

# Volunteers / Interns and Wage & Hour Laws

WISCONSIN



DWD

Department of Workforce Development



Equal Rights Division

(608) 266-6860 – Madison

(414) 227-4384 – Milwaukee

<http://dwd.wisconsin.gov/er>

**Jim Chiolino**

Assistant Administrator

Director, Labor Standards Bureau

[jim.chiolino@dwd.wisconsin.gov](mailto:jim.chiolino@dwd.wisconsin.gov)

# WI Labor Standards Laws

- ▶ Minimum Wage
- ▶ Overtime
- ▶ Wage Payment and Collection

# Minimum Wage

## Wis. Stat. Chapter 104 / Wis. Admin. Code Chapter DWD 272

- Covers all employment in Wisconsin, including nonprofit organizations
- Regular rates / Opportunity rates
- Tipped rates
- Allowances for board or lodging
- Meal periods / Coffee breaks
- Record keeping

# Minimum Wage

➤ \$7.25 per hour -- General rate (including minors and agriculture)

➤ \$5.90 per hour -- Opportunity rate

“Opportunity employee”

➤ Under 20 years of age

➤ In employment status for 90 or fewer consecutive days with a particular employer

# Breaks

## Meal Periods / Coffee Breaks

- ▶ Not required (BUT – the employer can require them)
- ▶ Recommended that meal breaks be given at times reasonably close to normal meal times
- ▶ Less than 30 minutes, break must be paid
- ▶ 30 minutes or more, break may be unpaid if
  - ▶ Completely relieved of duty
  - ▶ Free to leave the premises

# Record-Keeping

## Wis. Admin. Code § DWD 272.11

- ▶ Must keep listed records for 3 years
- ▶ Records must be kept for each employee other than exempt employees paid on other than an hourly basis.
- ▶ Includes time in and time out each day, time out and time back in for breaks, total number of hours worked per day and per week



# Overtime

**Wisconsin's overtime laws (Wis. Stat. §§ 103.01 – 103.02; Wis. Admin. Code Ch. DWD 274) cover all businesses except:**

- Non-profit organizations
- Agricultural employers
- Domestic service employees



# Overtime

## The Basics

- Time and one-half the regular rate after 40 hours worked in a week
- “Week” is a regularly recurring 7 day period
- Each week stands by itself
- Paid time off does not have to count as time worked in a given week for overtime purposes
- There are 15 exemptions to Wisconsin’s overtime law
- Some exemptions apply to the whole establishment and some apply to individuals
- In some instances federal and state laws differ



# Wage Payment & Collection

**Wis. Stat. Chapter 109 covers the following:**

- ▶ Wages payable as agreed
- ▶ Frequency of payment
- ▶ Payment at termination
- ▶ Fringe benefits
- ▶ Deductions from wages

# Wage Payment & Collection

- Frequency of payment
  - Once a month
  - Not more than 31 days between pay periods (with some exceptions)
- Payment at termination: in accordance with regular pay schedule

# Wage Payment & Collection

- Statute requires employers to pay “wages” as agreed.
- What are wages?
  - Remuneration payable for personal services,
  - includes fringe benefits and other “similar advantages agreed upon” between the parties, or provided “as an established policy”

# Unpaid Opportunities

- Workers may volunteer their time, generally (under WI law).
- Minors may volunteer for non-profit organizations, as long as:
  - The work they perform is not hazardous
  - They aren't replacing a paid employee
- Job Shadowing, tours, etc.

See DOL Fact Sheet #71 (applies regardless of age)

Six factor test

# Unpaid Opportunities

- ④1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
- ④2. The internship experience is for the benefit of the intern;
- ④3. The intern does not displace regular employees, but works under close supervision of existing staff;
- ④4. The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
- ④5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
- ④6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

# Thank You!

**Jim Chiolino**

Deputy Division Administrator  
Director, Labor Standards Bureau  
608.266.3345  
jim.chiolino@dwd.wisconsin.gov

[www.dwd.wisconsin.gov](http://www.dwd.wisconsin.gov)

**WISCONSIN**



**DWD**

Department of Workforce Development