



# EMPLOYER NEUTRALITY: GUIDING PRINCIPLES AND NEUTRALITY PLEDGE

## FACT SHEET 3

Employer neutrality is an important principle to ensure respect for workers' right to freedom of association and collective bargaining. Employers adopting a Neutrality Pledge and making it available to their employees is not only good practice, but has also been a key requirement in Rapid Response Labor Mechanism (RRLM) remediation plans when employers have been found to have violated workers' associational rights. This Fact Sheet includes: Guiding Principles on Employer Neutrality, Key Elements of a Neutrality Pledge, and a Model Employer Neutrality Pledge.

### Guiding Principles on Employer Neutrality

The Employer should remain neutral in regards to decisions made by its employees on union representation, and respect any decision made by employees in regards to forming, affiliating with, or voting for a union of their own choosing.

The Employer should not interfere in the internal affairs of any union, through inducements or other means, to encourage workers to affiliate or renounce membership in any union, or use financial or other means to place a union under the control of the company.

The Employer should refrain from any activities that could influence union voting outcomes, or that could discourage or could be reasonably perceived to discourage workers from voting in union elections, or could influence ratification votes for collective bargaining agreements and revisions to those agreements. The Employer should accept the results of worker votes that are recognized by the labor authorities.

The Employer should refrain from engaging in any acts that favor one union over another in cases where there is more than one union, or a union in formation, in company facilities, and refrain from taking sides in any union disputes.

**Federal Labor Law:** *Article 357* of the Mexican Federal Labor Law prohibits interference in organizations of workers or employers by one party in the affairs of the other, directly or by their representatives, in their formation, functioning or administration. *Article 133* prohibits employers from discriminating against workers based on a range of characteristics and from coercing workers to join or withdraw from a union of their choosing.

## Employer Support for Freedom of Association:

The Employer should clearly state to workers that it recognizes and respects the rights of workers to be represented by a union of their own choosing, in accordance with Mexican law. The employer should also clearly state they will not interfere with or retaliate against workers in the exercise of these rights.

**Legal References:** *Article 123 XVI* of the Mexican Constitution, Article 357 of the Mexican Federal Labor Law, and ILO Convention 87 on Freedom of Association and Protection of the Right to Organize guarantee the right of workers to create or join a union of their own choosing.

## Employer Retaliation for Exercising Rights to Association:

The Employer should not tolerate or engage in any acts of discrimination, intimidation, retaliation, or threats of retaliation against workers for exercising their associational and collective bargaining rights. The Employer should take immediate action to remedy credible claims of retaliation by its employees, supervisors, or others working or acting on the employer's behalf.

**Federal Labor Law:** *Article 133 V* of the Mexican Federal Labor Law prevents employers from intervening in unions' internal affairs through explicit or implicit threats of reprisals against workers for union activity.

*Article 133 IV* of the Mexican Federal Labor Law prohibits employers and their representatives from obligating workers, by coercion or any other means, to join or withdraw from the union or organization to which they belong, or to vote for a certain leadership slate, as well as prohibiting any other act or omission that violates workers' right to decide which union should represent them in collective bargaining.

## Employer Neutrality Pledge Regarding Freedom of Association

An employer should either develop and adopt a Neutrality Pledge based on the Key Elements listed here, or adopt the Model Pledge below. In either case, the Pledge should be effectively communicated to all employees.

### Key Elements of an Employer Neutrality Pledge

- Positive statement on respect for freedom of association and the right of collective bargaining.
- Positive statement about employer not discouraging unionization in the workplace and respecting the workers' decision regarding union affiliation.
- Commitment of the employer to not favor one union over another in the workplace and to not take sides in union disputes within the workplace.

- Commitment of the employer to remain neutral in union organizing campaigns in the workplace.
- Commitment of the employer to not interfere in the internal affairs of any union or union in formation at the workplace.
- Commitment of the employer to not interfere in union elections or to take any action that influences union voting outcomes.
- Commitment of the employer to not engage in acts of reprisal against workers based on their preference to form a union or to affiliate or not with a specific union.

## Model Employer Neutrality Pledge

1. The Employer supports and respects the rights of freedom of association and collective bargaining of all its workers and will not interfere in any way in the legal exercise of these rights. The Employer shall respect the right of the workers to form or join a union of their choosing, as is provided by Mexican law.
2. The Employer shall remain neutral on the issue of union representation of its employees in regard to any decision made by workers around their rights to form, affiliate with, or vote for a union of their choosing.
3. The Employer recognizes that a collective bargaining agreement negotiated between the company and a union will cover all eligible employees in the bargaining unit, irrespective of union affiliation. The Employer will remain neutral and not interfere in worker votes to approve initial collective bargaining agreements and negotiated revisions to those agreements. The employer will accept the results of such votes that are recognized by the labor authorities.
4. The Employer will not interfere in the internal affairs of any union or organization that represents workers at its facilities.
5. The Employer will refrain from any acts that would place one organization at an advantage or disadvantage in relation to another in cases where there is more than one union or union in formation in the workplace.
6. The Employer will maintain a position of neutrality in relation to any legal process required for its workers to exercise their rights to form or join union organizations that they deem appropriate.
7. The Employer will remain neutral in regard to any union elections, and will cooperate with labor authorities before, during and after any voting processes. The Employer will respect the decisions made by workers in voting processes in regard to the union they have chosen to represent them, and in their selection of union leadership.
8. The Employer will not tolerate or commit any acts of discrimination, intimidation, reprisal or threats of reprisal against workers for exercising their associational and collective bargaining rights. The Employer will take immediate action to remedy credible claims of retaliation by its employees, supervisors, or others working or acting on the employer's behalf.

## Dissemination of Employer Neutrality Pledge to the Workforce

An Employer Neutrality Pledge regarding freedom of association should be adopted by Mexican employers irrespective of economic activity, sector or size of the workplace. These principles apply to all “Employers”, defined as management, agents, or representatives, including supervisors working at Company facilities, and employees, agents and managers at corporate headquarter locations.

Once the contents of the Pledge have been adopted, the employer should circulate the Pledge to the workforce through both written and verbal means, including by providing printed copies to workers and by posting copies in conspicuous areas throughout the facility, where workers will have access to them and be able to read them, including at building entrances, timecard clock-in stations, the shop floor, announcement bulletin boards, and cafeterias and break areas.

The Employer should hold assemblies to explain the Pledge and its application to all current employees, and should share and explain the Pledge to new employees at the time of hire.

*This fact sheet is part of the MSN's Resource Kit on Freedom of Association in Mexico available at: [maquilasolidarity.org/en/resources-foa-mexico](https://maquilasolidarity.org/en/resources-foa-mexico).*