

Info for Employees Subject to Non-Compete or Stay-or-Pay Provisions



Filing an Unfair Labor Practice Charge with the National Labor Relations Board

The General Counsel of the National Labor Relations Board (NLRB) has taken the position that non-compete and other stay-or-pay provisions, such as a requirement that you pay your employer back for on-the-job training upon your departure, may be unlawful under the National Labor Relations Act (NLRA).

Other provisions within employment agreements may also be unlawful under the NLRA, including confidentiality, non-disclosure, or non-disparagement clauses that interfere with your ability to share information about your working conditions with your co-workers, members of the public, or a government agency.

The NLRB investigates allegations of violations of the NLRA. You or your representative can file a charge with the NLRB by visiting a [field office](#), by mailing a completed charge form to a field office, by calling the NLRB's main number (844-762-6572) or a field office to obtain assistance, or by electronically filing through the NLRB's public website: [My Account \(nlrb.gov\)](#). **Charges alleging unlawful conduct under the NLRA must generally be filed within six months of the alleged unlawful conduct.** This means that charges must be filed within six months of a discrete action like a write-up or termination, but if an enforcement action, contract provision, or rule continues to be in place, the NLRB generally will be able to pursue the claim even if you were aware of it for more than six months before you filed your charge.

If the NLRB finds that an aspect of your employment agreement violates the NLRA, the NLRB will seek to have the unlawful provision voided. In addition, any actions your employer has taken to enforce that agreement (like a lawsuit, or a disciplinary action) are also unlawful. Thus, the NLRB will seek to have any lawsuit terminated and any discipline removed, and if you have suffered monetary losses as a result of the unlawful provisions (pursuant to a lawsuit or collection), will seek monetary remedies on your behalf.



[nlrb.gov](https://www.nlrb.gov)



1-844-762-6572



publicinfo@nlrb.gov

The NLRB's Jurisdiction



- **The NLRB has statutory jurisdiction over private sector employers whose activity in interstate commerce exceeds a minimal level, as well as the United States Postal Service. As a practical matter, the Board's jurisdiction is very broad and covers the great majority of non-government employers with a workplace in the United States, including non-profits, employee-owned businesses, labor organizations, and non-union businesses.**
- **However, those legally determined under the NLRA to be supervisors, independent contractors, domestic and agricultural workers, public sector workers other than postal workers, and railway and airline industry workers are typically excluded from NLRA coverage. If you have a question about whether you are covered, you can contact the NLRB's regional office.**
- **The NLRB thus may have jurisdiction to take action against your noncompete or stay-or-pay-provisions even if you are outside the scope of other agencies' jurisdiction. For example, even if you are not covered by the FTC's recent rule banning non-compete agreements, you may be protected by the NLRA.**
- **You may pursue a charge with the NLRB at the same time you are pursuing a complaint with the FTC or any other government agency or judicial forum. The NLRB will independently investigate your charge, even if the alleged unlawful conduct overlaps with an issue being considered in another forum.**

Additional NLRB Resources

More info can be found on [nlrb.gov](https://www.nlrb.gov)

- [NLRB Field Office Directory](#)
- [NLRB Flyer • English | Spanish](#)
- [Employee Rights Notice Posting • English | Spanish](#)
- [Investigation Information for Immigrant Worker Witnesses • English | Spanish](#)
- [Memo on Non-Compete Agreements](#)
- [Know Your Workplace Rights: Employment Agreement Provisions](#)
- [Settlement on a Stay-or-Pay Agreement](#)
- [Administrative Law Judge Decision on a Non-Compete Agreement](#)

