

# **Agricultural Labor Relations Act**

## **Employee Questions & Answers**

### **UNFAIR LABOR PRACTICES**

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#### **What is an Unfair Labor Practice?**

An Unfair Labor Practice (ULP) is conduct by employers or by unions that violates the rights of agricultural employees. These rights are defined under the Agricultural Labor Relations Act (Act).

#### **Examples of ULPs by employers include:**

- Firing employees who act together with other employees to ask for changes in working conditions or wages (even if they are not represented by a union);
- Threatening employees who support a union;
- Observing, listening to, or interfering with employees when they meet with union organizers or when they discuss union matters with other employees;
- Promising employees benefits (such as higher wages or better hours) if they agree not to support a union;
- Discriminating against employees who exercise any of their rights under the Act.

#### **Examples of ULPs by unions include:**

- Threatening workers who do not support the union with loss of work if the union wins an election;
- Trying to influence employees' decision to vote for the union by threats or other forms of coercion.

#### **Who May File a ULP Charge?**

Any person, for example, an individual farm worker, an employer or a labor union may file a charge alleging a ULP with the Agricultural Labor Relations Board (ALRB). Labor organizations may also file ULPs on behalf of farm workers.

#### **Can I File a ULP Charge Even if I Am Not Represented By a Union?**

Yes. You have the right to join together with other workers to request changes in working conditions or wages. Although your employer does not have to meet your demands, it is a ULP if your employer fires you, lays you off, demotes you or discriminates against you because of your request. If this happens, you have the right to file a ULP charge.

## Where Do I File a Charge?

Charges are filed in the ALRB Regional Office that covers the county where the alleged ULP occurred. You can get forms for filing charges from any ALRB office. Charges must be filed **no later than six months** after the alleged ULP occurred.

## What Happens After I File a Charge?

ULP charges are independently investigated by the ALRB Regional Director. A field examiner and/or attorney from the Regional Office may look at records, interview witnesses, and put together a picture of what happened. The Regional Director will also contact the party that has been charged with the ULP to hear that party's side of the story. If the Regional Director decides a charge has merit, a **complaint** will be issued. If the Regional Director finds that there is not enough evidence to prove that the ULP happened, the charge will be dismissed. At any time during this process, the Regional Director and parties might also decide to enter into an agreement to resolve the situation

## What Happens After a Complaint is Issued?

A hearing will be held before an impartial Administrative Law Judge (ALJ). At the hearing, both sides will have an opportunity to testify about what happened, present evidence and call witnesses. Farm workers who file charges are represented by the General Counsel of the ALRB at the hearing. There will be interpreters at the hearing if needed. It is important to note that under the Act, witnesses **cannot** be fired or penalized for testifying at the hearing. If the ALJ finds that a ULP occurred and the Act was violated, the ALJ will recommend a remedy to correct the violation. If the ALJ decides that the Act has not been violated, the case will be dismissed. The ALJ's decision can be appealed to the Board. The Board will act as a review court and will issue a decision. The Board's decision can be appealed to the courts.

## What Happens if a There is Decision That a ULP Has Occurred?

All parties will be notified of the decision. If the decision is upheld for the farm worker, it will include a remedy to address any damage that was caused by the commission of the ULP. A remedy is a set of instructions ordering the party who committed the ULP to do certain things to try to correct the harm caused by the ULP.

## What Are Common Remedies for ULPs?

Remedies for a ULP may include:

- Telling the employer to offer a discharged worker his or her job back;
- Ordering the employer to pay the worker lost wages;
- Requiring the employer to post, mail, and/or read the Board's notice to all agricultural employees so they can learn about the outcome of the case;
- Ordering the wrongdoer to stop engaging in the ULP.

## How Can I Protect My Rights?

If you believe any of your rights under the Act have been violated, you have the right to file a ULP charge with the nearest ALRB office. When you file a charge:

- Provide ALRB staff with a complete address or phone number where you can be reached most often.
- Let the ALRB staff know complete names, addresses and phone numbers for any witnesses involved in the charge, and assist in making them available to give confidential statements.
- If you lost your job as a result of the alleged ULP, keep complete records about your search for other work. If you obtain other work, keep records of your earnings from your new job.
- Stay in touch with the ALRB Regional Office where you filed the charge. Let the Regional Office know if you have a change of address or phone number.