

Hawaii and Federal Employment Notices 2020

Family Medical Leave Act

EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT
THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

LEAVE ENTITLEMENTS: Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:
• The birth of a child or placement of a child for adoption or foster care.
• To bond with a child (leave must be taken within 1 year of the child's birth or placement).
• To care for the employer's spouse, child, or parent who has a qualifying serious health condition.
• For the employee's own qualifying serious health condition that makes the employee unable to perform the employer's job.
• For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

State Minimum Wage

STATE OF HAWAII DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS WAGE STANDARDS DIVISION
NOTICE TO EMPLOYEES UNDER THE HAWAII WAGE AND HOUR LAW
(Chapter 387, Hawaii Revised Statutes, and Chapter 12-20, Hawaii Administrative Rules)

\$9.25 per hour effective January 1, 2017 through December 31, 2017

\$10.10 per hour effective January 1, 2018

TIP CREDIT: Under certain conditions, "tipped employees" may be paid up to twenty-five cents less per hour; effective January 1, 2015, up to 50 cents less per hour; and effective January 1, 2016, up to 75 cents less per hour. If wages plus tips equal or exceed the minimum wage rate. See Section 387-2, Hawaii Revised Statutes.

You Have a Right to a Safe and Healthful Workplace

IT'S THE LAW!

- You have the right to notify your employer or HIOSH (808-586-8092) about workplace hazards. HIOSH will keep your name and identity confidential.
- You have the right to request a HIOSH inspection if you believe that there are unsafe and/or unhealthy conditions at your workplace. You or your representative may participate in the inspection.
- You have a right to see HIOSH 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 may not discriminate against you for making a safety and health complaint or for exercising your rights under the law, some of which are detailed above. You can file a discrimination complaint with HIOSH within 60 days of the discriminatory act. **Private sector employees must also file a discrimination complaint with the OSHA Regional Office below within 30 days of the discriminatory act or they will lose their rights to pursue a federal claim under section 11(c) of the federal Occupational Safety and Health Act of 1970 after the conclusion of the HIOSH investigation.**
- Report to OSHA all work-related fatalities within 8 hours, and all inpatient hospitalizations, amputations, and losses of an eye within 24 hours.
- Provide required training to all workers in a language and vocabulary they can understand.
- Your employer must post this notice in the workplace in a prominent location or where such notices are customarily located.

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THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for or servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

BENEFITS & PROTECTIONS: While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave. Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

ELIGIBILITY REQUIREMENTS: An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:
• Have worked for the employer for at least 12 months;
• Have at least 1,250 hours of service in the 12 months before taking leave; and
• Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.
Special "hours of service" requirements apply to airline flight crew employees.

REQUESTING LEAVE: Generally, employers must give 30-days advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employer must notify the employee as soon as possible and, generally, follow the employer's usual procedures. Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information should include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employees can receive a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

EMPLOYER RESPONSIBILITIES: Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employer is not eligible, the employer must provide an answer for ineligibility. Employees must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

ENFORCEMENT: Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer. The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

Breastfeeding In The Workplace

Under the HAWAII EMPLOYMENT PRACTICES LAW (Act 249, 2013 Regular Session) BREASTFEEDING IN THE WORKPLACE effective July 1, 2013

You have the right to reasonable break time to express milk for your nursing child at the workplace in a location, other than the restroom, that is shielded from view and free from intrusion from coworkers and the public for one year after your child's birth. Employers with fewer than twenty employees who can show that providing the time and place to express breast milk as required under Act 249 would impose an undue hardship by causing the employer significant difficulty or expense in relation to the size, financial resources, nature, or structure of the employer's business shall not be subject to the time and place requirements of Act 249. Employees who fail to comply with the requirements of Act 249 shall be fined \$500 per violation and may be liable for damages suffered by the employee.

ENFORCEMENT: If you believe your employer has violated this law you may file a lawsuit in state court for appropriate injunctive relief, actual damages, or both, within two years after the occurrence of the alleged violation. Damages may include reasonable attorneys' fees. This notice provides general background information on Hawaii Employment Practices Law and is not intended to serve as a substitute for legal counsel. For specific legal advice on individual situations, please consult your attorney.

The law requires employers to post a notice in a conspicuous place accessible to employees providing information regarding this employment practice.

Department of Labor and Industrial Relations
Equal Opportunity Employer Program
Auxiliary aids and services are available upon request to individuals with disabilities.
TDD/TTY Dial 711 then ask for (808) 586-8866.

Equal Employment Opportunity

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Revised 5/30/19

Copies of the State law, the HIOSH rules and Standards or other program information may be obtained at:
HIOSH
830 PUNCHBOWL STREET, ROOM 423
HONOLULU, HAWAII 96813
Telephone: (808) 586-9100
<http://hawaii.gov/labor/hiosh>

IRS Withholding

YOU MAY NEED CHECK YOUR WITHHOLDING
Since you last filed Form W-4 with your employer did you...
Many or divorce?
You are on or lose a dependent?
Change your name?
Were there major changes to...
Your non-wage income (interest, dividend, capital gains, etc.)?
Your family wage income (you or your spouse started or ended a job)?
Your itemized deductions?
Your tax credits?

USERRA
FOR USE BY PRIVATE SECTOR AND STATE GOVERNMENT EMPLOYERS
YOUR RIGHTS UNDER USERRA THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

Wage & Hour Laws

Minimum Wage - You have the right to receive a minimum wage of at least \$10.10 per hour beginning January 1, 2018. Under certain conditions, "tipped employees" may be paid less per hour.
Overtime - You have the right to be paid overtime at least one and one-half times your regular rate for all hours worked in excess of 40 in a workweek. The law also requires employers to maintain payroll records for at least 6 years.

USERRA
FOR USE BY PRIVATE SECTOR AND STATE GOVERNMENT EMPLOYERS
YOUR RIGHTS UNDER USERRA THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

REEMPLOYMENT RIGHTS
You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:
• you ensure that your employer receives advance written or verbal notice of your service;
• you have five years or less of cumulative service in the uniformed services while with that particular employer;
• you return to work or apply for reemployment in a timely manner after conclusion of service; and
• you have not been separated from service with a disqualifying discharge or under honorable conditions. If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

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Polygraph Protection

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
Employees are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

EXEMPTIONS
Federal, State and local governments are not affected by the law. Also, the law does not apply to subjects tested by the Federal Government to certain private individuals engaged in national security-related activities.

Hawaii Family Leave Law
You have the right to receive up to 4 weeks of unpaid, job-protected leave for the birth or adoption of your child, or to care for your child, parent, sibling, spouse or reciprocal beneficiary with a serious health condition. You are eligible only if you have at least 6 consecutive months of service, and your employer has 100 or more employees. Accrued paid leaves may be substituted for any part of the 4-week period. If your employer provides for paid sick leave, you may use up to 10 days of your accrued and available sick leave per year unless a collective bargaining agreement provides for more than 10 days.

ENFORCEMENT: If you believe your employer has violated this law you may file a lawsuit in state court for appropriate injunctive relief, actual damages, or both, within two years after the occurrence of the alleged violation. Damages may include reasonable attorneys' fees. This notice provides general background information on Hawaii Family Leave Law and is not intended to serve as a substitute for legal counsel. For specific legal advice on individual situations, please consult your attorney.

Dislocated Workers Plant Closing

You have the right to be notified in writing at least 60 days in advance of possible layoffs or terminations due to certain business transactions taken by your employer. Your employer must also notify the Department of Labor and Industrial Relations in the same manner according to the Dislocated Workers Act (DWA). The DWA applies to businesses which have at least 50 persons employed in the state at any time during the 12 months preceding the event, and are a party to a sale, transfer, merger, business takeover, bankruptcy, or business transaction, which will result in the relocation outside the state or the shutting down of all or a portion of operations.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Disability Compensation Law

Workers' Compensation - You have the right to receive workers' compensation benefits and medical care if you suffer a work-related injury. You must report the date, time and circumstances of your injury immediately to your employer or supervisor. Your employer or supervisor should furnish you with a TD-45 claim form to send the physician's report. If your employer does not file a report of the injury, you may file a written claim with the Disability Compensation Division. You do not pay for the premium cost; your employer pays the entire amount.

Temporary Disability Insurance - You have the right to file a claim for temporary disability insurance benefits within 90 days from the date of disability if you suffer a disabling non-work-related injury/illness, or disability unrelated to your employer's negligence. Your employer or insurer should furnish you with a TD-45 claim form or some other authorized claim form. You may receive TDI benefits if your inability to work is properly certified by a physician. Generally, you must have worked for an employer in Hawaii at least two weeks prior to your disability. During the last 52 weeks, you must have: worked for at least 14 weeks; been paid for at least 20 hours per week; and earned at least \$400.

Federal Minimum Wage

\$7.25 PER HOUR BEGINNING JULY 24, 2009
The law requires employers to display this poster where employees can readily see it.

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

CHILD LABOR:
An employee who is 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 with certain work hours restrictions. Different rules apply in agricultural employment.

TIP CREDIT:
Employers of tipped employees who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employers must pay tipped employees a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employer's tip 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.

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No Smoking

SMOKING PROHIBITED BY LAW.
Including E-Cigarettes and All Other Electronic Smoking Devices

- No smoking in enclosed public spaces. Examples include bars, restaurants, clubs, airports, theaters, government facilities, and stadiums. Indoors or outdoors, if the space is at least partially enclosed by walls, smoking is prohibited.
- No smoking in places of employment. This means anywhere someone works, including all offices, and also private homes that double as businesses.
- No smoking within 20 feet of doorways, windows, and ventilation intakes of the above areas.

A FEW EXCEPTIONS:
1) Hotels may reserve 20% of their rooms for smokers, as long as those rooms are clustered on the same floor and the smoke doesn't circulate to the other rooms.
2) Long-term care facilities may allow smoking in private rooms, at the written request of the occupant.
3) Smoking is allowed in fully open-air workplaces, such as parks, outdoor construction sites, and beach stands.

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Employment Discrimination

You have the right to be free from unlawful discrimination in your employment. All applicants and employees of private and public employers (except the federal government), union members, and job seekers in unemployment agencies are protected by Hawaii law against employment discrimination.

You cannot be denied a job, fired, or subjected to unequal terms and conditions of employment because of your race, sex, including gender identity or expression, sexual orientation, age, religion, color, ancestry/national origin, disability, marital status, civil union status, credit history, credit report, arrest and court record (except in limited circumstances), or domestic or sexual violence victim status. Sexual harassment by a supervisor or coworker in a form of sex discrimination.

Examples of Unlawful Employment Discrimination:
• If you are a pregnant employee and are denied leave requested by a doctor, or are denied reinstatement to the same or comparable position after giving birth.
• If you are subjected to unwanted sexual advances or demands, offered benefits in exchange for sexual favors, threatened with demotion, firing, or loss of benefits for refusing sexual advances, or subjected to unwelcome sexual remarks.
• If you are denied a job or a promotion because of your race, sex, including gender identity or expression, sexual orientation, age, religion, color, ancestry, disability, marital status, civil union status, credit history, credit report, arrest and court record (except in limited circumstances), or domestic or sexual violence victim status.

Unemployment Insurance

You have the right to unemployment benefits if you lose your job or your work hours are substantially reduced through no fault of your own. You may file your claim for unemployment insurance benefits online or in-person at a local claims office.

Go to unclaims.hawaii.gov between 6:30 am to 11:00 pm, Monday through Friday and between 9:00 am to 11:00 pm on weekends & holidays (Hawaii Standard Time). You will need a valid email address to create an online account.

Important Information:
• When you file, you must provide your social security number.
• If you are not a U.S. citizen, you should have your alien registration number available.
• You will need to provide information for all your employers in the past 18 months, such as the employer's name, address, zip code, phone number, dates of employment, and reason for separation. Ex-military servicemembers should have their DD214 (member 4) available. Former members of the National Guard or Reserve should have their Standard Form 50, or pay stubs available.
• Your claim payment: Your claim will begin only from the week that you file with the Unemployment Insurance office.
• If benefits are payable, you must receive your payments by direct deposit. You must provide your account type (savings or checking), financial institution routing number, and your account number.

Payday Notice

REGULAR PAYDAYS FOR EMPLOYEES OF: (FIRM NAME)

SHALL BE AS FOLLOWS:

BY: _____

TITLE: _____

Emergency Notice
AMBULANCE: _____ FIRE-RESCUE: _____
HOSPITAL: _____ PHYSICIAN: _____
ALTERNATE: _____ POLICE: _____
OSHA: _____ HAZARDOUS MATERIAL: _____

State Military Leave

Military Leave Notice to Employees
You have the right to be free from discrimination and retaliation if you leave your job to perform military service, when seeking initial employment, reemployment, retention in employment, promotion or any benefit of employment.
You have the right to file a claim for military service, to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
You have the right, even if you don't elect to continue coverage during your military service, to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illness or injuries.

This notice provides general background information on the Uniformed Services Employment and Reemployment Rights Act and is not intended to serve as a substitute for legal counsel. For specific legal advice on individual situations, please consult an attorney.

Unemployment Insurance

You have the right to unemployment benefits if you lose your job or your work hours are substantially reduced through no fault of your own. You may file your claim for unemployment insurance benefits online or in-person at a local claims office.

Go to unclaims.hawaii.gov between 6:30 am to 11:00 pm, Monday through Friday and between 9:00 am to 11:00 pm on weekends & holidays (Hawaii Standard Time). You will need a valid email address to create an online account.

Whistleblower Protection

Whistleblower Protection Law

You have the right to not suffer from any adverse employment action because you participated in an investigation, hearing or inquiry conducted by a government agency or court of law.

If you believe your employer has violated this law, you may file a lawsuit in state court within 2 years after the occurrence of the alleged violation.

This notice provides general background information on Hawaii labor and employment law and is not intended to serve as a substitute for legal counsel. For specific legal advice on individual situations, please consult an attorney.

*You may satisfy Hawaii Labor Laws' posting requirements by posting our official labor law poster. For more information: <http://labor.hawaii.gov/labor-law-poster/>

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Overtime

STATE OF HAWAII DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
WAGE STANDARDS DIVISION NOTICE TO EMPLOYEES
Under the HAWAII WAGE AND HOUR LAW
(Chapter 387, Hawaii Revised Statutes Wage and Hour Law, and Chapter 12-20, Hawaii Administrative Rules)

Employees who work more than 40 hours per week are entitled to overtime pay. Overtime standards under the Hawaii Wage and Hour Law also apply to employment covered by the federal wage and hour law (Fair Labor Standards Act) because Hawaii standards are higher than the federal law. The law also requires employers to maintain time records and prescribe methods for computing overtime pay. ENFORCEMENT: The Department of Labor and Industrial Relations may recover back wages, either administratively or through court action, for employees who have been underpaid.

FOR MORE INFORMATION contact the nearest Department of Labor office:

	PHONE
Oahu: 830 Punchbowl Street, Room 304, Honolulu 96813	(808) 586-8777
Kauai: State Building, Room 202, 3060 Ewa Street, Lihue 96766	(808) 274-3351
Mauai: 2264 August Street, Wailuku 96793	(808) 243-5322
Hawaii: State Building, Room 108, 75 Aupuni Street, Hilo 96720	(808) 974-6464
West Hawaii: Post Office Building, Kealahou 96750	(808) 322-4808