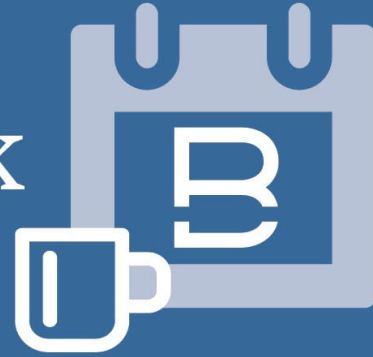


The Work Week

Bassford Remele Employment Practice Group



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Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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The Hot Topic of Unionization

[Madeline M. Gustafson](#)

Last fall, we covered [a trio of NLRB decisions](#) that expanded union rights. The topic of unionization has gained steam since then. From doctoral students to medical residents, nurses, autoworkers, student athletes, Starbucks baristas, and court interpreters, the power of employees to unionize is shaking up nearly every sector of the economy. This begs the question: What can employers do when employees are making the choice to unionize, and how should an employer respond if their employees make the choice?

As a general overview, the 1935 National Labor Relations Act (“NLRA”) is a federal law that grants employees the right to form or join unions and engage in protected, concerted activities to address or improve work conditions. The National Labor Relations Board (“NLRB”) is a federal agency created to enforce the NLRA. When employees, employers, or unions believe the NLRA has been violated, they can file a charge or petition with the NLRB. So, what can employers do when faced with the prospect of unionization?

First, if employees are seeking to unionize, it is illegal to prevent employees from unionizing. Employees have a right to unionize under the NLRA. The NLRA gives employees “the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection,” and gives employees the right, “to refrain from any or all such activities.”

Second, it is an unfair labor practice to “interfere with, restrain, or coerce employees in the exercise of rights guaranteed” under the NLRA. This prevents employers from threatening employees with adverse consequences if employees engage in efforts to unionize. This prohibition applies against both threatening conduct, as well as offering incentives to employees if they reject the unionization. Questioning employees about their unionization activities is also ill-advised.

While employers can't explicitly prevent employees from unionizing, they are allowed to educate employees about the implications of unionization. Providing an objective overview of these implications can help dispel misconceptions and overly optimistic viewpoints. Before engaging in educational efforts, employers are best suited running their materials past legal counsel to ensure that they do not cross the line of prohibited interference with unionization.

At Bassford Remele, we have extensive experience advising employers dealing with potential unionization efforts. Please reach out to the [Employment Law](#) practice group for guidance, questions, or further assistance. We are here to help!

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