

# Labor Management Decisions

Volume 2, Number 2

Summer 1992

## Prepare to Avoid Trouble Under The Civil Rights Act of 1991

John C. Cook

*The 1991 Civil Rights Act includes provisions meant to reduce illegal discrimination in employment decisions. Enacted November 21, 1991, the new law applies to all employers who have 15 or more employees in each of 20 or more calendar weeks per year.*

*Mr. Cook is a partner in the firm of Sheppard, Mullin, Richter & Hampton, San Francisco. He specializes in Labor and Employment law.*

The new Civil Rights Act (CRA) provides more fertile ground for the growth of legal charges against unwitting employers. Farmers may be faced with no-win litigation in the future, not only for actually discriminating against members of protected classes, but also for simply neglecting to document the processes by which they hire and promote people.

The compromise that led to passage of the CRA was one in which both sides declared victory. The heart of



Records of job applicants and the decisions made on each will be more useful than ever.

the compromise was the legislative enactment of vague and ambiguous language, the meaning of which is hotly contested. In essence, Congress agreed to disagree and left the resolution of this critically important social issue to the courts. One thing is clear already, however: The new Civil Rights Act will require more agricultural employers to track and maintain statistics and documentation in a manner that only the largest and most sophisticated employers have done in the past.

### Importance of Statistics

The 1991 CRA breathes new and vigorous life into the "disparate impact" theory and relabels it, significantly, "unintentional discrimination." Under this theory, an employer who selects workers based solely on qualifications, without any information about the race, sex, or national origin of the applicants, can still be found guilty of violating the law. The employer's motive is not an issue.

The legality or illegality of a hiring or promotion process can be judged solely upon a *statistical analysis* of its employment results, a comparison of the race, national origin, and sex composition of the pool of candidates with that of the workforce selected. The discrimi-

### In this issue:

The Civil Rights Act of 1991 .....	1
Supervising Across Language Barriers .....	3
Payroll Tax Management .....	5
Unpaid Wages Disbursed by DIR .....	6
Restructuring Wages to Cut Workers' Compensation Costs .....	7
ALRB Ruling on Discharge After Recall Protest .....	10
DIR Establishes Toll-Free Number for Farm Workers .....	10
How to Avoid Immigration-Related Employment Discrimination .....	11
IRCA Implementation News .....	13
Coming Attraction .....	13
Resources .....	13
Events .....	14
Contributors .....	16

nation inferred from such an analysis may have been unintentional, but it is still illegal.

Each qualification is subject to a statistical test of whether it has screened out more minorities or women than whites or males. Where an employer subjectively weighs a set of qualifications, the legality of the entire process will be in doubt if the statistics show that fewer minorities or women made it successfully through the process. The compromise in the new law left several critical definitions to be drafted by the courts but left no doubt whatever that statistical data will be pivotal in the defense of future discrimination lawsuits.

### Steps Can Be Taken Now to Prepare

Although implications of the new Civil Rights Act will not be fully known until the courts decide a number of issues, a need clearly exists to maintain data to be used in the statistical battles looming in the future. There are several practical and fairly easy steps that employers can implement now that will make a world of difference later if an allegation of unintentional discrimination emerges:

#### ■ Collect and maintain applicant flow data

Essential to any case of unintentional discrimination is a comparison of the “qualified available pool of applicants” with those actually chosen for the position. Unless the employer has an accurate and reliable way to prove who the actual applicants were, a plaintiff will be able to use more generalized workforce statistics and *assume* that applicants appeared for each job in the same demographic proportions as their general presence within a geographic area around the work location. It is rare for such an assumption to accurately define the relevant labor market. Uncertainty about where applicants really come from allows plaintiffs to play games with the data and present to the court the statistics most damning of the employer. Therefore, employers should maintain records of who *actually applies* for each open position, who is chosen, and the reason for the decision on every applicant.

Any form on which information about applicants’ sex, race, national origin, and age is recorded must, by law, be kept separate from the written application material used in employee selection. Collection procedures must isolate this protected information from the managers and supervisors who make the hiring decision. If an employment decision is later challenged, the employer would be able to retrieve the demographic information to determine the actual make-up of the applicant pool for a particular position. For example, if, despite a farmer’s open recruiting efforts, only males apply for field jobs on a ranch — and that fact can be proved — the all-male composition of that workforce segment would *not* support a finding that discrimina-

tion had occurred. But without such specific data on the real applicant pool, the employer would lose to a charge of discriminatory hiring, hands down.

#### ■ Limit the pool of applicants

Farm employers who do not take any steps to limit who is deemed an “applicant” run serious risks. Without limitations, the law assumes that everyone who completed a basic application was considered for every job filled during a given time period. The result is a statistically inaccurate picture of the real applicant pool. No law or regulation prohibits an employer from defining the term “applicant,” and there are various basic steps that can limit the pool of applicants to dramatically reduce risks of “statistics litigation.”

1. Do use a written form — even a very short and simple one — to record identity and some job-related information on every applicant. If applicants are unable to complete the form, a company clerk or supervisor can do it. The important thing is to create documents from which the applicant pool can be clearly determined.

2. Accept applications only when a job is open and ready to be filled.

3. Advise applicants that an application will only be considered active for a fixed amount of time, for instance 30 days, after which it will be disregarded. The use of a “Received” stamp on the application is helpful in sorting out old applications to be moved to an inactive file.

4. If unsolicited applications are received in the mail, return them. This both limits total numbers of applicants and avoids the problem of not being able to identify race or national origin for computing applicant flow statistics.

5. Discard all applications that are incomplete or illegible. An incomplete application is *not* an application.

#### ■ Use written job descriptions

Written job descriptions will be useful in refuting unintentional discrimination charges. With the likely new emphasis on statistics, courts will be trying to identify qualifications that have adversely affected minority applicants and to assess whether those qualifications are valid predictors of performance in a particular job. Thus, there should be a description of every job on the farm outlining all duties and qualifications needed to perform them. Employers who explicitly state their job-related hiring criteria are in a far better position to defend against discrimination litigation.

#### ■ Post promotional opportunities

Claims of unintentional discrimination arise frequently with regard to promotions and transfers within

an organization. Employers are particularly vulnerable to these claims when promotional decisions appear to be made out of the blue, with no notice to those who may be interested, and seem to be based on purely subjective criteria. One simple way to reduce the number of candidates for a promotion (and the number of potential plaintiffs in litigation) is to use job postings with specific qualifying criteria and application deadlines. Those employees who do not apply or who do not meet the objective qualifications for the job cannot later complain that they were discriminated against when they did not receive the promotion. In addition, when the promotional criteria are specified, the employer can precisely identify the pool of candidates from which a choice is made.

### ■ Use objective screening criteria at an early stage

Most employment decisions involve narrowing a field of applicants before choosing the final candidate. At the early stages of this process, objective screening criteria can be used to eliminate unqualified candidates. For example, if a payroll manager position opens up, it may require someone who can use specialized computer software and who knows basic law affecting wages and deductions. Such reasonable and necessary job requirements will objectively eliminate many applicants and should also preclude any possible inference that discrimination was involved in narrowing the field of applicants. Note that these qualifying criteria must be related to the particular job and consistent with business necessity.

### ■ Maintain records of employment decisions

The retention of records is essential. The most dangerous aspect of the unintentional discrimination theory is its tendency to rely on assumptions and inferences drawn from the statistics and the fact that it can shift the burden to the employer to disprove a presumed earlier occurrence of employment discrimination. Farmers who retain records showing that statistical disparities in the results of hiring decisions have derived from legitimate assessment of job-related qualifications should be able to sustain this burden. Those who do not could be crushed under its weight.

### Conclusion

The steps discussed above can produce an accurate and thorough historical record of selection and promotion processes. By using these measures employers will not only be more likely to select capable people for open jobs, but also be able to make employment statistics work for them rather than against them when faced with claims of unintentional discrimination under the new Civil Rights Act. □

---

---

## Supervising Across Language Barriers

As the country's workforce changes, more and more supervisors are faced with the challenge of communicating with employees who do not speak English easily. That challenge can be frustrating, but it can be met effectively. In *Bridging Cultural Barriers for Corporate Success* (Lexington Books, 1991), Sondra Thiederman offers practical ideas for improving communication with workers whose English is limited.

Using the following tips, you can locate where communication bridges need to be built, understand how to build them, and help "ESL employees" (for whom English is a second language) narrow the communication gap from their side. Putting these tips into practice can also build higher productivity and mutual respect on your farm, even if the employees are already fluent in English. The keys to making yourself understood with ESL workers can help improve communication with everyone.

### Consider the Employee's Perspective

The overwhelming majority of non-native English speakers want to succeed, and are intelligent and hard-working enough to do so. But English is a complex language, and many ESL workers are intimidated by the difficulty of making themselves understood. When people cannot make themselves easily understood, they may quickly begin to feel inadequate and powerless.

A patient, thoughtful supervisor can go a long way toward preventing or relieving these feelings that often interfere with job performance as well as satisfaction. It is important to understand the ESL workers' position and realize that they want to express themselves clearly and be fully understood as much as anyone. They also want to understand well what you try to get across.

### Use Clearer English

Thiederman says the best way to help ESL workers understand you better is to use simple vocabulary and sentence structure.

- Organize your thoughts before starting to speak.
- Stick to one subject at a time.
- Be concrete, and ask specifically for what you want. (Instead of "I wanted to see if you could get here

*This article is adapted with permission from Practical Supervision, published by Professional Training Association, Inc., 210 Commerce Blvd, Round Rock, TX 78664-2189. For subscription information, phone 800/424-2112.*

a little earlier tomorrow so we can get a good jump on things,” try “Can you come in at seven tomorrow so that we can meet the deadline?”)

- ❑ Avoid jargon.
- ❑ Phrase your statements positively.
- ❑ Use the active rather than passive voice. (“Please file those cards,” not “Those cards need to be filed.”)

The more slowly and distinctly you speak, the more easily non-native English speakers will be able to understand you. Use pauses to let them digest what you have said and form responses. Enunciate clearly: “What did you say?” is much easier to understand than “Whudjyuhsay?” Be explicit: Say “yes” or “no,” rather than “uh-huh” or “uh-uh.”

The style of speaking can also help. Keep the tone calm and respectful. It is all right to emphasize key words, but consistent use of oversimplified, grammatically incorrect English may insult the listener’s intelligence.

Visual aids can give the worker more ways to understand. Pictures, charts, and diagrams are all good bridge-builders. So is the written word. Writing down instructions or key ideas from meetings and phone calls gives ESL employees greater opportunity to grasp information fully.

## Assess Understanding

George Bernard Shaw said, “The problem with communication is the illusion that it has been accomplished.” Supervisors are often frustrated when ESL workers indicate they understand instructions, when in truth they do not.

Why don’t they just say so? Because they do not want to look foolish, or to insult you by implying that you have not explained well enough. They may also worry that, even if you do explain it again, they still will not understand.

One way to know if ESL employees really understand is if their eyes are focused on you and they nod and smile appropriately. You can guess that they are not understanding if there are no interruptions or questions, or if they giggle inappropriately. Bear in mind that such laughter is rarely meant as a sign of disrespect, but much more frequently indicates embarrassment.

You can also ask listeners to repeat your instructions in their own words. Ask them to demonstrate their understanding, and follow up by observing their behavior on the job.

To check further for understanding, invite all of your employees to ask questions in private. Doing so can spare ESL workers the loss of face involved in publicly

admitting they do not understand. Also, allow enough time for non-native English speakers to formulate their questions.

## Help Employees Get Their Points Across

You also have to be able to interpret what an ESL worker is trying to tell you. Try these tips for helping ESL workers get their points across:

- ❑ Share responsibility for poor communication. Say something like “It sure is noisy here,” or “I’m sorry it’s taking me so long to understand” to take some of the pressure off the speaker.
- ❑ Invite the speaker to slow down and collect his or her thoughts.
- ❑ Repeat what the worker said in your own words and ask if you have heard correctly.
- ❑ Encourage ESL workers to write messages down or to spell out difficult words, if spoken communication is not working well.
- ❑ Watch the speaker’s lips.
- ❑ Observe body language.
- ❑ Listen to the whole statement before you decide whether or not you understand.

Another way to improve communications with non-native English speakers is to learn a few words of their language. Not the least of benefits from this is that it shows respect. Do not worry about making mistakes; show that it is all right to try a different language, even if one does not speak it perfectly. Your effort will give the workers a chance to teach you something.

Finally, help your ESL workers improve their English by encouraging them to speak it. Smile and look enthusiastic when you talk with them. If they seem embarrassed at their difficulties, look away for a moment to let them gather composure. Ask open-ended questions such as, “Tell me about...” to challenge them to express themselves beyond a simple “yes” or “no.” And even if they laugh at their mistakes with the language, don’t laugh at them yourself. Show that you respect their efforts, and better communication will be reinforced.

Supervising across language barriers is not easy. But you do not have to settle for a communication gap, waving futilely at non-native English speakers on the other side. Build bridges by using clear English, checking your comprehension, doing your best to understand all your ESL workers, and encouraging their efforts to speak English. By doing these things, you will be developing essential communication skills that will help you reach and be reached by everyone in your organization more strongly and effectively. ❑

---

---

## Payroll Tax Management

Stephen R. Sutter

Payroll taxes form a sizable cost of doing business. Recent tax law changes are a source of concern to employers, because they have contributed to the complexity of withholding and reporting requirements.

Agricultural employers can cut payroll costs in two ways. First, they may provide compensation that is not subject to employment taxes, such as educational and dependent care assistance plans. Second, they may institute systems, such as computerized reporting, that make paying wages to employees and complying with payroll tax requirements less burdensome.

Most employers are concerned about payroll tax compliance, especially because penalties for noncompliance are stiff. An audit by a thorough IRS Revenue Agent usually includes review of payroll reports, general ledger, and the like, to be sure the employment tax returns correctly report the number of employees and amount of wages.

### Information Returns

Growers who pay to a farm labor contractor (that is not a corporation) \$600 or more in compensation must complete an information form 1099-MISC (with a copy to the payee), and Form 1096, Annual Summary and Transmittal of U.S. Information Returns. The payor (grower) is required to withhold 20 percent of the payment reported on the 1099-MISC, unless the FLC payee provides its taxpayer identification number (TIN). For most individual payees, the TIN is their social security number.

Form W-9 is used to obtain certification of the payee's TIN. If the number cannot be obtained from the payee, the payor must file an affidavit to that effect with the information return. Failure to comply can result in IRS penalties against the payor.

### Withholding Requirements

Agricultural workers' cash wages are now subject to federal income tax withholding (FITW) if the wages are subject to social security (FICA) taxes. There is a two-part test for FITW and FICA coverage of farm employment. Farm workers are covered if their employer pays more than \$2,500 in wages to all employees for agricultural labor during the year. If the annual payroll is \$2,500 or less, workers are covered if they work for any

one employer who pays them at least \$150 in cash wages in a calendar year.

Special Agricultural Workers (SAWs) with I-688 or I-688A cards are subject to FICA and FITW like everybody else. So are undocumented workers.

Employers should be aware of a minor exemption from employee social security taxes. I refer to it as the "tiny loophole" [IRC Sec. 3121 (a) (8) (B)]. Social security taxes need not be paid on the wages of (1) hand-harvest workers paid on a piece-rate basis (2) who commute daily from their permanent residence and (3) who did not work more than 13 weeks in agriculture last year — *if* (4) they earn less than \$150 for the year from the employer (even one whose total payroll exceeds \$2,500 for the calendar year).

The amount of federal income tax that employers are required to withhold from employees' paychecks depends on the amount of wages paid and the withholding allowance information furnished to the employer by the employee on Form W-4. Employers should ask each new employee to file a Form W-4 on or before the employee's first day of work. If an employee fails to provide the W-4 certificate, the employer is required to withhold at the rate for a single person with no other personal exemptions. Making certain that the form is properly completed may help prevent employee shock and confusion at the level of net pay left after withholding based on this rule.

Generally the employer simply keeps the certificates. However, the employer must send the IRS a copy of any Form W-4, if (1) the employee filing it has claimed more than 10 withholding allowances, or (2) the employee has claimed an exemption from FITW but it appears that his or her wages will be more than \$200 per week. The W-4 should be accompanied by any written statement received from the employee in support of the claims made on it.

### Earned Income Credit

The earned income credit (EIC) is intended to give tax relief to low-income working parents. For 1992, taxpayers with one qualifying child can claim a maximum EIC of \$1,324. If there are two or more qualifying children, the maximum amount of this part of the EIC is \$1,384.

The phaseout income level for the EIC was increased to \$11,250 for 1991 and to more than twice as much for 1992. Taxpayers with one or two qualifying children will get no credit once their income level exceeds \$22,370 for 1992.

If an employee who is eligible for the EIC files a Form W-5 with the employer, the employer is required to make advance payment of the EIC to the employee by

adding the amount to his or her paycheck. Unlike a Form W-4, which stays in effect until a new one is filed to replace it, a Form W-5 stays in effect only until the end of the calendar year to which it applies.

Employers who fail to make advance EIC payments as required are subject to a penalty equal to the amount of the advance EIC payment not made. This failure is treated as a failure to deduct and withhold income taxes. Employees who do not file a Form W-5 cannot receive this advance payment. Any eligible employee who chooses not to get this advance payment of the EIC will still get the full benefit of the credit on his or her return.

The employer treats the advance earned income credit as if paid to the IRS on the day that amount is paid to the employee. The payment would normally have been submitted to the IRS through tax deposits. The advance payment to the employee is not considered compensation and is not subject to payroll taxes. Tables for the advance earned income credit are in IRS Publication 51.

The employer is not required to determine whether any completed and signed W-5 is correct. However, an employer who has reason to believe that the certificate contains any incorrect statement should inform the Dis-

trict IRS Director. IRS Publication 225, *Farmers Tax Guide*, discusses requirements to notify certain employees about the EIC. Request the booklet by calling 800/TAX-FORM.

## Deposit Requirements

Employers who have an accumulated payroll tax liability of \$500 or more but less than \$3,000 at the end of any month must deposit the entire amount of taxes within 15 days after the end of the month (with Form 8109).

Employers with an accumulated employment tax liability of \$3,000 or more at the end of any "eighth-monthly" period must deposit these taxes within three banking days of the end of the period. Agricultural employers whose tax liability is \$3,000 or more for any month during the year must attach Form 943A to Form 943, Employer's Annual Tax Return for Agricultural Employees.

Employers are required to use magnetic media if they file 250 or more copies of information return Form W-2. The magnetic media requirement may be waived for one year if a hardship exists (Form 8508).

---

---

## Unpaid Wages Disbursed by DIR

José Millan

---

*Mr. Millan is Senior Deputy Labor Commissioner, California Department of Industrial Relations.*

---

During the past fiscal year, the State Labor Commissioner paid out to workers nearly \$400,000 in wages owed by employers. The Department of Industrial Relations (DIR) had collected these funds and more through regular audits of employers, sweeps, and lawsuits. Until hearing from DIR about these back wages, most of the recipients had never even realized that they had any money coming.

As part of its charge since 1883, DIR has acted on worker claims of employers' failure to pay wages or other compensation. Currently its Division of Labor Standards Enforcement, headed by the State Labor Commissioner, is responsible for pursuing and resolving wage claim cases as well as inspecting work sites for compliance with worker protection laws and regulations.

Legislation enacted in 1975 and codified in the California Labor Code established the Industrial Relations'

Unpaid Wage Fund (UWF). Significantly, the Labor Commissioner is authorized to collect unpaid wages and monetary benefits due to any worker in the state, with or without a specific request from the worker to do so. The Commissioner is required to make a diligent search for workers to whom these moneys are owed and to pay sums due to workers who file valid claims. The Labor Commissioner is thus, in effect, trustee for all wages owed to workers in California.

The maximum allowable size of the UWF is \$200,000. Amounts collected that would bring the fund above that level are put into the State General Fund but remain earmarked and accessible to benefit the workers in whose name they were collected.

A 1989 addition to the Labor Code requires the Labor Commissioner to publicize annually the existence of the Unpaid Wage Fund. Announcements are placed each December in all major newspapers in California, including many that serve non-English speaking communities.

Claims for unpaid wages may be made through offices of the Bureau of Field Enforcement, Division of Labor Standards Enforcement, at either (1) 107 S. Broadway, Suite 5029, Los Angeles, CA 90012, phone 213/897-2905, or (2) 2424 Arden Way, Room 340, Sacramento, CA 95825, phone 916/920-6147.

---

---

## Restructuring Wages to Cut Workers' Compensation Costs

Howard R. Rosenberg

Want to reduce outlays for workers' compensation? Join the crowd. This mandatory insurance has gotten frightfully expensive in California, and people have noticed. An article in the *San Francisco Chronicle* told of bicycle messenger services shutting down after their rates jumped to 75 percent of direct wages. A *Los Angeles Times* editor called workers' compensation "the benefit that ate California."

Indirect payroll costs are a significant part of total labor expenses in agriculture. For most farmers the largest component of these costs is for workers' compensation (WC) insurance, compulsory in California since 1914, and currently covering farm workers in 39 states (compulsory in all but five) plus Puerto Rico, the Virgin Islands, and District of Columbia [U.S. Department of Labor, *State Workers' Compensation Laws*, 1991]. By now just about every employer who has not been under a rock for two years understands that the amount due for WC insurance is a function of three factors: (1) the type of work performed by employees covered; (2) total payroll; and, for larger employers, (3) claims experience of the policyholder (employer) over a three-year period—the first three of the last four years.

For each of some 430 types of work, or "industries," there is a standard "manual rate" set by the Workers' Compensation Insurance Rating Bureau (WCIRB). This rate is adjusted up or down for employers with respectively worse or better claims records than others in their industry. An employer's experience rating ("experience modification factor", or "X-mod"), expressed as a percentage, is multiplied by the manual rate to determine the firm's adjusted premium rate, expressed as so many dollars of insurance premium per 100 dollars of payroll. Calculating the total premium due is then a straightforward matter of multiplying the firm's adjusted rate by total payroll and dividing by 100.

$$\begin{aligned} \text{Total Premium} &= \text{Manual Rate} \\ &\times \text{Experience Modification Factor} \\ &\times \text{Payroll} \div 100 \end{aligned}$$

The most widely advertised means for an employer to lower WC premiums is to reduce the frequency and severity of injuries at the workplace. While the current wave of concern with workplace safety and adoption of accident prevention measures was precipitated mostly by enactment of Senate Bill 198 in late 1990, many farm-



Comparable employers may have quite different workers' compensation insurance premiums, despite having identical total payrolls, numbers of worker hours, and experience ratings.

ers have long appreciated the potential for reducing WC costs through good management. Employers are clearly rewarded by the system for investing in equipment, inspections, employee training, and communications that help prevent injury and illness. After a year lag, below-average claims experience translates to a lower X-mod and smaller premium to be paid.

### Another Way to Skin the Cat?

While many employers are doing their level best to cut accident frequency to the bone, some are throwing up their hands, and others have joined to pursue broader relief in the nearer term. Industry associations and special purpose organizations such as Californians for Compensation Reform are pushing for legislative and regulatory reform of the WC system. These organizations argue that outrageous WC premium rates are driving total production costs up, competitiveness down, and businesses right out of the state. Their efforts focus on controlling fraud, unnecessary litigation, standards for benefit eligibility, medical charges, and other factors contributing to the cost of claims.

Is there anything that an individual employer can do to lower WC expense right away? An obvious approach is to reduce total reportable payroll. But the work has to get done, and it takes a certain amount of time, more or less, to do. So this comes down to cutting hourly rates of pay, which could inspire employees to

### Workers' Compensation Insurance Premiums for Similar Farms

Farm	Wkrs.	Hours/Worker			Hourly Wages		Pay/Worker			Payroll		
		Total	Reg.	OT	Reg.	OT	Reg. hrs.	OT hrs.	Tot.	Total	WC base	WC Prem.
A	50	60	60	0	\$7.00	NA	\$420	\$0	\$420	\$21,000	\$21,000	\$2,520
B1	50	60	40	20	\$6.00	\$9.00	\$240	\$180	\$420	\$21,000	\$18,000	\$2,160
B2	50	60	40	20	\$4.25	\$12.50	\$170	\$250	\$420	\$21,000	\$12,750	\$1,530

revolt. Or does it? Not all of payroll is reportable for WC purposes.

Rules published by the WCIRB specify portions of total payroll that may be excluded from the computation of premiums. Employers are generally not to include in their WC base the value of meals and lodging, tips, severance pay, and contributions to benefit plans. A final and most important exclusion is overtime remuneration, if shown separately in the employer's books and records.<sup>1</sup> "Overtime remuneration means that portion of the total remuneration which is derived from the application of an increase above and in addition to the regular rate . . . because of time worked on Holidays, Saturdays or Sundays; or because of the number of hours worked in any one week or day beyond the standard . . ." [WCIRB *Manual of Rules, Classifications and Basic Rates*, p. 3]

A farmer who pays workers extra for overtime hours and keeps good track of it, therefore, need figure workers' compensation premiums on only the amount of pay that would have been earned at straight-time rates for all hours worked. If a greater portion of total payroll is in this excepted category, there is a smaller base to which to apply the adjusted rate and thus a lower premium cost to the ratepayer. The implications are profound.

#### Different Prices to Cover the Same Hours and Earnings

Suppose Farmer A pays fifty field workers a wage of \$7 per hour for 60 hours in a week during harvest season. Each worker thus earns \$420, and total payroll is \$21,000 (50 workers × \$7 per hour × 60 hours per worker). At a typical manual rate of \$12 per hundred, and assuming an X-mod of 100 percent (average), the WC premium to cover those workers is \$2,520 ( $\$12 \times 100\% \times \$21,000 \div \$100$ ).

His neighbor, Farmer B, has the same size of workforce harvesting the same crop for the same number of hours per week on the same number of acres. He pays a lower regular hourly wage of \$6 but believes that higher overtime pay of \$9 for each hour in excess of 40 is an effective inducement for workers to put in a full workweek. Although the law does not require him to pay this overtime differential,<sup>2</sup> he has heard of other growers who do so and thinks that it is a wise management practice.

Each of Farmer B's workers also earns \$420 [(40 hours × \$6) + (20 × \$9)], and his total payroll, like that of Farmer A, is \$21,000 (50 workers × \$420). The equivalence stops there, however. Farmer B is entitled to exclude the \$3 per hour overtime differential from his base payroll used to figure WC premium. The reportable payroll on which his premium is computed is only \$18,000 (50 workers × \$6 straight per hour × 60 hours per worker). Assuming the same rate of \$12 per hundred and 100 percent X-mod as above, Farmer B pays only \$2,160 ( $\$12 \times 100\% \times \$18,000 \div \$100$ ), a full \$360 (or 14%) less than Farmer A.

If Farmer B recognizes the existence of and reason for his WC cost advantage, he might be inclined to maximize it by lowering further his rate of straight-time pay and, of course, making it up to workers through a larger overtime differential. If he paid the minimum wage of \$4.25, he could keep his employees whole by using an overtime rate of \$12.50. Each would still earn \$420 in a 60-hour week, \$170 for the first 40 hours ( $\$4.25 \times 40$ ) and \$250 for the remaining 20 ( $\$12.50 \times 20$ ).

How much would Farmer B then pay for workers' compensation? Since his reportable payroll would be only \$12,750 (50 workers × \$4.25 straight per hour × 60 hours per worker), the WC premium would be down to \$1,530 ( $\$12 \times 100\% \times \$12,750 \div \$100$ ), making his expense nearly 40 percent below what Farmer A is paying

1. UC Farm Advisor Gregory Encina Billikopf first called my attention to the premium savings potential of this exclusion. I am very grateful to Billikopf, to Farm Advisor Stephen R. Sutter for providing useful references, and to Staff Associate Norman J. Hetland for research assistance.

2. California Industrial Welfare Commission Order 14, applicable to employment in most field work, requires that hours exceeding 60 in a week be paid at least 150% of the straight-time wage rate.



and giving him a tidy additional savings of \$630 off his own former cost. And this is for but a single week. Farmer B could even bump each worker's earnings, say to \$430 by raising the overtime rate to \$13.00, and still end up with \$130 more in his own pocket than he would have without restructuring wages.

The table summarizes these differences in WC premiums computed from three payrolls that are equal in total payout to employees but different in the portion attributed to additional overtime pay.

## Equity Issues

Besides suggesting how to instantly reduce premiums, this comparative example raises fundamental questions about how the workers' compensation system is structured. Costs of this insurance are not only steep but also may be unfairly distributed among employers.

Why should a farmer who offers wages a cut above the market have to pay correspondingly higher WC premiums? While the amount of replacement income (indemnity) to which injured workers are entitled is partly a function of their normal pay levels, only one-quarter of the premium dollar goes to pay for this benefit. Do higher wage employers have greater frequency or severity of claims? Probably quite the contrary, and the question is empirically answerable.

Does the pegging of WC and other indirect labor costs (e.g., unemployment insurance) to payroll—a direct function of wage rate—keep some employers from setting wages as high as they would otherwise? Would not a system in which adjusted manual rates were applied to time on the job instead of earnings provide a more faithful link between exposure to claims and cost of premiums?

Why is it that rates are based on dollars of payroll in California? Primarily, I am told, for convenience in reporting and enforcement. Payroll is easy to verify against other mandatory employer filings with state and federal agencies, and hours worked are not. Only in the state of Washington is the system based on hours rather than earnings.

A payroll-based system is most likely to be inequitable with respect to jobs that have high wage variance. California has taken a baby step toward neutralizing the effects of pay rate differences on WC premiums. Recognizing the bimodal distribution of construction wages among union and non-union scale firms, the WCIRB has established dual rates for about a dozen occupations in that industry.

For example, a manual rate of \$11.70 (per \$100 payroll) applies to earnings of carpenters with hourly wages of \$19 or more and a rate of \$28.28 to payroll based on

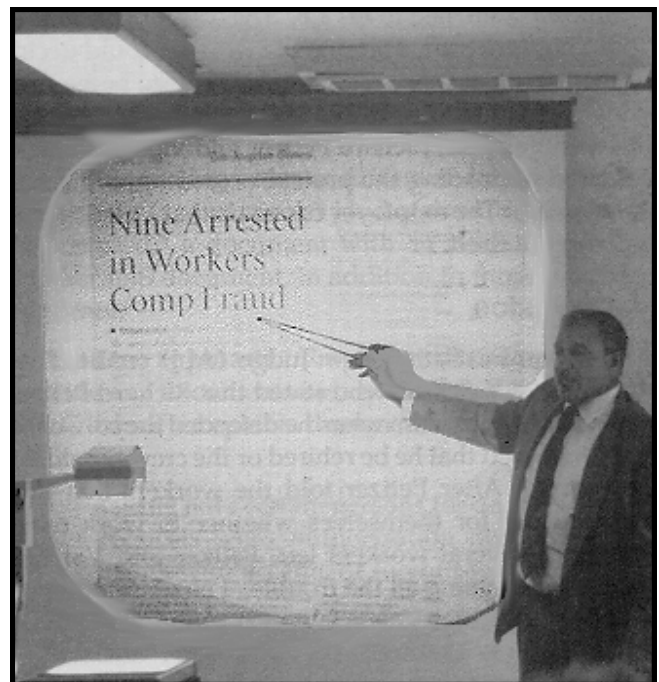
wage rates of \$18.99 or less. If the ratio of average high-group wage to average low-group wage does not exceed 2.42 ( $=\$28.28 \div \$11.70$ ), then the total of WC premiums paid for high-wage carpenters is no more than it would be for an equivalent number of hours paid at low wage. The same cannot be said, however, about premiums to cover high- and low-paid tractor drivers, irrigators, or broccoli harvesters. Higher pay on the farm makes for higher insurance premiums.

## Conclusion

There are several means by which individual employers can affect workers' compensation costs. Reducing accidents, cracking down on fraud, and helping injured employees back to work as soon as possible are all part of living well within the current rules.

Many proposals for reform of the WC system have been introduced this year in the California legislature, and most are aimed at constraining benefits to both undeserving and dubiously deserving claimants. But there is another type of reform, longer overdue and more clearly compatible with the principle of equitably distributing the costs of WC benefits.

While the rules are being reexamined, there ought to be serious consideration given to replacing total payroll as the base for premium determination. Unless and until there is, farm employers may be able to reap handsome savings by simply restructuring their straight-time wage rates and overtime differentials. □



Juan Gonzalez, Pan American Underwriters, explains how employers can help control fraudulent WC claims.

---

---

## ALRB Ruling on Discharge After Recall Protest

---

*The following Agricultural Labor Relations Board decision is adapted with permission from Agricultural Employers Labor Report, Vol. XVIII, No. 7, April 10, 1992, published by the Agriculture Department, California Chamber of Commerce.*

---

### Background

Peltzer Groves, the employer, recalled certain persons of its harvesting employees, including Heliodoro Valencia, from layoff to begin work on November 9, 1989. Valencia and other workers, including Moises Ruiz, who had worked for the company the previous season but who had not been recalled, reported for work on that day.

Ruiz was informed that he would not be rehired. He told Valencia and his other co-workers, and they wanted to know why, since several of the workers were new. Ruiz and Valencia were friends and had commuted to work together regularly, and Valencia was designated to speak on behalf of the workers to ascertain the reason Ruiz was not rehired.

The workers repeated that they would not work until Ruiz was returned to his job. The employer stated he would not hire Ruiz, and that the workers could decide for themselves if they wanted to work or go home. The workers decided to go home. In a one-on-one conversation with Valencia, Richard Peltzer told Valencia that he was fired for leading the protest, according to the general counsel. The employer contends that Valencia quit and was not fired.

### ALJ Decision

The Administrative Law Judge (ALJ) credited the testimony of Valencia, who stated that Richard Peltzer, employer, insulted him when he defended the co-worker and demanded that he be rehired or the crew would not start work. After Peltzer told the workers that they could decide for themselves whether to work or go home and several workers left, Peltzer told Valencia that he was causing all the trouble. Peltzer said that he did not want to see Valencia on his property anymore, and told him to "get out."

Richard Peltzer died shortly after the incident, but his son Larry Peltzer, who was harvest superintendent at the time of the incident, testified that he overheard

the conversation between his father and Valencia. Larry Peltzer claimed that his father told Valencia he was not discharging him, but that if he wanted to leave, the choice was his. On the basis of Peltzer's demeanor, as well as inconsistency and a lack of plausibility in his account, the ALJ discredited Peltzer's testimony and found that he was not close enough to the participants to hear the conversation.

Finding that Valencia was a more convincing witness than Peltzer and that his account of the incident was more plausible, the ALJ concluded that Valencia had been unlawfully discharged because he encouraged the crew not to work.

### Board Decision

The Board affirmed the ruling, findings, and conclusions of the ALJ. Valencia did not seek reinstatement, and the parties had agreed that, if the employer was found liable, the amount of back pay owing would be \$415.83 plus interest. Therefore, the Board's order omitted the usual provisions for reinstatement and continuing back pay. □

---

---

## DIR Establishes Toll-Free Number for Farm Workers

The California Department of Industrial Relations has established a toll-free number, 800/733-3899, to help the state's farm workers obtain information and assistance with labor law problems and concerns, DIR Director Lloyd W. Aubry, Jr., has announced. "The telephone number is part of an outreach effort undertaken by the Division of Labor Standards Enforcement that will supplement, not replace, the service currently provided in local district offices," he said. "It will help us address the concerns that offices are not always located in places convenient for farm workers or open during hours that they can visit them."

According to State Labor Commissioner Victoria L. Bradshaw, the new service will be staffed with bilingual representatives of the divisions's Bureau of Field Enforcement from 11:00 a.m. to 3:00 p.m. and 4:00 p.m. to 7:00 p.m., Monday through Friday. The telephone line is for the exclusive use of farm workers. It is intended to be a means for these workers to obtain information on available state and federal services, to find out how and where to file wage claims, to determine the best course of action for specific enforcement problems, and to notify the Division of problems encountered. □

---

---

## How to Avoid Immigration-Related Employment Discrimination

---

*This article is adapted, with permission, from a brochure issued by the National Council of Agricultural Employers. A video tape on the subject is also available from NCAE (see "Resources" on page 14).*

---

### What Is the Immigration Reform and Control Act and What Does It Require of Employers?

The Immigration Reform and Control Act (IRCA) has been law since 1986. It has two main requirements of employers: (1) to hire only persons authorized to work in the United States and (2) to not discriminate on the basis of citizenship status or national origin.

Employers and workers newly hired since 1986 must complete an I-9 Form to certify employment eligibility. Workers must show the employer documentary evidence that they are authorized to work in the United States. The Immigration and Naturalization Service (INS) *Handbook for Employers* explains how to complete the I-9 Form and what worker documents are acceptable. INS can levy fines against employers for failing to properly complete an I-9 Form on each new hire. In addition, heavy fines and criminal penalties can be imposed on employers who knowingly hire undocumented workers or accept fraudulent documents.

Employers may not refuse to consider *all* qualified persons with work authorization, whether citizen or non-citizen. Employers must accept *any* document listed in the *INS Handbook for Employers*, and may not arbitrarily specify an INS document, or require additional documents. Employers may not refuse to hire a qualified worker whose employment authorization expires at a later date. IRCA imposes back pay and severe penalties on employers who commit immigration-related employment discrimination.

### Summary of Agricultural Employer Duties Under IRCA

- Employ only citizens or aliens who show proper work authorization documents.
- Establish work authorization through proper completion of the I-9 Employment Eligibility Form.
- Accept documents that reasonably appear to be genuine. (You do not have to be a document expert or a detective.) Do not accept documents you know are

false or forged and those you know do not belong to the person offering them.

- Do not refuse to employ persons because of their citizenship status or national origin. That is discrimination.
- Do not ask for particular documents or more documents than are required. That could be discrimination.

### Avoiding Discrimination on the Basis of Citizenship Status

Employers are prohibited from discriminating against persons in hiring, discharging, and recruiting and referring for a fee because of their citizenship status. Permanent and temporary residents, refugees, asylees, and U.S. citizens are protected. Employers must use uniform and fair I-9 Form completion procedures when hiring individuals.

Discrimination could be costly to violators. It is easy to avoid immigration-related employment discrimination and still comply fully with IRCA. Just follow the simple guidelines illustrated here.

#### Common examples and alternatives

1. **Prematurely requesting documents.** Employer asks to see a job applicant's documents before making a decision that the person is qualified and extending a job offer. Person does not get job and believes that citizenship status discrimination, revealed through the examination of the documents, is the reason.

**A better approach:** After determining the applicant is qualified for the job, employer makes a job offer conditioned upon the applicant's providing adequate documentation of work authorization and identity.

2. **Requesting more or different documents.** Employer asks for a particular kind of document, such as a "green card," a document with an Alien Number, or another INS document, in addition to those offered by applicant.

**A better approach:** Employer allows applicant to provide any documents indicated on the A list or the B and C lists of acceptable documents accompanying the I-9 Form.

3. **Asking only certain persons for documents.** Employer requests work authorization documents only from persons with accents or foreign-sounding names or appearances.

**A better approach:** Employer asks all successful applicants to whom a job offer is made for documents.

4. **Hiring only citizens or non-citizens.** Employer hires only citizens for jobs, although the employer is not

required to do so pursuant to law or government contract; or employer prefers and hires non-citizens rather than citizens for certain types of work.

**A better approach:** Employer hires qualified persons with proper documentation, regardless of citizenship status.

5. **Rejecting persons whose work authorization expires in the future.** Employer refuses to hire person because employment eligibility document indicates that it expires at some future date.

**A better approach:** Employer hires person with the understanding that the person will provide evidence of continuing employment authorization before expiration date on the document. Employer accepts *any* approved document before expiration of previous document.

6. **Inaccurately concluding that documents are false.** To avoid employer sanctions, employer routinely calls government agencies to determine whether documents offered by applicants are legitimate. Employer relies upon information to incorrectly decide that applicant does not have work authorization and refuses to hire him or her.

**A better approach:** Employer reviews all documents to see if they reasonably appear to be genuine and does not routinely investigate authenticity of documents unless they clearly appear on their face to be false.

## Avoiding Discrimination on the Basis of National Origin

Employers are prohibited from discriminating against persons on the basis of their national origin. "National origin" refers to the country where a person was born or where his or her ancestors came from. Employers cannot treat qualified persons differently because they have the physical, cultural, or linguistic characteristics of a national group.

### Common examples and alternatives

1. **Asking only persons of a particular national origin for documents.** Employer asks all job applicants believed to be Mexican to provide proof of permanent residency. Because of their national origin, perceived Mexican applicants are treated differently. This also may be discrimination on the basis of citizenship.

**A better approach:** Employer asks all applicants (regardless of place or birth of ancestry) to whom a job offer is made to provide any documents indicated on the A list or B and C lists of acceptable documents accompanying the I-9 Form.

2. **Requiring unnecessary language proficiency.** Employer requires all employees to speak English flu-

ently on the job, regardless of whether competent performance of the job requires such skills. Persons with accents or limited English ability are not hired for field production and harvest jobs, even though English fluency is not essential to performing them.

**A better approach:** Employer establishes English language skill requirement for employee whose duties include frequent communication with the public but not for field work where it is not essential.

## Penalties for Discrimination

### Fines

Fines are up to \$1,000 per person for violations where the employer requests more or different documents than are required or refuses to honor documents that on their face reasonably appear to be genuine.

Other types of discrimination carry fines of up to \$2,000 per person for the first offense, \$5,000 for the second offense, and \$10,000 for the third or more offenses.

### Back pay and other remedies

In addition to fines, employers can be ordered to pay lost wages for applicants not hired or employees discharged in violation of discrimination provisions. Employers can be ordered to hire applicants or reinstate discharged employees if discrimination is found.

### For further information on immigration-related discrimination and IRCA compliance, contact —

Office of Special Counsel  
U.S. Department of Justice  
P.O. Box 65490  
Washington, DC 20035-65490  
800/255-7688

National Council of Agricultural Employers  
1735 I Street NW, Suite 704  
Washington, DC 20006  
202/728-0300  
Attention: Sharon Hughes

American Farm Bureau Federation  
600 Maryland Avenue, SW, Suite 800  
Washington, DC 20024  
202/484-3600  
Attention: Libby Whitley

### For copies of the *Handbook for Employers, Revised Nov. 21, 1991 (Instructions for Completing Form I-9)*, write —

Superintendent of Documents  
U.S. Government Printing Office  
Washington, DC 20402





On the way to treat grapevines near Hilmar, in the San Joaquin Valley, July 1992.

---

---

## IRCA Implementation News

On August 2, 1993, Form I-551 will become the only type of Alien Registration Receipt Card acceptable as evidence of employment eligibility in completing the I-9 at time of hire. Aliens lawfully admitted to the United States for permanent residence will no longer be allowed to prove their eligibility by presenting older "green cards" — Forms I-151, AR-3, and AR-103. The Immigration and Naturalization Service (INS) announced in June that aliens who possess a Form I-151 or older document will be required to apply for the replacement, Form I-551, from July 31, 1992, through August 2, 1993.

The INS and the Department of Labor (DOL) recently signed an agreement to coordinate enforcement of immigration and labor laws. The Employment Standards Administration (ESA) of DOL will be able to audit employer records for violations of the Immigration Reform and Control Act (IRCA) and, for the first time, issue warnings for violations found and report them to INS. ESA will also advise employers about their responsibilities under IRCA. INS will report violations of labor laws to DOL, paying particular attention to agriculture, child labor, garment industry, and industrial homework violations. INS and ESA will refer cases of immigration-related employment discrimination to the Department of Justice, Office of Special Counsel. □

---

---

## Coming Attraction

The Fall 1992 issue of LMD will feature a discussion by attorney Beverly A. Clark about the Iowa Ombudsman Project, which is now in its third summer. Seed corn companies teamed up with Proteus Employment Opportunities, a migrant services provider in Iowa, to develop a new approach to timely trouble shooting and problem solving on migrant farm worker issues. The upcoming article will include a description of the project, observations from some of the ombudsmen and seed corn production personnel who have been involved, and consideration of other possible applications of the project model.

The Center for Public Resources (CPR) has awarded to Proteus and Pioneer Hi-Bred International, Inc., an Outstanding Practical Achievement Award for developing this project, particularly citing its uniqueness and its founders' willingness to take risks. CPR is a New York based organization promoting alternatives to litigation in dispute resolution. Its members are from major corporations, law firms, and universities throughout the United States. □

---

---

## Resources

### Publications

**Workers Compensation Literature.** A free brochure, *Understanding Workers' Compensation Insurance*, written for employees and employers is available from the California Department of Insurance. Phone the consumer hotline, 800/927-4357.

The Workers' Compensation Insurance Rating Bureau of California (WCIRB) offers employers several publications. Single copies of the following are free, bulk orders 75¢ plus postage: *Workers' Compensation Insurance Pricing, An Employer's Guide to the Pricing Process*; *Know Your Workers' Compensation Insurance Costs*; *Workers' Compensation Experience Rating: An Employer's Guide to the California Experience Rating Plan*; and *An Employer's Guide to the California Workers' Compensation Insurance Classification System*. WCIRB priced publications include: *Manual of Rules, Classifications and Basic Rates for Workers' Compensation Insurance*, (\$7.90); *California Experience Rating Plan — 1951*, (\$5.44); *California*

*Workers' Compensation Retrospective Rating Plan*, (\$4.75); and *California Workers' Compensation Unit Statistical Plan — 1983*, (\$6.90). These may be ordered from WCIRB at Spear Street Tower, Suite 500, One Market Plaza, San Francisco, CA 94105 (phone 415/777-0777); send orders for priced publications prepaid to the Accounting Department.

**Farm Labor Research Reports.** *Seasonal Labor in California Agriculture*, by John W. Mamer and Alexa Wilkie (November 1989, 208 pages), presents estimated hours of labor required, as well as descriptions of work methods used, in 28 California crops. *The Occupational Mobility of Current and Former Farm Workers: A Comparative Analysis in Two California Labor Markets*, by Susan Gabbard and Luin Goldring (July 1991, 47 pages), reports on post-IRCA job moves by farm workers in the Watsonville and Orange County areas. Both reports are available from Special Projects Unit, Labor Market Information Division, MIC 57, Employment Development Department, Box 942880, Sacramento, CA 94280-0001 (phone 916/424-7310).

**Safety Publications** available from Steve Sutter, UC Cooperative Extension, 1720 South Maple Avenue, Fresno, CA 93702 (phone 209/488-3285 or 800/742-1101, Ext. 3285): *Agricultural Personnel Management Program Newsletter*, English (free); *Written Accident and Illness Prevention Programs*, English/Spanish, 22 pages (\$2); *Selected Cal/OSHA Safety Orders*, English, 30 pages (\$2); *Abundance of Posters Required in Agricultural Employment*, English/Spanish (\$1); *Catalog of Selected Safety Materials and Resources*, English/Spanish, 27 pages (\$2); *Field Sanitation Packet*, including hygiene posters, field sanitation rule, vendors list, English/Spanish (\$1); *Cal/EPA Agricultural Hazard Communication Standard Information*, English, 38 pages (\$2.50); *Americans with Disabilities Act (ADA)*, paper prepared for July 9, 1992, meeting in Parlier (\$1); *Accident Investigation Report, Guide for Identifying Causal Factors*, English, 11 pages (free); "Farmworker injury and illness: statistical guides to prevention," *California Agriculture*, Vol. 45, No. 6, November-December 1991, pp. 13-15 (free).

**Training and Management Resources.** Brochures and a catalog list personnel management publications, video tapes, and computer software available from Pfeiffer & Company (formerly University Associates), 8517 Production Avenue, San Diego, CA 92121-2280 (phone 619/578-5900; FAX 619/578-2042).

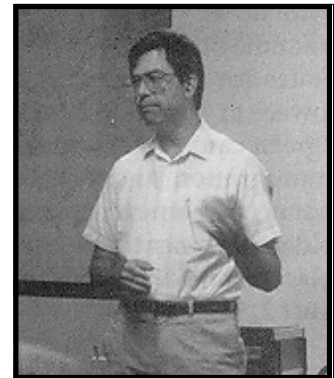
**Philip Vera Cruz: A Personal History of Filipino Immigrants and the Farmworkers Movement**, by Craig Scharlin and Lilia Villanueva, based on interviews with Vera Cruz in the late 1970s. Now 87, Vera Cruz is a former union official. Photographs are included. Price is \$14.95 plus \$1 postage (California residents add sales tax);

make checks payable to "UC Regents." Order from UCLA Center for Labor Research and Education, 1001 Gayley Avenue, 2nd Floor, Los Angeles, CA 90024-1478, or from UCLA Asian-American Studies Center, 3230 Campbell Hall, 405 Hilgard Avenue, Los Angeles, CA 90024-1546.

## Video Tape

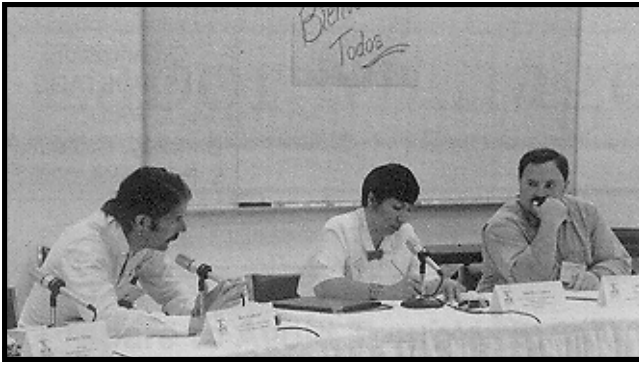
**Avoiding Immigration Discrimination in Agriculture.** Using four vignettes of typical farm worker hiring situations, the video covers questions to ask and those not to ask. Also included are comments of a senior trial attorney in the special office of the U.S. Department of Justice charged with investigating Immigration Reform and Control Act anti-discrimination complaints. The video can also be used to train foremen and office personnel. Purchase price is \$20 plus \$2.50 shipping and handling. Make checks payable to "American Farm Bureau Federation" or "AFBF," but send orders to: National Council of Agricultural Employers, 1735 I St., NW, Suite 704, Washington, DC 20006. □

## Events

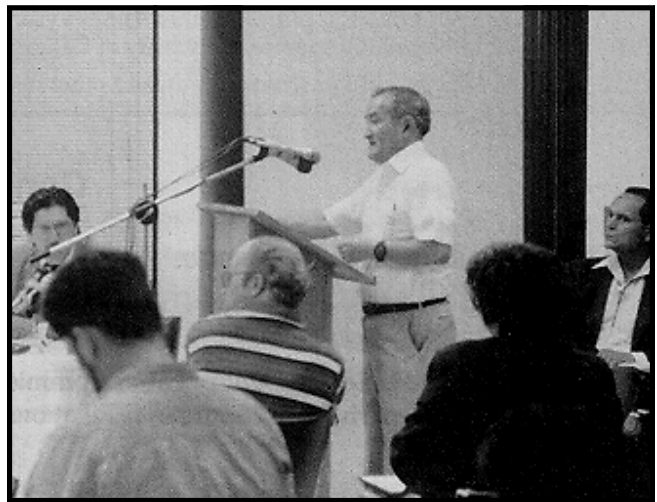
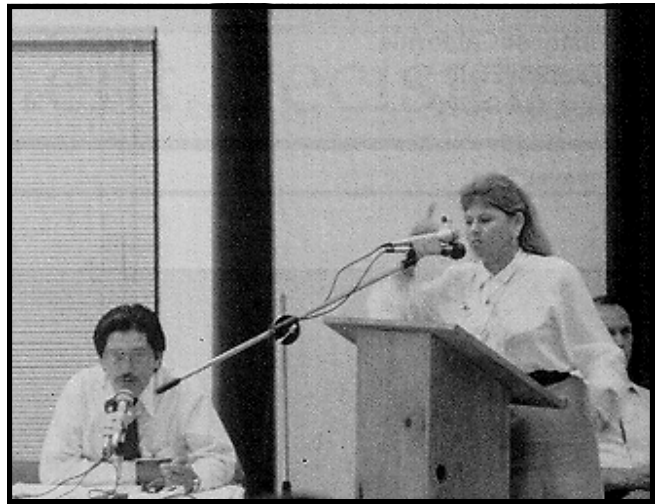


At a recent Agricultural Personnel Management Association meeting in Livingston, Gregory Billikopf leads discussion on dealing with difficult employees. Other participants compare their own experiences.





The Farm Worker Services Coordinating Council, created in November 1991 by Governor Wilson (see *Labor Management Decisions*, Winter-Spring 1992 issue), held its fifth public hearing on June 17 at the Kearney Agricultural Center, Parlier. Testimony from worker (upper right), employer (lower right), and service agency perspectives was presented for more than 8 hours. Council members Roy Gabriel, Martha Lopez, and José Millan ask for clarification of points raised (photo above), as other attendees listen (below).



## Future Events

**Public Hearing on Improving State Services to Farm Workers.** August 5, 2:00 to 8:00 p.m. Yuba City: Lincoln Elementary School, Multi-Purpose Room, 1582 Lincoln Road. Sponsored by Farm Worker Services Coordinating Council of the State Health and Welfare Agency. Contact Fidel Fernandez at 916/741-4216 (Yuba City) or Teresa Gonzales at 916/654-6202 (Sacramento).

**Triple Header of August Meetings on Safety.** All are free:

August 4, 9:00 to 11:30 a.m. Cal/OSHA and Cal/EPA Safety Compliance for Dairy Farmers. Visalia: Cooperative Extension Auditorium, Corner Woodland and West Main. Speakers: Farm Advisors Tom Shultz and Steve Sutter. Phone 209/733-6363 to preregister.

August 6, 9:00 to 11:00 a.m. Cal/EPA Hazard Communication for Pesticide Handlers Seminar (English and Spanish). Hanford: Cooperative Extension office, 680 North Campus Drive. Speakers: Jenny Rodriguez, Christina Schultz, and Steve Sutter. Call Jo Ann at 209/

582-3211, Ext. 2730, or Chrys Moore at 209/488-3285 to preregister.

August 21, 9:00 to 11:00 a.m. Cal/EPA Communication for Pesticide Handlers and Fieldworkers Seminar (English). Five Points: UC West Side Field Station, 17353 West Oakland Avenue (6 miles south of Five Points). Sponsored by UC Cooperative Extension and Mendota/Huron Employment Development Department. Speaker: Steve Sutter. Phone Steve or Chrys Moore at 209/488-3285 to preregister.

**Personnel Policies in Farm Labor Management.** February 23-24, 1993. Workshop, primarily for extension educators, will examine use of policies to guide decisions about hiring, promotion, layoff and recall, training, performance review, pay and benefits, safety, dismissal, and other labor matters. Legal requirements as well as operational implications will be considered. Printed and computer references to help farmers develop their own personnel policies will be presented. Location: Central Coast site to be announced. Contact Betsey Tabraham (510/642-2296) for information. □

Agricultural Personnel Management Program  
University of California  
319 Giannini Hall  
Berkeley, CA 94720

Nonprofit  
Organization  
U.S. POSTAGE  
PAID  
Berkeley, California  
Permit No. 374

*Labor Management Decisions* is published three times a year by the Agricultural Personnel Management Program, Division of Agriculture and Natural Resources, University of California. Articles may be reprinted with credit.

We welcome readers' opinions, news items, and other information. Letters will be published as space permits.

## Contributors

### Special contributors to this issue:

*John C. Cook* (page 1), Partner, Sheppard, Mullin, Richter & Hampton, San Francisco.

*José Millan* (page 6), Senior Deputy Labor Commissioner, California Department of Industrial Relations, San Francisco.

### Agricultural Personnel Management Program Staff:

*Gregory Encina Billikopf*, Area Agricultural Personnel Management Farm Advisor (Stanislaus, Merced, and San Joaquin counties), UC Cooperative Extension, 733

County Center III Court, Modesto, CA 95355 (phone 209/525-6654)

*Howard R. Rosenberg*, Director, APMP, and Cooperative Extension Specialist, Department of Agricultural and Resource Economics, University of California, Berkeley, CA 94720 (phone 415/642-7103)

*Stephen R. Sutter*, Area Agricultural Personnel Management Farm Advisor (Fresno, Kings, Madera, and Tulare counties), UC Cooperative Extension, 1720 South Maple Avenue, Fresno, CA 93702 (phone 209/488-3285)

*Betsey H. Tabraham*, Coordinator, APMP, 319 Giannini Hall, University of California, Berkeley 94720 (phone 415/642-2296)

## NEW SUBSCRIPTION

If you do not receive *Labor Management Decisions* through the mail and want to have a free subscription, please complete and send this form to: Agricultural Personnel Management Program, 319 Giannini Hall, University of California, Berkeley, CA 94720 (phone: 415/642-2296; FAX: 415/642-6108).

Please add my name to the mailing list for *Labor Management Decisions*.

My principal occupation is: \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

In accordance with applicable State and Federal laws and University policy, the University of California does not discriminate in any of its policies, procedures, or practices on the basis of race, religion, color, national origin, sex, marital status, sexual orientation, age, veteran status, medical condition, or handicap. Inquiries regarding this policy may be addressed to the Affirmative Action Director, University of California Division of Agriculture and Natural Resources, 300 Lakeside Drive, Oakland, CA 94612-3560. Telephone (415) 987-0097.