

BASIC TRAINING FOR SUPERVISORS



UNION AVOIDANCE



UNIONS AND YOU: A SUPERVISOR'S PROBLEM?

Maybe the crew you supervise is a well-oiled machine. Everyone gets along and works hard. Discipline problems, absenteeism, and tardiness are rare occurrences, and nobody seems interested in bringing in a union. Or maybe the employees you supervise aren't the cream of the crop. Maybe you're constantly doling out discipline, and your employees are full of complaints. Or maybe your work group is a mixed bag — some are model workers and others are problem employees, some are happy and others are eager for the kind of change a union might bring.

As a supervisor of a nonunion shop, do you know your employees' attitudes concerning unions? Is a union making inroads that you're unaware of? Do you suspect that your employees are working behind the



scenes to bring in a union? And how much does it matter to you — the supervisor — whether a union is in or out?

You may not have the answers to all of those questions. But the answer to that last question is: It matters a lot.

Unions can launch an organizing campaign regardless of the overall workplace climate. But they're *far* more likely to garner

interest among employees if the workplace is rife with discontent. And dealing with discontent is a big part of your job as a supervisor. How effectively you handle that part of your job can make all the difference in the world to your employer and the employees you supervise.

This booklet, *Basic Training for Supervisors: Union Avoidance*, will guide you in your efforts toward achieving a harmonious and efficient workplace without the complications that unions can bring.

UNION BASICS

Union membership has seen declines in recent decades, but there are signs that it may be on the rise again. The latest figures from the U.S. Bureau of Labor Statistics (BLS) show that union members accounted for 12.4 percent of employed wage and salary workers in 2008. That's up slightly from 12.1 percent in 2007. Despite that small rise over the year, that 12 percent range is a significant drop from 1983, the first year for which comparable union data are available, when the union membership rate was 20.1 percent.

Is the economic slowdown a reason for 2008's growth in union membership? If so, will economic conditions make the trend continue? Will political efforts to create a more union-favorable environment see a payoff in Congress? Those questions are hard to answer, but the bottom line is, as a supervisor, you can't ignore the issue. You have to make sure you understand what your employees are thinking so you'll be prepared if change is on the way.

As a supervisor, you need to put yourself in your employees' shoes. Figure out what they think about the pros and cons of

joining a union. For one thing, they might like the strength in numbers that union representation would bring to negotiations over pay and benefits. They also might think favorably about a union looking out for their interests when they have grievances with the employer.

Of course, employees also would consider the downsides, such as the fact that they would be bound to abide by rules negotiated between the union and management regardless of their individual circumstances. Also, they'd be responsible for paying dues to the union. And they'd face the possibility of a strike if negotiations ever hit an impasse.

With all the issues that have to be considered about union representation, it's important for you, the supervisor, to know what you're up against. Here's a quick look at some of the union basics you need to keep in mind as a supervisor.

National Labor Relations Act (NLRA) — This federal law was passed in 1935. It extends rights to workers who wish to join unions and to workers already working under union representation. But that's not all. It's important to keep in mind that the Act also is meant to protect *nonunion* workers who join together as a group to better their pay and/or working conditions. Among the basic rights of employees, union or not, are:

- ◆ The right to organize;
- ◆ The right to form, join, or assist labor organizations;
- ◆ The right to collective bargaining — negotiating as a group with an employer to agree on pay and working conditions;
- ◆ The right to enter into “protected concerted activities” — meaning two or more employees working together to improve working conditions, wages, and benefits; and

- ◆ The right to refuse to take part in any of the above activities. The NLRA doesn't just protect unionized workers. It also speaks to an employee's right to stay out of a union. However, the Act also permits laws in force in some states that allow "union-security agreements" — agreements that require employees to make certain payments to the union in order to retain their jobs.

Employers also are extended rights under the Act since it prohibits unfair actions committed by labor organizations.

National Labor Relations Board (NLRB) — The Board is a federal agency created under the NLRA that has two main functions: (1) to determine through secret-ballot elections whether employees want to be represented by a union in dealing with their employers and, if so, by which union and (2) to prevent and remedy unlawful acts — unfair labor practices — by either employers or unions.

Collective bargaining — The NLRA requires employers and employee representatives (unions) to meet at reasonable times to confer in good faith about certain matters and put

What kind of shop am I in?

The NLRA allows certain arrangements that, at first glance, sound a little coercive in favor of union membership. For example, union-security agreements, also referred to as "fair share" arrangements, are allowed under the Act in states with laws to that effect. That means that laws in some states that require employees to pay at least some union dues are allowed under the NLRA. The reasoning is that employees who are in the bargaining unit benefit from the union's collective bargaining efforts and are therefore obligated to pay their share of the costs incurred by the union. However, non-member fees usually *cannot* be used for political or other activities not related to collective bargaining.

Some states have right-to-work laws, meaning that union membership or payment of any union dues cannot be a condition of employment.

into writing any agreement reached if requested by either party — a collective bargaining agreement. Bargaining is to be with respect to wages, hours, and other terms or conditions of employment, the negotiation of an agreement, or any question arising under an agreement. Bargaining obligations are imposed equally on the employer and the union, and it's an unfair labor practice for either party to refuse to bargain collectively with the other. The law does not require either party to agree to a proposal by the other or to make a concession to the other party.

Protected concerted activities — Employees have the right to work together to better their circumstances. That goes for nonunion as well as union workers. An example of protected concerted activity is when a group of employees speaks to management about improving working conditions. Supervisors need to think carefully about actions that might meet the definition of protected concerted activity.

For example, as a supervisor, you may be tempted to prohibit your employees from discussing pay rates among themselves. After all, it's nobody's business what another person makes, and talking about pay is likely to stir up trouble among employees who don't understand why some workers make more than others. If you're tempted to establish a "no talking about pay rule," you'd better think again. Two or more employees discussing pay or other workplace issues definitely meets the definition of protected concerted activity. Of course, there's no sanction in law for coercing employees to discuss their pay. You just can't force employees not to discuss it if they want.

Unfair labor practices — The NLRA outlines practices committed by the employer or a union that are considered unfair.

Some examples of unfair practices that may be committed by an **employer**:

- ◆ Threatening to fire employees if they join a union;
- ◆ Threatening to close a plant if employees decide to unionize;
- ◆ Questioning employees about union activities in ways that interfere with, restrain, or coerce employees in the exercise of their rights under the NLRA;
- ◆ Promising benefits to employees in exchange for them not supporting a union; and
- ◆ Transferring, laying off, or taking other adverse employment action because an employee engages in union or protected concerted activity.

The law also prohibits union practices considered unfair. Some examples of unfair practices that may be committed by a **union**:

- ◆ Telling employees they will lose their jobs unless they support the union;
- ◆ Refusing to process a grievance because an employee criticizes union officers;
- ◆ Fining employees who have validly resigned from a union for engaging in protected activity after their resignation;
- ◆ Seeking the dismissal of an employee for not complying with a union shop agreement when the employee has paid or offered to pay an initiation fee and dues;