GLOSSARY of COLLECTIVE BARGAINING TERMS and OTHER LABOR RELATED TOPICS

ABEYANCE – The placement of a pending grievance (or motion) by mutual agreement of the parties, outside the specified time limits until a later date when it may be taken up and processed.

ABOOD v. DETROIT BOARD OF EDUCATION – The legal case in which the U.S. Supreme Court, on May 23, 1977, ruled unanimously (9–0) that agency-shop (or union-shop) clauses in the collective-bargaining agreements of public-sector unions cannot be used to compel nonunion employees to fund political or ideological activities of the union to which they object. The Court nevertheless held, by a 6–3 majority, that nonunion employees in the public sector may be required to fund union activities related to "collective bargaining, contract administration, and grievance adjustment purposes." This case was overturned by the Supreme Court's ruling in June 2018 on Janus v. AFSCME.

ACTION - Direct action occurs when any group of union members engage in an action, such as a protest, that directly exposes a problem, or a possible solution to a contractual and/or societal issue. Union members engage in such actions to spotlight an injustice with the goal of correcting it. It further mobilizes the membership to work in concerted fashion for their own good and improvement.

ACCRETION – The addition or consolidation of new employees or a new bargaining unit to or with an existing bargaining unit.

ACROSS THE BOARD INCREASE - A general wage increase that covers all the members of a bargaining unit, regardless of classification, grade or step level. Such an increase may be in terms of a percentage or dollar amount.

ADMINISTRATIVE LAW JUDGE – An agent of the National Labor Relations Board or the public sector commission appointed to docket, hear, settle and decide unfair labor practice cases nationwide or statewide in the public sector. They also conduct and preside over formal hearings/trials on an unfair labor practice complaint or a representation case.

AFL-CIO - The American Federation of Labor and Congress of Industrial Organizations is the national federation of unions in the United States. It is made up of fifty-six national and international unions, together representing more than 12 million active and retired workers. The AFL–CIO was formed in 1955 when the AFL and the CIO merged after a long estrangement. Membership in the union peaked in 1979, when the AFL–CIO had nearly twenty million members. From 1955 until 2005, the AFL–CIO's member unions represented nearly all unionized workers in the United States. Several large unions split away from AFL–CIO and formed the rival Change to Win Federation in 2005 but a number of those unions have since re-affiliated. The largest union currently in the AFL–CIO is the American Federation of State, County and Municipal Employees (AFSCME), with approximately 1.4 million members.

AGENCY SHOP - A contract provision under which employees who do not join the union are required to pay a collective bargaining service fee instead. Employees who object on religious grounds to supporting unions must pay an amount equal to the service fees to a non-labor, non-religious charity.

AGREEMENT – Also referred to as - Contract or Collective Bargaining Agreement. The written document arrived at through the process of negotiations between the employee organization (union) and the employer.

ALEC - The American Legislative Exchange Council, is a front group made up of corporate lobbyists and state legislators who vote as equals on 'model bills' to change the public's rights that often benefit the corporations' bottom line at public expense. ALEC is a pay-to-play operation where corporations buy a seat and a vote on 'task forces' to advance their legislative wish lists and can get a tax break for donations, effectively passing these lobbying costs on to taxpayers. Corporations fund almost all of ALEC's operations. Participating legislators, overwhelmingly conservative Republicans, bring proposals home and introduce them in statehouses across the land as their own brilliant ideas and important public policy innovations—without disclosing that corporations crafted and voted on the bills. ALEC boasts that it has over 1,000 of these bills introduced by legislative members every year, with one in every five of them enacted into law. ALEC describes itself as a "unique," "unparalleled" and "unmatched" organization. ALEC members, speakers, alumni, and award winners are a "who's who" of the extreme right. ALEC has given awards to: Ronald Reagan, Margaret Thatcher, George H.W. Bush, Charles and David Koch, Richard de Vos, Tommy Thompson, Gov. John Kasich, Gov. Rick Perry, Congressman Mark Foley (intern sex scandal), and Congressman Billy Tauzin. ALEC alumni include: Speaker of the House John Boehner, House Majority Leader Eric Cantor, Congressman Joe Wilson, (who called President Obama a "liar" during the State of the Union address), former House Speaker Dennis Hastert, former House Speaker Tom DeLay, Andrew Card, Donald Rumsfeld (1985 Chair of ALEC's Business Policy Board), Governor Scott Walker, Governor Jan Brewer, and more. Featured speakers have included: Milton Friedman, Newt Gingrich, Dick Cheney, Dan Quayle, George Allen, Jessie Helms, Pete Coors, Governor Mitch Daniels and more. The Center for Media and Democracy has a website ALECexposed.org that lists many of the ALEC bills and names of state legislators party to ALEC.

ALTER EGO – A Latin phrase meaning "other self". An alter ego company may result when the same owner or manager of one company shuts down operations and reopens a new company with a new name, when in fact it is the same business. Most often used to bust the union and become so-called "union-free".

AMERICAN ARBITRATION ASSOCIATION (AAA). A private nonprofit organization that, among other things, provides lists of qualified arbitrators to unions and employers and administers the arbitration process.

AMERICAN PLAN – A post-World War 1 slogan used by businesses in the 1920s that claimed that union shops denied workers' freedom and were therefore un-American. It stressed the freedom of industry to manage its business operations without union interference.

AMERICANS WITH DISABILITIES ACT (ADA) - National law forbidding discrimination against employees on the basis of disability and requiring reasonable accommodations for qualified disabled employees. The ADA is enforced by the Equal Employment Opportunity Commission (EEOC) and by private lawsuit.

ANNUITY – A form of investment plan usually presented as a retirement plan that provides for income for a specified period of time, such as a number of years or for life.

ANTI-INJUNCTION LAW - The Norris-LaGuardia Act (29 U.S.C.A. § 101 et seq.) is one of the initial federal labor laws passed in favor of organized labor. It was enacted in 1932 to provide that contracts that limit an employee's right to join a labor union are unlawful. Such contracts are commonly known as yellow dog contracts. Initially the law was known as the anti-injunction act since its numerous restrictions had the effect of stopping any federal court from issuing an injunction to end a labor dispute. In one part of the act, for example, there is a provision that an injunction prohibiting a strike cannot be issued unless the local police are either unwilling or unable to prevent damage or violence. Many state statutes have subsequently used this act as a model.

ANTI-STRIKEBREAKING ACT – Formally known as the Byrnes Act is a Federal law enacted in 1936, which prohibits interstate transportation of strikebreakers. Under the act, transport of persons who are employed for using force in labor disputes or collective bargaining efforts is made a felony. The uses of "force or threats" prohibited by the act include infiltrating labor strikes, stirring up violence, and motivating popular opinion against striking workers. Violations of the Byrnes Act are punishable by fines or by imprisonment for up to two years.

ANTI-UNION ANIMUS – A Latin term indicating anti-union attitudes and sentiments that may affect management actions and result in the harassment of union representatives, staff and activists.

APPRENTICE WORKER – A worker who is serving a special period to learn a job or occupation in preparation for admission to full status as a skilled tradesperson. Such an apprenticeship involves on-the-job training and often some accompanying study (classroom work and reading). Apprenticeship also enables practitioners to gain a license to practice in a regulated profession. Most of their training is done while working for an employer who helps the apprentices learn their trade or profession, in exchange for their continued labor for an agreed period after they have achieved measurable competencies. Apprenticeships typically last 3 to 6 years. People who successfully complete an apprenticeship reach the "journeyman" or professional certification level of competence.

ARBITRATION - A dispute resolution procedure involving a third party to whom the disputing parties submit their differences for a final and binding decision or award. Arbitration is usually the last step of the contractual grievance procedure.

AREA LABOR FEDERATIONS - In 2016, the National AFL-CIO collaborated with state labor leaders around the country to lead a restructure initiative of the Central Labor Councils (CLCs) into regional Area Labor Federations (ALFs), in an effort to strengthen and reinvigorate the former CLC's. The goal of this reorganization is to advance the mission of empowering the labor movement through a shared vision. Central Labor Councils (CLCs), Assemblies and Area Labor Federations (ALFs) are the local labor movement of the AFL-CIO. Each body covers a geographic area of Massachusetts as well as in other states. Unions and union members can take collective action through their local bodies and affect their communities. In 2019, delegates of the Pioneer Valley, Hampshire/Franklin, and Berkshire Central Labor bodies voted overwhelmingly to join efforts and form the Western Massachusetts Area Labor Federation. This strategic move has brought new energy to the Western Mass labor movement. CLCs, Assemblies and the Western MA ALF provide candidate screening and endorsements as well as support for worker organizing and affiliate members.

AREA STANDARDS PICKETING – A form of picketing with the purpose of encouraging an employer to observe the standards in that industry in that locality. It also publicizes an employer's failure to pay wages and benefits comparable to those established in a geographic area by a union through collective

bargaining. Area standards' picketing is lawful as long as it is targeted at a primary employer with whom a union has a dispute, provided it is not a pretext for organizational or boycott picketing.

ATTRITION – Reduction in the labor force of a company through natural causes such as voluntary quits, retirement, or death – as opposed to layoffs.

AT-WILL EMPLOYEE - Under common-law, this phrase describes the relationship between employer and employee that exists without a written contract or other agreement guaranteeing job security. An at-will employee may be terminated at the will of the employer without reason or cause. The United States is the only major industrial power that maintains a general employment-at-will rule. Canada, France, Germany, Great Britain, Italy, Japan, and Sweden all have statutory provisions that require employers to show good cause before discharging employees. In almost every U. S. state an employee is considered to be an at-will employee unless there is proof otherwise, such as a union or employment contract. Montana is the sole exception. Montana presumes that certain employees are entitled to be terminated only for "just cause" or "good cause" which is defined by statute and various state cases. The Montana Wrongful Discharge From Employment Act (MWDEA) permits employers to specify a probationary period for new employees, beyond which employees would gain the right not to be terminated without cause. In the absence of a defined probationary period, Montana law requires a specific minimum probationary period. There are some exceptions to the at-will status, such as: an employee cannot be fired for a discriminatory reason. Title VII of the Civil Rights Act, for example, protects employees from discrimination based on race, national origin, religion, color, or sex. Also, the Americans with Disabilities Act makes it illegal to discriminate against someone because of a disability.

AUTHORITY TO BARGAIN – Both parties, the union and the employer, are required to send a representative to the bargaining table who has sufficient authority to negotiate a collective bargaining agreement. However, the authority of both representatives may be limited – or subject to final agreement of the union membership (through ratification) or management's board of directors (or other body). Therefore, it is appropriate for parties to make clear that they have authority to reach a tentative agreement, subject to final approval (Mid-Wilshire Health Care Center, 337 NLRB 72 2001). It could be a sign of bad faith bargaining if either party sends simply a messanger to the table without any real authority to bargain.

AUTHORIZATION CARD – A union card filled out by a worker during a representation campaign. The card usually specifies the union as a collective bargaining agent of the employees and must be dated and signed. A typical union authorization card may state: *"I hereby authorize (union's name), its agents or assigns, to act for me as my exclusive representative for the purpose of collective bargaining with my employer regarding wages, benefits, and other terms and conditions of employment. I understand and agree that this card may be used to establish majority support among the employees in the unit in which I am employed and obtain voluntary recognition from my employer without an NLRB election and/or to obtain an NLRB election."* The NLRB will accept 30% of the employees' signatures on cards or petitions as the necessary "showing of interest" required to conduct an election. However, most unions will not file for an election unless it has a significant majority of authorization cards signed by workers in a workplace. See also: "electronic authorization cards."

AWARD- The final decision of an arbitrator which is binding on both parties.

BACK LOADING – Having a greater wage increase toward the end of a contract.

BACK PAY - Wages due for past services, often the difference between money already received and a higher amount resulting from a change in wage rates.

BAD FAITH - Under the NLRA or state labor law, the parties have a duty to approach negotiations with a sincere resolve to reach a collective bargaining agreement, to be represented by properly authorized representatives who are prepared to discuss and negotiate on any condition of employment, to meet at reasonable times and places as frequently as may be necessary and to avoid unnecessary delays, and, in the case of the employer, to furnish upon request data necessary for negotiation. Bad faith bargaining is the absence of these elements and in which there is no real intent of trying to reach an agreement. It is often characterized by: the failure to engage in the exchange of bargaining; the failure to offer counter proposals; cancellation of sessions; delays in bargaining; failure to meet at appropriate times or places; regressive or surface bargaining; or a general conduct designed to frustrate the bargaining process.

BANNERING - The National Labor Relations Board expanded its protections for union bannering by concluding that a union display of stationary banners was not a violation of the NLRA's prohibition against secondary boycotts even where the "primary" and "secondary" employers shared a common job site. The union in *Southwest Regional Council of Carpenters (New Star General Contractors)* placed a large banner at the secondary employer's worksite to publicize the union's dispute with the primary employer. The union's goal was to pressure the secondary employer by publicly "shaming" it for doing business with the primary employer during an ongoing union dispute. In this case, the NLRB ruled that the union's bannering at a common worksite (a "common situs") was not an unfair labor practice and did not "threaten, coerce or restrain" the secondary employer's workers. The Board's decision is significant because it permits a union to publicize its dispute with the primary employer at a "common situs" shared job site where several other companies were also working. The Board found that a union's stationary banners near a secondary employer's jobsite did not amount to illegal picketing of the secondary employer because it did not "induce or encourage" employees to stop working and did not otherwise signal to employees to engage in a work stoppage

BARGAINING - The negotiation by the employer and the employee union or association over the terms and conditions of employment for employees in represented bargaining units.

BARGAINING AGENT - A labor organization that is the exclusive representative of all employees in a bargaining unit, both union and non-union members.

BARGAINING RIGHTS - The rights outlined in Section 7 of the National Labor Relations Act. Rights of workers to negotiate the terms and conditions of employment through their chosen representatives. The bargaining agent is designated by a majority of the workers in a bargaining unit to represent the group in collective bargaining.

BARGAINING UNIT - A group of employee titles or classifications (job descriptions) in a workplace that share a community of interest for labor relations matters and that is represented by a union or association in negotiations and other labor relations matters. A unit may also be unrepresented, in which case it is simply a "unit."

BARGAINING ZONE - Is the range or area in which an agreement is satisfactory to both parties involved in the negotiation. The bargaining zone is essentially the overlap area between walk away positions in a negotiation. Also referred to as a "Zopa" (Zone of Possible Agreement).

BASEBALL ARBITRATION - Baseball arbitration (also referred to as "either/or arbitration" or "final offer") is a type of arbitration in which each party to the arbitration submits a proposed monetary and

issue(s) position to the arbitrator. The arbitrator will choose one award from the submitted proposals without modification. Baseball arbitration therefore limits an arbitrator's discretion in arriving at a decision. It gives each party to the arbitration an opportunity to offer a reasonable proposal to the arbitrator with the hope that his/her award will be accepted by the decision-maker. The parties in dispute therefore have a strong motive to submit reasonable proposals because if they submit something blatantly unreasonable, the arbitrator may decide to award the case to the opposing side.

BATNA - A best alternative to a negotiated agreement (BATNA) is the course of action that will be taken by parties engaged in negotiations if the talks fail and no agreement can be reached. The term BATNA was coined by negotiation researchers Roger Fisher and William Ury in their 1981 bestseller "Getting to Yes: Negotiating Agreement Without Giving In." A party's BATNA refers to what they can fall back on if a negotiation proves unsuccessful. If the potential results of the negotiation only offers a value that is less than one's BATNA, there is no point in proceeding with the negotiation, and one should use their best available alternative option instead. Prior to the start of negotiations, each party should have determined their own individual BATNA.

"**BECK" NOTICE -** As a result of a U.S. Supreme Court's 1988 decision in *Communication Workers v. Beck*. *Beck* allows employees paying union dues to "opt out" of paying the portion of dues used towards political contributions or other activity not related to administration of the collective bargaining agreement. The rule, requires employers to post notices where workplace postings are located and in other "conspicuous places." The *Beck* decision held that union-represented employees who pay agency fees instead of union dues cannot be forced to pay the portion of the fees that cover union expenditures unrelated to collective bargaining, contract administration and the adjustment of grievances. The situation arises where a union and an employer have entered into a union-security agreement requiring workers to pay fees to the union.

BLACKLIST – A list of union members, sympathizers or activists that is circulated among employers to advise them of the union activities of job applicants. Although the practice is illegal, the process of blacklisting survives in many subtle forms.

BLACK LUNG BENEFITS ACT - (BLBA) provides monthly cash payments and medical benefits to coal miners totally disabled from pneumoconiosis ("black lung disease") arising from their employment in the nation's coal mines. The statute also provides monthly benefits to a deceased miner's survivors if the miner's death was due to black lung disease.

BLACK RAT – The huge inflated Black Rat is a piece of street theatre started in 1990 in Chicago when the bricklayers had a dispute with the employer. They had a rat made and quickly named it "Scabby the Rat". The rats became an instant, unlikely symbol of corporate greed and anti-union work sites and has since now used by many unions. When employers challenged the use of the black rat as not free speech, Federal regulators ruled otherwise, that union activists have the legal right to display the rats outside companies during labor disputes. And the New Jersey state Supreme Court similarly ruled that the use of the rats in labor protests is protected speech under the First Amendment, overturning a township ordinance that banned any inflatable signs not being used for a store's grand opening. Unions have since become creative by also using inflated skunks, cockroaches, three-headed dogs, pigs, etc.
The NLRB's general counsel, Peter Robb, (*Robb, the NLRB's general counsel, operates independently of the board and is a veteran management-side lawyer who worked with the Reagan administration to bust the air traffic controllers' union*) had launched a legal assault to ban Scabby from a nonunion construction site at a Staten Island supermarket. Arguing that its menacing presence amounted to illegal protest activity

against a "neutral" business under the National Labor Relations Act, Robb, who was appointed by President Donald Trump in 2017, sought a federal court injunction that could effectively outlaw Scabby across the country.

BLOCKING - An NLRB decision not to proceed with an election in a bargaining unit where there are unresolved unfair labor practice charges.

BLS – The Bureau of Labor Statistics of the U.S. Department of Labor. The web site is bls.gov. BLS gathers, compiles and publishes: labor data; statistics and economic indicators; employment and unemployment figures; inflation rates and prices; productivity rates; workplace injury numbers; and much more. In late January of each year, it releases a study of the unionization rates and numbers for the previous year.

BOULWARISM - A management tactic used at the bargaining table when the employer asserts at the outset of negotiations that its first offer is its "final, best and last" offer and therefore fails to engage in the process. A take-it-or-leave it approach to bargaining where no give-or-take or substantive discussion occurs. This tactic has been ruled to be an unfair labor practice by the NLRB.

BOYCOTT – A boycott is collective pressure on employers by refusal to buy their goods or services. The practice was named (1880) after Capt. Charles Cunningham Boycott, an English land agent in Ireland whose ruthlessness in evicting tenants led his employees to refuse all cooperation with him and his family. In the United States the boycott has been used chiefly in labor disputes; consumer and business groups have also resorted to the method. Boycotts may be either primary or secondary. A typical example of a primary boycott is the refusal of aggrieved employees and their supporters to purchase the goods or services of an employer. A secondary boycott occurs when the aggrieved party attempts either to boycott a third party or to coerce it into joining an ongoing boycott. Thus, workers instituting a boycott may refuse to patronize firms that continue to deal with the initially boycotted party. Similarly, a secondary boycott would occur if workers struck an employer in order to force him to join the boycott of another firm. In the United States, such secondary actions are prohibited by both the Taft-Hartley Act (1947) and the Landrum-Griffin Act (1959), although little has been done to enforce the ban. Beginning in the late 1960s, the United Farm Workers union employed a series of boycotts in an attempt to gain recognition as the sole bargaining agent for grape and lettuce fieldworkers. Currently, Driscoll's which is the world's largest distributor of berries is the target of a boycott by farmworkers due to its record of unfair labor practices.

BREAK TIME FOR NURSING MOTHERS - The Federal Patient Protection and Affordable Care Act which effective March 23, 2010 amended the Fair Labor Standards Act to require employers to provide a nursing mother reasonable break time to express breast milk after the birth of her child. The law is enforced by the United States Department of Labor (DOL).

An employer shall provide to employees (who are not exempt from the FLSA):

- Reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express milk; and

- A place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breast milk.

- Employers are required to provide a reasonable amount of break time to express milk, as frequently as needed by the nursing mother. The frequency and duration of the breaks may vary.

- The location must be functional as a space for expressing milk. If the space is not dedicated to the nursing mother's use, it must be available when needed in order to meet the statutory requirement. The space, whether permanent or temporary, must be shielded from view and free from intrusion from co-workers and the public.

- Employers are not required to compensate nursing mothers for breaks taken for the purpose of expressing milk. Where an employer already provides compensated breaks, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time. In addition, the FLSA general requirement that the employee must be completely relieved from duty or else the time must be compensated as work time applies.

- Agencies may not consider nursing mother's break time to be FMLA leave or counted against an employee's FMLA leave entitlement as nursing is not considered a "serious health condition" under the FMLA per the DOL.

BREAD AND ROSES - "Bread and Roses" is a political slogan as well as the name of an associated poem and song. It originated from a speech given by the prominent labor leader Rose Schneiderman; a line in that speech ("The worker must have bread, but she must have roses, too.").

Quote from the poem Bread and Roses by James Oppenheim:
As we come marching, marching, unnumbered women dead
Go crying through our singing their ancient cry for bread.
Small art and love and beauty their drudging spirits knew.
Yes, it is bread we fight for – but we fight for roses, too.

The poem was first published in *The American Magazine* in December 1911. It is commonly associated with the successful textile strike in Lawrence, Massachusetts during January–March 1912, now often known as the "Bread and Roses strike". The slogan pairing bread and roses, appealing for both fair wages and dignified conditions, found resonance as transcending "the sometimes tedious struggles for marginal economic advances" in the "light of labor struggles as based on striving for dignity and respect", as Robert J. S. Ross wrote in 2013.

BROADBANDING - The replacement of a salary schedule or pay classification system that has numerous salary grades or levels with one that has only a few "bands" that each carry wider pay-range spreads.

BUILDING TRADES – The unions that represent the trades (as carpentry, bricklaying, plumbing) that are essential to and chiefly practiced in connection with building construction.

BUMPING - A contractual right (also known as "displacement") whereby employees scheduled for layoff are permitted to bump or displace less senior employees in other jobs for which they are qualified.

CAFETERIA PLAN BENEFITS - A benefit program that offers a choice between taxable benefits, including cash, and non-taxable health and welfare benefits. The employee decides how his or her benefits dollars are to be used within the total limit of benefit costs agreed to by the employer.

CALL-IN PAY - Compensation paid to workers who report for work and, for a variety of reasons, the employer decides to send back home. Examples of call in pay include: "show up pay" when a worker is called into work by error for overtime work and is sent back home; or, wages paid when the worker is required to report and there is insufficient work for a full day.

CANVASS - A method of talking individually to every member of a bargaining unit to either convey information, gather information on a survey, or plan for united action.

CAPRICIOUS - A phrase usually used in conjunction as "arbitrary and capricious" describing an action or decision which is made without cause or without consideration of an objective standard, and is totally subject to the whim or pleasure of the person or party in power.

CAPTIVE AUDIENCE MEETING- A union term for meetings of workers called by management, on company time and property. Usually the purpose of these meetings is to try to persuade workers to vote against union representation.

CARD CHECK AGREEMENT - An agreement in which the employer agrees to recognize a union as the official bargaining agent of its employees once a third party verifies that a majority of the entire group of employees has signed union membership cards; typically, the employer also agrees to begin negotiating for a first contract as soon as it recognizes the union. Such agreements avoid costly, lengthy and divisive elections.

CAUCUS – A meeting of either side (union or management) during contract negotiations or a grievance hearing without the other present. It is a work meeting in which the parties consider a proposal, change the tone of the meeting, formulate a counter-proposal, or discuss and analyze what is happening at the table. Either party may call for a caucus.

CEASE-AND-DESIST ORDER - A written statement issued by the labor board requiring the employer or union to abstain from conduct which has been found to be an unfair labor practice.

CENTRAL LABOR COUNCIL – A city or county federation of local unions which are affiliated with different national or international unions. Central Labor Councils work to mobilize members around organizing campaigns, collective bargaining campaigns, electoral politics, rallies and demonstrations, strikes, picketing, boycotts, and similar needs.

CERTIFICATION - Formal recognition of a union as the exclusive representative of a bargaining unit, usually accomplished through a representation election by employees in the bargaining unit.

CERTIFICATION BAR - The NLRB and many public sector agencies will prohibit another election in a bargaining unit for one year after a union has been certified following an election.

CHANGE TO WIN - The Change to Win Organizing Center is a coalition of American labor unions originally formed in 2005 as an alternative to the AFL-CIO. The coalition is associated with strong advocacy of the organizing model. The coalition currently consists of The International Brotherhood of

Teamsters (IBT); Service Employees International Union (SEIU); and United Farm Workers (UFW). Communications Workers of America (CWA) is affiliated with both CtW and AFL-CIO. Several other unions disaffiliated with CtW, including: the Carpenters; the Laborers, UFCW; and, a part of UNITE/HERE.

CHARGE - Written statement of alleged unfair practices. Filing a charge with the NLRB State Labor Board is the first step in an unfair labor practice proceeding.

CHARTING - Charting is a tool used to identify the Union members in the bargaining unit, where they work, when they work, how much they work, their job title and where they live, how to contact them, and what their social network is. This is done for each worksite in an organized fashion with the information put into a central database. Charting provides a snap shot of the workplace that provides accurate up-to-date information on all of Union members.

CHECKOFF - An arrangement under which an employer deducts from the pay of employees the amount of union dues they owe and turns over the proceeds directly to the treasurer of the union.

CHILD LABOR - Child labor laws limit the hours workers under 18 can work and the kinds of jobs that they can do. State law also requires employers to have Youth Employment Permits (work permits) on file for all workers under 18. In Massachusetts, children under 14 may not work, except in very limited cases.

CIO - The Congress of Industrial Organizations, was a federation of unions that organized workers in industrial unions in the United States and Canada from 1935 to 1955. Created by John L. Lewis in 1935, it was originally called the Committee for Industrial Organization, but changed its name in 1938 when it broke away from the American Federation of Labor. The CIO supported Franklin D. Roosevelt and the New Deal Coalition, and was open to African Americans. Both the CIO and its rival the AFL grew rapidly during the Great Depression. The rivalry for dominance was bitter and sometimes violent. The CIO (Congress for Industrial Organization) was founded on November 9, 1935, by eight international unions belonging to the American Federation of Labor. In its statement of purpose, the CIO said it had formed to encourage the AFL to organize workers in mass production industries along industrial union lines. The CIO failed to change AFL policy from within. On September 10, 1936, the AFL suspended all 10 CIO unions (two more had joined in the previous year). In 1938, these unions formed the Congress of Industrial Organizations as a rival labor federation. In 1955, the CIO rejoined the AFL, forming the new entity known as the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).

CLAYTON ACT – A Federal statute passed in 1914 as an amendment to the Sherman Antitrust Act of 1890 which declared that human labor is not “a commodity or article of commerce”. Labor unions and agricultural cooperatives were excluded from the forbidden combinations in the restraint of trade. The act restricted the use of the injunction against labor, and it legalized peaceful strikes, picketing, and boycotts. It declared that "the labor of a human being is not a commodity or article of commerce." Organized labor was as heartened by the act as it had been dejected by the doctrine of the Danbury Hatters' Case, but subsequent judicial construction weakened the act's labor provisions. The Clayton Antitrust Act was the basis for a great many important and much-publicized suits against large corporations.

CLOSED SHOP - An agreement between an employer and a union that, as a condition of employment, all employees must belong to the union before being hired. The employer agrees to retain only those employees who belong to a union. The term “closed shop” is at times confused with a “union shop”. However, closed shop agreements were declared illegal by the Taft-Hartley Act in 1947.

COALITION BARGAINING - When one or both parties engaged in collective bargaining represents a group of entities, e.g. a group of labor unions forms a coalition to negotiate a single agreement.

COBRA: The Consolidated Omnibus Budget Reconciliation Act gives workers the right to continue their health insurance coverage after separating from their job.

COLA - A cost of living adjustment or escalator clause tied to inflation rates. However, this term is often incorrectly used to describe wage increases that are granted across-the-board to all employees, without regard to any statistic such as the Consumer Price Index (CPI).

COLLECTIVE BARGAINING AGREEMENT (CBA) - A written agreement or contract that is the result of negotiations between an employer and a union. It sets out the conditions of employment (wages, hours, benefits, etc.) and ways to settle disputes arising during the term of the contract. Collective bargaining agreements usually run for a definite period--one, two or three years. At times, the term is used synonymously with Memorandum of Understanding or MOU.

COLLYER DOCTRINE - Applies when the National Labor Relations Board defers charges (ie. unfair labor practices) to the arbitration process when these charges are brought prior to an arbitration award. The National Labor Relations Board will, under this doctrine, refer resolution of such an issue brought before it to arbitration if the issue is arbitrable under the collective bargaining agreement. *Collyer Insulated Wire*, 192 N.L.R.B. 837 (1971). In cases subsequent to *Collyer*, if a dispute involves refusal to bargain, the Board has deferred to arbitration in almost every case. The ruling in *Collyer*, and its modification in subsequent cases, has resulted in the Board dismissing charges of refusal to bargain that have been filed prior to an arbitration only if the dispute was contractual and the collective bargaining agreement called for final and binding arbitration.

COMMON SITE PICKETING - A form of picketing in which employees of a struck employer, who work at a common site with employees of at least one employer is not being struck, may picket only at their entrance to the worksite. The employees of neutral employers must enter the workplace through another entrance. Picketing is restricted to the entrance of the struck employer so as not to encourage a secondary boycott on the part of the employees of a neutral employer. Also referred to as "common situs picketing."

COMMUNITY OF INTEREST - Factors, such as common supervision, job tasks, hours, working conditions, wages and benefits, etc., which determine which groups of employees the NLRB will include in an appropriate bargaining unit.

COMPANY UNION - An employee organization, usually in one company, that is dominated by management. The NLRA declared that such employer domination is an unfair labor practice.

COMPARABLE WORTH - The evaluation of jobs traditionally performed by one group of workers (such as women or minorities) to establish whether or not the worth of those jobs to the employer is comparable to the worth of the jobs traditionally performed by white men and the payment of extra wages to those occupying comparable jobs but receiving less income.

COMPLAINT – A finding issued by the NLRB or public labor commission of "probable cause" of a violation of labor law. Such a complaint is a step in the process following a "charge" being filed that may lead to a formal unfair labor practice hearing (trial) or a settlement of the issues in the complaint.

CONCERTED ACTIVITY – An action taken by a group of employees in order to improve their working conditions or benefits. Bargaining law considers this type of activity protected from retaliation or reprisal.

CONCESSIONARY BARGAINING – Negotiations in which the union agrees to and accepts concessions or "give backs" which results in a loss of wages or benefits. This is a highly divisive measure among the union membership in which the employer inevitably claims that such concessions are necessary for the good of the company's continued existence or profitability. These concessions made in wages and benefits are almost never reinstated even when the employer's profitability is restored.

CONFIDENTIAL EMPLOYEE - An employee whose job requires him/her to develop or present management positions on labor relations and/or collective bargaining, or whose duties normally require access to confidential information that contributes significantly to the development of such management positions. Confidential employees are not in the bargaining unit and do not have the right to bargain collectively.

CONSENT DECREE – An agreement worked out under the guidance and with the help of the NLRB which, therefore, has the effect of a court order on both the labor and management parties.

CONSTRUCTIVE DISCHARGE - In some cases, a resignation provoked by management harassment so unbearable that the resignation may be construed by the court or an arbitrator as a form of discharge, restoring the employee's right to grieve or hold the employer liable for violating the employee's due process rights. The National Labor Relations Board (NLRB) developed the concept of constructive discharge during the labor union movement in the United States. The NLRB developed the concept in the 1930s to impede efforts by companies who discouraged their employees from unionizing or forced unionized employees to voluntarily quit their positions. The legal concept currently applies to both unionized and non-unionized employees. In accordance with employment law, most states recognize constructive discharge. For legal purposes, the employee's resignation is disregarded since the relationship between the employer and the employee was effectively terminated by the circumstances of the employer's poor conduct, which forced the employee to vacate their position. As such, a constructive discharge is considered as a termination by the employer. If it can be proven that the employer's actions constitute illegal conduct or a breach of a written or implied employment contract, the employee could have a binding claim for wrongful constructive discharge.

CONSUMER PICKETING - Picketing of a retail establishment that is legal if directed toward getting consumers not to buy a particular product of a supplier or of a producer with whom a labor dispute exists. Such picketing is illegal if it is aimed at getting customers to stop shopping at the store or at other parties, such as store employees or delivery to prevent personnel from crossing the picket line.

CONSUMER PRICE INDEX (CPI) - The standard index used and published monthly by the U.S. Department of Labor to measure the change in the cost of goods and services.

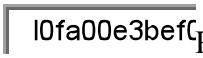
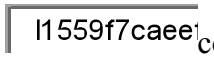
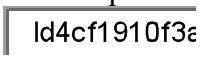
CONTINUING VIOLATION - A violation of a law or contract which is continuing in nature, and which therefore is not barred by any time limitation, even though the violation began before the time limitation period began.

CONTRACT - A labor agreement that has been negotiated between the employer and the employee union or association for a specific time period covering the wages, hours and other terms and conditions of employment for employees covered by the contract.

CONTRACT BAR - A period of time during the term of a contract when the incumbent union is protected from a take-over action by an outside union to call for an election in order to gain exclusive representation of employees represented by the incumbent union.

CONTRACT CAMPAIGN- A series of collective and visible actions/events (or "campaign") that runs parallel to negotiations at the bargaining table. It involves the use of strategic pressure on an employer's weaknesses, image and vulnerabilities to gain leverage during contract negotiations or during an organizing drive. These campaigns involve researching and analyzing an employer's social, legal, financial, and political networks and mobilizing union members, labor and community members in a comprehensive approach which does not rely on the strike alone as the basis of the union's leverage. Such contract campaigns are often multi-pronged that mobilizes the membership in creative and fun activities. They also require: a calendar of on-going actions that involve ever increasing pressure and unpredictability on the employer; benchmarks to evaluate each action's goals; and flexibility in the plan. However, one isolated action does not constitute a contract campaign, rather a successful contract campaign requires constant planned activity over time that engages the workers in order to be effective. At times these campaigns are also referred to as corporate campaigns.

CONTRACTING OUT - The employment of outside contractors to perform the work normally performed by the bargaining unit employees. Also called sub-contracting.

COOLING OFF PERIOD - Under the  Railway Labor Act (RLA), a period when parties that are at a  collective bargaining impasse are prohibited from engaging in  self help. When the NMB believes that mediation efforts will not result in an Agreement, the Board will make a "Proffer of Arbitration," which if rejected by either party (this is normally rejected) the NMB releases the parties from mediation to enter a "30-Day Cooling-Off Period." During the 30-Day Cooling-Off Period the parties continue negotiations to reach an agreement and normally reach an agreement during this period. If the parties are unable to reach an agreement during the Cooling-Off Period, either party can engage in "Self Help." For the Union, Self Help means engaging in activities that may inflict economic harm on the Company, up to and including a strike. For the Company, Self Help includes the right to unilaterally impose their changes to our Contract, or to lock us out. The end of the 30-Day Cooling-Off Period is commonly referred to as the "strike deadline," which almost always provides the time pressure needed to resolve the remaining issues in negotiations. During the Cooling-Off Period, the NMB invites the parties to further mediate the negotiations.

COORDINATED BARGAINING - Joint or cooperative efforts by several unions or bargaining units in dealing with an employer that has employees represented by each of the several unions.

COPE - Committee on Political Education or (PAC) Political Action Committee of the union. These are funded by voluntary contributions made by individual members for the purpose of supporting labor-

friendly legislation (health and safety, safe needle, safe staffing legislation, etc.) and sometime labor-endorsed political candidates.

CORPORATE CAMPAIGN - The use of strategic pressure on an employer's weak areas to gain leverage during a contract campaign or organizing drive. These campaigns involve analyzing an employer's social, financial, and political networks and mobilizing union members and community members in a comprehensive approach which does not rely on the strike alone as the basis of the union's power.

COSTING – The calculation of how much a change in wages, benefits, differentials, and other economic factors cost the employer. An absolutely critical and necessary element for any bargaining table.

COUNTER PROPOSAL – A proposal made by one party in negotiations as a response to a proposal made by the other party. An essential part of the negotiation process.

CRAFT UNIONS- Unions that organize workers in a single occupation or set of occupations along lines of their skilled crafts.

CRIME VICTIMS LEAVE - Mass. Gen. Laws ch. 268, § 14B covers al employees. Employee Eligibility: Employees who are victims of a crime or who are subpoenaed to attend a criminal action as a witness. Entitlement: An eligible employee may take time off from work to appear as a witness in a criminal proceeding. Employer Notice: Not specified. Employee Notice: Yes, the employee must notify the employer of the need for leave prior to day of attendance Obligation to Provide Certifications or Documents Supporting Need for Leave: Not specified. Paid?: Not specified Benefits: Not specified. Reinstatement: Employers may not discharge employees or subject them to threat of discharge or penalties because of attendance as witnesses at a criminal action.

DANBURY HATTERS' CASE – The Danbury Hatters' Case (Loewe v. Lawlor 208 US 274) was decided in 1908 by the U.S. Supreme Court. In 1902 the hatters' union, the United Hatters of North America, called for a nationwide boycott of the products of a nonunion hat manufacturer in Danbury, Conn., "The Hat City". The manufacturer, D.E. Loewe & Company, brought suit against the union for unlawfully combining to restrain trade in violation of the Sherman Antitrust Act. The Supreme Court by a vote of 9-0, held that the union was subject to an injunction and liable for the payment of treble damages. In effect, this decision outlawed secondary boycotts. This precedent for federal court interference with labor activities was later modified by statutes. And in the 1930s, unions won exemption from anti-trust litigation.

DAVIS-BACON ACT - Federal law passed in 1931 by Republican legislators and signed by President Herbert Hoover, that provides for the payment of wages by contractors engaged in construction, alteration or repair of public buildings or Federal contracts that must be no lower than locally prevailing wages and benefits for the same kind of work. These wage rates are fixed by the secretary of labor.

DAY OF REST - Most employers must allow a worker to have one day off after 6 consecutive days of work. This day off must include an unbroken period between 8 a.m. and 5 p.m. Day of rest laws (M.G.L. c. 149, Secs. 48-50).

DECERTIFICATION - An action by employees of a unit to decertify, or remove, the exclusive representation status of the existing union by the filing of petitions calling for an election to change to a

different union, or to become unrepresented.

DEFERRAL - A policy of the National Labor Relations Board (NLRB) not to process unfair labor practice charges if the charge can be filed as a grievance and taken up through a grievance and arbitration procedure. Known also as the *Collyer* Arbitration Deferral Policy.

DEFINED BENEFIT PLAN - A pension plan which guarantee a participant a pension for as long as he/she and his/her spouse are alive. The amount of the pension is generally based on a formula which takes into account a participant's final average earnings, age at retirement and years of service. The purpose of a defined benefit plan is to provide employees who retire with as much replacement income as possible for as long as they live. The plan is funded by the employer making sufficient contributions to the pension fund. The fund then makes prudent investments of the fund's assets and regardless of how well these investments perform, the obligation to fund the guaranteed pension benefits rests with the employer. Many employers are now trying to shift the burden of paying for retirement benefits onto their employees by shifting from defined benefit plans to defined contribution plans.

DEFINED CONTRIBUTION PLAN - In a defined contribution plan, an employer contributes each year a percentage of an employee's salary into a 401(k)-type individual account and leaves it up to the employee the responsibility of investing these assets prudently. If an employees' investments do not turn out well, or if the employee retires during a period of declining stock values, or if the employee outlives the value of his assets, then the employee is stuck without a core retirement income, and risks becoming a member of the elderly poor.

DE MINIMIS - Short for the Latin phrase, *de minimis non curat lex*, which means the law does not concern itself about trifles. This phrase may be used to describe a violation of law which is so small that it is not worth litigating.

DISTRIBUTIVE BARGAINING OR NEGOTIATION - Distributive bargaining is the approach to bargaining or negotiation that is used when the parties are trying to divide something up--distribute something. It contrasts with integrative bargaining in which the parties are trying to make more of something. This is most commonly explained in terms of a pie. Disputants can work together to make the pie bigger, so there is enough for both of them to have as much as they want, or they can focus on cutting the pie up, trying to get as much as they can for themselves. In general, integrative bargaining tends to be more cooperative, and distributive bargaining more competitive. Common tactics include trying to gain an advantage by insisting on negotiating on one's own home ground; having more negotiators than the other side, using tricks and deception to try to get the other side to concede more than you concede; making threats or issuing ultimatums; generally trying to force the other side to give in by overpowering them or outsmarting them, not by discussing the problem as an equal (as is done in integrative bargaining). Distributive bargaining is the most common approach used in labor negotiations.

D.O.L. - U.S. Department of Labor.

DOUBLE BREASTED OPERATION - A condition where an employer operates two closely related companies—one with a union contract and one without. Under such operation, the employer will normally assign most of the work to the non-union segment of its two companies.

DOVETAIL SENIORITY - The combination of two or more seniority lists (usually of different employers being merged) into a master seniority list, with each employee keeping the seniority previously acquired even though the employee may thereafter be employed by a new employer.

DUAL UNIONISM - Union members' activities on behalf of, or membership in, a rival union.

DUE PROCESS - The right guaranteed of all bargaining unit members (union, agency fee payers, and non-union) under the contract, the right to access to the grievance process and a fair and objective hearing for cases that are deemed to have merit.

DURATION CLAUSE (TERM OF AGREEMENT). - The contract clause that specifies the time period during which the agreement is in effect. Where an agreement has a term greater than three years, the agreement serves as a contract bar only during the first three years. An agreement can have an automatic renewal provision, in which case the bar also would be renewed. There may be separate duration clauses for different parts of the agreement. Duration clauses may provide for automatic renewal for a specified period of time if neither party exercises its right to reopen the agreement for renegotiation.

DUTY OF FAIR REPRESENTATION (DFR) - A union's obligation to represent all people in the bargaining unit as fairly and equally as possible. This requirement applies both in the creation and interpretation of collective bargaining agreements. A union is said to have violated its Duty of Fair Representation when a union's conduct toward a member of a collective bargaining unit is arbitrary, discriminatory, or in bad faith. A union steward, for example, may not ignore a grievance which has merit, nor can that grievance be processed in a perfunctory manner. It should be noted, however, that the employee in the bargaining unit has no absolute right to have a grievance filed or taken to arbitration if it is without merit. The union is obligated to investigate the issue and to give fair representation to all union members, and also to collective bargaining unit members who have not joined the union in "right-to-work" states, open shops or in public service units.

DUTY TO BARGAIN – An employer's obligation to recognize and bargain with a union under the NLRB, Section 8(a)(5) or state collective bargaining law or executive order as a result of the certification of the union as the bargaining agent. The duration of the duty to bargain depends on whether the union has been certified by the Board or voluntarily recognized. The basic requirements of the duty to bargain as outlined in Taft-Hartley Section 8(d) defines the duty as: *The performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours and other conditions of employment or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.*

ECONOMIC STRIKE - A work stoppage by employees seeking economic benefits such as wages, hours, or other working conditions. This differs from an unfair labor practice strike.

ELECTRONIC AUTHORIZATION CARDS - The National Labor Relations Board (NLRB) has made union organizing by email and social media a reality. The NLRB's General Counsel issued Memorandum 15-08 on September 1, 2015, stating that, "[e]ffective immediately, parties may submit electronic signatures in support of a showing of interest." Multiple forms of "electronic signature" will be accepted by the NLRB, including "email exchanges or internet/intranet sign-up methods." Options include a website that employees could access to complete an online "authorization form" or a form email

message. An authorization supported by electronic signature must include the signer's name, email address or social media account, telephone number, the actual "authorization" language to which the employee assents, the date of the submission, and the name of the employer. The submitting union also must provide a declaration identifying the technology used and explaining the identification controls within the system. Rather than signing an authorization card with a pen, employees will be offered the opportunity to affirm their desire for union representation by clicking a box.

EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) - This law requires that persons engaged in the administration and management of private pensions act with the care, skill, prudence, and diligence that a prudent person familiar with such matters would use. The law also sets up an insurance program under the Pension Benefit Guarantee Corporation (PBGC) which guarantees some pension benefits even if a plan becomes bankrupt.

EMPLOYEE STOCK OWNERSHIP PLANS - A form of compensation in which employees receive shares of stock in the company for which they work.

ENDTAIL SENIORITY - The combination of two or more seniority lists (usually from a merger of different employers) into a single seniority list with the group of employees from one company being placed at the bottom of the new seniority list.

EQUAL OPPORTUNITIES EMPLOYMENT COMMISSION (EEOC) – The Federal Government agency which administers most discrimination lawsuits. The commission oversees all types of work situations including hiring, firing, promotions, harassment, training, wages, and benefits. EEOC enforces federal laws that make it illegal to discriminate because of a person's race, color, religion, sex (including pregnancy, transgender status, and sexual orientation), national origin, age (40 or older), disability, or genetic information. In addition, it is against the law to discriminate against a person who complains about discrimination, who has filed a charge of discrimination, or who has participated in an employment discrimination investigation or lawsuit. (In fact, 54% of charges filed with the EEOC in 2019 were for retaliation.) Indeed, business ethics have changed considerably since the turbulent 1960s first roiled their relatively placid waters.

ESCALATOR CLAUSE – A union contract provision for the raising of wages according to changes in the cost of living index or a similar standard; most commonly referred to as a Cost of Living Adjustment (COLA).

ESCAPE CLAUSE - A provision in maintenance of membership union contracts giving union members an "escape period" during which they may resign from union membership. Members who do not exercise this option must remain members for the duration of the contract.

EVERGREEN CLAUSE - An automatic renewal clause. Such a clause purports to continue the terms of the contract indefinitely until the parties negotiate and ratifies a successor contract.

EXCELSIOR LIST - Established in the case of *Excelsior Underwear*, the list of names and addresses of employees eligible to vote in a union election. It is normally provided by the employer to the union within 10 days after the election date has been set or agreed upon at the NLRB. The Excelsior list is used as the list of voters during the NLRB-conducted election.

EXCLUSIVE REPRESENTATIVE - A union that has been recognized as having exclusive authority to negotiate wages, hours and working conditions on behalf of employees in the bargaining unit the union represents. Exclusive representation is usually attained by a petition and secret ballot election of employees in the unit.

EXECUTIVE ORDER – An executive order is an order issued by the President of the U.S, the head of the executive branch of the federal government. Pres. John F. Kennedy issued Executive Order 10988 which recognized the right of federal employees to bargain with management. This term also refers to an order issued by a governor of a state. An executive order can also be called a decree or orders-in-council. An executive order issued by the President or the chief executive officer of a state has the force of law, and it is promulgated in accordance with applicable law. A number of states have public sector collective bargaining rights only through a governor's executive order and not through state legislation, thereby making such rights dependent on the position and sentiments of the governor.

EXEMPT EMPLOYEE - An employee who is not covered by the Fair Labor Standards Act and is therefore not eligible for time-and-one-half monetary payments for overtime. Exempt employees are generally paid a salary rather than an hourly rate.

EXPEDITED ARBITRATION - An effort to streamline the arbitration hearing by reducing both time and cost. Transcripts and post hearing briefs are usually eliminated. Often the arbitrator issues a decision upon the completion of the hearing or shortly thereafter.

FACT FINDING - A procedure, usually advisory, to submit matters that are unresolved in a bargaining impasse. A hearing is held before a fact finder or a panel of three persons: a neutral fact finder, a person selected by the union and a person selected by the employer. A report and advisory recommendations regarding the disputed issues is issued following the hearing.

FAIR LABOR STANDARDS ACT (FLSA) - The 1938 federal Wage-Hour Law which establishes minimum wage, maximum weekly hours and overtime pay requirements in industries engaged in interstate commerce. The law also prohibited the labor of children under 16 years of age.

FAIR SHARE - In a union security clause of a contract, the amount a nonunion worker must contribute to a union to support collective bargaining activities. This arrangement is justified on the grounds that the union is obliged to represent all employees faithfully. The term is also referred to as an "agency fee".

FAIR TRADE – Fair trade is a social movement whose stated goal is to help producers in developing countries achieve better trading conditions and to promote sustainable farming. Fair trade is a system that starts from the premise that workers' lives have a value; this social benefit is partly what you pay for when you buy something. Members of the movement advocate the payment of higher prices to exporters, as well as improved social and environmental standards. The movement focuses in particular on commodities, or products which are typically exported from developing countries to developed countries, but also consumed in domestic markets (e.g. Brazil, India and Bangladesh) most notably handicrafts, coffee, cocoa, wine, sugar, fresh fruit, chocolate, flowers and gold. The movement seeks to promote greater equity in international trading partnerships through dialogue, transparency, and respect. It promotes sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers in developing countries. Fair trade is grounded in three core beliefs; first, producers have the power to express unity with consumers. Secondly, the world trade practices that currently exist promote the unequal distribution of wealth between nations. Lastly, buying products from

producers in developing countries at a fair price is a more efficient way of promoting sustainable development than traditional charity and aid. Fair trade doesn't just means farmers and producers receive more money so they can support their families in the short term—though that's vitally important. It also means they work under long-term contracts so their communities have enough security to invest in improvements both to their businesses (with more land or animals or better machinery) and their societies (with things like schools or health clinics). Typically, fair-trade producers are small cooperatives of workers using no child or forced labor, using organic or environmentally sustainable methods, and having high standards of animal welfare. Workers are free to join unions and bargain collectively to help improve their lives. Typically, fair trade producers sign up to some sort of labelling scheme that guarantees things have been made under good conditions.

FAMILY AND MEDICAL LEAVE ACT (FMLA) - Federal law establishing a basic floor of 12 weeks of unpaid family and medical leave in any 12-month period to deal with birth or adoption of a child, to care for an immediate family member with a "serious health condition", or to receive care when the employee is unable to work because of his or her own "serious health condition."

FAMILY LEAVE/PAID MATERNITY LEAVE - Out of 185 countries, the United States is one of just three countries that doesn't guarantee paid maternity leave, the others being Oman and Papua New Guinea. Over half of the countries that provide leave give at least 14 weeks off. In most countries, a social-security-type system is used to fund the paid time off, though in a small share of cases, the employer also foots part of the bill, as well. In the U.S., just 12 percent of workers have access to paid family leave through their employers. Worse, less than half of all workers are covered by unpaid leave, giving them few options when they have a new child. A quarter of women either quit their jobs or are let go when a new child arrives, and of those who get only partial pay or nothing at all, a third borrow money and/or dip into savings while 15 percent go on public assistance. Fathers are similarly not guaranteed paid time off for a new child in the United States, but 70 countries also offer paid paternity leave. However, three states (as of 2014), California, New Jersey, and Rhode Island, have implemented paid family leave programs.

FEATHERBEDDING – The term "featherbedding" arose in the 1940s from the use of featherbeds in the railway industry to make workers comfortable when they had little actual work to do since the union required firemen on trains that no longer used neither wood nor coal. Now the term is used in reference to the practice of hiring more workers than are needed to perform a given job, or to adopt work procedures which appear pointless, complex and time-consuming merely to employ additional workers. The term "make-work" is sometimes used as a synonym for featherbedding. In a 1965 bulletin the U. S. Department of Labor referred to "featherbedding" as: "a derogatory term applied to a practice, working rule, or agreement provision which limits output or requires employment of excess workers and thereby creates or preserves soft or unnecessary jobs; or to a charge or fee levied by a union upon a company for services which are not performed or not to be performed".

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) - The independent agency created by the Taft-Hartley Act in 1947 that provides the Federal mediators who mediate labor disputes which substantially affect interstate commerce.

FINAL OFFERS – Management will at times, put what they call a "final offer" on the table consisting of the outstanding issues for the union to consider. They may up the ante by calling it their "last, best and final offer" and put a specific timeline on it to add pressure to the Union committee. It is a tactic that amounts to a take-it-or-leave it offer. They see it as "a useful way to exert pressure on the union to act

upon management's final offer" and a "businesslike way of negotiating" according to Charles Loughran in *Negotiating a Labor Contract: A Management Handbook.* However, by simply declaring that this is their "final offer" does not in any way absolve management from their legal obligation and duty to bargain. Neither party may unilaterally or prematurely terminate the bargaining process by declaring that it is at an end. However, an employer's "final offer" attempts to do just that. When a "final offer" is put on the table, the union has no obligation to accept it or to take it to the membership for ratification. Rather the "duty to bargain" remains, despite the employer's attempt to unilaterally terminate bargaining. The union team may choose to view the "final offer" simply as one more package proposal and continue the process of bargaining. If the employer refuses to continue bargaining once they have put their "final offer" on the table, they may be in violation of their duty to bargain and an unfair labor practice charge could be filed – unless the parties are at a legitimate impasse. (See "impasse")

FREE RIDER – A worker in a bargaining unit who refuses to join the union yet happily accepts all the wages and benefits negotiated by the union.

FREE TRADE - Free trade is a policy to eliminate discrimination against imports and exports. Buyers and sellers from different economies may voluntarily trade without a government applying tariffs, quotas, subsidies or prohibitions on goods and services. Free trade is the opposite of trade protectionism or economic isolationism. However, there are significant negative effects of free trade. 1. **Adverse Working Conditions.** As underdeveloped countries attempt to cut costs to gain a price advantage, many workers in these countries face low pay, substandard working conditions and even forced labor and abusive child labor. This "race to the bottom," as critics call this drive to cut costs at the expense of human rights, and is a key target of protest. 2. **Environmental Damage.** According to critics, the increase of corporate farms in developing countries increases pesticide and energy use, and host countries ignore costly environmental standards. The Global Development and Environmental Institute, however, finds the environmental impact mixed. In some countries, for instance, replacing native crops with coffee and cocoa trees reduces erosion. The WTO is criticized for not allowing barriers to imports based on inadequate environmental standards in countries where goods are produced. Yet the WTO points to its ruling in the 1990s allowing a U.S. ban on shrimp imports because the fishing methods threatened endangered sea turtles outside U.S. borders. The extent to which environmental standards should be considered in free trade is an ongoing debate within the WTO. 3. **Job Loss.** Free trade agreements draw protests from the U.S. public due to feared job loss to foreign countries with cheaper labor. Yet proponents of free trade say new agreements improve the economy on all sides. There is no clear picture of whether free trade significantly affects U.S. employment levels, given all the economic forces that affect job rates. New York Times columnist Paul Krugman argues free trade deals with countries like Korea and Colombia aren't "job creation measures." Proponents of free trade contend that even if the economies of developing nations improve under free trade, those economies are still too small to have any real effect on the U.S. economy and job market. 4. **Union Opposition.** Unions have strongly criticized the North American Free Trade Agreement (NAFTA) between the United States, Mexico and Canada as critically harmful to workers and the U.S. economy. The AFL-CIO argues NAFTA has harmed consumers and workers in all three countries, contributing to a loss of jobs and drop in income while strengthening the clout of multinational corporations. The unions contend that the increased capital mobility facilitated by free trade has hurt the environment and weakened government regulation. 5. **Differences Among Economists.** The Council on Foreign Relations (CFR), an independent, nonpartisan think tank based in New York, reports that many economists agree NAFTA has caused some overall improvement in U.S. jobs, but with painful side effects. Free trade can cause turbulence in sectors of a domestic economy, such as long-established manufacturing segments already vulnerable to global competition. According to Edward Alden, a senior

fellow at CFR, wages have not kept pace with productivity of labor, and income inequality has increased--trends hastened to some extent by free trade.
Major trade agreements entered into by the United States should "contribute to democratic global economic governance and to promote good jobs, full employment and rising wages," Hoffa said. "A key element, of course, is strong labor rights protections so that every worker in every country can exercise fundamental human rights on the job without fear."
Some of the "free trade" agreements that the US is party to include: NAFTA; CAFTA; TTIP; etc. Pres. Trump withdrew from the Trans-Pacific Partnership (TPP) but is reconsidering.

FRIEDRICHS – The case of *Friedrichs v. California Teachers Association* aimed to overturn a nearly 40-year precedent which permitted the use of "fair share" fees for public sector unions, in which all bargaining unit members must pay for the costs associated with collective bargaining and contract administration. Given that all workers in unionized workplaces enjoy the benefits of unionization, and since unions are legally bound to represent all workers, requiring the use of unions' financial resources, unions have taken the position that workers who choose not to become members of unions must at least pay these fees in order to not become "free riders" - gaining benefits from union representation without paying a cent for them. The case went all the way to the U.S. Supreme Court. But with the death of Associate Justice Antonin Scalia in February 2016 and the resulting open seat, the court had only 8 members to decide cases. The U.S. Supreme Court issued its decision in March 2016 with a 4-4 split ruling. The 4-4 split ruling leaves intact the precedent established by *Abood v. Detroit Board of Education,* the 1977 case in which the court upheld the fair share fees that support collective bargaining. The decision simply leaves the lower court (the Ninth Circuit Court of Appeals) opinion in place and reserves the legal question for a future case. The ruling therefore does not put an end to the threat against fair share and collective bargaining. There are numerous other cases which are currently working their way through the legal system and this scenario may well likely be played out once again in the future.

FRINGE BENEFITS – Negotiated contract provisions other than wages and hours; for example, health insurance, welfare fund, pensions.

FRONT LOADING - The concentration of wage and benefit increases in the beginning of a contract.

GARNISHMENT - Deductions made by an employer from an employee's wages and rendered to a creditor of the employee.

GENERAL STRIKE - A strike by all or most organized workers in a community or nation.

GARRITY RIGHTS – Garrity Rights protect public employees from being compelled to incriminate themselves during investigatory interviews conducted by their employers. This protection stems from the Fifth Amendment to the United States Constitution, which declares that the government cannot compel a person to be a witness against him/herself. It was promulgated by the Supreme Court of the United States in Garrity v. New Jersey (1967). In that case, a police officer was compelled to make a statement or be fired, and then criminally prosecuted for his statement. The Supreme Court found that the officer had been deprived of his Fifth Amendment right to silence. A typical Garrity warning (exact wording varies between State or local investigative agencies) may read as follows: *You are being asked to provide information as part of an internal and/or administrative investigation. This is a voluntary interview and you do not have to answer questions if your answers would tend to implicate you in a crime. No disciplinary action will be taken against you solely for refusing to answer questions. However, the evidentiary value of your silence may be*

considered in administrative proceedings as part of the facts surrounding your case. Any statement you do choose to provide may be used as evidence in criminal and/or administrative proceedings.
The *Garrity* warning helps to ensure the subject's constitutional rights, while also helping state or local investigators preserve the evidentiary value of statements provided by subjects in concurrent administrative and criminal investigations.

GEOGRAPHIC WAGE DIFFERENTIALS - Differences in wage rates based upon locations of plants or industries.

GIG ECONOMY – The "gig economy" is "a labor market characterised by the prevalence of short-term contracts or freelance work, as opposed to permanent jobs". It is either a working environment that offers flexibility with regard to employment hours, or... it is a form of exploitation with very little workplace protection. Proponents of the gig economy claim that people can benefit from flexible hours, with control over how much time they can work as they juggle other priorities in their lives. Workers in the gig economy are classed as "independent contractors". That means they have no protection against unfair dismissal, no right to redundancy payments, and no right to receive the national minimum wage, paid holiday or sickness pay. The tech industry buzzword "gig" has distracted society from important questions about the gig economy that are surprisingly traditional: whether a business has employees or contractors, and how it can avoid payroll taxes and legal liability. Countless Silicon Valley business models have been built under the guise of gigs, Uber, Lyft and DoorDash are among the best known cases, which is ironic considering that for all of their high-tech pretensions, at the core both are taxi and food delivery services. But with state governments like California facing increasing revenue shortfalls and an estimated 57 million gig workers in the United States noting a lack of employer protections and fair wages, the matter has shifted to the courts. Over the past 40 years, the rise of neoliberalism has enabled employers to tilt the terms of our capitalist economies heavily toward capital and away from labor, via the evisceration of unions, the deconstruction of the welfare state, and the privatization of public services. The growing use of the independent contractor classification represents the latest attempt to exploit and amplify this power imbalance. The exploitation of this labor loophole is symptomatic of the rise of what author Albena Azmanova has called "precarity capitalism". In the judgments, the courts explicitly highlighted the massive imbalance in the so-called "contractor" relationship between the companies and their respective workforces, which invalidates any notion of the "contractors" being genuinely independent. In the Canadian case, *Uber Technologies Inc. v. Heller*, the Supreme Court specifically cited the inequality of bargaining power between the plaintiff and Uber, noting that driver David Heller was in fact powerless to negotiate any of its terms of his engagement with the company (which largely invalidated the notion that he was an independent contractor as Uber alleged). Likewise, in the UK Court of Appeals case, *Uber BV v. Aslam*, the judges noted that Uber's "drivers do not market themselves to the world in general; rather, they are recruited by Uber to work as integral components of its organization." In other words, Uber exercises full control over them as employees, but it attempts to escape its obligations by designating the drivers as independent contractors. Consequently, the UK Court of Appeal characterized Uber's description of the work relationship "a sham." The success of these legal cases has encouraged further challenges: DoorDash, "the US market leader in food delivery," is now being faced with a preliminary injunction by San Francisco's district attorney to "force the company to reclassify its workers as employees," reports the Financial Times.

GLOBALIZATION – Globalization is the trend of increasing interaction between peoples on a worldwide scale due to advances in transportation and communication technology. Globalization is primarily an economic process of integration that has social and cultural aspects, but conflicts and diplomacy are also large parts of the history of globalization. Economically, globalization involves goods

and services, and the economic resources of capital, technology, and data. The biggest problem for developed countries is that jobs are lost and transferred to lower cost countries. Workers in developed countries like the US face pay-cut demands from employers who threaten to export jobs. This has created a culture of fear for many middle class workers who have little leverage in this global game. Large multi-national corporations have the ability to exploit tax havens in other countries to avoid paying taxes.

GOOD FAITH - The mutual legal obligation of the employer and the employee union to negotiate over mandatory subjects of bargaining. In practical terms, this means approaching bargaining with an open mind, following procedures that will enhance the prospects of settlement, being willing to meet as often as necessary, providing the union with the information it needs to bargain meaningfully, discussing the demands of employees freely and justifying negative responses to these demands and considering compromise proposals. This requirement rises out of Section 8(d) of the National Labor Relations Act or state collective bargaining law (where the Union is certified as the exclusive representative). It is enforced by the National Labor Relations Board or state agency. Under the NLRA, the parties are required: "To bargain collectively .... to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession..."

GRANDFATHER/MOTHER CLAUSE - An exception in a contract article that either exempts or continues a prior benefit to those covered employees who were employed prior to the negotiation of that article.

HARRIS v. QUINN - A US labor law case argued at the Supreme Court regarding provisions of Illinois state law that allowed a union security agreement. Since the Taft-Hartley Act of 1947 prohibited the closed shop, states could still choose whether to allow unions to collect agency fees from non-union members since the collective agreements with the employer would still benefit non-union members. The Court decided 5–4 that Illinois's Public Labor Relations Act, which permitted the union security agreements, violated the First Amendment. Though its decision in Harris v. Quinn was narrow, saying that, in some cases, unions could not collect fees from one particular class of public employees who did not want to join, its language suggests that this may be the court's first step toward nationalizing the "right to work" gospel by embedding it in constitutional law. The petitioners in Harris were several home-care workers who did not want to join a union, though a majority of their co-workers had voted in favor of joining one. Under Illinois law, they were still required to contribute their "fair share" to the costs of representation — a provision, known as an "agency fee," that is prohibited in "right to work" states. The Court ruled that the workers could not be compelled to join the union since they were not fully-fledged state employees, as they are hired or fired by individual patients even if they are paid by Medicaid.

HATCH ACT – A Federal law that, as amended by the Taft-Hartley Act, forbids corporations or unions from making contributions or expenditures in connection with elections for certain federal offices. The Hatch Act of 1939, officially An Act to Prevent Pernicious Political Activities' main provision prohibits employees in the executive branch of the federal government, except the president, vice-president, and certain designated high-level officials of that branch, from engaging in some forms of political activity. The law was named for Senator Carl Hatch of New Mexico. The Hatch Act Reform Amendments of 1993 permit most Federal employees to take an active part in partisan political management and partisan political campaigns. While Federal employees are still prohibited from seeking public office in partisan

elections, most employees are free to work, while off duty, on the partisan campaigns of the candidates of their choice.

HIPAA – An acronym that stands for the Health Insurance Portability and Accountability Act, a law designed to provide privacy standards to protect patients' medical records and other health information provided to health plans, doctors, hospitals and other health care providers. Developed by the Dept. of Health and Human Services, these new standards provide patients with access to their medical records and more control over how their personal health information (PHI) is used and disclosed. HIPAA's original intent was to reform the healthcare industry by reducing costs, simplifying administrative processes and burdens, and improving the privacy and security of patients' health information. It has been known as the Kennedy–Kassebaum Act after two of its leading sponsors. Title I (the portability section) of HIPAA protects health insurance coverage for workers and their families when they change or lose their jobs. Today HIPAA compliance mainly revolves around the last item: protecting the privacy and security of patients' health information. Employers often cite HIPAA (almost always incorrectly), as the reason that they cannot provide information requested by the union of workplace injuries etc.

HIRING HALL – Union hiring halls are primarily found among unions in the construction industry. A union hiring hall is where a union "hires out" workers to employers who have work and is roughly similar to an employment agency. The waiting list of unemployed workers is also commonly referred to as "the bench".

HOSTILE WORK ENVIRONMENT - Continuous, low level discriminatory remarks or behaviors that cumulatively 'poison' the workplace for the aggrieved victim enough to alter the terms, conditions or privileges of the workplace, and are commonly considered by the courts and the EEOC as equivalently unlawful to more overt forms of discrimination.

HOUSEVISITS, HOMECALLS, AND HOUSECALLS - Terms used to describe visits by union staff, union members, volunteers, or organizing committee members to the homes of workers they are attempting to organize. Such visits give organizers an opportunity to discuss the union and answer questions of unorganized workers in a relaxed and secure atmosphere.

HOT CARGO CLAUSES - Clauses in union contracts permitting employees to refuse to handle or work on goods shipped from a struck plant or to perform services benefiting an employer listed on a union unfair list. Most hot cargo clauses were made illegal by the Taft-Hartley Act but there are some exceptions.

ILLEGAL SUBJECT OF BARGAINING - A prohibited subject of bargaining; a matter that would deny either party its legal rights. A proposal by management to restrict the filing of grievances is an example of an illegal subject of bargaining.

IMMIGRATION AND NATIONALITY ACT (INA) - requires employers who want to use foreign temporary workers on H-2A visas to get a labor certificate from the Employment and Training Administration certifying that there are not sufficient, able, willing and qualified U.S. workers available to do the work. The labor standards protections of the H-2A program are enforced by The Wage and Hour Division.

IMPACT BARGAINING – Negotiating sessions which may be held after the contract is settled to address sudden changes in working conditions or other mandatory subjects.

IMPASSE - The point in negotiations at which one or both parties determine that no further progress can be made toward reaching agreement at that point in time. If the employer declares impasse in the private sector it may lead to an imposition of terms and conditions. The Union could challenge a premature declaration or a false impasse by: filing an unfair labor practice charge; waiting with passage of some time; and/or strike. The "duty to bargain" remains on both parties nonetheless. In many states with public sector collective bargaining, a declaration of impasse is often a part of the process that leads to mediation and/or fact-finding or other dispute resolution methods.

INDUSTRIAL UNIONS- Unions that organize all workers, regardless of particular skills or classifications, in a particular industry who produce a single product or set of products.

INFORMATIONAL PICKETING - A type of picketing done with the express intent not to cause a work stoppage, but to publicize either the existence of a labor dispute or information concerning the dispute.

INJUNCTIONS 10(j) - Section 10(j) of the National Labor Relations Act authorizes the National Labor Relations Board to seek temporary injunctions against employers and unions in federal district courts to stop unfair labor practices while the case is being litigated before administrative law judges and the Board. These temporary injunctions are needed to protect the process of collective bargaining and employee rights under the Act, and to ensure that Board decisions will be meaningful. The section was added as part of a set of reforms to the Act in 1947.

INTEGRATIVE NEGOTIATION - Integrative negotiation is also often referred to as Interest Based Bargaining or 'win-win' bargaining. It involves a process that integrates the aims and goals of the involved negotiating parties through creative and collaborative problem solving. It differs significantly from the traditional approach to collective bargaining of distributive bargaining. The parties are trained in the approach and often use a facilitator throughout the process. The bargaining is based on mutual trust where the parties openly share information in the goal to solve their problems in a manner that benefits both parties.

INTEREST ARBITRATION - An arbitration, mutually agreed upon by the parties that gives the arbitrator the authority to determine what provisions the parties are to have in their collective bargaining agreement. This differs from grievance arbitration which interprets and applies the terms of an agreement to decide a grievance.

INTEREST-BASED BARGAINING (IBB) - A bargaining technique in which the parties start with (or at least focus on) interests rather than proposals; agree on criteria of acceptability that will be used to evaluate alternatives; generate several alternatives that are consistent with their interests, and apply the agreed-upon acceptability criteria to the alternatives so generated in order to arrive at mutually acceptable contract provisions. The success of the technique depends, in large measure, on mutual trust, candor, and a willingness to share information. (Compare with the duty to bargain in good faith.) But even where these are lacking, the technique, with its focus on interests and on developing alternatives, tends to make the parties more flexible and open to alternative solutions and thus increases the likelihood of agreement. IBB often is contrasted with "position-based" bargaining, in which the parties start with proposals (which implicitly are solutions to known or inferred problems). However, even in position-based bargaining the parties normally are expected to justify their proposals in terms of their interests by identifying the problems to which the proposals are intended as solutions. Once the interests are on the table, the parties

are in a position to evaluate their initial and subsequent proposals--whether generated by group brainstorming (a common method of generating alternatives in IBB) or by more customary methods--in terms of the extent they are likely to effectively and efficiently solve problems without creating additional problems.

INTERMITTENT LEAVE - Leave taken in separate, non-contiguous periods of time due to a single illness or injury. This is permitted under the FMLA.

INSIDE STRATEGY - The use of mass grievances, working to rule, rolling sick-outs, informational picketing, and other forms of resistance designed to pressure an employer to meet the union's demands without the union resorting to a strike.

INTERVENOR - A union which wants to be on the ballot when another union has already petitioned for an election.

JANUS v. AFSCME - The issue in Janus v. American Federation of State, County, and Municipal Employees, Council 31 (known as Janus v. AFSCME) was whether public sector unions can require public employees who are not members of the union to pay so-called "agency" or "fair share" fees. Twenty-three states laws require the payment of such fees. The idea is that the non-union public employees benefit from collective bargaining of the union so they should pay their fair share for the union's representation, even if they aren't union members. In June 2018, the Supreme Court issued a decision in favor of Janus. Until this decision, it had been settled law since a 1977 Supreme Court decision called Abood v. Detroit Board of Education that unions can only ask non-union members to pay for non-political activities like collective bargaining and are prohibited from requiring that they pay for political activities. However, the 5-4 ruling in Janus only paid lip service to the fact that states, public unions, and public employees have relied on Abood for more than 40 years. Mark Janus, an Illinois public employee who is not a member of a union, claimed that the state law requiring that he pay fair share fees to his union violated his speech and associational rights. The court weighed the First Amendment burdens faced by non-union public employees who are required to pay fair share fees against the benefits those employees get from a union's representation against the problem that unions face from free riders. The court concluded that the First Amendment interests of public employees would prevail.

JOB ACTION - A concerted, coordinated activity by employees designed to put pressure on the employer to influence bargaining. Examples include: work stoppages or shutdowns, sickouts and protest demonstrations, wearing T-shirts, buttons, or hats with union slogans, holding parking lot meetings, collective refusal of voluntary overtime, reporting to work in a group, petition signing, jamming phone lines, etc.

JOURNEYMAN – A worker who has completed apprenticeship in a trade or craft and is therefore considered a qualified skilled worker.

JUST CAUSE - The “just cause” article in a labor contract provides a standard of protections against arbitrary or unfair termination and other forms of inappropriate workplace discipline. Just cause mandates that management must meet a burden of proof to justify discipline or discharge. The principle of just cause requires that the employer have a justifiable reason for any disciplinary action it takes against an employee. An employer must show just cause only if a contract requires it. Most contracts have just cause requirements which place the burden of proof for just cause on the employer.

KENTUCKY RIVER – The term "Kentucky River" is a short-handed way to refer to the Kentucky River Trilogy that involved three cases which the NLRB selected to once again revisit the definition of "supervisors" and potentially impacting 8 million workers. The cases were: Oakwood Healthcare Inc., 348 NLRB 37; Golden Crest Care Center, 348 NLRB 39; and, Croft Metal, Inc., 348 NLRB 38. The issue involved whether registered nurses and other construction foremen, team leaders and lead workers in various fields of work were essentially supervisors, and therefore not employees. The NLRA defines supervisors as "any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgment." This means that supervisors are not considered as "employees" under the act and do not have the rights or protections to organize a union. In 2006 the NLRB issued its revised definition of "supervisor" which ruled that an employee is a supervisor if he/she has the authority to do any of the above listed functions, provided that the exercise of that authority requires the use of independent judgement and is exercised in the interest of the employer. This interpretation continues to be tested and challenged as unions negotiate contract language protecting workers' status as "employees" and thereby their right to be in a union.

LABOR MOVIES – The Best Labor Union Movies of All Time as compiled by John M. Becker

How Green Was My Valley (US, 1941)
John Ford's epic story of a family of Welsh coal miners (with Walter Pidgeon and Maureen O'Hara playing the parents) contains at its heart a debate about unionizing. While Ford keeps the focus on the family dynamics and the issue of worker safety, he weaves throughout the film the various pro- and anti-union arguments, leaving the final word for the local minister: "First, have your union. You need it. Alone you are weak. Together you are strong."

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Directed by Herbert Biberman, *Salt of the Earth* is famous in film history because nearly everyone involved in making the movie was blacklisted by Hollywood as part of the Red Scare of the 1950s, also known as the McCarthy Era for Wisconsin Senator Joseph McCarthy. The film tells the story of a 1951 strike in New Mexico against a zinc mining company. The story is unusual for the time in that most of the workers are Mexican immigrants; in addition, a major aspect of the story is the struggle between the male workers and their wives. The striking male workers want their wives to stay at home, cook and take care of the children. The women want to help the men win the strike. Guess who wins that argument? When the mine owner obtains an injunction against the striking workers, the women step up and maintain the picket lines.

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For many people of a certain age, Elia Kazan's movie of conflict on the docks between a brutal union leader (Johnny Friendly, played by Lee J. Cobb) and a disillusioned dockworker (Marlon Brando) was their first introduction to the idea of a union and it was not a positive image. Kazan, who had just testified before the Un-American Activities Committee, where he named names of possible Communists, was clearly trying to make a point about the heroism of standing up for what you believe against overwhelming odds. But union workers know that the power of a Johnny Friendly pales in comparison to the power of the people that run the companies that ultimately pay the workers. Perhaps it would have helped to know that Johnny Friendly was based on an actual

ILA leader who severely disciplined by the American Federation of Labor for his violent tactics.

The Pajama Game (US, 1957)
At first glance, *The Pajama Game* is just another Hollywood musical based, in this case, on the play of the same name and featuring the song "Steam Heat." But upon closer examination, *The Pajama Game* turns out to be a story about a labor-management struggle. Doris Day plays the union steward in a pajama-making factory who has been pushing for a raise. John Raitt is a superintendent. These representatives of labor and management begin a love affair, but their work roles drive them apart, and after Day damages some machinery during a slowdown, Superintendent Raitt fires her. But then (through the magic of movies), Raitt discovers nefarious doings in management and manages to bring Doris back (to work and to him), get everyone the raise and they all live happily after. OK, it's not *Schindler's List*, but there is a message beneath the singing and dancing. Co-directed by George Abbott (also a co-writer) and Stanley Donen.

I'm All Right, Jack (UK, 1959)
John Boulting directed this satirical British film about the plot of a sinister company owner to drive the price of his product up by inciting the workers to strike, and then having the business transferred to a rival company, which he also secretly owns. The whole thing is played for broad laughs, most of them generated by Peter Sellers as the union boss with Bolshevik sympathies and a Hitler mustache. A cynical look at union leaders and management both, in the end it is clear who has the real power.

The Molly Maguires (US, 1970)
Martin Ritt directed this tale of coal miners in Northeastern Pennsylvania in the 1870s, which is based on a true story. The Molly Maguires, led by Jack Kehoe (Sean Connery), is a sort of proto-union that is at war with the mine owners in pursuit of better pay and working conditions. The differences between the Molly Maguires and a true union are significant: Connery's group is a secret organization, and they are comfortable with using violence to achieve their ends. A Pinkerton Detective (Richard Harris) infiltrates the group and attempts to uncover its secrets, with tragic results. Ritt would revisit the union theme in 1979 with *Norma Rae*.

Harlan County, USA (US, 1976)
Director Barbara Kopple won an Oscar for Best Documentary for her on-the-spot reporting of a 1972 Kentucky miners' strike in *Harlan County, USA*. Confrontations between striking workers and hired strikebreakers quickly became violent, and even Kopple and her cameraman were beaten. The film reminds audiences that, even in the 1970s, management tactics such as these were commonplace and the dream of a workplace where management and labor lived in perfect harmony was still far off.

F.I.S.T. (US, 1978) / **Hoffa** (US, 1992)
Hoffa is a well-made but ambivalent biopic of the Teamsters leader, with a pitch-perfect performance by Jack Nicholson, directed by co-star Danny DeVito. We get the good, the bad and the ugly of the controversial union leader, both his tireless dedication to the workers he represented as well as some of the poor choices he made while in power. Made 14 years earlier, *F.I.S.T.*, directed by Norman Jewison and starring Sylvester Stallone, takes the basic outlines of Hoffa's biography and fictionalizes them. The result is not great moviemaking and Stallone proves that he should keep to the boxing ring. Neither movie has an answer to the question, Where is Jimmy Hoffa's body?

Blue Collar (US, 1978)
Paul Schrader, the man who wrote *Taxi Driver*, wrote and directed this crime drama, which places itself squarely in the "unions are corrupt" camp. Richard Pryor, Yaphet Kotto and Harvey Keitel are Detroit auto workers who are so angry at mistreatment by management and their union that they decide to rob the union. In the safe, they find evidence of corruption and links to organized crime. As in *On the Waterfront*, the theme is little guys vs. big organizations, but the assumption that all unions are corrupt was by that point a stereotype, not an accurate assessment based on the facts. At the same time, the movie fails to explore the vast power differential between the two purported "enemies" of the little guys – as always, management holds most of the cards.

Norma Rae (US, 1979)
If *On the Waterfront* established the prototype of unions for one generation, *Norma Rae* reversed the impression for the next. Directed by Martin Ritt and starring Oscar-winner Sally Field and Ron Liebman, the film focuses on a union organizing campaign in a southern textile mill. Along the way, we get a "two different worlds" love story between Field and Liebman, a look at family life and coping on the low wages of textile work, and a view of what working in a textile mill actually looks and sounds like. The movie ends optimistically, but in real life (as is often the case, especially in right to work states), the pro-union vote was only the beginning of the struggle.

Silkwood (US, 1983)
Mike Nichols directed Meryl Streep in this taut thriller about an employee of a plutonium company who stumbles on to some serious safety defects in the radioactive products. Streep plays a union steward at Kerr-McGee and it is clearly her association with the union that underlies much of her activity in the second half of the movie, although the script keeps union references to a minimum. The film is very effective at showing how union stewards communicate with other workers at work and at home. Ultimately, Silkwood decides to blow the whistle and give the information to a reporter, but is killed in a mysterious car accident on the way to the meeting. The movie suggests that the "accident" may have been murder, but the case has never been solved.

Matewan (US, 1987)
Chris Cooper, James Earl Jones and Mary McConnell star in this fictionalized recreation of a 1920 struggle between West Virginia coal miners trying to improve their lot by organizing a union and the owners (and their hired thugs) who want to continue to exploit. John Sayles, who wrote and directed *Matewan*, explores not just the willingness of the owners to use all means necessary to regain control, but also tensions between black and white workers, between men and women, and between the outsider (Cooper, playing a UMW organizer) and the natives. Somehow, Sayles completed the project, with its massive cast and spectacular battle scenes, for under $4 million.

Roger & Me (US, 1989)
Michael Moore, documentarian and propagandist, had his first hit with this wry tale of his attempts to meet with General Motors CEO Roger Smith (presumably to tell him off). Along the way, Moore guides us through a few decades of history (mostly accurately), focusing on the men and women employed by GM over the years, especially those in Moore's hometown of Flint, Michigan. While Moore has his critics, and his throw-it-all-up-there-and-see-what-sticks approach can be annoying, his central point is sound: that the big companies who decide to lay off workers and close plants or move plants overseas are not controlled by the economy – they <u>are</u> the economy. The best evidence of this is the fact that no matter how badly the workers and former workers are doing (to the point of

selling rabbits "for pets or meat"), people like Roger Smith do just fine.

Newsies! (US, 1992)
Another labor musical – this time from Disney. Based on the 1899 New York City newsboys strike, this dancing and singing extravaganza stars a young Christian Bale, with support from Bill Pullman, Ann-Margret and Robert Duvall. More than just *Annie* with newspapers, the film shows the desperate poverty that newsboys lived in, although it doesn't explain how they can sing and dance so well on such a meagre diet.

Germinal (France, 1993)
Claude Berri directed this film version of the 19th Century novel by Émile Zola that relates French coal miners' attempts to organize a union in the 1860s. Gerard Depardieu stars as the leader of a strike that begins well but collapses into a riot. Depardieu is blamed for the failure, leading his arch-enemy, an anarchist miner, to attempt to kill him in the mine. I won't spoil the ending.

Office Space (US, 1999)
Mike Judge's contemporary comedy doesn't really have anything to do with unions, but it does say a lot about the absurdity of the modern workplace, particularly the business office setting. Though the concept and characters are better than the actual plot, there are enough knowing laughs (TPS reports, flair, etc.) to sustain the viewer though to the end. For some reason, Jennifer Anniston is in it. And would someone please give me back my stapler? You know the one, red, Trimline…

Bread and Roses (UK, 2000)
British filmmaker and chronicler of the working class Ken Loach went to California to tell the fictionalized story of two Central American immigrants who become involved in a janitors strike in Los Angeles. The film is based on SEIU's April 1990 Justice for Janitors strike and also deals with issues of race, class and immigration. Adrian Brody plays a union lawyer.

Made in Dagenham (UK, 2010)
Underrated British actress Sally Hawkins turns in a subtle and convincing performance as a unionized sewing machinist, one of many women who sewed upholstery for cars at a Ford plant in England. Eventually, Hawkins and her union lead the women on a strike based on unequal pay between male and female workers. The movie is based on actual events in the Dagenham Ford plant in 1968. Nigel Cole directed. Co-stars include Bob Hoskins, Miranda Richardson and Rosamund Pike.

Plus:

North Country (2005)
Set in and around the iron mines of Northern Minnesota between 1989 and 1991, Niki Caro's muscular and absorbing drama addresses workplace sexual harassment at its most primitive and bludgeoning. A dowdy Charlize Theron is Josey Aimes, a poor single mother and newly hired miner. Hated by the men and unprotected by the union, Josey and her peers are relentlessly groped and sadistically bullied — behavior that reflects a community riddled with regressive misogyny. Driven by righteous anger and inspired by a spearheading real-life lawsuit, the movie rises above its fight-the-power formula with a fabulous cast — including Sissy Spacek, Frances McDormand and Woody Harrelson — and a potent sense of place. In Chris Menges's gorgeously smoky shots of blasted earth and gnashing machinery, spraying explosions and blackened pits, we see an

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LANDRUM-GRIFFIN ACT of 1959 - Also known as the Labor-Management Reporting and Disclosure Act (LMRDA), it provides safeguards for individual union members, requires periodic reports by unions, and regulates union trusteeships and elections.

LEAFLETTING – An action by the union of standing outside of the work facility and leafletting all who enter or pass by the site. It is a manner of informing employees and the public at the worksite of a pending issue and of pressuring the employer as well as. It also helps the union to define the matter/problem/dispute before the management does and is a physical show of strength and unity. Such leafletting at health care facilities does not require a ten-day notice as it would for an informational picketing or a strike.

LILLY LEDBETTER FAIR PAY ACT OF 2009 - is a Federal statute that was the first bill signed into law by Pres. Barack Obama on January 29, 2009. The Act amends the Civil Rights Act of 1964. The new act states that the 180-day statute of limitations for filing an equal-pay lawsuit regarding pay discrimination resets with each new paycheck affected by that discriminatory action. The law directly addressed *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007), a U.S. Supreme Court decision that the statute of limitations for presenting an equal-pay lawsuit begins on the date that the employer makes the initial discriminatory wage decision, not at the date of the most recent paycheck. The act is

named after Lilly Ledbetter. Lilly Ledbetter was one of a few female supervisors at the Goodyear plant in Gadsden, Alabama, and worked there for close to two decades. She faced sexual harassment at the plant and was told by her boss that he didn't think a woman should be working there. Her co-workers bragged about their overtime pay, but Goodyear did not allow its employees to discuss their pay, and Ms. Ledbetter did not know she was the subject of discrimination until she received an anonymous note revealing the salaries of three of the male managers. After she filed a complaint with the EEOC, her case went to trial, and the jury awarded her back-pay and approximately $3.3 million in compensatory and punitive damages for the extreme nature of the pay discrimination to which she had been subjected. The Court of Appeals for the Eleventh Circuit reversed the jury verdict, holding that her case was filed too late – even though Ms. Ledbetter continued to receive discriminatory pay – because the company's original decision on her pay had been made years earlier. In a 5-4 decision authored by Justice Alito, the Supreme Court upheld the Eleventh Circuit decision and ruled that employees cannot challenge ongoing pay discrimination if the employer's original discriminatory pay decision occurred more than 180 days earlier, even when the employee continues to receive paychecks that have been discriminatorily reduced.

LIVING WAGE ORDINANCE - A living wage ordinance is a local—usually city—law that establishes a wage floor for a specific group of workers. While each ordinance is unique, they all establish a wage floor above that of the federal or state minimum wage. Typically, activists propose a wage level derived by dividing the poverty threshold by full-time, full-year work. The motivation for living wage ordinances originates with two related trends: the deterioration of the economic opportunities available to low-income working families, and the use of taxpayer dollars to create poverty-level jobs. Unlike the minimum wage, which covers the vast majority of the low-wage workforce, living wage ordinances have much narrower coverage—a few hundred in a small city, a few thousand in larger cities like Seattle, Oakland, Lexington Kentucky, Portland Maine, Los Angeles and Chicago.

L-M REPORTS - The annual financial statement of income and expenses, including the salaries of union officers and staff. Unions are required by law to file with the Labor Management (LM) Division of the U.S. Department of Labor.

LOCKOUT - Action by the employer to prohibit employees from entering the workplace during a labor dispute or employee strike. A lockout is the employer counterpart of a strike and is used primarily to pressure employees to accept the employer's terms in a new contract.

LONGEVITY DIFFERENTIAL - A payment, above the base rate of pay, based on years of service. This payment does not become part of an employee's base pay.

LOUDERMILL - Employee rights deriving from a 1985 US Supreme court decision 470 U.S. 532 (U.S. 1985 Cleveland Board of Education vs. Loudermill) that most public (but not private) employees have a property right in their jobs. An employee cannot be dismissed without due process involving pre-termination hearing that gives them the opportunity to present their side of the story. A "Loudermill" hearing is part of the "due process" requirement that must be provided to a government employee prior to removing or impacting the employment property right (e.g. imposing severe discipline). It also give the employees a right to pre-termination hearing that gives them the opportunity to present their part. Loudermill rights include a written or oral notice regarding why they are being fired. Specific evidence to any charges against them must be given to them and a pre-termination hearing is also to be given where the employee can respond to the charges made against him or her.

MAINTENANCE OF MEMBERSHIP - A clause that requires all employees who are voluntary

members of a union or association to maintain their membership during the term of the labor contract. Typically, there is a window ("escape clause") during the term of the contract during which employees may withdraw from the union.

MAKE WHOLE - A catchall phrase used in grievances and other legal action where a remedy is sought from an employer. Often used in discharge and discipline cases where the union seeks to have a worker, who had been wrongly discharged or disciplined, returned to work and reimbursed all wages, benefits, or other conditions lost due to an employer's unjustified action.

MANAGEMENT RIGHTS - A contract clause that states the claimed rights of employers to control operational aspects of the workplace which are not limited by specific terms of the contract. The management rights clause automatically expires with the agreement if there is no extension (Racetrack Food Services, 353 NLRB 76, Dec. 31, 2008, and The Bohemian Club and UNITE/HERE Local 2, 351 NLRB59, Nov. 19, 2007). "*A contractual reservation of managerial discretion does not extend beyond the expiration of the contract unless the contract provides for it to outlive the contract*" (Blue Circle Cement Co., 319 NLRB 954 (1995). This means that all of the implied rights that are assumed in the management rights clause and rights that are not specifically granted in the contract - are no longer in effect. Therefore, when a contract expires and there is no extension, the union can issue demands to bargain over virtually all of those items before the employer can implement or act upon them.

MANDATORY SUBJECTS OF BARGAINING – Topics that must be negotiated over if the union and employer are to engage in good faith bargaining. Mandatory subjects include: hours; wages; and, working conditions. However, there is no obligation on either party to reach agreement on a mandatory subject being bargained, but rather there is an obligation to engage in the bargaining process.

MAPPING THE WORKPLACE – Mapping involves the actual drawing of the physical workplace including an outline of the various work areas or stations, entrances, machines, desks, supervisor's work stations or locations, etc. Such mapping is helpful to identify where the stewards are located, as well as the managers, and work groups, work paths and meeting areas where breaks are taken, and also which physical areas are where most grievances occur.

MASTER CONTRACT - A union contract covering several companies in one industry. For example, the National Master Freight Agreement covers Teamsters members employed by a number of companies.

MEAL BREAKS – In accordance with Massachusetts General Laws **(**Meal break laws (M.G.L. c. 149, secs. 100 and 101) employees working more than 6 hours are entitled to a meal break. Workers have a right to at least a 30-minute meal break for each 6 hours worked in a calendar day. During their meal break, workers must be free of all duties and free to leave the workplace. This break may be unpaid. Employers may require workers to take their meal breaks. Employees may agree to work through their meal breaks, but they must be paid. If, at the request of the employer, a worker agrees to work or stay at the workplace during the meal break, the worker must be paid for that time.

MEDIATION - The involvement by a neutral agent (often provided by the Federal Mediation and Conciliation Service or state agency) to assist in negotiations by discussing the disputed issues with the parties together or separately, and assisting the parties in reaching a settlement. This is a voluntary procedure that is non-binding on the parties.

MEET AND CONFER – Depending on the setting and the state involved, "meet and confer" generally means - an informal process through which labor and management work together to solve or avoid problems, or strive to improve the working environment. Adjunct to, but not a substitute for the collective bargaining process. In some states, there is no structure or definition as to what this actually means leaving it vague and allowing the parties to use it and construct it as they see fit. Meet and confer must allow a discussion of policies and other matters related to their employment, but is in most cases not full contract negotiations which result in a collective bargaining agreement.

MEMORANDUM OF AGREEMENT - Most often an MOA (or MOU – Memorandum of Understanding) refers to the written document summarizing the terms of settlement for an initial contract or a successor collective bargaining agreement and signed by both parties. Sometime it is also used to refer to the written collective bargaining agreement itself.

MERIT INCREASE/PAY FOR PERFORMANCE – An increase in wages given to an employee by the employer to supposedly reward good performance on the job. Merit increases lack objective criteria for awarding increases, and thus allows for abuses and favoritism to enter into the decision awarding such increase.

MID-TERM BARGAINING - Literally, all bargaining that takes place *during the life of the contract* by mutual agreement of the parties. Usually contrasted with term bargaining--i.e., with the renegotiation of an expired (or expiring) contract.

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (MSPA) - regulates the hiring and employment activities of agricultural employers, farm labor contractors, and associations using migrant and seasonal agricultural workers. The Act prescribes wage protections, housing and transportation safety standards, farm labor contractor registration requirements, and disclosure requirements.

MOHAWK VALLEY FORMULA - The Mohawk Valley formula is a plan for strikebreaking purportedly written by the president of the Remington Rand company James Rand, Jr. around the time of the Remington Rand strike at Ilion, New York in 1936/37. The plan includes discrediting union leaders, frightening the public with the threat of violence, using local police and vigilantes to intimidate strikers, forming puppet associations of "loyal employees" to influence public debate, fortifying workplaces, employing large numbers of replacement workers, and threatening to close the plant if work is not resumed. The Remington Rand company ruthlessly suppressed the strikes, as documented in a ruling by the NLRB, and the plan has been accepted as a guide to the methods that were used. One source names the strikebreaker Pearl Bergoff and his so-called "Bergoff Technique" as the origin of the formula. Rand and Bergoff were both indicted by the same federal grand jury for their roles in the Remington Rand strike. Noam Chomsky has described the formula as the result of business owners' trend away from violent strikebreaking to a "scientific" approach based on propaganda. An essential feature of this approach is the identification of the management's interests with "Americanism," while labor activism is portrayed as the work of un-American outsiders. Workers are thus persuaded to turn against the activists and toward management to demonstrate their patriotism.

MOTHER JONES - Mary G. Harris Jones (1837 - 1930), known as Mother Jones from 1897 onwards, was an Irish-born American schoolteacher and dressmaker who became a prominent union organizer, community organizer, and activist. She helped coordinate major strikes and co-founded the Industrial Workers of the World. After Jones' husband and four children all died of yellow fever in

1867, and her dress shop was destroyed in the Great Chicago Fire of 1871, she became an organizer for the Knights of Labor and the United Mine Workers union. In 1902, she was called "the most dangerous woman in America" for her success in organizing mine workers and their families against the mine owners. In 1903, to protest the lax enforcement of the child labor laws in the Pennsylvania mines and silk mills, she organized a children's march from Philadelphia to the home of President Theodore Roosevelt in New York. One of her last public appearances was at a birthday celebration on May 1, 1930, when she claimed to be 100. (May 1 is the international labor holiday in most of the world.) This birthday was celebrated at workers' events around the country. Mother Jones died on November 30 of that year. She was buried at the Miners Cemetery at Mount Olive, Illinois, at her request: It was the only cemetery owned by a union.

MOST FAVORED NATIONS CLAUSE - A clause in a collective bargaining agreement where the parties agree that if another contract is signed with another bargaining unit containing more favorable terms, such terms will automatically apply to the present contract. Also may be referred to as a “me too” clause.

NATIONAL LABOR RELATIONS ACT OF 1935 (NLRA) - The Federal law guaranteeing workers the right to participate in unions without management reprisals. It was modified in 1947 with the passage of the Taft-Hartley Act, and modified again in 1959 by the passage of the Landrum-Griffin Act.

NATIONAL LABOR RELATIONS BOARD (NLRB) - Agency created by the National Labor Relations Act, 1935, and continued through subsequent amendment, whose functions are to define the appropriate bargaining units, to hold elections, to determine whether a majority of workers want to be represented by a specific union or no union, to certify unions to represent employees, to interpret and apply the Act's provisions prohibiting certain employer and union unfair practices, and otherwise to administer the provisions of the Act.

NATIONAL MEDIATION BOARD (NMB) - Established under the Railway Labor Act, the NMB conducts representation elections, regulates major disputes, and appoints arbitrators and boards to decide minor disputes in the railway and airline industry.

NEUTRALITY AGREEMENT - An employer agrees not to interfere in its employees’ decisions about whether to join a union and the employees and union agree not to disrupt the workplace through strikes, picketing or boycotts.

NEUTRALITY/CARD CHECK NEUTRALITY - A neutrality agreement is one in which an employer agrees not to indicate support or opposition to the efforts of their employees to organize for union representation. The employer agrees to not hold mandatory meetings, issue campaign literature, hire consultants or in any way interfere with the workers' right to choose a union. Card Check neutrality agreements include the provision that the employer will recognize the union without a costly and time consuming election if the majority of workers sign a petition or authorization cards indicating their support of the union.

NLRB POSTINGS DURING THE COVID PANDEMIC - On May 6, 2020, the NLRB “announce[d] . . . a temporary change in the Board’s standard notice-posting remedy to adapt to the ongoing Coronavirus pandemic.” The temporary change applies to both physical posting and e-distributing of the Notice to Employees in unfair labor practice cases. *Danbury Ambulance Service*, 368 NLRB No. 69 (May 6, 2020). As noted by the NLRB, the standard notice-posting provision requires posting copies of the notice within

14 days after the notice is served on the party (union or employer) responsible for posting. That practice has to be temporarily changed because the remedy would be hollow if the individuals to whom the notice is directed (employees or bargaining unit members) are not in the workplace to read the notice.

The Board detailed the changes as follows:

- For an employer that has closed due to the pandemic or does not have a substantial complement of employees at its facility, elimination from the notice-posting remedy of the requirement that the notice be posted within 14 days after service by the Region.
- Instead, the notice must be posted within 14 days after the employer that has closed due to the pandemic reopens and a "substantial complement" of employees have returned to work.
- Any pandemic-related delay in the physical posting of paper notices will also apply to electronic distribution of the notice.
- These changes do not apply to employers whose facilities remain open and staffed by a substantial complement of employees despite the pandemic.

NO RAIDING PACT - An agreement between unions not to attempt to organize workers already under represented by another union. Articles XX and XXI of the AFL-CIO constitution provides measures to enforce no raiding among affiliated unions and measures for resolution.

NORRIS–LA GUARDIA ACT - (also known as the **Anti-Injunction Bill**) is a 1932 United States federal law on US labor law. It banned yellow-dog contracts, barred the federal courts from issuing injunctions against nonviolent labor disputes, and created a positive right of noninterference by employers against workers joining trade unions. The common title comes from the names of the sponsors of the legislation: Senator George W. Norris of Nebraska and Representative Fiorello H. La Guardia of New York, both Republicans. The Act states that yellow-dog contracts, where workers agree as a condition of employment not to join a labor union, are unenforceable in federal court. It also establishes that employees are free to form unions without employer interference and prevents the federal courts from issuing injunctions in nonviolent labor disputes. The three provisions include protecting worker's self-organization and liberty or "collective bargaining," removing jurisdiction from federal courts vis-a-vis the issuance of injunctions in non-violent labor disputes, and outlawing the "yellow-dog" contract.

***NORRIS-THERMADORE* RULE** - When the union and the employer sign a written eligibility agreement, the agreement will control, and challenges will not be heard unless the challenges involve persons, such as supervisors, guards or other professional or confidential employees according to the Act or NLRB policy [119 NLRB 1301, 41 LRRM 1283 (1958)]. To codify its policy, the Board, in Norris-Thermadore, adopted the policy that parties to a representation proceeding should be permitted definitively to resolve as between themselves issues of eligibility prior to the election if they clearly evidence their intention to do so in writing. Therefore, where parties enter into a written and signed agreement which expressly provides that issues of eligibility resolved therein shall be final and binding upon the parties, such an agreement, and only such an agreement, is considered a final determination of the eligibility issues unless it is, in part or in whole, contrary to the Act or established Board policy. This is known as the Norris-Thermadore rule since it was adopted in Norris-Thermadore Corp.

NO-STRIKE CLAUSE - A clause in a collective bargaining agreement between a union and employer that the union will not engage in any strike or other economic activities against the employer during the term of the Agreement and may include a ban on informational picketing and/or sympathy strikes. A no-strike clause in a collective bargaining agreement is considered the quid pro quo for an arbitration obligation. Such a clause usually includes a no-lockout provision also protecting workers from being locked out by the employer.

NO SUBCONTRACTING – A contract clause that prohibits the employer from subcontracting out bargaining unit work to non-bargaining unit workers. If the employer hires non-bargaining unit workers with such a contract clause in place, the union can file a grievance on behalf of affected union members against the company for breach of contract and to recover lost wages and benefits.

OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA): The Law which authorizes the OSHA agency to set standards, obligates employers to provide a safe workplace, and provides for enforcement of the standards. The law encourages the states to develop their own safety laws which displace the federal law. Pres. Richard M. Nixon signed OSHA into law on December 29, 1970. OSHA's mission is to "assure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education and assistance". The agency is also charged with enforcing a variety of whistleblower statutes and regulations.

OFFSHORING - Offshoring means having the business functions of a company done in another country. Most often, work is offshored in order to reduce labor expenses. Companies also justify offshoring for strategic reasons — to enter new markets, to tap talent currently unavailable domestically or to overcome regulations that prevent specific activities domestically. Such a practice is often criticized for transferring jobs to other countries. Other risks include geopolitical risk, language differences and poor communication etc. With the growth of IT-enabled services, there has been a dramatic increase of offshoring. Former General Electric CEO, Jack Welch allegedly once stated that *"Ideally you'd have every plant you own on a barge"* - ready to move if any national government tried to impose restraints on the factories' operations, or if workers demanded better wages and working conditions. The rationalized economic logic of this statement was that factories should float between countries to take advantage of lowest costs, be they due to under-valued exchange rates, low taxes, subsidies, or a surfeit of cheap labor.

OFF-THE-RECORD - Discussions or talks that occur where no official record is kept, and notes are not taken. Such discussions usually take place at the bargaining table with the committees present. Often these talks are helpful to change the atmosphere and to help clear the air and to understand either parties' impediments or hurdles.

OPEN NEGOTIATIONS – This is a process of having open contract negotiations which are open to all bargaining unit members and any others that the Union identifies and deems as part of its contract negotiating committee. Those attending such open sessions are never referred to or called "observers" which the management team possibly could object to being present. However, either side may construct its bargaining teams as they see fit as within their rights under the NLRA or state collective bargaining laws. If the management refuses to bargain with such an expanded union bargaining team, that may be a violation of the law and cause for an unfair labor practice charge. In some states with public sector collective bargaining – such as Florida – open sessions to *anyone* are a part of the statute.

OPEN SHOP - A bargaining unit in a company or workplace at which the workers, though represented by a duly-elected union, are not required to pay the union dues or service fees for representation which the union is nevertheless legally required to provide.

ORGANIZING MODEL OF UNIONS - The philosophy and concept that the primary function of a union's officers and staff is to organize members to have ownership of their union and to exert collective power to solve problems. This is in contrast to the service or business model.

OUTSOURCING – Outsourcing refers to a company contracting work out to a 3rd party. Usually companies justify the outsourcing to take advantage of specialized skills, cost efficiencies and labor flexibility. It often involves the contracting out of a business process (e.g. payroll processing, claims processing) and operational, and/or non-core functions (e.g. manufacturing, facility management, call center support) to another party. Outsourcing includes both foreign and domestic contracting, and sometimes includes offshoring (relocating a business function to a distant country) or nearshoring (transferring a business process to a nearby country). Outsourcing is often confused with offshoring, however, they can be distinguished: a company can outsource (work with a service provider) and not offshore to a distant country.

PAID SICK LEAVE - The national sick leave trend continues to gain momentum as voters in Massachusetts, Trenton and Montclair, New Jersey, and Oakland, California approved ballot initiatives requiring employers within each jurisdiction to provide sick leave to their employees. Similar laws already have taken effect in several jurisdictions across the country, including the States of Connecticut and California, and localities such as New York City, Jersey City, Newark, D.C., Seattle, San Diego, San Francisco, and Portland and Eugene, Oregon. Massachusetts employers with 11 or more employees must provide up to forty hours of paid sick leave per year. Employers with fewer than 11 employees must provide up to 40 hours of unpaid sick leave. Oakland, California voters approved a local ordinance providing more generous sick leave benefits than California's state-wide sick leave law. Oakland employers with 10 or more employees must provide up to 72 hours of paid sick leave per year. Employers with fewer than 10 employees must provide up to 40 hours of paid sick leave. In New Jersey, Trenton and Montclair employers with 10 or more employees must provide up to 40 hours of paid sick leave per year. Employers with fewer than 10 employees must provide up to 24 hours of paid sick leave, subject to certain exceptions. The New Jersey legislature also is considering a sick leave bill that, if passed in its current form, would not preempt the growing patchwork of local laws passed in the state. In total, five states (California, Connecticut, Massachusetts, Oregon and Vermont) and more than two dozen cities, counties and towns now have paid sick leave laws.

PAID FAMILY MEDICAL LEAVE - Is a state-offered benefit under MGL c.175M for anyone who works in Massachusetts and is eligible to take up to 26 weeks of paid leave for medical or family reasons. PFML is funded through a Massachusetts tax, and is separate from both the federally mandated benefits offered by the Family Medical Leave Act (FMLA) and from leave benefits that may be offered by your employer. PFML is funded through a tax of no greater than 0.75% of eligible worker's wages paid by the employee and, potentially, your employer. The amount will vary depending on how much is being contributed by each party. The maximum amount that could come out of your paycheck is $0.38 per $100.00.
PFML benefits will become available on January 1, 2021.

Paid family leave may be taken to:

- Care for a sick family member
- Bond with a newborn child
- Bond with a child after adoption or foster care placement
- Manage family affairs when a family member is on active duty in the armed forces

Paid medical leave may be taken to:

- Manage a personal serious injury or illness

To be eligible to receive paid leave under PFML, a worker must have earned at least $5100 in the previous 12 months. PFML eligibility is not dependent on how long an individual has worked for a current employer. To qualify for FMLA, an employee must have been with their employer for at least 12 months, with at least 1,250 hours worked over that time. Private sector employers must have over 50 employees to qualify for eligibility. FMLA also applies to all public sector workers and workers in all public and private schools.

PAID SICK LEAVE - MGL c.149, §§ 148C and 148D. Employees who work for employers having 11 or more employees may earn and use up to 40 hours of paid sick time per calendar year, while employees working for smaller employers may earn and use up to 40 hours of unpaid sick time per calendar year. It can be used: to recover from physical/mental illness or injury; to seek medical diagnosis, treatment, or preventative care; to care for a family member who is ill or needs medical diagnosis, treatment, or preventative care; to attend the worker's or a family member's routine medical appointment; or to address needs that may arise if the worker or the worker's dependent child is a victim of domestic violence. An employee earns 1 hour of sick time for every 30 hours worked, up to a maximum of 40 hours per year. If the workplace has 11 or more workers, that time must be paid. If the workplace has fewer than 11 workers, the sick time may be unpaid—but an employee can't be fired or punished for taking it. All covered employees are protected against being fired or punished for using or requesting their sick time (including threats, discipline, demotion, reduction in hours, termination, etc.).

PAST PRACTICE - An unwritten, repeated application of a work rule or policy over a period of time that is known and accepted by both labor and management but does not appear in the written contract. Past practice is used by arbitrators to judge how a contract term has been interpreted at the workplace when the language of the agreement is ambiguous.

PATCO - The Professional Air Traffic Controllers Organization was a trade union that operated from 1968 until its decertification in 1981 following an illegal strike that was broken by the Ronald Reagan. The 1981 strike and defeat of PATCO has been referred to as "one of the most important events in late twentieth century U.S. labor history". Reagan's busting of the union opened the floodgates to union busting nationwide as he "legitimized" the practice.

PATTERN BARGAINING - Collective bargaining in which the union tries to apply identical terms, conditions, or demands to a number of employers in an industry although the employers act individually rather than as a group.

PENSION BENEFIT GUARANTEE CORPORATION (PBGC) - A Federal Corporation which guarantees that vested participants in private pension plans will receive some pension benefits even if a pension plan becomes bankrupt.

PERB - (PUBLIC EMPLOYMENT RELATIONS BOARD) may also be called SLRB (State Labor Relations Board) and SERB (State Employment Relations Board) among others - depending on the state public employee collective bargaining law. An administrative agency charged with administering the state's collective bargaining statutes covering public employees.

PERMANENT REPLACEMENTS - Under current labor law, when employees engage in an economic strike, the employer has the right to hire permanent replacements. After the strike has ended, if no back-to-work agreement is reached between the union and the employer, employees replaced during the strike are put on a preferential hiring list and must wait for openings to occur.

PERMISSIVE (VOLUNTARY) SUBJECT OF BARGAINING - A matter that is not a mandatory subject of bargaining involving wages, hours or working condition, but that the parties agree to discuss at the bargaining table. Permissive subjects of bargaining may not be taken into the impasse procedure in the event that bargaining reaches impasse.

PERSUADER RULE – In March 2016, the Department of Labor (DOL) issued a long-awaited rule that will require employers to disclose which outside consultants they hire to counter workers' union organizing efforts. Under the so-called persuader rule, which was first proposed in 2011, employers will be required to report any actions, conduct or communications that are undertaken to — explicitly or implicitly, directly or indirectly — affect an employee's decisions regarding his or her representation or collective bargaining rights. This will allow workers the opportunity to know whether the messages that they are receiving at work is from their employer and supervisors or from a paid, third-party consultant who operates in the shadows. The rule closes a longstanding loophole in the Labor Management Reporting and Disclosure Act of (Landrum-Griffin Act of1959) that allowed employers to hire consultants and create strategies against union-organizing campaigns — in some cases, even scripting managers' communications with employees — without disclosing any information. Prior to the rule, employers were only required to disclose hiring an outside firm if the consultants made direct contact with employees. This rule now gives workers information about the source of those views, materials, and policies that are being used to influence their decisions about how to exercise their right to choose union representation or engage in collective bargaining. However, as of June 2016 - U.S. District Judge Sam Cummings in Lubbock, Texas, agreed with the National Federation of Independent Business and other business groups in their lawsuit that the Department of Labor's "persuader rule" impermissibly did away with a provision of federal law that exempts employers from disclosing when they merely receive advice on responding to union organizing. So the ruling is on hold for now (September 2016).

PIECE WORK - Pay by the number of units completed. The theory is that the faster you work, the more you will get paid.

PINKERTONS - Pinkerton, founded as the Pinkerton National Detective Agency, is a private security guard and detective agency established in the United States by Allan Pinkerton in 1850 and currently a subsidiary of Securitas AB. During the labor strikes of the late 19th and early 20th centuries, businessmen hired the Pinkerton Agency to infiltrate unions, supply guards, keep strikers and suspected unionists out of factories, and recruit goon squads to intimidate workers. One such confrontation was the Homestead Strike of 1892, in which Pinkerton agents were called in to reinforce the strikebreaking measures of

industrialist Henry Clay Frick, acting on behalf of Andrew Carnegie. The ensuing battle between Pinkerton agents and striking workers led to the deaths of seven Pinkerton agents and nine steelworkers. The Pinkertons were also used as guards in coal, iron, and lumber disputes in Illinois, Michigan, New York, Pennsylvania, and West Virginia as well as the Great Railroad Strike of 1877 and the Battle of Blair Mountain in 1921. The organization was pejoratively called the "Pinks" by its opponents. In the late 1930's, Henry Ford, the man who is known in the history books for introducing the assembly line and decent factory wages--on the theory that well-paid workers could buy a mass-produced product--didn't much like the idea of Walter Reuther and the UAW attempting to organize his company. So Ford hired the Pinkerton Detective Agency, known for its ability to destroy unions. The Pinkertons weren't afraid to use fists, guns or clubs to break the bodies and spirits of union organizers and striking workers and they did so frequently, but failed to break the union and its organizing efforts at the Ford motor company.

PREGNANCY DISCRIMINATION ACT - The Pregnancy Discrimination Act (PDA) of 1978 (Pub.L. 95–555) is a United States federal statute. It amended Title VII of the Civil Rights Act of 1964 to "prohibit sex discrimination on the basis of pregnancy." The Act covers discrimination "on the basis of pregnancy, childbirth, or related medical conditions." Employers with fewer than 15 employees are exempted from the Act. Employers are exempt from providing medical coverage for elective abortions, unless the mother's life is threatened, but are required to provide disability and sick leave for women who are recovering from an abortion. The Pregnancy Discrimination Act requires employers to treat pregnant women the same way they do all other workers or job applicants. It is an amendment to Title VII of the Civil Rights Act of 1964 and is covered under sex discrimination. The Pregnancy Discrimination Act was a result of two Supreme Court cases which ruled that excluding medical and disability benefits for pregnant women was not discriminatory. In 1978, because of these decisions, Congress amended the Civil Rights Act to specifically prohibit sex discrimination on the basis of pregnancy

Employers may not make decisions about hiring applicants or firing or promoting workers based on pregnancy, childbirth, or related medical conditions. All companies that employ 15 or more people are subject to this law.

Here is how the law protects pregnant job seekers and employees:

- Employers cannot refuse to hire applicants because of their pregnancy or pregnancy-related conditions. An employer is not required, however, to hire an unqualified candidate or one who is less qualified than another.
- Employers can't require pregnant workers to submit to special procedures that determine their ability to perform job duties unless the employer holds all other employees and job applicants to the same requirement.
- If a pregnancy-related medical condition keeps a worker from performing job duties, the employer must not treat that individual any differently than other temporarily disabled employees in making accommodations.
- Employers may not prohibit pregnant employees from working and may not refuse to allow them to return to work after giving birth.
- Employer-provided health insurance plans must not treat pregnancy-related conditions any differently than they do other medical issues.
- Employers can't require pregnant workers to pay higher health insurance deductibles than no - pregnant employees.

PREMIUM PAY - An extra amount over the normal hourly time rates, sometimes a flat sum, sometimes a percentage of the wage rates, paid to workers to compensate them for inconvenient hours, overtime, hazardous, or unpleasant conditions, or other undesirable circumstances.

PREVAILING WAGE- Generally the wage prevailing in a locality for a certain type of work. It is a wage determinant for many federal construction projects under the Davis-Bacon Act. The term does not necessarily refer to union wages.

PRIVATE SECTOR - The part of the economy that is not state or government controlled (despite may having received government funds), and is run by individuals and companies for profit. The private sector encompasses all for-profit businesses that are not owned or operated by the government.

PRIVATIZATION – Selling or leasing public sector or government functions to private entities or businesses.

PROJECT LABOR AGREEMENTS - A Project Labor Agreement (PLA) is a type of pre-hire agreement designed to facilitate complex construction projects which puts all workers, regardless of union, under a separate, umbrella contract that applies only to a specific project. A product of collective bargaining, PLAs govern the work rules, pay rates, and dispute resolution processes for every worker on the project. These agreements do not require employers to sign collective bargaining agreements. These agreements ensure elimination of all work stoppages for the duration of the project, through a project-long no-strike, no-lockout commitment, with binding procedures to resolve all disputes, assuring productive labor relations.

PROTECTED ACTIVITY - Activity by an employee such as participating in union activity, filing an appeal, appearing as a witness on behalf of another employee or the union, marching in a picket line. Such activities are called “protected” because the employee is legally protected from retaliation by the employer for engaging in such activities.

PUBLIC EMPLOYEE - A person who is employed by a municipal, county, state, or federal agency or state college or university.

PUBLIC SECTOR - The part of the economy concerned with providing basic government services and is funded and controlled by a governmental agency. The composition of the public sector varies by country, but in most countries the public sector includes such services as the police, military, public roads, public transit, primary education and healthcare for the poor. The public sector accounts for about 20% of the US economy.

QUID PRO QUO - A Latin phrase meaning literally, "What for what." The phrase describes an implied or expressed expectation that one party will get something for something else given up.

RAIDING - A union's attempt to enroll workers belonging to or represented by another union.

RAILWAY LABOR ACT OF 1926 (RLA) - This law regulates labor relations in the railway and airlines industries, guaranteeing workers in these industries the right to form a union and bargain collectively. The RLA severely controls the timing and right to strike. Also, bargaining units under the RLA are usually nation-wide, making it more difficult for workers to form a union.

RANK AND FILE – The workers, members of the union.

RATIFICATION - A vote or other action by the union or association to accept or reject a contract that has been negotiated between the union and the employer. Likewise, the action by the governing body to adopt the agreement, thus making it a binding contract.

RED CIRCLE - A method of targeting certain job classifications for special treatment in wage negotiating, with both good and bad results possible.

REDUCTION-IN-FORCE (RIF) - A layoff situation.

REGRESSIVE BARGAINING - Reneging on a proposal submitted in negotiations or making a proposal that moves away from agreement by removing or reducing the value of items previously placed the table.

REOPENER CLAUSE - A clause that sets a date or circumstance to open negotiations on one or more issues in the contract but does not open the entire contract for negotiation.

REPLACEMENT - Workers hired to replace employees on strike. In the case of economic strikers, the strikers retain their employee status while on strike; however, the company may hire permanent replacements, and may legally refuse to reinstate strikers who have been permanently replaced. In this situation, if there are permanent replacements, economic strikers are generally entitled to reinstatement when the replacements leave. In the case of unfair labor practice strikes, the strikers must be reinstated with few exceptions.

REPRESENTATION ELECTION - Election conducted to determine by a majority vote of workers whether they want a union.

REST PERIODS – There are no mandatory workday Rest Periods in Massachusetts While some states have labor regulations requiring that employees be allowed one or more workday rest periods, the Massachusetts government has no such regulations. Therefore, in Massachusetts, any breaks or rest periods are provided to employees at the discretion of the employer.

RETROACTIVE PAY - Retroactive pay (or back pay), is a retroactive wage increase. For example, a negotiated contract expires December 31st but employees continue to work while a new contract is negotiated. A new contract is approved the following March which includes a pay increase retroactive to January 1st. The retroactive increase, or back pay, is paid for work beginning January 1st.

"RIGHT-TO-WORK" LAWS - A total misnomer. It is an anti-union term coined to describe state laws that make it illegal for a collective bargaining agreement to contain clauses requiring union membership as a condition of employment. Such so-called "right to work" laws encourages the use of "free riders" by forcing union members to subsidize the benefits of collective bargaining for people not willing to pay their fair share.

"RIGHT-TO WORK" STATES - States which have passed laws prohibiting unions from negotiating union shop clauses in their contracts with employers covered by the NLRA. There are currently 26 so-called "right-to-work" states. Labor usually refers to these as "right to work for less" states. There are national "right to work" bills that right-wing/anti-union Congressional legislators would like to see enacted as law.

RUNAWAY SHOP - A plant transferred to another location, usually another city, in order to destroy union effectiveness and evade bargaining duties. The best block to a runaway shop is unambiguous contract language which prohibits any move of a plant.

SALTING – Salting occurs when union employees or organizers, or union members, apply for and get jobs with a targeted employer who is usually unaware of the salt's true motive, which is to unionize the employees of the "salted" employer. This also occurs when the salts openly state their union affiliation so that, if the employer refuses to consider or hire them, they or their union can claim that they were discriminate against because of their union status.

SAVINGS CLAUSE - A contract clause that protects all articles and provisions of the contract except those which may have become null and void due to unforeseen legislative or judicial decisions.

SCAB – A strikebreaker.

The Scab

A Poem by: Jack London (1876-1916)

After God had finished the rattlesnake, the toad, and the vampire, he had some awful substance left with which he made a scab.
A scab is a two-legged animal with a corkscrew soul, a water brain, a combination backbone of jelly and glue. Where others have hearts, he(she) carries a tumor of rotten principles.
When a scab comes down the street, men/women turn their backs and angels weep in heaven, and the devil shuts the gates of hell to keep him/her out.
No man (or woman) has a right to scab so long as there is a pool of water to drown his/her carcass in, or a rope long enough to hang his/her body with. Judas was a gentleman compared with a scab. For betraying his master, he had character enough to hang himself. A scab has not.
Esau sold his birthright for a mess of pottage. Judas sold his Savior for thirty pieces of silver. Benedict Arnold sold his country for a promise of a commission in the British army. The scab sells his/her birthright, country, his/her wife/husband, hi/hers children and his/her fellowmen/women for an unfulfilled promise from his/her employer.
Esau was a traitor to himself; Judas was a traitor to his God; Benedict Arnold was a traitor to his country; a scab is a traitor to his/her God, his/her country, his/her family and his/her class."

SCOPE OF BARGAINING - The range of topics and subjects within the scope of a particular set of negotiations leading to a collective bargaining agreement. These may vary widely in the public sector due to the specifics of each state's collective bargaining laws.

SECONDARY ACTIVITIES - Strikes, picketing, boycotts, or other activities directed by a union against an employer with whom it has no dispute, in order to pressure on that employer to stop doing business with, or to bring pressure against another employer with whom the union does have a dispute.

SECONDARY BOYCOTT - Refusal to deal with a neutral party in a labor dispute, usually accompanied by a demand that brings pressure upon the employer involved in the dispute to accede to the boycott's terms. *A group's refusal to work for, purchase from, or handle the products of a business with which the group has no dispute.* A secondary boycott is an attempt to influence the actions of one business by exerting pressure on another business. For example, assume that a group has a complaint against the Acme

Company. Assume further that the Widget Company is the major supplier to the Acme Company. If the complaining group informs the Widget Company that it will persuade the public to stop doing business with the company unless it stops doing business with Acme Company, such a boycott of the Widget Company would be a secondary boycott. The intended effect of such a boycott would be to influence the actions of Acme Company by organizing against its major supplier. Generally a secondary boycott is considered an Unfair Labor Practice when it is organized by a labor union. Congress first acted to prohibit secondary boycotts in the Taft-Hartley Act. Congress limits the right of labor unions to conduct secondary boycotts because such activity is considered basically unfair and because it can have a devastating effect on intrastate and interstate commerce and the general state of the economy.

SECTION 13 (c) - Section 13(c) of the Urban Mass Transportation Act of 1964, now found at 49 U.S.C. Section 5333(b) of the Federal Public Transportation Act. This section protects: existing public/private sector collective bargaining rights (whether or not the state has a public sector collective bargaining law or bans public sector unions altogether); mandatory and/or traditional subjects of bargaining; jobs and benefits against adverse impacts from federal funds; and provides a resolution procedure for disputes over making collective bargaining agreements and the terms of the Section 13(c) Agreements

SENIORITY - A worker's length of service with the employer. Seniority often determines layoff order, promotions, recall or transfers. Various forms of seniority may be negotiated, including: facility-wide seniority; bargaining unit seniority; and classification seniority.

SERVICE FEE - An assessment of non-members in a bargaining unit to help defray the union's costs in negotiating and administering the contract (see Agency Shop).

SERVICE MODEL OF UNIONISM - The concept that the primary function of a union, its staff, and its officers is to service the members or solve the members' problems for them. This is in contrast to the organizing Model of Unions. Also referred to as the "business model of unionism."

SHOWING OF INTEREST - A requirement by the NLRB that must be met by a union when a union wishes to represent a group of employees. There are several showing of interest requirements used by the NLRB.
1) A petitioning union needs 30% of the eligible members in the union.
2) Where a union has petitioned and another union wishes to intervene, the second union must have 30% of the unit it seeks.
3) Where a union petitions and another union wishes to intervene in the same unit to the extent of blocking a consent election agreement, it must have 10%.
4) Usually, a showing of one or two cards is enough for a second union to intervene only to have their name on the ballot or to participate in a hearing.
5) A current or recently expired contract is also a criterion for showing of interest.

SICK-OUTS – A form of industrial labor action in which workers report out sick simultaneously in a plant or workplace. Such actions are not protected activity under the NLRA and most state collective bargaining laws.

SIDE-BAR - A discussion that occurs away from the bargaining table usually between the chief negotiators from either side. Often side-bars are used to probe areas of settlement or to clarify questions or to share information. Side-bar talks are always off-the-record and cannot be used in any litigation. In some negative instances side-bars have been used to actually reach an agreement without the full

negotiating committee involvement. The use of side-bars always cuts out the entire bargaining team and inevitably creates suspicion and division. It is a tactic that management prefers and unions should avoid and despite its wide usage, it is not a normal part of the negotiation process.

SIDE LETTER- An agreement outside the main body of the contract similar to an addendum, but usually as binding as any other clause in the contract itself unless explicitly stated otherwise.

SIT-DOWN STRIKE - In June, 1934, Rex Murray, president of the General Tire local in Akron, Ohio, discussed a pending strike with fellow unionists. If they hit the bricks, the police would beat them up. But if they sat down inside the plant and hugged the machines, the police wouldn't use violence. They might hurt the machines! So began the era of the sitdown strikes effectively used by unions like the Rubber Workers and Auto Workers to build the CIO. The sit-down period lasted only through 1937, but it provided labor history with one of its most colorful chapters.

SIXTY DAY NOTICE - The minimum notice in private sector contracts that, under the Taft-Hartley Act, must be given by either party to a collective bargaining agreement when desiring to reopen or terminate it. No strike or lockout may begin during these 60 days. This notice is 90 days for health care units. The parties however may agree to a longer period of time (but never less time) to give such notice which usually is found in the contract's duration clause.

SLOWDOWN - A form of protest where workers deliberately lessen the amount of work for a particular purpose.

SMALL NECESSITIES LEAVE ACT - MGL c.149, § 52D(b) Massachusetts Small Necessities Leave Act allows employees who qualify under the federal family and medical leave act to take off up to 24 hours in a 12 month period for:

- your child's school activities, such as parent-teacher conferences
- your child's medical appointments
- your elderly relative's medical appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

SOCIAL JUSTICE UNIONISM - Unions which look beyond immediate objectives to try to reform social conditions and which also consider unionism as a means of appealing to needs of members which are not strictly economic. In addition to fighting for economic gains, social unions have education, health, welfare, artistic, recreation, and citizenship programs to attempt to satisfy needs of members' whole personalities. Labor - social unionists believe, has an obligation to better the general society.

SOCIAL MEDIA AND THE NLRB - The National Labor Relations Act protects the rights of employees to act together to address conditions at work, with or without a union. This protection extends to certain work-related conversations conducted on social media, such as Facebook and Twitter.
To ensure consistent enforcement actions, and in response to requests from employers for guidance in this developing area, Acting General Counsel Lafe Solomon released three memos in 2011 and 2012 detailing the results of investigations in dozens of social media cases.

The first report, issued on August 18, 2011, described 14 cases. In four cases involving employees' use of Facebook, the Office of General Counsel found that the employees were engaged in "protected concerted activity" because they were discussing terms and conditions of employment with fellow

employees. In five other cases involving Facebook or Twitter posts, the activity was found to be unprotected. In one case, it was determined that a union engaged in unlawful coercive conduct when it videotaped interviews with employees at a nonunion jobsite about their immigration status and posted an edited version on YouTube and the Local Union's Facebook page. In five cases, some provisions of employers' social media policies were found to be overly-broad. A final case involved an employer's lawful policy restricting its employees' contact with the media.

The second report, issued Jan 25, 2012, also looked at 14 cases, half of which involved questions about employer policies. Five of those policies were found to be unlawfully broad, one was lawful, and one was found to be lawful after it was revised. The remaining cases involved discharges of employees after they posted comments to Facebook. Several discharges were found to be unlawful because they flowed from unlawful policies. But in one case, the discharge was upheld despite an unlawful policy because the employee's posting was not work-related. The report underscored two main points regarding the NLRB and social media:

- Employer policies should not be so sweeping that they prohibit the kinds of activity protected by federal labor law, such as the discussion of wages or working conditions among employees.
- An employee's comments on social media are generally not protected if they are mere gripes not made in relation to group activity among employees.

The third report, issued May 30, 2012, examined seven employer policies governing the use of social media by employees. In six cases, the General Counsel's office found some provisions of the employer's social media policy to be lawful and others to be unlawful. In the seventh case, the entire policy was found to be lawful. Provisions were found to be unlawful when they interfered with the rights of employees under the National Labor Relations Act, such as the right to discuss wages and working conditions with co-workers.

Some of the early social media cases were settled by agreement between the parties. Others proceeded to trial before the agency's Administrative Law Judges. Several parties then appealed those decisions to the Board in Washington D.C.

Board decisions

In the fall of 2012, the Board began to issue decisions in cases involving discipline for social media postings. Board decisions are significant because they establish precedent in novel cases such as these.

In the first such decision, issued on September 28, 2012, the Board found that the firing of a BMW salesman for photos and comments posted to his Facebook page did not violate federal labor law. The question came down to whether the salesman was fired exclusively for posting photos of an embarrassing accident at an adjacent Land Rover dealership, which did not involve fellow employees, or for posting mocking comments and photos with co-workers about serving hot dogs at a luxury BMW car event. Both sets of photos were posted to Facebook on the same day; a week later, the salesman was fired. The Board agreed with the Administrative Law Judge that the salesman was fired solely for the photos he posted of a Land Rover incident, which was not concerted activity and so was not protected.

In the second decision, issued December 14, 2012, the Board found that it was unlawful for a non-profit organization to fire five employees who participated in Facebook postings about a coworker

who intended to complain to management about their work performance. In its analysis, the Board majority applied settled Board law to social media and found that the Facebook conversation was concerted activity and was protected by the National Labor Relations Act.

SPEED UP - A process that employers use to increase workers' output and productivity without increasing their wages.

SPLIT SHIFT - Any form of shift work where there are semi-regular work hours. In some cases, workers may work three different shifts in a work week. In all the various types of shifts, there is usually a break of several hour between the reporting times of the workers.

STARE DECISIS – Stare decisis is Latin for "to stand by things decided." The idea is that the law should be as settled and predictable as possible. The doctrine stare decisis means that rules or principles of law on which a court rested in a previous decision are authoritative in all future cases in which the facts are substantially the same.

STATE POLICY NETWORK - The State Policy Network (SPN) is a web of right-wing "think tanks" and tax-exempt organizations in 49 states, Puerto Rico, Washington, D.C., Canada, and the United Kingdom. As of July 2017, SPN's membership totals 153. SPN describes itself as a network and service organization for the "state-based free market think tank movement," and its stated mission is "to provide strategic assistance to independent research organizations devoted to discovering and developing market-oriented solutions to state and local public policy issues." It was founded in November 1991 and incorporated in March of 1992. SPN groups operate as the policy, communications, and litigation arm of the American Legislative Exchange Council (ALEC), giving the cookie-cutter ALEC agenda a sheen of academic legitimacy and state-based support. Many SPN groups are and often write ALEC "model bills." In the states, SPN groups increasingly peddle cookie-cutter "studies" to back the cookie-cutter ALEC agenda, spinning that agenda as indigenous to the state and giving it the aura of academic legitimacy. Many SPN groups, such as the Mackinac Center in Michigan, have been accused of lobbying in their states, in violation of IRS rules for non-profit "charitable" organizations. Some SPN groups, like the Goldwater Institute in Arizona, also contain litigation centers funded by national foundations to defend or pursue the SPN/ALEC agenda. SPN shares many of same sources of funding as ALEC, including Koch institutions. Some state affiliates include: Pioneer Institute; Empire Center for Public Policy, Pacific Research Institute; James Madison Institute; The Buckeye Institute; Mackinac Center for Public Policy; Badger Institute; Freedom Foundation; Garden State Initiative; etc.

STATUS QUO ANTE - Latin for "the way things were before," meaning - the state of affairs that existed previously. If a Union challenges a unilateral change that the employer made or an illegal declaration of impasse (private sector), and the NLRB or state agency rules in behalf of the Union's charge – the order from the agency is usually that the employer return conditions to the *status quo ante*.

STEELWORKERS TRILOGY - Three Supreme Court decisions which emphasized the importance of arbitration as an instrument of federal policy for resolving disputes between labor and management and cautioned the lower courts against usurping the functions of the arbitrator. See Steelworkers v. Warrior & Gulf Navigation Co., 363 US 574 (1960); Steelworkers v. American Manufacturing Co., 363 US 564, (1960); United Steelworkers v. Enterprise Wheel & Car Corp., 363 US 593 (1960).

STEP INCREASE - An automatic increase in pay when an employee advances up a wage scale step. The steps are negotiated by the parties in advance and are usually based on years of service.

STRIKE - A concerted act by a group of employees, withholding their labor for the purpose of effecting a change in wages, hours or working conditions.

STRUCK WORK - A term used to define a product which is produced by an employer during the period of a labor dispute/strike with its employees. Struck work is also referred to as "hot cargo". An employee who refuses to handle struck work is engaged in a sympathy work action. Workers who refuse to do the work of workers engaged in a strike may be disciplined. The refusal to handle "hot cargo" was severely restricted under the Taft-Hartley Act of 1947 in Section 8(e) of the NLRA. The NLRB states *"With certain exceptions, it is unlawful for a union to enter into an agreement, express or implied, with an employer whereby the employer agrees to cease or refrain from handling, using, selling, transporting, or otherwise dealing in the products of another employer."*

SUBCONTRACTING – An employer's practice of having work performed by an outside Contractor instead of the regular employee's in the bargaining unit. Also referred to as "contracting out."

SUCCESSOR EMPLOYER - An employer which has acquired an already existing operation and which continues those operations in approximately the same manner as the previous employer, including the use of the previous employer's employees.

SUCCESSORSHIP CLAUSE- A clause written into the contract designed to protect the union, the contract and working conditions of the workers in a facility in the event of sale or transfer of the facility to another entity.

SUPERVISOR - Individual who has the authority in the interest of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them adjust their grievances, or effectively to recommend such actions; the exercise of such authority must not be of a merely routine or clerical nature, but must require the use of independent judgment; supervisors are excluded from the NLRA. Involvement by supervisors in support of an organizing campaign can, in certain circumstances, invalidate an election.

SUPERSENIORITY - The automatic placement of union officers at the top of seniority lists for purposes of layoff and recall.

SURFACE BARGAINING - Often referred to as a perfunctory tactic whereby an employer meets with the union, but only goes through the motions of bargaining. Such conduct on the part of the employer is considered a violation of the employer's duty to bargain, Section 8(a)(5) of the NLRA.

SWEET-HEART CONTRACT - Term of derision for an agreement negotiated by an employer and a union with terms favorable to the employer. The usual purpose being to keep another union out or to promote the individual welfare of the union officers rather than that of the employees represented.

SYMPATHY STRIKE - A concerted work stoppage by employees of Employer A to express sympathy for striking employees of Employer B and to exert indirect pressure on Employer B.

TAFT-HARTLEY ACT or LABOR MANAGEMENT ACT (LMRA) of 1947 - An amendment of the NLRA which added provisions allowing unions to be prosecuted, enjoined, and sued for a variety of

activities, including mass picketing and secondary boycotts. It was passed by the Republican controlled Congress over the veto of President Harry Truman.

TAYLORISM - Associated with the principles of "scientific management" advocated by Frederick W. Taylor at the beginning of the twentieth century. Taylor proposed time and motion studies of jobs to enable managers to set standards for more efficient production. Unions view Taylorism as the old speed up in modern dress.

TEAM CONCEPT PLANS - Methods of reorganizing work in ways which blur the traditional lines of distinction between union work and management work. These plans are usually initiated by management, and may be referred to by a variety of names, including Magnet status, Quality Circles, Quality of Worklife, and Re-engineering. If a union does not respond with an aggressive program of member education and mobilization, these plans generally weaken a union's ability to mobilize its members effectively and thereby undermine the union's bargaining power.

TEN DAY NOTICES - Unions that represent employees in health care facilities must file a written ten day notice with the employer and the FMCS before any informational picket or strike takes place at the facility. The requirement is a result of Congress amending the NLRA in 1974 by adding a new Section 8(g). *"A labor organization before engaging in any strike, picketing, or other concerted refusal to work at any healthcare institution shall, not less than ten days prior to such action, notify the institution in writing . . . of that intention . . . . The notice shall state the date and time that such action will commence. The notice, once given may be extended by written agreement of both parties."* The term "healthcare institution" for purposes of this section of the Act is defined as "any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged persons."

TENTATIVE AGREEMENT ("TA") - Issues that are agreed to during bargaining on a labor contract and set aside as tentatively agreed subject to agreement on all outstanding issues of the contract. TAs are signed or initialed by both parties with two "originals" – one for each party. Tentative agreements have no force or effect until and unless all of the issues on the bargaining table have been resolved and are therefore not implemented until all issues have been settled and ratified.

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 - Title VII of the Civil Rights Act of 1964 is a federal law that protects employees against discrimination based on certain specified characteristics: race, color, national origin, sex, and religion. Under Title VII, an employer may not discriminate with regard to any term, condition, or privilege of employment. Areas that may give rise to violations include recruiting, hiring, promoting, transferring, training, disciplining, discharging, assigning work, measuring performance, or providing benefits. Title VII applies to employers in both the private and public sectors that have 15 or more employees. It also applies to the federal government, employment agencies, and labor organizations. Title VII is enforced by the Equal Employment Opportunity Commission.No person employed by a company covered by Title VII, or applying to work for that company, can be denied employment or treated differently with regard to any workplace decision on the basis of perceived racial, religious, national, sexual, or religious characteristics. No employee can be treated differently based on his or her association with someone who has one of these protected characteristics. Additionally, employment decisions may not be made on the basis of stereotypes or assumptions related to any protected characteristic. For example, it is unlawful for a supervisor to refuse to promote a Vietnamese person to a management position because he or she believes that Asian people are not good leaders.
Here are some ways in which it does that, according to the EEOC:

- An employer can't make hiring decisions based on an applicant's color, race, religion, sex or national origin. An employer can't discriminate based on these factors when recruiting job candidates, advertising for a job or testing applicants.
- An employer can't decide whether or not to promote a worker or fire an employee based on stereotypes and assumptions about their color, race, religion, sex or national origin. They can't use this information when classifying or assigning workers.
- An employer can't use an employee's race, color, religion, sex or national origin to determine their pay, fringe benefits, retirement plans or disability leave.
- An employer can't harass you because of your race, color, religion, sex or national origin.[5]
- An employer can't discriminate against employees based on sexual orientation or gender identity.

TRIANGLE SHIRTWAIST FACTORY FIRE - On March 25, 1911, the Triangle Shirtwaist Company factory in New York City burned, killing 145 workers. It is remembered as one of the most infamous incidents in American industrial history, as the deaths were largely preventable–most of the victims died as a result of neglected safety features and locked doors within the factory building. The owners had locked the doors to the stairwells and exits – a then-common practice to prevent workers from taking unauthorized breaks and to reduce theft – many of the workers could not escape and jumped from the high windows. Nearly all the workers were teenaged girls who did not speak English, working 12 hours a day, every day. There were only four elevators with access to the factory floors, but only one was fully operational and the workers had to file down a long, narrow corridor in order to reach it. There were two stairways down to the street, but one was locked from the outside to prevent stealing and the other only opened inward. The fire escape was so narrow that it would have taken hours for all the workers to use it, even in the best of circumstances. The girls who did not make it to the stairwells or the elevator were trapped by the fire inside the factory and began to jump from the windows to escape it. The bodies of the jumpers fell on the fire hoses, making it difficult to begin fighting the fire. Also, the firefighters' ladders reached only seven floors high and the fire was on the eighth floor. The tragedy brought widespread attention to the dangerous sweatshop conditions of factories, and led to the development of a series of laws and regulations that better protected the safety of workers. The factory was located, at 23–29 Washington Place in the Greenwich Village neighborhood of Manhattan, now known as the Brown Building and part of New York University.

TRUSTEE - An elected union official whose duty is to monitor the finances of a local union, joint council, conference, or international union. Also, an official appointed by the Independent Review Board or General President of the International Union to manage a local union in trusteeship.

TRUSTEESHIP - The assumption of control of a local union by an international union, or by the federal government under the RICO Act. Provided for by the Constitutions of most international unions, trusteeships suspend the normal governmental process of a local union and take over management of the local's assets and the administration of its internal affairs. The Landrum-Griffin Act of 1959 established controls over the establishment and administration of trusteeships.

TWENTY-FOUR HOUR RULE - Employers and Unions are prohibited from making election speeches on company time to massed assemblies of employees within 24 hours before the scheduled time for conducting an election [Peerless Plywood Co. 107 NLRB 427, 33 LRRM 1151 (1953)].

TWO-TIER SYSTEMS – Systems or schemes promoted by management which pay new employees on a new wage scale with less money. It has also expanded into multiple tiers as well as the second (or third) tier applying not only to the wages of recently hired workers, but to their pensions, health insurance and even vacation accrual. Fixed monthly pension payments, funded largely by employers, have given way to defined contribution plans, which are essentially interest earned on a retiree's own savings, supplemented by employer contributions. Two-tier schemes, which began to spread in the 1980s, undermining union solidarity by separating one generation from another. Older union members reluctantly acquiesced partly to preserve their own pay and benefits and partly to avoid layoffs. The lower tier (often referred to as "the unborn") was supposed to be temporary, it was rationalized, and in those early days almost every contract included a sunset provision that brought workers' pay up to the standard wage rate after a certain period. But of course that did not occur as these schemes exploded and have only helped to divide the workforce and union members as it pitted one against the other. Management always promotes such schemes as the only way to provide workers wage and benefit improvements using the selling point – *that this does not impact any current worker*. Often there is also an implied threat that this is the only way to save jobs and the company, etc.

UNION INSIGNIA - It is well-settled employees have a Section 7 right under the NLRA to wear union buttons and other insignia. *Republic Aviation Corp. v. NLRB,* 324 U.S. 793 (1945). But the right is not absolute. When employers announce a blanket prohibition for wearing such insignia in the workplace, the Board has found that the restriction is presumptively *unlawful*, unless the employer justifies the rule based on "special circumstances." As the Board recently held in *In-N-Out Burger, Inc.*, 365 NLRB No. 39 (2017), employers are generally only limited to prohibit all union insignia where displaying such items would (1) jeopardize employee safety; (2) damage machinery or products; (3) exacerbate employee dissension; or (4) unreasonably interfere with a public image that the employer has established, as part of its business plan, through appearance rules for its employees. This exception is exceedingly narrow and depends on the circumstances of each case.
Here, however, the Board analyzed the lawfulness of Wal-Mart's policy using the test it set forth for facially-neutral employer policies in *Boeing Company*, 365 NLRB No. 154 (2017), because the rule only limited the wearing of union buttons and insignia; it did not ban them altogether. As a result, according to the Board, the impact on Section 7 rights was relatively slight compared to the *Republic Aviation* line of cases and analysis. The Board must balance the rule's potential impact on employees' exercise of Section 7 rights against the employer's legitimate justifications associated with the policy.
Applying the *Boeing* test, the Board held that:

- Wal-Mart's policy was **lawful** as applied to the selling floor because the employer's interest in providing its customers a satisfying shopping experience, on balance, outweighed the employees' interest in having *no* restrictions on the size of the insignia they could wear.
- The policy was **unlawful**, however, in "employee-only" zones because "the whole point" of wearing a large or distracting union button was precisely to "catch the attention of coworkers" to communicate a message the Act intends to protect.

The NLRB generally recognizes the right of employees to wear union insignia (pins with union logos, etc.) while at work. This rule applies to hospitals, but the Board and the courts, in recognition of the sensitive nature of working in medical facilities, have restricted employees' rights to wear union insignia

in "direct patient care areas." In *Long Beach Memorial Medical Center*, 366 NLRB No. 66 (April 20, 2018), addressed this rule as it applies to hospitals, but also provided a signal that the Board, now with 3-2 Republican-appointed majority, may be willing to change the rule in a future case.
Section 7 of the NLRA grants employees the "right to … form, join, or assist labor organizations … and to engage in … concerted activities for the purpose of collective bargaining or other mutual aid or protection." Section 7 has been construed to give employees the right to engage in activity to advance a union cause, including wearing union insignia to demonstrate their support for a union seeking certification or to further its bargaining aims once certified as the employees' exclusive representative.

Section 7 rights, however, are balanced with the rights of employers to operate their businesses and manage their property. Under this balancing test, an employer might be able to restrict an employee from wearing an entire outfit covered in union decals, assuming it had a neutral uniform policy. But, an employer would have great difficulty in attempting to ban a small union pin worn on an employee's lapel. The Board has held that an employer seeking to assert a complete ban on union insignia must show "special circumstances," usually involving a unique set of facts that are not normally present at most places of employment. Regular uniform policies will not meet this stringent test.

In the medical realm, the balancing test is not applied and, instead, the Board looks to whether the employer's prohibition on union insignia applies to "direct patient-care areas" or other areas of the hospital in question. In *Long Beach*, the Board found that the Hospital's rule prohibiting union insignia was overbroad because, by its own terms, it was not limited to "direct patient-care areas."

A bright-line rule against union insignia in direct patient-care areas can streamline the discussion of the legality of a "no-pin" rule and simplify the law for all parties. By contrast, the traditional balancing test demands that employers show specific facts to demonstrate that their interests override the Section 7 rights of employees. The *Long Beach* decision, therefore, was not controversial because it merely applied the test applicable to medical facilities.

UNFAIR LABOR PRACTICE ("ULP") - An action by an employer or a union that violates the bargaining law. Violations include - interfering with organizing, discrimination against an individual for union activity and bad faith bargaining. Charges alleging an unfair labor practice are filed with the NLRB (private sector) or the state labor relations commission (public sector).

UNFAIR LABOR PRACTICE STRIKE - A strike caused, at least in part, by an employer's unfair labor practice. During an unfair labor practice strike, management may only hire temporary replacements, who must be terminated at the end of a strike to allow the return to work of the strikers.

UNILATERAL ACTION OR CHANGE - An action taken by an employer impacting, changing or modifying a mandatory subject of bargaining without bargaining with the union.

UNION DENSITY- The percentage of the labor force in an industry or geographic area or of total employment belonging to unions.

UNPROTECTED ACTIVITY - Any conduct for which employees may be discharged or disciplined by an employer which is not protected by the NLRA. For example, a "sit-down" strike is not protected because it consists of taking over the employer's property and preventing it from running the business; a partial strike is the refusal to do some but not all assigned work, such as the refusal to work overtime. An employee must either perform the work assigned (and file a grievance, if available) or strike. Performance

of only some of the work assigned is a partial strike and is unprotected. Organized sick-outs by workers is also an example of unprotected activity.

UNION BUSTER - A professional consultant or consulting firm which provides tactics and strategies for employers trying to prevent unionization or to decertify unions.

UNION LABEL (or UNION BUG) - A stamp or tag on a product or card in a store or shop to show that the work is performed by union labor. The "bug" is the printer's symbol.

UNION SECURITY CLAUSE - A provision in a contract designed to protect the institutional life of the union, such as union shop and union dues check-off clauses.

UNION SHOP -A form of union security provided in the collective bargaining agreement which requires employees to belong to or pay dues to the union as a condition of retaining employment. It is illegal to have a closed shop which requires workers to be union members before they are hired. The union shop is legal, except in so-called "right to work" states.

VESTING - The amount of time that an employee must work to guarantee that his or her accrued pension benefits will not be forfeited even if employment is terminated.

VOLUNTARY SUBJECT OF BARGAINING (or Permissive Subject of Bargaining) Subjects of bargaining other than those considered to be mandatory (see mandatory subject of bargaining). Either party may propose discussion of such a subject, and the other party may voluntarily bargain on it. Neither party may insist to the point of impasse on the inclusion of a voluntary subject in a contract. For example, the employer may not legally insist on bargaining over the method of selecting stewards or the method of taking a strike vote.

WAGE SCALE - A schedule of wages paid for different jobs usually according to grade level. Wage scales often include "step" raise increases that are earned on an employee's anniversary date.

WALSH-HEALEY PUBLIC CONTRACTS ACT - requires the payment of minimum wages and other labor standards by contractors providing materials and supplies to the federal government.

WEINGARTEN RIGHTS - Named after a 1975 U.S. Supreme Court decision which ruled that an employee has the right to a union representative in any investigatory interview the employer might hold that is intended to investigate a possible discipline charge against the employee. Such interviews where Weingarten rights may be invoked by the worker must involve the employer questioning the employee to obtain information that could be used against the employee for discipline or discharge.

WILDCAT STRIKE - A spontaneously organized strike triggered by an incident on the job, usually unauthorized by the union leadership and of short duration.

WOBBLIES - A nickname for members of the Industrial Workers of the World. The origin of the word is unknown.

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT (WARN). WARN offers employees early warning of impending layoffs or plant closings. The Employment and Training Administration (ETA) provides information to the public on WARN, though neither ETA nor the

Department of Labor has administrative responsibility for the statute, which is enforced through private action in the federal courts. The **Worker Adjustment and Retraining Notification Act of 1988** protects employees, their families, and communities by requiring most employers with 100 or more employees to provide 60 calendar-day advance notification of plant closings and mass layoffs of employees as defined in the Act. Employees entitled to notice under the WARN Act include managers and supervisors, hourly wage, and salaried workers. The WARN Act requires that notice also be given to employees' representatives (i.e., a labor union), the local chief elected official (i.e. the mayor), and the state dislocated worker unit. The advance notice is intended to give workers and their families transition time to adjust to the prospective loss of employment, to seek and to obtain other employment, and, if necessary, to enter skill training or retraining programs that will allow these workers to successfully compete in the job market.

WORKER CENTERS - Worker centers are non-profit community-based organizations that organize and provide support to communities of low wage workers who are not already members of a collective bargaining organization (such as a trade union) or have been legally excluded from coverage by U.S. labor laws. Many worker centers in the United States focus on immigrant and low-wage workers in sectors such as restaurant, construction, day labor and agriculture. Worker centers are non-profit institutions based in the community and led by their worker-members, which deliver support to low earning workers. In order to best assist in improving working conditions and necessary wages, many centers include services such as English language instruction, help with unpaid wage claims, access to health care, leadership development, educational activities, advocacy and organization. Many centers also take the role as defender of rights for immigrants in their communities.

The first worker centers emerged in the late 1970s and early 1980s, founded by black worker activists in North Carolina and South Carolina, immigrant activists in New York City's Chinatown, the Texas-Mexican Border in El Paso, in San Francisco among Chinese immigrants. They grew out of a response to neoliberal policies that resulted in declining working conditions in manufacturing, factory closings and an increase in low wage service sector jobs. Worker centers were also created in reaction to "disparities of pay and treatment between African American and white workers as well as exploitation within ethnic economic enclaves and in the broader economic (including informal sector) were also major catalysts". From the late 1980s to early 1990s, the second wave of worker centers appeared as large groups of new Latino immigrants, some fleeing civil wars in Central America, arrived in suburban and urban regions, as well as Southeast Asians immigrants, all searching for economic opportunities. These worker centers were established by numerous individuals and institutions such as "churches and other faith-based organizations, social service and legal aid agencies, immigrant nongovernmental organizations (NGOs), and unions". The last wave of worker centers began in 2000 to the present. Many worker centers are expanding not only in the city, but into the suburbs, rural regions, and southern states where there is a large concentration of Mexican and Central immigrants working in the poultry, service, agriculture, and meat-packing sectors. Not only that, more worker centers are emerging among Korean, Filipino, South Asian and African immigrants, and they have a higher connection to faith-based organizations and unions.

What is unique about worker centers, and makes them unlike unions, is that they operate outside of the National Labor Relations Act (NLRA) and therefore do not have to have a specific organizational model, strategy or structure. They emerge as "community-based mediating institutions that provide support to and organize among communities of low wage workers". As such, they use diverse strategies, tactics and approaches to serve the needs of their individual communities.

Worker's centers are not considered labor organizations, and therefore are not restricted by the same laws under the National Labor Relations Act (NLRA) and Labor Management and Reporting Disclosure acts that govern traditional unions. The NLRA restricts primary picketing activity, bans any type of secondary activity, including pickets or boycotts, of business connected to the primary target Worker centers, on the other hand, are allowed to picket businesses, can participate in secondary boycotts and interact with press in a way that makes them uniquely threatening to business interests.

Common features of worker centers include: a hybrid organization, providing necessary services, and engaging in advocacy; possess a broad agenda, approach the world with a global perspective, democracy-building, they build coalitions and have small and involved memberships. Though the vision of most worker centers is change on a systemic scale, they do meet and bargain with individual employers to improve conditions for workers. These meetings will often happen even if only a few workers in a workplace are involved. Under Section 7 of the NLRA, employees have "the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection". Mutual aid or protection has been broadly interpreted to include any action (excluding criminal actions) that workers take in response to any of change in the workplace that has to do with the conditions of employment, not simply those covered by employment law .This means that even a few worker members of a worker center have the right to challenge their employers regarding working conditions and not be terminated as a result. This coverage allows great flexibility for worker centers to address everything from stolen wages and hourly pay to conditions such as high temperatures in warehouses or widespread sexual harassment in a workplace.
Despite diverse strategies, most centers do similar types of work. This includes helping workers combat wage theft through filings claims, collaborating with governmental agencies to assure enforcement of labor laws and wage theft claims, launching "direct action campaigns against specific employers and sometimes across particular industries, and engaging in leadership development and popular education". Since they define themselves as dedicated to systemic change, many worker centers also play a role as policy partners in passing laws such as a higher minimum wage, mandatory paid sick days, and domestic workers bill of rights. Their worker base mobilizes not just in actions against individual employers but in broader social movements such as immigrant rights actions.
Some centers are founded by previous union organizers, or have affiliations with unions, however, as previously stated, they are not unions. Worker centers exist to meet the demand for services that unions could or would not give. Many worker centers are established for immigrant and minority groups that work jobs where they are left out of the formal labor market and do not have the right to NLRA protection, such as day laborers, domestic workers and agricultural workers. Others have organized around groups, such as restaurant workers (Fight for 15, ROC United), that traditional unions have ignored as being too difficult to organize. In order to establish a union in a workplace, the union must get union cards from at least half the workers or have a majority vote for the union in an election. This is a great challenge in workplaces such as fast food jobs that suffer from high turnover, or in industries such as contracted cleaning companies, where even figuring out the number of employees and where they are located can be extremely difficult.

There are numerous Worker Centers throughout Massachusetts including: Brazilian Women's Group, Brazilian Worker Center, Centro Comunitario de Trabajadores, Chelsea Collaborative, Chinese Progressive Association, Fuerza Laboral, MassCOSH Immigrant Worker Center, Matahari Women's Worker Center, Pioneer Valley Workers' Center, Restaurant Opportunities Center (ROC) Boston Metrowest Worker Center/Casa Del Trabajador, and Lynn Worker Center. The Pioneer Valley Workers' Center (PVWC) builds the collective power of workers and immigrants in Western Massachusetts and

beyond. PVWC's worker leaders develop and organize grassroots campaigns for food chain workers' rights, including winning wage theft protections, stopping deportations, and building new worker cooperatives.

WORK-TO-RULE - A tactic in which workers agree to strictly follow all work rules, even those which are usually not followed. The result is that less work is performed or that the employer is forced to deal with more paperwork, putting pressure on the employer to settle workers' complaints. Some, but not all, work-to-rule campaigns are considered slowdowns, and may violate no-strike clauses in particular contracts or public sector laws.

YELLOW DOG CONTRACTS - Agreements signed by workers as a condition of employment in which they promise not to join or remain in a union. The National Labor Relations Act, the Norris-LaGuardia Act and the Railway Labor Act all prohibit them.

ZIPPER CLAUSE - A clause in the labor contract that states that the agreement is a full and complete understanding of the parties to the negotiation of all of the issues contained in the contract and that anything not contained therein is not agreed to unless put in writing and signed by both parties. The term "zipper clause" is a nick-name or informal term most often referred to in a contract as: Complete Agreement; Total Agreement; or Scope of Negotiations. In its broadest form, a "zipper" clause expresses each party's agreement to waive the right-and the duty of the other party -to bargain with regard to matters included in or omitted from the collective bargaining agreement, regardless of whether unspecified matters were previously contemplated by the parties. Since a "zipper" clause ostensibly waives the union's right to enforce the employer's duty to bargain, this contractual device would appear to authorize unilateral action by the employer without consultation with the union. However, generally-worded "zipper" clauses do not operate to terminate the union's right to bargain in response to a proposed mid-term modification since, to constitute a waiver of the right to require the employer's use of section 8(d) bargaining procedures, "clear and unmistakable" contractual language relinquishing bargaining rights as to the specific matter raised must be present.

ZOPA - An acronym which means a negotiation's Zone of Possible Agreement. It is the range or area in which an agreement is satisfactory to both parties involved in the negotiation process. Often also referred to as the "Contracting Zone". Negotiation ZOPA or the Contracting Zone is the range between each parties Walk Away or Real Base or Bottom Lines, and is the overlap area that each party is willing to pay or find acceptable in a negotiation.

Compiled by Joseph A. Twarog - November 2020