

Protocol for the Authentication of Collective Bargaining Agreements Union and Employer Obligations

Following the publication of the labour reform law on May 1, 2019, the Mexican government committed to producing a Protocol outlining how existing collective bargaining agreements (CBA's) will be authenticated by the workers covered by those agreements, through a personal, direct, free and secret vote.

The Protocol for the Legitimation of Existing Collective Bargaining Agreements was published on July 29, 2019.¹ It describes how CBA authentication votes must be carried out, giving unions holding title to collective bargaining agreements a time frame of four years to have them ratified. The protocol is the legal guide for how unions and employers must carry out the ratification of existing CBAs, and it provides step-by-step directions on those procedures.

Below is a brief description of the obligations of employers and unions under the Protocol.

Employer Obligations

Employers' obligations focus on facilitating the consultation process, through the following steps:

1. Deliver printed copy of CBA directly to all workers at least three day prior to the vote and pay for the printing.
2. Provide the necessary facilities for the vote that are accessible to the workers and meet the necessary conditions for them to cast their vote in a personal, free, secret, direct, peaceful, agile and safe manner, without being coerced in any way.
3. Cooperate with any request from the STPS to provide information to verify the accuracy of data provided by the union regarding employees who have the right to participate in the consultation process.
4. Non-interference: The employer must comply with the above obligations and must not intervene during the consultation procedure, or be subject to financial penalties.
5. Although the union is responsible for posting both the election notice (10 days prior to the vote) and the results of the vote in visible and easily accessible places in the workplace and the union premises, the employer will have to cooperate with their publication in the workplace.

¹ https://dof.gob.mx/nota_detalle.php?codigo=5566910&fecha=31/07/2019, with English/Spanish version at: <http://www.mexicanlaws.com/STPS/PROTOCOL.pdf>

Union Obligations

Unions are the leading actor in the authentication process and have to follow these steps:

1. Deliver an electronic notice to the STPS ten days prior to the vote for the authentication of the CBA, and immediately notify the employer of the date of the consultation.
2. Publish the notice of the consultation process in the workplace.
3. If the employer fails to comply with its obligation to provide hard copies of the CBA to the workers, the union may do so at least three business days prior to the vote and notify the labour authorities of this violation so that the corresponding fine can be imposed.
4. Organize and facilitate the vote, which must take place in a location accessible to the affiliated workers covered by the CBA and meet the necessary conditions for them to cast their vote in a personal, free, direct, secret, peaceful, agile and safe manner, without being coerced in any way.
5. Post the voting minutes (details of results) in visible and accessible places in the workplace and the union premises.
6. Notify the STPS electronically, under oath, of the results of the vote, within three business days following the date of the consultation.

