

# KNOW YOUR RIGHTS:

## *Visitors and Employer Provided Housing*

### Introduction

Visitors to workers' housing may include family, friends, clergy or religious leaders, community health workers or other health professionals, members of the press, education services, legal services, salespeople, delivery services, researchers, job service outreach, canvassers, local, state, or federal agency staff, or law enforcement. As the difference between the worksite and housing may not immediately clear, advanced planning is often helpful.

While farm owners and employers have rights protecting against unlawful access to their workplace, farmworkers have rights regarding their ability to accept or refuse visitors as occupants in their homes. Migrant farmworkers, those who temporarily work in agriculture and reside in Wisconsin for less than 10 months, have additional legal protections.



The document below offers an overview of the legal standings that farmworkers have in accepting or refusing visitors at housing. These FAQ's offer additional clarity to potential visitors and workers on the legal guidelines about how to reach farmworkers who live in employer-provided or on-farm housing.

Please note that this document is an informational resource and should not be used as legal advice.

### Farmworkers' Rights

Like other workers, all farmworkers who live in employer-provided housing or housing located on their employer's property *have the right to:*

- *interact with people outside of their worksite,*
- *to invite visitors to their housing,*
- *to welcome unexpected visitors in their housing, and*
- *to turn away visitors from their housing.*



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### Frequently Asked Questions

#### *How does trespassing law and/or “no trespassing” signs impact farmworkers’ rights to have visitors at their housing?*

All workers, regardless of citizenship or immigration status, have some rights of association and speech under the First Amendment of the U.S. Constitution<sup>[i]</sup> and under the Wisconsin Constitution.<sup>[ii]</sup>

Additionally, farmworkers are guaranteed rights under some Wisconsin state laws.

Wisconsin’s criminal trespassing statute (Wis. Stat. § [943.13\(5\)](#)) states “*Any authorized occupant of employer provided housing* shall have the *right to decide who may enter, confer and visit* with the occupant in the housing area the occupant occupies.” This protection is *not* limited by industry and can include employer-provided housing in dairy (or any other agricultural or non-agricultural industry). This statute may offer protection to a visitor against criminal charges or conviction, providing the visitor does not commit any violation of law.

Additionally, farmworkers who meet the definition of migrant<sup>[iii]</sup> under the Wisconsin migrant labor law (Wis. Stat. § [103.90](#)), because they *temporarily leave their permanent place of residence* outside of Wisconsin to *work in a seasonal agricultural employment in Wisconsin for no more than 10 months per year*, are offered additional protections by the Access and Entry provisions<sup>[iv]</sup> of the Wisconsin migrant labor law.

Many dairy workers are not covered by Wisconsin’s migrant labor law because their agricultural employment is for more than 10 months in a year. However, there can be exceptions, such as workers on dairy farms with H-2A visas or workers with short-term seasonal job assignments. Workers on dairy farms who meet the Wisconsin definition of migrant would be covered by the Wisconsin migrant labor law and offered the protections of the access and entry provisions. Additionally, the housing of *all* farmworkers would be covered under Wisconsin’s criminal trespassing statute.

#### *Can workers deny visitors access to their home?*

Yes. Under the Fourth Amendment of the U.S. Constitution<sup>[v]</sup>, visitors, including law enforcement and immigration enforcement officers, generally may not enter private areas (like homes) unless they have either a valid judicial warrant or the consent of a person who is authorized by the entity occupying those private areas to allow people to enter them.



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### *Is authorization from the employer or housing operator needed to visit workers at housing?*

No. Workers have the right to decide who may enter, confer, and visit with them at their housing.

*These rights only apply to housing.* Workers do not have the right to authorize visits or entry to an employer's worksites, such as farm buildings or fields.

### *Is authorization from an employer needed to visit a worksite?*

Yes. *Visiting a worksite is different than visiting worker housing.* If you wish to visit a worksite and /or engage with on-duty workers, you should seek prior authorization from the employer. Employers have the right to deny access to a worksite.

Employers retain the rights of all property owners to dictate who can enter property which they have sole control over (such as worksites) and to exclude those who they wish to exclude. No one can enter a private area of a business without permission or a signed judicial warrant.

Biosecurity laws regulate agricultural worksites.[vi] Biosecurity measures should not deprive workers of their state and federal rights to have visitors at their housing. Visitors to workers at employer-provided housing should minimize risk of spreading infectious diseases by taking best practice precautions.

### *Can employers put limits on a farmworker's right to invite, host, and turn away visitors?*

Yes. As the Wisconsin criminal trespassing statute makes clear, Wisconsin employers' right to control property they own does not override the rights of occupants of employer-provided housing to decide who may enter, confer, and visit with them at an employer-provided housing location.

However, laws provide for some limits such as:

- Restrictions to access of common areas that are imposed by the majority of the migrant farmworker occupants, as described in Wisconsin migrant labor law.[vii] For example, workers' collective decision to have quiet hours for group sleeping areas.
- Restrictions set forth in a valid rental agreement with a worker/ tenant, such as restrictions on the number of days a person may visit.

Limits that might be violations of law include:

- A "no visitor" policy or "family only" visitor policy in housing.
- Posting by an employer a "no trespassing" sign at worker housing or requiring a sign-in/guest questionnaire.



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*If a visitor doesn't know the exact location of worker housing, can they pass through the workplace to find the housing?*

Visitors to workers at employer-provided housing should always take the most direct route to the housing and should not enter areas that are not housing. Visitors may seek to identify housing in advance planning to limit inadvertently moving through a worksite.

If the employer-provided housing is for migrant farmworkers, Wisconsin's migrant labor law<sup>[viii]</sup> specifies that land adjacent to the migrant housing may be posted "no trespassing", but only if access to the migrant housing is clearly marked.

*If an employer or housing operator does not respect a farmworkers' right to decide who may enter, confer and visit with them in their housing, what can be done?*

Contact the Wisconsin Department of Workforce Development (DWD) Migrant Labor Inspectors to file a complaint regarding potential violations of the Wisconsin migrant labor law, including access and entry provisions. For inspector contact information, please visit the DWD's website: <https://dwd.wisconsin.gov/jobservice/MSFW/contacts.htm>.

Any agricultural workers, migrant or year-round workers, who have questions or concerns about their rights to receive visitors in employer-provided housing can contact Legal Action of Wisconsin to apply for free legal assistance.



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### End Notes

[i] The [First Amendment to the United States Constitution](#) generally guarantees both freedom of speech and freedom of association. “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

[ii] [Article 1, Section 3 of the Wisconsin Constitution](#): “Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press...”

[iii] Wis. Stat. § [103.90\(5\)\(a\)](#): “**Migrant Worker**” or “**worker**” means any person who temporarily leaves a principal place of residence outside of this state and comes to this state for not more than 10 months in a year to accept seasonal employment in the planting, cultivating, raising, harvesting, handling, drying, packing, packaging, processing, freezing, grading or storing of any agricultural or horticultural commodity in its unmanufactured state.”

[iv] Wis. Stat. § [103.925](#): **Access and entry**. “Any worker shall have the right to decide who may visit with him or her in his or her residence. No person other than the resident may prohibit, bar or interfere with, or attempt to prohibit, bar or interfere with, the access to or egress from the residence of any worker by any person, either by the erection or maintenance of any physical barrier, or by physical force or violence, or by threat of force or violence, or by posting, or by any order or notice given in any manner. This section shall not prohibit the erection or maintenance of a fence around a migrant labor camp if one or more unlocked gates or gateways in the fence are provided, nor shall this section prohibit the posting of land adjacent to a migrant labor camp if access to the camp is clearly marked, nor shall this section prevent a majority of the residents of a migrant labor camp from imposing reasonable limitations on access to common use facilities.”

[v] The [Fourth Amendment to the United States Constitution](#) generally establishes right to be free from unreasonable searches and seizures of persons or objects. A search or seizure may be unreasonable if you had a reasonable expectation of privacy in the area searched or items seized. “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.”

[vi] See “[Agricultural Biosecurity: An Overview](#)” from the National Agricultural Law Center:

<https://nationalaglawcenter.org/overview/biosecurity-overview/>

[vii] Wis. Stat. § [103.925](#): “...nor shall this section prevent a majority of the residents of a migrant labor camp from imposing reasonable limitations on access to common use facilities.”

[viii] Wis. Stat. § [103.925](#): “...nor shall this section prohibit the posting of land adjacent to a migrant labor camp if access to the camp is clearly marked...”

