

A Labor Law Roadmap for Museum Leaders Facing Unionization

Insights

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Museum leaders have a lot on their plates as they consider the visitor experience, shifts in revenue sources, and evolving exhibition designs. But an under-the-radar issue may arise that also warrants attention and careful consideration: labor relations. Don't make the mistake of thinking labor relations is only an issue for manufacturers. Indeed, unionization is now extending well beyond traditional industrial settings – and museum leaders should be prepared as cultural institutions become a focal point of this shift. Applying labor laws to museums presents a unique set of challenges, and understanding the legal framework is essential. Here's what museum leaders need to know and key steps you can take now to be proactive.

Current Trends in Museum Unionization

Union organizing efforts are gaining traction in American museums. This trend accelerated during the COVID-19 pandemic, which highlighted issues of job security, pay equity, and workplace safety for museum staff. From curators, volunteer coordinators, educators, and conservators to visitor services and security personnel, employees are increasingly turning to union representation to address their concerns.

This may be driven by common factors, including:

- **Compensation levels** that may not align with the higher cost of living in urban areas where many museums are located.
- **Job insecurity** in an industry that often faces significant budget constraints and relies on contract and temporary positions.
- **Employee focus on workplace equity**, corporate culture, and fairness in hiring and promotion.

Many museum employees have more awareness of their right to organize due to prominent and recent museum union organizing efforts. For museum boards and executive leadership, this movement requires a similar awareness of your obligations under the National Labor Relations Act (NLRA) and the strategic implications of a unionized workforce.

The NLRA and its Application to Cultural Institutions

The NLRA governs union organizing and collective bargaining in the private sector, including most museums. The act protects employees' rights to organize, join unions, and engage in collective bargaining. It also protects the right of employees to refrain from any of these activities.

Notably, the NLRA establishes rules that employers, including museums, must follow during organizing and collective bargaining. These rules dictate the procedures for union elections, define unfair labor practices, and mandate good faith bargaining once a union is certified. For many cultural institutions, grappling with these requirements is a new and complex endeavor. Museums often operate with tight budgets, heavy reliance on donations and grants, and a mission-driven, rather than profit-driven, operational model. These factors do not exempt museums from the NLRA, but they do create challenges in the context of collective bargaining.

Employee Engagement is Key

Employers that create a positive work environment and proactively address workplace concerns may reduce employee perceptions about the need for third-party representation. Here are five best practices you should consider to foster a positive work environment:

- 1. Strengthen communications.** Clear and regular communications with employees can ensure everyone is informed of workplace changes.
- 2. Address concerns promptly.** Prompt attention to employees' concerns in a serious and transparent manner helps employees feel heard and valued.
- 3. Conduct a compensation analysis.** Regularly review compensation and benefits against market trends, establish transparent salary ranges, and implement cost of living adjustments to ensure employees perceive their pay as fair.
- 4. Consider professional development.** Create clear career pathways by providing promotional opportunities and options for part-time and temporary workers to transition into full-time roles.
- 5. Ensure workplace policies are thorough and up to date.** Policies should accommodate diverse needs, including religious practices, family responsibilities, and disability requirements. Be sure to establish and enforce clear anti-discrimination, anti-harassment, and anti-retaliation policies with accessible reporting processes.

Carefully Plan Your Response

The NLRA prohibits specific employer actions that may interfere with employee rights. Actions that may be lawful in other contexts are often deemed a violation of the NLRA during organizing. Below are four steps museum leaders should consider when employees seek third-party representation:

- 1. Initiate training.** Ensure supervisors and managers understand how to lawfully communicate with employees.
- 2. Develop a message.** Create a clear and consistent message on the museum's position on third-party representation.

3. Maintain the status quo. Avoid sudden changes to policies and practices, which could create legal risk by changing terms and conditions during the critical period.

4. Review the handbook. Review policies to confirm they are consistent with workplace practices and compliant with the NLRA. If unionization succeeds, many handbook policies will become subjects of collective bargaining.

3 Guideposts for Navigating Museum Union Negotiations

If museum employees vote to unionize, leadership must then prepare for negotiations, which can be intricate and demanding. Here are three guideposts for navigating negotiations:

1. Understand the negotiation process. Collective bargaining is the process of good faith negotiation between employers and labor unions to create a collective bargaining agreement (CBA) that covers terms and conditions of employment – such as wages, hours, and working conditions. The process typically takes over a year to reach an agreement and includes negotiation sessions where the parties exchange proposals outlining priorities.

2. Focus on economic realities and funding constraints. Compensation is often a key issue in labor negotiations. Museum employees may seek wage increases, improved benefits, and clearer paths for advancement. However, museums face financial realities that are distinct from for-profit corporations. Revenue streams – which are a mix of ticket sales, membership fees, endowments, and philanthropic donations – can be unpredictable.

During bargaining, museum leaders must be prepared to address these concerns. Negotiations should be grounded in the economic realities of the institution while also acknowledging the valid concerns of employees. Crafting a sustainable economic package requires creative solutions that might include phased-in wage increases, performance-based incentives, or enhanced non-monetary benefits like professional development opportunities.

3. Preserve managerial flexibility. For a museum, operational flexibility is paramount. The ability to mount new exhibitions, manage collections, and adapt to changing public interests requires agility. A poorly negotiated CBA could impose rigid work rules that hinder these core functions. Therefore, management must bargain for contract language that balances employee protections with the institution's need to direct its workforce, make timely decisions, and uphold its curatorial and educational mission.

Conclusion

While the rise of unionization in the museum sector introduces legal and operational complexities, it does not have to be an adversarial process. By understanding your legal obligations and engaging in good-faith bargaining, you can forge a path forward that respects the rights of employees while safeguarding the institution's ability to thrive.

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Erin Gibson Allen
Partner
412.822.6635
[Email](#)



Raeann Burgo
Partner

412.822.6630

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