

NATIONAL DOMESTIC WORKERS ALLIANCE

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 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

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).

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.

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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 nationwide 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.

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).