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New Protocol in Place for Unions to Legitimize Collective Bargaining Agreements

What has changed

As dictated by the recent amendments to the Mexican Federal Labor Law, on July 31, 2019, the Labor Ministry issued a protocol establishing a consultation process for unions to follow to legitimize Collective Bargaining Agreements (CBAs) executed and filed with the Conciliation and Arbitration Labor Boards. The protocol is in force from August 1, 2019 and remains in effect until the Federal Conciliation and Labor Registry Center takes office.

To legitimize a CBA, the union must prove that a majority of employees covered by the CBA know about, and approve of the terms of, the CBA. In the event that a majority of the employees do not support the CBA, it will be terminated, except that labor benefits and conditions in the CBA exceeding the minimums granted by law will remain in force. CBAs must be legitimized by no later than May 1, 2023. Otherwise, the CBA will be terminated automatically as of that date.

What it means for you

Employers can expect that unions will quickly initiate consultation processes with the objective of legitimizing CBAs currently in place. To start the consultation process, the union must first notify the Labor Ministry and indicate whether the consultation process will be performed with the support of a Notary Public or if it requires the support of the labor authority.

The union must issue a notice of the consultation process at least 10 business days before the process begins and immediately inform the employer. The employer will have the following obligations:

- Facilitate the consultation process.
- Publish the union's notice of the consultation process in the workplace.
- Provide hard copies of the CBA to employees at least 3 business days before the voting date.

Companies must comply with these obligations and cannot interfere during the consultation process. Otherwise, the employer may be subject to penalties ranging from approximately USD 200 to 22,000, to be determined by the violation and applicable circumstances.

The Labor Ministry may request that the employer provide information to the Ministry, at any time, to verify the accuracy of information provided by the union, regarding the employees who have the right to participate in the consultation process.

Voting will take place on the date and time, and in the place, set out in the union's notice of consultation. Each covered employee is entitled to one vote and voting must be voluntary, secret and secure. The union must publish the result of the consultation process in the workplace and communicate it to the Labor Ministry within 3 business days of the vote. The Labor Ministry may verify the fulfillment of the consultation requirements. The Ministry can declare the consultation process invalid if it identifies irregularities, and the union could carry out a new consultation process. The CBA will be legitimized if the Ministry does not make any observation during the next 20 business days after receiving the results of the process from the union.

Action steps

Companies with existing CBAs should take the following steps:

- Anticipate receiving a notice from the union relating to the consultation process.
- Determine an action and communication plan to ensure that employees are made aware of the CBA and its terms.
- To minimize business disruption, proactively communicate with the union in an effort to agree on the time and place of the vote.
- In consultation with the union, review and revise the CBA as needed, to reflect the positions and job categories actually covered by the CBA and the labor benefits granted to the covered employees.
- Comply with all obligations under the protocol, including posting the notice of consultation in the workplace and providing copies of the CBA to employees.
- Cooperate with the process, as required by law, while making best efforts to carry on the company's business in the normal course.

Background

For more information, please click our [Client Alert 14](#) and [the protocol published by the Labor Ministry in the Daily Official Gazette](#).

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