

Preparing for the Employee Free Choice Act

situation

There's a possibility the Employee Free Choice Act (EFCA) could become law in early 2009. If enacted, EFCA will allow employees to unionize via a union card-signing process, rather than the more traditional government-run secret ballot election, without their employer's involvement. Further, the act will impose mandatory government-run arbitration in first-contract negotiations if the company and the new labor representative cannot reach agreement on a first contract within 120 days.

in-house counsel challenge

In-house counsel must ensure management is aware of EFCA and its potential impact on the business. Under EFCA a company may not realize a unionization effort is under way until most employees have already signed union cards. Savvy in-house counsel will develop and implement a strategic action plan that reduces the potential for a successful union card-signing campaign.

approach adopted

Identify a legal or human resources representative to monitor EFCA developments.

Union membership is at historic lows, so current management may have little understanding of how the unionization process works. Schedule management training that explains what a union is, how collective bargaining works, how new members are solicited, legal dos and don'ts, and how the arbitration process works. Then explain what changes and challenges EFCA would bring about.

Stress the importance of identifying and resolving work place issues. Use problem-solving training to demonstrate effective manager-to-employee communication techniques. Explain the management mistakes that can cause employees to consider union representation and the problems a union can and cannot solve so managers can explain matters to their employees as appropriate.

Re-evaluate employee communications. Opinion surveys, regular employee meetings, hotlines and other communication processes must be in place to allow employees to freely express problems and get them resolved without fear of retribution. Resolving issues quickly fosters greater trust between the company and its workers.

Review recruitment, hiring and orientation policies. Check an applicant's work references carefully. Use the new-employee orientation process to explain why your employees have chosen to remain union free. Use examples that demonstrate how workers are treated with dignity and respect. Present and explain the card-signing process. Explain that while you certainly respect the employee's legal right to join a union, it's

implementation steps

- Assign a legal or HR representative to monitor EFCA proceedings.
- Explain the current and EFCA unionization processes to management at all levels. Make sure managers understand the key role they play in maintaining union-free status.
- Review employee communications and issue identification/resolution processes.
- Review or update recruitment, hiring and orientation procedures.
- Should EFCA become law, explain it to employees ASAP.
- Resolve potential labor issues before they are taken to a union.
- Develop a lawful and effective quick-response plan for use when management learns of union activity at a facility.

important to be sure all relevant information is obtained before making the decision on whether to sign a union card.

Should EFCA become law, explain it to current employees immediately. Be sure they too understand how the card-signing process works. Encourage them to contact their supervisors if they have any questions regarding unionization.

measuring success

If employees are satisfied with their wages and benefits, confident they can bring legitimate work place issues to management and get them resolved without fear of retribution, and treated with dignity and respect, they will be less open to unionization.



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