

GLOSSARY OF LABOR RELATIONS TERMS

TYPES OF PETITIONS

1) Certification of Representation (RC)

This petition, which is normally filed by a union, seeks an election to determine whether employees wish to be represented by a union. It must be supported by the signatures of 30 percent or more of the employees in the bargaining unit being sought. These signatures may be on paper. Generally, this designation or “showing of interest” contains a statement that the employees want to be represented for collective-bargaining purposes by a labor organization. The showing of interest must be signed by each employee and each employee’s signature must be dated.

2) Decertification (RD)

This petition, which can be filed by an individual, seeks an election to determine whether the authority of a union to act as a bargaining representative of employees should continue. It must be supported by the signatures of 30 percent or more of the employees in the bargaining unit represented by the union. These signatures may be on separate cards or on a single piece of paper. Generally, this showing of interest contains a statement that the employees do not wish to be represented for collective-bargaining purposes by the existing labor organization. The showing of interest must be signed by each employee and each employee’s signature must be dated.

3) Withdrawal of Union-Security Authority (UD)

This petition, which can also be filed by an individual, seeks an election to determine whether to continue the union's contractual authority to require that employees make certain lawful payments to the union in order to retain their jobs. It must be supported by the signatures of 30 percent or more of the employees in the bargaining unit covered by the union-security agreement. These signatures may be on separate cards or on a single piece of paper. Generally, this showing of interest states that the employees no longer want their collective-bargaining agreement to contain a union-security provision. The showing of interest must be signed by each employee and each employee's signature must be dated.

4) Employer Petition (RM)

This petition is filed by an employer for an election when one or more unions claim to represent the employer's employees or when the employer has reasonable grounds for believing that the union, which is the current collective-bargaining representative, no longer represents a majority of employees. In the latter case, the petition must be supported by the evidence or “objective considerations” relied on by the employer for believing that the union no longer represents a majority of its employees.

5) Unit Clarification (UC)

This petition seeks to clarify the scope of an existing bargaining unit by, for example, determining whether a new classification is properly a part of that unit. The petition may be filed by either the employer or the union.

6) Amendment of Certification (AC)

This petition seeks the amendment of an outstanding certification of a union to reflect changed circumstances, such as changes in the name or affiliation of the union. This petition may be filed by a union or an employer.

OTHER LABOR RELATIONS TERMS

Across-the-Board Increase

A raise in wages, in terms of dollars or a percentage, given at one time to all workers in a bargaining unit. This is to be distinguished from a raise that gives different rates of increase to different groups of employees.

Advisory Arbitration

See Arbitration.

Agency Shop

Provision in a collective bargaining agreement that requires that all employees in the bargaining unit who do not join the association or union pay a fixed amount monthly, the equivalent of association or union dues, as a condition of employment, to help defray the association or union's expense in "acting as bargaining agent". The agency shop was designed as a compromise between the union's desire to eliminate the free rider through compulsory membership and management's desire to make membership in a union voluntary. Agency shops are allowed by the Taft-Hartley Act, though later Supreme Court rulings render union shops enforceable only as agency shops in which workers can only be forced to pay the fraction of union dues that is germane to bargaining and administering union contracts; union shops cannot be used to compel workers to formally join unions. (*NLRB v. General Motors*, 373 U.S. 734 (1963). *Communication Workers of America v. Beck*, 487 U.S. 735 (1988)) Synonymous with fair-share agreement.

Agent

A person who acts on behalf of either an employer or a union. If the agent is cloaked with "apparent authority" any illegal actions the agent commits, such as unfair labor practices or conduct subject to court litigation, implicate the employer or union the agent represents,

even if the illegal act was not authorized or approved.

Agreement

See Collective Bargaining Agreement

American Arbitration Association (AAA)

A private, nonprofit organization established to promote arbitration as a method of settling labor disputes. The AAA is one of several services that provides lists of qualified arbitrators to employee organizations and employers on request as well as rules of procedure for the conduct of arbitration.

Arbitration

A dispute resolution procedure in which an impartial third party renders a decision on an issue submitted by the parties.

Advisory Arbitration: The terms of settlement rendered by the arbitrator are in the nature of recommendations, which the parties are not obligated to accept.

Binding Arbitration: The parties are compelled to accept and abide by the terms of the arbitrator's award, which is enforceable in the courts.

Grievance Arbitration: A contractually agreed-upon procedure for the settlement of grievances, usually involving interpretation and application of the collective bargaining agreement or past practices, by a neutral third party.

Interest Arbitration: Distinguished from grievance arbitration. Under some state laws, public sector employees do not have the right to strike to settle a labor dispute. For bargaining units that qualify for interest arbitration (i.e. uniformed employees such as police and firefighters), a bargaining dispute may be submitted to a neutral third party chosen by the parties or appointed by an administrative agency to render a final and binding resolution. A bargaining dispute is submitted to the neutral third party after impasse had been reached, and efforts at mediation have been unsuccessful.

Arbitrator

A neutral third party to whom disputing parties submit their differences for decision (award). An ad hoc arbitrator is one selected to act in a specific case or a limited group of cases. A permanent arbitrator is one selected to serve for the life of the contract or a stipulated term, hearing all disputes that arise during this period.

Article

A section of a collective agreement, also called a "provision", "clause", or "language".

Association or Union Recognition

Protection of an association's or union's status by a provision in the collective bargaining agreement establishing a closed shop, association (union) shop, or maintenance-of-membership arrangement. In the absence of such provisions, employees in the bargaining unit are free to join or support the association or union at will, and therefore in association or union reasoning are susceptible to pressures to refrain or to the inducement of a "free ride".

Association or Union Shop

Provision in a collective bargaining agreement that requires all employees to become members of the association or union within a specified time after hiring (typically 30 to 90 days), or after a new provision is negotiated, and to remain members of the association or union as a condition of continued employment. Modified association or union shops are variations on the association or union shop. Certain employees may be exempted, e.g., those already employed at the time the provision was negotiated who had up until then, not joined the association or union. Today, union shops are in effect agency shops, since a union security clause cannot force union membership, but it can enforce that all employees in the bargaining unit pay either dues or, if they elect not to be members, an agency fee in lieu of dues.

Authorization Card (Interest Card)

Statement signed by an employee designating an employee organization to act as his/her representative in collective bargaining. An employee's signature on an authorization card does not necessarily mean that he/she is a member of the organization but rather indicates that the employee supports the union in its quest to become the majority representative. The signing of authorization cards is the first step in the establishment of bargaining rights.

Award

The decision of an arbitrator in a dispute. The arbitrator's award is based upon the evidence presented, the wording in the collective bargaining agreement and the arguments of both parties. In labor arbitration, the arbitrator's reasons are generally expressed in the form of a written opinion, which accompanies the award.

Bar Rules

Procedural barriers, established by law to promote labor stability by providing continuity for the bargaining agent and bargaining unit.

Certification/Election Bar. Protects a newly certified representative for a period of at least one year from the possibility of facing another election, and protects a bargaining unit from being modified except through the filing of a unit clarification petition.

Contract Bar. Protection during the life of an agreement up to three years that limits the filing of representation petitions to the “open period.”

Bargaining Agent

Association or union designated by an appropriate government agency such as the National Labor Relations Board, or recognized voluntarily by the employer, as the exclusive representative of all employees in the bargaining unit for purposes of collective bargaining.

Bargaining Committee

A broadly representative union body which polls, surveys, and analyzes the union membership to determine the importance of various issues; establishes a preliminary framework of negotiating priorities for the negotiating team; and, carries on various other support activities for both the negotiating team and the union.

Bargaining Rights

Legally recognized right of associations or unions to represent employees in dealings with employers.

Bargaining Unit

Group of employees in a craft, department, plant, firm, industry, or government agency recognized by the employer, or designated by an authorized agency such as the National Labor Relations Board as appropriate for representation by an association or union for purposes of collective bargaining. One way of judging the appropriateness of a bargaining unit is to determine a community of interest among the employees. Other typical criteria are bargaining history, employee desires, and employer structure. In the healthcare industry in acute care hospitals only, the National Labor Relations Board has determined eight specific bargaining units into which all employees fall.

Binding Arbitration

See Arbitration.

Boulwarism

A management tactic used at the bargaining table where the employer asserts that its first offer is its “final, best and last” offer. A take-it-or-leave-it approach to bargaining where no give-or-take or substantive discussion occurs. This tactic has been ruled to be an unfair labor practice by the NLRB.

Boycott

Collective economic pressure to discourage the public from buying, patronizing, or supporting unfair employers, companies, or oppressive institutions. Section 8 (b)(4) of the

National Labor Relations Act prohibits unions from engaging in secondary boycotts, in which a secondary other than the primary employer is being targeted—that is, a company that does not directly employ the workers who are involved in the strike.

Bumping

A seniority protection that occurs when a person must move to a different position and in doing so causes another less senior employee to move. The second person is said to have been “bumped” by the first.

Business Agent/Rep

A full-time paid union official, who handles grievances, helps enforce collective bargaining agreements and performs other tasks in the day-to-day operation of a union.

Call-in and Call-back Pay

A premium wage payment made when workers are called back to work or an assurance that they will work a given number of hours when called back to work.

Cafeteria Benefits Plan

An alternative to the traditional benefit package wherein everyone receives the same benefit package. Employees may select their own employee benefit plan from a menu of choices. For example, one employee may wish to emphasize health care and thus would select a more comprehensive health insurance plan for the allocation of the premiums, while another employee may wish to emphasize retirement and thus allocate more of the premiums to the purchase of pension benefits.

Card Check

Procedure whereby signed employee authorization cards are checked against an acceptable list of employees in a prospective bargaining unit to determine if the organization has majority status. The union can request a card check if it gathers signed authorization cards from more than 50 percent of employees. If so, the employer can recognize the union and is then obligated to bargain with the union. When this occurs the union organizing process is over, and no secret ballot election will be held. Card check agreements can also be negotiated between the union and employer before or during organizing, whereby the employer agrees to recognize the union if it is able to get a majority of cards signed and forgo an election.

Caucus

A meeting of a small group to plan strategy. Often applied to a bargaining team meeting to discuss proposals and determine bargaining strategy. Either bargaining team may withdraw for private discussion in caucus. They return to the table when ready to resume discussion.

Cease-and-Desist Order

A written statement issued by the labor board or an administrative law judge requiring the employer or union to abstain from conduct which has been, or could potentially be, found to be an unfair labor practice. See Injunction.

Certification

Formal designation by a government agency, such as the National Labor Relations Board, of the association or union selected by the majority of the employees in a supervised election to act as exclusive bargaining agent for all employees in the bargaining unit.

Certification/Election Bar

See Bar Rules.

Check-off

Practice whereby the employer, by agreement with the association or union (and upon written authorization from each employee where required by law or agreement), regularly withholds association or union dues from employee's wages and transmits these funds to the association or union. Check-off is a common practice in organized establishments and is not dependent upon the existence of a formal association or union security clause. The arrangement may also provide for deductions of initiation fees and assessments. (See Association or Union Security).

Chief Spokesperson

The person designated by the bargaining team to present and discuss proposals on behalf of the team.

Closed Shop

Form of association or union security provided in an agreement that binds the employer to hire and retain only association or union members in good standing. The key distinction between closed shop and an association or union shop lies in the hiring restriction, a restriction prohibited by the Labor Management Relations Act 1974. Legal closed shops may be found outside the scope of the NLRA (which applies to employers and employees in industries affecting interstate commerce) and outside the states with "right-to-work" laws.

Collective Bargaining

A method in which representatives of the employees and employer determine the terms and conditions of employment of all positions in a bargaining unit through direct negotiations. The collective bargaining obligation of a public employer and the bargaining representative

of employees refer to the requirement that the parties meet at reasonable times, confer and negotiate in good faith, and execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters including wages, hours, and working conditions.

Collective Bargaining Agreement

The document incorporating the results of the negotiations between the parties; a written instrument setting forth the terms and conditions of employment, grievance resolution procedures, and any other accords resulting from collective bargaining. Also known as the contract, agreement, etc.

Community of Interest

A factor to be considered in determining whether employees should be grouped together as an appropriate bargaining unit.

Company Union

A bogus union, organized, dominated and financed by the employer; giving workers no real protection while keeping them from organizing a real union. Company dominated unions are prohibited under the National Labor Relations Act.

Comparative Data

Statistical data used to make comparisons between levels of employee compensation that are frequently used to support bargaining proposals.

Concerted Activity

Refers to any kind of job action by an employee group or groups of employees designed to put pressure on the employer to reach a settlement quickly or address an employment concern.

Conciliation

A process for reaching a collective agreement with help from a neutral person appointed by the government. Often, the union and employer must meet with a conciliator before a strike or lockout is legal. A conciliator may make recommendations, but they are not binding.

Confidential Employee

Employee whose functional responsibilities or knowledge in connection with the issues involved in the collective bargaining process would make their membership in any appropriate bargaining unit incompatible with their official duties. In determining the

confidential status of a position, Public Employment Relations Commission (PERC) looks beyond the job title and the written job description to examine the employee's actual job functions. To be considered a "confidential employee," the job's actual ongoing functions must have a "nexus" to knowledge of the employer's bargaining strategy and negotiations positions. Depending on the jurisdiction (public vs. private employers), confidential employees may be eligible to collectively bargain in a separate bargaining unit.

Continuous Violation

Most grievance procedures have time limits that require that the grievance must be filed a certain number of days after the event. However, some events are continuous making the time limits less clear. The usual rule is that the clock starts running when the union could reasonably have been expected to know of the event and have taken action.

Contract

See Collective Bargaining Agreement.

Contract Bar

See Bar Rules.

Contract Proposals

What the union or employer wants in the collective agreement. The two parties suggest these changes in collective bargaining.

Contracting Out

The use by employers of outside contractors whose employees are not covered by the same collective bargaining agreement to do work which has been or could be performed by unit employees. (Also called subcontracting or outsourcing.)

Cooling-Off Period

A period of time that must elapse before a strike or lockout can begin or be resumed, established by agreement or by law. The term derives from the hope that the tensions of unsuccessful negotiation will subside in time that a work stoppage will be averted.

Coordinated (Coalition) Bargaining

A practice in which either several employers or several unions (or locals) form a committee to develop common bargaining objectives to be obtained during negotiations. This can become an unfair labor practice if coordination results in bargaining patterns that ignore the distinct boundaries of separate bargaining units; for example, agreement in negotiations cannot be conditioned upon the terms of other units nor upon settlement of other ongoing

negotiations.

Corporate Campaign

A corporate campaign is a coordinated, long-term, multi-faceted, wide-ranging public relations campaign effort to achieve its goals by attacking a business's reputation and undermining public confidence in the business and damaging its stakeholder relationships

The unions uses a "top down" organizing approach in which they attacks the reputation of a target employer, undermining public confidence and key stakeholder relationships until management decides it must yield to the union's demands or risk the company's financial well-being. Ultimately, the goal of the corporate campaign is to pressure an employer into agreeing to acquiesce to any number of union demands including a "neutrality agreement," "card check" terms or other leverage the union wishes to further its cause.

Cost of Living Adjustment

See Escalator Clause.

Cost of Living Index (CPI)

The commonly used name for the Consumer's Price Index (CPI), which is prepared by the U.S. Bureau of Labor Statistics. This Index shows from month to month, and year to year, the change in prices of a number of items which it is assumed that most families buy – food, clothing, rent, furniture, etc. This price index is therefore a rough measure of changes in the cost of living.

Credited Service

The years of employment counted toward retirement and seniority.

Crisis Bargaining

Collective bargaining that occurs under the pressure of a strike deadline. The opposite of crisis bargaining is the more typical situation where there is ample time to discuss and review proposals and counter proposals.

Decertification

Withdrawal by a government agency such as the National Labor Relations Board, of an association or union's official recognition as exclusive bargaining representative. Often done after a petition is filed with the NLRB and a decertification election is held.

Direct Dealing

Occurs when an employer and represented employee discuss and take action, absent the union's knowledge or presence, in matters that fall within the scope of mandatory subjects

of bargaining. Direct dealing is an unfair labor practice under the NLRA.

Discharge

Dismissal of a worker from his/her employment. Term implies discipline for unsatisfactory performance and is thus usually limited to dismissals for cause relating to the individual; e.g., insubordination, absenteeism, inefficiency. Collective bargaining agreements usually protect employees from arbitrary or discriminatory discharge. A discharge means loss of seniority and other rights and affects the employee's chances for employment elsewhere.

Discrimination

The shortened form for “discrimination in regard to hire or tenure of employment as a means of encouraging or discouraging membership in a labor organization.” Such discrimination is an unfair labor practice under federal and state labor laws. It is also the refusal to hire, promote, or admit a person to union membership because of their race, creed, color, sex, national origin, or other protected class.

Dispute (Labor Dispute)

Any disagreement between association or union and management which requires resolution in one way or another, e.g., inability to agree on contract terms, an unsettled grievance, etc.

Dues Check-off

See Check-off.

Duty to Bargain

The mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

Duty of Fair Representation (DFR)

The legal obligation on the part of the union, as exclusive representative of a bargaining unit, to represent all of the employees, members and non-members alike, fairly without discrimination, obvious negligence, or through arbitrary or capricious decisions. A union that commits a DFR violation can be charged with an unfair labor practice at the NLRB (if private sector) or sued in court.

Election Agreement or Labor Peace Accord

A set of guidelines that defines how the employer and the union will operate and relate to each other during union organizing efforts. For example, the election agreement or peace

accord may include, an agreement by the union not to engage in a corporate campaign against the organization, access for union organizers, pre approval of communications by the other side before they are distributed, arbitration of disputes rather than through the NLRB, agreement to allow the union to use company facilities' for employee meetings, as well as other terms and conditions that modifies the union and employers actions and conduct.

Employee Assistance Program (EAP)

A confidential information, support and referral service designed to help employees cope with personal problems that may negatively affect their lives and workplace productivity. Such programs often provide assistance in the following situations: emotional stress, family disintegration, financial and legal difficulties, alcoholism, drug abuse, and marital disruption.

Ergonomics

The study of matching workplace and machines to the characteristics of workers to reduce strain on workers and thereby decrease lost time caused by work-related illness and disability.

Equal Pay for Equal Work

A policy denoting or a demand for payment of equal compensation to all employees in an establishment performing the same kind or amount of work, regardless of race, sex, or other characteristics of the individual workers not related to ability or performance.

Escalator Clause (Wage Escalator)

Provision in an agreement stipulating that wages are to be automatically increased or reduced periodically according to a schedule related to changes in the cost-of-living as measured by a designated index, or occasionally to another standard, such as an average earnings figure. Escalator clauses thus allow wages to fluctuate with changes in the cost of living and are designed to keep real wages reasonably stable during the term of the contract. Term also may apply to any tie between an employee benefit and the cost of living as in a pension plan.

Excelsior List

Established in the case of Excelsior Underwear, the list of names and addresses of employees eligible to vote in a union election. It is normally provided by the employer to the union within 10 days after the election date has been set or agreed upon at the NLRB. The Excelsior list is used as the list of voters during the NLRB-conducted election.

Exclusive Bargaining Representative

The right and obligation of an association or union designated as majority representative to bargain collectively for all employees, including non-members, in the bargaining unit.

Fair Labor Standards Act of 1938 (FLSA, Wage-Hour Law)

Federal law which prohibited oppressive child labor and established a minimum hourly wage and premium overtime pay for hours in excess of a specific level (now time and one-half after 40 hours per week) for all workers engaged in, or producing goods for, interstate commerce. The minimum wage and the coverage of the act have been modified several times since enactment.

Featherbedding

Work practice that tends to limit productivity and create an artificial demand for workers, such as demanding payment for work not performed, refusing to allow adoption of labor-saving equipment, and creating or maintaining nonessential jobs. Such practices are often motivated by fear of job loss (through automation, for example) and are justified by claims of enhanced safety and work quality.

Federal Mediation and Conciliation Service (FMCS)

An independent U.S. government agency that provides mediators to assist the parties involved in negotiations or a labor dispute in reaching a settlement, provides list of suitable arbitrators on request, and engages in various types of “preventive mediation”. Mediation services are also provided by several state agencies.

Final Offer Selection

A type of interest arbitration where an arbitrator chooses either the association's last offer or the employer's last offer.

Free Riders

A term used by unions to designate non-members within the bargaining unit who obtain, without cost, the benefits of a contract/MOU gained through the efforts of the dues-paying members.

Fringe Benefits

Compensation in addition to direct wages such as paid vacations and holidays, overtime premiums, medical insurance, and pensions.

Good Faith Bargaining

The requirement that an employer and employee organization meet at reasonable times to negotiate in good faith, with an intent to reach an agreement, with respect to wages, hours, and other terms and conditions of employment. Good faith bargaining is determined based upon a “totality of conduct” and has traditionally been interpreted not to require an employer or union to agree to a proposal or to make a concession, although each party must maintain an open mind and a willingness to be persuaded by the other party. See Duty to

Bargain.

Good Standing

A member in good standing is one with paid dues, and having met all other obligations of membership.

Grievance

Any complaint or expressed dissatisfaction by an employee in connection with his job, pay, or other aspects of his employment. Whether it is formally recognized and handled as a “grievance” depends on the scope of the grievance procedure.

Grievance Arbitration

See Arbitration.

Grievance Mediation

A voluntary and less formal method of dispute resolution whereby a neutral party serves as a facilitator in the decision making process. The ultimate acceptance, rejection, or modification of a resolution rests with the parties.

Grievance Procedure

Typically a formal plan specified in the agreement which provides a channel for the adjustment of grievances through discussions at progressively higher levels of authority of the company or other employer and the association or union, usually culminating in arbitration, if necessary. Formal plans may also be found in non-union companies, with the important difference that there is no association or union to represent employees.

Grievance Steps

The regular steps in a grievance procedure by which a grievance dispute moves from one level of authority in the company and association or union to the next higher level. The steps are usually in the agreement.

Ground Rules

The procedures agreed to by the parties which govern the process and conduct of negotiations.

Hazardous Duty Pay

Money paid above the usual wage scale for work which endangers the health or welfare of

the worker. Extra pay also may be negotiated into a contract for workers who are involved in especially dirty or unpleasant work.

Hot Cargo Clauses

Clauses in union contracts permitting employees to refuse to handle or work on goods shipped from a struck plant or to perform services benefiting an employer listed on a union unfair list. Most hot cargo clauses were made illegal by the Taft-Hartley Act, but there are some exceptions.

Illegal Subject of Bargaining

A prohibited subject of bargaining; a matter that would deny either party its legal rights. A proposal by management to restrict the filing of grievances is an example of an illegal subject of bargaining.

Impasse

Stalemate or deadlock in collective bargaining between management and labor representatives; a point at which either or both parties to negotiations determine that no further progress toward settlement can be made through direct negotiation. Next steps may include mediation, arbitration implementation of final offer, or interest arbitration if a uniformed employee group (i.e. police or fire.)

Implementation

An extremely rare procedure in which an employer unilaterally imposes its last offer on all terms and conditions of employment. An employer may only implement after negotiations have reached “true impasse,” and implementation does not signal an end to the bargaining obligation.

Initiation Fee

The initial charge of becoming a member. The amount is set by the union.

Injunction

An order issued by a court to cease and discontinue a certain activity because the other party is liable to sustain irreparable injury from the (unlawful) activity.

Insubordination

The act of refusing or deliberately failing to carry out a legal assignment. When in doubt carry out the work under protest and follow up the assignment with a grievance. (Work now, grieve later.)

Interest Arbitration

See Arbitration.

Interest-Based Bargaining (IBB)

A bargaining technique in which the parties start with (or at least focus on) interests rather than proposals; agree on criteria of acceptability that will be used to evaluate alternatives; generate several alternatives that are consistent with their interests, and apply the agreed-upon acceptability criteria to the alternatives so generated in order to arrive at mutually acceptable contract provisions. The success of the technique depends, in large measure, on mutual trust, candor, and a willingness to share information. (Compare with the duty to bargain in good faith.) But even where these are lacking, the technique, with its focus on interests and on developing alternatives, tends to make the parties more flexible and open to alternative solutions and thus increases the likelihood of agreement. IBB often is contrasted with “position-based” bargaining, in which the parties start with proposals (which implicitly are solutions to known or inferred problems). However, even in position-based bargaining the parties normally are expected to justify their proposals in terms of their interests by identifying the problems to which the proposals are intended as solutions. Once the interests are on the table, the parties are in a position to evaluate their initial and subsequent proposals - whether generated by group brainstorming (a common method of generating alternatives in IBB) or by more customary methods - in terms of the extent they are likely to effectively and efficiently solve problems without creating additional problems. Also referred to as Mutual Gains Bargaining.

Job Action

A concerted, coordinated activity by employees designed to put pressure on the employer to influence bargaining. Examples include: work stoppages or shutdowns, sickouts and protest demonstrations, wearing T-shirts, buttons, or hats with union slogans, holding parking lot meetings, collective refusal of voluntary overtime, reporting to work in a group, petition signing, jamming phone lines, etc.

Job Description

A written statement listing the elements of a particular job or occupation, such as purpose, duties, equipment used, qualifications, training, physical and mental demands, working conditions, etc.

Job Evaluation (Job Grading, Job Rating)

Determination of the relative importance or ranking of jobs in an establishment for wage setting purposes by systematically rating them on the basis of selected factors, such as skill, responsibility, experience, etc. Ordinarily used as a means of determining relative levels, not the actual structure as a whole.

Just Cause

This standard has come to denote a variety of “due process” safeguards, such as rights to notice and a hearing, to assure that discipline has been imposed in an appropriate manner and for sufficient reasons. Many arbitrators employ a “seven steps” of just cause standard to determine if sufficient due process has been employed. Aspects of the seven steps include notice, reasonable rules, thorough investigation, consistent application of rules, and sufficiency of evidence.

Labor-Management Committee

A joint committee formed to discuss a variety of topics usually related to improvements in the employer’s business. Labor-management committees have the power to recommend changes, but if the changes are mandatory subjects of bargaining, the changes must be negotiated.

Labor Organizer

A person usually employed by a union (usually the regional or international union), whose function it is to enlist the employees of a particular employer to join the union.

Layoff (Reduction in Force)

Involuntary separation from employment for a temporary or indefinite period without prejudice that is, resulting from no fault of the employees. Although “layoff” usually implies eventual recall, or at least an intent to recall employees to their jobs, the term is occasionally used for separations plainly signifying permanent loss of jobs, as in plant shutdowns. Reduction in force usually signifies permanent layoff.

Lockout (Joint Lockout)

A temporary withholding of work or denial of employment to a group of employees by an employer during a labor dispute in order to compel a settlement at or close to the employer's terms. A joint lockout is such an action undertaken at the same time by a group of employers. Technically, the distinction between a strike and lockout turns on which party actually initiates the stoppage. One, however, can develop into the other.

Loudermill Rights

A case decided by the Supreme Court that found that public employees have a property right in their positions and cannot be deprived of their positions without due process.

Maintenance of Membership Clause

An arrangement provided for in a collective bargaining agreement whereby employees who are members of the association or union at the time the agreement is negotiated, or who voluntarily join the association or union, subsequently must maintain their membership for the duration of the agreement.

Management Rights Clause

A provision found in most collective bargaining agreements delegating certain rights to management, generally including the right to assign and direct the workforce, to discipline employees for just cause, and to reduce the workforce due to lack of work or money.

Management Rights

Issues where the employer has unilateral discretion to make a decision or policy. Management has the right to: determine the content of job descriptions for, standards of services provided by, and standards of selecting employees; direct employees; take disciplinary action; relieve employees from duty due to lack of work or other legitimate reason; determine the method and personnel by which operations are to be conducted; take all actions necessary to carry out its functions in an emergency; and have complete control over organization of and technology used at work.

Mandatory Subject of Bargaining

A subject pertaining to the wages, hours, terms, or conditions of employment. An employer may not make a unilateral change in a mandatory subject of bargaining without providing prior notice to the union and an opportunity to bargain.

Mediation

An attempt by an impartial third party, called a mediator, to bring the parties in a labor dispute together. The mediator has no power to force a settlement but rather operates primarily through persuasion to help the negotiating parties reach an agreement.

Memorandum of Agreement

Most often refers to the written document summarizing the terms of settlement for a successor collective bargaining agreement and signed by both parties. Sometime it also is used to refer to the written collective bargaining agreement itself.

Merit Increase (Performance Incentive)

An increase in the wage rate of an employee, usually given on the basis of certain criteria of worth, e.g., efficiency and performance.

Most Favored Nations Clause

A clause in a collective bargaining agreement where the parties agree that if another contract is signed with another bargaining unit containing more favorable terms, such terms will automatically apply to the present contract.

National Labor Relations Board (NLRB)

Agency created by the National Labor Relations Act of 1935, and continued through subsequent amendments, whose functions are to define appropriate bargaining units, to hold elections to determine whether a majority of employees want to be represented by a specific association or union or no association or union, to certify associations or unions to represent employees, to interpret and apply the act's provisions prohibiting certain employer and association or union unfair practices, and otherwise to administer the provisions of the act.

Negotiation

The process by which representatives of employees and management try to reach agreement on conditions of employment, such as wages, hours, fringe benefits, and the machinery for handling grievances.

Negotiator

The person who represents the employer or union in collective bargaining negotiations. Often committees or "teams" represent each party, and one of the committee's members acts as chief negotiator or spokesperson for the group.

Neutrality Agreement

A neutrality agreement is a legally enforceable contract between an employer and a union in which the employer agrees to remain neutral during a union organizing effort. The employer agrees to refrain from resisting union organizing through speech and conduct it would otherwise be entitled to engage in under the National Labor Relations Act.

No-Strike Clause

A provision found in most collective bargaining agreements in which the union pledges that there will be no strikes during the life of the agreement.

Off-The-Record

Discussion or talks that occur where no official record is kept, and notes are not taken.

Open Shop

Term commonly applied to an establishment with a policy of not recognizing or dealing with a labor association or union. Term may be sometimes applied to an organized establishment where association or union membership is not a condition of employment. (See Association or Union Security)

Overtime

Work performed in excess of basic workday or workweek as defined by law, personnel rules, collective bargaining agreement, or company policy. Sometimes applied to work performed on Saturdays, Sundays or holidays at premium rates.

Past Practice

A way of dealing with a grievance by considering the manner a similar issue was resolved before the present grievance was filed. Past practice is often used to resolve a grievance when contract language is ambiguous or contradictory, or when the contract doesn't address the matter in dispute. Past practice may also create a basis for a grievance action if the employer unilaterally changes a long-standing well-understood practice which may not be included in the collective bargaining agreement.

Pattern Bargaining

The practice whereby employers and labor organizations reach collective agreements similar to those reached by the leading employers and labor organizations in the field.

Payroll Deductions

Amounts withheld from employee's earnings by the employer for social security, federal income taxes and other governmental levies; also may include union or association dues, group insurance premiums, and other authorized wage assignments.

Per Capita Tax

A stated periodic payment taken from the monthly dues amount that is sent by the local

union to the regional or international union.

Permissive Subject of Bargaining

Topics that fall outside of the mandatory categories of “wages, hours and working conditions.” Permissive subjects may be proposed during bargaining, and bargaining may occur, but it is not legally required. If one party elects not to bargain the topic, the other party must drop the topic. Parties may not bargain to impasse over permissive subjects.

Personal Leave

Excused leave for reasons important to the individual worker regardless of whether otherwise provided for, such as for getting married, sick leave, annual leave, etc.

Picketing

Patrolling near employers place of business by association or union members (pickets) to publicize the existence of a labor dispute, persuade employees to join the association or union or the strike, discourage customers from buying or using employer’s goods or service, etc. Organizational picketing is picketing carried on by the association or the union for the purpose of persuading employees to join the association or union or authorize the association or union to represent them. Recognitional picketing is picketing to compel the employer to recognize the association or union as the exclusive bargaining agent for his employees. Informational picketing is picketing directed toward advising the public that an employer does not employ members of, or have a contract with, an association or union, or is treating its employees in an unfair manner when an actual strike is not called.

Premium Pay

Additional money which is paid to an employee for certain types of work, sometimes referred to as penalty pay. It is usually 10 to 50 percent of the base rate. Examples: night shifts, overtime, hazardous or unpleasant work. Premium pay is paid in addition to the regular pay to compensate employees for the special effort required, the unpleasantness of the work, or for the inconvenience of the time during which the work takes place. It is offered to induce them to volunteer for such work.

Prevailing Rate (Going Rate)

Term has no precise statistical meaning in ordinary usage. It may refer to average level of wages paid by employers for specific occupations in a community or area, rate most commonly paid, rate paid to most employees, or rate established by association or union contracts.

Raiding

Term applied to an association or union's attempt to enroll members belonging to another association or union or already covered by a collective bargaining agreement negotiated by another association or union, with the intent to usurp the association or union's bargaining relationship.

Ratification

Formal approval of a newly negotiated agreement by vote of the association or union members affected.

Real Wages

Real wages measure changes in earning as compared to inflation. They are usually calculated by dividing the increase in current wages by the rise in the cost of living from a given year in the past, so as to measure how much of the increase in wages is to offset inflation and how much is real progress—hence the term real wages.

Regressive Bargaining

Reneging on a proposal submitted in negotiations or making a proposal that moves away from agreement by removing or reducing the value of items previously placed on the table.

Regular Rate

Usually, basic rate of pay or the straight-time rate. The Fair Labor Standards Act defines “regular rate of pay” for overtime pay computations; collective bargaining agreements also usually define the term for calculation purposes (vacation pay, overtime, etc.).

Reopening Clause (Wage Reopener)

Clause in a collective bargaining agreement stating the time of the circumstances under which negotiations can be requested, prior to the expiration of the contract. Reopenings are usually restricted to wage issues and perhaps other specified economic issues, not to the contract as a whole.

Representation Election (Election)

Election conducted to determine by a majority vote of the employees in an appropriate unit (See Bargaining Unit) which, if any, association or union is desired as their exclusive representative. These elections are usually conducted by the National Labor Relations Board.

Retroactive Pay

Wages due for past services, frequently required when wage increases are made effective as

of an earlier date, or when contract negotiations are extended beyond the expiration date of the previous agreement.

Right-to-Work Laws

State laws which forbid collective bargaining agreements to contain union security clauses that require union membership. These laws are authorized by Section 14 (b) of the Taft-Hartley Act. Twenty-five states, located mostly in the South and Southwest, have right-to-work laws.

Scope of Bargaining

The universe of issues included in the collective bargaining procedures, which are usually divided into three categories: mandatory, permissive, and prohibited.

Seniority

Term used to designate an employee's status relative to other employees, as in determining order of promotion, layoff, vacations, etc. Straight seniority is acquired solely through length of service. In qualified seniority, other factors such as ability are considered with length of service. Departmental or unit seniority refers to seniority applicable in a particular section for the plant, rather than in the entire establishment. Plant-wide or company-wide seniority is applicable throughout the plant or company. On a seniority list, individual workers are ranked in order of seniority.

Severance Pay

Payment by the employer to a worker who terminates their employment, either voluntarily or involuntarily.

Sexual Harassment

Any unwarranted and repeated sexual comments, looks, suggestions, or physical contacts that create an uncomfortable working environment. May be quid-pro-quo or hostile work environment in nature.

Shift Differential

Added pay for working during a swing or graveyard shift, graveyard differentials are generally more than swing shift differentials.

Shop Steward (Employee Representative, Union Steward)

A local association or union's representative in a plant or department elected by association or union members (or sometimes appointed by the union) to carry out association or union

duties and solicit new members.

Side-Bar

A discussion that occurs away from the bargaining table, usually between the chief negotiators from either side. Often side-bars are used to probe areas of settlement or to clarify questions or to share information. Side-bar talks are always considered to be off-the-record. In some negative instances these have been used to actually reach an agreement with the full negotiating committee not involved.

Side Letter

An agreement outside the main body of the contract similar to an addendum, but as binding as anything else in the contract itself unless explicitly stated otherwise.

Strike (Wildcat, Outlaw, Quickie, Slowdown, Sympathy, Sitdown, General)

Temporary stoppage of work by a group of employees (not necessarily members of an association or union) to express a grievance, enforce a demand for changes in the conditions of employment, obtain recognition, or resolve a dispute with management. A wildcat or outlaw strike is a strike not sanctioned by the association or union and one that violates the agreement. A quickie strike is a spontaneous or unannounced strike. A slowdown is a deliberate reduction of output without an actual strike in order to force concession from employer. A sympathy strike is one of workers not directly involved in a dispute, but who wish to demonstrate worker solidarity or bring additional pressure upon company involved. A sitdown strike is a strike during which workers stay inside the plant or workplace, but refuse to work, or allow others to do so. A general strike involves all organized employees in a community or country (rare in the United States). A walkout is the same as a strike.

Strike Deadline

Time set by the association or union for beginning a strike if a satisfactory settlement is not reached. Typically, this is at midnight of the last day of the contract term or the start of the next day's first shift.

Strike Notice

Formal notice of an intention to strike, presented by the association or union to the employer, or to the appropriate federal government agency, such as the Federal Mediation and Conciliation Service.

Strike Vote

Vote conducted among members of an association or union to determine whether or not a strike should be called.

Sunshine Bargaining (Fish Bowl bargaining)

Bargaining that involves the public, either as participants or observers of all aspects of bargaining. May also be called Open negotiations.

Superseniority

A position on the seniority list ahead of where the employees would be placed solely on the basis of years of service. Such favorable treatment is usually reserved for union stewards, in order to retain proper union representation for those employees who remain on the job in the event of a layoff. Superseniority would be provided for in a collective bargaining agreement, and is also frequently granted to elected negotiators.

Supervisor

A person having the authority, in the interests of the employer, to hire, transfer, suspend, promote, layoff, recall, discharge, assign, reward, or discipline other employees, or to effectively recommend such action, or to adjust employee grievances, where such authority is not of a routine or clerical nature but requires the use of independent judgment.

Sweetheart Agreement

A derogatory term for an association or union contract exceptionally favorable to a particular employer in comparison with other contracts, implying less favorable conditions of employment than could be obtained under a legitimate collective bargaining relationship.

Tentative Agreement (“TA”)

Issues that are agreed to during bargaining on a labor contract and set aside as tentatively agreed subject to agreement on all outstanding issues of the contract. Tentative agreements have no force or effect until and unless all of the issues on the bargaining table have been resolved and are therefore not implemented until all issues have been settled and ratified.

Ten-Day Notices

Unions that represent employees in health care facilities must file a written ten-day notice with the employer and the Federal Mediation & Conciliation Service (FMCS) before any informational picket or strike takes place at the facility. The requirement is a result of Congress amending the NLRA in 1974 by adding a new Section 8 (g). “A labor organization before engaging in any strike, picketing, or other concerted refusal to work at any healthcare institution shall, not less than ten days prior to such action, notify the institution in writing . . . of that intention . . . The notice shall state the date and time that such action will commence. The notice, once given may be extended by written agreement of both parties.” The term “healthcare institution” for purposes of this section of the Act is defined as “any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged

persons.”

Unemployment Insurance (Unemployment Compensation)

Joint federal-state program, established in 1935, under the Social Security Act and subject to the standards set forth in the Federal Unemployment Tax Act, under which state-administered funds obtained through payroll taxes provide payments to eligible unemployed persons for specified periods of time. Levels of benefits and tax rates are established by each state.

Unfair Labor Practice

A practice on the part of either union or management that violates the provisions of the National Labor Relations Act. Examples on the part of unions are: (1) causing an employer to discriminate against an employee on the basis of that employee's membership in a union; (2) refusing to bargain collectively with an employer; (3) interfering in an employer's exercise of its rights under the statute; (4) failing to fairly represent all members of the bargaining unit. Examples on the part of management are: (1) controlling or interfering with unions; (2) discriminating against workers for the union support or activity; (3) retaliating against workers for complaining to the administrative agency; (4) refusing to bargain collectively with the exclusive representative.

Unilateral Change

A change in a mandatory bargaining subject made by an employer without prior notice and/or bargaining. Unless permitted by the contract, such unilateral changes are unfair labor practices.

Union Label or Card

A stamp or tag on a product or card in a store or shop to show that the work is done by union labor.

Union Security

A clause in the contract providing for the union shop, modified union shop, maintenance of membership clause or agency shop. The check-off can also be regarded as a form of union-security.

Union Shop

A workplace in which every worker covered by the contract must become a member of the union or an agency fee payer. New workers need not be union members to be hired, but must join the union or agree to begin paying an agency fee within a contractually specified number of days.

Unit Clarification or Modification

A change in the original composition of the bargaining unit, consolidation, and accretion. Unit clarification is a procedure for eliminating or adding certain employees to existing bargaining unit. Accretion assimilates employees in positions created after certification into an existing unit. Consolidation is a means for overcoming fragmentation of a unit; a combination of existing units into one comprehensive unit.

Unit Determination

A procedure by which a labor relations agency makes a finding as to the appropriateness of including certain employees within a group for collective bargaining purposes (bargaining units). Unit determination criteria are frequently established by statute and provide guidelines to the agency in judging the fitness of the unit.

Voluntary Bargaining Subject (same as permissive bargaining subject)

A subject about whom the employer can legally refuse to bargain; for example, the selection of management personnel.

Weingarten Rights

The right of employees to request union representation during investigatory interviews and the right of union representatives to assist and counsel employees during investigatory interviews (*NLRB v. J. Weingarten, Inc.*, 420 U.S. 251 (1975)). In 2000, NLRB extended these rights to nonunionized employees; in 2004, NLRB effectively reversed the previous ruling.

Work Rules

Rules regulating on-the-job standards and conditions of work, often incorporated in the collective bargaining agreement when negotiations occur. Work rules are usually negotiated at the insistence of the union to restrict management's ability to unilaterally set production standards and assign employees as management wants. The union's goals in establishing work rules are to maximize and protect the number of jobs available to its members, protect the health and safety of employees, and to promote stable work assignments for employees.

Work-to-Rule

A decision by workers to perform their work in strict accordance with the requirements of work rules; a form of slowdown.

Yellow Dog Contract

A contract stating that a worker would not join a union. Before the practice was outlawed by the Norris-LaGuardia Act of 1932, many workers were forced to sign such a statement as a condition of employment.

Zipper Clause

A provision in a collective bargaining agreement that specifically states that the written agreement is the complete agreement of the parties and that anything not contained therein is not agreed to unless put into writing and signed by both parties following the date of the agreement. The zipper clause is intended to stop either party from demanding renewed negotiations during the life of the contract. It also works to limit the freedom of a grievance arbitrator because the decision must be based only on the contents of the written agreement.
