



 Legal Aid of Nebraska

- Non-profit law firm
- 8 offices across the state



## Our Program

- Agricultural, migrant and seasonal workers
- Cover entire state
- Representation and outreach



## Laws Covering Ag Employers

- Fair Labor Standards Act (FLSA)
  - Primary agriculture and secondary agriculture
- Agriculture Workers Protection Act (AWPA)
  - Covers seasonal and migrant workers
    - Seasonal: field work for a temporary time
    - Migrant: away from permanent residence to do any job of a seasonal or temporary nature
  - Protections: Record-keeping, transportation, workplace safety, etc.



## Laws Covering Ag Employers

- H-2A
  - Non-immigrant temporary work visa
  - Very regulated and specific
  - Protections: housing, transportation, record-keeping, workplace safety, etc.
- State laws:
  - Contract
  - Minimum wage
- Worker's Compensation
  - H-2A
  - If more than 11 full-time non-ag employees



## Hiring

- Contractors or agents-USE CAUTION
  - Joint employer liability
- Background checks applications
  - Use same form for all
  - Best practice
- Employment contract and/or handbook
  - Required in writing for AWPA and H-2A
  - Best practice



## Employing

- Pay rate
  - No Nebraska minimum wage
    - If agriculture
  - Federal minimum wage-\$7.25
    - Meet 500-man day rule
    - Not primary or secondary agriculture
    - AWPA
- Adverse Effect Wage Rate (AEWR): \$14.38
  - H-2A



## Employing

- Overtime
  - 1.5x rate required for non-ag activities
    - MUST always pay for hours worked
  - Rolling week-by-week basis
  - Example



## Employing

- Timecards
  - Name
  - Time in and out
- Pay stubs
  - Name of employee
  - Name and Address of employer
  - Hours worked
  - Rate of pay
  - Deductions
  - Time period
- Required under:
  - H-2A
  - AWPA
- Always best practice



## Firing

- At-will state
  - Terminate for any reason or no reason except discrimination
- Have documentation or say nothing at all
  - If H-2A must be documented
  - Best practice is documented
- Last paycheck
  - Within 2 weeks of last day or next pay period, whichever is **sooner**
  - MUST PAY in full
    - Only normal or reasonable deductions allowed



## Issues throughout

- Discrimination
  - Unjust or prejudicial treatment based on:
    - Race
    - National origin
    - Color
    - Sex (including pregnancy)
    - Age (if over 40)
    - Religion
- Language
  - Not protected and ok, if legitimate