workers less than current employees performing the same or similar jobs

Value added

The theory that wages should equal the contribution of labor to the final product.

Wage re-opener

A collective bargaining provision, effective for the term of the contract, that allows contract talks to be reopened only for the renegotiation of wage rates.

Wage surveys

The collection and appraisal of data from various sources used to determine the average salary for specified positions in the job market.

Davis-Bacon Act 1931

This act regulates employers who hold federal government contracts of \$2000 or more for federal construction projects and provides that employees working these projects must be paid the prevailing wage rate.

Davis-Bacon Modernization Act (2001)

What act was proposed by congress set stricter eligibility requirements, thus exempting most federal construction projects, rendering the original Davis Bacon Act almost useless?

Walsh-Healy Act 1936

This act covers employers with federal contracts of over \$100,000 and requires employers to pay overtime for any hours worked over eight per day at a rate of one and a half times the normal hourly rate.

Bureau of Labor Statistics or Standards

BLS

Across-the-board increase

A wage or salary increase where either a flat rate (common number of cents/hour) or a common percentage of salary is used.

Benchmark job

A job that is commonly found and defined, used to make pay comparisons, either within the organization or to comparable jobs outside the organization. Pay data for these jobs are readily available in published surveys.

Broadbanding

pay structure that consolidates a large number of pay grades and salary ranges into much fewer broad bands with relatively wide salary ranges. These ranges typically have 100 percent or more differences between minimum and maximum (e.g. \$25,000 to \$50,000).

Classification

Systematic arrangement in groups or categories according to established criteria.

Compensation

A methodical approach to assigning a monetary value to employees in return for work performed. Compensation may include any or all of the following: base pay, overtime pay, commissions, stock option plans, merit pay, profit sharing, bonuses, housing allowance, vacations and all benefits. This is referred to as remuneration in some foreign countries.

Compensation Philosophy

A set of guiding principles that are based on values that drive compensation decision-making.

Exempt

Not subject to (i.e., they are exempt from) the Fair Labor Standards Act (FLSA) minimum wage and overtime provisions. Employees are typically paid on a salaried basis.

Fixed Increase Amount

Specified amount of increase based on performance level determined in advance and unchanging from employee to employee.

In-range adjustment

To adjust pay within the existing salary range.

Internal equity

Refers to the pay relationships among jobs internal to the organization.

Job description

A recognized list of functions and tasks included in a particular occupation or job describing concisely but clearly the basic components of the job, the scope of assigned responsibility, authority, and autonomy as well as identifying the essential functions of the position and describes the environment in which the work will be completed.

Labor Market

The market in which workers compete for jobs and employers compete for workers.

Lump Sum

Complete non-recurring payment consisting of a single sum of money

Market adjustment

The adjustment that is necessary for an individual or an organization to bring the individual or organization to approximate market values.

Market average

The sum of each market rate point divided by the total number market rate points reported.

Maximum rate

The highest rate reported for the salary range.

Merit Pay

A compensation system whereby base pay increases are determined by individual performance.

Midpoint

The middle value of the reported salary range.

Minimum rate

The lowest rate reported for the salary range.

Non-exempt

Subject to the minimum wage and overtime pay provisions of the Fair Labor Standards Act (FLSA).

Overtime

Each hour worked in a workweek in excess of the maximum hours applicable.

Pay grade

Usually established within an organization, this refers to the levels or hierarchy of job and pay ranges. Also referred to as the salary structure, job grades, job-evaluation points and or policy lines.

Performance appraisal

The process by which you can evaluate employee job performance.

Performance Improvement Plans

Plan implemented by a manager/supervisor designed to provide employees with constructive feedback, facilitate discussions between an employee and his/her supervisor regarding performance-related issues, and outline specific areas of performance requiring improvement.

Rate arranged

Where a position has no formal salary range assigned but is assigned a working range based on it's comparability with other like positions.

Reclassification

Moving a job to a higher or lower range in the hierarchy of classifications because of a change in the job duties of the position.

Reward System

A formal or informal program used to recognize individual employee achievements, such as accomplishment of goals or projects or submission of creative ideas.

Total compensation

An individual's complete pay package that includes cash, benefits, and services.

Working title

An informal title for a position.

Employee Benefits Issues

Base pay

The average yearly salary for some number of years

Cafeteria plans

Flexible benefits plans that offer employees a decision on what benefits they want from the employer

Call-in pay

A supplemental payment given to employees called back to work before they are normally scheduled to return

Cash balance plans

With these plans the employer contributes a fixed percentage of worker's income to a hypothetical account and guarantees it will grow at a fixed rate.

Concession bargaining

Collectively bargained reductions in previously negotiated wages, benefits or work rules, usually in exchange for management guaranteed employment levels during the term of a contract

COBRA

A law passed by congress in 1986 that provides for the continuation of medical and dental insurance for employees, spouses and dependents in the event of an employee's death, termination divorce or other loss of health care eligibility.

Contributory plan

A pension plan in which the employer contributes a portion of the funding and the employee contributes the other portion.

Defined benefit plan

A retirement plan that is not an individual account plan and which pays participants a fixed periodic benefit or a lump-sum amount that is calculated using specific formulas that include such items age, earnings and length of service.

Defined contribution plan

An individual account plan in which the employer contributes a specific amount of money into each year that is to be distributed among the accounts of each plan participant.

Employee assistance programs (EAP)

Company-sponsored programs designed to assist employees in resolving personal problems, such as stress, finances, and alcoholism that may adversely affect job performance and attendance.

ERISA

The first comprehensive reform law passed in 1974 to protect employee pensions.

Escape clause

A contract provision that allows either negotiating party to be released from a previously agreed-to provision

Flexible benefits plan

A plan where employees can choose the benefits that fit their needs among a designated list and within a price established by the contract.

On-call pay

Additional employee compensation given to workers who must remain available to be called in to work if needed.

Personal day (floating holiday)

A paid employee holiday that can usually be selected at the employee's discretion.

Portability

The right of an employee to transfer tax-free pension benefits from one employer to another.

Premium pay

Wages that exceed the standard or regular pay rate given an employee for work performed under undesirable circumstances, such as overtime hours, weekend work, holiday work, or dangerous and hazardous circumstances.

Reporting pay

The minimum payment guaranteed for employees who report for work, even if work is not available, provided they have not been given adequate notice not to report to work.

Severance pay

A lump-sum or a dispersal of payments given to employees who are permanently separated from the company through no fault of their own.

Shift differentials

Additional hourly rates of pay provided to employees who work the least desirable hours.

Sick leave

Time off allowed an employee because of illness or injury, with the provision of continued employment when the employee is able to report back to work.

Social security

The U.S. government-created pension plan to provide supplemental income to retired workers.

Unemployment insurance

Program established under the Social Security Act of 1935 to provide compensation, after a brief waiting period, to those employees who have been laid off from employment.

Vesting

A guarantee that accrued retirement benefits will be given to retirement plan participants when they retire or leave the employer.

Pension Benefit Guaranty Corporation (PBGC)

The government agency that provides plan termination insurance to employers with defined benefit retirement programs.

Wage employment guarantees

A contract negotiation assuring employees a minimum amount of work or compensation during a specified amount of time.

Wellness programs

Any of a variety of company-sponsored programs designed to enhance the employee's well-being, such as stress management, cancer detection, exercise programs and complete physical fitness centers.

Workers compensation

A program designed to provide employees with assured payment for medical expenses or lost income due to injury on the job.

Worker's Compensation

A legally required benefit that provides medical care, income continuation, and rehabilitation expenses for people who sustain job-related injuries or sickness. Also, provides income to the survivor's of an employee whose death is job related.

Health Insurance Portability and Accountability Act (HIPAA)

A federal law that protects an employee's ability to transfer between healthy insurance plans without a gap in coverage due to a preexisting condition.

Employee Retirement Income Security Act (ERISA)

A federal law established in 1974 to protect employees' retirement benefits from mismanagement

Cafeteria plan

A plan in which participants may choose among two or more benefits containing taxable or nontaxable compensation elements

COBRA - Consolidated Omnibus Budget Reconciliation Act

1985 law that requires employers to offer continued health insurance coverage to terminated employees and their beneficiaries, restricted the definition of insured termination for purposes of the Pension Benefit Guaranty Corp. and raised the employer's annual PBGC premium rate.

FMLA or Family and Medical Leave Act of 1993

A federal law that requires employers to provide up to 12 weeks unpaid leave to eligible employees for the birth or adoption of a child; to care for a sick parent, child or spouse; or to take care of health problems that interfere with job performance.

Social Security

A government program that provides income for retirees, the disabled, and survivors of deceased workers, and health care for the aged through the Medicare Program.

Unemployment Insurance

A program established by the Social Security Act of 1935 to provide temporary income for people during periods of involuntary unemployment.

Worker's Compensation

A legally required benefit that provides medical care, income continuation, and rehabilitation expenses for people who sustain job-related injuries or sickness. Also, provides income to the survivor's of an employee whose death is job related.

Davis-Bacon Act 1931

This act requires contractors and subcontractors on federally funded construction projects in excess of \$2000 in the U.S. to pay wages and benefits at least equal to those prevailing in the area where the work is performed.

Walsh-Healey Act, 1936

This 1936 act extended the concept of prevailing wage to manufacturers and suppliers of goods for federal government contracts in excess of \$10,000.

Qualified Plan

A pension plan that meets standards set by the IRS.

Non-qualified plan

A pension plan that does not meet standards set by the IRS and thus does not provide the tax advantages of qualified plans.

Non-contributory plan

In this type of pension plan the employer pays all the administrative and funding costs

Employment security

What do experts say is the best benefit employees can try to get from their employers?

Job security and Seniority

Industrial jurisprudence

Generally embodies principle that operation of the organization will not be determined by a single individual or group of top management officials. Employees have rights that guarantee input into important decisions regarding their employment.

Human capital theory

In this theory employees increase their productivity with experience and rational employers want to retain the more productive employees

Implicit contract theory

In this theory the career strategy of employers encourages employees to commit themselves to steady productive work (thus, layoff off senior employees would cause worker distrust in any career planning)

Internal labor market theory

In this theory collective bargaining produces rules and procedures to ease the tension between the parties.

Seniority system

Set of rules governing the allocation of economic benefits and opportunities on the basis of service with one employer

Seniority system

This is by far the most commonly negotiated means of measuring services and comparing employees for promotion, and layoff-recall decisions, thus providing job security.

Seniority

The process of giving preference in employment decisions on the basis of the length of continuous service with the company

The date they are first hired

When do new employees generally begin acquiring seniority?

Seniority

What is the most important measure of employee job security

Mandatory

Seniority is not required by law nor is it an inherent right of employees ..However, it is a _____ subject of collective bargaining (mandatory, permissive or illegal)

Bumping

This is where employees with greater seniority, whose jobs have been phased out, have the right to displace workers with less seniority

Superseniority

Union officers and committee personnel have preferred seniority rights for layoff and recall situations

So that union stewards and other labor officials will continue to work during periods of layoff, thus enabling the union to continue to operate effectively

Why are superseniority clauses requested by unions in the collective bargaining agreements?

5 %

What percent of collective bargaining agreements use seniority as the sole determinant of promotion?

60

The WARN act requires ___ days advance written notice required once decision to lay off employees is made

WARN affects most private sector and nonprofit employers

WARN act applies to what organizations?

United Food and Commercial Workers Union Local 751 v. Brown Group, Inc

In this case the court ruled that if an employer did not provide sufficient notice of a plant closing, union may sue on behalf of affected workers

North Star Steel Company and Thomas et al vs. USWA

In this case the court ruled that laws in each state would be applied to determine the timeliness of lawsuits claiming WARN violations.

Criteria used to determine employee ability

Trial period, tests, experience, opinion of supervisor, educational background are possible criteria to determine what?

Surviving group principle

In this principle seniority lists are merged by adding names of employees of acquired company to the bottom of seniority list of the acquiring company

Length of service principle

In this principle employee's length of service is considered, regardless of which company s/he worked for prior to the merger

Follow the work principle

In this principle employees are allowed to continue previously earned seniority on separate seniority lists when their work with the merged company can be separately identified

Absolute rank principle

In this principle employees receive rank positions on the merged seniority list equal to their rank position on the prior seniority lists

Ratio-rank principle

In this principle ratios established based on the total number of employees in the two groups to be merged

Subcontracting

This refers to arranging to make goods or perform services with another firm that could be accomplished by the bargaining unit employees within the company's current facilities

Relocation

Moving work previously done at one location by union workers to another location that is generally nonunion

Privatization

Outsourcing public sector work to the private sector

Privatization

It produces better management of programs, it frees public administrators from day-to-day operations, it provides specialized skills otherwise too costly for government to hire, it reduces capital outlays for facilities and equipment and it motivates private sector managers to perform well. These are arguments in favor of what?

Opponents of Privatization

Its savings often are illusory, it's dependence on contractors makes governments more vulnerable to cost increases, the resultant yawing off government employees results in increased unemployment compensation and it

Lowers quality of service. These are arguments offered by whom?

Zelman, Superintendent of Public Instruction of Ohio v. Simmons-Harris

In this case the court upheld an Ohio voucher program

Executive Order 12564

This executive order provided drug testing of federal workers

WARN The Worker Adjustment and Retraining Notification Act of 1988

Act that requires employers with 100 or more employees to give 60 days notice of plant closings and layoffs

100

The Worker Adjustment and Retraining Notification Act (WARN) generally covers employers with ___ or more employees, not counting those who have worked less than six months in the last 12 months and those who work an average of less than 20 hours a week. Regular federal, state and local government entities that provide public services are not covered.

60

WARN protects workers, their families and communities by requiring employers to provide notification ___ calendar days in advance of plant closings and mass layoffs.

50

A covered plant closing occurs when a facility or operating unit is shut down for more than six months, or when ___ or more employees lose their jobs during any 30-day period at a single site of employment

500 / 33

A covered mass layoff occurs when a layoff of six months or longer affects either ___ or more workers or at least ___ percent of the employer's workforce when the layoff affects between 50 and 499 workers. The number of affected workers is the total number laid off during a 30-day (or in some cases 90-day) period.

60

An employer who violates the WARN provisions is liable to each employee for an amount equal to back pay and benefits for the period of the violation, up to ___ days.

\$500

An employer who fails to provide the required notice to the unit of local government is subject to a civil penalty not to exceed \$___ for each day of violation

Departmental seniority

A seniority system in which employees accrue seniority according to the time that they work within a specific department, with the seniority credit being valid only in that department.

Down-bid

When an employee bids on a job in a lower pay grade or from a specific line classification to a pool classification

Job bidding

The process of a company posting notices of new job positions in order to give permanent employees the opportunity to apply.

Upbid

A bid from a lower to a higher pay grade

Down-bid

A bid from a higher to a lower pay grade

Lateral bid

A bid from one classification to another classification in the same pay grade.

Last-hired, first-fired rule

A seniority-based procedure for determining the order for layoff and recall of employees in the workplace to keep the most experienced employees.

Layoff

A person who is unemployed but expects to be called back to a specific job. If he/she expects to be called back within 30 days, it is considered a temporary layoff; otherwise, it is an indefinite layoff

Outsourcing

This is when work that could be performed within a bargaining unit is given by management to outside, nonunion providers. The purpose of such action is to lower costs and/or reduce the number of bargaining unit employees.

Privatization

Outsourcing is to private sector as what is to public sector?

Plantwide seniority

An employee's length of continuous service with the employer.

Privatization

The practice of governmental entities contracting out public services rather than adding or retaining employees in the public sector

Recall

The practice of calling workers back to the job after a company has had to lay off workers as a result of less or no work being available

Seniority list

A company list used to identify employees in a bargaining unit according to their length of continuous employment

Shared work

The reduction by management of employee work time and, consequently, wages, in an effort to reduce personnel costs without reducing personnel.

Subcontracting

The arrangement by a company to have another firm make goods or perform work that could be accomplished by the company's own employees, usually because the work can be done more efficiently or for less cost.

Successorship

The status of the collective bargaining relationship between an employer and the union when a change in the ownership of the organization or a change in a union occurs

WARN

This act requires employers to provide 60 day's advance written notice to employees and communities of either a plant closing or mass layoff.

Classification seniority

This provides for employee seniority only within the same job classification

Company-wide seniority systems

This provides for employee seniority by combining all employees from various locations and types of facilities

Plant-wide seniority

This type of seniority is best used for determining layoffs, vacations and other specific benefits

Plant-wide seniority

This type of seniority is best used In the case of layoffs because it is often believed that employees' total work experience is the most important job security factor.

IMPLEMENTING THE COLLECTIVE BARGAINING AGREEMENT

FLRA

This is the public sector's equivalent to the NLRB

Substantive due process

Fair treatment by the employer in any action taken against an employee

Procedural due process

A fair hearing on any action taken against an employee.

Union shop

This form of union security requires that a new employee join a union after a certain period

Maintenance of membership

This form of union security requires that union members remain members during the contract term

Agency shop

This form of union security requires nonmembers to pay union dues and fees as if they were members but does not require actual membership

Hiring halls

This form of union security requires an employer to seek employees through a union hiring hall.

Modified union shop

This form of union security requires membership of new hires but permits current members to remain nonunion.

Duty to sign

a duty upon the parties in a collective bargaining relationship to reduce to writing and signing any agreement reached through the bargaining process

Openers

Clauses that allow for negotiations during the term of the contract

Reserved rights

Residual, implied rights not found in contract language

Contract bar

A current and valid contract can prevent another union from petitioning for an election and being certified as the exclusive representative

Insulated period

Employees cannot petition 60 days prior to contract expiration

Lincoln Mills

In this case the NLRB required specific performance of employer's promise to arbitrate

Steelworkers Trilogy

Supreme Court gave deference to arbitration as a means of contract enforcement

Union hiring halls

Require employer to hire through union's exclusive referral system

Duty of Fair Representation (DFR)

Union must consider all employees in the bargaining unit when negotiating an agreement

Primary boycott

Occurs when persons, who normally deal directly with the work involved, are encouraged to withhold their services

Shop-ins

Union members converge on a store, buying small items, and paying with large-denomination bills

Hot cargo agreement

Negotiated contract provision stating that union members of one employer need not handle nonunion or struck goods of other employers

Hot cargo agreement

Outlawed by Landrum-Griffin Amendments except in the garment and construction industries

Dual employer (double-breasted) operation

Unionized employer sets up separate, similar nonunion operation. Union actions against these nonunion operations are not covered by the construction industry exemption

Contract bar

The general rule followed by the NLRB stating that a current and valid labor contract can prevent another union from petitioning for an election and being certified as the exclusive representative for the term of the existing contract.

Dual employer

A situation involving a unionized employer that established a separate, similar operation that is nonunion. Such employers are most often found in the construction industry.

Duty to sign

The obligation of both parties to reduce to writing and sign any agreement reached through the collective bargaining process. Refusal to sign can be declared an unfair labor practice.

Featherbedding

A labor practice that unions use to create work for their members, for example, by limiting production, using more workers than a job requires, or paying for work not performed. The practice is prohibited by the Taft-Hartley Act

Hotcargo agreement

A negotiated contract provision stating that union members of one employer have the right to refuse to handle nonunion or struck goods of other employers.

Insulated period

The last 60 days before a collective bargaining agreement is due to expire in which the existing bargaining agent cannot be subject to an employee vote to change bargaining agents.

Management rights

The rights of management to govern the workplace in areas not subject to discussion with the union or to collective bargaining. Included in these rights are production control, price setting, supervision of the workforce, scheduling and sales.

Opener clauses

A clause in a collective bargaining agreement that allows negotiations to take place during the term of the contract on certain mandatory items, such as wage or insurance coverage.

Open period

The first 30-day period in the last 90 days before the termination of a collective bargaining agreement during which employees can vote to change their bargaining agent.

Perestroika

The policies put in place in Russia by former President Mikhail S. Gorbachev that led to the breakup of the Soviet Union.

Primary boycott

A legally permitted boycott in which persons who normally deal directly with the work involved are encouraged to withhold their services.

Provisional intent test

Having knowledgeable but uninvolved parties read the draft of a collective bargaining agreement after the agreement has been reached to test whether the drafting reflects the intent of the parties.

Reserved rights

The theory generally contending that all rights not specified in an agreement or shared with a union remain the unwritten or implied rights of management.

Restricted rights

The union's use of contract clauses to impose specific restrictions on management's decision-making rights, such as plant relocation or subcontracting.

Secondary boycott

Union pressure exerted on a neutral party indirectly related to the primary employer. The neutral party then exerts pressure against the primary employer.

Separability clause

A contract clause stating that any portion of a contract declared invalid by state or federal law shall be declared null and void while still holding the remainder of the contract valid.

Shop-ins

Slang term referring to a union method of conducting a secondary boycott. Several union members converge on retail establishments that sell a boycotted produce and cause disruptions in service by overcrowding the stores and parking lots and thus a loss of regular customers.

Steelworkers trilogy

Three 1960's Supreme Court rulings that upheld the grievance arbitration process and limited judicial intervention.

Zipper clause

A provision of a collective bargaining agreement that restricts either party from requiring the other party to bargain on any issue that was not previously negotiated in the agreement for the term of the contract.

GRIEVANCE AND DISCIPLINARY PROCEDURES

5 W's rule

What happened? Where did it happen? When did the event take place? Why is the complaint a grievance? Who was involved? Are best summarized in a short rule for remembering the crucial facts in a grievance facts known as the

Disciplinary procedures

The program of actions that an employer may take, as outlined in a collective bargaining agreement, against an employee who has violated work rules or policies.

Serious offenses and minor offenses

Employee misconduct should be viewed as either of two types of offenses?

Serious offense

Type of offense which under normal circumstances warrant immediate discharge without the necessity of prior warnings or attempts at corrective action

Minor offense

Type of offense, which calls for attempts at corrective action and do not call for discharge for the first offense.

Formal grievance procedures

Has been found to be the most common tool to resolve conflicts arising between labor and management during the life of the agreement.

Agreement clarification

In this function of formal grievance procedures, both sides try to reduce or eliminate the ambiguity that requires contract interpretation.

Formal grievance

The step in a grievance procedure at which the grievance is reduced to writing, usually on a grievance form.

Grievance

Any formal complaint filed by an employee or union concerning any aspect of the employment relationship, a grievance is generally a perceived violation of a contract provision.

Grievance mediation

The use of a neutral third party as one step in a grievance procedure to interpret the provisions of a contract in an effort to resolve a dispute and avoid arbitration.

Grievance procedure

The step-by-step process, usually outlined in a collective bargaining agreement, available to employees to resolve conflicts arising between labor and management.

Progressive discipline

The application of discipline in a series of steps that gradually increase in severity as an employee progresses through the steps

Moonlighting

Holding a second job during an employee's off time

Progressive discipline

The objective of this is to inform employees of their inappropriate behavior and allow them to correct it without serious consequences, followed by more serious actions if the inappropriate behavior continues or is repeated.

Federal Mediation and Conciliation Service

FMCS

Instruct employee to discuss the grievance with the shop steward or go directly to the supervisor

What is the first step in a grievance procedure?

Docking

The withholding of wages from an employee for time missed at work due to absenteeism or tardiness.

Garnishment

A legal proceeding in which a creditor of an employee gets a court order requiring the company to turn over some fraction of that employee's wages.

Disciplinary action

The penalty or punishment associated with violation of a rule.

Documentation

In the context of work rules violations, careful recording of the facts of the situation.

Insubordination

The refusal to carry out instructions from a superior.

Rights

The powers, privileges, or interests that belong to a person by law, nature, or tradition

Responsibilities

These are obligations to perform certain tasks and duties

Statutory rights

These are rights based on laws and statutes

Contractual rights

Rights based on a specific contract between an employer and an employee, such as a labor contract

Employment contract

This outlines the details of employment

Non-compete agreements

These prohibit individuals who leave the organization from competing with an employer in the same line of business for a specified period of time

Non-piracy agreements

These bar former employees from soliciting business from former customers and clients for a specified period of time

Employment-at-will (EAW)

This is a common-law doctrine stating that employers have the right to hire, fire, demote, or promote whomever they choose, unless there is a law or a contract to the contrary

Public policy exception

This permits employees to sue for wrongful discharge for refusing to support an action contrary to public policy. Perjury is an example

Implied contract exception

This is granted employees who perform satisfactorily in the absence of information that their employment is not subject to termination at will. Long service, promises of continued employment, and lack of criticism of job performance imply continuing employment

Good-faith and fair-dealing

This is expected of the employer. Employees who have had their faith breached by unreasonable employer behavior may sue for wrongful discharge

Constructive discharge,

Deliberately making conditions intolerable to get an employee to quit

Just cause

Reasonable justification for taking employment-related action.

Due process

The requirement that the employer use fair means to determine employee wrongdoing and/or disciplinary measures, and that the employee have an opportunity to explain and defend his or her actions

Arbitration

A process that uses a neutral third party to make a decision

Compulsory arbitration

When employees sign preemployment agreements stating that all disputes will be submitted to arbitration

Peer Review Panels

These are composed of specially trained volunteer employees who have signed confidentiality agreements and the company empowers them to hear appeals from other employees who have been disciplined. They then make recommendations or decisions

Ombuds or ombudsman or ombudsperson

A person outside the normal chain of command who acts as a problem solver for management and employees

Policies

These are general guidelines that regulate organizational actions

Procedures

These are customary methods of handling activities

Rules

These are specific guidelines that regulate and restrict the behavior of individuals

EEO

Administrative Law Judge (ALJ): An official assigned by the Equal Employment Opportunity Commission (EEOC) to hold hearings on formal complaints of discrimination and to otherwise process individual or class complaints for the EEOC.

Affirmative Action: Positive steps taken by an employer which contribute toward greater employment opportunities for minorities, females, the elderly, and the disabled.

Affirmative Action Plans/Affirmative Employment Plan: Written plans for programs required by Executive Order 11478 and other laws and regulations.

Age Discrimination: A claim of discrimination based on age by an individual who is at least 40 years of age at the time of the alleged discriminatory act.

Aggrieved Person: A person who believes that he/she has been discriminated against in some way and makes his/her concerns known.

Complainant: An employee, a former employee, or an applicant for employment who files a formal complaint of discrimination based on his/her race, color, religion, sex, national origin, age (40), physical or mental disability and/or reprisal.

Discrimination: Any act or failure to act, impermissibly based in whole or in part on a person's race, color, religion, sex, national origin, age, physical or mental handicap, and/or reprisal, that adversely affects privileges, benefits, working conditions, results in disparate treatment, or had a disparate impact on employees or applicants.

Disparate Impact: Under EEO law, less favorable effect for one group than for another. Disparate impact results when rules applied to all employees have a different and more inhibiting effect on women and minority groups than on the majority. For example, nonessential educational requirements for certain jobs can have a disparate impact on minority groups looking for work, as they often been limited in their access to educational opportunities.

Disparate Treatment: Inconsistent application of rules and policies to one group of people over another. Discrimination may result when rules and policies are applied differently to members of protected classes. Disciplining Hispanic and Afro-American employees for tardiness, while ignoring tardiness among other employees, is an example of disparate treatment. Such inconsistent application of rules often leads to complaints.

Equal Employment Opportunity: The goal of laws which make some types of discrimination in employment illegal. Equal employment opportunity will become a reality when each U.S. citizen has an equal chance to enjoy the benefits of employment.

Ethnic Group: A group of people who share a common religion, color, or national origin.

Formal Complaint: A written complaint alleging that a specific act of discrimination or reprisal has/have taken place that is personal to the individual.

Hearing: The presentation of such oral and written evidence concerning a complaint of discrimination presented before the EEOC.

Job Related: Essential to job performance.

Numerical Goal:

A target number of qualified women and minorities hired and advanced within a given period of time through an Affirmative Action Program. A numerical goal is not a quota, as it may not be reached within the time frame.

Prima Facie:

This Latin term translates as "on first view", or "at first appearance".

Protected Class:

The groups protected from the employment discrimination by law.

Quota:

Fixed hiring and promotion rates based on race, sex, or other protected class standards which must be met at all costs.

Reasonable Accommodation: Any change in the work environment, in the way things are customarily done, or in the application process that enables a person with a disability to enjoy equal employment opportunities.

Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature based on one or more of the following conditions a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Age Discrimination in Employment Act (ADEA) of 1967, as amended

This act prohibits discrimination in employment on the basis of age (40 years or older).

Americans with Disabilities Act (ADA) and Rehabilitation Act of 1973

These laws prohibit discrimination against qualified people with disabilities who are able to perform the essential functions of the job

Title VII of the Civil Rights Act of 1964,

Title VII prohibits discrimination based on race, color, religion, sex, or national origin

ANTI-NEPOTISM POLICY: A policy or practice that limits the simultaneous employment of two or more members of the same family

APPLICANT FLOW: The number of applicants applying for a particular job over a given period of time, analyzed by protected class

BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ): A minimum qualification that is needed to be able to perform the duties of a particular job, which would otherwise be unlawful because of its discriminatory impact based on one's sex, religion, or national origin, etc.

BURDEN OF PROOF: The requirement that to win a point or to have an issue decided in one's favor in a lawsuit one must show that the weight of evidence is on his or her side, rather than "in the balance" on that question

BUSINESS NECESSITY: A legitimate business purpose that justifies an employment practice as valid and necessary for the effective achievement of the organization's objectives and the safe and efficient operation of the business

COMPARABLE WORTH: Payment of wages based on the value of the work performed taking into consideration such factors as education, training, skills, experience, effort, responsibility and working conditions

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC): The federal government agency mandated to enforce Title VII of the Civil Rights Act of 1964, as amended

PARITY: A condition achieved in an organization when the protected class composition of its work force is equal to that in the relevant available labor force

RETALIATION: Any adverse employment or educational activity or conduct which is directed at a complainant or witness as a reprisal for opposing any activity or conduct which is a violation of the College's Equal Employment and Education Policies, and/or federal and state Equal Employment and Equal Education law

REVERSE DISCRIMINATION: A term, not defined by law, used to describe alleged discrimination to a white male that results from a female or a minority male obtaining advancement.