

Another Symptom of COVID-19: Union Organizing

Labor & Employment Law Update

By Beverly Alfon on May 26, 2020

If your “essential” workforce is not already organized, consider this your wake-up call.

As this pandemic has worn on, and more “essential workers” have fallen ill to COVID-19, labor unions have become noticeably more active. Just last Monday, the AFL-CIO filed suit in federal court to compel the Occupational Safety and Health Administration (OSHA) to issue an emergency temporary standard, aimed at forcing the agency to mandate certain safety actions by employers.

Noticeably, the rhetoric from the AFL-CIO has been focused on “all workers” as opposed to “their members.” Plagued by a continuing decline in membership, unions seemingly recognize that they cannot let this opportunity to organize more workers pass them by. In an April 30 opinion piece published by the *Chicago Sun-Times*, Gary Perinar, executive secretary-treasurer of the Chicago Regional Council of Carpenters, declared: “The importance of unions is more obvious than ever during the COVID-19 pandemic...Of all the injustices exposed by this public health crisis, the risks faced by non-union workers are the most apparent.” It was a direct call to non-union workers.

Indeed, many of the headlines about labor activity during this pandemic have not involved unions. For example, there have been walkouts to protest unsafe work conditions in nonunion workplaces such as Amazon warehouses in Staten Island, New York; Amazon-owned Whole Foods grocery stores in Chicago and other locations; and McDonalds workers in Chicago have sued the corporation over safety concerns (albeit, this one was financially backed by the S.E.I.U.). Even gig workers delivering groceries for Instacart called for a work stoppage. Such activity, of course, confirms that some workforces are ripe for union organizing.

As businesses begin to reopen (and essential businesses begin to move forward), they will be forced to deal with employee concerns and demands over personal protective equipment, wages, hazard pay, paid sick leave, disability accommodations, and the status of laid off employees. These very matters – job insecurity, safety concerns, and benefits – are what unions rely upon to organize workers.

So now what? Get your union avoidance plan in place.

1. Identify who your “supervisors” are (as defined by the National Labor Relations Act) and get them trained on identifying and dealing with union organizing. A “supervisor” cannot be represented by a union. They are also agents of your company, so training is key. They should be directed on what their role should be in avoiding union organization and what they can and cannot do in the event that union organizing has already begun.
2. Review policies for clarity, perceived unfairness, and employee relations. A union will often focus employees on unfair policies.
3. Benchmark wages and benefits. A union will often promise more money. So, it is best to be prepared with a response.
4. Identify employee relations problems now and deal with them before employees turn to a union. Get feedback from the group of employees who are vulnerable to union organization. Sometimes, it is as simple as tweaking a supervisor’s management style.
5. Train management on positive employee relations. Your supervisors need to know about the importance of providing regular feedback to employees and maintaining open communication with them.
6. Get a communications plan in place in the event that union organizing begins or has begun.

While you may already have much to consider during these unusual times, being aware of the potential threat of union organizing at your workplace is not enough. Assessment and planning are necessary so that if the need arises, response can be timely, effective, and within the parameters of the National Labor Relations Act.

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