# KNOW YOUR RIGHTS

An information pamphlet describing your rights while working in the United States.

National Human Trafficking Hotline
**1-888-373-7888**

# KNOW YOUR RIGHTS

We are confident that you will have a rewarding stay in the United States. However, if bad situations happen, you have rights and you can get help!

## You Have the Right to:

- Be paid fairly
- Be free from discrimination
- Be free from sexual harassment and sexual exploitation
- Have a healthy and safe workplace
- Request help from union, immigrant, and labor rights groups
- Leave an abusive employment situation

**IF YOU ARE MISTREATED, CONTACT THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE AT 1-888-373-7888, TEXT "HELP" TO 233733 (BEFREE) OR EMAIL *NHTRC@POLARISPROJECT.ORG.***

**TRAINED SPECIALISTS ARE ALWAYS AVAILABLE TO HELP IN MORE THAN 200 LANGUAGES. YOU DO NOT HAVE TO GIVE YOUR NAME OR IDENTIFY YOURSELF. LEARN MORE AT *WWW.TRAFFICKINGRESOURCECENTER.ORG.***

If you are in immediate danger, call the police at 911. Tell them the emergency, your location and the phone number from which you are calling. Ask for an interpreter if you do not speak English. When the police arrive, you can show them this pamphlet and tell them about the abuse you have suffered.

If you receive an A-3, G-5, H, J, NATO-7, or B-1 domestic worker nonimmigrant visa, you should receive this pamphlet during your visa interview. A consular officer must verify that you have received, read, and understood the contents of this pamphlet before you receive a visa. If you have not, the consular officer should provide the pamphlet and discuss it with you. In addition, the consular officer should answer any questions you have about the information in the pamphlet.

# YOUR RIGHTS REGARDLESS OF VISA STATUS

If you believe that your rights have been violated, report it to a government agency, union, non-governmental organization, or other organization that can assist you. If you do not speak English, ask for an interpreter.

## 1. Your Right to Be Paid Fairly

- You have the right to be paid for all work you do.
- You have the right to earn at least the federal legal minimum wage for most jobs. See *www.dol.gov/whd/minimumwage.htm* for the current federal minimum.
- You may be entitled to earn more than the federal minimum wage if:
  - You work in a state, city, or county that has a higher minimum wage.
  - Your employment contract/visa program requires a higher amount.
- You may be entitled to overtime pay of one and a half times the amount of your hourly wage for any hours worked over 40 hours per week. For example, if your regular wage rate is $10 per hour, your employer may be required to pay you $15 for each hour you work above 40 hours in a single week.
- If your employer takes money from your paycheck, this is called a deduction. Your employer must clearly identify for you each deduction taken from your paycheck.
- Deductions may be illegal if you are left with less than the legally required wage rate after the deduction. An employer usually may not deduct for the cost of uniforms, safety equipment, required tools, supplies, equipment or recruitment fees. For some visa categories, housing must be provided free of charge.
- Lawful deductions include those you choose, such as health insurance, union dues, or wage advances, as well as deductions an employer must make due to court-ordered withholdings for child support or alimony, or bankruptcy proceedings. With few exceptions, nonimmigrant visa holders working in the United States

TIP: Bring this pamphlet with you to the United States for future reference.

TIP: Depending on your length of stay, you may be required to have health insurance while in the United States. You may also qualify for financial help to lower the cost of health insurance.

are subject to federal and state income and employment taxes. You and your employer may agree to have income tax withheld directly from your paycheck. Your employer will generally withhold employment taxes, including Social Security and Medicare taxes, directly from your paycheck.

### 2. Your Right to Be Free from Discrimination

- It is unlawful for your employer to treat you differently or badly at work because of your age (if you are 40 or older), gender or sex, race, national origin and ethnicity, color, religion, genetic information (including family medical history), or disability.
- Your employer may not treat you differently because you are a woman or because you are pregnant, nursing, or may become pregnant.

### 3. Your Rights to Be Free from Sexual Harassment and Sexual Exploitation

- It is unlawful for your employer to sexually harass you. Your employer should not make any offensive sexual or gender-based comments.
- It is unlawful for your employer to sexually exploit you, including:
  - Demanding that you perform any sex act;
  - Touching you in a sexual manner;
  - Forcing, tricking or coercing you to perform any sex act.

### 4. Your Right to a Healthy and Safe Workplace

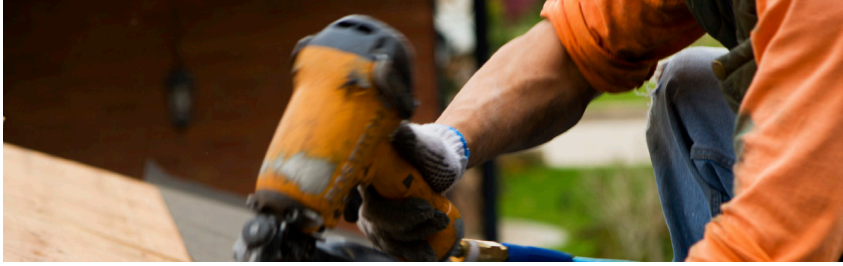
As a worker in the United States, you have a right to safe, healthy work conditions including:

- **Medical Treatment:** You have the right to report work-related injuries and illnesses to your employer. If you are injured or get sick at work, you may seek medical treatment. In most cases, for work related

TIP: Before leaving for the United States, get advice from migrant worker organizations or former migrant workers. They can give you names and numbers of persons or organizations you can contact if you have problems or questions when you are in the United States.

injuries or illnesses, your employer should provide free medical treatment and part of the wages lost while injured. You may have to file for workers' compensation in the state where you work.

- **Protective equipment:** If you work with or around pesticides or dangerous chemicals, your employer must pay for and provide protective equipment required for the job (such as a respirator or gloves).
- **Training:** You have the right to receive information and training about hazards, methods to prevent harm, and the safety and health standards that apply to your workplace. The training must be in a language and vocabulary you can understand.
- **Housing:** If your employer provides housing, it should be clean and safe. You must be allowed to leave your housing during non-working hours.
- **Bathrooms:** Bathrooms should be clean and accessible. Your employer should grant you access to bathroom facilities as needed.
- **Potable Water:** You have the right to receive clean drinking water.
- **Soap and Clean Water:** You have the right to wash your hands as needed with soap and water especially after handling pesticides/ chemicals, including vegetables or fruit treated with pesticides/ chemicals.
- **Medical Emergencies:** Your expenses may be paid for, so you should tell your employer about your injury or illness as soon as possible so the employer can file the necessary paperwork. When you are at the doctor, clinic, or hospital, ask for copies of the paperwork regarding your illness or injury.



If you are working with or around pesticides or dangerous chemicals:

- You have a right to know and understand the chemicals you are working with, and your employer must provide you with paid training on workplace chemicals.
- Your employer must tell you where and when pesticides were sprayed and when it is safe to re-enter a treated area to avoid accidental exposure. Do not be in an area where pesticides are being applied.

### 5. Your Right to Request Help from Union, Immigrant, and Labor Rights Groups

- With few exceptions, you have the right to join together with your coworkers to ask your employer to improve your wages or working conditions. Most workers also have the right to form, join, and support a union in your workplace.
- When you are not working, you can attend public speeches, rallies and demonstrations supporting higher wages or better working conditions at your workplace.
- You have this right regardless of your immigration status. Your employer cannot take action against you for asserting your rights.

### 6. Your Right to Leave an Abusive Employment Situation

- The most important thing is for you to seek safety if you are being abused. You do not have to stay in your job if your employer is abusing you.
- Though your visa status will no longer be valid if you leave your employer, you may be able to change your visa status or employer. You may need to leave the United States to do so. Even if your visa status is not valid, help is available once you leave your abusive employer.
- You may make a formal complaint or file a lawsuit against your employer while you are working or after you leave your employer. If your employer takes action (or retaliates) against you for doing so, they are violating the law.

**TIP: Legal advice from your employer, contractor, or recruiter may be biased. Seek advice from an independent attorney.**

# ADDITIONAL RIGHTS BASED ON YOUR NONIMMIGRANT STATUS

## A-3, G-5, NATO-7, and B-1 Domestic Employees

- Your employer must provide you with an employment contract that complies with U.S. law.
- The contract must state the hourly wage to be paid to the domestic employee. The hourly wage must be the greatest of the minimum wage under U.S. Federal, state, or local law.
- Employers must provide you with a contract in a language that you understand. Make sure that you know the terms of the contract and do not sign a document if you do not know what it says.

## Additional Requirements for A-3, G-5, and NATO-7 Domestic Workers

*At a minimum, the contract must include the following provisions:*

- An agreement by your employer to abide by all laws in the United States;
- Information on the frequency and form of payment, work duties, weekly work hours, holidays, sick days, and vacation days; and
- An agreement by your employer not to keep your passport, employment contract, or other personal property from you.

## H-2A Temporary Agricultural Worker Visas

- You should never have to pay fees to a labor recruiter.
- You must receive a written work contract in a language you understand. It must contain detailed information about the wages, work duration, hours, benefits (including transportation, housing and meals or cooking facilities), and any deductions from your paycheck.
- You have the right to be paid fairly even if you are paid at a piece rate.
- Your employer must either provide or pay for inbound transportation and daily subsistence from the place from which you have come to work for the employer to the place of employment, or reimburse you for reasonable costs once you complete half of your work contract. Once you complete the work contract, your employer must provide or pay for your return transportation and daily subsistence from the place of employment to the place from which you departed to work for the employer. Your employer may be required to reimburse your inbound travel and visa costs in the first workweek if your wages minus your

expenses are less than the U.S. minimum wage. Your employer must also provide transportation from your employer-provided housing to the worksite at no charge.

- You are exempt from U.S. Social Security and Medicare taxes on compensation paid for services performed in connection with your H-2A visa.
- Generally, your employer must offer you employment for a total number of hours equal to at least 3/4 of the workdays in the contract period.

### H-2B Temporary Non-Agricultural Worker Visas

- You should never have to pay fees to a labor recruiter.
- You must receive a written job order in a language you understand. It must contain detailed information about the wages, work duration, hours, benefits (including transportation, housing and meals or cooking facilities), and any deductions from your paycheck.
- Generally, your employer must offer you employment for a total number of hours equal to at least 3/4 of the workdays in each 12-week period.
- You have the right to be paid fairly even if you are paid at a piece rate.
- Your employer must either provide or reimburse you for inbound transportation and subsistence from overseas by the time you complete half of the contract period. Additionally, your employer must pay costs for your transportation home, including subsistence, if you complete the period of employment or are dismissed by your employer for any reason before the end of your authorized period of employment. Your employer may also be required to reimburse your inbound travel and visa costs in the first workweek if your wages minus your expenses are less than the U.S. minimum wage.

### J-1 Exchange Visitor Visas

- Your approved DS-2019 explains your program dates, category of exchange, the name of your sponsor, and the hosting entity where your exchange program will take place.
- Your sponsor must accurately explain all costs, conditions, and restrictions on your exchange program.

TIP: Your employer must pay you on time. It is a common practice in the United States for employees to be paid once every two weeks.

### Summer Work Travel

- If you do not have pre-placed employment, your sponsor must assist you in locating employment once you arrive in the United States.

### Intern or Trainee

- Your sponsor must interview you in person, by telephone, or by web camera.
- Your sponsor must give you an intern or trainee placement plan (DS-7002) that includes a written statement of any income you will receive and a summary of the training objectives of the program. You must be given at least 32 hours of work per week.
- Your sponsor must give you a written statement of the costs and fees you will have to pay and an estimate of living expenses in the United States.
- Your sponsor must ensure that you have medical insurance coverage, though your sponsor does not need to provide or pay for this coverage.

### Au Pair:

- Your host-family must help you enroll in and attend classes at a post-secondary institution and pay up to $500 in costs for those classes.
- You are not required to work more than 10 hours per day or 45 hours per week.
- Your counselor should regularly maintain contact with you and your host family.

TIP: Before you travel, make two copies of all important documentation, especially your passport and U.S. visa, your employment contract, and any additional identity documents. Give one set of these copies to someone you trust in your home country, and take the other set with you.

# YOUR NONIMMIGRANT VISA

A nonimmigrant visa is a U.S. government document that permits individuals who travel to the United States to request entry for a particular purpose, including to work, study, or participate in a cultural exchange program. You must apply for a visa at a U.S. embassy or consulate abroad. Once you obtain a nonimmigrant visa, you can travel to the United States and present it to a U.S. immigration official for admission. If your visa expires, you need to obtain a new visa before you reenter the United States.

When you are admitted to the United States, an immigration official will stamp your passport and mark it with the date of admission, class of admission and "admit until" date. You need to leave the United States before your I-94 "admit until" date to remain in legal status unless you file for an extension with the U.S. Citizenship and Immigration Services. You can check your I-94 records at *https://i94.cbp.dhs.gov.*

TIP: Once you arrive in the United States, keep your passport and other travel documents in a safe place where you can access them at all times. It is illegal for your employer to take your passport.

# HUMAN TRAFFICKING

Victims of human trafficking are entitled to protections and services, and may be eligible for some public benefits. Human trafficking is a crime involving the exploitation of children for commercial sex, of adults for commercial sex through the use of force, fraud or coercion, and of any individual for compelled labor. Perpetrators of such exploitation, which can include labor traffickers, pimps and buyers of commercial sex, can be prosecuted under federal and state anti-trafficking laws. Labor traffickers and sex traffickers may be prosecuted criminally and may face civil liability as well. The following are some warning signs that may indicate human trafficking.

## Threats and Fear

Traffickers, and people who help them, may use threats and other intimidating acts to make you or others feel too afraid to try to leave. For example:

- Beatings, physical abuse, or sexual abuse;
- Threats of beatings, physical abuse, or sexual abuse;
- Locking in or preventing a worker from leaving the workplace or housing;
- Threats to harm you or your family if you try to leave, complain of mistreatment, report the situation to authorities, or seek help;
- Threats you could be deported or arrested for seeking help; or
- Threats or harm toward other workers who have tried to leave, complain, report the situation or seek help, or threats that anyone who tries to escape will be found and brought back.

## Debt

Traffickers, and people who help them, may demand that you perform labor, services or commercial sex acts (prostitution) to repay a debt. In some instances the debt is created and imposed by the trafficker. It is against the law to use a debt to compel you to continue providing labor, services or commercial sex acts, or to prevent you from leaving. Traffickers may manipulate your debt to make it harder to pay off and may cause you to believe that you must remain in the trafficker's service until the debt is paid. Examples of manipulating debts include:

- Imposing a debt that is difficult or impossible to pay off in a reasonable time and that is out of proportion to what you will earn;
- Imposing a debt that you did not agree to in advance or is greater than the debt agreed to;
- Refusing to apply your earnings toward the payment of the debt;
- Refusing to define how long you would have to stay in the trafficker's service to repay the debt;
- Adding fees for transportation, housing, food, and charges to the debt that you did not agree to in advance; and
- Adding charges, fines or penalties for breaking rules, for not earning enough, or for not performing enough labor, services or commercial sex acts.

## Rules and Controls

Traffickers, and people who help them, may use rules and controls to make it harder for you and others to leave, complain, or seek help. For example:

- Rules against leaving the workplace, or strict rules about where you can go when not working;
- Rules against keeping your own passport, visa, birth certificate, or other identification documents;
- Denial of access to adequate food, sleep, or medical care; or
- Preventing, restricting or monitoring communications with your family, other workers, customers, or other persons outside the workplace, such as legal or social service outreach workers.

## Deception and Lies

Traffickers, and people who help them, may use deception and lies. For example:

- False promises about the type of work, working hours, working or living conditions, or pay;

TIP: Keep a detailed record of any inappropriate comment and/or action your employer takes against you and write down the names and phone numbers of any witnesses.

- Promising a good job and then requiring you to work significantly longer hours, under harsher conditions, or for less pay than promised; or
- Promising a good job and then making you perform another type of labor, services, or commercial sex acts; this could include promising a job as a nursing professor, then compelling you to work as staff in a nursing home, or promising work as a nanny and then compelling you to engage in exotic dancing or commercial sex acts (prostitution).
- Telling you that you have no rights;
- Telling you that you will not be believed or will be deported if you try to seek help; or
- Instructing you to lie about the identity of a trafficker.

## Will You Be Deported if You Report the Abuse?

There are programs to protect people who report abuse. You should not be afraid to seek help even if you have immigration concerns. You should consult with an immigration attorney who does not work for your employer.

If you believe you are a victim of human trafficking or of another serious crime, including rape or sexual assault, you may be eligible for a different nonimmigrant status, such as "T" (for trafficking victims) or "U" (for victims of trafficking or other serious crimes) nonimmigrant status or otherwise be permitted to remain temporarily in the United States. These nonimmigrant classifications were created to protect victims. Many people in the United States are unfamiliar with T or U nonimmigrant status and you may need to tell the people assisting you about them.

## What Services are Available for Victims of Human Trafficking?

Trafficking victims in the United States may be eligible for benefits, services and immigration relief under federal or state programs. Many organizations can help you access these services, which include medical/dental care, mental health care, housing, legal help for immigration, and other legal needs, employment assistance, and public benefits.

# VISIT THESE WEBSITES FOR MORE INFORMATION ABOUT:

- The visa application process and your U.S. visa: *usvisas.state.gov.*
- Human trafficking: *www.state.gov/j/tip.*
- The J-1 visa exchange program: *j1visa.state.gov.*
- Equality, and your rights to be free from discrimination at work because of your race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information, and to file a discrimination charge: *www.eeoc.gov.*
- Your workplace safety rights, or if you think your job is unsafe and you want to request an inspection: *www.osha.gov.*
- How to get unpaid wages from your employer: *webapps.dol.gov/wow.*
- Your rights to be paid fairly, including how to file a wage complaint: *www.dol.gov/WHD/immigration.*
- Your right not to face discrimination because of your citizenship status and to file a discrimination complaint: *www.justice.gov/crt/filing-charge.*
- Your right to join with other workers to improve your pay or working conditions, including how to file a charge: *www.nlrb.gov.*
- Your rights, obligations and exemptions to health insurance: *localhelp.healthcare.gov* (English) and *ayudalocal.cuidadodesalud.gov* (Spanish).

TIP: It's a good idea to keep a written record of all the time that you work. Get a notebook and write down all of the days and hours that you worked, how much you were paid, the dates you received a payment, any deductions taken from your paycheck, and the reasons for those deductions.

## SAMPLE WEEKLY WORK LOG

| Employee: | Supervisor: |
|---|---|

| Date | Activities | Hours | Payment |
|---|---|---|---|
| | | In:_____<br>Out: _____<br>Total: _____ | |
| | | In:_____<br>Out: _____<br>Total: _____ | |

This pamphlet was created pursuant to section 202 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110-457.