

# Beware of Union Busting Propaganda

**Union Busters**

BEWARE OF THIS  
DIRTY RAT!



Union Busters make hundreds of thousands of dollars a year, sometimes in a single campaign.



THEY ARE NEVER SEEN,  
ONLY HEARD!

Once you decide to unionize, Management will hire a Union Buster whose sole job is to convince you to vote no.

**Take a Closer Look  
How Management Responds  
to Union Campaigns**

## Responding to a Union Organizing Campaign:

*(General Guidelines)*

### 1. Written or Oral Communication to Employees

There is no rule of law preventing the Company from communicating to its employees its views concerning a labor union. However, you must be careful as to what you say and the circumstances under which you say it. The following are the most important things to remember.

a. You must not directly or indirectly promise any benefits or reward employees if they will refuse to sign a union card, stay out of the union, or vote against the union. For example, you may not promise employees a wage increase if they will decline to sign up with the union or will vote against the union. Such an inducement is unlawful. It is equally unlawful to offer any inducement to employees in order to encourage them to withdraw or repudiate union authorization cards.

b. You must not threaten employees with harm or reprisals (economic or otherwise) if they decide to sign a union card, join, or vote for the union. As an example, you may not threaten to close down your Company if the union wins an election or gets into your Company.

c. You should not ask any employee whether or not he or she favors the union, has signed a union card, or has gone to a union meeting. The NLRB thinks these are improper questions. In fact, you should not question an employee at all about his or her own or other employee's attitudes or activities relating to the union.

d. You may not solicit grievances about working conditions while expressly or impliedly promising corrections. It is not unlawful to ask employees about their grievances or suggestions for improving conditions. It is unlawful to promise an improvement. You should stay within the bounds of your established grievance procedure and inform employees that you cannot make promises concerning the grievances raised.

### 2. Communications to Employees - Unfair Labor Practice Proceedings As Distinguished from Election Proceeding

In connection with what we have said above, you have to keep in mind a distinction between unfair labor practice proceedings and representation proceedings which might be held by the NLRB. A representation proceeding has as its purpose determining whether or not a group of employees wishes to have union representation. A representation proceeding usually results in the NLRB holding an election among the employees in the bargaining unit. An unfair labor practice proceeding involves a claim that a party (typically the employer) engaged in unlawful discrimination, restraint, interference or coercion of employees in violation of the National Labor Relations Act.

If you violate the rules I have mentioned above, you may get into trouble in both unfair labor practice proceedings and a representation case. The Board considers violation of the above rules to be an unfair labor practice and the Board might even order your Company to bargain with the union without any election if the misconduct is so egregious and pervasive as to preclude the holding of a fair election. However, there is a further consequence. If an election has been held and the employees have voted against the union, the election results will be thrown out if you have violated the above rules and again a bargaining order, rather than a new election, could result if there are enough serious violations to preclude a fair election.

In connection with election cases, there is another problem on which it is impossible to give you any precise advice or formula. The NLRB takes the position that elections should be held under "laboratory conditions" so that a fair result is obtained. You may not violate any of the above rules and you may have committed no unfair labor practice, but if the NLRB decided that you have said something or done something which destroys the laboratory conditions under which they feel the election should be held, they will throw out the results of the election. Even though you violate no law, the election results can be thrown out if you do something that they think is inequitable or unfair or unduly affect the employees. For these reasons, it is important to be fair and as careful as possible in any communications made to employees when election campaign is on.

## 3. Supervisors

If an unfair labor practice is committed in a union organizational campaign or if election results are thrown out, it frequently results from an act of supervisors rather than from top management. The company is responsible for anything a supervisor says or does even though his or her action may be unauthorized and unknown to you. Therefore, in any campaign it is important to educate your supervisors on what they may or may not say or do. To be completely safe, it is best to keep lower level supervisors away from union matters as much as possible. The fewer people that have anything to say or do concerning the union, the easier it is to avoid violation of the law. However, it may be necessary to involve lower level supervisors in your election campaign in order to win. If so, insist that they act carefully.

## 4. Employees Engaged in Union Activity

I doubt that I need to say this, but I will mention it in passing just to make sure it is not forgotten. It is the right of each of your employees to sign or not sign a union card, favor or not favor a union and vote for or against the union as he or she sees fit. Therefore, you may not discharge or otherwise discriminate against any employee because he or she favors or votes for or signs a union card. I am sure you would not consciously violate this rule, but there is one practical consequence which you must remember. As soon as you become aware of an organizational campaign, you must be very careful concerning all discharges or other discipline and that the cause is completely unrelated to any union consideration. It is very embarrassing to an employer to discharge an employee for a borderline reason and then find out that he or she was the leading union adherent in the Company. The NLRB is very suspicious in such circumstances that the discharge was, in fact, based upon union considerations. Such unlawful discharges are examples of some of the conduct that might result in a bargaining order.

## 5. Non-Employee Union Organizers on Company Premises

You have no duty under the current law to allow union organizers to come on your premises in an organizational campaign if they are not employees. However, there is an exception to this rule. You may not discriminate against union organizers as against other types of solicitors. If you allow other non-employee solicitors to come on your premises to contact employees (such as representatives of charitable organizations or salesmen), you cannot discriminate and keep union organizers out. You must have the same rule for all.

## 6. Union Activity by Employees

You may not have a blanket rule for all union activity on your premises. Such a rule is per se unlawful. However, working time is for work. You have an absolute right to insist that employees do not engage in union activity during their working time, but again, you must not discriminate. You cannot permit those who are against the union to campaign or propagandize during working time and block those who favor the union from doing so. You must have the same rule for all. The rule should be that during “working time” employees should not engage in any union activity, either for or against. Employees must be informed that “working time” does not include meals and break periods.

However, during their free time (lunch periods, coffee breaks, and so forth) you may not prevent employees from engaging in union activity on your premises. They should not bother employees who are working, but you cannot stop them from talking about the union on their own free time.

Sometimes union literature being passed out on your premises by employees creates a litter problem. If this happens, you are entitled to make a reasonable rule. However, you should not assume in advance that a litter problem will occur and establish a blanket rule forbidding the passing out of union literature on your premises by employees. You can lawfully prohibit employee distribution of union literature in work areas at any time provided the rule covers and is uniformly applied against nonunion and antiunion literature, as well as union literature. But remember, employees can be prohibited from soliciting only during working time. According to the NLRB, handing out union authorization cards is a form of “soliciting” rather than “distribution.”



It's the Law



## 7. Changes in Wages or Fringe Benefits During a Union Organizational Campaign

After you have conscious knowledge that there is an organizational campaign going on, you should not make changes in wages or fringe benefits for the purpose of influencing the election or the outcome of the organizational campaign.

What you may or may not do will depend on the particular circumstances. For example, you should not give any new unprecedented general wage increase until the election has been held and the results decided. On the other hand, if the union were just trying to sign up your employees and the organizational drive continued over a long time, you cannot be expected to hold off changes in wages and fringe benefits for an unreasonable period of time. Generally speaking, the NLRB will look at the entire factual situation in each case to see whether the changes in wages or fringe benefits have been made for the purpose of influencing the results of the election of the organizational campaign. As another example, if you have a regular annual program of giving wage increases or merit increases at a certain time or if a general increase has been previously announced to be given at a certain date, you can properly continue to place the increase into effect even though the union is trying to organize your employees. What you can or cannot do in this situation will depend upon the facts at the particular time.

## 8. Card Checks

One of the ways in which a union gets representation rights is through an NLRB election. However, it is not the only way. Under the law, if a union has signed up a majority of your employees and has the cards to prove it, you may not refuse to recognize the union if you have not good faith doubt as to the unions' representation status and if you have committed serious unfair labor practices. More and more unions are trying to get representation rights through this back door method. Instead of seeking an election, they sign up the employees and present the cards to the employer, and if he refuses to recognize the union, they will file an unfair labor practice charge against the employer. The Company does not have to file a petition for election when refusing to recognize a union under these circumstances, but the Company must avoid the unlawful threats, promises, interrogations, discharges, etc., discussed above and must further avoid acknowledging

the accuracy of the union claim either by personal verification or verification by an impartial third party.

The most important thing to remember is that if any union requests recognition based on cards it claims to have, do not look at the cards, and immediately state that you doubt in good faith that the union represents an uncoerced majority of your employees in an appropriate unit, that you further doubt the validity of cards as an accurate expression of employee's desires, and refer the union to me.

### Specific Do's and Don'ts

It is extremely important in any pre-election period that you and your supervisors and other management personnel know what you can and cannot say on the issues. Of particular importance at the inception of the campaign though, are the "don'ts" which should help keep your supervisors from committing unfair labor practices and objectionable conduct which could jeopardize the outcome of an NLRB election.

### Employer Can

Tell you employees that the Company prefers to remain nonunion and that you would like them to vote "NO."

Tell your workers that they are free to support the union or not, as they see fit, but you hope they vote against it.

Emphasize that you are not asking about their union views or activities, but that you need and want their support.

Inform them that if they become members of the union, they will have to pay monthly dues to the union, as well as possible fees, fines and assessments.

## Employer Can (cont'd)

Answer employees' questions about Company policies and discuss the campaign issues, providing you don't threaten reprisals, promise benefits, interrogate them about their union views, or misrepresent NLRB processes.

Assure them that union or no union, management is going to continue to try to make the Company a good place to work.

Tell the workers that there is no reason to think that past progress in wages and working conditions will stop if there is no union. To keep competitive, the Company must continue moving ahead, union or no union.

Refer to the union's financial reports (which we can provide to you) and tell employees that if they become union members, much of their dues will be going to pay the salaries and expenses accounts of union officials.

Point out provisions in the union's constitution and bylaws (which we can also furnish) which are disadvantageous to the employees, such as punishable union offenses, union trials and provisions for suspension, expulsion, fines and assessments by the union.

Advise the employees that if they become union members, they will have to obey all the union rules found in the union constitution and bylaws.

State that the Company prefers to continue to deal directly with its employees, without intervention by an outside union that has no real interest in the success of the business.

Tell the employees that if they select a paid agent to represent them (the union), the Company will probably have to hire lawyers or other experts to represent the Company. This will be an expense to both of you, and you would rather iron out problems with the employees directly while both of you keep your money.

Answer questions from antiunion employees about what they can do to oppose the union, by telling them of their legal right to actively campaign against the union, provided they observe the same rules imposed on the other employees. However, the Company is prohibited by law from giving them aid, advice or financial assistance.

Say that the Company will recognize the union and bargain in good faith if there is a valid NLRB Certification which requires you to do so, but that any improvements in wages and benefits are "negotiable" and not automatic, as the union might suggest.

Tell the employees you would bargain with the union in good faith and do everything humanly possible to avoid strikes; but if the union called an economic strike, the Company would have the legal right to hire permanent replacements for such strikers.

Point out the indirect costs of unionization that you want to avoid: executive time spent in bargaining sessions; working time of employees spent on union business; cost of hiring lawyers and other labor relations experts. Money spent for such costs obviously cannot go to the employees in higher wages.

Listen sympathetically to employee problems and grievances, but carefully refrain from making promises of new benefits during the union campaign.

Enforce lawful no-solicitation, distribution and access rules without discrimination between pro-union, antiunion and nonunion activity.

Immediately report any union threats or intimidation of employees. Charges can then be filed with the NLRB if the coercion is substantiated.

Administer appropriate disciplinary action for any employee threatening or coercing other employees, whether for or against the union.

Say that employees who join unions have to obey the orders of union officials, within the scope of their authority, and this means the employees end up with two "bosses" instead of one.

Request union officials to leave the Company's property where you have a lawful nondiscriminatory no-solicitation, no-access, etc. rule which is also applied against non-employee solicitors who are not connected with a union. Escort them off the property. Call the police to have them removed if necessary. However, this should be a last resort because you should avoid confrontations.

## Employer Can (cont'd)

State that under most union contracts, employees are expected to take their grievances up through union stewards or agents and not to management directly. The union can usually veto the grievance somewhere along the line. Without a union, employees can take their problems as far up as they have the fortitude to go, and no union official can turn thumbs down on their right to go to management.

Remind employees that every person put between you and the person you are trying to talk to makes it more difficult to get your point across. Why not dispense with the middleman and talk directly with each other?

Explain to employees all of the benefits they presently enjoy. Where these benefits compare favorably with the term of the union's contract, be sure to emphasize that fact.

Remind employees that the union can fine members who cross union picket lines, that the union can sue in court to collect the fines, and that judgments for union fines are enforceable through garnishment and attachment, just like any other court judgment.

Tell employees that signing a union authorization card does not commit them to vote for the union in an NLRB election.

Inform employees that during the 12 months following certification of an NLRB election which is won by a union, the employees cannot vote the union out in another NLRB election, and if a contract is signed during this period it acts as a bar to decertifying the union for up to three more years.

Tell employees about any bad experiences you personally have had with unions, but be factual and assure them you are not saying that such things should necessarily occur here.

Refute any untruths in the union's propaganda.

Emphasize that your employees are free to vote against, oppose, or join or support unions or not, entirely as they see fit. The Company will not favor or discriminate against employees whatever their views.

Tell the employees that you respect their right to do as they wish, but you personally prefer not to have a union at your Company, and you hope they will reject the union.

Tell employees that there will be no automatic pay increases, no automatic improvements in fringe benefits and no automatic union contract if the union wins an election. Everything will depend on what happens in collective bargaining negotiations.

Tell employees that the Company does not have to agree on a contract or on any certain pay or benefits just because some other company has agreed to them.

## Employer Cannot

Fire, reprimand, assign to less desirable jobs or otherwise prejudice the employment status of a worker because of his or her union views or sympathies (or because he or she complains about working conditions.)

Threaten employees in any way to deter them from union activity.

Retaliate against employees who file NLRB charges or give testimony to the NLRB.

Say you will close down the Company or move it to another location if your employees vote for the union.

Cut out employee privileges, suddenly crack down on tardiness or absenteeism, institute tougher work rules or otherwise attempt to punish employees for union activity.

Question employees about their union views, activities or sympathies.

Question employees about the causes of their dissatisfaction and expressly or impliedly promise to make corrections.

Ask an employee if he or she has signed a union "authorization card" or attended a union meeting, if he or she intends to, whether other employees have or why anyone has done so.

Employer Cannot (cont'd)

Interrogate an employee as to how he or she is going to vote in an NLRB election.

Promise or grant employees pay increases or new benefits during a union drive for the purpose of making unionization less attractive to them.

Engage in spying on employees concerning their union activities. (For example, stand or park outside a union meeting place.)

Give workers the impression you are engaging in spying on their union activities.

Enforce Company rules strictly against union supporters, while being lenient toward pro-Company employees.

Connive to make a union supporter quit his job by purposely assigning him undesirable work, or by deliberately imposing intolerable conditions on his employment so that he is pressured into quitting.

Visit employees at their homes to systematically solicit their support against the union.

Sponsor or circulate an anti-union petition among the employees.

Take a poll of employees to see what their views are concerning unionization.

Interview employees in your office one at a time or in small groups concerning their union views or opinions.

Hold election campaign meetings with groups of employees on Company time during the 24 hours immediately preceding the opening the NLRB election polls.

Solicit or assist employees in revoking authorization cards or in resigning from the union.

State flatly that you will never bargain with the union.

Say that before you will have a union at the Company you will move, shut down or go out of business.

Tell employees that you will definitely never grant the union's demands and that there will definitely be a strike.

Prevent employees from talking with each other about the union, handing out or signing union cards during their non-work free time, including before and after work, at lunch or during break times.

Prohibit employees from passing out union literature in nonworking areas on their own non-work free time.

Distribute to employees or make available anti-union buttons for employees to wear (although employees are free to make and distribute their own.)

Stress the inevitability of strikes and incessantly dwell on the probability of violence and personal injury, particularly where the information you mention relates to a different union than the one seeking support from your employees.

Base your campaign overwhelmingly on an emotional appeal rooted in racial prejudice.

Misrepresent material facts in the campaign so closely before an election that the union does not have time to reply.

Misrepresent NLRB processes or procedures.

Promise or give employees special favors for influencing other employees against the union.

Use third parties in the community to threaten employees or coerce them because of their union activities.

Carry out necessary layoffs in such a manner as to deliberately weed out union supporters.

Question employment applicants as to whether they are or have been union members.

## In Conclusion

The lists herein do not purport to be exhaustive or all-inclusive, but hopefully cover many of the more common situations and questions that may arise.

If you are confronted with a problem for which you do not have the answer, do not hesitate to call me. Needless to say, you should not answer any questions if you are unsure of the answer.

Simply tell the questioner honestly, that you do not know, but that is a very good question, that you will find out the answer, and get back to him. Be sure to give the questioner an answer after you discuss it with us.

We are more than glad to talk with you as any situation arises, as the organizing campaign proceeds. Feel free to either call our office at 800-228-7492 or e-mail me, Steve Maritas, at SPFPAUNIONYES1@aol.com. You can also contact us on our website [www.SPFPA.org](http://www.SPFPA.org).

You Do Not Have to Fear  
When You Know What to Expect!



Vote YES