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Four Letters, Big Risk: Why TIPS Still Defines Employer Conduct

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Traditional Labor Law

Even sophisticated employers can find themselves on the wrong side of the National Labor Relations Act (NLRA) when frontline interactions cross the line. A recent case involving Starbucks out of Seattle is a timely reminder that the basics still matter—and that the well-known "TIPS" framework remains as relevant as ever.

A Quick Look at the Starbucks Case

In the Starbucks matter, the National Labor Relations Board (NLRB) found that the company violated federal labor law when managers questioned

employees about their involvement in strike activity and union support. While those conversations may have seemed informal, the Board concluded they amounted to unlawful interrogation under established NLRA standards.

For employees, questions from management about union or strike participation can feel inherently coercive, particularly given the power dynamics at play. The ruling underscores a consistent theme in labor law: even casual or conversational inquiries can cross the line if they would reasonably discourage employees from exercising their rights to organize or engage in protected concerted activity.

Back to Basics: Remember "TIPS"
The Starbucks case is a classic example of conduct employers have long been warned to avoid. For decades, labor law compliance has been distilled into a helpful acronym: **TIPS**. It remains one of the simplest and most effective ways to train managers on what *not* to do.

T – Threats

Employers cannot threaten employees because of union activity or other protected conduct. This includes obvious statements—like threats of termination or reduced hours—but also more subtle implications.

For example, suggesting that unionization could lead to store closures, loss of flexibility, or fewer opportunities can be viewed as coercive if employees could reasonably interpret the statement as a warning. Intent matters less than impact: the legal question is how a reasonable employee would hear it.

I – Interrogation

This is where Starbucks got into trouble—and where many employers stumble.

Employers should not ask employees about their union views, participation in organizing efforts, or involvement in strikes. Questions such as:

- “Are you supporting the union?”
- “Who’s been attending meetings?”
- “Why are people walking out?”

can quickly be seen as pressuring employees or attempting to gather intelligence on protected activities.

Even when asked casually or out of curiosity, these types of questions can violate the NLRA because they risk chilling employees’ willingness to exercise their rights.

P – Promises

Employers also cannot promise benefits to discourage union support.

This includes offering raises, promotions, or workplace improvements tied, explicitly or implicitly, to employees rejecting a union. Even positive changes can be problematic if they are timed in direct response to organizing activity and suggest that employees will be rewarded for not supporting it.

Employers should be especially careful to ensure that any changes to pay, benefits, or policies are consistent with historical practices and not reactive to union activity.

S – Surveillance

Finally, employers must avoid monitoring union activity—or creating the impression that they are doing so.

This prohibition extends beyond actual surveillance. It also includes:

- Having managers linger near organizing discussions in a way that feels intimidating
- Referencing employee union activity in a way that suggests it is being tracked
- Observing or documenting protected activity without a legitimate reason

The key question is whether employees would reasonably feel they are being watched or monitored.

What Employers *Can* Say: Remember "FOE"

While TIPS defines what employers cannot do, it's equally important to remember what they *can* do. The NLRA allows employers to communicate using **FOE: Facts, Opinions, and Examples**. Employers may share factual information about unions and the collective bargaining process, express opinions—including a preference to remain union-free—as long as they are not coercive or threatening, and provide examples based on real experiences or publicly available information. The key is tone and context: communications must avoid pressure or promises and should be carefully framed so that employees understand they remain free to make their own decisions about union involvement.

Why This Still Matters

The Starbucks case is not a departure from existing law—it's a reminder that these rules are actively enforced and often arise from everyday interactions rather than formal policies or vetted communications.

Most unfair labor practice charges don't stem from carefully planned strategies. Instead, they come from:

- Off-the-cuff manager comments
- Attempts to "understand what's going on"
- Well-meaning but uninformed conversations

That’s why TIPS remains so valuable. It gives managers a clear and memorable framework to avoid legal risk in real time.

> A National Labor Relations Board judge correctly dinged Starbucks for interrogating workers at three Seattle cafes about their strike plans, the NLRB held. . .
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