

**LABOR RELATIONS**  
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In the *early years of US history*, there was no legislative framework to manage labor relations. In general, *employers* did not want their employees to form unions. Many of them *vigorously resisted unionization*. Prior to the New Deal, unions were not very successful in forming in rail, coal, steel and most other industries.

*Unions did form in many of the crafts*. Craft workers were hard to replace. *The work performed was also necessary, so wage increases could be passed on in the form of higher prices to customers*. There was no election or negotiation process. The union would post the desired wage rate on the wall and strike if it was not met. In the 1880s, the craft unions formed the American Federation of Labor (AFL).

*Employer resistance took many forms*. Employee leaders were often *fired*. The names of troublemakers were circulated to other employers on what became known as a "*blacklist*." *Threats* were frequently made to scare people. *Private detectives* were often hired in large numbers (e.g. Pinkerton and Baldwin-Felts agents). Pro-union employees were *spied upon*. Some were followed, *beaten* and *killed*. *Strikebreakers* were commonly used to continue operations. The *Sherman Anti-trust Act, 1890* was employed against unions to break strikes and boycotts. Injunctions could be obtained and triple damages might be assessed for interfering with interstate commerce. Many employers asked new employees to sign a document upon joining the company stating they would not join a union. These were later called "*yellow dog contracts*." If the signers did join a union and struck, they might *be evicted from company housing*. Starting in 1914, some employers tried a new method. If their employees wanted a union, they would be given one, a "*company union*." This was a union the company controlled.

During WWI, the federal government encouraged companies to establish Personnel departments. Employers were very successful in resisting unionization during the 1920s. This has been termed the "Open Shop movement." This was one of the top priorities for the new Personnel departments. After the communist revolution in Russia, some American employers adopted what was known as the "*American Plan*." This referred to a *propaganda campaign to tar unions as communistic and un-American*.

In 1926, *The Railway Labor Act* was passed. This was aimed at creating a structure for peacefully handling labor relations issues. The Great Depression brought many capitalistic reforms. These are often called the "New Deal." In 1932, *the Norris-LaGuardia Act made yellow dog contracts unenforceable and it became far harder to enjoin a strike*. In 1933, Franklin Roosevelt supported the *National Industrial Recovery Act*. It was thought "ruinous competition" had created problems in many viable industries. Employers were offered a deal under this act. They could coordinate with one another and fix prices in exchange for abiding by other progressive parts of the law. These other provisions provided for among other things a minimum wage, voluntary union recognition and a labor board. One problem was this labor board had no real teeth if the law was violated. *The Supreme Court struck this law down as unconstitutional*.

Roosevelt persisted. In 1935, *the National Labor Relations Act (NLRA or Wagner Act)* was passed. The Supreme Court upheld this law. *The National Labor*

***Relations Board (NLRB) was created.*** The NLRB has two major responsibilities: namely, supervising union representation elections and hearing unfair labor practice cases. The NLRB consists of five members. These members are appointed by the President and reviewed by the Senate. The NLRB has numerous regional offices that report to them. A NLRB representative will conduct a secret ballot vote and certify the results. The NLRA created ***five employer unfair labor practices (ULPs)***. It is a ULP to “interfere, with, restrain or coerce employees” in exercising their right to self-organization. It is a ULP for company representatives to dominate or interfere with the formation or administration of a union. It is a ULP for an employer to discriminate in any way against employees for exercising their NLRA rights. It is a ULP to discriminate against employees who serve as a witness and testify under the act. It is also a ULP for an employer to refuse to bargain collectively with the employees’ duly chosen representatives. This means employers among other things may no longer fire union organizers, threaten people, spy on them, provide bribes, close facilities in retaliation for organizing, form company unions and refuse to bargain in good faith.

The AFL established the Committee on Industrial Organization to explore the possibility of organizing industry. ***In 1935***, the delegates at the convention voted against doing so. ***A group broke away to form a competitive organization called the Congress of Industrial Organizations (CIO)***. The AFL decided to compete with the CIO in organizing industry. Sitdown strikes were effectively used to organize many rubber and auto plants, before the Supreme Court ruled them to be illegal (trespassing). After some of the competitive leaders died, ***the AFL and CIO merged in 1955***. This was the high point for union membership as a percentage of the working population at 34%. It has declined over time to only about 12.4% today. Unions, however, are doing very well organizing government bodies and represent roughly 40% today (Dessler, 2011: 263).

***During WWII***, wage and price controls were put in place. A ***War Labor Board*** was created to deal with labor disputes. Representatives would both mediate and arbitrate to avoid work interruptions. Nevertheless, some strikes took place. After the war, a tremendous wave of strikes took place. Public sentiment changed. Many felt unions had become too powerful and some legal changes were necessary.

***In 1947, the Labor Management Relations Act (the Taft-Hartley Act)*** was passed, amending the NLRA. A series of ***union ULPs*** was created. For example, it was a ULP for a union to restrain or coerce employees, discriminate against them or refuse to bargain in good faith. The ***Federal Mediation and Conciliation Service (FMCS)*** was created. Experienced neutrals were made available to help resolve difficult negotiations. Both sides must agree on introducing a mediator and either may eject him/her at any time. ***Supervisors were excluded from joining unions. Communists were no longer eligible to hold union offices. The closed shop was prohibited***, except in a few specified places ***The Right-to-Work (RTW)*** was created. This meant people were free to join or not join a union and pay dues after the union won an election. There are currently 23 RTW states (Dessler, 2011: 264). In ***union shop*** states, employees are ***generally required to pay dues after a period such as 30 days***. Under an ***agency shop***, one must pay for the services of a union, but one need not become a member. Like the union shop, this can be ruled out in RTW states. ***National emergency strike provisions*** were put in place that could interrupt a strike for up to 80 days.

Televised Senate McClellan hearings (1957-59) were held on crime and corruption in unions. The AFL-CIO tried to lessen the likelihood of new legislation by cleaning up several unions and expelling some others that would not reform. **In 1959, the Labor Management Reporting and Disclosure Act (the Landrum-Griffin Act)** was passed. This provided for *financial reports* to the Department of Labor and provided the federal government with *audit power*. Minimum *time frames for both local and national secret ballot elections* were set forth (3 and 5 years). An *open nomination period* must be held. It was required that *copies of the union contract* be made available to each employee. *No member could be fined or suspended without due process*.

In 2001, a group of unions broke away from the AFL-CIO to form *Change to Win* (Dessler, 2011: 265). The leaders of this group wanted less money to be spent on central union staff and political lobbying efforts and more to be devoted to organizing.

The *Employee Free Choice Act* has periodically been considered in recent years (Dessler, 2011: 284). There are different versions of this proposal. One change would be to *allow unions to be recognized off a representation card majority*, rather than hold the current secret ballot election. *Stiffer penalties for ULPs* are provided for, such as *double back pay with no deductions for other earnings*. Further, *if a new contract is not agreed upon* within a specified period of time, *an arbitrator may settle the issues*.

## Union Organizing Campaigns

*In most of situations, union organizers are invited to come by unhappy employees. "Salting" refers to a person paid by the union taking a job with a company specifically to start an organizing campaign.* Employers try to screen these applicants out. This is legal and once hired the person has ULP protections (Dessler, 2011: 270). *Most organizers who are staff members of a union operate from outside the company.*

An *organizing committee* consisting of employees from the various units or departments will be formed to run the campaign. The people from the various units will be asked to *contact people one-on-one*. This is the most effective way to listen to employee concerns, feel them out and try to get people to sign representation cards. A computer database may be used to track whom has been contacted, their issues, their sympathies and whether they have signed a card. Other means, such as flyers, e-mails and group meetings (rallies) can be employed.

*In order to have an election scheduled, 30% of the employees must sign union representation cards.* Once an employer becomes aware of a union organizing effort, a counter campaign is often mounted and some union support is lost. Many organizers aim to obtain support from more than the 30% required to get an election. Obtaining support from 55-60% could be made a target to heighten the chance of victory.

Once an election date is set, a campaign period takes place. *The union must be given a list of the employees' names and addresses* (the NLRB Excelsior list). If an employer has a "*no solicitation rule*," access to the employees at work may be restricted. If other groups are allowed to post things on the bulletin boards, send e-mails or schedule meeting rooms, then the union can do likewise. If not, the union may also be kept out. Employers may hold "captive audience meetings" on paid work time. However, there is a "*24 hour rule*" forbidding a captive audience meeting on the day before the election.