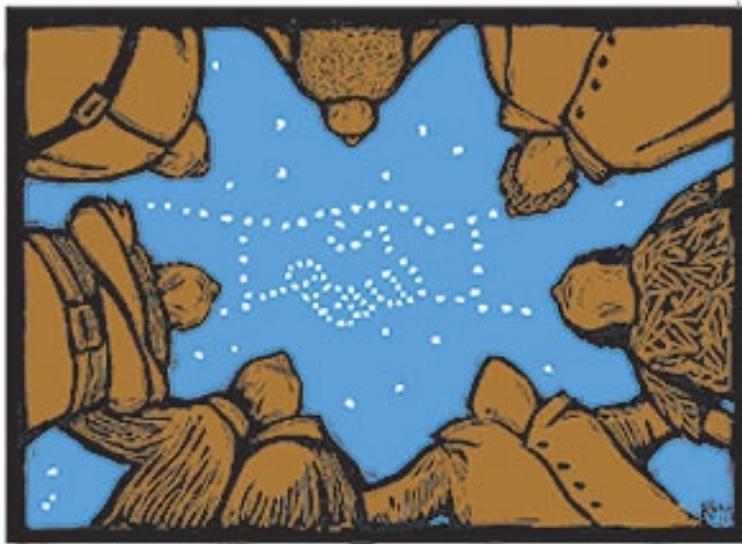


# Worker Rights Advocate Action Manual



Interfaith Worker Rights Center (IWRC)  
Centro de Trabajadores

1<sup>st</sup> Edition, 2005

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# Worker Rights Advocate Action Manual

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*“Work is more than a way to make a living; it is a form of continuing participation in God’s creation. If the dignity of work is to be protected, then the basic rights of workers must be respected—the right to productive work, to decent and fair wages, to organize and join unions, to private property, and to economic initiative.”*

*- Excerpt from U.S. Catholic Bishops’ Social Teachings*

# Acknowledgements

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Worker Rights Advocates needed a “go-to” guide that would help them master their multi-faceted and fast-paced work. I took on this project during my field placement at the Chicago Interfaith Committee on Worker Issues (CICWI) as an Emerson National Hunger Fellow. The Emerson National Hunger Fellowship is a program of the Congressional Hunger Center (CHC), whose mission is to fight hunger by developing leaders. While this project was my primary focus over the past several months, I must recognize and thank the many people and organizations that contributed to this manual.

This project would not have been possible without the contributions of several worker rights advocates, including Lupita Aguila, Antonia Dempsey, Beth Johnson, Erica Sweitzer, and the director of the Interfaith Worker Rights Center, José Oliva. Their ideas shaped this manual into a document that reflects the knowledge and experience of our diverse network of advocates. Special thanks to Jennifer Barger, Organizer of CICWI, for serving as the chief editor of this manual, and for her contributions to the “Unions” and “Direct Action Organizing” sections. I am also grateful for Marjorie Goldman’s editorial comments. Thanks to attorneys Alejandro Caffarelli and Laurie Wardell, as well as Angie Loftus of OSHA, for reviewing the sections on labor law. I must also credit and thank the Northland Poster Collective for its generous contribution of the artwork included in this manual. I am extremely grateful to CHC, CICWI, Caffarelli and Siegel Ltd. for their financial support. Thanks to Kristin Anderson of CHC for her ongoing guidance and support throughout this project.

And finally, thank you to all the workers whose courage to fight for justice in the face of abuse and exploitation in the workplace inspires Worker Rights Advocates and enlivens the movement for low-wage worker rights in the United States. May we continue to stand in solidarity with low-wage workers in their struggle to bring justice and dignity to the workplace.

In solidarity,

Sarah Osmer  
Author  
Worker Rights Advocate,  
Interfaith Worker Rights Center/Chicago Interfaith Committee on Worker Issues  
Emerson National Hunger Fellow, 11<sup>th</sup> Class, Congressional Hunger Center

*\* To request additional copies or to suggest changes and/or additions to the manual, please contact Sarah Osmer at [sosmer@thehungercenter.org](mailto:sosmer@thehungercenter.org) or José Oliva at [jose@nicwj.org](mailto:jose@nicwj.org).*

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*Printing expenses donated by the law firm of Caffarelli and Siegel Ltd., Two Prudential Plaza, Suite 3150, in Chicago, Illinois. Where referral to a government agency is not possible, or where retention of an attorney is preferable, attorney Alejandro Caffarelli represents employees on a contingent fee basis in all types of wage cases, including unpaid overtime. He may be contacted at (312) 540-1230.*



## Introduction

This manual is intended to serve as a guide for Worker Rights Advocates of the Interfaith Worker Rights Center (IWRC) of the Chicago Interfaith Committee on Worker Issues. It includes information on IWRC, the role and tasks of advocates, and labor laws, as well as action guides for addressing worker issues, and additional resources.

We encourage you (advocates) to consult the manual regularly. The manual is organized by worker issue, so that you can turn to the appropriate section on a given issue and find the information necessary to help workers address it. Please see also the “Workers Rights Manual” enclosed in the front cover for more detailed information on labor laws.

That being said, this manual does not include all the “answers,” nor does it necessarily contain the best response to each worker’s situation. Every worker’s situation is unique, and must be treated as such in deciding the appropriate course of action. Also, *workers*, not advocates, should determine how to address their workplace problems. You can advise them based on the information included in this manual and the experiences of other workers, but in the end, workers decide.

This manual was designed by Worker Rights Advocates, for Worker Rights Advocates. We hope that you will find this manual useful in your work to support justice and dignity for low-wage workers in Chicago. This is a working document that should be frequently updated to reflect the most current laws, as well as changes in IWRC’s strategies and tactics. We invite you to contribute your own ideas and experiences to future editions of this manual.







## Mission

The Interfaith Worker Rights Center (IWRC) is a project of the Chicago Interfaith Committee on Worker Issues. The mission of Chicago Interfaith is to educate and mobilize the religious community on issues and campaigns that will improve wages, benefits, and working conditions for Chicago area workers, especially low-wage workers.

The mission of IWRC is to serve as a safe space for all workers, both immigrant and native-born, to learn about worker rights and to strategize ways to end workplace injustice. Founded by people of faith, IWRC intentionally maintains a strong relationship with the religious community because for many workers, faith communities are the most trust-worthy institutions in our society.

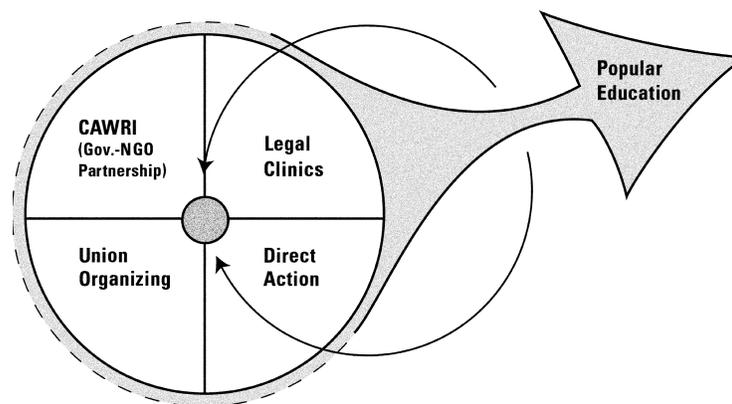
## Core Principles

- 1) **Organizing:** We believe that union organizing is the most effective long-term solution to workplace problems. A union contract can be workers' strongest tool to secure rights and benefits not provided for by the law.
- 2) **Self-Determination:** Workers' Rights Advocates, attorneys, pastors, and friends can provide information and support, but workers must ultimately exercise their own power to bring about changes in the workplace and must be responsible for making the decisions affecting their lives.
- 3) **Hospitality:** All people are welcome at IWRC regardless of age, race, gender, religion, ethnicity, national origin, sexual orientation, educational background, language, or citizenship status and will be invited into its safe space.
- 4) **Respect and Dignity:** We believe that all people deserve to be treated with respect and dignity. This principle is particularly important, given that most people that come to IWRC (low-wage immigrant workers) are often treated with disrespect and indignity, particularly in their places of employment.
- 5) **Risk-Taking:** Challenging unjust systems often involves personal risks (i.e., job loss, reduction in pay, or other forms of employer retaliation). We respect that some workers are willing to take risks and some are not. We fully support and actively participate in workers' risk-taking activities that will improve working conditions and achieve justice for abuses that workers endure.



## Interfaith Worker Rights Center (IWRC) Program Areas

- 1) **Chicago Area Worker Rights Initiative (CAWRI):** IWRC is part of CAWRI, a collaboration between non-government worker advocacy organizations and the U.S. and Illinois Department of Labor, the federal EEOC, and the federal OSHA. Through CAWRI, we assist workers in filing administrative complaints with government agencies.
- 2) **Direct Action:** Workplace direct actions involve workers, Worker Rights Advocates, and community members in pressuring employers to end abusive or unjust practices. Direct actions include telephone calls, letters, meetings and delegations with employers, prayer vigils, press conferences, rallies, and creative tactics.
- 3) **Legal Clinics:** IWRC connects workers who have experienced legal violations in their workplace to attorneys by hosting regular legal clinics. During the clinics workers receive free legal consultation. Often, attorneys also take on workers' cases at minimal or no charge.
- 4) **Union Organizing:** IWRC encourages workplace organizing by educating workers about the benefits of unions, connecting workers with union(s) with jurisdiction in their industry, and supporting workers each step of the way.



**Interfaith Worker Rights Center Program Areas.** We operate IWRC using the principles of popular education. By being involved in IWRC, workers themselves become popular educators.

## Overview of Chicago Area Workers' Rights Initiative (CAWRI)

*Established in 2000, CAWRI is a coalition of state and federal law enforcement agencies, and Chicago area community, labor, and faith-based organizations dedicated to assisting low-wage and immigrant workers. CAWRI was formed primarily as a result of the efforts of Center for Impact Research and the Chicago Interfaith Committee on Worker Issues to improve collaboration with government agencies in protecting workers' rights and promoting safe workplaces. The mission of CAWRI is to establish a strong government/non-government partnership and streamline the process for filing complaints with government agencies so that workers in the Chicago area can successfully address the injustices and abuses they face in the workplace.*

*CAWRI partners include:*

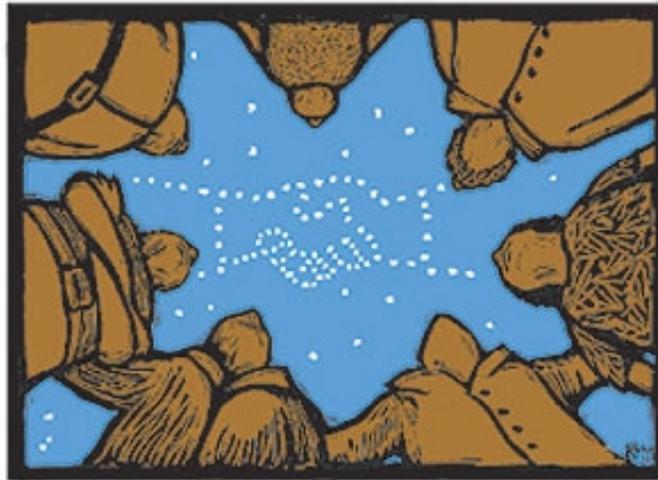
- U.S. Department of Labor (USDOL)
- Equal Employment Opportunity Commission (EEOC)
- Occupational Safety and Health Administration (OSHA)
- Illinois Department of Labor (IDOL)
- Illinois Workers' Compensation Commission
- Center for Impact Research
- Legal Assistance Foundation
- Chicago Interfaith Committee on Worker Issues (IWRC)
- Latino Union

*As an advocate, you will work very closely with CAWRI member agencies, particularly in filing complaints.*

*Our main contact for CAWRI is Rob Lisec at the U.S. Department of Labor. All CAWRI complaints are first faxed to Rob, who then forwards case information to the appropriate agency(ies). See sections that follow for further details on filing complaints with CAWRI.*

## Your Role as a Worker Rights Advocate

*As a worker rights advocate, you are charged with the honor and responsibility of fighting for justice alongside low-wage workers in the Chicagoland area.*



Your role is that of a **partner, guide, educator, facilitator, and link** not a service provider or decision-making authority. As an advocate, you will educate workers about their rights and labor law, provide them with information about past cases and potential courses of action, and accompany them through their decision-making process. However, workers should be the primary decision-makers in determining how to handle their work situations. You will support and facilitate this process, helping workers realize their own power and agency. You will help link workers to government agencies, unions, legal services, and the religious community. You also will stand in solidarity with workers, actively participating in their struggles to improve workplace conditions.

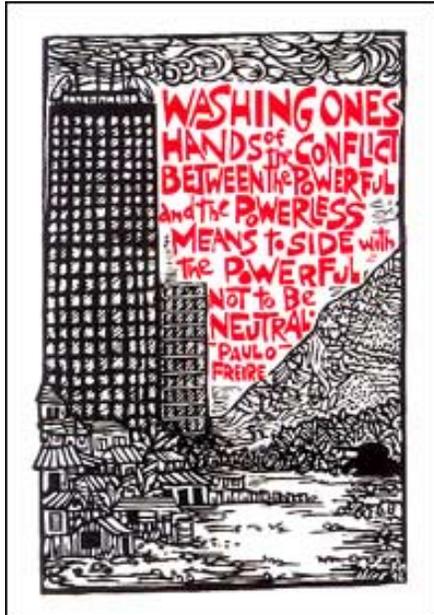
Remember that you are not solely responsible for the results of workers' cases. If the actions the group takes are successful, you will celebrate with the workers. If the actions are unsuccessful, you will be there to regroup and re-strategize with the workers. As long as workers have been the decision-makers, regardless of the outcome, they will understand that you are on their side, supporting their fight to improve workplace conditions and to win justice.

## Advocates' Main Tasks

- **Manage worker cases.** This will probably be your primary task as an advocate. *(See "Advocates' Action Guide" for more detailed information on managing worker cases).*
  
- **Return telephone calls of workers** who call IWRC and invite them to a worker rights workshop OR make an appointment with a worker rights advocate.
  
- **Participate in direct action campaigns** of your own cases and those of other workers' rights advocates.
  
- **Advocate for policies that will promote worker justice** and improve conditions for workers in Chicago and in the United States.
  
- **Build the infrastructure of IWRC** by offering new, brilliant ideas that will help us to grow and more effectively do our work.
  
- **Organize workers, clergy, and community members** to participate in workers' struggles to improve their workplace conditions.



## Popular Education



“Liberation is thus a childbirth, and a painful one. The man or woman who emerges is a new person, viable only as the oppressor-oppressed contradiction is superseded by the humanization of all people. Or to put it another way, the solution of this contradiction is born in the labor which brings into the world this new being: no longer oppressor no longer oppressed, but human in the process of achieving freedom.”

--Paulo Friere  
*Pedagogy of the Oppressed*

*At IWRC, we use popular education to help workers gain a sense of their own power to stop the injustice they face and improve conditions in their workplaces. The section that follows includes a brief overview of the popular education model, as well as practical suggestions for how you might incorporate elements of popular education into your work as an advocate.*

## Overview of Popular Education

*Popular education has been used as a tool to raise people's awareness of how their personal experiences are linked with larger social systems of oppression, and to inspire them to take action to subvert these oppressive systems. Paulo Freire developed the theory in Pedagogy of the Oppressed (1972). Freire applied his theory in his native country of Brazil, as he sought to empower peasants through literacy. Since its inception, Freire's model has spread throughout the world, and is now being applied in academia, grassroots organizing, and other settings.*

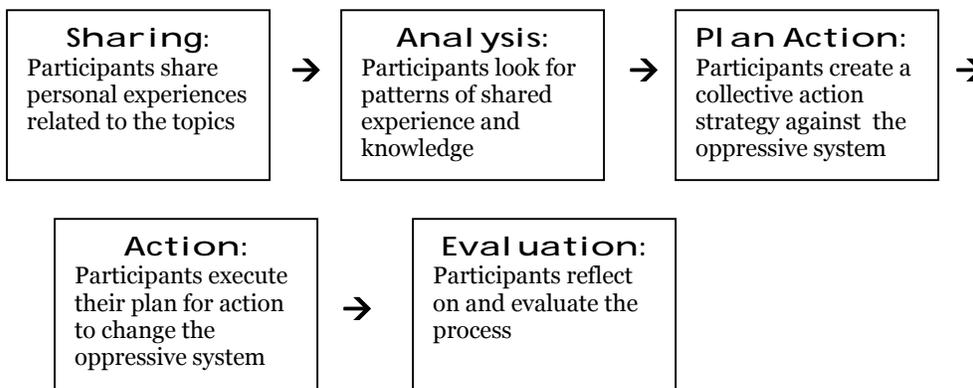
*Popular education theory includes a strong critique of the traditional education system, which according to the theory, breeds dependency and powerlessness and prevents ordinary people from using their own experiences and knowledge to be active in the world. As GATT-Fly's Ah-Hah!: A New Approach to Popular Education<sup>1</sup> explains:*

Freire distinguishes his approach to education from the traditional "banking" approach where participants are treated as empty vessels that must be filled with information. The underlying implication of the traditional approach is that students are "uneducated" and in need of knowledge that can come only from teachers or experts. This need creates a dependency and reinforces a sense of powerlessness. People learn to distrust themselves, their knowledge and intuitions and this can lead to confusion. . . . Freire's method encourages participants to see themselves as a fount of information and knowledge about the real world. When they are encouraged to work with knowledge they have from their own experience, they can develop strategies together to change their immediate situations.

The primary components of popular education are:<sup>2</sup>

- democratic framework
- topics chosen by participants
- facilitation (posing questions and problems)
- examination of unequal power relations in society
- participation (everyone learns and everyone teaches)
- emphasis on people's emotions, actions, intellect, and creativity
- varied activities

The process of popular education is as follows:



<sup>1</sup> GATT-Fly. *Ah-Hah!: A New Approach to Popular Education*. Between the Lines, 1982.

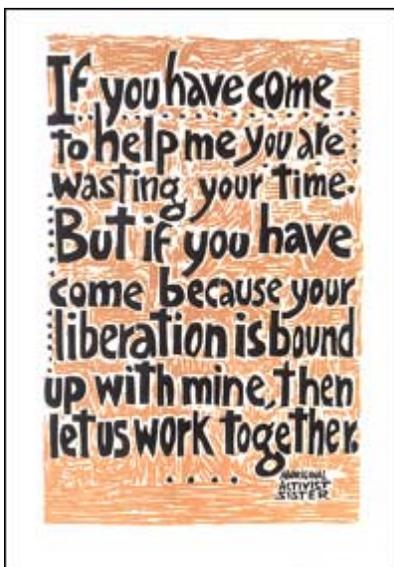
<sup>2</sup> Gifford, Mike. "PopEd: An Interactive Tool Kit." <http://www.openconcept.ca/mike/>

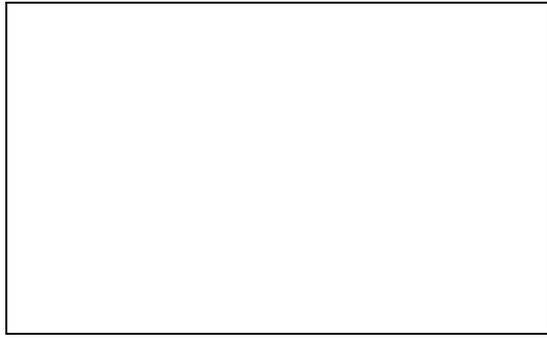
## How to incorporate popular education into your work as an advocate:

**\*\*\* ALL OF YOUR WORK AS AN ADVOCATE SHOULD EMBODY ELEMENTS OF THE POPULAR EDUCATION MODEL. \*\*\***

*Here are some specific examples of how you might apply the theory in your work:*

- Always ask questions. Ask workers how they think they can best address their problem and improve the conditions of their workplace.
- Encourage workers to join the Mesa Directiva (IWRC's Steering Committee) and to participate in collective action for other workers' cases.
- Pay attention to workers' individual experiences. Remember that every situation is unique and deserves a unique solution.
- Let workers make their own decisions, but help them make an informed decision by telling them about the experiences of other workers.
- Have brainstorming sessions with workers about strategies and tactics for addressing their workplace problem.
- Encourage workers to bring their case to the Mesa Directiva for further collaboration and ideas.
- Distribute the Worker Rights Manual to every worker that comes to IWRC.
- After an action, reflect with workers. Ask what went well, and what could have gone better.



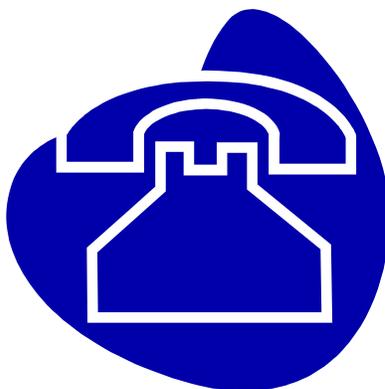


## Telephone Counseling

*Advocates spend much of their time at the Interfaith Worker Rights Center talking with workers on the telephone. For many non-native Spanish speakers this can be a particularly intimidating and challenging activity. The difficulties of phone conversations/counseling are more complex than a simple language barrier. All advocates struggle to convey compassion, interest, and emotion to workers over the phone line. It's often very challenging to know how to respond to the heart-wrenching stories workers tell.*

*Remember that at IWRC, we seek to create a safe space for workers who have experienced abuses and injustices in their workplaces. Your interactions with workers over the telephone can help create this safe space, in which workers feel comfortable sharing their experiences and believe that you grasp the gravity of their situation and will work to change it.*

*The following section is an action guide for telephone counseling. Advocates' interactions with workers often are more involved and varied than the below script indicates, but this action guide will hopefully calm some of your anxiety and uncertainty as you make your first worker calls.*



## Telephone Counseling Action Guide

*The following is a sample script, which you may use as a guide for telephone calls to Spanish-speaking workers who have contacted IWRC. Please, do not feel obligated to use this exact format, but be sure to include (in some form) information described in numbers 2 through 4.*

**1) Saludo:**

“Hola. Se encuentra \_\_\_\_\_ (nombre del trabajador), por favor. . . . Habla \_\_\_\_\_ (tú nombre), promotor(a) de derechos laborales en el Centro de Trabajadores. Como está, Usted? . . . .”

**2) Descripción del Centro de Trabajadores (Declaración de Bienvenida):**

“El Centro de Trabajadores es un lugar seguro en donde trabajadores pueden aprender y organizar para mejorar las condiciones en sus lugares de trabajo. Toda la gente es bienvenida, sin importar su estado legal, y será tratada con respeto y dignidad. Creemos que los trabajadores tienen el poder de cambiar sus vidas y deben tomar acciones para mejorar las condiciones de sus lugares de trabajo.”

**3) Discusión del problema:**

*Preguntas sobre el problema de trabajo (breve):*

“Brevemente, podría describir en breve su situación? Que pasó?”

“Hay otros trabajadores que tienen el mismo problema?”

“Necesitamos hablar cara a cara sobre las detalles de su situación. . . .”

**4) Invitación:**

*Invitación al taller.* “Para que Usted puede aprender más sobre los derechos de trabajadores y la ley laboral, le invitamos a un taller \_\_\_\_\_ (la fecha). También, Usted puede hacer preguntas sobre su caso con promotores de derechos laborales aquí.”

*Si aplica, hace una cita con los trabajadores.*

**5) Adiós:**

“Espero que nos veamos en el taller. Que tenga un buen día. Adiós.”

## Wage and Hour

*Wage and hour issues—issues of payment and time worked—are very frequently reported by workers who come to IWRC. Many workers, particularly immigrants who are unaware of their rights and benefits under the law, are routinely cheated out of wages, overtime pay, and rest periods, plus a variety of other wage and hour issues. You can help workers resolve these problems.*

*This section provides an overview of the most significant laws and enforcement agencies governing wage and hour issues, as well as action guides for addressing these issues that reflect the experiences of Chicago workers.*



## Wage and Hour Laws

**Fair Labor Standards Act, 1938 (FLSA)**—Federal law that establishes most basic wage and hour standards for the United States. The Act includes minimum wage, overtime pay, record keeping, and child labor standards for part- and full-time employees in the public and private sectors.

**Minimum Wage:** The Act requires employers to pay most employees *at least \$5.15 per hour*, with three main exceptions:

- Employees under the age of 20 may be paid \$4.25 per hour during their first 90 consecutive days of employment.
- Tipped employees must receive a cash wage of at least \$2.13 per hour. If the employee's tips combined with their cash wage of at least \$2.13 per hour do not equal \$5.15 per hour, the employer must make up the difference.
- Certain full-time students, apprentices, and workers with disabilities may be paid less than the federal minimum wage.

 **NOTE:** *Illinois state law raises the minimum wage to \$6.50 per hour for most employees. See below "Illinois Minimum Wage Law."*

**Overtime Pay:** The Act also requires that most hourly employees who work more than 40 hours per week receive "overtime pay" for the extra hours of work. One hour of overtime pay equals one and one-half times the employee's regular hourly wage. For example, an employee earning \$8.00 per hour should earn \$12.00 per hour for every hour over 40 hours worked during the course of a week. (Calculation: Hourly Wage x 1.5 = Overtime Hourly Wage).

 **NOTE:** *Illinois state law also requires that employers give hourly workers at least one day of rest per week. See below "One Day Rest in Seven Act."*

**Work Time:** The FLSA also defines "work time" (hours that must be paid). Activities counted as "work time" include:

- Job training activities, as long as they occur during the employee's regular shift, and/or are required by the employer.
- Rest period(s) of up to 30 minutes (all breaks of 30 minutes or more are *not* considered work time, and thus do not have to be paid).
- Travel that is part of the employee's principal work activities (excluding travel time to and from work).

 **NOTE:** *Illinois state law does not entitle workers to paid breaks. See below "One Day Rest in Seven Act."*

### ◇ Fair Labor Standards Act (FLSA) ◇

**Enforcement Agency:** U.S. Department of Labor (USDOL), Wage and Hour Division

**Filing Agency** (Where to file complaint): CAWRI- USDOL

**Statute of limitations for filing a complaint:** For recovering unpaid wages (and overtime), 2 years after the wages were originally due. For "willful" violation, 3 years after the wages were originally due.

**Contact Person:** Rob Lisec, CAWRI

Telephone- (312)596-7240, Fax- (312)353-2327

**Illinois Minimum Wage Act, 1971**—Illinois state law that guarantees a minimum wage of *\$6.50 per hour* for employees 18 years of age and older; workers under 18 may be paid \$.50 per hour less than the adult minimum wage. Tipped employees must receive a cash wage of *at least \$3.90 per hour*. If the employees tips combined with their cash wage of *at least \$3.90 per hour* do not equal \$6.50 per hour, the employer must make up the difference.

◇ **Illinois Minimum Wage Act** ◇

**Enforcement Agency:** Illinois Department of Labor (IDOL), Labor Law Enforcement Division

**Filing Agency** (Where to file complaint): CAWRI- IDOL

**Statute of limitations for filing a complaint:** 180 days after the wages were originally due. If the charge is filed within 180 days, workers can recover wages for up to 3 year in the past.

**Contact Person:** Rob Lisec, CAWRI

Telephone- (312)596-7240, Fax- (312)353-2327

Mark Fisher, IDOL

Telephone- (312)793-2828, Fax- (312)814-1210

**Wage Payment and Collection Act, 1973**—Illinois state law that establishes when, where, and how often wages must be paid and prohibits unilateral deductions from wages or final compensation without employee consent. Also entitles employees to assistance in the collection of wages and final compensation, including unused vacation pay, commissions, bonuses, or other fringe benefits. State and federal government employees are exempt.

◇ **Wage Payment and Collection Act** ◇

**Enforcement Agency:** Illinois Department of Labor (IDOL)

**Filing Agency** (Where to file complaint): CAWRI- IDOL

**Statute of limitations for filing a complaint:** 180 days after the wages were originally due. If the charge is filed within 180 days, workers can recover wages for up to 5 year in the past.

**Contact Person:** Rob Lisec, CAWRI

Telephone- (312)596-7240, Fax- (312)353-2327

Mark Fisher, IDOL

Telephone- (312)793-2828, Fax- (312)814-1210

**One Day Rest in Seven Act, 1935**—Illinois state law that entitles full-time employees to *24 consecutive hours of rest in every seven day period*. Part-time, agricultural, and salaried employees are exempt. The Act also allows all employees who *work 7.5 hours or more a day a 20-minute meal break*. The 20-minute break is unpaid and must occur in the first 5 hours of work. Employees that work 15 hours or more are entitled to two separate 20-minute meal breaks.

◇ **One Day Rest in Seven Act** ◇

**Enforcement Agency:** Illinois Department of Labor (IDOL)

**Filing Agency** (Where to file complaint): CAWRI- IDOL

**Statute of limitations for filing a complaint:** 180 days after the wages were originally due. If the charge is filed within 180 days, workers can recover wages for up to 2 year in the past.

**Contact Person:** Rob Lisec, CAWRI

Telephone- (312)596-7240, Fax- (312)353-2327

Mark Fisher, IDOL

Telephone- (312)793-2828, Fax- (312)814-1210

**Prevailing Wage Act, 1941**—Illinois state law that requires contractors and subcontractors to pay laborers, workers, and mechanics employed on *public works construction projects* no less than the general prevailing rate of wages (consisting of hourly cash wages plus fringe benefits) for work of a similar character in the county where the work is performed.

◇ **Prevailing Wage Act** ◇

**Enforcement Agency:** Illinois Department of Labor (IDOL)

**Filing Agency** (Where to file complaint): CAWRI- IDOL

**Statute of limitations for filing a complaint:** 180 days after the wages were originally due. If the charge is filed within 180 days, workers can recover wages for up to 3 year in the past.

**Contact Person:** Rob Lisee, CAWRI

Telephone- (312)596-7240, Fax- (312)353-2327

Mark Fisher, IDOL

Telephone- (312)793-2828, Fax- (312)814-1210

**Day and Temporary Labor Services Act, 2000**—Illinois state law that entitles day laborers (temporary employees) using day labor agencies to certain amenities and rights, including:

- prohibitions of fees and deductions above cost for meals and transportation.
- payment using itemized checks (showing wages and all deductions) without check-cashing fees.
- a place to wait prior to being placed for work, adequate seating, and bathrooms.
- if employees ask, agencies must inform them about the type and location of the work, wages, meal and transportation provisions, and meal and equipment costs.
- prohibitions of employees being used as strike-breakers.

◇ **Day Labor and Temporary Services Act** ◇

**Enforcement Agency:** Illinois Department of Labor (IDOL)

**Filing Agency** (Where to file complaint): CAWRI- IDOL

**Statute of limitations for filing a complaint:** none

**Contact Person:** Rob Lisee, CAWRI

Telephone- (312)596-7240, Fax- (312)353-2327

Mark Fisher, IDOL

Telephone- (312)793-2828, Fax- (312)814-1210

**Chicago Day Labor Services Ordinance, 2002**—City ordinance that strengthens the IL *Day Labor Services Act*. The Ordinance:

- requires all day labor services agencies to be licensed and to document whom they hire and do not hire.
- prohibits agencies from charging workers for transportation, safety equipment, and clothing required for their job.
- gives all workers the right to a work ticket for each day they are dispatched and to an application receipt for every day they are not hired.

◇ **Chicago Day Labor Services Ordinance** ◇

**Enforcement Agency:** Chicago Department of Revenue

**Filing Agency** (Where to file complaint): Chicago Department of Revenue

**Statute of limitations for filing a complaint:** none

**Contact Person:** N/A

## Wage Theft Action Guide

*There are several courses of action from which workers may take to address non-payment of wages (wage theft). These include: direct action, filing an administrative complaint, legal action, and union organizing.*

*If workers choose the administrative route, you should file a complaint with CAWRI, who will then refer the case to the U.S. and Illinois Department of Labor. Make sure workers are aware that this process often takes over one year, and that we cannot guarantee a positive outcome.*

*The action guide that follows outlines the typical procedure for wage theft cases, which includes a mix of direct action, filing an administrative complaint, and occasionally referral to a private attorney.*

 NOTE: *If workers are still employed at the company where the wage theft occurred, or if the amount they are owed is very high, most workers will probably want to begin with Step 4- Filing a CAWRI complaint (instead of contacting the employer).*



---

### Pre-Screening Criteria:

*To be considered for action:*

- A group of workers (2 or more) are actively involved
- Workers have employer contact information (Full name, company name, telephone number, address, car license plate numbers, etc.)
- Workers have workplace data (Number of workers employed by company, number of workers victim of wage theft, etc.)
- Workers have evidence of unpaid wages (pay stubs, witnesses, time cards, work schedule, etc.)

---

### Step 1: Discuss all potential courses of action with workers

*Emphasize to workers that there are many ways that they can address their wage theft problem. These potential courses of action include:*

- Direct action
- Filing an administrative complaint with CAWRI
- Legal action with a private attorney
- Union organizing

## Step 2: Call the workers' employer

---

*Offer to call the workers' employer to explain the situation and demand payment of due wages. Some workers prefer to bypass this step, especially if they fear employer retaliation.*

### Telephone Call Script:

#### I. Greeting

#### II. Introduction

"This is \_\_\_(Advocate's Name)\_\_\_, calling from the Chicago Interfaith Committee on Worker Issues." (Briefly describe the organization, i.e., a faith/community-based organization that works closely with the Illinois Department of Labor, the U.S. Department of Labor, and/or private attorneys).

#### III. Confirm contact information

"Can I confirm your address for future correspondence between us?"

#### IV. Description of problem

"I am calling regarding a wage matter. Mr./Ms. \_\_\_\_\_ has still not received pay for any of the hours that s/he worked for \_\_\_ (Dates)\_\_\_ work was performed). I am sure you know that as an employer you are legally responsible for paying workers for every hour that they work."

#### V. Response to contractor

a. *If contractor says s/he **will pay** the worker, confirm their response:*

"To confirm, \_\_\_(Workers' names)\_\_\_ can expect their money by \_\_\_ (Date)\_\_\_ . I will delay filing a legal claim, but I am sure that you understand that \_\_\_(Workers' names)\_\_\_ will need to take legal action if they are not paid by \_\_\_ (Date)\_\_\_ . Thank you for your cooperation. When would you be available within the next two weeks to come to our office to sign a formal agreement and payment plan with \_\_\_ (Workers' name)\_\_\_ for these wages?" (Set up a meeting with the contractor).

b. *If contractor says s/he **will not pay** the worker, confirm their response and go to Step 3.*

"To confirm, \_\_\_ (Workers' names)\_\_\_ never worked for you at \_\_\_ (repeat address, dates, and times the work was performed)\_\_\_ . Mr./Ms. \_\_\_ (Worker's names)\_\_\_ will need to take legal action. The Illinois Department of Labor or a Judge will need to examine the facts and conduct an investigation. You will receive written notice from an attorney or the Illinois Department of Labor in the next few weeks. Thank you for talking with me and have a nice day."



NOTE: See sample agreement on pages 23 and letter on page 24.

## Step 3: Send a written letter to the employer

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*If the employer denies the wage theft, you may send a written letter to the employer, giving them another opportunity to pay and formally document the complaint.*

*The following is a sample letter to send to the employer who refuses to pay workers due wages. Change names and dates as appropriate. In addition to a letter from IWRC, this step might include a letter from attorneys that support our work and/or a letter from the Chicago Police Department (pending their agreement to provide a letter).*

 NOTE: See sample letter from the Austin, Texas Police Department on pages 25.

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#### Step 4: File a complaint with CAWRI

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*If workers choose this course of action, fax the following to Rob Lisec at the USDOL (Fax # 312-353-2327):*

- Print-out of FileMaker Pro case record (Pages 1-3).
- Typed, detailed description of the wage theft case.
- Any supporting evidence for the case (i.e., pay stubs, witness testimonies, time cards, worker schedules, etc.).

*Fax the following to Mark Fisher at the IDOL (Fax # 312-814-1210):*

- Print-out of FileMaker Pro case record (Pages 1-3).
- Copy of supporting evidence for the case (i.e., pay stubs, witness testimonies, time cards, etc.).
- Completed IDOL Wage Claim form

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#### Step 5: Direct action

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*If the employer still refuses payment, develop a strategy for direct action. Workers should lead the process. Advocates, community and religious leaders, and/or Chicago Interfaith staff should help workers develop a strategy and participate in the tactics workers choose.*

*The tactics used may include: a prayer vigil, a press conference with local media, religiously symbolic actions, holding a rally outside of the workplace during which workers offer public testimonies of the wage theft, a boycott of the business, or other creative tactics.*

 NOTE: See “Direct Action Organizing” section for further information on strategy and choosing tactics.

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#### Step 6: Refer the workers’ case to a private attorney

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*If workers choose this course of action, refer them to our legal clinic, where they can consult a wage and hour attorney.*

 NOTE: IWRC is currently campaigning for the criminal prosecution of non-paying employers. Following the example of Austin, Texas, New York, NY and other cities around the country, we are in conversation with the State’s Attorney, the Attorney General, and the Chicago Police Department. Ask other worker rights advocates for most current information regarding this campaign.

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#### Step 7: Union organizing

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*If a majority (or strong minority) workers are committed to long-term improvements in their workplace, they may be interested in organizing a union. A union contract can be workers’ strongest tool to secure rights and benefits not provided for by the law.*

*Keep in mind that legal action and administrative complaints can be used as leverage in a union organizing campaign, so union organizing might be the first step.*

 NOTE: See “Unions” section for more information.

### **Follow-up:**

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*Advise the workers to . . .*

- Respond promptly to all letters and correspondences from the DOL. These materials are generally time sensitive.
- Share with you all letters and other forms of correspondence they receive from the DOL. Offer to translate and make copies of all materials.
- Call their investigator if they do not receive a letter from the DOL within a month. If the workers are unsuccessful in contacting someone at the DOL, then you can call on the workers’ behalf.
- Inform you and their investigator of any changes in their contact information (telephone number, address, etc.).

*Periodically call workers to remain updated on their case.*

 *Sample agreement to be signed by employer who agrees to pay workers.*



**WAGE THEFT TASK-FORCE**  
Phone: 773-728-8400  
Fax: 773-728-8409  
1020 West Bryn Mawr, Fourth Floor  
Chicago, IL 60660

---

**AGREEMENT**

On October 13 through October 25, 2003, the following workers each performed ninety-six hours of work under the employment of Elvis Presley at 5015 N. Ridgeway:  
Mr. Juan Do and Ms. Juana Dodo.

I, Mr. Elvis Presley, agree to pay Mr. Juan Do and Ms. Juana Compana in payments of \_\_(\$ amount)\_\_\_ on the following dates:

Elvis Presley\_\_\_\_\_

If the above conditions are met, we, the undersigned agree not to continue our claims with the Illinois Department of Labor.

**Workers:**

**Witnesses:**

\_\_\_\_\_  
Juan Do

\_\_\_\_\_  
José L. Oliva

\_\_\_\_\_  
Juana Compana

\_\_\_\_\_  
Sarah R. Osmer

 **Sample letter to be sent to employer who refuses payment of wages.**



**WAGE THEFT TASK-FORCE**

Phone: 773-728-8400

Fax: 773-728-8409

1020 West Bryn Mawr, Fourth Floor  
Chicago, IL 60660

*January 31, 2004*

Dear Mr. Jones:

On October 13 through October 25, 2003, the following workers each performed ninety-six hours of work under your employment at 5033 North Clark: Mr. Pablo Mora, Mr. Juan Gomez, and Mrs. Lupita Arroyo.

Non-payment of wages is a violation of the Wage Payment and Collection Act, which is enforced by the Illinois Department of Labor. The Wage Theft Task Force, a coalition of day laborers, concerned community members, and people of faith, is currently considering legal action against you. We visited you today in order to provide you with a final opportunity to resolve this matter outside of the court system. If you are interested in negotiating with the workers and would like a translator, please contact Erica Sweitzer at the Chicago Interfaith Committee on Worker Issues at (773) 728-8400 x30. If not, representatives from our legal and community action teams will contact you in the next few weeks.

**Sincerely,**

Joseph Lenti, Seminarian  
United Methodist Church

Erica Sweitzer, Worker Rights Advocate  
Chicago Interfaith Committee on Worker Issues

José L. Oliva, Director  
Interfaith Worker Rights Center  
Chicago Interfaith Committee on Worker Issues

Brian Loewe, Legal Clinic Coordinator  
Latino Union of Chicago

Jennifer Barger, Organizer  
Faith and Labor Solidarity Program  
Chicago Interfaith Committee on Worker Issues

**💡** *Sample letter from the Austin Police Department in support of prosecution of non-paying employers. We are pursuing an agreement with the Chicago Police Department to draft a similar letter.*

**AUSTIN POLICE DEPARTMENT**

**Juan J.  
Gonzalez**



**715 East 8<sup>th</sup> Street  
Austin, Texas 78701**

**October 29, 2003**

**To Whom It May Concern:**

**The Austin Police Department is committed to thoroughly investigating all instances whereby an employer does not compensate an employee for services performed. If necessary, charges will be filed against an employer who does not reimburse an employee for services rendered.**

**According to the Texas Penal Code (Chapter 31.04, Theft of Service),**

**A person commits an offense if, with intent to avoid payment of service that he knows is provided only for compensation:**

**(4) He intentionally or knowingly secures the performance of the service by agreeing to provide compensation and, after the service is rendered, fails to make payment after receiving notice demanding payment.**

**For purposes of this section, intent to avoid payment is presumed if:**

**(1) the actor absconded without paying for the service or expressly refused to pay for the service in circumstances where payment is ordinarily made immediately upon rendering of the service, as in hotels, campgrounds, recreational parks, restaurants, and comparable establishments.”**

**If you have any questions regarding laws pertaining to theft of service, you may contact me at 974-5724.**

**Sincerely,**

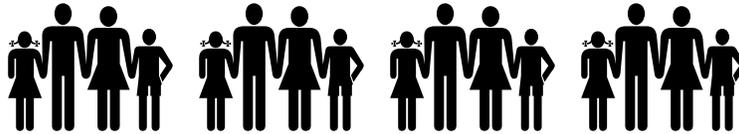
**Juan J. Gonzalez  
Commander, Austin Police Department**



## Discrimination

*Many of the workers that come to the Interfaith Worker Rights Center have experienced discrimination in their places of employment, particularly on the basis of gender, race, and national origin. Some workers experience unfair treatment for reasons that, unfortunately, are not protected under the law. It is critical that you explain to workers the law's narrow definition of discrimination and the difference between discrimination, favoritism, and just plain bad treatment.*

*The following section includes an overview of the laws pertaining to discrimination and an action guide for workers facing this issue.*



## Discrimination Laws

*The U.S. has many laws related to discrimination in employment. The U.S. Equal Employment Opportunity Commission (EEOC), the Office of Special Counsel for Immigrant-Related Unfair Employment Practices (OSC), and the Illinois Department of Human Rights enforce most of these laws. Here are some of the most significant ones:*

**Equal Pay Act, 1963 (EPA)**—Federal law that prohibits employers from paying unequal wages to men and women for doing the same or substantially similar work, requiring equal skill, effort, and responsibility, under similar working conditions for the same employer in the same county. According to the Act, wage differences are permissible if based upon a seniority system, a merit system, a system measuring earnings by quantity or quality of production, or factors other than gender.

 **NOTE:** *Illinois also has an Equal Pay Act (2003), which, like the federal EPA, prohibits differences in pay based on gender. The IL Act specifies that this applies to employers with four or more employees. The Act also says that employers found to be in violation of this Act will be required to make up the wage difference to the employee, may be required to pay legal costs, and are subject to civil fines of up to \$2,500 per violation.*

### ◇ Equal Pay Act (EPA) ◇

**Enforcement Agency:** Equal Employment Opportunity Commission (EEOC); Illinois Department of Labor (IDOL), Equal Opportunity Workforce Division

**Filing Agency** (Where to file report): CAWRI- EEOC

**Statute of limitations for filing a report:** EEOC- 300 days; IDOL- 180 days after the incident occurred.

**Contact Person:** Rob Lisec, CAWRI

Telephone—(312)596-7240, Fax—(312)353-2327

Monique Debusmann, EEOC

Telephone—(312)886-0435, Fax—(312)886-1168

Mark Fisher, IDOL

Telephone—(312)793-2828, Fax—(312)814-1210

**Civil Rights Act, 1964, Title VII**—Federal law that prohibits private employers from discriminating against their current and former employees and job applicants on the basis of certain protected categories.

The Act *prohibits discrimination on the basis of:*

- race/color
- religion
- gender (including wage discrimination, sexual harassment, and pregnancy)
- national origin/ancestry

Title VII makes it illegal to discriminate on the above bases in hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment in *companies of 15 or more employees*. The Act has been amended several times to offer discrimination protection to additional groups and to strengthen the original law.

 **NOTE:** *See also Equal Pay Act, Americans with Disabilities Act, Age Discrimination in Employment, and Immigrant and Nationality Act for amendments of the Civil Rights Act. The Illinois Human Rights Act (soon to be signed into law in early 2005) encompasses additional protected classes, including but not limited to Vietnam veteran status, housing status, marital status, and sexual orientation.*

**◇ Civil Rights Act, Title VII ◇****Enforcement Agency:** U.S. Equal Employment Opportunity Commission (EEOC)**Filing Agency** (Where to file report): CAWRI—EEOC**Statute of limitations for filing a report:** 300 days after the incident occurred.**Contact Person:** Rob Lisec, CAWRI

Telephone—(312)596-7240, Fax—(312)353-2327

Monique Debusmann, EEOC

Telephone—(312)886-0435, Fax—(312)886-1168

**Age Discrimination in Employment Act, 1967 (ADEA)**—Federal law that *protects employees 40 years of age and older* from discrimination with respect to any term, condition, or privilege of employment, including but not limited to hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training. The Act applies to the federal government and private employers with *20 or more employees*.

**◇ Age Discrimination in Employment Act (ADEA) ◇****Enforcement Agency:** U.S. Equal Employment Opportunity Commission (EEOC)**Filing Agency** (Where to file report): CAWRI—EEOC**Statute of limitations for filing a report:** 300 days after the incident occurred.**Contact Person:** Rob Lisec, CAWRI

Telephone—(312)596-7240, Fax—(312)353-2327

Monique Debusmann, EEOC

Telephone—(312)886-0435, Fax—(312)886-1168

**Americans with Disabilities Act, 1990 (ADA), Title I**—Federal law that prohibits private employers having *15 or more employees* from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment. A qualified individual with a disability is defined as an individual with a disability who meets the skills, education, experience, and other job-related requirements of a position held or desired, and can perform the functions of a job. Under the ADA, an employer must also provide reasonable accommodations to qualified individuals with disabilities.

**◇ Americans with Disabilities Act (ADA) ◇****Enforcement Agency:** U.S. Equal Employment Opportunity Commission (EEOC)**Filing Agency** (Where to file report): CAWRI—EEOC**Statute of limitations for filing a report:** 300 days after the incident occurred.**Contact Person:** Rob Lisec, CAWRI

Telephone—(312)596-7240, Fax—(312)353-2327

Monique Debusmann, EEOC

Telephone—(312)886-0435, Fax—(312)886-1168

**Immigration and Nationality Act, 1952 (INA)**—Federal law with anti-discrimination provisions that prohibits employment discrimination based on citizenship status and national origin. The Act also protects employees from document abuse (when an employer requires employees to show more documents than are legally required or rejects valid documents that appear genuine).

◇ **Immigration and Nationality Act (INA)** ◇

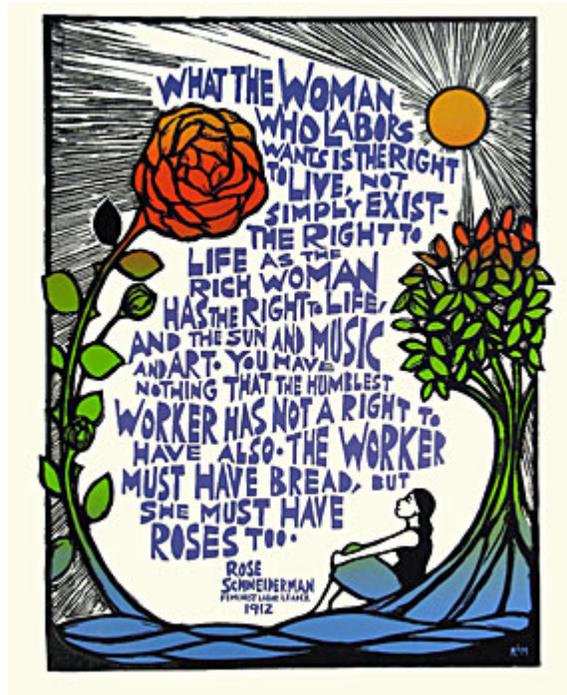
**Enforcement Agency:** Office of Special Counsel for Immigrant-Related Unfair Employment Practices (OSC), U.S. Department of Justice

**Filing Agency** (Where to file charge): OSC

**Statute of limitations for filing a charge:** 180 days after the incident occurred.

**Contact Person:** General Line—(800)255-7688

👤 **NOTE:** *Undocumented workers cannot file charges with the OSC because they are not protected under this law.*



## Discrimination Action Guide

*For discrimination cases, there are several potential courses of action from which workers can choose.*

*If workers choose the administrative route of action, you should file a complaint with CAWRI, who will then refer the case to the Equal Employment Opportunity Commission (EEOC). Make sure workers are aware that this process often takes over one year, and that we cannot guarantee a positive outcome.*

*The action guide that follows outlines the typical course of action for discrimination cases, which includes filing an administrative complaint and, occasionally, referral to a private attorney.*

### Pre-screening:

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*Criteria for case to be considered for action:*

- The discriminatory act occurred *no more than 300 days* from the date that the charge is signed by the worker.
- A *group of workers* is involved.
  - 🧠 NOTE: *We accept individual cases for sexual harassment and for those who are the only representative of a group protected under discrimination law.*
- Worker(s)' discrimination relates to at least one of the following terms and conditions of their employment: *pay, hours, work assignment, hiring, firing, promotions, layoffs, creation of a hostile work environment.*
- Worker(s) who have experienced discrimination on the basis of at least one of the following: *race, national origin, age, gender, religion, or disability.*
- Worker(s) have *evidence* of the discriminatory act (i.e., witness testimonies, pay stubs, work schedule, time cards, worker's written records of discriminatory act, etc.).

### Step 1: Discuss all potential courses of action with worker(s)

---

*Emphasize to workers that there are many ways they can address their discrimination problem. Potential courses of action include:*

- Filing an administrative complaint with CAWRI (for discrimination cases, this always must precede filing a lawsuit with a private attorney)
- Legal action with a private attorney
- Union organizing

### Step 2: File a complaint with CAWRI

---

*If workers choose this course of action, fax the following to Rob Lisec at the USDOL (Fax # 312-353-2327):*

- Print-out of FileMaker Pro case record (Pages 1-3).
- Typed, detailed description of the discriminatory act(s).
- Supporting evidence for the case (i.e., witness testimonies, pay stubs, work schedule, time cards, worker's written records of discriminatory act, etc.).

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### Step 3: Schedule appointment with the EEOC

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For **groups** of workers, call Monique Debusmann at the EEOC to schedule an appointment.

For **individual** workers, call the general EEOC line to schedule an appointment.

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### Step 4: Refer the workers' case to a private attorney

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Many discrimination cases are resolved through a money settlement or mediation session with the EEOC. However, in some instances, the EEOC will not resolve the case, but instead grant a "right to sue" notice. If this happens, you can then refer their case to a private attorney through our legal clinic.

 NOTE: Sometimes, you may refer workers to a private attorney before the EEOC grants a "right to sue" notice. Attorneys are often very helpful in guiding workers through the EEOC investigation.

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### Step 5: Union organizing

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If a majority (or strong minority) of workers are committed to long-term improvements in their workplace, they may be interested in organizing a union. A union contract can be workers' strongest tool to secure rights and benefits not provided for by the law.

Keep in mind that legal action and administrative complaints can be used as leverage in a union organizing campaign, so union organizing might be the first step.

 NOTE: See "Unions" section for more information.

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### Follow-up:

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Advise the workers to . . .

- Respond promptly to all letters and correspondences from the EEOC. These materials are generally time sensitive.
- Share with you all letters and other forms of correspondence they receive from the EEOC. Offer to translate and make copies of all materials.
- Call their investigator if they do not receive a letter from the EEOC within a month. If the workers are unsuccessful in contacting someone at the EEOC, then you can call on the workers' behalf.
- Inform you and their investigator of any changes in their contact information (telephone number, address, etc.).

Periodically call workers to remain updated on their case.

## Health and Safety

*Many employees work under conditions that are hazardous to their health and safety, particularly those who work in manufacturing, construction, and the service sector. In 2002 alone, 190 worker fatalities were reported in Illinois. Latinos have the highest fatality rate of any racial or ethnic group in the state, reporting 2.7 deaths per 100,000 Latino workers, which is 35% higher than the fatality rate of all Illinois workers.<sup>3</sup> Furthermore, 13.2% of the employed Latino population in Illinois reported being injured on the job in 2002.<sup>4</sup>*

*This section includes an overview of the laws and enforcement agencies and an action guide for how workers can address health and safety issues.*



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<sup>3</sup> Bureau of Labor Statistics, National Census of Fatal Occupational Injuries, 1992-2003. (Excluding September 11 fatalities). Prepared by: AFL-CIO Safety and Health Department, September 2004.

<sup>4</sup> Bureau of Labor Statistics, National Census of Occupational Injuries, 1992-2002. Prepared by: Governor Rod Blagojevich's Latino Worker Health and Safety Panel, 2004.

## Health and Safety Laws

**Occupational Safety and Health Act, 1970 (OSHA)**—Federal law that entitles employees to safe and healthy working conditions. The Act entitles most employees to *paid* training, *free* personal protective equipment, access to medical and exposure records, and notification of health and safety hazards in the workplace. The Act also includes provisions that allow employees to file complaints and have government inspections for unsafe/unhealthy working conditions. One of OSHA's key provisions is that the name of the employee who files a complaint *will not* be provided to the employer.

### ◇ Occupational Safety and Health Act (OSHA) ◇

**Enforcement Agency:** U.S. Occupational Safety and Health Administration (OSHA)

**Filing Agency** (Where to file report): CAWRI—OSHA

**Statute of limitations for filing a complaint:** 6 months after the violation occurred.

**Contact Person:** Rob Lisec, CAWRI

Telephone—(312)596-7240, Fax—(312)353-2327

Angie Loftus, OSHA (Des Plaines, IL)

Telephone—(847)803-4800, Fax—(847)390-8220

Julie Baker, OSHA (Calumet City, IL)

Telephone—(708)891-3800, Fax—(708)869-9659

**Toxic Substances Disclosure Act, 1983**—Illinois state law that entitles employees to information about toxic substances they are exposed to in the workplace and to educational programs that promote awareness about substance hazards.

### ◇ Toxic Substances Disclosure Act ◇

**Enforcement Agency:** Illinois Department of Labor (IDOL)

**Filing Agency** (Where to file report): CAWRI- IDOL

**Statute of limitations for filing a complaint:** 180 days after the violation occurred.

**Contact Person:** Rob Lisec, CAWRI

Telephone—(312)596-7240, Fax—(312)353-2327

Mark Fisher, IDOL

Telephone—(312)793-2828, Fax—(312)814-1210

## Health and safety Action Guide

*For health and safety cases, there are several options you can explain to workers so they decide how to best address their situation.*

*If workers choose the administrative route of action, you should file a complaint with CAWRI, who will then refer the case to the Occupational Safety and Health Administration (OSHA).*

*The action guide that follows outlines the typical course of action for health and safety cases, which includes a mix of filing an administrative complaint, direct action, and occasionally referral to a private attorney.*

### **Pre-screening:**

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*Criteria for case to be considered for action:*

- A group of workers (2 or more) are involved.
- For a formal complaint to be filed, the workers must be *currently employed* where the health and safety violation occurred or have stopped working *less than 30 days of when the report is filed*.



*NOTE: Anyone can file an OSHA complaint within 180 days of when the violation occurred; but if the file date is more than 30 days after the violation occurred, it will be filed as an inquiry, not a formal complaint.*

### **Step 1: Discuss all potential courses of action with worker(s)**

---

*Emphasize to workers that there are many ways they can address their health and safety problem. Potential courses of action include:*

- Direct action
- Filing an administrative complaint with CAWRI
- Legal action with a private attorney
- Union organizing

### **Potential Step 2: Direct action**

---

*If the workers choose this option, develop a strategy for direct action. Workers should lead the process. Advocates, community and religious leaders, and/or Chicago Interfaith staff should help workers develop a strategy and participate in the tactics workers choose.*

*The tactics used may include: a prayer vigil, a press conference with local media, religiously symbolic actions, holding a rally outside of the workplace during which workers offer public testimonies of the wage theft, a boycott of the business, or other creative tactics.*



*NOTE: See “Direct Action Organizing” section for further information on strategy and choosing tactics.*

---

### **Potential Step 2: File a complaint with CAWRI**

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*If workers choose this course of action, fax the following to Rob Lisee at the USDOL (Fax # 312-353-2327):*

- Print-out of FileMaker Pro case record (Pages 1-3)
- Typed, detailed description of the health and safety problem(s)
- Supporting evidence for the case (i.e. witness testimonies, photographs of injuries, hospital bills, doctors notes, etc.)

*Generally, workers will receive a telephone call from an OSHA representative within 3-5 days of filing a charge. The OSHA representative will ask for further information and supporting evidence. You may assist the worker(s) in providing the OSHA representative with information on their case.*

---

### **Potential Step 2: Refer the workers' case to a private attorney**

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*If workers choose this course of action, refer workers to our legal clinic, where they can consult an attorney, who will offer informal advice or represent them in a private lawsuit.*

---

### **Potential Step 2: Union organizing**

---

*If a majority (or strong minority) workers are committed to long-term improvements in their workplace, they may be interested in organizing a union. A union contract can be workers' strongest tool to secure rights and benefits not provided for by the law.*

*Keep in mind that legal action and administrative complaints can be used as leverage in a union organizing campaign, so union organizing might be the first step.*

 NOTE: See "Unions" section for more information.

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### **Follow-up**

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*Advise the workers to . . .*

- Respond promptly to all letters and telephone correspondences from the OSHA representative.
- Share with you all letters and other forms of correspondence they receive from the OSHA representative. Offer to translate and make copies of all materials.
- Call OSHA if they do not receive a letter or telephone call from an OSHA representative within a week. If the workers are unsuccessful in contacting someone at the OSHA office, you can call on the workers' behalf.
- Inform you and their investigator of all changes in their contact information (telephone number, address, etc.).

*Periodically call workers to remain updated on their case.*

## Family and Medical Leave

*Until recently, workers were not legally entitled to any medical leave from work, for the birth of a child, chronic illness, to care for a sick family member, or other medical issues. Instead, leave was offered at the discretion of employers, whose policies were often arbitrary and put caregivers at risk of losing their jobs for caring for themselves and sick family members. To accommodate mainly working mothers, who now comprise approximately half of the U.S. workforce (47%), workers now are entitled to time off for a variety of medical reasons.*

*Many workers who come to IWRC do not know that they are entitled to medical leave, and many employees continue to deny workers this right. You can both educate workers about their legal rights and assist them in taking action when employers that deny them medical leave.*

*This section includes an overview of the law and enforcement agency, as well as an action guide for addressing violations of family and medical leave law.*



## Family and Medical Leave Law

**Family and Medical Leave Act, 1993 (FMLA)**—Federal law that allows employees in a *workplace of 50 or more people up to 12 work weeks of unpaid leave* for one or more of the following reasons:

- the birth and care for a newborn child.
- the placement of a child for adoption or foster care and to care for the newly placed child.
- to care for an immediate family member with a serious health condition.
- the employee is unable to work because of a serious health condition.

 **NOTE:** *Individuals must have worked at least 1,250 hours in the previous 12-month to be eligible for FMLA. Individuals do not have to use all 12 weeks of leave at once if they have a serious health condition.*

### ◇ Family and Medical Leave Act (FMLA) ◇

**Enforcement Agency:** U.S. Department of Labor (USDOL)

**Filing Agency** (Where to file report): CAWRI—USDOL

**Statute of limitations for filing a report:** 2 years after the violation occurred; 3 years for willful violations of the Act.

**Contact Person:** Rob Lisec, CAWRI

Telephone—(312)596-7240, Fax—(312)353-2327

## Family and Medical Leave Action Guide

*For family and medical leave cases, there are several options you can explain to workers so they decide how to best address their situation.*

*If workers choose the administrative option, you should file a complaint with CAWRI, who will then refer the case to the Department of Labor Wage and Hour Division.*

*The action guide that follows outlines the typical course of action for medical leave cases, which includes a mix of filing an administrative complaint, direct action, and occasionally referral to a private attorney.*

### **Pre-screening:**

---

*Criteria for case to be considered for action:*

- The FMLA violation occurred *no more than 180 days* of when the complaint will be filed.
- *One or more workers* are involved (does not have to be a group of workers).
- Worker(s) requested leave for one or more of the following reasons:
  - *the birth and care of a newborn child*
  - *the placement with the employee of a child for adoption or foster care, and to care for the newly placed child*
  - *care of an immediate family member with a serious health condition*
  - *the employee is unable to work because of a serious health condition*
- Worker(s) have *evidence* of the violation (i.e.- copy of written request for medical leave, relevant medical records, etc.).

### **Step 1: Discuss all potential courses of action with worker(s)**

---

*Emphasize to workers that there are many ways they can address their medical leave problem. Potential courses of action include:*

- Direct action
- Filing an administrative complaint with CAWRI
- Legal action with a private attorney
- Union organizing

### **Potential Step 2: Direct action**

---

*If the workers choose this option, develop a strategy for direct action. Workers should lead the process. Advocates, community and religious leaders, and/or Chicago Interfaith staff should help workers develop a strategy and participate in the tactics workers choose.*

*The tactics used may include: a prayer vigil, a press conference with local media, religiously symbolic actions, holding a rally outside of the workplace during which workers offer public testimonies of the wage theft, a boycott of the business, or other creative tactics.*

 **NOTE:** See “Direct Action Organizing” section for further information on strategy and choosing tactics.

**Potential Step 2: File a complaint with CAWRI**

---

*If workers choose this course of action, fax the following to Rob Lisec at the USDOL (Fax # 312-353-2327):*

- Print-out of FileMaker Pro case record (Pages 1-3).
- Typed, detailed description of the medical leave violation.
- Supporting evidence for the case (copy of written request for medical leave, relevant medical records, etc.).

**Potential Step 2: Refer the workers' case to a private attorney**

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*If workers choose this course of action, refer the workers to our legal clinic, where they can consult an attorney, who will offer informal advice or represent them in a private lawsuit.*

**Potential Step 2: Union organizing**

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*If a majority (or strong minority) of workers are committed to long-term improvements in their workplace, they may be interested in organizing a union. A union contract can be workers' strongest tool to secure rights and benefits not provided for by the law. Workers can negotiate legally binding contracts with employers that, for example, could offer family and medical leave in workplaces with fewer than 50 workers, longer periods of leave, or paid sick days, maternity and paternity leave, and family care leave.*

*Keep in mind that legal action and administrative complaints can be used as leverage in a union organizing campaign, so union organizing might be the first step.*

 **NOTE:** See "Unions" section for more information.

**Follow-up**

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*Advise the workers to . . .*

- Respond promptly to all letters and correspondence from the U.S. DOL. These materials are sometimes time sensitive.
- Share with you all letters and other forms of correspondence they receive from the U.S. DOL. Offer to translate and make copies of all materials.
- Call their investigator if they do not receive a letter from the U.S. DOL within a month. If the workers are unsuccessful in contacting someone at the U.S. DOL, then you can call on the workers' behalf.
- Inform you and their investigator of all changes in their contact information (telephone number, address, etc.).

*Periodically call workers to remain updated on their case.*

 **NOTE:** There currently is a campaign underway to mandate paid family and medical leave in Illinois. Ask other worker rights advocates for the most current information regarding this campaign.

## Workers' Compensation

*As a result of injuries on the job, many workers face expensive hospital bills and reduced earnings. While employees are entitled to compensation for injuries on the job, many do not receive it. Low-wage immigrant workers, who often must work in dangerous industrial and manufacturing jobs, are frequent victims of workers' compensation violations.*

*This section includes an overview of the law and enforcement agency, as well as a brief action guide for addressing violations of workers' compensation law.*



## Workers' Compensation Law

**Illinois Workers' Compensation Act, 2003-** State law that entitles employees who become ill or injured as a direct result of their job to receive a weekly check from their employer to cover all medical care expenses, wages (at least partially), and disability benefits. The Act also prohibits retaliation by employers (i.e., harassing, firing, etc.). Workers' Compensation was first established under the federal Workers' Compensation Act of 1913.

 **NOTE:** *You will also hear this law referred to as "Workman's Compensation."*

### ◇ Illinois Workers' Compensation Act ◇

**Enforcement Agency:** Illinois Workers' Compensation Commission (IWCC)

**Filing Agency** (Where to file): IWCC

**Statute of limitations for filing a report:** 3 years after the accident occurred, or 2 years after the last compensation payment, whichever is later.

**Contact Person:** Amy Masters

Telephone—(312)814-5990, Fax—(312)814-3520



## Workers' Compensation Action Guide

*The Interfaith Worker Rights Center invites workers who have been injured on the job to our legal clinic, where they can consult an attorney. You may also refer interested workers to the Illinois Workers' Compensation Commission, where they can apply for Workers' Compensation.*

*Beyond these potential courses of action, you can explain to workers their rights, as well as the eligibility requirements and the general application process for Workers' Compensation.*

 **NOTE:** *See also "A Guide to the Benefits Provided by the Illinois Worker's Compensation Act" by Goldberg, Weisman, and Cairo, LTD. (2003).*

## Unemployment

*Many workers who come to the Interfaith Worker Rights Center have been involuntarily fired or laid off from their jobs. In 2004, Illinois' unemployment rate hovered at approximately 6%, which was slightly higher than the national unemployment rate of 5.4%.<sup>5</sup> Fortunately, many individuals are eligible for temporary assistance from the government.*

*This section includes an overview of the law and enforcement agency, as well as a brief action guide for assisting unemployed individuals who come to IWRC.*



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<sup>5</sup> Bureau of Labor Statistics, U.S. Department of Labor. "Local Area Unemployment Statistics." <http://www.bls.gov/lau/home.htm#overview>.

## Unemployment Law

**Unemployment Insurance, (UI)**--Federal program enforced by the state agency (Illinois Department of Employment Security) that entitles employees who are involuntarily unemployed to benefit payments. Unemployment Insurance was first established under the Social Security Act of 1935 and further supported by the Federal Unemployment Tax Act (FUTA).

*To qualify, individuals must:*

- be entirely out of work or be working less than fulltime because no more work is available
- be unemployed involuntarily (with certain exceptions for individuals who are fired or quite without willfully or intentionally violating employment policy)
- have worked for an employer who is subject to the state's unemployment insurance law (agricultural, domestic, railroad work, and some government work is excluded)
- have a valid Social Security Card
- have earnings of at least \$1,600 during a recent 12-month period but less than a certain income threshold
- be able and available to work
- be actively seeking work

The amount of benefits unemployed an individual receive depends on how much s/he earns and on how much the employer pays the government in unemployment taxes. Individuals can collect Unemployment Insurance for up to *26 weeks*.

### ◇ Unemployment Insurance ◇

**Enforcement Agency:** Illinois Department of Employment Security (IDES)

**Filing Agency** (Where to file report): IDES

**Statute of limitations for filing a report:** Individual should apply as soon as s/he loses his/her job.

**Contact Person:** General Line—(312)793-5700



## Unemployment Action Guide

*IWRC refers recently unemployed individuals to the Illinois Department of Employment Security, where they can apply for Unemployment Insurance.*

*As an advocate, you can explain to workers the eligibility requirements and the general application process for Unemployment Insurance. Advise workers who decide to apply for UI to have an employer reference, and also to keep records of all jobs for which they have applied since they became unemployed (this will increase their chances of receiving Unemployment Insurance).*



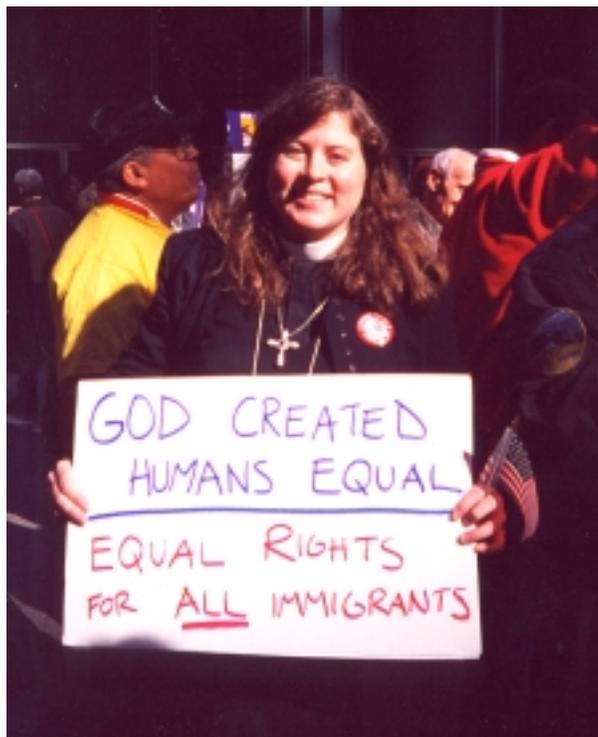
**NOTE:** *Currently, a campaign is underway in Illinois to increase eligibility and secure future funding for UI. The leaders of this campaign are: the Chicago Jobs Council, Heartland Alliance for Human Needs and Human Rights, Illinois AFL-CIO, National Center on Poverty Law, and Voices for Illinois Children, Women Employed, Work, Welfare and Families. Talk to other advocates for the most updated information on this campaign and our involvement in it.*

## Immigration

*In 2000, immigrants comprised 11% of the U.S. population and nearly 15% of the nation's labor force.<sup>6</sup> There are approximately 6 million undocumented workers in the U.S. labor force, representing approximately 5% of U.S. workers.<sup>7</sup> Immigrants, documented and undocumented, now play a crucial role in the U.S. labor force and, in large part, support our economy.*

*Most of the people who come to the Interfaith Worker Rights Center are immigrants, many of whom are unfamiliar with their legal rights, benefits, and limitations in employment, and because of their immigration status are particularly vulnerable to exploitation and abuse in their work. As an advocate, you can provide all immigrants (documented or not) with a safe space to share their experiences as workers in this country. You can also educate them about their rights so they are protected from the exploitation and abuses many immigrants experience in the workplace.*

*The section that follows includes a brief overview of the major immigration laws. It does not include action guides because **we do not communicate with the Department of Homeland Security (formerly the INS) regarding immigration matters**; instead, we seek to help all workers gain a sense of their own power, so that they, regardless of their citizenship status, might have fair and safe working conditions.*



---

<sup>6</sup> "Immigration and Immigrant Workers: The Basics." National Immigration Law Center, 2005.

<sup>7</sup> Ibid.

## Immigration Laws

*The U.S. has many laws that govern immigration, as well as dictate the rights and benefits of immigrants who work in this country. The following immigration-related laws frequently affect the workers that come to IWRC.*

**Immigration and Nationality Act, 1996 (INA)**—Federal law governing all immigration matters in the United States. The Act also includes anti-discrimination provisions that prohibit employment discrimination based on citizenship status and national origin. The Act protects employees from document abuse (when an employer requires employees to show more documents than are legally required or rejects valid documents that appear genuine). Undocumented workers are *not* protected from discrimination under this law.

### ◇ Immigration and Nationality Act (INA) ◇

**Enforcement Agency:** Office of Special Counsel for Immigrant-related Unfair Employment Practices (OSC), U.S. Department of Justice

**Filing Agency** (Where to file charge): OSC

**Statute of limitations for filing a charge:** 180 days after the incident occurred.

**Contact Person:** N/A

General Line- (800)255-7688

 **NOTE:** *Undocumented workers cannot file charges with the OSC because they are not protected under this law.*

 **NOTE:** *See also “Discrimination” section.*

**Immigration Reform and Control Act, 1986 (IRCA)**—Federal law amending the INA to control unauthorized immigration to the United States. The Department of Homeland Security (formerly INS) enforces the IRCA. The Act includes employer sanctions, increased appropriations for enforcement, and limited amnesty provisions for undocumented immigrants working in the U.S. The Act prohibits employers from *knowingly* hiring undocumented workers and requires employers to verify their employees' identity and work eligibility on the I-9 form. The Act also includes provision for the hiring of immigrants for agricultural work through the Temporary Foreign Worker Program (H-2A Program). The H-2A program allows agricultural employers to apply for “Alien Employment Certification” and requires participating employers to provide temporary employees with housing, meals, transportation, shelter, tools and supplies, at least three-quarters time work, and wages comparable to those of U.S. citizens.

**Illegal Immigration Reform and Immigration Responsibility Act, 1996 (IIRIRA)**—Federal law enforced by the Department of Homeland Security (formerly INS) that includes: increased criminal penalties for immigration-related offenses, authorization for increased border enforcement, and restrictions of public benefits access for immigrants. The Act contains measures designed to enhance INS presence and enforcement at U.S. borders and provisions for the expedited removal of undocumented immigrants from the U.S. IIRIRA restricts the eligibility of immigrants for public benefits by requiring proof of citizenship for receipt of Temporary Aid to Needy Families (TANF) and most other social programs, and by requiring verification of immigration status for receipt of Social Security and higher-educational assistance.

 **NOTE:** *See “Issue Brief” on the 2002 Supreme Court decision *Hoffman Plastics Compounds, Inc. v. NLRB*, on the next page for important changes of the rights of undocumented workers to receive back pay.*

## NATIONAL IMMIGRATION LAW CENTER

### Issue Brief: WORKPLACE RIGHTS OF UNDOCUMENTED WORKERS AFTER THE SUPREME COURT'S *HOFFMAN PLASTIC* RULING

April 2004

On March 27, 2002, the Supreme Court ruled in *Hoffman Plastic Compounds, Inc. v. NLRB*, that undocumented workers who are illegally fired for engaging in union organizing activities are not entitled to receive back pay wages, the only monetary remedy available under the National Labor Relations Act (NLRA). The *Hoffman* decision was limited to undocumented workers' right to back pay under the NLRA, but employers have attempted to extend the ruling to other employment and labor laws. As such, it is as critical as ever that workers and advocates on behalf of low-wage immigrant workers know about the workplace rights of undocumented workers, and are educated on how to safeguard against employers who try to use the judicial process to inquire about workers' immigration status and retaliate against them by contacting immigration authorities.

**Right to Unionize and Organize for Better Working Conditions.** According to the National Labor Relations Board (NLRB), *Hoffman* does not change the fact that undocumented workers are employees under the NLRA, and thus are protected from unfair labor practices. However, the *Hoffman* decision means that such workers are not entitled to back pay if an employer engages in unfair labor practices, regardless of whether the employer knew the worker was undocumented at the hiring stage. Moreover, the clarifying memorandum by the NLRB after *Hoffman* leaves open the question of whether back pay is available to undocumented workers who have been demoted. Nonetheless, all workers regardless of immigration status still have the right to engage in collective bargaining and to unionize for better working conditions. In addition, unions have a duty of fair representation to all workers regardless of immigration status.

An important note is that after *Hoffman*, the NLRB clarified that a worker's immigration status is only relevant after the employer is found liable. Even then, all employees are presumed authorized to work, and the NLRB regional agents are directed not to inquire on their own into a worker's immigration status. To raise the issue as a means of limiting back pay, an employer must provide evidence that it now knows or has reason to know the worker is undocumented. Only then will the NLRB investigate and give the union and workers an opportunity to respond. Although the issue of the worker's immigration status may be brought up during an unfair labor practice complaint, workers and advocates should refuse to offer such information by citing to the NLRB's post *Hoffman* clarifying memorandum.<sup>1</sup>

**Right to Minimum Wage and Overtime Pay.** Despite the *Hoffman* decision, all employees, regardless of immigration status, continue to be protected by the Fair Labor Standards Act (FLSA) and state wage and hour laws for "work already performed." Similarly, *Hoffman* does not affect protections concerning pay, working conditions, and work-related conditions provided to migrant and seasonal farm workers under the Migrant and Seasonal Agricultural Worker Protection Act (AWPA). These laws give all workers, regardless of immigration status, the right to collect payment of wages they actually earned but were not paid because the employer failed to pay minimum wage or overtime premiums. However, the one area in which the *Hoffman* decision has created uncertainty is whether courts will find that undocumented workers are entitled to back pay under the FLSA for periods when such workers were not employed, for example compensation for the period when workers are unemployed because of their employers' illegal retaliation.

<sup>1</sup> See NLRB Memorandum, [www.nilc.org/immsemplmnt/emprights/Memo\\_GC\\_02-06.pdf](http://www.nilc.org/immsemplmnt/emprights/Memo_GC_02-06.pdf).



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## NATIONAL IMMIGRATION LAW CENTER

In addition to wage and hour rights, undocumented workers are protected by the FLSA's anti-retaliation provision, which provides that employers cannot retaliate against workers who exercise their right to file a suit under the FLSA. This includes employers who contact immigration authorities to retaliate against employees who file complaints. In fact, the Department of Labor (DOL) has entered into a Memorandum of Understanding with the INS (Immigration and Naturalization Service, which is now the Department of Homeland Security, or DHS) establishing that the DOL will not report the undocumented status of workers discovered during an investigation triggered by a complaint made by an employer when there is a labor dispute.<sup>2</sup>

An important point about these anti-retaliation protections is that if an employer does report an undocumented worker to the DHS in retaliation for filing a FLSA or any other employment or labor claim, the worker receives no preferential treatment from DHS, i.e. the employer's action does not rescind deportation, nor does it bar the DHS from placing the worker in deportation proceedings. However, legal advocates should seek motions to suppress evidence of immigration status in deportation proceedings. Similarly, it is critical that advocates seek protective orders and other litigation tools to prevent the disclosure of immigration status.<sup>3</sup> Lastly, it is important to note that DHS has issued field guidance stating that whenever information received from any source creates a suspicion that immigration enforcement involves DHS in a labor dispute, enforcement officers must try to determine whether a labor dispute is in progress.<sup>4</sup> An immigration judge in New York recently terminated (cancelled) deportation proceedings against 2 workers on the basis that DHS violated these guidance instructions when apprehending the workers.<sup>5</sup>

**Right to Be Free from Workplace Discrimination.** After *Hoffman*, the Equal Employment Opportunity Commission (EEOC), which enforces the Americans with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), Equal Pay Act, and Title VII of the Civil Rights Act (which prohibits employment discrimination based on race, national origin, gender, and religion), reaffirmed that undocumented workers are covered by these federal employment discrimination laws.<sup>6</sup>

While the EEOC has taken the position that *Hoffman* precludes back pay remedies under these statutes, like the NLRB (see above) the EEOC has limited inquiries into workers' immigration status by concluding that immigration status might be relevant in determining remedies but has no bearing on liability. In addition, and again mirroring the NLRB's policy, the EEOC has stated that it will not on its own initiative inquire into a worker's immigration status, nor will it consider an individual's immigration status when examining the underlying merits of a complaint. The first post-*Hoffman* appellate court decision on the issue of inquiring into immigration status of plaintiffs who file discrimination claims affirmed the EEOC's position. In *Rivera v. NIBCO, Inc.*, the Ninth Circuit stated, "the chilling effect that the disclosure of plaintiffs' immigration status could have upon their ability to effectuate their rights . . . outweighed

<sup>2</sup> See DOL Memorandum of Understanding, [www.nilc.org/immsemplymnt/emprights/MOU.pdf](http://www.nilc.org/immsemplymnt/emprights/MOU.pdf). The DOL may, however, report the undocumented status of workers in an investigation not prompted by a specific complaint, i.e. a random investigation into an industry (such as poultry factories) known from wage and hour violations.

<sup>3</sup> For sample protective order requests, see [www.nilc.org/immsemplymnt/index.htm](http://www.nilc.org/immsemplymnt/index.htm).

<sup>4</sup> Operations Instruction 287.3a, redesignated as Transmittal Memo (SA 00-01), M-490 Special Agent's Field Manual, Dated 4/28/00, available [www.nilc.org/immsemplymnt/emprights/Revised\\_Op\\_Inst.pdf](http://www.nilc.org/immsemplymnt/emprights/Revised_Op_Inst.pdf).

<sup>5</sup> In the Matter of Herrera-Priego, USDOJ EOIR (July 10, 2003). For a copy of this decision, contact the National Immigration Law Center.

<sup>6</sup> See EEOC Guidance, [www.nilc.org/immsemplymnt/emprights/EEOC\\_Reaffirms\\_Commitment.pdf](http://www.nilc.org/immsemplymnt/emprights/EEOC_Reaffirms_Commitment.pdf). However, at least one court has questioned an undocumented worker's standing (or legal ability) to bring an ADA claim. See *Lopez v. Superflex, Ltd.*, 13 Am. Disabilities Cas. (BNA) 1339 (2002).

## NATIONAL IMMIGRATION LAW CENTER

NIBCO's interests in obtaining the information."<sup>7</sup> The court found that were such discovery to be permitted, "countless acts of illegal and reprehensible conduct would go unreported."

**Right to a Healthy and Safe Working Environment.** The DOL after *Hoffman* reaffirmed that all workers, regardless of immigration status, continue to be protected by the Occupational Safety and Health Act (OSHA), and the Mine Safety and Health Act. This means that undocumented workers have the right to complain about unsafe workplace conditions.

When a worker needs to be out of work due to a workplace injury, the only recourse available is the state's workers' compensation system. There has been an onslaught of litigation post *Hoffman* on the issue of undocumented workers' rights to workers' compensation. Often the arguments focus on whether *Hoffman* means that the state is pre-empted from covering undocumented workers by its workers' compensation law. No state court has held that *Hoffman* pre-empts state workers' compensation. Some states (such as Oklahoma and Massachusetts) have ruled that employees, regardless of immigration status, have a right to be fully compensated under state workers' compensation laws. However, other court rulings post *Hoffman* have impacted undocumented workers' entitlement to wage replacement and vocational rehabilitation benefits. At least two state courts (Pennsylvania and Michigan) have ruled that while undocumented workers are entitled to medical benefits, their right to disability benefits for wage loss may be limited.<sup>8</sup>

It is extremely critical to note that in many cases, the worker's status enters the record unnecessarily. It is crucial to educate workers about the importance of remaining silent about such questioning and to let them know that they have affirmative rights if they were wronged, discriminated against, or are injured on the job. Similarly, advocates must do their best to ensure that immigration status information does not get into the record or pleadings.<sup>9</sup>

Some court cases have limited the potentially damaging impact of *Hoffman*. It is important for immigrant and workers' rights advocates to continue organizing to curtail any further erosion of low-wage immigrant workers' rights, and to help workers assert the rights they clearly have.

*This document should not be used as a substitute for legal advice. Contact an employment, labor, and/or immigration attorney if you are considering legal action.*

<sup>7</sup> *Rivera v. NIBCO, Inc.*, \_\_ F.3d \_\_, 2004 U.S. App. LEXIS 7119 (9th Cir. April 13, 2004).

<sup>8</sup> The Pennsylvania court held that unlawful immigration status might justify terminating benefits for temporary total disability. *The Reinforced Earth Co. v. Workers' Compensation Appeal Bd.*, 810 A.2d 99 (Pa. Sup. Ct. 2002). The Michigan court held that undocumented workers are covered by the state workers' compensation system, but denied such workers' time loss benefits based on the fact that state law disallowed such benefits to individuals unable to work because of commission of a crime. *Sanchez v. Eagle Alloy*, 658 N.W.2d (Mich. Ct. App. 2003). The Michigan and Massachusetts decisions are on appeal. Another court decision regarding undocumented workers' access to workers' compensation is pending in Maryland.

<sup>9</sup> Advocates should cite *Rivera v. NIBCO, Inc.*, *supra* note 7, the recent Ninth Circuit decision on an interlocutory appeal concerning a discovery dispute where the court barred the employer's discovery of plaintiffs' immigration status in a discrimination suit. The *Rivera* briefs can be obtained by contacting NILC, which is co-counsel on this case.

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**No human being is illegal!**

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## SSA "No-Match"

*Every year, thousands of U.S. workers receive "No-Match" letters from the Social Security Administration (SSA). An SSA "No-Match" letter is sent when the name or Social Security number listed on the employee's W-2 form do not agree with the SSA's records. In 2002 alone, the SSA sent 950,000 "No-Match" letters to employees and employers. As a result, thousands of workers, especially low-wage immigrant workers, lost their jobs. Many employers fire workers who receive "No-Match" letters because they fear retribution from INS or the Department of Homeland Security.*

*In response to the public outcry from the labor and immigrant rights communities, and because the practice proved ineffective, in December of 2002, the SSA changed its "No-Match" letter policy. The SSA now sends letters only to employers who report a "no-match" for more than 10 employees, and who's mismatched records account for .5% or more of their total earnings. The SSA estimates that this new policy will substantially decrease the number of "No-Match" letters sent out to employers.*

*No employer can legally fire a worker due to SSA "No-Match." As an advocate, you can help all workers, regardless of citizenship status, keep their jobs.*

*The section that follows provides an action guide for helping workers and their employers respond appropriately to SSA "No-Match" letters and a informational packet to send to employers.*



## Social Security Administration (SSA) “No-Match” Action Guide<sup>8</sup>

### Step 1: Obtain essential information

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- A copy of the original SSA “No-Match” letter.
- A list of all workers who received SSA “No-Match” letters (as complete as possible).

### Step 2: Educate workers about SSA “No-Match”

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*Make sure that all workers know the facts about SSA “No-Match” and understand their rights:*

- **SSA is *not* an enforcement agency**, nor is it associated with the INS/Department of Homeland Security, which handle immigration issues.
- **“No-Match” letters are sent only to give employees the opportunity to correct information** submitted to the SSA so their Social Security withholding can be appropriately allocated.
- **“No-Match” letters are a private matter** between the SSA and individual employees. Under the law, employees do not have to discuss with their employer how they will respond to the “No-Match” letter.
- **Employers who receive “No-Match” letters are only entitled to distribute the letters** to their employees and keep them on file.
- **A “No-Match” letter does *not* warrant an employer disciplining or firing** an employee. The “No-Match” letter states that employers are not supposed to “take adverse action” against employees who receive a “No-Match” letter. In fact, an employer who does so may be violating anti-discrimination laws. However, it is important to emphasize to workers that it is difficult to make this case, and that at-will employees can always be fired without justification.

*Advise workers who receive “No-Match” letters to do the following:*

- Respond to their employer’s questions about their “No-Match” letter by saying, “Thanks. I’ll look into this.”
- Union members should contact their union representative and ask them to resolve the issue.
- Do *not* resubmit a different Social Security number or work papers.
- Do *not* reveal their citizenship status if undocumented.

### Step 3: Educate the employer about SSA “No-Match”

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*If workers choose, you can call their employer to ensure that they know the facts about SSA “No-Match.” In your telephone conversation, be sure to emphasize the following:*

- **No-Match” letters are a private matter** between the SSA and individual employees. Under the law, employees do not have to discuss with their employer how they will respond to the letter.
- **A “No-Match” letter is *not* proof that worker is undocumented**; it is merely notification of a discrepancy between the employer’s and the SSA’s records. No other employer action is required or recommended (other than alerting the employee of the discrepancy).
- **The SSA has *no* enforcement or reporting powers** related to immigration law.

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<sup>8</sup> Sources: Equal Justice Center, <http://www.equaljusticecenter.org>; National Employment Law Project, <http://www.nelp.org>; and National Immigration Law Center, <http://www.nilc.org>.

- **Employers who receive “No-Match” letters are *only* entitled to distribute the letters** to their employees and keep the letters on file.
- **A “No-Match” letter does *not* warrant an employer disciplining or firing** an employee. The “No-Match” letter states that employers are not supposed to “take adverse action” against employees who receive a “No-Match” letter. In fact, an employer who does so may be violating anti-discrimination laws.

 **NOTE:** *Some workers might prefer that you send their employer information about SSA “No-Match” letters. In this case, you can fax or mail the employer our “SSA No-Match Packet for Employers.”*

#### **Step 4: Develop a rapid-response plan**

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*If the employer has threatened adverse action or already has taken adverse action based on the “No-Match” letter, consider the following actions:*

- Organize a delegation of workers, clergy, and worker rights advocates to meet with the employer.
- Educate and engage elected officials to write letters or take part in a delegation.
- Union members should file a grievance immediately if they are fired or subject to other retaliatory action.
- Refer the worker to our legal clinic, where s/he can consult a private attorney.

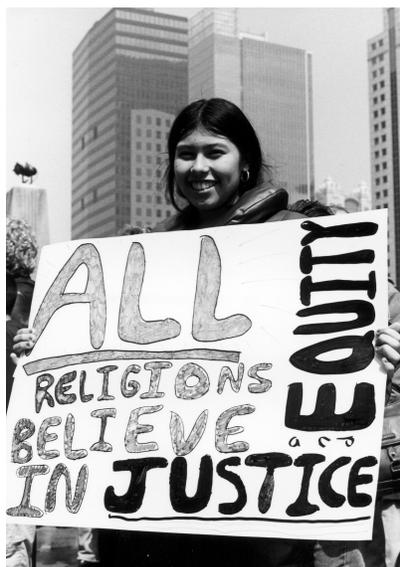
#### **Follow-up**

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*Advise the workers to. . .*

- Respond promptly to all letters and correspondences from the SSA and their employer.
- Share with you all letters and other forms of correspondence they receive. Offer to translate and make copies of all materials.
- Inform you of all changes in their contact information (telephone number, address, etc.).

*Periodically call workers to remain updated on their case.*



 **Sample letter to be sent to employer who threatened firing worker who received a “No-Match” letter.**

February 1, 2005

Re: Social Security “No-Match” Letters

(Employer Address)

Dear \_\_\_\_\_(Name of Employer)\_\_\_\_\_:

I am contacting you on behalf of the Interfaith Worker Rights Center (IWRC) regarding your company’s stated intent to dismiss employees on \_\_\_\_\_(date)\_\_\_\_\_ due to the receipt of Social Security “No-Match” letters. We have been in contact with the affected workers and wish to share with you the information we have collected regarding this issue. Helping workers and employers appropriately respond to SSA “No-Match” letters is one of the many ways our faith-based organization, in collaboration with religious leaders across the Chicago metro area, works to support justice in the workplace.

“No-Match” letters are not grounds for dismissal of employees. The Social Security Administration does not enforce immigration laws and these letters should not be interpreted as proof that a worker is in violation of those laws. Additionally, dismissal of employees may constitute discrimination on the basis of race, ethnicity, and national origin, in violation of state and federal laws. The employer has no obligation to respond to the Social Security Administration’s “No-Match” letters. The employer should simply notify the employee about the discrepancy. Please see the attached *SSA “NO-Match” Packet for Employers* for further information.

To summarize, your responsibility as an employer is as follows:

1. Give a copy of the letter to the affected employees and suggest that they visit the Field Office of the Social Security Administration in order to correct any mistakes in the documentation.
2. Make a note in their employee files stating that you performed the above step (you do not need to change your employment documents)

We urge you, in accordance with the guidelines of the SSA, Illinois Attorney General, National Immigration Law Center, and the Chicago Interfaith Committee on Worker Issues, to not dismiss your workers without re-verifying their social security documentation.

We understand that receiving “No-Match” letters can be a confusing and worrisome experience for employers. We appreciate your willingness to learn the facts regarding SSA “No-Match” and anticipate that you will reconsider your decision to dismiss the affected employees. Please contact us if you have any further questions or concerns.

Sincerely,

Teran E. Loeppke  
Worker Rights Advocate  
Interfaith Worker Rights Center (IWRC)/ Chicago Interfaith Committee on Worker Issues

 **Sample letter to be sent to employer who has fired worker who received a “No-Match” letter.**

February 1, 2005

Re: Social Security “No-Match” Letters

(Employer Address)

Dear \_\_\_\_ (Name of Employer) \_\_\_\_:

I am contacting you on behalf of the Interfaith Worker Rights Center (IWRC) regarding your company’s recent dismissal of employees on \_\_\_\_ (date) \_\_\_\_ due to the receipt of Social Security “No-Match” letters. We have been in contact with the affected workers and wish to share with you the information we have collected regarding this issue. Helping workers and employers appropriately respond to SSA “No-Match” letters is one of the many ways our faith-based organization, in collaboration with religious leaders across the Chicago metro area, works to support justice in the workplace.

“No-Match” letters are not grounds for dismissal of employees. The Social Security Administration does not enforce immigration laws and these letters should not be interpreted as proof that a worker is in violation of those laws. Additionally, dismissal of employees may constitute discrimination on the basis of race, ethnicity, and national origin, in violation of state and federal laws. The employer has no obligation to respond to the Social Security Administration’s “No-Match” letters. The employer simply should notify the employee about the discrepancy. Please see the attached *SSA “NO-Match” Packet for Employers* for further information.

After reinstating your workers, your responsibility as an employer is as follows:

1. Give a copy of the letter to the affected employees and suggest that they visit the Field Office of the Social Security Administration in order to correct any mistakes in the documentation.
2. Make a note in their employee files stating that you performed the above step (you do not need to change your employment documents).

We urge you, in accordance with the guidelines of the SSA, Illinois Attorney General, National Immigration Law Center, and the Chicago Interfaith Committee on Worker Issues, to reinstate your workers without re-verifying their social security documentation.

We understand that receiving “No-Match” letters can be a confusing and worrisome experience for employers. We appreciate your willingness to learn the facts regarding SSA “No-Match” and anticipate that you will reconsider your decision to dismiss the affected employees. Please contact us if you have any further questions or concerns.

Sincerely,

Antonia Dempsey, Worker Rights Advocate  
Interfaith Worker Rights Center (IWRC)  
Chicago Interfaith Committee on Worker Issues



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**Social Security Administration  
"No-Match" Letter  
Packet for Employers**

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 NOTE: *You can photocopy the pages included in this packet and mail them directly to employers.*



Dear Employer:

My name is Katherine Bissell and I am the director of the Chicago Interfaith Committee on Worker Issues. Our organization has been in contact with the Legal Assistance Foundation of Metropolitan Chicago (LAFMC) about dealing with the Social Security Administration (SSA) no-match letters sent to employees by the agency. I am writing to provide you with our understanding of the meaning of these letters for both employers and employees.

The purpose of a no-match letter is to notify an employer when a reported employee's name or Social Security number does not match the SSA's records. This letter is intended only to help SSA make sure its records are accurate and to ensure that the agency properly credits the employees' earning. Such efforts ensure the proper determination by the SSA of an employee's benefit amount when he or she applies for Social Security benefits in the future.

SSA's no-match letter does not provide employers with the basis to take any adverse action against employees listed. Because of many employers' confusion about what steps they are required to take upon receipt of a no-match letter, as well as some employers' use of these letters to retaliate against employees who attempted to assert their workplace rights or were involved in protected union activities, SSA issued a modified letter. The new version of the letter contains language warning employers that if they take adverse action against employees based on these letters, they can be prosecuted. The SSA no-match letter you have received should also contain the relevant language, which states:

This letter does not imply that you or your employee intentionally provided incorrect information about the employee's name or SSN. It is not a basis, in and of itself, for you to take any adverse action against the employee, such as laying off, suspending, firing, or discriminating against an individual who appears on the list. Any employer that uses the information in this letter as a pretext for taking adverse action against an employee may violate state or federal law and can be subject to legal consequences. Moreover, this letter makes no statement about your employee's immigration status.

In an effort to help clarify employers' confusion caused by these letters, SSA included an article in its quarterly newsletter to employers. In it SSA states that:

It's important to understand that mis-match doesn't necessarily mean the worker is using someone else's Social Security number or that the worker is an undocumented immigrant. . . . This notice of a mismatched name or number in an employee's wage report does not imply that the employee intentionally provided incorrect information and should not be a basis for adverse action against the employee. If an employer transfers, lays off, terminates, or otherwise takes action against an employee on information contained in the notice, the employer may violate the laws of the United States and be subject to prosecution of other legal consequences.

Social Security Administration, *Internal Revenue Service Reporter: A Newsletter for Employers*, Fall 1999, p.1

SSA does not enforce immigration laws, and the letter in no way intended to suggest that the employees listed are not authorized to work. Indeed, the General Counsel of the Immigration and Naturalization Service (INS) has confirmed that a “notice from the Social Security Administration (SSA) to an employer notifying it of a discrepancy between wage reporting information and SSA records with respect to an employee does not, by itself, put an employer on notice that the employee is not authorized to work. . . . Because there are a number of reasons why there might be such a discrepancy that do not relate to a lack of work authorization, and because actual or constructive knowledge of unauthorized status is a case-by-case determination, we would not consider notice from SSA of a discrepancy, without more, to constitute actual or constructive notice of unauthorized status” (letter by Paul Virtue, INS General Counsel, dated April 12, 1999).

As you are probably well aware, the *Immigration Reform and Control Act of 1986* (IRCA), codified at 8 U.S.C. § 1324(a) *et. seq.*, governs the documentation requirements necessary to establish an employee’s work authorization. IRCA requires employers to fill out an I-9 form for all new employees within the first three days of hire. The I-9 form lists the documents establishing identity and work authorization that an employee may present to satisfy the employment eligibility verification requirement. The new employee is not required to provide any other documents so long as s/he “provides a document or combination of documents that reasonably appears on its face to be genuine.” If the documents appear to be legitimate, the employer should accept them and “has complied with this requirement.” 8 U.S.C §11324a(b)(1)(A). Nothing more is required of the employer.

Thus, receiving an SSA no-match letter by itself does not warrant an employer’s request that employees listed on the letter show additional documentation to establish continued worker authorization. An employer who requires employees to show additional documents (including requiring an employee to bring in her actual Social Security card) could be subjecting itself to document abuse charges under IRCA’s anti-discrimination provisions. See 8 U.S.C §1324(a)(6). Employers found to have violated this provision may be fined civil penalties of up to \$1,100 per violation under 8 U.S.C §1324b(g)(2)(B)(iv)(IV) (as increased by the *Debt Collection Improvement Act of 1996*). Moreover, taking adverse action against employees simply because they appear on an SSA no-match letter can also subject employers to liability under Title VII of the Civil Rights Act of 1964, the *National Labor Relations Act*, and similar state statutes.

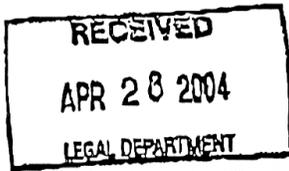
The SSA recommends that employers take the following steps upon receiving a no-match letter:

- ❖ Check your records to ensure that the information you provided on the wage reports to SSA accurately reflect the information your employees provided you.
- ❖ Notify the affected employees in writing that you have received this no-match letter, and that they should also verify whether they provided accurate information. (Attached is a sample notice to all employees advising them to let you know if corrected information needs to be submitted.)
- ❖ **Do not** use the notice as a justification for taking adverse action against the employee.
- ❖ **Do not** assume that the worker intentionally provided incorrect information or is an undocumented worker.

Remember that the SSA no-match letter is intended to ensure that the employee’s earnings are properly credited. This measure should benefit employees, and not result in the loss of their job or benefits. We hope that this letter has provided you with the necessary information to assist you in appropriately responding to the SSA no-match letter while keeping your workforce intact. Should you have any questions or concerns, please contact Heather Ross from Legal Assistance Foundation of Metropolitan Chicago at (312) 347-8366.

Sincerely,

Katherine Bissell  
Director, Chicago Interfaith Committee on Worker Issues



SOCIAL SECURITY

APR 26 2004

Ms. Renee L. Bowser  
Assistant General Counsel  
United Food & Commercial Workers  
International Union  
1775 K Street, N.W.  
Washington DC 20006

Dear Ms. Bowser:

This letter is in response to your inquiry regarding Social Security's no-match letters. I hope you find the following information helpful.

- Does an employer have any obligation under the Social Security Act to respond to the Social Security Administration (SSA) upon receipt of an agency no-match letter?

There is no requirement in the Social Security Act obligating an employer to respond to SSA's no-match letters.

The letters provide guidance to employers on checking their payroll records, and contacting employees, where necessary, to try to secure a correct SSN/name and then advise SSA of that information. The employer EDCOR, Code V, no match letter also provides guidance on using SSA's employee verification service before preparing Forms W-2 to insure the accurate reporting of SSNs and names.

In some cases, an employer may be unable to resolve the mismatch with the employee (e.g., the employee may no longer work for the employer). In these cases, the employer should document in his/her records any efforts made to obtain the corrected information so that the employer can provide that information to the IRS should IRS ask for it. If the employee no longer works for the employer, the employer should still try to obtain the corrected information from the employee through the address on his/her record and submit it to SSA on Form W-2c (Corrected Wage and Tax Statement).

- Does SSA have any enforcement authority against an employer who fails to act or respond after receiving a no-match letter indicating discrepancies in the name and the social security information submitted by the employer?

SSA does not have any enforcement authority with an employer who fails to respond to a no match letter.

- If an employer alleges that more than one employee is using the same social security number, does the SSA have any authority to act on the employer's request that the agency determine whether the employee(s) has adequately proved his/her identity?

SSA verifies that specific information provided by the employer does or does not match data in SSA databases. SSA has neither authority nor information that would allow it, on behalf of the employer, to determine whether employees have adequately proven identity.

Employers have responsibilities under the 8 U.S.C. 1324a to verify the employment eligibility and identity of all employees hired to work in the United States after November 6, 1986. Employers are required to complete Form I-9 (Employment Eligibility Verification) for all employees, including United States citizens, in accordance with the U.S. Citizenship and Immigration Services (CIS) requirements. You should check with CIS to obtain full information on requirements for dealing with alien workers.

- If more than one employee is allegedly using the same social security number, does the SSA have any authority in response to the allegation to involve itself in examining the employee's proof of identity?

SSA has no role in the establishment of identity on behalf of an employer beyond responding to requests for verification of a number based on the data provided by the individual. An SSA employee would look at the identity documents but in a totally different context. A field office (FO) employee would examine the identity documents of anyone coming into an FO to resolve SSN related issues, but there would be no way to associate the discussion of the mismatch with the allegation of multiple employees using the SSN. The worker who is using someone else's SSN probably would not visit the FO unless he has procured a good set of identity documents which may or may not be identifiable as fraudulent documents to the FO employee. If the fraudulent documents were detected, the FO employee would enter the fact of suspect documents into the system. If the FO employee treated the documents as fraudulent, they could not disclose that fact to the employer.

The Office of Inspector General (OIG) takes reports of fraud related to the buying and selling of Social Security cards or Social Security information and SSN misuse. OIG would not handle allegations of an employee using someone else's SSN.

- Does any SSA representative in an agency office open to the public have authority to sign, on behalf of the agency, a document which acknowledges that an employee had appeared at the agency and which discloses the substance of the employee's contact with

would first request to see an identity document for authentication purposes, but information about that document and the discussion itself would not normally be recorded. In unusual situations, an SSA employee might record pertinent information particular to the exchange between him/her and the individual for further investigation. The information would only be retained until the issue is resolved and entered into SSA databases. If SSA were issuing a replacement SSN card, the identity document description would be recorded on the application for a replacement card. The content of the identity document would not be shown except as it is reflected in the information entered into the database. In most situations, no SSA representative would be able to disclose the fact of or the substance of any contact. Only actions taken to update SSA's database records or evidence submitted to be placed in claims files would be potentially available for disclosure. All statutes and rules concerning disclosure and privacy would apply. Other than routine verification described above, SSA usually would not disclose information in its records about an individual to an employer without that individual's written consent.

If an individual applies for a Social Security card, he/she will not receive the card immediately. However, the local FO can give the individual a receipt to prove that he/she applied for the card. The individual should receive the card within two weeks of the date the card was processed.

If you have any further questions regarding the no-match letter process, please let me know.

Sincerely yours,



Nancy Veillon  
Associate Commissioner  
Office of Income Security Programs



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

July 28, 2003

Congressman Luis V. Gutierrez  
1310-B W. 18th Street  
Chicago, IL 60608.

Dear Congressman Gutierrez:

Thank you for your recent inquiry regarding our position on the use of so-called "no-match" letters sent to employees by the Social Security Administration ("SSA"). As we have discussed, we share your concern that these no-match letters are being used to violate the civil rights of Illinois residents.

This office has received numerous calls from Illinois residents who were discharged from their place of employment after their employer received a no-match letter from SSA informing the employer that the reported employee's name or social security number did not match SSA's records.

The sole purpose of no-match letters is to assist SSA in maintaining accurate records to ensure that the agency properly credits the employee's earnings. The issuance of such a letter is not meant to suggest that an employer or an employee intentionally provided incorrect information about the employee's name or Social Security number, nor is it meant to suggest that an employee is an undocumented worker.<sup>1</sup>

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<sup>1</sup> The General Counsel of the Immigration and Naturalization Service (whose functions have now been divided among various offices within the Department of Homeland Security) has confirmed that a "notice from the Social Security Administration to an employer notifying it of a discrepancy between wage reporting information and SSA records with respect to an employee does not, by itself, put an employer on notice that the employee is not authorized to work. . . . Because actual or constructive knowledge of unauthorized status is a case-by-case determination, we would not consider notice from the SSA of a discrepancy, without more, to constitute actual or constructive notice of unauthorized status." See letter of Paul Virtue, INS General Counsel, dated April 12, 1999.

Most importantly, SSA's issuance of a no-match letter is not intended to be the basis for any adverse action against employees. In fact, taking adverse action against an employee on the basis of his or her race, ethnicity, or national origin would be illegal under both state and federal law. The no-match letter itself contains the following admonition:

*This letter does not imply that you or your employee intentionally provided incorrect information about the employee's name or SSN. It is not a basis, in and of itself, for you to take any adverse action against the employee, such as lay off, suspending, firing, or discriminating against the individual. Any employer that uses the information in this letter to justify taking adverse action against an employee may violate state or federal law and be subject to legal consequences. Moreover, this letter makes no statement about your employee's immigration status.* (Emphasis added).

Thus employers have discharged their responsibilities under the no-match letter when they take the following steps:

- 1) check their records to ensure that the information provided on the wage reports to SSA accurately reflects the information the employee provided to the employer; and
- 2) notify the affected employees in writing that the employer has received a no-match letter and direct the affected employees to verify whether they provided accurate information.

We understand the significance of this issue and we are committed to vigorously enforcing the anti-discrimination laws in order to protect the rights of all Illinois residents.

Thank you for bringing this issue to my attention.

Very truly yours,



Lisa Madigan  
Illinois Attorney General

# SSA "No Match" Letters: Top Ten Tips for Employers

# NELP

## Fact Sheet for Immigrant Worker Advocates

Advocating for the working poor and the unemployed

National  
Employment  
Law Project

55 John St., 7th Floor  
New York, NY 10038  
(212) 285-3025  
(212) 285-3044 fax  
nelp@nelp.org  
www.nelp.org

April 2002

In order to correct errors in its database and properly credit workers' earnings, the Social Security Administration (SSA) sends letters to certain employers with a list of employees whose names or Social Security numbers (SSN's) on their W-2 Forms do not match SSA records. The SSA has a number of ways it attempts to update its database, and these letters, sometimes called "no-match" letters, are one mechanism the agency uses to inform workers that their earnings are not being properly credited.

The no-match letters are routinely sent out starting as early as February of each year. They are sent to every employer who submits to the SSA wage reports that, when compared against information reported on the W-2s, show at least one mismatched name or number. Many employers with immigrant-dominated workforces receive these letters.

There are a number of reasons why an employer's records may not match the SSA's: the individual's name may have changed due to marriage or divorce; SSA or the employer may have made clerical errors in the spelling of the name or the number, or the employee may have provided an incomplete or incorrect name or number. A no-match letter from the SSA is *not* notice of any immigration or tax violation.

What should you do if you receive a no-match letter?

### *Top Ten Tips For Employers Who Receive a No-Match Letter*

1. **Don't panic.** SSA is not charged with enforcing either federal tax laws or immigration laws. SSA's goal in sending the letter is to update its massive database. SSA does not track the results of its no-match letter campaigns, and there are no reported instances of the agency "turning someone in" to either the IRS or the INS where there are discrepancies. In fact, SSA has no enforcement authority, and simply sends this educational correspondence through the employer for the benefit of employees.
2. **Make a copy and give the letter** to all listed employees and to their union representative, if there is one.

- 3. Explain to them that the SSA is merely trying to properly credit each worker's earnings account.** Tell the employees you're not going to take any adverse action against them. Instead, suggest that they check to see whether or not the name on their Social Security card or the number listed by SSA has an error.
- 4. Instruct employees to deal directly with SSA to make any necessary corrections.** Employees do not need to make corrections through the employer. The SSA can be contacted by telephone at: 1-800-772-1213.
- 5. Check your reports to the SSA to make sure there were no errors on your end.** Sometimes employer wage reports have typographical mistakes. Reviewing the information provided to you on employee W-4 Forms is a quick way to check for these errors. Inform SSA of any discrepancies you may have inadvertently caused.
- 6. Suggest to your employees that they seek assistance** from a trusted community organization if they need it. Or, better yet, have advocates knowledgeable about no-match letters and immigrants' rights come provide a "know-your-rights" session for your employees to alleviate their concerns.
- 7. DO NOT fire, suspend, intimidate, or threaten any employee** whose name is on the no-match list with termination or any other adverse action. If you do, you may be violating federal and state laws prohibiting discrimination. The SSA letter itself states, "This letter does not imply that you or your employee intentionally provided incorrect information about the employee's name or SSN. It is not a basis, in and of itself, for you to take any adverse action against the employee. Any employer that uses the information in this letter as a pretext for taking adverse action against an employee may violate state or federal law . . ."
- 8. DO NOT ask employees on the no-match list to bring in their Social Security card or other immigration-related documents.** Immigration law requires employers to check new hires to ensure that they have work authorization, and to fill out an INS Form I-9. Employees may show employers any document listed on the INS I-9 form to comply with this requirement. Once this is done, employers are not permitted to re-check an employee's immigration documents, as this can constitute unlawful discrimination.
- 9. DO NOT assume that workers on the no-match list are undocumented or have provided false information.** There are many reasons why the employee's name or number might not match the SSA database records. The SSA itself states in its no-match letter that the reasons include typographical errors, incomplete or blank names or SSN's, or name changes. You are not considered "on notice" that any of your employees are undocumented if you receive a no-match letter because immigration laws only prohibit employers from knowingly hiring undocumented workers.
- 10. Promptly report any errors to SSA** that you or your employees find to ensure that the personal earnings records of your employees are accurately reported and credited. Some no-match letters give employers and employees 60 days to respond, but SSA has no authority to enforce this deadline.



WHO WE ARE  
WHERE WE ARE  
WHAT WE DO  
WHY CHOOSE US  
WHY JOIN US  
WHAT'S NEW  
INTERVIEW WITH THE EXPERT  
PUBLICATIONS AND RESOURCES  
LEGAL LINKS  
CONTACT US

Search Our Database  
All Documents  
Enter Keywords  
Search  
Client Access

## SOCIAL SECURITY "MISMATCH" LETTER A TRAP FOR THE UNWARY EMPLOYER

Many of our clients are receiving letters from the Social Security Administration ("SSA") asserting that the employer's W-2 returns contain incorrect employee names or Social Security Numbers ("SSNs"). This so-called "mismatch" letter suggests a possible fine of \$50, and some versions set a deadline for correction. In response to this letter, employers may ask workers for new documents and suspend or even terminate a worker who cannot produce a new Social Security card. This is a dangerous practice.

In past years, SSA sent out a mismatch letter only if 50 percent or more of the W-2s were incorrect. Now, however, the threshold has been lowered to 10%. Consequently, many more employers are receiving the mismatch letter. We are concerned that employers could lose valuable employees by following the SSA's letter too stringently.

The SSA letter is a little misleading. SSA lacks enforcement power and can only refer an employer to the Internal Revenue Service ("IRS") for an administrative proceeding. IRS can only impose the \$50 penalty upon a determination of "willful neglect." The cost of the proceeding and the negative publicity may explain why IRS is generally not seeking to fine an employer who files a few incorrect W-2s. Moreover, there is a three-step procedure set forth in the regulations which completely insulates the employer from IRS penalties. That formula requires the employer to provide notice to the affected employee three times: once upon receipt of the SSA letter, again at the end of that tax year, and once more at the end of the next tax year. The notice need only advise the individual of the need to go to SSA to fix an apparent problem. An employer that follows this three-step notice procedure cannot be fined by IRS.

Although this may seem illogical, the SSA letter does not constitute notice that the worker is no longer authorized to work. In fact, the Immigration and Naturalization Service ("INS") issued an opinion letter specifically stating that receipt of the SSA letter is *not* grounds to reverify employment eligibility or suspect that a worker may be illegal. As a result, if you terminate workers or ask them to produce new documents you may be engaging in "document abuse" discrimination by requiring more documents than minimally required to comply with the I-9 rules. This interpretation was recently confirmed by the former Justice Department Special Counsel for Immigration-Related Unfair Employment Practices.

As a practical matter, the INS position ignores the reality of illegal employment and the ready availability of counterfeit documents. It is true that a small percentage of listed workers may have a true mismatch, e.g., because of a name change or a transposed number, but the vast majority of persons listed are probably using bogus SSNs to engage in unlawful employment. Nonetheless, since SSA has no enforcement power, IRS is unlikely to penalize an employer, and because of the bizarre interpretation by INS, an employer should avoid the risk of document abuse and not ask workers to do anything.

Instead, if you receive such a letter, you should simply notify affected employees of a possible problem and suggest that they go to the local SSA office. As a practical matter, this will also help avoid the situation where workers who could be employed without risk based upon "reasonably genuine" documents, disappear when asked to produce new documents.

*For further information about this issue call or email David Whitlock at (404) 240-4210 or [dwhitlock@laborlawyers.com](mailto:dwhitlock@laborlawyers.com), or contact your regular F&P attorney.*

## Potential Liability That Employers Face If They Take Adverse Action against Employees Based Solely on a No-Match Letter

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- If the employer requires employees to reverify their immigration status, discharges employees based solely on having received a “no-match” letter with their name on it, refuses to hire individuals who “appear undocumented,” or imposes more stringent documentary requirements on individuals who appear foreign, the employer might be liable for citizenship status discrimination or document abuse in violation of the antidiscrimination provision of the Immigration Reform and Control Act (IRCA). See 8 U.S.C. §§ 1324b(a)(1)(B) and 1324b(a)(6).
- If only employees of certain national origins or ethnic groups who appear on the no-match letter are singled out, the employer might be liable for having discriminated in violation of Title VII of the Civil Rights Act of 1964 (see 42 U.S.C. § 2000d and 29 C.F.R. § 1606.1), or IRCA’s prohibition against national origin discrimination (see 8 U.S.C. § 1324b).
- If employees who appear on the no-match letter are singled out because they filed a claim with the Office of Special Counsel, the EEOC, or a corresponding state agency, the employer might be found to have unlawfully retaliated against employees who engaged in protected activity under the antidiscrimination provisions of relevant statutes authorizing these agencies’ work.
- If there is a union organizing drive underway, workers who appear on the no-match letter might be singled out because of their organizing efforts. If so, the employer might be found liable for interfering with employees’ right to organize under section 7 of the National Labor Relations Act (NLRA). See 29 U.S.C. § 158(a)(3).
- If employees who appear on the no-match letter are singled out because management knew that they were trying to advocate for the “mutual aid and protection” of other employees (at least two or more employees must have notified management of their concerns and that they were advocating on behalf of others), the employer might be found to have violated section 7 of the NLRA, which protects employees who engage in concerted activity against employer retaliation. The NLRA protects all employees who engage in concerted activity even if they are not formally represented by a union. For example, when a group of workers complain to management about a dangerous working condition, these workers are considered to be engaging in “concerted activity” and are protected against retaliation for those efforts. See 29 U.S.C. § 158(a)(3).
- If employees who appear on the no-match letter are singled out because they have engaged in activity protected under the NLRA, the employer might be found to have violated antiretaliation provisions contained in sections 8(a)(1), 8(a)(3), or 8(a)(4) of the NLRA.
- If employees who appear on the no-match letter are singled out because they filed a complaint with the Occupational Safety and Health (OSH) agency or its state counterpart regarding health and safety violations, the employer might be found to have committed retaliation in violation of the OSH Act or equivalent state whistleblower statutes.
- If employees who appear on the no-match letter are singled out because they filed a claim with the Department of Labor or corresponding state agency (informal complaints are considered “protected activit(ies)” only in certain judicial circuits) alleging wage and hour violations, such as nonpayment of wages, or failure to pay minimum wage or overtime, the employer might be found liable for retaliation against employees who engaged in protected activity under the Fair Labor Standards Act, 8 U.S.C. § 215(a)(3), or an equivalent state statute.

The following is a sample letter used by Hilton Hotel, which you might use as a template to draft your own letter to workers how receive SSA "No-Match" letters.



Name of Employee  
Address of Employee  
City/State/ Zip

Dear (Name of Employee),

As you are aware, we have previously notified you concerning a discrepancy with your Social Security number. We understand that you may need more time to get this accomplished. Therefore, we will no longer hold team members to the previously communicated deadline of January 31, 2003.

Please continue to do the best you can to get this information corrected. If we can assist you in any way, please let us know.

Sincerely,

HRD

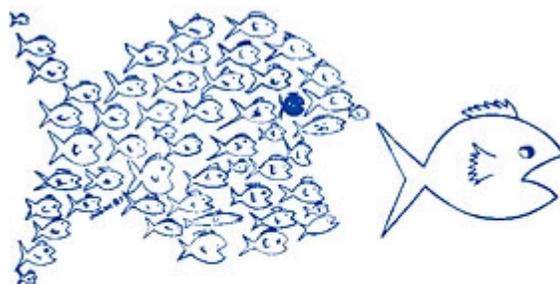


## Unions

*Organizing is the most effective way to achieve lasting improvements in the workplace. The efforts of organized labor were instrumental in winning nearly every piece of worker rights legislation discussed in this manual. By organizing unions and fighting for fair contracts, workers created the middle class in the U.S., establishing a decent standard of living for millions of families.*

*Over the past decades, union-busting has become a billion-dollar industry, the labor movement has faltered, union membership has declined, and the U.S. now tops the industrialized world in income inequality. The revitalization of the U.S. labor movement is critical to making the phrase “working poor” obsolete in our nation’s vocabulary. We believe that workplace organizing is an option for every worker who comes to the Interfaith Worker Rights Center, and, in fact, the only option for workers to win rights not protected by the law.*

*The section that follows includes a brief overview of the law and enforcement agency pertaining to organizing, an overview of the labor movement in the U.S., and an action guide for union organizing.*



**ORGANIZE**  
SPECIAL

## Right-to-Organize Laws

**National Labor Relations Act, 1935 (NLRA)**—Federal law that entitles private sector employees the right to form a union and to participate in union activity. The Act guarantees three basic rights to employees. These are:

- The right to organize.
- The right to collective bargaining.
- The right to concerted activity for mutual aid or protection (for 2 or more people).

The Act also protects employees participating in a union organizing campaign from retaliations by their employer. Public sector employees are covered under the Illinois state law (the *Illinois Labor Relations Act*).

### ◊ National Labor Relations Act (NLRA) ◊

**Enforcement Agency:** National Labor Relations Board (NLRB)

**Filing Agency** (Where to file report): NLRB

**Statute of limitations for filing a retaliation claim:** 180 days after the retaliation occurred.

**Contact Person:** Ed Castillo, NLRB

Telephone—(312)353-7633

**NOTE:** *A bi-partisan bill called the **Employee Free Choice Act** is now pending in Congress. The bill includes provisions that would replace the current secret-ballot election process for recognizing unions with a “card check,” under which employers would be required to recognize unions and begin bargaining a first contract after being presented with signed authorization cards from a majority of eligible employees. It would also establish stronger penalties for violation of right-to-organize laws. Talk to other advocates for the most updated information regarding the passage of this bill.*

**NOTE:** *Public sector employees, those who work for the local, state, or federal government, are not projected under the NLRA. Talk to our Legal Services Coordinator for more information on the laws governing public sector employees.*



## Brief History of the U.S. Labor Movement

### What is a union?

*A union is: A group of workers who come together to win respect on the job, better wages and benefits, more flexibility for work and family needs and a voice in improving the quality of their products and services.*

--The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)

*By working together as a union to negotiate a contract with their employer, workers can win the legal right to:*

- Seniority
- Health insurance
- Raises
- Breaks
- Grievance procedures for resolving contract violations and workplace problems
- Pensions
- Maternity and paternity leave
- Paid vacation, holidays, personal days, and sick leave
- Extra pay for working holidays
- Unpaid leaves of absence
- Post notices about union activities
- Any other right or benefits workers are willing to fight for

*By working together as a union to negotiate a contract with their employer, workers can also win legal protections against:*

- Favoritism and nepotism
- Health and safety risks not covered by OSHA
- Being fired without justification
- Disrespectful or undignified treatment
- Being fired, demoted, or subjected to other disciplinary action without warning
- Any other protection workers are willing to fight for

### Union Organizational Structure<sup>9</sup>

*You should try to become familiar with the local unions that support our work and organize workers in low-wage industries. You should know (or know how to find out) which union organizes in which industries, who to talk to in the organizing department (for workers who want to form a union), and who to talk to in the servicing department (for workers who are members of the union but come to us with questions). If you have further questions, talk to someone from Faith-Labor Solidarity.*

*A worker rights advocate will interact almost exclusively with union locals, so don't worry about learning how each union is organized internally; but it's important to understand the overall structure. Here is basic overview of union organizational structure.*

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<sup>9</sup> Barger, Jennifer. Organizer, Faith-Labor Solidarity, CICWI.

**The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO):** This is the “international” (U.S. and Canada) umbrella organization of unions. The AFL-CIO has both regional and state bodies. In Chicago, the regional body we work with is the Midwest AFL-CIO and the state body is the Illinois State Federation of Labor. A major function of the regional bodies is to provide organizing support and resources to AFL-CIO member local unions. A major function of the state bodies is to work on state level legislation.

**Central Labor Councils (CLCs):** These are essentially local labor “umbrella organizations” under the AFL-CIO, the international oversight organization of unions. It is important to note that CLCs are not “under” the regional or state bodies. Rather, they function as parallel organizations. The major functions of the CLC are to resolve inter-union conflicts over jurisdiction, to work on city-level legislation, and to facilitate communication, cooperation, and solidarity among all local unions and support community organizations. In Chicago, the CLC is the Chicago Federation of Labor (CFL). It works with local unions in Chicago, Cook county, and the “collar” counties.

**Local and International Unions:** As a general rule, unions organize workers in one industry or several closely related industries (there are many exceptions to this rule). Most unions have an international (generally U.S. and Canada) structure, some form of regional structure, and union “locals” (i.e., SEIU Local 1, Teamsters Local 703, UFCW Local 1546). Some unions that organize in multiple industries will also divide themselves by industry. This division may happen at the international, regional, or local level.

**Independent Unions:** In the U.S., an independent union is a union that is not affiliated with the AFL-CIO. The vast majority of U.S. independent unions are affiliated with organized crime or are “company unions,” unions that are in league with management. Company unions are illegal, but some exist because they have found technicalities or loopholes that protect them from the law. Some legitimate unions, most notably the United Electrical Workers (UE) and the United Brotherhood of Carpenters and Joiners of America (UBC) are not affiliated with the AFL-CIO out of principle. Although we respect workers’ right to form or join any union they wish, we do not, except in highly unusual circumstances, recommend joining independent unions (except for the UE and UBC) because there is strength in numbers.

## Key Events in the U.S. Labor Movement<sup>10</sup>

The following timeline provides an introduction to the key events that have shaped the U.S. labor movement. For a more in-depth understanding of these events, we suggest that you research events and terms marked in **bold italics**. It is important to remember that although these are the events that are most frequently remembered in history books, it was the actions, organizing, and changes in public sentiment that the events inspired that truly brought about change. There are many heroes and heroic actions not listed on these pages.

**1600 – 1800 Pre-Industrial Era.** Labor organizations existed mostly in the form of craft guilds, although some laborer strikes occurred in addition to organized protests of British taxation prior to the Revolutionary War. **Slave rebellions** were another notable form of labor unrest during this period.

**1800 – 1865 Growth of Industrial Era.** Labor organizations began to take the form of trade unions as U.S. industrialization developed and the employer-employee relationship became commonplace throughout the country. Over 200,000 workers joined unions. Female textile mill workers began to organize strikes; **general strikes** were used to promote the 10-hour day; and regional industry-wide strikes were used to protest wage cuts that employers implemented to take advantage of the mass unemployment that was caused by the mechanization of factories. **Black-listing** became a commonly-used tactic by employers to retaliate against leaders of organizing efforts. In 1865, slavery was abolished.

### Other Key events:

**Mill Girls' Turn-out** (Lowell, MA, 1834)

**Philadelphia General Strike** (Philadelphia, 1835)

**New England Shoemakers' Strike** (Lynn, MA, 1860)

**1866 – 1898 Development of National Labor Organizations.** The formation of the **National Labor Union** (1866), the **Federation of Organized Trades and Labor Unions** (1881), and the **American Federation of Labor** (1886) was both a response to and inspiration for increased labor movement membership and militancy. The **Workingmen's Party** was founded in 1876 and played a large role in organizing strikes and encouraging political activism. An economic crisis in the 1870s increased tensions between the working class and the ownership class. As worker organizing increased, so did bloodshed at protests and on picket lines as police and the military were increasingly summoned to put down the uprisings of workers and the unemployed. Many strikes and workplace struggles centered on the movement for the 8-hour day. Women and blacks were officially welcomed into the National Labor Union (1869), but continued to be excluded from many unions. May 1 is now recognized internationally as Labor Day in commemoration of the 8-hour day movement and the Haymarket Affair.

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<sup>10</sup> AFL-CIO. *Labor History Timeline*. <http://www.aflcio.org/aboutaflcio/history/history/timeline.cfm>. Center for Media and Learning. "American Social History Project." <http://web.gc.cuny.edu/ashp/heaven/fuprising.html>. Forner, Henry. *Labor's Struggle for a Shorter Work Week*. Labor History News Service. Illinois Labor History Society. *A Curriculum of United States Labor History for Teachers*. <http://www.kentlaw.edu/ilhs/curricul.htm>. Wendorf, Mark. *Religion and Labor History*. Lecture given at Lutheran School of Theology at Chicago. January 7, 2005. Zinn, Howard. *A People's History of the United States*. 1980.

**Other Key events:**

***Chinese Railroad Workers' Strike*** (California, 1867)

***New York General Strike for 8-hour day*** (New York, 1872)

***Tompkins Square Rally Attacked by Police*** (New York City, 1874)

***Black Thursday (Execution of Molly Maguires)*** (Pennsylvania, 1877)

***Railroad Workers' Strikes Broken by Federal Troops*** (Nationwide, 1877)

***340,000 Workers Join in General Strikes and Actions for the 8-hour day on May 1*** (Nationwide, 1886)

***McCormick Reaper Works Strike Attacked by Police*** (Chicago, 1886)

***Haymarket Square Rally Attacked by Police*** (Chicago, 1886)

***Haymarket Martyrs Executed; funeral procession draws hundreds of thousands*** (Chicago, 1887)

***Pullman Car Strike and Boycott (eventually put down by a federal injunction)*** (1894)

1899 – 1920 **Women's Suffrage and Sweatshop Strikes.** The labor movement continued to gain recognition during this time. Dangerous conditions and child labor in factories were brought to public attention by several strikes and tragedies in factories, leading to the passage of local and state safety regulations. The ***Department of Labor*** was created (1912) and a leader of the Mine Worker's union was appointed as the first Secretary of Labor (1913). In 1919, twenty percent of the entire U.S. workforce was out on strike at some point. In 1920, the women's suffrage movement won the right to vote under the ***19<sup>th</sup> Amendment***. The ***Industrial Workers of the World (IWW)*** was also founded during this time (1905), calling for workers to join one global union. It led several major strikes (including the McKees Rocks steel workers' strike and the Bread and Roses strike) and was actively opposed by the AFL.

**Other Key events:**

***"Uprising of the 20,000" Shirtwaist Factory Strike by the International Ladies Garment Workers' Union*** (New York City, 1909)

***Slavic Steel Workers Strike the Pressed Steel Car Company*** (McKees Rocks, PA, 1909)

***Triangle Shirtwaist Factory Fire*** (New York City, 1911)

***Bread and Roses Strike of Women Textile Workers*** (Lawrence, MA, 1912)

***Ludlow Massacre—Dozens of striking mine workers, women, and children killed by the state militia*** (Ludlow, CO, 1914)

**1921 – 1933 The Great Depression and the New Deal .** In the years between the women's suffrage victory (1920) and the start of the Great Depression (1929), **A. Philip Randolph** founded the Brotherhood of Sleeping Car Porters and began a critical struggle for fair conditions for black workers. FDR's New Deal, proposed four years after the stock market crash that caused the Great Depression, fought massive unemployment by funding public works projects while simultaneously setting up a welfare system to serve as a safety net for women, children, and the unemployed. In 1921, Congress passed a quota system based on country of origin, limiting immigration. Over 400,000 Mexican workers were deported during the Depression in a backlash against immigrants who were blamed for the nation's massive unemployment problem.

**1934 – 1945 Worker Rights Become Law.** In 1932, Congress had passed the **Norris-LaGuardia Act**, prohibiting "**yellow-dog**" contracts and federal injunctions against peaceful labor disputes. In 1935, the **National Labor Relations Act** was passed, establishing a Board to oversee union elections and prohibiting employer retaliation against workers who organize. The **Social Security Act** was passed that same year. The **sit-down strikes** in Flint, Michigan (1937) and the resulting contract agreement between General Motors and the United Auto Workers led directly to the passage of the **Fair Labor Standards Act** in 1938, establishing a minimum wage and the 40-hour work week. The Brotherhood of Sleeping Car Porters won a contract with Pullman during this time (1937), after more than a decade of struggle; A. Philip Randolph then organized for, and won, government action banning discrimination in hiring by the federal government and defense contractors.

**1946 – 1970 Civil Rights Era.** Many public faces of the Civil Rights Era believed worker rights and civil rights were inextricably linked. A. Philip Randolph was the president of the Brotherhood of Sleeping Car Porters and was also the mastermind of the March on Washington. Chavez, as president of the United Farm Workers, viewed the union as a social movement as much as a vehicle for improving workplace conditions. Walter Reuther (leader of the sit-down strikes against General Motors, UAW president, CIO president, and AFL-CIO V.P.) was an active participant in the March on Washington and the Selma march. Martin Luther King, Jr. and Rev. James Orange were key supporters of the sanitation workers in Memphis. While all unions did not take up civil rights struggles, the partnerships that existed were critical in furthering both movements.

**Other Key events:**

***UN General Assembly Adopted the Universal Declaration of Human Rights*** (1948)

***Martin Luther King, Jr. Addressed the National AFL-CIO convention*** (1961)

***March on Washington for Jobs and Freedom*** (1963)

***Bracero farm worker program is officially ended*** (1964)

***Passage of Civil Rights Act*** (1964)

***Passage of Voting Rights Act*** (1965)

***Filipino and Chicano grape workers win contracts after a strike and table grape boycott*** (California, 1966)

***Sanitation Workers' Strike and Assassination of Martin Luther King, Jr.*** (1968)

**1971 – 1998** **Decline in Union Membership.** Union membership declined from its peak—over 30% of the U.S. workforce—to about 13%. The emergence of the union-busting consultant industry, the decline of labor education programs for workers, and the decimation of the heavily-unionized U.S. manufacturing industry all contributed to the decline in union membership. Conflicts over issues related to the Vietnam War, racism, sexism, and immigration created rifts between the labor movement and its traditional community allies. *NAFTA* (1994) and other free trade agreements and off-shoring efforts sent millions of U.S. jobs overseas and undermined rural economies across the globe, initiating a new wave of immigration to the U.S., largely of Latin American workers.

**Other Key events:**

***J.P. Stevens workers win contract after 17-year campaign*** (North Carolina, 1980)

***12,500 Members of the Professional Air Traffic Controllers Organization strike and are permanently replaced by the Federal Aviation Administration under Reagan*** (1981)

***AFL-CIO Organized 400,000 to join Solidarity Day march*** (Washington, D.C., 1981)

***Pittston Coal Miners' Strike*** (Kentucky, Virginia, and West Virginia, 1989)

**1999 – Today** **Resurgence of Union Organizing.** The ***protests of the World Trade Organization in Seattle*** (1999) marked the emergence of a powerful, if not entirely intentional and coordinated, partnership between environmental, human rights, and labor movement activists who came together to challenge the concentration of global corporate power and wealth that has led to worldwide problems of environmental destruction, human rights violations, and poverty. This partnership was met with a resurgence of police and military crackdowns on popular protest, but successfully raised public consciousness of the problems associated with corporate globalization. Simultaneously, three important factors led to an organizing boom amongst service sector workers: the increased strength and militancy of service sector unions, the inability of many service sector employers to relocate or outsource the work, and the sensitivity of service sector employers to public opinion and public pressure. For example, SEIU's ***Justice for Janitors*** campaigns have organized tens of thousands of workers in commercial office buildings and UNITE HERE's efforts have significantly improved contracts for tens of thousands of hotel workers and laundry workers. Debates are raging over proposals to increase union membership throughout the labor movement, including reorganizing the AFL-CIO, reallocating more union resources for organizing drives, and merging unions.

## The Labor Movement Today

*While unions have played a central role in shaping the workplace and working conditions for people in the U.S., today unions are struggling to maintain their power and influence.*

- **Declining Union Membership.**<sup>11</sup> Since the 1970s, when it was over 30 % of the U.S. workforce, union membership has shrunk to 12.5% in 2004. The percentage of private-sector employees in unions is now 7.9%, the lowest level since the early 1900s. The public sector remains a labor stronghold, as 36.4% of government employees are union members.

**Why?** The emergence of the union-busting industry, the decline of labor education programs for workers, and the decimation of the heavily-unionized manufacturing industry all contributed to the decline in union membership. Conflicts over issues related to the Vietnam War, racism, sexism, and immigration create some rifts between the labor movement and its traditional community allies.

- **About half of workplace organizing campaigns are successful.**<sup>12</sup> As of 2003, workers won 58% of formal union elections (NLRB elections), marking the seventh consecutive year that unions have improved their win-rate. Workers in the service sector have a much higher win rate than workers in other sectors, as over the past five years Service Employees International Union (SEIU) won 75% of its union elections.

**Why?** Overall, many workplace organizing campaigns are lost because of the same reasons that union membership is declining: the union-busting industry, the decline of labor education programs for workers, the decimation of the heavily-unionized manufacturing industry, and conflicts over significant social issues. The service sector has a much higher win rate due to three primary factors: the increased strength and militancy of service sector unions, the inability of many service sector employers to relocate or outsource the work, and the sensitivity of service sector employers to public opinion and public pressure.

## Benefits of Unions

*Unions yield concrete benefits for workers. Some of these benefits include:*

- **Greater job stability**  
Union membership substantially increases job retention among workers. Although nearly half of union workers have been with their current employers for at least 10 years, less than one-quarter of nonunion workers can make the same claim (See chart on next page).

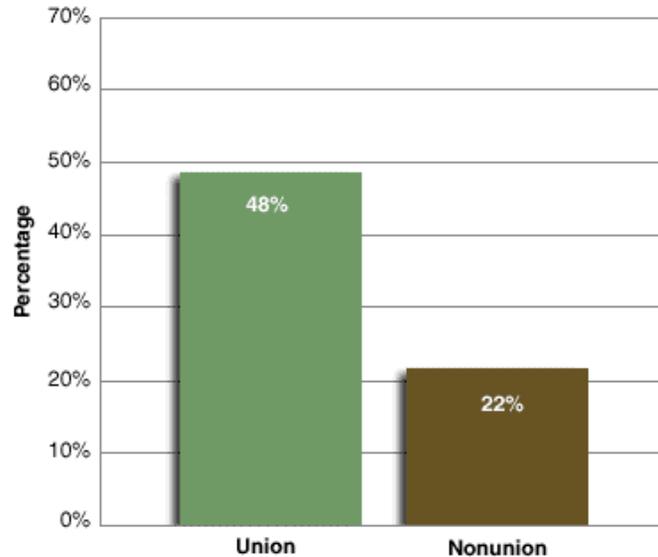
**Why?** Union workers have a voice in the workplace decisions that affect them and their families and a mechanism for fighting for the wages, benefits, and working conditions they need. Most union workers also have contract clauses that prevent them from being fired or laid off without justification.

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<sup>11</sup> U.S. Bureau of Labor Statistics, "Union Members Summary 2004." <http://www.bls.gov/news.release/union2.nro.htm>

<sup>12</sup> Bureau of National Affairs. "NLRB Election Statistics Suggest New Organizing Strategies Pay Off for Unions." News Release, June 28, 2004. <http://www.bna.com>.

**UNION WORKERS AND JOB STABILITY**  
***Percentage of Workers with the Same Employer for 10 Years or More, 1998***



Source: AFL-CIO analysis of the Current Population Survey, Supplement on Displaced Workers, Job Tenure and Occupational Mobility, February 1998.

- **Higher pay**  
 Workers with unions earn significantly more than those without unions across all major occupations. Union workers earn 27% more than nonunion workers, according to the U.S. Department of Labor's Bureau of Labor Statistics. Their median weekly earnings for full-time wage and salary work were \$760 in 2003, compared to \$599 for their nonunion counterparts (See chart below for difference in earnings by occupation).

**Why?** Union members have a mechanism and the strength in numbers to demand higher pay and regular raises.

**UNION AND NONUNION EARNINGS BY OCCUPATION**  
***Full-Time Wage and Salary Workers' Median Weekly Earnings, 2003*** \*\*

\*\*Shows major occupational categories only.

Occupation	Union	Nonunion	% Difference
Management and professional	\$896	\$886	1.13%
Management, business, and financial operations	\$985	\$959	2.71%
Service	\$606	\$382	58.64%
Sales and office	\$629	\$530	18.6%
Natural resources, construction, and maintenance	\$851	\$558	52.51%
Production, transportation, and material moving	\$688	\$493	39.55%

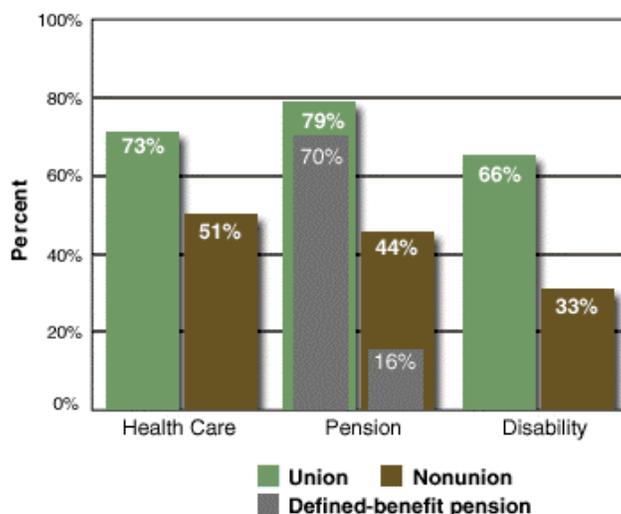
Source: AFL-CIO analysis of U.S. Bureau of Labor Statistics data, 2003.

- **Better healthcare and pensions**

Workers with unions enjoy greater health and pension benefits than non-union workers. For example, while almost three-fourths of union members (73%) in the U.S. have health care benefits, only one-half of non-union members (51%) do. A similar trend follows for pension and disability benefits (See chart below).

**Why?** Again, strength in numbers gives workers power to negotiate for these benefits. Additionally, many unions are able to increase their bargaining power to the employer's by negotiating with insurance companies over rates and coverage.

**HEALTH AND PENSION BENEFITS AMONG U.S. WORKERS, 1999**



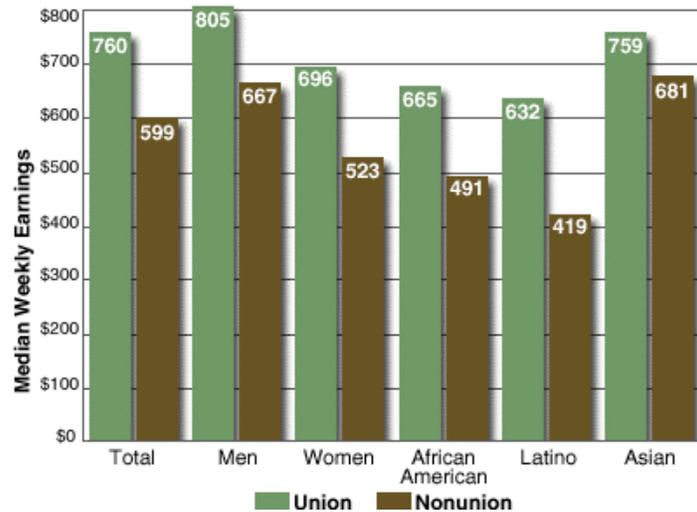
Source: Bureau of Labor Statistics, Employee Benefits in Private Industry, 1999. USDL: 01-473. Dec. 19, 2001. Prepared by the AFL-CIO.

- **Higher wages for minorities**

Union membership helps narrow the income gap for minority groups. Union women earn 33% more than nonunion women. Earnings for all racial minority groups are significantly higher among union members. For example, African American union members earn 35% and Latinos 51% more than their nonunion counterparts (See chart below).

**Why?** As already mentioned, union members have a mechanism and the strength in numbers to demand better wages and regular raises. They also often have measures built into their contract to protect against favoritism and unequal treatment.

**MEDIAN WEEKLY EARNINGS OF FULL-TIME WAGE AND SALARY WORKERS, 2003**



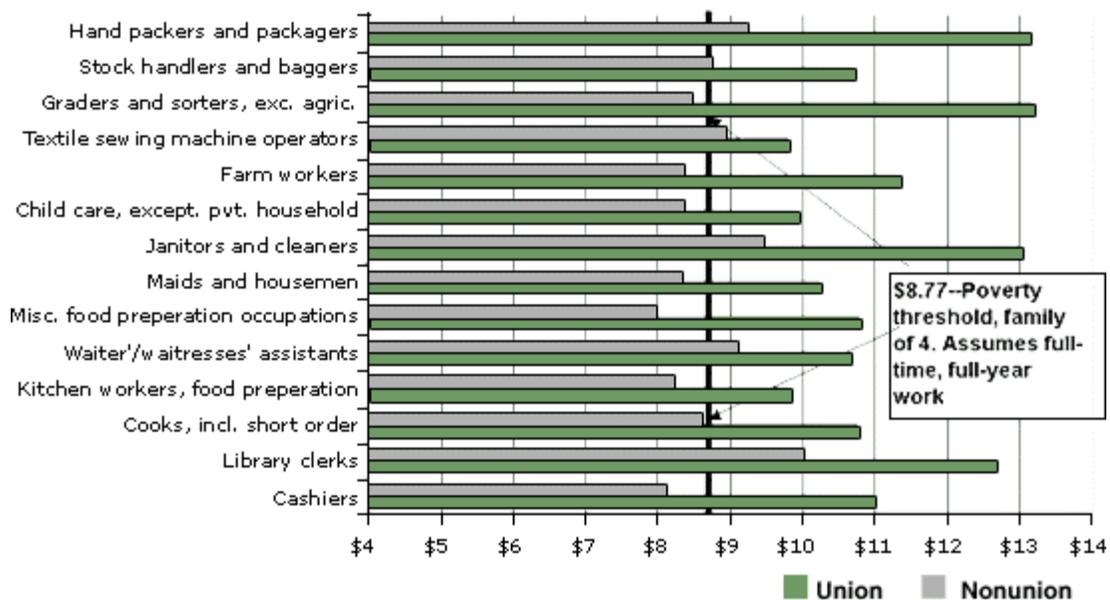
Source: U.S. Department of Labor, Employment and Earnings, January 2004. Prepared by the AFL-CIO.

- **Bringing low-wage workers out of poverty**

Union membership also helps bring low-wage workers out of poverty, by raising their incomes above the poverty threshold (See chart below).

*Why?* Again, union members have a mechanism and the strength in numbers to demand higher pay and regular raises, which significantly increase their income.

**UNION MEMBERSHIP AND THE POVERTY THRESHOLD**  
*Average Hourly Earnings of Selected Occupations, 2002*



Sources: U.S. Census Bureau estimate of poverty level for family of 4 with 2 children; *Union Membership and Earnings Data Book*. Bureau of National Affairs, 2003.

## Major Unions

*The following Chicago-area unions organize workers in low-wage industries:*

**AFSCME Council 31:** *American Federation of State, County & Municipal Employees Council 31* represents public employees and health care workers.

**BCTGM:** *Bakery, Confectionery, Tobacco Workers & Grain Millers International Union* represents workers in bakeries and some food processing plants.

**Carpenters:** *Chicago and Northeast Illinois District Council of Carpenters* represents carpenters and construction workers.

**Chicago Teachers Union:** *Chicago Teachers Union Local 1* represents K-12 teachers and paraprofessionals in the Chicago public schools.

**Cook County College Teachers Union:** *Cook County College Teachers Union, Local 1600*, represents faculty members, professional employees, classified employees, and retirees within in the City Colleges and area community colleges.

**CWA:** *Communication Workers of America Local 4250* represents members working for SBC/Ameritech Operator Services. Its jurisdiction covers Directory Assistance (411) Operators Services that are located in the South Suburbs of Chicago Heights, Harvey, and Lansing, Illinois. The CWA organizes workers in the printing, publishing, telecommunications, and technology industries.

**HERE (Now UNITE HERE):** Union formed from the merger of the *Union of Needletrades, Industrial and Textile Employees* and the *Hotel Employees and Restaurant Employees International Union* represents workers in hotels, restaurants, cafeterias, casinos, schools, airports, bus terminals, and concession food service, as well as the sewing and laundry industries.

**IBEW:** *International Brotherhood of Electrical Workers Local 21* represents electricians in the telecommunications industry. IBEW Local 134 represents construction electricians and workers in the hospitality and tourism industry. IBEW Local 15 represents nursing home workers in addition to workers in traditional IBEW sectors.

**Illinois Federation of Teachers:** *Illinois Federation of Teachers* represents teachers and paraprofessionals in school districts throughout Illinois, as well as faculty and staff at Illinois community colleges and universities.

**Illinois Nurses Association:** *The Illinois Nurses Association* represents nurses.

**LIUNA:** *Laborers' International Union of North America* represents manual laborers and landscapers.

**IUOE:** *International Union of Operating Engineers* represents landscapers and operating engineers.

**SEIU:** *Service Employees International Union Local 1* represents mostly janitors and security guards. SEIU Local 7 and Local 73 represent Public Service Workers. SEIU Local 73 represents healthcare and social service workers.

**Teamsters:** *Teamsters* represent workers in many industries, including airline, waste, freight, trade shows and conventions, railways, public services, ports, package and parcel delivery, dairy, brewery, and soft drink.

**USWA:** *United Steel Workers of America* organize steel workers and a variety of industries.

**UFCW:** *United Food and Commercial Workers* Local 1546 represents workers in the meat departments of grocery stores and retail workers outside of the city of Chicago, the packing industry, and health care and nursing home occupations. Local 881 represents Chicago retail and grocery store workers.

**UE:** *United Electrical Workers* organizes factory workers and some miscellaneous industries. It is not part of the AFL-CIO.

**UPI:** *University Professionals of Illinois*, Local 4100 represents faculty and staff in Illinois public universities.



## Union Organizing Action Guide

*If workers choose to organize into a union, you can help guide them through the initial stages of the organizing process.*

### Pre-screening:

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*Criteria for case to be considered for action:*

- The workers' place of employment has at least 50 employees.
- Workers belong to an industry that is already organized.
- Workers are experiencing legal violations, and/or a lack of dignity and respect in their workplace.
- Workers understand the difficulties of organizing campaigns and are willing to risk losing their jobs in the process.



**NOTE:** *All workers have the right to organize, but not all unions have the resources to devote to small workplaces, to negotiating campaigns contracts, or to conducting the research necessary to organize a new industry.*

### Step 1: Establish a core group of workers

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*In order to begin an organizing campaign, **at least 10% of workplace** should be dedicated to the campaign.*

*To build a core group of workers and verify their dedication to the organizing campaign, give them small "homework" assignment, such as:*

- Collecting basic information about their employer (i.e., how long they have worked there, what other businesses they own, religious involvement, etc.).
- Recruiting other workers to participate in the campaign.

### Step 2: Help workers select a union

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*Provide workers with information about unions that:*

- *Have jurisdiction in the industry in which they work.*
- *Workers have expressed interest in.*



**NOTE:** *Talk to other worker rights advocates about past organizing efforts and strategies for union selection.*

### Step 3: "Cross-interview" meeting

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*Organize an initial meeting with the organizer from the union in which workers have expressed interest. You and the workers should set the meeting's agenda and decide its location (probably IWRC). During this meeting, workers and union organizers ask general questions of one another.*

**Step 4: “Inoculation meeting”**

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*This meeting takes place once workers have committed to a particular union. During this meeting:*

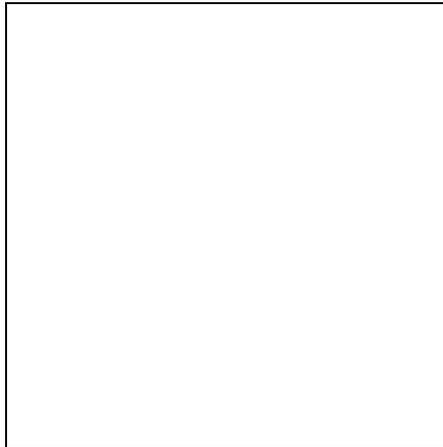
- Union organizer explains, in graphic detail, what the company will try to do to undermine their efforts to unionize; AND explains all the benefits of unions.
- Workers (hopefully) reassure the union organizer that they are willing and prepared for the challenges of forming a union; OR workers decide not to unionize.

**Step 5: Pass the campaign on to Faith-Labor Solidarity**

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*If the group of workers would like continued support from worker rights advocates and the faith community, the Faith-Labor Solidarity program of CICWI may organize actions for the campaign.*

 **NOTE:** See “Card-Check Elections Fact Sheet” on next page for more information on the process of workplace organizing.





## Fact Sheet: “Card-Check” Elections

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### What is “card-check” recognition?

“Card-check” recognition means that an employer acknowledges that a union legitimately represents the workforce because over half of the workers have signed union authorization cards or have otherwise demonstrated that they want to join and be represented by the union. Under U.S. law, an employer may recognize workers’ desire for a union without bringing in the National Labor Relations Board to supervise the election. In some parts of Canada, the law states that if the majority of the workers sign union authorization cards, the employer **must** recognize the union. A bill currently before Congress, called the Employee Free Choice Act would bring this law to the United States as well. The AFL-CIO and Human Rights Watch as well as many other organizations support this bill.

### What are the advantages of card-check recognition for workers?

In a government-monitored election, an employer is notified as soon as workers ask the National Labor Relations Board for an election to be scheduled. Under the best of circumstances, an election will be scheduled several weeks later. Unfortunately, U.S. labor law allows unscrupulous employers to tie up government-monitored elections in courts or legal maneuvers, sometimes for months or even years, buying time to convey intimidating anti-union messages, discipline or fire union supporters, reclassify workers’ job descriptions so they are not allowed to vote, hire new workers to sway the vote, or wait for employee turnover to dilute support for a union. Even after an election takes place, employers can delay or contest the counting of the votes. U.S. employers spend over \$1 *billion* on anti-union efforts each year. Low-wage workers obviously cannot afford legal representation as readily as employers, and neither can many unions. Card-check elections reduce workers’ risk of becoming mired in expensive, tedious legal battles or having their intentions undermined through legal loopholes.

### Why might employers choose to voluntarily recognize workers’ unions?

In cases where there is clear support among workers for a union, it often makes sense to all parties involved to recognize that support and begin negotiations for a contract, rather than to waste time waiting for a government-supervised election to take place. Additionally, employers often face public pressure to accept the card-check process because card-check elections are faster, simpler, and can be less intimidating and risky for workers.

### Do card check procedures take away workers’ freedom of choice?

No. With card check, workers still make their choice as to whether or not they want to form a union and must go on record in some way to show their support for a union (e.g. signing cards).

### Are there examples of “card-check” recognition working?

Yes. Here in the United States, most of the unions that are successfully organizing large numbers of workers, especially in the low-wage sector, seek card-check recognition. Card check recognition campaigns are successful when employers have a strong commitment to

maintaining a positive work environment and/or when workers have a network of community allies who want to see workers protected by a fair contract as quickly as possible.

### **Case study: Las Vegas**

One of the strongest examples of the benefits of card-check recognition for both workers and business comes from the hotel and casino industry in Las Vegas. In 1984, a highly contentious strike occurred that caused great hardship for both business and workers, but ultimately resulted in good contracts for most of the workers. After that experience, and as the union continued to build strength for the next round of contract talks, some hotels and casinos decided that cooperation, rather than opposition was in their best interest. When new hotels, most famously the Mirage, were built, the owners agreed to remain neutral towards workers' efforts to organize and to accept the card-check process. Most other hotels and casinos decided to follow suit. Today, the nearly 50,000 hospitality workers at these businesses earn at least \$10-12 per hour and have affordable health care, pensions, vacations, and a guaranteed 40-hour work week. In return, businesses find that they have a happier workforce, which is important since service workers are the first and most frequent contact customers have with a company.

### **Case study: Illinois**

In 2003, Illinois Governor Rod Blagojevich issued an executive order, later signed into law that the state would recognize and bargain with a representative designated by the majority of personal assistants working in the state's Home Services Program. Personal assistants are workers who provide in-home care to individuals unable to fully care for themselves. These 20,000 workers had been organizing for years, and the official recognition of their union and their right to organize—workers had been considered independent contractors before—opened the door to a first contract that will raise workers' pay to nearly \$10 per hour and creates a structure for the state and the workers to collaborate to improve services.

### **Case study: California**

In 2001, following a lengthy public debate on the role of Catholic social teachings in labor relations at religious healthcare institutions, Catholic Healthcare West, a California hospital chain, and the Service Employees International Union, signed a conduct agreement laying out a campaign and elections procedure that both sides agreed was fair and protected workers from intimidation. Today, two contracts later, 14,000 hospital workers have received wage increases, have a say in staffing levels, have an education and training program, and are combining forces with the hospital to lobby for improved access to health care for individuals state-wide.

### **What happens if an employer refuses to accept a card-check procedure?**

In some cases, workers choose to file for an NLRB election. In other cases, workers choose to partner with community allies to campaign for an election procedure that both workers and the employer can agree is fair. These campaigns often call for a "neutrality agreement"—a promise by the employer not to actively campaign against an organizing effort by workers.

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## Direct Action Organizing<sup>13</sup>

*As a Worker Rights Advocate, you will often use direct action organizing in your efforts to help workers improve workplace conditions. The following section is excerpted from the Midwest Academy's manual for activists, Organizing for Social Change, and tailored to apply directly to your work as an advocate. We strongly encourage you to read Organizing for Social Change, as it will help you to more fully understand the role of direct action organizing in the broader context of social justice movements and organizations.*



<sup>13</sup> Source: Bobo, Kim, Jackie Kendall, and Steve Max. *Organizing For Social Change: Midwest Academy Manual for Activists*, 3<sup>rd</sup> Edition. Washington D.C.: Seven Locks Press, 2001.

## Fundamentals of Direct Action Organizing

### What is direct action organizing?

The people with the problem organize. They agree on a solution that meets their needs and, with the strength of their numbers, pressure the decision-maker(s) responsible. The people directly affected by the problem take action to solve it. This form of organizing challenges power relationships.

### The Three Principles of Direct Action

1. Win real, immediate, concrete improvements in people's lives.
2. Give people a sense of their own power.
3. Alter the relations of power.

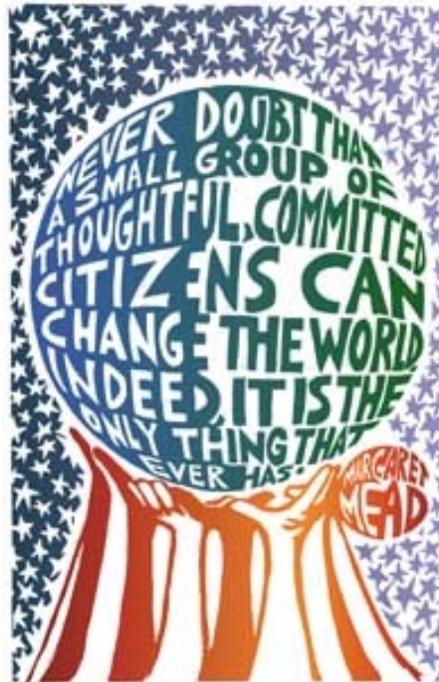
### Measuring and Using Power

*For social justice organizations in the U.S., power usually takes one of three forms:*

1. You can deprive the other side of something it wants.
2. You can give the other side something it wants.
3. Your organization can elect someone who supports your issues.

*You can measure your group's power by considering these questions:*

- Can you get legislation/a policy passed by an elected or an appointed governing body?
- Can you cut into a company's profits by reaching customers?
- Can you win your case in court or before a regulatory body?
- Can you disrupt the functions of a company or agency?



## The Steps of a Direct Action Organizing Campaign

*When workers decide to use direct action organizing to solve their workplace problems, you, as an advocate, come to the table as a community supporter—a representative of IWRC and the CICWI. Workers must be the lead organizers, although you can help by sharing the organizing concepts you have learned, as well as the contacts with community supporters that CICWI has built over the years. Background information on organizing techniques and community connections are two key resources you bring to the table.*

*Remember that you will work alongside workers involved every step of the way. Never make a decision you have not been authorized to make by the workers. Strive to always make decisions as a group, and then delegate tasks for carrying out those decisions among the group members. Make sure all workers are involved in the campaign and that key community supporters have a voice in the decision-making process.*

1. **Choose an issue and develop a strategy.** Workers must decide what the solution to their problem is and must also form a strategy (a plan for reaching that solution). An effective strategy will: a) win, b) strengthen the group/organization, and c) alter the relations of power in favor of the workers. A Strategy Chart is an indispensable tool for developing a strategy.

 **NOTE:** Please turn to the Strategy Charts instructions on pages 94 now and read them before continuing with the rest of the Direct Action Organizing steps.

2. **Communicate with your target.** The target is always a person, and is always the decision-maker who can give you what you want. Ask politely for what you want and present the argument for why you are entitled to it. You might write a letter, send a delegation, set up a meeting, or make a phone call. If you feel it is too risky to communicate with your target (i.e., if workers might be fired in retaliation and they don't have an adequate safety net or response plan to deal with that situation) you must back up. You will need to organize more people or resources to support the risk-takers before moving ahead with a direct action organizing campaign.
3. **Announce the campaign.** You might hold a press event or directly contact the individuals and organizations whose support will build the campaign. If this is to be a coalition effort, the core coalition members must be assembled before the campaign is announced publicly, and the coalition, *not* a single group, should announce the campaign.

 **NOTE:** See sample Press Advisory on page 95.

4. **Begin outreach activities.** You might start a petition drive, send speakers out to meet with potential allies, organize educational forums on the issue and/or hold press events. These outreach activities should contain an action step: you want people to participate in an event and/or action that will build the campaign, demonstrate its legitimacy, and impress upon participants that they are part of a large coalition.
5. **Stage direct encounters with the decision maker and begin work on secondary targets.** Organize actions that your base of supporters can carry out to put pressure on decision makers to give you what you want. Gradually escalate your tactics—to guard against accusations of being unreasonable or irrational and to leave yourself room to increase pressure on your target as the campaign moves along. The actions/tactics you choose should meet these basic criteria:
  - The tactic is focused on the primary or secondary target of the campaign, not anyone else.
  - The tactic puts power behind a specific demand.
  - The tactic meets your organizational goals and your campaign goals.

- The tactic is unfamiliar to the target.
- The tactic is within the experience of the participants, and both the participants and your key supporters are comfortable with it.

Expand your campaign to the secondary targets you have identified people whom: a) have more influence over your main target than you do, and b) over whom you have more influence than your main target. (i.e., if the CEO of a company is your main target, a secondary target might be a member of the company's Board of Directors who belongs to a congregation that supports our work).

 **NOTE:** See “*Examples of Faith-Labor Tactics and Actions*” on page 96. See also sample prayer vigil agenda on page 97.

6. **Build the organization.** This means strengthening the group of workers leading the campaign and building IWRC and CICWI. Be intentional in making each meeting and action an educational and leadership-building experience. Collect people's contact information using a sign-in sheet, petitions, and/or postcards. Plan to involve supporters in future campaigns.
7. **Win or regroup.** You will either win your campaign or, if the campaign fails, you will need to make a decision to: a) stick to your strategy, b) regroup and devote your energies to a broader campaign with more allies, or c) lower your demands and accept less. If a campaign builds the organization even though it did not win the issue, there is still victory in that struggle. Use that experience to help you choose a more winnable issue or to make more careful considerations of the use of organizational resources in the future.



## Direct Action Organizing Strategy Chart (Template)

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<b>Goals</b>	<b>Organizational Considerations</b>	<b>Constituents, Allies, and Opponents</b>	<b>Targets</b>	<b>Tactics</b>

## Direct Action Organizing Strategy Chart

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Goals	Organizational Considerations	Constituents, Allies, and Opponents	Targets	Tactics
<p>1.List the long-term objectives of your campaign. 2.State the intermediate goals for this issue campaign. What constitutes victory?</p> <p><i>How will the campaign</i></p> <ul style="list-style-type: none"> <li>• Win concrete improvements in people’s lives?</li> <li>• Give people a sense of their own power?</li> <li>• Alter the relations of power?</li> </ul> <p>3.What short-term or partial victories can you win as steps toward long-term goals?</p>	<p>1.List the resources that your organization brings to the campaign. Include money, number of staff, facilities, reputation, canvass, etc.</p> <p>What is the budget, including in-kind contributions, for this campaign?</p> <p>2.List the specific ways in which you want your organization to be strengthened by this campaign. Fill in numbers for each:</p> <ul style="list-style-type: none"> <li>• Expand leadership group</li> <li>• Increase experience of existing leadership</li> <li>• Build membership</li> <li>• Expand into new constituencies</li> <li>• Raise more money</li> </ul> <p>3.List internal problems that have to be considered if the campaign is to succeed.</p>	<p>1.Who cares about this issue enough to join in or help the organization?</p> <ul style="list-style-type: none"> <li>• Whose problem is it?</li> <li>• What do they gain if they win?</li> <li>• What risks are they taking?</li> <li>• What power do they have over the target?</li> <li>• Into what groups are they organized?</li> </ul> <p>2.Who are your opponents?</p> <ul style="list-style-type: none"> <li>• What will your victory cost them?</li> <li>• What will they do/spend to oppose you?</li> <li>• How strong are they?</li> </ul>	<p>1.Primary Targets</p> <p>A target is always a person. It is never an institution or elected body.</p> <p>2.Secondary Targets</p> <ul style="list-style-type: none"> <li>• Who has power over the people with the power to give you what you want?</li> <li>• What power do you have over them?</li> </ul>	<p>For each target, list the tactics that each constituent group can best use to make its power felt.</p> <p>Tactics must be:</p> <ul style="list-style-type: none"> <li>• In context</li> <li>• Flexible and creative</li> <li>• Directed at a specific target</li> <li>• Make sense to the membership</li> <li>• Be backed up by a specific form of power</li> </ul> <p>Tactics include:</p> <ul style="list-style-type: none"> <li>• Media events</li> <li>• Action for information and demands</li> <li>• Public hearings</li> <li>• Strikes</li> <li>• Voter registration and voter education</li> <li>• Lawsuits</li> <li>• Accountability sessions</li> <li>• Elections</li> <li>• Negotiations</li> </ul>

 ***Sample Press Advisory to announce a media event.***



**The Peoples Insurance Campaign**  
666 Lower Road Crossing  
New York, NY 12345

Feb. 27, 2002

For Further Information  
Nick Quick  
P (000) 666 6297  
F (000) 666 6298  
Nicky666@ooo.com

**NOTICE OF MEDIA EVENT**

The Peoples Insurance Campaign will release a report linking decisions of Insurance Commissioner Mott directly to campaign contributions from the Insurance Industry.

**9:00 AM. Monday, March 3rd**  
**666 Lower Crossing Road**  
**New York, NY 12345**

**Photo Opportunity**  
See the bent steering column from a totaled car declared "fit to drive" by Commissioner Mott.

## Examples of Faith-Labor Tactics and Actions

The following tactics can be used: to show an employer that workers have community support, to provide moral support to workers, to put public pressure on an employer, to emphasize the humanity of workers and their struggle, and/or to attract media attention to a campaign. When planning a religiously symbolic action, be sure to involve clergy in the planning process to ensure that the action is done respectfully. Clergy from the tradition to which the symbols are sacred should always lead a religiously symbolic action.

**Clergy Letters**—Clergy write an employer to raise concerns over the problems workers have reported and ask to meet with the employer to hear his/her perspective.

**Clergy Delegations**—Clergy visit an employer during the workday to discuss their concern about the problems workers have reported and to ask the employer to share his/her perspective.

**Prayer Vigils**—Clergy gather with workers at the workplace and pray for workers' strength and a fair resolution of the workplace problem.

**Breaking Bread Together**—Clergy and workers break bread, share it amongst themselves, and offer it to the company owner as a symbol of unity, the common bond of humanity, and acknowledgement of God as Provider for both workers and the employer.

**Bitter Herbs Delegations**—Clergy present the employer with bunches of bitter herbs, symbolizing the bitter struggle of the Hebrew people enslaved in Egypt. If there are employers who are doing the right thing, these employers could be presented with gifts of milk and honey, symbolizing the gifts awaiting the Israelites in the Promised Land.

**Pray-ins**—Clergy enter the public area of a business to pray for justice in the workplace.

**Foot Washing**—Clergy wash the feet of workers to demonstrate respect and honor for the workers and to emphasize their role in the struggle for social justice. Foot washing is particularly associated with Maundy Thursday of the Christian Holy Week and also with Hindu purity rituals.

**Posadas**—Clergy accompany workers to the employer's door (home or office) to ask him/her to “open the door to justice.” A *posada* is a Latin American Christian tradition re-enacting Mary and Joseph's search for shelter the night of Jesus' birth.

**Passover Ceremonies and Labor Seders**—Passover can be a time to observe the similarities between workers' and immigrants' struggles and the struggle of the Hebrew people against slavery in Egypt. The Passover Seder is a Jewish custom—a symbolic meal recalling the experience of slavery in Egypt.

**Jericho Marches**—Was Jericho the first picket line? The Israelites marched around the city seven times, blew their trumpets, and the walls that protected the Canaanites and their unjust socio-economic system fell. Workers can symbolically march around the building of an unjust employer.

Other tactics, actions, and outreach tools that work well in the religious community include: “Hungry for Justice” canned food drives, prayer processions, fact finding delegations, fasting, educational bulletin inserts, Labor in the Pulpits speaking programs, and clergy breakfasts.



 *Sample agenda for prayer vigil.*

## ***Prayer Vigil for Worker Justice***

### ***V&V Supremo***

***Monday, September 17, 2001, 12:15-1:00***

#### ***Welcome and Song***

*Rev. Brendan Curran, St. Pius V*  
*José Francisco Arriaga, St. Pius V*

#### ***Opening Prayer***

*Rev. Victor Rodriguez, La Villita*

#### ***Reading—Exodus 16:4, 13-20, 31-32***

*Rev. David Crump, San José Obrero*

#### ***Introduction of Workers***

*Nelson Soza, AFL-CIO*

#### ***Worker Testimonies***

*Marcelino de la Rosa, V&V Worker*  
*Max Rodea, V&V Worker*

#### ***Reflection, Update, and Call to Action***

*Rev. Chuch Dahm, St. Pius V*

#### ***Blessing and Breaking the Tortilla***

*Father Brendan Curran, St. Pius V*

#### ***Sharing the Tortilla***

*Rev. Rodriguez and Javier Nava*  
*Rev. Chuck Dahm and Javier Hernandez*  
*Rev. Crump and Ambrosio Vega*  
*Rev. Jim Miller and Jesus Guzman*

#### ***Offering of Reconciliation to Owners***

*Rev. Brendan Curran and clergy*

#### ***Closing Prayer***

*Rev. Jim Miller, Our Lady of Tepayac*

*"Once social change begins, it cannot be reversed;  
you cannot uneducate the person who has learned to read;  
you cannot humiliate the person who has pride;  
and you cannot oppress the people who are not afraid anymore."*

*--Cesar Chavez*

## Other Low-Wage Worker Issues

Poverty, Hunger, Homelessness, and Lack of Healthcare

*When many low-wage workers who come to IWRC experience abuses, injustices, and unequal treatment in their places of employment, other parts of their lives are also affected. Not surprisingly, when workers are not paid adequately, discriminated against, or exposed to health and safety hazards, they (and their families) suffer economically, socially, psychologically, and physically. The direct link between low-wage work and poverty, hunger, homelessness, and other problems is a trend throughout the United States, including Chicago.*

*Below is a brief overview of some of the problems low-wage workers encounter today in the United States, Illinois, and the city of Chicago. Please understand that this section is intended to provide you with a few key statistics, and by no means provides a comprehensive discussion of the complex problems facing many low-wage workers.*



## Why are people poor?

One of the primary reasons people are poor is because they do not earn enough money at work to support themselves and their families. They fall short of meeting basic needs, make difficult tradeoffs, or use public or private assistance (i.e., Food Stamps, Temporary Aid to Needy Families, etc.). Families forced to cope often forfeit one need at the expense of another, decreasing their family's overall well being.

## The Cost of Living in Chicago

Living in Chicago is expensive. In order to be "self-sufficient," earning an income adequate for a family to meet its basic needs without public or private assistance, a Chicago resident must earn at least \$8.57 and up to \$18.13 depending on family size (See charts below).<sup>14</sup> However, many jobs pay significantly lower wages. A Chicago worker can earn as little as \$6.50 an hour, and many of the workers that come to IWRC earn equivalent, or even lower wages.

Chicago has a "living wage" ordinance, which requires for-profit city contractors and subcontractors to pay their workers at least \$9.43 an hour in the following categories: home and healthcare workers, security guards, parking attendants, day laborers, cashiers, elevator operators, custodial workers, and clerical workers. While this ordinance marks a significant improvement over the minimum wage law, it is flawed. The occupational categories covered by the ordinance are limited, excluding many workers from receiving the higher wage. Additionally, the wage provided by the "living wage" is not enough for self-sufficiency, except for single individuals without families. Thus, in Chicago high living expenses combined with low wages result in poverty, hunger, homelessness, and other issues described in this section.

Table 1  
The Self-Sufficiency Standard for Selected Family Types  
Chicago, IL MSA, 2001  
Cook County - Chicago (Excluding Downtown and Selected Northside Areas),  
Including South and West Suburbs\*  
Monthly Expenses and Shares of Total Budgets

Monthly Costs	One Adult		One Adult, One Preschooler		One Adult, One Preschooler, One Schoolage		Two Adults, One Preschooler, One Schoolage	
	Costs	% of total	Costs	% of total	Costs	% of total	Costs	% of total
Housing	\$747	50	\$891	34	\$891	28	\$891	25
Child Care	\$0	0	\$539	21	\$888	28	\$888	25
Food	\$176	12	\$266	10	\$396	12	\$544	15
Transportation	\$75	5	\$75	3	\$75	2	\$150	4
Health Care	\$102	7	\$214	8	\$237	7	\$298	8
Miscellaneous	\$110	7	\$198	8	\$249	8	\$277	8
Taxes**	\$299	20	\$523	20	\$634	20	\$675	19
Earned Income								
Tax Credit (-)	\$0	0	\$0	0	\$0	0	\$0	0
Child Care Tax Credit (-)	\$0	0	-\$40	-2	-\$80	-3	-\$80	-2
Child Tax Credit (-)	\$0	0	-\$50	-2	-\$100	-3	-\$100	-3
Total Percent Self-Sufficiency Wage - Hourly***	\$8.57		\$14.87		\$18.13		\$10.07 per adult	
Monthly	\$1,508		\$2,616		\$3,190		\$3,543	
Annual	\$18,097		\$31,398		\$38,281		\$42,519	

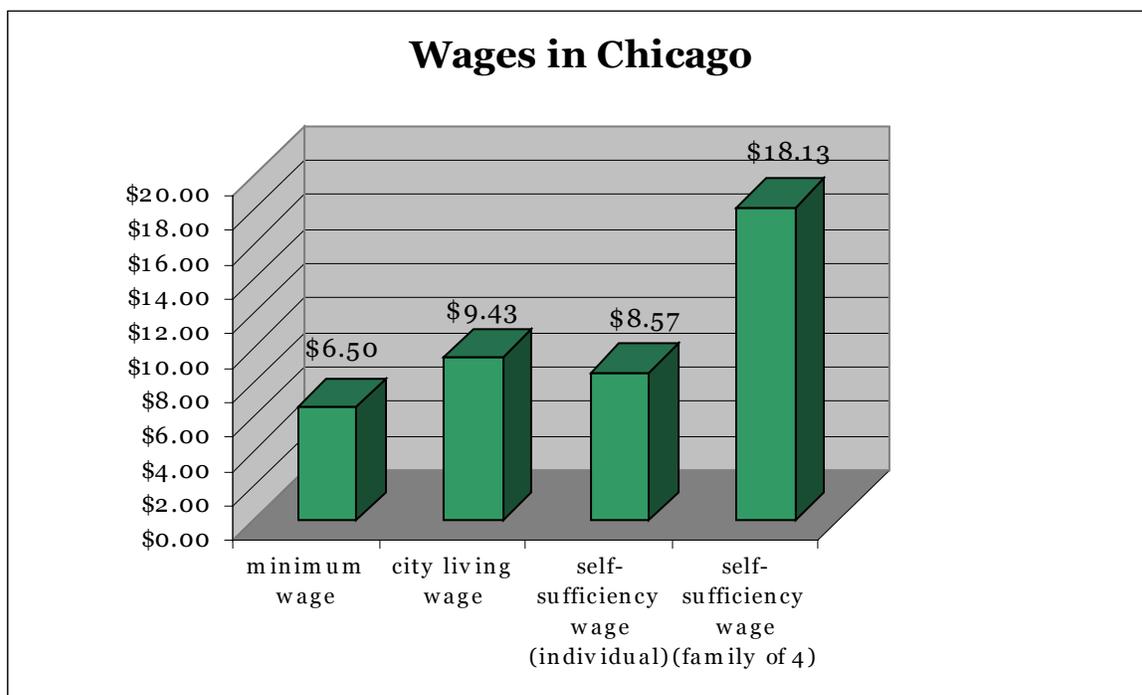
\* The Standard is calculated by adding expenses and taxes and subtracting tax credits.

\*\* Taxes include federal and state income taxes (including state tax credits except state EITC), payroll taxes and sales taxes.

\*\*\* The hourly wage is calculated by dividing the monthly wage by 176 hours (8 hours per day times 22 days per month).

Note: Totals may not add exactly due to rounding.

<sup>14</sup> Pearce, Diana and Jennifer Brooks. "The Self-Sufficiency Standard for Illinois," December 2001. <http://www.womenemployed.org>. Source also for chart above.



## Poverty

### U.S.

- One in four working American families earns wages so low that they struggle to survive financially (2002). These 9.2 million families include 20 million children. Their breadwinners work an average of 1.2 jobs. And 72% are born in the United States (28% are foreign-born).<sup>15</sup>
- One in five jobs in the U.S. was in an occupation that paid a median hourly wage less than \$8.84, roughly the federal poverty threshold (2002).<sup>16</sup>
- 14,812,000 people in the U.S. are members of the “working poor,” or have incomes less than 150% of the poverty line (1999).<sup>17</sup>
- 70% of poor families with children in the U.S. include at least one person who works (1999).<sup>18</sup>

### Illinois/Chicago

- 17% of working families in the city of Chicago were considered “working poor,” which translates into \$13,001 for an individual and \$25,544 for a family of four (2002).<sup>19</sup>
- 39% of the “working poor” in metropolitan Chicago were Latino and 36% were African American (2002).<sup>20</sup>

<sup>15</sup> Rose, Barbara. “1 in 4 Working Families is Low-Income, Study Finds.” *Chicago Tribune*, October 12, 2004.

<sup>16</sup> Rose, Barbara. “1 in 4 Working Families is Low-Income, Study Finds.” *Chicago Tribune*, October 12, 2004.

<sup>17</sup> Center on Budget and Policy Priorities, “Poverty Despite Work Handbook,” 2<sup>nd</sup> Edition, 1999.

<sup>18</sup> Ibid.

<sup>19</sup> Lewis, James H. “The Working Poor: Evidence from the Illinois Families Study.” Roosevelt University, March 2002.

<sup>20</sup> Ibid.

## Hunger

### U.S.

- 39% of those who received emergency food assistance (from soup kitchens, food pantries, and emergency shelters) had at least one employed adult (2001).<sup>21</sup>
- 10% of U.S. residents were food-insecure, or lacked access to enough food to fully meet basic needs at all times (2001).<sup>22</sup>

### Illinois/Chicago

- 32% of Chicagoans who received emergency food assistance (from soup kitchens, food pantries, and emergency shelters) had at least one employed adult (2001).<sup>23</sup>
- 9% of Illinois residents were food-insecure (2001).<sup>24</sup>

## Homelessness/Lack of Affordable Housing

### U.S.

- Approximately 42% of people experiencing homelessness are employed (2001).<sup>25</sup>
- In every state, *no one* earning minimum wage can afford a one- or two-bedroom apartment at the nationally weighted Fair Market Rent (FMR).<sup>26</sup>
- A fulltime worker would have to earn \$14.66 per hour, which is nearly three times the federal minimum wage, to afford rent for a two-bedroom apartment at the nationally weighted FMR (2002).<sup>27</sup>
- Of the 3.9 million working families facing critical housing needs, 80% spend over half their income on housing, while the remainder live in severely inadequate housing (2001).<sup>28</sup>

### Illinois/Chicago

- 8% of Chicago residents experienced homelessness (2004).<sup>29</sup>
- 39% of people who were homeless or at risk of becoming homeless in northeastern Illinois are employed (2003).<sup>30</sup>
- A fulltime worker in Illinois would have to earn \$17.42 per hour, which is nearly three times the federal minimum wage, to afford rent for a two-bedroom apartment at the state's FMR (2004).<sup>31</sup>
- A fulltime worker in metropolitan Chicago would have to spend over half of their income on rent in order to afford a two-bedroom apartment (a unit is considered affordable if it costs no more than 30% of the renter's income) (2004).<sup>32</sup>
- Of homeless adults interviewed in 2000 in Chicago, 75% worked as day laborers in the previous year (2001).<sup>33</sup>

<sup>21</sup> "Hunger and the Working Poor." America's Second Harvest Fact Sheet, <http://www.secondharvest.org>.

<sup>22</sup> "Current Hunger and Poverty Statistics." America's Second Harvest. <http://www.secondharvest.org>.

<sup>23</sup> "Food Depository Mission and Overview." Greater Chicago Food Depository. <http://www.chicagosfoodbank.org/factsheets/documents/GeneralOverview0405.pdf>

<sup>24</sup> "Current Hunger and Poverty Statistics." America's Second Harvest. <http://www.secondharvest.org>.

<sup>25</sup> "People Need Livable Incomes." National Coalition for the Homeless Fact Sheet, <http://www.nationalhomeless.org/facts/income.html>.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> "Rent or Food." America's Second Harvest. <http://www.secondharvest.org>.

<sup>29</sup> "Out of Reach: 2004." National Low-Income Housing Coalition. <http://www.nlihc.org>.

<sup>30</sup> "Facing Homelessness: A Study of Homelessness in Chicago and the Suburbs." Regional Roundtable on Homelessness, January 2003. <http://www.gddf.org>.

<sup>31</sup> "Out of Reach: 2004." National Low-Income Housing Coalition. <http://www.nlihc.org>.

<sup>32</sup> Ibid.

<sup>33</sup> Theodore, Nikolas, Center for Urban Economic Development, University of Illinois Chicago, *A Fair Day's Pay? Homeless Day Laborer's in Chicago*, February, 2001.

## Lack of Healthcare

### U.S.

- About 43.6 million people (15% of the total population) were uninsured for *all* of 2002.<sup>34</sup>
- About 81.8 million people (1 out of 3 people under age 65) were uninsured for *all or part* of 2002 and 2003.<sup>35</sup>
- 17% of workers ages 18-64 were uninsured (2002).<sup>36</sup>
- 47% of working families in poverty had at least one adult who is uninsured (2002).<sup>37</sup>
- 14.4 million low-income adults did not qualify for public health insurance programs. (2002)<sup>38</sup>

### Illinois/Chicago

- About 1,681,700 Illinoisans (15% of Illinois' population) were uninsured for *all* of 2002.<sup>39</sup>
- About 3,492,000 Illinoisans (32% of Illinois' population) were uninsured for all or part of 2002 and 2003.<sup>40</sup>
- 79% of the uninsured families had at least one person working full- or part-time in Illinois (2002).<sup>41</sup>
- 44% of working families in poverty had at least one adult who was uninsured in the state of Illinois (2002).<sup>42</sup>
- The uninsured were disproportionately people of color, as African Americans comprised 23% and Latinos 29% of the uninsured population in Illinois (2002).<sup>43</sup>

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<sup>34</sup> "One in Three: Nonelderly Americans without Health Insurance 2002-2003." <http://www.familiesusa.org>.

<sup>35</sup> Ibid.

<sup>36</sup> 2002 CPS Supplement. <http://www.aecf.org>.

<sup>37</sup> Annual Demographic Survey, CPS Supplement, 2000-2002. <http://www.aecf.org>.

<sup>38</sup> "Working without a Net: The Healthcare Safety Net Still Leaves Millions of Low-Income Workers Uninsured." Families USA. <http://www.familiesusa.org>.

<sup>39</sup> "Who's Uninsured in Illinois and Why?" Families USA. <http://www.familiesusa.org>.

<sup>40</sup> "One in Three: Nonelderly Americans without Health Insurance 2002-2003." <http://www.familiesusa.org>.

<sup>41</sup> "Who's Uninsured in Illinois and Why?" Families USA. <http://www.familiesusa.org>.

<sup>42</sup> Annual Demographic Survey, CPS Supplement, 2000-2002. <http://www.aecf.org>.

<sup>43</sup> "Who's Uninsured in Illinois and Why?" Families USA. <http://www.familiesusa.org>.

## Other Low-Wage Worker Issues Action Guide

*Many workers who come to IWRC experience the issues of poverty, hunger, etc., described earlier.*

*As an advocate, first, you should listen respectfully and compassionately to workers' accounts of the issues they face. You can also refer workers to social service agencies that will help workers meet their immediate needs (providing food, assisting with rent and utility bills, etc.).*

**NOTE:** See *Social Services* listed in “Contacts” section for a list of agencies in the Chicago area to which you might refer workers.

**NOTE:** See also the United Way’s “Community Impact Map,” which allows you to search for social service agencies by Chicago neighborhood:  
<http://www.uwonline.org/index.cfm/fuseaction/community.map>.



## Additional Resources

*The section that follows includes other resources that may be of use to you as a Worker Rights Advocate. It includes recruitment materials, important contacts, websites, and Spanish vocabulary. In this section, you also will find testimonies of real workers who have come to IWRC and suggested readings that will broaden your understanding of worker issues and expose you to the diverse ways in which people are thinking and writing about the injustices and abuses experienced by low-wage workers in the U.S. today.*

 **NOTE:** *Please create your own resources and add them to this section!*



## Recruitment Materials

*The following are sample flyers you may use to recruit new Workers' Rights Advocates at congregations, community events, etc. Modify the flyers as desired.*



# SPANISH SPEAKERS NEEDED!!!

## Volunteer as a Worker Rights Advocate

At the Interfaith Worker Rights Center (IWRC),  
a project of the Chicago Interfaith Committee on Worker Issues.

As a Worker Rights Advocate, you will:

- ❖ Conduct workshops on worker rights for community groups.
- ❖ Assist workers in filing complaints with government agencies.
- ❖ Lead direct action campaigns to improve workplace conditions.
- ❖ Serve as translator at our legal clinics.

For more information, please contact 773.728.8400 ext. 20,  
or visit the Interfaith Worker Rights Center at  
Edgewater Presbyterian Church at  
1020 W. Bryn Mawr, Chicago, IL 60660.

## ¡PONGA EN ACCIÓN SU FE!



Únase a el Comité de Interfe de Chicago Sobre Problemas Laborales. Fundado en 1991, nuestra misión es la de educar, organizar y movilizar a la comunidad religiosa para que apoye en problemas y campañas para mejorar los salarios, beneficios y condiciones para los trabajadores, en particular trabajadores con salarios bajos.

## Conviértete a ser un promotor de derechos laborales

Ayude los trabajadores aprenden acerca de sus derechos y opciones para mejorar las condiciones en sus lugares del trabajo, sirviendo como:

- Traductor para trabajadores que hablan Español;
- Defensor de Derechos del Trabajador asistiendo a trabajadores en llenar formularios de quejas con agencias gubernamentales;
- Educador de Derechos del Trabajador conduciendo talleres para grupos comunitarios;
- Consultante Legal en nuestra Clínica Legal (para abogados y estudiantes de leyes).

Para más información, favor de llamarnos  
Al 773.728.8400 ext. 20.  
Estamos localizados en el Norte de Chicago  
en 1020 W. Bryn Mawr, Chicago, IL.

## Spanish Vocabulary

*The section below includes some important Spanish vocabulary words you will use in conversations with Spanish-speaking workers that come to IWRC. The words are listed in alphabetical order from English to Spanish.*

abuse: abuso	to risk: arriesgar
accident: accidente	safety: seguridad
agency: agencia	sexual harassment: acoso sexual
agreement: acuerdo	strike: huelga
boss: jefe; "boss"	supervisor: supervisor
claim: reclamo	to support: apoyar
compensation: compensación	training: entrenamiento
complaint: queja	unemployment: desempleo
day laborer: jornalero	union: unión, sindicato
direct action: acción directa	unpaid wages: salario debido
disability: discapacidad	violation: violación
discrimination: discriminación	worker: trabajador
Department of Labor: Departamento de Labor/Trabajo	Workers' Compensation: compensación para trabajadores
discrimination: discriminación	workshop: taller
employee: empleado	
employer: empleador	
face-to-face: cara a cara	
factory: fábrica	
to file, put in: meter	
to fire: despedir	
force: fuerza	
health: salud	
hearing: audiencia	
injury: lesión	
lawsuit: demanda	
minimum wage: salario mínimo	
to negotiate: negociar	
to organize: organizar	



## Contacts



### Attorneys/Legal Services

- **Alicia Álvarez**  
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Fax: (312)362-6918  
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- **John Billhorn**  
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Email: [jwbillorn@juno.com](mailto:jwbillorn@juno.com)  
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- **Chicago Legal Clinic**  
Address: 2938 East 91<sup>st</sup> Street  
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Telephone: (773)731-1762
  
- **Chicago Volunteer Legal Clinic**  
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- **Amy Epton**  
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- **Edwin Reyes**  
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- **Laurie Wardell**  
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Email: [lwardell@clccrul.org](mailto:lwardell@clccrul.org)  
Area(s) of expertise: discrimination
  
- **Legal Assistance Foundation of Chicago**  
Address: 111 W. Jackson, 3<sup>rd</sup> Floor  
Chicago, IL  
Telephone: (312)347-8377

### Equal Employment Opportunity Commission (EEOC)

- **General**  
Telephone: (312)353-2713
  
- **Monique Debusmann**, Senior Investigator  
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Fax: (312)886-1168  
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- **Julie Bowman**  
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Fax: (312)353-6676  
Email: N/A

### Illinois Department of Labor (ILDOL)

- **Mark Fisher**  
Telephone: (312)793-2828  
Fax: (312)814-1210  
Email: [Mark\\_Fisher@cms.state.il.us](mailto:Mark_Fisher@cms.state.il.us)

## National Labor Relations Board (NLRB)

- **Ed Castillo**  
Telephone: (312)353-7633

## Occupational Safety and Health Administration (OSHA)

- **Angie Loftus**, Industrial Hygienist  
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Fax: (847)390-8220  
Email: [loftus.angie@dol.gov](mailto:loftus.angie@dol.gov)
- **Julie Baker**  
Telephone: (708)891-3800  
Fax: (708)862-4659  
Email: [bakker.julie@dol.gov](mailto:bakker.julie@dol.gov)

## Social Service Agencies

- **Centro Romero**  
Services: Adult education, domestic violence program, women's leadership program, legal clinic, and youth programs *for Latinos*.  
Contact Person: Frank Melone  
Address: 6216 North Clark Street  
Chicago, IL 60660  
Telephone: (773)508-5300  
Fax: (773)508-5399
- **Heartland Alliance**  
Services: Housing and homelessness outreach, medical services, immigrant outreach/assistance, youth and children's programs, employment and education programs  
Contact Person: Kat Cruz  
Address: 208 South LaSalle Street, Suite 1818  
Chicago, IL 60604  
Telephone: (312)660-1300  
Fax: (312)660-1500
- **Franciscan Outreach**  
Services: Shelter, meals, showers, case management  
Contact Person: Amberan Melius, Case Manager  
Address: 1645 West LeMoyne St.  
Chicago, IL 60622  
Telephone: (773)278-6724  
Fax: (773)278-7120

- **Howard Area Community Center**  
Services: Housing assistance, medical services, food, clothing, youth and children's programs, legal clinic, employment and education programs  
Contact Person: N/A  
Address: 7648 North Paulina St.  
Chicago, IL 60626  
Telephone: (773)262-6622  
Fax: (773)262-6645
- **Jane Adams Hull House Association**  
Services: Case management, employment training, senior services, housing resource center (assistance and placement), early childhood development, small business development, community centers  
Contact Person: N/A  
Address: Central Office  
10 S. Riverside Plaza, Suite 1700  
Chicago, IL 60606  
Telephone: (312)906-8600  
Fax: (312)906-8822
- **United Way of Metropolitan Chicago**  
Telephone: First Call for Help  
(800)725-5314  
Web-based Directory of Services:  
<http://www.uwonline.org/index.cfm/fuseaction/community.map>

### Worker Centers (Chicago)

- **Albany Park Workers' Center**  
Contact Person: Antonia Dempsey  
Address: 4174 North Elston Ave.  
Chicago, IL 60618  
Telephone: (773)588-2641
- **Chicago Area Workers' Center (and Day Labor Collaborative)**  
Contact Person: Chris Williams  
Address: 3047 W. Cermak #7  
Chicago, IL 60623  
Telephone: (312) 782-4545
- **Latino Union**  
Contact Person: Jessica Aranda (Executive Director)  
B. Lowe  
Address: 1619 West 19<sup>th</sup> Street  
Chicago, IL 60608  
Telephone: (312)491-9044

- **San Lucas Workers' Center**

Contact Person: Ari Glazer  
Address: 2914 W. North Ave.  
Chicago, IL 60647  
Telephone: (773)419-7335

## U.S. Department of Labor (USDOL)

- Robert Lisec, Investigator  
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## Unions

- **HERE**  
Contact Person: Louis Weeks  
Address: 55 West Van Buren, 4<sup>th</sup> Floor  
Chicago, IL 60605  
Telephone: (312)663-4373 (office)  
(312)446-1761 (cell)
- **SEIU Local 1**  
Contact Person: Leticia Salcedo (Organizer)  
Address: 111 East Wacker Drive, 25<sup>th</sup> Floor  
Chicago, IL 60601  
Telephone: (312)233-8757
- **Teamsters**  
Contact Person: Jeff Farmer (Director of Organizing)  
Telephone: (202)624-8718  
Fax: (202)624-6832
- **UE**  
Contact Person: Leticia Marquez (Organizer)  
Address: 37 South Ashland  
Chicago, IL 60607  
Telephone: (312)829-8300  
Fax: (312)829-8307
- **UFCW Local 881**  
Contact Person: Moises Zavala (Organizer)  
Address: 10400 West Higgins Road  
Rosemont, IL 60018  
Telephone: (847)294-5064  
Fax: (630)954-1007



## Websites

### Government Agencies

Equal Employment Opportunity Commission (EEOC):  
<http://www.eeoc.gov>

Illinois Department of Labor (IDOL):  
<http://www.state.il.us/agency/idol>

Illinois Workers' Compensation Commission (IWCC):  
<http://www.iwcc.il.gov>

Immigration and Naturalization Services (INS):  
<http://www.uscis.gov>

Occupational Safety and Health Administration (OSHA):  
<http://www.osha.gov>

U.S. Department of Labor (USDOL):  
<http://www.dol.gov>



### Immigration and Worker Issues

Center for Law and Social Policy (CLASP):  
<http://www.clasp.org>

Center on Budget and Policy Priorities:  
<http://www.cbpp.org>

Carolina Alliance for Fair Employment:  
<http://www.cafesc.org>

Center for Community Change:  
<http://www.communitychange.org>

Center for Economic Progress:  
<http://www.centerforprogress.org>

Economic Policy Institute:  
<http://www.epinet.org>

Interfaith Worker Justice:  
<http://www.nicwj.org>

Living Wage Resource Center:  
<http://www.livingwagecampaign.org>

Midwest Immigrant and Human Rights Center (MIHRC):  
<http://www.heartland-alliance.org>

National Council of La Raza:  
<http://www.nclr.org>

National Employment Law Project:  
<http://www.nelp.org>

National Immigration Law Center:  
<http://www.nilc.org>

National Immigration Forum:  
<http://www.immigrationforum.org>

National Network for Immigrant and Refugee Rights:  
<http://www.nnirr.org>

North American Alliance For Fair Employment (NAFFE):  
<http://www.fairjobs.org>

UC Berkeley Labor Center:  
<http://laborcenter.berkeley.edu>

Urban Institute:  
<http://www.urban.org>

## Labor Movement/Unions

American Federation of Labor (AFL-CIO):  
<http://www.aflcio.org>

Chicago Federation of Labor (CFL):  
<http://www.cfl-online.org>

Labor Research Association:  
<http://www.laborresearch.org>

Research-Education-Advocacy-People (REAP):  
<http://www.reapinc.org>

## Worker Centers

Central Florida Interfaith Committee:  
<http://www.orangecountyfl-livingwage.org>

Chicago Interfaith Committee on Worker Issues:  
<http://www.chicagointerfaith.org>

Clergy and Laity United for Economic Justice (CLUE):  
<http://www.cluela.org>

DC Employment Justice Center:  
<http://www.dcejc.org>

Interfaith Coalition for Worker Justice in South Central Wisconsin:  
<http://www.workerjustice.org>

Korean Immigrant Workers Advocates:  
<http://www.kiwa.org>

Labor Religion Coalition (New York State):  
<http://www.labor-religion.org>

Mid-South Interfaith Network for Economic Justice:  
<http://www.midsouthinterfaith.org>

Northwest Indiana—Calumet Project:  
<http://www.calproject.org>

National Day Labor Organizing Network (NDLON):  
<http://www.ndlon.org>

Omaha Together One Community:  
<http://www.otoc.org>

South Florida Interfaith Committee for Worker Justice:  
<http://www.sficwj.org>

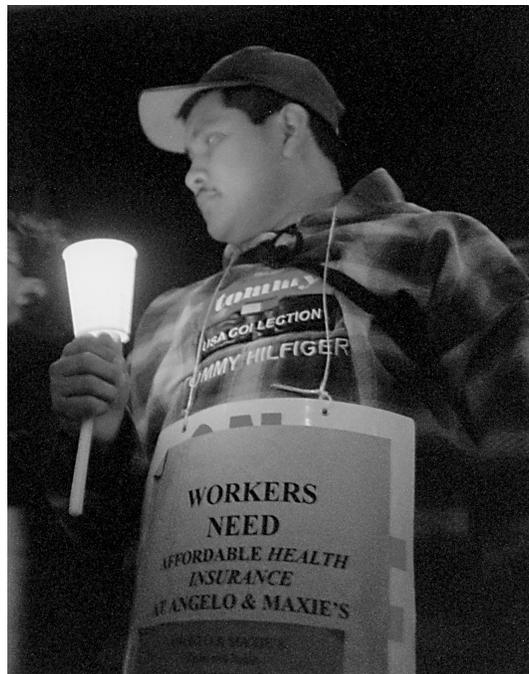
Tenants' and Workers' Support Committee:  
<http://www.twsc.org>

Vermont Workers' Center  
<http://www.vermontworkerscenter.org>



## Worker Testimonies

*The section that follows includes the stories of real workers who have come to the Interfaith Worker Rights Center. Each testimony is a first-person account of the injustices and abuses workers have experienced, how the work situation has affected other areas of their lives, and steps they have taken to address the situation. These stories will give you further insight into the hardships workers face, as well as reveal the extent to which workplace injustice affects all areas of workers' (and their families') lives.*



### Avelardo's Testimony—Day Laborer

I am Avelardo. I came from Mexico to the U.S. in 1984 to work. Recently, I worked for a construction company named Agave. I made cabinets and tile floors in public housing developments in Chicago. They never paid me all of my salary. My first two months of work, they gave me all of my due pay—\$1,000 each month, but after that, they only gave me part. Immediately, I asked my supervisor that he please help me, that he pay me. In all, he owes me \$11,750 of work between July, 2003 and August, 2004. After many months of working without received my due pay, I told the supervisor, that I was going to stop working and I left the job. There are other people that have the same problem. In total, they owe us 10 workers over \$20,000.

I came to the Worker Center. That's when I made the petition to the man [the supervisor] that he pay me. The Worker Center wanted to take care of things passively, by way of friendship. The supervisor doesn't pay attention to that. Therefore, we didn't talk anymore about those things. That's when the supervisor said to me, "I'm not going to immigration anymore; I'm going to the police," to intimidate me. But, I know perfectly well that I'm illegally in this country. I know perfectly well that I'm violating the immigration laws and in whatever moment they could come to deport me. . . . But, I need this money. Now, I haven't worked since March because every employer asks for a Social Security number; And you know that if you don't have papers you cannot do a lot—you cannot find work.

You can't image how this all affects me. I am red in the face—you can't imagine that even today, it gives me pain to present myself to you as I am—it gives me pain to present myself to you like this. Why? Because my clothes smell horrible. It's true. Unfortunately, there are people that believe that there are conscientious people who are going to help you economically. It's a big lie, like this man, Mario [supervisor at Agave]. There are many contractors that don't pay their workers. I think that for us, Latinos without papers, there's no law that can help us.

The people that came here from Latin America, there are many of them, suffer a lot. There are a lot of us that are pained to go to one of those agencies that helps us, but they give us something to eat, they give us clothes, and a bed to sleep on. I'm thankful to the churches that give us one meal to eat every day. It's not enough to eat, but we can survive.

I would like for you all to realize that it's not just my problem—that there are many of us [Latinos] that are walking the streets like me—street people. I want you all to be aware that the parents of people of different nationalities were also immigrants, and they treated them simply as people. Now, they treat us like we are nothing, but we aren't. I want you all to remember that we are people who came here in search of a better life. We did not come to scare anyone—simply for work, whatever kind it may be. We came only to work.

## Testimonio de Avelardo—Jornalero

Soy Avelardo. Vine de México a los Estados Unidos en 1984 para trabajar. Recientemente, trabajé por una compañía de construcción que se llama Agave. Hice gabinetes y pisos de “tile” en las viviendas públicas en Chicago. Nunca me pagaron todo mi salario. Las primeras dos veces de trabajo, me dieron todo mi salario--\$1,000 cada mes, pero después, solamente me dieron parte. Inmediatamente, lo que pedí de favor de mi supervisor de que me ayudara, que me pagara. En total, me debe \$11,750 por trabajo entre julio 2003 y agosto 2004. Después de muchas veces de trabajo sin recibir mi salario debido, me dije al supervisor, que iba a dejar de trabajar y salí del trabajo. Hay otras personas que tienen el mismo problema. En total, nos deben más que \$20,000 a diez trabajadores.

Vine al Centro de Trabajadores. Eso es cuando hice la petición para que ese señor me pagara. El Centro de Trabajadores quiso llevar las cosas por la vía pacífica, por la vía de la amistad. El señor no se prestó para ello. Entonces, no más hablamos de esas cosas. Eso es cuando el señor (su supervisor) me dijo que ‘ya no me voy a la migración; me voy a la policía,’ para intimidarme. Pero, yo se perfectamente bien que soy ilegal en este país. Yo se perfectamente que estoy violando las leyes de migración y en cualquier rato si me podían agarrar de deportarme. . . . Pero, necesito ese dinero. Ahorita, no he trabajado desde Marzo porque cada empleador pide de uno el seguro social, y Usted sabe que uno sin ningún papel no puede hacer mucho—no puede encontrar trabajo.

No más imagines de que todo me afectó. Tengo cantidad de roña, no más imagines que hasta la fecha, pena me da presentarme ante Usted así como ando—pena me da presentarme así ante Usted. Por qué? Porque ya mi ropa huele muere. Es la verdad. Desgraciadamente, hay personas que creen que hay personas que son consientes que van a ayudarlo económicamente. Es una gran mentira, así como hay este señor, Mario Hilaba, el supervisor de Agave. Hay muchas contratistas que no les pagan a sus trabajadores. Yo creo que para nosotros, Latinos sin papeles, no hay ninguna ley que nos ayuda a nosotros.

La gente que vino aquí de Latino América, hay bastantes, sufren mucho. Hay muchos de nosotros que nos da pena acercarnos de unos de esas agencias que nos da ayuda, pero nos da de comer, nos da ropa, y cama. Me da gracias a las iglesias que nos da una sola comida por día. No es bastante, pero podemos sobrevivir.

Me gustaría que Ustedes mismas dieran cuenta de que eso no es nada más el problema mía—que hay muchos de nosotros que están andando en la calle como yo—callejeros. Quiero que les dan cuenta de que muchos de la gente de diferente nacionalidades fueron también sus padres inmigrantes y les trataron simplemente como personas. Ahora nos tratan como nada, pero no somos. Quiero que recuerden que somos personas que venimos en busca de mejores vidas y no venimos a sorprender a nadie—simplemente para el trabajo, el que sea. Simplemente venimos para trabajar.

## Guillermo's Testimony- Pastry Decorator

My name is Guillermo. I'm 31 years old. I have a family of four people. I live in Chicago. I am Mexican, but I came here in 1993 to work and make it because where I'm from, the community is poor. There aren't a lot of jobs or economic resources. So, I came to this country to make it and to raise my family. I came by way of a person—a coyote. I paid him 2,000 pesos, which is \$300. The crossing [over the border] was quick, only one hour. I crossed without any problem, without accident.

Now, I work in a bakery. I am a cream pie decorator. I'm approaching seven years of work there. They pay me well—\$345 every two weeks, but I work more than 50, sometimes 60 hours each week. In my workplace, they are committing many errors. First, they make us work more than eight hours a day, and they do not pay us overtime. And they are pocketing taxes. The supervisors aren't concerned that the workers start at seven in the morning, and don't leave until eight or nine at night. Around Christmas time, we work that much. Now, they took away my work on Saturdays and Sundays because they do not want the Department of Labor to realize that they are not paying overtime. They want to hide all of this, but it's not going to work because it's going to come to light. I hope that everyone realizes that we are all humans; we all should have the same rights. We [Latinos] do not come to this country so that they can discriminate against us, or oppress us, or not pay us our salaries like they ought to.

This situation in my work has affected my family in many ways. If we pay for one thing, we cannot pay for others. We went for almost seven months without gas because we did not have the means to pay for it. We heated water to bathe and cooked on a camping stove, and slept without heat in the house. In January and February, it was very cold in the house.

I'm not afraid even though my supervisor, Bill, told me that he was going to take me to Immigration, because I have been in this country for almost a decade and that gives me reason to not be afraid. Thank God, they have not snatched me up and deported me. I know that if the company calls Immigration, they are going to have problems because they know that their workers are not legal and that's a violation of the law. They are also guilty. Why didn't they think about their workers' immigration status when they gave them work? They asked for no papers, no documents. When it's convenient for them to have us working they did not say anything, but now when people are complaining, they speak up.

In my view, in whatever job that one goes after, the injustices always are going to be present because it so happens that the people are afraid to get rid of them and speak up about the injustices that the supervisors and owners commit in their work. More than that, the majority of the people that are afraid prefer to earn less money to be sure that they are not fired. So, the injustices always are going to be a daily occurrence. That's not going to change I don't think.

I came to the Worker Center so that they would help me, and help everyone else, so that the company would stop these injustices, not so much for the money I might be able to win, but so that we are treated better in our workplace. Before, I did not do anything because I did not know the help that some agencies offer us, or labor laws. I did not know my rights. But now, it's different because I know that I have rights and I know the agencies that give help. Before I leave my job at the bakery, I am going to look for another job, wherever it is. I know that God never forgets anyone.

## Testimonio de Guillermo—Decorador de Pastel es

Me llamo Guillermo. Tengo 31 años. Tengo una familia de 4 personas. Vivo en Chicago. Soy mexicano, pero vine aquí en 1993 para trabajar y salir adelante porque de donde yo soy, la comunidad es pobre. No hay mucho trabajo ni recursos económicos. Por eso, vine a este país para salir adelante y llevar a mi familia. Vine por modo de una persona—un coyote. Le pague 2,000 pesos, sería \$300. El cruce fue rápido, solamente una hora. Crucé sin ningún problema, sin ningún percance.

Ahora, trabajo en una pastelería. Soy decorador de “cream pies.” Ya voy cerca de siete años de trabajar haya. Me pagan bien—\$345 cada quincena, pero trabajo más que 50, a veces 60 horas cada semana. En mi trabajo, están cometiendo muchas faltas. Primero, nos hacen trabajar más de ocho horas cada día, y no nos pagan “overtime.” Y están reteniendo impuestos. A los supervisores, no les importan que los trabajadores entren a las siete de la mañana, y no salen hasta las ocho o nueve de la noche. Para los tiempos de la Navidad, nosotros trabajamos tanto. Ahora, ellos quitaron mi trabajo de los sábados y los domingos porque no quieren que el Departamento de Labor se dé cuenta de que no están pagando “overtime.” Ellos quieren esconder todo eso, pero no vale de nada porque va a salir a la luz. Ojala que todos se den cuenta de que todos somos humanos; todos debemos tener los mismos derechos. Venimos [Latinos] a este país no para que nos discriminen, ni que nos opriman, ni que nos paguen nuestros salarios como deben de ser.

Esta situación en mi trabajo ha afectado a mi familia de muchas maneras. Nosotros, si pagamos por una cosa, no pagamos por otras. Pasamos casi siete meses sin “gas” porque nosotros no teníamos los medios para pagarlos. Calentamos agua caliente para bañarnos; cocinamos en una estufa de ‘camping,’ y dormimos sin calefacción en la casa. En enero y febrero, hacía mucho frío en la casa.

No tengo miedo aunque mi supervisor, Bill, me dijo que iba a llevarme a la Migra, porque tengo casi más de una década en este país y me da motivo a no tener miedo. Gracias a Dios, nunca me han agarrado y deportado. Yo se que la compañía llama a la Migra, va a tener problemas porque ellos saben que sus trabajadores no son legales y eso es una violación de la ley. Ellos son culpables también. ¿Por qué ellos no pensaron en el estatus migratorio de sus trabajadores cuando le dieron el trabajo? No les pidieron ningún papel, ningún documento. Cuando ellos les conviene tenernos trabajando no dicen nada, pero ahora cuando la gente se esta quejando, ellos si lo dicen.

En mi ver, en cualquier trabajo que uno vaya a conseguir, las injusticias siempre van a estar presentes porque pasa que la gente tiene miedo a lavarlas y contarlas injusticias que cometen los supervisores y dueños en el trabajo. Mas que eso, les espantan y les van a llevar a la Migra. La mayoría de la gente que tiene miedo prefiere ganar menos dinero que los vayan a correr. Por eso, las injusticias siempre van estar a la orden del día. Eso no va a cambiar, yo creo.

Vine al Centro de Trabajadores para que me ayudaran, y ayudarían a los de más para que la compañía pare de hacer esas injusticias, no tanto por el dinero que yo pueda ganar—pero para que tengamos un trato mejor en nuestro lugar de trabajo. Antes, no hice nada porque no tenía conocimiento de las ayudas que algunas agencias que nos ofrecen ni las leyes laborales. No sabía mis derechos. Pero ahora, es diferente porque se que tengo derechos y se de las agencias que dan ayuda. Antes de que me salga de mi trabajo en la pastelería, me voy a conseguir otro trabajo, donde sea. Yo se que Dios nunca le falta a uno.

### Lupe's Testimony—Bank Courier

My name is Lupe. I'm 32 years old and I'm a Mexican. My father, mother, brother, and I live here in Chicago. I arrived in the United States 11 years ago. I wanted to improve my economic status and help my family have a higher quality of life.

I worked for a company that's called Davis Bank Corp. for eight years. We transported checks and money in our cars. We were supposedly independent drivers, when we really weren't. The owner of the business was an abusive person. He made us work up to 17 hours every day without paying overtime. We had no benefits—no medical insurance, vacation, or sick days. Absolutely nothing. The company owner committed many abuses against us, and I got tired of all the abuse. I started looking for help and I came here to the Worker Center. I started to learn about what I could do against this person and started to learn about my rights as a worker. I started to take legal action against this man [the company owner]. I started to try to organize a group of workers from Davis, but no one wanted to support me. Everyone was afraid of retaliations and even more so of suddenly losing their jobs and going hungry again, without basic necessities. After working for so many years, we had a somewhat better economic status, but not psychologically because of all the abuse.

Two of the principle characteristics of people that work at the company are that they do not have documents, and they do not have a valid driver's license to drive in this country. But, the owner of the company accepts false documents, and you become a member of his business. That's why there's abuse, because the owner of the company knows that the majority of his workers are undocumented. That's why he tramples your rights; he tramples all of your personhood.

When I took legal action against the company, the owner retaliated against me. He sent his brother to follow me, so that he could fire me without any justification. They intended to arrest me like they had many other people. They make you afraid, and that's exactly what the company wants. The owner's brother took all of my work out of my car—all of the checks that I had taken from three banks, and he took some of my personal papers and put them in his own car. He told me that the papers were his. So, I left my papers, I told him that the papers were mine, and I ran away. He said to me, "I'm going to arrest you." But, I called the police. He left, and I stayed in my car until 10 policemen arrived. They found him and arrested him. Because I already had a lawsuit against the company for overtime, I filed another lawsuit for the retaliations.

It affected me a lot, all of this, even today. It's very hard; it totally destabilizes you. My economic situation got worse. I had to pay for a car and insurance. I'm the one who takes care of my family. The truth is that it affected me a lot.

## Testimonio de Lupe—Mensajera de Bancos

Me llamo Lupe. Tengo 32 años y soy mexicana. Mi papá, mama, hermano, y yo, viven aquí en Chicago. Llegué hace once años a los Estados Unidos. Quería mejorar mi estatus económico y ayudar a mi familia a tener un nivel un poco mejor.

Yo trabajé para una compañía que se llama “Davis Bank Corp.” por ocho años. Nosotros transportamos cheques y dinero en nuestros carros. Somos supuestamente “drivers” independientes cuando no lo somos. El dueño de la empresa era una persona abusiva. Nos obligaba trabajar hasta 17 hora cada día sin pagarnos el “overtime.” Ningún beneficio teníamos—no aseguranza médica, vacaciones, ni días de enfermedad. Absolutamente nada. El dueño cometió muchos abusos contra nosotros y me cansó de tanto abuso. Empecé buscar una ayuda y vine aquí al Centro de Trabajadores. Empecé a orientarme a lo que podía hacer contra esta persona y empecé a orientarme a cuales son mis derechos como trabajador. Empecé a tomar acción legal contra de este señor [el dueño de la compañía]. Empecé a tratar de organizar un grupo de trabajadores de Davis, pero nadie me quería apoyarme. Todos tenían medio de represalias y más, de pronto perder el trabajo y pasar otra vez hambres, sin necesidades básicas. Cuando ya teníamos tantos años trabajando, teníamos una estatus económica un poco mejor, pero psicológicamente no por tanto abuso. Dos de las características principales de las personas que trabajan en la compañía es que no tienen documentos y no tienen una licencia válida para conducir en este país. Pero, el dueño de la compañía acepta a los documentos falsos y ya para ellos tú eres un miembro más de su empresa. Por eso es el abuso, porque el dueño sabe que la mayoría de sus trabajadores son personas indocumentadas. Entonces, es que te piso todos los derechos, te piso toda la persona.

Cuando yo tome acción legal contra la compañía, el dueño tomo represalias contra mí. Mando a su hermano a que me siguiera, a que me corriera sin ninguna justificación. Intentaron de arrestarme como lo habían hecho con muchas personas. Me daban miedo, y eso es exactamente lo que quiere la compañía. Su hermano bajo todo mi trabajo de mi carro—los cheques yo había llevado de tres bancos, y me bajo unos papeles personales los metió al automóvil de el. Me dijo que las papeles eran de el. Entonces, yo dejé mis papeles, le dije que eran míos, y me aventé. Me dijo, “le voy a arrestar.” Pero, yo llamé a la policía. El se fue, y yo seguía en mi carro hasta que llegaron las 10 patrullas. Lo encontraron y lo arrestaron. Y como yo ya tenía otra demanda en contra de la compañía por “overtime,” yo metí otra demanda por represalias.

Me afectó bastante, todo de esto, hasta la fecha. Es muy difícil; te destabilizas totalmente. Mi situación económica fue peorando. Yo tenía que pagar un carro y la aseguranza. Yo soy la asistente de mi familia. La verdad es que me afectó bastante.

## Juana's Testimony—Pastry Decorator

My name is Juana. I came to the United States from Mexico 25 years ago. I came here for the same reason that we all come, wanting to work and improve. Because, you know that in this country there are good benefits. I adore this country. I have three children that were all born here.

I did not work for eight years because my children were young and it was very hard to leave the house. But, thank God, my children have grown up and now go to school. So, in April of 2003, I applied for work at a bakery. I got a job, decorating pastries. I earned a good salary—a lot. But, after a little while, I encountered a very ugly surprise. It makes me very sad for all of the employees that are working there. All of the workers are immigrants and they don't have papers. The manager frequently humiliates and abuses the employees. There are very ugly things happening [in the bakery] and I can't tell you why. I've been in the United States for 24 years, and I've never seen something like this. They don't pay overtime, or give rest periods. Do you think it's right that an employee starts work at seven in the morning, and should have left at three in the afternoon? There are times when it's 6:30, and you're still there. In December, you work up to 12 to 14 hours, 16 hours for the same amount of money, or they give you just \$10 more. There's also sexual and verbal abuse and problems of sanitation in the production of the pastries.

Apart from these injustices, they fired me. It was so unfair because I went to work honorably every day, without any error. What happened? My son got very sick in Children's Memorial Hospital. The doctor asked me to stay with my son because he was young and he needed me. I brought a paper from the doctor to the manager, and I explained to them that my son was very sick with pneumonia. Imagine yourself, without sleep, without food, because when one has a problem of this sort, you fight until the end. First come your children. Work is important, but the life of your son comes first, before any other thing. I returned to my job, suffering because my son was seriously sick. And what happened? Instead of my supervisors saying to me, "How is your son?"—a humane being ought to say that. But, an inhumane being that thinks about nothing else besides money and the production of the employee, does not think about the problems that you have. They value the employer more than the employee. They simply fired me. So, I was left with nothing. . . . I couldn't pay the rent, or buy food for my family.

But, everyone has the same rights—citizen or illegal—because we are all human beings. When you serve them [employers], when you produce for them, they don't say anything. But, when you are reclaiming your rights, they intimidate you or fire you. And when this happens, the immigrant workers don't do anything—they throw up their hands and leave. That's why they make fun of immigrant workers. They like people recently arrived from Mexico because they are ignorant and don't know, according to them, anything. They say that those who claim their rights are bad. We aren't bad. Animals deserve respect, and we also deserve respect because we are human beings.

I believe that we all have rights. We're in the United States. We aren't in our countries where we can't do what we want, and do not have the right to vote or claim our rights. I believe that workers have the power and that if from now on they look for help, everything is going to change. I hope to God. I've suffered a lot.

## Testimonio de Juana- Decoradora de pasteles

Me llamo Juana. Llegué a los Estados Unidos de México hace 25 años. Vine aquí por lo mismo que vinimos todos, con ganas de trabajar y superarnos. Porque, tú sabes que en este país hay buenos beneficios. Yo adoro a este país. Tengo tres hijos que son de aquí.

Tenía 8 años de no trabajar porque mis niños eran muy pequeñitos y era muy difícil salir de la casa. Pero gracias a Dios, mis niños ya crecieron y van a la escuela. Entonces, en Abril de 2003, fui a pedir empleo en una pastelería. Obtuve trabajo, decorando pasteles. Gané un buen salario—muchísimo. Pero, después de un rato, yo me encontré una sorpresa muy fea. Me da tristeza por todas las empleados que están trabajando aya. Todos los trabajadores son inmigrantes y no tienen papeles. El manager humilla y abusa bastante a los empleos. Hay cosas muy feas que pasan y no pueden decirte la razón. 24 años en los Estados Unidos, y nada jamás había visto una cosa así. No les pagan “overtime,” ni les dan descansos. ¿Tú crees que sea correcto que un empleado entra a 7:00 de la mañana, y debería de salir uno a las 3:00 de la tarde? Hay veces que son las 6:30, y allí esta uno. En diciembre, trabaja hasta doce a catorce horas, diez y seis horas por el mismo dinero, o nada mas les dan diez dólares mas. También hay abuso sexual y verbal y problemas de saneamiento de la producción de las pasteles.

Aparte de estas injusticias, me despidieron. Era una cosa tan injusta porque yo fui a trabajar honradamente las ocho días, sin ningún error. ¿Que pasó? Mi niño se enfermó muy grave en el “Children’s Memorial Hospital.” El doctor me pidió quedarme con mi niño por la razón de que era pequeño y me necesitaba. Me llevé un papel del doctor al manager, y les expliqué que mi niño estaba bien grave con neumonía. Imaginas tú, mal dormido uno, mal comido, porque cuando uno tiene problema de esa clase hasta el fin le va uno. Primero son sus hijos. El trabajo es importante, pero primero está la vida de tú hijo, antes de cualquier cosa. Yo regresé a mi trabajo, sufriendo de que mi hijo estaba enfermo seriamente. ¿Y que pasó? En lugar de que mis supervisores me dijeron, “Como está tú hijo?”—un agente humana debía de decirlo. Pero, un agente inhumana que nada jamás piensa en el dinero y en la producción del empleado, no piensa en los problemas que tiene uno. Valían al empleador mas que al empleado. Simplemente, me despidieron. Pues, me quedó sin nada. . . . No podría pagar la renta ni comprar comida para mi familia.

Pero, todos tenemos derechos por igual—ciudadano e ilegal—porque todos somos humanos. Cuando les sirve, les da producción, no dicen nada. Pero, cuando uno está reclamando sus derechos, le intimidan o le despiden. Y cuando eso ocurre, los trabajadores inmigrantes no hacen nada—doblan sus manos y van. Por eso, burlan de los trabajadores inmigrantes. Les gustan personas reciente llegadas de México porque son ignorantes y no saben, según ellos, nada. Ellos dicen que los que reclaman sus derechos son malos. No somos malos. Los animales merecen respeto, y nosotros también merecemos respeto porque somos humanos.

Yo creo que todos tenemos derechos. Estamos en los Estados Unidos. No estamos en nuestros países de origen donde no podemos hacer lo que queremos y no tenemos derechos de vota ni de reclamar nuestros derechos. Yo creo que los trabajadores tienen la fuerza y que si ellos de ahora y adelante buscan ayuda, toda va a cambiar. Espero en Dios. He sufrido mucho.

## Hector's Testimony—Warehouse Worker

My name is Hector. I came to the United States 11 years ago from Mexico. I'm 27 years old. I have a wife and one daughter. I've worked in different industries—in construction, in bread bakeries, and most recently, in a company that makes sodas. There, I worked in the warehouse; I made orders and sent them to trailers and stores—very heavy work. Usually, I worked 40 hours a week. They paid me \$15 an hour.

My situation, not just my situation, but the situation of all my co-workers who are working in the company is one of discrimination. It's a good place to work, but the people who are managing are discriminating against the Hispanics. There's a lot of racism against us. There's a big difference between the treatment of Hispanics and the Whites, Blacks, and Hindus. . . . They always give us the hardest jobs. When we're working well, when we don't have any problem or injuries, we're always given the heaviest work because the Hispanic worker will always take the job. He never says "no." Where they send him to work, he'll go. I missed just one week after working 2 years full-time because I injured my back. I have a herniated disc. There are six people who have the same problem and the company hasn't done anything about it. They always say that it's our fault. They always violate the restrictions of the Hispanic workers on light duty. When it's very cold outside, the supervisor told us, "Go outside and clean the parking lot." He knew that we had bad backs, but he didn't care. We never refused to go, we only asked for jackets to work outside, but he never gave them to us. He always gave jackets to the other workers [non-Hispanic workers]. So, we went to the union and filed out a grievance. But, the union hasn't helped us; it refuses. The union never has won a case of the Hispanic workers, and that's something that really hurts us, because we are humans too, not animals.

The company already has begun getting rid of all the Hispanic workers. . . . The supervisor said that all the people who don't have papers would be taken out, little by little. Recently, they fired me but, the company didn't have a reason to. Everyone is afraid because they all have families that they have to support. . . . They all are afraid because they don't know the Illinois laws. Many of us [Hispanic workers] are ignorant—without schooling or education—and the company's boss takes advantage of this ignorance. He makes workers afraid. The African Americans and other people from here know the laws—the company knows well they're going to talk and aren't going to listen [to their demands]. But, those of us who aren't from here, that are immigrants, don't know anything; we don't know the laws. And we're afraid because we don't have papers. We think that we cannot claim our rights because we don't have papers.

We, the four of us [involved in the case against the company], decided to do something, and if our co-workers want to support us, that's great, but if not, we'll do something just the four of us. With the help of Congressman Luis Gutierrez and Worker Centers like this one, we wrote a document describing all the discrimination against Hispanics. We're going to put a stop to the discrimination that's happening here. And we'll press on until the end.

### Testimonio de Héctor—Trabajador de “Warehouse”

Me llamo Héctor. Vine a los Estados Unidos hace 11 años de México. Tengo 27 años. Tengo una esposa y una hija. Yo he trabajado en diferentes partes—en construcción, en panaderías, y últimamente en un lugar que hace sodas, una compañía nacional. Aya, trabajé en el “warehouse,” hice los ordenes y mandarlos a los ‘trailors’ y las tiendas—trabajo muy pesada. Usualmente, trabajé 40 horas. Me pagó 15 dólares la hora.

Mi situación, no solamente mi situación, pero la situación de todos mis compañeros que están trabajando en la compañía es de discriminación. Es un buen lugar para trabajar, pero las personas que la están manejando están discriminando contra los Hispanos. Hay mucho racismo contra nosotros. Es mucho la diferencia entre el tratamiento de los Hispanos y los Blancos, Negros, y Hindúes. . . . Siempre nos ponen en los trabajos más fuertes. Cuando estamos bien en trabajando, cuando no tenemos ningún problema, ningún herida, siempre nos va el trabajo más pesado porque el trabajador Hispano siempre saca el trabajo. Nunca dice que no, él, adonde lo mandan, allí está. Yo faltaba una semana de trabajo después de dos años de trabajo “full time” porque me lastimé la espalda. Tengo un disco herniado. Hay seis personas que tienen el mismo problema. La compañía no nos dao ninguna solución. Siempre dice que nos pasa ese problema. Y de los Hispanos que están en “light duty,” a nosotros nos violan las restricciones de trabajo. Cuando la temperatura está muy fuerte, el supervisor nos dijo, “Vayan afuera y limpiar el parqueadero.” El sabía que nosotros estábamos mal de espalda y el no le importaba. Nunca nos negábamos ir, solamente le pedíamos abrigos para trabajar afuera, pero nunca lo daba. . . . Siempre les dió un abrigo a los otros. Entonces, nosotros entramos con la unión y llenábamos “grievance,” pero la unión no nos ayuda, nos niega. La unión, nunca ha ganado los casos [de los Hispanos] y pues, es algo que nos duele, porque nosotros somos humanos también, no somos animales.

Ellos de la compañía ya intentaron sacar a toda la gente Hispana. . . . El supervisor de nosotros nos dijo que iba a sacar a toda la gente poco a poco, uno por uno que no tienen papeles. Recientemente me despidieron, pero la compañía no tiene pruebas para sacarme. Toda la gente tiene miedo porque todos tienen familias y tienen que soportar sus familias. . . . Todos tienen miedo porque no saben las leyes de Illinois y tenemos mucha gente ignorante—sin escuela, sin educación—entonces, el “boss” de la compañía se aprovecha mucho de la ignorancia. Te meten miedo. La gente morena y la otra gente de aquí saben las leyes—ellos [de la compañía] saben bien que van a hablar y no van a escuchar a sus demandas. Pero, nosotros, que no somos de aquí, que somos inmigrantes, no sabemos nada, no sabemos las leyes. Y tenemos miedo porque no somos ciudadanos. Creemos que no podemos reclamar nuestros derechos porque no tenemos papeles.

Vamos a poner un alto a la discriminación que ellos están haciendo aquí. Nosotros, los cuatro, decidimos hacer algo, y pues si los otros compañeros nos quieren apoyarnos, esta bien, pero si no, vamos a hacer algo nosotros cuatro. Por medio de Luis Gutiérrez [miembro del Congreso] y Centros de Trabajadores como este, nosotros escribimos un documento describiendo toda la discriminación que están pasando los Hispanos. Y nos estamos agarrando de la mano y hasta donde podamos.

### Vicente's Testimony—Plumber

My name is Vicente. I'm from Guatemala. I'm 50 years old.

For more than a year, I did work as a plumber. I liked the work. My boss made a verbal contract with me for \$120 a day. He paid me well, more or less, but he owed me \$700 for this particular job. Later, I worked on another project and he only paid me \$400 for 24 days of work. When I didn't receive all of the money, I asked my boss, "Are you going to pay me?" and he said no, no he wasn't going to pay me. In all, he owes me over \$3,000. I have a witness who also worked for him. He also had the same problem of not receiving his due pay.

Because of this problem in my work, I became very down. I worked a lot, and I wasn't fairly compensated. I wasn't able to pay my bills. I wasn't able to pay my rent. My brother lent me money to pay rent a few times. I have to live day by day. I cannot find work because I don't have a plumber's license; I have it for Guatemala, but it's not valid in this country. And I don't have a valid Social Security number either, so it's difficult to find work.

Therefore, I came to the Worker Center. Now I have a case with the Department of Labor. I'm waiting; I don't know what's going to happen.

### Testimonio de Vicente—Plumero

Me llamo Vicente. Soy de Guatemala. Tengo 50 años.

Por mas que un ano, hice trabajo de plumería. Me guste el trabajo. Mi patrón hizo un contrato verbal conmigo de \$120 por día. Me pago mas o menos bien, pero me debía \$700 para ese trabajo. Después, trabajé en otro proyecto y solamente me pagó \$400 por 24 días de trabajo. Cuando no recibí todo el dinero, le pregunté a mi patrón, “Me vas a pagar?” y el dijo que no, no iba a pagarme. En total, me debe mas que \$3,000. Tengo un testigo que también trabajo para el. El también tuvo el mismo problema de no recibir su pago debido.

Por causa de este problema en mi trabajo, me bajé mucho. Yo trabajé mucho, y no era compensado justamente. No podría pagar mis “billes.” No podría pagar la renta. Mi hermano me prestó dinero para pagar mi renta algunas veces. Tengo que vivir día por día. No puedo encontrar trabajo porque no tengo una licencia de plumería; la tengo para Guatemala, pero no sirve en este país. Y no tengo seguro social bueno, entonces es difícil encontrar trabajo.

Por eso, vine al Centro de Trabajadores. Ahora, tengo un caso con el Departamento de Trabajo. Estoy esperando; no se que vaya a pasar.



## Suggested Readings

Blank, Rebecca. *It Takes a Nation*.

Bobo, Kendall and Max. *Organizing for Social Change*.

Brecher, Jeremy. *STRIKE!*

Brubaker, Pamela and Mary Hobgood, Eds. *Welfare Policy: Feminist Critiques*.

Daly, Herman and John Cobb. *For the Common Good*.

Enrenrich, Barbara. *Nickled and Dimed: On (Not) Getting by in America*.

Freire, Paulo. *Pedagogy of the Oppressed*.

Interfaith Worker Justice. Printed materials (see IWJ's library; especially *Why Unions Matter, A Living-Wage for All, Faith Works* newsletter)

LeBlanc, Paul. *A Short History of the U.S. Working Class: From Colonial Times to the Twenty-First Century*.

Lein, Laura and Kathryn Edin. *Making Ends Meet: How Single Mothers Survive Welfare and Low-wage Work*.

Lydersen, Kari. *Out of the Sea and Into the Fire: Latin America-United States Immigration in the Global Age*.

Marx, Karl. *Capital*, Volume I.

Murolo, Priscilla and A.B. Chitty. *From the Folks Who Brought You the Weekend*.

Murray, R. Emmett. *The Lexicon of Labor*.

Quigley, William. *Ending Poverty as We Know It*.

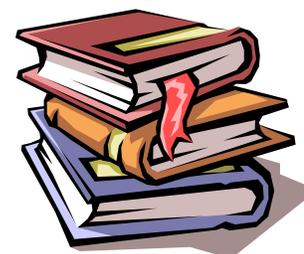
Schlosser, Eric. *Fast Food Nation*.

Shipley, David. *The Working Poor: Invisible in America*.

Shulman, Beth. *Betrayal of Work: How Low-Wage Jobs Fail 35 Million Americans*.

Stackhouse, Max. *On Moral Business: Classical and Contemporary Resources for Ethics in Economic Life*.

U.S. Catholic Bishops. *Economic Justice for All*.





*By giving our lives, we find life.*

*-Cesar Chavez*