

## **UW/Fair Work Center Health and Safety Clinics – Resource List**

### **OSHA Quick Cards (English and Spanish)**

- Agriculture: Backing Up Farm Vehicles and Equipment Safely
- Agriculture: Protecting Farmworkers from Tractor & Harvester Hazards
- Agriculture: Protecting Workers from Tripod Orchard Ladder Injuries
- Amputations
- Electrical Safety
- Fall Protection in General Industry
- Hazard Communication Standard Pictogram
- Ladder Safety
- Mercury: Avoiding Exposure from Fluorescent Bulbs
- Protecting Workers from Heat Stress
- Respirators

### **Washington State Department of Labor and Industries resources in English and Spanish:**

- Required Workplace Posters
  - “Your Rights as a Worker”
  - “Job Safety and Health Laws”
  - “Notice to Employees – If a Job Injury Occurs”
- “Filing a Workplace Rights Complaint”
- SHARP “Stop Workplace Bullying”
- List of occupational physicians who treat L&I patients by area

### **Pacific Northwest Agricultural Safety and Health Center**

- “Diseases Caused by Heat – Know the Signs and Hazards” in English and Spanish

### **Migrant Clinician’s Network’s “Aunque Cerca...Sano” Spanish comic book on pesticide exposure**

### **SAIF Corporation: “Orchard Ladder Safety” Poster in English and Spanish**

### **U.S. Environmental Protection Agency**

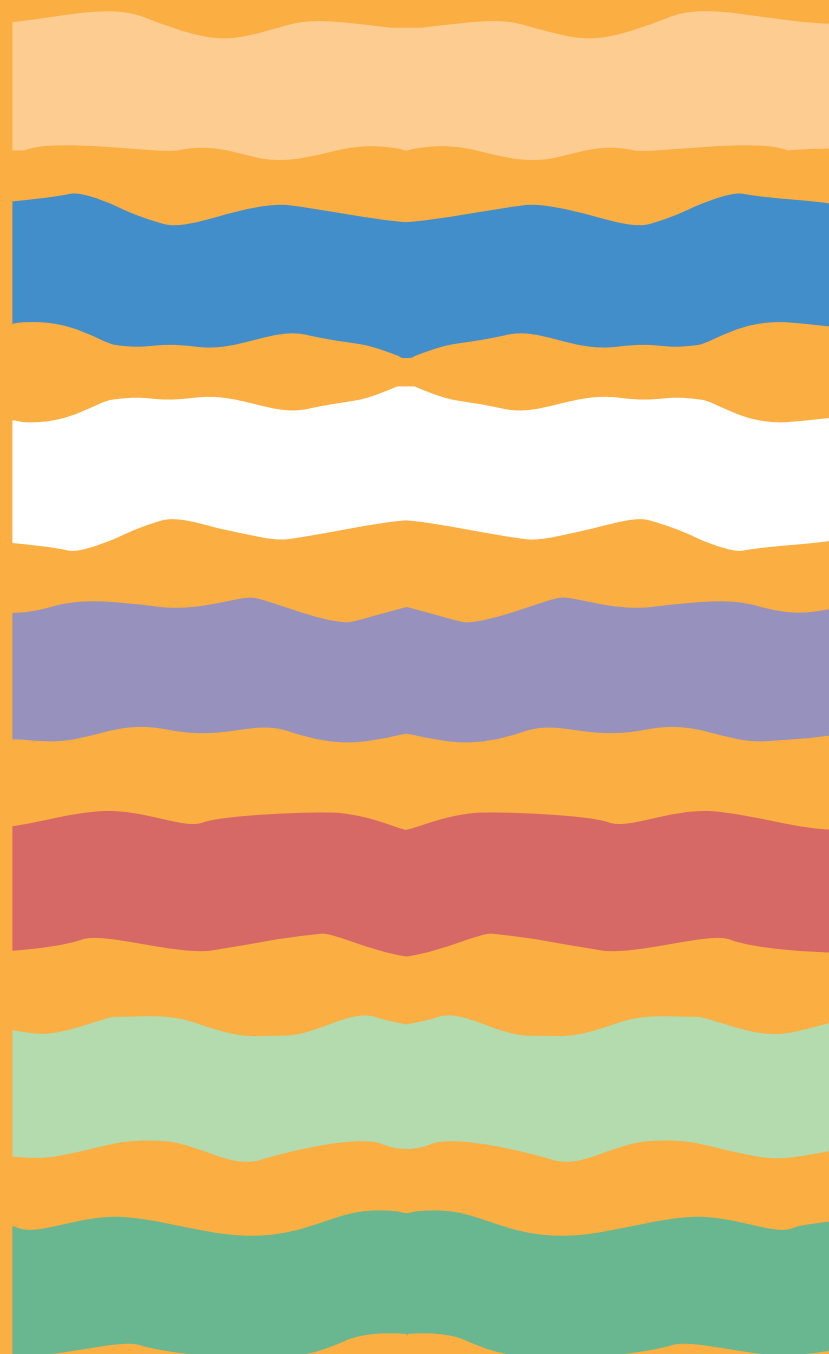
- “Quick Reference Guide to the Worker Protection Standard as Revised in 2015”

### **Washington State Human Rights Commission’s “Preventing Sexual Harassment” flyer**

### **Northwest Justice Project’s CLEAR flyer**

### **U.S. Equal Employment Opportunity Commission**

- “EEO is the Law” poster
- “Stop Sexual Harassment” farmworker comic book in English and Spanish



**PROTECTING WORKERS'  
HEALTH SERIES NO 3**

# **WORK ORGANIZATION & STRESS**

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**WORLD HEALTH  
ORGANIZATION**

**PROTECTING WORKERS'  
HEALTH SERIES No 3**

# **WORK ORGANIZATION & STRESS**

**SYSTEMATIC PROBLEM APPROACHES FOR EMPLOYERS,  
MANAGERS AND TRADE UNION REPRESENTATIVES**

WORK ORGANIZATION & STRESS

# WORK ORGANIZATION & STRESS



Protecting Workers' Health Series No. 3

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- No. 1: Preventing Health Risks from the Use of Pesticides in Agriculture
- No. 2: Understanding and Performing Economic Assessments at the Company Level
- No. 4: Raising Awareness of Psychological Harassment at Work
- No. 5: Preventing Musculoskeletal Disorders in the Workplace

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# Preface

This document is the third in a series of occupational health documents entitled: *Protecting Workers' Health*. The World Health Organization (WHO) within the Programme of Occupational Health publishes it. It is the result of the implementation effort of the Global Strategy on Occupational Health for All as agreed upon at the Fourth Network Meeting of the WHO Collaborating Centres in Occupational Health which was held in Espoo, Finland from 7-9 June 1999.

The text was prepared by the Institute of Work, Health & Organizations, University of Nottingham, a WHO Collaborating Centre in Occupational Health, and the European Agency's Topic Centre on Stress at Work. The document was sponsored in part by the WHO Regional Office for Europe.

Work stress is thought to affect individuals' psychological and physical health, as well as organizations' effectiveness, in an adverse manner. This booklet provides practical advice on how to deal with work stress. It is intended that employers, managers and trade union representatives use this booklet as part of an initiative to educate on the management of work stress. Discussed are the nature of stress at work, the causes and effects of stress, as well as prevention strategies and risk assessment and management methods. Also discussed are the role of the organizational culture in this process and the resources to be drawn upon for managing work stress.

The advice should be interpreted in the light of the particular problems faced by different groups of workers and what is reasonably practicable by way of solutions for each individual employer. Lists of common causes and effects of stress are included for illustrative purposes. References and suggestions for further reading are listed in Chapter 12.

WHO offers special acknowledgement to the authors of the document and to the reviewers who provided assistance in finalizing the brochure. These are listed below:

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# WORK ORGANIZATION & STRESS

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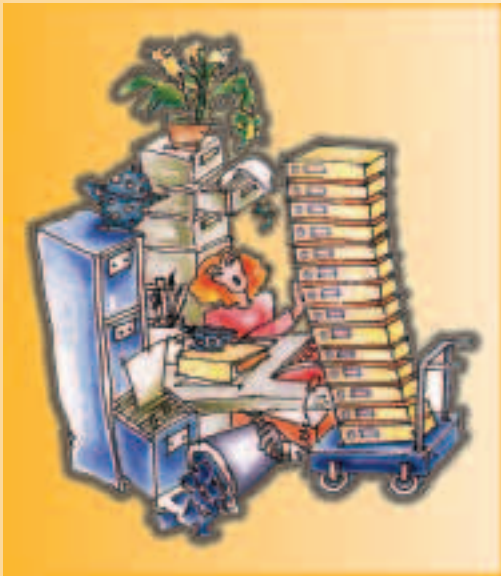
# Introduction

## 1

Work stress is recognised world-wide as a major challenge to workers' health and the healthiness of their organizations (see for example, ILO 1986; 1992).

Workers who are stressed are also more likely to be unhealthy, poorly motivated, less productive and less safe at work. Their organizations are less likely to be successful in a competitive market.

Stress can be brought about by pressures at home and at work. Employers cannot usually protect workers from stress arising outside of work, but they can protect them from stress that arises through work.



Stress at work can be a real problem to the organization as well as for its workers. Good management and good work organization are the best forms of stress prevention. If employees are already stressed, their managers should be aware of it and know how to help.

This booklet is concerned largely with the every day stress

of work and not specifically with the stress caused by sudden, traumatic events nor with the management of post-traumatic stress disorder. The booklet will tell you about:

- what work stress is (and is not)
- the risk management approach to work stress
- how to assess work for stress-related risks to health
- how to prevent or reduce work stress
- how to provide support for those people who are suffering from stress
- organizational policies and culture required to promote these actions

The goals of *best practice* objectives with regard to stress management are to prevent stress happening or, where employees are already experiencing stress, to prevent it from causing serious damage to their health or to the healthiness of their organization.

In many countries, legislation obliges employers to take care of the health and safety of their workers. This duty is normally interpreted to include the management of stress-related hazards, work stress and mental as well as physical health outcomes. Employers would be well advised to familiarize themselves with the relevant law in their country.



# 2

## What is work stress?

Work-related stress is the response people may have when presented with work demands and pressures that are not matched to their knowledge and abilities and which challenge their ability to cope.



Stress occurs in a wide range of work circumstances but is often made worse when employees feel they have little support from supervisors and colleagues and where they have little control over work or how they can cope with its demands and pressures.



There is often confusion between *pressure* or *challenge* and *stress* and sometimes it is used to excuse bad management practice.

*Pressure* at the workplace is unavoidable due to the demands of the contemporary work environment. Pressure perceived as acceptable by an individual, may even keep workers alert, motivated, able to work and learn, depending on the available resources and personal characteristics. However, when that pressure becomes excessive or otherwise unmanageable it leads to stress. Stress can damage your workers' health and your business performance.

Stress results from a mismatch between the demands and pressures on the person, on the one hand, and their knowledge and abilities, on the other. It challenges their ability to cope with work. This includes not only situations where the pressures of work exceed the worker's ability to cope but also where the worker's knowledge and abilities are not sufficiently utilised and that is a problem for them.

A healthy job is likely to be one where the pressures on employees are appropriate in relation to their abilities and resources, to the amount of control they have over their work, and to the support they receive from people who matter to them. As health is not merely the absence of disease or infirmity but a positive state of complete physical, mental and social well-being (WHO, 1986), a healthy working environment is one in which there is not only an absence of harmful conditions but an abundance of health promoting ones.

These may include continuous assessment of risks to health, the provision of appropriate information and training on health issues and the availability of health promoting organizational support practices and structures. A healthy work environment is one in which staff have made health and health promotion a priority and part of their working lives.

# 3

## What causes work stress?

**P**oor work organization, that is the way we design jobs and work systems, and the way we manage them, can cause work stress.

Excessive and otherwise unmanageable demands and pressures can be caused by poor work design, poor management and unsatisfactory working conditions. Similarly, these things can result in workers not receiving sufficient support from others or not having enough control over their work and its pressures.

*Research findings show that the most stressful type of work is that which values excessive demands and pressures that are not matched to workers' knowledge and abilities, where there is little opportunity to exercise any choice or control, and where there is little support from others.*

*The more the demands and pressures of work are matched to the knowledge and abilities of workers, the less likely they are to experience work stress.*

The more support workers receive from others at work, or in relation to work, the less likely they are to experience work stress.

The more control workers have over their work and the way they do it and the more they participate in decisions that concern their jobs, the less likely they are to experience work stress.

Most of the causes of work stress concern the way work is designed and the way in which organizations are managed. Because these aspects of



work have the potential for causing harm, they are called 'stress-related hazards'. The literature on stress generally recognizes nine categories of stress-related hazards and these are listed in Table I. One should keep in mind, though, that some of these hazards may not be universal or may not be considered harmful in specific cultures.

**Table I: Stress-related Hazards**

**Work Content:**

**Job Content**

- Monotonous, under-stimulating, meaningless tasks
- Lack of variety
- Unpleasant tasks
- Aversive tasks

**Workload and Work pace**

- Having too much or too little to do
- Working under time pressures

**Working Hours**

- Strict and inflexible working schedules
- Long and unsocial hours
- Unpredictable working hours
- Badly designed shift systems

**Participation and Control**

- Lack of participation in decision making
- Lack of control (for example, over work methods, work pace, working hours and the work environment)

## Work Context:

### Career Development, Status and Pay

- Job insecurity
- Lack of promotion prospects
- Under-promotion or over-promotion
- Work of 'low social value'
- Piece rate payments schemes
- Unclear or unfair performance evaluation systems
- Being over-skilled or under-skilled for the job

### Role in the Organization

- Unclear role
- Conflicting roles within the same job
- Responsibility for people
- Continuously dealing with other people and their problems

### Interpersonal Relationships

- Inadequate, inconsiderate or unsupportive supervision
- Poor relationships with co-workers
- Bullying, harassment and violence
- Isolated or solitary work
- No agreed procedures for dealing with problems or complaints

### Organizational Culture

- Poor communication
- Poor leadership
- Lack of clarity about organizational objectives and structure

### Home-Work Interface

- Conflicting demands of work and home
- Lack of support for domestic problems at work
- Lack of support for work problems at home

## 4

## The effects of work stress

### 4.1 The effects of work stress on individuals

**S**tress affects different people in different ways.

The experience of work stress can cause unusual and dysfunctional behaviour at work and contribute to poor physical and mental health. In extreme cases, long-term stress or traumatic events at work may lead to psychological problems and be conducive to psychiatric disorders resulting in absence from work and preventing the worker from being able to work again.

When under stress, people find it difficult to maintain a healthy balance between work and non-work life. At the same time, they may engage in unhealthy

#### When affected by work stress people may:

- become increasingly distressed and irritable
- become unable to relax or concentrate
- have difficulty thinking logically and making decisions
- enjoy their work less and feel less committed to it
- feel tired, depressed, anxious
- have difficulty sleeping
- experience serious physical problems, such as:
  - heart disease,
  - disorders of the digestive system,
  - increases in blood pressure, headaches,
  - musculo-skeletal disorders (such as low back pain and upper limb disorders)



activities, such as smoking drinking and abusing drugs.

Stress may also affect the immune system, impairing people's ability to fight infections.

## 4.2 The effects of work stress on organizations

If key staff or a large number of workers are affected, work stress may challenge the healthiness and performance of their organization.

Unhealthy organizations do not get the best from their workers and this may affect not only their performance in the increasingly competitive market but eventually even their survival.

### Work stress is thought to affect organizations by:

- increasing absenteeism
- decreasing commitment to work
- increasing staff turn-over
- impairing performance and productivity
- increasing unsafe working practices and accident rates
- increasing complaints from clients and customers
- adversely affecting staff recruitment
- increasing liability to legal claims and actions by stressed workers
- damaging the organization's image both among its workers and externally



## 5

## Risk assessment: What you can do about it?

### 5.1 Assessing risks at work

The experience of work stress is a challenge to the health and safety of workers and to the healthiness of their organizations. Employers should have a policy for the management of worker health that makes reference to work stress. They should enable that policy to be implemented by putting the appropriate arrangements in place. Such arrangements should address the issues of risk assessment, timely reaction and rehabilitation. Organizational level strategies for managing existing work stress focus on combating the risks at source.

Work stress can be effectively managed by applying a risk management approach as is successfully done with other major health and safety problems. A risk management approach assesses the possible risks in the work environment that may cause particular existing hazards to cause harm to employees. A hazard is an event or situation that has the potential for causing harm. Harm refers to physical or psychological deterioration of health. The causes of stress are hazards related to the design and management of work and working conditions, and such hazards can be managed and their effects controlled in the same way as other hazards.

Assessing the risks of work-related stress involves answering the following basic questions:

- Is there a problem? Could work stress be affecting your workers' health?
- How can the stress problem be solved?
- Is the whole system being monitored?

The aim of these questions is to identify work practices or circumstances that may cause significant imbalances of demand and resources. In the case of stress it is the associations of these imbalances with signs of stress in individual employees and work groups that indicate their significance. Once identified and assessed, steps may be taken to reduce work stress at the group level.

It is not generally advisable to ask employees leading questions such as 'are you stressed?'. Rather, you should explore the existing risks to your employees' health and then decide on the best approach for your own work group. Your choice of action and your reasons for the chosen approach should be recorded.

Approaches to exploring existing risks:

- You should ask employees directly about their work problems and whether or not they feel their health may be adversely affected by their work
- You could ask employees to describe the three 'best' and the three 'worst' aspects of their job, and to say whether they thought any of those aspects of work place them under too much pressure
- Employees could be asked a set of more detailed questions, based on the list given in the section on causes of stress (pp.6-7), asking them whether any of those possible problems apply to their own jobs



- Questions that are tailor-made to specific working contexts are likely to be more useful in designing further actions than any 'off-the-shelf' package
- Sickness absence, staff turnover, performance levels, accidents and mistakes should be regularly monitored and checked for excesses, changes and patterns

All these sources of information can alert you to potential problems where there is an identified imbalance of pressures and resources. They can alert you to 'at risk' work and work groups where an imbalance is associated with signs of stress.

*The best way of finding out if your employees have problems at work and why, is simply to ask them.*

The person who is expert in the job is usually the person doing it. Very often managers may have quite different views from employees about what causes problems. Always ask employees for their views.

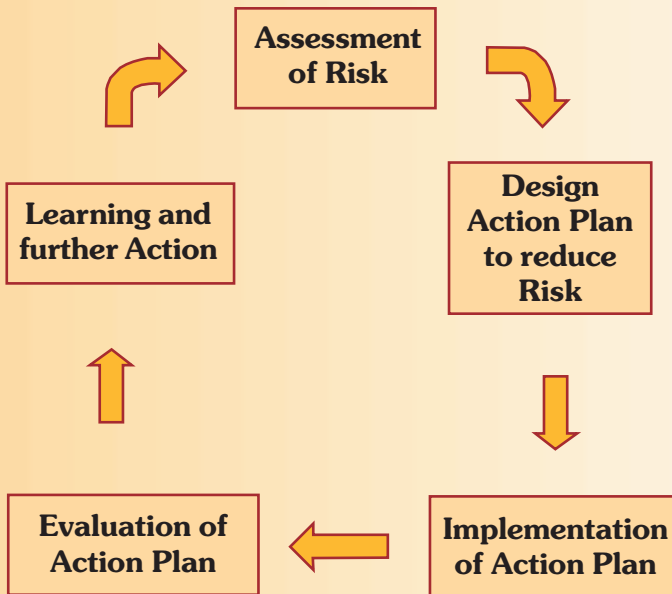
## **5.2 Essential steps in risk management**

Risk management is essentially a problem solving approach to health and safety problems and provides a vehicle for the continuous improvement of work and working conditions and thus the health of workers and the healthiness of their organizations.

Risk management proceeds through a cycle of five actions:

- [1] an analysis of the situation and an assessment of risk,
- [2] the design of an action plan to reduce the risk of work stress
- [3] the implementation of that action plan and
- [4] its evaluation, and
- [5] learning and further action based on the results of that evaluation

## The Risk Management Cycle



The basic steps in stress risk management are presented in Table II.

**Table II: Basic Steps in Stress Risk Management**

- Think about the different work groups or workplaces that make up your organization. Ask yourself which are likely to be the most stressed or stressful.
- What evidence have you got for this? (e.g. high absence rates, poor health records, high accident rates, poor morale, worker or trades union complaints, poor productivity etc.).
- Investigate the way in which the work of these groups or workplaces is designed and managed, and examine their working conditions.
- Identify, collect and discuss the evidence that is available to you. Work in a team with others who understand the work groups and workplaces. Consult the workers and trade unions possibly through group discussions.

- Identify the main problems and their effects.
- Discuss this information with the responsible managers and other relevant people, such as Occupational Health specialists, and with the trade unions.
- Develop an action plan that is appropriate, reasonable and practical.
- Discuss how this plan might be implemented and made to work. Inform the workers of the plan and how it will be implemented.
- Before its implementation, determine how this plan might best be evaluated.
- Implement and evaluate the action plan.
- Discuss the results of the evaluation. What can be learned from the successes and failures of the action plan? What can be done now?
- Revise action plan and implement a new one to target unaccounted risks.

# 6

## The prevention of work stress

There are a number of ways by which the risk of work stress can be reduced. These include:

- *primary prevention*, reducing stress through:
  - ergonomics,
  - work and environmental design,
  - organizational and management development,
- *secondary prevention*, reducing stress through:
  - worker education and training, and
- *tertiary prevention*, reducing the impact of stress by:
  - developing more sensitive and responsive management systems and enhanced occupational health provision.

The organization itself is a generator of different types of risk. Tertiary prevention in organizations places an emphasis on the provision of responsive and efficient occupational health services. Contemporary work stress management should, therefore, encompass tertiary prevention.

A good employer designs and manages work in a way that avoids common risk factors for stress and prevents as much as possible foreseeable problems.

### ***Well-designed work should include:***

Clear organizational structure and practices	Employees should be provided with clear information about the structure, purpose and practices of the organization.
Appropriate selection, training and staff development	<p>Each employee's skills, knowledge and abilities should be matched as much as possible to the needs of each job.</p> <p>Candidates for each job should be assessed against that job's requirements.</p> <p>Where necessary, suitable training should be provided.</p> <p>Effective supervision and guidance is important and can help protect staff from stress.</p>
Job descriptions	A job description will depend on an understanding of the policy, objectives and strategy of the organization, on the purpose and organization of work and on the way performance will be measured.
Job descriptions have to be clear	<p>It is important that an employee's manager and other key staff are aware of the relevant details of the job and make sure that demands are appropriate.</p> <p>The better employees understand their job, the more they will be able to direct the appropriate efforts towards doing it well.</p>
Communication	<p>Managers should talk to their staff, listen to them and make it clear that they have been heard.</p> <p>Communication of work expectations should be comprehensible, consistent with the job description and complete.</p> <p>Commitments made to staff should be clear and should be kept.</p>
Social environment	A reasonable level of socializing and teamwork is often productive as it can help increase commitment to work and to the work group.

In an existing workplace it may be far from reasonable to expect all these factors to be present or introduced where they are absent. It might therefore be better to identify any mismatch between demands and pressures, on the one hand, and workers knowledge and abilities, on the other, set priorities for change and manage the change towards risk reduction.



# Solving work stress problems

There are various strategies to solve work stress problems.

## Work Redesign

The **best strategies for work redesign** focus on demands, knowledge and abilities, support and control and include:

- Changing the demands of work (e.g. by changing the way the job is done or the working environment, sharing the workload differently).
- Ensure that employees have or develop the appropriate knowledge and abilities to perform their jobs effectively (e.g. by selecting and training them properly and by reviewing their progress regularly).
- Improve employees' control over the way they do their work (e.g. introduce flexi-time, job-sharing, more consultation about working practices).
- Increase the amount and quality of support they receive (e.g. introduce 'people management' training schemes for supervisors, allow interaction among employees, encourage cooperation and teamwork).

### **Stress Management Training**

- Ask employees to attend classes on relaxation, time management, assertiveness training or exercise.

### **Ergonomics and Environmental Design**

- Improve equipment used at work and physical working conditions.

### **Management Development**

- Improve managers' attitudes towards dealing with work stress, their knowledge and understanding of it and their skills to deal with the issue as effectively as possible.

### **Organizational Development**

- Implement better work systems and management systems. Develop a more friendly and supportive culture.

There are basically three ways by which employers can detect problems early and prevent them from becoming serious. These are presented below.

### **Early detection and prevention of work stress-related problems:**

- Regularly monitoring staff satisfaction and health.
- Making sure staff know whom to talk to about problems.
- Knowing where to refer employees to for professional help when they appear to be experiencing real difficulties. Small businesses would perhaps refer in the first instance to their employees' General Practitioner. Larger businesses may have access to their own occupational health service or Employee Assistance Programme.



It is essential that you take steps to confirm the effectiveness of the measures you have taken to correct work stress.

*You should follow up your findings after a suitable period and compare them with your earlier findings and interpretation at the time of the initial assessment.*

Your method of follow-up should be recorded and explained. If necessary, you may have to revise your approach to work stress problems.

# 8

## Caring for troubled workers

**T**his is tertiary prevention to work stress. When all efforts towards preventing work stress and controlling foreseeable risk have failed, you need to act swiftly and appropriately to deal with workers who are being hurt by the experience of work stress. You will be involved both in identifying employees in trouble and in managing their problem.

In cases that cannot be handled by the employer or manager, expert assistance should be sought.

### **Steps of tertiary prevention of work stress:**

#### **Identifying the problem**

- Work stress is usually revealed by observations of worker difficulties or worker complaints of difficulties and ill health.
- Signs include irritability, aggression, errors, decreased performance, increases in smoking, drinking and substance abuse, higher levels of absenteeism and clients' complaints.
- You should look for any changes in workers' behaviour or health. Such warning signs should never be ignored. Where these signs coincide with excessive work pressures or demands, you should consider that the workers may be suffering from work stress.

**What should you do to help?**

- An individual worker's problems and the solutions to those problems should be discussed with the worker, described and agreed.
- Timing of such discussions may depend on worker's state of well-being.
- Possible interventions, both individual (e.g. training, medical treatment, counselling) and organizational (e.g. job re-design, changes in management practices) should be planned, implemented and evaluated.

**Records**

- Careful records should be kept, and progress evaluated.
- Records should be accurate, deal with facts and points of evidence. Opinions and judgements should not be represented as facts.
- Proposed actions and the reasons for their selections should be agreed where possible and recorded.

## 9

## Organizational culture

**O**rganizational culture is one of the key factors in determining how successful an organization will be in managing work stress.

*Organizational culture is reflected in the attitudes of staff, their shared beliefs about the organization, their shared value systems and common and approved ways of behaving at work.*

Organizational culture also concerns how problems are recognized and solved. It can affect what is experienced as stressful, how that experience translates into health difficulties, how both stress and health are reported and how the organization responds to such reports.

Employers, managers and trade union representatives must therefore become aware of the culture of an organization, and explore it in relation to the management of work stress. If necessary, these parties must engage in culture change activities as an important aspect of improving the management of stress at work.

## 10

## Resources for managing work stress

**A**ll employers should carefully consider the systems that they have in place for assessing, preventing and otherwise managing work stress.

*You must be aware of your organization's systems and resources for managing stress.*

Internal resources may include occupational health services, human resource management (personnel), training departments or other individuals with responsibility for staff well-being and health.

Individual problems which are complex, difficult and not manageable internally, are best dealt with by a counselling psychologist, clinical psychologist, counsellor, or an occupational physician who may consult with a general practitioner or other specialist functions as deemed necessary.

Identification of any groups at risk within your organization is crucial and should accompany the examination of available organizational resources for managing work stress.

# 11

## Concluding remarks

**W**ork stress is a real challenge for workers and their employing organizations. As organizations and their working environment transform, so do the kinds of stress problems that employees may face. It is important that your workplace is being continuously monitored for stress problems.

Further, it is not only important to identify stress problems and to deal with them but to promote healthy work and reduce harmful aspects of work. Work in itself can be a self-promoting activity as long as it takes place in a safe, development- and health-promoting environment.

### **GOOD MANAGERMENTS IS STRESS MANAGEMENT**

*Successful employers and managers  
provide leadership in dealing with the  
challenge of work stress*

## 12

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# Further Information

## **WHO**

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Tel: +41 22 799 61 11  
<http://www.ilo.org/>

## **NIOSH**

National Institute for Occupational Safety and Health  
4676 Columbia Parkway  
Cincinnati, OH 45226-1998  
Tel: +1-800-553-6847  
<http://www.cdc.gov/niosh/homepage.html>



# **U.S. Equal Employment Opportunity Commission**

## **Legal Definitions of Discrimination and Harassment**

### **Race/Color Discrimination**

Race discrimination involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion.

Race/color discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or color.

Discrimination can occur when the victim and the person who inflicted the discrimination are the same race or color.

### **Race/Color Discrimination & Work Situations**

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

### **Race/Color Discrimination & Harassment**

It is unlawful to harass a person because of that person's race or color.

Harassment can include, for example, racial slurs, offensive or derogatory remarks about a person's race or color, or the display of racially-offensive symbols. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

### **Race/Color Discrimination & Employment Policies/Practices**

An employment policy or practice that applies to everyone, regardless of race or color, can be illegal if it has a negative impact on the employment of people of a particular race or color and is not job-related and necessary to the operation of the business. For example, a "no-beard" employment policy that applies to all workers without regard to race may still be unlawful if it is not job-related and has a negative impact on the employment of African-American men (who have a predisposition to a skin condition that causes severe shaving bumps).

# Sex-Based Discrimination

Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex.

Discrimination against an individual because of gender identity, including transgender status, or because of sexual orientation is discrimination because of sex in violation of Title VII. For more information about LGBT-related sex discrimination claims, for more information

see [http://www.eeoc.gov/eeoc/newsroom/wysk/enforcement\\_protections\\_lgbt\\_workers.cfm](http://www.eeoc.gov/eeoc/newsroom/wysk/enforcement_protections_lgbt_workers.cfm).

## Sex Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

## Sex Discrimination Harassment

It is unlawful to harass a person because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

## Sex Discrimination & Employment Policies/Practices

An employment policy or practice that applies to everyone, regardless of sex, can be illegal if it has a negative impact on the employment of people of a certain sex and is not job-related or necessary to the operation of the business.

# Harassment

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

Prevention is the best tool to eliminate harassment in the workplace. Employers are encouraged to take appropriate steps to prevent and correct unlawful harassment. They should clearly communicate to employees that unwelcome harassing conduct will not be tolerated. They can do this by establishing an effective complaint or grievance process, providing anti-harassment training to their managers and employees, and taking immediate and appropriate action when an employee complains. Employers should strive to create an environment in which employees feel free to raise concerns and are confident that those concerns will be addressed.

Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation.

## Employer Liability for Harassment

The employer is automatically liable for harassment by a supervisor that results in a negative employment action such as termination, failure to promote or hire, and loss of wages. If the supervisor's harassment results in a hostile work environment, the employer can avoid liability only if it can prove that: 1) it reasonably tried to prevent and promptly correct the harassing behavior; and 2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer.

The employer will be liable for harassment by non-supervisory employees or non-employees over whom it has control (e.g., independent contractors or customers on the premises), if it knew, or should have known about the harassment and failed to take prompt and appropriate corrective action.

When investigating allegations of harassment, the EEOC looks at the entire record: including the nature of the conduct, and the context in which the alleged incidents occurred. A determination of whether harassment is severe or pervasive enough to be illegal is made on a case-by-case basis.

## Sexual Harassment

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

## Reporting Safety Complaints to DOSH

<p><b>7. Workers have the right to make a complaint to DOSH about dangerous conditions on the job. DOSH will not show workers' names to their boss.</b></p>	<p>Workers have the right to file a complaint if they are being asked to do unsafe work or have seen something unsafe at work. In Washington State, Labor &amp; Industries DOSH handles workplace health and safety complaints and discrimination.</p>	<p>Workers or their representatives may file a complaint online or by phone, mail, email or fax with WA L&amp;I and request an inspection of a workplace if they believe there is a violation of a safety or health standard, or if there is any danger that threatens physical harm, or if an "imminent danger" exists.</p>	<p>Employer has to allow a worker representative to go with a DOSH inspector during an inspection. Employers have to put up a written notice of DOSH violations at or near the place where they happened. Employers have to correct hazards within the time period set by DOSH.</p>
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**NOTE: If you see a worker in immediate danger, contact L&I at 1-800-423-7233**

Complaints / Discrimination
Filing a Workplace Rights Complaint
Termination
Safety Complaints
L&I Claims: Workers' & Employers' Rights
Discrimination in the Workplace
Look Up Employers Who Have Violated Wage Laws

### Complaints / Discrimination

File a Worker Complaint
Defend your rights.

Termination Rights
Protections when being fired

**Filing a Workplace Rights Complaint**  
Find out what to do if you feel your rights have been denied at work.

**Termination**  
Can a business fire a worker at will? What recourse does a worker have if their former employer is giving them bad references?

**Safety Complaints**  
Workers are entitled to a safe and healthy workplace and protection from discrimination if they report unsafe conditions.

**L&I Claims: Workers' & Employers' Rights**  
Injured workers are entitled to medical and financial help and protection from discrimination if they file a workers' compensation claim. Employers have the right to protest or appeal a claim and are protected from being sued.

**Discrimination in the Workplace**  
Find out what to do if you feel a worker is being unfairly treated or discriminated against in the workplace because of a disability or any other Equal Opportunity issue.

**Look Up Employers Who Have Violated Wage Laws**  
These are listings of employers where the Department of Labor & Industries completed investigations of wage complaints filed by employees.

Español
Join Email List
Contact Us

Website for details:

<http://www.lni.wa.gov/Safety/TrainingPrevention/Help/ReportHazards/default.asp?F=HDI>

<http://lni.wa.gov/WorkplaceRights/ComplainDiscrim/default.asp>

# Pocket Guide to Worker Rights



*Know your rights*



Washington State Department of  
**Labor & Industries**

**[www.Lni.wa.gov](http://www.Lni.wa.gov)**

**1-800-547-8367 (1-800-LISTENS)**

This guide was prepared by the Department of Labor & Industries (L&I) to help you understand your rights as a worker in Washington State.

It summarizes your rights to:

- A safe and healthy workplace.
- Minimum wage and overtime pay.
- Rest and meal breaks.
- Leave usage and protected leave.
- Workers' compensation benefits if you are injured on the job or develop an occupational disease.

This guide also explains your protection against discrimination or retaliation for exercising your rights. It is against the law for your employer to discriminate against you or fire you for reporting unsafe conditions, filing a safety or workplace rights complaint, or for filing a workers' compensation claim.

Be sure you know your rights – read this guide!

**For more information:**

On the Web at  
**[www.Lni.wa.gov/Safety](http://www.Lni.wa.gov/Safety)**  
**[www.Lni.wa.gov/WorkplaceRights](http://www.Lni.wa.gov/WorkplaceRights)**

Call L&I's toll-free information line:  
1-800-547-8367 (1-800-LISTENS)

Call or visit your local L&I office  
(See the back cover for a list of office locations  
and telephone numbers.)

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## Safe and Healthy Workplace

The Washington Industrial Safety and Health Act (WISHA), Chapter 49.17 RCW, requires employers to provide safe and healthy working conditions, as far as reasonably possible, for workers in this state.

L&I enforces this law through its Division of Occupational Safety and Health (DOSH), which:

- Inspects workplaces to identify hazards and improve safety.
- Investigates work-related fatalities, hospitalizations, and complaints of unsafe workplaces.

This law sets minimum requirements that employers must follow and protects your right to report workplace safety and health concerns. These requirements include establishing policies that are effective in practice and providing safeguards and safety devices to make your workplace safe. You must follow the rules and policies your employer sets in place and use any required personal protective equipment (PPE) provided to you.

*Note: Federal workers and workers on federal lands should contact the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) at 1-800-321-6742.*



## *What are my rights?*

If you know of potentially hazardous conditions and have reported them to your employer, and they remain uncorrected, you may file a confidential complaint with DOSH. DOSH will evaluate your complaint and may schedule an inspection of your workplace.

You have the right to:

- Bring job safety and health concerns to your employer's attention.
- Discuss safety and health matters with other workers.
- Be paid for the time to put on required personal protective equipment.
- Participate in union activities concerning safety and health matters.
- Be interviewed in private by a DOSH inspector during an inspection and be paid for that time.
- Get copies of your medical records, including records of exposures to toxic and harmful substances or conditions.
- Refuse a dangerous task when certain conditions exist. See "Can I walk off the job to protest unsafe conditions?" on Page 3 of this guide.
- File safety and health grievances.
- Participate in safety and health inspections with a DOSH inspector.
- File a complaint about a workplace safety or health hazard with DOSH or Occupational Safety and Health Administration (OSHA). You may ask that your name be kept confidential.

Your employer may not fire you or discriminate or retaliate against you solely because you have taken part in protected activities such as those described above.

## *What is considered discrimination or retaliation for exercising my rights?*

By law, no one, including your employer, may take action against you for exercising your rights under the Washington Industrial Safety and Health Act. If that happens, you may have been discriminated against. Discriminatory or retaliatory actions include but are not limited to:

- Demoting you or laying you off.
- Assigning you to an undesirable job assignment or shift.
- Taking away your seniority.
- Reducing your pay or earned benefits.
- Blacklisting, threatening, or intimidating you.

## *Can I walk off the job to protest unsafe conditions?*

No, you cannot walk off the job. However, you can refuse to do a specific task if you reasonably believe that doing so would be dangerous to your life and/or health. You need to stay on the job until the issue is resolved. If you walk off the job, DOSH may not be able to protect you.

Your right to refuse a task is protected if all of the following conditions are met:

1. The refusal to work must be genuine. It cannot be a disguised attempt to harass your employer or disrupt business.
2. A reasonable person (or most people) would agree that there is a real danger of death or serious injury if you were to perform the job.
3. There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as filing a complaint with DOSH.

When **all three of the above conditions** are met, you should:

1. Ask your employer to correct the hazard.
2. Ask your employer for other work.
3. Tell your employer that you won't perform the work unless the hazard is corrected.
4. Remain on the work site until ordered to leave by your employer.

### ***How do I file a workplace hazard or discrimination complaint?***

If you believe you have been punished or fired for reporting your safety and health concerns, contact L&I DOSH as soon as possible. You may file the complaint yourself, or you may authorize a representative, such as your union, to do it for you.

**You must file your complaint within 30 days from the time a discriminatory action occurred.**

Contact DOSH at the Department of Labor & Industries in person at any L&I office, by letter, or by telephone within 30 days from the time a discriminatory action occurred. You may file your complaint with the Assistant Director for DOSH at this address:

Assistant Director  
Division of Occupational Safety and Health  
Department of Labor & Industries  
P.O. Box 44600  
Olympia WA 98504-4600

Discrimination complaint forms are available online in English or Spanish at **[www.Lni.wa.gov/SafetyComplaints](http://www.Lni.wa.gov/SafetyComplaints)** and from local L&I offices (see back cover). You may also file a retaliation complaint with the U.S. Department of Labor, Occupational Safety & Health Administration (OSHA) within 30 days of the retaliatory act. Although OSHA will not conduct a parallel investigation, filing an OSHA complaint allows you to request a federal review of your retaliation complaint if you are dissatisfied with the state's final determination.

Call 206-757-6700 or contact the OSHA Regional Office at:

OSHA Regional Office  
300 Fifth Ave., Suite 1280  
Seattle, WA 98104-2442

### ***What if I still have workplace safety and health questions?***

Contact L&I for help to determine if you have been discriminated against.

- Call 1-800-423-7233.
- Visit an L&I office in person:  
**[www.Offices.Lni.wa.gov](http://www.Offices.Lni.wa.gov)**.



# Wage and Hour Laws

## *Regular wages*

You must be paid at least minimum wage for all hours worked (tips cannot be counted as part of the minimum wage). Workers who are 14 or 15 may be paid 85% of the adult minimum wage. Also, you must be paid on set paydays (at least once a month) and receive a statement of your wages.

## **Agricultural workers: exception to minimum wage**

Minimum wage does not apply for any individual if all the following requirements are met:

- The individual is employed as a hand-harvest laborer; and
- The individual is paid on a piece rate basis in an operation where such payment is customary; and
- The individual is a permanent resident and commutes daily from his or her own residence to the farm; and





- The individual has been employed in agriculture less than 13 weeks in the preceding calendar year. For example, someone (an adult or minor) who works less than 13 weeks per year harvesting berries during berry season, but does not normally work in an agricultural job at any other time, does not have to be paid minimum wage.

Migrant farmworkers are not exempt.

### *Overtime pay*

You must be paid one and one-half times your regular rate of pay for all hours worked over 40 in a fixed seven-day work week that is designated by your employer.

*Note: Agriculture workers are generally exempt from overtime.*

**Exceptions:** A few occupations are not covered by minimum wage or overtime requirements under limited circumstances. For more information about overtime pay and exemptions, go to **[www.WorkplaceRights.Lni.wa.gov](http://www.WorkplaceRights.Lni.wa.gov)** and click on “Overtime & Exemptions” under the “Wage & Hour” section.

Unless you are exempt, you cannot waive the right to minimum wage or overtime pay.

### *Deductions from pay*

Your employer may deduct from your wages when required by state or federal law and for certain other deductions under an agreement between you and your employer. For complete information, go to **[www.WorkplaceRights.Lni.wa.gov](http://www.WorkplaceRights.Lni.wa.gov)** and click on “Pay Requirements.”

## *Meal and rest breaks*

You have the right to a paid 10-minute rest break for each four hours you work and no later than the end of the third hour of the shift. In some circumstances, your employer may schedule “mini” breaks, such as two five-minute rest breaks.

You are entitled to a 30-minute unpaid meal period if working more than five hours in a day. If you must remain on duty or work during your meal period, you must be paid for the 30 minutes.

### **Agricultural workers**

- Agricultural workers must have a 10-minute paid rest break within each four-hour period of work.
- They must also be provided one additional 30-minute meal period if working 11 or more hours in a day.

## *Teen workers*

Young workers under 18 are entitled to most of the same rights as adults with a few exceptions. The minimum age for work is generally 14, with different rules for ages 16–17 and for ages 14–15.

Many jobs are allowed for anyone under 18, but some jobs are not because they are not safe. Work hours are also limited for teens; more restrictions apply during school weeks. For more information about hours of work and prohibited duties for teens, go to **[www.TeenWorkers.Lni.wa.gov](http://www.TeenWorkers.Lni.wa.gov)**.

## Meal and rest breaks for teens

- In agriculture, teens of any age get a meal period of 30 minutes if working more than five hours, and a 10-minute paid break for each four hours worked.
- In all other industries, teens who are 16 or 17 must have a 30-minute meal period if working more than five hours, and a 10-minute paid break for each four hours worked. They must have the rest break at least every three hours.

Teens who are 14 or 15 must have a 30-minute meal period no later than the end of the fourth hour, and a 10-minute paid break for every two hours worked.

You can learn more about teen safety, work hours, and prohibited jobs:

- **[www.TeenWorkers.Lni.wa.gov](http://www.TeenWorkers.Lni.wa.gov)**.
- Call or visit any L&I office or call toll-free: 1-866-219-7321.
- Email a question to [TeenSafety@Lni.wa.gov](mailto:TeenSafety@Lni.wa.gov).

## *How do I file a wage and hour complaint?*

If you believe your rights have been denied by not receiving regular pay, overtime pay, or rest and meal breaks:

- Go online to **[www.WorkplaceRights.Lni.wa.gov](http://www.WorkplaceRights.Lni.wa.gov)** and click on “Filing a Workplace Rights Complaint” in the “Complaints/Discrimination” section.
- Call or visit any L&I office or call toll-free: 1-866-219-7321.

## *Prevailing wages on public works projects*

If you perform work on a public works construction project or on a public building-service maintenance contract, you must be paid prevailing wages.

The Washington State Prevailing Wage Act is a worker protection law requiring that workers on public works projects be paid minimum prevailing wage rates to protect workers from substandard earnings and to preserve local wage standards. The Prevailing Wage Act regulates wages paid to workers, laborers and mechanics performing public work; it does not apply to work that is clerical, executive, administrative or professional in nature, unless such person is performing construction work, alteration work, repair work, etc.

L&I administers the law and establishes the prevailing wages for each trade and occupation employed in the performance of public work. The prevailing rate of wage is established separately for each county, and reflects local wage conditions.

For further information about prevailing wage, rates for prevailing wage jobs, how to file a complaint if you think you are not receiving the proper wage, and other prevailing wage topics, you can:

- Visit **[www.PrevailingWage.Lni.wa.gov](http://www.PrevailingWage.Lni.wa.gov)** and click on “Prevailing Wage.”
- Call or visit any L&I office or call toll-free: 1-866-219-7321.



# Leave Use and Protected Leave

## *Washington Family Care Act*

### **Use of paid leave to care for sick family members**

If you work for an employer with a paid-leave policy (sick, vacation, certain employer-provided short-term disability plans, or other paid time off), you are allowed to use your choice of paid leave to care for sick family.

Family includes:

- Children under age 18 with a health condition that requires supervision or treatment.
- Spouse, registered domestic partner, parent, parent-in-law or grandparent with a serious or emergency health condition.
- Adult son or daughter incapable of self-care due to a disability.



## *Washington Family Leave Act*

### **Additional leave for pregnancy and domestic-partner care**

Women who qualify for leave under the federal Family and Medical Leave Act (FMLA) (see Page 15) may be entitled to additional state family leave for sickness or disability due to pregnancy. Also, Washington's Family Leave Act provides up to 12 weeks leave to FMLA-eligible registered domestic partners or same-sex spouses who need to care for an ill partner/spouse.

## *Pregnancy-related disability*

### **Protection from discrimination**

A woman with a pregnancy-related disability is entitled to time off and job protection if she works for an employer with eight or more employees. Her health-care provider determines the amount of time off needed. For more information, contact the Washington State Human Rights Commission at [www.hum.wa.gov](http://www.hum.wa.gov) or call 1-800-233-3247.

## *Leave for victims of domestic violence, sexual assault, or stalking*

Victims and their family members are allowed to take reasonable leave from work for legal or law-enforcement assistance, medical treatment, counseling, relocation, meetings with their crime victim advocate or to protect their safety.

## *Leave for military spouses during deployment*

Spouses or registered domestic partners of military personnel who receive notice to deploy or who are on leave from deployment during times of military conflict may take a total of 15 days unpaid leave per deployment.

Your employer may not fire you or retaliate against you for using your leave for these reasons or for filing a complaint alleging a violation of these leave laws.

For more information and assistance regarding leave issues, call 1-866-219-7321.

## *What if I still have questions about Washington leave laws?*

For questions about any of Washington's leave laws, contact your local L&I office (see back cover or visit **[www.Offices.Lni.wa.gov](http://www.Offices.Lni.wa.gov)**) or call 360-902-5316 or 1-866-219-7321.

## *Federal Family and Medical Leave Act*

The federal Family and Medical Leave Act (FMLA) requires covered employers to provide up to 12 weeks of unpaid job-protected leave every 12 months to eligible employees for certain family and medical reasons. Employees are eligible if:

- They worked for their employer for at least 1,250 hours over the previous 12 months; and
- The company has at least 50 employees within 75 miles.

For more information about the federal FMLA, contact the U.S. Department of Labor at 1-866-487-9243 or visit **[www.dol.gov/whd/fmla](http://www.dol.gov/whd/fmla)**.





## Workers' Compensation Benefits

If a job-related injury or illness occurs, almost all workers are entitled to workers' compensation benefits. Workers' compensation is a no-fault program that eliminates blame to either party for workplace injuries or illnesses. Your employer must have workers' compensation coverage through L&I or be self-insured.

If your employer is self-insured, your employer, not L&I, handles your paperwork and pays for the claim. Injured workers are entitled to the same rights and benefits whether provided by L&I or a self-insured employer. Compliance with workers' compensation laws is regulated by L&I.

Workers' compensation benefits include:

- **Medical care.** Medical treatment for a workplace injury or occupational illness or disease is covered.
- **Wage replacement (time-loss).** If you are unable to work due to a work-related condition, you may be eligible for partial wage replacement benefits.



- **Stay at Work Program.** If you are injured at work, ask your medical provider and employer about the possibility of a light-duty job. You'll continue to earn wages, recover faster and keep your job secure. With the Stay at Work Program, L&I will reimburse an eligible employer up to 50% of your base wages, plus some expenses for tools, clothing and training to support you in a light-duty job during your recovery.
- **Vocational training.** If you are unable to return to work, you may be eligible for vocational training or return-to-work assistance.
- **Partial disability benefit.** If you have completed treatment but suffered a permanent partial disability, you may be eligible for a monetary award.
- **Pension benefits.** If your injury prevents you from ever becoming gainfully employed again, you may be eligible for a pension.
- **Death benefits.** If you were to die from a work-related injury or illness, your surviving spouse, registered domestic partner and/or dependents may qualify for a pension.

### *Protection from employer discrimination*

If you are injured on the job and file a workers' compensation claim, you have the right to protection from discrimination for filing a claim. If you believe your employer has penalized or discriminated against you because you filed a claim, or expressed an intent to file, you can submit a discrimination complaint by writing to:

L&I Investigations  
P.O. Box 44277  
Olympia WA 98504-4277

You must act within 90 days. If L&I finds your complaint is valid, the agency will take legal action against your employer. Options for settlement include rehiring or reinstatement with back pay.

For more information regarding discrimination:

- Call 360-902-6568 or toll-free 1-800-547-8367.
- Visit **[www.Lni.wa.gov/WorkplaceRights/ComplainDiscrim/InjuredAtWork](http://www.Lni.wa.gov/WorkplaceRights/ComplainDiscrim/InjuredAtWork)**.

**For more information about the workers' compensation process and forms:**

If your employer's workers' compensation insurance is from L&I:

- Visit **[www.Lni.wa.gov/ClaimsIns](http://www.Lni.wa.gov/ClaimsIns)**.
- Get the publication *Workers' Compensation Benefits: A Guide for Injured Workers* (F242-104-000) at **[www.Lni.wa.gov/IPUB/242-104-000.pdf](http://www.Lni.wa.gov/IPUB/242-104-000.pdf)**.

If your employer is self-insured:

- Get the publication *A Guide to Workers' Compensation Benefits for Employees of Self-Insured Businesses* (F207-085-000) at **[www.Lni.wa.gov/IPUB/207-085-000.pdf](http://www.Lni.wa.gov/IPUB/207-085-000.pdf)**.
- If you need assistance with a claims-related issue, contact the Ombuds for Self-Insured Injured Workers at 1-888-317-0493. The Ombuds advocates for the rights of injured workers of self-insured employers by providing information, investigating complaints and taking action to ensure the worker receives the appropriate benefits under Washington State industrial insurance law. For more information, visit **[www.ombudsman.selfinsured.wa.gov](http://www.ombudsman.selfinsured.wa.gov)**.

# L&I Service Locations

Customer service representatives in local L&I offices are available to answer your questions. Whether you leave a voicemail or connect with one of our staff during regular office hours, you can expect your concerns to be addressed as quickly as possible.

## Region 1: Northwest Washington

Bellingham	360-647-7300
Everett	425-290-1300
Mount Vernon	360-416-3000

## Region 2: King County

Bellevue	425-990-1400
Seattle	206-515-2800
Tukwila	206-835-1000

## Region 3: Pierce County/Peninsula

Bremerton	360-415-4000
Port Angeles	360-417-2700
Tacoma	253-596-3800

## Region 4: Southwest Washington

Aberdeen	360-533-8200
Kelso	360-575-6900
Tumwater	360-902-5799
Vancouver	360-896-2300

## Region 5: Central Washington

E. Wenatchee	509-886-6500
Kennewick	509-735-0100
Moses Lake	509-764-6900
Yakima	509-454-3700

## Region 6: Eastern Washington

Pullman	509-334-5296
Spokane	509-324-2600

For addresses, see **[www.Offices.Lni.wa.gov](http://www.Offices.Lni.wa.gov)**.

*Other formats for persons with disabilities are available on request. Call 1-800-547-8367.*

*TDD users, call 360-902-5797.*

*L&I is an equal opportunity employer.*

# Worker Rights Complaint Form Instructions

## What types of worker rights complaints can L&I accept?

### L&I accepts complaints on the *Worker Rights Complaint Form* for...

#### In Section C of the form:

- Unpaid minimum wages, overtime, final pay, or hours worked.
- Payroll deductions you did not agree to, not including deductions for required taxes.

#### In Section D of the form:

- Meal or rest periods not given.
- Violations of child labor laws.
- RN or LPN overtime law not followed.

**!** **IMPORTANT:** *If we find that your employer owes you money, we cannot guarantee that we will be able to collect it for you. Also, you have **three years** from the payday your wages were due to file your complaint. Please keep this in mind when you decide to file your complaint with us.*

### On separate complaint forms, L&I also accepts the following complaints...

*Prevailing Wage Complaint form # F-700-146-000 for prevailing wage violations.*

*Protected Leave Complaint form # F-700-144-000 for family leave, family care, leave for victims of domestic violence, sexual assault or stalking, spouse military leave, leave for voluntary firefighters on the scene.*

See L&I Workplace Rights website for filing the various workplace rights complaints:

**www.Lni.wa.gov WorkplaceRights/**. See the section titled: "Complaints/Discrimination"

### We do **not** accept wage complaints against...

- A business in which you are a part owner (including family-owned).
- A business that owes money to a company you own.
- Employers who have filed for bankruptcy. (You may file a "Proof of Claim" with the US Bankruptcy Court.)

### Or when it's about:

- Unpaid vacation or sick leave, holiday pay, severance pay, or reimbursement for expenses, including fuel.
- If you are claiming wages for hours worked out-of-state for a non-Washington employer.
- Bank fees you paid because your employer's check bounced.
- A case you have already filed in court.

## How to file your wage complaint:

- Complete and sign the attached form. Use a sheet of paper if you need more space to explain your complaint.
- Attach any information or records, such as time sheets or cards, calendars, or any personal records you have that show the days and hours you worked and what tasks you did. **This is very important to help us understand your complaint.**
- Mail or bring the form and records to the L&I office in the county where the business is located. (See back of sheet.)

**!** **IMPORTANT:** *If you are moving, have a new telephone number, or are hiring an attorney, let us know right away. Call the local office where you filed your complaint, or 1-866-219-7321. If we can't contact you, this may delay the investigation or prevent us from being able to help you.*

## If we can accept your complaint, we will:

- Assign an Industrial Relations Agent to investigate your complaint. In most cases, L&I must tell your employer that you filed a complaint and send a copy of your complaint to the employer.
- Make a decision on your complaint within 60 days, OR, if we have good cause, notify you that we require more time.

**!** **IMPORTANT:** *If we cannot take your complaint, you have the right to either contact a private attorney OR file suit in Small Claims Court for up to \$5000. [www.courts.wa.gov/newsinfo/resources/brochure\\_scc/smallclaims.doc](http://www.courts.wa.gov/newsinfo/resources/brochure_scc/smallclaims.doc)*

## Where to file your complaint.

### In person:

Bring your completed form to the L&I office located in the same county where your employer's business is:

Or

### By mail:

Mail the original of your completed form to the L&I office located in the same county your employer's business is. Write on the envelope: *Industrial Relations Agent, Dept. of Labor & Industries*, then the address of the office you selected.

#### L&I Offices in Washington

County where you worked.	Use this L&I office(s).	Address	Phone number
Island San Juan Skagit Whatcom	Mount Vernon  Bellingham	525 East College Way, Suite H Mount Vernon, WA 98273-5500  1720 Ellis Street, Suite 200 Bellingham, WA 98225-4647	360-416-3000  360-647-7300
Snohomish	Everett	729 – 100th Street S.E. Everett, WA 98208-3727	425-290-1300
King	Seattle  Bellevue  Tukwila	315 5th Avenue S., Suite 200 Seattle, WA 98104-2607  616 120th Avenue N.E., Suite C-201 Bellevue, WA 98005-3037  Or: 12806 Gateway Drive S, Tukwila, WA 98168-3346	206-515-2800  425-990-1400  206-835-1000
Pierce	Tacoma	950 Broadway, Suite 200 Tacoma, WA 98402-4453	253-596-3945
Clallam Jefferson Kitsap	Bremerton  Port Angeles	500 Pacific Avenue, Suite 400 Bremerton, WA 98337-1943  1605 East Front Street, Suite C Port Angeles, WA 98362-4628	360-415-4000  360-417-2700
Grays Harbor Lewis Mason Thurston Pacific*	Olympia  Aberdeen	Or: P.O. Box 44510, Olympia, WA 98504-4510 7273 Linderson Way S.W., Tumwater, WA 98501  Or: 415 Wishkah Street, Suite 1-B, Aberdeen, WA 98520-0013	360-902-5313  360-533-8200
Clark Klickitat Skamania	Vancouver	312 S.E. Stonemill Drive, Suite 120 Vancouver, WA 98684-6982	360-896-2300
Cowlitz Pacific* Wahkiakum	Kelso	711 Vine Street Kelso, WA 98626-2650	360-575-6900
Adams* Grant* (South of I-90) Kittitas Yakima	Yakima	15 West Yakima Avenue, Suite 100 Yakima, WA 98902-3480	509-454-3700
Benton Columbia Franklin Walla Walla	Kennewick	4310 West 24th Avenue Kennewick, WA 99338-1992	509-735-0100
Chelan Douglas Grant* (North of I-90) Okanogan	East Wenatchee  Moses Lake	519 Grant Road East Wenatchee, WA 98802-5459  3001 West Broadway Avenue Moses Lake, WA 98837-2907	509-886-6500  509-764-6900
Adams* (S.E.) Asotin Ferry Garfield Lincoln Pend Oreille Spokane Stevens Whitman	Spokane  Pullman	901 North Monroe Street, Suite 100 Spokane, WA 99201-2149  P. O. Box 847, Pullman, WA 99163-0847 1250 Bishop Blvd. S.E., Suite G, Pullman WA 99163	509-324-2600  509-334-5296

# Worker Rights Complaint

For L&I use only

**WA Unified Business Identifier (UBI):**

ESCH #:

NAICS #:

A

## A: Worker Information

Language preference (check one)			
<input type="checkbox"/> English	<input type="checkbox"/> Spanish	<input type="checkbox"/> Russian	<input type="checkbox"/> Korean
<input type="checkbox"/> Chinese	<input type="checkbox"/> Vietnamese	<input type="checkbox"/> Laotian	<input type="checkbox"/> Cambodian
<input type="checkbox"/> Other _____			
Your name (last, first, middle initial) <input type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms.		Social Security #	Home phone #
Your cell phone #			
Home address		Complaint is for this period of time:	
		From:	To:
		\$	
City	State	Zip	
Date you began work with this employer:		If not still employed with this company, what was your last day?	
E-mail address		Are you still employed w/this company:	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Reason for leaving job:			
<input type="checkbox"/> Fired <input type="checkbox"/> Quit <input type="checkbox"/> Laid off <input type="checkbox"/> Don't know			
What kind of work did you do?			

## B: Employer Information

Name of company			Name of company owner, manager, or supervisor		
Company mailing address			Company phone #		Cell phone #
City	State	Zip	FAX #		E-mail, if known
Address where you worked if not at the above address			Type of company (For example: construction, restaurant, janitorial.)		
City	State	Zip	Has the company filed for bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know		Is the company still in business? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know

## C: Wage Complaint Information (Skip to Section D if your complaint is *not* about wages.)

**Important:** If you or your attorney have already filed a complaint about these wages in court, we **cannot** accept your claim.

What type of complaint are you filing? (You may check more than one box below.)		Tell us in detail why you are filing this complaint. You may attach additional sheets if you need more room.	
<input type="checkbox"/> Final wages not paid <input type="checkbox"/> Hours worked not paid <input type="checkbox"/> Minimum wage not paid <input type="checkbox"/> Overtime not paid <input type="checkbox"/> Money taken out of my paycheck (not taxes) without my permission* <input type="checkbox"/> Willful failure to pay agreed wages <input type="checkbox"/> Paid with NSF check (bounced check).		If you have copies of any records that will help us understand your complaint, please attach them to this form.	
* If you had a written agreement with your employer to deduct wages from your paycheck that wasn't followed correctly, we will need a copy.			
<b>What wages do you believe are owed to you?</b>			
Rate of pay per:    Hour    Day    Week    Month \$ <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		Other rate of pay per:    Piece rate    Commission    Sq ft    Flat rate    Other (Specify) \$ <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> _____	
Wages owed: From:                      To:		For how many hours? \$	Partial payment received? \$
What pay is owed to you before taxes? \$			
Reason employer gave for not paying you:			



## D: Non-Wage Complaint Information

**E: If we cannot reach you...**

For more information about your workplace rights and responsibilities in Washington, go to:  
**[www.WorkplaceRights.Lni.wa.gov](http://www.WorkplaceRights.Lni.wa.gov)**

## ► It's the law!

Employers must post this notice where employees can read it.

## Wage and Hour Laws

### Workers must be paid the Washington minimum wage

Workers in all industries who are 16 years of age or older must be paid at least the minimum wage for all hours worked. Workers who are 14 or 15 may be paid 85% of the minimum wage.

Need to know the current minimum wage? See “Contact L&I” below.

Tips cannot be counted as part of the minimum wage.

### Overtime pay is due when working more than 40 hours

You must be paid one and one-half times your regular rate of pay for all hours worked over 40 in a fixed seven-day workweek that is designated by your employer.

Agricultural workers are generally exempt from overtime.

### There are a few exceptions to minimum wage and overtime laws

A few occupations are not covered by minimum wage or overtime requirements under limited circumstances. See [www.Lni.wa.gov/WorkplaceRights](http://www.Lni.wa.gov/WorkplaceRights) and click on “Minimum Wage” or “Overtime & Exemptions.”

Unless you are exempt, you cannot waive the right to minimum wage or overtime pay.

### Workers need meal and rest breaks

Most workers are entitled to a 30-minute unpaid meal period if working more than five hours in a day. If you must remain on duty or work during your meal period, you must be paid for the 30 minutes.

Most workers are entitled to a 10-minute paid rest break no later than the end of the third hour. Your employer may schedule the break or allow “mini” breaks, such as two five-minute rest breaks. Agricultural workers must have a 10-minute paid rest break within each four-hour period of work.

If you are under 18, check out the **Teen Corner** to see break requirements.

### Your employer must schedule a regular payday

You must be paid at least once a month on a regularly scheduled payday. Your employer must give you a pay statement showing the number of hours worked, rate of pay, number of piece work units (if piece work), gross pay, the pay period and all deductions taken.

### You must agree to deductions from pay

Your employer may deduct from your wages when required by state or federal law and for certain other deductions under an agreement between you and your employer. For complete information, go to [www.Lni.wa.gov/WorkplaceRights](http://www.Lni.wa.gov/WorkplaceRights) and click on “Pay Requirements.”

## Teen Corner (information for teens age 14–17)

- The minimum age for work is generally 14, with different rules for ages 16–17 and for ages 14–15.
- Employers must have a minor work permit to employ teens. This requirement applies to family members except on family farms.
- Teens don’t need a work permit; however, parents must sign the parent/school permission form provided by the employer. If you work during the school year, a school official must sign too.
- Many jobs are not allowed for anyone under 18 because they are not safe.
- Work hours are limited for teens; more restrictions apply during school weeks.
- If you are injured on the job, ask your health-care provider to help you file a workers’ compensation claim.

### Meal and rest breaks for teens

- In agriculture, teens of any age get a meal period of 30 minutes if working more than five hours, and a 10-minute paid break for each four hours worked.
- In all other industries, teens who are 16 or 17 must have a 30-minute meal period if working more than five hours, and a 10-minute paid break for each four hours worked. They must have the rest break at least every three hours.  
Teens who are 14 or 15 must have a 30-minute meal period no later than the end of the fourth hour, and a 10-minute paid break for every two hours worked.

### You can learn more about teen safety, work hours and prohibited jobs:

- Online [www.Lni.wa.gov/TeenWorkers](http://www.Lni.wa.gov/TeenWorkers).
- Call or visit any L&I office or call toll-free: 1-866-219-7321.
- Email a question to [TeenSafety@Lni.wa.gov](mailto:TeenSafety@Lni.wa.gov).

## Leave Laws

Family care, family leave and other leave-related laws are summarized below. To learn more, go to [www.Lni.wa.gov/WorkplaceRights](http://www.Lni.wa.gov/WorkplaceRights) and click on “Leave & Benefits.”

### Washington Family Care Act: Use of paid leave to care for sick family

If you work for an employer with a paid-leave policy (sick, vacation, certain employer-provided short-term disability plans, or other paid time off), you are allowed to use your choice of paid leave to care for sick family. Family includes:

- Children under age 18 with a health condition that requires supervision or treatment.
- Spouse, registered domestic partner, parent, parent-in-law or grandparent with a serious or emergency health condition.
- Adult son or daughter incapable of self-care due to a disability.

### Federal Family and Medical Leave Act (FMLA)

The federal FMLA requires covered employers to provide up to 12 weeks of unpaid job-protected leave every 12 months to eligible employees for certain family and medical reasons. Employees are eligible if they:

- Worked for their employer for at least 1,250 hours over the previous 12 months; and
- The company has at least 50 employees within 75 miles.

For more information, contact the U.S. Department of Labor at 1-866-487-9243 or visit [www.dol.gov/whd/fmla](http://www.dol.gov/whd/fmla).

### Washington Family Leave Act: Additional leave for pregnancy and domestic partner care

Women who qualify for leave under the *federal* FMLA (above) may be entitled to *additional* state family leave for sickness or disability due to pregnancy. Also, Washington’s Family Leave Act provides up to 12 weeks leave to FMLA-eligible registered domestic partners or same-sex spouses who need to care for an ill partner/spouse.

### Pregnancy-related disability protected from discrimination

A woman with a pregnancy-related disability is entitled to time off and job protection if she works for an employer with eight or more employees. Her health-care provider determines the amount of time off needed. For more information, contact the Washington State Human Rights Commission at [www.hum.wa.gov](http://www.hum.wa.gov) or call 1-800-233-3247.

### Leave for victims of domestic violence, sexual assault or stalking

Victims and their family members are allowed to take reasonable leave from work for legal or law-enforcement assistance, medical treatment, counseling, relocation, meetings with their crime victim advocate or to protect their safety.

### Leave for military spouses during deployment

Spouses or registered domestic partners of military personnel who receive notice to deploy or who are on leave from deployment during times of military conflict may take a total of 15 days unpaid leave per deployment.

***Your employer may not fire you or retaliate against you for using your leave for these reasons or for filing a complaint alleging a violation of these leave laws.***

## Contact L&I

### Need more information?

#### Questions about filing a worker rights complaint?

Online: [www.Lni.wa.gov/WorkplaceRights](http://www.Lni.wa.gov/WorkplaceRights)  
Call: 1-866-219-7321, toll-free  
Visit: [www.Lni.wa.gov/Offices](http://www.Lni.wa.gov/Offices)  
Email: [ESgeneral@Lni.wa.gov](mailto:ESgeneral@Lni.wa.gov)

### About required workplace posters

Go to [www.Lni.wa.gov/RequiredPosters](http://www.Lni.wa.gov/RequiredPosters) to learn more about workplace posters from L&I and other government agencies.

## Human trafficking is against the law

For victim assistance, call the National Human Trafficking Resource Center at 1-888-3737-888, or the Washington State Office of Crime Victims Advocacy at 1-800-822-1067.



## ► ¡Es la ley!

Los empleadores deben poner este aviso donde los empleados puedan leerlo.

## Leyes de salario y horas

### A los trabajadores se les debe pagar el salario mínimo de Washington

A los trabajadores de 16 años de edad o más en todas las industrias se les debe pagar por lo menos el salario mínimo por todas las horas trabajadas. A los trabajadores de 14 ó 15 años se les podría pagar 85% del salario mínimo.

¿Necesita saber el salario mínimo actual? Vea “Comuníquese con L&I” en la parte de abajo.

Las propinas no pueden incluirse como parte del salario mínimo.

### Se debe pagar horas extras después de más de 40 horas trabajadas

Se le tiene que pagar tiempo y medio de su tarifa regular de pago por todas las horas trabajadas adicionales a las 40 horas en una semana de trabajo de siete días establecida por el empleador.

Generalmente, a los trabajadores agrícolas no se le pagan horas extras.

### Hay algunas excepciones a las leyes de salario mínimo y de horas extras

Algunas ocupaciones están exentas del requisito del pago de horas extras o salario mínimo bajo circunstancias limitadas. Vaya a [www.Lni.wa.gov/Spanish/WorkplaceRights](http://www.Lni.wa.gov/Spanish/WorkplaceRights) y haga clic en “Horas extras y exenciones” o “Salario Mínimo.”

A menos que usted esté exento, no podrá renunciar al derecho a recibir salario mínimo o pago de horas extras.

### Los trabajadores necesitan períodos de comida y de descansos

La mayoría de los trabajadores tienen derecho a un período de comida de 30 minutos no pagados si trabajan más de cinco horas en un día. Si se requiere que usted permanezca trabajando durante su período de comida, se le debe pagar por los 30 minutos.

La mayoría de los trabajadores tienen derecho a 10 minutos de descanso pagado a más tardar al final de la tercera hora de trabajo. Su empleador podría programar el período de descanso o permitir “pequeños” descansos, como por ejemplo dos períodos de descanso de cinco minutos. Los trabajadores de agricultura deben tener derecho a un descanso pagado de 10 minutos por cada período de trabajo de cuatro horas.

Si usted es menor de 18 años, revise el **Rincón para adolescentes** para ver los requisitos de descanso.

### Su empleador debe programar un día fijo de pago

Se le tiene que pagar por lo menos una vez por mes en un día fijo en forma regular. Su empleador debe proporcionarle un comprobante de pago indicando el número de horas trabajadas, la tarifa de pago, el número de unidades por pieza (si trabaja por pieza), salario bruto, el período de pago y todas las deducciones que se le hagan.

### Usted debe estar de acuerdo con las deducciones de pago

Su empleador podría deducir dinero de su salario cuando lo requieran las leyes estatales o federales y cuando haya un acuerdo entre usted y su empleador sobre ciertas otras deducciones. Para obtener información completa, vaya a [www.Lni.wa.gov/Spanish/WorkplaceRights](http://www.Lni.wa.gov/Spanish/WorkplaceRights) y haga clic en “Requisitos de Pago.”

## Rincón para adolescentes (Información para adolescentes entre 14 y 17)

- La edad mínima para trabajar es generalmente de 14 años, con reglas diferentes para las edades de 16–17 y para las edades de 14–15.
- Los empleadores deben tener un permiso de trabajo de menores para emplear adolescentes. Este requisito se aplica a los miembros de la familia excepto en las granjas de familia.
- Los adolescentes no necesitan un permiso de trabajo, sin embargo, los padres deben firmar un formulario de Autorización de los padres y la escuela proporcionado por el empleador. Si usted trabaja durante el año escolar, un oficial de la escuela debe firmarlo también.
- Muchos trabajos están prohibidos para los menores de 18 años porque no son seguros.
- Las horas de trabajo están limitadas para los adolescentes; se aplican más restricciones durante las semanas de escuela.
- Si se lesiona en el trabajo, pídale a su proveedor de cuidado de la salud que lo ayude a someter un reclamo de compensación para los trabajadores.

### Períodos de comida y descanso para los adolescentes

- En la agricultura, los adolescentes de cualquier edad tienen derecho a un período de comida de 30 minutos si trabajan más de cinco horas en el día y a un período de descanso pagado de 10 minutos por cada cuatro horas trabajadas.
- En todas las otras industrias, los adolescentes que tienen 16 ó 17 años deben tener un período para comida de 30 minutos si trabajan más de cinco horas al día y un período de descanso pagado de 10 minutos por cada cuatro horas trabajadas. Ellos deben tener el período descanso por lo menos cada tres horas.

Los adolescentes que tienen 14 ó 15 años deben tener un período de comida de 30 minutos después de cuatro horas y un período de descanso pagado de 10 minutos por cada dos horas trabajadas.

### Aprenda más sobre la seguridad de los adolescentes, horas de trabajo y trabajos prohibidos:

- En línea [www.Lni.wa.gov/Spanish/WorkplaceRights/TeenWorkers](http://www.Lni.wa.gov/Spanish/WorkplaceRights/TeenWorkers).
- Llame o visite cualquier oficina de L&I o llame gratis al: 1-866-219-7321.
- Envíe una pregunta por correo electrónico a [TeenSafety@Lni.wa.gov](mailto:TeenSafety@Lni.wa.gov).

*A petición del cliente, hay ayuda disponible para personas que hablan otros idiomas y otros formatos alternos de comunicación para personas con discapacidades. Llame al 1-800-547-8367. Usuarios de dispositivos de telecomunicaciones para sordos (TDD, por su sigla en inglés) llamen al 360-902-5797. L&I es un empleador con igualdad de oportunidades.*

## Leyes de permisos de ausencia

Las leyes para permiso de ausencia familiar, cuidado de la familia y otros permisos relacionados se han resumido abajo. Para aprender más, vaya a [www.Lni.wa.gov/Spanish/WorkplaceRights](http://www.Lni.wa.gov/Spanish/WorkplaceRights) y haga clic en “Permiso y beneficios.”

### Ley del cuidado de la familia de Washington: Uso del permiso de ausencia pagado para cuidar a un miembro de la familia enfermo

Si usted trabaja para un empleador que tiene un plan para permiso de ausencia pagado (enfermedad, vacaciones, ciertos planes proporcionados por el empleador para la discapacidad a corto plazo u otro permiso pagado) usted puede usar cualquier clase de permiso de ausencia pagado que usted escoja para cuidar a los miembros de su familia que estén enfermos. Los miembros de la familia incluyen:

- Los hijos menores de 18 años con una condición de salud que requiera supervisión o tratamiento.
- Cónyuge, pareja doméstica registrada, padres, suegros o abuelos con una condición de salud seria o de emergencia.
- Hijo o hija adultos que no puedan cuidarse a sí mismos por causa de una discapacidad.

### La Ley Federal de Ausencia Médica y Familiar (FMLA, por su sigla en inglés)

La ley federal FMLA requiere que los empleadores registrados le proporcionen hasta 12 semanas de permiso de ausencia sin pago con protección de empleo cada 12 meses a los empleados que tienen derecho a este beneficio por algunas razones familiares y médicas. Los empleados tienen derecho a FMLA, si ellos:

- Trabajan por lo menos 1,250 horas para su empleador durante los 12 meses anteriores y
- La compañía tiene por lo menos 50 empleados dentro de 75 millas.

Para más información, comuníquese con el Departamento de Trabajo de los EE.UU. al 1-866-487-9243 o visite [www.dol.gov](http://www.dol.gov).

### Ley del Permiso Familiar de Washington: Permiso adicional por maternidad y cuidado de la pareja doméstica registrada

Las mujeres que reúnen los requisitos para permiso de ausencia bajo la ley *federal* de Ausencia Médica y Familiar (FMLA, descrita arriba) podrían tener derecho *adicional* a un permiso de ausencia familiar del estado por enfermedad o por discapacidad debido a maternidad. También, la Ley de Ausencia Familiar de Washington provee hasta 12 semanas de permiso a las parejas domésticas registradas o cónyuges del mismo sexo con derecho a FMLA que necesiten cuidar a una pareja/cónyuge enferma(o).

### La discapacidad relacionada con la maternidad está protegida contra la discriminación

Una mujer con una discapacidad relacionada con la maternidad tiene derecho a permiso de ausencia y protección de empleo si trabaja para un empleador con ocho o más empleados. Su proveedor del cuidado de la salud determina la cantidad de tiempo libre necesario. Para más información, comuníquese con la Comisión de Derechos Humanos del estado de Washington en [www.hum.wa.gov](http://www.hum.wa.gov) o llame al 1-800-233-3247.

### Permiso de ausencia para víctimas de violencia doméstica, asalto sexual o acechamiento

Las víctimas y los miembros de su familia tienen permiso para una ausencia razonable de trabajo para obtener ayuda legal o de la policía, tratamiento médico, asesoramiento, traslado, reuniones con su defensor de víctimas de crimen o para proteger su seguridad.

### Permiso de ausencia para los cónyuges durante una misión militar

Los cónyuges o parejas domésticas registradas del personal militar que reciben una notificación para partir a una misión militar o que se encuentran con permiso de ausencia de una misión militar durante tiempos de conflicto militar podrían tomar un total de 15 días de ausencia no pagada por cada misión militar.

***Su empleador no lo puede despedir o tomar represalias contra usted por usar su permiso para estos propósitos o por presentar una queja alegando una violación a estas leyes de permiso de ausencia.***

## Comuníquese con L&I

### ¿Necesita más información?

### ¿Tiene preguntas sobre cómo presentar una queja sobre los derechos laborales de los trabajadores?

En línea: [www.Lni.wa.gov/Spanish/WorkplaceRights](http://www.Lni.wa.gov/Spanish/WorkplaceRights)  
Llame al: 1-866-219-7321, línea gratuita  
Visite: [www.Lni.wa.gov/Offices](http://www.Lni.wa.gov/Offices) (en inglés solamente)  
Correo electrónico: [ESgeneral@Lni.wa.gov](mailto:ESgeneral@Lni.wa.gov)

### Información sobre los carteles requeridos en el lugar de trabajo

Vaya a [www.Lni.wa.gov/IPUB/101-054-999.asp](http://www.Lni.wa.gov/IPUB/101-054-999.asp) para aprender más sobre los carteles de L&I y de otras agencias gubernamentales para el lugar de trabajo.

## El tráfico humano es contra la ley

Para ayuda a víctimas, llame al Centro Nacional de Recursos para Combatir la Trata de Personas al 1-888-3737-888 o a la Oficina de Defensa de Víctimas de Crímenes del estado de Washington al 1-800-822-1067.



**Occupational  
Safety and Health  
Administration**

# Workers' Rights

**OSHA 3021-11R 2016**



## Occupational Safety and Health Act of 1970

"To assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health..."

This publication provides a general overview of worker rights under the *Occupational Safety and Health Act* (OSH Act). This publication does not alter or determine compliance responsibilities which are set forth in OSHA standards and the OSH Act. Moreover, because interpretations and enforcement policy may change over time, for additional guidance on OSHA compliance requirements the reader should consult current administrative interpretations and decisions by the Occupational Safety and Health Review Commission and the courts.

This document, *Workers' Rights*, replaces *Employee Workplace Rights*.

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This information will be made available to sensory-impaired individuals upon request. Voice phone: (202) 693-1999; tele-typewriter (TTY) number: 1-877-889-5627.

# Workers' Rights

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U.S. Department of Labor

Occupational Safety and Health Administration

OSHA 3021-11R 2016



U.S. Department of Labor

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## Introduction

### **Worker Protection is the Law of the Land**

You have the right to a safe workplace. The *Occupational Safety and Health Act of 1970* (OSH Act) was passed to prevent workers from being killed or otherwise harmed at work. The law requires employers to provide their employees with working conditions that are free of known dangers. The OSH Act created the Occupational Safety and Health Administration (OSHA), which sets and enforces protective workplace safety and health standards. OSHA also provides information, training and assistance to employers and workers.

Contact us if you have questions or want to file a complaint. We will keep your information confidential.  
**We are here to help you.**

### **Workers' Rights under the OSH Act**

The OSH Act gives workers the right to safe and healthful working conditions. It is the duty of employers to provide workplaces that are free of known dangers that could harm their employees. This law also gives workers important rights to participate in activities to ensure their protection from job hazards. This booklet explains workers' rights to:

- File a confidential complaint with OSHA to have their workplace inspected.
- Receive information and training about hazards, methods to prevent harm, and the OSHA standards that apply to their workplace. The training must be done in a language and vocabulary workers can understand.
- Review records of work-related injuries and illnesses that occur in their workplace.
- Receive copies of the results from tests and monitoring done to find and measure hazards in the workplace.
- Get copies of their workplace medical records.
- Participate in an OSHA inspection and speak in private with the inspector.
- File a complaint with OSHA if they have been retaliated against by their employer as the result of requesting an inspection or using any of their other rights under the OSH Act.



- File a complaint if punished or retaliated against for acting as a “whistleblower” under the additional 21 federal statutes for which OSHA has jurisdiction.

A job must be safe or it cannot be called a good job. OSHA strives to make sure that every worker in the nation goes home unharmed at the end of the workday, the most important right of all.

## Employer Responsibilities

Employers have the responsibility to provide a safe workplace. **Employers MUST provide their employees with a workplace that does not have serious hazards and must follow all OSHA safety and health standards.** Employers must find and correct safety and health problems. OSHA further requires that employers must try to eliminate or reduce hazards first by making feasible changes in working conditions – switching to safer chemicals, enclosing processes to trap harmful fumes, or using ventilation systems to clean the air are examples of effective ways to get rid of or minimize risks – rather than just relying on personal protective equipment such as masks, gloves, or earplugs.

Employers **MUST** also:

- Prominently display the official OSHA poster that describes rights and responsibilities under the OSH Act. **This poster is free and can be downloaded from [www.osha.gov](http://www.osha.gov).**
- Inform workers about hazards through training, labels, alarms, color-coded systems, chemical information sheets and other methods.
- Train workers in a language and vocabulary they can understand.
- Keep accurate records of work-related injuries and illnesses.
- Perform tests in the workplace, such as air sampling, required by some OSHA standards.
- Provide hearing exams or other medical tests required by OSHA standards.
- Post OSHA citations and injury and illness data where workers can see them.
- Notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation or loss of an eye.

- Not retaliate against workers for using their rights under the law, including their right to report a work-related injury or illness.

## Who Does OSHA Cover

### Private Sector Workers

Most employees in the nation come under OSHA's jurisdiction. OSHA covers most private sector employers and employees in all 50 states, the District of Columbia, and other U.S. jurisdictions either directly through Federal OSHA or through an OSHA-approved state plan. State-run health and safety plans must be at least as effective as the Federal OSHA program. To find the contact information for the OSHA Federal or State Program office nearest you, call 1-800-321-OSHA (6742) or go to [www.osha.gov](http://www.osha.gov).

### State and Local Government Workers

Employees who work for state and local governments are not covered by Federal OSHA, but have OSH Act protections if they work in those states that have an OSHA-approved state plan. The following 22 states or territories have OSHA-approved programs:

Alaska	Arizona	California
Hawaii	Indiana	Iowa
Kentucky	Maryland	Michigan
Minnesota	Nevada	New Mexico
North Carolina	Oregon	South Carolina
Tennessee	Utah	Vermont
Virginia	Washington	Wyoming
Puerto Rico		

Five additional states and one U.S. territory have OSHA-approved plans that cover public sector workers only:

Connecticut	Illinois	Maine
New Jersey	New York	Virgin Islands

Private sector workers in these five states and the Virgin Islands are covered by Federal OSHA.

### Federal Government Workers

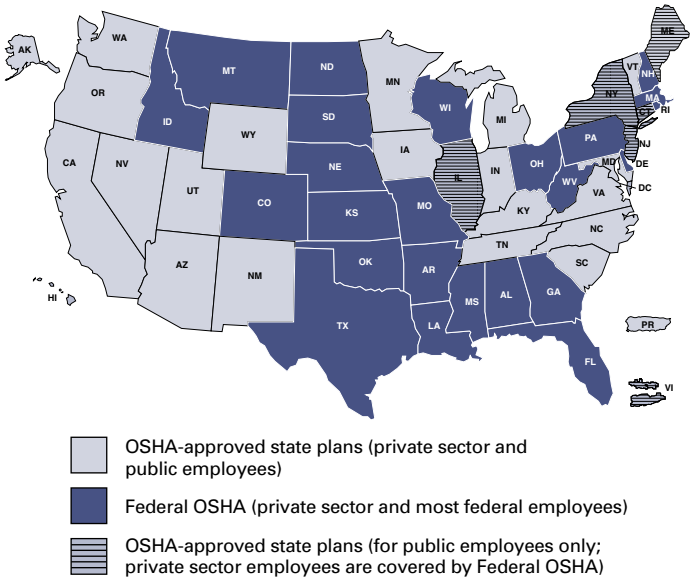
Federal agencies must have a safety and health program that meets the same standards as private employers. Although OSHA does not fine federal

agencies, it does monitor federal agencies and responds to workers' complaints. The United States Postal Service (USPS) is covered by OSHA.

### Not Covered under the OSH Act

- Self-employed;
- Immediate family members of farm employers; and
- Workplace hazards regulated by another federal agency (for example, the Mine Safety and Health Administration, the Department of Energy, or Coast Guard).

### OSHA-Approved State Plans



### Worker Rights in State-Plan States

States that assume responsibility for their own occupational safety and health programs must have provisions at least as effective as Federal OSHA's, including the protection of worker rights.

Any interested person or group, including employees, with a complaint concerning the operation or administration of a state program may submit a complaint to the appropriate Federal OSHA regional administrator. (See contact list at the end of this booklet). This is called a Complaint About State Program Administration (CASPA). The complainant's

name will be kept confidential. The OSHA regional administrator will investigate all such complaints, and where complaints are found to be valid, require appropriate corrective action on the part of the state.

## **Right to a Safe and Healthful Workplace**

### **Employers' "General Duty"**

Employers have the responsibility to provide a safe and healthful workplace that is free from serious recognized hazards. This is commonly known as the General Duty Clause of the OSH Act.

### **OSHA Standards: Protection on the Job**

OSHA standards are rules that describe the methods that employers must use to protect their employees from hazards. There are four groups of OSHA standards: General Industry, Construction, Maritime, and Agriculture. (General Industry is the set that applies to the largest number of workers and worksites). These standards are designed to protect workers from a wide range of hazards.

These standards also limit the amount of hazardous chemicals, substances, or noise that workers can be exposed to; require the use of certain safe work practices and equipment; and require employers to monitor certain hazards and keep records of workplace injuries and illnesses.

Examples of OSHA standards include requirements to:

- Provide fall protection, such as a safety harness and lifeline;
- Prevent trenching cave-ins;
- Ensure the safety of workers who enter confined spaces such as manholes or grain bins;
- Prevent exposure to high levels of noise that can damage hearing;
- Put guards on machines;
- Prevent exposure to harmful levels of substances like asbestos and lead;
- Provide workers with respirators and other needed safety equipment (in almost all cases, free of charge);

- Provide healthcare workers with needles and sharp instruments that have built-in safety features to prevent skin punctures or cuts that could cause exposure to infectious diseases; and
- Train workers using a language and vocabulary they understand about hazards and how to protect themselves.

Employers must also comply with the General Duty Clause of the OSH Act. This clause requires employers to keep their workplaces free of serious recognized hazards and is generally cited when no specific OSHA standard applies to the hazard.

### **Right to be Provided Protective Equipment Free of Charge**

In some situations it is not possible to completely eliminate a hazard or reduce exposures to a safe level, so respirators, goggles, earplugs, gloves, or other types of personal protective equipment are often used by themselves or in addition to other hazard control measures. Employers must provide most protective equipment free of charge. Employers are responsible for knowing when protective equipment is needed.

### **Right to Information**

OSHA gives workers and their representatives the right to see information that employers collect on hazards in the workplace. Workers have the right to know what hazards are present in the workplace and how to protect themselves. Many OSHA standards require various methods that employers must use to inform their employees, such as warning signs, color-coding, signals, and training. Workers must receive their normal rate of pay to attend training that is required by OSHA standards and rules. The training must be in a language and vocabulary that workers can understand.

#### **Right to Know about Chemical Hazards**

The Hazard Communication standard, known as the “right-to-know” standard, requires employers to inform and train workers about hazardous chemicals and substances in the workplace. Employers must:

- Provide workers with effective information and training on hazardous chemicals in their work area.

This training must be in a language and vocabulary that workers can understand;

- Keep a current list of hazardous chemicals that are in the workplace;
- Make sure that hazardous chemical containers are properly labeled with the identity of the hazardous chemical and appropriate hazard warnings; and
- Have and make available to workers and their representatives Safety Data Sheets (SDSs) (formerly known as Material Safety Data Sheets or MSDSs) for each substance that provide detailed information about chemical hazards, their effects, how to prevent exposure, and emergency treatment if an exposure occurs.

### **Right to Know about Laws and Your Rights**

Employers must display the official OSHA Poster, *Job Safety and Health: It's the Law*, in a place where workers will see it. It can be downloaded from the OSHA website, [www.osha.gov](http://www.osha.gov). Pre-printed copies can also be obtained from OSHA.

### **Right to Get Copies of Workplace Injury and Illness Records**

OSHA's Recordkeeping Rule requires employers in higher-hazard industries with more than ten employees to keep accurate and complete records of work-related injuries and illnesses. (Certain low-hazard workplaces such as offices are not required to keep such records). Employers must record any serious work-related injury or illness on the OSHA Form 300. A serious injury or illness is one that required medical treatment other than first aid, restricted work or days away from work. (Details of each incident are entered on a separate form, the OSHA Form 301). This OSHA Form 300 becomes an ongoing log of all recordable incidents. Each year from February 1 through April 30, employers must post a summary of the injury and illness log from the previous year (OSHA Form 300A) in a place where workers can see it. Workers and their representatives have the right to receive copies of the full OSHA Form 300 log. Following a request, employers must make copies available at the end of the next business day.

These injury and illness logs are important because they provide a comprehensive guide to possible hazards in the workplace that may need correcting. The logs should be used to focus on areas with high injury and illness rates, and to find and fix hazards in order to prevent future occurrences.

### **Right to Exposure Data**

Many OSHA standards require employers to run tests of the workplace environment to find out if their workers are being exposed to harmful levels of hazardous substances such as lead or asbestos, or high levels of noise or radiation. These types of tests are called exposure monitoring. OSHA gives workers the right to get the results of these tests.

### **Right to Your Medical Records**

Some OSHA standards require medical tests to find out if a worker's health has been affected because of exposures at work. For example, employers must test for hearing loss in workers exposed to excessive noise or for decreased lung function in workers exposed to asbestos. Workers have a right to their medical records. Workers' representatives also have a right to review these records but they must first get written permission from the worker to gain access to their medical information.

## **OSHA Worksite Investigations**

OSHA conducts on-site inspections of worksites to enforce the OSHA law that protects workers and their rights. Inspections are initiated without advance notice, conducted using on-site or telephone and facsimile investigations, and performed by highly trained compliance officers. Worksite inspections are conducted based on the following priorities:

- Imminent danger;
- A fatality or hospitalizations;
- Worker complaints and referrals;
- Targeted inspections – particular hazards, high injury rates; and
- Follow-up inspections.

Inspections are conducted without employers knowing when or where they will occur. The employer is not informed in advance that there will be an inspection, regardless of whether it is in response to a complaint or is a programmed inspection.

## **Right to File a Complaint with OSHA to Request an On-site OSHA Inspection**

On-site inspections can be triggered by a worker complaint of a potential workplace hazard or violation. If your workplace has unsafe or unhealthful working conditions, you may want to file a complaint. Often the best and fastest way to get a hazard corrected is to notify your supervisor or employer.

Current workers or their representatives may file a written complaint and ask OSHA to inspect their workplace if they believe there is a serious hazard or that their employer is not following OSHA standards or rules. **Workers and their representatives have the right to ask for an inspection without OSHA telling their employer who filed the complaint.** It is a violation of the OSH Act for an employer to fire, demote, transfer or retaliate in any way against a worker for filing a complaint or using other OSHA rights.

A complaint can be filed in a number of ways:

### **1. Mail or submit the OSHA Complaint Form –**

Download the OSHA complaint form from our website (or request a copy from your local OSHA regional or area office), complete it and then fax or mail it back to your nearest OSHA regional or area office. Written complaints that report a serious hazard and are signed by a current worker or representative and submitted to the closest OSHA area office are given priority and are more likely to result in on-site OSHA inspections. A worker or their representative can request (on the form) that OSHA not let their employer know who filed the complaint. Please include your name, address and telephone number so we can contact you to follow up. This information is confidential.

**2. Online –** Go to the online Complaint Form on the OSHA website, at [www.osha.gov/pls/osha7/eComplaintForm.html](http://www.osha.gov/pls/osha7/eComplaintForm.html). Complaints that are sent in online will most likely be investigated using OSHA's



phone/fax system whereby the employer is contacted by phone or fax (not an actual inspection) about the hazard. **A written complaint that reports a serious hazard and is signed by a current worker(s) or their representative and mailed or otherwise submitted to an OSHA area or regional office is more likely to result in an on-site OSHA inspection.** Complaints received online from workers in OSHA-approved state plan states will be forwarded to the appropriate state plan for response.

**3. Telephone** – Call your local OSHA regional or area office at 1-800-321-OSHA (6742). OSHA staff can discuss your complaint and respond to any questions you have. **If there is an emergency or the hazard is immediately life-threatening, call your local OSHA regional or area office.**

### **Who else can file a complaint?**

Employee representatives, for the purposes of filing a complaint, are defined as any of the following:

- An authorized representative of the employee bargaining unit, such as a certified or recognized labor organization.
- An attorney acting for an employee.
- Any other person acting in a bona fide representative capacity, including, but not limited to, members of the clergy, social workers, spouses and other family members, health care providers and government officials or nonprofit groups and organizations acting upon specific complaints or injuries from individuals who are employees. In general, the affected employee should have requested, or at least approved, the filing of the complaint on his or her behalf.

In addition, anyone who knows about a workplace safety or health hazard may report unsafe conditions to OSHA, and OSHA will investigate the concerns reported.

### **Rights of Workers during an Inspection**

During an inspection, workers or their representatives have the following rights:

- Have a representative of employees, such as the safety steward of a labor organization, go along on the inspection;

- Talk privately with the inspector; and
- Take part in meetings with the inspector before and after the inspection.

When there is no authorized employee representative, the OSHA inspector must talk confidentially with a reasonable number of workers during the inspection.

Workers are encouraged to:

- Point out hazards;
- Describe injuries or illnesses that resulted from these hazards;
- Discuss past worker complaints about hazards; and
- Inform the inspector of working conditions that are not normal during the inspection.

### **Following the Inspection**

At the end of the inspection, the OSHA inspector will meet with the employer and the employee representatives in a closing conference to discuss any violations found and possible methods by which any hazards found will be abated. If it is not practical to hold a joint conference, the compliance officer will hold separate conferences.

When the OSHA area director determines that there has been a violation of OSHA standards, regulations, or other requirements, the area director issues a citation and notification of proposed penalty to an employer. A citation includes a description of the violation and the date by when the corrective actions must be taken. Depending on the situation, OSHA can classify a violation as serious, willful, or repeat. The employer can also be cited for failing to correct a violation for which it has already been cited. Employers must post a copy of a citation in the workplace where employees will see it.

### **Workers' Rights following Issuance of Citations**

Workers and employers can contest citations once they are issued to the employer. Workers may only contest the amount of time the employer is given to correct the hazard. Workers or their representatives must file a notice of contest with the OSHA area office within 15 days of the issuance of a citation.

Employers have the right to challenge whether there is a violation, how the violation is classified, the amount of any penalty, what the employer must do to correct the violation and how long they have to fix it. Workers or their representatives may participate in this appeals process by electing “party status.” This is done by filing a written notice with the Occupational Safety and Health Review Commission (OSHRC).

The OSHRC hears appeals of OSHA citations. They are an independent agency separate from the Department of Labor. For more information, write to:

U.S. Occupational Safety and Health  
Review Commission  
1120 20th Street NW, 9th Floor  
Washington, DC 20036  
Phone: 202-606-5400 Fax: 202-606-5050  
[www.oshrc.gov](http://www.oshrc.gov)

### **Right to Information if No Inspection is Conducted or No Citation Issued**

The OSHA area director evaluates complaints from employees or their representatives according to the procedures defined in the OSHA Field Operations Manual. If the area director decides not to inspect the workplace, he or she will send a letter to the complainant explaining the decision and the reasons for it.

OSHA will inform complainants that they have the right to request a review of the decision by the OSHA regional administrator. Similarly, in the event that OSHA decides not to issue a citation after an inspection, employees have a right to further clarification from the area director and an informal review by the regional administrator.

### **Right to Use Your Rights: *Protection against Retaliation* Whistleblower Protection**

The OSH Act prohibits employers from retaliating against their employees for using their rights under the OSH Act. These rights include filing an OSHA complaint, participating in an inspection or talking to

the inspector, seeking access to employer exposure and injury records, raising a safety or health issue with the employer, or any other workers' rights described above.

Protection from retaliation means that an employer cannot punish workers by taking "adverse action", such as:

- Firing or laying off;
- Blacklisting;
- Demoting;
- Denying overtime or promotion;
- Disciplining;
- Denying benefits;
- Failing to hire or rehire;
- Intimidation;
- Making threats;
- Reassignment affecting prospects for promotion; or
- Reducing pay or hours.

You can file a complaint alleging retaliation with OSHA if your employer has punished you for using any employee rights established under the OSH Act. **If you have been retaliated against for using your rights, you must file a complaint with OSHA within 30 calendar days from the date the retaliatory decision has been both made and communicated to you (the worker). Contact your local OSHA office by calling, within 30 days of the alleged retaliation, 1-800-321-OSHA (6742), or send a letter to your closest regional or area office. No form is required.** In states with approved state plans, employees may file a complaint with both the State and Federal OSHA.

Following a complaint, OSHA will contact the complainant and conduct an interview to determine whether an investigation is necessary.

If the evidence shows that the employee has been retaliated against for exercising safety and health rights, OSHA will ask the employer to restore that worker's job, earnings, and benefits. If the employer refuses, OSHA may take the employer to court. In such cases, a Department of Labor attorney will represent the employee to obtain this relief.

## **If There is a Dangerous Situation at Work**

If you believe working conditions are unsafe or unhealthful, we recommend that you bring the conditions to your employer's attention, if possible.

You may file a complaint with OSHA concerning a hazardous working condition at any time. However, you should not leave the worksite merely because you have filed a complaint. If the condition clearly presents a risk of death or serious physical harm, there is not sufficient time for OSHA to inspect, and, where possible, you have brought the condition to the attention of your employer, you may have a legal right to refuse to work in a situation in which you would be exposed to the hazard.

If a worker, with no reasonable alternative, refuses in good faith to expose himself or herself to a dangerous condition, he or she would be protected from subsequent retaliation. The condition must be of such a nature that a reasonable person would conclude that there is a real danger of death or serious harm and that there is not enough time to contact OSHA and for OSHA to inspect. Where possible, the employee must have also sought from his employer, and been unable to obtain, a correction of the condition. For more information, go to [www.osha.gov/workers](http://www.osha.gov/workers).

## **Additional Whistleblower Protections**

Since passage of the OSH Act in 1970, Congress has expanded OSHA's whistleblower protection authority to protect workers from retaliation under 22 federal laws. These laws protect employees who report violations of various workplace safety, airline, commercial motor carrier, consumer product, environmental, financial reform, healthcare reform, nuclear, pipeline, public transportation agency, railroad, maritime and securities laws. Complaints must be reported to OSHA within set timeframes following the retaliatory action, as prescribed by each law.

These laws, and the number of days employees have to file a complaint, are:

### **Worker, Environmental and Nuclear Safety Laws**

- ***Asbestos Hazard Emergency Response Act (AHERA)*** (90 days). Provides retaliation protection for individuals who report violations of environmental laws relating to asbestos in public or private nonprofit elementary and secondary school systems.
- ***Clean Air Act (CAA)*** (30 days). Provides retaliation protection for employees who, among other things, report violations of this law, which provides for the development and enforcement of standards regarding air quality and air pollution.
- ***Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)*** (30 days). Protects employees who report regulatory violations involving accidents, spills, and other emergency releases of pollutants into the environment. The law also protects employees who report violations related to the cleanup of uncontrolled or abandoned hazardous waste sites.
- ***Energy Reorganization Act (ERA)*** (180 days). Protects certain employees in the nuclear industry who report violations of the Atomic Energy Act (AEA). Protected employees include employees of operators, contractors and subcontractors of nuclear power plants licensed by the Nuclear Regulatory Commission, and employees of contractors working with the Department of Energy under a contract pursuant to the Atomic Energy Act.
- ***Federal Water Pollution Control Act (FWPCA) (also known as the Clean Water Act)*** (30 days). Provides retaliation protection for employees who, among other things, report violations of the law controlling water pollution.
- ***Occupational Safety and Health Act of 1970*** (30 days). Provides retaliation protection for employees who exercise a variety of rights guaranteed under this law, such as filing a safety and health complaint with OSHA and participating in an inspection.

- ***Safe Drinking Water Act (SDWA)*** (30 days).  
Provides retaliation protection for employees who, among other things, report violations of this law, which requires that all drinking water systems assure that their water is potable, as determined by the Environmental Protection Agency.
- ***Solid Waste Disposal Act (SWDA) (also known as the Resource Conservation and Recovery Act)*** (30 days). Provides retaliation protection for employees who, among other things, report violations of the law regulating the disposal of solid waste.
- ***Toxic Substances Control Act (TSCA)*** (30 days).  
Provides retaliation protection for employees who, among other things, report violations of regulations involving the manufacture, distribution, and use of certain toxic substances.

## **Transportation Industry Laws**

- ***Federal Railroad Safety Act (FRSA)*** (180 days).  
Provides protection to employees of railroad carriers and contractors and subcontractors of those carriers who report an alleged violation of any federal law, rule, or regulation relating to railroad safety or security, or gross fraud, waste, or abuse of federal grants or other public funds intended to be used for railroad safety or security; report, in good faith, a hazardous safety or security condition; refuse to violate or assist in the violation of any federal law, rule, or regulation relating to railroad safety or security; refuse to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties (under imminent danger circumstances); request prompt medical or first-aid treatment for employment-related injuries; are disciplined for requesting medical or first-aid treatment or for following an order or treatment plan of a treating physician.
- ***International Safe Container Act (ISCA)*** (60 days).  
Provides retaliation protection for employees who report violations of this law, which regulates shipping containers.

- ***Moving Ahead for Progress in the 21st Century Act (MAP-21)*** (180 days). Prohibits retaliation by motor vehicle manufacturers, part suppliers, and dealerships against employees for providing information to the employer or the U.S. Department of Transportation about motor vehicle defects, noncompliance, or violations of the notification or reporting requirements enforced by the National Highway Traffic Safety Administration or for engaging in related protected activities as set forth in the provision.
- ***National Transit Systems Security Act (NTSSA)*** (180 days). Provides protection to public transit employees who, among other things, report an alleged violation of any federal law, rule, or regulation relating to public transportation agency safety or security, or fraud, waste, or abuse of federal grants or other public funds intended to be used for public transportation safety or security; refuse to violate or assist in the violation of any federal law, rule, or regulation relating to public transportation safety or security; report a hazardous safety or security condition; refuse to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties (under imminent danger circumstances).
- ***Pipeline Safety Improvement Act of 2002 (PSIA)*** (180 days). Provides retaliation protection for employees who report violations of the federal laws regarding pipeline safety and security or who refuse to violate such provisions.
- ***Seaman's Protection Act (SPA)*** (180 days). Seamen are protected, among other things, for reporting to the Coast Guard or other federal agency a reasonably believed violation of a maritime safety law or regulation prescribed under that law or regulation. The law also protects work refusals where the employee reasonably believes an assigned task would result in serious injury or impairment of health to the seaman, other seamen, or the public and when the seaman sought, and was unable to obtain correction of the unsafe conditions.



- ***Surface Transportation Assistance Act (STAA)*** (180 days). Provides retaliation protection for truck drivers and other employees relating to the safety of commercial motor vehicles. Coverage includes all buses for hire and freight trucks with a gross vehicle weight greater than 10,001 pounds.
- ***Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21)*** (90 days). Provides retaliation protection for employees of air carriers, contractors, or subcontractors of air carriers who, among other things, raise safety concerns.

## **Fraud Prevention Laws**

- ***Affordable Care Act (ACA)*** (180 days). Protects employees who report violations of any provision of Title I of the ACA, including but not limited to retaliation based on an individual's receipt of health insurance subsidies, the denial of coverage based on a preexisting condition, or an insurer's failure to rebate a portion of an excess premium.
- ***Consumer Financial Protection Act of 2010 (CFPA), Section 1057 of the Dodd-Frank Wall Street Reform and Consumer Protection Act*** (180 days). Protects employees who report perceived violations of any provision of the *Dodd-Frank Act*, which encompasses nearly every aspect of the financial services industry. The law also protects employees who report violations of any rule, order, standard or prohibition prescribed by the Bureau of Consumer Financial Protection.
- ***Section 806 of the Sarbanes-Oxley Act of 2002 (SOX)*** (180 days). Protects employees of certain companies who report alleged mail, wire, bank or securities fraud; violations of the Securities and Exchange Commission (SEC) rules and regulations; or violations of Federal laws related to fraud against shareholders. The law covers employees of publicly traded companies and companies required to file certain reports with the SEC.

## **Consumer Safety Laws**

- ***Consumer Product Safety Improvement Act (CPSIA)*** (180 days). Protects employees who report to their employer, the federal government, or a state attorney general reasonably perceived

violations of any statute or regulation within the jurisdiction of the Consumer Product Safety Commission (CPSC). CPSIA covers employees of consumer product manufacturers, importers, distributors, retailers, and private labelers.

- ***FDA Food Safety Modernization Act (FSMA)*** (180 days). Protects employees of food manufacturers, distributors, packers, and transporters for reporting a violation of the Food, Drug, and Cosmetic Act, or a regulation promulgated under this law. Employees are also protected from retaliation for refusing to participate in a practice that violates this law.

If you believe that you have been retaliated against, call 1-800-321-OSHA (6742) to be connected to the nearest OSHA office to report your complaint. For more information, visit OSHA's Whistleblower page at [www.whistleblowers.gov](http://www.whistleblowers.gov).

## **OSHA Assistance, Services and Programs**

OSHA has a great deal of information to assist employers in complying with their responsibilities under OSHA law. Several OSHA programs and services can help employers identify and correct job hazards, as well as improve their safety and health program.

### **Establishing a Safety and Health Program**

The key to a safe and healthful work environment is a comprehensive safety and health program.

Safety and health programs are systems that can substantially reduce the number and severity of workplace injuries and illnesses, while reducing costs to employers. Thousands of employers across the United States are already using these programs, and OSHA believes that all employers can and should do the same. Thirty-four states have requirements or voluntary guidelines for safety and health programs. Most successful safety and health programs are based on a common set of key elements. These include management leadership, worker participation, hazard identification, hazard prevention and control, education and training, and program evaluation and improvement. Visit OSHA's

Recommended Practices for Safety and Health Programs web page at [www.osha.gov/shpguidelines](http://www.osha.gov/shpguidelines) for more information.

### **Compliance Assistance Specialists**

OSHA has compliance assistance specialists throughout the nation located in most OSHA offices. Compliance assistance specialists can provide information to employers and workers about OSHA standards, short educational programs on specific hazards or OSHA rights and responsibilities, and information on additional compliance assistance resources. For more details, visit [www.osha.gov/dcsp/compliance\\_assistance/cas.html](http://www.osha.gov/dcsp/compliance_assistance/cas.html) or call 1-800-321-OSHA (6742) to contact your local OSHA office.

### **Free On-site Safety and Health Consultation Services for Small Business**

OSHA's On-site Consultation Program offers free and confidential advice to small and medium-sized businesses in all states across the country, with priority given to high-hazard worksites. Each year, responding to requests from small employers looking to create or improve their safety and health management programs, OSHA's On-site Consultation Program conducts over 29,000 visits to small business worksites covering over 1.5 million workers across the nation.

On-site consultation services are separate from enforcement and do not result in penalties or citations. Consultants from state agencies or universities work with employers to identify workplace hazards, provide advice on compliance with OSHA standards, and assist in establishing safety and health management programs.

For more information, to find the local On-site Consultation office in your state, or to request a brochure on consultation services, visit [www.osha.gov/consultation](http://www.osha.gov/consultation), or call 1-800-321-OSHA (6742).

Under the consultation program, certain exemplary employers may request participation in OSHA's **Safety and Health Achievement Recognition Program (SHARP)**. Eligibility for participation includes, but is not limited to, receiving a full-service, comprehensive

consultation visit, correcting all identified hazards and developing an effective safety and health management program. Worksites that receive SHARP recognition are exempt from programmed inspections during the period that the SHARP certification is valid.

## **Cooperative Programs**

OSHA offers cooperative programs under which businesses, labor groups and other organizations can work cooperatively with OSHA. To find out more about any of the following programs, visit [www.osha.gov/cooperativeprograms](http://www.osha.gov/cooperativeprograms).

## **Strategic Partnerships and Alliances**

The OSHA Strategic Partnerships (OSP) provide the opportunity for OSHA to partner with employers, workers, professional or trade associations, labor organizations, and/or other interested stakeholders. OSHA Partnerships are formalized through unique agreements designed to encourage, assist, and recognize partner efforts to eliminate serious hazards and achieve model workplace safety and health practices. Through the Alliance Program, OSHA works with groups committed to worker safety and health to prevent workplace fatalities, injuries and illnesses by developing compliance assistance tools and resources to share with workers and employers, and educate workers and employers about their rights and responsibilities.

## **Voluntary Protection Programs (VPP)**

The VPP recognize employers and workers in private industry and federal agencies who have implemented effective safety and health management programs and maintain injury and illness rates below the national average for their respective industries. In VPP, management, labor, and OSHA work cooperatively and proactively to prevent fatalities, injuries, and illnesses through a system focused on: hazard prevention and control, worksite analysis, training, and management commitment and worker involvement.

## **Occupational Safety and Health Training**

The OSHA Training Institute partners with 27 OSHA Training Institute Education Centers at 42 locations throughout the United States to deliver courses on OSHA standards and occupational safety and

health topics to thousands of students a year. For more information on training courses, visit [www.osha.gov/otiec](http://www.osha.gov/otiec).

## **OSHA Educational Materials**

OSHA has many types of educational materials in English, Spanish, Vietnamese and other languages available in print or online. These include:

- Brochures/booklets;
- Fact Sheets;
- Guidance documents that provide detailed examinations of specific safety and health issues;
- Online Safety and Health Topics pages;
- Posters;
- Small, laminated QuickCards™ that provide brief safety and health information; and
- *QuickTakes*, OSHA's free, twice-monthly online newsletter with the latest news about OSHA initiatives and products to assist employers and workers in finding and preventing workplace hazards. To sign up for *QuickTakes* visit [www.osha.gov/quicktakes](http://www.osha.gov/quicktakes).

To view materials available online or for a listing of free publications, visit [www.osha.gov/publications](http://www.osha.gov/publications). You can also call 1-800-321-OSHA (6742) to order publications.

Select OSHA publications are available in e-Book format. OSHA e-Books are designed to increase readability on smartphones, tablets and other mobile devices. For access, go to [www.osha.gov/ebooks](http://www.osha.gov/ebooks).

OSHA's web site also has information on job hazards and injury and illness prevention for employers and workers. To learn more about OSHA's safety and health resources online, visit [www.osha.gov](http://www.osha.gov) or [www.osha.gov/html/a-z-index.html](http://www.osha.gov/html/a-z-index.html).

## **NIOSH Health Hazard Evaluation Program**

### **Getting Help with Health Hazards**

The National Institute for Occupational Safety and Health (NIOSH) is a federal agency that conducts scientific and medical research on workers' safety and health. At no cost to employers or workers, NIOSH can help identify health hazards and recommend ways to reduce or eliminate those hazards in the workplace through its Health Hazard Evaluation (HHE) Program.

Workers, union representatives and employers can request a NIOSH HHE. An HHE is often requested when there is a higher than expected rate of a disease or injury in a group of workers. These situations may be the result of an unknown cause, a new hazard, or a mixture of sources. To request a NIOSH Health Hazard Evaluation go to [www.cdc.gov/niosh/hhe/request.html](http://www.cdc.gov/niosh/hhe/request.html). To find out more, in English or Spanish, about the Health Hazard Evaluation Program:

E-mail [HHERequestHelp@cdc.gov](mailto:HHERequestHelp@cdc.gov) or call 800-CDCINFO (800-232-4636).

## **How to Contact OSHA**

For questions or to get information or advice, to report an emergency, fatality, inpatient hospitalization, amputation, or loss of an eye, or to file a confidential complaint, contact your nearest OSHA office, visit [www.osha.gov](http://www.osha.gov) or call OSHA at 1-800-321-OSHA (6742), TTY 1-877-889-5627.

**For assistance, contact us.  
We are OSHA. We can help.  
It's confidential.**

## **OSHA Regional Offices**

### **Region I**

Boston Regional Office  
(CT\*, ME\*, MA, NH, RI, VT\*)  
JFK Federal Building, Room E340  
Boston, MA 02203  
(617) 565-9860 (617) 565-9827 Fax

### **Region II**

New York Regional Office  
(NJ\*, NY\*, PR\*, VI\*)  
201 Varick Street, Room 670  
New York, NY 10014  
(212) 337-2378 (212) 337-2371 Fax

### **Region III**

Philadelphia Regional Office  
(DE, DC, MD\*, PA, VA\*, WV)  
The Curtis Center  
170 S. Independence Mall West  
Suite 740 West  
Philadelphia, PA 19106-3309  
(215) 861-4900 (215) 861-4904 Fax

### **Region IV**

Atlanta Regional Office  
(AL, FL, GA, KY\*, MS, NC\*, SC\*, TN\*)  
61 Forsyth Street, SW, Room 6T50  
Atlanta, GA 30303  
(678) 237-0400 (678) 237-0447 Fax

### **Region V**

Chicago Regional Office  
(IL\*, IN\*, MI\*, MN\*, OH, WI)  
230 South Dearborn Street  
Room 3244  
Chicago, IL 60604  
(312) 353-2220 (312) 353-7774 Fax

### **Region VI**

Dallas Regional Office  
(AR, LA, NM\*, OK, TX)  
525 Griffin Street, Room 602  
Dallas, TX 75202  
(972) 850-4145 (972) 850-4149 Fax  
(972) 850-4150 FSO Fax



## **Region VII**

Kansas City Regional Office  
(IA\*, KS, MO, NE)  
Two Pershing Square Building  
2300 Main Street, Suite 1010  
Kansas City, MO 64108-2416  
(816) 283-8745 (816) 283-0547 Fax

## **Region VIII**

Denver Regional Office  
(CO, MT, ND, SD, UT\*, WY\*)  
Cesar Chavez Memorial Building  
1244 Speer Boulevard, Suite 551  
Denver, CO 80204  
(720) 264-6550 (720) 264-6585 Fax

## **Region IX**

San Francisco Regional Office  
(AZ\*, CA\*, HI\*, NV\*, and American Samoa,  
Guam and the Northern Mariana Islands)  
90 7th Street, Suite 18100  
San Francisco, CA 94103  
(415) 625-2547 (415) 625-2534 Fax

## **Region X**

Seattle Regional Office  
(AK\*, ID, OR\*, WA\*)  
300 Fifth Avenue, Suite 1280  
Seattle, WA 98104  
(206) 757-6700 (206) 757-6705 Fax

\* These states and territories operate their own OSHA-approved job safety and health plans and cover state and local government employees as well as private sector employees. The Connecticut, Illinois, Maine, New Jersey, New York and Virgin Islands programs cover public employees only. (Private sector workers in these states are covered by Federal OSHA). States with approved programs must have standards that are identical to, or at least as effective as, the Federal OSHA standards.

Note: To get contact information for OSHA area offices, OSHA-approved state plans and OSHA consultation projects, please visit us online at [www.osha.gov](http://www.osha.gov) or call us at 1-800-321-OSHA (6742).



**If you think your job  
is unsafe and you have  
questions, call OSHA.**

**We can help.  
It's confidential.**



**U.S. Department of Labor**

**For more information**



**Occupational  
Safety and Health  
Administration**

**[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)**



U.S. Department of Labor



# Job Safety and Health IT'S THE LAW!

## All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request an OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. OSHA will keep your name confidential. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

*This poster is available free from OSHA.*

**Contact OSHA. We can help.**

## Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Report to OSHA all work-related fatalities within 8 hours, and all inpatient hospitalizations, amputations and losses of an eye within 24 hours.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

FREE ASSISTANCE to identify and correct hazards is available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.



# Your Right to a Safe Workplace

## *Sus Derechos de Seguridad en el Trabajo*



**OSHA** is the Agency that Protects Your Safety and Health Rights  
*La OSHA es la agencia que protege sus derechos a la seguridad y la salud.*

## What is OSHA?

OSHA is the Occupational Safety and Health Administration. It is a federal government agency that protects worker safety and health.

This booklet explains your rights and your employer's responsibilities under OSHA. **The rights that are described here cover workers regardless of immigration status.**

## ¿Qué es la OSHA?

*La OSHA es la Administración de Seguridad y Salud Ocupacional. Es una agencia del gobierno federal que protege la seguridad y la salud del trabajador.*

*Este folleto le explica sus derechos y las responsabilidades que tiene su patrón de conformidad con la OSHA. **Los derechos que aquí se describen cubren a los trabajadores, independientemente de su situación migratoria.***

## What Are My Rights Under OSHA?

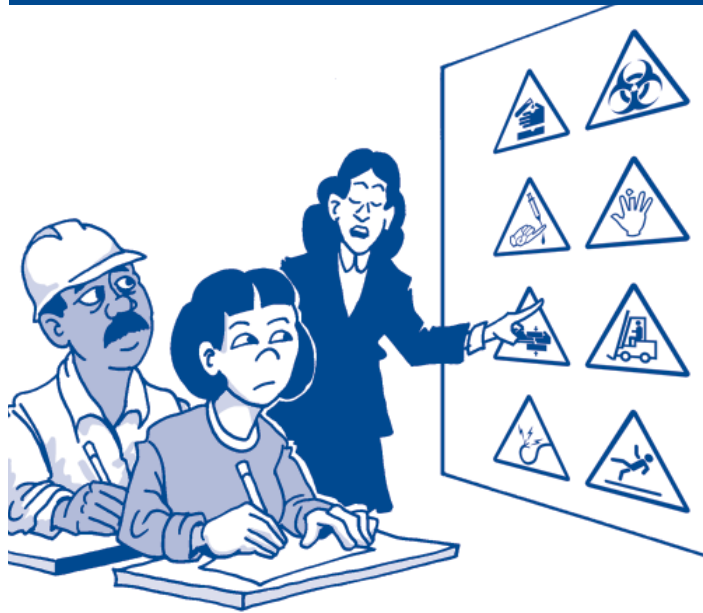
*¿Cuáles son mis derechos establecidos por la OSHA?*



1. You have the right to be safe when you are working.

*Usted tiene el derecho de estar seguro cuando trabaja.*

**What Are My Rights Under OSHA?**



- 2.** You have the right to be trained on safety and health problems at your job.

*Usted tiene el derecho de recibir capacitación sobre la seguridad y los problemas de salud en su empleo.*

**¿Cuáles son mis derechos establecidos por la OSHA?**



- 3.** You have the right to use the bathroom during work hours.

*Usted tiene el derecho de usar el baño durante horas de trabajo.*



4. You have the right to ask for information about things you think are dangerous at work. Your employer has to give you the information you ask for (types of chemicals, air tests, etc.)

*Usted tiene el derecho de pedir información sobre cosas que usted considere peligrosas en el trabajo. Su patrón tiene que darle a usted la información que pregunte (tipos de sustancias químicas, análisis del aire, etc.)*



5. You have the right to see your medical records and information about your exposure to harmful chemicals.

*Usted tiene el derecho de ver sus registros médicos y la información sobre su exposición a sustancias químicas dañinas.*



**What Are My Rights Under OSHA?**



6. You have the right to see copies of OSHA rules that are important to your workplace.

*Usted tiene el derecho de ver copias de las reglas de la OSHA que son importantes para su centro de trabajo.*

**¿Cuáles son mis derechos establecidos por la OSHA?**



7. You have a right to know about people who have gotten sick or hurt at work.

*Usted tiene el derecho de saber de gente que se haya enfermado o que se haya lastimado en el trabajo.*

#### What Are My Rights Under OSHA?



- 8.** You have the right to complain to OSHA about hazards at work. OSHA will not give your name to your employer.

*Usted tiene el derecho de quejarse ante la OSHA de peligros en el trabajo. La OSHA no le dará su nombre a su patrón.*

#### ¿Cuáles son mis derechos establecidos por la OSHA?



- 9.** If OSHA inspects your workplace, you have the right to speak privately with the inspector about unsafe conditions.

*Si la OSHA hace una inspección de su centro de trabajo, usted tiene el derecho de hablar en privado con el inspector sobre condiciones peligrosas.*

**What Are My Rights Under OSHA? ¿Cuáles son mis derechos establecidos por la OSHA?**



- 10.** You cannot be punished or fired for using your safety rights under OSHA.

*Usted no puede ser castigado(a) ni despedido(a) por ejercer sus derechos a la seguridad protegidos por la OSHA.*

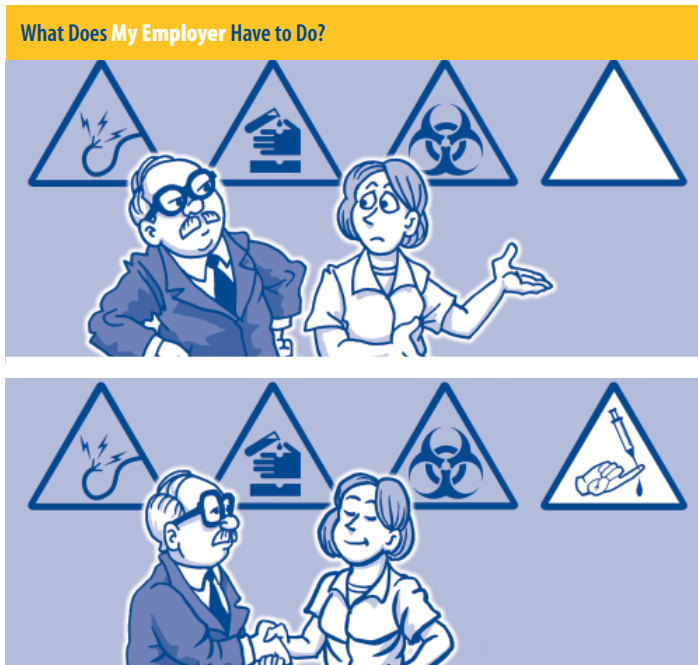
**What Does My Employer Have to Do?**

**¿Qué tiene que hacer mi empleador?**



- 1.** Your employer has to provide a safe and healthy workplace.

*Su patrón debe proporcionar un centro de trabajo seguro y saludable.*



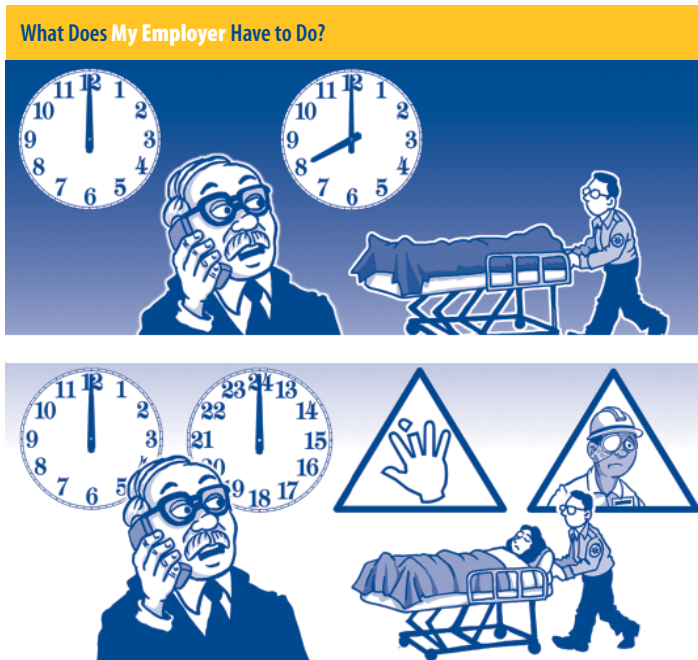
2. Your employer has to obey all OSHA rules.

*Su patrón tiene que obedecer todas las reglas de la OSHA.*



3. Your employer has to put up the OSHA Job Safety and Health poster where all workers can see it.

*Su patrón tiene que poner el cartel de la OSHA sobre Seguridad y Salud en el Empleo, en un lugar donde todos los trabajadores puedan verlo.*



4. Your employer has 8 hours to tell OSHA about any workplace accident that kills a worker and 24 hours to report any workplace accident that results in a hospitalization, loss of an eye or amputation.

*Tu empleador tiene 8 horas para avisarle a OSHA sobre cualquier accidente de trabajo donde muera un trabajador y 24 horas para reportar cualquier accidente en el trabajo que resulte en hospitalización, pérdida de un ojo o amputación.*



5. Your employer has to keep lists (called “OSHA 300 logs”) of people who get sick or hurt at work and put up a summary every year (from February 1-April 30) that every worker can see.

*Su patrón tiene que conservar listas (llamadas las Diario de lesiones y enfermedades ocupacionales) de gente que se enferma o que se lastima en el trabajo, y debe poner cada año un resumen (del 1º de febrero al 30 de abril) que todos los trabajadores puedan ver.*

What Does My Employer Have to Do?



6. Your employer has to allow a worker representative to go with an OSHA inspector during an inspection.

*Su patrón tiene que permitir a un representante del trabajador ir junto con un inspector de la OSHA durante una inspección.*

¿Qué tiene que hacer mi empleador?



7. Your employer has to put up a written notice of OSHA violations at or near the place where they happened. This has to stay up for at least three days or until the problem is corrected.

*Su patrón debe anunciar una notificación por escrito de las violaciones según la OSHA, ubicada en el lugar donde éstas ocurrieron o cerca del lugar. Tiene que permanecer ahí al menos tres días o hasta que el problema sea corregido.*



What Does *My* Employer Have to Do?



8. Your employer has to correct hazards within the time period set by OSHA.

*Su patrón tiene que corregir los peligros dentro del período de tiempo establecido por la OSHA.*

¿Qué tiene que hacer *mi* empleador?



9. Your employer cannot punish a worker for using their OSHA rights. Workers have 30 days to file a complaint after a discrimination or termination action.

*Su patrón no puede castigar a un trabajador por ejercer sus derechos protegidos por la OSHA. Los trabajadores tienen 30 días de plazo para presentar una queja después de un acto discriminatorio o un despido.*

What Does My Employer Have to Do?

¿Qué tiene que hacer mi empleador?



- 10.** Your employer has to offer safety and health information and training in a way that workers can understand it (in other languages, at different reading levels, etc.)

*Su patrón tiene que ofrecer información sobre seguridad y salud y entrenamientos de una manera en que los trabajadores puedan entenderlos (en otros idiomas, a diferentes niveles de lectura, etc.).*

## What Other Safety & Health Protections Do I Have?

1. You have the right to refuse dangerous work if you follow all three of these rules: a) You can refuse work that you really believe could kill or hurt you badly. b) You can refuse dangerous work if you have asked your employer to fix the danger. c) You can refuse dangerous work if you offer to do other, safe work until the danger is fixed. You cannot be fired for refusing unsafe work if you follow these three rules.
2. If you are a member of a union, your contract may contain more safety and health protections. Ask a steward or union representative.

## ¿Qué otras protecciones de seguridad y salud tengo?

1. Usted tiene el derecho de negarse a hacer trabajo peligroso si sigue todas estas tres reglas: a) Puede negarse a hacer un trabajo que usted verdaderamente considera que podría causarle la muerte o herirlo o lastimarlo gravemente. b) Puede negarse a hacer trabajo peligroso si le ha pedido a su patrón que arregle el peligro. c) Puede negarse a hacer trabajo peligroso si se ofrece a hacer otro trabajo seguro mientras se arregla el peligro. Usted no puede ser despedido por negarse a hacer trabajo peligroso si sigue estas tres reglas.
2. Si usted es miembro de una organización sindical, es posible que su contrato colectivo contenga más protecciones de seguridad y salud. Pregunte a un delegado o a un representante sindical.





*For more information / Para más información*

**United Food and Commercial Workers International Union**

1775 K St NW | Washington, DC 20006 | 202-223-3111

[www.ufcw.org](http://www.ufcw.org)

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Illustrations by / Ilustraciones: Mike Konopacki  
Design by / Diseño: Local 881 UFCW

bug in  
white?

# Washington State Workers' Rights Manual

3<sup>rd</sup> Edition, 2014, Abridged Version

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**Edited and Updated By: Kia Sanger**

Produced By: The Washington State Labor Education  
and Research Center

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Professional and Technical Employees Local 17

American Federation of Teachers Washington

Amalgamated Transit Union Local 587

Laborers International Union of America Northwest Regional  
Organizing Council

International Association of Fire Fighters District 7

Seattle Firefighter Local 27

Washington Council of Fire Fighters

Casa Latina

Communications Workers of America Local 7800

Office and Professional Employees International Union Local 8

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**Finally, thank you to all the working people worldwide and throughout history who fight and sacrifice for the rights of us all.**

*- Kia Sanger, Editor, January 2014*

## **Preface**

Sarah Laslett, Director – Washington State Labor Education  
and Research Center

*South Seattle Community College*

This manual is a resource for understanding the laws governing workplace rights, but it is more than that. It is a reflection of an important set of values. Those values say that working people deserve to go home safe and healthy at the end of the day.

Working people deserve to be able to take time off from work to care for their families. Workers who are more vulnerable – youth and the disabled – or who have been traditionally discriminated against – women, immigrants and minorities – deserve equal treatment and protection at work. These are caring values, fought for by energetic and transformative social movements, then articulated in laws by our national, state, and local governments, and which reflect the will of the people.

Only after a great deal of human suffering, struggle, thought, and work have these laws been created to make work a healthier, more compassionate, and more respectful experience. But this only works if all of us take responsibility for understanding and fulfilling both the letter and the spirit of these laws.

The mission of the Fetzer Institute, which has generously supported the 2014 edition of this manual, is to understand the nature of love and forgiveness in many societal settings, in this case, at work. By using this manual we hope that you will embrace the positive and caring values that underlie the rights explained here and, thereby, contribute to Fetzer's mission.

## Introduction

Published by the Washington State Labor Education and Research Center at South Seattle Community College, this is the abridged version of the Workers' Rights Manual. It is written to be an easy-to-use reference guide to workplace rights covered by federal, state and local laws. However, this is not a substitute for legal advice. If you need practical legal assistance, please contact an attorney or one of the community services listed in the resources chapter at the end of the manual.

The manual initially grew out of Professor Sarah Ryan's class *Justice at Work*, taught at The Evergreen State College for the first time in 2005. Students in that class generated the information that became the basis for the first edition of the manual. The Labor Center produced editions of this manual in 2007 & 2008. This third edition is current as of January 1, 2014. The full-length guide is also available from the Labor Education Research Center and both versions can be found online at <http://georgetown.southseattle.edu/lerc/workersrightsmanual>. Please visit our website for periodic updates to this edition.

We offer this Workers' Rights Manual in the spirit of the traditional union saying, *An Injury to One is an Injury to All* and encourage all users to remember that workplace rights (like any political rights) are strongest when people pursue them together. Please remember to reach out to your co-workers, unions and community organizations that are dedicated to the protection and enforcement of workers' rights. **Alone we are weak — together we are strong.**



## **Washington State Labor Education and Research Center**

The mission of the Labor Center is to deliver high-quality education and training programs for the working women and men of Washington State. In addition to publishing this manual, the Labor Center builds the skills, confidence and knowledge workers need to improve their work lives and their communities, and promote a just economy through collective action. As a unique program within higher education in the state, we use the best practices of adult education to serve our dynamic and diverse labor force.

If you want a copy of this manual, and are unable to download and print it from the website, or if you want your organization added to the resource section, please contact us at the Washington State Labor Education and Research Center at South Seattle Community College.

The WA LERC takes no responsibility for any content in the linked materials.

*Phone Number – (206) 934-6859*

*Address – 6737 Corson Avenue South, Seattle, WA 98108,  
Building B Room 106*

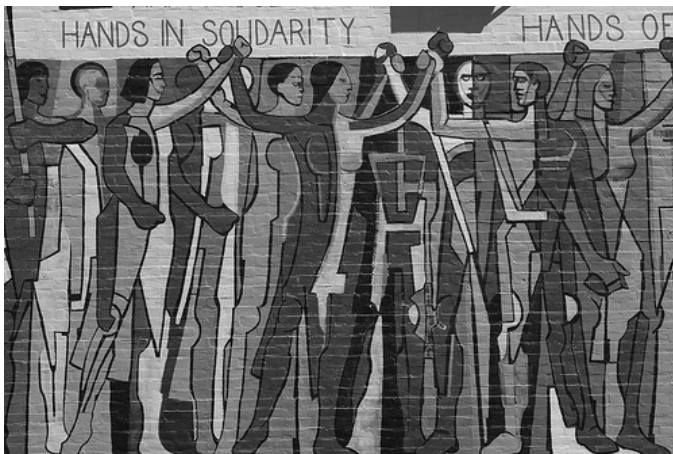
*Web Address - <http://georgetown.southseattle.edu/lerc/>*

# Chapter 1: Basic Workplace Rights

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## Wage And Hour Laws

### Minimum Wage

#### *The Right To Be Paid At Least The Minimum Wage*

The minimum wage is the least amount an employer can pay you per hour that you work, are trained, are required to stay at the worksite, or commute between worksites on a single job. As of January 1, 2014, the minimum wage in Washington State is **\$9.32 per hour**. Workers who are 14 or 15 years old may be paid 85% of the adult minimum wage, or \$7.92 per hour.

Washington's minimum wage law covers *almost all* workers in both agricultural and non-agricultural jobs. **The minimum wage law covers documented and undocumented workers.** In Washington State, if you receive tips at your job, your employer is **not** allowed to count them as part of your minimum wage payment.

It is illegal for your employer to not pay you the minimum wage, or ask you to work "off-the-clock" (without pay). If your employer does not pay you, you can call the Washington State Department of Labor and Industries' (L&I) employment standards office at **(360) 902-5316** or toll-free at **1 (866) 219-7321** to report your employer or file a complaint. Interpreter services are available.

#### *My Employer Said S/He Only Has To Pay Me The Federal Minimum Wage. Is That True?*

**No.** If there are differences between federal, state, or city minimum wages, whichever is highest is the rate you must be paid.

### ***If My Employer Changes My Shift At The Last Minute, Does S/He Have To Pay Me For Showing Up?***

**No.** An employer is not required by law to give you advance notice about your shift changing, or if s/he makes your shift longer or shorter.

### ***What Is “Prevailing Wage”?***

Prevailing wage is the hourly wage, expected benefits and overtime rates paid to the majority of workers employed on government construction projects in the largest city in each county in Washington State. Prevailing wage laws say that if the federal government or Washington State is funding your construction job, you must be paid the prevailing wage. If you have internet access, you can look up the prevailing wage for your county and trade at [www.lni.wa.gov/tradeslicensing/prevwage/](http://www.lni.wa.gov/tradeslicensing/prevwage/).

## **Overtime**

### ***You Have The Right To Overtime Pay***

In most industries, you must be paid 1.5 times your regular rate of pay for all hours that you work over 40 in a seven-day workweek. Your employer is not required by law to pay you overtime to work on a holiday or weekend, but some employment and union contracts do include that.

**Important note:** There are some types of workers who do not have the right to overtime pay. These include workers who live at their workplace, most agricultural employees, certain salaried employees, and independent contractors.

Sometimes, employers use the words “exempt” and “non-exempt” when referring to whether an employee is entitled to

overtime. If you are called an “exempt” employee, it means that your employer has determined that you are not entitled to overtime.

For more information on overtime rules see:

[www.lni.wa.gov/WorkplaceRights/Wages/Overtime](http://www.lni.wa.gov/WorkplaceRights/Wages/Overtime)

Or, call the WA State Department of Labor and Industries at:  
**1 (866) 219-7321.**

### ***Do I Still Get Overtime If I Choose To Take An Extra Shift?***

**Yes.** Even if you volunteer to take an extra shift or trade a shift, your employer still has to pay you overtime for all hours that you work over 40 in a week. Your employer can't have a policy that says you don't get paid overtime unless it is approved or scheduled in advance.

### ***Can My Employer Make Me Work Overtime?***

**Yes.** Most employers can make you work overtime even if you don't want to, and even on a day that you usually have off.

### ***What About Agreements To Take Time Off Later Instead Of Overtime Pay?***

If you work for a public agency, you can request time off at a later time instead of being paid overtime wages in the pay period when you worked the overtime hours. This is sometimes called "comp time" or "exchange time."

- When you take the time off, it must be at the rate of at least 1.5 hours for each overtime hour worked.
- Comp or exchange time must be at your request
- If you do not use your comp time within the year, it must be paid out (cashed out) at the overtime rate.

## Breaks

In Washington, most workers are entitled to rest breaks.

	<b>Rest Break</b>	<b>Meal Break: Paid or Unpaid</b>	<b>Breast Feeding Break</b>
<b>How Long?</b>	10 min.	30 min.	As long as needed
<b>How Often?</b>	Every 4 hours worked	1 for less than 11 hours total worked. 2 for more than 11 hours worked.	As frequently as needed
<b>Is it paid?</b>	Yes	Employer's choice	No
<b>Can it be split up?</b>	Sometimes	Paid: Yes. Unpaid: No	N/A
<b>Can you choose not to take it?</b>	No	Yes	Yes

## Pay Periods And Pay Statements

You must be paid *at least once a month* on a regularly scheduled payday. When you leave your job, your employer must pay you for all unpaid wages no later than the end of the next regular pay period. Each time you are paid, you must receive a written statement from your employer (usually a paycheck stub) that includes information about the pay period, hours of work, rate of pay and any deductions.

## Paycheck Deductions

Deductions from your pay are only legal if they are required or permitted by federal or state law or if you agree to them in advance. All deductions from your paycheck must be listed and explained on your paycheck stub. These deductions can include things like taxes, Social Security and Medicare, insurance, garnishments and union dues. **Your employer cannot deduct:**

- Payments for loans, housing, transportation, tools or food *without your permission.*
- Payments, even with your permission, if they reduce your wages to below the minimum wage, or if the company makes a profit from selling you these things.
- Money for unemployment compensation.
- Money to pay for equipment that you accidentally lost or broke.
- Money to cover a cash register shortage – except during your *final* pay period and only if your employer can prove that you participated in counting the register before and after your shift and you were the only person using it.

**TIP:** You should keep your own records of the hours you have worked and what you believe you should be paid. This can help you if you ever need to file a wage theft claim.

## **Uniforms**

### *What Kind Of Clothing Does My Employer Have To Pay For?*

Clothing that has an uncommon color, function, style or has a logo – i.e. is unusual in some way (like a cowboy hat, for instance), is usually considered a uniform and your employer has to pay for them. Your employer may not take money from your wages or require a deposit from you for your uniform. Some required clothing is not considered a uniform and you might have to pay for it. For instance, it is not considered a uniform if you are required to wear common colors for tops and bottoms, like a white top and black pants. For more information see:

[www.lni.wa.gov/WorkplaceRights/LeaveBenefits/Uniforms/](http://www.lni.wa.gov/WorkplaceRights/LeaveBenefits/Uniforms/)

### *Personal Protection Equipment And Clothing*

For jobs where you could be injured, your employer is generally required to provide, free of cost to you, safety equipment such as protective gloves, helmets, goggles, and other clothing to protect you from injury or sickness on the job.

## **Benefits**

Common benefits include health insurance, pension, 401K and other retirement plans, vacation leave, paid sick leave, paid maternity leave, childcare, memberships to clubs and bonuses. An employer offers these in addition to wages or salary. They are usually optional unless your employment contract requires them.



## **Special Wage And Hour Laws For Agricultural Workers**

Agricultural work includes growing, producing and harvesting farm, nursery, or forest products as well as working with livestock, bees, sheep, goats, poultry or wildlife. It could be migrant or seasonal work, or it may be year-round.

### ***Do I Get Paid The Minimum Wage If I Am An Agricultural Worker?***

**Yes.** If you are an agricultural worker your employer may pay you on a piece rate basis or salary basis, but that rate must equal the minimum hourly wage of \$9.32 in Washington State in 2014.

There are a few limited exceptions when agricultural workers do not have to be paid the minimum wage. For information on these exceptions and other agricultural workers rights see: [www.lni.wa.gov/WorkplaceRights/Agriculture/](http://www.lni.wa.gov/WorkplaceRights/Agriculture/)

**Your minimum salary is counted by the week, not by the day. If some days you earn less than the minimum wage, and other days you earn more, it is legal as long as you earn at least the minimum wage by the end of the week.**

### ***Breaks***

Agricultural workers have the right to the same breaks as non-agricultural workers:

- One 10-minute paid rest break for every four hours worked.
- One paid or unpaid 30-minute meal break if working more than five hours in a day.

- One additional 30-minute meal break if working 11 or more hours in a day.

### ***Agricultural Worker Recruitment Rights (Migrant And Seasonal Workers)***

If you are recruited (hired) to do seasonal agricultural work away from home, you have rights guaranteed by the federal Migrant and Seasonal Agricultural Worker Protection Act. As soon as you agree to work for your employer, s/he must give you **written information in your native language** about your workplace, wage, crop, duration of job, housing, transportation, benefits, and whether there is a strike or work stoppage at the farm where you will work.

### ***Agricultural Workers Under Age 18***

There are special rules about what hours you can work and what tasks you can perform to protect agricultural workers under the age of 18 Please see Chapter 8 for more information.



## **What If I Think My Employer Did Not Pay Me What I Am Owed?**

When your employer does not pay you the correct amount that is called wage theft. **Wage theft is illegal.**

Wage theft includes:

- Not paying you for all the hours you work.
- Not paying you your last paycheck after you leave a job.
- Not paying you overtime.
- Not giving you breaks and not paying you extra for missed breaks.
- Forcing you to work “off the clock.”
- Not paying minimum wage.
- Not paying you the amount you agreed upon.
- Stealing your tips.

It is important that you keep records about your employer and your work. Your records are evidence in a claim for unpaid wages. If your employer doesn’t keep a record of your work, a judge or government investigator will rely on the records you keep as evidence.

If you think you have not been getting paid what you earned, read on for some options.

## ***1. Go through the Labor and Industries Wage Complaint Process***

The 2006 Washington State Wage Payment Act gives Labor and Industries (L&I) the power to help you get paid what you are owed. You can file a “Workplace Rights Complaint with L&I, and they will investigate. If they decide that your employer owes you money, they can make him/her pay you. The L&I process is free and most complaints are investigated in 60 days or fewer. For more information and to file a complaint, see:

[www.lni.wa.gov/WorkplaceRights/ComplainDiscrim/WRComplaint](http://www.lni.wa.gov/WorkplaceRights/ComplainDiscrim/WRComplaint)

## ***2. Take Your Employer To Court For Unpaid Wages***

You can go to small claims court yourself, or hire a lawyer to help you collect the money you are owed. A court can award you your unpaid wages, and the court may also order your employer to pay your lawyer’s fees. In court, you also may be able to win *double* the amount of wages owed if your employer failed to pay you on purpose.

**TIP:** Before you decide what to do, you may want to talk to a lawyer so you can decide which process is best for you. If L&I has issued a citation and you have not opted out of the L&I process, you cannot pursue a court action at the same time.

Information on going to small claims court can be found at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org)

## ***3. File A Lien Against The Property Where You Worked***

Certain agricultural and construction workers also have the option of filing a lien against their employer. A lien is a legal process that puts a “hold” on property (including crops) until

your employer pays you. If you want to file a lien, you should contact a lawyer right away. For information on how to find a lawyer see the *Resources* chapter at the end of this manual.

#### ***4. If You Live In Seattle, File A Complaint With The Police Department***

Wage theft is a crime in Seattle, and the city has the power to recover your wages, put your boss in jail, and take away your boss's business license if he or she is found guilty. The police department has a policy that it **will not question or look into your immigration status** if you file a complaint about wage theft. Call the Seattle police department at their non-emergency number: **206-625-5011** or file a report online at: [www.seattle.gov/police/report/](http://www.seattle.gov/police/report/)

#### ***5. Talk With A Community Group***

Some community groups help workers get unpaid wages through direct action. Two examples are Casa Latina **206-956-0779 ext.122**, <http://casa-latina.org/> and Seattle Solidarity Network **206-350-8650**, <http://seasol.net/>



([www.seattle.gov](http://www.seattle.gov))

## **Privacy In The Workplace**

The internet has made a lot of personal information public and available to everyone, including employers. Courts are beginning to place limits on what information employers can use against employees. For more detailed information about your privacy rights at work visit the website:

[www.workplacefairness.org/](http://www.workplacefairness.org/)

### ***Is My Employer Allowed To Search My Belongings Or Me At Work?***

**It depends.** Generally, public employers can only search their employees' persons, desks and property when they have a reasonable suspicion of wrongdoing. Private employers have fewer limitations. If your employer has a policy that states that they may conduct searches of you or your belongings, then they may have the right to do so. However, if they do not have such a policy and workers can prove that there is a "reasonable expectation of privacy" in certain work situations, then it may be illegal for the employer to conduct such searches. In addition, if you have a union contract, the contract may place limits on the employer's ability to search and monitor you at work.

### ***Is My Boss Allowed To Video Or Audiotape Me At Work?***

**Yes.** Employers are allowed to make video or audio recordings of their employees while they are on company property. However, they are *not* allowed to film in places where most people expect privacy such as restrooms, designated breast-feeding areas or changing rooms.

### *Can My Boss Monitor My Work Phone, Email, Computer Or Car?*

**Yes.** Your employer can legally view, trace and record all data that goes through company-owned property. Many employers keep tabs on telephones, email, computers, postal mail, and company-owned vehicles.

### *Can My Boss Look At My Social Media (E.G. Facebook, Twitter) Accounts?*

Your employer is allowed to look at anything that is publically accessible online. The question of whether or not the employer can use that information against you is still unclear. Your employer **cannot** require you to give her/him your password or “friend” her/him on your personal social media account.

### *Can My Boss Fire Me For Saying Bad Things About The Company Online?*

If a group of two or more co-workers is talking on-line about wanting to improve their wages or working conditions, that is probably protected as “concerted activity” under the National Labor Relations Act. It could be illegal for your boss to fire or punish you for it. However, if you are complaining about the company’s products or your general dislike of a supervisor or coworker, and you show no interest in making things better, you could probably be legally fired for that. Please see *Chapter 12: Organizing to Make Things Better At Work* for more information on concerted activity.

## *Health Records, Genetic Information And Drug Testing*

Many employers will have access to some of your medical information. Your employer generally **can**:

- Ask you to provide a doctor's note or other information about your health if s/he needs it for business reasons such as to give you an accommodation for a disability, sick leave, workers' compensation, health insurance or wellness programs.
- Require you to pass a medical examination after you have been offered the job if everyone must do it and there is a work-related reason for it.
- Require you to take drug tests at any time as long as it is not done in a way that singles people out based on race, age, gender, disability or another protected status.

In general, your employer is **not allowed** to share this information with anyone, discriminate against you based on this information, or request more information than s/he needs. For a more in depth look at this important topic, visit the website [www.workplacefairness.org/](http://www.workplacefairness.org/).



## **You Have The Right To Defend Your Workplace Rights**

**Retaliation** is any negative action that your employer takes to punish you for standing up for your workplace rights. This could include cutting your hours, changing your shift, giving you worse work to do, or many other actions. **Retaliation is illegal.**

If your employer retaliates against you, you can file a complaint with the Washington State Department of Labor and Industries. Contact information is listed in the *Resources* chapter at the end of this manual.

### **Whistleblower Protection Laws**

A whistleblower is a person who tells someone in authority or the public about dishonest or illegal activities occurring in a government agency, or someone who reports violations of law by a private organization. The misconduct may be fraud, corruption or health and safety violations.

#### ***How Do I Report Improper Conduct?***

If you are reporting violations of law by a private company, you should find an attorney to assist you with a “qui tam” or a “False Claims Act” lawsuit.

Any Washington State employee may report an improper governmental action through the whistleblower program. This includes temporary employees, classified and exempt civil service employees and elected officials. Whistleblower complaints may be filed anonymously within one year of the act. Anything written by a whistleblower and sent to the state auditor’s office should be marked “confidential”.

A reporting form is available at:

[www.sao.wa.gov/en/audits/whistleblower/pages/whistleblower.aspx/](http://www.sao.wa.gov/en/audits/whistleblower/pages/whistleblower.aspx/)

Note: If you are a federal employee, you can file a complaint with the U.S. Office of Special Counsel. A complaint form is here: <http://www.osc.gov/documents/forms/osc11.htm>

**More information is available at:**

Government Accountability Project

1612 K Street, NW Suite #1100

Washington, D.C. 20006

Phone: 202-457-0034

Website: [www.whistleblower.org/](http://www.whistleblower.org/)

National Whistleblower Center

P.O. Box 25074

Washington, D.C. 20027

Phone: 202-342-1903

Website: [www.whistleblowers.org/](http://www.whistleblowers.org/)

**In relation to all your rights discussed in this manual, always remember it is very important to document (write down) all conversations with an employer if you have a question or concern. This is for your protection in case you ever have to file a formal complaint, if a union represents you, or if you meet with an attorney.**



# Chapter 2: Health And Safety

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## **You Have The Right To A Safe Workplace**

All workers have the right to a safe workplace, free from avoidable dangers that can cause injury or disease. Government agencies and labor unions work to enforce state and federal laws that help make your workplace safe. This chapter provides information on these agencies, and on selected health and safety laws, as well as the procedure for filing a complaint.

### **Government Agencies**

A variety of state and federal laws protect worker health and safety. The following agencies can help if you believe there is a health or safety problem at your workplace:

- **Washington State Department of Labor and Industries (L&I):** L&I is the Washington State agency that deals with workplace rights. Among other things, L&I manages benefits for workers who are injured on the job. (Please see *Chapter 3: Injury On the Job And Workers' Compensation* for more information.) A division within L&I called “DOSH” deals specifically with state health & safety laws.
- **Division of Occupational Safety and Health (DOSH):** DOSH interprets state laws on health and safety in the workplace, and makes sure the public knows about these laws. DOSH is particularly helpful in offering information on core health and safety rules in the workplace, as well as specific health and safety rules

(Keith Weller, USDA-ARS photo library). In response to a complaint,

DOSH representatives may come to a workplace to inspect unsafe working conditions. For example, DOSH inspectors will look for unsafe machinery, electrical equipment, chemicals, or gases.

- The toll-free number for health and safety assistance at L&I and DOSH is **1 (800) 4BE-SAFE**. Information on the complaint procedure is included in this Chapter.
- **Occupational Safety & Health Administration (OSHA):** OSHA is the department of the federal government that creates workplace health and safety rules. It is a good place to turn if Washington State laws do not cover your particular issue. Contact information for OSHA is listed in the *Resources* chapter at the end of this manual.

## **Employer Responsibilities**

### **Your employer must:**

- Provide a safe and healthy workplace and follow all safety and health rules.
- Begin and maintain an accident-prevention program. Both employers and workers must be involved in designing the program. The program should meet the particular needs of your workplace.
- Ban alcohol and narcotics from the workplace.
- Prevent workers from using tools and equipment that are not safe.
- Control chemicals.

- Protect workers from the dangers of "biological agents" such as animals or animal waste, body fluids, biological agents in a medical research lab (like bacteria), and mold or mildew.
- Post a notice of employer responsibility and worker rights (the WISHA poster).
- Provide training about job health and safety.
- Keep records of all job-related accidents.

For detailed information about the law, visit:

[www.lni.wa.gov/wisha/rules/corerules/](http://www.lni.wa.gov/wisha/rules/corerules/)

## **Employee Responsibilities**

**You must:**

- Read the WISHA poster.
- Follow your employer's safety and health rules and wear or use all required gear and equipment.
- Coordinate and cooperate with other workers in order to avoid accidents.
- Report dangerous conditions to a supervisor or safety committee.
- Report in writing to the Washington State Labor and Industries agency about any dangerous condition that isn't being fixed.
- Report any job-related injuries or illnesses to your employer and promptly seek treatment.
- Cooperate with government inspectors.

## **Safety Committees And Safety Meetings**

If your employer has more than eleven people working at the same time and the same location, it must set up a workplace safety committee. Safety meetings must be held at least monthly and include employee representatives. For rules on what must be covered in the meetings or by the committee, visit: [www.lni.wa.gov/wisha/rules/corerules/](http://www.lni.wa.gov/wisha/rules/corerules/)

## **General Workplace Requirements**

### **First Aid Kits**

All Washington businesses are required by law to have a first aid kit that is easily accessible to all employees at every worksite.

### **Ergonomics**

Ergonomics is the name for the science that studies how people sit, stand or interact with desks or machines. Sitting, standing or stooping for long periods of time can cause serious injury sometimes called “repetitive stress injuries.” For more information on prevention of health problems related to repetitive stress and ergonomics, visit: [www.lni.wa.gov/Safety/Topics/Ergonomics/](http://www.lni.wa.gov/Safety/Topics/Ergonomics/)

### **Hazardous Substances**

The Worker Right-to-Know law says that your employer must tell you about dangerous chemicals used in your work area and train you in their proper use. When you start your job and whenever a new hazard comes into your workplace, your employer must offer you detailed information about the



chemicals. For information on Worker Right-to-Know laws, contact DOSH or OSHA.

## **Heat And Water – Working Outside**

From June 1 until September 2 your employer must offer you protection from heat stress. This includes giving you drinking water during the day and having someone who can give first aid on the work site if you get sick because of heat.

## **Heat And Air Quality – Working Inside**

Your employer is required to provide reasonable air quality that doesn't make you sick. Restaurants and warehouses, for example, must be air-conditioned or ventilated to the point that they are safe (usually 90° F or cooler). Your employer must also ensure that chemicals released from new carpeting or other materials in the workplace don't make you sick. If you notice something that you think could be toxic, report it to your employer and DOSH. For more information and what you can do, visit: [www.lni.wa.gov/Safety/Topics/AtoZ/IndoorAir/](http://www.lni.wa.gov/Safety/Topics/AtoZ/IndoorAir/)

## **Transportation**

If your employer provides transportation to the job site for you, the vehicle must be safe, insured, and meet government standards. The number of people in a vehicle, often determined by how many seatbelts are available, must be reasonable and safe.

## **Excessive Overtime**

Depending on your industry, your employer may have to pay you extra for overtime hours (see: *Chapter 1: Basic Workplace Rights*). There is no legal limit to how much overtime your

employer can make you work. But, if mandatory overtime is seriously harming your health or safety, you can ask for an investigation by the Department of Labor and Industries (L&I).

## **Fall Hazards**

Washington State requires employers to protect all workers from falls. Your employer must provide training, prevention and equipment based on the work you do. For more information, see:

[www.lni.wa.gov/Safety/Topics/AtoZ/fallprotect/](http://www.lni.wa.gov/Safety/Topics/AtoZ/fallprotect/)

## **Lock Out/Tag Out Rule**

Under the "Lock Out/Tag Out" rule, a "lockout" device, such as a combination lock must be placed on equipment or machinery that could be dangerous if accidentally started up. Your employer should only give the combination to workers that are specially trained to start and stop the machine. An eye-catching warning device, such as a tag should also be put on the machine to show that it may not be operated until the "tag out" device is removed.

## **Breaks And Meals**

You are entitled to regular breaks and meal periods at your workplace. Your employer cannot set unreasonable restrictions on bathroom use.

## **Occupation-Specific Laws**

State laws have specific rules for different types of work. Below are some resources for certain types of work.

### **Construction Work**

Construction sites are dangerous workplaces, so there are lots of rules and regulation to follow. Employees must be properly trained to operate equipment and machinery; equipment must comply with safety standards, often requiring safety guards and warning labels; and proper clothing and protective equipment must be worn and in some cases, provided by the employer.

If you have Internet access, information on health and safety topics for construction sites can be found at:

[www.lni.wa.gov/wisha/rules/construction/](http://www.lni.wa.gov/wisha/rules/construction/).

You can also find more information in the unabridged version of the 2014 Washington State Workers' Rights Manual.

### **Agricultural Work**

Agricultural work means farming and ranching. Your employer must make sure that climbing or lifting to plant, maintain or harvest crops, or working with animals is done safely. In addition, there are rules regarding sanitation, safe drinking water, pesticides and insecticides and the availability of medical care.

If you have housing at the farm where you work, your employer also has to make sure that living conditions are safe. There are different sets of rules for working and living conditions. For a review of both sets of rules, please see the unabridged version of the 2014 Washington State Workers' Rights Manual.

If you have internet access you can also see all safety rules here:  
[www.lni.wa.gov/wisha/rules/agriculture/](http://www.lni.wa.gov/wisha/rules/agriculture/).

*For help with these issues, contact:*

The Washington State Department of Agriculture Pesticide  
Management Division

*Phone - 1 (877) 301-4555*

Department of Labor and Industries

*Phone - 1-866-219-7321*

## **Restaurant Work**

Restaurants contain potential hazards such as hot surfaces, sharp objects, dangerous kitchen equipment, flammable oils and slippery floors. Your employer has to set up an accident prevention program (APP) with employee representatives and follow it to make sure that your working conditions are as safe as possible. Your employer is required to tell you about all potentially dangerous equipment and ensure you are trained and competent before you use the equipment. In some cases, your employer must provide Personal Protective Equipment, such as gloves or masks. Your employer must also do a daily safety check of the work area to make sure there are no new hazards, and must observe you and your coworkers to ensure you are following safety rules.

For more information on the safety and health rules for restaurants and setting up an APP, see:

[www.lni.wa.gov/Safety/Topics/AtoZ/Restaurants/](http://www.lni.wa.gov/Safety/Topics/AtoZ/Restaurants/)

## Other Types of Work

Retail workers face the special safety concern of potential robbery. Office workers encounter safety issues related to ergonomics. Health care workers face threats from blood-borne dangers and exposure to dangerous chemicals. In addition, these and other workers in specialized lines of work, such as transportation, sometimes have limitations on hours of work so that they can get enough rest between shifts. Many workplaces also have rules concerning safe ventilation, lighting, safe entries and exits, fire hazards, crime and workplace violence.

For more information on these issues, please refer to the unabridged version of the 2014 Washington State Workers' Rights Manual.



## **What Should I Do If I Find A Health Or Safety Issue At Work?**

<b>Step 1</b>	See, smell, or hear something unsafe.
<b>Step 2</b>	Write down what happened, the time and date, exactly where, and who was involved. Keep this record.
<b>Step 3*</b>	Report the safety hazard to your boss.
<b>Step 4*</b>	If your boss does not fix the problem you can refuse to do the unsafe work, but you must stay at work. If you refuse to do unsafe work, tell your boss that you plan to report the violation.
<b>Step 5</b>	File a complaint with DOSH. * Note, If you are uncomfortable telling your boss directly, you can skip steps 3-4, directly file a complaint with DOSH, and ask to remain anonymous. You can also report it to a labor union or union representative.
<b>Step 6</b>	DOSH could require an inspection of your workplace.
<b>Step 7</b>	DOSH will decide whether or not the problem has to be fixed. You can request that they look over the decision again if you disagree.

The first step is to write down what happened and tell your employer. If you have a safety committee in your workplace, you can also tell the committee. Your employer might simply correct the issue and solve the problem. But if your employer doesn't fix it and you are still concerned about the issue, you

can file a complaint with Washington State's Division of Occupational Safety and Health.

**Remember that, generally speaking, you have the right to refuse to do unsafe work, but you should stay at the jobsite and try to find safe work to do until your shift ends or you are asked to leave.**

## **Filing A Complaint**

Complaints must be made in writing. You can use a special form available in English or Spanish online, or you can just write and mail a letter explaining who you are and describing the problem.

You can call DOSH for more information about how to make your complaint and about the complaint process at **1 (800) 4BE-SAFE** (interpreter services are available). You can also find information online at:

[www.lni.wa.gov/Safety/Basics/Complaint/](http://www.lni.wa.gov/Safety/Basics/Complaint/)

## **Information For Federal Employees**

If you are a federal employee, non-federal employee working on federal reservations or military bases, employed on a floating worksite (dry docks, fishing boats or construction barges), or employed by a tribal employer on tribal lands in Washington State, then you should contact the federal agency OSHA.

*Phone Number* - 1 (800) 321-OSHA [6743]

*Web Address* - [www.osha.gov](http://www.osha.gov)

# Chapter 3: Injury On The Job And Workers' Compensation

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(Amanda Mills, Center for Disease Control)



## Introduction

### **Workers' Compensation**

If you are injured at work, or if you develop an occupational (work-related) disease, you can apply for workers' compensation. If you need medical treatment for your injury or illness you may be able to receive money to pay for your treatment. You may also be able to receive money to replace wages you lost if your illness or injury stopped you from being able to work. **All employees have the right to receive workers' compensation, including undocumented workers.**

Washington is a "no-fault state," meaning that a workplace injury can be covered no matter whose "fault" it was.

If your employer tells you not to report your injury to L&I, or tells you to lie and say it didn't happen on the job, you should tell L&I right away at 360-902-5760. This is called "claim suppression" and it is illegal. The Claim Suppression Complaint Form is available on the L&I website: [www.lni.wa.gov/](http://www.lni.wa.gov/).

### **Help Through the Injured Worker Process**

You have the right to be represented by an attorney as you go through the process of applying for Workers' Compensation, but you are not required to have one. You can also call Project HELP at **1-800-255-9752**, or visit them on the web at [www.projecthelpwa.com](http://www.projecthelpwa.com). Project Help is a cooperative effort between the Department of Labor and Industries and the Washington State Labor Council (AFL-CIO), and can help you with your claim. The L&I website also outlines what to do at: [www.lni.wa.gov/ClaimsIns/Claims/Guide/phase1.asp/](http://www.lni.wa.gov/ClaimsIns/Claims/Guide/phase1.asp/)

## **Workers' Compensation State Fund vs. Self-Insurance Coverage**

### ***State Fund***

Most Washington employers purchase worker's compensation insurance from a pool called the State Fund. The State Fund is run by the Washington State Department of Labor and Industries (L&I). Contact information for L&I can be found in the *Resources* chapter at the end of this manual.

### ***Self-Insurance Coverage***

About one third of workers in Washington work for employers who are self-insured. If you work for a self-insured employer, your rights and benefits do not change, but you must file a claim through your employer. Your employer should have a notice on the safety bulletin board about how to file an accident report for a workplace injury or disease. You may also talk to your supervisor, union representative, or HR manager about how to do it.

L&I's self-insurance section will help you with any disagreements between you and your employer. For more information you can contact L&I's Self-Insurance Section in Olympia at **(360) 902-6901**. There is also an Ombudsman (a representative) appointed to help self-insured injured workers with their workers' compensation, call 1-888-317-0493,

A guide to workers' compensation for employees of self-insured companies can be found on the L&I website at:

[www.lni.wa.gov/IPUB/207-085-000.pdf](http://www.lni.wa.gov/IPUB/207-085-000.pdf)

**The rest of this chapter applies to workers covered by the state-fund insurance programs.**

# **What to Do When You Get Injured on the Job or Diagnosed with an Occupational Disease**

## **1. Get First Aid and/or See A Doctor**

When you are injured on the job or realize you have an occupational disease you have some rights. You can:

- Go to the doctor, healthcare provider, or emergency room of your choice,
- Request an interpreter if you prefer to speak a language other than English, and
- Refuse to have an employer representative go with you.

## **2. Report The Injury....**

### ***...To Your Doctor***

Be sure to tell medical staff, including the doctor, that you were injured or made sick on the job. They will help you file your initial workers' compensation paperwork, or file a claim. Explain to the doctor what happened to cause your injury.

If you cannot work, or can't do all of the things you used to be able to do at work because of your injury, your doctor will also complete an *Activity Prescription Form*. This will tell your employer and L&I how your work must be changed or how long you need to rest.

### *...To Your Employer*

Let your employer know right away that you are injured so s/he knows about your injuries when the L&I paperwork arrives and can help you plan your return to work. If you don't let your employer know about your injury and you need to file a claim later, it may be denied.

### *...To The Department of Labor and Industries (L&I)*

*The Report of Industrial Injury or Occupational Disease* is an accident report form available at hospitals, clinics or doctors' offices. You complete the worker's portion of this form. Your doctor fills out the medical portion of this form and will send it to L&I.

**L&I must receive your accident report within one year of your injury date and within two years from the date of your doctor's diagnosis for a work-related disease.**

Once L&I receives your claim, they will assign you a claim manager. If you are more comfortable speaking a language other than English, you have the right to an interpreter at all doctors' appointments and in all meetings with your L&I case manager.

### *...To Your Union, If You Have One*

If you are in a union, let your union representative know that you are injured. Union reps may be able to help with this process and want to be kept informed of all job-related injuries because they will take steps to correct the workplace problem. Your union contract may provide you with additional protection in case of an on-the-job injury.

## **Status of Claim**

Once you file your claim, L&I will review your case, decide to accept or reject your claim, and also decide whether to leave your case open or close it. When your claim is open, you can apply for time-loss (money to replace lost wages), receive medical treatment, apply for payment for permanent disability, and receive help from a vocational counselor to get back to work quickly.

If L&I decides that your injury is not work-related, or if your doctor and L&I decide that your injury won't improve with more medical care, L&I will close your claim. This means you cannot seek more benefits, either financial or medical. You can appeal a decision to close your claim. In some cases, you may also reopen your claim if your injury or illness returns at a later date. If you would like to reopen your claim, speak with your doctor.

### **If You Do Not Agree With L&I's Decision To Close Your Claim**

If there are disagreements about any decision L&I makes about your claim, you, your doctor, or your employer have the right to protest the decision to L&I or appeal the decision directly to the Board of Industrial Insurance Appeals (BIIA). Many claims are denied by L&I the first time, but get approved when appealed – so it is worth filing a protest or appeal to the decision. For more information on how to protest a decision, see:

[www.lni.wa.gov/ClaimsIns/Claims/Appeals/](http://www.lni.wa.gov/ClaimsIns/Claims/Appeals/)

## **Receiving Medical Care**

### ***Free***

While your claim is open, you should not have to pay for any medical treatment or service out of your pocket. Once your claim is accepted, L&I will assign you a claim number and mail you a claim card. This works like an insurance card; you show it to any medical provider you visit, and there is no money required from you. If a medical provider charges you for services, contact your case manager right away.

**If you were injured  
on the job in  
Washington State,  
Washington laws  
will apply to your  
claim no matter  
where you live.**

### ***Local***

You have the right to visit a medical provider near you, even if you do not live in Washington State. Search for providers near you here:

[www.lni.wa.gov/ClaimsIns/Claims/FindaDoc/](http://www.lni.wa.gov/ClaimsIns/Claims/FindaDoc/)

### ***Your Choice***

For your initial visit, you may choose any doctor or emergency room. After your first medical visit, you must receive all treatment from a doctor in L&I's Medical Provider Network. The L&I website will help you find a provider in this network.

You have the right to change doctors at any time during your ongoing treatment, but you must request a "transfer of care". You can do this online or on paper. Throughout the treatment, you have the right to refuse to allow an L&I claim manager or any employer representative to come into your medical exams with you.

## **If You Cannot Work: Monetary Compensation (Time-Loss), And Getting Back To Work**

### **If You Cannot Work At All**

If your doctor says that you are unable to work due to your injury, L&I may pay for part of your lost wages. After the first three days, L&I will pay time-loss for each day of work you miss, as long as your doctor agrees you should not be working.

More information can be found on the Internet at:

[www.lni.wa.gov/ClaimsIns/Claims/Benefits/TimeLoss/](http://www.lni.wa.gov/ClaimsIns/Claims/Benefits/TimeLoss/).

### **If You Can Do Some Work**

Return to the job and employer where you were injured as soon as it's safe for you to do so. Many workers can return to work gradually, while still receiving medical benefits. L&I also has some programs to help you get back to work and encourage employers to hire you. You should talk with your case manager about these options and visit the L&I homepage to learn more:

[www.lni.wa.gov/ClaimsIns/Claims/RTW](http://www.lni.wa.gov/ClaimsIns/Claims/RTW)



(Amanda Mills, Center for Disease Control)

## Permanent Disabilities

If your injury or work-related disease caused permanent damage to your body, you may receive a disability award in addition to your regular workers' compensation award. There are two kinds of disability awards for permanent damage: "partial" and "total." The amount you can receive is set by law. **You must request a disability status while your claim is open.**

### *Partial Permanent Disabilities*

This means that you have permanently lost some ability you had before the injury, but you are still able to do some work.

### *Total Permanent Disabilities*

If your injury is so serious that you can never work again, you may be eligible for a life-long pension (income) to make up for the fact that you can no longer earn a living.

## Structured Settlement

Some workers who are age 55 or older may qualify for a structured settlement plan. A structured settlement means that you and your employer agree to a total amount of money they will pay you and a payment plan. Once you agree on the amount, they will not owe you any more money even if that amount is less than you would have gotten under the traditional time-loss benefit plan. **During the settlement process you still have the right to future medical benefits, even if you agree to accept a set amount of money for your lost wages.**

For more information about structured settlement call the L&I settlement specialists at **360-902-6101** or go to:

[www.lni.wa.gov/ClaimsIns/Claims/Benefits/Settlement/#1](http://www.lni.wa.gov/ClaimsIns/Claims/Benefits/Settlement/#1)



## **Monitoring the Case**

If you need information about your claim call L&I at:

*Phone - 1-800-547-8367*

*TDD/TTY - (360) 902-5797*

You can also call **1-800-831-5227** for a fast, computerized update on claim status. You can review your claim on the Claim and Account Center at [www.claiminfo.lni.wa.gov](http://www.claiminfo.lni.wa.gov).

## **Retaliation and Discrimination**

In retaliation (to get back at you) for filing a claim your employer may not:

- Fire or lay you off.
- Give you a worse job.
- Change your assignment to an undesirable shift.
- Refuse to adjust your job duties to meet the light-duty restrictions ordered by your doctor.
- Deny you a promotion.
- Reduce your wages and/or benefits, or make you suffer other negative treatment because you filed a claim.

**You only have  
90 days to  
report  
discrimination  
so don't delay!**

If you think that you are being discriminated against or mistreated for filing a claim, or if you have questions about your employer's actions, call your L&I's investigation program at 1-866-324-3310 or file a Discrimination Complaint form on the L&I website:

[www.lni.wa.gov/ClaimsIns/FraudComp/Discrim/](http://www.lni.wa.gov/ClaimsIns/FraudComp/Discrim/)

# Chapter 4: Social Security For Long-Term Disability, Illness And People In Need

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## **Social Security**

If you become disabled for any reason **and cannot work for at least 12 months**, you may qualify for monthly cash payments and medical disability benefits from the federal Social Security Administration. These programs are called Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI). You must be a US-citizen or documented non-citizen to qualify for SSDI or SSI.

If you are injured on the job, you can apply for Workers' Compensation as well. This is a state program run by the WA State Department of Labor and Industries (L&I). This program is covered in Chapter 3 of this manual.

**Social Security Disability Insurance, Supplemental Security Income and Workers' Compensation are all separate.** In some cases, you can collect benefits from more than one of these programs at the same time.

### ***What is Social Security Disability Insurance (SSDI)?***

SSDI, in most cases, is for people with disabilities who have a work history. You must have worked long enough and paid Social Security taxes. The amount of SSDI you get depends on your past earnings. You do not have to be low income in order to receive SSDI..

### ***What is Supplemental Security Income (SSI)?***

SSI is generally for people with disabilities of any age who have low incomes and assets less than \$2,000. Low income people 65 years and older with or without disabilities may also be able to receive SSI benefits. You can get SSI if you have never worked.

## **Social Security Disability Insurance (SSDI)**

### *How Do I Qualify for SSDI?*

**You must be “disabled” and not able to work for at least 12 months.** "Disability" under Social Security is based on how much you can work. Social Security will generally *not* consider you disabled and you will not qualify for benefits if you are working this calendar year AND your earnings average more than \$1,040 a month (this figure is for 2013; this amount usually increases slightly every year).

You are considered disabled if:

- a. The SSA recognizes your medical condition. See [www.ssa.gov/compassionateallowances/index.htm](http://www.ssa.gov/compassionateallowances/index.htm) for a list of qualifying medical conditions.
- b. If your medical condition is not on the list you may qualify if:
  - You cannot do the work you did before AND
  - You cannot adjust to other work because of your medical condition(s) AND
  - Your disability has lasted or is expected to last for at least one year or to result in death.

**You must meet some minimum work requirements.**

- You must have worked recently.
- You must have worked, and paid taxes, for long enough in your life. See the Disability Benefits online handbook for more information on these rules(pdf):  
<http://www.ssa.gov/pubs/EN-05-10029.pdf>

### ***How Much Money Will I, Or My Family, Receive?***

The amount of money (benefit amount) you will receive depends on your work history and the amount of money you have paid to the Social Security Administration.

Certain members of your family, such as your spouse, minor child, or disabled adult child, may qualify for benefits of their own based on your work, if you qualify for SSDI benefits.

### ***Will I Receive Medical Care?***

With SSDI, you will get Medicare coverage automatically after you have received disability benefits for two years. For more information on Medicare, contact the SSA or visit the website:

<http://www.socialsecurity.gov/pgm/medicare.htm>

### ***Can I Go Back To Work?***

There are special rules that help you keep your monthly benefits and Medicare while you test your ability to work.

For more information about returning to work see:

[www.ssa.gov/dibplan/dwork3.htm](http://www.ssa.gov/dibplan/dwork3.htm)

### ***Application Process***

You can apply for SSDI by calling your local Social Security Office toll-free at 1 (800) 772-1213, TTY: 1 (800) 325-0778.

The Social Security Administration will send you the papers you need to fill out and sign. If you have Internet access, you can apply online at Social Security's website:

[www.ssa.gov/pgm/disability.htm](http://www.ssa.gov/pgm/disability.htm). You can also apply in person at your local Social Security Office: call for locations.

## ***More Information***

The Social Security Administration (SSA) website has a lot of helpful information about SSDI:

<http://ssa.gov/pgm/disability.htm>

Documented non-citizens should see the *Supplemental Security Income (SSI) For Non-Citizens information sheet*, at

[www.ssa.gov/pubs/11051.html#part1](http://www.ssa.gov/pubs/11051.html#part1)

## **Supplemental Security Income (SSI)**

Supplemental Security Income may be able to help you if you are blind, disabled or 65 years and older, and have little or no income. Disabled or blind children can also receive SSI. SSI provides money to meet basic needs for food, clothing, and shelter. It is not based on your previous work history.

### ***How Do I Qualify For SSI?***

- You must be one of the following:
  - a. Over age 65,
  - b. Blind, or
  - c. Disabled.
- You must be a US citizen, permanent resident, or US national who is, in general, living in the US.
- You must also show that you have little-to-no income or other resources to qualify.
- The Social Security Administration (SSA) may also consider your living situation if you live in publicly-run housing like a shelter, halfway house, or other community housing.

### *How Much Money Will I Receive?*

The amount that you receive depends on your living situation, your other income, if you are applying as an individual or a couple and how many children you have. In 2013, the federal SSI benefit for an individual living alone is \$710 per month. For a couple it is \$1,066 per month. It generally takes three to five months to process your Supplemental Security Income application.

The State of Washington also pays an additional small amount to residents. Visit this website to find out more:

[www.socialsecurity.gov/ssi/text-benefits-ussi.htm](http://www.socialsecurity.gov/ssi/text-benefits-ussi.htm)

### *Will I Get Medical Benefits?*

If you are approved for SSI, you will usually be enrolled in Medicaid. For more information on Medicaid, contact the Social Security Administration or visit this website:

[www.medicaid.gov/](http://www.medicaid.gov/)

### *Application Process*

Call the Social Security Office at **1 (800) 772-1213**, or **TTY: 1 (800) 325-0778**. You can also apply online at the Social Security Administration's website: [www.socialsecurity.gov](http://www.socialsecurity.gov) or in person at your local Social Security Office. Parents or guardians can usually apply for blind or disabled children under age 18.

## **What If My Claim Is Denied?**

**If your claim is denied, appeal!** You have **60 days** from the date of the denial notice to appeal.

Social Security often denies your first disability claim. Nationally, about 75% of all applicants are denied when they first apply. But many of these people ultimately get their benefits.

You may want to hire a lawyer who specializes in Social Security disability cases. For information on free or low-cost lawyers, see the list of legal resources in the *Resources* chapter at the end of this manual.

## **A Summary of Your Rights**

- There is no charge to apply for Social Security Disability Insurance or Supplemental Security Income.
- You should apply as soon as possible after you become disabled. Note: there is a five-month waiting period before you can begin to receive benefits.
- You have the right to receive help from the Social Security Administration. If you do not speak English and need an interpreter, the Social Security Administration must provide one free of charge.
- You have the right to see and copy your Social Security file upon request.



- If Social Security denies your application, they must tell you in writing. This notice must explain your appeal rights.
- You have the right to appeal. If you are denied benefits, you have **60 days** from the date of the denial notice to appeal.
- You have the right to a representative or lawyer to help you in your appeal.

## **Washington State Programs**

In addition to the federal programs that are mentioned in this chapter, Washington State also has programs that offer financial help such as food stamps, cash assistance, family assistance and medical assistance. You may be eligible for these even if you are not receiving SSI or SSDI or while your application is being processed. Contact the WA Department of Social and Health Services (DSHS) for information:

**Phone:** 1-877-501-2233

**Olympia headquarters:**

1115 Washington Street SE

Olympia, WA 98504

**Website:** [www.dshs.wa.gov](http://www.dshs.wa.gov)

# Chapter 5: Taking Time Off From Work

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(Betsy Kozak, U.S. Army Photo)

## **Introduction**

Federal and Washington State laws give many workers the right to take time off from work without fear of losing their jobs when; they are seriously ill or pregnant; to care for a newborn or newly placed child; or to care for an ill family member.

## **Family and Medical Leave Act (FMLA)**

If you work for an employer covered by this law you have the right to:

- 1) Take up to 12 weeks of unpaid, job-protected leave per year for certain family and medical reasons; and
- 2) Return to your job or an equivalent job after taking leave.

### *Who Is Covered By The Family Medical Leave Act?*

#### **Employers**

- Local, state, and federal public sector employers
- Private employers who have 50 or more employees for at least 20 workweeks a year. Check with your human resources department or union about whether your workplace meets these requirements.

#### **Employees**

You have the right to 12 weeks of unpaid job-protected leave if you:

- 1) Work for a covered employer.
- 2) Have worked for your employer for at least 12 months.

- 3) Have worked at least 1,250 hours (about 25 hours per week) during the 12 months before the start of your leave. For military service-members, both your civilian job hours and your hours of military service count towards your total hours worked.
- 4) Work at a location in the U.S. or in any U.S. territory where your employer has at least 50 workers within a 75-mile radius.

### *Types Of Leave Under The Family Medical Leave Act*

**New-child leave:** You can take this leave to give birth to and/or care for a newborn child or to care for a newly placed adopted or foster child.

**Family-care leave:** You can take this leave to care for your spouse, child, or parent, if s/he has a serious health condition.

**Medical leave:** You can take this leave to take care of yourself while you are recovering from a serious health condition.

**If you have earned paid vacation time, your employer may require you to use it for your time off.**

### *Your Benefits While On Leave*

**Vacation time, sick leave, retirement, and seniority benefits** you built up *before* you took your leave generally remain in place. These benefits usually do not continue to build up while you are on unpaid leave.

Once you return to work, your employer must give you any other right, benefit, or position that you would have had if you had not taken the leave.

**Health Insurance:** If you had health insurance paid by your employer before you took leave, your employer must maintain it under the same terms and conditions as if you were still working. If your leave lasts longer than 12 weeks, you can continue paying the insurance company directly for your benefits under COBRA. More information on insurance coverage can be found through the Washington State Insurance Commissioner's Office at [www.insurance.wa.gov](http://www.insurance.wa.gov), or by calling toll-free, 1 (800) 562-6900.

***Can My Employer Ever Refuse To Give Me My Job Back When I Return From FMLA Leave?***

Yes, but only if ALL three of the following circumstances exist:

- 1) You returning to your job would cause extreme economic hardship for the employer; AND
- 2) You are considered a “key” employee; AND
- 3) Your health care coverage was maintained throughout your leave.

A key employee is a salaried employee who is paid among the highest 10% of employees within 75 miles of the work site. If your employer believes that s/he may deny you your job back, s/he must give you written notice when you request your leave or at the start of your leave. The written notice must include the reasons for denying you your job back and give you a reasonable chance to return to work. If you continue to take leave after the notice, you can still request your job back at the end of the leave period, and your employer must decide again whether your reinstatement would cause extreme economic hardship to the business.

For more information visit: [www.dol.gov/whd/fmla/](http://www.dol.gov/whd/fmla/)

## **The Washington State Family Care Act**

The Washington State Family Care Act allows all employees to use any *available* sick leave, vacation time, or other paid time off to care for a family member. An employer cannot punish you for taking leave under this law. As long as you are qualified to use paid leave for your own illness, you can also use it for a family member. In certain cases, the law also gives additional time off for pregnancy and parenting over and above what the FMLA allows.

### **You can use your paid leave to care for your:**

- **Child** (under age 18) when he or she is sick or needs medical care.
- **Spouse, registered domestic partner, parent, parent-in-law, or grandparent**, who has a *serious* or emergency health condition.
- **Disabled adult son or daughter** who is not able to take care of him/herself.

For more information, see:

**[www.lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare/LawsPolicies/FamilyLeave/](http://www.lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare/LawsPolicies/FamilyLeave/)**

## **Pregnancy and Parental Leave**

Federal and state laws protect new parents' rights to take time off to care for a newly born or newly adopted or fostered child. Pregnancy, childbirth, and related medical conditions must be treated in the same way as other temporary illnesses or conditions.

**It is illegal for your employer to discriminate against you because you are pregnant!** For more information on pregnancy discrimination, see *Chapter 6: Discrimination*

### ***Does My Parental Leave Have To Be Paid?***

**No.** However, if your employer offers paid time off for other illnesses or short-term disabilities, they must allow you to use that time for pregnancy or pregnancy-related conditions.

## **Types Of Parental Leave**

Below is a description of types of leave and the types of workplaces that determine how much time you can take off.

### **Fewer than Eight Employees OR the Business is a Religious Non-Profit Organization**

You are not guaranteed a job when you are able to return to work.

### ***Eight or More Employees***

Under a Washington State Human Rights Commission (WSHRC) regulation, your employer has to give you time off while you are sick or temporarily disabled due to pregnancy-related conditions or childbirth. S/he must **treat you the same as other workers on leave for sickness or temporary**

**disabilities.** Depending on your employer's policy, this may or may not be paid. Your employer is required to give you either your old job back or a similar position after your leave is over.

Your healthcare provider, depending on your condition, determines the amount of pregnancy disability leave you can take. **WSHRC leave is not for placement of an adopted or fostered child, or to care for a child; it can only be taken for the pregnant person's health-related reasons.**

## **50 or More Employees**

You are covered by the Family Medical Leave Act and the WSHRC disability regulation described above. Additionally, you are covered by the **Washington State Family Leave Act (FLA)**. The FLA is similar to the FMLA. Under FLA, workers who take leave from work for childbirth or pregnancy-related conditions, or parents of newly adopted or foster children *can take additional unpaid time off* over and beyond the 12 weeks provided under FMLA. Workers who qualify for FMLA also qualify for FLA.

## **Frequently Asked Questions About Parental Leave<sup>1</sup>**

### ***Can I Be Laid Off Or Fired While Pregnant Or On Maternity Leave?***

Not because of your pregnancy or related medical leave. However, your employer could fire you for other reasons.

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<sup>1</sup> The following questions and answers are adapted from information provided on the Washington State Human Rights Commission's website. The original can be found here: [www.hum.wa.gov/](http://www.hum.wa.gov/)



### ***At What Time In The Pregnancy Do I Have To Stop Working?***

You and your medical provider decide when you must stop working. There is no standard time when a pregnant employee needs to stop working.

### ***Does My Employer Need To Provide Health Insurance Coverage For Pregnancy, Childbirth And Related Medical Conditions?***

If your employer offers health insurance for other temporary medical conditions, then s/he needs to provide insurance that covers pregnancy. If your employer doesn't provide health insurance generally, s/he is not required to do so for pregnancy.

### ***Can I Expect To Have My Job Duties Altered To Accommodate My Medical Condition Because I Am Pregnant?***

Your employer should allow for minor job changes to reasonably accommodate any medical condition, including pregnancy. For more information on reasonable accommodation for disability see *Chapter 6: Discrimination*.

### ***Can My Employer Decrease My Work Hours Because I Am Pregnant?***

An employer must treat a woman who is pregnant the same as any other employee. Your employer must have a business reason for changing your work schedule.

## **Other Types Of Leave**

### **Paid Sick Leave**

Employers are generally not required to give workers paid sick leave in Washington State. However, some cities, including Seattle, have passed paid sick leave laws that do require employers in those cities to give workers paid time off when they are sick. Check to see if any new laws have been passed in your city.

#### ***The Seattle Paid Sick/Safe Time Ordinance***

All full-time, part-time and temporary employees working in Seattle for an employer with at least four full-time equivalent employees have a right to paid time off to care for themselves or a family member in illness, to deal with the aftermath of domestic violence, or if a public official has closed their workplace or their child's school for a safety emergency (e.g. flu outbreak).

During the time-off, you must be paid at the same hourly rate with the same benefits, as you would have been if you were working. If you are gone for more than three days in a row, then your employer could ask you to show a note from your doctor.

#### ***When Can I Use Seattle Paid Sick And Safe Time?***

You can start taking paid sick and safe time after you have worked for your employer for at least six months. The number of hours you can take depends on how big the company is that you work for and how many hours you work.

### Seattle Paid Sick and Safe Time

	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
<b>How many employees?</b>	5-49 Full-time equivalent employees (FTE)	50-249 FTE	250+ FTE
<b>How fast do I earn hours?</b>	1 hour per 40 worked	1 hour per 40 worked	1 hour per 30 worked
<b>How many hours can I earn per year?</b>	40 hours	56 hours	72 hours, can use and carry over 108 hours per calendar year

For more information or to file a complaint, contact:

Seattle Office for Civil Rights

*Web Address* - [www.seattle.gov/civilrights/SickLeave.htm](http://www.seattle.gov/civilrights/SickLeave.htm)

*E-mail* - [psstquestions@seattle.gov](mailto:psstquestions@seattle.gov)

*Phone* - **206-684-4500**.

## **Domestic Violence Leave**

Washington State law allows all employees to take (paid or unpaid) leave to deal with issues of domestic violence, sexual assault, or stalking for themselves or family members. You can take time off for:

- Law-enforcement assistance.
- Medical treatment or counseling at a domestic violence shelter or crisis program.
- Relocation and safety issues.

You must give notice to your employer as soon as possible if you need this leave. When you are requesting leave for domestic violence, your employer may ask you to prove that either you or a family member is a victim of domestic violence, sexual assault, or stalking. Your employer must keep this information confidential.

For more information visit:

[www.lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare/DomViolence/](http://www.lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare/DomViolence/)

## **What To Do If You Think Your Rights Have Been Denied**

- It is illegal for an employer to interfere with or refuse workers their rights to take leave or return to work after taking leave.
- It is illegal for an employer to discriminate or retaliate against (punish) any worker for taking leave, requesting to return to work after taking leave, or filing a complaint about violations of the leave laws.
- It is illegal for an employer to use an employee's use of protected medical leave as a "negative factor" in his or her decision to discipline you, demote you, lay you off, or terminate your employment or in any other employment evaluation.
- The Washington Law Against Discrimination (state law) and Title VII of the Civil Rights Act of 1964 (federal law) make it illegal for your employer to discriminate against you (treat you worse) because of

pregnancy or pregnancy disability. The state law applies to employers with eight or more employees. The federal law applies to employers with 15 or more employees.

If you feel like your rights are being violated – you can go to a government agency for help and file a claim. Or you can contact a lawyer and, in some cases, take your employer directly to court.

### ***Where To File A Claim***

Contact information for these organizations can be found in the Resources chapter of this manual.

#### **US Department of Labor**

- **The Family Medical Leave Act**

#### **WA State Department of Labor and Industries**

- **Washington State Family Leave Act**
- **Domestic Violence Leave**
- **Washington Family Care**

#### **Equal Employment Opportunity Commission (EEOC)**

- **Pregnancy Discrimination**

#### **WA State Human Rights Commission**

- **Pregnancy Discrimination**

## Chapter 6: Discrimination

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(Amanda Mills, Center for Disease Control)

## **Introduction**

There are federal, Washington State and local laws that protect you from discrimination at work. "Discrimination" means treating certain people better or worse than others because of a particular trait. It is generally against the law for your employer to discriminate against you because of your:

<ul style="list-style-type: none"><li>▪ Age</li><li>▪ Ancestry</li><li>▪ Citizenship status (if you have the legal documentation to work in the USA)</li><li>▪ Color</li><li>▪ Creed</li><li>▪ Disability</li><li>▪ Gender Identity</li><li>▪ Genetic Information</li><li>▪ Marital Status</li></ul>	<ul style="list-style-type: none"><li>▪ Honorably Discharged Veteran/Military Status</li><li>▪ National Origin</li><li>▪ Political Ideology</li><li>▪ Race</li><li>▪ Religion</li><li>▪ Sex (including pregnancy)</li><li>▪ Sexual Orientation</li><li>▪ Union Membership or Activity</li></ul>
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## **When Is Discrimination Illegal?**

**It is illegal to discriminate in any area of employment, including:**

- Job advertisements and applications
- Job referrals
- Recruitment
- Hiring and firing
- Wages
- Fringe benefits (for example, daycare or transportation services provided by your work)
- Transfer, promotion, layoff, or recall
- Retirement plans and disability leave
- Drug and other medical testing
- Use of company facilities
- Training and apprenticeship programs
- Tasks you are given
- Any other terms or conditions of employment





## **Types of Discrimination**

There are many different federal, state and local laws that make discrimination illegal. For more complete information about what forms of discrimination are illegal under which laws, please see this chapter in the complete, unabridged version of this manual. You can download it for free online at:  
<http://georgetown.southseattle.edu/lerc/>

### **Race**

An employer cannot discriminate against or harass you because of your race or ethnicity. Ethnic slurs, racial "jokes," insulting comments and/or other verbal or physical actions based on race and/or color may be illegal if they are severe and ongoing and/or are part of a pattern of discriminatory actions.

Also, your employer cannot hire, fire, or promote based on "stereotypes" (an overly simple idea held by one person or group about another). S/he cannot make assumptions about your personality or what you can do based on your race. In addition, employers cannot decide not to hire you because you are married to or associated with someone of a certain race. Your employer also cannot discriminate against you because you go to schools or places of worship associated with a particular race.

### **Citizenship Status Or National Origin**

An employer cannot discriminate against you or harass you because you or your family are from another country; you have a name or accent associated with another country; you participate in customs associated with people from another

country; or you are married to or spend time with people from another country.

A rule requiring that you speak only English on the job might be against the law, unless your employer shows that the rule is necessary for business reasons. Your employer must let you speak other languages during non-work time, such as during lunch and breaks.

**If you are an immigrant with documentation to work legally in the U.S.,** an employer generally may not discriminate against you for not being a citizen.

**Right Against Document Abuse:** Document abuse is when an employer requires you to present specific identification documents to prove that you can work, instead of allowing you to choose which documents to show them. As long as the documents you show meet the legal requirements, you have the right to choose which ones to use. It is also illegal for your employer to make you show more documents than the I-9 process requires. For example, if you show your employer your Permanent Resident Card, your employer can't make you also show your birth certificate. For a list of the documents that will satisfy the I-9 requirements, see the last page on this link: <http://www.uscis.gov/files/form/i-9.pdf>.

**Right Against Nationality or Citizenship Discrimination:** It is discrimination if your employer says that certain workers need to prove that they are legally allowed to work when others do not need to prove anything. For example, if your employer requires workers of Chinese descent to provide documentation but does not require workers of German descent to show any papers, this is discrimination, probably both on the basis of race

and national origin. Unfortunately, this does not protect undocumented workers.

## **Religion**

An employer cannot discriminate against you or harass you because of your religion. You should not be required to participate in a religious activity to keep your job, nor should you be barred from participating in a religious activity.

Your employer cannot hire, fire, promote, or demote you based on stereotypes about you and what you can do based on your religion, or the religion of people you associate with.

Your employer must make "reasonable accommodations" for your religion. This means your employer may be required to make changes that will let you do your job and still allow you to adhere to your religious practices, unless it would make it difficult for your employer to do business.

## **Sex, Gender and Pregnancy**

It is illegal for an employer to discriminate against you or harass you because of your sex or gender. There are a few different categories of gender discrimination in the workplace.

### ***Discrimination in Hiring, Promotions, and Wages***

It is against the law to discriminate on the basis of sex in the payment of wages or benefits where men and women perform work of similar skill, effort, and responsibility for the same employer under similar working conditions.

Gender discrimination also includes discriminating against you based on stereotypes about your responsibilities as a mother or father.

## *Sexual Harassment*

There are two types of illegal sexual harassment: **hostile work environment** and **quid pro quo** harassment.

A **hostile work environment** is when the workplace is made difficult or unsafe for you to do your job because of your gender. This includes directing unwelcome sexual word or actions at you. It is illegal harassment if these actions are severe and ongoing and/or are part of a pattern of other discriminatory actions.

**Quid pro quo** sexual harassment is when someone from work who has higher status than you (like a supervisor) asks you for sexual favors in return for better treatment at work, or to avoid worse treatment. This may be harassment, even if you agree to it.

## *Pregnancy and Pregnancy-Related Conditions*

Pregnancy, childbirth, and related medical conditions must be treated in the same way as other temporary illnesses or conditions. Employers can't make choices about hiring, firing, promotion, or demotion based on stereotypes of pregnant women, not even in an effort to protect pregnant women from the hazards of the job. The only exception is if an employer can demonstrate business necessity. For information on leave from work for pregnancy, please see *Chapter 5: Taking Time Off From Work*.

## **Sexual Orientation and Gender Identity**

In Washington, it is illegal for your employer to discriminate against you or harass you in any way because of your perceived or actual sexual orientation, gender identity, or if you are

transgender. Employers can't make choices about hiring, firing, promotion, or demotion based on sexual orientation and gender identity.

## **Age (40+)**

If you are over 39 years old, an employer cannot discriminate against you or harass you because of your age.

It is illegal to:

- Use your age to make choices about hiring, firing, promoting, and demoting
- Give age preferences/limits in job notices and ads. Age limits are only allowed in limited situations
- Discriminate based on age in apprenticeship programs
- Give older employees fewer or worse benefits than younger employees.

## **Disability Discrimination**

An employer cannot discriminate against you or harass you because of your disability or medical condition or because of a belief that you have a disability or medical condition. Use of a trained guide dog or service animal is also protected under Washington State law.

If you have a disability, the employer has to make *reasonable accommodations* for you to work so long as you can do the essential parts of your job with these accommodations. This means working out a system that lets you do the job just as other employees do, or coming up with different tasks that you

are able to perform. For information on taking leave for disability see *Chapter 5: Taking Time Off From Work*.

Your prospective employer cannot ask you to take a physical or medical test before you have been offered a job. Once you have been offered a job, your employer can ask you to take a physical or medical test, if all other workers doing similar tasks have to take it as well (you aren't being singled out because you have a disability, or your employer *thinks* you have a disability) and the test is really necessary to do the job. Your employer cannot discriminate against you because of genetic information that suggests you are more likely to get a disease.

## **Lifestyle Discrimination**

Right now, there is some debate about whether employers can make decisions about hiring, promotions, insurance rates, etc. based on an employee's lifestyle. For instance, employers have discriminated against people who smoke cigarettes, eat certain foods, or drink alcohol in their free time. It is not clear whether this is legal or not.

The Americans with Disabilities Act or the Washington State Human Rights Commission might protect you from this type of discrimination. Laws against disability discrimination may protect some people who have medical issues such as obesity or high cholesterol from employers who discriminate against them.

## Union and Concerted Activity

Under the National Labor Relations Act, it is illegal for your employer to discriminate against you because you are in a union, because you support a union, or because you are joining with your coworkers to improve your working conditions, even if you are not in a union. Please see Chapter 12 for more information.



(Master Sgt. Lee Osberry, U.S. Air Force Photo)

## Criminal Background

Beginning November 1, 2013, it is illegal for most employers in Seattle to advertise jobs that keep out applicants with a criminal history, ask criminal history questions or perform criminal background checks during the initial part of the hiring process. If you have already been hired and your employer then performs a background check s/he cannot take any actions against you (fire, demote, etc.) because of your criminal background unless s/he allows you to explain or correct the criminal history information, and s/he can prove that there is a good business reason for their action. There are exceptions when the job would place you in charge of children or vulnerable adults. For more information on this new law, contact the Seattle Office for Civil Rights:  
[www.seattle.gov/civilrights/criminalrecords.htm](http://www.seattle.gov/civilrights/criminalrecords.htm)

## **What If I Have Been Discriminated Against?**

**If you think your rights have been violated, keep track of what happened and when!**

**Step 1: Report it to your employer.** Unless your employer is the one who is harassing you, you must report harassment to your employer and give her/him a chance to fix the problem before filing a legal complaint. Many workplaces have a person who is assigned to handle these sorts of issues, sometimes called an “EEO Officer” or Ombudsman. If you are a union member, you can report the harassment to your union representative or shop steward.

**Step 2: Report it to a government agency.** Any worker who believes that his or her employment rights have been violated may file a charge of discrimination.

**If you think you have been illegally discriminated against, contact a government agency as soon as possible.** Under most discrimination laws, you have between 6 months to one year after the act of discrimination to file a claim.

### **If I Report Discrimination, Can My Employer Fire Me?**

**It is against federal, state and local laws for your employer to retaliate against you for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices!** Retaliation means punishing someone because s/he has reported (or helped report) a violation to either the employer or the government, or cooperated with an investigation. If your employer fires, gives



you a worse job, fails to promote you, or takes other negative action towards you that affects your job, it may be illegal retaliation. It is also illegal if your employer encourages or allows coworkers to retaliate against you.

## **Where Do I File A Claim?**

You can file a discrimination claim with the local, state or federal agencies described below. Before filing a complaint, you may want to check with each of the federal, state, and local agencies to see how quickly they can process your claim and what help they can give. Remember that not all of the agencies provide the same solutions, or cover the same laws. Knowing what an agency can offer may help you determine which one is best for your needs. Getting advice from a lawyer about your options may also be helpful.

To protect your right to go to court, you should always file a complaint with the federal EEOC or the Washington State Human Rights Commission, even if you choose to also file with the city or county.

For discrimination based on union activity or support, file a complaint with the National Labor Relations Board. See Chapter 12 for more information.

## ***What If I Am A Public Employee?***

If you are a public employee, you must first file a complaint with the branch of government that employs you. For example, if you are an employee of the City of Seattle, you cannot file a complaint against the City at the King County Office of Civil Rights Enforcement; you must file with the Seattle Office for Civil Rights. Similarly, if you are a federal employee, you must

file with the EEOC, not with the Washington State Commission for Human Rights.

***File under State Law***

**Washington State Human Rights Commission (WSHRC)**

<b>Location</b>	<b>Phone Number</b>	<b>Address</b>
<b>Olympia</b>	(360) 753-6770  Toll-Free: 1 (800) 233-3247  TTY: 1 (800) 300-7525	711 S. Capitol Way, Suite 402 Olympia, WA 98504-2490
<b>Spokane</b>	(509) 568-3196	1330 N. Washington St., Suite 2460 Spokane, WA 99201
<b>Yakima</b>	(509) 494-0347	15 West Yakima Ave, Suite 100 Yakima, WA 98920
<b>Vancouver</b>	N/A	312 SE Stone Mill Drive, Bldg. 120 Vancouver, WA 98684

***File Under Federal Law***

**The US Equal Employment Opportunity Commission (EEOC)**

*Phone Numbers* – 1(800) 669-4000 and 1(800) 669-6820

*Address* - Federal Office Building 909 1<sup>st</sup> Ave, Suite 400, Seattle, WA 98104-1061

*Web Address* - <http://www.eeoc.gov/>

## **The Office of Special Counsel for Immigration-Related Unfair Employment Practices**

*Phone Numbers* – (202) 616-5594, 1 (800) 255-7688, TTY: 1 (800) 237-2515

*Address* – U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Ave NW, Washington DC 20530

*Web Address* – <http://www.justice.gov/crt/about/osc/>

### ***File Under Local Law***

## **Seattle Office of Civil Rights**

*Phone Numbers* – (206) 684-4500, TTY: (253) 591-5153

*Address* - Central Building 810 3<sup>rd</sup> Ave, Suite 750, Seattle, WA 98104

*Web Address* - [www.seattle.gov/civilrights](http://www.seattle.gov/civilrights)

## **King County Office of Civil Rights**

*Phone Numbers* – 206-263-2446, TTY Relay: 711

*Address* - Chinook Building, 401 Fifth Avenue, Suite 215, Seattle, WA 98104

*Web Address* –

[www.kingcounty.gov/exec/CivilRights/FileComplaint.aspx](http://www.kingcounty.gov/exec/CivilRights/FileComplaint.aspx)

## **Tacoma Human Rights and Human Services Department**

*Phone Numbers* – (253) 591-5151, TTY: (253) 591-5153

*Address* – 747 Market St, Room 836, Tacoma, WA 98402-3779

*Web Address* – <http://www.cityoftacoma.org/>

## **Spokane Human Rights Commission**

*Phone* – (509) 625-6742

*Address* – 808 W Spokane Falls Blvd, 5th floor, Spokane, WA 99201

*Web Address* - <http://www.spokanecity.org/>

# Chapter 7: Unemployment

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## Did My Boss Have The Right To Fire Me?

If you've been fired, first check if it is for a legal reason. If you are an "at-will" employee, your employer can fire you for almost any, or no reason at all. Most non-union private sector workers are employed at-will; however, many public sector and most union workers have the right to keep their jobs, unless their employer has followed certain procedures and/or can show "just cause" for termination. This means that your boss would need a good reason to fire you. If you are in a union, check with your union representative about the process for discipline and dismissal. If you work in the public sector (that is, you work for a government agency), check with an attorney or your employer's human resources department about the rules for dismissal. Most public sector workers have protections found in federal, state, and local laws that establish procedures for job dismissal.

Whether you are employed "at-will" or not, you cannot be fired for **discriminatory reasons, retaliation for whistle blowing or filing a formal claim defending your workplace rights**, or for **concerted activity**. This means, in general, it is illegal to fire you:

- For organizing with one or more workers to try to improve working conditions, whether in person or online.
- For joining or forming a union with your co-workers, or for union membership or support.
- For filing a health and safety or other official complaint or advocating for your other workplace rights.

- In Washington State because of your age, ancestry, citizenship status (if you are legally allowed to work in the United States), color, creed, disability, gender identity, genetic information, military status, national origin, political ideology, race, religion, sex, pregnancy, or sexual orientation.
- For refusing to give your employer your username and/or password to social media sites.

There are some important exceptions to these rules. Organizing and forming a union are **not** protected rights for all farm workers, domestic workers, independent contractors, supervisors (if they have the power to hire and fire employees), and confidential workers.

If you think your employer discriminated against you when firing you, you should file a complaint as soon as possible. Please see *Chapter 6: Discrimination* for information on filing a complaint.

## **Last Check From Your Employer**

Your employer must pay you for all unpaid work hours in your last paycheck on your next regularly scheduled payday. Your employer **cannot** withhold your paycheck, for example, until you turn in your keys or uniform. If your employer does not pay you for any hours that you have worked, s/he is breaking the law by committing wage theft. Please see *Chapter 1: Basic Workplace Rights* for more information on wage theft.

## **Unemployment Insurance (UI)**

Unemployment Insurance (UI) is a program managed by the WA State Employment Security Department (ESD) that gives payments to qualified people who lose their jobs through no fault of their own. These payments should help you pay your bills until you find a new job. To receive UI payments, you must file a weekly claim. For detailed information on Unemployment Insurance, read on and visit the Washington State Employment Security Department's homepage: [www.esd.wa.gov/uibenefits/](http://www.esd.wa.gov/uibenefits/).

### **Qualifying For Unemployment Insurance Benefits**

Generally, you qualify for unemployment benefits if:

- You lose your job through no fault of your own.
- You worked at least 680 hours (about 1/3 of a year, full time) during the previous year.
- You have documentation that allows you to work legally in the USA.
- You were laid off or your hours were reduced due to lack of work.
- You are physically and mentally able to work.
- You are available for and actively seeking a new job,

## *Special Circumstances*

Special circumstances may also qualify a person for unemployment insurance benefits based on other factors. These include:

- Domestic violence or stalking victims who voluntarily leave work to protect themselves or their families. More information can be found online at [www.esd.wa.gov/uibenefits/specialservices/domesticviolence/domestic-violence.php](http://www.esd.wa.gov/uibenefits/specialservices/domesticviolence/domestic-violence.php).
- In some cases, people who voluntarily leave their jobs because their spouses are transferred. You must work as long as you can before your spouse is transferred.
- Union workers who are not working because of a lockout during contract negotiations.

## *Who Does Not Qualify For UI Benefits?*

People who were working as the following are probably not eligible for benefits:

- Independent contractors (you may be able to opt-in).
- Independent salespeople who work on commission away from their employer's office location.
- School employees in between terms.
- Union members that are on strike, or union members who are honoring another union's strike.
- Elected government officials.
- Church employees.
- Appraisers.



- Amateur sports officials, like umpires and referees.
- Work-study students.
- Licensed real-estate agents, brokers and investment company agents.
- Travel agents paid on commission.

### *What If I Quit My Job?*

If you quit your job, you may under certain circumstances still be able to receive unemployment insurance. If you had "good cause," that is, a reason to quit that is recognized by law, you may qualify, however, the circumstances must have been extremely difficult. For example, if you quit work because your working conditions were beyond what any reasonable person would tolerate, it may be considered a good cause. If possible, before you quit, talk to an attorney, your union representative, or the ESD about whether your reason for quitting might qualify as good cause. There is also a list of "good-cause" reasons in the Handbook for Unemployed workers from the Washington State Employment Security Department (ESD). Find the handbook on the ESD homepage: [www.esd.wa.gov/](http://www.esd.wa.gov/)

## Applying For Unemployment Insurance Benefits

### *How Do I Apply?*

You should apply for UI as soon as you are laid off or your hours are reduced. You can apply by calling the Unemployment Claims Tele-Center at **1 (800) 318-6022** (TTY 800-365-8969). Instructions will be available in many different languages.

You can also apply for benefits online at [www.esd.wa.gov](http://www.esd.wa.gov). If you do not have access to a computer or telephone, you can use the telephones and computers available at WorkSource Offices (see below for more information).

For every week that you claim benefits, you must apply for at least three jobs or attend one WorkSource workshop and keep a record of it.

### *How Much Money Will I Receive?*

The amount you are eligible to receive does not depend on financial need. It depends on your previous earnings. You can ask for a written estimate of what your benefits might be by calling the Unemployment Claims Tele-Center at **1 (800) 318-6022**.

There is also an online calculator tool that you can use to calculate your possible benefits at:  
[www.esd.wa.gov/uibenefits/benefitcheck/how-much.php](http://www.esd.wa.gov/uibenefits/benefitcheck/how-much.php).

Unemployment benefits are considered taxable income. For information on paying taxes on unemployment benefits see:  
[www.esd.wa.gov/uibenefits/faq/irs-info.php](http://www.esd.wa.gov/uibenefits/faq/irs-info.php)

## Disagreements And Problems

### *What If My Former Employer And I Disagree About How The Employment Relationship Ended?*

If there is a disagreement about whether or not you qualify for unemployment insurance, the ESD gets information from both you and your former employer about what happened when your job ended and decides whether you qualify. Because the rules about eligibility are complicated, you should contact the Unemployment Claims Tele-Center at **1 (800) 318-6022** about your specific situation.

If you disagree with any decision made by the ESD related to your unemployment benefits, you have the right to have the decision checked for fairness. This is called *filing an appeal*. You appeal by writing a letter to the ESD telling them you would like to appeal.

**Make sure you continue to file weekly claims during your appeal!** If you win your appeal, you will only be paid for the weeks that you filed a claim.

You can also contact an attorney for help or the Unemployment Law Project if you are low-income and your claim is denied.

### *The Unemployment Law Project – (for Denied Claims)*

The Seattle office contact information is listed below, but they will help anyone in Washington State.

#### Unemployment Law Project Seattle Office

*Phone* - (206) 441-9178 or

*Toll-free* - 1(888) 441-9178

*Web Address* - <http://unemploymentlawproject.org/index.html>.

## **Dislocated Workers And Retraining**

If you lose your job, there are programs that can help you learn new skills to enter a different field. These programs may include paid or unpaid training for a new job, financial help with relocation to an area where there are more jobs, and assistance in your job search.

### **WorkSource**

Depending on the type of job you had or where you live, resources for people who are searching for a new job will be different. After you apply for unemployment benefits, one of the first places you should turn when searching for a new job or additional training is WorkSource. WorkSource has many offices all around the state and can assist you with your job search and help you understand and apply for retraining programs.

For information on WorkSource services and office locations visit the WorkSource website:

<https://fortress.wa.gov/esd/worksource/> or call the WorkSource Help Desk at **(360) 407-1389**.

## **Additional Resources**

### ***Employment Security Department (ESD)***

The ESD has a more detailed FAQ sheet and many other tools to help you estimate eligibility, benefits and file claims online. Visit the ESD on the web at: [www.esd.wa.gov](http://www.esd.wa.gov). You can also contact the ESD by phone at 1-800-318-6022.

### ***Farm Worker Job Training***

The Opportunities Industrialization Center (OIC) offers services to help eligible farm workers in Moses Lake, Mount Vernon, Pasco, Sunnyside, Wenatchee and Yakima develop skills, or train for permanent year-round employment outside agriculture. This program also provides educational services for preschool-aged children. For more information contact the Yakima office or visit the website to find more office locations and contact information.

#### **Yakima OIC**

*Phone - (509) 248-6751*

*Address - 815 Fruitvale Blvd., Yakima, WA 98902*

*Web Address - [www.yvoic.org](http://www.yvoic.org).*

### ***Washington State Labor Council Dislocated Workers Program***

The Washington State Labor Council has a dislocated workers program that operates during plant closures to make sure that the affected workers have access to the best job re-training and re-employment program opportunities available. Assistance with applying for unemployment and other benefits for working families is also available.

#### **WSLC's Dislocated Workers Program**

*Phone - 360-357-8736*

*Web Address - [www.wslc.org/services/dislocated.htm](http://www.wslc.org/services/dislocated.htm)*

## Chapter 8: Young Workers, New Jobs

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This section will give you a better idea of what employers can and cannot ask you to do because of your age or student status. It also includes options for career education, and what you should look out for when you are beginning work for the first time (regardless of age), or when you re-enter the workforce after not having worked for a while.

## **Teen Workers**

### **Age, Wage and Hours**

#### *How Old Do I Have To Be To Work?*

In Washington State, the minimum age for teen workers is 14 years old. There are a few exceptions for some agricultural work or when a teen is working for a business *entirely* owned by their parent or guardian.

In order to hire a worker under the age of 18, your employer must get a permit from a state agency. Your employer must also have authorization from your parent and/or your school.

#### *What Is The Minimum Wage For Minors?*

The minimum wage in Washington State for 16 and 17 year-old workers is the same as for adults — \$9.32 per hour in 2014. Teens under age 16 must be paid at least 85 percent of the state minimum wage - \$7.92 in 2014.

Exceptions:

- Teens who work on farms owned by their immediate family members or guardians can be paid less than the minimum wage.

- Teen farm workers who do not live on the farm, harvest crops by hand, get paid per piece, and have worked in agriculture for less than 13 weeks during the last calendar year can be paid less than minimum wage.

### *Breaks For Teens*

**All 14 and 15 year-old non-agricultural workers** have the right to a 30-minute, uninterrupted meal break for every four hours they work each day. They must also have a paid rest break of at least 10 minutes for every two hours worked.

**All 16 and 17 year-old non-agricultural workers and all agricultural workers under 18** have the same rights as adult workers. See Chapter 1 for more information.

### *When Are Teens Allowed To Work?*

**Most teens under 18 may not work during school hours.** In addition to that, there are limits to how many hours and how late at night teens may work during non-school hours. How much you can work depends on your age, the type of work you are doing and whether it is during a school break or during a school-week.

For teens working in non-agricultural work (not farm-work) see: [www.lni.wa.gov/WorkplaceRights/TeenWorkers/Hours/](http://www.lni.wa.gov/WorkplaceRights/TeenWorkers/Hours/)

For teens working in agriculture see: [www.lni.wa.gov/WorkplaceRights/TeenWorkers/Agri/Hours/](http://www.lni.wa.gov/WorkplaceRights/TeenWorkers/Agri/Hours/)

### **Safety For Teens on the Job**

The same safety and health laws that protect adult workers cover teens. For a detailed look at those laws, see Chapter 2: Health And Safety.



In addition, teens cannot be asked to perform work that could be dangerous for them such as driving vehicles, being exposed to dangerous chemicals, working high above the ground, using machines that could injure them, or working with explosives.

You can find complete lists of tasks that teens cannot perform online. **For teens in non-agricultural jobs:**

[www.lni.wa.gov/WorkplaceRights/TeenWorkers/Prohibited/default.asp](http://www.lni.wa.gov/WorkplaceRights/TeenWorkers/Prohibited/default.asp)

**For teens in agricultural jobs:**

[www.lni.wa.gov/WorkplaceRights/TeenWorkers/Agri/Prohibited/default.asp](http://www.lni.wa.gov/WorkplaceRights/TeenWorkers/Agri/Prohibited/default.asp)

## **Where to Go for Help**

If you believe that your rights are being violated, the Washington State Department of Labor & Industries (L&I) is a place to get help.

[WA State Department of Labor and Industries \(L&I\)](#)  
[Employment Standards Office](#)

*Phone - 1 (866) 219-7321.*

For more information on Teen Workers, go to [www.teensafety.lni.wa.gov/](http://www.teensafety.lni.wa.gov/). If there is a union in your workplace, you will have additional benefits and access to help through your collective bargaining contract and union representatives. Be sure you have a copy of your collective bargaining contract and know whom to contact if you need help.

## **Internships**

Internships can be paid or unpaid, depending on the company. Your internship provider has to provide a safe working environment for you and follow all health and safety laws. For more information on these laws, see Chapter 2..

### **Internships At a For-Profit Business**

**Even if you receive school credit**, an internship at a for-profit business can only be unpaid if **all** of the following six standards are met:

- 1) The internship should be mostly educational. It can include some actual work experience, but you should not be doing routine business tasks all the time. An internship should help you develop a range of skills that could help you in a number of different jobs.
- 2) The internship must primarily benefit you, the intern.
- 3) You cannot be hired *instead of* regular workers. This means, that if the employer would have paid someone else to do the tasks that you are doing, then you should probably be paid as a legal employee.
- 4) The employer should not directly benefit from your work.
- 5) You are not guaranteed a job at the end of the internship. If there is an understanding that you will probably be hired at the end of the internship, then you should be paid like a regular employee from the outset.
- 6) You and the internship provider must both know and agree that the internship will be unpaid.

If your internship does not meet these guidelines, then you may be an employee. As an employee, you should get at least minimum wage and overtime pay.

**Note: It is illegal for a for-profit, private sector business to have unpaid *volunteers*.**

For help getting paid for your work, you can contact the Department of Labor's Wage and Hour Division at **1-866-487-9243**. You may be able to get paid for past work even if you finished the internship or got school/college credit for the internship.

## **Internships at Non-Profit Organizations**

Federal law allows unpaid internships at non-profit businesses (such as schools, churches, and government organizations). In this case, you are a volunteer and you do not have to be paid minimum wage or overtime.

## **Contact Information for Internship Questions**

You can contact the United States Department of Labor for more information about paid and unpaid internships.

### Seattle District Office

*Address* - 300 Fifth Avenue, Suite 1130, Seattle, WA 98104

*Phone* - (206) 398-8039

### Portland District Office

If you are from Wahkiakum, Cowlitz, Clark, Skamania and Klickitat counties, you should contact the Portland WHD District office.

*Address* - 620 SW Main Street, Room 423, Portland, OR 97205

*Phone* - (503) 326-3057

## **Apprenticeship**

Apprenticeship is an option for those who are at least 16, have finished high school or their GED, are drug-free (you can be tested), and would like to learn a skilled trade while getting paid. Apprenticeship programs in Washington State usually take 1-5 years of mostly on-the-job training. Apprentices also get classroom instruction.

There are different requirements for apprenticeship programs in different trades, such as electrical or plumbing work. Getting in to an apprenticeship program can be competitive. When you complete an apprenticeship program you become a “journey worker,” certified (and usually licensed) as an expert in your field.

### **Benefits of Apprenticeship**

**Help with the cost of college:** Some apprenticeship programs help you pay for classes at technical colleges, and may let you earn credit towards an Associate’s degree in addition to your license in the trade.

**Excellent training and chances at getting work:** Established training programs are recognized as producing highly skilled workers who are sought after by employers. Some apprenticeships (especially union apprenticeships) also offer job placement services through their “hiring halls.”

**Guaranteed pay raises:** As an apprentice your pay is an increasing percentage of a journey worker’s pay. Especially in union apprenticeships, these are living wage jobs so, even if you are only getting a percentage on the journey rate, you are likely to make a decent living.

**VA educational benefits:** Veterans might be able to enjoy VA educational benefits during their apprenticeships.

**Work on federal projects:** Being a registered apprentice will allow you to work on state and federally funded projects. Typically, such projects offer a higher rate of pay than privately funded, non-union projects.

## **Apprentice Health and Safety**

Whether you are injured during on-the-job training or in the classroom or lab, your medical expenses and wages will be covered by insurance.

For any injury, tell your supervisor or instructor right away and seek medical attention.

For more information on the process to get your medical costs and lost wages covered, see Chapter 3 and ask your instructor

or program coordinator. For more information on the health and safety laws that cover all workplaces see Chapter 2.

**An injury should be reported within one year for you to receive benefits. An occupational illness should be reported within two years of the start of the illness.**

## **Contact Information for Washington State Apprenticeships**

*Phone* - (360)-902-5320/5323/5324

*Web Address* - [www.lni.wa.gov/tradeslicensing/apprenticeship/](http://www.lni.wa.gov/tradeslicensing/apprenticeship/)

## **University and College Student Workers**

### **Federal Work-Study Programs**

Some student workers may qualify for Work-Study programs. These programs are funded by the state and federal governments and pay part of a student worker's wages.

#### ***Am I Eligible?***

- Work study is for low-to-middle income students. You must show that you need financial aid to attend college.
- You must have the documentation to work legally in the U.S.
- If you are male, you must be registered with Selective Service.
- You must have a high school diploma or recognized equivalent (GED).
- You must be enrolled in a registered college at least half time, be working towards a degree or certificate, and show that you are making satisfactory academic progress.
- You cannot be in default on a federal student-loan or owe money on a federal student grant.
- You may not work for an employer that is involved in politics.
- You cannot work for a company that you own (or even partly own), and you cannot work for a company if the person who will verify your hours is part of your family.

*For the Washington State program, all the above are true, plus:*

- You cannot be studying towards a theology or religion degree. You also may not work for any employer that is connected with a religion, though some hospitals are exceptions.
- You must be a resident of Washington State.

To apply, you must fill out the Free Application for Federal Student Aid (FAFSA) online at [www.fafsa.ed.gov](http://www.fafsa.ed.gov). After you submit your FAFSA application, you will automatically be considered for both the Federal and Washington State programs. If you get a work-study award, you will have to find a job on your own with an employer who has applied to the program for funding. Your college will probably have placement services to help you. As a work-study employee, you have all the same rights as a regular employee, for instance, the right to be paid minimum wage. See Chapter 1 for more information about basic workplace rights.

### *For More Information On The Federal Work-Study Program*

Federal Student Aid Information Center

*Phone* - (800) 433-3243 or (800) 4FED-AID

*Web Address* - <http://studentaid.ed.gov/types/work-study/>

Your college's student employment office or career center will also be an important contact for the Federal Work Study Program.

## ***More Information On The Washington State Work Study Program***

You can find the Washington SWS program handbook at:  
[www.wsac.wa.gov/PayingForCollege/StateAid/WorkStudy](http://www.wsac.wa.gov/PayingForCollege/StateAid/WorkStudy)

**The Washington State Student Achievement Council** is in charge of the criteria for the Washington Work Study Program. You can contact them at:

*Phone* - (360) 753-7800

*Web Address* - [www.wsac.wa.gov/](http://www.wsac.wa.gov/)

## **International Student Workers**

### ***On-Campus Employment***

Students in the U.S. who hold F-1 visas can qualify to work certain on-campus jobs that serve students like campus bookstores or cafeterias. After one school year, you can work in an off-campus location that is connected to the school in some way such as a research lab. International students can work on-campus for 20 hours per week while school is in session and 40 hours per week during breaks. You do not have to get a separate work authorization for on-campus employment if you have an F-1 visa.

You can find more information about student immigration on the US Immigrations and Customs Enforcement website at <http://www.ice.gov/sevis/students/>.

### ***Curricular or Optional Practical Training (CPT Vs. OPT)***

CPT and OPT are both ways for international students to gain work experience in the United States. These programs require you to have finished one year at the college you are going to graduate from, and require that your job relates to your major.



You may be paid for CPT and OPT, and you can work during the school year. For more information on these programs and the differences between them visit:

[www.ice.gov/sevis/practical-training/](http://www.ice.gov/sevis/practical-training/)

### ***STEM Extension***

If you participated in an OPT, you may be able to get a one-time STEM Extension of 17 months if your major and job are related to Science, Technology, Engineering, or Math, and your employer uses E-Verify. Apply for the extension before your OPT runs out.

### ***Work At An International Organization***

You are allowed to work as an intern at an international organization that has been approved by US Citizenship and Immigration Services (USCIS) as long as you have F-1 status and you are living in the US. You can find more about the International Organization Internship Program online at [http://www.ice.gov/sevis/f\\_1\\_employment.htm](http://www.ice.gov/sevis/f_1_employment.htm).

### ***Exception For Severe Economic Hardship***

International F-1 students who experience unexpected economic hardship may work off-campus in a job unrelated to their field. To qualify for this, you must be doing well in school and prove to USCIS that on-campus employment isn't enough to meet your financial needs.

## **Undocumented Young and Student Workers**

### ***Can I Work In The United States?***

Without a work permit, it is not legal for an employer to hire you. If you do work in the US, you are entitled to earn minimum wage and are covered by most other rights covered in this manual. Please see *Chapter 10: Undocumented Workers* for more information.

### ***How Do I Get Authorized To Work In The United States?***

As of June 2012, it is possible for undocumented students to get Deferred Action for Childhood Arrivals (DACA) and Employment Authorization Document (EAD) from the U.S. government, which allows you to work in the United States for two years.

#### **Eligibility:**

- You must have been under age 31 on June 15, 2012; and,
- You must have come to the United States before age 16 (and you must still be in the US when you apply for your EAD); and,
- You must have lived in the US continuously since on or before June 15, 2007; and,
- You must not have a criminal record of a felony or a significant misdemeanor, or more than three misdemeanors; and,

- You must be in school, graduated from high school, have a GED, or have been honorably discharged from the US Coast Guard or military.
- If the government has never asked you to leave the country: you must be at least 15 years old to apply for the Deferred Action and EAD.
- If you have been asked to leave, or are in the process of being asked to leave the US: you can be younger than 15 to apply.

The total cost of the application is \$465. If you need help paying the fee, you can find support at <http://21progress.org/>. Find more information on the “Consideration of Deferred Action for Childhood Arrivals” here: [www.uscis.gov/portal/site/uscis](http://www.uscis.gov/portal/site/uscis).

### *Resources*

For a full fact sheet on undocumented student workers, you can check the Educators for Fair Consideration’s “How to Support College-Bound Undocumented Students: Advice for Parents” booklet at [http://e4fc.org/images/E4FC\\_ParentGuide.pdf](http://e4fc.org/images/E4FC_ParentGuide.pdf).

# Chapter 9: Am I An Employee?

## Independent Contractors, Household Workers, Day Laborers and Under-The-Table Workers

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(Dawn Arlotta/Cade Martin, Center for Disease Control)

Other chapters in this manual have outlined many rights that employees have at work. Unfortunately, there are some types of workers that do not have those same rights and protections. In order to be covered under most labor and employment laws, like the National Labor Relations Act, you must be an employee. If you are an employee but are told by your employer that you are not, this is called “misclassification.” This section contains information on misclassification. It also includes information on the rights of household workers, day laborers and under-the-table workers.

## **Am I An Employee Or An Independent Contractor?**

Misclassification of workers is illegal under federal and state law. Employers who know they are misclassifying someone may be doing so to avoid paying taxes and other costs or paperwork associated with having employees. These businesses incorrectly call their workers "independent contractors." It is not the kind of work you do, but the relationship you have with your employer that determines whether or not you are an independent contractor. Just because your boss calls you an independent contractor does not necessarily make you one!

### **Independent Contractors**

An independent contractor is a person who sells his/her services directly to the general public or companies rather than working for someone else. Independent contractors are responsible for registering and licensing their businesses (if necessary), tracking their own expenses, and filing taxes on their own.

## *Advantages Of Being An Employee*

### **Employees:**

- May be able to collect wages for missed work and get medical bills paid through workers' compensation if they are injured on the job (see Chapter 3).
- May be able to receive unemployment money if they lose their job or have hours cut (See Chapter 7).
- Must be paid at least the hourly minimum wage (\$9.32 per hour in 2014 in Washington).
- Usually earn overtime if they work more than 40 hours a week (See Chapter 1).
- Pay less Medicare and Social Security taxes.
- In most industries, have the right to form a union and bargain for better pay and benefits (See Chapter 12).
- Are protected against discrimination from employers (See Chapter 6).
- Have the right to take time off from work to care for a family member (See Chapter 5).
- Are protected from bad treatment (retaliation) for exercising their rights (See Chapter 1).
- Generally do not pay for costs needed to do the job, like permits or uniforms.
- Would be better able to prove they have been working if a new immigration law were to require proof from workers applying for legal status.

## *Advantages Of Being An "Independent Contractor"*

- You don't have to work for only one company.
- You have more control over when and where you work, as long as you complete the work you said you would do.
- You might not need to show immigration documents to get a job.
- You have the opportunity to earn a greater degree of profit from your work. In some cases, you might earn more than someone who is an employee. The high-tech industry is one area in which this might occur.

## **How Do I Know If I Am an Employee?**

Below are some questions to help determine if you are an employee. You don't have to answer "yes" to all of the questions to be considered an employee. However, if you answer "yes" to many or most of these questions, you may have been misclassified as an independent contractor.

- 1) Does your employer tell you when, how, where, and with whom to do your work? Does s/he keep records like timesheets about your hours of work?
- 2) Does your employer train you to do the work and/or provide you with the tools and materials you need?
- 3) Are you dependent on your employer to give you work in order to make any money?
- 4) Are you paid a regular hourly, weekly or monthly wage and/or get benefits like paid sick leave and health insurance from your employer?

- 5) Is the work that you do an essential (meaning, core or primary) part of the business that your employer does?
- 6) Do you have a steady and ongoing working relationship with your employer that will continue into the future?
- 7) Did you and/or your employer believe you were an employee when you entered into the working relationship?
- 8) Is your job one where no special skills, education or licenses are required for you to perform the work?

## **I Think I Have Been Misclassified. What now?**

What you do next depends on what you want to happen. It is important to note that it is possible for you to be classified as an employee under one set of laws, and as an independent contractor under another set of laws while doing exactly the same work. Read on for some options, and get legal advice from a lawyer about your specific situation. If you can't afford a lawyer contact one of the free or reduced-price legal services listed in the Resources chapter at the end of this book.

### ***If You Still Have Your Job, And Would Like To Be Reclassified:***

If you think that you have been misclassified by mistake, it may be worthwhile to speak with your employer about it and request that you be reclassified as an employee. If there are other employees in a similar situation, go together to talk to your employer. This gives you more protection.



### ***If You Would Like To Get Government Benefits:***

If you believe you have been misclassified and want to get unemployment benefits, worker's compensation after being injured at work, wages that weren't paid or money for job-related expenses, or if you want to make sure your employer pays the rights taxes, you can file claims or complaints at the appropriate agency.

**Unemployment claims:** Washington State Employment Security Department, 1800-318-6022

**Workers' Compensation and Lost Wages:** Washington State Department of Labor & Industries, 1800-547-8367

**Employer Taxes:** Internal Revenue Service, 1 (800) 829-3676. Ask about filing an SS-8 form.

## **Household Workers**

Household or domestic workers are people who work in their employer's home like house-cleaners and child-care providers. They are frequently paid under-the-table and don't have many of the rights that other employees have. The questions and answers in this section are adapted from a publication by Legal Voice. Find the original online at [www.legalvoice.org](http://www.legalvoice.org).

### ***Do Household Workers Have A Right To Be Paid Minimum Wage In Washington?***

Most household workers do have the right to be paid at least the minimum wage unless you work for an employer only once or once in a while, or if you live where you work.

## ***Taking Breaks and Taking Time Off***

Washington law says that household workers do not have the right to rest breaks during work.

Also, for most household workers, your employer is allowed to fire you if you do not come to work, even if you are sick or just had a baby.

## ***Safety and Injury on the Job***

As a household worker, your employer is required to provide safe working conditions for you, for instance, cleaning materials that are as safe as possible. However, most household workers will not be able to get workers' compensation if injured at work. You should still let your employer know when you are injured and ask for help.

If the employer does not agree to help you, you have the right to sue your employer for money to help you pay your medical bills and other damages. If that amount is less than \$5,000, you can take your employer to small claims court. There is information on how to go to small claims court (in Spanish as well) at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

## ***If I Break Something In A Home Where I Am Working, Can The Employer Take Money For The Damage Out Of My Pay?***

In most cases no. Except in very limited circumstances, your employer cannot take the cost of the broken item out of your paycheck. However, they can try and take you to court to pay for the item, and/or fire you.

### ***Where To Go For Help: Organizing With Other Workers***

Household workers who are employed by a person or family in a private home can come together with other workers to help each other, but do not have the right to collective bargaining. In other words, your employer is not required to negotiate and sign a contract. In Seattle, some domestic workers who cannot form official unions have joined together to find work and help protect each other as part of the workers center, Casa Latina. <http://casa-latina.org/>.

Cleaners or providers of other household services who work for a business, not a private family, probably *do* have the right to form a labor union (see Chapter 12).

### ***What Can I Do If My Employer Is Breaking The Law?***

You can file a workplace rights complaint with the Washington State Department of Labor and Industries. Contact information can be found in the Resources chapter.

## **Day Laborers**

Day laborers do temporary jobs, often in construction, landscaping and manufacturing. They are frequently paid off the books and misclassified as independent contractors. The following section is for day laborers who are true employees, even if they are misclassified as independent contractors.

### ***Does My Employer Have To Pay Me Minimum Wage And Overtime?***

Day laborers have a right to be paid at least the minimum wage (\$9.32 an hour in 2014 in Washington State) and the right to be paid overtime (time and a half) for every hour worked over 40 in

a week for a single employer, whether that employer is an individual or an agency.

### ***Does My Employer Have To Pay Me For Waiting And Transportation Time?***

You do not have to be paid for the time it takes to get to work, unless you are working along the way to a job site, or are being taken to a different site for the same employer. If you are free to leave the job site, then you do not have to be paid for any time that you spend waiting to be given something to do. However, if your employer says that you have to report at a certain time you should be paid starting at that time whether the work has begun or not.

### ***Can My Employer Take Money Out Of My Paycheck?***

If your employer offers you something that you are free to accept or not (like meals or transportation), and it is clear that you are expected to pay for it, your employer can take money out of your pay as long as your wage does not fall below the minimum wage and you have agreed to it in advance. If you are not allowed to arrange for your own transportation or meals, and it is for your boss' benefit or your boss is making money off the arrangement, then you should not have to pay.

If your employer takes pay away and that results in you being paid below the minimum wage or not being paid at all, that is considered wage-theft and you should contact an attorney or Casa Latina (206) 956-0779 for help.

**Uniforms and Equipment** – In most cases, your employer cannot take money out of your paycheck for a uniform, tools, safety equipment or other materials that you need to do your job.

**Property Damage** – Except in limited circumstances, your employer cannot take money directly out of your paycheck to pay for any damages to their property, even if it was your fault. However, they may ask you to pay for the item or take you to court to force you to pay for it.

**Day Labor Agency Fees for Cashing Paychecks** – This is not allowed if the fee would lower your payment to below the minimum hourly wage. It is also not allowed if the employer benefits financially from these fees or if it is not mostly for your benefit. It is allowed if the employer does *not* benefit financially and the arrangement *is* mostly for your benefit *and* there is an agreement in advance and in writing.

### *Safety and Injury on the Job*

**Health and safety laws protect *all workers* regardless of their immigration status or classification as an independent contractor.** You are allowed to refuse unreasonably dangerous work and not lose your job. You also have the right to file a health and safety complaint with the WA State Department of Labor and Industries (L&I). You can call them toll-free at 1 (800) 423-7233. Interpreter services are available.

If you are injured on the job, your employer is responsible for covering the cost of your medical treatment. You may qualify for workers' compensation, no matter what your immigration status is. For more information on collecting workers' compensation see Chapter 3.

### *Where to Go for Help: Organizing with Other Workers*

Day labor centers, such as Casa Latina in Seattle, are located around the country and address issues such as wage theft and provide a safe space for workers to gather and look for work.

They provide dispatch services where people looking for workers call in advance to hire someone and then the worker is sent out from the center to do the work. They also set minimum pay rates for workers sent out from the day labor center that may be above minimum wage

For more information on the rights of day laborers and what you can do to protect yourself, visit the website of the National Day Laborers Organizing Network: <http://ndlon.org/en/>. Workplacefairness.org also has a good section on the rights of day laborers: [www.workplacefairness.org/daylaborers](http://www.workplacefairness.org/daylaborers)

## **Under-The-Table Workers**

Under-the-table work is all paid work that is not reported to the state or federal government. Under-the-table workers are generally paid in cash or through a personal check. Usually, you do not sign a written contract with your employer. It is generally illegal for an employer to hire you under-the-table.

### ***Your Rights as an Under-the-Table Worker***

As an under-the-table worker, you are entitled to the same rights and benefits as other workers, but it may be difficult to prove that you worked for a particular employer. S/he may deny that you ever worked for him/her, or say that you were an “independent contractor.”

**A verbal contract** is an agreement that is not written down, but workers and employers are still required to follow it. It is best to get everything in writing to protect yourself.

Employees who work under-the-table have the right to be paid minimum wage (\$9.32/hour in Washington State in 2014) and

usually overtime. Keep track of the hours and days that you work and all the information you can gather about the person or company you worked for.

Your employer is responsible for providing a safe workplace for all workers, even those getting paid under-the-table. For more information on your rights to a safe workplace and on reporting an unsafe workplace, see Chapter 2. Under-the-table employees, even undocumented workers, have the right to workers' compensation if injured on the job (see Chapter 3).

## **Need More Help?**

If you need help understanding or claiming these rights, you should contact one of the free or reduced-price legal services listed in the Resources chapter at the end of this book.

You can also contact a community organization, such as Casa Latina (<http://casa-latina.org/>), that helps under-the-table workers and undocumented workers.

For more information on your rights as an undocumented worker, see Chapter 10.

## Chapter 10: Undocumented Workers

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## **Your Rights As An Undocumented Worker**

**Being undocumented does not mean that you have no rights at work! It's important for immigrants to know about workplace rights regardless of documentation status.**

NOTE: The information in this manual is up-to-date as of January 2014. Please be aware that immigration law is changing rapidly, so you may want to double-check the accuracy of the information provided here.

### **You Have the Right to be Paid Minimum Wage**

**Undocumented workers have the same wage, hour, breaks and unpaid leave rights as other workers.** An employer cannot refuse to pay you by saying that you should not have been working in the first place because you have no papers. If your employer does not pay you for all the hours that you have worked, does not give you rest breaks, or does not pay you minimum wage or overtime, that is wage theft and it is illegal. For more information on these rights and how to file a complaint, please see *Chapter 1: Basic Workplace Rights*.

### **You Have the Right to a Healthy and Safe Work Environment**

Health and safety laws protect **all workers** regardless of their immigration status. You have the right to file a health and safety complaint with the WA State Department of Labor and Industries (L&I). For information on your health and safety rights and how to file a complaint see *Chapter 2: Health And Safety*.

## **You Have the Right to Receive Workers' Compensation if You Are Injured at Work**

All workers, including undocumented workers, can qualify for workers' compensation benefits if they are injured on the job, or become sick because of their job. Workers' compensation covers the cost of medical treatment, and in some cases lost wages. For more information on workers' compensation and how to apply, see *Chapter 3: Injury On The Job And Workers' Compensation*.

## **Most Workers Have the Right to Organize with Coworkers**

The National Labor Relations Act (NLRA) protects most workers' right to organize a union and collectively bargain with employers. This law covers undocumented workers as well. It also protects your job if you make a "group effort" to improve working conditions even if you don't have a union.

**It is against the law for an employer or supervisor to discriminate against you for trying to organize with your co-workers.** This law does not protect farm workers, domestic service workers, federal employees, independent contractors, supervisors, and confidential employees. For more information on your right to organize, see *Chapter 12: Organizing to Make Things Better at Work*.

## **Discrimination and Retaliation**

It is illegal for your employer to hire you if you are undocumented, and s/he can refuse to hire you, or can fire you because you are undocumented. Once you have a job, however, you do have some protections. Your employer cannot discriminate against you based on race, sex, pregnancy, national

origin, sexual orientation, gender identification, religion, age, disability or several other traits. For more information, please see *Chapter 6: Discrimination*.

**Right Against Retaliation and Illegal Firing:** Retaliation means that your employer fires you, gives you a worse job, or reports you to Immigration and Customs Enforcement (ICE) because you filed a complaint to the government about your working conditions. It is also retaliation when your employer *threatens* to fire you, give you a worse job, or report you to keep you from filing your complaint. **Retaliation is against the law.** If an employer retaliates you against, you should seek help from a lawyer.

## **Unemployment Insurance, Social Security Disability Insurance (SSDI) and/or Supplemental Security Income (SSI)**

If you are undocumented, you **cannot** collect unemployment insurance, Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI). However, if you qualify to work under Deferred Action for Childhood Arrivals (DACA), you *may* be eligible for unemployment insurance. See the section *Undocumented Young And Student Workers* below for more information on DACA.



## **Filing A Workplace Rights Complaint**

If any of your workplace rights have been violated, you can file a complaint with a government agency. See the chapters that cover the specific workplace right that has been violated for more information on how to file a complaint. If you choose to file a workplace rights complaint with any of the agencies that are described in this manual, there are some things you should keep in mind.

### **Risks of Filing a Complaint - ICE**

The greatest risk in filing a complaint as an undocumented worker is that your employer may illegally "retaliate" against you by reporting you to ICE. Generally, it is ICE's policy that if you are involved in a labor dispute, they will not get involved. For example, if you complain about unpaid wages and an employer retaliates against you by threatening to fire you and you file a complaint with the Department of Labor (DOL), ICE says that they will not get involved.

**Government agencies that enforce workplace rights generally should not ask about your immigration status. If they do, you do not have to answer before speaking with an attorney or legal representative!**

If ICE does follow up, they could try to deport you. Worse, if you used fake papers when you applied for your job, you may be charged in court, fined, deported, and/or prevented from ever returning to live and work in the U.S. These penalties may

apply even if you are married to a U.S. citizen, have U.S. citizen children, or have lived in the U.S. for many years.

## Ways To Protect Yourself

Whether or not you choose to file a complaint or a workers' compensation claim, here are some ways you can protect yourself:

- **Consider applying for a U Visa if you are filing a complaint.** A U Visa gives you *temporary* legal status if you have been a victim of a crime. If you get a U Visa, you will not be deported during the time that it takes to resolve your case; you may also be able to file for permanent residency after a certain amount of time. If you think you have been the victim of a crime, then contact the National Employment Law Project (NELP) or a legal service listed in the *Resources* chapter at the end of this manual for help with getting a U Visa.
- If ICE gets involved, request that they use prosecutorial discretion. ICE can choose not to pursue your case if you are trying to assert your workplace or other rights. By asking ICE to use prosecutorial discretion, you are asking them to not deport you while your claim is pending. This does not mean that you are legally allowed to work, it only means that ICE may decide to stop investigating your immigration status while your workplace claim is ongoing. You should talk with an attorney and ask about requesting prosecutorial discretion.

- Look for help from a community group that helps workers or immigrants. One example is Casa Latina in Seattle; contact them at (206) 956-0779.
- Keep records and collect information about your work and employer. If your employer does not give you records of your hours, or you think that the records are wrong, write down the correct information yourself and include as much information as you can about your employer. This includes his/her full name, contact information, and any other information that will assist in tracking down your employer.
- Seek help. If you have a union, talk to your union representative. Also, seriously consider finding an attorney who specializes in this field (workplace legal issues for immigrants), or seek help from a community legal aid group such as NELP, or the Northwest Immigrant Rights Project (NWIRP) (Contact information located in the Resources Chapter at the end of this manual).
- Don't discuss your immigration status with anyone until you seek legal help.
- Don't re-submit your immigration papers to your boss. Since your boss should have checked your immigration papers at the time you were hired, you should not be required to show them again, unless there is a good reason. Again, you should seek legal assistance if you are faced with this situation.
- Remember - there is strength in numbers. If your boss is denying your rights as a worker, it is very likely that

you are not alone. It is always best for you and at least one other co-worker (preferably a group of you) to come together to complain. That way you can support each other and you are more protected by the law. This is called the right to “protected, concerted activity” under federal labor law. Please see *Chapter 12: Organizing to Make Things Better At Work* for more information.

Important Note: Currently, in most situations, a government agency should enforce your workplace rights without considering your immigration status. However, if you are undocumented, there is some risk. It is very important to seek legal help from a specialist, meaning an attorney or a community group with experience helping immigrant workers with labor- and employment-related issues. *If you hire an attorney to represent you, allow your attorney to speak for you and do not communicate directly with your employer or with government officials.*



## **Undocumented Young and Student Workers**

### **Deferred Action for Childhood Arrivals (DACA)**

As of June 2012, it is possible for undocumented students to get Deferred Action for Childhood Arrivals (DACA) and an Employment Authorization Document (EAD) from the US government, which allows you to work in the United States for two years. To apply for Deferred Action and EAD, you have to meet some requirements:

- You must have been under age 31 on June 15, 2012; and,
- You must have come to the United States before age 16 (and you must still be in the US when you apply for your EAD); and,
- You have lived in the US continuously since on or before June 15, 2007; and,
- You cannot have committed a felony or a significant misdemeanor, or more than three misdemeanors; and,
- You are in school, graduated from high school, have a GED, or were honorably discharged from the US Coast Guard or military.

If you meet all of these requirements, you can apply for Deferred Action. Depending on your situation, though, there is an age limit on when you can apply.

If the government...



- has *never* asked you to leave the country: you must be at least 15 years old to apply for the Deferred Action and EAD.
- *has* asked you to leave in the past, or you are in the process of being asked to leave now: you can be younger than 15 to apply.

In both situations, you must have been younger than 31 years old on June 15, 2012.

If you need help applying or paying the fee to apply, you can find support at the organization 21 Progress online at: <http://21progress.org/>, or call: (206) 829-8382 Find more information on the “Consideration of Deferred Action for Childhood Arrivals” here: [www.uscis.gov/portal/site/uscis](http://www.uscis.gov/portal/site/uscis)

## The Federal Dream Act

**Note: As of 2013, the federal Dream Act has not been passed.** If the Dream Act were passed, undocumented students between the ages of 12-35 who meet basic requirements might get six years of legal status to either serve in the US military for two years or finish two years of college.

During those six years you would be able to get a driver’s license (which undocumented immigrants can do in Washington State already), get federal work-study funding, and have most rights that other legal citizens have. Washington State is also considering a Dream Act that would allow undocumented students to receive State-funded financial aid to attend college. Stay informed about government action on the Dream Act and take steps to help support passage of this proposed law. A good resource is the National Immigration Law Center website at <http://nilc.org/>.

## **E-Verify and Social Security No-Match Letter**

### **E-Verify**

E-verify is an internet-based program run by the government that compares information from the I-9 form that you complete when you get a job to government information to determine whether you are eligible to work. If there is a mismatch, the employer is notified. Your employer can only use E-Verify once they have hired you; your employer cannot use E-Verify on job applicants that they have not yet hired or in a discriminatory way.

### ***What Is A Tentative Non-Confirmation (TNC)?***

When there is a mismatch between the information you give your employer on your I-9 form, the government will issue what is called a “tentative non-confirmation” (TNC). A TNC does not necessarily mean that you are not authorized to work in the United States; it only means that there is a mismatch in information. For more information on E-Verify visit the U.S. Citizenship and Immigration Services homepage:  
<http://www.uscis.gov/>

### ***What Do I Do If I Get A TNC?***

If you get a TNC, you have the right to either *contest* or *not contest* the TNC.

**If you choose not to contest the TNC:** you should tell your employer and then your employer may fire you. You do not have to do anything else to respond to the mismatch.

**If you choose to contest the TNC:** you should tell your employer that you would like to contest the TNC and they will give you written information on how to do it. The government will make a final decision on your case. If E-Verify still says there is a mismatch in their final decision, then your employer can choose to fire you.

**It is against the law for your employer to fire you or otherwise change your working conditions (for example, lower your hours or pay) because you are choosing to contest the TNC.**

### *Will E-Verify Report Me To ICE?*

The Department of Homeland Security (DHS) in partnership with the Social Security Administration runs e-Verify. ICE is also part of DHS. Workers are at risk of being reported to ICE because E-Verify is connected to DHS.

## **Social Security Administration (SSA) No-Match Letter**

A Social Security Administration no-match letter tells an employer that s/he has submitted forms that contain names and Social Security numbers that do not match SSA records. The letter provides the names and/or Social Security numbers that do not match. SSA no-match letters are intended **ONLY** to help the SSA make sure its records and database are correct and that the SSA has the right earnings record for each employee.

A no-match letter by itself does not tell your employer that you are not authorized to work and s/he is not required to ask employees listed on the letter to bring in their Social Security cards or other immigration-related documentation. We encourage you to contact a lawyer if this happens to you.

## **ICE and the Police**

### **What To Do If Immigration Comes To Your Workplace**

Immigration officers are not allowed to enter your workplace — whether it is a factory, store, farm, or orchard — without permission from the owner/manager or if they have a warrant. If an officer does get permission, the officer can ask you questions about your immigration status.

- **You have the right to keep silent. You don't even have to tell the agent your name.**
- You have the right to talk to a lawyer before you answer any questions. You can tell the officer, "I wish to talk to a lawyer," in answer to any question the officer asks you.
- If you chose to hire an attorney, speak only through your attorney.
- Do *not* tell the immigration officer where you were born or your immigration status.
- Do not show the officer your papers or any immigration documents. If the officer asks you for your papers, tell the officer, "Please speak to my lawyer."

### **If You Are Approached By The Police On A Street Corner While Waiting For Work**

The police often approach day laborers while they are gathering for work on street corners. In some places, day laborers and organizers have formed a respectful relationship with the police.

If you can, work with a trusted community group or worker center to learn about your rights and to make a plan of action for dealing with the police.

City of Seattle Police Officers are not supposed to ask you about your immigration status. If they do, you do not have to answer.

### *If You Are Approached By The Police:*

- The most important thing to remember is to **stay calm and do not run** because you may not be in any trouble. Running may give the police a reason to hold you.
- Never give a police officer false identification or immigration-related documents.
- Regardless of your immigration status, you have the right to not answer the police officer's questions. However, refusing to speak with the police can make them suspicious.
- You should ask if you are free to leave. If the officer answers, "yes," then you should walk away from the street corner.

### *Can The Police Issue A Ticket Or Arrest Me For Looking For Work On A Street Corner Or Other Public Space?*

**Most likely, yes.** Many cities have laws that forbid loitering and blocking traffic. Some of these laws make it illegal to look for work in particular places. Day labor organizers in some neighborhoods have worked successfully with the local police to discuss where workers can wait to get work or a way to address traffic or other neighborhood concerns other than ticketing workers.

### *What Should I Do If The Police Issue A Ticket Or Arrest Me?*

You should remain silent and say, **"I am asserting my right to remain silent. I would like to speak to an attorney. I do not consent to a search."** Once the ticket is issued or you have been arrested, do not argue with the officer. The police can and will use anything you say against you. Carry a card that states your wish to exercise your right to remain silent. If the police start asking you questions, present this card to the police and remain silent.

If possible, carry the name and contact information for an attorney or community group who can give you advice in case you are arrested.



# Chapter 11: Military Service Members And Families

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(Senior Airman Brittany Paerschke-O'Brien, U.S. Air Force Photo)



## **Introduction**

Veterans, current military service members, and their families confront employment challenges in their civilian jobs that are unique to the Armed Forces. Support services are available for those who require assistance. In this section you will find employment rights, emergency contact information, and resources to assist you with your civilian job.

### **The Veterans Crisis Line**

#### **1-800-273-8255 and Press 1**

The Veterans Crisis Line connects Veterans in crisis and their families and friends with qualified, caring Department of Veterans Affairs responders through a confidential toll-free hotline, online chat, or text. Veterans and their loved ones can call 1-800-273-8255 and Press 1, chat online, or send a text message to 838255 to receive confidential support 24 hours a day, 7 days a week, 365 days a year. Support for deaf and hard of hearing individuals is available at TTY 1-800-799-4889

More information about support services can be found at the end of this chapter.



(Senior Airman Kayla Newman, U.S. Air Force Photo)

## **Your Civilian Job Rights**

As a veteran or service member of the Armed Forces, you have employment rights under federal law that protect your civilian job when you report for duty and when you return. The following section outlines how these laws help veterans, service members, and their families.

### **Uniformed Services Employment and Reemployment Rights Act (USERRA)**

If you leave your civilian job for military service, your job is protected under the federal Uniformed Services Employment and Reemployment Rights Act (USERRA.) In general, USERRA guarantees that after you return from service, you will get your old job back. You are entitled to the same rights and seniority-based benefits that you would have gotten if you had been working at your civilian job that whole time. USERRA also protects you from discrimination from your employer because of your past, present, or future military service. USERRA applies to voluntary as well as involuntary service of all kinds, in peacetime as well as in wartime.

#### ***What Am I Entitled To Upon Re-Employment?***

- Prompt reinstatement, which is generally a matter of days, not weeks, this will depend on the length of your service.
- Seniority-based rights and benefits.
- Training or retraining and other accommodations. This would also apply in case of a long period of absence or a disability.

- If you served between 30 days and six months in the uniformed services, you cannot be fired without cause for six months following reemployment. If you served 181 days or more in the uniformed services, you cannot be fired without cause for one year following reemployment.

### ***Do I Have The Right To Health Care Benefits And Pension From My Employer During Military Service?***

**Yes.** You have the right to continue your health benefits for you and your dependents for up to 24 months. If you had a pension, your employer is also required to continue to make contributions while you are deployed.

### **Other Benefits:**

You must be treated as if you are on a leave of absence from work. While you are away, you are entitled to any rights and benefits that are available to workers on non-military leaves of absence, whether paid or unpaid.

If your employer's treatment of people on leave of absence varies depending on the kind of leave (e.g., jury duty, educational, etc.), the comparison should be made with your employer's most generous form of leave.

### ***Can I Be Required To Use My Earned Vacation While Performing Military Service?***

**No.** You are entitled to earned vacation or leave in addition to time off to perform military service.

## *Is There Someone I Can Talk To If I Think My Employer Is Violating My USERRA Rights?*

**Yes.** You may file a complaint with the Veterans' Employment and Training Service (VETS). The VETS staff helps veterans and service members with their civilian jobs problems related to military service. For more information, contact:

### Veterans' Employment and Training Service

U. S. Department of Labor

1111 3rd Ave Ste 900

Seattle WA 98101-3112

1-866-4-USA-DOL

[www.dol.gov/vets](http://www.dol.gov/vets)

## **Disability Accommodations**

If you become disabled or seriously injured while serving in the military, your employer has to make reasonable efforts to accommodate your disability. This could include placing you in a new job position within the same company or changing your old job. For example, if you break your leg during annual training, your employer has to make reasonable efforts to accommodate the broken leg, or place you in another position until the leg has healed. For more information on disability accommodations, see *Chapter 6: Discrimination*.

If you become disabled during service, you may also be eligible for vocational rehabilitation, re-training, and re-employment benefits through the federal U.S. Department of Veterans Affairs. You can call their toll-free number at **1 (800) 827-1000** or visit the website for more information: <http://www.va.gov/>

## **Leave from Employment.**

### **Short-Term Leave For Service Members**

Upon deployment, you are entitled to all the same rights and benefits you would have had if you were continuously employed, this includes the right to take leave from work. Both your military service and your civilian job hours count towards your total hours worked to meet any minimums required to trigger your leave rights under federal and state law. For more information on Family Medical Leave see *Chapter 5*.

### **Long-Term Leave and Disability Benefits For Service Members**

If you are unable to return to work because of a serious injury or disability you may qualify for social security disability benefits. To qualify for social security benefits you must be unable to work because of your medical condition, but your injury need not have occurred during military service. For more information see *Chapter 4: Social Security For Long-Term Disability And Illness*.

In addition to the regular federal disability leave, military disability is paid to veterans who are partially or fully disabled as a result of their military service. A disability can apply to mental health conditions, such as posttraumatic stress syndrome (PTSD) as well as physical conditions, such as a chronic knee condition. The amount of money you receive is determined by the severity of your disability and whether you have children or other dependents. For more information visit:

<http://www.benefits.va.gov/COMPENSATION/types-disability.asp>

## **Benefits for Military Families, Spouses, Children, and Caretakers**

When a person enlists in the military, his/her family is also affected. If you are the spouse, domestic partner, parent, child or caretaker of a service member, you have rights to help you manage the responsibilities of being part of a military family.

### **Military Family Leave Under The Family And Medical Leave Act (FMLA)**

If you are the spouse, parent, son, daughter, domestic partner, or next-of-kin of a covered service member on active duty you may be entitled to “military caregiver leave” under the Family and Medical Leave Act. Under this act, you may be able to take between 12 and 26 workweeks of unpaid, job-protected leave for the following situations:

- Care of an injured service member
- Short notice deployment
- Military events and related activities
- Childcare and related activities
- Care of the service member’s parent
- Financial and legal arrangements
- Counseling
- Rest and recuperation
- Post-deployment activities

For more information see the “Employees Guide to Military Family Leave” (PDF)

[www.dol.gov/whd/fmla/2013rule/FMLA\\_Military\\_Guide\\_ENGLISH.pdf](http://www.dol.gov/whd/fmla/2013rule/FMLA_Military_Guide_ENGLISH.pdf)

Or call the Department of Labor and request this pamphlet at **1-866-4-USA-DOL**

For general information about the Family Medical Leave Act, see *Chapter 5: Taking Time Off From Work*.

## **The Washington State Military Family Leave Act (MFLA)**

The Washington MFLA is different than the federal FMLA and gives spouses and registered domestic partners of service members the right to take time off work to spend with their partners before deployment. If you work an average of 20 hours a week or more and you are the spouse or registered domestic partner of a service member, you may take up to fifteen days of unpaid leave from work right before deployment or when your spouse is on leave from deployment for personal time. Spouses of both the Regular Armed Forces and the National Guard or Reserves are eligible.

For more information on the MFLA see:

[www.lni.wa.gov/WorkplaceRights/files/FamilyLeave/LeaveforMilitarySpouses.pdf](http://www.lni.wa.gov/WorkplaceRights/files/FamilyLeave/LeaveforMilitarySpouses.pdf)

## **Information for Military Families**

For more information on programs that support military families, including information on finding a new job if your family is transferred, changing schools for your children, health care, financial assistance and more, visit the homepage of the National Military Family Association:

<http://www.militaryfamily.org/>

## **Work Restoration Programs**

There are a number of programs for veterans that can assist you in gaining the education, experience and skills you need to be competitive on the civilian job market.

### **Support For College Education - The GI-Bill**

The GI Bill provides financial support for education and housing to honorably discharged veterans. Potential benefits include tuition and fees for public in-state colleges, housing and supplies supplements. For more information on the GI-Bill, see <http://gibill.va.gov/>.

### **Compensated Work Therapy Programs (CWT)**

The Department of Veteran Affairs offers vocational rehabilitation through their Compensated Work Therapy (CWT) programs. These programs support veterans who have physical and mental disabilities to find opportunities for competitive jobs. CWT rehabilitation plans are individually developed for each veteran.

For information on CWT programs, contact Veteran Services at:

#### **Veteran Services**

National CWT Program Specialist

*Phone - (800) 929-7690 ext. 5335*

*Web Address - [www.va.gov/health/cwt](http://www.va.gov/health/cwt)*



(Tech. Sgt. Rob Hazlet, U.S. Air Force Photo)



## **Resources**

### ***G.I. Rights Hotline***

The GI Rights Hotline provides accurate, helpful counseling and information on military discharges, AWOL and UA (Unexcused Absence), and GI Rights.

*Phone* - 1-877-447-4487

*Web Address* - [www.girightshotline.org/en/](http://www.girightshotline.org/en/)

### ***Washington State Department of Veterans Affairs (WDVA)***

The Washington State Department of Veterans Affairs (WDVA) is a full-service state agency that assists veterans, their family members and survivors. The Department aggressively pursues all federal and state benefits on their behalf. WDVA provides employment-related assistance to veterans and other eligible persons, including job counseling, job search assistance, job referral and placement.

### **WDVA Full Service Centers**

#### **Seattle Service (Call) Center**

418 2nd Ave Extension South  
Seattle, WA 98104  
**(877) 904-VETS (8387)**

#### **Seattle Regional Office**

Jackson Federal Building  
915 2nd Avenue  
Seattle, WA 98174

#### **Olympia Service Center**

1102 Quince St SE  
P.O. Box 41155  
Olympia, WA 98504-1105

If you do not live in Olympia or Seattle, you can call the statewide assistance phone number to find the veterans service provider in your area. Statewide Assistance: **1-800-562-2308**

## ***US Department of Veteran Affairs***

USDVA provides benefits such as employment-related assistance and health services to veterans.

### **Benefits**

*Phone Number* – 1 (800) 827-1000

*Web Address* – [www.benefits.va.gov/compensation/](http://www.benefits.va.gov/compensation/)

### **Mental Health**

*Phone Number* – 1 (877) 424-3838

*Web Address* – [www.mentalhealth.va.gov/](http://www.mentalhealth.va.gov/)

### **Compensated Work Therapy**

*Web Address* – [www.va.gov/health/cwt](http://www.va.gov/health/cwt)

## ***Veterans' Employment and Training Service***

The Veterans' Employment and Training Service (VETS) staff provides technical assistance to veterans who experience problems between their military commitments and civilian jobs. VETS staff also assists employers by providing information about the USERRA law, explaining employer and employee responsibilities as well as reviewing military leave policies.

*Phone Number* – (360) 570-6970

*Address* – U.S. Department of Labor, Veterans Employment and Training Service, P.O. Box 13139, Olympia, WA 98508

*Web Address* – <http://www.dol.gov/vets/>



# Resources

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For a more complete list of resources, see the full version of the 2014 Washington State Workers Rights Manual. View it online at:

<http://georgetown.southseattle.edu/lerc/>

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## **Washington State Labor Education and Research Center**

If you have questions about where to get a copy of this manual, please contact us at the Washington State Labor Education and Research Center at South Seattle Community College.

*Phone Number* – (206) 934-6859

*Address* – 6737 Corson Avenue South, Seattle, WA 98108

*Web Address* - <http://georgetown.southseattle.edu/lerc/>

## **Washington State Department of Labor and Industries (L&I)**

*Web Address* – [www.lni.wa.gov/](http://www.lni.wa.gov/)

*Phone Numbers* -

- **Claims:** 1 (800) 547-8367
- **Switchboard:** (360) 902-5800
- **Employment Standards Office:** 1 (866) 219-7321
- **For Reporting Job Injuries:** 1 (800) 423-7233 (1-800-4BESAFE)
- **For Employees of Self-Insured Employers:** 1 (360) 902-6901
- **Division of Occupational Safety and Health (DOSH):** (360) 902 - 5494

*Local Offices* - L&I has local offices in many cities and towns in Washington. To find the office closest to you, call the switchboard above or look on their homepage.

## **Government Resources**

### **Federal Labor Relations Authority**

The Federal Labor Relations Authority is responsible for handling some unfair labor practice cases and collective bargaining cases for federal employees.

*Phone Number* – (202) 218-7770

*Address* – 1400 K Street NW, Washington DC, 20424

*Web address* - [www.flra.gov/](http://www.flra.gov/)

### **National Labor Relations Board**

The National Labor Relations Board is responsible for safe guarding workers' rights to organize, oversees union elections in the private sector, handles claims between employers and labor unions and claims regarding a member's right to fair representation by his/her labor union.

*Phone Numbers* – Phone: (206) 220-6300, TTY: (206) 220-6292

*Address* – Seattle Regional Office: 915 2<sup>nd</sup> Ave, Room 3948, Seattle, WA 98174

*Web Address* – [www.nlr.gov](http://www.nlr.gov)

### **Occupational Safety and Health Administration (OSHA)**

Oversees health and safety issues for federal employees, non-federal employees working on federal reservations or military bases, employees on a floating worksite (dry

docks, fishing boats, or construction barges), or employees of a tribal employer on tribal lands in Washington State.

*Phone Number* - 1 (800) 321-OSHA (6743)

*TTY* - 1 (877) 889-5627

*Regional* - (206) 757-6700

*Address* - 300 Fifth Ave, Suite 1280, Seattle, WA 98104

*Web Address* - [www.osha.gov](http://www.osha.gov)

## **Public Employment Relations Commission (PERC)**

PERC handles labor-management disputes for workers in the public sector i.e. city, county, or state employees.

*Phone Number* – (360) 570-7300

*Address* – 9757 Juanita Drive NE, Suite 201, Kirkland, WA 98304

*Web Address* – [www.perc.wa.gov](http://www.perc.wa.gov)

## **US Department of Labor (DOL)**

The DOL enforces federal wage and hour laws and policies.

*Web Address* - [www.wagehour.dol.gov](http://www.wagehour.dol.gov)

*Phone Number* - (206) 398-8039

*Address* - 1111 3<sup>rd</sup> Ave Suite 755, Seattle, WA 98101

## **The US Equal Employment Opportunity Commission (EEOC)**

The US Equal Employment Opportunity Commission handles discrimination cases in the United States if contacted within 300 days of the discrimination

*Phone Numbers* – 1 (800) 669-4000, or 1 (800) 669-6820

*Address* - Federal Office Building 909 1<sup>st</sup> Ave, Suite 400, Seattle, WA 98104

*Web Address*- [www.eeoc.gov/](http://www.eeoc.gov/)

## **Washington State Human Rights Commission (WSHRC)**

*Web Address* – [www.hum.wa.gov/](http://www.hum.wa.gov/)

<b>Location</b>	<b>Phone Number</b>	<b>Address</b>
Olympia	(360) 753-6770 Toll-Free: 1 (800) 233-3247 TTY: 1 (800) 300-7525	711 S. Capitol Way, Suite 402 Olympia, WA 98504
Spokane (Eastern Washington)	(509) 568-3196	1330 N. Washington St., Suite 2460 Spokane, WA 99201
Yakima (Central Washington)	(509) 494-0347	15 West Yakima Ave, Suite 100 Yakima, WA 98920
Vancouver	Contact Olympia office to schedule an appointment	312 SE Stone Mill Drive, Bldg. 120 Vancouver, WA 98684



## **Legal Resources**

### **Coordinated Legal Education, Advice and Referral System (CLEAR)**

CLEAR is the Northwest Justice Project's toll-free telephone service for eligible low-income people to obtain free legal assistance with non-criminal legal problems.

**Interpreter services are available free of charge.** If you need a lawyer to go with you to court, the person you speak to will try to refer you to a lawyer in your community.

*Website:* [www.nwjustice.org/clear-online](http://www.nwjustice.org/clear-online)

*Phone:* **1 (888) 201-1014** weekdays from 9:10 am until 12:25 pm

### **CLEAR\*Sr**

**If you are 60 years or over**, you may call CLEAR\*Sr at **1 (888) 387-7111**, TTY: **1 (888) 201-9737**. You can call CLEAR\*Sr regardless of your income.

### **Washington State Bar Association's Moderate Means Program**

The Moderate Means Program connects people whose income is within 200–400% of the Federal Poverty Level (47,000-94,000/year for a family of four in 2013) to lawyers who offer legal help at reduced fees.

*Website:* [www.moderatemeanswa.org/](http://www.moderatemeanswa.org/)

*Phone:* 1-855-741-6930

## **Northwest Immigrant Rights Project**

Northwest Immigrant Rights Project provides direct legal assistance to low-income immigrants.

*Web Address – [www.nwirp.org/](http://www.nwirp.org/)*

### **Western**

#### **Washington/Seattle**

Phone: (206) 587-4009

Toll Free: 800.445.5771

### **Wenatchee Office**

Phone: (509) 570-0054

Toll Free: 866.271.2084

### **Tacoma Office**

Phone: (253) 383-0519\

### **Eastern/Central**

#### **Washington**

Phone: (509) 854-2100

Toll Free: 888.756.3641

### **Moses Lake Office**

Phone: (509) 765-9712

## **National Employment Law Project**

National Employment Law Program provides information about upcoming legislation, to protect workers' rights.

*Phone Number – (206) 324-4000*

*Address – 1225 S. Weller, Suite 205, Seattle, WA 98144*

*Web Address – [www.nelp.org/](http://www.nelp.org/)*

## **Washington WorkSource**

WorkSource Centers provide a wide range of employment and training-related services, including job referral and placement; referral to training and other community services; translation services; information on the fastest growing jobs and wages; free use of computers, copiers, phones, faxes and other career resources; and access to Unemployment Insurance.

*Phone - (360) 407-1389*

*Unemployment Insurance Claims TeleCenter - (800) 318-6022*

*Web Address - [www.go2worksource.com](http://www.go2worksource.com)*

# Labor and Industries: Initiative 1433

## An Overview of the New Minimum Wage and Paid Sick Leave Requirements

### Changes to the state minimum wage

#### **The minimum wage will be \$11 per hour in 2017**

- The minimum wage applies to all jobs, including agriculture.
- Employers must pay employees age 16 and older at least \$11 per hour in 2017. [WAC 296-126-020](#)(app.leg.wa.gov).
- Employers are allowed to pay 85 percent of the minimum wage to employees under age 16. [WAC 296-126-020](#) (app.leg.wa.gov). For 2017, this rate is \$9.35 per hour.
- Seattle, Tacoma, and the City of SeaTac currently have higher minimum wage rates. The local rate applies if it is higher than the state minimum wage rate.
- The initiative does not change overtime pay requirements.

#### **The initiative sets future minimum wage rates**

- The minimum wage will increase annually over the next four years: \$11 in 2017, \$11.50 in 2018, \$12 in 2019, and \$13.50 in 2020.
- Starting Jan. 1, 2021, minimum wage increases will be calculated by L&I using a formula tied to the rate of inflation (based on the [Consumer Price Index for Urban Wage Earners and Clerical Workers - CPI-W](#)(data.bls.gov)).

#### **The initiative contains important language regarding tips and service charges**

The initiative states that an employer must pay to its employees:

- All tips and gratuities; and
- All service charges as defined under [RCW 49.46.160](#) (app.leg.wa.gov), except those that are itemized as not being payable to the employee or employees servicing the customer.
- Tips and service charges paid to an employee may not offset the state minimum wage requirement.

## Paid sick leave requirements

Starting **January 1, 2018**, employers in Washington will be required to provide their employees with paid sick leave.

### Accrual

- Paid sick leave shall accrue at a minimum rate of one hour of paid sick leave for every 40 hours worked as an employee.
- An employee is entitled to use accrued paid sick leave beginning on the 90th calendar day after the start of employment.
- Unused paid sick leave of 40 hours or less must be carried over to the following year.
- Employers are allowed to provide employees with more generous carry over and accrual policies.

### Usage

- Employees may use paid sick leave to care for themselves or a family member.
- An employee may use paid sick leave when the employee's work or the employee's child's school or place of care has been closed by order of a public official for any health-related reason.
- An employee may use paid sick leave for absences that qualify for leave under the state's [Domestic Violence Leave Act](#).
- Employers are not prevented from allowing employees to use paid sick leave for additional purposes.

### Rulemaking for paid sick leave

- In 2017, L&I will develop rules to enforce this new requirement. The rules will include procedures for notification to employees and reporting regarding sick leave, and protecting employees from retaliation for the lawful use of sick leave.
- The rulemaking process will include opportunities for public comment, including public hearings.
- Interested parties can sign up for updates on the [Employment Standards' listserv](#).

### Questions?

People with questions can contact the Employment Standards Program at L&I by phone (**1-866-219-7321**) or email ([esgeneral@lni.wa.gov](mailto:esgeneral@lni.wa.gov)).

Content comes from the Labor and Industries website:

<http://www.lni.wa.gov/WorkplaceRights/Wages/Minimum/1443.asp>

## **WASHINGTON STATE REGULATIONS FOR SAFETY**

Washington is a “State Plan State” and the Division of Occupational Safety and Health DOSH section of Labor and Industries writes rules, provides consultation and compliance inspections. Information about DOSH and how it is different from OSHA can be found here:

<http://www.lni.wa.gov/SAFETY/TOPICS/ATOZ/ABOUT/DEFAULT.ASP>

### **Worker’s Rights to a Safe Workplace**

Whether you work in a hospital, restaurant, sawmill, orchard, or at a construction site, you and all other employees in Washington State have the right to a safe and healthy workplace.

In addition, you also have a right to:

- file a complaint about workplace safety or health hazards with the Department of Labor and Industries, Division of Occupational Safety & Health (DOSH);
- participate in a DOSH inspection;
- participate in your company's safety committee;
- refuse dangerous work when certain conditions are met;
- know how to work safely around hazardous chemicals;
- be protected from discrimination resulting from exercising your rights; and
- have limited access to injury, illness, and exposure records.

<http://www.lni.wa.gov/Safety/Topics/AToZ/WorkersRights/?F=HDI>

### **Basic Employer Responsibilities**

Provide a safe and healthy workplace in compliance with Washington Administration Code (WAC) regulations. Posting of injuries, regulations can be dependent on size of workplace.

<http://www.lni.wa.gov/main/smallbusiness/BusinessRequirements.asp?source=FF>

### **Required Postings at the Workplace**

All employers post the following information:

<http://www.lni.wa.gov/FormPub/results.asp?Section=8&SubSection=0&DocType=0>

<http://www.lni.wa.gov/IPUB/101-054-000.pdf>



## It's the law! Employers must post this notice where employees can read it.

Every worker is entitled to workers' compensation benefits. You cannot be penalized or discriminated against for filing a claim. For more information, call toll-free **1-800-547-8367**.

### If a job injury occurs

Your employer is insured through the Department of Labor & Industries' workers' compensation program. If you are injured on the job or develop an occupational disease, you are entitled to workers' compensation benefits.

#### Benefits include:

**Medical care.** Medical expenses resulting from your workplace injury or disease are covered by the workers' compensation program.

**Disability income.** If your work-related medical condition prevents you from working, you may be eligible for benefits to partially replace your wages.

**Vocational assistance.** Under certain conditions, you may be eligible for help in returning to work.

**Partial disability benefits.** You may be eligible for a monetary award to compensate for the loss of body functions.

**Pensions.** Injuries that permanently keep you from returning to work may qualify you for a disability pension.

**Death benefits for survivors.** If a worker dies, the surviving spouse or registered domestic partner and/or dependents may receive a pension.

### About required workplace posters

Go to [www.Lni.wa.gov/RequiredPosters](http://www.Lni.wa.gov/RequiredPosters) to learn more about workplace posters from L&I and other government agencies.

### On the Web: [www.Lni.wa.gov](http://www.Lni.wa.gov)

*Upon request, foreign language support and formats for persons with disabilities are available. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.*

### What you should do

**Report your injury.** If you are injured, no matter how minor the injury seems, contact the person listed on this poster.

**Get medical care.** The first time you see a doctor, you may choose any health-care provider who is qualified to treat your injury. For ongoing care, you must be treated by a doctor in the L&I medical network. (Find network providers at [www.Lni.wa.gov/FindADoc](http://www.Lni.wa.gov/FindADoc).)

Qualified health-care providers include: medical, osteopathic, chiropractic, naturopathic and podiatric physicians; dentists; optometrists; ophthalmologists; physician assistants; and advanced registered nurse practitioners.

**Tell your health-care provider and your employer about your work-related injury or condition.** The first step in filing a workers' compensation (industrial insurance) claim is to fill out a Report of Accident (ROA). You can do this online with FileFast ([www.Lni.wa.gov/FileFast](http://www.Lni.wa.gov/FileFast)), by phone at 1-877-561-FILE, or on paper in your doctor's office. Filing online or by phone speeds the claim and reduces hassle.

**File your claim as soon as possible.** For an on-the-job injury, you must file a claim and the Department of Labor & Industries (L&I) must receive it within one year after the day the injury occurred. For an occupational disease, you must file a claim and L&I must receive it within two years following the date you are advised by a health-care provider in writing that your condition is work related.

### Report your injury to:

(Your employer fills in this space.)

#### Helpful phone numbers:

Ambulance

Fire

Police



**¡Es la ley!** Los empleadores deben colocar este aviso en un lugar donde puedan leerlo los empleados.

Cada trabajador tiene derecho a recibir beneficios del programa de compensación al trabajador. Usted no puede ser penalizado ni discriminado por haber presentado un reclamo. Para más información, llame a la línea gratuita **1-800-547-8367**.

## Si ocurre una lesión en el trabajo...

Su empleador está asegurado a través del programa de compensación al trabajador del Departamento de Labor e Industrias. Si usted sufre una lesión en el trabajo o desarrolla una enfermedad ocupacional, tiene derecho a recibir beneficios del programa de compensación al trabajador.

### Los beneficios incluyen:

**Atención médica.** Los gastos médicos que resulten de su lesión o enfermedad ocurrida en el trabajo están cubiertos por el programa de compensación al trabajador.

**Ingresos por discapacidad.** Si no puede trabajar como resultado de su lesión o enfermedad ocupacional, podría tener derecho a recibir beneficios de sustitución parcial de su salario.

**Asistencia vocacional.** Bajo ciertas condiciones, usted podría tener derecho a recibir ayuda para regresar a trabajar.

**Beneficios de discapacidad parcial.** Usted podría recibir una indemnización monetaria para compensarlo por la pérdida de funciones corporales.

**Pensiones.** Usted podría tener derecho a una pensión por discapacidad si sus lesiones no le dejan volver a trabajar en forma permanente.

**Beneficios para los sobrevivientes.** Si un trabajador fallece, el cónyuge o pareja doméstica registrada y/o los dependientes sobrevivientes podrían recibir una pensión.

### Sobre los carteles requeridos en el lugar de trabajo

Vaya a [www.Lni.wa.gov/IPUB/101-054-999.asp](http://www.Lni.wa.gov/IPUB/101-054-999.asp) para aprender más sobre los carteles del lugar de trabajo de L&I y otras agencias del gobierno.

### En Internet: [www.Lni.wa.gov](http://www.Lni.wa.gov)

*A petición del cliente, hay ayuda disponible para personas que hablan otros idiomas y otros formatos alternos de comunicación para personas con discapacidades. Llame al 1-800-547-8367. Usuarios de dispositivos de telecomunicaciones para sordos (TDD, por su sigla en inglés) llamen al 360-902-5797. L&I es un empleador con igualdad de oportunidades.*

## Lo que usted debe hacer...

**Reporte su lesión.** Si usted se lesiona, aún cuando la lesión parezca ser mínima, póngase en contacto con la persona indicada en este cartel.

**Obtenga atención médica.** La primera vez que usted visite a un doctor, usted puede escoger a cualquier proveedor de cuidado de la salud que esté calificado para tratar su lesión. Para cuidado continuo, usted debe recibir tratamiento de un doctor de la red de proveedores médicos de L&I. (Encuentre proveedores de la red en [www.Lni.wa.gov/Spanish/ClaimsIns/Claims/FindADoc](http://www.Lni.wa.gov/Spanish/ClaimsIns/Claims/FindADoc)).

Los proveedores de cuidado de la salud calificados incluyen: médicos generales, osteópatas, quiroprácticos, médicos de naturopatía y podiatría, dentistas, optometristas, oftalmólogos, asistentes de doctor y enfermeras registradas de práctica avanzada.

**Dígale a su proveedor de cuidado de la salud y a su empleador sobre su lesión o condición relacionada con el trabajo.** El primer paso para presentar un reclamo de compensación para los trabajadores (seguro industrial) es llenar un Reporte de Accidente (ROA, por su sigla en inglés). Usted puede hacer esto en línea con FileFast ([www.Lni.wa.gov/FileFast](http://www.Lni.wa.gov/FileFast) — en inglés solamente), por teléfono al 1-877-561-3453 o llenar el formulario en la oficina de su doctor. Presentando un reclamo en línea o por teléfono acelera el reclamo y reduce las complicaciones.

**Registre su reclamo lo más pronto posible.** Para lesiones en el trabajo, debe presentar un reclamo y el Departamento de Labor e Industrias (L&I) debe recibirlo dentro de un año a partir del día en que ocurrió la lesión. Para una enfermedad ocupacional, usted debe presentar un reclamo y L&I debe recibirlo dentro de los dos años después de la fecha en que su proveedor de cuidado de la salud le avisó por escrito que su condición está relacionada con su trabajo.

## Reporte su lesión a:

(El empleador llena este espacio)

### Números de teléfono:

Ambulancia

Bomberos

Policía





It's the law! Employers must post this notice where employees can read it.  
(Chapter 49.17 RCW)

All workers have the right to a safe and healthy workplace.

**Employees** — Your employer must protect you from hazards you encounter on the job, tell you about them and provide training.

**You have the right to:**

- Notify your employer or L&I about workplace hazards. You may ask L&I to keep your name confidential.
- Request an L&I inspection of the place you work if you believe unsafe or unhealthy conditions exist. You or your employee representative may participate in an inspection, without loss of wages or benefits.
- Get copies of your medical records, including records of exposures to toxic and harmful substances or conditions.
- File a complaint with L&I within 30 days if you believe your employer fired you, or retaliated or discriminated against you because you filed a safety complaint, participated in an inspection or any other safety-related activity.
- Appeal a violation correction date if you believe the time allowed on the citation is not reasonable.

**The law requires you to follow workplace safety and health rules that apply to your own actions and conduct on the job.**

**Employers** — You have a legal obligation to protect employees on the job.

**Employers must provide workplaces free from recognized hazards that could cause employees serious harm or death.**

**Actions you must take:**

- Comply with all workplace safety and health rules that apply to your business, including developing and implementing a written accident prevention plan (also called an APP or safety program).
- Post this notice to inform your employees of their rights and responsibilities.
- Prior to job assignments, train employees how to prevent hazardous exposures and provide required personal protective equipment at no cost.
- Allow an employee representative to participate in an L&I safety/health inspection, without loss of wages or benefits. The L&I inspector may talk confidentially with a number of employees.
- If you are cited for safety and/or health violations, you must prominently display the citation at or near the place of the violation for a minimum of three days. You cannot remove it until you correct the violation.

**Firing or discriminating against any employee for filing a complaint or participating in an inspection, investigation, or opening or closing conference is illegal.**



**Employers must report all deaths, in-patient hospitalizations, amputations or loss of an eye.**

Report any work-related death or in-patient hospitalization to L&I's Division of Occupational Safety and Health (DOSH) within 8 hours.

Report any work-related non-hospitalized amputation or loss of an eye to DOSH within 24 hours.

For any work-related death, in-patient hospitalization, amputation or loss of an eye, you must report the following information to DOSH:

- Employer contact person and phone number.
- Name of business.
- Address and location where the work-related incident occurred.
- Date and time of the incident.
- Number of employees and their names.
- Brief description of what happened.

**Where to report:**

- Any local L&I office or
- 1-800-423-7233, press 1 (available 24/7)

This poster is available free from L&I at [www.Lni.wa.gov/RequiredPosters](http://www.Lni.wa.gov/RequiredPosters).

**Free assistance from the Division of Occupational Safety and Health (DOSH)**

- Training and resources to promote safe workplaces.
- On-site consultations to help employers identify and fix hazards, and risk management help to lower your workers' compensation costs.



Division of Occupational Safety and Health



[www.Lni.wa.gov/Safety](http://www.Lni.wa.gov/Safety)



1-800-423-7233

*Upon request, foreign language support and formats for persons with disabilities are available. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.*

# Ley de seguridad y salud en el trabajo

¡Es la ley! Los empleadores deben colocar este aviso en un lugar donde puedan leerlo los empleados.

Todos los trabajadores tienen derecho a un lugar de trabajo seguro y saludable.

**Empleados** — Su empleador debe protegerlo de los peligros que encuentra en el trabajo, informarle sobre ellos y proporcionarle capacitación.

**Usted tiene el derecho de:**

- Notificarle a su empleador o a L&I sobre los peligros en el lugar de trabajo. Usted puede pedirle a L&I que mantenga su nombre confidencial.
- Solicitar una inspección de L&I del lugar donde trabaja si cree que existen condiciones no saludables o inseguras. Usted y el representante de los empleados pueden participar en una inspección.
- Obtener copias de sus archivos médicos, incluyendo los archivos sobre exposiciones a sustancias o condiciones tóxicas y peligrosas.
- Presentar una queja con L&I dentro de 30 días si usted piensa que su empleador lo despidió o tomó represalias o lo discriminó porque presentó una queja de seguridad, participó en una inspección u otra actividad de seguridad relacionada.
- Apelar la fecha de corrección de una violación, si usted considera que el tiempo permitido en la citación no es razonable.

**La ley requiere que usted siga las reglas de seguridad y salud en el lugar de trabajo que se apliquen a sus propias acciones y conducta en el trabajo.**

**Empleadores** — Ustedes tienen la obligación legal de proteger a los empleados en el trabajo.

**Los empleadores deben proporcionar lugares de trabajo libres de riesgos reconocidos que puedan causar lesiones serias o muerte a los empleados.**

**Acciones que usted debe tomar:**

- Cumpla con todas las reglas de seguridad y salud en el lugar de trabajo que se apliquen a su negocio, incluyendo el desarrollo y la implementación de un Plan de Prevención de Accidentes por escrito (también llamado un APP en inglés o un programa de seguridad).
- Ponga este aviso en un lugar visible para informarle a los empleados de sus derechos y responsabilidades.
- Antes de asignar trabajos, capacite a los empleados sobre cómo prevenir exposiciones peligrosas y proporcione el equipo de protección personal requerido sin costo alguno.
- Permítale a un representante de los empleados que participe en una inspección de seguridad/salud de L&I sin descontarle salarios o beneficios. Es posible que el inspector de L&I hable en forma confidencial con otros empleados.
- Si recibe una citación por una violación de salud y seguridad usted debe poner a la vista la citación en o cerca del lugar de la violación por un mínimo de tres días. No la puede quitar hasta que se corrija la violación.

**Es ilegal despedir o discriminar a cualquier empleado por haber presentado una queja o por haber participado en una inspección, investigación o conferencias de apertura o cierre de las mismas.**



**Los empleadores deben reportar todas las muertes, hospitalizaciones de pacientes, amputaciones o pérdida de ojos.**

Reporte a la División de Seguridad y Salud Ocupacional (DOSH) de L&I sobre cualquier muerte u hospitalización relacionada con el trabajo dentro de 8 horas.

Reporte a DOSH sobre cualquier amputación sin hospitalización o pérdida de un ojo dentro de 24 horas.

Para cualquier muerte relacionada con el trabajo, hospitalización, amputación o pérdida de un ojo, debe reportar la siguiente información a DOSH:

- Nombre del empleador y número de teléfono.
- Nombre del negocio.
- Dirección y lugar donde ocurrió el incidente
- Fecha y hora del incidente.
- Número de empleados y sus nombres.
- Breve descripción de lo sucedido.

**Dónde reportar:**

- Cualquier oficina local de L&I o
- Puede llamar a DOSH al 1-800-423-7233, presione 1 (disponible las 24 horas)

Este cartelón es gratis y está disponible en el sitio Web de L&I en [www.Lni.wa.gov/RequiredPosters](http://www.Lni.wa.gov/RequiredPosters).

**Ayuda gratuita de la División de Salud y Seguridad (DOSH)**

- Capacitación y recursos para promover lugares de trabajo seguros.
- Consultas en su lugar de trabajo para ayudar a los empleadores a identificar y corregir peligros y manejo de riesgos para reducir los costos de compensación para los trabajadores.



División de Seguridad y Salud Ocupacional



[www.Lni.wa.gov/Seguridad](http://www.Lni.wa.gov/Seguridad)



1-800-423-7233

A petición del cliente, hay ayuda disponible para personas que hablan otros idiomas y otros formatos alternos de comunicación para personas con discapacidades. Llame al 1-800-547-8367. Usuarios de dispositivos de telecomunicaciones para sordos (TDD, por su sigla en inglés) llamen al 360-902-5797. L&I es un empleador con igualdad de oportunidades.

**Personal Protective Equipment (PPE)**

The Occupational Safety and Health Administration (OSHA) requires that employers protect you from workplace hazards that can cause injury or illness. Controlling a hazard at its source is the best way to protect workers. However, when engineering, work practice and administrative controls are not feasible or do not provide sufficient protection, employers must provide personal protective equipment (PPE) to you and ensure its use.

PPE is equipment worn to minimize exposure to a variety of hazards. Examples include items such as gloves, foot and eye protection, protective hearing protection (earplugs, muffs), hard hats and respirators.

<b>Employer Obligations</b>	<b>Workers should:</b>
<ul style="list-style-type: none"><li>✓ Performing a "hazard assessment" of the workplace to identify and control physical and health hazards.</li><li>✓ Identifying and providing appropriate PPE for employees.</li><li>✓ Training employees in the use and care of the PPE.</li><li>✓ Maintaining PPE, including replacing worn or damaged PPE.</li><li>✓ Periodically reviewing, updating and evaluating the effectiveness of the PPE program.</li></ul>	<ul style="list-style-type: none"><li>✓ Properly wear PPE</li><li>✓ Attend training sessions on PPE</li><li>✓ Care for, clean and maintain PPE, and</li><li>✓ Inform a supervisor of the need to repair or replace PPE.</li></ul>

**Employers Must Pay for Personal Protective Equipment (PPE)**

On May 15, 2008, a new OSHA rule about employer payment for PPE went into effect. With few exceptions, OSHA now requires employers to pay for personal protective equipment used to comply with OSHA standards. The final rule does not create new requirements regarding what PPE employers must provide.

The standard makes clear that employers cannot require workers to provide their own PPE and the worker's use of PPE they already own must be completely voluntary. Even when a worker provides his or her own PPE, the employer must ensure that the equipment is adequate to protect the worker from hazards at the workplace.

**Examples of PPE that Employers Must Pay for Include:**

- Metatarsal foot protection
- Rubber boots with steel toes
- Non-prescription eye protection
- Prescription eyewear inserts/lenses for full face respirators
- Goggles and face shields
- Fire fighting PPE (helmet, gloves, boots, proximity suits, full gear)
- Hard hats
- Hearing protection
- Welding PPE

**Payment Exceptions under the OSHA Rule**

Employers are not required to pay for some PPE in certain circumstances:

- Non-specialty safety-toe protective footwear (including steel-toe shoes or boots) and non-specialty prescription safety eyewear provided that the employer permits such items to be worn off the job site. (OSHA based this decision on the fact that this type of equipment is very personal, is often used outside the workplace, and that it is taken by workers from jobsite to jobsite and employer to employer.)
- Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots.
- Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen
- Items such as hair nets and gloves worn by food workers for consumer safety.
- Lifting belts because their value in protecting the back is questionable.
- When the employee has lost or intentionally damaged the PPE and it must be replaced.

**OSHA Standards that Apply****OSHA General Industry PPE Standards**

- 1910.132: General requirements and payment
- 1910.133: Eye and face protection
- 1910.134: Respiratory protection
- 1910.135: Head protection
- 1910.136: Foot protection
- 1910.137: Electrical protective devices
- 1910.138: Hand protection

**OSHA Construction PPE Standards**

- 1926.28: Personal protective equipment
- 1926.95: Criteria for personal protective equipment
- 1926.96: Occupational foot protection
- 1926.100: Head protection
- 1926.101: Hearing protection
- 1926.102: Eye and face protection
- 1926.103: Respiratory protection

There are also PPE requirements in shipyards and marine terminals and many standards on specific hazards, such as 1910.1030: Bloodborne pathogens and 1910.146: Permit-required confined spaces.

OSHA standards are online at [www.osha.gov](http://www.osha.gov).

**Sources:**

- *Employers Must Provide and Pay for PPE, New Jersey Work Environment Council (WEC) Fact Sheet*
- *OSHA Standards, 1910.132(h) and 1926.95(d)*
- *Employer Payment for Personal Protective Equipment Final Rule, Federal Register: November 15, 2007 (Volume 72, Number 220)*

## Electrical Safety



Electrical hazards can cause burns, shocks and electrocution (death).

- Assume that all overhead wires are energized at deadly voltages. Never assume that a wire is safe to touch even if it is down or appears to be insulated.
- Never touch a fallen overhead power line. Call the electric utility company to report fallen electrical lines.
- Stay at least 10 feet (3 meters) away from overhead wires during cleanup and other activities. If working at heights or handling long objects, survey the area before starting work for the presence of overhead wires.
- If an overhead wire falls across your vehicle while you are driving, stay inside the vehicle and continue to drive away from the line. If the engine stalls, do not leave your vehicle. Warn people not to touch the vehicle or the wire. Call or ask someone to call the local electric utility company and emergency services.
- Never operate electrical equipment while you are standing in water.
- Never repair electrical cords or equipment unless qualified and authorized.
- Have a qualified electrician inspect electrical equipment that has gotten wet before energizing it.
- If working in damp locations, inspect electric cords and equipment to ensure that they are in good condition and free of defects, and use a ground-fault circuit interrupter (GFCI).
- Always use caution when working near electricity.

For more information:



U.S. Department of Labor

[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)



## Seguridad eléctrica



Los riesgos eléctricos pueden causar quemaduras, choques eléctricos y electrocución (muerte).

- Sepa que probablemente todos los cables aéreos están energizados (vivos) a voltajes fatales. Nunca asuma que se puede tocar un cable de manera segura aún si está fuera de servicio o parece que está aislado.
- Nunca toque una línea de energía eléctrica que se haya caído. Llame a la compañía de servicio eléctrico para reportar líneas eléctricas caídas.
- Manténgase al menos 10 pies (3 metros) alejado de los cables aéreos durante limpiezas y otras actividades. Si está trabajando desde alturas o manejando objetos largos, antes de comenzar a trabajar evalúe el área para detectar la presencia de cables aéreos.
- Si un cable aéreo cae sobre su vehículo cuando esté guiando, manténgase dentro del vehículo y continúe guiando, alejándose del cable. Si el motor de su vehículo se detiene, no salga del vehículo. Advértale a las personas que no toquen el vehículo o el cable. Llame, o pídale a alguien que llame, a la compañía local de servicio eléctrico y a servicios de emergencia.
- Nunca opere equipos eléctricos mientras esté parado sobre agua.
- Nunca repare cables o equipo eléctrico a menos que esté calificado y autorizado.
- Antes de energizar el equipo eléctrico que se ha mojado, haga que un electricista calificado lo inspeccione.
- Si está trabajando en áreas húmedas, inspeccione los cables y equipo eléctrico para asegurarse que estén en buenas condiciones y sin defectos, y use un interruptor de circuito con pérdida a tierra (GFCI, por sus siglas en inglés).
- Siempre tenga cuidado cuando esté trabajando cerca de electricidad.

Para más información:



**Administración de  
Seguridad y Salud  
Ocupacional**

Departamento de Trabajo de los EE. UU.

[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)

## Fall Protection in General Industry

Falls are among the most common causes of serious work-related injuries and deaths. Employers must take measures in their workplaces to prevent employees from falling off overhead platforms, elevated workstations or into holes in the floor and walls.

### To prevent employees from being injured from falls, employers must:

- Guard every floor hole into which a worker can accidentally walk by use of a railing and toeboard or a floor hole cover.
- Provide a guardrail and toeboard around an open-sided platform, floor or runway that is 4 feet or higher off the ground or next level.
- Regardless of height, if a worker can fall into or onto dangerous machines or equipment (such as a vat of acid or a conveyor belt), employers must provide guardrails and toeboards to prevent workers from falling and getting injured.
- Other means of fall protection that may be required on certain jobs include safety harness and line, safety nets, stair railings and handrails.



Raised platform with protected guardrail.

### OSHA requires employers to:

- Provide working conditions that are free of known dangers.
- Keep floors in work areas in a clean and sanitary condition.
- Select and provide required personal protective equipment at no cost to workers.
- Train workers about job hazards in a language that they can understand.

### You have a right to a safe workplace.

If you have questions about workplace safety and health, call OSHA at 1-800-321-6742.

**It's confidential.**

We can help!

For more information:



U.S. Department of Labor



# OSHA<sup>®</sup>

**Occupational  
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Administration**

[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)

## Protección contra caídas en la industria general

Las caídas son las causas más comunes de lesiones graves y muertes relacionadas con el trabajo. Los empleadores deben tomar medidas en sus plantas de trabajo para impedir que los empleados se caigan de plataformas o puestos de trabajo elevados, o en agujeros en pisos y paredes.

### Para impedir que los empleados se lesionen debido a caídas, los empleadores deben:

- Proteger todos los agujeros en el piso por donde un trabajador se pueda caer en forma accidental mediante el uso de barandillas y tablas protectoras o una cobertura del agujero en el piso.
- Proporcionar una baranda y tabla protectora alrededor de la plataforma abierta a los lados, piso o camino que esté más de 1,20 metros por encima del suelo o del nivel siguiente.
- Independientemente de la altura, si un trabajador puede caer se dentro o encima de máquinas o equipos peligrosos (como un tanque de ácido o una correa transportadora), los empleadores deben proporcionar guardarrailes y tablas protectoras para impedir que los trabajadores se caigan o se lesionen.
- Otros medios de protección contra caídas que se puede requerir en ciertos trabajos comprenden arneses y cables de seguridad, redes de protección, pasamanos de escaleras y barandillas.



Plataforma elevada con guardarraíl de protección.

### La OSHA requiere que los empleadores:

- Proporcionen condiciones de trabajo que no tengan peligros conocidos.
- Mantengan en condiciones limpias y sanitarias los pisos de los lugares de trabajo.
- Seleccionen y proporcionen el equipo de protección personal sin costo alguno para los trabajadores.
- Otorguen capacitación a los trabajadores sobre los peligros del trabajo en un idioma que ellos comprendan.

### Usted tiene derecho a un lugar de trabajo seguro.

Si tiene preguntas sobre la seguridad y la salud en la planta de trabajo, llame a la OSHA al 1-800-321-6742.

**Es confidencial.**

¡Podemos ayudarlo!

### Para más información:



Departamento de Trabajo  
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[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)



## Protecting Farmworkers from Tractor and Harvester Hazards

Tractor incidents are the leading cause of death and injury on farms. Farmworkers are especially at risk from rollovers, tipping and highway incidents.

Employers and supervisors should take steps to ensure a safe work environment by providing:

- Safe and adequately maintained equipment
- Proper supervision and training
- An Emergency Action Plan (i.e., each vehicle with a first-aid kit and fire extinguisher)

### To Prevent Injuries, Train Workers to:

- Inspect farm vehicles for safety guards, seat belts and rollover protection structure (ROPS) before driving.
- Check that the Slow Moving Vehicle (SMV) emblem is clean, visible and not faded.
- Avoid traveling at night and during bad weather or low visibility.
- Watch traffic patterns, obey speed limits and avoid highways during busy travel times.
- Use the tractor's platform to enter and exit.
- Be aware of overhead power lines, people, and uneven ground.
- Carry passengers only when there is appropriate seating with seat belts.
- Take extra precautions when driving on steep slopes and downhill.
- Always shut down the tractor before climbing down.



### Safe Work Practices

- On highways, farm vehicles should display flashing lights and reflectors, or consider escort vehicles.
- Provide workers with emergency phone numbers and the address of the closest hospital.

For more information:



U.S. Department of Labor



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[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)

## Protegiendo a los trabajadores agrícolas de los peligros de tractores y cosechadoras

Los incidentes de tractores son la causa principal de la muerte y lesión en las granjas. Los trabajadores agrícolas están en alto riesgo de vuelcos e incidentes de carreteras.

Los empleadores y supervisores deben tomar pasos para asegurar un ambiente de trabajo seguro, proporcionando lo siguiente:

- Equipo bien mantenido y seguro
- Supervisión y adiestramiento adecuado
- Un plan de acción para emergencias (por ejemplo: cada vehículo debe tener un botiquín de primeros auxilios y un extintor de incendios)

### Para prevenir lesiones, adiestre a los trabajadores a:

- Inspeccionar los vehículos agrícolas para guardias de seguridad, cinturones de seguridad y estructura de protección contra vuelcos (ROPs en inglés) antes de manejar.
- Asegurar que el emblema de vehículo de movimiento lento (Slow Moving Vehicle — SMV en inglés) está limpia, visible y no descolorada.
- Evitar viajar en la noche, durante mal tiempo o cuando la visibilidad está baja.
- Seguir las rutas de tráfico y los límites de velocidad, y evitar las carreteras durante los tiempos de viaje ocupados.
- Usar la plataforma del tractor para entrar y salir.
- Ser consciente de líneas eléctricas aéreas, las personas, y terreno irregular.
- Cargar pasajeros sólo cuando hay asientos adecuados con cinturones de seguridad.
- Tomar precauciones adicionales cuando manejando en pendientes pronunciadas y cuesta abajo.
- Siempre apagar el tractor antes de bajar de la máquina.



### Prácticas de trabajo seguro

- En las carreteras, los vehículos de agrícola deben tener luces intermitentes y reflectores, o considere vehículos de escolta.
- Provea números de teléfono de emergencia y la dirección del hospital más cercano a los trabajadores.

### Para más información:



Departamento de Trabajo  
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## Protect Yourself **Amputations**



Amputations are widespread and involve a variety of activities and equipment. Each year, thousands of workers lose fingers, hands, feet, and other body parts—mostly through compression, crushing, or by getting them caught between or struck by objects. Most amputations involve fingertips.

### **High-Risk Activities**

Amputations occur most often when the following equipment is unguarded or inadequately safeguarded:

- **Mechanical power presses** • **Power press brakes**
- **Powered and non-powered conveyors** • **Printing presses** • **Roll-forming and roll-bending machines**
- **Food slicers** • **Meat grinders** • **Band saws** • **Drill presses** • **Milling machines** • **Shears, grinders, and slitters** • **Table and portable saws**

Employers have the responsibility to provide a safe workplace. Employers must protect workers from amputation hazards through adequate guarding and employee training on how to do the job safely.

The best way to prevent amputations caused by stationary or portable machinery is with machine safeguarding:

- **Guards** provide physical barriers to hazardous areas. They should be secure and strong, and workers should not be able to bypass, remove, or tamper with them. Guards should not obstruct the operator's view or prevent others from working.
- **Devices** help prevent contact with points of operation and may replace or supplement guards. Devices can interrupt the normal cycle of the machine when the operator's hands are at the point of operation.

**For more information:**



U.S. Department of Labor



**Occupational  
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[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)

## Protéjase Amputaciones



Las amputaciones ocurren con frecuencia e implican una variedad de actividades y equipos. Cada año, miles de trabajadores pierden dedos, manos, pies y otras partes del cuerpo, mayormente mediante actividades de compresión, trituración, ó cuando una parte del cuerpo queda agarrada, ó golpeada por, uno o varios objetos. La mayoría de las amputaciones ocurren en la punta de los dedos.

### Actividades de alto riesgo

Las amputaciones ocurren con frecuencia cuando el siguiente equipo no está guardado:

• **Prensas mecánicas** • **Plegadoras de palastro - Mecánica** • **Transportador motorizado y no motorizado** • **Prensas impresoras** • **Máquinas curvadoras y plegadoras de chapas** • **Rebanadoras de alimentos** • **Picadoras de carne** • **Sierras de cinta** • **Taladradoras** • **Fresadoras** • **Tijeras de esquilar, afiladoras y moledoras** • **Sierras portables**

Los empleadores son responsables de proveer un lugar de trabajo seguro. Los empleadores deben proteger a los trabajadores de los peligros de amputación a través de aparatos que guardan equipo y el entrenamiento de empleados como realizar el trabajo de forma seguro.

La mejor forma de evitar las amputaciones causadas por maquinaria estacionaria y portátil es mediante y cubiertas y el resguardo de la máquina:

- **Protectores** que brindan una barrera física a zonas peligrosas. Deben ser fuertes y seguros y los trabajadores no deben poder contornear, quitar o manipularlos. Los protectores no deben obstruir la vista del operador o impedir que otros trabajen.
- **Dispositivos** que ayudan a evitar el contacto con los puntos de operación y que pueden reemplazar los protectores o utilizarse como adición. Los dispositivos pueden interrumpir el ciclo normal de la máquina cuando las manos del operador se hallan en el punto de operación.



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Para más información:












**Administración de  
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[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)

# Hazard Communication Standard Pictogram

The Hazard Communication Standard (HCS) requires pictograms on labels to alert users of the chemical hazards to which they may be exposed. Each pictogram consists of a symbol on a white background framed within a red border and represents a distinct hazard(s). The pictogram on the label is determined by the chemical hazard classification.

## HCS Pictograms and Hazards

<b>Health Hazard</b>  <ul style="list-style-type: none"> <li>• Carcinogen</li> <li>• Mutagenicity</li> <li>• Reproductive Toxicity</li> <li>• Respiratory Sensitizer</li> <li>• Target Organ Toxicity</li> <li>• Aspiration Toxicity</li> </ul>	<b>Flame</b>  <ul style="list-style-type: none"> <li>• Flammables</li> <li>• Pyrophorics</li> <li>• Self-Heating</li> <li>• Emits Flammable Gas</li> <li>• Self-Reactives</li> <li>• Organic Peroxides</li> </ul>	<b>Exclamation Mark</b>  <ul style="list-style-type: none"> <li>• Irritant (skin and eye)</li> <li>• Skin Sensitizer</li> <li>• Acute Toxicity (harmful)</li> <li>• Narcotic Effects</li> <li>• Respiratory Tract Irritant</li> <li>• Hazardous to Ozone Layer (Non-Mandatory)</li> </ul>
<b>Gas Cylinder</b>  <ul style="list-style-type: none"> <li>• Gases Under Pressure</li> </ul>	<b>Corrosion</b>  <ul style="list-style-type: none"> <li>• Skin Corrosion/ Burns</li> <li>• Eye Damage</li> <li>• Corrosive to Metals</li> </ul>	<b>Exploding Bomb</b>  <ul style="list-style-type: none"> <li>• Explosives</li> <li>• Self-Reactives</li> <li>• Organic Peroxides</li> </ul>
<b>Flame Over Circle</b>  <ul style="list-style-type: none"> <li>• Oxidizers</li> </ul>	<b>Environment (Non-Mandatory)</b>  <ul style="list-style-type: none"> <li>• Aquatic Toxicity</li> </ul>	<b>Skull and Crossbones</b>  <ul style="list-style-type: none"> <li>• Acute Toxicity (fatal or toxic)</li> </ul>

For more information:



U.S. Department of Labor



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# Recommended Practices for **Safety** and **Health** Programs



Occupational Safety  
and Health Administration

[www.osha.gov/shpguidelines](http://www.osha.gov/shpguidelines)

OSHA 3885    October 2016

## DISCLAIMER

These practices for safety and health programs are recommendations only. Employers are not required to have a safety and health program that complies with them and will not be cited for failing to have a safety and health program that complies with this document.

These recommended practices apply to employers, except in the construction industry, for whom there are separate *Recommended Practices for Safety and Health Programs for the Construction Industry*.





# INTRODUCTION

THESE RECOMMENDED PRACTICES provide responsible employers, workers, and worker representatives<sup>3</sup> with a sound, flexible framework for addressing safety and health issues in diverse workplaces. They may be used in any workplace, but will be particularly helpful in small and medium-sized workplaces. They can be applied equally well in traditional, fixed manufacturing workplaces and in the

service sector, healthcare, retail, and even mobile or office-based work environments. They also include information specifically aimed at temporary worker and multiemployer work situations. Separate recommended practices are available for the construction industry.

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<sup>3</sup> Worker participation is vital to the success of the program. In several places in this document, OSHA refers not just to workers but also to their representatives, such as labor unions or religious or community groups.



The recommended practices emphasize a proactive approach to managing workplace safety and health. Traditional approaches are often reactive—that is, actions are taken only *after* a worker is injured or becomes sick, a new standard or regulation is published, or an outside inspection finds a problem that must be corrected. Finding and fixing hazards *before* they cause injury or illness is a far more effective approach. Doing so avoids the direct and indirect costs of worker injuries and illnesses, and promotes a positive work environment.

The concept of continuous improvement is central to the recommended practices. As with any journey, the first step is often the most challenging. The idea is to begin with a basic program and grow from there. By initially focusing on achieving modest goals, monitoring performance, and evaluating outcomes, you can help your workplace progress, over time, along the path to higher levels of safety and health.

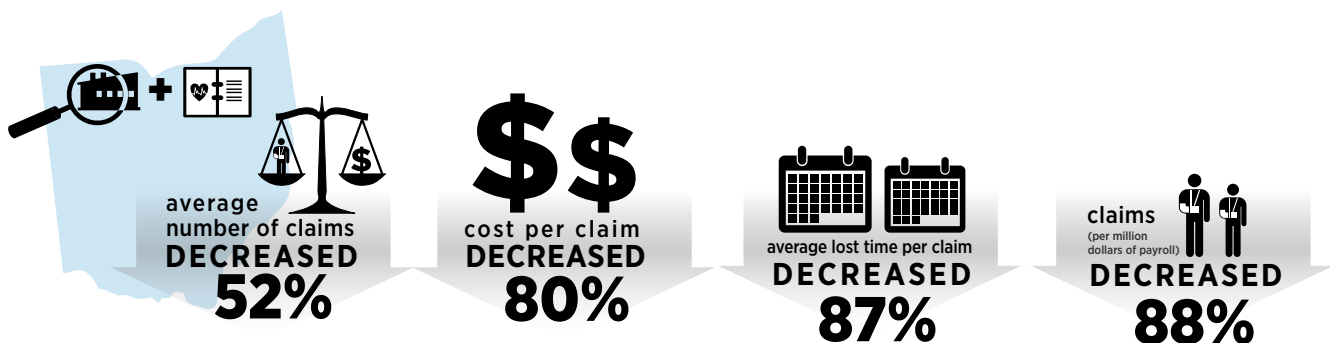
## THE BENEFITS OF IMPLEMENTING THESE RECOMMENDED PRACTICES

Responsible employers know that the main goal of a safety and health program is to prevent workplace injuries, illnesses, and deaths, as well as the suffering and financial hardship these events can cause for workers, their families, and their employers.

Employers may find that implementing these recommended practices brings other benefits as well. The renewed or enhanced commitment to safety and health and the cooperative atmosphere between employers and workers have been linked to:

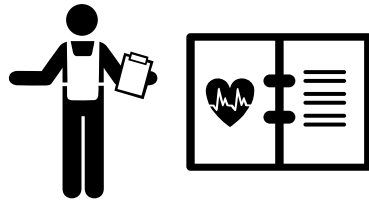
- Improvements in product, process, and service quality.
- Better workplace morale.
- Improved employee recruiting and retention.
- A more favorable image and reputation (among customers, suppliers, and the community).

A study of small employers in Ohio found that workers' compensation claims fell dramatically after working with OSHA's SHARP program to adopt programs similar to those described in these recommended practices.

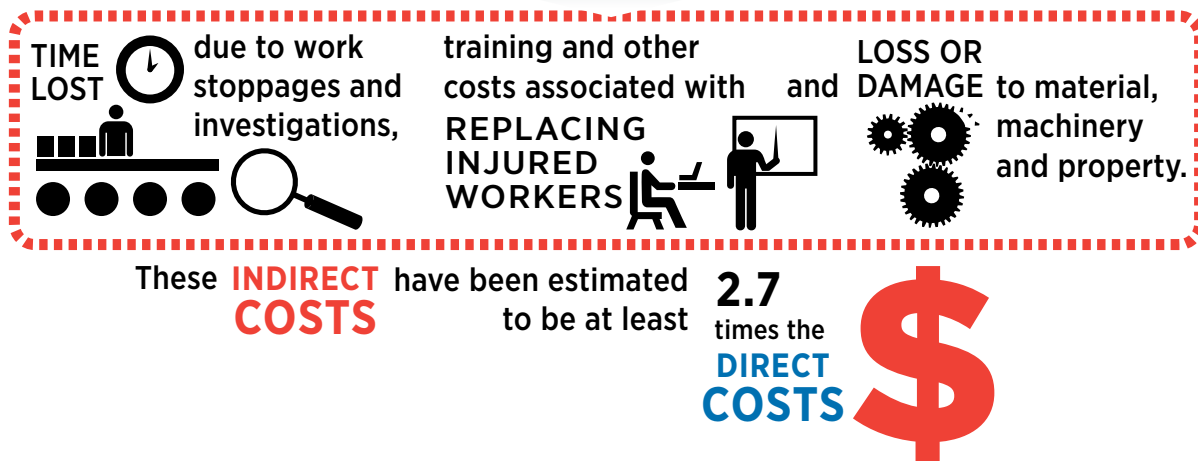


Source: Ohio Bureau of Workers' Compensation (2011), Ohio 21(d) SHARP Program Performance Assessment.

## IMPLEMENTING a safety & health program



can help employers avoid the



Source: Leigh, J.P. (2011), *Economic Burden of Occupational Injury and Illness in the United States*. *Milbank Quarterly*, 89:728-772.<sup>4</sup>

## HOW TO USE THE RECOMMENDED PRACTICES

Each section of the recommended practices describes a core program element (see page 7), followed by several action items. Each action item is an example of steps that employers and workers can take to establish, implement, maintain, and improve your safety and health program. You can use the self-evaluation tool found on the [recommended practices Web page](#) to track your progress and assess how fully you

have implemented (or will implement) each action item.

### Seven interrelated elements

The seven core elements are interrelated and are best viewed as part of an integrated system. Actions taken under one core element can (and likely will) affect actions needed under one or more other elements. For example, workers must be trained in reporting procedures and hazard identification techniques in order to be effective

<sup>4</sup> The 2.7 multiplier for indirect costs includes some social costs, such as workers' compensation costs not covered by insurance.

# 10 EASY THINGS TO GET YOUR PROGRAM STARTED

If these recommended practices appear challenging, here are some simple steps you can take to get started. Completing these steps will give you a solid base from which to take on some of the more structured actions presented in the recommended practices.

## 1. SET SAFETY AND HEALTH AS A TOP PRIORITY

Always set safety and health as the top priority. Tell your workers that making sure they finish the day and go home safely is the way you do business. Assure them that you will work with them to find and fix any hazards that could injure them or make them sick.

## 2. LEAD BY EXAMPLE

Practice safe behaviors yourself and make safety part of your daily conversations with workers.

## 3. IMPLEMENT A REPORTING SYSTEM

Develop and communicate a simple procedure for workers to report any injuries, illnesses, incidents (including near misses/close calls), hazards, or safety and health concerns without fear of retaliation. Include an option for reporting hazards or concerns anonymously.

## 4. PROVIDE TRAINING

Train workers on how to identify and control hazards using, for example, [OSHA's Hazard Identification Training Tool](#).

## 5. CONDUCT INSPECTIONS

Inspect the workplace with workers and ask them to identify any activity, piece of equipment, or material that concerns them. Use checklists, such as those included in [OSHA's Small Business Handbook](#), to help identify problems.

## 6. COLLECT HAZARD CONTROL IDEAS

Ask workers for ideas on improvements and follow up on their suggestions. Provide them time during work hours, if necessary, to research solutions.

## 7. IMPLEMENT HAZARD CONTROLS

Assign workers the task of choosing, implementing, and evaluating the solutions they come up with.

## 8. ADDRESS EMERGENCIES

Identify foreseeable emergency scenarios and develop instructions on what to do in each case. Meet to discuss these procedures and post them in a visible location in the workplace.

## 9. SEEK INPUT ON WORKPLACE CHANGES

Before making significant changes to the workplace, work organization, equipment, or materials, consult with workers to identify potential safety or health issues.

## 10. MAKE IMPROVEMENTS

Set aside a regular time to discuss safety and health issues, with the goal of identifying ways to improve the program.

participants. Thus, the “Education and Training” core element supports the “Worker Participation” core element. Similarly, setting goals (as described under “Management Leadership”) will be more effective if you routinely evaluate your progress in meeting those goals (see “Program Evaluation and Improvement”). Progress in each core element is important to achieve maximum benefit from the program.

### One size does not fit all

While the action items under each core element are specific, they are not prescriptive. The process described in these recommended practices can, and should, be tailored to the needs of each workplace. Likewise, your safety and health program can and should evolve. Experimentation, evaluation, and program modification are all part of the process. You may also experience setbacks from time to time. What is important is that you learn from setbacks, remain committed to finding out what works best for you, and continue to try different approaches.

Injuries and illnesses occur in all types of workplace settings, from manufacturing sites, to hospitals and healthcare facilities, to offices and service industries.<sup>5</sup> Workers can even be injured or become ill outside physical facilities, such as when driving a vehicle as part of a sales or service job. The preventive approaches described in these recommended practices work equally well across all sectors of the economy; for all different kinds of hazards; in both mobile and fixed work environments; and for small, medium-sized, and large organizations. Small employers may find that they can best accomplish the actions outlined in these recommended practices using informal communications and procedures. Larger employers, who have more complex work processes and hazards, may require a more formal and detailed program. They may also wish

to integrate their safety and health program with other programs that they are using to manage production, quality control, and environmental protection or sustainability.

### The importance of worker participation

Throughout these recommended practices, OSHA emphasizes the importance of worker participation in the safety and health program. For a program to succeed, workers (and, if applicable, their representatives) must participate in developing and implementing every element of the safety and health program. This emphasis on worker participation is consistent with the OSH Act, OSHA standards, and OSHA enforcement policies and procedures, which recognize the rights and roles of workers and their representatives in matters of workplace safety and health. Several action items described in these recommended practices rely on perspectives, expertise, and input that can come only from workers and their representatives.

### When more than one employer is involved

Host employers, contractors, staffing agencies, and their workers should pay particular attention to the “Communication and Coordination for Host Employers, Contractors, and Staffing Agencies” section. This section describes actions that host employers and contractors, subcontractors, and temporary staffing agencies (and their workers) should take to ensure protection of everyone on the worksite.

For tools and resources to help you implement these recommended practices, visit: [www.osha.gov/shpguidelines](http://www.osha.gov/shpguidelines)

<sup>5</sup> Please note: OSHA has developed a separate document of *Recommended Practices for Safety and Health Programs for the Construction Industry*.

# CORE ELEMENTS OF THE SAFETY AND HEALTH PROGRAM RECOMMENDED PRACTICES

## MANAGEMENT LEADERSHIP

- Top management demonstrates its commitment to continuous improvement in safety and health, communicates that commitment to workers, and sets program expectations and responsibilities.
- Managers at all levels make safety and health a core organizational value, establish safety and health goals and objectives, provide adequate resources and support for the program, and set a good example.

## WORKER PARTICIPATION

- Workers and their representatives are involved in all aspects of the program—including setting goals, identifying and reporting hazards, investigating incidents, and tracking progress.
- All workers, including contractors and temporary workers, understand their roles and responsibilities under the program and what they need to do to effectively carry them out.
- Workers are encouraged and have means to communicate openly with management and to report safety and health concerns without fear of retaliation.
- Any potential barriers or obstacles to worker participation in the program (for example, language, lack of information, or disincentives) are removed or addressed.

## HAZARD IDENTIFICATION & ASSESSMENT

- Procedures are put in place to continually identify workplace hazards and evaluate risks.
- Safety and health hazards from routine, nonroutine, and emergency situations are identified and assessed.
- An initial assessment of existing hazards, exposures, and control measures is followed by periodic inspections and reassessments, to identify new hazards.
- Any incidents are investigated with the goal of identifying the root causes.
- Identified hazards are prioritized for control.

## HAZARD PREVENTION & CONTROL

- Employers and workers cooperate to identify and select methods for eliminating, preventing, or controlling workplace hazards.
- Controls are selected according to a hierarchy that uses engineering solutions first, followed by safe work practices, administrative controls, and finally personal protective equipment (PPE).
- A plan is developed to ensure that controls are implemented, interim protection is provided, progress is tracked, and the effectiveness of controls is verified.

## EDUCATION & TRAINING

- All workers are trained to understand how the program works and how to carry out the responsibilities assigned to them under the program.
- Employers, managers, and supervisors receive training on safety concepts and their responsibility for protecting workers' rights and responding to workers' reports and concerns.
- All workers are trained to recognize workplace hazards and to understand the control measures that have been implemented.

## PROGRAM EVALUATION & IMPROVEMENT

- Control measures are periodically evaluated for effectiveness.
- Processes are established to monitor program performance, verify program implementation, and identify program shortcomings and opportunities for improvement.
- Necessary actions are taken to improve the program and overall safety and health performance.

## COMMUNICATION AND COORDINATION FOR HOST EMPLOYERS, CONTRACTORS, AND STAFFING AGENCIES

- Host employers, contractors, and staffing agencies commit to providing the same level of safety and health protection to all employees.
- Host employers, contractors, and staffing agencies communicate the hazards present at the worksite and the hazards that work of contract workers may create on site.
- Host employers establish specifications and qualifications for contractors and staffing agencies.
- Before beginning work, host employers, contractors, and staffing agencies coordinate on work planning and scheduling to identify and resolve any conflicts that could affect safety or health.

### FOR MORE INFORMATION

For more information about these recommended practices, tools to help you implement them, and related topics, see the [recommended practices Web page](#). This page includes links to many tools and resources developed by OSHA and others that can help employers and workers implement these recommended practices. OSHA will continue to update and add to this resource list.

OSHA's On-site Consultation Program offers free and confidential occupational safety and health services to small and medium-sized businesses in all states and several territories across the country, with priority given to high-hazard worksites.

On-site Consultation Program services are separate from enforcement and do not result in penalties or citations. Consultants from state agencies or universities work with employers to identify workplace hazards, provide advice on compliance with OSHA standards, and help them establish and improve their safety and health programs.

For free assistance, including help implementing your program, visit:  
**[www.osha.gov/dcsp/smallbusiness](http://www.osha.gov/dcsp/smallbusiness)**  
or call 1-800-321-6742 (OSHA)





<b>Safety and Health Achievement Recognition Program:</b>	An OSHA program that recognizes small business employers who have used OSHA's <a href="#">On-site Consultation Program</a> services and operate an exemplary injury and illness prevention program.
<b>safety data sheet:</b>	Written or printed material used to communicate the hazards of substances and chemical products to employees prepared in accordance with paragraph (g) of OSHA's <a href="#">Hazard Communication standard</a> .
<b>serious hazards:</b>	Hazards that are causing or are likely to cause death or serious physical harm. See OSHA's <a href="#">Field Operations Manual</a> , Chapter 4.
<b>shortcoming:</b>	A fault, deficiency, or gap that results in a failure to meet program design criteria.
<b>staffing agency:</b>	A firm that provides temporary workers to host employers. A staffing agency hires its own employees and assigns them to support or supplement a client's workforce in situations involving employee absences, temporary skill shortages, seasonal workloads, and special projects.
<b>substitution:</b>	The replacement of toxic or hazardous materials (or the equipment or processes used with them) with ones that are less harmful.
<b>Voluntary Protection Programs:</b>	An OSHA initiative that recognizes employers and workers in the private industry and federal agencies who have implemented effective safety and health management systems and maintain injury and illness rates below the U.S. Bureau of Labor Statistics averages for their respective industries.
<b>work practices:</b>	A set of procedures for performing a specific work assignment safely.