

The Legal Right To Concerted Activity

An important aspect of in-plant strategies is the use of legal rights guaranteed to all employees by the National Labor Relations Act (NLRA) and by safety and health legislation. Exercise of these rights is dependent on a number of factors, however, and the extent of legal protection afforded is subject to interpretation—eventually by the Reagan-appointed NLRB.

One of the most important legal protections is provided by Section 7 of the NLRA, which grants employees the right to engage in concerted activities for their mutual aid and protection. Not all concerted activity falls within the rights guaranteed by Section 7, however. In addition to being "concerted," employees' acts must also be "protected," which generally means that they must have both a legal objective and a legal means of achieving it. For more information on "protected concerted activities," consult with your union's legal department.

Section 8(d) of the NLRA requires the employer to bargain with the representative of his employees over wages, hours, terms and conditions of employment. Although bargaining over a new contract may have reached impasse and the employer may have implemented his final offer, the employer cannot make subsequent unilateral changes without again bargaining to impasse with the employees' representative. The employer has a duty to bargain over issues that may formerly have been handled in a grievance process, but there are limitations on the time, place and subjects of bargaining. Check with legal counsel on the extent of the employer's duty to bargain in specific situations.

The NLRA also proscribes certain types of employer behavior as unfair labor practices (ULPs). ULPs include any interference with employees' exercise of rights under the Act, surveillance, intimidation, discrimination against employees because of their union activities, bad faith bargaining, surface bargaining. If an employer engages in any of these practices, workers can call an unfair labor practice strike. Unlike employees who strike over economic issues, ULP strikers cannot be permanently replaced.

Employees can also take advantage of safety and health legislation that protects their right to refuse unsafe work. The amount of protection available varies greatly with the type of workplace, the legislation covering that workplace, and the particular circumstances involved. It is important to know the full extent of your protections before refusing work.

Reliance on legal rights requires consultation with attorneys. Talk with your union's legal counsel before engaging in any of these activities.

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