

**CITY OF ANYTOWN  
PERSONNEL MANUAL**

**TABLE OF CONTENTS**

HIRING AND EMPLOYMENT .....	4
Equal Employment Opportunity .....	4
At-Will Employment .....	5
Accommodation of Disabilities .....	5
Vacancies, Recruitment and Employment Postings .....	6
Application for Position Opening .....	7
Hiring and Selection .....	7
Background and Reference Checks .....	8
Physical & Psychological Exams, Drug Screening .....	8
Orientation Period .....	9
Anniversary Date .....	9
Outside Employment .....	10
Performance Evaluations .....	10
Personnel Files .....	10
Social Security Number Privacy and Protection .....	11
Hiring and Employment: Grievances, Termination, and Layoffs .....	11
Grievance Procedure .....	12
Disciplinary Action .....	13
Voluntary Termination .....	14
Involuntary Termination and Procedural Rights .....	14
Layoff and Recall .....	16
Exit Interview .....	16
Return of Property .....	16
GENERAL EMPLOYMENT POLICIES & RULES .....	18
Harassment .....	18
Sexual Harassment .....	18
Investigations .....	18
Retaliation .....	19
Drug-Free Workplace .....	20
Medical Examinations .....	21
Workplace Violence .....	21
Safety and Right to Know .....	22
Bulletin Boards .....	22
Work Week & Hours of Work .....	22
Lunch and Break Periods .....	23
Attendance and Punctuality .....	24
Jury Duty Leave .....	24

Voting Leave.....	25
Breaks for Breastfeeding.....	25
Call-In or Call-Back & Stand-By Status.....	26
Work Cancellation .....	27
Hygiene.....	27
Personal Appearance.....	28
Uniforms and Safety Attire.....	29
Smoke-Free Workplace and Smokeless Tobacco Use.....	30
Freedom of Information Act .....	30
Sensitive Records.....	31
Public Statement/Press Calls.....	32
Gifts and Gratitude.....	32
Political Activity and General Solicitation .....	34
Use of the City's Resources .....	35
Credit Cards .....	35
Use of Communication Systems.....	37
Computer, Internet and E-Mail Policy.....	37
Website .....	39
CLASSIFICATION AND COMPENSATION .....	40
Classification and Compensation System.....	40
Job Classification / Descriptions.....	42
Employment Definitions.....	43
Transfers .....	44
Promotions .....	44
Demotions.....	45
Temporary Assignments.....	46
Overtime for “Non-Exempt” Employees.....	47
Compensatory Time or “Non-Exempt” Employees .....	47
Fair Labor Standards Act Exemptions.....	48
Pay Periods and Paychecks.....	49
Travel Reimbursement and Advances .....	49
Professional & Service Memberships.....	50
Recognition Programs and Special Events .....	50
Unemployment Compensation.....	51
Social Security .....	51
HEALTH, RETIREMENT AND GENERAL BENEFITS .....	53
Eligibility and Enrollment.....	53
Health Insurance .....	54
Insurance Opt-Out Payment.....	55
Continuation of Benefits (“COBRA”).....	55
Life Insurance .....	57
Disability Insurance .....	58

Worker’s Compensation .....	59
Retirement Programs .....	60
Health Insurance Portability and Accountability Act (HIPAA) .....	62
Protected Health Information.....	63
Required Disclosures .....	63
Other Disclosures.....	63
Your Rights.....	64
PAID AND UNPAID LEAVES .....	66
Holidays .....	66
Eligibility .....	66
Holiday Work Premium.....	67
Paid Time Off (PTO) .....	68
Accrual.....	69
Leave Requests .....	71
Carryover & Pay Out .....	72
Voluntary Sharing of PTO .....	73
Family and Medical Leave.....	74
Eligibility .....	74
Rolling Year.....	75
Coordination with Other Leaves and/or Paid Time Off Plans .....	76
Health and Other Benefits.....	76
Who Qualifies? .....	77
FMLA Leave for Qualifying Exigencies .....	78
Notifications and Certifications .....	79
Job Restoration and Protection .....	79
Bereavement Leave.....	80
Unpaid Leave of Absence.....	83
Jury Duty.....	85
Military Leave for National Guard or other Reserve Units .....	85

## HIRING AND EMPLOYMENT

### Equal Employment Opportunity

#### **Federal Law**

Age Discrimination in Employment Act of 1967, Pub. L. 90-202, U.S. Equal Employment Opportunity Commission

Retrieved from <http://www.eeoc.gov/laws/statutes/adea.cfm>.

Summary: Prohibits employment discrimination based on age (protects individuals who are at least forty and less than sixty-five years old).

Equal Employment Opportunity Act of 1972

Retrieved from <http://www.eeoc.gov/laws/statutes/titlevii.cfm>.

Summary: Amends Title VII and expands the protection of Title VII to “public and private employers with 15 or more employees, both public and private labor organizations with at least 15 members, and employment agencies” Prohibits employment discrimination based on “race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status.” For an agency to be covered under this statute they must have 15 or more employees who worked for the agency for at least 20 weeks of the year. Employers with less than 15 members are exempt from Title VII however they must still comply with Michigan civil laws. See Elliott-Larsen Civil Rights Act below.

Pregnancy Discrimination Act of 1978, U.S. Equal Employment Opportunity Commission

Retrieved from <http://www.eeoc.gov/laws/statutes/pregnancy.cfm>

Summary: Amends title VII to include prohibiting discrimination on the basis of pregnancy. Employers are prohibited from refusing to hire someone because they are pregnant. If the employee is unable to perform the job temporarily due to pregnancy she must be treated the same as any other temporarily disabled employee. For example: perform alternative tasks, leave without pay or disability leave. In addition, Section 4207 of the Fair Labor Standards Act requires employers to provide reasonable break time for a women to express milk for her nursing child. See section on Lunch and Break periods.

Title I and V of the Americans with Disabilities Act of 1990, Pub. L. 101-336, U.W. Equal Employment Opportunity commission.

Retrieved from <http://www.eeoc.gov/laws/statutes/ada.cfm>

Summary: Prohibits discrimination of persons with disabilities and requires employers to make reasonable accommodations unless the accommodation would cause undue hardship. It is up to the employer to demonstrate the accommodation would cause an undue hardship. Undue hardship is determined by several factors: nature and cost of the accommodation, the overall financial resources of the facility, if the facility is part of a larger entity, the type of operation of the employer, and the impact of the accommodation on the operation of the facility. Examples of

reasonable accommodations are making facilities accessible, modifying work schedules, training materials or job equipment.

Title II of the Genetic Information Nondiscrimination Act of 2008, U. S. Equal Employment opportunity Commission

Retrieved from <http://www.eeoc.gov/laws/statutes/gina.cfm>

Summary: Prohibits discriminated based on genetic information including genetic test results or disease/disorders of the employee and his/her family members.

Title VII of the Civil Rights Act of 1964, Pub. L. 88-352, U.S. Equal Employment Opportunity Commission.

Retrieved from <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

Summary: This law prohibits discrimination on the basis of "race, color, religion, national origin,. or sex".

### **State Law**

Elliott-Larsen Civil Rights Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(xwulsy45mn5sfvixfd5xavu1\)\)/documents/mcl/pdf/mcl-act-453-of-1976.pdf](http://www.legislature.mi.gov/(S(xwulsy45mn5sfvixfd5xavu1))/documents/mcl/pdf/mcl-act-453-of-1976.pdf)

Summary: This Act prohibits an employer (with 1 or more employees) from discriminating based upon “religion, race, color, national origin age, sex, height, weight, familial status, or marital status.”

### **At-Will Employment**

#### **Federal Law**

There is no specific Federal Law for At-Will employment however, “At will” employees cannot be terminated based on illegal reasoning.

#### **State Law**

The Whistleblowers Protection Act.

Retrieved from

[http://www.legislature.mi.gov/\(S\(xwulsy45mn5sfvixfd5xavu1\)\)/documents/mcl/pdf/mcl-Act-469-of-1980.pdf](http://www.legislature.mi.gov/(S(xwulsy45mn5sfvixfd5xavu1))/documents/mcl/pdf/mcl-Act-469-of-1980.pdf)

Summary: This law protects an employee who reports a violation of a federal or state law. The law prohibits retaliation against an employee who reported a violation of a federal or state law.

### **Accommodation of Disabilities**

#### **Federal Law**

Title I and V of the Americans with Disabilities Act of 1990, Pub. L. 101-336, U.W. Equal Employment Opportunity commission.

Retrieved from <http://www.eeoc.gov/laws/statutes/ada.cfm>

Summary: Prohibits discrimination of persons with disabilities and requires employers to make reasonable accommodations unless the accommodation would cause undue hardship. It is up to

the employer to demonstrate the accommodation would cause an undue hardship. Undue hardship is determined by several factors: nature and cost of the accommodation, the overall financial resources of the facility, if the facility is part of a larger entity, the type of operation of the employer, and the impact of the accommodation on the operation of the facility. Reasonable accommodations are defined as Examples of reasonable accommodations are making facilities accessible, modifying work schedules, training materials or job equipment.

**State Law**

Persons with Disabilities Civil Rights Act of 1976

Retrieved from [http://www.michigan.gov/documents/PWDCRA10-05\\_115444\\_7.pdf](http://www.michigan.gov/documents/PWDCRA10-05_115444_7.pdf).

Summary: “An Act to define the civil rights of persons with disabilities; to prohibit discriminatory practices, policies, and customs in the exercise of those rights; to prescribe penalties and to provide remedies; and to provide for the promulgation of rules.”

**Vacancies, Recruitment and Employment Postings**

**Federal Law**

Equal Employment Opportunity Act of 1972

Retrieved from <http://www.eeoc.gov/laws/statutes/titlevii.cfm>.

Summary: Amends title VII and expands the protection of Title VII to “public and private employers with 15 or more employees, both public and private labor organizations with at least 15 members, and employment agencies” For an agency to be covered under this statute they must have 15 or more employees who worked for the agency for at least 20 weeks of the year. Employers with less than 15 members are exempt from Title VII however they must still comply with Michigan civil laws. It is illegal for an employer to discriminate based on “race, color, national origin, sex, religion, age, disability political beliefs, and marital or familial status” in recruitment or job advertisements. For example, it would be illegal for a recruitment ad to say “seeking females or “recent college grads” as it would discourage males or older people from applying.

**State Law**

Persons with Disabilities Civil Rights Act of 1976

Retrieved from [http://www.michigan.gov/documents/PWDCRA10-05\\_115444\\_7.pdf](http://www.michigan.gov/documents/PWDCRA10-05_115444_7.pdf)

Summary: This law applies to all employers regardless of the number of employees. It is illegal for an employer to fail to recruit an individual based on physical or mental examinations that are not directly related to the requirements specific to the job. It is also illegal for an employer to refuse to recruit an individual when adaptive devices may be used to enable the individual to perform the job. State Law reasonable accommodations are based on number of employees. (See Table Below.)

<b>Number of Employees</b>	<b>Maximum Accommodation Cost</b>
0-3	State Average weekly wage
4-14	1.5 X state average weekly wage
5-24	2.5 X state average weekly wage
25 or more	On a case-by-case basis

## **Application for Position Opening**

### **Federal Law**

Employee Polygraph Protection Act

Retrieved from <http://www.dol.gov/whd/polygraph/>

Summary: Prohibits most private employers from requiring job applicants to take lie-detection test. This law does not apply to Federal, State and Local governments. There are other limited exemptions to this law for private employers such as employees who are reasonably suspected of theft.

Immigration Reform and Control Act

Retrieved from [http://www.dol.gov/ofccp/regs/compliance/ca\\_irca.htm](http://www.dol.gov/ofccp/regs/compliance/ca_irca.htm)

Summary: Requires that employees prove their eligibility to work in the United States. The employer is responsible to “verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). This form must be kept on file for three years or one year after employment ends, whichever is longer. This act applies to employers who have at least four employees.

### **State Law**

Persons with Disabilities Civil Rights Act of 1976

Retrieved from [http://www.michigan.gov/documents/PWDCRA10-05\\_115444\\_7.pdf](http://www.michigan.gov/documents/PWDCRA10-05_115444_7.pdf)

Summary: It is illegal for an employer to fail to recruit an individual based on physical or mental examinations that are not directly related to the requirements specific to the job. It is also illegal for an employer to refuse to recruit an individual when adaptive devices may be used to enable the individual to perform the job. State Law reasonable accommodations are based on number of employees. (See Table Below.)

<b>Number of Employees</b>	<b>Maximum Accommodation Cost</b>
0-3	State Average weekly wage
4-14	1.5 X state average weekly wage
5-24	2.5 X state average weekly wage
25 or more	On a case-by-case basis

## **Hiring and Selection**

### **Federal Law**

Persons with Disabilities Civil Rights Act of 1976

Retrieved from [http://www.michigan.gov/documents/PWDCRA10-05\\_115444\\_7.pdf](http://www.michigan.gov/documents/PWDCRA10-05_115444_7.pdf)

Summary: It is illegal for an employer to fail to recruit an individual based on physical or mental examinations that are not directly related to the requirements specific to the job. It is also illegal for an employer to refuse to recruit an individual when adaptive devices may be used to enable the individual to perform the job.

Uniform Guidelines of Employee Selection

Retrieved from <http://www.gpo.gov/fdsys/pkg/CFR-2011-title29-vol4/xml/CFR-2011-title29-vol4-part1607.xml>.

Summary: These Guidelines are not a law but a set of guidelines adopted by the Civil Service Commission, the Department of Labor, the Department of Justice, and the Equal Opportunity Commission. The guidelines prohibit selection practices from negatively affecting the job opportunities for any gender, race or ethnic group unless it is a business necessity. The guidelines also provide standards for the proper use of employment testing.

### **State Law**

Persons with Disabilities Civil Rights Act of 1976

Retrieved from [http://www.michigan.gov/documents/PWDCRA10-05\\_115444\\_7.pdf](http://www.michigan.gov/documents/PWDCRA10-05_115444_7.pdf)

Summary: It is illegal for an employer to fail to hire an individual based on a disability or genetic information that is unrelated to the individual's ability to perform the job. It is also illegal to require an individual to submit to provide genetic information as a condition of employment. State Law reasonable accommodations are based on number of employees. (See Table Below.)

<b>Number of Employees</b>	<b>Maximum Accommodation Cost</b>
0-3	State Average weekly wage
4-14	1.5 X state average weekly wage
5-24	2.5 X state average weekly wage
25 or more	On a case-by-case basis

### **Background and Reference Checks**

#### **Federal Law**

Fair Credit Reporting Act (FCRA)

Retrieved from <http://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>.

Summary: Employers must get permission from applicants before asking for any reports about the applicant. Also, the employer must inform the application if that information will be used to make a hiring decision. If the employer is going to deny employment because of the information contained in the report, they must first give the applicant a copy of the report and a document titled "A Summary of Your Rights Under the Fair Credit Reporting Act."

#### **State Law**

Elliott-Larsen Civil Rights Act

Retrieved from

[https://www.legislature.mi.gov/\(S\(pyl3no55jsyhcvwtwhqvja45\)\)/mileg.aspx?page=getObject&objectName=mcl-37-](https://www.legislature.mi.gov/(S(pyl3no55jsyhcvwtwhqvja45))/mileg.aspx?page=getObject&objectName=mcl-37-)

Summary: Section 37.2205a of this act prohibits employers from asking applicants about misdemeanor arrests not resulting in conviction. Employers may inquire about felony arrests and all convictions.

### **Physical & Psychological Exams, Drug Screening**

#### **Federal Law**



49 CFR part 40

Retrieved from [http://www.dot.gov/sites/dot.dev/files/docs/PART40\\_2012.pdf](http://www.dot.gov/sites/dot.dev/files/docs/PART40_2012.pdf)

Summary: Transportation employers, safety-sensitive transportation employees (including self-employed individuals, contractors and volunteers as covered by DOT agency regulations), and service agents, must comply with drug and alcohol screening as described in section 49 CFR (Code of Federal Regulations) part 40.

### **State Law**

No State Law

Retrieved from <http://www.lawforchange.org/images/lfc/MichiganEmployment.pdf>

Summary: Pursuant to the Michigan Medical Marihuana Act, effective January 1, 2009, employers are not required to accommodate the ingestion and use of marihuana by its employees and therefore can lawfully enforce its work place policies against the use of marihuana the same as any other drug.

### **Case Law**

The Federal District Court found that the Michigan Medical Marihuana Act (MMMA) does not regulate private employment. The Court found the MMMA merely provides a defense to criminal prosecution or other adverse actions by the state.

Casias v. Wal-Mart Stores, Inc., 764 F. Supp.2d 914 (W.D. Mich. 2011).

<http://www.onmedicalmarijuana.com/michigan-case-law-2/casiaSummary:v-wal-mart-stores-inc/>

The Michigan Persons with Disabilities Civil Rights Act allows an employer to base employment decisions on the results of a physical or mental examination provided the exam is directly related to the requirements of the job in question (Michigan Legislature – Section 37.1202)

<http://www.blr.com/HR-Employment/Staffing-Training-/Physical-Exams-in-Michigan#>

### **Orientation Period**

#### **Federal Law**

Title VII of the Civil Rights Act of 1964

Retrieved from <http://www.eeoc.gov/facts/qanda.html>

Summary: “At will” employees cannot be terminated based on illegal reasoning. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, or national origin.

#### **State Law**

Civil Rights Act of 1964 as amended Michigan Public Act 453 of 1976.

Retrieved from

<http://www.legislature.mi.gov/%28S%28mlc0if55ekbigz55olfu0i55%29%29/mileg.aspx?page=getObject&objectname=mcl-37-2202>

Summary:

### **Anniversary Date**

### **Federal Law**

There are no Federal Laws pertaining to Anniversary Date, however all evaluations should remain consistent to Title VII of the Civil Rights Act of 1964 and other labor laws.

### **State Law**

There are no Michigan Laws

### **Outside Employment**

#### **Federal Law**

Subpart H of 5 C.F.R. part 2635

Retrieved from <http://www.oge.gov/Topics/Outside-Employment-and-Activities/Outside-Employment-Limitations/>

Summary: An executive branch employee may not engage in outside employment or any other outside activity that conflicts with the employee's official duties.

#### **State Law**

There are no Michigan Laws

### **Performance Evaluations**

#### **Federal Law**

There are no Federal Laws pertaining to Performance Evaluations, however all evaluations should remain consistent to Title VII of the Civil Rights Act of 1964 and other labor laws.

#### **State Law**

There are no Michigan Laws

### **Personnel Files**

#### **Federal Law**

U.S. Equal Employment Opportunity Commission (EEOC) regulations require that employers keep all personnel or employment records for one year.

<http://www.eeoc.gov/employers/recordkeeping.cfm>

29 CFR 1904

Retrieved from <https://www.osha.gov/recordkeeping/>

Summary: Under the OSHA Recordkeeping regulation (29 CFR 1904), covered employers are required to prepare and maintain records of serious occupational injuries and illnesses, using the OSHA 300 Log.

#### **State Law**

Bullard-Plawecki Employee Right to Know Act

Retrieved from [www.legislature.mi.gov/documents/mcl/pdf/mcl-Act397-of-1978](http://www.legislature.mi.gov/documents/mcl/pdf/mcl-Act397-of-1978)

Summary: provides employees with the right to review, copy and file a response to any personnel record.

## **Social Security Number Privacy and Protection**

### **Federal Law**

The Privacy Act of 1974, as amended at 5 U.S.C. 552a

Retrieved from <http://www.socialsecurity.gov/agency/privacyact.html>

Summary: Protects records that can be retrieved from a system of records by personal identifiers such as a name, social security number, or other identifying number or symbol.

### **State Law**

Social Security Number Privacy Act 454 of 2004

Retrieved from

[http://www.legislature.mi.gov/\(S\(c1rlbkajl3dql2q4acxn1e45\)\)/mileg.aspx?page=GetObject&objectname=mcl-Act-454-of-2004](http://www.legislature.mi.gov/(S(c1rlbkajl3dql2q4acxn1e45))/mileg.aspx?page=GetObject&objectname=mcl-Act-454-of-2004)

Summary: An Act to establish the social security number privacy act in the state of Michigan; to prescribe penalties; and to provide remedies.

<http://www.lawforchange.org/images/lfc/MichiganEmployment.pdf>

Summary: Employers are prohibited from requiring an employee to transmit more than four sequential digits of the employee's Social Security number over the internet or computer network unless the connection is secure and the transmission is encrypted.

Michigan law also requires that employers who obtain one or more Social Security numbers in the ordinary course of business must create a privacy policy that ensures the confidentiality of the numbers, prohibits unlawful disclosure of the numbers, limits access to records that contain the numbers, describes proper disposal procedures for the numbers, and establishes penalties for a violation of the privacy policy. Employers are further required to publish the privacy policy in an employee handbook, a procedures manual or in one or more similar documents.

## **Hiring and Employment: Grievances, Termination, and Layoffs**

For the purpose of grievances, termination, and layoffs, non-supervisory employees working for the City of Anytown are divided into (2) classifications:

Unionized Public Sector Employees as defined by the Michigan Public Employment Relations Act 336 of 1947

### **State Law**

Michigan Public Employment Relations Act 336 of 1947.

Retrieved from: [www.legislature.mi.gov](http://www.legislature.mi.gov)

Summary: Ensures that union public sector employees are protected by their respective union's "Collective Bargaining Agreement" (CBA), which is regulated by the MERC (Michigan Employment Relations Commission):

“MERC, formerly the Michigan Labor Mediation Board, was established in 1939 pursuant to the Labor Relations and Mediation Act (LMA). MERC is responsible for administering the LMA, which is the law governing labor relations for private sector employers and employees not within the exclusive jurisdiction of the National Labor Relations Act. The LMA provides for the mediation and arbitration of labor disputes and guarantees the right of employees to organize and bargain collectively with their employers through representatives of their own choosing.” (Sperka, 2014)

“At-Will Employees”, ostensibly meaning that employees may be terminated at any time for any reason or for no reason at all, with or without notice and with or without cause. The precedent for At-Will Employment derives from several historical legal rulings:

### **Federal Law**

Retrieved from <http://www.eeoc.gov/facts/qanda.html>

“Employment-at-will” is sometimes referred to as “Wood’s rule,” after it was mentioned in Horace Wood’s 1877 treatise, *Master and Servant*. “Men must be left, without interference to buy and sell where they please, and to discharge or retain employees at will for good cause or no cause, or even for bad cause without thereby being guilty of an unlawful act per se,” Woods wrote. “It is a right which an employee may exercise in the same way, to the same extent, for the same cause or want of cause as the employer.” Wood added that, unless an employment contract explicitly said otherwise, the contract was terminable by either party at any time. (Michigan Bar Journal, 2009, p.16)

“At will” employees cannot be terminated based on illegal reasoning. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, or national origin.

### **State Law**

Several high court rulings have complicated the issue of “At-Will” employment. For instance, the Michigan Supreme Court created an “implied-contract” exception in *Toussaint v. Blue Cross Blue Shield of Michigan* (1980):

“The Supreme Court unanimously agreed that a jury could consider testimony in the record on whether the employee and employer made an oral contract that included distinguishing features or provisions that made Mr. Ebling’s employment terminable at will but only for cause. The Court upheld a judgment that he was entitled to recover the value of stock options that he forfeited when fired without just cause.” (Michigan Bar Journal, 2009, p.16)

Furthermore, numerous “public policy” exceptions have been upheld in several other high court rulings. “Public policy exception holds that an at-will employee cannot be terminated if such termination would be counter to public policy”. (Swift, 2010, p.557). The anti-discrimination workplace and other labor laws listed below provide protections to At-Will Employees and should be strongly considered when applying the rules of this handbook.

### **Grievance Procedure**

## **For Public Sector Union Employees:**

### **State Law**

Michigan Public Employment Relations Act 379 of 1965

Retrieved from [www.legislature.mi.gov](http://www.legislature.mi.gov)

Summary: The Michigan Public Employment Relations Act (PERA) ensures that union public sector employee grievance procedures are protected by their respective union's "Collective Bargaining Agreement" (CBA), which is regulated by the MERC (Michigan Employment Relations Commission).

Guide to Public Sector Labor Relations Law in Michigan.

Retrieved from [www.michigan.gov/.../MERC\\_Guide\\_2014-rev\\_final\\_6-9-14](http://www.michigan.gov/.../MERC_Guide_2014-rev_final_6-9-14)

Summary: "Mediation is often used to resolve grievances arising under a collective bargaining agreement, either as the final step in the grievance procedure or as a step prior to arbitration. The Commission offers grievance mediation at no charge to the parties. A mediator generally is available within a few weeks of the request for mediation assistance. The process is flexible, since the parties may develop a remedy without being bound by the contract language, as an arbitrator would be. If the contract language is ambiguous, a mediator may assist in developing a mutually agreeable resolution to the dispute. A mediator has no authority to render a binding decision."

## ***For At-Will Employees:***

### **Federal Law**

National Labor Relations Act of 1935.

Retrieved from <http://www.nlr.gov/rights-we-protect>

Summary: At-Will employees have the right to assemble as a group to address concerns in the workplace, and in doing so are protected by the National Labor Relations Board. If these employees choose to settle their grievances through a collective means, the National Labor Relations Board may elect to represent them regardless of their non-union status. Managers should be advised that the NRLB will seek voluntary compliance with their decisions, and if compliance is not achieved may take the issue before the U.S. Court of Appeals.

### **State Law**

There is no State Law

## **Disciplinary Action**

## **For Public Sector Union Employees:**

### **State Law**

Michigan Public Employment Relations Act 379 of 1965

Retrieved from [www.legislature.mi.gov](http://www.legislature.mi.gov)

Summary: The Michigan Public Employment Relations Act of 1965 ensures that union public sector employees are protected by their respective union's "Collective Bargaining Agreement"

(CBA), which is regulated by the MERC (Michigan Employment Relations Commission). The disciplinary procedure is dictated by the rules contained within the CBA.

### **For At-Will Employees:**

#### **Federal Law**

There is no Federal Law

#### **State Law**

There is no State Law

### **Voluntary Termination**

#### **Federal Law**

There is no Federal Law

All employees, union or “at-will”, are free to terminate their employment at any time without notice.

#### **State Law**

There is no State Law

### **Involuntary Termination and Procedural Rights**

#### **Federal Law**

Age Discrimination in Employment Act of 1967, Pub. L. 90-202, U.S. Equal Employment Opportunity Commission.

Retrieved from <http://www.eeoc.gov/laws/statutes/adea.cfm>.

Summary: Prohibits termination based on age (protects individuals who are at least forty and less than sixty-five years old).

Title VII of the Civil Rights Act of 1964, Pub. L. 88-352, U.S. Equal Employment Opportunity Commission.

Retrieved from <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

Summary: This law prohibits termination on the basis of "race, color, religion, national origin, or sex".

Equal Employment Opportunity Act of 1972

Retrieved from <http://www.eeoc.gov/laws/statutes/eeoa.cfm>

Summary: Amends title VII and expands the protection of Title VII to “public and private employers with 15 or more employees, both public and private labor organizations with at least 15 members, and employment agencies” Prohibits termination based on “race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status.”

Pregnancy Discrimination Act of 1978, U.S. Equal Employment Opportunity Commission.

Retrieved from: <http://www.eeoc.gov/laws/statutes/pregnancy.cfm>

Summary: Amends title VII to include prohibiting termination on the basis of pregnancy

Title IV and V of the Americans with Disabilities Act of 1990, Pub. L. 101-336, U.W. Equal Employment Opportunity Commission.

Retrieved from <http://www.eeoc.gov/laws/statutes/ada.cfm>

Summary: Prohibits termination of persons with disabilities and requires employers to make reasonable accommodations to maintain employment.

Title II of the Genetic Information Nondiscrimination Act of 2008, U. S. Equal Employment Opportunity Commission

Retrieved from <http://www.eeoc.gov/laws/statutes/gina.cfm>

Summary: Prohibits termination based on genetic information including genetic test results or disease/disorders of the employee and his/her family members.

### **State Law**

Elliott-Larsen Civil Rights Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(xwulsy45mn5sfvixfd5xavu1\)\)/documents/mcl/pdf/mcl-act-453-of-1976.pdf](http://www.legislature.mi.gov/(S(xwulsy45mn5sfvixfd5xavu1))/documents/mcl/pdf/mcl-act-453-of-1976.pdf)

Summary: This Act expands on the federal Equal Employment Opportunity Act of 1972, prohibiting an employer (with 1 or more employees) from terminating an employee based upon “religion, race, color, national origin age, sex, height, weight, familial status, or marital status.”

Michigan Persons With Disabilities Civil Rights Act Persons of 1976

Retrieved from [http://www.michigan.gov/documents/PWDCRA10-05\\_115444\\_7.pdf](http://www.michigan.gov/documents/PWDCRA10-05_115444_7.pdf)

Summary: Michigan law prohibits employers from terminating an individual because of disability or genetic information that is unrelated to the individual’s ability to perform the duties of a particular job or position.

Michigan Occupational Safety and Health Administration Act (“MIOSHA”)

Retrieved from [www.michigan.gov/.../CIS\\_WSH\\_part\\_42\\_47164\\_7.pdf](http://www.michigan.gov/.../CIS_WSH_part_42_47164_7.pdf)

Summary: The Michigan Occupational Safety and Health Administration Act incorporates by reference the federal OSHA standards and gives them the same force and effect as a rule promulgated under Michigan law. The act protects employees who exercise rights afforded under the act from retaliatory action or termination. In order for an alleged act of retaliatory action or discrimination to be eligible for an investigation, the employee must file a complaint within 30 days and the complaint must stem from a safety and health issue.

The Whistleblowers' Protection Act Act 469 of 1980

Retrieved from [www.legislature.mi.gov/.../mcl-Act-469-of-1980.pdf](http://www.legislature.mi.gov/.../mcl-Act-469-of-1980.pdf)

Summary: Michigan law prohibits employers from terminating an employee who reports or is about to report a violation or suspected violation of a federal or state law or regulation.

Employees who have been retaliated against may sue for lost wages, actual damages, and full reinstatement of benefits and seniority rights. Employers that are found in violation of this statute may also be subject to a civil fine of up to \$500. An employee who sues an employer for a violation of this law must do so within 90 days after the occurrence of the alleged violation.

## **Layoff and Recall**

### **Federal Law**

The Worker Adjustment and Retraining Notification Act (WARN)

Retrieved from <http://www.doleta.gov/programs/factsht/warn.htm>

Summary: WARN offers protection to workers, their families and communities by requiring employers to provide notice 60 days in advance of covered plant closings and covered mass layoffs. This notice must be provided to either affected workers or their representatives (e.g., a labor union); to the State dislocated worker unit; and to the appropriate unit of local government.

The Uniformed Services Employment and Reemployment Rights Act (USERRA)

Retrieved from [http://blogs.findlaw.com/free\\_enterprise/2012/01/how-to-legally-lay-off-an-employee.html](http://blogs.findlaw.com/free_enterprise/2012/01/how-to-legally-lay-off-an-employee.html)

Summary: Requires employers to reinstate service members to the jobs they would have held had they not been called to duty. An employer can't layoff a service member unless the employer can prove circumstances have drastically changed.

### **State Law**

There is no State Law

## **Exit Interview**

### **Federal Law**

There is no Federal Law

### **State Law**

There is no State Law

“Make it part of your policy that all employees who resign in "good standing" must take part in exit interviews. Explain that participation is necessary to be eligible for rehire. And note that the interview is on the clock, which means they'll be paid for participating.

Finally, while most exit interviews are held on the employee's final day, you'll likely obtain more candid (and constructive) answers by hosting the meeting a week or two after the employee departs. On that employee's final day, set up a date and time to talk by phone or in person.”

Exit interviews: Use them to cut turnover, unveil legal risks. HR Specialist.

Retrieved from: <http://www.thehrspecialist.com/article.aspx?articleid=274>

## **Return of Property**

### **Federal Law**

There is no Federal Law

### **State Law**

Michigan ( Mich. Comp. Laws §§ 408.474, 408.475)

Retrieved from <http://smallbusiness.findlaw.com/employment-law-and-human-resources/final-paycheck-laws-by-state.html>



Summary: Michigan State Law requires that a terminated employee's final paycheck be issued to them on the next scheduled payday.

## **GENERAL EMPLOYMENT POLICIES & RULES**

### **Harassment**

#### **Federal Law**

Title VII of the Civil Rights Act of 1964

The Age Discrimination in Employment Act of 1967 (ADEA)

Americans with Disabilities Act of 1990 (ADA)

Retrieved from <http://www.eeoc.gov/laws/types/harassment.cfm>

Summary: “Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

#### **State Law**

The Michigan Penal Code (EXCERPT). (1931, January 1). Michigan Legislature.

Retrieved from <http://legislature.mi.gov/doc.aspx?mcl-750-411h>

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

#### **Sexual Harassment**

Title VII of the Civil Rights Act of 1964

The Age Discrimination in Employment Act of 1967 (ADEA)

Americans with Disabilities Act of 1990 (ADA)

Retrieved from [http://www.eeoc.gov/laws/types/sexual\\_harassment.cfm](http://www.eeoc.gov/laws/types/sexual_harassment.cfm)

Summary: “It is unlawful to harass a person (an applicant or employee) because of that person’s sex. Harassment can include “sexual harassment” or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person’s sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

### **Investigations**

#### **Federal Law**

There is no Federal Law

#### **State Law**

MIOSHA Safety and Health Standards - Part 13

Retrieved from [http://www.michigan.gov/documents/CIS\\_WSH\\_part4ad\\_37850\\_7.pdf](http://www.michigan.gov/documents/CIS_WSH_part4ad_37850_7.pdf)

Michigan Civil Rights Commissions Rule 37.4 related to filing complaints

[http://www7.dleg.state.mi.us/orr/Files/AdminCode/53\\_10052\\_AdminCode.pdf](http://www7.dleg.state.mi.us/orr/Files/AdminCode/53_10052_AdminCode.pdf)

Summary: The Occupational Safety and Health Act ("OSHA") regulates workplace safety for employers in businesses which affect commerce. Under OSHA, employers are required to furnish their employees with a place of employment free from recognized hazards that are causing, or are likely to cause, them death or serious physical harm. Employers must also comply with occupational safety and health standards which are issued under the Act. "Right to know" regulations issued under OSHA require that employees in certain industries be warned about hazardous materials and chemicals to which they may be exposed. OSHA sets forth a detailed procedure for adopting safety and health standards and provides for inspection, investigation and enforcement. Citations issued for noncompliance can result in civil and criminal penalties, including fines and, for violations causing the death of an employee, imprisonment. States are allowed to develop and enforce their own plans setting and enforcing occupational safety and health standards. Some industries have specific statutes which regulate employee safety and health.

Law for Change, Michigan Employment Policies and Employee Handbooks

Retrieved from <http://www.lawforchange.org/NewsBot.asp?MODE=VIEW&ID=2621>

Summary: "An employer is required to take all reasonable steps necessary to prevent the occurrence of either type of harassment, which includes having an appropriate and comprehensive policy against harassment. For this reason, a harassment policy that both expressly prohibits harassment and provides avenues for employees to report harassing behavior are recommended in any workplace. Employees should be encouraged to report any harassing behavior to their supervisor and/or a human resources person or senior manager. Reasonable steps to prevent harassment would also include periodic dissemination of the harassment policy, harassment training (particularly for supervisors), investigations of any complaints, and, when harassment occurs, prompt and effective remedial action. Employers cannot retaliate against an employee who complains about harassment."

## **Retaliation**

### **Federal Law**

U.S. Equal Employment Opportunity Commission

Retrieved from <http://www.eeoc.gov/laws/types/retaliation.cfm>

Summary: "All of the laws we enforce make it illegal to fire, demote, harass, or otherwise "retaliate" against people (applicants or employees) because they filed a charge of discrimination, because they complained to their employer or other covered entity about discrimination on the job, or because they participated in an employment discrimination proceeding (such as an investigation or lawsuit)."

State Law

Section 37.2701 of the Elliott Larsen Civil Rights Act of 1976

Retrieved from [https://www.michigan.gov/documents/treasury/ET-03055\\_200339\\_7.pdf](https://www.michigan.gov/documents/treasury/ET-03055_200339_7.pdf)

Summary: "Two or more persons shall not conspire to, or a person shall not:

- Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act . . . Coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of, . . . any right granted or protected by this act.”

## **Drug-Free Workplace**

### **Federal Law**

Drug-Free Workplace Act of 1988 United States Department of Labor.

Retrieved from <http://www.dol.gov/elaws/asp/drugfree/screen4.htm>

Summary: Organizations that receive federal contracts or money are required to prohibit use of marijuana as a condition of participation under the Drug-Free Workplace Act of 1988.

### **Federal Law**

Drug-Free Workplace Act of 1988

Retrieved from <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title41/pdf/USCODE-2009-title41-chap10.pdf>

Summary: The establishment of a drug-free workplace should include – (A) publishing a statement notifying employees of unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person’s workplace and specifying the actions that will be taken against employees for violations of such prohibition; (B) establishing a drug-free awareness program about – (1) the dangers of drug abuse; (2) policy of drug-free workplace; (3) available drug counseling and rehabilitation; (4) penalties that may be imposed on violators; (C) giving the employee a copy of subparagraph (A); (D) notifying them their condition of employment regarding subparagraph (A).

Notification must be given to the employer of any criminal drug statute occurring in the workplace no later than 5 days after such conviction; the contracting agency should be notified within a 10 day period.

Employees who are taking prescription medication that may impair their ability to drive and/or operate equipment/machinery shall notify their supervisor prior to engaging in that activity for an alternative assignment. Employees to be in a violation will be subject to disciplinary action up to and including termination.

Employees required to maintain a Commercial Driver’s License as a condition of their employment are subject to state and federal provisions regarding Department of Transportation (DOT) drug testing.

### **State Regulation Summary**

Michigan Drug Testing Laws and Regulations Summary.

Retrieved 2014 from <http://www.testcountry.com/StateLaws/Michigan.htm>

Summary: There is no specific legislation regarding employment and pre-employment drug testing. Drug testing and alcohol testing must still be conducted in a way that does not violate

rights of the individual to privacy and reputation. There is a notice from the state regarding a drug-free workplace.

### **State Governor Notice**

Drug-Free Workplace Notice – July 1, 2009.

Retrieved from [http://www.michigan.gov/documents/mdch/DrugFreeWorkplace\\_Notice\\_-\\_SOM\\_182783\\_7.pdf](http://www.michigan.gov/documents/mdch/DrugFreeWorkplace_Notice_-_SOM_182783_7.pdf)

Summary: If your organization has over 52,000 employees, there must be an established drug-free workplace program. All employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of controlled substance in the workplace or while performing assigned activities. Violators will be subject to disciplinary up to and including dismissal. Employers must educate employees about the dangers of drug use and the criminal penalties, and implement a drug and alcohol testing policy and program.

### **Medical Examinations**

#### **Federal Law**

Department of Labor Workplace Violence Program – Appendices Medical Examination.

Retrieved from <http://www.dol.gov/oasam/hrc/policies/dol-workplace-violence-program-appendices.htm>

Summary: Agencies may offer an examination at any time they believe there may be a medical or psychiatric reason for unacceptable behavior. However, they may order a general medical exam only in these situations: when the position has medical standards/physical requirements; when the agency has an approved ongoing medical evaluation program (such as OSHA and MSHA); in continuation of pay/workers' compensation cases to assist in placement efforts; and in reduction-in-force actions if the new position to which the employee would have placement rights has different medical standards than the one currently occupied by the employee.

A psychiatric examination (including a psychological assessment) may be ordered only when a general medical examination, properly ordered, indicates no physical explanation for behavior or actions which may affect the safe and efficient work of the individual or others, or when such an examination is specifically required by the position.

#### **State Law**

No State Law as of July 2014

### **Workplace Violence**

#### **Federal Law**

Department of Labor Workplace Violence Program.

Retrieved from <http://www.dol.gov/oasam/hrc/policies/dol-workplace-violence-program.htm>

Summary: The program addresses prevention by increasing employee understanding of the nature of the workplace violence, how to respond, and how to prevent it. It is up to each employee to help make the department be a safe workplace for everyone. The expectation is that each employee will treat all other employees, as well as customers or clients, with dignity and respect.

Prevention strategy is to maintain an environment in which minimizes negative feeling such as isolation, resentment and hostility. To help achieve this, the following steps should be taken:

- Promoting sincere and open communication
- Offering opportunities of professional development
- Fostering a family-friendly work environment
- Maintaining mechanisms for complaints and concerns, allowing them to be expressed in a non-judgmental forum
- Promoting “quality of life” issues, such as job satisfaction
- Maintaining impartial and consistent discipline

### **Federal Reference**

Occupational Safety and Health Administration: Safety and Health Topics: Workplace Violence. Retrieved from <https://www.osha.gov/SLTC/workplaceviolence/>

Summary: Good reference for other links and information. One of the best protections employers can offer their workers is to establish a zero-tolerance policy toward workplace violence. This policy should cover all workers, patients, clients, visitors, contractors, and anyone else who may come in contact with company personnel.

### **Safety and Right to Know**

#### **Federal Law**

The Occupational Health and Safety Act of 1970 (OSH Act)

Retrieved from <https://www.osha.gov/workers.html>

Summary: “The law requires employers to provide their employees with working conditions that are free of known dangers. The Act created the Occupational Safety and Health Administration (OSHA), which sets and enforces protective workplace safety and health standards. OSHA also provides information, training and assistance to workers and employers. Workers may file a complaint to have OSHA inspect their workplace if they believe that their employer is not following OSHA standards or that there are serious hazards.”

#### **State Law**

The Hazard Communication Standard (OSHA 1910.1200; MIOSHA R.325.77001-77003)

Retrieved from [http://www.mml.org/insurance/shared/publications/s\\_and\\_h\\_manual/6A.pdf](http://www.mml.org/insurance/shared/publications/s_and_h_manual/6A.pdf)

Summary: This law requires all employers inform their employees of all the dangers they may face from working conditions.

### **Bulletin Boards**

Each City building has a bulletin board for official City business and important neutral informational postings. Political, inflammatory, or controversial items are prohibited. If you would like to post something, please request permission from your Department Head prior to doing so. Be aware that tampering, defacing, or destroying any posting is prohibited.

### **Work Week & Hours of Work**

### **Federal Law**

Fair Labor Standards Act (FLSA).

Retrieved from <http://www.dol.gov/dol/topic/workhours/>

Summary: “(For employees 18 and over), a workweek is a period of 168 hours during 7 consecutive 24 hour periods. This may begin any day of the week at any hour of the day established by the employer. Generally for purposes of minimum wage and overtime pay each workweek stands alone, and there can be no averaging of 2 or more workweeks. Covered employees must be paid for all hours worked in the workweek. Hours worked includes all time an employee must be on duty or on the employers premises/prescribed place of work.”

### **State Law**

No state law for adults 18 and over. Currently follows the Fair Labor Standards Act (FLSA).

Retrieved from <http://www.michigan.gov/lara/>

Summary: “Restrictions are placed on minors (under 18) for work week and hours of work. If an employee is 18 years or older, an employer has the right to schedule employees to meet the need of the specific workplace in accordance with the Fair Labor Standards Act.”

### **Lunch and Break Periods**

#### **Federal Law**

Fair Labor Standards Act (FLSA).

Retrieved from <http://www.dol.gov/dol/topic/workhours/breaks.htm>

Summary: Break Periods-“Federal Law does not require lunch or coffee breaks. If employers do offer short breaks (5-20 min) it is considered compensable work hours and must be included in the sum of hours worked. Short breaks also will be considered if overtime was worked.

Unauthorized extensions to breaks will not be counted as hours worked when extension is contrary to employer's rules.”

Meal Periods- “Meals lasting 30 minutes or more are not considered compensable work time. An employee must be relieved of all duties during this time. If an employee has to perform any duties while on break or meal period it will need to be considered compensable work time and must be accounted for in pay.”

#### **State Law**

Follows Fair Labor Standards Act (FLSA).

Retrieved from <http://www.michigan.gov/lara/>

Summary: Michigan does not have requirements for meal breaks or rest periods for employees 18 years and older.

#### **Pending State Law**

Pending House Bill No. 5214, 2014.

Retrieved from <http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/pdf/2014-HIB-5214.pdf>

Summary: In Michigan there is currently a pending bill (House Bill No. 5214, 2014) which aims to set regulations and requirements for meal/rest periods and workweek/hours worked. It is currently being reviewed in the House commerce Committee.

## **Attendance and Punctuality**

### **Federal Law**

Fair Labor standards Act (FLSA).

Retrieved from <http://www.flsa.com/coverage/html>

Summary: “Exempt employees cannot be docked pay for missing less than a half day of work. Employers must set their own guidelines in areas of attendance and punctuality as long as they follow FLSA standards when dealing with exempt or nonexempt employees.”

Title VII of the Civil Rights Act of 1964.

Retrieved from [http://www.eeoc.gov/policy/docs/quanda\\_religion.html](http://www.eeoc.gov/policy/docs/quanda_religion.html)

Summary: “Prohibits employers/employment agencies with 15 or more employees from discriminating against requested religious practices, shift swaps, and scheduling changes of reasonable accommodation.”

Family Medical Leave Act (FMLA).

Retrieved from <http://www.dol.gov/whd/fmla/>

Summary: “Federal Law requiring employers to provide covered employees with job protected unpaid leave for qualified medical and family purposes.”

Americans With Disabilities Act (ADA).

Retrieved from <http://www.dol.gov/compliance/laws/comp-flsa.htm>

Summary: “Requires employers to make reasonable accommodations for qualified employees if necessary to perform essential job functions. For example, an employer may have to modify an employee's work schedule to cope with a specific disability.”

## **Jury Duty Leave**

### **Federal Law**

Fair Labor Standards Act

Retrieved from <http://www.dol.gov/dol/topic/benefits-leave/juryduty.htm>

Summary: “Federal law prohibits employers to threaten, intimidate, or fire an employee who is to serve jury duty. Employers can require employees to give reasonable notice prior.”

### **State Law**

Michigan Persons with Disabilities Civil Rights Act. Retrieved August 8, 2014 from

<http://www.lawforchange.org/images/lfc/MichiganEmployment.pdf>

Summary: “Requires employers to make reasonable accommodations for employees with disabilities unless such accommodations would impose undue hardship upon the employer.”

Military Leaves/Reemployment Act.

Retrieved from <http://www.lawforchange.org/images/lfc/MichiganEmployment.pdf>

Summary: “Provides rights for those returning to work from military service. Such a person is entitled to re-employment without exception. The federal government does have a law similar (Uniformed Services Employment and Reemployment Rights Act), however federal law is more



lenient and provides an employer the ability to prevent rehire if they can prove it would provide undue hardship.”

#### At-Will Employment State

Retrieved from <http://www.bls.gov/opus/mlr/2001/01art1full.pdf>

Summary: “Michigan is an at-will employment state. This means that employees can quit at any time, and employers can let a worker go at any time as long as employers abide by federal laws. All attendance and punctuality guidelines should be clearly presented to employees upon hire.

#### Exceptions:

- Employee is under an individual contract
- Termination of an employee must not oppose state public policy (employees cannot be fired for refusing to break state/federal law upon request of an employer)
- There was an implied contract (oral or written assurances between employer and employee)”

#### **Voting Leave**

There are no federal or state laws that require employers to grant leave for employees to vote.

Retrieved from <http://www.employmentlawhandbook.com/leave-laws/state-leave-laws/michigan/#5>

#### **Breaks for Breastfeeding**

##### **Federal Law**

Affordable Care Act amended the Fair Labor Standards Act (“FLSA”).

Retrieved from <http://www.dol.gov/whd/nursingmothers/faqBTNM.htm>

Summary: “to require employers to provide “reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child’s birth each time such employee has need to express the milk.” Employers are also required to provide “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 an employee to express breast milk. The frequency of breaks needed to express breast milk as well as the duration of each break will likely vary.”

##### Specifics:

- Must provide a private safe space for breastfeeding that is not a bathroom.
- Exempt from FLSA if under 50 employee’s and can prove hardship. “...hardship is determined by looking at the difficulty or expense of compliance for a specific employer in comparison to the size, financial resources, nature, or structure of the employer’s business.”
- FLSA Breastfeeding Policy includes all employees-full time, part time, or “...any other individuals who meet the FLSA definition of employee found at 29 U.S.C. 203(e)(1).”

The Pregnancy Discrimination Act of 1978.

Retrieved from <http://www.eeoc.gov/laws/statutes/pregnancy.cfm>

Summary: “The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women

affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703(h) of this title shall be interpreted to permit otherwise”

The Equal Pay Act of 1963.

Retrieved from <http://www.eeoc.gov/laws/statutes/epa.cfm>

Summary: This law makes it illegal to pay different wages to men and women if they perform equal work in the same workplace. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Family and Medical Leave Act.

Retrieved from <http://www.dol.gov/whd/fmla/>

Summary: “The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.”

Federal Law does not indicate place to store breast milk or pumping equipment.

### **State Law**

The Home Rule City Act 279 of 1909,117.5h.

Retrieved from: <http://legislature.mi.gov/doc.aspx?mcl-117-5h>

Summary: “... A mother's breastfeeding of her baby does not under any circumstances constitute nudity irrespective of whether or not the nipple is covered during or incidental to the feeding.”

The Elliott-Larsen Civil Rights Act.

Retrieved from <http://legislature.mi.gov/doc.aspx?mcl-37-2202>

Summary: “Treat an individual affected by pregnancy, childbirth, or a related medical condition differently for any employment-related purpose from another individual who is not so affected but similar in ability or inability to work, without regard to the source of any condition affecting the other individual's ability or inability to work.”

Michigan State Law has no laws pertaining to the storage of breast milk or equipment.

### **Call-In or Call-Back & Stand-By Status**

#### **Federal Law**

Fair Labor Standards Act.

Retrieved from <http://www.dol.gov/whd/regs/compliance/whdfs22.pdf>

Summary: “If an employee is physically at place of work or on employer premises it is standard to be paid (even if not physically working) if time exceeds 7 minutes. Employees may be called in or back to work on a regularly scheduled day off. In these instances, non-exempt employees will be paid at the appropriate rate of pay for number of hours worked including any overtime pay.

On Call Status- If an employee’s on-call status restricts free hours to a significant extent, pay is necessary. An employee will always receive pay for actual hours worked.”

## **State Law**

Michigan Civil Service Commission Rules.

Retrieved from

[http://www.michigan.gov/documents/Regulation\\_5\\_155756\\_7.02\\_April\\_2006.pdf](http://www.michigan.gov/documents/Regulation_5_155756_7.02_April_2006.pdf)

Summary: "Under Michigan and federal law employers must pay employees for all labor in accordance with exempt/nonexempt status.

Stand by Status-

- Waiting to be engaged- any employee who can pursue other activities while on call will only be paid for hours spent actually working.
- Engaged to be waiting- employee who cannot engage in personal activities must be paid for all time spent on-call.

Call in/Call back-

- Nonexempt employees are to be paid at established overtime rates for call back times if hours surpass 40 hours in a week. If an employee is called back into work outside their normal work period they are to be compensated a minimum of 3 hours pay (compensation should reflect any work exceeding 3 hours)"

## **Work Cancellation**

### **Federal Law**

The Department of Labor manages the application of the Fair Labor Standards Act.

Retrieved from [http://www.dol.gov/whd/opinion/FLSA/2005/2005\\_10\\_24\\_41\\_FLSA.htm](http://www.dol.gov/whd/opinion/FLSA/2005/2005_10_24_41_FLSA.htm)

Summary: "If work is cancelled due to weather conditions such as inclement weather, federal law requires employers to pay exempt employees. Employers may require employees use accrued leave days during such closure. Non-exempt employees are not required to be paid."

### **State Law**

There are no state laws about work cancellation. Follows Federal laws.

## **Hygiene**

### **Federal Law**

Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (2009).

Retrieved from <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/html/USCODE-2009-title42-chap126.htm>

Summary: Body odor, personal appearance, and hygiene issues potentially could be medical issues. Employer cannot ask if body odor, ect. is a medical issue. However, if employee freely states the issue is caused by a medical issue, follow regular ADA procedures.

Occupational Safety and Health Act of 1970.

Retrieved from <http://www.dol.gov/whd/regs/compliance/whdfs51.htm>

Summary: The OSHA field sanitation standards require covered employers to provide: toilets, potable drinking water, and hand-washing facilities to hand-laborers in the field; to provide each employee reasonable use of the above; and to inform each employee of the importance of good hygiene practices. Covered employers who fail to comply with the statute or regulations may be

subjected to a range of sanctions, including the administrative assessment of civil money penalties and civil or criminal legal action.

## **Personal Appearance**

### **Federal Law**

Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (2009).

Retrieved from <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/html/USCODE-2009-title42-chap126.htm>

Summary: Discrimination based on “physical disfigurement” is not allowed.

Fair Labor Standards Act (FLSA): Determining Hourly Commensurate Wages to be Paid Workers with Disabilities.

Retrieved from <http://www.dol.gov/whd/regs/compliance/whdfs39e.htm>

Summary: “Evaluate, in terms of quality and quantity, the productivity of each individual worker with a disability as he or she performs the exact same job for which the standard was established in the above step. Behavioral factors - such as personal appearance and hygiene, promptness, social skills, willingness to follow orders, etc. - may not be used when evaluating the worker's productivity.”

Title VII of the Civil Rights Act of 1964.

Retrieved from <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

Summary: “This law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.”

The Pregnancy Discrimination Act of 1978.

Retrieved from <http://www.eeoc.gov/laws/statutes/pregnancy.cfm>

Summary: “The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703(h) of this title shall be interpreted to permit otherwise”

The Age Discrimination in Employment Act of 1967.

Retrieved from <http://www.eeoc.gov/laws/statutes/adea.cfm>

Summary: “This law protects people who are 40 or older from discrimination because of age. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.”

The Genetic Information Nondiscrimination Act of 2008.

Retrieved from <http://www.eeoc.gov/laws/statutes/index.cfm>

Summary: “This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.”

Important Notes:

- Equal Employment Opportunity Commission (EEOC) is starting to look into discrimination based on “beauty” or “activeness.”
- Employer can set grooming and personal appearance standards for employees within federal law.

### **State Law**

The Elliott-Larsen Civil Rights Act.

Retrieved from <http://legislature.mi.gov/doc.aspx?mcl-37-2202>

Summary: “ A complaint may be filed if, for reasons of religion, race, color, national origin, genetic information, age, sex, marital status, height, weight, arrest record, or disability, a person has been: refused employment, paid less money for equal work, harassed or subjected to unequal treatment on the job, denied membership in a labor organization, expelled from a labor organization, denied promotion, denied representation in a grievance, fired without just cause, and/or denied admission to a training program.”

Important Notes:

- Employer can set grooming and personal appearance standards within state law.

### **Uniforms and Safety Attire**

#### **Federal Law**

Deductions from wages for uniform and other facilities under the fair labor act (FLSA) U.S. Department of Labor, Wage and Hour Division

Retrieved from <http://www.dol.gov/whd/regs/compliance/whdfs16.pdf>

Summary: If the wearing of a uniform is required by some other law, the nature of a business or by an employer, the cost and maintenance of the uniform is considered to be a business expense of the employer. If the employer requires the employee to bear the cost, it may not reduce the employee's wage below the minimum wage of \$7.25 per hour effective July 24, 2009. Nor may that cost cut into overtime compensation required by the Act.

Occupational Safety and Health Standards, Personal Protective Equipment, General Requirements.

Retrieved from

[https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_id=9777&p\\_table=STANDARD](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=9777&p_table=STANDARD)  
[S](#)

Summary: Application. Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact. Employee-owned equipment. Where employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment

### **State Law**

There is no Michigan Law as of July 2014

There is no law in Michigan prohibiting an employer from requiring employees to purchase uniforms as long as the cost of the uniforms plus the expense of maintaining them does not cause their net pay to drop below minimum wage. This determination is made in the week in which the purchase is made.

### **Smoke-Free Workplace and Smokeless Tobacco Use**

#### **Federal Law**

As far as smoking bans in public places, U.S Congress has not enacted a nationwide federal smoking ban. This issue is currently left up to state/local law. Federal laws do exist that regulate issues such as advertising, minor possession, and taxation.

#### **State Law**

Dr. Ron Davis Smoke Free Air Law of 2009.

Retrieved from <http://www.legislature.Mi.gov/documents/2009-2010/Publicact/PDF/2009-PA-0188.Pdf>

Summary: “Effective May 1st, 2010 smoking is prohibited in almost all public places and workplaces. Workplace is defined as an enclosed indoor area that contains one or more work areas for one or more employees. Employees cannot smoke in private offices. “No smoking” signs are to be clearly placed in all entrances, and smoking paraphernalia such as ashtrays are to be removed from all workplaces. Smoke breaks during work hours are not mandatory by law. Employees can smoke in outdoor areas in a manner acceptable by their particular workplace guidelines. E-Cigarettes are not included in the law, although Michigan Legislature is currently reviewing this product. Exceptions to this law include:

- Gaming floors of casinos
- Cigar bars
- Specialty Tobacco Retail stores (must meet specific criteria)”

### **Freedom of Information Act**

#### **Federal Law**

The Freedom of Information Act 5 U.S.C 552, as Amended by Public Law No. 104-231, 110 Stat. 3048.

Retrieved from [http://www.justice.gov/oip/foia\\_updates/Vol\\_XVII\\_4/page2.htm](http://www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm)

Summary: The following information must be available to the public:

- Descriptions of its central and field organization and the established places at which the information can be retrieved by submitting a request
- Statements of the general course and method in which functions are channeled
- Rules of procedure, descriptions of forms and instructions
- Interruptions of general policy
- Each amendment, revision or repeal of the foregoing

This Act gives you the right to request access to federal agency records or information. All U.S. government agencies are required to disclose agency records to the public unless the records are protected by one or more of the FOIA's nine exemptions or three exclusions. The nine exemption categories that authorize government agencies to withhold information are:

- classified information for national defense or foreign policy;
- internal personnel rules and practices;
- information that is exempt under other laws;
- trade secrets and confidential business information;
- inter-agency or intra-agency memoranda or letters that are protected by legal privileges;
- personnel and medical files;
- law enforcement records or information;
- information concerning bank supervision; and
- geological and geophysical information.

### **State Law**

There is no Michigan Law as of July 2014

### **Sensitive Records**

#### **Federal Law**

Executive Order 12958; 60 Fed.Reg.19825

Retrieved from: <http://www.gpo.gov/fdsys/pkg/FR-1995-04-20/html/95-9941.htm>

Summary: "This order prescribes a uniform system for classifying, safeguarding, and declassifying national security information. Our democratic principles require that the American people be informed of the activities of their Government. Also, our Nation's progress depends on the free flow of information. Nevertheless, throughout our history, the national interest has required that certain information be maintained in confidence in order to protect our citizens, our democratic institutions, and our participation within the community of nations. Protecting information critical to our Nation's security remains a priority."

Executive Order 13292; 68 Fed.Reg.15315

Retrieved from <http://www.loc.gov/rr/frd/pdf-files/sbu.pdf>

Summary: "To prescribe a uniform system for classifying, safeguarding, and declassifying national security information, including information relating to defense against transnational terrorism."



## **State law**

No State Law found

## **Public Statement/Press Calls**

### **Federal Law**

Bill of Rights: First Amendment.

Retrieved from [http://www.law.cornell.edu/constitution/first\\_amendment](http://www.law.cornell.edu/constitution/first_amendment)

Summary: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

Defamation Laws.

Retrieved from <http://www.law.cornell.edu/wex/defamation>

Summary: Any statement (written or oral) that injures another person reputation.

Specifics: "To establish a prima facie case of defamation, four elements are generally required: a false statement purporting to be fact concerning another person or entity; publication or communication of that statement to a third person; fault on the part of the person making the statement amounting to intent or at least negligence; and some harm caused to the person or entity who is the subject of the statement."

The Freedom of Information Act 5 U.S.C 552, as Amended by Public Law No. 104-231, 110 Stat. 3048.

Retrieved from [http://www.justice.gov/oip/foia\\_updates/Vol\\_XVII\\_4/page2.htm](http://www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm)

Summary: Must make information, records, proceedings, public in a timely matter. See Freedom of Information Act section for more information.

### **State Laws**

Revised Judicature Act of 1961

Retrieved from <http://legislature.mi.gov/doc.aspx?mcl-600-2911>

Summary: Law outlining slander and libel.

## **Gifts and Gratitude**

**Federal Reference Material:** USDOJ: JMD: Departmental Ethics Office: Regulations, Authorities & Reference Materials: Do It Right. (n.d.). USDOJ: JMD: Departmental Ethics Office: Regulations, Authorities & Reference Materials: Do It Right.

Retrieved from <http://www.justice.gov/jmd/ethics/general.htm>

Summary: "The Standards of Ethical Conduct are based on Executive Order 12674, as amended by Executive Order 12731, and a number of ethics-related statutes. The executive order sets forth 14 principles of ethical conduct that Federal employees must follow and on which the Standards of Ethical Conduct build."

Specifics: "A Federal employee may not accept gifts from any person or organization that --

- Seeks official action by the employee's agency;\*
- Does business or seeks to do business with the employee's agency;\*
- Conducts activities regulated by the employee's agency;\*



- Has interests that may be substantially affected by performance or nonperformance of the employee's official duties;
- Is an organization a majority of whose members are described above; or
- Gives the gift because of the employee's official position.”

### **Federal Law**

Internal Revenue Services: Estate and Gift Taxes.

Retrieved from <http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Estate-and-Gift-Taxes>

Summary: Proper forms and procedures to disclose gifts and inheritances.

### **State Law**

The Michigan Penal Code. (1931, January 1)

Retrieved from <http://legislature.mi.gov/doc.aspx?mcl-750-125>

Summary: “750.125 Giving, offering, or promising commission, gift, or gratuity to agent, employee, or other person with intent to influence action of agent or employee; requesting or accepting commission, gift, or gratuity; using or giving document containing materially false, erroneous, or defective statement; evidence; use of truthful testimony, evidence, or other information against witness in criminal case; violation as misdemeanor.”

Standards of Conduct for Public Officers and Employees Act 196 of 1973 (Michigan Statutes §15.342).

Retrieved from <http://legislature.mi.gov/doc.aspx?mcl-15-342>

Summary: “A public officer or employee shall not solicit or accept a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization, other than the state, which tends to influence the manner in which the public officer or employee or another public officer or employee performs official duties.”

Specifics: ““Gift” means a payment, advance, forbearance, or the rendering or deposit of money, services, or anything of value, the value of which exceeds \$25.00 in any 1-month period, unless consideration of equal or greater value is received therefor. Gift includes a payment, advance, forbearance, or the rendering or deposit of money, services or anything of value to aid the defense of an official in the legislative branch or an official in the executive branch against a legal action not directly related to the governmental duties of the official.”

“Gift does not include:

- A campaign contribution otherwise reported as required by Act No. 388 of the Public Acts of 1976,
- A loan made in the normal course of business
- A gift received from a member of the person's immediate family, a relative of a spouse, a relative within the seventh degree of consanguinity as computed by the civil law method, or from the spouse of the relative.
- A breakfast, luncheon, dinner, or other refreshment consisting of food and beverage provided for immediate consumption.
- a contribution to a legal defense fund that is registered with the secretary of the state under the legal defense fund act and whose purpose is to defend an elected official against

any criminal, civil, or administrative action, that arises directly out of the conduct of the elected officials governmental duties.”

Lobbyists, Lobbying agents, and Lobbying Activities Act 472 of 1978 (Michigan Statutes §4.414).

Retrieved from <http://legislature.mi.gov/doc.aspx?mcl-4-414>

Summary: “Details what constitutes as a gift under Michigan Law for lobbying activities.

## **Political Activity and General Solicitation**

### **Federal Law**

Hatch Act

Retrieved from <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title5/pdf/USCODE-2010-title5-partIII-subpartF-chap73-subchapIII.pdf>

Summary: “Hatch Act restricts the political activity of individuals principally employed by state, county or municipal executive agencies who work in connection with programs financed in whole or in part by federal loans or grants. An officer or employee of a state or local agency is covered by the Hatch Act, if he or she has duties in connection with an activity financed in whole or in part by federal funds.”

Details and Examples from the Office of Special Counsel:

- may be candidates for public office in nonpartisan elections, i.e., an election where no candidates are running with party affiliation. EXAMPLE: An employee may run for the school board in Washington D.C., as long as the school board elections in Washington D.C. remain nonpartisan.
- may hold elective office in political parties, clubs and organizations. EXAMPLE: An employee may serve as the vice president of the local Democratic or Republican party.
- may be appointed to fill a vacancy for an elective office. EXAMPLE: An employee may be appointed to finish the unexpired term of an elected officeholder. The employee may not run for reelection if the election is partisan.
- may actively campaign for candidates for public office in partisan and nonpartisan elections. EXAMPLE: An employee may campaign for candidates by making speeches, writing letters, working at the polls on election day and organizing political rallies and meetings.
- may contribute money to political organizations. EXAMPLE: An employee may make a monetary contribution to any candidate, political party, club or organization.
- may attend and give a speech at a political fundraiser, rally or meeting. EXAMPLE: An employee may attend and give a speech or keynote address at a political fundraiser.
- may not be candidates for public office in partisan elections. EXAMPLE: An employee may not run for office in an election where any of the candidates are running as representatives of a political party, e.g., the Democratic or Republican party.
- may not be candidates for public office in partisan elections. EXAMPLE: An employee may not run for office in an election where any of the candidates are running as representatives of a political party, e.g., the Democratic or Republican party.
- may not directly or indirectly coerce contributions from other state or local employees. EXAMPLE: A supervisor should not advise employees that they may purchase tickets to a fundraising event.

- may not orchestrate a “write-in” candidacy during a partisan election. EXAMPLE: An employee may not solicit voters to write his name on the ballot on Election Day.

Jumpstart Our Business Startups Act (JOBS Act).

Retrieved from <http://www.sec.gov/info/smallbus/secg/general-solicitation-small-entity-compliance-guide.htm>

Summary: “The JOBS Act requires that issuers wishing to engage in general solicitation take “reasonable steps” to verify the accredited investor status of purchasers... amending existing (Rule 506) exemptions from registration under the Securities Act of 1933 and creating new exemptions that permit issuers of securities to raise capital without SEC registration.”

Securities Act of 1933.

Retrieved from <http://www.sec.gov/about/laws.shtml>

Summary: “Often referred to as the “truth in securities” law, the Securities Act of 1933 has two basic objectives: require that investors receive financial and other significant information concerning securities being offered for public sale; and prohibit deceit, misrepresentations, and other fraud in the sale of securities”

### **State Law**

Charitable Organizations and Solicitations Act (COSA)

Retrieved from <http://legislature.mi.gov/doc.aspx?mcl-act-169-of-1975>

Summary: “to regulate charitable organizations, professional fund raisers and other persons soliciting or collecting contributions on behalf of charitable organizations, and certain other persons involved in the solicitation of contributions to charitable organizations; to require certain charitable organizations and certain professional solicitors to register and disclose certain information before soliciting contributions; to require certain professional fund raisers to obtain a license and disclose certain information before soliciting contributions; to provide for reporting of financial and other information by those licensed or registered and those claiming exemption from licensing or registration; to prescribe standards of conduct and administration and prohibit certain actions in connection with charitable solicitations; to provide for powers and duties of the attorney general and county prosecuting attorneys; to preempt local regulation; to provide remedies and penalties for violations; and to repeal acts and parts of acts.”

**State Form to Apply for Solicitations:** Initial Solicitation Registration Form.

Retrieved from [http://www.michigan.gov/documents/ag/Fillable\\_Initial\\_App\\_2-9-09\\_266590\\_7.pdf](http://www.michigan.gov/documents/ag/Fillable_Initial_App_2-9-09_266590_7.pdf)

Summary: Registrar if creating any fundraiser for a public work. If frequent, a Michigan resident must apply for a professional license.

### **Use of the City's Resources**

#### **Credit Cards**

##### **Federal Law**

The Credit Card Accountability Responsibility and Disclosure Act. (2009).

Retrieved from

[http://www.banking.senate.gov/public\\_files/051909\\_CreditCardSummaryFinalPassage.pdf](http://www.banking.senate.gov/public_files/051909_CreditCardSummaryFinalPassage.pdf)

Summary: “Prevents Unfair Increases in Interest Rates and Changes in Terms, Prohibits Exorbitant and Unnecessary Fees, Requires Fairness in Application and Timing of Card Payments, Protects the Rights of Financially Responsible Credit Card Users, Provides Enhanced Disclosures of Card Terms and Conditions, Strengthens Oversight of Credit Card Industry Practices, Ensures Adequate Safeguards for Young People”  
Specifics: Person under 21 must have a co-signer

Consumer Credit Protection Act (1969).

Retrieved from <http://www.federalreserve.gov/creditcard/regs.html>

Summary: “umbrella consumer protection law that includes the Equal Credit Opportunity Act, the Fair Credit Billing Act, the Fair Credit Reporting Act, and the Truth in Lending Act.”

Equal Credit Opportunity Act (1974).

Retrieved from <http://www.federalreserve.gov/creditcard/regs.html>

Summary: “prohibits discrimination in credit transactions on the basis of certain personal characteristics, such as race, color, religion, national origin, sex, marital status, age, because you receive public assistance, or because you've exercised your rights under the Consumer Credit Protection Act.”

Fair Credit Billing Act (1974).

Retrieved from <http://www.federalreserve.gov/creditcard/regs.html>

Summary: “requires that a credit card company promptly credits your payments and corrects mistakes on your bill without damage to your credit score. It also lets you dispute billing errors on your credit card and withhold payment for damaged goods. See Truth in Lending Act.”

Truth in Lending Act (1968).

Retrieved from <http://www.federalreserve.gov/creditcard/regs.html>

Summary: “requires that lenders use uniform methods for computing the cost of credit and for disclosing credit terms so you can tell how much it will cost to borrow money. It also limits your liability to \$50 if your credit card is lost, stolen, or used without your authorization, and it prohibits the unsolicited issuance of credit cards. The Fair Credit Billing Act and the Fair Credit and Charge Card Disclosures Act were later additions to the Truth in Lending Act, as are many provisions of the Credit CARD Act.”

### **State Law**

The Fair Credit Card Billing Act.(1974).

Retrieved from <http://www.ftc.gov/sites/default/files/fcb.pdf>

Summary: “and to protect the consumer against inaccurate and unfair credit billing and credit card practices.”

Credit Card Arrangements: Act 379 of 1984, Sections 101-114.

Retrieved from

[http://www.legislature.mi.gov/\(S\(x5py2e3pl1ksqj45gbxx0c45\)\)/mileg.aspx?page=GetObject&objectname=mcl-Act-379-of-1984](http://www.legislature.mi.gov/(S(x5py2e3pl1ksqj45gbxx0c45))/mileg.aspx?page=GetObject&objectname=mcl-Act-379-of-1984)

Summary: “AN ACT to define and regulate certain credit card transactions, agreements, charges, and disclosures; to prescribe the powers and duties of the financial institutions bureau and certain state agencies; to provide for the promulgation of rules; and to provide for fines and penalties.”

## **Use of Communication Systems**

### **Federal Law**

Bill of Rights: First Amendment.

Retrieved from [http://www.law.cornell.edu/constitution/first\\_amendment](http://www.law.cornell.edu/constitution/first_amendment)

Summary: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

Defamation Laws.

Retrieved from <http://www.law.cornell.edu/wex/defamation>

Summary: “Any statement, whether written or oral, that injures a third party's reputation... A false statement purporting to be fact concerning another person or entity; publication or communication of that statement to a third person; fault on the part of the person making the statement amounting to intent or at least negligence; and some harm caused to the person or entity who is the subject of the statement.”

The Freedom of Information Act 5 U.S.C 552, as Amended by Public Law No. 104-231, 110 Stat. 3048.

Retrieved from [http://www.justice.gov/oip/foia\\_updates/Vol\\_XVII\\_4/page2.htm](http://www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm)

Summary: Must make information, records, proceedings, public in a timely matter. See Freedom of Information Act section for more information.

### **State Law**

Revised Judicature Act of 1961

Retrieved from <http://legislature.mi.gov/doc.aspx?mcl-600-2911>

Summary: Law outlining slander and libel.

## **Computer, Internet and E-Mail Policy**

### **Federal Law**

The Bill of Rights: The Fourth Amendment.

Retrieved from [http://www.cyber.law.harvard.edu/privacy/Module3\\_Intronew.html](http://www.cyber.law.harvard.edu/privacy/Module3_Intronew.html)

Summary: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. The Fourth amendment does not account for new technology, and does not directly apply to privacy in electronic communications/internet. However, in O’Connor v. Ortega, the Supreme Court acknowledged that the Fourth Amendment may be applicable to situations where employee private information is obtained from electronic surveillance, (applies to public employers-not private). Consequently, government employees have stronger claims for protection against electronic monitoring by employers. It is important to note that in most cases employers can monitor employee usage when on company/employer owned electronic equipment.”

Electronic Communications Privacy Act (ECPA).

Retrieved from <http://www.sans.org/reading-room/whitepapers/legal/federal-computer-crime-laws-1446>

Summary: “This act amends the Federal Wiretap Law. The ECPA makes it illegal to intercept stored or transmitted data without authorization. It sets provisions for for access, use, disclosure, interception, and privacy for electronic communications. The ECPA was amended in 1994 by The Communications Assistance for Law Enforcement Act which requires ISPs to build capabilities into their networks for law enforcement to carry out electronic surveillance when necessary. Depending on the forum used to access personal information such as email (employer owned v. personal), this act can be used to enforce employee privacy in the workplace.

- Title II of ECPA: Stored Communications Act- This addresses both voluntary and compelled disclosure of stored wire and electronic communication and transactional records held by third party internet service providers. This act helps to regulate the ability of ISPs to reveal a person’s private information to another party without a subpoena.”

The Patriot Act.

Retrieved from <http://www.cnn.com/2011/politics/05/27/congress.patriot.act/>

Summary: “Provides tools for the government to prevent terrorist activity. It is important to note that this act may invalidate aspects of the ECPA depending on the situation. The Patriot Act was extended (four years) on three provisions by President Barack Obama in 2011:

- Roving wiretaps
- Searches of business records
- Conducting surveillance on individuals suspected of terrorist activity not linked to terrorist groups”

Computer Fraud and Abuse Act of 1984.

Retrieved from <http://www.sans.org/reading-room/whitepapers/legal/federal-computer-crime-laws-1446>

Summary: “This act deals with crime involving the computer itself. This is an important act for employers due to it specifying crimes being committed by a person with authorization/access to workplace electronic devices. It also addresses malicious codes designed to destroy, alter, or damage information on an electronic device. The Computer Fraud and Abuse Act was expanded in 1996 by the National Information Infrastructure Act (NIIA) to include unauthorized access to a protected electronic device. This makes it illegal to view information on a protected computer unless authorized. A protected computer is one used by the government, a financial institution, or interstate/foreign commerce communication.”

## **State Law**

Internet Privacy Protection Act of 2012 (IPPA).

Retrieved from <http://www.legislature.mi.gov/documents/2011-2012/billenrolled/House/htm/2012-HNB-5523.htm>

Summary: “This act prohibits educational institutions and employers from requesting access to employee/student personal internet and social media accounts. Employers are also prohibited from retaliating against employees who fail to disclose such information. This does not prohibit an employer from monitoring or requesting access to electronic communications which are

provided for by the employer/place of work. This act distinguishes between personal and employer owned electronic systems and social media accounts in terms or rights to privacy. Michigan is the fourth state to enact such a law.”

## Website

### **Federal Law**

Freedom of Information Act (FOIA).

Retrieved from <http://www.foia.gov/>

Summary: “Enacted July 4, 1966 (taking effect 1967), any person has the right to obtain access to federal agency records. This act helps citizens stay in the know when it comes to their government. Government information is to be freely obtainable through portals such as websites so people are able to access the information they desire. Exceptions to FOIA:

- Interferes with national defense/security
- Documents related solely to internal agency rules/practices
- Documents excluded from disclosure by another statute
- Documents that would reveal financial/trade information about a person
- Medical documents or any unnecessary invasion of personal privacy
- Documents compiled for law enforcement if harm would result
- Documents which would reveal oil well data
- Documents for use by agencies which regulate financial institutions”

### **State Law**

Michigan’s Freedom of Information Act (FOIA).

Retrieved from, [http://www.michigan.gov/documents/ag/FOIA\\_Pamphlet\\_380084\\_7.pdf](http://www.michigan.gov/documents/ag/FOIA_Pamphlet_380084_7.pdf)

Summary: “The Freedom of Information Act gives citizens the right to access most public records. All state agencies, local governments, schools, commissions, councils, and boards are included. Information from these sources can be contained in any form (computer, photo, handwritten), although does not include computer software. Exemptions include:

- Information that would disrupt current court proceedings
- Safety/security issues
- Information exempted from disclosure by another statute
- Unwarranted invasion of privacy
- Confidential information in criminal proceedings”

Public Act 161 Sec.572 of 2003.

Retrieved from, <http://www.legislature.mi.gov/documents/2003-2004/billanalysis/House/pdf/2003-HFA-0270-x3.pdf>

Summary: “Donations, funds, and advertisement on state websites are accepted through the Department of Information Technology and must adhere to Public Act 161 when dealing with monetary provisions. Private or public advertising on state web pages can receive recognition. The Department of Information Technology has the right to refuse grants/donations/gifts for state websites.”



# CLASSIFICATION AND COMPENSATION

## Classification and Compensation System

### **Federal Law**

The Age Discrimination in Employment Act of 1967

Retrieved from <http://www.eeoc.gov/laws/statutes/adea.cfm>

Summary: The purpose of this chapter is to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; to help employers and workers find ways of meeting problems arising from the impact of age on employment.

In the face of rising productivity and affluence, older workers find themselves disadvantaged in their efforts to retain employment, and especially to regain employment when displaced from jobs. The setting of arbitrary age limits regardless of potential for job performance has become a common practice, and certain otherwise desirable practices may work to the disadvantage of older persons.

Americans with Disabilities Act of 1990, as amended

Retrieved from <http://www.ada.gov/pubs/adastatute08.pdf>

Summary: In enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers.

Congress intended that the Americans with Disabilities Act of 1990 (ADA), "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and provide broad coverage.

Title VII of the Civil Rights Act of 1964 (Equal Opportunity Employment Act)

Retrieved from <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

Summary: To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

This Act deemed it unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

The Equal Pay Act of 1963

Retrieved from <http://www.eeoc.gov/laws/statutes/epa.cfm>

Summary: To prohibit discrimination on account of sex in the payment of wages by employers engaged in commerce or in the production of goods for commerce.



No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

The Fair Labor Standards Act of 1938

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

The Genetic Information Nondiscrimination Act of 2008

Retrieved from <http://www.eeoc.gov/laws/statutes/gina.cfm>

Summary: It will be illegal to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee.

The Acquisition of Genetic Information shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee.

National Labor Relations Act

Retrieved from <http://www.nlr.gov/resources/national-labor-relations-act>

Summary: Congress enacted the National Labor Relations Act ("NLRA") in 1935 to protect the rights of employees and employers, to encourage collective bargaining, and to curtail certain private sector labor and management practices, which can harm the general welfare of workers, businesses and the U.S. economy.

The denial by some employers of the right of employees to organize and the refusal by some employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce will hereby be illegal.

The Rehabilitation Act of 1973

Retrieved from <http://www.eeoc.gov/laws/statutes/rehab.cfm>

Summary: It shall be the purpose and function of the Committee for employees with disabilities to provide a focus for Federal and other employment of individuals with disabilities, and to review, on a periodic basis, in cooperation with the Commission, the adequacy of hiring,

placement, and advancement practices with respect to individuals with disabilities, by each department, agency, and instrumentality in the executive branch of Government and the Smithsonian Institution, and to insure that the special needs of such individuals are being met.

There is established within the Federal Government an Interagency Committee on Employees who are Individuals with Disabilities, comprised of such members as the President may select.

### **State Law**

Workforce Opportunity Wage Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(00qm2s555gpf3gbblux1y4ru\)\)/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014](http://www.legislature.mi.gov/(S(00qm2s555gpf3gbblux1y4ru))/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014)

Summary: An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for a wage deviation board; to provide for the administration and enforcement of this act; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts.

Fixing the minimum wage within the State allows for employers to have a bottom line for financial compensation for their employees. This act also alleviates many discriminatory opportunities for employers to change salaries on a case by case basis.

Employment Opportunity Commission laws page Retrieved from

<http://www.eeoc.gov/laws/statutes/index.cfm>

Minimum wage increases and effected work rules covered by the passage of the Workforce Opportunity Wage Act should be referenced for compliance. The Senate Fiscal Agency bill analysis S.B. 934

<http://www.legislature.mi.gov/documents/20132014/billanalysis/Senate/pdf/2013-SFA-0934-N.pdf>, gives guidance

If a city employee is covered under any collective bargaining agreements, the City Manager should refer to the contract to insure that the contract is not violated when making a decision about pay (National Labor Relations Act).

### **Job Classification / Descriptions**

#### **Federal Law**

The Fair Labor Standards Act of 1938

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

#### **State Law**

Michigan Occupational Safety and Health Act (MOSHA)

Retrieved from

[http://www.legislature.mi.gov/\(S\(pft1ejytaovl5uqeaeg3aa3r\)\)/mileg.aspx?page=getobject&objectname=mcl-act-154-of-1974&queryid=117792&highlight=](http://www.legislature.mi.gov/(S(pft1ejytaovl5uqeaeg3aa3r))/mileg.aspx?page=getobject&objectname=mcl-act-154-of-1974&queryid=117792&highlight=)

Summary: To prescribe and regulate working conditions; to prescribe the duties of employers and employees as to places and conditions of employment; to create certain boards, commissions, committees, and divisions relative to occupational and construction health and safety

This essential piece of legislation makes employers accountable for work conditions that their employees endure.

## **Employment Definitions**

### **Federal Law**

The Fair Labor Standards Act of 1938

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes. Sec. 203 of this Act explains the different definitions of employment, and sets a standard for all States to follow.

The Family and Medical Leave Act of 1993

Retrieved from <http://www.dol.gov/whd/fmla/fmlaAmended.htm>

Summary: To grant family and temporary medical leave under certain circumstances.

When defined as an employee, an employer must grant them privileges to attend to family in some circumstances. This is especially true in single parent homes.

### **State Law**

Workforce Opportunity Wage Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(00qm2s555gpf3gbblux1y4ru\)\)/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014](http://www.legislature.mi.gov/(S(00qm2s555gpf3gbblux1y4ru))/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014)

Summary: An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for a wage deviation board; to provide for the administration and enforcement of this act; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts.

Fixing the minimum wage within the State allows for employers to have a bottom line for financial compensation for their employees. This act also alleviates many discriminatory opportunities for employers to change salaries on a case by case basis.

Worker's Disability Compensation Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(adx5d555t3qa5d454n1i3fe0\)\)/mileg.aspx?page=getobject&objectname=mcl-act-317-of-1969&queryid=7285555&highlight=](http://www.legislature.mi.gov/(S(adx5d555t3qa5d454n1i3fe0))/mileg.aspx?page=getobject&objectname=mcl-act-317-of-1969&queryid=7285555&highlight=)

Summary: This Act revises and consolidates the laws relating to worker's disability compensation; to increase the administrative efficiency of the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties.

This is the blueprint for all Michigan organizations of Government to build their own workers compensation systems. The rules and regulations can be built upon, but not taken away.

The Department of Labor (DOL) has put together a Fair Labor Standards Act (FLSA) Fact Sheet that may assist City officials in general information concerning what constitutes compensable time under the FLSA.

<http://www.dol.gov/whd/regs/compliance/whdfs22.pdf>

## **Transfers**

### **Federal Law**

The Family and Medical Leave Act of 1993

Retrieved from <http://www.dol.gov/whd/fmla/fmlaAmended.htm>

Summary: An employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of subsection (a)(1) or under subsection (a)(3), that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that has equivalent pay and benefits; and better accommodates recurring periods of leave than the regular employment position of the employee.

This law allows for employees to be excused for emergencies without being penalized by their employers.

### **State Law**

Refer to Federal laws

## **Promotions**

### **Federal Law**

The Rehabilitation Act of 1973

Retrieved from <http://www.eeoc.gov/laws/statutes/rehab.cfm>

Summary: It shall be the purpose and function of the Committee for employees with disabilities to provide a focus for Federal and other employment of individuals with disabilities, and to review, on a periodic basis, in cooperation with the Commission, the adequacy of hiring, placement, and advancement practices with respect to individuals with disabilities, by each department, agency, and instrumentality in the executive branch of Government and the Smithsonian Institution, and to insure that the special needs of such individuals are being met

This Act pertains to promotion because of the possibility of individuals with disabilities to be discriminated during potential promotion situations.

Age Discrimination in Employment Act of 1967

Retrieved from <http://www.eeoc.gov/laws/statutes/adea.cfm>

Summary: The purpose of this chapter is to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; to help employers and workers find ways of meeting problems arising from the impact of age on employment.

This Act pertains to promotion because of the possibility of older individuals to be discriminated against during potential promotion situations.

Title VII of the Civil Rights Act of 1964 (Equal Opportunity Employment Act)

Retrieved from <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

Summary: To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

This Act pertains to promotion because of the possibility of discrimination during potential promotion situations.

### **State Law**

Compliant with Federal Law

### **Demotions**

#### **Federal Laws**

The Fair Labor Standards Act of 1938

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

Demotions of Salary must stay within the above Acts guidelines.

### **State Law**

Workforce Opportunity Wage Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(yo3gnq451o24jp554wwan345\)\)/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014](http://www.legislature.mi.gov/(S(yo3gnq451o24jp554wwan345))/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014)

Summary: An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for a wage deviation board; to provide for the administration and enforcement of this act; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts.

In addition to Federal laws regarding demotions, there are state legislature that dictates salaries, and minimum compensation.

## **Temporary Assignments**

### **Federal Law**

Equal Employment Opportunity Act

Retrieved from <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

Summary: To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

This Act deemed it unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

Fair Labor Standards Act

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

Family Medical Leave Act

Retrieved from <http://www.dol.gov/whd/fmla/fmlaAmended.htm>

Summary: An employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of subsection (a)(1) or under subsection (a)(3), that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that has equivalent pay and benefits; and better accommodates recurring periods of leave than the regular employment position of the employee.

This law allows for employees to be excused for emergencies without being penalized by their employers.

### **State Law**

Workforce Opportunity Wage Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(00qm2s555gpf3gbblux1y4ru\)\)/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014](http://www.legislature.mi.gov/(S(00qm2s555gpf3gbblux1y4ru))/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014)

Summary: An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for a wage deviation board; to provide for the administration and enforcement of this act; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts.

Fixing the minimum wage within the State allows for employers to have a bottom line for financial compensation for their employees. This act also alleviates many discriminatory opportunities for employers to change salaries on a case by case basis.

### **Overtime for “Non-Exempt” Employees**

#### **Federal Law**

Fair Labor Standards Act

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers

#### **State Law**

Workforce Opportunity Wage Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(00qm2s555gpf3gbblux1y4ru\)\)/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014](http://www.legislature.mi.gov/(S(00qm2s555gpf3gbblux1y4ru))/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014)

Summary: An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for a wage deviation board; to provide for the administration and enforcement of this act; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts.

Fixing the minimum wage within the State allows for employers to have a bottom line for financial compensation for their employees. This act also alleviates many discriminatory opportunities for employers to change salaries on a case by case basis.

### **Compensatory Time or “Non-Exempt” Employees**

#### **Federal Law**

Fair Labor Standards Act

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers

## **State Law**

Uniform Budgeting and Accounting Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(xcqsc2a11wou21450blrm445\)\)/mileg.aspx?page=GetObject&objectname=mcl-Act-2-of-1968](http://www.legislature.mi.gov/(S(xcqsc2a11wou21450blrm445))/mileg.aspx?page=GetObject&objectname=mcl-Act-2-of-1968)

Workforce Opportunity Wage Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(00qm2s555gpf3gbblux1y4ru\)\)/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014](http://www.legislature.mi.gov/(S(00qm2s555gpf3gbblux1y4ru))/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014)

Summary: An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for a wage deviation board; to provide for the administration and enforcement of this act; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts.

Fixing the minimum wage within the State allows for employers to have a bottom line for financial compensation for their employees. This act also alleviates many discriminatory opportunities for employers to change salaries on a case by case basis.

## **Fair Labor Standards Act Exemptions**

### **Federal Law**

Fair Labor Standards Act

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers

### **State Law**

Workforce Opportunity Wage Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(00qm2s555gpf3gbblux1y4ru\)\)/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014](http://www.legislature.mi.gov/(S(00qm2s555gpf3gbblux1y4ru))/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014)

Summary: An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for a wage deviation board; to provide for the administration and enforcement of this act; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts.

Fixing the minimum wage within the State allows for employers to have a bottom line for financial compensation for their employees. This act also alleviates many discriminatory opportunities for employers to change salaries on a case by case basis.



## **Pay Periods and Paychecks**

### **Federal Law**

Fair Labor Standards Act

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers

### **State Law**

#### **Payment of Wages and Fringe Benefits Act 390 of 1978**

Retrieved from <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-390-of-1978.pdf>

Summary: An Act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor

Minimum wage standards from the State, and provides penalties and remedies for settling disputes between employers and employees.

Workforce Opportunity Wage Act

Retrieved from

[http://www.legislature.mi.gov/\(S\(00qm2s555gpf3gbblux1y4ru\)\)/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014](http://www.legislature.mi.gov/(S(00qm2s555gpf3gbblux1y4ru))/mileg.aspx?page=GetObject&objectname=mcl-act-138-of-2014)

Summary: An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for a wage deviation board; to provide for the administration and enforcement of this act; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts.

Fixing the minimum wage within the State allows for employers to have a bottom line for financial compensation for their employees. This act also alleviates many discriminatory opportunities for employers to change salaries on a case by case basis.

## **Travel Reimbursement and Advances**

### **Federal Law**

IRS Code 162- Trade or Business Expenses

Retrieved from <http://www.irs.gov/publications/p463/index.html>

Summary: All Federal laws pertaining to Travel, Entertainment, Gift, and Car Expenses

One large area covered is deductible travel expenses that will be relevant to many local government officials when corresponding with Lansing.

### **State Law**

State of Michigan Travel Regulations (Reference)

Retrieved from

[http://michigan.gov/documents/DMB\\_StandardizedTravelRegulations\\_23541\\_7.pdf](http://michigan.gov/documents/DMB_StandardizedTravelRegulations_23541_7.pdf)

Summary: The Civil Service Commission is authorized to adopt travel regulations and rate schedules for the reimbursement of expenses incurred by classified state employees in connection with official state business.

Also applicable on interstate business travels, and advance payments for such events.

### **Professional & Service Memberships**

#### **Federal Law**

IRS Code 162- Trade or Business Expenses

Retrieved from <http://www.irs.gov/publications/p463/index.html>

Summary: All Federal laws pertaining to Travel, Entertainment, Gift, and Car Expenses

Many memberships can receive benefits due to from the Federal government for causes that benefit the greater population, such as carpooling.

#### **State Law**

State of Michigan Travel Regulations (Reference)

Retrieved from

[http://michigan.gov/documents/DMB\\_StandardizedTravelRegulations\\_23541\\_7.pdf](http://michigan.gov/documents/DMB_StandardizedTravelRegulations_23541_7.pdf)

Summary: The Civil Service Commission is authorized to adopt travel regulations and rate schedules for the reimbursement of expenses incurred by classified state employees in connection with official state business.

Many memberships can receive benefits due to from the Federal government for causes that benefit the greater population, such as carpooling.

### **Recognition Programs and Special Events**

#### **Federal Law**

Fair Labor Standards Act

Retrieved from <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This Act provided for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

The City Manager is responsible in the process of the creation, review and the overall evaluation of local events, special recognition programs, along with national and local observations.

#### **State Law**

Compliant with Federal Law

## **Unemployment Compensation**

### **Federal Law**

Social Security Act

Retrieved from [http://www.ssa.gov/OP\\_Home/ssact/ssact.htm](http://www.ssa.gov/OP_Home/ssact/ssact.htm)

Summary: Any State with an agreement under this subsection shall evaluate the comparative cost and employment effects of the use of the definition of unemployment in its demonstration project under this section by use of experimental and control groups comprised of a random sample of individuals receiving aid under section 407 and shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

The social security act covers Federal aid to States with unemployment, as well as tax breaks for employers that hire unemployed individuals collecting unemployment benefits.

Federal law governs determinations involving coverage of state and local government employees. These determinations may be based on decisions regarding specific issues to which Federal law is applied and other issues to which state law is applied. It is important to know whether Federal or state law is applied in making a determination on a specific issue. Generally, questions involving interpretation or application of state law are resolved by the authorized legal officers of the state in accordance with applicable state and local laws, regulations and the state court decisions.

### **State Law**

Michigan Employment Security Act

Retrieved from

[http://www.michigan.gov/documents/uia\\_mesact\\_76382\\_7.pdf?20140526224856](http://www.michigan.gov/documents/uia_mesact_76382_7.pdf?20140526224856)

[http://www.michigan.gov/documents/uia/0999-\\_Employer\\_Handbook\\_Jan\\_2013\\_410040\\_7.pdf](http://www.michigan.gov/documents/uia/0999-_Employer_Handbook_Jan_2013_410040_7.pdf)

Summary: Any authority, powers, functions, duties, and responsibilities of the Unemployment Agency transferred to the Bureau of Worker's and Unemployment Compensation. The Employer Handbook explains when the employer is liable under the Michigan Employment Security Act.

This legislation covers every regulation in regards to unemployment.

## **Social Security**

### **Federal Law**

Social Security Act

Retrieved from [http://www.ssa.gov/OP\\_Home/ssact/ssact.htm](http://www.ssa.gov/OP_Home/ssact/ssact.htm)

[http://www.ssa.gov/section218training/documents/Resource\\_9.doc](http://www.ssa.gov/section218training/documents/Resource_9.doc)

Summary: Any State with an agreement under this subsection shall evaluate the comparative cost and employment effects of the use of the definition of unemployment in its demonstration project under this section by use of experimental and control groups comprised of a random sample of individuals receiving aid under section 407 and shall furnish the Secretary with such information

as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

State and local government employees hired after March 31, 1986, are mandatorily covered for Medicare, unless specifically excluded by law. Employees hired before April 1, 1986, are exempt from Medicare coverage if they are members of a public retirement system.

Beginning July 2, 1991, with certain exceptions, all State and local government employees are mandatorily covered for Social Security and Medicare unless those employees are covered by a public retirement system or a Section 218 Agreement.

This law describes and dictates the different benefits of Social Security as well as the costs it presents.

### **State Law**

Social Security Number Privacy Act

Retrieved from

[http://www.michigan.gov/documents/Social\\_Security\\_Number\\_Privacy\\_Act\\_118553\\_7.pdf](http://www.michigan.gov/documents/Social_Security_Number_Privacy_Act_118553_7.pdf)

Summary: Any State with an agreement under this subsection shall evaluate the comparative cost and employment effects of the use of the definition of unemployment in its demonstration project under this section by use of experimental and control groups comprised of a random sample of individuals receiving aid under section 407 and shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

Public employers should initially discuss issues and questions with the State Social Security Administrator. If additional assistance is needed regarding coverage, the appropriate Parallel Social Security Office should be contacted. Public employers who have questions regarding magnetic media or electronic filing should contact the appropriate Employer Services Liaison Officer (ESLO).

IRS determines whether earnings are subject to social security and Medicare taxes. SSA decides issues regarding whether to report the earnings as wages.

In Michigan, a public official is defined as an official in the executive or legislative branch of state government (MCLS § 4.416).

Federal law governs determinations involving coverage of State and local government employees. These determinations may be based on decisions regarding specific issues to which Federal law is applied and other issues to which State law is applied. It is important to know whether Federal or State law is applied in making a determination on a specific issue.

Generally, questions involving interpretation or application of State law are resolved by the authorized legal officers of the State in accordance with applicable State and local laws, regulations and the State court decisions.

# HEALTH, RETIREMENT AND GENERAL BENEFITS

## Eligibility and Enrollment

### **Federal Law Insurance**

Entitled The Patient Protection and Affordable Care Act

111th Congress Public Law 148

Retrieved from <http://www.gpo.gov/fdsys/pkg/PLAW-111publ148/html/PLAW-111publ148.htm>

Summary: The Affordable Care Act was instituted with the idea of increasing the quality and affordability of health care for all US citizens. The ACA hoped to achieve this by increasing public and private coverage and lowering the cost of health care. The Patient Protection and Affordable Care Act is a federal statute which was signed into law in 2010. It is often referred to as the Affordable Care Act, ACA, “Obamacare” or health care reform.

### **State Law**

Affordable Care Act Information

Open enrollment coverage in 2015 is November 15, 2014 through February 15, 2015

Retrieved from [http://www.michigan.gov/difs/0,5269,7-303-12902\\_35510-263899--,00.html](http://www.michigan.gov/difs/0,5269,7-303-12902_35510-263899--,00.html)

Affordable Care Act Information

Summary: The Patient Protection and Affordable Care Act is a federal statute which was signed into law in 2010. It is often referred to as the Affordable Care Act, ACA, “Obamacare” or health care reform.

New Health Coverage Exchange called the Health Insurance Marketplace

If you are uninsured, purchase individual coverage or believe your employer provided coverage is inadequate or unaffordable, you may be able to shop for coverage directly in the federal Health Insurance Marketplace -- a new marketplace where you can shop for and compare health benefit plans. Open enrollment for coverage in 2014 was October 1, 2013 through March 31, 2014.

Open enrollment for coverage in 2015 is November 15, 2014 through February 15, 2015. For more information, visit: [www.healthcare.gov](http://www.healthcare.gov).

Healthy Michigan Plan:

Some Michigan residents may be eligible for the Healthy Michigan Plan, a new health coverage program that began on April 1, 2014. To be eligible for the Healthy Michigan plan, you must be:

- Ages 19-64
- Not currently eligible for Medicaid
- Not eligible for or enrolled in Medicare
- Not pregnant when applying for the Healthy Michigan Plan
- Earning up to 133% of the federal poverty level (The federal poverty level is adjusted annually. In 2013, 133% of the poverty level for an individual was \$14,856 or \$30,657 for a family of four)
- A resident of Michigan

For more information, visit [www.HealthyMichiganPlan.org](http://www.HealthyMichiganPlan.org) or call 855-789-5610. Full-time employees are eligible for the insurance benefits outlined within this section.

## **Health Insurance**

### **Federal Law**

The Patient Protection and Affordable Care Act

111th Congress Public Law 148

Retrieved from <http://www.gpo.gov/fdsys/pkg/PLAW-111publ148/html/PLAW-111publ148.htm>

From the U.S. Government Printing Office

HIPAA or the Health Insurance Portability and Accountability Act

Act of 1996

Retrieved from <http://www.hhs.gov/ocr/privacy/>

Retrieved from <http://personalinsure.about.com/od/health/a/aa041806a.htm>

President Bill Clinton

### **State Law**

The Insurance Code of 1956 (EXCERPT)

Act 218 of 1956

500.3426 Offer of wellness coverage by insurer

Retrieved from

<http://www.legislature.mi.gov/%28S%285oqpsafjoerdvt55c3tojxm%29%29/mileg.aspx?page=getObject&objectName=mcl-500-3426>

1. Summary: Legislative Council, State of Michigan

Each insurer providing a group expense-incurred hospital, medical, or surgical certificate delivered, issued for delivery, or renewed in this state and each health maintenance organization may offer group wellness coverage. Wellness coverage may provide for an appropriate rebate or reduction in premiums or for reduced copayments, coinsurance, or deductibles, or a combination of these incentives, for participation in any health behavior wellness, maintenance, or improvement program offered by the employer. The employer shall provide evidence of demonstrative maintenance or improvement of the insureds' or enrollees' health behaviors as determined by assessments of agreed-upon health status indicators between the employer and the insurer or health maintenance organization. Any rebate of premium provided by the insurer or health maintenance organization is presumed to be appropriate unless credible data demonstrate otherwise, but shall not exceed 30% of paid premiums, unless otherwise approved by the commissioner. Each insurer and each health maintenance organization shall make available to employers all wellness coverage plans that the insurer or health maintenance organization markets to employers in this state.

2. Each insurer providing an individual or family expense-incurred hospital, medical, or surgical policy delivered, issued for delivery, or renewed in this state and each health maintenance organization may offer individual and family wellness coverage. Wellness coverage may provide for an appropriate rebate or reduction in premiums or for reduced copayments, coinsurance, or deductibles, or a combination of these incentives, for participation in any health behavior wellness, maintenance, or improvement program

approved by the insurer or health maintenance organization. The insured or enrollee shall provide evidence of demonstrative maintenance or improvement of the individual's or family's health behaviors as determined by assessments of agreed-upon health status indicators between the insured or enrollee and the insurer or health maintenance organization. Any rebate of premium provided by the insurer or health maintenance organization is presumed to be appropriate unless credible data demonstrate otherwise, but shall not exceed 30% of paid premiums, unless otherwise approved by the commissioner. Each insurer and each health maintenance organization shall make available to individuals and families all wellness coverage plans that the insurer or health maintenance organization markets to individuals and families in this state.

3. An insurer and a health maintenance organization are not required to continue any health behavior wellness, maintenance, or improvement program or to continue any incentive associated with a health behavior wellness, maintenance, or improvement program.

### **Insurance Opt-Out Payment**

#### **Federal Law**

42 U.S. Code § 18115 - Freedom not to participate in Federal health insurance programs

Retrieved from <http://www.law.cornell.edu/uscode/text/42/18115>

Summary: “No individual, company, business, nonprofit entity, or health insurance issuer offering group or individual health insurance coverage shall be required to participate in any Federal health insurance program created under this Act (or any amendments made by this Act), or in any Federal health insurance program expanded by this Act (or any such amendments), and there shall be no penalty or fine imposed upon any such issuer for choosing not to participate in such programs.”

#### **State Law**

2011 Public Act 152: Publicly Funded Health Insurance Contribution Act

MCL 15.561 – 15.569 as Amended by 2013 Public Acts Numbered 269 through 273

Retrieved from

[http://www.michigan.gov/documents/treasury/Public\\_Act\\_152\\_of\\_2011\\_FAQs\\_377180\\_7.pdf](http://www.michigan.gov/documents/treasury/Public_Act_152_of_2011_FAQs_377180_7.pdf)

Summary: “A local unit of government may elect to comply with Section 4 of the Act (MCL 15.564(1)) or exercise the exemption (“opt-out”) provision of Section 8 of the Act (MCL 15.568(1)) at any time prior to the beginning of the medical benefit plan coverage year.”

### **Continuation of Benefits (“COBRA”)**

United States Code

TITLE 29 - LABOR

CHAPTER 18 Employee Retirement Income Security Program

[PART 6](#) - Continuation Coverage And Additional Standards For Group Health Plans (1161-1169)

Retrieved from <http://www.harp.org/erisatoc.htm>

Health Administration Responsibility Project

Retrieved from <http://www.dol.gov/ebsa/pdf/cobraemployee.pdf>



Summary: The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires most group health plans to provide a temporary continuation of group health coverage that otherwise might be terminated. COBRA requires continuation coverage to be offered to covered employees, their spouses, their former spouses, and their dependent children when group health coverage would otherwise be lost due to certain specific events. Those events include the death of a covered employee, termination or reduction in the hours of a covered employee's employment for reasons other than gross misconduct, divorce or legal separation from a covered employee, a covered employee's becoming entitled to Medicare, and a child's loss of dependent status (and therefore coverage) under the plan. Employers may require individuals who elect continuation coverage to pay the full cost of the coverage, plus a 2 percent administrative charge. The required payment for continuation coverage is often more expensive than the amount that active employees are required to pay for group health coverage, since the employer usually pays part of the cost of employees' coverage and all of that cost can be charged to the individuals receiving continuation coverage. The COBRA payment is ordinarily less expensive, though, than individual health coverage. While COBRA continuation coverage must be offered, it lasts only for a limited period of time. This booklet will discuss all of these provisions in more detail. COBRA generally applies to all group health plans maintained by private-sector employers (with at least 20 employees) or by state and local governments. The law does not apply, however, to plans sponsored by the Federal Government or by churches and certain church-related organizations. Under COBRA, a group health plan is any arrangement that an employer establishes or maintains to provide employees or their families with medical care, whether it is provided through insurance, by a health maintenance organization, out of the employer's assets on a pay-as-you-go basis, or otherwise. "Medical care" for this purpose includes

- Inpatient and outpatient hospital care
- Physician care
- Surgery and other major medical benefits
- Prescription drugs;
- Dental and vision care.

Life insurance is not considered "medical care," nor are disability benefits; and COBRA does not cover plans that provide only life insurance or disability benefits. Group health plans covered by COBRA that are sponsored by private-sector employers generally are governed by ERISA. ERISA does not require employers to establish plans or to provide any particular type or level of benefits, but it does require plans to comply with ERISA's rules. ERISA gives participants and beneficiaries rights that are enforceable in court.

### **State Law**

Follows the Federal Laws

If you lose group health coverage through your employer, you have state continuation rights, federal COBRA rights or you may be eligible for the [Health Insurance Marketplace](#).

Retrieved from [http://www.michigan.gov/difs/0,5269,7-303-12902\\_35510-263908--,00.html](http://www.michigan.gov/difs/0,5269,7-303-12902_35510-263908--,00.html)

COBRA in the state of Michigan follows the federal guidelines.

As with other kinds of insurance, there are several types of health insurance policies and health care plans with many different features that are available to consumers in Michigan. Individual coverage can be purchased on your own; group health coverage can be obtained through an employer; association coverage can be obtained through your membership in an organization or



association. Additionally, there are government programs such as Medicare and Medicaid available to those who qualify.

Health carriers provide health coverage through several different entity types. The most common are health insurance companies and health maintenance organizations (HMOs). Throughout this web page, “health carrier” will mean any of these entity types. When specific differences occur for a given entity, we will specify the type of health carrier. The State of Michigan COBRA laws follow the Federal regulations.

Retrieved from

[http://www.michigan.gov/documents/difs/HEALTHPLUS\\_139960\\_457250\\_7.pdf](http://www.michigan.gov/documents/difs/HEALTHPLUS_139960_457250_7.pdf)

## **Life Insurance**

### **Federal Law**

McCarran-Ferguson Act, 15 U.S.C. § 1011 (1944).

Retrieved from <http://www.law.cornell.edu/uscode/text/15/1011>.

Summary: This Act gives states the power to control insurance, not U.S. Congress, because Congress believes that each State knows how to best regulate their insurance “business”. This law passed in 1944 during the era of anti-trust legislation. It intended to allow states to regulate insurance on their own, outside of federal interference.

### **State Law**

The Insurance Code of 1956, Act 218. Mich. Comp. Laws Ann. 500.440 (1957).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ewkq21552cfct2qe1bnkfuq0%29%29/mileg.aspx?page=getObject&objectName=mcl-218-1956-44>.

Summary: Employees are not required to participate/purchase into the life insurance program. Group life insurance can be written in conjunction with Disability insurance plans.

The Insurance Code of 1956, Act 218. Mich. Comp. Laws Ann. 500.2226 (1957).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ewkq21552cfct2qe1bnkfuq0%29%29/mileg.aspx?page=getObject&objectName=mcl-500-2226>.

Summary: “ Every policy of life insurance hereafter issued or delivered within this state by any life insurer doing business within this state shall contain the entire contract between the parties and nothing shall be incorporated therein by reference to any constitution, bylaws, rules, application, or other writing unless the same are endorsed upon or attached to the policy when issued.”

Public Employee Domestic Partner Benefit Restriction Act, Act 297. Mich. Comp. Laws Ann. 15.580 (2011).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ewkq21552cfct2qe1bnkfuq0%29%29/mileg.aspx?page=getObject&objectName=mcl-Act-297-of-2011>.

Summary: Describes the restriction on transfer of employee benefits to people sharing residence with the employee (i.e. spouse, children, etc.). Applicable to all benefits (health, insurance, retirement, etc.).

## **Disability Insurance**

### **Federal Law**

See Life Insurance Above.

Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990). Retrieved from <http://www.ada.gov/pubs/ada.htm>.

Summary: "Only injured workers who meet the ADA's definition of an "individual with a disability" will be considered disabled under the ADA, regardless of whether they satisfy criteria for receiving benefits under workers' compensation or other disability laws. A worker also must be "qualified" (with or without reasonable accommodation) to be protected by the ADA. Work-related injuries do not always cause physical or mental impairments severe enough to "substantially limit" a major life activity. Also, many on-the-job injuries cause temporary impairments which heal within a short period of time with little or no long-term or permanent impact. Therefore, many injured workers who qualify for benefits under workers' *compensation or other disability benefits laws may not be protected by the ADA. An employer must consider work-related injuries on a case-by-case basis to know if a worker is protected by the ADA.*"

### **State Law**

Act 218: The Insurance Code of 1956. Mich. Comp. Laws Ann. 500.606 (1957).

Retrieved from

<http://www.legislature.mi.gov/%28S%28utm4yf45hbfbkut55qdy3rweu%29%29/documents/mcl/pdf/mcl-act-218-of-1956.pdf>.

Summary: "Disability" insurance is insurance of any person against bodily injury or death by accident, or against disability on account of sickness or accident including also the granting of specific hospital benefits and medical, surgical and sick-care benefits to any person, family, or group, subject to such limitations as may be prescribed with respect thereto: Provided, The insured under this section may be an employee of any person not subject to the provisions of the workmen's compensation law and in such case the liability may be limited to such as may arise out of and in the course of employee's employment and the premium may be paid by the employer under an agreement with the employee."

Act 218: The Insurance Code of 1956. Mich. Comp. Laws Ann. 500.2214 (1957).

Retrieved from

<http://www.legislature.mi.gov/%28S%28gv13a0zm115vrg45nyqsla3b%29%29/mileg.aspx?page=GetObject&objectname=mcl-500-2207>.

Summary: "The insured shall not be bound by any statement made in an application for a disability insurance policy unless a copy of such application is attached to or endorsed on the policy when issued as a part thereof. If any such policy delivered or issued for delivery to any person in this state shall be reinstated or renewed, and the insured or the beneficiary or assignee of such policy shall make a written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within 15 days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such

request, a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.”

For more information on the various insurance laws and interpretation of their language, refer to the Michigan Municipal League. (November 2005). *Handbook for Municipal Officials*. Retrieved from <http://www.mml.org/pdf/hmo/13.pdf>.

## **Worker’s Compensation**

### **Federal Law**

Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990).

Retrieved from <http://www.ada.gov/pubs/ada.htm>.

Summary: “Only injured workers who meet the ADA's definition of an "individual with a disability" will be considered disabled under the ADA, regardless of whether they satisfy criteria for receiving benefits under workers' compensation or other disability laws. A worker also must be "qualified" (with or without reasonable accommodation) to be protected by the ADA. Work-related injuries do not always cause physical or mental impairments severe enough to "substantially limit" a major life activity. Also, many on-the-job injuries cause temporary impairments which heal within a short period of time with little or no long-term or permanent impact. Therefore, many injured workers who qualify for benefits under workers' compensation or other disability benefits laws may not be protected by the ADA. An employer must consider work-related injuries on a case-by-case basis to know if a worker is protected by the ADA.”

U.S. Equal Employment Opportunity Commission. (29 December 2005). *Americans with Disabilities Act Questions and Answers*.

Retrieved from <http://www.ada.gov/employmt.htm>.

Family and Medical Leave Act; H.R. 1--103rd Congress: Family and Medical Leave Act of 1993.

Retrieved from <http://www.govtrack.us/congress/bills/103/hr1>

Summary: This Act gives employees up to 12 weeks of unpaid leave per year to allow workers to balance work and family needs. Usually used in the case of taking care of a sick family member or to recover from a serious medical condition, the Act states that the employee must be reinstated to their former position and given insurance coverage during their leave.

H.R. 3103--104th Congress: Health Insurance Portability and Accountability Act of 1996.

Retrieved from <http://www.govtrack.us/congress/bills/104/hr3103>

Summary: HIPAA privacy protections might need to be examined in order to release private health information to qualify for workers’ compensation. This Act was created to protect individual’s health information and preserve the rights granted to individuals regarding that information. Municipal governments must be careful when asking for selective information regarding private health in order to be compliant with HIPPA.

### **State Law**

Worker’s Disability Compensation Act of 1969. Mich. Comp. Laws Ann. 418.161 (1969).

Retrieved from

<http://www.legislature.mi.gov/%28S%284zuj25uloutt0gmyesbgcpya%29%29/mileg.aspx?page=GetObject&objectname=mcl-418-161>.

Summary: As used in this act, "employee" means:

- A person in the service of the state, a county, city, township, village, or school district, under any appointment, or contract of hire, express or implied, oral or written. A person employed by a contractor who has contracted with a county, city, township, village, school district, or the state, through its representatives, shall not be considered an employee of the state, county, city, township, village, or school district that made the contract, if the contractor is subject to this act.”
- “Police officers, fire fighters, or employees of the police or fire departments, or their dependents, in municipalities or villages of this state providing like benefits, may waive the provisions of this act and accept like benefits that are provided by the municipality or village but are not entitled to like benefits from both the municipality or village and this act...”

Worker’s Disability Compensation Act of 1969. Mich. Comp. Laws Ann. 418.115 (1969).

Retrieved from

<http://www.legislature.mi.gov/%28S%284zuj25uloutt0gmyesbgcpya%29%29/mileg.aspx?page=GetObject&objectName=mcl-Act-317-of-1969>.

Summary: “This act shall apply to:

- All private employers, other than agricultural employers, who regularly employ 3 or more employees at 1 time.
- All private employers, other than agricultural employers, who regularly employ less than 3 employees if at least 1 of them has been regularly employed by that same employer for 35 or more hours per week for 13 weeks or longer during the preceding 52 weeks.
- All public employers, irrespective of the number of persons employed.”

## **Retirement Programs**

### **Federal Law**

Employee Retirement Income Security Program. 29 U.S.C. 18.

Retrieved from <http://www.law.cornell.edu/uscode/text/29/chapter-18>.

Retirement programs are left up to states through establishment of state legislation. The federal government cannot tax retirement income.

### **State Law**

Municipal Employees Retirement Act of 1984, Act 427. Mich. Comp. Laws Ann. 38.1539 (1984).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=GetObject&objectName=mcl-38-1539>

This established the retirement board system and through Public Act 220 of 1996 created MERS. MERS stands for the “Michigan Employees’ Retirement System. There are many available systems for differing businesses and institution through the MERS program. The entirety of Act

427 can explain in depth the various features and specific laws of the MERS system. This Act can be used as a main source for municipal governments to format MERS to fit their specific situation (dependent on employee number and various aspects of each government's size and resource availability). Look at the various laws below to find more information about the structure of MERS.

Also available (searchable) at <http://www.manistique.org/government/MERSplan.html>.

Source for information about MERS:

Municipal Employees' Retirement System of Michigan. (21 December 2012). *We Are: MERS*. Retrieved from <http://mersofmich.com/Portals/0/Assets/Publications/CorporateBrochure.pdf>.

This is a good source for more information about MERS and its use.

Municipal Employees' Retirement System. (2014). *457 Supplemental Retirement Program employer information*.

Retrieved from <http://mersofmich.com/Employer/Programs/457-Program>.

Summary: Once again this describes MERS and helps employers understand the features available through the program and the system of customization that accompanies the system.

Municipal Employees' Retirement System. (2014). *Hybrid Plan employer information*.

Retrieved from <http://mersofmich.com/Employer/Programs/Hybrid-Plan>.

Public Employee Retirement Benefit Protection Act, Act 100. Mich. Comp. Laws Ann. 38.1681-89 (2002).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getObject&objectName=mcl-38-1681>

Summary: This protects the rights of public employees through retirement systems, it instituted MERS as a system to protect those rights.

Reciprocal Retirement Act, Act 88. Mich. Comp. Laws Ann. 38.1101 (1961).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getobject&objectname=mcl-Act-88-of-1961&query=on&highlight=reciprocal%20AND%20retirement%20AND%20act>

Summary: This law describes the preservation of retirement benefits and savings when public employees transfer between units of government. It allows employees to transfer specific benefits in certain situations. Because each situation is unique, refer to this Act with knowledge of the specific employee situation.

Eligible Domestic Relations Order Act, Act 46. Mich. Comp. Laws Ann. 38.1701 (1991).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getobject&objectname=mcl-Act-46-of-1991&query=on&highlight=eligible%20AND%20domestic%20AND%20relations%20AND%20act>

Summary: This Act describes how employee retirement payments get distributed in cases of divorce, separation, child support, etc. the establishment of the Act allowed Michigan to preserve the rights of individuals and employees while also upholding fairness and justice standards.

Social Security for Public Employees, Act 205. Mich. Comp. Laws Ann. 38.850 (1951).

Retrieved from <http://www.legislature.mi.gov/documents/mcl/archive/2014/May/mcl-Act-205-of-1951.pdf>

Summary: This describes how social security extends coverage to public employees. Social security is depended on assets and individual conditions, however this Act states public employees receive Social Security.

State Employee Retirement Act, Act 240. Mich. Comp. Laws Ann. 38.68c (2007).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getObject&objectName=mcl-38-68c>

Summary: This describes how state employee status is obtained and then retirement benefits gained through that. This is a part of MERS which contains different plans for different situations.

## **Health Insurance Portability and Accountability Act (HIPAA)**

### **Federal Law**

The Privacy Rule

Retrieved from <http://www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/>

Summary: The HIPAA Privacy Rule establishes national standards to protect individuals' medical records and other personal health information and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Rule also gives patients' rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections.

### **State Law**

The Nonprofit Health Care Corporation Reform of 1980, Act 350. Mich. Comp. Laws Ann. 550.1406 (1980).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getObject&objectName=mcl-550-1406>

Summary: 550.1406 Confidentiality of records; disclosures; consent; policy regarding protection of privacy and confidentiality of personal data; violation as misdemeanor; penalty; civil action for damages; effect of section on governmental agencies; compliance with federal law and regulations; "health care operations" defined.

Social Security Privacy Act of 2004, Act 454. Mich. Comp. Laws Ann. 445.83 (2004)

445.83

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getObject&objectName=mcl-445-83>

Summary: Prohibited use of social security number of employee, student, or other individual; exceptions.

### **Protected Health Information**

#### **State Law**

Public Employee Health Benefit Act of 2007, Act 106. Mich. Comp. Laws. Ann. 124.85 (2007)

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getObject&objectName=mcl-124-85&highlight=124.85>

Summary: Public employer with 100 or more employees; claims utilization and cost information; compilation; "relevant period" defined; disclosure; availability; protected health information not included; date of compilation.

### **Required Disclosures**

#### **Federal Law**

H.R. 3103--104th Congress: Health Insurance Portability and Accountability Act of 1996. (1996).

Retrieved from <http://www.govtrack.us/congress/bills/104/hr3103>

Summary: In accordance with other HIPAA requirements, this Act mandates what is protected health information and what is not.

Patient Protection and Affordable Care Act, Pub. L. No. 111-148, §2702, 124 Stat. 119, 318-319 (2010).

Retrieved from <http://www.gpo.gov/fdsys/pkg/PLAW-111publ148/pdf/PLAW-111publ148.pdf>

Summary: Creates some changes, Section 6001 begins "Transparency".

#### **State Law**

Public Health Code, Act 368. Mich. Comp. Laws Ann. 333.1101-333.25211 (1978).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getObject&objectName=mcl-333-1101>

Summary: Many of these laws are actually strengthened by HIPAA. The limitations HIPAA imposes on PHI are much stronger than many Michigan State legislation.

See more information at:

State Bar of Michigan. (2014). *Must follow HIPAA*.

Retrieved from <http://www.michbar.org/health/pdfs/PREEMPTMUSTDOS1203.pdf>.

### **Other Disclosures**



## **Federal Law**

H.R. 3103-04<sup>th</sup> Congress: Health Insurance Portability and Patient Protection and Affordable Care Act, Pub. L. No, 111-148.

Retrieved from <http://www.gpo.gov/fdsys/pkg/PLAW-111publ148/pdf/PLAW-111publ148.pdf>

Summary: “Immediate Improvements in Health Care Coverage for All Americans”

## **State Law**

Public Health Code, Act 368. Mich. Comp. Laws Ann. 333.1101- State Bar of Michigan. (2014). Must follow HIPAA.

Retrieved from <http://Accountabilityactof1996>. (1996).

Retrieved from <http://www.govtrack.us/congress/bills/104/hr3103>

Summary: In accordance with other HIPAA requirements, this Act mandates what is protected health information and what is not.

124 Stat. 119, 318-319 (2010).

Retrieved from <http://www.gpo.gov/fdsys/pkg/PLAW-111publ148/pdf/PLAW-111publ148.pdf>:

Summary: Creates some changes, section 6001 begins “Transparency.” 333.25211 (1978).

Many of these laws are actually strengthened by HIPAA. The limitations HIPAA imposes on PHI are much stronger than many Michigan State legislation.

See more information at:

[www.michbar.org/health/pdfs/PREEMPTMUSTDOS1203.pdf](http://www.michbar.org/health/pdfs/PREEMPTMUSTDOS1203.pdf).

## **Your Rights**

### **State Law**

The Nonprofit Health Care Corporation Reform of 1980, Act 380. Mich. Comp. Laws Ann. 550.1406. (1980)

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getObject&objectName=mcl-550-1406>

Summary: 550.1406 Confidentiality of records; disclosures; consent; policy regarding protection of privacy and confidentiality of personal data; violation as misdemeanor; penalty; civil action for damages; effect of section on governmental agencies; compliance with federal law and regulations; "health care operations" defined.

### **Changes to This Notice**

### **State Law**

The Social Welfare Act of 1939, Act 280. Mich. Comp. Laws Ann. 400-111a (1939).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getObject&objectName=mcl-400-111a>

Summary: 400.111a Policy and procedures for implementation and enforcement of state and federal laws; consultation; guidelines; forms and instructions; “prudent buyer” defined; criteria for selection of providers; notice of change in policy, procedure, form, or instruction; power of



director; informal conference; imposition of specific conditions and controls; notice; hearings; examination of claims; imposition of claims review process; books and records of provider; confidentiality; immunity from liability; prohibited payments or recovery for payments; making payments and collecting overpayments; development of specifications; estimated cost and charge information; notice to provider of incorrect payment.

### Complaints

#### **State Law**

The Nonprofit Health Care Corporation Reform Act of 1980, Act 350. Mich. Comp. Laws Ann. 550.1407 (1980).

Retrieved from

<http://www.legislature.mi.gov/%28S%28ia5wry45hmvyoe45nxyyf045%29%29/mileg.aspx?page=getObject&objectName=mcl-550-1407>

Summary: 550.1407 Complaint system; procedures; response to complaint; access to complaints and responses; record of complaints; annual report; other legal remedies.

## **PAID AND UNPAID LEAVES**

### **Holidays**

#### **Federal Law**

5 U.S.C. § 6103: Holidays

Retrieved from

<http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title5-section6103&f=treesort&fq=true&num=0&saved=|NSBVLIMuQy4gNjEwMw%3D%3D|dHJIZXNvcnQ%3D|dHJ1ZQ%3D%3D|8|true|prelim>

Summary: The following are legal public holidays:

- New Year's Day, January 1.
- Birthday of Martin Luther King, Jr., the third Monday in January.
- Washington's Birthday, the third Monday in February.
- Memorial Day, the last Monday in May.
- Independence Day, July 4.
- Labor Day, the first Monday in September.
- Columbus Day, the second Monday in October.
- Veterans Day, November 11.
- Thanksgiving Day, the fourth Thursday in November.
- Christmas Day, December 25.

#### **State Law**

MCL Section 435.101: Legal Holidays

Retrieved from

<http://www.legislature.mi.gov/%28S%28hfehi0rocd4yvu55v43ben45%29%29/mileg.aspx?page=getObject&objectName=mcl-435-101>

Summary: Public holidays as to bills, checks, notes, and holding of courts; validity of bank transactions performed on Saturday; holding court or transacting business on Saturday; continuation of action, matter, or proceeding; adjournment of circuit court to secular day; validity of legal process, holding courts, or transaction of business on Saturday afternoons; closing of county or municipal offices on Saturday; state employees working on Sunday.

### **Eligibility**

#### **Federal Law**

5 U.S.C §5542. Overtime rates; computation

Retrieved from

<http://uscode.house.gov/view.xhtml?req=%28title:5%20section:5542%20edition:prelim%29%20OR%20%28granuleid:USC-prelim-title5-section5542%29&f=treesort&num=0&edition=prelim>

Summary: For full-time, part-time and intermittent tours of duty, hours of work officially ordered or approved in excess of 40 hours in an administrative workweek, or (with the exception of an employee engaged in professional or technical engineering or scientific activities for whom the first 40 hours of duty in an administrative workweek is the basic workweek and an employee

whose basic pay exceeds the minimum rate for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) for whom the first 40 hours of duty in an administrative workweek is the basic workweek) in excess of 8 hours in a day, performed by an employee are overtime work and shall be paid for, except as otherwise provided by this subchapter, at the following rates:

- For an employee whose basic pay is at a rate which does not exceed the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.
- For an employee whose basic pay is at a rate which exceeds the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to the greater of one and one-half times the hourly rate of the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) or the hourly rate of basic pay of the employee, and all that amount is premium pay.
- Notwithstanding paragraphs (1) and (2) of this subsection for an employee of the Department of Transportation who occupies a nonmanagerial position in GS–14 or under and, as determined by the Secretary of Transportation,

The overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

### **State Law**

Michigan Civil Service Commission Rule 5-10.1 Paid Holidays

Retrieved from

[http://www.michigan.gov/documents/mdcs/Michigan\\_Civil\\_Service\\_Commission\\_Rules\\_347183\\_7.pdf](http://www.michigan.gov/documents/mdcs/Michigan_Civil_Service_Commission_Rules_347183_7.pdf)

Summary: A full-time career employee is allowed 8 hours paid absence from work on 12 approved state holidays in odd numbered years and 13 approved state holidays in even numbered years. A less than full-time career employee is allowed paid holiday absence in proportion to the time actually in pay status, in accordance with the regulations.

- Procedure. The state personnel director shall establish the appropriate dates for holiday observances and additional standards for determining employee eligibility.
- Work on a holiday. An appointing authority may require an employee to work on a paid holiday. Such an employee is compensated in accordance with any applicable provisions governing compensation for overtime and shift differential.

### **Holiday Work Premium**

## **Federal Law**

5 U.S.C. 5546 - Pay for Sunday and holiday work

Retrieved from

[http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title5-section5546&f=treesort&fq=true&num=0&saved=\[NSBVLMuQy4gNTU0Ng%3D%3D|dHJIZXNvcnQ%3D|dHJ1ZQ%3D%3D|4|true|prelim](http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title5-section5546&f=treesort&fq=true&num=0&saved=[NSBVLMuQy4gNTU0Ng%3D%3D|dHJIZXNvcnQ%3D|dHJ1ZQ%3D%3D|4|true|prelim)

Summary: An employee who performs work during a regularly scheduled 8-hour period of service which is not overtime work as defined by section 5542(a) of this title a part of which is performed on Sunday is entitled to pay for the entire period of service at the rate of his basic pay, plus premium pay at a rate equal to 25 percent of his rate of basic pay. For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.

An employee who performs work on a holiday designated by Federal statute, Executive order, or with respect to an employee of the government of the District of Columbia, by order of the District of Columbia Council, is entitled to pay at the rate of his basic pay, plus premium pay at a rate equal to the rate of his basic pay, for that holiday work which is not:

- in excess of 8 hours; or
- overtime work as defined by section 5542(a) of this title.

## **State Law**

Michigan Civil Service Commission Rule 5-10.1(b) & 5-4.2: Paid Holidays

Retrieved from

[http://www.michigan.gov/documents/mdcs/Michigan\\_Civil\\_Service\\_Commission\\_Rules\\_347183\\_7.pdf](http://www.michigan.gov/documents/mdcs/Michigan_Civil_Service_Commission_Rules_347183_7.pdf)

Summary: Work on a holiday. An appointing authority may require an employee to work on a paid holiday. Such an employee is compensated in accordance with any applicable provisions governing compensation for overtime and shift differential.

### 5-4.2 Overtime: Summary:

- Eligibility. The compensation schedules must identify each classification that is eligible for overtime pay. Overtime pay is paid to eligible employees for time in pay status, excluding sick and annual leave, in excess of 40 hours in a week or as otherwise provided in the regulations.
- Rate. The overtime rate of pay is one and one-half times the employee's regular rate of pay, as defined in the regulations. The regulations may provide for accrual of compensatory time at the premium rate instead of a cash payment.

## **Paid Time Off (PTO)**

### **Federal Law**

Code of Federal Regulations 451.104

Retrieved from <http://www.ecfr.gov/cgi-bin/text-idx?SID=9254d4b072d216df6d402a630bb2560c&node=5:1.0.1.2.62&rgn=div5#5:1.0.1.2.62.1.18.4>

Summary: “An agency may grant a cash, honorary, or informal recognition award, or grant time-off without charge to leave or loss of pay consistent with chapter 45 of title 5, United States Code, and this part to an employee, as an individual or member of a group, on the basis of:

- A suggestion, invention, superior accomplishment, productivity gain, or other personal effort that contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork;
- A special act or service in the public interest in connection with or related to official employment; or
- Performance as reflected in the employee's most recent rating of record (as defined in §430.203 of this chapter), provided that the rating of record is at the fully successful level (or equivalent) or above, except that performance awards may be paid to SES members only under §534.405 of this chapter and not on the basis of this subpart.”

5 U.S.C. §4502(e) General provisions

Retrieved from

<http://uscode.house.gov/view.xhtml?req=5+U.S.C.+4502&f=treesort&fq=true&num=4&hl=true&edition=prelim&granuleId=USC-prelim-title5-section4502>

Summary: “The Office of Personnel Management may by regulation permit agencies to grant employees time off from duty, without loss of pay or charge to leave, as an award in recognition of superior accomplishment or other personal effort that contributes to the quality, efficiency, or economy of Government operations.”

### **State Law**

Michigan Civil Service Commission Rule 5-10.2(a) Paid Leave: Accrual and accumulation

Retrieved from

[http://www.michigan.gov/documents/mdcs/Michigan\\_Civil\\_Service\\_Commission\\_Rules\\_347183\\_7.pdf](http://www.michigan.gov/documents/mdcs/Michigan_Civil_Service_Commission_Rules_347183_7.pdf)

Summary: “Initial annual leave grant. Upon entry into the classified service, an eligible employee is credited with an initial annual leave grant of 16 hours, which is immediately available for use, upon approval of the appointing authority. The 16 hours of annual leave cannot be credited to an employee more than once in a calendar year.”

### **Accrual**

### **Federal Law**

5 U.S.C. 6303(a). Annual leave; accrual

Retrieved from

<http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title5-section6303&f=treesort&fq=true&num=0&saved=|NSBVLIMuQy4gNjMwNA%3D%3D|dHJIZXNvcnQ%3D|dHJIZQ%3D%3D|12|true|prelim>

Summary: An employee is entitled to annual leave with pay which accrues as follows:

- one-half day for each full biweekly pay period for an employee with less than 3 years of service;
- three-fourths day for each full biweekly pay period, except that the accrual for the last full biweekly pay period in the year is one and one-fourth days, for an employee with 3 but less than 15 years of service; and
- one day for each full biweekly pay period for an employee with 15 or more years of service.

In determining years of service, an employee is entitled to credit for all service of a type that would be creditable under section 8332, regardless of whether or not the employee is covered by subchapter III of chapter 83, and for all service which is creditable by virtue of subsection (e). However, an employee who is a retired member of a uniformed service as defined by section 3501 of this title is entitled to credit for active military service only if:

- his retirement was based on disability:
  - resulting from injury or disease received in line of duty as a direct result of armed conflict; or
  - caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 1101 of title 38;
- that service was performed in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or
- on November 30, 1964, he was employed in a position to which this subchapter applies and thereafter he continued to be so employed without a break in service of more than 30 days.

The determination of years of service may be made on the basis of an affidavit of the employee. Leave provided by this subchapter accrues to an employee who is not paid on the basis of biweekly pay periods on the same basis as it would accrue if the employee were paid on the basis of biweekly pay periods.

**State Law**

MSCS Regulation 5-10.2(a) Paid Leave: Accrual and accumulation

Retrieved from

[http://www.michigan.gov/documents/mdcs/Michigan\\_Civil\\_Service\\_Commission\\_Rules\\_347183\\_7.pdf](http://www.michigan.gov/documents/mdcs/Michigan_Civil_Service_Commission_Rules_347183_7.pdf)

Summary: Subsequent to the initial grant of sixteen (16) hours, annual leave shall not be credited and available for use until the unit employee has completed seven hundred twenty (720) hours of paid service in the initial appointment. Paid service in excess of eighty (80) hours in a biweekly work period shall not be counted for purposes of annual leave accrual. A unit employee in a permanent or limited term position shall be entitled to annual leave with pay for each eighty (80) hours of paid service or to a pro-rated amount if paid service is less than eighty (80) hours in the pay period as follows:

**ANNUAL LEAVE ACCRUAL TABLE**

Service Credit	=	Annual Leave
0-1 years	=	4.0 hours/80 hours service
1-4 years	=	4.7 hours/80 hours service

5-9 years	=	5.3 hours/80 hours service
10-14 years	=	5.9 hours/80 hours service
15-19 years	=	6.5 hours/80 hours service
20-24 years	=	7.1 hours/80 hours service
25-29 years	=	7.7 hours/80 hours service
30-34 years	=	8.4 hours/80 hours service
35-39 years	=	9.0 hours/80 hours service
40-44 years	=	9.6 hours/80 hours service
45-50 years	=	10.2 hours/80 hours service

## **Leave Requests**

### **Federal Law**

There is no Federal law governing leave requests.

Retrieved from <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/factsheets/annual-leave/>

Summary: Employees and their supervisors are mutually responsible for planning and scheduling the use of employees' annual leave throughout the leave year. Employees should request annual leave in a timely manner, and supervisors should provide timely responses to employees' requests.

### **State Law**

MSCS Regulation 5.09-3(A)(3): Use of Annual Leave

Retrieved from [http://www.michigan.gov/documents/SPDOC\\_05-03\\_Reg\\_5\\_120539\\_7.09.pdf](http://www.michigan.gov/documents/SPDOC_05-03_Reg_5_120539_7.09.pdf)

Summary: Regulation 5.09-3(A)(3) Use of Annual Leave:

An employee may use the initial grant of 16 hours immediately upon hire, with the prior approval of the appointing authority.

Annual leave is available for use only in biweekly work periods subsequent to the biweekly work period in which it is earned. Annual leave may not be credited or used in anticipation of future leave accruals. In the absence of applicable accrued leave, compensation reductions for lost time will be made for the work period in which the absence occurred.

An employee may use annual leave only with the prior approval of the appointing authority, except that an employee may use accrued annual leave when an insufficient amount of sick leave exists to cover an absence for which sick leave is normally used. In this circumstance, the standards of regulation 5.10 [Sick Leave] pertaining to use of sick leave apply.

Annual leave cannot be used to extend employment, except that during November and December of 2010 up to three days of annual leave can be used to extend employment. An appointing authority may request that the State Personnel Director authorize an employee to use more than three days of leave to extend employment during November and December of 2010.

An employee allowed annual leave accumulation in excess of the maximums listed in the annual leave table under the exception in standard A.2.g., is allowed up to one year from the date of

return to employment to liquidate the amount of annual leave above the maximum by use of paid time off work.

## **Carryover & Pay Out**

### **Federal Law**

5 U.S.C. 6304. Annual Leave, accumulation.

Retrieved from

[http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title5-section6304&f=treesort&fq=true&num=0&saved=\[NSBVLMuQy4gNjMwNA%3D%3D|dHJIZXNvcnQ%3D|dHJ1ZQ%3D%3D|12|true|prelim](http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title5-section6304&f=treesort&fq=true&num=0&saved=[NSBVLMuQy4gNjMwNA%3D%3D|dHJIZXNvcnQ%3D|dHJ1ZQ%3D%3D|12|true|prelim)

Summary: “(A)nnual leave... which is not used by an employee, accumulates for use in succeeding years until it totals not more than 30 days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year.

Annual leave not used by an employee of the Government of the United States of certain classes of employees stationed outside the United States accumulates for use in succeeding years until it totals not more than 45 days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year.

Annual leave in excess of the amount allowable remains to the credit of the employee until used. The excess annual leave is reduced at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year, by the amount of annual leave the employee used during the preceding year in excess of the amount which accrued during that year, until the employee's accumulated leave does not exceed the amount allowed under subsection (a) or (b) of this section, as appropriate.

### **State Law**

MSCS Rule 5-10.2 Paid Leave: Accrual and accumulation

Retrieved from

[http://www.michigan.gov/documents/mdcs/Michigan\\_Civil\\_Service\\_Commission\\_Rules\\_347183\\_7.pdf](http://www.michigan.gov/documents/mdcs/Michigan_Civil_Service_Commission_Rules_347183_7.pdf)

Summary: An employee may accumulate credited annual and personal leave hours up to the combined maximum authorized in column 3 of the leave table. Any annual or personal leave hours earned above the maximum accrual cannot be credited and the hours are lost.

Maximum payoff. If any employee receives a payoff of all accumulated annual and personal leave hours, the maximum amount that may be paid off is the amount authorized in column 4 of the leave. Any annual or personal leave hours accumulated above the maximum amount authorized in column 4 are lost if not used before payoff.



Time in Service Seniority	Maximum Accumulation Limit	Maximum Payout Limit
0 to 5 years	296 hours	256 hours
5 to 10 years	326 hours	286 hours
15 to 20 years	341 hours	301 hours
20 to 25 years	346 hours	306 hours
25 or more years	356 hours	316 hours

### **Voluntary Sharing of PTO**

#### **Federal Law**

5 USC 6332: General authority

Retrieved from

[http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title5-](http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title5-section6332&f=treesort&fq=true&num=0&saved=|NSBVLIMuQy4gNjMzMzMQ%3D%3D|dHJIZXNvcnQ%3D|dHJIZQ%3D%3D|1|true|prelim)

[section6332&f=treesort&fq=true&num=0&saved=|NSBVLIMuQy4gNjMzMzMQ%3D%3D|dHJIZXNvcnQ%3D|dHJIZQ%3D%3D|1|true|prelim](http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title5-section6332&f=treesort&fq=true&num=0&saved=|NSBVLIMuQy4gNjMzMzMQ%3D%3D|dHJIZXNvcnQ%3D|dHJIZQ%3D%3D|1|true|prelim)

Summary: Notwithstanding any provision of subchapter I, and subject to the provisions of this subchapter, the Office of Personnel Management shall establish a program under which annual leave accrued or accumulated by an employee may be transferred to the annual leave account of any other employee if such other employee requires additional leave because of a medical emergency.

#### **State Law**

MSCS Regulation 5.09-8(A) Annual Leave

Retrieved from [http://www.michigan.gov/documents/SPDOC\\_05-03\\_Reg\\_5\\_120539\\_7.09.pdf](http://www.michigan.gov/documents/SPDOC_05-03_Reg_5_120539_7.09.pdf)

Summary: A direct leave transfer process and a central leave bank are available to assist nonexclusively represented employees facing financial hardship due to serious injury or prolonged illness of the employee or the employee's dependent spouse, child, or parent.

An employee may receive a direct transfer of annual leave from employees within their employing agency, or through the central leave bank, subject to the following condition:

- The receiving employee must have successfully completed the initial probationary period.
- The receiving employee must have exhausted all leave credits.
- The receiving employee's absence must have been approved.

An employee may receive a combined maximum donation of 240 hours per calendar year.

(3) Donations of annual leave (either by direct transfer or to the central leave bank) are irrevocable and are limited to a combined maximum of 40 hours in a calendar year. Donations must be in whole hour increments.

## **Family and Medical Leave**

### **Federal Law**

The Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2006).

Retrieved from <http://www.dol.gov/whd/fmla/fmlaAmended.htm>

Summary: The Family and Medical Leave Act (FMLA) applies to all public agencies (including a local, state, or Federal government agency), regardless of the number of employees it employs.

U.S. Department of Labor Wage and Hour Division (2012). Fact sheet #28: The family and medical leave act.

Retrieved from: <http://www.dol.gov/whd/regs/compliance/whdfs28.pdf>

Summary: “The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons.”

### **State Law**

The State of Michigan does not have specific medical leave legislation that provides greater coverage and would supersede the FMLA regulations.

The Family and Medical Leave Act of 1993, 29 U.S.C. 2654 § 825.700 (2013).

Retrieved from: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=abbd92cdf37c5d32de741cc5ccc1e81&rgn=div5&view=text&mp;node=29:3.1.1.3.54&idno=29#29:3.1.1.3.54.7.489.2>

Summary: “Nothing in FMLA supersedes any provision of State or local law that provides greater family or medical leave than those provided by FLMA. ... An employer must comply with the appropriate (applicable) provisions of [local, State and Federal law].”

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2612(a)(3) (2006).

Retrieved from

[http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_102\\_LEAVE\\_REQUIREMENT](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_102_LEAVE_REQUIREMENT)

Summary: In some cases the FMLA allows an employee to take intermittent leave or to work a reduced schedule for a limited time period.

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2612(b) (2006).

Retrieved from

[http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_102\\_LEAVE\\_REQUIREMENT](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_102_LEAVE_REQUIREMENT)

Summary: Spouses employed by the City are jointly entitled to a combined total of 12 weeks for the birth and care of a newborn, placement of a child by adoption or foster care or to care for a family member with a serious health condition.

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2612(f)(1) (2006).

Retrieved from

[http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_102\\_LEAVE\\_REQUIREMENT](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_102_LEAVE_REQUIREMENT)

## **Eligibility**

### **Federal Law**

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2611(2)(A) (2006).

Retrieved from: [http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_101\\_DEFINITIONS](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_101_DEFINITIONS)

Summary: Only hours actually worked will count toward calculating 1,250 hours over previous 12 months for FMLA eligibility, NOT vacation, holidays, personal days, sick leave, etc.

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2611(2)(C)(A)(ii) (2006).

Retrieved from: [http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_101\\_DEFINITIONS](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_101_DEFINITIONS)

Summary: FMLA requirements stipulate that the standards established by the Fair Labor Standards Act (FLSA), section 7, will determine whether an employee meets the hours of service requirement.

The Fair Labor Standards Act of 1938, 29 U.S.C. § 207 (e)(2) (2011).

Retrieved from: <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Summary: This section states that payments for “occasional periods when no work is performed due to vacation, holiday, illness...” are not included when calculating the employee’s regular rate.

For purposes of calculating FMLA eligibility, an employee on USERRA protected military leave will be given credit for time worked as if he/she had not taken the military leave and had worked continuously during that time.

Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C § 4316 (1994).

Retrieved from <http://www.dol.gov/vets/usc/vpl/usc38.htm>

Summary: USERRA provides coverage for service members to keep their benefits, seniority and other rights while deployed or otherwise in service. It states that they are entitled to the seniority, rights, and benefits they had before they left, plus those that they would have attained, had they remained continuously employed.

## **Rolling Year**

### **Federal Law**

U.S. Department of Labor, Wage and Hour Division. (2013, February). Fact Sheet #28H: 12-month period under the Family and Medical Leave Act (FMLA).

Retrieved from <http://www.dol.gov/vets/usc/vpl/usc38.htm>

Summary: The employer may use any of the following methods to establish the 12-month period:

- the calendar year
- any fixed 12-months – 12-month period such as a fiscal year (for example, October 1 through September 30), a year starting on an employee’s anniversary date (for example, September 22 through September 21), or a 12-month period required by state law;
- the 12-month period measured forward – 12-month period measured forward from the first date an employee takes FMLA leave. The next 12-month period would begin the first time FMLA leave is taken after completion of the prior 12-month period; or
- a “rolling” 12-month period measured backward – 12-month period measured backward from the date an employee uses any FMLA leave. Under the “rolling” 12-month period,

each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.

### **Federal Law**

United States Department of Labor Wage and Hour Division. The Family and Medical Leave Act Fact Sheet.

Retrieved from <http://www.dol.gov/whd/regs/compliance/1421.htm#2d>

Summary: “The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances. . . . Intermittent/reduced schedule leave may be taken to care for a newborn or newly placed adopted or foster care child only with the employer's approval.”

### **Coordination with Other Leaves and/or Paid Time Off Plans**

#### **Federal Law**

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2612 (d)(2)(A) (2006).

Retrieved from

[http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_102\\_LEAVE\\_REQUIREMENT](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_102_LEAVE_REQUIREMENT)

Summary: Employers are allowed to require employees to utilize appropriate paid leave (vacation, personal, medical/sick) for any part of the 12-week period of FMLA leave. This does not mean that employers are required to offer paid leave, only that they may require its use concurrent with FMLA leave.

United States Department of Labor Wage and Hour Division. The Family and Medical Leave Act Fact Sheet.

Retrieved from: <http://www.dol.gov/whd/regs/compliance/1421.htm#2e>

Summary: “[E]mployers may require the employee to use, accrued paid leave to cover some or all of the FMLA leave taken. [E]mployers may require, the substitution of accrued paid vacation or personal leave for any of the situations covered by FMLA. The substitution of accrued sick or family leave is limited by the employer's policies governing the use of such leave.”

### **Health and Other Benefits**

#### **Federal Law**

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2614(a)(2) (2006).

Retrieved from [http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_104\\_EBP](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_104_EBP)

United States Department of Labor, Wage and Hour Division. (2012, September). *Fact Sheet #28A: Employee Protections under the Family and Medical Leave Act.*

Retrieved from <http://www.dol.gov/whd/regs/compliance/whdfs28a.htm>

Summary: “If an employee is provided group health insurance, the employee is entitled to the continuation of the group health insurance coverage during FMLA leave on the same terms as if he or she had continued to work. If family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. The employee must continue to make any normal contributions to the cost of the health insurance premiums.

If paid leave is substituted for FMLA leave, the employee's share of group health plan premiums must be paid by the method normally used during paid leave (usually payroll deduction). An employee on unpaid FMLA leave must make arrangements to pay the normal employee portion of the insurance premiums in order to maintain insurance coverage. If the employee's premium payment is more than 30 days late, the employee's coverage may be dropped unless the employer has a policy of allowing a longer grace period. The employer must provide written notice to the employee that the payment has not been received and allow at least 15 days after the date of the letter before coverage stops.

In some instances, an employer may choose to pay the employee's portion of the premium, for example, in order to ensure that it can provide the employee with equivalent benefits upon return from FMLA leave. In that case, the employer may require the employee to repay these amounts. In addition, the employer may require the employee to repay the employer's share of the premium payment if the employee fails to return to work following the FMLA leave unless the employee does not return because of circumstances that are beyond the employee's control, including a FMLA-qualifying medical condition."

The City will also continue other benefits, including unconditional pay increases, that otherwise would occur while the employee is on FMLA.

Employees will continue to accrue paid time off while on FMLA leave if they otherwise would earn it.

United States Department of Labor, Wage and Hour Division. (2012, September). *Fact Sheet #28A: Employee Protections under the Family and Medical Leave Act.*

Retrieved from <http://www.dol.gov/whd/regs/compliance/whdfs28a.htm>

Summary: "An employee's rights to benefits other than group health insurance while on FMLA leave depend upon the employer's established policies. Any benefits that would be maintained while the employee is on other forms of leave, including paid leave if the employee substitutes accrued paid leave during FMLA leave, must be maintained while the employee is on FMLA leave."

## Who Qualifies?

### **Federal Law**

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2611(14-16) (2006).

Retrieved from [http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_101\\_DEFINITIONS](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_101_DEFINITIONS)

United States Department of Labor, Wage and Hour Division. (2013, February). *Fact Sheet #28M: The Military Family Leave Provisions under the Family and Medical Leave Act.*

Retrieved from: <http://www.dol.gov/whd/regs/compliance/whdfs28m.pdf>

Summary: AA covered service member is either:

- a **current member** of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is on the temporary disability retired list, for a serious injury or illness, or

- a **veteran** of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered service member.”

United States Department of Labor, Wage and Hour Division. (2013, February). Fact Sheet #28M(a): Military Caregiver Leave for a Current Service member under the Family and Medical Leave Act.

Retrieved from: <http://www.dol.gov/whd/regs/compliance/whdfs28ma.pdf>

Summary: “The “next of kin” of a current service member is the nearest blood relative, other than the current service member’s spouse, parent, son, or daughter, in the following order of priority:

- a blood relative who has been designated *in writing* by the service member as the next of kin for FMLA purposes
- blood relative who has been granted legal custody of the service member
- brothers and sisters
- grandparents
- aunts and uncles
- first cousins

When a service member designates in writing a blood relative as next of kin for FMLA purposes, that individual is deemed to be the service member’s only FMLA next of kin. When a current service member has not designated in writing a next of kin for FMLA purposes, and there are multiple family members with the same level of relationship to the service member, all such family members are considered the service member’s next of kin and may take FMLA leave to provide care to the service member.”

United States Department of Labor, Wage and Hour Division. (2013, February). *The Employee’s Guide to Military Family Leave Under the Family and Medical Leave Act* (WH-1513).

Retrieved from [http://www.dol.gov/whd/fmla/2013rule/FMLA\\_Military\\_Guide\\_ENGLISH.pdf](http://www.dol.gov/whd/fmla/2013rule/FMLA_Military_Guide_ENGLISH.pdf)

Summary: “For qualifying exigency leave, son or daughter means your biological, adopted, or foster child, a stepchild, a legal ward, or a child for whom you stood in loco parentis, and who is of any age.

#### In Loco Parentis

A person stands in loco parentis if that person provides day-to-day care or financial support for a child. A person who has no biological or legal relationship with a child may nonetheless stand or have stood in loco parentis to the child for purposes of FMLA leave.”

### **FMLA Leave for Qualifying Exigencies**

More information can be found in *The Employee’s Guide to Military Family Leave Under the Family and Medical Leave Act*.

Retrieved from [http://www.dol.gov/whd/fmla/2013rule/FMLA\\_Military\\_Guide\\_ENGLISH.pdf](http://www.dol.gov/whd/fmla/2013rule/FMLA_Military_Guide_ENGLISH.pdf)

## **Notifications and Certifications**

### **Federal Law**

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2654 § 825.301 (2013, February 6).

Retrieved from <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=abbd92cdf37c5d32de741cc5ccc1e81&rgn=div5&view=text&mp;node=29:3.1.1.3.54&idno=29#29:3.1.1.3.54.3.489.2>

Summary: “The employer’s decision to designate leave as FMLA-qualifying leave must be based on information received from the employee or the employee’s spokesperson. ... Once the employer has acquired knowledge that the leave is being taken for a FLMA-qualifying reason, the employer must notify the employee.”

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2654 §§ 825.302-825.304 (2013, February 6).

Retrieved from: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=abbd92cdf37c5d32de741cc5ccc1e81&rgn=div5&view=text&mp;node=29:3.1.1.3.54&idno=29#29:3.1.1.3.54.3.489.3>

Summary: Employees wishing to use FMLA leave may be required to provide notice. 30-day advance notice is required when the need is a foreseeable one, or “as soon as practicable” when the need is not foreseeable (i.e. a verbal notice one or two business days within learning of the need to take FMLA leave).

United States Department of Labor Wage and Hour Division. *The Family and Medical Leave Act Fact Sheet*.

Retrieved from <http://www.dol.gov/whd/regs/compliance/1421.htm#2g>

Summary: “An employer may require that the need for leave for a serious health condition of the employee or the employee’s immediate family member be supported by a certification issued by a health care provider. The employer must allow the employee at least 15 calendar days to obtain the medical certification. ... An employer may, at its own expense, require the employee to obtain a second [or third] medical certification from a health care provider. ... [The] third opinion shall be final and binding.”

## **Job Restoration and Protection**

### **Federal Law**

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2614(a)(1) (2006).

Retrieved from: [http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_104\\_EBP](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_104_EBP)

Summary: “With the exception of “key employees” (see below), employees who return from FLMA leave are guaranteed the restoration of the job held before leave was taken. An equivalent position may be offered, taking into account “equivalent benefits, pay, and other terms and conditions of employment.”

The Family and Medical Leave Act of 1993, 29 U.S.C. § 2614(b)(1) (2006).

Retrieved from: [http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC\\_104\\_EBP](http://www.dol.gov/whd/fmla/fmlaAmended.htm#SEC_104_EBP)



Summary: “An employer may deny restoration [of an employee’s position] if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer. ... [This applies to an employee who is salaried and] among the highest paid 10% of the employees employed by the employer, within 75 miles of the facility at which the employee is employed.”

United States Department of Labor, Wage and Hour Division. The Family and Medical Leave Act Fact Sheet.

Retrieved from: <http://www.dol.gov/whd/regs/compliance/1421.htm#2m>

Summary: “Under limited circumstances where restoration to employment will cause "substantial and grievous economic injury" to its operations, an employer may refuse to reinstate certain highly-paid, salaried "key" employees. In order to do so, the employer must notify the employee in writing of his/her status as a "key" employee (as defined by FMLA), the reasons for denying job restoration, and provide the employee a reasonable opportunity to return to work after so notifying the employee.”

United States Department of Labor, Wage and Hour Division. (2013, November). The Employee’s Guide to the Family and Medical Leave Act.

Retrieved from: <http://www.dol.gov/whd/fmla/employeeguide.pdf>

Summary: “Certain key employees may not be guaranteed reinstatement to their positions following FMLA leave. A key employee is defined as a salaried, FMLA-eligible employee who is among the highest paid 10 percent of all the employees working for the employer within 75 miles of the employee’s worksite.”

## **Bereavement Leave**

### **Federal Law**

5 U.S.C. 6326, 5 CFR 630, subpart H

Cornell University Law School, 2014. 5 CFR Part 630 – Absence and leave.

Retrieved from <http://www.law.cornell.edu/cfr/text/5/part-630>

Office of Personnel Management, 2014. Pay & leave: Leave administration.

Retrieved from: <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/leave-for-funerals-and-bereavement/>

Summary: “An employee is entitled to up to 3 workdays of funeral leave to make arrangements for or to attend the funeral of an immediate relative who died as a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone. If the employee provides satisfactory reasons, the 3 workdays do not need to be consecutive.”

### **Funeral Leave for Combat-Related Death of an Immediate Relative**

An employee is entitled to up to 3 workdays of funeral leave to make arrangements for or to attend the funeral of an immediate relative who died as a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone. If the employee provides satisfactory reasons, the 3 workdays do not need to be consecutive.



- Armed Forces means the Army, Navy, Air Force, Marine Corps, and Coast Guard, and includes the Reserve components, National Guard, and Air National Guard.
- Combat zones are areas the President designates by Executive order, in accordance with section 112 of the Internal Revenue Code, as areas in which the Armed Forces are engaging or have engaged in combat. Current areas designated as combat zones can be found in IRS Publication 3. (<http://www.irs.gov/pub/irs-pdf/p3.pdf>)
- Immediate relative covers a wide range of relationships, including spouse; parents; parents-in-law; children; brothers; sisters; grandparents; grandchildren; step parents; step children; foster parents; foster children; guardianship relationships; same sex and opposite sex domestic partners; and spouses or domestic partners of the aforementioned, as applicable. The list of immediate relatives for whom an employee may request funeral leave (as well as important associated definitions for the terms son or daughter, parent, domestic partner, and committed relationship) may be found in the fact sheet entitled Definitions Related to Family Member and Immediate Relative for Leave Purposes (<http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/definitions-related-to-family-member-and-immediate-relative-for-purposes-of-sick-leave/>).

Note: When an employee requests funeral leave for a combat-related death of an immediate relative, the agency may require the employee to document his or her relationship to that immediate relative. Agencies should establish consistent rules and follow the same documentation requirements for all relationships, but agencies have authority to request additional information in cases of suspected leave abuse.

#### Funeral Leave for First Responders

A Federal law enforcement officer or firefighter may be excused from duty without loss of pay or charge to leave to attend the funeral of a fellow Federal law enforcement officer or firefighter who was killed in the line of duty (<http://www.law.cornell.edu/uscode/text/5/6328>).

#### Funeral Leave for Veterans Participating in a Funeral Ceremony

A veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an organization of those veterans, may be excused from duty without loss of pay or charge to leave for up to 4 hours of excused absence to serve as a pallbearer, member of a firing squad, or guard of honor in a funeral ceremony for a member of the Armed Forces whose remains are returned from abroad (<http://www.law.cornell.edu/uscode/text/5/6321>).

#### Military Leave for Funeral Honors Duty

An employee who is a member of the National Guard or a Reserve component of the Armed Forces may use military leave to attend to funeral honors duty under 10 U.S.C. 12503 and 32 U.S.C. 115 (<http://www.law.cornell.edu/uscode/text/10/12503>).

## Sick Leave for Bereavement

An employee is entitled to use a total of up to 104 hours (13 days) of sick leave each leave year for family care and bereavement, which include making arrangements required by the death of a family member and attending the funeral of a family member (<http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/sick-leave-for-family-care-or-bereavement-purposes/>).

- Family Member: The definition of family member covers a wide range of relationships, including spouse; parents; parents-in-law; children; brothers; sisters; grandparents; grandchildren; step parents; step children; foster parents; foster children; guardianship relationships; same sex and opposite sex domestic partners; and spouses or domestic partners of the aforementioned, as applicable. The list of family members for whom an employee may request sick leave for bereavement (as well as important associated definitions for the terms son or daughter, parent, domestic partner, and committed relationship) may be found in the fact sheet entitled Definitions Related to Family Member and Immediate Relative for Leave Purposes (<http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/definitions-related-to-family-member-and-immediate-relative-for-purposes-of-sick-leave/>).

## **State Law**

Article 40: Paid Sick Leave

Michigan.gov, 2014. Article 40: Paid sick leave.

Retrieved from: [http://www.michigan.gov/documents/ose/ARTICLE\\_40\\_219938\\_7.pdf](http://www.michigan.gov/documents/ose/ARTICLE_40_219938_7.pdf)

Summary: “Every permanent employee covered by this Agreement shall be credited with four (4) hours of paid sick leave for each completed eighty (80) hours of service or to a prorated amount if paid service is less than eighty (80) hours in the pay period. The pro-rated amount shall be based on the number of hours in pay status divided by eighty (80) multiplied by four (4) hours. Paid service in excess of eighty (80) hours in a biweekly work period shall not be counted.”

## Bereavement Leave

Retrieved from: [http://www.michigan.gov/documents/ose/ARTICLE\\_40\\_219938\\_7.pdf](http://www.michigan.gov/documents/ose/ARTICLE_40_219938_7.pdf)

Summary: Employees shall be allowed reasonable and necessary time off by mutual agreement in the event of the death of a member of the immediate family. Such time shall be covered by accrued sick leave and/or annual leave credits. In the event of a dispute, an employee shall be guaranteed a minimum of five (5) days leave, if requested.

## Funeral Leave

Retrieved from: [http://www.michigan.gov/documents/ose/ARTICLE\\_40\\_219938\\_7.pdf](http://www.michigan.gov/documents/ose/ARTICLE_40_219938_7.pdf)

Summary: In addition to bereavement leave, sick leave may be used for an absence caused by attendance at a funeral of a relative or person whose physical or financial care is the principal responsibility of the employee.

## Unpaid Leave of Absence

### **Federal Law**

29 CFR Part 825 - The family and medical leave act of 1993

Leave Entitlement

Cornell University Law School, 2014. 29 CFR Part 825 - The family and medical leave act of 1993.

Retrieved from <http://www.law.cornell.edu/cfr/text/29/part-825>

United States Department of Labor, 2014. Wage and hour division.

Retrieved from <http://www.dol.gov/whd/regs/compliance/1421.htm>

Summary: A covered employer must grant an eligible employee up to a total of 12 work weeks of unpaid leave in a 12 month period for one or more of the following reasons: for the birth of a son or daughter, and to care for the newborn child; for the placement with the employee of a child for adoption or foster care, and to care for the newly placed child; to care for an immediate family member (spouse, child, or parent — but not a parent "in-law") with a serious health condition; and when the employee is unable to work because of a serious health condition.

Leave to care for a newborn child or for a newly placed child must conclude within 12 months after the birth or placement. (See CFR Section 825.201,

<http://www.law.cornell.edu/cfr/text/29/825.201>)

Spouses employed by the same employer may be limited to a combined total of 12 workweeks of family leave for the following reasons: birth and care of a child; for the placement of a child for adoption or foster care, and to care for the newly placed child; and, to care for an employee's parent who has a serious health condition.

### **State Law**

Civil Service Regulation 2.03(4.D) Leave of Absence without Pay

Michigan.gov, 2014. Leave of absence.

Retrieved from: [http://www.michigan.gov/documents/mdcs/Regulation\\_2.03\\_222163\\_7.pdf](http://www.michigan.gov/documents/mdcs/Regulation_2.03_222163_7.pdf)

Summary: Leave of Absence without Pay

#### ➤ Authorization

##### ○ Permissive leave

- Non-medical leave of absence. An appointing authority may grant an employee a non-medical leave of absence without pay and without loss of employment status.
- Medical leave of absence. An appointing authority may grant a medical leave of absence without pay for up to 6 months to an eligible employee whose sick leave is exhausted. An employee is eligible for a medical leave of absence only if the employee has the equivalent of at least 6 months full-time employment at the time the leave is granted. If an employee on medical leave requests an extension before the leave expires, an appointing authority is authorized to extend the leave to a maximum of one year. Any extension of a medical leave beyond one year requires the written approval of the state personnel director.
- Disaster response leave of absence. An appointing authority may grant a leave of absence without pay to an employee who is skilled in emergency

relief assistance and certified as a disaster services volunteer by the American Red Cross to provide disaster or emergency relief assistance in this state.

- Mandatory leave. An appointing authority must grant a leave of absence without pay when specifically required by the civil service commission.
- Expiration
  - A leave of absence without pay expires on the date established by the appointing authority, unless extended by the appointing authority. If an employee on a leave of absence without pay does not return to work on or before the end of the leave, the employee is separated.
- Restoration to Position
  - When an authorized leave of absence without pay expires or the appointing authority authorizes a return to work before the end of the leave, the employee is returned to work as follows:
    - Unless subsection (b) or (c) apply, the employee is returned to the position formerly occupied or an equivalent position.
    - If the appointing authority has demoted the employee since the beginning of the leave under rule 2-6 [Discipline] or rule 3-3 [Appointments and Job Changes], the employee is returned to a position at the classification level to which demoted and is compensated within the range of rates approved for that classification level.
    - If the employee's position was abolished during the leave, the employee is returned to the classified service in accordance with rule 2-5 [Employment Preference].
    - At the expiration of a medical leave of absence, if the employee is medically qualified to return to work, the employee is returned to a position as provided in subsection (a), (b), or (c), as appropriate. If the employee is not medically qualified to return to work, the employee is separated.
- Annual Leave Balance
  - Retention during leave. An employee may choose to retain an annual leave balance during a leave of absence in accordance with the official compensation plan.
  - Limitation and exception. Payment for annual leave due an employee who does not return from a leave of absence is at the employee's last rate of pay.
- Waived Rights Leave of Absence
  - Approval and extension. An appointing authority may grant a waived rights leave of absence without pay for up to one year to an employee if the employee has the equivalent of at least 6 months full-time employment at the time the leave is granted. Any extension beyond one year requires the written approval of the state personnel director
  - Ineligible employees. An employee in a limited-term appointment who has not achieved status in an indefinite appointment is not eligible for a waived rights leave of absence, unless authorized in writing by the state personnel director.
  - Operation. An employee granted a waived rights leave of absence cannot carry any annual leave balance during the leave. An employee on a waived rights leave

has no right to return to the position formerly occupied or to an equivalent position upon expiration of the leave. If the employee returns to the classified service before the expiration of the waived rights leave through normal selection processes, the employee is not considered to have had a break in service.

- Separation. If the employee does not return to the classified service before or upon the expiration of the leave, the employee is separated.

## **Jury Duty**

### **Federal Law**

28 U.S. Code § 1875 - Protection of jurors' employment United States Department of Labor, 2014. Leave benefits: Jury duty.

Retrieved from <http://www.dol.gov/dol/topic/benefits-leave/juryduty.htm>

Summary: The Fair Labor Standards Act (FLSA) (<http://www.dol.gov/compliance/laws/comp-flsa.htm>) does not require payment for time not worked, including jury duty. This type of benefit is generally a matter of agreement between an employer and an employee (or the employee's representative).

While federal law does not, some state laws require employers to pay employees who are asked to serve jury duty.

### **State Law**

600.1348 Jurors; threats, discharge, or discipline by employer; requiring additional hours of work; misdemeanor; penalty.

Michigan Legislative Website, 2014. Revised judicature act of 1961: Act 236 of 1961.

Retrieved from [http://www.legislature.mi.gov/\(S\(dqvz3r45h0h13s45r23naf55\)\)g.aspx?page=GetObject&objectname=mcl-600-1348](http://www.legislature.mi.gov/(S(dqvz3r45h0h13s45r23naf55))g.aspx?page=GetObject&objectname=mcl-600-1348)

Summary: An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a person because that person is summoned for jury duty, serves on a jury, or has served on a jury, is guilty of a misdemeanor, and may also be punished for contempt of court.

An employer or the employer's agent who requires a person having jury duty to work any number of hours during a day which, if added to the number of hours which the person spends on jury duty during that day, exceeds the number of hours normally and customarily worked by the person during a day, or the number of hours normally and customarily worked by the person during a day which extends beyond the normal and customary quitting time of that person unless voluntarily agreed to by that person, or as provided in a collective bargaining agreement is guilty of a misdemeanor, and may also be punished for contempt of court.

## **Military Leave for National Guard or other Reserve Units**

### **Federal Law**

5 U.S. Code § 6323 - Military leave; Reserves and National Guardsmen

Cornell University Law School, 2014. 5 U.S. code § 6323 - Military leave; Reserves and National guardsmen.

Retrieved from <http://www.law.cornell.edu/uscode/text/5/6323>

Office of Personnel Management, 2014. Military leave.

Retrieved from: <http://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/factsheets/military-leave/>

Summary:

- Subject to paragraph (2) of this subsection, an employee as defined by section 2105 (<http://www.law.cornell.edu/uscode/text/5/2105>) of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, is entitled to leave without loss in pay, time, or performance or efficiency rating for active duty, inactive-duty training (as defined in section 101 of title 37 (<http://www.law.cornell.edu/uscode/text/37/101>)), funeral honors duty (as described in section 12503 of title 10 (<http://www.law.cornell.edu/uscode/text/10/12503>) and section 115 of title 32 (<http://www.law.cornell.edu/uscode/text/32>)), or engaging in field or coast defense training under sections 502–505 of title 32 (<http://www.law.cornell.edu/uscode/text/5/3401>) as a Reserve of the armed forces or member of the National Guard. Leave under this subsection accrues for an employee or individual at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year.
- In the case of an employee or individual employed on a part-time career employment basis (as defined in section 3401 (2) (<http://www.law.cornell.edu/uscode/text/5/3401>) of this title), the rate at which leave accrues under this subsection shall be a percentage of the rate prescribed under paragraph (1) which is determined by dividing 40 into the number of hours in the regularly scheduled workweek of that employee or individual during that fiscal year.
- The minimum charge for leave under this subsection is one hour, and additional charges are in multiples thereof.
  - Except as provided by section 5519 (<http://www.law.cornell.edu/uscode/text/5/5519>) of this title, an employee as defined by section 2105 (<http://www.law.cornell.edu/uscode/text/5/2105>) of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—
    - is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10 (<http://www.law.cornell.edu/uscode/text/10/10101>) , or the National Guard, as described in section 101 of title 32 (<http://www.law.cornell.edu/uscode/text/32/101>) ; and
    - (2)
      - performs, for the purpose of providing military aid to enforce the law or for the purpose of providing assistance to civil authorities in the protection or saving of life or property or the prevention of injury—
        - Federal service under section 331 (<http://www.law.cornell.edu/uscode/text/10/331>) , 332 (<http://www.law.cornell.edu/uscode/text/10/332>) , 333

- (<http://www.law.cornell.edu/uscode/text/10/333>), or 12406 of title 10
- (<http://www.law.cornell.edu/uscode/text/10/12406>) , or other provision of law, as applicable, or
- full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; or
  - performs full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101 (a)(13) of title 10 (<http://www.law.cornell.edu/uscode/text/10/101>); is entitled, during and because of such service, to leave without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance or efficiency rating. Leave granted by this subsection shall not exceed 22 workdays in a calendar year. Upon the request of an employee, the period for which an employee is absent to perform service described in paragraph (2) may be charged to the employee's accrued annual leave or to compensatory time available to the employee instead of being charged as leave to which the employee is entitled under this subsection. The period of absence may not be charged to sick leave.
  - An employee as defined by section 2105 (<http://www.law.cornell.edu/uscode/text/5/2105>) of this title or an individual employed by the government of the District of Columbia, who is a member of the National Guard of the District of Columbia, is entitled to leave without loss in pay or time for each day of a parade or encampment ordered or authorized under title 39, District of Columbia Code. This subsection covers each day of service the National Guard, or a portion thereof, is ordered to perform by the commanding general.
  - A military reserve technician described in section 8401 (30) (<http://www.law.cornell.edu/uscode/text/5/8401>) [1] is entitled at such person's request to leave without loss of, or reduction in, pay, leave to which such person is otherwise entitled, credit for time or service, or performance or efficiency rating for each day, not to exceed 44 workdays in a calendar year, in which such person is on active duty without pay, as authorized pursuant to section 12315 of title 10 (<http://www.law.cornell.edu/uscode/text/10/12315>), under section 12301 (b) or 12301 (d) of title 10 (<http://www.law.cornell.edu/uscode/text/10>) for participation in operations outside the United States, its territories and possessions. (2) An employee who requests annual leave or compensatory time to which the employee is otherwise entitled, for a period during which the employee would have been entitled upon request to leave under this subsection, may be granted such annual leave or



compensatory time without regard to this section or section 5519 (<http://www.law.cornell.edu/uscode/text/5/5519>).

### Coverage

Any full-time Federal civilian employee whose appointment is not limited to 1 year is entitled to military leave. Military leave under 5 U.S.C.

6323(a)(<http://www.law.cornell.edu/uscode/text/5/6323>) is prorated for part-time career employees and employees on an uncommon tour of duty.

### Types of Military Leave

5 U.S.C. 6323 (a) (<http://www.law.cornell.edu/uscode/text/5/6323>) provides 15 days per fiscal year for active duty, active duty training, and inactive duty training. An employee can carry over a maximum of 15 days into the next fiscal year.

5 U.S.C. 6323 (b) (<http://www.law.cornell.edu/uscode/text/5/6323>) provides 22 workdays per calendar year for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation\* as defined in section 101(a)(13) of title 10, United States Code.

5 U.S.C. 6323(c) (<http://www.law.cornell.edu/uscode/text/5/6323>) provides unlimited military leave to members of the National Guard of the District of Columbia for certain types of duty ordered or authorized under title 49 of the District of Columbia Code.

5 U.S.C. 6323(d) (<http://www.law.cornell.edu/uscode/text/5/6323>) provides that Reserve and National Guard Technicians only are entitled to 44 workdays of military leave for duties overseas under certain conditions.

### **State Law**

Uniformed Services Employment and Reemployment Rights Act of 1994 Michigan.gov, 2014. Overview of military leave of absence.

Retrieved from

[http://www.michigan.gov/documents/mdcs/MilitaryLeaveSummary\\_191581\\_7.pdf](http://www.michigan.gov/documents/mdcs/MilitaryLeaveSummary_191581_7.pdf)

Summary: If you are a career classified employee and go on duty in one of the uniformed services, you may be eligible for a military leave of absence from your state job.