



Essential **Workers** Essential **Protections**



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9243

Wage and Hour Division



Who we **are**



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Protecting Your Rights to Pay and Leave



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Enforcing Workplace Protections

- 10 million establishments nationwide and 148 million workers covered.
- More than 200 WHD offices throughout the country.
- More than 200 languages spoken.



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Enforcement Regardless of Immigration Status

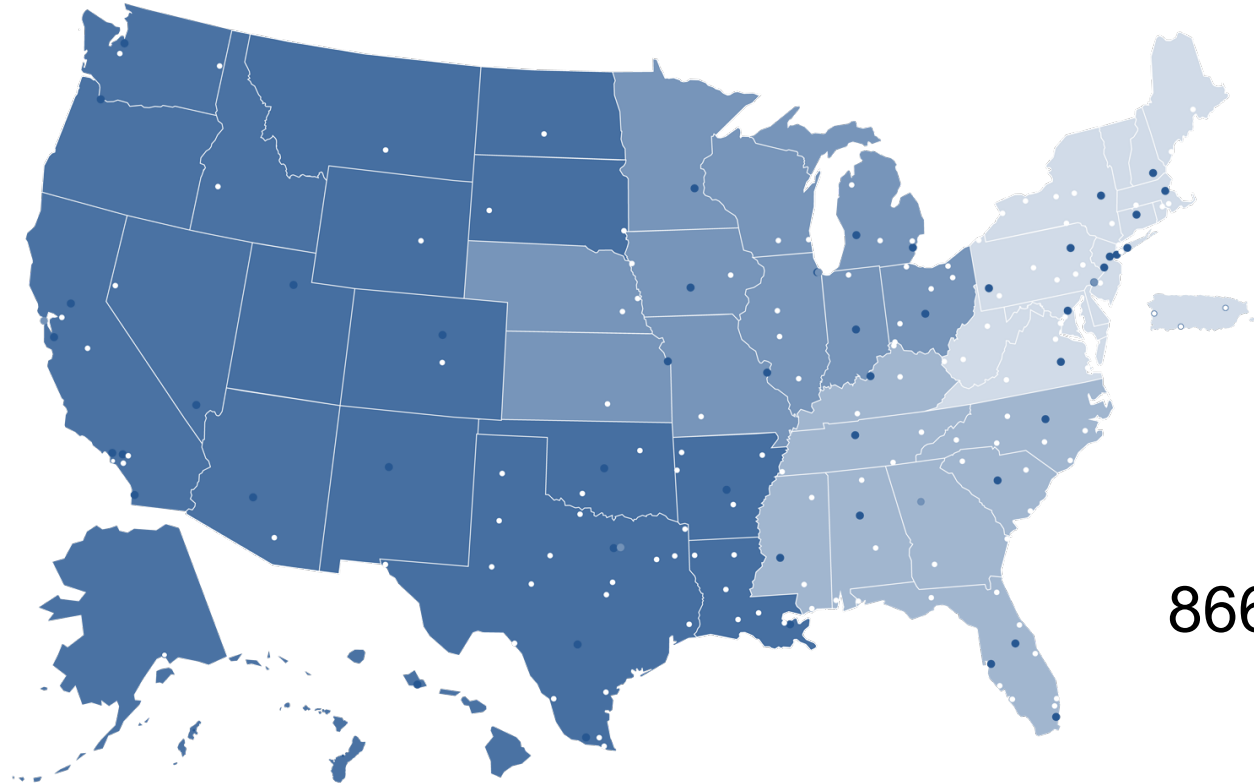
- Labor laws cover all workers, regardless of immigration status
- Protections apply regardless of immigration status
- WHD does not ask workers about their immigration status



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Helping Workers Throughout the Country



866-4US-WAGE



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Regional Outreach Events


- Planning more than 100 local outreach events
- Keep an eye out for more information about these events, including registration links




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Ensuring Fair Pay



1.3 Million+
workers helped by WHD in the past five years. That's more than the entire populations of Las Vegas, NV, Orlando, FL, and Cincinnati, OH, COMBINED.



\$1.4 Billion+
in back wages recovered by WHD in the last five years.



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What we do



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Achieving Compliance

- Investigations
- Outreach to workers
- Education for employers
- Partnerships



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Agency-Initiated Enforcement

- National and regional strategic enforcement initiatives focus on industries that employ essential workers



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Education promotes compliance



- Education and outreach for workers to understand and exercise their rights
- Education and outreach for employers to increased compliance



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Increasing Our Impact

- Collaborations and consultations
- Communities of Color
- Community-based organizations
- Worker Centers
- Unions
- Business associations
- Federal and state agencies
- Worker rights organizations
- Foreign consulates



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We **serve** workers
and employers



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Essential Workers

- Agriculture
- Health Care
- Grocery
- Delivery Services
- First Responders
- Public Transportation
- Restaurant
- Construction
- Guards
- Hotel Workers
- Landscaping
- Janitorial Services



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Risks for **Essential** Workers

- Low wages
- Work “off the clock”
- At-risk employment relationships (including misclassification)
- Increased exposure to a variety of workplace risks and hazards
- Denial of qualified leave



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Essential Protections



- Payment of minimum wages and overtime
- Youth employment standards
- Job protections for time taken for the birth of a child or caring for sick family members
- Housing and transportation standards for farm workers
- Payment of prevailing wage rates for federally funded construction and service contract work
- Standards for hiring and paying workers temporarily in the U.S under H-2A, H-1B and H-2B visas



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Essential Protections Under the Fair Labor Standards Act



Fair Labor Standards Act (FLSA)



Essential Protections:

- Minimum wage: \$7.25 per hour
- Overtime at “time and one-half” for hours worked over forty in a workweek
- Recordkeeping requirements
- Prohibited youth employment
- Anti-retaliation provisions



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Hours Worked

- Hours worked per day and per workweek for the same employer
- Whether or not the employer counts the time as work time



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Common Questions

Question:

*My employer requires all employees to take their temperature related to **COVID-19** before entering the job site. Do I need to be **paid** for the time spent taking my temperature?*



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Regular Rate of Pay

$$\text{HOURLY RATE} = \frac{\text{Gross Weekly Straight Time Pay}}{\text{Total Hours Worked Weekly}}$$



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Regular Rate Example

50 hours @ \$10.00 per hour

+ \$100 bonus

\$600 total compensation

\$600/50 hours = Regular Rate of \$12.00/hour

(Overtime needs to be based on \$12.00/hour, not \$10.00 hour)



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Common Questions

Question:

*I am an employee of a private employer that began paying me incentive payments, such as hazard pay, for working during the **COVID-19** emergency. Do those incentive payments have to be included in the **regular rate** that is used to compute my overtime pay?*



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Child Labor

In **non-agricultural** jobs...

- Minimum age of employment is 14
- Hours and occupations are restricted for 14- and 15-year-olds
- Hazardous occupations are prohibited for every covered worker under 18 years of age
- Some exceptions for minors working for their parents



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Child Labor

Hours Restrictions in **non-agricultural** jobs...

- Apply to 14- and 15-year-olds only
- Not during school hours
- No more than 3 hours on a school day or 8 hours on a non-school day
- No more than 18 hours during school weeks or 40 hours during non-school weeks
- Not before 7 a.m. and not after 7 p.m. except from June 1 to Labor Day when the time is extended until 9 p.m.



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Common Questions

Question:

*I am 15 years old. My school has physically closed due to **COVID-19**, but it would normally be in session. Am I permitted to **work** if I cannot physically go to classes?*



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Rest Breaks for Nursing Mothers

Section 7 of the FLSA was amended by the Affordable Care Act to provide nursing employees, for up to 1 year after the child's birth, with:

- Reasonable break time to express breast milk
- A place, other than a bathroom, that may be used to express milk



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Common Questions

Question:

*Are nursing mothers entitled to reasonable **break time** and space to express milk while teleworking during the **COVID-19** pandemic?*



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Essential Protections Under the Family Medical Leave Act



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Family and Medical Leave Act

Essential Protections:

- Twelve workweeks of unpaid leave per leave year for qualifying reasons
- Job protection
- Protection of benefits and status while on leave
- Return to the same or an equivalent position



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Common Questions

Question:

*Can an employee who is **sick** with **COVID-19**, or who is caring for a family member who is sick with COVID-19, take FMLA leave?*



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Tax Credits for Paid Sick Leave

- American Rescue Plan extended tax credits for employers through September 30, 2021
- Up to \$12,000 per worker
- Visit **IRS.gov** for more information



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Families First Coronavirus Response Act

- Provided paid leave for COVID-19 related reasons.
- Applied to leave taken between April 1, 2020 and December 31, 2020.
- If an employer failed to pay a worker as required, worker may still file a complaint for up to two years.



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Essential Protections For Agricultural Workers



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Agricultural Workers

Essential protections:

- Disclosure of wages, safe transportation and housing, field sanitation requirements, and protection for H-2A non-immigrant workers.
- Toilets, potable drinking water, and hand-washing facilities to hand-laborers in the field.
- Payment of a required wage and minimum guaranteed hours for H-2A workers.
- Protections apply regardless of immigration status.



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Common Questions

Question:

*I live with other agricultural workers in employer-provided **housing** and I am worried about the spread of **COVID-19**. Are there rules about overcrowding?*



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How we can **help**



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How to File a Complaint

- Complaints can be submitted by phone.
- Complaints can come from third parties.
- Complaints are confidential.
- WHD does not ask workers about their immigration status.
- No fee to file a complaint.



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Who May File a Complaint?

- Employees – Former and Present
- Parent/Guardian
- School Officials
- Other Employers
- Advocacy Groups
- Other Agencies



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Complaint Intake Information

Employee's name

- Contact information
- Address and phone number
- Employee's duties/work
- Circumstances or actions that caused potential violation of the law
- Copies of pay stubs or personal hours worked records if available

Employer's name

- Point of contact
- Address and phone number

This information is not required, but helps develop the case



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Online Resources

- Workers owed back wages may be difficult to locate
- WHD searches for these workers
- “Workers Owed Wages” provides online access for workers and advocates to search our database

Wage and Hour Division (WHD) [En Español](#)



WORKERS OWED WAGES

The Wage and Hour Division (WHD) enforces some of our nation's most comprehensive labor laws. When we find violations, we often recover unpaid wages on behalf of employees. The agency makes every effort to locate and notify all employees due back wages. If we cannot find an employee, we hold their back wages for three years while we continue our efforts to locate them. After three years, if we remain unable to find the person, we are required to send the money to the U.S. Treasury.

If you think you may be owed back wages collected by WHD, you can search our database of workers for whom we have money waiting to be claimed. If you find that you are due money, you can submit a claim. Begin by entering the employer's name, then click “WOW Search”.

Search Employer by Name: [WOW Search](#)

www.dol.gov/wow



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Online Resources



COMPLIANCE ASSISTANCE RESOURCES

[Español](#)

[Your rights](#) ▾

[Workplace concerns](#)

[About](#)

Worker Protections

You have rights. This site covers common workplace concerns and the Federal labor laws that protect you.



[Learn about your rights](#)

- [Worker.gov](#)
- [Employer.gov](#)



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Online Resources

Elaws Advisors

- Coverage and employment status advisor
- Overtime calculator
- Overtime security advisor
- Hours worked advisor

dol.gov/elaws



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Contact Us

- Visit www.dol.gov/agencies/whd
- Call our toll-free information and helpline at **1-866-4US-WAGE (1-866-487-9243)**



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