



**NECA**  
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# Labor Relations Learn by Doing




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CONVENTION EDUCATION

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## The Panel

- David Manderson, Executive Director, Minneapolis Chapter, NECA
- Rose Haensly, Eastern Region Field Representative, NECA
- Jack Savage, Eastern Region Executive Director, NECA
- Steve Krieg, Vice President, Field Labor Relations & Services, NECA




## What's on the menu?

 Are you fit for duty?	 How about a break?	 Let's shift things up.	 I am exercising my right to reject...
 The ABC's of Assent	 Documentation?	 You can't wear that!	



# Are you fit for duty?

Big Power Electric (BPE) has recently had a few minor workplace accidents, that while they did not result in any major issues, did result in minor injuries for a few employees. When conducting an annual review with their insurance provider, it was recommended they consider implementing a fitness for duty evaluation for all new applicants. BPE develops and implements a Fitness for Duty Policy for all new applicants.



After a few weeks, the Local Union sends the following communication to BPE:

*Hello Company Owner,*

*It has come to our attention BPE has unilaterally implemented a policy which impacts the conditions of employment for our members without prior notice and bargaining with the Local Union.*

*We demand BPE cease this policy until such time as it can be reviewed and bargained...*

The communication goes on, but you get the gist.



What do they do?





# Are you still fit for duty?



Fresh off their LMC Decision which stated BPE could continue their Fitness for Duty policy for new applicants, BPE decides to revise the policy to state all employees would be subject to an annual fitness for duty evaluation. If employees refused to take the evaluation, they would be subject to discipline up to and including termination. BPE noted in communication to their employees that the tests would reflect the type of work each employee performs.

After learning of this updated policy, the Local Union responds:



*Hello again Company Owner,*

*While the Local Union does not fully agree with the decision reached at the LMC, it will abide by the Committee's decision in that it was determined the program was operating within the applicable laws for applicants.*

*However, with this new revision and application, the Local Union is now certain BPE has violated not only the Collective Bargaining Agreement but also the law. We will be consulting our attorney.*

*The Local Union demands BPE revert to the original policy and implementation presented during the LMC until such time as the new version and implementation can be bargained...*

Again...it goes on.



Now what?





# How about a break?



No...after not doing so well in the CIR case over their new Fitness for Duty policy, BPE decides to turn their attention to the field.

For several years, employees of BPE have been taking a morning and afternoon break in addition to their lunch break. Recently, BPE started receiving some complaints on one of their projects that their employees were taking too many breaks and sitting around while other crafts were working. After checking with their Chapter Manager to determine if there were any breaks mentioned in the CBA (they're not), BPE makes a decision. To avoid singling out a specific project or group of employees, BPE sends communication to all their field employees stating the only break which would be permitted was a lunch break of thirty minutes as stated in the CBA. Any employee observed taking additional breaks would be subject to discipline up to and including termination.



The Union writes:

*Company Owner...C'mon,*

*We've been through this. You cannot make unilateral changes to the Agreement like this. These employees expect their breaks. We will be filing a grievance.*



Now what...again?





# Let's shift things up.



Big Power Electric (BPE) has been flying below the radar for a bit...until they landed a large project which would require them to work multiple shifts.

They contact their Chapter Manager to get a better understanding of the shift language in their CBA as they will need to utilize all three shifts to complete the project on time.

After getting a thorough education in shift work, BPE begins the project.



A few weeks into the project, BPE runs into a situation where all three shifts will need work Saturday and Sunday due to some unforeseen delays.

After communicating this to their crews, everyone agrees to work the weekend.

When paychecks hit the next week, a few employees are unhappy that their shift premium was not calculated in their overtime for Saturday and Sunday.



BPE explains to their employees the CBA says Saturday is time and a half and Sunday is double time, but they are not part of the shift.

The employees file grievances...so many grievances.



The Union writes:

*BPE,*

*I am not sure who told you that you could just drop members' shift time from their overtime rate, but they are wrong. The Local demands you pay each employee for the difference between what they were paid and what they should have been paid with their shift premiums. We are also demanding waiting time until this has been corrected.*



So...what's up here?



I am exercising my right to  
reject...



BPE is looking to add a few employees to a project as the work schedule continues to intensify. They place a call to the Local Union for four Journeyworkers. BPE has an arrangement with the Local Union with which they receive referrals via email and notify the Union of their decision on the referrals.

BPE's HR department begins contacting the new referrals to setup onboarding and get sizing for PPE.



Upon speaking to one of the applicants, the HR rep notes extreme difficulty in communicating with the individual due to their ability to speak English. The rep notes this and shares the information with the Project Manager.

The Project Manager asks the HR rep to reject this applicant citing safety concerns over the individual's difficulty in communicating.

The HR rep replies to the Local Union stating they are exercising their right to reject this applicant due to safety concerns.



The Local Union replies:

*BPE is not within their rights to exercise their right to reject. They have already accepted the individuals over email. The Union also disagrees with the BPE's assessment of this worker. He communicates with no issue. In fact, he just completed a training course at the JATC, and the instructor said there was no issue understanding him. He is a good worker and outstanding member of the Local Union. He will pursue a grievance against BPE over this. He may even consider additional action.*



Uh oh...now what?



## The ABC's of Assent

Big Power Electric (BPE) has become aware of a project opportunity in a neighboring State. After doing some research, they see this a great fit for the company and choose to pursue it.

They first contact the Local Union to obtain rates, CBA, etc. The Local Union sends the current wage sheet, CBA, and a Letter of Assent B.



The BPE rep has never seen a Letter of Assent B, and they are unsure how to proceed as they have only ever dealt with the Letter of Assent A.

They respond to the Local Union requesting the Letter of Assent A.

The Local Union replies:



*BPE,*

*At this time, we are only providing the Letter of Assent B to our Collective Bargaining Agreement as is the direction from our leadership. Please complete the Letter of Assent B at your earliest convenience and return to our office. We look forward to working with you.*



So...what do they do now?







# Documentation?



BPE has a long-term project with an employee who has been increasingly becoming a problem. This individual regularly either does not perform the tasks assigned or performs them very slowly.

During a casual conversation, the Foreman tells the individual they need to “pick up their pace, or they were off the job.”



A week passes, the individual’s performance does not change. The Foreman takes the individual to the side and informs them this is their “last chance. Get right or get out.” A verbal argument ensues. BPE decides to terminate this individual.

The employee files a grievance with the Local Union over improper termination.



BPE responds to the grievance through their Chapter Manager stating the employee has been performing poorly at their job for weeks and has been warned multiple times.

The Local Union submits a request for information requesting proof of these warnings.

The only documentation available is the termination slip.



What happens next?



You can't wear that!

BPE continues their long-term project without many hiccups...until they begin noticing their employees wearing new stickers and shirts bearing the Local Union's logo. Fearful they will have issues with their customer, BPE updates their employee handbook with the following policy:



*All employees of BPE shall adhere to the following dress code:*

- *Company issued PPE as required*
- *Shirts containing no offensive graphics, words, or logos*
- *Long pants*
- *Safety shoes as required*

*All clothing shall present BPE employees in a professional manner.*



BPE then begins communicating through their field supervision that wearing Union logos/shirts/etc. is in violation of this policy and any employee seen wearing them will be subject to discipline.

The Union responds...



*BPE,*

*Our members' decision to wear our new stickers and shirts is not a violation of your newly adopted company policy. However, your threat of discipline for wearing these items is a violation of their Section 7 rights under the NLRA. We have consulted with our attorney, and we plan to pursue an Unfair Labor Practice against you for this action.*

*Please await further correspondence.*



Wait...what's happening?



*“I hear, and I forget. I see, and I remember. I do, and I understand.”*

*- Confucius...maybe*



# Questions? Discussion?



# Thank You!



# Complete the Online Evaluation

