

You Ought To Know

ISSUE: 9

What can you say to employees during upcoming Union Elections?

Several IBEW Local Unions have elections this year. The Labour Relations Act sets out a list of Unfair Practices, which include interfering with unions, interfering with employee rights and interfering with bargaining rights.

Please keep in mind that the following actions are generally acceptable but can be construed as an unfair labour practice **if** the employer uses coercion, intimidation, threats, promises or undue influence.

- You can encourage them to attend local union meetings
- You can advise them of the candidates
- You can encourage them to vote

We are aware of the following IBEW rules regarding local union elections:

- The use of union funds or employer funds to promote a particular candidate (including anything of value).
- Employers should not allow time during working hours to vote. Voting must be done on non-working hours when they are not being paid by an employer.
- Candidates cannot meet with contractor associations prior to an election.
- Contractors (employers) and those holding management positions, who are members of the local union, are prohibited from voting in the local union election.

What are Management Rights?

Clause 400 of our Principal Agreement states:

Subject to the terms of this Agreement, the Union acknowledges the right of the individual Contractor to manage the business in which they are engaged and to direct the working forces, to discharge or discipline Employees for just cause.

This means that you, as the employer, have the right to perform all the listed functions and manage your business as needed SUBJECT to the express provisions in the Principal Agreement. In other words, you cannot make rules or policies that go against provisions in the Principal Agreement.

There is another clause (401 – Regulations) that states reasonable rules and regulations should be observed if they are not inconsistent with the Principal Agreement. All rules must be posted in the workplace or made available to Employees and the Local Union should have a copy.

If the employer makes a new rule unilaterally, without the union agreeing to it, for that rule to be considered enforceable it must follow what is known as the KVP test.

1. It must not be inconsistent with the collective agreement.
2. It must not be unreasonable.
3. It must be clear and unequivocal.
4. It must be brought to the attention of the employee affected before the company can act on it.
5. The employee concerned must have been notified that a breach of such rule could result in his discharge if the rule is used as a foundation for discharge.
6. Such rule should have been consistently enforced by the company from the time it was introduced.

Can a foreperson work on the tools?

If you read the Management Rights section above, you will know that a foreperson can work on the tools UNLESS there is language in the Principal Agreement stating otherwise.

Clause 602 (Forepersons) in most local appendices outline restrictions on working on the tools for forepersons, or subforepersons, after a specific number of employees are on the job or project. This is sometimes referred to a non-working foreperson. Below is a short summary for each local area. For details, please refer to Clause 602 in the applicable local appendix.

Hamilton (105)	No restrictions on working on the tools.	Sarnia (530)	Jobs with more than 7 workers must have one non-working foreperson. Jobs with 13-24 workers must have 2 non-working forepersons.
Quinte (115)	11-14 workers – foreperson is non-working.	Ottawa (586)	10 or more workers, foreperson cannot work on the tools.
London (120)	After 8 workers, foreperson cannot work on tools. Jobs with two+ forepersons, one shall be a General Foreperson and not work on the tools.	Windsor (773)	10-13 workers must have 1 non-working foreperson.
Niagara (303)	Jobs with more than 4 forepersons, one must be non-working. One foreperson can supervise up to 15 employees.	Central Ontario (804)	General foreperson cannot work on the tools. General foreperson is required when more than 1 foreperson is required. One foreperson can supervise up to 12 employees.
Toronto (353)	No restrictions on working on the tools.	Northern Ontario (1687)	If there are 10 or more workers, subforeperson cannot work on the tools. Although not stated, this would include a foreperson if there are 10 or more workers.
Thunder Bay (402)	Jobs with 10 or more workers, the foreperson can only work on the tools for emergencies or for instruction.		

Do you know what You Ought to Know?

We hope that you're benefitting from the facts and insights we've shared through the publication thus far, and we welcome your questions and content ideas for future issues at any time. Contact Jodi Travers, ECAO's Labour Relations Manager, at jtravers@ecao.org. You can find all previous issues on the ECAO member website under Labour Relations.