Labor Relations in Day-to-Day Management
Avoiding the Mines to Achieve the Mission

Pierre Robert, Sr. Labor Relations Attorney
Local Government Personnel Institute
This Training Shows your Managers/Supervisors:

- How easy it is to commit an “unfair labor practice” without knowing it.
- The most sensitive employee activities.
- The management actions most likely to excite a complaint.
- The 4-step plan to master or prevent conflict that precipitates formal union action.
Oregon’s Public Employee Collective Bargaining Act

The Scheme of 33 statutes establishing the rights of Oregon public employees to organize to bargain collectively with management. (The PECBA).
Enforcing PECBA Rights

- The Oregon Employment Relations Board in Salem
- Hears disputes between public employers, public employees and unions.
- Interprets the PECBA for the purpose of deciding those disputes.
The Basic Rights

- The PECBA establishes specific rights and principles:
  - The right of all non-elected, nonsupervisory and non-confidential employees in Oregon public employment to organize.
Union Basic Rights

- The Exclusive Representative (the union) bargains on behalf of the employees over wages, benefits and other terms and conditions of employment.
What law provides for the rights that unionized employees may exercise? This one:

243.662 Rights of public employees to join labor organizations. Public employees have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining with their public employer on matters concerning employment relations. (Italics added).
Examples?
Employee Basic Rights.

In practice, the “activities” typically involve:

- Activity in a leadership role in a union;
- Activity as a member in a union;
- Serving on a bargaining team;
- Filing a grievance or . . .
- An unfair labor practice complaint.
Employee Basic Rights.

- However, it can be nothing more than:
  - Consulting with a union official, or . . .
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- Consulting with a union official, or . . .
- Discussing a workplace concern with a co-worker.
Conduct Employers and Unions Must Avoid

- Unfair Labor Practices (ULP’s).
Conduct Employers and Unions Must Avoid

- Unfair labor practices (ULP’s) are the unsportsmanlike conduct penalties of labor relations.
- ULP’s are defined by statute.
ULP’s: Three Categories

Category 1

A management decision or action that interferes with, restrains or coerces a bargaining unit employee during the exercise of their right to engage in union activity – or because of their exercise of it.
True Case Example

A police officer mentions to her Sergeant that she intends to speak with the union representative about her overtime requests. The Sergeant directs her to see the police chief with her requests before she speaks to her union about them. Did the ERB find this a violation?
Category 1 Illustrations: Because of exercise

- True Case Example

During a Labor Management Committee meeting, a union steward’s behavior was “rude and probably counterproductive,” especially in calling for the resignation of a manager for “incompetence, misconduct and everything in between.” Management disciplines him for this behavior with a written reprimand.
Category 2

Management decision or action which interferes with, coerces, disciplines or discriminates against a bargaining unit employee because the employee exercised their right to engage in union activity.
True Case Example

- At the same time as an election failed to get the votes to create a union, a County Sheriff lays off two deputies who led a publicized effort to get the union formed. 18 months later, despite a County policy stating the Sheriff should “make every effort to rehire from the lay-off list”, the Sheriff passes over the two former deputies, hiring much less experienced applicants instead. The two file a ULP alleging the Sheriff refused to rehire them due to their union organizing. How did the ERB rule?
ULP’s: How Do They Happen?

What employer actions *most* excite suspicion of category 1 and 2 motives to “interfere, restrain, coerce, discipline, discriminate”?
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- Dismissal or other discipline;
- Reduction in hours of work or of overtime;
- Taking away a favored work schedule;
What employer actions *most* excite suspicion of category 1 and 2 motives to “interfere, restrain, coerce, discipline, discriminate”?

- Generally, *any* action which, circumstantially, is adverse to the employee.
Category 3

A management decision or action that dominates or interferes in:

- The formation of,
- The existence of, or
- The administration of a union.
True Case Example

- A State Police District Commander criticizes a trooper serving as his union’s field representative because he surveyed union members about problems with the emergency dispatch system. The Commander considered this to be solely the role of management.
Case 2

– A superintendent tells a teacher to not talk to fellow teachers about the superintendent giving her a flower along with some personal compliments. Later, he asks her if she had discussed the matter with fellow teachers.
Case 3

A public employer (1) directs a unit member not to discuss union issues “in the office” and (2) directs the employee not to have planned, systematic conversations about union issues on work time. Other work time conversations routinely include non-work related and personal subjects.
Case 2

A police chief notifies an officer that the chief is reassigning the officer from his tactical negotiation team due to an inadequate evaluation. The officer, who is a union activist, strongly objects in writing on an employee-input form claiming the decision is in retaliation for the officer’s union advocacy. The officer files a ULP claiming the same.
Case 1

- An employer has a voluntary policy of “paid court leave” for employees who must be absent due to service of a subpoena to give testimony in a court of law. The employer refuses to pay employees served a subpoena to appear and testify at an ERB proceeding. The union files a ULP alleging discrimination by the employer in the terms of employment for not applying the policy to those employees. How did the ERB rule?
Category 3 Illustrations: Interfere with Union

- Case 1
  - A director speaks with bargaining unit employees at meetings regarding work hours, layoffs, promotions, and the availability of money for salaries and benefits – all matters negotiable with the exclusive representative. The union files a complaint at the ERB.
To Navigate the Minefield:

To avoid the mines, STOP and ask yourself:

- “If I proceed, at what point does my action impact employees or the union?”
- “How *could* this action be perceived by them?”
- Know to whom you turn for advice (LGPI) and consult with them.
- Then act!
Your Plan to Master Potential Conflict

If you step on a mine:

1: Don’t react: listen and gather information.
2: Don’t commit to a decision in the moment – do promise an answer later.
3: Bring the question to your HR Manager and LGPI
4: Meet again, advised, scripted and prepared.
Safely Home.