

LEGAL RIGHTS OF H2B WORKERS

- ## HOUSING RIGHTS
- Housing must comply with OSHA/Migrant Housing standards
 - Housing must be inspected by the NC Department of Labor

KITCHEN

- Clean, no rats or mice
- One burner for every five people (at least two burners total)
- Hot and cold running water
- .75 cubic feet of refrigerator space per person

LAUNDRY

- One laundry tub for every 30 people (a kitchen sink does not count as a laundry tub)
- Facilities for drying clothes (clothesline or clothes dryer)
- One mop sink in each laundry building

HEAT

- Heaters if temperature falls below 50°F, or if housing to be used before May 1 or after September 1
- Heaters must heat the room to at least 65°F (70°F in shower area)

BATHROOMS

- One toilet for every 15 people of the same sex
- Must be marked "Men" and "Women" in English and in language spoken by workers
- One handwash basin for every six people
- Ventilated, clean, sanitary, and must have lighting
- Toilet paper
- Hot showers (one showerhead for every ten people)

BEDROOMS

- 50 square feet per person (100 square feet per person if workers live, cook, and sleep in the same room)
- Storage facilities for clothes and other items
- Beds elevated at least 12 inches above the floor
- Beds at least 36 inches apart

- Bunk beds at least 48 inches apart, with at least 27 inches between bunks
- No triple bunks

MISCELLANEOUS

- First aid kit, smoke detectors, fire extinguisher in sleeping and cooking areas
- Sealed garbage containers, emptied at least twice a week or when full
- Windows and doors must have screens
- At least one ceiling light fixture and one outlet per room
- Nothing that threatens life or threatens serious physical harm
- Workers may not be retaliated against for asserting their housing rights (see Retaliation section)

WHAT TO DO IF THERE IS A PROBLEM: Call NC Department of Labor, OSHA Division (1-800-LABORNC) or file written complaint (form NC OSHA 7A), or contact Immigrants Legal Assistance Project (919-856-2144). Workers may request that their names not be revealed to the employer.

WORKER'S COMPENSATION

- Employers are required to have worker's compensation coverage for work-related injuries and illnesses if there are at least three year-round employees
- Coverage includes:
 - medical care, including prescriptions
 - 2/3 of the average weekly wage for any days missed after 7 calendar days
 - transportation to the doctor
 - payment for any permanent injury
- Injured workers should inform the employer of the injury immediately
- Workers may not be retaliated against for asserting their rights under the worker's compensation laws (see Retaliation section).

WHAT TO DO IF THERE IS A PROBLEM: Contact Immigrants Legal Assistance Project (919-856-2144) or call the Industrial Commission (800-688-8349) to find out who the insurance carrier is for the grower.

RETALIATION

- Workers may not be retaliated against for filing, or threatening to file, a complaint regarding health and safety, job-related injuries or illnesses, or wage and hour violations.

WHAT TO DO IF THERE IS A PROBLEM: Contact Immigrants Legal Assistance Project (919-856-2144), or file an Employment Discrimination Complaint form with the WORD (Workplace Retaliatory Discrimination office) Division of the NC Department of Labor (1-800-LABORNC) within 180 days.

TENANTS' RIGHTS

- H2B workers have the right to have visitors without employer interference
- The employer must go through the summary ejectment procedure to evict a worker, even when the worker has been fired

WHAT TO DO IF THERE IS A PROBLEM: Contact Immigrants Legal Assistance Project (919-856-2144).

OSHA

- Workers have the right to work in a safe and healthy workplace, free of recognized hazards
- Workers may not be retaliated against for asserting their rights under the OSHA law (see Retaliation section)

WHAT TO DO IF THERE IS A PROBLEM: Contact Farmworkers Unit of Legal Services of North Carolina (1-800-777-5869), or call NC Department of Labor, OSHA Division (1-800-LABORNC) or file written complaint (form NC OSHA 7A), or contact Immigrants Legal Assistance Project (919-856-2144).

WAGES

- Workers must be paid the prevailing wage, which is at least the minimum wage (\$5.15/hour), and must be paid overtime (1 1/2 times the regular rate of pay) for hours worked in excess of 40 hours per week
- Workers must give written permission for money to be deducted from their paychecks to pay for rent, food, or similar items
- Deductions cannot bring the worker's rate of pay below the minimum wage if the deductions are for things that benefit the employer (such as travel advances, visa fees, and work-related equipment)
- Under certain conditions, workers must be paid for time waiting to begin or resume work
- The employer may not make a profit on food, rent, and other items provided for the benefit of the employee when this brings the employee's wages below the minimum wage
- Workers have a right to receive their wages on time, and employers must pay FICA on time
- Workers may not be retaliated against for asserting their rights to the minimum wage and overtime (see Retaliation section)
- Employers must keep payroll records for each individual worker showing: basis on which wages are paid, number of piece-work units earned, number of hours worked, total earnings, amounts withheld, and net pay

WHAT TO DO IF THERE IS A PROBLEM: Contact Immigrants Legal Assistance Project (919-856-2144), or call the Wage and Hour Division of the U.S. Department of Labor (919-790-2743, ext. 19).

NORTH CAROLINA JUSTICE and COMMUNITY DEVELOPMENT CENTER

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