

PERB published a Notice of Proposed Rulemaking in the July 17, 2024 edition of the State Register. PERB proposes to modify § 263.34 of the Rules of Procedure governing matters brought pursuant to the State Employment Relations Act and the Farm Laborers' Fair Labor Practices Act. The text of the proposed rule reads as follows (underlined material is new):

§ 263.34 Charge.

(a) A charge that any employer has engaged in or is engaging in any unfair labor practice may be made by any person or labor organization. In deciding any unfair labor practice charge brought pursuant to section 704-b.2(c) of the SERA, the expression of any views, argument, or opinion, regardless of form or method of dissemination, shall not constitute or be evidence of an unfair labor practice if such expression contains no threats of reprisal, force, or promise of benefit. In recognition of First Amendment jurisprudence regarding permissible speech of parties in the labor relations context, precedent decided pursuant to section 704 of the SERA shall be fully applicable, including decisions of the board adopting precedent decided under the National Labor Relations Act by the National Labor Relations Board and by U.S. courts.

(b) Any agricultural employer may make a charge that employee(s) or a labor organization has engaged in or is engaging in an unfair labor practice as defined by section 704-b (1) of SERA. No other unfair labor practice charge may be brought against a labor organization or employees.

Comments on the proposed rule may be submitted for 60 days after July 17, 2024. Comments may be sent to Deputy Chair Sarah Coleman at: sarah.coleman@perb.ny.gov. Comments may also be mailed to:

Public Employment Relations Board
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