

FACT SHEET: NEW PROTECTIONS FOR IMMIGRANT WORKERS TO DEFEND THEIR WORKPLACE RIGHTS

All workers should be able to speak up about safety and other workplace rights without fear of retaliation. The federal safety agency, OSHA, now has two ways that it can help immigrant workers stay in the United States so they can exercise their rights to safe and just workplaces.

OPTION 1

Support for workers in gaining temporary legal immigration status for up to 2 years (“deferred action”)

Workers can ask OSHA for help in being approved for “deferred action”, which is decided by the US Department of Homeland Security (DHS).

OSHA can agree to provide a “statement of interest” in support of deferred action if they determine that the participation of workers is needed to investigate safety and health conditions and enforce protections. If OSHA is not involved in the safety inspection, but a state or local labor enforcement agency is, that agency can also provide you with a “statement of interest” in support of your request for deferred action. Work authorization is also available for those who obtain deferred action.

EXAMPLE

Construction workers seek OSHA support for deferred action

A group of construction workers contacted OSHA because they were being required to work on a rooftop without safety harnesses. One worker was injured from a fall. The employer warned the workers that if they spoke up, they would lose their job and that they had no documents to work anywhere else.

This situation might be a good example for seeking OSHA support for deferred action because the workers:

- experienced dangerous conditions that were in violation of OSHA;
- were being threatened as a result of their immigration status;
- could be helpful to the OSHA investigation.



NOTE: If you aren't being paid properly or are being discriminated against in the workplace, other federal and state agencies can provide “statements of interest” if they open investigations related to your claims, or the claims of your co-workers.

For more information visit nationalcosh.org

OPTION 2

Certify that workers should receive a visa to stay in the US for up to 4 years.

Visas make it possible for workers to stay in the US legally to help OSHA or other agencies take legal action against employers who commit crimes that have harmed the workers.

Workers who qualify can receive:

- Legal status to stay in the US for up to 4 years,
- the right to work,
- benefits for certain family members,
- Opportunity to apply for a “green card” (permanent resident status) after 3 years.



EXAMPLE

Poultry workers seek OSHA help to obtain U Visas

Below is an example of a situation that may be a good fit for a U or T Visa:

Workers at a poultry plant were fired for speaking up about dangerous conditions. With help from a COSH group*, the workers filed a complaint with OSHA. While OSHA was investigating, they found that the employer had taken and locked up the passports for several of the workers, forcing them to stay in their jobs. Those workers were also forced to live at the employer’s property so the employer could keep track of what they were doing and who they were talking to. The employer threatened that if the workers ever left the plant, he would call U.S. Immigration and Customs Enforcement (ICE).

In this case, the workers may be victims of several crimes, including involuntary servitude (forced labor). OSHA may be able to certify U visas for any workers able to assist with investigation. The workers would need to demonstrate separately in their U visa petitions that they incurred a great deal of mental or physical injury from the crime. Because these workers were forced to stay at their jobs against their will, they might also qualify for a T visa.

Types of Visas:

“U Visa”:

Provides legal status to workers who:

- Have experienced physical or mental abuse as a result of an employer’s criminal activity
- Have information about the criminal activity
- Help OSHA (or another enforcement agency) take legal action against the employer

“T Visa”:

Provide legal status to workers who:

- Are victims of human trafficking. “Human trafficking” means using force or tricking someone into working against their will, or into performing sex acts for money
- Help OSHA (or another enforcement agency) take legal action against the employer.

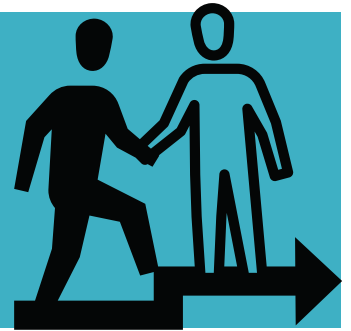
WHAT STEPS SHOULD WORKERS AND/OR WORKER ORGANIZATIONS TAKE?



**SAFETY
FIRST**

Workers who are experiencing a serious safety and health violation should seek assistance from a worker center and/or a local legal organization in filing a complaint with OSHA. Once OSHA begins its inspection, it should be asked to provide a “statement of interest” that workers can use in support of a request to DHS for deferred action (with the assistance of immigration experts).

If a worker or workers are victims of certain kinds of crimes that have caused them mental or physical injury, OSHA, with the help of a worker center and/or legal organization that specializes in immigration, can assist them in seeking a U or T visa. This can be in addition to their request for deferred action. It’s important to recognize that wait times for U and T visas can be very long. Deferred action is a faster process.



****COSH groups are local organizations that support workers to defend their rights to safe and healthy workplaces. You can find your nearest local COSH group here:**

<https://nationalcosh.org/about-us/local-cosh-groups>**

