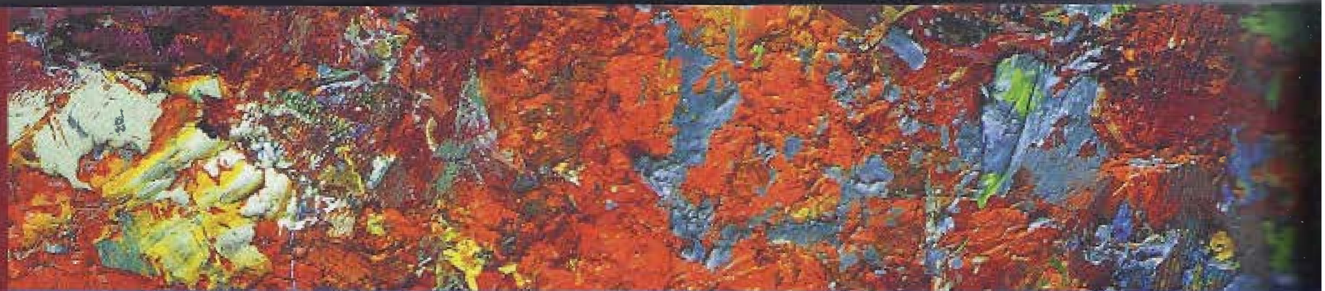

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16

CHAPTER

Union/ Management Relations

Learning Objectives

After you have read this chapter, you should be able to:

1 Discuss what a union is and explain why employees join and employers resist unions.

2 Outline the current state of union activity in the United States.

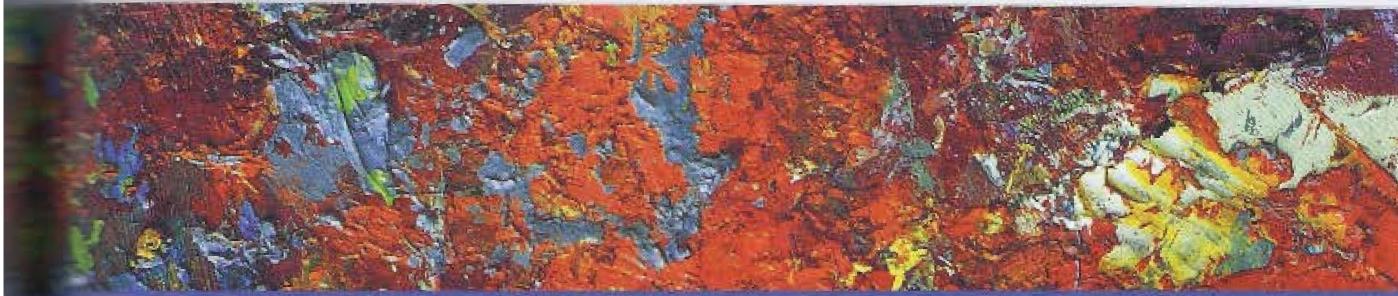
3 Identify several reasons for the decline in union membership.

4 Explain the nature of each of the major U.S. labor laws.

5 Describe the stages of unionization and the typical collective bargaining process.

6 Define a grievance and identify the stages in a grievance procedure.

7 Understand how unions have been involved in the global arena.



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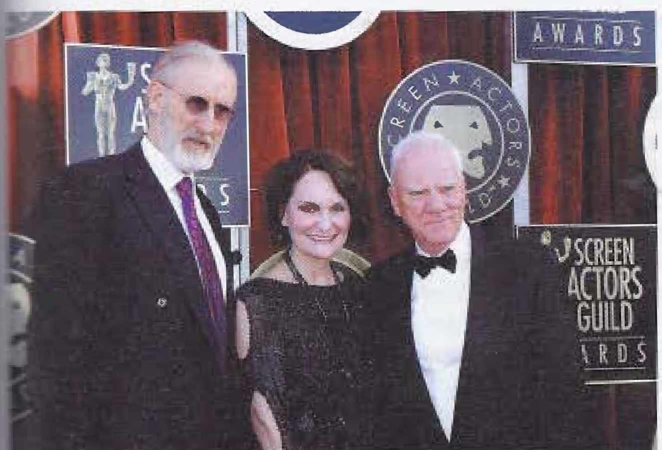
HR HEADLINE

Union Decides to Drop Mental Health Coverage



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The Screen Actors Guild (SAG), a union that represented entertainment industry employees (the group merged with American Federation of Television and Radio Artists), decided to drop coverage for mental health illnesses. This decision would affect nearly 12,000 individuals who relied on SAG's health care program for help with various mental health and substance abuse problems. The action was precipitated by the passing of the Mental Health Parity and Addiction Equity Act, a law that requires many changes to health plans.

A majority of health insurance programs specify that 24 months of long-term disability payments is the maximum amount given for outpatient treatments of mental health or substance abuse problems when a claimant is not working. In addition, use of the benefit accumulates over time and stays in effect for as long as the insurance policy exists. If an individual cannot work and continues to accept policy payouts, benefits will cease at the 24-month cap.

The Mental Health Parity and Addiction Equity Act requires health policies to equalize coverage benefits for mental health problems so that they are on par with those provided for other medical issues. The actuaries for the union health plan determined that complying with this law would double the expenses of providing health care insurance to members. Consequently, the organization decided to drop the coverage. Some states have even seen decreases in health care expenses after equalizing benefits, while others have not.[1]

LO1 Discuss what a union is and explain why employees join and employers resist unions.

Union
Formal association of workers that promotes the interests of its members through collective action.

A **union** is a formal association of workers that promotes the interests of its members through collective action. In the United States, unions typically try to increase compensation, improve working conditions, and influence workplace rules. When a union is present, these issues are decided through collective bargaining agreements and specified in formal contracts that have been ratified by management and labor.

Unions did not seem to have a bright future in the 1930s when the National Labor Relations Act (NLRA) was passed, giving unions a legal right to exist. Then they grew to represent about 36% of the workforce in the 1950s, only to see their strength in the private sector drop to less than 8% recently. However, in the public sector, union strength continues to grow. These trends illustrate the inherent political nature of unionization, particularly because government and public opinion play such prominent roles in union strength.

The very existence of unions depends upon laws and legal action.[2] As such, the ability of unions to function as bargaining entities is based on how they gain and keep favor with politicians who represent their interests in government. For instance, in the state of Wisconsin intense political jockeying over the role of public-sector unions occurred, with some politicians favoring a reduction in their collective bargaining abilities and workers expressing their desire for union representation though recall campaigns and the political process.[3] Unions also donate funds directly to political candidates, as well as indirectly through union voter mobilization drives and large political action committees (PACs). PACs are organized by both major political parties and represent either a platform of pro-labor with stronger union representation or a position of pro-management with a smaller union presence. While unions must indicate how much money is gathered from members for PACs, politicians, and other political entities, they don't have to report how much money is used for other union-based political pursuits.[4]

Unions' ability to survive also depends on public opinion of their role in influencing business organizations. Such opinion can be expressed through the political process, and people vote for the political parties and candidates that represent their views on the proper balance between labor and management. Evidence suggests that the general public's views on unionization may be changing, and this is often reflected in the way people vote. Recently, the approval of union representation has declined.[5]

Exactly how political, economic, and workforce changes affect employers and unions will be factors in the future of the labor/management relationship. Even though fewer workers have chosen to be union members in recent years than in the past, employers and HR professionals still need to understand the system of laws, regulations, court decisions, and administrative rulings related to the nature of unions. This is important because unions remain a strong alternative for employees in the event of poor HR management.

16-1 ■ PERSPECTIVES ON UNIONIZATION

Union representation has many advantages and disadvantages. For instance, unions give employees an opportunity to provide feedback to employers about their concerns and suggestions that would be difficult to express otherwise. Unions can provide a balance to the unchallenged decision-making power of management when needed. Increases in job performance and employee earnings are also often associated with unionization. Alternatively, unions can negatively impact the allocation of organizational resources, cause decreases in profitability, and hurt productivity as a result of increased compensation. These points should be considered when exploring why employees join unions and why employers resist unionization.

16-1a Why Employees Unionize

Whether a union targets a group of employees for organization, or the employees request union assistance, the union must win support from the employees to become their legal representative. Over the years employees have joined unions for two general reasons: (1) they are dissatisfied with how they are treated by their employers, and (2) they believe that unions can improve their work situations. If employees believe they are being treated unfairly by their companies, they may turn to unions to get assistance with their concerns. As Figure 16-1 shows, the major factors that can trigger unionization are issues of compensation, working conditions, management style, and employee treatment.

One of the primary reasons why employees want to unionize is based on how well their companies are managed. Unions function as a watchdog for workplace equity and make sure that employees are treated fairly. When unions are not present, inequalities in the way compensation is distributed to workers can occur.[6] Employees expect to receive reasonably competitive compensation, a good working environment, effective management and supervision, and fair and responsive treatment of workers. When these basic expectations are not met, employee interest in organized labor increases. Unionization often occurs when employees feel disrespected, unsafe, underpaid, and unappreciated, and see a union as a viable option for change.

Even though actions of management influence whether or not employees vote for unionization, individuals' overall perceptions of unions is a driver of intentions

FIGURE 16-1 Factors Leading to Employee Unionization

Desirability of Unionization

1. **Working Conditions**
   - Inadequate staffing
   - Mandatory overtime
   - Unsatisfactory work requirements
   - Unrealistic expectations
2. **Compensation**
   - Noncompetitive pay
   - Inadequate benefits
   - Inequitable pay raises
   - Unfair allocation of resources
3. **Management Style**
   - Arbitrary decision making
   - Use of fear/intimidation
   - Lack of recognition
   - Autocratic leadership
4. **Employee Treatment**
   - Job insecurity
   - Unfair discipline/policies
   - Lack of response to complaints
   - Harassment/abusive behaviors

to organize.[7] This implies that general opinions of organized labor creates a certain mindset among workers either for or against unions, regardless of the practices they immediately experience on the job. Once unionization occurs, the ability of the union to foster commitment from members and to remain as their bargaining agent depends on how well the union succeeds in providing the services that its members want, which can further strengthen or weaken workers' perceptions of unions.

16-1b Why Employers Resist Unions

Some employers would rather not have to negotiate with unions because they affect how employees and workplaces are managed. Unions are criticized for creating inefficiencies at work that cause waste and poor performance. For instance, the rebuilding of Ground Zero in New York Center after the 9/11 attacks has been plagued with high labor costs and overstaffing, excessive overtime expenses, and the employment of unneeded trade professionals making six-figure salaries, problems caused directly by unionization. As a result, many union contractors and developers in New York are moving toward nonunion or other arrangements.[8]

Union workers frequently get compensated better than do nonunion workers, but on the flipside, higher pay and benefits might be related to higher job performance. Despite this higher productivity, managers still try to identify labor-saving ways of doing work to offset increased expenses. For instance, performance-based compensation and profit sharing was explored at General Motors as a way of increasing productivity and reducing the risks associated with non-incentive based raises.[9]

Once established, some employers pursue a strategy of good relations with unions, while others choose an aggressive, adversarial approach.[10] However, there are numerous strategies that can be employed to prevent unionization from occurring in the first place. As stated previously, employees become interested in organized labor when they feel mistreated by their employers and/or operate in unfair, undesirable, or even dangerous work environment. Companies can develop good employment practices, encourage greater employee feedback, offer better compensation, and build good rapport with workers to make unions unnecessary in employees' eyes.[11] In addition, companies can be careful about how they handle unions when they approach workers to organize the company. The TIPS acronym provides some sound guidelines about how not to deal with organizing attempts:[12]

- *Threaten*: Do not bully employees because they talk to union officials.
- *Interrogate*: Never pry into and aggressively ask about union–employee discussions.
- *Promise*: Never provide incentives to employees in an effort to dissuade them from organizing.
- *Spy*: Do not secretly listen to employees' interactions with union representatives.

Human Resource Professionals and Unionization To prevent unionization, as well as to work effectively with unions already representing employees, both HR professionals and operating managers must be attentive and responsive to employees. The pattern of dealing with unionization varies among organizations. In some firms, management handles labor relations and HR has limited involvement. In other organizations, the HR unit takes primary responsibility for resisting unionization or dealing with unionized employees.[13]

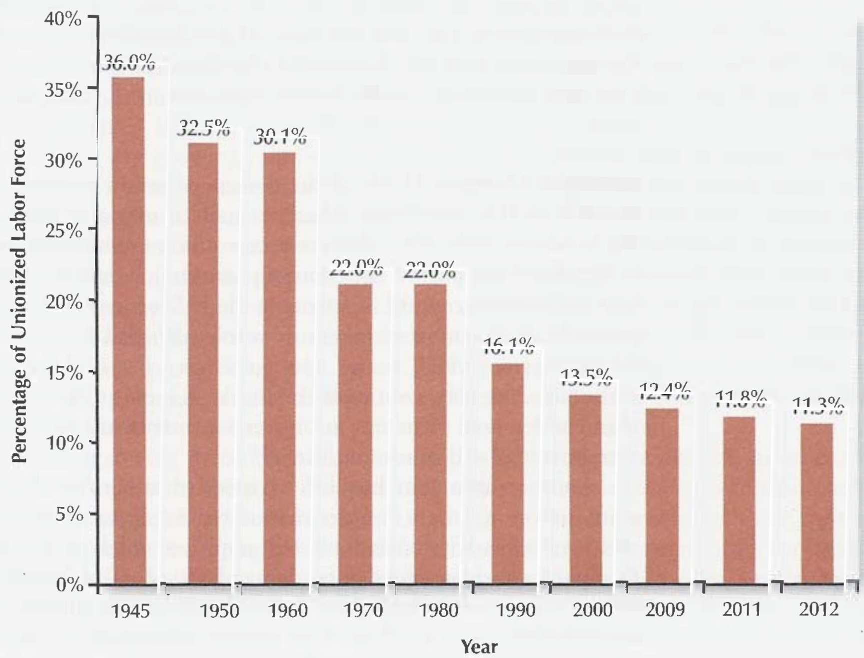
LO2 Outline the current state of union activity in the United States.

16-2 ■ UNION MEMBERSHIP IN THE UNITED STATES

The statistics on union membership over the past several decades tell a disheartening story for organized labor in the United States. As shown in Figure 16-2, union membership covered more than 30% of the workforce from 1945 to 1960. But most recently, union membership in the United States represented only 11.8% of wage and salary workers in 2011 and 11.3% in 2012. In the public section, membership in unions was 35.9% of the workforce in 2012, and membership was only 6.6% of the workforce in the private sector.[14] The actual number of members has declined in most years.

However, it's not all bad news for unions, with some unions prospering. In the past several years, unions have organized thousands of janitors, health care workers, cleaners, and other low-paid workers using publicity, pickets, boycotts, and strikes. In some states, membership in unions functioning under the AFL-CIO has steadily increased over the last several years, which is attributed to the economy turndown and concerns about poor work opportunities.[15] The Bureau of Labor Statistics disclosed that union membership among employees working in the private sector had recently increased by approximately 50,000, for a total of almost 15 million individuals.[16]

FIGURE 16-2 Union Membership as a Percentage of the U.S. Civilian Workforce/Wage and Salary Workers



Source: Bureau of Labor Statistics.

LO3 Identify several reasons for the decline in union membership.

16-2a Reasons for U.S. Union Membership Long-Term Decline

Several general trends have contributed to the decline of U.S. union membership, including deregulation, foreign competition, a larger number of people looking for jobs, and a general perception by firms that dealing with unions is expensive compared with nonunion alternatives. Management at many employers has taken a much more activist stance against unions than during the years of union growth, and economic downturns have also had negative impacts.[17]

To some extent, unions may be victims of their own successes. Unions in the United States historically have emphasized helping workers obtain higher wages and benefits, shorter working hours, job security, and safe working conditions from their employers. Some believe that one cause for the decline of unions has been their success in getting those important issues passed into law for everyone. Therefore, unions may no longer be seen as necessary by many workers, even though they enjoy the results of past union efforts to influence legislation that has been beneficial to them.

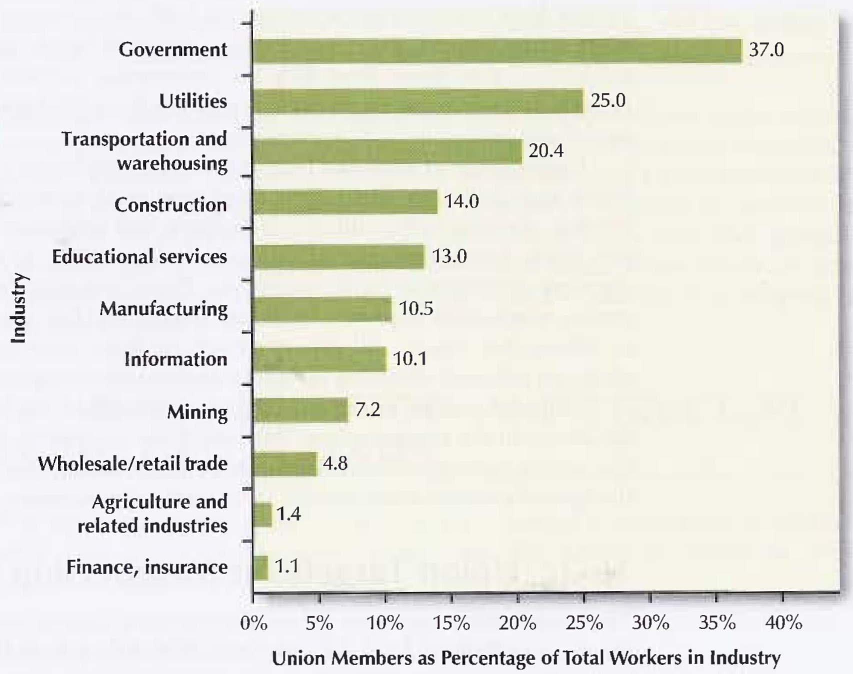
Geographic Changes During the past decade, job growth in the United States has been the greatest in states located in the South, the Southwest, and the Rocky Mountains. Most of these states have little tradition of unions, more "employer-friendly" laws, and relatively small percentages of unionized workers.

Another geographic issue involves the movement of many low-skill jobs outside the United States. Primarily to take advantage of cheaper labor, many manufacturers with heavily unionized U.S. workforces have moved a significant number of low-skill jobs to the Philippines, China, Thailand, and Mexico. For instance, the passage of the North American Free Trade Agreement provided a major impetus for moving low-skill, low-wage jobs to Mexico. It removed tariffs and restrictions affecting the flow of goods and services among the United States, Canada, and Mexico. Because of significantly lower wage rates in Mexico, many jobs previously susceptible to unionization in the United States have been moved there.

Industrial Changes Much of the decline of union membership can be attributed to the shift in U.S. jobs from industries such as manufacturing, construction, and mining to service industries. Private-sector union membership is primarily concentrated in the shrinking part of the economy, and unions are not making significant inroads into the fastest-growing segments in the U.S. economy. For example, there are small percentages of union members in wholesale/retail industries and financial services, the sectors in which many new jobs have been added, whereas the number of manufacturing jobs continues to shrink. A look at Figure 16-3 shows that nongovernmental union members are heavily concentrated in utilities, transportation and warehousing, and other "industrial" jobs.

Another area that has led to union membership decline is the retirement of many union members in older manufacturing firms. Extremely high retiree pensions and health benefits costs have led employers such as Goodyear Tire, Ford Motor Company, and others to face demands for cuts in benefits for both current and retired union employees. They have also led to employers reducing the number of current plants and workers, and unions attempting to maintain benefits costs and job security for remaining workers.

FIGURE 16-3 Union Membership by Industry in 2011



Source: Information compiled from "Union Members Summary" report, *Bureau of Labor Statistics*, January 27, 2012.

Workforce Changes Many of the workforce changes discussed in earlier chapters have contributed to the decrease in union representation of the labor force. The decline in many blue-collar jobs in manufacturing has been especially significant. For instance, the United Auto Workers' membership has dropped from 1.5 million in 1980 to about 600,000 currently.

There are growing numbers of white-collar employees such as clerical workers, insurance claims representatives, data input processors, mental health aides, computer technicians, loan officers, auditors, and retail sales workers. Unions have increased efforts to organize white-collar workers because advances in technology have boosted their numbers in the workforce. However, unions have faced challenges in organizing these workers. Many white-collar workers see unions as resistant to change and not in touch with the concerns of the more educated workers in technical and professional jobs. In addition, many white-collar workers exhibit attitudes and preferences quite different from those held by blue-collar union members, and they tend to view unions as primarily blue-collar oriented.

The growing percentage of women in the U.S. workforce presents another challenge to unions. In the past, unions have not been as successful in organizing female workers as they have been in organizing male workers. Some unions are trying to focus more on recruiting female members, and unions have been in the forefront in the push for legislation on such family-related goals as child care, maternity and paternity leave, pay equity, and flexible work arrangements. Women in "pink-collar," low-skill service jobs have been somewhat more likely to join unions than women working in white-collar jobs.

16-2b Public-Sector Unionism

Unions have enjoyed significant success with public-sector employees. The government sector (federal, state, and local) is the most highly unionized part of the U.S. workforce, with more than 40% of government workers represented by unions. Local (city and county) government workers have the highest unionization percentage of any group in the U.S. workforce.

Unionization of state and local government employees presents some unique problems and challenges. First, some employees work in critical service areas, and it is felt that allowing police officers, firefighters, and sanitation workers to strike endangers public health and safety. Consequently, more than 30 states have laws prohibiting work stoppages by public employees. These laws also identify a variety of ways to resolve negotiation impasses, including arbitration. But government employees seem to believe that unions still give employees in these areas greater security and better ability to influence decisions on wages and benefits compared to nonunion workers.

Although unions in the federal government hold the same basic philosophy as do unions in the private sector, they still differ somewhat. Previous laws and executive orders have established methods of labor/management relations that consider the special circumstances present in the federal government.

16-2c Union Targets for Membership Growth

The continuing losses have led to disagreements among unions about how to fight the decline. Rather than remaining a part of the traditional AFL-CIO labor organization, seven unions split into a new group in 2005. The AFL-CIO is a federation of individual unions that has been the main force in organized labor. Calling itself Change to Win, this association has a goal of taking a more aggressive approach to adding union members and affecting U.S. political legislation.

To attempt to counteract the overall decline in membership, unions are focusing on many industries and types of workers. One reason why Change to Win split off from the AFL-CIO was to more effectively organize individuals working for low wages in the retail, hospitality, home health care, and other service industries.[18]

Professionals Traditionally, professionals in many occupations have been skeptical of unionization. However, the health care industry has experienced a growth in the unionization of professionals such as physicians, physical therapists, and nurses. The primary reason these employees consider union membership is the growth of managed care. A frequent complaint of health care professionals is that they have lost control of patient-care decisions as a result of managed care and the drive to reduce health care costs.

Low-Skilled Workers On the other end of the labor pay scale, unions have targeted low-skilled workers, many of whom have lower-paying, less desirable jobs. Janitors, building cleaners, nursing home aides, and meatpacking workers are examples of groups successfully targeted by unions. For instance, in the health care industry workers in nursing homes dealing with the elderly are a fast-growing segment of the workforce. Many employees in this industry are relatively dissatisfied. The industry is often noted for its low pay and difficult, heavy work, and many employees are women who work as nurses' aides, cooks, and launderers and in other low-wage jobs.

Another group of individuals targeted by unions is immigrant workers in low-skill jobs. Some unions also have been politically active regarding legislation to allow illegal immigrant workers to get work permits and citizenship over time. Although these efforts are not always successful, unions are likely to continue pursuing industries and employers with numerous low-skill jobs and low-skilled workers. The advantages of unionization are especially strong for these employees.

Contingent and Part-Time Workers Since many employers have added contingent workers instead of full-time employees, unions have tried to target part-time, temporary, and other employees. A decision by the National Labor Relations Board (NLRB) allows temporary workers to be included in attempts to unionize firms. Time will tell if the efforts to unionize part-time workers and other groups will halt the decline of union membership in the United States. When unions are present, collective bargaining agreements frequently limit the amount of contingent labor that may be used.

16-3 ■ UNION HISTORY AND STRUCTURE IN THE UNITED STATES

The union movement in the United States has existed in some form or another for more than two centuries. During that time, the nature of unions has evolved because of legal and political changes.

16-3a Evolution of U.S. Unions

The union movement in the United States began with early collective efforts by workers to address job concerns and counteract management power. As early as 1794, shoemakers organized a union, picketed, and conducted strikes. In those days, unions in the United States received very little support from the courts. In 1806, when the shoemakers' union struck for higher wages, a Philadelphia court found union members guilty of engaging in a "criminal conspiracy" to raise wages.

The *American Federation of Labor (AFL)* united several independent national unions in 1886. Its aims were to organize skilled craft workers and to emphasize economic issues and working conditions. As industrialization increased in the United States, many factories used semiskilled and unskilled workers. However, it was not until the *Congress of Industrial Organizations (CIO)* was founded in 1938 that a labor union organization focused on semiskilled and unskilled workers. Years later, the AFL and the CIO merged to become the AFL-CIO. That federation is still the major organization coordinating union efforts in the United States today despite the split described previously.

16-3b Union Structure

Craft union
Union whose members do one type of work, often using specialized skills and training.

Industrial union
Union that includes many persons working in the same industry or company, regardless of jobs held.

Labor in the United States is represented by many unions. Regardless of size and geographic scope, two basic types of unions have developed over time. In a **craft union**, members all do one type of work, often using specialized skills and training. Examples are the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Electricians, Plumbers, and the American Federation of Television and Radio Artists. An **industrial union** includes many persons working in the same industry or company, regardless of jobs held. The United Food and Commercial Workers, the United Auto Workers, and the American Federation of State, County, and Municipal Employees are examples of industrial unions.

Federation
Group of autonomous unions.

AFL-CIO Federation Labor organizations have developed complex organizational structures with multiple levels. The broadest level is the **federation**, which is a group of autonomous unions. A federation allows individual unions to work together and present a more unified front to the public, legislators, and members. The most prominent federation in the United States is the AFL-CIO, which is a confederation of unions currently representing over 9 million workers.

Change to Win The establishment of Change to Win meant that seven unions with over 5 million members left the AFL-CIO. The primary reason for the split was a division among different unions about how to stop the decline in union membership, as well as some internal organizational leadership and political issues. Prominent unions in the Change to Win are the Teamsters, the Service Employees International Union, and the United Food and Commercial Workers.[19]

National and International Unions National and international unions are not governed by a federation even if they are affiliated with it. They collect dues and have their own boards, specialized publications, and separate constitutions and bylaws. Such unions as the United Steelworkers of America and the American Federation of State, County, and Municipal Employees determine broad union policy and offer services to local union units. They also help maintain financial records and provide a base from which additional organizing drives may take place. Political infighting and corruption sometimes pose problems for national unions, as when the federal government stepped in and overturned the results of an officer election held by the Teamsters Union several years ago.

Like companies, unions find strength in size. In the past several years, about 40 mergers of unions have occurred, and some other unions have considered merging. For smaller unions, these mergers provide financial and organizing resources. Larger unions can add new members to cover managerial and administrative costs rather than having to recruit more members.

Local Unions Local unions may be centered around a particular employer organization or a particular geographic location. The members of local unions elect officers who are subject to removal if they do not perform satisfactorily. For this reason, local union officers tend to be concerned with how they are perceived by the union members. They often react to situations as politicians do because their positions depend on obtaining votes. The local unions are the focus and the heart of labor/management relations in most U.S. labor organizations.

Business agent
A full-time union official who operates the union office and assists union members.

Union steward
Employee elected to serve as the first-line representative of unionized workers.

Local unions typically have business agents and union stewards. A **business agent** is a full-time union official who operates the union office and assists union members. The agent runs the local headquarters, helps negotiate contracts with management, and becomes involved in attempts to unionize employees in other organizations. A **union steward** is an employee who is elected to serve as the first-line representative of unionized workers. Stewards address grievances with supervisors and generally represent employees at the worksite.

LO4 Explain the nature of each of the major U.S. labor laws.

16-4 ■ U.S. LABOR LAWS

The right to organize workers and engage in collective bargaining offers little value if workers cannot freely exercise it. Management has consistently developed practices to prevent unions from organizing employees. Over a period of many years, the federal government has taken action both to hamper unions and to protect them.

16-4a Early Labor Legislation

Beginning in the late 1800s, federal and state legislation related to unionization was passed. The two most prominent acts are discussed next.

Railway Labor Act The Railway Labor Act (RLA) of 1926 represented a shift in government regulation of unions. The result of a joint effort between railroad management and unions to reduce transportation strikes, this act gave railroad employees "the right to organize and bargain collectively through representatives of their own choosing." In 1936, airlines and their employees were added to those covered by the RLA. Some experts believe that some of the labor relations problems in the airline industry stem from the provisions of the RLA, and that those problems would be more easily resolved if the airlines fell within the labor laws covering most other industries.

The RLA mandates a complex and cumbersome dispute-resolution process. This process allows either the unions or the management to use the National Labor Relations Board, a multistage dispute-resolution process, and even the power of the President of the United States to appoint an emergency board. The end result of having a prolonged process that is subject to political interference has been that unions often work for two or more years after the expiration of their old contracts because the process takes a long time.

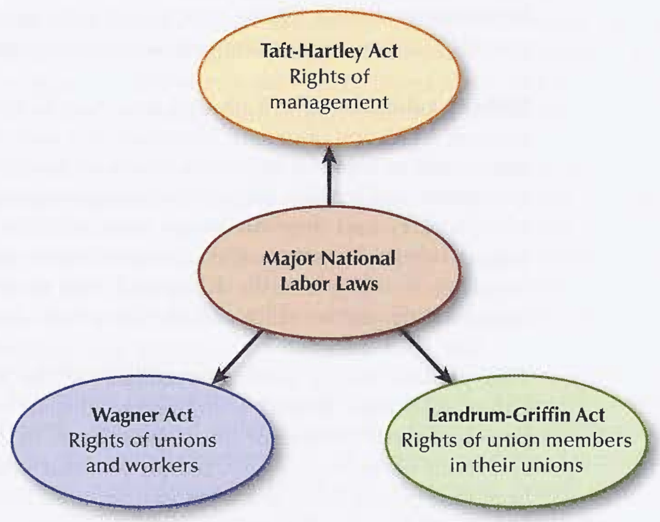
Norris-LaGuardia Act The crash of the stock market and the onset of the Great Depression in 1929 led to massive cutbacks by employers. In some industries, the resistance by employees led to strikes and violence. Under laws at that time, employers could go to court and have a federal judge issue injunctions ordering workers to return to work. In 1932, Congress passed the Norris-LaGuardia Act, which guaranteed workers some rights to organize and restricted the issuance of court injunctions in labor disputes.

The Next Stage The economic crises of the early 1930s and the continuing restrictions on workers' ability to organize into unions led to the passage of landmark labor legislation, the Wagner Act, in 1935. Later acts reflected other pressures and issues that required legislative attention. Three acts passed over a period of almost 25 years constitute the U.S. labor law foundation: (1) the Wagner Act, (2) the Taft-Hartley Act, and (3) the Landrum-Griffin Act. Each act was passed to focus on some facet of the relations between unions and management. Figure 16-4 indicates the primary focus of each act. Two other pieces of legislation, the Civil Service Reform Act and the Postal Reorganization Act, also have affected only the governmental aspects of union/management relations.

16-4b Wagner Act (National Labor Relations Act)

The National Labor Relations Act, more commonly referred to as the Wagner Act, has been called the Magna Carta of labor and was, by anyone's standards, pro-union. Passed in 1935, the Wagner Act was an outgrowth of the Great Depression. With employers having to close or cut back their operations, workers were left with little job security. Unions stepped in to provide a feeling of solidarity and strength for many workers. The Wagner Act declared, in effect, that the official policy of the U.S. government was to encourage collective bargaining. Specifically, it established the right of workers to organize, unhampered by management interference, through unfair labor practices.

FIGURE 16-4 Major National Labor Laws



Unfair Labor Practices To protect union rights, the Wagner Act prohibited employers from using unfair labor practices. Five of those practices were identified as follows:

- Interfering with, restraining, or coercing employees in the exercise of their right to organize or to bargain collectively
- Dominating or interfering with the formation or administration of any labor organization
- Encouraging or discouraging membership in any labor organization by discriminating with regard to hiring, tenure, or conditions of employment
- Discharging or otherwise discriminating against an employee because the employee filed charges or gave testimony under the act
- Refusing to bargain collectively with representatives of the employees

National Labor Relations Board The Wagner Act established the National Labor Relations Board as an independent entity to enforce the provisions of the act. The NLRB administers all provisions of the Wagner Act and of subsequent labor relations acts. The primary functions of the NLRB include conducting unionization elections, investigating complaints by employers or unions through its fact-finding process, issuing opinions on its findings, and prosecuting violations in court. The five members of the NLRB are appointed by the President of the United States and confirmed by the U.S. Senate.

16-4c Taft-Hartley Act (Labor Management Relations Act)

The passage in 1947 of the Labor Management Relations Act, better known as the Taft-Hartley Act, was accomplished as a means to offset the pro-union Wagner Act by limiting union actions. It was considered to be pro-management and became the second of the major labor laws.

The new law amended or qualified in some respect all the major provisions of the Wagner Act and established an entirely new code of conduct for unions. The Taft-Hartley Act forbade unions from engaging in a series of unfair labor practices, much like those prohibitions on management behavior. Coercion, discrimination against nonmembers, refusing to bargain, excessive membership fees, and other practices were not allowed by unions. A 1974 amendment extended coverage of the Taft-Hartley Act to private, nonprofit hospitals and nursing homes.

The Taft-Hartley Act also established the Federal Mediation and Conciliation Service (FMCS) as an agency to help management and labor settle labor-contract disputes. The act required that the FMCS be notified of disputes over contract renewals or modifications if they were not settled within 30 days after the designated date.

National Emergency Strikes The Taft-Hartley Act allows the President of the United States to declare that a strike presents a national emergency. A national emergency strike is one that would impact an industry or a major part of it in such a way that the national economy would be significantly affected. The act allows the U.S. President to declare an 80-day cooling-off period during which union and management continue negotiations. Only after that period can a strike occur if settlements have not been reached.

Over the decades, national emergencies have been identified in the railroad, airline, and other industries. For example, the national emergency provisions were involved in a strike of transportation and dock workers throughout the U.S. West Coast states. During the 80-day period, a contract agreement was reached, so a strike was averted.

Right-to-Work Provision One provision of the Taft-Hartley Act, section 14(b), deserves special explanation. This section allows states to pass laws that restrict compulsory union membership. Accordingly, several states have passed **right-to-work laws**, which prohibit requiring employees to join unions as a condition of obtaining or continuing employment. The laws were so named because they allow a person the right to work without having to join a union.

Right-to-work laws State laws that prohibit requiring employees to join unions as a condition of obtaining or continuing employment.

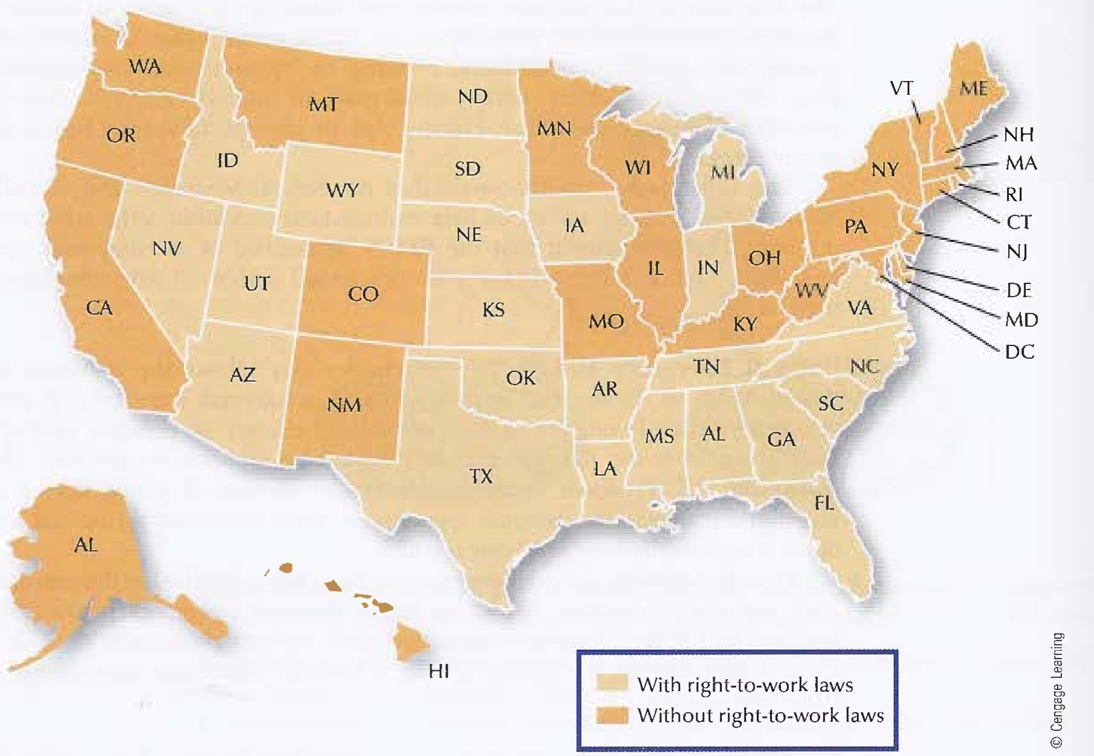
The states that have enacted these laws are shown in Figure 16-5. After much political jockeying, Indiana became the 23rd state, and the first in the Rust Belt, to enact a right-to-work provision, and similar battles are being staged in Montana and New Hampshire.[20] Union representatives encouraged members to keep paying their union dues in new right-to-work status so that organized labor still has a strong voice in the state. However, many members may be motivated to drop their memberships because of their political beliefs or personal finances.[21] Michigan voted to become the 24th right-to-work state, and the HR Perspective: Michigan Passes 24th Right-to-Work Provision discusses this development.

Open shop Firm in which workers are not required to join or pay dues to a union.

In states with right-to-work laws, employers may have an **open shop**, which indicates workers cannot be required to join or pay dues to a union. Thus, even though a union may represent a group of employees at a company, individual workers cannot be required or coerced to join the union or pay dues. Consequently, in many of the right-to-work states, individual membership in union groups is significantly lower.

The National Right to Work Legal Defense Foundation is an organization that has lobbied for more states to become right-to-work states. Also, that organization

FIGURE 16-5 Right-to-Work States



HR PERSPECTIVE

Michigan Passes 24th Right-to-Work Provision

Michigan became the 24th right-to-work state, which will greatly reduce the role of unions representing workers in both public and private organizations in this traditionally prolabor area of the country. The State House of Representatives voted 58-51 in favor of a provision that prevents unions from requiring government employees to become members to get hired. In other words, membership dues can be paid by workers on a voluntary basis to support union activities. A similar bill was voted in 58-52 for employees operating in the private sector and establishes similar standards. Governor Rick Snyder was supportive of the legislation because it empowers workers to make their own choices.

The passage of this legislation is not without its detractors. Thousands of protestors gathered outside the Capitol building to express their concerns about the state's new right-to-work agenda. Access to the Capitol was closed because the building was beyond capacity, so individuals had to gather in the surrounding areas. The debate in the House prompted negative outcries from some protestors, and some individuals expressed their discontent outside Snyder's office. Many demonstrators even became aggressive and unruly, requiring police to make several arrests to reduce tensions. These incidents show just how heated debates over right-to-work provisions can become.[22]

has become involved in lawsuits where workers have claimed to have been coerced to join unions. According to one official from the National Right to Work Committee, politicians who are against right-to-work provisions or are union-friendly make passing such legislation difficult.[23]

Closed shop
Firm that requires individuals to join a union before they can be hired.

The nature of union/management relations is affected by the right-to-work provisions of the Taft-Hartley Act. Right-to-work generally prohibits the **closed shop**, which requires individuals to join a union before they can be hired. Because of concerns that a closed shop allows a union to control who may be considered for employment and who must be hired by an employer, section 14(b) prohibits the closed shop except in construction-related occupations.

In states that do not have right-to-work laws, different types of arrangements exist. Three of the different types of "shops" are as follows:

- *Union shop*: Arrangement requires that individuals join the union, usually 30 to 60 days after being hired.
- *Agency shop*: Arrangement makes workers who don't join the union to make payments equal to union dues and fees to get union representation services.
- *Maintenance-of-membership shop*: Requires workers to remain members of the union for the period of the labor contract

The nature of the shop is negotiated between the union and the employer. Employees who fail to meet the requirements are often terminated from their jobs.

16-4d Landrum-Griffin Act (Labor Management Reporting and Disclosure Act)

The third of the major labor laws in the United States, the Landrum-Griffin Act, was passed in 1959. Since a union is supposed to be a democratic institution in which union members freely vote, elect officers, and approve labor contracts, the Landrum-Griffin Act was passed in part to ensure that the federal government protects the democratic rights of the members. Under the Landrum-Griffin Act, unions are required to establish bylaws, make financial reports, and provide union members with a bill of rights. The law appointed the U.S. Secretary of Labor to act as a watchdog of union conduct.

There is a need for such legislative oversight to protect individual union members. For instance, in some situations union officers have been known to physically harass individuals who didn't like them. In other cases, officials have seized union resources and used them for their own personal gain.

16-4e Civil Service Reform and Postal Reorganization Acts

Passed as part of the Civil Service Reform Act of 1978, the Federal Service Labor Management Relations statute made major changes in how the federal government deals with unions. The act also identified areas subject to bargaining and established the Federal Labor Relations Authority (FLRA) as an independent agency similar to the NLRB. The FLRA, a three-member body, was given the authority to oversee and administer union/management relations in the federal government and investigate unfair practices in union organizing efforts.

In a somewhat related area, the Postal Reorganization Act of 1970 established the U.S. Postal Service as an independent entity. Part of the 1970 act prohibited postal workers from striking and established a dispute-resolution process for them to follow.

16-4f Proposed Employee Free Choice Act

The Employee Free Choice Act would allow unions to sign up workers on cards (referred to as "card check") and become recognized without an election by secret ballot.[24] As a result, the "campaigns" to organize that unions dislike would be eliminated because simply getting 50% of the workers in a unit to sign a card would be sufficient to bring in the union.[25] Further, the proposed law would require a contract to be negotiated within a certain time period or one could be imposed by an arbitrator.[26] Employers take issue with this approach because it goes against the U.S. tradition in which negotiated contracts must be agreed to by both parties.

LO5 Describe the stages of the unionization process and the typical collective bargaining process.

16-5 ■ THE UNIONIZATON PROCESS

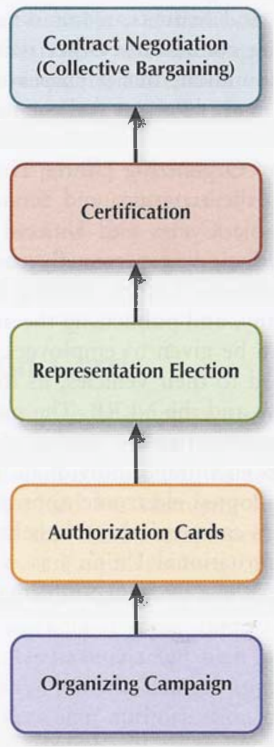
The typical union organizing process is outlined in Figure 16-6. The process of unionizing an employer may begin in one of two primary ways: (1) a union targeting an industry or a company, or (2) employees requesting union representation. In the first case, the local or national union identifies a firm or an industry in which it believes unionization can succeed. The logic for targeting is that if the union succeeds in one firm or a portion of the industry, then many other workers in the industry will be more willing to consider unionizing. In the second case, the impetus for union organizing occurs when individual workers at an employer contact a union and express a desire to unionize. The employees themselves—and/or the union—may then begin to campaign to win support among the other employees.

16-5a Organizing Campaign

Like other entities seeking members, a union usually mounts an organized campaign to persuade individuals to join. As would be expected, employers respond to unionization efforts by taking various types of opposing actions.

Employers' Union Prevention Efforts Management representatives may use various tactics to defeat a unionization effort. Such tactics often begin when union publicity appears or during the distribution of authorization cards. Some employers such as Con Agra, Coca-Cola, and Wal-Mart hire consultants who specialize in combating unionization efforts. Using these "union busters," as they are called by unions, appears to enhance employers' chances of winning the representation election. Union prevention efforts that may be conducted by

FIGURE 16-6 Typical Unionization Process



consultants or done by management and outside labor attorneys include the following:[27]

- Holding mandatory employee meetings
- Distributing antiunion leaflets at work and mailing antiunion letters to employees' homes
- Providing and using antiunion videos, e-mails, and other electronic communications

Many employers have created a "no-solicitation" policy to restrict employees and outsiders from distributing literature or soliciting union membership on company premises. Employers without such a policy may be unable to prevent those acts. A policy against solicitation must be a long-term, established approach, not a single action taken to counter a specific and immediate unionization attempt. For example, a Steelworkers union sought certification by the NLRB to be the bargaining agent at an Ohio facility. After the union lost the election by one vote, it protested that the company had interfered with the right to organize when just before the election it adopted a rule prohibiting the posting of pro-union material on an employee bulletin board. The NLRB set aside the first election, and the company lost the second election.

Employers may make strategic decisions and take aggressive steps to remain nonunion. Such a choice is perfectly rational, but may require some specific

HR policies and philosophies. For example, "preventive" employee relations may emphasize good morale and loyalty based on concern for employees, competitive wages and benefits, a fair system for dealing with employee complaints, and safe working conditions. Other issues may also play a part in employees' decisions to stay nonunion, but if employers adequately address the points just listed, fewer workers are likely to feel the need for a union to represent them.

Unions' Organizing Efforts The organizing and negotiating successes of unions are tied to the economy and economic trends. For example, see the HR Perspective: Economic Cycles and Unions. The persuasion efforts by unions can take many forms, including personally contacting employees outside work, mailing materials to employees' homes, inviting employees to attend special meetings away from the company, and publicizing the advantages of union membership. Brochures and leaflets can be given to employees as they leave work, mailed to their homes, or even attached to their vehicles, as long as the union complies with the rules established by laws and the NLRB. The purpose of all this publicity is to encourage employees to sign authorization cards.

To encourage individuals to become involved in unionization efforts, unions have adopted electronic approaches, such as establishing websites where interested workers can read about benefits of unionization. For instance, the Service Employees International Union has websites and chat rooms where nurses at nonunion hospitals can exchange information with unionized nurses. Change to Win and the

HR PERSPECTIVE

Economic Cycles and Unions

Employees get involved with unions because they believe these organizations can help improve their situations in the workplace. Under some circumstances, unions can function as a positive sounding board for the concerns of employees, and union representation can encourage employers to better support their workers. Even though there has been an overall reduction in union membership, unions might be able to once again improve employees' work experiences.

Such conditions could be present now. For instance, the recession weakened employees' bargaining power, a trend that is likely to continue. More jobs in the United States will be freelance and temporary with less emphasis on permanent positions, similar to the situation in Europe. Employers create just-in-time workforces that can be turned on and off, allowing them to reduce fixed costs. That means companies have an edge in bargaining power, and the risks are pushed to employees.

Certainly not all workers are pleased with such jobs, but in bad times they have little choice, and unions have little opportunity. However, looking into the future, it is possible to see that better times may be coming for labor. In a decade, retirement of the baby boomers could cause labor shortages. A shortage of workers was widely noted before the last recession, and the underlying dynamic has not gone away. The idea of loyalty to an employer has effectively disappeared in many places, and the mechanisms for labor's return remain intact—waiting for better times.[28]

AFL-CIO both have weblinks and blogs available through their websites to provide union information online. These sites explain workers' rights and give examples of the advantages of being union members. Successes in unionizing groups of employees are described. Also, the differences between wages, benefits, and job security are contrasted before and after unionization occurred.

Salting
Practice in which unions hire and pay people to apply for jobs at certain companies to begin organizing efforts.

Unions sometimes pay organizers to infiltrate a targeted employer and try to organize workers. In this practice, known as **salting**, the unions hire and pay people to apply for jobs at certain companies; when the people are hired, they begin organizing efforts. The U.S. Supreme Court has ruled that refusing to hire otherwise-qualified applicants, solely because they are also paid by a union, violates the Wagner Act. However, employers may refuse to hire "salts" for job-related and nondiscriminatory reasons.[29]

16-5b Authorization Cards

Union authorization card
Card signed by employees to designate a union as their collective bargaining agent.

A **union authorization card** is signed by employees to designate a union as their collective bargaining agent. At least 30% of the employees in the targeted group must sign authorization cards before an election can be called.

Union advocates have lobbied for changing laws so that elections are not needed if more than 50% of the eligible employees sign authorization cards. As mentioned earlier, the proposed Employee Free Choice Act would eliminate the secret ballot for electing union representation and make it so that the union would automatically represent all workers if more than 50% of the employees signed authorization cards. Some states have enacted such laws for public-sector unionization. Also, some employers have taken a neutral approach and agreed to recognize unions if a majority of workers sign authorization cards. Some employers' agreements allow for authorization card checks to be done by a neutral outside party to verify union membership.

However, the fact that an employee signs an authorization card does not necessarily mean that the employee is in favor of a union. It means only that the employee would like the opportunity to vote on having a union. Employees who do not want a union might sign authorization cards because they want management to know they are disgruntled or because they want to avoid upsetting coworkers who are advocating unionization.

Employers and some politicians argue that eliminating elections violates the personal secrecy and democracy rights of employees. The extent of legislative changes will depend on the political composition of the U.S. Congress and presidential reactions to such efforts.

16-5c Representation Election

An election to determine if a union will represent the employees is supervised by the NLRB for private-sector organizations and by other legal bodies for public-sector organizations. If two unions are attempting to represent employees, the employees will have three choices: union A, union B, and no union.

Bargaining unit
Employees eligible to select a single union to represent and bargain collectively for them.

Bargaining Unit Before any election, the appropriate bargaining unit must be determined. A **bargaining unit** is composed of all employees eligible to select a single union to represent and bargain collectively for them. If management and the union do not agree on who is and who is not included in the unit, the regional office of the NLRB must make the determination. A major criterion in deciding the composition of a bargaining unit is what the NLRB calls a "community of interest." For example, at a warehouse distribution firm, delivery drivers, accounting clerks, computer programmers, and mechanics would probably not be included in the same bargaining unit; these employees have widely varying jobs, areas of work, physical locations, and other differences that would likely negate a community of interest. Employees who constitute a bargaining unit have mutual interests in the following areas:

- Wages, hours, and working conditions
- Traditional industry groupings for bargaining purposes
- Physical location and amount of interaction and working relationships between employee groups
- Supervision by similar levels of management

Supervisors and Union Ineligibility Provisions of the National Labor Relations Act exclude supervisors from voting for or joining unions. As a result, supervisors cannot be included in bargaining units for unionization purposes, except in industries covered by the Railway Labor Act. But who qualifies as a supervisor is not always clear. The NLRB expanded its definition to identify a supervisor as any individual with authority to hire, transfer, discharge, discipline, and use independent judgment with employees. Numerous NLRB and court decisions have been rendered on the specifics of different situations. A major case decided by the U.S. Supreme Court found that charge nurses with RN degrees were supervisors because they exercised independent judgment. This case and others have provided employers and unions with some guidance about who should be considered supervisors and thus excluded from bargaining units.[30]

Election Unfair Labor Practices Employers and unions engage in many activities before an election. Both the Wagner Act and the Taft-Hartley Act place restrictions on these activities. Once unionizing efforts begin, all activities must conform to the requirements established by applicable labor laws. Both management and the union must adhere to those requirements, or the results of the effort can be appealed to the NLRB and overturned. The HR Skills and Applications: Unionization Do's and Don'ts highlights some of the legal and illegal actions managers must be aware of during unionization efforts.

Election Process If an election is held, the union needs to receive only a majority of the votes. For example, if a group of 200 employees is the identified bargaining unit, and only 50 people vote, only 26 (50% of those voting plus 1) need to vote yes for the union to be named as the representative of all 200 employees. Typically, the smaller the number of employees in the bargaining unit, the higher the likelihood that the union will win.

If either side believes that the other side used unfair labor practices, the election results can be appealed to the NLRB. If the NLRB finds evidence of unfair practices, it can order a new election. If no unfair practices were used and the union obtains a majority in the election, the union then petitions the NLRB for certification.

16-5d Certification and Decertification

Official certification of a union as the legal representative for designated private-sector employees is given by the NLRB, or for public-sector employees by an equivalent body. Once certified, the union attempts to negotiate a contract with the employer. The employer *must* bargain; refusing to bargain with a certified union constitutes an unfair labor practice.

HR SKILLS AND APPLICATIONS

Unionization Do's and Don'ts

Employers can take numerous actions to prevent unionization. All managers and supervisors must adhere to NLRB and other requirements to avoid unfair labor practices. Listed below are some common do's and don'ts.

✓ DO (LEGAL)

- Tell employees how current wages and benefits compare with those in other firms.
- Tell employees why the employer opposes unionization.
- Tell employees the disadvantages of having a union (dues, assessments, etc.)
- Show employees articles about unions and relate negative experiences elsewhere.
- Explain the unionization process to employees accurately.
- Forbid distribution of union literature during work hours in work areas.
- Enforce disciplinary policies and rules consistently and appropriately.

✗ DON'T (ILLEGAL)

- Tell employees that they will be given pay increases or promotions if they vote against the union.
- Suggest that the company will close down or move if a union is voted in.
- Monitor union meetings.
- Make a speech to employees or groups at work within 24 hours of the election. (Before that, it is allowed.)
- Ask employees how they plan to vote or if they have signed authorization cards.
- Encourage employees to persuade others to vote against the union.
- Tell employees that they will be terminated or disciplined if they advocate the union.

Decertification Process whereby a union is removed as the representative of a group of employees.

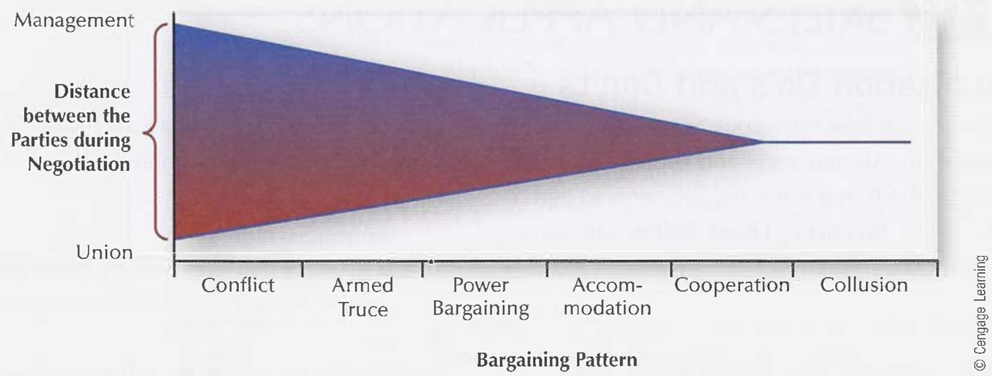
When members no longer wish to be represented by the union, they can use the election process to sever the relationship between themselves and the union. Similar to the unionization process, **decertification** is a process whereby a union is removed as the representative of a group of employees. Employees attempting to oust a union must obtain decertification authorization cards signed by at least 30% of the employees in the bargaining unit before an election may be called. If a majority of those voting in the election want to remove the union, the decertification effort succeeds. Some reasons that employees might decide to vote out a union are that the treatment provided by employers has improved, the union has been unable to address the changing needs of the organizational workforce, or the image of the union has declined. Current regulations prohibit employers from initiating or supporting decertification because it is a matter between employees and unions, and employers must stay out of the process.

Collective bargaining Process whereby representatives of management and workers negotiate over wages, hours, and other terms and conditions of employment.

16-5e Contract Negotiation (Collective Bargaining)

Collective bargaining, the last step in unionization, is the process whereby representatives of management and workers negotiate over wages, hours, and other terms and conditions of employment. This give-and-take process between representatives

FIGURE 16-7 Continuum of Collective Bargaining Relations



of the two organizations attempts to establish conditions beneficial to both. It is also a relationship based on relative power.

Management/union relations in collective bargaining can follow one of several patterns. Figure 16-7 depicts them as a continuum, ranging from conflict to collusion. On the left side of the continuum, management and the union see each other as enemies. On the right side, the two entities join in collusion, which is relatively rare in U.S. labor history and is illegal. Most positions fall between these two extremes.

The power relationship in collective bargaining involves conflict, and the threat of conflict seems necessary to maintain the relationship. But perhaps the most significant aspect of collective bargaining is that it is a continuing relationship that does not end immediately after agreement is reached. Instead, it continues for the life of the labor agreement and beyond.[31] Therefore, the more cooperative management is, the less hostility and conflict with unionized employees will be present to carry over into the workplace. However, this cooperation does not mean that the employer agrees to all union demands.

16-6 ■ COLLECTIVE BARGAINING ISSUES

A number of issues can be addressed during collective bargaining. Although not often listed as such in the contract, management rights and union security are two important issues subject to collective bargaining. These and other issues, common to collective bargaining, are discussed next.

16-6a Management Rights

Management rights
Rights reserved so that the employer can manage, direct, and control its business.

Virtually all labor contracts include **management rights**, which are rights reserved so that the employer can manage, direct, and control its business. By including such a provision, management attempts to preserve its unilateral right to make changes in areas not identified in a labor contract. A typical provision might read as follows:

> *The employer retains all rights to manage, direct, and control its business in all particulars, except as such rights are expressly and specifically modified by the terms of this or any subsequent agreement.*

16-6b Union Security

Union security provisions
Contract clauses to help the union obtain and retain members.

A major concern of union representatives when bargaining is the negotiation of **union security provisions**, which are contract clauses to help the union obtain and retain members. One type of union security clause in labor contracts is the *no-layoff policy*, or *job security guarantee*. Such a provision is especially important to many union workers because of all the mergers, downsizings, and job reductions taking place in many industrial, textile, and manufacturing firms. However, for these very reasons, management is often unwilling to consider this type of provision.

Union Dues Issues A common union security provision is the *dues checkoff* clause, which provides for the automatic deduction of union dues from the payroll checks of union members. The dues checkoff provision makes it much easier for the union to collect its funds, and without it, the union must collect dues by billing each member separately.

However, unions' ability to use such checkoff clauses for contributions to political and congressional candidates has been challenged in federal court. A U.S. Supreme Court case supported the constitutionality of state laws that require labor unions to get written consent before using nonmember fees for political purposes. The court noted that agency shop agreements were acceptable, and that public-sector unions could levy fees on nonmember employees. However, it was also noted that unions need to obtain authorization from nonmembers when agency fees are being used to support political campaigns.

Types of Required Union Membership Another form of union security provision is *requiring union membership* of all employees, subject to state right-to-work laws. As mentioned earlier, a closed shop is illegal except in limited situations within the construction industry. But other types of arrangements can be developed, including union shops, agency shops, and maintenance-of-membership shops, which were discussed earlier.

16-6c Classification of Bargaining Issues

The NLRB has defined collective bargaining issues in three ways. The categories it has used are mandatory, permissive, and illegal.

Mandatory issues
Collective bargaining issues identified specifically by labor laws or court decisions as subject to bargaining.

Mandatory Issues Issues identified specifically by labor laws or court decisions as subject to bargaining are **mandatory issues**. If either party demands that issues in this category be subject to bargaining, then that must occur. Generally, mandatory issues relate to wages, benefits, nature of jobs, and other work-related subjects. Mandatory subjects for bargaining include the following:

- Discharge of employees
- Grievances
- Work schedules
- Union security and dues checkoff
- Retirement and pension coverage
- Vacations and time off
- Rest and lunch break rules
- Safety rules
- Profit-sharing plans
- Required physical exam

Permissive issues Collective bargaining issues that are not mandatory and that relate to certain jobs.

Illegal issues Collective bargaining issues that would require either party to take illegal action.

Permissive Issues Issues that are not mandatory and that relate to certain jobs are **permissive issues**. For example, the following issues can be bargained over if both parties agree: benefits for retired employees, product prices for employees, and performance bonds.

Illegal Issues A final category, **illegal issues**, includes those issues that would require either party to take illegal action. Examples would be giving preference to union members when hiring employees or demanding a closed-shop provision in the contract. If one side wants to bargain over an illegal issue, the other side can refuse.

16-7 ■ COLLECTIVE BARGAINING PROCESS

The collective bargaining process involved in negotiating a contract consists of four possible stages: preparation and initial demands, negotiations, settlement or impasse, and strikes and lockouts. Throughout the process, management and labor deal with the terms of their relationship.

16-7a Preparation and Initial Demands

Both labor and management representatives spend considerable time preparing for negotiations.[32] Employer and industry data concerning wages, benefits, working conditions, management and union rights, productivity, and absenteeism are gathered. If the organization argues that it cannot afford to pay what the union is asking, the employer's financial situation and accompanying data become relevant to the process. However, the union must request such information before the employer is obligated to provide it. Typical bargaining includes initial proposals of expectations by both sides. The amount of rancor or calmness exhibited may set the tone for future negotiations between the parties.

Core Bargaining Issues The primary focus of bargaining for both union and management is on the core areas of wages, benefits, and working hours and conditions. The importance of this emphasis is seen in several ways.

Union wages and benefits generally are higher in unionized firms than in nonunionized firms. As shown in Figure 16-8, in a recent year median earnings for union members were $938/week compared with the nonunion amount of $729/week. The additional $209/week represents over $10,000/year more for union members' wages than nonunion wages. It is common for wages and benefits to be higher in unionized firms.

16-7b Continuing Negotiations

After taking initial positions, each side attempts to determine what the other side values highly so that the best bargain can be struck. For example, the union may be asking the employer to pay for dental benefits as part of a package that also includes wage increases and retirement benefits. However, the union may be most interested in the retirement benefits and may be willing to trade the dental payments for better retirement benefits. Management must determine what the union has as a priority and decide exactly what to give up.

FIGURE 16-8 Weekly Earnings of Union and Nonunion Workers

Source: Information compiled from "Union Members Summary" report, *Bureau of Labor Statistics*, January 27, 2012.

Good Faith Provisions in federal law require that both employers and union bargaining representatives negotiate in good faith. In good-faith negotiations, the parties agree to send negotiators who can bargain and make decisions, rather than people who do not have the authority to commit either group to a decision. To be more effective, meetings between the parties should be conducted professionally and address issues, rather than being confrontational. Refusing to bargain, scheduling meetings at absurdly inconvenient hours, and using other conflicting tactics may lead to employers or unions filing complaints with the NLRB.

16-7c Settlement and Contract Agreement

After reaching an initial agreement, the bargaining parties usually return to their respective constituencies to determine if the informal agreement is acceptable. A particularly crucial stage is **ratification** of the labor agreement, which occurs when union members vote to accept the terms of a negotiated labor agreement. Before ratification, the union negotiating team explains the agreement to the union members and presents it for a vote. If the members approve the agreement, it is then formalized into a contract. Figure 16-9 lists the typical items in a labor agreement.

Ratification
Process by which union members vote to accept the terms of a negotiated labor agreement.

FIGURE 16-9 Typical Items in a Labor Agreement

16-7d Bargaining Impasse

Regardless of the structure of the bargaining process, labor and management do not always reach agreement on the issues. If they reach an impasse, then the disputes can be taken to conciliation, mediation, or arbitration.

Conciliation and Mediation When an impasse occurs, an outside party such as the Federal Mediation and Conciliation Service may help the two deadlocked parties to continue negotiations and arrive at a solution. In **conciliation**, the third party assists union and management negotiators to reach a voluntary settlement, but makes no proposals for solutions. In **mediation**, the third party may suggest ideas for solutions to help the negotiators reach a settlement.

Conciliation
Process by which a third party assists union and management negotiators to reach a voluntary settlement.

Mediation
Process by which a third party helps the negotiators reach a settlement.

In conciliation and mediation, the third party does not attempt to impose a solution. Sometimes fact finding helps to clarify the issues of disagreement as an intermediate step between mediation and arbitration.

Arbitration
Process that uses a neutral third party to make a decision.

Arbitration In **arbitration**, a neutral third party makes a decision. Arbitration can be conducted by an individual or a panel of individuals. "Interest" arbitration attempts to solve bargaining impasses, primarily in the public sector. This type of arbitration is not frequently used in the private sector because companies generally do not want an outside party making decisions about their rights, wages, benefits, and other issues. However, grievance or "rights" arbitration is used extensively in the private sector. Fortunately, in many situations, agreements are reached through negotiations without the need for arbitration. When disagreements continue, strikes or lockouts may occur.

16-7e Strikes, Lockouts, and Other Tactics

Strike
Work stoppage in which union members refuse to work in order to put pressure on an employer.

If a deadlock cannot be resolved, an employer may revert to a lockout—or a union may revert to a strike. During a **strike**, union members refuse to work to put pressure on an employer. Often, the striking union members picket or demonstrate against the employer outside the place of business by carrying placards and signs. Despite current trends, evidence suggests some employees are using the strike because they believe their interests are not being adequately considered by politicians, organizations, and managers. According to information compiled by the Bureau of Labor Statistics, there were 11 significant work stoppages in one recent year and 19 incidents occurred in the next year. Recent strikes have occurred at many Wal-Mart stores because employees believe that company does not care enough about its workers. In addition, employers are concerned about compensation and scheduling.[33] See the HR Perspective: No More Twinkies, At Least for Now for another example of an employee strike at Hostess Brands.

HR PERSPECTIVE

No More Twinkies, At Least for Now

The 83-year-old company Hostess Brands, makers of Twinkies, Ho Hos, Ding Dongs, Sno Balls, Hostess Cupcakes, and many other well-known baked products, recently decided to close its doors because of failed negotiations with one of its major unions, the Bakery, Confectionery, Tobacco Workers and Grain Millers International Union. Members participated in a strike that was prompted by grievances over wage and benefit cuts, which adversely impacted the company's ability to manufacture and ship goods. Employees would need to take an 8% decrease in pay and a 20% increase in what they pay for benefits to help the company turnaround.

Hostess shut down several manufacturing plants in response to the strike, and several days after the closings, stated that the firm would cease operating completely and liquidate if enough employees did not come back to their jobs. An agreement unfortunately was not reached, and the company halted all of its operations and sought permission from the U.S. Bankruptcy Court to liquidate its brands and other assets, as well as to lay off its workforce of 18,500 employees.

The company blamed the closure on union involvement in wage and benefit disagreements and rising debt. The union blamed the company's woes on low interest in technological advancements and an overemphasis on generating profits for the hedge funds that own Hostess Brands. CEO Gregory F. Rayburn indicated that he was optimistic about the firm being able to sell it product lines to other organizations, and there is speculation that other food producers such as McKee Foods (makers of Little Debbie products), Bimbo Bakeries (makers of Entenmann's baked goods), and ConAgra could be involved in brand buy outs.

The closure of Hostess Brands prompted a buying spree among customers. Retail stores saw their remaining stock of Twinkies and other Hostess products fly off the shelves because people didn't know when or if they would be able to enjoy these snacks again. Customers' feelings about the shut down were also downbeat, which illustrates the negative impact of failed union-management negotiations for all concerned.[34]

Lockout
Shutdown of company operations undertaken by management to prevent union members from working.

In a **lockout**, management shuts down company operations to prevent union members from working. This action may avert possible damage or sabotage to company facilities or injury to employees who continue to work. It also gives management leverage in negotiations.

Types of Strikes Five types of strikes can occur:

- *Economic strikes* happen when the parties fail to reach agreement during collective bargaining.
- *Unfair labor practices strikes* occur when union members leave their jobs over what they feel are illegal employer actions, such as refusal to bargain.
- *Wildcat strikes* occur during the life of the collective-bargaining agreement without approval of union leadership and violate a no-strike clause in a labor contract. Strikers can be discharged or disciplined.
- *Jurisdictional strikes* exist when members of one union walk out to force the employer to assign work to them instead of to members of another union.
- *Sympathy strikes* take place when one union chooses to express support for another union involved in a dispute, even though the first union has no disagreement with the employer.

As a result of the decline in union power, work stoppages due to strikes and lockouts are relatively rare. In a recent year, all national strikes were settled quickly. Many unions are reluctant to go on strike because of the financial losses their members would incur or the fear that a strike would cause the employer to go bankrupt. In addition, management has shown its willingness to hire replacements, and some strikes have ended with union workers losing their jobs.

Replacement of Workers on Strike Management retains and sometimes uses its ability to simply replace workers who strike. These replacements are called "scabs." Workers' rights vary depending on the type of strike that occurs. For example, in an economic strike, an employer is free to replace the striking workers. But with an unfair labor practices strike, the workers who want their jobs back at the end of the strike must be reinstated.

Other Tactics Besides picketing and strikes, unions and their members might resort to unorthodox or even aggressive practices to express their discontent about employer practices and advance their pro-labor agenda. For instance, many organizations located in Wisconsin have been threatened with boycotts (or have actually been boycotted) because they supported anti-union politicians or did not show strong support for organized labor.[35] In another case, a grain terminal operator based at a port in Washington state was targeted by hundreds of longshoreman after the organization decided to hire nonunion workers to save money. The employees broke into the facility, held several security guards hostage, and vandalized company equipment and resources. These actions prompted the NLRB to reprimand the union members for their inappropriate conduct and secure a restraining order from a federal judge.[36]

16-7f Trends in Union/Management Negotiations

As we have seen, unions are having a tougher time representing employees' interests. A decline in membership, increased competition for business, and the availability of more attractive options for handling employee issues have severely weakened interest in unions. These realities have encouraged unions in both the public and private sectors to make more concessions when negotiating with management. For example, the United Auto Workers agreed to a $1-billion reduction in employee benefits and agreed to other significant concessions to help American automotive companies after they were bailed out by the federal government.[37] There even has been interest in cooperative arrangements between labor organizers and companies so that both parties achieve success, which is discussed in the next section.

In addition, courts have also played a prominent role in clarifying the parameters of collective bargaining arrangements. For instance, in the landmark case *14 Penn Plaza vs. Pyett (2009)* the Supreme Court determined that arbitration agreements negotiated by unions should be honored when claims of employment discrimination are made by employees. Employees are still protected by discrimination legislation, but they are expected to use arbitration to handle such disputes when such arrangements exist. Given the informal nature of arbitration (compared to the formality of court cases), it is expected that more companies will seek to develop arbitration agreements.[38] Courts have also enforced the requirements of collective bargaining agreements. For example, the 2nd U.S. Court of Appeals determined that Pratt & Whitney Division's (of United Technology Corporation) plans to close two of its Connecticut-based airplane repair shops breached a collective bargaining arrangement made with the District Lodge 26 union. The ruling was based on the idea that the company had not fully considered labor issues when deciding to close the facilities.[39]

16-8 ■ UNION/MANAGEMENT COOPERATION

The adversarial relationship that naturally exists between unions and management may lead to strikes and lockouts. However, as noted, such conflicts today are relatively rare. Even more encouraging is the recognition on the part of some union leaders and employer representatives that cooperation between management and labor unions offers a useful route if organizations are to compete effectively in a global economy.

During the past decade, firms have engaged in organizational and workplace restructuring in response to competitive pressures in their industries. Restructurings have had significant effects, such as lost jobs, changed work rules, and altered job responsibilities. When restructurings occur, unions can take different approaches, ranging from resistance to cooperation. When unions have been able to obtain information and share that information with their members to work constructively with the company management at various levels, then organizational restructurings have been handled more successfully.

16-8a Employee Involvement Programs

It seems somewhat illogical to suggest that union/management cooperation or involving employees in making suggestions and decisions could be bad, and yet some decisions by the NLRB appear to have done just that. Some historical perspective is required to understand the issues that surrounded the decisions.

In the 1930s, when the Wagner Act was written, certain employers would form sham company unions, coercing workers into joining them to keep legitimate unions from organizing the employees. As a result, the Wagner Act contained prohibitions against employer-dominated labor organizations. These prohibitions were enforced, and company unions disappeared. But the use of employee involvement programs in organizations today has raised new concerns along these lines.

Because of the Wagner Act, employee-involvement programs set up in past years may be illegal, according to an NLRB decision dealing with Electromation, an Elkhart, IN, firm. Electromation used teams of employees to solicit other employees' views about such issues as wages and working conditions. The NLRB labeled these teams *labor organizations*, in line with requirements of the Wagner Act. It further found that the teams were dominated by management, which had formed them, set their goals, and decided how they would operate. The results of this and other decisions have forced many employers to rethink and restructure their employee-involvement efforts.

Federal court decisions have upheld the NLRB position in some cases and reversed it in others. One key to decisions allowing employee involvement committees and programs seems to be that these entities should not deal directly with traditional collective bargaining issues such as wages, hours, and working conditions. Other keys are that the committees should be composed primarily of workers and that they have broad authority to make operational suggestions and decisions.

16-8b Unions and Employee Ownership

Unions in some situations have encouraged workers to become partial or complete owners of the companies that employ them. These efforts were spurred by concerns that firms were preparing to shut down, merge, or be bought out. Such results were likely to cut the number of union jobs and workers.

Employee stock ownership plans for union members have even become popular. Such programs have been successful in some situations because members have purchased all or part of an organization. However, such programs might undermine union support by creating a closer identification with the concerns and goals of employers, instead of union solidarity.

LO6 Define a grievance and identify the stages in a grievance procedure.

16-9 ■ GRIEVANCE MANAGEMENT

Complaint
Indication of employee dissatisfaction.

Grievance
Complaint formally stated in writing.

Employee dissatisfaction is a potential source of trouble for employers, whether it is expressed or not. Hidden dissatisfaction grows and creates reactions that may be completely out of proportion to the original concerns. Therefore, it is important that dissatisfaction be given an outlet. A **complaint**, which is merely an indication of employee dissatisfaction, is one outlet. If an employee is represented by a union, and the employee says, "I should have received the job transfer because I have more seniority, which is what the union contract states," and she submits it in writing, then that complaint becomes a grievance. A **grievance** is a complaint formally stated in writing whether or not a union is involved.

Management should be concerned with both complaints and grievances because both indicate potential problems within the workforce.[40] Without a grievance procedure, management may be unable to respond to employee concerns because managers are unaware of them. Therefore, a formal grievance procedure provides a valuable communication tool for organizations, whether a union is present or not. In North America, a wide variety of grievance procedures and dispute resolution approaches are used to address employee dissatisfaction, particularly in

FIGURE 16-10 Typical Division of HR Responsibilities: Grievance Management

HR Unit	Managers
• Assists in designing the grievance procedure • Monitors trends in grievance rates for the organization • May assist in preparing grievance cases for arbitration • May have responsibility for settling grievances	• Operate within provisions of the grievance procedure • Attempt to resolve grievances where possible • Document grievance cases for the grievance procedure • Engage in grievance prevention efforts

workplaces that do not deal with a union presence. For instance, alternative dispute-resolution techniques such as mediation, panel assessments, open-door policies, and peer reviews can be effective. But when employees are organized, companies often use some form of arbitration to tackle grievances.[41]

16-9a Grievance Responsibilities

The typical division of responsibilities between the HR unit and operating managers for handling grievances is shown in Figure 16-10. These responsibilities vary considerably from one organization to another, even among unionized firms. But the HR unit usually has more general responsibilities. Managers must accept the grievance procedure as a possible constraint on some of their decisions.

16-9b Grievance Procedures

Grievance procedures Formal channels of communication used to resolve grievances.

Grievance procedures are specific communication channels that are used to resolve grievances between employees and employers. Many times, first-line supervisors are usually closest to a problem and should be one of the primary problem solvers in employee-grievance cases. However, supervisors can be distracted by other work matters and may even be the subject of an employee's grievance. Consequently, grievances need to be handled with a specified resolution approach so that problems are appropriately resolved.

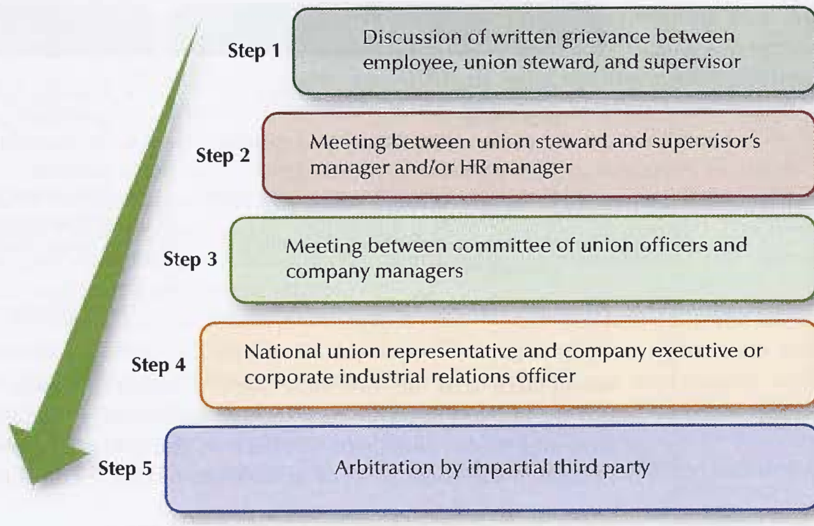
Union Representation in Grievance Procedures A unionized employee generally has a right to union representation if the employee is being questioned by management and if discipline may result. If these so-called *Weingarten rights* (named after the court case that established them) are violated and the employee is dismissed, the employee usually will be reinstated with back pay. Employers are not required to allow nonunion workers to have coworkers present in grievance-procedure meetings. However, employers may voluntarily allow such presence.[42]

16-9c Steps in a Grievance Procedure

Grievance procedures can vary in the steps included. Figure 16-11 shows a typical grievance procedure, which consists of the following steps:

1. The employee discusses the grievance with the union steward (the representative of the union on the job) and the supervisor.

FIGURE 16-11 Steps in a Typical Grievance Procedure



2. The union steward discusses the grievance with the supervisor's manager and/or the HR manager.
3. A committee of union officers discusses the grievance with appropriate company managers.
4. The representative of the national union discusses the grievance with designated company executives or the corporate industrial relations officer.
5. If the grievance is not solved at this stage, it goes to arbitration. An impartial third party may ultimately dispose of the grievance.

Grievance arbitration Means by which a third party settles disputes arising from different interpretations of a labor contract.

Grievance arbitration is a means by which a third party settles disputes arising from different interpretations of a labor contract.[43] This process should not be confused with contract or issues arbitration, discussed earlier, in which arbitration is used to determine how a contract will be written. The U.S. Supreme Court has ruled that grievance-arbitration decisions issued under labor contract provisions are enforceable and generally may not go to court to be changed. Grievance arbitration includes many topic areas, with discipline and discharge, safety and health, and security being common concerns.

LO7 Understand how unions have been utilized in the global arena.

16-10 ■ UNIONS IN THE GLOBAL ARENA

Globalization increases the degree to which there is economic competition among workers, companies, and nations. As such, the ability of a country to remain competitive (i.e., increasing the availability of jobs and attracting foreign direct investment) is often influenced by its union-bargaining arrangements and labor laws. In some nations, union-bargaining power is notably weaker compared to the bargaining power of employers. However, in other countries this is not the case. Diverse legal requirements and social mores have created very different situations around the world, so HR professionals should be aware of these variations when operating globally.

Laws that make it easier and cheaper to hire and fire employees may reduce unemployment. But in many countries, such laws cause discomfort because of the great inequality they create in the balance of power in the employer–employee relationship.[44] As the world economy becomes more integrated, unions worldwide are facing changes. The status of global unions is being affected in several ways.

16-10a International Union Membership

The percentage of union membership varies significantly from country to country. The highest is in the Scandinavian countries. Collective bargaining is set in law as the way wages are to be determined in Europe. However, in many European countries, artificially high wages and generous benefits have kept the unemployment rate high. The pressures for change are increasing. The range of labor concerns is quite wide and varies from country to country, with child labor an issue in some countries, and changes in participatory employment practices issues in others.

In some countries, unions do not exist at all, are relatively weak, or are closely tied to political parties. For instance, in Italy and France national strikes occur regularly to protest proposed changes in government policy on retirement, pension programs, and regulations regarding dismissal of employees. In the Irish telecommunications industry, there is growing use of contingent workers, which required the Communications Workers Union to employ different approaches to sustain membership. The organizing officer convinced contract workers that the union could play a key role in shaping their employment experiences, and discussed how challenges at work could be addressed with union representation.[45]

Codetermination
Practice whereby union or worker representatives are given positions on a company's board of directors.

Some countries require that firms have union or worker representatives on their boards of directors. This practice, called **codetermination**, is common in European countries. Differences from country to country in how collective bargaining occurs are also quite noticeable. In the United States, local unions bargain with individual employers to set wages and working conditions. In Australia, unions argue their cases before arbitration tribunals. In Scandinavia, national agreements with associations of employers are the norm. In France and Germany, industry-wide or regional agreements are common. In Japan, local unions bargain but combine at some point to determine national wage patterns. Workers are banding together and using technology to reform the way work gets done in factories located in China, as discussed in the HR Perspective: Technology Helps Work Reform in China.

16-10b Global Labor Organizations

Global labor relations standards are being addressed by several organizations. The International Labour Organization, based in Switzerland, coordinates the efforts of labor unions worldwide and has issued some principles about rights at work. Such coordination is occurring as unions deal with multinational firms having operations in multiple countries.

Unions separately and sometimes together push import quotas and other measures to their benefit.[46] Throughout the world unions are also linking up as part of global labor federations. The Union International Network (UIN) is an entity composed of unions from numerous countries. This organization and other international groups are working to establish international policies on child labor, worker safety and health, and training. The UIN is also providing aid and guidance to

HR PERSPECTIVE

Technology Helps Work Reform in China

In the past, Chinese authorities were fairly effective at squashing labor protests by making arrests, offering concessions to disgruntled workers, and preventing more organized demonstrations. However, there is a movement among migrant workers in China to speak out against unfair labor practices in a much more coordinated way. Large rallies of Chinese employees with musical groups and individuals reciting poetry are sometimes organized to provide collective feedback about poor working conditions at different companies such as Foxconn. These rallies are provided additional support by various law firms, universities, aid groups, and nongovernmental entities that are pushing for businesses to operate in a more socially responsible manner.

The different technologies available today help Chinese workers organize more effectively. There are almost 800 million individuals who use cell phones, and over 300 million use the Internet, which gives people access to information about different labor developments around globe. Technology use has also made more workers understand the tougher labor requirements passed in 2008 that require businesses to consider worker rights.

In addition, more Chinese workers are getting a college education, which has given them more knowledge about workers' rights. There is also strong support on university campuses for worker activism and greater awareness of positive HR practices. This collective awareness has led to strikes at different plants and worksites, from cotton manufacturing firms to larger organizations such as Honda Motor. These demonstrations will likely continue as more individuals communicate with each other online and through cell phones.[47]

unions in developing countries, such as those in Africa and Asia. Unions in the United States are very active in these global entities. In some situations, establishing agreements with employers based in the European Union has led to more U.S. union membership in multinational firms.

16-10c United States and Global Differences

Union management relations in the United States approached some issues differently from other countries. In the United States, the key union focuses have been the following:

- *Economic issues vs. other concerns*: In the United States, unions have typically focused on improving the bread-and-butter issues for their members—wages, benefits, job security, and working conditions. In some other countries, integration with ruling governmental and political power and activism are equal concerns along with economic issues. In the United Kingdom, union organizations have developed training and other learning opportunities for workers that directly benefit the organizations that employ these individuals. Apprenticeships, Internet training, and self-assessments are used to enhance employees' preparedness for work, which helps employers reach their own learning objectives.[48]
- *Organization by kind of job and employer*: In the United States, carpenters often belong to the carpenters' union, truck drivers to the Teamsters, teachers to the American Federation of Teachers or the National Education Association, and so

on. Also, unionization can be done on a company-by-company basis. In other countries, national unions bargain with the government or with employer groups.

- *Collective agreements as "contracts"*: In the United States, collective bargaining contracts usually spell out compensation, work rules, and the conditions of employment for several years. In other countries, the agreements are made with the government and employers, sometimes for only one year because of political and social issues.
- *Competitive relations*: In the United States, management and labor traditionally take the roles of competing adversaries who often clash to reach agreement. In many other countries, tripartite bargaining occurs between the national government, employers' associations, and national labor federations with little clashing.

SUMMARY

- A union is a formal association of workers that promotes the interests of its members through collective action.
- Workers join unions primarily because of management's failure to address organizational and job-related concerns.
- The history of unions in the United States indicates that they primarily focus on wages, hours, and working conditions.
- In the United States, current union membership as a percentage of the workforce is down dramatically, being less than 12% of the civilian workforce.
- While public-sector unions have grown, unions in general have experienced a decline in membership because of geographic, industrial, and workforce changes.
- In attempts to grow, unions are targeting professionals, low-skilled workers, and contingent and part-time workers.
- The history of unions in the United States has evolved, and the structural levels of U.S. unions include federations, national and international unions, and local unions.
- The National Labor Code is composed of three laws that provide the legal basis for labor relations today: the Wagner Act, the Taft-Hartley Act, and the Landrum-Griffin Act.
- The Wagner Act was designed to protect unions and workers; the Taft-Hartley Act restored some powers to management; and the Landrum-Griffin Act was passed to protect individual union members.
- Issues addressed by the different acts include unfair labor practices, national emergency strikes, and right-to-work provisions.
- The unionization process includes an organizing campaign, authorization cards, a representation election, certification and decertification, and contract negotiation through collective bargaining.
- Collective bargaining occurs when management negotiates with representatives of workers over wages, hours, and working conditions.
- The issues subject to collective bargaining fall into three categories: mandatory, permissive, and illegal.
- The collective bargaining process includes preparation and initial demands, negotiations, and settlement and contract agreement.
- Once an agreement (contract) is signed between labor and management, it becomes the document governing what each party can and cannot do.
- When an impasse occurs, work stoppages through strikes or lockouts can be used to pressure the other party.
- Union/management cooperation has been beneficial in many situations, although care must be taken to avoid violations of NLRB provisions.
- Grievances express workers' written dissatisfactions or differences in contract interpretations.
- A grievance procedure begins with the first-level supervisor and may end—if the grievance is not resolved along the way—with arbitration by a third party.
- Unions are becoming more global as the world economy expands, and global labor federations are expanding, despite differences in approaches.

CRITICAL THINKING CHALLENGES

1. Discuss the following statement: If management gets a union, it deserves one.
2. Suppose a coworker just brought you a union leaflet urging employees to sign an authorization card. What may happen from this point on?
3. As the HR Manager, you have heard rumors about potential efforts to unionize your warehouse employees. Use the www.genelevine.com website to develop a set of guidelines for supervisors if they are asked questions by employees about unionization as part of a "union prevention" approach.
4. Public-sector unions now account for more than half of union members, while the private sector accounts for less than half. Why has this change occurred?
5. There has been some discussion among the employees in your company's manufacturing plant about forming a union. Company management recognizes the discussions may be because of the absence of a formal grievance procedure to assist employees with reporting their concerns and grievances to management. HR has been asked to develop a formal grievance procedure in an effort to develop better labor relations between the employer and the employees and as an avoidance measure to the formation of a union. To assist HR in developing a formal grievance procedure, visit several websites including the ADR/Conflict Resolution link at http://community.linchr.com/employmentguide.
   A. Employees in the shipping department have requested the implementation of a "suggestion box" system to help them bring their concerns to the attention of management and to help improve labor relations. Identify the advantages and disadvantages of such a system.
   B. If company management determines that the "suggestion box" request will be more cumbersome than helpful, what are some alternative solutions that management can suggest to the employees?

CASE

Just Let Them Strike

Detonation Media is a successful gaming software firm located in California that is responsible for many successful software titles. Despite these achievements, the company is currently experiencing a backlash from many of its unionized employees about various compensation issues. Almost 50% of Detonation's employees are members of the Software Engineers Guild, which has enabled workers to develop a unified voice about their concerns. Another major problem is that many professionals have been working for the organization for some time without a contract, an unacceptable situation in an industry known for high burnout and corporate layoffs. This current state of affairs has encouraged union representatives and employees to picket the organization in an effort to rally support for better working conditions.

Making matters worse is the current volatility of the industry. Software companies have experienced labor disputes, and the industry as a whole is suffering from a gradual downturn in the economy. To many, these trends foreshadow changes at Detonation, none of which are viewed positively by employees. Lower wages, reduced control over the workplace, and increased dissatisfaction are some of the likely outcomes. One superstar software developer, Tetsui Wakatanabe, has even threatened to leave the company to start his own software firm (taking key Detonation employees with him) if negotiations between management and the Software Engineers Guild break down further.

The situation has gotten even worse because the original compensation-based concessions offered to employees cannot be met because of weak sales projections. It is therefore up to Detonation's general counsel and lead negotiator Carol Lee to work with the union's lead negotiator Dan Hontz to try to find some middle ground. This could be quite difficult given that the company is offering considerably smaller pay increases over the next three years compared to amounts originally proposed, all of which will not be implemented on a retroactive basis. In addition, management wants to move compensation away from a revenue-sharing approach to profit-sharing, shifting more risk to employees.

Ultimately, Carol and Dan couldn't reach an immediate deal that would satisfy all parties involved. After discussing the situation with CEO Emilio Teti several times, Carol was surprised by his reaction to recent negotiations. He wanted to offer no additional concessions and dared union members to strike. Carol left his office trying to figure out how a win-win solution could be identified for both the employees and the company.[49]

QUESTIONS

1. Should CEO Emilio Teti stick with his proposed plan to reduce the original concessions offered to unionized employees? Should no concessions be offered?
2. Does changing compensation from a revenue-sharing approach to profit-sharing represent a viable business strategy?
3. How else might the Software Engineers Guild and Detonation Media reach a fair deal for employees?

SUPPLEMENTAL CASES

Teamsters and the Fraternal Order of Police (FOP)

The case discusses how unions sometimes compete to represent workers and explores experiences at the Denver Sheriff's Department. (For the case, go to www.cengage.com/management/mathis.)

Wal-Mart and Union Prevention

This case covers Wal-Mart efforts to stay non-union. (For the case, go to www.cengage.com/management/mathis.)

The Wilson County Hospital

This case deals with labor disputes in a unionized hospital. (For the case, go to www.cengage.com/management/mathis.)

NOTES

1. Carol Harnett, "The Screen Actors Guild Abandons Mental-Health Benefits," *Human Resource Executive Online*, January 17, 2011, www.hreonline.com.
2. Melanie Trottman, "Unions Look to Labor Board Picks to Reverse Bush Rulings," *The Wall Street Journal*, June 3, 2009, A2.
3. Tim Jones, "Worked-Up Unions," *Bloomberg Government Insider*, October 31–November 6 (Winter) 2011, B18.
4. Melanie Trottman and Brody Mullins, "Unions Rejigger Political Spending," *The Wall Street Journal*, February 27, 2012, A4.
5. Peter Cappelli, "Puzzling Out Union Impact," *Human Resource Executive Online*, March 28, 2011, www.hreonline.com.
6. Kristen B. Frasch, "As Unions Decline, So Do Wages," *Human Resource Executive Online*, August 17, 2011, www.hreonline.com.
7. Arthur D. Martinez and Jack Fiorito, "General Feelings Toward Unions and Employers as Predictors of Union Voting Intent," *Journal of Labor Research*, 30 (2009), 120–134.