

What do the first stages of a union organizing campaign look like? You might be inclined to answer this question by citing one of the first signs visible to you—"leafleting," or the distribution of union literature to employees at walkways, driveways, and parking lot entrances. However, although serious leafleting is an undeniable indication of union activity, it is ordinarily not the first step in an organizing campaign. Chances are the union has been studying the institution for weeks or even months, to judge its organizing potential, before the first literature appears.

When organizing activity actually begins, management may well know nothing about it. In fact, during the earliest stages the union may take considerable precautions to prevent management from learning about their interest. The union may send organizers into the institution simply to loiter and listen and pick up what they can from conversations in the cafeteria, snack bar, parking area, employee lounge areas, and other such places where employees congregate informally. Outsiders can move freely in many institutions, and such infiltration is especially easy in an institution that does not require or enforce the use of employee identification badges or passes for visitors and vendors. The organizers will simply merge with the crowd and listen, picking up gripes, locating supervisory weaknesses and departments with obvious morale problems, and identifying informal leaders among the employees. They will try to learn as much as possible about the institution before revealing themselves.

The still-unannounced organizers will also attempt to pinpoint employees who have the potential to serve as internal organizers, looking especially for those employees who are popular, knowledgeable, reasonably articulate, and in some way unhappy with the organization.

Should their silent survey raise serious doubts that the institution could possibly be unionized, the organizers might simply withdraw without ever announcing their presence. However, if they believe the union stands a chance of succeeding they will likely identify themselves to a few selected employees and begin preparations to carry their message to others. Leafleting is likely to begin at about this stage.

THE ORGANIZING APPROACH

As the supervisor you are the member of management whom your employees know best. You indeed may be the only member of this mysterious entity called management most of your employees know on a first-name basis or even know on speaking terms at all. Thus, as your employees see you, so too are they likely to see all of management and the organization itself. If they see you as unconcerned, uncaring, distant, or indifferent, they are likely to view the organization as a whole that way.

It follows, then, that the supervisor is in a key position when it comes to dealing with the threat of unionization. You are the link that ties your employees to higher management and thus to the organization. Your long-term behavior will have a great deal to do with whether your department is a fertile ground for union organizing activity, and your conduct and actions during an organizing campaign will exert a significant influence on your employees' reaction to the organizing drive.

THE SUPERVISOR'S POSITION

Under the NLRA, unions and employers do not have equalizing process. In many respects the union enjoys the up act, an employer can commit an unfair labor practice and

UNEQUAL POSITIONS

proper persons. listen to an employee. Afterward the incident can be prior out making promises or commitments and without seem activities. However, there is a need for the supervisor to re tions, or whoever else may be coordinating the institution (nesses). Such matters would be rightly dealt with by admin circumstances (which usually includes the presence of trumped-up grievance or problem at an inconvenient time make an inappropriate statement or incorrect decision with awareness of this particular organizing tactic is critical the union look good and make management look foolish cent factual material, organizers frequently stage incident the union are specially selected to make management look You can be certain that most issues and incidents brought such a relationship is part of your role as a supervisor with your employees. This should sound familiar, because organizers will make every effort to develop a common son to tell them this, then the grounds for union credit face of seemingly indifferent management the union orga us will express strong belief in the rights of the individual; right to be treated as individuals. This may seem elemen The union organizers will go to great lengths to impres discrimination.

play on emotions in spotlighting incidents of alleged u attempt to identify martyrs and victims of "the system" rally points for employee sympathy and support. In talking with employees the union will attempt to un

seek to visit the homes of others. most certainly be contacting many individual employees l addresses of all the institution's nonmanagerial emplo. pathetic employees, they will attempt to obtain a lis facting them in other ways. Somewhere along the way, p

When the organizers are out in the open and their I know, they will step up their activities in meeting with a reply card to be returned for more information.) sions of interest from employees. (The pass-through litera institutions as they can readily reach and follow up only it and drop off as much literature as possible with the en investigation has taken place. The union will simply "pa tions in the same general area. These are generally "cold will devote a day or two to distributing literature at per tice sometimes referred to as a "pass-through." In a pas The major exception to the usual significance of letter

brought against the organization by the union. If the National Labor Relations Board (NLRB), ruling on an unfair labor practice charge, upholds the union's claim, then the union may be automatically certified as a recognized bargaining agent without the necessity of a representation election. The law, however, does not work the other way around; although a union may perhaps engage in some questionable practices while organizing, for all practical purposes there is no such thing as an unfair labor practice committed by a union. Also, as noted earlier, if the union should lose a bargaining election it may petition for another election after one year has elapsed. The employer may well have to win year after year to remain union-free. However, the employer need lose only once and the union is in, permanently, for all practical purposes, because decertification of a union is difficult to achieve and occurs infrequently.

YOUR ACTIVE ROLE

The guidelines pertinent to supervisory behavior during a union organizing campaign make up a sizeable collection of do's (Exhibit 30-1) and don'ts

Exhibit 30-1 What the Supervisor Can Do When a Union Beckons

1. Campaign against a union seeking to represent employees, and reply to union attacks on the institution's practices or policies.
2. Give employees your opinions about unions, union policies, and union leaders.
3. Advise employees of their legal rights during and after the organizing campaign, and supply them with the institution's legal position on matters that may arise.
4. Keep outside organizers off institution premises.
5. Tell employees of the disadvantages of belonging to a union, such as strikes and picket-line duty; dues, fines, and assessments; rule by a single person or small group; and possible domination of a local by its international union.
6. Remind employees of the benefits they enjoy without a union, and tell them how their wages and benefits compare with those at other institutions (both union and nonunion).
7. Let employees know that signing a union authorization card is not a commitment to vote for the union if there is an election.
8. Tell employees that you would rather deal directly with them than attempt to settle differences through a union or any other outsiders.
9. Give employees factual information concerning the union and its officials, even if such information is uncomplimentary.
10. Remind employees that no union can obtain more for them than the institution is able to give.
11. Correct any untrue or misleading claims or statements made by the union organizers.
12. Inform employees that the institution may legally hire a new employee to replace any employee who strikes for economic reasons.
13. Declare a fixed position against compulsory union membership contracts.
14. Insist that all organizing be conducted outside of working time.
15. Question open and active union supporters about their union sentiments, as long as you do so without direct or implied threats or promises (see Shifting Ground Rules).
16. State that you do not like to deal with unions.

- feel unfairly treated by the organization and believe that reasonable opportunities have been denied
- feel that the organization has been unsympathetic regarding personal problems and pressures
- express a lack of confidence in supervision or administration and be unwilling to talk openly with members of management

the union's cause may:

employees might react under organizing pressure. Often the employee sympathetic to possible for you to make some reasonable judgments as to how certain employ- alizations concerning employees' receptiveness to a union, it is nevertheless well. Although people cannot be stereotyped, and there are few reliable gener- organizing campaign—to know your employees as individuals, and know them It is also to your advantage—at all times, but especially during a union attorney or a labor relations expert.

pressure should receive classroom training in these guidelines from a labor employees. Ideally, the supervisors in an institution undergoing organizing requirements place on your actions and comments in your dealings with (Exhibit 30-2). It is to your advantage to be sensitive to the limitations these

1. Ask employees about their union sentiments in a manner that includes or implies threats, promises, or intimidation in any form. Employees may volunteer any such information and you may listen, but you may ask only with caution (see Shifting Ground Rules).
2. Attend union meetings or participate in any undercover activities to find out who is or is not participating in union activities.
3. Attempt to prevent internal organizers from soliciting memberships during non-working time.
4. Grant pay raises or make special concessions or promises to keep the union out.
5. Discriminate against pro-union employees in granting pay increases; apportioning overtime; making work assignments, promotions, layoffs, or demotions; or applying disciplinary action.
6. Intimidate, threaten, or punish employees who engage in union activity.
7. Suggest in any way that unionization will force the institution to close up, move, lay off employees, or reduce benefits.
8. Deviate from known institution policies for the primary purpose of eliminating a pro-union employee.
9. Provide financial support or other assistance to employees who oppose the union, or be party to a petition or such action encouraging employees to organize to reject the union.
10. Visit employees at home to urge them to oppose the union.
11. Question prospective employees about past union affiliation.
12. Make statements to the effect that the institution "will not deal with a union."
13. Use a third party to threaten, coerce, or attempt to influence employees in exercis- ing their right to vote concerning union representation.
14. Question employees on whether they have or have not signed a union authoriza- tion card.
15. Use the word *never* in any statements or predictions about dealings with the union.

Exhibit 30-2 What the Supervisor Cannot Do When a Union Beckons

The present posture on interrogation is hardly new; it had been an applied principle of labor relations for 30 years until 1980. In 1980, however, when the NLRB was dominated by the Democratic Party, the stricter interpretation of the interrogation prohibitions of the law was imposed. This stricter interpretation was reversed in 1984, when the NLRB composition changed again. However, in recent years the composition of the NLRB has changed still further, essentially swinging Board sentiment back toward more strongly favoring unions. Thus organizations presently coming under union organizing pressure should best observe the stricter interpretation of the interrogation prohibition.

Given its present composition, with a number of strongly pro-union activists among its members, the NLRB has been able to shape much labor organizing activity through its rule-making authority. The NLRB's recent actions seem intended to create an environment that is more conducive to union organizing and in general to revitalize the organized labor movement overall.

In the middle 1980s the NLRB loosened its interpretation of interrogation to suggest that it is lawful for an employer to question union supporters about their union sentiments as long as the questioning carries with it no threats or promises and in no way interferes with or restrains the employees in the exercise of their rights under the NLRA.

Shifting Ground Rules

The lists of what the supervisor can (Exhibit 30-1) and cannot do (Exhibit 30-2) in the presence of union organizing are based on interpretations of the NLRA by the NLRB. Many of these interpretations are clear-cut and have stood the test of time regardless of the composition of the NLRB. Some, however, are not clear-cut and are likely to change as the board's composition changes. The matter of management's questioning of employees about union sentiments and activities is the best illustration of this possibility.

- For years it has been relatively accurate to cite the so-called "TIPS Rule" in summarizing the most important elements of what a member of management could not do during union organizing: A manager could not Threaten, Interrogate, Promise, or Spy. (You may also encounter "TIPS" as "SPT" or "PITS," depending on the arrangement of the four prohibitions.)
- In the middle 1980s the NLRB loosened its interpretation of interrogation to suggest that it is lawful for an employer to question union supporters about their union sentiments as long as the questioning carries with it no threats or promises and in no way interferes with or restrains the employees in the exercise of their rights under the NLRA.

Should you find yourself caught up in a union organizing drive, pay strict attention to your institution's labor attorney and labor relations director (or whoever is coordinating management's counter-organizing efforts) for advice on what to do and what to avoid. Although the actions enumerated in Exhibits 30-1 and 30-2 should remain largely valid, some of them will inevitably vary in content or emphasis from one national administration to another depending on the makeup of the NLRB.

HANDLING "THE CONFRONTATION"

In reference to the incident described "For Consideration," you should certainly want to hear what is on your employees' minds; however, the one clear way not to address the problem is to give in to what they want and immediately talk about their consideration of a union. You are in a sufficiently awkward position to make you suspect that this encounter was deliberately timed to catch you off guard.

However you do it, get the meeting out of the crowded cafeteria into some private space where you can all talk over lunch so that you can hold the discussion as much as possible on your own terms. Also, the slight delay involved in finding a space or setting up a time will allow the surprise effect to wear off and give you at least a few minutes in which to order your thoughts.

This encounter can be made to work to your advantage. Recall that you can not legally ask employees about their interest or involvement in union activities (you cannot threaten, interrogate, promise, or spy). However, you can listen to what employees tell you. Just take care that the steps you take to encourage further conversation do not involve direct questioning, and avoid threatening or promising as you answer questions as best as you can.

THE BARGAINING ELECTION

The union, often working through both outside and inside organizers, will go about the business of securing sufficient employee interest to allow it to petition the NLRB for a bargaining election. Generally the indications of such support will take the form of simple cards that employees sign to indicate interest in having an election. Employees should be aware that signing a card is not an automatic "yes" vote for union representation but rather simply an expression of interest in having an election. (More recently a piece of proposed legislation known as the Employee Free Choice Act could have made it possible for a union to become certified by simply obtaining a majority of signed authorization cards, but this did not become law.)

When sufficient signatures are gathered (usually half or more of the number of employees in the unit that the union is seeking to represent, although the union need have signatures from just 30 percent of eligible employees to legally submit its petition), the union will petition the NLRB. After what is usually a cursory investigation, the board will sanction an election and a date for voting will be set.

Election is by secret ballot, and all employees who work in the unit the union is seeking to represent are eligible to vote. If the union receives a simple