



Farmworker Legal Services

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ISSUE BRIEF: Right to Access Migrant Labor Camps

Revised: 2024

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 Outreach workers can enter migrant labor camps without signing in or notifying a camp owner/operator prior to entering the labor camp.³

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.⁴ The GAP guideline is merely a recommendation and "does not have the force and effect of law and thus is not subject to enforcement."⁵ In addition, the GAP guideline applies only to the agricultural workplace, not labor housing.⁶ 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.⁷

Avian Flu - Highly Pathogenic Avian Influenza (HPAI) or Bird Flu (H1N5): Michigan issued temporary guidelines and recommendations established in response to the outbreak of Avian Flu in dairy and poultry farms, effective May 8, 2024.⁸ These guidelines are temporary and limited to activities within the potential areas of exposure in specific boundaries called "Lines of Separation (LOS)."⁹ The LOS boundaries should be clearly marked at the perimeters of each worksite and should exclude farmworker housing sites and entry/exit roads to those housing sites. While these emergency measures are in place, outreach workers should follow applicable laws and policies regarding safe practices for conducting outreach to workers potentially exposed to the Avian Flu (including entering/exiting the housing sites through access roads outside the LOS) and provide information to workers about steps they can take to protect themselves while working with farm animals, such as those issued by the CDC.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 the joint Michigan Immigrant Rights Center & Farmworker Legal Services hotline at 1-800-968-4046 or a private 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 *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").

⁴ 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>.

⁵ *Id.*, at 2.

⁶ *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.

⁷ *Id.*, at 2.

⁸ See MDARD Requirements and Recommendations for Highly Pathogenic Avian Influenza (HPAI) in Dairy and Poultry for Animal Health Officials, Veterinarians, and Producers (available at <https://www.michigan.gov/mdard/-/media/Project/Websites/mdard/documents/animals/diseases/avian/MDARD-HPAI-Order-Guidance-05-03-24.pdf?rev=fce33a57b5fa4bebbef1def098dbf493&hash=FD735F690BA0536405F97A7BAED9F4301>; accessed May 3, 2024). Thus, worker housing should not require sign in/out or any other limitations to access workers at their housing.

⁹ *Id.*

¹⁰ See e.g. CDC, Protect Yourself from H5N1 When Working with Farm Animals, available in Spanish https://www.cdc.gov/flu/pdf/avianflu/protejase-del-virus-h5n1_Spanish.pdf and English: <https://www.cdc.gov/flu/pdf/avianflu/protect-yourself-h5n1.pdf> (accessed 5/10/2024).