where, when, & how

be prepared.

people not to pass the picketer line.

 Española is the designated picket line on the picketers to keep a minimum distance.

some picketers are more comfortable with minimal physical contact.

avoid physical contact.

pickets looking a distance of at least 5 miles below any

Know your rights and be aware of your legal protections.

stock photos of every picketing area.

Bring your cell phones and wear sweatshirts and

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WHAT RIGHTS DO I HAVE?

All of us—citizens and non-citizens, documented and undocumented—have rights under the Constitution. The First Amendment gives you the right to speak freely and to advocate for social change and economic justice. The Fourth Amendment restricts the government’s power to arrest you without probable cause. The Fifth Amendment gives you the right to remain silent when questioned by the police about matters that might incriminate you. And all persons in this country, including undocumented immigrants, have the right under the Fourteenth Amendment to due process (hearing or trial, proper rules followed, right to an attorney, etc.) before they can be deported, convicted of a crime or stripped of their property.

You also have the right to join with your coworkers, whether as part of a union or some other type of organization, to support each other and protect your rights. You have the right to organize around and speak out about your common interests without retaliation, either from your employer or the government.

But having these rights is not enough—you have to use them to make them meaningful. This booklet offers some guidance for workers who want to get the most out of these rights, both in the workplace and outside it.

This booklet is not a substitute, however, for legal advice. You should consult an attorney if you expect to be questioned by the police or retaliated against by your boss and obtain legal representation if you are arrested. Please see the last page for resources you can use.

Seek protection from ICE enforcement

Workers involved in a labor dispute—which can mean a union organizing drive or a strike or a large scale wage and hour claim—may be able to keep ICE from conducting raids or I-9 audits at their workplace.

The Department of Labor, the Equal Employment Opportunity Commission and the NLRB have an agreement with the DHS that should help keep ICE away while the dispute is going on. If this applies to you have your union or other organization look into this protection as soon as possible.

RESOURCES

The local chapters of the National Lawyers Guild attempt to provide legal observers for demonstrations, such as major rallies, that are likely to draw a police presence. While the Chapter may not be able to provide observers for much labor picketing, particularly picketing that will extend for more than one day, contact the Chapter in your area to ask for observers as far ahead of your event as practicable.

If you need help finding a lawyer please consult the following websites:

National Lawyers Guild Referral Directory: nlg.org/referral-directory

National Police Accountability Project Referral Directory: Nlg-npap.org/find-an-attorney

Again, this booklet is not a substitute for legal advice. You should consult an attorney if you expect to be questioned by the police or retaliated against by your boss and obtain legal representation if you are arrested.
If you are questioned

You have the right to remain silent. Do not answer questions about your immigration status and do not respond if law enforcement or ICE asks you for a green card, work authorization, or other immigration documents. Presenting false or expired papers to DHS may lead to deportation or criminal prosecution. If law enforcement asks everyone to line up in two lines, one for those who have work authorization and one for those who don’t, do not join either line.

You do not have to use any particular formula to invoke your rights, but the following will suffice:

I do not wish to speak with you, answer your questions, or sign hand you any documents based on my Fifth Amendment rights under the United States Constitution.

Do not sign anything

Never sign anything without reading, understanding and knowing the consequences of signing it. This is particularly true when dealing with ICE or DHS.

Talk to a lawyer.

If possible, carry with you the name and telephone number of an immigration lawyer who will take your calls. The immigration laws are hard to understand and there have been many recent changes. DHS will not explain your options to you. As soon as you encounter a DHS agent, call your attorney. If you can’t do it right away, keep trying.

DO WE NEED A RIGHTS INSIDE THE WORKPLACE

All workers have the right to organize for mutual support and protection around workplace issues. As an example, you have the right to

• make a delegation to the boss about workplace conditions,

• talk to your coworkers about workplace issues, or

• help organize a union

without suffering retaliation by the employer.

It is illegal for the employer to discipline you for engaging in these activities, or to cut your hours or give you a worse job assignment for that reason, or to threaten to call immigration on “troublemakers.” Standing together with other workers not only makes you stronger but gives you greater legal protections, too.

You may also have the right to walk off the job to demand better conditions. That right will depend on a number of questions: Are you acting alone or with others? Are you covered by a union contract that may prohibit strikes? Are there serious safety risks if you keep working? Can your boss replace you before you return to work? This booklet does not try to answer these questions—there are too many complexities involved. You should check with your union before walking out; if you do not have a union, think about organizing one so that your walkout has a greater chance of success.
If you get arrested

If you remain in custody a judge will review your case within 48 hours and you must be taken to court within two business days. But you do not have to wait for the police to take you to court; call the magistrate to ask to be released on your own recognizance, meaning “without bail,” which will get you out of jail faster without having to pay the premium on a bond.

If you are released on bail, try to post the amount of the bail rather than posting a bail bond. If you are exonerated of the charges against you, your bail will be returned. If you cannot post the bail you can purchase a bond, usually at ten percent of the amount of the bail. You cannot recover the cost of a bond, however, even if the charges against you are dismissed.

Your right to an attorney

You have the right to legal counsel. Ask for an attorney. Don’t discuss your case with the police without consulting your attorney.

You also have the right to make free local phone calls after being booked. A parent with childcare responsibilities should be allowed to make two additional calls to arrange for childcare.

IMMIGRATION ISSUES

Avoid arrests if you are a non-citizen

If you’re a non-citizen then the government may communicate your arrest to ICE, which could have repercussions for your immigration status.