



FRIENDS OF FARMWORKERS



WORKERS' RIGHTS HANDBOOK

What are my rights as an immigrant worker?

I am undocumented, do I have any rights?

WAGES

According to Federal and Pennsylvania laws:

- The minimum wage is **\$7.25 per hour**, whether you are documented or undocumented.
- **What is the minimum wage if you are paid by the piece or by contract?** Even if you are paid by piece rate or by contract, your employer must still guarantee you a total wage of \$7.25 per hour.
- Deductions that take you below the minimum wage may not be allowed.
- If you make less than the \$7.25 minimum wage, you can sue your employer for back wages.
- **What is overtime?** The regular work week is 40 hours. If you work more than 40 hours, for every hour after 40 you should make 50% more of your wages. This is called “overtime.” For example, if your wage is \$8/hour, if you work more than 40 hours, you should make \$12/hour for those overtime hours. (*Important exceptions: (i) Most agricultural workers do not have the right to overtime for hours worked per week over 40, (ii) managerial workers are usually not eligible to be paid overtime, and (iii) some other workers do not have to be paid overtime*).
- Your employer can pay you in cash. Every time you get paid you must get a pay stub/statement that shows how many hours you worked, how much was deducted in taxes, and how much you earned in wages. It is illegal for your employer to not give you a pay stub, even if you have not requested it. If your employer breaks the law and does not pay his/her taxes or does not give you a pay stub, you should keep a detailed record of how many hours you worked and how much you were paid.
- Your employer must pay you your promised wage on time. Paying you late is illegal. If your employer is late in paying you, or is paying you less than what was promised, you can take legal action.

There are exceptions to some of these rules. Check with a lawyer if you have a wage problem, or contact the Pennsylvania Department of Labor and Industry at 1-800-932-0665 or the U.S. Department of Labor at 1-866-487-9243.

WHO IS YOUR EMPLOYER?

- If you work through a temporary employment agency or a labor contractor, you should keep track of each of the locations you are assigned to work.
- The companies you work at may be joint employers responsible for payment of your wages.
- If you do not know the full name of a labor contractor you work through, at least keep track of the license plate number of any vehicle he/she uses, the address of the place where you worked, your boss's address, and what ever other information you may be able to find.

TAXES

- If you work and earn enough wages to pay taxes, you must file a tax return. It is very important to pay your taxes. If there is a possibility of adjusting your immigration status, it will be favorable to show that you have filed taxes while working in the U.S.
- If you cannot get a valid Social Security Number (SSN) to use on your tax returns, you can use an Individual Taxpayer Identification Number (ITIN). You can each get an ITIN number by filling out a Form W-7. Be aware that getting an ITIN in order to file taxes is not the same as having a valid SSN. An ITIN does not give you authorization to work in the United States. Never give your ITIN to an employer.
- The Earned Income Tax Credit (EIC) is a government program that lets some low-income workers get money back from the federal agency that collects taxes. If you were undocumented for the whole year for which you paid taxes, you do not qualify for the EIC and should not apply. To find out if you qualify, talk to a tax lawyer.
- You do not have to pay anyone to prepare your taxes! Look for free tax preparation services in your area starting in late January and early February.





WORKER'S COMPENSATION

- If you are injured at work, or become ill due to your job, you can apply to recover medical expenses that resulted from your accident
- Some workers are also entitled to recover lost wages
- You should inform your employer and/or supervisor **immediately** if you have an accident at work.

UNEMPLOYMENT COMPENSATION BENEFITS

The government provides Unemployment Compensation (UC) to give financial assistance to workers who are unemployed through no fault of their own. The government keeps track of your work history through your Social Security Number. **You can receive UC if you are a US citizen, a permanent legal resident or are authorized to work (except if you are authorized to work under a guest worker visa). If you are undocumented (you do not have papers), you are not eligible to receive this benefit.**

- If you are fired or quit your job, your eligibility for unemployment compensation depends on exactly why you were fired or quit. Seek help right away from one of the agencies listed on the back page of this pamphlet.
- The amount of Unemployment Compensation benefit payments is different for everyone depending on earning history. The government calculates the amount of Unemployment Compensation benefits by looking at your previous 15 months of employment, wages and taxes.

- To apply for unemployment compensation in Pennsylvania, call 1-888-313-7284 or 215-856-6990. You can apply by Internet: *www.dli.state.pa.us*.
- Unemployment Compensation Service Centers are supposed to provide interpreters. If you call to make your claim, have someone who speaks English call and explain that you need language assistance. You can also request that your future claims be filed by mail instead of calling in your claims by phone.
- You should apply for unemployment compensation immediately after you stop working. There is no time limit for applying, but the longer you wait to apply, the longer you will have to wait to get paid. You will not be paid for the time that you waited to apply for benefits. The timeliness of your application can also affect the amount of your payment.
- If you get a notice in the mail about your unemployment compensation, read it carefully. There are deadlines. If you do not understand the notice, get it translated immediately.
- If your wages have been paid in cash, you should still be able to receive unemployment compensation as long as you have a social security number and tax records, or other proof of your wage and employment history.

CONCERTED PROTECTED ACTIVITY

- Most workers have the right to organize.
- This means that two or more workers can act together to try to improve their working conditions, which is called concerted activity. You do not have to be in a union to have this right. If you have a complaint to make to your employer, protect yourself by going with at least one other worker to complain together.
- Firing or mistreating workers who engage in concerted activity is **ILLEGAL**.

Some agricultural workers do not have the right to engage in concerted activity. (But mushroom workers have the right to participate in concerted activity).

WORKPLACE DISCRIMINATION

Everyone has the right to work in a workplace free from discrimination.

- It is illegal to discriminate against someone because of their race, sex, disability, national origin, age, color, or religion.
- If you are fired, not hired, demoted, mistreated, harassed, or given different work than others because of any of the above factors, get in contact with a lawyer immediately.

UNDOCUMENTED WORKERS HAVE RIGHTS!

- You have rights protected by law even if you are an undocumented worker.
- You have a right to minimum wage and overtime even if you are undocumented. Everyone has the right to be paid for work that they have done!

The United States Department of Labor (US DOL) handles complaints of workers' rights violations. It has an agreement with the Department of Homeland Security, Immigration and Customs Enforcement (ICE) to not get involved or share any immigration status information, if there is an ongoing labor dispute or complaints have been filed against your particular employer.

Talk to a lawyer to know your rights. The immigration laws are hard to understand, do not consult with anyone that is not an attorney licensed to practice in the United States regarding immigration issues.

- If you are approached by ICE or the police, you may have to give them your name. Recently the United States Supreme Court confirmed a state law that required a person to give their name to the police, if the police have a reasonable suspicion that you have committed or were about to commit a crime. In a situation where you are ordered, you are not required to show identification—you are only required to give your name. It is a crime to show a false ID to a police officer!

- Do not answer any other questions, even questions you think are harmless like “where were you born?” Do not sign any papers without consulting a lawyer. You have the right to remain silent and to speak with a lawyer. You do not have the right to a government appointed lawyer for immigration matters, only for criminal matters. So always carry with you the name and telephone number of a lawyer who will take your calls.
- Even if you are a lawful permanent resident, the government can decide to take away your residency if you are convicted or plead guilty to certain crimes, so it is important to become a U.S. citizen as quickly as you can.

SOCIAL SECURITY “NO-MATCH LETTERS”

In the last few years the Social Security Administration (SSA) started sending letters to employers when wage reports (called W-2s) contain names and Social Security numbers that do not match SSA records. These letters have caused some confusion for workers and for employers.

- Sometimes names and Social Security numbers do not match because someone made a mistake writing down a name or a number. Sometimes they don't match because a worker has given a false Social Security number or one that does not belong to the worker. Receiving a no-match letter, by itself, does not give employers notice that a worker is not authorized to work.
- If your employer gets a SSA no-match letter, your employer should check its own records for errors, and then notify you of the no-match to give you an opportunity to check for errors. Your employer is not required to do anything else. If you can correct the information, you should do so. You should consult with a lawyer if you have this problem.
- Employers should not lay-off, fire, or threaten employees just because their names appear on the no-match letter. If, after receiving a no-match letter, an employer singles out employees of certain ethnic groups, or singles out employees who have filed claims or organized on the job, the employer could be violating the law. If, after receiving a no-match letter, an employer asks employees to re-verify their work authorization, the employer could be violating the law. Contact a lawyer if this happens to you.

RECORD YOUR HOURS WORKED AND BASIC INFORMATION ABOUT YOUR EMPLOYER

- Save all of your pay stubs and make copies of all of the checks that you receive before cashing them.
- The following pages are an example of a notebook that you can keep to keep track of your hours and days worked.

Also, write down :

- The complete name, address, and telephone number of your employer.
- The complete address of your employers home or office.
- The address of your worksite.
- The names and numbers of your co-workers.
- The complete name of your supervisor.
- Your employer's license plate number.



EMPLOYER INFORMATION

Name: _____

Supervisor's Name: _____

Supervisor's Telephone Number: _____

Employer's House or Office Address: _____

Supervisor's License Plate #: _____

Worksite Address: _____

Agreed Upon Salary: _____

Co-workers/witnesses: _____

WORK LOG

Date	Start Time	End Time	Total Time for Lunch
<i>7/4/2009</i>	<i>8:30 am</i>	<i>6:00 pm</i>	<i>20 minutes</i>
Pay this week:			

If you need more space, keep your own notebook.

WHERE YOU CAN FIND HELP

If you have a legal problem or question, and you are low income, the following organizations may be able to help:

Community Legal Services (CLS)

1424 Chestnut St.
Philadelphia, PA 19102
(215) 981-3700

Walk in: Monday – Friday, 9:00 a.m. – 12:00 p.m.

CLS handles employment, housing, welfare, health care and other problems in Philadelphia. Interpretation services into many languages are available, but please call in advance if possible.

Philadelphia Legal Assistance (PLA)

42 South 15th St., 5th Fl.
Philadelphia, PA 19102
(215) 981-3800

Walk in: Monday & Wednesday, 9:00 a.m. – 11:30 a.m.

Phone in: Tuesday & Thursday, 9:30 a.m. – 12:00 p.m.

Provides legal services to migrant and seasonal farmworkers throughout the state of Pennsylvania. Interpretation services are available, but please call in advance if possible. PLA cannot help undocumented immigrants (people without papers).

Friends of Farmworkers, Inc. (FOF)

42 South 15th St., 6th Fl.
Philadelphia, PA 19102
(215)733-0878 or (800)729-1607

Toll free number from Mexico: 001-800-514-1349

Phone in: Monday – Friday, 9:00 a.m. – 5:00 p.m.

FOF represents agricultural, mushroom, food processing, and landscaping workers in employment related issues, regardless of immigration status. Interpretation services are also available for other languages, but please call in advance if possible.

If you cannot afford an immigration lawyer, contact any of the organizations below:

Hias and Council Migration Services

2100 Arch St., 3rd Fl.
Philadelphia, PA 19103
Phone: (215) 832-0900 Fax: (215) 832-0919
<http://www.biaspa.org/>

Esperanza Immigration Legal Services

4261 North 5th Street
Philadelphia, PA 19140
Phone: (215) 324-0746 Fax: (215) 324-2542
<http://www.esperanza.us/site/>

Prime - Ecumenical Commitment to Refugees

129 Owen Ave., P.O. Box 5 *and* 701 N. Lime St.
Lansdowne, PA 19050-0005 Lancaster, PA 17602
Phone: (610) 259-4500 Phone: (717) 396-9300
Fax: (610) 259-4515 Fax: (717) 396-9374

Nationalities Service Center

1216 Arch St., 4th Fl.
Philadelphia, PA 19107
Phone: (215) 893-8400 Fax: (215) 735-9718
<http://www.nationalitiesservice.org/>

Catholic Social Services

Holy Family Center
227 North 17th St.
Philadelphia, PA 19103
Phone: (215) 854-7019 Espanol: (215) 854-7018
<http://www.familyservices-phl.org/immigration.html>

PIRC - Pennsylvania Immigration Resource Center

50 Mt. Zion Road
York, PA 17402
Phone: (717) 600-8099 Fax: (717) 600-8044
<http://www.pircpa.org>