



ALRB Presentation to California Cannabis Advisory Committee

CALIFORNIA
AGRICULTURAL
LABOR RELATIONS
BOARD

SEPTEMBER 7, 2023

BOARD CHAIR,
VICTORIA HASSID

California's Commitment to Labor Rights

- Protecting workforce was a major component of MAUCRSA and Prop. 64
- When the ALRB makes "... a determination about whether a union is "bona fide" are not about policing unions but about ensuring workers in an emerging industry have access and obtainable means to learn of and exercise their labor rights if they choose to do so. The real harm of sham labor peace agreements isn't giving legitimacy to a non-bona fide labor organization, it is depriving workers that may be particularly vulnerable to exploitative practices of their right to be at a minimum aware of their employment rights." 49 ALBRL No. 3 (2023) *Professional Technical Union, Local 33*





OVERVIEW OF THE AGRICULTURAL LABOR RELATIONS ACT

- Protects the fundamental rights of employees to:
 - Full freedom of association, self-organization, and designation of a representative of their own choosing
 - Can negotiate terms and conditions of employment
 - Free from interference, restraint, or coercion by employers or *their agents*
 - Free from restraint or coercion by unions
 - Have collective bargaining rights



ALRB
AGRICULTURAL LABOR
RELATIONS BOARD

The Board

- **5 members – all public**
- **All appointed by the Governor to staggered 4 year terms**
- **Responsible for general oversight of the Agency**
- **Final factfinding and decision making authority over administrative adjudications**
- **Defends orders and decisions in state and federal courts**
- **Promulgates regulations**
- **Holds public meetings every other Wednesday**

The General Counsel



- Appointed by Governor to five year term – General Counsel Julie Montgomery
- 2 Regions – Salinas (West of I-5) & Visalia (East of I-5)
- 5 offices: Santa Rosa, Salinas, Oxnard, Visalia, Indio
- Investigates and prosecutes unfair labor practice charges filed against employers or labor organizations
- May seek injunctive relief on behalf of workers

Unfair Labor Practices (ULPs)

- Employees, employers, labor organizations, community based organization can file a ULP
- Have 6 months after date of unfair labor practice
- Examples include:
 - Retaliating against workers for striking for a higher pay raise
 - Union threatening worker for their support
 - Retaliating against worker for participating in a labor investigation
- General Counsel investigates, if meritorious files complaint.
- Hearings are before an Administrative Law Judge. Appeals go to the Board.

Elections

- Two paths to choose a certified bargaining representative:
 - (1) Secret Ballot Election – usually at employers worksite, available to all unions
 - (2) Majority Support Petition – also known as “card check”, requires workers to sign authorization cards or petition. Only available to certain unions.



New – Civil Penalties for ULPs

- Applies to employers that committe unfair labor practices
- Up to \$10,000 for each violation
- If a violation results in discharge of an employee or other serious economic harm to employee that board shall double the amount of the penalty not to exceed \$25,000
- Board shall consider follow factors when determining penalty:
 - Gravity of the ULP
 - Impact on the charging party, other persons exercising rights under ALRA & on public interest
 - Financial circumstances of employer.

Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)

- Business & Profession Section 26001 – requires licensees with 20 or more employees to have a labor peace agreement
- AB 195 (Stat. of 2022) made several major changes:
 - Created an “LPA” complaint process – current and former employees of the relevant licensee or members of a union could file a complaint with ALRB about non bona fide labor organizations
 - Not limited to Agricultural employees/unions
 - ALRB has 90 days to issue a report (decision) to the Dept. of Cannabis Control

July 1, 2024- employee requirement lowers to 10 employees



What is a “labor organization”?

- MAUCRSA defines “labor organization” to include “any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists, in whole or in part, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work for employees.”
- Tracks definition of labor organization in the National Labor Relations Act
- NLRB has interpreted the term broadly to mean any organizations where employees:
 - Participate
 - For the purposes, at least in part, of dealing with employers
 - Concerning grievances, labor disputes and other terms and conditions of employment
- ALRB follows NLRA definition with the added limitation that it pertains to agricultural employees

ALRB Case Law on LPAs



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- Only one decision *Professional Technical Union, Local 33, 49 ALRB No. 3* (issued July 6, 2023)
 - For purposes of determining whether a labor organization is 'bona fide' MAUCRSA the ALRB has identified two factors it may consider
 - 1) Labor organizations cannot be employer sponsored or dominated
 - 2) Must be evidence of sincere, good faith intent to organize and represent employees as a collective bargaining representative, including capacity and ability to do so
 - Critical factors:
 - Accessibility and ability for workers to find the labor organization and work with them →
 - Do they have a website? Presence in California? Provide contact information?
 - Does the organization represent other workers? Have they tried to organize and workplaces?
 - Do they have a structure?
 - Are there officers? Elections? By laws?

Important Details About LPA Complaint Process

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- Respond to ALRB requests for information – failure to do so will result in adverse inferences
 - Licensee that signed agreement with organization should participate in the process
 - Labor peace agreements, collective bargaining agreements and results of NLRB and ALRB elections are public – disclose this information
 - If ALRB issues decision finding a labor organization is not bona fide DCC can then take action on licensee
 - In Pro-Tech DCC issued a bulletin to all licensees advising them of issue
 - DCC then issued Notice to Comply to licensees with LPAs with Pro-Tech, licensees must obtain new LPA with a bona fide organization
 - ALRB Labor Peace Agreement regulations are pending with the Office of Administrative Law; DCC working on updating regulations to implement AB 195
 - Resources:
 - [DCC FAQ](#)
 - [ALRB Decisions](#) and [Administrative Orders](#)
 - [Labor Peace Agreements on file](#)

ALRB Contact Information

ALRB Hotline: (800) 449-3699

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