



NDWA “Know your Rights” Training for Homecare Workers: Facilitator’s Guide

Goals:

- Allow trainers to learn more about work conditions of attendees
- Ownership of the victory – worker’s role in achieving this change and future changes
- Understand racist history of exclusion and why domestic workers were left out for so long
- Understand new federal rights
- Understand existing state-based rights
- Know what to do if rights aren’t respected

Materials:

Print-out one:

“Handout One: History of Domestic Work” – bottom of document

“Handout Two: How We Won” – bottom of document

“Handout Three: Different Workers” – bottom of document

Print-out two:

“Know your Rights” fliers – download here:

www.domesticworkers.org/homecare

Length of training:

1.5 hours (can be condensed into 1 hour by leaving out sections 2-3)

Audience:

Homecare workers – people who assist seniors and people with disabilities to live at home.

Training is appropriate both for workers who can read and those who cannot.

Training Overview:

1. Welcome and Introduction (10)
2. What is homecare? Why was it left out?(25)
3. How did we win this change? (5)



NDWA “Know your Rights” Training for Homecare Workers: Facilitator’s Guide

- 4. What are our new rights? (25)
- 5. How can we defend our new rights? (20)
- 6. Closing (5)

For more information:

You can get “Know Your Rights” materials in English, Polish, Spanish, and Tagalog here:

www.domesticworkers.org/homecare

For questions:

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1. Welcome and Introduction (10)

[Tell the group:]

Thank you for joining us today for this training. I am [name], an organizer with [name of your organization], and we are also members of the National Domestic Workers Alliance.

This workshop will be an opportunity for us to learn together about what your legal rights as workers.

[Ask the group:]

To have a common understanding of who we are talking about when we say homecare worker, can someone tell us what a homecare worker does?

[Collect answers and reflect back:]

Homecare workers provide assistance in the home to people with disabilities and seniors. If you work in someone else’s home (or in multiple people’s homes) and you assist someone who needs help with self-care because they are a senior, have an illness or are a person with a disability, you are likely a homecare worker.

Homecare workers are also sometimes called personal care attendants, caregivers, certified nursing assistants, home health aides, personal care aides, direct care workers and companions. Regardless of your title, if this is your work then you most likely have new

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protections.

[Ask the room:]

- Who here assists an elderly person? [show of hands]
- Who here assists a person with a disability? [show of hands]
- How many people here assist more than one person? [show of hands]
- Does anyone here live in the home of their employer? [show of hands]
- How many people just started doing this work? [show of hands]
- How many people have been doing this work for a long time? [show of hands]

[Take notes on people’s responses so you are aware of what sector of the homecare workforce is represented in the room]

[Tell the group:]

This work can look very different for each worker. Some people live with their client and others live in their own homes, some people have lots of experience and others are just starting, and our work varies a lot depending on the needs and preferences of our clients.

However, we are united because we are all homecare workers – we all have rights, and when we work together, we can protect ourselves and have a stronger voice. By working together, we can also make things better for our families, our brothers and sisters in this work, and our clients.

Great, now let’s learn each other’s names. Let’s go around the room and say your name, where you live and [one question you have about your rights]/[the first time you remember taking care of someone else].

2. What is homecare? Why was it left out? (25)

[Tell the group:]

- Homecare workers make up a large, growing and important set of workers in the U.S.



NDWA “Know your Rights” Training for Homecare Workers: Facilitator’s Guide

- There are about 2 million homecare workers across the country.
- Homecare is the second fastest-growing occupation in the country, and in some states it’s the fastest-growing occupation. 56% of the workers who do this work are people of color. 91% of the people who do this work are women. 24% are immigrants.[1]
- The U.S. will only continue to need more homecare workers, because many people are becoming older and will need help to remain in their homes. Most older people want to stay in their homes. Most people with disabilities also want to live independently – in fact, the right to live independently is one of the major rights that disability rights activists and organizations demand.[2]
- However, the median hourly wage for a homecare worker is only \$9.38, and the average annual earnings of a homecare worker are a little more than \$17,000. 56% of homecare workers must use public assistance to meet their daily needs.[3]

[Ask the group –popcorn style for large group, go-round for large group:]

- What are you most proud of about your work?
- What is hardest about your work?

[Tell the group:]

There are many things we love about this work and many struggles that we face as well. Some of the things people love are [list things]; some of the things people struggle with are [list things].

[Ask the group:]

- Did you know that this work was one of the last types of job in the country where workers were given basic legal rights?
- Why do you think it took so long for your work to have the same rights as other work?

[listen to ideas]

[Tell the group:]

One big reason [that some people mentioned] why homecare workers have been left out for so long was because of racism.



NDWA “Know your Rights” Training for Homecare Workers: Facilitator’s Guide

In the U.S. the people who worked in the homes of others were Native American and Chicana women whose land had been colonized, European immigrant women fleeing hardship, and most of all, Black women – who were first forced to do this work as slaves.

[Pass around handout 1: Ask people to take turns reading the captions out loud OR facilitator asks participants: “What do you notice about these pictures?” and then reads text]

[Ask the group:]

Are you surprised by anything you just heard? What were you surprised by?

[popcorn-style responses.]

[Tell the group:]

Although many domestic workers organized to fight for their rights, it was not until 2015 – that homecare workers finally got the right to basic federal protections. We will talk about those rights in a minute.

3. How did we win this change? (5)

[Distribute Handout Two]

[Have participants read Handout Two out loud, taking turns OR facilitator asks participants: “What do you notice about these pictures” and then reads text]

[Ask the group:]

Did the President give us more rights just because he felt like it? Why do you think we finally won?

[take ideas]

[Ask the group:]

Did anyone here participate in an action for better rights? Tell the group about it.

4. What are our new rights? (35)



NDWA “Know your Rights” Training for Homecare Workers: Facilitator’s Guide

[Facilitator note: Before starting this section, be sure and get information about the following:

1. your state minimum wage, if your state has one:
<http://www.dol.gov/whd/minwage/america.htm>
2. the other state protections for homecare workers in your state:
<http://nelp.org/content/uploads/2015/03/Home-Care-State-by-State.pdf>
3. If you have questions or need more information, feel free to reach out to NDWA for assistance]

[Tell the group:]

Before we start this section, we’re going to break up into three small groups and sit with our groups.

[Break people up into groups. Once people have broken into groups:]

[Tell the group:]

The new federal rights are:

- Minimum wage
- Overtime
- Travel time

We are going to talk about each of those rights. Just as a reminder, all other domestic workers – nannies and housecleaners - already had these rights. And in some states, workers had better rights because of the state laws. If your state has better laws for homecare workers – for example, your state requires higher wages than the federal minimum wage, then you have the right to that higher wage.

[facilitator note: Here is more information about your state:
<http://nelp.org/content/uploads/2015/03/Home-Care-State-by-State.pdf>]

[Ask the group:]

If workers are undocumented, do they still have these rights?



Yes, exactly, these rights are for all workers.

Minimum wage:

[Ask the group:]

What is minimum wage?

Yes, exactly, minimum wage is just what it sounds like – it’s the least amount of money an employer can legally pay you per hour.

[Ask the group:]

Who knows that the federal minimum wage is?

[Tell the group:]

Yes, the federal minimum wage is \$7.25 an hour.

[Tell the group:]

For workers who live in states with a higher state minimum wage, you have the right to be paid that wage. For workers who live in a state without a higher minimum wage, you have the right to be paid at least the federal minimum wage.

[Ask the group:]

Does our state have a higher minimum wage?

[facilitator note: check on your state here and tell workers if they are entitled to a higher minimum wage: <http://www.dol.gov/whd/minwage/america.htm>]

Overtime:

[Ask the group:]

What is overtime?

[Tell the group:]

Overtime means you have the right to be paid one and a half times what you are usually paid when you work more than 40 hours in your workweek.



[Ask the group:]

So if you are usually paid \$10 an hour, and you work 45 hours in a workweek, how much should you be paid for that last 5 hours?]

[Tell the group – also write up the math on a board if you have one]

If you usually make \$10 an hour, then you should be paid \$15 dollars an hour for every hour you work over 40 hours.

[Facilitator note: more information about federal overtime laws available here:
<https://www.dol.gov/general/topic/workhours/overtime>]

Travel time:

[Tell the group:]

For homecare workers, it’s often confusing to know whom you really work for. You may be helping one person – but getting paid by their family members, or by a state government program, or by an agency. Knowing who you work for can be really important because it affects your rights.

[Ask group:]

It can be tricky to figure out who you work for. What are some ways you use to understand who your employer is? What are some ways you might figure out who you work for?

[Tell group:]

Great! You could ask your client, or look at your paycheck. This organization [say facilitator’s organization] may also be able to help you figure out who you work for.

[Tell the group:]

Here is the definition of travel time: When you work for one employer, like an agency, and they send you to different clients on the same day, the time you spend traveling from one client to another is travel time. That time has to be counted as time you worked, and you have the right to be paid for those hours. That applies whether you drive, walk, or take public transit. If you run errands for a client or transport your client from place to place, you also must be compensated for that time.

Now, you don’t usually have the right to be paid for time you spend traveling from your home to the first client. And you don’t usually have the right to be paid for time you spend traveling



NDWA “Know your Rights” Training for Homecare Workers: Facilitator’s Guide

from your last client of the day to your home. But if you are traveling from one client to another, and you work for the state or an agency that sent you to these different places, you do have the right to be paid for that time.

If you have a lot of free time between clients, and you have no duties to any client or employer during that time, the agency doesn’t have to pay you for that time.

[Facilitator note: Look at this website for more info:
<http://www.dol.gov/whd/homecare/agencies-pay-for-breaks.htm>]

Rights for live-in workers

[Tell group:]

Unfortunately, live-in workers still have fewer protections. The good news is that live-in workers are also entitled to federal minimum wage. How much is federal minimum wage again?

However, not all live-in workers are entitled to overtime – unless they have a better state law that gives them the right to overtime.

This is another place where it’s important to know who you work for.

- If a live-in worker just works for an individual client or family, they are not entitled to overtime. Of course, the live-in worker is still entitled to pay for all hours that he or she works.
- But if you are working for an agency, for your state, or for another third party besides your client, you’re still entitled to overtime.
- And even if you just work for an individual person or family, you are still entitled to overtime if you don’t spend the majority of your time working and living at your client’s home. So if you work 24-hour shifts, for example, but still live somewhere else when you’re not on those shifts, you are still entitled to overtime.

Also, not every worker who does 24-hour shifts is considered a live-in worker. This is an area where the law can be very confusing. There are also some special rules about pay for time spent sleeping. If you are a live-in worker and have questions about overtime, you should talk to an advocate.

Work in small groups (10)

[Tell the group:]



NDWA “Know your Rights” Training for Homecare Workers: Facilitator’s Guide

Let’s turn to our groups now. You have a paper in your packet called “Handout Three” and it has three scenarios.

[Assign one scenario per group]

[Tell the group:]

Review your scenario and discuss the questions. Come up with your group’s answer to the question, and be prepared to report back.

[groups review scenarios. Facilitator and other organizers should circulate and listen to different group discussions.]

Report back

[Tell the group:]

Let’s have each group report back now. Tell us about your scenario, your question, and what you decided, and why.

[After each group reports, facilitator asks whole group:]

Does everyone agree with this group? Does anyone have any questions?

[facilitator guide: answers to questions from three scenarios – only offer if the group didn’t come up with this answer on their own:

1: Minimum Wage. Does the agency have to pay Lina for the two days she worked? Why or why not?

Yes, workers are entitled to minimum wage for all hours worked.

2. Overtime:

Luis is a homecare worker. He is paid nine dollars an hour. One week, he works 6 days a week and 8 hours each day.

Q: How much should Luis be paid?

6 days a week times 8 hours a day = 48 hours.

Every hour over 40 hours in a workweek should be paid time and a half.



Luis makes \$9 an hour. His time and a half is $\$9 + \$4.50 = \$13.5$

So Luis should be paid \$9/hour for 40 hours = \$360, and \$13.50/hour for 8 hours = \$108. His total pay should be \$468.

Q: Does the employer have to pay Luis overtime if Luis doesn’t speak much English?

Yes, you have these rights no matter what language you speak.

3. Travel time: (example from http://www.dol.gov/whd/homecare/travel_time.htm)

Q: Should Barbara get paid for the time she spends driving Tom on his errands? Why or why not?

Yes, she is working for Tom during that time and she must be paid.

Q: Should Barbara get paid for the time she spends on the bus, going from Marshawn’s house to Ignacio’s house? Why or why not?

If Los Angeles County is Barbara’s employer and is sending her to several places in one day, with no break between jobs during her travel, then Barbara must be paid for her time going from one client to another during the day.

[distribute handout: Know Your Rights materials]

5. How can we defend our rights? (15)

[Keep the group in small groups]

[Tell the group:]

We have talked about many rights, and we have talked about examples of times when those rights were not respected. It’s good to know your rights in the workplace – but what happens when your employer doesn’t respect your rights? Let’s return to our small groups and the same scenarios you just discussed. Come up with answers to these questions:

1. If the worker in your scenario isn’t being given their rights, what could they do? There is no one right answer.
2. What barriers might stop them from taking that action? How can they overcome those barriers? Discuss with your group and be prepared to report back.

[groups review scenarios. Facilitator and other organizers should circulate and listen to



different group discussions.]

[Tell the group:]

Ok, now it’s time to report back.

[Groups report back]

[Facilitator listens to each group and summarizes options. List should include – or facilitator should add if it doesn’t: Ask the individual employer; file a complaint with the U.S. Wage and Hour division; [in states where you have a functioning state Department of Labor, file a complaint with the state]; talk to other workers to see if they have the same problem; organize other workers with the same problem to make a demand together; if you have a third party employer like an agency or the state, work with your client to demand that the third party employer follow the rules; file a lawsuit as an individual or a group of workers; talk to the media with other workers to make the problems public; unionize with co-workers; organize a worker association with co-workers and make your demands together]

[Tell the group:]

These are all really good ideas. Some of these ideas involve an individual worker trying to solve a problem. Other ideas involve making a group of workers who can help each other solve a problem. And some ideas are about bringing together workers and their individual clients together to make the homecare system more fair for everyone. In this organization, we try to bring workers together, so we can become more powerful. Also, you actually have more protections against retaliation from your employer if you’re working together with your co-workers for more rights. If you are facing one of these problems in your workplace, [name of your organization] invites you to come and talk to the organizers here. We want to support you to make your work better, and to find other co-workers who want the same thing. We know that it’s good to have legal rights, but it’s even more important to know how to defend and protect those rights so they’re actually respected.

Report Back

[Tell the group:]

Let’s have each group report back now. Tell us about how the worker in each scenario could protect their rights.

[facilitator listens, affirms ideas, adds additional suggestions]

[Ask group:]



- Raise your hand if you will tell other workers about their rights.
- Raise your hand if you’re going to be part of an action for more worker power.
- What other commitments do people have?

6. Closing (5)

[Ask the group - go-round or popcorn]

What’s one thing you learned today?

[Tell the group:]

Let’s stand up and hold hands. Let’s take a breath in and remember all the workers who came before us. Let’s breathe in their strength. Let’s feel the power that we have together in this room today. Let’s breathe in one more time. As you breathe out, let’s all shout out a word that describes how you feel right now.

Handout Number One: History of Domestic Work

1) Enslaved Black women were forced to work in the homes of those who enslaved them, caring for the families of rich and middle-class whites – even as they were separated from their own families.



2) After slavery ended, formerly enslaved Black women had no resources. No one gave them any money or compensation for the suffering they endured. Without resources, they were stuck. Many Black women in the South had to keep working as domestic workers.



3) In the 1930's, there was a huge movement of workers who rose up and demanded better rights and a much stronger voice. Poor immigrant workers in factories, people who worked in construction, and domestic workers all started to act – they protested, picketed, held strikes,

NDWA “Know your Rights” Training for Homecare Workers: Facilitator’s Guide

created worker associations and unions and demanded dignity and respect.

In response to these uprisings, the federal government passed the nation’s first laws to protect workers. But Southern legislators wouldn’t pass laws that equally protected Black and white workers. Here is an example of anti-Black racism by legislators :

“There has always been a difference in the wage scale of white and colored labor....You cannot put the Negro and the white man on the same basis and get away with it.”

Statement of House Representative J. Mark Wilcox in 1937





Handout Number Two: How We Won More Rights

1) Millions of homecare workers across the country organized. They held rallies and press conferences and even testified in Washington, DC. For years, they demanded their rights. They worked with many different groups, including unions, disability rights groups, and worker centers.



2) The U.S. Department of Labor finally expanded protections for homecare workers!



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Handout Number Three: Three Scenarios

1. Minimum wage:

Lina works as a homecare worker. She works for an agency called Helping Hands. The agency tells her who to work for. They also tell her how long to spend with each client. Lina is paid the federal minimum wage - \$7.25 an hour. One day, the agency sends Lina to a new client. Lina works for the client for two days. But then the agency tells Lina that the new client doesn’t want Lina to come back anymore.

When Lina gets her weekly paycheck, she hasn’t been paid for the two days of work. When she asks her employer why, her employer says Lina doesn’t get paid when clients decide they don’t like her work.

Q: Does the agency have to pay Lina for the two days she worked? Why or why not?

2. Overtime:

Luis is a homecare worker. He is paid nine dollars an hour. One week, he works 6 days a week and 8 hours each day.

Q: How much should Luis be paid?

Q: Does the employer have to pay Luis overtime if Luis doesn’t speak much English?

3. Travel time: (example from http://www.dol.gov/whd/homecare/travel_time.htm)

A. Barbara is a person care aide who helps Tom. While she is helping him, she drives him to the Post Office and the grocery store.

Q: Should Barbara get paid for the time she spends driving Tom on his errands? Why or why not?

B. Barbara gets paid by Los Angeles County to work as a personal care aide for three clients. The County tells her when to go to each client’s house and what to do while she’s there. Barbara goes to her client Marshawn’s house in the morning, and then she takes a bus directly to her client Ignacio’s house in the afternoon.

Q: Should Barbara get paid for the time she spends on the bus, going from Marshawn’s house to Ignacio’s house? Why or why not?



NDWA “Know your Rights” Training for Homecare Workers: Facilitator’s Guide

[1] You can get more information and statistics about numbers of homecare workers here:
<http://phinational.org/sites/phinational.org/files/phi-facts-5.pdf>

[2] You can get more information about the numbers of people who are aging and want
homecare in the U.S. by going here: http://fightfor15homecare.org/care-gap-report/#_edn1

[3] You can get more statistics on poverty here:
<http://phinational.org/sites/phinational.org/files/phi-facts-5.pdf>