



KNOW YOUR RIGHTS:

J-1 Workers

Facts from the NC Justice Center's WORKERS' RIGHTS PROJECT

► YOUR RIGHTS as a J-1 worker

A growing number of employers in North Carolina are using J-1 workers to replace other employees. These workers come to the U.S. on a J-1 visa sponsored by a cultural exchange agency, and are placed with employers for a temporary period. Some of the most common J-1 jobs are au pair, camp counselor, teacher, and intern or trainee in various industries.

What is a J-1 visa?

J-1 visas were created to bring people to the United States from other countries for the purpose of cultural exchange. Unlike other temporary foreign worker programs, the J-1 program is administered by the Department of State rather than the Department of Labor. Over the years, the J-1 program has become a ready source of low skilled labor for many employers. In North Carolina, J-1 workers are placed for employment in hotels, retail operations, schools, and many other industries.

What are my rights as a J-1 worker?

J-1 workers are covered by the same labor and employment laws as other workers in the United States. This means you have the right to be paid the minimum wage (currently \$7.25 an hour), overtime for all hours worked over 40 in a single workweek, and to be provided with a safe and healthy

workplace. If you are injured on the job, you are probably covered by worker's compensation insurance. You have the right to organize a union and to take collective action with other employees to improve your wages or working conditions. You should be able to keep your passport and visa with you.

I am paid an au pair wage rate, which is less than the minimum wage. What can I do?

There is litigation taking place in federal court in Colorado that may help to resolve this issue. In the meantime you may want to consult with a lawyer regarding your rights.

What are my rights as a J-1 intern or trainee?

You have the right to receive training in your field. Your sponsor and employer should follow the training plan set out in the DS-7002 Training/Internship

Placement Plan. If you are only doing unskilled labor, or if your training plan is not being followed, you have the right to complain.

What are my rights as a summer work travel student?

Your work experience should include an opportunity for cultural exchange with U.S. citizens on and off the job. If your employer is a staffing agency, that agency must directly supervise and pay you. You should not be placed in a job that is not appropriate, such as a job where you work the night shift or a job that does not match your job offer.

If I am having problems at work, what can I do?

You may consult with a lawyer, worker center, union, or other community organization if you believe your rights are being violated. You may also contact your sponsoring agency to complain and to request a different job placement. In the case of Summer Work Travel workers, your sponsor must offer you reasonable assistance to change jobs. You have the right to make a complaint with the U.S. Department of State (DOS) as well. DOS has many direct sponsors to repay fees and has the authority to sanction sponsors. It may be possible to change sponsors as well.



YOUR RIGHTS as a J-1 worker (continued)

What can I do if there are problems with my housing?

Some counties and cities in North Carolina have housing codes that set basic health and safety protections for residents. You can call the city or county where you live to see if they have housing inspectors who can come and inspect your residence. You can also contact a lawyer for help with your housing conditions, problems with your landlord, or if you have received an eviction notice. Sponsors of Summer Work Travel students must provide them with affordable and suitable housing, so housing problems should be reported to the sponsoring agency.

Can I return to the United States if I quit my job or make a complaint?

Your sponsoring agency enters a reason for your departure in the

immigration registration system known as SEVIS. If the sponsor marks that your program has “ended,” then you are still entitled to travel for 30 days and there should not be adverse immigration consequences. If it is coded as “terminated,” that can affect your ability to return on another visa. If you think your departure has been coded inaccurately, you can ask the Department of State to correct it, but they do not have to grant your request.

It is against North Carolina law for an employer to retaliate against an employee for making a complaint about wages, health and safety conditions, and certain other terms and conditions of employment. Your sponsoring agency may or may not be a joint employer along with your onsite employer. If you believe you have been retaliated against, contact the North Carolina Department of Labor’s Employment Discrimination Bureau or speak to an attorney about your rights.

RECRUITMENT AND OTHER COSTS

J-1 workers can be required to pay a recruitment fee in their home country, travel costs, visa fees, and other fees to their sponsoring agency. However, if your job does not provide you with the work or cultural exchange experience promised by the program, you may be able to get a refund of those costs. Keep copies of receipts for any fees or costs that you paid, or keep notes if you aren’t given a receipt. Consult an attorney to learn more about your rights.

RESOURCES

- For help finding a lawyer, call:
- North Carolina Advocates for Justice 1-(800) 688-1413
 - North Carolina Bar Association Lawyer Referral Service 1-(800) 662-7660
 - Legal Aid of North Carolina 1-(866) 219-5262

To file a claim with a government agency or to seek information on the following issues, contact:

DISCRIMINATION	<ul style="list-style-type: none"> ▪ US Equal Employment Opportunity Commission 1-800-669-4000 - or - www.eeoc.gov ▪ Office of Special Counsel for Unfair Immigration-Related Employment Practices 1-800-255-7688 - or - www.justice.gov/crt/about/osc/
E-VERIFY	<ul style="list-style-type: none"> ▪ Department of Homeland Security / E-Verify 1-888-897-7781 - or - www.dhs.gov/e-verify
FAMILY AND MEDICAL LEAVE	<ul style="list-style-type: none"> ▪ US Department of Labor 1-866-487-9243 - or - www.dol.gov/whd
HEALTH & SAFETY	<ul style="list-style-type: none"> ▪ NC Department of Labor 1-800-NC-LABOR (625-2267) - or - www.nclabor.com/osha/osh.htm
MISCLASSIFICATION	<ul style="list-style-type: none"> ▪ Internal Revenue Service http://www.irs.gov/pub/irs-pdf/fss8.pdf ▪ NC Industrial Commission, Employee Classification Section (919) 807-2582 - or - www.ic.nc.gov/EmployeeClassificationSection.html
RETALIATION	<ul style="list-style-type: none"> ▪ NC Department of Labor, Employment Discrimination Bureau 1-800- 625-2267 - or - www.nclabor.com/edb/edb.htm
UNEMPLOYMENT INSURANCE	<ul style="list-style-type: none"> ▪ NC Department of Commerce, Division of Employment Security 1-877-841-9617 - or - https://www.ncesc.com/
UNIONS & COLLECTIVE ACTION	<ul style="list-style-type: none"> ▪ National Labor Relations Board 1-866-667-6572 - or - www.nlr.gov
WAGE THEFT	<ul style="list-style-type: none"> ▪ NC Department of Labor, Wage and Hour Bureau 1-800-625-2267 - or - www.nclabor.com/wh/wh.htm ▪ US Department of Labor 1-866-487-9243 - or - http://www.dol.gov/whd/
WORKERS’ COMPENSATION	<ul style="list-style-type: none"> ▪ NC Industrial Commission 1-800- 688-8349 - or - http://www.ic.nc.gov/