

26.3: Reading- Collective Bargaining

The Process of Collective Bargaining

When employees of an organization vote to unionize, the process for collective bargaining begins. Collective bargaining is the process of negotiations between the company and representatives of the union. The goal is for management and the union to reach a contract agreement, which is put into place for a specified period of time. Once this time is up, a new contract is negotiated. In this section, we will discuss the components of the collective bargaining agreement.

In any bargaining agreement, certain management rights are not negotiable, including the right to manage and operate the business, hire, promote, or discharge employees. However, in the negotiated agreement there may be a process outlined by the union for how these processes should work. Management rights also include the ability of the organization to direct the work of the employees and to establish operational policies. As an HR professional sits at the bargaining table, it is important to be strategic in the process and tie the strategic plan with the concessions the organization is willing to make and the concessions the organization will not make.

Another important point in the collective bargaining process is the aspect of union security. Obviously, it is in the union's best interest to collect dues from members and recruit as many new members as possible. In the contract, a checkoff provision may be negotiated. This provision occurs when the employer, on behalf of the union, automatically deducts dues from union members' paychecks. This ensures that a steady stream of dues is paid to the union.

To recruit new members, the union may require something called a union shop. A union shop requires a person to join the union within a certain time period of joining the organization. In right-to-work states a union shop may be illegal. Twenty-two states have passed right-to-work laws, as you can see below in Figure 5, "Map of Right-to-Work States." These laws prohibit a requirement to join a union or pay dues and fees to a union. To get around these laws, agency shops were created. An agency shop is similar to a union shop in that workers do not have to join the union but still must pay union dues. Agency shop union fees are known as agency fees and may be illegal in right-to-work states. A closed shop used to be a mechanism for a steady flow of membership. In this arrangement, a person must be a union member to be hired. This, however, was made illegal under the Taft-Hartley Act. According to a study by CNBC, all twenty-two right-to-work states are in the top twenty-five states for having the best workforces ("[Best Workforces Are in Right to Work States](#)," Redstate, June 30, 2011, accessed August 14, 2011). However, according to the AFL-CIO, the average worker in a right-to-work state makes \$5,333 less per year than other workers ("[Right to Work for Less](#)," AFL-CIO, accessed August 14, 2011).

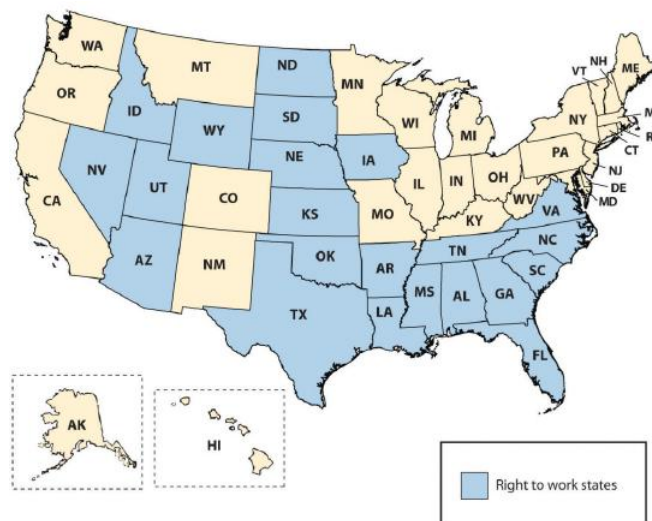


Figure 26.3.1: Map of Right-to-Work States

In a collective bargaining process, both parties are legally bound to bargain in good faith. This means they have a mutual obligation to participate actively in the deliberations and indicate a desire to find a basis for agreement. There are three main classification of bargaining topics: mandatory, permissive, and illegal. Wages, health and safety, management rights, work conditions, and benefits fall into the mandatory category. Permissive topics are those that are not required but may be brought up during the process. An example might include the requirement of drug testing for candidates or the required tools that must be provided to the employee to

perform the job, such as a cellular phone or computer. It is important to note that while management is not required by labor laws to bargain on these issues, refusing to do so could affect employee morale. We can also classify bargaining issues as illegal topics, which obviously cannot be discussed. These types of illegal issues may be of a discriminatory nature or anything that would be considered illegal outside the agreement.

Examples of Bargaining Topics

- Pay rate and structure
- Health benefits
- Incentive programs
- Job classification
- Performance assessment procedure
- Vacation time and sick leave
- Health plans
- Layoff procedures
- Seniority
- Training process
- Severance pay
- Tools provided to employees
- Process for new applicants

The collective bargaining process has five main steps; we will discuss each of these steps next. The first step is the preparation of both parties. The negotiation team should consist of individuals with knowledge of the organization and the skills to be an effective negotiator. An understanding of the working conditions and dissatisfaction with working conditions is an important part of this preparation step. Establishing objectives for the negotiation and reviewing the old contract are key components to this step. The management team should also prepare and anticipate union demands, to better prepare for compromises.

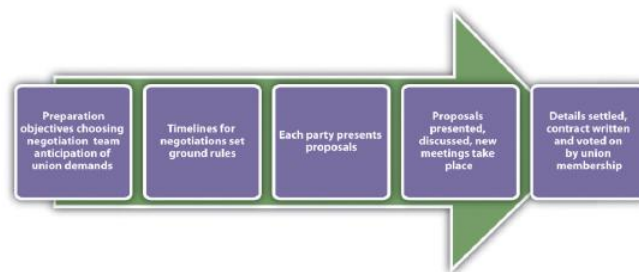


Figure 26.3.2: Steps in Collective Bargaining

The second step of the process involves both parties agreeing on how the time lines will be set for the negotiations. In addition, setting ground rules for how the negotiation will occur is an important step, as it lays the foundation for the work to come.

In the third step, each party comes to the table with proposals. It will likely involve initial opening statements and options that exist to resolve any situations that exist. The key to a successful proposal is to come to the table with a “let’s make this work” attitude. An initial discussion is had and then each party generally goes back to determine which requests it can honor and which it can’t. At this point, another meeting is generally set up to continue further discussion.

Once the group comes to an agreement or settlement (which may take many months and proposals), a new contract is written and the union members vote on whether to accept the agreement. If the union doesn’t agree, then the process begins all over again.

Ramifications of a Bargaining Impasse

When the two parties are unable to reach consensus on the collective bargaining agreement, this is called a bargaining impasse. Various kinds of strikes are used to show the displeasure of workers regarding a bargaining impasse. An economic strike is a strike stemming from unhappiness about the economic conditions during contract negotiations. For example, 45,000 Verizon workers rallied in the summer of 2011 when contract negotiations failed (Dan Goldberg, “Verizon Strike Could Last Months,” *New Jersey News*, August 7, 2011). The two unions, Communications Workers of America and the International Brotherhood of Electric Workers, claim that the new contract is unfair, as it asks Verizon workers to contribute more to health plans, and the company is

also looking to freeze pensions at the end of the year and reduce sick time (Dan Goldberg, “[Verizon Strike Could Last Months](#),” *New Jersey News*, August 7, 2011). Verizon says the telecommunications business is changing, and it cannot afford these expenses.

An unfair labor practices strike can happen during negotiations. The goal of an unfair labor practices strike is to get the organization to cease committing what the union believes to be an unfair labor practice. A bargaining impasse could mean the union goes on strike or a lockout occurs. The goal of a lockout, which prevents workers from working, is to put pressure on the union to accept the contract. A lockout can only be legally conducted when the existing collective bargaining agreement has expired and there is truly an impasse in contract negotiations. In summer 2011, the National Basketball Association locked out players when the collective bargaining agreement expired, jeopardizing the 2011–12 season while putting pressure on the players to accept the agreement (Steve Kyler, “[Division among Owners?](#)” *Hoops World*, August 8, 2011, accessed August 15, 2011). Similarly, the goal of a strike is to put pressure on the organization to accept the proposed contract. Some organizations will impose a lockout if workers engage in slowdowns, an intentional reduction in productivity. Some unions will engage in a slowdown instead of a strike, because the workers still earn pay, while in a strike they do not.

A sick-out is when members of a union call in sick, which may be illegal since they are using allotted time, while a walk-out is an unannounced refusal to perform work. However, this type of tactic may be illegal if the conduct is irresponsible or indefensible, according to a judge. Jurisdictional strikes are used to put pressure on an employer to assign work to members of one union versus another (if there are two unions within the same organization) or to put pressure on management to recognize one union representation when it currently recognizes another. The goal of a sick-out strike is to show the organization how unproductive the company would be if the workers did go on strike. As mentioned under the Taft-Hartley Act, wildcat strikes are illegal, as they are not authorized by the union and usually violate a collective bargaining agreement. Sympathy strikes are work stoppages by other unions designed to show support for the union on strike. While they are not illegal, they may violate the terms of the collective bargaining agreement.

KEY TAKEAWAYS

- A union has two goals: to add new members and to collect dues. A *check-off provision* of a contract compels the organization to take union dues out of the paycheck of union members.
- In a *union shop*, people must join the union within a specified time period after joining the organization. This is illegal in *right-to-work states*. An *agency shop* is one where union membership is not required but union dues are still required to be paid. This may also be illegal in *right-to-work states*.
- Made illegal by the Taft-Hartley Act, a *closed shop* allows only union members to apply and be hired for a job.
- *Collective bargaining* is the process of negotiating the contract with union representatives. Collective bargaining, to be legal, must always be done in good faith.
- There are three categories of collective bargaining issues. *Mandatory issues* might include pay and benefits. *Permissive bargaining* items may include things such as drug testing or the required equipment the organization must supply to employees. *Illegal issues* are those things that cannot be discussed, which can include issues that could be considered discriminatory.
- The collective bargaining process can take time. Both parties prepare for the process by gathering information and reviewing the old contract. They then set time lines for the bargaining and reveal their wants and negotiate those wants. A *bargaining impasse* occurs when members cannot come to an agreement.
- When a bargaining impasse occurs, a *strike* or *lockout* of workers can occur. An *economic strike* occurs during negotiations, while an *unfair labor practices strike* can occur anytime, and during negotiations. A *sick-out* can also be used, when workers call in sick for the day. These strategies can be used to encourage the other side to agree to collective bargaining terms.
- Some tips for working with unions include knowing and following the contract, involving unions in company decisions, and communicating with transparency.

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