

Guide to Labor Relations Law

in the United States

U.S. labor relations law protects workers' labor relations rights. The National Labor Relations Act (NLRA) guarantees covered employees the right to:

- form, join or assist labor organizations to organize the employees of an employer;
- bargain collectively through representatives of their own choosing;
- engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, typically to modify wages or working conditions;
- strike to secure better working conditions;
- refrain from union activity.

Am I covered?

The rights protected by the NLRA apply only to those workers who fall within the definition of an "employee." The definition excludes agricultural workers (e.g., farm workers), domestic workers (e.g., household workers), managers, supervisors, confidential employees, independent contractors, and employees covered by the Railway Labor Act.

Foreign workers, including undocumented workers (e.g., without a valid work permit), are generally entitled to the same protection under U.S. labor relations laws as other workers. However, certain remedies for unfair labor practices, such as reinstatement or back pay for work not performed, are not available under the NLRA to undocumented workers.



State labor relations laws and farm workers

Farm workers are excluded from the protection of the NLRA.

Some states have special laws that protect farm workers' rights to organize and bargain collectively.

These states are: Arizona, California, Florida, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Missouri, Nebraska, New Jersey, Oregon, Texas, Washington, Wisconsin, and Wyoming.

For more information, contact the department of labor in the state where you are working.

Do I have a constitutional right to be a union member?

The U.S. Constitution does not protect your right to form, join, or assist a union. However, all workers – including farm workers and household workers – have basic constitutional rights in the United States.

The Constitution of the United States protects your right to:

- freedom of assembly;
- freedom of association;
- freedom of speech.

What is a union?

A union is a group of employees who work together to:

- represent workers to the employer;
- negotiate collective bargaining agreements on wages, hours, and working conditions;
- make sure that the collective bargaining agreement is put into effect.

Workers can get union representation by organizing a majority of their coworkers to designate a union as their representative. They can then either persuade their employer to voluntarily recognize the union, or they can request the National Labor Relations Board (NLRB) to hold an election. The NLRB will conduct an election if at least 30 percent of the workers in the workplace show an interest in being in a union.



Employees thinking about starting a union can obtain information from the NLRB's Web site at www.nlr.gov or by contacting the nearest NLRB regional office.

Is it legal for my employer or my union to try to interfere with my rights under the NLRA?

The NLRA forbids employers to interfere with, restrain, or coerce covered employees in the exercise of rights relating to:

- organizing;
- forming, joining or assisting a labor organization for collective bargaining purposes;
- engaging in concerted activities; or
- refraining from any such activity.

Similarly, labor organizations may not restrain or coerce employees in the exercise of these rights. When an employer or a union violates a labor right of any employee covered by the NLRA, it is called an "unfair labor practice."

Examples of unfair labor practices that are prohibited by the NLRA

Employer violations

- Threatening employees with loss of jobs or benefits if they join or vote for a union or engage in protected concerted activity.
- Threatening to close the workplace if employees select a union to represent them.
- Questioning employees about their union sympathies or activities in circumstances that tend to interfere with, restrain or coerce employees in the exercise of their rights under the Act.
- Promising benefits to employees to discourage their union support.
- Transferring, laying off, terminating or assigning employees more difficult work tasks because they engaged in union or protected concerted activity.

Union violations

- Threatening employees with a loss of jobs or benefits unless they support the union's activities.
- Refusing to process a grievance because of a personal bias.
- Fining employees who have validly resigned from the union for engaging in protected activity following their resignation.
- Seeking the discharge of an employee for not complying with a union shop agreement, when the employee has paid or offered to pay a lawful initiation fee and periodic dues.
- Refusing referral or giving preference in a hiring hall on the basis of race or union activities.

Finally, if you are not a union member, but the collective bargaining agreement between the union and your employer requires you to pay the union a fee or dues, you have a right to pay only an amount based on the union's expenses for representational activities.

Contact your union or the NLRB for more information if you think that your labor rights have been violated.

Employers cannot retaliate against workers because workers used their labor rights.

"Retaliation" means changing your job, wages or hours or firing you because you have used your labor rights.

Employers CANNOT retaliate against workers for:

- using the protections of the law;
- participating in union activity;
- joining or starting a union;
- testifying against the employer.

If your employer has tried to retaliate against you for using your labor rights, contact the NLRB.

What do I do if my rights under the NLRA are violated?

You can file a charge with the NLRB against the employer or the union that you believe violated your rights.

The National Labor Relations Board (NLRB)

The NLRB hears unfair labor practice charges and conducts secret ballot elections.

To report unfair labor practices file an unfair labor practice charge with the appropriate NLRB regional office. An NLRB representative will investigate and listen to your case.

To get an election regarding union representation file a representation petition with the NLRB.

To locate the nearest NLRB office, visit the NLRB Web site at www.nlr.gov or call (202) 273-1991.

Does the union have any duties toward its members?

Union members have a set of membership rights that help the union run fairly.

Membership rights give union members the right to:

- be treated equally as members;
- speak freely in union affairs;
- vote on union dues;
- run for union offices;
- get a copy of the union constitution and bylaws;
- get a copy of the collective bargaining agreement;
- get union financial information;
- vote without being threatened;
- vote in an election that is run fairly;
- sue the union.

Membership rights violations

If your union violates one of your membership rights, contact the United States Department of Labor.

United States Department of Labor
Office of Labor-Management Standards
200 Constitution Avenue, NW Room N-5119
Washington, DC 20210
Tel: (202) 693-0143
Toll free: 1-866-4-USA-DOL
E-mail: olms_mail@dol.esa.gov

Grievances

Most collective bargaining agreements include a grievance procedure, allowing a union to discuss and attempt to resolve employee work problems with the employer. Because each agreement has a specific grievance procedure, you should contact your union representative for more information on the procedure at your workplace.

Federal Mediation and Conciliation Service (FMCS)

The FMCS provides mediation services free of charge to resolve workplace grievances when requested by both the employer and the union. Individual employees who are not represented by a union may also request mediation services directly from the FMCS, but in that case, the parties to the dispute (that is, the worker and/or the employer) are responsible for covering the costs of the mediation.

Federal Mediation and Conciliation Service
2100 K Street, N.W.
Washington, DC 20427
Tel: (202) 606-8100



Commission for Labor Cooperation