

Common Employment Issues and Where to Go for Help



The Office of the
Minnesota Attorney General
helping people afford their lives and live with dignity, safety, and respect

This brief summary of common employment issues is intended to cover some employment laws and rights in Minnesota. It is not a comprehensive guide. Various factors will affect which laws apply to you. You may wish to consult with legal counsel or contact the appropriate regulator listed at the end of this article.

Wages

In Minnesota, employees must be paid the wages they've earned. (Minn. Stat. § 181.101). Wage theft happens when employees receive less pay than they are owed. This might occur because an employer does not pay for all hours worked, makes unexpected deductions from wages, misses a scheduled payday, or does not pay employees the correct amount. Here are some of the common laws that apply to wages:

State minimum wage and overtime.

Minnesota law requires an employer to pay an employee a minimum hourly wage. (Minn. Stat. § 177.24.) Employers must generally pay overtime after 40 hours (Minn. Stat. § 181.101; 29 USC § 207), but may be required to pay overtime after 48 hours in some instances. (Minn. Stat. § 177.25.) Overtime is calculated at 1.5 times the regular hourly wage. For example, if an employee's regular wage is \$15 per hour, their overtime rate would be \$22.50 per hour (\$15 x 1.5). The Department of Labor and Industry determines the minimum wage increase every year. The minimum wage can be found at: dli.mn.gov/minwage.

Some cities, including Minneapolis and Saint Paul, enacted local minimum wage ordinances that require some employers to pay an hourly wage higher than the state minimum wage. These ordinances are enforced locally. Employees can contact their city or county government to determine whether their jobs are covered by a local ordinance.

Federal minimum wage and overtime.

Federal law also applies to many Minnesota employers. The Federal minimum wage is \$7.25 per hour. Federal law generally requires an employer to pay overtime after 40 hours of work each week. (29 U.S.C. §§ 206-207.) Similar to Minnesota, overtime is calculated at 1.5 times the regular hourly wage.

Regular paychecks.

Minnesota law requires employers to pay employees all wages at least once every 31 days on a regular payday set in advance. (Minn. Stat. § 181.101).

Payment on separation.

When an employer fires an employee, the employer must pay wages or commissions actually earned and unpaid immediately. (Minn. Stat. § 181.13.) When an employee quits, the employer is usually required to pay wages due not later than the first regularly-scheduled payday following the employee's last day of work. (Minn. Stat. § 181.14.) If an employer fails to pay the full wages owed, the employee may submit a written demand for payment. The employer may have to pay a penalty if the employer fails to pay within 24 hours after the demand. (Minn. Stat. §§ 181.13-.14.)

Deductions.

Except for limited circumstances, an employer may not make deductions from the employee's wages without the employee's written agreement after the loss or debt has occurred. (Minn. Stat. §§ 177.24, 181.79.) Common improper deductions include taking servers' tips when a cash register is a short or a customer walks out, deducting for housing without the employee's written agreement, and deducting wage overpayments without the employee's written agreement. In addition, a deduction cannot bring the employee's wages below minimum wage or be more than the amount established by law for garnishments.

Benefits & Leave

Minnesota law generally doesn't require employers to provide benefits such as health insurance or retirement plans. If an employer chooses to offer benefits such as insurance or retirement plans, there are some protections for employees found in federal law. In addition, if an employer does provide these benefits but ultimately does not give the employee access to them or changes them, the employee may be subject to a "breach of contract" claim in court.

Minnesota has paid earned sick and safe time and paid leave. Both the Minnesota Attorney General's Office and the Department of Labor and Industry enforce these laws. The Department of Employment and Economic Development administers Minnesota's paid leave program.

Earned Sick and Safe Time under state law.

Minnesota law requires almost all employers in Minnesota to provide paid sick and safe time for employees who have worked at least 80 hours in the year. (Minn. Stat. § 181.9446-181.9448.) Employees earn 1 hour for every 30 hours worked up to 48 hours each year. Employers can choose to provide a more generous sick and safe time policy. Employees can take leave for qualifying reasons, including the employee's mental or physical illness; caring for family members; experiencing domestic assault, sexual abuse, or stalking; bereavement; or workplace closures.

Paid leave under state law.

Beginning January 1, 2026, many Minnesota employees will be entitled to job protections and partial wage replacement if they are unable to work due to a qualifying condition that lasts at least 7 days. Employees who have earned at least 5.3% of the statewide average income (around \$3,600 in 2023) during the past year are covered. An employee is eligible for a maximum of 12 weeks of family leave, 12 weeks of medical leave, or a combination of the two not to exceed 20 weeks.

Minnesota's paid leave is administered by the Department of Employment and Economic Development. For more information on applying for paid leave, please visit: <https://pl.mn.gov/>

Unpaid parental leave.

Minnesota law requires all employers to provide unpaid parental leave for up to 12 weeks when an employee's child is born or adopted or when an employee needs prenatal care or is incapacitated due to pregnancy, childbirth, or related health conditions. (Minn. Stat. §§ 181.940-941.) During this leave, employers must maintain coverage under any group health insurance policy for the employee and any dependents, although the employee must continue to pay their share of the cost of the benefit.

Federal unpaid leave.

The federal Family & Medical Leave Act ("FMLA") generally requires employers with 50 or more employees to provide up to 12 weeks of unpaid, job-protected leave per year for an eligible employee for the birth or adoption of a child; caring for a spouse, child, or parent with a serious health condition; a serious health condition that makes the employee unable to work; and reasons related to a family member's service in the military. (29 U.S.C. § 2611, et seq.) The United States Department of Labor is the federal agency with authority to enforce the FMLA.

Local ordinances.

Some cities, including Minneapolis and Saint Paul, have enacted ordinances requiring some employers to provide sick leave benefits. These ordinances are enforced locally. Employees can contact their city or county government to determine whether their job is covered by a local ordinance.

Federal health insurance protection.

The Affordable Care Act ("ACA") contains benefits and responsibilities for employers. Generally, employers with 50 or more full-time or equivalent employees must offer affordable health care or pay a federal tax penalty.

Federal retirement plan protection.

The Employee Retirement Income Security Act ("ERISA") is a federal law that sets minimum standards for most voluntarily established retirement and health plans. Some protections include providing participants with important information about their retirement plans; setting minimum standards for participation, vesting, benefit accrual, and funding; and providing fiduciary responsibilities for those who manage retirement plans.

In addition, defined benefit plans, or “pension” plans, have additional protections. The Employee Benefits Security Administration is the federal authority to enforce the Act.

Employee or Independent Contractor

Minnesota’s wage and hour laws do not apply if the worker is an independent contractor under Minnesota law. Whether a worker is an independent contractor or an employee is a complicated issue based on several factors, and employment status varies depending on whether a worker is seeking workers’ compensation, unemployment, or wages.

Generally, a worker is an employee when an employer controls when the worker works, what the worker does, and how the worker does their job. A worker is an independent contractor when the worker controls when, where, and how a job gets done. (Minn. Stat. §§ 176.043, 181.723.) You may wish to consult with an attorney if you have questions whether you are an employee or independent contractor.

Working Conditions

The state and federal Occupational Safety and Health Act (OSHA) aims to prevent workplace injuries or deaths before they happen. Workers’ Compensation is a system designed to provide benefits to employees who are injured at work.

OSHA.

Employers must provide employees with information about any hazardous chemicals or harmful physical agents that the employees may be exposed to at work. Employers must also provide employees with necessary personal protective equipment and training.

The Department of Labor and Industry is the state agency with authority to investigate and enforce OSHA violations. Employees may file a complaint with the Minnesota Department of Labor and Industry regarding health and safety hazards in the workplace.

Workers’ compensation.

Workers’ compensation is a no-fault system designed to provide benefits to employees who are injured because of their employment activities. A work-related injury can be any condition that is caused, aggravated, or accelerated by employment activities. The Department of Labor and

Industry administers Minnesota’s worker’s compensation program. For more information, visit www.dli.mn.gov.

Retaliation.

Minnesota law prohibits an employer from retaliating or discriminating against an employee for reporting a workplace safety concern. (Minn. Stat. § 182.669.) Minnesota law also prohibits an employer from discharging or threatening to discharge an employee who seeks workers’ compensation benefits. (Minn. Stat. § 176.82.)

Whistleblower Protection

Minnesota’s Whistleblower Act prohibits an employer from retaliating against a current or former employee for making a good faith report of a violation, suspected violation, or planned violation of any law, or for refusing an employer’s order to perform an action that the employee believes violates a law. (Minn. Stat. § 181.932). Retaliation can include firing, penalizing, interfering with, threatening, or discriminating against an employee regarding any of their compensation, terms and conditions of their work, or employment. Both the Department of Labor and Industry and the Attorney General’s Office enforce the Minnesota Whistleblower Act. An employee who is retaliated against in violation of the Act may bring a private civil action in court to enforce the Act. (Minn. Stat. § 181.935.)

Employment Discrimination

State and federal law generally prohibits employers from discriminating against employees. Discrimination can take many forms. It can include treating employees differently based on their protected class, including firing, disciplining, harassing, or different wage rates.

State anti-discrimination laws.

Under the Minnesota Human Rights Act, employers generally cannot discriminate based on protected classes. These protected classes include race, color, creed, religion, national origin, sex, gender identity, marital status, receiving public assistance, familial status, membership in a local commission, disability, sexual orientation or age.

The Minnesota Department of Human Rights administers and enforces the Minnesota Human Rights Act. You may also wish to consult with an attorney if you have questions on whether you have experienced employment discrimination.

Under Minnesota's Equal Pay law, employers are also prohibited from discriminating against employees by paying wages to employees at a rate less than the employer pays to the opposite sex. Both the Minnesota Attorney General's Office and the Department of Labor and Industry enforce Minnesota's Equal Pay law.

Federal Anti-Discrimination Laws.

Title VII is a federal law that prohibits employers from discriminating against employees based on race, color, religion, sex (including pregnancy, childbirth, transgender status, or sexual orientation), national origin, disability, genetic information, or age (40 or older). Most employers with at least 15 employees are covered by Title VII. The Federal Equal Pay Act also prohibits wage discrimination based on sex.

The Equal Employment Opportunity Commission has the authority to investigate discrimination. You may wish to consult with an attorney if you have questions whether you are an employee or independent contractor.

Other Employment Laws

Personnel Files.

Minnesota law requires an employer to provide an employee's personnel file to the employee upon request. A current employee may review their file every six months. A former employee may review the file once per year so long as the employer maintains the file. (Minn. Stat. § 181.961).

An employer must comply with an employee's written request to review the file within 7 working days if the record is located in Minnesota and within 14 working days if the record is located outside Minnesota. The employer may not charge a fee for a copy. (Minn. Stat. § 181.961.)

If an employee disputes specific information in the employee's personnel record, and if the employer and employee cannot agree to remove or revise the disputed information, the employee may submit a written statement explaining the employee's position regarding the disputed information. (Minn. Stat. § 181.962)

Non-Compete Agreements.

Minnesota law prohibits most non-compete agreements that restrict an employee or independent contractor from working for another business after termination of employment. (Minn. Stat. § 181.988.) There are a few exceptions. The most common exception is a non-compete agreement that were in effect before July 1, 2023. The Attorney General's Office and the Minnesota Department of Labor and Industry have authority to enforce Minnesota's statutes governing personnel files. You may also wish to consult a private attorney.

Pay history and salary ranges.

An employer with 30 or more employees must disclose the starting salary range and a general description of benefits in each job posting. (Minn. Stat. § 181.173). An employer that does not plan to offer a salary range for a position must list a fixed pay rate. The salary range cannot be open ended.

Additionally, employers cannot ask, inquire, or consider an applicant's pay history for the purposes of determining wages, salary, earnings, benefits, or other compensation. (Minn. Stat. § 363A.08.) An applicant for a job may voluntarily disclose their pay history for purposes of negotiating wages, salary, benefits, or other compensation.

Wage notices.

All employers must provide employees with written notices that detail employment terms. These terms include, but are not limited to pay rate, employment status (exempt or non-exempt), the employer's contact information, deductions, and benefits. (Minn. Stat. § 181.032.) These wage notices must also be updated when the employer makes changes.

Regulators

The Minnesota Attorney General's Office cannot provide you with legal advice. The information in this pamphlet is only intended to provide a general overview of some of the pertinent laws and the regulatory agencies that have authority to enforce them. For more information, you should contact the regulatory agency indicated above or consult with a private attorney.

In many cases, employees may also bring a private action in court to seek money owed, liquidated damages, penalties, and attorney fees. Information on hiring an attorney can be located here: <https://www.ag.state.mn.us/Consumer/Publications/HiringAnAttorney.asp>

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445 Minnesota St, Suite 600 St. Paul, MN 55101
(651) 296-3353 (Twin Cities Calling Area)
(800) 657-3787 (Greater Minnesota)
(800) 627-3529 (Minnesota Relay)
www.ag.state.mn.us

Minnesota Department of Labor and Industry

443 Lafayette Road North St. Paul, MN 55155
(651) 284-5070
www.dli.mn.gov
dli.laborstandards@state.mn.us

Department of Employment and Economic Development

180 E 5th St., Suite 1200, St. Paul, MN 55101
(651) 259-7114 (Twin Cities)
(800) 657-3858 (Greater Minnesota)
mn.gov/deed/
DEED.customerservice@state.mn.us

Department of Human Rights

540 Fairview Ave N, Suite 201, St. Paul, MN 55104
(651) 539-1100 (Twin Cities)
(800) 657-3704
mn.gov/mdhr/
Info.MDHR@state.mn.us

US Department of Labor

Wage and Hour Division

Tri-Tech Center, Suite 920
331 Second Ave South, Minneapolis, MN 55401-2233
(866) 487-9243
www.dol.gov/agencies/whd/

US Department of Labor

Employee Benefits Security Administration

2300 Main St., Suite 11093, Kansas City, MO 64108
(866) 444-3272
www.dol.gov/agencies/ebsa

Equal Employment Opportunity Commission

Towle Building
330 South Second Avenue, Suite 720
Minneapolis, MN 55104-2224
(800) 669-4000
www.eeoc.gov/