

48-824. Labor negotiations; prohibited practices.

(1) It is a prohibited practice for any public employer, public employee, public employee organization, or collective-bargaining agent to refuse to negotiate in good faith with respect to mandatory topics of bargaining.

(2) It is a prohibited practice for any public employer or the public employer's negotiator to:

(a) Interfere with, restrain, or coerce employees in the exercise of rights granted by the Industrial Relations Act;

(b) Dominate or interfere in the administration of any public employee organization;

(c) Encourage or discourage membership in any public employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment;

(d) Discharge or discriminate against a public employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under the Industrial Relations Act or because the public employee has formed, joined, or chosen to be represented by any public employee organization;

(e) Refuse to negotiate collectively with representatives of collective-bargaining agents as required by the Industrial Relations Act;

(f) Deny the rights accompanying certification or recognition granted by the Industrial Relations Act; and

(g) Refuse to participate in good faith in any impasse procedures for public employees as set forth in the Industrial Relations Act.

(3) It is a prohibited practice for any public employee, public employee organization, or bargaining unit or for any representative or collective-bargaining agent to:

(a) Interfere with, restrain, coerce, or harass any public employee with respect to any of the public employee's rights granted by the Industrial Relations Act;

(b) Interfere with, restrain, or coerce a public employer with respect to rights granted by the Industrial Relations Act or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances;

(c) Refuse to bargain collectively with a public employer as required by the Industrial Relations Act; and

(d) Refuse to participate in good faith in any impasse procedures for public employees as set forth in the Industrial Relations Act.

(4) The expressing of any view, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, is not evidence of any unfair labor practice under any of the

provisions of the Industrial Relations Act if such expression contains no threat of reprisal or force or promise of benefit.

Source: Laws 1995, LB 382, § 1; Laws 2011, LB397, § 14.

Operative Date: October 1, 2011

Annotations

In an appeal from a Commission of Industrial Relations order regarding prohibited practices stated in this section, an appellate court will affirm a factual finding of the commission, if, considering the whole record, a trier of fact could reasonably conclude that the finding is supported by a preponderance of the competent evidence. *Omaha Police Union Local 101 v. City of Omaha*, 274 Neb. 70, 736 N.W.2d 375 (2007).

The "deliberate and reckless untruth" standard of the National Labor Relations Act is not the appropriate method to analyze the speech of public service employees under the Industrial Relations Act. *Omaha Police Union Local 101 v. City of Omaha*, 274 Neb. 70, 736 N.W.2d 375 (2007).

An analysis of a violation under this section ends if the county commissioners had no knowledge of any discharged employee's union organizing activities. *Nebraska Public Employees Local Union 251 v. Otoe Cty.*, 257 Neb. 50, 595 N.W.2d 237 (1999).

In an appeal from an order of the Commission of Industrial Relations regarding prohibited practices under this section, concerning a factual finding, the court will affirm that finding if, considering the whole record, a trier of fact could reasonably conclude that the finding is supported by a preponderance of the competent evidence. The court will consider that fact that the commission, sitting as the trier of fact, saw and heard the witnesses and observed their demeanor while testifying and will give weight to the commission's judgment as to credibility. *Nebraska Public Employees Local Union 251 v. Otoe Cty.*, 257 Neb. 50, 595 N.W.2d 237 (1999).

The reasoning of *Wright Line*, 251 N.L.R.B. 1083 (1980), enforced 662 F.2d 899 (1st Cir. 1981), is adopted as the means for analyzing alleged prohibited practices under this section. *Nebraska Public Employees Local Union 251 v. Otoe Cty.*, 257 Neb. 50, 595 N.W.2d 237 (1999).