



## CHAPTER 18

# Labor/ Management Relations

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

- Describe what a union is and explain why employees join unions.
- Explain the acts that compose the “National Labor Code.”
- Identify and discuss the stages in the process of unionization.
- Describe the typical collective bargaining process.
- Define *grievance* and explain why a grievance procedure is important for every employer.

## HR TRANSITIONS

# General Motors and the United Auto Workers—Labor Conflict

The United Auto Workers (UAW) union, which represents most General Motors (GM) employees, has struck GM several times during the last few years. Typically the strikes have not been against the whole company—only various plants that supply key parts—but the effect has often been to shut down operations across the huge company. Why has the union continued to use labor's ultimate weapon when each shutdown costs members and their employer dearly? The story is one that illustrates clearly the major issues in labor-management relations today.

Competition from Ford Motor Company and global competitors like Daimler-Benz and Toyota has made it clear to GM executives that they *must* close the big gaps in productivity, but their progress to date has been too slow. For years the need to change GM from a “clumsy giant” into a lean global competitor has been obvious. But GM's strategy has been to use attrition to shrink its bloated workforce. As tens of thousands of workers hired in the 1960s retire, the company could restructure itself to operate using significantly fewer employees. But meanwhile at Ford, aggressive cost cutting and an end to a “country-club” approach to competition has led to major successes against GM. To reach Ford's level of productivity, GM would need to cut 50,000 more jobs—not an

approach likely to make the UAW happy. At one time, GM had 50% of the huge U.S. market for cars and trucks. Now it is at 31% and falling. Ford and Daimler-Chrysler have already accomplished the streamlining that GM is only beginning.

But even with job cuts, GM cannot be competitive unless the union drops inefficient work rules—for example, a rule allowing some workers to leave with a full day's pay after doing a half-day's work. The average GM worker receives wages and benefits totaling around \$44 per hour. For comparison, Mexican workers at GM's Silao plant in

strikes, and the effect ripples through the economy. Further, GM loses sales and customers as its inventory of cars disappears. The UAW struck GM plants nine times in one two-year period. The company estimates that the longer strikes cost about 21,000 customers per day—and those customers buy another brand of vehicle. The result it says, is that the business gets smaller and loses even more jobs.

The string of strikes calls into question GM's HR strategy for dealing with its complex labor and productivity problems. Job outsourcing, closing plants, and moving production outside

*Job outsourcing, closing plants, and moving production outside the United States will continue to be major issues for GM and the UAW for many years to come.*

Mexico earn \$13 per day, which is six times Mexico's minimum wage. Jobs at the GM plant there are much sought after and considered *very good* jobs in Mexico.

Union strikes at GM plants have been very expensive for the company. One 17-day strike cost almost \$1 billion, and longer strikes cost even more. GM suppliers are forced to lay off employees and/or shut down during

the United States will continue to be major issues for GM and the UAW for many years to come. The lack of an easy solution to changes caused by competition, and the resulting need to increase productivity, have been the major reasons for the problems both GM and America's labor unions face.<sup>1</sup>

“If employees have problems that you aren't addressing—unions will!”

MICHAEL SEVERNS

### Union

A 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. The state of unions varies among countries depending on the culture and the laws that define union-management relationships. In the United States a complex system of laws, administrative agencies, and precedent is in place to allow workers to join unions when they wish to do so. Although fewer workers choose to do so today than before, the mechanisms remain for a union resurgence if employees feel they need a formal representative to deal with management. This chapter examines why employees may choose to organize a union, how they go about it, and the bargaining and administration of the agreement that union and management reach.

## When Management Faces a Union

Employers usually would rather not have to deal with a union. The wages paid union workers are higher, and unions constrain what managers can and cannot do in a number of HR areas. However, unions *can be* associated with higher productivity, although that may occur when management has to find labor-saving ways of doing work to offset higher wage costs. Some companies pursue a strategy of good relations with the unions. Others may choose an aggressive, adversarial approach, which is especially true among companies that follow a low-cost/low-wage strategy to deal with competition.<sup>2</sup>



### LOGGING ON . . .

#### Labor Relations Online

This website provides links to educational resources, government materials, union-related pages, management details, and other resources.

<http://www.auburn.edu/~wilsokc/>

### Why Employees Unionize

Whether a union targets a group of employees, or the employees themselves request union assistance, the union still must win sufficient support from the employees if it is to become their legal representative. Research consistently shows that employees join unions for one primary reason: They are dissatisfied with how they are treated by their employers and feel the union can improve the situation. If the employees do not get organizational justice from their employers, they turn to the union to assist them in getting what they believe is equitable. Important factors seem to be *wages and benefits, job security, and supervisory treatment*.

The primary determinant of whether employees unionize is management. If management treats employees like valuable human resources, then employees generally feel no need for outside representation. That is why providing good working conditions, fair treatment by supervisors, responsiveness to worker complaints and concerns, and reasonably competitive wages and benefits are all antidotes to unionization efforts. In addition, many workers want more cooperative dealings with management, rather than being autocratically managed.<sup>3</sup> The union's ability to foster commitment from members and to remain as their bargaining agent apparently depends on how well the union succeeds in providing services that its members want.

### Targeting Organizations by Unions

Unions may contact employees in industries or occupations where they have a traditional interest, or in new areas where expansion seems possible. For exam-

## HR PERSPECTIVE

## Unions Needed Here?

*Targeting* by unions is very evident today. As unions concentrate their efforts to organize employees, they have identified certain *industries* and one *city* as being ripe for union organizing. For example, Las Vegas, Nevada, has been picked by the largest national labor organization, the AFL-CIO, as a place where employees might see the advantages of union membership. In a sense, Las Vegas may seem an odd place for union organizing. It is a conservative area, but it has been a boom town for some time now, and its core service jobs *cannot* be moved elsewhere by employers. The union is pursuing hotels, hospitals, and construction workers in Las Vegas. Although Las Vegas is a targeted geographical area, certain industries, such as child care and nursing homes, are targeted elsewhere.

Child-care workers are a target in Philadelphia (and elsewhere as well). Child-care workers are often unskilled and receive low pay. For example, in Philadelphia child-care

workers make less than \$8/hour, 80% have no health insurance, and virtually *none* have employer-paid retirement benefits. Henry Nicholas, President of the National Union of Hospital and Health Care Employees, says, "We are building this movement to put dignity in child care." About 24,000 people are employed in the child-care industry in the Philadelphia area.

Workers in nursing homes dealing with the elderly are a fast-growing segment of the workforce. However, many employees in this industry are relatively dissatisfied. The industry is often noted for its low pay and hard work, and many employees are women who work as nurse's aides, cooks, launderers, and in other low-wage jobs. The Bureau of Labor Statistics lists nursing home workers as among the most susceptible to workplace injuries—from assaults by patients to back injuries from lifting and turning patients. Even in the southern United States, where unions have been notably unsuccessful pre-

viously, the employees of nursing homes are organizing. As the vice president of a large nursing-home chain in the South notes, "We prefer to deal with our employees without a union. But if we end up with a union, it's probably because we deserve it in that particular location."

Nursing-home employees earn an average of \$6.65 an hour and see unions as a chance for change. Ironically, they are health-care workers—although many of them cannot afford health insurance. Many homes are chronically short staffed, yet each patient must be cared for regularly. Recently, unions won 25 of 37 elections in the South, and three-fourths of their elections nationally.<sup>4</sup>

Unions point out that targeting these areas and industries will help employees increase their wages, benefits, and working conditions. Workers in these industries also represent a source for growth in labor union members to offset declines elsewhere.

ples, see the HR Perspective. The following are some indicators identified by unions to predict when a unionization attempt might be successful in a given organization:

- Dissatisfaction with wages and benefits
- Dissatisfaction with safety or job security
- Boring or demeaning jobs
- Poor supervisory practices, including insufficient communication
- Lack of power to make changes

When these indicators are present, the employees might choose a union to represent them. If employees choose a union to represent them, management and union representatives enter into formal bargaining over certain issues such as pay scales, benefits, and working conditions. Once these issues have been resolved in a labor contract, management and union representatives must work together to

manage the contract and deal with grievances, which are formal complaints filed by workers with management. HR professionals may be involved in any or all of the process.

## HR Responsibilities with Unions

Figure 18–1 shows a typical division of responsibilities between the HR unit and operating managers in dealing with unions. This pattern may vary among organizations. In some organizations, HR is not involved with labor relations because operating management handles them. In other organizations, the HR unit is almost completely in charge of labor relations. The typical division of responsibilities shown in Figure 18–1 is a midpoint between these extremes.

## Union Membership Trends



### LOGGING ON . . .

#### International Labor Organization

Information on global union issues, news, conferences, and research resources can be found here.

<http://www.ilo.org/>

Unionism in the United States has followed a pattern somewhat different from that in other countries. In such countries as Italy, England, and Japan, the union movement has been at the forefront of social policy issues. For the most part, this politicization has not occurred in the United States. Perhaps workers here tend to identify with the American free enterprise system. Further, class consciousness and conflict between the working “class” and the management “class” is less evident in the United States than in many other countries.

### Unions in the United States—and Globally

The union movement in the United States has been characterized by the following approaches, which in some cases are very different from the approaches used in other countries. In the United States the key emphases have been:

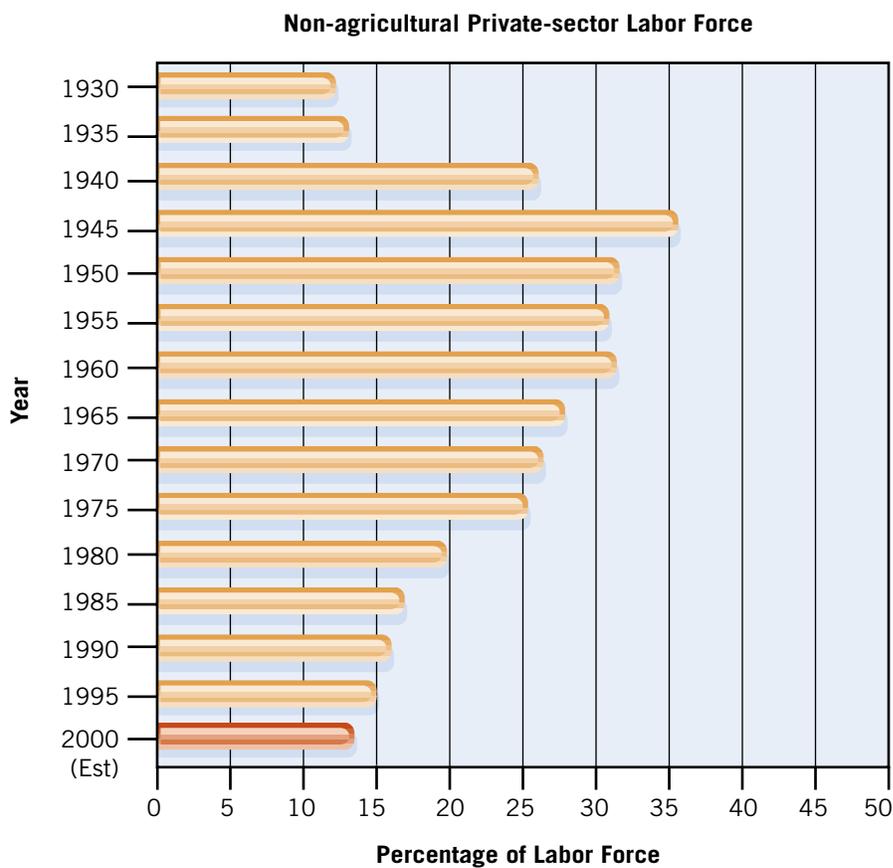
- *Focus on economic issues:* Unions typically have focused on improving the “bread and butter” issues for their members—wages, job security, and benefits. In Germany, the workers and their unions have a say in the management of the company, with one or more members on the board of directors of many employers. The German approach is more comprehensive than that used in the United States.

**FIGURE 18–1** *Typical Labor Relations Responsibilities*

HR Unit	Managers
<ul style="list-style-type: none"> <li>● Deals with union organizing attempts at the company level</li> <li>● Monitors “climate” for unionization and union relationships</li> <li>● Helps negotiate labor agreements</li> <li>● Provides detailed knowledge of labor legislation as needed</li> </ul>	<ul style="list-style-type: none"> <li>● Promote conditions conducive to positive relationships with employees</li> <li>● Avoid unfair labor practices during organizing efforts</li> <li>● Administer the labor agreement on a daily basis</li> <li>● Resolve grievances and problems between management and employees</li> </ul>

- *Organized by kind of job:* In the United States, carpenters often belong to the carpenter's union, truck drivers to the Teamsters, and teachers to the American Federation of Teachers or the National Education Association. In Japan, unions are organized on a company-by-company basis or an "enterprise" basis rather than by kind of job.
- *Decentralized bargaining:* In the United States, bargaining is usually done on a company-by-company basis. In Sweden the government determines wage rates, and in other countries "councils," rather than individual employers, set nationwide rates through bargaining.
- *Collective agreements are "contracts":* Collective bargaining agreements are referred to as *contracts*. They spell out work rules and conditions of employment for 2 or 3 years or longer. In the United States, the agreements are enforceable after interpretation (if necessary) by an arbitrator. In Great Britain, the agreements are not enforceable; they are similar to a handshake or "gentleman's agreement," and cannot be enforced formally.
- *Adversarial relations:* U.S. tradition has management and labor as adversaries who must "clash" to reach agreement. In Mexico the employer-employee relationship is more friendly, almost family-like.

**FIGURE 18-2 Union Membership As a Percentage of U.S. Workforce**



SOURCE: Data from Bureau of Labor Statistics, U.S. Department of Labor.

## Union Decline Worldwide

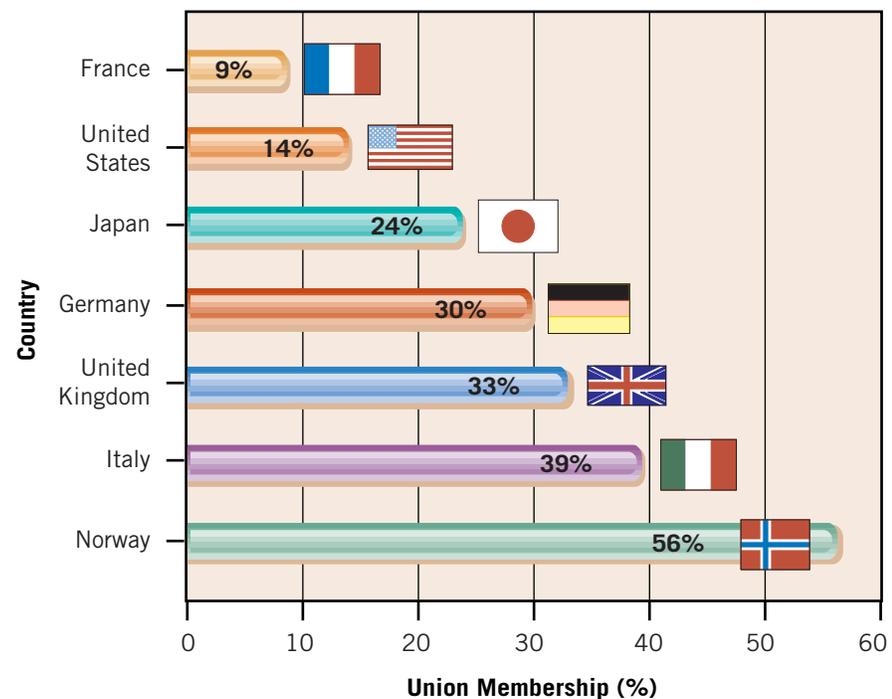
Over the past several decades, the statistics on union membership have told a disheartening story for organized labor in the United States. As shown in Figure 18–2 on the previous page, unions represented over 30% of the workforce from 1945 through 1960. But by the end of the 1990s, unions in the United States represented less than 14% of all private-sector workers.<sup>5</sup>

As in the United States, unions in other countries are facing declining membership. One factor in the decline of European unions is that European manufacturers have been reducing operations in Europe and moving jobs to the United States, as well as to low-wage countries such as China, Thailand, and the Philippines. Further, the need to reduce expenditures for social benefits, such as welfare and pensions, has forced European countries to eliminate jobs in their public sectors, which traditionally have been highly unionized. Compounding the problems, many large employers in western European countries are wholly or partially owned by the national government. Figure 18–3 shows the percentage of the labor force that is unionized in different countries. Other reasons for the shifts in union membership in the United States are addressed next.

## Reasons for Union Decline in the U.S.

Economists speculate that several issues have sparked union decline: deregulation, foreign competition, a larger number of people looking for jobs, and a

**FIGURE 18–3** *Union Membership as a Percentage of the Workforce for Selected Countries*



SOURCE: OECD Data from *The Economist*, July 12, 1997, 70.

general perception by firms that dealing with unions is expensive compared with the nonunion alternative. Also, management has taken a much more activist stance against unions than during the previous years of union growth.

Unions have emphasized helping workers obtain higher wages, shorter working hours, job security, and safe working conditions from their employers. Ironically, some believe that one cause for the decline of unions has been their success in getting their important worker issues passed into law for everyone. Therefore, unions are not as necessary for many employees, even though they enjoy the results of past union efforts to influence legislation.

## Geographic Changes

Over the past decade, job growth in the United States has been the greatest in states located in the South, Southwest, and Rocky Mountains. Most of these states have relatively small percentages of unionized workers. This is partly because of “employer-friendly” laws passed to attract new plants, many relocated from northern states, where unions traditionally have been stronger. Foreign competition, automation, and the lack of union traditions are the main barriers to unionization efforts in these areas.

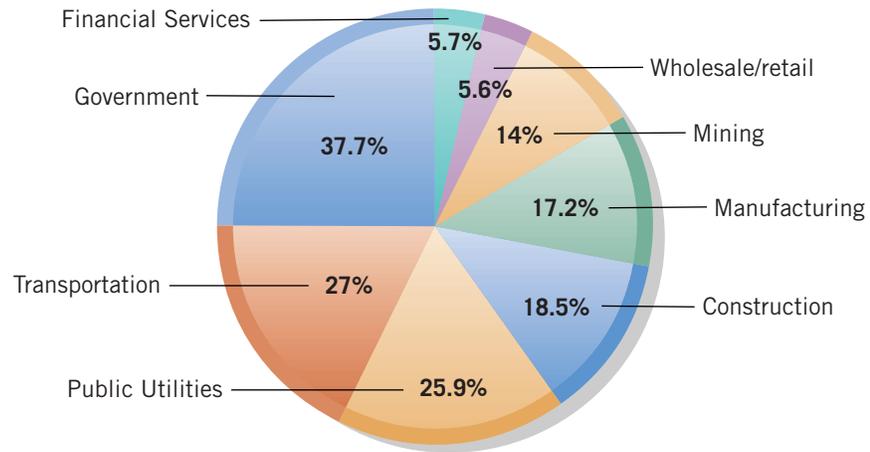
Another issue involves the movement of many lower-skill jobs outside the United States. Primarily because of cheaper labor, many manufacturers such as General Motors have moved a significant number of low-skill jobs to Mexico, the Philippines, China, Thailand, and other lower-wage countries. Even some white-collar data processing jobs are being moved out of the country. For instance, a major airline has data entry of airline ticket receipts being done by workers on two different Caribbean islands.

A major impetus for moving low-skill, low-wage jobs to Mexico was the passage of the North American Free Trade Agreement (NAFTA). It removed tariffs and restrictions affecting the flow of goods and services among the United States, Canada, and Mexico. Because wage rates are significantly lower in Mexico, a number of jobs that would have been susceptible to unionization are now being moved there. Supporters of NAFTA make the case that jobs are created in the United States as well, but many of those jobs are at higher levels and in areas less likely to be unionized. Thus, the overall result in many situations is that jobs that otherwise could lead to unionization and the growth of unions have been moving out of the reach of U.S. unions.

## Public-Sector Unionism

An area where unions have had some measure of success is with public-sector employees, particularly with state and local government workers. Figure 18–4 on the next page shows that the government sector (federal, state, and local) is the most highly unionized part of the U.S. workforce.

Unionization of state and local government employees presents some unique problems and challenges. First, many unionized local government employees are in critical service areas. Allowing police officers, firefighters, and sanitation workers to strike endangers public health and safety. Consequently, over 30 states have laws prohibiting public employee work stoppages. These laws also identify a variety of ways to resolve negotiation impasses, including arbitration. But unions still give employees in these areas greater security and better ability to influence decisions on wages and benefits.

**FIGURE 18-4** *Percentage of Workers in Unions, by Industry*

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics.

Although unions in the federal government hold the same basic philosophy as unions in the private sector, they do differ somewhat. Through past Executive Orders and laws, methods of labor/management relations that consider the special circumstances present in the federal government have been established. In the United States, the government sector is the only one in which there has been a recent growth and strengthening of unions.

## The History of American Unions

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



### LOGGING ON . . .

#### AFL-CIO Home Page

The AFL-CIO's home page describes unions and Organizing Institute information.

<http://www.aflcio.org/front.htm>

### The AFL-CIO

In 1886, the *American Federation of Labor* (AFL) was formed as a federation of independent national unions. Its aims were to organize skilled craft workers, like carpenters and plumbers, and to emphasize such bread-and-butter issues as wages and working conditions.

The Civil War gave factories a big boost, and factory mass-production methods used semiskilled or unskilled workers. Unions found that they could not control the semiskilled workers entering factory jobs because these workers had no tradition of unionism. It was not until 1938, when the Congress of Industrial Organizations (CIO) was founded, that a labor union organization focused on

semiskilled and unskilled workers. Years later, the AFL and the CIO merged to form one coordinating federation, the AFL-CIO.

## Early Labor Legislation

The right to organize workers and engage in collective bargaining is of little value if workers are not free to exercise it. Historical evidence shows that management developed practices calculated to prevent workers from using this right. The federal government has taken action over time to both hamper unions and protect them.

**RAILWAY LABOR ACT** The Railway Labor Act (1926) represented a shift in government regulation of unions. As a 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 act. Both of these industries are still covered by this act rather than by others passed later.

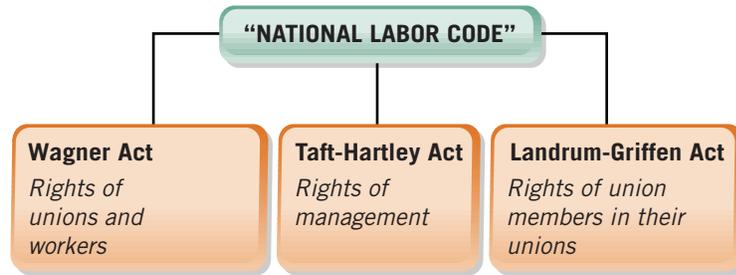
**NORRIS-LAGUARDIA ACT** The crash of the stock market and the onset of the Great Depression in 1929 led to massive cutbacks by employers. In some industries, resistance by employees led to strikes and violence. Under the laws at that time, employers could go to court and have a federal judge issue injunctions 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.

## Basic Labor Law: “National Labor Code”

The economic crises of the early 1930s and the restrictions on workers’ ability to organize into unions led to the passage of landmark labor legislation. Later acts reflected other pressures and issues that had to be addressed legislatively. Together, the following three acts, passed over a period of almost 25 years, comprise what has been labeled the “National Labor Code”: (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 relationships between unions and management. Figure 18–5 on the next page shows each segment of the code and describes the primary focus of each act.

### 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 is, 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.

**FIGURE 18-5** *The National Labor Code*

The Wagner Act helped union growth in three ways:

- It established workers' right to organize, unhampered by management interference.
- It defined unfair labor practices on the part of management.
- It established the National Labor Relations Board (NLRB) as an independent entity to enforce the provisions of the Wagner Act.

The Wagner Act established the principle that employees would be protected in their right to form a union and to bargain collectively. To protect union rights, the act prohibited employers from undertaking the following five unfair labor practices:

- 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 he or she filed charges or gave testimony under the act.
- Refusing to bargain collectively with representatives of the employees.

The NLRB administers all provisions of the Wagner and subsequent labor relations acts. Although it was set up as an impartial umpire of the organizing process, the NLRB has altered its emphasis depending on which political party is in power to appoint members.

### **Taft-Hartley Act (Labor-Management Relations Act)**

The passage in 1947 of the *Labor-Management Relations Act*, better known as the Taft-Hartley Act, answered the concerns of many who felt that unions had become too strong. An attempt to balance the collective bargaining equation, this act was designed to offset the pro-union Wagner Act by limiting union actions; therefore, it was considered to be *pro-management*. It became the second part of the National Labor Code.

The new law amended or qualified in some respect all of the major provisions of the Wagner Act and established an entirely new code of conduct for unions. The Taft-Hartley Act forbade unions from a series of unfair labor practices that

were very much like those prohibited for management. Coercion, discrimination against nonmembers, refusing to bargain, excessive membership fees, and other practices were forbidden for unions. The Taft-Hartley Act also allows the President of the United States to declare that a strike presents a national emergency. A **national emergency strike** is one that would affect an industry or a major part of it such that the national economy would be significantly affected.

**RIGHT-TO-WORK PROVISION** One specific provision of the Taft-Hartley Act, Section 14(b), deserves special explanation. This “right-to-work” provision affects 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. The act does allow the **union shop**, which requires that an employee join the union, usually 30 to 60 days after being hired. The act also allows the **agency shop**, which requires employees who refuse to join the union to pay amounts equal to union dues and fees in return for the union’s representative services.

The Taft-Hartley Act allows states to pass laws that restrict compulsory union membership. Accordingly, some states have passed **right-to-work laws**, which prohibit both the closed shop and the union shop. The laws were so named because they allow a person the right to work without having to join a union. The states that have enacted these laws are shown in Figure 18–6 on the next page.

## Landrum-Griffin Act (Labor-Management Reporting and Disclosure Act)

In 1959 the third segment of the National Labor Code, the *Landrum-Griffin Act*, was passed. A congressional committee investigating the Teamsters union had found corruption in the union. The law was aimed at protecting the rights of individual union members against such practices. Under the Landrum-Griffin Act, unions must have bylaws, financial reports must be made, union members must have a bill of rights, and the Secretary of Labor will act as a watchdog of union conduct. Because a union is supposed to be a democratic institution in which union members vote on and elect officers and approve labor contracts, the Landrum-Griffin Act was passed in part to ensure that the federal government protects those democratic rights.

In a few instances, union officers have attempted to maintain their jobs by physically harassing or attacking individuals who try to oust them from office. In other cases, union officials have “milked” pension fund monies for their own use. Such instances are not typical of most unions, but illustrate the need for legislative oversight to protect individual union members.

## Civil Service Reform Act of 1978

Passed as Title VII 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 that are and are not subject to bargaining. For example, as a result of the law, wages and benefits are not subject to bargaining. Instead, they are set by congressional actions.

The act established the Federal Labor Relations Authority (FLRA) as an independent agency similar to the NLRB. The FLRA was given authority to oversee and

### National emergency strike

A strike that would affect the national economy significantly.

### Closed shop

A firm that requires individuals to join a union before they can be hired.

### Union shop

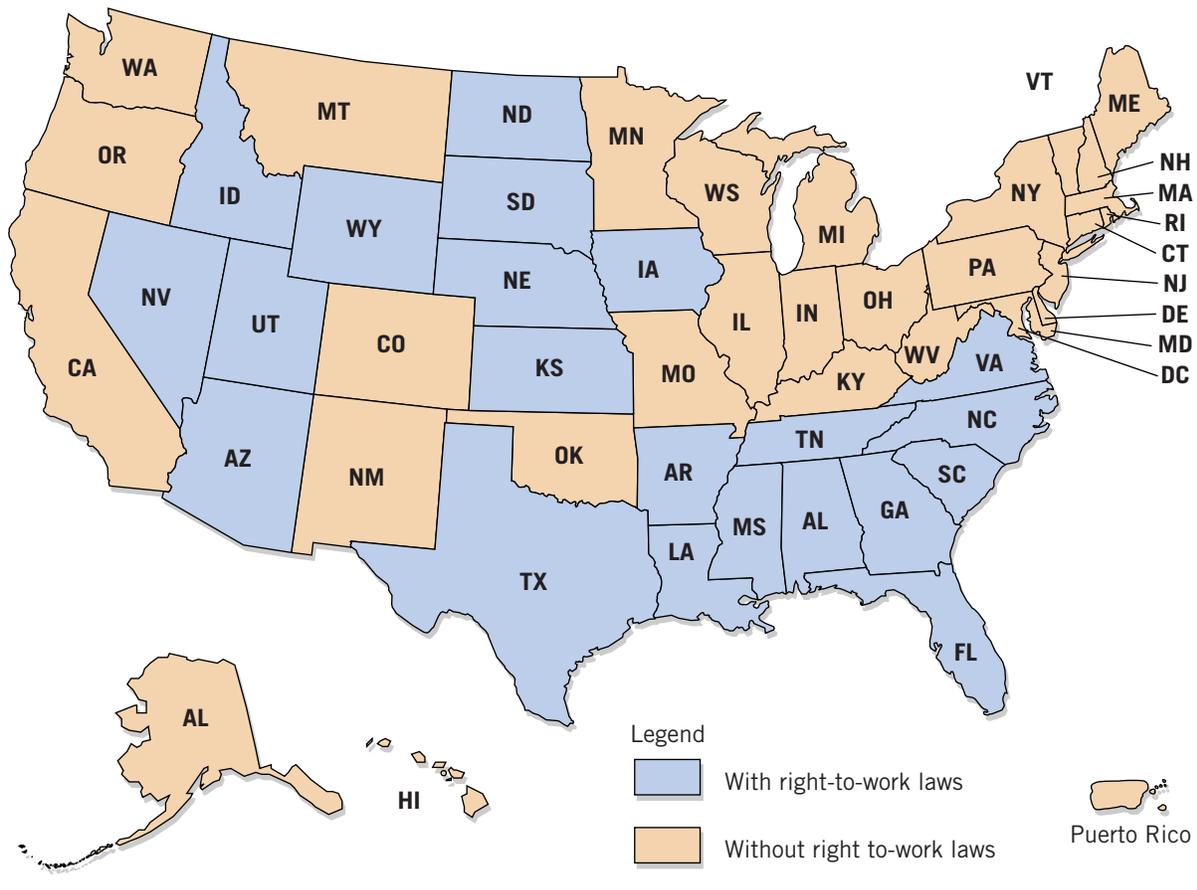
A firm that requires that an employee join a union, usually 30 to 60 days after being hired.

### Agency shop

A firm that requires employees who refuse to join the union to pay amounts equal to union dues and fees for the union’s representative services.

### Right-to-work laws

State laws that prohibit both the closed shop and the union shop.

FIGURE 18-6 *Right-to-Work States*

administer union-management relations in the federal government and to investigate unfair practices in union organizing efforts. The FLRA is a three-member body appointed on a bipartisan basis.

### Craft union

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

### Industrial union

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

### Federation

A group of autonomous national and international unions.

## Union Structure

American labor is represented by many different kinds of unions. But regardless of size and geographical scope, two basic types of unions have developed over time. A **craft union** is one whose members do one type of work, often using specialized skills and training. Examples include the International Association of Bridge, Structural, and Ornamental Iron Workers and the American Federation of Television and Radio Artists. An **industrial union** is one that includes many persons working in the same industry or company, regardless of jobs held. Examples are the United Food and Commercial Workers, the United Auto Workers, and the American Federation of State, County, and Municipal Employees.

Labor organizations have developed complex organizational structures with multiple levels. The broadest level is the **federation**, which is a group of autonomous national and international 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 national and international unions.

## National Unions

National or international unions are not governed by the federation even if they are affiliated with it. They collect dues and have their own boards, specialized publications, and separate constitutions and bylaws. Such national-international unions as the United Steel Workers 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 are sometimes problems for national unions, as when the federal government stepped in and overturned an election the Teamsters union had held.<sup>6</sup>

## Local Unions

Local unions may be centered around a particular employer organization or around a particular geographic location. Officers in local unions are elected by the membership and 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 tend to react to situations as politicians do because they, too, are concerned about obtaining votes. In local unions, women generally do not hold offices except when the union has a large percentage of women members.

Local unions typically have business agents and union stewards. A **business agent** is a full-time union official employed by the union to operate the union office and assist 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 of a firm or organization who is elected to serve as the first-line representative of unionized workers. Stewards negotiate grievances with supervisors and generally represent employees at the worksite.

## The Process of Unionizing

The process of unionizing an employer may begin in one of two primary ways: (1) union targeting of an industry or company, or (2) employee requests. In the former case, the local or national union identifies a firm or industry in which it believes unionization can succeed. The logic for targeting is that if the union is successful in one firm or a portion of the industry, then many other workers in the industry will be more willing to consider unionizing.

The second impetus for union organizing occurs when individual workers in an organization contact a union and express a desire to unionize. The employees themselves—or the union—then may begin to campaign to win support among the other employees.

Once the unionizing efforts begin, all activities must conform to the requirements established by labor laws and the National Labor Relations Board for private-



### LOGGING ON . . .

#### Progressive Websites

From this web page, you can access web pages for union organizations, associations, and government agencies.

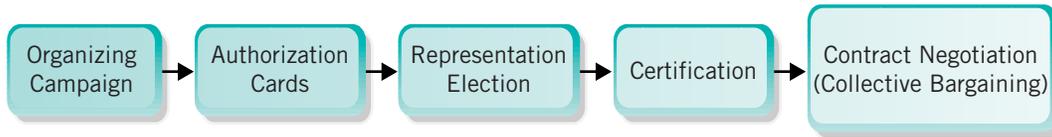
<http://www.webshells.com/>

#### Business agent

A full-time union official employed by the union to operate the union office and assist union members.

#### Union steward

An employee of a firm or organization who is elected to serve as the first-line representative of unionized workers.

**FIGURE 18-7** *Typical Unionization Process*

sector employees, or by the appropriate federal or state governmental agency for public-sector employees. Both management and the unions must adhere to those requirements, or the results of the effort can be appealed to the NLRB and overturned. With those requirements in mind, the union can embark on the typical union organizing process, shown in Figure 18-7.

## Organizing Campaign

Like other entities seeking members, a union usually mounts an organized campaign to persuade individuals to support its efforts. This persuasion takes many forms, including personally contacting employees outside of work, mailing materials to employees' homes, inviting employees to attend special meetings away from the company, and publicizing the advantages of union membership.

### Handbilling

Practice in which unions distribute written publicity in order to convince employees to sign authorization cards.

**HANDBILLING** **Handbilling** is a practice in which unions give written publicity to employees to convince them to sign authorization cards. Brochures, leaflets, and circulars are all handbills. Those items can be passed out to employees as they leave work, mailed to their homes, or even attached to their vehicles, as long as they comply with the rules established by laws and the NLRB.

### Salting

Practice in which unions hire and pay people to apply for jobs at certain companies; when the people are hired, they begin union organizing efforts.

**"SALTING"** Unions sometimes use paid organizers to infiltrate a targeted employer for the purpose of trying to organize other 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, even if they also are paid by a union, violates the Wagner Act.<sup>7</sup>

## Authorization Cards

### Union authorization card

Card signed by an employee to designate a union as his or her collective bargaining agent.

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

In reality, the fact that an employee signs an authorization card does not mean that the employee is in favor of a union; it means only that he or she would like the opportunity to vote on having one. Employees who do not want a union still might sign authorization cards because they want management to know they are disgruntled.

## 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, or no union.

**BARGAINING UNIT** Before the election is held, 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 a determination.

A major criterion in deciding the composition of a bargaining unit is what the NLRB has called a “community of interest.” This concept means that the employees have mutual interests in the following areas:

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

**UNFAIR LABOR PRACTICES** Employers and unions engage in a number of activities before an election. Both the Wagner Act and the Taft-Hartley Act place restrictions on these activities. Figure 18–8 lists some common tactics that management legally can use and some tactics it cannot use.<sup>8</sup>

### Bargaining unit

All employees eligible to select a single union to represent and bargain collectively for them.

**FIGURE 18–8** *Legal Do's and Don'ts for Managers during the Unionization Process*

✓ DO (LEGAL)	✗ DON'T (ILLEGAL)
<ul style="list-style-type: none"> <li>• Tell employees about current wages and benefits and how they compare with those in other firms</li> <li>• Tell employees that the employer opposes unionization</li> <li>• Tell employees the disadvantages of having a union (especially cost of dues, assessments, and requirements of membership)</li> <li>• Show employees articles about unions and relate negative experiences others have had elsewhere</li> <li>• Explain the unionization process to employees accurately</li> <li>• Forbid distribution of union literature during work hours in work areas</li> <li>• Enforce disciplinary policies and rules consistently and appropriately</li> </ul>	<ul style="list-style-type: none"> <li>• Promise employees pay increases or promotions if they vote against the union</li> <li>• Threaten employees with termination or discriminate when disciplining employees</li> <li>• Threaten to close down or move the company if a union is voted in</li> <li>• Spy on or have someone spy on union meetings</li> <li>• Make a speech to employees or groups at work within 24 hours of the election (before that, it is allowed)</li> <li>• Ask employees how they plan to vote or if they have signed authorization cards</li> <li>• Encourage employees to persuade others to vote against the union (such a vote must be initiated solely by the employee)</li> </ul>

Various tactics may be used by management representatives in attempting to defeat a unionization effort. Such tactics often begin when handbills appear, or when authorization cards are being distributed. Some employers hire experts who specialize in combatting unionization efforts. Using these “union busters,” as they are called by unions, appears to enhance employers’ chances of winning the representation election.

**ELECTION PROCESS** Assuming an election is held, the union need receive only the votes of a *majority of those voting* in the election. For example, if a group of 200 employees is the identified unit, and only 50 people vote, only 50% of the employees voting plus one (in this case, 26) would need to vote yes in order for the union to be named as the representative of all 200 employees.

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

Over the years, unions have won representation elections about 45% to 50% of the time. Statistics from the NLRB consistently indicate that the smaller the number of employees in the bargaining unit, the higher the percentage of elections won by the unions. In the past few years, unions have won slightly more elections than they have lost.<sup>9</sup>

## Certification and Decertification

Official certification of a union as the legal representative for employees is given by the NLRB (or by the equivalent body for public-sector organizations). Once certified, the union attempts to negotiate a contract with the employer. The employer *must* bargain, because it is an unfair labor practice to refuse to bargain with a certified union. Negotiation of a labor contract is one of the most important methods that unions use to achieve their major goals.

Employees who have a union and no longer wish to be represented by it can use the election process called **decertification**. The decertification process is similar to the unionization process. 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 decide to vote out a union include better treatment by employers, efforts by employers to discredit the union, the inability of some unions to address the changing needs of a firm’s workforce, and the declining image of unions. Newly certified unions are given at least a year before decertification can be attempted by workers in the bargaining unit.<sup>10</sup>

### Decertification

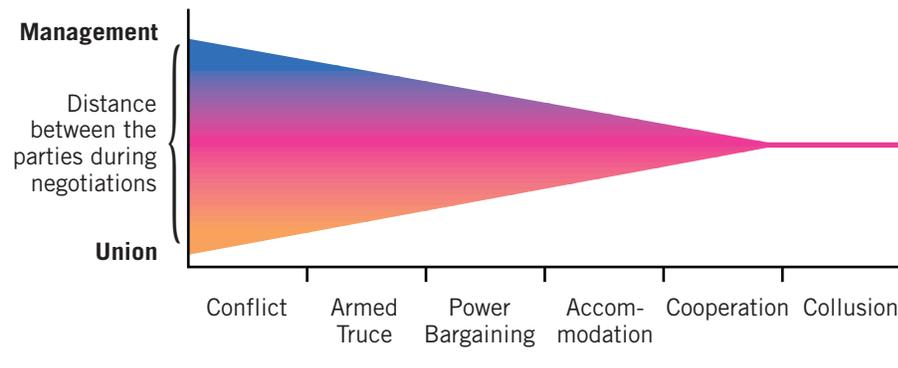
A process whereby a union is removed as the representative of a group of employees.

### Collective bargaining

The process whereby representatives of management and workers negotiate over wages, hours, and other terms and conditions of employment.

## 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. It is a give-and-take process between representatives of two organizations for the benefit of both. It is also a relationship based on relative power. The power relationship in collective

**FIGURE 18–9** *Collective Bargaining Relationship Continuum*

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.<sup>11</sup>

Management-union relationships in collective bargaining can follow one of several patterns. Figure 18–9 shows the relationship as a continuum, ranging from conflict to collusion. On the left side of the continuum, management and union see each other as enemies. On the right side, the two entities join together illegally in collusion. Collusion, relatively rare in U.S. labor history, is against the law. A number of positions fall between these two extremes, as Figure 18–9 illustrates.



### LOGGING ON . . . LABORNET

This site describes unions, news, legislation, and upcoming union events.

<http://www.igc.org/igc/labornet>

## Collective Bargaining Issues

Figure 18–10 shows typical items in a formal labor agreement or contract. These items are all legitimate issues for collective bargaining. In addition, although not often listed as such in the contract, management rights and union security are two important issues subject to collective bargaining.

### Management Rights

Virtually all labor contracts include **management rights**, which are those rights reserved to the employer to manage, direct, and control its business. Such a provision often reads 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.

By including such a provision, management is attempting to preserve its unilateral right to decide to make changes in any areas not identified in a labor contract.

### Management rights

Those rights reserved to the employer to manage, direct, and control its business.

**FIGURE 18–10** *Typical Items in a Labor Agreement*

<b>LABOR AGREEMENT</b>	
1. Purpose of agreement	11. Separation allowance
2. Nondiscrimination clause	12. Seniority
3. Management rights	13. Bulletin boards
4. Recognition of the union	14. Pension and insurance
5. Wages	15. Safety
6. Incentives	16. Grievance procedure
7. Hours of work	17. No-strike or lockout clause
8. Vacations	18. Definitions
9. Sick leave and leaves of absence	19. Terms of the contract (dates)
10. Discipline	20. Appendices

## Union Security

### Union security provisions

Contract provisions to aid the union in obtaining and retaining members.

### Dues checkoff

Provision that union dues will be deducted automatically from payroll checks of union members.

A major concern of union representatives when bargaining is to negotiate **union security provisions**, which are contract provisions to aid the union in obtaining and retaining members. One union security provision is the **dues checkoff**, which provides that union dues will be deducted automatically from the payroll checks of union members. This provision makes it much easier for the union to collect its funds, which it must otherwise collect by billing each member separately.

Another form of security involves *requiring union membership* of all employees, subject to state right-to-work laws. The closed shop is illegal except in limited construction-industry situations. But other types of arrangements can be developed, including *union shops*, *maintenance-of-membership*, and *agency shops*.

A growing facet of union security in labor contracts is the *no-layoff* policy, or *job security* guarantee. The job security concerns at General Motors, described in the opening discussion, illustrate how important such provisions are to many union workers. This is especially true in light of all the mergers, downsizings, and job reductions taking place in many industries.

## Classification of Bargaining Issues

A number of issues can be addressed during collective bargaining. The NLRB has defined bargaining issues in three ways—mandatory, permissive, and illegal. A discussion of each follows.

**MANDATORY ISSUES** Those issues that are identified specifically by labor laws or court decisions as being subject to bargaining are **mandatory issues**. If either party demands that issues in this category be bargained over, then bargaining must occur. Generally, mandatory issues relate to wages, benefits, nature of jobs, and other work-related subjects.

The following issues have been ruled to be mandatory subjects for bargaining:

- Discharge of employees
- Job security
- Grievances
- Work schedules
- Union security and dues checkoff
- Retirement and pension coverage
- Vacations
- Christmas bonuses
- Rest- and lunch-break rules
- Safety rules
- Profit-sharing plans
- Required physical exams

**PERMISSIVE ISSUES** Those issues that are not mandatory but 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
- Performance bonds

**ILLEGAL ISSUES** A final category, **illegal issues**, includes those issues that would require either party to take illegal action, such as giving preference to individuals who have been union members when hiring employees. If one side wants to bargain over an illegal issue, the other can refuse. The HR Perspective on the next page identifies some current issues.

### **Mandatory issues**

Collective bargaining issues that are identified specifically by labor laws or court decisions as being subject to bargaining.

### **Permissive issues**

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

### **Illegal issues**

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

## The Bargaining Process

The collective bargaining process is made up of a number of stages: preparation, initial demands, negotiations, settlement, or impasse, and strikes or lockouts.

### Preparation and Initial Demands

Both labor and management representatives spend much time preparing for negotiations. 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 are all the more relevant. 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 sets the tone for future negotiations between the parties.

### Continuing Negotiations

After opening positions have been taken, each side attempts to determine what the other values highly so 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

## HR PERSPECTIVE

## Important Current Issues in the Labor Movement

For the labor movement nationally the major issues are often related to, but different from, issues confronting a local union and a company. Some of the issues already mentioned are the decline in membership, targeting industries, layoffs, and NAFTA. However, other issues are receiving considerable attention as well:

- *Dues—use and disclosure:* Dues that members pay to the union are used to maintain the union and advance its causes. Recently, union spending has become a topic of debate. For example, the AFL-CIO spent \$35 million to back Democrats for Congress despite the fact that nearly 40% of union members routinely vote Republican. The NLRB has ruled that members are entitled to know how union dues money is spent. Further, a California voter initiative, which would have allowed workers who did not agree with the union's expenditure of their dues to get the money back, was narrowly defeated in a statewide election.
- *When does cooperation become collusion?* The Supreme Court added another decision to the controversy over employee involvement issues (covered in more detail shortly). It ruled that WEBCOR Packaging, a Michigan-

based cardboard box maker, "created a labor organization" in violation of the NLRA. WEBCOR had argued that it wanted to encourage employee involvement in workplace decisions when it constituted a "plant council." The NLRA, which prohibits company-dominated or "sham" unions, had held that the council was "making recommendations for managements' consideration," relative to terms and conditions of work, and was a "company union."

- *Who is an employee?* Are the independent contractors used by many businesses instead of full-time workers considered "employees" for organizing purposes? Contingent worker growth is a strong trend mentioned earlier. If unions cannot organize this growing group, they will continue to lose potential members.
- *Union mergers:* Like companies, unions find there is strength in size, and several national unions have merged or are considering doing so. However, not all merger attempts succeed. The NEA (National Education Association) recently rejected a plan to merge with the AFT (American Federation of Teachers). The NEA has long cherished its independence from traditional labor unions; and the

AFT, which is affiliated with the AFL-CIO, is a more traditional labor union. The NEA suggests it is more akin to the American Medical Association than to a labor union, and is a "professional" group. However, the issue described next may call that professional orientation into question as a reason *not* to join a traditional labor union.

- *Professionals—in unions?* As the number of physicians who are salaried employees (perhaps of HMOs) increases from less than 25% to almost 50%, these professionals are joining unions. The physicians' most common complaint is that they have lost control of patient care decisions. In another field, teaching assistants (future professors) at several universities such as Harvard and the University of Illinois have tried to start unions. But universities claim assistantships are part of a graduate student's education and not subject to collective bargaining rights.

Dues, cooperation, contractors, mergers, and professionals are all issues forcing change on the union-management relationships. How these issues are addressed by unions and management may be significant in determining future union membership changes.<sup>12</sup>

also includes wage demands and retirement benefits. However, the union may be most interested in the wages and retirement benefits, and may be willing to trade the dental payments for more wages. Management has to determine which the union wants more and decide exactly what to give up.

**GOOD FAITH** Provisions in federal law require that both employer and employee 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. Meetings between the parties cannot be scheduled at absurdly inconvenient hours. Some give-and-take discussions also must occur.

## Settlement and Contract Agreement

After an initial agreement has been made, the bargaining parties usually return to their respective constituencies to determine if what they have informally agreed on 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 agreement. Prior to the ratification vote, the union negotiating team explains the agreement to the union members and presents it for a vote. If the agreement is approved, it is then formalized into a contract. The agreement also contains language on the duration of the contract.

## Bargaining Impasse

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

**CONCILIATION AND MEDIATION** When an impasse occurs, an outside party may aid the two deadlocked parties to continue negotiations and arrive at a solution. In **conciliation**, the third party attempts to keep union and management negotiators talking so that they can reach a voluntary settlement but makes no proposals for solutions. In **mediation**, the third party assists the negotiators in their discussions and also suggests settlement proposals. In neither conciliation nor mediation does the third party attempt to impose a solution.

**ARBITRATION** The process of **arbitration** is a process that uses a neutral third party to make a decision. It can be conducted by either an individual or a panel of individuals. Arbitration is used to solve bargaining impasses primarily in the public sector. This “interest” 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. Arbitration is discussed in more detail when grievance procedures are described later in this chapter.

## Strikes and Lockouts

If a deadlock cannot be resolved, then an employer may revert to a lockout—or a union may revert to a strike. During a **strike**, union members refuse to work in order 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. 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 provides leverage to managers.<sup>13</sup>

### Ratification

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

### Conciliation

Process by which a third party attempts to keep union and management negotiators talking so that they can reach a voluntary settlement.

### Mediation

Process by which a third party assists negotiators in their discussions and also suggests settlement proposals.

### Arbitration

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

### Strike

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

### Lockout

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



### LOGGING ON . . .

#### Labor Arbitration and Dispute Resolution Pages

This website has links to professional arbitration organizations and associations.

<http://www.auburn.edu/~wilsokc/arbitration.html>

**TYPES OF STRIKES** The following types of strikes can occur:

- *Economic strikes* occur when the parties fail to reach agreement during collective bargaining.
- *Unfair labor practice strikes* occur when union members walk away from 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* occur when one union's members walk out to force the employer to assign work to them instead of to another union.
- *Sympathy strikes* express one union's support for another union involved in a dispute, even though the first union has no disagreement with the employer.

Workers' rights vary depending on the type of strike that occurs.<sup>14</sup> For example, in an economic strike, an employer is free to replace the striking workers. But with an unfair labor practices strike, workers who want their jobs back at the end of the strike must be reinstated.

Because there has been a decline in union power, work stoppages due to strikes and lockouts are relatively rare. Thus, many unions are reluctant to go on strike because of the financial losses their members would incur, or the fear that the 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 has always had the ability to simply replace workers who struck, but the option was not widely used. A strike by the United Auto Workers (UAW) against Caterpillar in the 1990s changed that. A contrasting approach to replacing strikers is shown in the United Parcel Service strike, discussed in the HR Perspective on the next page.

## Management's Choice: Cooperate or Stay Nonunion

The adversarial relationship that naturally exists between unions and management may lead to the conflicts discussed previously. But there is also a growing recognition by many union leaders and employer representatives that cooperation between management and labor unions is sensible if organizations are going to compete in a global economy. An alternative to management cooperating with a union is to try to stay nonunion. The choice between the two is a strategic HR decision that each employer must make.

### Cooperation and Employee Involvement

Companies often cited as examples of successful union-management cooperation include National Steel Corporation, Scott Paper Company, Saturn, and Xerox. All have established cooperative programs of one sort or another that include employee involvement. Some in the labor movement fear that such programs may lead to an undermining of union support by creating a closer identification with the company's concerns and goals.

## HR PERSPECTIVE

## Two Very Different Strikes in the '90s

**Caterpillar Beats UAW**

One of the most bitter and prolonged strikes in recent times, called by the United Auto Workers, occurred at Caterpillar, Inc. The clear winner was Caterpillar, which used replacement of striking workers as a key part of its management strategy to counterattack UAW efforts.

A partial strike began when the previous UAW contract expired. Caterpillar responded by locking out UAW members at some Caterpillar plants for several months. Then the UAW began a companywide strike.

Caterpillar threatened to replace strikers permanently by hiring new nonunion workers. The UAW responded by calling off its strike, but began a campaign to increase dramatically the number of grievances that were filed. The UAW members also initiated a number of wildcat strikes over the unresolved grievances.

Finally, the UAW called a national strike. In response, Caterpillar kept production flowing and

plants open by moving salaried office workers, supervisors, and managers into production jobs. Also, Caterpillar hired over 5,000 replacement workers from a huge pool of applicants who wanted the high-paying jobs at the company.

Caterpillar's aggressive approach with the union paid off—with five years of record profits. Ultimately, the UAW caved in and settled with Caterpillar. Some call its bargaining tactics “bad faith,” but the result was an improvement of Caterpillar's competitive position globally.<sup>15</sup>

**UPS Teamsters Win**

Also during the 1990s, the Teamsters struck United Parcel Service (UPS). The strike lasted only 14 days. The circumstances surrounding this strike were quite different from those of the Caterpillar strike.

UPS is a special case as a company. It is not traded on the stock market, and is thus less inclined to fight for every penny of profit. It is in a strong competitive position, so it can pass costs on to customers

and suffer fewer consequences. Further, the company prides itself on being tolerant of unions. During the strike, management made the decision *not* to hire replacements.

UPS workers received considerable public support. Many people know their UPS driver personally, and the issue of part-time work was one that many could identify with. Management caved in on several of the Teamsters union's demands: pensions, part-time pay, and conversion of part-time jobs to full-time. The biggest victory involved pensions, because the company had wanted to pull out of a union-run pension plan and set up its own.

The outcome was viewed as a union victory. The issues, timing, public relations, and management approach combined to keep the strike short and the outcome favorable for the Teamsters. These circumstances could not have been duplicated in many of the strikes that occur in other industries.<sup>16</sup>

**Employee Involvement and the NLRB**

Suggesting that union-management cooperation or involving employees in making suggestions and decisions could be bad seems a little like arguing against motherhood, the flag, and apple pie. Yet some decisions by the National Labor Relations Board 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 in order 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.

**ELECTROMATION DECISION** Because of the Wagner Act, some or all of the 30,000 employee involvement programs set up in recent years may be illegal, according to an NLRB decision dealing with Electromation, an Elkhart, Indiana, firm. Electromation used teams of employees to solicit other employees' views about such issues as wages and working conditions. The NLRB labeled them as "labor organizations," according to the Wagner Act in 1935. It further found that they were "dominated" by management, which had formed the teams, set their goals, and decided how they would operate. As a result of this and other decisions, many employers have had to rethink and restructure their employee involvement efforts.

**TEAM ACT** Employer opposition to the NLRB decisions led to the drafting of the Teamwork for Employees and Managers Act. This act, called the TEAM Act, tried to amend the Wagner Act to allow nonunion employees in team-based situations to work with management concerning working conditions and workplace situations. Because of strong union opposition, President Clinton vetoed the bill. Nevertheless, the act showed that there was considerable support for overturning the NLRB decisions.

## Union Ownership: The Ultimate Cooperation

Unions have become active participants by encouraging 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, or to be merged or bought out by financial investors who the unions feared would cut union jobs.

Unions have been active in assisting members in putting together employee stock ownership plans (ESOPs) to purchase all or part of some firms. One of the best-known purchases is the employee buyout of United Airlines. The unions representing United Airlines employees made a counteroffer after a takeover bid. In conjunction with the top management group at United Airlines, the pilots' union persuaded the unions representing machinists and other employees (excluding the flight attendants) to back the buyout offer.

Some firms also have union representatives on their boards of directors. The best-known example is Daimler-Chrysler Corporation, in which a representative of the United Auto Workers was given a seat on the board in exchange for assistance in getting federal government financial help in the late 1970s. This practice is very common in European countries, where it is called *co-determination*.

## Staying Nonunion

Employees may make a strategic decision to remain nonunion. Such a choice is perfectly rational, but may require some different HR policies and philosophies to accomplish. "Preventative" employee relations may emphasize good morale and loyalty based on concern for employees, competitive wages and benefits, a good 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 the points just listed are adequately addressed, few workers will feel the need for a union to represent them to management.<sup>17</sup>

## Grievance Management

Unions know that employee dissatisfaction is a potential source of trouble, 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 that has not been submitted in writing, is one outlet.

If the 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 is a grievance. A **grievance** is a complaint that has been put in writing and thus made formal. Management should be concerned with both complaints and grievances, because both may be important indicators of potential problems within the workforce. Without a grievance procedure, management may be unable to respond to employee concerns because managers are unaware of them. Therefore, a formal grievance procedure is a valuable communication tool for the organization.<sup>18</sup>

### Complaint

An indication of employee dissatisfaction that has not been submitted in writing.

### Grievance

A complaint that has been put in writing and made formal.

## Grievance Responsibilities

Figure 18–11 shows the typical division of responsibilities between the HR unit and line managers for handling grievances. These responsibilities vary considerably from one organization to another, even between 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.<sup>19</sup>

Management should recognize that a grievance is a behavioral expression of some underlying problem. This statement does not mean that every grievance is a symptom of something radically wrong. Employees do file grievances over petty matters as well as over important concerns, and management must be able to differentiate between the two. However, to ignore a repeated problem by taking a legalistic approach to grievance resolution is to miss much of what the grievance procedure can do for management.

**FIGURE 18–11** *Typical Grievance Responsibilities*

HR Unit	Managers
<ul style="list-style-type: none"> <li>● Assists in designing the grievance procedure</li> <li>● Monitors trends in grievance rates for the organization</li> <li>● May assist in preparing grievance cases for arbitration</li> <li>● May have responsibility for settling grievances</li> </ul>	<ul style="list-style-type: none"> <li>● Operate within provisions of the grievance procedure</li> <li>● Attempt to resolve grievances where possible “closest to the problem”</li> <li>● Document grievance cases for the grievance procedure</li> <li>● Engage in grievance prevention efforts</li> </ul>

**Grievance procedures**

Formal channels of communications used to resolve grievances.

**Grievance Procedures**

**Grievance procedures** are formal communications channels designed to settle a grievance as soon as possible after the problem arises. First-line supervisors are usually closest to a problem; however, the supervisor is concerned with many other matters besides one employee's grievance, and may even be the subject of an employee's grievance.

Supervisory involvement presents some problems in solving a grievance at this level. For example, William Dunn, a 27-year-old lathe operator at a machine shop, is approached by his supervisor, Joe Bass, one Monday morning and told that his production is lower than his quota. Bass advises Dunn to catch up. Dunn reports that a part of his lathe needs repair. Bass suggests that Dunn should repair it himself to maintain his production because the mechanics are busy. Dunn refuses, and a heated argument ensues; as a result, Bass orders Dunn to go home for the day.

The illustration shows how easily an encounter between an employee and a supervisor can lead to a breakdown in the relationship. This breakdown, or failure to communicate effectively, could be costly to Dunn if he loses his job, a day's wages, or his pride. It also could be costly to Bass, who represents management, and to the owner of the machine shop if production is delayed or halted. Grievance procedures can resolve such conflicts.

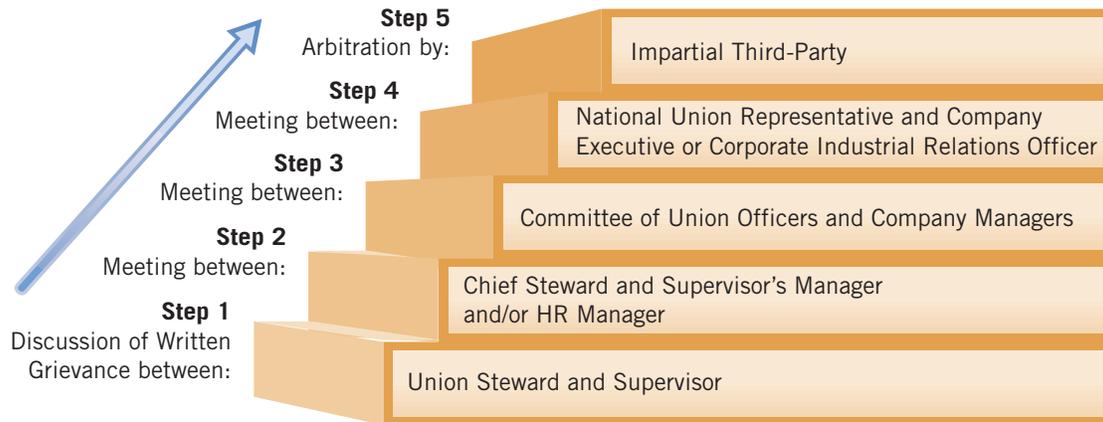
In this particular case, the machine shop has a contract with the International Brotherhood of Lathe Operators, of which Dunn is a member. The contract specifically states that company plant mechanics are to repair all manufacturing equipment. Therefore, Bass appears to have violated the union contract. What is Dunn's next step? He may use the grievance procedure provided for him in the contract. The actual grievance procedure is different in each organization. It depends on what the employer and the union have agreed on and what is written in the labor contract.

A unionized employee generally has a right to union representation if he or she 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, he or she usually will be reinstated with back pay.

**STEPS IN A GRIEVANCE PROCEDURE** Grievance procedures can vary in the number of steps they include. Figure 18–12 shows a typical procedure, which includes the following steps:

1. The employee discusses the grievance with the union steward (the union's representative on the job) and the supervisor.
2. The union steward discusses the grievance with the supervisor's manager.
3. The union grievance committee discusses the grievance with appropriate company managers.
4. The representative of the national union discusses the grievance with designated company executives.
5. The final step may be to use an impartial third party for ultimate disposition of the grievance.

If the grievance remains unsettled, representatives for both sides would continue to meet to resolve the conflict. On rare occasions, a representative from the national union might join the process. Or, a corporate executive from headquar-

FIGURE 18–12 *Steps in a Grievance Procedure*

ters (if the firm is a large corporation) might be called in to help resolve the grievance. If not solved at this stage, the grievance goes to arbitration.

Arbitration is flexible and can be applied to almost any kind of controversy except those involving criminal matters. Advisory, or voluntary, arbitration may be used in negotiating agreements or in interpreting clauses in existing agreements. Because labor and management generally agree that disputes over the negotiation of a new contract should not be arbitrated in the private sector, the most important role played by arbitration in labor relations is as the final step in the grievance procedure.<sup>20</sup>

**Grievance arbitration** is a means by which disputes arising from different interpretations of a labor contract are settled by a third party. This should not be confused with contract or issues arbitration, discussed earlier, when arbitration is used to determine how a contract will be written.

Grievance arbitration presents several problems. It has been criticized as being too costly, too legalistic, and too time-consuming. One study found that arbitrators generally treated women more leniently than men in disciplinary grievance situations. In addition, many feel that there are too few qualified and experienced arbitrators. Despite these problems, arbitration has been successful and is currently seen as a potentially superior solution to traditional approaches to resolving union-management problems.<sup>21</sup>

### Grievance arbitration

A means by which disputes arising from different interpretations of a labor contract are settled by a third party.

## 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 major job-related concerns.
- Current union membership as a percentage of the workforce is down dramatically from 1960.
- The structural levels of unions include federations, national or international unions, and local unions. Business agents and union stewards work at the local level.

- The “National Labor Code” is composed of three laws that are 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.
- The process of organizing includes an organizing campaign, authorization cards, a representation election, NLRB certification, and 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, initial demands, negotiations, and settlement.
- Once an agreement (contract) is signed between labor and management, it becomes the document governing what each party can and cannot do.
- When impasse occurs, work stoppages through strikes or lockouts can be used to pressure the other party.
- Grievances express worker written dissatisfaction or differences in contract interpretations. Grievances follow a formal path to resolution.
- A formal grievance procedure is usually specified in a union contract, but it should exist in most organizations to provide a system for handling problems.
- A grievance procedure begins with the first-level supervisor—and ends (if it is not resolved along the way) with arbitration.

## Review and Discussion Questions

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1. Discuss the following statement: “I think anybody who anticipates that unions will reverse their decline in membership during the next 10 years is dreaming.”
2. Identify the three parts of the “National Labor Code” and the key elements of each.
3. A coworker has just brought you a union leaflet that urges each employee to sign an authorization card. What events would you expect to occur from this point on?
4. Discuss how union-management cooperation has been affected by NLRB rulings.
5. What steps are followed in a typical grievance process? Why is arbitration, as the final step of a grievance process, important and useful?

## Terms to Know

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agency shop 613	federation 614	national emergency strike 613
arbitration 623	grievance 627	permissive issues 621
bargaining unit 617	grievance arbitration 629	ratification 623
business agent 615	grievance procedure 628	right-to-work laws 613
closed shop 613	handbilling 616	salting 616
collective bargaining 618	illegal issues 621	strike 623
complaint 627	industrial union 614	union 604
conciliation 623	lockout 623	union authorization card 616
craft union 614	management rights 619	union security provisions 620
decertification 618	mandatory issues 621	union shop 613
dues checkoff 620	mediation 623	union steward 615

## Using the Internet



### Recognizing Unionization Activity

Some of the supervisors have approached you, the HR manager, about union activity. They have heard some rumors and have asked you to give them a list of activities, behaviors, or actions to look for as they supervise their employees. Their intent is to recognize

union activity before the union movement has spread throughout the plant. Use the following website to develop a set of guidelines for the supervisors. <http://www.genelevine.com/Papers/66.htm>

## CASE

### The “Stolen” Orange Juice

Grievances can be filed over large or small matters. The following case represents a grievance that was decided by an arbitrator hired by Greyhound Food Management (Warren, Michigan) and the United Catering, Restaurant, Bar, & Hotel Workers, Local 1064.

The grievance was filed by the union on behalf of Tom, a union member working as a fast-food attendant at a Greyhound-operated cafeteria. The Greyhound Food Service provided food-service management on a contract basis for many firms, including Hydra Matic, a manufacturing company located in Warren, Michigan.

Tom had been working for Greyhound for almost a year and was working the 1 P.M.–8:30 P.M. swing shift at the time of his discharge from the company. The company justified Tom’s employment termination by asserting that he had attempted to steal a six-ounce container of orange juice, which normally sold for 58 cents.

Tom’s supervisor testified that from his office he had observed Tom attempting to leave the premises with the container of orange juice hidden under his jacket. After stopping Tom, the supervisor had accused him of attempting to steal the orange juice. Then the supervisor had telephoned the assistant manager for instructions. The assistant manager had told the supervisor to document the incident and had stated that he (the assistant manager) would take care of the matter the next morning. The supervisor’s written report stated that he had heard the refrigerator door slam, then had heard Tom walking toward the

door. The supervisor had asked Tom twice what Tom had in his coat, after which Tom had pulled the juice out of his coat, dropping and spilling it on the floor.

The following morning, the assistant manager called Tom and the union steward into his office and confronted them with the supervisor’s written description of the incident. Tom denied that he had attempted to steal the orange juice, saying that the supervisor had just seen some orange juice on the floor. At a meeting later that morning, the assistant manager terminated Tom’s employment. Tom filed a grievance, which was immediately denied. Tom and the union then requested arbitration, as was allowed under the company/union labor contract.

The arbitrator reviewed several documents, including statements from the supervisor, the assistant manager, a former employee, and the union steward. Also, he reviewed the relevant sections of the labor contract on management rights, seniority, and the grievance procedure. Finally, the arbitrator reviewed the list of company rules and regulations posted by the time clock, one of which said that disciplinary action ranging from reprimand to immediate discharge could result from rule violation. The first rule prohibited “stealing private, company, or client’s property.”

#### Company Position

The company’s position was that Tom had knowledge of the posted work rules, the first of which clearly prohibited theft. The company also had a policy that no company property was to leave the restaurant. The

testimony of the supervisor established that Tom had attempted to steal and remove company property. It was not relevant that Tom's impermissible act had not succeeded. The detection by management of the theft before Tom left the premises did not excuse the act. Also, the company said that the size or dollar amount of the theft was immaterial. Therefore, because the company followed the terms of the union contract that provided for dismissal of employees for "just cause," and because Tom knew, or should have known, of the rule against stealing, the arbitrator should rule for the company.

### Union Position

The union's position was that the act of attempting to steal a container of orange juice valued at 58 cents involved moral turpitude and therefore required the ap-

plication of a "high degree of proof." The employer carried the burden of convincing the arbitrator beyond a reasonable doubt through the witnesses that Tom had attempted to steal the orange juice. The union contended that even though Tom had been subject to some other minor disciplinary actions in the past, termination was too harsh a penalty and therefore the arbitrator should rule for Tom and the union.<sup>22</sup>

### Questions

1. How important is the value of the item in comparison with the alleged act of stealing?
2. Because Tom never left the company premises with the juice, did he actually steal it?
3. How would you rule in this case? (Your instructor can give you the actual decision of the arbitrator.)

### Notes

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