Staying Safe, Healthy & Protected in the Workplace
A Guide for Migrant and Rural Women Workers and their Communities

KNOW YOUR RIGHTS
Staying Safe, Healthy & Protected in the Workplace
A Know Your Rights Guide for Migrant and Rural Women Workers and their Communities

Introduction

Discrimination: What is it?
How does the federal government define and protect against discrimination?
Retaliation

Ending Discrimination: Know Your Rights!

Sex Discrimination

Equal Pay
I am getting paid less than my male coworkers. What can I do?

Sexual Harassment
What is sexual harassment?
What acts are considered sexual harassment?
Who can commit sexual harassment?
I know I’ve experienced sexual harassment. What do I do now?

Pregnant Workers

What laws protect pregnant workers?
What does it mean to request “reasonable accommodations” as a pregnant worker?
Staying Safe, Healthy & Protected in the Workplace

A Know Your Rights Guide for Migrant and Rural Women Workers and their Communities

Protection for Workers with Disabilities

Are there protections for people with disabilities? 10

How to Get Support

Who can help me if I think that I have experienced discrimination? 10
Is there a deadline for submitting a complaint for discrimination? 10
What other resources are available for survivors of sexual violence? 11

Human Trafficking

What is human trafficking? 12
Who can help me if I think that I have been trafficked? 12

General Workplace Health and Safety

Protections for Families, Nursing and Postpartum Workers

Protections Against Wage Theft

Protections Against Workplace Health and Safety Violations

Protections for Immigrant Workers

DISCLAIMER: THIS GUIDE IS DESIGNED FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT LEGAL ADVICE AND DOES NOT CREATE AN ATTORNEY-CLIENT RELATIONSHIP. JUSTICE FOR MIGRANT WOMEN (J4MW) DOES NOT WARRANT ANY INFORMATION CONTAINED IN THIS GUIDE, NOR DOES J4MW SUGGEST THAT THE INFORMATION IN THIS GUIDE SHOULD BE USED AS A BASIS TO PURSUE LEGAL ADVICE OR DECISION-MAKING.
Introduction
Justice for Migrant Women is committed to providing individuals with the information that they need to improve their working conditions, expanding access to justice for those who experience harm and creating a network for solidarity, support, and advancement. We are particularly focused on communities that are often left behind. For migrant women workers, navigating the legal system in the U.S. can be challenging. For women who migrate to or live in rural communities, information can often be difficult to obtain.

There are a range of violations that working people might experience. These violations include harassment, unequal pay, wage theft, and unsafe working conditions. This Know Your Rights guide provides information about some of the employment protections that exist in the United States and resources for workers to learn more about their rights or to seek help if they experience injustices in the workplace. This guide focuses on protections under federal law that may be most beneficial to people who identify as migrant and/or rural women. There may be additional protections under state law not listed here.

Discrimination: What is it?
How does the federal government define and protect against discrimination?
All people who are employed by a company that has 15 or more employees are protected by a federal law called Title VII of the Civil Rights Act. The law protects working people from discrimination based on their race, sex, religion, color, age, disability and national origin. This is enforced by the U.S. Equal Employment Opportunity Commission (“EEOC”). The law applies to immigrant workers, regardless of documentation status. There are also laws that protect people from age discrimination (for those who are 40 years or over) and disability discrimination at work. Title VII and the Americans with Disabilities Act both protect those who work for employers with 15 or more employees, and the Equal Pay Act protects virtually all employees. It is important for workers to speak with their union representative or a lawyer in their state to understand what exceptions might apply and whether there are any state or local laws that also protect them from discrimination.

Employers unlawfully discriminate against workers in many ways, including hiring and firing, promotions, employee classification or job assignments, pay and/or other terms and conditions of employment. The terms and conditions of employment include things such as work rules, granting of breaks,

Remember: It is important to report discrimination right away because there is a short period of time to report it under the law.

1 https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964#text=Title%20VII%20prohibits%20employment%20discrimination.Pay%20Act%20of%202009%20
approval of leave time, opportunity for advancement/promotion, assignment of work stations, retirement plans, or any other employment benefits.

**Retaliation**

People often fear reporting discrimination or other problems that they face in the workplace. **Anti-retaliation protections make it illegal to retaliate, or take negative action, against a worker who has asserted their rights by reporting discrimination under certain federal laws.** Workers who are witnesses to discrimination, participate in an investigation, or are simply related to someone who has made a discrimination complaint are also protected from retaliation. Retaliation can include such things as reducing someone’s work hours, changing their job or shift, demoting the worker, or even firing them.

---

**Ending Discrimination: Know Your Rights!**

**Sex Discrimination**

The U.S. Equal Employment Opportunity Commission defines **sex discrimination** as: “treating someone (an applicant or employee) unfavorably because of that person’s sex, including the person’s sexual orientation, gender identity, or pregnancy.” Sex discrimination violates federal law in many workplaces, regardless of a person’s immigration status. Sex discrimination could look like:

- Getting paid less as a woman for doing similar work as a man;
- Receiving different work within the same job or not being offered the same opportunity because you are a woman;
- Being treated differently or unfairly because you are pregnant; or
- Experiencing verbal abuse in the workplace because of your gender identity.

Sex discrimination may be committed by a boss, supervisor, co-worker or a third party, like a contractor or customer. Employment

---

2. [https://www.eeoc.gov/sex-based-discrimination](https://www.eeoc.gov/sex-based-discrimination)
discrimination can impact a worker’s ability to do their best work, to feel safe in their work environment, and to earn to their fullest potential.

**Equal Pay**

I am getting paid less than my male coworkers. What can I do?  
Women are entitled to equal pay for doing work equal to their male counterparts. It is important to know that Title VII of the Civil Rights Act makes it illegal to discriminate based on sex in providing pay and/or benefits. In addition, the Equal Pay Act (EPA), an amendment to the Fair Labor Standards Act, requires that employers pay equal pay for equal work regardless of a person’s sex. Latina workers, other women of color, and LGBTQIA workers routinely experience widespread equal pay violations.

“Pay” includes salary, overtime, bonuses, and vacation pay. Work is considered “equal” under the law if the workers use the same skill, effort, and responsibility and if the working conditions are the same (including such factors as dangerousness, temperature, etc.). If two workers are not doing the same work, or one worker has more seniority, education, or a more advanced skill set, it may be legal for the company to pay the two workers differently. It is important to speak with a lawyer in your state or your union representative to get more information about your specific circumstances and the laws that protect you.

You may have multiple ways to seek justice if you have been treated unfairly in your pay, and you should speak to an attorney about which approach is the best for your circumstance.

**Sexual Harassment**

What is sexual harassment? 
Sexual harassment is a type of sex discrimination that impacts many workers. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is considered “unwelcome sexual advances, request for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person’s sex.” Many workers employed in different industries suffer from unlawful sexual harassment. Individuals who are subjected to sexual harassment on the job often feel ashamed or afraid to report what has happened to them, even though it is never the worker’s fault that they experience these unlawful acts. It is important to understand what constitutes unlawful sexual harassment and how you can take steps to stop the harassment.

---

It is important to know that Title VII of the Civil Rights Act makes it illegal to discriminate based on sex in providing pay and/or benefits.

---

1. [https://www.eeoc.gov/sexual-harassment#:~:text=Harassment%20can%20include%20sexual%20harassment%2C%20requests%20for%20sexual%20favors%2C%20and%20other%20verbal%20or%20physical%20harassment%20of%20a%20sexual%20nature.%20Harassment%20does%20not%20have%20to%20be%20of%20a%20sexual%20nature%2C%20however%2C%20and%20can%20include%20offensive%20remarks%20about%20a%20person%27s%20sex](https://www.eeoc.gov/sexual-harassment#:~:text=Harassment%20can%20include%20sexual%20harassment,requests%20for%20sexual%20favors%2C%20and%20other%20verbal%20or%20physical%20harassment%20of%20a%20sexual%20nature.%20Harassment%20does%20not%20have%20to%20be%20of%20a%20sexual%20nature%2C%20however%2C%20and%20can%20include%20offensive%20remarks%20about%20a%20person%27s%20sex)
What acts are considered sexual harassment?
Sexual harassment can take different forms. It may take place one time or it might occur over a period of time. Here are some of the behaviors that are considered sexual harassment:

- Flirting or unwelcome invitations to go on dates or other requests;
- Unwelcome touching;
- Vulgar remarks;
- Comments of a sexual nature;
- Requests or demands for sex;
- Promises of a job or job benefits in exchange for sexual favors;
- Threats against an individual if they do not accept the sexual requests, unwanted sexual attention or demands;
- Voyeurism, which is sometimes referred to as “peeping”;  
- Exhibitionism, which means displaying one’s private parts;
- Sexting, which means sending inappropriate messages of a sexual nature or photos via text message;
- Displaying pornography;
- Attempted or completed sexual assault; or
- Rape

Sometimes individuals also report being victims of stalking or other physical violence by the harasser. The harassment might take place on the worksite, in the work parking lot, or in other locations.

Who can commit sexual harassment?
Anyone can suffer from sexual harassment in the workplace. It can be committed by a boss, supervisor, co-worker or a third party individual, such as a contractor, client or customer. Sexual harassment can be committed against someone of the same or different sex. It can be committed one time or it can be committed over the course of days, weeks, months or even years. Harassment is illegal when it is so severe or frequent that it creates a hostile or offensive work environment, or when it results in an adverse employment decision, such as the victim being demoted or fired.

If you have questions, please contact Justice for Migrant Women at 800-295-1402 or information@justice4women.org.
I know I’ve experienced sexual harassment. What do I do now?

People report feeling shocked and afraid when they have experienced sexual harassment. They do not always know what to do or how to respond. Here are a few tips:

- Tell the harasser “NO” and that the actions are not welcome.
- Keep notes with the date and the facts. Write down the harasser’s actions, your response (i.e., “I said no”), the names of any witnesses, and what happened afterward – whether you reported it to your union representative, a supervisor, or any other action that happens.
- Keep your notes in a safe place.
- Get support from a trusted friend or co-worker.
- Stand up for victims of sexual harassment. Don’t encourage or condone offensive or harassing behavior at work or anywhere.
- Follow your company’s complaint process for reporting discrimination and sexual harassment. If you don’t know the policy, report it to your boss, a supervisor, the human resources representative or another person in authority at your workplace.

Pregnant Workers

What laws protect pregnant workers?

Another type of sex discrimination occurs when employers take discriminatory action against an individual because of pregnancy, childbirth, or medical conditions related to pregnancy.

Federal law protects against pregnancy discrimination when a pregnant person is able to perform the “essential functions” of their job. If a person is temporarily unavailable to do their job because of a medical condition related to pregnancy or childbirth, the company must treat the employee in the same way as they would treat an individual with any other temporary mental or physical impediment.

It is against the law to refuse to hire or to fire someone because of pregnancy. Pregnant individuals are not under any obligation to tell their employer about their pregnancy before or at the time of hiring. If a person has to miss work because of their pregnancy or a pregnancy-related condition, the

This information is focused on federal law. You may have more rights in your state! Contact an attorney for more information or call Justice for Migrant Women at 800-295-1402.
employer should maintain the job open for them for the same amount of time that the job would remain open for any other worker with another illness or incapacity.

The Pregnant Workers Fairness Act gives workers the right to receive reasonable accommodations for pregnancy, childbirth recovery, and related medical conditions, including lactation, unless it would be an undue hardship on the employer. A pregnant or postpartum worker DOES NOT have to have a pregnancy related disability to be covered by the law.

What does it mean to request “reasonable accommodations” as a pregnant worker?
The following items are examples of reasonable accommodations that you can ask of your employer. Such accommodations may include, but are not limited to:

- Light duty, or help with manual labor and lifting;
- Temporary transfer to a less physically demanding or safer position;
- Additional, longer, or more flexible breaks to drink water, eat, rest, or use the bathroom;
- Changing food or drink policies to allow a worker to have a water bottle or food;
- Changing equipment, devices, or work station, such as providing a stool to sit on or adding a lock to a clean meeting room to turn it into a temporary lactation space;
- Making existing facilities easier to use, such as relocating a workstation closer to the restroom;
- Changing a uniform or dress code, like allowing wearing maternity pants;
- Changing a work schedule, like having shorter work hours or a later start time to accommodate morning sickness;
- Breaks, private space (not in a bathroom), and other accommodations for lactation needs;
- Flexible scheduling for prenatal or postnatal appointments;
- Remote work or telework; or
- Time off for bedrest, recovery from childbirth, postpartum depression, mastitis, and more

Additional protections may be available under the Family Medical Leave Act (FMLA), a federal law that requires that employers with 50 or more employees provide 12 weeks of unpaid job-protected leave during a 12-month period for workers who have to: care for their newborn child, foster-child or adopted child; care for an immediate family member (spouse, child, or parent) with a serious health condition; or to take medical leave when the employee is unable to work because of a serious health condition. It is important to speak with a lawyer in your state or to get more information about your specific circumstances and the laws that protect you. 

4 https://www.dol.gov/agencies/whd/fmla
Protection for Workers with Disabilities

Are there protections for people with disabilities?
The U.S. EEOC also enforces Title I of the American Disabilities Act, which protects workers from discrimination based on disability. It is important to note that the ADA protects against discrimination on the basis of mental health in addition to other kinds of disabilities. You may be eligible for workplace accommodations related to your mental health.

How to Get Support
Who can help me if I think that I have experienced discrimination?
If you believe that you have been discriminated against in the workplace, you should:

Speak with your union representative, if you’re a member of a union, and follow the grievance procedure laid out in your collective bargaining agreement;

Follow the company’s internal reporting procedure. If you do not know the complaint procedure or a procedure doesn’t exist, you may report the problem to someone in authority who can address the problem -- your boss, supervisor, or a human resources representative.

Get advice from a lawyer in your state to understand what protections are available and what action you should take to protect your rights.

The EEOC was created to help investigate claims of employment discrimination, including sexual harassment, and to take action to hold employers with 15 or more workers accountable when they commit discrimination or retaliation that violates federal law. You can contact the EEOC at 800-669-4000 or www.eeoc.gov.

In some states and localities, civil or human rights agencies/commissions or fair employment opportunity agencies (FEPAs) may accept complaints from workers who have experienced employment discrimination. These agencies enforce state and local laws that exist to help protect workers from discrimination.

If you have questions, please contact Justice for Migrant Women at 800-295-1402 or information@justice4women.org.

Is there a deadline for submitting a complaint for discrimination?
If you feel that you have been discriminated against, it is very important to file your complaint as soon as possible after you have experienced this problem.

---

There is a short window of time available for workers to receive protection under the federal anti-discrimination laws.

In order to make a complaint for a violation of Title VII, a worker must file a complaint within 180 days from the discriminatory action with the EEOC, unless you live in a state with a state anti-discrimination law which allows you to make a complaint within 300 days from the discriminatory action. (If you are unsure which timeline applies to your case, you should assume the shorter timeline is applicable.)

In order to be sure that your rights are protected, it is very important to speak to your union representative, a lawyer, the EEOC or a state or local anti-discrimination agency where you live to ask questions about the deadline for making a discrimination complaint, the complaint process or other information about how to best protect your rights. If you are making a complaint for equal pay violations in violation of the Equal Pay Act, you have up to two years to go directly to court or to the EEOC.

Remember: it is important to report the problem to the company and to the EEOC or state agency, or consult a lawyer in your state, as soon as possible to be sure that your rights are protected.

What other resources are available for survivors of sexual violence?

If you or someone you know has been forced or manipulated by someone else into unwanted sexual activity without your or their consent, whether that occurred inside or outside of the workplace:

For sexual harassment in the workplace, you may contact the TIME’S UP Legal Defense Fund at www.nwlc.org/legal-assistance.

You may visit sisterslead.org, the National Organization of Sisters of Color Ending Sexual Assault for additional information and resources based on your location.

You can call the Rape, Abuse and Incest National Network (RAINN) at 800-656-HOPE (4673) or contact the Crisis Text Line by texting HOME to 741741 or via Facebook Messenger at facebook.com/crisistextline.

You may report the incident to the police. If you have concerns about making a report to the police because of your immigration status or the immigration status of someone you love, contact an attorney in your area for advice about what action you can take to protect your rights.

6 See Pages 6 & 7 for more information on what acts are considered sexual harassment.
**Human Trafficking**

**What is human trafficking?**

Human trafficking is a form of modern day slavery that can ensnare adults and children as victims. People can experience human trafficking in different ways. Sometimes a trafficker makes false promises to a person about a good job, marriage or better opportunities and then later on does not follow through on these promises and forces the person to do work for no pay. These are some ways in which someone may be a victim of human trafficking:

- Being forced or coerced to work to pay off a debt;
- Being forced or coerced to work through threats of violence, deportation, or jail;
- Being forced to prostitute yourself or to engage in pornography;
- Being forced to have sex or suffer from physical abuse;
- Being physically confined without freedom to change jobs or move freely;
- Being isolated from other people or being hidden from other community members; or
- Having personal identification documents taken away.

*Some trafficking victims might be able to apply for the T-Visa (Trafficking Visa) through the Victims of Trafficking Prevention Act of 2000. T-visas may be issued to victims who have experienced “severe forms” of human trafficking, including sex and labor trafficking, and cooperate with the authorities in the investigation of the criminal activity in which victims were subjected to. Trafficking victims may qualify for other services and assistance as well.*

**Who can help me if I think that I have been trafficked?**

If you or someone you know is or has been a victim of human trafficking, including labor and/or sex trafficking:

- You can call the U.S. Department of Justice Trafficking in Persons and Worker Exploitation Task Force Hotline: 1-888-428-7581
- Contact the HHS-funded National Human Trafficking Resource Center (NHTRC) hotline at 888-373-7888, 24 hours a day, every day. The NHTRC will help callers identify and coordinate with local organizations that protect and serve victims of trafficking.
General Workplace Health and Safety

In addition to the U.S. Equal Employment Opportunity Commission, other government agencies, such as the Department of Labor, have an important job in making sure that your workplace is safe, healthy and just.

Protections for Families, Nursing and Postpartum Workers

The U.S. Department of Labor enforces the PUMP Act, which is a relatively new law that gives more rights to nursing, pumping and postpartum workers. It requires that workers be provided supports such as leave and break time, and it applies to agricultural workers, construction workers and workers who are immigrants, among others. Contact the U.S. Department of Labor at 866-487-9243 or visit dol.gov/whd and dol.gov/agencies/whd/pump-at-work.

Protections Against Wage Theft

Wage theft occurs when an employer does not pay workers the compensation that they are owed by contract or law. This can include being cheated of wages, benefits and/or breaks. Unlawful wage theft is commonly experienced by immigrant workers, but it is important to know that you have the right to receive the pay and benefits you are owed. Contact a lawyer or the U.S. Department of Labor, Wage and Hour Division for issues with wage violations at 866-487-9243 or visit www.dol.gov/whd.

Protections Against Workplace Health and Safety Violations

The Occupational Safety and Health Administration (OSHA) is a federal division of the U.S. Department of Labor whose mission it is to ensure safe and healthful working conditions for workers by setting and enforcing standards and by providing training, outreach, education and assistance. Below are important workplace rights identified by OSHA. You have the right to:

- Receive workplace safety and health training in a language you understand;
- Work on machines that are safe;
- Refuse to work in a situation in which you would be exposed to a hazard;
- Receive required safety equipment, such as gloves or a harness and lifeline for falls;
- Be protected from toxic chemicals;
- Request an OSHA inspection, and speak to the inspector;
- Report an injury or illness, and get copies of your medical records;
- Review records of work-related injuries and illnesses; and
- See results of tests taken to find workplace hazards.

To learn more about your rights, how to file a complaint and report incidents visit https://www.osha.gov/workers or call 1-800-321-OSHA (6742).

7 https://www.dol.gov/agencies/whd/pump-at-work
8 https://www.osha.gov/workers
Protections for Immigrant Workers

Government agencies that enforce workers rights, such as the EEOC and DOL, protect workers regardless of their immigration status. Immigrant community members, including those who are undocumented, have workplace rights. Here are some resources regarding the protections that exist for all or most workers: Visit www.worker.gov or www.migrantworker.gov for additional information.

- If you are an immigrant worker, you may be eligible to receive work authorization and deferred action if you report a labor violation and collaborate with labor agencies to address the unsafe, unfair or hazardous working condition. Please contact an attorney for more information.

- Contact an attorney in your area for advice about what action you can take to protect your rights.

- If you need assistance or a referral, contact Justice for Migrant Women at 800-295-1402 or information@justice4women.org.

Immigrant community members, including those who are undocumented, have workplace rights.