

Top 12 Things Every Worker Should Know

1. In general, all workers, regardless of immigration status, are protected by employment laws. Almost every employment law applies to workers regardless of immigration status. The main exception is unemployment benefits, which often require that you have authorization to work in the United States.

2. In general, most workers have a right to the minimum wage and most have a right to overtime pay. Your rights to be paid the minimum wage and overtime (1.5 times your normal pay for hours beyond 40 in a workweek) are not different if you are paid a flat salary or a piece rate. You calculate your hourly pay like this:

$$\frac{\text{weekly pay}}{\text{weekly hours worked}} = \text{hourly rate.}$$

The federal minimum wage, and the minimum for most employees in 20 US states (including Texas), is \$7.25 per hour. 30 states have higher minimum wage rates. For example, the minimum wage in California is \$14 per hour, in New York is \$13.20 per hour, in Virginia is \$11 per hour, in Illinois is \$12 per hour, in Massachusetts is \$14.25 per hour and in Florida (as of 3/10/22) is \$10 per hour. For a list of state minimum wages visit: <https://www.dol.gov/agencies/whd/mw-consolidated>

3. An employer must pay for work performed – no excuses. If your employer does not like the way you did your work, it may have the option to fire you, but it must pay you for the work you have already done. Your employer also has to pay you even if it says you broke tools or equipment, says it doesn't have enough funds to pay you, or says it doesn't have your tax identification number or SSN. Your employer also cannot make deductions or require you to pay for things that are really *for the benefit of the employer* (like necessary tools, cash register shortages, many uniform costs, and other business expenses) if those deductions take your pay below minimum wage or overtime. (Note – as an employee you have different rights than if you are considered an independent contractor providing services as your own business.)

4. You cannot be discriminated against on the basis of race, national origin, religion, sex (including pregnancy, sexual orientation or gender identity), age or disability. It is unlawful for most employers (including all private employers with more than 15 employees) to treat a worker less favorably, to refuse to hire or promote, or to terminate a worker because of the worker's race, national origin, religion, sex, age or disability. It is also unlawful to allow workers to be sexually harassed or harassed because of the worker's race, sex, national origin, religion, sex, age or disability. Some states – for example, California and New York – have laws prohibiting employment discrimination in workplaces with fewer than 15 employees. In Texas, laws prohibiting sexual harassment apply to workplaces with 1 or more employee.

5. Under many employment laws, it is illegal to retaliate against workers who try to exercise their rights. Workers have the right to complain about unlawful discrimination, to try to get paid minimum wage and overtime, to exercise their leave rights, to file workers' compensation claims, and to exercise many other rights without being fired, disciplined, reported to police or

immigration, or threatened. These retaliation rights apply to employees who oppose harassment or discrimination against their coworkers.

6. Most workers have the right to speak up or act together about issues at work without being fired or retaliated against – even if there’s no union. A federal law called the National Labor Relations Act (NLRA) protects most workers (even those without a union) from being fired or disciplined when they act together to change workplace problems. The key to this right is that there is safety in numbers. For more information, [go here](#).

7. Workers have the right to a safe and healthy workplace. Under the federal health and safety laws enforced by the Occupational Safety and Health Administration (OSHA), workers have the right to a safe workplace free from known health and safety hazards and the right to speak up about health and safety concerns without being retaliated against, be trained in a language they understand, be provided necessary safety gear, such as protective masks, and be protected from hazardous chemicals used for cleaning and disinfection. For more information on these rights and reporting violations, [go here](#).

8. It’s usually better to be fired than quit. First, it is generally easier to get unemployment benefits if you are fired. Many discrimination, harassment, and retaliation claims are also harder or impossible to win if you quit, instead of being fired. However, in certain cases, a judge may decide that even though you quit, you were forced to quit (so under the law you were actually fired, or “constructively discharged”).

9. You may have the right to take time off from work without losing your job. You could have the right to leave if you need it for reasons including a serious health condition (of yourself or a family member), disabilities, pregnancy, birth, or adoption of a child, and other reasons. Most of these rights depend on the state you live in, how large your employer is, and how long you worked for the employer. This leave does not have to be paid. The federal Family and Medical Leave Act (FMLA) provides up to 12 weeks of unpaid leave to employees in workplaces with more than 50 employees, and a worker must usually work for one full year for the employer to have a right to FMLA.

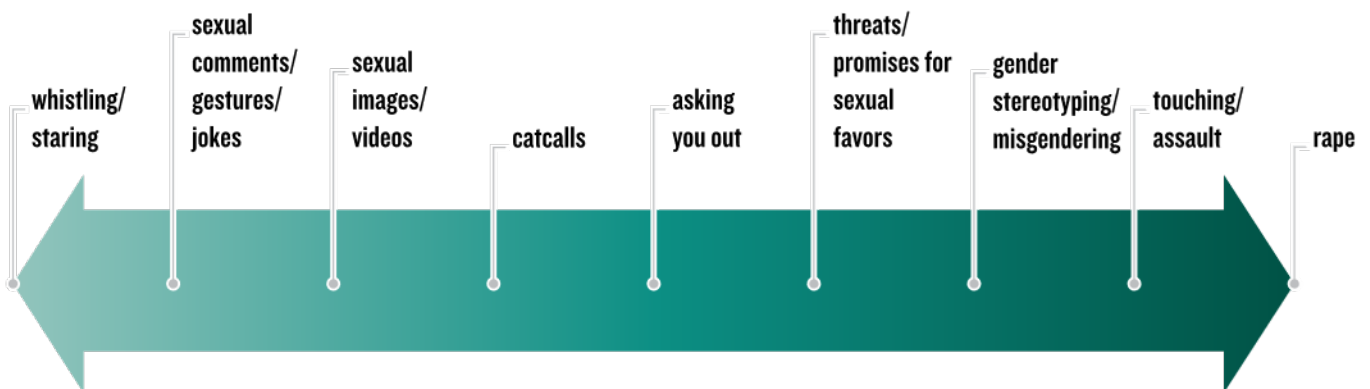
10. There are steps you can take to protect yourself from wage theft. It’s the employer’s responsibility to keep track of your hours and pay and make sure you are paid correctly. But here are some steps you can take to protect yourself in case your employer doesn’t pay you correctly:

- ✓ **Write down and keep** your own notes of the **hours and dates** that you work (for example, in a calendar). This is not required, but it will put you in a better position to show how many hours you worked.
- ✓ Keep all your **pay stubs**. If your employer pays you in cash, note the date and amount of each payment.
- ✓ Keep all documents related to the work, including **texts and emails**.
- ✓ If you had a personal **cell phone** during the work, keep it.
- ✓ **Write down:** the names, phone numbers, and addresses of your supervisor(s), any companies you do work for, and your coworkers; the address where you worked; and license plate numbers for the employer’s and supervisor’s vehicles.

11. There are steps you can take to put yourself in a better position if there's discrimination or harassment in your workplace. If an employer is covered by anti-discrimination laws, it's the employer's responsibility to prevent and stop discrimination and harassment, but here are some steps you can take to protect yourself:

- ✓ **Document the discrimination or harassment.** Keep a journal where you write down the "who, what, when, where" of any incidents and who witnessed them. Keep any documents related to the discrimination or harassment (like texts, photos, and communications between you and the employer or coworkers). Tell a coworker or friend you trust what is going on. These steps will put you in a better position if you pursue a claim later.
- ✓ **Report any harassment to your employer.** Review your employer's anti-harassment policy and procedure for complaining and follow it to report any harassment as soon as possible. If there's no policy, report to your supervisor or (if your supervisor is the harasser) someone higher up. Report in writing if you can (though that's not required) and keep records of your reports so that you can prove later that you made the report. If you complain in person, try to bring a witness.
- ✓ It is often a good idea to try to work out a resolution with your employer, but if your employer doesn't act quickly to stop the discrimination or harassment, the next step is to file an outside **written complaint** (usually with a government agency). There are **deadlines** to file a complaint. For more information, go [here](#).

12. Sexual Harassment can take many forms. Sexual harassment doesn't require touching or physical contact. Sexual comments or jokes, lewd conduct, sharing sexual videos and images and even staring can be considered sexual harassment, particularly if it is more than a few isolated incidents. Harassment by a supervisor, a coworker or even a customer/patient can be illegal. You do not have to tell the harasser "no" or "stop" to have a claim, but you should try to report the incidents and follow your employer's reporting policy.



Note: this information is not legal advice. For free, confidential advice and information, Texas residents may contact Texas RioGrande Legal Aid at 888-988-9996.