

# SERVICES AND PROTECTIONS FOR FARM LABORERS

WE ARE YOUR DOL



Department  
of Labor



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# IMPORTANT INFORMATION FOR FARMER WORKERS

This booklet has been created to help you understand some of the services available to workers in the State of New York, including your rights under the labor law.

## ABBREVIATIONS USED IN THIS DOCUMENT

NYSDOL = New York State  
Department of Labor

DIPA = Division of  
Immigrant Policies & Affairs

U.S. = United States

USDOL = United States  
Department of Labor

MSFW = Migrant and  
Seasonal Farm Laborers

AgLS = Agriculture Labor  
Specialist

SMA = State Monitor Advocate

OSOS = One Stop Operating  
System

FLCU = Foreign Labor Certification  
Unit

Farm Laborers Fair Labor  
Practices Act= FLFLPA

AgLP = Agricultural Labor Program

DEWS = Division of Employment  
and Worsforce Services

OSHA = Occupational Safety and  
Health Administration

AEWR = Adverse Effect Wage Rate

UI = Unemployment Insurance

## KNOW YOUR RIGHTS

**Discrimination:** It is against the law for an employer to discriminate against workers because of:

- Age
- Race
- Creed
- Color
- Gender
- National origin
- Disability
- Marital status
- Military status
- Arrest or conviction record
- Sexual orientation
- Domestic violence victim status
- Predisposing genetic characteristics



Under Section 215 of the New York State Labor Law, it is illegal for an employer to discriminate, fire, or punish a worker because the worker has filed a complaint or exercised their rights under New York State Labor Law.

The Division of Labor Standards will also investigate any complaints regarding wages and/or work hours.

**Right to Receive Visitors:** The New York State Attorney General says that you have the right to receive, in the labor camp where you live (including employer-provided housing), visits by:

- Doctors
- Labor union representatives
- Lawyers
- Clergy

You can have guests and visitors at the camp where you live, when you are not working, without asking permission of your employer or the owners of the labor camp/housing.

**Child Care:** In New York State, the Agri-Business Child Development program (ABCD) offers day care for the children of seasonal agricultural workers so that the parents can work. For more information, see the list of ABCD centers under Contacts.

**Social Security:** In most jobs, the employer must take contributions for Social Security out of your wages. Your wage statement will show you how much has been taken out.

**Taxes:** State and Federal income taxes come out of every paycheck. Your wage statement will show how much has been taken out. You may be able to get a full refund of the income tax taken from your paycheck. To find out if you qualify for a refund, you must file State and Federal income tax forms. If you are not a resident of New York State, there is a special tax form that you must complete. Please call **518-457-5431** and request an out-of-state resident tax form.

**Veterans:** There are special programs for veterans. If you served in the military, please contact the state Department of Labor. Some employers give preference to people who have been in the armed forces. For more information, call the New York State Department of Labor's Veterans Employment Hotline at **800-342-3358**.

## SERVICES TO MIGRANT AND SEASONAL FARM LABORERS

New York State Department of Labor staff provides the same range of services to Migrant and Seasonal Farm Laborers as are provided to non-Migrant and Seasonal Farm Laborers job seekers. New York State is required to deliver all workforce development-related services, benefits, protections, career guidance/counseling, testing, job development, job training, and job referral services to Migrant and Seasonal Farm Laborers on an equal and non-discriminatory basis.

## DIVISION OF IMMIGRANT POLICIES AND AFFAIRS

The Division of Immigrant Policies and Affairs (DIPA) works inside and outside of the Department of Labor to serve the needs of immigrants. We make sure the Department's protections, services, and programs are available to everyone, including people with limited English proficiency.

## AGRICULTURE LABOR PROGRAM

The Division of Immigrant Policies & Affairs within the Department of Labor houses the Agriculture Labor Program, which includes Agriculture Labor Specialists located across the state. The Agriculture Labor Program's goal is to make sure that New York's large and diverse agriculture industry thrives as it complies with state and federal laws. All Agriculture Labor Specialists speak both English and Spanish and can assist you and your workers with many labor-related matters.

**Farm Laborer Outreach:** Federal regulations require that states conduct outreach to Migrant and Seasonal Farm Laborers who are not being reached by typical employment services offered at the New York State Career Centers that operate exclusively during normal business hours. Agriculture Labor Specialists may contact Migrant and Seasonal Farm Laborers (including H-2A workers) any day of the week or time of day, in their living, working, or gathering areas. Agriculture Labor Specialists provide information to farm laborers about labor laws, services available from the local Career Centers, local support services, and other job development services.

To contact an Agriculture Labor Specialist in your county please visit: <https://labor.ny.gov/immigrants/agriculture-labor-program/agriculture-labor-specialists.shtm>

## THE FOREIGN LABOR CERTIFICATION UNIT

The New York State Department of Labor's (NYSDOL) Foreign Labor Certification Unit (FLCU), within DIPA, processes H-2A and H-2B job order applications for employers conducting business in New York State. The NYSDOL works with the USDOL to ensure employers comply with state and federal laws.

## THE FEDERAL H-2A VISA PROGRAM

The Federal H-2A temporary agricultural program establishes a means for agricultural employers who anticipate a shortage of domestic workers to bring non-immigrant foreign workers to the U.S. to perform agricultural labor or services of a temporary or seasonal nature.

The employment must be of a seasonal nature and tied to a certain time of year by an event or pattern, such as a short annual growing cycle or a specific aspect of a longer cycle. It also must require labor levels far above those necessary for ongoing operations.

The employment must be of a temporary nature when the employer's need to fill the position with a temporary worker will, except in extraordinary circumstances, last no longer than one year.

New York State's primary goal in this program is to help the agricultural employer obtain qualified domestic workers for these positions. Our role in this federal program also includes:

- Processing the agricultural employer's application for temporary employment certification
- Reviewing it for compliance with State and Federal regulations
- Placing the approved job order on New York State's One Stop Operating System for interstate and intrastate distribution
- Following up on domestic applicant referrals made on the approved job orders
- Verifying that working and living conditions match those described in the job order
- Providing requested data to the United States Department of Labor

Here are some facts and tips to keep in mind for H-2A workers and other workers employed on the H-2A job order in New York State:

**Domestic Applicants:** H-2A employers must provide employment to any qualified, eligible U.S. worker who applies for the H-2A job opportunity during the recruitment period. The employer must hire

all domestic applicants who:

- Meet the minimum qualifications for position
- Are available for the entire period of employment
- Have been fully apprised of all terms & conditions of employment in their primary language

DIPA offers free language interpretation and interview assistance to H-2A employers interviewing domestic applicants. Employers may also use the H-2A Referral Toolkit to help with local and domestic worker recruitment.

**H-2A Guest Workers:** The H-2A visa program allows foreign workers to come to the U.S. to do temporary agricultural work only. After the employment contract is over, H-2A workers must go back to their home country or they can be moved to another, approved federal job order. Also, H-2A workers must only work:

- For the employer listed on the contract
- At the location(s) stated on the contract
- Only for the period contracted
- On the crop activity stated on the contract
- At the rates of pay stated on the contract (hourly, piece rate etc.)

**Disclosure:** Every year upon hire, workers must be given a copy of the certified work contract, the ETA790, which states:

- The start and end dates of the contract
- The significant conditions of employment (transportation, housing, meals, etc.)
- The days that workers are not required to work (Sundays, federal holidays, etc.)
- The hours per day and the days per week a worker is expected to work
- The crop and area to be worked
- The rate of pay for each job
- That the employer will provide and pay for all required tools
- That the employer will provide workers' compensation insurance for workers

**Deductions:** Workers must also be notified in writing of all deductions that are not already required by law, such as health insurance premiums or any other benefits the employer may provide. An employer is prohibited from deducting money from workers' wages for the cost of new or broken tools, spoiled products, cleaning, transportation, laundry, or any other expense that goes with running a business.

**Rates of Pay:** The employer must pay all covered workers at least the highest of the following applicable wage rates in effect at the time work is performed: the adverse effect wage rate (AEWR), the applicable prevailing wage, the agreed-upon collective bargaining rate, or the Federal or State statutory minimum wage.

Wages may be calculated based on hourly or "piece" rates of pay. The piece rate must be no less than the piece rate prevailing for the activity in the area of intended employment and must average no less than the highest required hourly wage rate in a pay period.

**Adverse Effect Wage Rate (AEWR):** All workers performing the duties listed in the ETA790 work contract must be paid at least the federal AEWR, which is a separate minimum wage rate (a rate that will not adversely affect the employment opportunities of U.S. workers) for each state. The AEWR is published once a year by the USDOL with the assistance of the U.S. Department of Agriculture, for each state. For more information, visit the USDOL's Office of Foreign Labor Certification website: [www.foreignlaborcert.doleta.gov/adverse.cfm](http://www.foreignlaborcert.doleta.gov/adverse.cfm)

**Wage Statements:** With each paycheck, employers must give every worker a wage statement that shows:

- The employer's name, address, and telephone number
- The dates covered by the pay period
- The number of hours worked
- The number of hours offered (if applicable)
- The pay for each type of crop
- The pay rate (per hour, piece rate, etc.) and overtime rate
- The total earnings for the pay period
- All deductions from wages (with explanations for each deduction)

**Guarantee:** The total pay earned during the employment period must meet the Three-Quarter Guarantee of the entire ETA790 work contract. What that means is that the H-2A employers must guarantee to offer each covered worker employment for a total number of hours

equal to at least 75% of the workdays in the contract period – called the "three-fourths guarantee." For example, if a worker is on a contract for a 10-week period, during which a normal workweek is specified as 6 days a week, 8 hours per day, the worker must be guaranteed employment for at least 360 hours (e.g., 10 weeks x 48 hours/week = 480 hours x 75% = 360). If an employer does not offer the required hours or if it is impossible to fulfill the remainder of the contract and it is not the employer's fault, the employer must make up any shortfall (unless the USDOL shortens the contract at the employer's request).

**Reasonable Transportation & Subsistence Costs:** The employer must either provide or pay for inbound transportation and daily meals to the place of employment or reimburse workers for reasonable costs when 50% of the work contract is completed. When the work contract is completed or if the contract cannot be fulfilled by the employer, the employer must provide or pay for the worker's transportation and daily meals to his next job or home.

**Housing and Daily Transportation:** When a worker cannot return to their permanent residence within the same day, the employer must provide safe housing, utilities and daily transportation at no cost to the worker.

**Potable Drinking water:** Employers must provide safe, clean, and cool drinking water in portable containers (with individual use cups) at the worksite and at no cost to the workers. Workers can also bring their own water, but this does not meet the employer's obligation. The employer must also provide safe potable drinking water at all worker housing.

**Toilets and Hand Washing:** If workers will be in the fields for more than three hours (including travel time to and from the fields), employers must also provide one toilet and one hand washing station for every 20 workers. If there are 21 workers, the employer must provide two toilets and two hand washing stations. Toilets must be close to where the employees work. They must be clean, free of pests, and have self-closing doors that lock from the inside. There must be enough toilet paper for all workers for the entire day. Hand washing stations must be near the toilets. They must be stocked with clean water and enough soap and clean towels for every use and provide a place to dispose of used towels. Employers must tell employees where they can get drinking water, use the toilet, and wash their hands.

**Workers' Compensation:** The employer must provide workers' compensation insurance coverage to all employees. A Notice of Workers' Compensation Coverage poster, showing the name of the insurance company, policy number and coverage period must be clearly displayed in English and Spanish in an area visible to all employees.

**Meal Periods:** If the workday or shift is more than six hours, workers must receive at least one, 30-minute meal period. This meal period does not have to be paid but it must be provided. When a shift begins before 11 am and goes past 7 pm, the employer must provide an additional, 20-minute meal period for dinner, between the hours of 5-7 pm.

**Other Protections:** The employer may not require workers to pay, either directly or indirectly, for any employer-related costs to obtaining the H-2A labor certification, including the employer's attorney or agent fees, the application fees, visa fees, transportation costs or any other recruitment costs.

**H-2A Guest Worker Program Cards:** The Foreign Labor Certification Unit (FLCU) has created an identification card intended to be a supplemental identification document for foreign guest (H-2A) workers. The card includes the name of the agricultural business, the H-2A job order number, as well as the start and end dates of the job order.

The card is approximately 2 ½" x 3 ½" including lamination. This identification card program is being offered at no expense to employers with certified H-2A job orders in New York State. Upon request, the FLCU will produce the number of cards that correspond to the number of workers approved on the certified H-2A job order. Employers can request their cards by sending an email to [dipa@labor.ny.gov](mailto:dipa@labor.ny.gov).

## HUMAN TRAFFICKING

Human trafficking is modern-day slavery and a serious crime. Anyone can be a victim; many may not realize that what is happening to them is a crime. Human trafficking is happening across the globe and in all 50 states. Human trafficking occurs when a group of people or an individual obtains or holds another person(s) in compelled service (sex or labor). The Department of Labor receives and screens tips of possible human trafficking. The Department of Labor refers possible victims for New York State confirmation, which provides the victim with access to free government benefits. If you or someone you know is being forced to work or have sex for profit against their will, you can get help by contacting the Counsel to Division of Immigrant Policies and Affairs at **877-466-9757** or by emailing: [trafficking@labor.ny.gov](mailto:trafficking@labor.ny.gov). You also can call the National Human Trafficking Resource Center at **888-373-7888**.

## OUTREACH TO IMMIGRANT COMMUNITIES

Federal regulations require that states conduct outreach to Migrant and Seasonal Farm Laborers who are not being reached by typical employment services offered at the New York State Career Centers that operate exclusively during normal business hours. Agriculture Labor Specialists may contact Migrant and Seasonal Farm Laborers (including H-2A workers) any day of the week or time of day, in their living, working, or gathering areas. Agriculture Labor Specialists provide information to farm laborers about labor laws, services available from the local Career Centers, local support services, and other job development services.

## NEW YORK STATE MONITOR ADVOCATE

DIPA staff conduct Know Your Rights events around the state targeting immigrant, refugee, and English Language Learners. Recent outreach initiatives have included racetrack backstretch workers, day laborers, and nail salon workers. DIPA partners with immigrant and refugee advocacy groups around the state, including the Consulates representing the larger groups of immigrant workers in the State of New York.

## STATE MONITOR ADVOCATE

The New York State Monitor Advocate monitors the New York State Department of Labor's Migrant and Seasonal Farm Laborers employment services to ensure compliance with United States Department of Labor regulations.

Some of the responsibilities of the State Monitor Advocate are:

- Monitoring New York State Career Centers to ensure equity of services
- Monitoring outreach performed by the Agriculture Labor Specialist field staff throughout the state
- Ensuring that complaints submitted through the Employment Service Complaint System are addressed or referred to other agencies (i.e. Wage & Hour, OSHA, Human Rights, etc.) and following up on the referred complaints
- Working with the Foreign Labor Certification Unit to ensure that domestic workers who qualify for H-2A jobs are given every opportunity to obtain those jobs



## NEW YORK STATE CAREER CENTERS

The New York State Department of Labor offers many types of help to people who are out of work or who are looking for another job. The network of New York State Career Centers offers a wide array of services to people, whether they live in the area or not or are migrant workers. These centers also have information about many programs other government agencies provide to people who have lost their jobs. Many other types of aid are offered on a walk-in, self-serve basis. If you visit a Career Center, you may be required to fill out certain paperwork.

Career Center services are free of charge. Here are some of the ways the New York State Department of Labor can help:

- Language assistance is available for those who are not fluent in English
- Help you explore vocational interests and develop career goals so that you may find work you would be good at and enjoy
- Prepare you for a job search with resume and interview skills assistance to help you get or keep a job
- Staff will interview you in order to gain understanding of your experience and job needs; this is done to help match you to existing job openings
- Assist you in computer job searches for openings locally, around the state, and throughout the country
- Test for the job you want, such as clerk or mechanic
- Keep your name and information on file so we can look for jobs for you; if an employer seeks an employee with your experience, we will notify you
- Refer you to community-based organizations and human services agencies for relief, assistance, training programs, etc.
- Help in finding schools, day care centers, or other children's programs

Please tell us if you are a veteran, as you may receive preference for openings and special assistance if you are qualified.

Call **800-447-3992** to find the New York State Career Center nearest to you. For the complete list of New York State Career Centers, visit [www.labor.ny.gov/career-center-locator](http://www.labor.ny.gov/career-center-locator).

Career Centers also offer specialized services to youth, those with certain disabilities, economically disadvantaged individuals, displaced homemakers, immigrant workers, ex-offenders, and those interested in apprenticeship opportunities. We can also help to determine a worker's eligibility for Trade Adjustment Assistance, Work Opportunity Tax Credit, the Federal Bonding Program, and other hiring incentives for employers.

## EMPLOYMENT SERVICE

### EMPLOYMENT SERVICE COMPLAINT SYSTEM

According to federal regulations, New York State's Employment Service operates the Employment Service Complaint System for filing and processing customer complaints related to the alleged Employment Service regulations and/or federal, state, and other employment laws. Employment Service Complaint Specialists may be contacted at New York State Career Centers throughout the state. Copies of complaints filed by Migrant and Seasonal Farm Workers are also sent to the State Monitor Advocate, who ensures follow up of these complaints. To reach the State Monitor Advocate, see Contacts at the end of the booklet.

## MIGRANT OR SEASONAL FARM LABORERS

The federal Migrant and Seasonal Farm laborer Protection Act and other federal laws provide certain protections and other services for Migrant and Seasonal Farm laborers.

### WHO IS A MIGRANT OR SEASONAL FARM LABORER?

A worker can be a migrant farm laborer, a seasonal farm laborer, or a migrant food processing worker.

**Seasonal Farm Laborer:** A person who, during the preceding 12 months, worked doing farm work. Someone who is employed on a farm, year-round, by the same employer, is not a seasonal farm laborer.

**Migrant Farm Laborer:** A seasonal farm laborer who had to travel to the farm and was unable to reasonably return to their permanent residence within the same day. This means that the seasonal farm laborers have temporarily relocated from their permanent residence for the purpose of working on this job.

**Migrant Food Processing Worker:** A person who, during the preceding 12 months worked performing food processing (animal slaughtering; fruit and vegetable canning; prepared sauce manufacturing; frozen fruit, juice, and vegetable manufacturing) and who was not reasonably able to return to their permanent residence on the same day.



For more information about federal programs and protections for Migrant and Seasonal Farm Laborers, visit [www.dol.gov/agencies/whd/agriculture/mspa](http://www.dol.gov/agencies/whd/agriculture/mspa)

## **NEW YORK STATE LABOR LAWS**

### **FARM LABORERS FAIR LABOR PRACTICES ACT**

The bill, signed on July 17, 2019 by Governor Andrew Cuomo, establishes the Farm Laborers Fair Labor Practices Act to protect farm worker rights and ensure equitable housing and working conditions. The bill grants farm workers overtime pays, a day of rest each week, disability and Paid Family Leave coverage, unemployment benefits and other labor protections. Most of the provisions will be effective on January 1, 2020. The expansion of migrant housing permit requirements will be effective on January 1, 2021.

#### **EFFECTIVE JANUARY 1, 2020:**

##### **Wages and Overtime**

Farm laborers, including Foreign Visa workers, must now be paid one and a half times the regular rate of pay for hours worked over 60 in a calendar week. For questions, please call **833-NY-FARMS** or visit [www.labor.ny.gov/farmlabor](http://www.labor.ny.gov/farmlabor).

##### **Day of Rest**

Employers must now provide at least one day (24 consecutive hours) of rest in every calendar week. The employer must designate and notify the worker in advance of their day off and whenever possible, ensure that the day off coincides with a traditional day for religious worship.

Farm laborers are permitted to voluntarily work during this day of rest, provided the employer pays them at the overtime rate.

Employers must keep a weekly record of hours and days worked.

##### **Unemployment Insurance**

Farm employers, and farm crew leaders under certain circumstances, are required to provide unemployment insurance coverage for their farm employees. H-2A Foreign Guest Workers are now excluded from unemployment insurance coverage. For questions, please contact the New York State Department of Labor Unemployment Insurance Hotline at **888-899-8810**.

### **Worker' Compensation**

Farm employers, owners and operators are required to provide workers' compensation coverage for their employees, regardless of their annual payroll, and all employers are required to post the mandatory workers' compensation notice of compliance poster in both English and Spanish.

Additionally, farm labor contractors, forepersons, and supervisors who receive notice of an injury must notify the employer, owner or operator of claim forms. For questions, please contact Workers' Compensation at **877-632-4996** or [www.wcb.ny.gov/farmtoolkit/](http://www.wcb.ny.gov/farmtoolkit/).

### **Disability and Paid Family Leave**

Farm employers, owners and operators are required to provide New York's disability benefits (DB) and Paid Family Leave (PFL) insurance coverage to eligible farm laborers.

All employers are prohibited from discriminating against employees who request DB or PFL claim forms. For questions, please call **844-337-6303**. \*

For more information and employer resources related to workers' compensation, disability benefits, and paid family leave, please see the Workers' Compensation Board's Toolkit for Farm Employers at [www.wcb.ny.gov/farmtoolkit](http://www.wcb.ny.gov/farmtoolkit).

### **Right to Organize**

Farm laborers now possess the right to organize, which includes forming, joining, or assisting labor organizations and the right to bargain collectively through representatives of their own choosing. This includes the right to engage in concerted activities (any activity, discussion or meeting directed at improving terms and conditions of employment, or the group interests of the employees), for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint, or coercion of employers. However, farm laborers do not have the right to strike. Farm laborers are protected from retaliation, including termination if they are speaking to each other about labor conditions and organizing. For questions, please contact the Public Employment Relations Board (PERB) at **518-457-6410** or <https://perb.ny.gov>.

#### **EFFECTIVE JANUARY 1, 2021:**

##### **Migrant Farm Laborer Housing Permit**

Employers are required to contact the New York State Department of Health (or local County Health Department) and apply for a permit to operate a farm or processing labor camp which will be occupied by one or more migrant workers. For questions, please call **518-402-7600**.

## **NEW YORK'S FARM LABORERS FAIR LABOR PRACTICES ACT FREQUENTLY ASKED QUESTIONS**

### **Who is covered by the day of rest provision?**

All farm laborers are covered. The following employees may be excluded from coverage if they meet requirements:

- the foreman in charge (can be more than one)
- members of the employer's immediate family
- Executives
- Administrative employees
- Professional employees

### **Who is covered by the over-60 hours overtime provision?**

All farm laborers, including crew leaders/chiefs and foremen in charge, are covered by the overtime provisions of the Act. The following employees may be excluded from coverage if they meet requirements:

- members of the employer's immediate family
- Executives
- Administrative employees
- Professional employees

### **Who is an employer's immediate family members?**

Overtime, day of rest, and collective bargaining provisions for farm laborers do not apply to members of the employer's immediate family who are:

- related to the third degree of consanguinity or affinity (legal relationship)
- working on a farm out of familial obligations
- not paid wages or other compensation based on their hours or days of work.

Employers do not have to execute the Pay Notice & General Work Agreement (LS309) with family members that meet the criteria above.

### **Who is an Executive Employee?**

An Executive is someone whose:

- primary duty consists of the management
- directs the work of two or more other employees

- has the authority to hire or fire other employees or can recommend hiring
- customarily and regularly exercise discretionary powers
- who is paid for his services a salary, inclusive of board, lodging, or other allowances and facilities

### **Who is an Administrative Employee?**

An Administrative employee is someone whose:

- primary duty consists of the performance of office or non-manual field work directly related to management policies
- exercises discretion and independent judgment
- directly assists an employer, executive or administrative employee and requiring special training, experience or knowledge
- who is paid for his/her services a salary, inclusive of board, lodging, or other allowances and facilities

### **What are the minimum salary requirements for Executive and Administrative Employees?**

- NYC: \$1,125 on or after December 31, 2019
- Nassau, Suffolk, and Westchester Counties: \$1,050 on or after December 31, 2020 and \$1,125 on or after December 31, 2021
- Remainder of the State: \$937.50 on or after December 31, 2020

### **Who is a Professional Employee?**

A Professional employee is someone whose:

- primary duty consists of the performance of work: requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction/study
- work requires the consistent exercise of discretion and judgment
- whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical or physical work)

There is no minimum salary requirement for a Professional Employee.

**How is the regular hourly rate of pay calculated for workers who are paid per piece or by salary?**

Farm laborers must be paid 1½ times their regular rate of pay for all overtime hours worked. The regular rate of pay cannot be less than the minimum wage. An employee's regular rate is the amount that the farm laborer is regularly paid for each hour of work. When a farm laborer is paid on a non-hourly basis (e.g. piece work, salary), the regular hourly wage rate is found by dividing the total hours worked during the week into the farm laborer's total earnings. Where a farm laborer has multiple rates of pay, the regular rate is the weighted average of the laborer's multiple rates of pay for the week based on the number of hours worked at each rate. The weighted average is the total regular pay divided by the total hours worked in the week. The overtime rate may vary from week to week depending on how many hours the farm laborer worked at each rate of pay. Certain payments are not part of the regular rate. They include: pay for expenses incurred on the employer's behalf, premium payments for overtime work, True premiums paid for work on Saturdays, Sundays, and holidays, discretionary bonuses, gifts, payments in the nature of gifts on special occasions, payments for occasional periods when no work is performed due to vacation, holidays, or illness.

**Can my employer take credit for fringe benefits, such as paid sick leave, or discretionary bonuses toward my overtime payment obligation?**

Except for holiday pay and weekend shift differentials, fringe benefits and discretionary benefits are not allowed to offset overtime wages owed.

**Is my employer required to pay overtime to a farm laborer who works over 60 hours in a calendar week while working for two different employers on a joint H-2A order?**

The H-2A worker is entitled to overtime when the total hours worked exceed 60 in a calendar week. H-2A foreign guest workers and domestic farm laborers employed under the joint H-2A job order agree to work for both employers for the number of days and hours detailed in the contract. Joint employers agree to adhere to the terms and conditions of the certified job order and are jointly liable for any violations.

**Does my employer still have to pay overtime to farm laborers who process other farms' food after 40 hours?**

Yes. Employees whose work includes processing, handling, or packaging other farms agricultural products are covered by the Miscellaneous Wage Order for that work and must be paid overtime after 40 hours worked in a week.

**When must my employer pay overtime to a farm laborer who process the produce from their own farm?**

The employer must pay overtime after 60 hours worked in the calendar week, or if they work on their day of rest.

**Does my employer have to pay overtime to me if I work on my day of rest?**

Yes. Farm laborers who voluntarily agree to work on their day of rest must be paid time and ½ the regular rate for the hours worked on that day, even if they have not worked more than 60 hours in that calendar week.

**Do I have to be paid "double-overtime" if they have already worked over 60 hours and they agree to work on their day of rest?**

If farm laborers work more than 60 hours in a calendar week, they must be compensated at 1½ times their regular rate for hours worked ("standard OT"). Farm laborers are also entitled to the OT rate ("premium OT") for any hours voluntarily worked during their day of rest. However, no additional payment of premium OT is required if the worker's hours has already exceeded 60 hours for the calendar week.

**When does my employer have to pay earned overtime wages?**

Farm laborers, as manual workers, must be paid wages within 7 days from the end of the payroll week in which they are earned.

**Can I bank overtime pay to collect a lump payment at the end of the season?**

No. All wages, including overtime wages, must be paid within 7 days from the end of the payroll week in which they are earned.

**Can I take time off instead of being paid overtime?**

A farm laborer may not take (or bank) time, often referred to as compensatory ("comp") time off, instead of being paid overtime wages.

**When is my employer required to pay overtime to me if I work in the field and in the employer's cafe?**

Restaurant work is covered by the Hospitality Industry Wage Order and therefore, the employer must pay overtime after 40 hours per week at 1½ times the regular rate of pay. Restaurant work must be paid at an hourly rate.

**Are production bonuses, like a milk quality bonus, included in the regular rate calculation for overtime purposes?**

It depends on whether the bonus is discretionary or non-discretionary. Non-discretionary bonuses must be factored into the regular rate calculation for overtime purposes.

**Does my employer have to schedule a farm laborer's day of rest in advance?**

The law does not require that the day of rest be scheduled in advance. The day of rest can be designated and recurring, or it can vary, and should occur at the latest on the 7th day of the calendar week.

**Can I waive their day of rest?**

No, an employee may not waive their day of rest, but an employee may voluntarily agree to work on their day of rest and must be paid overtime for doing so.

**Is my employer required to document a day of rest was provided?**

Yes, employers must keep records of daily and weekly hours worked.

**Can my employer provide a day of rest in increments, or part days? No, the day of rest must be 24 consecutive hours of rest in a calendar week.**

Where can I find more information? For information on updates to the labor law, please call **1-833-693-2767 (833-NY-FARMS)** or visit [www.labor.ny.gov/FarmLabor](http://www.labor.ny.gov/FarmLabor).

For read our complete list of FAQs you may visit:  
<https://www.labor.ny.gov/immigrants/farm-laborers-fair-labor-practices-act/flflpa-frequently-asked-questions.pdf>.

## MINIMUM WAGE LAW

**What is the minimum wage that I must be paid?**

You must be paid at least the federal minimum wage or the state minimum wage, whichever is higher, per hour for the time you work, no less. If you are paid on a piece rate basis (by the basket or bushel), the piece rate must result in the minimum hourly wage rate or higher. If you are not earning this rate, you can call **888-525-2267** to file a complaint or contact your Agriculture Labor Specialist.

## NEW YORK STATE MINIMUM WAGE

Historically, the New York State minimum wage has been the same as or higher than the federal minimum wage. The minimum wage in New York is as follows:

General Minimum Wage Rate Schedule			
Location	12/31/19	12/31/20	2021*
New York City	\$15.00 /hour	\$15.00 /hour	\$15.00 /hour
Long Island and Westchester Co.	\$13.00 /hour	\$14.00 /hour	\$15.00 /hour
Remainder of New York State	\$11.80 /hour	\$12.50 /hour	*

\*Annual increases for the rest of the state will continue until the rate reaches a \$15 minimum wage.

**What must I get paid if I work on a farm with H-2A workers?**

If you perform a different job from the H-2A workers, you must be paid at least the state minimum wage for the time you work. If you perform the same duties as the H-2A workers, you must be paid the higher of the Adverse Effect Wage Rate or the Prevailing Wage, which are set by the U.S. Department of Labor. If you want to obtain information about the Adverse Effect Wage or the Prevailing Wage for your occupation, or you are concerned that the wage rate you are receiving is not correct, contact your Agriculture Labor Specialist.

**Can minors be paid less than the Minimum Wage?**

No, minors must be paid at least minimum wage.

**What if my employer pays a piece rate?**

If the employer pays on a piece rate basis, the piece rate must yield a wage equal to or greater than the minimum wage, even when the employee is a minor. This calculation must also include overtime if the total hours worked exceeds 60 in a week. For more information about the types of work minors can perform, see the Child Labor section later in this booklet.



### **Can my employer charge me for meals?**

If your employer gives you meals, the employer can deduct \$1.70 from your wages for each meal. But if you are a migrant seasonal farm laborer who earns less than \$254 every two weeks (unless you choose not to work), your employer is not allowed to take money out for meals.

### **Can my employer charge me for housing?**

No, if you are a migrant farm laborer, your employer cannot charge you for housing or utilities, from your wages or by a separate fee.

If you are a seasonal or year-round worker, and your employer provides housing and utilities as part of your employment, the following may be taken as a credit toward the minimum wage:

- \$18.95 per week for a one-person room:
- \$12.65 per week for a shared room
- \$ 5.00 per day for a house or apartment with utilities for one person
- \$8.00 per day for a house or apartment with utilities, if you live with your family (if other members of your family live with you or work for the same employer, you still pay only \$8.00 per day)

The employer may take from your wages only the deductions listed later in this booklet under the heading “Deductions from Wages.”

### **Am I considered a farm laborer if I work in a packing house?**

A person working in a packing house is a farm laborer only if all the produce handled in the packing house is grown:

- On the same farm
- By the same grower/processor who owns the packing house and the farm

If you are handling goods from another farm, that work is not farm work, and you must be paid overtime for hours worked over 40 in a week.

### **Where can I find out the basic standards that migrant farm laborer housing must meet?**

If you are a migrant seasonal farm laborer, you should call the New York State Department of Health’s Bureau of Community Environmental Health and Food Protection at **518-402-7600** or toll-free at **800-458-1158**.

### **Can my employer pay me with products from the farm (milk, vegetables, fruit or eggs)?**

Yes, but only if you have agreed to this form of payment.

The employer must value the products at the price the stores pay the farmer for them, not the price the stores charge their customers.

### **If I am covered by federal law, does the state law apply to me?**

Yes. You are always fully protected by the state labor laws. The law most protective of workers, whether it is state or federal. Your employer must comply with the law that gives the greatest advantage to the worker. For example, if the state minimum wage is higher than the federal minimum wage, your employer must pay the higher rate. For more information about the federal wage law, contact the nearest U.S. Department of Labor Wage and Hour Division office.

### **How many hours can I work?**

If you are at least 14 years old, there are no restrictions on how many hours you may work on a farm when you are not required to be in school. The employer must count travel time between fields or required waiting time as work time and must pay you for all of it. Your employer must tell you in writing in your work agreement how many hours you are expected to work each day and each week.

### **Must I receive a higher rate for overtime hours?**

Farm workers are entitled to overtime if their hours worked exceeds 60 in a calendar week.

### **What about workers in the packing house or processing plant?**

Farm laborers in packing and processing plants are entitled to overtime when the hours worked exceed 60 in a calendar week. If they pack or process food that was not grown on the employer’s farm, they are entitled to overtime when the hours worked exceed 40 in a calendar week.

### **What about workers in a retail farm stand?**

Workers in retail farm stands are entitled to overtime if the hours worked exceed 60 in a calendar week. If the stand sells goods not grown or produced on the farm, the workers are then entitled to overtime if the hours worked exceed 40 in a calendar week.

### **If my employer owes me wages, how do I collect this money?**

The law says that you must receive all your wages on the regular, designated payday. The Division of Labor Standards can help you collect money that may be due to you if you have been underpaid and you may file a wage claim by contacting the nearest office of the Division of Labor Standards at **518-457-2730**. Another option is to file a claim with Small Claims Court for a fee. But you may not pursue both a claim with the Division of Labor Standards and a claim with Small Claims Court at the same time and for the same owed wages. You may choose only one of these remedies. To file a claim with Small Claims Court, contact your local County Clerk's Office for information.

For additional information, please visit  
<http://nycourts.gov/courthelp/Smallclaims/>.

### **WAGE THEFT PREVENTION ACT**

New York has enacted the Wage Theft Prevention Act, which expanded the rights of employees in all industries, to assist with the recovery of unpaid or underpaid wages, and to increase penalties for employers who fail to follow labor laws.

The Wage Theft Prevention Act updated the following requirements:

**Record-keeping:** Requires more stringent record-keeping and employee notification requirements for employers.

**Collection:** Increases the amount of additional monetary penalties, known as "liquidated damages", which can be applied to between 25% and 100% of lost wages.

**Penalties:** Increased criminal penalties for failure to pay minimum wage to up to a year in prison and increased civil penalties for non-compliance to up to \$10,000.

**Whistleblowers:** Provides the New York State Department of Labor with the power to protect individuals who report workplace concerns against retaliation in cases of labor law violations.

### **Am I required to have a work agreement?**

Your employer is required to provide you with a Pay Notice and Work Agreement, which you must sign, in order to work for that employer. Every employer must inform workers (including minors), in writing, of their conditions of employment (the work agreement) when they are hired. This contract must list the pay rate, hours of work, and benefits, if any. Every employer must post a copy of the

farm minimum wage poster where employees can see it easily, along with a copy of a general work agreement that applies to all workers. We have blank work agreements on our Services for Agricultural Employers page at <https://labor.ny.gov/immigrants/agriculture-labor-program/services-for-agriculture-employers.shtm>.

### **What should my pay be?**

You must receive the rate of pay your employer agreed to pay, which should never be less than the minimum wage. Your employer must tell you the wage rate, in writing, in your work agreement and must pay you for all hours you work, including travel time and waiting time once you have reported to work for the day.

### **How much is the pay for a youth under age 18?**

A young worker must be paid at least the minimum wage.

### **When does my employer have to pay me?**

Your employer must pay manual laborers every week on the regularly designated payday. You can be paid every two weeks only if you are paid up to date for the full two weeks.

### **Does my employer have to tell me what day I will be paid?**

Yes. When you are hired, the employer must notify you, in writing, of the amount you will be paid and what day is the regular pay day each week.

The employer must list the regular pay day in the work agreement. You must be informed ahead of time if the pay day will change.

### **How do I know if I am getting the right amount?**

Every time you get paid, your employer must give you a wage statement (paystub) showing how they calculated your pay. If other members of your family work for the same employer, you must each be provided with your own wage statement.

### **What information should be included on my paystub?**

You must receive a wage statement (printed or written paystub) every time you are paid. The paystub must show:

- If you are paid by piece work:
- The size/weight of the basket, pail, bin, or other container
- The number of these containers you produced during the time you worked (pay period)

- The employer's full name, address, and telephone number
- Your name
- The total number of hours you worked
- Rates paid
- Gross wages
- Legal allowances or deductions
- The total money you received (net wages)

If you do not agree with your wage statement, contact the nearest office of the Division of Labor Standards listed under Contacts or contact the Agriculture Labor Specialist in your area.

### **Can I be paid by either cash or a check?**

Yes. Employers can pay farm laborers either in cash or by check. You should be able to cash your paycheck for the full amount, on pay day and without having to pay any fee to the bank or to anyone else. The employer does not have to give you extra time to cash your paycheck.

For more information about the Wage Theft Prevention Act, visit our website at <https://www.labor.ny.gov/workerprotection/laborstandards/employer/wage-theft-prevention-act.shtm>.

## **PAYMENT OF WAGES**

### **How often should I be paid?**

Section 191.1a requires that manual laborers be paid within 7 days after the end of the pay week. This means that manual laborers must be paid weekly (with a lag) or biweekly (with no lag). If you choose to pay your workers biweekly, you must pay on the fourteenth day and include the hours worked that day.

### **What information must be on my paystub?**

You must provide a wage statement (printed or written paystub) every time you pay your employees. The paystub must show:

- |  |                                  |
|--|----------------------------------|
| • The employer's full name, address and telephone number | • Rates paid                     |
| • The employee's name                                    | • Gross wages                    |
| • The dates of the pay period covered                    | • Legal allowances or deductions |
| • The total number of hours the employee worked          | • The total net wages            |

If paid by piece work:

- The size/weight of the basket, pail, bin or other container
- The number of these containers produced during the pay period

## **WAGE DEDUCTIONS**

### **What deductions can be taken from my wages?**

The only deductions that can be taken from your pay are:

- Those required by law, such as social security, income tax, and court-ordered garnishments
- Those that benefit you and that you have authorized in writing, such as insurance premiums, savings, or allowances for meals or lodging, if permitted by law

If you are a non-migrant worker, your employer can make deductions of limited amounts for meals, lodging, and utilities provided to you.

See Page 16 for the amounts allowed.

If you are a migrant worker, your employer cannot make any deductions for lodging and utilities provided to you.

### **Can my employer demand a kickback of part of my wages?**

No. It is against the law for your employer, your farm labor contractor, or any person to demand or accept part of your wages in return for getting you a job or keeping you in that job.

If someone tries to do this, you can report it to the nearest office of the Division of Labor Standards listed under Contacts.

### **Can my employer make deductions for transportation?**

Yes, if you are a domestic worker, but only for the first trip "in," when you arrive at the workplace, and for the last trip "out," when you leave the workplace for the season. You must authorize this deduction in writing. Under New York State law, the employer cannot charge you more than 10% of your total weekly pay.

H-2A workers may not be charged for transportation from their place of origin to the workplace or to return from the workplace to their home country.

To learn more, contact the nearest U.S. Department of Labor Wage and Hour Division office listed under Contacts.

## MEAL PERIODS AND OTHER BREAKS

### Must I get fifteen-minute breaks?

No. Breaks are offered only if your employer has agreed to do so. Breaks or rest periods are not required by law, but your employer may decide to provide them. A break is a benefit that must appear in your work agreement if the employer agrees to provide them.

### Am I entitled to a meal period during my workday?

In general, if your shift is greater than six (6) hours, the law requires you to have at least a 30-minute, uninterrupted meal period.

This time does not have to be (and typically is not) paid by your employer. However, if you are called to work during your meal period such that you get less than 20 minutes of break time, then you must be paid for your full meal period.

### What are the basic exceptions to the 30-minute meal period?

There are instances where additional and/or longer meal periods are required. In some cases, the New York State Commissioner of Labor allows certain employers to shorten the meal period to not less than 20 minutes if they have obtained a special permit.

Please see the New York Labor regulations below:

Shift Length	Meal Break Length
Shift is more than 6 hours and extends over the noonday meal period (11am – 2pm)	At least 30 minutes, between 11am and 2pm
Shift starts before 11am and lasts past 7pm	At least 30 minutes between 11am and 2pm, and at least an additional 20 minutes between 5pm and 7pm
Shift is more than 6 hours and starts between 1pm and 6am	At least 60 minutes (factory); 45 minutes (mercantile/other), somewhere in the middle of the shift

### Do I get one day of rest every week?

Employers must provide at least one day (24 consecutive hours) of rest in every calendar week (Sunday-Saturday). Employers must designate and notify the worker in advance of their day off and, whenever possible, ensure that the day off coincides with a traditional day for religious worship.

### Can I waive my day of rest?

Farm laborers are permitted to voluntarily work during their designated day of rest, provided the employer pays that day of work at the overtime rate. Employers must keep a weekly record of hours and days worked.

For more information about breaks and meal periods, contact the New York State Department of Labor at **518-457-2730**.

## OTHER COMPENSATION (BENEFITS/WAGE ENHANCEMENTS)

### Should I get paid for holidays, sick days or vacations?

You get paid for these benefits only if your employer has agreed to pay them. The employer can decide to pay for such benefits as vacation, sick leave, or holidays, but it is not a requirement. This is a benefit that must appear in your work agreement if the employer agrees to give it and must be honored.

### Is the employer required to provide workers' compensation insurance coverage?

Regardless of annual payroll, all farm employers, owners and operators are required to provide workers' compensation coverage for their employees.

### Am I entitled to disability coverage and Paid Family Leave?

Farm employers, owners and operators are required to provide New York's disability benefits and Paid Family Leave insurance coverage to eligible farm laborers. See <https://paidfamilyleave.ny.gov/> for information on Paid Family Leave employee eligibility and opt out waivers that employers must give to those who qualify.

### Do I get unemployment insurance?

Employers are required to continue to provide farm laborers with unemployment insurance coverage, including crew leaders. H-2A Foreign Guest Workers will be excluded from unemployment insurance coverage.



## ENHANCED RULES AGAINST RETALIATION

The Wage Theft Prevention Act extends the protections under Labor Law Section 215, which prohibits an employer from retaliating against an employee for complaining about a violation of Labor Law:

- Threats, including calling or threatening to call immigration, are included as forms of retaliation
- It is illegal for any person to retaliate, not just the employer
- Employers or their agents can be fined up to \$20,000 and assessed another \$20,000 in liquidated damages
- The employer may be ordered to reinstate the worker's job. Or the employer may have to pay the person for lost salary or pay a lump sum in lieu of reinstatement
- Retaliation carries criminal penalties for employee complaints about any section of the labor law
- The protection applies to any worker who alleges that the employer has done something that the employee thinks break a labor law (This applies even if the employee is mistaken about the law, if they acted in good faith. It applies even if the employee does not cite a specific part of the labor law.)

This law protects workers even if the employer incorrectly believes the workers made a complaint

### What is retaliation?

Retaliation is any action which negatively affects a worker because that worker has engaged in a protected activity. Even threatening an employee can be considered retaliation. Examples of retaliatory actions can include discharge, suspension, transfer to another shift, or a reduction in wage or hours.

### What are some of these protected activities?

Employees have the right to complain to their employer, the Department of Labor, or the Attorney General about a possible violation of the Labor Law and regulations issued under it. They can file a complaint about these possible violations, give information about their conditions of employment to the Department or Attorney General, and testify at hearings or other proceedings.

## Does there really have to be a violation for the worker to be protected?

No. If the worker has a good faith belief that there is a problem in the workplace, their activities are protected.

### What are the possible penalties for retaliation?

Employers or their agents can be fined up to \$20,000 and assessed another \$20,000 in liquidated damages. The Department of Labor can also request reinstatement of the worker and/or compensation for lost wages. There are potential criminal penalties but those would be prosecuted by an agency other than the Department of Labor.

### What if I have any other questions about the Wage Theft Prevention Act?

You can email your questions to [Ask.LSask@labor.ny.gov](mailto:Ask.LSask@labor.ny.gov)

## SEXUAL HARASSMENT PREVENTION POLICY

New York State Labor Law requires that every employer in the New York State adopt a sexual harassment prevention policy. Employers that do not adopt the model policy must ensure that the policy that they adopt meets or exceeds the following minimum standards.

The policy must:

- Prohibit sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights
- Provide examples of prohibited conduct that would constitute unlawful sexual harassment
- Include information about the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws
- Include a complaint form
- Include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties
- Inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially

- Clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue
- Clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful

### **COMPLAINT FORM**

New York State Labor Law requires all employers to adopt a sexual harassment policy that includes a complaint form for employees to report alleged incidents of sexual harassment.

### **NEW YORK STATE SEXUAL HARASSMENT PREVENTION REQUIREMENTS**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment based on sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment
- Such conduct is made either explicitly or implicitly a term or condition of employment
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment

A sexually harassing hostile work environment includes, but is not limited to words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Sexual harassment is a form of workplace discrimination and is against the law. All employees have a legal right to a workplace free from sexual harassment and employers must commit to a discrimination-free work environment.

**Sexual Harassment Prevention Policy:** New York State Labor Law requires that every employer in the New York State to adopt a sexual harassment prevention policy. Employers that do not adopt the model policy must ensure that the policy that they adopt meets or exceeds the following minimum standards. The policy must:

- Prohibit sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights
- Provide examples of prohibited conduct that would constitute unlawful sexual harassment
- Include information concerning the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment and a statement that there may be applicable local laws
- Include a complaint form
- Include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties
- Inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially
- Clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue
- Clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful

## The Sexual Harassment Prevention Training Requirements:

Every employer in New York State is required to provide employees with sexual harassment prevention training. An employer that does not use the model training developed by the Department of Labor and Division of Human Rights must ensure that the training that they use meets or exceeds the following minimum standards. Model training materials are available to employers to download. The training must:

- Be interactive
- Include an explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights
- Include examples of conduct that would constitute unlawful sexual harassment
- Include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment.
- Include information concerning employees' rights of redress and all available forums for adjudicating complaints
- Include information addressing conduct by supervisors and any additional responsibilities for such supervisors

Each employee must receive training on an annual basis

**Training Videos:** New York State has created model training videos that are available online at the links below. These videos, which may be watched via YouTube or downloaded, meet all state minimum training requirements except one: the videos alone are not considered interactive. If your employer is using this video to meet the training requirements, they must also:

- Ask questions of employees as part of the program
- Accommodate questions asked by employees, with answers provided in a timely manner
- Require feedback from employees about the training and the materials presented

During this interactive portion, employers should be prepared to address your questions raised including those specific to their industry, questions about the organization's reporting process and questions about how hypothetical cases would be handled.

**Sexual Harassment Prevention Training Part 1:**  
<https://www.youtube.com/watch?v=sL7LwBsV9bM>

**Sexual Harassment Prevention Training Part 2: Case Studies**  
<https://www.youtube.com/watch?v=1za7gs9S2H0>

## SEXUAL HARASSMENT PREVENTION FREQUENTLY ASKED QUESTIONS

### I think I've been sexually harassed. What should I do?

If you believe that you have been sexually harassed, you should report the conduct to your employer, temporary agency or placement agency. If your employer is your harasser, or you do not trust how your employer will react, you may contact the New York State Division of Human Rights. The Division of Human Rights can take complaints and investigate.

You can also, simultaneously or subsequently, file a complaint with the New York State Division of Human Rights. Please note: a complaint must be filed with the Division of Human Rights within one year of the alleged discriminatory act (within three years, for sexual harassment only, beginning Aug. 12, 2020). For more information, see the Division's brochure entitled "**Sexual Harassment.**"

### How can I file a complaint with the Division of Human Rights?

There are several ways to file a complaint with the Division:

For information on how to file a complaint, visit: [www.dhr.ny.gov/complaint](http://www.dhr.ny.gov/complaint) or call **1-888-392-3644**

You can visit a Division of Human Rights office and file a complaint in person: <https://dhr.ny.gov/contact-us>

### Can my employer retaliate against me if I complain?

New York's Human Rights Law prohibits retaliation for making an internal complaint to your employer, or for filing a complaint with the Division of Human Rights. If you feel you are being retaliated against, you should contact the Division and file a complaint.

### Is my employer covered by the Human Rights Law?

Yes. The Human Rights Law requires ALL employers in New York State, regardless of the number of employees, to provide a workplace free from sexual harassment.

**How serious does the harassment have to be before I can file a complaint?**

The courts previously required that harassment had to be “severe or pervasive” before it was unlawful. As of October 11, 2019, this has been changed by an amendment to the Human Rights Law, so that harassment is unlawful if it is anything than “petty slights or trivial inconveniences.”

**Is my employer required to provide the notice, policy and training in languages other than English?**

Yes. Employers must provide employees with these materials in both English and in an employee’s primary language if it is Spanish, Chinese, Korean, Polish, Russian, Haitian-Creole, Bengali or Italian.

**Non-Employees in a Workplace:**

**I am not directly employed by the company where I was harassed, am I still covered?**

Non-employees, such as contractors, subcontractors, vendors, consultants, or anyone providing services in the workplace, are also protected from harassment (and other discriminatory actions) at a location where they are working. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers, and temporary workers. Also included are persons providing equipment repair, cleaning services, or any other services provided pursuant to a contract with the employer.

**I work for a maintenance contractor and I clean the offices of a business. An employee of the building, who is not employed by the business I clean for, is asking me repeatedly for dates. I don’t like this behavior. What can I do?**

Your employer and the business that operates in your worksite are both required to provide you a harassment-free workplace. You should report the conduct to the worksite business, and to your own employer. Both are responsible to address the problem. If you do not trust how your employer will react, you may also file a complaint with the Division of Human Rights.

**The copier repair person always makes sexual jokes which are upsetting to me. My boss says that she can’t do anything about it.**

Your employer is required to provide a workplace free from sexual harassment, regardless of who the harasser is. Your employer is required to take appropriate action based on your complaint. If you

do not trust how your employer will react, you should file a complaint with the Division of Human Rights.

**A temporary worker tells me sexually explicit stories about his “dates” regularly. I complained, but my supervisor says he doesn’t have any authority over the temps.**

Your supervisor is required to take your complaint to someone who can investigate and take corrective action. You can complain to another supervisor or manager at your employer, or you can file a complaint with the Division of Human Rights, or you can do both.

**I perform work as an independent contractor, and much of my work is performed off the premises of the business. However, when I come into the office to meet with the person who oversees my work, he tries to start an unwelcome sexual relationship with me. He is the only person at the business that I have any contact with, and I don’t know how to complain.**

Employers are encouraged to post and make available their Sexual Harassment Prevention policies. You can complain to a supervisor or manager at the employer, file a complaint with the Division of Human Rights, or both.

## **SAFETY AND HEALTH-RELATED REGULATIONS**

### **DRINKING WATER**

**Must my employer provide drinking water near my workplace?**

Yes. An employer who uses paid farm laborers or food-processing workers must provide safe drinking water and disposable cups close to your work location and at no cost to the employees.

### **FIELD SANITATION**

**Must my employer provide toilet facilities in the field?**

Yes. By New York State law, the employer must provide toilet and hand- washing facilities and, if necessary, transportation to them.

hand-washing facility for every 20 workers. Both units shall be:

- Located together
- Within one quarter-mile walking distance
- If the terrain is impassable, at the closest point reachable by motor vehicle



If half or more of the 20 workers are women, there must be one toilet designated for men and one for women. Each one must be marked with an appropriate sign.

If your employer is not providing drinking water close to your work location or toilet and hand-washing facilities, call the nearest office of the Division of Labor Standards listed under Contacts or contact the Agriculture Labor Specialist in your area.

## **PESTICIDE SAFETY**

Under state law, you have the right to know about the health effect of any poisons in your work site. Your employer must set up an education and training program for you if they use dangerous materials near you.

Under federal law, employers must tell workers about the dangers from chemicals in the workplace. People who use pesticides on the job must be certified or supervised by a certified applicator.

For more information, call the New York State Department of Environmental Conservation at **518-402-8788** or the nearest federal OSHA office toll free at **800-321-6742**.

## **NEW YORK'S MIGRANT REGISTRATION LAW**

### **CERTIFICATE OF REGISTRATION (GROWER/PROCESSOR)**

A Grower or Processor who hires five or more out-of-state migrants, not including H-2A workers, must get a Certificate of Registration, even if they use a Farm Labor Contractor for recruiting and hiring.

### **CERTIFICATE OF REGISTRATION (FARM LABOR CONTRACTOR)**

A Farm Labor Contractor that places five or more out-of-state migrants to work on farms must obtain a Certificate of Registration. Each application for a Certificate must be signed by the grower after the Farm Labor Contractor signs it.

#### **What is a Farm Labor Contractor?**

A Farm Labor Contractor is a person or business that charges a fee to recruit, transport, supply, or hire migrant seasonal farm laborers to work for a farm or food-processing business. The Farm Labor

Contractor may be a crew leader who supervises the workers or may be a distant company with no representative on site. The Farm Labor Contractor must register with the New York State Department of Labor, which issues a Certificate of Registration.

#### **What is a Certificate of Registration?**

A Certificate of Registration is an official card that allows a Farm Labor Contractor to provide migrant seasonal farm laborers to the employer whose name is on the card. The Farm Labor Contractor must have one certificate for each farm or food processing business they serve. To apply for this certificate, the Farm Labor Contractor must give information about the working and living conditions of the workers to the New York State Department of Labor.

#### **Who pays the Farm Labor Contractor?**

The employer pays the Farm Labor Contractor's fees at the employer's own expense. It is against the law for workers to pay an employer or a Farm Labor Contractor to get a job or to keep one. The farmer cannot take money from your wages to pay the Farm Labor Contractor

#### **Can the Farm Labor Contractor charge me for services that they provide?**

No. The Farm Labor Contractor cannot charge for:

- Check cashing
- Transportation
- Housing
- Finding you the job

**Registration is free in New York State. Grower Processor and Farm Labor Contractor registration forms can be found at:**

<https://labor.ny.gov/workerprotection/laborstandards/wpcpu.shtm>

## **CHILD LABOR**

There are many types of "employment certificates" or "work permits" for minors under the age of 18 (commonly referred to as "working papers") to work in a variety of industries. In this booklet, only Farm Work Permits will be discussed.

### **CHILD LABOR FREQUENTLY ASKED QUESTIONS**

#### **Can children aged 12-13 do farm work?**

Yes. They may only be employed in:

- Hand-harvesting of berries, fruits, and vegetables, and must have a farm work permit

- Working for parents or guardians, at times when school is not in session, on the home farm or at other outdoor work that is not part of a trade, business, or service (this type of job does not require a work permit)
- Assisting a parent, aunt, uncle, grandparent or guardian selling produce from their own farm at a farm stand they own or lease during time when school is not in session (the minor must be with the parent or guardian or have their written permission to do this; this type of job does not require a work permit)

#### **What kinds of working papers are required for farm work?**

Workers younger than 16 years of age must obtain one of the following Farm Work Permits:

**Farm Work Permit AT-24:** a yellow permit for 14- and 15-year-old. This permit allows these minors to work before and after school, on weekends and during vacations. There is no limit on the hours they can work.

**Farm Work Permit AT-25:** a white permit for 12- and 13-year-old. This permit allows these minors to work in the hand-harvesting of fruits, berries and vegetables. They can work only four (4) hours a day as follows:

- From Labor Day to June 20th between 9 AM and 4 PM
- From June 21st to Labor Day between 7 AM and 7 PM

The minor (age 12-15) must be with a parent or guardian or give the employer written consent from the parent to the employer.

#### **Can minors aged 14-15 do farm work?**

Yes. Minors 14 and 15 years of age can do farm work that is not forbidden by regulation for children below the age of 16. There is no restriction on the hours they may work, except that they may not work during school hours. A Farm Work Permit issued by the school and signed by each employer is required.

#### **Can minors aged 16-17 do farm work?**

Yes. Minors 16 and 17 years of age can do any type of farm work not forbidden by regulation for children younger than 18. There is no restriction on the hours they may work, except that they may not work during school hours. A farm work permit is not required for this age group.

#### **Are minors allowed to perform all kinds of farm work?**

No. New York State and Federal regulations prohibit work that is dangerous or could cause injury to minors under 18 (State) and under 16 (Federal). There are some exceptions to this rule (see next page).

#### **NEW YORK STATE PROHIBITED OCCUPATIONS\***

No one under the age of 18 may work or assist in the following:

- Construction work, including wrecking, demolition, roofing, or excavating operations and the painting or exterior cleaning of a building structure from an elevated surface
- The operation of circular saws, band saws, and guillotine shears
- In or about a slaughtering and meat-packing establishment or rendering plant
- The operation of power-driven woodworking, metal-forming, metal-punching, metal-shearing, bakery, or paper products machines
- The operation of power-driven hoisting apparatus
- The manufacture of brick, tile, and like products
- Exposure to radioactive substances or ionizing radiation, or exposure to silica or other harmful dust
- Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill
- In mining or in connection with a mine or quarry
- As a helper on a motor vehicle
- In the care or operation of a freight or passenger elevator, except that a minor over 16 may operate automatic, push-button control elevators
- In manufacturing, packing, or storing of explosives, or in the use or delivery of explosives
- Operating or using any emery, tripoli, rouge, corundum, stone, silicon carbide, or any abrasive, or emery polishing or
- buffing wheel, where articles of the baser metals or iridium are manufactured
- Adjusting belts to machinery or cleaning, oiling, or wiping machinery
- Packing paints, dry colors, or red or white leads
- Preparing any composition in which dangerous or poisonous acids are used

- Operating steam boilers subject to Section 204 of the Labor Law
- In penal or correctional institutions, if the job relates to the custody or care of prisoners or inmates

## **EXCEPTIONS**

These rules do not apply to:

- Workers younger than 18 who are apprentices individually registered in Department of Labor registered apprenticeship programs
- Student-learners enrolled in recognized cooperative vocational training programs
- Trainees in approved on-the-job training programs
- Workers 16 or 17 years old who have completed training as a student learner or trainee in an approved on-the-job training program
- Workers 16 or 17 years old who have completed a training program given by a public school or a non-profit institution that includes New York State Department of Labor approved safety instruction

\* Source Part 190 of Title 12 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Cited as 12 NYCRR 190) July 24, 2009

## **FARM LABOR (UNDER 16 YEARS OF AGE)**

In addition, there is a Federal Hazardous Occupations Order covering minors less than 16 years of age engaged in farm work. The order lists 16 forbidden jobs for minors less than 16 years of age, including working with certain power-driven farm machinery, operating a tractor with over 20 PTO horsepower, and working with explosives or certain chemicals.

These rules on child labor on farms do not apply to minors who work on a farm owned or run by their parents or to students in a recognized vocational education training program. In addition, there are exemptions for 4-H members who have completed certain training programs and students in other approved farm training and education programs.

If the federal regulations are stronger or more protective than the state regulations, then the federal rules apply.

## **FREQUENTLY ASKED QUESTIONS**

### **Who can provide working papers?**

Schools supply working papers to their students upon request. Your child can find out about getting working papers at the school office. If your child does not go to school, you or your child can contact any high school within New York State.

### **Are working papers required for out-of-state minors?**

Yes. All minors 12 to 15 years old who want to do farm work in New York State, no matter where they are from, must get working papers in order to work. The minor may obtain working papers from the school closest to the farm or place of employment.

### **Do you have to obtain a Farm Work Permit for each job?**

No. A Farm Work Permit can be used for more than one job in the same type of work, but each employer must sign it. The permit remains valid so long as the minor is in the covered age group.

## **POSTING PROVISIONS**

The employer must make a schedule for all minors and post it in a conspicuous place. The schedule shows the hours that minors start and end work. The hours of work can be changed if the changes are posted on the schedule.

### **How can a minor get help with a workplace problem?**

The minor, or a parent or guardian on their behalf, can get advice or file a complaint by contacting the nearest office of the U.S. Department of Labor, Wage and Hour Division or the New York State Department of Labor, Division of Labor Standards.

## **MORE INFORMATION**

For more information about employment certificates including Farm Work Permits, contact a local high school or visit the state Education Department's website at [www.p12.nysed.gov/ssss/pps/workingpapers](http://www.p12.nysed.gov/ssss/pps/workingpapers).

## **UNEMPLOYMENT INSURANCE**

Unemployment Insurance is a cash benefit provided by law to workers who have lost their jobs through no fault of their own. To qualify, the unemployed person must be ready, willing and able to work. The payments help the unemployed person with their financial obligations while they search for another job.

### Is my farm work covered by Unemployment Insurance?

Yes, your farm work is covered by Unemployment Insurance. You are eligible, even if you have worked in more than one state. Unemployment Insurance is not available for H-2A workers.

### How do I know if I am covered?

If you lose your job and want to know if you qualify for unemployment insurance benefits, call our toll-free line at **888-209-8124**. Follow the voice instructions to apply. We offer services in many languages through the telephone service. You may also apply on our website: [www.labor.ny.gov](http://www.labor.ny.gov).

### Do I have to pay Unemployment Insurance contributions?

No, not in New York State. In New York, employers pay Unemployment Insurance contributions at their sole expense, according to a formula determined by the New York State Department of Labor. This is a cost of doing business for employers. They are not allowed to take this money out of your pay.

## APPLYING FOR UNEMPLOYMENT INSURANCE

**Online:** If you have internet access, you can apply online on our website: [www.labor.ny.gov](http://www.labor.ny.gov).

**By phone:** The New York State Department of Labor has a telephone claim system that will help you file for unemployment insurance benefits. You cannot use a rotary dial phone. You must use:

- A touch-tone phone
- A phone with a pulse-tone switch
- A mobile phone or other mobile device
- Before placing the call or logging in, you should have the following information available:
  - Your Social Security Number
  - Your New York State driver's license or Motor Vehicle ID card number (if you have one)
  - Your mailing address and zip code
  - A telephone number where you can be contacted during business hours
  - Your alien registration card number (if you have one)

- The names and addresses of all employers for whom you have worked within the last 18 months, including those in another state
- Your total gross earnings (wage statements/pay stubs, W2 forms, etc.) for each of your employers during the last 18 months
- A copy of your most recent separation form DD 214

(if you are an ex-service member claiming benefits based on your military service)

However, you should apply for Unemployment Insurance benefits as soon as possible after you stop working, even if you do not have all this information.

If you have a speech or hearing impairment or certain other disabilities, you may ask a friend or relative to help in the telephone claim process. You must be present when that person makes the call for you. The toll-free number for all of New York State is 888-209-8124.

## RECEIVING MY UI BENEFITS

**Direct Deposit:** You can sign up for Direct Deposit of Unemployment Insurance benefits into a bank account if you file your claim on the web.

**Debit Card:** If you do not sign up for direct deposit, you will receive payments through a direct payment card. The card is mailed to you after you are approved to receive benefits. You can use the card at all Chase/Allpoint ATMs and any bank that honors MasterCard, as well as at any merchant that accepts debit cards.

### How long will I receive benefits?

The Unemployment Insurance benefit is calculated based on your earnings at jobs that you held during the previous 18 months. If you collect the full benefit each week, the basic unemployment benefits will last 26 weeks. If you work part time, you may be eligible for partial benefits. If you collect only partial benefits and still qualify, the funds will remain available for a longer period, up to 52 weeks when the claim expires. There are extensions of benefits for certain workers. You can find out the details on our website [www.labor.ny.gov/unemploymentassistance.shtm](http://www.labor.ny.gov/unemploymentassistance.shtm), through the Telephone Claims Center at **888-209-8124**, or you can ask for details at your local Department of Labor office or New York State Career Center.



## WORKERS' COMPENSATION

Workers' Compensation is a form of insurance which provides medical care and lost wages due to a work-related injury or condition. This benefit is payable once a claim is accepted by the Workers' Compensation Board and/or your employer's insurance company. The process starts upon receipt of the injured worker's claim form and proper medical documentation from a treating doctor.

Employers in New York State are required to obtain a Workers' Compensation insurance policy (some exceptions apply) and if an injury or illness occurs, their insurance company will provide the benefits to you. If a death is a result of work, then your family can file a claim and may be eligible to receive Workers' Compensation benefits in accordance with the law. For further information you may call the New York State Workers' Compensation Board toll-free at **877-632-4996**.

### WORKERS' COMPENSATION COMMON QUESTIONS

#### Am I covered by Workers' Compensation Insurance?

Yes. If you believe that you have an illness or injury caused by your job, you should file a claim.

#### What should I do if I have an accident on the job?

If you were injured on the job, you must report the injury to your supervisor or your employer in writing within 30 days. Then you must file a Board Form C-3 with the Workers' Compensation Board as soon as possible, but you have up to two years to do so. You must also see a doctor that is authorized by the Workers' Compensation Board. This doctor should then file proper medical documentation with both the Workers' Compensation Board and the employer's Workers' Compensation insurance company.

#### What should I do if I have a work-related illness or disease?

If you have an illness or disease which you believe is caused by your work or working conditions, you should file a claim as well. You must notify your employer, in writing, within 30 days from the time you were diagnosed with a work-related illness/condition or from the time you knew or should have known that it was caused by work. Again, you have up to two years from this date to file a claim with the Workers' Compensation Board.

If you die from this illness or disease, your family can file a claim and may be eligible for compensation.

#### How do I file a Workers Compensation claim?

File an Employee's Claim for Compensation (Board Form C-3) with the New York State Workers' Compensation Board. This form can be obtained by calling the Workers' Compensation Board at **877-632-4996**. This form is also available for completion online or by phone.

#### Can my employer fire me for filing for Workers' Compensation?

No. An employer may not fire or discriminate against an employee who files a Workers' Compensation claim. The law also protects employees who testify in a Workers' Compensation hearing.

#### Do I pay out of pocket for anything related to a work injury/condition?

No, you do not pay out of pocket for an office visit or an attorney. Simply provide the doctor's office with the employer and/or employers' insurance company's information so that the doctor's office can bill the insurance company. No co-pays can be charged. Attorneys are paid out of any awards you receive.

For more information about the Workers' Compensation claims process, call the toll-free number at **877-632-4996** or visit [www.wcb.ny.gov](http://www.wcb.ny.gov).

## NEW YORK STATE PAID SICK LEAVE

All private sector workers in New York State are now covered under the state's new sick and safe leave law, regardless of industry, occupation, part-time status, overtime exempt status, and seasonal status. The law requires employers with five or more employees to provide their employees with paid sick and safe leave. Businesses with fewer than five employees and a net income of \$1 million or less must provide unpaid sick and safe leave to employees.

On September 30, 2020, covered employees in New York State began to accrue leave at a rate of one hour for every 30 hours worked. On January 1, 2021, employees may start using accrued leave.

### AMOUNT OF LEAVE

Amount of sick leave for employees depends on the size the employer:

- Employers with 100 or more employees must provide up to 56 hours of paid sick leave per calendar year.
- Employers with 5 to 99 employees must provide up to 40 hours of paid sick leave per calendar year.

- Employers with 4 or fewer employees and net income of greater than \$1 million in the previous tax year are required to provide up to 40 hours of paid sick leave per calendar year.

For counting employees, small employers with 4 or fewer employees and who reported a net income of \$1 million or less are not required to pay their employees sick leave but must provide the additional allotted leave time.

**Note:** “calendar year” means the 12-month period from January 1 to December 31. For other purposes, including use and accrual of leave, employers may set a calendar year to mean any 12-month period.

## ELIGIBILITY

All private-sector employees in New York State are covered, regardless of industry, occupation, part-time status, and overtime exempt status. Federal, state, and local government employees are NOT covered, but employees of charter schools, private schools, and not-for-profit corporations are covered.

## PAID SICK LEAVE FREQUENTLY ASKED QUESTIONS

### Who qualifies as a “family member” for the purpose of this law?

“Family member” is defined as an employee’s child, spouse, domestic partner, parent, sibling, grandchild, or grandparent; and the child or parent of an employee’s spouse or domestic partner. “Parent” is defined as a biological, foster, step, or adoptive parent, or a legal guardian of an employee, or a person who stood in loco parentis when the employee was a minor child. “Child” is defined as a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco parentis.

### What is a calendar year?

To determine the total number of employees, “calendar year” means the 12-month period from January 1 to December 31. For other purposes, including use and accrual of leave, employers may set a calendar year to mean any 12-month period.

### Do I continue to earn sick leave while using paid sick leave under this law?

No. Employees are only required to be credited with leave time for hours worked and not for hours spent using sick leave time under this law.

### Do I accrue leave for pay received for non-working time?

No. Employees do not accrue leave for payments that are not for hours worked, such as bonuses or subject-to-call time. However, time that is considered “hours worked,” including on-call time, training time, and travel time, must be counted for the purposes of accruing leave.

**The law provides that employees accrue sick leave at a rate of not less than one hour per every thirty hours worked. If an employee for a medium-size business with 50 employees works in excess of 1,200 hours during a calendar year, is the employer required to provide over 40 hours of paid sick leave?**

No. For employers with between 5 and 99 employees in any calendar year, this law requires that each employee be provided with up to 40 hours of paid sick leave in each calendar year. While an employer may provide additional paid sick leave hours for their employees, they are not required to do so.

### Can I use safe leave if the police have not been contacted or the perpetrator has not been convicted?

Yes. An employee’s eligibility for safe leave is not dependent on reporting to law enforcement or a criminal conviction.

### If my employer has been ordered to close temporarily due to a public health emergency, may employees use accrued sick leave during the period of closure?

Whether or not the usage of sick leave in this scenario would be fact specific depending on the type of health emergency, including the risk of contagion, and other health considerations. Accrued sick leave may be used by an employee for preventive care of a mental or physical illness, injury or health condition. Sick leave under this law is separate and additional to the quarantine leave for employees subject to a precautionary or mandatory order of quarantine or isolation related to COVID-19 (Ch. 25 of the laws of 2020), and use of COVID-19 leave does not impact or otherwise utilize an employee’s paid sick leave accruals or usage.

More information on COVID-19 Leave is available at:  
**[PaidFamilyLeave.ny.gov/COVID19](https://PaidFamilyLeave.ny.gov/COVID19)**

**Can I use sick leave for doctor, dentist, eye doctor, or other routine appointments?**

Yes. Employees may use sick leave for appointments when they require treatment for a condition or for preventive medical care.

**Does sick leave include bereavement leave? Can I use accrued sick leave when there is death in their family?**

Permissible reasons to use accrued sick leave does not include a period of bereavement. However, employers must provide sick leave for a mental or physical illness, injury, or health condition, regardless of whether they have been diagnosed or require medical care, as well as for the preventative care for such illnesses, injuries, or conditions.

**Who is eligible is there a minimum period of employment before an employer is responsible for providing sick leave?**

No. Employees are immediately eligible to accrue leave under the law.

**Is there a minimum period of employment before I can use their accrued sick leave?**

There is no minimum period of employment before an employee can use sick leave. However, unless an employer provides the required amount of sick leave up-front at the beginning of a calendar year or otherwise has a sick leave policy that exceeds the requirements of the law, an employee would have to work at least 30 hours before accruing any sick leave.

**If a business is jointly owned by two individuals and the business fails to provide sick leave as required under the law, which owner is responsible?**

Both owners would be jointly and severally responsible for the failure to comply with the law. The term “employer” includes any person, corporation, limited liability company, or association employing any individual in any occupation, industry, trade, business, or service.

**If a business with 15 full-time, year-round employees also hires seasonal part-time workers, must the employer provide sick leave to these part-time seasonal workers as well?**

Yes. For the purposes of this law, an employee is defined as “any person employed for hire by an employer in any employment.” If an employer has five or more employees but fewer than 100, all employees, including part-time seasonal workers, are entitled to accrue one paid sick hour for every 30 hours they work.

**Does a small business with only three employees but with just over one million dollars earnings must provide paid leave to employees?**

A business employing four or fewer people is obligated to provide Paid Sick Leave if it has over one million dollars in net income.

**If an employer has multiple business locations within New York State, with four or fewer employees at each location, does the employer have to provide Paid Sick Leave under the law?**

To determine the number of employees in this scenario, the employer would count the total number of employees across all locations. For example, if there were 3 employees who worked at one location, and 4 employees who worked at another location, the employer would have 7 total employees, and would be required to provide up to 40 hours of paid sick time in each calendar year, for each employee.

**Does my immigration status affect whether they are entitled to sick leave under the law?**

No. An employee’s immigration status has no effect on their eligibility for sick leave benefits under this law.

**Can I use sick leave for only half of a workday?**

The maximum increment an employer may set for the use of sick leave under this law is four hours. An employee may use four hours of accrued sick leave as needed (or less, if an employer allows for smaller increments of sick leave usage, such as one or two hours).

**Rate of pay how do employees who are paid on a commission, flat rate basis, or other non-hourly basis accrue sick leave?**

When employees are paid on a non-hourly basis, accrual of sick leave is measured by the actual length of time spent performing work.

**If I use leave during hours that would have been overtime if worked, does the employer have to pay the overtime rate of pay?**

No. Employees are required to be paid their normal pay for leave time under the law.

**Is my employer required to pay employees for lost tips and gratuities during leave time?**

No. Employers are not required to pay employees for lost tips or gratuities, but employers may not take a tip credit for leave time and must pay the employee their normal rate of pay or the applicable minimum wage, whichever is greater.

### **What if I am paid at different rates for different tasks?**

Employees who are paid at more than one rate of pay must be paid for leave under the law at the weighted average of those rates. The weighted average is the total regular pay divided by the total hours worked in the week. Overtime exempt employees who are paid on an hourly basis are assumed to work 40 hours per workweek, when deriving their regular rate unless the terms and conditions of the employment specify or require otherwise. However, as noted above, employers are prohibited from reducing an employee's rate of pay for leave time hours only.

### **Is my employer required to pay me for unused leave at the end of the employment relationship?**

Unless required by another agreement or policy, including the employer's own written leave policy, employers are not required under this law to pay employees for unused sick leave at the end of an employment relationship. Seasonal employees who maintain an ongoing employment relationship with their employer maintain their leave accruals through such breaks in employment.

### **Can my employer front-load accrual for part-time employees?**

Yes. At the beginning of each calendar year, an employer can provide part-time employees with the hours of sick leave they would accrue based on the hours they are anticipated to work at the accrual rate of one hour of sick leave for every 30 hours the employee is anticipated to work. However, if the employer front loads fewer than 40 hours, the employer must still track the employee's hours worked and accrual of sick leave because a part-time worker may work more hours than anticipated. If the employee works more hours than anticipated, the employer must allow the employee to accrue leave at the rate of one hour for every 30 hours worked until the total amount of front-loaded plus accrued sick leave in a calendar year equals 40 hours. Employees who are front-loaded less than 40 hours in a calendar year must be allowed to use up to 40 hours of sick leave in a calendar year if they have accrued it. An employer who front-loads fewer than 40 hours must allow employees to carry over up to 40 hours of unused sick leave into the new calendar year, in addition to front-loading the amount of time the employer expects the employee to earn in the new calendar year. Reminder: If the employer has not calculated employees' use and accruals, the employer cannot change the policy in the new calendar year since employees are entitled to carry over unused sick leave and use those hours at the beginning of the new calendar year.

### **What is required for collective bargaining agreements that are entered into on or after September 30, 2020?**

The law further provides that collective bargaining agreements entered into on or after September 30, 2020 may provide for different leave benefits, so long as such benefits are "comparable benefits for the employees" to those required by the law, and the agreement specifically acknowledges the provisions of Section 196-b of the Labor Law. Such acknowledgement should also specifically identify any benefits deemed comparable to the leave in the law.

### **Should a collective bargaining agreement acknowledge the state sick leave requirements, or is a general reference sufficient?**

To satisfy the requirements of this law, any agreement entered into after September 30, 2020 must specifically reference Labor Law Section 196-b. The New York State Department of Labor recommends that the "comparable benefits for the employees" be explicitly identified and labeled as such in the agreement to avoid confusion or misunderstanding.

### **I live in New York City and am covered by the New York City Paid Safe and Sick Leave Law? Can I file a complaint with the city for this law?**

New York City may continue to enforce the provisions of the New York City Paid Safe and Sick Leave Law to the extent that such provisions meet or exceed the end standard or requirements for minimum hour and use set forth in the New York State Paid Sick Leave Law, as determined by the Commissioner of Labor.

### **May Paid Family Leave be used consecutively with Paid Sick Leave (e.g. three days of Paid Sick Leave, two days of Paid Family Leave)?**

An employee can only choose to use sick leave during Paid Family Leave (PFL) if the employer allows it. Taking sick leave at the same time as PFL may allow the employee to receive their full salary for all or part of the leave. However, an employee cannot receive more than their full wages while receiving PFL benefits.

### **What about overlapping state and federal requirements?**

The New York State Paid Sick law operates independently from other State and Federal leave requirements and must therefore be paid in addition to any other State or Federal leave entitlements.



**Does leave required under New York Labor Law Section 196-B expire at the end of a calendar year?**

Sick leave that is unused by an employee over the course of the year must be carried over to the next calendar year. However, employers may limit employee use to the number of hours that the employee is entitled to use within any calendar year (i.e., 56 hours for employers with 100 or more employees and 40 hours for employers with 99 or fewer employees). This may result in an employee maintaining a leave balance in excess of the amount they are permitted to use in any calendar year.

**What is the benefit of carrying over sick leave when usage is still limited?**

When sick leave is carried over into a new calendar year, an employee can use it right away instead of waiting to accrue leave.

**Can my employer require that I locate a replacement worker to cover a shift/ job if I elect to use their sick leave?**

No. So long as an employee is using the sick leave for one of the reasons prescribed under the law, an employer may not require any additional preconditions.

**How much notice do I have to give to the employer prior to using my accrued sick leave?**

There is no specified notice or time period requirement under the law, provided, however, that there is an oral or written request to the employer prior to using the accrued sick leave, unless otherwise permitted by the employer.

**Does paid sick leave transfer if I am promoted, demoted, or take a different position within a company?**

Yes. Leave accruals may not be reduced or otherwise restricted if an employee changes positions, roles, or locations with the same employer. Paid sick leave under this law must be paid out at the employee's rate of pay at the time the leave is taken.

**If my company changes ownership or merges with another entity, will employee sick leave accruals be affected?**

It depends. The obligation to provide sick leave under the law derives from an individual or entity status as an employee's employer and is not limited to a single employer as the Labor Law imposes such obligations on "joint" employers (those who employ an individual with one or more others). When investigating a claim for unpaid leave, the New York State

Department of Labor will evaluate the continuing obligations of employers on a case by-case basis to determine if the circumstances are such that the employee, in fact, changed employers and no longer works for their former employer. As stated above, employees may file a complaint with the Department of Labor by calling **888-469-7365**.

**What are the penalties if my employer does not provide the required sick leave?**

Under New York State Labor Law, failure to provide employee benefits such as sick leave, is equivalent to a failure to pay employee wages. Should an employer fail to provide their employees with sick leave as required under the law, they may be subject to civil/administrative actions and/or criminal penalties, including but not limited to, an order assessing the full amount of the wage underpayment, 100% liquidated damages, and civil penalties in an amount up to double the total amount to be due.

**What do I do if my employer isn't providing me with sick leave as required by the law?**

Employees may file a complaint with the Department of Labor by calling **888-469-7365**.

**Can my employer have a policy that permits employees to donate unused leave to other employees?**

Yes. An employer can have a policy that allows employees to donate unused leave to other employees if the policy is entirely voluntary.

**Can my employer discipline me if I misuse sick leave?**

Yes. An employer may take disciplinary action, up to and including termination, against an employee who uses leave for purposes other than those provided for under the law, or who lies to their employer in connection with taking such leave.

**NEW YORK STATE COVID-19 PAID LEAVE**

In response to the outbreak of novel coronavirus (COVID-19) New York State has guaranteed workers job protection and financial compensation in the event they, or their minor dependent child, are subject to a mandatory or precautionary order of quarantine or isolation issued by the state of New York, the Department of Health, local board of health, or any government entity duly authorized to issue such order due to COVID-19.

Most employees will get financial compensation by using a combination of benefits, which may include new employer-provided paid sick leave (depending on the size of the employer), Paid Family Leave and disability benefits. These benefits are not available to employees who are able to work through remote access or other means.

Some employers in New York State are now required to provide at least five days of job protected, paid sick leave to employees who are required to take leave because they are under a mandatory or precautionary order of quarantine or isolation due to COVID-19. The amount of paid sick leaves an employer is required to provide depends on the number of employees they have and the employer's net annual income.

## **HOW TO APPLY**

### **Do I have to apply for COVID-19 quarantine leave?**

You do not have to apply for paid sick days if your employer is required to offer them. If you run out of sick days from your employer, then you can apply for combined Paid Family Leave and disability COVID-19 quarantine benefits for compensation during the rest of your quarantine.

### **How do I apply for the Paid Family Leave and disability benefits component of COVID-19 quarantine leave for myself?**

To apply for Paid Family Leave and disability benefits during a quarantine, notify your employer and submit your completed request for Paid Family Leave forms to your employer's insurance carrier no later than 30 days from your first day of leave to avoid losing any benefits.

You must complete the Request for COVID-19 Quarantine Leave for Yourself form package, which includes two forms:

- ☐ Request for COVID-19 Quarantine DB/PFL - Self (Form SCOVID19)
- ☐ Request for Paid Family Leave (Form PFL-1)

You must complete the employee sections on both forms in the package. Then send these completed forms to your employer to complete the employer sections on both forms. Your employer has three business days to complete these sections and return the forms to you. If you do not receive the forms within three business days, you can proceed to the next step and submit your application.

Next, you will submit your completed forms together with your mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health, or government entity to your employer's disability and Paid Family Leave insurance carrier.

The insurance carrier must pay or deny your claim within 18 calendar days of receiving your completed request.

### **How do I apply for Paid Family Leave COVID-19 quarantine leave benefits if I am unable to work because my minor dependent child is subject to a quarantine order?**

You must complete the Request for COVID-19 Quarantine Leave for Minor Dependent Child form package, which includes two forms:

- ☐ Request for COVID-19 Quarantine PFL - Child (Form CCOVID19)
- ☐ Request for Paid Family Leave (Form PFL-1)

You must complete the employee sections on both forms in the package.

Then send these completed forms to your employer to complete the employer sections on both forms. Your employer has three business days to complete these sections and return the forms to you. If you do not receive the forms within three business days, you can proceed to the next step and submit your application.

Next, you will submit your completed forms together with your mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health, or government entity to your employer's disability and Paid Family Leave insurance carrier.

The insurance carrier must pay or deny your claim within 18 calendar days of receiving your completed request.

### **Where do I get an application for the Paid Family Leave benefits component of COVID-19 quarantine Leave?**

All forms are located at [PaidFamilyLeave.ny.gov/COVID19](https://PaidFamilyLeave.ny.gov/COVID19). You may also be able to obtain them from your employer's insurance carrier.

### **Where do I send my completed application for the Paid Family Leave and disability benefits component of COVID-19 quarantine leave?**

Submit your completed request package to your employer's disability and Paid Family Leave insurance carrier within 30 days after the start of your leave. For information on who your employer's carrier is, you should ask your employer or check part B of Form PFL-1 after your employer completes their section.

**How long do I have to submit my application for Paid Family Leave and disability benefits COVID-19 quarantine leave?**

You must submit your Paid Family Leave application within 30 days from the first day you are taking leave to avoid losing any benefits.

**When will I get paid for the Paid Family Leave and disability benefits portion of my COVID-19 quarantine leave?**

Your employer's insurance carrier must pay or deny benefits within 18 calendar days of receiving your completed request for benefits. To ensure timely payment, make sure you completely fill out the required forms and attach the order of mandatory or precautionary quarantine.

**My employer is refusing to complete their section on the Request for COVID-19 Quarantine form. What do I do?**

If it has been more than three business days since you provided your employer with the completed Request for COVID-19 Quarantine Leave package, you may submit the forms you filled out, along with the mandatory or precautionary order of quarantine or isolation to your employer's Paid Family Leave insurance carrier. The carrier may not deny your request solely because the employer's sections are not completed.

**BENEFITS**

**What benefits can I use for COVID-19 quarantine leave?**

If you are under a mandatory or precautionary order of quarantine or isolation issued by the State, New York State Department of Health, local Board of Health, or other authorized government entity you may be eligible for job-protected sick leave and compensation through a combination of disability and Paid Family Leave COVID-19 quarantine leave benefits.

**If you work for an employer with 10 or fewer employees as of January 1, 2020 and your employer made less than \$1 million in 2019:**

Your employer is required to provide you with job protected leave and you may be eligible for a combination of Paid Family Leave and disability COVID-19 quarantine leave benefits.

**If you work for an employer with 10 or fewer employees as of January 1, 2020 and your employer made more than \$1 million in 2019:**

Your employer is required to provide you with five days of paid sick leave. After those days are used, you may be eligible for a combination of Paid Family Leave and disability COVID-19 quarantine leave benefits.

**If you work for an employer with between 11-99 employees as of January 1, 2020:**

Your employer is required to provide you with five days of paid sick leave. After those days are used, you may be eligible for a combination of Paid Family Leave and disability COVID-19 quarantine leave benefits.

**If you work for an employer with 100 or more employees as of January 1, 2020:**

Your employer is required to provide you with 14 days of paid sick leave, which should cover the period of mandatory or precautionary quarantine or order of isolation.

**What is the maximum pay I will receive for COVID-19 quarantine leave?**

If you work for a public employer or an employer with more than 100 employees as of January 1, 2020, you are entitled to at least 14 days of paid sick leave at your regular rate of pay.

If you work for an employer with 11 or more employees or for an employer with fewer than 10 employees as of January 1, 2020, whose income was greater than \$1 million dollars in 2019, you are entitled to at least five sick days at your regular rate of pay. After those days are used, you may be eligible to receive your weekly wages through a combination of Paid Family Leave and disability COVID-19 quarantine leave benefits up to a maximum of \$2,884.62 per week.

If you work for an employer with fewer than 10 employees as of January 1, 2020, whose income was \$1 million dollars or less in 2019, then you may be eligible to receive your weekly wages through a combination of Paid Family Leave and disability COVID-19 quarantine leave benefits up to a maximum of \$2,884.62 per week.

**At what rate of pay is leave paid?**

For the applicable paid leave period (five or 14 days), employers must pay the amount that the worker would have otherwise received had they been continuing to work for that period based upon the amount that the employee was scheduled or would have been scheduled had the employer's operations continued in its normal due course. The definition of "wages" in Article 6 of the Labor Law applies to the amount the employee must be paid. Employees who work a fixed schedule or are paid a salary should simply continue to receive pay for the applicable period. For hourly, part-time, commission-based salespeople, and other employees who are not paid a fixed wage, employers should determine

the employee's pay by looking at a representative period to set the employee's average daily pay rate.

**How many days of leave are part-time employees required to be paid for?**

Part-time employees should be paid for the number of days/amounts of time during a five or 14-day period that they are required to receive pay that they would have otherwise received had the employer's operations continued in its normal due course.

**How many days of leave are part-time employees required to be paid for?**

Part-time employees should be paid for the number of days/amounts of time during a five or 14-day period that they are required to receive pay that they would have otherwise received had the employer's operations continued in its normal due course.

**Is the number of paid days work or calendar days?**

The number of paid days is calendar days, and the pay required should represent the amount of money that the employee would have otherwise received for the five or 14-day period.

**When is payment required to be made to employees eligible to receive paid sick leave?**

The paid sick leave payments are subject to the frequency of pay requirements of Section 191 of the Labor Law and leave payments should be made in the paycheck for the applicable pay period for the leave.

**Will I have to repay the benefits I receive during COVID-19 quarantine leave?**

No, you are not required to repay any benefits.

**Is there a waiting period before I will receive combined Paid Family Leave and disability COVID-19 quarantine leave benefits?**

No, there is no waiting period for benefits claimed as a result of a mandatory or precautionary quarantine or order of isolation.

**Is COVID-19 quarantine leave available retroactively?**

Yes. You may take quarantine leave if you are still currently under a mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health, or government entity even if that order was issued prior to the enactment of the COVID-19 quarantine leave.

**Can my employer require me to use my existing sick leave accruals or other accruals (paid time off) my COVID-19 quarantine leave?**

No. Employers required to provide paid sick leave must provide that leave separate from any accruals.

**Is my job protected during COVID-19 quarantine leave?**

Yes, you cannot be fired because you took leave. Your employer cannot fire you or take action against you because you took leave, and you are entitled to be restored to the position you held prior to taking leave. Any COVID-19 quarantine leave should not be counted as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

You may file a complaint with the Department of Labor at:  
[www.labor.ny.gov/COVIDcomplaint](http://www.labor.ny.gov/COVIDcomplaint)

**Am I eligible to take COVID-19 quarantine leave for myself and COVID-19 quarantine leave for my minor dependent child? Which benefits should I apply for?**

More benefits are available to you if take COVID-19 quarantine leave for yourself. You may have paid sick leave benefits available to you, depending on the size of your employer. After using those paid sick leave benefits, you may then be eligible for a combination of Paid Family Leave and disability COVID-19 quarantine leave benefits through your employer's insurance carrier. You should complete the form package Request for COVID-19 Quarantine DB/PFL - Self (Forms PFL-1 & SCOVID19) to apply for the combined Paid Family Leave and disability COVID-19 quarantine leave benefits.

**On December 26, 2020, the Department of Health released updated guidance allowing individuals who have been exposed to COVID-19 to end their quarantine after 10 days without a testing requirement if no symptoms were reported during the quarantine. How does this affect NY's COVID-19 quarantine leave benefits?**

NY's COVID-19 quarantine leave benefits are only available during the order of quarantine or isolation. Once an individual is no longer subject to an order of quarantine or isolation, they are no longer eligible for NY's COVID-19 quarantine leave benefits. You can read the full guidance from the Department of Health at:

<https://coronavirus.health.ny.gov/system/files/documents/2020/12/covid19-health-advisory-updated-quarantine-guidance-12.26.20.pdf>.



## **ELIGIBILITY**

### **What if I independently decide to quarantine - can I take COVID-19 quarantine leave?**

This new law provides benefits in cases where an individual is under an order of quarantine – either mandatory or precautionary. Entities that may issue an “order” include the State of New York, New York State Department of Health, local Board of Health or any government entity authorized to issue such order.

### **My child’s school is closed due to COVID-19. Can I take COVID-19 quarantine leave to stay home with them?**

School closures are not a qualifying reason for NY’s COVID-19 quarantine leave, as these benefits are only available when you or your minor dependent child are subject to a mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health, or government entity.

### **I have been quarantined due to Coronavirus/COVID-19. Do I have combined Paid Family Leave and disability COVID-19 quarantine leave benefits available?**

If you are under a mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health, or government entity, you may be eligible to take combined Paid Family Leave and disability COVID-19 quarantine leave benefits for yourself unless you are not showing symptoms and are physically able to work through remote access or similar means. You must first use all available quarantine paid sick leave, then you can apply for the combined Paid Family Leave and disability benefits for the remainder of your quarantine.

### **What if I am quarantined because I have recently returned from traveling to another country?**

You are not eligible for COVID-19 quarantine leave if you are subject to a quarantine because you voluntarily traveled to a country with a level two or three health notice from the CDC if your travel was not at the direction of your employer and you were provided notice of the travel health notice and knew about this restriction in the new law.

### **Am I eligible for NY’s COVID-19 quarantine leave benefits if I must quarantine because I was in another state other than a contiguous state for more than 24 hours?**

If you voluntarily travel to any state other than a contiguous state for more than 24 hours you will not be eligible for NY’s COVID-19 quarantine leave benefits if the travel was not taken as part of your employment or at your employer’s discretion.

### **What is a contiguous state?**

Any state that shares a border with New York would be a contiguous state. These states are Connecticut, Massachusetts, New Jersey, Pennsylvania, and Vermont.

### **Does my citizenship or immigration status affect my eligibility for Paid Family Leave COVID-19 quarantine leave benefits?**

No, citizenship or immigration status is not a factor in eligibility.

### **What if my employer temporarily closes or goes out of business because of COVID-19?**

You may be eligible for Unemployment Insurance. For more information or to apply online, visit the New York State Department of Labor website.

### **What if I am eligible for benefits under the Families First Coronavirus Response Act (FFCRA) and for the New York State COVID-19 quarantine leave benefits?**

While the mandatory leave required under FFCRA expired on 12/31/2020, your employer may have elected to continue to provide leave benefits pursuant to the FFCRA. If your employer is voluntarily providing federal benefits and you are also eligible for New York State COVID-19 quarantine leave benefits and your New York State benefit would be more money than your federal benefit, you may be able to receive your federal benefit and the difference between the federal benefit and your New York State maximum benefit. Otherwise, you may receive the federal benefits provided by your employer. More information on the FFCRA, including frequently asked questions, can be found at <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>.

### **I used benefits under the federal Families First Coronavirus Response Act (FFCRA) in 2020. Am I able to use New York State COVID-19 Quarantine Leave benefits in 2021?**

Mandatory benefits under the FFCRA expired on December 31, 2020. If you are subject to an order of mandatory or precautionary quarantine or isolation in 2021, you may be eligible for New York State COVID-19 Quarantine Leave benefits, even if you previously used benefits under the FFCRA in 2020.

## CONTACTS

### NEW YORK STATE DEPARTMENT OF LABOR

**New York State Department of Labor Division of Immigrant Policies and Affairs**

**877-466-9757**

**[www.labor.ny.gov/immigrants/index.shtm](http://www.labor.ny.gov/immigrants/index.shtm)**

#### **New York State Monitor Advocate**

Email: **[SMA@labor.ny.gov](mailto:SMA@labor.ny.gov)**

Mailing address: State Office Campus, Building 12, Room 570, Albany, NY 12240

#### **Counsel, Division of Immigrant Policies and Affairs**

New York State Department of Labor

75 Varick Street, 7th Floor New York, NY 10013 Hotline: **877-466-9757**

Fax: **212-775-3389**

Email: **[trafficking@labor.ny.gov](mailto:trafficking@labor.ny.gov)**

#### **Agriculture Labor Program**

To contact an Agriculture Labor Specialist, you may do one of the following.

- Visit **[www.labor.ny.gov/immigrants/agriculture-labor-program.shtm](http://www.labor.ny.gov/immigrants/agriculture-labor-program.shtm)**
- Email: **[dipa@labor.ny.gov](mailto:dipa@labor.ny.gov)**
- Call **877-466-9757**

#### **Foreign Labor Certification Unit**

H-2A: **[H2A@labor.ny.gov](mailto:H2A@labor.ny.gov)**

Fax: **585-339-9457**

Mailing address: 276 Waring Road, Rochester NY 14609

H-2B: **[H2B@labor.ny.gov](mailto:H2B@labor.ny.gov)**

Fax: **585-339-9457**

Mailing address: 276 Waring Road, Rochester NY 14609

#### **New York State Career Centers 800-447-3992**

**[www.labor.ny.gov/career-center-locator/](http://www.labor.ny.gov/career-center-locator/)**

**New York State Department of Labor Division of Labor Standards**  
**888-4-NYSDOL (888-469-7365)**

**New York State Department of Labor – Unemployment Insurance Division**

Filing a claim for unemployment insurance

benefits: Web service: **[www.labor.ny.gov](http://www.labor.ny.gov)**

Phone service: **888-209-8124**, Monday-Friday, 8 AM to 5 PM Eastern Time

#### **U.S. Department of Labor Wage and Hour Division Office**

**866-4US-WAGE (866-487-9243)** press 2 for Spanish

TTY: **877-889-5627**

Monday-Friday, 8 AM to 8 PM Eastern Time

**<https://www.dol.gov/agencies/whd>**

#### **New York State Department of Health**

Bureau of Community Environmental Health and Food Protection

**518-402-7600** or toll-free **1-800-458-1158**

**[www.health.ny.gov/environmental/regs](http://www.health.ny.gov/environmental/regs)**

#### **New York State Division of Human Rights**

**888-392-3644**

**[www.dhr.ny.gov](http://www.dhr.ny.gov)**

#### **New York State Workers' Compensation Board Offices**

328 State Street, Schenectady, NY 12305-2318

**877-632-4996**

Hours: Monday, Thursday, Friday 8:30 AM to 4:30 PM and Tuesday, Wednesday 8:30 AM to 6:00 PM

For questions related to injured workers:

**Advocate for Injured Workers: 518-462-8884** or **800-580-6665**

For questions about Workers' Compensation for on-the-job injuries/claims: District Offices and Service Centers

Albany: **866-750-5157**

Binghamton: **866-802-3604**

Brooklyn: **800-877-1373**

Buffalo: **866-211-0645**

Long Island: **866-681-5354**

Manhattan: **800-877-1373**

Peekskill: **866-746-0552**

Queens: **800-877-1373**

Rochester: **866-211-0644**

Syracuse: **866-802-3730**

## **OTHER SERVICES FOR AGRICULTURAL WORKERS**

### **Agri-Business Child Development Centers (ABCDs)**

These year-round childcare centers, operated by New York State Federation of Growers' & Processors' Associations, Inc. and supported by the New York State Department of Agriculture and Markets, offer comprehensive educational, health and social services to eligible families.

Batavia: **585-343-8160**

Florida: **845-651-2270**

Fredonia: **716-672-5395**

Geneva: **315-781-3267**

Goshen: **845-294-6221**

Holley: **585-638-5932**

Kingston: **845-481-4691**

Lake Ontario: **315-589-7421**

Middletown: **845-956-2270**

New Paltz: **845-255-7571**

Newfane: **716-439-4524**

Red Creek: **315-754-8759**

### **Agri-Business Child Development Headquarters**

847 Union Street, Schenectady, NY 12308

Phone: **518-346-6447**

Website: **www.abcdny.org**

### **PathStone Corporation**

PathStone Corporation (formerly Rural Opportunities, Inc.) is a federal grantee agency under contract with the United States Department of Labor, Employment and Training Administration to provide training and other services to migrant and seasonal farmworkers.

#### **PathStone Field Offices:**

Albion: **585-589-7027**

Williamson: **315-483-9151**

Dunkirk: **716-366-9015 x-5156**

Lockport: **716-201-1086**

Middletown: **845-343-0771**

North Collins: **716-366-9015 x-5156**

Riverhead: **631-727-4866**

Wappingers Falls: **845-298-8998**

Corporate Office: **585-340-3300** Toll Free, 24-hour: **800-888-6770**

Website: **www.pathstone.org**

### **Migrant Education Tutorial and Support Service**

Brockport: **585-395-2356** (Monroe, Niagara, and Orleans counties) Cortland: **607-753-4706** (Broome, Cayuga, Chemung, Chenango, Cortland, Delaware, Onondaga, Otsego, Schoharie, Schuyler, Tioga, and Tompkins counties)

Fredonia: **716-673-3526** (Cattaraugus, Chautauqua, and Erie counties) Genesee Valley: **585-658-7960** (Allegany, Genesee, Livingston, Ontario, Seneca, Steuben, Wyoming, and Yates counties) Mid-Hudson: **845-257-2950** (Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester counties)

Mohawk Regional: **315-867-2079** (Albany, Columbia, Fulton, Greene, Hamilton, Herkimer, Madison, Montgomery, Oneida, Rensselaer, Saratoga, Schenectady, Warren, and Washington counties)

North Country: **315-267-2514** (Clinton, Essex, Franklin, Hamilton, and St. Lawrence counties)

Oswego: **315-963-4291** (Jefferson, Lewis, Oswego, and Wayne counties) Long Island – Metro: **631-208-1936** (Nassau, Suffolk counties, and the New York City Boroughs of Bronx, Brooklyn, Manhattan, Queens, and Staten Island)

### **New York State Department of Health**

Division of Family Health

Migrant and Seasonal Farmworker Health Program Clinics

### **Finger Lakes Migrant Health Care Project**

165 Main Street, PO Box 423

Penn Yan, New York 14527

Phone: **315-531-9102**

Fax: **315-531-9103**

### **Hudson River Migrant Health Program Hudson River Health Care**

1037 Main Street Peekskill, New York 10566

Phone: **914-734 8503**

Fax: **914-734-8745**

### **Niagara Falls Memorial Medical Center**

621 Tenth Street

Niagara Falls, New York 14302

Niagara County Migrant Health Program

Phone: **716-278-4620**

**Oak Orchard Community Health Center**

300 West Avenue  
Brockport, New York 14420-  
1118 Phone: **585-637-5319**  
Fax: **585-637-2375**

**Oswego County Opportunities, Inc**

239 Oneida Street  
Fulton, New York 13069-1288  
Phone: **315-598-4715**  
Fax: **315-598-4733**

**Suffolk County Health Department**

Riverhead Health Center 300 Center Drive Riverhead, New York 11901  
Phone: **631-854-0000**  
Fax: **631-852-3723**

**EMERGENCY PHONE NUMBER (POLICE, FIRE, AND MEDICAL):**

**911** (only to be used for emergencies)

This booklet was originally published on paper and posted to our website in 2014. The printed book contains the month and year that it was printed (MM/YY) on the back cover. We intend for the printed books to have a shelf life of two to three years. If any parts of the book are updated before the next printing, the update can be found on our website. If any part of the book is updated, between printings the revision date will be reflected on the online version (MM/YY). If the printed booklet that you are looking at is more than two years old, please feel free to contact us to request an updated booklet. You can Email **dipa@labor.ny.gov** or call **877-466-9757**.

**<https://labor.ny.gov/immigrants/agriculture-labor-program/services-for-agriculture-workers.shtm>**

If you have any questions about anything found in this booklet or anything else regarding farm work in New York, please contact an Agriculture Labor Specialist see Contacts.

This publication was prepared by the Office of Communications of the New York State Department of Labor, State Office Building Campus, Building 12, Albany, NY 12240-0012. It gives general information on some of the laws related to farmworkers in New York State. It is not an official interpretation of the laws.



**WE ARE YOUR DOL**



**1-877-466-9757**

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The New York State Department of Labor is an Equal Opportunity Employer/Program.  
Auxiliary aids and services are available upon request to individuals with disabilities.