

FACE SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Agricultural Labor Relations Board  
(Agency)

Date of adoption, amendment, or repeal:

August 29, 1975

By:

*Roger M. Mahony*

Chairman  
(Title)

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EMERGENCY ORDER ADOPTING EMERGENCY REGULATIONS OF THE  
AGRICULTURAL LABOR RELATIONS BOARD

Agricultural Labor Relations Board having met in session since August 28, 1975, finds that the Statement of Emergency approved in regulations of August 28, 1975, continues to apply.

In accordance with provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 1141, 1142, 1144, 1145, 1146, and 1149 of the Labor Code of California, and to implement, interpret and make specific Part 3.5 of Division II of the Labor Code, commencing with Sec. 1140, also known as the Agricultural Labor Relations Act, the Agricultural Labor Relations Board hereby adopts its emergency regulations in Part II of Title 8 of the California Administrative Code as follows:

Adopts Chapter 9 to read:

Chapter 9. Access to Workers in the Fields by Labor Organizations

Sec. 20900 - Access to workers in the fields by labor organizations.--  
Labor Code Sec. 1140.2 declares it to be our policy of the State of California to encourage and protect the right of agricultural employees to full freedom of association, self-organization, and designation of representatives of their own choosing.

1. Agricultural employees have the right under Labor Code Sec. 1152 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 of such activities except to the extent that such right may be affected by a lawful agreement requiring membership in a labor organization as a condition of continued employment. Labor Code Sec. 1153(a) makes

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it an unfair labor practice for an agricultural employer to interfere with, restrain, or coerce agricultural employees in the exercise of these rights.

2. As the United States Supreme Court has stated: Organizational rights are not viable in a vacuum. Their effectiveness depends in some measure on the ability of employees to learn the advantages and disadvantages of organization from others. When alternative channels of effective communication are not available to a union, organizational rights must include a limited right to approach employees on the property of the employer. Under such circumstances, both statutory and constitutional principles require that a reasonable and just accommodation be made between the right of unions to access and the legitimate property and business interests of the employer.

3. Generally, unions seeking to organize agricultural employees do not have available alternative channels of effective communication. Alternative channels of effective communication which have been found adequate in industrial settings do not exist or are insufficient in the context of agricultural labor.

4. The legislatively declared purpose of bringing certainty and a sense of fair play to a presently unstable and potentially volatile condition in the agricultural fields of California can best be served by the adoption of rules on access which provide clarity and predictability to all parties. Relegation of the issues to case-by-case adjudication or the adoption of an overly general rule would cause further uncertainty and instability and create delay in the final determination of elections.

5. Accordingly, the Board will consider the rights of employees under Labor Code Sec. 1152 to include the right of access by union organizers to the premises of an agricultural employer for the purpose of organizing, subject to the following limitations:

a. Organizers may enter the property of an employer for a total period of 60 minutes before the start of work and 60 minutes after the completion of work to meet and talk with employees in areas in which employees congregate before and after working.

b. In addition, organizers may enter the employer's property for a total period of one hour during the working day for the purpose of meeting and talking with employees during their lunch period, at such location or locations as the employees eat their lunch. If there is an established lunch break, the one-hour period shall include such lunch break. If there is no established lunch break, the one-hour period may be at any time during the working day.

c. Access shall be limited to two organizers for each work crew on the property, provided that if there are more than 30 workers in a crew, there may be one additional organizer for every 15 additional workers.

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d. Upon request, organizers shall identify themselves by name and labor organization to the employer or his agent. Organizers shall also wear a badge or other designation of affiliation.

e. The right of access shall not include conduct disruptive of the employer's property or agricultural operations, including injury to crops or machinery. Speech by itself shall not be considered disruptive conduct. Disruptive conduct by particular organizers shall not be grounds for expelling organizers not engaged in such conduct, nor for preventing future access.

f. Pending further regulation by the Board, this regulation shall not apply after the results of an election held pursuant to this act have been certified.

Sec. 20901 - Effective date.--The provisions of this Chapter shall be effective as of August 29, 1975.

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FINDING OF EMERGENCY

The Agricultural Labor Relations Board finds that an emergency exists, and that the foregoing regulations are necessary for the immediate preservation of the public health, safety, or general welfare. A statement of such facts constituting an emergency is:

STATEMENT OF FACTS

The Agricultural Labor Relations Act of 1975 is designed to define and protect the rights of agricultural employees and agricultural employers. The Act defines the rights of agricultural employees to include organizing and bargaining collectively with their employers through representatives of their own choosing. To ensure that agricultural employees can freely choose their own representatives for the purpose of collective bargaining, the Act establishes a procedure by which they can exercise their choice at a secret ballot election conducted by the Agricultural Labor Relations Board. To protect the rights of agricultural employees and employers, and to prevent labor disputes that would adversely affect the rights of the public, the Act also defines certain practices of employers and unions as unfair labor practices.

The Act is administered and enforced by the Agricultural Labor Relations Board. The general counsel of the Board and his staff investigate and prosecute unfair labor practice cases and conduct elections to determine employee representatives. The five-member Board decides cases involving charges of unfair labor practices and determines certain representation election questions.

The Act does not set forth in detail many of the procedures used by the Board in administering and enforcing the Act. Instead, the Legislature delegated to the Board the authority to adopt regulations which are necessary to carry out the provisions of the Act relative to representation cases and unfair labor practice cases.

The Agricultural Labor Relations Board has reason to believe that unfair labor practice charges are likely to be filed on or soon after August 28, 1975, the effective date of the Act. The Board has also determined that it will begin accepting representation case petitions on September 2, 1975, and it expects numerous representation case petitions to be filed on or soon after that date.

In addition, the strict time limitations contained in the Act relative to the holding of elections and to the expeditious processing of certain categories of unfair labor practice charges make even more apparent the necessity of having regulations covering these matters in effect on August 28, 1975, or as soon thereafter as possible. For instance, Labor Code Sec. 1156.3

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requires that the Board immediately investigate a petition for representation and, additionally, that any representation election ordered pursuant thereto be held within a maximum of seven days of the filing of a petition.

Moreover, in enacting this legislation the people of the State of California sought to ensure peace in the agricultural fields by guaranteeing stability in labor relations. The events of the past decade demonstrate that unrest and strife may occur in the absence of orderly procedures for resolving labor disputes. In light of the foregoing, the Agricultural Labor Relations Board has reason to believe that there exists a potentially volatile condition in the agricultural fields of the state which requires definite and orderly procedures to ensure immediate and effective enforcement of the Act.

Also, the Legislature, in providing that the Act becomes effective on August 28, 1975, fully intended that the Agricultural Labor Relations Board be prepared to administer and enforce the Act on the date it becomes effective. In order to comply with the legislative mandate, it is essential that the Board immediately adopt regulations to enforce the Act.

The current situations therefore suggests to the Board the urgent and immediate necessity of adopting detailed regulations covering these matters to become effective on August 28, 1975, or as soon thereafter as is possible.

Inasmuch as the five-member Board responsible for adopting regulations is not authorized by law to adopt regulations until August 28, 1975, it is, therefore, appropriate and necessary to the efficient administration of the Act, that regulations relative to the filing of representation case petitions and unfair labor practice charges which are intended to become effective on or soon after August 28, 1975, be adopted as emergency regulations as defined in the Administrative Procedure Act (Gov. Code Sec. 11370 et seq.).

Accordingly, these regulations are hereby adopted as emergency regulations to take effect immediately upon filing with the Secretary of State as provided in Gov. Code Sec. 11422(c). The Agricultural Labor Relations Board has determined that the above regulations will have no cost to local government pursuant to Sec. 2231 of the Revenue and Taxation Code.

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