

# The Expanding Role Of The NLRB In The Non-Union Workplace

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# Early History of Unions in the US

- 1768: Tailors in NY protest wage reduction
- 1794: Federal Society of Journeymen Cordwainers (shoemakers) in Philadelphia (first trade union)
- 1827: Mechanics' Union of Trade Associations in Philadelphia (craft unions go city wide)
- 1852: International Typographical Union (first nation-wide union)
- 1886: American Federation of Labor (addressed working conditions and political activism)



# Union Legislation

- 1935 Wagner Act (National Labor Relations Act)
  - Protected rights of workers to organize
  - Protected rights of unions
  - National Labor Relations Board (NLRB)
- 1947 Taft-Hartley Act
  - Protected non-union workers
  - National Emergency Strikes
  - Right to Work laws for states
- 1959 Landrum-Griffin Act
  - Protected rights of union members
  - Curbed corruption in unions

# National Labor Relations Board

- **“The National Labor Relations Board is an independent federal agency that protects the rights of private sector employees to join together, with or without a union, to improve their wages and working conditions.”**

# NLRB Responsibilities

- Conduct elections
- Investigate charges
- Facilitate settlements
- Decide cases
- Enforce orders

# The NLRB Today

- Board appointed by the President
- Obama's NLRB aggressive interpretation
  - New regulations
  - Stepped up enforcement
- Quickie election rule – elections can be held 13 days after union petition
  - 14% increase in elections in 2015



# Employee Rights

- Forming, or attempting to form, a union in your workplace
- Joining a union whether the union is recognized by your employer or not
- Assisting a union in organizing your fellow employees
- Refusing to do any or all of these things
- Be fairly represented by a union

# Concerted Activity

- The NLRA protects employees' right to band together with coworkers to improve their lives at work - even if they have zero interest in having a union, including:
  - Talking with one or more co-workers about wages and benefits or other working conditions
  - Circulating a petition asking for better hours
  - Participating in a concerted refusal to work in unsafe conditions,
  - Joining with coworkers to talk directly to the employer, a government agency or the media about problems in the workplace



# Social Media

- Using social media can be a form of “protected concerted” activity.
- Employees have the right to address work-related issues and share information about:
  - Pay
  - Benefits
  - Working conditions
- With coworkers on Facebook, YouTube, and other social media.

# Employer Violations Of NLRA

- Threatening employees with loss of jobs or benefits if they join or vote for a union or engage in protected concerted activity
- Threatening to close the plant if employees select a union to represent them
- Questioning employees about their union sympathies or activities
- Promising benefits to employees to discourage their union support
- Terminating or disciplining employees because they engaged in protected concerted activity

# Organizing Process Overview

- Organizing campaign
- Authorization cards – 30%
- Representation election – 50% +1 (of voters)
  - Bargaining unit
  - Supervisors
- Certification
- Contract negotiation (collective bargaining)

# Employer Role During Campaign

- No T.I.P.S.
  - Threaten, Interrogate, Promise, Surveillance
- Don't make a speech to employees within 24 hours of the election
- Do:
  - Share opinions
  - Communicate disadvantages of having a union
  - Explain unionization process
  - Forbid distribution of literature during work hours and in work areas – POLICY CHECK

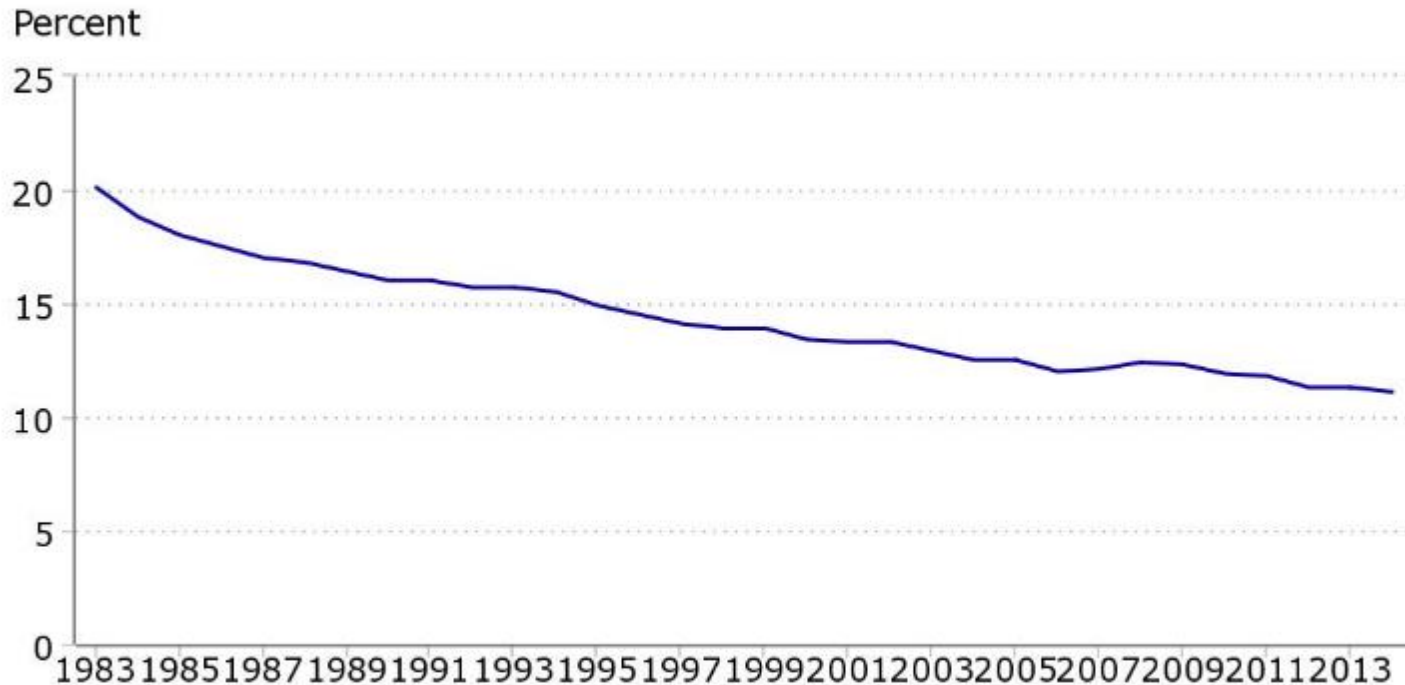


# Lessons Learned

- Unions can infiltrate any private employer of any size, any industry, profit/non-profit
- Treat employees fairly and with kindness; maintain relationships
- Have channels where employees can share concerns with management
- Review policies about posting notices, social media, disclosing pay, etc.
- Get quality legal counsel for campaign
- Carefully avoid retaliation

# Future of Unions

## Union membership as a percent of employed wage and salary workers, 1983-2014 annual averages



Hover over chart to view data.

Source: U.S. Bureau of Labor Statistics.

# Trump and Unions

- Trump International Hotel Las Vegas
  - Trump's management team has filed a suit challenging NLRB's decision
- No change in NLRB till end of 2017
- Election results



# Q&A



# #AskMDE



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