

Study: Unfair labor practices delay first union contracts

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Recent organizing victories at high-profile, private-sector employers such as Amazon, Starbucks and Trader Joe's suggest that U.S. workers can form unions in industries previously considered unorganizable.

Despite the wins, unions often don't reach legally binding collective bargaining agreements with employers that give workers more say about pay, benefits and protections.

In fact, new ILR research finds that the odds of winning a first contract within 18 months of employees voting to form a union decrease by about 71% when an employer impedes [contract negotiations](#) by committing unfair labor practices.

Published February 25 in the *Industrial Relations Journal*, "Breaking the deadlock: How union and employer tactics affect first contract achievement," was co-authored by ILR Ph.D. students Johnnie Kallas and Dongwoo Park, and University of Windsor Assistant Professor Rachel Aleks.

"A lot of people assume, and rightfully so, that if you win a union election, you should be able to negotiate a contract. But the reality is that less than half have a contract one year after an election," Kallas said. "We have nothing in U.S. labor law to compel an [employer](#) to reach agreement on a first contract, which is really the problem that a lot of current organizing campaigns are coming up against.

"So, just because you win an election doesn't mean you're able to make tangible gains at your workplace. You need to then, after winning a grueling election, be able to negotiate a first contract. It's a distinct process that comes with its own challenges, which we try to demonstrate in our paper."

Employer opposition has a negative effect on unions achieving a first contract, researchers said. Many engage in illegal tactics, called unfair labor practices, such as spreading rumors about job loss and plant closings. They also use legal means, such as captive audience meetings, to delay the process.

In 39% of cases, employers retained the use of an anti-union consultant and engaged in tactics to minimize support for the union even after union certification. These tactics, including making promises, unilaterally changing terms and conditions of work, and threatening closure, were used in 38%, 32% and 25% of cases, respectively.

On the other hand, researchers found that engaging with the public, similar to the effort needed for winning worker approval for forming a union, improves the chances of establishing an agreement.

The researchers argue that for [unions](#) to achieve a first contract, workers should build external leverage by mobilizing [community leaders](#) and workers at other unionized sites. Examples of this strategy yielding positive results include the Maine State Nurses Association, which ratified its first contract in September 2022 after holding a series of public rallies, and a first contract achieved by graduate students at Clark University in October 2022.

Park said, "Unions need to get a first [contract](#), so they may want to call a strike or just talk to the employers privately. But what we found is that what is more important than those kinds of internal tactics is the need to involve [community groups](#), or other groups outside the union, to build solidarity, make their case more visible and to bring shame to the employers."

More information: John Kallas et al, Breaking the deadlock: How union and employer tactics affect first contract achievement, *Industrial Relations Journal* (2023). [DOI: 10.1111/irj.12399](https://doi.org/10.1111/irj.12399)

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