



IMMIGRANT WORKERS WITHOUT WORK AUTHORIZATION

Disclaimer: This advisory has been created by The Legal Aid Society, Employment Law Unit. This advisory is not legal advice, and does not substitute for the advice of an immigration or employment expert.

Am I Allowed to Work?

Employers are required by law to not hire workers who do not have work authorization. Employers by law must ask employees for identification and work authorization at the time of hiring. Employers can also ask employees to update this information when the employer knows that work authorization has expired or will soon expire.

If I'm Working Anyway, What Are My Rights?

Immigrant workers who do not have work authorization generally have the same wage and hour rights as other workers – including the right to minimum wage and overtime pay. An employer cannot refuse to pay you for work you have already completed just because you do not have work authorization.

But, if you lose your job and do not have work authorization, you are **not** eligible for unemployment insurance benefits.

What About Discrimination ?

Immigrant workers who do not have work authorization are still protected under Federal, New York State and New York City anti-discrimination laws. This means that an employer cannot fire you, refuse to hire you, harass you, or take other negative actions against you because of your: national origin, race, color, creed, religion, sex, pregnancy, age, disability, gender identity, sexual orientation, marital status, military status, domestic violence victim status, predisposing genetic characteristics, credit history, caregiver status, or unemployment status.

An employer cannot refuse to hire you just because you have been convicted of a crime, unless there is a direct relationship between the job and your conviction or you would be an unreasonable risk to the workplace.

If you do have work authorization, an employer is not allowed discriminate against you based on your citizenship status (for example: being a permanent resident instead of a citizen).

What If I Get Injured?

All workers, including those without work authorization, who are injured on the job may apply for workers' compensation benefits in New York to cover medical treatment, and lost wages in some cases.

Health and safety laws protect all employees, including those without work authorization.

Can My Boss Retaliate Against Me?

If you are an undocumented worker, you may file claims if your employer has violated your rights. But, there is a possibility that your employer may retaliate against you. Retaliation is illegal but some employers will still take action including reporting an undocumented worker to ICE. If you are undocumented, you should consult with an attorney with experience in both employment and immigration law before making a complaint.

If you have any questions or need assistance, please call our Employment Hotline at (888) 663-6880 on Tuesdays, Wednesdays and Thursdays from 9:30am-12:30pm.