

## Bargaining and Enforcement

Collective bargaining is the process of meeting, discussing, and negotiating terms between represented employees and their employers. Both sides bargain from a position of strength. Employees have the ability to strike. Employers have the ability to lockout or replace employees, perhaps even close the business. Section 8(d) of the NLRA defines collective bargaining.

Employers have a duty to bargain with a union representative if the majority of employees support the union. Refusal of an employer to bargain is an unfair labor practice as per the NLRA.

There is a requirement to bargain in good faith, and there are specific procedural steps that must be followed, as set forth in Section 8(d). Failure by either party to bargain in good faith or failure to follow proper procedures may cause the employee or employer to lose the protections of the NLRA.

Notice is a key element of the collective bargaining process. Parties must give proper written notice within specific time windows. If proper notice is given at the beginning of the process, a 60-day “cooling off” period comes into effect in which strikes or lockouts are prohibited.

Although bargaining may be a requirement under the NLRA, coming to an agreement is not. Parties may reach an impasse, meaning that no agreement can be reached.

Collective bargaining agreements include provisions that address how failure to abide by the terms of the agreement will be enforced. A grievance process is defined that includes an arbitration clause. Arbitration is a dispute resolution procedure that places both parties before an agreed-upon professional arbitrator who works to resolve the conflict fairly and render a binding decision.

If one party does not perform according to the arbitrator’s decision, the other party may seek to have the decision enforced through the courts.

### Check Your Knowledge

Select the appropriate term for each description below.

Meeting, discussing, and negotiating terms between represented employees and their employers.

Select

Strikes or lockouts are prohibited.

Select

A collective bargaining agreement could not be reached.

Select

Dispute resolution procedure, which results in a binding decision.

Select



## Additional Materials

From your course textbook, *Employment and Labor Law*, read the following chapters:

- Collective Bargaining
- Picketing and Strikes
- The Enforcement and Administration of the Collective Agreement

From the Internet, read the following article:

- National Labor Relations Board. (n.d.). *National Labor Relations Act*. Retrieved from <https://www.nlrb.gov/resources/national-labor-relations-act>



**Technical Support Help Desk:**  
**1-855-867-2821**

© 2019 South University