

Your Employment Rights



Your Right to Equal Treatment at Work

Regardless of your age, gender, race, religion, national origin, or disability.

It is illegal for an employer to make decisions about whom to hire, fire, discipline, or promote based on a worker's sex, race, religion, national origin, disability, or age.

If you have a disability: If you are qualified for your job, but have difficulty performing your work because of a disability, your employer may have to provide you with a "reasonable accommodation." A reasonable accommodations could be a special tool or piece of equipment that you need to do your job, or simply permission to do things differently from other workers.

If you're facing sexual harassment: Sexual harassment in the workplace is also illegal. You should report any instances of sexual harassment right away to your employer, following their policies. If you have no one to report harassment to, if the situation continues after you report it, and/or if your employer retaliates against you for reporting sexual harassment, you can file a complaint with the Equal Employment Opportunity Commission (EEOC).

If you're pregnant: If you are pregnant and your employer has at least 15 employees, you have a right to be treated the same way your employer treats workers with other temporary medical conditions. If a worker with a broken arm gets light duty or time off, then a pregnant worker has the same rights. You may also have a right to take unpaid leave under the Family Medical Leave Act (FMLA).

Regardless of your citizenship status: The law protects all workers who have legal authorization to work in the U.S. It is illegal for an employer to treat you differently from other workers because of your citizenship status or the country you or your family came from. Employers cannot prefer workers with temporary work permits instead of U.S. citizens, nor can they prefer U.S. citizens or green card holders over other authorized workers.

For every employee they hire, employers must complete a special form, called an I-9, to document that the

person is authorized to work. The I-9 form lists different documents that workers can show to prove their identity and work eligibility. Your employer should not ask you for these documents until after you're hired. It is your choice which of these documents to show. It is illegal for your employer to demand more or different documents than the law requires.

Your Right to Take Leave

For medical reasons: The FMLA Act gives some employees up to 12 weeks of unpaid leave if you or your family member has a serious illness, or for a birth or adoption. To be covered by this law you must:

- Work for an employer with 50 or more employees in a 75 mile radius;
- Have worked for your employer for at least 12 months; AND
- Have worked at least 1,250 hours in the past 12 months (about 25 hours a week).

If you qualify, you can take FMLA leave all at once, or in separate blocks of time when needed. Your health insurance continues while you are on FMLA leave, and when you return to work your employer must put you back in the same, or a comparable position. It is illegal for your employer to retaliate against you for requesting or taking FMLA leave.

For military duty: Federal law protects veterans who need to take leave due to military responsibilities.

Your Right to be Safe at Work

Under the law, employers must provide:

- A workplace with no recognized hazards;
- Equipment needed to make a job safe;
- Information about potential safety hazards; AND
- Training on how to work safely.*

*Government workers, domestic workers, workers on small family farms, and independent contractors are not protected by Occupational Safety & Health Administration (OSHA) laws.

Special safety concerns for farm workers:

If the employer or person who recruited you transports you to your job: the vehicle must be safe and insured. If the employer provides you with housing it must be clean and safe. Your employer must also provide you with access to clean drinking water, toilets, and hand-washing facilities in the fields.

Your Rights When You Lose Your Job:

Right to Unemployment benefits: You're eligible if you:

- Were Fired or laid off (did not quit voluntarily);*
 - Are a U.S. citizen or had legal work authorization;
 - Are able, available, and actively looking for work;
- AND
- Earned enough wages while working.

If you're eligible, you should apply for unemployment benefits right away. To file for unemployment or get more information contact the Texas Workforce Commission (TWC). If you are denied benefits because your employer has objected to your claim and you do not agree with his reasons, appeal the decision. A telephonic hearing will be scheduled where you and the employer can present testimony and evidence.

*Generally you cannot get unemployment if you quit a job, but you may be eligible if you quit because of domestic violence or because your military spouse was transferred.

Right to your final paycheck: If you're laid off or fired your employer must pay you by the 6th day after the last day you worked (or if the company is normally closed that day, by the next regular workday). If you quit, your employer must pay you on the next regular payday. Commissions should be paid at the same time as your paycheck or according to the regular schedule for payment of commissions.

Your boss cannot withhold your final paycheck until you "return company property" "finish a job" or for any other reason!

Right to continue your health insurance: under a federal law known as COBRA, workers who were covered under their employer's group health insurance plan can

choose to extend their health insurance coverage, including any coverage for family members, for at least 18 more months, BUT:

- You have to pay for the insurance yourself, and costs can be high.
- You have to choose COBRA coverage within 60 days of when your insurance plan sends you an “election notice” or within 60 days of when your insurance ends, whichever is later.
- COBRA only applies to workplaces with at least 20 employees.

WHERE TO FIND ASSISTANCE?

For information regarding discrimination charges against your employer, please contact the Texas Workforce Civil Rights Division at 1-888-452-4778. You may also file a charge with the EEOC by calling 1-800-669-4000.

For information regarding workplace safety and to report any safety problems concerning your employer, please contact OSHA’s 24-hour hotline at 1-800-321-OSHA (1-800-321-6782).

For more information about COBRA rights contact United States Department of Labor Employee Benefits Security Administration, Division of Technical Assistance and Inquiries Hotline 1-866-444-3272.

To apply for unemployment benefits contact the TWC at 1-800-939-6631.

If you think an employer has discriminated against you because of your citizenship status or national origin, you should contact the Office of Special Counsel for Immigration-Related Unfair Employment Practices at 1-800-255-7688.

For legal assistance, please contact Texas RioGrande Legal Aid, Inc., at 1-888-988-9996.

This fact sheet is intended to provide general information about your legal employment rights in Texas. Texas Young Lawyers Association cannot assure that the information here is current, or applies to your particular situation. Before relying on this information, you should consult an attorney or government agency for information about your legal rights.

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