



Fair Labor Standards Act (FLSA)

FLSA, 29 U.S.C. § 201 et seq.

In general, the Fair Labor Standards Act (FLSA) applies to most employees, for work performed for most employers, although there are exceptions. The FLSA mandates an employer to pay employees a current minimum wage of \$5.85 per hour. Effective July 24, 2008 the minimum wage increases to \$6.55, and on July 24, 2009 increases to \$7.25.

Overtime rules require an employer to pay one and a half times the employee's hourly rate for all hours worked over 40 in any workweek, unless the employee performs work considered exempt from overtime (such as salaried executives). Accurate time records are required for all nonexempt employees, and child labor restrictions apply.

The FLSA is enforced by the U.S. Department of Labor (DOL). Either an employee or the DOL has the ability to recover sums that should have been paid to an employee.

This brochure was adapted from the article *'Employment Law 101' survey*, authored by Sonya K. Parrish-Boun, excerpted from *Arizona Employment Law Letter*, and written by attorneys of the Lewis and Roca, LLP law firm.

The information presented should not be construed as legal advice or a legal opinion regarding specific facts or circumstances. The contents of this document were compiled to convey general information only.

Individuals requiring assistance regarding the laws referenced in this brochure should consult the NCCU EEO/AA Office at (919) 530-7070.



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Laws Governing the Workplace



Brief summaries of the laws
that govern the employee and
employer relationship.

Age Discrimination in Employment Act (ADEA)

ADEA, 29 U.S.C. § 621 et seq.

The Age Discrimination in Employment Act (ADEA) covers all private employers, state and local governments, and educational institutions that employ 20 or more individuals. The Act prohibits age discrimination in employment, including benefits, for employees age 40 or over. The ADEA also prohibits mandatory retirement at any age.



Family Medical Leave Act (FMLA)

FMLA, 29 U.S.C. § 2601 et seq.

The Family Medical Leave Act applies to any employer in the private sector with 50 or more employees. The law covers all public agencies (state and local governments) and local education agencies (schools, whether public or private), even those with fewer than 50 employees. This statute requires the employer to allow employees leave time for medical purposes or familial needs.

The FMLA allows an employee to take up to 12 weeks (including intermittent leave) of unpaid, job-protected leave annually for specific family and medical requirements, including (1) the birth or adoption of a child, (2) caring for a seriously ill child, spouse, or parent, or (3) the employee's own serious health condition.

Eligible employees include those who have worked for at least 12 months and who have worked at least 1,250 hours during

the last 12-month period. Employers and co-workers are prohibited from interfering with anyone exercising their rights under the Act; taking any adverse action against an employee who tries to exercise their rights; or retaliating because an employee files a complaint, gives information, or testifies in relation to a complaint.

Employers must keep accurate records pertaining to the leave and post a notice of employees' rights under the FMLA. Furthermore, the FMLA requires employers to maintain the employee's group health benefits while on leave. Employers may require an employee to provide certification from their health care provider to support a request for FMLA leave.

Civil Rights Act

Title VII, 42 U.S.C. § 2000e et seq.

Title VII of the Civil Rights Act applies to all private employers, state and local governments, and educational institutions that employ 15 or more individuals. This statute prohibits discrimination against individuals because of race, color, national origin, religion, and sex.



The prohibition against sex discrimination includes discrimination on the basis of pregnancy, sex stereotyping, and sexual harassment of employees, however it does not include discrimination on the basis of sexual orientation.

Before an employee can file a complaint against an employer under the Civil Rights Act statute, the employee first must file a charge with the Equal Employment Opportunity Commission (EEOC). The EEOC is empowered to prevent employers from engaging in unlawful employment practices.



Americans with Disabilities Act (ADA)

Title I, 42 U.S.C. § 12-101 et seq.

The Americans with Disabilities Act (ADA) applies to all private employers, state and local governments, and educational institutions employing 15 or more individuals. This statute prohibits discrimination against individuals with disabilities who are qualified for a job.

The ADA's definition of disability encompasses a wide range of physical and mental impairments. A disabled individual is deemed "qualified" if they are able to perform the essential functions of a job with or without a reasonable accommodation.

Employers are required to make reasonable accommodations for all qualified individuals with a disability unless doing so would cause you an undue hardship. Because the standard is high, most employers will experience some difficulty proving an accommodation causes such a hardship.

One should also note, that an employer granting extended leave to an employee is considered a form of reasonable accommodation. Therefore, even if any employee has used up all their sick leave, the Family and Medical Leave Act (FMLA) leave, as well as vacation leave, an employer may still need to grant additional leave time for employees with disabilities.

As with Title VII, an employee must first file a charge with the EEOC prior to filing a complaint alleging an ADA violation against their employer.

