

Ensuring Rights and Remedies for Immigrant Workers Under the NLRA



Pablo A. Godoy, Deputy Assistant General Counsel
pablo.godoyduarte@nlr.gov



We're an independent federal agency that protects the rights of private-sector employees (and USPS employees) to join together to improve their working conditions. Employees in both unionized and non-unionized workplaces have these rights.



We protect employees' rights to:

- engage in group efforts to improve their wages and working conditions
- determine whether they want to be represented by a union
- engage in collective-bargaining
- refrain from any of these activities

Who we protect

The National Labor Relations Act covers employees of most private businesses in the United States, including:



Workers at small businesses



Workers at nonprofits



Workers in states with "Right-to-Work" laws

Coverage exceptions

Some groups are excluded from protections, including:



Agricultural workers



Independent contractors



Domestic workers

Right to Engage in Union Activity



Employees have the right form, join or assist labor organizations

Right to Engage in Protected Concerted Activity

- Two or more employees act together to improve their working conditions
- A single employee brings group complaints to an employer or tries to convince co-workers to act together as a group



Examples of Protected Concerted Activity

- Talking with one or more co-workers about wages and benefits or other working conditions.
- Participating in a concerted refusal to work (strike) in unsafe conditions.
- Circulating a petition asking for better hours.
- Joining with co-workers to talk directly to a labor organization, the boss, a government agency, or the media about problems in the workplace.
- Filing a wage and hour lawsuit with co-workers.

In response to union or protected concerted activity, an employer is **prohibited** from taking any of these actions:



Firing or demoting the employee



Reducing pay, hours, or benefits



Transferring the employee to another location



Contacting law enforcement, including ICE



Imposing new paperwork requirements to maintain employment



Making working conditions less desirable, e.g., altering work schedules, denying overtime, isolating the employee



Threatening to do any of these things

Workers Are Protected Under the NLRA Regardless of Immigration Status



GC Abruzzo's Initiatives

- GC 21-06 Seeking Full remedies
- GC 21-07 Full Remedies in Settlement Agreements
- GC 22-01 Ensuring Rights and Remedies for Immigrant Workers Under the NLRA
- GC 22-02 Seeking 10(j) Injunctions in Response to Unlawful Threats or Other Coercion During Union Organizing Campaigns
- GC 22-03 Inter-agency Coordination

FORM NLRB-501
(3-21)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

Date Filed

INSTRUCTIONS:
File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

b. Tel. No.

c. Cell No.

f. Fax No.

d. Address (Street, city, state, and ZIP code)

e. Employer Representative

g. e-mail

h. Number of workers employed

i. Type of Establishment (factory, mine, wholesaler, etc.)

j. Identify principal product or service

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

4a. Address (Street and number, city, state, and ZIP code)

4b. Tel. No.

4c. Cell No.

4d. Fax No.

4e. e-mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Tel. No.

Office, if any, Cell No.

Fax No.

e-mail

Address

Date

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

What to know before filing a charge:

- It's free and can be done online or at any of our offices
- You must file a charge within 6 months of the alleged unlawful conduct
- You don't need a lawyer
- If you need assistance, an NLRB agent will help you fill out the charge correctly
- Translators are available for non-English speakers

Certifying U and T Visas

- NLRB will certify for individuals who have been helpful to a NLRB investigation or litigation that is related in some way to a qualifying crime, and who have suffered harm as a victim of a qualifying crime.
- Bona Fide Determination Process.
- New guidance from USCIS specifically providing for an expedited Bona Fide Determination process which labor agencies can request based on cases we identify as urgent.

Prosecutorial Discretion and Work Authorization

- NLRB may make request to DHS/USCIS in appropriate cases involving workers who are victims of, or witnesses to, violations of our Act who make request to NLRB.
- Working with DOL, EEOC, DOJ IER and DHS on process from the DHS side.
- From the NLRB side, after filing a charge, indicate to NLRB investigator the need at a particular worksite.

Contacts

- Pablo A. Godoy, Deputy Assistant General Counsel
pablo.godoyduarte@nlrb.gov
- David Kelly, Deputy Assistant General Counsel
david.Kelly@nlrb.gov
- Aaron Karsh, Assistant General Counsel
aaron.karsh@nlrb.gov
- Jessica Rutter, Associate General Counsel
jessica.rutter@nlrb.gov