

Labor Law: an overview

The goal of labor laws is to equalize the bargaining power between employers and employees. The laws primarily deal with the relationship between employers and unions. Labor laws grant employees the right to unionize and allows employers and employees to engage in certain activities (e.g., strikes, picketing, seeking injunctions, lockouts) so as to have their demands fulfilled.

The area of labor law is governed by both federal law, state law and judicial decisions. It is also governed by regulations and decisions of administrative agencies. States are preempted from interfering with federal statutory law or with the guidelines promulgated by agencies established under federal law or by the U.S. Constitution.

In 1935, the National Labor Relations Act (NLRA) was enacted by Congress, under its power to regulate interstate commerce, to govern the employer/employee bargaining and union relationship on a national level. The NLRA was amended by the Labor Management Relations (Taft-Hartley) Act in 1947 and the Labor Management Reporting and Disclosure (Landrum-Griffin) Act in 1959. Most employers and employees involved in businesses that affect interstate commerce are regulated by the act. The NLRA established the National Labor Relations Board (NLRB) to hear disputes between employers and employees arising under the act and to determine which labor organization will represent a unit of employees. The Act also establishes a General Council to independently investigate and prosecute cases against violators of the act before the NLRB. The rights of employees to join labor organizations and collectively bargain is also ensured. The NLRA prohibits employers and unions from engaging in specified “unfair labor practices” and establishes an obligation of both parties to engage in good faith collective bargaining. The act also establishes guidelines and regulations to determine what union will represent a given set of employees. The right to strike is guaranteed by the NLRA. If there is a conflict between the NLRA and the Bankruptcy Code, the NLRA generally prevails.

Employers and employees not subject to the NLRA may have their relationships governed by other federal or state statutes. The Railway Labor Act governs labor relations in the railway and airline industries. The employees and agencies in the federal public sector are subject to the Federal Service Labor-Management Relations Act (FSLMRA), which is administered by the Federal Labor Relations Authority.

The Norris-LaGuardia Act was passed in 1932. Its main effect was to limit the power of federal courts to issue injunctions prohibiting unions from engaging in strikes and other coercive activities.

States extensively regulate the employer/employee bargaining relationship. They may regulate employers and employees not covered by the NLRA.

Collective Bargaining and Labor Arbitration: an overview

Collective bargaining consists of negotiations between an employer and a group of employees so as to determine the conditions of employment. The result of collective bargaining procedures is a collective agreement. Employees are often represented in bargaining by a union or other labor organization. Collective bargaining is governed by federal and state statutory laws, administrative agency regulations, and judicial decisions. In areas where federal and state law overlap, state laws are preempted.

The main body of law governing collective bargaining is the National Labor Relations Act (NLRA). It explicitly grants employees the right to collectively bargain and join trade unions. The NLRA was originally enacted by Congress in 1935 under its power to regulate interstate commerce. It applies to most private non-agricultural employees and employers engaged in some aspect of interstate commerce. Decisions and regulations of the National Labor Relations Board, which was established by the NLRA, greatly supplement and define the provisions of the Act.

The NLRA establishes procedures for the selection of a labor organization to represent a unit of employees in collective bargaining. The Act prohibits employers from interfering with this selection. The NLRA requires the employer to bargain with the appointed representative of its employees. It does not require either side to agree to a proposal or make concessions but does establish procedural guidelines on good faith bargaining. Proposals which would violate the NLRA or other laws may not be subject to collective bargaining. The NLRA also establishes regulations on what tactics (e.g., strikes, lock-outs, picketing) each side may employ to further their bargaining objectives.

State laws further regulate collective bargaining and make collective agreements enforceable under state law. They may also provide guidelines for those employers and employees not covered by the NLRA, such as agricultural laborers.

Arbitration is a method of dispute resolution used as an alternative to litigation. It is commonly designated in collective agreements between employers and employees as the way to resolve disputes. The parties select a neutral third party (an arbiter) to hold a formal or informal hearing on the disagreement. The arbiter then issues a decision binding on the parties. Both federal and state law governs the practice of arbitration. While the Federal Arbitration Act, by its own terms, is not applicable to employment contracts, federal courts are increasingly applying the law in labor disputes. Thirty-five states have adopted the Uniform Arbitration Act as state law. Thus, the arbitration agreement and decision of the arbiter may be enforceable under state and federal law.