

GETTING BY IN THE U.S. AS AN IMMIGRANT:

5. IMMIGRANT WORKERS' RIGHTS AND RESPONSIBILITIES

All Workers Have the Following Rights:

- ✓ Right to be paid
- ✓ Right to worker's compensation if they are injured on the job (in most states)
- ✓ Right to job safety
- ✓ Right to be free from discrimination
- ✓ Right to organize and join a union
- ✓ Right to remain silent about their immigration status once they've been hired

PAYMENT OF WAGES

How Much Should I be Getting Paid?

Every worker has the right to be paid at least **\$7.25 an hour**. There are exceptions for people who earn tips or work by the piece. However, regardless of how much you earn in tips or by the piece, your employer still must guarantee you at least \$7.25 an hour in pay.

What If I Work More than 40 Hours Per Week?

If you work over 40 hours in a week, you are entitled to overtime pay, which is 1 ½ times your regular pay. For example, if your wage is \$8 an hour and you work more than 40 hours in a week, you should receive \$12 an hour for those overtime hours.

Does it Matter How My Employer Pays Me?

Yes. Your employer must pay you your promised wage on time, at least twice a month. In addition, every time you are paid you must get a pay statement showing how many hours you worked, how much was deducted in taxes, and how much you earned in wages.

WORKER'S COMPENSATION

What If I am Injured on the Job?

If you sustain a job injury or a work-related illness, the Pennsylvania Worker's Compensation Act provides for your medical expenses and, if you are unable to work, compensation benefits until you're able to go back to work. If you do not work in Pennsylvania, check the regulations in your state.

JOB SAFETY

What If I Feel Unsafe at My Job?

All workers have the right to a safe and healthy worksite. Any worker, including undocumented workers, may file a complaint about unsafe workplace conditions under the Occupational Safety and Health Act (OSHA). Call 1-800-321-OSHA.

DISCRIMINATION

What Does Discrimination Mean?

Discrimination is when you are treated differently based on your membership in a group, rather than on your individual merits.

When is Discrimination at Work Illegal?

It is illegal for your employer to discriminate based on race, national origin, sex, age, language, religion, or disability. 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. In addition, employers generally may not have "citizens only" hiring policies or give preference to a particular immigration status.

**Undocumented workers have rights, too!
Don't let anyone tell you otherwise**

ORGANIZING AND JOINING A UNION

What is Concerted Activity?

Concerted activity is when two or more workers act together to try to improve their workplace. Every worker has the right to engage in concerted activity at their workplace.

Do I Have to be in a Union to Assert My Right to Engage in Concerted Activity?

No. It is illegal for an employer to fire or mistreat employees who engage in concerted activity whether or not they are part of a union. For this reason, if you have a complaint to make to your employer, protect yourself by going with at least one other worker to complain together.

ASSERTING YOUR RIGHTS

What Can I Do if My Employer is Violating My Rights?

If your employer is violating any of the rights listed in this handout, you can take legal action against them. You can file a complaint with the appropriate state and federal agency. Contact a workers' rights organization such as Friends of Farmworkers at 215-733-0878 for assistance.

If I File a Complaint, Will I be Asked About My Immigration Status?

No. State and federal agencies should not ask about your immigration status.

Are Undocumented Workers Entitled to the Same Rights as Other Workers?

Undocumented workers are entitled to most of the same rights as workers with legal status. They are not entitled to "back pay," however, if they are unlawfully fired for participating in union activities.

Will My Employer Call Immigration if I Complain?

If you fear that your employer will retaliate based on your immigration status, take steps to protect yourself, including:

- Talk to your co-workers and ask if they are willing to stand together to protect everyone's rights.
- Consider finding a new job before you file a complaint against your former employer.
- Do not reveal your immigration status to your employer.



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EMPLOYER'S RESPONSIBILITIES

What is an I-9?

An I-9 is an Employment Verification Form, which verifies that you have permission to work in the U.S. All employers must complete an I-9 for their employees.

What Documents Can I Show to Verify that I Have Permission to Work in the U.S.?

Employers must accept any document that appears to be reasonably genuine. Once your employer completes the I-9 form, he/she should not ask for more documents to re-verify your authorization to work unless the document you provided has expired.

TAXES

Who Must File Tax Returns?

If you work and earn enough money to pay taxes, you must file a tax return. It is particularly important for immigrant workers to pay taxes, because if you are eligible to legalize in the future, immigration officials will likely want to know if you have filed taxes while working in the U.S.

Do I Need to Hire Someone to Prepare My Taxes?

No. Anyone can fill out their own taxes. The federal government offers free tax help to low-income people who cannot prepare their own tax returns. To find a site near you, call 1-800-829-1040.

How Can I File a Tax Return if I Don't Have a Social Security Number?

If you or your dependents cannot get a valid Social Security Number (SSN) to use on your tax returns, you can use an Individual Taxpayer Identification Number (ITIN) instead. Never use a fake SSN. You can only apply for an ITIN when filing your taxes. Go to www.irs.gov or call 1-800-829-3676 for an application. ITINs should only be used for filing taxes, and in some cases, for opening bank accounts. Do not use an ITIN for employment purposes.

Will I Be Reported to Immigration for Filing My Taxes With an ITIN?

You should not be. The IRS currently is not authorized to share information regarding a person's immigration status with other federal agencies.



* The contents of this presentation do not constitute legal advice. Please consult an attorney for legal advice.