

# **The Public Sector and Unions**

# Points to Consider

- It is estimated that 1 in 7 employed persons in the U.S. is some form of a “government” employee
- Roughly half of these employees are in a branch of education
- The National Labor Relations Act does NOT apply to federal, state, or local employees
- Federal negotiations regulated by the Federal Labor Relations Authority (FLRA), NOT the NLRB

# Examples of Unions 1

## Teachers

- National Education Association (NEA)
- American Federation of Teachers (AFT)

## State & Local

- Service Employees' International Union (SEIU)
- American Federation of State, County, and Municipal Employees (AFSCME)
- Teamsters
- Fraternal Order of Police (FOP)
- International Association of Fire Fighters
- Communication Workers of America

# Examples of Unions 2

## Postal Service

- American Postal Workers Union
- National Association of Letter Carriers

## Federal

- International Association of Machinists and Aerospace Workers
- National Treasury Employees Union
- American Federation of Government Employees

# Legal Issues

- Different laws and regulations apply at federal, state, and local levels
- Common feature is to deny or limit public employees' right to strike, particularly for jobs in “essential” services
- At federal level, the “rules of the game” are based on the Civil Service Reform Act – CSRA (1978)

## Example: New York's Taylor Law

- Penalizes public employees' for striking
- Uses "2 for 1" sanction:
  - "... striking employee is penalized one day's pay for each strike day, which is in addition to the day's pay the employee loses while striking." (p. 333)
- Burden falls to employer (e.g., state agency) to collect penalty \$

# CSRA (1978)

- Grants right to refrain from or right to form, join, or assist labor organization without fear of reprisal (p. 431)
- Grants right to bargain collectively about employment conditions, NOT pay and fringe benefits (p. 431). Pay is handled for many federal workers under either the “Coordinated Federal Wage System” or the federal General Schedule (GS) system.
- Does allow for filing of grievances for purported contract violations
- Some grievances go to binding arbitration, with 30-day window to appeal arbitrator’s ruling to the FLRA.
- Does not allow strikes or slowdowns – penalty for union that “promotes, encourages, or engages in a strike, which includes a slowdown or similar concerted efforts to interrupt operations, is decertification.” (p. 457) - See PATCO!

# CSRA Unfair Labor Practices

1. Interference with employees' rights to organize and bargain collectively
2. Domination of or interference in organizing or administering a labor organization
3. Discrimination in employment to discourage (or encourage) membership in a labor organization
4. Discrimination in employment because an employee files charges or gives testimony under the act
5. Failure to bargain collectively, in "good faith," with the representative of employees
6. Failure to cooperate on impasse procedures and decisions under the act
7. Failure to enforce any rule or regulation in conflict with a collective bargaining agreement
8. Failure to comply with all provisions in the act



# Strikes?

When is the rule against strikes by public employees more likely to be effective?

- When public opinion is united against strikers (Taxpayers may feel that they should have a say)
- When strikers' knowledge, skills, abilities, or experience can be replaced
- When union and its members are not united
- When there is a threat of arrest or large fines!!! (Back to the court injunctions from the history portion of the class)

# Bargaining Problems

- Step 1, often the Federal Mediation and Conciliation Service
- Next step, Federal Services Impasses Panel (FSIP)
- Next, some form of arbitration, up to and including binding arbitration
- Appeals of arbitrator's ruling to FLRA

# Ongoing Issues

- Drug testing – type of job, timing, “reasonable cause,” etc.
- Wrongful discharge or disciplinary actions
- Free speech