



Know Your Rights for Temporary Staffing Workers

Please note: This fact sheet is not legal advice. You should consult with Temp Worker Justice, a lawyer, or trusted worker center about your particular situation. This fact sheet refers to federal law only. States have their own laws that may provide additional protections for temporary workers.

Compensation

Wages:

You must be paid for every hour that you work, always at or above the minimum wage, which under federal law is \$7.25 per hour, and you must receive time-and-a-half payment for every hour over 40 hours worked per week. Please note that many states and localities have set higher minimum wages than \$7.25 per hour, so check with your state and locality on its minimum wage.

Deductions:

Whether a paycheck deduction is legal or illegal depends on the circumstances. Furthermore, many states have passed laws restricting when or how employers can use debit cards to pay workers.

Receiving Payment:

Many temp agencies pay employees using payroll cards, which are prepaid cards loaded with an employee's salary. The use of the cards is legal, but employers cannot mandate payment on these cards, and must make an alternative option available.

Equal Pay for Equal Work:

Unfortunately, U.S. law does not require temporary workers to get paid the same rate as permanent employees doing the same job, though it is common in other countries.

Discrimination

Federal law prohibits both temporary staffing agencies and host employers from discriminating against temporary workers based on their race, color, religion, national origin, gender, or disability. It also prohibits discriminating against women employees because of pregnancy or a related medical condition and employees older than 40 because of their age. Discrimination in the temporary staffing industry is common not only in hiring and job placement, where people of one race or gender are assigned to certain jobs, but also in pay, promotions, and discipline. Either employer, or both, may be held responsible for discrimination, depending on the circumstances. States and localities have anti-discrimination laws, too, so check on the laws in your city and state.

Terms of Employment

Conversion from Temp to Perm:

No U.S. laws require your host employer to offer you permanent employment at any time, though limits on the duration of “temporary” jobs are common in other countries. Many temp workers spend years in the same position as “permatemps.”

Termination:

Unfortunately, absent narrow circumstances (such as discrimination based on race, religion, gender, disability or other protected class, or a union contract), a temporary staffing agency or host employer can terminate your employment at any time for any reason or refuse to assign you to a new job.

Unemployment Insurance Benefits:

If you are terminated (or if after completing a job assignment you request a new temporary position and are denied), you should apply for unemployment insurance benefits. Temporary workers are eligible for benefits just as any other employees, but some states may require you to check in with the staffing agency for more work. Please check with your state’s unemployment insurance benefits agency about eligibility requirements.

Safety & Health

Training & Personal Protective Equipment:

You have the right to work in a safe workplace and to receive the training and equipment necessary to do your job safely. Being “temporary” is not an excuse for an employer to fail to protect your health and well-being. You can report unsafe working conditions anonymously or confidentially to the federal Occupational Health and Safety Administration (“OSHA”) or to your state’s OSHA. (Federal OSHA regulates employers in some states, while other states have set up their own state OSHAs to regulate employers in their states.)

Workplace Injury and Illness:

The temporary staffing agency is usually your legal employer and responsible for workers’ compensation insurance, though in some states the host company may also be an employer.

You must report injuries and illness from work to your agency in a timely manner in order for their insurance to cover the costs of medical care and potential lost time at work. In some states, your temporary staffing agency will submit the necessary forms to their insurer and the workers' compensation agency. In other states, you will need to file a workers' compensation claim form with your state's workers' compensation agency.

Right to Organize

The National Labor Relations Act protects your right to advocate for and join a union in your workplace. It also protects your right to join together with your co-workers to advocate for better working conditions, regardless of whether you are in or want to join a union. Your co-workers are the other temporary workers employed by your staffing agency, but not necessarily the permanent employees, at your worksite.