

WORKERS' RIGHTS MANUAL

Third Edition

PRODUCED BY
ARISE CHICAGO



1436 W. Randolph Street, Suite 202
Chicago, IL 60607
Phone: 773-769-6000
Fax: 844-270-4436
www.arisechicago.org
info@arisechicago.org

This document is intended to be an educational guide about workers' rights and basic labor laws. The suggestions offered for remedying problems in the workplace are intended as recommendations and do not substitute for legal advice. If you need legal advice, please consult an attorney.

Acknowledgments

While the content, opinions, and recommendations of the Workers' Rights Manual are exclusively those of Arise Chicago, we thank the following individuals and organizations for their invaluable contributions and support in updating and expanding this resource for Chicago-area workers:

Third Edition Acknowledgements:

Carla M. Casas
Yolanda Carrillo
Lisa Friedheim-Weis
Michael Hellman
David Huffman-Gottschling
Melissa Josephs
Adam Kader
Nancy Maldonado
César F. Rosado Marzán
Carolyn Morales
Sean Morales-Doyle
Jorge Mújica
Rebecca Rodriguez
Lisa Sciolaro
Christopher Williams

And all others who offered their comments and suggestions

Printed by: Salsedo Press, Inc.

A MESSAGE FROM THE EXECUTIVE DIRECTOR

Arise Chicago is proud to present our Workers Rights Manual, the only publication of its kind in Illinois. We hope it will be a valuable source of information to you and that you will share it with your coworkers, friends, neighbors and faith community.

The Arise Chicago Workers Rights Manual was first published in 2002, updated in 2009, and updated again in 2016. Since it was first published in 2002, this manual has been replicated in many states throughout the United States, serving as a template to teach workers their basic rights.

Regardless of sex, race, sexual orientation, age, documentation status, country of origin, or disability, no one should ever have to endure exploitation in the workplace. Although the U. S. and Illinois need much stronger labor and employment laws that other industrialized countries enjoy, every worker needs to know that there are some laws to protect you from exploitation, discrimination, injury, and other unjust and illegal workplace occurrences.

The Arise Chicago Workers Rights Manual is a tribute to the 50,000+ workers who have used the manual over the past 14 years to learn and assert their rights.

Our manual is a tribute to the workers who partnered with the staff and board of Arise Chicago to combat the \$1,000,000 a day that is stolen from workers in Cook County, and who have now recovered over \$7,000,000!

Our manual is a tribute to all of the workers who partnered with Arise Chicago's vast network of religious, community, academic, and government leaders to speak their moral truth that workplace abuses are not to be tolerated.

Our manual is a tribute to workers who have partnered with the Arise Chicago Legal Advisory Board as they tirelessly advocate for workers in their law firms and non-profit legal assistance organizations. It is our Legal Advisory Board that carefully reviewed and updated major portions of this manual, for which they have our deepest gratitude.

Our manual is a tribute to all of the workers who have yet to come through the doors and become members of Arise Chicago. May the knowledge in this manual give you the strength and vision you need to join Arise Chicago in fighting against workplace abuses.

Rev. C.J. Hawking
Arise Chicago Executive Director

Table of Contents

INTRODUCTION

About the Need for this Manual	8
Arise Chicago	8
Core Principles of Arise Chicago's Worker Center	8

THE BASICS

Common Myths	10
Basic Rights	11
Keeping Records	11
Requesting Copies of Your Personnel File	12
Agencies and Time Limits for Filing Legal Complaints	14

THE RIGHT TO ORGANIZE AT WORK

National Labor Relations Act (NLRA)	19
How to Organize a Minority Committee in Your Workplace	20
National Labor Relations Board (NLRB)	22
Unfair Labor Practices Under NLRA	22
Preparing to File a Charge with the NLRB	23
What is a Union	24
Union Campaign-What to Expect	25
Common Anti-Union Activities of Employers	25
Your Rights as Employees Under the NLRA	26
What to do if You Want to Organize a Union	26
Negotiating a Union Contract	29
The Rights of Union Members	29
What to do if You Have Problems With Your Union	31

WAGE AND HOUR LAWS

City of Chicago Minimum Wage and Overtime	33
State of Illinois Minimum Wage and Overtime	35
Fair Labor Standards Act	36
Employee vs. Independent Contractor Classification	38
Paycheck Deductions	40
Paycheck Irregularities	41
Wage Theft/Non-Payment of Wages	42
What to do if Your Employer is Violating Wage and Hour Laws	44
Chicago Anti-Wage Theft Ordinance	46
Cook County Anti-Wage Theft Ordinance	47

Chicago Base Wage Ordinance (Living Wage)	47
Equal Pay Act	48
Prevailing Wage Laws	49
Raises, Bonuses and Pay Cuts	50
Break and Meals	50
Vacation, Sick Days, and Time Off	51
Family and Medical Leave Act	51

SAFETY AND HEALTH LAWS

Occupational Safety and Health Act (OSHA)	54
Frequently Violated Workplace Safety and Health Laws	55
What to do if Your Employer Is Violating Safety and Health Laws	57
Benefits for Injured Workers	59
Workers' Compensation (Workmans' Comp)	59

WORKPLACE DISCRIMINATION LAWS

What is Illegal Discrimination?	64
Age Discrimination	64
Disability Discrimination	65
Gender-Based Wage Discrimination	66
Pregnancy Discrimination	66
Sexual Orientation Discrimination	68
Sexual Harassment	68
Race and Color Discrimination	69
Religious Discrimination	70
National Origin Discrimination and English-Only Rules	71
Citizenship Discrimination and Document Abuse	72
Criminal Record History	74
What to do if You Are Experiencing Workplace Discrimination	75
Questions Employers Cannot Ask You Before Hiring	77

THE RIGHTS OF IMMIGRANTS AT WORK

Authorization to Work	80
E-Verify	80
Re-verification of Work Authorization	81
Immigration and Customs Enforcement (ICE) I-9 Audits	83
What Should I do if my Employer Tells Me There is a Problem with my documents?	83
What are Employers NOT Allowed to Do During an I-9 Audit?	84
What to do In Case of an ICE Raid?	84
U-Visas – Victims of Certain Crimes	86

T-Visas – Labor Trafficking	87
Social Security “No-Match” Letters	88
 <u>ADDITIONAL LABOR LAWS</u>	
Domestic Workers’ Rights	92
Child Labor Laws	93
Human Trafficking	93
Day and Temporary Labor Services Act	94
Unemployment Insurance	95
 <u>ADDITIONAL RESOURCES AND CONTACT INFORMATION</u>	
Advice for Hiring and Paying a Lawyer	98
Government Agencies Charged With Enforcing Labor Laws	101
 <u>APPENDIX</u>	
A. Sample Hours Worked Tracker	114
B. Sample Workers’ Committee Agreement	115
C. Sample Request to Inspect Personnel File in IL	116
D. Sample Petition for Workplace Organizing	117
E. Sample Letter to Reject Request for Re-Verification of Work Authorization	118

Why has Arise Chicago compiled such a comprehensive manual on workers' rights?

Until the first edition of this publication was published in 2002, there had been no single resource material that addresses the basic worker rights guaranteed by law, such as minimum wage and overtime compensation, health and safety standards, freedom from discrimination in the workplace, immigrant workers rights, and the right to organize, bargain collectively, or act together for other mutual aid and protection. In addition to the manual, Arise Chicago leads workshops about worker rights in congregations and community organizations.

As people of faith, our concern about justice in the workplace is as old as the prophets and as new as today's headlines. We believe in the dignity of labor, a safe and healthy work environment, and a living wage for all workers. Work is sacred because through work we provide for our families, encourage personal growth, and build healthy communities. As a resource guide for workers who seek justice in the workplace, this manual is part of our witnesses to the sacred nature of work. We uphold the human right to fair wages and dignity in the workplace. This manual intends to help you understand your legal rights in the workplace and guide you to take action, as necessary, to defend them.

Arise Chicago

Arise Chicago builds partnerships between faith communities and workers to fight workplace injustice through education, organizing, and advocating for public policy changes. The Arise Chicago Worker Center is a membership-based community resource for workers, both immigrant and native-born, to learn about their rights and organize with fellow workers to improve workplace conditions. Since opening its doors in 2002, Arise Chicago has collaborated with nearly 4,000 workers to recover over \$7 million in owed wages and compensation. Arise Chicago's workplace justice campaigns train workers to know their rights, file complaints with government agencies, organize direct actions, and access legal representation.

Core Principles of Arise Chicago's Worker Center

- 1) Organizing: We believe that union organizing is the most effective long-term solution to workplace problems. A union

contract can be workers' strongest tool to secure rights and benefits not provided for by the law.

- 2) Self-determination: Worker Rights Advocates, attorneys, religious leaders, and friends can provide information and support, but workers must ultimately exercise their own power to bring about changes in the workplace and must be responsible for making the decisions affecting their lives.
- 3) Hospitality: All people are welcome at Arise Chicago regardless of age, race, gender, religion, ethnicity, national origin, sexual orientation, educational background, language, or citizenship status and will be invited into its safe space.
- 4) Respect and dignity: We believe that all people deserve to be treated with respect and dignity. This principle is particularly important, given that most people that come to Arise Chicago (immigrant workers in low-wage jobs) are often treated disrespectfully, particularly in the workplace but also in the media and in other arenas of our society.
- 5) Risk-taking: Challenging unjust systems often involves personal risk. Workers must consider the risks involved (such as being fired or otherwise retaliated against) before taking action. While risk-taking may be necessary to bring about change, we respect that some are not able to do so. We fully support and actively participate in workers' risk-taking activities that will improve conditions and achieve justice for abuses that workers endure.

The Basics

Common Myths

Many workers do not know what legal protections they have under the law. Here are some common myths:

“If I work hard and follow the rules, I won’t be fired”



At-Will Employment Law

Many workers believe if they keep their heads down and work hard, they cannot be fired without a reason. In the state of Illinois, an employer can fire a worker for any reason or no reason at all at any time. There are some exceptions to this if the firing is discriminatory or in retaliation for a worker in collective action with coworkers. In general, employers are not required to justify firings without a union contract.

“Speaking up is too risky”

Protected Concerted Activity

Many workers think that speaking up about a workplace problem is too dangerous and they will risk losing their job or suffering another type of retaliation. In general, it is illegal for most employers to retaliate against any workers who are working together to improve their working conditions. This means an employer cannot threaten or intimidate you, reduce your hours or change your schedule, discipline you, or fire you after they find out you were working with your coworkers to improve your working conditions.

(See *The Right to Organize at Work*)

“Since I am an immigrant, my employer does not have to pay me the minimum wage or overtime”

Remember: All workers have rights under the law.

You must be paid for all the time you work. This includes:

- Driving from your employer’s office to the work site if you are required to arrive at the office and perform work before being sent to your assigned work site, as well as between sites during the workday.

- Putting on and taking off certain necessary safety equipment (donning and doffing),
- Taking a break of less than 15 minutes, if your employer allows you such a break, and
- Required training or orientation.

(See *Minimum Wage*)

Remember- ALL workers have the legal right to:

- Be paid according to the law for their work
- Take unpaid leave for medical reasons or to care for a spouse, parent or child (certain conditions must be met for this law to apply).
- Have a safe and healthy work environment
- Be compensated for medical bills and lost work time incurred from workplace injuries and disease
- Work in an environment free of discrimination in hiring, firing or discipline
- Organize a union or work together for change
- Exercise their rights under the law and report violations without retaliation
- Testify on behalf of other workers who are exercising their workplace rights



Keeping Records

Keep precise records to help ensure 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. Detailed records will help you identify any problems and describe your situation accurately if you need

to file a complaint about a workplace problem.

When you start a new job, be sure to write down:

- The days and hours you work
- Location of where you work (write down all worksites if you work at different locations)

- Full names of your supervisors and employers,
- Phone number for where you work

Also, be sure to keep copies of any contracts or other agreements you sign. Keep records of phone conversations, text messages or e-mail communications. If possible, take pictures in your workplace, with your co-workers, of signs and memos posted or distributed by your employer, and of irregularities, machinery or workplace conditions you consider unsafe or dangerous.

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. If possible, inform your supervisor of a problem before you take legal steps against your employer.

Take special note of any activity relating to the problem or incident, including:

- Date of the incident;
- Time of the incident;
- Location of the incident;
- Conversations regarding the incident;
- Names of any witnesses; and
- Phone calls to government agencies, support services, attorneys and insurance agents.

*Please remember that recording a conversation without the consent of the person being recorded may be illegal and it could not be used as evidence in any legal proceeding. Instead, try to take notes of everything said in a conversation that seems relevant to your case or complaint.

Keep your pay stubs, personnel policies, contracts, union cards, schedules and copies of all papers or letters that you send or receive related to your job.

Requesting copies of your personnel file

The Personnel Record Review Act (820 ILCS 40/.) allows you to request to “inspect any personnel documents which are, have been or are intended to be used in determining that employee's qualifications for employment,

promotion, transfer, additional compensation, discharge or other disciplinary action,” or to obtain a copy of those documents. You can request such review or copies up to twice a year. If you are told or believe your personnel file has information that may be useful to you, request your copy. If you think your file may contain inaccurate or damaging information, you have the legal opportunity to correct it. See below for a sample “Request to Inspect Personnel File” letter that you can submit to your employer.

REQUEST TO INSPECT PERSONNEL FILE IN ILLINOIS

To: **Human Resources Representative/ OWNER NAME**

From: **WORKER NAME**

Date: **MONTH DAY, YEAR**

Under the Personnel Record Review Act, 820 Illinois Revised Statute 40/2-12, I have a right to inspect and get copies of my personnel files within 7 business days. I am requesting copies of my personnel files and any other personnel documents relating to me which you maintain.

Please send a copy of all the documents contained in my personnel file no later than **DATE 7 Business Days from when letter is received** to my address at: **ADDRESS HERE**

Thank you.

WORKER NAME

Note to employer: if you wish to read Personnel Record Review Act, 820 Illinois Revised Statute 40/2-12, go to www.ilga.gov under Compiled Statutes.

Agencies and Time Limits for Filing Legal Complaints

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. Some laws only apply to employers of a certain size. The following table lists the government agencies responsible for enforcing your legal rights in the workplace and the time limits (known as statutes of limitation) associated with those laws. To learn which agency is responsible for enforcing your rights, consult the section that relates to your workplace problem. For contact information and office hours see *Government Agencies Charged With Enforcing Labor Laws*.

Government Agency	Rights Enforced	Time Limit	Minimum Number of Employees
U.S. Department of Labor (USDOL)	Federal Wage Violation Family Medical Leave Act violation	2-3 years after wages were originally due	Two employees if the employer is an “enterprise.”
			If employer is an individual, then only one non-exempt employee.
	Family Medical Leave Act violation	2-3 years after violation occurred	50 or more employees in 20 or more workweeks in the current or preceding calendar year.

Illinois Department of Labor (IDOL)	State wage violation	365 days after wages were originally due	4 full or part- time employees for at least half the year
	Employee classification (in construction work)	365 days after the violation occurred	
	One Day Rest In Seven Act		
City of Chicago Department of Business Affairs and Consumer Protection	City minimum wage violations	365 days after the violation occurred.	4 full or part- time employees.
Equal Employment Opportunities Commission (EEOC)	Discrimination based on race, religion, gender, national origin, age, disability	300 days after the incident occurred	15 full or part- time employees.
Illinois Department of Human Rights (IDHR)	Discrimination based on same categories as EEOC, plus citizenship status, pregnancy, marital status, military service, unfavorable military discharge, and sexual orientation	180 days after the incident occurred	15 full or part- time employees; 1 employee for Sexual Harassment or Disability discrimination.

City of Chicago Commission on Human Relations	Discrimination based on same categories as EEOC, plus sexual orientation, gender identity, marital status, parental status, military discharge status, or source of income	180 days after the incident occurred	One or more employees in the current or preceding calendar year.
Cook County Commission on Human Rights	Discrimination based on same categories as Chicago Commission on Human Relations	180 days after the incident occurred	One or more employees.
Office of Special Counsel for Immigration- Related Unfair Employment Practices (OSC)	Discrimination based on citizenship status, national origin, and document abuse	180 days after the incident occurred	4 full or part- time employees.

Occupational Health and Safety Administration (OSHA)	Safe & healthy working conditions	For safety and health complaints: Within 6 months of the date worker(s) were exposed a hazardous condition;	One or more employees.
	Awareness about toxic substances		
	Discrimination based on complaining about unsafe conditions (to OSHA or the employer), participating during an OSHA inspection, talking with the OSHA inspector, exercising your rights under the OSHA Act	Generally, for whistleblower complaints (retaliation for exercising OSHA rights): Within 30 calendar days from the date the retaliatory decision was communicated to worker	
Illinois Workers' Compensation Commission (IWCC)	Compensation for an injury or disease contracted at work	2-3 years after the accident	One or more employees.

Illinois Department of Employment Security (IDES)	Unemployment Insurance	Individual should apply as soon as he or she loses his/her job	Any employer who paid \$1,500 in wages in a single calendar quarter, or employed one or more persons for 20 weeks in a given calendar year.
National Labor Relations Board (NLRB)	Retaliation for engaging in protected concerted activity or participation in a union organizing campaign	180 days after retaliation occurred	One or more employees.
	Petition for Union election	Anytime, except if a union election took place in the prior 12 months	At least 25 % of all workers must file for the election
Internal Revenue Service (IRS)	Employee classification for tax purposes	No time limit established	No number of workers established

The Right To Organize At Work

The National Labor Relations Act

The National Labor Relations Act (“NLRA”) covers employees who work for many private companies (it does not cover employees employed by state, city, or any government employees or employees of a public school district). If you are a public sector worker in Illinois (employed by a city, the State of Illinois, or a municipality), you are, likely covered by the Illinois Labor Relations Act. If a public school district employs you, the Illinois Educational Labor Relations Act covers you.

Under the NLRA you have the right to:

- Talk and organize with your co-workers to improve working conditions, even without joining a union (like getting better pay, schedule, hours, address health and safety concerns, etc. without fear of retaliation. (See the section on Protected Concerted Activity below);
- Organize, create, or become a member of a labor organization (or choose to refrain from these activities); and
- Collectively bargain (negotiate a contract with an employer as a group of workers) through elected union representatives.

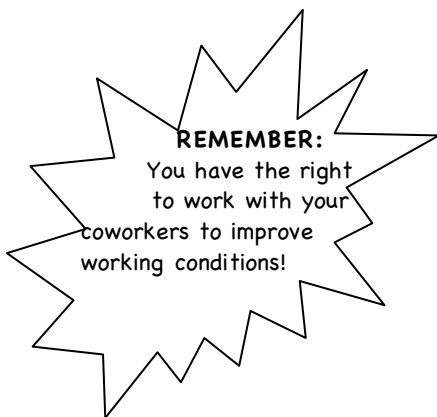
Protected Concerted Activity

Even if you do not have a union in place and you are not looking for union representation, you still have legal protections under the NLRA to seek improvements for your wages, benefits, and working conditions. When you act without a union to seek these types of improvements or to make complaints about your working conditions, it is called protected concerted activity.

Protected Concerted Activity occurs when at least two or more employees come together to improve their working conditions, like asking for a raise, or complaining about not getting promised vacation days. The subject of the complaint to management must be about wages or other terms and conditions of work (such as overtime, safety, vacation, holidays, bad supervisors/managers, etc.).

However, only one employee trying to prepare or incite group action or who is speaking on behalf of other employees in an effort to improve the working conditions for the group is also protected by the NLRA. The single employee's action must be for the benefit of the group.

It is not just verbal complaints that are protected. Efforts to organize your co-workers to stand up to the company, such as discussing wages or working conditions, circulating petitions, or distributing literature, are also protected. Legal action over your group's wages, hours, or working conditions, like filing a lawsuit or complaining to a government agency, are also protected. Direct group actions like work stoppages, walk-outs, and group refusals to work overtime are also protected, to an extent.



You should be careful, though--a work slowdown or repeated work stoppages can be considered "harassment" and may not be protected. Property damage and threats of violence are not protected. If you have questions about whether an action you are considering taking is legally protected, you should contact a workers' center for help.

The NLRA protects non-union employees as well as to union employees. It is important to remember that your actions may be protected by the NLRA even if you do not have a union. But in the end, while your employer cannot punish you for taking group action to improve your wages and working conditions, unless you are represented by a labor union the company is still legally free to ignore your demands. If you successfully organize a union that legally obtains majority support, the company is required by law to negotiate with you.

How to Organize a Minority Committee In your Workplace

Even if you do not have a union, you can work together with your coworkers to improve the terms and conditions of your employment without being retaliated against. See the Sample Workplace Committee

Agreement form in the appendix. Here is a list of suggestions for how to take collective action with your coworkers:

Phase 1: Organize

1. Talk with your co-workers! How well do you know your co-workers? Do you hang out after work or socialize at lunch? Who is interested in making change? Start with the coworkers you trust more.

2. Identify concerns: What are issues workers usually complain about? What would you like to change in your workplace?

3. Share knowledge: Remind all workers that they have rights. Talk about retaliation and what you can do to protect yourselves. Contact Arise Chicago Worker Center to get trained on your rights.

Phase 2: Document

4. Select a committee name (ex: Cleaning workers committee)

5. Create a sign-in sheet for every meeting. Be sure to save emails, text messages, or written forms you create. Keep meeting agendas and minutes.

6. Establish committee rules and create an incorporation document. (see “Sample Workplace Agreement Form” in the appendix for ideas) Things to consider:

- How many committee members need to be present to make a decision?
- What can the committee do to protect itself from retaliation
- What are some other concerns workers have?
- What should the committee focus on first?

Phase 3: Take Action!

7. Notify the employer of the committee and your right to be free from retaliation via a letter.

8. Circulate petition among all employees and inform them of their rights to organize without fear of retaliation. Present employer with a petition including demands of what needs to be improved at the workplace. Include a date by which the committee would like to receive a written response from a company representative.

9. Provide updates to fellow employees about changes management plans to make. Plan to hold monthly open meetings where workers can share their concerns and vote on future demands.

What Is The National Labor Relations Board and What Does It Do?

The National Labor Relations Board (“NLRB” or “Board”) is the federal government agency that enforces the NLRA. The NLRB investigates charges (called unfair labor practices) filed by employees and former employees, unions and worker centers, and employers.

All charges with the Board must be filed within 6 months of the date that the illegal event (like a discharge) took place, or within 6 months of when you or the union should have reasonably known about the event. Do not wait too long to file a charge with the NLRB or it will be time-barred.

The NLRB also processes petitions for union elections and runs these elections.

If you have questions about a charge or a petition, or even if you just want to know if something that happened to you at work is covered by the NLRA, call the Chicago office of the NLRB at: 312-353-7570. They have an Information Officer who can speak with you about your issue in English, Spanish, or Polish (and can ask for a translator for other languages) from 8:30 am-5 pm, Monday through Friday, no appointment necessary.

Most Common Types of Unfair Labor Practice Charges under the NLRA (this is NOT a complete list):

8(a)(1): charges filed by an employee or a union because an employer has done the following to an employee:

- Made threats of discipline, discharge, or worse benefits because the employee tried to work with other employees to improve his or her conditions of employment;
- Surveilled (watched) employees’ union activities or other actions done together by the employees to improve their working conditions, or because the employees were involved in such actions;
- Made promises of better benefits (such as higher pay) in order to avoid a union;
- Interrogated (questioned) employees about a union;
- Disciplined or gave warnings to employees without a union because the employees were acting together to improve their working conditions;

- Established work rules that do not permit the employees to communicate in person or even electronically (such as over email or “Facebook”) to each other and the public about their working conditions, including such things as wages, hours, health and safety conditions at work, and even political issues dealing with work, such as minimum wages, among other issues.

8(a)(3): charges filed by an employee or a union because an employer has disciplined or discharged an employee or reduced benefits because an employee engaged in union activities.

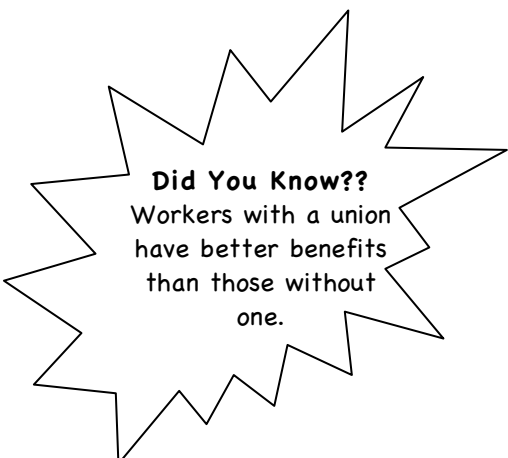
8(a)(5): charges filed – usually by a union – because an employer is not bargaining in good faith with an elected union. Includes not providing relevant information; not meeting at reasonable times; making bad-faith proposals to the union; bargaining without a real intent to reach an agreement.

8(b)(1)(A): charges filed by an employee against a union for not representing the employee – either by refusing to file a grievance under the contract or by failing to process the grievance.

Preparing to File a Charge with the NLRB and Preparing for Your NLRB Meeting

If you think you want to file a charge with the NLRB, remember to file it within the 6-month time limit from the date the illegal event took place. You can contact Arise Chicago worker center for assistance in completing a charge, or fill out a charge form on the NLRB website: www.nlr.gov, or you can go to the Chicago NLRB office to file a charge (no appointment needed to file a charge), or you can call the Information Officer to assist you in filing the charge. There is never a cost associated with filing or investigating a charge with the NLRB.

Once your charge is filed, you will need to provide a sworn statement, called an affidavit, to a Board Agent. This usually takes place within



Did You Know??
Workers with a union
have better benefits
than those without
one.

about 1 week after you file your charge, usually at the NLRB office. You will be asked questions by the Board Agent about what happened, and you will be expected to sign your statement swearing that your testimony is the truth to the best of your knowledge and belief. Translators will be provided for you if you are not comfortable speaking in English. Your employer will NOT receive a copy of your affidavit during the investigation of your charge.

Unions and Your Rights Under the NLRA

What Is A Union?

A labor union is an organization of “employees” who act collectively to improve wages, hours, benefits, working conditions, workplace rules and policies, and treatment by management. The union bargains with the employer on behalf of the employees for a contract.

A union contract gives you, the employee, many protections and benefits that, without a contract, you simply do not have under the law. For example, many union contracts include protections against:

- Favoritism
- Being fired without justification
- Disrespectful or undignified treatment
- Health and safety risks not covered by OSHA
- Being fired, demoted, or subjected to other disciplinary action without warning
- Any other protection employees are willing to fight for

Many union contracts include benefits such as:

- Seniority
- Health insurance
- Wage increases
- Breaks
- Grievance procedure for resolving contract violations and workplace problems
- Pensions
- Maternity and paternity leave
- Paid vacation, holidays, personal days, sick leave
- Extra pay for working holidays
- Unpaid leave of absence
- Post notices about union activities
- Any other right or benefit workers are willing to fight for

Without a union contract, your company does not necessarily have to offer any of these protections or benefits.

Union Campaign – What to Expect

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; ask you who has gone to or will be going to union meetings; or ask you which employees support the union;
- Promise you or give you, raises, promotions, or other benefits 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;
- Discipline you, transfer you, or otherwise treat you differently because you support the union; or
- Deny the union the right to talk to you or to try to prevent you from talking to the union.

Common Anti-Union Activities of Employers

When a company learns that workers are interested in forming a union, management usually responds with a campaign of its own, often hiring anti-union consultants and lawyers to help them figure out how to convince or intimidate you into voting against the union without being charged with violating the law.

Common employer tactics include:

- Forcing you or your co-workers to attend meetings where the boss or a human resources officer will try to convince you that forming a union is a bad idea.
- Pulling you aside for private discussions with supervisors or human resources officers.
- Telling you that the union “only wants your dues money,” that “you will pay more in dues than you will get in a raise,” that the union is an “outsider” or a “third party” that the particular union the workers want to join is corrupt.
- Telling you that the factory or store where you work will have to close if you and your co-workers form a union.

- Asking you for a “second chance” to correct conditions workers are unhappy about.
- Claiming that the union will check everyone’s work documents and report undocumented workers.
- Laying off workers, change their shifts, and/or reduce their hours.
- Closely monitoring workers who are thought to be leaders of the organizing effort.

Your Rights As Employees Under the NLRA:

If you have a union in place where you work or are thinking about contacting a union to represent a group of workers at your workplace, you have many protections under the NLRA. You can legally do such things as:

- Wear a union button or clothing (depending on your workplace and your contact with the public);
- Attend union meetings;
- Talk about the union on non-work time and in non-work areas;
- Talk to union representatives on non-work time and in non-work areas;
- Vote in a union election

It is a good idea to carefully document all anti-union actions and communication from your employer, and to consult with Arise Chicago, a labor lawyer and/or to file Unfair Labor Practice complaints with the NLRB if you think your employer has crossed the line into illegal threats, intimidation, or promises.

What To Do If You Want To Organize A Union

You and your coworkers do not need anyone’s permission to form a union. You are a union as soon as you start acting like one—*by working together to improve the workplace*. But to get the right to force the employer to bargain in good faith for a legally binding contract, you need to win formal union recognition. Here are some recommended first steps toward forming a union in the workplace:

- **Form an organizing committee.** Identify a group of coworkers who also believe that change is needed in your workplace and are willing to work for it. Make sure you have their contact information. This group will be your initial organizing committee.

It is a good idea to keep your organizing quiet at this point so that you can build a solid group of workers before your employer is aware of the campaign, since the company may actively oppose you. Be sure to discuss the union **ONLY** on your time, such as before or after work, on breaks, or outside of the workplace.

- **Identify what you want to change, and how you want to do it.** Find a time when the committee can get together away from the workplace for a meeting to discuss next steps. You may also want to arrange for a worker rights advocate or a union organizer to join your meeting to share advice. Identify some of the key issues you and your coworkers want to change in your workplace, discuss options for how to take action, and decide as a group if you want to move forward with forming a union. Talk about what workers can expect from an anti-union campaign. Knowing what to expect will help workers withstand an anti-union campaign, so make sure to talk about this with every worker who gets involved.
- **Circulate a union petition.** As co-workers join the organizing committee, each should sign and date a petition stating that you all are “acting collectively to seek improvements in the workplace.” See Sample Petition for Workplace Organizing for an example, p. 65. Should your employer retaliate against any members of the committee, the petition will help to show that the discipline or action was in response to the worker’s involvement in union activity.
- **Research your company.** Start compiling all the information you can about your employer. Crucial information includes:
 - Who owns the company?
 - How many employees work for the company?
 - Names, phone numbers, addresses, and job titles of all employees, including management
 - Other locations, branches, work sites, etc. of the company
 - Shift schedules, and who works which shift
 - Names, phone numbers, and addresses of all suppliers
 - Names, phone numbers, and addresses of key customers
 - Are there any worker rights, safety, or health violations occurring?

- **Choose which union to join.** As soon as you have a solid group (at least 5-10 workers from each shift), arrange a formal meeting with a staff person from the union you and your coworkers want to join to see if they have resources to assign a staff person to your campaign. It is important that as many members of your organizing committee as possible attend the meeting. Some unions may have guidelines for which industries they will work with or how large a group must be before they can assign staff to support your campaign.

There are two major union coalitions: the AFL-CIO and the Change to Win Coalition. You may contact either of them directly to get help organizing your workplace. There are also a handful of unions that are independent of these two coalitions. Even if the union cannot commit staff to your campaign, they should either offer you advice for how to move forward or refer you to another union that might be better suited for the situation at your workplace. Once you've entered into a partnership with a local union for your organizing drive, work with your future union to develop and carry out a campaign strategy.

- **Identify community allies.** Reach out to religious congregations, student groups, politicians, community leaders, and worker rights organizations for support in your campaign. These groups can help to leverage moral and consumer pressure on the company to respect your rights. A union organizer or worker rights advocate will already know many likely allies and can help you make connections. You and your co-workers should also identify the community networks and organizations you are already a part of, and reach out to these groups for support. Remember, most clergy and community leaders want to know if members of the community are facing struggles, because they want to help.
- **Identify spokespersons amongst your coworkers.** Your campaign will make a real difference in the lives of people who are struggling to make ends meet. You may be fighting for affordable health insurance, a living wage, family-friendly schedules, or improved safety conditions. You and your coworkers will need to become comfortable telling your own stories about why your struggle is important, and why support

from the community will make a lasting difference in the lives of your families.

Arise Chicago can offer support and advice for organizing your workplace such as: assist you in choosing an appropriate union; provide a safe space for initial organizing meetings; and offer opportunities for you to talk with other workers who are union members and/or have been part of a union organizing campaign.

Negotiating a Union Contract

Once the union is recognized in your workplace, it will need to negotiate a contract with the company. All the workers in your workplace should meet to elect a committee from among your co-workers to represent all the workers during the contract negotiations and to write a contract proposal to submit to the company.

The contract proposal may include any items within reason that affect you at work including:

- Wages and overtime policies
- Employer-paid health insurance
- Job security
- Promotions based on seniority
- Vacation time

After the contract has been negotiated, workers will vote to accept or reject the contract. If workers reject the contract, the union and the company will continue negotiations until they reach an agreement.

In some cases, when the company and the union reach a stalemate in bargaining and cannot reach an agreement, workers may decide to strike. An effective strike requires many of the same efforts by workers as an organizing campaign, because strikes only work when workers stick together. Most contracts are negotiated without strikes.

Source: Adapted from the “The Union Handbook” by the United Food and Commercial Workers International Union

The Rights of Union Members

As a union member, it is your right and your duty to participate in the life of your union. Most unions welcome participation from their members, as they believe that a union is only as strong as its membership.

You have the right to attend membership meetings.

Most unions welcome members attending the meetings that are open to union members. This is the best way to make your voice heard within your union. Further, you can learn how your union is addressing workplace practices that you and other union members are facing, problems where management may not be adhering to the contract and how the union is responding, and every few years about the union's efforts to negotiate a new contract.

You have the right to participate in elections for union officers.

At the union meetings you will learn about periodic elections of union officers and how to get on the ballot, should you want to run for office. You can also nominate candidates for office. Everyone is guaranteed the right to vote by secret ballot.

You have the right to review a copy of the collective bargaining agreement.

It is important for you to understand what your rights are under the contract. You can ask your union representative or office to assist you in obtaining a copy. If you don't understand a part of the contract, contact your union steward or call your union office.

You have the right to a copy of the union's by-laws and constitution.

In order to understand union rules and procedures, such as when and how elections are held, or if workers need to vote to approve a new contract, you will need a copy of your union's by-laws. Ask your union representative or office to help you get a copy.

You have the right to be fairly represented by your union.

When a union has a contract with the company, it must represent all the workers covered by that contract. This is called the "duty of fair representation" and states that the union will represent all members in good faith and without discrimination.

Under most union contracts, if the company violates the contract, the union can submit a grievance complaining about the violation. If the union and the company cannot resolve the grievance, most contracts provide for a neutral arbitrator to decide. If you submit a grievance to the

union, the union must investigate and must submit every valid grievance to the company.

Even if the union filed the grievance, it does not have to take it all the way to arbitration; the union cannot take every grievance to arbitration due to the high cost. If the union will not file your grievance, ask the union steward or an officer to explain why not.

If, after talking to your union steward or officers, you have a question about whether your union has fairly represented you, you can call the National Labor Relations Board (for public sector workers) or the Illinois Labor Relations Board (for public sector workers) and they will be happy to answer your questions.

Source: Adapted from the document “The Rights of Union Members and Workers Represented by Unions”

Addressing Concerns as a Union Member

While unions are the best way for workers to gain a voice in their workplace, you may occasionally have problems or concerns with your union, just like with any other organization you belong to.

If you have questions about your union’s actions, discuss the situation with your union steward or a union officer. There may be laws, contract provisions, or circumstances of which you are not aware. Ask the union steward to make an effort to investigate your concern and, when possible, to show you the provision in the contract that addresses your matter. Attend your union meeting and ask questions. A strong union needs active, educated members.

If the response from your union steward is unclear or not satisfactory, you should contact an elected officer of your union. If you still have not received a satisfactory answer, you should contact your union president or business manager. Perhaps you want to ask for a face-to-face-meeting to clarify the matter, and bring your union steward along. If all of these avenues have proven to be unsatisfactory, you can contact the Department of Labor’s Office of Labor-Management Standards (OLMS) to ask questions. (See Government Agencies Charged With Enforcing Labor Laws for contact information).

If you think your employer or your union is discriminating against you on the basis of race, religion, national origin, sex, age, or disability, you may file a complaint with the Equal Employment Opportunity Commission (EEOC).

If you are a public employee, you may need to go to the state equivalent of these agencies: the Illinois Labor Relations Board, the Illinois Department of Labor, or the Illinois Human Rights Commission. Any of these agencies can tell you if you have contacted the right agency for your workplace problem or should consult another agency instead.

As well, consider calling Arise Chicago or another workers center to inquire about your concerns and rights. You also need to be aware that many employers seek to divide union members against one another. Do not trust an employer who is advising you to take action against your union. Talk to the union first or go to a worker center if you need further advice.

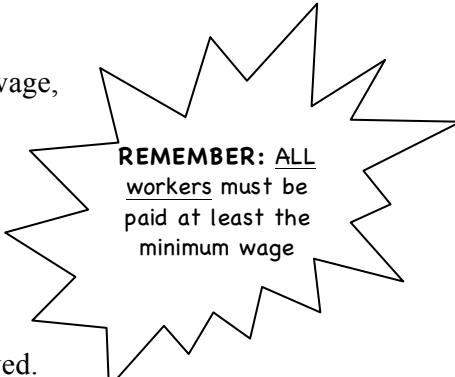
Source: Adapted from the U.S. Department of Labor – Office of Labor Management Standards website www.dol.gov/esa/olms_org.html

Wage and Hour Laws

The Minimum Wage

City of Chicago

To qualify for the Chicago minimum wage, an employee must perform the work within city limits. In general, the Chicago minimum wage ordinance applies to employers with at least 4 full-or part-time employees for at least half the year. However, this 4-employee minimum does not apply to domestic workers who are self-employed.



REMEMBER: ALL workers must be paid at least the minimum wage

Some exceptions apply to the minimum wage law. Employers of the following classifications of workers may pay less than the current minimum wage:

- Employees in the first 90 days of employment (may be paid a probationary rate of 50 cents less than the current minimum wage if they are 18 years of age or older). Temporary laborers are exempt from this probationary rate.
- Tipped employees (may be) paid a base wage of \$5.45 per hour, but must receive at least the equivalent of the Chicago minimum wage per hour in wages plus tips or the employer must make up the difference, bringing the wage up to at least the minimum wage). A tipped employee is a worker receiving at least \$30 dollars in tips in a month. The base wage of a tipped employee may be minimum wage or higher, but the tips, regardless of the amount, belong to the worker.
- Workers under age 18 (may be paid 50 cents per hour less than the minimum wage)
- Some agricultural workers,
- Domestic workers in private homes,
- Some commissioned salespersons,
- Some employees of religious organizations,
- Certain students at Illinois state universities,
- Employees of governmental entities besides the City itself,
- Certain motor carriers; and

- Workers with disabilities under the “commensurate wage rate”. Under federal certification, a company may pay workers with disabilities “a portion” of wages according to their productivity.

Minimum Wage for Non-tipped Employees in Chicago

The minimum wage in Chicago is \$10 per hour effective July 1, 2015; \$10.50/hour effective July 1, 2016; \$11.00/hour effective July 1, 2017; \$12.00/hour effective July 1, 2018; and \$13.00/hour effective July 1, 2019. Beginning on July 1st of 2020, the Chicago minimum wage will increase every year according to the inflation as calculated in the Consumer Price Index (CPI). (see the chart in the next page for information on these increases).

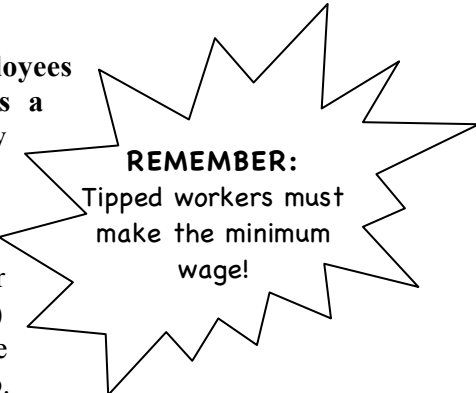
Minimum Wage for Tipped Employees in Chicago

The minimum wage in Chicago for tipped employees is **\$5.45 per hour** effective July 1, 2015. The Chicago tipped minimum wage will go up 50 cents July 1, 2016 to \$5.95/hour. Beginning on July 1st of 2017, the Chicago minimum wage for tipped workers will increase every year according to the inflation as calculated in the Consumer Price Index (CPI). (see the chart below for information on these increases).

Tipped employees have the right to receive at least the equivalent of a full minimum wage per every hour worked, and the right to overtime pay. If a tipped employee in Chicago is being paid a base wage of \$5.45 an hour and does not receive at least, on average, \$4.55 in tips every hour, then the employer must cover the deficit. The same rule applies for overtime. In Chicago, a tipped worker must make at least, on average, \$15 an hour, considering an hourly base wage of at least \$8.17.

Overtime Pay

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.** (see the following page for important overtime exceptions.) See the chart below for the overtime rate in the city of Chicago.



REMEMBER:
Tipped workers must
make the minimum
wage!



Chicago Minimum Wage			
Effective Date	Non-Tipped Employees	Tipped Employees	Overtime Rate
July 1, 2015	\$10.00	\$5.45	\$15.00
July 1, 2016	\$10.50	\$5.95	\$15.75
July 1, 2017	\$11.00	Increases with CPI*	\$16.50
July 1, 2018	\$12.00	Increases with CPI*	\$18.00
July 1, 2019	\$13.00	Increases with CPI*	\$19.50
July 1, 2020	Increases with CPI*	Increases with CPI*	Increases with CPI*

Illinois Minimum Wage Law

The minimum wage in the state of Illinois is **\$8.25 per hour** effective July 1, 2010. This is higher than the federal minimum wage (\$7.25 per hour effective July 24, 2009). Employers in Illinois must pay the Illinois minimum wage, unless they are in Chicago, in which case they will have to pay the higher Chicago minimum wage (see above). Your employer is required to display a poster with the current minimum wage by law.

Some exceptions apply to the minimum wage law. Employers of the following classifications of workers may pay less than the current minimum wage:

- Employees in the first 90 days of employment (may be paid a probationary rate of 50 cents less than the current minimum wage if they are 18 years of age or older). Temporary laborers are exempt from this probationary rate.
- Tipped employees (may be) paid a base wage of \$4.95 per hour, but must receive at least the equivalent of the Illinois minimum wage per hour in wages plus tips or the employer must make up the difference, bringing the wage up to at least the minimum wage). A tipped employee is a worker receiving at least \$30 dollars in tips in a month. The base wage of a tipped employee may be minimum wage or higher, but the tips, regardless of the amount, belong to the worker.
- Workers under age 18 (may be paid 50 cents per hour less than the minimum wage)
- Some agricultural workers,
- Domestic workers in private homes,
- Some commissioned salespersons,
- Some employees of religious organizations,
- Certain students at Illinois state universities,
- Certain motor carriers; and
- Workers with disabilities under the “commensurate wage rate”. Under federal certification, a company may pay workers with disabilities “a portion” of wages according to their productivity.

While this section describes the minimum wage, under the Illinois Wage Payment and Collection Act, workers have the right to be paid whatever the employer agreed to compensate them (this includes written or verbal agreements).

Fair Labor Standards Act

Under Federal law, all workers have the right to:

Overtime Pay

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 \$8.25 per hour should be paid \$12.37 per hour for every hour over 40 hours worked during the course of a week. Salaried employees, who are not exempt, are also entitled to overtime pay.

Exempt (salaried) Workers

Many workers are not covered at all by federal overtime pay requirements (these workers are often referred to as “exempt” employees). Included in this group are the classifications listed below, but remember that many employers misclassify their employees to avoid paying overtime, so if you are unsure, you should seek advice from a workers’ center or lawyer:

- Employees in executive (power to hire and fire), administrative, creative and professional positions;
- Employees in computer related occupations;
- Employees of retail establishments paid on a commission basis;
- Farmworkers and other agricultural employees;
- Automobile salesmen;
- Truck drivers transporting goods in commerce;
- Loaders of trucks transporting goods in commerce; and
- Independent contractors.

There are other exceptions to the overtime laws:

- **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. In other words, if you work in such a facility, your employer doesn’t have to pay you overtime until you’ve worked more than 80 hours in less than two weeks or you have worked more than 8 hours in a single day. An employer who uses this “8 and 80” system must: (1) have a prior agreement with the employees to use this system; (2) use a fixed 14 day period; and (3) pay all employees under the “8 and 80” system, including part-time employees, overtime after 8 hours of work in a single day even if the employee does not work 80 hours or more in the 2 week period.
- **State and local government employers** may give workers “comp time” (one and one half hours of compensatory time—paid time off—for each hour over 40 worked during the course of the week) instead of 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.
- **Employers in Illinois with fewer than four employees** are not required to pay overtime.

Mileage

Delivery drivers or other employees who are required to use their own vehicles to perform their jobs, can be reimbursed for mileage and car-related expenses according to a rate per mile determined each year by the Internal Revenue Service. In 2015, the reimbursement rate was 57.5 cents per mile driven.

The law requires employers to reimburse workers whose car expenses for work-related purposes drop them below the minimum wage. While other employers are not necessarily required to reimburse workers for their mileage, it is customary to pay mileage if the employer is asked to use his/her own vehicle.

For taxes purposes, whether or not the employer reimburses you for mileage, you can discount your mileage in your tax return. The rate per mile is determined each year by the Internal Revenue Service.

Employee vs. Independent Contractor Classification

The law generally protects the rights of “employees,” not “independent contractors.”

However, many times workers are misclassified by their employers as independent

contractors rather than employees in order to avoid paying taxes, workers’ compensation, and other benefits that workers deserve. What your employer calls you is not the final word. The Department of Labor and courts use the “**economics realities**” test to decide whether a worker is an employee or an independent contractor. Some differences between employees and independent contractors under this test are listed below:



**EMPLOYEE OR
INDEPENDENT
CONTRACTOR???**

Employee	Independent Contractor
Does not own the business contracted for the work performed.	Owns a business contracted for the work performed.
Work done by employee is essential part of employer's business	Work done by independent contractor is not an essential part of the employer's business.
Employee does not significantly invest in the business of the employer	Independent contractor significantly invests in his business.
Employer controls the essential elements of the employee's work.	Independent contractor exercises independent judgment in performance of the work.
Usually paid by the hour.	Usually paid by the job or by commission.
Job does not require a particular skill.	Job requires skill or craftsmanship.
Employer provides worker with tools and equipment.	Independent contractor provides own tools and equipment.
Employer sets employee's hours.	Independent contractor sets own hours.
Payroll taxes are withheld from employee's paycheck (including Social Security, Medicare, and federal and state income tax).	Taxes are not withheld from independent contractor's paycheck.

Be aware that the definition of “employee” vs. “independent contractor” is different under different laws. In addition, it may not be clear from your particular work situation whether you are an “employee” or an “independent contractor,” but if you are classified as an independent contractor and you believe you may meet the definition of employee, your employer may be breaking the law. You should talk to an attorney or a worker center to learn more about your rights.

Construction Workers and the Employee Classification Act

Construction workers in Illinois are better protected under the Employee Classification Act. As of January 1, 2008 if you are a construction worker in the state of Illinois you are an employee UNLESS the employer can show that:

- You decide for yourself what work to do and how to do it;
- The contractor who hired you is unskilled or not knowledgeable in the work you were hired to perform;
- You have your own business apart from the person contracting you.

Construction work includes any work involving transporting construction-related materials or making improvements, alterations, repairs, renovations, maintenance or additions to any road, highway, bridge, building, structure, parking facility or property in any of the following areas:

- Private and public construction;
- Road, bridge, railroad, sewer, excavation, and water works;
- Commercial and residential building;
- Landscaping, painting and decorating work;
- Maintenance, renovation and repair work;
- Moving construction materials to or from the work site.

Any construction contractor with one or more workers who are not employees must post these requirements in English, Spanish and Polish at each work site and in the company office.

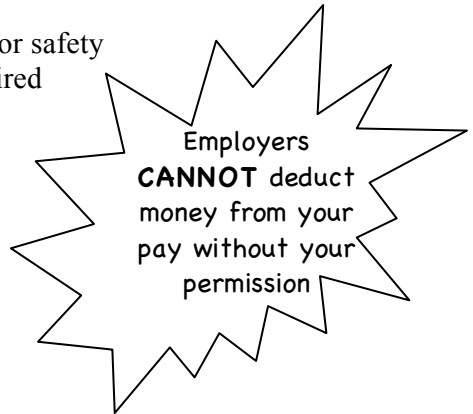
Anyone may file a complaint with the Illinois Department of Labor against a contractor who misclassified an employee. The Department of Labor may send investigators to the job site and request company records. It is illegal to retaliate against a worker who has filed a complaint or testified in an investigation under this law.

Paycheck Deductions

Your employer usually cannot make deductions from your pay unless you agree to them in writing every time a deduction is made. Exceptions include income taxes, Social Security (FICA), valid court-ordered deductions such as child support payments or wage garnishments and repayment of a loan or advance made by the employer.

There are many types of deductions where the employer is required to get your written permission to take money out of your paycheck for each deduction. These include:

- Charging you for a uniform or safety equipment that you are required to use
- Deducting pay if your cash register is short
- Deducting money for broken or missing equipment
- Forcing a worker to share their tips with other employees and/or the management



Paycheck Irregularities

Sometimes employees are paid in cash, in one large sum or late. While these are unusual practices, unfortunately they are usually not illegal unless you and your employer have a written agreement that says otherwise.

The Illinois Wage Payment and Collection Act (820 ILCS 115) establishes that the employer can pay up to “13 days after the pay period ended”, but no later than that. This is what creates the illusion of a “week’s deposit”, as wages are withheld by the employer.

Wages have to be paid in legal currency, either in cash, by check, or direct deposit in a worker’s bank account. However, the employer cannot decide which bank, or cannot give vouchers to be spent at any particular place.

The employer must also provide each worker with “a written receipt that shows hours worked, rate of pay, overtime pay and overtime hours, gross wages, an itemization of all deductions, wages and deductions year to date.”

Also, an employer can pay wages with credit cards, but this practice has limitations. Employment can not be conditioned to accept credit cards or direct deposits, and wages can not be paid in such way unless workers

agree to it; all bank or card discounts and fees are clearly explained to the workers and options to obtain free card or bank statements are also provided. The employer has to provide alternative ways of payment, and workers must be able to withdraw all their wages without paying fees, consult their balances in the same way. Payroll credit cards should not charge any point of sale fees, and cannot be linked to any credit card.

(Source: Amended at 38 Ill. Reg. 18517, effective August 22, 2014, <http://www.ilga.gov/commission/jcar/admincode/056/056003000C06000R.html>)

If you experience any irregularities in pay, be sure to keep a written record of:


- The days you worked
- The number of hours you worked each day
- When you were paid
- How you were paid—in cash or check
- How much you were paid

Keeping careful records will help you confirm whether you are being paid for every hour you work and for any overtime wages you should be earning.

Remember, it is always a good idea to keep detailed records including your employer's and supervisor's full name(s), the name, address, and telephone number of the company, car license plates (if you work for an individual or a company without a formal office), etc. You should also keep copies of pay stubs, time cards, and work schedules if you have them. These records may be needed to file a claim against your employer if you are owed unpaid wages.

Wage Theft (Non-payment of Wages)

Wage theft, or non-payment of wages, is illegal. If your employer refuses to pay you any portion or the total wages you are owed, he or she could be charged with a misdemeanor offense, fines and/or



**Wage Theft is
against the
law!**

other penalties by the U.S. Department of Labor and the Illinois Department of Labor.

Your employer must pay you for every hour you work as well as any overtime pay you earn. You have the legal right to be paid for your work regardless of your documentation status.

Your employer must also pay your wages (and your final paycheck if your employment has been terminated) within a certain time period, depending upon how often you agreed to be paid (this does not apply to state or federal employees). In general, your employer should pay you for all the hours you worked in a certain pay period before the end of the following pay period.

Types of Wage Theft

Through our work with members over the years, Arise Chicago has identified over 20 ways in which employers steal workers' wages:

1. Nonpayment of wages outright (common among construction contractors who promise to pay at a job's conclusion, then disappear)
2. Nonpayment of time and one half for overtime hours worked beyond the standard 40-hour work week
3. Paying below the minimum wage
4. Paying workers late (beyond when the pay period ends)
5. Having workers work off the clock, unpaid (requiring workers to show up to work early before their shift actually begins; asking workers to stay after work in order to clean up, etc.)
6. Denying workers their last paycheck (when they leave the company or the company closes)
7. Charging workers or deducting from workers' paychecks for breaking a rule or product on the job
8. Charging workers or deducting from workers' paychecks for company-provided uniforms or company-provided transportation without requesting the worker's written permission, when using those uniforms or transportation are required
9. Charging workers for "benefits" such as getting a promotion or taking a sick day
10. Not paying workers for the hours spent traveling on company time

11. Not paying workers for accrued Paid Time Off (PTO), such as unused vacation or sick days, when payment for those days is company policy
12. Not paying workers the first week's pay upon termination or dismissal, commonly known as "week's deposit"
13. Misclassifying of workers as "independent contractors," by which they are denied certain protections and benefits, such as access to unemployment insurance, workers' compensation, and are not covered by state and federal minimum wage and overtime laws
14. Misclassifying workers as "exempt" or "salaried" employees instead of hourly workers
15. Not giving tipped workers their entire tip, or management keeping the workers' tips or forcing them to share tips with non-tipped employees
16. Charging workers for a meal break that is not taken or denying workers a meal break
17. Paying workers with debit cards that charge a fee (Fees are normally charged for routine transactions, such as checking the card balance or withdrawing cash)
18. Charging or not reimbursing workers for products they purchase that are required for work
19. Pressuring workers not to file for workers' compensation when they are injured on the job
20. Denying workers' their paycheck for whatever reason- for instance, if the workers do not open a checking account with a particular bank, sign specific agreement or waivers, or forcing them to comply with other requirements
21. Requiring workers' to donate a portion of the paycheck to a charity of the employer's choice.
22. Requesting workers to do "voluntary" work (like yard work or attending charity events)

What to Do If Your Employer Is Violating Wage and Hour Laws

1) Gather as much employer identification and contact information as you can, including the employer's full name, the name, address, and phone number of the company, or car license plate numbers of the employer if you can't find other contact information, etc.

2) *Gather workplace information*, such as the number of workers employed by the company, number of workers who are victims of wage theft, name and contact information of your union representative if you have one, etc. Talk to other employees that you trust to see if anyone else is owed wages. If you are owed wages, it is likely that other employees are, too. A group of employees (even if some no longer work there) has a stronger case because each person is a witness that wages were not paid correctly.

3) *Gather any evidence that you have of unpaid wages*, including copies of paychecks or pay stubs, time sheets, work schedule, witnesses, copies of emails, text messages, and any other documents or communication. If you do not have paper evidence of owed wages, try to find someone who worked with you that would be willing and able to confirm that you worked for the company and were not paid correctly. Or make a record of your hours from what you remember.

When you have collected the necessary information you can choose to do any of the following:

- *Talk to your union representative*, if you have one. Your union likely has a collective bargaining agreement with the company and therefore has some power and influence over your employer. The union should be able to assist you with talking to your employer about your wage issue and resolve the matter relatively quickly.
- *Contact the Arise Chicago Worker Center* to learn more about your rights as an employee, your options for resolving workplace problems, and how your efforts can make a difference for fellow workers.
- *You can talk to your employer directly* about your unpaid wages. Your employer should already know that it is illegal not to pay wages or overtime. Have a trusted person accompany you when you meet with your employer for moral support and to be a witness of the conversation.
- *File a wage claim* with the Illinois Department of Labor or the U.S. Department of Labor (see *Government Agencies Charged With Enforcing Labor Laws* for contact information). Anyone, regardless of citizenship status, may file a complaint with these government agencies. This option is rather easy to do, but be aware that the process often takes over a year and does not

guarantee a positive outcome. Make sure that you notify the Department of Labor if any of your contact information (name, address, phone number) changes so that they can contact you; otherwise your claim may be dismissed.

- *File a private lawsuit* against your employer with an attorney. A lawyer can be very helpful, but be aware that you may be charged a fee for the services (see *Advice for Hiring and Paying an Attorney* for tips on hiring a lawyer). Note that the legal process moves slowly, may take over a year and does not guarantee a positive outcome. It is common not to hear from your lawyer for weeks at a time, but if you have questions or concerns, it is your responsibility to contact your lawyer. Generally, your immigration status is not important in a wage and hour case.

Chicago Anti-Wage Theft Ordinance

This ordinance protects workers by providing them with additional tools to combat employers who engage in wage theft practices. The ordinance allows the City to deny, revoke, or suspend a business license if a business engages in these practices.

A business license application may be denied if during the 5-year period prior to the date of the application the applicant admitted guilt or liability or has been found guilty or liable in any judicial or administrative proceeding of:

- A willful violation or two or more violations of any state or federal wage laws;
- A violation of any state or federal law regulating the collection of debt;
- Three or more violations of the Chicago Minimum Wage Ordinance.

A business license may be revoked or suspended if the business admitted guilt or was found guilty of any of the offenses listed above:

- During the period a license is held; or
- During the 5 year period prior to the issuance of the license.

The ordinance only applies to violations that occurred on or after June 1, 2013.

Cook County Anti-Wage Theft Ordinance

This ordinance protects workers by providing them with additional tools to combat employers who engage in wage theft practices. The ordinance grants 3 tools that serve to incentivize employers to follow the law:

(1) County Contracts

Under the Ordinance, businesses will need to certify that they follow basic wage laws when they apply to receive a county contract. If a business has been repeatedly or willfully in violation of any of these laws in the previous 5 years, it cannot receive a contract. If a business that currently has a contract with the County is found to be repeatedly or willfully in violation of basic wage laws while under contract with the County, it loses that contract.

(2) Tax Benefits for Industrial Businesses

Under the Ordinance, businesses would need to certify that for the previous 5 years they have been in compliance with basic wage laws, or they will be ineligible to receive a discounted tax rate. Businesses would need to remain in compliance in order to continue to receive that tax discount.

(3) Business Licenses

Parts of Cook County that are not part of any city, village, or town are known as “unincorporated.” In unincorporated areas, the County is responsible for giving business licenses. Under the Ordinance, businesses would need to certify that in the previous 5 years, they have been in compliance with the wage laws mentioned above in order to receive their business license.

Chicago Base Wage Ordinance and Executive Order 2014-1

The City of Chicago requires higher minimum wages for employees of for-profit city contractors and subcontractors through its Base Wage Ordinance and Executive Order 2014-1.

Under Executive Order 2014-1, all for-profit City contractors, concessionaires, and subcontractors must pay their hourly employees a minimum wage of **\$13 an hour**. This rate will increase in proportion to the Consumer Price Index on July 1st every year. This order only applies to contracts advertised on or after October 1, 2014.

The Chicago Base Wage Ordinance says that as of July 1, 2015 all for-profit city contractors and subcontractors must pay, at least, a “living wage” of \$12.13 an hour (readjusted every July), to the following types of employees:

- Clerical workers
- Custodial workers
- Cashiers
- Day laborers
- Elevator operators
- Home and health care workers
- Parking attendants
- Security guards

The Base Wage Ordinance does not apply if there are fewer than 25 workers or if the workers are not full-time employees. This only applies to workers employed by contractors or subcontractors to which the City of Chicago has awarded contracts. Private employers or contractors or subcontractors not working on City of Chicago contracts are not covered by this law.

If the contractor is required to pay the employee the prevailing wage rate and this is higher than the wage set by either the Executive Order or the Base Wage Ordinance, then the contractor must pay the prevailing wage rate.

Equal Pay Act

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.

See the section on *Discrimination* on to find out what you can do if your employer is violating the Equal Pay Act.

Prevailing Wage Laws

The *Davis-Bacon Act* requires that employees working on *federal public* works projects in excess of \$2,000 be paid no less than the local prevailing wages for similar projects. The Secretary of Labor determines the local prevailing wage rates.

The *Illinois Prevailing Wage Act* requires that workers on *public* works construction projects in Illinois earn fair wages and benefits based on the “prevailing wage” for similar work performed in that county. The prevailing wage rate is determined by the Illinois Department of Labor and is readjusted monthly. In July 2015, for example, the prevailing wage for workers in Cook County ranged from \$32.75 for a highway traffic safety worker to \$55.10 for an operating engineer. **Employers are legally required to post prevailing wage rates at job sites.**

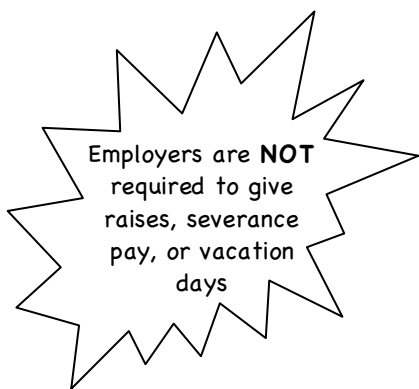
Examples of violations of prevailing wage laws include:

- Incorrectly classifying an employee to pay a lower wage. (For example, reclassifying a worker as an electric power ground man who may earn \$28.12 per hour versus an electric power lineman who may earn \$36.05 per hour.)
- Reporting fewer hours than employees actually worked;
- Making employees work on a private work project at a lower wage while also they are also working on a public works project at the prevailing wage in order to lower the overall cost of labor;
- Evading payment of overtime by forcing employees to "bank hours" by transferring overtime hours to the next week or the following pay period.

The *Illinois Procurement Code* requires that service employees working on Illinois *state* contracts earn the prevailing wage. These employees include janitors, window cleaners, food service workers and security guards.

Source: Adapted from the Illinois Attorney General's "Prevailing Wage Act" pamphlet

http://www.illinoisattorneygeneral.gov/consumers/Prevailing_Wage_Act.pdf



Raises, Bonuses and Pay Cuts

Pay raises above the minimum wage are **not** required by law. Pay raises and bonus pay (for example, extra pay for working weekends or holidays) are generally a matter of agreement between an employer and the employee(s), as are pay cuts, so long as minimum wage laws are not violated.

Extra pay for working weekends or nights is a matter of agreement between the employer and the employee(s). The law does not require

extra pay for weekend or night work. However, the Fair Labor Standards Act does require that covered, nonexempt workers be paid overtime pay—one and one-half times the employee's regular rate—for working over 40 hours in a workweek.

There is no requirement in the law for severance pay. Severance pay is a matter of agreement between an employer and the employee(s).

Wages, raises, bonus pay, and severance benefits are conditions that are typically negotiated for in a union contract. A union contract is a legally binding document.

Breaks and Meals

In Illinois, if you work 7.5 hours or more a day, **you are entitled to a 20-minute meal break**. The 20-minute meal break can be 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.

Employers must allow workers washroom breaks when workers need to use the toilet facilities. Your employer can require you to follow an established procedure for signaling that you need a break and being relieved momentarily of your work duties. Also, if an employer fails to have the necessary number of toilets to meet sanitation standards or keeps them locked or otherwise inaccessible to workers, it is a violation of the federal government's sanitation standards.

Also, see the *Discrimination* section for information about breaks and other accommodations for pregnant women.

Vacation, Sick Days, and Time Off

The law does not require employers to provide paid or unpaid vacations, sick leave, or holidays. But if your employer does provide vacation time, either through a union contract or as a company policy, then you have the right to take vacation time. The company policy does not necessarily have to be written. In addition, in Illinois, vacation pay accrues as you work. In other words, if your company policy provides for two weeks of paid vacation after one year, then you have earned one week of paid vacation at the end of six months (i.e. half a year = half of the vacation pay). Therefore, if you leave your job mid-year, you are entitled to pay for the earned vacation pay (1 week in this example) as part of your final wages. But again, this only applies if your employer has a vacation policy.

Employers **can require** employees to work more than 40 hours per week, but you must be paid overtime unless you are an exempt employee.

The Illinois One Day Rest in Seven Act (ODRISA) requires employers to give full-time, hourly workers **at least one day (a 24-hour period) of rest per week**. Part-time, agricultural, and salaried workers are not covered by this law.

Vacation, sick days, and holidays are typically negotiated for in a union contract. A union contract is a legally binding document.

Family and Medical Leave Act

The Federal Family and Medical Leave Act (FMLA) allows workers at companies with at least 50 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 (about 25 hours per week); 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 facility 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 in a 12-month period 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.

If you request FMLA leave, your employer can require you to use up any paid sick days or vacation days that you have as part of your time away from work. Your employer needs to tell you when your leave begins whether or not those days will be counted against the 12 weeks total leave you may take.

You do not have to use all 12 weeks at once.

Employers may select one of four options for determining the 12-month period:

1. The calendar year;
2. Any fixed 12-month "leave year" such as a fiscal year or a year starting on an employee's "anniversary" date;
3. The 12-month period starting on the date an employee's first FMLA leave begins; or
4. The 12-month period prior to the date an employee requests FMLA leave.

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

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:

- If your employer asks for a written request, submit the request to your employer as soon as you know you will need time away from work. 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.
- Your employer must provide you with a written notice of your rights and responsibilities while on leave. Keep a copy for your records.
- Obtain and keep copies of relevant medical records.
- Keep copies of all the documents you submit to or receive from your employer.
- 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 (see *Government Agencies Charged with Enforcing Labor Laws* for contact information).

Source: Adapted from Women Employed Institute and USDOL documents

Health and Safety Laws

Occupational Safety and Health Act (OSHA)

The Occupational Safety and Health Act (OSHA) of 1970 exists to prevent workers from being killed or otherwise harmed on the job. The law requires employers to provide their employees with working conditions that are free of known dangers.



You have a right to:

- Receive training needed to do your job safely in a language you can understand
- Receive proper equipment to do your job safely. (In most cases, safety equipment must be paid for by your employer. The cost of the equipment may not be deducted from your paycheck.);
- Know the names and hazards of chemicals or other hazardous materials used in your workplace;
- View a log of all workplace accidents or injuries which caused days missing from work (called the OSHA 300 log);
- Make suggestions for improving the safety of your job;
- Have dangerous or unhealthy conditions corrected;
- File a complaint with the Occupational Safety and Health Administration (OSHA), the government agency in charge of seeing that dangerous or unhealthy workplace conditions are fixed;
- A confidential review of any safety and health complaint you file directly with OSHA or with the assistance of a representative – OSHA will not reveal your name to your employer;
- An inspection of your workplace if there are safety or health problems OSHA is able to address; and
- Not be fired or retaliated against for raising concerns or requesting safety and health related information, reporting injuries, filing a complaint, participating in an OSHA inspection or other protected activities.

Private sector employees in the state of Illinois can file a complaint to get their workplace inspected by federal OSHA. Public sector employees in Illinois can file complaints with the Illinois Department of Labor-Illinois OSHA (See *Government Agencies Charged with Enforcing the Labor laws*)

REMEMBER: If you feel your life or your co-workers' lives are in imminent danger, you have the right to refuse to work. However, this may lead to a disciplinary action. To refuse to work:

- There must be a threat of death or serious physical harm. "Serious physical harm" means that a part of the body is damaged so severely that it cannot be used or cannot be used very well.
- For a health hazard there must be a reasonable expectation that toxic substances or other health hazards are present and exposure to them will shorten life or cause substantial reduction in physical or mental efficiency. The harm caused by the health hazard does not have to happen immediately.
- The threat must be immediate or imminent. This means that you must believe that death or serious physical harm could occur within a short time, for example before OSHA could investigate the problem.
- If an OSHA inspector believes that an imminent danger exists, the inspector must inform affected employees and the employer that he is recommending that OSHA take steps to stop the imminent danger.
- OSHA has the right to ask a federal court to order the employer to eliminate the imminent danger.

Source: (<https://www.osha.gov/as/opa/worker/danger.html>)

Frequently Violated Workplace Safety and Health Laws

General Violations

Some common health and safety violations include:

- Failure to provide adequate equipment to prevent falls for construction workers working at least 10 feet from the ground
- Failure to provide adequate safety training
- Failure to properly turn off power sources of machinery during maintenance and services by employees which results in workers exposed to accidental startup of the equipment
- Failure to provide appropriate and well-fitting respirators

- Lack of guards over a machine's moving parts
- Failure to provide eye and face protection from flying particles, splashing liquids or hazardous gases

Source: OSHA Standards and the National Safety Council

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 that 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 Safety Data Sheets (SDS) 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 training must be in a language understood by the worker.

The chemical inventory and the SDS 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 SDS. If an SDS is not readily available, request it in writing from your supervisor or OSHA before using the hazardous substance. It is particularly important that an SDS 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 provide a copy of an SDS to you (The SDSs are not substitutes for labels on containers of hazardous chemicals.)

If your employer does not comply with your request, contact Arise Chicago Worker Center, OSHA, your union representative if you have one, 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 1910.1200 and OSHA's Employee Access to Exposure and Medical Records Standard (29 CFR 1910.1020)

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.

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.

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

What To Do If Your Employer Is Violating Health and Safety Laws

If the situation is an emergency or immediately life-threatening, call 1-800-321-OSHA. This is OSHA's 24-hour HOTLINE. They will put you in touch with the office closest to your workplace.

Contact *Arise Chicago Worker Center* to learn about your health and safety rights on the job and strategize a plan of action to improve health and safety in your workplace.

Talk to your supervisor about the hazards that are occurring. Write down your concerns and keep a copy. Show it to your supervisor with another worker and/or a representative from your union present who can testify about potentially hazardous working conditions. Your employer may want to contact OSHA or a state consultation service to learn how to improve working conditions.

Call your local OSHA office to discuss health and safety concerns, any questions you may have, as well as possibilities for filing a complaint if your employer does not correct the situation. If you don't know how to reach your local office, call 1-800-321-OSHA.

File a complaint with OSHA if your employer does not make any efforts to improve working conditions. You can do so by downloading the OSHA online complaint form at www.osha.gov under the "Workers" page or by calling your local OSHA office to request one. (See *Government Agencies Charged With Enforcing Labor Laws* for contact information) Fill out the form and mail or fax it to the OSHA office. Be sure to include your name, address, and telephone number so that you can be contacted.

It is illegal for you to be harassed or fired for filing an OSHA complaint. You may request that your name not be revealed to your employer. (You may also file an informal, anonymous complaint online, but it will be resolved informally over the phone with your employer. Complaints filed in person or in writing are more likely to result in an on-site investigation of the workplace.)

Give specific, complete and accurate information when filling out the complaint form. This will help the process move faster. List as many details about the situation as possible, including specific hazards and incidents, who was involved, when and where the incidents occurred, etc. Talk to as many workers as you can who are aware of the problem and if they permit you, submit their names to OSHA.

OSHA will then process your complaint and decide whether it is an off-site investigation that will be resolved more quickly by phone or fax or whether it requires an on-site investigation. Complaints that require an on-site investigation are handled based

on the severity of the hazard and number of employees exposed, and may take a longer time to be resolved.

You have the right to have a worker representative accompany the OSHA inspector during the workplace inspection. You also have the right to speak privately with the investigator on a confidential basis, regardless of whether or not a worker representative is chosen.

After the inspection, your employer and the worker representative will receive copies of the results. If violations are found, a Citation and Notification of Penalty (citations) may be issued to the employer. Your employer must post copies of the citations in the workplace and correct the hazards by the deadline OSHA determines. OSHA will follow-up with your employer to ensure that corrections have been made.



Benefits for Injured Workers

Workers' Compensation ("Workman's Comp")

Under Illinois workers' compensation laws, workers who become ill or injured as a *direct result* of their job should be reimbursed for medical care and may be able to get a weekly check from their

employer to partially cover lost wages caused by the illness or injury.

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 a partial or total 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.

It is illegal for your employer to harass or fire you because you have filed a workers' compensation claim. All workers, even undocumented workers, are covered by their employer's workers' compensation insurance.

What to Do If You Are Injured At Work

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. You do not have to accept treatment from the health care provider your employer recommends. For serious or life-threatening injuries (for example: head injuries, severe bleeding, broken bones, third degree burns, chemical exposure) go to the emergency room of the nearest hospital, calling an ambulance if necessary. For non-life-threatening injuries, seek out a hospital or clinic with an Occupational Medicine department.

Tell the doctor exactly how you got hurt. If the doctor recommends work restrictions, get them in writing. Make sure the doctor notes that your condition is a work-related injury or disease.

Keep your own records of the accident and any physical conditions, such as a wet floor, which may have contributed to your accident.

Notify your employer as soon as possible that you have been injured and the name and address of the hospital or clinic you have chosen for treatment. 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. Though you do **not** have to accept treatment from a provider chosen by your employer, **your employer can require that you be evaluated by a particular clinic or doctor.**

Submit a request to your employer for reimbursement of any medical costs and lost wages (you are eligible for up to 2/3 your average regular-time wages for the period of time you were unable to work) you incur as a result of the injury. Your employer may have a formal procedure for this. Be sure to keep copies for yourself of all paperwork, documentation, bills, doctors' notes, etc.

If you need further help getting worker's compensation, you can choose any of the following options:

- Contact a lawyer specializing in workers' compensation if your employer does not promptly address your claim, if your employer denies your claim, if you need to pursue permanent disability payments, or to pursue compensation for the workplace death of a spouse or parent (see *Advice for Hiring and Paying a Lawyer* for more information).
- Contact the Arise Chicago Worker Center to learn more about your rights as an employee, your options for resolving workplace problems, and how your efforts can make a difference for fellow workers.
- Contact the Illinois Workers' Compensation Commission to apply for worker's compensation (see *Government Agencies Charged With Enforcing Labor Laws* for contact information).

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.

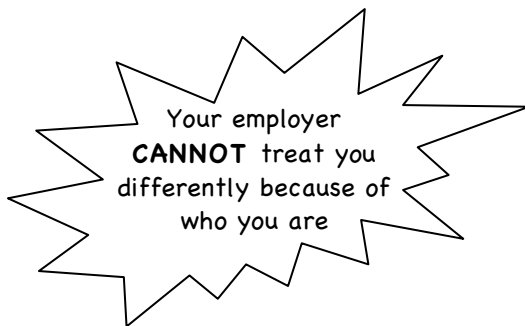
Private Insurance. Find out if your employer has disability insurance through a private company. If so, you may be able to receive disability benefits from that insurance plan.

Workplace Discrimination Laws

What is Illegal Discrimination?

Under various federal and state laws, it is illegal to discriminate in the workplace on the basis of:

- Age
- Disability
- Gender
- Pregnancy or marital status
- Sexual orientation
- Race or color
- Religion
- National origin/ancestry (including language discrimination)
- Citizenship status (meaning that if you are lawfully authorized to work in the United States, an employer cannot discriminate against you because you are not a U.S. citizen)
- An arrest record



Employers cannot discriminate with regard to:

- Hiring and firing;
- Promotions, advancements, layoff;
- Compensation, benefits;
- Job assignments, training;
- Job advertisements, recruitment;
- Use of company facilities;
- Pay, retirement plans, and disability leave.

Age Discrimination

It is illegal for an employer with at least 15 employees to discriminate against you based on your age in terms of hiring, classification, grading, discharge, promotion, discipline, compensation or other terms or conditions of employment based on age. This law protects any worker over the age of 40.

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 or illness.

The law only considers a person to have a disability if that person has a physical or mental impairment that substantially limits at least one major life activity. As a result, many people who consider themselves to be disabled may not actually be protected by the ADA.

Private employers who have at least 15 employees (or 1 employee in the state of Illinois), state and local government employers, employment agencies, and labor unions may not:

- Recruit only job applicants without obvious disabilities;
- Ask job applicants to describe their disability and take medical examinations that other workers are not required to take 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.

The law says if you are a qualified individual with a disability and can do the job, your company must make *reasonable accommodations* for you to perform the job as long as it does not impose an undue hardship on the operation of the business. 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, you can 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 *What to do if You are Experiencing Workplace Discrimination*.

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.

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;
- 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.

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

Pregnancy Discrimination

In the United States, it is illegal for an employer with 15 or more employees 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.

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. Also, the Family and Medical Leave Act requires employers with 50 or more workers to grant female employees up to 12 weeks of unpaid pregnancy leave, so long as they meet the basic qualifications of the law (see section on the FMLA).

As of January 1, 2015, Illinois employers with at least 1 employee must provide employees or applicants who are pregnant or recovering from childbirth with reasonable accommodations, which could include:

- More frequent or longer bathroom breaks;
- Breaks for increased water intake;
- Breaks for periodic rests;
- Private non-bathroom space for expressing breast milk and breastfeeding;
- Seating;
- Assistance with manual labor;
- Light duty;
- Temporary transfer to a less strenuous or hazardous position;
- The provision of an accessible worksite;
- Acquisition or modification of equipment;
- Job restructuring;
- A part-time or modified work schedule;
- Appropriate adjustment or modifications of examinations, training materials, or policies;
- Reassignment to a vacant position;
- Time off to recover from conditions related to childbirth;
- Leave necessitated by pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth.

Additionally, employers are also required to reinstate someone who takes time off for pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth to her original job or to an equivalent position after she expresses her intent to return or when her need for reasonable accommodation ceases, unless the employer can demonstrate that the accommodation would impose an undue hardship on the ordinary operation of the business.

Remember, no employer can force a pregnant person to accept any accommodations that she does not want. It is illegal for an employer to retaliate against you because you requested a pregnancy-related accommodation.

Source: Women Employed Institute, Women's Bureau of the U.S. Department of Labor, Illinois Department of Human Rights, Illinois Human Rights Act

Sexual Orientation Discrimination

Illinois workers are protected from discrimination in hiring, classification, grading, discharge, discipline, compensation or other terms or conditions of employment based on sexual orientation, which the law defines as including homosexuality, heterosexuality, bisexuality, or gender-related identity.

Source: Chicago Commission on Human Relations

Sexual Harassment

Sexual harassment is any unwanted sexual attention at work. It includes touching, making sexual remarks, asking for sex, or making sexual advances. Sexual harassment can happen to *any* worker, male or female.

Sexual harassment is ILLEGAL, particularly 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;
- It is frequent or severe;
- The harassment is making it hard for you to work.

Federal law may protect 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 a boss, coworker or client who harasses you; and
- Even if the harassment occurred only once.

If you are being sexually harassed:

Tell the harasser to stop if you feel safe doing so. Clearly tell your harasser that you do not want such sexual attention. Find out if your employer has a sexual harassment policy in place. If there is such a policy, make sure you follow the instructions for reporting sexual harassment. Even if there is not a policy, report the harassment to your employer, in writing if possible, and keep a copy for yourself.

Write down the suspected violations when they happen and include as many details as possible. If you can do so safely, talk to other employees. It's possible that there are other employees experiencing harassment as well or are witnesses who can lend support if you decide to file a complaint.

It is illegal for your employer to fire you, discipline you, or change your job in retaliation for filing a sexual harassment claim or any other claim of discrimination or harassment. If the harassment does not stop, follow the same procedures as are described below for addressing other types of discrimination. You can file a sexual harassment charge even if you are the only person in your workplace experiencing harassment.

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

Race or Color Discrimination

The Civil Rights Act of 1964 protects individuals against employment discrimination on the basis of race and color at business with 15 or more employees. 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.

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.

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.

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 that predominantly affects one race unless the practice is job-related and consistent with business necessity. For example, since sickle cell anemia predominantly occurs in African-Americans, a policy that excludes individuals with sickle cell anemia must be job-related and consistent with business necessity.

Source: the Equal Employment Opportunity Commission

Religious Discrimination

Title VII of the Civil Rights Act of 1964 prohibits employers with 15 or more employees 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 accommodations include:

- Flexible scheduling;
- Voluntary substitution or swaps of schedules or responsibilities;
- Job reassignments; and
- Lateral transfers.

For example, employers may not generally 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, among other reasons.

Source: the Equal Employment Opportunity Commission

National Origin Discrimination and “English-Only” Rules

It is illegal under Title VII of the Civil Rights Act of 1964 for an employer with 15 or more employees 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.

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.

Your employer bears the responsibility of keeping your workplace free of harassment based on your ancestry or national origin. Severe or pervasive ethnic slurs, jokes, or other verbal or physical conduct relating to your national origin may constitute 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.

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 certain business-related purposes, such as for safety reasons; otherwise, such a rule may constitute discrimination based on ancestry or national origin. In general, *an employer may not require employees to speak English while on breaks or during non-working time.*

Source: 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**. You are only required to complete an I-9 Employment Eligibility Verification Form *after* you have been formally offered a job.

Here is what this form looks like:

Department of Homeland Security
U.S. Citizenship and Immigration Services

OMB No. 1615-0047, Expires 06/30/08
Form I-9, Employment
Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which documents they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Married Name
Address (Street Name and Number)			City
State			Zip Code
Social Security #			Date of Birth (month/day/year)

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

Employer's Signature

I attest, under penalty of perjury, that I am (check one of the following):

☐ A citizen or national of the United States

☐ A lawful permanent resident (Alien's A)

☐ An alien authorized to work temporarily (Alien's or Seasonal's)

Preparer and/or Translator Certification. To be completed and signed if Section 1 is prepared by a person other than the employee. I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature	Print Name	Date (month/day/year)
Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).

Document Title	OR	List B	AND	List C
Document 1:				
Document 2:				
Document 3:				
Document 4:				
Document 5:				

CERTIFICATION: I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) and that to the best of my knowledge the employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

Section 3. Updating and Reverification. To be completed and signed by employee:

A. New Name (if applicable)	B. Date of Expiry (month/day/year) (if applicable)
-----------------------------	--

C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.

Document Title	Document ID	Expiration Date (if any)
----------------	-------------	--------------------------

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Print Name	Date (month/day/year)
--	------------	-----------------------

Form I-9 (Rev. 06/05/07) N

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. You can choose one document from Group A because it shows both your identity and your eligibility to work *or* you can choose a document from Group B, which shows identity *and* one from Group C, which shows eligibility to work.

72

Group A -Identity and work authorization documents:

- U.S. Passport (unexpired or expired)
- Unexpired Foreign Passport with I-551 stamp or attached Form I-94 indicating unexpired employment authorization
- Alien Registration Receipt Card or Permanent Resident Card (Form I-551)
- Unexpired Temporary Resident Card (I-688)
- Unexpired Employment Authorization Card (I-688A)
- Unexpired Employment Authorization Document which contains a photograph (Form I-688B)
- Employment Authorization Card (I-766)
- Unexpired foreign passport with unexpired Arrival-Departure Record, Form I-94

Groups B & C - Identity and Eligibility to Work

Group B - identity

- Driver's License or State I.D.
- School I.D. with Photo
- U.S. Military Card or Draft Record
- Military Dependent's ID Card
- U.S. Coast Guard Merchant Mariner Card
- Canadian Driver's License
- Native American Tribal I.D.
- Voter's Registration Card
- Federal, State, or Local Government I.D. with photo

For those under 18 unable to present one of the previous documents:

- School record or report card
- Clinic, doctor or hospital record
- Day-care or nursery school record

Group C - work authorization

- Native American Tribal Document
- Original or certified copy of U.S. Birth Certificate
- U.S. Citizen I.D. (Form I-197)
- U.S. Social Security Card (unless stamped "Not valid for employment")
- Certification of Birth Abroad of U.S. Citizen (Form FS-545 or DS-1350)
- ID Card for Resident Citizen in the U.S. (Form I-179)
- DHS Document with words "Employment Authorized" (Form I-94)

Check the U.S. Citizenship and Immigration Service's website for a current list of acceptable documents www.uscis.gov/files/form/i-9.pdf.

You may choose which legally acceptable documents you want to show to your employer. Your employer cannot 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 documents that appear genuine, your employer may be committing document abuse.

Remember: An employer should not ask to see your documents prior to the interview or selection process. See *Rights of Immigrants at Work* for more information.

Source: National Immigration Law Center and the Office of Special Counsel

Criminal Record and Arrest History

Under the Illinois Job Opportunities for Qualified Applicants Act, a potential employer is not permitted to ask about, or consider your criminal record or history (including any arrests or convictions) until either: (1) you have been determined to be qualified and have been contacted to schedule an interview; or (2) you've received a conditional offer of employment.

This means potential employers should not ask on a job application whether you have ever been arrested or convicted of a crime. Employers are only allowed to ask if you have been arrested or convicted of a crime *after* you are deemed qualified and are scheduled for an interview or after you have received a job offer. The purpose of this law is to prevent qualified employees from being automatically disqualified from consideration at the outset based on criminal history. If an employer questions you about your criminal history at the outset in violation of the law, you can report the employer's conduct to the Illinois Department of Labor, which may assess a penalty against the employer.

In addition, the Illinois Human Rights Act prohibits discrimination based on an arrest record or criminal history that has been ordered expunged, sealed, or impounded. Note that the prohibition is against using *arrest records* (not conviction records, which may be used). If you believe a negative employment decision has been made against you based on your

arrest record or sealed criminal history, you can file a charge with the Illinois Department of Human Rights within 180 days of the alleged discriminatory act.

There are some exceptions to these laws as some jobs may require consideration of a criminal history for safety reasons (for example, working with children). It is best to consult with a worker center or an attorney if you believe that your criminal history has been a factor in an employment decision.

What to Do If You Are Experiencing Workplace Discrimination

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 a list 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 workplace.

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.

Talk with co-workers you trust 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.

Contact a worker center to learn about your rights on the job and to strategize a plan of action to resolve your workplace concerns.

Decide upon a course of action. Some workers try to resolve the issue through discussions with the employer or by using formal procedures available through the company's human resources department or outlined in a personnel policy. Other workers choose to file claims with the Equal Employment Opportunity Commission, the federal government agency charged with enforcing anti-discrimination laws, or the Illinois Department of Human Rights, the equivalent state agency. Remember, each government agency has a deadline for filing complaints, so if you choose this option you have a limited amount of time to file. Workers can also contact a private attorney who specializes in discrimination..

Notify your employer of what is happening. Find out if your workplace has a personnel policy regarding discrimination or harassment. In some workplaces, you must notify a particular person (someone in Human Resources, your employer, etc.) of what is happening. If there is no such policy, write a letter to give to your employer and keep a copy for yourself. If you talk to your employer, take a trusted friend or coworker with you for support and to witness the conversation. If your supervisor or manager is the harasser, contact his/her supervisor.



Questions Employers Cannot Ask You Before Hiring

(Adapted from Canmybosssdothat.com)

Remember, employers cannot ask you questions about the following topics before hiring you:

Questions about unions Asking you if you are a union member or if you support unions could be suspicious. If you are asked, you have no responsibility to answer honestly. You might want to say you don't know very much about unions, even if you do. They can tell you what they think about unions: "there's no union here and we want to keep it that way." Just say that you understand and remember that workers decide if there's a union, not the company.

Questions about age Employers should not judge workers by their age and asking how old you are could show discrimination. Questions that give pretty good clues about your age, like asking when you graduated, are suspicious. They shouldn't ask how much longer you plan to work. The only question that's ok is "are you are at least 18 years old" (if there are state laws on youth employment).

Questions about medication Many bosses ask if you're taking any medication, which is a problem when you don't want to tell about medications that will tell them about a medical condition. The only question that should be asked is "are you taking medication that could affect your ability to do this job?" No matter what question they ask, you only have to answer about medication that could affect you on the job.

Once you have been offered the job, employers have more rights to get medical information (but they should be getting the same information from every employee). They can withdraw the job offer based on your medical history or medications you're taking, if it could affect your ability to do the job or if you did not give accurate information. They cannot withdraw a job offer because you are HIV positive.

Questions about a disability Employers cannot ask you if you have a disability. They could ask "are you able to perform each of the job requirements, with or without an accommodation?" Even if you will need an accommodation for a disability, you don't have to tell them before you are hired that you will need an accommodation.

Questions about work injuries If you are asked if you've ever had a work injury or filed a workers' comp claim, they could be trying to find out if you have a disability. Of course, they could also be trying to find out if you're a worker who knows their rights to workers' comp.

Questions about your religion Asking what religion you practice or how you practice it can be a sign of religious discrimination. It is ok for an employer to explain the requirements of the job and ask if you can meet them (for example, "this job includes working on Saturday and Sunday. Is that a problem?"). You have some rights to ask for accommodations to practice your religion after you have the job.

Questions about where you are from Asking "what country are you from?," "what is your native language?," "have you changed your name?," or "were you born in the U.S.?" suggest that the employer wants to know about your "national origin." The only thing they should be asking is if you will be able to show that you can work in the U.S. or what languages you speak.

Questions about children and childcare It's very common for bosses to assume that parents, especially women, will be distracted or need time off. You shouldn't be asked how many children you have or if you're planning to have kids. All they should ask is if you can meet the requirements of the job, after describing scheduling and overtime needs.

Questions about criminal history It is usually very hard to find a job if you have a criminal record. It can show discrimination when employers won't hire any workers with criminal histories, since a higher percentage of minorities have a record. Some states set limits on the questions that can be asked, depending on the type of crime and how old it is. Generally, bosses shouldn't ask "have you ever been arrested?" (since you weren't found guilty of anything). The most legitimate questions about criminal history are when they pertain to the job (like an accountant job when you've been convicted of embezzlement).

Questions that aren't about the job Questions about personal things that aren't related to how well you can do the job are problematic. Personal information makes it more likely that bosses will want to hire the person most like them (for example, if they ask what clubs or social groups you are in, instead of asking if you are active in any professional organizations).

Questions that are OK to ask

The most common questions are: your name, address, the kind of job you want, your current employer and job, whether they can contact your employer, your salary, reason for leaving old jobs, military service, references, contact information, and emergency contact information. They can also ask if you will be able to do each part of the job (lift boxes, drive a truck for a certain number of hours, stand for long periods, work weekends as needed, etc.). The only reason to ask you personal questions is if it's related to the job, called a "Bona Fide Occupational Qualification" (BFOQ) or because of a legal, formal plan to monitor how many minority employees there are.

The Rights of Immigrants at Work

Immigrant workers generally have the same labor and employment rights of native born and citizen workers. In this section we detail some special rules that concern immigrant workers in the United States.

Authorization to Work:

Immigration law requires employers to only hire workers who have authorization by the U.S. government to work in this country. The law requires employers to verify the identity and work eligibility of each employee. That is why all employees, not only immigrants, must complete an I-9 Form (Employment Eligibility Verification Form) after being formally offered a job.

Your employer must ask you to complete the I-9 Form within 3 days of beginning your job. The I-9 Form lists documents that you can show to establish your identity and employment eligibility. You the worker, not the employer, have the right to choose which of the listed documents you are going to show the employer. It is unlawful for your employer to demand that you show a specific document only, or to ask that you present more documents than the ones that are required. For example, your employer cannot demand that you show a green card, if you have other documents listed on the I-9 Form showing that you are authorized to work in the U.S. The employer might be engaging in a type of discrimination called “document abuse” if the employer does not allow you to choose which documents to show (See *Citizenship Discrimination and Document Abuse*).

E-Verify

E-Verify is a federal program that allows employers to certify eligibility for employment in the United States. The program is only mandatory for federal contractors and subcontractors and vendors, large companies, and companies in certain categories deemed important for national security. In the state of Illinois, all other companies can voluntarily choose to participate in E-Verify, but it is not required. Any company using E-Verify on a voluntary basis must post an announcement stating they participate in the program in a visible place. E-Verify should **only** be used to verify new hires, and it should not be used to re-verify

information on current workers or workers hired before the company signed onto E-Verify before firing or dismissing the worker.

Upon hiring a new worker, an employer enrolled in E-Verify has three business days (72 hours) to submit the documents and information the worker provided, and the information is compared with Social Security and Homeland Security data. E-Verify sends the results back to the employer. If there is a mismatch, the employer should give the worker the opportunity to correct the information.

On January 1, 2010, the state of Illinois enacted an amended version of the Illinois Right to Privacy in the Workplace Act, **(820 ILCS 55/)**. Under the law, Illinois employers are required to sign a sworn attestation upon initial enrollment in E-Verify. The attestation form affirms that the employer has received the requisite E-Verify training materials from the U.S. Department of Homeland Security ("DHS"), and that all employees with access to the company's E-Verify account have completed mandatory online E-Verify tutorials. It further states that the employer has posted the required legal notices regarding its enrollment in E-Verify and certain non-discrimination procedures. The employer must retain the signed original attestation and proof of its E-Verify training.

Some employers misuse the E-Verification Program or are not aware of all its complexities. If you think your employer is not using E-Verify according to its rules, for instance re-verifying Green Cards, or verifying existing workers, immediately contact the Arise Chicago Worker Center, who can help you to make sure your employer abides by the rules. The Center can help you and your employer to learn more about your rights as an immigrant employee, and your options for resolving documentation issues.

Re-verification of Work Authorization

In certain instances, an employer must ask workers to show their work authorization documents again (after you already filled out the I-9 Form when you were hired) if the work authorization document you presented had an expiration date. This is called "re-verification," because the employer is checking again to make sure you are still authorized to work. For example, if at the time you were hired you showed a work permit that has an expiration date then on or before that expiration date, the employer must ask you to show that you are still authorized to work in the U.S.

Once again, it is your choice which document(s) to present to prove that you can continue working. That is, the employer cannot require you to present another work permit with the new expiration date as long as you have other documents that establish your continued work authorization.

Employers may also be required to re-verify work eligibility of *all* their employees if they receive a contract from the federal government.

If you have shown documents that prove that you are a lawful permanent resident (you have a green card, form I-551) then an employer should **NOT** ask for documents again. For example, just because your green card has an expiration date, it only means that your card needs to be renewed not that your work authorization has expired. Your employer should not ask for your documents again since you have authorization to work in the U.S. permanently based on your status. Similarly, if you have been granted asylum, you are authorized to work indefinitely so it is a good idea to present documents that satisfy the I-9 Form but that don't have an expiration date. For example, you can show an identification card or driver's license to establish your identity and an unrestricted Social Security card that only bears your name and Social Security number (without the legend "valid for work only with DHS authorization").

Also, you are considered to be a "continuing employee" and the employer should **NOT** require you to re-verify your work authorization in the following circumstances:

- If you are on strike or have complained about your work conditions;
- When you return after have been temporarily laid off for lack of work as long as it has not been more than 3 years;
- As punishment if you are engaged in union related activities or coming together to speak out a work condition you don't like;
- After a temporary leave approved by the employer such as a family or medical leave;
- Just because you were promoted, demoted or got a pay raise;
- If you are transferred to a different unit of the same company; and
- If you are reinstated to your job because of a decision of a labor arbitrator or other decision.

Your employer can re-verify work authorization documents for the entire workforce (including supervisors and managers) so long as all workers are treated the same. It is against the law for the employer to re-verify

work authorization documents of only certain or specific workers if the employer has the intent to discriminate against those workers because of their immigration status (such as not being a U.S. citizen) or national origin. But, absent the “intent” to discriminate, an employer may re-verify the work authorization documents of all workers equally if it chooses to do so.

Source: <http://www.nilc.org/provworkauth.html>

Immigration and Customs Enforcement (ICE) I-9 Audits:

During an I-9 audit, ICE reviews and inspects employers’ documents to make sure they are complying with immigration laws. As part of this inspection, ICE may look at employee’s I-9 forms.

The Form I-9 is a document that all workers are required to fill out when they start new jobs. You probably filled-out an I-9 form when you first started to work at your current job. ICE will review the information in the forms and compare workers’ names, Social Security numbers, or other identification numbers with different government databases to make sure the information matches.

ICE will also look for any missing information on I-9 forms. After ICE reviews the employer’s records, it gives the employer a list of any workers with potential I-9 form problems. At the end, ICE determines whether an employer broke the law. If the employer broke the law, ICE may fine or even arrest the employer.

What Should I Do if My Employer Tells Me There is a Problem with My Documents?

If your employer tells you there is a problem with the documents you showed your employer when you were hired, do the following:

1. Locate the documents (for example, driver’s license, Social Security card, green card, etc.) you showed your employer, so you can check to see if the information in them matches the information your employer has.
2. Ask your employer to share with you any specific problems that were found with your documents.

3. Ask your employer to write down the specific problem that ICE found with your documents.
4. If you have valid documents that could help resolve the problem, present them to your employer. If you present updated or different documents, your employer will send the new information to ICE. ICE may then ask to interview you. But it is important to remember that, if ICE discovers when interviewing you that you are unauthorized to work, ICE could arrest you at the interview.
5. If ICE has found a problem with your documents and you decide not to present new documents to resolve it, you may be subject to termination.

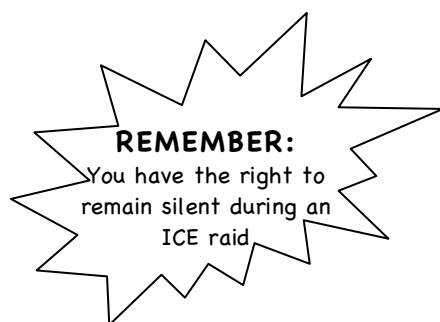
What are Employers NOT Allowed to Do During an I-9 Audit?

- Your employer MAY NOT limit the types of documents you use to prove work authorization or your identity by requesting specific documents (example: green card, Employment Authorization Document-EAD, passport). You may present any document or combination of documents listed on the I-9 form, except if ICE identified a specific problem with the document.
- Your employer MAY NOT treat workers differently during the I-9 process, either on the basis of immigration status, race, national origin, color, religion, or sex. This means the employer MAY NOT limit its own internal Form I-9 review to certain workers, or give different workers different timelines for providing documents.
- Your employer MAY NOT terminate your employment because of an I-9 audit, without first giving you the opportunity to present updated documents or resolve issues with your documents.
- Your employer MAY NOT force you to talk about your immigration status. **You have the right to remain silent.**

Source: www.nilc.org/document.html?id=355

What To Do In Case of an ICE Raid

ICE officials are charged with administering and enforcing the country's regulating immigration laws. They have been known to raid workplaces where immigrants are working.



If you are questioned by ICE or other law enforcement officers, regardless of whether you have documents or not, you have the right to:

- Remain silent and not answer questions, including questions about where you were born, whether you have documents or how you came to the U.S.;
- Not be asked or forced to show your documents simply because you look foreign, have an accent or don't speak English;
- Refuse to allow immigration or police enter your house without a signed search warrant with your correct name and address.

If you are detained or arrested by ICE or other law enforcement officers, you have the right to:

- Remain silent and not answer questions, including questions about where you were born, whether you have documents or how you came to the U.S.;
- Ask for a telephone call to your family or lawyer (memorize your lawyer's telephone number!);
- Ask for and be given a list of low-cost legal immigrant services if you do not have a lawyer;
- Talk to a lawyer before you answer any questions and have a lawyer present if you agree to answer questions;
- Be released from jail on bail (unless you have been convicted of certain serious crimes);
- Not sign any paper that you cannot read and fully understand;
- Not sign any paper that says you will voluntarily depart the U.S. in exchange for not having to go to court (because you may be eligible to stay);
- Speak with your home country's consulate;
- Appear in front of a judge in court; and
- Be treated humanely.

You may increase your chances of being deported if you answer questions without first speaking to an attorney, carry false documents, run from ICE or resist arrest. Lying to a government agent is a crime, so until you have spoken with a lawyer, remain silent when questioned. Even if you have already answered some questions, you can still refuse to answer others until you have a lawyer present.

If you are treated badly by ICE or the police, and are able to do so:

- Ask the officer for his/her badge number, name or other information and write it down;
- Write down the names and phone numbers of any witnesses;
- If you are injured, get medical attention and take pictures of the injuries;
- Contact a community organization or a lawyer as soon as possible.

If you have legal documents to be in the U.S. you must carry them with you to avoid being deported or charged with a crime. Keep a copy of your immigration papers with a family member or friend who will be able to fax it to you if needed.

Source: Adapted from the National Lawyer's Guild "Know Your Rights" pamphlet www.nlg.org/resources/kyr/kyr_English2004.pdf

"You have the Right to Remain Silent"

www.nlg.org/sites/default/files/kyrpamphlet%20Eng%202014%20FINAL.pdf

U Visas - Victims of Certain Crimes

The U visa is an immigration benefit that can be sought by immigrant victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of that crime, or who are likely to be helpful in the investigation or prosecution of criminal activity.

The U visa provides eligible crime victims with non-immigrant status to temporarily remain in the United States, while assisting law enforcement. If certain conditions are met, an individual with non-immigrant status may eventually obtain a green card.

In order to be eligible for a U visa, the victim must submit a law enforcement certification completed by a certifying agency. Certifying agencies include all authorities responsible for the investigation, prosecution, conviction or sentencing of the qualifying criminal activity, including but not limited to:

- Federal, State and Local law enforcement agencies;
- Federal, State and Local prosecutors' offices;

- Federal, State and Local Judges;
- Federal, State, and Local Family Protective Services;
- Equal Employment Opportunity Commission;
- Federal and State Departments of Labor; and
- Other investigative agencies.

In addition, the individual must have been a victim of a “qualifying crime” as defined by the statute, which may include some workplace crimes. Please note that violation of the Fair Labor Standards Act standing alone is not a crime for U-Visa purposes, but if it occurs in conjunction with one of the following crimes, the person may be eligible for U-visa relief:

- Involuntary Servitude, Peonage, Trafficking (i.e. the individual received little or no payment for services, sometimes this occurs if employer "trafficked" employee into the country and employee is now paying off "debt" by working for free)
- Obstruction of Justice (i.e. employer threatens to call ICE, fires employee for complaining regarding pay, etc.)
- Witness Tampering/Perjury (i.e. employer intimidates potential witness or tries to prevent employees from cooperating with DOL or other investigation, etc.)
- Abusive Sexual Contact, Rape, Sexual Assault, Sexual Exploitation (i.e. employee is a victim of any of these sex crimes in addition to not being paid fair wages)
- Blackmail/Extortion (this could also be related to employee's immigration status)
- Felonious Assault
- Fraud in Foreign Labor Contracting (employer hired foreign employee under false pretenses, fraud, etc.)

Some examples of other qualifying crimes include but are not limited to: sexual assault, sexual exploitation, incest, felonious assault, murder, manslaughter, domestic violence, rape, and kidnapping.

T Visas - Labor Trafficking:

T visas are available to individuals who are victims of “a severe form of trafficking in persons.” (See *Human Trafficking*) Applicants are eligible for work permits upon approval. Individuals granted T visas may

eventually obtain a green card three years after they are granted the T visa.

The eligibility requirements for the T Visa are as follows:

- An individual must be the victim who has suffered from a “severe form of trafficking of persons,” which includes “...trafficking to engage in a commercial sex act in which the act is induced by force, fraud or coercion or which is performed by a trafficked person who is younger than 18 years of age; or, recruiting a person through force, fraud or coercion “for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” Examples of these would be to force someone to work without paying wages, compelling someone to keep working on the promise of future payments of wages, or deducting so many additional expenses from the worker’s pay that the worker will never be able to pay the employer back.
- To qualify for a T-Visa:
 - The individual must be present in the United States on account of being a victim of trafficking.
 - The individual would suffer extreme hardship involving unusual and severe harm if they were removed from the United States.
 - The individual has complied with any reasonable request for assistance in a trafficking investigation or prosecution or is less than 18 years old. Immigrants who are 18 and older should also submit a law enforcement agency endorsement if possible. Child victims under 18 years of age do not have to show they assisted law enforcement in the investigation or prosecution of their traffickers.

Source: <http://icwclaw.org/services-available/victims-of-trafficking-and-violence-protection-act-t-and-u-visas/>

Social Security “No-Match” Letters

Every year thousands of U.S. workers receive “no-match” letters from the Social Security Administration (SSA). A SSA “No-Match” letter is sent when the name or Social Security number listed on the employee’s W-2 form does not agree with the SSA’s records. These letters are sent so that workers and employers can correct any errors in order to ensure that the

employee's earnings are properly credited for future retirement or disability benefits.

There are 3 types of “no-match” letters:

- 1) A letter sent to the worker's home;
- 2) A letter sent to the employer because the SSA does not have the worker's correct home address;
- 3) A letter sent when an employer has 10 or more workers with no-match errors.

Each “no-match” letter states that the letter does not imply that the worker or employer intentionally provided misinformation to the SSA or that the worker is undocumented. Oftentimes workers receive a “no-match” letter because there was incomplete information or an error made on the W-2 form or because the worker's name changed due to marriage or divorce. Note also that immigrant workers are more likely to be identified in “no-match” letters because they often use compound, maternal or paternal last names; have commonly misspelled names; and often inconsistently spell their names on various legal documents. Finally, workers who once worked without authorization but have since obtained legal status and a valid SSN, yet continue working under the old SSN for fear of losing their job, might also trigger a “no-match” letter.

An employer should not lay-off, fire, suspend or discriminate against a worker for a SSA “no-match” letter because the letter alone is not proof that the employee is undocumented. “No-match” letters are sent to give employees the opportunity to correct information submitted to the SSA so their Social Security withholding can be correctly credited. A “no-match” letter does *not* generally give an employer a basis to discipline or fire an employee. An employer who does so may be violating anti-discrimination laws.

A no-match letter alone *does not* require an employer to request that an employee bring in their Social Security card or other immigration related documentation. If an employer requires re-verification based only on a no-match letter, the employer may be violating the law.

The SSA does *not* enforce immigration law. **Workers generally do not have to discuss their immigration status with their employer.**

Information regarding SSA No-Match letters is constantly changing. To check the most updated information, please visit the National Immigration Law Center website: www.nilc.org.

Source: the National Immigration Law Center

What To Do If You Receive a SSA “No-Match” Letter

- Do not panic.
- If you belong to a union, contact your union representative and ask them to accompany you to any meetings with management. Unions can also support workers against retaliation. If you do not belong to a union, ask a co-worker to accompany you to any meetings with your employer.
- Ask the employer for a copy of the original letter.
- Do not talk about your immigration status at work.
- Do not quit your job just because your name was listed on a “no-match” letter.
- You do not need to tell your employer if you receive a “no-match” letter at your house. This does not mean that your employer will get one, too.

What To Do If You Are Retaliated Against For Receiving a SSA “No-Match” Letter

If your employer begins to take retaliatory action against you for a “no-match” letter, write down what she or he says or does to you. If possible, talk with trusted co-workers to determine if others have received similar letters and wish to resolve the situation collectively. You may want to consider proceeding with the following options:

- Contact Arise Chicago. We may be able to help you organize a group of people to speak with the employer.
- If you belong to a union, contact your union steward to assist you.
- Meet with an attorney to discuss whether you have been discriminated against.
- If the workers retaliated against are authorized to work, you may be able to file a charge with the Equal Employment Opportunity Commission (EEOC,) the Illinois Department of Human Rights for race, color or national origin discrimination or to file a charge with the Office of Special Counsel for Immigrant-Related Unfair

Employment Practices (OSC) (see *Government Agencies Charged With Enforcing Labor Laws* for contact information).

- Undocumented workers will NOT be able to use this option, but the OSC can represent all workers in a group if at least some of them have valid documents and Social Security numbers.

It is important to note that the US Department of Labor and the Immigration and Customs Enforcement office have a “Memorandum of Understanding” limiting ICE’s enforcement of immigration laws in cases of declared labor conflicts. In other words, workers can exercise the following rights without fear of suffering from immigration-related retaliation:

- The right to be paid the minimum legal wage, a promised or contracted wage, and overtime;
- The right to receive family medical leave and employee benefits to which one is legally entitled;
- The right to have a safe workplace and to receive compensation for work-related injuries;
- The right to be free from unlawful discrimination;
- The rights to form, join or assist a labor organization, to participate in collective bargaining or negotiation, and to engage in protected concerted activities for mutual aid or protection;
- The rights of members of labor unions to union democracy, to unions free of financial improprieties, and to access to information concerning employee rights and the financial activities of unions, employers, and labor relation consultants; and
- The right to be free from retaliation for seeking to enforce the above rights, without fear of ICE intervention.

Source: (www.dol.gov/asp/media/reports/DHS-DOL-MOU.pdf)

Additional Labor Laws

Domestic Workers' Rights

Domestic workers are workers who work in someone else's home. They can be nannies, babysitters, caregivers, and cleaning and housekeeping workers. Domestic workers generally work in isolation. They may have no co-workers at the worksite who can advise them of their rights. Many are immigrants with a limited knowledge of the laws that protect them. While legal protections for domestic workers are limited, some do exist, and are growing!

These are the basic rights of domestic workers in the state of Illinois:

- **If they work in Chicago:** Domestic workers who work in Chicago must be paid under the City of Chicago hourly minimum wage of **\$10.00 an hour** and must be paid overtime according to the Chicago minimum wage rules (see *Minimum Wage*).
- **If they work outside of Chicago for a non-private household:** they must be paid under the IL minimum wage of **\$8.25** and IL overtime law (see *Minimum Wage*).
- **If they work outside of Chicago for a private household:** Domestic workers employed solely by a private household (unless 4+ employees in household) are not covered under IL law. They must be paid the federal hourly and overtime rates (see *Minimum Wage*).

Other rights that domestic workers have under federal law include:

- **Time tracking:** Employers must keep track of the weekly hours that domestic workers work, the pay they earn, and any and all deductions they take from the workers' pay.
- **No unfair deductions:** Employers cannot make any deductions for work-related costs (example: uniforms) if the domestic worker ends up earning less than the federal minimum wage due to the deductions.
- **Travel time:** Domestic workers employed by an agency or other employer that sends the domestic worker to multiple clients are entitled to payment for the time spent going from the home of one client to another.

The laws afford some special rights to **live-in-homecare workers**. These are:

Payment for all hours worked. Live-in-homecare workers may agree with their employers to exclude sleep and meal times from their pay. They may agree to exclude other hours from pay, but only if the domestic worker has **complete freedom** (including the freedom to leave the home or sleep without interruption) during those times. If those hours are interrupted by work, the domestic worker must be paid for that interrupted time. *The employer must save a copy of this agreement.*

(This information has been adapted from: National Domestic Workers Alliance: www.domesticworkers.org/homecare)

Unfortunately, the National Labor Relations Act (NLRA), the Occupational Safety and Health (OSH) Act, federal employment discrimination laws, nor their state equivalents do not cover domestic workers. However, there is a growing movement favoring labor protections for domestic workers. For more information contact Arise Chicago or the National Domestic Workers Alliance (www.domesticworkers.org/homecare) to get involved in this exciting movement!

Child Labor Laws

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.

In Illinois, 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 24 hours in a school week; and 8 hours on a non-school day or 48 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. All working minors must have an employment certificate issued from the Superintendents of Schools. Different rules apply in agricultural employment.

Human Trafficking

Human trafficking is a form of modern-day slavery. People who are victims of human trafficking are forced, coerced or tricked into forced

labor or sexual exploitation against their will by means of physical force, deception or threats. Victims may be trafficked across international borders, across state borders or within the same city. They may work in domestic servitude, sweatshop factories, migrant agricultural work, prostitution, or the sex entertainment industry. Many people trafficked within the U.S. do not speak or understand English and therefore cannot communicate with law enforcement or others who might be able to help them. Often they are unfamiliar with their whereabouts, local customs and transportation. Even if they are able to leave their situation, they may not know who to go to for help or how to get there.

Human trafficking is a state and federal crime. The Trafficking Victims Protection Act of 2000 protects victims of trafficking and prosecutes their traffickers. Victims who are not U.S. citizens may be eligible for a special visa to remain in the country as well as social benefits and services. Victims who are U.S. citizens may already be eligible for benefits as part of their citizenship status.

If you or someone you know has been a victim of human trafficking you should contact the National Immigrant Justice Center (www.immigrantjustice.org) for help in obtaining legal protection and public benefits.

Source: Adapted from the U.S. Department of Health and Human Services Campaign to Rescue and Restore Victims of Human Trafficking

Day and Temporary Labor Services Act

The *Day Labor and Temporary Services Act* requires that day laborers (temporary employees) in Illinois who use day labor agencies receive:

- A place to wait with adequate seating and bathrooms until they are placed for work;
- Information from the agency about the type and location of the work, wages, meals, transportation, and meal and equipment costs;
- A detailed, itemized statement showing the name and telephone number for the job site, the number of hours worked, the hourly rate of pay including overtime or other bonus pay, total pay period earnings, and any deductions;
- Compensation for a minimum of 4 hours of pay when sent back from worksites because the agency sent too many workers;

- The right to accept a permanent job from a third-party client of the day labor agency without restriction by the day labor agency.

Day laborers are protected against:

- Being charged for fees or having unreasonable deductions for meal and equipment costs;
- Being paid with checks that have check-cashing fees;
- Being used as strike-breakers (employees who are used to replace workers on strike);
- Wage deductions for transportation between the day labor office and the worksite;
- Retaliation for exercising their rights under the Act.

All day labor agencies must be registered with the Illinois Department of Labor and follow employment standards. Contractors who use day labor agencies must verify that the agency is registered with the Illinois Department of Labor or face potential penalties. Workers who are retaliated against for exercising their rights under the Act also have the right to sue for damages if harmed by the violation.

The *Chicago Day Labor Services Ordinance*:

- Requires that all day labor services agencies be licensed and document who they do and do not hire (to prevent discrimination);
- Gives all workers the right to a work ticket for each day they are dispatched and to an application receipt for every day they are not hired (to expose discrimination);
- Prohibits agencies from charging workers for safety equipment and clothing when returned after finishing a job;
- Prohibits agencies from charging workers for transportation when provided.

Agencies that violate these laws can be fined by Chicago's Department of Business Affairs and Consumer Protection.

Unemployment Insurance

If you lose your job or are forced to quit, you may be eligible for unemployment insurance. To be eligible you must meet certain criteria, including:

- You must have earned at least \$1,600 during a recent 12-month period (known as your "base period"), including substantial earnings in two of the four quarters of that base period.
- You must have worked for an employer that is subject to the state's unemployment law.
- You must now be either entirely out of work or working less than half time, and earning less than a certain threshold (the threshold will be based on your earnings history).
- Your unemployment must be involuntary.
- You must be available and looking for work.

You may be disqualified from receiving benefits if you:

- Quit your job
- Were discharged for misconduct
- Refused suitable new employment
- Were involved in an ongoing labor dispute (on strike), or
- Return to work

To apply for unemployment insurance you will need to:

- Apply to the Illinois Department of Employment Security in person as soon as possible after losing your job, the same day if at all possible. The Illinois Department of Employment Security has various locations in and around Chicago. You may call their administrative office at (312) 793-5700 or 1-888-367-4382 to find a location near you or visit their website at www.ides.state.il.us.
- Bring the names, dates, and payroll addresses of all your employers for the past 18 months and records of your wages at these employers.
- Bring two forms of identification. A driver's license, a state identification card or a social security card are adequate forms of identification.
- Bring the names of your dependent children and the name, social security number and employment status of your spouse.
- 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. If you are listed as an independent contractor or your employer paid you in cash or check without deducting taxes or withholding, you are ineligible to receive unemployment benefits. If you think your employer should have

been deducting taxes from your pay, you can report this as fraud to the Illinois Department of Employment Services (IDES).

The amount of benefits you receive will depend upon the amount of money you were earning at your job, the amount of money your employer paid to the government in unemployment insurance, and the number of your dependents. Benefits may last up to 26 weeks.

Advice for Hiring an Attorney

Some of the laws discussed in this manual are very complicated, and getting the help of an attorney can help you fully exercise your rights. There are honest, competent, and sensitive lawyers who handle these types of cases and can help you figure out if you have a case and what to do about it. You can search out your own lawyer, ask trusted friends or organizations for referrals, or work with an organization that maintains a legal clinic.

Terminology related to fees and charges

- *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 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:

- What, if any, fee does the attorney charge for an initial consultation?
- Does the attorney specialize in employment or labor law?
- Has the attorney handled cases similar to your case? How many? With what results?
- Will the lawyer handling your initial consultation handle your case or will another attorney within the same firm handle your case? Will your case be referred out of the office to another lawyer who handles your type of case?
- 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?
- Can the attorney provide references? Get names and phone numbers of references.
- 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 in litigation; for example, a realistic time frame for settlement and trial and what you and your attorney's role will be.

SHOP AROUND. You do not have to agree to hire the first lawyer you meet. When you are deciding whether to hire an attorney, you can check to see if he or she has been disciplined for any ethics violations by the Attorney Registration & Disciplinary Commission of Illinois. You can check for these violations on the ARDC's website: www.iardc.org/lawyersearch.asp.

Remember: 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.

Government Agencies Charged With Enforcing Labor Laws

City of Chicago Department of Business Affairs and Consumer Protections

121 N LaSalle Street
Suite 805
Chicago, IL 60602

Phone: (312) 744-6060
TTY: 312.744.1944
Fax: 312.744.0246
<http://www.cityofchicago.org/city/en/depts/bacp.html>
Monday-Friday: 8:30am – 4:30pm.

The Department of Business Affairs and Consumer Protection (BACP) licenses, educates, regulates and empowers Chicago businesses to grow and succeed as well as, receives and processes consumer complaints. BACP provides bi-weekly and monthly informative sessions to help businesses act responsibly and create economic vitality and vibrant communities for the people in Chicago. BACP educates small business and consumers to ensure the public is protected against fraudulent practices. BACP investigates for business compliance in areas such as: sales practices, fuel, natural gas, electricity, durable and nondurable merchandise and services. The Department also enforces rules and regulations relating to liquor establishments, measures and weighs, public chauffeurs, public passenger vehicles, ambulances, and transportation network providers. The Department is in charge of enforcing the Chicago Minimum Wage.

City of Chicago Commission on Human Relations

740 North Sedgwick Street
Suite 400
Chicago, IL 60654

Phone: 312.744.4111
Toll Free:
TTY: 312.744.1088
Fax: 312.744.1081
www.cityofchicago.org/humanrelations
Monday-Friday: 9:00am – 5:00pm.

The City of Chicago Commission on Human Relations enforces the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance and investigates and punishes acts of discrimination based on race, sex, color, age, religion, disability (mental or physical), national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, or gender identity in housing, employment, credit, bonding, and public accommodations.

- Offers assistance in Spanish. Language Line to provide translation services for callers to the Commission who speak Polish, Mandarin, Arabic, and Hindi.
- File in person (strongly recommended) or by mail or email. Walk-ins welcome until 2pm.
- No fee.
- Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).
- Discrimination must have occurred within the city of Chicago.

The Commission investigates discrimination complaints, then the Commission conducts an administrative hearing and issues a ruling if there is substantial evidence of a violation, which may impose fines, damages, and injunctive relief if a violation was proved. The Commission implements the Hate Crimes Ordinance by monitoring hate crimes in Chicago and aiding victims.

Persons who feel they have been discriminated against in Chicago because of membership in one or more of the following 15 "protected classes" may file a complaint with the Commission: Race, Sex, Color, Sexual Orientation, Gender Identity, Ancestry, National Origin, Religion, Marital Status, Parental Status, Disability, Military Discharge, Status, Source of Income, Age (over 40), and Credit History (employment only).

Mission: The Chicago Commission on Human Relations (CCHR) is charged with enforcing the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance. The Commission investigates complaints to determine whether discrimination may have occurred, and uses its enforcement powers to punish acts of discrimination. Under the City's Hate Crimes Law, the agency aids hate crime victims. CCHR also employs proactive programs of education, intervention, and constituency

building to discourage bigotry and bring people from different groups together.

Cook County Commission on Human Rights

69 W. Washington, Suite 3040

Chicago, IL 60602

Phone: (312) 603-1100

TDD: 312-603-1101

Email: human.rights@cookcountyil.gov

Public Filing and Intake Hours:

Monday- Friday: 9:00am – 4:00pm (or by appointment)

The Cook County Commission on Human Rights enforces the Cook County Human Rights Ordinance which protects all people who live and work in the County from discrimination and harassment based on race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, housing status, or gender identity.

- Offers assistance in Spanish and Polish.
- File in person (strongly recommended) or call to request a complaint form be sent to your home. Walk-ins welcome.
- The interview process may take up to 2 hours.
- Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).

The Commission on Human Rights enforces the Ordinance by investigating complaints of discrimination and harassment from the public, mediating disputes when possible and conducting hearings to award compensatory damages and other relief when necessary.

Investigators for the Commission can be reached Monday through Friday from 9am to 4pm by telephone, email or in-person (or outside of these hours by appointment). Due to the volume of intake interviews, initial consultations are limited to 30 minutes. Please consider sending the Commission a Compliant Information Sheet in advance. There is no charge or fee for filing a complaint.

Equal Employment Opportunity Commission (EEOC)

500 W Madison - Suite 2000

Chicago, IL 60661

Phone: (312) 353-2713

File a Complaint Number: (312) 869-8060

Toll Free: 1-800-669-4000

TTY: 1-800-669-6820

www.eeoc.gov

Monday-Friday: 8:30am– 5:00pm

The EEOC is part of the federal government administers Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin in workplaces with 15 or more employees.

- Offers assistance in English, Spanish and Polish.
- Can file complaints in person. Appointments strongly recommended and given first priority, but walk-ins welcome until 3:30pm. Visitors to the office must show identification to enter the building. Telephone interviews can be arranged in certain situations. Call toll free number to begin to file a charge by phone.
- The interview process may take up to 2 hours.
- Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).

Illinois Department of Human Rights

James R. Thompson Center

100 W. Randolph Street, Suite 10-100

Chicago, IL 60601

Phone: (312) 814-6200

TTY: (866) 740-3953

Fax Administration: (312) 814-1436

Fax Charge Process: (312) 814-6251

www.state.il.us/dhr

Monday-Friday: 8:30am – 5:00pm

The Department of Human Rights administers the Illinois Human Rights Act, which prohibits discrimination because of race, color, religion, sex, national origin, ancestry, citizenship status (with regard to employment),

age 40 and over, marital status, physical or mental handicap, military service, unfavorable military discharge, and sexual orientation.

- Offers assistance in Spanish and Polish. If you need an interpreter for another language, you may bring someone to interpret for you (the interpreter must be over the age of 18).
- A discrimination charge can be initiated by calling, writing or appearing in person within 180 days of the date the alleged discrimination took place in all cases.
- File in person Monday through Thursday. You do not need an appointment.
- All visitors are required to show a valid government-issued picture I.D. and pass through metal detectors; bags are searched by the Illinois State Police Protective Service Unit.
- No fee.
- The interview process may take up to 2 hours.
- Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).

Mission: To secure for all individuals within the State of Illinois freedom from unlawful discrimination, and to establish and promote equal opportunity and affirmative action as the policy of this state for all its residents.

Illinois Department of Labor (IDOL)

160 N. LaSalle St. Suite C-1300

Chicago, IL 60601

Phone: (312) 793-2800

TTY: 888-758-6053

www.state.il.us/agency/idol

Monday-Friday: 8:30am – 5:00pm.

IDOL is a state government agency charged with administering and enforcing, among other Illinois state laws, the Minimum Wage Act, the One Day of Rest in Seven Act, the Illinois Wage Payment and Collection Act, the Personnel Records Review Act, the Day and Temporary Labor Services Act, the Prevailing Wage Act, the Illinois Health and Safety Act, and the Victims' Economic Security and Safety Act.

- Offers assistance in Spanish and Polish.
- Call to request a complaint form be sent to your home or download online. Complete form and return it to the address on the form.
- It may take 12 months or longer to fully process your claim.
- You have a better chance of recovering your wages if other employees file similar complaints.
- No fee.
- **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

Mission: Promote and protect the rights, wages, welfare, working conditions, safety and health of Illinois workers through enforcement of state labor laws, to safeguard the public through regulation of amusement rides and to ensure compliance with all other labor standards.

Illinois Educational Labor Relations Board

160 North LaSalle Street
 Suite N-400
 Chicago, IL 60601-3103
 Phone: (312) 793-3170
 TTY: 1-800-526-0844
 Fax: 312-793-3369
www.illinois.gov/elrb/contact.cfm
 Monday-Friday: 8:30am – 5:00pm.

The Illinois Education Labor Relations Board governs labor relations between unions and workers employed full or part-time by an educational employer.

- You may file a charge or petition in person, via mail, or by fax.
- Visitors to the office must show identification to enter the building.
- Call to speak with a representative first regarding what papers you will need.

Illinois Labor Relations Board

160 North LaSalle Street, Suite S-400
Chicago, Illinois 60601-3103
Phone: (312) 793-6400
Spanish: (312) 793-6353
TTY: (312) 793-6394
Fax: (312) 793-6989
www.state.il.us/ilrb
Monday-Friday: 8:30am – 5:00pm.

The Illinois Labor Relations Board governs labor relations between unions and public employers such as state or municipal governments. The ILRB protects the right to form, join or assist labor organizations without fear of discrimination, penalty, or retaliation.

- Offers assistance in Spanish.
- You may file a charge or petition in person at the State or Local Panel office (depending upon the type of charge), via first class, registered or certified mail, or by fax (following specific instructions).
- Call to speak with a representative first regarding what papers you will need and where you should file.
- Generally, a charge must be filed within six (6) months of the date the alleged violation occurred, or within six (6) months of the date the charging party should reasonably have become aware of the alleged violation.

Illinois Worker's Compensation Commission (IWCC)

100 W. Randolph St. –8th Floor, Suite 200
Chicago, IL 60601
General: (312) 814-6611
Toll Free: 1-866-352-3033
TTY: (312) 814-2959
www.iwcc.il.gov
E-mail: infoquestions.wcc@illinois.gov
Monday-Friday: 8:30am – 5:00pm.

The IWCC is a state government agency that enforces the Illinois Worker's Compensation Act, a no-fault system of benefits paid by employers to workers who experience job-related injuries or diseases.

- Offers assistance in Spanish.
- File a charge by calling to request that a form be sent to your house or download online. You may call to speak with a representative or send questions via e-mail.
- **Undocumented workers may apply. The Commission does not report undocumented workers to the Department of Homeland Security (DHS).**

National Labor Relations Board (NLRB)

The Rookery Building
 209 South LaSalle Street, Suite 900
 Chicago, IL 60604-5208
 Phone: (312) 353-7570
 Toll Free: 1-866-667-NLRB (6572)
 TTY: 1-866-315-NLRB (6572)
www.nlr.gov
 Monday-Friday: 8:30am – 5:00pm

The NLRB administers the National Labor Relations Act, which governs labor relations between unions and employers in the private sector. They are an independent federal agency vested with the power to safeguard employees' rights to [work together to improve the terms and conditions of employment] organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions.

- Offers assistance in Spanish and Polish.
- Call to speak with a representative first.
- Depending upon the charge you are filing you may need to file in person. Otherwise you can request that a form be sent to your home or go online. Fill out and mail to the address on the form.
- They process complaints up to 6 months after the date of the event or conduct.
- **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS). However, if the NLRB is made aware of a worker's immigration status this may change the outcome of the investigation.**

Occupational Safety and Health Administration (OSHA)

Regional Office:

John C. Kluczynski Federal Building
230 South Dearborn Street, Room 3244

Chicago, Illinois 60604

Phone: (312) 353-2220

Emergency: 1-800-321-OSHA (6742)

TTY: 7-877-889-5627

Fax: 312-353-7774

www.osha.gov

Monday-Friday: 8:00am -4:30pm

Southern Chicago and Suburbs:

1600 167th Street, Suite 9

Calumet City, IL 60409

Phone: (708) 891-3800

Fax: (708) 862-9659

Monday-Friday: 8:00am -4:30pm

Northwest Chicago and Suburbs:

701 Lee Street, Suite 950

Des Plaines, IL 60016

Phone: (847) 803-4800

Fax: (847) 390-8220

Monday-Friday: 8:00am -4:30pm

OSHA is part of the United States Department of Labor and enforces the Occupational Safety and Health Act. The Occupational Safety and Health Act gives employees and their representatives the right to file a complaint and request an OSHA inspection of their workplace if they believe there is a serious hazard or their employer is not following OSHA standards. Further, the Act gives complainants the right to request that their names not be revealed to their employers.

- Offers assistance in Spanish and Polish.
- File a complaint in person, by mail, via fax, or online. Walk-ins are welcome, but if you need assistance in Spanish or Polish, you should call to make an appointment first.
- Download a complaint form online to fill out and mail or fax to the office. Complaints filed online will be handled informally by

making a phone call to the employer. Written complaints are more likely to result in an on-site investigation.

- **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

Office of Special Counsel for Immigrant-Related Unfair Employment Practices (OSC)

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
OSC, NYA 9000
Washington, D.C. 20530
Toll Free: 1-800-255-7688
TTY: 1-800-237-2515
www.usdoj.gov/crt/osc/index.html

The OSC is a federal government agency that enforces the anti-discrimination provisions of the Immigration and Nationality Act, which protect U.S. citizens and legal immigrants from employment discrimination based upon citizenship or immigration status and national origin, from document abuse, and from employer retaliation.

- Offers assistance in any language.
- OSC staff members can help workers by calling employers and explaining proper verification practices and, when necessary, by providing victims of discrimination with charge forms.
- Upon receipt of a charge of discrimination, OSC investigations typically take no longer than 7 months.
- Victims may obtain various types of relief, including job relief and back pay.
- No complaints/cases are taken over the phone. Call to request a form be sent to your home or consult the website where you can find compliant forms in 10 languages.
- Send the completed form by mail, fax, or email (scert@usdoj.gov). **Undocumented workers are NOT protected from discrimination under this law. Therefore, they cannot file charges with the OSC.**

U.S. Department of Labor (USDOL)
Wage and Hour Division, Chicago District Office

230 South Dearborn Street, Room 412

Chicago, IL 60604-1591

Phone: (312) -789-2950

Toll Free: 1-866-487-9243

Fax: 312-596-5251

www.wagehour.dol.gov

Monday-Friday: 8:30am – 4:30pm except for Holidays

USDOL is a federal government agency charged with administering and enforcing, among other federal laws, the Fair Labor Standards Act, the Family and Medical Leave Act, the Migrant and Seasonal Agricultural Worker Protection Act, the Davis Bacon Act, and the WARN Act.

- Offers assistance in Spanish and Polish.
- Walk-ins welcome or send a letter or fax describing your problem. Include your phone number and a time that you can be reached.
- Or leave a message at the office number, including your phone number and a time that you can be reached, and a representative will return your call within one business day. Or call the toll free number from 8:00am – 8:00pm Eastern time Monday through Friday.
- **The US DOL investigates complaints filed by workers regardless of citizenship and immigration status.**

The U.S. Department of Labor's Wage and Hour Division (WHD) is responsible for administering and enforcing some of the nation's most important worker protection laws. WHD is committed to ensuring that workers in this country are paid properly and for all the hours they work, regardless of immigration status.

U.S. Department of Labor – Office of Labor-Management Standards (OLMS), Chicago District Office

230 South Dearborn Street, Suite 774

Chicago, IL 60604

Toll Free: (866) 4-USA-DOL

Phone: (312) 596-7160

www.olms.dol.gov

Monday-Friday, 8:30am – 5:00pm.

The US DOL's Office of Labor-Management Standards is a federal agency charged with enforcing the Labor-Management Reporting and Disclosure Act of 1959 which ensures that unions and labor organizations in the private sector are in compliance with standards of democracy and fiscal responsibility.

- Offers assistance in Spanish.
- Walk-ins welcome, or call office number and leave a message if no one available to answer your call.
- Download complaint forms online, fill it out and mail to address on form or call the toll free number from 8:00am – 8:00pm EST Monday through Friday.
- No fee.
- **The US DOL investigates complaints filed by workers regardless of citizenship and immigration status.**

Pro-Se Court

Daley Center, Room 602

50 W. Washington

Chicago, IL 60602

Phone: (312) 603-5626

Monday-Friday: 8:30am-3:30pm.

Assistance in Spanish from 10:00am-3:00pm, Monday-Friday.

- In Pro-Se Court, a person owed \$1,500 or less in wages can file a lawsuit against an employer without the assistance of an attorney.
- Fill out a complaint form in person at the Pro-Se Court Help Desk to begin the lawsuit. The staff there can assist you, but they cannot offer you legal advice.

- You will be charged a filing fee based upon how much money you are owed. Ask the Pro-Se Court Help Desk for the specific filing fees.
- 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.
- Since you are representing yourself, you will have to be present at any and all hearings before the judge and file all the necessary paperwork until your case is closed.
- For more information, contact the Pro-Se Court Help Desk at the above phone number.
- **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

Appendix

A. Sample Hours Worked Tracker

Month and year:								
Date	Time	Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
	Arrival							
	Start							
	Finish							
	Leave							
	Break (meal)							
	Other breaks							
	Arrival							
	Start							
	Finish							
	Leave							
	Break (meal)							
	Other breaks							
	Arrival							
	Start							
	Finish							
	Leave							
	Break (meal)							
	Other breaks							
	Arrival							
	Start							
	Finish							
	Leave							
	Break (meal)							
	Other breaks							

Date: List the number of the calendar day

Arrival: Write the time you arrived at work that day.

Start: Write the time you started working that day.

Finish: Write the time that you finished working that day.

Leave: Write the time you left work that day.

Break and Other Breaks: Write the number of minutes that you took off for meals and other non-work activities that day.

B. Sample Workers' Committee Agreement

Worker's Committee Agreement

Our mission: To improve the terms and conditions of employment.

Duties of Committee Members

- Every committee member will be a member of Arise Chicago
- The conversations in committee meetings will be treated with respect and no information about them will be shared. All conversations will remain confidential until an agreement has been reached, at which point the details of the agreement may become public.
- No individual meeting can take place between any member of the committee and any supervisor / manager / owner. No crucial decisions can be made (any papers signed, any change in work) without consulting the committee.

We, _____, assume the above responsibilities and agree to form a worker's committee under the name of _____.

Our primary goals are:

1. _____
2. _____
3. _____

Signature: _____	Date: _____
Signature: _____	Date: _____
Signature: _____	Date: _____
Signature: _____	Date: _____

C. Sample Request to Inspect Personnel File in IL

REQUEST TO INSPECT PERSONNEL FILE IN ILLINOIS

To: **Human Resources Representative/ OWNER NAME**

From: **WORKER NAME**

Date: **MONTH DAY, YEAR**

Under the Personnel Record Review Act, 820 Illinois Revised Statute 40/2-12, I have a right to inspect and get copies of my personnel files within 7 business days. I am requesting copies of my personnel files and any other personnel documents relating to me which you maintain.

Please send a copy of all the documents contained in my personnel file no later than **DATE 7 Business Days from when letter is received** to my address at: **ADDRESS HERE**

Thank you.

WORKER NAME

Note to employer: if you wish to read Personnel Record Review Act, 820 Illinois Revised Statute 40/2-12, go to www.ilga.gov under Compiled Statutes.

D. Sample Petition for Workplace Organizing

Working Together to Improve the Workplace

We, the undersigned, as employees of [name of company] are working together to protect our rights and to seek improvements in the workplace.

The following are problems in the workplace:

1.

2.

3.

We demand the following changes:

1.

2.

3.

We would like a written response to these concerns no later than [date].

Members of the workers' committee

<u>Name of Employee</u>	<u>Signature</u>	<u>Date</u>

Note: This document may be changed to reflect the needs and goals of the group using it.

E. Sample Letter to Reject Request for Re-Verification of Work Authorization

[DATE]

To: Mr. / Ms.: [NAME]

(Chief Executive Officer, Human Resources Director, Board President)

At [COMPANY NAME]

[COMPANY ADDRESS]

[CITY, STATE, ZIP]

Regarding: possible violations of several Federal laws

We are workers (whom your company intends to wrongfully dismiss based on erroneous information regarding their documentation) (being notified of a final date to present documents) and threatened with being dismissed if we don't comply as instructed. We are asking from you to immediately correct this situation before legal action is taken, in order to avoid costly litigation and possibly fines by Court and/or the federal and state government.

In the last few weeks, Human Resources issued orders advising that the office's records were incomplete and giving timelines to us to complete such paperwork. She has stated that the company "is required to complete this audit due to state and Federal regulations".

The Office of Special Counsel for Immigration-Related Unfair Employment Practices establish, among other provisions, that employers should **NOT** suspend or take other adverse action against the employee because of missing or incomplete paperwork; should **NOT** re-verify the employee's employment eligibility; should **NOT** require employees to produce specific I-9 documents.

By requesting some of the above documents and not allowing us to continue our employment at Id Commerce, you may violate several of those recommendations from the Department of Justice.

Furthermore, the **Handbook for Employers**, Guidance for Completing Form I-9 (Employment Eligibility Verification Form) by the U.S. Citizenship and Immigration Services establishes, on page 10, that "U S citizens and noncitizen nationals never need re-verification. **Do not reverify the following documents: An expired U S passport or passport card, an Alien Registration Receipt Card/Permanent Resident Card (Form I-551), or a List B document that has expired**".

Also, on the same page, the USCIS Manual states that “If an employee presents a Form I-551, you should know that Forms I-551 may contain no expiration date, a 10-year expiration date, or a two-year expiration date Cards that expire in 10 years or not at all are issued to lawful permanent residents with no conditions on their status Cards that expire in two years are issued to lawful permanent residents with conditions on their status Conditional residents can lose their status if they fail to remove these conditions Permanent Resident Cards with either an expiration date or no expiration date are List A documents that **should not be reverified.**”

Therefore, we are strongly requesting that you immediately stop all policies regarding the illegal re-verification based on an erroneous interpretation of the Social Security Administration information.

For more information on the anti-discrimination provision of the Immigration and Nationality Act, call OSC through its employer telephone hotline at (800) 255-8155 or visit OSC’s Website: <http://www.justice.gov/crt/osc>

Finally, we would like to state that this letter is proof of protected concerted activity, and no retaliation whatsoever can be taken against any or all of us, as established on Section 7 of the National Labor Relations Act ((49 Stat. 449) [29 U.S.C. § 151–169](#)).

Respectfully,



Arise Chicago

1436 W. Randolph Street, Suite 202

Chicago, IL 60607

Phone: 773-769-6000

Fax: 844-270-4436

www.arisechicago.org

Cook County Minimum Wage

Starting July 1, 2017, the minimum wage increased in Cook County* (the suburban area around Chicago) In most cases, you are covered by the Cook County Minimum Wage Ordinance if:

- You have worked for your employer in Cook County for at least 2 hours in any two-week period, and
- Your employer has four or more employees (or you are a domestic worker) and either (i) maintains a business facility within Cook County or (ii) has a license issued by Cook County.

The increase will continue as follows:

Minimum Wage in Cook County			
Start Date	Regular Wage	Tipped Minimum Wage	Overtime
July 1, 2017	\$10.00	\$4.95	\$15.00
July 1, 2018	\$11.00	Inflation adjusted	\$16.50
July 1, 2019	\$12.00	Inflation adjusted	\$18.00
July 1, 2020	\$13.00	Inflation adjusted	\$19.50
July 1, 2021	Inflation adjusted	Inflation adjusted	Inflation adjusted

If you believe your employer has underpaid you, you can contact Arise Chicago Worker Center for assistance, file a complaint with Cook County within 3 years of the owed wages, or file a lawsuit in the Circuit Court of Cook County.

**Some towns in Cook County have opted out of increasing the minimum wage. Please contact the village hall where you work to see if the minimum wage applies in your area.*

Earned Sick Time in Chicago and Cook County

Beginning July 1, 2017, all employees working in the City of Chicago or Cook County* have the ability to earn paid sick time.

Earned Sick Time can be used to go to the doctor, care of oneself or a family member who is ill, for a public health emergency (such as school closing), or be used to address issues related to domestic violence.

In most cases, you are eligible to received earned sick time if:

- You work for your employer in either Chicago or Cook County for at least 2 hours in any two-week period, and
- Your employer has a place of business in Chicago or Cook County.
- You work at least 80 hours for the employer in 120 days
- You are an employee, domestic worker, home health care worker, or day laborer

You will accrue Earned Sick Time at a ratye of 1 hours of sick time for every 40 hours worked. You can earn a maximum of 40 hours (or 5 work days) in a 12 month period.

Paid sick leave begins to accrue either on the 1st calendar day after the start of employment or on July 1, 2017, whichever is later.

You are entitled to:

- Earn one hour of earned sick leave for every 40 hours worked for your employer;
- Pay for earned sick leave at your usual rate of pay, no later than the next payroll period;
- Roll over half of those unused hours to use in the following year (up to a maximum carryover of 20 hours) if you do not use all the earned sick leave you earn in a given year

Your employer can prohibit you from using earned sick days for the first 180 days (6 months) after your start date.

Your employer **cannot** retaliate against you for using your earned sick time and cannot request that you search for your replacement while you are out.

If you are absent for fewer than 3 days, your employer cannot require you to provide a doctor's note to prove you or a family member was ill.

Workers who are currently given paid time off, personal or for sickness, at least 5 days a year, are not covered by this ordinance. The same applies to workers who already have at least 5 days of paid time off in their collective bargaining agreement.

**Some towns in Cook County have opted out of increasing the minimum wage. Please contact the village hall where you work to see if the minimum wage applies in your area.*

Illinois Domestic Worker Bill of Rights

Starting January 1, 2017, domestic workers in the state of Illinois are now protected by important laws!

What is considered Domestic Work?

- Housekeeping, home management, nanny services including childcare and child monitoring, caregiving and home health aid for the elderly and people with disabilities, laundering, cooking, chauffeuring, companion services or other household services

New Legal Protections & Rights:

- Illinois Minimum wage law protections for those who work more than 8 hours a week
- The right to earn overtime at a rate of 1.5 times your hourly salary if you work more than 40 hours in one week
- The right to a full day (24 consecutive hours) of rest. If a worker chooses to work on their day of rest, they are entitled to compensation at the overtime rate
- Protection against sexual harassment
- Protection against disability and pregnancy discrimination

In the City of Chicago and Cook County, Domestic Workers may be eligible to receive Earned Sick Time and the higher Minimum Wage (see the subsequent sections).

Domestic workers can negotiate for additional benefits not covered in the law by creating a contract with their employer. Here are some examples of what you can include in a contract with your employer:

- Clear job description of what your responsibilities are
- 8 weeks unpaid maternity leave + job protection
- 2 weeks' notice or severance pay if job lost through no fault of your own

Contact Arise Chicago you would like to learn more about making a contract and negotiating with your employer.

What to Do if Your Employer Closes the Business or Issues a Mass Layoff Without Warning or Compensating You

Federal Worker Adjustment and Retraining Notification (WARN) Act

The Federal WARN Act requires employers to provide **60 days advance notice** of mass layoff or plant closing. If your employer does not give you the required notice, you may be able to seek damages for back pay and benefits for up to 60 days, depending on how many days' notice you actually received.

You are protected by WARN if your company is:

- A business with 100 or more full-time workers (not counting workers who have less than 6 months on the job and workers who work less than 20 hours per week), or Employs 100 or more workers who work at least a combined 4,000 hours a week, and Is a private for-profit business, private non-profit organization, or quasi-public entity separately organized from the regular government.
- Workers protected by WARN may be hourly or salaried workers, including managerial and supervisory employees.

You may be protected by WARN if your job loss occurs as part of:

- A plant closing—where your employer shuts down a facility or operating unit within a single site of employment and lays off at least 50 full-time workers;
- A mass layoff—where your employer lays off either between 50 and 499 full-time workers at a single site of employment and that number is 33% of the number of full-time workers at the single site of employment; or A situation where your employer lays off 500 or more full-time workers at a single site of employment.

Some employment actions are covered by WARN. You are entitled to WARN notice if the above conditions apply to your situation and you:

- Are terminated from your employment, but **not** if you voluntarily quit, retire, or are discharged for cause;
- Are laid off for more than 6 months; or
- Have your regular hours of work reduced by more than half during each month of a 6-month period.

You are not protected by the WARN Act if you are considered any of the following:

- Strikers, or workers who have been locked out in a labor dispute;
- Workers working on temporary projects or facilities of the business who clearly understand the temporary nature of the work when hired;
- Business partners, consultants, or contract employees assigned to the business but who have a separate employment relationship with another employer and are paid by that other employer, or who are self-employed; and
- Regular federal, state, or local government employees

Source: U.S. Department of Labor, Employment Training Administration <https://www.doleta.gov/layoff/pdf/WorkerWARN2003.pdf>

Illinois Worker Adjustment and Retraining Notification (WARN) Act

The Illinois WARN Act requires employers to provide **60 days** advance notice of pending plant closures or mass layoffs if the business has **75 or more employees** (excluding part-time employees). An employer that fails to provide notice as required by law is liable to each affected employee for back pay and benefits for the period of the violation, up to a maximum of 60 days. The employer may also be subject to a civil penalty of up to \$500 for each day of the notice violation.

The Illinois WARN Law also defines notice-triggering events differently than federal WARN. A covered “mass layoff” under Illinois WARN is a reduction in force (“RIF”) at a single site of employment that is not the result of a “plant closing” and results in employment losses during any 30-day period (or, in some cases, during any 90-day period) for at least 33% of the employees and at least 25 employees, or at least 250 employees *regardless* of the percentage. This law does not apply to federal, state, or local governments.

Source: (Illinois Department of Commerce & Economic Opportunity

<http://www.illinois.gov/dceo/WorkforceDevelopment/warn/Pages/default.aspx>)