

# Housing and Employment Rights

for Vermont Dairy Workers



This handbook provides general legal information for educational purposes only. It is not meant to substitute for legal advice and should not be relied on for that purpose. For legal advice, please consult an attorney who is licensed in Vermont.

The educational information in this handbook is current through October 2018.

Citations to applicable law and regulations have been removed from this version of the Handbook for ease of use. For a version of this handbook with full citations to applicable law and regulations, visit: <https://www.vermontlaw.edu/academics/centers-and-programs/center-for-agriculture-and-food-systems/projects>

# JUSTICIA MIGRANTE

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## MIGRANT JUSTICE

Our mission is to build the voice, capacity, and power of the farmworker community and engage community partners to organize for economic justice and human rights. We gather the farmworker community to discuss and analyze shared problems and to envision collective solutions. Through this ongoing investment in leadership development, members deepen their skills in community education and organizing for long-term systemic change.

From this basis our members have defined community problems as a denial of rights and dignity and have prioritized building a movement to secure these fundamental human rights to:

- Dignified work and quality housing
- Freedom of movement and access to transportation
- Freedom from discrimination
- Access to health care



**JUSTICIA MIGRANTE**

**MIGRANT JUSTICE**

migrantjustice.net



**(802) 658-6770**

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**migrantjustice.net**

# FOOD AND AGRICULTURE CLINIC

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## Center for Agriculture and Food Systems Vermont Law School

Vermont Law School is committed to developing a generation of leaders who use the power of the law to make a difference in our communities and the world. Within VLS, the Center for Agriculture and Food Systems (CAFS) trains law and policy students to develop real-world solutions for a more sustainable and just food system.

CAFS educates students through a comprehensive array of residential and online courses, as well as through the Food and Agriculture Clinic, which gives students the opportunity to explore food and agriculture law from a variety of perspectives and experiences by partnering with local, regional, national, and international partners to develop legal tools and policy recommendations for stakeholders across the food system.

The Food and Agriculture Clinic produced this handbook in partnership with Migrant Justice. Aurora Moses and Sarah Danly, along with students in the Spring 2016 Food and Agriculture Clinic (Alexis Agredo, Andrea Folds, Andreia Marcuccio, Charlotte Mikat-Stevens, Amy Pickering, Sarah Seese, and Jeffrey Sokolik) conducted the initial research and drafting of this handbook. Katie Michel, J.D., provided careful legal review and additions, and Professor Sophia Kruszewski and the Fall 2018 Food and Agriculture Clinic students (Ashleigh Angel, Caroline Gordon, Jeannette King, and Korina Matyas) finalized the handbook. The entire CAFS team provided additional review, edits, and support along the way. Michelle Sayles created the illustrations for this handbook, and Kelly Cochrane-Collar of Mad River Creative designed the layout.

CAFS thanks Migrant Justice and the Milk with Dignity Standards Council for their courageous and effective work on behalf of immigrant dairy workers. This resource was produced in part with a generous grant from the Vermont Community Foundation.



# MILK WITH DIGNITY PROGRAM

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## and the Milk with Dignity Standards Council

The goal of the Milk with Dignity Program is to create a dairy industry where workers have just, dignified, and safe jobs. To make this a reality, the program ensures that corporations that buy milk require the farms in their supply chain to comply with the Milk with Dignity Code of Conduct. Furthermore, these companies pay a monetary premium for their milk.

The Milk with Dignity Program was created by Migrant Justice, and is overseen by the Milk with Dignity Standards Council. The Standards Council makes sure that the Code of Conduct is being followed on participating farms.

This handbook addresses your rights based on federal and Vermont state law, which set standards that businesses cannot go below. Businesses, like those that participate in the Milk with Dignity Program, are free to exceed these standards. This means that if you are working on a Milk with Dignity participating farm, you may have additional rights guaranteed by that program that are not covered in this handbook.

If you have questions about the Milk with Dignity Program and whether the farm you work on participates in the program, you can contact the Milk with Dignity Standards Council Support Line at (802) 881-1087 or Migrant Justice at (802) 658-6770.



### Questions? Call us!

Milk with Dignity Standards  
Council Support Line  
☎ **(802) 881-1087**

Migrant Justice  
☎ **(802) 658-6770**

# TABLE OF CONTENTS

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|  |           |
|--|-----------|
| <b>How to Use this Handbook.....</b>                                       | <b>8</b>  |
| <b>Getting Started: Best Practices<br/>Before Your First Workday .....</b> | <b>9</b>  |
| <b>Housing Rights.....</b>   | <b>10</b> |
| Housing Agreement.....   | 11        |
| Safe and Clean Housing.....  | 12        |
| Housing Essentials .....   | 14        |
| Housing Safety.....  | 17        |
| Problems with Housing .....  | 18        |
| Privacy .....  | 19        |
| Losing Your Housing.....   | 21        |
| <b>Employment Rights .....</b>   | <b>24</b> |
| Employment Agreement.....  | 25        |
| “Small” or “Large” Dairy.....  | 26        |
| Tracking Your Hours.....   | 27        |

---

|  |           |
|--|-----------|
| <b>Employment Rights (continued)</b> .....   |           |
| Wages and Deductions .....                   | 28        |
| Pay Day.....                                 | 30        |
| Work Breaks.....                             | 31        |
| Health and Safety at Work .....              | 32        |
| Injuries at Work.....                        | 34        |
| Work-Related Medical Care .....              | 36        |
| Time Off That Is Not Work Related .....      | 38        |
| Discrimination and Sexual Harrassment .....  | 40        |
| Termination and Retaliation .....            | 42        |
| Working at a Larger Dairy .....              | 44        |
| <b>Appendix A – Written Agreements</b> ..... | <b>48</b> |
| <b>Appendix B – Other Resources</b> .....    | <b>50</b> |

# HOW TO USE THIS HANDBOOK

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This handbook provides general information about dairy workers' housing and employment rights under federal law and Vermont state law. You can use the table of contents to find information about specific issues. Note that you may have additional rights under local municipal law—especially in the area of housing health and safety. This handbook does not cover those additional rights. Additionally, the standards described here are the minimum standards with which farms must comply; landlords and farm employers are free to go above and beyond these minimum standards.

The federal and state rights described in the main section of the handbook apply to ALL workers at any dairy in Vermont, whether big or small. Workers at larger dairies—generally dairies with seven or more workers—have some additional legal rights. If you work at a larger dairy, make sure to read the section at the end of this handbook called “Working at a Larger Dairy” on page 44.

The handbook provides general legal information for educational purposes only. It is not meant to substitute for legal advice and should not be relied on for that purpose. For legal advice, you should consult an attorney who is licensed in Vermont.

Also, if you still have questions after reading the handbook, you can contact Migrant Justice at (802) 658-6770.

➔ Please share this handbook with other dairy workers!



This symbol indicates a **best practice**. It is not a legal requirement.



This symbol encourages you to call Migrant Justice or another organization if you need help.



# GETTING STARTED

## Best Practices Before Your First Workday

- 1 Read this handbook so you know your rights.\*
- 2 Make a written employment contract with the farmer.
- 3 If your farm employer will be providing housing, make sure that you have a written agreement about the housing terms.\*\*
- 4 Make a timesheet for yourself to track the hours you work.



- \* This handbook provides general information only, however, and is not intended as legal advice. If you have questions about your specific circumstances, contact Migrant Justice at (802) 658-6770 or consult a local attorney.
- \*\* It is always a good idea to have a written rental agreement. If you are renting housing from someone other than your farm employer, it is best to have a written agreement about the housing terms before you move in. See Appendix A on page 48 for more about this best practice.

# Housing Rights



# HOUSING AGREEMENT

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**Q: How do I know if a person is legally my landlord?**

A: A person is a landlord under Vermont law if he or she allows you to live in a building that he or she owns or has control over. A person can be your landlord even if you don't pay him or her rent. For example, if a farmer provides housing in exchange for your labor with no extra payment required, that farmer is still your landlord and is required to keep your housing sanitary and safe. This is true even if the housing provided by your employer is not located on the farm.

**Q: What counts as rent?**

A: Rent is anything of value you give to your landlord in exchange for housing. For example, if your landlord is also your farm employer, rent may be money deducted from your wages for housing. However, even if you do not pay rent or have money deducted from your wages, you are still protected by these housing rights.

**Q: How do I know if I have a rental agreement?**

A: Any agreement—whether written or oral—to use a building or part of a building as a home or place to sleep is a rental agreement.



For more information on written rental agreements, see Appendix A on page 48.

# SAFE AND CLEAN HOUSING

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**Q: Does my housing need to be safe and clean?**

A: Yes, you have a right to housing that is safe, clean, fit for human living, and consistent with applicable building and health codes. Any language in your rental agreement that denies your right to safe and clean housing or makes you responsible for repairs and maintenance is not valid and cannot be enforced against you by your landlord.

If your landlord claims that you waived your right to healthy and safe housing in your rental agreement, consult a local attorney or contact Migrant Justice at (802) 658-6770.

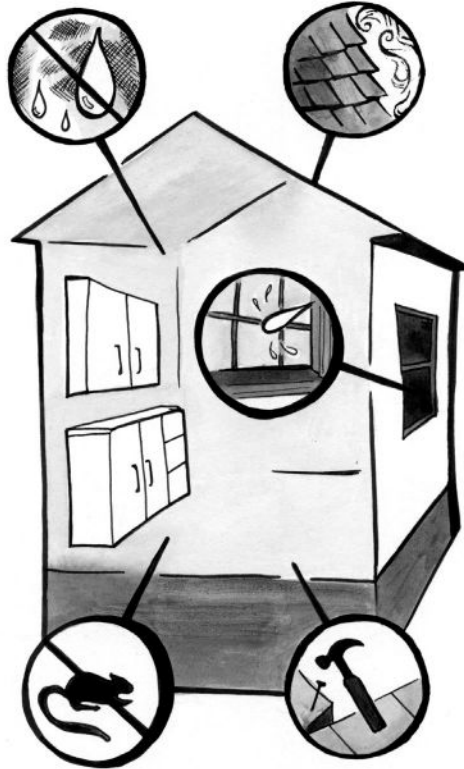
**Q: Is my landlord required to keep common areas clean and free from trash and pests?**

A: Yes. Your landlord **MUST** do the following to keep your housing clean:

- Provide trash dumpsters.
- Clean any common areas, such as hallways, entrance areas, stairways, basements, and outdoor areas.
- Keep pests such as insects and rodents out of common areas, and exterminate any pest infestations in your housing if the infestation is caused by the landlord's failure to maintain the building or there is an infestation in multiple units.

Your landlord **MUST** make sure your housing (including the roof, floor, walls, foundation, ceilings, doors, windows, stairways, chimneys, and plumbing) is:

- **Weather-tight**—built to resist weather and prevent air, rain, and snow from coming in.
- **Water-tight**—built to prevent water from coming in.
- **Rodent proof**—built and maintained so that rodents like rats and mice cannot enter your home. For example, your landlord must make sure that there are no holes in your walls or openings in your foundation or cellar where rodents could enter.
- **Dry**—continually maintained so that there is no pooled water or moisture indoors to prevent mold growth.
- **In good repair**—continually maintained so that all of the above requirements are satisfied.



# HOUSING ESSENTIALS

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## **Q: Does my housing need to have a kitchen?**

A: In general, your housing **MUST** have a kitchen, including a sink with hot and cold water that is safe to drink, and a sanitary space to store, cook, and eat food.



**NOTE:** There are some limited circumstances when a landlord is not required to provide a kitchen. If you do not have a kitchen, consult a local attorney or contact Migrant Justice at (802) 658-6770 to learn more about your situation.

## **Q: Does my housing need to have a bathroom?**

A: In general, every rental unit **MUST** have bathroom facilities that are either in your unit or shared with no more than one other unit in your same building. You should not have to share your residential bathroom facilities with people who work on the farm during the day but who do not live there, even if your housing and bathroom are attached to the barn or milking parlor where other people work.

If there is a bathroom in your unit, it must be separate from the living area and must provide privacy and ventilation to the outdoors. Additionally, it must have a flush toilet, sink, and bathtub or shower with hot and cold water.



**NOTE:** There are some limited circumstances when you may be required to share your bathroom facilities with people living in more than one other room or unit in your same building. If you are required to share a toilet or shower with many additional people, consult a local attorney or contact Migrant Justice at (802) 658-6770 to learn more about your situation.



**Q: Do bathrooms and kitchens need waterproof floors and counters?**

**A:** Yes, bathrooms and kitchens **MUST** have floors and counters with a waterproof covering to prevent moisture and mold growth.

**Q: What are my rights to water?**

**A:** You **ALWAYS** have a right to clean water in your home. Your landlord **MUST** make sure your water:

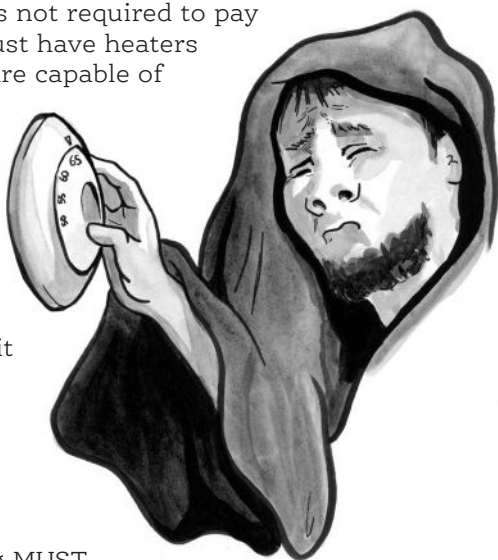
- Is both hot and cold
- Has good pressure
- Is clean and drinkable, and
- Is enough to use for showering or bathing, washing clothes and dishes, and any other ordinary needs that require water

If your water is dirty or you have too little water your landlord **MUST** provide you with an alternative source of water for drinking and sanitation—for example, water jugs or a water purification system.



**Q: What are my rights to heat?**

A: You ALWAYS have a right to be able to sufficiently heat your home. Your landlord is not required to pay for heat, but your home must have heaters that you can use and that are capable of keeping all rooms above 65 degrees Fahrenheit (18 degrees Celsius). If your landlord does agree to pay for heat, then he or she must make it available whenever the outdoor temperature drops below 55 degrees Fahrenheit (13 degrees Celsius).



**Q: What are my rights to clean, breathable air?**

A: Every room used for living, sleeping, cooking, or eating MUST have at least one window or door in good repair that can be opened to let in fresh air. Additionally, every bathroom MUST be ventilated with access to the outdoors either by window, door, or vent. Your heating source MUST also be vented to the outdoors.

**Q: What are my rights to lighting and electricity?**

A: Your landlord is not required to pay for electrical utilities, but must ensure that you can access electricity and light by providing electrical outlets and/or electric light fixtures in kitchens, bathrooms, and rooms used for living and sleeping. Additionally, all entrances and common areas must have enough light to allow you to enter and exit safely.

If you work at a larger dairy, you may have housing rights in addition to those listed here, so be sure to read the handbook section about working on larger dairies.



# HOUSING SAFETY

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**Q: What kind of safety devices should there be in my housing?**

**A:** Your housing **MUST** have all of the following:

- A fire extinguisher
- One working smoke alarm in every bedroom or area where a person regularly sleeps
- One working carbon monoxide detector near each sleeping area
- At least one window in all rooms where a person regularly sleeps that is large enough so people can climb out



# PROBLEMS WITH HOUSING

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**Q: What should I do if I have a problem with my housing?**

**A:** If you have a housing issue and want it addressed, you should tell your landlord as soon as possible. After you tell your landlord about the problem, he or she **MUST** correct the issue in a reasonable amount of time.

Your landlord **MUST** provide and maintain housing that is safe, clean, and fit for human living—without exception.

Read the housing questions above to learn what your landlord has to provide.



**NOTE:** If you have still problems with your housing after talking to your landlord, you can contact Migrant Justice at (802) 658-6770, or the Champlain Valley Office of Economic Opportunity at (802) 660-3456.

# PRIVACY

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## **Q: When can my landlord enter my home?**

A: Your landlord may enter your home in three circumstances:

- If you consent, which you should do unless you have a good reason not to.
- If he or she gives you at least 48 hours advance notice, the visit occurs between 9:00 A.M. and 9:00 P.M., and the purpose of the visit is to inspect the premises, make repairs or improvements, supply agreed-upon services, or show the unit to new renters or buyers.
- If he or she has a reasonable belief that there is imminent danger to a person or to property.



**Q: Do I have a right to privacy from the police or other law enforcement officer?**

A: Yes, in general, you have a right to deny law enforcement entry to your housing UNLESS:

- They have a valid warrant or
- Someone living in the home gives them permission to enter



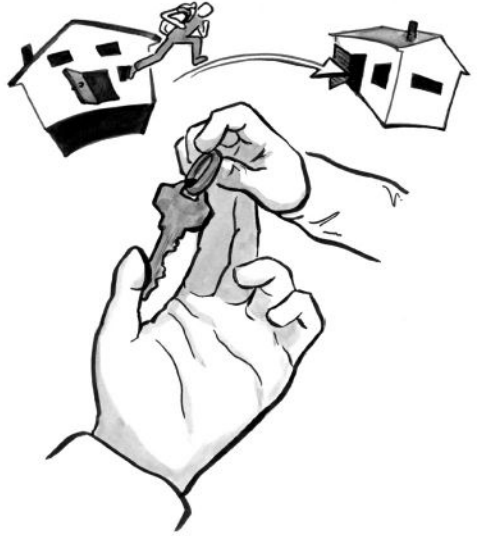
**NOTE:** If you have questions, you can speak with the police through your door. Your landlord CANNOT give the police permission to enter your housing.

# LOSING YOUR HOUSING

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**Q: What are my rights if my landlord wants me to move out?**

**A:** Your landlord can NEVER deny you access to your housing or personal belongings, or turn off your utilities like water and heat. If your landlord wants you to move out he or she MUST provide you with advance notice in writing before he or she can force you to move out.



If your farm employer provides housing in exchange for your labor, read section A below to learn how much notice you must receive before you have to move out.

If you have an agreement to pay rent for your housing, read section B below to learn how much notice your landlord must give you before you have to move out.



**NOTE:** If your landlord is asking you to move out immediately without advance notice, is not letting you enter your housing, or has turned off your utilities like water or heat, contact Migrant Justice at (802) 6586770 or consult a local attorney.

If you do not pay rent for your housing, please ignore section B.

# Section A

{ This section applies if you get housing because of your work. }

## Housing Provided In Exchange For Labor

**Q: My farm employer provides housing in exchange for my work. If he or she fires me, do I have to move out immediately?**

**A:** No, you can't be forced to leave right away. A farm employer who provides housing in exchange for your labor may force you to move out when your employment ends **ONLY IF** he or she follows the two steps listed below.

- 1. Advance notice and court hearing:** Your farm employer will have a law enforcement officer give you written notice from the court telling you that your landlord wants you to move out. A court will schedule a hearing 10 days or more from the date you receive the notice.
- 2. Proof of hardship:** At the hearing, if your farm employer can prove that he or she is suffering an actual hardship because he or she cannot use your housing for a new employee, the court will give you between five and thirty days to move out. If your farm employer fails to prove actual hardship, he or she must start a longer process in the court to force you out of your housing.



If your farm employer fires you and asks you to leave your housing immediately and fails to follow these two steps, consult a local attorney or contact Migrant Justice at (802) 658-6770. If you have received eviction papers or notices and want support, contact Migrant Justice at (802) 658-6770.

You have a right to demand to stay in your housing until the court tells you to leave, even if your farm employer has not regularly followed these steps in the past after firing other workers. If you have a written employment contract addressing your rights to housing, there may be additional requirements that your farm employer must follow.

## Section B

{ This section applies if you pay rent for your housing. }

### Housing Provided in Exchange for Rent

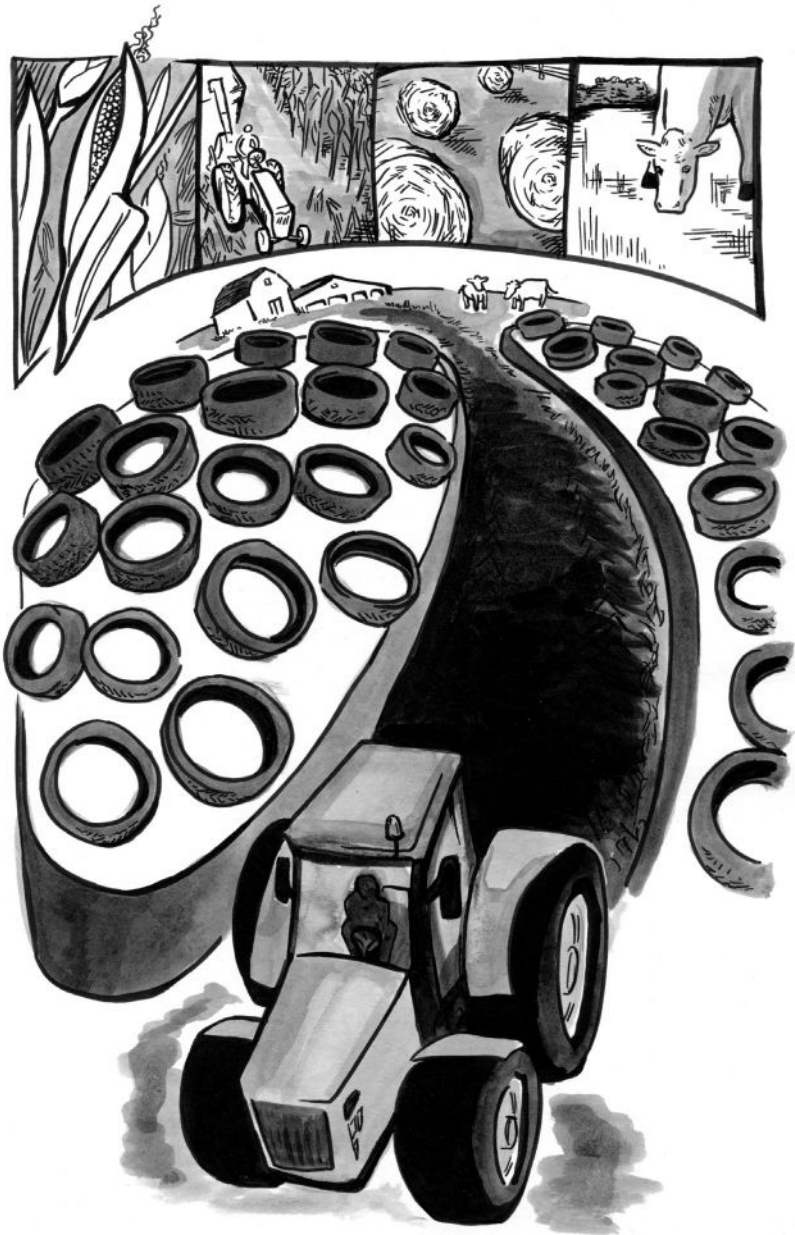
**Q: I have an oral or written agreement to pay rent for my housing. Can my landlord remove my belongings from my home or force me to move out immediately without giving me any advance warning?**

A: No. If you pay rent, including if rent is deducted from your wages, your landlord must notify you a certain number of days before you have to move out. The notice must be in writing, and must be hand-delivered or mailed. The amount of notice your landlord must give you depends on why he or she is asking you to move out:

- If your landlord wants you to move out because you did not pay rent when it was due, he or she must give you at least 14 days' notice in writing. If you pay the amount of rent due before the 14 days pass, then you do not have to move out.
- If your landlord wants you to move out because you violated one of the terms of the rental agreement (written or oral), he or she must give you at least 30 days' written notice before you have to move out.
- If your landlord wants you to move out through no fault of your own, the amount of written notice he or she must give you depends on whether you have a written rental agreement and how long you have lived in the rental unit:

| With a Written Agreement |                           | Without a Written Agreement |           |                |
|--------------------------|---------------------------|-----------------------------|-----------|----------------|
| Time in House            | Minimum Notice            | Time in House               | Rent Paid | Minimum Notice |
| 2 years or less          | 30 days before lease ends | 2 years or less             | Monthly   | 60 days        |
| Over 2 years             | 60 days before lease ends | Over 2 years                | Monthly   | 90 days        |
| Week-to-week             | 7 days                    | Week-to-week                | Weekly    | 21 days        |

# Employment Rights





# EMPLOYMENT AGREEMENT

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Before starting a job at a dairy you should:

- Understand and agree on an hourly or weekly wage
- Understand and agree on the number of hours you will work per week
- Understand and agree that if you have to work a longer shift, you will be paid for the full time worked
- Understand when you will get paid (for example, weekly or twice a month)
- Understand how you will get paid (for example, cash or check)
- Understand any deductions the farmer will take from your pay, including the amount of those deductions and what they are for



Having the agreement in writing is valuable in case you and your farm employer have a disagreement later. See Appendix A on page 48 for more information about written agreements.

# “SMALL” OR “LARGE” DAIRY

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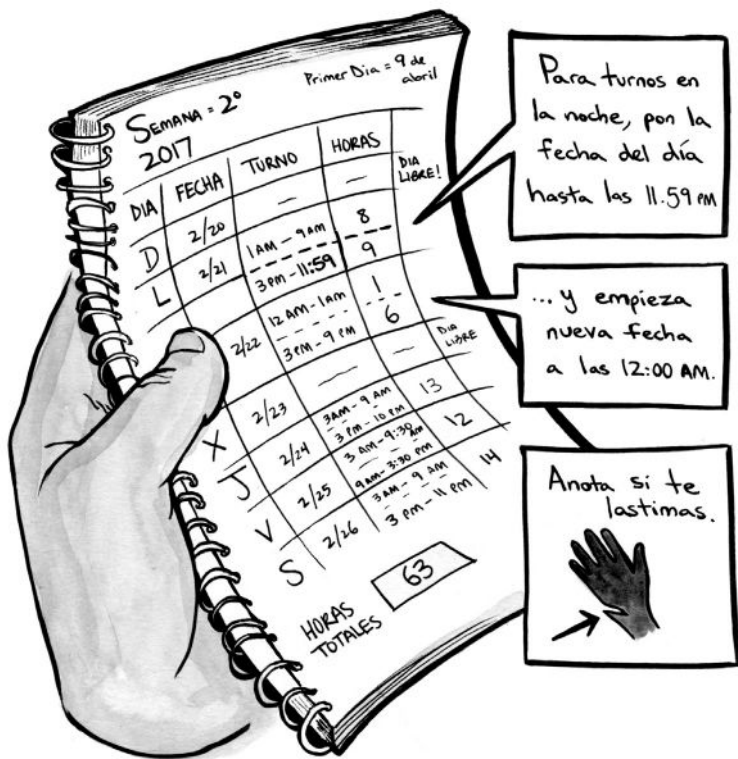
The first step in understanding your employment rights is figuring out whether you work on a “small” or “large” dairy. In general, a “small dairy” is one that has fewer than seven full-time workers. Follow the rules below when counting whether there are at least seven full-time workers on your farm:

- Do NOT count your farm employer’s immediate family members, including his or her parent, spouse, or child.
- DO count all other employees who do agricultural work, regardless of their race, ethnicity, or immigration status, including supervisors, managers, and herdsman. DO count extended family members of your farm employer, like cousins, nieces, and nephews.
- If your farm employer owns and operates more than one farm, workers on ALL of his or her farms must be counted to determine whether there are seven or more full-time workers.



If you have questions about whether the farm you work on is a small or large dairy, contact Migrant Justice at (802) 658-6770.

# TRACKING YOUR HOURS



**Q: Who is responsible for keeping track of the hours I work?**

**A:** If you work at a small dairy, YOU are responsible for recording the hours that you work. If there is a problem later on, your records can help you prove how many hours you worked, and when.

If you work at a larger dairy, your farm employer must keep certain records, so be sure to read the final section in this handbook.

# WAGES AND DEDUCTIONS

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**Q: Does my farm employer have to pay me minimum wage?**

A: Unfortunately, farm employers do not have to pay workers the Vermont minimum wage, regardless of whether the farm is “large” or “small.” Additionally, employers on small dairies are not required to pay workers the federal minimum wage.

If you work at a larger dairy, you are entitled to the federal minimum wage, so be sure to read the section in this handbook about working on larger dairies.

Whether you work on a small or large dairy, you should understand and agree to the hourly or weekly wage that you will be paid before your first workday.

**NOTE:** Even though minimum wage is not required, you and your farm employer are free to agree to a wage that is the same or higher than the federal or state minimum.

**Q: Is my farm employer required to provide overtime pay?**

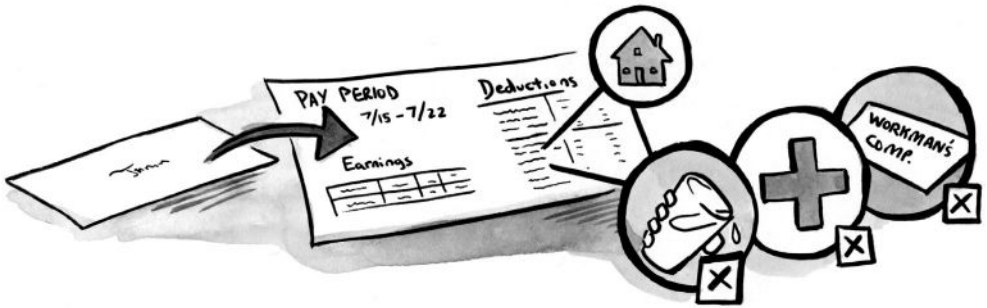
A: No, unfortunately. Employers on dairies are not required to provide overtime pay, regardless of the size of the farm.

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**Q: Can a farm employer deduct (withhold) money from my wages?**

A: Yes, a farmer can deduct money from your wages for items that are required by law, such as income taxes and Social Security, but a farmer CANNOT deduct or withhold money for:

- Medical services or hospitalization for work-related injuries
- Payment for workers' compensation insurance
- Your first week of work. If your farm employer withholds your first week's wages, you have a right to demand payment



Contact Migrant Justice at (802) 658-6770 if you believe a farmer makes unlawful deductions, even if this only happens for a few weeks or a few months.

# PAY DAY

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**Q: How often should I be paid?**

A: The farmer must pay you at least twice a month.



**Q: How do I know if my farm employer is paying me the hourly or weekly wage that we agreed to?**

A: If you are paid in a lump sum, the lump sum must be equal to the hourly or weekly wage that you agreed to. You can calculate your wage as follows:

- If you agreed to an hourly wage, divide the lump sum by the total number of hours you worked during the period covered by the lump sum. For example, if your total pay before any deductions have been taken out is \$500 for one week's worth of work and you worked 60 hours that week, your hourly rate is \$8.33.
- If you agreed to a weekly wage, divide the lump sum by the total number of weeks you work during the period covered by the lump sum. For example, if your total pay before any deductions have been taken out is \$1000 for two weeks' worth of work, then your weekly wage is \$500.



**Q: What do I do if I am not at the dairy on payday?**

A: You can ask for payment the next time you see the farmer.

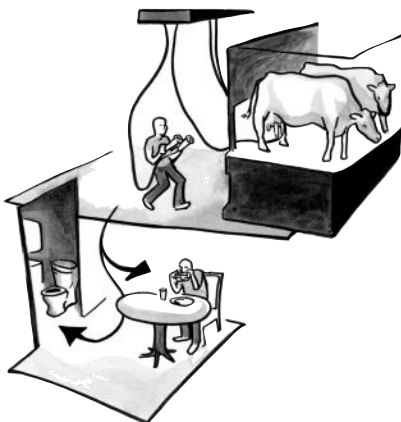


If you think a farmer is not paying you the right amount or not paying you on the agreed date contact Migrant Justice at (802) 658-6770 as soon as possible.

# WORK BREAKS

**Q: Should I get breaks to eat and use the restroom?**

A: Yes, a farmer **MUST** give you reasonable opportunities to eat and use the restroom during work hours.



Under the Milk with Dignity program, your schedule must have enough breaks, including time for three meals a day. See page 5 for more about the Milk with Dignity program.

**Q: Should I get breaks if I'm nursing my child?**

A: Yes, in general, if you are a nursing mother, your farm employer **MUST** provide you with reasonable time to breastfeed or pump in an appropriate private space other than a bathroom stall until your child is three years old. The break time for nursing mothers may be paid or unpaid.



In some cases, an employer may be exempt from this requirement. If you believe your employer is not providing you with reasonable time or space to breastfeed or pump, contact Migrant Justice at (802) 658-6880, or the Vermont Attorney General, Civil Rights Unit at (802) 828-3657 or toll free (888) 745-9195.

# HEALTH AND SAFETY AT WORK

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Dairy farm work can be dangerous, and you could be seriously injured. All farmers should provide a safe workplace. If you work at a larger dairy you have specific rights to health and safety at work, so make sure to read the final section in this handbook.



## **Q: How can I stay safe at work?**

**A:** Be careful around machinery and cows, and make sure you wear safety gear. Depending on the task you are doing, safety gear may include gloves, goggles, masks, and ear protection.

## Watch out for dangers!

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### **COWS**

- Kicked
- Bit
- Pinned
- Rammed
- Stepped on
- Pushed

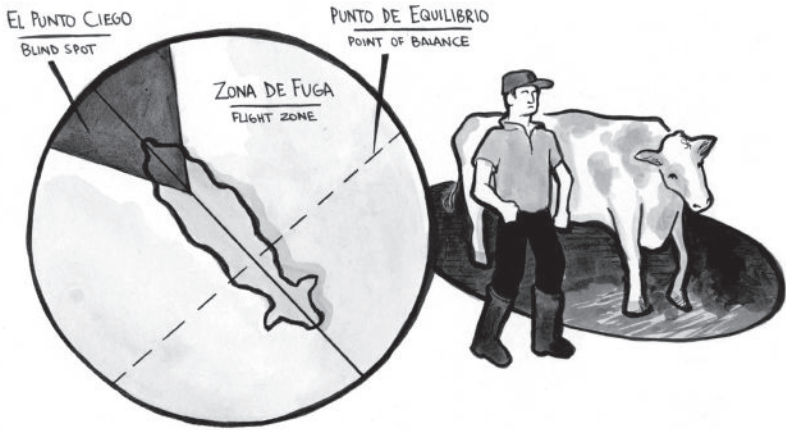
### **MACHINERY**

- Tractor rollover
- Run over by a tractor
- Caught in moving parts
- Hurt by high-pressure injectors
- Running machinery in enclosed spaces
- Cut by blades

### **OTHER HAZARDS**

- Splashed with chemicals
- Flying debris striking an eye
- Slips on wet or uneven surfaces
- Falls (from trees, ladders, etc.)
- Extreme heat and/or cold
- Dehydration
- Electrocutation
- Dust exposure
- Crushed by hay/feed
- Drowned in manure pit
- Cut by glass
- Pricked by a needle
- Exposure to loud noises





## Animals can be dangerous!

- Cows can easily be frightened—be careful not to make loud noises or quick movements
- Stay out of the cow's flight zone
- Understand the cow's point of balance
- Stay out of the cow's blind spot
- Be cautious around cows with calves

## Wear the right gear!

- Do not wear loose clothing
- Wear sturdy work boots with non-slip soles
- Wear hearing protection when operating loud machinery, including tractors
- Wear gloves when handling chemicals, glass, or sharp equipment
- Wear safety goggles when working with chemicals that may splash or machinery that creates flying debris



Contact Migrant Justice at (802) 658-6770 if you have questions about safety.

# INJURIES AT WORK

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## Q: What should I do if I am injured at work?

A: If you are injured at work, follow these steps to make it easier to receive payment for your medical care:

- Go to a healthcare facility immediately
- Tell the farmer as soon as possible—you need to be able to show that the injury happened while you were working
- Keep a written record of how you got injured, including who you were with, where you were, and what happened, and be sure to list the date and time
- Save copies of your medical bills





**Q: Will someone at the hospital speak Spanish?**

A: Yes, Vermont law requires that you have access to a Spanish translator at every hospital. It is best to locate your closest hospital before an accident happens.



If you have an emergency at work, go to the nearest hospital. Have someone drive you or call 9-1-1.

# WORK-RELATED MEDICAL CARE

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**Q: Will I lose wages if I take time to see a doctor for a work-related injury or illness?**

A: No. A farmer MUST pay you for time you are away from work to attend a medical appointment related to a work-related injury or illness. However, you must make a reasonable effort to schedule medical appointments around your work schedule.

**Q: Who pays for my medical treatment if I am injured at work?**

A: If you are injured at work, the farmer or his or her workers' compensation insurance carrier generally MUST pay for your medical care.

**Q: Do I still get paid if I can't work while I recover from my work-related injury or illness?**

A: Yes. If your work-related injury or illness prevents you from being able to work, then your employer's workers' compensation insurance covers your wages while you recover. However, you are only entitled to 60% of your weekly wage, and payment only starts 3 days after the injury.

NOTE: If you need more than 10 days to recover, then those first 3 days must also be paid.



If you are fired or retaliated against because you reported an injury or sought medical care, you may be able to recover costs—contact Migrant Justice at (802) 658-6770.



If a farmer tells you that you are not insured for work-related injuries, call the Vermont Workers' Compensation Office at (802) 828-2286 and a Spanish translator will be available.

# TIME OFF THAT IS NOT WORK RELATED

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**Q: Can I take time off from work to care for a family member?**

A: Yes, after one year of working at a dairy, you can take up to 4 hours of unpaid time off to care for a family member—called “short-term family leave”—in any 30-day period, but not more than 24 hours in one year.

- You can use short-term family leave for the following:
- To participate in school activities, such as a parent-teacher conference
- To accompany a family member to a medical or dental appointment
- To accompany a family member to other appointments for professional services related to their care
- To respond to a medical emergency involving a family member



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**Q: When can I take short-term family leave?**

A: To use short-term family leave, you must tell the farmer at least 7 days beforehand, unless it is an emergency. You must also make a reasonable attempt to schedule appointments outside of regular work hours.

**Q: Is my farm employer required to provide paid time off if I am sick or need to go to the doctor?**

A: Your farm employer MUST provide a certain number of hours of paid sick time that you can use if you are ill or injured, need to go to the doctor, or need to care for a family member, but only if each of the below points is true.

- Your farm employer hired his or her first employee at least one year ago
- You work at least 18 hours per week on average during the year
- You work more than 20 weeks per year

**Q: How much paid sick time must my employer provide?**

A: You have a right to earn at least one hour of paid sick time for every 52 hours that you work, up to 40 hours in a 12-month period. You can save up the sick time that you earn and use it when you need it. However, your employer may require that you wait for up to one year after you are hired before you can use the sick time that you have saved up.

# DISCRIMINATION AND SEXUAL HARASSMENT

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## **Q: Can a farmer discriminate against me?**

A: No. Discrimination means treating a person differently or unfairly because of who he or she is or because he or she has certain characteristics or beliefs. Your farm employer **CANNOT** discriminate against you based on any of the following characteristics when he or she is making decisions related to your hiring, firing, wages, or day-to-day job duties:

- Race
- Religion
- Ancestry
- National origin
- Sex
- Sexual orientation
- Gender identity
- Place of birth
- Age
- Disability

You may have a claim for discrimination if you believe an employer has intentionally treated you unfairly or differently from other workers because of any of the above characteristics—for example by withholding your pay, benefits, or housing; changing your housing or employment agreements; or refusing to hire or promote you.



If you believe a farmer is discriminating against you, call Migrant Justice at (802) 658-6770, or the Vermont Human Rights Commission at (800) 416-2010.



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**Q: Is sexual harassment illegal?**

A: Yes, it is illegal for your farm employer, supervisor, or co-workers to harass you because of your sex. Sexual harassment can be either verbal or physical, and includes unwanted flirting, touching, or sexual gestures; requests for sexual favors; and offensive jokes or statements based on your sex, among other things. Your farm employer **MUST** make sure that his or her dairy is free from sexual harassment. You may have a claim based on sexual harassment if:

- Your farm employer or supervisor tells you that you will only receive a promotion, raise, or other employment benefit if you satisfy his or her sexual demands;
- Your farm employer or supervisor fires you or takes away one of your benefits, such as housing, because you refuse his or her sexual demands; or
- Harassing behavior by your co-workers, employer, or supervisor is so frequent or severe that it interferes with your work performance or creates an environment that is unpleasant, intimidating, or hostile for you to work in.



To file a complaint about sexual harassment, contact Migrant Justice at (802) 658-6770, or the Vermont Attorney General's Office at (802) 828-3665.

# TERMINATION AND RETALIATION

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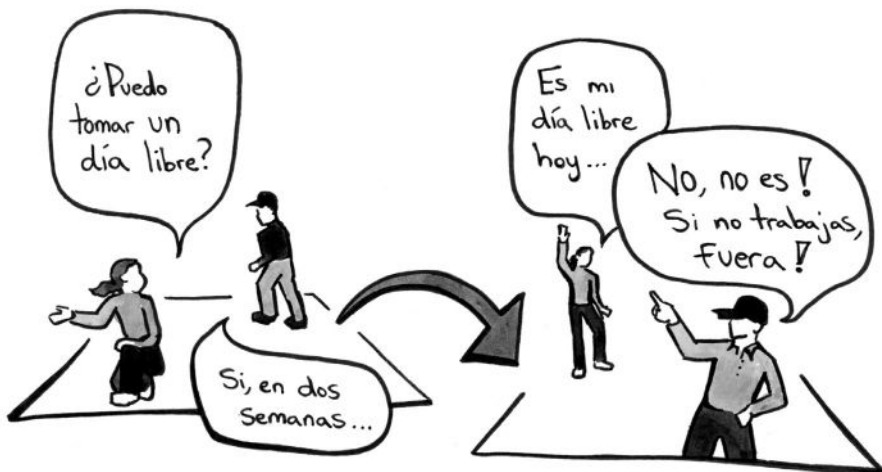
**Q: Does my employer need a reason to fire me?**

A: In most cases, your farm employer does not need a specific reason to justify firing you.

**Q: Do I have protections against being fired?**

A: Yes, you do. A farmer CANNOT fire you or retaliate against you—for example, by threatening to call immigration authorities or discriminating against you in any way—for any of the following reasons:

- You ask for changes to your work schedule
- You ask for payment for medical care due to a work-related injury
- You file a complaint against the farmer for unpaid wages
- You file a complaint against the farmer or participate in an investigation based on a claim of discrimination or sexual harassment or other unlawful practice





If you complain about unfair or unsafe work conditions and get fired, or the farmer threatens to retaliate by calling the police or Immigration and Customs Enforcement (ICE), call Migrant Justice at (802) 658-6770.

**Q: What are my rights if I quit or am fired?**

A: If you quit or are fired, you are entitled to payment for all of the work you did through your last day of work.

- If you are fired, you **MUST** be paid within 72 hours
- If you quit, you **MUST** be paid on your last regular payday—if there is no regular payday, then you must be paid on the next Friday

**NOTE:** If you are fired or quit and your landlord wants you to move out immediately, read the “Losing Your Housing” section of the handbook on page 21.

# WORKING AT A LARGER DAIRY

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**Q: Do workers at larger dairies get different protections?**

A: Yes, in addition to the rights discussed earlier in this handbook, workers at larger dairies are entitled to some additional legal protections:

- Dairies with seven or more workers have additional requirements for wages and recordkeeping
- Dairies with seven or more workers who are employed on a seasonal or temporary basis have additional requirements for housing
- Dairies with eleven or more workers have additional safety requirements

# SEVEN OR MORE WORKERS

**NOTE:** See the section on page 26 titled “Small or Large Dairy” to learn which workers are counted when determining whether your farm has seven or more workers.

## Q: What additional wage rights do I have?

A: Generally, if the dairy where you work has seven or more full-time workers—not counting the farmer or the farmer’s family members—you are entitled to the federal minimum wage (currently \$7.25 per hour). A farmer may deduct from your wages the actual cost of your housing and food, if provided by your farm employer.

If you are paid in a lump sum, the lump sum MUST be at least the federal minimum wage. To calculate your hourly wage, divide the lump sum by the total number of hours you worked during the period covered by the lump sum—for example, if your total pay for one week’s worth of work before any deductions is \$550 and you worked 60 hours that week, your hourly rate is \$9.16.



**Q: What work hours should I be paid for?**

A: If your dairy has seven or more full-time workers—not counting the farmer or the farmer’s family members—your farm employer **MUST** pay you at least the federal minimum wage for all of the hours that you are on duty. This generally includes:

- Time you spent waiting during your shift—for example, waiting for a cow to finish milking
- Extra hours you worked at the end of your shift to finish a task

**Q: What are my rights to have my employer track my hours?**

A: If your dairy has seven or more full-time workers—not counting the farmer or the farmer’s family members—your farm employer must keep records of your hours and wages. However, you should still keep track of your own hours and wages in case you have a problem.

**Q: What housing rights do I have?**

A: If your dairy has seven or more full-time workers—not counting the farmer or the farmer’s family members—and you are employed on a seasonal or temporary basis, any housing provided by your employer generally must meet the following requirements:

- Housing must be located on a site that is adequately drained and sufficient in size to prevent overcrowding of structures
- Each room used for sleeping must have at least fifty square feet of floor space for each occupant and a seven-foot ceiling
- Laundry, bathing, toilet, and hand washing facilities must be provided
- Housing must be at least 500 feet from any area where animals are kept



If your dairy has seven or more agricultural workers and you are not receiving at least \$7.25 per hour, contact Migrant Justice at (802) 658-6770.

# ELEVEN OR MORE WORKERS

**Q: What additional rights do I have if my dairy has eleven or more workers?**

**A:** If your dairy has eleven or more workers, you have additional workplace safety rights.

For example, you have a right to information about injuries and illnesses that other workers have suffered.

You also have a right to protection from hazards associated with farm equipment such as tractors and implements, and to training in the safe operation of such equipment.



If you believe the farmer is putting your safety at risk, contact the Vermont Occupational Safety and Health Administration (VOSHA) at (800) 287-2765.



If the farmer punishes you for making a safety complaint, contact the Occupational Safety and Health Administration (OSHA) at (800) 321-6742.

# APPENDIX A: WRITTEN AGREEMENTS

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**Q: What are the benefits of a written EMPLOYMENT agreement?**

A: An employment agreement or contract helps you understand important aspects of your job (for example, work hours and pay) and helps to protect your rights. Having the contract in writing creates a record for you to rely on if you and your farm employer later have a disagreement.

The agreement should be in writing, signed by both you and the farmer, and it should include the following:

- An hourly or weekly wage
- The number of hours you will work per week
- A statement that you will be paid for any extra time you work beyond your scheduled hours—you must be paid for all work you do
- When you will get paid—for example, weekly or twice a month
  - ▶ In fact, if the farmer is going to pay you twice a month instead of weekly, they **MUST** notify you in writing first
- How you will get paid—for example, cash or check
- Any deductions the farmer will take from your pay, including the amounts and what they are for
- The date of your agreement





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**Q: What are the benefits of a written RENTAL agreement?**

A: A written agreement is not required under Vermont law. However, having a written agreement is a best practice to ensure that you and your landlord have a shared understanding of the requirements and costs of housing, and to provide clear guidelines in case you and your landlord disagree about something.

**Q: What should my rental agreement include?**

A: A written rental agreement should include the following:

- A description of the rental property, including an address
- Whether your rent includes any services—for example, electricity or Internet
- The amount of rent per week or month
- When rent is due
- The length of the rental agreement
- The date of the agreement



**ADDITIONAL TIPS:** Do not sign an employment or rental agreement unless you have read it and you understand it. If you need help translating or understanding an agreement, contact Migrant Justice at (802) 658-6770. Finally, make sure that you get a copy of the agreement from your employer or landlord after both of you have signed it and keep the copy in a safe place.

# APPENDIX B: OTHER RESOURCES

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**Dial 2-1-1 for free information about Vermont community resources for help with the following:**

- Emergency food and shelter
- Disability services
- Counseling
- Senior services
- Health care
- Child care
- Drug and alcohol programs
- Legal assistance
- Transportation resources

At 2-1-1, people are available to help 24 hours a day, and you can ask to talk with someone who speaks Spanish.

## Medical Care

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**Bridges to Health at (802) 524-6501.** Bridges to Health is a health outreach program for migrant farmworkers in Vermont.

**Open Door Clinic at (802) 388-0137.** Open Door Clinic is a free clinic in Addison County that works with uninsured migrant farmworkers in Vermont.

## Legal Services

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**Vermont Legal Aid at (800) 889-2047.** Vermont Legal Aid is a non-profit law firm that provides civil legal services for those living in poverty, with a disability, or over age 60. They also serve anyone who is discriminated against in housing decisions and all who face challenges related to health care insurance or services.

## Support in Situations of Sexual and Domestic Violence\*

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- **Vermont Network Against Sexual and Domestic Violence**

- ▶ Domestic Violence Hotline at (800) 228-7395
- ▶ Sexual Violence and Rape Hotline at (800) 489-7273

- **Safeline at (800) 639-7233**, Central Vermont

- **WomenSafe at (802) 388-4205 or (800) 338-4205**, Addison County

- **Hopeworks at (802) 863-1236 or (800) 489-7273**, Chittenden County

- **Voices Against Violence at (802) 524-6575**, Franklin County

- **Pride Center SafeSpace at (802) 863-0003 or (866) 869-7341**. SafeSpace provides support and services, including a free legal clinic, for LGBTQ+ people in Vermont.

\* If you are in immediate danger call 9-1-1



 (802) 658-6770

 [migrantjustice.net](http://migrantjustice.net)