



## Health Care Human Resource 2009 Checklist

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### 1) Employee Free Choice Act (EFCA)

- Implement comprehensive labor relations training programs for management, including particularly front-line supervisors regarding union organizing strategies, especially focusing on the signing of union authorization cards in contemplation of passage of Employee Free Choice Act in 2009.
  - Develop a brief “elevator speech” or check-out line speech” talking points for supervisors to utilize if asked about union card signing by employees. A supervisor may only have a few minutes to answer questions and suggest points for employees to consider regarding this subject.

### 2) Establish a Rapid Response Team to Respond to Union Organizing Activity

- Employers should consider identifying potential supervisors and non-supervisory employees that have experience with union organizing issues and can effectively communicate to employees issues associated with organizational campaigns, particularly union card signing.
- Such rapid response teams should be deployed to facilities, units, or departments where additional communication and discussion would be helpful with respect to union related issues.

### 3) Securing Physical Access to Facilities

- Consistent with the requirements of the National Labor Relations Act (NLRA), review, and revise solicitation, distribution, and access policies to provide maximum security to facilities.
- Clarify policies regarding “off duty” employee access to the hospital and the rights of off-site employees to access hospital property.
- Train security personnel in implementing and enforcing the above policies.
- Develop a matrix to be utilized for enforcement of the above policies corresponding to the healthcare employers’ physical layout.
- Develop response mechanisms to handbilling, picketing, and union “street theater” (e.g. inflatable giant rats, funeral marches), and other types of demonstrations on or close to hospital property.
- Develop protocols and procedures with respect to enforcing private property rights, including protocols to communicate with local law enforcement officials with respect to trespass and unauthorized entry to hospital premises.
- Insure that all areas of the hospital are “off limits” for outside organizations solicitation and distribution activities.
- Consider eliminating public access to cafeteria and other areas of the hospital, including meeting rooms (especially important for California health care providers).

#### **4) Electronic Access to Facility**

- Review availability of, and access to, employee names, addresses, including especially, employee e-mail addresses - this point is especially important if EFCA is enacted.
- Review and revise as necessary electronic communication policies, including especially blogging and “personal space” postings (e.g., “My Space” and “Facebook”).

#### **5) Review Pension, Healthcare Insurance, and Other Benefit Coverage**

- Insure market competitiveness and effectiveness of coverage.
- Consider benefit-related incentives for retention of long-term employees, including reduced health insurance premium share amount for senior employees, and increased contributions to 401K and other retirement-related programs for long term employees and employees in classifications with staff shortages.
- Consider creation of employee task forces to monitor benefit carrier selection and retention—use this approach to educate employees about the high costs and complexities of benefit programs.

#### **6) Review All Agreements With Subcontractors and Other Tenants**

- Incorporate into lease agreements and subcontractor agreements requirements that employees of hosted employers comply with all distribution, solicitation, access, and other policies of the hospital.
- Coordinate with hospital real estate lawyers’ lease agreement provisions with respect to access rights for subcontractor employees.
- Monitor any collective bargaining agreements that subcontractor and hosted employers may have with unions and/or union organizing campaigns that are ongoing with such third party independent contractor or tenant employers.

#### **7) Board of Trustees Training**

- Include in a Board of Trustees meeting a training session on EFCA and state of unionization in health care and potential of corporate campaign activities (pocketing/boycotting) impacting Board of Trustees businesses.

#### **8) Review Antitrust Compliance in the Human Resource Area**

- Monitor Service Employee International Union (SEIU) initiated nurse antitrust class action lawsuits and developments regarding potential liability.
- Ensure hospital management, including recruiters, are not sharing the wage and benefit information with competitor hospitals.

#### **9) Wage and Hour Compliance**

- Conduct an audit to ensure compliance with State and Federal wage and hour statutes and guidelines, including clocking in and clocking out, overtime rate setting, meal and break time compliance and exempt v. non-exempt classifications.
- Make certain that payroll, operations and human resources departments are on the “same page” regarding the above wage and hour compliance issues.

## **10) Review and Revise Employee Handbooks and General Human Resources Policies**

- Check recent National Labor Relations Board (NLRB) case law developments regarding confidentiality clauses and other employee handbook clauses that may be in violation of the National Labor Relations Act (NLRA).
- Revise employee handbooks and develop policies to ensure compliance with Joint Commission 2009 requirements regarding employee conduct in the hospital environment.

## **11) Donning and Doffing Compliance**

- Check for compliance with Federal and State wage and hour regulations and statutes regarding employees putting on and taking off protective clothing and safety gear and review how, if at all, employees are paid for such time.

## **12) Physician Credentialing and Re-credentialing**

- Include in the physician credentialing and re-credentialing process, a brief program on employment law compliance, including particularly, sexual harassment training and training for the proposed new Joint Commission standards on conduct in a hospital.

## **13) Review Supervisory and Management Definitions Under the NLRA**

- Misclassification of supervisors that can result in unfair labor practice charges under the NLRA and ineffective communication during union organizing campaigns or difficult contract renewal negotiations.

## **14) Review Compliance with New I-990 Forms**

- With respect to potential human resource issues, union organizing issues, and public relations disclosure issues.

## **14) Implement and/or Refine Shared Governance Systems**

- Ensure particularly in nursing areas that employees have a “voice” with respect to clinical issues and other issues that are important in their daily work lives and in the operations of the hospital.

## **15) Human Resource and Supervisory Presence on More Shifts**

- Schedule Human Resource Department representatives to be present on a regular basis for at least four hours on night, evening, and weekend shifts – too often these shifts are neglected and employees who regularly work such shifts become more vulnerable for unionization and other issues.
- “Visibility” and “Rounding” are extremely important for all levels of supervision especially given the high span of control numbers present in many healthcare facilities – it is too late for management representatives to start this type of activity after a union campaign begins.

**16) Implement or Refine Alternate Dispute Resolution Procedures Including Traditional Grievance / Arbitration Procedures**

- Many non-union employers do not have effective dispute resolution procedures in place and are vulnerable on this point in union organizing campaigns.
- Many presently unionized employers have poorly drafted or “open ended” grievance and arbitration procedures in their collective bargaining agreements.