



Resource Type: **Guide**
Primary Audience: **Employers**

Developing A Code of Conduct

In 2014, FUTURES launched Low Wage, High Risk, a pilot site project to address the high rate of exposure of low-wage workers to domestic violence, sexual assault, stalking, and harassment. Low-wage workers are also likely to experience exploitation. As part of this project, a pilot site was established in Immokalee, Florida, in partnership with the Fair Food Program: a groundbreaking model for using the power of the market to ensure workers receive fair wages and are free from sexual violence and human trafficking. A key element of this initiative is a human-rights-based Code of Conduct, developed by tomato workers, growers, and corporate buyers to form the foundation for a new model of workplace culture change social accountability.

About: Fair Foods Standard Council

Founded in 2011, the Fair Food Standards Council (FFSC) oversees implementation of the Fair Food Program, a unique farmworker-and consumer-driven initiative consisting of:

- A wage increase supported by a price premium paid by corporate purchasers of Florida tomatoes; and
- Human-rights-based Code of Conduct, applicable throughout the Florida tomato industry.

The price premium and the Code of Conduct, which were developed by tomato workers, growers, and corporate buyers, form the foundation for a new model of social accountability.

The Fair Food Program emerged from the Coalition of Immokalee Workers' (CIW) successful Campaign for Fair Food, a campaign to affirm the human rights of tomato workers and improve the conditions under which they labor. In 2015, the FFP expanded to the summer operations of Florida-based growers in Georgia, North Carolina, South Carolina, Virginia,

Maryland and New Jersey as well as to pepper and strawberry farms in Florida.

Key Elements: Introduction

Participating Buyers (i.e., potential customers of Participating Growers in the Fair Food Program) will give purchase preference within the Participating Buyer's supply chain to tomatoes that meet its specifications supplied by Participating Growers who can demonstrate socially responsible practices that meet or exceed the standards of the Fair Food Program as set forth here, although a Participating Buyer is not obligated to purchase tomatoes from every Participating Grower that meets or exceeds these standards.

Why This Matters

Buyers agreed to purchase covered produce only from farms that meet the standards required by the Fair Food Code of Conduct, as verified by the FFSC. They also pay their suppliers a small "Fair Food Premium," known popularly as a "penny-per-pound," but that in fact varies in amount according to the type of produce purchased. This money is then passed on to farmworkers in their regular paychecks to augment low wages.

Key Elements: Part I – Employment Practices and Minimum Requirements for Participating Growers

- Participating Growers are required to abide by all applicable laws, codes and regulations, including this Code, regarding wages and benefits, working hours, equal opportunity, and employee safety.

Further, Participating Growers will follow these employment and workplace practices:

- Participating Growers will participate in, and comply with, the Fair Food Program (FFP or Program) premium pass through requirements and pass through to their Qualifying Workers the appropriate premium payments received under that Program. The term "appropriate premium payments" means the Qualifying Workers' portion of the FFP premium paid by a Participating Buyer as part of the Program.
- All compensable hours shall be recorded, and Participating Growers will keep accurate hours through a system (time clock punch, card swipe or other method) in which Qualifying Workers control their time

cards or other time registration device used by the Participating Grower.

- Participating Growers will pay wages and benefits directly to Qualifying Workers.
- Participating Growers, without cost to the Qualifying Workers, will provide Qualifying Workers with protective equipment adequate for its intended purpose, including shade to avoid danger from excessive heat, and provide training on company time on the use of such equipment.
- Participating Growers will take all necessary steps to avoid endangering the safety of Qualifying Workers including, but not limited to:
 - Permitting individual Qualifying Workers who feel threatened or in danger for their health or safety to cease working (without pay) without consequences or retaliation. Participating Growers will clearly and unequivocally educate Qualifying Workers that in the event a Qualifying Worker feels threatened or in danger for their health or safety, he or she has the right to cease working without consequences or retaliation; and
- Participating Growers will provide a safe and healthy working environment for their Qualifying Workers and, working with the Coalition of Immokalee Workers (CIW), develop and implement a Worker Health and Safety process through which Qualifying Workers are able to offer the Participating Grower their input and perspective on health and safety issues in a regular and structured manner.
- Participating Growers will provide opportunity for advancement, including the ability for Qualifying Workers to move from fields to other types of employment with the Participating Grower, including management positions, and will regularly communicate these opportunities to Qualifying Workers.
- Participating Growers will verify and provide transparency to their practices, including the pass through of the appropriate FFP Premium payments, by permitting and fully cooperating with third party monitoring by the FFSC.
- Each Participating Grower will inform Qualifying Workers of their right to use the complaint resolution process operated by the FFSC, and

may also establish a complaint resolution process of its own that is acceptable to the FFSC. Participating Growers will not attempt to impede in any way the investigation of a complaint by the FFSC on behalf of a Qualifying Worker, and will not engage in or permit retribution or retaliation of any kind against a Qualifying Worker for seeking to file or having filed a complaint.

- Participating Growers will implement a system acceptable to the CIW for informing and educating their Qualifying Workers, on the Participating Grower's premises and on company time, of the Qualifying Workers' rights under all applicable laws, codes and regulations, including this Code.

Why This Matters

These minimum employment practices and requirements:

- Enhance economic security for workers, which is central in attending to personal safety needs
- Compensates workers directly and grants workers control over their own time records, thereby deterring wage theft
- Makes employers responsible for the cost of protective equipment
- Permits worker access to unpaid time off, without retaliation, to attend their own personal safety needs
- Facilitates worker input and perspective on health and safety policies and practices
- Promotes pathways for worker advancement, which is a key element for workplace safety and security
- Allows for third-party monitoring for compliance
- Establishes initiatives to raise awareness of laws regarding workers, how to file complaints, and investigation processes

Key Elements: Part II – Violations

Article I Violations:

- Use of forced labor of any kind.
- Systemic use of illegal child labor as defined by any applicable law.

Article II Violations:

- Use or threat of physical violence against Qualifying Worker(s) by or at the direction of supervisor(s) of a Participating Grower, whether or not employed directly by the Participating Grower.
- Sexual harassment that involves physical contact, unless the offending person(s) are fired and any other necessary corrective action is taken immediately upon confirmation of the incident.
- Firing or threatening to fire or otherwise prevent Qualifying Worker(s) from continuing to work for the Participating Grower for defending or asserting any protections under this Code, or encouraging, assisting or directing others to do so.
- Systemic failure to pay all wages earned, or to record all compensable hours of Qualifying Workers through a timekeeping system in which workers control their registration device, and/or to use the hours recorded by that system to calculate payroll for Qualifying Workers.
- Sexual discrimination or harassment not involving physical contact, as established by a finding of the FFSC.
- Racial, national origin, sexual, or religious preference discrimination or harassment, as established by a finding of the FFSC.
- Failing to cooperate fully and transparently with any monitoring, auditing or complaint resolution procedure established under this Code.

Why This Matters

These provisions bar:

- Forced and child labor
- Threats or acts of physical violence
- Harassing physical contact
- Retaliating against workers who avail themselves of protections
- Wage theft
- Non-contact sexual discrimination or harassment
- Racial, national origin, and other discrimination or harassment, more generally

Key Elements: Part III – Consequences of Violations

Participating Growers: Suspension from the Fair Food Program

- Any suspension of a Participating Grower shall fall between October 15 and the following June 15 unless the Participating Grower grows and sells FFP tomatoes during the other months and the FFSC determines that the best interests of the FFP will be served by permitting some or all of the suspension to be served during those other months.

Crewleaders or other supervisory personnel of Participating Growers

- If a crew leader or other supervisory person is found to have committed an Article I Violation, he or she must be fired and shall not be eligible to work for any Participating Grower for a period of five years. In addition, such person shall be required to complete such training as may be deemed appropriate by the FFSC before beginning to work again for any Participating Grower. A second Article I Violation by a crew leader or other supervisory person shall result in a lifetime ban from working for any Participating Grower.

If a crew leader or other supervisory person is fired for having committed an Article II or Article III Violation, except as provided in 4, immediately below, he or she shall be suspended and not eligible to work for any Participating Grower for a period of 90 days, with any days falling between June 15th and October 15th of any given year not counting toward the required 90 days of suspension unless the person fired would otherwise have worked for the Participating Grower on a Fair Food Program farm outside of Florida during that time. In addition, the person shall be required to complete such training as may be deemed appropriate by the FFSC before beginning to work again for any Participating Grower.

If a crew leader or other supervisory person has been fired for a violation of Article II, provisions 1, 2 or 3, or for a second violation of any other Article II or Article III provision that occurred within five years of the first violation, the person shall be suspended and not eligible to work for any Participating Grower for the remainder of the season in which he or she is fired and for the entirety of the next season. In addition, he or she shall be required to complete such training as may be deemed appropriate by the FFSC before beginning to work again for any Participating Grower. A second violation of Article II, provisions 1, 2, or 3 by a crew leader or other supervisory person shall be treated in the same manner as a second violation of an Article I provision.

If a crew leader or other supervisory person is fired for a third time for having violated an Article II and/or Article III provision, he or she shall be subject to a lifetime ban from working for any Participating Grower.

The FFSC shall maintain and make available to Participating Growers a list of crew leaders or other supervisory personnel who are suspended from employment on Fair Food Program farms. Once a person on that list has regained eligibility for employment on Fair Food Program farms, the FFSC shall promptly remove his or her name from the list of suspended personnel.

Why This Matters

Consequences include:

- Growers face seasonal suspension
- Crew leaders face rapid termination for forced and child labor, and more graduated but strict discipline for harassment and other violations
- FFSC keeps records to make sure knowledge of disciplinary action follows perpetrator

Key Elements: Part IV – Joining the Fair Food Program

- Growers seeking to enter the Fair Food Program must pass an entry audit, which will be conducted by the FFSC when it is able to do so without negatively impacting its responsibilities with regard to Participating Growers.
- Once having gained entry into the Fair Food Program, a new Participating Grower will be expected to be in full compliance with the Code and Guidance Manual by the beginning of the growing season immediately following the season in which the entry audit is conducted or by the time of the next audit of the Participating Grower conducted by the FFSC following the Participating Grower's entry audit, whichever is later.

Why This Matters

- Initial and ongoing compliance auditing

Workplaces Respond provides technical assistance to workplace stakeholders seeking to better prevent and respond to domestic violence, sexual assault, stalking, and harassment impacting the workplace. Scan this QR code to access the Resource Center.



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