



# MANAGING IN A UNIONIZED ENVIRONMENT

## Chapter 13



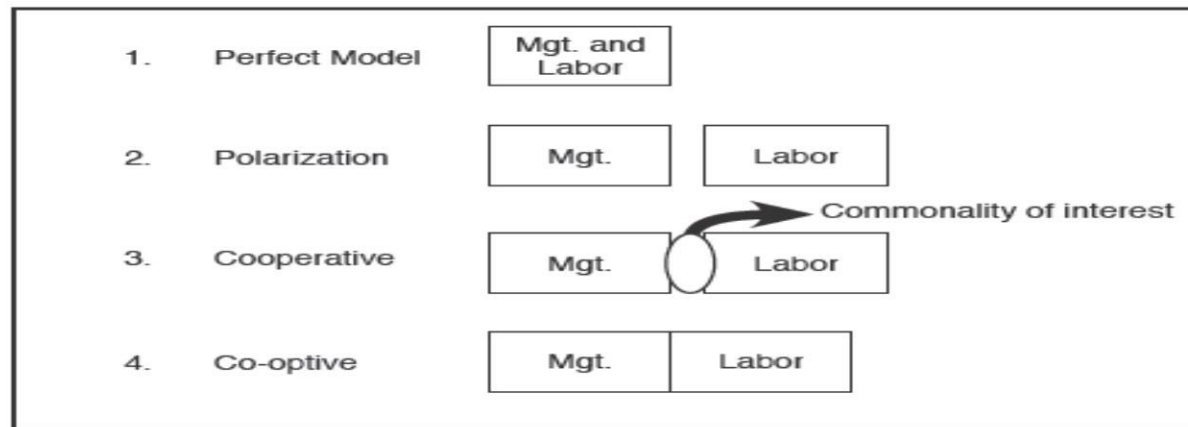


# THE CONCEPT OF INDUSTRIAL RELATIONS (LABOR RELATIONS)

The field of *industrial relations* (also called labor relations) looks at the relationship between management and workers particularly groups of workers represented by a union.



- Perfect Model** - a total congruence of employer's and worker's interests and goals.
- Polarization** - The interest of labor and management are diametrically opposed to each other.
- Cooperative** - There is conflictual interests but congruence of interests in common areas like profitability and survival of the organization.
- Co-optive** - The interests of the workers are subservient to management interests.



## MODELS OF LABOR RELATIONS



# LEGAL AND CONSTITUTIONAL FRAMEWORK OF LABOR RELATIONS

- **The Constitution**
  - “The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.”



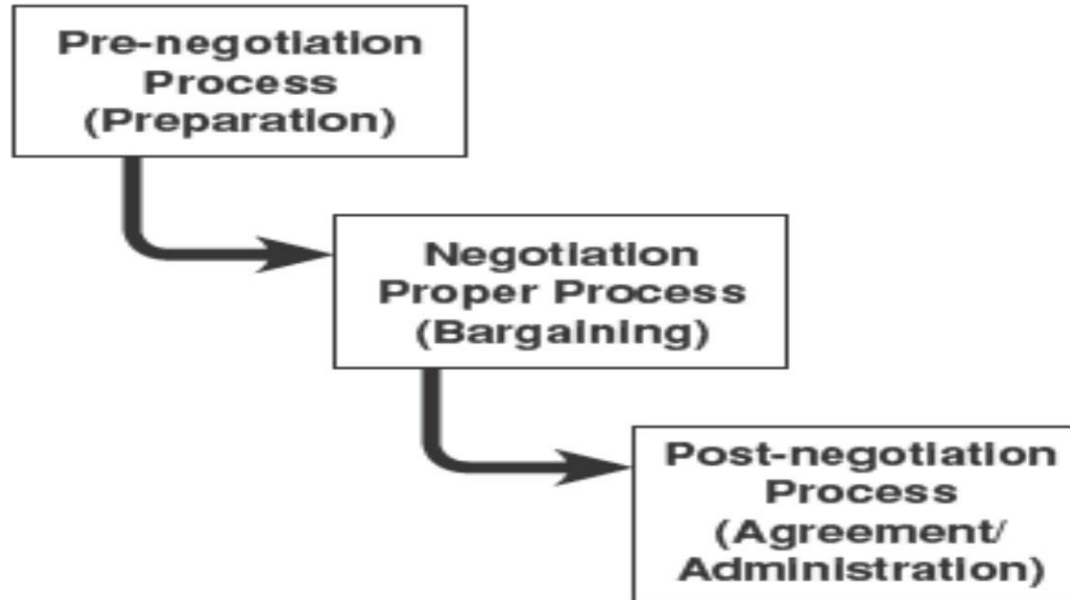
- **The Law**
  - “It is the policy of the state to promote and emphasize the primacy of free collective bargaining negotiations, including voluntary arbitration, mediation, and conciliation, as modes of settling labor or industrial disputes.”
- **The ILO Convention**
  - Convention 87 – Freedom of association and collective bargaining
  - Convention 98 – The right to organize and collective bargaining





# STRATEGIES IN COLLECTIVE BARGAINING

- Stages of bargaining:





# The Preparation Stage

1. Aligning CBA with company's business objectives



2. Choice and training of the management panel



3. Estimate negotiation timetable



4. Gathering information on issues, parties (union) and the environment



5. Reviewing the present expiring contract



6. Preparing and analyzing data



7. Anticipating union demands



8. Establishing the possible cost of labor agreement



9. Preparing the economic package



10. Establishing parameters of authority



11. Preparation of a Strike Contingency Plan



# Pre-Negotiations Communications Strategy

After collating all the economic data including CBA survey, management should analyze how its company stands in comparison with competing companies in terms of wages and benefits since negotiation always centers on economic context.







# The Negotiation Stage

Management's and union's conflicting goals are resolved through the negotiation process.



# BARGAINING POWER

Bargaining power in negotiating is the capacity of one party to dominate the other party due to its influence, power, size, or status or through a combination of different persuasion tactics.





# BARGAINING STRATEGIES AND TECHNIQUES

## The Hard-ball approach

- Applied by management if it is ready and willing to suffer strike rather than giving in to an onerous economic demand.

## The Boulware approach

- Similar to the hardball approach, the difference is, Boulware evaluates the needs of the workers and presents a "first, last and best offer."
- It leaves no elbow room for bargaining.

## The Marathon approach

- Management strikes an agreement with the union to negotiate without let up until an agreement is reached on vital issues.

## Stoking the Bargaining Zone approach

- Union haggles for its position until both management and union reach an agreement.



# PERFORMANCE-BASED BARGAINING

- Performance-based bargaining is a paradigm shift from the traditional across-the-board increase for all members of the union to a performance based increase.
- Although a portion of the wage increase is still apportioned as guaranteed pay



# GOOD FAITH IN BARGAINING

- Generally refers to the duty of parties to meet and negotiate at reasonable times with willingness to reach agreement on matters within the scope of representation.
- Good faith bargaining requires employers and unions involved in collective bargaining to:
  - Use their best endeavors to agree to an effective bargaining process



- Meet to consider and respond to proposals made by each other
- Respect the role of other's representation
- Not do anything to undermine the bargaining process





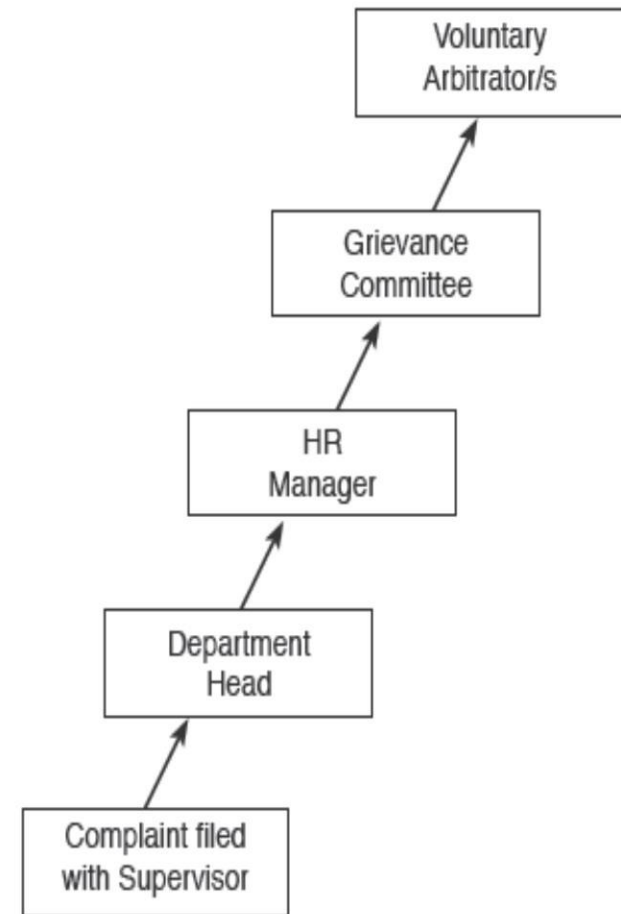
# CBA ADMINISTRATION

- CBA is a binding document on both parties.
- Contract administration is a daily function and could be the most important responsibility of supervisors and line managers.



# GRIEVANCE PROCEDURE

- A grievance procedure is a preventive measure as it precludes complaints from ripening into full-blown dispute.
- There are two key factors in establishing a workable grievance procedure.
  - The first is the concept of progression of levels
  - Second factor is the availability of an alternative procedure







# DISCIPLINE

- Discipline is now more associated with punishment. It becomes punitive in purpose instead of trying to “learn” good behavior and encourage a misbehaving employee to change his ways and reform.
- Studies have shown, however, that positive discipline is more effective in changing behavior.



# Modern Definition/Concepts of Discipline

- A kind of training that corrects, reforms, molds or strengthens an employee in the interest of achieving organizational goals.
- It is training that corrects, molds or strengthens an employee in the interest of achieving organizational goals.
- The purpose of discipline is preventive – to prevent the commission of an act which violates the policies, rules and regulations of the company.



# Consistency in Application

- In the administration of discipline, consistency in its application is the cardinal rule.
- Disciplining is a responsibility of the immediate supervisors and managers.
- To ensure consistency in meting out punishment, the superiors and the HR Department must be consulted before any disciplinary action is taken.



# Disciplinary Procedure

- The procedure has 3 fold objectives.
  - Point to the employee the error of his/her ways
  - Set the employee on the path of improvement
  - Come to a decision on a fair sanction for the offense committed



# Set the Standards of Performance

The key elements of the jobs and standards of performance must be spelled out to and agreed upon with the employee at the start of his employment or at the beginning of the rating period.





# Set The Employee on the Path of Improvement

A positive approach can involve an action plan and follow up with the problem employee working with his supervisor or manager to improve performance, attendance, punctuality or any other weakness.





# Come to a Decision on a Fair Sanction for the Offense Committed

- Penalties are not meant to punish but for the employee to learn a lesson that misbehavior or poor performance will not be tolerated
- Penalties are meted according to severity or frequency of offenses committed
- The reasons for the offense and the employee's willingness to correct the situation must be considered



- In gross misconduct such as attempt on the life of an employer or co employee, fraud or stealing valuable company property or money, discharge from the company, after due process should be meted out.







# The Role of HR in Discipline

Disciplining an employee is a line function, the HR acts as consultant of the company to ensure that the disciplinary procedure is administered properly and the rules of conduct are implemented fairly and consistently.





# Basic Step To Follow in Handling Disciplinary Situations

- Gather as many objective and concrete facts as possible.
- Check the erring employee's previous record of offenses and accomplishments.
- Give him the opportunity to fully state his side of the story.
- Hold interviews privately so as to protect the integrity and privacy of the erring employee and the privacy of the others whom you interviewed for further information.



- Assure the erring employee and those whom you talk with regarding the case that all their statements will be treated as true.
- Hold interviews as soon as possible after the offenses are committed.
- Exert effort to verify the truthfulness of every statement and every information.
- Find out what has been done with similar cases within the section/department or other sections/departments.

Be sure that you are in the right mood before you conduct the disciplinary interview.





# Statutory Requirements and Advisable Steps

- Write a notice to the erring employee of the offense committed.
- Employee, however, may request for an informal or formal investigation. If so, he should be informed of his right to the assistance of a union representative, or of counsel.

Allow him to explain or reason out.

Be calm.



- Point out the evidence you have and the evaluations you have made, and let him give his defense.
- Criticize the work and/or the work done, not the worker.
- Stress the importance of the mistake and of the correction.
- Make the employee aware of the reason behind the rule, regulation or policy.
- Admit if you discover you are wrong about part or all of your case.





- Make allowance for honest mistake.
- Do not let personalities affect your decision.
- Weigh all facts gathered before and after the interview before deciding on the disciplinary action that you will impose.
- Remember that the burden of proof rests on management to show just cause for the penalty.
- Maintain an attitude as this would lead the employee to believe and feel that you are not going to hold a grudge toward him in the future.





- Be prepared to deal with any resentment which may show. You must also adequately prepare other employees so that their reaction will be favorable.
- Consult the Legal Counsel, if there is any, and the CEO especially if dismissal is the proper penalty to be imposed.
- Provide the right to appeal and specify the procedure to be followed.





# Preventive Suspension Pending Investigation

- It is justified pending investigation where the employee's continued employment poses a serious and imminent threat to the life or property of the employer or of the co-workers.
- The maximum period of suspension is 30 days. Beyond that, the employee becomes entitled to his pay and benefits and the employer may be required to pay indemnity.





# Weigh All Facts Gathered After Investigation Before Deciding

- Know what disciplinary measure has been imposed on similar cases.
- Has the employee been previously disciplined for the same type of misconduct.
- Has the employee had a fair chance to improve?
- Does the measure you propose or plan to impose fit the violation?
- Will the measure prevent a recurrence?



- Will the same maintain the organizational morale?
- Will it encourage the employee's initiative?
- Will it create a desire on the part of the employee to do what is right?





# When You Decide to Give a Reprimand

- A reprimand is an official censure of an act, to which a more severe penalty cannot be made to attach.
- It serves as a warning to the employee that any subsequent commission of the same or any related offense shall be subject to a stricter disciplinary action.



# The Ultimate Penalty – Dismissal

When all attempts for reform have failed and the erring employee continues to be an unrepentant recidivist or when the offense is so grave, dismissal from the company is the only alternative.





# Use Dismissal Sparingly

- There are 2 reasons why dismissal of an employee should be used sparingly:
  - Humane reasons impel you to think twice before dismissing an employee.
  - The employee on his own volition or upon the advice of the union or someone, may challenge the dismissal as illegal or as an unfair labor practice act.