

Labor-Management Rights

Unionization, Collective Bargaining, and Unfair Labor Practices in the Legislative Branch

Section 220 of the Congressional Accountability Act (CAA), 2 U.S.C. § 1351, applies certain provisions of the Federal Service Labor-Management Relations Statute to the legislative branch and protects the rights of certain employees to form, join, or assist a labor organization for the purpose of collective bargaining without fear of penalty or reprisal.

The CAA grants certain legislative branch employees the right to form or join a labor organization for the purpose of collective bargaining. The rights of employees who choose not to join or participate in a labor organization are also protected.

Employees of the United States Capitol Police; the Office of the Architect of the Capitol; the Office of Congressional Accessibility Services; the Office of Attending Physician; the Stennis Center for Public Service; the committees, employees, and employing offices, including Members' personal offices, of the House of Representatives; and offices in the Senate that are not listed in Section 220(e)(2) of the CAA may seek representation by a labor organization.

Many employees of the Library of Congress and Government Publishing Office have union rights pursuant to other laws.

Not all legislative branch employees may seek representation through a labor organization. For example, managers and supervisors cannot be represented by a labor organization. Also, personal staff of Senators and the staff of Senate committees, among others, are not currently eligible to join or form a union for purposes of representation.

Eligible and Represented by a Union

When you are a bargaining unit employee already represented by a union, you have the right to have a union representative at any formal meeting, i.e., an investigatory meeting or one that you reasonably believe may lead to discipline.

There are many ways to request representation and your request does not need to be made in any specific form.

However, you must invoke your right to representation: an employee's request must be sufficient to put the employer on notice of the employee's desire for representation.

For example, you may invoke your right to representation by saying: "I believe this discussion could result in discipline or a change of my working conditions so I want a union representative. I request this meeting not occur/continue until a union representative is present."

An employee is not required to request union representation and may choose to waive the right to union representation.

Eligible But Not Represented by a Union

Eligible employees who wish to be represented by a union may petition for an election for a union to represent a group of bargaining unit employees:

- (1) The employees provide the union a "showing of interest," i.e., signatures of at least 30% of the employees of an appropriate bargaining unit showing their wish to be represented by this union.
- (2) The union petitions the OCWR.
- (3) The OCWR certifies the validity of the signatures on the petition.
- (4) Any other union can gain a place on the ballot by filing a petition showing they are supported by at least 10% of the employees.
- (5) The OCWR holds an election.
- (6) Employees have the opportunity to vote to choose which labor organization, if any, they would like to represent them.

If a majority of the eligible voting employees vote to be represented by a particular union, the OCWR Board of Directors certifies that union as the employees' exclusive representative.

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Employer Obligations

An employing office must recognize the certification of a union as the exclusive representative of its employees. To that end, the employing office must:

- negotiate in good faith over terms and conditions of employment in order to reach a collective bargaining agreement;
- provide notice and opportunity to bargain over a change of conditions of employment;
- respond to a union's proper request for information;
- notify the union of its right to be present at a meeting scheduled to discuss an employee's concerns regarding grievances, personnel policies, or general conditions of employment; and
- follow the provisions of the collective bargaining agreement.

Union Obligations

As the exclusive representative, a labor organization has both the right and the duty of fair representation for its bargaining unit. To that end, a union must:

- negotiate in good faith over terms and conditions of employment; and
- represent the interests of all employees in the bargaining unit it represents, regardless of whether an employee is a dues-paying member of the labor organization.

What is Collective Bargaining?

"Collective bargaining" is the performance of the mutual obligation of the employing office and the exclusive representative of employees to meet at reasonable times and consult and bargain in a good faith effort to reach agreement on personnel policies, practices, and matters affecting working conditions.

What is an Unfair Labor Practice?

The CAA prohibits both employing offices and labor organizations from engaging in conduct that is contrary to the labor-management rights the law protects.

Both labor organizations and employing offices are prohibited from, among other things:

- refusing to negotiate in good faith over terms and conditions of employment; and
- interfering with, restraining, coercing, or taking reprisal against employees in the exercise of their labor organizing rights provided by the CAA.

Please note that this is not a complete list of prohibited labor practices.

An employing office, a labor organization, or an individual may file an unfair labor practice charge with the General Counsel of the OCWR to challenge a violation of labor rights as set forth in the CAA. **The charge must be filed within 180 days from the date the alleged unfair labor practice occurred.** The charge should include a brief statement of the important facts and allegations, including the date of the incident, the location where the incident occurred, and the names and titles of the people involved. The charge must be in writing and signed. Forms are available on the OCWR website.

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This document is a basic guide to the CAA's labor rights provisions. This information is intended for educational purposes only and does not constitute advice or an official ruling of the Office of Congressional Workplace Rights or its Board of Directors. For further information, please refer to the Congressional Accountability Act of 1995 (2 U.S.C. § 1301 et seq.) and the regulations issued by the Board, or contact the Office of Congressional Workplace Rights.



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