



Do Employee Safety Policies Require Negotiation With A Union?

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Employee safety is paramount. Companies regularly evaluate, modify, and implement policies and processes to ensure they provide safe places to work. If a company has a union, however, does the employer have to negotiate with the union before changing or implementing safety policies? A recent decision from the National Labor Relations Board (NLRB) shows the answer to that question often is “yes.”

In a Nov. 20 decision in the case [Orchids Paper Products Co., 367 NLRB No. 33 \(2018\)](#), the board evaluated allegations that a company violated labor law when it unilaterally implemented a policy at a manufacturing facility that required workers to wear flame-resistant clothing at all times. Prior to the implementation of that policy, employees did not have to wear such clothing unless performing certain tasks.

The employer desired to implement the rule to promote employee safety. However, applicable safety regulations only required flame-resistant clothing to be worn in specific areas or when using some equipment, such as welding equipment. The company did not offer the chance for the union to bargain over this change. The NLRB found that this change materially modified the terms and conditions of the employees’ employment, so the company violated labor law by not honoring its duty to bargain with the union before implementing the policy.

This case serves as another important reminder to companies with unionized

workforces that they may have to honor certain bargaining obligations before taking [unilateral action on issues affecting their employees' employment](#). Failing to do so can result in the NLRB upending the company's decision at a later date.

To avoid having to bargain over such changes, employers may consider seeking language in their labor agreements that vests them with discretion to modify and promulgate safety and other workplace rules. To the extent an agreement contains such language, it may negate a union's ability to contest a change as the union did in this case.