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THE LEADING EDGE OF HUMAN RIGHTS IN AGRICULTURE

(<http://www.fairfoodprogram.org>)

FAIR FOOD CODE OF CONDUCT

OVERVIEW



The Fair Food Code of Conduct 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 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 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 FOR PARTICIPATING GROWERS

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

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

2. Participating Growers will participate in, and comply with, the Fair Food Program (FFP or Program) premium pass through requirements and pass through to their Qualifying Workers the appropriate premium payments received under that Program. The term “appropriate premium payments” means the Qualifying Workers’ portion of the FFP premium paid by a Participating Buyer as part of the Program.
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 their 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.

B. 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 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.

Fair Food Standards Council

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