

Union Organizing in the Manufacturing Industry

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Despite the low union membership rate in the private sector nationally and consistent unionization rates in the manufacturing industry in recent years, the external labor-organizing environment remains aggressive.

The Bureau of Labor Statistics reported that, for calendar year 2020, the union membership rate in the private sector dropped to 6.3% — one of the lowest points in history. In the manufacturing industry, union membership remained relatively flat as a percentage of those employed in the private sector at 8.6% in 2019 and 8.5% in 2020. However, labor unions are becoming more aggressive in their approach, style, and tactics. They also are bolstered by a new, pro-labor National Labor Relations Board (NLRB).

Developments that include the new composition of the NLRB have resulted in aggressive pro-labor initiatives from the NLRB and its General Counsel. Therefore, companies in the manufacturing industry should remain vigilant and take steps to minimize their risk and overall vulnerability to union organizing.

There are many strategic steps employers can implement to reduce risk. Possible considerations as companies plan for more aggressive organizing in manufacturing and pro-labor initiatives from the NLRB include:

1. *Understanding the organization's overall labor relations climate.* One key to remaining issue-free (and union-free) is understanding the labor relations climate at each of the organization's manufacturing plants in the United States. A vulnerability assessment and scorecard can help identify focus areas in the short-term and drive long-term success in remaining union-free. Such an assessment can be as simple as walking the plant and asking supervisors for information about employees under their supervision. If the supervisor is unable to provide detailed information about each employee they supervise and what motivates them at the plant, then it may indicate a disconnect between management and the workforce and potentially increased vulnerability.
2. *Understanding vulnerabilities to union organizing through business relationships.* Manufacturers should analyze their business relationships with outside organizations and determine whether there are inherent vulnerabilities to union organizing based on these relationships. Such business relationships may include the provider of raw materials, the logistics or transportation companies delivering finished product, the temporary agency employees assigned to the plant for both seasonal and supplemental workers, and the organizations that are sources of job applicants within the community. Whether these organizations up and down the supply chain are unionized can be an indicator of an inherent vulnerability at manufacturing plants.
3. *Reviewing job classifications and organizational structures at the plant* Where micro-bargaining units exist in a plant, the employer will face bargaining with one or more unions over small portions of its workforce. This produces operational inefficiencies for the employer. Companies can analyze and make subtle changes to job classifications,

job duties, and organizational alignment to improve the possible voting unit if ever faced with union organizing. Manufacturers may want to consider, among other changes, streamlining the number of job titles at the plant, frequently rotating employees between different areas of the plant, or minimizing compensation differences between classifications and ensuring similar policies and procedures are applied among all employees at the plant. Companies can make changes today that reduce the risk a union can obtain a sufficient showing of interest from a small group of employees, thereby forcing a union election. Similarly, by making these changes today, manufacturers also can increase the total voting pool of employees in an effort to win the overall election. For example, instead of having manufacturing positions that are unique to various areas of production within the plant, the company could consider reducing the job classifications or titles to only a handful of different production and manufacturing positions including processing, quality control, sanitation, and maintenance.

4. *Investing in community engagement at plant locations* A large portion of manufacturing plants in this country is in rural America. Often, communities have a direct influence on encouraging or discouraging union membership in rural America. Investing in the rural areas where the manufacturing plants are located and remaining a good community citizen can help reduce vulnerability to union organizing by creating strong community support. Examples include investing in local media and advertising through the local newspaper or online media outlets, investing in local non-profits and business and civic groups, investing in trade schools and community colleges, and establishing a presence throughout the year by the organization's senior leadership.
5. *Conducting a wage-and-benefit analysis to ensure the company's overall compensation package remains competitive.* During the COVID-19 pandemic, many manufacturing plants were short staffed and they had to leverage existing employees to help meet customer demands. Labor unions have attempted to capitalize on the workforce challenges during this trying time. Employees are not paid enough, should receive "hazard pay" for the increased risk and long hours, and should receive additional benefits and paid time off are among unions' complaints in their bids to attract members. Manufacturers can help reduce this risk by conducting a wage-and-benefit analysis and survey, so they can begin to take steps to reduce any gaps identified or develop and communicate to the entire workforce creative appreciation strategies.

The external union environment is expected to continue to shift over the next few years, becoming more aggressive. Manufacturers may want to consider these and other proactive measures to reduce overall vulnerability to union organizing.

If you have questions or need assistance, please reach out to a Jackson Lewis attorney.

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