



Au Pairs Are Domestic Workers. They Deserve Basic Labor Protections.

Au Pairs Provide Full-Time Child Care

Each year, about 1,700 au pairs come to New Jersey from around the world.¹ Most are young women aged 18–26. **Au pairs provide flexible, full-time, live-in child care to New Jersey families, enabling parents to do their own work.** Under the federal au pair program regulations, au pairs work up to 45 hours per week or 10 hours per day.² This is the same work as any other live-in nanny—whether a U.S. citizen, undocumented, or designee of some other immigration status.

The Au Pair Program Lacks Oversight

The au pair program is part of the J-1 visa. Au pairs are recruited by sponsor agencies, which collect fees from both au pairs and host family employers.³ About 13 agencies operate in New Jersey.⁴ Although the visa is officially a cultural exchange visitor program, advocates report that it is “routinely used as a temporary work visa” by sponsors.⁵ Agencies control many parts of the au pair experience, including whether an au pair can change host family employers or leave an abusive situation. **Au pairs report that sponsor agencies often take no action when au pairs raise concerns about their working conditions.**⁶

The visa is under the jurisdiction of the U.S. Department of State, but the Department fails to oversee the program in any meaningful way. A Government Accountability Project review found that

¹ *Exchange Visitor Program Facts and Figures*, U.S. Dep’t of State, <https://j1visa.state.gov/basics/facts-and-figures/#participants> (last visited Jan. 26, 2021).

² 22 C.F.R. § 62.31(j)(2).

³ See generally Centro de los Derechos del Migrante, Inc., et al., [Shortchanged: The Big Business behind the Low Wage J-1 Au Pair Program](#) (2018), at 4–20.

⁴ *Exchange Visitor Program*, *supra* note 1.

⁵ Justice in Motion, [Visa Pages: U.S. Temporary Foreign Worker Visas, J-1 Visa](#) (Jan. 2020), at 4.

⁶ *Shortchanged*, *supra* note 3, at 4–7, 13–15 (“[A]u pairs report that their complaints largely fail to result in material improvements because local counselors all too often are unsupportive or side with the host family,” *id.* at 7).

the Department does not take action against sponsor agencies who fail to report exploitation and abuse. **Indeed, the Department of State has not sanctioned a sponsor agency in the last 15 years.**⁷

Sponsor Agencies Ignore the Law and Fight for Carve Outs

Federal law is absolutely clear that au pairs are workers entitled to federal minimum wage and basic labor protections.⁸ Courts have also affirmed that state and local worker protections can cover au pairs, just like other domestic workers.⁹

However, sponsor agencies have resisted their obligations under these worker protection laws. Agencies routinely mislead both au pairs *and* host family employers about au pairs' rights as workers. **As a result, au pairs are commonly paid a flat \$195.75 per week for up to 45 hours of work—roughly \$4.35 per hour.** For example, Cultural Care Au Pair, the largest sponsor agency, openly advertises on its website that host family employers pay a “weekly stipend of at least \$195.75 [] to your au pair.”¹⁰ In 2016, a nation-wide class action resulted in a group of sponsor agencies agreeing to pay \$65.5 million to about 10,000 au pairs.¹¹ Au pairs are entitled to many worker protections, but they are underenforced.

**Au pairs perform the essential caregiving work that makes all other work possible.
Like all domestic workers, they deserve basic labor protections.**

The National Domestic Workers Alliance (NDWA) works for the respect, recognition and inclusion in labor protections for domestic workers. For more information contact Rocío A. Ávila, Senior Employment Law Counsel & State Policy Director, at rocio@domesticworkers.org.

⁷ Zack Kopplin, *Au Pairs Come to the U.S. Seeking Cultural Exchange, But the State Department Often Fails to Protect Them*, Huffington Post (July 31, 2020), https://www.huffpost.com/entry/au-pair-america-cultural-care_n_5f204d6ac5b69fd473126c61.

⁸ 22 C.F.R. § 62.31(j); Exchange Visitor Program, 62 Fed. Reg. 34632 (June 27, 1997); [Exchange Visitor Program](#), 60 Fed. Reg. 8547, 8550 (Feb. 15, 1995).

⁹ *Capron v. Office of the Attorney General of Massachusetts*, 944 F.3d 9 (1st Cir. 2019); *Beltran v. InterExchange, Inc.*, 176 F. Supp. 3d 1066 (D. Colo. 2016).

¹⁰ *Our pricing*, Cultural Care Au Pair (last visited Jan. 19, 2021), <https://culturalcare.com/pricing/>.

¹¹ Kelly Reeves, *Fighting Wage Suppression for Childcare Workers on Au Pair Visas: Beltran, et al v. Interexchange, Inc., et al*, Towards Justice (May 8, 2019), <https://towardsjustice.org/fighting-wage-suppression-for-childcare-workers-on-au-pair-visas-beltran-et-al-v-interexchange-inc-et-al/> (summarizing case and collecting case documents); *Au Pair Class Action*, <http://www.aupairclassaction.com/> (last visited Dec. 20, 2019) (official class action settlement website).

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