

GENERAL EMPLOYMENT LAW GUIDE FOR EMPLOYEES

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This is a general guide designed to provide employees a basic understanding of the rules, regulations, and resources surrounding the employee/employer relationship. Most employers have the resources to retain an attorney to answer their employment law questions. From the offset, this advantage may seem unfair or disheartening. However, in this day of information, more resources are available at your fingertips than you probably realize. This brochure is meant to be a guide for basic questions you may have, but you should realize that specific factors can change the applicability to your particular work environment. It is not possible to cover all the aspects of employment law in one brochure. Consequently, before you make a major decision of what to do or not to do in your employment, contact the appropriate governmental agency or a lawyer for a consultation.

There are numerous resources and agencies that have information available to you for a variety of employment issues. Often, visiting with one of these agencies is a good first stop to give you an idea of the issues involved in your employment issue. Much of this information is available online. More employees have internet access these days at home or work. However, if you do not have internet access immediately available to you, check with your local library. Most offer free internet access in one hour increments.

State safety issues. Safety concerns come in two flavors—state and federal. In Texas, if you are

injured on the job, the agency that can provide you the most support is the Texas Worker's Compensation Commission. Their web site is www.twcc.state.tx.us. They will give you an overview of the rules and regulations regarding the compensation and benefits you are entitled to when you are injured at work. If you can't afford an attorney, many local offices will offer what is called "ombudsman" services. This is a person who can at least walk you through the process to insure that you are being treated fairly. Keep in mind, however, that not all Texas employers are required to carry worker's compensation insurance. If the employer decides to pursue self-insurance, they must provide you with notice that they are self-insured. Again, a visit to your local Worker's Compensation Office can help you with the decision to work for a self-insured employer.

Federal safety issues. Federal safety issues are generally governed by OSHA. Their site is www.osha.gov. OSHA differs from the Texas Worker's Compensation Commission in that OSHA does not address the compensation and benefits from an injury but, rather, the safe or unsafe work practices of employers. OSHA will publish general guidelines regarding safety regulations for the workplace. However, if you have a question that is specific to your workforce, then visit your local OSHA branch office and ask questions.

Federal wage and hour issues. The Department of Labor (DOL) is the agency which enforces federal wage and hour issues. Visit their website at www.dol.gov. They will tell you what the current minimum wage is and what wages your employer is required to provide you. The question most employees ask is whether the federal government requires an employer to offer rest periods and

lunches. Federal law does not generally require an employer to provide rest periods or lunches. However, most employers will offer them to promote their general duty under OSHA) to provide a safe work environment since fatigue can contribute to accidents. If an employer does offer rest periods and meal periods, the federal government does establish rules for how those are paid. Rest periods from 5-20 minutes are generally compensable, meaning that the employer has to pay you for that time. However, meal periods are not compensable, meaning your employer does not have to pay you. There are some exceptions to this rule. If you think one might apply to you, visit the DOL website or the local DOL branch office. The DOL web site will also provide you information on current minimum wage, part-time/full-time classifications, and the descriptions of employees that employers may exempt from overtime pay.

State wage and hour issues. The Texas Workforce Commission (TWC) addresses state wage and hour issues. Don't confuse them with The Texas Worker's Compensation Commission, which deals with injured workers. The TWC applies to all employees. Visit their web site at www.twc.state.tx.us. They can update you on state pay day rules, required postings by your employer, and what an employer can and can't deduct from your paycheck. They also provide helpful links to other sites that may affect your employment situation. One of the main functions of the TWC is to make sure you get paid. If an employer is not paying your wages, then you can file a wage claim with them without having to hire a lawyer. A good practice, however, is to keep copies of all your pay stubs. If for some reason your employer does not provide you a pay stub, make a copy of your check before you cash it. This insures good records in the event that you have to dispute the wages that your

employer owes you. TWC will also handle any claims that you make regarding unemployment benefits.

Discrimination issues. There are two avenues for employment discrimination issues. The federal avenue is the Equal Employment Opportunity Commission. Their website is www.eeoc.gov. The state avenue is the Texas Commission on Human Rights (TCHR). Their website is www.tchr.state.tx.us. Both of these websites offer basic information on prohibited practices by employers, how their complaint processes work, and forms for submitting a complaint. They also provide the locations of local and regional offices if you have questions. If you are terminated from your employment, do not confuse TCHR and TWC. Even though your employer may have terminated you for a reason that was in compliance with state and federal discrimination rules, you still may be entitled to unemployment benefits through TWC if you put forth your best effort to do the job assigned by your employer.

Other federal issues. To find other federal agency websites that contain useful information for you, go to www.firstgov.gov. This will provide you a fairly complete listing of all the federal agency websites.

Other state issues. To find other state agency websites, go to www.state.tx.us. This is the State of Texas website, which includes links to every state agency.

Employer handbook and posting. Although a good number of federal and state resources are available to you, sometimes the best source is

already at your fingertips: the employer handbook. This will give you the best expectation of your employer's work practices. If you feel that a particular practice described in your employer's handbook does not comply with state or federal rules, take your copy of the handbook to one of the agencies listed above. They will be able to give you guidance on the appropriate rules. One of the most common questions asked by employees is whether an employer is required to give an employee a second chance before they are terminated. State and federal rules are applicable to the extent that an employer can't fire or discriminate against someone because they are in a protected class. State and federal rules do not prescribe the number of chances that an employee must be offered to improve performance before they are terminated. In fact, Texas is an at-will employment state, which means that an employer can terminate you for any reason that is not in violation of state or federal laws. Handbooks, however, depending on how they are worded, can create the expectation that opportunities for improvement must be given before an employee is terminated.

Hopefully, this guide has provided you basic information about employment laws and how to obtain more information regarding your work environment. With technology, much more information is now available for you to review and tap into. The biggest risk is becoming frustrated from the sheer volume of information. If you get lost in the information highway, know that many attorneys or legal clinics will provide you free consultations to point you down the right avenue. Just don't be afraid to ask for directions!

