



Au Pairs Are Domestic Workers. They Deserve Fair Wages & Basic Labor Protections.

The Au Pair Program

- More than 20,000 au pairs come to the United States from around the world each year.¹ Most are young women between the ages of 18 and 26.
- The program has an employment component and a cultural exchange component. Au pairs provide flexible, live-in childcare for up to 45 hours per week or 10 hours per day.
- Au pairs are commonly paid a flat \$195.75 per week. If an au pair works the maximum 45 hours per week, her wages amount to \$4.35 per hour. However, many au pairs report much longer work hours, bringing their hourly wages even lower.²
- Many families choose to get childcare through an au pair agency because it is cheaper than hiring local nannies, who are entitled to minimum wage and overtime.

J-1 Visas

- Au pairs come to the U.S. through the J-1 visa, a cultural exchange visitor program overseen by the Department of State.
- For immigration purposes, au pairs are classified as exchange visitors. For purposes of providing childcare, au pairs are workers who are protected by federal and state employment laws—although they are often not enforced.
- Au pairs often pay recruitment fees and other visa-related expenses to come to the U.S.³ These debts make it harder to leave exploitative working conditions.

Sponsoring Agencies

- Au pairs are recruited and officially sponsored by U.S.-based agencies, which collect fees from both au pairs and host families. Agencies make millions of dollars from fees.⁴

¹ Colleen Slevin, *Nearly 100,000 au pairs who worked in U.S. will share \$65.5 million settlement in suit over low wages*, Chi. Trib. (Jan. 9, 2019), <https://www.chicagotribune.com/nation-world/ct-au-pair-wage-lawsuit-20190109-story.html>; see also *Exchange Visitor Program Facts and Figures*, U.S. Dep't of State, <https://j1visa.state.gov/basics/facts-and-figures/#participants> (last visited Dec. 20, 2019).

² 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 9–13 (“Au pairs interviewed for this report consistently stated that their hours far exceeded the program’s mandates,” *id.* at 9).

³ *Id.* at 7–8 (noting that Department of State does not publish agency fees charged to au pairs, but estimating fees of \$1,500–\$3,000 based on interviews with au pairs and review of agency websites).

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- Agencies control many parts of the au pair experience, including whether an au pair can change host families. Agencies can redesignate au pairs in ways that affect their immigration status.
- **Agencies often take no action when au pairs raise concerns about their working conditions.**⁵
- The Department of State provides almost no oversight of au pair agencies.

Employment Laws Protect Au Pairs

- **Agencies have lobbied around the country to circumvent basic labor protections. But, two court cases have affirmed that federal and state employment laws apply to au pairs like other domestic workers.**
 - In *Beltran v. InterExchange, Inc.*, 176 F. Supp. 3d 1066 (D. Colo. 2016), the district court held that state wage laws are not preempted by the au pair program regulations—state wage laws cover au pairs. The court also held that agencies cannot deduct meal and lodging expenses from au pair wages. *Beltran*, a nation-wide class action, resulted in a \$65.5 million settlement to be distributed to about 10,000 au pairs.⁶
 - In *Capron v. Office of the Attorney General of Massachusetts*, 944 F.3d 9 (1st Cir. 2019), petition for cert. pending, No. 19-1031 (filed Feb. 14, 2020), the First Circuit Court of Appeals affirmed that the Massachusetts Domestic Workers Bill of Rights is not preempted by the au pair program regulations. Au pairs are entitled to the same protections as all other domestic workers, including state minimum wage and overtime, among other rights.
- Although employment laws apply to au pairs, they are often not enforced and agencies continue to lobby for carveouts. **Meanwhile, the structure of the au pair program leaves many au pairs isolated and vulnerable to exploitation.**
- Au pairs deserve a fair wage and vigorous enforcement of basic labor protections under federal, state, and local laws.

Au pairs perform the essential caregiving work that makes all other work possible.

Au pairs, in accordance with the law, must be paid according to federal and state minimum wage and overtime protections. As domestic workers, au pairs should not be carved out of any state or national Domestic Workers Bill of Rights.

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, State Policy Director, at rocio@domesticworkers.org.

⁴ See generally *id.* at 4–20 (documenting structure of the au pair program and analyzing available financial records of for-profit and non-profit sponsoring agencies).

⁵ *Id.* 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).

⁶ 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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