

2009 Indiana SHRM Conference

Staying Union-Free: What Every Employer Needs to Know

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Desperate Times for Unions

Union Support Over the Years

1955 – 33%

1983 – 20%

2000 – 13.5%

2006 – 12% (7.4% private sector)

New Administration —New Hope

- Obama administration and democratically controlled Congress give unions favorable playing field.
- Employee Free Choice Act is very union-friendly.
- Unions are going to aggressively attempt to take advantage of the new pro-union landscape.
- Employers must prepare NOW.

What is a Union Organizing Campaign?

- Attempt by union to gain recognition as bargaining representative of company's employees.\
- Usually involves an effort to persuade employees to sign “authorization cards.”

- If union gets signed cards from majority of employees in an “appropriate bargaining unit,” it will usually demand recognition as bargaining representative.
- If recognition is denied, union will petition NLRB for an election.
- Union needs cards signed by 30% of employees in an appropriate bargaining unit to obtain an NLRB election.

How a Union Conducts an Organizing Campaign

The union:

- Generates support by contacting individual employees, sometimes with home visits.
- Establishes organizing committee.
- Conducts campaign activities (e.g., surveys, meetings, petition drives, rallies).

- Uses technology:
 - Videotapes and DVDs
 - E-mail
 - Internet: Most major unions have Web pages on the World Wide Web.
- Uses Salts.

Types of Union Organizing Campaigns

- Employee initiated: Organizing campaigns usually begin with employees contacting union.
- In-plant organizing committee: Unions win 60% of elections when there is an in-plant organizing committee.
- The “Open Campaign” approach.
- Organizing in secret: Most common approach.

Significance of Union Authorization Card

A union authorization card:

- Is a legal document.
- Means you allow someone else to represent you on the job.

U.F.C.W. LOCAL UNION NO. 1099

913 Lebanon Street, Monroe, Ohio 45050-9960

United Food and Commercial Workers International Union

Authorization for Representation

I hereby authorize United Food and Commercial Workers International Union, AFL-CIO/CLC, or its chartered Local Union(s), to represent me for the purpose of collective bargaining.

Autorización para Representación

Yo por este medio autorizo a la United Food and Commercial Workers International Union, AFL-CIO/CLS o su Union(s) Local asociada a que me representen en asuntos de negociación colectiva.

(Print Name - Su Nombre)

(Date - Fecha)

(Signature - Firma)

(Home Phone - Teléfono Residencial)

(Home Address - Dirección Residencial) (City - Ciudad) (State - Estado) (Zip Code - Código Postal)

(Employer's Name/Address - Nombre del Patrón/Domicilio)

(Hire Date - Fecha de Empleo) (Type of Work Performed - Ocupación) (Department - Departamento)

(Hourly Rate - Pago por Hora) (Day Off - Día Libre)

Day Shift _____ Night Shift _____ Full Time _____ Part Time _____

Would you participate in an organizing committee?

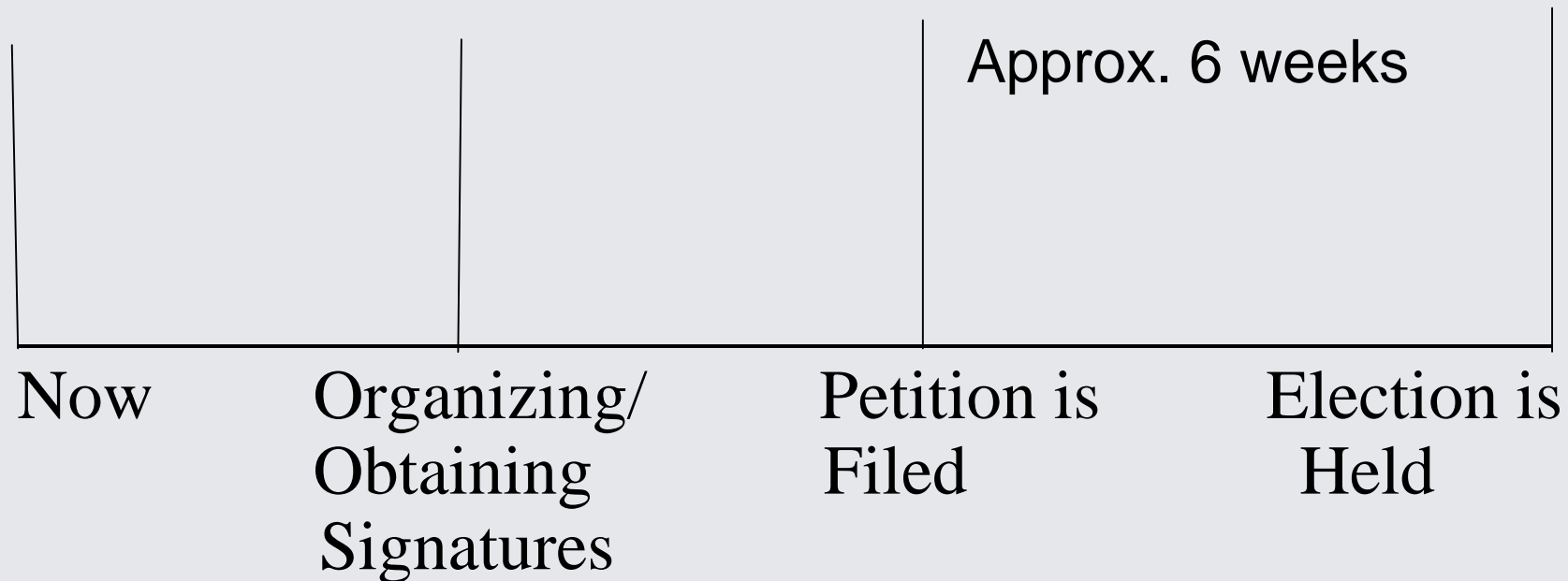
Yes No

¿Participaría Ud. en un comité de organización?

Sí No

Turno Día _____ Turno Noche _____ Jornada Completa _____ Jornada Parcial _____

Timeline of Union Organizing



- An election petition requires a showing of interest from 30% or more of the employees in the appropriate unit.
- In recent years, most elections have been held about 40 days after a petition is filed.

NLRB Election

- Secret ballot.
- Union must get more than 50% of votes cast.

Unions lose support during campaign as employees learn:

- The cost of unionizing (dues, assessments, strikes);
- Limits to collective bargaining (no guarantees);
- Loss of autonomy; and
- Potential for strikes.

This is why unions almost always have more than 50% card support before filing a petition.

Supervisors Suffer The Most Because of a Union

- The chief aim of the union is to take away the day-to-day control of the supervisor and give the control to the union bosses.
- The union tries to preserve the jobs of those employees who do not deserve protection.
- Good workers do not need union “protection.”

Employers Must Train Supervisors

- Supervisors should be the first to learn of union organizing activity.
- Supervisors need to be the company's strongest advocate for why a union is not necessary.
- Supervisors can also be your biggest liability if they commit unfair labor practices.
- That is why you need to TRAIN your supervisors.
NOW!!

Characteristics of a Good Supervisor

- **ACCURATE** when explaining procedures, company policies, performance, feedback, etc.
- **CONFIDENT**: Good supervisors understand company policies and procedures before trying to apply or interpret them for employees.
- **CLEAR** in the use of words and terms to make sure they are understood by employees.

- **IMPARTIAL** and **RESPECTFUL** of others by not attempting to take sides in any dispute before the facts are collected.
- **ASKS QUESTIONS** and gets employees to ask questions.
- **REWARDS INITIATIVE:** Good supervisors give credit where credit is due.
- **REPRESENTS** the company's best interests. Good supervisors report problems, accept responsibility for mistakes and support company decisions once they are made.

The Case Against Unions

- Unions eliminate direct employee-employer interaction.
- Unions create a one-size-fits-all work environment.
- Unions cost company and employees money (dues, initiation fees and fines).

- Unions create distrust and divisiveness.
- Strikes.
- The CBA is a contract between employer and union.
- Employees are NOT parties to the contract.
- Union can bargain clauses for itself.

Why Employees Turn to Unions

- Protection against inconsistent, unfair, or arbitrary supervisors.
- Feeling of job security.
- Having a voice in the management/direction of company.
- Better wages and benefits.
- Misunderstandings or confusion about compensation or benefits.
- An unsafe workplace.

Tips for Maintaining a Satisfied Workforce

- Make the employees feel like part of the Team.
- Apply clearly stated personnel policies and work rules consistently.
- Be sure employees are aware that their wages and benefits are competitive.
- Working conditions should be safe and clean.
- Explain any increases in benefit costs to employees.

- Notify employees of changes in policies or procedures.
- Use positive reinforcement to achieve productivity.
- Be aware of and comply with all federal and state civil rights laws.
- Keep your promises relating to vacation days and other benefits or privileges of employment.

Detecting the Early Warning Signs of Union Activity

- Pro-union graffiti, clothing or buttons.
- Employees start spending more than their normal time in restrooms and break areas.
- Exit interviews indicate that employees are attempting to escape an unpleasant environment.
- Applicants applying for jobs who are over-qualified for job. (Salts!)

- Union authorization cards, handbills or leaflets that appear on company premises or in parking areas.
- Increased interest in benefits and wages.
- Employee group discussions immediately stop when a supervisor approaches.
- Employees forming in groups that include individuals who do not normally associate with each other.
- Strangers appear and linger on the premises or in work areas.

- Employees no longer talk to their supervisors.
- Employee complaints increase.
- A division develops among employees.
- Employees begin using a new technical vocabulary which includes such phrases as “protected activity,” “unfair labor practices” and “demands for recognition.”

What to Do When the Union Comes Knocking

- **DO NOT:**
 - Look at any list of employees.
 - Look at any cards or letters such as union authorization cards.
 - Look at any writing or paper they may attempt to hand you.

- **DO NOT:**
 - Agree to some alternative means (other than through NLRB procedures) of determining whether a majority of employees want a union.
 - Look at any cards that are left behind or are thrown at you.
 - **Rather, put documents in an envelope and seal it with a witness present.**

- **DO:**
 - Have a witness for any union contact.
 - Get a card or name, address and phone number and ask for identification when union organizers identify themselves.
 - Run the show. If they become out of line, ask them to leave company premises.

- **DO:**
 - Tell employees facts about unions.
 - Tell employees about company's position.
 - Treat all employees consistently.
 - Give straightforward information about company's policies.
 - Listen to volunteered information.
 - Respond immediately to any potentially violent situation.

Employer has Right to Free Speech

Section 8(c)

- Supervisors are free to tell employees facts about unions.
- Supervisors are free to tell employees the company's position on unions.

During union organizing campaign, a supervisor may:

- Offer facts.
- Offer opinions.
- May give examples.

T-I-P-S: Threaten, Interrogate, Promise or Surveillance

- **Threaten:** During a campaign, you **cannot** make any threats to discourage union activity, union membership, signing a union card or voting for a union.
- **Interrogate:** Communication with employees and union organizers is essential. However, during union organizing campaigns, you **cannot** question employees about union activity or beliefs.

- **Promise:** You cannot promise any benefits in return for an employee's decision not to join a union, voting against a union, or refraining from union activity.
- **Surveillance:** Supervisors and Company officials cannot spy on the union or on any employees involved in any matters relating to an election campaign.

Enforcement of Work Rules During Organizing Campaign

- Consistent, non-discriminatory enforcement of work rules.
- Solicitation/Distribution
 - May prevent during working time.
 - May prevent in working areas.
 - Must be consistent.

- Anti-litter rules: Sometimes union literature creates a litter problem. A rule that limits the distribution of literature in a manner causing litter is reasonable.
- No access rule for employees: The Board has upheld work rules prohibiting off-duty employees from entering the plant or remaining on the employer's premises.

Company Themes During Organizing Campaign

- **Strikes:** Employees should understand that unions may vote to strike, which may cause a big drop in employee income.
- **Collective bargaining:** Remind employees that the union's campaign promises of more and more money and greater benefits are simply vote-getting propaganda.

- **Seniority:** Remind employees that union contracts generally require promotion, shift and posting decisions to be determined primarily by seniority and not by work performance.
- **Dues:** Remind employees that even if the company agrees to higher wages, some portion of those wages will go to the union as union dues.
- **Big business:** Remind employees that the union is a large business that needs money to survive.

Communications to Employees After Notice of Election

- Communicate to employees facts about unions (e.g., dues, strikes, union salaries.)
- Keep lines of communication open.
- Interview front-line supervisors.
- Keep eyes and ears open.

Other Actions to Consider

- Use combination of letters, posters and group meetings.
- Greater company presence on floor.
- Educate employees about unions.
- Do not overreact.

Employee Free Choice Act

- Under the EFCA, an employer would no longer have the opportunity to demand a secret ballot election if:
 - A majority of employees have signed union cards; and
 - There is no evidence of illegal coercion.

- In addition, if a union and employer cannot agree upon terms of a first collective bargaining contract within 90 days, either party can request federal mediation, which could lead to binding arbitration if an agreement still cannot be reached after an additional 30 days.
- Arbitrated contract of 2 years duration.

- Finally, the EFCA would provide for liquidated damages of two times backpay for employers found to have unlawfully terminated pro-union employees.
- Employer fines up to \$20,000.

FACTUAL SCENARIOS FOR SUPERVISORS

Scenario 1

One morning before work, you stop at the local gas station for a fill-up and a cup of coffee. As you pull up to the pump you notice, about 50 feet away, three employees standing around a stranger wearing a baseball cap with a Teamster logo. The stranger is passing out some literature.

What, if anything, should you do?

ANSWER: Notify HR

- Just because the employees are having a discussion with someone with a teamster hat does not necessarily mean they are discussing union organization.
- In addition, employees have the right to discuss whatever they want on their own time and off of company property.
- By making HR aware, you can determine the appropriate next steps.

Scenario 2

As you leave work for lunch, you notice two employees placing union literature on employees' cars in the company parking lot. The stranger you saw this morning is assisting them.

What, if anything, should you do?

ANSWER: Notify HR

- Your non-solicitation policy should not allow any vendor or individual to place information on employee cars in the parking lot.
- HR will address the issue with both the employees and non-employee.

Scenario 3

You walk up to a group of employees in break room who are having a heated discussion about unions. One employee asks:

“These guys are telling us that with a union we will be treated with more respect. They also say that I should sign a union card as quickly as possible. Finally, they want me to go to a union meeting this Saturday night. What do you think I should do?”

What do you say?

ANSWER

- “Everyone has a right to their own opinion.”
- “I believe we treat all employees with respect and if anyone has a concern about the way they are treated I would encourage them to go to their manager or Human Resources.”
- “I personally would not sign any document until I fully understood what I was agreeing to by signing the document.”

Scenario 3

After lunch, an employee asks you about the union.
He wants to know:

- (a) Should he sign a card?
- (b) Why is the company so afraid of a union?
- (c) If he should go to the union meeting at the Shoney's on Friday night?

How do you respond to these questions?

ANSWER

- “My opinion is that employees don’t need a union and my preference is to speak directly with you not through a third party.
- The company is not afraid of a union, but we are concerned that some employees may not be receiving accurate information.
- If you would like we can go talk to HR and get answers to all of your question.”

Questions