

## 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. Disputes are resolved through the grievance procedure.

Educating thousands of workers on the bid system has been a challenge, but progress continues. For example, a record 268 bids were submitted in 2011. 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 guestworker program.

## Spreading Collective Bargaining Rights Throughout the South

As we continue to improve upon past gains, it is important to note that while the historic CBA won through the corporate campaign strategy covers over 6,000 farmworkers, there are at least 100,000 migrant and seasonal agricultural workers in North Carolina each season.

The overwhelming majority of NC farmworkers continue to face the exploitation and insecurity that comes with a lack of employment and labor rights, compounded by a lack of legal status.

Just as the community came together to demand justice from the Mt. Olive Pickle Company, we continue to insist that the most powerful players in the agricultural system, the corporate entities that own the procurement system, do their part to fix their supply chains.

For over four years, we have sought to bring tobacco giant Reynolds American to the table to meet with farmworkers and their representatives to put an end to the egregious labor and human rights violations that continue to permeate the tobacco fields of NC. Just as in previous campaigns, this farmworker organization relies on the good will and support of the broader community as we take on these corporate giants.

We invite everyone to learn more about the past successes and current campaigns of farmworkers in the South and Mid-West.

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## 2011 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 6,000 farmworkers employed with H2A guestworker 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. Over the past five years, both the contract language and procedures have developed to increase the efficiency with which disputes can be handled as they arise. In 2011, these procedures allowed for over 750 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 pamphlet was designed to educate the public on the successes that came out of the CBA in 2011 and how this process can work in the agricultural labor context.



*Hasta La Victoria!*

# Summary of Complaints Processed in 2011

\*Number of workers affected: type of problem

- 5: Recruitment Process
- 59: Employee Rights
- 268: Employment Bids
- 13: Reinstatements
- 13: Employment Eligibility
- 17: Employment Procedures
- 11: Emergency Monetary Assistance (FLOC Apoyos)
- 8: Health and Safety Issues
- 3: Housing Complaints
- 8: Emergency Leave
- 58: Membership Authorization Disputes
- 7: Non-NCGA Law Suit Assistance
- 8: Non-Employment Related Services
- 50: Travel Reimbursement Issues
- 17: Informational Requests
- 100: Supervisor/Management Disputes
- 25: Transfer Requests
- 7: Union Member Discrimination
- 78: Wage Disputes
- 19: Workers' Compensation Assistance
- Total Cases: 761**

## Examples of Complaints Resolved

**Employment Bids/Reinstatements:** A long-time H2A worker and union member submitted a bid and was classified as "ineligible" without explanation. He had acted as a supervisor for his grower and had a clean work record. He felt that he was being punished after an incident the previous year in which he called the union when he felt he was being pressured by his grower to resign from the union. The union worked with NCGA to investigate his "ineligible" status and he was allowed to return this season.

**Employee Rights:** Two workers felt they were being pressured to return to Mexico if they couldn't continue working at their usual pace after suffering leg cramps and nosebleeds. FLOC assured them that workers cannot be fired for an illness, and helped facilitate communication with the grower and NCGA to be sure these workers were not punished. Both workers fully recovered and finished the season.

**Emergency Monetary Assistance (FLOC Apoyos):** In July, a union member got the sad news that his mother had passed away. Missing work for over a week, in addition to the cost of a trip back and forth to his hometown in Tlaxcala, Mexico was not a possibility. With the help of the union "apoyo," he was able to attend his mother's funeral in Mexico and return to NC without losing his job.

**Health and Safety:** After an accident on the job, a worker called FLOC for information about visiting a doctor. FLOC advised him to report the accident immediately to his grower and followed up several times to make sure he received the necessary medical attention.

**Travel Reimbursements:** After an injury, a worker decided to continue working until the end of the contract. On the last day of work, he could not work and was told he lost the right to his reimbursement. A union rep spoke to NCGA and they were able to quickly resolve the issue. The worker received his reimbursement before he returned to Mexico.

**Supervisor/Management Disputes:** Union reps visited a farm and spoke with a group of workers who reported that the supervisor was verbally abusive and had refused to help a few people who had medical issues. Over 30 workers came together and requested that the union talk with the NCGA and the grower. FLOC explained the situation to the grower who said he would speak with the supervisor about the complaints. Workers reported that conditions greatly improved following that meeting.

**Union Member Discrimination:** Two workers who were normally requested by a particular grower contacted FLOC because they were not requested by their usual grower after an incident between a FLOC rep and the grower in 2010, in which the grower told a FLOC rep that they were not welcome at the camp. FLOC spoke to NCGA about the two workers and NCGA agreed to put them at the front of the line to be recruited and come to NC with another grower. Both workers returned to NC early in the season.

**Wage Disputes:** A union member called the union after finding a discrepancy between his self-recorded hours and his paycheck. After filing a grievance on behalf of 9 workers with the same problem, the grower reimbursed all workers for the missing hours and it came to light that the grower was subtracting breaks from their week when he was not supposed to. This practice stopped.

**Workers Compensation:** A union member met an injured worker who did not have representation in the workers' comp process, and encouraged him to speak with a union rep. After a meeting with a FLOC rep, where the process of workers comp was explained, this worker hired an attorney to help him through the process. Later, this worker was threatened with retaliation by his grower. A meeting was held with the grower, worker, NCGA rep, and a FLOC rep, where the grower was told that retaliation was not allowed and the worker was reassured he would not face any retaliation. The injured worker finished the season and will be returning to the same farm next year.