

Unfair Labor Practice Violations an Employee Can Allege

This list includes the elements within each violation.
You must include facts related to all the elements for each violation alleged in your complaint.

Against the Employer

Interference Violations

Employer Interference (General)

Independent:

An employer official made a statement or took action which one or more employees reasonably perceived to be a threat of reprisal or force, or promise of benefit, associated with activity protected by an applicable collective bargaining law (protected activity).

Derivative:

The employer committed a domination, discrimination, or refusal to bargain violation.

Employer Interference (*Weingarten* rights)

- The employer compelled an employee to attend an interview, and
- A significant purpose of the interview was (or became) investigatory – to obtain facts which might support disciplinary action, and
- The employee reasonably believed that discipline might result from the interview, and
- The employee requested the presence of a union representative, and
- Employer rejected the employee's request and went ahead with the investigative interview without a union representative present OR Employer required union representative to remain a passive or silent observer, so as to prevent the representative from assisting the employee.

Employer Interference (Improper Unit Placement)

- Existence of an agreement between their employer and one or more unions concerning composition of a bargaining unit, and
- That the agreement:
 - Included the position occupied by the complainant in the bargaining unit contrary to some recognized right or status; or
 - Excluded the position occupied by the complainant from the bargaining unit contrary to some recognized right or status, and thereby stranded the employee.

Discrimination Violations

Employer Discrimination for Protected Collective Bargaining/Union activity

- One or more employees exercised rights protected by applicable collective bargaining statute (protected activity) or communicated to the respondent an intent to do so, and
- One or more employees were deprived of some ascertainable right, status, or benefit, and
- A causal connection exists between the protected union activity and the action claimed to be discriminatory.

Employer Discrimination for Filing a Complaint/Testimony before PERC

- The employee filed a ULP complaint with PERC (protected activity) or gave testimony before PERC (protected activity), or communicated to the respondent an intent to do so, and
- One or more employees were deprived of some ascertainable right, status, or benefit, and
- A causal connection exists between the protected union activity and the action claimed to be discriminatory.

Domination Violations

Employer Domination

The Employer:

- Intended to control or interfere with the formation or administration of a union, or
- Intended to dominate the internal affairs of a union (potentially including selection of officers, policy decisions, or ratification of collective bargaining agreements), or
- Intended to contribute financial or other support to a union (potentially including cash, use of office space and/or facilities, paid release time for union officials), or
- Recognized or bargained with a union that had not established that it had the support of a majority of the employees involved, or
- Showed a preference between unions competing to represent particular employees.

Against the Union

Duty of Fair Representation

- Applicable collective bargaining statute covers the employee(s) involved, and
- The employee(s) involved are in a bargaining unit represented by the union, and
- Union or its agent(s) took some action aligning itself against unit employees on an improper or invidious basis, such as union membership (or lack thereof), race, creed, sex, national origin, etc.

Interference

Union Interference Involving Employees

Independent:

- Applicable collective bargaining statute covers the employee(s) involved, and
- Union or its agent(s) made some statement or took some action, and
- One or more employee reasonably perceived the union actions as a threat of reprisal or force, or a promise of benefit, associated with their exercise of rights protected by the applicable collective bargaining law.

Derivative:

- The union committed a discrimination or refusal to bargain violation.

Discrimination

Union Discrimination for Filing a Complaint/Testimony Before PERC

- The employee filed a ULP complaint with PERC (protected activity) or gave testimony before PERC (protected activity), or communicated to the respondent an intent to do so, and
- One or more employees were deprived of some ascertainable right, status, or benefit, and
- A causal connection exists between the protected activity and the action claimed to be discriminatory.

Union Inducing Employer to Commit Violation/Union Discrimination

- The employee(s) involved is/are covered by a collective bargaining statute administered by PERC, and
- The union requested that the employer take some action that is unlawful.