

WORKING WITH UNDOCUMENTED IMMIGRANTS

Some of the participants in your workers rights classes may be undocumented immigrants. It is important not to ask if anyone is undocumented, but it is helpful to explain how the law does or does not apply to undocumented workers. While the accompanying chart states what the law says, how the law is implemented is another issue. The agency that handles all wage claims in the state, the Attorney General's office, does not care whether you are documented or undocumented because it is the employer's obligation to pay you your wages once you have worked. Workers are also protected from retaliation for filing claims under these acts whether or not you are documented. In the case of the federal laws, the situation is more tricky. Recent court cases have made it harder for undocumented workers to use these laws without risk. Also, employers often retaliate in ways that are hard to prove. Before recommending that an immigrant worker go to a government agency, especially a federal agency, **it is best that they check first with an advocacy organization.** See the appendix for a list of organizations in your area. **Documented workers are covered by all laws.**

If you are undocumented and working, what legal rights apply to you?

YES, THESE APPLY:	NO, DO NOT APPLY:
You have the right to file a complaint for unpaid wages, overtime, and vacation pay	
You have the right to file a demand for worker's compensation benefits if you are injured on the job	
You are covered by health and safety laws (if you work in the private sector) and may be able to sue a manufacturer that made the product which contributed to your workplace injury	
You may sue an employer for retaliation or wrongful discharge if fired for complaining about working conditions or wages	
You have the same rights to organize and bargain over wages and working conditions.	You do not have the right to seek back wages after being fired for union organizing (Hoffman Plastics case)
You are covered by anti-discrimination laws.	
You are covered by FMLA.	
	You do not have the rights to receive unemployment Compensation, for which you have to have a valid social security number to apply.