



What are Your Rights During a Re-Organization?

When the manager of your department or section announces it is time for a “re-organization,” it can be a pretty uncertain time for you and your co-workers. There can be many impacts during a re-organization that can affect some portion of your job, whether it is pay, workspace, training or even morale and it may happen very quickly. Knowing your rights as a union member can help empower you and your co-workers to have a voice in this important process.

What rights do union members have when management wants to re-organize the workplace?

The answer to this question cannot be answered unless you first understand the concept of “mandatory subjects of bargaining.”

Mandatory subject of bargaining

Mandatory subjects of bargaining are those subjects the employer is obligated by state law and contract to bargain and are generally described as subjects related to “wages, hours and working conditions.” These are subjects that have a direct and significant relationship on the terms and conditions of your employment.

So does the employer have to bargain whether they can re-organize a workplace?

Generally, the decision of whether an employer can re-organize a workplace is considered a non-mandatory subject of bargaining because it addresses a subject that is at the core of management’s rights.

Just like employees have rights in the contract, the employer has rights too. Most contracts have a “Management’s Rights” clause stating that the employer retains authority to make unilateral decisions over some subjects including the right to re-organize the workplace. Therefore, generally, the employer does not have to bargain the decision to re-organize, but that does not mean the union has no voice. The union still retains the right to bargain the impacts of the decision to re-organize.

What is impact bargaining?

The employer has an obligation to provide notice to Local 17 that it intends to make a unilateral change, such as a re-organization, and then affords the union an opportunity to bargain over any impact. Any mandatory subjects of bargaining, like hours of work, that are affected by the employer’s decision must be bargained before any change is made.

That means if the employer wants to change hours, it cannot do so until the union either waives its right to bargain, or the employer and the union reach agreement or impasse.

However, the employer has no obligation to bargain until the union has made a “demand for bargaining.” If no

Here are some examples of “Mandatory Subjects of Bargaining” that may be triggered by re-organization. Any changes must be bargained with the union prior to implementation.

- *Elimination of positions*
- *Change in required “uniform” or clothing*
- *Employee privileges (i.e. the right to make personal calls, flex time)*
- *Food service hours, free coffee*
- *Grooming standards*
- *New positions*
- *Parking rules*
- *Production quotas*
- *Safety concerns*
- *Subcontracting work to consultants*
- *Schedules*
- *Vacation policies*

demand has been made, then the union has waived its right to bargain by its inaction.

Unfortunately, the employer often fails to notify the union. Or sometimes employees don’t notify their steward in a timely manner of changes, and by the employee’s inaction, the rights are waived to make a claim. This is why it is important that stewards know their rights and the importance of the timelines so that members don’t lose their right to bargain.

What if management says it doesn’t have to bargain over the re-organization?

Never take management’s word that it doesn’t have to bargain over an issue related to re-organization. Check with the your union representative first, because even if the contract or law waives the employer’s duty to bargain, the employer may still be obligated to bargain over the impacts of the change prior to making any changes.

The union should always cast the widest bargaining net over any proposed change. Local 17 is not guaranteed to always force the employer to bargain over an issue, but by knowing our rights, and at the minimum, requesting the right to bargain, members and union staff can train management to bargain over most workplace changes. — *By Local 17 Union Representative Guadalupe Perez*

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