

Guidance for Employers: Pre & Post CBA Legitimation

Red de
Solidaridad de la **Maquila**
Solidarity Network



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CBA Legitimation:

One-time-only vote on existing collective bargaining agreement (CBA) that must be held within four years after the adoption of the 2019 Labour Justice Reform

New deadline for CBA legitimation:

Deadline to register date of legitimation vote

- Implications: If vote not registered by May 1, CBA terminated
- Anticipated: increase in number of votes registered by this date
- Vast majority of CBAs will be terminated on this date

May 1, 2023

Deadline for votes to be completed

- Implications: If vote not held, or workers vote “No”, CBA terminated

July 31, 2023

CBA's Legitimated to date:

As of April 10, 2023:

14,739 CBAs legitimated

Out of estimated 139,000 (10.60%)

Over 1,000 voting events programmed to date

Apparel sector data difficult to verify, but appears to be lower %

Implications: Unless a significant number of unions register voting events by May 1, there will be very few CBAs left

What should an employer DO immediately?

If the employer has not done so already, provide workers a printed copy of the most recent version of their CBA and have workers sign a document confirming they have received it. (Do not wait to do so until May 1 or until 3 days prior to a legitimation vote.)

If the employer has not done so already, share a copy of the most recent version of the CBA with brand buyers

What should
employers
DO if CBA
legitimation
voting date is
registered by
May 1?

- Allow union to post notices of vote in visible and accessible locations in the workplace at least 10 days before vote
- Provide workers printed copy of CBA at least 3 days before vote, and have workers sign a document verifying they have received it
- Provide the labour authority or notary list of eligible voters so they can corroborate list provided by union
- Provide the union accessible time(s) and facilities for personal, free, direct, and secret ballot legitimation vote to take place during working hours
- Allow union to post results of vote (*acta*) in visible, accessible locations
- Provide brands results of vote, and CBA if they haven't done so already

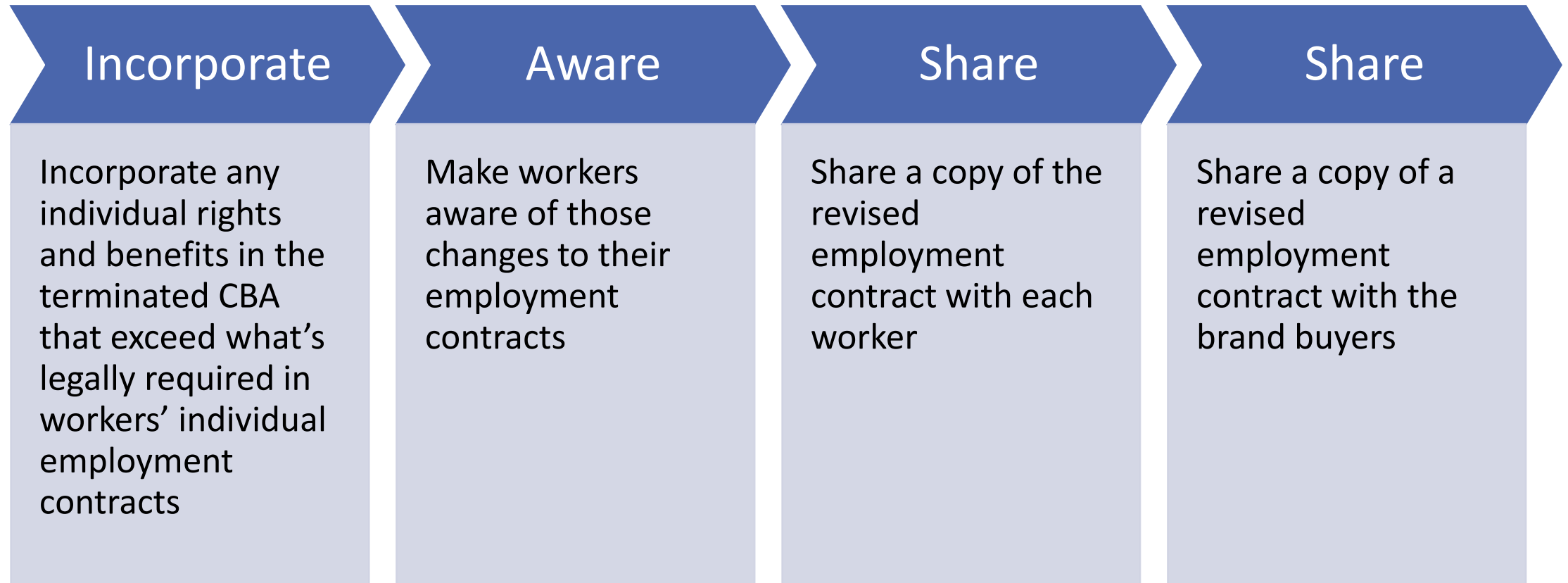
What should employer NOT DO prior to and during legitimation vote?

- Do not attempt to influence how workers vote or prevent or discourage workers from voting, through threats, financial or other inducements, or sharing of false or misleading information
- Do not interfere in the voting process, for instance by having HR and/or other management personnel present during the vote or by interfering in the work of the labour authority or notary
- Do not discourage or retaliate against workers for filing complaints about any alleged irregularities in the legitimation process

What should the employer DO if the CBA is legitimated?

- Every two years, negotiate in good faith with the union on revisions to the CBA
- Provide all workers prior notice of the upcoming negotiations
- If requested by the union, provide accessible time(s) and facilities for the workers covered by the CBA to participate, during working hours, in a free, direct, personal and secret ballot vote on the revisions to the CBA
- If workers vote against the proposed revisions to the CBA, inform the union of your willingness to return to the bargaining table to attempt to achieve agreement on CBA revisions that would be more acceptable to the workers

What should an employer DO after a CBA is terminated?



What should an employer NOT DO after a CBA is terminated?

Do not sign a new CBA with the union or another union unless they have received a certificate of representivity from the Federal Centre verifying they have the support of at least 30% of the workers

Do not discriminate or retaliate against workers who continue to be affiliated with the existing union or that support another union

If the union or another union seeks to recruit members to achieve the 30% requirement, do not assist nor oppose the recruitment process

What should an employer DO if a union has received a certificate of representivity?

- Negotiate in good faith with that union for a new CBA
- Provide all workers prior notice of the upcoming negotiations
- Provide brand buyers notice of the existence of the union and that negotiations for a new CBA will be taking place
- Once a new CBA has been negotiated, provide accessible time(s) and facilities, if requested by the union, so workers can participate in a free, personal, direct and secret ballot vote during working hours
- If workers vote against the tentative agreement, inform the union of willingness to return to the bargaining table in an attempt to gain agreement on a CBA more acceptable to the workers

What should an employer DO and NOT DO if there is more than one union in the workplace?

- If more than one union is seeking to negotiate a new CBA, remain neutral and do not do anything to favour, discriminate or retaliate against either union or its affiliates
- If more than one union claims to represent 30% or more workers and the Federal Centre calls for a vote to determine which union will have title to the CBA, do not interfere in the voting process or attempt in any manner to influence how workers vote
- If the Federal Centre determines the vote should be held in the workplace, provide accessible time(s) and facilities in order that all eligible workers can participate during working hours in a free, personal, direct and secret ballot vote
- If the Federal Centre mandates external organizations to act as observers, provide them access to the facilities and ensure that no management personnel interfere in the voting and observation processes

What should an employer DO if there is a complaint and investigation of a vote?

If there are worker complaints to the Federal Centre about alleged irregularities in one of these voting processes, cooperate fully with any Federal Centre investigation

If there are any complaints under the Federal Labour Law or the USMCA regarding an alleged denial of rights, cooperate fully with such investigations

✓ If labour violations are verified by such investigations, take requested corrective action without delay
