

UFW Taking Worksite Access to Support Immigration Reform: What Should an Ag Employer Do?

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In a Sept. 27 press release, the United Farm Workers union announced it will use the Access Regulation of the Agricultural Labor Relations Board (ALRB) so that UFW staff and volunteers can visit 100 of the largest farms in California. The stated purpose is to "energize and inspire farm workers and send a clear message to Congress: We want immigration reform today, not tomorrow," a campaign UFW characterizes as "the National Day of Dignity and Respect" launching the "Harvesting the American Dream" campaign.

According to the press release, on Oct. 3-5, UFW "will be marching to the fields of Monterey, Ventura, Kern, Tulare, Fresno, Madera and Merced counties" with the stated goal of having workers sign postcards urging Bakersfield Congressman Kevin McCarthy (who holds a leadership position in the House) to push for a vote on comprehensive immigration reform legislation. On Saturday, Oct. 5, events such as marches and rallies are reportedly scheduled in Apple Valley, Bakersfield, Coachella, Delano, Fresno, Irvine, Los Angeles, Madera, Modesto, Oxnard, Petaluma, Riverside, Salinas, San Bernardino, San Diego, San Francisco, San Jose, and Santa Barbara.

Laudable as the stated goal of UFW's campaign may be, the use of the "Notice of Intent to Take Access" ("NA") mechanism of the ALRB's regulations opens agricultural employers to possible allegations of unfair labor practices. To avoid problems, farm employers should remember some basic rules about dealing with UFW organizers, representatives and volunteers:

- UFW agents are lawfully entitled to take access only after the union has served a copy of the NA on the employer and filed it with the Regional office of the ALRB. That office will typically notify the employer of an NA's filing. You are advised to request a copy of the filed NA.
- If you are served with an NA by UFW within the next few days, you may reasonably assume it is related to this "immigration-reform" campaign. Thus, you may want to alert your employees that UFW agents may very soon be taking access to talk with them about that campaign, possibly among other things, as well. Let your employees know that you and other agricultural employers and their organizations have been working very hard for a long time for the passage of an immigration-reform law that will benefit them and their family and friends, along with employers. Also before UFW agents take access, reassure your employees that you respect their right and the right of UFW agents to communicate with each other confidentially during access periods. You should also let employees know they have the following rights:
 - o To talk or not to talk with UFW agents.

- o To fully understand for themselves what it is that UFW agents are asking them to sign before they sign it.
- o To sign or not to sign anything that UFW agents may ask them to sign.
- o To share or not to share with UFW agents any contact or other personal information about themselves, including home addresses, and telephone numbers.

- Inform any farm labor contractor (“FLC”) providing you with labor about the situation; the employees of your FLC are deemed your employees under the Agricultural Labor Relations Act.
- UFW agents may take worksite access to meet and talk with employees on each day of the 30-day period covered by the NA only for:

- o One hour before work begins;
- o One hour after work ends; and
- o One hour encompassing the meal period.

Allow UFW agents sufficient time to get to the area(s) where employees congregate so that the agents will have a full one hour to talk with them.

- Access may be taken by only two UFW agents for each work crew on your land, except that if there are more than 30 employees in a crew, one additional agent is allowed for up to every 15 additional employees.
- Have one or more supervisors watch for the arrival of UFW agents and greet them when they arrive. Agents should be asked to identify themselves by name and labor organization; the Access Regulation requires them to respond. The regulation also requires each agent to wear a badge that clearly states the agent’s name and the name of the agent’s organization. Agents should be given a copy of and asked to follow any generally applicable field- or food-safety rules you may have.
- You may deny access to UFW agents if no NA was filed and served or if the agents fail to identify themselves upon request.
- You may end access and order UFW agents off your land once the mandated access time has expired or if the agents disrupt work or harm equipment, crops or other property.
- Supervisors must stay away—out of both eyeshot and earshot—from the areas where employees and UFW agents are meeting.
- Once the UFW agents have left, supervisors may not ask employees about what was discussed or what UFW agents may have given them.
- Neither your company nor its supervisors may retaliate or discriminate against any employee for:

- o Communicating with UFW agents.

- o Receiving documents from UFW agents.
- o Giving documents to UFW agents.
- o Engaging in other protected concerted activities to improve wages, benefits, and other terms and conditions of employment.