

GLOSSARY OF NLRA ORGANIZING AND BARGAINING TERMS

§ 7 Rights: "Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3)."

8(a)(1): The Section of the NLRA which makes it a violation to interfere with, restrain, or coerce employees in the exercise of their rights under the Act. All Board charges against an employer are considered 8(a)(1) charges, even if they also violate other sections.

8(a)(3): The Section of the NLRA which makes it illegal to discriminate against employees to encourage or discourage membership in a union.

10(j): The Section of the NLRA which empowers the NLRB to petition a federal district court for an injunction to temporarily prevent unfair labor practices by employers or unions and to restore the status quo, pending the full review of the case by the Board. In enacting this provision, Congress was concerned that delays inherent in the administrative processing of unfair labor practice charges, in certain instances, would frustrate the Act's remedial objectives. In determining whether the use of Section 10(j) is appropriate in a particular case, the principal question is whether injunctive relief is necessary to preserve the Board's ability to effectively remedy the unfair labor practice alleged, and whether the alleged violator would otherwise reap the benefits of its violation.

Agenda: Meeting where Board agent meets with the Regional Director and other supervisors to decide whether or not to issue a complaint.

Administrative Law Judge [ALJ]: As with other federal agencies, the NLRB has a corps of judges who conduct hearings at which the parties present evidence; hearings are conducted on issues raised in complaints issued by NLRB Regional Directors on behalf of the Board. These judges work for the NLRB (i.e., they are not federal district court judges) and handle NLRB cases exclusively. Decisions of Administrative Law Judges can be appealed to the five-member Board in Washington, D.C.

Arbitration: A way of settling disputes by calling in a third party whose decision is final and binding; arbitration is typically a privately-agreed upon contractual obligation.

Authorization Card: A union card filled out by pro-union workers during a representation campaign. The card designates the union as the collective bargaining agent of the employees and must be dated and signed.

Bargaining Agent: The union designated by a government agency, such as the National Labor Relations Board, or recognized voluntarily by the employer, as the exclusive representative of all employees in the bargaining unit for purposes of collective bargaining.

Bargaining Unit: A group of workers who bargain collectively with the employer [regardless of whether they are actually union members or not]. The unit may include all the workers in a single plant or in a number of plants, or it may include only the workers in a single craft or department. Final unit is determined by the NLRB or agreed to jointly by the union and the employer.

Business Agent (B.A.; Union Representative): A full-time representative of a local union whose job is to represent workers in the local.

Captive Audience Meeting: A union term for meetings of workers called by management on company time and property where the purpose of these meetings is to try to persuade workers to vote against union representation. Under the NLRA, employer-mandatory captive audience meetings within 24 hours of the NLRB-conducted election are prohibited.

Card-check: Procedure whereby signed authorization cards are checked against a list of employees in a prospective bargaining unit to determine if the union has majority status. The employer may recognize

the union on the basis of this check without the necessity of a formal election. Often conducted by an outside party, such as a respected member of the community.

Card Check Agreement: An employer agrees to recognize a union as the official bargaining agent of its employees once a third party verifies that a majority of the entire group of employees has signed union membership cards; typically, the employer also agrees to begin negotiating for a first contract as soon as it recognizes the union.

Charge: An allegation made by an individual, employer or labor organization that an unfair labor practice under the Act. Charges are filed at NLRB regional offices.

Cease and Desist Order: Ruling issued in an unfair labor practice case requiring the charged party (respondent) to stop the conduct found to be illegal.

Certification: Official designation by a labor board of a labor organization that it is the exclusive bargaining agent of the employees in the particular bargaining unit.

Challenged Ballot: Process for identifying and segregating the ballot of anyone attempting to vote in an NLRB election whose name is not on the list of voters, or who one of the parties claims is not eligible to vote.

Check-off: A contract clause authorizing the company to deduct union dues from paychecks of those employees who so authorize deductions. The company then transfers the money to the unions.

Collective Bargaining: A process in which workers, through their bargaining committee, deal as a group to determine wages, hours and other conditions of employment. Normally, the result of collective bargaining is a written contract that covers all workers in the bargaining unit.

Community of Interest: Factors, such as common supervision, job tasks, hours, working conditions, wages and benefits, etc., which determine which groups of employees the NLRB will include in an appropriate bargaining unit.

Complaint: If, after investigating a charge, the regional office finds merit and no settlement is reached, the Regional Director serves a complaint in the name of the Board stating the unfair labor practices and containing a notice of hearing before an Administrative Law Judge. The complaint does not constitute a finding of wrongdoing but raises issues to be decided by the judge.

Constitution and Bylaws: Legal documents governing the administration of local and international unions. Constitutions and their amendments are adopted by union conventions or by membership vote and generally cover elections and duties of officers, conventions, committees and dues.

Contract: A written agreement reached through collective bargaining that sets forth wages, hours and other conditions of employment. The contract normally is for a term as short as one year or as long as three or more; at the end of such a term, a new contract is negotiated.

Contract Bar: Period of a valid collective bargaining agreement during which no question concerning representation may be raised. The petition raising a question concerning representation must be filed from ninety to sixty days before the expiration of the contract or after it expires, except that a different time period controls timely filing in the health care industry. A contract may bar a representation election for up to three years, even if the contract does not expire at the end of three years. Compare Insulated Period.

Decertification: Withdrawal by a government agency, such as the NLRB, of a union's official recognition as exclusive bargaining representative. The NLRB will withdraw certification if a majority of employees vote against union representation in a decertification election.

Duty of Fair Representation: Court-mandated obligation of a union, by virtue of its exclusive representation rights, to represent all members of its bargaining unit without arbitrariness, discrimination or bad faith.

Dovetail Seniority: Combination of two or more seniority lists (usually of different companies being merged) into a master seniority list, with each employee keeping the seniority he had previously acquired even though he may thereafter be employed by a new employer.

Economic Strike: A work stoppage by employees; all strikes are designated as economic strikes unless they qualify as unfair labor practice strike, regardless of whether their purpose is economic gain, i.e., a wage increase.

Eligibility: Refers to whether employees in a bargaining unit are eligible to vote in an NLRB-conducted election; employees may be ineligible, e.g., if they are no longer employed on the date of the election or if they are supervisors or confidential employees.

Endtail Seniority: Combination of two or more seniority lists (usually from a merger of different companies) into a single seniority list with the group of employees from one company being placed at the bottom of the new seniority list.

Excelsior List: Established in the case of Excelsior Underwear, the list of names and addresses of employees eligible to vote in a union election. It is normally provided by the employer to the union within 10 days after the election date has been set or agreed upon at the NLRB. The Excelsior list is used as the list of voters during the NLRB-conducted election.

Featherbedding: Receiving payment for work which has not been performed and which will not be performed.

General Counsel: The official at the NLRB who is ultimately responsible for deciding whether each case should be pursued. If the Region decides to dismiss a charge, an appeal may be filed with the General Counsel's office. The Regions also may ask the General Counsel's office for an advice memo if a novel issue is presented. The General Counsel also decides whether or not to seek a preliminary injunction. The General Counsel, through the Regional attorneys, also acts as prosecutor in unfair labor practice cases before the Board.

Grievance: A dispute or difference arising between the employer and the employees.

Grievance Procedure: A systematic approach to handling workplace problems. The procedure is negotiated into collective bargaining agreements and may or may not include binding arbitration as its final step.

Good faith bargaining: Section 8(d) of the Act states in part: "To bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession..."

Hiring Hall: Union's place of business where it receives employer requests for employees and refers workers to jobs.

House Visits, Homecalls and Housecalls: Terms used to describe visits by union staff, volunteers or employee organizing committee members to the homes of workers they are attempting to organize.

Impasse: Stalemate in bargaining negotiations that occurs when employer and union representatives have bargained to a point where neither is willing to make any concessions. Whether an impasse in bargaining exists "is a matter of judgment," the Board said in its 1967 decision in Taft Broadcasting Co. v. AFTRA, and depends on such factors as "bargaining history, the good faith of the parties in negotiations, the length of the negotiations, the importance of the issue or issues as to which there is disagreement, the contemporaneous understanding of the parties as to the state of negotiations."

Insulated Period: Sixty day-period immediately preceding the expiration of a collective bargaining

agreement when no representation petition may be filed. This is to give the employer and the incumbent union the opportunity to negotiate a new contract without rival claims for recognition. Compare Contract Bar.

Local Union: Group of organized employees holding a charter from a national or international labor organization. A local may be confined to union members in one company or one specified locality, or it may cover multiple contracts with various employers.

Lockout: Temporary shutdown of a plant by an employer to gain some bargaining concession or discourage union activity. In appropriate circumstances, an employer may lockout workers and hire temporary replacements to do their work.

Master Contract: A union contract covering several companies in one industry.

Most Favored Nation Clause: Clause in a collective bargaining agreement whereby the union agrees that if it signs a contract with another employer containing more favorable terms such terms will automatically apply to the present contract. Sometimes the term is applied where the union only agrees that it will not execute a contract with more favorable terms with another employer, or that the contract is reopened for negotiation if a more favorable clause is granted to another employer.

National Labor Relations Board (NLRB): Independent federal agency created by the National Labor Relations Act of 1935, and continued through subsequent amendment, whose functions are to define appropriate bargaining units, conduct hold elections to determine whether a majority of workers want to be represented by a specific union or no union, certify unions to represent employees, interpret and apply the Act's provisions prohibiting certain employer and union unfair practices, and otherwise to administer the provisions of the Act.

Neutrality Agreement: An employer agrees not to interfere in its employees' decisions about whether to join a union and the employees and union agree not to disrupt the workplace through strikes, picketing or boycotts.

No-Strike Clause: Provision in an agreement between a union and employer that the union will not engage in any strike or other economic activities against the employer; may include a ban on picketing and/or sympathy strikes. A no-strike clause in a collective bargaining agreement is considered the quid pro quo for an arbitration obligation.

NLRB Petition: Official NLRB form which must be filled out and filed with the NLRB to initiate the NLRA representation process.

Objections to Election: Either party to an NLRB-conducted election may file objections to conduct affecting the outcome of the election and seek a re-run election; objections must be filed within five working days of the election and must allege, as objectionable, conduct which occurred between the date of the petition filing and the date of the election.

Observers: Each party to an NLRB-conducted election may designate at least one non-supervisory employee to be present during the polling and act as an "observer."

Officers: Elected representatives of the union, such as president, vice president, secretary and treasurer.

Open Shop: A workplace in which employees do not have to belong to the union or pay dues to secure or retain employment in a company, even though there may be a collective bargaining agreement. The union is obligated by law to represent members and nonmembers equally regardless of whether it is in an open shop or a union shop.

Organizer (union or labor organizer): Employee of a union or federation (usually paid but sometimes a volunteer) whose duties include recruiting new members for the union, assisting in forming unions in nonunion companies, leading campaigns for recognition, etc.

Organizing Committee: The employees in a nonunion shop who are volunteer to assist in the organizing

campaign. Organizing committee members, among other things, sign up their co-workers on authorization cards or petitions, hand out leaflets, attend meetings and visit workers at home in support of the union effort.

Permanent Replacements: Under current labor law, when employees engage in an economic strike, the employer has the right to hire permanent replacements. After the strike has ended, if no back-to-work agreement is reached between the union and the employer, employees replaced during the strike are put on a preferential hiring list and must wait for openings to occur.

Piece Work: Pay by the number of units completed. The theory is that the faster you work, the more you will get paid. Many workers have learned that if they exceed a certain quota, the piece rate will be lowered.

Pre-Election Hearing: Hearing conducted by an NLRB Hearing Officer over the appropriateness of the unit or employee eligibility or other issues, prior to conducting an election, when the parties cannot reach an election agreement.

Primary Activity: Concerted action such as a strike or picketing directed against the employer with which the union has a dispute.

Primary Boycott: Action against an employer with which the union has a dispute with the object of preventing the use, purchase, or handling of the products or services of the employer.

Primary Employer: The employer with which the union has a labor dispute.

Protected Activity: Conduct of employees which neither an employer nor a union may interfere with. Section 7 of the Act lists protected employee rights. See also Unprotected Activity.

Question Concerning Representation (QCR): Question whether one or more unions represents a majority of employees in a bargaining unit.

Rank and File: The members of a union.

Ratification: Formal approval of a newly negotiated agreement by vote of the union members affected.

Representation Election (election): Election conducted to determine by a majority of the valid votes cast by the employees in an appropriate unit (see Bargaining unit) which, if any, union is desired as their representative. These elections usually are conducted by the National Labor Relations Board or by state labor relations agencies.

Recognition: When the employer agrees to recognize the union as the bargaining agent for employees.

Regional Director: The official in charge of an NLRB Regional Office. The Regional Director has the final say over most decisions that are made at the Regional level in both representation and unfair labor practice cases. Most decisions are appealable to the General Counsel's office at Headquarters.

Right-to-Work Laws: An anti-union term coined to describe state laws that make it illegal for a collective bargaining agreement to contain clauses requiring union membership as a condition of employment.

Runaway Shop: Closing a plant and reopening it somewhere else in order to avoid dealing with a union.

Scab: A derogatory term used for a person who refuses to respect a strike and crosses a picket line in order to work at the place that is on strike.

Secondary Activity: Action such as a strike, picketing, or boycott against an employer with which the union does not have a dispute (secondary employer) with an object of forcing that employer to stop doing business with the employer with which the union has a dispute (primary employer).

Secondary Employer: Employer who has no dispute with the union, a neutral, or an employer who cannot take the action which the union wants to use to accomplish its objective.

Seniority: A worker's length of service with the employer. Seniority often determines promotions, recall or transfers.

Servicing: The day-to-day enforcement of a union contract.

Shop Steward or Union Committeeman: A worker, typically elected, who officially represents other workers on the job, enforces the contract and helps people with grievances.

Showing of Interest: Dated signatures on union authorization cards or petitions which indicate that workers want to be represented by a union.

Slowdown: A reduction of output without an actual strike in order to force a concession from the employer.

Speed-up and Stretch-out: An increase in the amount of work an employee is expected to do without an increase in pay. The speed of the machines may be increased (speed-up) or the worker may be required to tend to a greater number of machines (stretch-out).

Steelworkers Trilogy: Three Supreme Court decisions which emphasized the importance of arbitration as an instrument of federal policy for resolving disputes between labor and management and cautioned the lower courts against usurping the functions of the arbitrator. See *Steelworkers v. Warrior & Gulf Navigation Co.*, 363 US 574 (1960); *Steelworkers v. American Manufacturing Co.*, 363 US 564, (1960); *United Steelworkers v. Enterprise Wheel & Car Corp.*, 363 US 593 (1960).

Stipulation by Consent Agreement (stip): An agreement between the employer and the union, which must be approved by the NLRB, that establishes the terms of the election and scope of the bargaining unit for an NLRB-conducted election.

Strike: Temporary stoppage of work by a group of employees (not necessarily members of a union) to express a grievance, enforce a demand for changes in the conditions of employment, obtain recognition, protest an unfair labor practice, or resolve a dispute with management. A wildcat strike is one not sanctioned by a union.

Supervisor: Individual who has the authority in the interest of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them adjust their grievances, or effectively to recommend such actions; the exercise of such authority must not be of a merely routine or clerical nature, but must require the use of independent judgment; supervisors are excluded from the NLRA. Involvement by supervisors in support of an organizing campaign can, in certain circumstances, invalidate an election.

Test of Cert. [Certification] Case: Process by which an employer can appeal an NLRB election decision. After the NLRB certifies the election results, the employer refuses to bargain and the union files an 8(a)(5) unfair labor practice charge alleging that the employer has refused to bargain; the NLRB issues a complaint and the Board decides on a motion for summary judgment; the Board's Order is appealed to a U.S. Court of Appeals, which considers the underlying representation issues in the course of deciding the refusal to bargain allegation.

Unfair Labor Practice (ULP): Action by either an employer or union that violates the provisions of national and state labor relations acts, such as refusal to bargain in good faith.

ULP Hearing: NLRB trial before an Administrative Law Judge of unfair labor practice allegations in an NLRB-issued complaint [following a determination by a Regional Director of reasonable cause to issue an unfair labor practice charge].

Unfair Labor Practice Strike: A strike caused, at least in part, by an employer's unfair labor practice. During an unfair labor practice strike, management may only hire temporary replacements, who must be

terminated at the end of a strike to allow the return to work of the strikers.

Unilateral Action or Change: Action taken by an employer or union without bargaining with the other party.

Union Dues: Monthly payment by members to their unions. The amount is set by either the constitution or bylaws, and is subject to revision by the membership. These regular payments are based on fixed amounts or upon the individual members hourly rate.

Union Label or Bug: A stamp or tag on a product or card in a store or shop to show that the work is done by union labor. The bug is the printers symbol.

Union Shop: Form of union security provided in the collective bargaining agreement that requires employees to belong to or pay dues to the union as a condition of employment inasmuch as they all receive the benefits of the collective bargaining and union representation.

Unprotected Activity: Any conduct for which employees may be discharged or disciplined by an employer which is not protected by the NLRA. For example, a "sit-down" strike is not protected because it consists of taking over the employer's property and preventing it from running the business; a partial strike is the refusal to do some but not all assigned work, such as the refusal to work overtime. An employee must either perform the work assigned [and file a grievance, if available] or strike. Performance of only some of the work assigned is a partial strike and is unprotected.

Volunteer Organizing Committee (VOC): Term sometimes used to describe union members who volunteer to perform certain activities during organizing campaigns. Volunteers may donate their time or be compensated for lost wages while they assist the campaign by visiting workers at their homes, leafleting and attending meetings.

Whipsaw Strike: A work stoppage against some, but not all employers in a multi-employer bargaining group. The purpose is to apply pressure to one or more employers in the group and obtain bargaining concessions from them. That agreement is then used by the union as a pattern to obtain similar terms from the other employers, one by one, by threatening to strike them.

Wildcat Strike: A work stoppage by employees which is not authorized by their union. The term may also refer to a strike in violation of a no-strike provision of collective bargaining agreement.

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