

# MODULE 1

## Introduction to Workers Basic Legal Protections on the Job

### Module Overview

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**Time:** 75 to 90 minutes

- Objectives:**
- to name workplace problems and issues
  - to identify where rights come from
  - to introduce some laws that govern the workplace
  - to explore how these laws address some workplace problems
- Preparation:**
- read “In Brief” sections of chapters one, four, five, six, seven, twelve, and thirteen in Schwartz, *“Your Rights on the Job”*. Review *Workplace Laws* cards and *Workplace Issues and Rights* answer sheet (goes with *Pictures of Workplace Situations*)
  - prepare flipcharts
  - read and copy handouts: *Participant Outline*; *Pictures of Workplace Situations*; *Workplace Laws*; *Partial List of Advocacy Organizations*; *Safe/Unsafe Agencies for Immigrant Workers*; *Working with Undocumented Workers* (Last 3 are in “Appendices” section)

**Materials:** flipchart, markers, masking tape

### Module Outline

### Module Detail

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#### Welcome and Introduction

**Time:** 5 minutes

**Flipcharts:** *Objectives and Agenda*

#### Who is Here?

**Time:** 10 minutes

#### Welcome and Introduction

Welcome participants, introduce yourself and review workshop objectives and agenda. It is helpful to put the Objectives and Agenda on flipcharts to post.

#### Icebreaker: Who is Here?

Ask participants to introduce themselves, giving their name, and union or organizational affiliation, if any, and one thing about their past or present work experience.

## Workplace Issues and Rights on the Job

**Time:** 25 minutes

**Handouts:** *Workplace situations pictures (Suggested pictures: 1, 3 or 4, 5, 11, 14, 16 or 17, 18 or 19 and 21)*

**Flipchart:** *Workplace Issues and Rights*

## Legal Rights of Workers

**Time:** 25 minutes

**Handouts:** *The Laws* cards

Note to Facilitator:

### Activity 1: Workplace Issues and Rights on the Job

Break participants into small groups or pairs and distribute two workplace issues pictures to each group. Ask participants to discuss the following, for each picture:

- What is happening in the picture?
- What issues, problems or needs are being shown?
- What rights do they think they have as workers to deal with these issues?

Allow 10 minutes to discuss pictures.

Ask each pair to share their pictures and present their ideas of issues and work rights to the group. List their answers on flipchart: *Workplace Issues and Rights*. Ask participants what other workplace issues or problems they have encountered, add to list.

Ask where they think these rights come from. After brief brainstorm, sum up and state that these rights come from laws, a union contract or workers acting together with other workers. Point out that the laws which protect workers are the result of the efforts of unions and other groups working together, which will be addressed in other sessions. Explain that in this session there will be a brief **overview** of which rights workers have **by law**.

### Activity 2: Legal Rights of Workers

There are 16 cards listing the major laws protecting workers in the workplace. Ask for 16 volunteers and distribute the cards to them. (If you have less than 16 participants, give some participants 2 cards of laws passed in the same or close to the same year.) Each card lists a law protecting workers' rights and the year it was passed. On the reverse side it briefly states what protection the law offers, and whether there are restrictions on what categories of workers are covered by the law.

There are 2 laws, Whistleblower and Davis-Bacon, that are less frequently used. You may remove those laws from the activity.

Ask participants to line up (in a curved line so that they can see one another) by the date of passage of their law – the earliest year at the left end of the line to the most recent date at the right end of the line. Then ask them, one by one, to read the only the information that is boxed - **the name of law, year passed, and what protection the law offers**. After everyone has read the laws, explain that most of these laws cover both documented and undocumented workers, and private and public sector workers. Ask participants to step forward if their law is restricted to certain workers. (i.e. OSHA - private only; unemployment laws - documented immigrants only)

**Note to Facilitator:**

*There are 2 options for the next task in this activity. If you are doing this module as part of a series, or have limited time, use the large group version. If doing this module as a stand alone session and do not plan to do other modules describing laws in more detail, or if you have enough time, substitute the small group version.*

**Large group version**

Using the *Workplace Issues and Rights* flipchart from previous exercise, call out each workplace issue, one at a time. Ask participants to step forward as a problem is named, if they think the law on their card offers workers protection for that problem. (Facilitator use the *Workplace Issues and Rights* answer sheet to make sure that laws are identified correctly.) As each volunteer steps forward, ask the other participants “Do you agree? Do you know of other laws that would apply to this problem?” If a problem is named that no law covers, ask participants “What can you do if the workplace problem is not covered by a law?” (Suggestions - union contract could cover, workers can collectively work to solve the problem in the workplace, etc).

**Small group Alternative****Time:** 10 additional minutes**Handouts:** *Workplace Laws*

Using the *Workplace Issues and Rights* flipchart from previous exercise, call out the first 2 or 3 workplace issues. Ask participants to step forward as a problem is named if they think the law on their card offers workers protection for that problem. (Facilitator use the *Workplace Issues and Rights* answer sheet to make sure that laws are identified correctly.) As each volunteer steps forward, ask the other participants “Do you agree? Do you know of other laws that would apply to this problem?” If a problem is named that no law covers, ask participants “What can you do if the workplace problem is not covered by a law?”

After modeling the exercise with 2 or 3 issues in a large group, break the participants into small groups, assigning each group 3-4 of the workplace problems listed on the flipchart. Give each group the Workplace Laws Handouts and ask them to determine which law(s), if any, would apply to their workplace problems.

After 5-6 minutes, bring the group back together and do a report back. Name each workplace problem, asking which law(s) the small group thought applied to that problem, then asking other participants if they agree, have any additions and what they could do if no law covers the problem. (Facilitator use the *Workplace Issues and Rights* answer sheet to make sure that laws are identified correctly.)

## **Rights of Undocumented Workers**

**Time:** 5 minutes

**Handouts:** *Partial List of Advocacy Organizations; Safe and Unsafe Agencies for Immigrant Workers*

## **Summary**

**Time:** 5 minutes

## **Note to Facilitator:**

## **Rights of Undocumented Workers**

Ask participants to listen to the following mini-rap on Rights of Undocumented Workers:

### **Mini-rap:**

“Most of these laws apply to undocumented workers as well as documented workers. An exception is unemployment compensation, for which you have to have a social security number to apply. It is not always safe, however, for undocumented workers to go to state and federal agencies with complaints, as those agencies might notify Immigration and Customs Enforcement (ICE). Therefore, undocumented workers should check first with an advocacy organization (see handout: *Partial List of Advocacy Organizations*). The handout *Safe and Unsafe Agencies for Immigrant Workers* is only a guideline. Policies change. **To be safe, always go to an advocacy organization first.**”

Ask participants “*What questions do you have?*”

### **Summary**

“Legal protections are important, but not all laws cover all workers and the process for getting legal rights can be lengthy. A union contract may give additional protections or a faster way to remedy the situation. If you don’t have a union, you may need to organize around violations of the law to pressure the employer to make change. Sometimes there is no law to cover a workplace problem - then we need to come up with other strategies along with our co-workers.

Each of the laws identified in this session, as well as other workplace rights for all workers, including immigrants, will be covered in more detail in the next eight sessions. We will also identify where you can go for more information on each law or to file a complaint if you feel that the law is being violated.”

*If this is a stand-alone session, or you will be doing less than the entire series, please modify the summary as needed.*

# **Introduction to Workers Basic Legal Protections on the Job Participants Outline**

**75 – 90 min.**

## **Objectives**

- to name workplace problems and issues
- to identify where rights come from
- to introduce some laws that govern the workplace
- to explore how these laws address some workplace problems

## **Welcome and Introduction**

### **Icebreaker: Who is Here?**

Introduce yourself to the others giving your name, union and/or organizational affiliation, one thing about your past or present work experience

### **Activity 1: Workplace Issues and Rights on the Job**

In pairs, discuss what problems or issues are shown in the pictures, and what you think your rights are to address the problems. Large group will review all issues and rights.

### **Activity 2: Legal Rights of Workers**

Activity that introduces major workplace laws, years passed, and who and what laws cover. Practice applying these laws to workplace issues named in activity 1.

### **Rights of Undocumented Workers**

Listen to the mini-rap on the rights of undocumented workers and ask questions.

## **Summary**

# Workplace Laws

## Massachusetts Payments of Wages Law (1879)

- Wages, salaries, and commissions of people working five or six days a week must be paid within six days of the close of the pay period in which the money is earned
- Wages must be paid weekly or biweekly (certain salaried employees may be paid semimonthly or monthly)

## Massachusetts Meal Break Law M.G.L. Chapter.149 (1887 and amended)

- Requires a 30-min. unpaid meal break on any shift that lasts more than 6 hours.
- [Mass. Law does not require employers to provide rest breaks]
- State Law

## Massachusetts Workers Compensation Act Chapter 152 (1911)

- Provides cash benefits, medical coverage and re-training expenses for work related injuries
- State Law

## Davis-Bacon Act (1931)

- Requires workers on federal and state construction contracts worth \$2,000 or more be paid the "prevailing wage", i.e. wages equal to rates established by union bargaining agreements in that geographic area.
- Massachusetts prevailing wage laws require that employees on public works projects be paid prevailing wage.

## New Deal Social Security Act (1935)

- Provides Unemployment Insurance up to 30 wks for workers who have lost a job through no fault of their own
- Federal Law
- Covers documented immigrants only

## National Labor Relations Act (1935)

- Gives workers the right to organize to improve wages and working conditions, including the right to organize a union & bargain collectively with the employer
- Federal Law
- Covers Private Sector only

## Fair Labor Standards Act (1938)

- Regulates minimum wage; guarantees right for most workers to be paid 1 ½ normal rate for hours worked over 40 hr/week; sets standards for the hours and type of employment for workers under 18.
- Federal Law

Massachusetts Fair Employment Practices Act Chapter 151B (1946)

- Forbids discrimination on the basis of race, color, religion, national origin and ancestry; later amended to ban discrimination on basis of age, sex, handicap, sexual harassment, and sexual orientation.
- State Law

Title VII of Civil Rights Act of 1964

- Prohibits discrimination on the basis of race, color, religion, sex, or national origin.
- Federal Law

Minimum Fair Wage Law Chapter 151 (1970)

- Regulates minimum wage and guarantees right for most workers to be paid 1 ½ normal rate for hours worked over 40 hr/week
- State Law

Massachusetts Employment & Training Law (1970)

- Provides up to 30 weeks Unemployment Insurance for workers who have lost a job through no fault of their own
- State Law
- Covers documented immigrants only

Occupational Safety & Health Act (1970)

- Provides Safety and Health Protections and workplace free from recognized hazards
- Federal Law
- Covers Private sector only

Massachusetts Public Employee Collective Bargaining Law Chapter 150E (1973)

- Gives public employees the right to organize to improve wages and working conditions, including the right to organize a union & bargain collectively with the employer
- State Law
- Covers Public sector only

Americans with Disabilities Act (1992)

- Forbids Discrimination due to disability
- Federal Law

Family & Medical Leave Act (1993)

- Provides unpaid leave due to disability of the worker, to care for sick family member or for the birth or adoption of a child.
- Federal Law

### Massachusetts Public Employee Whistleblower Protection Act (1996)

- Protects public employees from retaliation for reporting misconduct or refusing to engage in illegal activity.
- A similar law passed in 1999 covers health care workers
- State Law
- Covers public sector & health care workers only

### Massachusetts Universal Health Insurance Law (2006)

- Requires Massachusetts residents to purchase health insurance if not offered by employer
- State law

### Temporary Workers Right to Know Act (2013)

- Protects workers through the right to know basic information about their job assignments.
- Regulates fees that a staffing agency or worksite employer charges a temp worker.
- Prohibits illegal acts by the employer, such as false advertising, assigning workers to worksites violating the law, or on strike or lockout without informing the employee of this fact, or refusing to return personal property.
- Protects workers against retaliation for exercising their rights under the act.
- State law

### Affordable Care Act (2014)

- Requires everyone in country to purchase health insurance if not offered by employer
- Offers subsidies to low income people
- Expands Medicaid coverage in most states
- Employer mandate to provide health insurance postponed until 2015
- Federal Law

### Massachusetts Domestic Workers Bill of Rights (2014)

- Provides basic workplace protections for domestic workers (housekeepers, house cleaners, house managers, nannies, caregivers, providers of household services) hired by private employers or unlicensed agencies
- Right to be paid for all working time; right to (unpaid) days of rest; right to privacy
- Protection against trafficking and discrimination
- Right to written contract for those working over 16 hours/week for 1 employer

# Workplace Issues and Rights Answer Sheet

Laws covering situations shown in the pictures we recommended for Activity 2.1

Unsafe working conditions (“Slip”, “Safety net” and “wrench”): **Occupational Safety and Health Act** mandates workplace free of recognized hazards for private sector. **Workers Compensation Act** provides insurance for those injured on the job (public and private)

Job Discrimination (“Help Wanted”): **Mass. Fair Employment Practices Act** and **Title VII of US Civil Rights Act** prohibit discrimination against protected classes.

Overtime: There is no protection against mandatory overtime, except for workers under 18 **Mass. Minimum Fair Wage Law**, and the federal **Fair Labor Standards Act** guarantee 1.5 times normal pay rate for work over 40 hours per week.

Discrimination due to disability: **American with Disabilities Act** prohibits discrimination and mandates “reasonable accommodation”.

Too much work (“Multitasking”, “Time Issues”): No laws protect against unreasonable workload

Termination (“Terminated” or “You’re Fired”): No laws protect against summary firing, unless illegal discrimination is involved.

Right to organize and to collective activity (“Petition”): **National Labor Relations Act** and **Mass. Public Employee Collective Bargaining Law Chapter 150E** guarantee the right to organize in private and public sectors respectively.

## Laws covering situations shown in some of the other pictures

Hazardous Waste: Occupational Safety and Health Act

Surveillance: No laws prohibit electronic surveillance in work areas; some contracts may.

Illness: Family & Medical Leave Act may cover (unpaid) time off. No law mandates paid sick leave, but collective bargaining contracts often do.

Vacation Time: No law mandates vacation time, (or paid holidays or other days off). Collective bargaining contracts usually mandate paid time off.

Retirement: No law mandates pension benefits. However if a company establishes a retirement plan, ERISA (Employment Retirement Income Security Act) regulates how it must work.

Standing up on the job: Mass. law gives employees the right to sit during their work, if the work can be done safely while sitting. (M.G.L. ch. 149 §106)

Minimum Wage – Fair Labor Standards Act and Mass. Minimum Fair Wage Law

Unemployment – New Deal Social Security Act and Mass. Employment and Training Law

Contract vs. Employee Handbook – Contracts are legally enforceable documents. Company policies, even written ones, can be changed at will or ignored by the company.

# **Your Rights on the Job in Massachusetts**

## **Wages and Hours**

### **Minimum Wage**

- Private sector employees must be paid at least \$11.00 per hour (Massachusetts Law).
- For public sector employees \$7.25 per hour (Federal Law)
- Tipped employees must be paid at least \$3.75/hour. If your tips do not cover the difference between the tip minimum wage and the regular minimum wage, your employer must pay you the difference.

### **Overtime**

- Covered employees must be paid one and a half times their regular rate for all hour worked over 40 in a workweek.
- Mass hospitals may not require nurses to work over their regularly scheduled hours, except in emergency

### **Payment of Wages**

- Wages must be paid in full within 6 or 7 days of the end of the pay period
- The pay period may be weekly or biweekly, but not longer for hourly workers. (Some salaried workers may be paid semi-monthly.)
- All employees must get a pay slip, even if they are paid in cash

### **Breaks**

- Employees who work a period of more than six hours are entitled to a 30-minute unpaid meal break
- Employees are entitled to bathroom facilities and breaks
- With some exceptions, nursing mothers must be allowed reasonable break times to express breast milk for infant up to one year of age in private location other than a bathroom.

## **Discrimination**

- An employer may not discriminate against a job applicant or employee in hiring, promotion, discipline, discharge, pay, fringe benefits, training or, or other aspects of employment on the basis of race, color, religion, national origin, ancestry, sex (including pregnancy), sexual orientation, gender identity, age (over 40), handicap (disability), mental illness, retaliation, sexual harassment, genetics, citizenship status, or active military status. Most blanket hiring/firing policies against workers with criminal records are illegal.

- An employer must make a reasonable accommodation to an individual with a physical or mental disability if this will enable the person to do the job.
- An employee is protected from sexual harassment

## **Leave**

- An eligible employee may be absent for up to 12 weeks a year without losing his or her job:
  - Due to a disability caused by a serious health condition
  - To care for a family member who is disabled due to a serious health condition
  - To care for or bond with a newborn, adopted or foster child
- An eligible employee may take 24 hours of unpaid time off each year to:
  - Participate in school activities related to a child's education
  - Accompany a child to a routine medical or dental appointment
  - Accompany an elderly relative to a routine medical or dental appointment or to an appointment for professional services.

## **Health and Safety**

- Private Sector workers are entitled to a workplace free from recognized physical or health hazards.
- If injured on the job, a worker is entitled to receive Workers' Compensation insurance payments
  - Weekly benefits are 60% of the worker's average weekly gross wages
  - Work-related medical expenses are paid for life

## **Organizing**

- Employees have a right to engage in concerted activity to improve their wages and working conditions, including the right to petition, leaflet, organize a union, picket, and strike. (Only private sector workers have the right to strike.)
- An employer must recognize a union chosen by a majority of employees in an appropriate bargaining unit
- An employer must bargain in good faith with the union about all matters relating to employment.

## **Layoff**

- Workers who have lost a job through no fault of their own may be eligible for up to 30 weeks of unemployment insurance payments. This law does not cover undocumented immigrants.

## Flipcharts for MODULE 1: Introduction to Workers Basic Legal Protections on the Job

### Flipcharts for Welcome and Introduction

#### Objectives

- to name workplace problems and issues
- to identify where rights come from
- to introduce some laws that govern the workplace
- to explore how these laws address some workplace problems

#### Agenda

- Welcome and Introductions
- Icebreaker: Who is here?
- Workplace Issues and Rights on the Job
- Legal Rights of Workers
- Rights of Undocumented Workers
- Summary

### Flipchart for Activity 1: Workplace Issues and Rights on the Job

Workplace Issue	Workplace Rights/Other Rights

*Note to facilitator: Info for second column is in Workplace Issues and Rights Answer Sheet*