



Presented by

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Impacts of COVID-19 at the Bargaining Table

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WHY AND HOW EMPLOYEES UNIONIZE

- ***Most common reasons...***

- ✓ Dissatisfaction with wages
- ✓ Dissatisfaction with benefits
- ✓ Dissatisfaction with working conditions
- ✓ Job security

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WHY AND HOW EMPLOYEES UNIONIZE

• *The not-so-obvious pre-pandemic reasons...*

- ✓ Perceived lack of respect
- ✓ Perceived lack of appreciation
- ✓ Unexplained changes in policies
- ✓ Inconsistent application of policies
- ✓ Issues with how discipline is imposed
- ✓ Problems with supervisors



**Low
Morale**

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UNION ORGANIZING ACTIVITY

Some Statistics...

- Recent *union membership rate*, published by the Bureau of Labor Statistics, indicates that the percent of workers in the U.S. who are members of a union was 10.3% as of January 2022, down .5% from 2020.
- The number of wage and salary workers belonging to unions was 14 million, down about 240,000 from 2020.
- But, in 2021, about 7.7% of healthcare and social assistance employees are represented (US Bureau of Labor Statistics)
- In 2020, Unions won **71.9** percent of all elections held.

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Labor Trends

- Union-friendly Political Landscape
 - NJ is generally labor friendly.
 - Recently, have seen a commitment to labor sponsored work
 - NLRB/Federal government is (currently) employee friendly
- Renewed interest in organizing
 - Starbucks
 - Teamsters announced a bullseye on Amazon
 - Job actions across all industries

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Labor Trends

- According to the U.S. Bureau of Labor Statistics
 - As of January 2022, about 11 million open jobs within the US
 - As of January 2022, 8.8% of job openings are attributed to health care and social assistance
 - As of January 2022, approximately 700,000 separations in these fields (about 3.5% overall)
- According to the 2021 Occupational Employment and Wage Summary, the average US salary is \$56,310 (one year look back).
 - Median nursing assistant salary for same period: 30,830
 - Median RN salary for same period :75,330
 - Median OT assistant salary for same period: 60,950

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Labor Trends

- The Not-Just-COVID effect
 - As of February 2022, the unemployment rate was about 3.8%
<https://www.bls.gov/news.release/pdf/empst.pdf>
 - Personal experience during COVID-19 influencing priorities
 - Employee friendly job market
 - Labor shortages across all industries
 - Employee Leverage!
 - New Deal Breakers!
 - Work-life balance continues to be the expectation. <https://www.forbes.com/sites/nextavenue/2022/02/25/what-you-need-to-know-about-the-job-market-in-2022/?sh=2f0dd4197bf7>
 - According to Forbes, healthcare is among the hottest areas of opportunity (and highlights less traditional routes to healthcare, like health coaching)
 - Citing BLS data, Forbes projects about 3.3 million job opportunities between 2020-2030
<https://www.forbes.com/sites/nextavenue/2022/02/25/what-you-need-to-know-about-the-job-market-in-2022/?sh=2f0dd4197bf7>

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Labor Trends

- According to Bloomberg Law:
 - Approximately 400 (reported) healthcare contracts set to expire in 2022
 - Impact for approximately 207,000 employees
 - Bargaining intersecting with
 - The “Great Resignation”
 - Rising inflation
 - On-going and evolving pandemic
 - <https://news.bloomberglaw.com/daily-labor-report/health-care-strike-risk-runs-high-as-hundreds-of-labor-deals-end>

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Labor Trends

- As of 2021, unionization in healthcare fields remained relatively stable compared to other industries. <https://www.npr.org/sections/health-shots/2021/01/11/955128562/for-health-care-workers-the-pandemic-is-fueling-renewed-interest-in-unions>
 - 2020 saw organization in States which are traditionally unfriendly to organized labor
- Labor leaders in healthcare are pointing to long-standing concerns amplified by COVID-19
 - Staffing levels
 - Burnout/stress
 - Economics

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COVID-19 Bargaining Lessons...So Far

- Emergencies, including COVID-19, do not absolve the employer of its obligations under the law
 - On March 27, 2020, the NLRB issued its first guidance hinting strongly that even if decisional bargaining wasn't required, impact bargaining likely was.
 - In September 2020, the NLRB issued a follow-up summary of select pandemic related cases highlighting the employers' continued obligations to engage in bargaining and/or not interfere with employee rights.
 - In late 2021, in the context of the then-existing OSHA rule, the NLRB reminded employers that statutory mandates may not require negotiations, but when discretion exists, the topics are negotiable. The same was true about effects bargaining.

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COVID-19 Bargaining Lessons...So Far

- The work still had to get done
 - Competing interests-real life, family life, home schooling.
 - Patient needs versus individual fears
 - Communication
 - Cooperation (sometimes)

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COVID-19 Bargaining Lessons...So Far

- The obvious topics continue to exist, but with a crisis focus
 - Hazard increases
 - Issues of unilateral grant and discontinuation
 - Different values of "risk" based on title
 - Salary
 - Two years of crisis mode
 - "We've been here for you" increases
 - Economic realities

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COVID-19 Bargaining Lessons...So Far

- Employee focus on safety increased
 - Preparing for *next time*
 - Access to information
 - Selection of equipment
 - Ramifications of failure to provide equipment
 - Refusals to work
- Demands for employer commitments to provide resources for:
 - Mental health, trauma, stress and burnout
 - (HPAE is offering classes with AFT (grant funded))
 - Committees to study and discuss these issues
 - Creation or more access to EAP programs
 - Recovery leaves

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COVID-19 Bargaining Lessons...So Far

- COVID Vaccination (and Accommodation Testing)
 - CMS rule and NJ Executive orders for non-CMS facilities
 - Paid time to get vaccination/booters
 - Paid time to recover from vaccine side-effects (NOT sick leave)
 - On site provision of vaccination (with more than labor considerations!)
- Time off
 - COVID time
 - "Other" Sick Time
 - Other time off
 - Rest and recovery (competing with staffing needs)

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COVID-19 Bargaining Lessons...So Far

- Zoom bargaining is (probably not) as effective as an in-person bargaining
 - Reading the room
 - Everyone has a tell
 - Relationships matter (even when they're not great)
 - Perception of time
 - Momentum

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HOW TO CONTACT US



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