

QUIZ: TESTING OUR KNOWLEDGE ON MEXICO'S LABOUR JUSTICE REFORM¹

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For correct answers and explanations see pp. 3 & 4.

1. If the union does not legitimize the collective bargaining agreement (CBA) before May 1, 2023, what does the employer have to do on May 2?
 - A Agree to an extension of the CBA
 - B Immediately negotiate a new CBA
 - C Ensure compliance with the individual rights and benefits that were in the CBA
2. If the CBA isn't legitimated by May 1, 2023, it is terminated, and the union that held title to it also disappears.
 - A True
 - B False
3. If the majority of the workers vote to reject the CBA, the same union can negotiate a new CBA with the same employer.
 - A True
 - B False
4. If the union chooses to have a notary public verify the legitimation vote, the employer can pay the honorarium to the notary?
 - A True
 - B False

¹ Adapted from a tool used in a workshop featuring Alfredo Dominguez Marrufo, Director General of the Federal Centre for Labour Conciliation and Registration, at INDEX regional forum, August 30 2022.

5. Which of the following is an example of what the employer can do to facilitate the CBA legitimation vote?

- A Provide workers permission for time off from work shifts to vote
- B Set a date to guarantee that all workers are able to vote
- C Send an e-mail to the workers inviting them to vote
- D Pay them double their salary in order to incentivize voting

6. Prior to the legitimation vote, it is sufficient for the employer to provide workers an electronic copy of the CBA.

- A True
- B False

7. Which company representatives can be present in the voting area during the vote?

- A Representatives of Human Resources
- B Representatives of the Accounting Department
- C Representatives of the Legal Department
- D No company representatives

8. If the Federal Centre for Labour Conciliation and Registration (CFCRL) asks the employer for the list of eligible voters with signatures verifying that workers received the CBA in order to determine if there are irregularities, what should the employer do?

- A Do not respond. It's likely a false request
- B Inform the union, because the employer shouldn't involve itself in this
- C Submit the information

9. What should the employer do if there is more than one union in their workplace?

- A Dismiss the members of the minority union
- B Negotiate the CBA with the majority union
- C Negotiate the CBA with both unions in an egalitarian manner
- D Negotiate the CBA with the minority union

10. Who organizes the union representation vote (*recuento*) to determine who obtains a Certificate of Representivity (*Constancia de Representividad*)?

- A The Federal Centre for Labour Conciliation and Registration
- B The Labour Tribunal for Collective Issues (*Tribunal Laboral de Asuntos Colectivos*)
- C The union

QUIZ ANSWERS

1. Correct Answer: C

Why? The 11th Transitory Article of the reformed Federal Labour Law (*Ley Federal del Trabajo–LFT*) states that a CBA that is not legitimized before May 2, 2023 will be considered terminated. However, the benefits and working conditions provided for in the CBA, beyond what is required by the LFT, must be preserved in the individual employment contract of each worker.

2. Correct Answer: B

Why? Transitory Article 11 of the reformed Federal Labour Law establishes that if a CBA is not legitimated by May 1, 2023, it is terminated. However, approval or rejection of a CBA has no effect on the continuing existence of the union. Articles 370, 379 and 380 establish the process for the dissolution of a union, but whether the union does or doesn't hold title to a CBA is not relevant to that process.

3. Correct Answer: A

Why? Even if the CBA is rejected, if the union subsequently obtains the Certificate of Representivity from the Federal Centre based on evidence that it has the support of at least 30% of the eligible workers (art. 390 Bis), it may then negotiate a new collective bargaining agreement with the same employer.

4. Correct Answer: B

Why? The Protocol for the legitimization process establishes that the union may choose whether to have the labour authority or a notary public oversee the process. If the latter option is chosen, the costs for hiring the notary must be covered by the union.

5. Correct Answer: A

Why? Articles 133 and 390 Bis establish that the employer may not interfere in the union's activities in preparation of the CBA legitimization vote or in the voting process. Article 25 of the Protocol for the legitimization process establishes that the employer must provide the necessary facilities for the consultation. The Ministry of Labour has clarified that the employer must: first, provide all workers a printed copy of the collective bargaining agreement; second, assist in the selection of the adequate facilities for the vote to be carried out; and third, grant permission for workers to have time during their work shifts to vote.

6. Correct Answer: B

Why? Article 25 of the Protocol of the legitimization process establishes that once the call for the vote is issued, the employer must guarantee acceptable conditions for the vote to take place, as well as deliver a printed copy of the collective bargaining agreement to all eligible workers at least three business days prior to the date of the vote. If the employer does not comply with this obligation, the union may deliver it directly to its members, at the employer's expense, and refer the matter to the labour authority so that the corresponding fines may be imposed.

7. Correct Answer: D

Why? Article 390 Bis of the LFT prohibits any person not involved in the proceedings from being present during the vote, unless the registering authority has accredited him/her as an election observer. The registering authority will oversee and put in place the necessary measures to ensure that no unauthorized person participates or intervenes in the preparation of the voting proceedings. In addition, the employer is prohibited from making any form of intervention in the voting process.

8. Correct Answer: C

Why? According to Article 25 of the Protocol for the legitimization process, the employer is obligated to deliver a printed copy of the collective bargaining agreement to the workers, therefore the registering authority is authorized to verify compliance with this obligation. In addition, Section IV of Article 26 of the Protocol establishes that the employer is required to cooperate with personnel verifying the outcome of the vote on whatever is requested.

9. Correct Answer: B

Why? Article 388 of the LFT allows for there to be one or more unions in a workplace; however, the most representative or majority union has certain privileges in accordance with the law, such as: 1) The exclusive right to negotiate the collective bargaining agreement with the company; 2) Priority regarding consultations with governments; or, 3) Priority in the designation of delegates to international organizations; which is consistent with the decisions and principles of the Committee on Freedom of Association of the Governing Body of the International Labour Organization.

10. Correct Answer: A

Why? The vote to determine who obtains a Certificate of Representivity occurs when more than one union contends for the right to sign a new collective bargaining agreement. In this case, the Federal Center for Labour Conciliation and Registration must organize the vote (Art. 390 Bis of the Federal Labour Law).