

WORKERS' RIGHTS MANUAL

Second Edition

PRODUCED BY
ARISE CHICAGO



(Formerly known as the
Chicago Interfaith Committee on Worker Issues)

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This document is intended to be an educational guide about workers' rights and basic labor laws. The suggestions offered for remedying problems in the workplace are intended as recommendations and do not substitute for legal advice. If you are looking for legal advice, consult an attorney.

Table of Contents

INTRODUCTION

About the Need for this Manual	5
Arise Chicago and Arise Chicago Worker Center	5

THE BASICS

Introduction to the Manual.....	7
Your Basic Rights Under the Law.....	7
Keeping Records	7
Agencies and Time Limits for Reporting Workplace Problems	8

WAGE AND HOUR LAWS

Minimum Wage.....	10
Overtime Pay	11
Employee vs. Independent Contractor Classification.....	12
Employee Classification Act.....	12
Paycheck Deductions	13
Paycheck Irregularities	13
Wage Theft/Non-Payment of Wages	14
Equal Pay Act	14
Chicago Living Wage Ordinance.....	14
Prevailing Wage Laws	15
Raises, Bonuses and Pay Cuts.....	16
Break and Meals	16
Vacation, Sick Days, and Time Off	17
Family and Medical Leave Act	17
WHAT TO DO IF Your Employer Is Violating Wage and Hour Laws.....	19

SAFETY AND HEALTH LAWS

Workers' Compensation (Workman's Comp)	21
What to Do If You Are Injured At Work	21
Occupational Safety and Health Act (OSHA)	22
Frequently Violated Workplace Safety and Health Laws.....	23
Common Health and Safety Code Violations	24
Repetitive Motion Injuries	24
Disability Compensation	25
WHAT TO DO IF Your Employer Is Violating Safety and Health Laws	27

WORKPLACE DISCRIMINATION LAWS

What is Illegal Discrimination?	29
Disability Discrimination.....	29
Pregnancy Discrimination.....	30
Gender-Based Wage Discrimination.....	31
Sexual Orientation Discrimination.....	31
Sexual Harassment	32
Race and Color Discrimination	33
Religious Discrimination	34
National Origin Discrimination and English-Only Rules.....	34
Citizenship Discrimination and Document Abuse	35
WHAT TO DO IF You Are Experiencing Workplace Discrimination	37
Social Security "No-Match" Letters.....	38
WHAT TO DO IF You Receive an SSA "No-Match" Letter.....	39
WHAT TO DO IF You Are Retaliated Against For a SSA "No-Match" Letter	39

ADDITIONAL LABOR LAWS

Child Labor Laws41
Human Trafficking41
Day and Temporary Labor Services Act42
Unemployment Insurance43

THE RIGHT TO ORGANIZE AT WORK

What is a Union?45
The Right to Organize (National Labor Relations Act).....46
Common Anti-Union Activities of Employers (legal and illegal)46
WHAT TO DO IF You Want to Organize a Union47
Negotiating a Union Contract49
The Rights of Union Members and Workers Represented by Unions50
WHAT TO DO IF You Have Problems With Your Union51

ADDITIONAL RESOURCES AND CONTACT INFORMATION

Advice for Hiring and Paying a Lawyer53
WHAT TO DO IN CASE of an ICE raid54
Government Agencies Charged With Enforcing Labor Laws.....56
Illinois Coalition of Workers' Centers63
Additional Labor Related Organizations.....64

APPENDIX

Sample Petition for Workplace Organizing65

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Why has Arise Chicago compiled such a comprehensive manual on workers' rights?

Until this publication, there has been no single resource material that addresses the basic worker rights guaranteed by law, such as minimum wage and overtime compensation, health and safety standards, freedom from discrimination in the workplace, and the right to organize and bargain collectively. In addition to the manual, Arise Chicago leads workshops about worker rights in congregations and community organizations.

As people of faith, our concern about justice in the workplace is as old as the prophets and as new as today's headlines. We believe in the dignity of labor, a safe and healthy work environment, and a living wage for all workers. Work is sacred because through work we provide for our families, encourage personal growth, and build healthy communities. As a resource guide for workers who seek justice in the workplace, this manual is part of our witness to the sacred nature of work.

Arise Chicago (formerly known as the Chicago Interfaith Committee on Worker Issues)

Arise Chicago builds partnerships between faith communities and workers to fight workplace injustice through education and organizing and advocating for public policy changes.

The Arise Chicago Worker Center

The Arise Chicago Worker Center is a member-based program. It serves as a community resource for workers, both immigrant and native born, to learn about their rights, meet other workers, partner with advocates to solve workplace problems, and strategize to improve workplace conditions.

At the Arise Chicago Worker Center, in the spirit of popular education, we help workers gain a sense of their own power to stop injustice and improve conditions in their workplaces. Together, we develop strategies for change and outreach to bring more workers into the movement for worker justice.

Core Principles of Arise Chicago Worker Center:

- 1) **Organizing:** We believe that union organizing is the most effective long-term solution to workplace problems. A union contract can be workers' strongest tool to secure rights and benefits not provided for by the law.
- 2) **Self-determination:** Worker Rights Advocates, attorneys, religious leaders, and friends can provide information and support, but workers must ultimately exercise their own power to bring about changes in the workplace and must be responsible for making the decisions affecting their lives.
- 3) **Hospitality:** All people are welcome at the Arise Chicago Worker Center regardless of age, race, gender, religion, ethnicity, national origin, sexual orientation, educational background, language, or citizenship status and will be invited into its safe space.
- 4) **Respect and dignity:** We believe that all people deserve to be treated with respect and dignity. This principle is particularly important, given that most people that come to the Arise Chicago Worker Center (immigrant workers in low-wage jobs) are often treated disrespectfully, particularly in the workplace but also in the media and in other arenas of our society.
- 5) **Risk-taking:** Challenging unjust systems often involves personal risk. Workers must consider the risks involved (such as being fired or otherwise retaliated against) before taking action. While risk-taking may be necessary to bring about change, we respect that some are not able to do so. We fully support and actively participate in workers' risk-taking activities that will improve conditions and achieve justice for abuses that workers endure.

The Basics

Introduction to the Manual

We uphold the human right to fair wages and dignity in the workplace. This manual intends to help you understand your legal rights in the workplace and guide you to take action, as necessary, to defend them.

Your Basic Rights Under the Law

ALL workers have the legal right to:

- Be paid according to the law for their work
- Have a safe and healthy work environment
- Organize a union or work together for change
- Exercise their rights under the law and report violations without retaliation
- Testify on behalf of other workers who are exercising their workplace rights
- Be compensated for medical bills and lost work time incurred from workplace injuries
- Work in an environment free of discrimination in hiring, firing or discipline
- Take unpaid leave for medical reasons or to care for a spouse, parent or child (certain conditions must be met for this law to apply)

Keeping Records

Keep precise records to help ensure the protection of your basic rights under the law. The more detailed records you keep, the better you can protect your rights as a worker. Detailed records will help you identify any problems and describe your situation accurately if you need to file a complaint about a workplace problem. Write down the days and hours you work, as well as locations if you work at different sites. Be sure that you know your supervisor's full name and have the address and phone number for your employer. Keep copies of any contracts or other agreements you sign.

Keep records as you would keep a personal diary. If you think there is a problem, write down what the problem is, when it happens, and where it happens. Write down who else saw it or was threatened by it. If possible, inform your supervisor of a problem before you take legal steps against your employer.

Take special note of any activity relating to the problem or incident, including:

- date of the incident;
- time of the incident;
- location of the incident;
- conversations regarding the incident;
- names of any witnesses; and
- phone calls to government agencies, support services, attorneys and insurance agents.

Keep your pay stubs, personnel policies, contracts, union cards, and copies of all papers or letters that you send or receive.

Agencies and Time Limits for Filing Legal Complaints

Different government agencies enforce different workplace rights. In order to exercise your legal rights, you must file your complaint with the correct government agency within that agency's filing deadline. The following table lists the government agencies responsible for enforcing your legal rights in the workplace and the time limits (known as statutes of limitation) associated with those laws. To learn which agency is responsible for enforcing your rights, consult the chapter that relates to your workplace problem. For contact information and office hours see *Government Agencies Charged With Enforcing Labor Laws* (p. 56).

<u>Government Agency</u>	<u>Rights Enforced</u>	<u>Time Limit</u>
U.S. Department of Labor	Wage violation FMLA violation	2-3 years after wages were originally due 2-3 years after violation occurred
Illinois Department of Labor	Wage violation Employee classification (in construction work)	180 days after wages were originally due 180 days after the violation occurred
Equal Employment Opportunities Commission	Discrimination based on race, religion, gender, national origin, age, disability	300 days after the incident occurred

Illinois Department of Human Rights	Discrimination based on same categories as EEOC, plus citizenship status, marital status, military service, unfavorable military discharge, and sexual orientation	180 days after the incident occurred
City of Chicago Commission on Human Relations	Discrimination based on same categories as EEOC, plus sexual orientation, gender identity, marital status, parental status, military discharge status, or source of income	180 days after the incident occurred
Cook County Commission on Human Rights	Discrimination based on same categories as Chicago Commission on Human Relations	180 days after the incident occurred
Office of Special Counsel for Immigration-Related Unfair Employment Practices	Discrimination based on citizenship status, national origin, and document abuse	180 days after the incident occurred
Occupational Health and Safety Administration	Safe & healthy working conditions Awareness about toxic substances	6 months after the violation occurred 180 days after a violation occurred
Illinois Workers' Compensation Commission	Compensation for an injury at work	2-3 years after the accident
Illinois Department of Unemployment Security	Unemployment Insurance	Individual should apply as soon as he or she loses his/her job
National Labor Relations Board	Retaliation for participation in a union organizing campaign	180 days after retaliation occurred

Wage and Hour Laws

You must be paid for all the time you work. This includes:

- driving from your employer's office to the worksite if you are required to arrive at the office before being sent to your assigned worksite,
- putting on and taking off necessary safety equipment (donning and doffing),
- taking a break of less than 15 minutes, if your employer allows you such a break, and
- training.

The Minimum Wage

The minimum wage in Illinois is \$7.75 per hour. On July 1, 2009 the minimum wage will increase to \$8.00 per hour and then increase by an additional 25 cents to \$8.25 on July 1, 2010. This is higher than the federal minimum wage (\$6.55 per hour as of July 24, 2008; and \$7.25 per hour effective July 24, 2009). Employers in Illinois must pay the Illinois minimum wage. Your employer is required to display a poster with the current minimum wage.

Some exceptions apply to the minimum wage law. Employers of the following classifications of workers may pay less than the current minimum wage:

- employees in the first 90 days of employment (may be paid 50 cents less than the current minimum wage if 18 years of age or older)
- tipped employees (may be paid a base wage of \$4.65 per hour [note: this amount will increase as the minimum wage increases to \$4.80/hour and \$4.95/hour], but must receive at least the equivalent of the Illinois minimum wage per hour in wages plus tips or the employer must make up the difference, bringing the wage up to at least the minimum wage)
- workers under age 18 (may be paid 50 cents per hour less than the minimum wage)
- some agricultural workers,
- domestic workers in private homes,
- some commissioned salespersons,
- some employees of religious organizations,
- certain students at Illinois state universities, and
- certain motor carriers.

Overtime Pay

Most hourly non-farmworker **employees who work more than 40 hours a week are entitled to overtime pay for the extra hours.** One hour of overtime pay equals **one and one half times your regular hourly wage.** For example, an employee earning \$8.00 per hour should be paid \$12.00 per hour for every hour over 40 hours worked during the course of a week. Salaried employees, who are not exempt, are also entitled to overtime pay.

Some exceptions apply to the overtime laws:

- **Hospitals, nursing homes and residential health care employers** may choose to pay time and a half after eight hours worked in one day *and* 80 hours worked in a fourteen-day period. In other words, if you work in such a facility, your employer doesn't have to pay you overtime until you've worked more than 80 hours in less than two weeks and you have worked more than 8 hours in a single day.
- **State and local government employers** may give workers "comp time" (one and one half hours of compensatory time – paid time off – for each hour over 40 worked during the course of the week) instead of overtime pay.
- **State and local law enforcement and fire protection personnel** may be paid overtime on the basis of a "work period" of 7 to 28 consecutive days rather than the traditional 40 hour work week.
- **Employers in Illinois with less than four employees** are not required to pay overtime.

Many workers are not covered at all by federal overtime pay requirements (these workers are often referred to as "exempt" employees). Included in this group are:

- employees in executive (power to hire and fire), administrative, creative and professional positions;
- employees in computer related occupations;
- employees of retail establishments paid on a commission basis;
- farmworkers and other agricultural employees;
- automobile salesmen;
- truck drivers transporting goods in commerce;
- loaders of trucks transporting goods in commerce; and
- independent contractors.

Employee vs. Independent Contractor Classification

The law generally protects the rights of employees, not independent contractors. **However, many times workers are misclassified by their employers as independent contractors rather than employees** in order to avoid paying taxes, workers' compensation, and other benefits that workers deserve. Some differences between employees and independent contractors include:

<u>Employee</u>	<u>Independent Contractor</u>
Usually paid by the hour.	Paid by the job or by commission.
Job does not require a particular skill.	Job requires skill or craftsmanship.
Employer provides worker with tools and equipment.	Worker provides own tools and equipment.
Employer sets worker's hours.	Worker sets own hours.
Payroll taxes are withheld from worker's paycheck (including Social Security, Medicare, and federal and state income tax).	Taxes are not withheld from worker's paycheck or worker is paid in cash.

It may not be clear from your particular work situation whether you are an employee or an independent contractor, but if your employer is breaking the law you should talk to an attorney or a workers' center to learn more about what you can do to protect yourself. Construction workers are better protected under the Employee Classification Act (see Employee Classification Act below).

Employee Classification Act

As of January 1, 2008 if you are a construction worker in the state of Illinois, you may be considered an employee UNLESS:

- you decide for yourself what work to do and how to do it;
- the contractor who hired you is unskilled or not knowledgeable in the work you were hired to perform;
- you have your own business apart from the person contracting you.

Construction work includes any work involving transporting construction-related materials or making improvements, alterations, repairs, renovations, maintenance or additions to any road, highway, bridge, building, structure, parking facility or property in any of the following areas:

- private and public construction;
- road, bridge, railroad, sewer, excavation, and water works;
- commercial and residential building;
- landscaping, painting and decorating work;

- maintenance, renovation and repair work;
- moving construction materials to or from the worksite.

Any construction contractor with one or more workers who are not employees must post these requirements in English, Spanish and Polish at each worksite and in the company office.

Anyone may file a complaint with the Illinois Department of Labor against a contractor who misclassifies an employee. The Department of Labor may send investigators to the jobsite and request company records. **It is illegal to retaliate against a worker who has filed a complaint or testified in an investigation under this law.**

Paycheck Deductions

Your employer usually cannot make deductions from your pay unless you agree to them in writing. Exceptions include income taxes and Social Security (FICA).

The Illinois Department of Labor maintains it is illegal for your company to charge you for any safety equipment that it requires you to use. For example, your employer must pay for gloves, goggles, uniforms, or any other equipment essential to job safety.

Paycheck Irregularities

Sometimes employees are paid in cash, in one large sum or late. While these are unusual practices, unfortunately they are usually not illegal unless you and your employer have a written agreement that says otherwise. If you experience any of these irregularities in pay, be sure to keep a written record of:

- the days you worked
- the number of hours you worked each day
- when you were paid
- how you were paid – in cash or check
- how much you were paid

Keeping careful records will help you confirm whether you are being paid for every hour you work and for any overtime wages you should be earning.

Remember, it is always a good idea to keep detailed records including your employer's and supervisor's full name(s), the name, address, and telephone number of the company, car license plates (if you work for an individual or a company without a formal office), etc. You should also keep copies of pay stubs,

time cards, and work schedules if you have them. These records may be needed to file a claim against your employer if you are owed unpaid wages.

Wage Theft (Non-payment of Wages)

Wage theft, or non-payment of wages, is illegal. If your employer refuses to pay you the wages you are owed, he or she could be charged with a misdemeanor offense, fines and/or other penalties by the U.S. Department of Labor and the Illinois Department of Labor.

Your employer must pay you for every hour you work as well as any overtime pay you earn. You have the legal right to be paid for your work regardless of your documentation status.

Your employer must also pay your wages (and your final paycheck if your employment has been terminated) within a certain time period, depending upon how often you agreed to be paid (this does not apply to state or federal employees). In general, your employer should pay you for all the hours you worked in a certain pay period before the end of the following pay period.

Equal Pay Act

Title VII of the *Civil Rights Act* says that it is illegal for employers with at least 15 workers to:

- pay women less for work similar to that performed by men who have the same employer;
- withhold training opportunities from women workers that are offered to men;
- refuse to consider promoting women to higher paid managerial or professional positions; or
- set lower wages for “women’s jobs” than for “men’s jobs” that require equal skill, effort, responsibility and working conditions.

Chicago Living Wage Ordinance

The Chicago Living Wage Ordinance says that as of July 1, 2008 all for-profit city contractors and subcontractors must pay a “living wage,” of \$10.60 an hour (readjusted every July), to the following types of employees:

- clerical workers
- custodial workers
- cashiers
- day laborers

- elevator operators
- home and health care workers
- parking attendants
- security guards

This does not apply if there are less than 25 workers or if the workers are not full-time employees. This only applies to workers employed by contractors or subcontractors to which the City of Chicago has awarded contracts. Private employers or contractors or subcontractors not working on City of Chicago contracts are not covered by this law.

If the contractor is required to pay the employee the prevailing wage rate and this is higher than the livable wage, then the contractor must pay the prevailing wage rate.

Prevailing Wage Laws

The *Davis-Bacon Act* requires that employees working on *federal public works* projects in excess of \$2,000 be paid no less than the local prevailing wages for similar projects. The Secretary of Labor determines the local prevailing wage rates.

The *Illinois Prevailing Wage Act* requires that workers on *public works* construction projects in Illinois earn fair wages and benefits based on the “prevailing wage” for similar work performed in that county. The prevailing wage rate is determined by the Illinois Department of Labor and is readjusted monthly. In February 2009, for example, the prevailing wage for workers in Cook County ranged from \$24.30 for a highway traffic safety worker to \$47.25 for an operating engineer. **Employers are legally required to post prevailing wage rates at job sites.**

Examples of violations of prevailing wage laws include:

- Incorrectly classifying an employee to pay a lower wage. (For example, reclassifying a worker as an electric power groundman who may earn \$28.12 per hour versus an electric power lineman who may earn \$36.05 per hour.)
- Reporting fewer hours than employees actually worked;
- Making employees work on a private work project at a lower wage while also they are also working on a public works project at the prevailing wage in order to lower the overall cost of labor;

- Evading payment of overtime by forcing employees to "bank hours" by transferring overtime hours to the next week or the following pay period.

The *Illinois Procurement Code* requires that service employees working on Illinois state contracts earn the prevailing wage. These employees include janitors, window cleaners, food service workers and security guards.

Source: Adapted from the Illinois Attorney General's "Prevailing Wage Act" pamphlet
http://www.illinoisattorneygeneral.gov/consumers/Prevailing_Wage_Act.pdf

Raises, Bonuses and Pay Cuts

Pay raises above the minimum wage are not required by law. Pay raises and bonus pay (for example, extra pay for working weekends or holidays) are generally a matter of agreement between an employer and the employee(s), as are pay cuts, so long as minimum wage laws are not violated.

Extra pay for working weekends or nights is a matter of agreement between the employer and the employee(s). The law does not require extra pay for weekend or night work. However, the Fair Labor Standards Act does require that covered, nonexempt workers be paid overtime pay—one and one-half times the employee's regular rate--for working over 40 hours in a workweek.

There is no requirement in the law for severance pay. Severance pay is a matter of agreement between an employer and the employee(s).

Wages, raises, bonus pay, and severance benefits are conditions which are typically negotiated for in a union contract. A union contract is a legally binding document.

Breaks and Meals

In Illinois, if you work 7.5 hours or more a day, **you are entitled to a 20-minute meal break**. The 20-minute **meal break is unpaid** and must occur in the first 5 hours of work. If you work 15 hours or more, you are entitled to two separate 20-minute meal breaks.

Employers must allow workers washroom breaks when workers need to use the toilet facilities. Your employer can require you to follow an established procedure for signaling that you need a break and being relieved momentarily of your work duties. Also, if an employer fails to have the necessary number of toilets to meet sanitation standards, or keeps them locked or otherwise inaccessible to workers, it is a violation of the federal government's sanitation standards.

Vacation, Sick Days, and Time Off

The law **does not** require employers to provide paid or unpaid vacations, paid sick leave or holidays. But if your employer does provide vacation time, either through a union contract or as a company policy, then you have the right to take vacation time. The company policy does not necessarily have to be written.

Employers **can require** employees to work more than 40 hours per week (but you must be paid overtime unless you are an exempt employee).

Illinois law (the One Day Rest in Seven Act) requires employers to give full-time, hourly workers **at least one day (a 24-hour period) of rest per week**. Part-time, agricultural, and salaried workers are not covered by this law.

Vacation, sick days, and holidays are typically negotiated for in a union contract. A union contract is a legally binding document.

Family and Medical Leave Act

The Federal Family and Medical Leave Act (FMLA) allows employees up to **12 workweeks of unpaid leave** for one or more of the following reasons:

- the birth and care of a newborn child;
- the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
- to care for an immediate family member (spouse, child, parent – but not a parent “in-law”) with a serious health condition; and
- if the employee is unable to work because of a serious health condition.

To be eligible for unpaid leave under the FMLA, you must:

- have worked for your employer for at least 12 months and 1,250 hours in the past 12 months (about 25 hours per week); and
- work for a company that has at least 50 employees within 75 miles of your job site. For example, if you work at a facility that has 10 employees, but five miles away there are 40 employees working for the same company, you are eligible to take time off under the FMLA.

The FMLA allows you to take up to 12 weeks of time off if you meet these guidelines. The law does not require your time off to be paid, although some companies have policies that allow you to be paid when you take time off under the FMLA.

If you request FMLA leave, your employer can require you to use up any paid sick days or vacation days that you have as part of your time away from work. Your employer needs to tell you, when your leave begins, whether or not those days will be counted against the 12 weeks total leave you may take.

You do not have to use all 12 weeks at once.

Employers may select one of four options for determining the 12-month period:

1. the calendar year;
2. any fixed 12-month "leave year" such as a fiscal year or a year starting on an employee's "anniversary" date;
3. the 12-month period starting on the date an employee's first FMLA leave begins; or
4. the 12-month period prior to the date an employee requests FMLA leave.

Your employer must continue to provide the same health insurance during the leave as was provided while you were working. You are also entitled to return to the same or an equivalent position in terms of pay, benefits, and other terms and conditions of employment after you return from your leave.

You may take *intermittent leave* or *reduced leave* for serious health conditions. **Intermittent leave** is time off taken in separate blocks of time. You can use intermittent leave for things such as doctor appointments to care for a serious health condition. **Reduced leave** reduces your number of working hours. Reduced leave is used for things such as physical therapy.

Steps for obtaining medical leave:

- If your employer asks for a written request, submit the request to your employer as soon as you know you will need time away from work. If possible, give your employer 30 days notice. Be sure to tell your employer that you need to take time off for health reasons. Keep a copy of your request for your records.
- Your employer must provide you with a written notice of your rights and responsibilities while on leave. Keep a copy for your records.
- Obtain and keep copies of relevant medical records.
- Keep copies of all the documents you submit to or receive from your employer.
- Be sure your employer knows the law. If your employer denies your request, you may want to talk to your employer about the law. Your employer may not be aware of the FMLA.

- Get more information. Call the U.S. Department of Labor Wage and Hour Division, an attorney, or the Women Employed Institute for more information (see *Government Agencies Charged with Enforcing Labor Laws* for contact information, p. 56).

Source: Adapted from Women Employed Institute and USDOL documents

What to Do If Your Employer Is Violating Wage and Hour Laws

1) *Gather as much employer identification and contact information as you can, including the employer's full name, the name, address, and phone number of the company, or car license plate numbers of the employer if you can't find other contact information, etc.*

2) *Gather workplace information, such as the number of workers employed by the company, number of workers who are victims of wage theft, name and contact information of your union representative if you have one, etc. Talk to other employees that you trust to see if anyone else is owed wages. If you are owed wages, it is likely that other employees are, too. A group of employees (even if some no longer work there) has a stronger case because each person is a witness that wages were not paid correctly.*

3) *Gather any evidence that you have of unpaid wages, including copies of paychecks or pay stubs, time sheets, work schedule, witnesses, etc. If you do not have paper evidence of owed wages, try to find someone who worked with you that would be willing and able to confirm that you worked for the company and were not paid correctly. Or make a record of your hours from what you remember.*

When you have collected the necessary information you can choose to do any of the following:

- *Talk to your union representative, if you have one. Your union has a collective bargaining agreement with the company and therefore has some power and influence over your employer. The union should be able to assist you with talking to your employer about your wage issue and resolve the matter relatively quickly.*
- *You can talk to your employer directly about your unpaid wages. Your employer should already know that it is illegal not to pay wages or overtime. Have your a trusted person accompany you when you meet with your employer for moral support and to be a witness of the conversation.*

- *File a wage claim* with the Illinois Department of Labor or the U.S. Department of Labor (see *Government Agencies Charged With Enforcing Labor Laws* for contact information, p. 56). Anyone, regardless of citizenship status, may file a complaint with these government agencies. This option is rather easy to do, but be aware that the process often takes over a year and does not guarantee a positive outcome. Make sure that you notify the Department of Labor if any of your contact information (name, address, phone number) changes so that they can contact you; otherwise your claim may be dismissed.

- *File a private lawsuit* against your employer with an attorney. A lawyer can be very helpful, but be aware that you may be charged a fee for the services (see *Advice for Hiring and Paying an Attorney* for tips on hiring a lawyer, p. 53). Note that the legal process moves slowly, may take over a year and does not guarantee a positive outcome. It is common not to hear from your lawyer for weeks at a time, but if you have questions or concerns, it is your responsibility to contact your lawyer. Generally your immigration status is not important in a wage and hour case.

- *Contact the Arise Chicago Worker Center* to learn more about your rights as an employee, your options for resolving workplace problems, and how your efforts can make a difference for fellow workers (see *Illinois Coalition of Workers' Centers* for contact information, p. 63).

Safety and Health Laws

Workers' Compensation (Workman's Comp)

Under Illinois workers' compensation laws, workers who become ill or injured as a *direct result* of their job should be reimbursed for medical care and may be able to get a weekly check from their employer to partially cover lost wages caused by the illness or injury.

Types of Workers' Compensation:

- Temporary Total Disability (TTD.) If your illness or injury keeps you from work for more than three working days, you are entitled to receive TTD. TTD equals two-thirds (2/3) of your average gross wages, not including overtime. Be aware that TTD has certain maximum and minimum amounts.
- Permanent Disability Payment. If your illness or injury has caused you permanent disability, you are entitled to receive additional compensation depending on the nature and extent of your injury. You may also be entitled to medical or vocational rehabilitation if you cannot return to your occupation.
- Death. If a work related accident causes your death, your spouse and children are entitled to compensation.

It is illegal for your employer to harass or fire you because you have filed a workers' compensation claim. All workers, even undocumented workers, are covered by their employer's workers' compensation insurance.

What To Do If You Are Injured At Work

Get medical treatment right away. What may seem like a minor injury might be a more serious medical problem. You can choose to visit up to two doctors and any subsequent referrals. Inform your employer in writing of the name and address of the doctor or hospital that you choose. You do not have to accept treatment from the health care provider your employer recommends. For serious or life-threatening injuries (for example: head injuries, severe bleeding, broken bones, third degree burns, chemical exposure) go to the emergency room of the nearest hospital, calling an ambulance if necessary. For non-life-threatening injuries, seek out a hospital or clinic with an Occupational Medicine department.

Tell the doctor exactly how you got hurt. If the doctor recommends work restrictions, get them in writing.

Keep your own records of the accident and any physical conditions, such as a wet floor, which may have contributed to your accident.

Notify your employer as soon as possible that you have been injured and the name and address of the hospital or clinic you have chosen for treatment. If you do not notify your employer within 45 days, you may lose eligibility for workers' compensation. If you notify your employer in writing, describe all circumstances as accurately as possible, because your employer may challenge your workers' compensation claim. Though you do not have to accept treatment from a provider chosen by your employer, your employer can require that you be evaluated by a particular clinic or doctor.

Submit a request to your employer for reimbursement of any medical costs and lost wages (*you are eligible for up to 2/3 your average regular-time wages for the period of time you were unable to work*) you incur as a result of the injury. Your employer may have a formal procedure for this. Be sure to keep copies for yourself of all paperwork, documentation, bills, doctors' notes, etc.

If you need further help getting worker's compensation, you can choose any of the following options:

- *Contact a lawyer specializing in workers' compensation* if your employer does not promptly address your claim, if your employer denies your claim, if you need to pursue permanent disability payments, or to pursue compensation for the workplace death of a spouse or parent (see *Advice for Hiring and Paying a Lawyer* for more information, p. 53).
- *Contact the Illinois Workers' Compensation Commission* to apply for worker's compensation (see *Government Agencies Charged With Enforcing Labor Laws* for contact information, p. 56).
- *Contact the Arise Chicago Worker Center* to learn more about your rights as an employee, your options for resolving workplace problems, and how your efforts can make a difference for fellow workers (see *Illinois Coalition of Workers' Centers* for contact information, p. 63).

Occupational Safety and Health Act (OSHA)

The Occupational Safety and Health Act (OSHA) of 1970 guarantees the right to safe and healthy working conditions.

You have a right to:

- receive training needed to do your job safely;

- receive proper equipment to do your job safely (In most cases, safety equipment must be paid for by your employer. The cost of the equipment may not be deducted from your paycheck.);
- know the identities and the effects of chemicals or other hazardous materials used in your workplace;
- make suggestions for improving the safety of your job;
- have dangerous or unhealthy conditions corrected;
- make a complaint to the Occupational Safety and Health Administration (OSHA), the government agency in charge of seeing that dangerous or unhealthy workplace conditions are fixed;
- make a complaint without your employer's knowledge, either on your own or using an attorney;
- get government inspection of your workplace if there are safety or health problems; and
- not be fired or retaliated against for making suggestions or filing a complaint.

Private sector **employees** can file a complaint to get their workplace inspected by OSHA.

Frequently Violated Workplace Safety and Health Laws

Hazardous Chemicals

Employers are required to provide information and training about the hazardous chemicals to which workers are exposed. Employers must:

- inventory all chemicals that are used in the workplace;
- evaluate **hazardous materials** by using lists to determine if they cause cancer, reproductive damage or birth defects;
- **develop a written Hazard Communication Program** which includes where and how to get information about all chemicals used in the workplace;
- label **chemical containers** with the name of the product, manufacturer and hazard warnings;
- provide Material Safety Data Sheets which supply health hazard information, physical and chemical properties, safe handling and storage procedure and personal protective equipment requirements; and
- train employees about the chemicals, including the health effects associated with use, as well as how to handle, store and transport chemicals safely.

The chemical inventory and the Material Safety Data Sheets (MSDS) must be accessible at all times, on all shifts. If you are unsure about how to handle any chemical or are unaware of the effects of any chemical, consult the MSDS. If an MSDS is not readily available, request it in writing from your supervisor or OSHA before using the hazardous substance. It is particularly important that an MSDS is available whenever a new chemical is introduced into the workplace or whenever there is a change in the process. Within 15 days of your request, your employer should place the MSDS on the side of the chemical container. If your employer does not comply with your request, contact OSHA, your union representative, or an attorney.

All employees have the right to see any records kept by their employers regarding exposure to hazardous materials, or the results of medical surveillance.

Source: OSHA's Hazard Communication Standard (29 CFR 1910.1020)

Common Health and Safety Code Violations

Some common health and safety violations include:

- failure to provide adequate equipment to prevent falls for construction workers working at least 10 feet from the ground
- failure to provide adequate training
- failure to properly turn off power sources to prevent an energy surge
- failure to provide appropriate and well-fitting respirators
- lack of guards over a machine's moving parts
- failure to provide eye and face protection from flying particles, splashing liquids or hazardous gases

Source: OSHA and the National Safety Council

Repetitive Motion Injuries

Workers who must perform the same motions over and over again risk developing repetitive motion injuries. Awkward or constrained postures, vibrations, and cold temperatures in the workplace also increase the risk of

repetitive motion injuries. Many production workers develop symptoms of repetitive motion injuries.

Carpal tunnel syndrome is a serious and common repetitive motion injury. It can be permanent if you do not get help. Constant bending and twisting of the wrists causes carpal tunnel syndrome. Wrist tendons become inflamed and press on the nerve in your wrist causing pain or numbness.

There are also other types of repetitive motion injuries that affect other parts of the body, such as the neck and the shoulders.

Symptoms of Carpal Tunnel Syndrome:

- pain and/or numbness in hands;
- tingling or burning of hands and first three fingers;
- numbness and/or pain in hands while sleeping; and
- losing grip and dropping things.

Disability Compensation

Employees who have been unable to work due to injury or illness may qualify for disability benefits.

There are three kinds of disability benefits: Social Security Disability, Supplemental Security Income and private insurance.

Social Security Disability pays cash benefits to people who are unable to work for a year or more due to a disability. Benefits continue until a person is able to work again on a regular basis. If you do not receive workers' compensation and you meet the following eligibility requirements, apply for Social Security Disability.

Eligibility. To qualify for disability benefits from Social Security, you must have:

- worked long enough to earn enough "Social Security Credits." (Call your local Social Security Office to determine if you have enough credits.)
- a physical or mental impairment that is expected to keep you from doing any "substantial" work for at least one year. (Generally, monthly earnings of \$500 or more are considered "substantial.")
- a condition that is expected to result in your death.

In most cases, disability benefits will begin with the sixth full month of your disability. If you receive workers' compensation, it is likely that you will *not be eligible* for any Social Security Disability benefits.

Speed Up Your Social Security Disability Claim. Have the following information when you apply:

- medical records from your doctors, therapists, hospitals, clinics, and caseworkers;
- your laboratory and test results;
- names, addresses, and phone and fax numbers of your doctors, clinics and hospitals;
- names of all medications you are taking; and
- names of your employers and job duties for the last 15 years.

Supplemental Security Income (SSI) is available to people that become disabled and do not have much money or other assets. Unlike Social Security Disability, working people do not contribute to the SSI program. Instead, SSI is funded by the general revenue funds of the U.S. Treasury and exists as a source of income for people who have never worked (like children) or who have not worked enough time to be eligible for Social Security Disability. Working people who are injured on the job are rarely eligible for SSI; however, if you are denied Social Security Disability because you have not worked long enough to qualify, you should apply for SSI.

Eligibility. To qualify for disability benefits from Supplemental Security Income, you must:

- have an income below a certain limit. This income limit varies from state to state. Call your local Social Security office to learn the limit for your state;
- have assets that amount to less than \$2,000 per person or \$3,000 per couple; and
- be a U.S. citizen or national. Some documented immigrants do qualify for SSI. Call your local Social Security office to find out if you qualify.

Most of the rules used to decide if a person has a condition severe enough to qualify for Social Security Disability benefits also apply to SSI. People who qualify for SSI usually qualify for food stamps and Medicaid as well. If you receive workers' compensation, it is likely that you will *not be eligible* for any Supplemental Security Income.

Applying for Social Security Benefits

Apply for Social Security Disability and Supplemental Security Income in person. Call the Social Security Administration at 1-800-772-1213 for more information or to find the Social Security office nearest you. Social services

offices and community centers in your area may also have more information. If you are ineligible for Social Security Disability or SSI, file for reconsideration.

Private Insurance. Find out if your employer has disability insurance through a private company. If so, you may be able to receive disability benefits from that insurance plan.

What To Do If Your Employer Is Violating Health and Safety Laws

If the situation is an emergency or immediately life-threatening, call 1-800-321-OSHA.

Talk to your supervisor about the hazards that are occurring. Write down your concerns and keep a copy. Show it to your supervisor with another worker and/or a representative from your union present who can testify about potentially hazardous working conditions. Your employer may want to contact OSHA or a state consultation service to learn how to improve working conditions.

Call your local OSHA office to discuss health and safety concerns, any questions you may have, as well as possibilities for filing a complaint if your employer does not correct the situation.

If your employer does not address the health and safety violations, you may choose to file a complaint with the Occupational Health and Safety Administration (OSHA) or contact the Arise Chicago Worker Center.

- *File a complaint with OSHA if your employer does not make any efforts to improve working conditions. You can do so by downloading the OSHA online complaint form at www.osha.gov under the “Workers” page or by calling your local OSHA office to request one. (See *Government Agencies Charged With Enforcing Labor Laws* for contact information, p. 56.) Fill out the form and mail or fax it to the OSHA office. Be sure to include your name, address, and telephone number so that you can be contacted. **It is illegal for you to be harassed or fired for filing an OSHA complaint. You may request that your name not be revealed to your employer.** (You may also file an informal, anonymous complaint online, but it will be resolved informally over the phone with your employer. Complaints filed in person or in writing are more likely to result in an on-site investigation of the workplace.)*

Give specific, complete and accurate information when filling out the complaint form. This will help the process move faster. List as many details about the situation as possible, including specific hazards and incidents, who was involved, when and where the incidents occurred, etc. Talk to as many workers as you can who are aware of the problem and if they permit you, submit their names to OSHA.

OSHA will then process your complaint and decide whether it is an off-site investigation that will be resolved more quickly by phone or fax or whether it requires an on-site investigation. Complaints that require an on-site investigation are handled based on the severity of the hazard and number of employees exposed, and may take a longer time to be resolved.

You have the right to have a worker representative accompany the OSHA inspector during the workplace inspection. You also have the right to speak privately with the investigator on a confidential basis, regardless of whether or not a worker representative is chosen.

After the inspection, your employer and the worker representative will receive copies of the results. If violations are found, a citation and penalties may be issued. Your employer must post copies of the citations in the workplace and correct the hazards by the deadline OSHA determines. OSHA will follow-up with your employer to ensure that corrections have been made.

- *Contact the Arise Chicago Worker Center who can help you file a complaint with OSHA.* The Center can help you learn more about your rights as an employee, your options for resolving workplace problems, and how your efforts can make a difference for fellow workers (see *Illinois Coalition of Workers' Centers* for contact information, p. 63).

Workplace Discrimination Laws

What is Illegal Discrimination?

Under various federal and state laws, it is illegal to discriminate in the workplace on the basis of:

- age
- disability
- gender
- pregnancy or marital status
- sexual orientation
- race or color
- religion
- national origin/ancestry
- citizenship status (meaning that if you are lawfully authorized to work in the United States, an employer cannot discriminate against you because you are not a U.S. citizen)
- an arrest record

Employers cannot discriminate with regard to:

- hiring and firing;
- promotions, advancements, layoff;
- compensation, benefits;
- job assignments, training;
- job advertisements, recruitment;
- use of company facilities;
- pay, retirement plans, and disability leave.

Disability Discrimination

The Americans with Disabilities Act (ADA) protects job applicants and workers from discrimination in hiring, classification, grading, discharge, discipline, compensation or other terms or conditions of employment based on disability.

The law only considers a person to have a disability if that person has a physical or mental impairment that substantially limits at least one major life activity. As a result, many people who consider themselves to be disabled may not actually be protected by the ADA.

Private employers who have at least 15 employees, state and local government employers, employment agencies, and labor unions may not:

- recruit **only** job applicants without obvious disabilities;
- ask job applicants to describe their disability and take medical examinations that other workers are not required to take before a job offer is made;
- give fewer or less attractive advancement opportunities to qualified workers with disabilities than to others, or fire qualified workers because of a disability; or
- treat qualified workers with a disability worse than other workers because of the disability.

The law says if you are a qualified individual with a disability and can do the job, your company must make reasonable accommodations for you to perform the job as long as it does not impose an undue hardship on the operation of the business. Accommodations can include changing equipment so you can use it, changing your work schedule, and making buildings more accessible. Remember, an employer cannot ask you about your disability when you apply. They can only ask you if you can perform the job.

If you believe you have experienced disability discrimination, file a charge with the Equal Employment Opportunity Commission, the Illinois Department of Human Rights, the Cook County Commission on Human Rights, or the Chicago Commission on Human Relations. For more information, see *What to do if You are Experiencing Workplace Discrimination*, p. 37.

Source: Women's Bureau of the U.S. Department of Labor

Pregnancy Discrimination

It is illegal for an employer to:

- refuse to hire a woman because of pregnancy;
- fire or force a worker to leave because of pregnancy;
- take away credit for previous years, accrued retirement benefits, or seniority because of maternity leave;
- fire or refuse to hire a woman because she had an abortion.

If you are unable to work due to complications with the pregnancy, you are entitled to the same rights, leave privileges, and benefits as other workers who are out of work for a short time due to other disabilities. Also, the Family and Medical Leave Act requires employers with 50 or more workers to grant female

employees up to 12 weeks of unpaid pregnancy leave, so long as they meet the basic qualifications of the law (see section on the FMLA).

Source: Women Employed Institute and Women's Bureau of the U.S. Department of Labor

Gender-Based Wage Discrimination

The law says it is illegal to pay women less than men who do similar work. On average, however, a full-time female employee is only paid 74 cents for every dollar a man is paid.

If any of the following incidents happened to you, you may have experienced illegal discrimination.

- You were “steered” out of better paying jobs because the employer assumed you were interested only in “women’s jobs.”
- An employer asked you if you were married or planned on marrying, had children or planned on having children, and then refused to hire you or place you in certain jobs.
- You were hired for a job at a lower pay rate than a man would have received.
- You returned from pregnancy or maternity leave to a lower-paying job than you had when you left.
- You trained a man for a job you had been denied.

Title VII of the *Civil Rights Act* says that it is illegal for employers with at least 15 workers to:

- pay women less for work similar to that performed by men;
- withhold training opportunities from women workers that are offered to men;
- refuse to consider promoting women to higher paid managerial or professional positions; or
- set lower wages for “women’s jobs” than for “men’s jobs” that require equal skill, effort, responsibility and working conditions.

Source: Women's Bureau of the U.S. Department of Labor

Sexual Orientation Discrimination

Illinois workers are protected from discrimination in hiring, classification, grading, discharge, discipline, compensation or other terms or conditions of employment based on sexual orientation, which the law defines as including homosexuality, heterosexuality, bisexuality, or gender-related identity.

Source: Chicago Commission on Human Relations

Sexual Harassment

Sexual harassment is unwanted sexual attention at work. It includes touching, making sexual remarks, asking for sex, or making sexual advances.

Sexual harassment is ILLEGAL, particularly if:

- you have to go along with it to get or keep a job;
- you have to go along with it to get a raise or a vacation, or to influence other decisions about your job;
- it is frequent or severe;
- the harassment is making it hard for you to work.

Federal law may protect you:

- even if nobody else witnessed the harassing behavior;
- even if the harassing behavior does not threaten or cause you to lose your job;
- regardless of whether it is a boss, coworker or client who harasses you; and
- even if the harassment occurred only once.

If you are being sexually harassed, tell the harasser to stop. Clearly tell your harasser that you do not want such sexual attention. Find out if your employer has a sexual harassment policy in place. If there is such a policy, make sure you follow the instructions for reporting sexual harassment. Even if there is not a policy, report the harassment to your employer, in writing if possible, and keep a copy for yourself.

Write down the suspected violations when they happen and include as many details as possible. If you can do so safely, talk to other employees. It's possible that there are other employees experiencing harassment as well or are witnesses who can lend support if you decide to file a complaint.

It is illegal for your employer to fire you, discipline you, or change your job in retaliation for filing a sexual harassment claim or any other claim of discrimination or harassment. If the harassment does not stop, follow the same procedures as are described below for addressing other types of discrimination. You can file a sexual harassment charge even if you are the only person in your workplace experiencing harassment.

Source: Women's Bureau of the U.S. Department of Labor

Race and Color Discrimination

The Civil Rights Act of 1964 protects individuals against employment discrimination on the basis of race and color. It is illegal for an employer to discriminate against you because of your race or color in terms of hiring, termination, promotion, compensation, job training, or any other condition of employment. Your employer may not base decisions about your work assignments on stereotypes and assumptions about abilities, traits, or the performance of your racial group.

It is also illegal for an employer to discriminate against you because of marriage to or association with an individual of a different race; membership in or association with ethnic-based organizations or groups; or attendance or participation in schools or places of worship generally associated with certain minority groups.

Ethnic slurs, racial “jokes,” offensive or derogatory comments, or other verbal or physical conduct based on an individual’s race or color constitutes unlawful harassment if the conduct creates an intimidating, hostile, or offensive working environment, or interferes with the individual’s work performance.

Employers may not:

- physically isolate minority employees from other employees or from customer contact;
- routinely assign primarily minorities to predominantly minority establishments or geographic areas;
- exclude minorities from certain positions or groups or categorize employees or jobs so that certain jobs are generally held by minorities; or
- code applications and resumes to designate an applicant’s race. Such coding is evidence of discrimination where minorities are excluded from employment or from certain positions.

Discrimination on the basis of an immutable characteristic associated with race – such as skin color, hair texture, or certain facial features – violates the Civil Rights Act of 1964. It is also illegal to discriminate on the basis of a condition which predominately affects one race unless the practice is job-related and consistent with business necessity. For example, since sickle cell anemia predominately occurs in African-Americans, a policy that excludes individuals with sickle cell anemia must be job-related and consistent with business necessity.

Source: the Equal Employment Opportunity Commission

Religious Discrimination

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against you because of your religion in terms of hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Employers must reasonably accommodate the religious practices of an employee or prospective employee, unless doing so would create an undue hardship upon the employer.

Examples of employer accommodation include:

- flexible scheduling;
- voluntary substitution or swaps of schedules or responsibilities;
- job reassignments; and
- lateral transfers.

For example, employers may not generally schedule examinations or other selection activities in conflict with a current or prospective employee's religious needs, inquire about an applicant's future availability at certain times, maintain a restrictive dress code, or refuse to allow observance of a Sabbath or religious holiday, unless the employer can prove that not doing so would cause undue hardship.

An employer can claim undue hardship when accommodating an employee's religious practices requires more than ordinary administrative costs, among other reasons.

Source: the Equal Employment Opportunity Commission

National Origin Discrimination and "English-Only" Rules

It is illegal under Title VII of the Civil Rights Act of 1964 for an employer to deny you employment because of you or your ancestor's place of origin, or because you have the physical, cultural, or linguistic characteristics of a particular racial or ethnic group. (This law only applies to workplaces with 15 or more employees.)

An employer cannot deny you employment based on your ancestry or national origin. Likewise, an employer cannot request more documentation of your citizenship status than you are legally required to produce simply because your appearance, language, accent, or any other attribute are suggestive of national origin.

Your employer bears the responsibility of keeping your workplace free of harassment based on your ancestry or national origin. Severe or pervasive ethnic slurs, jokes, or other verbal or physical conduct relating to your national origin may constitute harassment when such behavior causes you to feel intimidated or offended, interferes with your ability to do your job, or otherwise affects your employment opportunities.

An “English Only” rule requires employees to speak only English in the workplace. Your employer must demonstrate that an “English Only” rule is necessary for certain business-related purposes, such as for safety reasons; otherwise, such a rule may constitute discrimination based on ancestry or national origin. In general, an employer may not require employees to speak English while on breaks or during non-working time.

Source: Women’s Law Project and the Equal Employment Opportunity Commission

Citizenship Discrimination and Document Abuse

Citizenship discrimination occurs when an employer refuses to hire you, fires you, or a recruiter refuses to refer you for a job because of your citizenship or immigration status. If you have legal work papers, the law protects you against discrimination based on citizenship. For example, it is illegal for an employer to hire only U.S. citizens or only workers with green cards, unless required to do so by law, regulation, or government contract. There is an exception in law for security clearances, defense contractors, and government work.

The same law that protects you against citizenship discrimination also requires employers to make sure that workers are legally eligible to work. To do this, the employer must fill out a special form for each person hired. The form is called the I-9 Employment Eligibility Verification Form.

In order for your employer to fill out the I-9 form, you must provide documents that prove your identity and your employment eligibility. Documents are grouped in three categories. You can choose one document from Group A because it shows both your identity and your eligibility to work or you can choose a document from Group B, which shows identity *and* one from Group C, which shows eligibility to work.

Group A -Identity and work authorization documents:

- U.S. Passport (unexpired or expired)
- Unexpired Foreign Passport with I-551 stamp or attached INS Form I-94 indicating unexpired employment authorization
- Alien Registration Receipt Card or Permanent Resident Card (INS Form I-551)
- Unexpired Temporary Resident Card (I-688)
- Unexpired Employment Authorization Card (I-688A)
- Unexpired Employment Authorization Document which contains a photograph (INS Form I-688B)
- Employment Authorization Card (I-766)
- Unexpired foreign passport with unexpired Arrival-Departure Record, Form I-94

Groups B & C - Identity and Eligibility to Work

Group B - identity

- Driver's License or State I.D.
- School I.D. with Photo
- U.S. Military Card or Draft Record
- Military Dependent's ID Card
- U.S. Coast Guard Merchant Mariner Card
- Canadian Driver's License
- Native American Tribal I.D.
- Voter's Registration Card
- Federal, State, or Local Government I.D. with photo

For those under 18 unable to present one of the previous documents:

- School record or report card
- Clinic, doctor or hospital record
- Day-care or nursery school record

Group C - work authorization

- Native American Tribal Document
- Original or certified copy of U.S. Birth Certificate
- U.S. Citizen I.D. (Form I-197)
- U.S. Social Security Card (unless stamped "Not valid for employment")
- Certification of Birth Abroad of U.S. Citizen (Form FS-545 or DS-1350)
- ID Card for Resident Citizen in the U.S. (Form I-179)
- DHS Document with words "Employment Authorized" (Form I-94)

Check the U.S. Citizenship and Immigration Service's website for a current list of acceptable documents <http://www.uscis.gov/files/form/i-9.pdf>.

You may choose which legally acceptable documents you want to show to your employer. Your employer can not make you show particular documents or more than the legally required number of documents just because he or she wants to see them. If your employer makes you show more documents than are legally required or rejects valid documents that appear genuine, your employer may have committed document abuse.

An employer should not ask to see your documents prior to the interview or selection process.

Source: National Immigration Law Center and the Office of Special Counsel

What To Do If You Are Experiencing Workplace Discrimination

Keep clear, written records of the incident(s). Keep records as you would keep a personal diary. If you think you have been discriminated against, write down how you were discriminated against, as well as when and where the discrimination occurred. Write down who else experienced or witnessed the discriminatory act. Make note of all conversations or correspondence with fellow employees or management regarding the incident(s). If you eventually choose to file a complaint of discrimination with a government agency, keep copies of all papers or letters that you send or receive. Keep a special log of all phone calls to government agencies, support services, attorneys, and insurance agents. Be sure to date your notes. Store these records away from the workplace.

Continue to perform high quality work, while keeping a record of your work performance. It is especially important to make sure that the quality of your work does not suffer as a result of the stress you may feel. Your employer may criticize your work performance to justify discriminatory behavior.

Talk to your co-workers to find out if they have experienced similar discrimination. Co-workers can offer support and suggestions. If co-workers have experienced similar discrimination at your current place of employment, they may want to join with you to address the problem or to serve as a witness to your claim.

Notify your employer of what is happening. Find out if your workplace has a personnel policy regarding discrimination or harassment. In some workplaces, you must notify a particular person (someone in Human Resources, your employer, etc.) of what is happening. If there is no such policy, write a letter to give to your employer and keep a copy for yourself. If you talk to your employer, take a trusted friend or co-worker with you for support and to witness

the conversation. If your supervisor or manager is the harasser, contact his/her supervisor.

Decide upon a course of action. Some workers try to resolve the issue through discussions with the employer or by using formal procedures available through the company's human resources department or outlined in a personnel policy. Other workers choose to file claims with the Equal Employment Opportunity Commission, the government agency charged with enforcing anti-discrimination laws, or the Illinois Department of Human Rights, the equivalent state agency. Remember, each government agency has a deadline for filing complaints, so if you choose this option you have a limited amount of time to file. Workers can also contact a private attorney who specializes in discrimination or come to the Arise Chicago Worker Center. See *Additional Resources and Contact Information* (p.53) for contact information and further advice.

Social Security "No-Match" Letters

Every year thousands of U.S. workers receive "no-match" letters from the Social Security Administration (SSA). An SSA "No-Match" letter is sent when the name or Social Security number listed on the employee's W-2 form does not agree with the SSA's records. These letters are currently (as of January 2009) sent so that workers and employers can correct any errors in order to ensure that the employee's earnings are properly credited for future retirement or disability benefits.

There are 3 types of "no-match" letters:

- 1) a letter sent to the worker's home;
- 2) a letter sent to the employer because the SSA does not have the worker's correct home address;
- 3) a letter sent when an employer has 10 or more workers with no-match errors.

Each "no-match" letter states that the letter does not imply that the worker or employer intentionally provided misinformation to the SSA or that the worker is undocumented. Oftentimes workers receive a "no-match" letter because there was incomplete information or an error made on the W-2 form or because the worker's name changed due to marriage or divorce.

An employer should not lay-off, fire, suspend or discriminate against a worker for a SSA "no-match" letter because the letter alone is not proof that the employee is undocumented. "No-match" letters are sent to give employees the opportunity to correct information submitted to the SSA so their Social Security

withholding can be correctly credited. A “no-match” letter does *not* generally give an employer a basis to discipline or fire an employee. An employer who does so may be violating anti-discrimination laws.

The SSA does *not* enforce immigration law. **Workers generally do not have to discuss their immigration status with their employer.**

Information regarding SSA No-Match letters is constantly changing. To check the most updated information, please visit the National Immigration Law Center website at www.nilc.org.

Source: the National Immigration Law Center

What To Do If You Receive a SSA “No-Match” Letter

- Do not panic.
- If you belong to a union, contact your union representative and ask them to accompany you to any meetings with management. Unions can also support workers against retaliation. If you do not belong to a union, ask a co-worker to accompany you to any meetings with your employer.
- Ask the employer for a copy of the original letter.
- Do not talk about your immigration status at work. Doing so could endanger you and your co-workers.
- Do not quit your job just because your name was listed on a “no-match” letter.
- You do not need to tell your employer if you receive a “no-match” letter at your house. This does not mean that your employer will get one, too.

What To Do If You Are Retaliated Against For Receiving a SSA “No-Match” Letter

If your employer begins to take retaliatory action against you for a “no-match” letter, write down what she or he says or does to you. If possible, talk with trusted co-workers to determine if others have received similar letters and wish to resolve the situation collectively. You may want to consider proceeding with the following options:

- Contact a workers’ rights center. They may be able to help you organize a group of people to speak with the employer (see *Illinois Coalition of Workers’ Centers* for contact information, p. 63).

- If you belong to a union, contact your union steward to assist you.
- Meet with an attorney to discuss whether you have been discriminated against.
- If the workers retaliated against are documented, you may be able to file a charge with the Equal Employment Opportunity Commission (EEOC) or the Illinois Department of Human Rights for race, color or national origin discrimination (see *Government Agencies Charged With Enforcing Labor Laws* for contact information, p. 56).
- If the workers retaliated against have a valid social security number, you may be able to file a charge with the Office of Special Counsel for Immigrant-Related Unfair Employment Practices (OSC) (see *Government Agencies Charged With Enforcing Labor Laws* for contact information, p. 56).
Undocumented workers will NOT be able to use this option.

Additional Labor Laws

Child Labor Laws

An employee must be at least 16 years old to work in most non-farm jobs, and at least 18 years old to work in non-farm jobs declared hazardous by the Secretary of Labor.

In Illinois, youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under certain conditions. They may work no more than 3 hours on a school day or 24 hours in a school week; and 8 hours on a non-school day or 48 hours in a non-school week. Also, work may not begin before 7 a.m. or end after 7 p.m., except from June 1 through Labor Day, when evening hours are extended to 9 p.m. All working minors must have an employment certificate issued from the Superintendents of Schools. Different rules apply in agricultural employment.

Human Trafficking

Human trafficking is a form of modern-day slavery. People who are victims of human trafficking are forced, coerced or tricked into sexual exploitation or forced labor against their will by means of physical force, deception or threats. Victims may be trafficked across international borders, across state borders or within the same city. They may work in domestic servitude, sweatshop factories, migrant agricultural work, prostitution, or the sex entertainment industry. Many people trafficked within the U.S. do not speak or understand English and therefore cannot communicate with law enforcement or others who might be able to help them. Often they are unfamiliar with their whereabouts, local customs and transportation. Even if they are able to leave their situation, they may not know who to go to for help or how to get there.

Human trafficking is a state and federal crime. The Trafficking Victims Protection Act of 2000 protects victims of trafficking and prosecutes their traffickers. Victims who are not U.S. citizens may be eligible for a special visa to remain in the country as well as social benefits and services. Victims who are U.S. citizens may already be eligible for benefits as part of their citizenship status.

If you or someone you know has been a victim of human trafficking you should contact the National Immigrant Justice Center for help in obtaining legal protection and public benefits (see *Additional Labor Related Organizations* for contact information, p. 64).

Source: Adapted from the U.S. Department of Health and Human Services Campaign to Rescue and Restore Victims of Human Trafficking

Day and Temporary Labor Services Act

The *Day Labor and Temporary Services Act* requires that day laborers (temporary employees) in Illinois who use day labor agencies receive:

- a place to wait with adequate seating and bathrooms until they are placed for work;
- information from the agency about the type and location of the work, wages, meals, transportation, and meal and equipment costs;
- a detailed, itemized statement showing the name and telephone number for the job site, the number of hours worked, the hourly rate of pay including overtime or other bonus pay, total pay period earnings, and any deductions;
- compensation for a minimum of 4 hours of pay when sent back from worksites because the agency sent too many workers;
- the right to accept a permanent job from a third-party client of the day labor agency without restriction by the day labor agency.

Day laborers are protected against:

- being charged for fees or having unreasonable deductions for meal and equipment costs;
- being paid with checks that have check-cashing fees;
- being used as strike-breakers (employees who are used to replace workers on strike);
- wage deductions for transportation between the day labor office and the worksite;
- retaliation for exercising their rights under the Act.

All day labor agencies must be registered with the Illinois Department of Labor and follow employment standards. Contractors who use day labor agencies must verify that the agency is registered with the Illinois Department of Labor or face potential penalties. Workers who are retaliated against for exercising their rights under the Act also have the right to sue for damages if harmed by the violation.

The *Chicago Day Labor Services Ordinance*:

- requires that all day labor services agencies be licensed and document who they do and do not hire (to prevent discrimination);
- gives all workers the right to a work ticket for each day they are dispatched and to an application receipt for every day they are not hired (to expose discrimination);
- prohibits agencies from charging workers for safety equipment and clothing when returned after finishing a job;
- prohibits agencies from charging workers for transportation when provided.

Agencies that violate these laws can be fined by Chicago's Department of Business Affairs and Licensing.

Unemployment Insurance

If you lose your job or are forced to quit, you may be eligible for unemployment insurance. To be eligible you must meet certain criteria, including:

- You must have earned at least \$1,600 during a recent 12 month period (known as your "base period"), including substantial earnings in two of the four quarters of that base period.
- You must have worked for an employer that is subject to the state's unemployment law.
- You must now be either entirely out of work or working less than half time, and earning less than a certain threshold (the threshold will be based on your earnings history).
- Your unemployment must be involuntary.
- You must be available and looking for work.

You may be disqualified from receiving benefits if you:

- quit your job
- were discharged for misconduct
- refused suitable new employment
- were involved in an ongoing labor dispute, or
- return to work

To apply for unemployment insurance you will need to:

- apply to the Illinois Department of Employment Security in person as soon as possible after losing your job, the same day if at all possible. The Illinois Department of Employment Security has various locations in and around Chicago. You may call their administrative office at (312) 793-5700 or 1-888-367-4382 to find a location near you or visit their website at www.ides.state.il.us.
- bring the names, dates, and payroll addresses of all your employers for the past 18 months and records of your wages at these employers.
- bring two forms of identification. A driver's license, a state identification card, or a social security card are adequate forms of identification.
- bring the names of your dependent children and the name, social security number and employment status of your spouse.
- prove that you are looking for work. Keep a list of the employers you contact, with their names, addresses and phone numbers.

Generally, undocumented workers are not eligible for unemployment insurance. Individuals should consult an attorney to be sure.

The amount of benefits you receive will depend upon the amount of money you were earning at your job, the amount of money your employer paid to the government in unemployment insurance, and the number of your dependents. Benefits may last up to 26 weeks.

The Right To Organize At Work

What Is A Union?

A labor union is an organization of workers and elected leadership who act collectively to improve working conditions such as wages, hours, benefits, workplace rules and policies, and treatment by management. The union functions as a bargaining representative on behalf of the workers and negotiates a contract with the employer that gives workers the legal right to better conditions than are provided by the law.

Because there is limited protection of workers' rights under the law, union are needed to guarantee additional rights and protections that the law does not guarantee. There additional rights may include:

- Seniority
- Health insurance
- Raises
- Breaks
- Grievance procedure for resolving contract violations and workplace problems
- Pensions
- Maternity and paternity leave
- Paid vacation, holidays, personal days, sick leave
- Extra pay for working holidays
- Unpaid leave of absence
- Post notices about union activities
- Any other right or benefit workers are willing to fight for

Workers can also negotiate to win legal protections against:

- Favoritism
- Being fired without justification
- Disrespectful or undignified treatment
- Health and safety risks not covered by OSHA
- Being fired, demoted, or subjected to other disciplinary action without warning
- Any other protection workers are willing to fight for

The Right To Organize (National Labor Relations Act)

Under federal law (the National Labor Relations Act), you have the right to:

- organize, create, or become a member of a labor organization;
- collectively bargain (bargain for a contract with an employer as a group of workers) through elected union representatives; and
- engage in collective activity, without joining a union, with the goal of addressing workplace problems that affect all employees at a particular company.

The NLRA states that legitimate complaints made by private industry workers to supervisors about working conditions cannot be legally punished. In order for a group charge to be protected under the law, the workers must clearly identify themselves as a group, the charge must be clearly presented to the company, and the complaint must be about working conditions.

If you are a public sector worker, you are covered by the Illinois State Labor Relations Act.

If there is a union organizing campaign where you work, it is **illegal** for your employer to:

- ask what you think about the union, if you signed a union card, or ask you who else signed a card or is involved in the union campaign;
- promise you, or give you, raises, promotions, or other benefits if you oppose the union immediately before an organizing drive in an attempt to “buy off” union supporters;
- threaten to or actually fire you, lay you off, cut your pay, or reduce your hours or benefits because you support a union;
- discriminate against or treat differently employees that support the union, including disciplinary actions and transfers; or
- deny the union the right to talk to you or to try to prevent you from talking to the union.

Common Anti-Union Activities of Employers

When a company learns that workers are interested in forming a union, the following are very common reactions:

- Workers will be forced to attend meetings where the boss or a human resources officer will try to convince workers that forming a union is a bad idea.
- Workers will be pulled aside for private discussions with supervisors or human resources officers.

- Workers will be told that the union “only wants your dues money,” that “you will pay more in dues than you will get in a raise,” that the union is an “outsider” or a “third party” that the particular union the workers want to join is corrupt.
- Workers will be told that the factory or store where they work will have to close if they form a union.
 - The company will ask for a “second chance” to correct conditions workers are unhappy about.
 - The company will hire a law firm with experience in defeating unions.
 - They company will claim that the union will check everyone’s work documents and report undocumented workers.
 - The company will lay off workers, change their shifts, and/or reduce their hours.
 - The company will closely monitor workers who are thought to be leaders of the organizing effort.

Especially if they seek the help of anti-union consultants, companies can often find ways to communicate these anti-union messages and threats without violating the letter of the law. It is a good idea to carefully document all anti-union actions and communication from your employer, and to consult with a labor lawyer and/or to file Unfair Labor Practice complaints with the National Labor Relations Board if you think your employer may be violating the law.

What To Do If You Want To Organize A Union

You and your coworkers do not need anyone’s permission to form a union. You are a union as soon as you start acting like one – *by working together to improve the workplace*. But to win a legally-binding contract, you need to win formal union recognition. Here are some recommended first steps toward forming a union in the workplace:

- **Form an organizing committee.** Identify a group of coworkers who also believe that change is needed in your workplace and are willing to work for it. Make sure you have their contact information. This group will be your initial organizing committee. It is a good idea to keep your organizing quiet at this point so that you can build a solid group of workers before your employer is aware of the campaign, since the company may actively oppose you. Be sure to discuss the union **ONLY** on your time, such as before or after work, on breaks, or outside of the workplace.
- **Identify what you want to change, and how you want to do it.** Find a time when the committee can get together away from the workplace for a

meeting to discuss next steps. You may also want to arrange for a worker rights advocate or a union organizer to join your meeting to share advice. Identify some of the key issues you and your coworkers want to change in your workplace, discuss options for how to take action, and decide as a group if you want to move forward with forming a union. Talk about what workers can expect from an anti-union campaign. Knowing what to expect will help workers withstand an anti-union campaign, so make sure to talk about this with every worker who gets involved.

- **Circulate a union petition.** As coworkers join the organizing committee, each should sign and date a petition stating that you all are “acting collectively to seek improvements in the workplace.” See *Sample Petition for Workplace Organizing* for an example, p. 65. Should your employer retaliate against any members of the committee, the petition will help to show that the discipline or action was in response to the worker’s involvement in union activity.
- **Research your company.** Start compiling all the information you can about your employer. Crucial information includes:
 - Who owns the company?
 - How many workers total?
 - Names, phone numbers, addresses, and job titles of all employees, including management
 - Other locations, branches, work sites, etc. of the company
 - Shift schedules, and who works which shift
 - Names, phone numbers, and addresses of all suppliers
 - Names, phone numbers, and addresses of key customers
 - Are there any worker rights, safety, or health violations occurring?

Choose which union to join. As soon as you have a solid group (at least 5-10 workers from each shift) arrange a formal meeting with a staff person from the union you and your coworkers want to join, to see if they have resources to assign a staff person to your campaign. It is important that as many members of your organizing committee attend the meeting as possible. The union may have guidelines for which industries it will work with or for how large a group must be before staff can be assigned to support your campaign. In addition to a few independent unions, there are two major union coalitions: the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and the Change to Win Coalition. You may contact these coalitions directly to get help organizing your workplace. (See *Additional Labor Related Organizations* for contact information, p. 64.) Even if the union cannot commit staff to your campaign, they should either offer you advice for how to move forward or refer you to another union that might be better suited for the situation at your workplace. Once you’ve entered into a partnership with a local union for your organizing drive, work with your future union to develop and carry out a campaign strategy.

- **Identify community allies.** Reach out to religious congregations, student groups, politicians and community leaders, and worker rights organizations for support in your campaign. These groups can help to leverage moral and consumer pressure on the company to respect your rights. A union organizer or worker rights advocate will already know many likely allies and can help you make connections. You and your coworkers should also identify the community networks and organizations you are already a part of, and reach out to these groups for support. Remember, most clergy and community leaders want to know if members of the community are facing struggles, because they want to help.
- **Identify spokespersons amongst your coworkers.** Your campaign will make a real difference in the lives of people who are struggling to make ends meet. You may be fighting for affordable health insurance, a living wage, family-friendly schedules, or improved safety conditions. You and your coworkers will need to become comfortable telling your own stories about why your struggle is important, and why support from the community will make a lasting difference in the lives of your families.

Arise Chicago can offer support and advice for organizing your workplace. Arise Chicago can assist you in choosing an appropriate union and provide a safe space for initial organizing meetings as well as provide opportunities for you to talk with other workers who are union members and/or have been part of a union organizing campaign. (See *Illinois Coalition of Workers' Centers* for contact information, p. 63).

Negotiating a Union Contract

Once the union is recognized in your workplace, it will need to negotiate a contract with the company. All the workers in your workplace should meet to:

- Elect a committee from among your co-workers to represent all the workers during the contract negotiations; and
- Write a contract proposal to submit to the company.

The contract proposal may include any items within reason that affect you at work including:

- Wages and overtime policies
- Employer-paid health insurance
- Job security
- Promotions based on seniority
- Vacation time

After the contract has been negotiated, workers will vote to accept or reject the contract. If workers reject the contract, the union and the company will continue negotiations until they reach an agreement.

In some cases, workers may decide to strike. Strikes may occur after certain steps have been taken by both the company and the union to resolve the dispute. A strike can only happen if 2/3 of the workers vote for it by secret ballot. Most contracts are negotiated without strikes.

Source: Adapted from the "The Union Handbook" by the United Food and Commercial Workers International Union

The Rights of Union Members and Workers Represented by Unions

You have the right to be involved in your union. Every union member has equal rights to participate in union activities. This includes attending meetings open to union members, freedom of speech, opposing union leadership, and saying what you think about how dues are set and spent. You may also be protected if the union fines or expels you.

You have the right to participate in union elections. You may nominate candidates for office, run for office, vote by secret ballot and protest the conduct of an election to the U.S. Department of Labor—Office of Labor-Management Standards (see *Government Agencies Charged With Enforcing Labor Laws* for contact information, p. 56).

You have the right to be fairly represented by your union. The union must represent every worker who is covered by the contract, whether a member or non-member. The union cannot play favorites or discriminate against a worker because of politics if a worker spoke out against what the union was doing, etc. Federal laws make it illegal for unions to discriminate based on race, religion, national origin, sex, age, or handicap.

The union must investigate every grievance that it receives, but it does not have to process every complaint as a grievance and not every grievance will go to arbitration. If the union will not file your grievance, ask them to explain why not. Sometimes talking to someone else in the union like the vice president or president can help get an answer. If the union has refused to file your grievance, you can still file it yourself by reading your contract to find out how to do so.

You may also file a charge with the National Labor Relations Board (NLRB) against your union, if you think the union has not fairly represented you. For example, you may file a charge with the NLRB if the union filed a grievance on behalf of other workers for a particular complaint involving similar circumstances, but refused to file the same grievance for you. (See *Government Agencies Charged With Enforcing Labor Laws* for contact information, p. 56). You may wish to contact a workers' center before filing a charge with the NLRB to ensure that you have taken the necessary steps to remedy the problem with the union first.

You have the right to review a copy of the collective bargaining agreement. It is important for you to understand what your rights are under the contract. You can ask your union representative or office to assist you in obtaining a copy.

You have the right to a copy of the union's by-laws and constitution. You need to read them to understand union rules and how it operates. (For example, when and how elections are held, if workers need to vote to approve a new contract, etc.) You can ask your union representative or office to assist you in obtaining a copy.

Source: Adapted from the document "The Rights of Union Members and Workers Represented by Unions"

What To Do If You Have Problems With Your Union

Unions can effectively represent their members in workplace situations, but like any organization sometimes members have concerns or problems with their union. If you believe your union is violating the law or the rights of its members, and you have been unable to address the situation by participating in union meetings and elections, you do have the option to contact the Department of Labor's Office of Labor-Management Standards (OLMS) (See *Government Agencies Charged With Enforcing Labor Laws* for contact information, p. 56).

Anonymous complaints may be filed.

The OLMS can investigate complaints of possible violations involving such issues as:

- embezzlement of union funds;
- unfair union officer elections;
- the filing of reports about financial information and administrative practices by unions and others with OLMS; and
- the interference of international unions in local union affairs in order to manipulate rather than improve.

These investigations may result in civil or criminal legal enforcement action.

If the OLMS finds that a violation occurred which may have affected the result of a union election, the union and OLMS try to reach an agreement to correct the problem. If no such agreement is reached, a lawsuit may be filed in federal court to hold a new election under OLMS supervision.

Source: Adapted from the U.S. Department of Labor – Office of Labor-Management Standards website http://www.dol.gov/esa/olms_org.htm

Additional Resources and Contact Information

Advice for Hiring and Paying a Lawyer

Some of the laws discussed in this manual are very complicated, and getting the help of an attorney can help you fully exercise your rights. There are honest, competent, and sensitive lawyers who handle these types of cases and can help you figure out if you have a case and what to do about it. You can search out your own lawyer, ask trusted friends or organizations for referrals, or work with an organization that maintains a legal clinic, such as the Arise Chicago Worker Center.

Terminology related to fees and charges

- *No Charge.* Some legal services do not charge a fee, but usually clients must have an income below a certain limit in order to be eligible for their services.
- *Retainer Fee.* A retainer fee is a fee you have to pay to get the services of a lawyer. It is an initial fee that guarantees that the lawyer will represent you. You will probably be charged additional costs after you pay the retainer fee whether or not you win the case.
- *Contingent Fees.* Many lawyers take cases on a “contingent” basis, which means that the fee is paid when the case is over. The fee is a percentage (usually between 20 percent and 40 percent, depending on the type of case) of any award or settlement. No fee is paid if the case is lost.
- *Flat Fee.* A lawyer may charge a set flat fee regardless of the outcome of the case.
- *Pro Bono.* Sometimes lawyers who would otherwise charge for a case will take it on a pro bono basis, for no charge. This arrangement is fairly rare, and only occurs if the client has no money and has a particularly good case that represents an issue of great public importance.
- *Court-Awarded Attorney Fees.* In some types of cases, the complaining person can ask the court to make the other side pay his or her lawyer. You can get court-awarded attorney fees only if you win the case. You still have to pay the lawyer up front. You will need to have a very strong case in order for a lawyer to take your case hoping that you will win and that the court will order a fee, but it is worth exploring.

Please note that while lawyers are allowed to advance the costs and expenses for the client as a convenience, the lawyer is not allowed to pay for the costs and expenses. Such costs and expenses are the client’s responsibility, regardless of whether or not the lawyer charges a fee.

Questions to Ask Attorneys

When looking for a lawyer, certain questions will help you decide which lawyer is right for you:

- What, if any, fee does the attorney charge for an initial consultation?
- Will the lawyer handling your initial consultation handle your case or will another attorney within the same firm handle your case? Will your case be referred out of the office to another lawyer who handles your type of case?
- What is the attorney's fee arrangement, including hourly fees? Does the attorney take cases on a contingency fee? If so, should you expect to pay for costs, and approximately how much would that amount to?
- Can the attorney provide references? Get names and phone numbers of references.
- Has the attorney handled cases similar to your case? How many? With what results?
- What claims do you have, under what laws, and in what venues? Ask the attorney to explain the pros and cons involved in choosing what kind of claim to file and where. Ask the attorney to explain what is involved in filing a charge and in litigation; for example, a realistic time frame for settlement and trial and what you and your attorney's role will be.

You have the right to fire your lawyer if he or she is not responsive to your requests or is otherwise uncooperative, but you may be responsible for some attorneys' fees and for the costs and expenses advanced on your behalf by the lawyer. SHOP AROUND. You do not have to agree to hire the first lawyer you meet.

When you are deciding whether to hire an attorney, you can check to see if he or she has been disciplined for any ethics violations by the Attorney Registration & Disciplinary Commission of Illinois. You can check for these violations on the ARDC's website: <http://www.iardc.org/lawyersearch.asp>.

What To Do In Case of an ICE Raid

The Bureau of Immigration and Customs Enforcement (ICE) officials are charged with regulating immigration. They have been known to raid workplaces where immigrants are working.

If you are questioned by ICE or other law enforcement officers, regardless of whether you have documents or not, you have the right to:

- Remain silent and not answer questions, including questions about where

- you were born, whether you have documents or how you came to the U.S.;
- Not be asked or forced to show your documents simply because you look foreign, have an accent or don't speak English;
 - Refuse to allow immigration or police enter your house without a signed search warrant with your correct name and address.

If you are detained or arrested by ICE or other law enforcement officers, you have the right to:

- Remain silent and not answer questions, including questions about where you were born, whether you have documents or how you came to the U.S.;
- Ask for a telephone call to your family or lawyer (memorize your lawyer's telephone number!);
- Ask for and be given a list of low-cost legal immigrant services if you do not have a lawyer;
- Talk to a lawyer before you answer any questions and have a lawyer present if you agree to answer questions;
- Be released from jail on bail;
- Not sign any paper that you cannot read and fully understand;
- Not sign any paper that says you will voluntarily depart the U.S. in exchange for not having to go to court (because you may be able to eligible to stay);
- Speak with your home country's consulate;
- Appear in front of a judge in court; and
- Be treated humanely.

You may increase your chances of being deported if you answer questions without first speaking to an attorney, carry false documents, run from ICE or resist arrest. Lying to a government agent is a crime, so until you have spoken with a lawyer, remain silent when questioned. Even if you have already answered some questions, you can still refuse to answer others until you have a lawyer present.

If you are treated badly by ICE or the police, and are able to do so:

- Ask the officer for his/her badge number, name or other information and write it down;
- Write down the names and phone numbers of any witnesses;
- If you are injured, get medical attention and take pictures of the injuries;
- Contact a community organization or a lawyer as soon as possible.

If you have legal documents to be in the U.S. you *must* carry them with you to avoid being deported or charged with a crime. Keep a copy of your

immigration papers with a family member or friend who will be able to fax it to you if needed.

Source: Adapted from the National Lawyer's Guild "Know Your Rights" pamphlet
http://nlg.org/resources/kyr/kyr_English2004.pdf

Government Agencies Charged With Enforcing Labor Laws

(For time limits to file a complaint, see *Agencies and Time Limits for Filing Legal Complaints*, p. 8.)

Cook County Commission on Human Rights

69 W. Washington, Suite 3040
Chicago, IL 60602
Phone: (312) 603-1100
TDD: 312-603-1101

Offers assistance in Spanish and Polish. Open Monday-Friday, 8:30am - 5pm. File in person (strongly recommended) or call to request a complaint form be sent to your home. Walk-ins welcome. The interview process may take up to 2 hours. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

The Cook County Commission on Human Rights enforces the Cook County Human Rights Ordinance which protects workers employed in Cook County from discrimination based on race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, housing status, or gender identity.

City of Chicago Commission on Human Relations

740 N. Sedgwick, 3rd Floor
Chicago, IL 606010
Phone: (312) 744-4111
TTY: 312-744-1088

www.cityofchicago.org/humanrelations

Offers assistance in Spanish. Open Monday-Friday, 9am - 5pm. File in person (strongly recommended) or by mail. Walk-ins welcome until 2pm. The interview process may take up to 2 hours. No fee. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

The City of Chicago Commission on Human Relations enforces the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance and investigates and punishes acts of discrimination based on race, sex, color, age, religion, disability (mental or physical), national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, or gender identity in housing, employment, credit, bonding, and public accommodations.

Equal Employment Opportunity Commission (EEOC)

500 W Madison - Suite 2000

Chicago, IL 60661

Phone: (312) 353-2713

Toll Free: 1-800-669-4000

TTY: 1-800-669-6820

www.eeoc.gov

Offers assistance in Spanish and Polish. Open Monday-Friday, 8:30am 3:30pm for filing complaints in person. Appointments strongly recommended and given first priority, but walk-ins welcome. Visitors to the office must show identification to enter the building. The interview process may take up to 2 hours. Telephone interviews can be arranged in certain situations. Call toll free number to begin to file a charge by phone. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

The EEOC administers Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin.

Illinois Department of Human Rights

James R. Thompson Center

100 W. Randolph Street, Suite 10-100

Chicago, IL 60601

Phone: (312) 814-6200

TTY: 312-263-1579

Fax Administration: (312) 814-1436

Fax Charge Process: (312) 814-6251

Fax Compliance: (312) 814-2397

www.state.il.us/dhr

Offers assistance in Spanish and Polish. Open Monday-Friday, 8:30am - 5pm. File in person Monday through *Thursday*. The interview process may take up to 2 hours. No fee. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

The Department of Human Rights administers the Illinois Human Rights Act, which prohibits discrimination because of race, color, religion, sex, national origin, ancestry, citizenship status (with regard to employment), age 40 and over, marital status, physical or mental handicap, military service, unfavorable military discharge, and sexual orientation.

Office of Special Counsel for Immigrant-Related Unfair Employment Practices (OSC)

Toll Free: 1-800-255-7688

TTY: 1-800-237-2515

www.usdoj.gov/crt/osc/index.html

Offers assistance in Spanish and Polish translators upon request. Open Monday-Friday, 9am - 5pm. Call to request a form be sent to your home. Fill it out and return it to the address on the form. **Undocumented workers are NOT protected from discrimination under this law. Therefore, they cannot file charges with the OSC.**

The OSC is a federal government agency that enforces the anti-discrimination provisions of the Immigration and Nationality Act, which protect U.S. citizens and legal immigrants from employment discrimination based upon citizenship or immigration status and national origin, from document abuse, and from employer retaliation.

U.S. Department of Labor (USDOL) - Wage and Hour Division, Chicago District Office

230 South Dearborn Street, Room 412

Chicago, IL 60604

Phone: (312) 596-7230

Fax: (312) 596-7251

Toll Free: 1-866-487-2365

www.wagehour.dol.gov

Offers assistance in Spanish and Polish. Open Monday-Friday, 8:30am - 4pm. Walk-ins welcome or send a letter or fax describing your problem. Include your phone number and a time that you can be reached. Or leave a message at the office number, including your phone number and a time that you can be reached, and a representative will return your call within one business day. Or call the toll free number from 8am - 8pm Eastern time Monday through Friday. **The USDOL investigates complaints filed by workers regardless of citizenship and immigration status. However, if the USDOL finds irregularities, he or she is required by law to report the findings to the Department of Homeland Security (DHS). DHS may or may not pursue cases referred by the USDOL.**

USDOL is a federal government agency charged with administering and enforcing, among other federal laws, the Fair Labor Standards Act, the Family and Medical Leave Act, the Migrant and Seasonal Agricultural Worker Protection Act, the Davis Bacon Act, and the WARN Act.

U.S. Department of Labor – Office of Labor-Management Standards (OLMS), Chicago District Office

230 South Dearborn Street, Suite 774

Chicago, IL 60604

Toll Free: (866) 4-USA-DOL

Phone: (312) 596-7160

www.olms.dol.gov

Offers assistance in Spanish. Open Monday-Friday, 8:30am – 5pm. Walk-ins welcome. Or call office number and leave a message if no one available to answer your call. Or download forms online, fill it out and mail to address on form. Or call the toll free number from 8am – 8pm Eastern time Monday through Friday. No fee. **The USDOL investigates complaints filed by workers regardless of citizenship and immigration status. However, if the USDOL finds irregularities, he or she is required by law to report the findings to the Department of Homeland Security (DHS). DHS may or may not pursue cases referred by the USDOL.**

The USDOL's Office of Labor-Management Standards is a federal agency charged with enforcing the Labor-Management Reporting and Disclosure Act of 1959 which ensures that unions and labor organizations in the private sector are in compliance with standards of democracy and fiscal responsibility.

Illinois Department of Labor (IDOL)

160 N. LaSalle St. Suite C-1300

Chicago, IL 60601

Phone: (312) 793-2800

TTY: 888-758-6053

www.state.il.us/agency/idol

Offers assistance in Spanish and Polish. Open Monday-Friday, 8:30am – 5pm. Call to request a complaint form be sent to your home or download online. Fill it out and return it to the address on the form. It may take up to 12 months to fully process your claim. You have a better chance of recovering your wages if other employees file similar complaints. No fee. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

IDOL is a state government agency charged with administering and enforcing, among other Illinois state laws, the Minimum Wage Act, the One Day of Rest in Seven Act, the Illinois Wage Payment and Collection Act, the Personnel Records Review Act, the Day and Temporary Labor Services Act, the Prevailing Wage Act, the Illinois Health and Safety Act, and the Victims' Economic Security and Safety Act.

Illinois Worker's Compensation Commission (IWCC)

100 W. Randolph St. -8th Floor, Suite 200

Chicago, IL 60601

General: (312) 814-6611

Toll Free: 1-866-352-3033

TTY: (312) 814-2959

www.iwcc.il.gov

E-mail: infoquestions.wcc@illinois.gov

Offers assistance in Spanish. Open Monday-Friday, 8:30am – 5pm. File a charge by calling to request that a form be sent to your house or download online. You may call to speak with a representative or send questions via e-mail.

Undocumented workers may apply. The Commission does not report undocumented workers to the Department of Homeland Security (DHS).

The IWCC is a state government agency that enforces the Illinois Worker's Compensation Act, a no-fault system of benefits paid by employers to workers who experience job-related injuries or diseases.

National Labor Relations Board (NLRB)

The Rookery Building

209 South LaSalle Street, Suite 900

Chicago, IL 60604-5208

Phone: (312) 353-7570

Toll Free: 1-866-667-NLRB (6572)

TTY: 1-866-315-NLRB (6572)

www.nlr.gov

Offers assistance in Spanish and Polish. Open Monday-Friday, 8:30am – 5pm. Call to speak with a representative first. Depending upon the charge you are filing you may need to file in person. Otherwise you can request that a form be sent to your home or download online. Fill out and mail to the address on the form. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS). However, if the NLRB is made aware of a worker's immigration status this may change the outcome of the investigation.**

The NLRB administers the National Labor Relations Act, which governs labor relations between unions and employers in the private sector.

Illinois Labor Relations Board

160 North LaSalle Street, Suite S-400

Chicago, Illinois 60601-3103

Phone: (312) 793-6400

Spanish: (312) 793-6353

TTY: (312) 793-6394

Fax: (312) 793-6989

www.state.il.us/ilrb

Offers assistance in Spanish. Open Monday-Friday, 8:30am-5pm. You may file a charge or petition in person at the State or Local Panel office (depending upon the type of charge), via first class, registered or certified mail, or by fax (following specific instructions). Call to speak with a representative first regarding what papers you will need and where you should file.

The Illinois Labor Relations Board governs labor relations between unions and public employers such as state or municipal governments.

Illinois Educational Labor Relations Board

160 North LaSalle Street

Suite N-400

Chicago, IL 60601-3103

Phone: (312) 793-3170

TTY: 1-800-526-0844

www.illinois.gov/elrb/contact.cfm

Open Monday-Friday, 8:30am – 5pm. You may file a charge or petition in person, via mail, or by fax. Visitors to the office must show identification to enter the building. Call to speak with a representative first regarding what papers you will need.

The Illinois Education Labor Relations Board governs labor relations between unions and workers employed full or part-time by an educational employer.

Occupational Safety and Health Administration (OSHA)

Regional Office:

230 South Dearborn Street, Room 3244

Chicago, Illinois 60604

Phone: (312) 353-2220
Emergency: 1-800-321-OSHA (6742)
TTY: 7-877-889-5627
www.osha.gov

Southern Chicago and Suburbs:
1600 167th Street, Suite 9
Calumet City, IL 60409
Phone: (708) 891-3800
Fax: (708) 862-9659

Northwest Chicago and Suburbs:
701 Lee Street, Suite 950
Des Plaines, IL 60016
Phone: (847) 803-4800
Fax: (847) 390-8220

Offers assistance in Spanish and Polish. Open Monday-Friday, 8am -4:30pm. File a complaint in person, by mail, via fax, or online. Walk-ins are welcome, but if you need assistance in Spanish or Polish, you should call to make an appointment first. Download a complaint form online to fill out and mail or fax to the office. Complaints filed online will be handled informally by making a phone call to the employer. Written complaints are more likely to result in an on-site investigation. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

OSHA is part of the USDOL and enforces the Occupational Safety and Health Act.

Pro-Se Court

Daley Center, Room 602
50 W. Washington
Chicago, IL 60602
Phone: (312) 603-5626

Open Monday-Friday, 8:30am-3:30pm. Offers assistance in Spanish from 10:00am-3:00pm, Monday-Friday. In Pro-Se Court, a person owed \$1,500 or less in wages can file a lawsuit against an employer without the assistance of an attorney. Fill out a complaint form in person at the Pro-Se Court Help Desk to begin the lawsuit. The staff there can assist you, but they cannot offer you legal advice. You will be charged a filing fee based upon how much money you are owed. Ask the Pro-Se Court Help Desk for the specific filing fees. You must file your claim within 5 years if you had a verbal contract with your employer and within 10 years if you had a written contract. Since you are representing yourself,

you will have to be present at any and all hearings before the judge and file all the necessary paperwork until your case is closed. For more information, contact the Pro-Se Court Help Desk at the above phone number. **Undocumented workers can file complaints with this agency. It will not report undocumented workers to the Department of Homeland Security (DHS).**

Illinois Coalition of Workers' Centers

Arise Chicago Worker Center

1020 W. Bryn Mawr, Suite 300
Chicago, IL 60660
Phone: (773) 769-6000
www.arisechicago.org

Chicago Workers Collaborative

2801 S. Hamlin Ave
Chicago, IL 60623
Phone: (773) 277-0911
<http://chicagoworkers.org>

Latino Union

1619 West 19th Street
Chicago, IL 60608
Phone: (312) 491-9044
www.daylaborchicago.com

Albany Park Workers' Center (Affiliate of Latino Union)

3416 W. Bryn Mawr
Chicago, IL 60659
Phone: (773) 588-2641

San Lucas Workers Center

2914 W. North Ave.
Chicago, IL 60647
Phone: (773) 227-6633 (Tuesday and Thursday)
(773) 573-6633 (Organizer's cell phone)
www.sanlucasworkers.org

Additional Labor Related Organizations

Change to Win

1900 L Street, NW Suite 900

Washington, DC 20036

Phone: (202) 721-0660

Fax: (202) 721-0661

E-mail: info@changetowin.org

www.changetowin.org

Chicago Federation of Labor (AFL-CIO)

130 East Randolph Street, Suite 2600

Chicago, IL 60601

Phone: (312) 222-1000

Fax: (312) 565-6769

www.chicagolabor.org

National Immigrant Justice Center

208 S. LaSalle, Suite 1818

Chicago, IL 60604

Phone: (312) 660-1370

Fax: (312) 660-1505

E-mail: NIJC@heartlandalliance.org

www.immigrantjustice.org

National Immigration Law Center (NILC)

3435 Wilshire Blvd, Suite 2850

Los Angeles, CA 90010

Phone: (213) 639-2-3900

Fax: (312) 639-3911

E-mail: info@nilc.org

www.nilc.org

Women Employed Institute

111 N. Wabash, Suite 1300

Chicago, IL 60602

Phone: (312) 782-3902

Fax: (312) 782-5249

www.womenemployed.org



Arise Chicago
1020 W. Bryn Mawr, Suite 300
Chicago, IL 60660
Phone: 773-769-6000
Fax: 773-728-8406