

MODULE 9

Unions and the Right to Organize

Module Overview

Time: 2 hours

- Objectives:**
- to analyze the role that unions play in important areas of workers lives
 - to introduce laws that give workers the right to organize
 - to identify what a union does
 - to understand the difference between the contract and the employee handbook
 - to explore how a union works to solve workplace problems
 - to review steps to organize a union

- Preparation:**
- Read Chapter 6 in *Your Rights on the Job*
 - Prepare flipcharts
 - Copy pictures *Overtime, Multi-tasking, Time Issues & Worksheet or Handout Working Too Hard, Too Fast?*;
 - Copy *Working Too Hard, Too Fast? Worksheet; NLRB Act & Mass. Public Employee Collective Bargaining Law "In Brief"; Organizing a Union: Some Steps; Labor Resources*

Materials: Flipcharts, markers and tape

Module Outline

Welcome and Introduction

Time: 5 minutes

Materials: flipcharts:
Objectives and Agenda

Module Detail

Welcome and Introduction

Welcome participants, introduce yourself and review workshop objectives and agenda. It is helpful to put the Objectives and Agenda on flipcharts to post. Ask participants to introduce themselves, giving their name and union or organizational affiliation, if any.

Icebreaker: What's Your Union Experience

Time: 10 minutes

Note to facilitator:

Note to facilitator:

Our Right to Organize

Time: 45 minutes

Handouts: *Workplace*

Pictures: Overtime, Multi-tasking, Time Issues & Worksheet

OR *Working Too Hard?*

Working Too Fast?

Scenario and worksheet

Flipchart: Problems/Some Solutions

Icebreaker: What's Your Union Experience

Ask participants the following questions, asking for either a show of hands or for people to stand up if the answer to the question is yes.

Who is now a member of a union?

Who has ever been a member of a union?

Who has worked someplace where there is a union?

Who has family members who are in a union now or who have ever worked in unionized workplaces?

Who has family members who are teachers? Nurses?

Work for the city or town or state?

Name worksites you know to be unionized - and point out that these are unionized workplaces.

Sum-up (depending on experience of participants):

Comment on how people who have had experiences with unions can bring their experience into the discussion as we look at how unions help to address problems in the workplace.

For the next activity, depending upon the literacy of the participants, you may either use pictures that describe workplace problems or a written scenario. Both options have same purpose -- to identify workplace problems and discuss solutions. If literacy is an issue, you might prefer to use some pictures. The pictures were used in the first module of the series "Introduction to Workers' Basic Legal Protections". If using pictures and participants have done the introductory workshop, point out they will be re-examining what they did before. This can also be a review of laws if participants have taken whole series.

Activity 1: Our Right to Organize: Issues and Solutions

Break participants into small groups or pairs and distribute either the *Working Too Hard?* scenario or workplace issues pictures among the groups. Ask each group to answer these questions for each picture

- Describe what you think is going on here?
- What issues/problems are being shown?
- What are some solutions for the situation?

Bring group together. Start with the first picture and ask for some responses to the questions OR ask for responses to the *Working Too Hard* scenario. Use the Flipchart Problems/Some Solutions.

We'll return to this list in the next section to identify which ideas are individual solutions and which are group solutions.

Protected Activity

Explain that in the workplace, our rights are more protected when we act as a group. Referring to the flipchart

Problems/Some Solutions, ask

- Which solutions are group or collective solutions?

Highlight the ideas that are group ideas with a bright colored marker. Then take a few examples of individual ideas and ask

- How they could be made group activities?

Explain: “Some of these ideas are “Protected” by law and some aren’t. When 2 or more people are involved in an activity to improve wages or working conditions, it’s called “concerted activity” and is protected, but much individual activity is not. Many of these individual responses could cost you your job.”

Ask participants “What are your questions?”

Employee at Will

Explain that there is one more important concept to know before talking about unions.

Ask participants: What is an Employee-at Will?

“An ‘employee at will’ means that unless there is a specific law to protect employees or there is an employment or union contract providing otherwise, an employer can treat its employees as it sees fit and can fire an employee for any reason or for no reason at all. The most common protected categories are those protecting an employee’s civil rights based on age, race, sex, religion, national origin, color, disability, or pregnancy; and some health and safety protections. Also protected is “concerted activity” which we discussed earlier, and the right to form a union, which we will talk about next.”

Point out which individual actions from the previous activity are protected by law – for example, filing a complaint for sexual harassment.

Sum-up Activity 1

“Many of these issues and problems we’ve been talking about are issues that unions work on. Laws are limited in their protection of workers. Unions can go beyond what laws say and offer more protections to workers to organize. In the remainder of this session we will discuss some basic ways that unions work and our legal right to form unions”.

What do Unions Do?

Time: 15 minutes

Flipcharts: Some rules;
What Do Unions Do?

Activity 2: What Do Unions Do?

Refer back to the list of problems identified in Activity 1 on the flipchart *Problems/Some Solutions*. Divide participants into small and assign each group one of the issues. Ask them to discuss the following questions:

1. What rules would you write to improve the situation?
2. Who would write the rules?
3. How would the rules be enforced? What do you think should happen if they don't follow the rule you've written?

Report back one problem and one question at a time.

Post on the "What Do Unions Do" flipchart.

Then *explain* that the contract or collective bargaining agreement is the "rule book".

Ask what other things a contract would write rules about?

For question 2, the union members and leaders and management together write the rules. This is the process of "bargaining" over a contract. For question 3, the grievance procedure enforces the rules in the contract. The grievance procedure is part of the contract.

Point out that many workplaces have employee handbooks or personnel policies. Ask: "What do you think are the differences between an employee handbook and a union contract?"

Issues to identify: The contract is a legal document that both sides must adhere to; the handbook is not and can be changed by the employer without employee input; the contract can be enforced both by law and by the power of the organized workers.

Add that unions do things outside the workplace that help in the workplace -- like lobbying for changes in laws -- so the rules would apply not just to one workplace but to many (like OSHA). Stress that unions mobilize their members to help convince legislators to pass laws that benefit and protect workers.

The Right to Form a Union:

The Law

Time: 20 minutes

Handouts: *NLRA and Chapter 150 E "in Brief"*

Flipchart: *Right to Form a Union*

Activity 3: The Right to Form a Union -- The Law

Ask "What protections does the law offer for organizing a union?"

Depending on responses, review flipchart with key organizing rights.

Explain: “Most workers have the right to form and join unions on the job. The legal protections to organize into unions are a result of working people fighting for these rights. A federal law called the National Labor Relations Act, passed in 1935, guarantees the right of private sector workers to organize. For public sector workers in Massachusetts, the law that protects their right to organize is Chapter 150E. It is illegal for management to harass or discriminate against you for trying to form a union”

Review Handouts: NLRA and Chapter 150 E “in Brief”

Applying the law

In large group, *ask* participants whether the following activities are legal or illegal as defined by law. One by one, go through the list, drawing out differences or consensus. Clarify the legal rights, then explain what can often happen in practice.

- Employees can talk about the union with their coworkers on their own time in non-work areas – like the break room, cafeteria, parking lot or other non-work areas.
- Supervisors can tell an employee how they think the employee should vote in a union election.
- Supervisors can hold meetings with employees giving their opinion about the union.
- Management can raise employees’ salaries without a Union.
- An employer can fire a worker for supporting a union.

Note to facilitator:

Refer to the “Applying the Law” reference sheet as needed.

Note that the Public Sector law was amended in Dec. 2007 to allow for “Written Majority Authorization” so that if the majority of workers sign a union authorization card, the employer must recognize the union without requiring an election.

Sum up: Employers fight workers’ organizing efforts, so it is very important to work with a union or organization that can advise you and help you organize.

Explain: There are legal remedies when employers violate the right to organize, but these often take years. The enforcement agency for private sector workers

Remedies

Explain: “The enforcement agency for private sector workers covered by the National Labor Relations Act is the **National Labor Relations Board** (NLRB). Violations of the NLRA are called unfair labor practices (ULP). When a ULP is filed at the NLRB, a hearing is held and a determination is made of what the employer must do.”
[Refer to the NLRB and Ch 150E in a Nutshell]

“The enforcement agency for public sector workers covered by the Massachusetts Public Employee Collective Bargaining Law, MGL Chapter 150E, is **the Department of Labor Relations** (DLR). Violations are called “prohibited practices”. Remedies are similar to NLRA.”

Beyond Enforcement Agencies

Ask participants

- What else could you do if an employer violates the law?

Post responses, and add any of these that participants themselves did not come up with: :

- Organize a demonstration to let the public know
- Media articles
- Work with groups in community to pressure employer
- Ask other unions and/or labor councils for support.

Ask:

- What are your questions?
- If you had a questions, who might you call?

Use the Labor Resources handout for places to go for advice or assistance and add to the list of resources as a group.

How Do You Organize a Union

Time: 20 minutes

Handout: *Organizing a Union: Some Steps*

Flipchart: *Organizing a Union*

Activity 4: How Do You Organize a Union?

Break participants into small groups. Ask each group to choose a reporter, and then discuss:

- What questions do you have about forming a union?
- What are some steps you think that workers should take to form a union?

Participants write each step on a sticky note.

After 5 minutes or so, ask reporter from each group to post their steps on the flipchart in the order they think would be best to take them.

Ask: “What are your comments on the steps and the timeline/order of steps?” Ask for any remaining questions.

*Make sure to stress **Legality vs. safety** (e.g., talking about a union at work in the break room is legal, but it’s safer to visit the worker at home.) Stress that while the law protects workers’ rights to form a union, employers often break the law. Working with an existing union is essential to get support and advice.*

Sum up: Some steps to forming a union

- Talk to some co-workers and get a group of interested workers together.
- Contact a union to work with you. Find a union that has experience organizing people who do the same or a similar kind of work as you do.
- Form an organizing committee of interested workers and a union organizer.
- Talk to all your co-workers, one-on-one, in house visits where possible
- Sign union authorization cards indicating that you want to join the union.
- Get signatures of at least 50% of workers
- The union will file for an election (if the workplace is in the private sector. In the public sector in Mass. this step is not necessary. If over 50% of the workers sign cards, then the union is automatically recognized.)
- Workers vote in the election whether or not to unionize
- If 50% plus 1 vote yes, then negotiate a contract.

Ask for the questions and discuss. Refer participants to the *Labor Resources* *handout* for more information.

Summary and Remedies**Time:** 5 minutes**Summary and Remedies**

“Unions help improve wages, benefits and working conditions on the job through negotiating collective bargaining agreements (also known as contracts), working to pass new laws and helping workers organize. Most workers, including undocumented workers, have the right to organize, protected by law. Unions are based on the idea of ‘United we stand, divided we fall’. In other words, acting as a group we can be more powerful than if we act separately.

Immigrant workers, whether documented or undocumented, have the same right to organize and bargain. It is not always safe, however, for undocumented workers to go to state and federal agencies with complaints, as those agencies might notify Immigration and Customs Enforcement (ICE). Therefore, undocumented workers should check first with a union or advocacy organization (see handout *“Partial List of Advocacy Organizations”*). The handout *Safe and Unsafe Agencies for Immigrant Workers* is only a guideline, as government policies may change. **To be safe, always go to an advocacy organization first.”**

MODULE 9

Unions and the Right to Organize

2 hours

Participant Outline

Objectives:

- to analyze the role that unions play in important areas of workers' lives
- to introduce laws that give workers the right to organize
- to identify what a union does
- to understand the difference between the contract and the employee handbook
- to explore how a union works to solve workplace problems
- to review steps to organize a union

Welcome and Introductions

Icebreaker: What is Your Union Experience?

Discuss participants' union experience.

Activity 1: Our Right to Organize: Issues and Solutions

Identify problems described in scenario or shown in pictures and discuss individual and collective solutions. Define "employee at will".

Activity 2 What do Unions do?

Discuss how unions might solve the identified problems

Activity 3: The Right to Form a Union – The Law

Review the laws protecting workers' right to organize. Practice applying the law.

Activity 4: How Do You Organize a Union?

Discuss questions about how to form or join a union and identify some steps in the process.

Summary and Remedies

Working Too Hard? Working Too Fast?

Diane has worked on the evening shift, from 3-11pm, in the laundry of a hospital for over a year. When she first started, there were 5 other people working in the laundry on her shift, but 3 people have quit and weren't replaced. Now, there's only herself and two others, Juan and Maria, who work evenings. Because their English is limited, Juan and Maria mostly speak to each other in Spanish, which Diane doesn't understand. Maria has a sick child, who often needs care, and when she calls in sick, no one replaces her and Diane is forced to work overtime after her shift ends. The boss gives Maria a hard time every time she calls in sick.

Dirty sheets, towels, and blankets are delivered to the laundry room every night. Diane, Juan and Maria must wash, dry and fold everything before their shift ends. The number of beds in the hospital has increased so there is more laundry than ever. It's always too hot in the room they work in— sometimes over 100°.

Every night, Juan picks up the dirty laundry and together they load the washing machines. Juan's job is to take the wet and heavy laundry out of the washer and put it in the dryer. Diane takes the hot laundry out of the dryers and she and Maria have to start folding the laundry before it cools off, if they are going to get done before the end of their shift. Juan loads the clean, folded laundry as fast as he can, so he can deliver it to the clean laundry rooms on all the floors of the hospital. Diane never has time for a break, and whenever she stops for a few minutes, Jack, the supervisor, yells at her to get back to work.

Diane has had enough. She would like to find another job in the hospital that pays better and is more interesting, but doesn't know if she has any skills to do anything else. Sometimes she daydreams about a clerical job or maybe even working in a lab.

Working Too Hard? Working Too Fast? Worksheet

1.) What do you think is going on here?

2.) What issues or problems do you see?

3.) What are some solutions to the problems?

4.) What rule or rules would you write to improve the situation?

5.) Who would write the rules?

6.) What do you think should happen if the employer does not follow the rules?

Applying the Laws Guaranteeing the Right to Form a Union

(For Facilitator's reference)

- Can employees talk about the union with co-workers on their own time in non-work areas – like the break room, cafeteria, or parking lot?

Yes. The law guarantees that right. However, in practice, employers often violate the law. Therefore, it is a good idea to avoid talking about the union at work until the union organizing drive is public.

- Can a supervisor can tell an employee how he thinks they should vote in a union election?

No. This is illegal. However, the practice of employers is often to do just that. Some employers and supervisors will talk to workers one-on-one, to tell them or encourage them to vote against the union. This is illegal, but it often happens.

- Can management raise employees' salaries without a union?

Yes, management can raise salaries any time they want, EXCEPT just before a union election. In this case, they might be doing it simply to convince workers not to vote for the union, so it is illegal.

- Can an employer fire a worker for supporting a union?

No. It is illegal to fire a worker for supporting a union, but management will often fire workers who are participating in union organizing. Usually, the reason management gives for firing the worker is **something other than union organizing**. The employee and the union must then prove that the firing was actually due to the worker's support for the union.

ORGANIZING A UNION: SOME STEPS

STEP ONE: Know Your Rights

- 1) The right to join a union is a human right. “It is hereby declared to be the policy of the United States to...encourag[e] the practice and procedure of collective bargaining and [to] protect...the exercise by workers of full freedom of association, self-organization and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.” [from Declaration of human Rights”
- 2) The laws: National Labor Relations Act gives private sector workers the “right to engage in concerted activity to improve their wages and working conditions, including the right to petition, leaflet, organize a union, picket, and strike.” The Massachusetts Public Employee Collective Bargaining Law (Chapter 150E) provides the same rights to public sector workers. Despite these laws, many employers strongly resist their employees' efforts to gain a voice at work through unionization. So, before you start talking union where you work, get in touch with a union that will help you organize.

Chapter 150E was amended in 2007, and now allows that if a majority of the public sector workers sign cards to join the union (called "Written majority authorization") the employer must recognize the union, without going through the election process.

STEP TWO: Talk to Your Co-Workers

On your break and lunch time, or at co-worker's homes, talk with other workers to see if they are concerned about issues in the workplace and if they might be interested in learning more about what a union can do. A union organizing drive will only succeed if there is support from the workers. Never act alone.

STEP THREE: Find Out Which Union is Right for You

To form a union on the job, you need the backup and hands-on help from the union you are seeking to join. If you don't already know which union is most able to help you, find out more about the unions affiliated with the Massachusetts AFL-CIO at 617/244-8230 or www.massafclcio.org. Some other unions are part of the Change to Win Federation. You can find those unions by going to: <http://changetowin.org/>. These websites help you to decide which union is best for you.

STEP FOUR: Contact a union to work with you

Union organizers assist employees in forming unions on the job to give them the same opportunity for dignity and respect, good wages and decent working conditions that union members already have. Most unions will ask workers to form an organizing committee of interested workers to work with a union organizer to ask workers to sign union membership cards indicating that they want to join the union. Signatures of at least 50% of workers needed.

STEP FIVE:

The Union files for an election. Workers vote in an election whether to join the union. If a majority votes yes, the union wins.

STEP SIX:

With the assistance of the union staff, negotiate a contract.

Adapted from MA AFL-CIO Website

Labor Resources

Unions and Labor Councils

The MA AFL-CIO can put you in touch with individual unions.

Massachusetts AFL-CIO
8 Beacon St.
Third Floor
Boston, MA 02108
617-244-8230
Website: www.massafcio.org

Labor Extension Programs

These university-based programs provide education and resources to workers.

Amherst
Clare Hammonds
Labor Center, Thompson Hall
200 Hicks Way
UMass Amherst
Amherst, MA 01003-9277
413-545-4875

Dartmouth
Kim Wilson
UMass Dartmouth
Dubin Labor Education Center
257 Union St.
New Bedford, MA 02747
508-817-1851

Boston
Anneta Argyres
Labor Resource Center
UMass Boston
100 Morrissey Blvd
Boston, MA 02125
617-287-7229

Lowell
Elizabeth Pellerito
Labor Education Program
Dugan Hall, Room 205
Sociology Department
883 Broadway St., Lowell, MA 01854
978-934-3127

Jobs with Justice

Jobs with Justice is a coalition of labor and community organizations that supports worker organizing

Massachusetts Jobs with Justice
375 Centre St.
Jamaica Plain, MA 02130
617-524-8778
<http://www.massjwj.net/>

Western Massachusetts Jobs with Justice
1380 Main Street, Suite 203
Springfield, MA 01107
(617) 433-8391

Workers Centers

Numerous workers centers across Massachusetts provide help and advice to workers, many of them focused on a particular immigrant group. They can put you in touch with unions, and they are a good starting place for workers who are newcomers to the US and/or have limited English proficiency. The Mass Legal Services website maintains a list of most of them:

<https://www.masslegalservices.org/content/worker-centers-massachusetts>

Flipcharts for MODULE 9: Unions and the Right to Organize

Flipcharts for Welcome and Introduction

Objectives

- to analyze the role that unions play in important areas of workers' lives
- to introduce laws that give workers the right to organize
- to identify what a union does
- to understand the difference between the contract and the employee handbook
- to explore how a union works to solve workplace problems
- to review steps to organize a union

Agenda

- Welcome/Introduction
- Incebreaker: What is Your Union Experience?
- Our Right to Organize: Issues and Solutions What do Unions do?
- What do Unions do?
- The Right to Form a Union – The Law
- How do You Organize a Union?
- Summary and Remedies

Flipchart for Activity 1

Issues/Problems	Some Solutions

Flipcharts for Activity 2

1. What rule or rules would you write to improve the situation?
2. Who should write the rules?
3. How would the rules be applied? What do you think should happen if the employer does not follow the rules?

(title only)

What do Unions do?

Flipchart for Activity 3

The Right to Form a Union

Rights under the National Labor Relations Act/ Chapter 150E

You have the right to:

- act in a group for mutual aid and protection
- organize a union
- choose your representatives in your union
- be free of harassment or reprisals when you organize a union
- bargain collectively with your employer when you have a union

Flipchart for Activity 4 *(title only)*

Organizing a Union: Some Steps