



human

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tenth edition

resource management

Chapter **15**

Part **5** Employee Relations

Labor Relations and Collective Bargaining

*After studying this chapter,
you should be able to:*



- 1. Give a brief history of the American labor movement.*
- 2. Discuss the main features of at least three major pieces of labor legislation.*
- 3. Present examples of what to expect during the union drive and election.*
- 4. Describe five ways to lose an NLRB election.*
- 5. Illustrate with examples bargaining that is not in good faith.*
- 6. Develop a grievance procedure.*

The Labor Movement

- 1790—Skilled craftsmen organize into trade unions.
- 1869—The Knights of Labor seek social reform.
- 1886—American Federation of Labor pursues bread-and-butter and improved working conditions.
- 1935—National Labor Relations Act fosters organizing and the rapid growth of labor unions.
- 1947—Taft-Hartley Act regulates union activities.
- 1955—AFL and CIO merge.
- 1970s—Union membership peaks and begins to steadily decline.

Why Do Workers Organize?

➤ *Solidarity*

- To get their fair share of the pie.
 - *Improved wages, hours, working conditions, and benefits*
- To protect themselves from management whims.

➤ *Conditions favoring employee organization*

- Low morale
- Fear of job loss
- Arbitrary management actions

Union Security

➤ *Closed shop*

- The company can hire only union members. Congress outlawed this in 1947, but it still exists in some industries (such as printing).

➤ *Union shop*

- The company can hire nonunion people, but they must join the union after a prescribed period of time and pay dues. (If not, they can be fired.)

➤ *Agency shop*

- Employees who do not belong to the union still must pay union dues on the assumption that the union's efforts benefit all the workers.

Union Security (cont'd)

➤ *Open shop*

- It is up to the workers whether or not they join the union—those who do not, do not pay dues.

➤ *Maintenance of membership arrangement*

- Employees do not have to belong to the union. However, union members employed by the firm must maintain membership in the union for the contract period.

Union Security (cont'd)

➤ *Right-to-work laws*

- Section 14(b) of the Taft-Hartley Act permits states to pass statutes or constitutional provisions banning the requirement of union membership as a condition of employment and to forbid the negotiation of compulsory union membership provisions.
- Twenty-one “right to work states,” from Florida to Mississippi to Wyoming, ban all forms of union security.

The AFL-CIO

- *The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)*
 - A voluntary federation of about 100 national and international labor unions in the United States.
- *Structure of the AFL-CIO*
 - Local unions
 - National unions
 - National federation

Unions and the Law: Period of Strong Encouragement

➤ *The Norris-LaGuardia Act of 1932*

- Guaranteed to each employee the right to bargain collectively “free from interference, restraint, or coercion.
- Declared yellow dog contracts unenforceable.
- Limited the courts’ abilities to issue injunctions (stop orders) for activities such as peaceful picketing and payment of strike benefits.

Unions and the Law: Period of Strong Encouragement (cont'd)

- *National Labor Relations (or Wagner) Act of 1935*
 - Banned certain unfair labor practices of employers
 - Provided for secret-ballot elections and majority rule for determining whether a firm's employees would unionize.
 - Created the National Labor Relations Board (NLRB) to enforce the act's provisions.

Unfair Employer Labor Practices

- To “interface with, restrain, or coerce employees” in exercising their legally sanctioned right of self-organization.
- To dominate or interfere with either the formation or the administration of labor unions.
- To discriminating in any way against employees for their legal union activities.
- To discharge or discriminate against employees who file unfair practice charges against the company.
- To refuse to bargain collectively with their employees’ duly chosen representatives.

FORM NLRB 501 (2 81)	UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER	FORM EXEMPT UNDER 44 U.S.C. 3512
INSTRUCTIONS: File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.		
		DO NOT WRITE IN THIS SPACE
		CASE NO.
		DATE FILE
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. NAME OF EMPLOYER	b. NUMBER OF WORKERS EMPLOYED	
c. ADDRESS OF ESTABLISHMENT (street and number, city, State, and ZIP code)	d. EMPLOYER REPRESENTATIVE TO CONTACT	e. PHONE NO.
f. TYPE OF ESTABLISHMENT (factory, mine, wholesaler, etc.)	g. IDENTIFY PRINCIPAL PRODUCT OR SERVICE	
h. THE ABOVE-NAMED EMPLOYER HAS ENGAGED IN AND IS ENGAGING IN UNFAIR LABOR PRACTICES WITHIN THE MEANING OF SECTION 8(a), SUBSECTIONS (1) AND _____ OF THE NATIONAL LABOR RELATIONS ACT, AND THESE UNFAIR LABOR PRACTICES ARE UNFAIR LABOR PRACTICES AFFECTING COMMERCE WITHIN THE MEANING OF THE ACT. <small>(list subsections)</small>		
2. BASIS OF THE CHARGE (be specific as to facts, names, addresses, plants involved, dates, places, etc.)		
BY THE ABOVE AND OTHER ACTS, THE ABOVE-NAMED EMPLOYER HAS INTERFERED WITH, RESTRAINED, AND COERCED EMPLOYEES IN THE EXERCISE OF THE RIGHTS GUARANTEED IN SECTION 7 OF THE ACT.		
3. FULL NAME OF PARTY FILING CHARGE (if labor organization, give full name, including local name and number)		
4a. ADDRESS (street and number, city, State, and ZIP code)		4b. TELEPHONE NO.
5. FULL NAME OF NATIONAL OR INTERNATIONAL LABOR ORGANIZATION OF WHICH IT IS AN AFFILIATE OR CONSTITUENT UNIT (to be filled in when charge is filed by a labor organization)		
6. DECLARATION I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.		
By _____ <small>(signature of representative or person filing charge) (title, if any)</small>		
Address _____ <small>(telephone number) (date)</small>		
WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT <small>(U.S. CODE, TITLE 18, SECTION 1001)</small>		

NLRB Form 501: Filing an Unfair Labor Practice

Figure 15–1

Unions and the Law: Period of Modified Encouragement and Regulation (cont'd)

➤ *Taft-Hartley (Labor Management Relations) Act of 1947*

- Prohibited unfair union labor practices.
- Enumerated the rights of employees as union members
- Enumerated the rights of employers
- Allows the president of the United States to seek an injunction that temporarily will bar a national emergency strike for 60 days.

Unfair Union Labor Practices

- To restrain or coerce employees from exercising their guaranteed bargaining rights.
- To cause an employer to discriminate against employees in order to encourage or discourage their membership in a union.
- To refuse to bargain in good faith with the employer about wages, hours, and other employment conditions. Certain strikes and boycotts are also unfair practices.
- To engage in “featherbedding” (requiring an employer to pay an employee for services not performed).

Taft-Hartley and Employers

➤ *Rights*

- To express their views concerning union organization.
- To set forth the union's record concerning violence and corruption, if appropriate.

➤ *Restraints*

- Must avoid threats, promises, coercion, and direct interference with workers who are trying to reach an organizing decision.
- Cannot meet with employees on company time within 24 hours of an election.
- Cannot suggest to employees that they vote against the union (in private, while they are out of their work area).

Unions and the Law: Period of Regulation of Union Internal Affairs (cont'd)

- *Landrum-Griffin Act (the Labor Management Reporting and Disclosure Act) of 1959*
 - Contains a bill of rights for union members.
 - Nomination of candidates for union office.
 - Protects a member's right to sue his or her union.
 - Ensures that no member can be fined or suspended without due process.
 - Laid out rules regarding union elections.
 - Regulated union election cycles and who can serve as a union officers.
 - Expanded list of corrupt union and employer practices.

The Union Drive and Election

➤ *Step 1. Initial contact*

- The union determines employees' interest in organizing, and sets up an organizing committee.
- Labor Relations Consultants
- Union Salting

➤ *Step 2. Obtaining authorization cards*

- 30% of eligible employees in an appropriate bargaining unit must sign cards authorizing the union to petition the NLRB for an election.

The Organizing Drive

➤ *Authorization cards*

- Let the union seek a representation election.
- Designate the union as a bargaining representative in all employment matters.
- State that the employee has applied for membership in the union and will be subject to union rules and bylaws.

The Organizing Drive

- *Employer responses to organizing*
 - Can attack the union on ethical and moral grounds and cite the cost of union membership.
 - Cannot make promises of benefits.
 - Cannot make unilateral changes in terms and conditions of employment that were not planned to be implemented prior to the onset of union organizing activity.
 - Can inform employees of their right to revoke their authorization cards.

The Organizing Drive (cont'd)

➤ *Union activities during organizing*

- Unions can picket the company, subject to three constraints:
 - The union must file a petition for an election within 30 days after the start of picketing.
 - The firm cannot already be lawfully recognizing another union.
 - There cannot have been a valid NLRB election during the past 12 months.

The Union Drive and Election (cont'd)

➤ *Step 3. Hold a hearing*

– Consent election

- Employer chooses not to contest *union recognition* at all.

– Stipulated election

- The employer chooses not to contest the union's *right to an election*, and/or the scope of the bargaining unit, and/or which employees are eligible to vote in the election.

– Contest of the union's right to an election

- An employer can insist on an NLRB hearing to determine if employees wish to elect a union to represent them.

NLRB Hearing Officer's Duties

- *Determining if the record indicates there is enough evidence to hold an election.*
 - Did 30% of the employees in an appropriate bargaining unit sign the authorization cards?
- *Deciding what the bargaining unit will be.*
 - The bargaining unit is the group of employees that the union will be authorized to represent and bargain for collectively.

FORM NLRB-852
(6-61)

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

Case No.

NOTICE OF REPRESENTATION HEARING

The Petitioner, above named, having heretofore filed a Petition pursuant to Section 9 (c) of the National Labor Relations Act, as amended, 29 U.S.C. Sec 151 et seq., copy of which Petition is hereto attached, and it appearing that a question affecting commerce has arisen concerning the representation of employees described by such Petition.

YOU ARE HEREBY NOTIFIED that, pursuant to Section 3(b) and 9(c) of the Act, on the
day of , 20 , at

a hearing will be conducted before a hearing officer of the National Labor Relations Board upon the question of representation affecting commerce which has arisen, at which time and place the parties will have the right to appear in person or otherwise, and give testimony.

Signed at on the day of , 20

Regional Director, Region
National Labor Relations Board

NLRB Form 852: Notice of Representation Hearing

Figure 15-2

The Union Drive and Election (cont'd)

➤ *Step 4. The campaign*

- Both sides present their platforms.

➤ *Step 5. The election*

- Held within 30 to 60 days after the NLRB issues its Decision and Direction of Election.
- The election is by secret ballot; the NLRB provides and counts the ballots.
- The union becomes the employees' representative by getting a majority of the votes cast in the election.

Sample NLRB Ballot

UNITED STATES OF AMERICA
National Labor Relations Board

OFFICIAL SECRET BALLOT

FOR CERTAIN EMPLOYEES OF

Do you wish to be represented for purposes of collective bargaining by —

MARK AN "S" IN THE SQUARE OF YOUR CHOICE

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>

DO NOT SIGN THIS BALLOT. Fold and drop in ballot box.
If you spoil this ballot return it to the Board Agent for a new one.

Figure 15–3

How to Lose an NLRB Election

- Reason 1. Asleep at the switch
- Reason 2. Appointing a committee
- Reason 3. Concentrating on money and benefits
- Reason 4. Industry blind spots
- Reason 5. Delegating too much to divisions

The Supervisor's Role

- *Unfair labor practices by supervisors*
 - Could cause the NLRB to hold a new election after the company has won a previous election.
 - Could cause the company to forfeit the second election and go directly to contract negotiation.

Union Avoidance: What Not to Do

- *Human resources professionals must be very careful to do the following during union activities at their companies:*
 - Watch what you say. Angry feelings of the moment may get you in trouble.
 - Never threaten workers with what you will do or what will happen if a union comes in.
 - Don't tell union sympathizers that they will suffer in any way for their support. Don't terminate or discipline workers for engaging in union activities.
 - Don't interrogate workers about union sympathizers or organizers.
 - Don't ask workers to remove union screensavers or campaign buttons if you allow these things for other organizations.
 - Don't treat pro-union or anti-union workers any differently.

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Figure 15–4

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Union Avoidance: What Not to Do (cont'd)

- Don't transfer workers on the basis of union affiliation or sympathies.
 - Don't ask workers how they or others intend to vote.
 - Don't ask employees about union meetings or any matters related to unions. You can listen, but don't ask for any details.
 - Don't promise workers benefits, promotions, or anything else if they vote against the union.
 - Avoid becoming involved in the details of the union's election or campaign, and don't participate in any petition movement against the union.
 - Don't give financial aid or any support to any unions.
- *Any one of these practices may result in a finding of “unfair labor practices,” which may in turn result in recognition of a union without an election, as well as fines for your company.*

Rules Regarding Literature and Solicitation

- Nonemployees can be barred from soliciting employees during their work time.
- Employees can be stopped from soliciting other employees if one or both employees are on paid-duty time and not on a break.
- Employers can bar nonemployees from the building's interiors and work areas as a right of private property owners.
- On- or off-duty employees can be denied access to interior or exterior areas for reasons of production, safety, or discipline.

The Collective Bargaining Process

➤ *What Is collective bargaining?*

- Both management and labor are required by law to negotiate wage, hours, and terms and conditions of employment “in good faith.”

➤ *What Is good faith bargaining?*

- Both parties communicate and negotiate.
- They match proposals with counterproposals in a reasonable effort to arrive at an agreement.
- It does not mean that one party compels another to agree to a proposal or make any specific concessions.

Violations of Good Faith Bargaining

- *Surface bargaining*
- *Inadequate concessions*
- *Inadequate proposals and demands*
- *Dilatory tactics*
- *Imposing conditions.*
- *Making unilateral changes in conditions.*
- *Bypassing the representative.*
- *Committing unfair labor practices during negotiations.*
- *Withholding information*
- *Ignoring bargaining items*

Preparing for Negotiations

➤ *Sources of negotiating information*

- Local and industry pay and benefits comparisons
- Distribution demographics of the workforce
- Benefit costs, overall earnings levels, and the amount and cost of overtime
- Cost of the current labor contract and the increased cost—total, per employee, and per hour—of the union's demands.
- Grievances and feedback from supervisors
- Counteroffers and arguments.

Preparing for Negotiations (cont'd)

- *Sources of negotiating information (cont'd)*
 - Attitude surveys to test employee reactions to sections of the contract that management may feel require change
 - informal conferences with local union leaders to discuss the operational effectiveness of the contract and to send up trial balloons on management ideas for change.

Classes of Bargaining Items

- *Voluntary (permissible) bargaining items*
 - Items in collective bargaining over which bargaining is neither illegal nor mandatory—neither party can be compelled against its wishes to negotiate over those items.
- *Illegal bargaining items*
 - Items in collective bargaining that are forbidden by law; for example, a clause agreeing to hire “union members exclusively” would be illegal in a right-to-work state.
- *Mandatory bargaining items*
 - Items in collective bargaining that a party must bargain over if they are introduced by the other party—for example, pay.

Bargaining Items

Mandatory

Rates of pay
Wages
Hours of employment
Overtime pay
Shift differentials
Holidays
Vacations
Severance pay
Pensions
Insurance benefits
Profit-sharing plans
Christmas bonuses
Company housing, meals,
and discounts
Employee security
Job performance
Union security
Management–union
relationship
Drug testing of employees

Permissible

Indemnity bonds
Management rights as to
union affairs
Pension benefits of
retired employees
Scope of the bargaining unit
Including supervisors
in the contract
Additional parties to the
contract such as the
international union
Use of union label
Settlement of unfair labor changes
Prices in cafeteria
Continuance of past contract
Membership of bargaining team
Employment of strike breakers

Illegal

Closed shop
Separation of employees
based on race
Discriminatory treatment

Source: Michael B. Carnell and Christina Heavrin,
Labor Relations and Collective Bargaining (Upper
Saddle River, NJ: Prentice Hall, 2001), p. 177.

Table 15–1

Bargaining Stages

- *Presentation of initial demands*
 - Both parties are usually quite far apart on some issues.
- *Reduction of demands*
 - Each side trades off some of its demands to gain others.
- *Subcommittee studies*
 - The parties form joint subcommittees to try to work out reasonable alternatives.
- *An informal settlement*
 - Each group goes back to its sponsor. Union seeks to have members vote to ratify the agreement.
- *Signing the formal agreement*

Bargaining Hints

- *Be sure to set clear objectives for every bargaining item, and be sure you understand the reason for each.*
- *Do not hurry.*
- *When in doubt, caucus with your associates.*
- *Be well prepared with firm data supporting your position.*
- *Always strive to keep some flexibility in your position.*
- *Don't concern yourself just with what the other party says and does; find out why.*
- *Respect the importance of face saving for the other party.*
- *Be alert to the real intentions of the other party—not only for goals, but also for priorities.*
- *Be a good listener.*

Bargaining Hints (cont'd)

- Build a reputation for being fair but firm.
- Learn to control your emotions and use them as a tool.
- As you make each bargaining move, be sure you know its relationship to all other moves.
- Measure each move against your objectives.
- Pay close attention to the wording of every clause negotiated; they are often a source of grievances.
- Remember that collective bargaining is a compromise process. There is no such thing as having all the pie.
- Try to understand people and their personalities.
- Consider the impact of present negotiations on those in future years.

Impasses, Mediation, and Strikes

➤ *An impasse*

- Usually occurs because one party is demanding more than the other will offer.
- Sometimes an impasse can be resolved through a third party—a disinterested person such as a mediator or arbitrator.
- If the impasse is not resolved in this way, the union may call a work stoppage, or strike, to put pressure on management.

Third-Party Involvement

➤ *Mediation*

- A neutral third party (mediator) tries to assist the principals in reaching agreement by holding meetings with each party to find common ground for further bargaining.
- The mediator is a go-between and has no authority to dictate terms or make concessions.
- The mediator communicates assessments of the likelihood of a strike, the possible settlement packages available, and the like.

Third-Party Involvement (cont'd)

➤ *Fact finder*

- A neutral party who studies the issues in a dispute and makes a public recommendation for a reasonable settlement.

➤ *Arbitration*

- An arbitrator often has the power to determine and dictate the settlement terms.
- Arbitration can guarantee a solution to an impasse.
 - Interest arbitration
 - Rights arbitration

Strikes

➤ *Economic strike*

- Results from a failure to agree on the terms of a contract.

➤ *Unfair labor practice strikes*

- Called to protest illegal conduct by the employer.

➤ *Wildcat strike*

- An unauthorized strike occurring during the term of a contract.

➤ *Sympathy strike*

- Occurs when one union strikes in support of the strike of another union.

Main Sections of a Contract Agreement

- Management rights
- Union security and automatic payroll dues deduction
- Grievance procedures
- Arbitration of grievances
- Disciplinary procedures
- Compensation rates
- Hours of work and overtime
- Benefits: vacations, holidays, insurance, pensions
- Health and safety provisions
- Employee security seniority provisions, and
- Contract expiration date.

Grievances

➤ *Grievance*

- Any factor involving wages, hours, or conditions of employment that is used as a complaint against the employer.

➤ *Sources of grievances*

- Absenteeism
- Insubordination
- Overtime
- Plant rules

Grievance Procedure

- *Grievant and shop steward meet with supervisor. If not resolved,*
- *Employee files formal grievance*
- *Grievant and shop steward meet with supervisor's boss. If not resolved,*
- *Meeting with higher-level managers.*
- *If not resolved, matter goes to arbitration.*

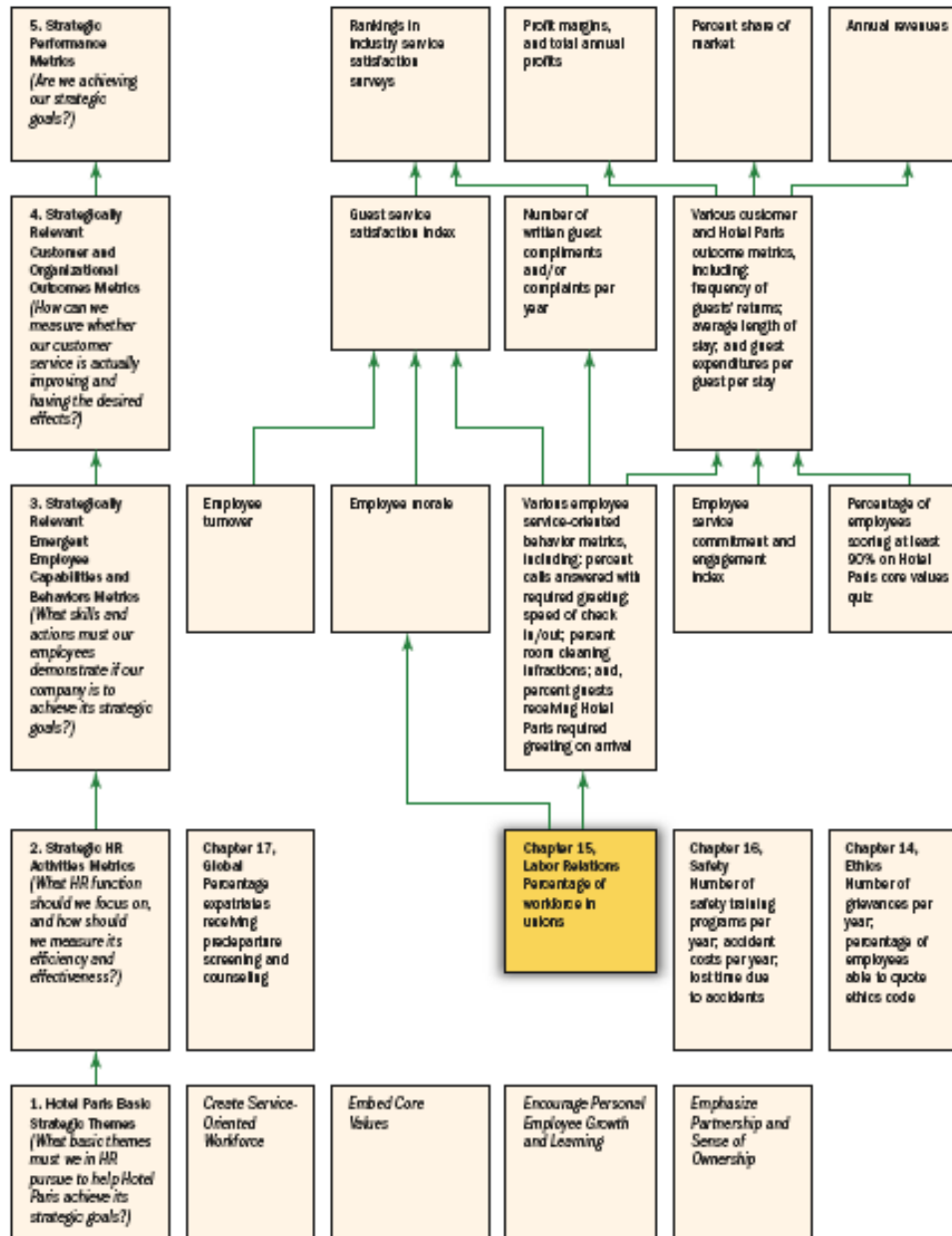
Handling Grievances: Do

- Investigate and handle each case as though it may eventually result in arbitration.
- Talk with the employee about his or her grievance; give the person a full hearing.
- Require the union to identify specific contractual provisions allegedly violated.
- Comply with the contractual time limits for handling the grievance.
- Visit the work area of the grievance.
- Determine whether there were any witnesses.
- Examine the grievant's personnel record.
- Fully examine prior grievance records.
- Treat the union representative as your equal.
- Hold your grievance discussions privately.
- Fully inform your own supervisor of grievance matters.

Handling Grievances: Don't

- Discuss the case with the union steward alone—the grievant should be there.
- Make arrangements with individual employees that are inconsistent with the labor agreement.
- Hold back the remedy if the company is wrong.
- Admit to the binding effect of a past practice.
- Relinquish to the union your rights as a manager.
- Settle grievances based on what is “fair.” Instead, stick to the labor agreement.
- Bargain over items not covered by the contract.
- Treat as subject to arbitration claims demanding the discipline or discharge of managers.
- Give long written grievance answers.
- Trade a grievance settlement for a grievance withdrawal.
- Deny grievances because “your hands have been tied by management.”
- Agree to informal amendments in the contract.

HR Scorecard for Hotel Paris International Corporation*



Note: *(An abbreviated example showing selected HR practices and outcomes aimed at implementing the competitive strategy, "To use superior guest services to differentiate the Hotel Paris properties and thus increase the length of stays and the return rate of guests and thus boost revenues and profitability")

Figure 15–6

The Union Movement Today and Tomorrow

➤ *Declining membership*

- Laws have taken over much of the union's traditional role as the workers' protector.
- Automation, globalization and technology have reduced jobs in unionized manufacturing sectors.
- Unions have fail to organize new plants.
- Unions have been more successful in organizing workers in the public sector.
- Management has become better at resisting union organizing efforts

Public Employees and Unions

- *7 million public-sector union members represent 44% of total U.S. union membership.*
- *The public sector is union movement's biggest potential growth area.*
- Civil Service Reform Act of 1978 (known as the Federal Labor Relations Act)

Employee Participation Programs and Unions

- *Permissibility under NLRA by the courts of participation programs is determined by:*
 - **Dominance:** the degree to which management maintains control of the program's functions.
 - **Role of the program:** if the activities of the program are concerned with union-type matters related to wages, hours, and working conditions.

Employee Participation Programs and Unions

- *To avoid having participation programs viewed as sham unions:*
 - Involve employees in the formation of these programs to the greatest extent practical.
 - Emphasize that the committees exist only to address issues such as quality and productivity.
 - Don't try to establish committees when union organizing activities are beginning in your facility.
 - Use volunteers and rotate membership to ensure broad employee participation.
 - Minimize management participation in the committees' day-to-day activities to avoid interference or the perception of domination.

Key Terms

closed shop

union shop

agency shop

open shop

right to work

Norris-LaGuardia Act (1932)

National Labor Relations (or Wagner) Act

National Labor Relations Board (NLRB)

Taft-Hartley Act (1947)

national emergency strikes

Landrum-Griffin Act (1959)

union salting

authorization cards

bargaining unit

decertification

collective bargaining

good faith bargaining

voluntary bargaining items

illegal bargaining items

mandatory bargaining items

impasse

mediation

fact finder

arbitration

strike

economic strike

unfair labor practice strike

wildcat strike

sympathy strike

picketing

corporate campaign

boycott

inside games

lockout

injunction

grievance