

This fact sheet provides an overview of federal laws protecting your rights when you're on the job, interviewing, or leaving a job, plus information on where you can go for help.

Visit womenemployed.org for other fact sheets on workplace rights.

NOTE: If you are an independent contractor, these rights may not apply to you.



Employment Rights

UNDER FEDERAL LAW

Discrimination

Discrimination is when an employer treats you differently than other workers because of one of these reasons: your sex, race, color, religion, the country you came from, your age, or disability. The law forbids discrimination in decisions related to employment. These decisions might be about hiring, salary, promotion, benefits, or firing.

Some things are unfair, but not illegal. How can you know the difference? Here's what to ask.

- Were you qualified for the job?
- Do you think that the employer treated you worse than someone else because of your sex, race, color, religion, the country you came from, your age, or your disability? This can be true even if the employer gave another reason.
- Did the employer discriminate intentionally?

If the answer is yes to all of these questions, the employer may have acted illegally.

Your rights when you apply for a job

Job Interviews. Employers can ask questions to find out if you can do the job. They shouldn't ask questions about personal things that don't relate to doing the job. Proper questions are about your training, education, and experience. Examples of questions that are not appropriate are questions about your marital status, if you have children, or your age. Questions about age are okay only if there is a minimum age for the job, such as for jobs in bars. Because of this, when you list what schools you

attended, you don't have to list the years you graduated.

The questions themselves are not against the law. But how the employer uses the information may be against the law. For example, if an employer does not hire a woman because the employer thinks she will get pregnant, this is against the law.

What can you do if an employer asks you an improper question in a job interview?

When an employer asks a question that is not proper, you can try to answer by focusing on how you can do the job. For example, let's say an employer asks if you have children. Maybe the job requires flexible hours and the employer is worried you can't work those hours. Before answering the question, ask the interviewer if what they really want to know is if you can work flexible hours. That way, you focus on how you can do the job, but you don't talk about personal information. It may be up to you to focus questions toward doing the job.

Exams and Tests. Some employers require you to take exams or tests to get a job. An employer can only ask you to take a medical exam after offering you the job. For both medical exams and drug tests, an employer

can ask for these only if the employer asks everyone in the same type of job for these tests. For drug tests, the results must remain confidential. In general, employers cannot use a lie-detector test (called a polygraph). The exception is if the job you want is related to security or crime investigation, or with the government. If you must take a lie-detector test, you have the right to review the questions and results.

Your rights when you are on the job

Minimum wage. The minimum wage in the United States is \$7.25 per hour. Some states have higher minimum wages. To see if the wage is different in your state, contact the U.S. Department of Labor Wage and Hour Office at 1-866-487-9243; TTY: 1-877-889-5627 or go to dol.gov/whd.

Overtime pay. A law called the Fair Labor Standards Act requires employers to pay most workers time and a half for every hour they work that is over 40 hours per week.

However, salaried workers who earn more than \$455 per week and whose primary duty is management are not eligible for overtime.

The most common groups of workers who may not get overtime are workers in executive, administrative, and professional positions. These are jobs like nurse, legal assistant, and retail supervisor.

Dress codes. A dress code may be against the law if it causes discrimination against a particular group of employees. For example, if an employer has a business dress code it cannot require men to wear suits and ties and women to wear revealing blouses and short skirts.

Nursing mothers. The Patient Protection and Affordable Care Act requires employers to provide unpaid break time to nursing mothers. To find out more about this requirement and who to contact if you feel your rights have been violated, visit dol.gov/whd/regs/compliance/whdfs73.htm.

Your rights when you leave a job

Vacation days. You are entitled to payment for vacation days that you have earned, if

you haven't used them. This is true if you quit or if you are fired. Some employers have a policy that you can't carry over unused vacation days past a year.

Severance pay. Severance pay is money that some workers get from their employer when they are let go from work. If you get severance pay, you may still get unemployment payments. If you quit your job in exchange for severance pay, protect your rights by filing a claim for unemployment benefits. To get the severance pay, your employer may ask you to sign a paper saying that you will not take legal action against the employer. If you are not sure, do not sign the paper. Get more information or talk to a lawyer.

Unemployment insurance. States have different rules for getting unemployment payments. You should check all the unemployment rules for your own state. You can find the agency that oversees unemployment insurance for your state by going to workplacefairness.org.

Continuation of health benefits. A federal law called COBRA covers you if your company has health benefits for 20 or more workers. If you quit or are fired, you can choose to continue your health insurance with your company. You will have to pay for this yourself. You can do this for up to 18 months after you leave, and in some cases, for up to 36 months. You have 60 days to choose this. If you were fired for gross misconduct, you do not have this right. For more information, contact the local office of the U.S. Department of Labor at dol.gov/ebsa

QUESTIONS ABOUT PAY

If you have questions about pay, including the minimum wage or overtime, or if you did not get the minimum wage or overtime pay when you should have, you can contact the local office of the U.S. Department of Labor (DOL) Wage and Hour Office. To find your local office, or to get more information, call 1-866-487-9243. (The TTY number is 1-877-889-5627.) You can also go to dol.gov/whd.

EMPLOYMENT POLICIES

If your employer has a policy manual, it is important that he or she follow it when making decisions about hiring, firing, salary promotions, or other employment decisions. If not, it can be against the law because it violates a contract.

Who can you contact for help?

The Equal Employment Opportunity Commission (EEOC) enforces federal laws about discrimination. To find the EEOC office near you go to eoc.gov/field or call 1-800-669-4000. (The TTY number is 1-800-669-6820.)

Some states, counties, or cities have additional laws that protect you against discrimination. These laws may give you more protections than the federal laws. These states, counties, and cities have agencies you can contact that enforce these laws. Sometimes these are called Human Rights agencies or Departments of Labor.

If you feel your employer has discriminated against you, you can file a claim. There is a time limit to file, so contact the agency as soon as possible.

For general information about labor laws, go to dol.gov or call 1-866-487-2365; TTY 1-877-889-5627



Women Employed mobilizes people and organizations to expand educational and employment opportunities for America's working women.

This material may be used without permission if credit is given to Women Employed.
©Women Employed, 2019