

Unfair Labor Practices

The key provisions of the NLRA are Section 7, which spells out employee rights, and Section 8, which defines unfair labor practices.

Under Section 7 of the NLRA, employees are given the right to form or join labor organizations, bargain collectively through representatives, and engage in other activities related to mutual aid and protection. Employees also have the right to **not** engage in any of these activities.

Any act of an employer designed to limit the rights granted in Section 7 is a potentially unfair labor practice according to Section 8. Acts that might be considered unfair include the following:

- Making antiunion remarks that threaten reprisal or force or promise benefit for ceasing organizing activities
- Unreasonably restricting the union organizer's access to the employer's property
- Unreasonably restricting employee attempts to organize
- Requiring employees to sign unreasonably restrictive contracts related to organizing
- Refusing to allow a union representative to be present during employer questioning of a union member employee
- Using surveillance of employees who are attempting to organize
- Using violence or threats of violence
- Discriminating against employees on the basis of union membership
- Terminating employees for participating in a legal strike
- Using partial shutdowns or plant closings with the purpose of thwarting unionization

Section 8 protects the Section 7 rights afforded employees from coercive union activity. Unions should not engage in unfair trade practices, including:

- Using violence or threats of violence against employees or employers
- Making union statements suggesting that nonunion employees will be treated differently from union employees
- Promising special incentives to employees who join the union
- Doing acts designed to intimidate nonunion workers, such as stalking or photographing
- Using strikes unfairly and in bad faith
- Causing employers to discriminate on the basis of union membership

The law of unfair labor practices is complex and replete with exceptions. Often, what appears to be legal is actually illegal, and vice versa.

Unfair Labor Practices

Identify which of the following acts was determined by the NLRB to be an unfair labor practice.

1. The entire company went out of business permanently rather than allowing unions to organize employees.

That's incorrect.

That's correct.

2. A company closed its plant in one city to avoid becoming unionized, then reopened a new plant in a nonunion area.

That's incorrect.

That's correct.

3. A company refused to rehire any employees who had participated in an economic strike against the company.

That's incorrect.

That's correct.

4. A company refused to hire any employees with a history of union membership.

That's incorrect.

That's correct.

5. A union organizer publishes a social media comment that "things will be tough for any worker who does not join the union with his friends at the plant."

That's incorrect.

That's correct.

6. An employer denies a nonunion employee's request to have the local union representative present during questioning as part of an employee theft investigation.

That's incorrect.

That's correct.



Additional Materials

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

- Unfair Labor Practices by Employers and Unions

From the South University Online Library, read the following article:

- [Text Messaging and Unlawful Interrogation Under the National Labor Relations Act: A Tech-Savvy Workforce May Spell Trouble for Employers](#) □



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