

# **UNION AVOIDANCE PRACTICES: DIFFERENTIAL EFFECTS OF THREE STRATEGIES**

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In the current Labor-management relations environment there are union avoidance strategies developed to maintain union free workplaces. In those work environments there are various forms of union avoidance strategies implemented. This paper examines three of these strategies and predicts on how they affect employee attitudes, the employer's level of commitment, and management style utilized.

This paper researches three specific strategies of union avoidance. The strategies researched focus on union avoidance from a non-union workplace as opposed to strategies of avoidance in a pre-existing labor-management environment. This paper addresses a number of questions regarding the use of union avoidance strategies. First, from a management perspective, what is the true measure of effectiveness of these strategies? A critical aspect to answering whether a union avoidance strategy is successful will be to determine how success will be measured. Second, what is the impact of the use of these strategies on the relationship between an organization and its employees? The research in answering this question comes from a review of literature and secondary empirical evidence. To answer these question appropriately, it is important to establish some background into the current labor relations environment. There have been some significant factors in the past fifty years, which have a direct impact on the current labor relations environment. This paper will then review three specific union avoidance strategies and determine, based on the measurement of success, what is the long term impact of these strategies.

## **MAJOR FACTORS EFFECTING LABOR-RELATIONS**

There is little doubt about the effect that the Landrum-Griffin Act or the Wager Act had for the development and growth of Trade

unionism in the United States. The 1930's to the late 1940's saw unprecedented union growth because of Congress passing those Acts. Trade unionism finally had what it was looking for, a political support mechanism. Although, unions had prevailed before the National Labor Relations Act, it was under their own sheer will power to force a collective agreement with management. The Wagner Act finally solidified union action; trade unionism had recognition via law, even if an employer did not want to recognize the union that employer had to recognize the labor laws. Employer's had to learn a new means to circumvent unionization and a new legal means to implement union avoidance.

Four major factors have had a significant impact in the current labor-relations environment. The first is the decline of union membership since the 1950's, the second is the advanced development of human resources and human resource strategies, the third is the use of Labor Law, and finally the impact of political action.

### **Decline of Union Membership**

The decline of union membership or the decline of union presence in the workplace is a topic of study in and of itself. However, there are specific significant factors that have caused a decline in union membership. One of the elements that have always been a strength of unionization is the power of collective action. The power of a large group verses the power of an individual or even a

few people is significantly substantial. Trade unionism has always known this simple fact and has used it as their trump card on numerous occasions to establish their presence and gain recognition. In the wake of the New-Deal economics, and trade unionism's newly found power, unions developed patterned collective bargaining and centralized collective bargaining structures within their respective industries. This proved to be a highly effective means for the unions and it appeared the unions had firmly established themselves within their respective industries.

Unfortunately, unions could not maintain their control of centralized collective bargaining and patterned bargaining structures due to the new changing industrial world of globalization. The unions, and all of the American workforce, watched as the primary manufacturing industries such as, steel, iron, coal, textile, and automotive slowly migrated further and further south and eventually right out of the country. This uncontrollable migration forced trade unionism and the labor movement to lose momentum. Individual unions and bargaining units began to shift their focus from centralized and patterned bargaining to their own specific contract negotiations and collective bargaining (Lipsky & Donn, 1987). This undeniable shift in bargaining structures provided a small but significant shift in power toward management. A side effect of globalization on the manufacturing industries was a loss of jobs, which created a smaller work force in those respective industries (Lichtenstien, 2001; Lipsky et al., 1987). As a direct result, there was a reduced amount workers in those industries and a reduction in the amount of union representation. While the major manufacturing industries were reducing in size, the service industries were in rapid growth. The service industries continued this growth with little to no union organizing or union representation. So while the manufacturing industries decreased and the

service industries increased the delta between union and non-union workplaces increased. These three factors are important and represent a significant portion of the trade unionism membership decline in the United States.

### **Advances in the Development of Human Resource Practices**

After the National Labor Relations Act was passed, management knew that trade union presence was a fact that they would have to live with, at least for a while. Management went about looking for loopholes in the National Labor relations Act and for a means to circumvent union growth. Management quietly went about its business and looked hard at this new area of human resource development. Research was conducted, and still is conducted, on new ways to manage people, to understand the internal and external factors of motivation, the study of workplace psychology and sociology, and use of effective management-employee communication. Management spent a significant amount of time studying the unions, and the primary elements within the collective bargaining agreements. Management wanted to understand what the employee's of a union workforce wanted, and developed a process to provide those elements into a non-union work setting in an effort to stagnate union growth.

Human resource development has been a continually evolving tool of management to maximize workplace performance. One of the developments of human resources utilized by management is a strategy to avoid further growth of an existing union and furthermore avoid a union from ever getting started in a workplace.

The area of human resources has become a highly developed process since the 1960's. There are companies that have spent years developing their culture and workplace norms prior to even hiring their first employees.

Companies spend time studying what type of employee they want to have representing their company and the best places to recruit those types of people. Recruitment can be as specific as a particular gender, height, hair color, age, educational background, ethnicity, and other forms of knowledge, skills, and abilities. This will provide a group of individuals from which a specific selection can be made of whom is best suited to perform a particular job or process within that organization. During this same process, the norms and culture of the company are strictly established and those who perform under those conditions are encouraged to continue their employment with the company while those whom are not are welcome to seek employment elsewhere. This recruitment and selection process is utilized in a means to develop a non-union workplace. The workplace is established without union presence and the culture and norms are such that employees are made fully aware how the company views union development. This process is looked at more in depth later in the paper. Management through this process of human resource development was able to assume a greater percentage of power in the workplace.

### **Use of Labor Laws**

Another means by which management assumed more power in the workplace was through effective use the labor laws. The National Labor Relations Act provides the unions with rights and a fair amount of protection. However, that would be short lived; management would lobby congress hard to rebalance the power scale. The Wagner Act was seen by management as giving the unions too much opportunity for growth. Management efforts were rewarded with the Taft-Hartley Act, now management could openly voice anti-union sentiment, hold captive audience meetings, and openly employ their own anti-union strategies. Management still had to be cognizant not to perform any

Unfair Labor Practices; however, management also is protected for having an anti-union position.

Management can be seen utilizing two primary areas in labor law to increase its power over the union. The first is the processing time for a legal case in the Court system. In most cases, management could draw out legal issues and battles with the union in the courts for years and have the resources to support it, while the union typically does not have the same amount of resources to constantly fight long drawn out battles in the courts. The unions are then forced to pick their battles and those cases, which they choose to, go the distance on or just concede the issue to management.

The second use of the labor laws, which provided an edge to management, happened through the Supreme Court. Since, labor issues were filling the courts more frequently in managements attempt to draw out the union; labor disputes were handed over for arbitration. Arbitration became the preferred method and the process was much cheaper and quicker. An arbitrator's ruling is deemed to be binding and has almost as much power as a court of law. Since, arbitrators became the preferred method; it was common for collective bargaining agreements to have an arbitrator handle any grievance that could not be resolved between the parties, known as grievance arbitration. Grievance arbitration developed to the point that it replaced the right to strike. In the case of Boy's Market v. Retail Clerks union, Local 770, 398 U.S. 235 (1970) the Supreme Court ruled that if a collective bargaining agreement that has a grievance arbitration clause written into it, that forum would be interpreted as a no strike clause as well even if the contract did not specifically say so. Management achieved a milestone in the Boy's Market v. Retail Clerks union, Local 770, (supra) in that the union was slowly losing hold of another major element of power, their right to strike.

### Impact of Political Action

The influence of politics and government on labor relations cannot be overlooked, and has a significant role in the development of the present day labor relations environment. Not before President Roosevelt's New Deal package, and not since has trade unionism in the United States seen the same political support from a president. Trade unions have typically embraced the Democratic Party for its liberal views, social programs, and economic posture, which traditionally supported unionization. This is an interesting relationship, between trade unionism and their support for the Democratic Party. The Democratic Party has not supported the Labor Movement to any legitimate extent since President Roosevelt. The AFL-CIO went out of its way to support President Carter, and was a driving force in getting him elected. However, once in office President Carter did nothing for the labor movement. Through the 1960's and into the 1970's the National Labor Relations Act was appearing to lose its strength and the unions wanted to update and revise the labor laws to strengthen their position. President Carter simply ignored the AFL-CIO once he was in office and concerned himself with other national matters.

Another democrat, President Clinton, who also made promises to amend labor issues, did not do anything legitimate for trade unionism. Instead, President Clinton pushed through the North American Free Trade Agreement, opening the doors and lifting the restrictions of trade between Mexico and Canada. An effect of globalization already discussed, with jobs exiting in mass to Mexico. Unions were left with no defense against employers who could employ union avoidance through moving their business and job's out of the country. The Republican Party has had a traditionally anti-trade union posture. The republican presidents, like Ronald Reagan,

appointed to the Supreme Court and the National Labor Relations Board, members who had a similar anti-trade union stance. That is how a case like Boy's Market v. Retail Clerks union, Local 770, (supra) could end up with such a damaging decision and sweeping generality of collective bargaining. For that very reason, the National Labor Relations Act and the National Labor Relations Board have not been as effective as they once were for the labor movement. The laws that have been enacted by congress have been for the benefit of all workers in general and nothing has been done specifically toward trade union or labor law reform. These employment laws were, The Equal Employment Opportunity Commission, the Occupational Safety and Health Act, and the Family Medical Leave Act. Political action and the political posture of this nation's government will always have a critical role in the economy of the country. That political posture has overtly set a tone for how trade unionism is viewed and how policy will be set into place to deal with organized labor. Corporate America has played a strong role in lobbying their position to Congress and applying influence on this country's lawmakers. In comparison, the labor movement will never be able to match or even come close to matching the amount of money the Fortune five hundred companies use for lobbying congress. This is just another indication of the overt power shift away from the unions and toward management.

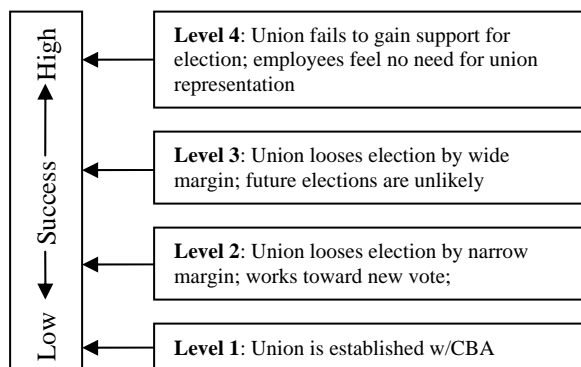
Although done in a broad and sweeping manner, this has illustrated a portion of the background into labor relations in the United States since the New Deal era. The factors of union decline, the growth of human resource development, the manipulative use of the labor laws and the influence of political action all directly affect the current labor-relations environment. Those four major elements have allowed management to regain a position of power in the workplace.

## MEASURING SUCCESS

The second element to be established is the definition of success. The determination of how effective a particular union avoidance strategy is in its ability to keep a union from being established. For many companies, the bottom line for the measurement of success is whether a union is successful in organizing within a company and obtaining a collective bargaining agreement. I argue, however, being able to keep a union out is only a portion of a successful union avoidance strategy. The ultimate success in union avoidance is being able to foster and maintain employee commitment and maintain a positive relationship with employees. Thus if a company manages to “keep the union out,” but destroys its relationship with employees and does little to foster the commitment of its employees, its competitive advantage will most likely suffer

These two elements define the spectrum of the outcomes of a union avoidance strategy. The measurement of success along that continuum will be used to measure the relative success of a union avoidance strategy. There are four specific point on this continuum that I will use for the relative measurement of union avoidance strategy success. These points are presented in FIGURE 1.

**FIGURE 1**  
Outcomes of the Implementation of Union  
Avoidance strategies



At each of these levels of measurement of an avoidance strategy, also represent a relative amount of employee job satisfaction. In accordance with the structure of the success measurement, at level one, two, or three it will be established that for management to be in this position represents unsatisfied employees with a low commitment to the company. The type of management style established within the workplace, either a control or commitment style approach, will play a factor in what type of avoidance strategy is utilized.

If management is successful in achieving avoidance success at level, three or four will be predicated upon managements ability to create a work environment, which meets the employee’s needs. The fourth level of the success measurement culminates in the appropriate execution of a planned human resource strategy and the commitment level of the employer and the employee’s.

## AVOIDANCE STRATEGIES

There are two major areas of union avoidance; the first is elimination of a union, which has already established itself within a company. The second, which is the focus of this paper, is to avoid a union from ever becoming established. The first step for any union is to gain representation. In most cases, the employees will ask their employers to recognize them as a collective group. For any employer seeking to avoid a union, will simply refuse to recognize the employees. This forces a National Labor Relations Board (NLRB) election process, which must be overseen by an NLRB member.

### Influencing an NLRB Election

This portion of a union avoidance strategy can be one of the most painful and ugliest processes in a company’s history. All the employees from the highest management positions to the lowest level employee will become affected in a long drawn out battle to win the NLRB election. The literature and

research (Lawler and West, 1985) show that employers who desire to suppress a union can have a substantial impact on an NLRB election, and can significantly reduce the probability of unionization. There are various methodologies in evaluating these forms of suppression, especially in terms of the direction or intensity of the employer's campaign. There are also varying methodologies in evaluating a union's direction in intensity in an election drive. Neither of these elements will be discussed in this paper, however, they are significant factors in the outcome of an actual election.

Employers who are facing an NLRB election have a number of tactics, which can be utilized, some of which are legal approaches and others are flagrant unfair labor practices. The impending election tactics can be divided into two basic groups, external tactics, and internal tactics.

**Internal Tactics.** The internal tactics of union avoidance strategy are intended to alter employee perceptions, beliefs, actions, and intentions. These alterations are typically achieved via various means of persuasion, coercion, or manipulation. Typically, these tactics are only effective in the short-term. Employers are only creating an illusion of change, which either fades or requires continued reinforcement. Since these employer changes are only short-term, the employees become further disgruntled and frustrated and the employer reinforces low commitment levels in the employees.

**External Tactics.** The external tactics are focused on altering, intercepting, or filtering undesirable contextual influences, and are a long term or relatively permanent approach. Internal tactics try to work on the employee's perception of the workplace. Employee perceptions can be changed by the employer through making a legitimate alteration for the benefit of the employees. However, if the employer only wants to change the perception for affecting the outcome of the election, the

employer deceives the employees and creates mistrust in the workplace. This workplace mistrust also translates into low performance, and low commitment. The employees would rather see the employer suffer an economic loss even if that economic loss is detrimental to their employment. The workplace can be characterized as and 'us' verses 'them' mentality.

External tactics attempt to bar pro-union influences from infiltrating the workplace. The employer will take discretionary actions against union supporters, and try to eliminate all sources of agitation. External tactics can border on illegal employer actions, such as bribery, stuffing ballot boxes, overt employee intimidation, failing to provide an accurate *excelsior* address list, to increasing pay or benefits, and changing grievance procedures during the organizing campaign. Employers run the risk of committing unfair labor practices in an over zealous attempt to influence the workplace.

There are additional external factors, which indirectly affect an election outcome, those factors affect not only an employer's avoidance strategy and tactics but are affects on the union organizing as well. These external factors are seen in (Lawler & West, 1985), (see the figure on page 37) as the labor market, product market, legal system, political system, and demographics. Often an employer will utilize an outside management-consulting firm and labor relations attorneys to organize a company's anti-union drive. These consulting groups utilize a number of tactics, such as administer captive audience speeches, provide supervisor training, distribute and administer threats to employees, reprisals and intimidation tactics. Those tactics and techniques are strongly recommended by the union avoidance specialists (Levitt & Conrow, 1993). The most interesting portion is the relatively low percentage of unfair labor practices reported to the NLRB in proportion to the questionable

tactics utilized, and in comparison to employee discrimination and discharge cases, related to election activities, (Lawler & West, 1985). An interesting outcome of an over zealous consulting group is a factor known as 'backfire' effect. An employer who becomes over zealous or allows a consulting group to apply an excess negative influence can cause a reverse employee reaction, which strengthens the employee's resolve for representation.

### **Strategic Hiring**

Another union avoidance strategy is strategically hiring employee's, which allows the employer to develop an increased opportunity to remain union free(Hollander, 1992). This is accomplished via the use of temporary, on-call, part-time, out-sourced, or contract employment. This technique of multiple employment sources is becoming more widespread throughout the country. The Bureau of Labor and Statistics and the Bureau of National Affairs have been charting steady increases in the growth of part time, contracted, and out-sourced employment. For many workers this translates into less job security, and the means for employers to circumvent employment and labor laws. For employers this is a perfect opportunity to side step certain employment and labor laws. When employees are classified as temporary, part-time, contracted, or out-sourced, employers no longer are required to pay certain benefits or in some cases carry coverage's such as worker's compensation. The employer is freed from the weight of the cost of cumbersome benefits packages. A perfect example is how Wal-Mart is able to remain at an advantage utilizing cost as its competitive advantage in the market place. To achieve this, a large percentage of the employee's give up even the basic standard benefits.

In the same token, the employer is able to provide a wage below the union wage and at the non-union wage rate and still keep the

union at arms length. There are two basic union avoidance tactics in this strategy, the first tactic relates to the wage rate. A non-unionized employer has no reason or incentive to pay the current union wage, however, the employer does have a range in the wage rate available to entice workers. The target wage is at or just below the non-union wage rate, but can be raised to just below the current unionized wage rate. This, coupled with the dues required by unionization can be used to deter the union,(Hollander, 1992).

The second more prominent tactic of this union avoidance strategy is the issue of employee representation. An employer, by increasing the number of employees who are temporary, part-time, contracted, or out-sourced increase the percentage of employees who cannot be a part of or represent a bargaining unit. This provides the employer with fewer employees who can organize as a bargaining unit. In essence, the union is not the employers problem, the temporary, contracted, and out-source employees have to organize through their primary employer. The employee's end up working for a secondary employer, often at a remote work site and cannot take action against the secondary employer. The workers are forced into an increasingly difficult representation process.(Houseman, 2001).

This tactic is becoming more prevalent for two reasons; employers can find cheaper labor when out-sourced in either the local and Global labor market. The second is the jobless recovery to the most recent recession is driving up the supply of labor with no increase in demand. The elasticity of the labor market is increasing and fortifying the employer's ability to set wages, type, and forms of employment.

### **Quality of Work Life and Alternative Work Practices**

The last union avoidance strategy to be discussed is an employer's utilization of a quality of work-life (QWL) or alternative work practice (AWP) program. This strategy is utilized for long-term union avoidance. In a QWL or an AWP program, the employer tailors internal programs for the employees to foster an increase in belongingness so the employee will associate their behavior with the company. The employees feel more empowered, they have greater task involvement, and ultimately have an increased sense of job satisfaction, self-esteem, commitment, and ultimately develop a form of citizenship behavior.

This is a form of the highly advanced of human resource management programs a company can use to increase employee performance. Just as Abraham Maslow described the human hierarchy of needs, employers understand a percentage of those human needs are met via employment. Without a job there is no money, therefore, the basic needs are not being met. When the basic needs are met, the human being requires a higher set of needs to be met, such as psychosocial needs through acceptance and group identity. Employers have realized the workplace that invests into its people will gain profits based on employee investment. An example is the Bavarian Motor Works (BMW), LLC, Spartanburg, South Carolina plant. The plant strategically recruits and selects employees who will meet BMW's 'quality' standards and invests in that employee for the long-term. BMW desires employees who will commit to a career with the company. BMW establishes a give, give scenario, the company gives to the employee and the employee gives back to the company. Under these style programs, the company is employing a union avoidance strategy through connecting with the employee on sociological and psychological levels.

An employer can utilize a Quality of Work Life or Alternative Work Practice program as a means union avoidance. By meeting the employees needs through the work environment can eliminate an employee's need to achieve those needs by collective action. The employer can also utilize this strategy as a two-edged sword. If a threat of unionization were to arise, the employer could counter the threat of unionization by making the employee's believe that representation would jeopardize the employer's ability to maintain those programs for economic reasons. This would then pit the employees against themselves in a decision to hold onto what they have or possibly lose with union representation. In certain cases, the employer would view a threat of unionization as a failure of the quality of work life or alternative work practice program and seek to resolve the problem at the source. Employers find it more cost effective to deal with the source of the dissatisfied employees than deal with representation election avoidance tactics. Where this strategy fails is when employer is not dedicated to implementing a realistic quality of work life or alternative work practice program and instead of the program working to the benefit of the employer it works to the benefit of a union organizing drive, due to unsatisfied employees,(Godard, 2001).

### **WORKFORCE MANAGEMENT**

A critical aspect, which must be understood in the process of unionization and union avoidance within a particular work environment, is how management functions with regard to their employees. There are two basic management styles or approaches in a work place, the first is the control approach and the second is the commitment approach (Walton, 1985). How each of these management styles is utilized, will make a significant effect on employee attitudes and will play a significant role in the success of the outcome of a union avoidance strategy.

**Control Management**

A control approach to workforce management is defined by these specific characteristics; the work environment has well defined performance expectations and the employees have strict performance standards. An employee's pay may be determined solely on a knowledge, skill, or ability, and pay is utilized as a primary source of motivation. The training and development programs are structured to a job specific task or ability, which will relate directly to a specific performance objective. Employees are evaluated based on their performance and their ability to meet an established performance standard in a specific job task, and their ability to meet the required production standards. Management will maintain a social distance from the employees with a sort of social boundary within the work environment.

The job designs are developed deliberately to be fragmented, with a specific definition, specialization, skill or knowledge and will be specifically identifiable. Management is recognized as controlling, holding the base of power, manipulative, coercive, authoritarian, and centralized. Employee management relations are often characterized as 'follow the rules or suffer the consequences'.

A typical employee attitude in a control approach work environment is to meet the minimum standard or stay at the lowest behavioral requirement to maintain employment. Employees usually do not associate with the organization nor do they associate any form of self-concept to the organization. Employee management communication is not an open flow, changes come in the form of "orders" and business information is on a need to know basis.

This style of management was developed in the early 1900's by Frederick Taylor, which defined work by the lowest common denominator. Control management allows job tasks to be defined specifically, which

simplifies employee evaluations and allows compensation to be utilized for motivation. A key factor of this style of management is that it develops low employee commitment and cannot produce a workplace attitude in employees to produce on a superior standard of performance. Low employee commitment levels result because of their self-concept within the organization does not foster motivation, which can exceed above minimum performance levels.

**Commitment Management**

The alternative to a control approach to management is a commitment approach to management. This management style is expressly different from the control approach. The work environment is open, instead of fragmented and task oriented with specific productivity standards, the commitment style intends to foster employee growth and communication. There is increased employee autonomy, authority to make decisions, and employees are encouraged to make direct contributions in achieving the company goals. Employees are recruited and selected with the companies express desire to maintain those employees for a long-term commitment to the organization. In return, management relies on a company policy of commitment to them, even on an individual basis. The employee is encouraged to communicate ideas, solve problems, utilize their interpersonal skills, and the employer applies training and development to further develop the employees in these areas (Walton, 1985).

The employees in a commitment style work environment see their self-concept with the organization. Outside of their job, they still relate to their job with a membership status. The employee positively views the company and their position as an employee in that organization. As this employee management relationship develops, the employee makes a long-term commitment because they desire a continued association

within the organization. The commitment approach will utilize a quality of work life or alternative work practice program in an effort to design the best employee-management style possible for a particular work environment.

In control work environments, the symptoms are familiar; a good strategy is not executed well; cost's rise out of all proportions to gains and productivity; high rates of absenteeism persist; and a disaffected work force, taking little pride or pleasure in what it does, retards innovation and quality improvements. Only lately have managers themselves begun to take responsibility for these symptoms and for the approach to workforce management from which they grow (Walton, 1985). This shows evidence into a workforce environment which employees are not only dissatisfied with their job, but with how they work and with whom they work.

The commitment approach challenges management to relinquish their vice gripped hold on control in the workplace. The process not only provides employees with a sense of security within the job itself, but also allows the employee to increase their job performance on their own. Employee performance is created on an entirely different motivational pattern than is dictated in a control approach environment.

The review of control and commitment styled management approaches becomes critical to the union avoidance strategy because of the direct influence of those management approaches on employee attitudes. The evidence (Freeman & Rogers, 1999) from workplace studies shows that workers want certain things in their work environment. Employees have stated they want autonomy, decision-making ability, a voice in the workplace, and a due process or grievance procedure. Employees also stated they would be more apt to choose a union and have union representation if unions and management could create a relationship with less conflict (Scott, 1965). Employees are

more apt to be dedicated to an organization, which applies a credible and reliable due process and grievance system, (Magoun, 1960). Businesses, which effectively communicate, especially the frontline supervisors, with their direct subordinates will increase productivity and performance. Employees want to feel a part of an organization, companies that utilize employee's voice or input, employee lead committees, and employee job development committees have increased employee performance and job commitment (Kochan, Katz, & McKersie, 1986). There are very distinct differences between the control and commitment approaches to management. The commitment approach seeks to include the employee as an integrated part of the organization. In turn, the employee identifies with the organization on a professional and personal level. Those elements are critical to understanding a work environment and will determine the success of an avoidance strategy.

## **MEASURING THE AVOIDANCE STRATEGIES**

### **Influencing an NLRB election**

The first of the three avoidance strategies studied was managements influence upon an NLRB election for representation. Based on the employee's desire to unionize represents a workforce environment of disgruntled employees that are not satisfied with managements workforce practices. The employees desire to unionize is not always a wage or compensation issue, it can be issues such as worker voice, worker's rights violations, worker safety or some form of discriminatory practice. For whatever the reason, the workers are not satisfied with a certain element or elements of their work environment.

The management's response to either band-aid the problem, change the appearance, alter behaviors, or to simply meet the employees demands is done to avoid meeting

that demand later in a collective bargaining agreement. Management's reaction to influence the worker vote denotes managements desire to retain control. Another response by management is to resist the employee's attempt to organize with hostility. This creates a volatile work environment pitting the workforce against each other with management using threats, coercion, and intimidation (Levitt et al., 1993). Management has to be very careful not cross a delicate line, which can cause the 'backfire' affect from using unfair labor practices and overt intimidation. If management allows the intimidation and threats to go to far the employee's will become even more determined to organize. In these cases, management is guaranteed three things, low commitment from the employees, increased workplace tension and stress, and negative employee attitudes toward the organization. The workforce environment in which management is control oriented will continue to foster low commitment from their employees. The evidence shows (Hunt & White, 1985) (see the figure on page 38) the number of elections held and the number of elections won by management and those by the union. This strategy does not offer management a legitimate union avoidance outcome. As the figure from Hunt and White shows, the union continues to try to establish itself. If management is successful in obtaining an NLRB election win, those wins are only in place until another election can be held.

The process has a highly (Levitt et al., 1993) negative effect on frontline management and the workers. One of two reactions take place, the employees are either more dedicated to the task of organizing or they become so tired of fighting that they give up the cause or seek employment elsewhere. In either case, management will ultimately lose, with employees who demonstrate low performance, achieve the minimum standard, and do not

desire to align themselves with the identity of that organization. This avoidance strategy falls into a failure by the union winning the election or a level one win for management, but with little or no employee commitment, the organization is destined to go through the NLRB election process again in the future.

### **Strategic Hiring**

The second union avoidance strategy is that of strategic hiring. This strategy has a very similar result as the previously discussed strategy, in that it fosters low employee commitment and results in the organization continually facing the threat of a representation election. The reasons which employers are utilizing this strategy are to create social distance between management and the workers. The employees in this situation are faced with not only the difficulties of a representation election but also the further difficulty of the inability to form an accepted allocation of personnel to meet the NLRB's determination as a bargaining unit.

When the employees are fragmented in terms of multiple employers, they cannot develop an adequate voice in the workplace. The workers in this situation are confronted with a primary and secondary employer. The workers perform their job tasks for the secondary employer, however, are employed through their primary employer. The threat of unionization remains low to both the primary and secondary employer. In this area of utilizing, multiple employment practices have the highest number of reported unfair labor practices. Workers who try to organize for representation rights are quickly terminated and replaced with another worker. During times of high or moderately high unemployment, secondary employers have a large pool of the reserve workforce to utilize, which further strengthens their position.

This avoidance strategy allows management the ability to circumvent the

labor laws, and create an environment where management is able to maintain a strict control style approach. Management is able to reduce the employee's opportunity to gain collective representation. This strategy is successful in terms of union avoidance and will remain successful until employers are no longer able to utilize this strategy. The employee's commitment will remain low and will continue to foster their desire for representation.

### **Quality of Work Life and Alternative Work Practices**

The third union avoidance strategy is the use of quality of work life and alternative work practice programs to build and create employee commitment and develop a non-union employee-management relationship. These programs are highly effective in establishing employee commitment and union free environments. The key to this strategy is learning from workplaces with employee-management relations as those studied by Freedman and Rogers. What do workers want? They want the work environment, which provides them with all the characteristics described in the commitment style approach to management. However, very important elements must be in place. There has to be a grievance or due process procedure established which the employees trust. These work environments must have a quality communication system in place. Management has to communicate to the employees and employees must in turn communicate with management. The final element is management's commitment to utilizing the quality of work life or alternative work program in the workplace. These programs require long-term employer commitment to the employees. These factors will determine the employee's satisfaction with the work environment and produce employees who feel they do not require a need for union representation. These programs, when appropriately administered, foster

medium to high employee commitment and is a successful union avoidance strategy.

### **SUMMARY**

On a macro level, the power in the labor management relations environment is skewed in the favor of management due to political, economic, and trade union factors in the last half century. This imbalance has created a posture for employers on a micro level to develop workplaces, which are union free and utilize union avoidance strategies to maintain their union free work environments.

Those strategies being the influence on employees in a representation election, to strategically hiring workers from external resources to fragment the percentage of employees for which the employer is responsible. This creates work environments where employees desire representation but cannot achieve it; while in other cases employers may actually care about their employees and try to develop workplaces where the employees do not desire representation. Each of these three strategies are effective in their own right, however, none of which totally guarantee absolute union avoidance.

### **CONCLUSION**

One single common denominator to the success of any particular union avoidance strategy is the employee. The employer will create a work environment, which will either develop a desire for employees to seek collective representation or positively align the employee with the organization. The employer will also determine the longevity of the employees struggle to gain representation. The avoidance strategies, which foster low employee commitment due to the implemented management style are more susceptible to a continued struggle with employees who will seek collective representation until they can obtain it. The most effective union avoidance strategies are

in those work environments, which the employer is dedicated to establishing a cohesive relationship between management and workforce.

The evidence shows that workplaces that have gone through an NLRB election process and failed to gain representation have had negative effects on the employees. The workplace tension between management and the workers, in some cases, was so intense none of the employees wanted to go through the experience again. The employees are faced with the same workplace problems, which forced them to attempt organization and are more often worse off than they were before. Management blames them for bringing the negativity into the workplace, and for creating the tension. The employer may have avoided unionization but has created more problems within the workplace than are solved. This then becomes one's definition of union avoidance. The employer has been successful at keeping the union at bay. However, the employees are bound to attempt to continue their organizing efforts because they are bound to win an election at some point. The employer is stuck with low performing, low commitment employees who do not like anything about their job.

The employers who utilize strategic hiring practices are reducing the amount of representation avoidance opportunities. These work environments are strictly run with control style management tactics and have employees who are desiring to and seeking a means to gain representation. The employers are only holding off the inevitable. The workplace tension is lower, although still existent and the employees exhibit low commitment and minimal performance.

The employers who utilize quality of work life and alternative work practice programs are at the right approach for seeking legitimate union avoidance. These programs employ what employees are looking for and require the employer to meet the employee half way

in a dual commitment to each other. The employer establishes avenues of personal growth and fulfillment within the employees and employees associate more than just work with their job. A particular strategy will be successful predicated upon the style of management utilized and the level of commitment the employer has to the employees. The three critical elements become the employee's attitude about the work environment, the employer's commitment to the employee's and the style of management utilized.

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## NLRB ELECTION RESULTS (Jan. 1972 - Dec. 1978)

Company	Total Number of Elections	Number Won by Company	Number Lost by Company	Percent Won
Addressograph/Multigraphics Corp.	13	6	12	33%
A.I. Ed. Chemical Corp.	15	6	9	40%
Altman Baker Co.	21	6	25	19%
American Cut Co.	15	3	9	25%
American District Telegraph Co.	37	15	22	40%
AMFAC, Inc.	15	5	10	33%
ARA Services, Inc.	62	16	46	25%
Armour & Co.	16	4	12	25%
Ashland Oil, Inc.	17	6	11	35%
Ashland-Tire Expert Co.	21	9	12	42%
Avnet, Inc.	15	6	9	40%
A. F. Bypass Markets, Inc.	17	7	10	41%
Beatrice Foods Co.	62	26	36	42%
Borg-Warner Corp.	20	9	11	45%
Carlson Corp.	45	21	24	46%
Cargill, Inc.	15	6	9	40%
Celotex Corp.	10	6	4	60%
Copysafe Corp.	52	11	41	21%
Crisler Service Co.	17	5	12	29%
Clark Equipment Co.	19	9	10	47%
Colonial Stores, Inc.	16	4	12	25%
Continental Can Co.	22	3	19	14%
Ferro Corp.	17	5	12	29%
Firestone Tire & Rubber Co.	48	54	54	100%
Friedrich Corp.	25	9	16	36%
Gamble-Skogmo, Inc.	17	8	9	47%
Georgia-Pacific Corp.	110	53	57	48%
General Tire & Rubber Co.	40	17	23	42%
W. R. Grace & Co.	43	22	21	51%
Great A&P Tea Co.	124	53	71	42%
Harco Corp.	14	4	10	28%
Hertz Corp.	26	25	25	100%
International Harvester Co.	138	37	101	26%
ITT	148	56	92	37%
Kroger Co.	48	17	31	35%
Lear Siegler, Inc.	17	6	11	35%
Lone Star Gas Co.	34	17	17	50%
Martin Marietta Corp.	28	9	19	32%
Mead Corp.	18	8	10	44%
F. W. Means & Co.	25	12	13	48%
Metropolitan Life Insurance Co.	294	154	140	52%
Michigan Bell Telephone & Tel.	21	1	20	5%
Vester Sales Co.	17	8	9	47%
Mountain States Telephone & Tel.	44	19	25	43%
C. C. Murthy Co.	33	16	17	48%
National Car Co.	19	3	16	15%
Owens-Corning Fiberglas Corp.	14	3	11	21%
Pennwalt Corp.	16	3	13	19%
Pacific Telephone & Tel.	35	9	26	25%
Piggly Wiggly Corp.	28	13	15	46%
Porter, Inc.	12	4	8	33%
Pulman, Inc.	12	3	9	25%
Ralston Purina Co.	38	18	20	47%
Rath Packing Co.	10	4	6	40%
Red Owl Stores	30	3	27	10%
Safeway Stores, Inc.	275	51	224	18%
Southeast Forest Industries	13	5	8	38%
Sun Oil Co.	19	6	13	32%
Swift & Co.	27	9	18	33%
Teleprinter Corp.	11	4	7	36%
Tenneco Chemicals, Inc.	11	4	7	36%
Union Oil Co. of California	12	4	8	33%
Unifrax, Inc.	12	5	7	42%
U.S. Gypsum Co.	14	7	7	50%
U.S. Steel Corp.	18	8	10	44%
Valcar Materials Co.	15	1	14	7%
Wackenhut Corp.	27	5	22	18%
Westinghouse Electric Corp.	62	13	49	21%

Source: NLRB Election Reports 1972-1978

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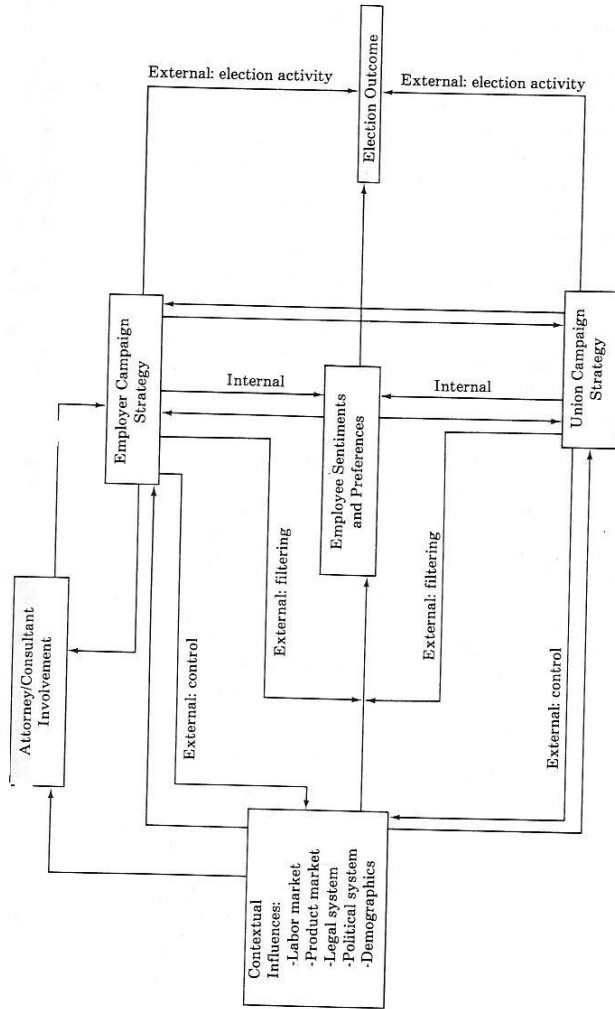


FIGURE 1  
THE REPRESENTATION ELECTION PROCESS