



FARM COMMONS

Workers and Employees Module:

Legal Curricula for Beginning
Sustainable Farmer Education

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Objectives for the Workers and Employees Module

Beginning farmers should know the following:

1. An Illinois exception from paying at least the minimum wage to farm workers is available for agricultural labor, only.
2. An Illinois exception from carrying workers' compensation on all employees is available to farms below a certain size, for agricultural labor only.
3. Hiring an independent contractor is like hiring another small business owner and misclassifying employees as independent contractors is risky.
4. Farms must pay social security and Medicare tax, while withholding income tax and the employee's contribution to social security and Medicare, as well.
5. Interns are generally legal employees who should be treated the same as any other employee under minimum wage, workers' compensation, and tax laws.

Beginning farmers should be able to do the following:

1. Assemble a non-exhaustive checklist of legal issues to explore and paperwork to collect when hiring an employee
2. Write a farm employee handbook
3. Write a compensated volunteer agreement

Minimum wage

To be deceptively brief, small Illinois farms are not required to pay employees the minimum wage. Behind that brief summary is a very complex set of rules delineating exactly when and to whom the minimum wage is owed! Let's start with the size of the farm. Farms who used over 500 "man days" of agricultural labor in any calendar quarter of the last year must pay employees at least the minimum wage. One man day is any day on which a person does at least one hour of work. Each person who works is counted as a separate man day. For example, if three individuals work for one hour each on the same day, the farm has three man days. If three individuals work for eight hours each on the same day, the farm still has three man days. The total hours in the day is not relevant if at least one hour is worked. 500 man days is the rough equivalent of about 5 full-time employees. Farmers must keep careful records of who worked, on which days, and for how long the individual worked, if they wish to use this exemption.

The 500 man day rule is only available for agricultural labor. If an employee does work that is not deemed agricultural, the no-minimum-wage-required rule does not apply. Instead, the standard non-agricultural rules apply, which are explained below. Whether work is agricultural labor is not always intuitive. Work done on a farm in connection to farming operations is agricultural labor. However, some work that might be done on a farm is only tangential to agricultural production itself. For example, logging woodlots, processing farm products, and constructing buildings may not be agricultural labor because they are incidental to farming, not farming itself. In addition, farms must be cautious about off-farm work. Selling product at the farmers' market may not be agricultural labor because it is both off the farm and not agricultural production. The safest route is to assume such labor is not agricultural. When an employee does non-agricultural labor, the employee is owed minimum wage for the entire workweek, not just for the non-agricultural hours worked.

Farms with more than 500 man days in any calendar quarter of the last year must pay at least the federal minimum wage. For non-agricultural employees, all employees must be paid at least the federal minimum wage regardless of the size of the business. Federal minimum wage is \$7.25 per hour. But, the

federal minimum wage is not the only rule. There is also an Illinois minimum wage. When a business has 4 or more employees, Illinois' minimum wage law applies. Illinois minimum wage is \$8.25 per hour, so it is higher than the federal minimum wage. This makes things even more complicated. The following is a brief summary of how federal and Illinois minimum wage combine.

For farms assigning only on-farm agricultural labor to workers, Illinois minimum wage of \$8.25 per hour is owed when the farm has 500 man days or about 5 full-time employees. If the farm assigns exclusively agricultural labor and has less than 500 man days, minimum wage is not required. For farms that assign non-agricultural labor to employees, they must receive at least the federal minimum wage of \$7.25 for that week if the business has between one and three employees. If the farm has 4 or more employees, employees need Illinois minimum wage of \$8.25 per hour for that week.

As a reminder, farms need to keep complete records to demonstrate compliance with minimum wage law. Timesheets recording the date, hours worked, and tasks performed are essential, even if no minimum wage is owed. The records are necessary to show that minimum wage is not owed.

Overtime

Agricultural employees are exempt from overtime requirements under both Illinois and federal law, regardless of the farm's size or number of employees. Just as with minimum wage, this exemption is limited to agricultural labor only. If an employee performs non-agricultural labor in a week, any hours worked beyond 40 hours in that work week must be paid at time and a half.

Payroll Taxes

All businesses must pay state and federal employment taxes. In addition, all businesses must withhold a portion of the employee's wages and remit

the withheld wages to the state, on behalf of the employee's income tax responsibility. These are separate. Tax is paid by the employer and tax is paid by the employee. The employer may not deduct the employer's tax from the employee's paycheck. Collectively, these are often referred to as "payroll taxes."

To begin the payroll tax process, farms must register with the Internal Revenue Service (IRS) and the Illinois Department of Revenue (DOR). To register with the IRS, request a federal employer identification number online or by phone. To register with the state, go to tax.illinois.gov.

Farm employers must obtain a completed W-4 form from each employee. The W-4 indicates how many withholding allowances the individual elects and whether they file as single or married. The employer uses this information to calculate the employee's income tax withholding using the IRS withholding tables, which are available in IRS Publication 15-T. The IRS bases withholdings on base pay, as well as supplemental wages (such as overtime pay) and fringe benefits (for instance, providing farm employees fresh produce or other farm products to satisfy their weekly grocery needs). The IRS excludes some fringe benefits, such as the "de minimis" exception that covers small benefits for which it would be inconvenient and unreasonable to have to keep an accounting of (for instance, allowing employees to occasionally take home small quantities of produce). Illinois also requires withholding of wages. The Illinois form for selecting exemptions or allowances is IL-W-4. The Illinois withholding tables are located in the Illinois DOR Booklet IL-700-T.

The employer withholds the required amount from the employee's paycheck and remits it to the state and federal governments. Farm employers will likely remit monthly or even yearly using IRS form 943. Withheld Illinois income tax is remitted using form IL-941.

Social security and Medicare taxes are paid for by both employer and employee. These taxes are known collectively as Federal Insurance Contributions Act taxes, or "FICA" taxes. An employer is responsible both to withhold an employee's own FICA contribution from wages and to pay the business' share of FICA for the employee. Agricultural employers have a very narrow exemption from FICA taxes. If the

farm pays any individual less than \$150 in wages in a year, then the farm does not need to withhold or contribute for FICA taxes. However, if the farm pays a total of \$2,500 or more to all workers in sum, then the farm must withhold and contribute to FICA for every employee, even those receiving less than \$150 in wages.

Social security and Medicare taxes are determined as a percentage rather than by using tables. The latest percentage is listed in IRS Publication 15. The social security tax has a wage base cap--a maximum limit on the wages subject to the social security tax. The employee pays the tax from his/her wages, and the employer makes a matching payment. Form 943 is used by farmers to remit social security and Medicare taxes to the IRS.

In addition to wage withholding and FICA taxes, larger farms may owe unemployment tax. The federal government and Illinois have an unemployment tax. Both follow the same threshold for liability to pay the tax. An agricultural operation must pay unemployment tax if during any calendar quarter in the calendar year or preceding calendar year the operation (a) paid wages of \$20,000 or more for agricultural labor, or (b) the farmer employs 10 or more individual employees for some portion of a day during each of 20 different calendar weeks. Farmers can often take a credit on their federal unemployment taxes for having paid state unemployment taxes.

Workers' compensation

Workers' compensation is an insurance program designed to protect employers from liability lawsuits while providing employees with compensation for injuries. When employees have workers' compensation available, they must use the program and cannot sue the employer even if the employer caused the injury.

Every state has a workers' compensation program and participation is generally mandatory for all businesses. However, farms often have an exception and this is the case in Illinois. Illinois farm businesses are required to purchase workers' compensation when the farm has 400 or more working days in any calendar quarter

of the previous year. The term “working days” is the same “man days” which is explained under the minimum wage section. As with minimum wage, the workers’ compensation exemption is limited to agricultural labor only. If a farm’s employees do marketing and sales, process product, and other activities not directly related to agricultural production, this exemption may not apply. For non-agricultural labor, the business must provide workers’ compensation insurance as soon as a single employee is hired. The penalties for failing to provide workers’ compensation when it is required are serious and include fines of up to \$500 per day and felony charges.

In cases where employers are exempt from mandatory workers’ compensation insurance coverage, Illinois common law tort principles will determine a farm business’s liability for injuries. A tort is an injury or harm to another person or person’s property that the law recognizes as a basis for a lawsuit. Torts are part of the common law, which is the body of laws and rules that courts (rather than legislatures or other lawmaking bodies) create as they issue decisions. This can be unpredictable and expensive, which is why workers’ compensation was created.

Workers’ compensation is a valuable resource as it protects the farm business from lawsuits. Farms may provide workers’ compensation even if coverage is not mandatory. Even if workers’ compensation is not required, standard farm injury liability policies will not provide coverage for injuries to employees. Commercial liability policies may provide coverage for seasonal and temporary employees. If coverage through a commercial policy is not available or if farm employees are year-round employees, workers’ compensation may be the only option to insure against employee injuries.

Independent contractors

Many businesses utilize independent contractors rather than employees to get work done. Hiring an independent contractor is akin to working with another business owner to accomplish an objective. For example, a business might hire a plumber if the restroom has a problem. Technically, the plumber is working for the business because it’s helping the business accomplish its objective to serve

customers. But, the business owner doesn't ask for a W-2 or pay social security taxes on behalf of the plumber's wages. This is because the plumber is considered an independent contractor. Independent contractors are self-employed and pay their own taxes, provide their own workers' compensation, and are responsible for their own compliance with the employment laws, as would any business.

If a business can avoid hiring employees in favor of independent contractors, the business can save time and money on payroll taxes. The business can also avoid any concerns about minimum wage and overtime. Because of the potential savings, many employers are motivated to classify workers as independent contractors. As a result, state and federal agencies have issued guidance on when a person is an employee and when they are an independent contractor. The guidance is not always identical across agencies and laws.

For the purposes of the IRS, a person is determined to be an independent contractor only after looking at three broad areas. First, the IRS will look at the level of behavioral control the business exerts. If the business has the authority to tell the individual how to do his or her job, it is likely the person is an employee rather than an independent contractor. If the business trains the person, that shows control over the individual and that the individual may be an employee. Second, the IRS will consider the level of financial control the business holds. If the worker has made a significant investment in his or her operations and stands to gain a profit or post a loss, the person maintains financial control and is more likely to be an independent contractor. If a person simply makes an hourly wage, they have less financial control and are more likely to be an employee. Last, the IRS will look at a variety of other relationship factors such as the provision of benefits, the duration of the relationship, and whether the work performed is a key function of the business. If these are all present, the person is more likely to be an employee.

For the purposes of minimum wage and overtime, the factors are very similar. In addition, the agency will look at the level of skill required to perform the task. The greater the sophistication, judgment, and competition in the open market required to be successful in the position, the greater the likelihood that the person is an independent contractor. Other factors such as control

over work assignments and opportunity for profit or loss are the same.

The state of Illinois uses somewhat different guidance in finding if a person is an independent contractor. These rules determine if a person is an employee for the purposes of state unemployment insurance. If a worker is free from the control of the business, performs work that the employer does not normally perform, and runs his or her own independent business providing the same work to others, then he or she is an independent contractor. If he or she does not do any one of these things, he or she is an employee.

Farms should be cautious about classifying workers as independent contractors if they do not meet the majority of the criteria listed above. The penalties for misclassification include liability for back taxes, which can add up quickly.

Interns

For many small farms, unpaid interns keep the farm running. The farm benefits by receiving much needed labor, and the intern benefits by receiving valuable mentoring and experience. However, if the intern is doing work on a for-profit farm and that work contributes to the farm's general business activities, the intern is likely an employee and employment law applies. If the farm is organized as a charitable non-profit organization, unpaid interns may be volunteers. For-profit operations cannot have volunteers under the law. On a policy level, if the law allowed regular businesses to have volunteers, unscrupulous employers could strong arm employees into agreeing to volunteer status if the business was investigated for violation of labor laws. To shut the door on possible exploitation, the law does not allow volunteering for a for-profit business.

It is not impossible to host an unpaid intern at a for-profit business. The key is that the intern must not be similar to an employee. The federal Department of Labor provides a fact sheet that lists 6 criteria to determine if an internship program is exempt from minimum wage laws because the

intern is not similar to an employee. These criteria are as follows:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

These criteria will be difficult to meet with criteria number 4 as perhaps the most difficult. Fundamentally, the farm business cannot benefit from having the intern on the farm. At that point, most farms will simply choose not to use interns if they cannot assist the farm in the work inherent to the farm.

Matching up internship law with minimum wage law can be a bit tricky. Farmers need to know that interns may actually be employees because many laws apply to employees, including tax withholding, workers' compensation, and more. But, for the purposes of minimum wage in Illinois, specifically, the internship criteria have less impact.

If a farm has interns for whom the above six criteria are NOT met (for example, the farm benefits from the intern's tasks in performing the regular work of the farm), then the farm needs to pay minimum wage ONLY if the farm has crossed the minimum wage threshold of 500 man days in any calendar quarter of the previous year. If the farm has, for instance, only two interns on a part-time basis (who perform only agricultural labor) and no other paid employees- the interns

are likely employees but they still may not be owed minimum wage. The same goes for workers' compensation. If the farm is small, it may not need to provide it even if the intern is actually an employee. See the workers' compensation section for more details on when workers' compensation is required.

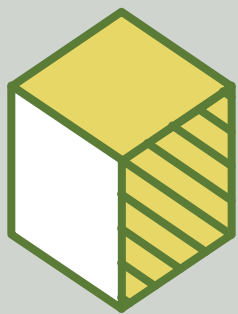
Even if the farm has an exception from minimum wage, farms should keep the records required including hours worked, jobs performed, and more. The farm will need this information to calculate if the farm meets the minimum wage exemption. Farms employing paid and unpaid employees must count the unpaid employees' man-days in calculating the next year's 500 man day minimum wage exemption. This information is also important if an intern files a complaint. If the farm becomes the subject of an investigation, it is important to have a paper trail documenting the farm's compliance with the laws.

Even if an internship is exempt from the minimum wage requirements, the farm is not exempt from complying with the other employment laws including worker safety laws, wage withholding and more.

Compensated volunteers

Many direct to consumer farmers use a volunteer workforce, especially community supported agriculture farms whose mission includes building community awareness. Most of these farms provide some form of compensation to workers. For example, CSA farmers will trade a free farm share for a few hours of labor each week. Other farmers give farmers' market volunteers free produce after the market. These arrangements are very beneficial for the farm's bottom line as product is more abundant than cash on many farms. But, farmers should know that these arrangements may fall under employment laws. The law sees "employment" where individuals are instructed in their tasks and given compensation for doing those tasks. As discussed in the interns section, the law does not recognize volunteers for for-profit businesses because it opens the door to exploitation. If a person cannot be a volunteer and they are doing the work of the business, the person must be an employee. If the person is receiving compensation, that implication is even stronger.

So what does this mean for farmers who use compensated volunteers? To avoid the risk of lawsuits and regulatory violations, the farmer should be treating the compensated volunteers as employees under minimum wage, workers' compensation, payroll tax, and all other employment laws. The farmer should take care to manage the risk that these positions may be found to be employment. As part of that risk management strategy, farmers might consider using signed agreements between farmer and individual indicating that the person agrees they are a volunteer rather than an employee. A court may throw out such a written agreement if a workers' compensation or minimum wage charge is pursued, but it may be better than nothing. Farmers using compensated volunteers should consider working with an attorney to develop a comprehensive risk management strategy.



Workers and Employees Module Powerpoint Slides

These slides may be used as a template for a presentation on workers and employees for beginning farmers.

Minimum Wage

- If the farm assigns agricultural labor:
 - At 500 man days or more in any quarter of the previous year, the farm needs to pay at least \$8.25 per hour
- If the farm assigns non-agricultural labor:
 - Employees must be paid federal minimum wage of \$7.25 per hour for any week including non-ag labor until-
 - The farm has more than 4 employees, when \$8.25 Illinois minimum wage must be paid

Overtime

- Agricultural employees do not need to be paid time and a half for hours over 40 in one week

Payroll Taxes

- Farm employers must pay social security and Medicare taxes
- Some larger farm employers must also pay unemployment insurance tax
- Farm employers must withhold a portion of the employee's income, social security and Medicare tax from the employee's wages

Workers' Comp

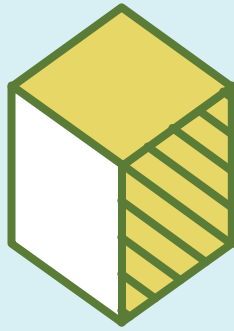
- Farmers must purchase workers' comp for agricultural laborers when the farm has 400 working days of labor
- Farmers must purchase workers' comp if they have one employee if the farm assigns non-agricultural labor
- Workers' comp protects the farm from negligence lawsuits from injured employees

Independent Contractors

- Hiring an independent contractor is akin to hiring a small business owner
 - If the person doesn't have financial control over their success, have authority over their own tasks, or provide similar services to others, they may be an employee
- Penalties for misclassifying employees as independent contractors includes responsibility for back taxes

Interns and Compensated Volunteers

- Interns are likely employees and must be treated like other employees, including receiving minimum wage if required by law
- Interns who do not actually help the farm accomplish the work of the farm are more likely to be "true" unpaid interns
- Likewise, compensated volunteers may be employees under the law

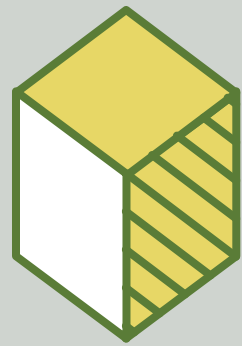


Workers and Employees Module Video

This video explains the legal aspects of hosting volunteers and providing them with compensation.

Compensated Volunteers Video

This link goes to a 15-minute video discussing the risks of using compensated volunteers and mechanisms for managing the risk. The sound quality is rough. This video is recommended for home viewing only as it does not sound good at high volume.



Workers and Employees Module Activity

This homework activity is to help farmers explore the role of an employee handbook on farms both large and small.

Activity: Employee Handbooks Facilitator's Guide

Objective

The objective of this discussion is to explore the role of an employee handbook on farms both large and small. This curricula module emphasizes the technical aspects of hiring employees- when minimum wage and workers' comp apply and similar legal obligations. But when it comes to the day-to-day issues of running a farm, the much more mundane aspects of having employees take up the bulk of farmers' time. Farmers often have a difficult time managing employees. Many went into the career to produce things, not to manage people. Yet, it's inevitable.

Clear communication and processes can go a long way to easing the difficulties of employee management. These issues are not "legal" issues per se, but the law is about creating clear, predictable processes. The employee handbook is just the resource to do this. Some farmers may immediately see the value of a handbook. But for those who appreciate a more flexible, dynamic relationship, the value is a bit more obscure. A handbook isn't essential for everyone. But, thinking through process and consistent treatment of all employees is helpful for anyone.

This activity involves reading part (or all) of a farm employee manual and then discussing how the manual might be adapted to different circumstances. This activity is intended to get farmers thinking about the procedures they might create on their own farms. Each farm is very different in operations and objectives. The model is designed to prompt thought on the issues.

Ways to use this activity

- **Longer Discussion:** This discussion requires reading a sample farm employee manual. The model is quite long, so facilitators should schedule up to 15 minutes for reading the model. Then, depending on the level of experience or interest in the subject by those in the room, the discussion could take between 20 and 30 minutes.

- Shorter Discussion: If time is short, facilitators might consider assigning or presenting just Section 4 on inclement weather. The subject is a neat microcosm of the importance of and difficulty in crafting clear procedures.
- Homework: Because the model is long and farmers might benefit from time spent really working through the questions offered, this assignment works well as homework.

Facilitator's Discussion Points

Only one discussion point is provided here, as the questions are very open-ended and dependent on the individual characteristics of each farm.

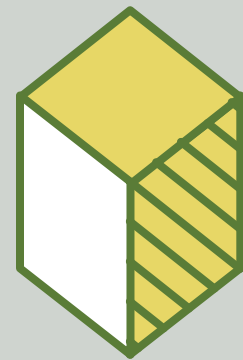
Can you think of any legal reasons for laying out [an inclement weather] procedure?

- There are legal reasons for doing this. Instructing employees to work in hazardous weather, such as during active lightning or a tornado warning, may qualify as negligence under the law. If an employee is injured because of the risks of working in inclement weather, the farmer may become legally responsible for that injury. Putting a clear policy in place and following the policy helps the farmer show that he or she took steps to keep farm workers safe. If workers know the policy and ignore it, then they are assuming the risk of the inclement weather and the farmer is less likely to be found negligent.

Employee Handbooks for the Farm

Look through Farm Commons' Sample Employee Manual for a Farm. Then, individually or in small groups, work through the questions below.

1. Thinking back to your experience as the employee of others (whether on a farm or not), has an employee manual ever played a role in your work life, whether positive or negative? Do you think this manual is a good idea or a bad idea?
2. Read Section 4, Inclement Weather. When or why might this kind of pre-established procedure be helpful? What do you think of the content of this model? Is it feasible or wise to stop work over the midday if temperatures are higher than 95 degrees? Can you think of any legal reasons for laying out such a procedure?
3. Read sections 7, 8, and 18. Do farms have standard attendance policies and procedures like this? If so, do you think these are in line with the standard? Do you plan to offer holidays such as the 4th of July off from work? How can farm owners help balance the unpredictable reality of work with employees' need to schedule evening or weekend personal time?
4. Work through the checklist accompanying Section 6 on timecards. Sketch out how your farm might handle each of these items.



Workers and Employees Module Discussion

The objective of this discussion is to familiarize farmers with the legal complexity of alternative agricultural labor arrangements.

Discussion: Worker Shares

Objective

The objective of this discussion is to familiarize farmers with the legal complexity of alternative agricultural labor arrangements. Employment law is strict and narrow. Work opportunities that fall outside the narrow bounds of the law may be beneficial for everyone involved, but working outside the narrow constraints of the law opens a farm up to risk. Risk isn't necessarily bad- it should be entered into with full awareness that the risk exists. With that awareness, farmers can make wiser choices about how to structure alternative work programs such as volunteer workers and internships.

The objective of this discussion is not to elucidate any legal principles. Employment law is fairly straightforward within its narrow prescriptions. Outside that, it's all about risk management. Farmers should be well experienced with risk management and with choosing the risks they wish to take. This discussion makes that point within the subject of employment law.

There are no clear answers to the discussion questions presented. This can create opportunity. Farmers have the opportunity to rely on their instincts and preferences. This is also a clear opportunity to connect with public policy and the broader legal dynamics of our laws. As with the activity for the food safety module, understanding the exact contours of the laws we have makes us more informed advocates for the laws we would like to have. Where specific areas of law are unarticulated, we have a clear opportunity to advocate for our preferred position. But before we can do that, we need to know what the farming community's vision is on the subject of compensated volunteers. This activity begins the movement in that direction.

This discussion is most useful for a class of alternative farmers. Traditional farmers don't tend to use volunteers as much as direct to consumer farmers do.

Ways to use this discussion

- **Longer Discussion:** This discussion requires reading a worker share agreement and possibly watching a video. The model is quite long, so facilitators should schedule up to 10 minutes for reading the agreement. Then, depending on the level of experience or interest in compensated volunteers by those in the room, the discussion could take between 20 and 30 minutes.
- **Shorter Discussion:** This discussion may be difficult to adapt into a shorter framework. Because the issues are not black and white, they can be difficult to grasp. If time is an issue, facilitators may wish to summarize the discussion points that seem most relevant in the facilitator's opinion.
- **Homework:** One video provided in this module addresses compensated volunteers. Folks could watch the video rather than read the Model Worker Share Agreement. However, the sound quality in the video is poor at high volume and it may not work well for in-class viewing. If the video is used, this feature will work best as a homework assignment with a subsequent in-class discussion.

Facilitator's Discussion Points

The following are a few potential discussion points for facilitators.

1. Using compensated volunteers involves the risk of violation of employment laws. How do you feel about that risk? Is it worth the potential rewards of bringing community members on to the farm?

This is a very personal decision. Some farmers are fine with the risk because they don't see any motivation to enforce the laws against their operation or any avenue by which they would be enforced. These are reasonable points. Agencies are not motivated to enforce employment laws against willing volunteers who are not being exploited. It could happen, but it's not likely. Many folks will see the rewards as outweighing the risk.

2. Personally, would you choose to use the model that asks volunteers to waive their rights as employees or would you choose the model provided

for farmers who are treating compensated volunteers as employees?

- Why would you make that decision? What factors are important to your decision?

Again, this is a very personal decision. Some folks might not like the idea of asking anyone to waive their rights (which they cannot legally waive, anyways). This may motivate those farmers to treat volunteers like employees. Please note that “treating volunteers like employees” means following employment laws- minimum wage, workers’ compensation, etc.

3. The law is designed to protect vulnerable employees and to raise the standards of employment for all workers by prohibiting anyone to work for less than a certain standard, even if that person wants to work for less. What do you see as the role of compensated volunteers within this objective? Do they open the door to exploitation?

It does seem like volunteers could just quit if they felt exploited. But, if that did happen it could create a bad reputation in the community for that farmer, and perhaps for the farming community as a whole. It might not open the door to exploitation, but it still might not look good.

4. Do volunteers who work for less than minimum wage and have fewer protections limit the ability of paid workers to get minimum wage and protections?

It can fairly be argued volunteers make the plight of truly exploited farmworkers harder to defend. If the public thinks farm work is something people do for fun, it’s harder to protect those who make a living at it.

5. Can you suggest any alternatives to build a positive future or volunteers and paid employees?

People might suggest that a special law be passed to allow only some types of unpaid volunteers without the farmer having to worry about employment laws.

Discussion Handout: Worker Shares

First, please read through Farm Commons' model Worker Share Agreement or watch Farm Commons' video on compensated volunteers.

1. Using compensated volunteers involves the risk of violation of employment laws. How do you feel about that risk? Is it worth the potential rewards of bringing community members on to the farm?
2. Personally, would you choose to use the model that asks volunteers to waive their rights as employees or would you choose the model provided for farmers who are treating compensated volunteers as employees?
 - Why would you make that decision? What factors are important to your decision?
3. The law is designed to protect vulnerable employees and to raise the standards of employment for all workers by prohibiting anyone to work for less than a certain standard, even if that person wants to work for less.
 - What do you see as the role of compensated volunteers within this objective? Do they open the door to exploitation?
4. Do volunteers who work for less than minimum wage and have fewer protections limit the ability of paid workers to get minimum wage and protections?
5. Can you suggest any alternatives to build a positive future for volunteers and paid employees?



Workers and Employees Module Further Resources

Workers and Employees Further Resources

Illinois and IRS publications are very valuable sources of information. Important publications include the following:

Illinois DOR Publication 130: Who is required to withhold IL Income tax?

Illinois DOR Publication 131: Withholding income tax payments and filing requirements

IRS Publication 15: Employer's Tax Guide

IRS Publication 51: Agricultural Employer's Tax Guide

Farmers' Guide to Farm Internships

This is a comprehensive resource on crafting a labor law compliant farm internship program. It covers wage rates, payment timing, rest breaks, housing, worker safety, anti-discrimination laws and many other subjects.

www.flaginc.org

Illinois Direct Farm Business Guide, Chapter 5

The Illinois Direct Farm Business Guide is a comprehensive resource discussing the laws that affect farms who sell directly to consumers. Chapter 5 addresses employment issues. The resource goes into a more detail on federal law than this curricula, although it does not specifically align Illinois and federal law. This guide has important information on child labor laws, which are not addressed in this curricula.

www.directfarmbusiness.org

Model Farm Employee Manual

An employee handbook can be extremely helpful in creating an enjoyable, productive work environment for everyone. Farm work isn't like other work and extra communication can help bring employees up to speed. This model manual outlines the many issues that should be addressed in a handbook. The resource does double duty in that it provides sample

language on the left column and a checklist of considerations on the right column. Farmers will find it easy to adapt to their own operations.

www.farmcommons.org

**End of Workers and
Employees Module**
