

What to Expect during UNION RECOGNITION

Employees have the right to choose a union to represent them without employer interference, and the employer is required by law to bargain with the union if they demonstrate majority support. Forming a union should not be as mysterious and complicated as it is. Here is what every manager and supervisor should know.

The Request for Recognition

- To secure union recognition from the employer, employees sign a petition or authorization cards stating they want to have a particular union represent them as their “sole and exclusive collective bargaining agent.”
- The union contacts the employer to request recognition or an election for a particular group of employees, called the “bargaining unit.”
- The voluntary recognition request often asks the employer to respond within a certain amount of time. The employer can request additional time if needed to get legal advice and to consider what positions they agree to include in the bargaining unit.
- If the employer refuses to voluntarily recognize the union, the union or the employer can file for an election with the [National Labor Relations Board](#) [NLRB].

*Anti-union employers in the U.S. have long used the NLRB and its weaknesses to delay and defeat the union. In the nonprofit sector, recent practice has been **to agree** to voluntary recognition.*

The Recognition Agreement

- In the voluntary recognition process, the parties negotiate a “recognition agreement” which spells out which categories of employees are being recognized, and how majority status will be demonstrated.
- To prove their majority, the union presents employee signatures on a petition or cards for verification – either directly to the employer or through a neutral third party.
- Once the union proves its majority through this process (often called a “card check”) the employer recognizes the union and signs the agreement.
- It is common for the employer – or the union and the employer jointly – to send a letter to all staff announcing that union recognition has been finalized and they intend to bargain in good faith.
- Many employers and unions create joint press releases and find ways to celebrate

the recognition of the staff union.

- It's important to note that a formal labor-management relationship starts with union recognition.

About Bargaining Units

Bargaining units are groups of employees who have a shared interest. A union may propose a bargaining unit that spans many jobs and roles - a "wall-to-wall" unit - or they might specify a subgroup of employees. For example, some units include support staff and some don't; some include both headquarters and field-based staff, and some don't. In addition, the unit typically excludes the following categories:

- Managerial and executive personnel;
- Supervisory staff with the power to hire and fire;
- Temporary employees; and,
- Confidential employees (who play specific support roles to management during bargaining or who have access to certain confidential labor relations information).

The process can involve some negotiation to determine who falls into these various categories. If union and management can't agree, they may end up resorting to an NLRB (National Labor Relations Board) process, which includes a ruling on the appropriate unit.

Sometimes the process of agreeing on the bargaining unit reveals the need for management to clarify the roles and responsibilities of certain employees, especially those with supervisory or managerial responsibilities.

The Election Route

In a major NLRB ruling in August, 2023, the Board ruled that if presented with a demand for voluntary recognition, employers must promptly grant recognition or file a petition with the NLRB for a representation election process. If they choose the election route and then break the law and engage in union-busting activities, the Board can certify the union without a new election.

While elections may sound "democratic" way to determine union support, it is an option rooted in anti-union history and practice. The signatures of employees should suffice as proof of the employees' choice, just as they do for so many other decisions employees make. In the nonprofit sector, most elections are won overwhelmingly by the union, starting the relationship off with the impression that they have "beaten" the employer. More and more, voluntary recognition is seen as the best option.

For more on this topic see: [How to respond to a demand for Voluntary Recognition](#)