

Welcome to the Migrant Workers' Forum!

November 17, 2019

¡Bienvenidos al Foro sobre Trabajadores Migrantes!

17 de noviembre de 2019



Funded by the Government of Canada's
Migrant Worker Support Network

Financiado por la Red de Apoyo A Trabajadores
Migrantes del gobierno de Canadá



MOSAIC



Program // Programa

8:00 AM to // a 8:30 AM
Registration table opens, headsets table opens and booths open // Apertura de la mesa de registro, de la mesa para obtener audífonos y de los puestos (stands) de información
8:30 AM to // a 9:00 AM
Breakfast // Desayuno
9:00 AM to // a 9:30 AM
Welcoming remarks by MOSAIC and Employment and Social Development Canada // Discurso de bienvenida de MOSAIC y del Ministerio de Empleo y Desarrollo Social de Canadá
9:30 AM to // a 11:45 AM
Breakout Sessions and Presentations // Sesiones de grupo y presentaciones
11:45 AM to // a 12:30 PM
Update from the Temporary Foreign Worker Program and Statements from Migrant Workers // Información actualizada del Programa de Trabajadores Extranjeros Temporales e intervenciones de trabajadores migrantes
12:30 PM to // a 1:30 PM - Lunch / Booths Open // Almuerzo / Puestos de información abiertos
1:30 PM to // a 3:45 PM
Breakout Sessions and Presentations // Sesiones de grupo y presentaciones
3:45 PM to // a 4:15 PM
Closing Remarks // Comentarios de clausura
4:15 PM to // a 4:30 PM
Information Booths Wrap Up // Cierre de los puestos de información



9:30 AM to // a 11:45 AM

Presentations for Migrant Workers	Multi Purpose Room
Presentaciones para Trabajadores Migrantes	Salón multiusos "Multi Purpose Room"
Presentations and Networking Sessions for Support Organizations, Community Agencies, Consulates, and Employers	North Meeting Room
Presentaciones y Sesiones para Expandir las Redes de Contactos (Networking) Dirigidas a Organizaciones de Apoyo, Agencias Comunitarias, Consulados y Empleadores	Salón "North Meeting Room"





BRITISH
COLUMBIA
The Best Place on Earth

Ministry of Labour



BC Employment Standards Branch

Migrant Workers' Forum

*MOSAIC and Employment of Social Development Canada as part of the Government of
Canada's Migrant Worker Support Network*

November 17, 2019

Agenda

- What's new?
- Know your rights and responsibilities
 - Paying Wages – minimum wage, overtime, statutory holiday pay, vacation pay, compensation for length of service
 - Deductions, wage statements, record keeping
- How to make a complaint
- Get more information/Contact us
- Questions?

Recent amendments to the *Employment Standards Act*

Self Help Kit no longer required (no more 15 day waiting period to file a complaint)

Capture period for unpaid wages increased from six months to 12 months

Changing rules around child employment

New protected leaves (unpaid):

- domestic or sexual violence
- attend to their children regarding critical illness or injury

ESB Service Modernization

- more online and telephone services
- upgraded search functions on website
- Solutions Explorer – virtual guide through the rules and resolution process
- *Guide to the Employment Standards Act and Regulation*
- updated Farm Worker page (“Specific Industries”)

www.gov.bc.ca/EmploymentStandards

Free Skype Education Seminars

Farm Labour Contractors; Employment Agencies; Talent Agencies; Domestic Workers; Variances, Averaging Agreements and Overtime; and, The ABCs of the ESA

Toll free multi-lingual phone line 1 833 236-3700

Callers can access basic information on employment standards in the language of their choice.

Translated Factsheets

Factsheets

Expand All Collapse All

[English](#) ▼

[Chinese \(Traditional\) - 繁體中文](#) ▼

[Chinese \(Simplified\) - 简体中文](#) ▼

[Filipino \(Tagalog\)](#) ▼

[French - Français](#) ▼

[Hindi - हिंदी](#) ▼

[Japanese - 日本語](#) ▼

[Korean - 한국어](#) ▼

[Punjabi - ਪੰਜਾਬੀ ਦੇ](#) ▼

[Spanish - Español](#) ^

[Vacaciones Anuales / Annual Vacation \(PDF, 345 KB\)](#)

[Agencias de Empleo / Employment Agencies \(PDF, 326 KB\)](#)

[Contratistas de Trabajadores Agrícolas / Farm Labour Contractors \(PDF, 373 KB\)](#)

[Horas de Trabajo y Horas Extra / Hours of Work and Overtime \(PDF, 360 KB\)](#)

Paying Wages

- ▣ There must be at least two pay periods every month;
- ▣ A pay period cannot exceed 16 consecutive days;
- ▣ Wages must be paid within eight days of the end of the pay period;
- ▣ If an employee is fired, their final wages must be paid within 48 hours;
- ▣ If an employee quits, their final wages must be paid within 6 days.

Farm workers who hand harvest fruit, vegetable, flower or berry crops are excluded from subsection 17 (1) of the Act on the condition that the employer must pay to the farm workers within 8 days after the end of each pay period

- (a) at least 80% of wages earned in the first pay period in the month, and
(b) monthly, all wages earned in the month, less wages previously paid under paragraph (a).

Minimum Wage

- *Hourly* - June 1st, 2019: \$13.85; effective June 1, 2020: \$14.60
- *Piece Rates* – (farm workers) minimum piece rates for certain produce are specified in Section 18 of the Regulation. They specify imperial and metric measurements and may include vacation pay

Hours of Work & Overtime

- Applies to most employees, with some exceptions (managers, farm workers);
- Regular wages are payable for hours worked up to eight hours in a day or 40 hours in a week;
- Overtime is payable at the rate of time and one-half after eight hours a day and/or 40 hours a week;
- Overtime is payable at double-time rates after 12 hours a day;
- Employees are entitled to 32 consecutive hours free from work each week;
- Employees who work within the 32 hours are entitled to be paid at the rate of time and one-half

Statutory Holiday Pay

Entitlement

- Employee must have been employed for 30 calendar days and worked at least 15 of the 30 days prior to the holiday

Pay

- If employee **does not work** on holiday
 - Average day's pay
- If employee **works** on holiday
 - Time and one half up to 12 hours, double time thereafter, **and**
 - Average day's pay

New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, B.C. Day, Labour Day, Thanksgiving Day, Remembrance Day , Christmas Day

Annual Vacation

Vacation Time

- At least two weeks free from work after 12 consecutive months of employment;
- At least three weeks free from work after five years;
- An agreement to provide more vacation than the minimum provided in the Act is enforceable

Vacation Pay

- Every employee who works more than five calendar days for an employer is entitled to vacation pay calculated from the first day worked;
- At least 4% of total wages in first five years;
- At least 6% of total wages after five years;
- Vacation pay becomes part of gross wages for the year it is earned;
- Vacation pay may be paid on each cheque if the employer and the employee agree in writing.

Compensation for Length of Service

Statutory entitlement based on length of service

- 0 – 3 months: none
- After 3 months: 1 week
- After 12 months: 2 weeks
- After 3 years: 3 weeks
- 1 week per year thereafter to a maximum of 8 weeks

Not required

- If employee quits or retires;
- If employer provides written working notice;
- If employer proves just cause for dismissal
- Employment is for/at:
 - a definite term
 - specific work to be completed in a period of up to 12 months
 - one or more construction sites by an employer whose principal business is construction

Deductions

Authorized deductions:

- Income tax;
- Employment Insurance premiums (EI);
- Canada Pension Plan contributions (CPP)

Recovery of advances, overpayments, and other payments (ie: telephone bill, loans) require the employee's consent and the amount to be repaid in writing.

Other allowable deductions:

- As permitted or required by SAWP employment agreement

Wage Statements

- Written wage statements must include:
- Wage rate and hours worked;
- Deductions and the purpose for each;
- Amount paid (net and gross);
- Any overtime amounts & rate;
- Other payments or entitlements received i.e. vacation pay, statutory holiday pay, bonuses, commissions, etc.

Record Keeping

- Payroll records must be in English, at the employers principle place of business, for four years after employment terminates, and must include:
- Employee's name, address, phone number, date of birth, occupation and date employment began;
- Pay rate, how paid (piece-work, hourly, salary, commission etc.), benefits, deductions and reasons for each, gross and net wages for each pay period;
- Dates of annual vacation and statutory holidays taken and amounts paid;
- Hours worked each day for ALL employees including anyone paid by salary. This may include managers.

Make a Complaint

2. File your complaint at an office or online:

<https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/complaint-process>

Make a Complaint

Try to resolve disputes informally. If this isn't possible, you can submit a complaint to resolve a problem at work. For example, you can request payment for wages that you are owed.

Expand All Collapse All

[Step 1: Get informed](#)



[Step 2: File a complaint](#)



[Step 3: Complaint resolution](#)



[Step 4: A decision is made](#)



[Step 5: Appeal a decision](#)



Expand All Collapse All


[References from the Employment Standards Act and Regulation](#)



Online Complaint Sample

Employment Standards Complaint Submission

Section A: Information About Your Employer

*	Legal Name (proprietor, business, or company)	<input type="text"/>
	Operating As (if applicable)	<input type="text"/>
*	Mailing address	<input type="text"/>
*	City	<input type="text"/>
*	Province	<input type="text" value="v"/> Other: <input type="text"/>
*	Country	<input type="text"/>
*	Postal code	<input type="text"/>
	Work Location Address (if different from above)	<input type="text"/>
	City	<input type="text"/>
	Province	<input type="text" value="v"/> Other: <input type="text"/>
	Country	<input type="text"/>
	Postal code	<input type="text"/>
*	Contact Person (e.g. manager or supervisor)	<input type="text"/>
	Phone number (eg. 250-555-5555 )	<input type="text"/> ext <input type="text"/>
	Email (eg. email@company.com)	<input type="text"/>

Solution Explorer

<https://services.labour.gov.bc.ca/solutionexplorer>



Solution Explorer

Something broken? [Tell us](#)

Ministry of Labour

Employment Standards

Quit

Save and exit

Your Exploration Information

Access code: **Hw9TM4TXG** Email Print

Please tell us which best describes your work situation.



- ☐ I am an employee
- ☐ I am an employer
- ☐ I am an independent contractor

Not finding an option you were expecting? Help us improve our site and [tell us what's missing](#).

< Back

Next >

Get more information/Contact us

Check out our website:

<http://www.gov.bc.ca/EmploymentStandards>

Call us: Toll Free Info-line: 1 833 236-3700

Visit us: an Employment Standards Branch office
(Langley/Surrey, Richmond, Nanaimo, Victoria, Kelowna,
Prince George)

Send us a message online:

<https://esb-forms.labour.gov.bc.ca/ESB-Enquiries-Form.aspx>

Questions?

Presentation:
**Requirements for Temporary Foreign
Worker Recruiter Licensing and pending
Employer Registration in British
Columbia**

Karpal Singh; Temporary Foreign Worker
Protection Unit (British Columbia)



Break: 10:30 AM to 10:45 AM

Descanso: 10:30 a.m. a 10:45 a.m.



The Open Work Permit for Vulnerable Workers in Canada

Migrant Worker Support Network Meetings

Fall 2019



Immigration, Refugees
and Citizenship Canada

Immigration, Réfugiés
et Citoyenneté Canada

Canada

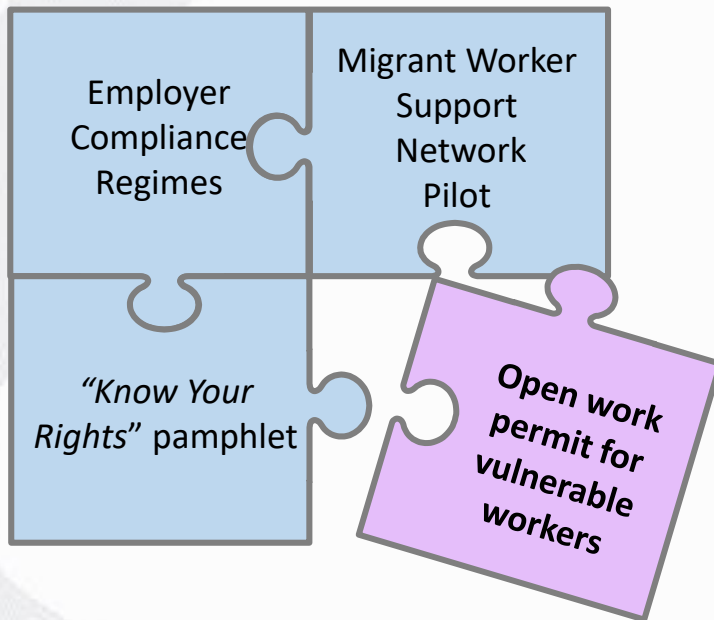
What are we here to talk about?

- **The Open Work Permit for Vulnerable Workers**
 - Program objectives
 - Eligibility requirements and application process
 - Early outcomes
 - Additional resources



Open work permit for vulnerable workers

On June 4th, 2019, the Government of Canada introduced a new option for migrant workers in situations of abuse—the **open work permit for vulnerable workers**.



Objective: Enable workers with LMIA-required or employer-specific work permits to leave abusive situations quickly, transition to a new job and apply for a new work permit.

This new work permit is:

- **Fee-exempt**
- **Timely:** 5-day service standard
- Available to **accompanying family** members as well
- **Open:** authorization to work temporarily for almost any employer in Canada with no need for a Labour Market Impact Assessment

Open work permits for vulnerable workers



What it is

One part of the solution.
It complements other tools and services.

Temporary and non-renewable.
12 month duration suggested but determined by officers on a case-by-case basis.

A way to leave abusive employers while maintaining authorization to work.



What it is *not*

The answer to all problems faced by a migrant worker in abusive situations.

A document IRCC can issue automatically.
Migrant workers must apply online and demonstrate that they meet program criteria.

A way to regularize status in Canada.
People working without authorization are not eligible.

Who is eligible?

Workers in Canada on an **LMIA-required** or **employer-specific** work permit who are experiencing or at risk of abuse.

Temporary Foreign Worker Program

Approximately **84,000 workers** issued permits in 2018

Examples: agricultural sector, including the Seasonal Agricultural Worker Program (SAWP)

International Mobility Program

Approximately **80,000 workers** issued employer-specific permits in 2018

Examples: foreign nationals working under many exchange programs, international free trade agreements, Federal-Provincial/Territorial agreements

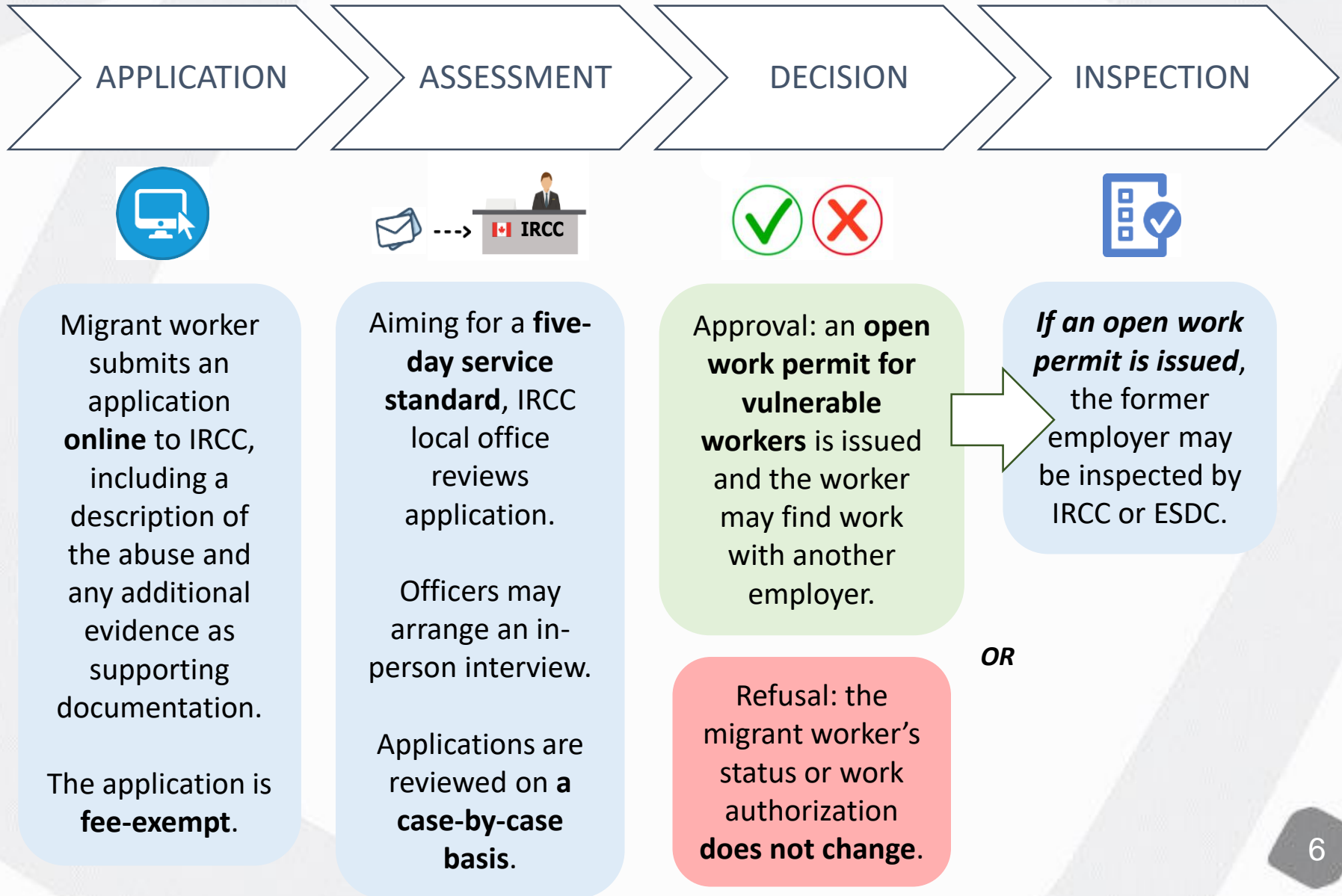
What do we mean by abuse?

An officer may issue an open work permit if there are **reasonable grounds to believe** that a migrant worker is **experiencing abuse or is at risk of abuse** in the context of their employment in Canada.

- Abuse is defined in the **Immigration and Refugee Protection Regulations** as any of the following:
 - **physical abuse**, including assault and forcible confinement
 - **sexual abuse**, including sexual contact without consent
 - **psychological abuse**, including threats and intimidation
 - **financial abuse**, including fraud and extortion
- What do we mean by “**at risk of abuse**”? Examples include:
 - Worker has **left** an abusive situation but would be **at risk** of abuse if they **returned**
 - Worker may **not** be **directly experiencing** abuse but may be in a situation where **co-workers** are being abused by their employer
- **Program Delivery Instructions** include examples for officers and the public.



How to apply



What happens after the open work permit is issued?

- This new open work permit is **transitional** – it is **temporary and non-renewable**.
 - If a worker wants to stay and work in Canada longer, they **must apply for a new work permit before it expires**.
- An open work permit authorizes the worker to **work for almost any employer**, at any skill level, and anywhere in Canada.
- The **employer will need to apply for an LMIA if they want to continue to employ the worker** beyond the duration of their open work permit, unless the worker qualifies for an LMIA exemption.
 - LMIA's can take anywhere from a few weeks to a few months to process.



Early outcomes

- Over **190 applications** approved as of November 2nd, 2019.

Leamington, Ont. migrant workers receive open work permit

'They can find a new employer anywhere in Canada, in any industry'

CBC News - Posted: Oct 01, 2019 1:35 PM ET | Last Updated: October 1

- Approval rates of **approximately 50%**, however a significant number of refusals appear to be a result of clear ineligibility and misunderstanding.
- Higher application volumes than anticipated and need for interviews mean **processing times are slightly longer than the 5-day commitment.**
- Close to **100 inspections** initiated or expanded as a result of the *open work permit for vulnerable workers*.
 - Inspections are ongoing, no decisions to date

Where can potential applicants find more information?

1

Canada.ca/vulnerable-foreign-workers



2

video in development...



3



What is the open work permit for vulnerable workers?

Every worker in Canada is entitled to a safe and healthy work environment. If you're in an abusive job situation, you can apply for an open work permit for vulnerable workers.

An open work permit lets you work for almost any employer in Canada. It will help you leave an abusive situation to find a new job. There is no fee to apply. This work permit is temporary but should give you enough time to find a new employer and apply for a new work permit.

Who is eligible?

Workers in Canada who:

- hold a valid work permit that is employer-specific or was issued under the Seasonal Agricultural Worker Program (or have applied to renew this type of permit)
- are being abused or at risk of being abused in relation to their job in Canada

Family members in Canada can also apply.

What is abuse?

Any behaviour that scares, controls or isolates you could be abuse. Abuse can be physical, sexual, financial or mental and can include:

- physical harm, threats or insults
- unwanted sexual comments or touching
- controlling where you go or which people you see
- stealing from you or taking money you have earned

How can I apply?

You need to apply online for this work permit. You need a scanner or camera to create electronic copies of your documents. Read the instructions at Canada.ca/vulnerable-foreign-workers.

If you can't apply online because of a disability, or if there's a problem with our online application system, go to the IRCC office closest to you or contact the Client Support Centre at 1-888-242-2100 for more information.

What documents do I need to provide?

- ☐ Mandatory letter describing the abuse

Other evidence may include:

- ☐ letter statement or report from an abuse support organization or medical professional
- ☐ sworn statement by the applicant
- ☐ copy of a complaint filed with an enforcement agency
- ☐ other supporting material (for example, copies of emails, photos, witness testimonies)
- ☐ Copy of your passport
- ☐ Digital photo
- ☐ Marriage and birth certificates if you're applying with family members

What happens after I apply?

We aim to contact you within 5 business days after you apply. We may ask you to do an interview.

If you're approved, we will likely inspect your employer. We won't contact them for any other reason. It is your choice to decide if you would like to participate in the inspection.

Presentation:
WorkSafeBC and You
Rose McDonald; WorkSafeBC



**Update from the
Temporary Foreign Worker Program
and
Statements from Migrant Workers**

11:45 AM to 12:30 PM

**Información actualizada del Programa de
Trabajadores Extranjeros Temporales y
intervenciones de trabajadores migrantes**

11:45 a.m. a 12:30 p.m.



Lunch: 12:30 PM to 1:30 PM

Almuerzo: 12:30 p.m. a 1:30 p.m.



1:30 PM to // a 3:45 PM

Discussion Sessions for Migrant Workers Sesiones de Discusión para Trabajadores Migrantes	Multi Purpose Room Salón multiusos "Multi Purpose Room"
Presentations for Support Organizations, Community Agencies, Consulates, and Employers Presentaciones dirigidas a Organizaciones de Apoyo, Agencias Comunitarias, Consulados y Empleadores	North Meeting Room Salón "North Meeting Room"



Discussion Session

What does a mandatory migrant worker orientation program look like to you?

1:30 PM to 2:30 PM

Sesión de discusión

En su opinión, ¿qué aspectos debería incluir un programa obligatorio de orientación para trabajadores migrantes?

1:30 p.m. a 2:30 p.m.



What does a mandatory migrant worker orientation program look like to you? //
En su opinión, ¿qué aspectos debería incluir un programa obligatorio de
orientación para trabajadores migrantes?

**Theme 1: What do I want to learn about
while working in Canada?**

**Tema 1: ¿Qué información me gustaría
saber mientras trabajo en Canadá?**



What does a mandatory migrant worker orientation program look like to you? //
En su opinión, ¿qué aspectos debería incluir un programa obligatorio de
orientación para trabajadores migrantes?

Theme 2: How would you like to learn about your rights?

Tema 2: ¿Cómo le gustaría aprender sobre sus derechos?



Break: 2:30 PM to 2:45 PM

Descanso: 2:30 p.m. a 2:45 p.m.



Discussion Session

What would you like your employer to be
trained on?

2:45 PM to 3:45 PM

Sesión de discusión

¿Qué capacitación le gustaría que recibiera
su empleador?

2:45 p.m. a 3:45 p.m.



What would you like your employer to be trained on? //
¿Qué capacitación le gustaría que recibiera su empleador?

Theme 1: What should training look like?

Tema 1: ¿Cómo debería ser la capacitación?



What would you like your employer to be trained on? //
¿Qué capacitación le gustaría que recibiera su empleador?

Theme 2: Should anyone else take training?

Tema 2: ¿Cree usted que alguien más debería tomar una capacitación?



What would you like your employer to be trained on? //
¿Qué capacitación le gustaría que recibiera su empleador?

**Theme 3: Is there anything else to
consider?**

**Tema 3: ¿Hay alguna otra cosa que
debería tomarse en cuenta?**



Closing Remarks

3:45 PM to 4:15 PM

Comentarios de clausura

3:45 p.m. a 4:15 p.m.



Thank you!

¡Muchas Gracias!



Funded by the Government of Canada's
Migrant Worker Support Network

Financiado por la Red de Apoyo A Trabajadores
Migrantes del gobierno de Canadá



MOSAIC

