



September 27, 2024

## **Know Your Rights: H2A Workers in North Carolina during Hurricane Helene**

### **Should I evacuate before the hurricane, or storm?**

Your employer has a duty to provide you habitable housing and a work site free from recognized hazards that are causing or are likely to cause death or serious physical harm. Some counties in the state may be subject to a mandatory evacuation. We will continue to post Facebook updates as they become available, but you can directly access the list of mandatory and voluntary evacuations through the ReadyNC.gov website available using this [link](#). [Here](#) is a list of shelters in each county. *Ultimately, you should do what you need to do to feel safe.*

### **If I have to stay, what are some things that I can do to prepare for and stay safe during the hurricane?**

[Here](#) is a link to more information in Spanish about how to prepare for and stay safe during a hurricane.

### **If I decide to evacuate to a safer location and return to work after the hurricane passes, how does my decision affect my rights as an H2A worker?**

If you do decide to evacuate to a safer location, you should communicate that in writing to your employer. You can, for example, send a text stating that you are evacuating to a safer place for the duration of the hurricane. Be sure to state that you are not abandoning your contract and that you intend to return when the hurricane passes and roads are safely passable again. If you do decide to leave and return after the hurricane, you may be forfeiting your right to the  $\frac{3}{4}$  guarantee under the H2A regulations. For more information about the  $\frac{3}{4}$  guarantee in Spanish, click [here](#).

### **Can I quit my H2A job without getting in trouble with the US government/ICE and without affecting my ability to get a visa in the future?**

Although some employers will make threats, it is important that the workers know that they can leave their job at any moment. Sometimes employers say that if a worker abandons or quits their job, it is the responsibility of the employer to report the worker to immigration. Be calm!

Farmworker Unit  
PO Box 26626•Raleigh, NC 27611  
Office 919.856.2180•Fax 919.856.2187•WhatsApp 919.523.6665

Although the employer is obligated to report to the government that you left, this does not mean that you will have any problems. Instead, it means that the grace period begins. The grace period is the time that the government gives you to leave the country without having any problem with your immigration status. There is no punishment from the government solely for leaving your job! Your right to quit your job is protected under the United States Constitution.

### **What happens if my housing is damaged in the storm?**

Your employer has a duty to provide you housing and a work site free from recognized hazards that are causing or are likely to cause death or serious physical harm. If you are housed in a labor camp where the conditions are likely to cause death or serious physical harm, the North Carolina Department of Labor can require the operator of that labor camp to immediately provide alternative housing. To make a confidential complaint regarding your labor camp conditions, you may contact the North Carolina Department of Labor by calling 1.800.625.2267. If you are living in a hotel, other protections may apply. Feel free to call our office at 919.856.2180 or 919.523.6665 to discuss your options free of charge. All calls from individuals seeking legal information are confidential.

### **What if I return to my job but the crops are destroyed?**

If your services are no longer required after the damage caused by a disaster, and the government decides that such an event constitutes an impossibility of contract, your employer has the right to end the labor contract. In this case, the employer must comply with the  $\frac{3}{4}$  guarantee from the beginning of the contract until the date that the contract had to be terminated due to natural disaster. The employer should make a reasonable effort to transfer a worker dismissed for impossibility of contract to another comparable job acceptable to the worker that complies with immigration laws. If an alternative job is not available, the employer must pay costs of transportation and subsistence during the return journey to your home country, and your employer must pay whatever reimbursement of the costs of your journey here that remain.

*This general legal information has been provided by the Farmworker Unit of Legal Aid of North Carolina. Call the Farmworker Unit of Legal Aid of North Carolina to confidentially discuss your particular situation with an attorney free of charge. Services are available in Spanish. Call 919.856.2180 or connect via WhatsApp to 919.523.6665. We are here to assist you.*