
Positive Employee Relations: How to Plan, Prepare and Succeed

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Agenda

1. Modern union organizing strategies
2. Early signs of internal organizing
3. An employer's right to speak
4. Responding to chatter
5. Responding to an unexpected application for certification
6. Running a successful campaign
7. Recent labour relations board decisions

MODERN UNION ORGANIZING STRATEGIES

Modern Union Organizing Strategies

~ Recent Trends

- Increased online campaigns
 - Organizing away from the workplace, through social media (*e.g.*, Facebook, WhatsApp, Reddit, *etc.*)
- Electronic membership cards
 - Now accepted by labour boards across Canada, unions will create a campaign website with a link or QR code to electronically sign a membership card
- “Salts”
 - Professional organizers employed by a union to apply to work for a company and unionize from the inside

Modern Union Organizing Strategies

~ Recent Trends

- Young(er) workers
 - Focus on tech-savvy Gen Z, students and part-time workers who treat union membership as an identity and social group
- Employee-led activism
 - Cause-based campaigns that promote change in the workplace and improve conditions for coworkers
- Wages
 - Promises driven by broader economic circumstances (*e.g.*, inflation and rising costs of living)

Modern Union Organizing Strategies

~ Focus on Social Media

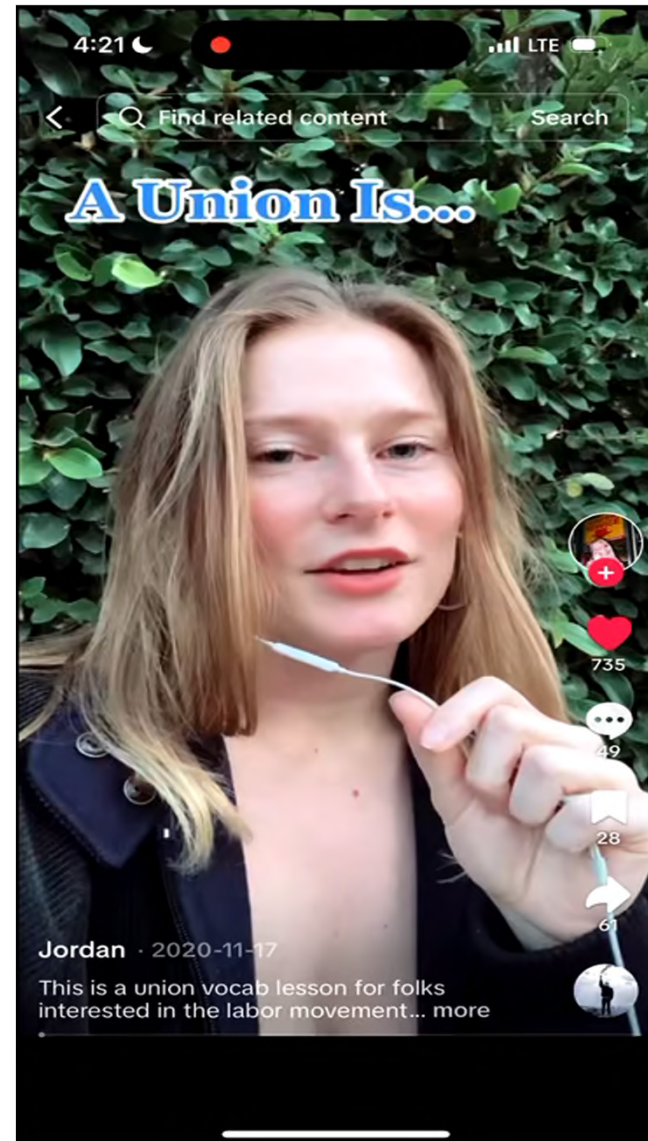
- Social media campaigns used to target young employees
- Apps like TikTok and Instagram disseminate information through short videos and aesthetic pictures
 - Allows for widespread reach and refined content that feels personal



Modern Union Organizing Strategies

~ TikTok

- Curated content takes advantage of trends to integrate information seamlessly into daily media consumption
- *e.g.*, dances, audio clips, “POV” style narratives, *etc.*



Modern Union Organizing Strategies

~ Instagram

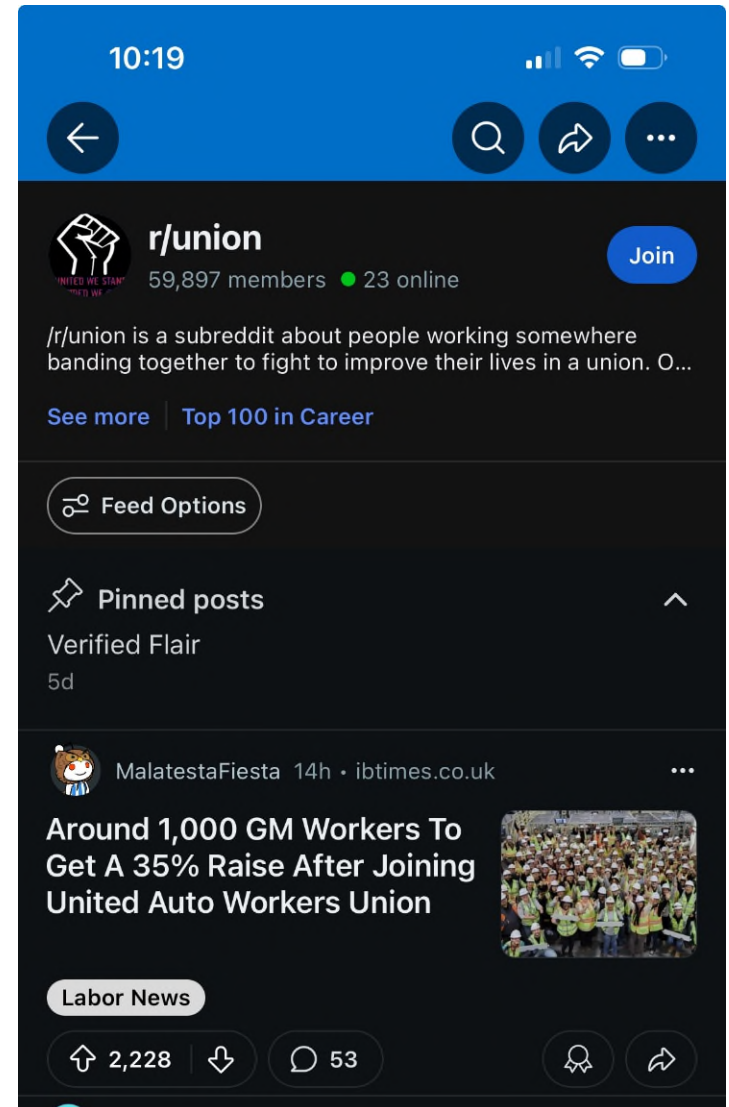
- Highlights a union's brand identity and appeal
- Posts are easy to understand and bolster appearance of successful organizing campaigns through likes, comments and shares



Modern Union Organizing Strategies

~ Reddit

- Anonymous “subreddits” allow workers to ask questions, discuss campaigns and share information without revealing their identity
- Allows for posting of full communications sent by employer or union



Modern Union Organizing Strategies

~Apps



- Union cards can now be signed electronically and takes less than five minutes to complete
- Eliminates inconvenience and limitations of unions meeting with employees in-person

Modern Union Organizing Strategies

~ Why Would You Be a Target?

- Tough economic circumstances allow unions to think they may be able to gain market share
 - *e.g.*, inflation and rising cost of living
- Circumstances creating uncertainty among employees
 - *e.g.*, rapid growth or changing workforce
- **At the end of the day, unions are a business too**
 - More members = more union dues...

EARLY SIGNS OF INTERNAL ORGANIZING

Early Signs of Internal Organizing

~ Why Are We Talking About This?

- It's easy to overlook
- It happens a lot quicker than you think
- Key issues and employee concerns can be difficult to detect when you don't know what you're looking for...
- All companies should have three bottom lines
 - Financial strength
 - Raving fan customers and clients
 - Motivated, engaged and passionate employees

Early Signs of Internal Organizing

~ What Leads to Organizing

External

- Having other unionized locations
- Nature of the relevant industry
- Economic realities
- Global circumstances

Internal

- Favouritism
- Management style
- Misinformation
- Organizational decisions
- Lack of security
- Wages & benefits
- Attention seekers

Early Signs of Internal Organizing

~ Common Mistakes

- Overlooking changes to policies and procedures
 - Seemingly innocuous but carries a large impact
- Soliciting feedback and failing to follow up or make change
 - Creates the feeling of being ignored or dismissed
- Not acting quickly enough
 - Allows issues and bad feelings to grow
- Ignoring or tolerating bad leadership
 - Impacts satisfaction and harms employer credibility

Early Signs of Internal Organizing

Application for Certification Success Rates

PRIMARY ISSUE	VOTE SUCCESS RATE
Wages	33%
Grievance Procedure	47%
Working Conditions	68%
Dignity & Respect	72%

Early Signs of Internal Organizing

~ Warning Signs

- Employee attitude
 - Low morale
 - Apathy
- Employee communication
 - Increased level of inquiries and/or complaints
 - Increased confrontation
- Employee behaviour
 - Work slow down, increased absenteeism
 - Gatherings of employees who do not normally associate
 - Running for the exits, never wanting to work overtime

AN EMPLOYER'S RIGHT TO SPEAK

An Employer's Right to Speak

■ Myths

- ❑ “Employers must remain neutral”
- ❑ “Employers cannot talk about unions”
- ❑ “Employers should not answer questions about unions”

■ The truth

- ❑ Employers can and should talk to their employees about unions (you just have to watch what you say)

An Employer's Right to Speak

~ How Can We Respond?



Threaten

Interrogate

Promise

Spy

An Employer's Right to Speak

~ How Can We Respond?

■ What can an employer say?

- ❑ *“I hope you don't sign a card”*
- ❑ *“We don't need or want a union here because...”*
- ❑ *“We prefer a one-on-one relationship with our employees”*
- ❑ *“A union can promise you anything – but everything must be negotiated”*
- ❑ *“Please vote”*
- ❑ *“Have you considered union dues?”*
- ❑ *“Even though you signed a card, you can vote no”*

An Employer's Right to Speak

~ What Can You Do

- Be responsive to employees' needs
 - Relationships between employees and supervisors
 - Be present in the workplace
- Talk about what matters to your audience
 - Understand the important issues
 - If you cannot answer, get back to them
 - Introduce them to a colleague who can
- Emphasize the positive
 - What is great about working here?

An Employer's Right to Speak

~ What Can You Do

- Enforce standards of conduct consistently
- Prohibit union activity during working time
 - Must be treated consistently with other “solicitations”
- Prohibit professional organizers from trespassing on company property
- Operate business as usual
- Talk to employees about the union or the status of the campaign/application process

An Employer's Right to Speak

~ What You Cannot Do

- Ask employees whether they signed a union card or know if others did
- Ask employees about internal union affairs, such as union meetings
- Discriminate against union supporters
- Encourage employees to revoke their membership
- State you will refuse to deal with the union
- Threaten to close your business

RESPONDING TO “UNION CHATTER”

Responding to “Union Chatter”

~ Employer Strategies

- Leadership training
 - Get comfortable talking about unions
 - Educate and empower your front-line leaders
- Review strategies to
 - Mend existing relationships and create new ones
- Review
 - Recent impactful decisions (*e.g.*, discipline, terminations, investigations, *etc.*)
 - Payroll issues
 - Organizational change (*e.g.*, uniforms, vacation, *etc.*)

Responding to “Union Chatter”

~ Employer Strategies

- Look for quick wins
 - ❑ Cafeteria, washrooms, uniforms, policy development, *etc.*
- Listen to your team and educate accordingly
 - ❑ What is a union?
 - ❑ What does “signing a card” mean?
 - ❑ How will you address issues bothering employees?
- Research
 - ❑ Recent organizing efforts within industry or geographic location

Responding to “Union Chatter”

~ Behind the Scenes

- Critically assess your leadership team for strengths and weaknesses
- Prepare for application for certification
 - ❑ Up-to-date employee lists
 - ❑ Review schedules and classifications
 - ❑ Prepare a draft response to application
 - ❑ Prepare and/or update your “5 Day Plan”
- Determine communication strategy and begin drafting communique

RESPONDING TO AN UNEXPECTED APPLICATION FOR CERTIFICATION

Responding to an App for Cert

~ The Certification Process

- Each province has its own certification process and its own labour board
- Some provinces have “Card-Check Certification” (*i.e.*, no vote)
 - Certification simply by collecting signed union cards (BC, QC, PEI & NB)
- Some provinces have “Vote-Based Certification”
 - Signed union cards AND mandatory vote (AB, SK, MB, ON, NS, NL)

Responding to an App for Cert

~ The Certification Process – Ontario

- Signed union membership cards are gathered from employees
- Cards are used as evidence of an employee's desire to be represented by the union
- Cards are valid for one year – much longer than most provinces
- Electronic cards now used in many cases

Responding to an App for Cert

~ The Certification Process – Ontario

Step 1: Card Signing Stage – valid for 1 year

- Union needs 40 % of employees to sign cards

Step 2: Application for Certification


- Mandatory vote typically 5 business days later

Step 3: Outcome is based on majority who cast a ballot

- 50 % plus 1 of those who cast a ballot

Responding to an App for Cert

~ Sample Union Cards



UFCW Canada

I hereby request and accept membership in the United Food and Commercial Workers International Union ("UFCW Canada"), and of my own free will hereby authorize the union, its agents or representatives, to act for me as a collective bargaining agent in all matters including wages, hours, and working conditions.

X _____
SIGNATURE OF APPLICANT

_____ DATE

Applicant Employee's Name & Address

PRINT

LAST NAME


FIRST NAME

HOME ADDRESS _____ STREET / APARTMENT _____

CITY _____ PROVINCE POSTAL CODE

PHONE

EMPLOYER _____ JOB _____

Do you work more than 24 hours per week? YES / NO (CIRCLE ONE) 



OFFICIAL APPLICATION FOR MEMBERSHIP

NATIONAL AUTOMOBILE, AEROSPACE TRANSPORTATION AND GENERAL WORKERS UNION OF CANADA (CAW-CANADA)

National Headquarters: 205 Placer Court, Toronto, Ont. M2H 3H9

I hereby apply for and accept membership in, and authorize the C.A.W.-Canada, its agents or representative, to act for me as my exclusive representative in collective bargaining, in respect to all the terms and conditions of my employment and to enter into contract with my employer covering all such matters.

X Date _____ **X** _____
Signature of Applicant

Application for membership received by _____
Signature of Recipient

X Date _____

Form 0-301-02  63

Indicate 1 Mr. Ms. Mrs.

LAST NAME

PRINT

FIRST NAME

ADDRESS APT.# E-MAIL

CITY PROV. POSTAL CODE

PHONE# (.....) SHIFT DAYS CONTRACT
AFTERNOONS PART TIME # HRS PER WEEK

MIDNIGHTS

Employed by Employee No.
(NAME OF FIRM)

CLASSIFICATION SALARY OR HOURLY RATE

HOW LONG EMPLOYED (Approx.) DEPT.

Responding to an App for Cert

~ The Secret Ballot

- Electronic secret ballot vote conducted by OLRB five business days from application filing date

Make an "X" in the circle opposite your choice


IN YOUR EMPLOYMENT RELATIONS WITH YOUR EMPLOYER DO YOU WISH TO BE REPRESENTED BY THE UNION?

DANS VOS RELATIONS DE TRAVAIL AVEC VOTRE EMPLOYEUR DÉSIRES-VOUS ÊTRE REPRÉSENTÉ PAR LE SYNDICAT?

YES

NO

Ontario Labour Relations Board



Home

Introducing Simply Voting

This is the software used by the [Ontario Labour Relations Board](#) to conduct online voting. It makes voting more convenient, less costly and friendlier on the environment.

How Simply Voting Works

1. Click on the Home link above to get back to the welcome page. Then, submit your PIN.
2. If your login was successful, you will be shown a menu listing all current ballots in which you are eligible to vote. If you have not yet voted, you may click on the ballot name and an electronic ballot will appear.
3. Once you submit a ballot, the results are encrypted and stored in a database. Your Elector ID is then flagged as "voted" and will not be eligible to vote on this ballot again.

Responding to an App for Cert

~ You Get the Application...

Myth:

“If you do not see it coming you cannot win”

Pay attention to the fax machine, reception and inboxes!

Responding to an App for Cert

~ Upon Receipt of Application

- Things to understand
 - You are not unionized
 - At least 40% of your employees signed cards
 - You likely have a vote in 5 business days
 - Your next 5 business days are going to be tough
 - You need to act quickly and make decisions
 - Gather information
 - Prepare your next steps
 - Ensure colleagues who need to be present are on-site

RUNNING A SUCCESSFUL CAMPAIGN

Responding to an App for Cert

~ 5 Keys

1. Focus on voter turnout

- Outcome is based on majority of those who cast a ballot
- Maximize turnout

2. Educate

- Pro choice – informed choice
- Employer preference and why from the employees' perspective
- Union dues – \$600 to \$800
- Be present and accessible

Responding to an App for Cert

~ 5 Keys

3. Strategic Communication

- Social media
- Oral and written communication
- Voluntary employee meetings

4. Celebrate past wins and focus on what your “employee voice” has accomplished without a union

5. Authenticity – own up to mistakes and commit to improvements

Responding to an App for Cert

- Maximize the use of credible resources
- Leverage the goodwill found in engaged employees
- Be a credible source of information for employees
- Proactively engage employees
 - *“What’s working versus what is not working?”*
 - *“What is the best way to communicate company messages and information to you?”*
- Ensure timely response to questions and concerns

RECENT LABOUR BOARD DECISIONS

Recent Labour Board Decisions

~ Statutory Freeze

Ecco Electric, 2023 CanLII 105591 (ON LRB)

- Employer increased wage rate during statutory freeze
 - “Status quo to be maintained while the parties are engaged in litigation related to the acquisition of bargaining rights”
- Board assesses employer decision
 - “Maintaining status quo does not mean that no change whatsoever may be made”
 - “Looking for an established practice or pattern or a change within the reasonable expectations of the employees”

Recent Labour Board Decisions

~ Interim Orders

Southern Sanitation, 2024 CanLII 81138 (ON LRB)

- Often arises when union organizer's employment is terminated during campaign
- Test: does an interim order make labour relations sense in all the circumstances, including
 - The nature of the interim order sought
 - The urgency of the matter
 - Apparent strengths of the parties' cases
 - Balance of convenience and labour relations harm
 - Whether the alleged damage is irreparable

Recent Labour Board Decisions

~ Interim Orders

- Despite short timelines for response, it is critical that the responses be thorough
- Key to demonstrate strength of employer's defence, injury to employer if interim order is granted, and lack of irreparable harm to union if interim order application is dismissed
- In cases of termination of a union organizer, employers
 - Need to clearly set out wrongdoing by employee
 - Should highlight if other union organizers remain employed
 - Must address degree of employer knowledge of union activity

Recent Labour Board Decisions

~ Remedial Certification

Waste Control Services Inc., 2022 BCLRB 91

- Interference with the formation of a union
- Coercion or intimidation
- Permissible versus impermissible influence

Price Club, 1994 CanLII 9872 (ON LRB)

- Assess what is likely to impair freedom of choice
- Communications were factual, informative, not coercive
- Motivated for valid reasons and not, even in part, by anti-union motivation

Recent Labour Board Decisions

~ First Contract Arbitration

Starbucks, 2024 CanLII 72056 (ON LRB)

- Parties able to resolve all but one issue – “borrowing” (practice of picking up shifts at other locations)
- Board granted first contract arbitration on basis employer justifications were not reasonable

Mirror Interiors Inc., 2023 CanLII 8321 (ON LRB)

- Refusal to acknowledge the bargaining authority of the union
- Adopted uncompromising position without reasonable justification
- Failed to make reasonable and expeditious efforts

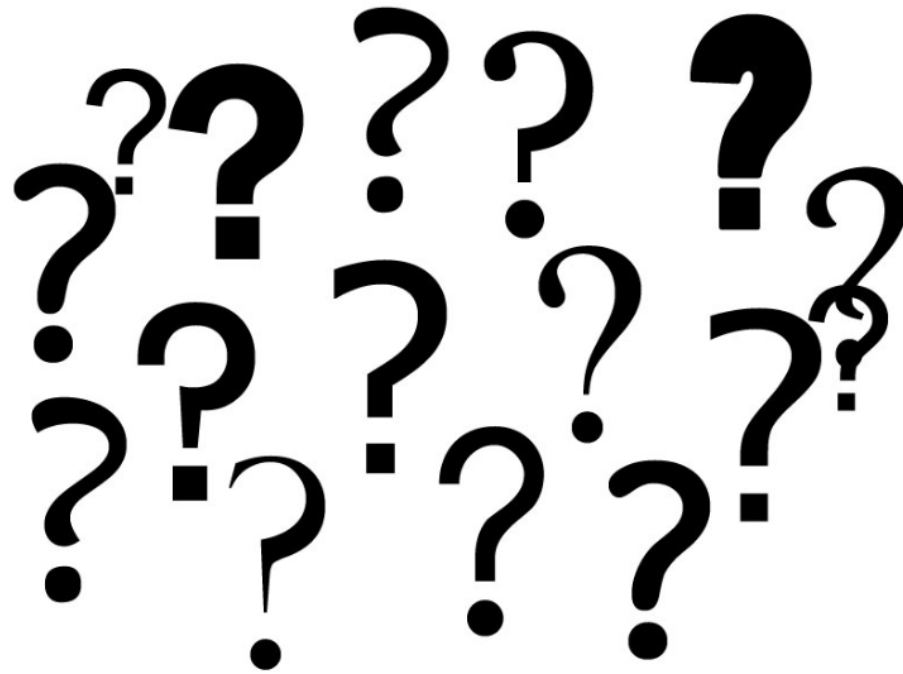
Recent Labour Board Decisions

~ Managerial Exclusions

Société des casinos du Québec, 2024 SCC 13

- Quebec *Labour Code* excludes managers from labour relations regime
 - Issue was whether exclusion violated managers' *Charter* right to freedom of association
- Supreme Court held exclusion **didn't** violate the *Charter*
 - Purpose of the managerial exclusion is to
 - Avoid placing managers in a conflict of interest
 - Give employer confidence managers will represent its interests
 - Protect the distinctive common interests of employees

Questions





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