

Delaware & Federal Employment Notices

Job Safety and Health IT'S THE LAW!

All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request a confidential OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation, or loss of an eye.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

On-Site Consultation services are available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.

This poster is available free from OSHA.

1-800-321-OSHA (6742) • TTY 1-877-889-5627 • www.osha.gov

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 employee'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 employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

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 the 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, employees must give 30 days' advance notice of the need for FMLA leave. If it is not possible to give 30 days' notice, an employee must notify the employer 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 could 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.

Employers can require a certification or periodic certification 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 employee 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 employee is not eligible for FMLA leave, the employer must provide a written notice.

Employers 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.

For additional information: 1-866-4-USWAGE (1-866-487-9243) TTY: 1-877-889-5627 www.dol.gov/whd
U.S. Department of Labor • Wage and Hour Division

State Minimum Wage

Regular Rate:

effective: 06-01-15 - \$8.25/hour
effective: 01-01-19 - \$8.75/hour
effective: 10-01-19 - \$9.25/hour
effective: 01-01-22 - \$10.50/hour
effective: 01-01-23 - \$11.75/hour
effective: 01-01-24 - \$13.25/hour
effective: 10-01-25 - \$15.00/hour

EMPLOYEES WHO RECEIVE TIPS

The minimum cash wage payable to employees who receive tips is \$2.23 per hour, effective 10/1/96.

The employer must be able to prove that the employee received the balance of the full minimum rate in tips.

NOTE: Delaware's minimum cash wage for tipped employees is greater than the cash wage required by federal law. Employers must pay Delaware's higher rate.

MINIMUM WAGE EXEMPTIONS:

- Employees in agriculture.
- Employees in domestic service in or about private homes.
- Employees in the United States Government.
- Outside commission paid salespeople.
- Bona fide executives, administrators, and professionals.
- Employees engaged in fishing and fish processing at sea.
- Volunteer workers (for educational, religious or non-profit organizations).
- Junior camp counselors employed by non-profit summer camp programs.

RECORD KEEPING REQUIREMENTS:

Employers must keep records (including rate of pay, hours worked, and amount paid for each employee for three (3) years.

Updated 11/21

IRS Withholding

YOU MAY NEED TO CHECK YOUR WITHHOLDING

Since you last filed Form W-4 with your employer did you...?

- Married or divorced?
- Gain or lose a dependent?
- Change your name?

Were there major changes to...

- Your nonwage income (interest, dividend, capital gains, etc.)?
- Your family wage income (you or your spouse started or ended a job)?
- You itemized deductions?
- Your tax credits?

If you can answer "yes" ...

To any of these or you need extra tax when you filed your last return, you may need to file a new Form W-4. See your employer for a copy of Form W-4 or call the IRS at 1-800-829-3676. Now is the time to check your withholding. For more details, get Publication 919, How Do I Adjust My Tax Withholding, or use the Withholding Calculator at www.irs.gov/individuals on the IRS website.

Employer: Please report or publish this Bulletin where they can post that your employees will see it. Please include the poster so get forms and information on this subject.

Updated 1/17

Breaks

All employees must receive a meal break of at least 30 consecutive minutes if the employee is scheduled to work 7.5 or more hours per day.

Meal breaks must be given sometime after the first two (2) hours of work and before the last two (2) hours of work.

This rule does not apply when:

- The employee is a professional employee certified by the State Board of Education and employed by a local school board to work directly with children.
- There is a collective bargaining agreement or other employer-employee written agreement which provides otherwise.

Rules have been issued granting exemptions when:

- Compliance would adversely affect public safety.
- Only one (1) employee may perform the duties of a position.
- An employer has fewer than five (5) employees on a shift at one location (the exemption would only apply to that shift).
- The continuous nature of an employer's operations, such as chemical production or research experiments, requires employees to respond to urgent or unusual conditions at all times and the employer's operations are compensated for their meal breaks. Where exemptions are allowed, employees must be allowed to eat meals at their work stations or other authorized locations and use rest room facilities as reasonably necessary.

Payment of Wages

EMPLOYERS OF 4 OR MORE EMPLOYEES ARE REQUIRED TO:

- Notify employees in writing at the time of hire of: 1. rate of pay; 2. day, hour and place of payment;
- 3. employer's fringe benefits policies
- Notify employees in writing of any reductions in the rate of pay, and any changes in the day, hour or place of payment, or benefits.
- Furnish each employee with a pay statement showing: 1. amount of wages due; 2. pay period covered by the payment; 3. amounts of deductions (separately specified) which have been made from the wages; 4. total number of hours worked in pay period (for employees who are paid at an hourly rate.)

PAYMENT OF WAGES:

- Wages must be paid at least once a month.
- Employees must be paid all wages within seven (7) days from the close of each pay period [with some exceptions, see §1102(b)].
- If the payday falls on a non-work day, payment shall be made on the preceding workday.

If an employee is not present on the regular payday, payment shall be made on the next regular workday that the employee is present or by mail (only if requested by the employee).

- Wages may be paid only to a bank account designated by an employee (upon the employee's written request).
- Wages may be paid in cash or by check (provided that suitable arrangements are made by the employer for cashing at a bank or other business establishment convenient to the work place).
- Whenever an employee quits, resigns, is discharged, suspended or laid off, the wages earned shall be paid on the next regularly scheduled payday(s) either through the usual pay channels or by mail (if requested by the employee) as if employment had not been suspended or terminated.

UNLAWFUL DEDUCTIONS:

Employers are not permitted to deduct or withhold wages for:

1. Cash or inventory shortages;
2. Cash advances or charges for goods and services (unless there is a signed agreement specifying the amount and when the deduction should be made);
3. Damaged property;
4. Failure to return employer's property.

Workers' Compensation

IMPORTANT THINGS TO DO IN CASE OF INJURY

THE EMPLOYER SHOULD:

- Carry Workers' Compensation insurance coverage. Provide all necessary medical, surgical, and hospital treatment from the accident date. Every employee must keep a record of all injuries sustained by employees and the report to the insurance company within 100 days of the accident to the Office of Workers' Compensation. Ascertain the average weekly wages of the employee and the employee's compensation in accordance with the provisions of the law, for disability beyond the third day after the accident. All agreements as to compensation must be submitted to the Office of Workers' Compensation for approval.

THE EMPLOYEE SHOULD:

- Immediately notify the employer in writing of accidental injury or occupational disease and request medical services. Failure to give notice or to accept medical services may deny the employee of the right to compensation. Give promptly to the employer, directly or through a supervisor, notice of any claim for compensation for the period of disability beyond the third day after the accident. In case of fatal injuries, notice must be given by one or more dependents of the deceased or by a person on their behalf. In case of failure to reach an agreement with the employer in regard to compensation under the law, file an application with the Industrial Accident Board for a hearing on the matters at issue within two (2) years of the date of accidental injury or one (1) year of knowledge of a diagnosis of an occupational disease or an ionizing radiation injury. All forms can be obtained from the Office of Workers' Compensation.

Whistleblowers' Protection Act

WHISTLEBLOWERS' PROTECTION

§ 1701 Short title

This chapter may be cited as the "Delaware Whistleblowers' Protection Act."

74 Del. Laws, c. 361, § 1;

§ 1702 Definitions.

(1) "Employee" means a person employed full or part-time by any state, county, or municipality, or by any other public entity, including any contractor, independent contractor, and volunteer, firefighters as defined in § 6851(c) of Title 16.

(2) "Employer" means any person, partnership, association, sole proprietor, corporation, or other business entity, including any department, agency, commission, committee, board, council, bureau, or authority or any subdivision thereof in state, county or municipal government, or any individual who has the authority to take corrective action regarding the violation of a law, rule or regulation which the employee complains.

(3) "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.

(4) "Public body" means all of the following:

- a. A state-wide elected official, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government or employee of them;
- b. A legislator or employee of the legislative branch of state government;
- c. An elected official of a county, city, or school district or employee of them;
- d. A law-enforcement agency or employee of that law-enforcement agency;
- e. A federal agency or employee of that federal agency.

(5) "Supervisor" means any individual to whom an employer has the authority to direct and control the work performance of the affected employee or any individual who has the authority to take corrective action regarding the violation of a law, rule or regulation which the employee complains.

(6) "Violator" means an act or omission by an employer, or an agent thereof, that is:

- a. Materially inconsistent with, and a serious deviation from, standards implemented pursuant to a law, rule, or regulation promulgated under the laws of this State, a political subdivision of this State, or the United States, to protect employees or other persons from health, safety, or environmental hazards while on the employer's premises or elsewhere; or
- b. Materially inconsistent with, and a serious deviation from, financial management or accounting standards implemented pursuant to a law, rule, or regulation promulgated under the laws of this State, a political subdivision of this State, or the United States, to protect any person from fraud, deceit, or misappropriation of public or state funds or assets under the control of the employee.

74 Del. Laws, c. 361, § 1;

§ 1703 Protection.

An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment:

- (1) Because the employee, or a person acting on behalf of the employee, reports or is about to report to a public body, verbally or in writing, a violation which the employee knows or reasonably believes has occurred or is about to occur, or
- (2) Because an employee complains or is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action, in connection with a violation as defined in this chapter; or

(3) Because an employee refuses to commit or assist in the commission of a violation, as defined in this chapter; or

(4) Because an employee reports verbally or in writing to the employer or to the employee's supervisor a violation, which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to know that the report is false. Provided, however that if the report is verbally made, the employee must establish by clear and convincing evidence that such report was made; or

(5) Because an employee reports or is about to report to a public body, to the employer or the employee's supervisor, verbally or in writing any noncompliance or an infraction which the employee knows or reasonably believes has occurred or is about to occur, or

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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 1 1/2 times the regular rate of pay for all hours worked over 40 in a workweek.

CHILD LABOR:

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 with certain work restrictions. Different rules apply in agricultural employment.

TIP CREDIT:

Employees of "tipped employees" who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employees 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 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.

NURSING MATRONS:

The FLSA requires employers to provide reasonable break time for a nursing mother employee who is subject to the FLSA's overtime requirements in order for the employee to express breast milk for her nursing child for one year after the child's birth each time such employee has a need to express breast milk. Employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

ENFORCEMENT:

The Department has authority to recover back wages and an equal amount in liquidated damages in instances of minimum wage, overtime, and other violations. The Department may litigate and/or recommend criminal prosecution. Employers may be assessed civil money penalties for each willful or repeated violation of the minimum wage or overtime pay provisions of the law. Civil money penalties may also be assessed for violations of the FLSA's child labor provisions. Heightened civil money penalties may be assessed for each child labor violation that results in the death or serious injury of any minor employee, and such assessments may be doubled when the violations are determined to be willful or repeated. The law also prohibits retaliating against or discharging workers who file a complaint or participate in any proceeding under the FLSA.

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, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.
- Some state laws provide greater employee protections; employers must comply with both.
- Some employers incorrectly classify workers as "independent contractors" when they are actually employees under the FLSA. It is important to know the difference between the two because employees (unless exempt) are entitled to the FLSA's minimum wage and overtime pay protections and correctly classified independent contractors are not.
- 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.

1-866-487-9243 • TTY: 1-877-889-5627 • www.dol.gov/whd
WAGE AND HOUR DIVISION • WAGE AND HOUR DIVISION • UNITED STATES DEPARTMENT OF LABOR

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

If you have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service or:

- 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 other than 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.

RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- Are a past or present member of the uniformed service;
- Have applied for membership in the uniformed service; or
- Are obligated to serve in the uniformed service; then an employer may not deny you:
- Initial employment;
- Reemployment;
- Retention in employment;
- Promotion; or
- Any benefit of employment because of this status.

HEALTH INSURANCE PROTECTION

The rights listed here may vary depending on the circumstances. The text of this notice was prepared by VETS, and may be viewed on the internet at this address: <https://www.dol.gov/agencies/vets/programs/userrr/poster> Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees.

U.S. Department of Labor • Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.

For assistance in filing a complaint, or for any other information on USERRA, contact VETS at 1-866-4USA-DOL or visit its website at <https://www.dol.gov/agencies/vets/>. An interactive online USERRA Advisor can be viewed at <https://webpages.dol.gov/elaws/vets/userrr>

If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation.

You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.