



EMPLOYEE AND LABOR RELATIONS  
STUDENT WORKBOOK

**SHRM**<sup>®</sup>  
SOCIETY FOR HUMAN  
RESOURCE MANAGEMENT

The Student Collective  
Bargaining Act

*By Patrick P. McHugh, Ph.D.*

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# Case Overview

## INTRODUCTION

In the United States, employees have the right to form labor unions and engage in collective bargaining with their employers over wages and working conditions. These rights became legally protected with the passage of the Wagner Act in 1935 (now known as the National Labor Relations Act, or NLRA). The passage of the Wagner Act was guided, in part, by three key assumptions (Holley, Jennings & Wolters, 2009):

1. There is an inherent conflict of interest between employers and employees in a free-enterprise (capitalist) economic system as both seek to advance their own self-interests. At the same time, employer and employees share a common interest in the success of the organization. Thus, the employment relationship is a mixed-motive relationship consisting of conflicting and common interests.
2. Employees in a free and democratic society have a right to independently pursue their employment interests and may choose to pursue their interests on an individual basis or by joining them collectively.
3. Individual employees are at a bargaining-power disadvantage relative to their employers, and the option of collective bargaining provides employees, as a group, a way to create a greater balance of power in the employment relationship.

As a result of the Wagner Act, union density (the percentage of employees who are union members) reached a high of 35 percent in the 1940s and 1950s. In 2008, the U.S. Bureau of Labor Statistics reported union density to be 12.4 percent and the number of workers who are union members at 16.1 million—an increase of 428,000 from 2007. Some studies have shown that nearly 33 percent of nonunion workers report a desire for union representation, while a little more than 12 percent are currently represented, creating a “representation gap” (Budd, 2008). According to Budd (2008), if the representation gap were filled, union density might actually be as high as 40 percent.

Although union density has fallen since the 1950s, understanding labor relations (the relationship that exists between union workers and management) is an important skill set for anyone interested in managing human resources. One way to better understand labor relations is to conceptualize it as a process. Holley, Jennings and Wolters (2009) identify three phases of the labor relations process (see table on next page).

Phase 1	Phase 2	Phase 3
Recognition of the rights and responsibilities of union and management representatives: <ul style="list-style-type: none"> <li>■ Union selection.</li> <li>■ Union and employer organizing campaign.</li> <li>■ Certification.</li> </ul>	Negotiation of the labor agreement: <ul style="list-style-type: none"> <li>■ Bargaining topics.</li> <li>■ Bargaining tactics.</li> <li>■ Bargaining power.</li> <li>■ Dispute resolution.</li> <li>■ Strikes.</li> </ul>	Contract administration: <ul style="list-style-type: none"> <li>■ Interpretation and application of contract terms.</li> <li>■ Dispute resolution.</li> <li>■ Grievance procedures.</li> <li>■ Arbitration.</li> </ul>

Phase 1 of the process highlights the employees' rights to seek representation in the workplace (e.g., employees have the right to communicate with co-workers about working conditions and interest in union representation) and the processes employees must follow to attain union recognition (obtaining signatures of at least 30 percent of the employees on authorization cards and requesting a certification election from the National Labor Relations Board (NLRB)). In addition, employer rights (e.g., employers have the right to communicate with employees their views of unionization but may not threaten or coerce employees) and responsibilities (e.g., employers may not discriminate against employees who support union representation) are also important elements of the first phase of the labor relations process. The culmination in this phase occurs when employees, based on majority voting, indicate support for or against union representation. If the majority of employees support union representation, the process moves to the second phase.

In Phase 2, the focus is on negotiating a collective bargaining agreement. In this phase, employee representatives negotiate with employer representatives. Bargaining tactics and power are important considerations during this phase. Once an agreement is signed by labor and management representatives, Phase 3 of the process begins.

In Phase 3, the focus is on contract administration. Disputes may arise when labor and management have different interpretations of the collective bargaining agreement. Further, unanticipated events may arise that are not clearly captured in the contract. Therefore, it is important to carefully apply the terms of the contract and develop dispute resolution mechanisms to resolve disputes (e.g., grievance and arbitration procedures) to create a healthy labor-management relationship.

## EXERCISE OVERVIEW

This exercise will help you learn about the U.S. labor relations process. It will complement the reading materials provided by your instructor and provide you with an interesting, stimulating and sometimes dramatic learning experience. This exercise is intended as a tool to help you navigate through the labor relations process in an effective and engaging way.

This exercise requires your active participation. You will be given the opportunity to form a fictitious union (Student Solidarity Union) and engage in collective bargaining with your instructor over the terms and conditions of the final exam. The rules governing the exercise are based on the Student Collective Bargaining Act

(SCBA) included in this workbook. The SCBA is a fictitious law created to help you understand the actual labor relations process governed by the NLRA.

**Please note that your instructor may have made modifications to this exercise.**

Please stay updated on any changes made during the course of the exercise. It is important that you read through this entire workbook, paying close attention to the student notes.

## LEARNING OBJECTIVES

By the end of this exercise, you will be able to:

- Explain the labor relations process and the interdependence of different phases of the process.
- Analyze the strengths and weaknesses of the union organizing process under the NLRA.
- Understand current labor law and recognize why labor law changes can have a significant effect on the labor relations process.
- Understand key elements of negotiations involved in collective bargaining.
- Examine the role of dispute resolution mechanisms, either through the National Labor Relations Board (NLRB) or through procedures such as mediation and arbitration.

## LEARNING MATERIALS

- Student workbook.
- Assigned reading from the instructor.

## MATERIALS IN THIS WORKBOOK

The following materials are included in this workbook: a) Student Collective Bargaining Act; b) student notes and reflections; c) an outline of exercise activities; d) discussion questions; e) authorization petition; and f) authorization card.

## ADDITIONAL RESOURCES

Budd, J. W. (2008). *Labor relations striking a balance* (2nd ed.) (chapters 1 and 5-10). Boston: McGraw-Hill Irwin.

Fisher, C. D., Schoenfeldt, L. F., & Shaw J. B. (2006). *Human resource management* (6th ed.) (chapter 15). Boston: Houghton Mifflin Company.

Friedman, R. A. (1994). *Front stage, backstage: The dramatic structure of labor negotiations*. Cambridge, MA: MIT Press.

Gomez-Mejia, L. R., Balkin, D. B., & Cardy, R. L. (2007). *Managing human resources* (5th ed.) (chapters 14-15). Upper Saddle River, NJ: Pearson Prentice Hall.

Holley, W. H., Jennings, K. M. & Wolters, R. S. (2009). *The labor relations process* (9th ed.) (chapters 1 and 3-5). Mason, OH: South-Western College Learning.

Noe, R. A., Hollenbeck, J. R., Gerhard, B., & Wright, P. M. (2010). *Human resource management: Gaining a competitive advantage* (7th ed.) (chapter 14). New York: McGraw-Hill Irwin.

Stewart, G. L. & Brown, K. G. (2009). *Human resource management: Linking strategy to practice* (chapter 13). Hoboken, NJ: Wiley.

U.S. Bureau of Labor Statistics: <http://stats.bls.gov/news.release/union2.nr0.htm>

AFL-CIO: [www.aflcio.org](http://www.aflcio.org)

Change-to-Win Federation: [www.changetowin.org](http://www.changetowin.org)

National Labor Relations Board: [www.nlr.gov](http://www.nlr.gov)

# The Student Collective Bargaining Act (SCBA)

The SCBA gives students the right to engage in collective bargaining on mandatory bargaining subjects and the right to refrain from collective bargaining activities. Mandatory bargaining subjects include issues related to the final exam. All other class-related issues are permissive bargaining subjects.

All of the processes and rules of the SCBA follow the National Labor Relations Act (which includes the Wagner Act, Taft-Hartley Act and the Landrum-Griffin Act), except those limited by this document. Students are not permitted to strike, picket, protest, engage in work slowdowns or boycotts or use avenues other than the National Labor Relations Board (NLRB) to resolve class-related disputes. The \_\_\_\_\_ will act as the NLRB. Of course, individual students can use whatever processes are available under university or college guidelines.

If students desire union representation, they must first show significant interest in being represented by the Student Solidarity Union for collective bargaining purposes in order for the NLRB to conduct a certification election. Significant interest is shown when at least 30 percent of students sign either an authorization petition or authorization cards. An authorization petition or authorization cards will be circulated during the following class period, \_\_\_\_\_, to assess interest in union representation. If significant interest is shown by this date, \_\_\_\_\_, a certification election supervised by the NLRB will be held on \_\_\_\_\_. If the 30 percent threshold is not met, the instructor may implement his/her terms for the final exam.

If 50 percent plus one **of those students voting in the certification election** indicate support for union representation, the Student Solidarity Union will be certified as the sole representative of all students for the purposes of collective bargaining. In addition, if the union is certified as the bargaining representative, the instructor is obligated to bargain in good faith with the Student Solidarity Union on the following date: \_\_\_\_\_. If 50 percent or less of those voting in the certification election vote for union representation, the instructor may implement his/her terms for the final exam.

If students desire union representation (as shown by the results of the certification election), they will be required to elect (through a secret ballot process) a bargaining committee consisting of \_\_\_\_\_ students on the following date: \_\_\_\_\_. If a bargaining committee of \_\_\_\_\_ students is not identified, the instructor has no obligation to bargain in good faith and can implement his/her terms for the final exam. The bargaining committee will represent students at the bargaining table. Time will be provided for the bargaining

committee to meet with all students to better understand key issues before starting negotiations.

Contract negotiations between the bargaining committee and the instructor will take place on \_\_\_\_\_ (date) in the following location: \_\_\_\_\_. The negotiations will last for approximately 45 minutes. During negotiations, students who are not members of the bargaining committee will not be permitted to speak, groan, voice approval or disapproval, picket or in any other way attempt to influence bargaining during negotiations. Any of these actions will be interpreted as not bargaining in good faith, and the instructor can withdraw from negotiations and implement his/her terms for the final exam.

The bargaining committee and the instructor can call for a five-minute caucus at any time during the negotiations. A caucus is a bargaining timeout (each side is limited to a maximum of three caucuses). During caucuses, the bargaining committee can discuss negotiations with their student constituents and seek feedback from them regarding proposals made at the bargaining table. It is during caucuses that students will be given the opportunity to guide the bargaining committee without the instructor present.

If the parties reach a collective bargaining agreement, the agreement must be in writing and signed by the student bargaining committee and the instructor. The contract must be ratified by the union membership. The contract is officially ratified after a vote is taken that shows a majority of those voting support the contract. All students in the class will be covered by the terms of the collective bargaining agreement. If no agreement is reached during the bargaining period, or if the contract is not ratified, an impasse is reached. At that point, the instructor will have the authority to implement his/her terms and conditions for the final exam.

Any disputes regarding the administration of the collective bargaining agreement will be resolved by final and binding arbitration. The arbitrator will be \_\_\_\_\_.

# Student Notes and Reflections

- Please note the various blank spaces in the SCBA. Your instructor will identify what information should be inserted in those spaces or provide you with an SCBA with the blanks filled in. In addition, your instructor may want to make other modifications to the exercise to best utilize it in this course.
- As you review the assigned readings, compare and contrast the NLRA with the SCBA. In what ways are they similar and in what ways are they different? How do employee (student) and employer (instructor) rights differ under each act? You may want to review some of the readings listed in the “Additional Resources” section to clarify some of these differences.
- Take advantage of any class time set aside by the instructor for student-only discussions about organizing and negotiations (without the instructor present). Don’t waste this valuable time! In terms of union organizing, make sure to discuss what you see as the benefits and costs of pursuing union representation. In terms of negotiations, make sure you identify what issues you think are important for the bargaining committee to propose to the instructor.
- Consider how the decision to support or not support union representation in this classroom situation differs from the decision you would make in your previous, current or future employment situation. What if the instructor campaigned rigorously against union representation; would that change your desire for union representation? Why or why not? Is there anything else your instructor could do to make union representation less appealing to you? Think of some examples. Are there things employers can do to make union representation less appealing to employees?
- Bargaining committee members have an opportunity to interact with the instructor in a unique way. How many of your instructors would be willing to negotiate the terms of the final exam? Would you like to serve on the union bargaining committee? Why? Why not? Why do you think individuals take on leadership roles in unions?
- If you are not on the bargaining committee, would you want to observe the negotiations between the instructor and the bargaining committee? Why? Why not?
- During negotiations with the instructor, the bargaining committee will be given opportunities to request caucuses (these are bargaining timeouts). The bargaining committee may decide to meet with the entire class during these caucuses to discuss proposals made at the bargaining table. These caucuses can only last five

minutes, so use the time wisely. What can you do to increase the effectiveness of these caucuses?

- Bring the student workbook with you to every class session!

# Exercise Activities

- a. Your instructor will provide an overview of the exercise. It is important that you bring this workbook with you to all subsequent class sessions. As part of the overview, the instructor will announce the time parameters and the participants in the exercise (filling in all the blank spaces in the SBCA), as well as any modifications to the exercise. The instructor will assign readings that complement the exercise.
- b. Your instructor will give students time to discuss union organizing without the instructor present.
- c. Your instructor will provide students an opportunity to voluntarily sign authorization cards or an authorization petition.
- d. The NLRB role player will collect the authorization cards or petition. If significant interest is shown, the NLRB role player will conduct a certification election. If no significant interest is shown, your instructor will debrief the exercise and unilaterally implement his or her version of the final exam.
- e. If students vote for union representation, students will elect bargaining committee representatives. Bargaining committee representatives will be elected using a secret ballot provided by the instructor. If students vote against union representation, the instructor will debrief the exercise and unilaterally implement his or her version of the final exam.
- f. If voting results in union certification, the instructor will allow time for students to discuss contract negotiations with bargaining committee representatives without the instructor present.
- g. The instructor will negotiate with the bargaining committee.
- h. If an agreement is reached between the bargaining committee and the instructor, students must ratify the agreement. Therefore, students will vote on whether to accept the agreement. A majority of students voting in a secret ballot (conducted by the instructor) must indicate support for the contract for it to be ratified. If no agreement is reached or if the contract is not ratified, the instructor will implement his or her terms for the final exam. The instructor will then debrief the exercise.

# Discussion Questions

These questions should be answered based on your assigned reading and your experience with the exercise. These questions assess your understanding of the labor relations process.

- 1) What is the National Labor Relations Board (NLRB)? Are there important differences between the NLRB in the National Labor Relations Act and the one identified in the SCBA?
- 2) What is the difference between the Wagner Act, the Taft-Hartley Act and the Landrum-Griffin Act?
- 3) Are students “employees” under the National Labor Relations Act (NLRA)? What about graduate teaching assistants?
- 4) What is the difference between mandatory and permissive bargaining topics? What is bargaining in good faith?
- 5) Why is prohibiting the right to strike (picket and protest) an important element of the SCBA?
- 6) What does “significant interest” and “certification election” mean?
- 7) Would the methods used under the SCBA be legal under the National Labor Relations Act?
- 8) Why use a secret ballot?
- 9) What purpose does a bargaining committee play?
- 10) What role do caucuses play in negotiations? Does it matter if contract negotiations are conducted in front of the entire union membership versus only between the bargaining committee and the employer?
- 11) After a collective bargaining agreement is reached, there is a need for contract administration. When administering the agreement, disputes can arise. What kinds of disputes could arise if both sides have agreed to a contract? How should these disputes be resolved?
- 12) As you can see from the exercise, the labor relations process is heavily influenced by the legal framework provided by the NLRA, which outlines the rights of employees, unions and employers. Suppose the following changes to the NLRA were enacted:
  - a. The NLRB is required to certify unions if a majority of employees sign authorization cards stating that the employee wants union representation.

- b. After 120 days, if no agreement has been reached by labor and management when negotiating their first collective bargaining contract, an arbitration process will determine the content of the two-year agreement.
- c. Financial penalties will be imposed on employers for discriminating against employees during a union organizing campaign.

How would these changes affect the labor relations process? Under what circumstances would you find these changes to be necessary or unnecessary?

# SAMPLE AUTHORIZATION PETITION

I hereby authorize the Student Solidarity Union to represent me for the purpose of collective bargaining. I petition the National Labor Relations Board to conduct a secret ballot election.

**PRINT NAME**

**SIGN NAME**

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