Funding For This Project

The Fetzer Institute generously provided the funding for this project. The Fetzer Institute engages with people around the world to foster awareness of the power of love and forgiveness in our global community. In the context of workplace rights this gives us the opportunity to learn about what happens in relationships among workers, and between employers and employees when workplace rights are understood and respected. When one drills down into the essence of these laws and their role in preserving human rights, social justice and basic dignity, we can see the potential for workplace rights to be tools for loving engagement.

Donors

Our sincerest gratitude goes also to the generous donors whose contributions helped fund this project, particularly the cost of translation. Without them, this manual would reach far fewer workers. These unions’ and community organizations’ commitment to workers’ rights, education and social justice are apparent not only in their contributions to this manual, but also in the tireless and inspiring work they do every day. These organizations are:

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Service Employees International Union Local 925
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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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 as a resource, 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.

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.

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Preface
Sarah Laslett, Director – Washington State Labor Education and Research Center
South Seattle Community College
Dedicated to Nelson Mandela

Work is one of the most important aspects of our lives and can be essential to our identities – our sense of who we are. Work can give us a sense of accomplishment and pride. Work is how we gather the resources to care for our families and ourselves. Work is how we contribute to our economy. And yet work can also make us feel humiliated, angry, and unappreciated. Intense pressure to increase productivity, being treated badly by employers or co-workers, or even fearing physical harm in the workplace – all of these can be both causes and effects of negative workplace relations.

The mission of the Fetzer Institute, which generously funded the 2013 update of this manual, is to understand the nature of love and forgiveness. Love and forgiveness are not words one readily associates with work or business and yet they are concepts widely recognized as fundamental to wellbeing both for relationships among individuals, and between groups of people. This essay is a brief exploration of the potential role of workplace rights in promoting more positive workplace relations, i.e. greater love and forgiveness.

There are many other words that can describe love and forgiveness at work: respect, creativity and innovation, acknowledgement and recognition, teamwork, reward, making a decent living, and perhaps most importantly in the relationships among working people, solidarity. It has been through acts of solidarity, largely through trade unions, that the workplace rights we now enjoy were originally fought for and won. And yet, we have now gotten to the point where, (at least according to some major media outlets), non-union workers look at the wages and benefits of union workers and say “you don’t deserve what you get” rather than “I deserve that too.” Such sentiments certainly fly in the face of any notion of love or respect among workers.

How, then, can workplace rights help emphasize the positive aspects of work in our lives and minimize distrust and discord? The first answer to this question, and the one most directly related to this manual and the work of the Labor Center, is education. Too many people in workplaces today, whether they are entry-level, front-line production workers, middle managers, or corporate employers and owners, know very little about the laws and policies that exist to protect the rights of workers and define the responsibilities of both workers and employers in relation to one another. Further, people often have intense negative reactions to discussions about workplace rights depending on their position – employers may see them as attacks upon their freedom to run their businesses – workers can see them as shields against bad bosses – governmental agencies and the legal system see them as complicated codes that must be interpreted and enforced. The rights themselves become the subjects of contention, rather than simply understanding how they are supposed to help real people in real workplaces. If ignorance about workplace rights is overcome, and understanding is not undermined by anger, we may be able to get to the heart of the intent of these laws and policies and promote greater respect, compassion, morale, and, yes, love and forgiveness in the workplace.

One of the most important aspects of fulfilling the positive potential of workplace rights is recognizing the spirit as well as the letter of the law. And how are we to characterize the spirit and intent of laws about wages and hours of work, health and safety on the job, or the right to take time off to care for family members without the fear of losing one’s job? Fundamentally, the rights described in this manual are, in fact, expressions of care and compassion – in a word – love. In addressing individual grievances or historical wrongs they may even lead to forgiveness. Workplace rights and compliance with them cannot remain the terrain of human resources administrators, union officials, labor & employment attorneys, and governmental agencies. These rights and responsibilities belong to all of us and the act of claiming them can bring them to life. In so far as employees & employers alike take seriously the challenge of understanding, enacting, respecting, and protecting them, we may very well have a powerful tool for improving workplace relations. We hope, as you use this manual, you will keep these larger concepts in mind.
Acknowledgements

While one name is on the cover, this manual is truly the work of many dedicated individuals and organizations.

Labor Center Director Sarah Laslett tirelessly leads us every day and carried the vision for this manual forward from the previous work of many people. She oversaw the project, edited the editor and advised on every step of the creation of this manual.

Thank you to the Labor Center staff for sharing your professional and personal opinions, office space, advice and laughter. Their support and assistance was instrumental in the creation of this manual. Lisa Pau provided a legal perspective, edited a number of chapters, and condensed chapters for the abridged version. Will Brucher helped condense chapters for the abridged version. Thanks also to Cheryl Coney who, as a Labor Educator with the Center, served on the Fetzer Institute Labor, Trade and Craft Advisory Council, helped create the proposal for this project, and advocated for funding.

A giant thank you goes to Labor Center research interns Anita Lo, Claire Carden, Andrés Muñoz, Lauren Berkowitz, and Nels Johnson. Without them, there would be no 3rd edition. We wish you all the best.

A great number of attorneys volunteered their time to edit chapters ensuring that, while we write in plain language, we stay true to the law. Thank you to Sean Leonard, Andrea Schmidt, Sarah Leyrer, Tom Adkins, Katherine Chamberlain, Carolyn McConnell, Mark Wagner, and Paul Marvy. A special thank you goes to Rebecca Smith who, in addition to editing chapters, contributed numerous hours of her time breaking down complicated legal questions for me. Her expertise and commitment to workers’ rights is an inspiration. Any remaining legal errors are my own.

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Thank you to Sharon Maeda, Rich Stolz, Araceli Hernandez, Todd Crosby and Jonathan Rosenblum for your insight and suggestions.

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This edition is built upon the work of many others in previous iterations. The 1st and 2nd editions were researched, compiled and edited by Nina Triffleman and edited by Peter Kardas. Students from Sarah Ryan and Arleen Sandifer’s 2004 Evergreen State College program, "Justice at Work" produced the initial draft of the manual’s first edition.

Thank you to the Seattle Public School teachers Mark Epstein, Jennifer Hall, Douglas Edelstein, Jeffrey Morgen, and Helen Maynard for dedicating their summer to developing high school curriculum to teach the manual. Thanks to Mary Lindquist, Kim Mead, Lisa Kodama and Bill Lyne from the Washington Education Association and to Seattle Education Association President, Jonathan Knapp, for their assistance on this project.
As this manual’s humble editor, allow me a few personal acknowledgments, as this work would truly not have been possible without the help of my incredible family. Through them, I have learned about love and forgiveness – the guiding principles of this project.

Thank you, Richard Burton, Yezi Cai, Joey Sanger, Ben Yao, and Andreas Schuler for your encouragement and suggestions.

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An immense thank you to a true union maid: my mentor, role model, and mom, Lynne Dodson. She contributed in countless ways large and small: offered critical advice on all parts of the project and proofread the manual. Most importantly though, she has taught me, by example, what it means to work for justice and love.

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

Introduction

Published by the Washington State Labor Education and Research Center at South Seattle Community College, this manual is written to be an easy-to-use reference guide to workplace rights covered by federal, state and local laws. It offers some information about the laws that support those rights. However, this is not a substitute for legal advice. This manual offers basic information and links to help you find more detailed information, but if you need concrete legal assistance, please contact an attorney or one of the community services listed in the resources chapter at the end of the manual.

The first chapters cover topics that are relevant to all workers, like wage and hour laws (Chapter 1), health & safety (Chapter 2), injury on the job (Chapter 3), social security for long-term illness (Chapter 4), leave laws (Chapter 5), laws against discrimination (Chapter 6), and what to do when you are unemployed (Chapter 7). In later chapters, we address issues for some specific kinds of workers, such as young workers (Chapter 8), independent contractors, household workers, day laborers and under-the-table workers (Chapter 9), undocumented workers (Chapter 10), and military service members and veterans (Chapter 11). The final chapter, Organizing To Make Things Better at Work, is where we hope you will look when talking to your co-workers about how to improve your wages and working conditions as well as find some basic information about rights and responsibilities specific to union members.

The preface of this manual also looks at the potential and unexpected connection between workplace rights and positive relations characterized by the phrase “love and forgiveness.” This is the explicit interest of the Fetzer Institute, which funded the revision and re-release of this 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 a significant update, expansion, and revision of the earlier manuals; it is current as of January 1, 2014. The guide is also available on the Labor Education and Research Center's website 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 adage, 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.
Chapter 1

Basic Workplace Rights

Wages, Hours, Breaks And Privacy At Work
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**Wage And Hour Laws**

**Minimum Wage**

*You Have The Right To Be Paid At Least The Minimum Wage*

The minimum wage is the least amount an employer can pay you per hour. It is set by federal, state and city law. 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. Each year, the Washington State minimum wage increases based on the cost-of-living increase.

Washington’s minimum wage law covers *most* workers in both agricultural and non-agricultural jobs. The **minimum wage law covers documented and undocumented workers**. You must be paid the minimum wage for all "hours worked" (explained below).

If your employer says, "I don’t have to pay you the minimum wage," 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. Interpretation 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 rates, whichever is better for the worker *is the rate you must be paid*. Washington State’s minimum wage of $9.32 per hour is higher than the federal minimum wage, which is $7.25 per hour. *That means that an employer in Washington must pay you at least the Washington State minimum wage*. If your city has a minimum wage that is higher than the Washington State minimum wage, your employer has to pay you the city minimum wage.

*What Is Included In "Hours Worked"?*

"Hours worked" includes all of the hours you actually worked and time spent waiting to work if your employer has asked you to wait, such as time spent waiting for boxes, time spent waiting for pick-up and weigh-in, or time spent waiting for a vehicle or equipment to arrive. It also includes time spent opening and closing a business, preparation time, time spent attending required meetings and training time. Generally, the time it takes to travel from your home to your workplace does not count as paid work. However, once you have begun the workday, you must be paid for time that you spend traveling from one place to another. Any time you spend performing all the duties mentioned above must be recorded and paid for.

*What Is The Difference Between "On-Call" Time And "Hours Worked"?*

While on-call, if you don’t have to stay at your employer's place of business, but just have to leave a message with your employer saying where you can be reached. You are not considered to be working. If you have to stay at your employer's place of business (where you work), so that you can’t use the time for your own purposes, then you are working when you are “on-call” and should be paid for those hours. If your employer puts limits on where and when you may travel while on-call, this might mean you are working and therefore should be paid for this time. The facts are decided on a case-by-case basis.
What Does Working "Off The Clock" Mean?

An employer cannot legally force you to work without pay ("off the clock"). If your employer is making you work off the clock, then you have ways to protect your rights. Write down the date(s), and how long you were forced to work off the clock. Keep this information for your records. The employer has to follow the law!

If you need information, have questions, or want to file a complaint, call the L&I employment standards office at 1 (866) 219-7321. See the section “what if I think my employer did not pay me what I am owed?” below for more advice. If you are working under a union contract, contact your union representative right away.

Is My Employer Required 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. If you report to work for your regularly scheduled shift but your employer has no work to be done and you are sent home, your employer does not have to pay you anything for showing up. The rules may be different if you have a union contract.

Can A Business Count My Tips As Part Of My Minimum Wage Payment?

No. In Washington State businesses may not use tips as credit toward minimum wages owed to you.

What Is “Prevailing Wage”?

Prevailing wage is the hourly wage, usual benefits and overtime paid in the largest city in each county in Washington State to the majority of workers employed on government construction projects. The 1931 Davis-Bacon Act originally established this practice. The Davis-Bacon Act is a federal law that requires employers to pay workers the prevailing wage on public works projects funded by federal dollars. This means that if the federal government is funding your job you must be paid the prevailing wage.

Washington State has a "Little Davis-Bacon Act" in place to protect workers funded by state dollars. This means that the Washington State Department of Labor and Industries (L&I) establishes the rate of pay and benefits (that reflect local wage conditions) for each trade and occupation employed on public works projects and on public building service maintenance contracts. In other words, you will be paid the prevailing rate if your job is being funded by the state. If you have Internet access, you can look up the prevailing wage for your county and trade at www.lni.wa.gov/tradeslicensing/prevwage/wagerates/lookup/. You can also call your local L&I office for a printed version of this information. Contact information for L&I is listed in the Resources chapter at the end of this manual.
Overtime

You Have The Right To Overtime Pay For All Hours Worked Over 40 In A Week

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. The workweek begins on the same day every week – your employer decides what day this is. Jobs where workers don’t get overtime pay are discussed below. Under some union contracts, workers may be paid even more for overtime.

Employers are sometimes allowed to use a "fluctuating workweek." this means that a worker’s hours may vary from week to week, but s/he earns a salary even though s/he is a "non-exempt" employee (non-exempt employees usually are paid hourly wages.) The worker's regular rate of pay for each week is figured out by dividing the weekly salary by the number of hours worked in a particular week. The worker is still entitled to receive their regular wage (at least the minimum wage) and an additional one-half hour's pay for each hour over 40 in the workweek. Contact the WA State Department of Labor and Industries at 1 (866) 219-7321 if you have questions about your rate of pay and overtime under these conditions.

Does A Business Have To Pay Me Overtime To Work On A Holiday?

Businesses may choose to pay overtime to workers who work on a holiday, but the law does not require them to do so. This may be required by union contract, however.

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. Businesses can make you work overtime even if you don’t want to, and even on a day that you usually have off. This is not true for nurses. If you have Internet access, find more details for nurses here: www.lni.wa.gov/workplacerights/wages/overtime/nurse/. If you belong to a union, your contract may prevent your employer from making you work overtime.

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 each pay period. 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. Comp time is considered a benefit to you and your employer cannot make you take comp time instead of overtime pay.

- If you do not use your comp time within the year, it must be paid out (cashed out) at the overtime rate.
Exceptions To Paying Minimum Wage And Overtime

The following exceptions are for workers who are not doing agricultural work. Agricultural workers should refer to the “special wage and hour laws for agricultural workers” section below.

Note: If there are differences between federal and state rates or rules about wages, hours and working conditions, the rule most favorable to the worker is the one in effect.

Your employer may not have to pay you the minimum wage if you are a:

- Childcare worker employed by a charitable institution, as long as the charitable institution is "engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States.”

Your employer may not have to pay you the minimum wage or overtime if you are a:

- Newspaper vendor or deliverer.
- Worker in forest protection or fire prevention.
- Casual laborer who works at a private home. One example is: your neighbor pays you to rake his lawn. Note: if you work as a housekeeper, caregiver or gardener on a regular basis at a private home, you are not considered a casual laborer and your employer may have to pay you the minimum wage and overtime. If an employment agency sends you out to work at a private home it is required to pay the minimum wage.
- Worker whose duties require that you live or sleep at your place of employment or who otherwise spends a large part of your work time being on-call. Examples include an apartment manager, maintenance worker, hotel/motel manager or a manager of a self-storage facility.
- Inmates and others in custody.
- Salaried employee or “exempt” employee who makes at least $455 a week.
- Independent contractor, because you are not considered an employee and therefore do not have to receive the minimum wage or overtime. However, an employer cannot avoid paying a worker minimum wage and overtime just by calling someone an independent contractor. Whether a worker is an independent contractor or an employee is legally determined on a case-by-case basis. Please see Chapter 9: Am I An Employee? for more information.

Your employer does not have to pay you overtime if you are a:

- Youth camp counselor with childcare responsibilities.
- Motion picture projectionist under collective bargaining agreement or other contract.
- Seaman on an American or foreign vessel.
- Employees of an air carrier when such hours are voluntarily worked pursuant to a shift-trading practice.

The following jobs require payment of overtime, but workers may be paid on an alternative overtime payment method:

- Truck or bus drivers whose company has a "reasonably equivalent" overtime compensation plan approved by L&I.
• Commissioned salespeople selling vehicles including cars, trucks, recreational vehicles, manufactured housing or farm implements if they receive payment equal to 1.5 times the minimum wage for all hours worked.

• Retail or service establishment workers if they earn more than half of their wages per week in commissions.

• Firefighters and police officers of public agencies who work certain tours of duty.

**Breaks**

*In Washington, Most Workers Are Entitled To Rest Breaks*

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<th>Meal Break: Paid or Unpaid</th>
<th>Breast Feeding Break</th>
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<td><strong>How Long?</strong></td>
<td>10 min.</td>
<td>30 min.</td>
<td>As long as needed</td>
</tr>
<tr>
<td><strong>How Often?</strong></td>
<td>Every 4 hours worked</td>
<td>1 for less than 11 hours total work. 2 for more than 11 hours work.</td>
<td>As frequently as needed</td>
</tr>
<tr>
<td><strong>Is it paid?</strong></td>
<td>Yes</td>
<td>Employer’s choice</td>
<td>No</td>
</tr>
<tr>
<td><strong>Can it be split up?</strong></td>
<td>Sometimes</td>
<td>Paid: Yes. Unpaid: No</td>
<td>No</td>
</tr>
<tr>
<td><strong>Can you choose not to take it?</strong></td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
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• For every four hours you work, you must be given a paid 10-minute rest break.

• If you work more than five hours in a day, you must be given at least a 30-minute meal break that has to come between two and five hours after the beginning of your shift.

• If you work 11 or more hours in a day, you can take at least *one more* 30-minute meal break.

• If you are breast-feeding, you can take as many breaks as you need to pump or breast-feed your newborn for up to one year after the birth of your child. These breaks do not have to be paid. The employer has to provide a place, other than a bathroom, that is private for you to take these breaks.

If you are not able to take a rest break your employer must pay you for an additional 10 minutes of work time. If you work at least 40 hours a week, then the missed-break payment must be at the overtime rate.

Workers in certain jobs can also take several mini-breaks during every four hours of working time. For example, customer service employees in certain business may have downtime during their shift where they can take a “mini break.” Examples of mini-breaks are personal phone calls, eating a...
snack, personal conversations and smoke breaks during a work shift. If these mini-breaks total ten minutes, these can substitute for a scheduled rest break. Whether substituting mini-breaks (or “intermittent breaks”) for scheduled 10-minute rest breaks is legal, is generally decided case-by-case. It depends on the “nature of the business” as well as whether you are actually getting enough “mini breaks” to equal 10 minutes every four hours. A series of 10 one-minute “mini breaks” is not an ok substitute for a 10-minute break. If you are working continuously, like on an assembly line, then “mini breaks” are not allowed, and you must be provided scheduled 10-minute rest breaks.

Your meal break can be paid or unpaid. If it is unpaid, then you cannot be interrupted or called back to work. If you are paid for your meal break and you are interrupted for work, you must be allowed to finish the break later on. You can agree to not take a meal break, but you must take your rest breaks. If you waive your right to a meal break you can change your mind later.

Some public employers are allowed to have different rest and meal break policies, and can also have union contracts that call for different rest break rules. Similarly, employers in the construction industry are allowed to vary from the state meal and rest break requirements with union contracts. Other employers can apply for an exception to the rules with L&I for good cause.

Pay Periods And Pay Statements

You must be paid at least once a month on a regularly scheduled payday. Your wages cannot be withheld indefinitely. Also, 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 the pay period; your total hours worked; how much you earned each pay period (called gross pay); your rate of pay; your overtime pay; whether you were paid by the hour or at a piece rate (by the box, bushel, pound, carton or bin); if you were paid by piece rate, how much you picked, thinned, pruned, etc.; how much money was taken out of your pay (deductions) for items like income taxes, social security taxes, or cash advances and why; and the dollar amount you actually receive each pay period (net pay). A pay statement must identify you and include your employer’s name, address and telephone number.

Employers can require workers to sign up for direct deposit for paychecks, as long as there is no cost to the worker.

Paycheck Deductions

All deductions from your paycheck must be listed and explained on your paycheck stub. Deductions may only be withheld from your paycheck when they are required or permitted by federal or state law. These deductions can include, but are not limited to:

- Federal withholding tax
- Social security
- Medicare/Medicaid
- Industrial insurance (also called workers' compensation)
- Qualified pension plans
- Insurance (medical, disability or life)
Garnishments (money taken out to repay a debt) required by a court order (for example, child support payments)

- Union dues

It is also legal to withhold deductions from your paycheck when you have "okayed" them in writing in advance. Here's an example of requesting a deduction: You took out a loan through your company's credit union and the payments are to be taken out of your paycheck. This is legal because you directed the credit union to do this. You can choose to make a charitable donation by having money deducted from your paycheck. But an employer cannot force you to make charitable donations.

Your employer cannot deduct:

- Payments for loans, housing, transportation, tools or food without your permission.
- Payments, even with your permission, if the deductions for these items reduce your wages to below the minimum wage, or if the company makes a profit from selling you these things.
- Money for unemployment compensation.

In case you break or lose equipment, your employer cannot deduct money to pay for these unless s/he can show that the loss was caused by dishonesty or by something you did on purpose, not just by accident. Even if your employer can show that you did it on purpose, s/he is only allowed to make these deductions from your very last paycheck, and only for things that happened in that final pay period.

Similarly, if a cash register shortage occurs, money may be deducted from your final paycheck only if your employer can show that you were the only person using the cash register and participated in counting the money both before and after the shift.

Deductions from paychecks for cash register shortages or for broken or lost equipment are only allowed if your employer had a written policy in place for these deductions.

**Uniforms**

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

Certain kinds of clothing that you are required to wear on the job are 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. An article of clothing counts as a uniform if it meets one or more of the following criteria:

- Clearly identifies you with the specific business.
- Is specially marked with the business logo.
- Is formal clothing such as a tuxedo, including a tuxedo-type shirt, tie, cummerbund, etc.
- Has a specific unique theme. Examples: A store requires you to wear a Hawaiian shirt as a theme for a special sale. A Mexican restaurant requires you to wear clothing that represents Mexico.

Some required clothing is not considered a uniform and you might have to pay for it. It is not considered a uniform if you are required to wear certain colors for tops and bottoms that are considered common such as:

- White, tan or blue, for tops.
- Tan, black, blue or gray for bottoms.

For example, the most common colors required by employers are white blouses or shirts and black pants or skirts. You must buy this clothing yourself, even though it is required by the business. However, if you have to wear a white blouse to work but it has the business logo on it, it is considered a uniform and your employer must pay for it. Also, if your employer changes the dress code from one common color to another within two years of setting the dress code then the employer has to pay to replace the clothes you bought.

**What About Footwear?**

Footwear is not mentioned directly in the laws about uniforms. But L&I has decided that if, for example, an employer requires you to wear cowboy boots because of a western theme, or formal shoes to go with a tuxedo, s/he has to pay for the shoes. If your employer requires certain brands of footwear to identify you with the company, your employer must also pay for the shoes.

**What About Extra Clothing For Bad Weather/Other Circumstances?**

If your job puts you in circumstances that require you to clean and/or repair your work clothes more than usual, your employer must provide at least one extra outfit for you to wear. However, your employer does not have to provide rain jackets and other clothing for bad weather.

**Personal Protection Equipment And Clothing**

In general, for jobs where you could be injured, your employer is required to provide, free of cost to you, safety wear such as work/safety gloves, helmets, goggles, and other clothing to protect you from injury or sickness on the job. There are a few exceptions that you may have to pay for, like safety glasses that are made with a personal prescription, and certain safety shoes that you can use outside of work such as steel-toed boots. In general, most safety equipment should be provided for you.

**What If My Beliefs Conflict With The Dress Code?**

Because of non-discrimination laws in Washington State, religious or cultural beliefs cannot be reasons to fire or prevent you from getting promotions/hired, and this includes dress codes. If you have a religious belief so you cannot follow the dress code that your employer wants, the employer should make an exception for you. If your beliefs say that you must not shave your beard, while your employer has a no-beard rule, your employer and you should discuss how to make a reasonable exception for you and what different rules can apply. Employers are also not allowed to ban cultural clothing (for example, saris or turbans). Even if there is a small cost, your employer should still help you keep the job while practicing your beliefs.

Your employer is not allowed to deny you an exception to the dress code just for “company image” or “customer satisfaction.”

The only time an employer does not have to make an exception for beliefs is if it is a safety issue or if there is a law that specifically does not allow something. For example, some state health codes have restrictions on hair length if it could get caught in moving machinery.
What If The Dress Code Discriminates Between Male And Female Employees?

Under state and federal law, employers cannot use dress codes to discriminate between male and female workers. The Washington Human Rights Commission has stated that any transgender person must be allowed to dress as the gender they identify with. Because the social standards for what men and women wear are different, though, it is more difficult to tell whether or not a dress code discriminates. For example, a dress code that has women wear the same “formal” style as men and includes “skirts” or “dresses” as one of the options of clothing for women, would be fine. A dress code that requires women to wear skirts without requiring men to also wear formal clothes would not be legal.

The requirements for a dress code to be fair for both men and women are:

1) The dress code must follow basic social norms.
2) The differences in dress codes must be small.
3) The dress code for one gender cannot be harder to follow than the other.

For dress code discrimination issues and questions, contact:

Washington State Human Rights Commission
711 S. Capitol Way, Suite 402
Olympia, WA 98504
www.hum.wa.gov
800-233-3247 or 360-753-6770

Benefits

Benefits are things that employers can offer employees above and beyond wage and salary. 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. Most benefits are optional and employers are not required by law to provide them for employees. However, if your employment contract includes benefits, your employer does have to follow the contract. Most unions will negotiate benefits for members in a collective bargaining agreement.

Health Insurance And The Affordable Care Act

The Affordable Care Act (also known as “Obamacare”) actually refers to several laws that make up a larger health care reform. It was signed into law in 2010 with different pieces of the law taking effect at different times. Among other things, the law prevents insurance companies from denying people coverage for pre-existing conditions, allows young people to stay on their parents insurance until they are 26, expands the government-funded insurance program Medicare for low-income people, and requires many employers to provide health insurance for full-time employees. The law also lowers the cost of private health insurance for many people who do not receive health insurance from their employers, such as part-time employees and independent contractors. The law covers U.S. citizens and immigrants who are lawfully in the United States.

For information on how the law affects you and how you can sign up for health insurance, see: www.healthcare.gov and www.whitehouse.gov/healthreform/. For information on the Affordable Care Act for immigrants see: www.healthcare.gov/what-do-immigrant-families-need-to-know/. To sign up for health insurance, visit www.wahealthplanfinder.org.
Employer Record-Keeping

Your employer must keep a record of all the information that is on your pay statements and your dates of employment. Your employer must keep these records for the entire time you are working and for three years after you leave the job. This is true for both non-agricultural and farm workers.

What Is In My Personnel File?

Generally, your personnel file may contain business or legal papers, job descriptions, your qualifications to do the job, proof of completed training and your supervisor's notes. It can also contain performance evaluations that include records used by your employer to write references for you. The government has no control over the information a business gives for a reference or if the business refuses to provide one at all. However, your old employer cannot lie about you or your job performance to a future employer. If they do, and you don’t get the job because of it, you could sue your old employer in court.

Can I Ask To See My Personnel File?

Yes. You can ask to see your personnel file at least once per year. If you ask, your employer generally must show you your file within 10 business days. You also have the right to see your file up to two years after you stop working there. If your employer has written something negative about you in your file, you have the right to add your side of the story to the permanent record during this period. If you are in a union, you have the right to have your union representative with you when you do your file review. Unfortunately, farm workers do not have the right to see their personnel files.

You Have The Right To Try And Improve Your Working Conditions (Concerted Activity)

The National Labor Relations Act (NLRA) protects the rights of most private sector employees to take action with coworkers to try and improve working conditions, pay or other issues on the job. This is called “concerted activity.” You do not need to have a union to have the right to engage in concerted activity. You may also be protected if you act alone on behalf of other workers if you discussed it with your coworkers beforehand.

The NLRA is a federal law that covers most private-sector workers as well as Postal Service employees. In Washington, most state or local government employees have similar rights under the Public Employees Collective Bargaining Act and the Public Service Reform Act.

Special Wage And Hour Laws For Agricultural Workers

Agricultural work includes growing, producing and harvesting farm/nursery products as well as working with livestock, bees, sheep, goats, poultry or wildlife. It also includes packing, packaging, grading, storing, or delivering to storage, or to market, any agricultural or horticultural good, but only if this work is done directly with the farm that produces it. It also includes doing work in the forest industry, like planting, transplanting, tubing and thinning trees/seedlings or clearing, piling and disposing of brush and slash.

"Agricultural labor" does not include work in commercial packinghouses, commercial storage establishments, commercial canning, commercial freezing or any other commercial processing. It
also does not include most work with oysters or mushrooms or any work done with a product after it arrives at the market or grocery store to be sold to consumers.

**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 wage,* $9.32 in Washington State in 2014. *Migrant farm workers must be paid the minimum wage or equivalent.* Your employer must keep track of actual hours worked as well as the piece rate units or salary payment. If the piece rate or salary payment does not equal minimum wage in each workweek, your employer must pay the difference. It is a good idea for you to keep track of your hours as well in case you have problems getting paid.

For example, let’s say you work harvesting beets and you are paid based on the number of beets you pick in a shift. During one week, you picked 3,000 beets during five eight-hour shifts. Your piece rate was 10 cents per beet. You were paid 10 cents x 3,000 = $300.00 for the week. The Washington State minimum wage in 2014 is $9.32 per hour. You worked 40 hours that week so you should have received $9.32 x 40 = $372.80 for the week’s work. Your employer must pay you the extra $72.80. Remember: *your minimum salary = hours worked x minimum wage ($9.32 in 2014).*

Please note that 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.

Your employer, the farm labor contractor, must have a license issued by the WA State Department of Labor and Industries and a bond (certificate) that ensures payment of wages to you and other workers. The farm labor contractor must show you this license.

**Can An Employer Ever Not Pay Me Minimum Wage?**

Your employer does not have to pay you *the minimum wage or overtime* if all of the following are true:

- You are employed as a hand-harvest laborer, and you are paid on a piece rate basis in an operation where such payment is customary; and
- You are a permanent resident and commute daily from your own residence to the farm; and
- You have been employed in agriculture less than 13 weeks in the last calendar year. For example, a teen or adult worker 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 the minimum wage.

Your employer also does not have to pay you *the minimum wage or overtime* if:

- Your work requires that you live or sleep at your place of employment or otherwise spend a large part of your work time being on-call. An example would be a sheepherder. Note: If there are differences between federal and state rates or rules about wages, hours and working conditions, *the rule most favorable to the worker is the one in effect.* Under the federal Fair Labor Standards Act, a person who is required to sleep or live at her/his place of business *may* qualify to receive the minimum wage and overtime pay. Contact the U.S. Department of Labor, Wage and Hour Division for more information. Contact information for the U.S. Department of Labor is listed in the *Resources* chapter at the end of this manual.
Your employer does not have to pay you overtime if:

- You are employed on farms or ranches owned or leased by the farmer (this includes most field workers). But overtime pay applies to workers in packing or processing businesses.
- You are a seasonal worker at agricultural fairs and you have not worked more than 14 days per year at any such fair.

**Breaks**

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

- One 10-minute paid rest break for each 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.

**Filing A Lien Against An Employer**

If your employer is not paying you what you are owed, you can follow the same suggestions for all workers in the section below: *What If My Employer Does Not Pay Me What I Am Owed?* As an agricultural worker, you also have the option of filing a lien against your employer’s crop or orchard, if s/he owes you money.

Filing a lien is a legal process. It forces your employer to sell some or all of his/her crop or property to pay you. If you send notice of the crop lien to the crop buyer or to the packing shed, then when the crop is sold, they must pay you your wages instead of paying that money to your employer. If you have a lien and have given the correct notice, but you don’t receive your wages when the crop is sold, you may sue the packing shed or crop buyer to recover wages from the proceeds of the sale of the crop. These liens have to be filed quickly — within **40 days** from the last day of work or 40 days from the end of the season (depending on what type of lien). If you need to file a lien, you should contact a lawyer right away. For information on free or low-cost lawyers, see the list of legal resources in the Resources chapter at the end of this manual.

**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 contract with your employer, s/he must give you written information that tells you:

- The place where you will work.
- Your wage rate (hourly or by contract).
- The work that you will do, including the crop that you will pick.
- How long the job will last.
- Whether housing, transportation or other benefits are offered and how much they will cost.
- Whether your employer or crew leader will receive a commission or other benefit by selling goods like food, clothing or tools to you.
- Whether you are going to be working where there is a strike or work stoppage.

When you are paid, your employer must give you written information about your wages that includes:

- How much you earned.
Chapter 1: Basic Workplace Rights

- How many hours you worked.
- Whether you were paid by the hour or at a “piece rate” (by the box, bushel, pound, carton, bin).
- If you were paid by piece rate, how much you picked, thinned, pruned, etc.
- If money was taken out of your pay, like income taxes, social security taxes or cash advances you received, the written statement must tell you how much was taken out and why.
- If money was taken out of your pay for voluntary services, like housing, transportation or food, the statement must tell you how much was taken out and why.
- The employer’s name, address and telephone number.

If you live locally (you are not a migrant worker) you also have the right to receive this information in writing, but you must ask for it. Federal law says that your employer must give you this information in your native language.

It is against the law for your employer to discriminate against you (punish you or treat you worse than someone else) for asking for this information. If you don't receive it, ask for it. If you have problems or want more information, contact the Northwest Justice Project through the CLEAR legal service referral system. Contact information for CLEAR is listed in the Resources chapter at the end of this manual.

Workers Under Age 18 In Agriculture

Agricultural workers under the age of 18 have special rules that they need to follow and laws that protect them. Below are a few, please see Chapter 8: Young Workers, New Jobs for more information.

- Workers under age 18 that are supposed to attend school may not work during school hours except with special permission from their school.
- Minors under the age of 16 may work up to three hours a day on school days, up to eight hours a day on non-school days and up to 21 hours a week during weeks when school is in session.
- On days when school is in session, people under the age of 16 who work in animal agriculture or whose job in crop production requires daily attention to irrigation, may start work at 6:00 a.m.
- Except for minors who work in dairy or livestock production, in the harvest of hay, or whose job in crop production requires daily attention to irrigation, no minor can work more than six days in any one week.
What If I Think My Employer Did Not Pay Me What I Am Owed?

Wage Theft

When your employer does not pay you the correct amount, it is called wage theft. Wage theft is a problem in all industries, but most commonly affects low-wage workers. **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 for missed breaks.
- Forcing you to work “off the clock.”
- Not paying minimum wage.
- Not paying you the amount you agreed upon.
- Not giving you all of the tips you earned, or requiring that you split them with management.

What To Do

One of the most important things to do in protecting your right to be paid the correct amount is to keep records:

- Keep any business cards or letterhead with your employer’s contact information.
- If you are working as a day laborer or construction worker, record your contractor’s license plate number. You should keep a record of the street address of all work sites. If no street address is apparent, note the cross streets.
- If you have a phone, take pictures of the site and the work you performed, and communicate with your employer or contractor by text so that you document your conversations.
- Keep any payroll stubs or receipts you get from your employer.
- Every day, write down the time you started working and the time you stopped, whether you got breaks, and how many pieces you did if you are being paid by the piece (picking fruit, taping drywall, etc). If you are paid in cash or by check without a check stub, write down how much you were paid. If you worked at more than one site in a day, keep track of the time you spent at each site. You can use a pocket calendar to do this.

Your records are evidence in a claim for unpaid wages. Many employers do not follow the legal requirement to keep accurate records showing how many hours their employees worked, the wages they earned and their payroll deductions. 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, you can:

- Go through the Labor and Industries wage complaint process (described below).
Take your employer to court to sue for unpaid wages (described below).

File a lien against the property where the work was performed.

File a complaint with the police department, if you live in Seattle. In Seattle, wage theft is now a crime, and the city has the power to put your boss in jail and take away your boss’s business license if he or she is found guilty. The city has the ability to recover your unpaid wages through restitution. 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/.


Before you decide what to do, you may want to talk to a lawyer so you can decide which process — court or L&I — is best for you. You cannot pursue a court action and the L&I wage complaint process at the same time. Either option must be started within three years of the date that the wages are owed. For information on free or low-cost lawyers, see the list of legal resources in the Resources chapter at the end of this manual.

REMEMBER: If you are not getting paid, your co-workers are probably not getting paid either. Encourage your co-workers to keep records to protect their rights. The more workers there are, the more pressure there is on the employer to obey the law. You should consult with an attorney, Labor and Industries, or Casa Latina before deciding the best option to take. Find contact information in the Resources chapter at the end of this manual.

If you are in a union, and you feel your contractual rights regarding pay have been violated, contact your union representative. The union can file a grievance on your behalf.

If you do file a complaint, your employer cannot legally fire you for filing the complaint. However, it is a good idea to make sure you carefully follow company policies and procedures so that your employer cannot fire you for another reason while your complaint is being investigated.

Small Claims Court

You do not have to go through the Labor and Industries Wage Complaint Process to collect your wages. You can go to small claims court yourself, or hire a lawyer to help you collect the money you are owed. If you have Internet access, information on going to small claims court can be found at www.washingtonlawhelp.org.

What Can I Get If I Take My Employer To Court?

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 are also entitled to double the amount of wages owed if your employer “willfully” failed to pay you. Willfully failing to pay wages means that your employer knew that they were supposed to pay you and still didn’t pay you all your wages. There are cases where it is not a willful failure, for example, if your employer made an honest mistake, but most of the time when an employer doesn’t pay, it’s willful. For example, if your employer just doesn’t have the money to pay, it’s still willful failure to pay. In general, you must file either a court action or an L&I complaint within three years of the date the wages were owed.
The Labor And Industries Wage Complaint Process

The 2006 Wage Payment Act gives Labor and Industries (L&I) the power to help you get paid what you are owed. The agency is required to investigate worker complaints and can collect salaries owed to workers. The Wage Payment Act protects public and private employees.

If you don’t receive your paycheck on time, or your paycheck deductions are incorrect, you can file a complaint in writing with L&I. L&I will investigate and if they decide that your employer owes you money, they can make him/her pay you. You can also decide you don’t like this administrative process, and take your employer to court instead.

Contact information for L&I is listed in the Resources chapter at the end of this manual.

What Can I Get Through The L&I Wage Complaint Process?

If L&I decides that your employer broke the law, L&I can only collect the wages and interest owed. L&I cannot collect double the unpaid wages for you, even if the failure to pay was "willful." L&I may fine your employer, but the money collected for the fines would go to L&I, not to you. In some cases, you may want to complain to L&I instead of going to court (for example, if going to court might take too long or be too expensive). The L&I process is free and most complaints are investigated in 60 days or fewer.

How Does The Labor And Industries Wage Complaint Process Work?

You must sign a letter or complaint form for L&I to start an investigation. Remember that the agency will only accept claims for actual hours worked and other amounts that count as wages. This might not include things such as bonuses, vacation pay or holiday pay that you think you are owed.

Labor and industries will investigate the complaint and within 60 days make either:

1) A “citation and notice of assessment” (a citation is like a traffic ticket but more serious) requiring the employer to pay the unpaid wages, plus interest at one percent per month, or
2) A "determination of compliance" (decision) that your employer did not break the law and does not owe you anything.

If you think the L&I investigator is going to side with the employer, you can withdraw your complaint. Usually, if you call the investigator, s/he will tell you what they are going to decide. If you are going to lose, and you withdraw your L&I complaint, you can still go to court. If you wait until after L&I issues the “determination of compliance” and your employer wins, the only option you have is to appeal within the L&I process (see below).

The agency has to send a copy of its decision to both you and your employer. If the agency decides against your employer for the unpaid wages, your employer can avoid paying a fine to L&I by paying the wages owed plus interest of one percent per month within 10 days after receiving the decision.

If you agree with L&I’s decision: Accept your employer’s check for the unpaid wages and interest that L&I decided was owed. When you do this, you give up the right to object to L&I’s decision and may not bring a court case against your employer for those unpaid wages.
What If I Do Not Agree With Labor And Industries' Decision?

If L&I issues a “determination of compliance,” siding with your employer:

You can file an appeal of L&I’s decision within 30 days of the decision. You can appeal if you think that L&I was wrong in deciding that no wages are owed or if you think that L&I found an amount of wages owed that is too low. Your employer can also appeal L&I’s decision if your employer disagrees with the decision.

If L&I issues a “citation and notice of assessment” siding with you but you want to go to court anyway:

You have 10 days to quit (“opt out”) of the L&I process after you receive the decision. This is like saying, “you’re right L&I, but I think I can get my double damages if I go to court.” If you do not “opt out,” the decision will stand, and you will give up your option to go to court.

What Happens After My Employer And I Accept L&I’s Decision?

If you do not quit the L&I administrative process by writing to L&I, and neither you nor your employer appeals the decision by L&I, then the decision is final. When any appeals are over and L&I’s decision is final, L&I tries to collect wages for you.

The Lien Process

If you worked on a construction project or improved a property, a construction lien is a powerful tool to help recover unpaid wages. Certain employees have the right to enforce a claim for unpaid wages by filing a lien against the property where improvements were performed. This claim is known as a construction lien (formally known as a mechanic’s lien). Agricultural workers also have the right to file a lien. For information about agricultural liens see the section on agricultural workers in this chapter.

Who Can File A Lien?

Any person that supplied labor, professional services, materials, or equipment for the improvement of real property (land, buildings, houses) can file a lien. Improvement generally means construction, altering/repairing, remodeling, demolishing, clearing any real property; or planting trees, vines, hedges, lawns, or providing other landscaping materials.

When Do I Have To File A Lien?

You must file a lien within 90 days from the last day of work.

How Do I File A Lien?

Filing a lien is a legal process. The lien may prevent the sale of the property and transfer of title. If you need 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.
Privacy In The Workplace

Your right to privacy at work is a developing area of the law. Lawsuits that workers have brought to court have been decided on a case-by-case basis. The court takes into account both the employee’s right to privacy and the employer’s interest in protecting their property and ensuring efficient use of employees’ time.

The widespread use of 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. Generally, in Washington, it appears we are moving in a direction that is favorable to workers. This will continue to evolve and change as workers, employers, the Legislature, L&I and the courts grapple with the question of what amount of privacy you can expect at your job. For a more detailed review of your privacy rights at work visit the website: http://www.workplacefairness.org/privacy.

Video/Audio Monitoring At Work

Is My Boss Allowed To Videotape 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.

Tracking And Tracing Data

Can My Boss Monitor My Phone, Email And Computer While I Am At Work?

Yes, your employer can legally view, trace and record all data that goes through their company-owned property. Many employers keep tabs on:

**Telephone**
- Phone calls. Except: your boss is supposed to hang up if they are listening to a call and realize that it is personal
- Employer-issued cell phones
- Text messages
- Voice mail – including deleted messages
- Headsets

**GPS-tracking on company-owned vehicles**
- Location
- Speed
- Where and when breaks are taken

**Email**
- All messages sent and received from company computers or email addresses, including deleted messages

**Computer**
- Browsing data (what websites you visited, uploads and downloads)
- Keystrokes
- Display screen
- All files stored on a company desktop or laptop computer

**Postal mail**
- Any mail addressed to you or the company that is delivered to the company address
Workplace Searches

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

It depends. There are no clear guidelines and cases are decided on an individual basis. Generally, public employees can expect more privacy at work because the constitutional right to privacy protects them. Public employers can usually only search their employees’ persons, desks and property when they have a reasonable suspicion of wrongdoing. Private employees have fewer rights. If your employer has a policy that states that they may conduct searches of you or your belongings, then they probably have the right to do so. However, if they do not have such a policy, and workers can prove that they have a “reasonable expectation of privacy,” then it may be illegal for the employer to conduct certain searches.

Social Media

E.g. Facebook, tumblr, twitter etc.

Can My Boss Look At My Social Media Accounts?

If it is publically accessible online, your employer is allowed to look at. The question of whether or not the employer can use that information against you is still unclear. It is best to be careful and not post anything publicly that you don’t want your boss seeing.

Can My Employer Require That I Give Her My Facebook Password Or “Friend” Her?

No. In many states, including Washington, your boss (or future boss) is not allowed to demand that you give her/him your Facebook or other social media password during the hiring process or any time afterwards. Your boss is also not allowed to demand that you give her/him access to your profile or account in any other way, including requiring that you “friend” her/him or making you log in and then looking over your shoulder at your profile.

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

That depends. In some cases, talking about your working conditions online or in person with your coworkers is protected as “concerted activity” under the National Labor Relations Act. But if you are “merely griping,” you may not be protected and so you could lawfully be fired for it. There are two important factors when considering whether your actions are protected: the content of your complaint and whether you are acting in a group or alone.

<table>
<thead>
<tr>
<th>Content</th>
<th>Protected?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Talking about your working conditions such as wages, breaks or safety</td>
<td>Probably yes, if acting as a group</td>
</tr>
<tr>
<td>Complaining about the company’s products or your general dislike of a supervisor or coworker – with no intent to improve the situation</td>
<td>Probably not</td>
</tr>
</tbody>
</table>

For example, a group of five construction workers in Washington State made a video about how unsafe their working conditions were and posted it on YouTube. The boss found the video and fired
them all. The workers contacted the National Labor Relations Board, which determined that they were acting to improve their working conditions through concerted activity, and so the employees won back the wages they had lost after being terminated.

Please see Chapter 12: Organizing to Make Things Better At Work for more information on concerted activity.

Health Records and Genetic Information

Many employers will have access to some of your medical information. For example, they may get information through private and group insurance plans, conversations they have with you or your coworkers, worker’s compensation claims and company clinics. There are some rules regarding how your employer can get medical information and what they can do with it. The following is a brief outline. For a more in depth look at this important topic, visit the website http://www.workplacefairness.org/privacy.

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 administer accommodations for you, 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 real work-related reason for it.

Your employer generally cannot:

- Share your medical information unless it is for a legitimate business reason – for example, for insurance reasons or to a supervisor in order to accommodate a disability.
- Ask your doctor to give him or her information about your health without your approval.
- Require you to take medical tests before you are offered a job.
- Keep your medical files in the same place as your regular personnel files.
- Request or share your genetic information, including genetic test results for you or your family, or your or your family’s medical history.
- Share with others that you are taking leave for domestic violence (except for legitimate business reasons). They also cannot demand details about a domestic violence incident.
- Demand details of your medical condition above and beyond what is necessary for them to make accommodations for you.

Drug Testing

Private Employers

Washington State does not have a specific drug testing law, so there isn’t much protection. Many employers also have substance-free workplace rules, so drug tests can be conducted in order to make sure you are following that rule.
Public Employers

Public employers in Washington State have more restrictions about when they can test you for drugs than private employers. They must prove that there is a good reason for the drug test and that the drug test has to be given for a “special need” of the government. Federal and State employees whose jobs affect public safety, for example, bus and train drivers, pilots, doctors and nurses, police officers and fire fighters, prison guards, can be randomly asked to take a drug test. This standard does not apply to private employers, who can require a drug test at almost any time.

When Can I Refuse A Drug Test?

There are some situations where you can refuse a drug test because you are protected by federal law.

- If you think that your employer may be asking you to take a drug test mainly because of your age, race, religion, or gender, this is discrimination and you can refuse the drug test.
- The Americans with Disabilities Act also protects you from being fired or turned away if you test positive for a drug test prescribed by a doctor to treat your disability.
- Your employer must also pay for the drug test; they may not ask you to pay for the drug test yourself.

For More Information:


You can also refer to Chapter 6: Discrimination if you believe that an employer is discriminating against you by making you take a drug test or wrongly accusing you of having tested positive.

For Union Members: What Are Weingarten Rights?

The National Labor Relations Act gives workers the right to assistance from union representatives during "investigative interviews" (meetings between you and management which you think could lead to discipline). This is what is known as your Weingarten Rights. Examples of investigative interviews include conversations about you not showing up for work, accidents, damage to company property, lateness, poor attitude, poor work performance and more.

If you think that your managers are asking you for information and you believe that you may be disciplined (punished) or some other negative result will happen based on what you say, then you have a right to have your steward or some other union rep present during this conversation. Your employer has no obligation to tell you about these rights; you have to ask to have your union rep with you. You can request union representation before or during the interview.

Currently, only employees represented by unions have Weingarten Rights. For more information on your Weingarten Rights and other rights you have as a union member see Chapter 12: Organizing to Make Things Better At Work.
You Have The Right To Defend Your Workplace Rights

Retaliation

Retaliation is any negative action that your employer takes in response to you standing up for any of your workplace rights. **Retaliation is not legal, but it is very common.** You should use caution and remember that the best protection is working in solidarity with your coworkers or union. The law protects you from employer retaliation when you are doing any of the following:

- Filing a workers’ compensation claim.
- Advocating for any of your workplace rights.
- Filing a complaint about discrimination.
- Filing a wage theft complaint.
- Engaging in union activities.
- Complaining about unsafe conditions.

These are some forms of retaliation:

- Firing or laying you off.
- Giving you a worse job.
- Reducing your hours.
- Assigning you to an undesirable shift.
- Denying you a promotion.
- Reducing your wages and/or benefits.
- Writing disciplinary letters or bad evaluations while you are performing your job perfectly well.
- Reporting you to authorities if they think you are an undocumented worker.

If your employer illegally 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 private organization. The misconduct may be categorized as discrimination, fraud, corruption or health and safety violations.

State and federal employees can also report suspected improper governmental action in performance of the employee’s official duties, which include:

- Serious waste of public funds or resources.
- Major violation of federal or state law or rule.
- Danger to the public health or safety.
- Major mismanagement.
- Changes to scientific findings or efforts to stop scientific findings from being made public.

Whistleblowers may tell people within their organization or regulators, law enforcement agencies, the media or groups concerned with the issues.

Even though it is in the best interest of the organization to change their practices to make them legal, there is a risk that the person who made the report will be treated badly for making the report. Whistleblowing policies and laws are meant to protect the whistleblower from any retaliatory actions.

Examples of retaliatory actions are listed above. Remember it doesn’t have to be your supervisor or manager retaliating. Retaliation also includes hostile actions by another employee towards the whistleblower that were encouraged by a supervisor, manager or official.

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

Any current Washington State employee may report a suspected 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. Improper governmental action(s) may be filed in writing with any designated public official or with the state auditor’s office within one year after the occurrence of the action.

To preserve confidentiality, do not email any whistleblower forms. All whistleblower correspondence should be marked “confidential” and sent to the state auditor’s office. The electronic whistleblower reporting form is available on the state auditor’s office website at: www.sao.wa.gov/en/audits/whistleblower/pages/whistleblower.aspx/. Contact information for the Washington State Auditor’s Office is listed in the Resources chapter at the end of this manual.

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.

**What Do I Do If My Employer Retaliates Against Me For Whistleblowing?**

If you are a local government employee, you should write down retaliatory actions and deliver it to the head of the local government within 30 days of the action. The local government then must respond within 30 days. Once the employee has received the response, or if the 30 days is over, the employee may request a hearing before an administrative law judge (ALJ). The ALJ can order the employer to rehire and possibly repay the employee, and possibly pay the local government up to $3,000. A superior court judge can overturn the final decision of the administrative law judge.

If you are a federal employee and believe that you have been subject to retaliation for protected whistleblowing, you can also file a complaint with the U.S. Office of Special Counsel. Contact information for the U.S. Office of Special Counsel can be found in the Resources chapter at the end of this manual.

The Occupational Safety and Health Administration (OSHA) also protects whistleblowers reporting violations of workplace safety, transportation industries, and consumer and investor agencies. The Occupational Safety and Health Act prohibits employers from discriminating against their employees for filing an OSHA complaint, participating in an inspection or talking to an inspector, and raising a safety or health complaint with the employer. OSHA’s contact information is listed in the Resources chapter at the end of this manual.
Whistleblower Advocacy Groups

Government Accountability Project
1612 K Street, NW Suite #1100
Washington, D.C. 20006
Phone: 202-457-0034
Website: www.whistleblower.org/

National Whistleblower Center
P.O. Box 25074
Washington, D.C. 20027
Phone: 202-342-1903
Website: 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, or if a union represents you, or you meet with an arbitrator. Your employer will have notes of conversations that you may have had, and you will need to have your own set of notes.
Chapter 2
Health And Safety

(Keith Weller, USDA-ARS photo library)
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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. State and federal laws help make sure that your workplace is safe. Plus, many union contracts make health and safety requirements even stronger. Read on for more about the law and what you can do to stay safe on the job.

**Government Agencies**

There are state and federal laws that protect workers. The following are the agencies that you can turn to for help:

- **Washington State Department of Labor and Industries (L&I):** L&I is the Washington State government agency that deals with worker safety. It is supposed to help both workers and employers meet the safety requirements of the state, and manages benefits for workers who are injured on the job. Please see Chapter 3: Injury On the Job And Workers’ Compensation for more information.

- L&I is a large agency that can be helpful for information, but regarding health and safety specifically, it will direct you to a division within it known as DOSH, described below.

- **Division of Occupational Safety and Health (DOSH):** DOSH is a division of L&I that is in charge of interpreting the laws on health and safety in the workplace, and making sure the public knows about the 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 for your particular job type. DOSH is also the branch of L&I that is responsible for making sure your workplace is safe and that you are working in a healthy environment. They will come to a workplace to inspect for unsafe working conditions. For example, DOSH inspectors will look for unsafe ladders, machinery, electrical equipment, chemicals, or gases.

- The toll-free number for health and safety assistance at L&I is 1 (800) 4BE-SAFE. If you need help filling out a complaint form, you can also contact your local L&I office and ask to speak to the DOSH officer. You can remain anonymous when making a complaint to DOSH. Contact information for DOSH is listed in the Resources chapter at the end of this manual.

- **Occupational Safety & Health Administration (OSHA):** OSHA is the department of the federal government that creates health and safety rules for most workplaces and makes sure they are being followed. 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

Washington State law requires your employer to keep you safe. The Industrial Safety and Health Act says that your employer must:

- Provide a safe and healthful 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 be tailored to 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 "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/

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. See Chapter 3: Injury On the Job And Workers' Compensation for more information.
- Cooperate with government inspectors.

Safety Committees and Safety Meetings

If your employer has more than 11 people working at the same time and the same location, s/he must set up a workplace safety committee with a group of workers who will represent all the other workers at your workplace. The workers themselves should elect at least half the worker representatives. If your employer has fewer workers, they can choose to have an employee safety meeting with all workers instead.

Safety meetings must be held at least monthly. There are a lot of rules for what must be covered in the meetings or by the committee. For more information, visit:
www.lni.wa.gov/wisha/rules/corerules/.
Work-Place Requirements

First Aid Kits

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

Ergonomics

Ergonomics is the name for the science that studies how people sit, stand or interact with desks or machines. Sitting or standing or stooping in certain ways can cause serious injury. In fact, the majority of workplace injury claims are related to ergonomics. There is no single rule for this. Instead, for information on recommended prevention of health problems related to ergonomics for your type of occupation, visit this web site: www.lni.wa.gov/Safety/Topics/Ergonomics/

Generally, employers must make a reasonable effort to accommodate an employee’s medical condition. For example, this may mean providing a standing desk if you are unable to sit for long periods of time. Note, there are certain exceptions to this rule and it will depend on your situation. For more information about accommodations see Chapter 6: Discrimination.

Hazardous Substances

A law called 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. Your employer also must tell you how to find a list of hazardous chemicals used in your work place. The Department of Ecology is responsible for the Community Right-to-Know portion of the law, which helps citizens learn about hazardous chemicals in their neighborhoods. For more information about Community Right-to-Know, call the Department of Ecology toll free at 1 (800) 633-7585.

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.

When working in the sun, you should drink one glass of water every 15 minutes. You can also protect yourself by avoiding alcohol, caffeine drinks and heavy meals. Wearing lightweight, light-colored, loose clothing and a hat will also help you stay cooler.

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, may be hot, but they 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 changes in the workplace don’t make you sick. If you smell something that you think could be toxic, you should report it to your employer. If your employer does not fix the problem, you can report it to DOSH.

For more information and what you can do, visit: 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 federal and state 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. For instance, you must be protected when working on ladders or roofs, no matter the height off the ground or your specific job. Your employer must provide enough training, prevention and equipment based on the work you do. For more information specific to your job site, see: www.lni.wa.gov/Safety/Topics/AtoZ/fallprotect/

Lock Out/Tag Out Rule

Workers can be seriously injured or killed by accidents with many kinds of machinery. Under the "Lock Out/Tag Out" rule, your employer has to say which workers can start and stop equipment or machinery that if accidentally started up could be dangerous. These employees must be trained on the particular equipment. A "lockout" device, such as a combination lock must be placed on the machine and only certain workers who are trained to start and stop the machine have the combination. An eye-catching warning device, such as a tag should also be put on the machine to show that the machine or equipment may not be operated until the "tagout" device is removed.

Breaks And Meals

You are entitled to breaks and meals at your workplace. Please see Chapter 1: Basic Workplace Rights for more information. The timing and location of your breaks may affect your health and safety though, so you may make a safety complaint if you feel breaks are not given correctly.

Your employer cannot set unreasonable restrictions on the access or time of bathroom use. If you have questions about your employer’s bathroom break policy and you do not have a union, call OSHA. Contact information is listed in the Resources chapter at the end of this manual.

Paid Sick Leave

If you work in the City of Seattle and your company employs more than four workers, you are entitled to paid sick leave. You earn paid sick leave based on the number of hours you work and the size of the company you work for. Please see Chapter 5: Taking Time Off From Work, for more information.
Occupation-Specific Laws

State laws have specific rules for different types of work. Below are some examples of types of work and the requirements set by the state.

Construction Work

If you have Internet access, you can see the complete list of safety and health regulations for construction jobs at www.lni.wa.gov/wisha/rules/construction/.

If you have a question about health and safety in construction work, contact the L&I Division of Occupational Safety and Health. Contact information for L&I is listed in the Resources chapter at the end of this manual.

Equipment

It is against the law for your employer to allow you to use machinery, tools, materials or equipment that is not up to standards described in detail in the Washington Industrial Safety and Health Act. Employers must make sure that unsafe equipment is tagged or locked so it can't be used, or they must remove it from the worksite.

Training, Experience, and Qualifications

You must be qualified by training or experience to operate equipment and machinery. The specific training and experience requirements vary, so check the list of safety and health regulations for construction jobs linked to above.

Safety Guards

If your employer buys a machine with a safety guard from a manufacturer, your employer is required to leave the safety guard on and you are required to use the guard.

Warnings

Your employer must leave warning labels on machines, and you are expected to read them.

Clothing

When you are working around moving machinery, your employer must make sure that you wear at least a short-sleeved shirt, long pants and strong non-slip shoes with toe protection. You cannot wear loose or ragged clothing, scarves or ties. Also, you should not wear dangling neckwear, bracelets, wristwatches, rings or similar articles.

During daylight hours, if you are working close to moving vehicles, your employer must make sure you wear a high-visibility safety vest, shirt or jacket that is fluorescent yellow-green, fluorescent orange-red or fluorescent red. You must always wear it on the outside of your clothes. When it’s dark out, you must wear a high-visibility safety vest, shirt or jacket that can be seen from every direction.

Personal Protective Equipment (PPE)

Any time you might touch or inhale a hazardous substance that could hurt you, you must wear Personal Protective Equipment (PPE). Such equipment may protect your eyes, face, head, hearing, legs and arms. It may be clothing, protective shields and barriers, or a device that protects your lungs. The equipment must be maintained in a sanitary and reliable condition. If
you bring your own protective equipment to work, then your employer is still responsible for making sure that the PPE is adequate, properly maintained and sanitary.

Also, your employer must provide you with your own hard hat, for free.

If your job requires protective equipment, your employer must pay you for the time you spend putting on the PPE and taking it off. For more information on when your employer must pay you, see Chapter 1: Basic Workplace Rights.

Cleanliness and Sanitation

- **Drinking Water.** Your employer must provide cool, clean drinking water with disposable cups onsite. All water containers used for drinking water have to be thoroughly cleaned at least once each week or more often if they get dirty quickly.

- **Hand-washing Facilities.** Your employer must also offer hand-washing facilities with soap, cleansing agents and single-use hand towels. The soaps or cleaning products must be good enough to remove paint, coatings, herbicides, insecticides or other potentially harmful products that you use at work.

- **Toilets.** Clean toilets must be onsite. The number of toilets is determined by how many people are working at the site. If restrooms/toilets have more than one stall, there must be separate facilities for women and men. For information on your right to bathroom breaks see the Work-Place Requirements section of this chapter.

General Safety Preparations

There must be a first aid kit at each job site,. All crew leaders, supervisors or people in direct charge of one or more employees must be trained in first aid, even if other first-aid trained people are on the job site.

Before work starts at a job site, your employer must plan out how to quickly and safely remove injured workers from work locations that are high up in the air, or in trenches and excavations (deep holes).

Catch Platforms and Braces

When you are working below other workers, your employer must provide a "catch platform" to protect you from falling debris. Your employer must tell you when work is going on above you. One completed floor must be maintained between you and any steel or concrete work happening above you. Also, as construction progresses, the individual parts of structures must be secured or braced to keep them from collapsing or failing.

Safety Meetings and Committees

Any time that a group of two or more employees are working at any site, your employer has to hold safety meetings at the beginning of each job, and at least weekly during the job. As part of the safety meeting, one member of management and one employee, elected by the other employees, will do a walk-around safety inspection. Your employer has to document these inspections.

Proximity To Other Workers

A special permit is required for work in small spaces. You must always be within calling distance of another employee who can help out in case of an emergency. The exceptions to this rule are jobs that are single employee assignments. However, your employer must have a definite procedure for checking the welfare of all employees during working hours.
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. If you have Internet access you can see all safety rules including rules about hand tools, ladders, vehicles, tractors, other farm field equipment, guarding tools farm shops and other topics here: www.lni.wa.gov/wisha/rules/agriculture/.

There are different sets of rules that cover working and living conditions. A review of both sets is below.

Rules For The Fields

Heat: Heat is a particular concern for agricultural workers. See the Work-Place Requirements section of this chapter for general heat safety concerns.

Sanitation

- **Drinking Water.** Your employer must provide you with cool (less than 60 degrees), clean, drinking water and single-use drinking cups for free (or provide water fountains). Your employer has to provide enough water to meet your needs and refill it daily. During hot weather, you may need up to three gallons of water per day. Water must be easy for you to get to. Water containers must be sanitary and have a tap. You have to be able to close the container. Any container used to distribute drinking water can only be used for drinking water. Your employer has to tell you where the drinking water is.

- **Hand-washing Facilities.** Your employer must give you a place to wash your hands, for free. For every 20 workers there must be one hand washing facility with a tap and drinkable water, soap, single-use hand towels and a basin. Your employer cannot give you non-drinkable water to wash any part of yourself, except where the local health authority says it is ok. Facilities must be kept clean and sanitary and there must be garbage cans available. *You must be allowed enough time during the work period to wash your hands.* Hand washing facilities must be near toilet facilities and within one-quarter mile of your worksite. Your employer has to tell you where you can wash your hands.

- **Toilets.** Your employer must provide toilet facilities for free. One toilet facility must be provided for every 20 employees. Toilet facilities must be adequately ventilated, appropriately screened, and have doors that can be closed and latched from the inside. Toilet facilities must be private and kept clean, sanitary and in working order. Toilets must have toilet paper. *Your employer has to give you a reasonable amount of time during work to use the bathroom.* Toilets must be inspected at the beginning of each day. If any toilet facility doesn’t meet the requirements of the law, it must be fixed immediately. Toilets must be located near hand washing facilities and within one-quarter mile of your worksite in the field. Your employer has to tell you where the bathroom facilities are.

- **Information:** You must be told about field sanitation in a language you understand.

Exception to the rules above: If you work producing grains, livestock or livestock feed; or you use vehicles, machinery or animals as part of your field activities and when needed, you can drive or ride to and from toilet and hand-washing facilities, then the hand washing and toilet facilities do not have to be within one quarter mile of your worksite.

If rules aren’t followed, you can call L&I at 1 (509) 454-3740 in Yakima. For the L&I office nearest you, see the Resources chapter at the end of this manual.
Pesticides and Insecticides

Pesticides and insecticides are poisons. They can come in many forms, like liquid, gas, granulates or powder. Farmers use them to kill insects, weeds, plant diseases or rodents. But pesticides can also seriously injure or kill people.

Pesticides can enter your body:

1. Through your skin (even if your skin is not cut or scratched).
2. If you swallow or eat something containing pesticides.
3. If, after working with pesticides, you smoke or eat before washing your hands.
4. Through the air you breathe in the form of dust or mist. Pesticide sprays drifting or misting onto your body can be particularly dangerous.

If you work with pesticides, you have rights to protect you:

- **Training:** You have the right to be trained about the hazards of working near pesticides when you get your job, whenever a new pesticide is introduced and at least every five years.

- **Information:** You also have the right to have a poster displayed at a central location. The poster must list recently used pesticides, when they were used, general pesticide safety information, and the name and address of the nearest emergency medical center. Also, your employer has to tell you verbally about the most poisonous pesticides.

- **Restricted Entry Intervals:** You have the right to stay out of a pesticide treated area until the “restricted entry interval” (period of time to stay out of a treated area) has passed. That’s usually between 4 and 72 hours depending on the pesticide used (but can be much longer, such as two weeks for Guthion, a very strong pesticide.) The restricted entry interval has to be listed on the pesticide information poster and also on warning signs in the fields.

- **Protective Equipment:** If you are told to go into the treated area before the restricted time has passed, you have the right to use the proper protective equipment (PPE). The pesticide label will explain the proper PPE. You should follow other label restrictions for entering the treated area. If you do not receive these additional protections, you do not have to enter fields covered by a restricted entry interval.

- **Pesticide Drift:** Pesticides do not always stay in one place; they follow the wind. You have the right to be protected from pesticide drift either from your workplace or from a neighboring workplace.

- **Medical Care:** You have the right to get medical help free of cost to you if you believe that you have become ill due to pesticide exposure. Your employer must promptly provide you with free transportation to an appropriate emergency medical facility from the field or labor camp. You should request a different doctor if you think that the doctor you are brought to is biased or not a good fit for your medical problem.

- **Blood Tests:** If you mix, load or apply certain pesticides (organophosphates or N-methyl carbamates with the words "DANGER" or "WARNING" on the label) for 30 or more hours in a 30-day period, there is a law that says your employer must offer you free blood tests. The blood tests provide information on how much cholinesterase is in your body. Cholinesterase is a substance that helps your nervous system work properly. The blood tests are done to make sure that your cholinesterase level is healthy. Your employer is required to offer you the test and pay for you to go to a doctor to receive the monitoring.
If the **cholinesterase level** in your body begins to drop too much, then your employer must allow you to take a break from working with pesticides until your cholinesterase level increases. During the break time, you have the right to be paid the same pay and benefits you were receiving before, for up to three months or until your doctor says it is safe for you to return to work with these pesticides.

WA State pesticide handlers (who spray, mix or load pesticides) have the following additional rights:

- To receive free of cost, personal protective equipment such as gloves, protective clothing or a respirator, that is required by the pesticide label. You have the right to be instructed on proper use of the equipment and to have equipment that is in good condition and kept clean by your employer. The equipment must be inspected every day for problems and repairs.
- To receive a copy of the product label for the pesticide that is being sprayed. If you cannot read the label, you have the right to have it explained to you.
- To not spray, if pesticides are coming in contact with other people or if the weather could cause drift that could damage or injure nearby people, land, desirable plants or animals.

**What If I Think I Have Pesticide Poisoning?**

Symptoms of pesticide poisoning may include cramps, headaches, nausea, blurred vision, dizziness, heavy sweating, rashes and other illnesses. Go to a medical clinic right away and tell the doctor you think you have been exposed to pesticides. Ask your employer what pesticides you were exposed to so you can tell the doctor. Your doctor should also ask your employer what pesticides were used and other information contained on the product’s label. Federal and state law requires that growers provide pesticide use information promptly to workers and to their doctors.

There will probably be an investigation of the exposure by the state agencies that regulate pesticides. It is a good idea to try to keep evidence of the exposure. Ask your doctor to take and keep blood and skin samples that will help you show that you have been exposed to pesticides. Keep any clothing you were wearing when you were exposed, seal it in a plastic bag, and put it in the freezer if you can.

Workers’ compensation is a state government program that can help you pay your medical expenses if you are injured on the job. For more information on workers’ compensation see Chapter 3: *Injury On the Job And Workers’ Compensation*. You can receive workers’ compensation even if you don’t have immigration papers or you are a migrant or seasonal worker.

You will need to file what is called a “claim” to the Washington State Department of Labor and Industries (L&I), the agency that runs the workers’ compensation system. Workers’ compensation will probably pay for the first doctor visit and then “close” your claim. If you and your doctor believe you need further treatment or to stay home from work for more than three days, you need an open claim to continue to receive medical treatment and/or money for work you miss. In that case, you will probably have to request reconsideration of the decision to close your claim, or appeal it. Pay close attention to your mail, and read Chapter 3 in this manual.

**Special Contacts for Pesticide Use or Problems**

The Washington State Department of Agriculture Pesticide Management Division

*Phone:* toll-free 1 (877) 301-4555

The Washington State Department of Health Pesticide Program

*Phone:* (360) 296-3184

*Toll-free:* 1 (877) 485-7316
**The Washington Poison Control Center**
*Phone toll-free: 1 (800) 222-1222 (24 hour service with interpreters available)*

**Department of Labor and Industries**
*Phone toll-free: 1 (800) 423-7233*

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**Housing for Agricultural Workers**

Whether you are living in a camp or have inside living quarters, your employer must provide lodging that is safe, sanitary and up to standards defined by state and federal law.

You must be told about health and safety rules for your housing in a language you understand. Your employer either has to give you an individual copy of the rules, or s/he can post the rules in the housing area. These rules are set by WISHA. To view all the rules online go to: www.lni.wa.gov/wisha/rules/agriculture/HTML/part-l.htm.

If your camp is dirty, dangerous or has poor facilities, you should call L&I toll-free, at 1 (800) 423-7233 (interpretation services are available), or a legal services agency, or a housing services agency. *Your dwelling or work camp is your home; you have the right to be safe.*

**Renter’s Rights:** If you live in a house or trailer provided by your employer, you have renter's rights. You cannot be forced to leave your home or work camp without an order signed by a judge. Before you can be taken to court for eviction, you have a right to get a notice of when you will be expected to move and an employer must have a court order to make you leave. You have a right to a court hearing before the eviction. For more information on renter’s rights visit the website of the Washington State Tenants Union: www.tenantsunion.org

**Visitors:** You also have the right to have visitors at your camp or dwelling as long as your visitors do not disrupt your employer’s business. Your employer may have the right to restrict who can visit you, but that right is limited. If you are not being allowed to have visitors, contact L&I or a housing help agency. Contact information can be found in the Resources chapter at the end of this manual.

**Location:** Camps must be at least 200 feet from a swamp, pool, sinkhole, or other surface collection of water unless there is a mosquito prevention program for those areas. The main area for sleeping, food preparation and eating must be at least 500 feet from where livestock animals are kept. The grounds and open areas surrounding the shelters must be clean.

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**Restaurant Work**

Restaurants can be dangerous places to work. 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.

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/

**Physical Hazards**

Your employer is required to tell you about all potentially dangerous equipment and ensure you are trained and competent before you use the equipment. If required, 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.
Slippery Floors

Items spilled on restaurant floors make up a large percentage of restaurant injuries. Your employer is required to train you both on preventing spills and on how to clean spills when they occur. Your employer should provide and use anti-slip mats to help prevent you from slipping and falling.

Heat, Fire and Sharp Objects

Restaurant workers come into contact with heat, fire and sharp objects regularly. Your employer must train you on the proper way to work with hot surfaces, oils, knives and other potential hazards.

Retail

In addition to the other common safety hazards, retail workers face the special safety concern of robbery and potential violence.

Washington’s Light Night Crime Prevention rule applies to all businesses with workers who work between 10 PM and 6 AM – except restaurants, hotels, taverns, and lodging establishments. This law requires your employer to provide crime prevention training annually that describes the company’s security policies, safety and security procedures, and personal safety and crime prevention techniques.

Your employer must also have a safe in the store, and post a notice in an obvious place that:

- Notifies potential robbers that your store has a safe
- Employees have no access to the safe
- Your cash register contains only enough cash to do business

Your employer must also provide lighting outside the building in the store’s entrance area and parking lot during all night hours that the business is open.

Office

In addition to common safety issues related to ergonomics, fire prevention and slippery floors, office work often comes with the following hazards:

Ventilation

Your employer is required to provide safe air, temperature and humidity controls – based on the reasonable or appropriate standards, and subject to the restrictions described in the common safety issues section.

Lighting

Your employer must maintain enough lighting to prevent accidents.

Safe Entries and Exits

Your employer is required to maintain safe entries and exits. This includes:

- Keeping stairs in good repair
- Having reasonable lighting to prevent falls
- Emergency exits.
All emergency exits must remain unblocked even if rarely used, must be marked, and your employer must train you in emergency exit plans.

For more health and safety information for office workers online see: www.lni.wa.gov/Safety/Topics/AtoZ/topic.asp?KWID=365

Healthcare

Healthcare workers face a range of safety concerns, but the three most common are blood-borne dangers, workplace violence and chemical exposure. Under staffing at hospitals and clinics can make these dangers even worse. Employers should make sure that they have safe-staffing levels so that healthcare workers can deliver quality care and take breaks as required by law to stay alert and rested.

Blood-Borne Dangers

Healthcare workers are exposed to contagious diseases like Hepatitis B, Hepatitis C and HIV/AIDS through blood-borne pathogens (viruses or bacteria that cause disease). You can reduce your risks by observing what are called "universal precautions."

Universal precautions include using items that protect the skin from contact with blood or bodily fluids. Personal Protective Equipment (PPE) includes rubber gloves, gowns, aprons, masks or protective eyewear. Your employer is required to provide these items for you if there are on-the-job risks of exposure. Your employer is also required to pay you for the time you spend putting on and taking off the equipment.

Your employer is also required to make sure that needles and other sharp instruments are handled correctly. If your employer is not following the rules, then your health could be at risk. If you are covered by a union contract, inform your union representative.

If you have Internet access, see www.lni.wa.gov/wisha/rules/bbpathogens.

Workplace Violence

Patients can be violent, and your employer is required to have a plan to prevent workplace violence. This plan should include prevention, training, and responses to violence. Not all violence can be prevented, so your employer has to keep a written record of all workplace violence.

For more information, see: www.lni.wa.gov/Safety/Topics/AtoZ/WPV/wpvhealthcare.

Chemical Exposure

Chemical hazards range from chemicals that cause minor skin irritations to those that can cause cancer. Your employer is required to give you a written Chemical Hazard Communication Program, which will identify which chemicals you are being exposed to and follow precautions in this program. All chemical hazards should also be labeled.

Your employer is required to provide training on all relevant chemical hazards. You are required to wear PPE, which your employer is required to provide. Your employer is also required to provide appropriate hand-washing facilities and an emergency plan to address contamination by chemical hazards.
Transportation

If you work as a commercial truck driver, or you carry passengers in a large vehicle as part of a business, there are federal and state laws that regulate how many hours you are allowed to drive within a certain period of time.

The “Hours of Service” regulations can be complicated, but in general they set maximum driving hours and a minimum number of off-duty hours before driving. Summaries of these rules may be found here: www.fmcsa.dot.gov/rules-regulations/topics/hos/index.htm

In addition, you may need to perform detailed safety inspections of your vehicle, and make sure that the vehicle is maintained in good, safe working condition. Many of the rules about vehicle safety may be found in the Washington State Department of Licensing’s “Commercial Driver Guide,” available here: www.dol.wa.gov/driverslicense/docs/cdlguide.pdf

If you have questions about “Hours of Service” rules or other rules related to driver or vehicle safety, you can contact the U.S. Department of Transportation at: (360) 753-9875 or online: www.fmcsa.dot.gov

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

The first step is to write down what happened and tell your employer. If you have a safety committee established in your workplace, you can tell the committee too or follow procedures they have set up for reporting. Your employer might simply correct the issue and solve the problem. But if your employer does not and you are still concerned about the issue, you can file a complaint with Washington State’s Division of Occupational Safety and Health (DOSH). Contact information for DOSH is listed in the Resources chapter at the end of this manual.

Remember that 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. Here’s what you should know about the reporting and filing processes

Basic Process

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<td>See, smell, or hear something unsafe.</td>
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<td>Write down what happened, when, where, and who was involved. Keep this record.</td>
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<td>Step 7</td>
<td>DOSH will decide whether or not the issue has to be fixed. You can request that they look over the decision again if you disagree.</td>
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Law applies to drivers of commercial trucks with a Gross Vehicle Weight Rating over 10,000 lbs for businesses that have interstate operations.
What If My Employer Asks Me To Do Unsafe Work?

If you are asked to do something unsafe or work under dangerous conditions, first try to get the problem fixed by reporting it to your employer or union. If there is not enough time due to the seriousness of the situation and you have a reasonable fear of serious injury, you have the right to tell your employer that you will refuse to do the specific job that you think is unsafe. However, it is important that you stay at the worksite. Staying at the worksite may mean you leave a specific building or area of a building that is contaminated with a hazardous substance, or it may mean that you do most of your job but cannot use one machine because it does not have an appropriate safety guard. It does not usually mean you may walk off the job or refuse to do any work at all.

Remember: if you quit or leave the worksite, DOSH may not be able to protect your rights or investigate your complaint.

Filing A Complaint

If your employer does not fix the problem, you can file a complaint with DOSH. Your employer will have to fix any problem that breaks the law and may also have to pay a fine. DOSH will let you file a complaint anonymously or specify that DOSH cannot give your name to your employer in the investigation.

Complaints must be made in writing, which can be hand-written or filled out online. You can use a special form from DOSH, available in English or Spanish, but you can also just write a letter explaining who you are and describing the problem. Be sure to explain why the situation is dangerous and what might happen if there is an accident. DOSH decides when and where to do inspections in part based on how dangerous the problem is.

After you file a complaint, DOSH will respond in writing if you have given them your name. The agency may ask you for more information. Be sure to read and respond to all paperwork you receive before the deadline that DOSH gives you because they can drop your claim if they do not have the information they need.

You can call DOSH at 1 (800) 4BE-SAFE (interpreter services are available) for information about how to make your complaint.

Inspections

DOSH inspectors enforce Washington state rules by inspecting workplaces without advance notice. They investigate work-related deaths, injuries and worker complaints.

DOSH can choose to inspect your workplace because a worker has filed a complaint. If they suspect that an employer may not be following the rules, they must send someone to inspect as soon as possible. If the agency does not believe there is a good reason to do an inspection, they have to tell you in writing.

If inspectors find that a safety rule has been broken in a workplace, they issue a "citation" (this is like a traffic ticket but more serious) to the employer. Citations will show the amount of time the employer has to correct the health or safety hazard. The employer has to make a plan to fix the problem and to keep workers safe until the problem is fixed. Also, the employer has to post the citation where it can easily be seen near the dangerous site until the problem is fixed and for no less than three days.

DOSH may also decide to fine the employer if a safety or health rule has been broken. Fines can be at least $5,000 and up to $70,000 for each willful ("on purpose") act or for violating a WISHA regulation many times. If the employer doesn't fix the problem within the time period given in the citation, s/he may be fined up to $7,000 for each day over the time period.
According to the law, employers can face criminal penalties. For example, an employer convicted of a willful (on-purpose) or repeated violation that results in the death of a worker may be fined up to $10,000 and imprisoned for up to six months. A second conviction doubles these penalties.

**Review Of DOSH Decisions**

DOSH will send you its decision by mail after it has either investigated your workplace or determined there is no need to investigate. You can ask for a review of the decision if DOSH decides not to make an inspection or does not find your employer at fault for a health or safety violation. A review is also possible if they fine your employer but you think the timeline they have given your employer to fix the problem is too long. Instructions on how to request a review of the decision will come with the letter explaining the decision.

**Retaliation For Making A Health And Safety Complaint**

*Retaliation* is action taken against you by your employer because of something you have done. DOSH calls this "discrimination." Discrimination includes getting fired, getting demoted (the boss gives you a lesser job), losing seniority, being denied a promotion, getting harassed and more. You are protected under Washington law from discrimination for making a health and safety complaint.

If you feel you are being discriminated against, you can file a complaint. You can download the health and safety discrimination complaint form at www.lni.wa.gov/Forms/pdf/416011af.pdf, or get the form and file a discrimination complaint at one of the local L&I offices listed in the *Resources* chapter at the end of this manual. You must file within 30 days of being discriminated against.

**Information For Federal Employees**

If you are a federal employee, a 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 the federal agency OSHA is the right agency to contact. Contact information for OSHA is listed in the *Resources* chapter at the end of this manual.
Chapter 3
Injury On The Job And Workers’ Compensation

(Amanda Mills, Center for Disease Control)
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Introduction

An on-the-job injury can be a serious issue. You may need treatment. You may not be working during your recovery but your household expenses will continue. It can be stressful for your family as well. The best way to avoid an injury is for you and your employer to make sure your workplace is safe. But if you are injured on the job there is a government program called Workers’ Compensation that can help cover your medical expenses and compensate you for wages you have lost because you could not work during your recovery.

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. They are a cooperative effort between the Department of Labor and Industries and the Washington State Labor Council (AFL-CIO), and can provide you with individual claims assistance. Project HELP staff can help you with both self-insured and state fund claims, but they are not attorneys and do not give legal advice.

The L&I website also outlines what to do at: www.lni.wa.gov/ClaimsIns/Claims/Guide/phase1.asp.

Crime Victims’ Compensation Act

If you are the victim of a crime such as assault, domestic violence or child abuse, you may be eligible for benefits under the state Crime Victims' Compensation Act. The Act covers some situations where workers' compensation is not available. In addition, the fund pays pension benefits and burial expenses for victims who die from injuries caused by crime. It also pays a lump sum payment to the spouse and/or children of a victim who died from injuries caused by crime.

You can call 1-800-762-3716 to speak to someone at L&I about the Crime Victims’ Compensation Program, or click here for more information: www.lni.wa.gov/claimsins/crimevictims/about/

Workers’ Compensation

If you are injured at work, or if you develop an occupational (work-related) disease, you can apply for workers’ compensation. This means that if you need medical treatment for your injury or illness, or if you cannot work due to that injury or illness, you may be eligible for funds to pay for your treatment and/or wages you lost because your illness or injury stopped you from being able to work. Other names for this program are industrial insurance and time-loss.

Keep in mind that Washington is a "no-fault state." This means that costs of a claim for a workplace injury will be covered regardless of whether the accident was your fault or someone else’s fault.

All employees who are injured on the job or who suffer an occupational disease have the right to receive workers’ compensation, regardless of immigration status. 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 is illegal. The Claim Suppression Complaint Form is available on the L&I website: www.lni.wa.gov/.
Workers’ Compensation State Fund and Self-Insurance Coverage

State Fund

Most Washington employer’s 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 the state’s workforce work for employers who are self-insured. A self-insured employer provides any and all appropriate benefits to the injured worker. 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 on how to file an accident report for a work place injury or disease. You may also talk to your supervisor, union rep, 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. If you work under a union contract, your union may be able to provide you with information about how the program works and help you through the process. For more information you can contact L&I’s Self-Insurance Section in Olympia at (360) 902-6901.

There is also an Ombudsman for self-insured injured workers to help with workers’ compensation issues. 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

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
The first thing you should do when you are injured on the job or realize you have developed an occupational disease is get first aid. If you need to see a doctor, go to the emergency room or to the health-care provider of your choice and tell them you were injured at work.

You have some rights when you go to the doctor, like:

- The right to choose your doctor,
- The right to request an interpreter if you prefer to speak a language other than English, and
- The right to 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. It is important to know what company you work for so they can put that information on the claim form. If you do not do this, the government may not pay for your treatment.

Explain to the doctor what happened to cause your injury. You should make sure the doctor fully understands your injury. It is also important that you understand the doctor’s explanation of the nature and extent of your injury and treatment. Ask questions and discuss the answers with your doctor if you are unsure about anything. The doctor’s notes about your injury and recommended treatment will probably determine what kind of benefits L&I will give you.

Your doctor will:

- Decide if your injury is indeed work-related.
- Decide if you can return to work or need to take time off.
- Recommend any further treatment for you.
- Write this information on the accident report form.

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) so you can heal.

...To Your Employer
Be sure to let your employer know right away that you are injured. An employer needs to know about injuries and be familiar with the situation when the L&I paperwork arrives so that s/he can help you plan your return to work. S/he will also have to complete the employer section of the accident report form that your doctor sends. If you don’t let your employer know about your injury and you need to file a claim later, it may be denied because your employer and L&I might think your injury happened outside of work.
...To The Department of Labor and Industries (L&I)

The Report of Industrial Injury or Occupational Disease, which is an accident report form used for filing a workers’ compensation claim with L&I, is 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.** You should receive a letter in the mail from L&I within two weeks telling you that your claim has been received. If you don’t see this letter within two weeks, it is a good idea to call L&I at 1-800-547-8367 to see if they’ve received your claim. If they haven’t, you can talk to L&I about what to do.

Once L&I receives your claim, they will assign you a claim manager. This will be your contact person throughout the whole process. 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.

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. The sooner you file your claim, the better. You should also keep a copy of your medical records in case your injury bothers you at a later time — in fact, remember to keep copies of all the paperwork for your records.

...To Your Union, If You Have One

If you are in a union, let your union representative know that you are injured, so that s/he can inform your local. Union locals want to be kept informed of all job-related injuries because if the local knows that many people are being injured, union reps can keep an eye on the situation and take steps to correct the workplace problem. Also, your union contract may provide you with additional protection in case of an on-the-job injury.

**Monitoring the Case**

*General Information*

If you need general information about your claim, you can call 1-800-547-8367 for an L&I customer service representative. Interpreter services are available if you request them from L&I customer service. Call (360) 902-5797 for hearing/speech impaired TDD service. You can also call 1-800-831-5227 for a fast, computerized update on claim status in English or Spanish.

*Case-Specific Monitoring or Questions*

If you already have a claim manager assigned to your case, his/her phone number is located on all letters you’ve received from L&I. L&I encourages injured workers, employers, and doctors to use the L&I website to review claims files. You can review your claim on the Claim and Account Center at [www.claiminfo.lni.wa.gov](http://www.claiminfo.lni.wa.gov). On your first visit to this site you will have to register; however, once you register, you can log in and see all notes and forms related to your claim. It is a good idea to read the notes on your claim frequently. You will get an idea of what your case manager is reporting about you, and you will also see his/her notes from your phone calls or meetings, summaries of your providers’ visits, and all documents in your claim file. It is important to make sure that the notes accurately reflect your memory of events. Find the Claim and Account center online: [www.lni.wa.gov/ORLI/LoGon.asp](http://www.lni.wa.gov/ORLI/LoGon.asp)
Chapter 3: Injury on the Job and Workers’ Compensation

Status of Claim

Once you file your claim, L&I will review your case. They will then decide to accept or reject your claim. They will also decide whether to close your claim or leave it open.

Accepted or Rejected

Accepted

L&I or your self-insured employer can approve your claim if your doctor certifies that you were injured at a specific time and place at work, or have an occupational disease. Benefits cover medical bills. They also may include wage replacement (time-loss), return-to-work help and disability or pensions for the severely injured.

Rejected

Claims can be rejected. This can happen if the doctor cannot certify that your medical condition is related to something specific that happened at work. In other words, if your doctor cannot say that your injury or disease comes from your work. This means that the L&I claim manager may have to collect information about the accident and the worker’s medical and job history. Claims are also rejected if you were not on work status at the time of your injury.

NOTE: If you applied for time-loss benefits and your claim was rejected, you may get a check in the mail after you find out your claim was rejected. **Do not cash it.** You are required to send it back to L&I. If you do not, L&I may garnish your wages until repaid.

Open or Closed

Open

When your claim is open, you can apply for time-loss, receive medical treatment, apply for payment for permanent disability, and receive help from a vocational counselor to get back to work quickly. Read on for information about these services.

Closed

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, at this time.

You can appeal decisions to close your claim, but you must follow all timelines that are given to you. You may also reopen your claim if your injury or illness returns at a later date, but your medical condition must meet legal criteria of worsening.

Termination of (Closing) Your Claim

L&I will close your claim under three circumstances:

1. When your doctor or another doctor certifies that further treatment will not improve your condition (even if you are not completely recovered),
2. When L&I has no information showing you need further treatment, and
3. When your injury was minor and no ongoing treatment was needed. In this case, L&I accepts and closes your claim at the same time, in one decision letter.
Reopening a Claim

After Labor and Industries (L&I) closes your claim, you may want to reopen it. If you need further treatment within 60 days of the date you received the claim closure order, you can protest the decision. After 60 days, the closure is final and if you want further benefits or treatment you must file a request to reopen your claim.

One reason you might ask for your claim to be reopened is if your injury or illness comes back. To reopen, there must be medical evidence that the condition caused by the workplace injury has returned or gotten worse and needs more medical attention.

You and your doctor may apply to reopen your claim at any time, but if you wish to receive more than just medical treatment (such as time-loss or disability payments), you must apply within seven years from the date your claim was closed for most injuries, or ten years for eye injuries. L&I will usually make a decision within 90-days. Oftentimes, L&I will require an independent medical exam to help decide if your injury or illness is getting worse.

If the claim is reopened, you must see an L&I-approved doctor. This means that, if the medical provider you had before is not in the L&I network, you will need to pick a new one.

Structured Settlement

Some workers who are age 55 or older may qualify for a structured settlement plan. A structured settlement plan is a different way to get wages you lost because of your injury or illness. 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
Receiving Medical Care

While your claim is open, you have the right to receive medical care as needed.

**Free**

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, but there is no money required from you. If a medical provider charges you for services, contact your case manager right away to discuss this situation.

**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/

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

**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. Note: there are some exceptions, such as physical therapists and MRI providers, who do not have to be in the L&I 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.

For more information on selecting or changing a provider, visit the L&I website: www.lni.wa.gov/ClaimsIns/Claims/
If You Cannot Work: Monetary Compensation (Time-Loss), and Reemployment

If your doctor says that you are unable to work due to your injury, L&I may pay for part of your lost wages. This is called "time-loss" or workers' compensation. L&I has some programs to encourage you to get back to work faster.

If You Cannot Work At All

The three days immediately following your injury are considered a waiting period. L&I will not pay for those days if they are the only ones you miss from work.

After those 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. Your time-loss pay is calculated at 60-75% of your salary, depending on your marital status, registered domestic partner status, and how many dependents you have. If you worked a lot of overtime and your employer can provide evidence of this to L&I, your time-loss compensation can be adjusted to include this additional amount. Note: time-loss benefits are not taxable, so while it is lower than the pay you normally receive, you do not pay any taxes on it.

Your doctor has five days to send the accident report to L&I. L&I's processing time will vary, depending on the type of claim. If you are eligible for wage-replacement benefits and no further information is needed, L&I will send you your first check within 14 days of receiving the report.

You will receive time-loss payments about twice a month as long as your doctor says that your condition prevents you from returning to any work. You and your doctor must keep L&I regularly informed of your progress. Without this information, your time-loss compensation check could be delayed or stopped. More information can also be found on the Internet at: 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 is safe to do so. Many workers can return to work gradually, while still receiving medical benefits. Research shows that the sooner you are able to return to work, the better your chances are of recovering your income and health. Your doctor will try to get you back to work as soon as possible. The following are some programs run by L&I to help you get back to work quickly.

Stay at Work Program

If your employer is able to find light-duty work for you, then L&I will reimburse your employer for 50% of your wages while you are working light-duty. Light-duty work may not be your normal job, but it is something your doctor says you are capable of doing with your injury. This is encouragement for your employer to get you back to work earlier. Your medical provider must approve any light-duty work your employer asks you to perform.

Vocational Counselor Assistance

Sometimes L&I will assign a vocational counselor to help you, your employer and your doctor create a light-duty position for you. If you are permanently unable to return to your old job, they will help you find a new job that will fit your condition. If you are eligible for vocational services
your counselor will help you develop a rehabilitation plan to help you recover from your injury or illness. The plan might include training in new job skills to help you return to work.

**Preferred Worker**

If you can work but you cannot and/or will not be able to return to your former job, L&I can certify you as a Preferred Worker for 36 months. This means that when you are looking for work with a new employer you can tell him/her that L&I will give them money to hire you.

To qualify for this service, talk to your vocational counselor. You will have to have an open claim and your vocational counselor must recommend you for the “preferred worker” status.

**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 should still be able to do some work. For instance, if you lost one hand, that would be a clear permanent partial disability, but someone can also lose only partial use, like 50% loss of the use of the left hand.

This type of benefit payment will usually be given after you are evaluated by your doctor or an Independent Medical Examiner and after your doctor determines that no further medical treatment is helpful.

Any permanent partial disability award you receive is based on the degree of damage suffered, and the amount is calculated from numbers set by the Washington Legislature. The amount does not reflect how the disability will affect your life or your ability to work. For instance, a person who loses a pinky finger will receive the same amount of money whether they work as a waitress or a concert pianist.

You should return to your job as soon as your doctor releases you for work. You can still get a permanent partial disability award even if you are working.

**Total Permanent Disabilities**

If your injury is so serious that you can never work again you may be eligible for a life-long pension to make up for the fact that you can no longer earn a living. Also, if your accident results in the loss or total paralysis of both legs or both arms, one leg and one arm, or a total loss of eyesight, you may be eligible for a pension, even if you are able to return to work.

The amount you are eligible to receive depends on factors such as your average wage at the time of your injury, marital status, number of dependents, healthcare benefits, and Social Security benefits. Most people earn far less on a pension than they do working, even if they receive Social Security benefits at the same time. For information on Social Security Benefits, see Chapter 4: Social Security For Long-Term Disability And Illness.

When a person receiving a pension dies, their surviving spouse or dependents may be able to continue to receive pension payments from L&I.
Disagreements Between You, Your Employer and L&I Regarding the Claim

Sometimes disagreements occur between a worker, the employer and L&I. For example they may disagree about where, how, or how badly, you were injured. L&I can require you to visit an Independent Medical Examiner (IME) to resolve this issue. An IME is a medical provider certified by L&I to provide medical opinions regarding your case.

If there is a dispute in your claim, it may be a good idea to get help. If you belong to a union, talk to your representative. You can also speak to a lawyer who specializes in workers’ compensation 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.

If you do talk to a lawyer, ask her/him if s/he will handle your case on a contingency basis. This means that you will only have to pay a percentage of money you win—and nothing if you do not win any money.

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 if you believe that your claim should have been approved.

Protesting a Decision

You may protest a decision by writing to L&I directly within 60 days from the date you received the decision. The rules are different if it is a decision regarding vocational benefits or plans. You only have 15 days to protest vocational benefit or plan decisions. The decision letter will say how much time you have to protest, and how you can do it. You must protest in writing; you may send a letter by mail or protest online. Protesting online is faster. If you do not send your protest in time, the decision becomes final and you lose your right to be heard. After L&I receives your protest, they will reconsider the decision and make a new decision. There are three actions that they can take: they can modify (change), reverse (make the opposite choice), or affirm (stay with) the original decision. For more information on protesting a decision, see: www.lni.wa.gov/ClaimsIns/Claims/Appeals/Instructions/ If you do not agree with L&I’s second decision, the next step is to appeal.

Appealing a Decision

You may choose to appeal a decision you disagree with to the Board of Industrial Insurance Appeals (BIIA). This is a more formal process than protesting. You must follow all timelines or you risk waiving (losing) your right to appeal. You can find more information about appealing here: www.lni.wa.gov/ClaimsIns/Claims/Appeals/Appeal/, and here: www.biia.wa.gov/.
Retaliation and Discrimination

Your employer may not discriminate or retaliate (take action against you because of something you have done) for filing a claim, for saying that you plan to file a claim, or for seeking benefits. For example, these may all be forms of employer discrimination or retaliation:

- Firing or laying you off.
- Giving you a worse job.
- Changing your assignment to an undesirable shift.
- Refusing to adjust your job duties to meet the light-duty restrictions ordered by your doctor.
- Denying you a promotion.
- Reducing your wages and/or benefits.

NOTE: There are some cases where the law does not consider the actions listed above to be employer discrimination. For example, if you did not follow safety or health rules, did not follow your employer’s policies, or have filed many on-the-job injury claims.

If you think that you are being discriminated against or harassed for filing a claim or if you have questions about your employer’s actions, call L&I’s investigation program at 1-866-324-3310 or find a Discrimination Complaint form on the L&I website: www.lni.wa.gov/ClaimsIns/FraudComp/Discrim/. You have only 90 days to report discrimination, so don’t delay.
Chapter 4
Social Security
Long-Term Disability, Illness And People In Need
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Introduction

Long-term illness or injury can be frightening. Take Javier, for example. For several years, Javier had been working for a trucking company hauling logs to a mill. One day while he was not at work, he had an auto accident and was very seriously injured. He now faces a long recovery time, numerous trips to the doctor and physical therapy. His doctor says it is possible that he will never be able to work again. But, for Javier and his family, the bills do not stop just because he is injured. His savings are running out. He needs help. Read on to find out about Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI), two programs that could help Javier and his family pay the bills, and could help you and your family in the event of a long term disability or illness.

Disability and Discrimination

If you are disabled and also work, you are protected from discrimination because of your disability and your employer must try and accommodate your disability to make it possible for you to continue to work. For more information on disability discrimination and reasonable accommodations see Chapter 6: Discrimination.

Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)

If you become disabled 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).

To receive SSDI or SSI, you must have a disability under the Social Security Administration’s rules. Having a disability means that it is difficult or impossible for you to perform some or all of the basic tasks of daily life for at least 12 months for physical or psychological reasons. Social Security pays only for total disability. You cannot receive Social Security benefits for partial or short-term disability. You can check to see whether or not your disability qualifies at www.ssa.gov/dibplan/dqualify5.htm.

You do not need to have a home to get SSDI or SSI, only a way for the Social Security Administration to contact you and pay your benefits (by mail or direct deposit).

The Major Differences Between SSDI, SSI, and Workers’ Compensation

Social Security Disability Insurance (SSDI)

SSDI in most cases is for people with disabilities who have a work history. You must have worked a certain amount of time (discussed below) and paid Social Security taxes. The amount of SSDI you get depends on your past earnings. SSDI has no income or asset limits (limits on the value of things you own). You must be a US-citizen or documented non-citizen to qualify for SSDI. Read on for more specific information about the program and requirements.
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. Read on for more specific information about the program and requirements.


Workers’ Compensation (see Chapter 3: Injury On the Job And Workers’ Compensation)
Workers’ Compensation is a state program run by the WA State Department of Labor and Industries (L&I). It provides benefits to workers who are injured on the job or have a work-related illness. Benefits include medical treatment for work-related conditions and cash payments that partially replace lost wages. You can receive temporary total disability benefits while you recover away from work. If the condition has lasting effects after you heal, you may also be able to receive permanent disability benefits. Workers’ compensation provides benefits for both short-term and long-term disabilities and for partial as well as total disabilities. **Workers’ Compensation only covers disabilities and injuries that you got while working. You do not need to be a US citizen or documented non-citizen in order to collect Workers’ Compensation in Washington State.**

**SSDI, SSI and Workers’ Compensation are all separate. In some cases, you can collect benefits from more than one of these programs at the same time.**
Social Security Disability Insurance (SSDI)

The Social Security Administration website has a lot of helpful information about SSDI: http://ssa.gov/pgm/disability.htm. Below is an overview of some of the requirements and the process for applying for SSDI benefits.

Qualifying for Social Security Disability Insurance

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 year and your earnings average more than $1,040 a month in 2013. This amount usually increases slightly every year.

You are considered disabled if:

a. Your medical condition is on the list that Social Security has for medical conditions. See http://www.ssa.gov/compassionateallowances/ 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.

There are special rules for individuals who are:

Blind: www.ssa.gov/dibplan/dqualify8.htm
Disabled widows or widowers: www.ssa.gov/dibplan/dqualify9.htm
Disabled children: www.ssa.gov/dibplan/dqualify10.htm
Disabled veterans: www.ssa.gov/woundedwarriors

You must meet some minimum work requirements.

a. You have to have worked recently. For this you take a “recent work test.” Certain blind workers do not have to take this test.

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<td><strong>If you became disabled...</strong></td>
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<tr>
<td>before you turned 24:</td>
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<tr>
<td>between age 24 and 31:</td>
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<td>age 31 or later:</td>
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NOTE: A history of substance abuse does not automatically disqualify you from receiving SSDI or SSI. Substance abuse alone is not considered a disability, but you may still qualify for benefits if you have other health problems that were caused by substance abuse, or an unrelated disability.
b. In order to qualify, you have to have worked, and paid taxes, for a long enough period in your life. This is decided by the “duration of work” test. The following table shows examples of how much work you need at different ages to qualify for SSDI. *Note: This table does not cover all situations.*

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<th>Duration of Work Test</th>
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| **If you become disabled...** | **then you generally need:**  
| before age 28 | to have worked 1.5 years  
| 30 | …2 years  
| 34 | …3 years  
| 38 | …4 years  
| 42 | …5 years  
| 46 | …6 years  
| 50 | …7 years  
| 54 | …8 years  
| 58 | …9 years  
| 60 | …9.5 years  

**Can Members Of My Family Get SSDI Benefits?**

Certain members of your family may qualify for benefits of their own *based on your work*, if you qualify for SSDI benefits. They include:

- Your wife or husband, if s/he is 62 or older.
- Your wife or husband at any age if s/he is caring for a child of yours who is younger than age 16 or disabled.
- Your unmarried child, including an adopted child, or, in some cases a stepchild or grandchild. The child must be under age 18 or under age 19 if in elementary or secondary school full-time.
- Your unmarried child, age 18 or older, if s/he has a disability that started before age 22. The child's disability also must meet the definition of disability for adults.

*NOTE: In some situations, a divorced husband or wife may qualify for benefits based on your earnings if s/he was married to you for at least 10 years, is not currently married, is at least age 62, and is not eligible for an equal or higher benefit on her/his own Social Security record, or on someone else’s Social Security record. The money paid to a divorced spouse does not reduce your benefit or any benefits due to your current spouse or children.*
Chapter 4: Social Security 65

Application Process

When Should I Apply For SSDI?

You should apply for Social Security Disability Insurance as soon as you become disabled if your disability is expected to last for at least a year. Your payments cannot begin until you have been disabled for at least five full months. Payments usually start with your sixth month of disability. It usually takes three to five months to process your Social Security Disability Insurance application. You can collect up to one year of back benefits from the date you file your application.

How Do I Apply For SSDI?

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. You can also apply in person at your local Social Security Office, call for locations.

Once you turn in an application, the Social Security Office will schedule an interview with you and give you some information on how you should prepare.

What Information Should I Have Ready?

Social Security will need information about your medical, work, and school history. Remember: even if you cannot get all of this information together quickly, you should still apply right away. The Social Security Administration will help you get it. You should try and get as much of the following information and papers as possible:

- Your social security number;
- Your birth or baptismal certificate;
- Proof of your immigration status, if applicable;
- A list of your health problems;
- Names, addresses and phone numbers of the doctors, caseworkers, hospitals and clinics that took care of you and dates of your visits;
- Names and dosage of all the medicine you take;
- Medical records from your doctors, therapists, hospitals, clinics and caseworkers that you already have;
- Laboratory and test results;
- Workers’ compensation information (if applicable);
- Social security numbers for your spouse and/or children;
- Checking/savings account numbers if you have any;
- A summary of where you worked and the kind of work you did;
- A copy of your most recent W-2 Form (Wage and Tax Statement) or, if you were self-employed, your federal tax return for the past year.
Benefits

**How Much Money Will I Get?**

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. If you have paid taxes on your income, then you have paid into the Social Security Administration.

You receive a Social Security Statement each year that displays your lifetime earnings and provides an estimate of your disability benefit. It also includes estimates of retirement and survivor’s benefits that you or your family may be eligible to receive in the future. If you do not have your Social Security Statement and would like an estimate of your disability benefit, you can request one by calling toll-free, 1 (800) 772-1213 or at www.socialsecurity.gov

**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

**How Do Other Government Payments Affect My Benefits?**

If you are getting other government benefits, the amount of your Social Security disability benefits may be affected. For more information, see the following:

- How Workers' Compensation And Other Disability Payments May Affect Your Benefits: www.ssa.gov/pubs/10018.html

**Can I Go Back To Work?**

After you start receiving disability benefits, you may want to try working again. There are special rules that help you keep your monthly benefits and Medicare while you test your ability to work. These rules are called "work incentives" or "employment support" programs.

For more information about returning to work see: www.ssa.gov/dibplan/dwork3.htm


You can also call the SSA at 1 (800) 772-1213 to request any of these booklets or for other help.
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 also can receive SSI. SSI provides money to meet basic needs for food, clothing, and shelter. It is not based on your previous work history.

Qualifying for Supplemental Security Income (SSI)

How Do I Qualify For SSI?

1. You must be one of the following:
   a. Over age 65,
   b. Blind, or
   c. Disabled.

2. You must be a US citizen, permanent resident, or US national who is, in general, living in the US.

3. You must also show that you have little-to-no income or other resources to qualify. Factors that the Social Security Administration will take into account include:
   a. **Your income.** This could include workers’ compensation, unemployment benefits, military funds, money from friends or relatives, and free food, clothing and shelter. However, there are some things that are not counted in your “money,” including the first $20 you earn in a month, food stamps, tax returns, grants and scholarships, and many others. A full list can be found at:
      www.socialsecurity.gov/ssi/text-income-ussi.htm
   b. **Your Resources.** This could include real estate, bank accounts, cars, cash, and life insurance. Generally, the limit to qualify for SSI is $2,000 or less for an individual or a child, and $3,000 or less for a couple. A full list can be found at www.socialsecurity.gov/ssi/text-resources-ussi.htm

4. 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 you should check with the staff at your housing and with the SSA to find out if it changes your benefits.

Application Process

When Should I Apply For SSI?

You should apply for Supplemental Security Income as soon as possible. You can only get SSI benefits starting from the date of your application.

How Do I Apply For SSI?

Call the Social Security Office at 1 (800) 772-1213, or TTY: 1 (800) 325-0778, between 7:00 am and 7:00 pm Monday — Friday, EST. You can also apply online at the Social Security Administration’s website: 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 Information Should I Have Ready?
You should bring certain items when you apply. Even if you do not have all of the things listed below, apply anyway. The people in the Social Security office can help you get whatever is needed. Please bring:

- Your Social Security card or a record of your Social Security number;
- Your birth certificate, passport, or other proof of your age;
- Information about the home where you live, such as your mortgage or your lease and landlord’s name;
- Payroll slips, bank books, insurance policies, burial fund records and other information about your income and the things you own;
- The names, addresses and telephone numbers of doctors, hospitals and clinics that you have been to, if you are applying for SSI because you are disabled or blind;
- Proof of U.S. citizenship or eligible non-citizen status.

If you have a bank account, you should bring your checkbook or other papers that show your bank, credit union or savings and loan account number so the SSA can have your benefits deposited directly into your account. Direct deposit protects your benefits from loss, theft and mail delay. The money is always on time and ready to use without making a trip to the bank. It's easier if you have a bank account, but you don't have to have one to qualify for SSI.

Benefits

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. 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

When Will I Get My First SSI Check?
It generally takes three to five months to process your Supplemental Security Income application. Having all the necessary information at the time you apply will speed up the application processing time. But don’t wait to apply because you do not have all of the needed information. For more information, see www.socialsecurity.gov/ssi/text-understanding-ssi.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/
What If My Claim Is Denied?

Do not be discouraged! Applying for Social Security Disability Insurance or Supplemental Security Income can be a difficult process. Social Security often denies your first disability claim, and then you have to appeal that decision. If your claim is denied, appeal! Many people become frustrated after they receive a disability benefits denial notice and do not appeal. This can be a mistake. Nationally, about 75% of all applicants are denied when they first apply. But many of these people ultimately receive their benefits.

You may want to hire a lawyer who specializes in Social Security disability cases. These attorneys often work on a contingency fee basis, meaning you only pay your attorney's fee if you win — you will not have any out-of-pocket expenses before then. 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 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. Your intake worker will help you complete the application forms and can help you obtain the documents you need. If more medical information is needed, Social Security can pay for a doctor to examine you.
- You have the right to see and make a copy of your Social Security file upon request. You may also review and copy the laws, regulations, and policies Social Security used in deciding your case.
- If Social Security denies your application, they must tell you and your representative, if you have one, 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. If you do not appeal in that time, your application will be closed. If your appeal is denied, you are always allowed to apply again from the beginning of the process. But, if your appeal is denied and you do not continue to fight for benefits, the new application CANNOT cover the period of time in the first application.
- You have the right to a representative or lawyer to help you in your appeal.

U.S. Social Security Administration Contact Information

General Website: www.ssa.gov
Apply for benefits online: http://socialsecurity.gov/onlineservices/
Phone: 1-800-772-1213 (TTY 1-800-325-0778)

Regional Office (Seattle)
Address: 901 Lenora St., Seattle, WA 98121
Phone: (206) 553-1570
Additional Washington State Programs

In addition to the federal programs that are mentioned in this chapter, Washington State also has some programs that offer financial help such as food stamps, cash assistance, family assistance and medical assistance. You may be eligible for these programs 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 on these programs:

Olympia Headquarters:
1115 Washington Street SE
Olympia, WA 98504
Phone: 1-877-501-2233
Website: www.dshs.wa.gov

DSHS Emergency Cash Assistance

If your family has an emergency and you need a one-time cash payment for housing, transportation, medical bills, or childcare, you may be eligible for the Diversion program. For more information and to get an application, call DSHS Constituent Services toll-free, at 1 (800) 737-0617. Interpretation services are available. If you have Internet access, the website for the Diversion program is www.dshs.wa.gov/onlinesco/diversion.shtml. The application for benefits is available in many languages, including Spanish.

If you need one-time cash assistance to pay for housing or utilities, you may qualify for the Additional Requirements for Emergent Needs (AREN) program. To qualify, you must meet ALL of the requirements listed below:

- Be eligible for Temporary Assistance for Needy Families (TANF); State Family Assistance (SFA); or Refugee Cash Assistance (RCA).
- Have an emergency housing or utility need.
- Have a good reason why you don't have the money to pay for your housing or utility costs.

A DSHS staff member can tell you more about this program. You can call DSHS Constituent Services toll-free, at 1 (800) 737-0617.

Washington Information Network: Dial 2-1-1

If you need social services quickly, such as help with the rent, therapy and support groups, food, clothing, donations, transportation, or emergency shelter, you may be able to use the Washington Information Network. The information and referral specialist who answers the phone will try to help you find the services you need in your community.

Phone: 2-1-1
Alternative Phone: 1 (877) 211-WASH (9274). Interpreter services are available.
Website: www.resourcehouse.info/Win211/
Chapter 5
Taking Time Off From Work

(Betsy Kozak, U.S. Army Photo)
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Introduction

Federal and Washington State laws give many workers the right to take time off from work when they are seriously ill or pregnant; to care for a newborn or newly placed child; or to care for an ill family member without fear of losing their jobs.

Family and Medical Leave Act (FMLA)

If you work for an organization covered by this law, you can take up to 12 weeks of unpaid, job-protected leave per year for certain family and medical reasons. If you and your husband or wife works for the same employer, you get a combined total of 12 weeks per year to take care of a child that you have together or one of your parents. FMLA leave can be taken as one block of time or for shorter periods on and off (for example, you can take leave for a few days, or for part of a day to obtain medical treatment, etc.). If you work under a union contract, check with your union representative to see if there are additional benefits available to you. The U.S. Department of Labor (DOL) oversees the Family and Medical Leave Act (FMLA).

The FMLA provides you the right to: (1) take medical leave from work for certain reasons; and (2) to return to your job or an equivalent job in terms of pay, benefits, and other terms and conditions of employment after taking leave.¹

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 your workplace.)

Employees

You have the right to 12 weeks of unpaid job-protected leave if you:

- Work for a covered employer.
- Have worked for the employer for at least 12 months.
- Have worked at least 1,250 hours (about 25 hours per week) during the 12 months before the start of your leave. For service-members, both your civilian job hours and your hours of military service count toward your total hours worked.
- Work at a location in the U.S. or in any U.S. territory where your employer employs at least 50 workers within a 75-mile radius.

If you are a federal employee you:

- Can take time right away and do not have to work 1,250 hours before taking time off.
- Do not have to work at sites having 50 employees within 75 miles.
- Cannot be forced to take earned vacation or other paid leave for your time off.

¹ The Washington Family Leave Act provides similar rights as the FMLA.
What If I Work For An Employer With Fewer Than 50 Employees, Or I Have Worked For My Employer For Less Than 12 Months?

You could still be eligible for leave under the Washington State Family Care Act. Read the section *Washington State Family Care Act*, below for more information.

**Types Of Leave Under The Family Medical Leave Act**

You can use a total of twelve workweeks of unpaid leave during a twelve-month period. Employers can calculate the 12-month period in different ways; look at your employer’s medical leave policy to determine how your employer calculates the “leave year”. There are several kinds of leave:

1. New-child leave: You can take this leave to give birth to and/or care for a newborn child. You can also take this leave to take care of a newly placed adopted or foster child.

2. Family-care leave: You can take this leave to care for your spouse, domestic partner, child, or parent, if he or she has a “serious health condition.”

3. Medical leave: You can take this leave to take care of yourself while you are recovering from a “serious health condition.”

4. Service Member Family Leave: Spouses, children and parents of service members on covered active duty can take this leave for a variety of reasons related to their family member’s service. You can take up to 26 workweek of this kind of leave in a 12-month period. For more information on this type of leave and others for active and retired service members and their families see *Chapter 11: Military Service Members And Families*.

**What is a “Serious Health Condition”**?

A “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves any of the following:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility.

- A period of incapacity requiring absence for more than three calendar days from work, school, or other regular daily activities which also involves continuing treatment by (or under the supervision of) a health care provider.

- Any period of incapacity due to pregnancy, or for prenatal care.

- Any period of incapacity (or treatment) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.).

- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer’s, stroke, terminal diseases, etc.).

- Any absences to receive multiple treatments, including any period of recovery, by or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).
Your Benefits While On Leave

Vacation time, sick leave, retirement, and seniority benefits you built up before you took your leave remain in place unless your employer requires you to use up your vacation time for your FMLA leave. These benefits generally do not continue to build up while you are on leave.

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 for by your employer before you took leave, your employer must maintain your health insurance 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 as specified under COBRA. Depending on your health insurance plan, this can be expensive. More information on insurance coverage can be found through the Washington State Insurance Commissioner's Office at www.insurance.wa.gov/, or by calling toll-free, 1 (800) 562-6900.

Remember: If you are in a union, check with your union rep to see if you have other guaranteed benefits in your contract while you are on leave.

Can My Employer Ever Refuse To Give Me My Job Back When I Return From FMLA Leave?

Yes, if ALL three of the following circumstances exist:

✓ You returning to your job would cause extreme economic hardship; AND
✓ You are considered a “key” employee; AND
✓ 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 reinstatement, s/he must give you written notice at the time of your request for leave or at the start of your leave, the reasons for denying reinstatement, and provide you a reasonable opportunity to return to work. If you continue to take leave after the notice, you may still request reinstatement at the end of the leave period, and your employer must determine again whether your reinstatement would cause extreme economic hardship to the business.

How To Use Family Medical Leave

You must give a 30-day notice to your employer when you know ahead of time that you will need time off. If you do not know ahead of time that you will need to take leave, you must give notice to your employer “as soon as practicable” after learning of your need to take leave; this usually means within 1-2 business days. You should inform your employer of your need for leave in writing, and ask whether there is any other information your employer needs from you to approve your request for leave. Your employer may also require you to provide:

- A letter from your doctor or other medical documentation that shows that you, or an immediate family member, need leave.
- Second or third medical opinions that your employer must pay for.
- Reports on how you are doing and when you plan to return to work.
What Does My Employer Have To Do?

Employers have to put up a notice at work that explains the Family Medical Leave Act (FMLA). Also, employers must tell workers about their rights and responsibilities under the Family Medical Leave Act. This includes giving workers written information on what is required of them, and what might happen in certain situations; for example, if the worker didn't return to work after FMLA leave.

Checklist: Federal Family Medical Leave Act Claims

Below is a checklist to help you decide whether you qualify to take time off under the federal Family Medical Leave Act.

1. Your Employer either…
   
   ____ Has 50 or more employees per workday for 20 calendar weeks. OR
   ____ Is a state or local government employer (Separate rules for federal employers).

2. You have worked at least…
   
   ____ 1,250 hours for your employer in the last 12 months AND
   ____ 12 months for your employer.
   (Must have both)

3. The leave is for…
   
   ____ Care of a new child (birth, adoption, foster care placement), OR
   ____ Care of an immediate family member (son, daughter, spouse, parent) who has a serious health condition, OR
   ____ Your own serious health condition (including pregnancy), if unable to work.

4. If the leave is for a serious health condition, you cannot work:
   
   ____ Because you are receiving inpatient care in hospital or other medical facility. OR
   ____ For more than three days in a row with continuing treatment by a doctor. OR
   ____ Because of pre-natal care, pregnancy, or complications of pregnancy. OR
   ____ Because of a chronic, serious health condition (e.g. asthma, diabetes or epilepsy). OR
   ____ Because of a long-term condition (examples: terminal illness or Alzheimer's disease). OR
   ____ Because of treatments for a condition that would require more than three days of absence if left untreated (examples: cancer treatments or dialysis).

5. You have provided your employer . . .
   
   ____ At least 30 days written notice, if the leave was anticipated
   ____ Notice as soon as practicable, if the leave was not anticipated

6. If your employer asks for it, you must give him/her proof.
   
   ____ Did you give him/her a doctor’s note or other medical documentation showing that you need time off?
The Washington State Family Care Act

The Washington State Family Care Act, which is different than the Washington State Family Leave Act, allows all employees to use any available paid leave — sick leave, vacation time, or other paid time off to care for: a sick child, a spouse, domestic partner, parent, parent-in-law, grandparent, or an adult child with a disability. 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 who is sick.

You can use your paid leave to care for your:

Child (under age 18) when he or she has a “health condition” which includes:

- A medical condition requiring treatment or medication that the child cannot self-administer;
- A medical or mental-health condition which would endanger the child's safety or recovery without the presence of a parent or guardian; or
- A condition warranting treatment or preventive health care such as physical, dental, optical or immunization services, when a parent must be present to authorize the treatment.

Spouse, registered domestic partner, parent, parent-in-law, or grandparent, who has a serious or emergency health condition:

- Requiring an overnight stay in a hospital or other medical-care facility;
- Resulting in a period of incapacity or treatment or recovery following inpatient care;
- Continuing treatment under the care of a health care services provider that includes any period of incapacity to work or attend to regular daily activities; or
- Emergency Health Condition – i.e., demanding immediate action.

Disabled adult son or daughter who is not able to take care of him/herself.

Pregnancy and Parental Leave

Federal and state laws protect new parents' rights to take time off to care for a newly born or newly placed child. Pregnancy, childbirth, and related medical conditions must be treated in the same way as other temporary illnesses or conditions (covered under federal law Title VII, the Washington State Human Rights Commission laws, and some local laws). Pregnancy-related conditions can include medical conditions, miscarriage, pregnancy termination, and the complications of pregnancy. Once you return to work, you must be given time and a private space to pump breast-milk or breast-feed. For more information on breast-feeding breaks, see Chapter 1: Basic Workplace Rights.

It is illegal for your employer to discriminate against you because you are pregnant! This could include not hiring you, giving you a worse position, firing you or treating you differently than employees with other medical conditions, because of your pregnancy, childbirth, or related medical conditions. For more information on pregnancy discrimination, see Chapter 6: Discrimination
Does My Parental Leave Have To Be Paid?

No. Currently, neither Washington nor Federal laws require that employers provide employees with paid leave to take time off to care for a child. However, starting on October 1, 2015, the Washington State Family Leave Insurance Law should allow all working parents to take up to five weeks off from work to care for a newborn or newly adopted child and to be paid up to $250.00 per week by the government. For more information on this future law and how to qualify, call one of the Department of Labor & Industries, or the Washington Employment Security Department. Contact information for these organizations can be found in the Resources chapter at the end of this manual.

If your employer offers paid time off for other illnesses or short-term disabilities, they must allow use of paid time for pregnancy or pregnancy-related conditions. If you are in a union, contact your representative, because certain union contracts may include paid parental leave.

What Kinds Of Pregnancy And Parental Leave Can I Take?

Depending on where you work, you may take time off if you are pregnant, a new mother, or are caring for a newly adopted or foster child. Many workers can take Family Medical Leave or Washington State Family Care Act Leave (see above) to care for a new child. Below is a description of several other 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 AND the business is not a religious non-profit organization — 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. Your employer is not required to keep your specific position open. If necessary, your employer may fill the original position. Your employer is expected to give you work in a similar position after your leave is over.

Although the amount of pregnancy disability leave is not set in law, six to eight weeks is usually recommended by healthcare providers for a childbirth without complications. If there are complications and your healthcare provider says you are unable to work for a longer time during or after pregnancy, you are allowed maternity disability leave and are entitled to return to your job when your healthcare provider approves. Disability leave is based on your individual condition.

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. Depending on your employer’s policy, this may or may not be paid.

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, and who qualify for leave under the federal FMLA can take additional unpaid time off over and beyond the 12 weeks provided under FMLA. Under the FLA, you are entitled to take unpaid time off for any disability due to pregnancy and childbirth, including post-partum recovery.
Chapter 5: Taking Time Off From Work

The FLA law:

- Applies to women who are pregnant or parents of newly adopted or foster children.
- Covers employers with 50 or more employees within a 75 mile radius.
- Covers employees who worked 1,250 hours in the past year (same as FMLA).

What If I Do Not Qualify Under FMLA or FLA?

If you are not covered by FMLA or FLA, and you work for an employer with eight or more employees, you still have unpaid pregnancy disability leave (WSHRC leave). WSHRC means that you have leave until your doctor, nurse or midwife says you can return to work.

How Do The Pregnancy Benefits Work Together?

There are three kinds of pregnancy leaves: WSHRC, FMLA, and FLA. The amount of WSHRC leave you can take depends on what your medical provider says that you need, it must be used at the same time as your 12 weeks of FMLA leave. Your FLA leave starts when your WSHRC leave ends. Below are two examples.

Example 1 - No Serious Complications: You work and do not need to take any leave up until your child is born. You have six weeks of leave for recovery from childbirth. You then take an additional 12 weeks off to care for your newborn. Those first six weeks of leave for recovery count as your WSHRC and as the first six weeks of your FMLA leave. When you run out of WSHRC leave (after six weeks), your 12 weeks of FLA leave starts. The first six weeks of your FLA leave also count as the last six weeks of your FMLA leave. You will be able to take a total of 18 weeks of unpaid leave following the birth of your child. Your employment contract may include pay for this leave.

<table>
<thead>
<tr>
<th>WSHRC Pregnancy Disability</th>
<th>Washington FLA</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 weeks</td>
<td>12 weeks</td>
</tr>
</tbody>
</table>

Birth → 6 weeks → 12 weeks → 18 weeks

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2 The following two examples and charts are adapted from Department of Labor and Industries Washington State Family Leave Act Q&A. The original can be found here: [http://www.lni.wa.gov/WorkplaceRights/files/FamilyLeaveFAQs.pdf](http://www.lni.wa.gov/WorkplaceRights/files/FamilyLeaveFAQs.pdf)
Example 2 – Pregnancy Related Complications: You have pregnancy-related complications. You take six weeks of WSHRC pregnancy disability leave before your child is born because you are unable to work due to physical disability from complications. After your child is born you take six weeks of WSHRC leave for your recovery from childbirth. Those 12 weeks of leave count as leave both under the WSHRC pregnancy disability regulation and under the FMLA. When you have used all of WSHRC and FMLA leave, your 12 weeks of state FLA leave start. This means that you have taken a total of 24 weeks of leave.

![Diagram showing leave types and durations]

Frequently Asked Questions About Parental Leave

Can My Employer Temporarily Fill A Position With Someone Else While I Am Out On Maternity Leave And Then Not Bring Me Back Because They Like The Other Person Better?

The law allows your employer to fill a position if business necessity requires it. However, the law also says that your employer needs to bring you back to work after your leave is over. You should be returned to your job or a position that is similar to your old job.

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, such as your general job performance or if they are laying off many workers for business reasons.

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. If you are medically able to work, you can work until you deliver the baby.

If I Experience Morning Sickness Or Another Related Physical Condition Due To The Pregnancy, Am I Permitted To Take Leave During This Time And Then Return To Work For The Remaining Period Of This Pregnancy?

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3 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/)
Generally if you suffer from a condition related to your pregnancy that your doctor says prevents you from working, then you are entitled to ask for leave. No matter how long the need for time off work, your employer should bring you back when your medical provider says it is safe.

**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.

**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. If you request decreased hours as part of a reasonable accommodation, the request should usually be granted if your doctor supports your request and a reduced schedule is not too burdensome to your employer.

**Further Information On Parental Leave**

The following websites have information about parental leave and your rights:

**Washington State Department of Labor and Industries**

http://www.lni.wa.gov/

**Washington State Human Rights Commission**

http://www.hum.wa.gov/faq/faqpregnancy.html

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

http://www.eeoc.gov/laws/types/pregnancy.cfm

**Office on Women’s Health, U.S. Department of Health and Human Services**

http://womenshealth.gov/

**Legal Voice**

A legal advocacy organization located in Seattle dedicated to protecting women’s rights

http://legalvoice.org/

**National Women’s Law Center**

http://www.nwlc.org/
Other Types Of Leave

The Washington Law Against Discrimination And The Americans With Disabilities Act

The state and federal disability laws, the Washington Law Against Discrimination (WLAD) and the Americans with Disabilities Act (ADA) may require your employer to provide you unpaid leave as a reasonable accommodation for your disability. The WLAD applies if your employer employs at least 8 people, and the ADA applies if your employer employs at least 15 people. If you need leave from work because of your disability, and your doctor agrees, you should inform your employer of your disability and request leave as a disability accommodation. Your employer is not required to give you the exact accommodation you ask for, but has a duty to work with you to find a reasonable accommodation which may be leave from work. For more information on reasonable accommodation for disability see Chapter 6: Discrimination.

Workers’ Compensation: For Injury At Work

If you are injured at work, you may have additional rights to leave under the Worker’s Compensation Laws. Please see Chapter 3: Injury On The Job And Workers’ Compensation for more information.

Paid Sick Leave

Not all employers are required to give workers paid sick leave in Washington State. Paid sick leave is considered a “benefit” by an employer under a policy, written/oral agreement, or collective bargaining agreement. If your employer says that s/he will give you a benefit and then does not, then you can sue your employer in court. Some cities, including Seattle, SeaTac and Tacoma have passed, or are considering passing, paid sick leave laws that guarantee most workers time off, with pay, when they are sick. Check back 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 more than four full-time equivalent employees have a right to paid sick and safe time off to care for yourself or a family member. 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 consecutive days, then your employer could ask you to give him/her a note from your doctor.

For What Can I Take Paid Sick And Safe Time?

You can use sick and safe time to care for yourself or a family member when ill or in need of preventative care. You can use safe time if you or a family member needs to deal with the aftermath of domestic violence, or if a public official has closed your workplace or your child’s school for a safety emergency (e.g. flu outbreak).
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. You can take off between 40 and 108 hours per calendar year. The amount of time you can take depends on how many people work for your employer, and how many hours you have earned. You earn sick and safe time based on how many hours you have worked so far in a year. You earn at least one hour for every 40 hours that you work. You can carry over unused time to the next year. For more information on exactly how much time you can take off you can go to: http://www.seattle.gov/civilrights/SickLeave.htm.

<table>
<thead>
<tr>
<th></th>
<th>Tier 1</th>
<th>Tier 2</th>
<th>Tier 3</th>
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<tbody>
<tr>
<td>How many</td>
<td>5-49 Full-time equivalent employees (FTE)</td>
<td>50-249 FTE</td>
<td>250+ FTE</td>
</tr>
<tr>
<td>employees?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>How fast do I</td>
<td>1 hour per 40 worked</td>
<td>1 hour per 40 worked</td>
<td>1 hour per 30 worked</td>
</tr>
<tr>
<td>earn hours?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>How many</td>
<td>40 hours</td>
<td>56 hours</td>
<td>72 hours, can use and</td>
</tr>
<tr>
<td>hours can I</td>
<td></td>
<td></td>
<td>carry over 108 hours</td>
</tr>
<tr>
<td>earn a year?</td>
<td></td>
<td></td>
<td>per calendar year</td>
</tr>
</tbody>
</table>

What Does My Employer Have To Do?

Covered employers with employees in Seattle must:

- Display a poster with Paid Sick and Safe Time (PSST) rights
- Give notification (e.g. paycheck stub) of available PSST hours every pay period
- Not retaliate in any way against employees for using PSST

What Do I Have To Do To Request Seattle Sick And Safe Time?

You should follow your employer’s regular procedures for requesting paid leave if possible. You should tell your employer how long you plan to be gone. If you know ahead of time that you will need sick or safe time, then you have to tell your employer at least 10 days in advance. If you don’t know ahead of time, then you should tell your employer as soon as you can.

For more information or to file a complaint, visit www.seattle.gov/civilrights/SickLeave.htm, e-mail psstquestions@seattle.gov, or call 206-684-4500.

Domestic Violence Leave

Washington State law allows all employees to take leave to deal with issues of domestic violence, sexual assault, and stalking for themselves or family members. Victims of domestic violence, or their immediate family members may take reasonable time off from work, generally between an afternoon and several days off of work. Some of the reasons for which you can take time off are:

- Law-enforcement assistance
- Medical treatment or counseling with a domestic violence shelter or crisis program
- Relocation and safety issues.
Advance notice must be given if possible. However, in emergency situations, notice must be given no later than the end of the first day of leave.

**What If My Employer Does Not Allow Me To Take Domestic Violence Leave?**

All employers must follow this law. Employers are not required to pay you for your leave, but employees may be able to use sick or other available paid leave. If an employer refuses to follow this law, you may file a civil action in court and file a complaint with the Department of Labor and Industries. Contact information for L&I is listed in the Resources chapter at the end of this manual.

**How Can I Protect My Privacy?**

When you are requesting leave for domestic violence, your employer may ask you to show that either you or a family member is a victim of domestic violence, sexual assault, or stalking. You may provide one of the following to your employer:

- A written statement by you.
- A police report.
- A court order.
- A written statement or document from a professional that helped you or your family member. This can be a domestic violence or sexual assault advocate, member of church clergy, healthcare provider, or an attorney.

Your employer must keep this information confidential. S/he cannot share it unless you say s/he can, the employer is ordered by a court to share it, or the employer is required by another law to share it.

**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 ("get even with") any worker for taking leave, requesting to return to work after taking leave, or complaining about violations of the medical leave laws.
- It is illegal for an employer to use an employee’s use of protected medical leave as a “negative factor” in its decision to discipline you, demote you, lay you off, or terminate your employment.
- 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. NOTE: Your name remains confidential (not available to the general public) during an investigation, however, your employer will receive a copy of your complaint which will include your name. Public disclosure laws allow for others to gain access to the file once the investigation is closed.
Important note about deadlines: if you believe your employer has violated the law and you want to pursue your legal rights in court, it is important that you take timely action to preserve your legal claims. You should consult an attorney as soon as possible, so that the attorney can help you evaluate your potential legal claims, inform you of the deadlines that apply to those claims, and take action on your behalf to preserve your claims. For information on finding a lawyer, see the list of legal resources in the Resources chapter at the end of this manual.

Help With The Family Medical Leave Act

Where the federal Family and Medical Leave Act (FMLA) and the Washington Family Leave Act (WFLA) are identical, enforcement of the law is the U.S. Department of Labor’s responsibility. Otherwise, it is enforced by the WA State Department of Labor and Industries. If you want to file a complaint, you can:

1. Start an FMLA administrative complaint by contacting the US Department of Labor. Contact information for the US Department of Labor can be found in the Resources chapter at the end of this manual.

2. File a lawsuit directly in state or federal court. Some public employees whose claims must be pursued by the U.S. Department of Labor cannot go this route. More information is available on the U.S. Department of Labor website at www.dol.gov.

Help With The WA State Family Leave Act And Washington Family Care Act

If you think that your rights have been denied in regards to rules under the WA State Family Leave Act (WFLA) that are not covered under FMLA, or rules under the Washington Family Care Act, you should contact the WA State Department of Labor and Industries. Contact information can be found in the Resources chapter at the end of this manual. You can also file a lawsuit directly in state court under the WFLA.

Help With Pregnancy Discrimination

If you want to file a complaint on discrimination because of pregnancy, childbirth, or pregnancy-related disabilities, contact the WA State Human Rights Commission at the office nearest you listed in the Resources chapter of this manual. Translation services are available. Or you may file a lawsuit under the Washington Law Against Discrimination directly in state court.

The federal law (Title VII of the Civil Rights Act of 1964) also prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions. Title VII applies to employers with 15 or more employees. If you experience pregnancy discrimination, and you want to take action to preserve your rights under the federal law, you must file a Charge of Discrimination with the Equal Employment Opportunity Commission (EEOC) within 300 days of the unlawful act, and allow the agency to investigate your claim, before you can file a lawsuit. See http://www.eeoc.gov/field/seattle/charge.cfm for information about how to file a charge.

Help With Seattle Paid Sick Leave

If you need help with Seattle Sick Leave, you can contact The Seattle Office for Civil Rights (SOCR). SOCR also provides technical support to employers and employees. For more information, please call 206-684-4500, or e-mail psstquestion@seattle.gov
Chapter 6

Discrimination

(Amanda Mills, Center for Disease Control)
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## SUMMARY OF LAWS AGAINST DISCRIMINATION 104
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 certain trait. It is generally against the law for your employer to discriminate against you because of your:

- Age
- Ancestry
- Color
- Creed
- Disability
- Genetic Information
- Gender identity
- Honorably Discharged Veteran/Military Status
- Citizenship status (if you have the legal documentation to work in the USA)
- Sexual orientation
- Marital status
- National origin
- Political Ideology
- Race
- Religion
- Sex (including pregnancy)
- Union membership or if you might want to join a union

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

If you think your rights have been violated, keep track of what happened and when! Write down the dates, times, specific words used, and who was involved. Keep copies of memos, emails or other communication that is insulting or discriminatory. Discrimination law prohibits your employer from retaliating against (punishing) you for filing a complaint or participating in an investigation.

Also, if you go talk to your boss about your concerns with discrimination or terms of employment, consider bringing a coworker. If you bring at least one other person with you, what you’re doing is probably concerted activity and, under the National Labor Relations Act, you can’t be retaliated against for it.
If I Am An At-Will Employee, Can My Boss Fire Me For A Discriminatory Reason?

No. Most non-union employment is "at-will" which means you can be fired for almost any reason or no reason at all. Discrimination on the basis of the traits listed above is an exception to the at-will rule, however. Please see Chapter 12: Organizing to Make Things Better At Work and Chapter 7: Unemployment for more information about at-will versus just-cause employment.

Discrimination In The Hiring Process

Your first step towards employment is often filling out an application or having an interview with a potential employer. An employer cannot ask questions that might show unfairness or discriminate against you based on the traits listed above. However, an employer can ask questions to help him or her decide how you will perform a job. Below are examples of questions the employer may or may not legally ask you in the interview or on an application.

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>NOT LEGAL: GENERALLY UNLAWFUL TO ASK</th>
<th>LEGAL: GENERALLY OKAY TO ASK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race or Color</td>
<td>Questions about race or color of skin, hair and eyes.</td>
<td>None.</td>
</tr>
<tr>
<td>National Origin</td>
<td>Questions about your birthplace, first language and where your parents or spouse come from.</td>
<td>It's okay to ask if you can read, write and speak certain languages when these abilities are a job requirement.</td>
</tr>
<tr>
<td>Citizenship Status</td>
<td>Questions about whether or not you are a citizen; requiring you to present a birth certificate, naturalization or baptismal papers; questions about your ancestry, national origin, ethnicity, or birthplace.</td>
<td>Whether your visa or immigration status allows you to legally work in the U.S.; whether you can provide proof of the legal right to work in the U.S. after hire.</td>
</tr>
<tr>
<td>Religion or Creed</td>
<td>Questions about your religion, denomination, church, parish, pastor or religious holidays observed.</td>
<td>None.</td>
</tr>
<tr>
<td>Sex</td>
<td>Questions about your gender.</td>
<td>None.</td>
</tr>
<tr>
<td>Pregnancy</td>
<td>All questions about pregnancy, including whether you are pregnant or want to become pregnant, and medical history concerning pregnancy.</td>
<td>Questions about how long you will stay with the job or questions that are asked to both males and females about whether/how long you will take time off from work.</td>
</tr>
<tr>
<td>Age</td>
<td>Questions that suggest that your employer would prefer to hire someone less than 40 years of age.</td>
<td>It's okay to ask for your birth date and for proof of your age.</td>
</tr>
<tr>
<td>Disability</td>
<td>Questions about the nature, severity or extent of a disability; questions about specific medical diagnosis or treatment; whether you have applied for, or ever received, workers' compensation. Your employer also cannot require you to take a medical test before you are offered a job.</td>
<td>It is okay to ask if you can perform the functions of the job with or without accommodation. An employer can ask you to perform physical tasks such as lifting boxes, if it is necessary to do the job and if they ask this of all other potential employees.</td>
</tr>
<tr>
<td>SUBJECT</td>
<td>NOT LEGAL:</td>
<td>LEGAL:</td>
</tr>
<tr>
<td>--------------------</td>
<td>----------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Military</td>
<td>GENERALLY UNLAWFUL TO ASK</td>
<td>Questions about your education, training, or work experience in the U.S. armed forces.</td>
</tr>
<tr>
<td></td>
<td>Type or condition of military discharge; your experience in the military other than in the U.S. armed forces; request for discharge papers.</td>
<td></td>
</tr>
<tr>
<td>Family and Relatives</td>
<td>Questions about your marital status; your spouse and where they work or how much they are paid; children; childcare arrangements; dependents; or whether any of your family members, dependents or relatives have any medical conditions.</td>
<td>It's okay to ask if you can meet the work schedule or if you have other commitments that might keep you from coming to work. It's also okay to ask for the names of your relatives already employed by the company or by any competitor.</td>
</tr>
<tr>
<td>Height and Weight</td>
<td>Any questions not based on actual job requirements—things that the employer doesn’t need to know.</td>
<td>If the employer can show that it is a genuine job requirement, they may be able to require a certain height or weight.</td>
</tr>
<tr>
<td>Name</td>
<td>Questions about your original name if it has been legally changed; questions about your name that would reveal marital status, ancestry, where you come from.</td>
<td>Whether you have worked for this company or another employer under a different name and, if so, what name; names that your references know you by if it is different from present name.</td>
</tr>
<tr>
<td>Residence</td>
<td>Questions about the names or relationship of people you live with; whether you own or rent your home.</td>
<td>Questions about your address for contact information</td>
</tr>
<tr>
<td>Organizations</td>
<td>Requirement that you list all organizations, clubs, societies, and lodges that you belong to.</td>
<td>Questions about professional organizations you belong to that may relate to your qualifications for the job, except where such a question is used to determine or discriminate based on race, color, creed, sex, marital status, religion, or national origin or ancestry of its members.</td>
</tr>
<tr>
<td>Photographs</td>
<td>Asking for a photo of you before hiring.</td>
<td>Employers can ask for photos after hiring for identification purposes.</td>
</tr>
<tr>
<td>Arrests or Convictions</td>
<td>Questions about arrests, convictions or imprisonment that do not relate to job duties or did not occur within the last ten years. In the city of Seattle: any questions about convictions at all until the second round of interviews.</td>
<td>It's okay to ask about prior arrests or convictions if the information is reasonably related to job duties, and the arrest or conviction occurred within the last 10 years. Law enforcement agencies, state agencies, school districts, businesses and other organizations that take care of children, mentally ill or disabled persons, or other vulnerable adults can ask almost any question about criminal background.</td>
</tr>
</tbody>
</table>
Types of Discrimination

The next sections go more in depth about what types of discrimination are illegal at work. At the end of every section it tells you whether federal, state or local laws protect you. For information on where to report discrimination, see the below section: What If I Have Been Discriminated Against?

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 pervasive 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.

Protected by:

- Title VII of the federal Civil Rights Act of 1964
- The Washington State Law Against Discrimination
- Local ordinances, including laws in Seattle, Spokane and Tacoma. There are also laws in Pierce, Snohomish, and King counties

Links for Advocacy Organizations and More Information

A. Phillip Randolph Institute: http://www.apri.org/


Asian Counseling and Referral Service - http://www.acrs.org/


Seattle King County NAACP - http://www.seattlekingcountynaacp.org/

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 a national origin group; you participate in customs associated with a national origin group; or you are married to or spend time with people from a different country.

Here's an example: A woman who emigrated from Russia applies for a job as an accountant. The employer turns her down because she speaks with an accent even though she is able to do the job well. This is against the law. It is also against the law if the employer’s actions, in response to your national origin, are severe and pervasive and/or are part of a pattern of discriminatory actions.
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. If your employer believes such a rule is necessary, you should be told when English is required and what would happen to you if you broke this rule. Your employer must let you speak other languages during non-work time, such as during lunch and breaks.

Protected by:
- Title VII of the federal Civil Rights Act of 1964
- The Washington State Law Against Discrimination
- Local ordinances, including laws in Seattle, Spokane and Tacoma. There are also laws in Pierce, Snohomish, and King counties

Citizenship Status

Discrimination based on citizenship status is treating you worse because of your citizenship status. It is different from national origin discrimination because the discrimination is based on your immigration status, rather than on whether you or your ancestors came from another country. **If you have documentation to work legally in the U.S.,** an employer generally may not discriminate against you for not being a citizen.

It is illegal to discriminate based on citizenship status in hiring, firing (including layoffs), recruitment, or referral for a fee.

For example, you may have experienced illegal discrimination if:
- You didn't get hired because the employer hires only U.S. citizens to do certain jobs.
- You are a temporary resident who is legally allowed to work, but a company denies you employment because it doesn't want to deal with the "hassle" of filling out the paperwork.
- Muslim, Asian and Latino employees are asked for copies of their work authorization papers, while other employees who are Caucasian or African-American are not asked to provide that paperwork.
- You sign up with a temporary agency, and learn that a certain employer has work for someone with your skills and experience but the agency refuses to refer you to work for that employer because the employer wants to hire only U.S. citizens.

You should also watch out for document abuse. Document abuse is when an employer asks for more or different documents to prove citizenship when you've already given them a document that meets the requirements. For example, it is illegal for your employer to ask for a green card or passport when you have already shown proof that you can work in the U.S. For more information about document abuse and national origin discrimination – see the section “What Rights do Immigrants With Documents To Work In The United States Have Under IRCA?” in *Chapter 10: Undocumented Workers.*

Protected by:
- The Federal Immigration Reform and Control Act (IRCA)
Links for Advocacy Organizations and More Information


See also the Immigrant and Refugee Services section in the Resources chapter at the end of this manual.

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. For example, if you are a Muslim, your employer cannot force you to recite the Lord’s Prayer or stop you from performing your own prayers.

Your employer cannot hire, fire, promote, or demote you based on stereotypes about you and what you can do based on your religion. In addition, employers cannot pass you over for a job because of marriage to, or association with, a person of a particular religion. Your employer also cannot hire, fire, promote, or demote you because you go to a school or place of worship that is associated with a certain religion.

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. There are many ways your employer can reasonably accommodate your religious practices, such as swapping shifts, job reassignments, and voluntary substitutions (protected under federal law).

Protected by:

- Title VII of the federal Civil Rights Act of 1964
- The Washington State Law Against Discrimination (may not cover reasonable accommodations)
- Local ordinances, including laws in Seattle, Spokane and Tacoma. There are also laws in Pierce, Snohomish, and King counties.

Links for Advocacy Organizations and More Information

Anti Defamation League - http://www.adl.org/civil-rights/religious-freedom/


Hindu American Foundation - http://www.hafsite.org/

The Sikh Coalition - http://www.sikhcoalition.org/resources/your-rights/
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. If, for example, Rosalinda and Joe are both carpenters working at the same jobsite and performing the same or comparable tasks, they must both be paid the same wage.

Gender discrimination also includes discriminating against you based on stereotypes about your responsibilities as a mother or father. For example, you may have been on track for a promotion but after returning from maternity leave, your boss refuses to promote you because he assumes now you want to devote more time to your baby, not your job. This is discrimination.

**Protected by:**

- The Federal Equal Pay Act of 1963 (EPA)
- Title VII of the federal Civil Rights Act of 1964
- The Washington State Law Against Discrimination
- Local ordinances, including laws in Seattle, Spokane and Tacoma. There are also laws in Pierce, Snohomish, and King counties

**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 targeting you with unwelcome sexually suggestive words or actions, such as asking about/commenting on your body or sexual activities; repeatedly asking you on dates after you’ve made it clear you don’t want to go out; unpleasant gestures; unwanted touching like pinching or grabbing; jokes, pranks, and threats; pornographic materials; indecent exposure; assault and rape (which are also criminal offenses).

It is illegal harassment if:

1. It is serious, frequent and pervasive (meaning, it affects multiple aspects of your work);
2. Your work is being concretely affected by these actions; and
3. Your employer directly or indirectly caused the harassment. This means that if customers, managers, or co-workers harass you, your employer could still be at fault if your employer is aware of it and does nothing. For example, if a co-worker is harassing you, you tell your employer, and s/he does nothing about it, the employer may be liable for the harassment.

It is also illegal if your employer provides a worse working environment for you than for your opposite sex co-workers simply because of your gender. Examples are hiring procedures, hours, wages, promotions, work schedules, work assignments, vacation or sick leave benefits, job evaluation, etc.

**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. Sexual relations can
be voluntary without being welcome. For example, if you have sexual relations with a supervisor because you are afraid that you will be punished at work if you don’t, it is still illegal. Your gender doesn’t have to be the only reason you were singled out for this unfair treatment, but it must be at least a major factor.

Protected by:

- Title VII of the federal Civil Rights Act of 1964
- The Washington State Law Against Discrimination, unless the employer is a religious organization.
- Local ordinances, including laws in Seattle, Spokane and Tacoma. There are also laws in Pierce, Snohomish, and King counties

**Pregnancy and Pregnancy-Related Conditions**

Pregnancy, childbirth, and related medical conditions must be treated in the same way as other temporary illnesses or conditions. Pregnancy-related conditions can include medical conditions; miscarriage; pregnancy termination; and the complications of pregnancy. Employers can’t make choices about hiring, firing, promoting, or demoting based on their 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.

Protected by:

- Title VII of the federal Civil Rights Act of 1964
- The Washington State Human Rights Commission
- Local ordinances, including laws in Seattle, Spokane and Tacoma

**Links for Advocacy Organizations and More Information**

Legal Voice – [www.legalvoice.org](http://www.legalvoice.org/)

National Organization for Women – [www.now.org](http://www.now.org/)

Legal Momentum (for women) - [www.legalmomentum.org](http://www.legalmomentum.org/)

National Council of Negro Women - [www.ncnw.org](http://www.ncnw.org/)

National Women’s Law Center – [www.nwlc.org](http://www.nwlc.org/)

**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.

Protected by:

- The Washington State Law Against Discrimination (RCW 49.60)
- Local ordinances, including laws in Seattle, Spokane and Tacoma. There are also laws in Pierce, Snohomish, and King counties
Age (40+)

If you are over 40 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.

Protected by:

- The federal Age Discrimination in Employment Act (ADEA)
- The Washington State Law Against Discrimination
- Local ordinances, including laws in Seattle, Spokane and Tacoma. There are also laws in Pierce, Snohomish, and King counties

Links for Advocacy Organizations and More Information

National Senior Citizens Law Center - www.nsclc.org/
Center for Elder Rights Advocacy - www.ceraresource.org/
American Bar Association Commission on Law and Aging - www.americanbar.org/groups/law_aging.html
Senior Resource Alliance - www.seniorresourcealliance.org/
American Association of Retired People – www.aarp.org/
Disability Discrimination

An employer cannot discriminate against you or harass you because of your disability or medical condition or because they believe you have a disability or medical condition, even if you do not actually have that disability. Use of a trained guide dog or service animal is also protected under Washington State law.

An individual with a disability under the Federal Americans with Disabilities Act (ADA) is a person who has a physical or mental condition that makes it hard for them to do major life activities. Major life activities are activities that an average person can perform with little or no difficulty such as walking, breathing, seeing, hearing, speaking, learning, and working. Under Washington State law, the definition is broader.

If you have a disability, the employer has to make reasonable accommodations for you to work for them. 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. It also means that if you need to take medical leave because of your disability, your employer has to keep the job open for you when you return. For more 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.

Protected by:

- The federal Americans with Disabilities Act (ADA)
- The federal Rehabilitation Act of 1973
- The federal Genetic Information Nondiscrimination Act of 2008
- The Washington Law Against Discrimination, which, unlike the ADA, also covers temporary disabilities and conditions (does not cover employees who work for a religious organization)
- Local ordinances, including laws in Seattle, Spokane and Tacoma. There are also laws in Pierce, Snohomish, and King counties

Links for Advocacy Organizations and More Information

Americans with Disabilities Act - www.ada.gov/
ADA Info Line: 1 (800) 514-0301, TTY: 1 (800) 514-0301
Disability Rights Advocates - www.dralegal.org/
National Disability Rights Network – www.ndrn.org/
Disability Rights Washington (DRW) - www.disabilityrightswa.org/
Lifestyle Discrimination

Right now, there is some debate about whether employers can make decisions about hiring, promotions, insurance charges, 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. Mainly, laws against disability discrimination may protect some people who have medical issues such as obesity or high cholesterol from employers who discriminate against them.

**Links for Advocacy Organizations and More Information**

American Civil Liberties Union - [www.aclu.org/racial-justice_womens-rights/lifestyle-discrimination-workplace-your-right-privacy-under-attack](http://www.aclu.org/racial-justice_womens-rights/lifestyle-discrimination-workplace-your-right-privacy-under-attack)

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 want to join a union, or because you are joining with your coworkers to improve your working conditions, even if you are not in a union (concerted activity). Please see Chapter 12: Organizing to Make Things Better At Work for more information.

Criminal Background

Beginning November 1, 2013, it is illegal for 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 first part of the hiring process. Except for businesses that take care of children, the mentally ill, and other vulnerable adults, and those involved with security, investigation, and law enforcement, employers cannot ask about criminal history until after they have gone through the first steps to remove people from the applicant pool who clearly aren’t qualified for the job. 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.

**Protected by:**

- Seattle Ordinance 14.17, for all employees who perform at least 50% of their work in the city of Seattle.

**Links for Advocacy Organizations and More Information**

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?

**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 complaint. Many workplaces have a person who is assigned to handle these sorts of issues. This may be a person designated to speak to employees about “EEO” or “diversity” issues, someone in the Human Resources department of your workplace, or someone called an “Ombudsman.” You are not necessarily required to speak to someone if you are uncomfortable doing so, particularly if you are concerned about privacy and have reason to believe that the situation will get worse - but you should give your employer some kind of notice of the problem.

**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 are a union member, you can report it to your union representative or shop steward.

If you think you have been illegally discriminated against, contact a government agency as soon as possible. Under every discrimination law, you have only a certain amount of time after the act of discrimination to file a claim. It is not unusual for it to take one to two years to resolve a discrimination complaint, although some agencies may be faster.

Where Do I File A Claim?

You can file a discrimination claim with the local, state or federal agencies described in the next pages. 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. Knowing what an agency can offer may help you determine which one is best for your needs. Getting advice from a lawyer about what to do may also be helpful.

To protect your right to go to court, you should file a complaint with the federal EEOC or the Washington State Human Rights Commission.

What If I Am A Government Employee?

If you are a public employee, you must first file a complaint with the branch of government that employees 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.
How To File Under Federal Law

You can file under federal law with the U.S. Equal Employment Opportunity Commission (EEOC). If you request it, that agency should also send a copy of your complaint to the WSHRC. Usually, only one agency will investigate your case.

If you have a complaint against a federal government employer, Native American tribal employer or religious employer you must file with the EEOC.

If you want to file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC):

1. You can file a charge by mail or in person at the nearest EEOC office (contact info below). If you have Internet access, the complaint form is available at https://apps.eeoc.gov/eas/.
2. You must file your complaint within 300 days of the date of discrimination. The sooner you file your charge, the better.
3. An investigator will be assigned to your complaint.

If you need help filing a charge (e.g., sign language interpreter, language interpreter, print materials in an accessible format), you should let the EEOC field office know so that they can help you.

For certain types of claims, the procedures are different:

- Gender discrimination in wages
  - Under the Equal Pay Act (EPA), you don’t need to file a charge of discrimination with EEOC. Instead, you can go directly to court and file a lawsuit. The deadline for filing a lawsuit under the EPA is two years from the day you received the last discriminatory paycheck (this is extended to three years in the case of a willful "on-purpose") violation. However, you can still file with the EEOC if you prefer.

- Citizen status discrimination
  - If you want to file a complaint because you are being harassed based on your citizenship status, call the Office of the Special Counsel or one of the legal services listed in the Resources chapter at the end of this manual. You must file an IRCA charge within 180 days of the date on which the discrimination occurred. However, the Office of the Special Counsel might accept late charges if there is a good reason. If the deadline has passed, you should not give up on filing a claim. Even if the Special Counsel does not accept your late filing, they may start an independent investigation and you could be included in a later case.

The US Equal Employment Opportunity Commission (EEOC)

Phone Numbers – 1(800) 669-4000 and 1(800) 669-6820

Address - Federal Office Building 909 1st 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/
How To File Under State Law

You can call the WA State Human Rights Commission (WSHRC) to file a complaint. The WSHRC will also file the complaint with the federal agency, the U.S. Equal Employment Opportunity Commission (EEOC) if you so request.

If you believe that your rights have been violated under the Washington Law Against Discrimination you can file a complaint with the WSHRC. Any claim of discrimination must be filed within 6 months of the act of discrimination and your employer must have at least eight employees.

If you want to file a complaint with the WA State Human Rights Commission (WSHRC):
1. You can call the WSHRC or go to the office in person to get the complaint questionnaire. A charge may be filed by mail or in person. You can download the complaint questionnaire and the employment supplemental form at www.hum.wa.gov/CQ/index.html.
2. You fill out the complaint questionnaire and the employment supplemental form, sign them and send them back to the WSHRC within 6 months of the date of discrimination. The sooner you file your charge, the better.
3. An investigator will be assigned to your complaint.

Washington State Human Rights Commission (WSHRC) offices

<table>
<thead>
<tr>
<th>Location</th>
<th>Phone Number</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Olympia</td>
<td>(360) 753-6770</td>
<td>711 S. Capitol Way, Suite 402, Olympia, WA 98504-2490</td>
</tr>
<tr>
<td></td>
<td>Toll-Free: 1 (800) 233-3247</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TTY: 1 (800) 300-7525</td>
<td></td>
</tr>
<tr>
<td>Spokane</td>
<td>(509) 568-3196</td>
<td>1330 N. Washington St., Suite 2460, Spokane, WA 99201</td>
</tr>
<tr>
<td>(For Complaints from Eastern Washington, including Spokane, Whitman, Okanogan, Lincoln, Ferry, and Stevens Counties)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yakima</td>
<td>(509) 494-0347</td>
<td>15 West Yakima Ave, Suite 100, Yakima, WA 98920</td>
</tr>
<tr>
<td>(For Complaints from Central Washington, including Yakima, Kittitas, Chelan, Benton, Walla Walla, and Klickitat Counties)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vancouver</td>
<td>N/A</td>
<td>312 SE Stone Mill Drive, Bldg. 120, Vancouver, WA 98684</td>
</tr>
</tbody>
</table>
How To File Under Local Law

You can also file a claim with your local government if your county or city has anti-discrimination laws.

**Seattle:** If you believe that your rights have been denied under the Seattle Employment Practices Ordinance, you may file a complaint in person, by phone or online with the Office of Civil Rights in the Seattle Human Rights Department. The Seattle Office of Civil Rights will also file your claim with the EEOC. Your claim must be filed within six months of the act of discrimination. Public employees employed by the City of Seattle must file with the Seattle Office of Civil Rights.

Seattle Office of Civil Rights

*Phone Numbers* – (206) 684-4500, TTY: (253) 591-5153

*Address* - Central Building 810 3rd Ave, Suite 750, Seattle, WA 98104-1627

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

**King County:** Under King County Code Chapter 12.18, you can file a complaint with the King County Office of Civil Rights Enforcement. The complaint must be filed within 180 days of the act of discrimination. Public employees employed by King County must file with this organization.

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


**Pierce County:** In Pierce County, you may need to refer to your employment handbook or collective bargaining agreement to learn the right procedure for filing a complaint.

**Tacoma:** In Tacoma, complaints are handled by the Tacoma Human Rights Department. Complaints must be filed within six months of the act of discrimination.

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


**Snohomish County:** In Snohomish County, you may need to refer to your employment handbook to find the correct procedure for filing a claim.

**Spokane:** In Spokane, complaints are handled by the Spokane Human Rights Commission and must be filed within one year of the act.

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/](http://www.spokanecity.org/)
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 or claim. Retaliation occurs when you are punished because you complained 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 action towards you that affects your job, it may be illegal retaliation. It is also illegal discrimination if your employer allows coworkers to retaliate against you if you complained.

Summary of Laws Against Discrimination

<table>
<thead>
<tr>
<th>Law</th>
<th>Government Level</th>
<th>Protected Classes</th>
<th>Applies to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Rights Act of 1964, Title VII</td>
<td>Federal</td>
<td>Race, color, religion, sex, national origin, or pregnancy and pregnancy-related conditions</td>
<td>Employers with more than 15 employees; Labor and employment organizations/agencies</td>
</tr>
<tr>
<td>Equal Pay Act of 1963</td>
<td>Federal</td>
<td>Sex-based wage discrimination</td>
<td>Almost all employers. Exceptions: some religious institutions, certain agricultural jobs, some computer systems jobs</td>
</tr>
<tr>
<td>Age Discrimination in Employment Act of 1967</td>
<td>Federal</td>
<td>Age (40-70 years) discrimination</td>
<td>Employers with at least 20 employees; Labor and employment organizations/agencies</td>
</tr>
<tr>
<td>Americans with Disabilities Act of 1990</td>
<td>Federal</td>
<td>Qualified individuals with disabilities</td>
<td>Employers with at least 15 employees; Labor and employment organizations/agencies</td>
</tr>
<tr>
<td>Rehabilitation Act of 1973</td>
<td>Federal</td>
<td>Qualified individuals with disabilities</td>
<td>Federal government employees</td>
</tr>
<tr>
<td>42 U.S.C. Sec. 1981</td>
<td>Federal</td>
<td>Race, color, and national origin discrimination in job contracts</td>
<td>All public and private employers</td>
</tr>
<tr>
<td>Immigration Reform and Control Act</td>
<td>Federal</td>
<td>Citizenship status</td>
<td>Employers who have at least 4 employees</td>
</tr>
<tr>
<td>National Labor Relations Act</td>
<td>Federal</td>
<td>Right to organize with co-workers</td>
<td>Almost all employers. Exceptions: airline workers, railroad workers, farm workers, domestic service workers, independent contractors, supervisors, public employees and confidential employees</td>
</tr>
<tr>
<td>Law</td>
<td>Government Level</td>
<td>Protected Classes</td>
<td>Applies to:</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------</td>
</tr>
<tr>
<td>Seattle Fair Employment Practices Ordinance</td>
<td>Local</td>
<td>race; color; sex; age (40+); marital status; sexual orientation; gender identity; religion; creed; national origin; ancestry; political ideology; disability including pregnancy</td>
<td>Employers who have at least one employee; city employees</td>
</tr>
<tr>
<td>Pierce County Affirmative Action Plan</td>
<td>Local</td>
<td>Race; creed; religion; color; national origin; sex; age; disability; and veterans' status</td>
<td>Pierce County employees</td>
</tr>
<tr>
<td>City of Tacoma Law Against Discrimination</td>
<td>Local</td>
<td>Race; color; national origin or ancestry; religion; sex; gender identity; sexual orientation; marital status; familial status; age (40+) and disability</td>
<td>Employers in Tacoma who have at least 8 employees</td>
</tr>
<tr>
<td>Snohomish County Code Chapter 3.57</td>
<td>Local</td>
<td>Race; color; sex; religion; marital status; national origin; age; sexual orientation; citizenship; disability</td>
<td>Snohomish County employees</td>
</tr>
<tr>
<td>City of Spokane Human Rights Ordinance</td>
<td>Local</td>
<td>Race; religion; color; sex; sexual orientation; national origin; marital status; familial status; age; and disability</td>
<td>Employers in Spokane with 8 or more employees; city employees</td>
</tr>
</tbody>
</table>

Note: Many other laws that are addressed in the manual may not directly deal with discrimination, but do have whistleblower provisions whereby you can’t be retaliated or discriminated against for reporting violations.
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**Introduction**

In today’s world, losing a job happens all too often. Here’s Jennifer’s (fictional) story. It might sound familiar:

Jennifer has worked at the seafood processing plant for ten years. She has been a dedicated, loyal employee. One day her employer tells her he is closing the plant. She has sixty days before the layoff. She will have to file for unemployment insurance benefits, try to keep her bills paid, cut back on her spending, and look for another job. What are her options?

The chapter will give you some information about what to do if you lose your job.

**Did My Boss Have The Right To Fire Me?**

If you’ve been laid off or fired, first check that it is for a legal reason. The reasons your boss can fire you depend on your employment status. If you are an “at-will” employee, your employer can fire you for almost any, or no reason at all. If your employment was “just-cause employment,” which is what most workers with a union contract have, your boss will need a good reason to fire you. If you are in a union, look in your contract and check with your union representative about the process for discipline and lay off.

Whether you are employed “at-will” or with “just-cause” termination rights, 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, you cannot be fired:

- 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.
- For filing a health and safety or other official complaint or advocating for your 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, sexual orientation or union membership.
- 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.

Please see Chapter 12: Organizing to Make Things Better At Work for more information.

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. 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.

Regardless of whether you quit or were terminated, your final paycheck must be sent to you on your next regularly scheduled payday. Your employer cannot withhold your paycheck, for example, until you turn in your keys or uniform.

Check with your union rep or with your company's human resources department to find out if you have the right to lay-off (severance) pay to be included in your final paycheck. Depending on your contract or company policies, pay for unused vacation hours may also be included in your last check, but unused sick leave is usually not included.

**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. Sometimes this is known as a “lay-off” or a “reduction in force.” These payments should help you pay your bills until you find a new job. To receive UI payments, you must file a weekly claim at the end of every week. For detailed information on Unemployment Insurance, read on and visit the Washington State Employment Security Department’s homepage: www.esd.wa.gov/uibenefits/.

**Qualifying For Unemployment Insurance Benefits**

**Do I Qualify 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 that is “suitable work” for you.

“Suitable work” is a job that matches your prior training, experience, and education. Work is not considered suitable if the wages, hours or working conditions are not as good as most jobs in your occupation in the local market, or if you are not physically able to perform the job.

**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. For safety, you should apply by telephone for your benefits by calling toll-free 1 (800) 318-6022. Ask your claims specialist to explain the Address Confidentiality Program (ACP). You
can also refer to *Chapter 5: Taking Time Off From Work* for information on taking time off to deal with the aftermath of domestic violence.

- In some cases, people who 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. If this applies to you and you get UI benefits, you have to report any payments from your union (for example, money coming from a special fund) while you are not working. If the law defines these payments as "earnings," the ESD will deduct them from your UI check.

*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 that are honoring another union’s strike (union members affected by a lockout may qualify for UI benefits).
- 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 good reason to quit that is recognized by law, you may qualify. For example, if you quit work because conditions were beyond what any reasonable person would tolerate, it may be considered a good cause. If possible, before you quit, talk to someone from one of the legal services listed in the *Resources* chapter at the end of the manual, 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 (pdf): [www.esd.wa.gov/uibenefits/formsandpubs/handbook-for-unemployed-workers.pdf](http://www.esd.wa.gov/uibenefits/formsandpubs/handbook-for-unemployed-workers.pdf)

*Applying For Unemployment Insurance Benefits*

*When Should I Apply?*

You should apply for UI as soon as you are laid off or your hours are reduced. The first week of unemployment benefits is called the “waiting week.” You will not be paid for your waiting week, but you must still submit a weekly claim. You will start receiving benefits the next week. The waiting week can't begin until your claim is complete and filed.
A week for UI is always a calendar week, which starts at 12:01 AM on Sunday morning and ends at 12:00 AM the following Saturday. This means that if you file on Wednesday, your waiting week does not start until Sunday morning and would end the following Saturday.

**How Do I Apply?**

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. If you do not have access to a computer or telephone, you can use the telephones and computers available at WorkSource Offices. More information on WorkSource services and locations can be found in the *Resources* chapter at the end of this manual.

For every week that you claim benefits, you must apply for at least three jobs per week or attend one WorkSource workshop and keep a record of it.

**For your application you will need:**

- Your social security number.
- The name and address of the employer you last worked for.
- If you belong to a union, the name and local number of your union.
- The names and addresses of all your other employers during the past two years and the dates of employment. It’s okay to estimate the dates.
- If you have been receiving Worker’s Compensation for 13 weeks in a row, you will need your WA State Department of Labor and Industries claim number.
- If you worked for the federal government in the last two years, your Standard Form 8 (SF8), *Notice To Federal Employees About Unemployment Insurance*, and Standard Form 50 (SF50), *Notice of Personnel Action*.
- The date you last worked.
- If you are not a U.S. citizen, your identification number.
- If you worked for the military within the last two years, your member copy number (2 through 8) on your DD-214 form.
- If you have been covered by private insurance for a work injury claim, you need to provide your claim number, the name of your insurance carrier, and the name and phone number of the insurance claims manager.
- If you were unable to work for 13 weeks in a row (or more) due to an injury or illness at any point in the past two years, you need to provide the date that your doctor said you could return to full-time work.

**How Much Money Will I Receive?**

For a new claim in Washington State, the maximum weekly benefit amount is $624 in 2013. The minimum weekly benefit amount is $148.

The actual 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
Do I Have To Pay Taxes On Unemployment Benefits?

Unemployment benefits are considered taxable income. Usually, taxes will not be withheld from your unemployment checks, and you will have to declare your income from unemployment on your tax returns. Depending on all of you income for that year, you may have to pay back taxes that you owe on unemployment benefits. 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. You and your former employer both have the chance to explain. For instance, you might think that you were laid off because of lack of work, which would qualify you for UI benefits, but your employer claims you were fired for not doing your job. In that case you might not be eligible.

After considering both sides, the ESD makes an official decision and sends you a letter about whether or not you will receive benefits. Because the rules about eligibility are complicated, you should contact the Unemployment Claims Tele-Center at (800) 318-6022 about your specific situation.

What If I Don’t Agree With The Employment Security Department’s Decision?

If you disagree with any decision made related to your unemployment benefits, you have the right to have the decision checked for fairness. This is called filing an appeal. Usually, you have 30 days from the date your benefits were denied to make an appeal, so pay close attention to all letters that you receive from the unemployment office. You appeal by writing a letter to the ESD. Make sure your letter includes the following information:

- The decision that you want to appeal.
- The reason(s) you disagree with the decision.
- Your name, current address and telephone number.
- Your social security number.
- Your signature.

You will need to mail or fax the letter to the address or fax number listed on the written decision you received. In two or three weeks you will have a chance to tell your side of the story at a hearing before an administrative law judge who works for a separate state agency called the Administrative Hearings Office. Many hearings are done by telephone. The hearing is the most important part of the appeals process because it is the only time you can tell your side of the story. If possible, you should have witnesses and present any documents that support your claim at the hearing.

**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 the Unemployment Law Project (which provides free assistance on some claims) or an attorney for help. Contact information is listed in the *Resources* chapter at the end of this manual.
What Could Make Me Lose My Benefits?

You could be disqualified for any of the following reasons:

- Participating in training that is not approved by the ESD.
- Failing to accept or apply for a suitable job if the ESD tells you to do so.
- Not attending a scheduled job-search monitoring interview.
- Not attending an orientation and job preparation class if directed.
- Failing to provide copies of your job search log when requested.
- Failing to apply for at least three jobs per week, or to attend a WorkSource session.
- Filing your claim late.
- Not following directions given by an ESD representative.
- Refusing the ESD’s help in finding a job.
- Not following your union's rules.
- Misrepresenting the facts while claiming benefits.
- Using up the maximum amount of benefits for the year.

What's An Overpayment, And Do I Have To Pay It Back?

Overpayments of unemployment benefits are when you are paid benefits that are later denied for the same time period in which payment was made. If you receive more benefits than you are entitled to, the ESD will send you a decision with an Overpayment Assessment, which will say how much you owe. If you are overpaid and the payment includes an Internal Revenue Service (IRS) deduction or child support deduction (through the state’s Division of Child Support), you must repay the benefits you received plus the amount that was withheld.

Dislocated Workers And Retraining

If you lose your job, you may find that it is difficult to find a new job in the same field in which you have experience. In that case, there are some programs that can help you learn new skills to enter a different field. Read on to learn about some of these options.

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 see the Resources chapter at the end of this manual or visit the website: https://fortress.wa.gov/esda/worksource/ or call the WorkSource Help Desk at (360) 407-1389.
Dislocated Workers

If you are a dislocated worker, you may be eligible for benefits that could include paid training for a new job, financial help in doing a job search in other fields, or relocation to an area where there are more jobs. You might be a dislocated worker if you were not fired from your job and any of the following are true:

- You are unlikely to go back to your old job because of extreme circumstances (for example, mass layoffs, or plant closure).
- You can show that you are unlikely to return to the career or occupation in which you already have experience because of illness, injury or other unique individual circumstances.
- You are unlikely to go back to your old job because there is not enough demand for your skills or there is a surplus of workers with your skills in your local area.
- You were laid off because of a change in technology.
- You lost your job or had hours reduced due to foreign competition in the marketplace.
- You are self-employed, but the economy or a natural disaster has put you out of work. Examples include farmers, ranchers, and fishermen. In this case, you are probably not eligible for unemployment insurance benefits, but you still might be eligible for dislocated worker benefits.

Frequently Asked Questions About Dislocated Workers

What Are Some Of My Retraining Options?

You may be able to continue collecting Unemployment Insurance benefits while you are in a training program through Commissioner Approved Training (CAT). To be eligible for CAT, you must be eligible for UI benefits.

A CAT program is a course of study which:

- Is full time (the definition of “full-time” will be different depending on the school or training program).
- Provides you with skills that will enable you to get a job in an occupation that is in reasonable demand in your local area or labor market.
- Is not primarily intended to meet the requirements of a college/university degree.
- Is usually short, because CAT does NOT extend your benefits. If you will run out of UI benefits before completing your training, you must provide proof that you have enough money to successfully complete your training.

For more information about CAT go to:

www.esd.wa.gov/uibenefits/specialservices/training/commissioner-approved-training.php

To apply for CAT, you can call the ESD hotline and ask for a Student Eligibility Questionnaire/CAT Application from 1 (800) 318-6022, fill one out at a WorkSource Center, or download an application from the website listed above.
Who Can Receive Training Benefits?

A dislocated worker who qualifies for training benefits must have a long-term work history in an occupation using a particular set of skills. Long-term work history means your base year plus two of the four years before your base year. If your local Workforce Development Council finds that the demand for these skills is in decline, you may be eligible. See: www.wilma.org/wdclists/ for a list of declining demand occupations.

Who Does Not Qualify For Training Benefits?

You do not qualify for training benefits if you:

- Are on standby and expect to be recalled to your regular employer.
- Have a definite recall date within six months of the date of your layoff.
- Are unemployed due to a regular seasonal layoff.
- Received training benefits within the past five years.
- Are not legally allowed to work in the United States.

When Do I Need To File For Training Benefits?

You have 60 days (plus 5 days mailing time) from the date you receive your Unemployment Claims Kit (shortly after you file your UI claim). You will not get training benefits if you do not file an application within the 60-day (plus 5 days mailing) time.

How Long Can I Receive Training Benefits?

You may receive up to 52 weeks’ worth of benefits, equal to your UI benefit amount. Training benefits can only be paid up to the amount necessary for you to complete your approved training or until you run out of training benefits, whichever comes first.

How Much Money Will I Get In My Weekly ESD Training Benefits Check?

You will get the same amount as your regular weekly UI benefit amount. Training benefits are paid under the same terms and conditions as regular UI benefits, except that you will not be required to look for work or accept an offer of work as long as you are making good progress in your approved full-time training program.

Can I Work Part-Time And Still Receive Training Benefits?

Yes, as long as you are enrolled and making satisfactory progress in your approved full-time training program. You must report any earnings when you file your weekly unemployment claim. Most earnings will reduce your weekly benefit check.

Worker Adjustment And Re-Training Notification Act (WARN)

At the beginning of this chapter, you met the imaginary worker Jennifer, who was about to be laid off. Her employer was required under federal law to send a letter to her home address, advising her that the plant was closing. The letter that she received is called a Worker Adjustment and Re-training Notification Act (WARN) letter.

WARN requires employers who have more than 100 employees to announce plant closings and mass layoffs at least 60 days ahead of time. The WARN letter will also tell you whether the layoff is permanent or will last 6 months or shorter. This notice must be provided either directly to affected workers.
workers or their representatives (for example, a labor union representative), in addition to the head of the local government. If you receive a WARN letter, you may qualify for the dislocated worker benefits described above.

You are not protected by WARN if you are:

- A government worker (local, state, or federal).
- A worker who is aware that your job is temporary.
- On strike.
- A contractor or consultant that does work for the effected company but is paid through a different employer.

If your employer violates the WARN Act notice requirement, you can sue him/her in court for an amount equal to back pay and benefits for the period of the violation up to 60 days. You should consult an attorney if you think that your employer did not inform you early enough of the changes—often, class action suits against employers are more effective than simply suing alone.

**Additional Resources**

*Employment Security Department (ESD) Information on Unemployment Insurance*

The ESD has a more detailed FAQ sheet and many other tools to help you estimate 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.

*WorkSource*

WorkSource is managed by state and local government agencies as well as by local community-based organizations. 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. For information on WorkSource services and office locations visit the website: [https://fortress.wa.gov/esd/worksource/](https://fortress.wa.gov/esd/worksource/) or call the WorkSource Help Desk at (360) 407-1389.

*Farm Worker Job Training*

The Opportunities Industrialization Center (OIC) and other community agencies coordinate education, occupational skills, and job experience training for seasonal and migrant farm workers in Washington. These organizations assist eligible farm workers by training those who are seeking new, better or first-time jobs. The program staff works with individuals to assess skill and goals and provides vocational and general educational training.

The OIC’s service delivery areas are Moses Lake, Mount Vernon, Pasco, Sunnyside, Wenatchee and Yakima. Services are available to help eligible farm workers develop skills, or train for permanent year-round employment outside agriculture. This program also provides educational services for preschool-aged children. Their website is [www.yvoic.org](http://www.yvoic.org). For more information contact the Yakima office (information listed below) or visit the website to find more office locations and contact information.

*Yakima OIC*
Trade Readjustment Allowance

If your workplace is covered by the **Trade Readjustment Allowance (TRA)**, you might also be able to get weekly payments after your unemployment insurance runs out. See www.doleta.gov/tradeact/ for more information. You can also get more information on applying for **Trade Adjustment Assistance** by using the contact below:

**U.S. Department of Labor, Employment and Training Administration, Division of Trade Adjustment Assistance**

*Phone* - (202) 693-3560

*Address* - Room C-5311, 200 Constitution Ave NW, Washington DC 20210

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

The Unemployment Law Project – (for Denied Claims)

If your claim is denied and you are low-income, you can get help from the **Unemployment Law Project**. 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

*Address* - 1904 3rd Ave Ste 604, Seattle WA 98101

Chapter 8
Young Workers, New Jobs
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Introduction

One of the biggest steps in your life is joining the workforce. Whether you are a high school student looking for your first job, a college student doing an internship, or if you are just starting your career, there are many opportunities and challenges that face you in this new stage. Adults who are switching careers should also review this information. It is important for you to know your rights on the job from the very beginning. 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. This chapter also includes options for your career education, and what you should look out for as a worker entering the workforce for the first time, or as you re-enter the workforce. For information on what your future employer can and cannot ask you during an interview, see Chapter 6: Discrimination.

Teen Workers

Note: the following laws do not apply to teens that work for a business entirely owned by their parent or guardian.

Age, Wage and Hour Laws for Teen Workers

How Old Do I Have To Be To Work?

In Washington State, the minimum age for teen workers is 14 years old. A court order is required to hire an employee younger than 14. An exception is that 12 and 13 year-olds are allowed to work during non-school weeks hand-harvesting berries, flower bulbs, cucumbers and spinach. This section discusses some of the special laws to protect the health and safety of working minors — those under 18 years old.

What Does An Employer Have To Do To Hire A Teen?

In order to hire a teen worker, your employer must get a permit from the WA State Department of Labor and Industries (L&I) or the Department of Licensing – Master Business License website (www.dol.wa.gov/forms/700028fillable.pdf). Your employer has to post a copy of the “Master Business License” with a current minor work permit approval at the workplace. This permit has to be renewed every year.

Your employer must have your parent or legal guardian fill out a Parent/School Authorization form. If you work during the school year, your employer must have the school fill out this form as well. The employer should keep the form and get a new one every year. The employer also has to keep your proof of age on file. Examples of “proof of age” include a copy of your birth certificate, passport or driver’s license.

Your employer has to keep the Parent/School Authorization Form for three years after you are hired. Your employer also has to keep employment records with information such as your name, address, position, dates of employment, rate(s) of pay, amount paid each pay period and hours worked. If you ask to see these records, your employer must give them to you within 10 business days.
What Is The Minimum Wage For Teens?

The minimum wage is the least amount an employer can pay you per hour. 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). Some cities may have a higher minimum wage. For more information on minimum wage and when you should be paid see Chapter 1: Basic Workplace Rights.

Are There Exceptions To The Minimum Wage For Teens Employed As Farm Workers?

Yes. Teens who work as farm workers may be paid less than minimum wage, but only if all three of the following are true:

- You are harvesting by hand and paid by the piece; and
- You live at home and travel to the farm for work; and
- You worked in agriculture for less than 13 weeks during the last calendar year.

For example, this exception to paying the minimum wage could include teen workers living in the local community who harvest berries during the season, but do not normally work in agriculture at any other time. Teens who work on farms owned by their immediate family members (guardians) can also be paid less than the minimum wage.

When Are Teens Allowed To Work?

Young people less than 18 years of age are only allowed to work certain hours per day and per week; see the charts below for a summary. Employees under 18 may not work during school hours. A “school week” or “school day” is any week or day with any amount of schooling; this includes alternative school and home school.

<table>
<thead>
<tr>
<th>Permitted Hours and Schedules for Minors in Non-Agricultural Work</th>
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<tbody>
<tr>
<td><strong>Hours a Day</strong></td>
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<tr>
<td>14-15 year-olds</td>
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<tr>
<td>School weeks</td>
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<td>Non-school weeks</td>
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<tr>
<td>16-17 year-olds</td>
</tr>
<tr>
<td>School weeks</td>
</tr>
<tr>
<td>Non-school weeks</td>
</tr>
</tbody>
</table>
Permitted Hours and Schedules for Minors in Agricultural Work

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Hours a Day</th>
<th>Hours per Week</th>
<th>Days per Week</th>
<th>Hours of Day</th>
</tr>
</thead>
<tbody>
<tr>
<td>12-13 year-olds</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-school weeks</td>
<td>8</td>
<td>40</td>
<td>6</td>
<td>5am-9pm</td>
</tr>
<tr>
<td>14-15 year-olds</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>School weeks</td>
<td>3</td>
<td>21</td>
<td>6</td>
<td>7am-8pm (6am-8pm in animal agriculture and irrigation)</td>
</tr>
<tr>
<td>Non-school weeks</td>
<td>8</td>
<td>40</td>
<td>6</td>
<td>5am-9pm</td>
</tr>
<tr>
<td>16-17 year-olds</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>School weeks</td>
<td>4</td>
<td>28</td>
<td>6</td>
<td>5am-10pm (No later than 9 p.m. on more than 2 consecutive nights before a school day.)</td>
</tr>
<tr>
<td>Non-school weeks</td>
<td>8</td>
<td>50 (60 in mechanical harvest of peas, wheat and hay)</td>
<td>6</td>
<td>5am-10pm</td>
</tr>
</tbody>
</table>

There are a few exceptions to the above schedules.

- All workers ages 14-17 may work 7 days a week in dairy, livestock, hay harvest and irrigation during school and non-school weeks.
- For 16 and 17 year-olds, the employer may apply for a “variance” so that the employee can work more hours. A “variance” may be allowed for “good cause.” For example, to harvest crops during weather emergencies when the employer can show that the variance will not harm the minor’s health, safety and school performance.
- The “school day” and “school week” limits do not apply if you are over 16 AND have a GED, have finished high school, are taking college classes for credit, are married, or have children.

**Remember:** if you are under 18 and your employer asks you to work outside of the hours listed or more hours per week than the law allows, you have the right to say no and keep your job.

### Breaks for Teens

All 14 and 15 year-old non-agricultural workers have a right to a 30-minute, uninterrupted unpaid 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 farm workers under 18 have a right to a 30-minute uninterrupted unpaid meal break if they work more than five hours in a day. For every 4 hours they work, they also get a 10-minute paid rest break. If a 16 or 17 year-old non-agricultural or farm worker works 11 or more hours in a day, s/he should get at least one more 30-minute meal break.

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 to those laws, these are some additional laws to protect teens at work.

Are There Tasks Teens May Not Perform On The Job?

There are a number of tasks that teens cannot perform on the job. These are mostly jobs that could be dangerous for you. A list of tasks that you cannot perform can be found on the Department of Labor and Industries website.

For teens in non-agricultural jobs:
www.lni.wa.gov/WorkplaceRights/TeenWorkers/Prohibited/default.asp

For teens in agricultural jobs:
www.lni.wa.gov/WorkplaceRights/TeenWorkers/Agri/Prohibited/default.asp

More Resources

It is very important to make notes about all conversation you have with your employer if you have a question or concern about whether or not what you are being asked to do or how you are being treated is legal. This is essential if you ever have to file a formal complaint.

For more information on Teen Workers:

Web Address - www.lni.wa.gov/WorkplaceRights/TeenWorkers/
Phone - (360) 902-6041

If you have a complaint about wages, hours, breaks or overtime, contact the WA State Department of Labor and Industries (L&I) Employment Standards Office toll-free at 1 (866) 219-7321.

You can also file a complaint at your local L&I office (listed in the Resources chapter at the end of this manual) or download a complaint form with instructions at www.lni.wa.gov. Once the form is completed, you will speak with an L&I representative whose job it is to investigate all claims.

L&I can stop employers from hiring workers under the age of 18 if the work environment is not safe, healthy, or fair. L&I can also charge the employer up to $1,000 for breaking child labor laws and bring him or her to criminal court. Under federal law, fines can be up to $11,000.

If you get injured on the job, you may qualify for workers' compensation to help you pay for treatment. Please see Chapter 3: Injury On The Job And Workers' Compensation for more information.

If you have any further questions, call your local L&I office listed in the Resources chapter at the end of this manual.
**Internships**

An internship is an opportunity for you to work full-time or part-time in a professional setting. It is on-the-job training that gives you work experience, contacts with people in a specific field, and a better sense of what certain careers will be like. Internships can be paid or unpaid, depending on the company. They are more and more common now, not only for college students but also for high school students and adults.

It is very important that you are looking out for your rights as an intern. Companies might wrongly offer you unpaid internships, a serious problem that undervalues your work and the work of your fellow employees. When companies don’t pay you for your work, paid employees compete with the free labor of an unpaid intern, while the company gets your work for free. When many companies do this, it can increase unemployment while lowering everyone’s wages.

**Unpaid Internships At A For-Profit Business**

*Does The Company Have To Pay Me?*

There are very few cases where an internship at a for-profit business can legally be unpaid. **Even if you receive school credit**, an internship at a for-profit business can only be unpaid if all of the following standards are met:

1. The internship should be mostly educational. The internship can include some actual work experience, but you should be learning more than working.
2. The internship must benefit you, the intern.
3. You cannot be hired instead of regular workers.
4. The employer should not directly benefit from your work.
5. You are not guaranteed a job at the end of the internship.
6. You and the internship provider must both know and agree that the internship will be unpaid.

It is sometimes hard to tell whether or not these requirements are met.

For the first requirement, “educational” means that you should not be doing routine business tasks all the time. Instead, the employer should be providing an experience that will give you skills that you can use for many different jobs in the future. A good test of this is if there is a full training program for you.

The third and fourth requirements mean 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. As an employee, you should get at least minimum wage and overtime pay. The employer should not benefit as much as you do from the work.

The fifth requirement means that your employer cannot “try you out” for a job in the future. 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.

*Can I Volunteer At A For-Profit Business?*

No, it is not legal for a for-profit, private sector business to have unpaid *volunteers.*
What Can I Do If My Unpaid Internship Should Be Paid?

If your internship is unpaid and should be paid, contact the U.S. Department of Labor Wage and Hour Division District Office for your area listed at the end of this section. You can still be paid for the work you did even if you already finished the internship or got school/college credit for the internship. Interns have successfully sued companies and gotten money back in the past. You can also look at Chapter 1: Basic Workplace Rights for more information on wage theft and the Wage Payment Act.

Does The Company Have To Provide Insurance, Benefits, Or Protections?

Companies do not have to cover unpaid college (past Grade 12) interns’ workers’ compensation insurance. If you are enrolled in college credit for your internship, the school may provide worker’s compensation insurance for you – but only during the semester or quarter that you are officially enrolled in the credits. Check with the internship advisor at your school for more information and to find out if that is true for you.

Interns that are legally unpaid also don’t get protection against discrimination and sexual harassment or other basic workplace rights that employees have.

Your internship provider does have to provide a safe working environment for you and follow all health and safety laws. For more information on these laws, see Chapter 2: Health And Safety.

Unpaid Internships at Non-Profit Organizations

Federal law allows internships at non-profit businesses as volunteers. For example, volunteers at educational, religious, charitable, and state and local government non-profit organizations do not have to be paid minimum wage or overtime.

High School Learning Programs

When Can A Work-Learning Program Be Unpaid?

For a high school work-learning program to be unpaid, these five requirements must be met:

1. The school district or the Office of the Superintendent of Public Instruction (OSPI) has to approve and oversee the program.
2. The training program has to relate to the student’s schooling.
3. The training program must have a teacher who runs the program.
4. The training program host cannot benefit too much from the student’s work. The student should mostly be shadowing workers, watching, and demonstrating what s/he has learned. The business/host cannot replace workers with unpaid, high school students.
5. The parent, the student and the employer should all know that the program will be unpaid and will not turn into a job offer.

What Are The Requirements For A Paid Work-Learning Program?

If a high school work-learning program pays the high school student, the employer must pay the student minimum wage ($9.32 as of 2014) and overtime, as well as meet all of the child labor laws (see the Teen Workers Section). If you work for a high school learning program and are paid, you are covered by workers’ compensation insurance.
Contact Information for Internship Questions

If you had an unpaid internship that you think should have been paid, you can contact the Department of Labor’s Wage and Hour Division to ask for pay for the hours you worked at 1-866-USWAGE (1-866-487-9243).

You can also find more information about fair pay online: www.dol.gov/whd/regs/compliance/fairpay/complaint.htm

You can also file a complaint at your local Wage and Hour Division Office. For most of Washington, you can use the Seattle WHD District office.

Seattle District Office
Address - 300 Fifth Avenue, Suite 1130, Seattle, WA 98104
Phone - (206) 398-8039

If you are from Wahkiakum, Cowlitz, Clark, Skamania and Klickitat counties, you should contact the Portland WHD District office.

Portland District Office
Address - 620 SW Main Street, Room 423, Portland, OR 97205
Phone - (503) 326-3057

Apprenticeships

Apprenticeship is an option for those who have finished high school or their GED and would like to learn a skilled trade while getting paid. There are many different trades that you can learn through apprenticeships. Some examples are: electrician, sprinkler-fitter, bricklayer, painter, elevator constructor, ironworker, carpenter and many more.

Apprenticeship programs in Washington State usually take 1-5 years, which comes out to about 2,000 to 10,000 total hours depending on the program. Most of this is on-the-job training. Apprentices get at least 144 hours of classroom instruction each year.

There are different requirements for each apprenticeship, but each one should have an Apprenticeship Agreement, a contract between the employer and apprentice. The Washington State Apprenticeship and Training Council must approve the agreement.

Who Can Be An Apprentice?

You have to be at least 16 to become an apprentice, but many apprenticeship jobs include dangerous work that can only legally be done by adults. If you are under 18, you should ask whether the apprenticeship requires any work that cannot be done by minors.

You will need to have finished a GED or high school to do an apprenticeship in Washington State. It can also be competitive to get into the apprenticeship program you are interested in. Employers will look for education, skills, prior experience and good character.

What Is A Journeyworker?

A journeyworker is an “expert” in a trade. Usually, they are licensed by the state and also recognized by the federal government. Journeyworkers have all finished an apprenticeship program for their trade. Once you complete your apprenticeship, you are considered a journeyworker. Journeyworkers become on-the-job teachers and mentors for apprentices.
Benefits of Apprenticeship

Apprenticeship can give you many benefits, including:

**Education:** You can have on-the-job experience while also getting time in the classroom and lab. Some programs let you pay less for classes at technical colleges, and some programs let you earn credit towards an Associate’s degree in addition to your license in the trade.

**Low ratio of apprentices to journeyworkers:** A low ratio of students to teachers can be very helpful in learning new skills.

**Guaranteed pay raises:** As you move through your program and classroom work, your pay will also increase in steps. Your pay is an increasing percentage of a journeyworker’s pay. For example, in your first year you might earn 65% of journey wage, 75% in your second year and so on until you “journey out” and become a journey level worker yourself.

**Journeyworker recognition:** When you finish your program, you will be recognized as a journeyworker (expert) both statewide and nationwide. This can open many job opportunities for you.

**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 federal projects during your apprenticeship.

Apprenticeship Health and Safety

**What If I Am Injured On The Job?**

Employers are required to cover workers’ compensation insurance (also called industrial insurance) for all workers, including registered apprentices. This means that whether you are injured in on-the-job training or you are injured in the classroom or lab, your medical costs and lost wages will be covered by insurance. During on-the-job training, your employer covers your workers’ compensation. During classroom and lab times, the Washington State Apprenticeship and Training Council will cover it. An injury must usually be reported within one year of the injury for you to receive benefits. An occupational illness must usually be reported within two years of when the illness begins.

If you are hurt during on-the-job-training, you should tell your supervisor right away and seek medical attention. You can choose the doctor that you see. Your employer may be able to ask you to see a different doctor in addition to the doctor that you choose. The doctor should give you a “Report of Industry Injury or Occupational Disease” form to fill out. If your employer is self-insured, then s/he will give you the form to take to the doctor. Fill out the worker’s section of the form and put the name of the company you were doing on-the-job training at as your “employer.”

If you are hurt in the classroom or lab, you should tell your instructor right away and seek medical attention. The doctor will give you a “Report of Industry Injury or Occupational Disease” to fill out. When the form asks for your wages, fill it out with the wages that you earned at your current apprenticeship job. However, for “Employer” you should list:

**Washington State Apprenticeship and Training Council**

PO Box 44530
Types of Apprenticeships

Should I Choose A Registered Apprenticeship Or An Independent One?

Both types of apprenticeships will allow you to gain valuable skills. However, in Washington State, only registered apprentices will be given a state certificate of Apprenticeship Completion, which is an important official credential.

What Is A Joint Apprenticeship? A Non-Joint Apprenticeship?

A joint apprenticeship is sponsored by both a labor organization/union and an employer, while a non-joint apprenticeship is sponsored only by the employer or association that you work for. The biggest difference for the apprentice is that a joint apprenticeship gives you the advantage of “collective bargaining,” or the support of an entire group of apprentices and employees (a union) when discussing hours, wages, and other work-related requirements that will affect you.

Washington State Apprenticeship Contact Information

Phone - (360)-902-5320/5323/5324

Web Address - www.lni.wa.gov/tradeslicensing/apprenticeship/

You can also contact the Apprenticeship consultant for your area. Find who is in charge of your region and their contact information at: www.lni.wa.gov/TradesLicensing/Apprenticeship/About/AppCoordinators/.
University And College Student Workers

In general, student workers have all of the same rights as teen workers. The biggest difference between teen workers and student workers is that some student workers may qualify for Work-Study programs, which are funded by the state and federal governments.

The Federal Work Study Program (FWS)

What Is The Federal Work Study Program?

The Federal Work Study Program is a way for the US government to partially fund the wages of working students. Across the nation, there are about 3,400 colleges and universities that participate in this program. The funds give college students a way to help pay for part of their education. If you qualify, you may be able to work:

- On-campus at a private or public college
- Off-campus at a non-profit organization or public agency
- Off-campus at certain for-profit organizations that do work directly related to your studies

Do I Qualify For The FWS Program?

Generally, part-time or full-time college students who are low-to-middle-income are eligible for the FWS program. Specifically:

- You must be either a U.S. citizen, a permanent resident, or have other immigration status that allows you to work in the U.S.
- If you are male, you must be registered with Selective Service.
- You must be enrolled in a registered college at least half time and working towards a degree or certificate.
- You must show that you need financial aid to attend college.
- You cannot be in default on a federal student-loan or owe money on a federal student grant.
- You must show that you are making satisfactory academic progress in school.
- You must have a high school diploma or recognized equivalent such as a GED certificate.

How Do I Apply For The FWS Program?

To apply, you must fill out the Free Application for Federal Student Aid (FAFSA) online at www.fafsa.ed.gov. The FAFSA will ask for information about your parents’ incomes, whether you have siblings in college, and other financial questions that will help the US government determine whether or not you qualify to be funded by the FWS program. You must reapply for the FWS program each year through the FAFSA.

Even if you do qualify for the FWSP, you do not automatically get work. You need to find a job on your own, and that employer has to have applied to the FSW program for funding. Most employers will say whether or not they have federal work-study funding or not. If you are hired, your employer will then draw up a contract with your school, the federal government and with you. Part of your wages will be funded through the FWS program.
How Many Hours Can I Work Under The Federal Work Study Program?

Your school and your employer will decide how many hours you can work. This depends on the organization you work for, the amount of money the federal government provides, and your performance in school.

How Much Will I Get Paid Under The Federal Work Study Program?

If you find a job that participates in the FWS program you still have the same rights as a regular worker and must be paid at least the minimum wage, $9.32 in Washington State in 2014. You have to be paid by the hour, rather than for each project that you finish.

For the FWS program, you may earn college credits if the organization you're working for offers it and your college allows it. However, even if you are earning credit, you must be paid at least the minimum wage.

You must be paid at least once a month, and your wages have to be paid directly to you unless you request that your school uses your wages to pay for your tuition.

If you qualify for the FWS program, you don’t have to use it. You can still work for companies that do not participate in the FWS program.

For More Information On The FWS 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.

Washington State Work Study Program

What Is The Washington State Work Study Program?

The Washington State Work Study Program is much like the Federal Work Study Program, except it is paid for by the State of Washington for Washington residents going to school here.

How Do I Qualify For The Washington State Work Study Program?

To apply for the State Work Study program, you have to meet some basic requirements. These are:

- You must be a resident of Washington State.
- You must show that you need financial aid to attend college.
- You must be enrolled in a registered college at least half time and working towards a degree or certificate.
- You cannot be in default on a federal student-loan or owe money on a federal student grant.
- You must show that you are making satisfactory academic progress in school.
- You cannot be studying towards a theology or religion degree.
Like the Federal Work Study program, you must apply through the FAFSA (Free Application for Federal Student Aid). Fill out the application online at: www.fafsa.ed.gov. Your school will then decide if you will receive hours through the Washington State Work Study Program. Like with the Federal Work Study program, if you receive hours from your school you still have to find a job that participates in the program.

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.

Are There Any Limits On What I Can Do Through The Washington State Work Study Program?

Whenever possible, you should find a job that relates to your course of study. You may not work for an employer that is involved in politics, e.g., supporting a candidate or piece of legislation, or lobbying, even if they are not connected to any political party. You also may not work for any employers that are connected with a religion, though some hospitals are exceptions. Be sure to double check with your employer and your school if you have any doubts.

How Many Hours Can I Work Through The Washington State Work Study Program?

During the school year, if you are attending college at least half-time, you can work up to (an average of) 19 hours per week.

During official school breaks (usually summer quarter), you can work up to 40 hours per week as long as you are going to attend the same college in the next quarter, and you still show that you need the job.

How Do I Get Paid Through The Washington State Work Study Program?

You must be paid at least once a month through Washington State Work Study Program, and you must also be paid at an hourly rate that is at least minimum wage in Washington State, $9.32 per hour in 2014. Your employer must pay you at the same rate that they would pay a regular, non-student employee doing similar work.

The exception to the hourly-rate rule is on-campus graduate assistants, who may be paid with a salary. The graduate student worker should keep track of hours worked, and the employer must tell the graduate student worker if the rate of pay changes. The student worker must also be paid in check or direct deposit so that there are records of payment.

You will also be covered by workers' compensation through your work-study employer.

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

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 Adress - www.wsac.wa.gov/
International Student Workers

International students are allowed, under certain circumstances, to work on and off campus. This section should give you a general idea about the restrictions and requirements, but your actual ability to work will depend, in large part, on the policies at your school and your specific situation.

Can I Work In The United States?

Students in the U.S. who hold F-1 visas can qualify to work in certain on-campus jobs during school, but can only work off-campus after completing the first school year. You probably have F-1 status already if you study full time at a school, college/university, conservatory, or language-learning program, and are not a permanent resident or citizen of the U.S.

Students who study at technical colleges may have the M-1 visa, and they are only allowed to begin work or practical training after they have finished their entire study program or degree.

On-Campus Employment At College

International students can work on-campus at places like campus bookstores or cafeterias, or in an off-campus location that is connected to the school in some way, such as a research lab. If you work at an on-campus “commercial business” like a bookstore or a café, it has to directly serve students.

International students can work on-campus for 20 hours per week while school is in session and 40 hours per week when school is not in session (during summer or breaks) if you will be enrolled in school once the break is over.

You do not have to get work authorization from U.S. Citizenship and Immigration Services for on-campus employment. Be very careful to follow all of these guidelines or else your F-1 status may be taken away and you may be asked to leave the country. You can find more information about student immigration on the US Immigration and Customs Enforcement website at http://www.ice.gov/sevis/students/.

Curricular And Optional Practical Training (CPT Vs. OPT)

CPT and OPT are both ways for international students to gain work experience in the United States. Both programs require you to have finished one year (usually three quarters or two semesters) in a university or college you are going to graduate from, and both programs require that your job (through CPT or OPT) relates to your major. This may mean that you have to choose a major before you can do CPT and OPT.

You may be paid for both CPT and OPT, and in both cases you can work during the school year.

Even though CPT and OPT are quite similar in terms of what you do, there are a few major differences in how the programs work. Use the chart on the next page to understand the differences between CPT and OPT.
## Curricular Practical Training

- **You may do CPT only while you are enrolled in a college or university.**
  - **Question:** When can I participate in these programs?
  - **Optional Practical Training:** You may do OPT while you are studying at a college or university, and for a year after you graduate from the college or university.

- **Yes. You will need a job offer from a specific employer before you can apply for CPT.**
  - **Question:** Do I need a job offer to apply?
  - **Optional Practical Training:** No, OPT allows you to work for any employer once you have approval. You have to find a job within 60 days of graduating or else your OPT status will be taken away.

- **You may work either part time or full-time using CPT, and there is no limit on how many hours you can work. However, once you have worked a total of 1 year of CPT you will not be able to do OPT.**
  - **Question:** How much can I work?
  - **Optional Practical Training:** You can have a total of 12 months of full-time OPT in the US. You can work part-time during the school year and full-time in non-school weeks (breaks and after graduation). If you work part-time, each month will count as half a month of full-time OPT.

- **Yes, you must get college or university credits for doing the CPT, unless it is required as part of a class.**
  - **Question:** Do I need to get course credit?
  - **Optional Practical Training:** No.

- **You may apply for CPT through your college (contact the office for international students) after you have been in that college for one year.**
  - **Question:** How and when do I apply for these programs?
  - **Optional Practical Training:** Your application for OPT must go through the US Center for Immigration. If you are applying for post-graduation OPT, you can apply up to 90 days before you graduate (but must have a job within 60 days of your graduation).

- **Depending on your school, you will receive an I-20 form that allows you to work about 5-10 days after you apply.**
  - **Question:** How long will it take for me to receive authorization?
  - **Optional Practical Training:** You will have to wait 3-4 months for US Citizenship and Immigration Services to process your OPT application. You cannot start working without the Employment Authorization Document (EAD) that they will send to you.

## STEM Extension

If you participated in an OPT, you may be able to get a STEM Extension of 17 months, which allows you to work in the United States for a longer time after the OPT. You can apply for a STEM extension if:

- Your major relates to **Science**, **Technology**, **Engineering**, or **Math** (STEM). (Check an online list of majors at [http://www.ice.gov/sevis/stemlist.htm](http://www.ice.gov/sevis/stemlist.htm)), and;
- Your job (or future job) is related to STEM, and;
- Your employer uses the E-Verify program and has followed hiring laws.
You can only get the STEM Extension once, and you must apply for the Extension before your OPT runs out.

**Work at an International Organization**

You are allowed to work at an International Organization as an intern as long as you have F-1 status and you are living in the U.S. (rather than commuting across a border regularly). In this case, you do not have to prove that the internship is related to your academic studies.

To get an internship at an international organization, you must have a letter that offers you an internship at the organization and submit this, along with other forms to the US Citizenship and Immigration Services (USCIS). When your application is approved, you can work in the US at that organization for up to a year. After that year, if you want to continue working at the international organization, you must apply again.

Be sure to check whether the USCIS approves your internship provider as an eligible international organization. You can check with your organization or find a list of the recognized organizations here: [http://tinyurl.com/pt9m3gw](http://tinyurl.com/pt9m3gw) (pdf from the U.S. Government Printing Office)

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).

**The Exception Of 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 support your financial needs.

The Employment Authorization Document from the US government can take up to + months to process, and you cannot start working until you receive it. When you do receive your EAD, you can work for up to 20 hours per week (part-time) during the school year, and 40 hours per week during breaks. Your EAD will last for one year but will not count towards your OPT time.
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; employers who offer to hire you without a work permit may take advantage of 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 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 fulfill 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.
- 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.

In both situations, you must have been younger than 31 years old on June 15, 2012.

The total cost of the application is $465. If you need help paying the fee, you can find support at http://21progress.org/, an organization that has a DACA Lending Circle Program to help you get a loan to pay for the application and can support you through the process with classes and workshops.

Find more information on the “Consideration of Deferred Action for Childhood Arrivals” here: www.uscis.gov/portal/site/uscis.

Would The Dream Act Let Me Work In The United States?

Note: As of the printing of this manual in 2013, the Dream Act has not been passed. If the Dream Act were passed, undocumented students between the ages of 12-35 who meet basic requirements would have six years to either serve in the US military for two years or finish two years of college.
During the six years that you would have to finish 2 years of either military service or college, you would be able to get a driver’s license, get federal work-study funding, and have most rights that other legal citizens have. As there are more changes to the Dream Act, keep yourself updated. A good resource is the National Immigration Law Center website at http://nilc.org/.

Resources

Age Discrimination
In Washington State, there is no protection against age discrimination for younger workers. Federal and state laws protect workers over 40, but not under 40 when it comes to hiring, promotion, and firing.

Training Wages
“Training wages” are wages that would be less than minimum wage for new workers being trained on the job. In 2013 in Washington State, some legislators proposed a law that would have created a training wage at 75% of the minimum wage. This bill did not pass and training wages are currently not allowed in Washington State. As a worker in a new job, be sure to take note of any changes to training wages in the future.
Chapter 9

Am I An Employee?

Independent Contractors, Household Workers, Day Laborers and Under-The-Table Work
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Chapter 9: Am I An Employee?

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 the same rights that protect other workers on the job. In order to be covered under 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.” It is a growing problem. Many workers that should be employees are misclassified as independent contractors and led to believe that they have fewer rights than they really do. This chapter provides some information on how to figure out if you are an employee or not, and if you aren’t, what rights you still have. 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?

Independent Contractors

An independent contractor is a person who is in her own trade, profession or business and who sells her services to the general public or companies. In essence, you are in business for yourself rather than working for someone else. 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! Some examples of workers who are often, but not necessarily, independent contractors are: plumbers, electricians, auctioneers, construction contractors, stenographers, consultants, lawyers, barbers or beauticians, engineers and interpreters. Independent contractors are responsible for registering and licensing their businesses with the State and, in many cases, the city in which they do their business. They also must track their own expenses and income in order to file and pay their taxes quarterly or yearly.

Misclassification Of Workers

Misclassification is when a business knowingly or unknowingly calls its workers independent contractors when they really should be called employees. Sometimes this occurs because the employer is confused about the law, but some employers misclassify workers because they would rather avoid paying taxes and other costs or paperwork associated with having employees. These businesses incorrectly call their workers "independent contractors." The WA State Department of Labor and Industries (L&I) and workers’ rights supporters believe that in many cases, the companies are the workers’ true employers and therefore the workers should be eligible for the benefits and protections of an employees. Misclassification of workers is illegal under federal and state law.

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1 Within the building and construction trades there can be misclassification among skilled workers. For example, someone doing the work of a carpenter could be wrongly classified (and paid) as a laborer. This form of misclassification is not about independent contractor status but can still be a problem for workers who may be underpaid due to misclassification. It is also a problem for employers who want to classify and pay construction workers properly and are competing with employers who don’t, or who are required to pay the prevailing wage for the different classifications of workers they employ.
Misclassification occurs in all sectors of the economy, but is particularly common in the fields of home health care, construction, delivery services, janitorial, agriculture and day labor jobs. Independent contractors have some freedoms that employees don’t always have (like setting their own work schedule), but they also run risks that employees don’t. For example, employees are covered under the minimum wage (Chapter 1) and anti-discrimination laws (Chapter 6) but true independent contractors are not.

Advantages Of Being An Employee

**Injury on the Job and Workers’ Compensation:** If you are injured on the job, employees may be able to collect wages for the work they would have done if they hadn't been injured. Their medical bills may also be paid. True independent contractors do not have this right, unless they pay their own industrial insurance. For more information, see Chapter 3: Injury On The Job And Workers’ Compensation or contact the WA State Department of Labor and Industries at 1 (800) 547-8367 (interpreter services are available).

**Unemployment Insurance.** In many but not all cases, if you lose your job or if your hours are reduced or eliminated because your employer doesn’t have work for you, you could qualify to receive unemployment money from the government until you find a new job. Independent contractors do not have this right. For more information on this program, see Chapter 7: Unemployment in this guide or contact the Employment Security Department at 1 (800) 318-6022 (interpreter services are available).

**Other Employee Rights**

- You must be paid at least minimum wage for every hour you work ($9.32 per hour in 2014 in Washington), even if you are doing piecework.
- You may be able to earn overtime if you work more than 40 hours a week.
- When you are offered work, you have the right to receive a paper explaining the terms of your pay, how long the work will last, the bonuses that you will receive and the deductions (amount of money taken out of your pay for taxes and other things) that are going to affect your pay.
- The employer has to give you a paycheck stub that shows the hours you worked, your wage and the deductions from your wages and why they were made.
- You pay less Medicare and Social Security taxes than an independent contractor and you could get money back with income tax refunds. As an employee, your employer pays half of the taxes owed for Medicare and Social Security.
- In most industries, you have the right to form a union and organize with other workers to bargain for better pay and working conditions from your employer.
- You are protected against discrimination from your employer.
- You have the right to take time off from work to care for a family member under the Family Medical Leave Act without fear of losing your job.
- It would be against the law for you to be fired because you use your rights (this is called retaliation).
- You probably wouldn’t have to pay the cost of any permits or licenses you may need to complete your work.
• You may not have to pay for your own uniform or supplies.
• You could possibly be paid for the time you spend getting to and from your work site.
• Your employer could share the responsibility for any fines or tickets you get while working.
• You would be better able to prove you have been working if a new immigration law requires proof from workers applying for legal status.

True independent contractors may not have any of these rights. In addition, you are obliged to pay both the employer and the employee share of payroll taxes such as Social Security taxes.

Remember, unless you have your own business and your own customers, you are likely legally an employee with all of the above rights even if your employer calls you an independent contractor.

Advantages of being an "Independent Contractor"
• You don’t have to work for only one company.
• You have more say over the hours you work each week.
• As long as you complete the work spelled out in the contract, when and how you accomplish that is up to you.
• You might not need to show immigration documents to get a job.
• 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?

There are many factors that are used by state and federal agencies to decide if someone is an employee or an independent contractor. In 2012, the Washington State Supreme Court decided that because a group of workers are economically dependent upon a particular employer, and not in business for themselves, those workers are considered employees. In other words, if you are dependent on (rely on) the company or person that hired you to make a living then you may be an employee. This is especially true if the person or company that you work for supervises your work. In contrast, if you have your own business and are free to make money working for multiple people or companies you may be an independent contractor. As a rule, this also means that you are responsible for producing certain results, but the time and manner in which you produce them are your choice. You are not managed on a day-to-day basis, as you would be if you were an employee.

Below are some questions you can ask yourself 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, but a "yes" answer to some or all can help show that you are.

1. Does your employer direct or control your work?
   You may be an employee if your boss decides when, where or how you should work, chooses who will help you complete your work, tells you which tools or supplies to use or where you have to buy them. For example, you are a bicycle repairman and your boss tells you that you have to work at his shop from 8–4 everyday, even though you would prefer to do the work in your own garage and work for your own customers. He assigns his son to help you finish the job. He also comes by every day to inspect your progress and tells you how to work. Under these conditions you are probably an employee.
2. **Does your employer train you to do the work?**
   For example, if your employer wants you to work with more experienced workers to learn how to do the job, or you have to go to meetings or classes to learn the job, you are probably an employee.

3. **Do you rely on (need) your employer to give you work in order to make money?**
   For example, you work full-time or close to full-time for your employer. Your boss does not want you to advertise your services to other companies or people while you are working for him. You do not or cannot work for other companies or people at the same time doing similar work.

4. **Are you paid a regular hourly, weekly or monthly wage?**
   For example, you are hired to pick apples for a company and your boss pays you $9.32 an hour, no matter how many apples you pick.

5. **Is the work that you do an essential (meaning, core or primary) part of the business that your employer does?**
   For example, a truck driver makes deliveries for a delivery company. Garment workers press clothes for a clothing manufacturer. In other words, the employer’s business cannot proceed without the work you do.

6. **Do you have a steady and ongoing working relationship with your employer?**
   For example, you were not hired for a specific project or time. You expect to continue working for the employer even if your work assignment changes.

**Other factors to consider** — You might be an employee if:

- Your employer handles things like record keeping and timesheets for you.
- Your employer gives you all or most of the tools and supplies you will need to complete the job.
- You get benefits such as health insurance, paid-time off, sick days, or disability insurance from your employer, or you are required to purchase insurance independently through a particular company.
- You will not lose money for not doing your job well. In contrast, a contractor only gets paid when the piece of work she was hired to complete is done and fulfills the expectations of the employer.
- You do not need any special skills or training to do the work that you do.
- You have to work on the employer’s premises, even if you would be able to do the work somewhere else.
- Your employer can fire you.
I Think I Have Been Misclassified. What Now?

All over the country, workers in many different industries have been speaking out against employers who they believe have misclassified them as independent contractors. In a number of cases, workers have filed lawsuits and won settlements awarding them back pay and protections such as worker’s compensation, social security, freedom from discrimination, eligibility for unemployment and the right to form a union at their workplace.

After considering the information provided in this manual, if you believe you may have been misclassified, it would be helpful to get legal advice from a lawyer about your specific situation. If you can’t afford one, you can contact one of the free or reduced-price legal services listed below. If you are part of a union, you should contact your union representative and ask for help and advice.

No matter what you decide to do, it is a good idea to keep track of as much information about your job as possible. Some examples of information that might be helpful to you are; who you worked for, the number of hours that you worked, when you worked, where you worked, the type of work you did and the supervision that you had while working.

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. It is possible that your employer does not understand the law and would be willing to work with you on this.

If there are other employees in a similar situation, it may a good idea to speak with them about it and go together – you are more protected against illegal retaliation (punishment) if you address the situation in a group. This is called concerted activity. However, if you are correctly classified as an independent contractor you are not protected against retaliation. For more information on concerted activity see Chapter 12: Organizing to Make Things Better At Work.

If You Lost Your Job And Would Like To Receive Unemployment Benefits:

If you are classified as an independent contractor, but believe that you are misclassified, you can file a claim with the Washington State Employment Security Department. They will determine whether or not they think that you were an employee and eligible for Unemployment Benefits. You can do that on the web at: www.esd.wa.gov/ or call them at 1800-318-6022. Also see Chapter 7: Unemployment for more information on filing for Unemployment Benefits.

If You Were Injured On The Job And Would Like To Receive Workers’ Compensation:

You can file a claim for Workers’ Compensation with L&I. They will determine whether you are eligible based on many factors, including whether they believe that you are an employee. You can do that on the web at: www.lni.wa.gov/ClaimsIns/Claims/ or call L&I at 1800-547-8367 for more information. Please see Chapter 3: Injury On The Job And Workers’ Compensation for more information.

REMEMBER: Your legal rights are determined by the way you work, not by what your employer calls you.
If You Would Like To Recover Lost Wages, Overtime Pay Or Money For Equipment And Permits:

You can file a workplace rights complaint with L&I to try and get them to recover wages that you should have been paid as an employee. You can also file a lawsuit on your own in small claims court. If you have been incorrectly classified, you may have grounds to collect unpaid wages or money for other costs you may have incurred as an independent contractor, such as the cost of equipment, permits or uniforms, that you wouldn’t have had to pay if you had been correctly classified as an employee. Please see Chapter 1: Basic Workplace Rights for more information.

If You Would Like Your Employer To Pay The Correct Taxes:

You can file an SS-8 form with the Internal Revenue Service to ask them to decide whether an employee-employer relationship exists. If the IRS decides that you are an employee, you might be able to use that decision as proof that you are an employee if you take your employer to court to get back unpaid wages or overtime. To get a free copy of this form or others, call the IRS at 1 (800) 829-3676. You can also download the form for free on the irs.gov website: www.irs.gov/pub/irs-pdf/fss8.pdf. If the IRS determines that you are an employee but have been misclassified as an independent contractor, your employer may be fined and required to pay back taxes that they would have paid if you had been correctly classified as an employee.

Helpful Links For More Information

National Employment Law Project
www.nelp.org/index.php/content/content_issues/category/independent_contractor_misclassification_and_subcontracting

The Legal Aid Society Employment Law Center
www.las-elm.org/independent-contractor-or-employee-how-you-should-be-classified

The IRS

Washington State Department of Labor and Industries
www.lni.wa.gov/IPUB/214-012-000.pdf (fact sheet for the construction trades)

Employment Security Department
www.esd.wa.gov/ui/tax/taxreportsandrates/whoandwhattoreport/independent-contractors.php

Examples Of Workers’ That Are Frequently Misclassified

Port and Delivery Truck Drivers

Truck drivers are frequently misclassified as independent contractors. If a truck driver works primarily for one company and that work is essential to the company’s operations, then s/he is probably an employee. For example, in 2012, FedEx drivers took FedEx to court claiming that they were misclassified as independent contractors. The courts determined that the workers were employees and not independent contractors in part because they were economically dependent on FedEx for work. The case is still going through the courts, but if the courts decide they are considered employees, they will have access to all the rights employees have, including the right to form a union. Port and delivery truck drivers and their supporters are organizing all over the
High Tech Workers

Your job title or what your boss calls you does not determine your status under the law. Much more important is the way that you work. The amount of control that the company exerts over the way you work is one significant factor. Here is a story about a fictional high-tech worker that illustrates the problem.

Maria is an IT specialist and got a job working for a large airline managing their databases. She comes into the office every day and updates the company’s database system. Her supervisor trained her in the program and monitors her work. She regularly has to work 60 hours or more a week. Her boss told her that she couldn’t receive overtime pay because she is an independent contractor. And, unlike regular employees at the company, she does not receive benefits like health insurance or paid vacation time. Maria talked with a friend who thinks that, because of the way she works, she may actually be an employee and not an independent contractor and therefore should be paid overtime.

In Maria’s case, if the manager determines what software she uses, monitors her work, trains her, and requires her to do basic and ongoing upkeep of company programs then she is most likely an employee. The test in the section above, “How Do I Know If I Am An Employee?” could have helped Maria determine her status. For more information on tech worker misclassification visit the following links:

**Washtech** is a project supported by the Communications Workers of America. One of their main focuses is informing tech employees about their rights: [www.washtech.org](http://www.washtech.org).


**Dancers/Strippers/Burlesque**

Many nightclub owners call the dancers that work for them independent contractors in order to avoid the costs and responsibilities of having employees. However, if the dancer works continuously and exclusively in one club s/he may be misclassified. Dancers that are classified as independent contractors are often not paid wages for their work but rely solely on tips, and are often required to pay stage fees to be allowed to perform.

As with any other type of worker, there is no single factor that determines whether a dancer should be considered an employee or an independent contractor. If the club sets a lot of rules for the dancers then s/he should probably be considered an employee. For example, if the manager sets the schedule, has a say over what s/he wears, sets guidelines for the dance routines, and makes her/him pay a fee for being late or not showing up, then s/he is probably an employee. If you are a dancer and think you have been misclassified as an independent contractor, please see the section in this chapter “I Think I’ve Been Misclassified. What Now?” For more information on dancer rights and advice for what you can do to improve your working conditions, visit the following websites:

[http://wearedancersnyc.com/](http://wearedancersnyc.com/) - a website and support group run by dancers in NYC.
[www.bayswan.org/EDAunionLL.html](http://www.bayswan.org/EDAunionLL.html) - a short organizing guide from the Exotic Dancers Union, SEIU 790.
Rights Of Household Workers

Household or domestic workers are people who work in their employer’s home. This includes nannies, babysitters and other child-care providers; house-cleaners; elder-care workers; companions; handymen & gardeners; cooks and personal servants; and others. Household workers are employed directly by their employer although they may have gotten the job through an agency or workers’ collective such as Casa Latina in Seattle. A household worker’s rights are partially determined by the employment relationship that s/he has. They are frequently paid under-the-table and are often misclassified as independent contractors. Household workers don’t have many of the rights that other employees have. These workers and their supporters have come together all over the country to try to get these rights. The following questions and answers in this section are adapted from a publication by Legal Voice. Find the original on the web at www.legalvoice.org.

Wages And Working Conditions

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. The exceptions are if you work for an employer only once or once in a while and not on a regular basis, or if you live where you work, you usually do not have the right to be paid the state minimum wage.

In 2014, Washington’s minimum wage is $9.32 per hour. Minimum wage for 14- and 15-year-old workers is $7.92. If you are having trouble getting paid what you are owed, refer to the section in this manual on wage theft in Chapter 1: Basic Workplace Rights.

Do I Have The Right To Take A Break During Work Hours?

Most employers of household workers do not have to give their employees rest breaks. Unlike most other workers in the state, Washington law says that household workers do not have the right to rest breaks during work.

Can I Take Time Off If I Get Sick Or Have A Baby?

As a household worker, in most cases your employer is allowed to fire you if you do not come to work, even if you are sick or just had a baby. Most household workers are not covered by the Federal Family Medical Leave Act, which generally requires employers who have more than 50 employees to allow their workers to take up to 12 weeks unpaid time off to care for themselves or a sick family member, or to care for a newborn child. If you work in Seattle, and your employer has at least four full-time employees, then you may be eligible for up to 40 hours of paid sick leave. For more information on family and medical leave, see Chapter 5: Taking Time Off From Work.

Safety and Injury on the Job

As a household worker, your employer is required to provide safe working conditions for you. For more information on what counts as a safe working environment see Chapter 2: Health And Safety. Some cleaning products can make you sick and cause breathing problems. Employers should provide cleaning materials that are as safe as possible. For more information on cleaning-product related asthma (breathing problems) and what you can do to prevent it, visit the Department of Labor and Industry’s program page for work-related asthma: www.lni.wa.gov/Safety/Research/OccHealth/Asthma/default.asp
Can I Get Money From State Workers’ Compensation If I Am Injured At Work?

Some household workers will be able to get workers compensation if they are hurt, but many will not. If you work in a single private home doing household duties like cleaning or childcare, you will probably not be able to get workers compensation if you are hurt while working. If the household employs two or more employees, each working at least 40 hours per week, then the household worker receives mandatory workers’ compensation coverage. However, household helpers who work for a private home (not a business) probably cannot receive workers’ compensation if they are injured while gardening.

If you do decide to file for workers compensation after being injured on the job, the State Labor & Industries program will not ask about immigration status; this does not matter when asking for these benefits. For more information please see Chapter 3: Injury On The Job And Workers’ Compensation.

If I Cannot Get Workers’ Compensation For An Injury From Work, What Should I Do?

First, let your employer know right away that you have been injured. They may have homeowner’s insurance that could pay for your medical and other expenses. 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.

Property Damage

What If I Break Something In A Home Where I Am Working?

If you break something in your employer’s home, it is a good idea to write down exactly what happened and report it to your employer as soon as you can. Try to resolve the issue directly and immediately. The employer could fire you, but he or she could also decide to do nothing. Many homeowners have insurance that covers the cost of damage in their home. If your employer insists that you are responsible for the damage, they can try to take you to court to make you pay for the item. They can also fire you. However, your employer cannot withhold your wages or your paycheck. If this happens to you, you should contact Casa Latina or a lawyer for help getting your wages. Contact information is listed in the Resources chapter at the end of this manual.

Housing Rights For Live-In Household Workers

If I Live On My Employer’s Property, Do I Have To Pay Rent?

It depends on the arrangement you have with your employer. If you live in your employer’s home, or in housing that your employer provides on the premises, and it is considered part of your payment for your services, then you do not have to pay rent. This is a tenancy at-will, which means that you are living there for an indefinite period of time and either you or your employer can end the relationship at any time. You do not have renters’ rights in this type of housing situation. However, if you live in housing owned by your employer and you signed a lease, you must pay the amount of monthly rent that is specified in your rental agreement. This type of arrangement will give you more rights, even though it will also require that you pay monthly rent. For information on renters’ rights see the Tenants Union of Washington State homepage: www_tenantsunion.org/en/rights/.
Can I Leave At Any Time? Will I Have To Pay Anything If I Choose To Leave?

If your housing is part of your pay, you can leave at any time without owing any money. However, this also means that your employer can ask you to leave at any time, though you must be given reasonable time to move your belongings. If you pay monthly rent, then you have to follow rules that any renter has to follow before you can move out, or the landlord can sue you for the money you did not pay. If you signed a rental agreement with your employer for a definite period of time, such as a year, you have to remain in the housing for the whole lease term or you may lose money. For more information about your housing rights, see www.washingtonlawhelp.org (available in Spanish).

Must My Employer Provide Safe Housing For Me?

Yes. No matter whether you pay rent or not, the employer must provide safe housing for you and anyone else living with you. This means that the employer must take care of the building, keep everything clean and sanitary, provide pest control and waste management, and supply facilities for heat and hot water as well as fire safety equipment.

Can I Be Forced To Move If My Employer Fires Me?

If you live in or at your employer’s home and your housing is provided as part of your pay, you can be asked to leave the housing when your job ends. If you do not leave when asked, the employer can go to court to ask to have you removed from the home. If you have a lease for housing with your employer, then you can stay in your housing as long as you have a lease, even if your job has ended.

Where To Go For Help: Organizing With Other Workers

Can I Organize A Union?

Household workers who are employed by a person or family in a private home do not have the right to collective bargaining. In other words, you can form a “union,” defined as a group of workers standing together for mutual aid and protection, but your employer is not required to negotiate the terms and conditions of employment with you as an individual or with the group. However, if you are employed by a commercial entity (a business such as a condominium association), to provide household services, then you likely have the right to join a labor union to bargain collectively for better wages and working conditions. For more information on organizing a union see Chapter 12: Organizing to Make Things Better At Work.

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/. Find further contact information for Casa Latina in the Resources chapter at the end of this manual. Casa Latina is also part of the National Domestic Workers Alliance, which brings together domestic workers from all over the country who are seeking rights on the job whether or not the laws require it. For more information on these campaigns and more information on your rights, visit the National Domestic Workers’ Alliance homepage: www.domesticworkers.org/

What Can I Do If My Employer Is Breaking The Law?

If your employer is not respecting your rights, you can file a workplace rights complaint with the Washington State Department of Labor and Industries or contact a Worker Center such as Casa Latina. Contact information can be found in the Resources chapter at the end of this manual.
Day Laborers

Day laborers look for temporary, often day-to-day jobs either by waiting on a street corner or going through an agency or labor hall. Day laborers do many different kinds of work but most often work in construction, landscaping and manufacturing. Day laborers often do not know from day to day whether or not they will get work. They are frequently paid off the books and often misclassified as independent contractors but are frequently really employees. The following section is for day laborers who are employees, even if they are misclassified as independent contractors. True independent contractors have different rights – see above for help in deciding whether you are an independent contractor or employee.

Wages And Working Conditions

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. As a day laborer, you also have the right to be paid overtime (time and a half) for every hour you work over 40 in a week for a single employer. Your employer may be the agency that arranged work for you or the person you did the work for.

Does My Employer Have To Pay Me For Waiting And Transportation Time?

The general rule is that if you are free to leave the agency or job site, then you do not have to be paid for any time that you spend waiting for a job assignment, or waiting for a job to begin after you have been assigned. If your employer or the agency says that you have to report at a certain time or you will not be hired, you should be paid for that time whether you have started work or not.

Your employer does not usually have to pay you for the time that you spend getting to the work site unless you work along the way or if you are being transported between worksites for a single employer.

Can My Employer Take Money Out Of My Paycheck?

Your employer is not allowed to make deductions (take money out) from your pay that would cause you to be paid less than minimum wage. Your employer can take money out of your paycheck for things or services that they provide to you for your benefit if they are voluntary and do not lower your wage to below the minimum wage. If your employer makes deductions from your wage that lowers your pay to below the minimum wage, or does not pay you at all, that is considered wage-theft and you should contact an attorney or Casa Latina (206) 956-0779 for help. For information on free or low-cost lawyers, see the list of legal resources in the Resources chapter at the end of this manual.

Examples Of Deductions:

Transportation – Your employer can charge you for transportation to the worksite but only if you have a choice about whether or not to take it. However, the employer is not allowed to charge you more than the transportation actually costs. If you are not allowed to arrange for your own transportation or you would not be hired if you did (for example, if your boss is worried you would arrive late), then the transportation is for your boss’ benefit and you should not have to pay.
Meals – Your employer can take money out of your paycheck for meals that s/he provides on the job but, again, only if you have the right to refuse it. He is not allowed to charge you an unreasonable amount (more than you would pay somewhere else) for the meal.

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 – 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. Many homeowners have insurance that covers the cost of damage done by people working on their property.

Fee from the day laborers agency to cash your paycheck – This is not allowed if the fee would lower your payment to below the minimum hourly wage.

Safety And Injury On The Job

Your employer has a responsibility to provide a safe working environment for you. 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. L&I office locations are listed in the Resources chapter at the end of this manual.

It is against the law for your employer to retaliate (take an action against you), if you file a complaint. For more information, please see Chapter 2: Health And Safety.

What Do I Do If I Am Injured On The Job?

If you are injured on the job, it is important that you write down a description of what happened and any details that you can remember about the incident and the job site right away. If you go to the hospital, make sure to tell your doctor that you got injured while at work.

Your employer is responsible for covering the cost of your medical treatment. In many cases you also should receive money to make up for wages you would have earned if you had not been injured. You may qualify for workers’ compensation, no matter what your immigration status is. For more information on collecting workers’ compensation see Chapter 3: Injury On The Job And Workers’ Compensation. Your employer may also have homeowners insurance that could cover some of the costs.

Where To Go For Help: Organizing With Other Workers

Doing day labor can be a good way to work quickly and flexibly, but when your employer doesn’t respect your rights it can be hard to hold him/her accountable. Wage-theft (not paying workers all of the wages they are owed) and unsafe working conditions are common problems that day laborers face. It may also be difficult to get work. Many cities have laws that forbid loitering and blocking traffic which may make it illegal to look for work by waiting in parking lots or on the street. These laws differ depending on the city, county or even town. Often, police enforce these laws when they want to move workers away from a certain place, especially if the owner of a business complains. For tips on dealing with the police see Chapter 10: Undocumented Workers. To address these issues and others, day labor centers, such as Casa Latina in Seattle (contact information in the Resources
chapter at the end of this manual) have sprung up around the country to fight for the rights of day workers 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

**Under-The-Table Work**

Unreported work, often called under-the-table, off-the-books or cash-in-hand 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. Taxes are not taken directly from your paycheck and your employer does not usually pay workers’ compensation insurance or taxes for you. An employer who hires a worker under-the-table is usually doing something illegal, because it counts as tax evasion (not paying payroll taxes).

Working under-the-table is dangerous for both an employer and a worker. By working under-the-table, you risk not being able to claim many of your rights. If the government finds out, your employer may have to pay fines and you and your employer may have to pay back taxes. There are under-the-table workers in many types of jobs although it is particularly common with day laborers and domestic workers.

**Verbal Contracts**

A verbal contract is an agreement that you make with your employer or someone else without writing it down. Verbal contracts between you and your employer are legal and your employer and you do need to follow them. As long as you can prove that you had an agreement, the courts should recognize it just as they would if you had a written agreement. However, it may be very difficult to prove that you had a verbal contract. It is best to get everything in writing whenever you can.

**Your Rights And Risks As An Under-The-Table Worker**

As an under-the-table worker, you run many risks that regular employees do not. You are still entitled to the same rights and benefits that other workers get by law, but it may be difficult to prove that you worked for the employer as an employee. Your employer may wrongly claim that you either never worked, or that you are an “independent contractor” in business for yourself, and not covered by many of the rights and protections that cover other workers. You should always write down the hours and days that you work and any information that you may have about your employer. This information may be useful later if you try to claim some of the following rights:

**You Have The Right To Be Paid The Minimum Wage And Overtime**

Even if you work under-the-table, as an employee, you still have the right to be paid minimum wage ($9.32/hour in Washington State in 2014) and usually overtime. It is a good idea to keep track of the hours and days that you work so that you can use it as evidence later on. For more information about your wage and hour rights see *Chapter 1: Basic Workplace Rights.*
You Have The Right To A Safe Workplace

Your employer is responsible for providing a safe workplace for all workers, regardless of whether they are paid under-the-table or not. If you think that your health or life may be in danger at work, you can report an unsafe workplace to the government. For more information on your rights to a safe workplace and on reporting an unsafe workplace, see Chapter 2: Health And Safety.

You Have The Right To Receive Workers’ Compensation If You Are Injured On The Job

Even if you are an under-the-table employee, you are still entitled to Workers’ Compensation if you are a covered employee and injured while on the job. Workers’ compensation is money from the government that will help you pay your medical bills and replace some lost wages if you are unable to continue working because of your injury. If you are injured while working, you should file a workers’ compensation claim with L&I. You have the right to workers’ compensation even if you are an undocumented worker. L & I will not report you to the ICE or the local police. There is more information on filing a claim for workers’ compensation in Chapter 3 of this manual. Contact information for L&I is listed in the Resources chapter at the end of this manual.

If you need help understanding or claiming these rights, you should contact one of the many free or reduced-price legal services listed at the end of this chapter. You can also contact one of the community organizations, such as Casa Latina, that help under-the-table workers and undocumented workers. For more information on your rights as an undocumented worker, see Chapter 10: Undocumented Workers.

What to Do If You Would Like to Report Your Employer

You can anonymously report your employer for hiring workers off the books. This will probably result in your employer being fined heavily and they may have to pay back a large amount of taxes for their employees. You could also be responsible for paying back taxes on your income. It would be a good idea to have another job with secure income if you choose to do this.

It is illegal for your employer to retaliate against you (fire you or otherwise punish you) for reporting unfair working conditions.

Report your employer with the Washington State Employment Security Department:
https://fortress.wa.gov/esd/webform/contactus/?subject=6

Report to the IRS:

Report to L & I:
www.lni.wa.gov/ClaimsIns/FraudComp/WCFraud/Employer/default.asp
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Your Rights As An Undocumented Worker

There are at least 11 million undocumented immigrants in the United States. Unfortunately, undocumented workers are often victims of unpaid wages, dangerous working conditions, workplace injuries, and discrimination. Workers who try to improve conditions often face physical and deportation threats.

Being undocumented does not mean that you have no rights at work! It’s very important for immigrants to know about workplace rights regardless of documentation status.

Read on for more information on protections and rights provided by the law. NOTE: The information in this manual is up-to-date as of November 2013. 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

Washington State wage and hour laws describe how you should be paid. These laws cover your right to minimum wage, overtime pay, breaks, tips and other forms of wages. 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. For more information on these rights, please see Chapter 1: Basic Workplace Rights. For information on filing a complaint against your employer if s/he does not pay you the amount s/he owes you, see the section What To Do If Your Rights Have Been Violated below.

You Have The Right To A Healthy And Safe Work Environment

Health and safety laws protect all workers regardless of their immigration status. This includes access to information about your health and safety rights. You are allowed to refuse to do 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). 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. However, people who are not authorized to work in the U.S. may not be eligible for some job re-training benefits. For more information on workers’ compensation, 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 allows you to make a "group effort" to improve working conditions for employees even if you don’t have a union. A group effort happens when two or more employees act with their employer’s knowledge for mutual aid or protection or to bargain with the employer. This is called concerted activity –

It is against the law for an employer or supervisor to discriminate against you for trying to organize with your co-workers. Unfortunately, this law does not protect farm workers, domestic service workers, federal employees, independent contractors, supervisors, and confidential employees.

If your employer breaks the law by retaliating against you for union activity, the ways in which you can respond may be limited because of your immigration status. Your right to get your job back might be limited because employers are not allowed to hire undocumented workers. For information on filing a complaint if you were retaliated against, see the section below in this chapter: Who Do I Contact If I Want To File A Complaint? For more information on concerted activity or organizing a union see Chapter 12: Organizing to Make Things Better At Work.

Discrimination And Retaliation

Employers break the law when they hire undocumented workers. The Immigration Reform and Control Act (IRCA), makes it illegal for an employer to knowingly hire someone who is undocumented. Under the IRCA, your employer has to complete a form called the 1-9. To complete the form, the workers must show identification (“documents”) proving that s/he can legally work in the U.S. If you don’t have the right kinds of identification, an employer is supposed to refuse to hire you.

Once you have a job, however, you do have some protections. Under Washington State and federal laws, even if you are an undocumented worker, your employer cannot discriminate against you based on race, sex, pregnancy, national origin, sexual orientation, gender identification, religion, age, or disability. Discrimination can include paying you less than someone else doing the same work, refusing to promote you, giving you bad jobs, punishing you for something another person would not be punished for, or generally treating you worse than someone else for the same behavior. If your employer treats you this way because of the things mentioned above (race, sex, etc), they are breaking the law and you could sue them. However, if your employer discriminates against you because of your documentation status, they are not breaking the law. If you are discriminated against because of your sex, race, etc and you choose to pursue legal action against your employer for that, your employer cannot retaliate against (punish) you for taking that legal action. For more information, please see Chapter 6: Discrimination. For information on filing a complaint see the section What To Do If Your Rights Have Been Violated, below.

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. Employers can be fined for retaliating against workers, and in some cases, you may be able to receive money to compensate you for retaliation.
It is illegal for your employer to fire you because you try to enforce an existing law that would help other workers. For example, if you complain about sexual harassment and your employer fires you because you complained, then your employer has illegally fired you. It is illegal even if your employer falsely says that your immigration status was the reason you were fired. This also applies if you file a wage theft complaint or are involved in union organizing. Although this is illegal, it still happens and it is important for you to know of this risk when filing a complaint or participating in union organizing.

**Can I Receive Back Pay If I Was Discriminated Against?**

Back pay refers to money you would have earned if your employer had not fired you. The U.S. Equal Employment Opportunity Commission (EEOC), the federal agency that oversees back pay complaints, has a policy that, if you are undocumented, EEOC will not seek back pay for you. For example, if an employer retaliated by firing you and you were unemployed for several months, back pay is money you would have earned if you had continued working during those months you were unemployed. Back pay is not for hours that you actually worked; you do have the right to be paid for all worked hours. If your employer has not paid you for hours that you have worked, you should see the section on wage theft in *Chapter 1: Basic Workplace Rights* for more information.

**What Rights Do Immigrants With Documents To Work In The United States Have Under IRCA?**

Sometimes just because you look or sound like an immigrant an employer will discriminate against you because s/he assumes you are undocumented. Because of concerns that the process for verifying someone’s rights to work in the U.S. (the I-9 process) can result in discrimination against documented workers, parts of the law about the I-9 process are written to protect people who are legally allowed to work in the U.S. Under this law it is illegal for an employer to discriminate against a worker based on national origin and citizenship status. Unfortunately, these laws do not protect undocumented workers.

**Right Against Document Abuse:** IRCA protects workers from "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 you show them. As long as the documents you show meet the legal requirements, you have the right to choose which documents to show your employer. 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](http://www.uscis.gov/files/form/i-9.pdf).

**Right Against Nationality or Citizenship Discrimination:** This means that if someone is legally allowed to work in the US, (for example if they have a green card) they can’t be discriminated against because they don’t have citizenship. It is also 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.
What Should I Do If I Was Discriminated Against Under IRCA?

To enforce the IRCA's anti-discrimination protections, Congress created the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), which is part of the U.S. Department of Justice's Civil Rights Division. The OSC has multi-lingual staff and lawyers ready to help workers, unions, and the general public on issues related to employment discrimination specifically related to nationality and immigration status. The OSC is not part of the Department of Homeland Security. If you are undocumented, the OSC probably can't do very much for you. For contact information, see the section on filing a claim, below or the Resources chapter at the end of this manual.

Unemployment Insurance, Social Security Disability Insurance (SSDI) And/Or Supplemental Security Income (SSI)

Unemployment insurance is a financial benefit from the Federal Government that certain workers can receive while they are between jobs. If you are undocumented, you cannot collect unemployment insurance benefits because workers must be legally able to work in the United States to collect this insurance. To qualify, you need to be actively looking for work and if you are not legally authorized to work, you technically cannot look for work, and therefore cannot qualify for this insurance. 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. For more information on unemployment insurance benefits see Chapter 7: Unemployment.

Undocumented workers are also generally not able to collect Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI). SSDI pays benefits to people who have a medical condition that keeps them from working. SSI is a program that provides money to low-income people who are 65 or older, blind, or disabled. To be able to apply, you must be a U.S. citizen, national, or a documented non-citizen. The rules are complicated. See one of the legal services listed in the Resources chapter at the end of this manual and read Chapter 4: Social Security For Long-Term Disability And Illness.
What To Do When Your Rights Have Been Violated

If you think that your employer has mistreated you or broken the law (for example, discriminated against you, withheld earned wages, violated safety rules, etc.) you may file a complaint. In the complaint, you will describe what you believe your employer did that was against the law and the facts that support your claim. Because there are such a large number of laws about labor disputes of various kinds, different agencies handle and enforce different laws. This section describes things you need to be aware of before filing a complaint along with information about which agency you should contact to file your complaint.

If your employer retaliates against you, you can try to improve the situation by filing a complaint with the appropriate state agency. For example, if you are retaliated against for filing a wage complaint, you should contact the WA State Department of Labor and Industries. Contact information for L&I is listed in the Resources chapter at the end of this manual. You could also sue your employer in court for unlawful retaliation.

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 an employer retaliates against you by threatening to fire you and you file a complaint with the Department of Labor (DOL), ICE will not get involved. There is no law that absolutely prevents ICE from responding to an employer “tip,” but it is ICE’s policy to stay away.

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. Crimes could include human trafficking, retaliation, interference with witnesses, intimidation, illegal firing, or sexual abuse. 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 or one of the other legal services listed in the Resources chapter at the end of this manual for help with getting a U Visa.

- **If ICE gets involved, request prosecutorial discretion.** ICE can choose not to pursue your case if you are trying to assert your workplace or other rights. By asking for prosecutorial discretion, you are asking them to not deport you while your claim is pending. Prosecutorial discretion does not mean that you are legally allowed to work, it only means
that ICE will stop investigating you while your 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. This group could be a legal aid office, workers’ rights clinic, group that works with people from your home country, or a church, temple, mosque, or religious organization that you trust or have heard good things about. See the *Resources* chapter at the end of this manual for a list of community organizations that you could help you.

- **Save any workplace documents you are given.** This can include employment contracts or pay stubs. It is important to save these documents; they may help your case. For example, if you have a wage complaint, pay stubs are important to prove how many hours you worked and how much your employer owes you. If you are not given records of your hours by your employer, or you think that the records are wrong, write them down yourself with the right date, location, and as much information as you have about your employer.

- **Think about the kind of boss you have.** Has your boss threatened you or another worker in the past? Do you know about other workers who have been fired, disciplined, or treated badly after they complained about how they were treated at work? If so, you should tell the community group or lawyer who is helping you.

- **Collect as much information as possible about your boss.** This includes his/her full name, contact information, and any other information that will assist any agency in tracking down your employer.

- **If you have a union, talk to your union representative.** Your union has the responsibility to help all workers, both citizens and non-citizens. Tell your representative about your problems with your boss, and that you would like to file a grievance or that you want a union representative to come with you when you go talk to your boss. Your union might be able to help find a lawyer for you. If your employer calls you to a meeting that might result in you being disciplined, you have the right to bring your union representative or another co-worker with you to talk to your boss. This is part of what are called your *Weingarten Rights*; see *Chapter 12: Organizing to Make Things Better At Work* for more information.

- **Don’t reveal your immigration status or show your immigration papers to your boss.** If your boss asks for these things after you have made a complaint, s/he is probably retaliating against you. Don’t say or show anything to your boss. While you look for some help, you can tell him or her that you don’t have any documents with you at that time. You should tell your union rep, a community group, or a lawyer what your boss did. It is important for you to seek assistance right away.

- **Sometimes it is safer to file a complaint against a former employer, instead of your current employer.** Finding a job is hard. But if you can get a new job, you might want to wait until you leave the job where you have been mistreated before filing a complaint. Remember to not give your old boss any information about your new job. It is best if your old employer does not know how to contact you. For information on finding a lawyer and community organizations to help you, see the *Resources* chapter at the end of this manual.

- **Don’t reveal your immigration status in front of a judge or government agency.** If you decide to file a complaint, you may need to go in front of a judge or an officer who is in charge of your case. Do not tell them your immigration status or where you were born. The
only person who should know your immigration status is your lawyer, and your lawyer cannot reveal your immigration status either.

- **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 concerted activity. Please see *Chapter 12: Organizing to Make Things Better At Work* for more information.

For information on what to do if you are approached by immigration or the police see the section *ICE and the Police* below.

### Who Do I Contact If I Want To File A Complaint?

Who you contact depends on what kind of complaint you have. Below are the different types of complaints along with who to contact. **No agency should ask about your immigration status; if they do ask, you do not have to answer.**

**Wage And Hour Claims**

If you have been:

- Not paid minimum wage or the amount above minimum wage that you agreed on for all of the hours that you worked;
- Not given overtime pay;
- Not given your rest or meal breaks;

You have a couple of options. First, it would be best to contact a worker organization, like Casa Latina in Seattle or an attorney to get advice. See the section on wage theft in *Chapter 1: Basic Workplace Rights* for more information. To file a complaint you can:

**Contact The WA State Department of Labor and Industries (L&I)** toll-free at 1 (866) 219-7321. Translation services are available. L&I should not question you about your immigration status or report your immigration status if it is somehow revealed. If they do ask, you do not have answer. If you have Internet access, the complaint form is available at [http://www.lni.wa.gov/Forms/pdf/F700-148-000.pdf](http://www.lni.wa.gov/Forms/pdf/F700-148-000.pdf) (English) or [http://www.lni.wa.gov/forms/pdf/F700-148-999.pdf](http://www.lni.wa.gov/forms/pdf/F700-148-999.pdf) (Spanish). You can mail or take the form to one of L&I's offices listed in the *Resources* chapter of this manual. You can file a complaint even if you are not working at the job anymore.

Your name is kept secret during an investigation unless the complaint is so specific that you are the only individual affected. Public disclosure laws lets others have access to the file once the investigation is closed.

**Contact the U.S. Department of Labor (DOL).** The DOL should not question you about your immigration status or report your immigration status if it is somehow revealed. For contact information see the *Resources* chapter at the end of this manual.

**Sue your employer in court.** For more information, contact one of the legal services listed in the *Resources* chapter at the end of this manual.
Health And/Or Safety Claims:

Contact The WA State Department of Labor and Industries (L&I) toll-free at 1 (800) 423-7233. Interpreter services are available. Contact information for L&I is listed in the Resources chapter at the end of this manual.

It is against the law for your employer to retaliate (take an action against you), if you file a complaint. Please see Chapter 2: Health And Safety for more information.

 Discrimination Claims:

You can contact the WA State Human Rights Commission (WSHRC), the federal Equal Employment Opportunity Commission (EEOC), or other agencies that handle discrimination complaints. See Chapter 6: Discrimination for information about which agency handles which types of discrimination complaints. If your complaint is successful, your employer may have to stop his/her illegal practices and you may qualify for compensation (a money payment). You may also contact the Office of Special Counsel for Immigration-Related Unfair Employment Practices’ (OSC) toll-free hotline at 1 (800) 255-7688 or TDD: 1 (800) 237-2515. If you have Internet access, the OSC’s website is www.usdoj.gov/crt/osc/.

Union and Concerted Activity Claims:

If you want to file a union activity complaint, you should contact the National Labor Relations Board (NLRB). The NLRB should not question you about your immigration status or report your immigration status if they find out somehow. Contact information for the NLRB is listed in the Resources chapter at the end of this manual.
**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; employers who offer to hire you without a work permit may take advantage of you. If you do work in the USA, you are entitled to earn minimum wage and are covered by most other rights covered in this manual.

**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.
- 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.

In both situations, you must have been younger than 31 years old on June 15, 2012.

The total cost of the application is $465. If you need help paying the fee, you can find support at http://21progress.org/, an organization that has a DACA Lending Circle Program to help you get a loan to pay for the application and can support you through the process with classes and workshops.

Find more information on the “Consideration of Deferred Action for Childhood Arrivals” here: http://www.uscis.gov/portal/site/uscis

**The Dream Act**

*Note: As of 2013, the Dream Act has not been passed.* If the Dream Act were passed, undocumented students between the ages of 12-35 who meet basic requirements would have six years to either serve in the US military for two years or finish two years of college.
During the six years that you would have to finish 2 years of either military service or college, you would be able to get a driver’s license, get federal work-study funding, and have most rights that other legal citizens have. Stay informed about government action on the Dream Act. A good resource is the National Immigration Law Center website at http://nilc.org/.

Resources

For many tips and fact sheets for undocumented student workers, you can check out the homepage of Educators for Fair Consideration: http://e4fc.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 your I-9 form to government information to determine whether you are eligible to work. If there is a mismatch, the employer is notified. At this point, in 2013, E-Verify is voluntary for most employers and only around 400,000 employers use E-Verify nationwide.

When Can My Employer Use E-Verify?

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. If your employer uses E-Verify, they have to use it for ALL new hires; they are not allowed to selectively use E-Verify on people they suspect may not legally be able to work.

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 tell your employer and you. They will issue what is called a “tentative non-confirmation” (TNC). If you gave your email address on the I-9 form, the government will automatically email you about the TNC at the same time as they tell your employer. Your employer must also tell you right away if they get a TNC for you. 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.

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. There is nothing else you need to do.

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. You will then have eight working days (not calendar days) to start correcting the information that you think is wrong. After you follow the steps to contest the TNC, 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.
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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.

What If I Think My Employer Is Using E-Verify To Discriminate Against Me?

Your employer may be illegally discriminating against you if s/he:

- only uses E-Verify on some new hires based on their nationality, race, or citizenship status; or
- uses E-Verify on job applicants that have not yet been hired; or
- fires you, lowers your pay, hours or training or otherwise punishes you for contesting a TNC

If you think your employer is using E-Verify to discriminate against you, you should contact the Office of Special Counsel for Immigration, Related Unfair Employment Practices (OSC)

Phone – 1-800-255-7688
TTY – 1-800-237-2515
Web Address - www.justice.gov/crt/osc/

What Should I Do If I Am Undocumented?

If you are an undocumented worker, you have many of the same rights as citizens and immigrants with work authorization. One of your most basic rights is the right to remain silent when an employer asks about your legal status after you have been hired.

Will E-Verify Report Me To ICE Of The Department Of Homeland Security?

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 due to E-Verify’s connection to DHS.

For More Information On E-Verify

Visit the U.S. Citizenship and Immigration Services homepage: http://www.uscis.gov/

If you have Internet access, you can check the National Employment Law Project (NELP) website for updates on this situation: www.nelp.org

You can also call one of the legal services listed in the Resources chapter at the end of this manual. The National Immigration Law Center www.nilc.org, and other legal services could also provide you with information.

Social Security Administration (SSA) No-Match Letter

A Social Security Administration no-match letter is a letter telling 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.
Why Are SSA No-Match Letters Sent Out?

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 does NOT mean that the employer or the worker intentionally provided incorrect information about the worker’s name or Social Security number.

Does The SSA No-Match Letter Have Anything To Do With The Department Of Homeland Security (DHS) Or ICE?

SSA no-match letters have nothing to do with DHS, ICE, or enforcement of immigration law. If an employer receives a no-match letter, it is recommended that an employer give the employee a reasonable amount of time to address and correct information contained in a no-match letter or other no-match notice.

What Should I Do Upon Learning From My Employer That My Social Security Number Or Name Does Not Match The SSA’s Database Or That E-Verify Found A Mismatch Of My Information?

There are a number of things you should do:

- You have the right to remain silent when your employer asks about your legal status.
- Ask for a copy of the letter to make sure that your employer did receive a SSA no-match letter.
- If you can correct the information, you may choose to give the corrections to your employer.
- If you cannot correct the information, there is nothing for you to do. For instance, if you know that the local DHS or SSA office cannot help you, it does not make sense for you to go there.
- If you work in a unionized workplace, you should talk to your union representative for information and assistance on no-match issues because your collective bargaining agreement will often provide you with the best protections.

What Does My Employer Have To Do If S/He Receives A No-Match Letter Or A Notification From DHS?

A no-match letter means your employer has to:

- Check her/his records for mistakes.
- Tell workers about the no-match letter so that workers know that their earnings are not being credited properly. If you are paying social security taxes under the wrong social security number you will not be given credit for those earnings when you retire and ask for social security benefits.
- Ask that workers check their records for mistakes.
- Refer workers to the local SSA office for assistance.
- Send any employer or worker corrections to the SSA.

If your employer makes you prove your work authorization based only on a no-match letter, s/he may be breaking the law!
Is My Employer Supposed To Fire Me If My Name Appears On A No-Match Letter?

No. Employers should not lay-off, fire, suspend, scare, discriminate or threaten workers just because their names appear on a no-match letter. In fact, an employer who does any of those things may be breaking the law.

Should My Employer Make Me Bring In Proof Of My Work Authorization If S/He Receives A No-Match Letter?

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 one of the legal services listed in the Resources chapter of this manual 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 without having 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.
- 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, "I wish to talk to a lawyer."

What Your Union Can Do

If you belong to a labor union, there are ways it can help you. You should talk to your union representative about your concerns. If it would make you feel more comfortable, ask some of your co-workers to go with you to talk to your union representative. Your union contract might have language that protects union members, such as an agreement with the employer that has one or more of the following conditions:

- The employer could not allow any immigration officers to enter the workplace without a valid warrant signed by a judge or magistrate.
- The employer might immediately notify the union if the immigration authorities contact the employer for any purpose, so that the union can take steps to protect the rights of its members.
- The employer might provide the workers’ I-9 employment eligibility forms to immigration officers for inspection only if they have a search warrant or a court order signed by a federal judge or magistrate.
The employer might allow lawyers or community supporters brought by the union to interview workers in as private a setting as possible in the workplace. The union might also have a legal plan, which provides workers with immigration lawyers.

The employer agrees not to reveal the names, addresses, or immigration status of any workers to immigration.

The employer will not participate in E-Verify of workers' immigration or work authorization status.

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 that or any other question.

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. The police officer has a right to come up to you and ask questions even if you are just standing on the corner, not breaking any law.

- 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. If the officer tells you that you may not leave, you should remain calm. If the officer does not have a reason to hold you in that moment, the officer will have to let you go.

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. These laws differ depending on the city, county or even town. Often in practice, these laws are selectively enforced as a way to move workers away from a particular place. The police cannot selectively enforce the law against one group of workers based on race. Day labor organizers in some neighborhoods have worked successfully with the local police to discuss alternate places to look for work or a way other than ticketing workers to address traffic or other neighborhood concerns.
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. You cannot talk your way out of a ticket or arrest and 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. Here is a sample of what the card should say:

To Whom It May Concern:
Before answering any questions, I want to speak to an attorney at ___(insert name of organization)____. I will not speak to anyone, answer any questions about my immigration status, respond to any accusations, waive any of my legal rights, or consent to any search of my person, papers, or property until I have first obtained the advice of an attorney.
NAME OF ORGANIZATION
ADDRESS
TELEPHONE NUMBER

If possible, carry the name and contact information for an attorney or community group who can provide you with advice in case you are arrested. For example, groups that can provide this advice are Northwest Immigrant Rights Project (NWIRP), or Casa Latina contact information for these groups and others can be found in the Immigrant and Refugee Services section in the Resources chapter at the end of this manual.

If I Am Arrested, Do I Have A Right To A Lawyer?

Yes. If arrested, you should say, "I am asserting my right to remain silent. I would like to speak to an attorney." Once you say that you want to speak to a lawyer, officers should stop asking you questions

Upcoming Legislation That May Affect You


This bill is not yet law. If it were passed now, the bill would make it possible for many undocumented immigrants to gain legal status and eventually citizenship. It would also add more border patrol agents and allow more immigrants with particular education or training. However, the bill can still be changed and it is hard to tell what those changes will be or when the bill will become law. For updates on this pending law, look online at the National Immigration Law Center at http://www.nilc.org/.
A Summary Of Your Workplace Rights

As an undocumented worker you have the:

- **Right to be paid.** You have the right to be paid minimum wage and overtime pay for all hours worked. If you do not receive all of the wages for time you actually worked, you can still recover those wages (*Chapter 1: Basic Workplace Rights*).

- **Right to healthy and safe conditions on the job.** You have workplace health and safety protections (*Chapter 2: Health and Safety*).

- **Right to receive workers’ compensation benefits** for injuries on the job (*Chapter 3: Injury On The Job And Workers’ Compensation*).

- **Right to take time off from work** in some circumstances, when you are seriously ill, pregnant, to care for a newborn or newly placed child, or to care for an ill family member (*Chapter 5: Taking Time Off From Work*).

- **Right to be free from discrimination.** It is against the law for an employer to discriminate against you or harass you based on race; national origin; sex; age; sexual identity; gender orientation; religion; pregnancy and pregnancy-related conditions; and disability (*Chapter 6: Discrimination*).

- **Right to organize (in most occupations).** It is illegal for an employer to punish or threaten you for organizing to improve your work conditions (*Chapter 12: Organizing to Make Things Better At Work*).

Some employers do threaten or harass workers who are organizing to improve their work conditions. Some employers have falsely told workers that if they are undocumented they do not have the right to organize. Unfortunately, undocumented workers can’t receive back pay if they are fired for labor activities.

Sadly, workers may be asked to reveal their immigration status when they try to enforce their rights in court or in government agencies.

*When One Group Of Workers Loses Some Of Its Rights, The Conditions For All Workers Become Worse Because It Makes Solidarity Between Workers More Difficult.*

Some things you can do:

- Educate yourself and other workers about what rights workers have.
- Continue to organize with other workers to improve workplace conditions.
- Support campaigns for better laws to protect workers and for immigrant rights.
- Support campaigns to make sure that government agencies do their job to protect workers.

**Where To Go For Help**

For information on where to go for help, see the *Immigrant and Refugee Services* section of the *Resources* chapter at the end of this manual.
Chapter 11
Military Service Members And Families

(Senior Airman Kayla Newman, U.S. Air Force Photo)
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**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 veterans, service members, and their families who require specialized 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 in the Resource section at the end of this chapter.

**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.

**Which Employers Need To Follow USERRA?**

The law applies to all civilian employers, including federal, state and local governments, and private employers, regardless of their size.

**What Type Of Military Duty Do I Have To Be Doing To Qualify For Re-Employment Benefits?**

USERRA applies to voluntary as well as involuntary service, in peacetime as well as in wartime.

- Active duty (including reserve members who have been called up)
- Active duty training
- Inactive duty training
- Full-time duty
- Absence from work for an examination to determine a your fitness for any of the above types of duty
- Funeral honors duty

**What Else Affects My Eligibility?**

In order to have re-employment rights after you return from uniformed service:

- You must have held a civilian job.
- You must have told your employer in advance that you were leaving the job for service in the military either verbally or in writing EXCEPT when this is impossible due to a military emergency.
- You must have been released from service under honorable conditions.
- You must have reported back to your civilian employer or have submitted an application for re-employment fairly soon after being released. In some situations, the reporting deadlines can be extended. For example, if you became disabled during military service and were physically unable to return to work, the reporting deadline could be extended. In most situations, the rules are that you must report back to work by:
  1. The next business day for military service of less than 31 days;
  2. Within 14 calendar days for military service of 31 to 180 days; and
  3. Within 90 calendar days for military service of more than 180 days.
- You must not have exceeded a five-year period of service. Your five-year period of service may have been spread out over a longer period of time. For example, if you served for a year, returned to work, then served four more years, this would equal five cumulative years. Keep in mind that the following doesn’t count towards the five-year limit and your employer must let you go to perform these duties:
  1. Inactive duty for training (drill)
  2. Annual training
  3. Involuntary recall to active duty or remaining on active duty
  4. Voluntary or involuntary active duty in support of a war, national emergency, or certain other missions
  5. Additional training requirements determined and certified in writing by the Service Secretary, and considered necessary for professional development or for completion of skill training or re-training

**NOTE:** If you do not report back within these deadlines, you do not automatically lose your re-employment rights. But, you must follow your employer’s rules for unexcused absences.
6. Service where you need more than five years to complete an initial period of obligated service. For example, some military specialties, such as the Navy’s nuclear power program, require initial active service obligations longer than five years.

7. Service from which you, through no fault of your own, are unable to obtain a release within the five-year limit. For example, the five-year limit will not be applied to members of the Navy or Marine Corps whose obligated service dates expire while they are at sea. It also will not be applied when service members are involuntarily retained on active duty after their obligated service date.

8. Service by volunteers who are ordered to active duty in support of a "critical mission or requirement" in times other than war or national emergency and when no involuntary recall is in effect.

What Happens To My Job And Benefits While I'm Away, And Do I Get My Same Job Back When I Return?

When you return from service you are entitled to a job with your old employer. If you served in the military less than 91 days, you are entitled to the job you would have held had you not left for military service (an automatic promotion, for example), if you are, or can become qualified for that job. If you cannot become qualified for the new job after your employer has made reasonable efforts to help you, you are entitled to the same job you left.

For periods of service of 91 days or more, your employer may re-employ you as above (that is, in the position that would have been attained or the position left), or in a similar position of "like seniority, status and pay" which you are qualified to perform.

What Am I Entitled To Upon Re-Employment?

- Prompt reinstatement, which is generally a matter of days, not weeks, but 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 service-connected disability.

- You cannot be fired without cause for six months following reemployment, if you served between 30 days and six months in the uniformed services.

- You cannot be fired without cause for one year following reemployment, if you served 181 days or more in the uniformed services.

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 yourself and your dependents for up to 24 months. Your employer is also required to continue to make contributions to your pension while you’re deployed, if you had a pension.
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. For example:

- Holiday pay
- Life insurance coverage
- Vacation time

If your employer's treatment of persons 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.

Can An Employer Or Prospective Employer Discriminate Against Me Because Of Military Service?
The Uniformed Services Employment and Reemployment Rights Act also protects you from discrimination following military service. It is against the law for employers to discriminate against you because of your past, present, or future military service. This includes the hiring process, while you are on the job, and post deployment.

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 problems around the effect of their military service on their civilian jobs. 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

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 to place you in another position, until the leg has healed.

What Kind Of Accommodations Is My Employer Required To Provide By Law?
The EEOC defines a “reasonable accommodation” under the Americans with Disabilities Act as:

“A change in the way things are normally done at work that enables an individual to do a job, apply for a job, or enjoy equal access to a job's benefits and privileges. Common
reasonable accommodations include altered break and work schedules (e.g., scheduling work around medical appointments), time off for treatment, changes in supervisory methods (e.g., providing written instructions, or breaking tasks into smaller parts), eliminating a non-essential (or marginal) job function that someone cannot perform because of a disability, and telework. Where an employee has been working successfully in a job but can no longer do so because of a disability, the ADA also may require reassignment to a vacant position that the employee can perform. These are just examples; employees are free to request, and employers are free to suggest, other modifications or changes.” (eeoc.gov)

For more information on the ADA visit http://www.ada.gov/servicemembers_adainfo.html

If you become disabled in the 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

You and your family can take employment leave under the Family and Medical Leave Act (FMLA), the Washington State Family Leave Act (FLA), and the state Military Family Leave Act (MFLA). Read on for information about these programs.

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. If you meet the hourly requirements you may qualify for up to 12 weeks of unpaid, job protected leave to attend to family or medical needs under the Family Medical Leave Act. For the hourly requirements, both your military service and your civilian job hours count towards your total.

For more information on family medical leave see Chapter 5: Taking Time Off From Work.

Long-Term Leave And Disability Benefits For Service Members

If you are injured in combat or involved in an accident you may not be able to return to your civilian job at all. 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 extent 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 additional rights to help you manage the responsibilities that come with 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

The United States Department of Labor Employees Guide to Military Family Leave provides information about FMLA rights and responsibilities, including who can use military family leave, entitlements, qualifications and military caregiver leave.

Employees Guide to Military Family Leave (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 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:  

Unemployment Insurance For Military Spouses And Domestic Partners

If your service member spouse or domestic partner is transferred and you have to leave your job to move with him/her, you may be eligible to get unemployment insurance benefits. In order to be eligible, you must stay at your job as long as possible before the transfer. You should apply for unemployment benefits from the state that you were employed in, not the state you are moving to. For more information on unemployment insurance, see Chapter 7: Unemployment.

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/

(Senior Airman Brittany Paenschke-O'Brien, U.S. Air Force Photo)
Work Restoration Programs

As a veteran returning from military service, you may find it difficult to transition back into a civilian job. Your job skills may be rusty, you may find you want to enter a different field than you were in before or maybe you never held a civilian job before and you could use some help. 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. Once you are enrolled, many colleges and universities have support services set up specifically to help student veterans. 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.

CWT veteran programs include:

- Incentive Therapy: provides work experience in the VA medical center for veterans who exhibit severe mental illness and/or physical impairments.
- Sheltered Workshop: more commonly called “work centers,” the Sheltered Workshop provides work experience in a simulated (pretend) work environment.
- Transitional Work Program: a pre-employment vocational assessment program that matches veterans to specific work assignments.
- Supported Employment program: supports veterans with severe mental illness with employment.

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

Other Programs And Resources

Armed Forces Support Foundation

A non-profit organization, the Armed Forces Support Foundation provides online resources committed to assisting service members transition to civilian life. Visit HireaHero.org for an online job board and employment resources. www.HireaHero.org/
Helmets to Hardhats

Helmets to Hardhats helps military service members successfully transition back into civilian life by offering them the means to secure a quality career in the construction industry. For more information call 866-741-6210. www.helmetstohardhats.org/

Veterans in Piping

The Plumbers and Pipefitters Union program, called Veterans in Piping, helps returning veterans with training and careers with contractors throughout the country. www.uavip.org/

Department of Veteran Affairs

A comprehensive website for veterans and service members, vetsuccess.gov has job listings, resume posting, and apply for postings directly on the site. www.vetsuccess.gov/

In addition, the Dept. of Veteran Affairs also can help you navigate The Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011, which provides seamless transition for Service members, expands education and training opportunities for Veterans, and provides tax credits for employers who hire Veterans with service-connected disabilities. Visit benefits.va.gov/vow for more information. www.benefits.va.gov/VOW/

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/

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

Olympia Service Center
1102 Quince St SE
P.O. Box 41155
Olympia, WA 98504-1105

Seattle Service (Call) Center
(877) 904-VETS (8387)

Seattle Regional Office
Jackson Federal Building
915 2nd Avenue
Seattle, WA 98174
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

**Mental Health**

- *Phone Number* – 1 (877) 424-3838
- *Web Address* – http://www.mentalhealth.va.gov/

**Compensated Work Therapy**

- *Address* – 1660 South Columbian Way, Seattle, WA 98108
- *Web Address* – http://www.va.gov/health/cwt

**Employer Support of the Guard and Reserve (ESGR)**

You should contact ESGR if you have employment issues related to your service in the National Guard or Reserve.

- *Phone Number* – 1 (800) 336-4590

**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
- *Web Address* – http://www.dol.gov/vets/

**Americans with Disabilities Act: Service Members**

Contact if you are a disabled service member looking for information about your rights.

- *ADA Info Line* – 1 (800) 514-0301

**PTSD and Mental Health Information**

If you need help with your mental health, including PTSD, there are important resources available to you:

- The Department of Veterans web site: http://www.mentalhealth.va.gov provides links and contact information regarding: mental health and where to get help, suicide prevention, substance abuse, depression, and PTSD.
- The VA’s Guide to mental health services for veterans and their families http://www.mentalhealth.va.gov/docs/MHG_English.pdf specifies exactly what mental health services VA hospitals and clinics are required to offer to Veterans and their families.
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A Voice On The Job Leads To A Better Job

For most of us, having a job is essential. That’s how we take care of our families. But having just any job isn’t enough – you deserve more. You deserve a job at which you are safe and your health is protected. You deserve a job that pays you adequately. You deserve a job at which you are not subject to discrimination and harassment. That’s why the rights and laws that you have read about in this manual are important. It is the employer’s responsibility to make sure that workplace rights are followed, but that doesn’t always happen. It may be up to you and your co-workers to see that you are treated with at least as much respect as the law demands. The law is a tool, but it’s up to you to use it.

You can and should stand up for your rights as an individual but that can also get you labeled as a troublemaker. When working people stand together they are more likely to win improvements and be better protected in the process. This could mean that you and your coworkers come together to ask your boss to repair a piece of broken or unsafe machinery or it could mean forming a union. Having a legally established union means that the employer is REQUIRED to negotiate a written agreement about the terms and conditions of your job – that includes wages, benefits, and much more. But even without a union, when working people act together they can build the power they need to have a collective voice on the job.

This chapter includes some of the rights that workers have to gain a voice on the job.

You Have The Right To Engage In Concerted Activity

The National Labor Relations Act of 1935 protects the basic right to take action with coworkers to improve wages and working conditions in the private sector. This is called “concerted activity”. Concerted activity means that you are speaking with or on behalf of yourself and your coworkers to improve your working conditions. Being protected means that any punishment for your activity, including being fired, is illegal.

For example: You don’t like that you are not allowed to wear a hat to work. If you go to your boss alone to request a change in the dress code, it IS legal for your boss to fire you because you “complained.” But, if you talked with another coworker and she agreed that the dress code is too restrictive, and then the two of you went to your boss together to request the change, that is considered concerted activity and it is NOT legal for the boss to fire you or punish you. This does not mean that it is illegal for the employer to impose a dress code. It is, in fact, perfectly legal. The issue is your right to ask with your coworkers for a change in the dress code, or any improvement in working conditions, without fear.

You Have the Right to Form a Union

The National Labor Relations Act protects most private sector workers’ rights to organize a union and bargain collectively with their employers. It is illegal for your boss to retaliate against (punish) you because you are trying to form a union, whether or not you succeed in doing so. Again, this is concerted activity.

As a worker covered by the National Labor Relations Act, you have the right to:

- Talk about a union during breaks, or before or after work, but usually not during work time.
- Distribute union literature to your coworkers. You can do this on your own time in non-working areas (the cafeteria or parking lot are good examples).
- Attend union meetings.
- Encourage your coworkers to form a union.
- Wear union buttons, t-shirts, stickers, hats and other union items on the job as long as your dress code does not prohibit those kinds of things generally. If you are allowed to wear a girl-scout button at work, you are allowed to wear a union button.

**It is against the law for your employer to:**

- Threaten to fire you for supporting the union.
- Spy on you to find out about your union activity.
- Discriminate against you (treat you worse) when it comes to hiring, promotion, layoffs, benefits or working conditions because you support the union.
- Makes threats or promises because of union activity. An example of an illegal threat is that the workplace will close. An example of a promise is that, if workers’ reject the union, the employer will raise their wages.

**Who Is Not Covered By The National Labor Relations Act?**

The National Labor Relations Act does not protect farm workers, domestic workers, public sector workers (state, county, municipal, and federal employees), true independent contractors (see Chapter 9: Am I an Employee?), supervisors or managers who can hire or fire people, or confidential employees who work with sensitive information, like Human Resources managers or executive assistants for the top management of a company.

**Public Sector Workers**

The NLRA does not apply to people who work for cities or state agencies, for example, because those are public sector jobs. The rights of public sector workers are protected under different laws in Washington State overseen by the Public Employment Relations Commission. Even if you are a public employee, you should read this section because many of the rights under the NLRA are the same for public employees.

Most public sector workers do have the right to form unions but they are protected under different, but similar, laws:

**Public sector workers in Washington State:** the Public Employment Relations Commission www.perc.wa.gov.

**Federal workers:** Federal Labor Relations Authority www.flra.gov.

**Workers in the railroad or airline industries:** Railway Labor Act. For more information go to the website of the National Mediation Board: www.nmb.gov/
**What Is A Union?**

A union is, simply put, a democratic organization of workers who join together to improve the terms and conditions of their employment by bargaining collectively (together) with their employer. This is the basic concept of solidarity. Unions can be very small, just in a single workplace, for instance, or they can be very large, representing workers from an entire industry or multiple industries.

In addition to representing members by bargaining and enforcing contracts, most unions are political organizations. Many unions join with others in large labor federations (the largest in the U.S. currently is the American Federation of Labor – Congress of Industrial Organizations or AFL-CIO) to work with one another on issues that affect all unions and workers. An example of a right for all workers, union or not, that was fought for by the AFL-CIO is the minimum wage and health and safety laws. In a union, workers can come together and lobby their elected officials to support laws that improve the lives and work of all working people.

Workers have greatly improved their working conditions by forming unions. When people in the U.S. first began to organize more than 100 years ago they addressed the most basic labor issues — stable wages, break times, the 8-hour work-day and overtime pay, workplace safety, and limits on child labor.

During the last 50 years, workers have continued to organize and pressure employers. Because of their efforts, workers’ compensation (*Chapter 3*), unemployment insurance (*Chapter 7*), and protection from racism, sexism, and other forms of discrimination (*Chapter 6*) now exist. These and other rights did not come into being without a struggle. We can be grateful to those who sacrificed and died for these rights.

Workers are still organizing around important issues like healthcare, wage increases, immigrant rights, vacation and sick pay, pensions, scheduled breaks, and many other issues.

A union is an organized and democratic way for working people to take action to improve their jobs.

**Union Members Have…**

- **The right to collectively bargain** a contract guaranteeing the terms and conditions of your employment.
- **The right to vote** for leadership positions, on contracts, and for a strike.
- **Constitution and bylaws** that explain how your organization will work.
- **Elected officers**.
- **Dues**: everyone puts in a little bit of money that can be spent on professional staff, legal advisors, etc.
- **The opportunity to be part of a larger labor organization** like a county, regional, state, or national, or international labor federation that works on behalf of all working people.
Why Have a Union?

Having a union helps workers have a voice on the job, but the concrete gains in wages and working conditions come from the terms of the contract (or collective bargaining agreement) negotiated between your union and your employer. Your employer is not required to negotiate every aspect of your job, but many of them. In the section below on collective bargaining you can learn more about what can go in a union contract.

Union members usually earn more than non-union workers doing similar work. This is especially true for women and people of color. Union members also are more likely to have employer-provided health insurance, retirement benefits, and greater job security.

When workers at a particular workplace have a contract, the employer cannot change the pay, benefits or hours simply because s/he wants to. The employer would have to negotiate with the workers and their union representatives, and a mutual agreement would have to be reached. If the workers agree to a change that reduces their benefits, they can ask for something in exchange.

A legally recognized union gives you something you never get otherwise — the opportunity for you and your co-workers to sit down across the table from your boss as equals and have a say on issues that affect your work life.

At-Will vs. Just Cause Employment

In Washington State, workers who are not covered by a union contract are considered to be "at-will" employees. "At-will" means that you have a job at the will (or desire) of your boss. Your employer can hire and fire you when s/he wishes for any reason or no reason at all. Taken to its extreme, your employer could fire you because s/he doesn’t like your shoes. Your employer can also change your pay, working hours or benefits if s/he wants to. The exception to this is that the employer cannot make these kinds of changes for discriminatory reasons – i.e. because of your race, sex, national origin, etc.

A union changes the at-will employment status for most organized workers. This means that an employer must have a "just cause" (good reason) to fire you, suspend you, give you a worse job, or punish you in another way. Even if you are fired, your union can file a grievance on your behalf. In some cases workers have gotten their jobs back after going through the grievance process, and even gotten back pay. A grievance can be filed to protest any violation of the contract. Grievances are the legal method used by your union and you to make sure your employer follows the contract (which is a legally binding agreement) — it's an official complaint. There may be a process for filing a complaint in a non-union workplace but it is the employer who decides how that complaint is handled. Having a union gives the workers a say in that process.
Common Benefits Of A Union Contract

- **Just Cause:** You cannot be fired for just any reason; your employer has to have a good reason that they can document.

- **Progressive Discipline:** This goes along with ‘just cause.’ The employer has to go through a series of steps to document the reasons you should be disciplined or fired and give you warnings and chances to improve along the way.

- **Union representation:** When you get in trouble, you have a union representative there to make sure your rights and the contract are respected. There is more about this below in the “Weingarten” section.

- **Better working conditions:** Stronger enforcement of health and safety or anti-harassment standards.

- **Guaranteed wages and benefits:** Health insurance, retirement benefits, paid sick leave and vacation time.

- **Opportunities for training and advancement.**

- **Seniority rights for promotion and recall if you are laid off.**

- **Grievance procedure:** A formal method for making complaints that is legally binding to both you and your employer.

I Want A Union! Your Basic Rights While Union Organizing

Make no mistake, organizing a union is a difficult task and can take a lot of time and effort. Many of your co-workers will be afraid at first. The more prepared you are, the more likely you are to succeed. Think of your union organizing efforts as a campaign with a clear set of goals and steps to achieve them. A union organizing campaign is complex, before beginning you should seek out resources and people that can help you. See the end of this chapter for some ideas on where to start. Before beginning a campaign you should consider the following things:

Who Will Be A Part Of Your Union?

Ideally, you should be in a union with workers who do similar work to you. This could be everyone who works for the same employer, or it could just be workers in a certain department. There is a legal process that determines who will be in your union (called ‘community of interest’) and, ultimately, the contract your union bargains will apply to that specific group of workers, called a “bargaining unit.” Supervisors or managers who can hire or fire employees and confidential employees who work with sensitive information (like Human Resources managers or executive assistants for the top management of a company) will be excluded from your bargaining unit.

Tip: The bigger and better organized your group is, the less likely it is that someone from management will deny you your rights!
Who Can Help You?

First and foremost, you should think about your relationships at work. Are there people you know who share your desire to make things better? Who do you have close relationships with? Who are the leaders among the workers, especially those you may not know personally? These relationships will form the basis of your campaign! If you would like outside help or professional advice about your organizing campaign you can contact staff from a local union office at any point. Union staff can provide resources, guidance, legal support and strategic advice. It also may be easier to join an existing union than to create a brand new one; there are many benefits to being part of a larger organization. It is best to contact a union that already represents workers in a field similar to your own. A good place to ask is the Washington State Labor Council. They can direct you to a union that could help you in your effort. Their contact information can be found in the Labor Organizations section at the end of this chapter.

Employer Resistance

Most employers mount anti-union campaigns. Before starting a campaign, you should learn about your rights to form a union and make sure everyone understands that they are legally protected. You should also learn about common anti-union activities by employers. Learning about other campaigns can give you a good idea of what to expect in yours. This can be another good reason to get input from professional union organizers. Not only should you expect your employer to fight the organizing drive, it is very likely that some of your coworkers won’t want a union either. Staff members at a local union can help you prepare, and you can also check out some of the resources listed at the end of this chapter.

Common Actions Employers Will Take When Employees Form a Union: Legal and Illegal

**LEGAL**

- Call a meeting that everyone has to attend on work time to make arguments about why having a union would be bad for the company and the workers. This is called a “captive audience meeting.” This is not allowed on union election day or the day before.

- Call individual meetings with workers, especially those that they think might be scared or willing to resist a union. These are called “one-on-one” meetings. This is not allowed on union election day or the day before.

- Hire a consultant to help run a campaign against the union.

**ILLEGAL**

- Punish workers for trying to form a union, as long as organizing activities are off the clock.

- Threaten to close the company if the union comes in, or promise to improve working conditions if the union stays out.

- Spy on workers when they are engaged in union activities

Tip: It is best to consult a professional union organizer or the NLRB for more information on what is legal when employees try to form a union!
Getting Recognition Of Your Union

Union Authorization Cards

To show that you and your coworkers want a union, you can use “union authorization cards” or a petition stating that you want to be represented by a union. By law, you need signatures from at least 30% of the workers who would be in the bargaining unit before you can take a vote. You do not have to turn the cards over to the employer. Although 30% is the legal minimum, to be confident that you will win it is smart to have at the least 65% of workers sign before you proceed to the next step: demanding recognition.

Demanding Recognition Of Your Union - Elections

Once you have a significant majority of the people in your workplace in favor of your union, then you’re ready to turn interest into real union representation. The first step is to ask the employer directly to recognize the union. If the employer refuses to recognize the union, or if you choose not to ask the employer, you can ask the National Labor Relations Board (or PERC in the public sector) to hold a secret ballot election for you and your co-workers to vote on whether to have a union. In order to win the vote, you have to get the majority of people who vote in the election to vote in favor of the union.

Remember: the law is on your side! You have the right to act together — "take concerted action" — and solidarity gives you the best protection. The more people take action, the harder it is for the boss to retaliate (act against you).

Very Important! While you are organizing, do not give management a reason to fire you! Be a good worker, show up on time, follow the instructions you are given, etc. If you do these things you will not give the employer any reason to fire you. An employer can legally fire someone for poor job performance even during a union organizing campaign.

What Do I Do If My Boss Does Not Respect My Rights?

Let your employer know that the law protects your right to organize. Be polite! If someone in management questions you about your union activity, make a note of the date, who spoke to you, and what was said. Tell other workers who are helping build the union, or professional union staff about what happened immediately!

You do not have any legal obligation to tell the employer about your organizing activities since you are doing this on your own time. As long as the employer’s questions aren’t about work and your job, you don’t have to discuss your union organizing with them any more than you would have to discuss organizing a baseball league or a church picnic.

If your employer threatens you because you will not discuss the union, they are breaking the law and you can file an Unfair Labor Practice charge against them.

For further assistance on the rules related to forming a union and on filing an Unfair Labor Practice charge, you may contact the:

National Labor Relations Board Regional Office (NLRB):
Address - 915 2nd Ave Room 2948, Seattle WA 98174
Phone - (206) 220-6300, TTY - (206) 220-6292
Web Address - www.nlrb.gov/region/seattle
Rights And Responsibilities Of Union Members

Below are a few basic rights and responsibilities that you have when you are part of a union. The laws are complex so you should seek additional assistance to really understand your rights and responsibilities. See the end of this section for resources that can help you strengthen and protect your union.

The Right To Representation - Weingarten Rights

The National Labor Relations Act (NLRA) gives unionized workers the right to assistance from union representatives during "investigative interviews." An investigative interview is any questioning by a manager that you believe could result in discipline – in other words, you are called in to discuss whether you have done something wrong on the job. Examples of issues that might lead to an investigative interview include tardiness or many absences, workplace accidents, damage to company property, poor attitude, poor work performance and more.

If you think that your manager is asking you to meet about something that could lead to discipline you have a right to have your shop steward or some other union representative present during this conversation. This is what is known as your Weingarten Rights. But it's up to you to ask! Your employer does not have to tell you about these rights.

You can ask for union representation before or during the interview. After you ask for a union representative, your employer has three options. S/he can:

1. Grant the request and wait to question you until your union rep arrives.
2. Deny the request and end the interview immediately.
3. Give you a choice of:
   a. Having the interview without representation (usually a mistake), OR
   b. Ending the interview (best choice if no union steward is coming).

If your employer denies the request for union representation and questions you anyway, your employer has broken the law and you may refuse to answer. But it may not be a good idea to leave the interview, since that could be viewed as insubordination. Instead, you should indicate that you will stay there, but only listen to their questions and not answer.

Having a steward or other union rep present can help you in many ways. The steward can act as a witness to prevent supervisors from giving a false account of the conversation later on; object to scare tactics or confusing questions and advise you (when appropriate) about the best way for you to act during the meeting.

The steward or other union rep has the right to advise you during the interview and to assist you. The steward's rights and duties are listed below:

1. When the steward arrives, the supervisor must tell you and the steward what the meeting is about. The steward cannot argue over the purpose of the interview or refuse to allow the interview to take place.
2. The steward can take you aside for a private discussion before the questioning begins.
3. The steward can speak during the interview. This includes asking questions or offering different versions of the claims being made by the manager. Both the steward and the member have the right to ask the manager for any relevant documents or other info.

4. The steward can advise you not to answer questions that are rude, misleading, pestering, confusing or harassing, but s/he cannot interfere with the investigation.

5. When the questioning ends, the steward can provide information to explain your behavior and act as a witness.

Not every discussion with management is an investigative interview. For example, a supervisor may talk to you about the proper way to do a job. Even if the supervisor asks you questions, this may not be an investigative interview if the employer’s questions in no way lead to discipline. In addition, Weingarten rights do not apply if the employer does not question you, but calls a meeting just to tell you about a decision that has already been made.

You can invoke your Weingarten rights only if you believe that a meeting with management is an investigative interview. If you do, read the following statement to management BEFORE the meeting starts:

"If this discussion could in any way lead to my being disciplined or fired, or affect my personal working conditions, I respectfully ask that my union representative, officer, or steward be present at this meeting. Without representation present, I choose not to participate in this discussion."

Collective Bargaining

Collective bargaining is the process by which union representatives negotiate contracts with employers to decide on the terms of employment. This can include pay, benefits, hours, leave, health and safety policies, ways to balance work and family, and more. Both your union and the employer are legally required to bargain in “good-faith”. This means that both sides must enter into the bargaining process and make a real effort to reach an agreement.

Your contract will be negotiated by a team of people who might be appointed or elected. If you have joined a larger union you will likely have a professional staff person with you as well. The goal is for your union and the employer to come up with a contract that sets everything down in writing — pay, vacation, sick leave, healthcare, what happens if rules are broken, etc.

There are many subjects that the employer is legally required to negotiate over, like how much you are paid. These are called mandatory subjects. Other subjects are either optional or in some instances illegal to negotiate over. Negotiating a contract can be a lengthy process, especially the first time. After both sides agree to a contract, it is sent to the members of your union to either accept or reject it. If it is rejected, then both sides have to negotiate some more. If it is approved, it takes effect. A union contract can last for any length of time, but most run from 2-4 years.
Union Dues

Union dues are a way for your union to have money to operate. In theory, members agree upon the amount of your union dues – either a percentage of your income or a flat rate. However, if you and your co-workers join an existing union they will probably have a dues rate already set up. The dues rate may be negotiated between your group and the larger union group. Dues pay for many different things including bargaining, organizing, legal costs related to grievances, salaries for staff members, strike-funds and contributions to community causes. In most cases it is illegal for unions to spend dues money directly on politics, – including supporting candidates or initiatives. Most unions have separate political action funds to which members contribute voluntarily.

One common contract article is the union-security clause. The union-security clause is an agreement between the employer and the union that all workers in the bargaining unit must set up a relationship to the union within 30 days of being hired. The first option is to become a full union member. This means paying full dues and having the right to vote in all union matters.

However, there will be workers who do not want to be union members. They still have to pay a percentage of union dues, but they don’t have the right to vote within the union. Some technical terms for this kind of person include “agency fee payer” and “Beck objector.” The percentage of dues paid by an objector can be as much as 80% or more. The calculation of the exact amount is based on how much the union spends on activities that are related to collective bargaining negotiations and enforcing rights in the union contract for all workers in the bargaining unit. Objectors essentially refuse to pay for anything not directly related to the collective bargaining contract that sets their wages, benefits and other working conditions.

An employee may also object to union membership on religious grounds, but in that case, s/he must pay an amount equal to dues to a nonreligious charitable organization.

There are some states that do not allow union-security agreements. These are called “right-to-work states.” In “right-to-work” states, employees choose whether or not to pay dues. Even those who choose not to pay are still covered by the contract, get all the same benefits as dues-paying members, and the union is equally responsible for representing the non-payer. “Right-to-work” laws make it more difficult for unions to raise the money that they need to operate and bargain effectively for members. Washington is currently not a “right-to-work” state. If you get a union job in Washington State you may be required to pay dues as a member, or a percentage of dues for representation services.

Duty Of Fair Representation

Under the National Labor Relations Act, every union has the legal obligation to fairly represent all workers that are in the collective bargaining unit. Your union cannot discriminate against a worker because of their race, gender, sexuality, age, nationality, immigration status, disability OR their status as a dues paying member, non-member, or agency fee payer. You may file legal charges against your union if you believe that the duty of fair representation has been violated.
Can We Go On Strike?

The National Labor Relations Act protects your right to strike in some situations. The reason for the strike, how you behave, how your employer behaves, the type of work place, and other factors determine whether or not a strike is legal and what protections you have. In general, there are two types of strikes:

1. **An economic strike:** This is a strike to try and improve your contract and working conditions. Many union contracts have “no-strike” clauses which mean that it is not legal for the employees covered under that contract to go out on strike while the contract is in effect. Because of this limitation, economic strikes almost always take place after a contract has expired and while negotiations are going on. For instance, if your union is requesting increased wages during contract negotiations and cannot come to agreement with the employer, you have the right to strike if the majority votes for it. The members decide. The danger here is that economic strikers can be replaced by the employer, even permanently, and may not get their jobs back after the strike is over.

2. **An unfair labor practice (ULP) strike:** This is a strike to protest an employer’s violation of your rights under the National Labor Relations Act. For example, if the employer is illegally punishing employees for union activity, your union can file a ULP charge and use this as a basis for a strike. In contrast to an economic strike, ULP strikers cannot be permanently replaced and are generally guaranteed their jobs back when they return from the strike. If you decide to stage a ULP strike it is very important NOT to make claims about economic issues during the strike.

Sometimes, workers may decide to go on strike without the support of their union. This is called a “wildcat strike” and may create additional risks for these employees.

For more information about which strikes are protected please visit the National Labor Relations Board website: [www.nlrb.gov/strikes](http://www.nlrb.gov/strikes)

For public sector employees, the right to strike is more limited. Washington State law explicitly bars most state, municipal, and county workers from striking, although public school teachers’ right to strike is unclear. Strikes by federal workers are illegal. However, federal and other public sector employees sometimes engage in other types of concerted actions such as “working to rule.”
Alternative Approaches To Traditional Organizing

Some workers, including agricultural workers, domestic workers, and independent contractors do not have the right to collective bargaining under the law, but they can still organize to improve their working conditions. They can form workers’ organizations that look out for their wellbeing. Remember that workers in the U.S. organized unions for decades even before collective bargaining was legal. Following in this tradition, many workers around the country have created groups to fight for their rights at work. These organizations often work with labor unions to make positive change through policy and direct action.

The steps for forming a workers’ organization that represents your interests are the same whether or not you have the legal rights to collective bargaining.

- Identify the issues that workers care about and the changes they want to make.
- Build leadership committees that take responsibility for communicating with workers throughout the workplace.
- Find allies in the community – in unions, in community organizations, in education, etc. – that understand how improving your working conditions makes a positive contribution to the larger community. This is even more important for non-union worker organizing than it is for unions.
- Use collective action to make sure that the employer is following all of the laws that protect workers even if they don’t have a union. These can include health and safety laws, wage and hour laws, discrimination and harassment laws, and others that you can find in this manual. See Chapter 9: Am I An Employee? if your employer tells you that you are an independent contractor because some of these rights may be limited for independent contractors.
- Find a funding source to help you maintain a strong organization. Similar to unions, members could contribute dues—though they would be voluntary. Other sources of funding might include grants from non-profit foundations or governmental organizations.
- Develop productive ways to talk to your employer about job issues. This might include a labor-management committee.
- Be consistent in your approach to improving your working conditions.
- Protect each other if the employer tries to divide you.
- Keep good records about what is happening on the job, and celebrate your victories!

Remember – your employer is not legally required to follow through on agreements s/he has made with your organization unless they sign a binding contract. This is why unionization and collective bargaining is so powerful. Without union recognition and a contract you will have to be even more vigilant about standing up for your rights.
Alternative Worker Organizations In Washington State

The following are a few examples of workers’ groups in Washington State that are not unions but exist to protect workers.

**Casa Latina**

Casa Latina was founded in 1994 to empower Seattle’s Latino immigrants by providing them with educational and economic opportunities, giving people the tools they need to work, live, support their families and contribute to the Seattle community. They run a day-laborer and home-care worker center and provide educational opportunities such as English language classes and computer classes. They also assist workers in getting back stolen wages. Additionally, they work locally and nationally with partner organizations to create policy changes that help home care and day labor workers and immigrants. Washington State is the first state in the nation to invite a community organization to be part of the official union movement. Casa Latina is a voting member of the Washington State Labor Council. [http://casa-latina.org/](http://casa-latina.org/)

**Community-to-Community Development – Comunidad a Comunidad**

Community-to-Community Development is a place based, women-led grassroots organization working for a just society and healthy communities. They are committed to systemic change and to creating strategic alliances that strengthen local and global movements towards social, economic and environmental justice. Community-to-Community Development works extensively with farm-workers in the Skagit Valley/Bellingham area. [http://foodjustice.org/](http://foodjustice.org/)

**Organization United for Respect at Walmart**

OUR Walmart is an organization of Walmart employees and their supporters. OUR Walmart works to ensure that every Associate, regardless of his or her title, age, race, or sex, is respected at Walmart. OUR Walmart joins together to offer strength and support in addressing the challenges that arise in Walmart stores and company everyday. [http://forrespect.org/](http://forrespect.org/)

**Seattle Solidarity Network**

Seattle Solidarity ("SeaSol") is a volunteer network of working people who believe in standing up for our rights. Their goal is to support fellow workers’ strikes and struggles, build solidarity, and organize to deal with specific job, housing, and other problems caused by the greed of the rich and powerful. [http://seasol.net/](http://seasol.net/)

**Western Washington Taxi Cab Operators Association**

Supported by Teamsters Local 117, this organization advocates for the interests of taxi cab drivers and is attempting to organize drivers into a union. [www.teamstertaxi.org](http://www.teamstertaxi.org)

**Working Washington**

Working Washington is a coalition of individuals, neighborhood associations, immigrant groups, civil rights organizations, people of faith, and labor united for good jobs and a fair economy. Some of Working Washington’s recent work has been supporting fast food worker strikes and also the campaign for good jobs at the SeaTac airport. [www.workingwa.org/](http://www.workingwa.org/)
National Alternative Worker Organizations

The following are a few examples of non-local workers’ groups that are not unions but exist to protect workers. Some of these organizations may already be organizing in Washington State, or can help you with information about forming your own organization locally.

Farmworker Justice

Farmworker Justice is a nonprofit organization in Washington D.C. that seeks to empower migrant and seasonal farmworkers to improve their living and working conditions, immigration status, health, occupational safety, and access to justice. They work with farmworkers and their organizations throughout the nation. [http://farmworkerjustice.org/](http://farmworkerjustice.org/)

ROC-United

The mission of the Restaurant Opportunities Centers (ROC) United is to improve wages and working conditions for the nation’s restaurant workforce. Through participatory research and policy work, employer engagement, workplace justice campaigns, membership and leadership development, and more, ROC-United has become a powerful national vehicle for restaurant workers to lift their collective voices on issues affecting all low-wage workers, including the minimum wage, paid sick days, compliance with basic employment standards, and lack of health care. ROC – United has chapters in many large cities in the USA. [http://rocunited.org/](http://rocunited.org/)

Retail Justice Alliance

The National Retail Justice Alliance, a coalition of social justice leaders and policy experts, is committed to building a long-term movement to raise the living and working standards of retail workers in the United States. The Alliance builds support for workers in the retail industry through advocacy, education and research to promote sustainable jobs, living wages, affordable health care and fair public policies. The Alliance also assists in developing organizing strategies to expand worker, citizen and resident power in the workplace and communities. [http://retailjusticealliance.org/](http://retailjusticealliance.org/)

National Domestic Workers Alliance

Founded in 2007, the National Domestic Workers Alliance (NDWA) is the nation’s leading voice for the millions of domestic workers in the United States, most of whom are women. NDWA was instrumental in passing the Domestic Workers Bill of Rights in New York State and is working with their partners on passing similar legislation in many other states. Casa Latina is a member of the NDWA. [www.domesticworkers.org/](http://www.domesticworkers.org/)

Working America

Working America is an organization for working people. At 3 million strong and growing, they use their strength in numbers to educate each other, mobilize and win real victories to improve working people’s lives. [www.workingamerica.org](http://www.workingamerica.org)
Labor Organizations

There are several organizations in the state made up of unions working together. You can get advice from them and help connecting you with local unions.

Washington State Labor Council, AFL-CIO

You can visit the Washington State Labor Council's website to find a list of unions, news about the labor movement or contact them for support. They are the largest labor organization in the state. The WSLC's core programs are legislative advocacy, political action, communications and media relations, and assistance with organizing campaigns.

Address - 314 First Avenue West, Seattle, WA 98119
Phone - (206) 281-8901, or 1-800-542-0904
Web Address - www.wslc.org

Change to Win

Change to Win is another coalition of labor unions. One of their primary goals is organizing workers in the service industry. Visit them on the web at www.changetowin.org

WA Building and Construction Trades Council

The Washington Building and Construction Trades Council unites many building and construction trade unions. Their website is www.wabuildingtrades.org

Further Information

Economic Opportunity Institute

EOI is an independent, nonpartisan, non-profit public policy center using research, education and advocacy to shape public debate and advance new policy ideas that help build an economy that works for everyone. Their mission is to restore the promise of the middle class by advancing public policies that promote educational opportunity, good jobs, healthy families and workplaces, and a dignified retirement for all. www.eoionline.org/

El Centro de la Raza

El Centro de la Raza is a voice and a hub for Seattle and Martin Luther King, Jr. County’s Latino community as they advocate on behalf of Latino people and work to achieve social justice. Through comprehensive programs and services, they empower members of the Latino community as fully participating members of society. They also work to raise awareness with the general public, and government, business and civic leaders about the needs of the Chicano/Latino community in the United States. www.elcentrodelaraza.com/

OneAmerica

OneAmerica advances the fundamental principles of democracy and justice at the local, state and national levels by building power within immigrant communities in collaboration with key allies. http://weareoneamerica.org/
Puget Sound Sage

Puget Sound Sage is a coalition of labor, faith and community organizations. They ensure all families benefit from economic growth, all workers are free from discrimination in the workplace and all development meets the needs of our communities, by building stronger institutions for working families, creating policy that balances the drive for economic growth with economic justice and engaging directly in the day-to-day decisions of government that affect our communities. www.pugetsoundsage.org/

The Stand

A project of the Washington State Labor Council, AFL-CIO and its affiliated unions, The Stand features news about and for working people. Its reports and opinion columns focus on creating and maintaining quality jobs, improving our families’ quality of life, promoting public policies that will restore shared prosperity, and other things that the rest of us care about. www.thestand.org/

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 to 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. http://georgetown.southseattle.edu/lerc/
Resources

For additional government and community resources related to discrimination, please see Chapter 6: Discrimination.

For additional government and community resources specifically for veterans, service members, and their families, see Chapter 11: Military Service Members and Families.

For additional union and non-union resources related to organizing and building worker power see Chapter 12: Organizing to Make Things Better At Work.

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) 206
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Washington State Labor Education And Research Center

If you have questions about where to get a copy of this manual or to update or add the contact information for your organization, 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)

L&I handles employment related concerns and problems in Washington. Below are direct links to some of the specific L&I departments.

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

Addresses -  
**Mailing**: P.O. Box 4400 Olympia, WA 98504  
**Headquarters**: 7273 Linderson Way SW, Tumwater, WA 98501

Local Offices - L&I has local offices in many cities and towns in Washington. To find the office closes to you, call the switchboard above or look online at:  
http://www.lni.wa.gov/Main/ContactInfo/OfficeLocations/

Web Addresses -  
www.lni.wa.gov/  

Workers’ Rights Complaints  
*For complaints about wage, overtime, breaks, access to leave, child labor, rest or meal breaks, or prevailing wage*  
www.lni.wa.gov/WorkplaceRights/ComplainDiscrim/WRComplaint/

Fall Hazards: www.lni.wa.gov/Safety/Topics/AtoZ/fallprotect/  
Construction Rules: www.lni.wa.gov/wisha/rules/construction/  
Agriculture Rules: www.lni.wa.gov/wisha/rules/agriculture/  
Find a Local Doctor: www.lni.wa.gov/ClaimsIns/Claims/Findadoc/  
FAQ on Medical Provider Network:  
www.lni.wa.gov/ClaimsIns/Claims/Benefits/MedBenefits/NetworkQnA/  
Wage Replacement (in the event of an injury):  
www.lni.wa.gov/ClaimsIns/Claims/Benefits/timeloss/default.asp  
Appealing a Claims Decision:  
www.lni.wa.gov/ClaimsIns/Claims/Appeals/Appeal/default.asp  
Structured Settlements:  
www.lni.wa.gov/ClaimsIns/Claims/Benefits/Settlement/  
Crime Victims Compensation Program:  
www.lni.wa.gov/claimsins/crimevictims/about/
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

Governor’s Office of Indian Affairs
Governor’s Office of Indian Affairs handles discrimination cases.
Phone Number – (360) 902-8827
Address - P.O. Box 40909, Olympia WA 98504-0909
Web Address – www.goia.wa.gov

The Internal Revenue Service (IRS)
The IRS can help deal with misclassification of workers as discussed in Chapter 9.
Web Address - www.irs.gov

National Labor Relations Board
The National Labor Relations Board is responsible for safeguarding 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 2nd Ave, Room 3948, Seattle, WA 98174
Web Address – www.nlrb.gov

Occupational Safety and Health Administration (OSHA)
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 a federal agency, OSHA oversees health and safety issues. For all others in Washington state, contact the Department of Labor and Industries (contact information above).
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

Public Employment Relations Commission (PERC)
PERC handles labor-management relations 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
**US Department of Labor (DOL)**

The DOL enforces wage and hour laws and policies.
*Web Address* - www.wagehour.dol.gov

**DOL, all counties except Wahkiakum and Klickitat:**
*Phone Number* - (206) 398-8039
*Address* - 1111 3rd Ave Suite 755, Seattle, WA 98101

**DOL, Wahkiakum and Klickitat Counties:**
*Phone Number* - (503) 326 – 3057, Toll-free Helpline: 1 (866) 487-9243
*Address* - 620 SW Main St, Room 423, Portland, OR 97205

**Seattle Police Department**

Contact to report wage theft or other criminal violations.
*Phone Number* - (206) 625-5011 (non-emergency line)
*Address* - 610 5th Ave, Seattle, WA 98124-4986
*Web Address* - www.seattle.gov/police/

**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/

**Mental Health**
*Phone Number* – 1 (877) 424-3838
*Web Address* – www.mentalhealth.va.gov/

**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
  1 (800) 669-6820

*Address* - Federal Office Building 909 1st Ave, Suite 400, Seattle, WA 98104-1061
*Web Address* - www.eeoc.gov/

**US Office of Special Counsel (OSC)**

Contact if you are a whistleblower. The OSC also handles problems with USERRA.

*Phone Numbers* – Headquarters: (202) 254-3600, Whistleblower Disclosure Hotline: (800) 572-2249
*Addresses* – Headquarters/Disclosure Unit: 1730 M Street, N.W., Suite 218, Washington, D.C. 20036-4505
*Web Address* – www.osc.gov

**US Social Security Administration (SSA)**


*Phone Numbers* – 1 (800) 772-1213, TTY: 1 (800) 325-0778
*Address* – Suite 901, 915 2nd Ave, Seattle, WA 98174
*Web Address* - www.ssa.gov/

Apply for benefits online: www.socialsecurity.gov/online-services/
Washington Department of Social and Health Services (DSHS)
The DSHS provides financial help such as food stamps, medical assistance, cash advances, childcare, and others. The DSHS also provides assistance finding jobs.

Phone Numbers – 1 (877) 501-2233, Constituent Services: 1 (800) 737-0617
Address – 1115 Washington Street SE, Olympia, WA 98504
Web Addresses – www.dshs.wa.gov

Washington State Auditor’s Office (SAO)
The Washington State Auditor’s Office handles whistleblower cases in Washington.
Phone Number – (360) 902-0370
Address – Insurance Building, Capitol Campus 302 Sid Snyder Ave SW, Olympia, WA 98504-0021
Web Address – www.sao.wa.gov/

Washington State Commission on African American Affairs
Phone Number – (360) 725-5564
Address - 210 11th Avenue SW Suite 301A, Olympia WA 98504
Web Address - www.caa.wa.gov

Washington State Commission on Asian Pacific American Affairs
Phone Number – (360) 725-5667
Address - P.O. Box 40925, Olympia, Washington 98504
Web Address – www.capaa.wa.gov

Washington State Commission on Hispanic Affairs
Phone Numbers –
1 (800) 443-0294
(360) 725-5661
Address - P.O. Box 40924, Olympia WA 98504-0924
Web Address - www.cha.wa.gov

Washington State Employment Security Department (ESD)
The ESD handles unemployment claims, and assists people in finding new jobs.
Phone Number – Unemployment Claims: 1 (800) 318-6022
Web Address - www.esd.wa.gov
Washington State Human Rights Commission (WSHRC)

WSHRC handles discrimination cases in Washington. Contact if you having problems with your employer discriminating against you for any of the protected reasons listed in Chapter 5. WSHRC also covers some types of leave from work. 
Web Address – www.hum.wa.gov/

<table>
<thead>
<tr>
<th>Location</th>
<th>Phone Number</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Olympia</td>
<td>(360) 753-6770</td>
<td>711 S. Capitol Way, Suite 402</td>
</tr>
<tr>
<td></td>
<td>Toll-Free: 1 (800) 233-3247</td>
<td>Olympia, WA 98504-2490</td>
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<tr>
<td></td>
<td>TTY: 1 (800) 300-7525</td>
<td></td>
</tr>
<tr>
<td>Spokane</td>
<td>(509) 568-3196</td>
<td>1330 N. Washington St., Suite 2460</td>
</tr>
<tr>
<td>(For Complaints from Eastern</td>
<td></td>
<td>Spokane, WA 99201</td>
</tr>
<tr>
<td>Washington, including Spokane,</td>
<td></td>
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<tr>
<td>Whitman, Okanogan, Lincoln,</td>
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<tr>
<td>Ferry, and Stevens Counties)</td>
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<tr>
<td>Yakima</td>
<td>(509) 494-0347</td>
<td>15 West Yakima Ave, Suite 100</td>
</tr>
<tr>
<td>(For Complaints from Central</td>
<td></td>
<td>Yakima, WA 98920</td>
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<tr>
<td>Washington, including Yakima,</td>
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<tr>
<td>Kittitas, Chelan, Benton,</td>
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<tr>
<td>Walla Walla, and Klickitat</td>
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<tr>
<td>Counties)</td>
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</tr>
<tr>
<td>Vancouver</td>
<td>N/A</td>
<td>312 SE Stone Mill Drive, Bldg. 120</td>
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<tr>
<td></td>
<td></td>
<td>Vancouver, WA 98684</td>
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Legal Resources

Free and Low-Cost Legal Services

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. The line is very busy, so keep trying and leave a message if possible. 
Website: 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

**Tacoma Office**

Phone: (253) 383-0519

**Moses Lake Office**

Phone: (509) 765-9712

**Wenatchee Office**

Phone: (509) 570-0054

Toll Free: 866.271.2084

**Eastern/Central Washington**

Phone: (509) 854-2100

Toll Free: 888.756.3641

**The Unemployment Law Project**

If your unemployment claim is denied and you have a low income, the Unemployment Law Project will provide legal assistance.

*Phone Numbers – (206) 441-9178, Toll-free: 1 (888) 441-9178*

*Address – Seattle Office, 1904 3rd Ave, Suite 604, Seattle, WA 98104*

*Web Address – [www.unemploymentlawproject.org](http://www.unemploymentlawproject.org)*

**King County Neighborhood Legal Clinics (NLC)**

Neighborhood Legal Clinics meet at a number of locations and serve *King County residents or Washington State residents with legal issues in King County*, regardless of income. NLC provides an opportunity to meet individually with a volunteer lawyer for up to 30 minutes of free legal advice. **The attorneys will not represent you in court or “take your case.”** If you wish to hire a lawyer to represent you in court, please contact one of the other legal services listed in this chapter. The clinics meet mostly in the evenings. ASL interpreters will be provided when requested. **Foreign language interpreters may be available.**

To make an appointment call **206-267-7070** Tuesday - Thursday from 9:00am- 12:00 pm. Please note, appointments are scheduled no more than 7 days in advance. For more information and clinic hours and locations visit the website: [www.kcba.org/pbs/NLC.aspx](http://www.kcba.org/pbs/NLC.aspx).
King County Specialty Legal Clinics

Call the specialty clinics directly to schedule an appointment. Most clinics do not accept walk-ins.

<table>
<thead>
<tr>
<th>Name</th>
<th>Contact Information</th>
</tr>
</thead>
</table>
| **Asian Pacific American Legal Clinic**   | Asian Counseling and Referral  
3639 Martin Luther King Jr. Way S  
Seattle, WA 98144  
(206) 695-7639                                                                                     |
| **Civil Rights Clinic**                   | United States Courthouse  
700 Stewart Street, Suite 2310 (Ground Floor)  
Seattle, WA 98101  
(206) 819-5084                                                                                     |
| **Cross Cultural Family Law**             | Appointment referrals accepted from: Domestic violence advocates and community agencies only. For screening, call (206) 464-1519 x232       |
| **Domestic Violence Family Law**          | Confidential location — Seattle, WA For screening, call (206) 783-2848                                                                            |
| **Elder Law**                             | Locations in Kent and Seattle  
(206) 448-5720                                                                                     |
| **Urban Indian Legal Clinic**             | Chief Seattle Club  
410 2nd Ave S  
Seattle, WA 98104  
(206) 292-6214 x1286                                                                               |
| **GLBT Legal Clinic**                     | Seattle Counseling Services  
1216 Pine Street, Suite 300  
Seattle, WA 98101  
(206) 235-7235 Calls are returned by an intake coordinator on Tuesday evenings.                      |
| **International District**                | Chinese Information & Services Center  
611 S Lane St  
Seattle, WA 98104  
(206) 624-5633                                                                                     |
| **Immigration Clinic**                    | Senior Services  
2208 2nd Ave  
Seattle, WA 98121  
For an appointment, call (206) 587-4009                                                            |
| **Korean Legal Clinic**                   | Korean Community Services Center  
23830 HWY 99 N Suite 206  
Edmonds, WA 98026  
For an appointment call (425) 776-2400                                                              |
<table>
<thead>
<tr>
<th>Middle Eastern Legal Clinic</th>
<th>For an appointment, call (206) 588-5134 or e-mail to <a href="mailto:clinic@melegal.org">clinic@melegal.org</a></th>
</tr>
</thead>
</table>
| Spanish Language Legal Clinic | Senior Services  
2208 2nd Ave  
Seattle, WA 98121  
Wednesdays, 5:30-7:30 PM  
Walk-in clinic; appointments assigned by lottery at 5:00 PM |
| Nonprofit Assistance Center | Seattle University, School of Law Annex  
1215 E Columbia St  
Seattle, WA 98144  
For an appointment, call (206) 324-5850 |
| Housing Justice Project | **WALK-IN service at both locations**  
King County Courthouse  
Open Monday – Friday, 8:00 am-10:30 am  
Maleng Regional Justice Center – Kent Courthouse  
See: [www.kcba.org/pbs/HJP.aspx](http://www.kcba.org/pbs/HJP.aspx) for more information. For recorded information, call (206) 267-7090 (English) or (206) 267-7091 (Spanish) |

**Additional Legal Assistance Resources (By County)**

<table>
<thead>
<tr>
<th>County</th>
<th>Name</th>
<th>Contact Information</th>
</tr>
</thead>
</table>
| Kitsap | Kitsap County Legal Services  
[www.kitsaplegalservices.org/](http://www.kitsaplegalservices.org/) | 920 Park Avenue  
Bremerton, WA 98337  
Phone: (360) 479-6125 |
| Lewis | Lewis County Bar Legal Aid  
[www.lcbla.org/](http://www.lcbla.org/) | 139 NW Chehalis Ave  
Chehalis, WA 98532  
Phone: (360) 748-0430 |
| Mason and Thurston | Thurston County Volunteer Legal Services  
[www.sites.lawhelp.org/Program/2498/](http://www.sites.lawhelp.org/Program/2498/) | Phone: (206) 587-4009 |
| Pierce | Tacoma-Pierce County Volunteer Legal Services  
Phone: (253) 572-5134 |
| Spokane and Lincoln | Spokane County Bar Association Volunteer Lawyers Program  
[www.spokanebar.org/vlp-clients.html](http://www.spokanebar.org/vlp-clients.html) | 1704 West Broadway Avenue  
Spokane, WA 99201  
Phone: (509) 324-0144 |
### Spokane

| Center for Justice | Community Building  
35 W Main St, Ste 300  
Spokane WA 99201  
Phone: (509) 835-5211 |
<table>
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<tbody>
<tr>
<td><a href="http://www.cforjustice.org/">www.cforjustice.org/</a></td>
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</tr>
</tbody>
</table>

### Spokane

| Gonzaga University Law School ULA  
www.law.gonzaga.edu/academics/law-clinic/ | Gonzaga Center for Law and Justice  
721 N. Cincinnati St.  
Spokane, WA 99220  
Phone: (509) 323-5791 |
|---|---|

### Whatcom

| Law Advocates  
www.lawadvocates.org | P.O. Box 937  
Bellingham WA 98227  
Phone: (360) 671-6079 |
|---|---|

### King

| Public Interest Law Group PLLC  
www.piilg.org | Hoge Building  
705 2nd Ave, Ste 1000  
Seattle WA 98104  
Phone: (206) 838-1800 |
|---|---|
| Eastside Legal Assistance Program  
www.elap.org/ |
| Phone: (425) 747-7274 |

### King

| Union Gospel Mission Legal Services  
www.ugm.org/ | Phone: (206) 682-4642 |
|---|---|

### King

| Latina/o Bar Association of Washington & Schroeter, Goldmark & Bender  
www.lbaw.org/ | Walk-in clinic for free  
English/Spanish legal advice  
El Centro de la Raza  
2524 16th Ave S  
Seattle, WA 98144  
Phone: (206) 622-8000 |
|---|---|

### King

| Street Youth Legal Advocates of Washington (for homeless youth)  
www.sylaw.org/Drop-In_Clinics.html | Visit the website for drop-in clinic locations and times |
|---|---|

### Lawyer Referral Services

If you do not qualify for low-income legal assistance, but need to find an attorney, contact your county bar association for a referral. You can find a list with contact information on the Washington State Bar Association website: [www.wsba.org/Legal-Community/County-Bar-Associations](http://www.wsba.org/Legal-Community/County-Bar-Associations)
Legal Information

For general information about updates to the law, policy, and advocacy.

American Civil Liberties Union (ACLU) of Washington

The ACLU of Washington is primarily an advocacy organization, though they handle some legal cases.
Phone Number – (206) 624-2180
Web Address – www.aclu-wa.org/

The Legal Aid Society Employment Law Center

The Legal Aid Society Employment Law Center works to help low-income workers protect their legal rights in the workplace.
Phone Numbers – (415) 864-8208, Toll-free: (866) 864-8208
Web Address – www.las-elc.org/get-help

Legal Voice

Legal Voice aims to help women with their legal problems. They have a number of online resources available. Legal Voice will not give you advice on your specific case, but they can give you information about the law and in some cases refer you to attorneys or other organizations that can help you further.
Legal Information and Referral Phone Number – (206) 621-7691
Toll Free: 866-259-7720
TTY: (206) 521-4317
Web Address – www.legalvoice.org/

National Employment Law Project

National Employment Law Program provides information about upcoming legislation, which would protect workers’ rights.
Phone Number – (206) 324-4000
Web Address – www.nelp.org/

National Immigration Law Center (NILC)

The NILC is a national organization that works with low-income immigrants and their families.
Phone Number – (213) 639-3900
Web Address – www.nilc.org/

Washington Law Help

Washington Law Help provides information on a wide variety of legal issues along with a list of attorneys who specialize in those fields.
Web Address – www.washingtonlawhelp.org/

Workplace Fairness

Workplace Fairness is a website that provides information about your legal rights as an employee.
Web Address – www.workplacefairness.org/
Employment Programs

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. Visit their website or call for information on the WorkSource office nearest you.

Phone - (360) 407-1389
Unemployment Insurance Claims TeleCenter - (800) 318-6022
Web Address - www.go2worksource.com

Other Employment Services Programs

Apprenticeships & Nontraditional Employment for Women (ANEW)

ANEW is a non-profit organization linking women to apprenticeships and liveable wage jobs in construction trades, manufacturing, aerospace and utilities. ANEW supports women of all ages and backgrounds, and the apprenticeships and employers who advocate for their success in King County and the Spokane and SW Washington areas. ANEW also administers Apprenticeship Opportunities Project for King County residents (women & men) 18 years of age and older.

Phone – (206) 381-1384
Address – 550 SW 7th Street, Suite B305, Renton, WA 98057
Web Address – www.anewaop.org/

Goodwill

Goodwill is a national service agency with a number of retail stores and employment assistance centers around Washington State. They offer specialized support including job training for people with disabilities, veterans, youth, immigrants, people with criminal backgrounds and others facing challenges in finding employment. The following headquarter offices coordinate services in their regions.

<table>
<thead>
<tr>
<th>Goodwill Industries of the Inland Northwest</th>
<th>Goodwill Industries of the Columbia Willamette</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone – (509) 838-4246</td>
<td>Phone – (509) 735-0400</td>
</tr>
<tr>
<td>Address – 130 East Third Avenue, Spokane, Washington 99202</td>
<td>Address – 815 N. Kellogg St., Suite A, Kennewick, WA 99336</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Goodwill Industries of the Columbia</th>
<th>Tacoma Goodwill</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goodwill Industries of the Columbia</td>
<td>Serving Tacoma, Longview, Yakima, Aberdeen, Lakewood, Port Angeles, South Lacey and surrounding areas</td>
</tr>
<tr>
<td>Phone – (503) 238-6100</td>
<td>Phone – (253) 578-6500</td>
</tr>
<tr>
<td>Address – 1943 SE Sixth Avenue, Portland, Oregon 97214</td>
<td>Address – 714 S 27th St, Tacoma WA 98409</td>
</tr>
</tbody>
</table>
Seattle Goodwill
Serving Bellevue, Bellingham, Bremerton, Burien, Everett, Marysville, Mount Vernon, Seattle, Shoreline, Silverdale, and surrounding areas.
*Phone* – (206) 329-1000
*Address* – 700 Dearborn Place S, Seattle, WA 98144
*Web Address* – [www.seattlegoodwill.org](http://www.seattlegoodwill.org)

Got Green
Got Green works to ensure that low-income people and communities of color in Seattle/King County can gain equal access to and reap the benefits promised by the green movement and the green economy – green jobs, access to healthy food, energy efficient and healthy homes, and quality public transportation.
*Phone* – (206) 290-5136
*Address* – 3518 S Edmunds St, Seattle, WA 98118
*Web Address* – [www.gotgreenseattle.org/](http://www.gotgreenseattle.org/)

Grays Harbor and Pacific Coastal Community Action Program
Provides employment, housing, food and other assistance to those in Grays Harbor and Pacific Counties.
*Phone Numbers* - (360) 533-5100, Toll Free: 1 (800) 828-4883
*Address* – 117 E 3rd St, Aberdeen, WA 98520
*Web Address* – [www.coastalcap.org](http://www.coastalcap.org)

Neighborhood House Washington
Provides housing, food, employment, and other social services to low-income residents of Washington.
*Web Address* – [www.nhwa.org](http://www.nhwa.org)

Rural Resources Community Action
Rural Resources Community Action provides assistance to those living in Ferry, Pend Oreille and Stevens counties. They have a variety of services including help for child abuse victims, crime victims, domestic violence, energy assistance, housing, senior services, health plan navigation, transportation, sexual assault, weatherization and assistance with your job search.
*Phone Numbers* - 509-684-8421, Toll Free: 877-219-5542
*Address* – 956 S. Main, Suite A, Colville, WA 99114
*Web Address* – [www.ruralresources.org](http://www.ruralresources.org)

Seattle Jobs Initiative
Seattle Jobs Initiative’s primary program, Career Pathways, offers short- and longer-term training at community colleges in growing industry sectors. Their objective is to help participants meet the challenge of attaining a one- or two-year college credential that will provide them with career opportunities. They also run a job search assistance program for limited-English speakers.
*Phone* – (206) 628-6975
*Address* – 830 4th Avenue South, Suite 206, Seattle, WA 98134
Sustainable Works

Sustainable Works is a non-profit general contractor and energy efficiency program whose mission is to create living wage jobs and the pathways to them, provide social and economic benefits for families, and improve the environment by upgrading the existing building stock. Sustainable Works has programs in the Seattle and Spokane areas.

Phone – (206) 381-1384
Address – 550 SW 7th Street, Suite B305, Renton, WA 98057
Web Address – www.sustainableworks.com/

Whitman Community Action Center

Provides housing, food, job assistance, and other services to those in Whitman County.
Phone Numbers –(509) 334-9147, Toll-free: 1 (800) 482-3991
Address – 350 SE Fairmont Rd, Pullman, WA 99163
Web Address – www.cacwhitman.com/

YouthCare

YouthCare offers services for homeless youth, including employment-training programs. Youth earn minimum wage while gaining transferable skills, even professional certification, and an opportunity to get used to working environments. YouthCare helps them develop a resume, practice interviewing, and conduct job searches. All their employment programs require participants to work toward their GED or high school diploma, and include case management and housing support.

Phone – 1-800-495-7802
Address - 1828 Yale Ave, Seattle, WA 98101
Web Address – www.youthcare.org

Immigrant and Refugee Services

21 Progress

Among other programs, 21 Progress runs a Deferred Action for Childhood Arrivals (DACA) lending circle to assist young immigrants in obtaining legal work status in the U.S. They also offer multilingual tax preparation workshops and leadership development workshops.

Phone number – (206) 829-8382
Address – 5030 First Avenue South, Suite 101, Seattle WA, 98134
Web Address – www.21progress.org/

Asian Counseling and Referral Service (ACRS)

Adjustment of Status, Consular Processing, Family-based petitions, Naturalization/Citizenship, Help completing forms, Employment Programs, Filings with USCIS

Phone Number - (206) 695-7566
Address - 3639 Martin Luther King Jr. Way S., Seattle, WA 98144
Web Address - www.acrs.org

Casa Latina

Casa Latina works with Latino immigrants. They provide educational and employment opportunities as well social and health services. Casa Latina works with the King County Bar Association to help day laborers collect wages owed to them by their employer.

Phone Number – (206) 956-0779
Address – 317 17th Ave S, Seattle, WA 98144
Web Address – www.casa-latina.org

Catholic Charities of Spokane - Refugee and Immigration Services

Adjustment of Status, Asylum applications, Consular Processing, Deferred Action for Childhood Arrivals (DACA), Employment authorization, Family-based petitions, NACARA, Naturalization/Citizenship, Special Immigrant Juvenile Status, Temporary Protected Status (TPS), U visas, Violence Against Women Act (VAWA) petitions
Phone Number – (509) 455-4960
Address - 12 E. 5th Ave, Spokane, WA 99202
Web Address - www.catholiccharitiesspokane.org/

El Centro de la Raza

El Centro de la Raza offers comprehensive programs and services, to empower members of the Latino community as fully participating members of society. These programs include child and youth programs, human and emergency services, education and skill building programs, and community building and development.
Phone Number – (206) 957-4634
Address – 2524 16th Avenue South, Seattle, WA 98144
Web Address – www.elcentrodelaraza.com/

El Comite Pro Reforma Migratoria y Justicia Social

El Comite Pro-Reforma Migratoria Y Justicia Social is a social justice organization based in Seattle, Washington, which focuses on civil, labor and human rights. This organization organizes the May 1st March each year and Seattle and advocates for worker rights.
Phone number - (206) 324-6044
Address - 2021 S. Weller St. Seattle WA
Web Address - www.elcomitewa.wordpress.com

Interchurch Refugee Ministries - Refugee Resettlement Office

Adjustment of Status, Consular Processing, Deferred Action for Childhood Arrivals (DACA), Family-based petitions, Naturalization/Citizenship, Temporary Protected Status (TPS)
Phone Number - (206) 323-3152
Address - 1610 S. King St, Seattle, WA 98144
Web Address - www.dioceserroseattle.org/

International Rescue Committee

The International Rescue Committee provides many free services to refugees.
Phone Number – (206) 623-2105
Address – 100 South King St, Suite 570, Seattle, WA 98104
Web Address – www.rescue.org/us-program/us-seattle-wa

Lutheran Community Services Northwest - Immigration Counseling and Advocacy Program (Vancouver Office)

Adjustment of Status, Asylum applications, Consular Processing, Deferred Action for Childhood Arrivals (DACA), Employment authorization, Family-based petitions, Naturalization/Citizenship, T visas, Temporary Protected Status (TPS), U visas, Violence Against Women Act (VAWA) petitions
Phone Number - (360) 694-5624
Resources

Address - 3600 Main St, Suite 200, Vancouver, WA 98663
Web Address - www.lcsnw.org/vancouver/icap.html

**Lutheran Community Services Northwest - Refugee Program (Seattle Office)**
Adjustment of Status, Consular Processing, Deferred Action for Childhood Arrivals (DACA), Employment authorization, Family-based petitions, Naturalization/Citizenship
Phone Number - (206) 694-5700
Address - 115 N.E. 100th St, Suite 200, Seattle, WA 98125
Web Address - www.lcsnw.org/services.html

**Northwest Immigrant Rights Project**
(Contact information in Legal Resources section)

**One America**
One America is an immigrant advocacy organization.
Phone Number – (206) 723-2203
Address – 1225 S. Weller Street, Suite 430, Seattle, WA 98144
Web Address - www.weareoneamerica.org/

**Refugee Woman’s Alliance (ReWA)**
This organization helps refugee and immigrant communities with bicultural and bilingual services in finding employment, maintaining stability, and eventually thriving in their adoptive country.
Phone Number - (206) 721-0243
Address - 4008 Martin Luther King, Jr. Way South, Seattle, WA 98108
Web Address - www.rewa.org

**Tacoma Community House**
Adjustment of Status, Consular Processing, Deferred Action for Childhood Arrivals (DACA), Employment authorization, Family-based petitions, Naturalization/Citizenship, Temporary Protected Status (TPS), U visas, Violence Against Women Act (VAWA) petitions
Phone Number - (253) 383-3951
Address - 1314 South L St, Tacoma, WA 98405
Web Address - www.tacomacommunityhouse.org/