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**\*\*\*EMPLOYMENT LAW ALERT\*\*\***

**TIME TO STEP IT UP**

By: S. Whitney Rahman  
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By now, you are probably aware of the so-called Employee Free Choice Act ("EFCA"), which if or when passed, will drastically change the labor-management landscape. Under EFCA, employers will be forced to recognize unions based on a showing that a majority of employees in the bargaining unit have signed union cards, thus bypassing private elections. And if a first agreement is not negotiated with the union within a relatively short time, an outside arbitrator or arbitrators -- who will not be familiar with your business and how it operates -- will set the terms of the contract that the company and its employees will have to live with for the term of the agreement.

The pendency of EFCA highlights the need for human resource departments in nonunion companies to take the role of advocate for employees. If you won't, a union will be more than willing to serve this role. Human resources departments are well-positioned to take this responsibility, because they generally already are the go-to office for employee problems.

In order to do more than lip service to this function, it is essential that upper management understand the importance of human resources serving as the employee's advocate. Human

resources professionals are in the best position to discuss this matter with upper management, and to help upper management understand how crucial human resource employee advocacy may be to the company's bottom line.

Now, more than ever, fairness to employees is paramount to avoid future costs to the company. What future costs could be caused by unfairness or an employee perception of unfairness? The company could lose manhours of work from disgruntled employees who slow down efforts or are distracted by issues in the workplace. The company could face the insertion of a union into the relationship between management and employees. Employees' perception that management is unfair is one of the chief causes of employment discrimination claims, which are costly and time consuming.

What can human resources do? A lot.

- Train supervisors on the change the EFCA will bring and the ability of unions to achieve bargaining status merely by having cards signed.
- Train supervisors on fair handling of employee problems.
- Make sure all employees know that human resource personnel are available to help with problems. And then follow through.
- Take complaints seriously and investigate to see if changes should be made.
- Review job descriptions to make sure they are still accurate.
- Review compensation structures to make sure they are fair.
- Review employee handbooks to make sure they are still accurate, legally correct, and understandable by the employees.
- Make sure employees feel comfortable coming to human resources, so that they believe they can get answers, not just lip service. This requires follow thorough to get back to employees. Whether or not you can provide the answer the employee wants

to hear, you need to let the employee know the result of your investigation into their concern.

Taking some time now to polish human resources' skills at resolving employee problems could help your company avoid bigger problems in the future.

We have represented union and nonunion employees for more than 35 years. We offer training on union avoidance, assistance in personnel actions, help in revising policies and advice on legal compliance issues.

If you have questions or if we can assist you, please contact Whitney Rahman or John Roland at (610) 372-5588, or by e-mail at [swrahman@rolandschlegel.com](mailto:swrahman@rolandschlegel.com) or [jroland@rolandschlegel.com](mailto:jroland@rolandschlegel.com).