

# Fair Housing for Women

An Intersectional Guide for Women to The Federal Fair Housing Act

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## Discrimination Based on Sex

The Federal Fair Housing Act (FHA) is a federal law that prohibits discrimination in housing. Written into the Civil Rights Act of 1968, The Fair Housing Act protects members of these seven protected classes: race, color, national origin, religion, sex, familial status, and disability. A person who identifies as LGBTQ who has experienced (or is about to experience) discrimination under any of these bases may file a complaint with HUD. HUD is committed to investigating violations of the Fair Housing Act against all individuals regardless of their sexual orientation or gender identity.

Examples:

*A transgender woman is asked by the owner of her apartment building not to dress in women's clothing in the common areas of the property. This may violate the Fair Housing Act's prohibition against sex discrimination, which includes discrimination based on non-conformity with gender stereotypes.*

*A gay man is evicted because his landlord believes he will infect other tenants with HIV/AIDS. This may violate the Fair Housing Act's prohibition against disability discrimination, which includes discrimination against people who have or are perceived to have HIV/AIDS.*

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## HUD's Equal Access Rule

HUD's Equal Access Rule requires equal access to HUD programs without regard to a person's actual or perceived sexual orientation, gender identity, or marital status. Housing providers that receive HUD funding or have HUD-insured loans are subject to the Rules. A person who identifies as LGBTQ who has experienced (or is about to experience) discrimination by a HUD-funded or FHA-insured housing provider or lender may report it to HUD. You can contact Intermountain Fair Housing Council for support.

Example:

*An underwriter for an FHA-insured lender is reviewing a loan application by two males; both incomes are being used as the basis for the applicants' credit worthiness. The underwriter assumes the applicants are a gay couple and, as a result, denies the application despite the fact that the applicants meet all requirements for the loan. This may violate HUD's Equal Access Rule, which prohibits FHA-insured lenders from taking actual or perceived sexual orientation into consideration in determining adequacy of an applicant's income.*

## Sex; Gender Identity and Sexual Orientation

Understanding Expansion and Case Law

Under the Fair Housing Act, it is prohibited for any landlord or housing provider to discriminate based on sex. This protection includes gender identity and sexual orientation (real or perceived) or other reason that constitutes sex-based discrimination.

In February 2021, HUD's Office of Fair Housing and Equal Opportunity (FHEO) issued a memorandum stating that HUD interprets the Fair Housing Act to bar discrimination on the basis of sexual orientation and gender identity and directing HUD offices and recipients of HUD funds to enforce the Act accordingly.

The memorandum directs actions by HUD's Office of Fair Housing and Equal Opportunity and HUD-funded fair housing partners to enforce the Fair Housing Act to prohibit discrimination on the basis of gender identity or sexual orientation. Specifically, the memorandum directs the following:

- HUD will accept and investigate all jurisdictional complaints of sex discrimination, including discrimination because of gender identity or sexual orientation, and enforce the Fair Housing Act where it finds such discrimination occurred.
- HUD will conduct all activities involving the application, interpretation, and enforcement of the Fair Housing Act's prohibition on sex discrimination consistent with its conclusion that such discrimination includes discrimination because of sexual orientation and gender identity.

- State and local jurisdictions funded by HUD's Fair Housing Assistance Program (FHAP) that enforce the Fair Housing Act through their HUD-certified substantially equivalent laws will be required to administer those laws to prohibit discrimination because of gender identity and sexual orientation.
- Organizations and agencies that receive grants through the Department's Fair Housing Initiative Program (FHIP) must carry out their funded activities to also prevent and combat discrimination because of sexual orientation and gender identity.
- FHEO Regional Offices, FHAP agencies, and FHIP grantees are instructed to review, within 30 days, all records of allegations (inquiries, complaints, phone logs, etc.) received since January 20, 2020, and notify persons who alleged discrimination because of gender identity or sexual orientation that their claims may be timely and jurisdictional for filing under this memorandum.

Underscoring the significance of this action are several discrimination studies that indicate that same-sex couples and transgender persons in communities across the country experience demonstrably less favorable treatment than their straight and cisgender counterparts when seeking rental housing. Despite this reality, the Department has been constrained in its efforts to address housing discrimination on the basis of sexual orientation and gender identity by legal uncertainty about whether most such discrimination was within HUD's reach.

The memorandum begins implementing the policy outlined in President Biden's Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, which directed executive branch agencies to examine further steps to combat such discrimination.

The memorandum relies on the Department's legal conclusion that the Fair Housing Act's sex discrimination provisions are comparable in text and purpose to those of Title VII of the Civil Rights Act, which bars sex discrimination in the workplace. In *Bostock v Clayton County*, the Supreme Court held that workplace prohibitions on sex discrimination include discrimination because of sexual orientation and gender identity. HUD has now determined that the Fair Housing Act's prohibition on sex discrimination in housing likewise includes discrimination on the basis of sexual orientation and gender identity. Accordingly, and consistent with President Biden's Executive Order, HUD will enforce the Fair Housing Act to prevent and combat such discrimination.

It is prohibited for any landlord or housing provider who receives HUD or FHA funds to discriminate against a tenant on the basis of real or perceived sexual orientation,

gender identity, or marital status. It is prohibited for all homeless facilities to segregate or isolate transgender individuals solely based on their gender identity.

*If you think you have been discriminated against on the basis of Sexual Orientation or Gender Identity, or any of the seven protected classes, please contact Intermountain Fair Housing Council for help at 208-383-0695 or 1-800-717-0695 or us at [contact@ifhcidaho.org](mailto:contact@ifhcidaho.org)*

## Disability Rights Under the Fair Housing Act

A person is considered disabled if they have a physical or mental impairment which substantially limits one or more of their major life activities, if they have a record of having such an impairment, or if they are regarded as having such an impairment. However, the definition of disabled does not include the illegal use of, or addiction to, a controlled substance. If the person with the disability is in recovery from addiction, then depending on the facts, the person may be considered as having a disability.

### Reasonable Accommodation Requests

One of the many protections of the FHA is the right of individuals with disabilities to request a reasonable accommodation in the rules, policies, practices, or services of a housing provider. A Reasonable Accommodation Request (RAR) is a verbal or written request that a rule, policy, practice, or service be changed or modified in some way to afford a person with a disability an equal opportunity to use and enjoy a dwelling.

Individuals who are disabled may request a reasonable accommodation in housing. A person is considered disabled if they have a physical or mental impairment which substantially limits one or more of their major life activities, if they have a record of having such an impairment, or if they are regarded as having such an impairment. However, the definition of disabled does not include the illegal use of, or addiction to, a controlled substance. If the person with the disability is in recovery from addiction, then depending on the facts, the person may be considered as having a disability.

In addition, a non-disabled person may submit a reasonable accommodation request on behalf of a person with a disability, provided that the disabled person resides with, or is associated with the person submitting the request.

A reasonable accommodation in housing may be requested either orally or in writing, and the words “reasonable accommodation” do not need to be used by the individual submitting the request. The individual submitting the request may not be required to use specific forms or be required to follow formal procedures in submitting the request.

You can make your reasonable accommodation request orally. However, it is best to submit reasonable accommodation requests in writing so that there is no misunderstanding as to the specifics of the request. It is best practice to sign and date the request and keep a copy in case there is a dispute. You are not required to use the housing provider’s forms.

A reasonable accommodation request may be submitted to any person or entity necessary to afford a person with a disability an equal opportunity to use and enjoy a

dwelling, including but not limited to landlords, property owners, public agencies, individuals, corporations, associations, individuals, or entities involved in the provision of housing and residential lending (including property owners and brokerage services), and insurance companies who provide property insurance.

### Proof of Need

If the individual who requested a reasonable accommodation has a disability that is obvious and if the need for the requested accommodation is obvious, the person receiving the reasonable accommodation request may not request any additional information.

If the disability of the individual requesting a reasonable accommodation is not obvious, the person receiving the request may request information that verifies that the individual is disabled as defined by the FHA. However, the person receiving the request may not inquire into the nature or severity of the individual's disability. The person receiving the request may also request information that describes the accommodation that has been requested and that shows the relationship between the individual's disability and the need for the requested accommodation.

This information can often be provided by the individual who has requested the accommodation, such as by submitting proof that the individual receives disability benefits or by submitting a credible statement by the individual. This information can also be verified by a doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is able to know about the individual's disability.

### Reasonable Accommodation Requests for Service Animals

There are three laws regarding service animals: The Fair Housing Act, The Americans with Disabilities Act, and the Air Carrier Access Act. This guidance covers The Fair Housing Act.

An individual may request a reasonable accommodation to have a service animal if the individual is disabled, as defined by the FHA, and the animal performs work, assistance, tasks, or other services for the benefit of the individual, or if it provides emotional support that alleviates one or more of the identified symptoms or effects of the individual's disability.

There is no distinction between any of these different types of animals when an individual request that he or she be permitted to have one as a reasonable accommodation in housing. They are all considered service animals under the FHA, if they provide a service for a person with a disability because of the person's disability.

The courts have repeatedly held that emotional support animals are service animals and must be considered as reasonable accommodations for individuals with disabilities. A housing provider may not require different rent or impose a security deposit or other lease terms because of an individual's disability. A housing provider may not require an individual with a disability to pay an extra fee or deposit as a condition of receiving a reasonable accommodation.

An individual with a disability who has a service animal can take the animal in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial or administrative burden or would fundamentally alter the nature of the housing provider's services. A housing provider may not stop a person with a disability from taking their service animal out of the building and onto the common areas of the property.

*If you think you have been discriminated against on the basis of disability, or any of the seven protected classes, please contact Intermountain Fair Housing Council for help at 208-383-0695 or 1-800-717-0695 or us at [contact@ifhcidaho.org](mailto:contact@ifhcidaho.org)*

## Domestic Violence

### Safety and Victim Rights Under the Fair Housing Act

Victims of domestic violence are protected from discrimination in housing under the Fair Housing Act and the Violence Against Women Act. Protections under the Violence Against Women Act apply only to tenants who live in public, Section 8 Tenant-Based, or Project-Based assisted housing and cannot be given lease violations or terminated from assistance, tenancy, or occupancy if they are a victim of abuse. Nor can they be terminated from assistance, tenancy, or occupancy, based on criminal activity directly relating to domestic violence, dating violence, or stalking engaged in by a member of a tenant's household, any guest or other person living or interacting with the victim. However, persons who do not live in federally funded housing such as public, Section 8 Tenant-Based or Project-Based are still protected under the Fair Housing Act based on the basis of sex.

These legal protections apply to the following situations:

- when a landlord tries to evict a tenant based on domestic violence
- when a landlord refuses to rent to someone because they are a victim of domestic violence
- when a tenant wants to terminate a lease early because of domestic violence
- when a tenant wants to have the abuser removed from the lease

Survivors of domestic violence often face housing discrimination because of their history of the acts of their abusers. Congress has acknowledged that women and families across the country are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as victims of domestic violence.

Housing authorities and landlords evict victims under zero-tolerance crime policies, citing the violence of a household member, guest, living or interacting with the victim. Often, the police are called repeatedly due to the domestic violence. As a result, the victim is evicted due to the repeated calls to police. Victims are also evicted because of property damage caused by their abusers. In many of these cases, adverse housing actions punish victims for the violence inflicted upon them. This “double victimization” is unfair and may be illegal.

### Domestic Violence in Indigenous Communities

According to the Department of Justice, indigenous women and girls face higher rates of domestic and sexual violence than other populations. And since reporting mechanisms are inconsistent across the country, there is a huge gap in the data. In

other words: the problem is likely much larger than we know. Native American women sustain domestic violence 3 ½ times greater than any other race in U.S. & 3 times greater sexual assault.

### Domestic Violence and Disability

Abuse of people with disabilities tends to be more severe, happen over a longer period, and be repeated more often.

- Women who reported intimate partner violence were 2 times as likely to also report having a disability
- 14% of men with disabilities reported experiencing sexual violence at some point in their lifetime compared to 4% of men without disabilities.
- Of those reported, 49% of people with a developmental disability disclosed being assaulted 10 or more times.
- Twenty percent of Deaf adults reported experiencing physical abuse by an intimate partner.
- 15% of Deaf adults experienced forced sex in an intimate partner relationship.

*If you think you have been discriminated against and are a victim of domestic violence or a member any of the seven protected classes, please contact Intermountain Fair Housing Council for help at 208-383-0695 or 1-800-717-0695 or us at [contact@ifhcidaho.org](mailto:contact@ifhcidaho.org)*

## Sexual Harassment

Sexual harassment is prohibited discrimination under the Fair Housing Act. The HUD Guidance on Harassment defines “quid pro quo” and “hostile environment harassment,” as prohibited under the Fair Housing Act and specifies how HUD will evaluate such complaints.

### Quid Pro Quo

Occurs when a person is subjected to an unwelcome request or demand because of their protected characteristic and going along with the request or demand is either explicitly or implicitly made a condition related to the person’s housing. The proposed rule states claim of quid pro quo harassment are most typically associated with sex but may be established on the basis of protected characteristics other than sex.

### Hostile Environment

Is a type of harassment that would be defined to occur when, because of a protected characteristic, a person is subjected to unwelcome conduct so severe or pervasive that it interferes with or deprives the victim of her or his right to use and enjoy the housing. Whether a hostile environment has been created requires an assessment of the “totality of the circumstances,” which would include, but is not limited to, the nature of the conduct; the context in which the conduct took place; the severity, scope, frequency, duration, and location of the incident(s); and the relationship of the persons involved. Assessing the context would involve considering factors such as whether the harassment was in or around the home; whether the harassment was accomplished by use of special privilege by the perpetrator, such as gaining entry to a home through the landlord-tenant relationship; whether a threat was involved; and whether the conduct was likely to or did cause anxiety, fear, or hardship.

Sexual Harassment may include:

- Unwanted sexual favors or offers of no rent in exchange for sex (Quid pro quo)
- Actual or attempted rape or sexual assault
- Unwanted deliberate touching, leaning over, cornering, or pinching, or unwanted sexual looks or gestures, unwanted letters, telephone calls, or materials of a sexual nature
- Pressuring individual for dates, unwanted sexual teasing, jokes, remarks, or questions
- Referring to an adult as a girl, hunk, doll, babe, or honey
- Whistling at someone, cat calls, sexual comments
- Making sexual comments about a person’s clothing, anatomy, or looks
- Kissing sounds, howling, and smacking lips

- Telling lies or spreading rumors about a person's personal sex life or orientation
- Refusing to repair locks or make the home safe or refusal to make repairs unless sexual favors are given
- Refusing to supply heat or hot water unless sexual favors are given
- Entering the home without prior knowledge or permission from the tenant (especially at night or when they are not home)
- Damaging personal property unless sexual favors are given
- Threatening eviction or immigration
- Collecting rent late at night
- Coming into the home when you are alone or showering

What you should do if you feel you have been sexually harassed:

- Tell the person harassing you to stop. Be clear and emphatic. Let the harasser know that your next step will be to file a complaint.
- Tell others about the behavior, including reporting the behavior to a supervisor or property management and/or the owner of the property.
- Document the harassment. Photograph offensive material; record a description of the offensive behavior in a journal with dates and details, if possible, record conversation with harasser.
- If the harassment reaches the level of a criminal act, i.e. sexual assault, file a police report; and
- File your complaint with the Intermountain Fair Housing Council or other Fair Housing Organization.

*If you think you have been discriminated against based on a protected class or have experienced sexual harassment in housing, please contact Intermountain Fair Housing Council for help at 208-383-0695 or 1-800-717-0695 or us at [contact@ifhcidaho.org](mailto:contact@ifhcidaho.org)*

## Familial status

### Protections for Families with Children

The Fair Housing Act prohibits discrimination in housing against families with children under 18 years, persons who are pregnant or in the process of obtaining legal custody, or persons with written permission of the parent or legal guardian.

The Act provides an exemption from familial status discrimination for “housing for older persons,” (outlined below) which includes certain senior housing facilities and communities. The Act also does not limit the applicability of reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

### Who Is Protected?

Familial status covers:

- families with children under the age of 18,
- pregnant persons, and
- any person in the process of securing legal custody of a minor child (including adoptive or foster parents).
- persons with written permission of the parent or legal guardian

### Examples Of Familial Status Discrimination

- Refusing to rent to families with children, evicting families once a child joins the family through birth, adoption, or custody, requiring families with children to live on specific floors or in specific buildings or areas, imposing overly restrictive rules about children's use of common areas, and advertising that prohibits children.
- Refusing to rent to families with children
- Evicting families once a child joins the family through, e.g., birth, adoption, custody
- Requiring families with children to live on specific floors or in specific buildings or areas
- Imposing overly restrictive rules about children’s use of the common areas (e.g., pools, hallways, open spaces)
- Advertising that prohibits children

If you believe you have experienced discrimination in housing because of familial status, please reach out to Intermountain Fair Housing Council for assistance.

## "Housing for Older Persons" Exemptions

The Fair Housing Act specifically exempts three types of housing for older persons from liability for familial status discrimination. Such exempt housing facilities or communities can lawfully refuse to sell or rent dwellings to families with minor children only if they qualify for the exemption. To qualify for the "housing for older persons" exemption, a facility or community must comply with all the requirements of the exemption.

The Housing for Older Persons exemptions apply to the following housing:

1. Provided under any state or federal program that the Secretary of HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the state or federal program);
2. Intended for, and solely occupied by persons 62 years of age or older; or
3. Intended and operated for occupancy by persons 55 years of age or older.

The 55 or older exemption is the most common of the three.

## How to Qualify

To qualify for the "55 or older" housing exemption, a facility or community must satisfy *each* of the following requirements:

- At least 80 percent of the units must have at least one occupant who is 55 years of age or older; and
- The facility or community must publish and adhere to policies and procedures that demonstrate the intent to operate as "55 or older" housing; and
- The facility or community must comply with HUD's regulatory requirements for age verification of residents.

The "housing for older persons" exemption does not protect such housing facilities or communities from liability for housing discrimination because of race, color, religion, sex, disability, or national origin.

*If you think you have been discriminated against on the basis of familial status or any of the seven protected classes, please contact Intermountain Fair Housing Council for help at 208-383-0695 or 1-800-717-0695 or us at [contact@ifhcidaho.org](mailto:contact@ifhcidaho.org)*

## Migrant Farm Workers

There are approximately 2.5 million farmworkers in the United States and half of U.S. farmworkers, as many as 1.25 million people, are believed to be undocumented. Farmworkers are among the lowest-paid workers in the nation yet rank as one of the most dangerous professions. Exposure to pesticides, heat, smoke from fires, and risk of COVID-19 exposure are exacerbated by poor working conditions. One out of every three farmworker families earn incomes below the federal poverty line despite working long days up to six days a week; the average individual farmworker earns under \$20,000 a year.

Farm workers are excluded from the basic labor and safety standards established in other employment sectors and farm work has little or no overtime limits, child labor restrictions, collective bargaining rights, or workers' compensation insurance. In addition, the few rules that do exist for farmworkers are rarely enforced. The absence of regulatory oversight, enforcement, and data about this sector leaves employers unaccountable to basic health and safety standards while leaving farmworkers vulnerable to abuse.

The issues most frequently seen by legal advocates in four of the largest farmworker states include conflicts over wages and hours, substandard farmworker housing, sexual harassment, and health and safety concerns. However, the frequencies of these cases are not tracked at the state or federal level, and many incidents do not result in litigation.

### Housing

Temporary homelessness or overcrowding occur as a result of shortages in designated farmworker housing and low farmworker wages. As migrant farmworkers travel seasonally from harvest to harvest, the rapid influx into agricultural communities often overwhelms local housing resources. The lack of housing, coupled with the inability to maintain two homes, forces many farmworkers to sleep in garages, tool sheds, caves, fields, parking lots, vehicles, tents, or other similar makeshift structures.

Substandard and overcrowded farmworker housing may force women to live with multiple strangers and in insecure places where they can be vulnerable to physical assaults. Although the available legal protections do not specifically address gender issues within agricultural labor, substandard and abusive working conditions have distinctive and often more severe consequences for the female members of farmworker households.

Permanent farmworker housing is often not much better than temporary living arrangements and high market-rate rents force many farmworkers to live in

overcrowded conditions in shared rentals. Lack of safe, affordable housing is worrisome not only because it affects individual farmworkers' health and safety, but it can also result in agricultural labor shortages in some regions.

It is illegal to deny labor camp housing to farmworkers because they want to live there with their children. The Fair Housing Act prohibit people who provide housing from discriminating against families with children.

### Working Conditions

Farm work consistently ranks as one of America's most dangerous occupations due largely to occupational hazards. Exposure to pesticides and other toxic chemicals, transportation accidents, heatstroke, unguarded farm machinery, and open irrigation ditches all pose significant risks. Farmworkers are also affected by emerging serious transmissible diseases—like COVID-19—that are spread more easily amid the harsh and unsafe conditions farmworkers face. It should be noted that the incidence of injuries and other adverse health outcomes is likely underreported and that these concerns do not only affect farmworkers but have proven to harm their children as well.

The physical demands of farm work paired with, financial imperatives to work as fast as possible and relentless hours take a major toll on farmworker bodies. The constant squatting, stooping, reaching, and lifting required to perform agricultural tasks can produce serious, even disabling, injuries. Strains, sprains, lacerations, fractures, and repetitive-motion injuries are common. These conditions not only cause immediate discomfort but may also result in a crushing economic blow of taking time to heal when no paid leave is available. Working alongside dangerous machinery, driving unsafe vehicles, sorting produce on fast moving conveyor belts in large packhouses in the field cause many injuries and even deaths.

Few farmworkers receive benefits like health insurance or paid sick leave and the conditions under which they work remain invisible as farmworker issues lack accessible data and documentation about employment.

### Heat Related Illnesses

Workers employed in outdoor occupations such as farming are exposed to hot and humid environments that put them at risk for heat-related illness or death. Although occupational heat stress is a key health and safety issue for farmworkers, agricultural employers are not required to take such basic preventive measures as providing adequate shade and providing employees with rest breaks. Farmworker injury and fatality rates due to heat stress remain severely under-reported and often go undiagnosed. Prevention of heat-related deaths among crop workers requires educating

employers and workers on the hazards of working in hot environments, including recognition of heat-related illness symptoms, and implementing appropriate heat stress management measures.

## Pesticides

Each year in the United States, an estimated 1 billion pounds of pesticides are used, leaving the 2.4 million farmworkers in the U.S. at risk of dangerous exposure over their working years. While most workers in the country benefit from federal and state occupational safety and health protections, farmworkers are often left out of those standards.

Pesticide exposure can affect workers' health in both the short and long term. Half of all farmworkers report suffering from pesticide-related illnesses during their working lives, with as many as 20,000 acute poisonings diagnosed each year. Long term, these exposures can lead to various cancers, infertility, birth defects, neurological problems, and other disorders. The children of farm workers are often exposed to the same occupational hazards as their parents. Pesticides sprayed on fields drift onto school playgrounds and homes. Clothing worn by farmworkers can contaminate the household laundry and for some students, summer means joining their parents in the fields. Additionally, some parents have no choice but to bring their infants and toddlers with them for lack of childcare, even though their developing bodies and brains are particularly vulnerable to the effects of toxic chemicals.

Employers must comply with certain basic safety standards and regulations dictated by the Federal Insecticide, Fungicide, and Rodenticide Act. However, OSHA will not conduct inspections on farms with fewer than 11 employees unless states have memos of understanding with federal offices to create their own rules. Pesticide exposure thus often goes undetected and/ or unreported.

## Summary of Employment Laws

with Protections for Farmworkers

The Wage and Hour Division is responsible for administering several statutes that extend various protections to different types of agricultural workers. The coverage and requirements of these statutes may overlap. For more assistance with the requirements of each law, see the sections below. Because the interplay between the laws can be complex, please contact the nearest Wage and Hour District office with specific questions.

- The [Fair Labor Standards Act \(FLSA\)](https://www.dol.gov/agencies/whd/agriculture/flsa) contains Federal minimum wage, overtime, recordkeeping, and child labor requirements for covered agricultural employers. <https://www.dol.gov/agencies/whd/agriculture/flsa>

- The [Migrant and Seasonal Agricultural Worker Protection Act \(MSPA\)](#) protects migrant and seasonal agricultural workers by establishing employment standards related to wages, housing, transportation, disclosures, and recordkeeping. The MSPA also requires farm labor contractors (FLCs) and farm labor contractor employees (FLCEs) to register with the U.S. Department of Labor and to obtain special authorization before housing, transporting, or driving covered workers.  
<https://www.dol.gov/agencies/whd/agriculture/mspa>
- The [H-2A visa program](#) establishes standards related to recruitment, wages, housing, transportation, and recordkeeping for employers of temporary non-immigrant agricultural workers admitted to the country under section 218 of the Immigration and Nationality Act.  
<https://www.dol.gov/agencies/whd/agriculture/h2a>
- The [Field Sanitation Provisions of the Occupational Safety and Health Act](#) establish minimum standards for covered agricultural settings for toilets, potable drinking water, hand-washing facilities, and for providing information regarding good hygiene practices.  
<https://www.dol.gov/agencies/whd/agriculture/field-sanitation>

#### Worker Protection Standards for Agricultural Pesticides 40 CFR Part 170

This law is aimed at reducing the risk of chemical poisoning and injuries among agricultural workers and pesticide & herbicide handlers. The law specifies requirements for chemical safety training, notification of chemical applications, use of personal protective equipment, restricted entry intervals following chemical application, decontamination supplies, and emergency medical assistance. The primary pesticide regulatory agency in Idaho is the Idaho State Department of Agriculture. EPA is the enforcement agency for Native American Reservations.

Website: <http://www.agri.state.id.us/>

#### State Minimum Wage Coverage for Farmworkers

Guarantees farmworkers the state minimum wage, with the exception of employers' immediate family members, seasonal hand harvest workers where the employee commutes daily from a permanent residency and works less than 13 weeks a year; children 16 years old or younger employed in the same farm as their parents and employees engaged in range production of livestock (cattle and sheep). The law requires that the employer keep wage records for three years. The Wage and Hour Section of Idaho Department of Labor administers these regulations.

Website: <http://labor.idaho.gov/dnn/idl/Businesses/IdahoLaborLaws.aspx>

### State Farm Labor Contractor Licensing

Farm Labor Contractors are required to be licensed by the state of Idaho, pay an annual fee, post a surety bond to cover unpaid wages, carry auto insurance for all vehicles used in the farm labor contracting business, carry workers' compensation coverage for all employees and provide all employees full disclosure about the conditions of employment at the time of hiring. The Wage and Hour Section of Idaho Department of Labor administers these regulations.

Website: <http://labor.idaho.gov/dnn/idl/Businesses/IdahoLaborLaws.aspx>

### The Victims of Trafficking and Violence Protection Act PL 106-386

The Victims of Trafficking and Violence Protection Act of 2000 (TVPA), and its reauthorization in 2003 (TVPRA), provides extensive protections and services for victims of trafficking found in the United States, regardless of nationality. This statute defines the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery as a severe form of trafficking in persons.

This law is enforced by the US Department of Justice. To file complaints, call 1-888-428-7581 Website: <http://www.justice.gov/>

### File a Complaint with OSHA

Employees have a right to file a safety and health complaint or a whistleblower complaint. Find out more below about how to file each type of complaint.

#### How to File a Safety and Health Complaint

You (or your representative) have the right to file a confidential safety and health complaint and request an OSHA inspection of your workplace if you believe there is a serious hazard or if you think your employer is not following OSHA standards. The complaint should be filed as soon as possible after noticing the hazard. A signed complaint is more likely to result in an onsite inspection.

#### Online

<https://www.osha.gov/pls/osha7/eComplaintForm.html>

Use the Online Complaint Form to submit your complaint to OSHA.

#### Fax/Mail/Email

<https://www.osha.gov/sites/default/files/publications/osha7.pdf>

En Espanol: [https://www.osha.gov/sites/default/files/OSHA7\\_SPANISH.pdf](https://www.osha.gov/sites/default/files/OSHA7_SPANISH.pdf)

Complete the OSHA Complaint Form or write a letter describing your complaint, and then fax, mail, or email it back to your local OSHA office. To find your local office: <https://www.osha.gov/contactus/bystate>

#### Telephone

Call Your Local OSHA Office or 800-321-6742 (OSHA)

OSHA staff can discuss your complaint with you and respond to any questions you may have. To find your local office: <https://www.osha.gov/contactus/bystate>

#### In Person - Visit Your Local OSHA Office

OSHA staff can discuss your complaint with you and respond to any questions you may have. To find your local office: <https://www.osha.gov/contactus/bystate>

#### Boise Area Office

1387 S. Vinnell Way, Suite 218

Boise, ID 83709

Phone: (208) 321-2960

Fax: (208) 321-2966

#### How to File a Whistleblower Complaint

You have the right to file a whistleblower complaint with OSHA if you believe your employer retaliated against you for exercising your rights as an employee under the whistleblower protection laws enforced by OSHA.

<https://www.whistleblowers.gov/sites/wb/files/2019-10/WB-Statute-Summary-Chart-10.8-Final.pdf>

In states with OSHA-approved State Plans, employees may file complaints with Federal OSHA and with the State Plan.

<https://www.osha.gov/contactus/bystate/ID/areaoffice>

See the Whistleblower Protection Program website to learn more.

<https://www.whistleblowers.gov/>

#### Online

<https://www.osha.gov/whistleblower/WBComplaint>

Use the Online Whistleblower Complaint Form to submit your complaint online to OSHA

#### Fax/Mail/Email

Complete the Online Whistleblower Complaint Form, or write a letter describing your complaint and fax, mail, or email either a letter describing your complaint or a printed

copy of your completed Online Whistleblower Complaint Form to your local OSHA office. Please make sure that your correspondence includes your name, mailing address, email address, and telephone or fax number so we can contact you to follow up.

#### Telephone

Call Your Local OSHA Office or 800-321-6742 (OSHA)

OSHA staff can discuss your complaint with you and respond to any questions you may have.

#### In Person - Visit Your Local OSHA Office

OSHA staff can discuss your complaint with you and respond to any questions you may have.

To find your local office: <https://www.osha.gov/contactus/bystate>

Boise Area Office

1387 S. Vinnell Way, Suite 218

Boise, ID 83709

Phone: (208) 321-2960

Fax: (208) 321-2966

### Community Resources for Farmworkers

#### **PODER of Idaho**

<https://www.poderofidaho.org/>

Works to defend and support Latino, undocumented, and DACAmented communities throughout Idaho through actions, events, and various campaigns on economic justice, social justice, and education. PODER of Idaho strives to keep our communities informed.

#### **Immigrant Justice Idaho**

<https://www.immigrantjusticeidaho.org/>

Founded by Maria E. Andrade, the principal attorney of Andrade Legal, Immigration Law, IJI fills a colossal gap in Idaho's immigration legal services available to low-income Idahoans: free and low-cost deportation defense.

#### **Visión 2c Resource Council**

The Idaho Organization of Resource Councils empowers people to improve the well-being of their communities, sustain family farms and ranches, transform local food systems, promote clean energy, and advocate for responsible stewardship of Idaho's natural resources.

### **United Farmworkers**

Begun in 1962 by Cesar Chavez, Dolores Huerta, Gilbert Padilla and other early organizers, the United Farm Workers of America is the nation's first enduring and largest farm workers union. The UFW continues to actively champion legislative and regulatory reforms for farm workers covering issues such as worker protections, pesticides and immigration reform.

Inventory of Farmworker Issues and Protections In The United States

[https://www.ufw.org/pdf/farmworkerinventory\\_0401\\_2011.pdf](https://www.ufw.org/pdf/farmworkerinventory_0401_2011.pdf)

### **Farmworker Justice**

Since its inception in 1981, has filed lawsuits on behalf of farmworkers and their organizations, often in collaboration with other advocates and attorneys to maximize impact.

<https://www.farmworkerjustice.org/resource/>

### **Idaho Immigrant Resource Alliance**

Alliance of nine nonprofits working to support the farm worker and immigrant community during the COVID-19 pandemic.

[idaheimmigrantresourcealliance@gmail.com](mailto:idaheimmigrantresourcealliance@gmail.com)

### **State Monitor Advocate**

#### **Idaho Department of Labor**

Dunnia Aplícano

(208) 332-3570 ext.3135

[Dunnia.Aplicano@labor.idaho.gov](mailto:Dunnia.Aplicano@labor.idaho.gov)

### **Catholic Charities of Idaho**

<https://www.ccidaho.org/>

CCI offers strength based and solution-oriented services, including educational and skill building services, family focused counseling, immigration legal services, crisis case management services, financial wellness and asset building opportunities, youth support and resource referral services.

### **Community Council of Idaho**

<https://communitycouncilofidaho.org/>

The Community Council of Idaho, Inc. (CC Idaho) is a rural-centered, multi-service nonprofit organization that has impacted Idaho communities since 1971 and are now the largest nonprofit serving Latinos in the state. CC Idaho's purpose is to improve the

social and economic status of local communities through workforce preparation, education, cultural awareness, civil rights advocacy, and well-being services.

### **Multi-Family Housing**

<https://communitycouncilofidaho.org/housing/>

With five multi-family communities, we are a major developer of affordable housing. These units are located throughout the state of Idaho to serve the needs of Migrant and Seasonal Farmworkers and their families. We also provide transitional services to homeless and single individuals, homeless families, and rural communities with other housing needs.

### **Migrant and Seasonal Head Start**

<https://communitycouncilofidaho.org/head-start/>

MSHS is an Early Childhood Education Program for children of migrant and seasonal agricultural workers and their families; dedicated to promoting the success of their children in school and later in life. We offer a comprehensive service program for children and families that includes: Early Childhood Education, Nutrition, and Health & Wellness.

### **Early Head Start Child Care Partnership (EHS-CCP)**

<https://communitycouncilofidaho.org/early-head-start-child-care-partnership/>

EHS-CCP is an early childhood education program for children of agricultural working families. Children in this program can be between 0 and 3 years of age. This program is dedicated to promoting the success of children in school and later in life. EHS-CCP provides services for children and families that include early childhood education, disability and mental health services, health, wellness, nutrition, social services, and parental involvement and training.

### **Familias Unidas'**

<https://communitycouncilofidaho.org/immigration-services/>

Familias Unidas' mission is to help keep families together by assisting low-income clients in achieving not just legal status and economic self-sufficiency, but also in becoming fully active participants in the social and civic life of our community through exceptional immigration legal services, education, and advocacy.

### **Community Council of Idaho Employment and Training Program**

<https://communitycouncilofidaho.org/employment-training/>

#### The National Farmworker Jobs Program

NFJP provides training and educational opportunities to eligible adult and youth farmworkers. Each of our Community Resource Centers offer job search assistance, training opportunities, skills development, and much more. All of these services are free to those who qualify.

#### The High School Equivalency Program

HEP's goal is to help students succeed in obtaining their high school equivalency certificate while also increasing their workforce development skills. While enrolled, students will be provided free instruction, paid testing fees, books and career exploration guidance.

#### The Community Services Block Grant (CSBG)

CSBG provides a variety of services for adults, youth, and seniors to help alleviate the cause and conditions of poverty. All CSBG resources are provided with the intent of revitalizing low-income communities, and empowering low-income families to become self-sufficient.

#### YouthBuild

YouthBuild is full-time program that assists youth between the ages of 16 and 24. Students enrolled in YouthBuild work towards earning their high school equivalency certificate, while also receiving hands-in training to jumpstart a career in the construction trades. Instructors and YouthBuild support staff design leadership activities in, and outside the classroom, to promote a positive and healthy lifestyle.

#### Low Income Home Energy Assistance Program

This program makes home heating more affordable, assists with avoiding disconnection of utility services during the winter and helps to maintain a warm, safe and healthy environment for young children, the elderly and the disabled. The types of assistance are a one-time utility payment and emergency assistance if a household's home energy service is going to be disconnected or has been disconnected.

## Resources

Intermountain Fair Housing Council  
208-383-0695 or 1-800-717-0695  
<https://ifhcidaho.org/>

HUD FHEO  
1-800-877-0246  
[www.hud.gov/fairhousing](http://www.hud.gov/fairhousing)

Immigrant Justice Idaho  
208-342-0434  
<https://www.immigrantjusticeidaho.org/>

ACLU of Idaho  
208-344-9750  
<https://www.acluidaho.org/>

Idaho Coalition Against Sexual and Domestic Violence  
208-384-0419  
<https://idvsa.org/>

Idaho Council on Domestic Violence and Victims Assistance  
208-332-1540  
[icdv.idaho.gov](http://icdv.idaho.gov)

Idaho Human Rights Commission  
208-334-2873  
[humanrights.idaho.gov](http://humanrights.idaho.gov)

#Mmiw: A Primer on Missing And Murdered Indigenous Women  
<https://www.portlandoregon.gov/article/682401>

PBS Documentary “Rape in the Fields”  
<https://www.pbs.org/video/frontline-rape-fields-show/>

The story of the hidden price many migrant women working in America’s fields and packing plants pay to stay employed and provide for their families. This investigation is the result of a yearlong reporting effort by veteran FRONTLINE correspondent Lowell Bergman, the Investigative Reporting Program at UC Berkeley, and the Center for Investigative Reporting.