

Dear Employer:

Under current Board law you may not make unilateral changes after the date of the election without affording the union an opportunity to bargain. Any such unilateral changes would become unfair labor practices subject to the issuance of the Board's certification.

We recognize that many employers attempt to delay bargaining with the union by filing frivolous objections and other legal maneuvers. We intend to make it as expensive for you as possible and to impose the greatest risk upon you if you choose that unreasonable course.

We are, therefore, putting you on notice. We insist that from henceforth you make no unilateral changes with respect to the terms and conditions of employment of any employee in the bargaining unit without affording an opportunity to this union to bargain over the decision and effects of such change. The following is a list of those changes which we insist not be made without bargaining over the decision and the effects. The list is not inclusive but is simply illustrative of all those changes.

(1) No promotional position should be filled without bargaining; (2) No employee should have his/her hours changed without bargaining; (3) No employee should be warned, counseled, disciplined or terminated without bargaining; (4) No one should be hired without bargaining over the person who should fill the position; (5) No employee should be laid off without bargaining; (6) No health and welfare, pension or other fringe benefits should be denied without bargaining; (7) No positions outside the bargaining unit should be filled without bargaining over the question of transfer or promotion; (8) No work location, assignment, classification or any other aspect of employment should be changed without bargaining; (9) No discipline should be imposed without affording the employee the Weingarten rights which we hereby demand. (10) No changes in the method and manner by which work is being performed may be made without bargaining; (11) No introduction of any new work techniques without bargaining; (12) No subcontracting, closures, relocation or any changes in the workplace should be made without bargaining.¹

¹With respect to Weingarten rights, a separate paragraph should state:

We are demanding that you afford employees Weingarten rights. If you choose not to recognize the union, we will take the position that requesting such Weingarten rights by the individual employees would be futile and, therefore, unnecessary. Until we are able to sit down and bargain over having a union representative at the location such as a steward, we designate _____, who is a union business representative, to be the union representative. We understand that this may be sometimes inconvenient because

In considering this list you should consider the risk which you bear if you choose to make those changes without bargaining. If positions open in this unit or some other unit and you do not bargain over the filling of those positions we will argue that someone is entitled to back pay and you may end up paying back pay for a lengthy period of time. If you choose to promote one individual and refuse to bargain over the person who should be promoted, we will take the position that someone else is entitled to the additional pay. If you terminate someone without bargaining over the decision and the effects of that termination (or other discipline), we will take the position that you should reinstate the person and/or owe back pay. If you lay off any individuals we will take the position that you should have bargained over the decision as well as about the effects and you will owe back pay over those layoffs. It should be apparent that the economic penalty for refusing to bargain with the union forthwith may be severe.

Although we are reluctant to begin our relationship with these kinds of threats, it is sometimes necessary to make employers understand that there is a substantial economic penalty for delaying bargaining. We are hoping that you will not file objections and, rather, that you will sit down and bargain with the chosen representative of the employees.

We, of course, demand that if there are any wage increases or benefit increases which would have normally occurred without the union those should be implemented in the normal course of business. We insist, however, being notified in advance of any such changes so that we can bargain over those changes. Included in the bargaining will be most likely a demand that the wage increases or other benefit changes be better than otherwise proposed. Nonetheless, Board law requires these changes be put into place and furthermore requires that you afford the union a chance to bargain over those decisions as well as the effects of those decisions.

Please consider this letter to be a continuing demand.

Sincerely