



Farmworker Legal Services

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ISSUE BRIEF: Right to Access Migrant Labor Camps

Outreach workers have the right to enter migrant labor camps without the permission or knowledge of the labor camp owner or operator.

Legal Standard:

Migrant labor camp occupants, their guests, and representatives of assistance organizations have the right to enter and leave migrant labor camps without the permission or knowledge of the labor camp owner or operator.¹ Camp owners and operators may not inhibit outreach workers' or guests' reasonable visits to migrant camps.^{2,3} Outreach workers can enter migrant labor camps without signing in or notifying a camp owner/operator prior to entering the labor camp.⁴

GAP Applicability:

The above legal standard, established by the federal court landmark decision in Folgueras v. Hassle; United States v. Hassle, 331 F. Supp. 615 (W.D. Mich. 1971), supersedes guidelines, such as those included in the Good Agricultural Practices ("GAP") and similar audit programs.⁵ The GAP guideline is merely a recommendation and "does not have the force and effect of law and thus is not subject to enforcement."⁶ In addition, the GAP guideline applies only to the agricultural workplace, not labor housing.⁷ Even in situations where the "workplace" and "housing" are arguably connected, the GAP guideline does not restrict or preempt legal precedent that recognizes the constitutional, statutory, and common law rights to freely enter migrant labor camps to visit and serve occupants.⁸

COVID-19 Impact:

Likewise, the above legal standard supersedes guidelines and recommendations established in response to COVID-19.⁹ Outreach workers should take steps to ensure exposure is not brought into the camp and should follow applicable laws and policies regarding safe practices for outreach during COVID-19. Outreach workers likely are required to wear PPE and maintain 6 feet of distance when possible.¹⁰

For additional information or assistance in resolving a specific issue involving the denial of or limitations on the right to free access to migrant labor camps, contact an attorney.

¹ In 1971, a Western Michigan federal court issued the landmark decision Folgueras v. Hassle; United States v. Hassle, 331 F. Supp. 615 (W.D. Mich. 1971) that upheld the right of free access by migrant laborers, their guests, and outreach workers to labor camps. Since then, the Folgueras principles of free access have been followed by courts in other states and continue to provide legal precedent regarding labor housing access rights.

² Id., at 623 (holding that a labor camp owner or operator "may not constitutionally deprive the migrant laborers living in his camps, or members of assistance organizations, or mere visitors of reasonable access to his camps"); see also Id., at 624 ("[T]he property rights of the camp owner do not include the right to deny access to his camps to guests or persons working for any governmental or private agency whose primary objective is the health, welfare or dignity of the migrant workers as human beings.").

³ See Executive Order 2020-111 FAQ's, https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455-532084--,00.html.

⁴ Id., at 625 (prohibiting camp owners and operators "from interfering with any persons who seek access to enter agricultural labor camps or have entered said camps located on property he owns or controls for the purpose of visiting the residents of said camps").

⁵ See Guidance for Industry, Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables, U.S. Food & Drug Admin. (Oct. 1998), available at <http://www.fda.gov/downloads/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/ProduceandPlanProducts/UCM169112.pdf>.

⁶ Id., at 2.

⁷ Id. While Part 7 of the GAP guideline provides a nonbinding recommendation that a facility have a visitor check-in log, such recommendation applies only to the facilities where the processing of fresh produce occurs. Id., at 32.

⁸ Id., at 2.

⁹ Executive Order 2020-111 FAQ's, https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455-532084--,00.html.

¹⁰ See e.g. Executive Order 2020-97, https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-529864--,00.html.