

What You Need to Know About the New York Farm Laborer Fair Labor Practices Act (FLFLPA)

While farm workers in New York State are not protected by the federal National Labor Relations Act (NLRA), they ARE protected by New York's Farm Laborer Fair Labor Practices Act (FLFLPA).

Who is covered under the FLFLPA?

All farm laborers in New York State, including undocumented workers, are protected by the statute except for those who are in the employer's immediate family. All employers engaged in cultivating soil or harvesting any agricultural or horticultural crop, and all employers in the business of livestock, are bound by the statute.

What rights do farm laborers have under FLFLPA?

NY farm laborers have the right to:

- Choose to form or join a union.
- Collectively bargain through representatives they choose.
- Engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection, free from employer interference, restraint or coercion.
- If an agreement is unable to be reached through employer/employee negotiations, farm laborers have the right to have an agreement settled by an arbitrator that they and the employer choose.

It is important to note that farm workers **DO NOT** have the right to strike or participate in work stoppages or slowdowns.

Can an employer prevent union organizers from speaking with farm workers at their residences?

No. Farm laborers can have visitors at their residence, even if housing is provided by the employer. Further, an employer denying union organizers entry may violate the law if that is the only reasonable way for the laborers to be reached.

Can farm laborers speak directly with employers about working conditions?

Yes. The FLFLPA protects laborers speaking with their employer on behalf of all workers or a specific group of workers. The employer may not try to coerce, interfere, or restrain the laborers' rights under the law during this conversation.

What types of employer actions violate the law?

An employer violates the law when they engage in any of the following behaviors:

- Interfering with the formation or administration of a labor union.
- Spying/surveilling farm laborers and/or their representatives while exercising their rights under the law.
- Blacklisting laborers for exercising their rights under the law.
- Interfering with farm laborers' choice of union.
- Refusing to bargain in good faith.
- Discouraging laborers from exercising their legal rights under the law.
- Refusing to discuss grievances.
- Firing or discriminating against a farm laborer because they have given testimony or filed an affidavit/petition/complaint under the law.
- Locking out workers over a dispute about wages, hours, and/or other terms and conditions of employment.
- Refusing to continue all the terms of an expired agreement until a new one is reached.

What actions by farm laborers violate the FLFLPA?

Strikes, work stoppages, or slowdowns are not permitted under the FLFLPA and are unlawful. However, farm laborers may engage in other activities aimed at improving their working conditions and group interests.

What is the union certification process if farm laborers want to form a union under the FLFLPA?

1. Farm laborers organize and decide voluntarily to pursue union representation; they then reach out to unions for help.
2. Laborers sign dues authorization cards stating they want union representation and submit a petition to the New York State Public Employment Relations Board ("PERB"), the agency overseeing the FLFLPA.
3. PERB may certify the union or decide to hold an election.

What do I do if I think the law has been violated?

The New York State Public Employment Relations Board (PERB) is the government agency that investigates violations of the FLFLPA. To begin an investigation, the injured party must file a complaint form with PERB. The form can be accessed at <https://perb.ny.gov/wp-content/uploads/2020/03/ULPC-A.pdf>. For more information, go to www.PERB.ny.gov.