Legal Aid of Nebraska

Agricultural Worker Rights Program

MIGRANT, SEASONAL, AND H-2A AGRICULTURAL WORKER HANDBOOK



TABLE OF CONTENTS

RECRUITMENT..... 3

TRANSPORTATION..... 4

HOUSING..... 5

PAY..... 6

RECORD KEEPING..... 8

FIELD CONDITIONS..... 9

INJURIES..... 10

TERMINATION..... 12

OTHER RIGHTS..... 13

We provide free civil legal services to farmworkers at legal aid of nebraska offices across the state. To apply for assistance, call our StateWide AccessLine.

STATEWIDE ACCESSLINE:
1-877-250-2016
Hours: Monday/Wednesday, 8:30 - 11:30 a.m.
Tuesday/Thursday, 1 - 4 p.m.
Interpreters are available

RECRUITMENT

H2A/MIGRANT WORKERS: BEFORE starting a job, the recruiter MUST give you a written contract.

SEASONAL WORKERS: You can ask for a copy of the contract, and they MUST give it to you.

WRITTEN CONTRACT

- Where you will work
- What kind of work you will do
- How much you will be paid
- If the pay is piece rate or hourly
- If kitchen facilities or meals are provided and cost of meals
- Beginning and end dates
- Hours of work each day
- If housing is provided and the cost to you
- If transporation is provided and cost to you
- If worker's compensation insurance is provided

IF THERE IS NO WRITTEN CONTRACT OR DISCLOSURE, THEN YOU STILL HAVE AN ORAL CONTRACT. WRITE DOWN WHAT YOU TALKED ABOUT.

KEEP EVERYTHING YOUR RECRUITER GIVES YOU!

TRANSPORTATION

ALL VEHICLES USED TO TRANSPORT YOU, MUST:

- Be driven by a licensed driver
- Be insured
- Meet state and federal standards

MIGRANT/SEASONAL WORKERS

Transportation

- Does NOT have to be provided
- Employer can charge for the transportation, if they provide it

H-2A WORKERS

Transportation must be given to you for FREE:

- From your housing to the worksite
- From worksite to worksite
- From your permanent home to Nebraska

THE VEHICLE MUST BE IN GOOD CONDITION:

- A SEPARATE seat for each passenger
- Seats securely attached to vehicle
- Doors that work
- Windows that are not broken
- Tires that are the right size and in good condition
- Working horn
- Seatbelts, if required by state law
- Brakes, lights, and blinkers that work
- Side and rearview mirrors

HOUSING

MIGRANT/SEASONAL WORKERS

- Housing is NOT required to be provided to you. If your employer gives you housing, they can charge for it

H-2A WORKERS

- Housing MUST be provided to you for FREE
- Housing must have kitchen facilities or the employer must provide 3 meals a day, but can charge for them.
- **Meals cannot cost more than**

THE HOUSING, IF PROVIDED, MUST HAVE:

- Bed for each person
- Hot and cold water
- Heat
- Windows that open
- Doors for ventilation
- Free of rodents and bedbugs
- Lights
- Clean drinking water
- Laundry
- Kitchen facility or meals provided
- Bathrooms and showers



TIP:
Take pictures of any housing problems. Documenting evidence can help you later!

PAY

MIGRANT/SEASONAL WORKERS

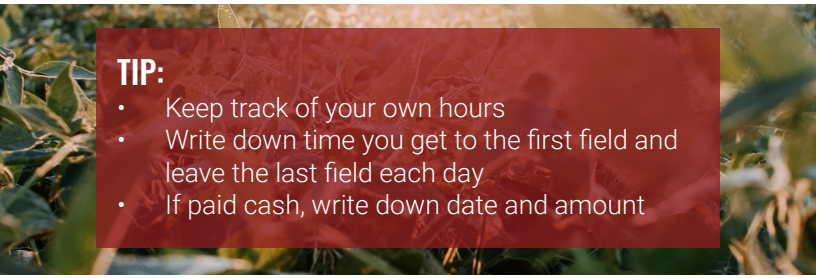
- Pay should be what was promised
- Paycheck should be paid every 2 weeks
- NO right to overtime pay

H-2A WORKERS

- Rate of pay is adverse effect wage rate
- Paycheck should be paid two times per month
- NOT entitled to overtime pay

YOU SHOULD BE PAID FOR EACH HOUR WORKED, EVEN IF YOU ARE:

- Waiting for equipment to be repaired
- Waiting for the field to dry
- Resting for less than 15 minutes
- Traveling between fields



TIP:

- Keep track of your own hours
- Write down time you get to the first field and leave the last field each day
- If paid cash, write down date and amount

EMPLOYERS CAN DEDUCT MONEY FROM YOUR PAYCHECK FOR THESE THINGS:

- Taxes and social security
- Food, if in contract
- Housing (for migrant/seasonal not h-2a) and cost is in contract

EMPLOYERS CANNOT DEDUCT MONEY FROM YOUR PAYCHECK FOR THESE THINGS:

- Tools and supplies
- Uniform
- Housing if you are H-2A

YOUR PAYCHECK SHOULD HAVE THIS INFORMATION:

EMPLOYER'S INFORMATION
Name
Address
EIN

YOUR NAME

DAYS AND HOURS YOU ACTUALLY WORKED

RATE OF PAY
Hourly or piece-rate

DEDUCTIONS
Type
Amount

TOTAL PAY

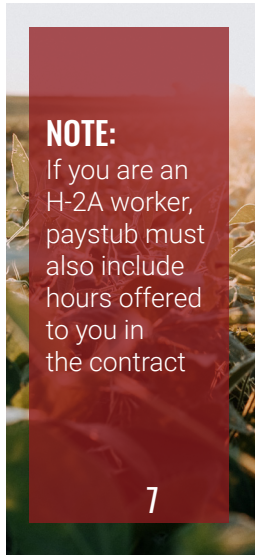
EMPLOYER'S INFORMATION
Name
Address
EIN

DATE

PAY TO THE ORDER OF _____ $ ☐

_____ DOLLARS

_____



NOTE:
If you are an H-2A worker, paystub must also include hours offered to you in the contract

RECORDKEEPING

KEEP YOUR OWN RECORDS OF THIS INFORMATION IN A SAFE PLACE FOR 3 YEARS!

WHAT INFORMATION TO KEEP:

- Hours worked or piece-rate units worked each day
- Amount paid in each paycheck
- Deductions from each paycheck
- Name, address, and EIN of FLC and farm owner
- Record of any injuries or issues, reported or unreported

WHERE TO KEEP YOUR RECORDS:

- Somewhere safe such as a locked filing cabinet at your permanent house
- Photos on your phone cloud storage



FIELD CONDITIONS

BATHROOM AND DRINKING WATER ACCESS

You have the right to take the time you need to use the bathroom or get a drink!

BATHROOMS

- Bathrooms should be within 1/4 MILE of WHEREVER YOU ARE, even if you are moving in a field
- Separate bathrooms for men and women
- A place to wash your hands
- Toilet paper, soap and hand towels given for FREE

WATER

- Water should be clean, fresh and cool
- There should be cups for everyone available

ANY TIME YOU ARE IN A FIELD, YOU SHOULD HAVE THIS!



INJURIES

Nebraska farmworkers or migrant workers in Nebraska may not have a right to worker's compensation for injuries that happen at work. You may have a right to sue employer if injured at work. H-2A workers DO HAVE A RIGHT to worker's compensation for injuries that happen at work.

YOU ALWAYS HAVE A RIGHT TO MEDICAL CARE!

INJURIES CAN BE:

- Heat stroke
- Cuts or scrapes
- Machine accident
- Pesticide exposure
- Sprains and strains
- Any injury at work

ALWAYS REPORT INJURIES TO:

- To your boss
- In writing
- In front of a witness



IN YOU ARE INJURED WHILE WORKING:

REPORT IT TO YOUR CREW CHIEF, FLC, OR EMPLOYER

- In front of a witness
- As soon as it happens

GO TO A DOCTOR

- If FLC/Employer provides one, you can go there
- You can go to your own doctor, ANY hospital or urgent care clinic
- Tell the doctor EVERYTHING; do not lie or hide anything from them
- If sprayed by pesticide, take clothes to doctor
- Give the doctor's note to employer

KEEP A JOURNAL OF INJURY

- Photos of injury or illness
- Keep track of day-to-day pain and suffering

CALL LEGAL AID OF NEBRASKA IMMEDIATELY:

1-877-250-2016

IMMEDIATELY REPORT PESTICIDE SPRAY TO NEBRASKA DEPARTEMENT OF AGRICULTURE:

402-417-2351

TERMINATION

YOU CAN BE FIRED FROM YOUR JOB AS A FARMWORKER THROUGHOUT THE SEASON OR YEAR

MIGRANT/SEASONAL WORKERS

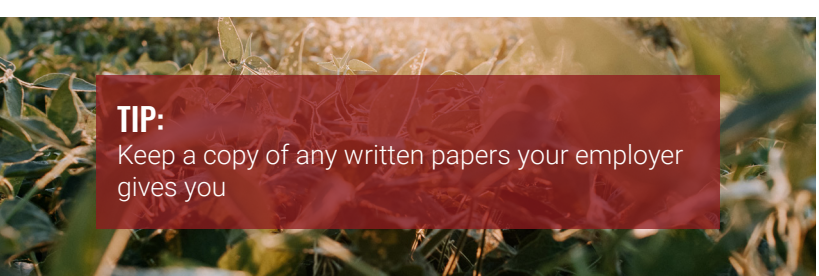
In Nebraska you can be fired for no reason at all or any reason that is not discrimination.

DISCRIMINATION is if the employer fires you only because of your race, religion, national origin, sex (including pregnancy), disability, or age (if over 40).

H-2A WORKERS

You can only be fired for JUST CAUSE OR WORK-RELATED ISSUES like you are late multiple times or will not perform necessary things for the job.

The employer MUST HAVE A WRITTEN RECORD.



OTHER RIGHTS

YOUR BOSS CANNOT DISCRIMINATE AGAINST YOU OR HARASS YOU FOR YOUR:

- Race
- National origin
- Physical disability (if you tell boss about it)
- Religion
- Sex or gender (including pregnancy)
- Age (if over 40)

Discrimination is unfair treatment because of who you are or how you look. **Harassment** is behavior that disturbs or upsets you and happens over and over. **Sexual Harassment** is any behavior that is physical or verbal of a sexual nature, sexual advances, or requests for sexual favors.

YOU CAN DEMAND YOUR RIGHTS FROM THE CREW CHIEF OR OWNER AT ANY TIME!

Your boss can NOT retaliate against you or do anything to you for demanding your rights like being paid for all of the hours that you work, using the bathroom or asking for cool, clean drinking water.

YOUR BOSS CANNOT THREATEN YOU OR KEEP YOUR DOCUMENTS TO FORCE YOU TO WORK.

YOU ALWAYS HAVE THE RIGHT TO CALL US!



RESOURCES

PROTEUS
LINCOLN
3830 Ver Maas Place, Suite A
855-458-3421
HASTINGS
2727 2nd Street, Suite 229
402-462-0356
NORTH PLATTE
306 East 6th Street, Suite 110
855-770-8387
SCOTTSBLUFF
1423 1st Avenue
308-641-8563

NE DEPT OF LABOR
STATE MONITOR ADVOCATE
402-471-472

NE DEPT OF AGRICULTURE
LINCOLN
402-471-2341

NEBRASKA APPLESEED
LINCOLN
402-438-8853

NEBRASKA MIGRANT EDUCATION PROGRAM
LINCOLN
402-471-2295

IMMIGRANT LEGAL CENTER
OMAHA
4223 Center Street
402-898-1349

LEGAL AID OF NEBRASKA

STATEWIDE ACCESSLINE:

1-877-250-2016
Hours: Monday/Wednesday, 8:30 - 11:30 a.m. and Tuesday/Thursday, 1 - 4 p.m.
Interpreters are available

OFFICE LOCATIONS:

OMAHA
209 S 19th Street, Suite 200
Omaha, NE 68102

LINCOLN
947 O Street, Suite 301
Lincoln, NE 68508

GRAND ISLAND
1811 W. 2nd Street, Suite 440
Grand Island, NE 68803

NORTH PLATTE
102 E. 3rd Street, Suite 102
North Platte, NE 69101

NORFOLK
214 N. 7th Street, Suite 10
Norfolk, NE 68701

SCOTTSBLUFF
1423 1st Ave.
Scottsbluff, NE 69363