



Is your employee relations program up to speed?

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Employee Relations Checklist

If it has been a while since you last reviewed your employee relations program, then it's time to make sure that it is up to speed. Even subtle changes in the legal landscape can impact what should be included in your workplace policies and procedures. Recent pro-labor activism by the National Labor Relations Board, however, has resulted in changes that are far from subtle. Among other things, the Board is implementing rules that will substantially reduce the period between representation petition and union election, and it is imposing a first-ever labor law notice-posting requirement on employers. Both of these rule changes will be effective April 30, 2012. In conjunction with various other pro-labor rule changes and decisions, these developments are almost certain to fuel organizing efforts.

Between now and April 30, employers have a limited window of opportunity to optimize the effectiveness of their employee relations programs, lawfully address lingering issues and concerns, update pertinent policies and procedures, and develop a comprehensive, broad-based and proactive labor relations strategy. At Fisher & Phillips LLP, we routinely work with our clients to audit their human resources and employee relations practices, review those practices for legal compliance, and institute supervisor training programs tailored to their specific industry and workplaces. Our experience can help you drastically minimize the likelihood of costly labor and employment problems down the road.

This checklist offers a sampling of the considerations that should become part of any effective labor relations program. For further guidance, we encourage you to consult your regular Fisher & Phillips attorney, who can provide you with additional information concerning the scope of our preventive services.

	Yes	No
Communications		
Do you have an updated, legally-compliant employee handbook?	<input type="checkbox"/>	<input type="checkbox"/>
Has it been updated for legal compliance within the past 12 months?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have a written procedure for promptly resolving employee complaints or grievances?	<input type="checkbox"/>	<input type="checkbox"/>
Is this written step-by-step procedure published in the handbook, posted on bulletin boards and addressed in new employee orientation?	<input type="checkbox"/>	<input type="checkbox"/>
Are there mechanisms in place for employees to openly share their complaints and concerns with supervisors, managers and HR?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have any type of "bypass" system for allowing employees to communicate upwardly?	<input type="checkbox"/>	<input type="checkbox"/>
Have your supervisors and managers been trained on effective leadership and supervision skills (e.g., effective communication, handling employee concerns, consistency and fair treatment)?	<input type="checkbox"/>	<input type="checkbox"/>
Does upper management regularly visit with employees in their work areas?	<input type="checkbox"/>	<input type="checkbox"/>
Does upper management find occasion to address large groups of employees on subjects of importance?	<input type="checkbox"/>	<input type="checkbox"/>
Are supervisors given information about the organization's plans before the information "hits the grapevine"?	<input type="checkbox"/>	<input type="checkbox"/>
Are supervisors and managers holding regular employee meetings?	<input type="checkbox"/>	<input type="checkbox"/>
Have you established other procedures for ensuring that supervisors regularly interact with their employees?	<input type="checkbox"/>	<input type="checkbox"/>
Are employees promptly informed about organization policy and personnel changes, business goals, procedure and schedule changes, sales updates, etc.?	<input type="checkbox"/>	<input type="checkbox"/>
Do employees believe the organization has a favorable "image" within the community?	<input type="checkbox"/>	<input type="checkbox"/>
Are you conducting periodic, confidential opinion surveys to "check the pulse" of your employees?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, are survey statements carefully drafted with specific objectives?	<input type="checkbox"/>	<input type="checkbox"/>
Does the survey contain a built-in alienation or employee engagement index?	<input type="checkbox"/>	<input type="checkbox"/>
Is timely feedback provided to employees with a summary of the survey results and planned actions to address issues and concerns?	<input type="checkbox"/>	<input type="checkbox"/>
Are you also providing a summary of the positive survey results and taking credit for actions taken to respond to survey feedback?	<input type="checkbox"/>	<input type="checkbox"/>
Do you know the informal opinion leaders among your employees, by department/work area?	<input type="checkbox"/>	<input type="checkbox"/>
Do your front-line supervisors really know their employees – their likes/dislikes, their concerns, what motivates them, their hobbies and interests outside of work?	<input type="checkbox"/>	<input type="checkbox"/>
Do you consider your employee turnover to be excessive?	<input type="checkbox"/>	<input type="checkbox"/>

Employee Relations Checklist

	Yes	No
Communications <i>(continued)</i>		
Are you using employee committees effectively but lawfully?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have mechanisms for encouraging upward communications from employees to management?	<input type="checkbox"/>	<input type="checkbox"/>
Are written and/or electronic communications being used to communicate with your employees (e.g., email, bulletin board postings, electronic signs, TVs or computers in break/lunch areas, newsletters, internal memos, letters to employee homes)?	<input type="checkbox"/>	<input type="checkbox"/>
Do you maintain bulletin boards in strategic locations?	<input type="checkbox"/>	<input type="checkbox"/>
Are they placed under glass or otherwise protected from defacement?	<input type="checkbox"/>	<input type="checkbox"/>
Are your bulletin boards lawfully restricted to employer use?	<input type="checkbox"/>	<input type="checkbox"/>
Are bulletin board postings protected from defacement?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a published policy regarding employee use/non-use of bulletin boards?	<input type="checkbox"/>	<input type="checkbox"/>
If a federal contractor, do you already inform your employees of their rights under the NLRA?	<input type="checkbox"/>	<input type="checkbox"/>
If not a federal contractor, do you have a plan for communicating, or not communicating, about the NLRB's Notice of Employee Rights under the NLRA by April 30, 2012?	<input type="checkbox"/>	<input type="checkbox"/>
Are your supervisors, managers and HR representatives prepared to answer employee questions about the new NLRB posting?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have a published policy lawfully addressing employee use of e-mail/other electronic communication systems to solicit or distribute information?	<input type="checkbox"/>	<input type="checkbox"/>

Communications About Union-Free Status

Do you have a union-free policy statement?	<input type="checkbox"/>	<input type="checkbox"/>
Has your statement been reviewed by counsel recently to ensure it can withstand current NLRB scrutiny?	<input type="checkbox"/>	<input type="checkbox"/>
Is the union-free statement being communicated to employees in orientation, the handbook, on bulletin boards?	<input type="checkbox"/>	<input type="checkbox"/>
Can every supervisor and manager properly answer, "Why is the organization opposed to unions?" and "I was given a union authorization card. What should I do?"	<input type="checkbox"/>	<input type="checkbox"/>
Have supervisors and managers been trained about the legal "Do's and Don'ts" for communicating with employees about unions?	<input type="checkbox"/>	<input type="checkbox"/>

Preparing for Union Organizing Activity

Have you reviewed the "supervisory" status of your front-line supervisors, working leads and foremen under the NLRA?	<input type="checkbox"/>	<input type="checkbox"/>
Has a strategic analysis been done with labor counsel about preserving any bargaining unit issues, and preparing for potential micro-units in light of the NLRB's <i>Specialty Healthcare</i> decision?	<input type="checkbox"/>	<input type="checkbox"/>
If you have more than one facility, have you considered whether you could argue for a multiple-facility bargaining unit and developed a strategy for asserting it?	<input type="checkbox"/>	<input type="checkbox"/>
Do you know where to access data about specific unions, financial reports, constitutions, by-laws and other useful information in the event of union organizing activity?	<input type="checkbox"/>	<input type="checkbox"/>
Have your supervisors and managers been trained recently about recognizing the early signs and symptoms of organizing activity and how to lawfully respond?	<input type="checkbox"/>	<input type="checkbox"/>
Do all supervisors and managers know who to contact in the event of picketing or hand billing, especially on the off-shifts?	<input type="checkbox"/>	<input type="checkbox"/>
Have you prepared a comprehensive plan for responding to suspected activity?	<input type="checkbox"/>	<input type="checkbox"/>
Have you established contacts so you know what is going on in your community and surrounding areas?	<input type="checkbox"/>	<input type="checkbox"/>
Do you maintain a file containing articles or related information about unions active in your area and/or industry?	<input type="checkbox"/>	<input type="checkbox"/>

Employee Relations Checklist

Application Stage	Yes	No
Are job openings posted internally?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization have a written policy on bidding for vacant positions or transfers?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization have a policy of promoting from within?	<input type="checkbox"/>	<input type="checkbox"/>
Are internal promotion opportunities effectively communicated to all employees?	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization's application been reviewed by employment counsel in the last 12 months?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization require a completed, signed application from each applicant?	<input type="checkbox"/>	<input type="checkbox"/>
Are all offers of employment made subject to satisfactory background checks?	<input type="checkbox"/>	<input type="checkbox"/>
Are reference checks completed for all offerees?	<input type="checkbox"/>	<input type="checkbox"/>
Are your managers trained to avoid making unlawful inquiries during interviews?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization train supervisors and managers about how to properly hire the most qualified applicants?	<input type="checkbox"/>	<input type="checkbox"/>
Have supervisors and managers been given a list of lawful questions that help determine whether an applicant will succeed in your pro-employee culture?	<input type="checkbox"/>	<input type="checkbox"/>
Have your supervisors been trained about how best to respond to the union organizing technique of "salting"?	<input type="checkbox"/>	<input type="checkbox"/>

New Hire Stage

Is a current employee handbook given to each employee for reference?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a signed, dated acknowledgment of receipt for the handbook in each employee's personnel file?	<input type="checkbox"/>	<input type="checkbox"/>
Do you discuss your commitment to working directly with employees during orientation?	<input type="checkbox"/>	<input type="checkbox"/>
Do you discuss union authorization cards during new employee orientation?	<input type="checkbox"/>	<input type="checkbox"/>

Protecting Access to Property and Employees

Are employees required to wear identification badges/name tags?	<input type="checkbox"/>	<input type="checkbox"/>
Are all doors, other than the main lobby, locked and access restricted?	<input type="checkbox"/>	<input type="checkbox"/>
Do you publish and strictly enforce a policy regarding visitors?	<input type="checkbox"/>	<input type="checkbox"/>
Have all supervisors/managers been trained about how to respond to unwanted visitors on your property?	<input type="checkbox"/>	<input type="checkbox"/>
Do you consistently enforce a solicitation and distribution policy to the maximum extent permitted by law?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have a "no solicitation/distribution" and "no trespassing/private property" signs posted?	<input type="checkbox"/>	<input type="checkbox"/>
Are all supervisors and managers familiar with the organization's property lines?	<input type="checkbox"/>	<input type="checkbox"/>
Have you conducted a "security audit" of your physical facilities?	<input type="checkbox"/>	<input type="checkbox"/>
Have you considered erecting a fence around organization property?	<input type="checkbox"/>	<input type="checkbox"/>
Has management met with local authorities about its property lines and what would happen if law enforcement were needed in the event of picketing activity?	<input type="checkbox"/>	<input type="checkbox"/>
When an employee is terminated, do you immediately terminate access to computers, phone systems and private property areas?	<input type="checkbox"/>	<input type="checkbox"/>
Do you inspect the former office space of departed employees to ensure all files are intact?	<input type="checkbox"/>	<input type="checkbox"/>
After the fact, are you able to determine when an employee was accessing the Organization's computer systems, what the employee accessed, and whether anything was printed or downloaded?	<input type="checkbox"/>	<input type="checkbox"/>
After the fact, are you able to determine when an employee made off-hours access onto the premises in the weeks leading up to his/her departure?	<input type="checkbox"/>	<input type="checkbox"/>
Have you taken steps to minimize contact between your employees and employees of other companies who come on to your property (e.g., truck drivers, construction contractors, vending suppliers)?	<input type="checkbox"/>	<input type="checkbox"/>
Have you minimized bottlenecks of employees entering/leaving work so access to your employees as they arrive/leave work will be more difficult?	<input type="checkbox"/>	<input type="checkbox"/>

Employee Relations Checklist

	Yes	No
Nondiscrimination, Harassment, and Retaliation		
Do you have a written policy promoting diversity and equal employment opportunity while prohibiting discrimination, harassment, and retaliation with a specific complaint reporting procedure?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization have an internal policy or procedure for investigating employee complaints?	<input type="checkbox"/>	<input type="checkbox"/>
Do you investigate all negative comments and complaints, even if they arise in the course of another investigation?	<input type="checkbox"/>	<input type="checkbox"/>
In the last 12 months, has an expert trained managers and employees about the organization's EEO, No Harassment, No Retaliation, FMLA and ADA policies?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization consistently enforce lawful personal appearance/dress code policies (e.g., garments with logos, text or pictures; buttons or other insignia; hats)?	<input type="checkbox"/>	<input type="checkbox"/>
Do your supervisors/managers know whether/when union paraphernalia is permitted to be worn by employees?	<input type="checkbox"/>	<input type="checkbox"/>

Seniority, Wages and Benefits

Do employees believe that their supervisors assign work in a fair and equitable manner?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have a written policy on seniority/length of service, and have you considered whether it should be applied within job class, department or organization-wide?	<input type="checkbox"/>	<input type="checkbox"/>
Is seniority the determining factor in promotions and layoffs where qualifications are relatively equal?	<input type="checkbox"/>	<input type="checkbox"/>
Is seniority recognized in determining eligibility or employee privileges such as shift preference, vacation benefits, vacation scheduling, overtime, etc?	<input type="checkbox"/>	<input type="checkbox"/>
Is the organization's seniority system being consistently and fairly administered?	<input type="checkbox"/>	<input type="checkbox"/>
Do you regularly conduct local wage surveys to determine if your wages are competitive?	<input type="checkbox"/>	<input type="checkbox"/>
If favorable, do you share wage survey results with your employees?	<input type="checkbox"/>	<input type="checkbox"/>
Do your wage rates provide fair differentials between jobs based on skill, effort and responsibility?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a procedure in place to ensure employees being paid proper wage rate within their classification?	<input type="checkbox"/>	<input type="checkbox"/>
Do employees understand the organization's wage rates and classifications, pay increase policy, etc.?	<input type="checkbox"/>	<input type="checkbox"/>
If you have a merit increase system, do employees have control over factors that influence their pay?	<input type="checkbox"/>	<input type="checkbox"/>
Are these factors understandable and measurable?	<input type="checkbox"/>	<input type="checkbox"/>
Have you conducted a recent benefits survey to determine if your benefits are competitive?	<input type="checkbox"/>	<input type="checkbox"/>
If favorable, do you share the benefit survey results with your employees?	<input type="checkbox"/>	<input type="checkbox"/>
Do you publish a written explanation of all employee benefits for employees and families?	<input type="checkbox"/>	<input type="checkbox"/>
Do you communicate to employees the value of their benefits in terms of security and costs each year?	<input type="checkbox"/>	<input type="checkbox"/>
Do employees complain about excessive "red tape" or delays in the claims filing process?	<input type="checkbox"/>	<input type="checkbox"/>

Wage and Hour Compliance

Have you recently conducted a comprehensive wage-hour audit, including review of minimum wage compliance, exempt/non-exempt status, child labor law compliance, donning and doffing issues, use of written pay plans, payment for break time, recordkeeping, "comp time," pay deductions?	<input type="checkbox"/>	<input type="checkbox"/>
Do you make reasonable efforts to avoid prolonged involuntary overtime?	<input type="checkbox"/>	<input type="checkbox"/>
Do you explain the necessity for such overtime?	<input type="checkbox"/>	<input type="checkbox"/>
Do you attempt to provide employees with a reasonable amount of advance notice before mandating it?	<input type="checkbox"/>	<input type="checkbox"/>

Employee Relations Checklist

	Yes	No
Safety Matters		
Is there a manager who is assigned responsibility for safety and health compliance?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, has the designated manager been trained on how to properly handle and respond to an OSHA inspection or inspections by others (e.g., building inspectors)?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization use written safety instructions or manuals?	<input type="checkbox"/>	<input type="checkbox"/>
Do employees receive regular training about safety matters?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization have an emergency response plan?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have a crisis management team to deal with catastrophic occurrences, fatalities, and OSHA- related publicity?	<input type="checkbox"/>	<input type="checkbox"/>
Have you conducted a hazard assessment to determine whether your employees are required to use any personal protective equipment (PPE)?	<input type="checkbox"/>	<input type="checkbox"/>
Do you conduct internal and external safety audits and hazard assessments of your facility?	<input type="checkbox"/>	<input type="checkbox"/>
Are safety audit results communicated to all employees?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have an employee safety committee?	<input type="checkbox"/>	<input type="checkbox"/>
Are employee work areas made as attractive, clean, and pleasant as reasonably possible?	<input type="checkbox"/>	<input type="checkbox"/>

Evaluation, Discipline, and Termination

Are all new hires subject to a trial or introductory period?	<input type="checkbox"/>	<input type="checkbox"/>
Are performance evaluations conducted for all employees?	<input type="checkbox"/>	<input type="checkbox"/>
Are managers trained to conduct effective and defensible performance evaluations?	<input type="checkbox"/>	<input type="checkbox"/>
Has your evaluation form been reviewed to ensure that it achieves its purpose and does not create any adverse evidence against the organization?	<input type="checkbox"/>	<input type="checkbox"/>
Are managers trained about and evaluated on compliance with employment laws, and documenting personnel and disciplinary actions?	<input type="checkbox"/>	<input type="checkbox"/>
Are employees allowed to comment on their performance evaluations?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization consistently use a standard disciplinary warning form?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization try to follow a progressive policy, while reserving the right to deviate from it?	<input type="checkbox"/>	<input type="checkbox"/>
Are employees given copies of all written discipline?	<input type="checkbox"/>	<input type="checkbox"/>
Does a single person review all terminations?	<input type="checkbox"/>	<input type="checkbox"/>
Are terminations compared to prior discipline for similar offenses?	<input type="checkbox"/>	<input type="checkbox"/>
Are exit interviews conducted for all voluntary terminations?	<input type="checkbox"/>	<input type="checkbox"/>

Other Compliance Actions

Are applicable federal and state employment law posters properly posted?	<input type="checkbox"/>	<input type="checkbox"/>
Is the EEO-1 and Vets-100 Forms completed and submitted annually?	<input type="checkbox"/>	<input type="checkbox"/>
Have you reviewed recent EEO-1 forms to see if they indicate any trend in the representation of women or minorities in each EEO-1 job category?	<input type="checkbox"/>	<input type="checkbox"/>
If your organization performs services under federal contracts or subcontracts, do you maintain an updated Affirmative Action Plan, complete appropriate applicant flow logs, etc.?	<input type="checkbox"/>	<input type="checkbox"/>
Are organization premises accessible to disabled applicants and employees?	<input type="checkbox"/>	<input type="checkbox"/>
Does the organization have an Employee Assistance Program (EAP)?	<input type="checkbox"/>	<input type="checkbox"/>

About Fisher & Phillips LLP

Fisher & Phillips LLP represents employers nationally in labor, employment, civil rights, employee benefits and immigration matters. At Fisher & Phillips, we have been committed to providing value to our clients dating back to the founding of our firm nearly 70 years ago. We do only one thing: Represent employers in labor and employment matters.

About this Checklist

This checklist provides only a general outline for an internal review of some labor and employment law policies, procedures, and practices. The list is not a complete or all-inclusive summary of necessary employment law forms or practices. Important areas, such as those relating to COBRA, HIPAA, workers' compensation, management development programs, and other subjects are omitted from this checklist. The "correct" answers to these questions may depend on multiple factors, including state and local laws, as well as laws regulating a particular type of business. Make sure you answer all questions objectively, and do not try to hide mistakes you might be making. Remember, we are here to help you!

For a complete analysis, consider the nature of your business and the particular laws and regulations that apply. This document is not intended to constitute legal advice. Employers may find it helpful to review this general outline with their labor and employment law counsel. Among other things, use of this checklist in conjunction with legal counsel may serve to protect the responses under the attorney-client privilege.

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