

AGRICULTURAL LABOR RELATIONS BOARD

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To: Members, Agricultural Labor Relations Board
From: Barry Broad and Ralph Lightstone
Re: Regulations Subcommittee Report
Date: April 7, 2021

As directed by the Board, the Regulations Subcommittee has solicited input from both the public and ALRB staff regarding proposed changes to our regulations.

After reviewing the suggestions, we recommend the Board authorize the subcommittee to proceed with the process of developing a regulatory package that the Board can consider for formal promulgation at a future public meeting.

Specifically, we would suggest developing regulatory proposals in the following areas.

Technical Changes

1. Correct typographical errors.
2. Modify regulations to achieve gender-neutral wording.

Filing of Pleadings and Service of Process Generally

1. Eliminate outdated methods of filing and service (telegrams, mailgrams, etc.)
2. Require parties to provide email addresses on pleading captions.
3. Eliminate requirements that parties file multiple hard copies of pleadings that are filed.
4. Require parties represented by attorneys to file electronically.
5. Allow unrepresented parties the option to file electronically.
6. Permit electronic signatures on filings.

Filing of Charges

1. Allow a charging party the option to request that the General Counsel protect their identity from disclosure during an investigation.

Dismissal of a charge

1. Allow the General Counsel to review the dismissal of a charge by the Regional Director.

Investigation of a charge by General Counsel

1. Allow the General Counsel to issue an investigative subpoena for testimony of a witness under oath.
2. Allow the General Counsel to issue a limited number of interrogatories during an investigation.
3. Allow the General Counsel to file a Request for Particulars regarding a respondent's answer to a charge.
4. Require parties subject to a subpoena duces tecum or request for documents to maintain a privilege log.

Issuance of a Complaint

1. Establish a time limit for the General Counsel to issue a complaint after an unfair labor practice charge has been filed, subject to a motion for an extension of time for just cause. Once the time limit has passed, the charge would be deemed dismissed.

Post-Complaint Procedures and ALJ Hearings

1. Require mandatory settlement conferences in unfair labor practice proceedings.

2. Require a party seeking an extension of time to file pleadings or motions to provide a declaration stating the position of the other party or if the other party was unavailable to communicate its position.
3. Require mandatory case management conferences in all cases to be heard before an ALJ.
4. After a hearing has commenced, extend the authority of an ALJ to grant a continuance from two days to a maximum of ten business days.

Interlocutory Appeals to the Board

1. Establish the standard to be applied by the Board to determine whether to grant special permission to appeal an interlocutory ruling of an Administrative Law Judge or of the Executive Secretary.

Enforcement of a subpoena in Superior Court

1. Where the Board has approved a General Counsel request to apply to superior court to enforce a subpoena, either the General Counsel or the Board itself may file with the Superior Court.

Representation Proceedings

1. Allow electronic signature of a representation petition filed with an ALRB regional office.
2. Clarify that a security guard shall be deemed a person who may accept service of a representation petition on behalf of an employer.
3. Specify the circumstances or conduct which would justify the blocking of an election or require the impounding of ballots.
4. Specify that agricultural employers shall maintain accurate records of employee names, home addresses, cellular and landline telephone numbers, and email addresses and that such information shall be made available to the General Counsel for investigatory purposes and shall be included in the

“Excelsior” list that is made available to a labor union seeking to represent agricultural employees.

Cannabis Industry Specific Regulations

1. Develop regulations that implement and make enforceable Labor Peace Agreements between an agricultural employer and labor union, entered into pursuant to applicable provisions of the Business and Professions Code.
2. Where state or federal law regulating the cannabis industry mandates video surveillance of a workplace, establish a procedure which guarantees employees access to a location free of such surveillance for the purpose of meeting with union representatives.

Supplemental Mandatory Mediation and Conciliation (MMC)

1. Establish regulations governing the supplemental MMC process.