

HOSPITAL & HEALTHCARE NEWS

Managing without interference: how to remain union-free

By Julius M. Steiner, Esq. and Jason E. Reisman, Esq.

On October 25, 1995, American labor elected a new leader. John J. Sweeney, former president of the Service Employees International Union, is now president of the AFL-CIO. This leadership promises important change in union organizing and campaign activities.

Sweeney has, in fact, earmarked millions of dollars for increasing the quantity and quality of union organizing efforts. Further, he has openly discussed his priority of authorizing a tenfold increase in AFL-CIO spending to recruit the millions of overlooked workers in service industries. Sweeney has an outstanding track record in this arena. As president of the SEIU during a decade of widespread decline in union membership, he headed a union that nearly doubled in size by attracting the low-wage workers ignored by many other unions. In recent years, a large number of these low-wage recruits were found in the healthcare industry.

Non-union employers are likely targets of unionization when any of these conditions exist: 1) Many low-wage employees; 2) High turnover among employees; 3) A large proportion of minorities supervised by non-minorities. Given his past successes, application of Sweeney's techniques should dramatically increase union organizing efforts, with healthcare as a prime target for unionization.

At the same time, the Clinton administration's National Labor Relations Board has made a significant effort to assist organized labor. In addition, on November 28, 1995, the United States Supreme Court in a case entitled *NLRB v. Towne and Country* unanimously sanctioned an invidious union organizing technique known as "salting." Salting involves the situation where paid union organizers apply for positions within a company solely to infiltrate the workforce and organize the company's employees. The combined effect of these circumstances – an AFL-CIO energized

to organize, the Supreme Court's protection for union "salting," and the NLRB willing to assist in every possible way – should lead the wise healthcare employer of non-unionized workers to do an immediate "union vulnerability audit." Such employers should: 1) analyze their labor-management relations, 2) identify the weak areas, 3) implement measures to eliminate them, and 4) evaluate their hiring process and develop lawful techniques to avoid becoming a victim of "salting."

Four tips for preventing employee relations problems and, as a result, the development of union organizing activities follow. All four rest on a solid commitment of top management to all employees. That stated commitment should read: *No employee at this healthcare facility will ever have to pay a union to receive competitive wages and benefits, fair treatment, and real job security.*

Effective communication. This is the critical skill in developing labor relations to safeguard against the onset of union organizing activities. First-line supervisors must listen to employee questions and concerns. The workplace needs to be an open environment which fosters two-way interaction: employees should be free to express their thoughts, and should receive appropriate, adequate responses from their supervisors in return. The employer's overall position should always be communicated in a way that makes sense to the employee.

Handling employee complaints and performance problems. This is perhaps the most sensitive area of labor relations. As might be expected, insensitivity in this area can erode employee trust, which then paves the way for unionization. Remember that employees talk to other employees. How management handles one employee's complaint will be perceived – rightly – as the way management intends to handle every employee complaint. The manner in which an employee is spoken to, whether personally and privately,

whether with fairness and a basic respect, will go a long way toward resolving any issue. Similarly, performance evaluations need to be objective, fair, and without favoritism. There should be a corresponding willingness to recognize good work and reward it in some important way.

Conveying company policies and being consistent in applying them. First-line supervisors, especially, should know the facts about company benefits and policies. Also, they should encourage employees to ask about those facts. Hiring, firing and promotion – all personnel transactions – should be made within the context of equal employment opportunity considerations.

Creating employee commitment. Developing loyalty and nurturing identification with an employer is achieved when the employer shows a similar loyalty and identification with the employee. Employers should acknowledge their employees' importance and the contribution they make to services the healthcare facility offers. Positive reinforcement is essential in creating the personal worth on the job that will nourish healthy company loyalty and identification.

The only strategy for ensuring a non-unionized work force is the development of good employee relations – the natural result of sound management techniques. A union-free workplace is just one more by-product of good management.

Julius M. Steiner is a well known Philadelphia labor and employment attorney with a unique blend of over 30 years experience as a practicing attorney and CEO. Mr. Steiner is a Principal in the labor & employment group at the law firm Offit Kurman in Philadelphia, PA. Mr. Steiner represents major companies of all sizes throughout the country in the distribution, transportation, building materials, health care, hospitality, and food processing sectors. He can be reached at jsteiner@offitkurman.com. This article does not constitute legal advice or opinion.