

KNOW YOUR RIGHTS!
**POULTRY WORKERS'
RIGHTS**



IMMIGRANT
JUSTICE
PROJECT

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EMPLOYMENT RIGHTS OF POULTRY WORKERS

All employees, regardless of their immigration status, are entitled to the same basic employment rights. This booklet contains information about your rights at work and how you can be sure these rights are being protected.

This booklet is jointly published by the Equal Justice Center's Poultry Worker Project, Southern Migrant Legal Services, a Project of Texas RioGrande Legal Aid, and the Immigrant Justice Project of the Southern Poverty Law Center. We are three community-based organizations that provide legal advocacy and legal rights education to workers throughout the southern United States. This booklet is not intended to serve as

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No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers.

specific legal advice, and if you think your rights are being violated, you can contact one of our offices or an employment rights attorney immediately.

YOUR PAYCHECK

Minimum Wage

All poultry processing workers in the United States are entitled to earn the federal minimum wage: \$5.15 for every hour worked. If you are not being paid at least \$5.15 per hour before taxes, or if your employer deducts money from your check that makes your pay rate fall below \$5.15 per hour, you can consult a workers' center, union representative, legal aid office or other attorney. You can also contact the US Department of Labor Wage & Hour Division at 1-866-4USWAGE.

Some workers in the poultry industry are not paid by the hour, but rather by piece rate. Even when you are paid a piece rate, your rate of pay for the week must average at least \$5.15 per hour worked.

You have the right to be paid for every hour you work. If you don't get paid for some work you have to do "off the clock," you may actually be getting less than the legal minimum wage – even if your official pay rate is higher.



Some states have a minimum wage that is higher than the federal minimum wage. When this is the case, you are entitled to be paid whichever is higher.

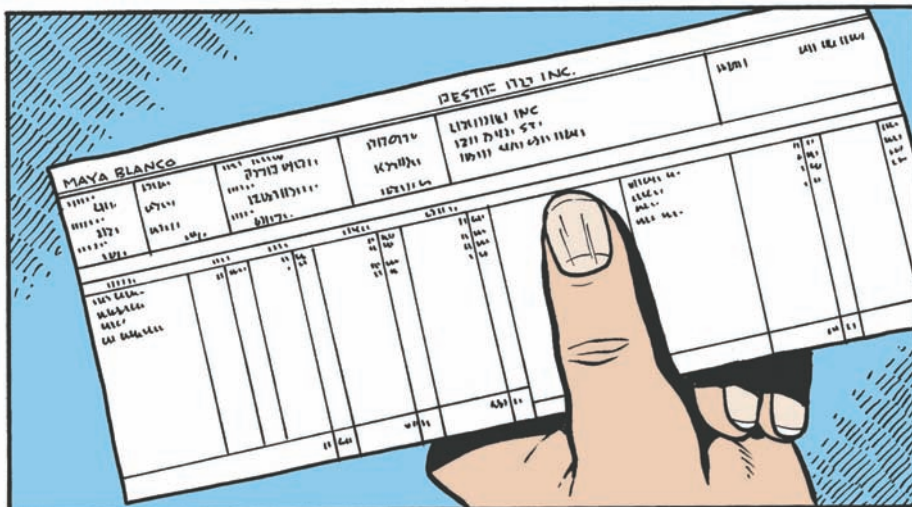
OVERTIME

A “regular” work week is 40 hours per week (a week is seven consecutive days). If you work more than 40 hours during a week, the employer is required by law to pay you “time and a half,” which is your normal hourly wage, plus an additional 50% of that wage for each hour you work over the 40-hour workweek. For example, if you earn \$6.00 per hour your overtime rate would be $\$6.00 + \$3.00 = \$9.00/\text{hour}$.

“What time is it?”

Employers must pay you for all hours that you work, including all breaks shorter than 30 minutes. Some employees are required to come to work before their shifts begin. Some have to stay at the plant after their

If you are not receiving “time and a half” for all hours above the 40-hour workweek, your employer is breaking the law.



shifts are over. It’s important to make sure that you get paid for all the time that you spend working or doing tasks required by your employer.

You should generally be paid for time spent putting on and taking off equipment, special clothing, or protective gear required by the job. You should also be paid for time spent waiting when machines break down, even if the line isn’t running. If your company uses a “master clock” for all workers, which starts and stops when the line starts and stops, your employer must still pay you for time spent waiting for the line to start, and time spent on backed-up work after the line has stopped.



Be sure you know how much you work each day, including when your work hours start and when they end. ***You can keep track of your hours by writing them down each day on the sheets in the back of this booklet.***

PAYCHECK DEDUCTIONS Do I have to pay for that? Some employers make workers pay for uniforms, tools, gear or equipment related to the job. In a non-

overtime week, these deductions are legal as long as they do not bring your average hourly wage for the week below \$5.15 an hour. *In a week when you work overtime*, these deductions normally cannot be taken from your pay.

Employers normally *cannot* legally charge fees, including “recruiting” and “application” fees, if you are working overtime or if a charge brings your average hourly wage for the week below \$5.15 an hour. The laws of some states forbid all deductions unless they are authorized beforehand in writing by the employee.

TAXES Where did my money go?

Employers are required by law to deduct certain taxes from your paycheck each time you are paid. These deductions are:

- FICA taxes (Social Security and Medicare) are federal taxes that all employers must deduct. FICA deductions are 7.65% of your pay.
- Employers are also required to deduct federal income taxes. In some states they also have to deduct state income taxes. The amount deducted will vary, depending on your income, family size and the state you live in.

Be sure to check the math and make certain that the right amounts are being withheld. If money isn't being taken out, your employer may

be breaking the law. Although you might be glad to have the extra money, this could come back to hurt you later because you might not be earning Social Security benefits or because you may owe money to the government for your personal income taxes. If you have concerns, you can ask your employer, your union, a workers' center or worker rights advocate about paycheck deductions, whether you think there may be too much being taken out or too little.

Concerned that you aren't being paid the right amount?

If you think you are not being paid for all the hours you work, or that your employer is not deducting the right amount from your paychecks, the single most important thing you can do is to **save all of your paycheck receipts**. If you do not get pay receipts with your check, you should photocopy your check before you cash it. This will provide a record. You should also keep track of how many hours you work each week. **You can use the chart in the back of this book to record the time you report for work, the time you are given for breaks and the time you leave work.**

Paychecks can often be confusing. If you have a concern about your paycheck, you can review it with your union representative, a workers' center organizer, legal aid office or other employment attorney.

FAMILY EMERGENCIES

According to the Family Medical Leave Act, you are entitled to up to a total of 12 weeks of **unpaid** leave per year for:

- The birth and care of your newborn child;
- Adoption of a child or taking in a child for foster care;
- To care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- A serious health condition that makes you unable to work.

To be eligible to take this time off, you must have worked for your employer for a minimum of 12 months or for at least 1,250 hours during the 12-month period immediately preceding the leave (an average of 24 hours a week). The 12 weeks you take for your family and medical leave don't have to be consecutive. If it's possible to give your boss advance notice that you'll need this time off, you must do so. **Try to notify your boss 30 days before the leave or at least as far in advance as possible.**

TAKING A BREAK

Most states do not have laws that guarantee rest breaks during the day, but your employer's policy or your union contract will probably allow you a break. Your employer has to pay you during a rest break lasting less than 30 minutes. Your employer does not have to pay you for a meal break of 30 minutes or more, as long as you are not required

to do any work during that time. During an unpaid break, you should not be required to clean equipment, wait on the production line, put on or take off work clothing or gear, or do anything else work-related. If you have to work during your break time, you must be paid for it. During an unpaid break, you should be allowed to go outside or leave to go to your car.

Bathroom Breaks

You have the right to take as many breaks as reasonably necessary to go to the bathroom. There is no law that requires employers to provide a certain amount of bathroom breaks, but federal health and safety laws require employers to allow employees to use the bathroom when it is necessary and to have a sufficient number of toilets accessible from where you work. If you are unable to go to the bathroom when you need to, this can cause dangerous health problems. If you take an emergency break without the permission of your supervisor and you are punished, your union or workers' center organizer

or legal aid office may help you. You can also contact the US Occupational Safety and Health Administration (OSHA) at 1-800-321-6742.

DISCRIMINATION

Federal laws prohibit employers from discriminating against or harassing workers based on their race, ethnicity, national origin, age, religion, gender, pregnancy or disability. Discrimination includes treating workers differently in their pay, hours, working assignments, hiring, firing, promotions, and





layoffs. This includes sexual harassment.

If you feel that your boss, supervisor or coworker may be discriminating against you based on any of the above categories, you can consult with a workers' center, union representative, legal aid office or other civil rights or employment attorney. You can also contact the US Equal Employment Opportunity Commission at 1-800-669-4000.

UNIONS AND ORGANIZING

What is a union?

A union is an organization of workers who join together to negotiate better terms of employment with the employer. Workers in a unionized plant have negotiated a contract, called a collective bargaining agreement, which guarantees workers certain wages, pay increases, benefits, working conditions, protection against unjust firing, and other advantages. The contract also establishes a procedure for workers to complain, called a grievance procedure, if the employer violates the terms of the contract.

A union contract protects workers from being fired for an unfair reason and usually guarantees better pay and benefits, such as health insurance and vacation pay, than workers get in a non-union plant.

All workers have the right to join a union, regardless of their immigration status. In fact, for most workers, a union is the best protection they can have against discrimination based on their immigration status.

Can my employer stop me from joining a union?

No. Every worker has a right to join with other workers to advocate for better workplace conditions, organize or join a union, and assist union or collective bargaining activities. It is illegal for your employer to:



to organize collectively. If your employer has threatened you in any way when you have engaged in union activity or have joined with one or more coworkers to complain about a workplace condition, you can contact your union representative if you have one, a workers' center, legal aid office or other employment attorney. You can also file a complaint directly with the US National Labor Relations Board. Their toll free number is: 1-866-667-NLRB (1-866-667-6572) or (TTY) 1-866-315-NLRB (1-866-315-6572) for hearing impaired.

- interfere with your union activities
 - question or interrogate you about union activities
 - fire you for supporting the union, organizing other workers, or participating in any union activity
 - *threaten* to fire, transfer or demote you because of your support for the union or participation in any union activity
 - transfer you to a worse position or harass you because of any union activity
 - threaten to close the plant if the workers organize
- The National Labor Relations Board is the federal agency that enforces labor laws protecting your right

Does joining together with my coworkers protect me even if I don't have a union?

Yes. Any time that two or more workers join together to talk to a supervisor or someone from management about a problem that they are having or a situation that they would like to address, they are protected by the federal law. **Your employer cannot fire, suspend, demote or harass you for joining together with your coworkers to address the problems in your workplace.**

Additionally, even if you do not have a union, you have the right to ask for a coworker to be present

in any meetings that you have with your employer if you think that this meeting may lead to some disciplinary action, such as being suspended, demoted or fired.

INJURIES AT WORK

If you are injured or made ill by your job, you have the right to receive workers' compensation in most states. Workers' compensation, or "workers' comp," will pay for your medical expenses, a portion of your wages while you are recovering and a final lump sum payment if you are permanently disabled.



Your employer may threaten to fire you if you report the injury, or pressure you to keep working even though you are hurt. In most states, this is illegal. If you are fired, you can immediately contact a workers' center, your union representative, a qualified attorney or the appropriate state agency.

What should I do if I'm injured on the job?

If you are injured at work, follow these five steps:

1. Report the accident, injury or illness to your supervisor. It is best to do this immediately. Different states have different time limits for when an injury must be reported.
2. Write down the names of all witnesses, including their addresses and telephone numbers if you can get this information.
3. Request to see a doctor immediately. In some states you have the right to choose your own doctor, but in other states you must select a doctor from a pre-approved network.
4. Take notes for yourself after the accident, injury or illness occurred. Write down exactly what happened, who was present, how your supervisor responded, and what actions you took.
5. Contact a local workers' center, your union representative, or a qualified workers' compensation attorney in your area.

How do I pay for medical care?

If you are injured or made ill by your job, you do not have to pay any medical bills yourself! All your medical bills should be paid through your employer's workers' compensation insurance if you follow the proper steps to report your injury to your employer and if a doctor finds that it was caused by your work.

Most states require employers to have workers' compensation insurance, and all employees are eligible for workers' compensation regardless of how long they have worked with that employer and regardless of their immigration status.

Workers' compensation is "no fault" insurance, which means that you are eligible for workers' compensation benefits regardless of who was at fault as long as you were not intoxicated or engaging in "horse play".

If your doctor says you have to miss work because of your injury, after a waiting period, workers' compensation insurance will pay you a portion of your regular weekly paycheck until your doctor says you are able to work again. If your injury is permanent, you may be eligible to receive long-term medical benefits as well as a final lump sum payment for your disability.

Your rights under workers' compensation vary from state to state. You can consult a workers' center, legal aid office, qualified workers' compensation attorney

or union representative to find out more about your rights when you are injured at work.

Watch Out...

Your employer may offer to pay medical costs for you. This probably means that your employer is breaking the law and not reporting the injury to the workers' compensation commission. **If you accept the employer's money for the doctor, you may not be guaranteed payment for future medical expenses, or payment for the time you are unable to work because of your injury.**

I ache every day, but the plant nurse says I'm fine.

Many poultry workers have repetitive motion injuries that develop slowly over time. If your hands, arms or shoulders are hurting, see the plant nurse and ask your supervisor to rotate you to a different position. Also ask to see a doctor to diagnose the problem. If the company refuses your request to see a doctor, you can contact a workers' center, legal aid office, a qualified attorney or your union representative.

Dangerous Conditions

If conditions at the plant are dangerous or unhealthy, you can file a complaint with the US Occupational Safety and Health Administration (OSHA), the government agency that regulates workplace safety, by calling their toll-free number: 1-800-321-6742, or hearing impaired TTY 1-877-889-5627.

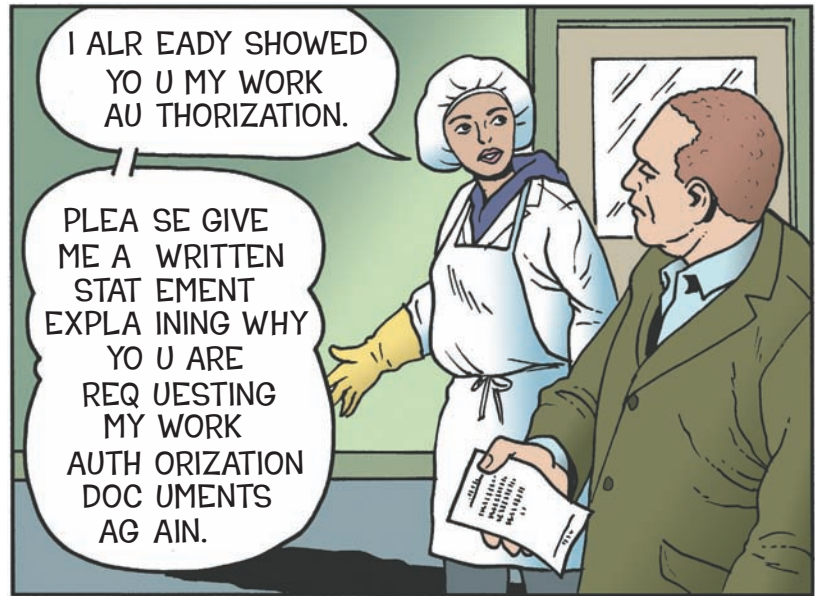
Dangerous workplace conditions that OSHA will investigate include:

- fast line speeds
- exposure to chemicals
- extremely hot or cold work environments
- inadequate safety equipment
- improper safety training/ no safety training
- excessively loud noise
- improper bathroom facilities/ denial of bathroom break privileges

You have the right to refuse to do something on the job if you reasonably believe there is a real danger of death or injury. You have the right to tell your supervisor and/or a union representative if your working conditions are dangerous or unhealthy, without being retaliated against. If you are retaliated against for reporting or speaking out about workplace hazards, contact your union representative, a workers' center, legal aid office, or other employment attorney.

YOUR PAPERS

All employers are required to fill out an I-9 form when you are hired. The I-9 form verifies that an employee can legally work in the U.S. **Once your employer has accepted your documents as valid, they cannot come back later and ask for more papers or look at your pa-**



pers again, except for a few specific circumstances, such as: (1) your work authorization expires, (2) they do a full internal audit (a company-wide investigation) of all employees' I-9 forms, or (3) they have concrete evidence that your work authorization may not be valid.

What if the boss asks to re-verify my work papers?

If your employer claims that there is a new problem with your I-9 form, asks to see your papers again, or otherwise questions your immigration status, this may be to threaten you or to try to create an excuse to fire you. If you have been injured, have

complained about a condition at work, or have been involved in union activity, and your boss “discovers” a problem with your immigration papers, he or she may be breaking the law.

If your boss asks you to show your work authorization documents again, you should ask for a written statement explaining why they are requesting to see your documents. **REMEMBER: You have the right to remain silent about your immigration status.** If your employer asks to re-verify your papers, contact a union representative or a workers’ center immediately. Using your immigration status as a threat can also be a form of discrimination. You may also be eligible to file a charge with the US Department of Justice (DOJ) – Office of Special Counsel (OSC) for immigration-related employment discrimination by contacting 1-800-255-7688.

I WORK FOR A CONTRACTOR. DO I HAVE THE SAME RIGHTS?

If you work for a contractor, you have the same basic employment rights as other workers. The contractor, *and usually the poultry company*, are responsible to make sure you get paid minimum wage and overtime, to protect you against discrimination, to guarantee that you get workers’ compensation if you are injured, and to respect your legal right to organize or join a union.

CHICKEN CATCHERS

Your employer may try to tell you that you are an “agricultural worker” in order to avoid paying you overtime. Chicken catchers are generally not considered “agricultural workers” and *are* entitled to overtime. If your employer refuses to pay you overtime, you can contact a workers’ center, legal aid office or other employment attorney.

Chicken catchers often work for a subcontractor, not directly for the poultry company. Even so, the poultry company is still legally responsible, in most cases, for making sure that the contractor pays you overtime and minimum wage, that the contractor complies with his work promises, and that the contractor respects your legal rights.

There are many health risks specific to chicken catchers: the ammonia from chicken litter is dangerous, bending over all day may cause back problems, and chicken catchers often have pain in their hands and joints. You can report any injuries or continuing pain to your employer, a workers’ center organizer, a legal aid office, or other employment attorney.

