

NLRA and Taft-Hartley Act

In 1935 Congress passed the National Labor Relations Act (NLRA), giving workers the right to organize, to bargain collectively and to strike. By the late 1940s unions had become politically and economically powerful, and Congress decided to amend the act to develop a more balanced national labor policy.

In 1947 Congress passed the Labor Management Relations Act, commonly known as the Taft-Hartley Act, to correct union abuse of power.

The Taft-Hartley Act changed the law by specifying six unfair union practices. Under Section 8(b), it is unlawful for unions to:

- Force an employee to join a union.
- Force an employer to discriminate against nonunion employees.
- Refuse to bargain collectively (provided that the union is the appropriate representative of the employees).
- Engage in secondary boycotts.
- Charge excessive or discriminatory fees or dues.
- Force an employer to pay for work not performed (“featherbedding”).

Other important Section 8 changes added the “free speech” proviso and established the basic responsibilities of the parties in collective bargaining. Section 9 gave employers the right to petition for an NLRB-conducted election and gave employees the right to petition to decertify a union. Under Section 10(j), the board may seek injunctions to stop unfair labor practices, while Section 10(l) requires the board to obtain injunctions to stop secondary boycotts.

Also, in a bitter defeat for the unions, the act preserved from preemption the states’ “right to work” laws.

Examples of unfair labor practices by unions include: engaging in picket line violence; barring nonstriking employees from entering a plant; fining or expelling members who cross illegal picket lines; refusing to process grievances for discriminatory reasons; picketing within 12 months after a union loses an NLRB-conducted election; and insisting on the inclusion of illegal clauses in a collective bargaining agreement.

National Labor Relations Board

The National Labor Relations Board, which administers the NLRA, has two primary functions:

- To conduct secret-ballot elections in which employees choose whether or not to be represented by a union.
- To investigate and remedy unfair labor practices committed by either employers or unions.

The five-member board decides cases brought before it on appeal from administrative law judges’ decisions. Board decisions may be appealed directly to one of the federal courts of appeal. The NLRB’s Office of General Counsel is responsible for investigating and prosecuting unfair labor practice charges and for supervising the work of the board’s regional offices.

The board and the general counsel cannot act on their own initiative to bring charges of unfair labor practice or to file representation petitions to hold secret-ballot elections.

An employer, a union or an employee must file a complaint or a petition with one of the board's regional offices to start proceedings under the NLRA.

Fed Contractors Must Post Labor Rights Notice

Effective June 21, 2010, you must post a notice of employees' rights under the National Labor Relations Act if you're a government contractor doing \$100,000 or more in business with the federal government or a subcontractor with contracts worth more than \$10,000.

The requirement makes good on one of President Obama's first acts after taking office in 2009. Executive Order 13496 reversed the Bush administration's policy of discouraging contractors' employees from unionizing. Instead it required contractors to post information explicitly spelling out employee rights under the NLRA.

The new "Employee Rights Under the National Labor Relations Act" poster is available to download for free from the website of the DOL's Office of Federal Contract Compliance Programs: www.dol.gov/ofccp/.