

## Acknowledgments

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# Table of Contents

<b>YOUR BASIC RIGHTS</b> .....	<b>4</b>
Keeping Records.....	5
Filing Complaints .....	5
<b>COMPENSATION, BENEFITS, AND MEDICAL LEAVE</b>	
Your Paycheck.....	6
Child Labor .....	12
Rest Periods.....	12
Unemployment Insurance.....	13
Workers' Compensation .....	15
Disability Compensation .....	17
Family and Medical Leave Act.....	19
<i>Resources</i> .....	20
<b>SAFETY AND HEALTH</b>	
Safety and Health Rights .....	25
Repetitive Motion Injuries.....	28
Hazardous Chemicals.....	29
<i>Safety and Health Resources</i> .....	30
<b>EMPLOYMENT DISCRIMINATION</b>	
What is Discrimination? .....	31
Addressing Workplace Discrimination.....	31
Disability Discrimination .....	33
Gender-Based Wage Discrimination .....	34
Sexual Harassment .....	35
Pregnancy Discrimination .....	36
Race and Color Discrimination .....	37
Religious Discrimination.....	38
Sexual Orientation Discrimination .....	39
National Origin Discrimination.....	40
Citizenship Discrimination and Document Abuse .....	41
<i>Filing a Discrimination Complaint</i> .....	43
<i>Legal Services</i> .....	45
<i>Support Services</i> .....	46
<b>UNIONS AND GROUP ACTIVITY</b>	
Union Activity and Legal Protection.....	47
<i>Resources</i> .....	48
<b>LAWYERS</b>	
Finding and Paying a Lawyer.....	49
<i>Referral Services</i> .....	51
“Workfare” and Your Rights .....	53
<i>Resources</i> .....	54

## **Your Basic Rights**

It is illegal for employers to retaliate against workers for exercising these basic rights. Retaliation includes firing, suspending, demoting, disciplining, or otherwise discriminating against employees who exercise these rights. The National Labor Relations Board is one of the organizations that enforces your right to improve your workplace without retaliation.

Most people believe that the National Labor Relations Act (NLRA) exists only to enforce the rights of unionized workers. In reality, if you and at least one other worker join together to improve wages, benefits and working conditions, the NLRA forbids your employer from punishing you for your activities, regardless of whether or not your goal is to form a union. The National Labor Relations Board refers to such activities as “protected concerted activities.”

**If your employer retaliates against you, file a complaint** with the National Labor Relations Board – the federal agency responsible for enforcing the NLRA – and have the complaint investigated. If you are a union member, contact your union representative.

To file a complaint with the National Labor Relations Board, go to the office between 8:30 a.m. and 5:00 p.m. If you cannot go to the office, call (312) 353-7570 between 8:30 a.m. and 5:00 p.m., and ask to speak with the Information Officer. The Information Officer will send you a “charge form” to fill out and send back to the office.

### **National Labor Relations Board**

200 W. Adams St., Suite 800  
Chicago, IL 60606

If you win the complaint, you can win lost wages and benefits and any other economic damages, as well as getting your job back. If you have to go to court to win the case, you might also win attorney’s fees.

## **Keeping Records**

Keep precise records to help insure the protection of your basic rights under the law. The more detailed records you keep, the better you can protect your rights as a worker.

Keep records as you would keep a personal diary. If you think there is a problem, write down what the problem is, when it happens, and where it happens. Write down who else saw it or was threatened by it. Be sure to inform your supervisor.

Take special note of any activity relating to your complaint including:

- 4 date of the incident;
- 4 time of the incident;
- 4 location of the incident;
- 4 conversations regarding the incident;
- 4 names of any witnesses; and
- 4 phone calls to government agencies, support services, attorneys and insurance agents.

**Keep copies of all papers or letters that you send or receive.**

## **Filing Complaints**

Use the records you keep to file complaints with government agencies regarding health and safety, workplace discrimination, workers’ compensation, etc. Different government agencies

enforce different workplace rights. In order to exercise your legal rights, you must file your complaint with the correct government agency within that agency's filing deadline. Consult the chapter and resource section relating to your workplace problem.

# Compensation, Breaks, and Medical Leave

## Your Paycheck

The Fair Labor Standards Act (FLSA) establishes the minimum wage, overtime pay, record keeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state and local governments. The basic provisions of the FLSA follow.

**Federal Minimum Wage Law:** As of September 1, 1997, federal minimum wage law requires employers to pay most workers at least \$5.15 per hour. Three exceptions follow:

- Employees under 20 years of age may be paid \$4.25 per hour during their first 90 consecutive calendar days of employment with an employer;
- Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the U.S. Department of Labor;
- Tipped employees must receive a cash wage of at least \$2.13 per hour if their employers claim a tip credit against the minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal \$5.15 per hour, the employer must make up the difference. Call the U.S. Department of Labor (312-353-8145) for more information about other conditions that must also be met.

The fair value of meals, lodging, or other facilities may sometimes be considered part of a workers' wages.

Your company has to pay you for all of the time that you work. For example, if you have to drive from your employer's shop or office to the worksite, your employer must pay you for that driving time. Also, if your employer chooses to give you a 15 minute break during the workday, your employer must pay you for this time.

**Federal Overtime Law:** Most **hourly non-farmworker employees** who work more than 40 hours a week are entitled to overtime pay for the extra hours. One hour of overtime pay equals one and one half times your regular hourly wage. For example, an employee earning \$8.00 per hour should earn \$12.00 per hour for every hour over 40 hours worked during the course of a week.

Several kinds of workers have different Federal Overtime Law requirements:

- **Hospitals, nursing homes and residential health care employers** may choose to pay time and a half after eight hours worked in one day *and* 80 hours worked in a fourteen day period.
- **State and local government employers** may give workers compensatory time at the rate of one and one half hours for each hour over 40 worked during the course of the week in place of cash overtime pay.

- **State and local law enforcement and fire protection personnel** may be paid overtime on the basis of a “work period” of 7 to 28 consecutive days rather than the traditional 40 hour work week.

Many other employees are completely exempt from federal overtime pay requirements. Included in this group are:

- employees in executive, administrative, and professional positions;
- employees in computer related occupations;
- employees of retail establishments paid on a commission basis;
- farmworkers and other agricultural employees;
- automobile salesmen; and
- truck drivers transporting goods in commerce.

Employers can also require employees that are exempt from overtime pay to work overtime without special compensation.

Failure to pay overtime is one of the most common ways employers break the law. A recent survey of poultry plants indicated that 60 percent operated in violation of overtime laws.

**Mandatory Overtime Pay:** Employers can require employees to work more than 40 hours per week; however, employers must pay their employees who are not exempt from overtime pay, time and one-half for every hour over 40 worked in one week. Additionally, Illinois state law requires employers to give hourly workers at least one day of rest per week.

**Paycheck Deductions:** Your employer usually cannot make deductions from your pay unless you agree to them. Exceptions include income taxes and Social Security (FICA).

The Illinois Department of Labor maintains it is illegal for your company to charge you for any safety equipment that it requires you to use. For example, your employer must pay for gloves, goggles, uniforms, or any other equipment essential to job safety.

**If you think your employer owes you wages,** you may contact either the U.S. Department of Labor, the Illinois Department of Labor, Pro-Se Court, or a private attorney.

### **The U.S. Department of Labor.**

The U.S. Department of Labor (USDOL) enforces compliance with the Fair Labor Standards Act – minimum wage, overtime, and child labor laws—with employers that gross \$500,000 or more per year or that have two employees handling goods which have moved in commerce.

The USDOL also enforces the Fair Labor Standards Act for all workers:

- engaged in any form of interstate commerce or the production of goods for commerce;
- employed by hospitals or institutions primarily engaged in the care of the mentally ill, aged, or sick who reside on premises;
- employed by schools or any other institution of learning; or

- employed by public agencies.

Contact the U.S. Department of Labor in one of three ways:

1. Call the number listed on the next page and leave a message, including a number and time when you can be reached. If you need the Department of Labor to return your call in the evening, be sure to specify time of the evening you can be reached. You may leave a message in Spanish and Korean. If you speak another language, you will need to have someone leave a message in English for you. A USDOL representative will try to return your call within one business day.
2. Go to the Department of Labor office and speak to a representative in person Monday through Friday from 8:30 a.m. to 4:00 p.m.
3. Send a letter or a fax to the address listed below describing your problem. Provide a phone number and a time that you can be reached.

### **U.S. Department of Labor**

Chicago District Office, Wage and Hour Division  
Federal Building  
230 S. Dearborn, Room 412  
Chicago, IL 60605  
Ph: (312) 353-8145 • Fax: (312) 353-2327

Back wages cannot be recovered after two years have lapsed from the date wages were originally due; therefore, you should file your complaint as soon as you realize that your employer owes you wages. The USDOL's goal is to complete all cases in 90 days. Depending on the complexity, some cases may take longer to resolve.

The USDOL investigates complaints filed by workers regardless of citizenship and immigration status. While the USDOL does not inquire about an individual's immigration status, once the USDOL decides to investigate an employer for wage and hour violations, federal law does require USDOL Wage and Hour Inspectors to examine I-9 forms—the form that indicates work eligibility status—when checking for wage and hour violations. **If the Wage and Hour Investigator finds irregularities, law requires him or her to report such irregularities to the Immigration and Naturalization Services (INS).** The INS may or may not pursue cases referred to it by the USDOL.

There are also three “field offices” for the U.S. Department of Labor in the greater Chicago area.

### **West Chicago Field Office**

2700 International Dr., Room 22  
West Chicago, Illinois 60185  
Phone: (630) 584-4913  
Fax: (630) 584-4926

Generally, there is someone at the West Chicago site to receive telephone complaints between 8:00 a.m. and 4:30 p.m. However, you may leave a message at any time. Spanish is spoken. To file a complaint in person, please call ahead to schedule an appointment.

### **Rockford Field Office**

Stewart Square  
308 W. State Street, Suite 401  
Rockford, Illinois 61101  
Phone and Fax: (815) 987-4246

Generally, there is someone at the Rockford Station site to take your complaints by telephone Tuesday and Thursday mornings until noon. You must leave a message in English.

### **Gurnee Field Office**

Winsor Court Office Center, Suite 201  
501 N. Riverside Dr. (Highway 21)  
Gurnee, IL 60031  
Phone and Fax: (847) 244-8770

Messages for the Gurnee field office must be left in English. To file a complaint in person, call ahead to make an appointment.

Many employers can be investigated by either the Illinois DOL or the United States DOL. You may choose to file a complaint with either agency; however, do not file a complaint with both agencies. Both the USDOL and the ILDOL refer cases to each other; therefore, if you file with both agencies, one will drop your case.

### **The Illinois Department of Labor.**

The Illinois Department of Labor (ILDOL) enforces the federal minimum wage, contractual agreements, and rest periods for employees who work in Illinois and whose employer has four or more workers.

Call the ILDOL between the hours of 8:30 a.m. and 5:00 p.m. to request a complaint form. They will mail a complaint form to your home address. There is someone to speak Spanish from 1:30 p.m. to 5:00 p.m. daily. If you speak another language, you will need to arrange for someone to call in English on your behalf.

Complaints about *overtime pay* and *minimum wage violations* should be filed with the Illinois Department of Labor, *Labor Law Enforcement Division*. Complaints must be filed within one year from the time when the wages were due.

Complaints about *unpaid wages* should be filed with the Illinois Department of Labor, *Wage Claim Division*. Although there are no laws that guarantee paid vacations or other benefits, if your employer's personnel policy says you should receive these benefits, yet your employer refuses to give them to you, you may file a complaint with the Illinois Department of Labor. Complaints must be filed within 180 days (6 months) from the time when the wages were due.

### **Illinois Department of Labor**

**The ILDOL will investigate your complaint and try to recover your lost wages.** It will take the Illinois Department of Labor one month to assign a number to your case. Once a number has been assigned to your case an inspector will contact you. The entire investigation process usually takes 3–6 months; however, it may take up to 12 months to fully process your claim. You have a better chance of recovering your wages if other employees file similar complaints.

## **The Illinois DOL does not report undocumented workers to the Immigration and Naturalization Services (INS).**

**Pro-Se Court.** If your employer owes you \$1,500 or less, you can go to Pro-Se Court. Go to Pro-Se Court between the hours of 8:30 a.m. and 4:00 p.m. to fill out a complaint form. It will take approximately one hour to fill out the form. There is an \$80 filing fee that you must pay upon filing your complaint. You do not need a lawyer because Pro Se-Court staff can assist you in filing your claim.

There are two ways to send the summons to your employer. You may pay to send the summons by certified mail. However, the law does not require your employer to sign for the summons, so it may remain at the post office. For this reason, Pro-Se Court recommends that you have the sheriff deliver the summons directly to your employer. Pro-Se Court charges a \$23 fee plus 40 cents a mile to deliver the summons. After your employer receives the summons, you will be given a hearing before a judge.

Translators are available at no charge. Pro-Se Court always has translators available for people who speak Spanish, Russian, and Polish. If you speak any other language, Pro-Se Court will find a translator for you as well; however, it may take longer for your hearing to be scheduled.

You must file your claim within 5 years if you had a verbal contract with your employer and within 10 years if you had a written contract. **Pro-Se Court does not report undocumented workers to the Immigration and Naturalization Services (INS).**

### **Pro-Se Court**

Daley Center, Room 602  
50 W. Washington  
Chicago, IL 60602

(312) 443-5626, TDD (312) 603-6868 (Spanish Spoken)

**Hire a private attorney.** The Fair Labor Standards Act, the same act that guarantees workers a minimum wage and overtime pay, gives workers the right to pursue their case in Federal Court. See “Finding and Paying a Lawyer”, for more information on how to find a good lawyer.

## **Child Labor**

An employee must be at least 16 years old to work in most non-farm jobs, and at least 18 years old to work in non-farm jobs declared hazardous by the Secretary of Labor.

Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under certain conditions. They may work no more than 3 hours on a school day or 18 hours in a school week; and 8 hours on a non-school day or 40 hours in a non-school week. Also, work may not begin before 7 a.m. or end after 7 p.m., except from June 1 through Labor Day, when evening hours are extended to 9 p.m. Different rules apply in agricultural employment.

The U.S. Department of Labor enforces child labor laws. Fines of up to \$10,000 per violation may be assessed against employers who violate the child labor law.

## **Rest Periods**

**Meal break:** If you work 7.5 hours or more a day, you are entitled to a 20 minute meal break. The 20 minute meal break is unpaid and must occur in the first 5 hours of work. If you work 15 hours or more, you are entitled to two separate 20 minute meal breaks.

**Rest time:** The “One Day Rest in Seven Act” guarantees most full-time Illinois workers at least one day off each week and time to rest at the end of each work day. Your employer must allow you at least 24 consecutive hours of rest in every calendar week in addition to the regular period of rest allowed at the end of each working day. Part-time, agricultural, and salaried employees are exempt.

**Bathroom breaks:** There is no law indicating the number of bathroom breaks employees are permitted during the course of a shift. However, the Occupational Safety and Health Administration of the U.S. Department of Labor requires employers to have a sufficient number of toilets to meet sanitation standards. If an employer fails to have the necessary number of toilets, or if the employer keeps them locked or otherwise inaccessible, they are in violation of the federal government’s sanitation standards.

To comply with sanitation standards, employers must allow workers to use the toilet facilities when workers need to use the toilet facilities. Exactly how employers guarantee workers’ access to the toilet facilities depends on the conditions at each place of employment and may vary from workplace to workplace.

For example, on assembly lines, many employers may establish some type of signaling and relief system for workers. Employers who have not made arrangements to provide adequate bathroom access to employees are in violation of sanitation standards and may be penalized accordingly.

Look at a copy of your employee handbook or union contract. See what the manual or contract has to say about rest periods, meal breaks, and bathroom breaks. If you are being denied the rest periods provided by the handbook or the contract, speak to your employer or union representative.

If you still do not receive the meal and rest breaks required by state law, contact:

**Illinois Department of Labor (DOL)**  
Labor Law Enforcement  
160 N. LaSalle, 13th floor  
Chicago, IL 60601  
(312) 793-2804, 2805, or 2806  
(Spanish spoken from 1:30 to 5:00 p.m. daily)

If your employer continues to deny you access to the bathroom, contact the Occupational Safety and Health Administration.

**Occupational Safety and Health Administration**  
U.S. Department of Labor  
230 S. Dearborn, Room 3244  
Chicago, IL 60604  
(312) 353-2220, TDD 1-800-800-4571  
Spanish language number: (312) 353-4561

**Unemployment Insurance**

**Eligibility:** If you lose your job or are forced to quit, you may be eligible for unemployment insurance. Generally, you are eligible for unemployment insurance if you are laid off because your employer does not have enough work for you to do, or if you are not “at fault” for losing your job in the *legal* sense. (Even if you are “at fault” for losing your job in some sense you may still be eligible to receive benefits.) The Illinois Department of Employment Security will interview you and your employer to determine if you are legally “at fault” for losing your job.

To be eligible for unemployment insurance you must also prove that you are looking for work. Keep a list of the employers you contact, with their names, addresses and phone numbers.

Generally, undocumented workers are not eligible for unemployment insurance. Individuals should consult an attorney to be sure.

**To apply for Unemployment Insurance** contact the Illinois Department of Employment Security to find the Unemployment Office nearest to you. Office hours are Monday through Friday, 8:30 a.m. – 5:00 p.m. Spanish is spoken; however, the recorded telephone message is in English.

### **Illinois Department of Employment Security**

401 S. State Street

Chicago, IL 60605

(312) 793-5700, TDD 800-662-3943

- 4 apply in person as soon as possible after losing your job.
- 4 bring the names, dates, and payroll addresses of all your employers for the past 18 months.
- 4 bring two forms of identification. A driver’s license, a state identification card, or a social security card are adequate forms of identification.

The Legal Assistance Foundation of Chicago, the Chicago Legal Clinic, and the Loyola University Community Law Center can also assist you in filing for Unemployment Insurance. For more information, see “Compensation, Breaks and Medical Leave – Legal Services.”

If your application is turned down, **APPEAL IT IN WRITING IMMEDIATELY**. An effective written appeal should be concise, giving only the basic facts and limited to one page. You have 30 days to make an appeal. When you file an appeal, be sure to include your social security number. Then ask a lawyer for advice. Within 10 business days, the Office of Employment Security will send you a date for your appeal hearing. Appeals usually take place three to six weeks after you file the appeal. If you wish, you may bring an attorney. If you speak a language other than English, you will need to bring a translator.

### **Benefits:**

Benefits checks are distributed weekly.

The amount of benefits you receive will depend upon the amount of money you were earning at your job and the amount of money your employer paid to the government in unemployment insurance. The more money you earned at your job, the more money you will receive in weekly Unemployment Insurance benefits. As of March 1998, the maximum amount of money you could receive for Unemployment Insurance was \$269 per week.

Benefits may last up to 26 weeks.

## **Workers’ Compensation**

Under Illinois workers' compensation laws, *workers who become ill or injured as a direct result of their job*, may be able to get a weekly check from their employer to partially cover wages and medical care. It is illegal for your employer to harass or fire you because you have filed a workers' compensation claim.

#### **Workers' Compensation covers:**

- part of your wages;
- medical costs;
- permanent disability compensation and vocational rehabilitation; or
- total disability or death.

#### **Types of Workers' Compensation:**

- **Temporary Total Disability (TTD.)** If your illness or injury keeps you from work for more than three working days, you are entitled to receive TTD. TTD equals two-thirds (2/3) of your average gross wages, not including overtime. Be aware that TTD has certain maximum and minimum amounts.
- **Permanent Disability Payment.** If your illness or injury has caused you permanent disability, you are entitled to receive additional compensation depending on the nature and extent of your injury. You may also be entitled to medical or vocational rehabilitation if you cannot return to your occupation.
- **Death.** If a work related accident causes your death, your spouse and children are entitled to compensation.

#### **Steps for obtaining Workers' Compensation:**

- 4 *Keep your own records* of the accident and any physical conditions, such as a wet floor, that may have contributed to your accident.
- 4 *Notify your employer as soon as possible that you have been injured.* If you do not notify your employer within 45 days, you may lose eligibility for workers' compensation. If you notify your employer in writing, describe all circumstances as accurately as possible, because your employer may challenge your workers' compensation claim.
- 4 *Get medical treatment right away.* What may seem like a minor injury, might be a more serious medical problem. You can choose to visit up to two doctors and any subsequent referrals. Inform your employer in writing of the name and address of the doctor or hospital that you choose. Your employer may require you to visit a clinic or a doctor of his or her choice for an evaluation of the nature of your injury and your inability to work. However, you are not obligated to accept treatment from your employer's sources. Try to find a doctor or hospital with an Occupational Medicine Department . Your employer should reimburse you for your medical costs. Cook County Hospital is a good place to find a doctor who specializes in job-related health problems.

**Cook County Hospital**  
**Division of Occupational Medicine**  
1900 W. Polk, Room 500  
Chicago, IL 60612

(312) 633-5310

- 4 *Tell the doctor exactly how you got hurt.* If the doctor recommends work restrictions, get them in writing.
- 4 *Call a workers' compensation lawyer.* See "Lawyers—Referral Services" to find agencies that can refer you to a good lawyer.

### **KEEP A COPY OF LEGAL DOCUMENTS AND CORRESPONDENCE.**

#### **If you are ineligible for Workers' Compensation:**

If you are denied workers' compensation benefits or if your workers' compensation benefits have expired and you still need assistance, file a claim with the Illinois Industrial Commission. If you are denied workers' compensation, you must file a claim with the Illinois Industrial Commission within three years from the date of your injury or within three years of the date your doctor first tells you that your illness or injury is work-related. If your workers' compensation benefits expire and you still require assistance, you must file your claim with the Illinois Industrial Commission within two years of the date of your last workers' compensation payment (temporary total disability). All workers, even undocumented workers, are covered by their employer's workers' compensation insurance. KEEP A COPY of your claim for your records.

#### **Illinois Industrial Commission**

100 W. Randolph, Suite 200

Chicago, IL 60601

(312) 814-6500 or (312) 814-6611 (No Spanish spoken)

Undocumented workers can apply. The Illinois Industrial

#### **Commission does not report undocumented workers to the Immigration and Naturalization Services (INS).**

*(Adapted in part from the "Injuries on the Job"*

*—Arthur A. Phillips, Ltd)*

## **Disability Compensation**

Employees who have been unable to work due to injury or illness may qualify for disability benefits.

**There are three kinds of disability benefits: Social Security Disability, Supplemental Security Income and private insurance.**

**Social Security Disability** pays cash benefits to people who are unable to work for a year or more due to a disability. Benefits continue until a person is able to work again on a regular basis. If you do not receive workers' compensation and you meet the following eligibility requirements, apply for Social Security Disability.

**Eligibility.** To qualify for disability benefits from Social Security, you must have:

- worked long enough to earn enough "Social Security Credits." (Call your local Social Security Office to determine if you have enough credits.)
- a physical or mental impairment that is expected to keep you from doing any "substantial" work for at least one year. (Generally, monthly earnings of \$500 or more are considered "substantial.")

- a condition that is expected to result in your death.

In most cases, disability benefits will begin with the sixth full month of your disability. If you receive workers' compensation, it is likely that you will *not be eligible* for any Social Security Disability benefits.

**Speed Up Your Social Security Disability Claim.** Have the following information when you apply:

- medical records from your doctors, therapists, hospitals, clinics, and caseworkers;
- your laboratory and test results;
- names, addresses, and phone and fax numbers of your doctors, clinics and hospitals;
- names of all medications you are taking; and
- names of your employers and job duties for the last 15 years.

**Supplemental Security Income (SSI)** is available to people that become disabled and do not have much money or other assets. Unlike Social Security Disability, working people do not contribute to the SSI program. Instead, SSI is funded by the general revenue funds of the U.S. Treasury and exists as a source of income for people who have never worked (like children) or who have not worked enough time to be eligible for Social Security Disability. Working people who are injured on the job are rarely eligible for SSI; however, if you are denied Social Security Disability because you have not worked long enough to qualify, you should apply for SSI.

**Eligibility.** To qualify for disability benefits from Supplemental Security Income, you must:

- have an income below a certain limit. This income limit varies from state to state. Call your local Social Security office to learn the limit for your state;
- have assets that amount to less than \$2,000 per person or \$3,000 per couple; and
- be a U.S. citizen or national. Some documented immigrants do qualify for SSI. Call your local Social Security office to find out if you qualify.

Most of the rules used to decide if a person has a condition severe enough to qualify for Social Security Disability benefits also apply to SSI. People who qualify for SSI usually qualify for food stamps and Medicaid as well. If you receive workers' compensation, it is likely that you will *not be eligible* for any Supplemental Security Income.

### **Applying for Social Security Benefits**

Apply for Social Security Disability and Supplemental Security Income in person. Call the Social Security Administration at 1-800-772-1213 for more information or to find the Social Security office nearest you. Social services offices and community centers in your area may also have more information. If you are ineligible for Social Security Disability or SSI, file for reconsideration.

**Private Insurance.** Find out if your employer has disability insurance through a private company. If so, you may be able to receive disability benefits from that insurance plan.

## **Federal Family and Medical Leave Act**

The Federal Family and Medical Leave Act (FMLA) allows employees up to **12 workweeks of unpaid leave** for one or more of the following reasons:

- the birth and care of a newborn child;
- the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
- to care for an immediate family member (spouse, child, parent—but not a parent “in-law”) with a serious health condition; and
- if the employee is unable to work because of a serious health condition.

**To be eligible for unpaid leave under the FMLA, you must:**

- have worked for your employer for at least 12 months and 1,250 hours in the past 12 months; and
- work for a company that has at least 50 employees within 75 miles of your job site. For example, if you work at a company that has 10 employees, but five miles away there are 40 employees working for the same company, you are eligible to take time off under the FMLA.

The FMLA allows you to take up to 12 weeks of time off if you meet these guidelines. The law does not require your time off to be paid, although some companies have policies that allow you to be paid when you take time off under the FMLA. You do not have to use all 12 weeks at once.

Your employer must continue to provide the same health insurance during the leave as was provided while you were working. Employees are also entitled to the same or an equivalent position in terms of pay, benefits, and other terms and conditions of employment upon returning to work.

You may take *intermittent leave* or *reduced leave* for serious health conditions.

**Intermittent leave** is time off taken in separate blocks of time. You can use intermittent leave for things such as doctor appointments to care for a serious health condition.

**Reduced leave** reduces your number of working hours. Reduced leave is used for things such as physical therapy.

**Steps for obtaining medical leave:**

- 4 *If your employer asks for a written request, submit the request to you employer as soon as you know you will need leave time. If possible, give your employer 30 days notice. Be sure to tell your employer that you need to take time off for health reasons. Keep a copy of your request for your records.*
- 4 *Your employer must provide you with a written notice of your rights and responsibilities while on leave. Keep a copy for your records.*
- 4 *Obtain and keep copies of relevant medical records.*
- 4 *Keep copies of all the documents you submit to or receive from your employer.*
- 4 *Be sure your employer knows the law. If your employer denies your request, you may want to talk to your employer about the law. Your employer may not be aware of the FMLA.*

*Get more information.* Call the U.S. Department of Labor Wage and Hour Division, an attorney, or the Women Employed Institute for more information.

*(Adapted from Women Employed Institute and USDOL documents)*

# Resources on Wages, Benefits and Breaks

## Government Agencies

### Illinois Department of Labor (ILDOL)

#### U.S. Department of Labor Wage and Hour Division

230 S. Dearborn St., Room 412, Chicago, IL 60605

(312) 353-8145 (For messages only. For faster service, leave your message in English.)

**Complaints:** Violations of family and medical leave rights, child labor laws, minimum wage and overtime pay, and labor standards on government contracts. **Deadline:** Two years from the time the wages were due. **Filing Procedure:** See “Compensation, Breaks, and Medical Leave – Your Paycheck.” For information on the USDOL’s policy towards undocumented workers, see page 9.

### Pro-Se Court

Daley Center, Room 602

50 W. Washington St., Chicago, IL 60602

(312) 443-5626, TDD (312) 629-6868 (Spanish Spoken)

**Complaints:** Claims for unpaid wages amounting to \$1,500 or less. **Filing Procedure and Fees:** See “Compensation, Breaks, and Medical Leave – Your Paycheck”. **Pro-Se Court does not report undocumented workers to the Immigration and Naturalization Services.**

### Illinois Department of Employment Security

401 S. State St., Chicago, IL 60605

(312) 793-5700, TDD 800-662-3943

**Services:** Provides benefits to workers who lose their job due to a lack of work. **Deadline:** File as soon as possible after losing your job. **Filing Procedure:** See “Compensation, Breaks, and Medical Leave – Unemployment Insurance.” **Undocumented workers generally are not eligible for unemployment insurance, but should consult with a lawyer to be sure.**

### Illinois Industrial Commission

100 W. Randolph St., Suite 200, Chicago, IL 60601

(312) 814-6500 or (312) 814-6611 (No Spanish spoken)

**Services:** Helps workers receive benefits if they are denied workers’ compensation. **Deadline:** File within three years of the date you were denied workers’ compensation or within two years of your last Temporary Total Disability payment. **Filing Procedure:** See “Compensation, Breaks, and Medical Leave – Workers Compensation.” **The Illinois Industrial Commission does not report undocumented workers to the Immigration and Naturalization Services.**

### Social Security Administration

Call 1-800-772-1213 for more information about Social Security benefits or to find the Social Security office nearest you.

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## Legal Services and Support Services

### Chicago Area Committee on Occupational Safety and Health

847 W. Jackson Blvd., 7th Floor

Chicago, IL 60607

(312) 666-1611 (For messages only. You must leave your message in English. They can return your call in Spanish.)

**Support Service:** CACOSH provides advice, counseling, and referrals for workers concerning **workers' compensation**. CACOSH will assist undocumented workers. **Fee:** None

**Chicago Legal Clinic  
Main Office**

2938 E. 9th St.  
Chicago, IL 60617  
(773) 731-1762 (Spanish spoken)

Call the Main Office to schedule an appointment at any of the branch locations. **Legal Service:** The Chicago Legal Clinic represents clients in some cases of **workers' compensation** and **unemployment compensation**. The Chicago Legal Clinic accepts cases from undocumented workers. **Fee:** The Chicago Legal Clinic charges a sliding-scale fee, based on income. There is a \$25 initial consultation fee.

**Chicago Volunteer Legal Services Foundation**

100 N. LaSalle St., Suite 900  
Chicago, IL 60602  
(312) 332-1624 (No Spanish spoken.  
Bring your own translator.)

**Legal Service:** If your request for **unemployment compensation** is denied, the foundation may help represent you when you appeal. They accept cases from undocumented workers. **Fee:** None, for low-income clients who qualify. You must pay court filing fees, however. Call Chicago Volunteer Legal Services for more information.

**Law Line for Worker's Compensation**

(312) 951-7400 (You must call in English)

The Law Line answers legal questions about workers' compensation and provides referrals to attorneys. This service is free.

**Legal Assistance Foundation of Chicago**

**Legal Service:** Represents low-income individuals from Chicago in many kinds of cases of **unemployment compensation**, employment discrimination, and other employment matters. **They do not accept cases from undocumented workers.** **Fee:** None, if client is income eligible.

**Legal Assistance Foundation of Cook County**

**Legal Service:** Represents low-income individuals who live in suburban Cook County (outside Chicago city limits) in **unemployment compensation** hearings. **They do not accept cases from undocumented workers.** **Fee:** None, if client is income eligible.

**Loyola University Community Law Center**

1 E. Pearson, Suite 202  
Chicago, IL 60611

(312) 915-7830 (Spanish spoken)

**Legal Service:** Loyola University Community Law Center represents clients in the initial **unemployment compensation** hearings. Clients must live in Cook County. You must call to schedule an appointment. No walk-in service is available. **Fee:** The initial consultation is free. Clients are charged on a sliding scale based on income.

**Women Employed Institute**

22 W. Monroe St., Suite 1400

Chicago, IL 60603

(312) 782-3902

**Support Service:** The Women Employed Institute operates a free telephone **Job Problems Counseling Service** each week. Volunteer counselors are available Thursdays from 9 a.m. to 1 p.m. They can clarify certain employment laws regarding **rest, compensation, and breaks**. They can also offer referrals to attorneys and relevant agencies. **Fee:** None

# Safety and Health Rights

The Occupational Safety and Health Act (OSHA) of 1970 guarantees the right to safe and healthy working conditions.

## **You have a right to:**

- receive training needed to do your job safely;
- receive proper equipment to do your job safely (While the Illinois Department of Labor says that your employer cannot charge you for safety equipment, OSHA states that recent court decisions maintain that not all safety equipment must be paid for by the employer. OSHA is formulating new rules in accordance with this court decision.);
- know the identities and the effects of chemicals or other hazardous materials used in your workplace;
- make suggestions for improving the safety of your job;
- have dangerous or unhealthy conditions corrected;
- make a complaint to the Occupational Safety and Health Administration (OSHA), the government agency in charge of seeing that dangerous or unhealthy workplace conditions are fixed;
- make a complaint without your employer's knowledge, either on your own or using an attorney;
- get government inspection of your workplace if there are safety or health problems; and
- not be fired or retaliated against for making suggestions or filing a complaint.

Private sector **employees** can file a complaint to get their workplace inspected by OSHA.

## **Occupational Safety and Health Administration**

U.S. Department of Labor  
230 S. Dearborn, Room 3244  
Chicago, IL 60604  
(312) 353-2220; TDD 1-800-800-4571  
Spanish language number: (312) 353-4561  
24-hour emergency line for life-threatening hazards:  
1-800-321-OSHA

## **Steps for Filing an Occupational Safety and Health Act (OSHA) Complaint:**

1. **Write and sign a "formal" complaint.** OSHA recommends that you call the local office to discuss your particular health and safety concern with an OSHA representative. You do not need a complaint form to file a formal complaint. Instead, you must send OSHA the name and address of your worksite, a detailed description of the unsafe or unhealthful situation, and a signed statement that the person making the complaint is an employee (or a representative of the employee) of the employer who is the subject of the complaint.
2. **Document your employer's track record** on previous OSHA violations, also called citations. Employers must post citations for three working days or until the item is corrected, whichever is longer. You may obtain copies of past citations by contacting your local OSHA office.

3. **Keep precise records** of your complaint.

OSHA must investigate formal complaints.

Under the law you cannot be harassed or fired for filing an OSHA complaint. It is best to give OSHA your name when filing a complaint. However, you can tell OSHA not to reveal your identity to your employer. If you are still nervous about attaching your name to a complaint, **you can also make an informal, anonymous complaint**. OSHA will respond to anonymous complaints with a phone call or a fax to your employer, and your employer must send documentation to OSHA regarding the problem.

#### **How to Get the Most Out of an OSHA Inspection:**

1. **Gather information** about hazards before you file a complaint.
2. **Tell your supervisor** about the hazard. Put these concerns in writing and keep a copy. OSHA will ask if your employer knows about the hazard.
3. **Get help from your union**. If you do not have a union, enlist as many workers as you can who are directly effected by the safety hazard to talk to OSHA.
4. **Prepare documentation** of specific hazards and incidents, who was involved, and when the incidents occurred. See “Keeping Records” on page 5.
5. **Give OSHA names of other workers** or witnesses who are aware of the problem.

6. The OSHA inspector will hold an opening and a closing conference with your employer. **If you choose to reveal your identity to your employer, you may also choose to be present at both the opening and closing conferences.**

At the **opening conference**, the OSHA inspector will explain the purpose of the visit, the scope of the inspections, and the standards that apply. The employer will be given copies of applicable safety and health standards as well as a copy of any employee complaint that may be involved.

A **closing conference** will be held after OSHA inspects your workplace. This is a time for free discussion of problems and needs; a time for frank questions and answers about workplace safety.

If you have a union, your union will usually designate an employee to participate in the opening and closing conferences. Similarly, if there is a plant safety committee, employee members of that committee will designate an employee representative. Where neither groups exists, the employee representative may be selected by the employees themselves, or the inspector will determine if any employee suitably represents the interest of other employees.

7. **Request copies of the inspection results.**

Public sector employees may also file a complaint to have their workplace inspected. Public employees should call the Illinois Department of Labor (DOL) for a complaint form. If you indicate your wish to keep your identity confidential on the complaint form, the Illinois DOL will not reveal your identity to your employer. Follow the same steps to get a workplace inspection from the Illinois DOL as you would to get an OSHA inspection.

160 N. La Salle St., Suite C – 1300  
Chicago, IL 60601  
(312) 793-1966, 1964  
(Spanish spoken from 1:30 p.m. to 5:00 p.m. daily)

**If you are afraid to file a complaint** and the problem persists or **if you have other questions regarding workplace health and safety**, contact the Chicago Area Committee on Occupational Safety and Health (CACOSH). CACOSH provides advice, counseling and referrals on workplace safety and health issues. CACOSH also assists workers in filing OSHA complaints and trains community groups and unions about workplace health and safety. **CACOSH will assist undocumented workers.** You must leave a message in English, and CACOSH will return your call within a week. Although it will require additional response time, CACOSH can return your call in Spanish.

**Chicago Area Committee on Occupational Safety and Health**  
P.O. Box 388277  
Chicago, IL 60638  
(312) 666-1611

## Repetitive Motion Injuries

Workers who must perform the same motions over and over again risk developing repetitive motion injuries. Awkward or constrained postures, vibrations, and cold temperatures in the workplace also increase the risk of repetitive motion injuries. Many production workers develop symptoms of repetitive motion injuries.

**Carpal tunnel syndrome** is a serious and common repetitive motion injury. It can be permanent if you do not get help. Constant bending and twisting of the wrists causes carpal tunnel syndrome. Wrist tendons become inflamed and press on the nerve in your wrist causing pain or numbness.

There are also other types of repetitive motion injuries that affect other parts of the body, such as the neck and the shoulders.

### **Symptoms of Carpal Tunnel Syndrome:**

- pain and/or numbness in hands;
- tingling or burning of hands and first three fingers;
- numbness and/or pain in hands while sleeping; and
- losing grip and dropping things.

### **If you have these symptoms, you should:**

- 4 tell your supervisor;
- 4 tell your union representative or your health and safety officer;
- 4 see a doctor with training in Occupational Medicine, preferably at an Occupational Medicine Clinic (See "Safety and Health Resources");
- 4 tell the doctor exactly what you do at work;
- 4 if the doctor tells you that you have carpal tunnel syndrome or another repetitive motion injury, file a workers' compensation claim.

## Hazardous Chemicals

Employers are required to provide information and training about the hazardous chemicals to which workers are exposed. Employers must:

- inventory all chemicals that are used in the workplace;
- evaluate **hazardous materials** by using lists to determine if they cause cancer, reproductive damage or birth defects;
- **develop a written Hazard Communication Program** which includes where and how to get information about all chemicals used in the workplace;
- label **chemical containers** with the name of the product, manufacturer and hazard warnings;
- provide Material Safety Data Sheets which supply health hazard information, physical and chemical properties, safe handling and storage procedure and personal protective equipment requirements; and
- train employees about the chemicals, including the health effects associated with use, as well as how to handle, store and transport chemicals safely.

The chemical inventory and the Material Safety Data Sheets (MSDS) must be accessible at all times, on all shifts. If you are unsure about how to handle any chemical or are unaware of the effects of any chemical, consult the MSDS. If an MSDS is not readily available, request it in writing before using the hazardous substance. It is particularly important that an MSDS is available whenever a new chemical is introduced into the workplace or whenever there is a change in the process. Within 15 days of your request, your employer should place the MSDS on the side of the chemical container. If your employer does not comply with your request, contact OSHA, your union representative, or an attorney.

All employees have the right to see any records kept by their employers regarding exposure to hazardous materials, or the results of medical surveillance.

*Source: OSHA's Hazard Communication Standard  
(29 CFR 1910.1020)*

## **Safety and Health Resources**

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### **Government Agencies**

#### **Illinois Department of Labor**

Division of Safety Inspection and Education

160 N. La Salle St., Suite C – 1300

Chicago, IL 60601

(312) 793-1966, 1964

(Spanish spoken from 1:30 p.m. to 5:00 p.m. daily)

#### **Occupational Safety and Health Administration (OSHA)**

U.S. Department of Labor

230 S. Dearborn St., Room 3244

Chicago, IL 60604  
(312) 353-2220; TDD 1-800-800-4571 (Spanish is spoken.)  
24-hour emergency line for life-threatening hazards:  
1-800-321-OSHA (6742)

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### Support Services

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#### **Chicago Area Committee on Occupational Safety and Health (CACOSH)**

P.O. Box 388277, Chicago, IL 60638

(312) 666-1611 (For messages only. Leave your message in English. Although it may require additional time,

CACOSH can return calls in Spanish.)

**Support Service:** CACOSH provides advice, counseling and referrals on workplace safety and health issues. CACOSH also assists workers in filing OSHA complaints and trains community groups and unions about workplace health and safety. **CACOSH will assist undocumented workers. Fee:** None

#### **Cook County Hospital Division of Occupational Medicine**

1900 W. Polk St., Room 500

Chicago, IL 60612

(312) 633-5310

**Support Service:** Cook County Hospital Occupational Health Clinic is a good place to find a doctor who specializes in job-related health problems. Patients seen by appointment only. Call (312) 633-5310 to set up a visit. Cook County Hospital is a public institution dedicated to quality care for patients whether they have money for the care or not.

# Employment Discrimination

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## What is Discrimination?

This is only a partial listing of the groups the law protects against discrimination. For a complete list contact the Equal Employment Opportunity Commission at (312) 353-2713 or 1-800-669-4000.

## Addressing Workplace Discrimination

**If you believe you have experienced any form of discrimination, you should:**

- 4 Keep clear, written records of the incident(s). Keep records as you would keep a personal diary. If you think you have been discriminated against, write down how you were discriminated against, as well as when and where the discrimination occurred. Write down who else experienced or witnessed the discriminatory act. Make note of all conversations or correspondence with fellow employees or management regarding the incident(s). *If you eventually choose to file a complaint of discrimination with a government agency, keep copies of all papers or letters that you send or receive. Keep a special log of all phone calls to government agencies, support services, attorneys, and insurance agents. Be sure to date your notes. Store these records away from the office.*
- 4 Get emotional support from friends, family and clergy. Experiencing and addressing workplace discrimination can be very stressful. Make sure you have supportive people with whom to share your concerns.
- 4 Continue to perform high quality work, while keeping a record of your work performance. It is especially important to make sure that the quality of your work does not suffer as a result of the stress you may feel. Your employer may criticize your work performance to justify discriminatory behavior.
- 4 **Talk to your co-workers** to find out if they have experienced similar discrimination. Co-workers can offer support and suggestions. If co-workers have experienced similar discrimination at your current place of employment, they may want to join with you to address the problem or to serve as a witness to your claim.

4 Talk to your employer. You may decide to work out your complaint without contacting a government agency. Submit your complaint in writing to your employer. Some companies have specific informal ways to handle discrimination, such as mediation. (In mediation, you and your employer will talk about the discrimination with someone both of you trust. Mediation is a way to determine whether or not the discrimination can be resolved without filing a formal complaint with a government agency.) A personnel or Equal Employment Opportunity/Affirmative Action Officer should have information available.

4 If you are a union member, talk to your steward or union representative. You may file a grievance with your union. Your union will represent you and try to resolve the discrimination. Learn what protections your union contract and company rules or handbook provide. If you and at least one other employee work together to improve working conditions, the National Labor Relations Act forbids your employer from punishing you, regardless of whether or not you are in a union or intend to organize a union.

4 File a charge with the Equal Employment Opportunity Commission (EEOC) or another relevant state, county, or city agency. You have the right to file a formal complaint with the appropriate government agency without talking to your employer. If you are considering filing a complaint with a government agency, remember that you only have a very short window of time in which to file. (For details on filing procedures and deadlines of the EEOC and the relevant state, county, and city agencies, see “Filing a Discrimination Complaint.”)

*(Source: Women’s Bureau of the  
U.S. Department of Labor)*

## Disability Discrimination

The Americans with Disabilities Act (ADA) protects job applicants and workers from discrimination in hiring, classification, grading, discharge, discipline, compensation or other terms or conditions of employment based on disability.

Private employers who have at least 15 employees, state and local government employers, employment agencies, labor unions, and the U.S. Congress may not:

- recruit **only** job applicants without obvious disabilities;
- ask job applicants to describe their disability and take medical examinations before a job offer is made;
- give fewer or less attractive advancement opportunities to qualified workers with disabilities than to others, or fire qualified workers because of a disability; or
- treat qualified workers with a disability worse than other workers because of the disability.

### Your Rights:

The law says if you are qualified and can do the job, your company must make reasonable accommodations for you to perform the job. Accommodations can include changing equipment so you can use it, changing your work schedule, and making buildings more accessible. Remember, an employer cannot ask you about your disability when you apply. They can only ask you if you can perform the job.

**If you believe you have experienced disability discrimination, file a charge with the Equal Employment Opportunity Commission**, the Illinois Department of Human Rights, the Cook County Commission on Human Rights, or the Chicago Commission on Human Relations. For more information, see “Filing a Discrimination Complaint.”

(Source: Women's Bureau of the  
U.S. Department of Labor)

## Gender-Based Wage Discrimination

The law says it is illegal to pay women less than men who do similar work. On average, however, a full-time female employee is only paid 74 cents for every dollar a man is paid.

If any of the following incidents happened to you, you may have experienced illegal discrimination.

- You were “steered” out of better paying jobs because the employer assumed you were interested only in “women’s jobs.”
- An employer asked you if you were married or planned on marrying, had children or planned on having children, and then refused to hire you or place you in certain jobs.
- You were hired for a job at a lower pay rate than a man would have received.
- You returned from pregnancy or maternity leave to a lower-paying job than you had when you left.
- You trained a man for a job you had been denied.

### Your Rights:

Title VII of the *Civil Rights Act* says that it is illegal for employers with at least 15 workers to:

- pay women less for work similar to that performed by men who have the same employer;
- withhold training opportunities from women workers that are offered to men;
- refuse to consider promoting women to higher paid managerial or professional positions; or
- set lower wages for “women’s jobs” than for “men’s jobs” that require equal skill, effort, responsibility and working conditions, because women will “work for less” or because “the job market” allows lower wages for women.

The *Equal Pay Act* says that *all employers must pay equal wages to women and men* for substantially equal work. This law protects women who work in the same types of jobs that men do for the same employer.

About half of all women work in “women’s jobs” – jobs that have traditionally been filled by women and there are few or no men. Unfortunately, the law does not protect these women very well, because there are no men working in the same job whose wages can be compared to the women workers.

**If you believe you have experienced gender-based wage discrimination, file a charge with the Equal Employment Opportunity Commission**, or the relevant state, county or local government agency. For more information, see “Filing a Discrimination Complaint.”

(Source: Women's Bureau of the U.S. Department of Labor)

## Sexual Harassment

**Sexual harassment is unwanted sexual attention at work.** It includes touching, making sexual remarks, asking for sex, or making sexual advances.

**Sexual harassment is ILLEGAL if:**

- you have to go along with it to get or keep a job;
- you have to go along with it to get a raise or a vacation, or to influence other decisions about your job;
- the harassment is making it hard for you to work.

**Federal law protects you:**

- even if nobody else witnessed the harassing behavior;
- even if the harassing behavior does not threaten or cause you to lose your job;
- regardless of whether it is boss, coworker or client who harasses you; and
- even if the harassment occurred only once.

**If you are being sexually harassed:**

- 4 **Tell the harasser to stop.** Clearly tell your harasser that you do not want such sexual attention. If it happens again, send a letter telling your harasser to stop, and keep a copy for yourself.
- 4 **Keep clear records of each incident of harassment.**
- 4 **Get support from friends, family, and coworkers.** Find out if other coworkers have the same problem. Join together to take these steps toward ending the sexual harassment.
- 4 **Talk to your employer.** Find out if your company has a sexual harassment policy and carefully follow the steps of that policy.
- 4 **If you are in a union, talk to your union representative.** Check the union contract for a sexual harassment policy.
- 4 **Keep clear records of your job performance.** Keep evaluations and memos relating to your job performance. The harasser might question your job performance in order to defend such behavior.

**File a charge with the Equal Employment Opportunity Commission** or the relevant State, county, or city agency.

The Women's Bureau of the U.S. Department of Labor (312-353-8890), the Women Employed Institute, and the Legal Assistance Foundation of Chicago provide support and assistance to women facing sexual harassment in the workplace. Refer to "Support Services for Fighting Workplace Discrimination" on page 50 for more information about these agencies.

*(Source: Women's Bureau of the U.S. Department of Labor)*

## **Pregnancy Discrimination**

**It is illegal for an employer to:**

- refuse to hire a woman because of pregnancy;
- fire or force a worker to leave because of pregnancy;

- take away credit for previous years, accrued retirement benefits, or seniority because of maternity leave;
- fire or refuse to hire a woman because she had an abortion.

### **Federal Family and Medical Leave Act**

If you are unable to work due to complications with the pregnancy, you are entitled to the same rights, leave privileges, and benefits as other workers who are out of work for a short time due to other disabilities. If your doctor or health care provider says you are sick and unable to work during some or all of your pregnancy, you may be able to get up to 12 weeks off without pay under the Federal Family and Medical Leave Act (FMLA). The FMLA requires federal, state, and local government employers as well as private sector employers with 50 or more workers to grant eligible female employees up to 12 weeks of unpaid pregnancy leave. (For details on eligibility requirements, see “Compensation, Breaks, and Medical Leave—Federal Family and Medical Leave Act.”)

If other workers who can’t do their job for a short period of time are given easier duties, you should also be given easier duties if your pregnancy prevents you from being able to do your job. Likewise, any short-term disability leave policy that your company offers to injured or ill employees must be offered to you as well.

**If you believe you have experienced pregnancy discrimination, file a charge with the Equal Employment Opportunity Commission** or the relevant state, county or local government agency.

*(Sources: Women Employed Institute and the Women’s Bureau of the U.S. Department of Labor)*

## **Race and Color Discrimination**

The Civil Rights Act of 1964 protects individuals against employment discrimination on the basis of race and color. It is illegal for an employer to discriminate against you because of your race or color in terms of hiring, termination, promotion, compensation, job training, or any other condition of employment. Your employer may not base decisions about your work assignments on stereotypes and assumptions about abilities, traits, or the performance of your racial group.

It is also illegal for an employer to discriminate against you because of marriage to or association with an individual of a different race; membership in or association with ethnic-based organizations or groups; or attendance or participation in schools or places of worship generally associated with certain minority groups.

### **Harassment**

Ethnic slurs, racial “jokes,” offensive or derogatory comments, or other verbal or physical conduct based on an individual’s race or color constitutes unlawful harassment if the conduct creates an intimidating, hostile, or offensive working environment, or interferes with the individual’s work performance.

**Segregation and Classification of Employees.** Employers may not:

- physically isolate minority employees from other employees or from customer contact;
- routinely assign primarily minorities to predominantly minority establishments or geographic areas;

- exclude minorities from certain positions or groups or categorize employees or jobs so that certain jobs are generally held by minorities; or
- code applications and resumes to designate an applicant's race. Such coding is evidence of discrimination where minorities are excluded from employment or from certain positions.

### **Race Related Characteristics and Conditions**

Discrimination on the basis of an immutable characteristic associated with race – such as skin color, hair texture, or certain facial features – violates the Civil Rights Act of 1964. It is also illegal to discriminate on the basis of a condition which predominately affects one race unless the practice is job-related and consistent with business necessity. For example, since sickle cell anemia predominately occurs in African-Americans, a policy that excludes individuals with sickle cell anemia must be job-related and consistent with business necessity.

**If you have been discriminated against on the basis of race, file a charge with the Equal Employment Opportunity Commission** or other relevant state, local, and city agencies.

*(Source: The Equal Employment Opportunity Commission)*

## Religious Discrimination

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against you because of your religion in terms of hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Employers must reasonably accommodate the religious practices of an employee or prospective employee, unless doing so would create an undue hardship upon the employer.

Examples of employer accommodation include:

- flexible scheduling;
- voluntary substitution or swaps of schedules or responsibilities;
- job reassignments; and
- lateral transfers.

For example, employers may not schedule examinations or other selection activities in conflict with a current or prospective employee's religious needs, inquire about an applicant's future availability at certain times, maintain a restrictive dress code, or refuse to allow observance of a Sabbath or religious holiday, unless the employer can prove that not doing so would cause undue hardship.

An employer can claim undue hardship when accommodating an employee's religious practices requires more than ordinary administrative costs or jeopardizes seniority systems.

*(Source: The Equal Employment Opportunity Commission)*

## Sexual Orientation Discrimination

Individuals working in Cook County are protected from discrimination in hiring, classification, grading, discharge, discipline, compensation or other terms or conditions of employment based on sexual orientation. The Chicago Human Rights Ordinance

defines “sexual orientation” as the actual or perceived state of heterosexuality, homosexuality, or bisexuality.

**How to file a complaint:**

If you are employed within the city limits of Chicago, file a complaint with the Chicago Commission on Human Relations within 180 days of the date of the discriminatory act.

**Chicago Commission on Human Relations**

510 N. Peshtigo Ct., Room 607  
Chicago, IL 60611  
(312) 744-4111

Unless there are extraordinary circumstances, you must file a complaint in person. An investigator will assist you in drafting a complaint which you must sign before a notary public. This process usually takes about two hours.

Within seven business days, the Commission will send the complaint to the “Respondent”—the person or business the complaint is filed against. The Respondent must respond to the Commission’s inquiry within 30 days. Over several months, a Commission investigator will collect all documents and interview all witnesses relevant to both your allegations and the Respondent’s defense.

The Commission’s investigators will always look for a way that the two parties can come to an agreement to resolve the case during the investigation. If the parties do not settle, the Commission reviews a summary of the investigation and decides if there is substantial evidence for the case to proceed or whether the case should be closed.

If you are employed outside the city limits of Chicago but within Cook County, file a complaint with the Cook County Commission on Human Rights.

**Cook County Commission on Human Rights**

69 W. Washington St., Suite 2900  
Chicago, IL 60602  
(312) 603-1100

*(Source: Chicago Commission on Human Relations)*

## **National Origin Discrimination**

Every day, many people legally authorized to work in the U.S. are unfairly denied jobs because they “look” or “sound” different, because they are not U.S. citizens, or because of their ancestry or national origin. If an employer has 15 or more employees, it is illegal for an employer to deny you employment because of you or your ancestor’s place of origin, or because you have the physical, cultural, or linguistic characteristics of a particular racial or ethnic group.

**Refusal to Employ.** An employer cannot deny you employment based on your ancestry or national origin. Likewise, an employer cannot request more documentation of your citizenship status than you are legally required to produce simply because your appearance, language, accent, or any other attribute are suggestive of national origin. Such a request by your employer constitutes document abuse. For detailed information on document abuse, see the following section “Citizenship Discrimination and Document Abuse.”

**English Only Rules.** An “English Only” rule requires employees to speak only English in the workplace. Your employer must demonstrate that an “English Only” rule is necessary for business; otherwise, such a rule may constitute discrimination based on ancestry or national

origin. If your employer believes the “English Only” rule is necessary for business purposes, he or she must tell you when you must speak English and the consequences for violating that rule.

**Harassment.** Your employer bears the responsibility of keeping your workplace free of harassment based on your ancestry or national origin. Ethnic slurs, jokes, or other verbal or physical conduct relating to your national origin are harassment when such behavior causes you to feel intimidated or offended, interferes with your ability to do your job, or otherwise affects your employment opportunities.

If you think you have been discriminated against on the basis of national origin, contact the Equal Employment Opportunity Commission or other relevant state, local, and city agencies.

*(Sources: Women’s Law Project and the  
Equal Employment Opportunity Commission)*

## **Citizenship Discrimination and Document Abuse**

Citizenship discrimination occurs when an employer refuses to hire you, fires you, or a recruiter refuses to refer you for a job because of your citizenship or immigration status. If you have legal work papers, the law protects you against discrimination based on citizenship. For example, it is illegal for an employer to hire only U.S. citizens or only workers with green cards, unless required to do so by law, regulation, or government contract. There is an exception in law for security clearances, defense contractors, and government work.

The same law that protects you against citizenship discrimination also requires employers to make sure that workers are legally eligible to work. To do this, the employer must fill out a special form for each person hired. The form is called the I-9 Employment Eligibility Verification Form.

In order for your employer to fill out the I-9 form, you must provide documents that prove your identity and your employment eligibility. Documents are grouped in three categories.

### **Group A -Identity and work authorization documents:**

*(You can choose **one document** from Group A because it shows both your identity and your eligibility to work.)*

- U.S. Passport (unexpired or expired)
- Unexpired Foreign Passport with I-551 stamp
- Alien Registration Receipt Card or Permanent Resident Card (INS Form I-551)
- Unexpired Temporary Resident Card (INS Form I-688)
- Unexpired Employment Authorization Card (INS Form I-688A)
- Unexpired Employment Authorization Document issued by the INS which contains a photograph (INS Form I-766 or I-688B)
- Unexpired Foreign Passport with Form I-94 containing an endorsement of the alien’s nonimmigrant status. *(For aliens authorized by the INS to work only for a specific employer:)*

NOTE: As of February 2, 1998, the Immigration and Naturalization Service (INS) proposed the removal of the several documents from Group A in an effort to simplify the

I-9 form. The INS should provide a final ruling on which documents will be permanently listed in Group A by the fall of 1998. Call the INS at 1-800-357-2099 for more information.

Groups B & C - Identity and Eligibility to Work

*(Or you can choose **two documents**: one from Group B, which shows identity and one from Group C, which shows eligibility to work.)*

**Group B - identity**

Driver's License or State I.D. • School I.D. with Photo  
U.S. Military I.D. or Draft Card • Canadian Driver's License  
Native American Tribal I.D. • Voter's Registration Card  
Federal, State, or Local Government I.D. with photo

**Group C - work authorization**

Native American Tribal I.D.  
U.S. Birth Certificate • U.S. Citizen I.D. (I-179)  
Social Security Card (unless stamped "Not valid for employment")  
Certification of Birth Abroad of U.S. Citizen (FS-545 or DS-1350)  
INS Document form with words "Employment Authorized" ( I-94)

You may choose which legally acceptable documents you want to show to your employer. Your employer can not make you show particular documents or more than the legally required number of documents just because he or she wants to see them. If your employer makes you show more documents than are legally required or rejects valid documents that appear genuine, your employer may have committed document abuse.

An employer should not ask to see your documents prior to the interview or selection process.

**If you think your prospective employer has committed citizenship status discrimination or document abuse, file a charge with the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC).** You must file your charge within 180 days of the discriminatory act. Spanish is spoken and translators are available for many other languages. **Undocumented workers are not protected from discrimination under this law; therefore, they cannot file charges with OSC.**

**Office of Special Counsel**  
U.S. Department of Justice  
P.O. Box 27728  
Washington, D.C. 20038-7728  
1-800-255-7688, TDD 1-800-237-2515

*(Source: National Immigration Law Center and the Office of Special Council)*

## **Filing a Discrimination Complaint**

**United States Equal Employment Opportunity Commission**  
Chicago District Office  
Citicorp Building  
500 W. Madison St., Suite 2800

Chicago, IL 60661  
(312) 353-2713 or 1-800-669-4000  
TDD 1-800-669-6820 This line is for messages only.  
You may leave a message in Spanish.

**Discrimination Cases:** Race, color, religion, sex and sexual harassment, national origin, ancestry, age (for workers 40 years and older in companies with at least 20 employees), disability and employer retaliation occurring in companies of 15 or more employees. **Filing Procedure:** The EEOC does not schedule appointments. They interview workers on a walk-in basis Monday through Friday, from 8:30 a.m. to 12:00 p.m. and from 1:00 p.m. to 3:30 p.m. If you live more than 50 miles from Chicago or cannot travel to the downtown office, you may file a complaint through the mail. **Filing Deadline:** 300 days after the date of the discriminatory act. **Undocumented workers can file complaints with this agency. The EEOC will not report undocumented workers to the Immigration and Naturalization Services (INS).**

### **Illinois Department of Human Rights**

James R. Thompson Center  
100 W. Randolph St., Suite 10-100  
Chicago, IL 60601  
(312) 814-6200  
TDD (312) 263-1579  
(Spanish spoken)

**Discrimination Cases:** Race, color, religion, sex and sexual harassment, national origin, ancestry, citizenship status, age, marital status, disability and employer retaliation. **Filing Procedure:** File a complaint in person Monday through *Thursday*, 8:30 a.m. - 5:00 p.m. If you cannot come into the office, call the office to request that a complaint form be sent to your home. **Filing Deadline:** 180 days after the date of the discriminatory act. **Office Hours:** Monday through Friday, 8:30 a.m.- 5:00 p.m. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Immigration and Naturalization Services (INS).**

### **Cook County Commission on Human Rights**

69 W. Washington St., Suite 2900  
Chicago, IL 60602  
(312) 603-1100

**Discrimination:** Race, color, religion, sex and sexual harassment, national origin, ancestry, age, marital status, parental status, disability, sexual orientation, and employer retaliation. **Filing Procedure:** File a complain in person Monday through Friday, 8:30 a.m. to 5:00 p.m. If you cannot come in during these hours, they will mail a complaint form to your home. Spanish and Polish are spoken. **Filing Deadline:** 180 days after the date of the discriminatory act. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the INS.**

### **Chicago Commission on Human Relations**

510 N. Peshtigo Ct., Room 607  
Chicago, IL 60611  
(312) 744-4111; TDD (312)629-6929 (Spanish is spoken.)

**Discrimination:** Race, color, religion, sex, national origin, ancestry, age, marital status, parental status, disability, and sexual orientation. **Filing Procedure:** File a complaint in person Monday through Friday, 9:00 a.m. - 5:00 p.m. Barring extraordinary circumstances, workers must file a complaint in person. Allow two hours to complete the intake process. **Filing Deadline:** 180 days

after the date of the discriminatory act. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the INS.**

**Office of Special Counsel (OSC)**  
for Immigration-Related Unfair Employment Practices  
U.S. Department of Justice  
P.O. Box 27728  
Washington, D.C. 20038-7728  
1-800-255-7688, TDD 1-800-237-2515  
(Translators available for most languages.)

**Filing Procedure:** Call to request a complaint form be sent to your home. Fill out the complaint as best you can and return it to the address on the form. **Discrimination:** citizenship status, national origin discrimination and document abuse. **Filing Deadline:** Within 180 days of the discriminatory act. **Undocumented workers are not protected from discrimination under this law. Therefore, they cannot file charges with OSC.**

## **Legal Services for Addressing Workplace Discrimination**

**Chicago Lawyers' Committee for Civil Rights Under Law, Inc.**  
100 N. LaSalle St., Suite 600  
Chicago, IL 60602  
(312) 630-9744; TDD (312) 630-9749 (Spanish Spoken)

**Cases:** Gender and race discrimination. Mainly interested in cases involving several workers.  
**Fee:** None.

### **Legal Assistance Foundation of Chicago**

*Central Intake Office*  
111 W. Jackson Blvd.  
Chicago, IL 60604

(312) 341-1070, TDD (312) 431-1206

Call this office to set up interviews in Uptown. Spanish is spoken. If you provide 2 – 3 days notice, the Legal Assistance Foundation can provide translators in other languages.

*Northwest Office*  
1212 N. Ashland Ave.  
Chicago, IL 60622

(773) 489-6800; TDD (773) 489-4502

Spanish and Polish are spoken.

*South Side Office*  
10 W. 35th Street  
Chicago, IL 60616

(773) 949-5390; TDD (773) 949-0771

Call this office to set up interviews in Roseland. No Spanish.

*West Side Office*  
3333 W. Arthington Street, Suite 151  
Chicago, IL 60624  
(773) 638-2343; TDD (773) 265-20019

Spanish is spoken. If you provide 2 – 3 days notice, the foundation can provide translators in other languages.

**Legal Service:** The Legal Assistance Foundation of Chicago represents low-income individuals from Chicago in many kinds of cases of **employment discrimination**. They do not accept cases from undocumented workers. **Fee:** None, if client is income eligible.

**Center for Disability and Elder Law**  
710 N. Lake Shore Drive, Third Floor  
Chicago, IL 60611

(312) 908- 4463; TDD (312) 908-8705 (Spanish is spoken.)

**Cases:** Disability discrimination and public accommodations for the disabled. **Fee:** None. **Does not accept cases from undocumented workers.**

**Mexican-American Legal Defense and Educational Fund**  
542 S. Dearborn St., Suite 750, Chicago, IL 60605  
(312) 427-9363 (Spanish spoken)

**Cases:** Accepts various discrimination cases. They are primarily interested in cases involving several workers. **Fee:** None. **Accepts select cases from undocumented workers.** The Fund is an advocacy group especially concerned with protecting undocumented children.

## Support Services for Addressing Workplace Discrimination

**Illinois Coalition for Immigrant and Refugee Protection**  
224 N. DesPlaines, Suite 600  
Chicago, IL 60661, (312) 441-2990

**Services:** Provides support for groups working with immigrant communities, including undocumented immigrants. The Coalition is not available to answer individual questions on workplace rights; but, it provides educational materials on issues including citizenship discrimination, what to do if INS comes to the workplace, and **how to find an attorney**. Spanish is spoken. **Fee:** None.

**Legal Assistance Foundation of Cook County**  
Central Office, 1146 Westgate, Suite LL3  
Oak Park, IL 60301, (708) 524-2600; TDD (708) 524-2633

**Service:** Provides referrals and advice regarding workplace discrimination for low-income individuals who live in Suburban Cook County. Call the office to schedule a phone interview with a staff member. Spanish is spoken. **Fee:** None, if client is income eligible.

**Women's Bureau**  
U.S. Department of Labor, Regional Office  
230 S. Dearborn St., Room 1022, Chicago, IL 60604  
(312) 353-6985; 1-800-648-8183; TDD 1-800-326-2577

**Services:** Information, support, and referrals for women dealing with all forms of discrimination, especially pregnancy discrimination. Spanish is spoken.

**Women Employed Institute**  
22 W. Monroe St., Suite 1400, Chicago, IL 60603

(312) 782-3902

**Services:** Free telephone Job Problems Counseling Service each week. **Counselors are available Thursdays from 11:00 a.m. to 3:00 p.m.** They can clarify certain employment laws regarding discrimination and offer referrals to attorneys and relevant agencies.

# Unions and Group Activity

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## You have a right to:

- **organize**, create, or become a member of a labor organization; and
- **collectively bargain** (bargain a contract with an employer as a group) through elected union representatives.

Remember that a union is only as good as you make it. YOU are the union. A union will not solve workplace problems for you, but you can use the union to solve workplace problems.

If you are not in a union, you can help to start a union organizing drive where you work. If you know which union would represent you, contact a union representative there. If you don't know whom to call, contact the Assistant to the President, at the Chicago Federation of Labor (CFL) at (312) 222-1000. The CFL is an association of many unions, and can tell you which union can best represent you.

## Union Activity and Legal Protection

Federal law protects your legal right to form a union and participate in union activity.

The National Labor Relations Act (NLRA) gives workers in **private industry** some protection if they make complaints as a group. The NLRA states that legitimate complaints made by private industry workers to supervisors about working conditions cannot be legally punished.

In order for a group charge to be protected under the law, the workers must clearly identify themselves as a group, the charge must be clearly presented to the company, and the complaint must be about working conditions.

If you are a **public sector** worker, you are covered by the State Labor Relations Act. For more information, call the Illinois Department of Labor at (312) 793-2804.

If there is a union organizing campaign where you work, it is illegal for your employer to:

- ask what you think about the union, if you signed a union card, or ask you who else signed a card or is involved in the union campaign;
- promise you, or give you, raises, promotions, or other benefits if you oppose the union immediately before an organizing drive in an attempt to "buy off" union supporters;
- threaten to or actually fire you, lay you off, cut your pay, or reduce your hours or benefits because you support a union;
- discriminate against or treat differently employees that support the union, including disciplinary actions and transfers; or
- deny the union the right to talk to you or to try to prevent you from talking to the union.

Any punishment or retaliation by an employer against a worker who has filed a legitimate group charge is illegal. If you have been retaliated against, you have 180 days to file a complaint with the National Labor Relations Board, the government agency responsible for enforcing the National Labor Relations Act. Usually, your union organizer will help you file the charge.

## Resources For Unions and Group Activity

### **Chicago Federation of Labor (CFL)**

130 E. Randolph St., Suite 2600  
Chicago, IL 60601, (312) 222-1000

Contact the CFL for more information on how to organize a union.

### **Chicago Interfaith Committee on Worker Issues**

1607 W. Howard St., Suite 218, Chicago, IL 60626  
(773) 381-2832

A network of people of faith who support workers' right to organize and bargain a contract.

### **Jobs with Justice**

1642 W. Van Buren St., Chicago, IL 60612, (312) 226-6340

A coalition of labor, religious, civil rights, women's, students, community, and other organizations working together to build unity and strength for the struggles of working people.

### **National Labor Relations Board (NLRB)**

200 W. Adams St., Chicago, IL 60606  
(312) 353-9158 (Spanish spoken)

If you are in a union, try to solve the problem through the union before going to NLRB. Complaints must be filed with NLRB within six months of the date when your employer retaliated against you.

### **DePaul University The Labor Education Program**

Office of Applied Innovations  
243 S. Wabash St., Chicago, IL 60604  
(312) 362-5823

### **University of Illinois – Labor Education Program**

815 W. Van Buren, Suite 214, Chicago, IL 60607  
(312) 996-2623, web site: [www.ilir.uiuc.edu/lii/](http://www.ilir.uiuc.edu/lii/)

## Lawyers

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### Finding and Paying a Lawyer

Some of these laws discussed in this manual are very complicated, and you may need the help of a good lawyer to fully exercise your rights. There are honest, competent, and sensitive lawyers who handle these types of cases who can help you figure out if you have a case and what to do about it.

There are many ways to find a lawyer qualified to handle your type of case, including:

*Legal Services.* See the end of each chapter for the legal service that can best help you. Some do not charge a fee if you are eligible for their services. If the legal services cannot help you with your case, they may be able to refer you to a private lawyer.

Unions. If you are a member of a union or other worker organization, the union office will know lawyers who handle cases in most of the areas discussed in this book.

*Advertisements.* Be aware that advertisements on the radio, television, newspaper and billboards do not necessarily speak to the quality of the attorney, but are simply advertisements.

*Referral Services.* See page 51.

### **Paying a Lawyer**

*No Charge.* Some legal services do not charge a fee, but usually clients must have an income below a certain limit in order to be eligible for their services.

*Retainer Fee.* A retainer fee is a fee you have to pay to get the services of a lawyer. It is an initial fee that guarantees that the lawyer will represent you. You will probably be charged additional costs after you pay the retainer fee whether or not you win the case.

*Contingent Fees.* Many lawyers take cases on a “contingent” basis, which means that the fee is paid when the case is over. The fee is a percentage (usually between 20 percent and 40 percent, depending on the type of case) of any award or settlement. No fee is paid if the case is lost.

*Flat Fee.* A lawyer may charge a set flat fee regardless of the outcome of the case.

*Pro Bono.* Sometimes lawyers who would otherwise charge for a case will take it on a pro bono basis, for no charge. This arrangement is fairly rare, and only occurs if the client has no money and has a particularly good case that represents an issue of great public importance.

*Court-Awarded Attorney Fees.* In some types of cases, the complaining person can ask the court to make the other side pay his or her lawyer. You can get court-awarded attorney fees only if you win the case. You still have to pay the lawyer up front. You will need to have a very strong case in order for a lawyer to take your case hoping that you will win and that the court will order a fee, but it is worth exploring.

Please note that while lawyers are allowed to advance the costs and expenses for the client as a convenience, the lawyer is not allowed to pay for the costs and expenses. Such costs and expenses are the client’s responsibility, regardless of whether or not the lawyer charges a fee.

### **Questions to Ask Attorneys**

When looking for a lawyer, certain questions will help you decide which lawyer is right for you.

- 4 What, if any, fee does the attorney charge for an initial consultation?
- 4 Will the lawyer handling your initial consultation handle your case or will another attorney within the same firm handle your case? 4 Will your case will be referred out of the office to another lawyer who handles your type of case?
- 4 What is the attorney’s fee arrangement, including hourly fees? Does the attorney take cases on a contingency fee? If so, should you expect to pay for costs, and approximately how much would that amount to?
- 4 Can the attorney provide references? Get names and phone numbers of references.
- 4 Has the attorney handled similar cases to yours? How many? With what results?
- 4 What claims do you have, under what laws, and in what venues? Ask the attorney to explain the pros and cons involved in choosing what kind of claim to file and where. Ask the attorney to explain what is involved in filing a charge and litigation; for example, a realistic time frame for settlement and trial and what you and your attorney’s role will be.

You have the right to fire your lawyer if he or she is not responsive to your requests or is otherwise uncooperative, but you may be responsible for some attorneys' fees and for the costs and expenses advanced on your behalf by the lawyer.

## Resources for Finding a Lawyer

### Referral Services

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#### Call-a-Lawyer

Chicago Bar Association (CBA)  
321 S. Plymouth Ct.  
Chicago, IL 60604

(312) 554-2001; TDD 312-554-2055

Attorneys answer basic legal questions every third Saturday of the month, from 9:00 a.m. -12:00 p.m. No Spanish is spoken. **Fee:** None

#### Chicago Bar Association (CBA)

Lawyer Referral Service

321 S. Plymouth Ct., 2nd floor  
Chicago, IL 60604

(312) 554-2001, TDD (312) 554-2055

Attorneys charge varying fees and accept cases from undocumented workers at their discretion. Spanish is spoken. **\$20.00 referral fee.**

#### Hispanic Lawyers' Association of Illinois

Referral Service

130 E. Randolph St., Suite 3200,  
Chicago, IL 60601

(312) 861-6632 (Spanish spoken)

Provides free referrals to private attorneys. Attorneys charge varying rates. **Provides referrals for undocumented workers.** Individual attorneys accept cases from undocumented workers at their discretion.

#### Illinois Coalition for Immigrant and Refugee Protection

224 N. DesPlaines, Suite 600

Chicago, IL 60661

(312) 441-2990

Provides support for organizations working with immigrant communities. The Coalition is not available to answer individual questions on workplace rights; however, it provides educational materials on a variety of issues, including citizenship discrimination, what to do if INS come to the workplace, and **how to find an attorney.** Spanish is spoken. **Provides support for organizations working with undocumented immigrants. Fee:** None

#### Women's Bar Association of Illinois

Lawyer Referral Service

321 S. Plymouth Ct.

Chicago, IL 60604

(312) 341-8532

You must leave a message on their machine and they will return your call within 48 hours. No Spanish spoken here.

**Women Employed Institute**

22 W. Monroe St., Suite 1400

Chicago, IL 60603

(312) 782-3902

Operates a free, weekly telephone Job Problems Counseling Service. Volunteer counselors are available Thursdays from 11 a.m. to 3 p.m. and can make referrals to attorneys.

There are many non-profit legal groups that work to ensure workers – especially those with special needs or low-incomes – have fair access to the legal system. They represent workers in many kinds of employment law. These legal services are listed under the chapter which corresponds to the type of service they provide.

**SHOP AROUND. You do not have to agree  
to hire the first lawyer you meet.**

# “Workfare” and Your Rights

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In 1996, the federal government changed the welfare laws, and the State of Illinois has changed its rules to keep up with the federal laws. The Aid to Families with Dependant Children (AFDC) program has been replaced by the Temporary Assistance to Needy Families (TANF) program. The biggest change is that adults in families on welfare may be required to work in order to keep receiving their benefits. The “work” can include some limited education and job search. But for most people it will mean either getting a regular job, where you are paid by the employer, or being placed in a “Workfare” job by the welfare department.

The following federal employment laws apply to those in “Workfare” in the same ways as they apply to other workers:

- Minimum Wage and the Fair Labor Standards Act (FLSA),
- Occupational Safety and Health Act (OSHA),
- Unemployment Insurance (UI),
- Antidiscrimination laws, such as the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the Equal Pay Act.

See “Employment Discrimination” for more information on enforcing your rights.

Exceptions are likely to include individuals engaged in activities such as vocational education, job search assistance, and secondary school attendance, because these programs are generally not considered employment under the Fair Labor Standards Act. If you are unsure about whether or not you are considered an “employee,” call the USDOL Wage and Hour Division.

**Minimum Wage** – The Fair Labor Standards Act (FLSA) entitles you to receive workfare benefits in an amount equivalent to the minimum wage (as of September 1997, \$5.15 per hour) for the first 40 hours you work and time and one half for any hours over 40 that you work during the course of a week. While the state may count your welfare benefits towards the minimum wage, you must receive the minimum wage from the state or other employers for all the hours you worked regardless of the amount of your welfare benefits.

Generally, pensions, health insurance, or other benefit payments you receive through your “Workfare” job may NOT be counted towards the minimum wage. Regardless of the benefits you receive, your welfare check and food stamps should still equal at least the \$5.15 multiplied by the number of hours worked during the pay period.

For more information on minimum wage law, see “Compensation, Breaks, and Medical Leave – YourPaycheck.”

For information on the Occupational Health and Safety Act, unemployment insurance, and anti-discrimination laws, see their respective chapters.

If you feel any of your rights are being violated, you should contact the State of Illinois Department of Human Services or talk to your caseworker.

## **Worker Displacement**

Some labor unions and advocates for the poor are concerned that welfare reform will lead employers to push current low-skilled workers out of their jobs to make way for less costly “Workfare” workers. This is called displacement. Employers cannot hire “Workfare” workers if it would displace existing workers by:

- causing the termination of current employees, a hiring freeze or layoffs;
- reducing employee hours, overtime work, wages or benefits;
- filling a position that would have been a promotional opportunity;
- filling an already existing, unfilled position;
- bringing in Workfare workers to replace striking or locked out workers.

If you think your employer has displaced you with a “Workfare” worker, you can file a grievance with the Department of Human Services.

## **Resources about Welfare Reform and Your Rights**

### **Illinois Department of Human Services**

410 S. Clinton St.  
Chicago, IL 60607  
(312) 814-2730. 1-800-843-6154 (Spanish spoken)

### **Illinois Department of Labor**

Labor Law Enforcement  
160 N. LaSalle St., 13th floor  
Chicago, IL 60601  
(312) 793-2800  
(Spanish spoken from 1:00 p.m. to 5:00 p.m. daily)

### **Poverty Law Project**

National Clearinghouse for Legal Services  
205 W. Monroe St., 2nd Floor  
Chicago, IL 60606, (312) 263-3830

### **Legal Assistance Foundation of Chicago**

Welfare Hotline: (888) 893-5327

***For specific information relating to your “Workfare” benefits ask your caseworker. For more information on the following topics, contact the people listed below.***

**Minimum Wage and the Fair Labor Standards Act:** U.S. Department of Labor, Sylvia Solano, 230 S. Dearborn, Room 412, Chicago, IL 60604  
Phone: (312) 886-1142, Fax: (312) 353-2327

**Occupational Health and Safety Act (OSHA):** Occupational Safety and Health Administration, U.S. Department of Labor, 230 S. Dearborn, Room 3244, Chicago, IL 60604, (312) 353-2220, TDD 1-800-800-4571, Spanish language number: (312) 353-4561

If a local OSHA representative cannot answer your questions regarding “Workfare” and your health and safety rights, ask for the regional director of OSHA who can be found at the address above.

If the OSHA regional director cannot answer your questions regarding “Workfare” and your health and safety rights, contact:

Private sector employees can file a complaint to get their workplace inspected by OSHA.