

2008

Federal Posting Requirements

LABOR LAW POSTER SERVICE

RE-ORDER TOLL FREE: 877-321-4144

EMPLOYEE RIGHTS

Under the FAIR LABOR
STANDARDS ACT, the U.S.
Department Of Labor Wage
and Hour Division Federal
Minimum Wage

\$5.85 Per Hour
Beginning
JULY 24, 2007

\$6.55 Per Hour
Beginning
JULY 24, 2008

\$7.25 Per Hour
Beginning
JULY 24, 2009

OVERTIME PAY
At least 1½ times your regular rate of pay for all hours worked over 40 in a workweek.

YOUTH EMPLOYMENT

An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:

NO MORE THAN

- 3 hours on a school day or 18 hours in a school week;
- 8 hours on a non-school day or 40 hours in a non-school week.

Also, work may not begin before 7am or end after 7pm, except from June 1 through Labor Day, when evening hours are extended to 9pm. Different rules apply in agricultural employment. For more information, visit the YouthRules! Web site at www.youthrules.gov.

TIP CREDIT

Employers of "tipped employees" must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.

ENFORCEMENT

The Department of Labor may recover back wages either administratively or through court action, for the employees that have been underpaid in violation of the law. Violations may result in civil or criminal action.

Civil money penalties of up to \$11,000 per violation may be assessed against employers who violate the youth employment provisions of the law and up to \$1,100 per violation against employers who willfully or repeatedly violate the minimum wage or overtime pay provisions. This law prohibits discriminating against or discharging workers who file a complaint or participate in any proceedings under the Act.

ADDITIONAL INFORMATION

- Certain occupations and establishments are exempt from the minimum wage and/or overtime pay provisions.
- Special provisions apply to workers in American Samoa and the Commonwealth of the Northern Mariana Islands.
- Some state laws provide greater employee protections; employers must comply with both.
- The law requires employers to display this poster where employees can readily see it.
- Employees under 20 years of age may be paid \$4.25 per hour during their first 90 consecutive calendar days of employment with an employer.
- Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

FOR MORE INFORMATION

1-866-4-USWAGE (1-866-487-9243)

TTY: 1-877-889-5627

WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division



EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW

Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under the following Federal authorities:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

INDIVIDUALS WITH DISABILITIES

Section 503 of the Rehabilitation Act of 1973, as amended, prohibits job discrimination because of disability and requires affirmative action to employ and advance in employment qualified individuals with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

VIETNAM ERA, SPECIAL DISABLED, RECENTLY SEPARATED, AND OTHER PROTECTED VETERANS

38 U.S.C. 4212 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans, qualified special disabled veterans, recently separated veterans, and other protected veterans.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP) Employment Standards Administration U.S. Department of Labor 200 Constitution Avenue, N.W., Washington, D.C. 20210 or call (202) 693-0101 or an OFCCP regional or district office listed in most telephone directories under U.S. Government, Dept. of Labor.

Private Employment, State and Local Governments, Educational Institutions

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following Federal laws:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Title VII of the Civil Rights Act of 1964, as amended prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex or national origin.

DISABILITY

The Americans with Disabilities Act of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects

Job Safety and Health

IT'S THE LAW!

EMPLOYEES

You have the right to notify your employer or OSHA about workplace hazards. You must ask OSHA to keep your name confidential.

You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthy conditions in your workplace. You or your representative may participate in that inspection. You can file a complaint with OSHA within 30 days of retaliation or discrimination or retaliation by or your employer for making safety and health complaints or for exercising your rights under the OSHA Act.

You have a right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violation.

Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.

You have the right to copies of your medical records or records of your exposure to toxic and harmful substances or conditions.

Your employer must post this notice in your workplace.

You must comply with all occupational safety and health standards issued under the OSH Act that apply to your own actions and conduct on the job.

EMPLOYERS

You must furnish your employees a place of employment free from recognized hazards. You must comply with the occupation safety and health standards issued under the OSH Act.

1-800-321-OSHA

www.osha.gov

U.S. Department of Labor • Occupational Safety and Health Administration • OSHA 3165

Free assistance in identifying and correcting hazards or complying with standards is available to employers, without citation or penalty, through OSHA-support consultation programs in each state.



Fair Labor Standards Act Overtime Security Advisor

The FLSA requires that covered employees in the United States be paid at least the federal minimum wage for each hour they work and overtime pay at one and one-half the employee's regular rate of pay for all hours worked over 40 in a workweek. If you are unsure about whether a particular employment situation is covered by the FLSA, you should review the FLSA Coverage and Employment Status Advisor.

One particular exemption, FLSA section 13(a)(1), exempts from both minimum wage and overtime pay protections bona fide executive, administrative, professional and outside sales employees. FLSA sections 13(a)(1) and 13(a)(17) also exempt certain employees in computer-related occupations. The FLSA contains several other exemptions from the minimum wage and/or overtime pay protections, which are not covered in this Advisor.

For the FLSA section 13(a)(1) exemptions to apply, an employee generally must be paid on a salary basis of no less than \$455 per week and perform certain types of work that:

- is directly related to the management of his or her employer's business, or
- is directly related to the general business operations of his or her employer or the employer's clients, or
- requires specialized academic training for entry into a professional field, or
- is making sales away from his or her employer's place of business, or
- is in a recognized field of artistic or creative endeavor.

FLSA Section 13(a)(17) exempts hourly paid employees who perform certain types of work in the computer field if they are paid at a rate of not less than \$27.63 per hour. Exemptions are determined based on each specific employment situation. Job titles alone do not determine the exempt or non-exempt status of any employee. Each determination is based on the specific job duties performed and compensation received. Therefore, you should run the Advisor for each specific employee or for each group of employees who perform essentially the same duties and receive essentially the same compensation package.

A number of states have also enacted minimum wage and overtime pay laws, some of which provide greater worker protections than those provided by FLSA. In those situations where an employee is covered by both Federal and state wage laws, the employee is entitled to the greater benefit or more generous rights provided under the different parts of each law.

Notice to workers with disabilities paid at special minimum wages

This establishment has a certificate authorizing the payment of special minimum wages to workers who are disabled for the work they are performing. Authority to pay special minimum wages to workers with disabilities applies to work covered by the Fair Labor Standards Act (FLSA), McNamara-O'Hara Service Contract Act (SCA), and/or Walsh-Healey Public Contracts Act (PCA). Such special minimum wages are referred to as "commensurate wage rates" and are less than the basic hourly rates stated in an SCA wage determination and less than the FLSA minimum wage of \$4.75 per hour beginning October 1, 1996 and \$5.85 per hour beginning July 24, 2007. A "commensurate wage rate" is based on the worker's individual productivity, no matter how limited, in proportion to the wage and productivity of experienced nondisabled workers performing essentially the same type, quality, and quantity of work in the geographic area from which the labor force of the community is drawn.

WORKERS WITH DISABILITIES

For purposes of payment of commensurate wage rates under a certificate, a worker with a disability is defined as:

- An individual whose earnings or productivity capacity is impaired by a physical or mental disability, including those related to age or injury, for the work to be performed.
- Disabilities which may affect productive capacity include blindness, mental illness, mental retardation, cerebral palsy, alcoholism, and drug addiction. The following do not ordinarily affect productive capacity for purposes of paying commensurate wage rates: educational disabilities; chronic unemployment; receipt of welfare benefits; nonattendance at school; juvenile delinquency; and correctional parole or probation.

KEY ELEMENTS OF COMMENSURATE WAGE RATES

- **Nondisabled worker standard:** The objective gauge (usually a time study of the production of workers who are not disabled for the job) against which the productivity of a worker with a disability is measured.
- **Prevailing wage rate:** The wage paid to experienced workers who are not disabled for the same or similar work and who are performing such work in the area. Most SCA contracts include a wage determination specifying the prevailing wage rates to be paid for SCA covered work.
- **Evaluation of the productivity of the worker with a disability—Documented measurement of the production of the worker with a disability (quantity and quality).** The wages of all workers paid commensurate wages must be reviewed and adjusted, if appropriate, at periodic intervals. At a minimum, the productivity of hourly paid workers must be reevaluated every six months and a new prevailing wage survey must be conducted at least once every twelve months.

OVERTIME

Generally, if you are performing work subject to the FLSA, SCA, and/or PCA, you must be paid at least 1½ times your regular rate of pay for all hours worked over 40 in a workweek.

CHILD LABOR

Minors younger than 18 years old must be employed in accordance with the child labor provisions of FLSA. No persons under 16 may be employed in manufacturing or on a PCA contract.

FRINGE BENEFITS

Neither the FLSA nor the PCA have provisions requiring vacation, holiday, or sick pay nor other fringe benefits such as health insurance or pension plans. SCA wage determinations may require such fringe benefit payments (or a cash equivalent). Workers paid under a certificate authorizing commensurate wage rates must receive the full fringe benefits listed on the wage determination.

WORKER NOTIFICATION

Each worker with a disability and, where appropriate, the parent or guardian of such worker, shall be informed orally and in writing by the employer of the terms of the certificate under which such worker is employed.

PETITION PROCESS

Workers with disabilities paid at special minimum wages may petition the Administrator of the Wage and Hour Division of the Department of Labor for a review of their wage rates by an Administrative Law Judge. No particular form of petition is required, except that it must be signed by the worker with a disability or his or her parent or guardian and should contain the name and address of the employer. Petitions should be mailed to: Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Employers shall display this poster where employees and the parents and guardians of workers with disabilities can readily see it. Complaints or questions regarding the terms and conditions of employment under a certificate may be directed to the Wage and Hour Division office nearest you — listed in your telephone directory under United States Government, Labor.

For this document and other Wage-Hour information, visit our web site at this address: <http://www.wagehour.dol.gov>.

Your rights under the Family and Medical Leave Act of 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

REASONS FOR TAKING LEAVE

- to care for the employee's child after birth or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job. At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

ADVANCE NOTICE AND MEDICAL CERTIFICATION

The employee maybe required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

JOB BENEFITS AND PROTECTION

- For the duration of FMLA leaves the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT

- The U.S. Department of Labor is authorized to investigate and resolve complaints of FMLA violations.
- An eligible employee may bring a civil action against an employer for violations. FMLA does not affect any Federal or State law prohibiting discrimination, or supersedes any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FOR ADDITIONAL INFORMATION

Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

U.S. Dept. of Labor, Employment Standards Administration • Wage and Hour Division, Washington, D.C. 20210

EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

PROHIBITIONS</h3