



HR Webinar Series #5  
Employee & Labor Relations  
May 2022



**Alliance for  
Manufacturing  
and Technology**

# Agenda

- Introductions
- HR Surveys
- Union Free Strategy
- Employee Involvement Strategy
- Taking Temperature
- Handbooks / Policies
- Post-Employment Agreements
- Conflict Resolution
- Unionization
- Next Time

# Employee Relations Strategy

- A vision describing the type of workplace culture to create.
- Alignment with the organizational strategy
- Implement communication plans that enable timely sharing of information
- Joint management-employee task force to define opportunities to improve communication between leadership and employees

# Union Free Workplace Strategies

- Clearly stated position regarding unionization.
- Understand what union cards signify
- How elections work
- Fair and consistent treatment of employees
- Access to career opportunities
- Balance promotion decisions
- Communication programs and feedback mechanisms
- Department/unit communication meetings
- **Employee participation programs**
- **\*Management/supervisor training\***
- Performance appraisals
- Compensation and benefits
- Understand the climate

# Employee Involvement Strategies

- Job design – variety, significance, autonomy and feedback
- Cross training – rotation, enlargement and enrichment
- Flexibility – phased retirement, part-time, job sharing and telecommuting
- Teams – committees, project teams and task forces
- Don't miss an opportunity to compete

# Measuring Employee Attitudes

- Surveys
- Focus groups
- Skip level meetings
- Reach out for more info

# Handbooks

- Employers in a union environment address the issue of handbooks differently. A policy handbook may be used to outline policies that apply to all employees. They may describe, for example, access to federally mandated rights (family leave) and restrictions on illegal behavior (sexual harassment, violence, illegal drug use). The collective bargaining agreement (CBA) serves as a description of the terms and conditions of employment for those covered by the agreement. A separate handbook may be created if the workplace includes nonunion employees. It sets out terms and conditions of employment but makes clear that it applies only to employees not covered under a CBA. (NYDOL)

# Employment Contracts

- Employment at Will - employers have the right at any time, with or without prior notice, to hire, fire, demote, or promote whomever they choose for no reason or any reason. Similarly, employees have the right to quit a job at any time for any reason, with or without prior notice.
- Legal protections for both sides.
- **Non-disclosure agreement (NDA)** - not to discuss knowledge gained during employment.
- **Non-compete agreement (NCA)** - leaving to work for one of the employer's competitors.

# Workplace Conflict

- Investigation
- Local Trusted Representative/Third Party
- Keep process confidential/private
- Lower the temperature

# Path to Resolution

- Listen.
- Manage emotions.
- Agreeing on goals.
- Focusing on issues and facts rather than personalities.
- Consider all perspectives.
- Engage in problem solving and exploring alternative solutions together.
- Adopt a policy prohibiting retaliation

## Disciplinary Actions

- Produce persuasive evidence of the employee's culpability or negligence.
- Give the employee a fair opportunity to present his or her side of the story.
- Determine a penalty appropriate for the offense.
- Impose discipline that is consistent with the treatment that others have received.
- Constructive Discipline Process / Step System / Goal

# Terminations

- Never terminate on the spot - suspended subject to discharge pending further investigation.
- Conduct employee interviews
- Do not delay
- Focus on the basis of the discharge
- Inform the employee in person of the decision to terminate and the reason
- Be alert to possible reactions
- Be effective, efficient & prepared

# Unions

- **Level at which bargaining occurs.** Is the employer bargaining individually or as part of an industry association?
- **Focus of bargaining topics.** What is considered a fair topic for negotiations?
- **Union density.** Refers to the percentage of workers that belong to a union.
- **Membership.** Is membership in a union compulsory? Do employees join a union as individual members, as in a trade union for skilled workers?
- **Relationship with management.** Is the relationship historically stormy or cooperative?

# Labor Relations Strategies

- “Acceptance” Labor Strategy
- “Avoidance” Labor Strategy
- “Adaptation” Labor Strategy

# Grievance Do's

- **Do** investigate and handle each case as though it may eventually result in an arbitration hearing.
- **Do** require the union to identify specific contract provisions allegedly violated.
- **Do** comply with the contractual time limits for handling the grievance.
- **Do** visit the work area related to the grievance.
- **Do** determine whether there were any witnesses.
- **Do** examine the employee's personnel record.
- **Do** fully examine prior grievance records.
- **Do** treat the union representative as your equal.
- **Do** hold your grievance discussions privately.
- **Do** fully inform your supervisor of grievance matters.
- **Do** have at least two management representatives present.
- **Do** document all grievance meetings; take accurate notes

# Grievance Don'ts

- **Don't** make arrangements with individual employees that are inconsistent with the labor agreement or that exclude the participation of a union representative.
- **Don't** hold back the remedy if the employer is wrong.
- **Don't** admit to the binding effect of a past practice.
- **Don't** settle grievances based on what is "fair." (Use the CBA as your only standard.)
- **Don't** bargain over items not covered by the contract.
- **Don't** give long, written grievance answers.
- **Don't** trade a grievance settlement for a grievance withdrawal.
- **Don't** agree to informal amendments in the contract.

# Weingarten Rights

***NLRB v. Weingarten*** (1975) is a landmark labor relations case. The case dealt with the right of a unionized employee to have another person present during certain investigatory interviews. An investigatory interview occurs when a supervisor/manager questions an employee to obtain information that could be used as a basis for discipline or asks an employee to defend his or her conduct.

# Weingarten Limits

- A bargaining unit employee's right to have a union representative present applies only to an investigatory interview—one conducted to gather facts that may lead to a disciplinary action. It does not apply to other types of meetings, such as where the employer is merely informing the employee of a decision it has already made to impose discipline.
- The person attending the investigatory interview must be affiliated with the union that represents the employee. An employee can be prohibited from having an attorney or a relative present.
- If the interview proceeds, the employer is not required to bargain with the representative or to permit him or her to disrupt the proper conduct of the interview.

# HR's Role in Collective Bargaining

- Suggest work processes that are most cost-effective and identify management proposals that may be ineffective in terms of creating a productive workplace (e.g., job restructuring that increases stress).
- Contribute suggestions based on HR's understanding of employee needs. In some cases, nonmonetary concessions can be as significant to employee groups as wages and benefits.
- Analyze contract language to identify potential misunderstandings or difficulties in administration that could result in grievances later.
- Provide negotiators with data about employee demographics and payroll and benefits costs that can be used to analyze the cost implications of proposals and concessions.
- Identify unintended consequences of contract provisions so that they can be more fully considered. For example, an employer's offer might not be economically sustainable over the life of the contract, or it might be too low, encouraging other employers who are not locked into multiyear contracts to lure employees away with higher wages once the contract has been approved.
- Identify clauses from preceding contracts that may conflict with new employment laws.
- Keep the temperature low, manage expectations

# Next Time

Session #6  
Safety & Risk Management  
June 10<sup>th</sup>, 11am



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