

Negotiations for Successor Agreement
UFCW Local 663 and Tony Downs Foods
Version 2: Union Proposal 7b - Immigrant Rights & Child Wellbeing
12/19/2023

U4. New Article entitled: Immigrant Rights

General Principles: The union and the employer have a mutual interest in avoiding the termination of trained employees. Accordingly, to the extent not addressed by this agreement, the union and the employer will negotiate over issues related to compliance with the Immigration Reform and Control Act and any other current or future legislation, government rules or policies related to immigrants.

Section 1. Protection or Rights During Workplace Immigration Enforcement.

The employer will promptly notify the shop steward and union if the company is contacted by the Department of Homeland Security (DHS) or Immigration and Customs Enforcement (ICE), a branch of DHS for any purpose or if a search and/or arrest warrant, administrative subpoena or other request for documents is presented so the union can take steps to protect the rights of its members. Further, the employer will:

1. Refuse admittance of any agents of DHS or ICE who do not possess a valid warrant signed by a federal judge or magistrate.
2. Not reveal to the DHS names, addresses or immigration status of any employee, except pursuant to a valid warrant or subpoena signed by a federal judge, magistrate or immigration officer designated by the DHS.
3. Permit inspection of I-9 forms by DHS or DOL only after a minimum of three written days' notice. The employer shall provide no documents other than the I-9 forms to the DHS for inspection in the absence of a valid DHS administrative subpoena, or a search warrant or subpoenas signed by a federal judge or magistrate.
4. Where a warrant specifically names certain individuals or the DHS presents a warrant or subpoena that requires the production of I-9 forms, the inspection shall be permitted and individuals shall be called into the front office.
5. Where DHS notifies the employer that certain employees do not appear to be authorized for continued employment, the company will provide the employees with a reasonable opportunity of not less than two weeks to present other documents as listed on Form I-9 to establish their employment authorization.
6. Nothing in this provision shall be interpreted to limit the employee's rights to continued employment under the "receipt rule," which grants employees ninety (90) days to present to the company a replacement document of a previously issued but expired employment authorization.
7. It is acknowledged that this agreement shall not be interpreted to cause the company to knowingly hire or continue the employment of any person not authorized to work in the United States as prohibited by IRCA 8 U.S.C. 1324a(a)(1)(A)(2).

The Union reserves the right to add, delete, amend, alter, or otherwise change its proposals during the course of negotiations. The Union also reserves the right to make counter proposals to the employer's proposals.

Section 2. Employer Self-Audits.

Absent such form notice from DHS, ICE or any other federal state or local enforcement agency, the employer will not conduct an audit or any other type of inspection of its I-9 forms or personnel records, and will not allow any other private or public entity to conduct such an audit or inspection.

Section 3. I-9 Forms.

~~The employer will maintain employee I-9 forms in a file separate from personnel records, as required by law. The employer will not duplicate, either by photocopy, electronically or any other method, the documents provided by the employee in connection with the I-9 process, and will not retain any copies, however obtained, in any files.~~

Section 4. Verification and Reverification of Work Authorization.

The employer will not require or demand proof of immigration status, except as may be required by 8 U.S.C. 1324A(B) and listed on the back of the I-9 form. Further, the employer will not require that an employee reverify their authorization to work unless the employer obtains actual or constructive knowledge that the employee is not authorized to work in the United States. "Actual or constructive knowledge" means such knowledge that would subject the employer to liability under the "employer sanctions" provisions of the immigration laws, 8 U.S.C. 1324a. Further, the employer will not require employees engaged in "continuing employment" to provide proof of work authorization, including Social Security numbers.

"Reverification" means requesting that an employee show documents that purport to prove their authorization to work in the United States, and includes a request to provide proof of a valid Social Security number. In the event that the employer determines it has the requisite "actual or constructive knowledge" that requires it reverify an employee's authorization to work, the employer will:

- Prior to notifying the employee, notify the union and provide the union with the factual basis for that determination.
- Afford the employee a reasonable period of time of not less than 120 days to establish work authorization.
- Not take any adverse employment action against the employee unless the employer has complied with sections (1) and (2) above, and is required to do so by law.

Section 5. Transfer of I-9 Forms.

No employee shall be required to reverify status in circumstances constituting "continuing employment." In the event of a sale of the business or its assets, or other business reorganization that transfers the employees to a different entity, the employer shall transfer the I-9 forms of its employees to the new employer, and shall condition such sale on the successor employer's written agreement to use transferred I-9 forms to satisfy obligations with respect to I-9 forms.

Section 6. Inquiries Into Immigration Status.

The employer will not ask any employee, either orally or in writing, to respond to questions or provide documentation of immigration status, except as required by law. ~~If the employer determines that such a request is required by law, the employer will provide the employee(s) and the union a detailed explanation for the request, in writing, citing the factual and legal basis for the request. The union will have two weeks to reply to the request. The employee will not be required to respond to questions or provide the requested documentation while the union and the employer attempt to resolve a dispute under this section.~~

Section 7. Employer Participation in Employer Verification Pilot Projects.

~~The employer will not participate in any computer or online verification of immigration or work authorization status, except as required by law.~~

Section 8. Corrections to Records.

An employee may notify the employer of a change in name or Social Security number and the employer will modify its records to reflect such changes. Such employees shall not have their seniority of employment status affected, or suffer any loss of benefits as a result of notifying the employer of such changes.

The employer may not discharge or in any manner discriminate, retaliate or take any adverse action against an employee because the employee updates or attempts to update his/her personnel records to reflect change to his/her lawful name or valid Social Security number.

Section 9. Social Security "No-Match" Letters.

In the event that the employer receives notice, either by correspondence or otherwise, from the Social Security Administration (SSA) indicating that an employee's name and Social Security number (SSN) that the employer reported on the Wage and Tax Statements (Form W-2) for the previous tax year do not agree with SSA's records, the employer agrees to the following:

- The employer will notify the union upon receipt of any such notice and will provide a copy of the notice to all employees listed on the notice and to the union.
- The employer will not take any adverse action against any employee listed on the notice, including firing, laying off, suspending, retaliating or discriminating against any such employee.
- The employer will not require that employees listed on the notice bring in a copy of their Social Security card for the employer to review, complete a new I-9 form, or provide new or additional proof of work authorization or immigration status.
- The employer will not contact the SSA or any other governmental agency after receiving notice of a "no-match" from the SSA.
- The employer will not interrogate any employee about his/her Social Security number (see "Inquiries into Immigration Status").

Section 10. Expiration of Documents.

The employer agrees to treat an employee's period of removal from employment due to the expiration of the employee's work authorization document as a leave of absence without pay for a period of up to ninety (90) calendar days, and reinstate the employee to the job without loss of

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seniority upon receipt of the renewal work authorization document if the employee provides appropriate documentation.

Section 11. Translation.

~~The employer agrees that a mutually agreeable translator will, at the employer's cost, translate the parties' collective bargaining agreement into the principal languages its employees read. The English version of the bargaining agreement shall govern should there be any discrepancies with the translated versions. The employer also agrees, at the employer's cost, to translate all employment related documents, including handbooks, disciplinary notices, policies, procedures and other notices into languages its employees read, using a mutually agreeable translator. The employer agrees to pay for a mutually agreeable translator to translate during all company meetings that employees not fluent in English attend.~~

Section 12. Nondiscrimination.

~~The employer shall not discipline, discharge or in any other form discriminate against any employee because of their national origin or immigration status, or because immigration hearings and/or deportation hearings are initiated or are pending. An employee subject to immigration or deportation proceedings shall retain employment so long as the employee is authorized to work in the United States. No employee covered by this agreement shall suffer any loss of seniority, compensation or benefits due to any changes in the employee's name or Social Security number, provided that the new Social Security number is valid and the employee is authorized to work in the United States.~~

Section 13. Remedies.

~~If the employer violates any provision of this article and such violation directly or indirectly leads to the termination or resignation of any employee, the employer shall, in addition to any other remedies awarded by the arbitrator, reinstate and make the employee whole. If a reinstatement and/or make whole remedy is not permitted due to the employee's immigration status, the employer shall make an equivalent payment to _____.~~

Section 14. Citizenship.

Upon request, employees shall be released for up to five unpaid working days during the term of this agreement in order to attend U.S. Citizenship and Immigration Services proceedings and any related matters for the employee only. The employer may request verification of the reason for such absence.

On the day an employee becomes a U.S. citizen, the employer will compensate the employee with a one-time paid personal holiday in recognition of his or her citizenship.

Section 15. Leaves of Absence for Immigration-Related Issues.

In the event that an employee has a problem with his or her right to work in the United States, after completing his or her introductory or probationary period, the employer shall notify the union in writing, and upon the union's request, agrees to meet with the union to discuss the

nature of the problem to see whether a resolution can be reached. Whenever possible, this meeting shall take place before any action by the employer is taken.

The union and the employer have an interest in avoiding the necessity of terminating trained employees due to the employee losing their authorization to work in the United States. In order to assist employees in a timely manner to take advantage of the prepaid legal services plan and/or other assistance provided by the union regarding immigration matters, the employer agrees to share with the union, upon request, authorizations that are going to expire in the 60-day period following the request.

In the event that an employee does not provide adequate proof that he/she is authorized to work in the United States after his/her probationary or introductory period, and his/her employment is terminated for this reason, the employer agrees to immediately reinstate the employee to his/her former position, without loss of prior seniority (but length of service for vacation or other benefits does not continue to accrue during the period of absence) upon the employee providing proper work authorization within 12 months from the date of termination.

If the employee needs additional time, the employer will rehire the employee into the next available opening in the employee's former classification, as a new hire without seniority, upon the employee providing proper work authorization within a maximum of 12 additional months.

The employer will furnish to any employee terminated because he/she has not provided adequate proof he/she is authorized to work in the United States a personalized letter stating the employee's rights and obligations under this section.

Section 16. Limited English Proficient Workers.

~~While English is the language of the workplace, the employer recognizes the right of employees to use the language of their choice among themselves.~~

~~The employer shall work with the union to provide English as a Second Language (ESL) and literacy classes to employees at the worksite, either directly or in partnership with not-for-profit ESL providers.~~

~~The employer agrees that any employee who is disciplined or discharged must be provided with notice in the language in which he/she is most fluent, and any meetings that may lead to or concern discipline or discharge must be conducted in the language in which the employee is most fluent.~~

Section 17. Legal Services.

~~The parties agree to jointly establish and participate in a fund, known as the _____ Fund, with or without other participating employers, for the purpose of providing legal assistance and support to union members in connection with immigration and naturalization proceedings. The Fund shall at all times meet the criteria of §302(c)(8) of the Labor Management Relations Act of 1947, and contributions thereto shall be tax deductible by the employer. The employer shall contribute~~

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~~\$.25 per hour for each hour worked effective (date). As used in this section, "hours worked" shall mean all hours for which an employee may be compensated, including paid time off hours.~~

~~Contributions to the Fund shall be delinquent after the fifteenth (15th) day of each month for hours worked the previous month. Reporting procedures and interest on delinquent contributions shall be established by the trustees of the Fund. By execution of this agreement, the employer hereto agrees to accept and be fully bound by the terms of the fund's Trust Agreement and Plan, and any subsequent amendments thereto. Any disputes or differences of opinion concerning the initial terms of the Trust Agreement and Plan shall be subject to arbitration under this agreement.~~

Section 18. Federal Contracts.

~~If the employer submits a bid for a federal contract that requires the employer to use E-Verify, the employer will promptly provide the union a copy of that bid. If the employer enters into a federal contract that requires the employer to use E-Verify, the employer will provide the union with a copy of that contract within five (5) days of the award date of the contract. If the employer bids on or enters into a federal contract that requires the employer to use E-Verify, the employer will meet with a representative of the union to discuss the E-Verify requirement and comply with any reasonable request by the union that the employer object to inclusion of the E-Verify clause in the federal contract.~~

~~If the employer enters into a federal contract that requires the employer to use E-Verify, the employer will use E-Verify only for (a) new hires; and (b) existing employees who work on the federal contract; and will not use E-Verify for existing employees (a) who do not work on the federal contract; or (b) who normally perform support work, such as indirect or overhead functions, and who do not perform any substantial duties under the federal contract. Before using E-Verify, the employer will meet with the union and reach an agreement on which employees are working on the federal contract and must be verified.~~

~~The employer will not verify any existing employees in E-Verify until 120 days after the award date of a federal contract that requires the employer to use E-Verify.~~

~~Before verifying any existing employees in E-Verify, the employer will give employees 90 days' advance notice. Any employee who decides to resign in lieu of being checked in E-Verify will be given a severance payment of two thousand dollars (\$2,000).~~

Section 19. Management Training.

~~The employer shall train all managers and supervisors on the immigration components of this contract within one (1) month of agreement to its terms, and thereafter within six months of hiring any new manager or supervisor.~~

U17. New article entitled: Child Safety & Wellbeing

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General Principles: The union and the employer have a mutual interest in ~~preventing child labor and advocating for child safety and wellbeing in our community. Accordingly, to the extent not addressed by this agreement, the union and the employer will negotiate over issues related to compliance with the child labor laws and any other current or future legislation, government rules or policies related to the employment of minors.~~

Section 1. Child Wellbeing Fund.

The parties agree to jointly establish and participate in a fund, with or without other participating employers, known as the ____ Fund, for the purpose of providing support to children **and families** in the community, ~~whereby they are not compelled to work in such dangerous workplaces.~~ The Fund shall at all times meet the criteria of §302(c)(8) of the Labor-Management Relations Act of 1947, and contributions thereto shall be tax deductible by the employer. The employer shall contribute ~~\$0.25~~ **\$0.10** per hour for each **regular** hour worked effective **January 1, 2025** ~~(date)~~, **up to \$50,000 per year**. As used in this section, "hours worked" shall mean all hours for which an employee may be compensated, including paid time off hours.

Contributions to the Fund shall be delinquent after the fifteenth (15th) day of each month for hours worked the previous month. Reporting procedures and interest on delinquent contributions shall be established by the trustees of the Fund. By execution of this agreement, the employer hereto agrees to accept and be fully bound by the terms of the fund's Trust Agreement and Plan, and any subsequent amendments thereto. Any disputes or differences of opinion concerning the initial terms of the Trust Agreement and Plan shall be subject to arbitration under this agreement.