



Farm Labor Organizing Committee, AFL-CIO

2012 Grievance Summary

Since the settlement of a five year boycott of the Mount Olive Pickle Company, FLOC and the North Carolina Growers Association have had a collective bargaining agreement (CBA), providing historic labor rights to over 7,000 farm-workers employed with H2A guest-worker visas.

Among the most important features of this CBA are the grievance procedure and seniority bid system, which together provide both members and non-members with the ability to settle disputes without the fear of reprisals that traditionally arise from an employment-based work visa. In 2012, these procedures allowed for over 700 disputes to be resolved in a timely manner. Outside of a CBA, such disputes traditionally have few means to be resolved without drawn-out, costly, and risky litigation.

Due to the anti-union climate in the South, most notably the so-called "right to work" laws, the demands of maintaining a farmworker union far outweigh farmworkers' resources, and the inner workings and successes of the CBA have often gone unnoticed. This flyer was designed to educate the public on the successes that came out of the CBA in 2012 and how this process can work in the agricultural labor context.



Employment Bid System

One of the continuing problems of the H2A visa program is that the workers' permission to enter the country is tied to his employment with a particular employer; this has historically created an imbalance of power that keeps workers from acting to enforce their rights. The FLOC/NCGA contract includes a seniority based bid system that gives the NCGA the flexibility to ensure that hundreds of growers get the workers they need, while also ensuring that workers are not excluded without just cause. Such a system has allowed workers to voice complaints, without fear of losing their ability to return the next year.

Both union members and non-members have access to this system and can initiate the employment process by submitting a bid through the union. If the bid is not accepted and a worker is to be excluded from employment in a given year, a valid reason must be submitted to the union and an immediate dialogue begins to resolve any potential disputes through the grievance procedure.

Educating thousands of workers on the bid system has been a challenge, but progress continues. For example, a record 280 bids were submitted in 2012. The bid system and grievance procedure led to numerous reinstatements and it continues to develop as a model for ensuring a fair recruitment system in a guest-worker program.

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Processed and Resolved Complaints in 2012

- 280: Employment Bids
- 17: Assistance with Workplace Injuries
- 12: Grower Communication Issues
- 36: Wage Disputes
- 7: Bereavement Fund (three days pay)
- 42: Supervisor/Employee Disputes
- 12: Assistance in Obtaining SS Card
- 13: Transfer Requests
- 10: No Check Stubs
- 5: Travel Reimbursement Issues
- 14: Emergency Assistance (FLOC Apoyos)
- 7: Growers not Deducting Dues
- 77: Work Conditions
- 25: Health and Safety Issues
- 7: Eligibility Issues
- 125: Formal W-2 Requests
- 10: Discrimination
- 3: Injured Worker CBA Benefit
- 2: Benevolent Fund Requests
- 33: Appealed Warnings

Total Cases: 737

Emergency Monetary Assistance (FLOC Apoyos): Leonardo broke his finger when it was slammed by a door of the work vehicle. As a FLOC member, he was assisted in the workers compensation process and was immediately given a \$50 apoyo after being declared unable to work for a few weeks. He received \$200 over four weeks and received his first workers compensation checks after about 3 weeks after the accident. The union's assistance allowed him to cover living costs while he waited for workers compensation to kick in.

Health and Safety: Genaro was sick from green tobacco sickness and requested to go to the doctor but his supervisor refused, citing a busy schedule. Genaro called FLOC and a grievance was submitted. NCGA, upon receipt of the info called the grower, who did not know about the sick worker. He was brought to the doctor immediately and the supervisor was reprimanded for not responding to sick workers.

Reinstatements: Silvino successfully grieved a wage and housing claim in 2011, before finishing the season with three consecutive growers. When he submitted a bid in 2012, he was listed as ineligible by one of the growers. After a grievance was filed, he was reinstated and came up to work in June of 2012 and finished out the season successfully, without incident.

Wage Disputes: Two brothers, Alcadio and Librado, spoke with union reps after deciding to join the union. They reported that their grower had told a group of workers in 2011 that the AEW was too high and that instead of \$9.30, they would be paid \$8.25. After coming to this "agreement," the workers were paid this wage all year. Once Alcadio and Librado were advised by FLOC that there was a simple grievance they could file and that the bid system would protect them from retaliation, they filed a grievance and got a check for over \$900 within a week, not only for themselves, but for six of their co-workers.

Appealed Warnings: A large group of workers at a farm in Nashville received a series of warnings during a particularly hot week. These workers were not told what they did wrong and were told a few days later that they were not working as instructed. They felt that the warnings were meant to pressure them to work faster. At a camp meeting, 18 workers committed to appealing the warnings and after submitting a grievance, one warning was removed from the record of 18 workers. However, a second group of twelve workers wanted to appeal their second warning and pushed the grievance through to the second step and won, leading to the removal of two warnings from their record.

Workers Compensation: Victor was seriously injured after falling from a tractor and was educated on the workers compensation process by FLOC staff and introduced to an attorney who could represent him. He immediately faced pressure from a supervisor to drop the attorney, including threats of a counter-suit by the grower. After discussions with FLOC staff, Victor stood firm and had the supervisor reprimanded and advised he was not to speak with Victor about his claim. Later that season, he was still out of work and the attorney was pressuring the insurance company to pay for further medical assistance when the work finished and the labor camp was to be shut down. His supervisor told him he had to leave to Mexico because there was nowhere to stay. Through his union, Victor secured alternative housing with the NCGA so that he could stay and wait for his attorney to set a court order forcing the insurance company to pay for the necessary medical care.