What U.S. Farmworkers Should Know About Their Employment Rights During COVID-19

This is not legal advice. For free, confidential advice about your case, call us at 888-988-9996 (if you live or work in Texas) or 866-721-7828 (if you work in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, or Tennessee).

What are my contract rights?

Under federal law, employers must provide migrant farmworkers with written disclosures at the time of recruitment that describes the terms and conditions of your employment in a language you understand, including information about the place of employment, wage rates, the period of employment, transportation and any other employment benefits to be provided, and whether state workers’ compensation or unemployment insurance is provided. These disclosures must be posted at the worksite.

The employer is also required to honor any oral promises they make to you at the time of recruitment, including promises regarding the quantity of work or the quality of any employer-provided housing. The disclosures and any promises made, as well as any federal law, are referred to as your “working arrangement.”

H-2A workers are covered under a separate federal law. H-2A workers can visit What H-2A Workers Should Know About Their Employment Rights During COVID-19 for more information.

What legal options do I have if my boss ends work early or lays me off because of COVID-19?

Your legal options will depend on why the employer ended the job and the terms of your working arrangement. Most states allow for early termination of a contract due to “Acts of God,” or reasons outside the employer’s control. COVID-19 could qualify as an Act of God, depending on the circumstances, for example, if the employer lost customers or crops. If your employer truly could not have stopped the problem, the employer most likely has the right to let you go. However, this will depend on the facts of your case. This rule also depends on whether you are employed alongside H-2A workers. You can discuss your situation with a lawyer.

If you are authorized to work in the U.S., you might be eligible for new forms of emergency unemployment insurance. If you live in Texas, visit the Texas Workforce Commission or call 1-800-939-6631 to apply.

If my work ends early, who pays the travel costs for me to go home?

In most cases, you will be responsible for any transportation home or to another job. This could vary depending on the reason for the work ending early, state law, and the terms of your working arrangement. Check the employment disclosures your boss gave you. You can talk to a lawyer if you have problems.

Can my boss force me to self-quarantine as soon as I arrive at work, even if I have no symptoms?

Yes, but the quarantine is still subject to the terms of your working arrangement, and federal and state laws. For example, if there is a state law requiring you to quarantine, you may be eligible for paid leave under recent emergency laws passed by the federal government. You may also qualify for paid leave if you are being
quarantined because you are getting tested for the virus or have symptoms of the virus. If you work with H-2A workers, you may be protected by other laws as well.

If this happens to you and you have questions, you can call a lawyer.

**If I have to get tested for COVID-19, who pays for the test?**

Under an emergency law passed by the federal government, you should be able to get tested for free. You can find testing centers here.

You can also sign up for health insurance. Health insurance would help cover costs if you were hospitalized with the virus. Depending on your income and your immigration status, you might be eligible for Medicaid. You can call 1-800-318-2596 for help using the federal insurance marketplace (in both English and Spanish).

If you are hospitalized due to complications with the virus, your bills might be covered by worker’s compensation if your boss carries it. Check the written disclosures that your boss should have posted at the worksite to see whether worker’s compensation coverage is provided and who should be contacted in the case of a workplace-related accident. A lawyer can answer your questions.

**Who pays for things like masks and cleaning supplies that are necessary to keep us safe?**

Under federal law, your boss must provide you with personal protective equipment (PPE), such as gloves, goggles, face masks, and respiratory protection, when they are needed to keep you safe while you are doing your job. What types of PPE your employer must provide you during the COVID-19 pandemic will depend on the risk of being infected or spreading the virus while working. Your employer must evaluate the workplace for risks, identify and provide appropriate PPE, train you in the use of the PPE, maintain and replace faulty PPE, and periodically review and update the effectiveness of the PPE. With few exceptions, your employer must pay for any required PPE.

The CDC has recommended that all people wear cloth face coverings when in public or when social distancing is not possible. If your employer is not taking precautions, consider taking your own steps to protect yourself at work (see Fact Sheet: What US Workers Should Know About COVID-19). For advice, you can also talk to a lawyer.

**What are my rights with regards to staying safe if I live in employer-provided housing?**

Federal law requires that employer-provided housing be equipped with: adequate windows for ventilation, sanitary equipment for cooking, sufficient space between beds (at least 36 inches), clean toilet rooms equipped with an adequate supply of toilet paper, and adequate and convenient water supply that can be used for drinking, cooking, bathing and laundry purposes. The CDC has further recommended safe social distancing measures that could assist you in keeping safe. You should also check your worker arrangement for any promises made regarding the housing, either related to COVID-19 or to general health and sanitation.

If your employer is not taking steps to protect you in the housing, consider taking your own steps to protect yourself (see Fact Sheet: What U.S. Workers Should Know About COVID-19). You can also call a lawyer for advice.

**There is an outbreak in my worksite and/or my employer provided housing, what are my rights and what can I do?**
Tell your boss if they don’t already know. Your boss should then take steps to separate the sick individuals from other workers and prevent further spreading of the virus. See Farmworker COVID-19 Workplace Safety Plan for more information about what your boss should be doing. You should try to get tested and talk to a doctor about what steps to take. You have the right to speak up about your concerns. If you feel your boss is not taking enough steps to protect you, you can call a lawyer or make a complaint to the federal health and safety agency. See Staying Safe at Work During the Coronavirus for more information.

**Can I quit or refuse to work because I feel unsafe?**

You always have the right to leave a job that you feel is unsafe. You also have the right to speak up about safety issues, and your employer may not retaliate against you for doing so. If you feel that there is an imminent threat to your safety and health, and you work at a farm that has an active temporary labor camp, you may make a complaint to the federal health and safety agency. See Staying Safe at Work During the Coronavirus for more information. If you have complaints about housing, you may also make a complaint to the Wage and Hour Division of the U.S. Department of Labor in your state.

You may also refuse to work if you feel that you are being asked to do something unsafe – but, because farmworkers are “essential workers,” (meaning they have to work through the pandemic), refusing to work may be grounds for being fired. A lawyer can help you decide whether you should quit or refuse to work.

**What if I get fired for complaining about unsafe conditions?**

Under federal law, you have the right to speak up to your employers or to health inspectors about safety issues without fear of retaliation. If you are retaliated against, and you work at a farm that has an active temporary labor camp, you may file a whistleblower complaint with the federal agency in charge of worker health and safety. For more information see Staying Safe at Work During the Coronavirus. You may also have other legal options depending on the terms of your working arrangement and the state laws of the state you are working in.

**Who pays for my travel costs back home if I quit or am fired for speaking up about safety?**

If you quit because of legitimate safety reasons, your boss should pay for your transportation costs and any other damages that arise out of unsafe conditions. But whether your boss must pay will depend on the facts. A lawyer can inform you of your rights in your situation.

**Is my employer required to implement safety measures?**

Under federal law, your employer is required to ensure that your workplace is free of hazards and conditions that could cause imminent injury or death. Depending on your work conditions, COVID-19 may qualify as a deadly health risk. Please refer to the Farmworker COVID-19 Workplace Safety Plan for more information on what steps your employer should be taking to protect you, and what you can do to protect yourself.

**If I travel to my home community after potential exposure to COVID-19 in another state, what should I do? Who should I alert in my home community?**

It depends where you are coming from and where your home community is. Some state and local governments may put in place travel restrictions, stay-at-home or shelter-in-place orders, mandated quarantines upon arrival, or even state border closures while you are traveling. For information regarding the latest COVID-19 guidelines within TRLA and SMLS’s service area, you can visit or call the following state resources:
If you have questions about whether or not you should quarantine, you can call the Texas Department of Public Safety at (844) 986-1093 or visit Texas Department of Public Safety for more information. For general questions about COVID-19 and exposure, you can visit the Texas Health and Human Services website or call them at 211 and choose option 6. For a listing of local health entities, go here.

**Alabama**

Alabama does not have any travel restrictions but has put a stay-at-home order in place until May 15, 2020. The stay-at-home order allows workers to go to their agricultural jobs in Alabama or conduct "essential activities" such as grocery shopping, attending religious services of less than 10 people, and visiting family. See here for more information. General questions about COVID-19 and exposure can be directed to the Alabama.gov COVID-19 Information Hub.

**Arkansas**

The Arkansas Department of Health (ADH) suggests that if you have been in contact with a person who has tested positive for COVID-19, you should self-quarantine for 14 days. See here for more information. ADH also opened a call center to answer questions about the virus: 1-800-803-7847, open during normal business hours (8:00am – 4:30pm).

**Kentucky**

Kentucky recommends following CDC guidelines if you think you have been exposed to the virus: contact a health provider immediately and track your symptoms. If you have questions about COVID-19 in Kentucky, including how to get tested, what to do if you have been exposed and how to get treatment, you can visit this website or call Kentucky’s COVID-19 Hotline at (800) 722-5725. The hotline has a Spanish language option.

**Louisiana**

Louisiana guidelines indicate that if you have had close contact with someone with COVID-19 or have been exposed to someone who is being tested for COVID-19, you should take steps to self-isolate. See Louisiana’s COVID-19 Guidance and Resources for more information or call 211.

**Mississippi**

Mississippi recommends that you get tested if you believe you have been exposed to someone with the virus and self-quarantine until you get the results. Call the Mississippi Coronavirus Hotline for answers to questions about COVID-19 at 877-978-6453.

**Tennessee**

Tennessee guidelines indicate that, if you believe you have been exposed, you should communicate with Public Health and should self-quarantine for 14 days. See here for more information. Tennessee has a COVID-19 Public Information Number 877-857-2945 or 833-556-2476 Available 10 a.m. – 10 p.m. CST daily for general questions about the virus.