

# Unfair Labor Practice Violations an Employer Can Allege

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This list includes the elements within each violation.

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

## ***Interference***

### **Union Interference Involving Employees**

Involving Employees:

- 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 Interference:

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

### **Union Interference Involving Employers**

- The complainant is the employer of employees covered by a statute administered by PERC, and
- A union which holds status as exclusive bargaining representative of its employees (or is at least seeking that status) has made threats of reprisal or force, or promises of benefit, to affect the employer's selection of its representatives for the purposes of collective bargaining or contract administration.

## ***Union Refusal to Bargain***

### **Union Failure to Meet**

- The union was the exclusive bargaining representative of the employees involved at the time of the alleged violation, and
- The union continues to hold status as the exclusive bargaining representative of the employees involved, and
- The employer requested negotiations on a collective bargaining agreement or some issue that was a mandatory subject of bargaining under the applicable law, and
- The union failed or refused to meet, or imposed unreasonable conditions/limitations which frustrated the collective bargaining process.

### **Union Failure to Bargain in Good Faith**

- The union was the exclusive bargaining representative of the employee involved at the time of the alleged violation, and
- The union continues to hold status as the exclusive bargaining representative of the employees involved, and

- The employer requested negotiations on a collective bargaining agreement or some issue that was a mandatory subject of bargaining under the applicable law, and
- The union engaged in specific conduct and/or a course of conduct designed to frustrate the collective bargaining process, including tactics such as:
  - Failing or refusing to consider proposals made by the employer, or
  - Failing or refusing to make proposals or to explain the proposals it made, or
  - Providing the employer with misleading proposals or positions, or
  - Failing to follow through on a commitment to recommend proposals made in bargaining, or
  - Altering its position in a manner designed to avoid agreement (late hits), or
  - Other tactics that delay or avoid reaching agreement.

### **Union Failure to Provide Information**

- The union was the exclusive bargaining representative of the employee involved at the time of the alleged violation, and
- The union continues to hold status as the exclusive bargaining representative of the employees involved, and
- The employer requested existing information relevant to the performance of its functions in collective bargaining or contract administration, and
- The union failed or refused to provide the requested information

### **Union Unilateral Change**

- The union was the exclusive bargaining representative of the employee involved at the time of the alleged violation, and
- The union continues to hold status as the exclusive bargaining representative of the employees involved, and
- The union decided upon and implemented some change of past practice concerning a mandatory subject of bargaining, without fulfilling its bargaining obligations.

## ***Discrimination***

### **Union Discrimination for Filing a Complaint/Testimony**

- 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.