

Unfair Labor Practice Investigation Form

*This document should be used as an investigatory tool and can be filled out by Reps. or Stewards. This document is property of UFCW 367 and should not be submitted to any employer.

NAME OF COMPANY	NAME OF EMPLOYER REPRESENTATIVE
ADDRESS	EMPLOYER REPRESENTATIVE NUMBER & EMAIL
TYPE OF ESTABLISHMENT	NUMBER OF WORKERS

Which section of the NLRA was violated?
 (See "It's the Law, Unfair Labor Practice" for more info)

- Section 8(a)(1) The Employer interfered with, restrained or coerced employees engaged in concerted activities
- Section 8(a)(3) The Employer discriminated against employees in regard to their terms and conditions of employment
- Section 8(a)(5) The Employer violated the duty to bargain

What happened? Write a clear and concise statement of the facts constituting the unfair labor practices: Please attach all relevant documents

Who was involved? Include names and titles of all witnesses:

When did the incident occur and where? Include date and time:

Name all witnesses that will provide an affidavit:

_____ / _____ Name Contact #	_____ / _____ Name Contact #
_____ / _____ Name Contact #	_____ / _____ Name Contact #

Unfair Labor Practice Facts

What is an Unfair Labor Practice (ULP) An action taken by a union or employer that violates one of the sections of the National Labor Relations Act (the Act)?

The National Labor Relations Board (NLRB) is appointed by the standing president and has jurisdiction to investigate and remedy ULP's. The NLRB is broken down into regional offices. Region 19 covers Washington, Oregon, Idaho, Montana, and Alaska.

Section 7 of the National Labor Relations Act guarantees employees "the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection," as well as the right "to refrain from any or all such activities."

The Most Common ULPS filed by a Union are classified under the Act as 8 (a) (1) violations, 8 (a) (3) violations, and 8 (a) (5) violations.

Section 8 (a) (1) of the Act makes it an unfair labor practice for an employer "*to interfere with, restrain, or coerce*" employees in the exercise of the rights guaranteed in Section 7" of the Act. For example, an employer MAY NOT:

Threaten employees with adverse consequences if they engage in protected, concerted activity. This includes circumstances where a single employee seeks to initiate, induce, or prepare for group action, as well as where an employee brings a group complaint to the attention of management. Activity is "protected" if it concerns employees' interests as employees. The Act does not protect employees engaged in certain egregious misconduct.

Prohibit employees from talking about the union or union activities during working time if the employer permits them to talk about other non-work-related subjects. This rule also applies to non-solicitation and non-distribution rules.

Surveil or Spy on employees' union activities "Spying" means doing something out of the ordinary to observe the activity. Viewing open union activity in workplace areas frequented by supervisors is not "spying". Creating the impression that they are spying on employees' union activities including photographing or videotaping employees engaged in peaceful union or other protected activities is also illegal.

Promote, maintain, or enforce work rules that are likely to deter employees from exercising their rights under the Act. Any application of a rule must be uniform and genuine. For example, a dress code policies restricting union buttons, pins, hats, etc. are presumptively invalid. The Employer must prove special circumstances exist in order to justify a policy restriction.

Deny off-duty employees' access to outside nonworking areas of company property to engage in protected concerted activity unless business reasons justify it. An example is denying employees access to private property for the purpose of leafleting or union reps for the purpose of investigating working conditions.

Discipline a union-represented employee for refusing to submit to an investigatory interview, without a representative, when the employee reasonably believes it may result in discipline. Commonly referred to as Weingarten rights.

Discharge constructively discharge, suspend, layoff, fail to recall from layoff, demote, discipline, or take any other adverse action against employees because of their protected, concerted activities

Initiate or solicit employees to sign or lend more than minimal support to or approval of a decertification or union-disaffection petition.

Section 8 (a) (3) of the Act makes it an unfair labor practice for an employer to *discriminate against employees* “regarding any term or condition of employment” for the purpose of encouraging or discouraging membership in a labor organization.” A banding together of employees, even in the absence of a formal organization, may constitute a labor organization under this rule. For example, an employer MAY NOT:

Discharge employees because they joined or urged other employees to join a union.

Refuse to reinstate employees when jobs they are qualified for are open because they took part in a union’s lawful strike.

Grant “superseniority” to those hired to replace employees engaged in a lawful strike.

Demote employees because they circulated a union petition asking the employer for an increase in pay.

Discontinue an operation at one plant and discharging the employees involved followed by opening the same operation at another plant with new employees because the employees at the first plant joined a union.

Refuse to hire qualified applicants for jobs because they belong to a union. It would also be a violation if the qualified applicants were refused employment because they did not belong to a union, or because they belonged to one union rather than another.

Section 8 (a) (5) of the Act requires that the Employer comply with *the duty to bargain*. For example, an employer MAY NOT:

Fail to meet at reasonable times and places for bargaining is a per se violation of the Act.

Bargaining to impasse over permissive or illegal subjects is a violation of the Act.

Make unilateral changes that materially affect terms and conditions of employment, including implementing proposals the parties have not agreed on at the table. This includes most unilateral changes during the contract and after the contract has expired. It also includes unilateral changes to past practice.

Bypassing the Union to deal directly with represented employees over their terms and conditions of employment violate the Act. This includes polling of employees about their support for union/employer proposals. Better known as direct dealing with employees.

Refusing to provide information violates the Act. This includes information requested in bargaining contracts and enforcing contracts. Some information is presumptively relevant, and some information requires a showing of relevance. Filing a grievance is not required to obtain information.

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