

Fair Housing Guide for Migrant Farmworkers

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.

Unsafe Working and Living Conditions

Occupational hazards were compounded by the COVID-19 pandemic when farmworkers were deemed essential and expected to work but often not protected against this deadly disease. Firsthand accounts reported that many farms did not adhere to social distancing, allowing large groups of people to work side by side. Additionally, especially in the early months of the pandemic, personal protective equipment (PPE) was scarce for many farmworkers.

Farmworkers were compelled to continue their work as government-designated essential workers who could not afford to stay home and could not telecommute. Farmworkers were denied the wage and other labor protections other, non-essential workers were eligible to receive. Many agricultural employers did not provide social distancing, face masks, paid sick leave, health insurance, or extra pay to cover farmworkers' added costs of protecting themselves.

The pandemic also exacerbated persistent housing inequities experienced by farmworkers and their families. 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. With people out of work, safe housing became even more difficult to afford, and overcrowding made public health recommendations for social distancing impossible to follow.

Compounding the risk of exposure and infection as frontline pandemic workers, farmworkers are less likely to visit a doctor even when they become sick. Many farmworkers lack meaningful access to healthcare owing to prohibitive costs, few clinics in rural areas, the inability to get sick leave and concern about missing paid work time, and for undocumented workers, a fear of how their immigration status will affect eligibility.

Beyond these heightened safety concerns created by the COVID-19 pandemic, there are environmental health risks that regularly create unsafe conditions for farmworkers and their families. First, according to [Farmworker Justice](#) and the [Migrant Clinicians Network](#), agricultural workers are at significant risk for heat stress because their work is physically demanding over long hours, in hot and sometimes humid climates. In the short term, heat stress can lead to more severe heat illness including heat exhaustion, heat stroke, and even death, while chronic heat stress is associated with kidney disease. Farmworkers die of heat-related causes at roughly 20 times the rate of workers in all other civilian occupations.

Second, pesticide exposure causes farmworkers to suffer more chemical-related injuries and illnesses than any other workforce nationwide. According to a Farmworker Justice report, "there is an estimated 5.1 billion pounds of pesticides applied to crops each year, and thousands of farmworkers experience the effects of acute pesticide poisoning, including headaches, nausea, shortness of breath, or seizures. Pesticide exposure leads to chronic health problems, such as cancer, infertility (and other reproductive problems), neurological disorders, and respiratory conditions."

Farmworkers are routinely exposed to pesticides through a variety of pathways. For example, workers who perform tasks in pesticide-treated areas risk exposure from direct spray, aerial drift, or contact with pesticide residues on the crop or soil. Workers who mix, load, or apply pesticides can be exposed to pesticides from spills, splashes, and defective, missing, or inadequate protective equipment.

Pesticide risk is not limited to occupational exposure in the fields or nurseries. Farmworkers may inadvertently bring pesticides home to their families through residue on their clothes or tools. For those living near the land they work, additional exposure pathways include ingestion of contaminated groundwater, outdoor recreation, or eating produce grown near the crops sprayed with pesticides.

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.

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) 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>

File a Complaint

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

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
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Fax: (208) 321-2966

[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 is the enforcer of these regulations.

[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/>

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.

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.

To learn more:

Farmworker Justice: <https://www.farmworkerjustice.org/>

Migrant Clinicians Network: <https://www.migrantclinician.org/>

Farmworkers At Risk Report: <https://www.ucsusa.org/sites/default/files/2019-12/farmworkers-at-risk-report-2019-web.pdf>

Report by Farmworker Justice: Exposed and Ignored:

<https://kresge.org/sites/default/files/Exposed-and-ignored-Farmworker-Justice-KF.pdf>

Farmers' Exposure to Pesticides: Toxicity Types and Ways of Prevention:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5606636/pdf/toxics-04-00001.pdf>

Heat is now the deadliest threat to farmworkers: <https://talkpoverty.org/2019/06/20/farmworkers-heat-illness-deaths>

