Are You Coming To The United States Temporarily To Work Or Study?

We Are Confident That You Will Have An Interesting And Rewarding Stay. However, If You Should Encounter Any Problems, You Have Rights And You Can Get Help!

You Have the Right to:

- Be treated and paid fairly;
- Not be held in a job against your will;
- Keep your passport and other identification documents in your possession;
- Report abuse without retaliation;
- Request help from unions, immigrant and labor rights groups and other groups; and
- Seek justice in U.S. courts.

These rights, and others, are explained in this pamphlet.

If you are mistreated or your rights are violated, call these toll-free numbers:

National Human Trafficking Resource Center's
24 Hour Toll-Free Hotline
1-888-373-7888
(Run by a non-governmental organization)

Trafficking in Persons and Worker Exploitation Task Force Complaint Line
(Monday — Friday, 9am-5pm Eastern Time)
1-888-428-7581
(Run by the U.S. Department of Justice)

If you are in immediate physical danger, Call 911

For more on your rights to be treated and paid fairly at work, see page 5

For more on your right not to be held in a job against your will, see page 7

This pamphlet was created as a result of a U.S. Federal law, Public Law 110-457. The U.S. Government has issued this pamphlet to honor the rule of law and uphold the dignity of all who come to this country. The U.S. Government is committed to combating human trafficking and labor rights violations.

REMEMBER!!
There Are Ways to Protect Yourself

- Keep your passport in a safe, easily accessible place at all times;
- Keep copies of your passport, visa, and employment contract in your home country with relatives or friends;
- Always have the phone number of your home country's embassy;
- Keep this pamphlet handy so that you can refer to it once you are in the United States;
- Keep a record of all the days and hours that you work, and the amount and date of each payment that you receive; and
- **Call the National Human Trafficking Resource Center Hotline at 1-888-373-7888** (24 hours) or the **Trafficking in Persons and Worker Exploitation Task Force Complaint Line at 1-888-428-7581** (weekdays 9am-5pm Eastern Standard Time) if you need help.

An Overview of the Nonimmigrant Visa Process

What is a nonimmigrant visa?

A nonimmigrant visa is a U.S. government document that permits individuals who travel to the United States to request entry for a particular purpose; for example, to work or to study.

The nonimmigrant visa process involves two important steps:

1. Applying for the visa at the appropriate U.S. embassy or consulate abroad; and
2. Presenting the visa to an immigration inspector at a U.S. port of entry.

TIP

Before you travel to the United States, **make two copies** of all important documentation, especially your passport (with visa), your contract, and your identity documents. Give one set of these copies to someone you trust in your home country. When you arrive in the United States and receive an I-94, make one copy of the I-94 in case you lose the original. Keep these documents in a safe place.

What are the important parts of my documentation?

1. The visa. It is located in your passport and shows your picture and visa expiration date. If your visa expires, you cannot reenter the United States on that visa until it is renewed.

- If you have an employment-based visa, the visa will include the name of the employer who is sponsoring you to work in the United States.
- Your temporary work visa **does** not **give you permission** to work for **any** employer that you choose—it is permission to work **only** for the employer listed on your visa application. In rare cases, it may be possible to change employers.
- This does not mean you have to continue to work for your employer if the employer is abusing or exploiting you.

2. The I-94 Card. This is a white card provided to you when you enter the United States. Your I-94 card shows the period of time that you are allowed to remain in the United States.
   Do not lose this card!

TIP

Once you arrive in the U.S., **keep your passport and other travel documents in a safe place where you can access it at all times!** It is illegal for your employer to take your passport away from you!

Your Workplace Rights in the United States

There are several protections that are specific to the type of visa you receive. These are outlined below by visa category.

A-3, G-5, and B-1 domestic employee visas

- If you work for a diplomat (A-3 visa) or a representative of an international organization (G-5 visa), or if you are a domestic employee holding a B-1 visa, your employer must provide you with an employment contract that complies with U.S. law.
- The contract must include the following provisions:
  - An agreement by your employer not to keep your passport, employment contract, or other personal property from you;
  - An agreement by your employer to abide by all laws in the United States;
  - An explanation of how much you will be paid for your work, as well as how frequently you will be paid; and
  - A description of your work duties, weekly work hours, holidays, sick days, and vacation days.
- Make sure that you understand the terms of the contract. If you cannot understand the language in which the contract is written, ask someone you trust to read the contract to you in a language that you understand. **Do not sign anything that you do not understand!**
- When you apply for the visa, a U.S. Consular Officer will meet with you and confirm that your contract complies with U.S. law. Do not hesitate to ask the U.S. Consular Officer any questions. Your employer is not supposed to be present when you meet with the Consular Officer.
- If you sign a contract that violates your rights, or if your employer does not do what the contract says, call the hotlines listed in this pamphlet immediately. They can help you find a lawyer who can help explain your rights in this situation.

H-1B and H-1B1 visas for performing services in specialty occupations

- If you are coming to the United States to perform services in a specialty occupation or as a fashion model, please refer to www.Travel.State.gov for more information regarding your rights and ability to change employers.

H-2A temporary agricultural worker visas

- If you are a temporary agricultural worker, you must receive a written description of the terms of your employment no later than the first day of work. This document must contain detailed information about the benefits, wages, housing, work duration, and transportation benefits that your employer will

provide.

- You are entitled to payment at or above a wage that is set by the government. This rate applies whether you are paid hourly or by piece rate.
- You do not have to pay either U.S. social security taxes or fees to a labor recruiter in your home country.
- Your employer must provide clean and safe housing at no charge.
- Your employer must reimburse you for transportation costs from your country to your place of employment, but only after you complete half the contract period; and your employer must pay for your return transportation costs for your trip home after completion of the contract.
- You are entitled to guaranteed work for at least 3/4 of the number of workdays stated as the contract period unless you are displaced by a U.S. worker during the first half of the contract period.

H-2B temporary non-agricultural worker visas

- If you are a temporary non-agricultural worker, you are entitled to payment at or above the prevailing wage, which will be at least the federal, state, or local legal minimum wage, but may be higher. This rate applies whether you are paid hourly or by piece rate.
- Your employer must provide return transportation costs for your trip home if your work ends or you are dismissed for business reasons unrelated to job performance before the end of your contract.
- You are usually entitled to terms and conditions of employment that are normal for similarly employed U.S. workers in the area.
- You should never have to pay fees to a labor recruiter in your home country.

J-1 exchange visitor visas

- Unless your exchange program is sponsored by the Federal government, the program must be a minimum of three weeks duration. The Form DS-2019, the basic document required to apply for a J visa, reflects the category of exchange and the program dates. Depending on the category of exchange, there may be other documents and/or contracts which cover the terms of your exchange program.
- Your sponsor's advertisements must be accurate and explain all costs, conditions, and restrictions of the exchange program. Your sponsor must also give you an orientation and provide you with information about:
  - the J-1 program and a description of the specific program in which you are participating and its rules;

- travel and entry into the United States;
- housing;
- fees, and costs, including living expenses, healthcare, and insurance costs;
- life and customs in the United States;
- local resources;
- your sponsor's address and the name and phone number of the person responsible for you in the United States;
- contact information for the Exchange Visitor Program Services of the Department of State; and
- The Department of State's Exchange Visitor Program brochure;

- If you are entering on a Summer Work Travel program and do not have pre-placed employment, your sponsor must assist you in locating employment if you have not found employment within the first week following your arrival, and insure that you receive pay and benefits commensurate with those offered to your American counterparts.
- If your J-1 visa is for a training and internship program:
  - Your sponsor must interview you in person, by telephone or by web camera;
  - Your sponsor must have a Training/Internship Placement Plan (Form DS-7002) in place before your visa paperwork is submitted. This Form includes a written statement of any stipend you will be paid, and a summary of the training objectives of the program.
  - Your sponsor must give you a written statement of the costs and fees you will have to pay, and an estimate of living expenses in the United States.
  - Your training/internship must be at lease 32 hours per week; and
  - If your training/internship is in agriculture, your working conditions and wages must meet strict federal requirements for agricultural workers.
- Your sponsor must assure that you have medical insurance coverage, though your sponsor need not provide or pay for this coverage.
- If you work in the United States, you should apply for and receive your own Social Security number, and your employer must report all tax withholdings using this number.
- If you are bringing your spouse or minor children with you on a J-2 visa, they may apply for work authorization only if the income is not necessary to support you.

For more information on visa categories and U.S. entry procedures, see the Web site of the U.S. Department of State:

www.Travel.State.gov

Your Rights Regardless of Visa Status

There are also many rights you have regardless of your visa status. If any of these rights are violated, you can report the violations to a government enforcement agency. In most cases, you can also bring a lawsuit to attempt to recover your losses, without fear of being punished.

1. Your Right Not to Be Retaliated Against

- It is unlawful for your employer to try to punish you, for example, by threatening to report you to immigration or the police if you try to enforce your rights! If your employer threatens you at any time, **seek help immediately. Remember, your safety comes first!**

2. The Right to Be Paid

- You have the right to get paid for **all work you do, in the same manner as U.S. workers.**
- You have the right to earn at least the federal legal minimum wage $6.55 per hour, and $7.25 per hour starting on July 24, 2009, in the same manner as U.S. workers. Also check
  - The minimum wage for the **state** in which you work. If that wage is higher, you have the right to be paid the higher amount.
  - Your employment contract, which may obligate your employer to pay a higher amount.
- Most workers in the United States are entitled to overtime pay of one and a half times the amount of their wage for any hours worked over 40 hours per week. For example, if your regular wage rate is $10 per hour, your employer may be required to pay you $15 for each hour you work above 40 hours in a single week.
- If your employer takes money from your paycheck, this is called a deduction. Many deductions are illegal if they diminish your legal wage rate. For example, an employer usually may not deduct for housing (with some visa classifications, housing must be provided free of charge), most uniforms, safety equipment, or recruitment fees.

TIP

Make sure to keep a written record of **all the time that you work.** Get a notebook and write down all of the days and hours that you worked, how much you were paid, the days you received a payment, any deductions taken from your paycheck, and the reasons for those deductions.

3. Your Right Not to be Discriminated Against

- As an employee, you have the right to not be treated differently or badly at work

because of your gender, race, national origin, color, religion, or disability.

- Your employer should pay the same amount to each worker for the same work and offer each worker the same job opportunities no matter what the worker's gender, race, national origin, color, religion, or disability.
- Your employer can't make you speak only in English at work unless there is an important business reason to require English.

4. Your Rights as a Woman Worker

- Your employer **MAY NOT** treat you differently or badly because you are a woman or you are pregnant – this is sex discrimination. Whether you are a woman or a man, your employer **MAY NOT** sexually harass you. Your employer should never:
  - Demand that you perform sex acts;
  - Touch you in a sexual manner; or
  - Say or yell sexual or offensive comments.

TIP

Keep a detailed record of every inappropriate comment and/or action your employer takes against you and write down the names and phone numbers of any witnesses.

5. Your Right to a Healthy and Safe Workplace

- All employees have a right to safe and clean working conditions:
  - **Housing**: If your employer provides housing, it should be clean, safe, and in a sturdy structure.
  - **Bathrooms**: Bathrooms should be clean and accessible.
  - **Potable Water**: If you work in agriculture, in most cases, you have the right to receive clean water to drink and to wash your hands.
  - **Illness or Injury on the Job**: If you are injured or get sick at work you may seek medical treatment. In most cases, you will receive free medical treatment and part of the wages lost while injured.
- If you are working with or around **pesticides or dangerous chemicals:**
  - You have a right to wash your hands in clean water after handling the pesticides/chemicals. You are entitled to training on pesticide safety during the first 5 days of work.
  - Your employer must tell you where and when pesticides were sprayed to avoid accidental exposures. Workers and others must not be in an area where pesticides are being applied.

C A U T I O N !
Your employer cannot force you to do something or go somewhere, even back to your home country, by withholding your pay.

- If you mix or apply pesticides that require you to use protective equipment (like coveralls or a mask or respirator), your employer must give you equipment that is clean and in good condition.

- **Medical Emergencies**: In the case of an emergency, call **911** and ask for an ambulance.
  - Your expenses may be paid for, so you should tell your employer as soon as possible so the employer can file the necessary paperwork.
  - When you are at the doctor or clinic, ask for copies of the paperwork regarding your illness or injury.

6. Your Right to Join a Union and Bargain Collectively

- With few exceptions, all workers in the United States have a right to form and join a union, regardless of their immigration status under federal law. Your employer cannot take action against you for doing so. This means you can:
  - Join with other workers to improve wages and working conditions;
  - Attend public speeches, rallies, and demonstrations; and
  - Join a union or other worker organization.

7. Your Right to More Protections Under State Law

- Call the hotlines listed in this pamphlet for a referral to organizations that can tell you about your rights in the state where you are working.

8. Your Right to Leave an Abusive Employment Situation

- You do not have to stay in your job if your employer is abusing you.
- But, if you came to the United States on an employment-based visa and you leave your employer, your visa status will no longer be valid. However, depending on the type of visa you have, you may be able to change visa categories or employers. You may also be able to remain in the United States legally to pursue a legal claim.
- You may also make a formal complaint or file a lawsuit against your employer while you are still working. There are severe penalties for an employer who tries to punish workers because they pursue their rights.
- If you are experiencing problems with your current employer, contact the hotlines listed in this pamphlet. They will be able to connect you with a local organization that can speak with you about your options.

TIP

You have rights in the United States and no one can take those rights away from you. There are hundreds of organizations that can help. Don't be afraid to ask for help to protect your rights.

Human Trafficking

1. What is human trafficking?

Human trafficking is among the most terrible workplace abuses that an individual in the United States could encounter. Human trafficking occurs whenever a person is recruited, transported, or kept against his or her will for purposes of exploitation. For a full definition of human trafficking, please see www.state.gov/g/tip (see Legislation—Trafficking Victims Protection Act). The following are some warning signs that may indicate human trafficking:

Threats and Fear:

Employers, and people who help employers, may use threats and other intimidating acts to make you and other workers feel too afraid to try to leave. For example:

- Beatings, physical abuse, or sexual abuse;
- Threats of beatings, physical abuse, or sexual abuse;
- Locking in or restraining a worker;
- Threats of harm to the worker or the worker's family if the worker tries to leave, complain of mistreatment, report the situation to authorities, or seek help;
- Threats of being deported or arrested, or of being turned over to police for trying to leave, complain, report, or seek help for the worker's situation;
- The employer, or someone working with the employer, has harmed or threatened other workers who have tried to leave, complain, report, or seek help; or makes threats that any worker who tries to escape will be found and brought back.

Rules and Controls:

Employers, and people who help them, may use rules and controls to make it harder for you and other workers to leave, complain about mistreatment, or seek help. For example:

- Rules against leaving the workplace, or strict rules about where you can go when not working;
- Rules against holding onto your own passport, visa, birth certification, or other identification documents;
- Denial of adequate food, sleep, or medical care; or
- Preventing or restricting you from communicating freely with family, other workers, or others outside the workplace.

Deception and Lies:
Employers, and people who help them, may also use deception and lies. For example:

- False promises about working conditions, living conditions, or pay;
- Telling you that you have no rights;
- Telling you that you will not be believed if you try to seek help; and
- Instructing you to lie about their identity.

TIP

Before leaving for the United States, talk with migrant worker organizations or former migrant workers for names and numbers of persons or organizations you can contact if you have problems or questions when you are in the United States.

2. What should I do if these things are happening to me?

- If any one of these things is happening to you or you are in a dangerous situation, **get help immediately** by calling 911, the National Human Trafficking Resource Center (1-888-373-7888), or the Trafficking in Persons and Worker Exploitation Task Force Complaint Line (1-888-428-7581). They can help refer you to a local organization that help victims of human trafficking in your area.
- If you are in physical danger, you should call **911** to reach the Police. If you call the police, show them this pamphlet and tell them about the abuse that you have suffered.

3. Will I be deported if I report the abuse?
There are programs to protect people who report abuse. You should not be afraid to seek help even if you have immigration concerns. You should consult with an immigration attorney who does not work for your employer. The hotline can help you find someone to consult.

- If you believe you may be a victim of human trafficking or of another serious crime, including rape or sexual assault, you may be entitled to a different nonimmigrant visa, like a T visa (for trafficking victims) or a U visa (for victims of other serious crimes). These visas were created to provide protection for certain crime victims worried about their immigration status. Many people are unfamiliar with these visas and you may need to tell people assisting you about them.

4. What services are available for victims of human trafficking?

- If you are a victim of trafficking in the United States, you may be eligible for benefits, services, and immigration remedies under federal or state programs.
- Many organizations can help you access these services, which include medical care, mental health care, housing, dental care, legal advocacy for immigration and other legal needs, employment assistance, and public benefits.

Know Your Rights

Call one of the hotlines listed in this pamphlet if you need help

You are receiving this pamphlet because you have applied for a nonimmigrant visa to work or study temporarily in the United States. The purpose of this pamphlet is to help you understand your rights when you arrive in the United States. Even though you will be living in the United States only temporarily, you will still have many of the basic workplace rights that U.S. citizens and residents have.

This pamphlet gives an overview of your basic workplace rights. Understanding your rights will help you to protect yourself from abuse. Keep this pamphlet with you in the United States in case you need to reach someone for help.

This pamphlet was also created to help you protect yourself against the most serious abuses, such as human trafficking. Human trafficking is a form of modern-day slavery where an employer or other individual, through physical or psychological abuse, causes an individual to feel that he or she is not free to leave the situation. **Recognizing that you are in an abusive employment situation is the first step toward getting help.**

If you arrive in the United States and have problems at work, you should seek help immediately. Do not believe your employer if he or she says that you do not have legal rights in the United States. Do not accept legal advice from your employer, contractor, or recruiter. Only an attorney representing you should give you legal advice.

If you believe your rights are being violated, the hotlines listed in this pamphlet can help you reach local organizations that can provide further assistance. **Do not be afraid to contact these organizations! They are here to help you.**

This pamphlet is not a substitute for legal advice. There are many different types of temporary work and educational visas, and you should not be afraid to ask for more information about your visa.

IF YOUR RIGHTS ARE VIOLATED, CALL THESE TOLL-FREE NUMBERS:

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