

Your Employee Rights Under the Family and Medical Leave Act

What is FMLA leave?
The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with job-protected leave for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees. Eligible employees can take up to 12 workweeks of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you.
- Your serious mental or physical health condition that makes you unable to work.
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military servicemember.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness may take up to 26 workweeks of FMLA leave in a single 12-month period to care for the servicemember. You have the right to use FMLA leave in one block of time. When it is medically necessary or otherwise permitted, you may take FMLA leave intermittently in separate blocks of time, or on a reduced schedule by working less hours each day or week. Read Fact Sheet #2816(j) for more information. **FMLA leave is not paid leave**, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

Am I eligible to take FMLA leave?
You are an eligible employee if all of the following apply:

- You work for a covered employer.
- You have worked for your employer at least 12 months.
- You have at least 1250 hours of service for your employer during the 12 months before your leave, and
- Your employer has at least 50 employees within 75 miles of your work location.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave for their serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management and Congress.



Notice to Employees: Availability of Unemployment Compensation

Employees in this establishment are covered under the South Dakota Reemployment Assistance (RA) law. Benefits are available to workers who become unemployed or whose working hours are reduced to less than full-time, if they are:

- Able to work,
- Available for full-time work, and
- Meet certain eligibility requirements.

Employees who voluntarily quit without good cause, are discharged or suspended for misconduct, or refuse to accept suitable work may be denied benefits.

You may file an RA claim in the first week employment ends or hours are reduced.

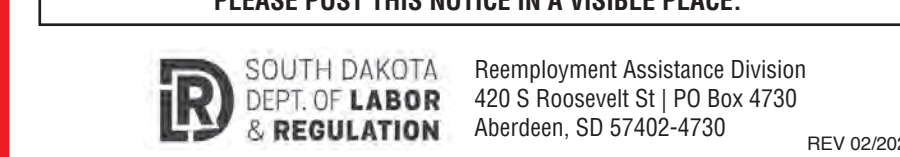
To file a claim online, visit sd.gov/benefits 24 hours a day, seven days a week.

To file a claim by phone, call the Claims Call Center at 605.626.3179, Monday through Friday, 8 a.m. to 4:20 p.m. (Central Time). Applicants with speech or hearing impairments can call 711 or 800.877.1113.

You will need to provide the following information for DLR to process your claim:

- Full legal name
- Social Security Number
- Driver's license number or State ID number
- Employment history for the last 18 months
- Authorization to work (if you are not a U.S. citizen or resident)

If you have questions about the status of your RA claim, you can call the Customer Service Center at 605.626.2452, email DLRClaims@state.sd.us or log in to your account.



EMPLOYEE RIGHTS EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

PROHIBITIONS
Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discriminating, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

EXEMPTIONS
Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities. The Act permits polygraph (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armed car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers. The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer. The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.

EXAMINEE RIGHTS
Where polygraph tests are permitted, they are subject to numerous strict standards concerning the test and length of the test. Examinees have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not to have test results disclosed to unauthorized persons.

ENFORCEMENT
The Secretary of Labor may bring court actions to restrain violators and assess civil penalties against violators. Employees or job applicants may also bring their own court actions.

THE LAW REQUIRES EMPLOYERS TO DISPLAY THIS POSTER
WHERE EMPLOYERS AND JOB APPLICANTS CAN READILY SEE IT.



What can you do for you?

- 16 & 17 any job not declared hazardous by the federal government
- 14 & 15 pump gas or work in offices, grocery stores, retail stores, restaurants, movie theaters
- 13 & younger babysit, deliver newspapers, work as actor or performer

Federal Youth Laws

*View Federal laws at www.youthrules.dol.gov

- up to 3 hours a day/18 hours in a school week
- up to 8 hours a day/40 hours in a non-school week
- no restriction of working hours
- 16 & older

When can you work?

- all work must be performed between 7 a.m. and 7 p.m., except from June 1 through Labor Day when evening hours are extended to 9 p.m.

Division of Human Rights Sexual Harassment
What you need to know.
Sexual harassment on the job is becoming more unacceptable to victims and a liability for management.

WHAT IS SEXUAL HARASSMENT?
Unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature made either explicitly or implicitly a condition of an individual's employment, or making the individual's employment dependent upon the individual's submission to such conduct, or creating an intimidating, hostile or offensive working environment.

PLAN OF ACTION FOR VICTIMS

- Make clear what actions are offensive to you.
- Speak to the offender about the behavior which is offensive to you.
- Speak to your supervisor, the personnel director, or the manager about the behavior.
- Document actions if possible.

If these steps do not solve the problem, contact the Division of Human Rights.

FILE A COMPLAINT
If you feel you have been a victim of discrimination, you may contact the Division of Human Rights.

EMPLOYER LIABILITIES
The employer has a responsibility to maintain a workplace free of sexual harassment. Once an employer is informed of a harassment situation, the employer must take action to investigate and resolve the situation.

OTHER TYPES OF HARASSMENT
The South Dakota Human Rights Act prohibits harassment on the basis of race, sex, religion, color, creed, ancestry, disability, or national origin.



Sample Sexual Harassment Policy

It is the policy of _____ that all employees are responsible for ensuring that the workplace is free from sexual harassment. Because of _____ strong disapproval of offensive or inappropriate sexual behavior at work, all employees must avoid any action or conduct which could be viewed as sexual harassment.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to the harassment is made either explicitly or implicitly a term or condition of employment; (2) submission to or rejection of the harassment is used as the basis for employment decisions affecting the individual; or (3) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Any employee who has a complaint of sexual harassment at work by anyone, including supervisors, co-workers or visitors, should first clearly inform the harasser that his/her behavior is offensive or unwelcome and request that the behavior stop. If the behavior continues, the employee must immediately bring the matter to the attention of his/her supervisor. If the immediate supervisor is involved in the harassing activity, the violation should be reported to that supervisor's immediate supervisor, the department personnel officer, or the employee relations coordinator, who can be reached at _____ phone number.

If a supervisor or personnel officer knows of an incident of sexual harassment, they shall take appropriate remedial action immediately. If the alleged harassment involves any types of threats of physical harm to the victim, the alleged harasser may be suspended with pay. During such suspension, an investigation will be conducted by _____. If the investigation supports charges of sexual harassment, disciplinary action against the alleged harasser will take place and may include termination. If the investigation reveals that the charges were brought falsely and with malicious intent, the charging party may be subject to disciplinary action, including termination.

If an employee is dissatisfied with management's response to his/her complaint, he/she may contact the South Dakota, Department of Labor and Regulation, Division of Human Rights at (605) 773-3681.



STATE AND FEDERAL LABOR LAW

SAFETY AWARENESS

POLICY: It is our policy to have a safe and healthful workplace. We have implemented an injury and illness prevention program for your protection and the protection of fellow workers.

GOAL: Our main goal is to prevent accidents and illnesses in the workplace. Employees and members of management are expected to follow all requirements of Federal, state and local governments to ensure a safe environment.

COMMUNICATION: We have made a commitment to provide a safe workplace and encourage you to make suggestions so that we can maintain a policy of prevention. If you have any questions, please contact the following persons in charge of safety at this company.

SAFETY DIRECTOR: _____

PHONE: _____

SAFETY SUPERVISOR: _____

PHONE: _____

SAFETY MEETINGS

Employees will meet on a regular basis to receive safety training and information and will be conducted as follows:

TIME: _____ **PLACE:** _____

EMERGENCY NUMBERS CALL 911

POLICE: _____

AMBULANCE: _____

PHYSICIAN: _____

HOSPITAL: _____

FIRE DEPARTMENT: _____

POISON CONTROL: _____

OSHA: _____

PAY DAY NOTICE

PAY DAY IS ON:

| | |
|------------------------------------|-----------------------------------|
| <input type="checkbox"/> MONDAY | <input type="checkbox"/> FRIDAY |
| <input type="checkbox"/> TUESDAY | <input type="checkbox"/> SATURDAY |
| <input type="checkbox"/> WEDNESDAY | <input type="checkbox"/> SUNDAY |
| <input type="checkbox"/> THURSDAY | |

PAY SCHEDULE IS:

| | |
|-----------------------------------|---------------------------------------|
| <input type="checkbox"/> WEEKLY | <input type="checkbox"/> SEMI MONTHLY |
| <input type="checkbox"/> BIWEEKLY | <input type="checkbox"/> MONTHLY |

PAYCHECKS ARE ISSUED ON THE: _____ **AND OF THE MONTH**

AT: _____

TIME: _____

EMPLOYEE RIGHTS UNDER THE FAIR LABOR STANDARDS ACT

FEDERAL MINIMUM WAGE

\$7.25 PER HOUR

BEGINNING JULY 24, 2009

The law requires employers to display this poster where employees can readily see it.

OVERTIME PAY
At least 1 1/2 times the regular rate of pay for all hours worked over 40 in a workweek.

CHILD LABOR
An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youth 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs with certain work hour restrictions. Different rules apply to agricultural employment.

TIP CREDIT
Employers of "tipped employees" who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employees must pay tipped employees a cash wage of at least \$2.13 hourly if they claim a tip credit against their minimum wage obligations. An employer's tip credit combined with the employer's cash wage of at least \$2.13 hourly do not equal \$7.25.

PUMP AT WORK
The FLSA requires employers to provide reasonable break time for a nursing employee to express breast milk for her nursing child for one year after the child's birth each time the employee needs to express breast milk. Employees must be given a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

ENFORCEMENT
The Department has authority to review back wages and an equal amount in liquidated damages in instances of minimum wage, overtime, and child labor violations. The Department may litigate or seek civil penalties. Employees may be assessed civil penalties if they willfully violate the law. Willful or repeated violation of the minimum wage of overtime pay provisions of the law. Civil penalties may also be assessed for violations of the FLSA child labor provisions. Heightened civil penalties may be assessed for each child labor violation that results in the death or serious injury of any employee, and such assessments are doubled when the violator is determined to be willful or repeated.

ADDITIONAL INFORMATION
Certain occupations and establishments are exempt from the minimum wage, and/or overtime pay provisions. Certain narrow exemptions also apply to the pump at work requirements. Special provisions apply to workers in agriculture, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico. Some state laws provide greater employee protections. Employers must comply with both. Some employees (notably child workers as "dependent contractors" when they are under 18) are exempt from the FLSA. It is important to know the difference between the two because employees (unless exempt as entitled to the FLSA's minimum wage and overtime pay provisions) are entitled to the FLSA's overtime pay provisions. Certain full-time students, student teachers, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

WAGE AND HOUR DIVISION
U.S. DEPARTMENT OF LABOR
1005 4ET, 2009
www.dol.gov/eis/whd/

The American Policy Is Our Policy

Lists of acceptable documents that employers may require for proof of identity and employment authorization.

LISTS OF ACCEPTABLE DOCUMENTS

All documents must be UNEXPIRED.

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

| LIST A Documents that Establish Both Identity and Employment Authorization | OR | LIST B Documents that Establish Identity | AND | LIST C Documents that Establish Employment Authorization |
|--|----|--|-----|---|
| <ol style="list-style-type: none"> U.S. Passport or U.S. Passport Card Permanent Resident Card or Alien Registration Receipt Card (Form I-551) Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa Employment Authorization Document that contains a photograph (Form I-766) For a nonimmigrant alien authorized to work for a specific employer because of his or her status: <ol style="list-style-type: none"> Foreign passport; and Form I-94 or Form I-94A that has the following: <ol style="list-style-type: none"> The same name as the passport; and An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 indicating nonimmigrant admission under the Compact of Free Association between the United States and the FSM or RMI | | <ol style="list-style-type: none"> Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address School ID card with a photograph Voter's registration card U.S. Military card or draft record Military dependent's ID card U.S. Coast Guard Merchant Mariner Card Native American tribal document Driver's license issued by a Canadian government authority For persons under age 18 who are unable to present a document listed above: School record or report card Clinic, doctor, or hospital record Day-care or nursery school record | | <ol style="list-style-type: none"> A Social Security Account Number card, unless the card includes one of the following restrictions: <ol style="list-style-type: none"> NOT VALID FOR EMPLOYMENT VALID FOR WORK ONLY WITH INS AUTHORIZATION VALID FOR WORK ONLY WITH DHS AUTHORIZATION Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240) Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal. Native American tribal document U.S. Citizen ID Card (Form I-197) Identification Card for Use of Resident Citizen in the United States (Form I-179) Employment authorization document issued by the Department of Homeland Security |

Examples of many of these documents appear in the Handbook for Employers (M-274). Refer to the instructions for more information about acceptable receipts.

Guidelines to Federal Child Labor Laws

Youth Minimum Wage Program

A minimum wage of not less than \$4.25 may be paid to employees under the age of 20 for their first 90 consecutive calendar days of employment with any employer as long as their work does not displace other workers. After 90 consecutive days of employment, or when the worker reaches age 20 (whichever comes first), the worker must receive at least the Federal minimum wage.

Hour restrictions for non-agricultural employees
14 years old is the minimum age for non-agricultural employment covered by the FLSA. The basic rules for when and where a youth may work are:

- Youth 18 years or older may perform any job, whether hazardous or not, for unlimited hours.
- Youth 15 or 17 years old may perform any non-hazardous job for unlimited hours.
- Youth 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs. They cannot work:
 - More than 3 hours a day on school days, including Fridays.
 - More than 18 hours per week on school weeks.
 - More than 8 hours a day on non-school days.
 - More than 40 hours per week when school is not in session.

Also, 14- and 15-year-olds may not work before 7:00 a.m., nor after 7:00 p.m., except from June 1 through Labor Day, when their permissible hours are extended to 9:00 p.m. Under a special provision, youth 14 and 15 years old who are enrolled in an approved Work Experience and Career Advancement program may be employed for up to 23 hours during school weeks and 3 hours on school days (including during hours of school).

Prohibited Occupations for Non-Agricultural Employees
The child labor rules that apply to non-agricultural employment depend on the age of the young worker and the kind of job to be performed. 14 years is the minimum age for non-agricultural employment covered by the FLSA. In addition to restrictions on hours, the Secretary of Labor has found that certain jobs are too hazardous for anyone under 18 years of age to perform. There are additional restrictions on where and in what jobs 14- and 15-year-olds can work. These rules must be followed unless one of the FLSA's child labor exceptions apply.

Hour restrictions for agricultural employees
The hours restrictions are the same for all youth, migrant children as well as local resident children.

- Once a young person turns 16 years old, he or she can work on any day, for any number of hours and in any job in agriculture.
- Youth 14 or 15 years old can work in agriculture, on any farm, but only during hours when school is not in session and only in non-hazardous jobs.
- If the youth is 12 or 13 years of age, he or she can only work in agriculture on a farm if a parent has given written permission; or a parent is working on the same farm. Again, the work can only be performed during hours when school is not in session and in non-hazardous jobs.

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Know Your Rights: Workplace Discrimination is Illegal

The U.S. Equal Employment Opportunity Commission (EEOC) enforces the laws that prohibit discrimination against workers in applying for jobs, hiring, firing, promotion, and other terms and conditions of employment.

Who is Protected?

- Employees covered by the laws include those who are employed by a private employer, a state or local government, or an employer who contracts with the federal government.
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What Organizations are Covered?

- Private employers with 15 or more employees.
- State and local governments.
- Employers who contract with the federal government.

What Types of Employment Discrimination are Illegal?

- Discrimination on the basis of race, sex, religion, color, creed, ancestry, disability, or national origin.
- Discrimination on the basis of age (40 years and over).
- Discrimination on the basis of genetic information.
- Discrimination on the basis of pregnancy, childbirth, or related medical conditions.
- Discrimination on the basis of retaliation against an employee who has filed a charge of discrimination or participated in an EEOC proceeding.
- Discrimination on the basis of an employee's request for FMLA leave.
- Discrimination on the basis of an employee's status as a whistleblower.

What Employment Practices can be Challenged as Discriminatory?

- Hiring or promotion
- Pay (wages or compensation)
- Job assignment or reassignment
- Transfer
- Termination or discharge
- Discrimination in benefits, including medical and retirement benefits
- Discrimination in fringe benefits, including stock options, profit sharing, and pension plans
- Discrimination in training and development opportunities
- Discrimination in job structure and organization
- Discrimination in safety and health conditions
- Discrimination in harassment, including sexual harassment
- Discrimination in retaliation against an employee who has filed a charge of discrimination or participated in an EEOC proceeding
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What to Do if You Believe Discrimination has Occurred?

Know the EEOC's mission: to enforce federal laws that prohibit discrimination in the workplace. The EEOC provides information, guidance, and assistance to employees and employers. The EEOC also investigates and mediates disputes between employees and employers. The EEOC can file a lawsuit on behalf of an employee or employer.

How to File a Charge:

Employees should file a charge of discrimination with the EEOC as soon as possible after the discriminatory act. The EEOC will assign a counselor to help the employee understand the process. The counselor will attempt to resolve the dispute through mediation or conciliation. If the dispute is not resolved, the EEOC will issue a determination. If the EEOC finds that there is cause, it will attempt to resolve the dispute through mediation or conciliation. If the dispute is not resolved, the EEOC will issue a lawsuit on behalf of the employee or employer.

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