



Legal Aid Of Nebraska

To promote justice, dignity, hope and self-sufficiency through quality civil Legal Aid to those who have no where else to turn.



Nebraska Migrant Action Coalition

A guide to your rights related to the law and helpful information.

Information for Migrant
and Seasonal Farmworkers

KNOWLEDGE IS POWER

For more information regarding Legal Aid of Nebraska
or to apply for legal services please contact:

AccessLine® at 1-877-250-2016

For Spanish - Press #2

Monday - Thursday 9 a.m. - 4 p.m.

Friday 9 a.m. - 12 p.m.

ElderAccessLine® for people over age 60

1-800-527-7249

Monday – Thurs. 9 a.m. to 12 a.m. & 1 p.m. to 3 p.m.

Fridays 9 a.m. to 12 a.m. CST

Native American Accessline® 1-800-729-9908

Rural Response Hotline 1-800-464-0258

OMAHA

1904 Farnam St. Ste. 500

Omaha, NE 68102

(402) 348-1069

LINCOLN

941 O. Street, Ste. 825

Lincoln, NE 68508

(402) 435-2161

GRAND ISLAND

207 West 3rd Street

P.O. Box 1078

Grand Island, NE 68802-

1078

(308) 381-0517

NORTH PLATTE

102 East 3rd St., Ste.

102

North Platte, NE

69101

(308) 532-5793

SCOTTSBLUFF

1423 1st Ave,

Scottsbluff, NE 69361

(308) 632-4734

BANCROFT

P.O. Box 325, 415

Main

Bancroft, NE 68004

(402) 648-3457

LEXINGTON

1001 North Washington

Lexington, NE 68850

(open alternating

Thursdays inside the

Parent Child Center)

NORFOLK

214 North 7th St., Ste.

10

Norfolk, NE 68701

(402) 644-4761

www.legalaidofnebraska.com



Legal Aid Of Nebraska

IMPORTANT DISCLAIMER

Use of this informational brochure is not intended to and does not create an attorney-client relationship between you and Legal Aid of Nebraska's attorneys. The information provided to you through this brochure is intended for educational purposes only. Nothing in this brochure should be considered legal advice or as a substitute for legal advice.

Please understand that the information contained in this brochure is based upon generally applicable Nebraska and federal law. Some laws may vary depending on which county in Nebraska you live and the specifics of your case. If you want legal advice about your specific issue you must consult an attorney in your area.

NEMAC & THE 2010

LEGAL AID OF NEBRASKA

MIGRANT FARMWORKER PROGRAM

The Nebraska Migrant Action Coalition (NEMAC) is a collaborative effort of partners including Legal Aid of Nebraska, Creighton University Office of Multicultural Affairs, NAF: Multicultural Human Development Corporation, Nebraska Department of Labor, and other interested participants. Together, these entities have devoted energy to improve the level of education and outreach in migrant communities. NEMAC Volunteers, primarily college students, will be in rural, migrant, and farmworker communities to conduct educational presentations and outreach.

NEMAC Volunteers are required to attend a mandatory training, are unpaid, and are not employees of any collaborating organization.

Production Notes

This brochure was produced by the Migrant Worker Project of Legal Aid of Nebraska, a private, non-profit law firm. Any questions regarding the content should be directed to Legal Aid of Nebraska.

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QUICK REFERENCE

Legal Aid of Nebraska Accessline®	1-877-250-2016
NAF	1-800-662-2904
Multicultural Human Development Corporation www.nafmhd.org	
National Hotline for Migrant Families	1-800-234-8848
www.escort.org	
Poison Control Center	1-800-222-1222
www.aapcc.org	
National Center for Farmworker Health, Inc.	1-800-531-5120
www.ncfh.org	
US Department of Health & Human Services	1-877-696-6775
www.hhs.gov	
Annual Credit Report	1-877-322-8228
www.annualcreditreport.com	
Unemployment	1-877-725-9918
www.unemploymentoffice.net	
Nebraska Workforce Development Dept. of Labor	1-402-458-2500
www.dol.nebraska.gov	
US Department of Labor	1-866-4-USA-DOL
www.dol.gov	
Nebraska Workers' Compensation Court	1-800-599-5155
www.wcc.ne.gov	
Domestic Violence Hotline	1-800-799-SAFE (7233)
www.ndvh.org	
Nebraska Appleseed	1-800-845-3746
Center for Law in the Public Interest www.neappleseed.org	
Federal Trade Commission Identity Theft Line	1-877-382-4357
www.ftc.gov	
National Immigration Law Center	1-213-639-3900
www.nilc.org	
US Citizenship & Immigration Services	1-800-375-5283
www.uscis.gov	
Internal Revenue Services (IRS)	1-800-829-1040
www.irs.gov	
HUD	1-800-669-9777
www.hud.gov	
Fannie Mae Foundation	1-800-732-6643
www.fanniemae.com	

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ACCESSING HEALTHCARE

If you feel your civil rights were violated when accessing healthcare because of race, color, national origin, disability, age, sex and religion contact the appropriate OCR Regional Office.

Region VII includes:

Nebraska, Missouri, Iowa and Kansas.
Region VII OCR Office may be contacted

at
601 East 12th St., Room 248
Kansas City, Mo. 64106
1-800-368-1019
1-816-426-3686 fax
1-800-537-7697 TDD toll-free line
www.hhs.gov/ocr

HOUSING DISCRIMINATION

To file a charge of discrimination regarding housing go to:
www.hud.gov/complaints
or call toll-free 1-800-669-9777.

Legal Aid of Nebraska may be able to assist you in filing a complaint if you feel that your rights have been violated regarding:

- **PESTICIDE EXPOSURE**
- **HEALTH IN THE FIELDS**
- **UNSAFE/UNSANITARY HOUSING CONDITIONS**
- **OTHER CIVIL ACTIONS**

Please contact our Accessline® at 1-877-250-2016.

DISCRIMINATION IN THE WORKPLACE

To file a charge of discrimination regarding employment-related matters contact:

Office of Special Counsel for
Immigration-Related Unfair
Employment
1-800-255-7688.

If you have questions filling out the I-9 form or about worker protections in the law contact:

US Citizenship & Immigration
Services at 1-800-375-5283

FARMWORKER EMPLOYMENT RIGHTS

Legal Aid of Nebraska wants to help you benefit fully from your employment. Contact the Accessline® if you think you have been underpaid or treated unfairly.

Write down your hours! Protect yourself by writing down the hours that *each* member of the family works *every day*. At the end of each work day, write down the time that each worker (yourself, your spouse and your children, if any) began working and the time each person quit working for the day, as well as lunch and break times. If there is ever a dispute about your wages, an accurate record of hours you worked will help you collect your pay.

Minimum Wage: All adult farmworkers must be paid at least minimum wage. The minimum wage in Nebraska is currently \$7.25 an hour. Even if you are paid “piece rate” (by the box or pound), your wages still must be at least minimum wage for all of the hours that you work each week. Keep track of your hours even if you are paid piece rate.

You must be paid on time if you pick crops: You must be paid at least every two weeks, unless you agree to a different payday *in writing*. **Each worker must be paid with a separate paycheck—even children (who can work with their parents at the age of 12 if the work is “non-hazardous” and not during school hours).**

Record of hours: On most farms, your boss must give you a record of the number of hours you work each week, the number of pieces you picked (if you are paid by the piece), and the amount you earn per hour and per piece. The employer must keep separate records for each worker. Child workers must be paid separately.

Taxes: Your boss must deduct taxes from your pay. Your boss cannot take any other money out of your pay (for housing, utilities, loans, etc.) unless you agree *in writing*.

Child labor: Children must be at least 12 years old to work in the field with their parents. They must be at least 16 to do dangerous work (like working with machinery). Children under 16 cannot normally work during school hours.

If you are injured: If you are hurt on the job, tell your boss right away and ask him to take you to the nearest hospital, health clinic or urgent care provider. If you need medical care or miss work because of an injury on the job, you may be eligible for workers compensation or to have your bills paid by your employer’s insurance.

PESTICIDES: A DANGER TO YOUR HEALTH

WHAT ARE PESTICIDES?

Pesticides are substances that are used to kill pests. They can also poison your water supply, your food, you and your children!

WHAT YOU CAN DO TO PROTECT YOURSELF AND YOUR FAMILY:

- Stay away from areas where pesticides have been applied and any items that have come in contact with pesticides.
- Scrub hands to completely remove pesticides, especially before smoking or eating.
- Shower and put on clean clothes after work.
- Wash work clothes separately from other clothes.

WHAT IT WILL FEEL LIKE IF YOU ARE POISONED:

- Skin rashes, eye irritation, blurred vision, nausea, difficulty breathing, numbness or tingling in your limbs may be symptoms of pesticide poisoning.
- Delayed effects may be cancer, birth defects, or harm to your kidneys, liver or nervous system.

WHAT TO DO IF YOU ARE EXPOSED:

- Remove your clothes and wash yourself with water.
- Get the name of the pesticide or label from the container.
- Go to the nearest medical facility as soon as possible and tell the doctor or nurse that you were exposed to pesticides.
- If you cannot get to a doctor, call the Poison Control Hotline at 1-800-222-1222.

WHAT YOUR EMPLOYER MUST DO TO PROTECT YOU:

- Tell you which fields have been treated with pesticides and when it is safe to return.
- Post a list of pesticides that have been used.
- Provide water, soap and towels in the fields.
- Verify that you have received pesticide training in your language.
- Take you to the nearest medical facility if you have been poisoned.
- Your employer must *not* punish you for making a complaint about pesticide safety.

IT IS YOUR RIGHT AND RESPONSIBILITY TO:

- Protect yourself and your family from pesticide poisoning!
- Insist that your employer protect you from pesticide poisoning.
- Speak up or file a complaint if you are not protected.

***By reporting exposure,
you help reduce the risk of
pesticide poisoning!**

YOUR HEALTH IN THE FIELDS

FIELD SANITATION

- Your employer must provide all field workers with cool drinking water, adequate toilets and hand-washing facilities near where you work.
- Failure to provide drinking water, toilets and hand-washing facilities near your work is a violation of state and federal laws, and you may be able to recover up to \$500 per violation.

Drinking water must be:

- Drinking quality.
- Provided free of charge by the employer.
- In locations readily accessible to all employees.
- Suitably cool and in sufficient amounts, taking into account air temperature and humidity, to meet the needs of all employees.
- Dispensed by single-use drinking cups or by fountains. The use of common cups or dippers is prohibited.
- Dispensed in containers that are designed to maintain water quality, refilled at least daily, kept covered and regularly cleaned.

Hand-washing facilities must be:

- Clean and sanitary.
- Refilled with potable water as necessary.
- Equipped with soap and single-use towels.
- Provided in the ratio of one facility per twenty (20) workers.
- Located together with the toilets.

Toilets must be:

- Operational, clean, sanitary and include an adequate supply of toilet tissue.
- Ventilated and screened.
- Constructed to insure privacy, including self-closing doors that are latchable from the inside.
- Provided in the ratio of one facility per twenty (20) workers.

REASONABLE USE

The employer shall notify each employee of the location of the sanitation facilities and shall allow each employee reasonable opportunities during the workday to:

- Use the facilities for drinking, hand-washing and elimination.
- Drinkwater frequently, especially on hot days.
- Urinate as frequently as necessary.
- Wash hands before and after using the toilet.
- Wash hands before eating and smoking.

YOUR RIGHTS TO ACCESSING HEALTHCARE

Do I have the right to an interpreter? The U.S. Department of Health and Human Services outlines these rights in its National Standards for Culturally and Linguistically Appropriate Services in Health Care. Under these standards, patients/consumers have a number of rights that health care organizations are required to meet including:

- Offer and provide language assistance services, including bilingual staff and interpreter services, at no cost to each patient/consumer with limited English proficiency at all points of contact, in a timely manner during all hours of operation.
- Provide to patients/consumers in their preferred language both verbal offers and written notices informing them of their rights to receive language assistance services.
- Assure the competence of language assistance provided to limited English proficient patients/consumers by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services (except on request by the patient/consumer).
- Make available easily understood patient-related materials and post signage in the languages of the commonly encountered and/or groups represented in the service area.

Language is an aspect of national origin, according to the Office for Civil Rights at the Department of Health and Human Services. And recipients of federal funds may not operate their programs in such a manner as to create discrimination on the basis of race, color or national origin, according to Title VI of the Civil Rights Act of 1964.

What does this mean to me? This means that any organization that receives federal funding is required to provide language access to its services. Medicaid, Medicare, Block Grants, and Health and Human Services' Training Grants are all federally funded. Violations of these standards include denial of interpreter services or translation and are enforceable by civil rights law.

Your complaint must:

1. Be filed in writing, either on paper or electronically, by mail, fax, or e-mail;
2. Name the healthcare or social service provider involved and describe the acts or omissions believed to have violated the applicable civil rights nondiscrimination laws or regulations; and
3. Be filed within 180 days of when you knew that the act or omission complained of occurred. OCR may extend the 180-day period if you can show "good cause."

WHEN YOUR JOB ENDS YOU HAVE RIGHTS WHEN YOUR JOB IS OVER!

Has This Happened To You?

You live in a migrant camp and you are laid off or you quit working for the camp owner. The grower tells you that your family must leave the camp immediately (or within days). Or, the boss says that you will not receive your last paycheck until after you move out of the camp. Sometimes, the owner threatens to have the police come remove you, turn off your utilities or change the locks.

You Have Legal Rights:

- You cannot be forced to leave the migrant camp unless the owner gets a “court order” signed by a judge to “evict” you and your family.
- The camp operator cannot evict you by removing your possessions, turning off the utilities or changing the locks. Police agencies know that they cannot help a landlord evict you *unless there is a court order*.
- The boss CANNOT withhold your paycheck to force you to leave the camp.
- If you worked as a hand-harvester, you must be paid within 1 day (if you are fired or laid off), or 3 days (if you quit) after your last day of work. Otherwise, you have to be paid no later than your next regular payday.
- If you were promised a bonus, you should receive it in full when you finish your part of the work agreement.
- It does not matter if you pay “rent” or not—the law protects you and your family—even if you do not pay cash for your housing.

“At-will” employment means you can be fired or “laid off” without any reason, but you usually cannot be fired for any of the following reasons:

- Because of your race, color, sex, religion, national origin, age, or disability.
- If you were promised a certain length of work, specific amount of money (by “contract”), if you are an “H-2A” foreign worker or if you belong to a union.
- If you were fired for complaining about your pay (below the minimum wage), unlawful working conditions or poor housing conditions.

PAPERWORK FROM YOUR JOB

Documents from your job are important. Be sure to keep all pay stubs, time slips, contracts, employee handbooks, work rules, W-2 forms and copies of all documents you are asked to sign. These documents are important to protect your legal rights or to get benefits in the future, like unemployment assistance. Members of your family might be able to use past work documents if there is a “legalization program” in the future that requires proof of work history.

UNEMPLOYMENT If you are laid off,

you may be eligible to receive unemployment benefits.

Unemployment Insurance pays weekly benefits to insured workers who are unemployed or working reduced hours. There are minimum earnings requirements for eligibility for unemployment. Also, you must be willing and able to work. To start or reopen an unemployment claim call (877) 725-9918. You should call this number to find out if your employer is covered by unemployment. The current maximum benefit is \$318.00 per week.

WORKERS COMPENSATION

If you are personally injured on the job because of an accident or occupational disease, you may receive *compensation* from your employer if you were not willfully negligent at the time of your injury.

Compensation includes *temporary* benefits at two-thirds of your average weekly wage, subject to a maximum amount. If you can still work some, compensation is at two-thirds the difference between your old wage and your current wage. *Compensation* pay only starts if you are disabled for at least seven days.

Compensation also includes all reasonable medical, surgical, and hospital services. *Compensation* also includes payments for *permanent* disability. Workers’ compensation covers most workers, including non-citizens. However, some agricultural employers are exempt from the workers compensation act. Report your injury to your employer right away. Go to the doctor that your employer tells you to go to. If your employer won’t give you benefits you should call the Nebraska Workers’ Compensation Court at 1-(800) 599-5155.

I-9 FORM

When filling out the I-9 form, an employer **cannot**:

- Ask you to show specific documents, or refuse to accept valid documents
- Ask only foreign-looking or sounding individuals or immigrants to fill out the I-9 form
- Refuse to accept documents with a future expiration date
- Refuse to accept receipts of valid documents

As an employee, you also have the right to challenge an employer if s/he:

- Refuses to hire you, or fires you, because you look or sound foreign, or because of your immigration status
- Refuses to hire you, or fires you, because s/he requires from you a knowledge of English that is not necessary to the job you are applying for.

KEEP TRACK OF YOUR WORK INFORMATION

Name of Contractor _____

Address _____

Name of Rancher _____

Address _____

Type of work _____

Place of work _____

Total Salary received _____

Name of Contractor _____

Address _____

Name of Rancher _____

Address _____

Type of work _____

Place of work _____

Total Salary received _____

Name of Contractor _____

Address _____

Name of Rancher _____

Address _____

Type of work _____

Place of work _____

Total Salary received _____



Legal Aid Of Nebraska

SERVICES WE PROVIDE

REFERRALS - LEGAL ADVICE - BRIEF SERVICES – EXTENDED REPRESENTATION - COMMUNITY EDUCATION

To get help or representation, your first step is to call the AccessLine® toll-free at 1-877-250-2016. When calling the AccessLine®, please try to have any paperwork related to your case in front of you. If you are not a citizen, you will need to provide proof of your immigration status if your case is accepted.

Legal Aid of Nebraska does not provide representation in criminal matters. If you have been charged with a crime and need a lawyer, please call your local county public defender's office. We do not provide representation if you are incarcerated and need a lawyer, even for non-criminal matters. We do not provide representation in worker's compensation cases, personal injury claims, or any cases in which a fee can be generated by a private attorney. For those types of cases, you should call a private attorney in your local area.

Legal Aid of Nebraska serves low income persons. To qualify, your total gross annual income before taxes must not be greater than:

- \$13,538 for a one person family
- \$18,213 for a two person family
- \$22,888 for a three person family
- \$27,563 for a four person family
- \$32,238 for a five person family
- \$36,913 for a six person family
- \$41,588 for a seven person
- \$46,263 for an eight person family
- And \$4,675 for each additional person over eight.

If your income slightly exceeds these amounts, you may still qualify for our services as we are able to take certain deductions to your income. If your case is accepted, you will need to provide proof of your income. If you are calling about an SSI Medicaid, TANF or food stamp program, different income guidelines may apply.

DOMESTIC VIOLENCE AND IMMIGRANTS

What is domestic violence?

Domestic violence is a pattern of abuse in which one individual uses tactics to control another person. Although many believe that domestic violence only includes physical violence, other tactics for abuse include threats, isolation, emotional mistreatment, verbal abuse, and forced sex. While men can also be victims of domestic violence, the majority of victims are women.

How does domestic violence affect immigrants?

If you are not a citizen, some types of abuse may be unique to your situation. Some common forms of abuse are:

Your abuser is...

- Threatening to have you deported.
- Hiding or destroying important papers.
- Threatening to take your children away.
- Refusing to file immigration papers for you.

Should I call the police?

If you are in immediate danger, get out and call 911, the number for emergencies. If you are in danger but cannot leave, call 911. The police will escort you and your children to a safe place if you want to leave.

What should I do if my partner is abusing me?

In every community, there is help for battered immigrants. Most communities have a domestic violence shelter that can provide you with a place to stay, counseling or help with other legal matters. To find out about your closest shelter or domestic violence agency, call the National Domestic Violence Hotline at 1-800-799-7233 or in Nebraska call 1-800-876-6238 for more information. The hotline speaks Spanish, as well as many other languages.

What if I don't have immigration papers?

You still have rights even if you do not have immigration papers. You have the right to live your life free from violence. Your immigration status should not matter to the police, so you should call the police if you need their assistance. Even if you do not have a legal immigration status, you can still ask for a divorce and custody from a court in the United States.

Are there special immigration petitions for victims of domestic violence?

If you or your children have been abused by your spouse AND he is a **permanent resident** or a **U.S. citizen**, then you may be eligible to get valid immigration status under the immigration law. The Violence Against Women Act (VAWA) may allow you and your children to self-petition for permanent residency and work permits without help from your abuser.

DOMESTIC VIOLENCE CONT...

If you are **not married** OR your spouse is **not a permanent resident or U.S. citizen**, there might be other ways that you could qualify for immigration relief if you suffer from domestic violence. For example, the U Visa is a new type of visa for victims of certain crimes who have helped the police or prosecutors with the investigation of the crime, and the victim suffered substantial physical or emotional harm because of the crime.

What if I am a U.S. citizen, permanent resident or refugee?

If you are a U.S. citizen, permanent resident or refugee/asylee, your immigration status should not be affected by leaving or divorcing your abuser. You have legal status; your abuser does not have the power to have you deported by Immigration. However, if your permanent resident status expires two years after you were approved, you should talk to an immigration attorney right away.

DOMESTIC VIOLENCE SAFETY PLAN

When leaving an abusive relationship, a victim of domestic violence should have a safety plan. Start becoming financially independent. Open your savings or checking account at a different bank than the one the abuser uses.

Identify someone that you can trust to support you when you prepare to leave or stay with. Keep the domestic violence hotline number, National Domestic Violence Hotline 1-800-799-7233 or in Nebraska call 1-800-876-6238, other emergency numbers and change for a phone call or a calling card with you at all times.

Have a packed bag with some money, an extra set of keys, extra medicine, clothes, personal care items and copies of important documents and leave them with someone you trust so you can leave quickly. Some important documents to remember would be court documents, birth certificates, passports, identification cards, social security cards, medical records, immigration papers, VISA, work permit, bank books, public assistance documentation, tax returns, pay stubs, loan information, car registration, insurance papers, and pictures of you, your children, and the abuser.

When leaving the home, if you are being threatened or attacked, call 911 right away. Also, stay away from rooms that might have possible weapons in them like the kitchen. Stay away from areas of the home where you could be trapped like a bathroom or a closet. Get to a room with a door or a window. Contact your identified trusted support person and when the police officers arrive tell them what happened and get their name and badge number.

HOW TO FILE A DOMESTIC ABUSE PROTECTION ORDER

What is a Domestic Abuse Protection Order?

A protection order is an order from a judge that protects people from abuse or harassment. There is no cost for requesting a protection order. A Domestic Abuse Protection Order is for people who have been in close relationships such as spouses, significant others or someone you may have been involved with in the past. The orders are granted because someone attempted, threatened, caused bodily injury, and/or intimidated the other person by physical menace.

How do I file a Protection Order?

To get the filing forms contact your local district court clerk or call the Domestic Violence Hotline at 1-800-876-6238. The clerk cannot give legal advice, but you can call Legal Aid's AccessLine® at 1-877-250-2016 to see if you qualify for assistance. The other party may receive copies of all the forms you fill out. You may request a confidential address.

What is an Ex Parte Order?

Once the forms are completed, the judge may sign the order "ex parte," which means without a hearing and before the other party receives notice. The Court will set and hold a hearing on Domestic Abuse Protection Orders, where both sides may present evidence. At the hearing, the judge will decide to cancel the order or continue it for one year. If you do not attend the hearing the judge may decide to dismiss the case.

How do I prepare for the hearing?

Bring any proof of abuse and/or harassment to the hearing, such as photos of injuries, threatening notes, emails or phone messages, and witnesses to abuse. If you have children with the person who you are seeking protection from and are concerned about custody, describe how your children have been affected by the abuse in the petition. You may also get an order for temporary custody with the protection order.

How long does a Protection Order last?

The order is not in effect until the other party receives a copy from the sheriff or deputy. It lasts for a year, unless there is an order dismissing it by the court. Carry a copy of the order with you at all times and if the other person violates it, call the police immediately.

IMMIGRANT ELIGIBILITY FOR PUBLIC BENEFITS

Do I Qualify?

Only “Qualified” immigrants are eligible for public benefits.
“Qualified” immigrants are:

1. Lawful permanent residents (LPRs);
2. Refugees, asylees, persons granted withholding of deportation/removal, conditional entry (in effect prior to Apr. 1, 1980), or paroled into the U.S. for at least one year;
3. Cuban/Haitian entrants; and
4. Battered spouses and children with a pending or approved (a) self petition for an immigrant visa, or (b) immigrant visa filed for a spouse or child by a U.S. citizen or LPR, or (c) application for cancellation of removal/suspension of deportation, whose need for benefits has a substantial connection to the battery or cruelty. Parents/children of such battered child/spouse are also “qualified.” Victims of trafficking (who are not included in the “qualified” immigrant definition) and their derivative beneficiaries are eligible for benefits funded or administered by federal agencies, without regard to their immigration status. **“Not qualified” immigrants** include all noncitizens who do not fall under the “qualified” immigrant categories.

Before August 22, 1996 Qualified immigrants who entered the U.S. before Aug. 22, 1996 are eligible for Temporary Assistance for Needy Families (TANF), Emergency Medicaid, Full-Scope Medicaid, State Children’s Health Insurance Program (SCHIP), and Medicare “Premium Free” Part A. They also may qualify for food stamps and Premium “Buy In” Medicare.

After August 22, 1996 Qualified immigrants who entered the U.S. on or after Aug. 22, 1996 are eligible for Emergency Medicaid and Medicare “Premium Free” Part A. They may also qualify for food stamps, TANF, Full-Scope Medicaid, SCHIP, and Premium “Buy-in” Medicare.

Not qualified immigrants are eligible for Emergency Medicaid. Victims of trafficking may also qualify for food stamps, TANF, Full-Scope Medicaid, and/or SCHIP. Immigrants who are lawfully present may be eligible for Medicare “Premium Free” Part A based on authorized employment.

IMPORTANT INFORMATION ABOUT TAXES

Warning:
**If you receive a letter from the IRS,
you should talk to a lawyer right away!**

Why should I pay U.S. taxes? Even if you are not authorized to work in the U.S. you should pay taxes on the income you earn and keep copies of your tax returns. Not paying your taxes may exclude you from certain forms of relief from deportation or from qualifying for legal residency under proposed “amnesty” legislation. It may also prevent you from becoming a citizen or from petitioning to bring a family member to the United States.

How do I pay taxes if I do not have a Social Security Number? If you are working without authorization you should apply for an Individual Taxpayer Identification Number (ITIN) from the IRS in order to file an income tax return. Anybody who does not qualify for a Social Security Number can apply for an ITIN in order to file taxes or be included in someone’s tax return, but the ITIN cannot be used to get a job. The application for an ITIN is free. An ITIN application must be filled with a tax return. It is the IRS policy not to share any information with Immigration. If anyone at an IRS office asks you or your family member questions about immigration that make you uncomfortable, you should leave and call an attorney right away.

I am legally in the country, but my spouse and children do not have Social Security Numbers. How can I include them in my taxes? They should apply for Individual Taxpayer Identification Numbers (ITIN) from the Internal Revenue Service (IRS). **You should never put a false Social Security Number on your tax return.**

My spouse does not have a Social Security Number. Should I just file as “Head of Household”? No! The IRS will say that you are committing fraud if you file as Head of Household when you are married and living with your spouse. The law says that if you married and lived together with your spouse during the last 6 months of the year, you have to file jointly with your spouse, or you can file as “Married Filing Separately.”

What is the Earned Income Credit (EIC) and how do I qualify for it? The EIC is a credit for working individuals and families. Eligible families may receive a refund of up to \$4,824. To receive it, your children must have lived with you for at least 6 months of the year. Also, your spouse and your children whom you use to claim the credit must have valid Social Security Numbers and an immigration status that would allow them to work in the United States. You cannot qualify for EIC if you or they only have ITINs.

IMPORTANT TAX INFORMATION, CONTINUED...

My spouse and children do not have Social Security Numbers that allow them to work. Why should they get ITINs if I cannot claim the Earned Income Credit? You should do this because you can get a bigger refund. You can still claim your children as dependents, and you may still be eligible for other credits, like the Child Tax Credit.

Free tax preparation—The IRS allows any tax payer who earned less than \$54,000 to file a tax return electronically for free. If you use a commercial tax preparer, do not use “Rapid Refund” or an “Instant Refund.” ***These are not actually refunds!*** These are high-interest loans from your tax preparer! When your actual refund arrives from the IRS, your preparer will keep a **large** percentage of it to pay for the loan.

ITIN
INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER

If you do not have a Social Security number and you work in the United States, you must get an Individual Taxpayer Identification Number (ITIN) to report your wages.

In order to request an ITIN, you must register a W-7 Form. This can be found at your local IRS office. You can also request one by mail at:

IRS Austin Service Center
ITIN Operation
P.O. BOX 149342
Austin, TX 78714-9342.

The IRS will take approximately four weeks to respond. You will receive the ITIN in a letter. If you do not receive a response within six weeks, you can call them toll free at 1-800-829-1040.

Things to keep in mind are:

- This number does not authorize a person to work in the United States
- It doesn't change immigration status nor will it allow eligibility for Social Security benefits.
- You can only request an ITIN if you do not have a Social Security number.
- If your spouse or employee does not have a Social Security number, they must also request an ITIN.

RENTING A HOME...

If you are trying to rent housing, you cannot be discriminated against in the following ways:

- Refuse to rent or sell housing.
- Refuse to negotiate for housing.
- Make housing unavailable.
- Deny a dwelling.
- Set different terms, conditions or privileges for sale or rental of a dwelling.
- Provide different housing services or facilities.
- Falsely deny that housing is available for inspection, sale, or rental.
- For profit, persuade owners to sell or rent (blockbusting).
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

If you are renting your home in Nebraska, your landlord cannot:

- Lock you out of your property.
- Enter your property without notice.
- Turn off your utilities.
- Refuse to repair appliances if those appliances are included in the rent.

BUYING A HOME...

If you are trying to buy a house, you cannot be discriminated against in the following ways:

- Refuse to make a mortgage loan.
- Refuse to provide information regarding loans.
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees.
- Discriminate in appraising property.
- Refuse to purchase a loan.
- Set different terms or conditions for purchasing a loan.

YOUR RIGHTS WITH “H-2A” JOBS

H-2A is the name of a program that allows U.S. agricultural employers to hire farm workers from other countries on a temporary contract. Foreign workers who enter the U.S. with an H-2A visa have numerous rights that are protected under U.S. law. Workers who already live in the U.S. also have special rights and protections if they apply to work for an employer who is using the H-2A program.

Rights and Protections for all Workers:

- to receive a copy of your work contract, in a language you can understand;
- to be paid at least twice per month;
- to be paid for at least 75% of the hours promised under the contract, even if you wind up working less;
- to receive free housing at the housing identified in your written contract, (unless your permanent residence is within commuting distance);
- to receive three meals per day or to be provided with free cooking facilities;
- to get transportation, in a safe vehicle, between the employer-provided housing and the fields each day;
- to receive medical attention and paid time off in the case of an injury;
- to refuse to work more hours than are required under the contract in a given day or a given week;
- to be free from discrimination or discharge if you file a formal complaint or if you help someone else with a complaint;
- to be provided a wage statement showing hours of work, hours refused, pay for each type of crop, the basis of pay (i.e., hourly or piece-rate);
- Your employer **may not** take deductions from your pay for costs of housing, transportation, tools, or costs of recruitment or visa processing.

Protections for Foreign Workers:

- Your employer may not take your passport, visa, or identification away from you.
- You should have received a copy of your work contract before arriving in the U.S.
- Your employer must reimburse you for any fees you paid for visa processing and travel from your home to the U.S.
- Recruitment fees are illegal! If you paid fees to a recruiter in your home country, your employer must pay for your transportation home at the end of the contract.

ENROLLING YOUR CHILDREN IN SCHOOL

Every child living in the United States has a right to a free public school education. The right to an education applies to all children equally, documented and undocumented, citizens and permanent residents. This right is not at all affected by the student's or parent's immigration or documentation status.

Because immigration status is irrelevant to a child's right to an education, questions or requirements regarding immigration or documentation status are not permitted. This means that schools may not require students or parents to present a visa, passport, "green card," social security number, or anything else having to do with citizenship or immigration.

Schools often ask for a student's social security number. While they are allowed to ask for the number, they may not require one. Providing the number is strictly voluntary. Your child may still participate in the free or reduced lunch program even without a social security number.

Schools may require the following information:

•**Proof of age:** schools usually ask for a birth certificate in order to determine a child's age. If you don't have one, the school should allow you to present proof of the child's age through other means, such as a baptismal certificate or sworn statement.

•**Proof of residency within the district:** your child has the right to a free public school education within the district in which she/he lives. This means that schools can require that you submit proof that you do reside within the district in which she/he lives. This means that schools can require that you submit proof that you do reside within its boundaries. This can be established through documents that show your address (utility bills, rent receipts, employment records, etc.) NOTE: This "residency" required by schools is entirely different from immigration-related "residency."

•**Proof of proper immunization:** schools throughout the country generally require immunization of all their students in order to prevent the spread of disease. Failure to present proof of proper immunization is one thing that can delay your child's enrollment in school. There are health clinics in the community that provide the necessary immunizations at little or no cost. Ask the school to refer you to such clinics if you need this assistance.

Nebraska Department of Education
1-402-471-2295
www.nde.state.ne.us

For information on your local health department for immunization services contact:

Nebraska Department of Health and Human Services
1-402-471-2353
www.hhs.state.ne.us