FARMWORKER JUSTICE

HEALTH POLICY BULLETIN

Policy in Action to Support Migratory and Seasonal Agricultural Workers Experiencing Sexual Harassment

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Policy Update

By Rebecca Rosefelt, Staff Attorney, Farmworker Justice

Migratory and Seasonal Agricultural Workers (MSAWs) are protected from sexual harassment in the workplace under federal law. Sexual harassment commonly occurs as "quid pro quo" harassment, where a work superior asks for sexual favors in exchange for job benefits or promotions, or "hostile work environment" harassment, where someone's inappropriate sexual behavior makes another employee uncomfortable. Both are illegal. There have been no new legal developments since 2022.

Title VII of the Civil Rights Act of 1964 protects employees across the country from discrimination based on a person's sex. Sexual harassment in the workplace is considered a form of sex discrimination. Employers are not allowed to retaliate against anyone for reporting harassment to a supervisor or manager. The law applies to workplaces with fifteen or more employees, but does not cover independent contractors. Employees in such workplaces are always covered.

To file a charge of discrimination under Title VII, an employee must file a complaint with the Equal Employment Opportunity Commission (EEOC) within 180 days of the last act of discrimination (i.e., harassment or assault), although under some state laws this timeline can be extended. The EEOC will either offer to mediate, assign an investigator, or will dismiss the case. If an investigator is assigned and finds evidence of illegal discrimination, the EEOC will seek a settlement with or sue the employer. If an investigator does not find evidence supporting the complaint, the EEOC will give the employee a "right to sue" letter, which allows the employee to sue their employer in civil court. Under some circumstances, employees can bring claims anonymously.

A variety of remedies are available to employees who prove they have experienced discrimination, including lost wages, financial recovery for mental/emotional distress, punitive damages (where the employer is ordered to pay a specific sum to the employee), and attorney's fees. Other types of remedies include protection against retaliation, reinstatement if the victim was fired, or time off to access services.

Several state laws offer additional protections. Five states (California, Delaware, Maine, and New York) have passed laws requiring employers in that state to provide sexual harassment training to their employees or supervisors. For example, California's Fair Employment and Housing Act prohibits discrimination, including sexual harassment, for employers with five or more employees. California also requires these employers, including farm labor contractors, to provide sexual harassment prevention training to all employees,

What's inside:

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including seasonal and temporary employees. A few states bar employers from retaliating against employees who speak up about sexual harassment in the workplace.

Documentation and evidence are very important in cases of sexual assault, whether or not legal civil or criminal remedies are pursued, and it is best to report experiences to relevant authorities as soon as possible. Write down what happened on what dates, take pictures of injuries, and keep copies of medical records. It is recommended that people who experience sexual assault complete a Sexual Assault Forensic Examination as soon as possible after the incident, ideally within three days, to preserve any DNA of the perpetrator. To find the nearest location that offers these exams, call a sexual assault hotline, such as the National Sexual Assault Hotline at 800-656-4673.

Best Practices for Caring for Survivors of Sexual Assault in the Fields: Excerpts from a Conversation with Migratory and Seasonal Agricultural Worker-Serving Organizations

Workplace sexual harassment and assault are pervasive among female MSAWs. A study in California found that 80% of women interviewed had experienced harassment at work.[1] Female MSAWs who experience sexual violence are often reluctant to seek help due to many reasons, including stigma, fear of retaliation, normalization of behavior, and lack of access to transportation.

In December of 2024, Farmworker Justice convened a conversation with outreach staff who provide education and information on sexual violence. The three individuals, Veronica Treviño, an education coordinator with Alianza Nacional de Campesinas, Inc., Elvira Herrera, a coordinator for Violence Against Women with Líderes Campesinas en California, and Mónica Arenas, a program manager with Futures Without Violence, discussed different ways in which health centers could better support MSAW survivors. Below are excerpts from this conversation.

What best practices do you recommend for clinicians and health center staff working with MSAW survivors to ensure their needs are being addressed?

"I would say that something very important is to ensure that they are reassuring patients. When we are out in the community, when we talk about these topics, we let community members know that when they go to the clinics, they will give you these forms to fill out. We let them know to be honest and write down what they are feeling because the doctor is the only one who will be able to guide them through what is happening." Elvira

"Make sure that [MSAWs] understand or know that there are services available for them, that are available for all of the community, including transportation, interpretation, mobile clinics, different accessible hours of operation, the different insurance health services, and referrals." Monica

"It is important to have relationships or partnerships with community organizations focused on domestic violence that can provide support for the immediate needs and develop protocols to provide timely confidential referrals and confidential procedures. Also, make sure to have that relationship with the providers that provide help with family violence, security plans, housing access, and advocacy help. Identify resources in the community that are prepared to or that already support MSAW communities and already have those systems." Monica

What resources are available for clinicians and health center staff to provide care to their MSAW patients who may have experienced sexual violence?

"The best resource is the special touch that one person gives to another person. That is the first thing. That resource does not have a price tag; it doesn't cost anything. It ensures better mental health and well-being. A smile, giving a person your seat, opening the door—those details that a sick person really appreciates. They appreciate it, even if they do not mention it because they are sick." Veronica

1. Waugh IM. 2010 Mar;16(3):237-61. doi: 10.1177/1077801209360857. Epub 2010 Jan 21. PMID: 20093433.

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"Confidentiality and trust. A specific space at the clinic where someone can help those who need assistance with reading or filling out the forms." Veronica

"I think it would help a lot if they provided information at the moment. Many times, you go and ask for information about what is happening to you. I would say providing information as soon as possible. [...] Appointments shouldn't be so long. Information on how to take care of yourself. Sometimes, they do provide you with documents that you can read, but going over them with your patient, one by one, and seeing if they have any questions." Elvira

You can listen to the full conversation and learn more on how to better support MSAW survivors here. For more information, contact Laura Nadal at lnadal@farmworkerjustice.org.

EYE ON MIGRATORY AND SEASONAL AGRICULTURAL WORKER HEALTH

A summary of important recent development in analysis of issues affecting the health and safety of MSAWs

Experiences of Women Farmworkers in Michigan: Perspectives from the Michigan Farmworker Project

Authors: Alexis J. Handal, Lisbeth Iglesias-Rios, Mislael A. Valentín-Cortés, Marie S. O'Neill

Source: Handal AJ, Iglesias-Rios L, Valentín-Cortés MA, O'Neill MS. Experiences of women farmworkers in Michigan: Perspectives from the Michigan Farmworker Project. Am J Community Psychol. 2025 Feb 13. doi: 10.1002/ajcp.12792. Epub ahead of print. PMID: 39949185.

It is estimated that a third of MSAWs in the United States are women. This study examines the challenges faced by female MSAWs in Michigan. MSAWs reported hazardous and exploitative conditions in their workplaces, including sexual harassment. Health professionals collaborated with resource centers and outreach workers to recruit 35 MSAWs and 21 stakeholders. The study focuses on MSAWs aged 18 and older from four Michigan counties with high agricultural concentrations. Various recruitment methods were used, including outreach at work sites, community events, and common gathering places such as laundromats.

Participants engaged in individual interviews that lasted from 45 minutes to 2 hours. Health professionals developed a semi-structured interview guide based on the International Labor Organization (ILO), the Employment Precarious Index from Poverty and Employment Precarity in Southern Ontario (PEPSO), and the Employment Precariousness Scale. The guide also incorporated insights from the study's knowledge-gathering phase and community partners. It included open-ended questions about the participants' experiences in their workplaces and living environments. Interviews were audio-recorded and transcribed verbatim in the participants' original language. Transcripts were analyzed in the original language to preserve all insights.

Results:

Of the 35 MSAWs interviewed, 57% were women with an average age of 40. Most participants, 83%, were married or in a civil union, including 86% of women. All participants identified as Latino(a), spoke primarily Spanish, and were mainly from Mexico. Annual incomes were low, with women reporting an average annual income of $19,403. In the qualitative analysis, each interview was reviewed with a focus on the five subthemes.

When focusing on the sexual harassment subtheme, this study found that women frequently reported inappropriate behavior, particularly of a sexually suggestive nature, from male coworkers as a common experience in the workplace. Female MSAWs expressed feeling objectified and harassed, stating that they often feel unable to raise complaints. Even when they do complain, they are typically not taken seriously. Women indicated a preference for avoiding working with men, and if they must, they prefer to be accompanied by their spouses to sidestep uncomfortable situations. To prevent sexual harassment, women reported frequently acting unfriendly or distant towards male workers, hoping to avoid unwelcome advances. Participants noted that women are often blamed for any sexual harassment if they "provoke" men by being too friendly.

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Participants indicated that they did not experience or witness sexual harassment, noting that they primarily worked with families and believed married men were unlikely to engage in such behavior. These findings suggest single women are particularly vulnerable to sexual harassment in the workplace, a fact acknowledged by several women in the study. During the interviews, some women recounted stories of women they knew who had been harassed or assaulted and then blamed for the incidents. The study finds that there is an understanding of silence, where harassment and assaults go unreported due to fear of retaliation, being fired and/or blacklisted from worksites, and losing income.

The study supports and contributes to the body of evidence regarding the challenges faced by MSAW women. In the study, women participants largely performed the same tasks as their male counterparts but encountered challenges, such as a lack of access to sanitary bathrooms, that led to health issues, and wage differences. The findings further confirm the belief in these communities that women "provoke" sexual harassment by how they are dressed or how they interact with their male coworkers.

The study found that women find it difficult to balance their work responsibilities with their familial and caregiving duties, which led to increased stress and limited time for other activities. Women participants in the study really resonated with the issue, given the beliefs in their community that women, regardless of whether they have a job, are expected to handle domestic responsibilities.

The authors acknowledge the study's limitations. The original study was not designed to focus specifically on women, so interview prompts were not tailored to them. Additionally, most women in the study were partnered or married. While the findings highlight the issues of single women, they do not fully represent their experience. The study also has particular strengths. The analysis provided a deeper understanding of the working and social contexts of female MSAWs. Additionally, the use of collaborations with community partners was crucial to the implementation and understanding of the study.

The study highlights various areas that can inform policies and programs that address the challenges female MSAWs face. Interventions suggested include developing programming to train supervisors, such as crew leaders, to identify and report workplace hazards and sexual harassment could be effective in addressing some of these challenges. However, tackling existing beliefs by male MSAWs can be challenging. Other effective strategies to address these issues include training female MSAWs to take on leadership positions at work. Finally, the authors emphasize the need for updated enumeration studies in order to assess the needs and experiences of female MSAWs in Michigan.