

# **Vocational Rehabilitation Services for H-2A Workers: Unique Approaches to Complex Cases**

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# Objectives:

History and prevalence of H-2A program

What makes H-2A injured worker claims unique from a vocational rehabilitation perspective?

Steps vocational rehabilitation providers should consider: (*Prior to Exit...When Home...Preparing for Return*)

Ethical considerations and responsibilities of rehabilitation professionals

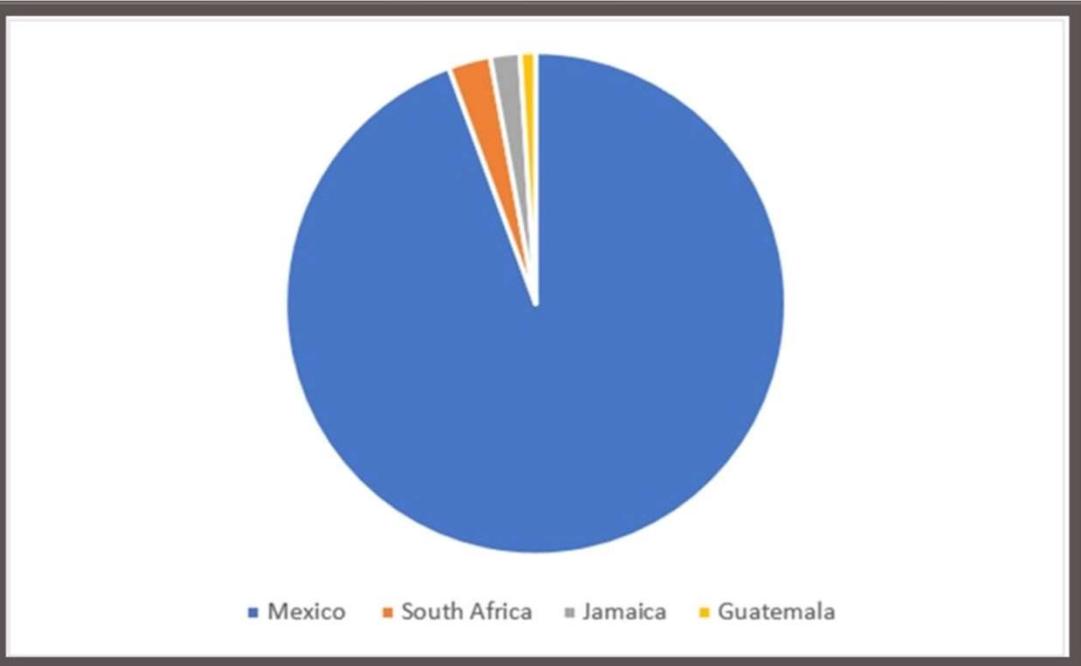




## H-2A Program Origins

- **Bracero Agreement (1942) - Response to labor shortage during WWII**
- **Immigration & Nationality Act (1952)**
- **Immigration Reform & Control Act (1986)**

# H-2A Workforce Origins



- Mexico 93%
- South Africa 3%
- Jamaica 2%
- Guatemala 1%



# Washington

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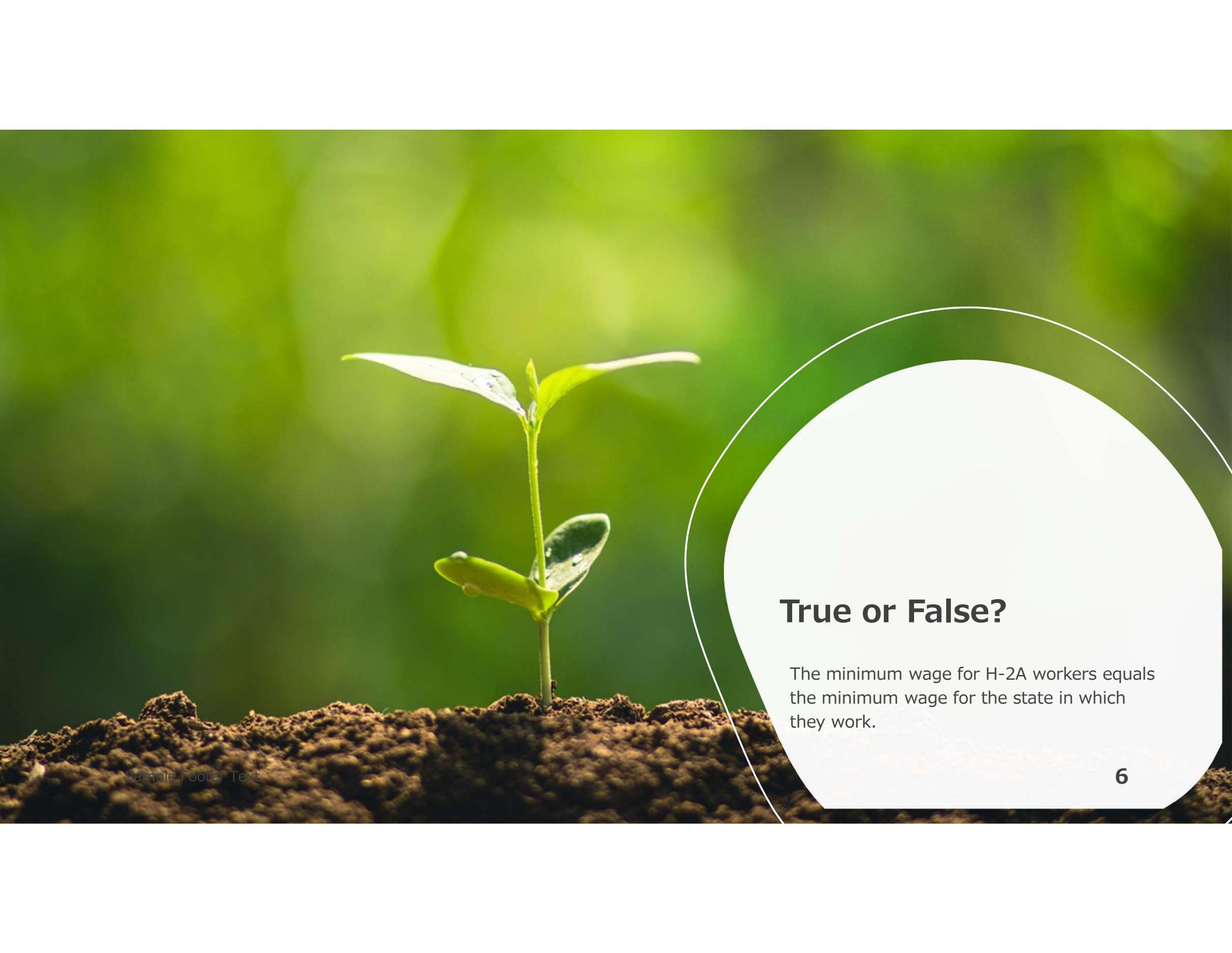


NORTH  
CAROLINA



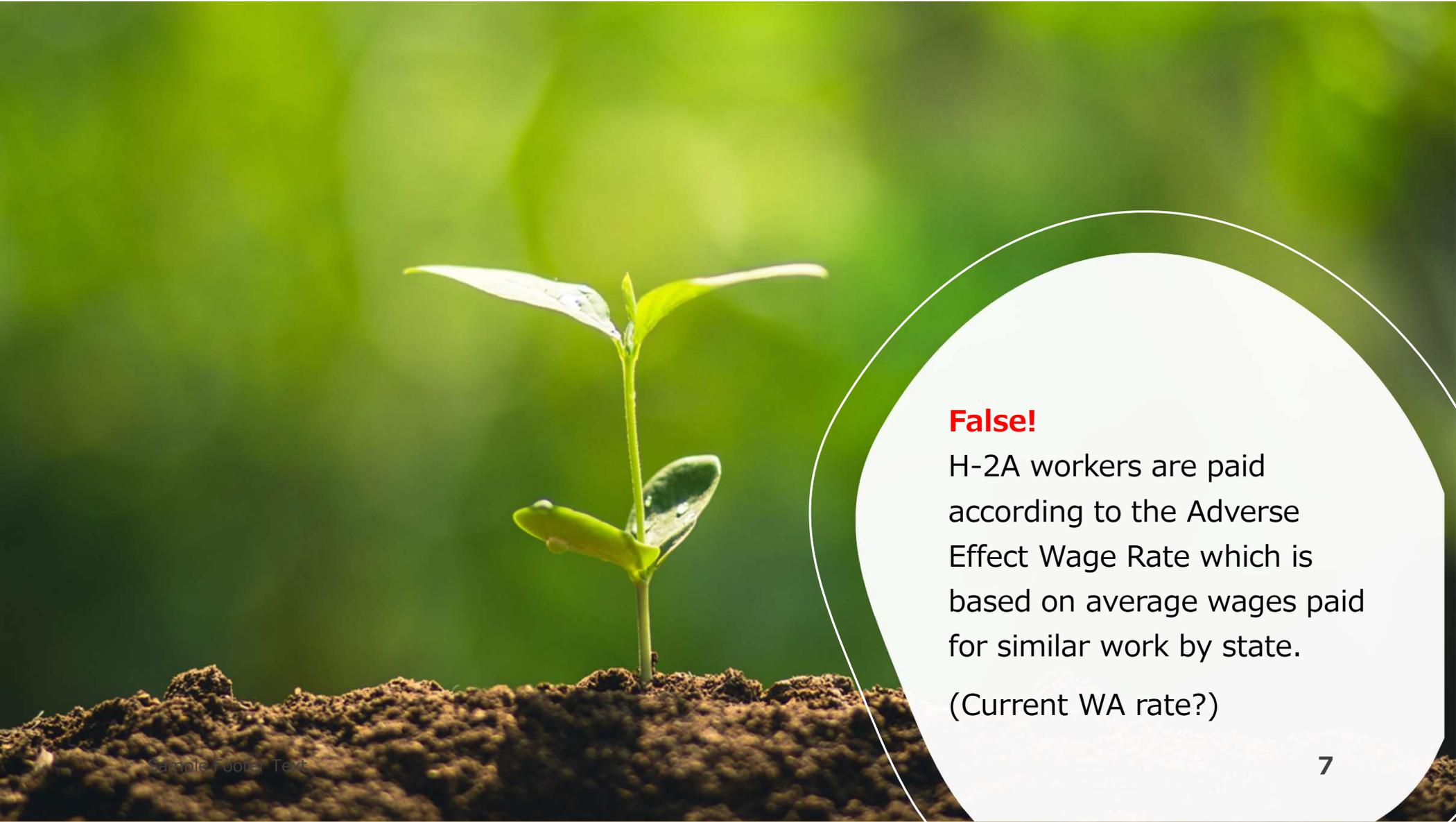
## Top 5 states for H-2A sponsorship

- Florida (19%)
- California (12%)
- Washington (9%)**
- Georgia (9%)
- North Carolina (7%)



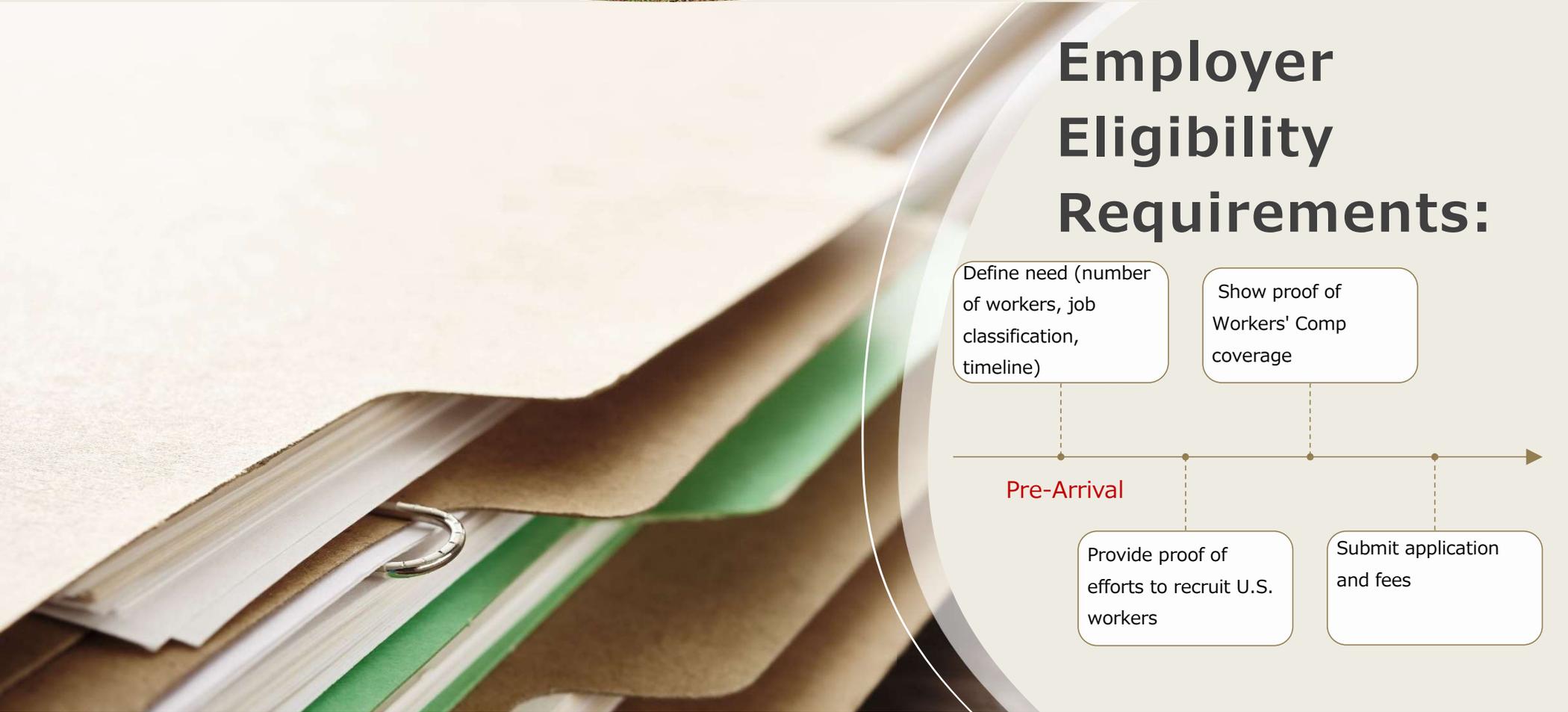
## True or False?

The minimum wage for H-2A workers equals the minimum wage for the state in which they work.



**False!**

H-2A workers are paid according to the Adverse Effect Wage Rate which is based on average wages paid for similar work by state.  
(Current WA rate?)



# Employer Eligibility Requirements:

Define need (number of workers, job classification, timeline)

Show proof of Workers' Comp coverage



Pre-Arrival

Provide proof of efforts to recruit U.S. workers

Submit application and fees

# Employer Eligibility Requirements:

Housing inspected and approved (hotel/motel allowed)

Provide licensed & insured transportation to/from work

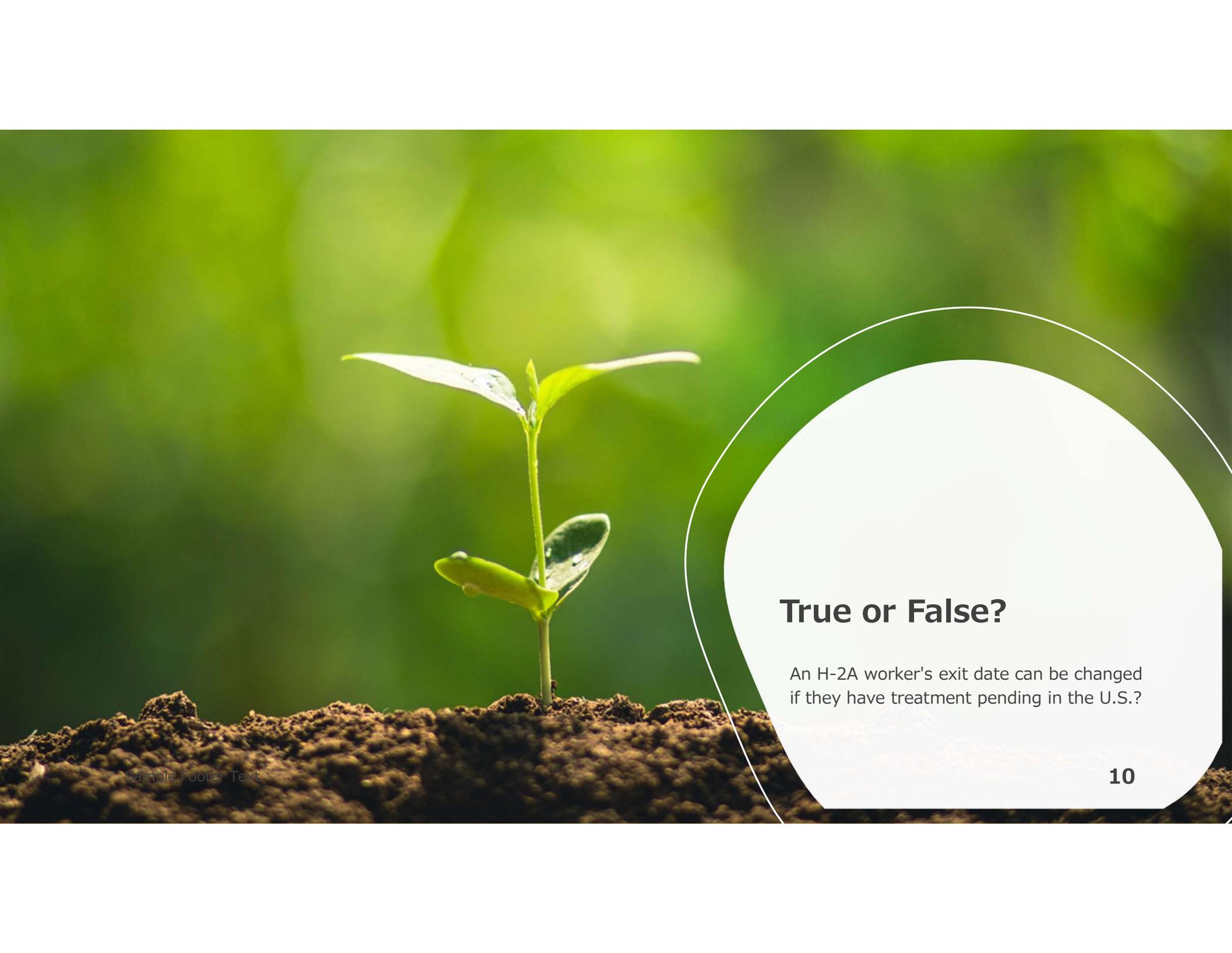
Provide 3 meals daily to all workers

Provide breaks per DOL standards (Paid breaks if <20 mins.)

Provide timely wages according to AEWR

Upon Arrival





## True or False?

An H-2A worker's exit date can be changed if they have treatment pending in the U.S.?



**False!**

Exit dates for H-2A workers are almost always **non-negotiable**

Exceptions must be:

- Employer initiated
- Related to circumstances such as weather or market conditions
- Necessary to prevent crops of commodities from being jeopardized

## Unique Barriers:

- Non-negotiable exit dates
- Cultural considerations
- Confidentiality and communication
- Provider access
- Payments (providers and time-loss)



## Reality Check

*"I felt worried that my employer would no longer offer work in the future and this H-2A opportunity would be lost for good. I thought I would no longer get treatment if I moved back to Mexico and that would be the end of the claim and work for me."*

*Quote from an Injured H-2A Worker*



## Steps to take before the worker leaves the U.S.

Debit Card

In-network provider

Coordination and planning with all parties

Communication Strategies: e-mail or WhatsApp (signed consent)



# What is WhatsApp?

- \* Secure messaging
- \* Video calling
- \* FREE
- \* International



# Disclosure & Consent:

A.3.a. Disclosure  
(ongoing)

B.2.d. Minimal  
Disclosure

A.1.d. Autonomy

C.1.d. Advocacy &  
Confidentiality

J.2.a. Consent for Use  
of Technology



# Translation, Technology & Distance Counseling:

A.3.c. Developmental and Cultural Sensitivity

J.2.a. Accessibility

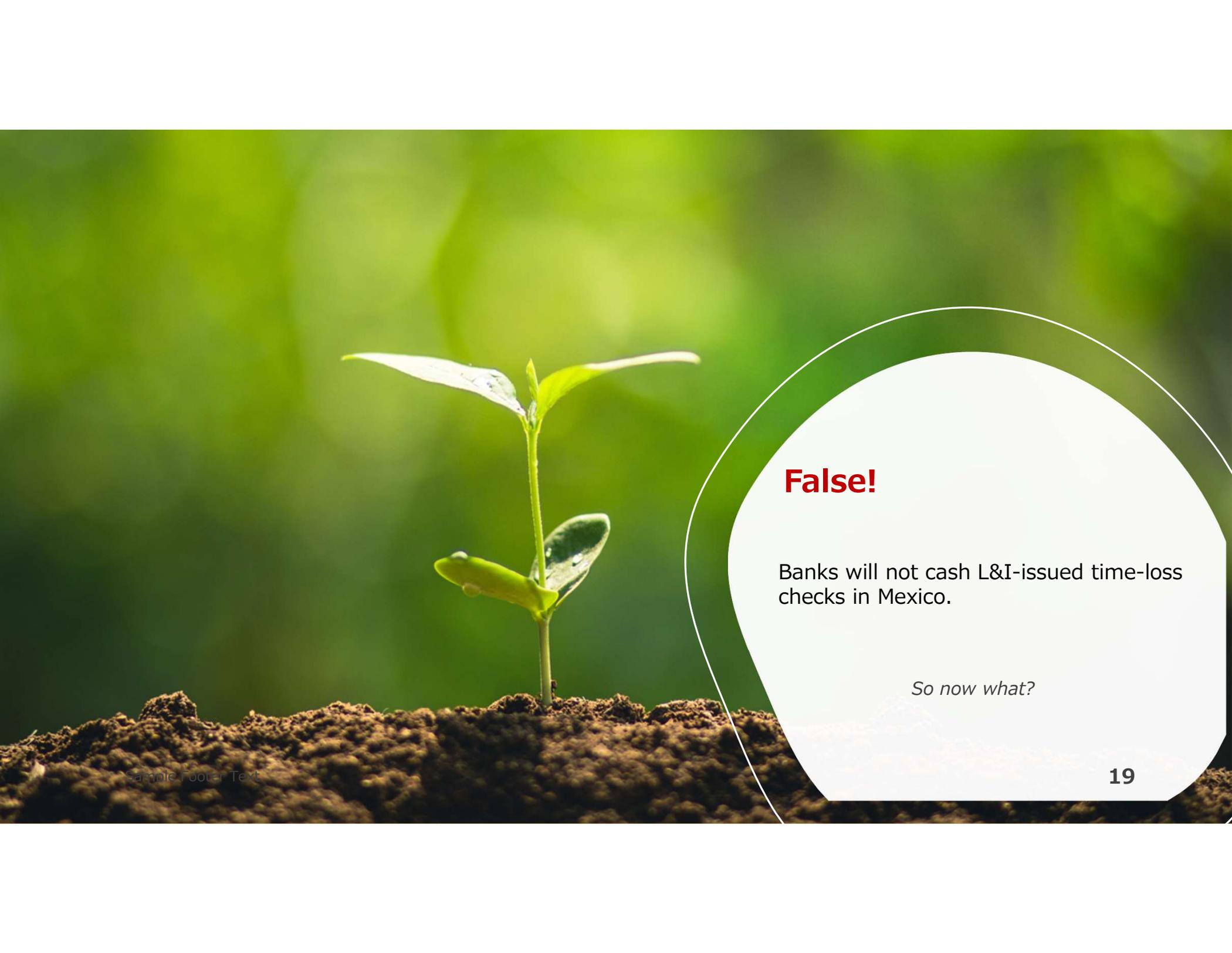
J.3.b. & d. Transmitting Confidential Info & Client Verification





## True or False?

Injured workers can cash checks in Mexico.



**False!**

Banks will not cash L&I-issued time-loss checks in Mexico.

*So now what?*



## Barriers faced once the worker is back in their home country

Out-of-pocket expenses and reimbursement

Access to in-network treating providers

Interpretation and translation

Employer engagement



# USD to MXN Pesos Exchange Rates



<https://www.wsj.com/market-data/quotes/fx/USDMXN/historical-prices>

## An Employer Perspective:

*"The employer looks at the worker's productivity and quality of work they do before injury. They also look at the worker's attitude before deciding if they are a good candidate to bring back, even for light-duty. They also take advantage of SAW and know that bringing back workers helps with L&I premiums."*

**Injured worker or not, H-2A workers must be sponsored by an employer before they are eligible to return to the U.S. under the H-2A program.**

## Worker Perspectives:

*"I would be afraid of not doing my job to the best of my capability due to the industrial injury. If employer is willing to bring me back to light-duty I feel capable of, I would be willing to pay the cost of travel to return to the employer. The employer reimburses part of the travel costs. They reimburse from Tijuana to Washington, but I pay out-of-pocket for travel from my hometown to Tijuana. I also have to convert money to U.S. dollars while in Mexico to have available for expenses when I first arrive to the U.S. to make it through while we wait for our first paycheck."*

"I am just glad they requested me to return to work for them."



## Steps for Injured Worker & VRC

- Renew Visa
- Discussions with employers
- Scheduling doctor appointments
- Updating all parties
- Developing a return-to-work plan

## Prepping for a soft landing...

### Employer Costs:

Labor Certification  
Processing: \$100 +  
\$10/worker up to \$1000

H-2A Visa App: \$296/worker

Transportation Inbound/  
Outbound fees: \$400-  
650/worker

Housing expenses

Transportation expenses

Wages



### Expectations:

The cost to benefit ratio for H-2A employers rests on productivity. Injured and medically restricted workers are rarely sponsored for return, even when necessary and curative treatment is available in the U.S. but not in their country of origin.

# Closing Steps:

A.8.a. Termination  
and Referral

C.1.d. Advocacy  
and Confidentiality

C.1.f. Knowledge of  
Benefit System





**Questions?**



## Resources:

<https://immigrationhistory.org/item/bra-cero-agreement/>

<https://bipartisanpolicy.org/explainer/primer/h2a-visa/>

<https://www.wafla.org>

<https://wilsoncenter.org>

<https://NCAEonline.org>

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