
ASCIP

RISK ALERT!

Date: *April 6, 2011*

Attention: *ASCIP Members*

Subject: *Nonemployee Union Representatives Entering
Construction Sites*

ASCIP has received questions on whether nonemployee union representatives have an unlimited and absolute right to enter a construction site where union members are employed.

There is no “bright line” rule in regard to the circumstances that must present to support the request of a nonemployee union representative’s right to enter a construction site where union members are employed. Therefore, it is essential that each request be evaluated and access be determined by its own, unique facts.

As a general rule, union representatives have the right to enter construction sites where union workers are being employed. However, this right is not absolute or unlimited. The right to enter construction sites should be “reasonable” with the purpose of conducting a “lawful union activity”; i.e., inspecting for safety violations, or to investigate compliance with a collective bargaining agreement. The right to enter should be permitted **so long as they do not interfere with the work in progress or exceed the scope of proper union activities.**

ASCIP recommends that districts instruct their representatives on any site where union workers are employed to first determine the nature of the “lawful union activity” and, based on that determination, to decide whether access to the site must be permitted and, if so, when. There may be a more reasonable alternative to entering the site, such as conducting an investigation off-site or during breaks in the work. If there is any doubt, the safer course from a civil liability standpoint is to allow access to the site by the union representative, especially if the reason given is to inspect the jobsite for safety violations.