

Introduction to the 2026-2027 Edition

The 2026-2027 edition of *Labor-Management Relations: Strikes, Lockouts and Boycotts* have been intended to help employers keep abreast of significant developments in labor-management relationships.

Among the revisions to the 2026-2027 edition are:

- **§ 1:1. Introduction to labor-management relations:** For fiscal year 2025, annual representation case data released by the NLRB showed a notable decline in RC petitions filed by unions as the Trump II Board era got underway (compared to the increase in such filings during the last two years of the Biden Board era), but a continued high union success rate when those elections were held.
- **§ 1:1. Introduction to labor-management relations:** Considering all work stoppages, not just the major ones, total work stoppage activity decreased somewhat in 2025.
- **§ 1:1. Introduction to labor-management relations:** The first few months of 2026 saw the resolution of several significant private sector strikes.
- **§ 1:21. Current developments:** The *Top 10 Recent Labor Law Developments* have been updated.
- **§ 2:7. Notice requirements—No-strike clause—In general:** A federal district court considered a no-strike clause in a Section 301 action by an employer in 2025.
- **§ 2:13. Notice requirements—No-strike clause—Reverse Boys Markets injunctive relief:** Per the Second Circuit, a reverse *Boys Markets* injunction is permitted “only when ‘necessary to prevent arbitration from being rendered a meaningless ritual.’”
- **§ 3:4. “Good faith” requirement—Impasse:** The Eleventh Circuit enforced a Board order finding that the employer prematurely declared impasse.
- **§ 3:14. Remedies for refusal to bargain [New]:** In 2026, the NLRB in *Longmont United Hospital* declined to overrule *Ex-Cell-O*.
- **§ 5:1. Introduction to unfair labor practice strikes and economic strikes:** The employer’s ability to hire permanent replacements, whether implemented or held in reserve, can be a crucial element of the employer’s bargaining power and strategy.
- **§ 5:2. Employer’s commission of unfair labor practices:** In 2025, the D.C. Circuit upheld an NLRB rul-

ing that the employer's unilateral changes to terms and conditions before an actual impasse was reached were sufficient to cause the subsequent strike to be an unfair labor practice strike.

- **§ 5:4. Causation—Employee knowledge of and reaction to unfair labor practice:** In a 2025 decision, the Tenth Circuit upheld an NLRB finding that striking drivers had engaged in an unfair labor practice strike because they were motivated, at least in part, by the employer's unfair labor practices.
- **§ 6:16. Rights of permanently replaced economic strikers to reinstatement—Legitimate and substantial business reasons for refusing reinstatement:** Employer proof of actual serious misconduct, as opposed to perceived fears of future misconduct, can be sufficient to allow the employer to deny reinstatement after strikers unconditionally offer to return to work.
- **§ 6:18. Rights of unfair labor practice strikers:** Even though the employer is generally required to reinstate unfair labor practice strikers immediately after it receives their unconditional offers to return to work, the duty does not always apply to strikers who have committed serious misconduct during the course of the strike.
- **§ 8:1. Introduction to majority status of union:** The NLRA does not create a direct pathway for an employer to obtain appellate review of the Board's certification of a union, but rather, creates an indirect path.
- **§ 8:2. Decertification elections:** The Eighth Circuit disagreed with the rule of *W.A. Krueger Co.* and refused to enforce an NLRB order finding that the employer automatically violated Section 8(a)(1) and (5) by withdrawing recognition from the union after a decertification election in which the union lost but the union's objections to the election were pending before the NLRB.
- **§ 8:3. Withdrawal of recognition:** Employers are well advised to be careful about withdrawing recognition when they are engaged in lengthy hard bargaining sessions.
- **§ 9:12. Post-lockout issues—Remedies for unlawfully locked-out employees [New]:** The NLRB has expanded the range of remedies available to unlawfully locked-out employees.
- **Appendix 1 to Appendix 5:** The statutory material in the Appendices has been updated.

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