

# Let's Talk about Unions in Co-ops

BY HEATHER WRIGHT, ATTY.

**F**or several decades, only a handful of food co-ops across the country were unionized. Since co-op values usually foster good employment practices, and co-ops are often managed with a commitment to transparency and equality, co-ops have not historically been viewed as workplaces that needed outside third parties to provide fairness and a voice for employees.

Recently, however, we have seen a nationwide up-tick in union organizing at food co-ops. One reason appears to be a recent change in federal labor law that makes it easier for unions to organize a workplace. Additionally, unions have discovered that co-ops can be “easy targets.” Because co-op principles reflect progressive social values that are usually in line with the labor movement, unions are learning that co-ops generally don't resist unionization the way more traditional businesses might. Moreover, out of fear that any resistance to organizing efforts may be painted as “anti-union” by the co-op community, co-ops sometimes decide that it is better to simply acquiesce.



activity is a manifestation of a disconnect between employee expectations and employee experiences.

## Basic organizing rights

As a co-op begins to consider these issues, it is important to first understand some basic legal rules. Federal law protects the rights of employees to engage in a variety of union activities, such as joining, supporting, or assisting a labor union. Likewise, unless forfeited through the terms of a collective bargaining agreement, the same laws protect employees' rights to refrain from such activities. Employers are

prohibited from interfering with, restraining, or coercing employees in the exercise of these rights. While this may sound very straightforward, since most co-ops have no interest in infringing on employee rights, labor law is an area that is abundant with technicalities and details.

A union campaign typically starts with unions offering informational meetings. Unions will encourage employees to sign “Authorization Cards” to demonstrate employee interest in the union. Once a union has generated sufficient interest, it may demand voluntary recognition or may petition for an election. Upon the filing of the petition, the co-op is required to move very quickly to meet several deadlines, including identifying any legal arguments and, notably, providing the union with personal information of all the employees identified by the union, regardless of whether the employee wants it shared. (This information includes home addresses, home phone numbers, available cell phone numbers, and available personal email addresses.)

If an election is held, the winner is the party that gains a majority of votes cast (not just a majority of eligible voters). Notably, once a union is voted in, it is extremely difficult for employees to remove it. For example, a union may not be voted out in its first year, and it may not be voted out during the life of a contract except for a 30-day period near the contract's expiration. Most contracts are two to three years in length, which results in only one month every two to three years wherein employees can remove a union. For this reason, it is critical that all eligible employees have the opportunity to vote.

During a unionization campaign, co-op culture can put unprepared co-ops at a great disadvantage. A manager may, in an honest attempt to resolve workplace conflict, inadvertently create more harm for the co-op. For example, a supervisor making a good-faith inquiry into concerns of union supporters is the sort of communication co-ops would generally encourage. That communication, however, may create legal exposure for the co-op since it can be interpreted as unlawfully “interrogating” employees. When managers are unprepared to hold these conversations in a legal way, the co-op may lose credibility and be left defending its actions instead of setting an example as a strategic and supportive employer. ►

## Prepare by starting the conversation

Due to recent regulatory changes, there may be as little as two weeks between when a co-op first learns of union activity and the holding of a formal election. If co-op leadership has not stopped to question their assumptions and engage in some strategic discussions around unionization, mistakes may be made, costing the co-op legal expenses and, more importantly, credibility with employees and the community. For this reason, a co-op should start now to consider how it will respond if a union seeks to organize its employees.

To be clear, there is no universal “right” path when it comes to unionization. Some co-ops will welcome unions with open arms. Some will not. The purpose of this article is not to persuade any co-op down a certain path, rather to provide some information to start the conversation within your organization about how the co-op might address union activity before it surfaces—so the organization may best prepare for a response that reflects your co-op's values.

A union campaign may begin for a variety of reasons, each as unique as the co-op experiencing it, though there are common trends that tend to encourage union activity. A large change within a co-op (such as an expansion, the development of a second store, or a new manager) or the involuntary separation of a long-term employee can stir up questions by employees. When a co-op is unable to answer these questions to employees' satisfaction (for example, from its inability to publicize confidential, albeit clarifying, personnel information regarding employment terminations), employees may fill in informational gaps with skepticism. This may lead employees to seek out a union as a way to increase transparency or to gain a voice at the decision-making table. Sometimes employees seek out a union; sometimes union organizers seek out employees. Either way, union

## "Neutrality" vs. democracy

In determining the co-op's response to a union campaign, in addition to legal concerns, co-ops must also take their values and the cooperative principles into mind. For example, a union may ask a co-op to voluntarily recognize the union prior to an election. Doing so, however, means that there will be no vote, and employees will be denied access to the democratic process.

The fact that a union seeks to represent co-op employees and may have some support does not

mean that all employees (or even a majority of them) want to be represented by a union. There are examples of co-ops across the country that, when asked to voluntarily recognize a union, have done so in an attempt to create goodwill and avoid the perception of being anti-union. At the same time, there are co-ops that have denied voluntary recognition and required an election as a way to preserve the cooperative principle of democratic member control. Neither option is more "right," it is simply a measure of values. As long as a co-op makes an educated decision, either approach could be appropriate for their specific circumstances.

Additionally, unions may present co-ops with a "neutrality agreement" which, although each agreement is unique, generally states that the co-op will not in any way take a position on unionization efforts. In trade, a union usually offers to forego making any defamatory or negative statements about the co-op to the media. Many co-ops, out of fear of public backlash, will sign a neutrality agreement to preserve good public relations. The offset to this, however, is that the language in neutrality agreements can then be used against the co-op, should the co-op attempt to provide balanced information or correct inaccurate statements made by the union.

Different co-ops across the country have chosen different paths when faced with this option; some have opted to sign a neutrality agreement to avoid the perception of being anti-union, while others have prioritized the cooperative principle of education and training and reserved the right to provide employees with the education necessary to make a balanced and informed voting decision. Similar to voluntary recognition of a union, there is no "right" path concerning a neutrality agreement. It is up to each co-op to determine the prioritization of values and specific factual circumstances, and either decision can be appropriate as long as it is made with sufficient education about the resulting effects.

## Prioritizing values

It is worth noting that the kind of leadership values that best align with cooperative values are also the leadership values that discourage union activity. As cooperative leaders, we should all work towards creating a workplace where employees don't feel the need to pay union dues to feel like they are valued and treated fairly, not because anyone is "anti-union," but because it is the right thing to do. Indeed, the best way to avoid a union campaign altogether is to create a workplace that is fair and consistent in the application of its policies, that addresses employee concerns efficiently and effectively, where leaders listen with open minds, and where employees are compensated fairly and appropriately.

Addressing labor activity in the cooperative world is tough. Questioning how unions fit in the cooperative environment can create some internal conflict. Resolving this conflict requires deep deliberations and soul searching. This may result in you changing your assumptions about unions, or it may not; but engaging in the evaluative process is the key to developing a strategy that embodies your co-op's unique values. □

# GET YOUR WOOL ON!



From Alpaca  
to Wool we've  
got you covered

Order now for great new colors and styles

1-800-234-5932

downtoearthdistributors.com