

Labor Discrimination

It is illegal to discriminate against someone (applicant or employee) because of that person's race, color, religion, sex (including pregnancy), national origin, age, sexual orientation, disability, military status, ancestry, gender or genetic information on the following employment policies and practices:

- ◆ Job Advertisement
- ◆ Recruitment
- ◆ Application & Hiring
- ◆ Job Referrals
- ◆ Job Assignments & Promotions
- ◆ Pay & Benefits
- ◆ Discipline & Discharge
- ◆ Employment References
- ◆ Reasonable Accommodation
- ◆ Training & Apprentice Programs
- ◆ Harassment
- ◆ Terms & Conditions of Employment
- ◆ Pre-Employment Inquiries (General)
- ◆ Dress Code
- ◆ Constructive Discharge/Forced to Resign

For more information, visit:

U.S Equal Employment Opportunity Commission
website: <http://www.eeoc.gov/laws/practices/>

MA Law, Chapter 151 B
website: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter151B>

Mass. Commission Against Discrimination (MCAD)
website: www.mass.gov/mcad

WAGE AND HOURS (MA)

The FLSA (Fair Labor Standards Act) requires payment of the Federal minimum wage to all covered and nonexempt employees. Overtime pay at a rate of not less than one and one-half times the regular rate of pay is required for all hours worked over 40 in a workweek.

- * Minimum Salary: \$9.00
- * Salary Payment: is between 5 and 7 days depending on employee's working days. The state payday law requires payday to be weekly or biweekly.
- * Meal Breaks: Period of more than 6 hours entitled to 30 minutes of unpaid meal break.
- * Travel Time: employee shall be compensated for travel time in excess of his or her ordinary travel time between home and work.
- * Day of Rest: 24 consecutive hours of rest every seven days. G.L. c. 149, section 48
- * Paystubs: Should include employee and employer name; date of check; number of hours worked; hourly rate; deductions or increases during pay period. G.L. c. 149, sec.148
- * Minimum show-up time: If scheduled for 3 or more hours and employee shows up, must be paid for at least 3 hours of work. 455 CMR 2.03(1)
- * Entitled 2 hour leave to vote. G.L. c 149 sec. 178

Massachusetts as At-Will State

An employee may be fired at any time for any reason except for reasons protected by law, such as discrimination, retaliation or to avoid paying lawful wages.

UNDOCUMENTED WORKERS

- Undocumented workers have the same legal rights to minimum wage, overtime, breaks, tips, worker's compensation benefits, and being free from discrimination based on membership of a protected class (see section on Labor Discrimination)
- They are covered and protected by the NLRA and nearly every other state and federal labor law.
- An employer who fires an employee in violation of the NLRA has violated the law regardless of the employee's immigration status.
- Immigration status is never relevant during the filing or merits stages of a labor board charge.
- The NLRB has recently indicated that it will seek deferral of immigration action and/or visa remedies (such as U and T visas) for workers or witnesses in appropriate cases.

FILE A WAGE COMPLAINT: Call the Fair Labor Hotline at (617) 727-3465 or visit: <http://www.mass.gov/ago/doing-business-in-massachusetts/labor-laws-and-public-construction/file-a-wage-complaint.html>



Know Your Labor Rights



City of Worcester

**Human Rights & Disabilities
City Hall Room 101
455 Main Street
Phone: (508) 799-8486**

**[http://
www.worcesterma.gov/ocm/
human-rights](http://www.worcesterma.gov/ocm/human-rights)**

Se habla español

Youth Employment

The Massachusetts Child Labor Law states that minors under the age of 14 may **NOT** be employed, except for some limited employments listed. All minors under 18 must complete an employment permit application and obtain the permit before starting a new job.

Apply for a permit at EOLWD website:
<http://www.mass.gov/lwd/labor-standards/dls/youth-employment/>

Work Hours

14-15 years of age:

During school year 7am to 7pm.
Max. 6 days and 18 hours a week,
3 hours a day weekdays, 8 hours a day weekends and holidays.

During the summer, 7am to 9pm (July 1—Labor Day)
Max. 6 days and 40 hours a week, 8 hours a day

16-17 years of age:

6am-10pm on nights preceding a regularly scheduled school day. Otherwise, 6am-11:30pm.

Exception for restaurants and racetracks: 6am-12am when not preceding a regularly scheduled school day.
Max. 6 days and 48 hours a week, 9 hours a day.

For more information visit: www.youthrules.dol.gov

Unemployment Benefits

Unemployment Insurance (UI) benefits is a program run by the Department of Unemployment Assistance (DUA) as an aid to unemployed workers to pay bills and even receive training while they look for another job. If you want job training, you must apply within 15 weeks of the start or continuation date of your benefits.

To apply you can go to one of the DUA walk-in offices in Massachusetts or call 1-617-626-6800 or 1-877-626-6800.

Workers who cannot get unemployment benefits are:

- Employees of churches and some religious organizations;
- Independent consultants or contractors;
- Some work-study students and student nurses;
- Real estate agents or brokers working only for commissions;
- Insurance agents who work only for commissions;
- Elected officials and policy advisors.

Unemployment Insurance depends on three things:

- 1) How much money did you earn at your job?
- 2) Why did you leave your job?
- 3) Are you ready and able to get another job?

* You must demonstrate that you tried to keep your job but for reasons out of your control you were laid off, fired or forced to quit.

For more information visit: <http://www.masslegalhelp.org/employment-unemployment/unemployment-insurance>

Labor Exploitation

You might be the victim of labor exploitation if:

- Forced to work long hours or do dangerous work
- Low or no salary. No access to money earned
- Dependency on your employer for work, food, transportation and accommodation.
- Forced to pay for tools, food or accommodations and have these costs taken from your wages.
- No tax or PRSI contributions and no access to social supports
- No contract of employment
- Living in groups in the same place as the work place
- Never or rarely allowed to leave the work place without employer's permission
- Being physically or verbally abused

Forms of exploitative labor

Forced Labor: victims are forced to work against their will, under threat of violence or some punishment.

Bonded Labor: a person has to work to pay back an inherited or incurred debt.

Involuntary Domestic Servitude: occurs when domestic workers become trapped in an exploitative situation.

Child labor: hazardous work mentally or physically to development of children. (recruitment for armed conflict, prostitution, pornography, illegal drug trade)

National Human Trafficking Resource Center
1-888-373-7888

This hotline will identify local resources available in your community to help victims.

Employment Leaves

Family and Medical Leave Act:

Employees are eligible for FMLA leave if they have worked for at least 12 months, and for at least 1,250 hours over the previous 12 months and can take up to 12 weeks of unpaid leave during a 12-month period for:

- Birth and care of a newborn child;
- Placement of son/daughter for adoption or foster care;
- Accompany the child to routine medical appointment;
- Care for an immediate family member with a "serious health condition";
- Unable to work due to a "serious health condition."

Massachusetts Maternity Leave Act:

Applies to employers of six employees or more, and requires the employer to provide an unpaid maternity leave of eight weeks to both female and male employees who have completed a probation period or have been employed for three months. At the end, the employee shall be restored to the same or a similar position, same status, pay, length of service credit and seniority.

Small Necessities Leave Act:

Requires employers of 50 or more employees to provide up to 24 hours of unpaid leave for certain family-related issues, such as taking family members to doctors' appointments and attending parent-teacher conferences.

Contact the Dept. of Labor or MCAD for more info. or to file a complaint.

OSHA

The Occupational Safety and Health Administration

Requires employers to provide a workplace that is free of recognized hazards.

- **Right to information:** on chemicals, injuries and illnesses in affecting workers in the past, test your employer has done to measure chemical, noise, and radiation levels.

- **Right to Health and Safety Training:** It is mandatory for employers to provide training on safety and health hazards at your workplace.

- **Right to File an OSHA Complaint:** File with OSHA if you think your workplace is unsafe. According to OSHA's statute of limitation, an employee must file a complaint within 30 days of discrimination or prior to discharge from employment.

Other Resources

Central West Justice Center

405 Main Street, 3rd Floor Worcester, MA 01608

Telephone: 508-752-3718

Toll-free: 1-800-649-3718

TTY: 508-755-3260

Fax: 508-752-4240

Office Hours: Monday-Friday, 9:00am-5:00pm

Worcester Workforce Central Career Center

44 Front Street, 6th Floor Worcester, MA 01608

Phone: (508) 799-1600

Office Hours: Monday-Thursday 8:45am-5:00pm.

Resource Room: Monday-Thursday 9:00am-4:50pm.

Ascentria Care Alliance

11 Shattuck Street, Worcester, MA 01605

To learn more on Human Trafficking or to seek help, visit: www.Ascentria.org

Immigration & Legal Assistance Program

Or contact us:

Tel: 774-243-3100

Fax: 508-754-1393