

Supplemental Notice to Employee

California Rights and Protections for H-2A Agricultural Workers

H-2A Employers Only: In addition to providing an H-2A worker *the above general Notice to Employee*, provide this Spanish language supplement no later than the day the H-2A worker begins work in California or on the first day that the employee begins work for another (new) H-2A employer. If your employee requests the notice in English, you must also provide the notice in English. You may also provide this supplement together with a completed general Notice to Employee to your non-H-2A workers.

In addition to federal rights and protections, agricultural workers in California, including those admitted to work under the federal H-2A agricultural visa program, are entitled to additional rights and protections under California laws. If you have questions about these rights or believe your employer is violating the law, contact the California Labor Commissioner's Office (**833-526-4636**) or any of the agencies and organizations at the end of this notice.

Wage Rights

- Your contract rate, contained in the approved job order must be *the highest rate* of the following: Adverse Effect Wage Rate (AEWR), the prevailing hourly rate or piece rate, the agreed-upon collective bargaining wage, or the applicable federal, state, or local minimum wage. In 2024, the AEWR in California (for all occupations except herders) is \$19.75 per hour.¹
- You have the right to premium pay for all overtime hours worked. In 2024, California overtime law requires:
 - If your employer has more than 25 employees, you must be paid overtime wages (1½ times the regular rate of pay) for all hours worked over 8 hours and up to and including 12 hours in any one workday, more than 40 hours in any one workweek, or for the first 8 hours on the seventh consecutive day of work in a workweek. You must be paid overtime at double (2 times the regular rate of pay) for all hours worked over 12 in any one workday and after 8 hours on the seventh consecutive day of work in a workweek.
 - If your employer has 25 or fewer employees, you must be paid overtime wages (1½ times the regular rate of pay) for all hours worked over 8.5 hours in any one workday, more than 45 hours in any one workweek, or for the first 8 hours on the seventh consecutive day of work in a workweek. You must be paid overtime at double (2 times the regular rate of pay) after 8 hours on the seventh consecutive day of work in a workweek.
- You may be paid an hourly rate or by piece rate compensation. Piece-rate compensation is when you are paid a specific amount for completing a particular task or making a particular item. If you are paid a piece rate, it must be properly disclosed in the contract. If you are paid a piece rate, your average hourly piece rate earnings must be an amount at least equal to the required hourly wage rate (\$19.75/hour for most H-2A workers).
- If you are a piece rate employee, you must be paid for all hours worked including for all recovery periods (rest or cool down time) and other nonproductive time. This includes time under your employer's control that is not directly related to the activity being paid on a piece rate basis. Examples include time spent participating in the sexual harassment prevention training or time spent while being transported by your employer to and from the housing to the worksite, if you are required to or have no real choice but to use employer-provided transportation.
- You must be paid at least once each week if employed by a farm labor contractor, or at least twice each month if your employer is not a farm labor contractor.
- If your employer is a farm labor contractor, they are required to post their name, license number, and the name and working phone number of their field supervisor.
- You are entitled to a paid 10-minute rest period for each 4 hours worked.
- You are entitled to a 30-minute duty-free and uninterrupted meal period if you work for more than five hours per day and a second meal period if you work more than 10 hours a day.

¹ Sheep and goat herders working 24/7 on-call shifts may be paid a special monthly minimum wage as an alternative to this minimum wage. See [What amount are Shepherders owed as a result of AB 1066's Overtime Phase-In? \(ca.gov\)](https://www.dir.ca.gov/dlse/WhatAmountAreShepherdersOwedAsaResultOfAB1066sOvertimePhaseIn.htm).

- You are eligible for paid sick leave. You earn at least one hour of paid sick leave for every 30 hours you work. You can take up to a minimum of 40 hours or 5 days of paid sick leave per year, whichever is greater, if earned.
- You must be provided with an itemized wage statement that states all wages paid during a pay period. If you are paid by piece rate, wage statements must also include the number of piece rate units earned daily and any applicable piece rates and must state the total hours of compensable rest and recovery periods, including the gross wages paid for those periods.
- Your employer is *prohibited* from making charges to you or deductions from your wages for:
 - Necessary expenses or losses as a result of performing your duties.
 - Necessary tools, supplies, or equipment, including safety items.
 - Deductions that are not disclosed in your job offer and work contract.
 - Meals not received. Meals must be nutritious and calorically adequate.
 - Transportation from the housing site to the worksite.

Sexual Harassment Prevention

- Your employer must ensure that you are not subjected to sexual harassment in the workplace. Your employer must provide you training on identifying, preventing, and reporting sexual harassment in the workplace.
 - If your employer is a farm labor contractor, all employees must be trained at the time of hire and at least once every two years. For further assistance regarding these requirements, please visit <https://www.dir.ca.gov/DLSE/FLC.htm>, email FLC@dir.ca.gov, or call 559-248-1893.
 - If your employer is not a farm labor contractor, they must provide one hour of sexual harassment and abusive conduct prevention training to nonsupervisory employees, and two hours of such training to supervisors every two years. For more information regarding this training requirement, please contact the California Civil Rights Department at 800-884-1684 or email contact.center@calcivilrights.ca.gov.

Retaliation Protections

- You have the right to contact state or federal agencies, file a complaint, or seek assistance from a labor union or legal assistance organization if your employer is violating your rights. For a list of organizations, see the last page of this notice.
- It is illegal for your employer to punish you because you complain about working conditions or organize with co-workers collectively.
- It is also illegal for your employer to threaten you because of your immigration status because you have exercised your labor rights. If you are threatened or have survived a crime, including labor trafficking, you should consult with an immigration attorney to see if you qualify for a U visa, T visa, or deferred action.

Workplace Safety and Health

- You have a right to a safe workplace.
 - Your employer must have a written health and safety plan and give you a copy of the plan if you ask for it.
 - As part of their health and safety plan, your employer must have procedures for identifying and correcting hazards at worksites.
 - Your employer must provide pesticide exposure protections and safety training for employees when pesticides have been or will be applied to crops. Pesticides are chemicals used to control pests.
 - Your employer must provide prompt medical transportation if pesticide illness is reasonably suspected.
 - Your employer must keep a log of all workplace injuries and illnesses that require more than first aid treatment and post a summary of the log from February to April.

- Your employer must train you about workplace safety and health hazards and how to do your work in a safe and healthy manner.
 - Your employer must train and provide you with any necessary protective equipment in the correct type and size such as gloves, safety shoes, eye protection, and head protection.
 - Beginning July 1, 2024, your employer must prepare and train you on their workplace violence prevention plans, including how you can report a violent incident, threat, or other workplace violence concern to your employer or law enforcement without fear of reprisal.
 - With limited exceptions, it is illegal for your employer to threaten to punish you for refusing to report to, or leaving work if you have a reasonable belief that the workplace or worksite is unsafe.
 - In the event of an emergency condition, it is illegal for your employer to prevent you from accessing your mobile device or other communications device for seeking emergency assistance, assessing the safety of the situation, or communicating with a person to verify your safety.
 - You must be trained and provided with the necessary lighting, special high-visibility clothing, and other equipment to ensure safe working conditions for outdoor agricultural work when it is dark.
 - Weeding, thinning, or hot-capping with short-handled hoes is prohibited when the hoe is used in a stooped, kneeling or squatting position.
 - Hand weeding, hand thinning, and hand hot-capping is not permitted except in limited circumstances requiring additional special procedures, including increased rest periods, personal protective equipment, and training, when performing those activities.
- Your employer must provide access to toilets, handwashing facilities, and clean drinking water at all worksites.
- Your employer must provide water, shade and cool-down rests, and other protections when working outdoors.
 - Your employer must provide you with fresh, pure, suitably cool drinking water (at least one quart per hour) free of charge as close as practicable to where you are working.
 - When the outdoor temperature exceeds 80° Fahrenheit, you must have access to shade as close as practicable to where you are working. Regardless of temperature, your employer must provide and encourage you to take a preventative cool-down rest to protect yourself from overheating.
 - When the outdoor temperature exceeds 95° Fahrenheit, your employer must use additional high-heat procedures to protect workers, including requiring you to take a minimum 10-minute cool-down rest every 2 hours to prevent overheating.
- Your employer must protect you from wildfire smoke by providing you with training and a respirator when the air quality is unhealthy.
- You have the right to safe transportation. Vehicles designed or used to transport nine or more workers and a driver must be equipped with seatbelts and be inspected, certified, and insured. Seatbelts must be used when the vehicle is in operation.

Housing Rights

- As an H-2A worker, your employer must provide housing at no cost to you. Housing must be safe and sanitary, in good repair, supply hot and cold water, and be free of vermin, among other requirements.
- If you live in employer-provided housing, you also have certain rights, including the right to live there without unreasonable interference by your employer. For example, your employer cannot enter your housing space without prior notice, except in an emergency.
- You have the right to be free from discrimination and harassment based on protected characteristics such as national origin, disability, gender identity, race, or color, among other protected characteristics.

Workers' Compensation and Health Insurance

- You have the right to workers' compensation benefits, including disability pay and medical care, for work-related injuries or illness. For additional information, visit www.dir.ca.gov/dwc/ or call 1-800-736-

7401.

- H-2A workers are eligible to apply for Employee-Paid Health Insurance under the Covered California program. For further information, visit www.coveredca.com or call 1-800-300-1506.

ADDITIONAL RESOURCES

Enforcement agencies. For more information about your legal rights or to file a complaint, contact:

California Labor Commissioner

833-526-4636

www.wagetheftisacrime.com

Cal/OSHA

833-579-0927

www.dir.ca.gov/dosh

Agricultural Labor Relations Bd.

[800-449-3699](tel:800-449-3699)

WhatsApp: [+1 \(647\) 496-0508](tel:+16474960508)

info@alrb.ca.gov

**EDD Migrant and Seasonal
Farmworker Outreach**

1-877-872-5627

monitoradvocate@edd.ca.gov

**California Department of Housing
and Community Development**

1-800-952-8356

EH@hcd.ca.gov

U.S. Department of Labor

Wage & Hour Division

1-866-487-9243

www.dol.gov/agencies/whd

Non-governmental organizations. You may also contact a community-based legal assistance organization or a labor union for assistance. For a list of organizations that partner with the Department of Industrial Relations to help workers understand their rights, scan the QR code below.

