

# FAIRFOOD

2017 ANNUAL REPORT



**CONSUMER POWERED  
WORKER CERTIFIED**







# "Implementation is

simply getting things done,  
making an idea real.

Implementation is where  
the advocates and journalists  
can sometimes turn aside,  
moving on to the next story or cause.

The details needed for the endgame  
is where most ideas, policies and programs fail.

Getting things done is central to this story  
because to achieve the systemic change  
necessary to eliminate the causes of worker abuse,  
the program had to work;  
its success measured by metrics of

**real and enduring change  
in the fields."**

- Susan Marquis

Dean of the Pardee RAND Graduate School,  
on the Fair Food Program<sup>1</sup>



# About FFSC

## Mission

The mission of the Fair Food Standards Council (FFSC) is to monitor the development of a sustainable agricultural industry that advances the human rights of farmworkers, the long-term interests of growers, and the ethical supply chain concerns of retail food companies through implementation of the Fair Food Program. For more information, visit [fairfoodstandards.org](http://fairfoodstandards.org).

## Board of Directors

- Rev. Noelle Damico** - National Economic and Social Rights Initiative
- Dr. Patrick Mason** - Department of Economics, Florida State University
- Cheryl Queen** - Vice President of Corporate Communications, Compass Group
- Santiago Perez** - Coalition of Immokalee Workers
- Nely Rodríguez** - Coalition of Immokalee Workers
- Steven Hitov** - Coalition of Immokalee Workers

## Executive Director

**Judge Laura Safer Espinoza** is a recently retired New York State Supreme Court Justice who served in New York and Bronx Counties for twenty years. She was Deputy Supervising Judge for five years. Justice Safer Espinoza helped to design, and became the first presiding judge of, the Bronx Treatment Court, an innovative alternative to incarceration for non-violent offenders.

Justice Safer Espinoza has an extensive history of work with government, human rights and legal organizations in the US and Latin America. She has taught and lectured extensively on judicial transparency in Latin America, working with numerous organizations – including the US Department of State, the Conference of Western Attorney Generals, law schools, universities, governments and non-governmental organizations – to support law reform efforts by training advocates in more transparent legal systems. From 2009 through 2011, she designed and directed trainings for thousands of judges and attorneys in Mexico. Judge Safer Espinoza has also helped to launch and advise treatment courts in Chile and Brazil. She authored the keystone chapter of Chile’s first book on alternative courts in 2006.

Justice Safer Espinoza received her BA from Barnard College and her JD cum laude from New York Law School. She is a recipient of the City University of New York’s Women in the Law Award and a 2015 Purpose Prize from Encore.org.

# Program Partners

## Participating Buyers



## Participating Growers

- Tomatoes - Florida

Ag-Mart/Santa Sweets

Classie Growers/Falkner Farms

Del Monte Fresh Production

DiMare Homestead

DiMare Ruskin

HarDee/Diamond D

Triple D

Farmhouse Tomatoes

Gargiulo

Harllee Packing

Palmetto Vegetable Company

South Florida Tomato Growers

Tomatoes - Other States

Ag-Mart Produce/Santa Sweets (NC, NJ)

Gargiulo (GA)

Lipman Family Farms (SC, VA, MD)

Pacific Tomato Growers/Sunripe (GA, VA)
- Kern Carpenter Farms

Lipman Family Farms

Pacific Tomato Growers/Sunripe

Taylor and Fulton Packing

Utopia Farms

Tomatoes of Ruskin

Artesian Farms

Diehl and Lee Farms

Frank Diehl Farms

TOR Farms

West Coast Tomato/McClure Farms
- Strawberries

Pacific Tomato Growers/Sunripe

Green Bell Peppers

Lipman Family Farms





Photo: Forest Woodward

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# History

Whether carried out by slaves, sharecroppers, or an immigrant labor force, farm labor has always been one of the lowest paid and least protected jobs in the United States.

Today, in both the US and many other countries, much of the food we eat is still grown and harvested by women and men who do backbreaking work for poverty wages.

When you walk down the produce aisle, what are you buying?

Was the human being who picked the produce treated fairly?

How can you be sure?

Bean harvesting in Florida

1937



Photo: Arthur Rothstein, Farm Security Administration Archives



Strawberry harvesting in Florida

Today

Photo: Adobe Stock

"Poverty among farmworkers is more than double that of all wage and salary employees."

-US Department of Agriculture<sup>2</sup>

"...low wages, sub-poverty annual earnings, [and] significant periods of un- and underemployment."

-US Department of Labor<sup>3</sup>

\$15,000 - \$17,500

Average Annual Farmworker Earnings<sup>4</sup>

30%

Farmworker families living below the federal poverty line<sup>5</sup>



It isn't just that farmworkers are poor.

On most farms, they must also go into the fields each day knowing that they will be subject to abuse and dangerous conditions.

Farmworkers frequently experience harassment and discrimination, sexual assault, physical violence, verbal abuse, serious injuries, and exposure to dangerous heat and storms.

Due to wage theft and minimum wage violations, many aren't even paid what they are legally owed for their labor.

It may be hard to believe, but farmworkers also face situations of modern-day slavery - according to the definition of forced labor and high standard of proof required under federal law. In these cases, workers are held against their will - through the use or threat of violence, or other forms of intimidation - and forced to work for little or no money.<sup>6</sup>

When you buy fruits and vegetables,  
what are you bringing into your home?

# Sexual Harassment

# Sexual Assault

# Discrimination

## Physical Violence

## Verbal Abuse

# Wage Theft

# Slavery

# Lightning

## Pesticide Exposure

# Heat Stroke

# Death

80%

Of farmworker women  
are sexually harassed or assaulted<sup>9</sup>

100

Number of US farmworkers who suffer a serious lost-work-time injury every day<sup>7</sup>

The fatality rate for farmworkers is  
**7 times higher**  
than the rate for all workers  
in private industry<sup>8</sup>

Pioneering a worker-centered approach to slavery investigations and prosecutions, CIW helped to free over 1500 workers from slavery operations in the Southeastern US.





# A New Day

Since 2011, this reality has been dramatically changed for many farmworkers as a result of the groundbreaking Fair Food Program (FFP), which brings together farmworkers, consumers, food retailers, and growers to achieve humane labor standards and better wages in agriculture.

The FFP was created by the Coalition of Immokalee Workers (CIW), a human rights organization founded by farmworkers in southwest Florida. In the early 1990s, the CIW began organizing to address the abusive conditions and stagnant wages suffered by farmworkers for generations. During those efforts, CIW members uncovered multiple, horrific cases of modern-day slavery: entire crews of workers held against their will and forced to work for little or no pay through the threat, or use, of violence. Pioneering a worker-centered approach to the investigation and prosecution of these cases, CIW helped to free over 1500 workers from slavery operations in the Southeastern US, and put more than a dozen farm bosses in prison for sentences of up to 30 years. In 2010, the CIW became the first domestic organization to receive the US State Department's anti-slavery "Hero" Award, and was awarded a Presidential Medal for Extraordinary Efforts to Combat Human Trafficking at a White House ceremony in 2015.

Today, the CIW's expertise in this area is regularly sought by law enforcement, government agencies, and NGO's - including the FBI, the U.S. military, state and local police forces, the United Nations, and the European Union.

After more than a decade of successful prosecutions, however, the CIW came to a pivotal realization: stopping individual slavery operations does not constitute victory in the fight against slavery. No matter how many slavery rings were uncovered and shut down, the vast imbalance of power between farmworkers and their employers that allowed forced labor to take root in the first place remained, and new slavery operations inevitably took the place of those that had been uprooted.

Realizing that the key to bringing about a truly "new day" in agriculture was redressing that underlying imbalance of power, the CIW sought a new source of leverage to level the playing field and enforce farmworkers' fundamental human rights. They located that leverage not in the fields, but rather at the top of the supply chain, in the volume purchasing power of the retail food giants. In fact, the high degree of consolidation in the food industry already meant that multi-billion dollar brands could leverage their market power to demand lower prices from growers, thereby creating downward pressure on farmworkers' wages and working conditions.

Seeking to reverse this trend and harness the retailers' purchasing power to improve, rather than impoverish, farmworkers' lives, the CIW launched its Campaign for Fair Food in 2001. Farmworkers and a national network of consumers asked companies at the top of the agricultural supply chain to use their market power as a force for good by paying a premium - a penny more a pound - for

their produce, to be used as a wage supplement for farmworkers, and by agreeing to purchase only from growers who implemented a human rights-based Code of Conduct on their farms. Seventeen years later, 14 major buyers - including McDonald's, Subway, Whole Foods, and Walmart - have joined the Fair Food Program. As a result, growers representing over 90 percent of Florida tomato production and major tomato operations in six other states on the East Coast, as well as strawberry and pepper operations in Florida, have agreed to implement the Fair Food Code of Conduct on their farms.

The Program's swift and dramatic achievements have been widely recognized. An estimated 35,000 workers now enjoy unprecedented human rights protections and their working conditions have been transformed. The very fields that federal prosecutors once called "ground zero for modern-day slavery" are now known as the best work environment in US agriculture.

**Among the "most important social-impact success stories of the past century."**

-Harvard Business Review (2017)<sup>10</sup>

**"One of the great human rights success stories of our day."**

-Washington Post Op/Ed (2012)<sup>11</sup>

**A "visionary strategy ... with potential to transform workplace environments across the global supply chain."**

-MacArthur Fellowship (2017)<sup>12</sup>

**"A sustainable blueprint for... freedom from forced labor, sexual harassment, and violence in the workplace..."**

-Roosevelt Institute (2013)<sup>13</sup>

**"Unique in the country" for preventing sexual violence.**

-PBS Frontline Producer (2014)<sup>14</sup>

**"One of the most successful and innovative programs" in the world today to uncover and prevent modern-day slavery.**

-President's Advisory Council on Faith-Based and Neighborhood Partnerships (2013)<sup>15</sup>

**"A radically different accountability mechanism."**

-EEOC Select Task Force on the Study of Harassment in the Workplace (2016)<sup>16</sup>

**"This is the best workplace-monitoring program" in the US.**

-New York Times (2014)<sup>17</sup>

**"When I first visited Immokalee, I heard appalling stories of abuse and modern slavery.**

**But now the tomato fields in Immokalee are probably the best working environment in American agriculture."**

-Susan L. Marquis,  
Dean of the Pardee RAND Graduate School<sup>18</sup>





# How does the Program Work?

Buyers agree to purchase covered produce only from farms that meet the standards required by the Fair Food Code of Conduct, as verified by the Fair Food Standards Council (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.

Growers agree to implement the Fair Food Code of Conduct on their farms, to cooperate with monitoring by the FFSC, and to pass along the Fair Food Premium. Farms that fail to come into compliance with Code standards are suspended from the Program until they do, and cannot sell their product to Participating Buyers during that time.

To establish policies and procedures that ensure successful implementation of the Code’s provisions, the FFP created a Working Group, consisting of CIW and representative Participating Growers. The Working Group meets regularly to review Program implementation, discuss practical difficulties and, if necessary, recommend appropriate policy changes to ensure that the Code’s intent is realized on FFP farms.

## What is the Code of Conduct?

The Fair Food Code of Conduct was drafted by farmworkers who understood the harsh conditions in the fields, and who asked that they:

**Not be the victims of forced labor, child labor, or violence.**

**Earn at least minimum wage.**

**Always be paid for the work they do.**

**Go to work without being sexually harassed or verbally abused.**

**Be able to report mistreatment or unsafe working conditions.**

**Report those abuses without the fear of losing their job - or worse.**

**Have shade, clean drinking water, and bathrooms in the fields.**

**Be allowed to use the bathroom and drink water while working.**

**Be able to rest to prevent exhaustion and heat stroke.**

**Be permitted to leave the fields when there is lightning, pesticide spraying, or other dangerous conditions.**

**Be transported to work in safe vehicles.**



**It's not so much to ask.**

Photo: Forest Woodward



Photo: Shane Donglasan



# How are these standards guaranteed?

Farmworkers are excluded from many legal protections afforded to workers in other sectors. And under-resourced agencies could only attempt sporadic enforcement of those limited rights. Traditional, corporate-controlled, audit-based systems for monitoring workplace conditions have also been exposed as inadequate, intended to protect brand image rather than low-wage workers' rights.<sup>19</sup>

In fact, just weeks before the last slavery case was surfaced in Immokalee in 2008 (prior to the FFP), a grower-sponsored auditing organization certified labor conditions on the farms where the victims of forced labor had been working. In that case, workers were chained, beaten, and kept in a box truck at night, while being forced to work for no pay during the day. In a similarly tragic circumstance, the garment factories that collapsed at Rana Plaza in Bangladesh in 2013 - killing over 1100 workers - were also previously certified by a corporate-sponsored auditing organization. The workers who died needlessly simply had no safe channels to make their voices heard or to denounce life-threatening conditions and abuse.

In contrast, the Fair Food Program provides unprecedented transparency into the agricultural workplace, and rests upon a foundation of elements necessary for guaranteeing low-wage worker protections.



## 1. Worker-to-Worker Education

All workers employed at Fair Food Program farms learn about their unique protections through multiple educational mechanisms, with interactive sessions led by CIW's Worker Education Committee, whose members are farmworkers themselves, principal among them. These discussions happen on company property, with the support of company management. Workers are compensated for their participation at an hourly rate. Beyond this, at the point of hire, before setting foot in the fields, all workers receive CIW's Know Your Rights and Responsibilities (KYRR) handbook and watch a video produced by the Coalition, consisting of scenarios that demonstrate workers' rights and responsibilities under the Program.

For the 35,000 workers employed at Fair Food Program farms each year, this training provides the knowledge needed to help identify abuses and dangers in the workplace, and to make protected, confidential complaints. As a result, thousands of workers have become the frontline monitors of their own rights and working conditions.

## 2. Complaint Resolution

When workers do encounter problems or abuse in the workplace, they have access to a safe and effective complaint process.

Through the Program's toll-free complaint line, workers have 24/7 access to bilingual FFSC investigators who assist them in investigating and resolving any Code violations identified at FFP farms. Through the FFP's collaborative, problem-solving approach to complaint resolution, a significant number of issues that do not rise to the level of Code violations are nonetheless also addressed by growers who now have a different view of their workforce and understand the benefits of these kinds of solutions.

Due to effective enforcement of the Code's prohibition of retaliation against workers who voice complaints, workers confidently express their concerns.

## 3. Audits & Transparency

Workers may not always be aware of every possible problem, or willing to trust the complaint hotline. For this reason, in-depth audits are a necessary complement to the complaint process.

With full access to farm operations and payroll records, as well as extensive presence in the fields and housing camps through announced and unannounced audits, FFSC investigators have an unprecedented degree of insight into growers' operations. Audits include in-depth interviews with management representatives, farm supervisors, and at least 50% of workers present at all farm locations. The thoroughness and rigor of these audits give FFSC the knowledge needed to ensure that growers' practices are in full compliance with the Code of Conduct.

## 4. Market-Based Enforcement

For labor standards to be respected, they must be effectively enforced.

In the Fair Food Program, protection of farmworkers' fundamental rights is backed by market consequences for farms that fail to come into compliance with the Code of Conduct. When suspended from the FFP, growers can no longer sell their product to the FFP's Participating Buyers until their mandated suspension period has expired and their operations are compliant with the Code.

In turn, Participating Buyers only source covered produce from Participating Growers in good standing, providing a market incentive for growers who are holding up their end of the bargain.



# What has the Program accomplished?



Photo: Shane Donglasan

660  
Worker-to-Worker  
Education Sessions with

51,958  
Workers in Attendance

220,000  
KYRR Booklets  
Distributed

\$26,000,000  
Fair Food Premium  
paid by Participating Buyers

10%  
Wage increase from  
FFP Bucket-Filling Standard

\$251,178  
Recovered Wages

20,000  
Worker Interviews

2000  
FFP Hotline Complaints\*

6839  
Audit Findings Addressed

# A New Day.

On FFP farms, workers are:

Working free of forced labor, child labor,  
sexual assault, and violence.

Making complaints without the fear of  
losing their job - or worse.

Harvesting according to the  
new visual bucket-filling standard.

Receiving Fair Food Premium in their pay-  
checks.

Working in an environment where  
sexual harassment, discrimination, and  
verbal abuse are not tolerated.

Participating in  
Worker Health and Safety Committees.

Not working in dangerous conditions,  
including pesticides and lightning.

Accessing shade, clean drinking water,  
and bathrooms as needed.

Living in safe and secure housing where  
charges do not reduce wages  
below minimum wage.

*\*As of April 2018.  
All other figures are as of October 2017.*



# In Focus: Women in the Fields

If you've read the news lately, you already understand: sexual abuse at work is ubiquitous in the United States, but obstacles to reporting abuse make it difficult to quantify sexual harassment and sexual violence. Research suggests that at least 1 in 3 women experience sexual harassment in the workplace<sup>20</sup>; however, an estimated 75% of workplace sexual harassment is never reported to employers or the government.<sup>21</sup>

Sadly, women who do step forward are unlikely to achieve a successful outcome. In 2015, the EEOC investigated 6,822 allegations of sexual harassment in the workplace. Claimants were successful only 25% of the time, and these cases normally take years to resolve.<sup>22</sup> Victims may want closure quickly. Witnesses may be reluctant to come forward. Beyond this, the legal system presents real challenges related to burden of proof and proof of injury.

For the hundreds of thousands of farmworker women in the US, the situation is much worse.

Human Rights Watch cites a 2010 survey of farmworker women in California's Central Valley which found that 80 percent had experienced sexual harassment or assault. Indeed, sexual harassment and violence are so common that some farmworker women "see these abuses as an unavoidable condition of agricultural work."<sup>23</sup> As one female worker succinctly put it, "You allow it or they fire you."<sup>24</sup>

As an EEOC regional attorney told investigators, "Sexual violence doesn't happen unless there's an imbalance of power. And in the agricultural industry, the imbalance of power between perpetrator, company and the worker is probably at its greatest."<sup>25</sup>

Women employed at Fair Food Program farms now live a different reality.

With education on their rights effectively conveying the message that women no longer have to tolerate abuse, coupled with access to a protected complaint mechanism, farmworker women now speak up without fear of retaliation or inaction. Supervisors found by the FFSC to have engaged in sexual harassment with physical contact are immediately terminated and banned from employment at other FFP farms for up to two years. Participating Growers must carry out these terminations, or face suspension from the FFP with the accompanying loss of ability to sell to Participating Buyers. Supervisors terminated for less severe forms of harassment or discrimination also face a program-wide ban. Allegations of sexual harassment are investigated and resolved with unprecedented speed, averaging less than three weeks.

These measures have brought an end to impunity for sexual violence and other forms of sexual harassment at Fair Food Program farms, where there have been zero cases of rape or attempted rape since the implementation of FFP standards in Season One. Cases of sexual harassment by supervisors with any type of physical contact have been virtually eliminated, with only one such case found since 2013.

After a year-long investigation of sexual assault in the fields from California to Florida, entitled "Rape in the Fields," PBS Frontline declared the FFP to be the single most effective prevention program in the US agricultural industry.<sup>26</sup> In an interview on NPR, the producer cited the FFP's "proactive policies, the participation of workers, and the economic incentives placed on anti-harassment policies."

"Before, we would hear about a contractor or supervisor who would take women to a private place, to the edge of the field, and we understood that sexual assault was what was happening."

Now, we aren't hearing these stories in the same way we used to."

-Isabel, a 30 year-old Florida farmworker (2014) <sup>27</sup>

**"The work that (the FFP) does makes you feel that you are not so alone in this country. I think many women now have more courage to speak and not remain silent."**

-Amalia Mejia Diaz, former farmworker who FFSC helped with a sexual assault case (2015) <sup>28</sup>

Photo: Shane Donglasan



# In Contrast: Mexico

The emergence of the Fair Food Program rapidly and significantly widened the human rights gap between the U.S. tomato industry and its competition in Mexico. At the same time that workers, growers, and retailers are making unprecedented investments to address poverty and human rights concerns in the U.S. tomato industry, the Mexican industry remains mired in gross and largely unchecked human rights abuses.<sup>29</sup>

Due to the rapid growth of exports by lower-cost producers in Mexico, Florida growers have faced increasing price pressure. In Mexico, cost advantage is driven in large part by lower wages and inferior, often grossly abusive working conditions. These conditions have been exposed in multiple investigative reports in recent years, including the LA Times’ multi-year investigative report Product of Mexico: Hardship on Mexico’s farms, a bounty for U.S. tables. This investigation into tomato, pepper, and cucumber mega-farms across nine Mexican states found:

- “Many farm laborers are essentially trapped for months at a time in rat-infested camps, often without beds and sometimes without functioning toilets or a reliable water supply.”
- “Some camp bosses illegally withhold wages to prevent workers from leaving during peak harvest periods.”
- “Laborers often go deep into debt paying inflated prices for necessities at company stores. Some are reduced to scavenging for food when their credit is cut off. It is common for laborers to head home penniless at the end of a harvest.”
- “Those who seek to escape their debts and miserable living conditions have to contend with guards, barbed-wire fences, and sometimes threats of violence from camp supervisors.”
- When three escapees from a growing operation called Bioparques notified the authorities, state and federal officials raided the labor camp and found “Two hundred seventy-five people had been trapped in the camp, including two dozen malnourished children. At least one man had been tied to a tree and beaten by camp bosses....”

- “Major U.S. companies have done little to enforce social responsibility guidelines that call for basic worker protections such as clean housing and fair pay practices.”

What is more, the LA Times report pointed out that “A year and a half later, however, the case of Bioparques speaks more to the impunity of Mexican agribusiness than to accountability.” Indeed, despite the exposure these conditions are receiving, the reports of abuse have continued. Late in May 2017, news broke of the disappearance of 80 indigenous Mexican farmworkers who vanished from a farm near Ciudad Juarez, Mexico, after they reported illegal wage deductions for food and housing that cut in half their already desperately low wages.<sup>30</sup>

An investigative report released by Univision in November 2017 identified the same abuses in Mexican agriculture – forced labor, child labor, extreme poverty, and unsafe working conditions – that the LA Times report had documented:

- “In Mexico’s fields, farmworkers live as if they were slaves every day....”
- “More than 1 million Mexicans are farmworkers that travel year after year to one of the states that produce products in order to work, and of that number, over 300,000 are children....”
- The report cited activists who have “documented the deaths of farmworkers that start with just a headache, because they have no kind of medical services. Moreover, they are forced to stay in the agricultural fields, working under threats that start at the beginning of their travel.”
- Finally, they emphasized the role of organized crime in Mexican fields: “In the last decade, more than 200 farmworkers have disappeared from this country without a trace.”<sup>31</sup>

In stark contrast to the situation in Mexican agriculture, Fair Food Program growers’ partnership with farmworkers and Participating Buyers has helped forge the most modern, humane workplace in global agriculture.



**“The real truth is that we're work animals for the fields.”**

-Pasqual Garcia, farmworker in Mexico to LA Times investigative reporters<sup>32</sup>

**300,000**  
Estimated number of children working in Mexican agriculture<sup>33</sup>

**275**  
Farmworkers freed from slavery at Bioparques, a large Mexican tomato grower supplying many US retailers<sup>35</sup>

**80**  
Number of farmworkers who vanished from a farm in Ciudad Juarez in 2017 after reporting illegal wage deductions for food and housing<sup>34</sup>

**\$8 - \$12**  
Normal daily pay for farmworkers in Mexico<sup>36</sup>

Photo: Alejandrina Castillo, 12, picks chile peppers near Teacapan, Sinaloa. (Credit: Don Bartletti, LA Times)







# Worker-Driven Social Responsibility:

## The Road Forward

The Fair Food Program, which is currently negotiating opportunities for expansion in two additional geographic regions and new crops, influences workplaces and supply chain initiatives far beyond itself. The FFP was the first comprehensive, fully functional model of the new Worker-driven Social Responsibility (WSR) paradigm, a human rights approach designed by workers themselves and anchored by legally binding agreements between the workers' organization and the signatory retail brands who are the major customers of the suppliers who employ the workers. WSR holds tremendous promise for addressing human and labor rights abuses in global supply chains.

Internationally, WSR has been implemented through the 2013 Accord on Fire and Building Safety in Bangladesh in that country's garment sector. This followed a series of horrific factory fires and building collapses in the supply chains of major US and European clothing brands. Union and witness signatories to the Accord included two global labor unions, eight Bangladeshi labor federations, and four NGOs. With more than 200 brand signatories, the Accord covers some two million workers. Many of the factories that employ these workers have undergone a tremendous transformation to ensure their structural integrity and fire safety. In 2018, the Accord was extended five years to continue its progress.

To accelerate the growth of WSR, in 2015, seven organizations from diverse sectors and fields of expertise, both domestic and international, came together to form the Worker-driven Social Responsibility Network. This multi-disciplinary collaboration drew from some of its members' unique success with the FFP and the Accord. CIW was a founding member of the network, and the Fair Food Standards Council serves as technical advisor. The network's purpose is to build understanding of the WSR model among a wide range of relevant actors; provide support for efforts to adapt the model to new sectors and places; and amplify and strengthen existing efforts through coordination, information sharing, and collective action.

One of the Network's promising accomplishments on the ground is a nascent WSR adaptation on Vermont dairy farms known as Milk with Dignity. This program was created by Migrant Justice, a worker-based human rights organization, with multi-year

technical assistance from CIW, FFSC, and other network members during four overlapping stages: exploration, standards development and program design; campaign and negotiations; and implementation. On October 3, 2017, Migrant Justice signed a legally binding agreement with Ben & Jerry's to launch the program in that iconic brand's supply chain. As of 2018, Milk with Dignity is now operational on Vermont dairy farms and monitored by the newly established Milk with Dignity Standards Council.

The Network is also building field-wide support for WSR among important actors in the labor and human rights movements. More than 50 leading organizations and individuals have endorsed the WSR Statement of Principles. These principles were developed by the network's coordinating committee over the past two years and outline cornerstone elements for the establishment and enforcement of the rights of workers in global supply chains. The organizational endorsers range from the AFL-CIO and Jobs with Justice to Human Rights Watch and Freedom Network USA. Individual endorsers range in background and include many important academics, researchers, and authors on these issues. The network will continue to spread awareness of WSR and secure endorsements from additional US and international organizations.

Beyond the WSR Network, the CIW has also participated in several high-level forums and other engagements related to the possible application of the FFP model and WSR paradigm. These include presentations to the Annual Forums of the United Nations Working Group on Business and Human Rights, the United Nations Special Rapporteur on Trafficking in Persons, the European Union, and the Organization for Security and Cooperation in Europe. The CIW has also participated in delegations organized by the AFL-CIO Solidarity Center to consult with Moroccan farmworkers and has engaged other US and international groups exploring supply chain labor rights initiatives.

Additionally, in recent months, CIW has hosted delegations of worker organizations from other agricultural sectors, as well as the janitorial, construction and poultry industries, who are seeking to adapt the Fair Food Program's model of worker-driven social responsibility to their workplaces.



Enrique Balcazar of Migrant Justice, left, and Jostein Solheim, chief executive of Ben & Jerry's, announcing the Milk With Dignity Agreement.

(Credit: Caleb Kenna for the New York Times)<sup>44</sup>



Inside a milking parlor on a Vermont dairy farm.

(Credit: Caleb Kenna/The Golden Cage Project/Vermont Folklife Center)<sup>43</sup>



# Results

Throughout the Fair Food Program's first six seasons, FFSC has maintained detailed records of its monitoring efforts, tracking data from all audits and complaint investigations. For each standard included in the Fair Food Code of Conduct (see Appendix A), FFSC grades both individual grower performance and industry averages, based upon metrics developed to gauge compliance. This mapping provides an accurate reflection of Program trends and effectiveness.

Qualitative feedback from workers and growers has provided powerful insight into the Program's impact on working conditions, workplace culture, and the well-being of farmworkers and their families, as well.

The following pages provide a more in-depth review of the implementation of FFP standards, with particular focus on the four Program foundations - standards generated by workers themselves, effective education for workers on their rights and responsibilities in the FFP, comprehensive monitoring consisting of audits and complaints, and meaningful market consequences - as well as key Code provisions.

Overall trends in the data are clear. In a few short years, the Fair Food Program has reshaped the practices of the Florida tomato industry, which is now recognized as the best work environment - with the most impactful and verifiable workplace standards - in US agriculture. The types of abuses that still pervade many global brands' low-wage supply chains - impacting workers in the garment, electron-

ics, home goods, seafood, and other agricultural sectors - have been eliminated through enforcement and ultimately prevented by the FFP.

For workers employed at Fair Food Program farms - the mother who no longer must leave her dignity in the fields in order to feed her family, or the father who no longer fears violence or losing his job for asking about unsafe conditions or missing pay - the progress brought forth by the FFP is profound and personal.

FFSC's evaluation of the Fair Food Program began in the Program's infancy, when the industry was defined more by its deficiencies in Code compliance than its accomplishments. For this reason, previous annual reports evaluated compliance on a year-to-year basis, focusing on granular examples and advances between individual seasons, each of which represented unprecedented gains. Indeed, between Seasons 1 and 4 (November 2011 through October 2015), most Participating Growers' operations were dramatically transformed, achieving high levels of compliance across all areas of evaluation.

By the beginning of Season 5 (2015-16), the Program had entered a new moment, defined less by the need for fundamental change than the task of sustaining remarkable gains already achieved. In a period of economic challenges for the industry, slight declines in compliance were noted. Due to the Program's ability to thoroughly address these issues through a rigorous corrective action process, however, Season 6 (2016-17) represented the highest Program-wide compliance levels to date.





# Code Standards

FFSC monitoring is designed to verify compliance with the Code of Conduct, a set of standards generated not by outside “experts” but rather by workers who had experienced and understood the sources of entrenched abuses in their workplaces.

Through its 24-hour complaint hotline and rigorous audit program tailored to the agricultural industry, FFSC investigators continually examine all aspects of Participating Growers’ operations. The descriptions below summarize the key areas of the Code, and audit measures that FFSC uses to gauge grower compliance.

## Zero Tolerance Provisions

Auditors must find no evidence of forced labor, child labor, sexual harassment with physical contact, or other forms of violence.

## Transparency & Cooperation

Growers and farm supervisors must cooperate with FFP education and audits, including scheduling, document provision, and interviews.

Workers must speak freely and show no signs of supervisor coaching or intimidation designed to interfere with the audit process.

## Complaint Procedure

Grower and FFSC complaint hotline numbers must be provided on workers’ payslips, in training materials, and at central posting locations at each farm.

Growers’ complaint intake, investigation, and resolution procedures must be effective and cooperative with the FFSC.

Growers must maintain a complaint log and report all complaints they receive to the FFSC within two days.

FFSC must find no evidence of retaliation.

## Hiring & Registration

### Direct Hiring

Growers must have a standardized system that guarantees all workers are hired as direct employees, and placed on company payroll before they begin work.

### Record Keeping

Growers must maintain personnel files with detailed records of worker injuries, Workers Compensation claims, training records, and disciplinary history.

### Supervisor Licensing

All individuals involved in recruiting, transporting, and housing workers must have all required state and federal licenses. Vehicles must be properly inspected, registered, and insured. Housing provided must be safe and secure with required permits and inspections.

## Education & Training

### Worker-to-Worker Education

Workers must participate in CIW education sessions each harvest cycle, paid at an hourly rate.

### Supervisor Training

At the start of each season, farm labor contractors and all other supervisory personnel must be trained on FFP and company policies, including their responsibility to ensure a respectful work environment and immediately report all complaints.

### Training and the Point-of-Hire

Growers must have a standardized system that guarantees all workers are provided with comprehensive training on FFP and company policies - paid at an hourly rate - before they begin working.

### Progressive Discipline

Farm supervisors and human resources staff must adhere to a policy of escalating discipline, in which workers are given a series of verbal and written warnings prior to termination

## Fair Food Premium

Grower records must demonstrate accurate and timely distribution of Fair Food Premium to qualifying workers.

Ineligible supervisory employees must be excluded from Premium distributions, and distributions cannot be included in minimum wage calculations.

## Wages, Hours, & Pay Practices

### Pay Practices

Workers must be provided with payslips that include hours worked, production, itemized deductions, and gross and net wages.

Growers must ensure that workers receive their own paychecks, including having a standardized system in which workers sign for their paychecks and can request that final checks be sent to a forwarding address. Third-party authorizations may designate fellow workers, but not supervisors, to pick up paychecks.

Unclaimed checks must be fully accounted for and safely stored by grower payroll staff.

### Bucket-Filling Standard

Workers must not report, and auditors must find no evidence of, demands for overfilled buckets.

### Wages & Hours

Growers must have a timekeeping system that accurately tracks workers’ compensable hours for payroll calculations, and must demonstrate minimum wage compliance and accurate payment of wages.

Workers must not report unrecorded (compensable) wait time before or after work, and all work-related tasks must be performed on the clock. They must be informed of daily start times and control their own timecards when clocking in and out.

## Work Environment

Auditors must find no evidence of sexual harassment, discrimination, verbal abuse, or other conditions contributing to a hostile work environment.

Supervisors must demonstrate a clear understanding their responsibility to prevent, identify, and report issues of sexual harassment, discrimination, and verbal abuse.

## Health & Safety

### Health and Safety Committee

Growers must hold monthly Worker Health and Safety Committee meetings that include a minimum of five qualifying workers and at least one worker from each crew.

Meetings must provide Committee members - who are compensated at an hourly rate - with the ability to share concerns with management representatives. Any resolutions or corrective actions resulting from meetings must be effectively communicated to all crews.

### Shade, Bathrooms, Water, & PPE

Workers must verify that shade, bathrooms, and drinking water are consistently made available and accessible throughout each workday. Growers must provide all required personal protective equipment (PPE) to workers at no cost.

### Injuries & Endangerment

Growers must effectively implement health and safety policies that include:

- Injury and illness response, insuring adequate and timely treatment, an injury log and company assistance with handling workers’ compensation claims;
- Lunch and breaks;
- Reasonable days off to rest or attend to personal matters; and
- Work stoppages due to dangerous conditions.

Auditors must find no evidence of unsafe or unauthorized transportation, improper pesticide exposure, or other forms of negligent endangerment.

## Housing

Company-provided worker housing must be compliant with all state and federal regulations.

Any deductions for housing costs cannot reduce workers’ earnings below the minimum wage.

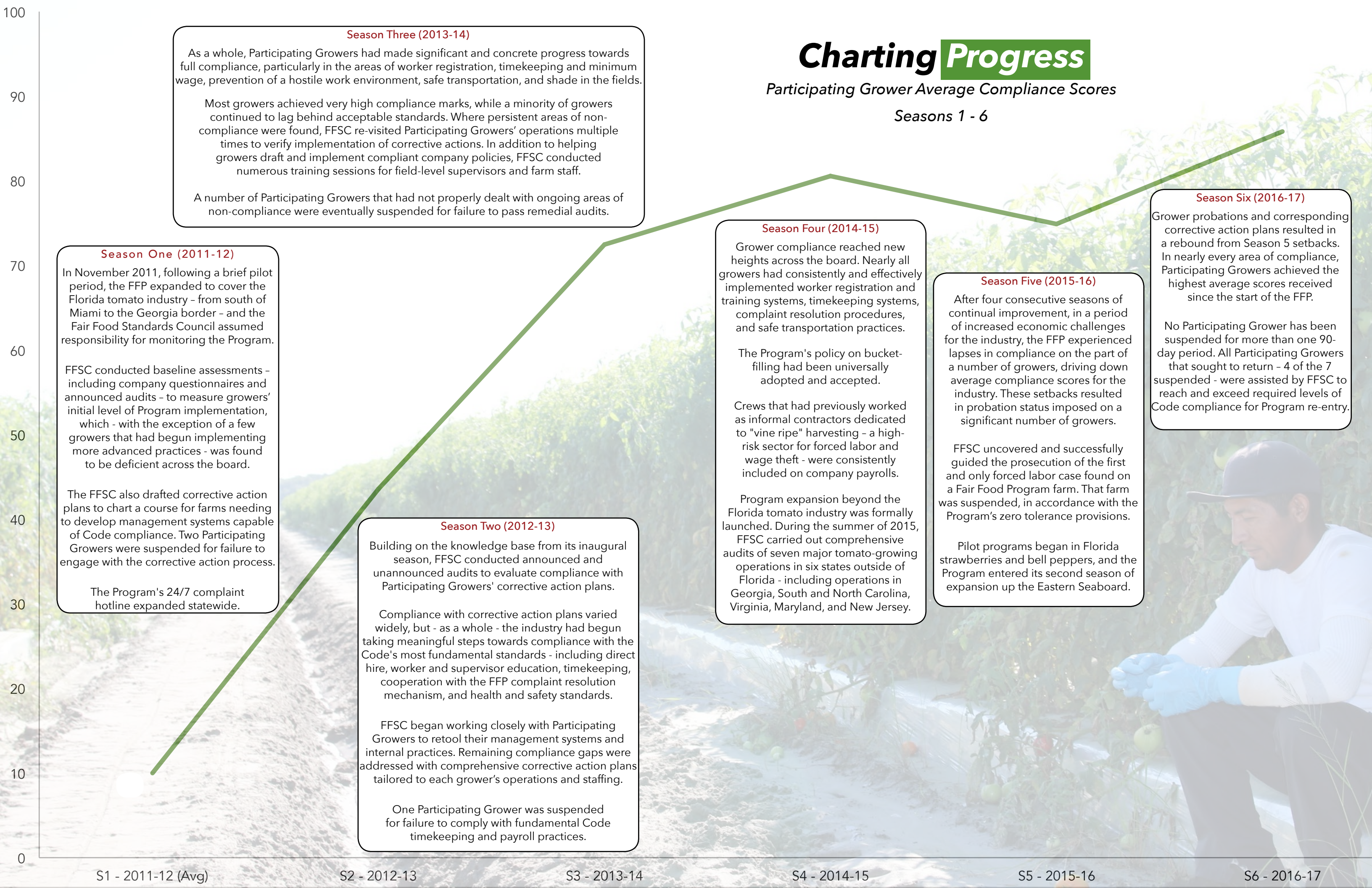
Housing must be clean and safe, and the company must facilitate timely repairs of any issues reported by workers.



# Charting Progress

## Participating Grower Average Compliance Scores

### Seasons 1 - 6



#### Season One (2011-12)

In November 2011, following a brief pilot period, the FFP expanded to cover the Florida tomato industry - from south of Miami to the Georgia border - and the Fair Food Standards Council assumed responsibility for monitoring the Program.

FFSC conducted baseline assessments - including company questionnaires and announced audits - to measure growers' initial level of Program implementation, which - with the exception of a few growers that had begun implementing more advanced practices - was found to be deficient across the board.

The FFSC also drafted corrective action plans to chart a course for farms needing to develop management systems capable of Code compliance. Two Participating Growers were suspended for failure to engage with the corrective action process.

The Program's 24/7 complaint hotline expanded statewide.

#### Season Three (2013-14)

As a whole, Participating Growers had made significant and concrete progress towards full compliance, particularly in the areas of worker registration, timekeeping and minimum wage, prevention of a hostile work environment, safe transportation, and shade in the fields.

Most growers achieved very high compliance marks, while a minority of growers continued to lag behind acceptable standards. Where persistent areas of non-compliance were found, FFSC re-visited Participating Growers' operations multiple times to verify implementation of corrective actions. In addition to helping growers draft and implement compliant company policies, FFSC conducted numerous training sessions for field-level supervisors and farm staff.

A number of Participating Growers that had not properly dealt with ongoing areas of non-compliance were eventually suspended for failure to pass remedial audits.

#### Season Two (2012-13)

Building on the knowledge base from its inaugural season, FFSC conducted announced and unannounced audits to evaluate compliance with Participating Growers' corrective action plans.

Compliance with corrective action plans varied widely, but - as a whole - the industry had begun taking meaningful steps towards compliance with the Code's most fundamental standards - including direct hire, worker and supervisor education, timekeeping, cooperation with the FFP complaint resolution mechanism, and health and safety standards.

FFSC began working closely with Participating Growers to retool their management systems and internal practices. Remaining compliance gaps were addressed with comprehensive corrective action plans tailored to each grower's operations and staffing.

One Participating Grower was suspended for failure to comply with fundamental Code timekeeping and payroll practices.

#### Season Four (2014-15)

Grower compliance reached new heights across the board. Nearly all growers had consistently and effectively implemented worker registration and training systems, timekeeping systems, complaint resolution procedures, and safe transportation practices.

The Program's policy on bucket-filling had been universally adopted and accepted.

Crews that had previously worked as informal contractors dedicated to "vine ripe" harvesting - a high-risk sector for forced labor and wage theft - were consistently included on company payrolls.

Program expansion beyond the Florida tomato industry was formally launched. During the summer of 2015, FFSC carried out comprehensive audits of seven major tomato-growing operations in six states outside of Florida - including operations in Georgia, South and North Carolina, Virginia, Maryland, and New Jersey.

#### Season Five (2015-16)

After four consecutive seasons of continual improvement, in a period of increased economic challenges for the industry, the FFP experienced lapses in compliance on the part of a number of growers, driving down average compliance scores for the industry. These setbacks resulted in probation status imposed on a significant number of growers.

FFSC uncovered and successfully guided the prosecution of the first and only forced labor case found on a Fair Food Program farm. That farm was suspended, in accordance with the Program's zero tolerance provisions.

Pilot programs began in Florida strawberries and bell peppers, and the Program entered its second season of expansion up the Eastern Seaboard.

#### Season Six (2016-17)

Grower probations and corresponding corrective action plans resulted in a rebound from Season 5 setbacks. In nearly every area of compliance, Participating Growers achieved the highest average scores received since the start of the FFP.

No Participating Grower has been suspended for more than one 90-day period. All Participating Growers that sought to return - 4 of the 7 suspended - were assisted by FFSC to reach and exceed required levels of Code compliance for Program re-entry.

S1 - 2011-12 (Avg)

S2 - 2012-13

S3 - 2013-14

S4 - 2014-15

S5 - 2015-16

S6 - 2016-17



# Worker-to-Worker Education

With the implementation of the Fair Food Program, farmworkers - for the first time - began hearing their rights explained by men and women who have also spent their lives working in the fields.

Each season, CIW conducts education sessions on the property of all Participating Growers, who pay workers at an hourly rate for participating. In interactive peer-to-peer discussions, both newly hired and returning workers can ask questions about their rights and responsibilities under the Program and receive answers that are meaningful to them, based on shared experience. This empowers workers - each and every worker on any given farm - to be the frontline defender of his or her own rights through use of the complaint mechanism.

Furthermore, education sessions are typically carried out at farms shortly before FFSC audits are scheduled to

take place. This ensures that - when FFSC investigators step into the fields - workers are informed about their rights and feel confident in the central role they play in identifying problems and risks in the workplace, free of retaliation, as effective partners in the auditing process.

During Season 1 and Season 2 (2011-2013), a small number of growers failed to facilitate worker-to-worker education sessions at their operations. Since Season 3 (2013-14), 100% of all Participating Growers - including at all expansion sites outside of Florida - have been compliant with worker-to-worker education requirements.

"FFSC stands on the foundation of worker-to-worker education..."

-Susan Marquis



## Compliance In Practice

- Participating Growers coordinate with CIW's Worker Education Committee during each harvest cycle to ensure that all crews participate in education sessions.
- Management representatives are present to introduce CIW and convey the company's support of the FFP.
- Companies utilize separate training payroll codes under which education sessions and other trainings are tracked to ensure proper hourly compensation.
- Attendance is typically kept to 100 workers or less so that constructive dialogue can take place.

660  
Education Sessions

51,958  
Workers in Attendance

100%  
Growers compliant with worker-to-worker education requirements



## Education at the Point of Hire

Prior to starting work in the fields, all workers must receive a copy of the Program's "Know Your Rights and Responsibilities" booklet in English, Spanish, or Haitian Creole. Audio versions of the book are available for low-literate workers. The KYRR booklet describes the basic protections established by the Code, as well as how workers can make complaints concerning Code violations.

Workers also view the CIW-produced FFP training video, in which they see their rights and responsibilities

demonstrated in realistic scenarios, scripted and portrayed by farmworkers.

In addition to FFP training, Participating Growers are required to provide workers with comprehensive training on written company policies, which must be in compliance with the Code of Conduct. A bilingual trainer must provide a verbal review of key company policies, as well as the opportunity to discuss any questions workers may have.

During Season 6, 100% of Participating Growers had fully implemented FFP materials into their trainings for new hires and returning workers.

## Compliance In Practice

Company-led trainings are carried out by bilingual trainers who provide a comprehensive verbal review of company and FFP policies, as well as the opportunity to discuss workers' questions.

220,000  
KYRR Booklets Distributed

100%  
Growers have integrated FFP materials into worker training

**Know your rights and responsibilities...**

**... under the Fair Food Program!**

**2016-2017**



# Complaint Resolution

Before the Fair Food Program, farmworkers had little to no recourse in the face of abuse. Workers who complained to supervisors about missing pay or unsafe working conditions were frequently subject to retaliation – including physical and verbal abuse followed by termination. Without effective enforcement mechanisms in place to ensure that retaliation did not take place, workers often concluded that raising complaints in the workplace was not possible.

With the implementation of the FFP, the right to complain without fear of retaliation transformed the work environment for farmworkers - as well as the labor contractors who once ruled the fields with impunity. Worker education has created thousands of worker-monitors who actively enforce their own rights in the workplace, as well as through their interactions with CIW Education Committee members and the FFSC.

Workers quickly learned of their ability to use the FFSC’s hotline through company training, worker-to-worker education sessions, interactions with FFSC field investigators, and from friends and relatives who had obtained successful complaint outcomes. CIW education sessions are another channel that workers use to raise complaints and concerns about the work environment. Strict enforcement of Code provisions against retaliation has both increased workers’ confidence in the safety of the complaint process and acted to deter all forms of retaliation by supervisors.

During Season 6, auditors found no evidence of retaliation or threats of retaliation against workers who brought forth complaints on nearly 85% of FFP farms. On those farms where instances of retaliation or threats of retaliation were identified, they were limited to the behavior of one or two supervisory employees, whose actions have been addressed through the corrective action process.

As the effectiveness of grower complaint investigation procedures were evaluated through the FFSC audit process, corrective action measures provide a road

map for strengthening Participating Growers’ ability to handle, investigate, and resolve complaints in collaboration with FFSC.

One of the keys to the effectiveness of the Program's complaint process is the speed with which resolutions are achieved. For migrant workers who move frequently to follow seasonal farm work - justice delayed is truly justice denied. During Season 6, 50% of all cases received were resolved in less than two weeks, and an additional 29% were resolved in less than one month. Over the life of the Program, 53% of all cases have been resolved in less than two weeks, and 79% of all cases have been resolved in less than a month.

Many Participating Growers have also developed a deeper commitment to a joint complaint resolution process, driven by the recognition that workers frequently have valuable insight into workplace practices.

Between November 2011 and October 2017, the FFP received nearly 1800 worker complaints, in addition to the concerns raised by workers during FFSC audits. 39% of these complaints were found to represent Code violations, while 19% were found not valid. In 30% of all cases, agreeable resolutions have been reached even when no Code violations were confirmed, demonstrating increasing cooperation in resolving the problems and concerns of workers. During Season 6, these resolutions represented nearly 40% of all cases resolved by FFSC.

This collaborative partnership in the complaint process relies heavily on the credibility and integrity of FFSC's investigations, which treat all complaints with the same dedication to a thorough and accurate fact-finding process. In the event that agreement cannot be reached on complaint resolution, Participating Growers may appeal FFSC’s proposed resolutions through arbitration. As a testament to the Program’s fair and objective approach, there has been only one such appeal to date.

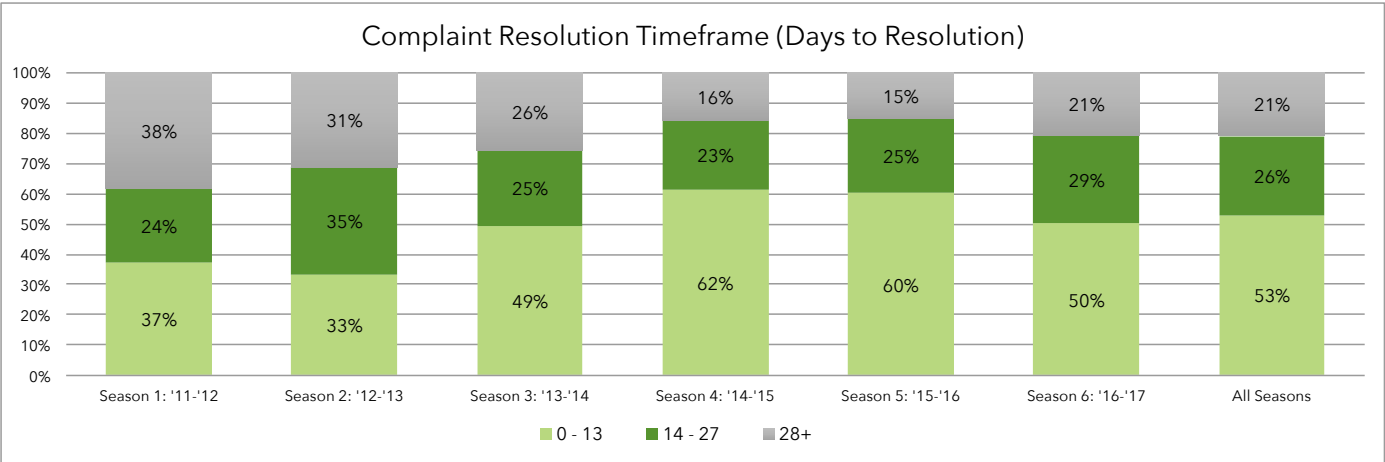


Photo: Shane Donglasan

## Compliance In Practice

- Workers have access to a toll-free hotline (Spanish, Haitian Creole, English) answered 24/7 by an FFSC investigator.
- Company and/or FFSC hotline numbers are provided in training materials and at central posting locations at each farm.
- Supervisors and workers are effectively trained on how to make and report complaints, including company complaint procedures and policies against retaliation.
- Complaints received by either growers or FFSC are shared with the other party within two working days.
- Growers work collaboratively with FFSC to ensure effective complaint investigation and resolution.
- Growers do not interfere with FFSC complaint investigations, and neither engage in nor permit retaliation against workers who make complaints.
- In the event that retaliation does take place, failure to address the issue with disciplinary action against the offending supervisor and redress for the worker results in probation or suspension from the Program.

24/7  
FFSC Hotline Hours

1800  
Total Hotline Complaints

53%  
Complaints Resolved  
in Less than Two Weeks

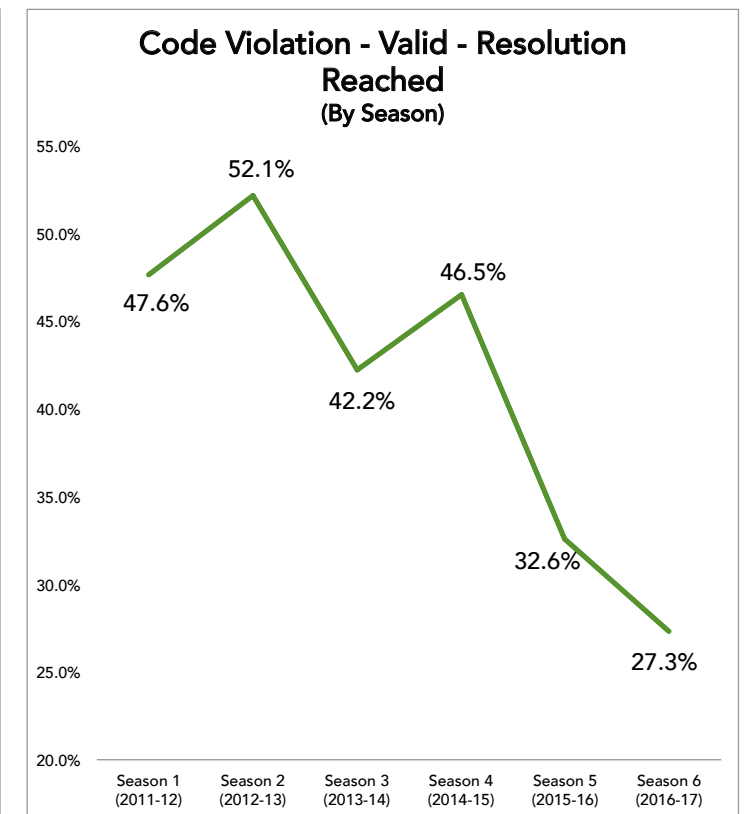
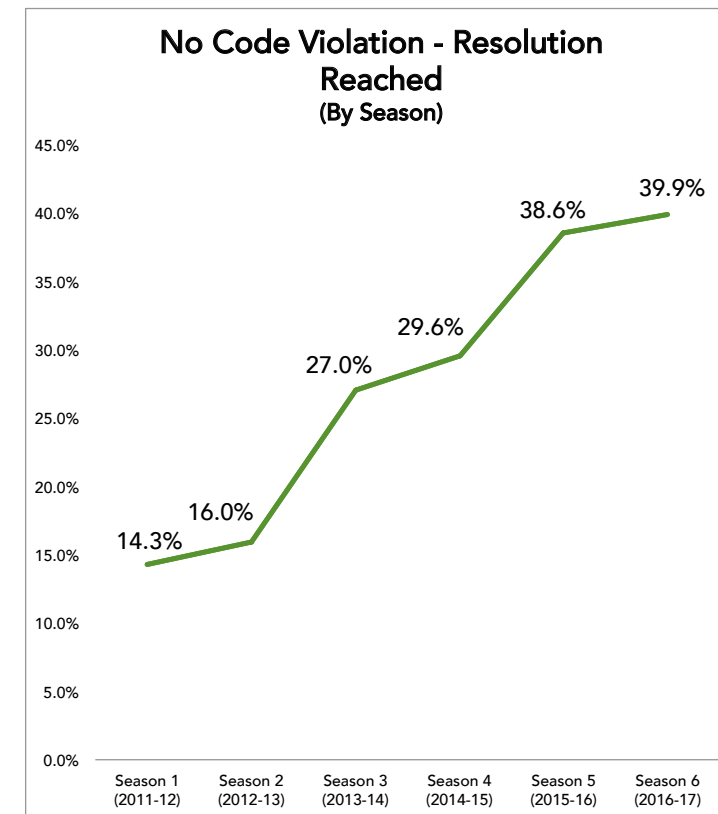
79%  
Complaints Resolved  
in Less than One Month





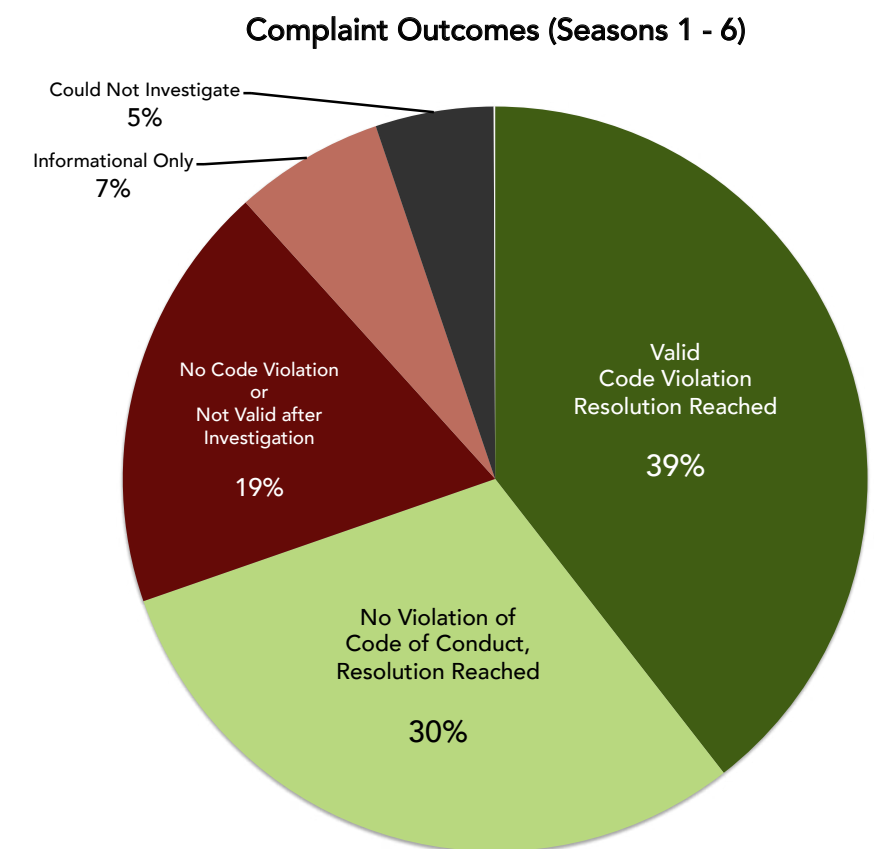
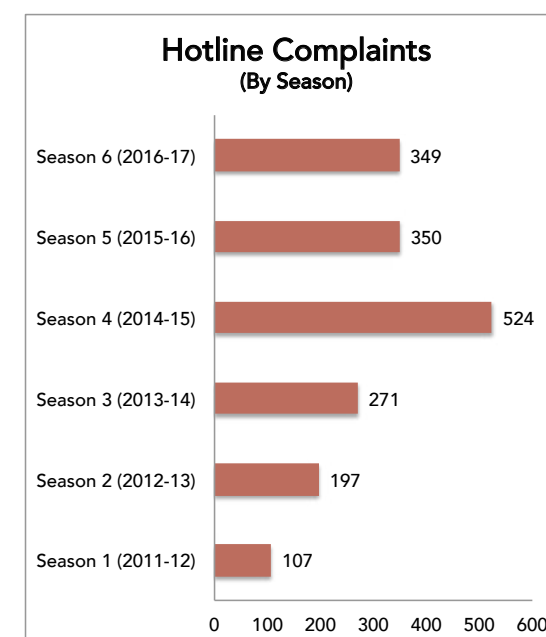
An FFSC investigator interviews a tomato harvester at a Fair Food Program farm.

Photo Credit: Shane Donglasan



**Above:** The growing cooperation between Participating Growers and the FFSC in complaint resolution is represented in the graph on the left, while the decrease in severity of complaints over time is represented in the graph on the right.

**Below:** The total number of complaints, by season, is represented in the bar graph on the left, while the breakdown of FFP complaint outcomes is displayed in the pie chart on the right.





# Word spread.



Photo: Shane Donglasan

## Season 1

A worker who mistakenly called a grower's complaint line thinking that his confidentiality would be protected was physically grabbed by the grower, verbally abused, and fired. Following FFSC's investigation, as part of FFP corrective actions required to avoid suspension, the grower publicly apologized to that worker and the entire workforce, in the presence of CIW and FFSC staff. The affected worker was invited back to work, with pay for the days he had missed, and all workers were assured that they were free to make complaints, without retaliation, going forward. Following this resolution, workers reported a greatly improved work environment and multiple complaints from this farm have since been resolved with no further issues.

## Season 2

A woman who had been sexually assaulted by a crewleader at company housing contacted CIW. CIW staff assisted her in reporting this case to the authorities and FFSC carried out a prompt investigation, including visiting the scene and interviewing all witnesses. The crewleader was terminated and banned from all Fair Food Program farms. The complainant in that case now speaks to other farmworker women, as well as the public, to let them know that they "do not have to be subjected to the same kind of abuse, that the Fair Food Program makes sure that you will not be alone and your voice will be heard."

## Season 3

Several workers, including a Health and Safety Committee member, complained about a field truck driver who made lewd gestures and used discriminatory language towards Haitian women. Auditors were present as this driver made a sexually charged joke in the presence of a company representative, who immediately suspended the driver. The company's human resources staff conducted a prompt investigation, speaking with FFSC about reports received in the field, and confirming those reports with multiple workers. The offending supervisor was terminated in less than 24 hours from the time the company became aware of his behavior.

## Season 4

A worker noted the dramatic improvement in supervisor behavior after a complaint was resolved by FFSC:

"There is a huge difference now since we have started this season, the conditions here are really improving. For example, the supervisors used to get angry, and now they behave respectfully towards us. Now we can make a complaint without fear of retaliation, and [the supervisors] treat us well and as if we are all equals, without preference for one over the other. Now I feel happy to harvest here."

## Season 5

A couple was fired in violation of a Participating Grower's disciplinary policy for leaving work early one afternoon to pick up their children, after notifying their crewleader of the need to do so. Although the company initially told FFSC that these workers were not called back due to a decline in the need for labor, examination of payroll records requested by FFSC revealed that in fact, their crew continued to work for more than two weeks after they were terminated.

As part of the complaint resolution, these workers were invited to return to work and compensated for the work that they missed due to their improper termination. The crewleader was disciplined and retrained on the company's disciplinary policy.

## Season 6

Workers reported that a crewleader had been "borrowing" substantial amounts of money from workers on his crew without paying them back. The workers were initially afraid to report this issue because the crewleader had previously retaliated against workers who did not lend him money by refusing to give them work.

After FFSC informed the Participating Grower of this complaint, the company investigated and immediately terminated the crewleader. Company HR met with the affected crew to inform them why their crewleader had been terminated, and to offer full reimbursements to any workers who were still owed money.

**"I tell workers all the time that, if they ever have any problems that they don't feel comfortable sharing with me, they should call the number in the Know Your Rights and Responsibilities booklet...."**

**"I'm not worried about workers calling because I know I'm doing my best and have nothing to hide."**

-FFP Crewleader (2014)

**"We understand that, for so long, workers never had a voice. And now that they have a voice, they are going to use it to tell us what is not going right out there."**

-FFP Farm Compliance Director (2017)



# Auditing & Transparency

In the same way that successful complaint resolution requires that workers trust they can make complaints without retaliation, audits require full cooperation and transparency from Participating Growers and field-level supervisors.

The Fair Food Program has provided FFSC - the Program's dedicated monitoring body - with access to all levels of Participating Growers' operations, from company owners to farm managers and crewleaders. Growers provide requested records, including company policies, training and injury reports, worker registration and payroll files, and documentation of Fair Food Premium receipts and distributions.

In the fields, on buses, and at migrant housing camps, FFSC investigators interview at least 50 percent of the workforce present at growers' operations each season. Interference with auditors' interactions with workers and field-level supervisors, in the form of intimidation or coaching, is strictly prohibited.

This unprecedented degree of insight into growers' operations and management systems has helped provide the perspective needed to identify barriers to compliance with the Code of Conduct. Each season, the problems and risks described in FFSC's comprehensive audit reports shape detailed Corrective Action Plans that serve as a roadmap to full implementation of Code standards.

In the early years of Program implementation, some company representatives and supervisors did not welcome additional scrutiny of their farming operations. FFSC faced numerous instances in which farm management or field supervisors interfered with auditing by coaching or intimidating workers. In each instance, FFSC required that farm management hold a meeting with the affected workers to issue an apology and reaffirm its commitment to the Program to avoid probation and/or suspension. Workers were assured of their ability to speak freely and confidentially with auditors, free from fear of retaliation. Corrective actions included disciplinary warnings and - in some instances - suspensions for the offending field-level supervisors. This was followed by retraining on transparency and cooperation, led by the FFSC.

Although FFSC still identifies occasional obstacles to full transparency and compliance, a strong working relationship has developed between FFSC investigators and Participating Grower staff. Those issues that are identified are resolved through growers' disciplinary procedures and the corrective action process.

During Season 6, cooperation with FFSC audits was the established norm for the vast majority of Participating Growers. Lack of cooperation from management resulted in significant obstacles to FFSC monitoring at only two farms, both of which were promptly placed on probation. At only one operation did non-cooperation result in significant problems interviewing workers. The responsible supervisor was disciplined and retrained immediately following the audit.

## Compliance In Practice

- Growers train workers and supervisors on the company's commitment to transparency and cooperation with the Fair Food Program.
- Growers are fully cooperative with audits - including scheduling, assistance with logistics, and unimpeded access to records, management personnel, workers, harvesting operations and housing.
- Field supervisors do not interfere with auditing procedures, including intimidation or coaching of workers.
- Failure to cooperate with audit procedures is subject to disciplinary action and - if unaddressed - is grounds for probation or suspension from the Program.
- Growers and FFSC work together to develop corrective action measures to address individual audit findings.

20,000  
Interviews with Workers

690  
Interviews with Labor Contractors

228 Field Operations Audits  
205 Financial Audits  
184 Management Audits

6839  
Audit Findings Addressed

169  
Corrective Action Plans



## Voices From the Fields

2013  
"We see you everywhere...  
Things are better since you are at the farms.  
You must keep coming back."

2016  
"There were no bathrooms, breaks, or shade.  
Now, everything is so much better."

2014  
"You used to feel alone... so alone."

2015  
"People were suffering, and they could not  
complain about abuses or they would be fired.  
But now there is the Fair Food Program,  
and people's rights are respected."

2017  
"It used to be that I counted down the  
minutes until the end of the day.  
Since the CIW, everything has changed...  
everything we need is provided."



## "Our investment has paid off."

In January 2015, a farm manager recalled how the Fair Food Program seemed like a burden at first, but that he has come to recognize the value of the changes it has brought. "I remember flipping through the Code of Conduct and asking: Shade? Time clocks? A Health and Safety Committee? But all of those things have made us a better company and created a better work environment for our employees."

He said, "It makes us feel good to see how our investment has paid off."

He compared the experience of implementing the FFP to when food safety requirements were first introduced in the early 2000s, before which farms were not required to have hand-washing stations or portable bathrooms in the fields. "You think about that now and realize how disgusting it was." He then talked about how the Florida tomato industry was one of the first industries to adopt food safety standards and is now considered a leading model. Contrasting the company's farms with conditions in Mexico, he reflected on how the Florida tomato industry is helping set the bar for socially responsible labor practices in agriculture.

He described how company crewleaders had told him about groups of workers who left the company to try working at a nearby tomato farm outside of the Program, only to quickly return and complain that the other company did not do a good job keeping track of workers' hours or pay, that there were no bathrooms or shade, and that supervisors were verbally abusive.



# Market-Based Enforcement

The FFP is an enforcement-focused approach to social accountability, and enforcement needs teeth to work. Market consequences - built into the Program through CIW's Fair Food Agreements with Participating Buyers - are the teeth of the Fair Food Program.

Participating Buyers agree to only purchase Florida tomatoes from Participating Growers in good standing. The farms of Participating Growers in six additional states must now also be in compliance with the Code. The same is true of the strawberry and pepper operations that have joined the Fair Food Program. In the event that a grower is suspended, Participating Buyers are required to suspend purchases from the Participating Grower until that grower is returned to good standing.

For buyers, benefits of FFP participation include transparency and elimination of supply chain risks at a time when consumers - with access to instant information - are increasingly aware of the conditions under which their products are produced, and expecting corporations to do their part in addressing the pressing social problems of the day, from climate change to sexual harassment.

Through the Program's collaborative complaint resolution and corrective action procedures, Participating Growers are given multiple opportunities to address Code violations. Initial failure to address violations through agreed-upon corrective actions may result in probationary status, while continued failure to address Code violations results in suspension from the Program.

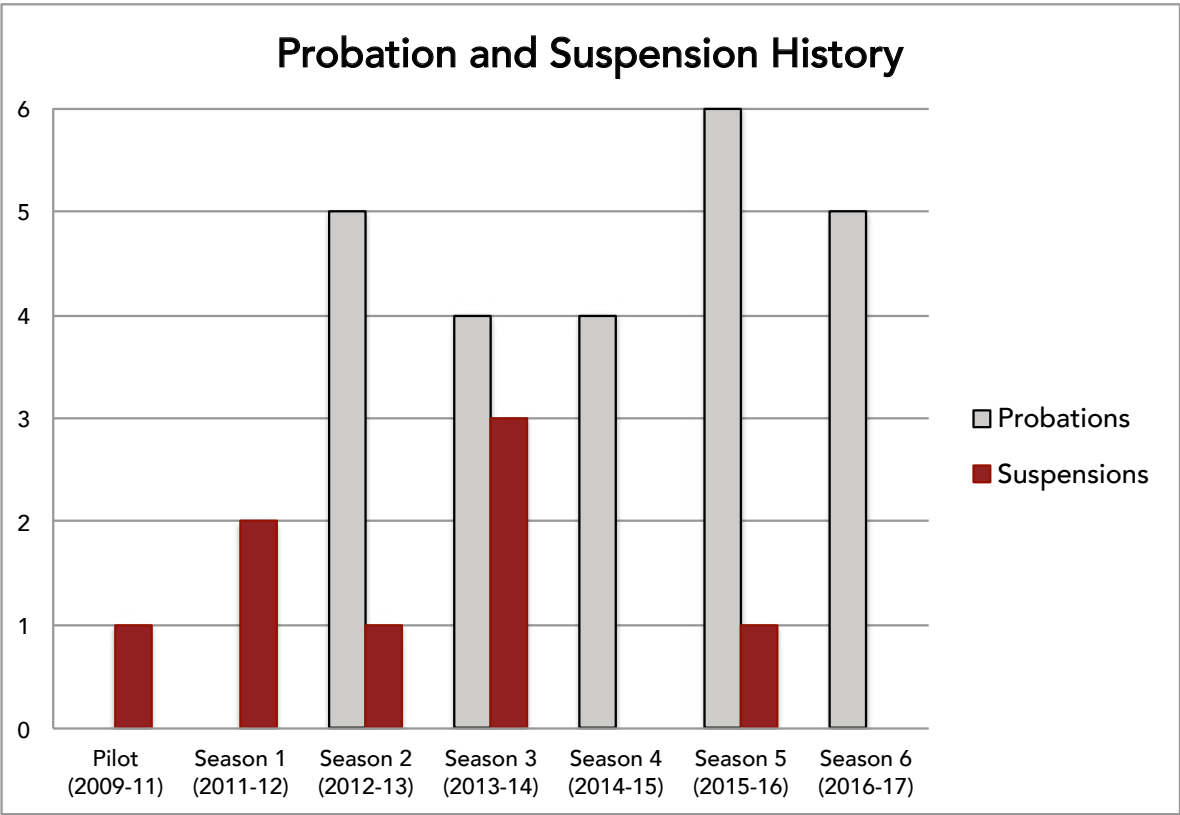
If Participating Growers do not come into compliance with the Code through agreed upon corrective actions, they simply cannot sell to Participating Buyers.

For growers, benefits include (but are not limited to): becoming employers of choice; reducing turnover and increasing productivity; preventing risks, including lawsuits and administrative fines and penalties; improving management systems; reducing workers' compensation costs; and obtaining verification of ethical labor practices, thereby giving them a competitive edge with buyers.

Together, the promise of preferred purchasing and the legitimate threat of diminished market access have worked as powerful drivers of compliance. Over the life of the Program, most growers have reacted to market consequences by substantially and continually improving their compliance with the Code of Conduct.

As seen in the "Probation and Suspension History" chart to the right, nearly all suspensions to date took place in the FFP's first three seasons, the same timeframe in which compliance also saw its most drastic improvement. Throughout the history of the Program, no Participating Grower has been suspended twice.

At the same time, the number of annual probations has remained steady since Season 2. These trends demonstrate that, although suspensions have become increasingly rare over time, market consequences have remained essential to maintaining high levels of compliance.



## Compliance In Practice

- Participating Buyers only purchase covered produce from Participating Growers in good standing.
- Participating Buyers halt purchases from growers who have been suspended from the Program.
- Zero-tolerance findings of forced labor or child labor at a Participating Grower's operation result in immediate suspension.
- A grower's failure to terminate supervisors found to have committed acts of violence, or sexual harassment with physical contact, results in suspension from the FFP.
- Participating Growers are given repeated opportunities to remedy violations through a collaborative complaint resolution and corrective action process.
- A grower's failure to remedy violations addressed in Corrective Action Plans may result in probationary status.
- Persistent failure to address Code violations results in suspension from the Program.

90 Days  
First Suspension

180 Days  
Second Suspension

365 Days  
Additional Suspensions

7  
Suspensions

24  
Probations

0  
Number of growers that have been suspended twice

"FFSC monitoring and enforcement are effective because there is a real hammer: loss of market share imposed by the brands..."

- Jim Brudney,  
Crowley Chair in Labor and Employment Law,  
Fordham University<sup>45</sup>



Photo: Shane Donglasan



# Zero Tolerance Provisions

## Forced Labor • Child Labor • Violence • Sexual Assault

All participants in the FFP have committed themselves to the eradication of forced labor, child labor, violence, and sexual assault, which represent the worst offenses suffered by thousands of farmworkers over many decades.

The Code requires termination of supervisors found to have violated the Code's zero-tolerance provisions. Any such offenders are ineligible for employment at Fair Food Program farms for two seasons to five years, depending on the offense. Retraining acceptable to FFSC must be completed before employment eligibility at Participating Growers can be reinstated. A second offense results in a lifetime ban from Fair Food Program farms. Failure by a Participating Grower to impose these sanctions results in suspension from the Program.

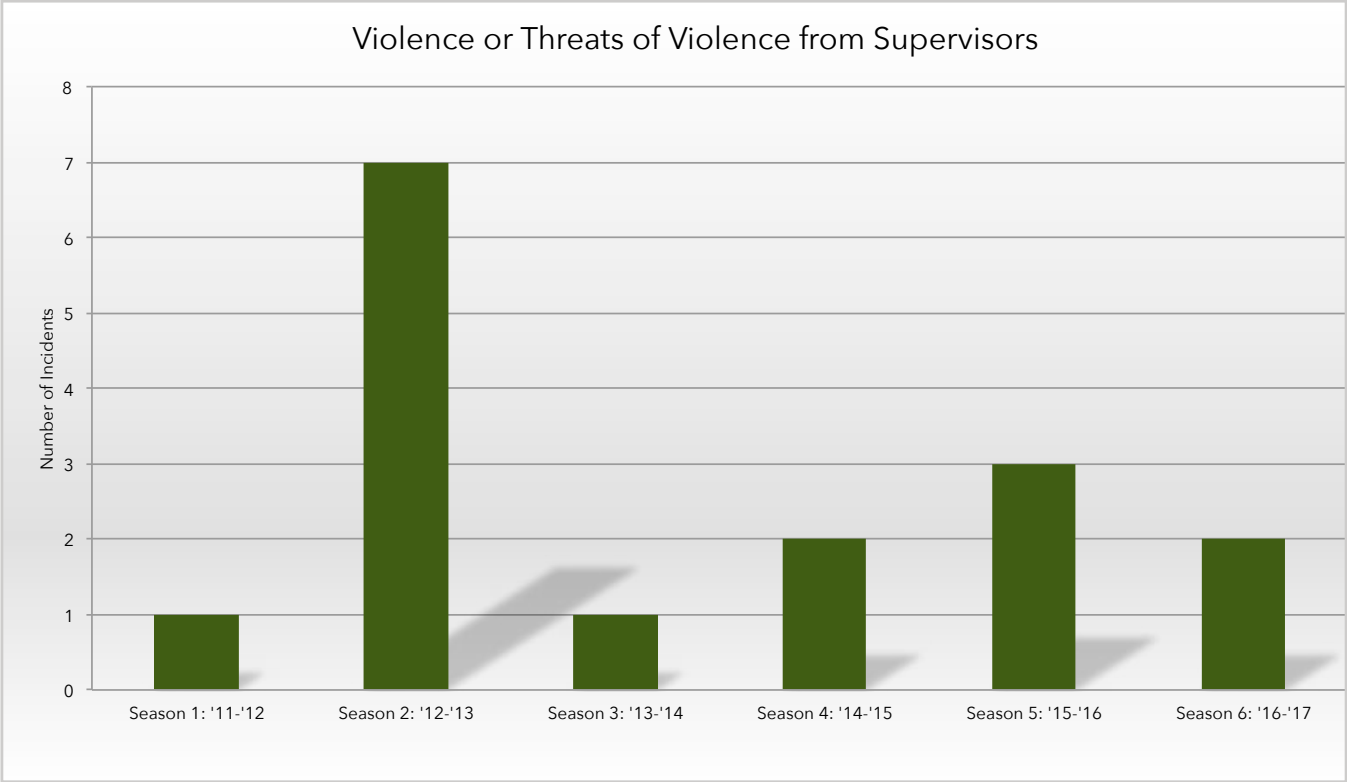
As a result of worker complaints and audit findings, FFSC and Participating Growers have worked together to rid the industry of its worst actors and publicly affirm the Code's zero tolerance provisions.

Between Seasons 1 and 6, there have been a total of nine valid cases that involved sexual harassment with physical contact, as shown in the chart below. In each case, the offending supervisor or co-worker was

promptly terminated. Cases of sexual harassment by supervisors with any type of physical contact have been virtually eliminated, with only one such case found since 2013.

In addition, between Seasons 1 and 6, FFSC resolved a total of 11 cases that involved a total of 10 supervisors committing or threatening violence against workers. Complaint resolutions included nine terminations of offending supervisors and one demotion from a supervisory position. Additionally, four other supervisors were provided with final warnings for failing to take proper action to prevent, intervene in, or participate transparently in investigations of these incidents.

During the Program's first four seasons, FFSC found no cases of forced labor on FFP farms. When workers and FFSC uncovered a forced labor case during Season 5 – a case that arose because the FFP's prevention mechanisms were ignored by the grower – the Program's complaint notification and investigation procedures enabled the swift investigation, resolution, and prosecution of the perpetrator (see Mendez Slavery Case). Season 6 saw even further tightening of FFP-recommended prevention systems at the farm impacted by this case and no further cases of forced labor.



## Compliance In Practice

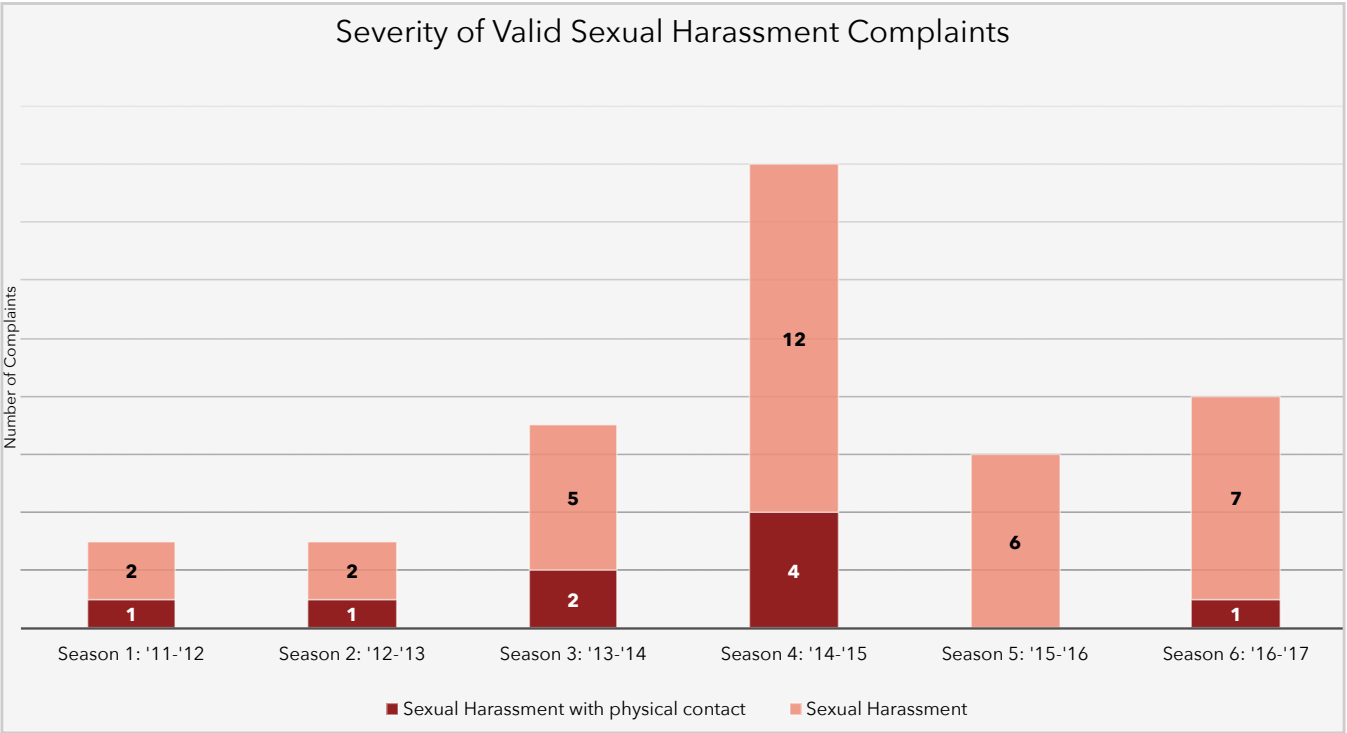
- Upon notification of complaints alleging violations of zero-tolerance provisions, growers facilitate FFSC investigations by providing access to witnesses and records.
- Interviews conducted by FFSC and the grower are prompt and carried out under circumstances that protect the confidentiality and safety of witnesses.
- Credible claims of forced labor and child labor are referred to law enforcement. Assistance is provided to any complainants who wish to file criminal or civil charges in cases of violence or sexual harassment.
- Investigations are cooperative, not adversarial.
- In confirmed cases of forced labor or child labor the Participating Grower is suspended.
- In confirmed cases of sexual harassment with physical contact or violence by supervisors, the perpetrator is terminated and banned from FFP employment. Failure to terminate such individuals results in suspension of the Participating Grower.

0  
Child Labor Cases

1  
Forced Labor Case,  
Resulting in Prosecution and Suspension

9  
Cases of sexual harassment  
with physical contact.  
All offenders were terminated.

9  
Supervisors banned from FFP farms  
for physical violence  
or threats of physical violence





# CIW's Anti-Slavery Program

Before the establishment of the Fair Food Program, the CIW's Anti-Slavery Campaign had spent years uncovering, investigating, and assisting in the prosecution of numerous farm slavery operations across the Southeastern U.S. Through their work, Coalition members helped to liberate over 1500 workers held against their will, and put over a dozen farm bosses in prison for sentences of up to 30 years.

The U.S. Department of State called the CIW a “pioneer” in the worker-centered and multi-sectoral approach to slavery prosecution, and hailed the CIW’s work on some of the earliest cases of slavery as the “spark” that ignited today’s national anti-slavery movement. Since those early cases, the CIW has continued to shape the national movement against slavery, playing a key role in the passage of the 2000 Trafficking Victims Protection Act, being appointed by the Florida legislature to the Statewide Human Trafficking Task Force, and co-founding the national Freedom Network USA and the Freedom Network Training Institute (FNTI). Through the FNTI, the CIW trains state and federal law enforcement and non-governmental organizations throughout the U.S. on how to identify and assist people held against their will in slavery operations. CIW's expertise has been called upon by international organizations ranging from representatives of law enforcement and the military of several countries, to the United Nations and the European Union.

The Fair Food Program represents the newest phase of the CIW’s anti-slavery efforts: Prevention.

Through the market consequences built into the FFP - including zero tolerance for forced labor - Participating Growers are encouraged to actively police their own operations. At the same time, the worker-to-worker education program at the heart of the FFP informs and empowers tens of thousands of workers to act as monitors who identify and expose slavery operations wherever they might be present. The Program's direct hire requirement also ensures that compensation goes directly to workers, thereby removing a major source of power held by contractors who had traditionally been the perpetrators of forced labor.

## Mendez Slavery Case (2016)

During Season 5, the Program's risk prevention, detection, and corrective action procedures were put to the test by a case of forced labor that was uncovered by FFSC in February 2016. Each mechanism functioned exactly as intended.

First, many months before the actions that gave rise to this case, the perpetrator had been listed on FFSC’s website and publicized to all Participating Growers as ineligible for hire on FFP farms. Within three weeks of the perpetrator’s hire despite this ban, worker complainants and witnesses called the FFSC complaint hotline to report his violent conduct. A team of FFSC investigators was immediately dispatched.

Within two weeks, FFSC had gathered sufficient evidence to call for a meeting with the U.S. Attorney’s office. Based on that evidence, and with FFSC and CIW’s ongoing assistance, within a month of the initial calls to FFSC’s complaint line, arrests were made and an indictment for charges related to forced labor was filed.

The perpetrator, who remained incarcerated, was sentenced to six years in January 2017, while victims have received legal assistance and counseling through VIDA Legal Assistance, as well as job referrals to safe situations at other FFP farms. The grower involved was suspended based on the FFP’s zero tolerance provisions for forced labor, and FFSC’s decision to suspend was affirmed by an arbitrator following appeal.

Department of Justice  
U.S. Attorney’s Office  
Southern District of Florida  
FOR IMMEDIATE RELEASE  
Thursday, January 19, 2017

### Two Mexican Nationals Sentenced to Prison for Participating in Forced Labor Scheme

Two Mexican nationals, who were working in the Homestead, Florida, area and elsewhere, were sentenced today to prison for their participation in a conspiracy to obtain and provide forced labor.

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, and Mark Selby, Special Agent in Charge, U.S. Immigration and Customs Enforcement, Homeland Security Investigations (ICE-HSI), Miami Field Office, made the announcement.

Agustin Mendez-Vazquez, 44, and his son, Ever Mendez-Perez, 24, both originally of Mexico, pleaded guilty before U.S. District Judge Robert N. Scola Jr. in October 2016. Agustin Mendez-Vazquez pleaded guilty to one count of conspiracy to provide and obtain forced labor, in violation of Title 18, United States Code, Section 1594(b), and was sentenced to 72 months’ imprisonment. Ever Mendez-Perez pleaded guilty to one count conspiracy to encourage and induce illegal aliens to reside in the United States, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(v)(I), and was sentenced to twelve months’ imprisonment. Agustin Mendez-Vazquez has also been ordered to pay restitution to the victims of his scheme.

“Forced labor equates to modern-day slavery and the United States Attorney’s Office, together with our federal, state, and local law enforcement partners stand ready to prosecute those individuals who facilitate these illegal practices,” said U.S. Attorney Ferrer. “Agustin Mendez-Vazquez and Ever Mendez-Perez’s convictions stand as a reminder to the public that the law enforcement community will not tolerate human trafficking - in any form. We urge anyone with information regarding human trafficking and forced labor practices to contact the police.”

"When individuals are forced and exploited for their labor, it erodes our society's belief in the freedoms afforded to us under the laws of our nation,” said Mark Selby, Special Agent in Charge of HSI Miami. “HSI will continue to investigate this type of illegal activity and ensure that those responsible are brought to justice.”

According to court records, Agustin Mendez-Vazquez, who worked as an unlicensed labor subcontractor on tomato farms in the Homestead area and elsewhere, utilized physical force, threats of physical force, threats of deportation, and debt bondage to maintain control over other migrant workers. Workers in Mendez-Vazquez’s control were beaten if they did not work every day; were subjected to harassment and abuse; and were required to relinquish large portions of their paychecks – sometimes their entire paychecks – to Mendez-Vazquez. Ever Mendez-Perez, who worked with his father, assisted in maintaining and supervising the migrant workers.

The United States Attorney’s Office for the Southern District of Florida, in collaboration with ICE-HSI, leads the South Florida Human Trafficking Task Force, which works to increase public awareness, rescue victims, and prosecute traffickers. The task force is composed of not only federal, state, and local law enforcement agencies, but also includes non-law enforcement partners, such as service providers, victim advocates, faith-based organizations, academic representatives and community members.

The Fair Food Standards Council, a non-governmental organization that monitors and enforces the rights of migrant farmworkers in the Fair Food Program, referred this matter to law enforcement. Mr. Ferrer would like to thank the Fair Food Standards Council, as well the Coalition of Immokalee Workers, the International Rescue Committee, and VIDA Legal Assistance, Inc., for their assistance with this case.

Mr. Ferrer commended the investigative efforts of ICE-HSI. The case was prosecuted by Assistant U.S. Attorney Benjamin Widlanski.

Related court documents and information may be found on the website of the District Court for the Southern District of Florida at [www.flsd.uscourts.gov](http://www.flsd.uscourts.gov) or on <http://pacer.flsd.uscourts.gov>.<sup>46</sup>



# Sexual Harassment & Discrimination

In addition to zero-tolerance provisions against violence and sexual assault, Participating Growers must provide all employees with training on the prevention of sexual harassment and discrimination, including sexually charged language and other conduct that contributes to a hostile environment. Supervisors and workers are informed of disciplinary consequences for all forms of sexual harassment.

During Season 6, 100% of Participating Growers had implemented company-led trainings for workers and supervisors on the prevention of sexual harassment and discrimination based on gender, race, national origin, or sexual preference. Growers continue to work towards or maintain best practices, including ensuring that all field-level supervisors understand their roles in responding to and preventing violations of these policies. During the 2016-2017 season, FFSC received no worker reports of sexual harassment or discrimination at over 70% of FFP farms.

These measures have brought an end to impunity for discrimination and sexual harassment at Fair Food Program farms. Cases of sexual harassment by supervisors with any type of physical contact have been virtually eliminated, with only one such case found since 2013. Since the start of the FFP, 35 supervisors have been disciplined for sexual harassment as a result of complaint resolutions or corrective actions that addressed audit findings. 11 of those supervisors were terminated and banned at FFP farms. Season-by-season data on sexual harassment is displayed below. During Season 6, there was one valid case of sexual harassment with physical contact by a supervisor, which resulted in the supervisor's immediate termination. Season 6 also saw five valid cases of sexual harassment without physical contact by a supervisor, each of which resulted in swift supervisor discipline, including three final warnings and two terminations.

Cases of discrimination have also been dealt with promptly and effectively through the Program's complaint mechanism. There has been an increase in the number of Haitian workers on FFP farms over the past two seasons, and FFSC has increased its native Creole-speaking staff accordingly.

This has allowed Program monitoring to respond promptly to issues facing these workers, including discrimination and lack of Creole-speaking grower staff who can adequately address their concerns. FFSC has resolved 40 cases of discrimination stemming from the conduct of 24 supervisors and 12 co-workers, as well as a number of company policies and practices. As a result, in addition to changes in company policies and practices - including gender-based work assignments - all supervisors were subject to disciplinary action, including five terminations, 10 final warnings and 11 verbal warnings. In cases involving co-workers, resolutions included three terminations, three final warnings and nine verbal warnings.

As part of case resolutions and audit corrective actions, extensive crew-wide meetings and re-trainings on company and FFP policies have also been held, to reinforce standards and ensure the prevention of sexual harassment and discriminatory conduct. Participating Growers' supervisory staff have also largely accepted their responsibility to prevent hostile environments and to respond effectively to complaints of sexual harassment and discrimination. This has resulted in reports by the overwhelming majority of workers during FFSC audits of vastly improved work environments.

Starting in 2014, the Fair Food Program became the host site for the development of an innovative curriculum on sexual harassment prevention, specifically designed to address abuses suffered by workers in agriculture. Collaborating with several stakeholders - including Pacific Tomato Growers, Futures Without Violence, and VIDA Legal Assistance - FFSC developed the first culturally appropriate training curriculum for workers and supervisors in agriculture to address the impacts of sexual violence and sexual harassment in the workplace, as well as domestic violence that may be suffered by workers. This project created a powerful new tool for combatting gender-based violence and sexual harassment, and has helped set the national standard for addressing these abuses in the agricultural sector.

## November 2013

A male worker who observed that, at so many farms, women risk losing their jobs if they speak out against harassment or reject the advances of a supervisor. He remarked how different the environment is at FFP farms.

He added that, as a man, he believes that a more respectful work environment benefits him as well, and he is very relieved to work in a place where women are not treated poorly.

## November 2015

A female worker who had worked in the Florida tomato industry for 10 years noted the drastic improvements brought to the fields, which had once been an abusive and uncomfortable work environment for women. The worker shared that she now only works at FFP farms, because the work environment is much better in general, but in particular with regard to the way in which women are treated.

"I was woken up when the FFP started because I've been working in this industry for many years, and now there are no more abuses for women -- especially single women. Before the FFP, when single female workers would go the fields, men would bother them and ask if they had husbands and if they wanted to go out with them, but the women just wanted to work. We came to work, not to look for husbands."

## Harvest Without Shame

### April 2016

A transgender worker spoke at length about the respect that she and others on her crew receive:

"Here, we respect others so that we also will receive respect. Although we are very diverse, we all treat each other with respect, without humiliation or yelling, and because of this our crew is a great place to work."

### August 2017

A Haitian worker complained about a field supervisor who he believed was discriminating against Haitians. After FFSC worked with the Participating Grower's HR staff to resolve the complaint, the worker expressed his relief.

"Thank you for helping get this enormous weight off my chest. I feel like a tractor-trailer has been lifted off me. The work is difficult, but it is fine when we all get along. I was tired of going to work thinking 'what is going to happen today?'"

## Compliance In Practice

- Workers are trained on how to make confidential complaints to supervisors, company staff, and FFSC.
- Field-level supervisors are regularly trained on their obligation to report sensitive complaints, as well as their responsibility to actively discourage sexual harassment and discrimination in the workplace.
- Participating Growers demonstrate the ability to effectively handle sexual harassment and discrimination complaints, including how to maintain confidentiality and perform an effective investigation.
- Supervisors found to have engaged in sexual harassment with physical contact are immediately terminated and banned from FFP farms.
- Supervisors terminated for less severe forms of harassment or discrimination are also banned from employment at FFP farms for shorter suspension periods.

100%

Growers have implemented trainings on the prevention of sexual harassment and discrimination

35

Supervisors disciplined for sexual harassment since Season 1

10

Supervisors terminated for sexual harassment since Season 1



Photo: Smriti Keshari



# Direct Hiring

In much of US agriculture, growers typically pay farm labor contractors (crewleaders) who are the direct employers of farmworkers. This type of employment arrangement helps to insulate growers from legal liability for what takes place on farm property, while making it more difficult to detect and address abuses experienced by farmworkers - including forced labor, wage theft, unsafe working conditions, sexual violence, and unauthorized transportation in dangerous vehicles.

For this reason, one of the Code's fundamental provisions requires Qualifying Workers\* to be hired and paid directly by Participating Growers. Ensuring that workers are employees of Participating Growers means that growers accept the important responsibility of guaranteeing proper compensation for all work, Workers Compensation coverage for work-related injuries and illnesses, and dignified working conditions for farmworkers who labor on their property.

The FFP additionally requires that all registration and training take place - and that all workers be issued a photo ID badge required for tracking attendance and hours - prior to starting work, helping reduce the risk

that workers could work under the control of labor contractors for several days and leave without company knowledge.

During Seasons 1 and 2, 100% of Participating Growers had implemented procedures to place their production and harvesting crews on company payroll. By the end of Season 3, 100% of Participating Growers adopted the unprecedented practice of including vine-ripe workers on company payroll. By the end of Season 4, nearly all growers had fully implemented standardized procedures to ensure that all Qualifying Workers, including vine-ripe workers, were registered and provided with ID and/or time cards before starting to work in the fields. In Season 6, 88% of FFP farms were fully compliant with all worker registration requirements. At only one farm did FFSC identify a systemic failure to register vine-ripe workers, and at only two farms did FFSC identify instances in which some workers were permitted to work prior to registering with the company. Each of these three growers was placed on probation at the end of Season 6.

## Compliance In Practice

- Participating Growers directly hire all qualifying workers as employees, and ensure proper compensation and proper working conditions.
- Workers complete registration paperwork and receive company photo ID cards - necessary for attendance and timekeeping - before beginning work in the fields.
- Crewleaders and supervisors found to bring unregistered workers onto farm property are subject to immediate discipline. Termination is mandatory for a second offense.
- Findings of unregistered workers are grounds for probation, and, if unaddressed, for suspension from the Program.



\* According to the Fair Food Code of Conduct: "Qualifying Workers are non-supervisory workers performing the following tasks related to growing tomatoes for a Participating Grower: harvesting, irrigation, planting, laying plastic, staking, tying and miscellaneous work of a similar nature that does not involve the operation of vehicles or machinery. Field walkers and dumpers are not Qualifying Workers."



Photo: Smriti Keshari

## Enforcement In Action

In the Florida tomato industry, a subset of tomato harvesting operations included "pinhooker" crews that harvest 5-10% of the tomatoes that ripen before or after the rest of the crop, and which are marketed as vine-ripe tomatoes. This highly informal, undercapitalized segment of the tomato industry had often operated on a foundation of unlicensed contractors, dangerous and illegal transportation practices, and cash payment arrangements. As a result, it was a sector of farm labor disproportionately responsible for abuses - including forced labor and wage theft.

Before the start of the 2013-2014 season, all Participating Growers were informed that they would be required to hire these workers

as company employees, and to treat them as Qualifying Workers.

Growers must also now ensure that vine-ripe crewleaders involved in recruitment and transportation have state and federal Farm Labor Contractor licenses, and utilize vehicles that are properly insured and inspected.

Within the span of a single season, 100% of Participating Growers adopted the practice of placing vine-ripe workers on company payroll. This signified a dramatic change for those who had borne the risks of working in this previously unmonitored sector. On FFP farms, they are now covered by Workers Compensation, and receive the same training and rights as all other Qualifying Workers.



# Progressive Discipline

Before the Fair Food Program, any worker whose production or conduct displeased a supervisor could be fired on the spot or simply not allowed to board the labor bus the next day, often amounting to arbitrary and summary dismissal. Under these circumstances, complaining about working conditions was virtually impossible.

In a dramatic change, Participating Growers have been required to adopt the concept of progressive or escalating discipline. Growers’ disciplinary policies must now include verbal and written warnings for most violations of company policy, with opportunities for re-training prior to termination. Terminations require the involvement of upper management, rather than being left to the discretion of crewleaders.

Supervisor training must now clarify that disciplinary measures are not to be imposed on workers for

exercising their rights to complain about working conditions, and that grower management must be involved in decisions to terminate workers. Supervisory employees at Participating Growers are also informed that supervisors are subject to escalating discipline for failure to implement FFP standards.

All Participating Growers (100%) have established progressive discipline policies, and actively train their employees on escalating discipline. During Season 6, all workers and supervisors at 88% of FFP farms demonstrated full awareness of these policies, and FFSC documented only one instance in which a worker was arbitrarily terminated by a crewleader. In that instance, as with any case in which a supervisor fails to properly implement the progressive disciplinary policy, the offending supervisor was subject to a disciplinary warning and the terminated worker was invited by the grower to return to work.

## Compliance In Practice

- Workers are not normally terminated before first being issued at least one verbal and one written warning.
- Crewleaders no longer have sole discretion to terminate workers’ employment.
- Supervisors are also subject to discipline, up to and including termination, for failure to comply with FFP and company policies.

100%  
Growers that have implemented  
progressive disciplinary procedures

88%  
Participating Growers fully compliant with  
progressive discipline standards

# Guestworkers

while on Fair Food Program farms, are addressed in a collaborative manner between the Participating Grower, FFSC, and SNE. Additionally, FFSC is working with SNE to ensure that, in areas with significant numbers of indigenous language speakers, such as Chiapas, where many H-2A workers are recruited, pre-departure education on their rights (including the issue of recruitment fees) is provided in the languages that workers understand best, in addition to Spanish.

During Season 6, three reports were received by a Participating Grower’s human resources staff of fees that were charged to workers by individuals representing themselves as official recruiters, as well as similar practices by returning H-2A workers or their family members. As a result, SNE carried out an investigation on the ground in the locations named in these reports. The principal perpetrator named in workers’ reports, who had no present or past connection to SNE, was identified and reported to the authorities, including the U.S. Embassy’s Anti-Fraud office. The returning workers identified as attempting to charge fees for information concerning available recruitment channels have been banned from eligibility for rehire by the Participating Grower and SNE. In addition to halting recruitment in the locations which generated these reports, SNE has engaged in an extensive public education campaign for present and potential H-2A workers on the free nature of its services and the fact that no worker should be charged for access to information or during any part of the recruitment process. The requirement that all recruitment must be carried out only by SNE staff - and that the use of any sub-contractors or “recommendations” from others is strictly prohibited - is emphasized. Information is also provided on how to make confidential complaints during the recruitment process with SNE, free of the fear of retaliation.

During Season 6, only one Grower used H-2A guestworkers. However, at least one additional grower will use guestworkers in Season 7 and national trends have demonstrated a swift increase in demand for and use of H-2A guestworkers over recent years. FFSC anticipates that a small number of additional FFP growers will begin using FFP’s required recruitment channel.

During Season 4, H-2A guestworkers were contracted for work on a small number of FFP farms for the first time. During its audits, FFSC identified illegal fees and extortion on the part of some Mexico-based recruiters, impacting significant numbers of H-2A workers. Seeking to utilize the FFP’s systemic approach to eliminating and preventing abuses, the program’s Working Group authorized FFSC to vet possible solutions to the H-2A recruitment issue. To that end, based on suggestions from workers in the FFP whose relatives had been recruited to work on farms in Canada through the Mexican Secretary of Labor and Welfare’s National Employment Service (SNE) without having to pay illegal recruitment fees, FFSC engaged in a series of discussions, including during a fact-finding trip to Mexico, with the U.S. Embassy, SNE, the Project on Organizing, Development, Education and Research (PODER), the Economic, Social, and Cultural Rights Project (PRODESC), and the United Food and Commercial Workers International (UFCW).

Based upon the lack of reports concerning recruitment fees charged to H-2A workers who availed themselves of SNE’s services, the FFP brokered now-mandatory agreements between SNE and Participating Growers that designate SNE as the sole recruitment channel for H-2A workers from Mexico into the Fair Food Program. This “clean channel” recruiting mechanism, incorporated in the FFP Code of Conduct and implemented as of January 2017, is intended to eliminate otherwise endemic illegal recruiting fees, as well as to protect workers against discrimination, retaliation and/or any other abuses in the H-2A recruitment or retention process. Like many other systemic solutions in the FFP, this pilot with SNE was worker-driven, from its inception to the creation of materials for Mexico-based worker education, and it will continue to be informed and improved by worker feedback.

To date, FFSC has noted increased worker confidence in the recruitment channel through SNE, matched by a drastic decline in reports of illegal recruitment fees, with none of the few reports received involving SNE personnel. As detailed below, any concerns raised by workers concerning their rights in the recruitment process, as well as their wages and working conditions

## Compliance In Practice

- Growers are the direct employers of any H-2A guestworkers on FFP farms.
- SNE is the sole recruitment channel for H-2A workers on FFP farms. Growers do not use informal recruitment channels and networks – notorious for fraud and extortion – in their attempts to recruit Mexican guestworkers.
- Growers work in coordination with the Mexican National Employment Service (SNE) to recruit and interview farmworkers.
- In addition to ensuring that all FFP standards are adhered to for guestworkers, FFSC verifies

full compliance with federal law on guestworker working conditions and pay. This includes requirements for growers to pay for travel and meals, provide adequate housing, and pay guestworkers at the Adverse Effect Wage Rate (AEWR). The FFP has adopted strict provisions on retaliation to ensure that no guestworkers are arbitrarily sent back to their home country without a proper review of the circumstances leading to their termination. Findings of retaliation can result in a Participating Grower being barred from using H-2A workers.

Photo: Shane Donglasan



# Fair Food Premium

Since 2011, historic change in farmworkers' traditionally sub-standard pay has been achieved through Participating Buyers' payment of over \$26 million in Fair Food Premium to improve workers' wages.

The Fair Food Premium, known as the "penny per pound," is paid by Participating Buyers on their Florida tomato purchases. It is designed to help reverse the downward pressure on farmworker wages exerted as a result of consolidated, high-volume purchasing. Workers receive the premium in their regular paychecks, as a clearly marked line item.

The specific rate of Fair Food Premium varies by tomato variety, and Participating Buyers' payment mechanisms are built on existing financial channels and payment schedules within the fresh produce supply chain. Buyers do not issue payment directly to farmworkers, nor do funds pass through any entities - including CIW or FFSC - outside the buyers' normal supply chains.

The Fair Food Standards Council carefully monitors the tomato purchases of Participating Buyers to ensure that Fair Food Premium is paid on all eligible purchases.

Specifically, this includes reconciling and testing monthly financial records (which include check and invoice numbers) submitted by Participating Buyers and Participating Growers, as well as conducting audits of growers' payrolls to ensure that 87% of the Premium is promptly and accurately distributed to workers as a line-item bonus on their paycheck. Growers are permitted to retain the remaining 13% of the funds to offset increased payroll taxes and administrative costs.

100% of PGs now have systems in place to ensure that distributions are consistently made to QWs in a timely manner. Furthermore, FFSC receives reporting on distributions on or before the required deadlines. In Season 6 - due to FFSC's increasingly sophisticated analysis of PGs' payroll systems and codes - an issue was uncovered which resulted in negligible amounts of distributions to ineligible low-level field supervisors at 46% of FFP farms. Based upon corrective actions taken by FFSC, it is estimated that approximately \$50,000 will be replenished to Fair Food Premium funds for distribution to QWs. After uncovering these issues, FFSC has worked together with the affected PGs to create and implement systems that fully adhere to the requirements of the Fair Food Program.

## February 2014

In an article published in the Ft. Myers News-Press, CIW member Wilson Perez described the Premium's impact in his life.

"Now, when there's work in the fields, Perez says his extra \$60-\$80 a week goes for food for his wife and 8-month-old son, his \$1,000 monthly rent and, most importantly, to send to his little brothers and sisters in Guatemala for their schooling."<sup>47</sup>

## November 2013

One worker, when informed about the source of the Fair Food Premium and Participating Buyers' role in enforcement of the Code, told auditors that he was excited to learn that some of the very same restaurants he eats at from time to time are also supporting the workers that harvest their produce.

## Compliance In Practice

- Participating Buyers submit monthly reporting to FFSC, which ensures that Florida tomatoes are only purchased from Participating Growers, and that Fair Food Premium is paid on all FFP tomato purchases.
- Participating Growers submit monthly reporting to FFSC, which ensures that Fair Food Premium is properly distributed to Qualifying Workers as a separate line item on their paychecks.
- Supervisory employees are properly excluded from Fair Food Premium distributions.

**\$26,000,000**  
Fair Food Premium  
paid by Participating Buyers

PARTICIPATING GROWER		Employee: Juan Sinmiedo		Check 200100						
Immokalee, FL 34142		Id: 87654		SSN:111-22-3333						
EIN: 12-123-1234				Ck Dt: 05/27/2016						
				From 5/13/2016 Thru: 5/19/2016						
Date	Type	Hours	Pieces	Rate	Deductions	Earnings				
5/13/2016	Fair Food Prog Bonus- Bono Comida Justa		1	51.02		51.02				
5/13/2016	Harvesting - Romas Piecework	7.00	142	65		92.30				
5/14/2016	Harvesting - Cherries Piecework	1.75	7	2.45		17.15				
5/14/2016	Harvesting - Tomatoes Piecework	5.00	166	60		99.60				
5/16/2016	Harvesting - Cherries Piecework	2.25	7	2.45		17.15				
5/16/2016	Harvesting - Romas Piecework	6.50	150	65		97.50				
5/17/2016	Tying - Hourly work	8		8.05		64.40				
5/18/2016	Harvesting - Cherries Piecework	3.00	20	2.45		49.00				
5/18/2016	Harvesting - Grapes Piecework	3.75	13	4.35		56.55				
						544.67				
Period	Hours	Gross	Other Pay	Fed W/H	Soc Sec	Medi	St W/H	St/Local	Other Ded	Net Pay
YTD	688.75	9183.32		5.87	569.37	133.16				502.46



**"The Bonus is really helping us and our families."**

Photo: Shane Donglasan



# Wages & Hours

Although federal law requires that farmworkers' compensable hours - starting at the time they are required to arrive to farm property - be recorded to ensure minimum wage compliance, the fraudulent manipulation of handwritten timekeeping records used to track workers' hours has long been a source of minimum wage violations in U.S. agriculture.

The Fair Food Program transformed these practices by mandating timekeeping systems that confirm whether farmworkers - who often work piece rate for their production - are paid at least minimum wage during the time they are required to be at work. Under the Code, and as enforced by FFSC monitoring, workers must be clocked in from the time they are required to arrive to farm property to the time that they depart. Participating Growers must use timekeeping systems that generate precise, verifiable records of how long workers are on farm property and workers must be in control of their own timecards when clocking in and out to ensure that all hours are recorded properly.

Failure to comply with these fundamental timekeeping requirements has been grounds for probation and suspension from the Program. 100% of all Participating Growers now use timekeeping systems as required by the Code. 100% of growers also consistently generate payroll from required timekeeping records, as opposed to crewleaders' handwritten records. During Season 6, on 33% of FFP farms, FFSC found isolated instances in which small numbers of workers were not clocked in for work on one or two workdays. In each case, FFSC confirmed that these workers were properly registered and compensated.

During Season 6, workers at 75% percent of FFP farms reported zero issues, and 90% reported no systemic issues, of wait time off the clock or other failure to properly record compensable hours. At the remaining

farms, the majority of problems identified by FFSC were isolated instances resulting from the failure of one or two supervisors to follow timekeeping rules. Only two FFP farms were found to have systemic issues of unrecorded compensable hours. As a result, both growers were placed on probation.

Enforcement of these Code provisions protecting against uncompensated wait time has had a dramatic impact on workers' quality of life. Participating Growers soon changed their practice of transporting workers to the field hours before work normally begins. Due to FFP enforcement of legal requirements, farmworkers' time is no longer expendable. Therefore, many growers recalibrated their practices so that arrival times more closely approximate the time at which work will actually start. This allows mothers and fathers to let their children get a full night's sleep and even take them to school, instead of rousing them before dawn to be left with a neighbor, often for a daily fee, because parents had to board a pre-dawn bus to the fields.

The Program has also required that Participating Growers develop systems to guard against other wage-related abuses that farmworkers commonly experience, including paychecks stolen by supervisors, incomplete paychecks lacking the information needed for workers to verify that they were paid in full, excessive or illegal deductions, and difficulties retrieving final paychecks after workers migrate at the end of a harvest season.

Together, the practices set in place by Program requirements have helped workers ensure that they are consistently and properly paid for their labor. Through FFSC audit findings and complaint resolutions, the Program has helped workers recover over \$250,000 in lost wages.



## Time for Dignity

"For 24-year-old Immokalee single mom Mely Perez [...] the extra cash to feed her two young sons is helpful, but what really feels historic to her is being able to make them breakfast in the morning before walking them to school from her tiny house..."

The FFP prohibits the longtime practice of hauling workers to the fields early, then making them wait to work until the dew dries. Now that unpaid time is a thing of the past, the Mexican-born Perez can spend her extra hours with her little boys."<sup>21</sup>

Ft. Myers News Press on February 16, 2014

In the days before the agreement, she'd slip out in the pre-dawn dark while the boys were sleeping to catch a bus for the fields, leaving them with a friend until she returned that night, aching and exhausted.

## Compliance In Practice

- Qualifying Workers are consistently clocked in upon arrival to a grower's property and clocked out only when ready to depart the grower's property.
- Workers control their own timecards.
- Electronic timekeeping systems - as opposed to supervisors' handwritten logs - are used to track workers' hours and generate payroll.
- Workers' paychecks are never given to crewleaders or other supervisors.
- Workers sign for and receive their own paychecks, or authorize a co-worker to do so in their absence.
- Payroll departments track and retain unclaimed paychecks.
- Growers have procedures to allow workers to forward their final paychecks by mail.
- Paystubs include workers' hours and earnings, and reflect no improper deductions.

\$251,178

Recovered Wages

100%

Participating Growers use Code-required timekeeping systems to generate worker payroll

30

Number of minutes it takes to walk a child to school in Immokalee

0

Number of minutes a farmworker should be working off-the-clock



Photos: Forest Woodward



# Bucket-Filling Standard

In addition to the Fair Food Premium, the Program has achieved further wage increases through the elimination of “cupping,” or the “topping off” of picking buckets. Cupping refers to the traditional practice of requiring workers to overfill their 32-pound buckets by heaping additional pounds of tomatoes on top.

Before the FFP was implemented in 2011, workers were not compensated for those extra pounds of tomatoes in each bucket. Therefore, for every eight to ten buckets picked and cupped, workers were actually harvesting - but not being paid for - an eleventh bucket. Before the FFP this practice was enforced by supervisor violence, withholding pay for un-cupped buckets and/or firing workers who refused to comply.

For many workers, the new visual bucket-filling standard has meant an additional wage increase of up to 10%.

During the first two seasons, the Program saw significant resistance on the part of crewleaders to enforcing the new standard, and failure to consistently enforce this requirement was a source of many worker complaints. However, between Seasons 3 and 6, the Program achieved the near elimination of this once common practice, as well as its accompanying violence and wage theft. Cupping is now an infrequent request by supervisors who know that giving such instructions will subject them to disciplinary action.

100% of all Participating Growers have effectively trained supervisors and workers on the Code’s bucket-filling standard. During Season 6, 92% of Participating Growers had fully implemented the visual bucket-filling standard. At the remaining farms, FFSC identified only isolated cases of cupping demands on one or two harvest crews.

“Not only on my crew, but on all crews, I hear that workers refuse to overfill their buckets...

The people know it is long gone - that it is history.”

-FFP Crewleader (April 2015)



Photo of the FFP visual bucket-filling standard training materials, produced by a Participating Grower and placed on the side of a tomato harvesting bin at a Fair Food Program farm.

## Compliance In Practice

- Supervisors and workers are effectively trained on the visual bucket-filling standard.
- Workers understand that they should not overfill or underfill buckets.
- Farm supervisors take an active role in enforcing the Code’s visual bucket-filling standard.
- Dumpers and crewleaders are subject to disciplinary procedures if they demand overfilled buckets.

10%  
Wage Increase from  
FFP Bucket-Filling Standard

92%  
Participating Growers fully compliant  
with the Bucket-Filling Standard



Photo: Shane Donglasan



# Health & Safety Committees

The Fair Food Program is also improving worker health and safety on the job. Under the Code, growers must assist workers in the formation of Health and Safety Committees at their farms.

Under the Code, Health and Safety Committees consisting of at least five members, with a representative from each crew, are required to meet monthly. These committees provide a channel of communication between the field-level workforce and management, enabling workers to convey a broad range of health and safety concerns, from heat exhaustion and other dangerous conditions - including lack of proper sanitation - to sexual harassment. Committee members should be identified to all workers on their crews, and adequate notice of meetings provided so that other workers can provide input or attend. Feedback must be provided to all crews, concerning topics

discussed and resolutions reached.

During Season 6, 42% of growers had Health and Safety Committees that were in full compliance with the Code, including convening monthly meetings with workers representing each crew and agendas that encourage workers to share their concerns with management, as well as mechanisms to inform other workers of resolutions implemented. Another 46% of Participating Growers have established Health and Safety Committees, and are working toward full compliance with Code requirements. Only 8% of Participating Growers did not have Health and Safety Committees on their farms during Season 6.

At the most compliant farms, during harvest, committee attendance is incentivized by compensating committee members at an hourly rate that exceeds minimum wage.

# Shade in the Fields

Heat injury and illness is a leading cause of work-related death for farmworkers in the U.S., a rate nearly 20 times greater than for non-farmworkers.<sup>48</sup>

The heat index in Florida regularly reaches the upper 90's during the growing season and easily exceeds 100 along the East Coast during summer months, as workers repeatedly bend over, fill a bucket with at least 32 pounds of tomatoes, haul and throw it up to a dumper on a flatbed truck, and then race back to start the cycle anew.

The provision of a safe and accessible shaded area, access to drinking water, and the ability to take breaks are thus critical to workers' health and wellbeing.

The Code requires provision of shade for workers in the fields at all times and locations that field work is performed. Workers must also consistently be provided

with access to clean drinking water and clean bathrooms, and be allowed to take breaks as needed throughout the workday.

100% of Participating Growers have purchased and distributed shade structures to their crews, and FFSC has observed steady increases in the quality of shade units at many growers' operations, including custom designs built to withstand field conditions.

During Season 6, 75% of Participating Growers were in full compliance with shade and bathroom requirements, with FFSC receiving zero reports of issues with accessibility or cleanliness. At the remaining operations, FFSC auditors identified limited issues with shade and bathroom accessibility for one or two crews, such as shade structures not being moved promptly as workers progress through the fields.

## Compliance In Practice

- Health and Safety Committees meet monthly and include a minimum of five qualifying workers total, and at least one worker from each crew.
- Growers keep meeting minutes and address any concerns raised during meetings.
- Meeting resolutions are effectively communicated to all workers.
- Committee members are compensated for time invested in meetings.



Photo: Shane Donglasan

## Compliance In Practice

- Durable, mobile shade structures, able to accommodate multiple workers at a time, are provided and made easily accessible to workers. Structures often include a bench for workers to rest and eat.
- Supervisors ensure that shade, bathrooms, and water are consistently accessible to workers throughout the workday.
- Workers take rest breaks as needed, in order to prevent heat stroke and dehydration.



117 °F  
Heat Index recorded  
by FFSC in Virginia

75%  
Participating Growers fully compliant with shade  
and bathroom requirements





### Lessons for Hollywood's women from tomato pickers in Florida<sup>49</sup>

November 30, 2017  
By Deepa Fernandes

Her workplace was not a safe place, and despite being a teenager, Isabela knew this for certain. It didn't feel OK that her bosses touched her, said sexual things and propositioned her constantly. But she saw it happen to other women, too. Even changing jobs didn't help. New bosses in new work sites did the same awful things, she said.

Isabela, who didn't want her full name used due to privacy concerns, has been a tomato picker in Florida's produce fields since the mid-'90s, when she was 15 years old and left Mexico with some friends in search of a better life. She didn't know then that what she was experiencing has a name — sexual harassment — and that when it happens in the workplace, it is illegal. But Isabela got to a point where she had had enough. And what she and other women farmworkers did might serve as a lesson for women in workplaces nationwide.

Long before the #MeToo campaign, women working the nation's agriculture farms have been reporting that the fields were not a safe or dignified place for them — rife with sexual harassment and abuse incidents. But now, Florida's tomato pickers say they've ended the problem in their workplace. It's a big claim, and it may still happen on odd occasions, but the tomato pickers there report that the culture of rampant abuse is no longer.

So, what did they do to stamp it out?

Isabela's own experience of trying to stop her bosses is an important part of the story.

Isabela realized that many women were targeted, and she began to feel it was just how the fields were. The women's work out there was supervised by men, who probably some years before had been pickers just like them. But the men had risen in the ranks. These men also were in charge of transporting the pickers from a central location in town to the fields. Called troqueros, these employees were the ones with the power to decide who worked the fields on any given day. Isabela said after about 10 years as a picker, this one particular troquero fixated on her and her friend.

"It wasn't easy. He would get in the truck and touch us, and we would say 'no.' And then one day he called me and told me to come to him because he had something to show me. He was the boss, the one who gave us the work, so I went and he was showing [me] some accounts and I didn't understand why he was showing it to me, right? Then he says that he likes me a lot and wants to have a relationship with me. I told him 'no,' that I wasn't looking for a relationship right now, that all I wanted to do was work and not have any problems, especially because he is a married man. He told me I wouldn't have any problems, that he would take care of everything; he'd pay my rent. I told him all I want to do is work. Then, he grabbed my hand and pulled me to him to touch him. I yanked back my hand. I felt bad. Sad. I wondered, 'Why is this happening? All I need to do is work.'"

After she refused his advances, he told her she no longer worked there. Now she was unemployed. A friend told her about an organization, the Coalition of Immokalee Workers, suggesting they might help her get her job back. It was a long struggle but CIW finally got justice for Isabela.

Yet, no one seemed pleased, not even Isabela. It didn't stop the abuse that was so widespread.

Lupe Gonzalo, also a tomato picker for years in the Immokalee fields and now an organizer with CIW, says they had a big battle on their hands. "Many times, it was the crew leaders who did the harassment," she said. Crew leaders are kind of like floor managers. They supervise and have the power to hire and fire. Their bosses, the executives of the large farms, at best, might have been ignorant to the abuses going on in their fields and at worst, just closed their eyes to it.

The problem was endemic across all the fields, Gonzalo said. So, Gonzalo and others at CIW began to identify ways to try and end the abuse. "It's that women don't know they have rights enshrined by law, that here sexual harassment is something punishable by law," she said. "Women didn't know this."

So, women pickers at CIW decided to make stamping out sexual abuse a major part of the campaign they were fighting for with other things such as better wages and work conditions. And this is when things really began to change.

#### Stamping out sexual harassment

On a recent Sunday evening in early November, the town of Immokalee was mostly shut down. Except for the laughter and marimba tinkering that came out of the Coalition of Immokalee Workers building: It was the weekly meeting of CIW's women's group. The Harvey Weinstein scandal had the women talking. The essence of the conversation was this: How is it these women with so much more money and status than them are still experiencing this harassment when these tomato pickers who earn minimum wage in backbreaking work have stamped it out?

"See, it's a problem we have eliminated, now women speak out," Gonzalo said. "When a woman feels safe to speak about the problems, the abuse can be stamped out because now the crew leaders and the abusers know there are consequences." Multiple female farmworkers in Immokalee said without question that in the past, sexual abuse was a constant problem, but now they no longer experience it.

According to Susan Marquis, dean of the Pardee RAND Graduate School, women realized there had to be consequences for abusive behavior. "Real-world sanctions," Marquis said, was one key part. The consequences for behavior that crosses the line, Marquis said, also had to be swift and visible to all. So, the Coalition of Immokalee Workers fought to have a safe complaint system written into their labor agreement — the Fair Food Program. In addition to better pay and improved working conditions, workers insisted on a way to address sexual harassment. And they added a small but hugely significant detail: an independent body to be the arbiter, Marquis said.

"Most violations take two or three days to investigate," she said. "But it's responding quickly, investigating thoroughly and then having real-world consequences. In the case of the farmworkers, it's the growers losing market share." Marquis has studied the CIW model extensively; she has a book on the subject coming out in December called, "I Am Not a Tractor! How Florida Farmworkers Took on the Fast Food Giants and Won."

Marquis said the labor agreement signed by the Coalition of Immokalee Workers in 2011 — the Fair Food Program — brought large tomato farms on board with the new workplace standards. One way they did this was to simultaneously convince the biggest purchasers in the country — think McDonald's, Walmart, Whole Foods — to only buy produce from fields that were part of the Fair Food Pro-



gram, which basically meant the tomatoes they would sell or cook came from fields where workers are treated justly. If a farm owner doesn’t take action against sexually abusive supervisors, there is an instant consequence — they won’t be in the Fair Food Program, and they cannot sell to the large tomato buyers. Their market disappears.

Jon Esformes is the co-CEO of one of Florida’s largest growers, Sunripe Certified Brands. He says this bottom-line incentive helps CEOs make sure their managers don’t abuse their power, but he insists, it’s also just the right thing to do.

“I’m not doing anything extra for our folks,” Esformes said. “I’m doing what I’m supposed to be doing in accordance with the law and our own company ethics and morality.”

Esformes employs thousands of immigrants to work in his fields, and with the Fair Food Program, this means his company pays a living wage, provides better working conditions like good bathrooms and shaded areas for break time. And they use hours when the workers are on the clock to do the mandatory sexual harassment trainings.

“We don’t use the words, ‘It’s no longer acceptable behavior,’” Esformes said. “We don’t talk about it in those terms, we talk about in terms of criminal behavior that will not be tolerated. And we will go after you.”

The Fair Food Program covers about 35,000 workers in the tomato fields in Florida. It's not nation-wide — yet — nor does it extend to other crops. Lupe Gonzalo says the Coalition of Immokalee Workers is trying to change that. And while they work on that, she thinks that some of Hollywood’s women, or even women in the public radio world, should take a page from the book of Florida’s tomato pickers.

“Just look at what we, women who have basically no opportunities, right, look at how we built this program. I think working together is the only way to change all these things that are happening,” Gonzalo said.



Audacious Social-Change Initiatives of the Past Century

We studied 15 social movements that defied the odds and achieved life-changing results to uncover lessons for today’s ambitious donors. Although we now take their success for granted, most of these initiatives took many decades to achieve breakthroughs.

THE ANTI-APARTHEID MOVEMENT	The institutionalized oppression of South Africa's nonwhites came to an end in the 1990s—more than four decades after apartheid first became law—thanks to a tireless campaign of social, political, and economic activism.
ARAVIND EYE HOSPITAL	Using a highly efficient surgical model and variable pricing, this hospital chain has reduced cataract blindness in Tamil Nadu, India, by more than 50% and serves all patients regardless of ability to pay.
CAR SEATS	By 2006, some 98% of U.S. children traveling by car were restrained in safety seats, reducing their risk of death in an auto accident by 71%.
CPR TRAINING	More than 18 million Americans a year learn this emergency procedure, administered to nearly half the people who experience cardiac arrest outside a hospital.
THE FAIR FOOD PROGRAM	Fast-food boycotts and other efforts led by migrant farmworkers significantly improved working conditions and increased wages for tomato pickers in Florida and other U.S. states.
HOSPICE CARE	This system of specialized palliative care, started in the late 1940s, now supports 60% of dying patients in the U.S.
MARRIAGE EQUALITY	A focused initiative of the LGBTQ agenda, this social movement culminated in the legalization of same-sex marriage in the United States in 2015.
MOTORCYCLE HELMETS IN VIETNAM	Helmets specially designed for tropical climates, along with a national helmet law and advertising campaign, raised rates of use in Vietnam from 30% to 95%.
THE NATIONAL SCHOOL LUNCH PROGRAM	By 2012, some 31 million U.S. children—more than half of all public school students—received free or reduced-price meals.
911 EMERGENCY SERVICES	Nationwide access to a trauma response system and other emergency services via a three-digit phone number was made available in the U.S. in 1968.
ORAL REHYDRATION SOLUTION	Widespread adoption of a sugar/salt rehydration mixture by Bangladeshi households resulted in a 90% reduction in children’s deaths from diarrheal diseases.
POLIO ERADICATION	Following the development of a vaccine in 1955 and decades-long inoculation efforts, polio has been virtually eradicated globally.
PUBLIC LIBRARIES	Early investment by Andrew Carnegie, coupled with long-running advocacy by interest groups, has provided 96% of Americans with easy access to free libraries.
SESAME STREET	The first TV show to achieve early-childhood learning gains, launched in the U.S. in the late 1960s, is now viewed by more than 156 million children around the world.
TOBACCO CONTROL	The long-term antismoking effort, started in the 1950s, eventually reduced smoking rates by more than 60% among U.S. teens and adults.

Excerpted from "Audacious Philanthropy" by Susan Wolf Ditkoff and Abe Grindle in the September-October 2017 issue of the Harvard Business Review.<sup>50</sup>



# THE NEW FOOD ECONOMY

## A food activist just won a MacArthur “genius” award. Why that’s a big deal.<sup>51</sup>

By Joe Fassler. October 12, 2017

In 2008, the John D. and Catherine T. MacArthur Foundation awarded one of its prestigious fellowships—the so-called “genius” grant—to urban farmer Will Allen. The award, more commonly given to artists, public intellectuals, and scientific researchers, was big news, and a rare honor in the food world. It also turned out to be prophetic. In the years that followed, issues surrounding regional food systems, food access, and food insecurity—the challenges Allen addressed at his Milwaukee farm and educational center, Growing Power—went mainstream.

This week, when the MacArthur Foundation awarded its 24 fellows for 2017, the list included the first non-academic working on food system issues since Allen. It may be a sign of which food-related topic will go mainstream over the next ten years: labor standards in the supply chain.

In 1993, Greg Asbed co-founded the Coalition for Immokalee Workers (CIW), a workers’ rights organization that helped end systemic abuses—including human slavery—in Florida’s tomato fields. Over the years, he helped develop CIW’s standards into a broader framework called the Fair Food Program (FFP), signed on to by some of the biggest retailers and fast food chains in the world.

More recently, Asbed worked to codify those standards into the Worker-Driven Responsibility Network (WSR), a model that helps weed out human rights violations across the supply chain. It works on what he calls the “two pillars” of worker participation and market-based enforcement. The program collaborates with workers to draft industry-specific standards, mandates a 24-hour complaint mechanism for employees, requires rigorous audits, and has corporate buyers sign binding legal agreements that require them to purchase only from suppliers who are in compliance with human rights.

As the MacArthur Foundation put it in its citation: “WSR is a bottom-up approach that ensures human rights are respected in the workplace; workers play a central role in establishing work condition standards and codes of conduct and have transparent channels for monitoring and enforcing those standards.”

Asbed and I spoke about the program’s approach, its success, and why he thinks food labor issues are finally ready to go mainstream.

**In the past two decades, America has begun to change its relationship to food, a massive cultural shift mostly focused on ingredients, health and nutrition, and—to some degree—farming practices. For now, labor considerations still seem not to be as front-of-mind for most people as things like local sourcing and avoiding trans fats. Do you think that’s about to change?**

I do think that aspect of what we could call a truly sustainable agricultural system is lagging a bit behind, that it’s been lapped by food safety, or the use of pesticides, or organic versus conventional, or other sustainability concerns. Those things led the parade because people tend to act based on self-interest. But I also think [labor] is catching up.

The fact is that no one really wants to be part of gross exploitation of other human beings. And they will think differently about their purchasing decisions if they are informed about the conditions that the workers who picked their food are facing in the field.

I’ll give you an example. A lot of times when I talk to people, I ask audiences to do a thought experiment. I’ll say: Imagine you’re driving down a country road on a beautiful summer day, and there’s a farm field on either side. You come across this perfect, idyllic farm stand selling fruits and vegetables by the side of the road. You love that kind of stuff—I love that kind of stuff. So you pull in, you get out in that gravel parking lot, and you see this array of the most colorful, freshest fruits and vegetables you can imagine. You fill your bag, and you go to the cash register. And when you get there—you know, that cashier’s friendly, smiling, ringing up your stuff. But suddenly, before you get a chance to pay for it, you hear a scream from the field that’s behind the stand.

When you look over the cashier’s shoulder, you see a woman being sexually assaulted in the field. And then you realize, as you start to look around, that there’s another worker on his knees getting beaten by his supervisor. Now, how would that make you react as the cashier rings you up and says, “That’s \$18.75?” Are you just going to go ahead and pay that money? Or would you stop, demand to know what’s going on, and try to help the people getting beaten and assaulted?

When I ask audiences this question, invariably 100 percent of the people in the room raise their hand to say: ‘Yes, I would not buy that food, I don’t want to buy that food, and I’d do what I could to fix it.’ But the fact is, those things happen on American farms—especially on the larger conventional farms—every day in this country, and that’s been the reality for generations. Sexual harassment and sexual assault are daily occurrences in the fields. Violence against workers is by no means unheard of. Wage theft and a whole range of abuses happen. And because it happens outside of our vision—because we’re not standing their looking over the cashier’s shoulder—and therefore it happens outside of our mind. But that’s changing.

Because this is the 21st century, because there is this democratization of information, we’re able to communicate the fact that those conditions all occur all too often—that 80 percent of women in the fields report experiencing sexual harassment and sexual assault on the job. But the ability to communicate is not going away. And as the years progress, consumers will be more and more informed. If that thought experiment is any indication, it’s going to be a major factor in how people decide to buy their food in the future.



### **What's stopped labor from being a more mainstream food issue than it is?**

It's really just a question of awareness. But the awareness around labor conditions is growing. When we started the Campaign for Fair Food, we analyzed that the poverty of farmworkers in Immokalee, Florida, wasn't driven so much by local actors—the growers and crew leaders. It was driven, more than anything else, by the multibillion dollar retail food companies that could leverage their volume purchasing power to demand ever lower prices at the farm gate. It was this that drove down wages for farm workers, and conditions for farm workers.

Once we made that analysis, we had to go out and explain that to people. We went to campus after campus and church after church to build that awareness. And as a result, we were able to build a campaign that had 14 of the biggest retail food corporations—the biggest buyers of tomatoes in the world—[committing] to only purchase tomatoes through growers who work in compliance with a human-rights based code of conduct.

With those corporate agreements, we've been able to dramatically change people's lives. We've put a stop to sexual harassment and sexual assault, for example, in the fields where the fair food program works. And there's a formula. It requires, first, educating consumers. Then, mobilizing those consumers to pressure corporations, in order to win the binding legal agreement from companies—ones that demand that their suppliers meet human rights standards. Finally, it requires monitoring those standards with worker participation to actually eliminate long-standing human rights abuses in the field. It works, and we can replicate it. But it takes a lot of effort because it's not the first story at the top of news, and you you have to fight to make it so.

### **It sounds like you're saying conscientious consumerism—vote with your fork—is not enough to drive meaningful change on this front. It requires buy-in from major food retailers themselves. What are the challenges of getting companies on board?**

We now have a proven program that protects human rights in corporate supply chains better than anything else that's come before. That's just not me saying it. Anyone who works in the field will say that: from the White House, which gave us the Presidential Medal for unique success in fighting forced labor, to the United Nations, which has recognized us for unique success in fighting human rights violations. So now that it's not just an idea but a reality that's been proven, you'd think companies like Wendy's would simply say: 'Let's do this. Let's be part of this.' But they don't.

If you took any one of those humans in that corporation and put them out in that position in the theoretical farmstand I mentioned, they would not buy the food. I guarantee you that. But even though corporations are just humans working together, something happens when they come together in that form: The collective tolerance for abuse shoots through the roof.

What we have to do, unfortunately, is overcome that collective willingness to turn a blind eye. We have to do that not only by the power of just not buying their food, but by actively getting out there and saying: 'Your brand doesn't get behind human rights, and we're going to make sure that the world knows it.' That is what has worked.

We would prefer—ininitely prefer—to be involved in building our program, expanding its protections, and doing the work of monitoring and enforcing rights rather than being in the streets and protesting. All that time for us feels like lost time. Sunk time. But unfortunately it's still necessary,

and we're going to still do it because we've seen the results—which are tremendous.

### **Are there examples you can think of where the industry made the kind of broad-scale changes you're hoping for?**

Here's a category where there are very, very few issues and compliance is almost wall-to-wall: food safety. Food safety in agriculture has been a problem for a long time, but it got to a point where there were just too many food safety issues—E. coli outbreaks, for instance, where families were losing children. The costs became too high for the retailer to be involved with those sorts of problems in the supply chain. So what happened? Standards were established, and they were retailer-driven. Retailers were able to tell their suppliers: 'If you don't get food-safety certified, if you don't comply with these standards, we're not going to buy from you, because it's just too much of a risk for our brand.' And food safety standards were implemented across the board.

In the industry, they call it “the power of the purchasing order”—the power of the P.O., is the shorthand that buyers use. The major buyers know that their purchasing orders carry a lot of weight, and when they really want things to change—whether it's what type of tomatoes or implementing food safety or, now, implementing human rights standards—they use the power of the P.O. to demand and direct that change.

### **You've received this major honor, but the work is far from finished. What are the challenges ahead?**

The challenge is awareness. It's building awareness about the conditions that exist. It's completely unacceptable that, for instance, 80 percent of women report being subjected to sexual harassment or sexual assault in the fields. And yet, I guarantee you, that 99.9 percent of consumers still don't know that. Our job is to make sure that people learn that fact, and that they're then able to learn that fact in a way that helps translate their awareness into concrete change on the ground.

Corporate Social Responsibility—CSR, the model that has existed for 30 years—has failed. If it were a science experiment, they would have shut it down a long time ago. It has not had any kind of real result for humans; the main result it's had has been to be a firewall for public relations crises when problems erupt in corporate supply chains. But the power of the CSR model to keep corporations from feeling the heat is eroding as well. They feel it when a factory collapses in Bangladesh, or there's a slavery operation discovered in seafood, or more recently, the discovery that North Korean workers in China are being treated in horrific conditions producing goods that show up under major brands here in the United States.

The old model has failed to protect workers rights. It's failed even to protect the public relations interests of corporations. But this model works, and the results have been beyond our wildest expectations. That means it's time to do away with the snake-oil charlatan approach that CSR has proven to be, and replace it with something that actually works.

In the 20th century, it was sort of like that old saying about Vegas: what happened in the supply chain stayed in the supply chain. Nobody connected it to the brands where the food ended up being sold. But that's not the case anymore. Now, there's a direct connection between major consumer brands and things like slavery and violence against women. The most important asset corporations have is their brand, and if protecting that asset requires them to use their buying power to demand compliance with human rights in their supply chain, then that's what they'll do.



## Ben & Jerry's Strikes Deal to Improve Migrant Dairy Workers' Conditions<sup>52</sup>

By NOAM SCHEIBER OCT. 3, 2017

For years, Ben & Jerry's took steps to make sure that its ice cream did not contain artificial growth hormone. The company also has a self-imposed fee on its greenhouse gas emissions.

What Ben & Jerry's did not have was a reliable way of ensuring that the dairy farms supplying it with milk were providing humane conditions for their workers, a major issue in an industry where many people work seven days a week for less than minimum wage.

On Tuesday, the ice cream maker, which is based in Vermont, took a big step toward changing that, signing an agreement with a farmworkers' group that establishes labor standards for the company's suppliers in the state, and creates an enforcement strategy that encourages workers to speak up about violations.

"We love to be part of innovation," said Jostein Solheim, the company's chief executive. "We believe in worker-led movements, and in bringing in dairy and doing it in Vermont."

The agreement borrows heavily from an arrangement called the Fair Food Program that was put in place in 2011 to address troubling conditions in Florida's tomato industry.

In that instance, Subway, Walmart, Whole Foods and other companies committed to paying an extra 1 to 4 cents per pound of tomatoes and to buying only from participating suppliers. The suppliers, in turn, agreed to pay the legal minimum wage and to ensure workers' rights and safety. The program has been widely credited with improving working conditions in an industry where human trafficking flourished until recently. It has expanded to other crops and other states on the East Coast.

The 1,200 to 1,500 workers in Vermont's dairy industry have been laboring under their own grim circumstances.

A 2014 survey of about 170 dairy workers in the state by Migrant Justice, the farmworkers' advocacy group that signed the agreement with Ben & Jerry's, found that in addition to a scarcity of days off, workers had schedules that frequently kept them from sleeping more than a few hours at a time. Many of the migrants, who typically work year round for low wages and live on the farms that employ them, also had substandard housing.

"One of the biggest issues was housing conditions, the need for workers to be provided with basic amenities, like electricity, water, and housing that is free from pest infestations," said Enrique Balcazar, a former dairy worker who has helped lead the organizing effort, speaking through a translator. The workers tend to be undocumented, making it difficult for them to speak out.

Under the program, called Milk With Dignity, workers at dairy farms that supply Ben & Jerry's will have the right to one day off a week and will earn at least the state minimum wage, currently \$10 an hour. Workers will also be guaranteed at least eight consecutive hours of rest between shifts and housing accommodations that include a bed and access to electricity and clean running water.

The agreement requires Ben & Jerry's to acquire its milk from farms that adhere to the standards. It will be enforced in part by the affected workers, who will be informed of their rights and encouraged to report violations to a 24-hour hotline.

Compliance will be monitored by a group led by a former staff lawyer at the Southern Poverty Law Center's Immigrant Justice Project, which will conduct audits. Ben & Jerry's will effectively finance the benefits by paying an undisclosed premium on the milk it buys, based on volume.

Brendan O'Neill, an organizer with Migrant Justice, praised the company.

"By signing this agreement, Ben & Jerry's is prioritizing dairy workers as the most important ingredient in their ice cream," Mr. O'Neill said.

Ben & Jerry's has been owned by the consumer goods giant Unilever since 2000, but it has retained its founders' interest in social and environmental activism. The company said it had long had labor standards in place for its suppliers and that the most egregious abuses of workers did not occur on its suppliers' farms. But it acknowledged that enforcing the standards had been challenging.

"We don't see a huge gap in hard-core standards," Mr. Solheim said, "but we see an opportunity to make it work better."

Migrant Justice began its campaign to improve conditions for immigrant farm workers in Vermont several years ago, not long after a worker died after getting tangled in a piece of machinery and being strangled by his own clothes.

The group's efforts got a lift in June 2015, when Ben & Jerry's formally agreed in principle to support the Milk With Dignity program. But negotiating the details of the agreement, which affects nearly 90 farms that typically employ up to 10 workers apiece, proved to be complicated.

"These are real family businesses," Mr. Solheim said, describing what he saw as a big distinction between the agricultural industries in Vermont and Florida. "It's a different dynamic than what we have in a big produce area, where hundreds of people show up to harvest."

Migrant Justice took several actions, including protests and marches, to put pressure on Ben & Jerry's over the past two years, and the group had scheduled a national day of action for Thursday. (Ben & Jerry's said it understood the group's tactics but noted that it had never stopped negotiating.)

The program will be adopted in stages, with some standards, like prohibitions on sexual assault, forced labor and violence toward workers, taking effect immediately. Others, like raising pay to the minimum wage, will come more gradually. Farms must first go through an orientation, and workers must complete education sessions before Ben & Jerry's begins making the larger payments that will finance some of the benefits.

Some experts, while crediting the Fair Food Program's achievements, have said they were skeptical about whether the model could be extended to a substantial portion of the country's farm workers, many of whom experience some of the worst conditions and lowest pay in the American work force. (Estimates for how many farm workers there are in the country run from under one million to a few million. Such workers are not covered by the federal minimum wage law, or by similar laws in most states.)

Greg Asbed, a founder of the Coalition of Immokalee Workers, which pushed for the Florida program, said the agreement involving Ben & Jerry's — and similar accords in other industries, like those geared toward improving safety conditions for garment workers in Bangladesh — showed that the model could be applied widely.

The only necessary conditions, he said, were the buying power of major brands, which exert enormous leverage over suppliers, and worker participation, to define the needed rights and to help ensure compliance.

Margaret Gray, an associate professor of political science at Adelphi University who has studied farm labor conditions, praised both the Fair Food Program and the Ben & Jerry's arrangement. But she warned that one force that made such programs effective, the power of corporate giants, could make it hard to extend their reach.

"It's the corporations who tend to be making the most money, doing so at the expense of the workers, and at the expense of a lot of farmers," she said. They excel at "fostering division between the two."



Appendix B: By The Numbers

Table 1. Grower Audits														
	Pilot 2009- 2011	Season One 2011- 2012	Season Two 2012- 2013 <sup>†</sup>	Season Three 2013- 2014	Season Four 2014-2015			Season Five 2015-2016			Season Six 2016-2017			FFP TOTAL
Location	Florida				FL	Exp.	Total	FL	Exp.	Total	FL	Exp.	Total	
Management Audits	5	31	25	26	35	8	43	25	5	30	21	3	24	184
Payroll and Fair Food Premium Audits <sup>§</sup>	10	29	31	38	32	8	40	29	4	33	21	3	24	205
Operations Audits <sup>**</sup>	8	26	25	46	36	8	44	36	7	43	31	5	33	228
Worker Interviews	577	1158	2810	3026	3617	863	4480	3282	921	4203	2974	771	3745	19,999
Crewleader Interviews	28	63	95	114	102	19	121	125	33	158	99	11	110	689
Farm Locations Visited	13	37	45	43	48	8	56	56	7	63	50	6	56	NA
Company Housing Locations Visited	7	18	27	18	27	14	41	23	16	39	34	12	46	NA
Corrective Action Plans	5	30	29	23	24	8	33	32	4	26	21	3	24	169

Table 3. Worker Complaints by Outcome													
	Season One 2011- 2012	Season Two 2012- 2013 <sup>†</sup>	Season Three 2013- 2014	Season Four 2014-2015			Season Five 2015-2016			Season Six 2016-2017			TOTAL
Type				FL	Exp.	Total	FL	Exp.	Total	FL	Exp.	Total	
Valid, Code Violation Resolution Reached	40	85	101	187	19	206	72	25	97	66	14	80	608
No Violation of Code, Resolution Reached	12	26	64	102	29	131	81	34	115	100	17	117	465
No Violation of Code, or Non-Qualifying Worker, or Not Valid After Investigation	18	29	47	65	11	76	38	14	52	58	7	65	287
Information Only	1	11	13	13	6	19	27	6	33	19	4	23	100
Could Not Investigate	10	10	17	17	4	21	6	4	10	10	5	15	83
Under Investigation	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-Participating Employer	26	36	30	57	14	71	25	18	43	-	-	48	254
Total	107	197	271	441	83	524	249	101	350	254	47	349	1798

Table 2. Grower Probations & Suspensions							
	Season One 2011- 2012	Season Two 2012- 2013 <sup>†</sup>	Season Three 2013- 2014	Season Four 2014- 2015	Season Five 2015-2016	Season Six 2016-2017	FFP TOTAL
Grower Probations	0	5	4	4	6	5	24
Grower Suspensions	2	1	3	0	1	0	7

Table 4. Worker Complaints from Participating Growers (By Source)													
	Season One 2011- 2012	Season Two 2012- 2013 <sup>†</sup>	Season Three 2013- 2014	Season Four 2014-2015			Season Five 2015-2016			Season Six 2016-2017			TOTAL
Location				FL	Exp.	Total	FL	Exp.	Total	FL	Exp.	Total	
FFSC	57	96	147	261	40	301	140	51	191	179	26	205	997
CIW	25	63	82	91	14	105	57	22	79	47	8	32	410
Growers	2	4	8	30	7	37	17	11	28	24	8	32	111
Total	84	163	237	382	61	443	214	84	298	250	43	293	1518



Table 5. Code Violations Found in Complaint Investigations													
	Season One 2011-2012	Season Two 2012-2013 <sup>†</sup>	Season Three 2013-2014	Season Four 2014-2015			Season Five 2015-2016			Season Six 2016-2017			TOTAL
Type				FL	Exp.	Total	FL	Exp.	Total	FL	Exp.	Total	
1.1 Forced Labor	0	0	0	0	0	0	1	0	1	0	0	0	1
1.2 Child Labor	0	0	0	0	0	0	0	0	0	0	0	0	0
2.1 Violence or Threat of Violence	1	6	1	2	0	2	2	0	2	2	0	2	14
2.2 Weapons	0	1	0	0	0	0	1	0	1	0	0	0	2
2.3 Sexual Harassment	0	1	2	3	1	4	0	0	0	1	0	1	8
2.4 Retaliation	3	13	12	14	0	14	3	0	3	5	0	3	50
2.5 Wages & Hours	19	18	31	54	2	56	4	2	6	3	0	3	133
2.6 H-2A Recruitment Fees	0	0	0	1	1	2	1	0	1	0	0	0	3
2.6 Unregistered Workers	4	2	2	1	0	1	2	0	2	0	0	0	11
2.7 Sexual Harassment	2	2	5	12	0	12	5	1	6	7	0	7	34
2.8 Discrimination	2	4	2	15	2	17	11	3	14	7	2	9	48
2.9 Transparency & Cooperation	0	4	2	0	0	0	5	1	6	7	1	8	20
2.10 Lightning Exposure	0	2	0	2	0	2	1	0	1	0	1	1	6
2.10 Unsafe Driving Practices	0	0	5	1	2	3	0	2	2	1	1	2	12
2.10 Pesticide Exposure	0	2	0	2	0	2	2	0	2	2	0	2	8
2.10 Negligent Endangerment	1	5	1	1	1	2	2	1	3	1	0	1	13
3.0 Complaint Procedure	3	7	5	39	5	44	18	6	24	26	2	28	111
3.0 Disciplinary Procedure	3	9	8	15	2	17	10	4	14	5	1	6	57
3.0 Health & Safety	0	2	3	1	1	2	5	0	5	1	0	1	13
3.0 Housing	2	5	4	14	4	18	7	2	9	4	1	5	43
3.0 Injury & Illness Response	1	7	8	5	1	6	6	3	9	1	2	3	34
3.0 Pay Practices	4	11	30	51	1	52	14	3	17	8	1	9	123
3.1 Verbal Abuse	7	15	18	35	4	39	16	6	22	13	6	19	120
3.2 Child Labor	0	0	0	0	0	0	0	0	0	0	0	0	0
3.3 Wages & Hours	4	12	8	18	2	20	6	3	9	15	1	16	69

Table 5. (Continued)													
	Season One 2011-2012	Season Two 2012-2013 <sup>†</sup>	Season Three 2013-2014	Season Four 2014-2015			Season Five 2015-2016			Season Six 2016-2017			TOTAL
Type				FL	Exp.	Total	FL	Exp.	Total	FL	Exp.	Total	
3.4 Retaliation	3	5	5	4	0	4	1	0	1	3	0	3	21
3.4 Fair Food Premium	0	3	1	0	0	0	1	0	1	1	0	1	6
3.5 Failure to Implement Health and Safety Committee	0	0	0	0	0	0	1	0	1	0	0	0	1
3.6 Breaks, Days Off	3	4	9	8	2	10	3	0	3	2	1	3	32
3.6 Sanitation	1	4	14	8	0	8	4	2	6	5	2	7	40
3.6 Shade	1	0	2	0	0	0	1	0	1	0	0	0	4
Article 1 (Total)	0	0	0	0	0	0	1	0	1	0	0	0	1
Article 2 (Total)	32	60	63	108	9	117	39	10	49	36	5	41	362
Article 3 (Total)	32	84	115	198	22	220	93	29	122	84	17	101	674
Total	64	144	178	306	31	337	133	39	172	120	22	142	1037

Table 6. Worker-to-Worker Education														
	Pilot 2009- 2011	Season One 2011- 2012	Season Two 2012- 2013†	Season Three 2013- 2014	Season Four 2014-2015			Season Five 2015-2016			Season Six 2016-2017			FFP TOTAL
Location	Florida				FL	Exp.	Total	FL	Exp.	Total	FL	Exp.	Total	
Education Sessions	30	73	88	89	99	18	117	93	30	123	113	27	140	660
Number of Growers	6	27	25	28	27	4	NA	24	4	NA	21	4	NA	NA
Number of Farm Locations	12	40	42	48	45	7	52	45	11	56	42	15	57	NA
Workers Attended	No Data	6595	7702	7803	9851	1940	11,791	8465	1815	10,280	6335	1452	7787	51,958
Average Session Size	-	90	87	88	100	108	NA	91	60	NA	56	54	-	NA



Table 7. KYRR Booklets Distributed							
Pilot 2009- 2011	Season One 2011- 2012	Season Two 2012- 2013†	Season Three 2013- 2014	Season Four 2014- 2015	Season Five 2015- 2016	Season Six 2016- 2017	FFP TOTAL
10,500	31,500	33,600	33,000	37,200	36,500	37,750	220,050

Overview

The Fair Food Code has been shaped over time through detailed negotiation and ongoing dialogue among workers, growers and buyers. As the Fair Food Program matures and evolves, so too will the Code, as it continues to serve as the primary platform upon which to build a truly sustainable agriculture industry.

Because the Fair Food Code establishes mostly broad principles, the Provisions of the Code that follow have been augmented by more detailed Policies, Examples and Audit Measures that together constitute a Guidance Manual to assist Participating Growers in implementing the Code. The Guidance Manual and its appendices is not at this time a public document.

Introduction

The Policies, Examples and Audit Requirements provided in this Code and Guidance Manual are designed to illustrate, clarify and make operative the Provisions of the Code and Guidance Manual. Additional guidance that has been developed periodically is found in Appendix G.

Like the Code Provisions and the Appendices, the Policies, Examples and Audit Requirements will be reviewed periodically and may be amended as circumstances suggest or require.

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.

Part I: Employment Practices and Minimum Requirements

- 1. Growers are required to abide by all applicable laws, codes and regulations, including but not limited to this Code, and any local, state or federal laws regarding wages and benefits, working hours, equal opportunity, and employee and product safety.

Further, growers will follow these employment and workplace practices:

- 2. Growers will participate in, and comply with, the "penny per pound" premium pass through Program (hereafter Fair Food Program) 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 "penny per pound" paid by Buyer as part of the Program.

- 3. If paying by the piece, Participating Growers will pay Qualifying Workers for all tomatoes picked, using a 32 pound bucket for calculation for round "gas green" tomatoes, or the appropriate standard weight and container for other types of tomatoes, if different.
- 4. 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.
- 5. Participating Growers will hire Qualifying Workers as employees.
- 6. Participating Growers will pay wages and benefits directly to Qualifying Workers.
- 7. 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.
- 8. 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 his or her health or safety, he or she has the right to cease working without consequences or retaliation; and
- Implementing a system for work safety stoppages due to lightning, heat, chemicals, pesticides or other factors for all Qualifying Workers present where the potential danger exists. Calling a work stoppage shall be at the discretion of the Participating Grower, but the reasonableness with which the Participating Grower exercises this discretion shall be subject to the Audit and Complaint Processes.
9. 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.
10. Participating Growers will develop and implement plans and procedures to insure the adequate and timely treatment of workers in the event of injury or sickness that might occur anywhere on a Participating Grower's property.
11. Participating Growers will develop and implement plans and procedures to insure that Qualifying Workers have sufficient breaks during the day, including adequate time for lunch, without unreasonably compromising the ability to earn wages.
12. 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.
13. If housing is provided by a Participating Grower, it must be voluntary and comply with the law, and the cost for such housing to the Qualifying Worker cannot reduce the Qualifying Worker's net wages below the

minimum wage or be increased other than to reflect increases in the cost or quality of the housing.

14. 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.
15. 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.
16. 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.

## Part II: Violations

### A: Types of Violations

Violations shall be divided into three categories – "Article I Violations," "Article II Violations" and "Article III Violations." Article I Violations result in automatic suspension of a Participating Grower from the FFP for the designated time period. Article II Violations require specified remedial action by the Participating Grower to avoid suspension from the FFP for the designated time period and/or may result in probation for the Participating Grower. Article III violations do not trigger specified remedial action, but the Corrective Action Plan approved to address Article III violations may include one or more of the remedies associated with Article II violations. Pursuant to the procedures in Appendices B and E, failure to comply with an approved Corrective Action Plan or Complaint Resolution for any category of violation will result in suspension of a Participating Grower from the FFP for the designated time period. A finding of a violation, whether contained in a Corrective Action Plan or a Complaint Resolution, may be appealed pursuant to the procedures set forth in Appendix F.

### Article I Violations

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

### Article II Violations

1. 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.
2. Use or display of weapons of any kind (including firearms, knives, bats, etc.) at any point for the explicit or implicit purpose of intimidation.
3. 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.
4. 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.
5. 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.
6. Using Qualifying Workers in the field who are not treated as employees and placed on the company payroll of the Participating Grower on whose property they are working within the first pay period of work.
7. Sexual discrimination or harassment not involving physical contact, as established by a finding of the FFSC.
8. Racial, national origin, gender, religious or sexual preference discrimination or harassment, as established by a finding of the FFSC.
9. Failing to cooperate fully and transparently with any monitoring, auditing or complaint resolution procedure established under this Code.
10. Negligent endangerment, which shall include but not be limited to pesticide violations, the failure or negligent

use of equipment that harms or threatens Qualifying Worker(s), or lightning exposure in violation of the Code.

### Article III Violations

Any violation of the Code that is not an Article I or Article II Violation is an Article III Violation. Without limitation, Article III Violations include:

1. Non-systemic use of illegal child labor as defined by any applicable law.
2. Non-systemic wage violations.
3. Retaliation for defending or asserting any protections under this Code, or encouraging, assisting or directing others to do so, through act(s) other than those prohibited under Article II, Provision 4.
4. Failure to comply with Appendix A.
5. Failure to implement a Health and Safety Committee process in compliance with Appendix C.
6. Failure to afford Qualifying Workers rest breaks, reasonable days off, access to shade structures, adequate drinking water, field toilets or other hygiene facilities required by the Code or any applicable laws or standards.

## B: Remediating Violations

### Corrective Action Plans

A Participating Grower shall address to the satisfaction of the FFSC every Code violation identified in the course of an audit through an approved Corrective Action Plan and/or Complaint Resolution. **See Appendix E for the procedures governing the Corrective Action Plans.**

### Complaint Resolution

A Participating Grower shall address to the satisfaction of the FFSC every complaint brought to its attention by the FFSC or a Qualifying Worker through an approved Complaint Resolution. See Appendix B for the procedures governing Complaint Resolution.

See Appendix F for the rules governing a Participating Grower's right to appeal a Corrective Action Plan or a Complaint Resolution.



Part III: Consequences of Violations

A: Participating Growers – Suspension from the Fair Food Program

All suspensions of a Participating Grower from the FFP pursuant to the rules and procedures set forth in this Code and Guidance Manual shall be implemented pursuant to the following schedule.

- 1. The first suspension of a Participating Grower shall be for a period of 90 days from the effective date of the suspension or until the Participating Grower can demonstrate to the satisfaction of the FFSC that it has remedied all outstanding violations, whichever occurs later.
- 2. The second suspension of a Participating Grower shall be for a period of 180 days from the effective date of the suspension or until the Participating Grower can demonstrate to the satisfaction of the FFSC that it has remedied all outstanding violations, whichever occurs later.
- 3. The third and any subsequent suspension of a Participating Grower shall be for a period of one calendar year from the effective date of the suspension or until the Participating Grower can demonstrate to the satisfaction of the FFSC that it has remedied all outstanding violations, whichever occurs later.
- 4. 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. If a 90 day suspension would otherwise run past June 15 of a given year, the FFSC may delay implementation of the suspension until October 15 of that year if it determines that the best interests of the FFP will be served by the delay.

A: Crewleaders or other supervisory personnel of Participating Growers

- 1. If a crewleader 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.

- 2. A second Article I Violation by a crewleader or other supervisory person shall result in a lifetime ban from working for any Participating Grower.
- 3. If a crewleader 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.
- 4. If a crewleader 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 crewleader or other supervisory person shall be treated in the same manner as a second violation of an Article I provision.
- 5. If a crewleader 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.
- 6. The FFSC shall maintain and make available to Participating Growers a list of crewleaders 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.

- 7. The FFSC will maintain a list of approved vendors qualified to provide the appropriate training that must be completed by any person fired or suspended from the Program for having violated any provision of the Code. Upon proof that the person has completed the required training provided by an approved vendor, the FFSC will inform the Participating Growers that the person is again eligible to work in the Fair Food Program.

Part IV: Joining the Fair Food Program

A: Initial Entry

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. Passing the entry audit requires the following findings of compliance with the Code and Guidance Manual by the FFSC:

- 1. The grower has started to implement a system in which all Qualifying Workers are placed on the grower’s payroll and receive all benefits to which they are entitled under the law and the Code directly from the grower;
- 2. The grower has started to implement a timekeeping system in which Qualifying Workers control their registration device and which is used to calculate payroll for workers;
- 3. The grower’s supervisors have been trained on FFP policies, by the company and the FFSC;
- 4. Qualifying Workers have been provided with an education session by the CIW Education Committee;
- 5. The grower has purchased or ordered adequate shade structures; and

- 6. The grower has resolved to the satisfaction of the FFSC all outstanding complaints known to the
- 7. FFSC or the CIW at the time of the entry audit.

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.

B: Reentry

A grower seeking reentry to the Fair Food Program, whether following a suspension or voluntary withdrawal, must prior to resuming its status as a Participating Grower, pass a reentry 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. Passing a reentry audit requires that:

- 1. The company is in full compliance with all requirements of the Code and Guidance Manual;
- 2. There is an approved Corrective Action Plan in place relating to any unresolved issues pending at the time the company left the FFP;
- 3. The company has paid any costs associated with any unsuccessful appeal filed by the company before it left the FFP;
- 4. The company has resolved to the satisfaction of the FFSC all outstanding complaints known to the FFSC or the CIW at the time of the reentry audit; and
- 5. Depending on the length of time since the company was last in the FFP, and at the sole discretion of the FFSC, Qualifying Workers have been provided with an education session by the CIW Education Committee or such a session has been scheduled with the CIW.



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