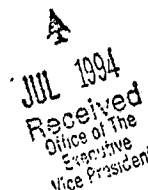
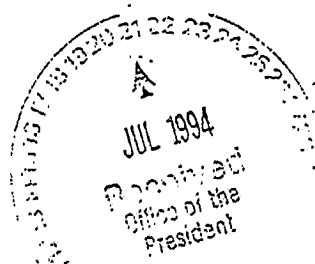




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VICE PRESIDENTS, AREA OPERATIONS

SUBJECT: Employee Participation Committees

We continue to experience difficulties with issues related to the establishment of various types of employee participation committees. The following is offered as guidance in this area.

The National Labor Relations Board (NLRB) has issued two significant decisions concerning the legality under the National Labor Relations Act (NLRA) of employer-initiated employee participation committees.¹ Generally, the NLRB has concluded that such committees may constitute a "labor organization" under the Act and, thus, may "interfere" with the rights of the employees' union to serve as the employees' exclusive representative. The fact that the committees may not be "bargaining" with the employer in the traditional sense is not the test. If the committees are "dealing with" the employer over matters relating to wages, hours and other terms and conditions of employment, the Board will find the committees to be unlawful and order them to be disbanded.

The decisions by the NLRB have greatly narrowed the range of topics that employee participation committees can address under the NLRA. Any such committee established without union consent must avoid discussing wages, hours and other terms and conditions of employment. As a practical matter, it seems that it would be very difficult for such committees to avoid that broad range of issues. Indeed, the very foundation of employee participation programs centers about the notion that employees should be consulted because they have knowledge and experience concerning the work place. At some point, committees, which have been established to take advantage of that knowledge and experience, may have a natural tendency to consider and deal with matters encompassing the scope of wages, hours and other terms and conditions of employment.

While the NLRB decisions leave little room for employee participation committees, they do not rule out their legitimate existence entirely. There are other ways in which interaction can take place without running afoul of federal labor laws. Moe Biller, President, APWU has said that he and his representative are willing to work with the Postal Service on issues of concern to management and employees, such as, improving customer service, reducing postal costs and increasing revenue, provided that it's done jointly through labor-management committee meetings. Therefore, management should pursue these goals through joint labor management committees and not through management initiated committees.

¹ E. I. du Pont de Nemours & Company, 311 NLRB No. 88 (1993); Electromation, Inc., 309 NLRB No. 163 (1992).