

Unions

Basic Labor Law

The government protects the right of workers to organize in order to address issues of wages, benefits, and working conditions. The body of laws that protect this right is known as the National Labor Relations Act, sometimes referred to as the Wagner act. Of course, any questions you have regarding labor law can best be answered by a lawyer, but the following is a list of the basics:

- Any group of workers may organize or help organize a union, except managers (supervisors) and security guards. (Security guards can form their own union - they just can't be in a union with other employees.)
- Workers have the right to strike.
- Workers have the right to join a union.

The National Labor Relations Act prohibits the employer from certain acts, known as unfair labor practices. If you feel you are the victim of an unfair labor practice, contact the NLRB, which will assign an agent to look into your case or consult a lawyer.

Unfair labor practices include management:

- Threatening to fire a worker for union activity.
- Threatening a worker in any way, implicitly or explicitly, because of union activities. This can include demotions, reprimands, etc.
- Asking workers about union activities.
- Threatening cuts in pay or benefits.
- Promising increases in pay or benefits, beyond those normally scheduled. (Of course, this only applies until the election.)
- Spying on union activity.

The Act also specifies some union activities as illegal:

- Barring employees from entering the place of work.
- Acts of force against workers.
- Threats against any workers.

Also of interest: management (or the union) can be held accountable for anyone acting as an agent, even if management didn't know about or approve of the agent's actions. In other words, if an anti-union worker threatens you ("You'll lose your job if you vote yes.") management can be held accountable for that threat. This is to prevent management from using workers to deliver threats and thereby get around the law.

Companies do have the right to make predictions as to what will happen if a union wins. It becomes a threat, however, anytime the "prediction" is something that can be controlled by the employer. For example, saying that a major client might withdraw its contracts with the employer if a union wins is within the bounds of free speech. The employer has little or no control over what the client chooses to do. However, saying that a union would be too expensive and that the employer would have to cut its labor force to compensate is a threat, as the employer has complete control over the size of its work force.

During the entire campaign and negotiations, the employer must maintain the status quo with regards to pay, benefits, and working conditions. It cannot suddenly grant pay raises or cut pay, although regularly scheduled pay raises must be given on time. Failure to do so is an unfair labor practice.

The NLRB uses a doctrine known as "the totality of conduct" when determining unfair labor practices. This means it looks at the employer's conduct throughout the entire campaign to determine if the law has been broken. In other words, an employer doesn't have to blatantly flaunt labor law to be reprimanded. If the employer constantly bends the law, or commits many minor infractions, the NLRB may find the employer in violation. It therefore behooves all employees to write down all infractions, no matter how minor. Write down the date, who was involved, the time of day, and any witnesses. Good documentation can be critical in winning a favorable ruling from the NLRB.