

YOUR RIGHT TO A SAFE WORKPLACE ESSENTIAL FACTS FOR IMMIGRANT WORKERS



All workers have the right to speak up about safety and other workplace rights without fear of retaliation. This fact sheet summarizes these rights - and explains a new process announced by the Biden Administration to help undocumented workers take action with greater protection, a step advocated by the COSH Network and many others.

A. All workers have a right to a safe workplace.



U.S. worker safety law, the Occupational Safety and Health Act, requires that employers keep all workers safe from harm. This includes immigrant and undocumented workers

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B. You have a right to discuss and make complaints about safety and health concerns in your workplace.

- If you see a hazard that could harm you or your co-workers, you have a right to speak to your employer. It is often most effective to unite with co-workers when talking to your employer about safety or other problems in the workplace.
- If your workplace has elected union representation, you can discuss safety issues with your union officers or representatives. With or without union representation, you can contact a COSH, worker center or community group.
- You can also file a complaint with OSHA, the U.S. Department of Labor (DOL) agency responsible for workplace safety, at 1-800-321-OSHA. Calls are accepted at this number in both English and Spanish.

C. If there is a safety investigation at your workplace, you have a right to participate, regardless of your immigration status.

- As part of their responsibility to enforce safety laws, inspectors from OSHA (or a comparable state agency) may visit your workplace. This may take place if you or a co-worker has contacted OSHA, or if there has been a safety-related incident at your workplace.

- You have the right to meet with safety inspectors to answer their questions and to discuss any concerns you have about safety on the job, without your employer being present.
- DOL, including OSHA, does not inquire into immigration status as part of DOL investigations or proceedings. This means that if you call OSHA about a safety concern in your workplace, or are asked questions during an OSHA inspection, your immigration status will not be part of the conversation.

D. Your employer is prohibited by law from retaliating against you for exercising your right to complain about safety conditions, report an injury, or speak with OSHA during an inspection.

If you are threatened or punished for taking action for your safety you can file a retaliation complaint with OSHA in any language and submit it to your regional OSHA officer responsible for enforcement. This includes any threats or intimidation related to your immigration status or immigration enforcement actions being taken against you. You must file your complaint within 30 days of the act of retaliation.

**We all have a right to a safe workplace.
Together, we can protect each other, our co-workers and our families.**

*If you have questions or need more information,
please contact us at NationalCOSH.org.*

E. For workers who are victims of, or witnesses to, safety and other labor violations, the federal government recently announced a new process to request protection from immigration enforcement actions.

The Department of Homeland Security (DHS) has a new procedure for undocumented immigrant workers to request “deferred action,” which provides temporary legal status in the U.S. for up to four years, when a labor agency is investigating possible abuses of workers, like safety or wage violations. The procedure also allows you to request employment authorization at the same time. DOL also has a process that enables you to ask for their assistance with this request, in cases where the DOL determines that the participation of workers is needed to enforce safety and/or other worker legal protections. If DOL is not involved in the inspection, but a state or local labor enforcement agency is, that agency can also provide you with a “letter of interest” in support of your request for deferred action.

Steps: Workers, with assistance from worker centers, COSH groups, unions and attorneys will need to take the following steps:

1. (a) Request assistance from the DOL:

Workers, unions, worker centers, attorneys or other advocates can email the DOL at statementrequests@dol.gov, and share information (see information to be included in the request on page 6). If the DOL determines that the participation of workers at your workplace is needed to enforce safety laws and/or other laws which protect workers, it will provide you and/or your advocates/ representatives with a “Statement of DOL Interest” in the investigation or action at your worksite.

(b) Request assistance from a state or local labor enforcement agency:

- If DOL is not involved in the labor inspection but a state or local agency is, you can request a Statement of Interest from that agency instead, including the information from page 6. If that agency agrees that the participation of workers in its investigation of your workplace is in its enforcement interests, a senior-level official will provide the Statement of Interest to you or your representatives.




2. Submit request to DHS

- Your request to DHS for deferred action, and for employment authorization if you are seeking it, must include the information from [this guidance](#). We recommend that you consult with a qualified immigration legal practitioner before submitting any requests to DHS.
- There is no guarantee that you will be granted “deferred action” or employment authorization, but this is an important new process and opportunity for you to request these benefits, with the assistance and advice of worker advocates and/or attorneys.

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SAMPLE EMAIL REQUEST TO DOL









 New Message —  

To statementrequests@dol.gov

Subject Statement of DOL Interest

- The worksite at issue (so the labor agency can identify the worksite);
- The labor investigation or enforcement action
- Any retaliation or threats of retaliation the worker(s) witnessed or experienced;
- How workers' fear of potential immigration-based retaliation or immigration enforcement is likely to scare workers from reporting violations or cooperating with the labor agency; and
- Contact information for the requester or their representative.

SEND

****If you are seeking support and guidance to learn more about your rights and/or file a safety complaint you can contact a local COSH group or worker center. **.**

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