

**A MANAGER'S GUIDE
TO LABOR RELATIONS
TERMINOLOGY**

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INTRODUCTION

Labor relations in the United States is a minefield fraught with peril. Often managers find themselves bewildered by the terminology that is commonly used in dealings with the National Labor Relations Board, and sometimes their own legal counsel.

This glossary is written, not to be a legal guide, but instead to serve as illumination through the verbiage minefield. The definitions, in some cases, will provide practical advice, as well as an explanation of what the term means.

In all cases, the well-advised employer seeks competent, professional help whenever a serious labor relations situation presents itself and without question, at the first sign of union organizing or contact from any governmental agency.

ABSENTEE BALLOT – There is no provision for absentee ballots in NLRB representation election procedures.

AC PETITION – An *AC* (Amendment of Certification) *Petition* is one filed by either a union or an employer, which seeks to amend or revoke an outstanding certification of bargaining representative.

ACCRETION – *Accretion* is the process by which certain new employees are “added” to an existing bargaining unit. Such employees are those who join an employer’s operations because of, for example, the acquisition of a new facility or the creation of a new job classification. The criteria for determining whether the new employees can be added appropriately to an existing unit are identical to those considered by the NLRB in reaching other decisions on the determination of unit appropriateness; that is, the “community of interest” test. (See *Appropriate Bargaining Unit*.)

ACT – The National Labor Relations Act as amended. (See *National Labor Relations Act*.)

ADMINISTRATIVE LAW JUDGE – When unfair labor practice complaints are unresolved within a

regional office of the National Labor Relations Board, a trial is scheduled before an administrative law judge of the NLRB's Administrative Law Judge Division. The administrative law judge issues a decision in the case and the parties have the right to appeal this decision to the NLRB.

AFL-CIO – The *AFL-CIO* (American Federation of Labor-Congress of Industrial Organizations) is an association of International unions. Most Local, National and International unions are members of the AFL-CIO. The AFL-CIO exists for the purpose of assisting the labor movement with social, political, and governmental affairs. International unions financially support the Federation through the payment of a per capita tax.

AGENCY EMPLOYEE – This is a term that describes the status of an employee who pays the union an "Agency" fee in lieu of regular dues. (See *Agency Shop*.)

AGENCY SHOP – *Agency shop* is a type of union security in which employees do not have to join the union but must pay a fee comparable to the amount of dues that union members pay. (See *Union Security Clause*.)

AHA vs. NLRB – In 1991 the U.S. Supreme Court ruled that the rulemaking authority of the National Labor Relations Board included the right to establish eight presumptively valid bargaining (voting) units in acute care hospitals. The units are:

- Employed physicians and dentists (later to include interns and residents)
- Registered nurses
- Other professional employees (excluding those listed above)
- Technical employees (including LPNs and LVNs)
- Business office clericals
- Skilled maintenance employees
- Other non-professional employees (not covered above)
- Security personnel

This decision-reduced litigation related to unit inclusion questions in NLRB representation cases involving hospitals. Since this decision, hospitals have become the most active industry in terms of union organizing.

AMENDMENT OF CERTIFICATION – *See AC Petition.*

AMERICAN ARBITRATION ASSOCIATION – The *American Arbitration Association* is the

largest group of independent arbitrators. These people are called on at various times by employers and unions to “hear” grievances and render decisions. The participating arbitrators are usually professors, attorneys or other professional people.

APPROPRIATE BARGAINING UNIT – Whenever there is a representation case, one of the critical elements that must be decided is the appropriateness of the bargaining unit. While there are many variations in the Board’s determination based on the industry and other factors, the essential test is, “Is there a community of interest among the employees who are covered by the representation petition?” The factors the NLRB looks at include:

- Job functions
- Common wages and fringe benefits
- Common facilities
- Common labor relations policies and supervision
- Permanent and/or temporary interchange
- Common ownership
- Common financial control

If the Board determines that the employees covered by the petition would comprise an appropriate bargaining unit, then it will become the appropriate voting unit. There is wide variation from industry to industry as to what might constitute an appropriate unit. In addition, within various units there are always questions and exceptions. The questions are usually resolved on a case-by-case consideration. The NLRB or its Regional Directors are not required to find the most appropriate bargaining unit. They are only required to determine whether the one in question is appropriate. (See *Health Care Amendments*.)

ARBITRATION – Many grievance procedures include the involvement of an outside arbitrator as a final step. There are many ways to involve an arbitrator, but in most cases the arbitrator is selected from a panel provided either by the Federal Mediation and Conciliation Service (FMCS) or the American Arbitration Association (AAA). The arbitrator's duty is to render a decision that settles the grievance. His/her authority to do so is limited by the scope of the arbitration clause of a collective bargaining agreement, or other written policies if there is no such agreement.

ASSESSMENTS – *Assessments* are non-routine payments to unions by the employees they represent. Assessments may be levied with or without a vote by the membership, depending on the union involved. Dues are normally predictable for employees when they consider unionization; assessments are not.

AT WILL – Often confused with Right to Work, employment *at will* is a concept that describes the relationship between an employee and his employer as voluntary, i.e., able to be terminated by either party, at any time, for any reason or for no reason at all. It further defines the relationship as non-contractual.

AUTHORIZATION CARD – An *authorization card* is a card distributed to employees during an organizing drive by a union. Authorization cards are used as part of the “showing of interest.” In a strict definition, an authorization card “authorizes the union to represent the employees for the purposes of collective bargaining and to file a petition with the NLRB toward that end if the union so chooses.” Sometimes unions use a petition (not to be confused with an NLRB petition) to collect signatures. Sometimes this document takes the form of a “mission