

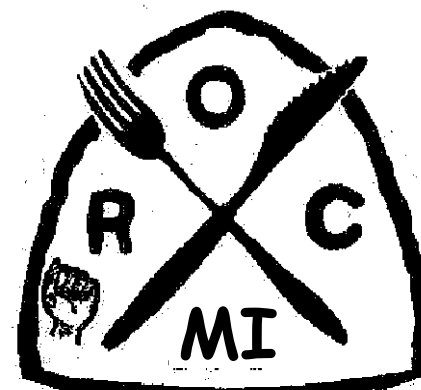


WWW.ROCUNITED.ORG
ROC-Michigan
2727 2nd Ave, Ste. 148
Detroit, MI 48201
(313) 962-5020

RESTAURANT

WORKERS'

MANUAL



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Lawful Off-Duty Activity

Michigan is one of only twenty states that currently do not have any protections for workers that would prevent employers from using non job-related, off-duty information about employees and job applicants in making employment decisions.

The Michigan State House of Representatives passed a bill in the spring of 2008 in an attempt to change this. The bill has yet to be voted on in the Senate.

If the “Employee Privacy Protection Act” is passed, an employer would **not** be allowed to fire, fail to hire, or take action against an employee based on that employee’s lawful off-duty conduct outside the premises of the employer.

This bill was introduced in the legislature after several employees were fired by a company in Michigan for smoking outside of work.

Introduction

Are you a restaurant worker in the Detroit area? If so, then YOU HAVE RIGHTS!!! This pamphlet is designed to let you know which laws protect you in the workplace. If you discover that your rights are being violated, we will give you the information you need to get justice! Before you go to the Department of Labor, get an attorney, or any other action, we encourage you to come to the Restaurant Opportunities Center of Michigan (ROC-MI), where we can help you determine the best course of action. For new members, our orientations are on **Mondays at 12:30 pm and Wednesdays at 3:30 pm**. We are located at 2727 2nd Ave, Suite 148, Detroit, MI 48201. Call us today to schedule an appointment! Our services are free!

Although the information in this manual does not cover all of your rights on the job, these are the basic laws about your rights. Also, this is not personal legal advice. We suggest that you come to an orientation to get the full story on what you can do in your struggle for justice! Call us at **313-962-5020** for more information.

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Wages and Hours of Work

Whether or not you have legal documents to work in this country, you are protected by most federal and state labor laws. Regardless of whether you are paid per hour or by annual salary, you have the right to earn the minimum wage for each hour of work. Here are some key workers' rights to remember:

- **Workers have the right to earn “time and a half” for every hour worked past 40 regular hours in one week. This is commonly referred to as “overtime.”**
- **Each worker has the right to receive a receipt every time he or she is paid. The receipt must indicate the hours you worked, the wages paid to you, and whatever deductions (taxes) the employer made. Even if you're paid by cash, you have the right to a receipt. The employer cannot deduct money from your paycheck without giving you an explanation of when you worked, how many hours you worked, the wage you received, and the reason for the deduction.**
- **The employer must pay you every two weeks or more frequently. Your employer can pay you once a month on a monthly payday only if they pay you on or before the first of the month all of your wages from the previous month.**
- **Your employer cannot make you wait more than two weeks after finishing your first two weeks of work to pay you your wages.**
- **Unlike some other states, Michigan does not require employers to give employees a paid or unpaid break. However, minors (employees under 18 years of age) must be given a 30 minute, uninterrupted, unpaid break after 5 hours of work.**

Discrimination Based on a Conviction Record

Unlike some other states, Michigan does not have specific laws that prohibit discrimination against individuals based on having had a criminal record. In Michigan, employers can ask you if you have convictions and if you felony arrests. In most cases, employers cannot ask about misdemeanor arrests that did not result in a conviction. However, misdemeanor arrests may still show up on a background check.

In Michigan, employers can generally make decisions about whom to hire. However, employers who refuse to hire anyone with a criminal record, even though the record has nothing to do with the job, may be violating laws against race discrimination. If an employer refuses to hire anyone with a record, contact ROC-MI and we can help connect you with resources and determine your best course of action.

Expungement of Criminal Records

If your criminal record is expunged, this can make it much easier for you to get a job, housing, or credit. If you can get your record expunged, the law treats you – in most cases – as if you had never been convicted.

You *may* be eligible to get your criminal record expunged if: (1) you have only one adult criminal conviction or juvenile adjudication and (2) it has been more than 5 years since the date of your conviction or from when you were released from prison.

If you think you might qualify for an expungement, contact ROC-MI and we can assist you with obtaining free help in order to get your record expunged.

Marital Status

Michigan State Law protects employees against discrimination on the basis of marital status. An employer may not decide whether to hire, fire, recruit, or otherwise discriminate against someone because he or she is single, married, divorced, separated, or the like.



Military Status

The Federal Uniformed Services Employment and Reemployment Rights Act (USERRA) protects employees against discrimination on the basis of “military status,” which includes service in the Armed Forces of the United States, the Army National Guard, and the Air National Guard. The USERRA also provides for a right to re-employment under certain circumstances. More information about the USERRA is available on the website of the United States Department of Labor at <http://www.dol.gov/elaws/userra.htm>.

Discrimination Based on Record of Arrest

In most cases, it is an unlawful discriminatory practice for an employer to:

- Ask an applicant for employment about arrests other than arrests that are currently pending, or refuse to hire someone or take other adverse action because of an arrest other than an arrest that is currently pending.

You are entitled to:

- *A minimum wage of \$7.40 per hour if you do not receive tips.*
- *A minimum wage of \$2.65 an hour if you do receive tips, and your hourly rate plus tips exceeds \$7.40 an hour.*
- *Payment for all hours worked.*
- *Overtime pay of 1 and ½ times your regular hourly wage for every extra hour you work over 40 hours in a given week.*
- *You do not have to accept lower wages because of your immigration status.*



When do I get my first paycheck?

If your first day working for your employer was during the first half of the month (e.g. April 6), your employer must pay you your full wages no later than the first day of the following month (e.g. May 1).

If your first day working for your employer was during the second half of the month (e.g. April 22), then your employer must pay you your wages no later than the fifteenth day of the following month (e.g. May 15).

If your employment is terminated, wages must be paid no later than the regular payday for the pay period during which the wages were earned.

If I am a tipped employee, how much am I paid? Is the minimum wage different for tipped workers?

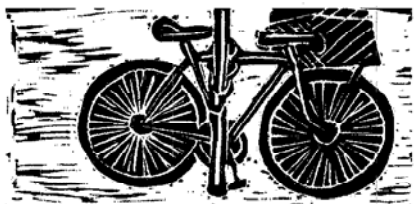
If you are a food server (e.g. waitress or busser) or delivery worker or an employee who normally earns tips, you can be paid a lower minimum wage of \$2.65 per hour *as long as you report in writing tips* that when added to \$2.65 will equal earnings (including tips) of at least \$7.40 per hour.

The employer must keep records of the tips received, which include a written tip statement signed by the employee AND dated before the date the employee's paycheck is received.

If a tipped employee works more than 40 hours per week, that employee is entitled to overtime pay of at least \$6.35 per hour for every hour worked after 40, as long as that employee is earning \$4.75 per hour in tips.

Can my employer deduct money from my paycheck without my permission - for example, to cover meals I ate in the restaurant, the cost of uniforms, something I broke, or to cover the bill for a customer who left without paying?

NO. Your employer cannot deduct money from your paycheck without your full, free, and written consent. Your employer cannot intimidate or threaten you to try to get you to sign your consent. Even if you freely give your employer permission to take money out of your paycheck, your employer is not allowed to take so much money out of your paycheck if the deduction would bring your wages below the minimum wage.



There are different standards for applicants and employees.

You may not be asked medical questions when you are applying for a job until you have been given a "conditional offer" of employment. After receiving a "conditional offer," the employer may ask medical questions, or require medical examinations, as long as they are asking the questions to each person who is applying for the same job. Based on answers to the questions, they may withdraw the conditional offer if they determine that you have a medical condition that would be transmitted while handling food and if either there is no reasonable accommodation that would eliminate the risk of transmitting the disease through food or if any such accommodation would be an undue hardship to their business.

Medical examinations of employees must be job related and consistent with business necessity.

The U.S. Secretary of Health and Human Services maintains a list of infectious and communicable diseases which are transmitted through the handling of food. If you have a disability and are disabled by one of the infectious or communicable diseases included on this list, and if the risk of transmitting the disease associated with the handling of food cannot be eliminated by reasonable accommodation, you may be refused assignment at a job involving food handling. However, if you are a current employee you may be considered for reassignment to a vacant position not involving food handling.

Do laws about disability discrimination protect people who abuse drugs and alcohol?

Employees and applicants currently engaging in the illegal use of drugs are not protected when an employer acts based on such use. Employers may hold individuals who are illegally using drugs and individuals with alcoholism to the same standards of performance as other employees.

If I am applying for a job and have a physical disability, what kinds of questions can my employer ask to determine whether I can do the job?

Before making an offer of employment, an employer may not ask you about the existence, nature, or severity of a disability.

You may be asked about your ability to perform essential job functions (with or without accommodation).

A job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in the same job category.

For more information about this subject, see the EEOC publications “Job Applicants and the Americans with Disabilities Act” available on line at <<http://eoc.gov/facts/jobapplicant.html>>, and “Preemployment Disability-Related Questions and Medical Examinations,” available on-line at <<http://eoc.gov/policy/docs/preemp.html>>.

In the restaurant industry, we have to be very concerned about the medical conditions of employees who handle food. Can my employer ask employees and applicants for employment whether they have a contagious disease?

The EEOC has issued guidelines on this subject, which can be found in its publication, “How to Comply with the Americans with Disabilities Act: A Guide for Restaurants and other Food Service Employers,” available online at <http://eoc.gov/facts/restaurant_guide.html>.



Wage & Hour Summary for Restaurants

Wage	
Minimum Hourly Rate	\$7.40
Minimum Overtime Rate	\$11.10
<hr/>	
Cash Wage – Tipped Workers	\$2.65
Overtime Rate – Tipped Workers	\$6.35
<hr/>	
Minimum Hourly Rate	
Workers Under Age 18	\$6.29
Minimum Overtime Rate	\$9.44

Work Hours for Minors

- If you are under 14, you cannot work in a restaurant
- If you are under 18, you are not permitted to work more than 6 days per week, more than 48 hours in one week, or more than 10 hours per day.
- If you are under 16, you cannot work between 9 pm and 7 am
- If you are 16 years of age or older, but under 18, you cannot work between 10:30 pm and 6:00 am. You can work until 11:30 pm on Fridays and Saturdays, on school vacations, or during periods when you are not normally enrolled in school.

Health and Safety

Health and safety hazards such as hot kitchens, hot equipment and oil, sharp knives, fire hazards, heavy serving trays, and slippery floors are commonplace in restaurants. The most frequent injuries and illnesses among restaurant workers include sprains and strains, cuts and lacerations, bruises and burns.

The Occupational Health and Safety Administration (OSHA) writes and enforces federal rules and guidelines on health and safety for all workplaces. OSHA requires employers to provide a work environment free from recognized hazards causing or likely to cause death or serious harm.

OSHA has rules about the quantity of toxic chemicals that a worker can be exposed to. The law requires the use of certain safe practices and equipment, and requires employers to check for dangerous conditions at work and to keep sickness and work accident records regularly. If your employer does not comply with these requirements, he or she can be penalized by OSHA.



What are some examples of reasonable accommodations?

Reasonable accommodation may include, but is not limited to:

- *Making existing facilities used by employees readily accessible to and usable by persons with disabilities*
- *Job restructuring: modification of work schedules*
- *Providing additional unpaid leave; reassignment to a vacant position*
- *Acquiring or modifying equipment or devices*
- *Adjusting or modifying examinations, training materials, or policies*
- *Providing qualified readers or interpreters*

An employer may be required to provide a reasonable accommodation to enable a person with a disability to apply for a job, perform job functions, or enjoy the benefits and privileges of employment that are enjoyed by people without disabilities.

An employer is not required to lower production standards as an accommodation.

An employer is generally not obligated to provide personal use items such as glasses or hearing aids.

What if my employer cannot afford to make accommodations an applicant or employee would require?

Your employer is required to make reasonable accommodations to a qualified individual with a disability unless doing so would impose an undue hardship on the operation of the employer's business. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as a business facility's size, financial resources, and the nature and structure of its operation.

Age

Can my employer recruit employees in a certain age group?

Federal and state laws specifically prohibit employers from using any form of application for employment or making any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to age. An age limit may only be specified in the RARE circumstance where age has been proven a “bona fide occupational qualification” (BFOQ).

Denial of benefits for older employees

An employer may reduce benefits based on age only if the cost of providing the reduced benefits to older workers is the same as the cost of providing benefits to younger workers. Employers may request that their employees waive rights or claims under the Age Discrimination in Employment Act of 1967 (“ADEA”) either in the settlement of an ADEA administrative charge or court claim, or in connection with an exit incentive program or other employment termination program. However, the waiver must comply with the Older Workers Benefit Protection Act of 1990, which amended the ADEA. For more information, see <<http://eeoc.gov/types/age.html>>.

Disability

The federal Americans with Disabilities Act of 1990 (ADA) and the Michigan Persons with Disabilities Civil Rights Act prohibit discrimination based on an employee’s disability. They protect people who are mentally disabled as well as people who are physically disabled. These laws prohibit employers from hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Are there special health and safety protections for workers under 18 years of age?

- Workers under 18 years of age must have a **work permit** signed by a school official on file at the place of employment
- Persons under 18 years of age may not drive a delivery vehicle or cut meat
- If you are under 18, you cannot sell or serve alcoholic beverages
- If you are a teenager, you may work in a business where alcoholic beverages are sold and consumed, if the sale of food or other goods is at least 50 percent of all sales
- If you are under 16, you cannot work in the part of the business where alcohol is consumed

What can I do if I think my workplace is unsafe?

You should first visit the Restaurant Opportunities Center of Michigan where we can help you file a complaint with OSHA anonymously and confidentially. You need to be extremely specific in the complaint (say exactly where the dangers are located). ROC-MI can help you send the complaint to:

Occupational Safety and Health Administration
315 West Allegan, Room 207
Lansing, Michigan 48933
Tel: (517) 487-4996

OR TO . . .

Michigan Occupational Safety & Health Administration (MIOSHA)
P.O. Box 30643
7150 Harris Drive
Lansing, Michigan 48909-8143
(800) 866-4674

What if I am discriminated against or punished for filing my complaint?

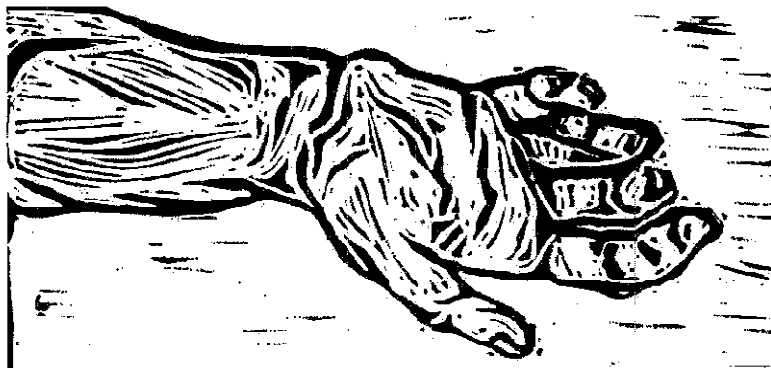
If you are discriminated against, punished, or fired by your employer for filing a complaint with OSHA, ROC-MI can help can help file a new complaint with OSHA within 30 days of the event, so you can receive help. You have a right to talk to OSHA investigators confidentially. They cannot interrogate you in front of your employer.

Workers' Compensation

If you are injured on the job, or if you feel that there are dangerous conditions, there are several things you can do.

If you were injured on the job, or if you had an illness caused by your working conditions, you must take immediate steps to protect yourself.

- ***DO NOT SIGN ANYTHING THAT YOUR EMPLOYER OFFERS YOU without understanding and reading it well. Sometimes the employer would like you to accept his or her offer to pay your medical expenses instead of letting you ask for compensation. You should not accept this settlement for the following reasons. The compensation is an insurance system that offers the workers who have been hurt on the job wider protection than the employer can offer.***
- ***NOTIFY YOUR EMPLOYER IMMEDIATELY AFTER BEING INJURED. By law, you have to notify your employer within 30 days of the accident or injury in order to receive workers' compensation. The sooner you notify the employer about the injury, the better.***



Does employer-provided health insurance have to cover pregnancy?

Any health insurance provided by an employer must cover expenses for pregnancy related conditions on the same basis as for other medical conditions. Health insurance for expenses arising from abortion is not required, except where the life of the mother is endangered.

Pregnancy related expenses should be reimbursed exactly as those incurred for other medical conditions, whether payment is on a fixed basis or a percentage of reasonable and customary charge basis. The amounts payable by the insurance provider can be credited only to the same extent as amounts payable for other conditions. No additional, increased, or larger deductible can be imposed.

Employers must provide the same level of health benefits for spouses of male employees as they do for spouses of female employees.

Equal Pay

Some of the women in a restaurant earn less than men but they do not do the same job. Is this pay discrimination?

It could be. Employers may not pay unequal wages to men and women who perform jobs that require “equal skill, effort, and responsibility,” and that are performed under similar working conditions within the same establishment. The federal Equal Pay Act of 1963 requires that men and women be given equal wages for “equal work performed under similar working conditions and requiring equal skill, effort, and responsibility.” Wages include earnings of an employee for services rendered, including benefits. Claims alleging discriminatory practices affecting compensation may also be brought under Michigan’s Elliot-Larsen Civil Rights Act.

More information on the Equal Pay Act may be found on the EEOC website at <http://eeoc.gov/types/epa.html>.

Can an employer require that I obtain a doctor's note verifying my inability to work?

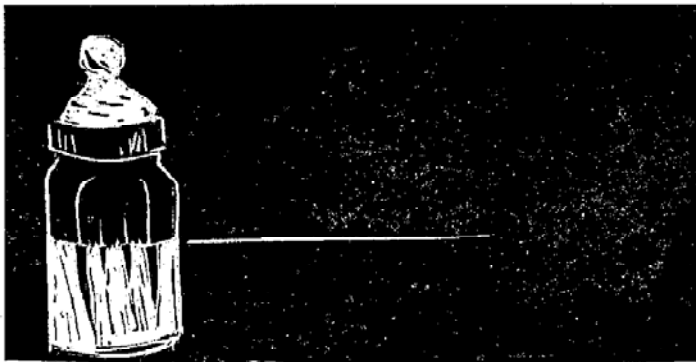
An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. However, the employer has the right to ask for a doctor's statement concerning your inability to work before granting leave or paying sick benefits. You may also be required to provide such statements for pregnancy-related conditions.

Can I be asked to take a leave of absence at a certain point while I'm pregnant?

Pregnant women must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby's birth. An employer may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.

How long will an employer hold my job open while I'm on maternity leave?

Employers must hold open a job for a pregnancy-related absence the same length of time jobs are held open for employees on sick or disability leave.



What is workers' compensation?

- 100% medical benefits
- Normally, 80% of your salary while you are on disability leave (as long as you have lost your wages for at least 1 week due to the injury)
- An additional compensation for a permanent injury

Who qualifies for compensation?

Any worker that has suffered an injury on the job qualifies for workers compensation.

NOTE: Michigan is one of a handful of states that limits the ability of undocumented workers to recover wage loss benefits. However, under the workers' compensation system undocumented workers are entitled to 100% of their medical benefits as well as to compensation for permanent injury.

What steps do I have to take to receive compensation?

Notify the employer or the representative immediately unless the employer witnessed the accident.

My employer has offered to pay for my medical expenses if I do not apply for compensation. What should I do?

Never accept offers from employers for compensation. It is always best to file a workers' compensation claim to ensure that the claim is handled properly under the law.

If you have experienced an accident or injury on the job, come to ROC-MI for assistance in filing a workers' compensation claim.

Union and Organizing Law

You have a right to get together with other co-workers and speak to your employer to attempt to make work better or safer with or without the assistance of a union, without being retaliated against. (This is known as “protected concerted activity.”)

You also have the right to form or attempt to form a union with other employees in a restaurant without being retaliated against. You have the right to engage in “protected concerted activity,” including a sit-in, strike, or other type of strike, to obtain better working conditions.

Laws pertaining to unionizing and other types of organizing

- *You cannot be fired or in any way retaliated against (i.e. change in pay, hours, etc.) for wanting to organize or for filing a work complaint.*
- *If you speak with your employer with at least one other co-worker or if you say that you are speaking as a representative of your co-workers, the employer cannot legally fire you.*
- *An employer may not threaten you with the loss of your job or benefits if you attempt to organize or resist organization, or encourage co-workers to form or join a union.*
- *An employer may not spy or attempt to spy on organizing or union activities.*
An employer may not prohibit you from discussing work conditions, wages, or discipline.
- *An employer may not grant salary raises or make other promises in order to discourage you or co-workers from forming or joining a union.*
- *An employer may not participate in or try to control in any way the workers’ organization.*

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- *The victim as well as the harasser may be a woman as well as a man. The victim and the harasser do not have to be of the opposite sex.*
- *The harasser can be the victim’s supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.*
- *Unlawful sexual harassment may occur even when there is no economic injury to, or discharge of, the victim.*
- *The harasser’s conduct must be unwelcome.*

Pregnancy

Employers may not discriminate against a woman on the basis of pregnancy, childbirth, or a medical related condition. Women who are pregnant or affected by a related condition must be treated in the same manner as other applicants or employees with similar temporary limitations in their ability to perform their jobs.

What if I am unable to fulfill the conditions of the job during my pregnancy?

If an employee is temporarily unable to perform her job due to pregnancy the employer must treat her the same as any other disabled employee.

Example: If the employer allows temporarily disabled employees to modify tasks, perform alternative assignments, or take disability leave or leave without pay, the employer must also allow an employee who is temporarily disabled due to pregnancy the same.

Religion

Employers may not discriminate against an employee based on his or her religious beliefs. Employers are also required to reasonably accommodate the religious beliefs and practices of employees and applicants unless the accommodation causes undue hardship on the business of the employer.

Sex/Gender

It is illegal to discriminate against any employee or applicant for employment because of his or her sex in regard to hiring, termination, promotion, compensation, job training or any other term, condition, or privilege of employment. The law also prohibits employment decisions based on stereotypes or assumptions about abilities, traits, or the performance of individuals based on sex.

What is sex-based discrimination?

Both intentional discrimination and neutral job policies that disproportionately exclude individuals of a particular sex are prohibited.

Sex-based discrimination also includes:

- *Gender identity discrimination*
- *Sexual harassment*
- *Pregnancy-based discrimination*
- *Unequal level of compensation because of sex*

What is sexual harassment?

Unwelcome sexual advances, requests for social favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Union and Organizer Rights

Unions and organizers have a right to:

- *Form or try to form a union among the workers of a company*
- *Declare a strike to obtain better working conditions.*

All unions have contracts with employers.

Union contracts usually speak about:

- *Not being able to be fired without a just cause*
- *Salaries, holidays, sick days, benefits*
- *Procedure for filing complaints through your employer.*



You have many rights as a union member:

- *You have the right to freedom of expression in your union*
- *You have the right to criticize, complain, or protest*
- *You can speak in favor of or against the policies and decisions of the union representatives*
- *You have the right to organize with your co-workers to introduce changes in the union – the workers are the only ones who can introduce these changes*
- *If you are paying a union fee, you have a right to see a copy of the contract, the annual reports about the finances of the office, and the constitution and rules of the union*



What happens if an employer engages in any illegal action to discourage or prohibit the unionization efforts of employees?

The National Labor Relations Board may prosecute illegal action by employers against employees exercising their freedom of association to engage in concerted action to form a union.

What would happen if an employer called the federal immigration authorities to come and conduct an immigration raid on employees attempting to organize a union?

The employer may be found guilty of an unfair labor practice for calling in Immigration and Customs Enforcement (formerly INS) to block a union's efforts.

Types of Discrimination

National Origin

It is illegal to discriminate against an individual because of his or her birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group.

The Immigration Reform and Control Act of 1986 requires employers to assure that employees are legally authorized to work in the US. However, an employer who requests employment verification only for individuals of a particular national origin, or for individuals who appear to be or sound foreign, may violate Title VII as well as IRCA. Verification must be obtained from all new employees.

Employers may not base a hiring decision on a potential employee's ethnic background or country of origin.

Harassment based on race, color, national origin, religion, age, disability, sexual orientation, and alienage/citizenship status is also illegal.

Language

Can my employer forbid employees to speak languages other than English in a restaurant?

"English only" rules may be adopted only for non-discriminatory reasons, such as to promote the safe or efficient operation of the employer's business. An employer should ensure that affected employees are notified about the English-only rule and consequences of its violation. An employer can't prohibit workers from speaking languages other than English during their personal time, such as on lunch or on breaks.

Who enforces the anti-discrimination laws?

Laws prohibiting most of the forms of discrimination above are enforced by the U.S. Equal Employment Opportunity Commission (EEOC), and the Michigan Department of Civil Rights (MDCR). In addition, the U.S. Department of Labor enforces federal law prohibiting discrimination based on military status. The laws enforced by these agencies vary. Further information can be found on the agencies' websites:

www.eeoc.gov

www.mdcrcr.org

What are my employer's obligations under these laws?

Employers must post notices describing the federal laws prohibiting employment discrimination based on race, sex, color, national origin, religion, age, equal pay, and disability.

The EEOC's poster is available in English, Arabic, Chinese, and Spanish. These notices must be accessible as needed to persons with visual or other disabilities that affect reading.

Can my employer discriminate without intending to do so?

Yes. Not only intentional discrimination, but also practices that have the effect of discriminating against individuals are against the law.

Example: Firing only higher-paid employees in a layoff may result in a significantly higher percentage of employees over the age of 40 being laid off. Depending on the circumstances, a court could determine this to have an unintentionally negative impact on older persons, and hold the employer responsible for age discrimination.

If a court or government agency finds that an employer retaliated against employees for attempting to organize, what are the penalties?

A union or an employee may file an Unfair Labor Practice charge before the National Labor Relations Board. If the employer is found to have retaliated, he or she may be ordered to reinstate the employee with back-pay, or otherwise reverse the retaliatory action. In addition, the employer may be required to post notice to employees that it may not retaliate.

All workers – including all restaurant workers – are covered by the National Labor Relations Act with only these exceptions: farmworkers, domestic workers, independent contractors, and government employees.

What can I do if my employer violated the National Labor Relations Act?

You should go to ROC-MI where you can get assistance to file a complaint with the National Labor Relations Board. You must file the complaint no more than 6 months from the time our employer broke the law. ROC-MI can help you understand how to make or file the complaint, and send it to the following address:

**National Labor Relations Board
477 Michigan Avenue, Room 300
Detroit, MI 48226-2569
(313) 226-3200**

Anti-Discrimination Laws

A host of federal, state, and local laws prohibit discrimination against employees. Employment discrimination is unlawful when based on the following protected categories:

- *Race*
- *Color*
- *Religion or creed*
- *National-origin or ancestry*
- *Sex or gender (including gender identity)*
- *Pregnancy*
- *Age*
- *Disability*
- *Genetic predisposition or carrier status*
- *Military Status*
- *Marital Status*
- *Height*
- *Weight*
- *Arrest record*
- *Alien or citizenship status*



It is illegal to discriminate in any aspect of employment including but not limited to:

- *Hiring and firing*
- *Compensation, assignment, or classification of employees*
- *Transfer, promotion, layoff or recall*
- *Job advertisement*
- *Recruitment*
- *Testing*
- *Use of company facilities*
- *Training and apprenticeship programs*
- *Fringe benefits*
- *Pay, retirement plans, and disability leave*
- *Other terms, conditions, and privileges of employment*

Discriminatory practices under these laws also include:

- *Harassment on the basis of any of the above protected categories*
- *Retaliation against an individual for filing a charge of discrimination*
- *Participating in an investigation or opposing discriminatory practices*
- *Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals on the basis of any of the above categories*
- *Denying employment opportunities to a person because of marriage to or association with an individual of a particular race, religion, national origin, alienage/citizenship status, or an individual with a disability*
- *Failure to make reasonable accommodations for the religious need of an employee or for disabled employees*