



Immigrant Workers' Employment Rights

Workers' Rights Handbook

Where you can find help and
answers in the Philadelphia area

http://friendsfw.org/FOF_worker.htm



Workers' Rights Handbook

- **What are my rights as an immigrant worker?**
- **If I am undocumented, do I have any rights?**

**Where you can find help and answers
in the Philadelphia area.**

Based on an original publication created by
the Chinatown Community Youth Leadership Project,
a program of Asian Americans United.

This edition created by Community Legal Services,
Friends of Farmworkers and
Villanova Law School Clinical Program



Where You Can Find Help Philadelphia Area – CLS

- **Community Legal Services (CLS)**
 - Web: <http://www.clsphila.org>
 - 1424 Chestnut St. Philadelphia • 215-981-3700
 - walk in: Mon.-Fri. 9AM-12 PM
 - CLS handles employment, housing, welfare, health care and other problems.
 - Interpretation services into many languages are available, but please call in advance if possible.



Where You Can Find Help Philadelphia Area – PLA

■ Philadelphia Legal Assistance (PLA)

- Web: <http://www.philalegal.org>
- 1424 Chestnut St. Philadelphia • 215-981-3800
- walk in: Mon. & Wed. 9AM-11:30 AM
- phone in: Tues. & Thurs. 9:30AM-12 PM

■ PLA handles unemployment compensation, medical assistance, custody, bankruptcy and other problems.

- PLA assists *documented* farm workers with employment problems

■ PLA **cannot** help undocumented immigrants.

■ Interpretation services are available, but please call in advance if possible.



Where You Can Find Help Friends of Farmworkers

- Friends of Farmworkers (FOF) Web: <http://www.friendsfw.org>
- 924 Cherry St., 4th floor Philadelphia, PA 19107-2411
 - Phone: 215-733-0878 or 800-729-1607 Mon.-Fri. 10:30AM-5 PM
 - FOF handles employment issues *mostly* for people who work in agricultural, food processing and landscaping jobs.
 - If you have an employment problem and are a migrant worker or from an immigrant or refugee community and cannot get help elsewhere contact FOF and we will attempt to find someone to assist you.
 - FOF handles minimum wage and wage payment problems, unsafe or unhealthy work conditions, and discrimination based on immigration status, race or sex.
 - Spanish interpretation services are available. Interpretation services are also available for other languages, but please call in advance if possible.



Immigrant Workers' Employment Rights

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- If I am undocumented, do I have any rights?

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Immigrant Workers' Employment Rights

Know Your Rights

For more information:

http://www.friendsfw.org/FOF_worker.htm



Know Your Rights

- Through history, U.S. workers have organized and struggled to gain protection from exploitation and discrimination.
- In the U.S. both **undocumented and documented** workers have basic rights that are protected by law.



Know Your Rights - 1

- The right to **workers' compensation**.
When you are injured or become ill at work you can apply to receive part of your wages and coverage for your injury or illness-related medical expenses.



Know Your Rights - 2

- The right to be paid a **minimum wage** of at least \$5.15 an hour (except in the case of minors).
- The right to be paid **overtime** for any week in which you work more than 40 hours. Overtime is 1 1/2 times your regular wage.
- The right to timely payment of wages.



Know Your Rights - 3

- The right of two or more workers to act together to try to improve their workplace is called **concerted activity**.
 - You do not have to be in a union to have this right.
 - Firing or mistreating workers who engage in concerted activity is **ILLEGAL**.
 - If you have a complaint to make to your employer, protect yourself by going with at least one other worker to complain together.



Know Your Rights - 4

- The right to a work place free of **discrimination**.
 - It is illegal to discriminate based on race, national origin, sex, age, language, religion, or disability.
 - In Philadelphia, you cannot be discriminated against because of your sexual orientation.
 - If you are fired, demoted, harassed, or given worse work assignments than others because of your race, sex, disability, etc., you can take legal action against your employer.



Know Your Rights - Undocumented Workers

- If you are undocumented:
 - Someone may try to tell you that you do not have these rights because of a new U.S. Supreme Court decision about undocumented workers.
 - There is a new case but it does not take away any of your rights on this list.



Know Your Rights - Exceptions

- There are some exceptions to the above rules (even to rights to minimum wage).
- There are also time limits for protecting your rights.
- If you think any of your rights have been violated, talk to a lawyer as soon as possible.



Undocumented Worker Rights - Payment of Wages

- You have rights protected by law *even if you are an **undocumented** worker.*
- You have rights as a worker *even if you are paid in **cash**.*
- If your employer breaks the law and does not pay his/her taxes and/or does not give you a pay statement, you should keep a detailed record of how many hours you worked and how much you were paid.



Undocumented Worker Rights - Payment of Wages

- You are entitled to make complaints if you have not been paid wages owed to you.
- The U.S. Department of Labor handles complaints of workers' rights violations.
- It has an agreement with the Immigration service (INS) to not give any information it has on your immigration status (even if you are undocumented) to the INS.



Undocumented Workers – Immigration Issues

- Talk to a lawyer to know your rights. The Immigration laws are hard to understand and many changes are being proposed because of the events of September 11.
- If you are approached by the INS, **do not answer any questions**, even questions you think are harmless (like "where were you born?") and **do not sign any papers**. You have a right to remain silent and a right to talk to a lawyer.
- You do **not** have the right to a government appointed lawyer so always carry with you the name and telephone number of a lawyer who will take your calls.



Immigration Issues – Citizenship

- Even if you are a lawful permanent resident, the government can decide to take away your green card for one of any number of reasons (like immigration violations or breaking the law).
- It is important to your legal rights to become a U.S. citizen as quickly as you can.



Payment of Taxes

- If you work and earn enough to pay taxes, you must file a tax return.
 - It is very important to pay your taxes -- if you ever want to apply for immigration papers, the INS will want to know that you have filed taxes while working in the U.S.
 - If you or your dependents cannot get a valid Social Security Number to use on your tax returns, you can use an Individual Taxpayer Identification Number (ITIN) instead of a Social Security Number.
 - You and your dependents 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. Never give your ITIN to an employer.

Taxes —

Earned Income Credit

- The Earned Income Tax Credit is a government program that lets some low-income workers get money back from the IRS.
- If you were undocumented for the whole year for which you paid taxes, you do not qualify for the EIC and should not apply.
- In order to be claimed for the EIC, children must have lived in the US with the person filing for the credit for more than six months.
- To find out if you qualify, talk to a tax expert.



Payment of Taxes – Free Tax Assistance

- 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.

http://home.uwsepa.org/about_us/EITC_list.html

- Be careful of disreputable tax preparers.



Wages — Minimum Wage

- The minimum wage for almost everyone working in the US, whether you are documented or undocumented, is at least \$5.15 an hour.
 - Deductions which take you below that amount may not be permissible.
- There are exceptions in the minimum wage law for people who earn tips or work by piece. However, regardless of how much you earn in tips or by the piece, your employer still must guarantee you at least \$5.15/hour in pay.



Wages in Pennsylvania — Overtime

- The normal work week is 40 hours in a seven day period established as the employer's "work week."
 - If you work more than 40 hours, every hour after that you should make 50% more of your wages.
 - For example, if your wage is \$6/hour, if you work more than 40 hours, you should make \$9/hour for those overtime hours.
- Most agricultural workers, managerial workers, and some other workers do **not** have to be paid overtime



Pay Statements in Pennsylvania

- Your employer can pay you in cash.
- Every time you get paid (even in cash) you must receive a pay statement (pay stub) that shows:
 - how many hours you worked
 - how much was deducted in taxes
 - how much you earned in wages.
- It is illegal in Pennsylvania for your employer not to give you a pay statement, even if you have not requested it.



Damages for Unpaid Wages

- If you make less than \$5.15 per hour, or are not paid overtime wages due, you can sue your employer for back wages.
 - You may be able to get double the amount the employer owes you.
- Your employer must pay you your promised wage on time, at least twice a month in Pennsylvania.
 - Paying you late is illegal.
 - If your employer is late in paying you, or is paying you less than was promised, you can take legal action for damages.



Wage Claims – Get Help

- Undocumented workers are entitled to payment of unpaid wages, but should have legal assistance to protect their rights. Contact Friends of Farmworkers (FOF) or Community Legal Services (CLS)
- There are exceptions to some of these rules about wages. Check with a lawyer if you have a wage problem, or
 - contact the Pennsylvania Department of Labor and Industry at (215) 560-1858, or
 - the U.S. Department of Labor at (215) 597-4950.



Who is your Employer?

- If you work through a temporary employment agency or labor contractor, keep track of each of the places 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.



Unemployment Compensation Benefits

- The government provides unemployment compensation to give financial assistance to most workers who are unemployed through no fault of their own.
- The government keeps track of your work history through your social security number.
- If you are not a US citizen and are not authorized to work, you cannot get unemployment compensation.



Unemployment Compensation Benefits

- To apply for unemployment compensation in Pennsylvania, call:
 - 888-313-7284 or 215-856-6990; or
 - Apply by internet: www.dli.state.pa.us
- 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.



Unemployment Compensation Benefits – Language Interpretation

- An interpreter is supposed to be provided if you need one.
 - If you call to make your claim, have someone who speaks English call and explain that you need language interpretation.
 - You can also request that your future claims be filed by mail instead of calling in your claims by phone.



Unemployment Compensation Benefits – Amount of Benefits

- The longest you can receive full benefits is 26 weeks.
- The amount of payments is different for everyone, because the government calculates the amount by looking at your previous 15 months of employment, wages and taxes.



Unemployment Compensation Benefits – Notices

- 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.



Unemployment Compensation Benefits – Wages Paid in Cash

- 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.
- If this happens you should try to get legal representation.



Unemployment Compensation Benefits – Time to Apply

- 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 and you will not be paid for the time that you waited to apply.
 - The timeliness of your application can also affect the amount of your payment.



Social Security “No-Match Letters”

- In the last few years the Social Security Administration (SSA) has 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.



Social Security “No-Match Letters”

- Sometimes names and Social Security numbers don't 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.
- Receiving a no-match letter, by itself, does not give employers notice that a worker is not authorized to work.



Social Security “No-Match Letters”

- 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 run into this problem.



Social Security “No-Match Letters”

- 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 or someone you know.



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Where You Can Find Help – Immigration Problems

If you need to obtain a private immigration lawyer contact:

- **American Immigration Lawyers Association, Lawyer Referral Service**
 - **Telephone:** 1-202-216-2438
 - **Internet:** www.aila.org



Where You Can Find Help – Immigration Problems

- If you cannot afford an immigration lawyer because you are unemployed or have limited income:

HIAS and Council Migration Service

Web: <http://www.hiaspa.org/>

2100 Arch Street, 3rd Floor

Philadelphia, PA 19103

- Phone: (215) 832-0900
- Fax: (215) 832-0919



Where You Can Find Help – Immigration Problems

- If you cannot afford an immigration lawyer because you are unemployed or have limited income:

Nationalities Service Center

1300 Spruce Street

Philadelphia, PA 19107

- Phone: (215) 893-8400
- Fax: (215) 735-9718



Where You Can Find Help – Immigration Problems

- If you cannot afford an immigration lawyer because you are unemployed or have limited income:

Catholic Social Services

Holy Family Center

227 North 18th Street

Philadelphia, PA 19103

- Phone: (215) 854-7019
- Fax: (215) 854-7020



Where You Can Find Help – Immigration Problems

- If you cannot afford an immigration lawyer because you are unemployed or have limited income:

Lutheran Children and Family Service

<http://www.lcfsinpa.org/main/legalservices.htm>

231 N. 63rd Street

Philadelphia, PA 19139

- Phone: (215) 747-7500
- Fax: (215) 747-7707



Where You Can Find Help – Immigration Problems

- If you cannot afford an immigration lawyer because you are unemployed or have limited income:

PRIME- Ecumenical Commitment to Refugees
360 North Oak Ave.

Clifton Heights, PA 19018

- Phone: (610) 259-4500
- Fax: (610) 259-4515



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Friends of Farmworkers – Contacts for Information



Friends of Farmworkers, Inc.

924 Cherry Street, 4th floor

Philadelphia, PA 19107-2411

Web: www.friendsfw.org

Email: fof@friendsfw.org

Phone: (215) 733-0878 (800) 729-1607

Fax: (215) 733-0876

Workers Rights: http://friendsfw.org/FOF_worker.htm