

# Know Your Rights as an Agricultural Worker in Georgia



2018 Edition

**Farm Worker Rights Division  
Georgia Legal Services Program**

Contact Us:



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# H-2A Visa Contract\*

**WARNING:** This booklet contains general information on the rights of agricultural workers in Georgia. This material is not legal advice, it is not legal representation, and it does not create a client-lawyer relationship. If you need legal representation, please talk to a lawyer.

## What is Georgia Legal Services Program?

Georgia Legal Services Program is a non-profit law firm lawyers that provides **free** legal assistance to low income individuals.

The Farm Worker Rights Division of Georgia Legal Services is located in Atlanta, but its services cover all of Georgia and its lawyers and legal assistants are available to visit you wherever you are. We help agricultural workers with problems related to working conditions, for example:

- Your employer does not pay you for all your hours of work
- Your employer provided you with inadequate housing
- You were exposed to pesticides on the job
- Your employer harasses you or discriminates against you based on race, nationality, sex, religion , etc.

Other than the Farm Workers Rights Division, Georgia Legal Services has 12 regional offices. Each regional office manages other types of cases. For example: domestic violence, housing problems, public benefits, and matters relating to the family and to school. If you have a legal inquiry, please call us and we can refer you to the appropriate regional office.

**\*This section only applies to workers hired with H-2A visas and to U.S. workers working in the same crew with H-2A's**

## Your Rights under an H-2A Contract

Your H-2A contract guarantees certain rights, including:

- Your wages cannot be less than what you were promised in your contract (for 2018, the minimum wage for workers under an H-2A contract in Georgia is **\$10.95** per hour);
- You should be offered at least 75% of the hours of work you were promised in the contract;
- You should be reimbursed for some of your travel expenses;
- Workers Compensation Insurance coverage, if you are injured on the job;
- Free housing that complies with safety and health regulations;
- An adequate kitchen to prepare your meals or you should be offered three meals a day at a reasonable cost; and
- At the end of your contract, you should be paid for some of your costs to return home.



## Questions and Answers:

***What contract are you talking about? I have never seen a contract.***

-> Everyone who is hired with an H-2A visa is admitted into the United States under a contract.

Even if you haven't seen it, it does exist. Georgia Legal Services can explain to you what is in that contract.

## H-2A Visa Contract\*

**\*This section only applies to workers hired with H-2A visas and to U.S. workers working in the same crew with H-2A's**

### **Minimum Wage under the H-2A Contract**

Each year, the government determines the minimum wage for H-2A workers. **For 2018, in Georgia, your contract guarantees a wage of \$10.95 each hour you work during a pay period.** This includes time spent traveling from farm to farm and time spent waiting at your place of work.

Even if you are paid by per box, bucket, pound, etc., you should earn an average of **\$10.95** per hour in Georgia. You can earn more than that, but NEVER less. This is why it is so important that you write in a notebook or a calendar the number of hours you work each day and verify, at the end of each pay period, if you received, at least, an average of \$10.95 per hour. The last few pages of this booklet have calendars that you can use to keep track of your daily hours.



### **Questions and Answers:**

#### ***What does "pay period" mean?***

⇒ Most farm jobs have a pay period of one week. For example, a pay period can span from Sunday to Friday, or from Monday to Sunday, or any 7 consecutive days that end with the "pay day." To check if you have received at least the minimum wage, multiply all of your work hours in the pay period by \$10.95. For example, if you worked 40 hours during the pay period, you should receive net wages **of at least** \$438, in other words: 40 hours X \$10.95 = \$438.

## H-2A Visa Contract\*

**\*This section only applies to workers hired with H-2A visas or to U.S. workers working in the same crew with H-2A's**

### **Expenses that Should be Reimbursed**

You have the right to be reimbursed for certain expenses related to work. There are two laws that give right to reimbursement:

#### **1. Fair Labor Standards Act:**

Federal labor laws require that employers pay their workers at least the federal minimum wage (\$7.25 per hour). Therefore, if you have expenses related to work that reduce your salary below \$7.25 per hour, the Fair Labor Standards Act requires that your employer reimburse you for part of your expenses so that you make at least the federal minimum wage. Example of costs that should be reimbursed are:

- Visa costs
- If you have to relocate to take the job, then your travel costs to get from your home to the job's housing should be reimbursed by the employer.
- Tools and uniforms for work

**Expenses that happen before starting your job should be reimbursed in your first paycheck!**

#### **2. Right to Reimbursement under the H-2A Contract:**

Under the H-2A contract, the employer must reimburse costs for travel cost, food costs, and lodging costs during your trip from your country of origin to your place of work. This reimbursement should be issued before or when you have completed half of your contract.

**It is illegal for an employer or recruiter to charge you to apply for a job or to charge you to add your name to a list of people to be hired at a later time. Never pay to apply for a job!**

# H-2A Visa Contract\*

**\*This section only applies to workers hired with H-2A visas or to U.S. workers working in the same crew with H-2A's**

## H-2A Frequently Asked Questions:



- 1) **Passports: Is it OK for my employer to take my passport or my identification documents?** No. It is illegal for an employer to take your passport or other identification documents. If someone takes your passport, ask that they give it back to you. If they refuse to give it back, you should call the office of your consulate to get a new one. You can also report it to the police or ask a lawyer for help.
- 2) **Social Security Number: Do I have a right to a social security number?** Yes. A Social Security Number (SSN) is an identification number used to report your income in the U.S. and to determine if you are eligible for certain benefits. Even though H-2A workers are not generally eligible for social security benefits, you should apply for a SSN so that you can report your income to the U.S. government. Your employer can help you obtain a SSN or you can apply for one at the closest Social Security Office. For more information visit their website at: [www.ssa.gov](http://www.ssa.gov) or call 1-800-772-1213.
- 3) **Quitting the Job: Do I have to stay and work until the end of my contract even if I don't want to?** No. H-2A workers have the right to quit their job at any time. It is illegal for an employer to force you to work if you don't want to work. When an H-2A worker quits his job, the employer has to report this fact to the U.S. government and the worker's visa gets cancelled. You have 10 days from the day you quit your job to leave the U.S. and go back to your country. Staying in the U.S. may expose you to deportation and/or prevent you from being able to come back with another visa in the future.

# Minimum Wage

## The federal minimum wage law:

- Requires that workers earn at least \$7.25 per hour.
- Requires that employers reimburse their workers **up to the level of the minimum wage** any job-related expenses (for example: tools and uniforms for work, and, in some cases, travel costs).
- Requires that you are paid the minimum wage "free and clear," in other words, there should not be deductions to your minimum wage except deductions required by law.

If there is a violation of the minimum wage law, you may be able to recover double of what you are owed! In other words, if the court finds your employer guilty of not paying you the minimum wage, the employer may have to pay you double of what you are owed.



## Questions and Answers:

***I have worked for many seasons without receiving the minimum wage. Can I recover those wages now?***

⇒ You have up to two years to recover the minimum wage that you are owed. In some special cases, you may have up to three years. Don't wait! If two years go by and you have not presented a claim, you could lose your right to claim those wages.

# Minimum Wage

Even if you are paid by piece (in other words: per box, bucket, pound, etc.), the minimum wage law still applies.

- The employer or supervisor should track the hours you work each day.
- You should also keep track of the hours you work so that you can compare them with the hours reported on your paycheck stub.
- If you are paid by piece, and your wages come out to be less than what you would have made being paid by the hour, your employer must pay you the difference.



## Question and Answers:

*I don't have much free time. Is it worth the trouble of keeping track of my hours?*

⇒ Absolutely, yes! Consider this: If you lose one hour of work a day for 6 days a week, you would lose around \$170 each month. In four months you would lose almost \$700! So, write down your hours!

HORA QUE LLEGA AL PRIMER FIL	TIEMPO PARA COMER	HORA QUE SALE DEL ULTIMO FIL
6:57 am.	45 min.	9:59 am.
10:15 am.		6:21 pm.
6:58 am.	1 hr.	4:00 pm.
9:10 am.		1:00 pm.

Date	Time
4/3	7:15 de la mañana a 12, lonche, 12:20 - 4:30; Lluvia
4/4	7:30 a 12:15 - 12:30 a 6:25
4/5	7:00 am - 12:45; 1:10 a 7:30

HINT: You can use a calendar to keep track of your hours, or use your cell phone and send yourself your hours via email or text message each day.

# Pay Stub

You have the right to receive a paycheck stub or a pay statement at the end of each pay period. Your stub should show:

- 1) Name and address of your employer
- 2) Your work hours
- 3) Number of pieces /buckets/boxes/pounds you did
- 4) Salary paid per hour or per piece
- 5) Any deductions

Date	Type	Offered	Hours	Pieces	Rate	Deductions	Earnings
5/21/2012	H-MIN WAGE						38.65
5/25/2012	PACK CAB/REPOLLO	6.80		42	.60		25.20
5/27/2012	PACK SOICALAZA	1.33			9.39		12.49
5/27/2012	FIELD/ARIOS	4.58			9.39		43.01
5/28/2012	H-MIN WAGE						7.08
5/28/2012	FIELD/ARIOS	11.75			9.39		110.33
5/29/2012	PLACE PK PEPI/CHI	2.00		39	.30		11.70
5/29/2012	FIELD/ARIOS	7.75		10	9.39		72.77
5/30/2012	FIELD/ARIOS	12.58			9.39		118.13
5/31/2012	PACK PEPI/EMPACA	3.00			9.39		28.17
5/31/2012	FIELD/ARIOS	8.92			9.39		83.76
6/1/2012	PACK PEPI/EMPACA	3.50			9.39		32.87
6/1/2012	FIELD/ARIOS	8.84			9.39		83.01
6/2/2012	Hrs Offered	40.00					.00
6/2/2012	FIELD/ARIOS	8.42			9.39		79.06
6/2/2012	MEALS					61.25	
		40.00	79.47	91		61.25	749.23
							152214

# Hours That Should Be Paid

- You must be paid for all hours worked in the farm or the packing plant.
- You must be paid for any time spent “waiting” before or after the workday.
- You must be paid for time spent traveling from one farm to another or from one field to another.
- You do not have to be paid for a lunch break if it lasts for 30 minutes or more.

## Overtime

In general, the federal law does not require overtime pay for work performed by agricultural workers. However, there are some exceptions:

- In some cases, the law requires overtime pay to workers who work in packing plants.
- Workers in packing plants are entitled to additional pay **ONLY** when the employer is packing products from other farms.
- Overtime pay means that if you work for more than 40 hours in a pay period, you should be paid time and a half for any hour over 40 hours. In other words, you would earn \$7.25 per hour for the first 40 hours, and \$10.87 per hour for rest of your hours.



**HINT:** Look at the labels in the boxes of produce in the packinghouse or the logos on the trucks bringing in the produce. Notice if they have the names of different farms.

**For more information or if you have any questions about your rights regarding pay, contact us.**

## Housing



**If your employer provides housing, you have the right to safe and healthy housing, including:**

- Housing that is not plagued by insects or pests
- Heating
- One bed per person
- Lights that work
- Clean drinking water
- Clean bathrooms and water that is sufficiently hot and cold
- One toilet per 15 people
- One shower per 10 people
- One tub or washing machine for washing clothes per 25 people
- A first aid kit
- Trash should be removed at least twice a week



**IMPORTANT:** You have the right to receive visitors at your housing.

### Eviction

- You cannot be removed from your housing without a court order.
- A police officer (not your employer) must give you notice that there is a pending eviction petition against you.
- You have 7 days after receiving the notice to file your response with the court.
- It is illegal to evict someone because they complained about the condition of the housing.

## Health at Work

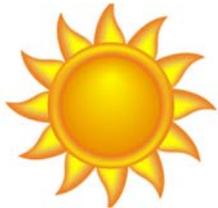


**Employers must provide, within a 1/4 mile from where you are working, the following facilities:**

- Clean drinking water
- Disposable cups or a water fountain
- Clean bathrooms, sinks with water, soap, and disposable towels to wash your hands
- Reasonable opportunities to drink water and use the bathrooms during the workday



**Take care of your health while you work!**



Avoid the risk of dehydration and sunstroke. Excessive sun and heat, and dehydration can cause serious health problems and **even death!**

- Demand that your employer provide you with fresh and clean drinking water
- Find shade and rest if you are feeling dizzy or ill
- In case of emergency, call 911

**For more information or if you have a question about your rights regarding housing or health at work, contact us.**

## Pesticides



Pesticides are chemicals that are used to kill pests, molds, rodents, weeds, and insects. Exposure to pesticides can make you sick and, in the long term, can cause severe conditions such as cancer, sterility, and blindness.

### **Symptoms of Pesticide Poisoning:**

Nausea and vomiting | head or chest pain | dizziness  
confusion | muscle cramps | reddening of the skin  
excessive sweating | irritation of the eyes, throat, or skin  
dilation of the pupils | blurred vision | excessive salivation  
difficulty breathing

### **Your Rights:**

- You have a right to choose not to enter into the field until it is safe to do so (the time of entry depends on what pesticide was sprayed).
- The employer should display, in a central area, a list including the following information: the name of the pesticide sprayed, the date when it was sprayed and where it was sprayed, and the period of time workers should wait before reentering the field.
- For workers handling pesticides: the employer should provide adequate training and protection equipment.
- It is illegal to retaliate against workers for exercising their rights.

# Pesticides

## How to protect yourself?

- Wash your hands frequently. Wash your hands before eating, smoking, and going to the bathroom.
- Wash your work clothes separate from your other clothing, before wearing them again.
- Don't enter the field after a spraying of pesticides until it is safe to do so.
- If your employer is not following the rules or exposes you or other workers to pesticides, you can complain to the Georgia Department of Agriculture by calling **(404) 656-9371**.



## Questions and Answers

***What should I do if I have been poisoned by pesticides?***

- Wash your body immediately.
- Write down the name of the pesticide (if you know it) or ask your employer what pesticide was sprayed.
- Save the contaminated clothes in a plastic bag.
- Get medical attention as soon as possible. Your employer should take you to a doctor.
- **In case of emergency call 911.**
- Inform the doctor that you have been exposed to pesticides and give the name of the pesticide.

**For more information of if you have a question regarding pesticides, contact us.**

# Accidents on the Job

## Worker Compensation Insurance:

Some employers offer insurance to help workers who suffer injuries or illnesses because of their job. Not all farmworkers in Georgia have a right to Worker Compensation Insurance.

**If you do not know if your employer offers this insurance, ask them or call us.**

## Workers Compensation provides the following benefits:

- Pays **100%** of medical costs, medicine, and transportation to the hospital and doctor's appointments.
- Pays **66.6%** of lost pay if you cannot work for one week or more.
- Additional compensation if you suffer a permanent injury.
- Does not cover: costs associated with injuries or illnesses that are not related to employment (for example: appendicitis , diabetes, flu, etc.).

## How to Make a Claim:

- As soon as possible, tell your supervisor and employer about the accident or injury (within **30 days** after the incident).
- Keep any receipts from medical bills that you paid.
- Within a year from the incident/injury, you must make a claim to the State Board of Worker Compensation of Georgia **and** to your employer's insurance to receive benefits.
- Consult with a lawyer if you need help with your claim.



## Questions and Answers:

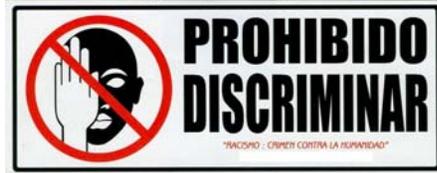
***What should I do if I have a bad accident on the job?***

1. Get medical attention first. If your employer will not take you to a clinic or hospital, call 911 for help.
2. Inform your employer of the accident as soon as you can (within 30 days after the accident).
3. Consult a lawyer.

# Employment Discrimination

It is illegal for an employer to discriminate against workers for any of the following reasons:

- Race
- Color
- Nationality
- Religion
- Sex (including pregnancy)
- Age
- Mental or physical disability



If your employer takes any of the following actions against you, for any of the reasons mentioned above, it is possible that you are a victim of employment discrimination:

- They deny you employment or a promotion
- They fire you
- They assign you different (worse) tasks than to others
- They call you names or are abusive
- They suspend you from work
- They offer you a lower pay than to other workers
- They harm you in other ways related to your employment

**If you think you are a victim of discrimination, speak with a lawyer and the Equal Employment Opportunity Commission (EEOC) at 1-800-669-4000.**

# Employment Discrimination

## Additional Protections for U.S. Citizens and Permanent Residents

Work Visa programs (like H-2A and H-2B visas) require that employers first hire U.S. citizens and permanent residents. In other words, in general, employers are required to give local workers preference over foreign workers.

If you are a U.S. citizen or permanent resident and an employer refuses to hire you while they instead hire a worker on a temporary visa, you may be a victim of employment discrimination.

**If you think you are a victim of discrimination, speak with a lawyer and with the Equal Employment Opportunity Commission (EEOC) at 1-800-669-4000.**

**IMPORTANT: Don't delay! Generally, you have to report an act of discrimination within 180 days of the incident. If you do not report the incident in time, you may lose your rights.**

For more information of if you have any further questions about employer discrimination against workers, contact us.

# Sexual Harassment



## Sexual harassment is illegal !

Sexual harassment is an unwanted or unwelcomed sexual advance or conduct. For example:

- Unwelcomed physical contact
- Offensive comments
- Soliciting or demanding sexual acts that include promising benefits in exchange for sexual favors
- Sexual abuse
- Threats as a result of not participating in sexual acts

## Questions and Answers:



### **(1) Who can be a victim of sexual harassment?**

⇒ Anyone, man or woman, young or old, can be a victim of sexual harassment

### **(2) Some coworkers are making offensive comments to me that are sexual in nature, but not my employer. Is that also considered sexual harassment?**

⇒ Yes, that is also sexual harassment. Employers AND fellow workers can commit sexual harassment. Your employer should protect you from sexual harassment and should not allow your coworkers to harass you. Report any instance of harassment to your employer.

**If you have any further questions about sexual harassment at work, contact us. Your call is confidential!**

# Human Trafficking



## What is human trafficking?

Human trafficking is a situation in which an employer or supervisor intimidates the workers for the purpose of forcing them to work or to force them to remain at the job. Examples of intimidation include:

- Violence or threats of violence against you or your family.
- Your employer takes away your identification documents.
- Your employer forces you to work to pay off a debt.
- Your employer threatens to report you to the police or to immigration.
- Your employer doesn't allow you to leave the premises in your free time or tries to control your movements.

## **REMEMBER:**

- You have the right to quit your job at any time. No one can force you to work.
- You have the right to receive visitors and to socialize in your spare time.
- You have the right to consult with a lawyer to learn about your rights.
- Your documents are yours—no one can take them from you! Do not lend them to anyone or give them away to anyone.

## **If you believe you are in a human trafficking situation, get help:**

- Call the National Human Trafficking Resource Center, open 24 hours a day, 7 days a week, at **1-888-373-7888**.
- **If you are in immediate danger, call 911.**

## The Police



**If you are detained by the police, remember:**

- Stay calm
- Obey the officer's instructions
- Treat the officer with respect
- Do not resist or use any violence
- Do not give false information
- Do not attempt to bribe the officer
- Do not talk about your immigration status

**If you are inside a vehicle:**

- Stay inside the vehicle
- Turn off the radio
- Open the window and place your hands on top of the wheel without making any sudden or suspicious movements
- When they ask, show them your driver's license and registration
- If you get a ticket, sign it
- If they ask, do the alcohol test

**You have a right to....**

- **Stay quiet.** You can give your name and say: "I WANT TO REMAIN SILENT."
- **You can ask for an attorney.** You can say: "I WANT TO SPEAK WITH A LAWYER."
- You can make a phone call if they arrest you. Have a phone number memorized that you would call in this situation.
- If you are a foreign national, notify your consulate of your arrest. You can say: "I WANT TO TALK TO MY CONSULATE."

**If you have problems with the police, call your consulate or a lawyer.**

## Telephone Directory

### CONSULATES IN ATLANTA:

**Consulate General of Haiti: 404-228-5373**

**General Consulate of Mexico: 404-266-2233**

**General Consulate of Guatemala: 404-320-8805**

### GOVERNMENT AGENCIES:

**U.S. Department of Labor—Wage & Hour Division**

(for wage claims and other employment complaints):

**866-487-2365**

**Georgia State Board of Workers Compensation**

(for questions regarding accidents/injuries on the job)

**800-533-0682**

**Equal Employment Opportunity Commission:**

(for questions regarding employment discrimination)

**800-669-4000**

**Georgia Department of Agriculture:**

(for complaints regarding exposure to pesticides)

**404-656-9371**

### HEALTH SERVICES AND HELP FOR VICTIMS:

**National Center for Farmworker Health: 800-377-9968**

**National Human Trafficking Resource Center: 888-373-7888**

**Tapestri** (help for victims of human trafficking in Georgia):

**866-317-3733**

**United Way** (referrals for various services and assistance): **211**

# Journal

NAME: \_\_\_\_\_ YEAR: \_\_\_\_\_

EMPLOYER: \_\_\_\_\_

Date	Time Work Began	Time Work Ended	Total Hours	How many boxes, pounds, buckets picked today?

# Journal

NAME: \_\_\_\_\_ YEAR: \_\_\_\_\_

EMPLOYER: \_\_\_\_\_

Date	Time Work Began	Time Work Ended	Total Hours	How many boxes, pounds, buckets picked today?

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EMPLOYER: \_\_\_\_\_

Date							
Time Work Began							
Time Work Ended							
Total Hours							
How many boxes, pounds, buckets picked today?							

Farm Worker Rights Division  
Georgia Legal Services Program

## Contact Us:



**By email:** [contacto@gafr.org](mailto:contacto@gafr.org)



**By Facebook:** [facebook.com/sueldojusto](https://facebook.com/sueldojusto)



WhatsApp

**By WhatsApp:** 912-245-2806



**By Phone from the US:** 1-800-537-7496 (free)  
**By Phone from Mexico:** 001-800-537-7496 (free)  
**By Phone (international):** 001-404-463-1633



**By Mail:** 104 Marietta St., N.W., #250  
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