



# NLRB Regions 21 & 31

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## Outreach

Winter 2007

*Service Agency Edition*

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NLRB staff are available to speak to service, advocacy organizations, and professional groups.

### Did you Know?

#### **Workplace rights under the National Labor Relations Act**

Many people know that the National Labor Relations Board protects employee rights to join and support unions where they work.

*The NLRB protects other employee rights as well.*

**Employees have the right to act together to raise workplace issues with their employer or to press for changes in wages or conditions. Such employee actions are known as protected concerted activities.**

Unlawful employer actions that are prohibited by the Act include:

- Threatening, disciplining, terminating, or otherwise retaliating against an employee for having engaged in union or protected concerted activities.
- Prohibiting employees from discussing or sharing information about their wages or working conditions.
- Prohibiting employees from talking about workplace issues on their own time.

Employers who violate the Act generally must cease their unlawful actions, assure employees of their rights, and pay backpay to make employees whole for losses suffered as a result of unlawful actions.

The National Labor Relations Act also protects an employees' right to not participate in unions or in other actions with employees. The Act does not require an Employer to grant any specific employee or union demand.

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### How to File a Charge:

Anyone may file an unfair labor practice charge with the NLRB. To do so, they must submit a charge form to any Regional Office. The form must be completed to identify the parties to the charge as well as a brief statement of the basis for the charge. The charging party must also sign the charge.

Forms are available for download from the NLRB website. They may also be obtained from an NLRB office. NLRB offices have information officers available to discuss charges in person or by phone, to assist filling out charge forms, and to mail forms.

### When a Charge is Filed:

The NLRB Regional Office will investigate. The charging party is responsible for promptly presenting evidence in support of the charge. Usually evidence will consist of a sworn statement of key events.

The Region will ask the charged party to present a response to the charge, and will further investigate the charge to establish all facts.

After a full investigation, the Region will determine whether or not the charge had merit.

### Geographic areas serviced:

NLRB cases are filed based upon the location of the involved employer. A specific NLRB office, called a region, investigates and process cases once filed.

**Region 21** services that portion of Southern California east of the Harbor (110) Freeway and south of the 210 Freeway in Los Angeles County. Region 21 also services all of the following counties: Orange, Riverside, Imperial and San Diego. **Region 31** services that portion of Southern California west of the Harbor (110) Freeway and north of the 210 Freeway in Los Angeles County. Region 31 services all of the following counties: Inyo, Kern, San Bernardino, San Luis Obispo, Santa Barbara and Ventura.

### Region 21 Distributes \$885,000 Backpay Award

(Fullerton, CA)--Region 21 has distributed nearly \$885,000 to 335 employees of Sunglass Products d/b/a Personal Optics after an Appeals Court enforced a Board Order against the Southern California sunglass manufacturer. The Court agreed with the Board that the Employer had unlawfully refused to sign a contract with a union representing the employees. The Employer was ordered to make whole all employees who had suffered financial losses as a result of the Employer's unlawful action.

The case began with the filing of a charge and an investigation where it was concluded the Employer violated provisions of the National Labor Relations Act. Thereafter, Region 21 attorneys successfully prosecuted the case, resulting in the Board Order and subsequent Court enforcement. After the enforcement, Region 21 administered the compliance with the Board Order. Many Region 21 agents spent many hours carefully calculating all monies owed and locating all employees entitled to backpay. Nearly all of the 335 employees owed monies have now been located and have received their backpay. The Employer is now meeting its lawful obligations under the Act, including executing and administering the contract and complying with contract terms.

## After the Region Makes a Determination

If the Region determines that a charge has no merit—that the charged party has not violated the Act—it will dismiss the charge. The charging party has the right to appeal a dismissal.

If the Region determines that a charge has merit—that the charged party has violated the Act—it will attempt to settle the case. Unless there is a settlement, it will pursue the charge to obtain a finding of a violation and an order directing the charged party to undertake remedial actions. The charged party has appeal rights, including a right to a hearing, with a final decision subject to appeal to a federal court.

## Remedies for Violations

When there has been a violation, the Act does not impose fines or other direct penalties. Rather, it requires remedial action to correct the violation and its effects.

NLRB remedies require those who have violated the Act to cease the violation, to inform employees that they will respect their rights, to reinstate employees who have been unlawfully fired, and to pay compensation for lost earnings.

## Careful!

### There are limits to the Act's protections.

The National Labor Relations Act protects employees who act together to raise workplace issues. Employees are *not* protected by the Act when they make complaints or demands for themselves alone.

The Act does *not* protect employees who engage in misconduct, even when the misconduct is intended to support concerted employee action. Threats, violence, or occupation of the employer's premises are among actions generally considered to be misconduct warranting discipline.

Although the right to strike is protected by the Act, an employer may permanently replace employees who are engaged in a strike. When permanently replaced, a striking employee is entitled to return to work only when an appropriate vacancy becomes available.

The Act provides for backpay to compensate employees for losses resulting from unlawful conduct, but the Act does *not* provide for fines, punitive damages, or losses not directly resulting from lost employment.

The Act does *not* require an employer to grant employee demands.

### The Act offers other protections and restrictions

The Act also protects an employee's right to join or support a union.

The Act has procedures for determining by secret-ballot election whether a majority of employees in a workplace want a union to represent them in dealing with their employer over wages, hours, and working conditions.

Where a majority of employees show that they want union representation, the Act requires an employer to recognize and bargain with the union.

The Act requires both unions and employers to bargain in good faith.

The Act requires unions to represent all unit members fairly.

The Act prohibits unions from picketing neutral employers in order to get them to cease doing business with other employers with whom the union has a labor dispute.

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### Learn More:

The NLRB website, [www.nlr.gov](http://www.nlr.gov), contains a great deal of additional information about the protections of the Act, Board policies and procedures, and how to contact the nearest Regional Office.

### Contact the Regions:

There is always an information officer available at an NLRB Regional Office to answer general inquiries or to discuss a specific workplace problem or question. The information officer can offer information about the Act and advice as to whether it appears to be appropriate to file an unfair labor practice charge. If filing a charge does appear to be appropriate, the information officer can assist in completing the charge form.

The information officer in Region 21 may be reached telephone at 213/894-5254. The information officer in Region 31 may be reached by telephone at 310/235-7351. The NLRB may be reached toll free by calling 1-866-667-6572.

[Hablamos Español](#)

### Region 31 Obtains Injunction and New Election For Workers

(San Bernardino, CA)--The Act prohibits employers from recognizing unions which are not supported by a majority of employees. Despite this prohibition, Dura Art Stone, a stone planter company, recognized and signed a collective bargaining agreement with a union that did not have the support of a majority of its employees. The involved employees had signed a disaffection petition stating they no longer wished to be represented by the union and the company knew of the petition. The company and union chose to ignore the wishes of the employees. An unfair labor practice charge was filed with Region 31 and a thorough investigation followed. Region 31 concluded the Act was violated.

When the company and union refused to rescind their contract, Region 31 prosecuted them both in U.S. District Court and before the Board. Using the injunctive authority of Section 10(j) of the Act, Region 31 obtained a temporary injunction in U.S. District Court awaiting the Board's decision. The Board thereafter issued its decision finding a violation of the Act. Region 31 conducted a new, free and fair election among the company's employees. A majority of the employees chose in a secret ballot election to be represented by a different labor organization, the United Electric Workers. The new union and employer have now negotiated a lawful collective bargaining agreement covering the involved employees.

### Speakers Available

Regional office staffers are available to make presentations before any group, such as the staff of a legal services clinic or a service agency, as well as those members of the public that they serve, to describe what the Act's protections cover, how the Region investigates and resolves unfair labor practice charges, or any NLRB topic of interest.

To arrange for a speaker and to discuss possible topics, please don't hesitate to telephone Assistant to the Regional Director James Small at 213/894-5210 in Region 21, or Deputy Regional Attorney Anne Pomerantz at 310/235-7351 in Region 31. You can also make a request for a speaker through a link on the NLRB's Web site: [www.nlr.gov](http://www.nlr.gov) .

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