

Insights, News & Events

# LABOR RELATIONS 101 FOR DEALERSHIPS: AN 8-STEP PLAN TO PROTECT YOUR ORGANIZATION

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Dealerships are increasingly susceptible to employee complaints about pay and working conditions as well as employee efforts to unionize. These employee actions are generally protected by the National Labor Relations Act (NLRA). This statute grants private-sector employees the right to engage in protected concerted activity (PCA) concerning their wages, hours, and terms and conditions of employment and to form, join, or assist a labor organization – a union. Proactive measures can help your dealership stay connected to your employees, cultivate better working conditions and relationships, and avoid the headaches that come along with responding to employees' concerted complaints or unionization efforts. The best time to start this process is before your workplace is riddled with employee complaints or poor morale and before there is talk about forming a union.

Although there are no guarantees, below is a list of eight action items to consider that can help minimize and address employee dissatisfaction before it spirals into concerted complaints and efforts to unionize.

## 1. Money And Health Benefits

Low wages, poor pay practices, and a lack of benefits are among the top complaints of employees who decide to engage in some form of PCA (e.g.

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work stoppage, refusal to work overtime, complaints to government agencies, etc.) or form a union. Unions are adept at honing on the dissatisfaction of employees, reeling them in with promises of higher, reliable pay and better benefits.

You can get ahead of this by regularly evaluating your compensation levels and practices to ensure that the wages you pay your employees are fair and competitive, that pay errors are infrequent and quickly resolved, employees are paid on time, and that employees eligible for overtime pay are appropriately compensated for overtime work. For employees who are paid on a flat-rate basis, you should ensure that your practices are fair, consistent, and free from error. Employees should understand flat rates and how those rates compare to hourly rates. Human Resources should be available to answer employee questions about their pay and should promptly respond to complaints.

## **2. Job Security**

Job security has always been at the top of the employee complaint list. With the advent of the COVID-19 virus and resulting furloughs and layoffs, employees are increasingly concerned about their job security. If employees feel or have the impression that work tomorrow is no guarantee, they will likely seek ways to ensure that they have some protection from the general rule of employment at-will. One way of doing this is by calling on a labor union for help.

Many unions promise employees greater job security by touting an ability to negotiate “just cause” and/or layoff and recall rights for employees that can shield them from permanent job loss. To avoid this, be sure that you regularly communicate with your employees and impart your appreciation for their service to the organization.

### **3. Breaks And Lunches**

A common complaint among employees in dealership settings is that they are not afforded adequate breaks or lunch times. This is a small issue that can cause big problems for employers if employees complain to government agencies (which is PCA) or decide that the only way they can get fair break and lunch times is to unionize. Unions often persuade employees that the union can ensure that the employer allows rest and lunch breaks through negotiating those terms in a collective-bargaining agreement and even filing grievances under that agreement.

To avoid this, ensure that employees are afforded these rest periods in accordance with any applicable laws. You may want to consider creating a regular break schedule so that all employees across each department has regular, scheduled break and lunch times. Finally, ensure that your managers are permitting your employees to take uninterrupted rest periods according to the schedule that had been set.

### **4. Paid Time Off**

Paid time off (PTO) for illness, vacation, or personal reasons are other benefits that employees deem important to their overall job satisfaction. If your employee compensation package does not provide for PTO, this is something you should consider providing on some level. Many states mandate paid sick time for certain employees. Thus, at a minimum, you should ensure that your sick leave policies comply with legal requirements for your state and that employees are aware of your policy.

If you are in a state that does not require paid sick time, you should still consider providing some level of PTO that covers sick days. This helps guard your organization against the spread of illness and viruses, such as COVID-19, as employees who are ill are less likely to run the risk of reporting to work sick

because they need the money.

Aside from sick leave, you may also want to consider providing some other forms of PTO that employees can use for personal reasons. This option also helps reduce abuse of a sick leave program by employees who feel the need to feign illness so that they can take a day off for personal reasons. Any PTO that you offer (including sick leave) should be embodied in a policy that clearly states the type of PTO benefits available, eligibility for PTO, and the appropriate process for requesting PTO.

## **5. Workplace Safety And Sanitation**

Workplace safety is always a concern for employees. Even before the COVID-19 pandemic swept the nation, employees in shop settings often complained about unsafe working conditions such as defective or malfunctioning equipment, unsafe facilities, unsanitary restrooms (including lack of running hot and/or cold water), and unsanitary breakrooms. Working conditions such as these send a message to employees about their level of importance to the company and create circumstances for employee to band together to complain to government agencies about working conditions. Ensuring that employees have safe, clean, and sanitary working conditions will go a long way in not only preventing complaints to federal, state, or local health authorities, but in guarding against employees seeking union help to improve the safety and sanitation of their workplace.

If you have not already created and instituted a comprehensive COVID-19 response and prevention plan, you should do so and share your plan with employees so that they know and understand that you care about their health and safety.

## **6. Employee Engagement And Dispute Resolution**

Employees are more likely to unionize when they feel like management does not respect them, ignores

their complaints and concerns, and fails to effectively respond to their complaints and concerns. These feelings of disrespect and insignificance are very powerful and can send employees running into the arms of a labor union for "help."

In some cases, employees value respect more than pay. Thus, compensating employees well but maintaining a workplace with low morale and where complaints are not effectively responded to can still make your operation susceptible to union organizing efforts. To avoid this, make sure that you have a process for soliciting employee feedback about working conditions (including management) as well as responding to and addressing employee concerns.

## **7. Policies, Processes, And Procedures**

Among the chief complaints of dealership employees is a lack of formality about what the rules are and how or when they will be enforced. Many employees complain that employers do not have established policies and procedures that are written and consistently followed.

Therefore, if you are lacking established policies, processes, or procedures, you should consider establishing them. You should consult an experienced employment and labor attorney with assisting you with crafting policies that fit your organization and are easily for your employees to read, understand, and follow. You should also consider training all managers, supervisors, and employees in your policies and procedures at least annually. Finally, you should designate Human Resources staff to ensure compliance with your policies and procedures.

## **8. Identify And Remove Problem Managers And Problem Employees**

Most employees are hardworking and want a

workplace that is fair, equitable, and comfortable. The same is true for managers. It is important to stay informed of what is happening between employee and managers. Repeated employee complaints about a certain manager or supervisor should be investigated and effectively resolved. Many times, the problem is more personal than professional.

For example, a supervisor and employee may have different communication styles or lack mutual understanding of the performance expectations and processes. This is an issue that can be significantly improved by addressing any communication gaps, creating mechanisms that educate and train employees in performance standards and expectations, training your supervisors in effective leadership techniques, and empowering supervisors to make responsible decisions in accordance with your policies.

### **Something To Remember**

Be proactive. Get ahead of employee complaints and unionizing efforts by acting now to address employee concerns, improve job satisfaction, and minimize the potential for employees to engage in PCA or attempt to unionize to improve their wages, hours, or terms and conditions of employment.