



Off-Site Planning and Design: Organizing ULP Investigations, Hearings, and Elections in a Remote Environment

2020 Employment Law Seminar
Day 4: 2020 Labor Law Updates



Speaker Introduction



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2020 Employment Law Seminar



Emphasis On Organizing

- Unions are increasing organizing activities, capitalizing on worker concerns about such issues as job security, job safety, and "hazard" pay
- Unions are using their websites, text messaging, social media, and virtual video meetings to solicit and organize workers
- Unions are telling workers their employers can do more to promote their safety and well-being

Proactively Anticipate and Address Employee Concerns

- Engage with employees on issues of concern
- Listen to their questions and provide answers
- Explain how employees are appreciated, protected, and compensated
- Ensure that policies addressing solicitation in the workplace are up to date

Do's and Don'ts

- Do provide employees with accurate information about their rights
- Do inform employees about their competitive compensation and benefits
- Do explain why you prefer direct communication with employees without a union middleman

Do's and Don'ts

- Don't question employees about unionizing activities or who supports or opposes the union
- Don't observe or inspect to discover employees' union leanings
- Don't threaten employees with loss of benefits or any other adverse action
- Don't promise employees any benefits or improvement
- Don't scrutinize or retaliate against employees for concerted activity

Remote ULP Investigations

- Most National Labor Relations Board (NLRB) regional offices are open, but public access is by appointment only
- Several offices are closed, including Seattle, Portland, and San Francisco
- The NLRB continues to process and investigate ULP charges
- Witness interviews for affidavits are conducted by phone, and established priorities and timelines are unchanged

Video Evidentiary Hearings

- NLRB's Division of Judges resumed hearings on ULP complaints on June 1, 2020
- In August, the NLRB decided its administrative law judges had discretion to conduct ULP hearings entirely by videoconference due to public health concerns raised by the pandemic
- The NLRB's General Counsel issued Memorandum GC 20-12 authorizing all Regions to schedule remote ULP hearings via video technology, unless it is unfeasible OR witnesses do not have the necessary equipment
- Where either of these conditions apply, the Region is directed to consult with the NLRB's Division of Operations Management

Suggested Protocols for Sanitized Elections

- Spacious polling area, with six-foot distancing marked on the floor with tape
- Separate entrance and exit for voters, with markings to depict safe traffic flow
- Disposable pencils, without erasers, and glue sticks to seal ballot envelopes
- Plexiglass barriers to separate observers and the Board Agent from voters and each other
- Masks, hand sanitizer, gloves, and wipes for observers
- All participants should wear CDC-conforming masks in all phases of the election
- Certifications concerning sanitation of the voting facility and the health of observers and all individuals who have been present in the facility

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Thank You!



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