HR Fundamentals
Employee and Labor Relations
Part I

Employee and Labor Relations Topics
- Key legislation affecting employee and labor relations
- Employee relations and organizational culture
- Employee involvement strategies
- Positive employee relations
- Work rules in union and nonunion environments
- Effective communication of laws, regulations, and organizational policies
- Discipline and formal complaint resolution
- Union organizing
- Unfair labor practices
- Collective bargaining
- Strikes and secondary boycotts
- Public-sector labor relations
- International employee and labor relations
Milestones in Employee and Labor Relations

- Wagner Act (NLRA) and founding of NLRB
- Social Security Act 1935
- Clayton Act 1914
- Norris-LaGuardia Act 1932
- Landrum-Griffin Act (Labor-Management Reporting and Disclosure Act) 1959
- Taft-Hartley Act 1947
- AFL founded 1886
- Knights of Labor organized 1869
- Railway Labor Act 1926
- National Industrial Recovery Act 1933
- Sherman Anti-Trust Act 1890

Why People Join Unions

- Perception of the work environment
- Fairness issues
- Wages and benefits
- Job security
- Beliefs about unions

Reasons for Union Decline

- Reduction in traditional union jobs and increase in white-collar jobs
- Belief in evaluation based on individual contributions
- Enlightened practices by companies
- Employees' fear of union's power, membership costs, and risk of strikes
Sherman Anti-Trust Act

- Primarily directed at large monopolistic employers.
- Applied by the courts against labor unions.
- Resulted in injunctions issued against union activities.

Clayton Act

- Clarified and supplemented the Sherman Anti-Trust Act.
- Minimally restricted the use of the injunction against labor.
- Legalized peaceful strikes, picketing, and boycotts.

Railway Labor Act

- Passed to reduce labor conflict and the possibility of transportation strikes.
  - Gave railroad employees the “right to organize and bargain collectively through representatives of their own choosing.”
- Covers both railroad and airline employees today.
Norris-LaGuardia Act

- Built on the Clayton Act.
- Guaranteed the workers’ right to organize.
- Limited the issuance of court injunctions in peaceful labor disputes.

National Industrial Recovery Act

- Extended Railway Labor Act policies to all interstate commerce organizations.
- Guaranteed employees the right to organize and bargain collectively.
- Ruled unconstitutional for reasons unrelated to its provisions for the protection of labor.
- Replaced by NLRA.

National Labor Relations Act (Wagner Act)

- Encouraged growth of unions.
- Allowed workers to join unions and bargain collectively.
- Prohibited employer unfair labor practices.
- Established the National Labor Relations Board.
  - Conducts secret-ballot representation elections.
  - Remedies employer unfair labor practices.
**Labor-Management Relations Act (Taft-Hartley Act)**
- Balanced union and management rights.
- Guaranteed employers their right to free speech.
- Mandated that unions represent all employees in the bargaining unit.
- Allowed unfair labor practice charges to be filed against unions.
- Outlawed the closed shop.

**Labor-Management Relations Act (Taft-Hartley Act)**
- Prohibited the deduction of union dues without written consent.
- Established the Federal Mediation and Conciliation Service.
- Established provisions for national emergency strikes.
  - 80-day cooling-off period
- Permitted states to adopt right-to-work legislation.

**Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act)**
- Protects employees from corrupt or discriminatory unions.
- Provides a bill of rights for union members.
- Permits closed shop exception for construction trades.
- Prohibits discrimination against nonunion members.
Individual Rights Under Common Law

- **Common law**
  - Dictates that custom and usage have the force of law even if not found in legislatively enacted, codified written laws (statutes).
  - Based on court decisions and customs.
  - Under both common law and statutory law, there are two types of law:
    - Tort law.
    - Contract law.

Common-Law Tort Doctrines

- **Tort** is defined as:
  - A wrongful act, damage, or injury done willfully or negligently.
  - Harms a person, their property, or reputation.
  - Addressed through a civil suit.

Other Common-Law Tort Doctrines

- **Employee's duty of loyalty**
  - Employee must not degrade the employer's reputation, service, or products.

- **Invasion of privacy**
  - Balances individual's right to privacy and public's interest in freedom of the press.
Common-Law Contract

Law Issues

- Contracts are promises that the law will enforce.
- Contract definition:
  - Agreement between two or more persons to do or not do something in exchange for something of value
- Contracts can be written or oral.

Agreements Enforced by Law

- Express oral contract
- Implied contract
- Implied covenant (of good faith and fair dealing)
- Unfair competition and noncompete agreements
- Employee's duty of loyalty and confidentiality

The Equal Employment Opportunity Commission (EEOC)

- Federal agency responsible for enforcing antidiscrimination laws.
- Plaintiff (or complainant) files suit against the employer (or respondent).
- Charges must be filed within 180 or 300 days of the alleged discrimination, depending on the jurisdiction.
EEOC notifies employer of complaint via a letter.

EEOC reviews charges and assesses “reasonable cause.”

If reasonable cause is found . . .

• EEOC attempts conciliation.
• Employer required to provide remedies to settle.

If reasonable cause is not found . . .

• EEOC notifies both parties.
• Complainant is notified of right to sue.
• EEOC involvement ends.

Charge is settled or may go to litigation with EEOC or private court.

Complainant may sue in court.

EEOC

Complaint
Process

HR Involvement in the Litigation Process

1. Notification
2. Answering the complaint
3. Scheduling conferences
4. Discovery process
5. Summary judgment
6. Pretrial and trial

Characteristics of Union-Free Organizations

• Fair and consistent treatment of employees
• Access to career opportunities:
  – Job posting
  – Job bidding
• Balanced promotion decisions
  – Considers seniority and ability.
Feedback and Communication in Union-Free Organizations

- Attitude (climate) surveys
- HR/labor relations reviews
- Skip-level interviews
- Open-door/person-to-person meetings
- Department/unit meetings
- Employee participation committees
- Electronic communications

Compensation and Benefit Programs in Union-Free Organizations

- Require regular and open communication on:
  - General data, including market comparisons.
  - Salary grades and data and how they are determined.
  - How raises are awarded.
  - Health-care costs.

Benefits of Employee Involvement

- Fosters consensus building
- Improves commitment to organizational goals, objectives, and decisions
- Provides team and organizational identity
- Encourages self-training for work teams
- Improves quality of work life
- Provides a constructive avenue for employee criticism
EI Strategies: Participative Management

Management
- Communicates company goals.
- Solicits employee input.

Employees
- Provide input on issues.
- Have freedom to act on their decisions.

Employee Suggestion Programs
- Require:
  - Top management support
  - Clearly defined objectives
  - Easy access by employees
  - Simplicity
  - Low risk and/or anonymity
  - Minimal program administration

  - Prompt and timely acknowledgment and administration
  - Simple metrics

Employee Surveys
- Attitude surveys
  - Focus on employees' job satisfaction.
- Opinion surveys
  - Measure data on specific issues.
- Tips for success include:
  - Communicating the purpose of the survey.
  - Guaranteeing anonymity.
  - Providing feedback.
Policies, Procedures, and Work Rules

<table>
<thead>
<tr>
<th>Policy</th>
<th>Broad statement that reflects philosophy, objectives, or standards; general in nature</th>
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<tbody>
<tr>
<td>Procedure</td>
<td>Detailed, step-by-step descriptions; specify what, when, where, and who</td>
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<tr>
<td>Work rule</td>
<td>Reflects management decisions regarding specific actions to be taken or avoided in a given situation</td>
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Policies, Procedures, and Work Rules in a Union Environment

- Are influenced by a union contract.
- May require certain behaviors and restrict others.
- May change each time a contract is negotiated.

Guidelines for an Employee Handbook

- Keep it simple and current.
- Pay heed to necessary legalities.
- Distinguish between company-wide policies and job specifics.
- Accommodate multilingual requirements.
- Control distribution.
- Pay attention to the look.
Absenteeism and Tardiness

- **Absenteeism:**
  - Time lost when employees do not come to work as scheduled

- **Tardiness:**
  - Time lost when employees report to work late

The Cost of Absenteeism

- **Productivity decreases**
- **Financial costs**
- **Administrative costs**

Preventive Measures to Avoid Disciplinary Action

- Minimize the need for discipline by:
  - Setting clear expectations with detailed job descriptions.
  - Having written policies, procedures, and work rules.
  - Establishing a climate of communication.
  - Maintaining an open-door policy.
Sequence of Disciplinary Action

1. Problem-solving and open dialogue
2. Oral warning
3. First written warning
4. Final written warning
5. Discharge

The Weingarten Case

- Deals with the rights of employees to have another person present during investigatory interviews.
  - When supervisors ask for information that could lead to disciplinary action.
  - When employees are asked to defend their conduct.
- Extends the rights enjoyed by union workers to nonunion workers.

Union Grievance Procedure

Levels of Resolution
- Highest
- Third-party determination
- Higher-level management
- Intermediate supervisor
- Immediate supervisor
- Lowest
Arbitration

- Types of arbitration:
  - Voluntary
  - Compulsory
- Types of arbitrators:
  - Permanent
  - Ad hoc
  - Tripartite panel

The Arbitration Process

1. Opening statements
   - Both parties identify issues, state what is to be proved, and specify relief sought.
2. Presentation of evidence
   - Parties present evidence and essential documents to prove their cases.
3. Summation
   - Both sides have equal time for closing arguments.
4. Award
   - The arbitrator presents the decision in written form and signs it.

Alternative Dispute Resolution

- Open-door policy
- Ombuds
- Peer review
- Mediation
- Fact finding
- Arbitration