

New York State Department of Labor Farm Laborers Wage Board Hearing

January 20, 2022

Testimony of Beth Lyon

Clinical Professor of Law and Farmworker Legal Assistance Clinic Director

Good evening members of the Wage Board, thank you for the opportunity to address this hearing in support of immediate reduction of the farmworker overtime threshold to forty hours.”

I am a professor at Cornell Law School where I direct the Farmworker Legal Assistance Clinic. Since it opened in 2015, at the request of numerous community organizations, our clinic has focused on representing unaccompanied undocumented child and youth hired dairy workers. We have assisted these young workers in 12 counties across several regions of New York State. We represent them in deportation proceedings, and we work with them to secure a special visa for immigrants under age 21 who have been abandoned, abused or neglected by one or both parents. Our clients are a textbook vulnerable population. When they are strongly encouraged by an adult authority figure to reduce their work hours, they can fit education into their work week, for example an afternoon at BOCES or with onsite tutoring from Migrant Education, but in our experience this is not the norm. They are working too much to pursue an education. We often have to schedule our legal calls with them at odd hours in order to accommodate their long work weeks, and one young man fell asleep at the table while we were prepping in advance of a court appearance, as he had just come off of an early morning shift. They understand that they are missing something without an education, and many of our clients show little optimism for their own futures.

In a child labor report issued in 2018, the Government Accountability Office singled out American agriculture as having a uniquely high percentage of children in its hired labor force, and that they experience the highest injury and mortality rates compared with children working in other industries. The GAO report also said government and industry do a poor job of tracking child labor when it comes to agriculture and provides only general estimates. Without better data, the information I can provide is that in addition to all the cases my clinic and other legal services providers handle, we constantly receive requests to represent teenaged farmworkers we do not have the resources to help. In addition, community partners report frequent encounters with teenaged workers, including workers who did not disclose their real age at the point of hire.

This information ties back to the overtime threshold in two ways. In the short run, to the extent that 40-hour overtime may give young workers like my clients more free time, they will be better able to connect with their families, to pursue educational opportunities, or simply to rest. In the long run, I believe better pay and hours will reduce the incidence of child and youth hired labor, as New York State farms begin to attract a less vulnerable workforce.