



Workers' Rights in the Age of COVID-19

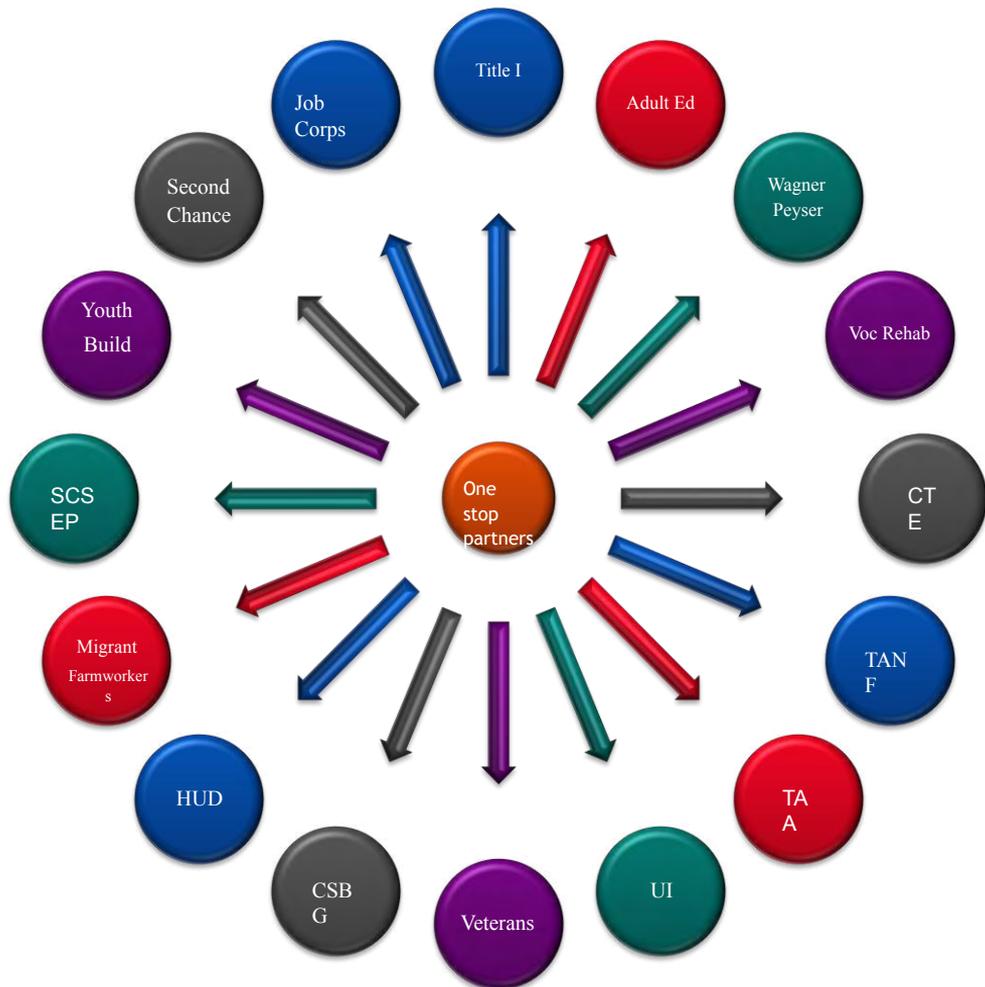
March 24, 2021



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Which partner do you best represent?



Workers' Rights in the Age of COVID-19

March 24, 2021

I ILLINOIS
School of Labor &
Employment Relations
Labor Education Program

CHICAGO
JOBS
COUNCIL


FRONTLINE FOCUS
THE CHICAGO JOBS COUNCIL
TRAINING INSTITUTE

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Agenda

- Google drive resource folder
- Connecting workers' rights to job training programs
- Workers' rights 101 preview:
 - Wage theft
 - Minimum wages differences
 - Misclassification
 - Workers' comp
 - Discrimination
- Documenting strategies
- Next steps:

As you are listening today, write down a...

1. **Quotation** (something I've said) that stands out
 2. **Question(s)** you have
 3. **Talking point** that you might want to bring up with a colleague later
-

RESOURCE FOLDER

You will be sent a link with to a Google Drive folder containing fact sheets and resource guides related to workers' rights and young workers



Why teach workers' rights?

- **Epidemic of wage theft**
\$7.3 million/week stolen from low-wage workers in Cook County (2009)
- **Lack of education**
Workers do not learn this information anywhere else - not in high school, not on the job - only when they have a problem
- **Confusing patchwork of laws**
Different minimum wages, paid sick leave and anti-discrimination laws based on where you work



Why connect with workforce development?

- **Job readiness**
Part of being “job ready” is knowing your rights as a worker
- **Financial literacy**
Protecting against wage theft and other workplace violations helps workers earn more \$ and better support their families
- **Perfect partnership**
Low-wage workers + mission-driven CBOs + career focused education

For a lot more information:

Illinois workers' rights
curriculum for FREE
download!

3rd edition available for download!!

<https://cjc.net/frontline-focus/tools-frontline-staff/>

Workers' Rights for Workforce Development

A Practical Guide for Instructors and Job Seekers
ILLINOIS EDITION

By Alison Dickson,
Suzanne Davenport
and Marsha Love



Curriculum Structure:

8 units with pick and choose modules:

1. Methods
2. Intro to workers' rights on the job
3. Wage & hours laws and protections
4. Getting hired, disciplined & getting fired
5. Leaves of absence
6. Discrimination on the job
7. Worker health & safety
8. Organizing workers

Connecting WR to existing job training programs...

Skills	Workers' Rights Curriculum
Interviewing	Recognizing illegal discrimination in hiring
Communication	Talking with a supervisor or coworker about a problem on the job
Reading	Understanding and comparing employee manuals and union contracts
Math	Reading paychecks, calculating OT and shift differentials and identifying illegal deductions
Writing	Journal is kept, recording who/what/where information about incidents/problems

Activity: Practicing math skills and reading a check stub.

What's wrong here?

EARNINGS STATEMENT-RETAIN FOR YOUR RECORDS						DEDUCTIONS		
DESCRIPTION	CURRENT HOURS	RATE	CURRENT EARNINGS	Y-T-D HOURS	Y-T-D EARNINGS	DESCRIPTION	CURR. AMT	Y-T-D AM
REGULAR	96.000	22.0000	2112.00	718.000	15796.00			
TOTAL GROSS			2112.00		15796.00			
NET PAY			1665.44		12653.56			
TAXES WITHHELD								
DESCRIPTION	CURR TXBL	CURR TAX	YTD TXBL	YTD TAX				
FEDERAL W/H TAX	2112.00	187.57	15796.00	1217.68				
MEDICARE W/H TA	2112.00	30.62	15796.00	229.05				
EE SOCIAL SECUR	2112.00	130.94	15796.00	979.35				
IL STATE TAX	2112.00	97.43	15796.00	716.36				

Workers' Rights 101

Let's explore strategies for protecting yourself on the job...

Assume the workers in every scenario work in Illinois, are at least 16 years old, and are non-union (at-will)

— Ryan, of Fast and Easy Painters, hires a few painters for a paint job in Bolingbrook. He says he will pay them \$15 an hour and that they must start work on Monday morning at 8:00 am.

On Tuesday, one of the painters, Piotr, slips and falls off of the scaffolding and breaks his ankle. Ryan claims Piotr is responsible for his medical bills because he hired him as an independent subcontractor.

What do you think?

NO

Issue areas

Independent contractors v.
employees

Misclassification

Workers' comp

Wage theft

Rights of undocumented workers

- Is Piotr an independent contractor or employee? How do you know? Why does this matter?
- What should workers' comp provide him?
- What if:
 - Ryan has disappeared and Piotr can't find him?
 - Piotr is undocumented?
 - Ryan hired Piotr from the Home Depot parking lot?
- How should Piotr be documenting his working conditions to protect himself?
- Who else can help Piotr?

Independent contractor v. employees

- An independent contractor is a worker who makes arrangement with a customer or client, brings her own equipment, sets her own work schedule, and carries her own insurance.
 - *For example: a plumber, a computer tech, an accountant, a nanny, a hair stylist, or house cleaner. These workers often work on their own as their own bosses.*
 - Piotr is an employee, not an independent contractor, and is entitled to Workers Compensation (Illinois Department of Labor).
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Misclassification

- An employer claims their worker is an independent contractor, when legally she should be an employee.
 - *Ex: A cleaning agency classifies its workers as independent contractors, even though the company sets the work schedules and provides the cleaning equipment.*
 - If the workers are called independent contractors, the company does not have to follow many important workers' rights laws.
 - They do not pay overtime or benefits such unemployment compensation and workers' compensation.
 - They also do not make deductions for taxes or Social Security.
 - **The worker loses money and the protections of labor laws.**
-

Workers' compensation

- An insurance system that all employers must carry to cover employees who are injured on the job.
 - Workers' compensation (or workers' comp) covers all work-related injuries, regardless of fault.
 - Piotr is an employee and is entitled to workers' comp. In Illinois, workers comp is a "no-fault" system and pays for 100% of medical bills (Illinois Workers' Compensation Commission).
-

Wage theft

- Wage theft, or non-payment of wages, is illegal.
 - If your employer refuses to pay you the wages you are owed, s/he is violating federal and state wage laws.
 - **You have the legal right to be paid for your work regardless of your documentation status.**
-

—
Jeremy waits tables at an Olive Italiano restaurant in Peoria. His shifts starts at 11:00 am, but his manager insists he arrive by 10:45 am so that his station is ready for the lunch service.

Is Olive Garden required to pay Jeremy for this extra 15 minutes?

YES

Issue areas

Wage theft (off-the-clock work)

Common forms of wage theft...

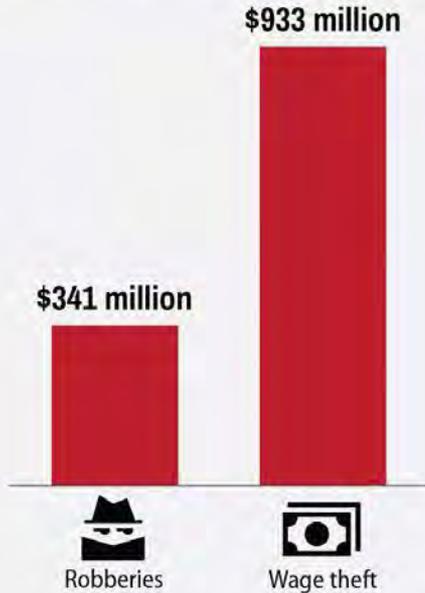
- Fail to pay overtime
 - Violate minimum wage laws
 - Misclassify employees
 - Take illegal deductions from paychecks
 - Require workers to work for no pay, or “off the clock”
 - Steal workers’ tips
 - Not pay workers for training
 - Not pay out or allow accrued vacation/sick time
 - Pay with checks that bounce
 - Suddenly close a business without paying a final check
-

At-risk for wage theft...

- Young workers
 - Immigrant workers, especially those who are undocumented
 - Returning citizens/ex-offenders
 - POC in general
 - Women; working mothers
 - Certain industries maintain a culture of wage theft (car washes, temp work, non-union construction, domestic work).
-

Wage theft is a much bigger problem than robbery

Value of wages earned but not received, compared with value of property stolen in robberies, 2012



Source: Analysis by Brady Meekel and Ross Eisenberg in *An Economic of Wage Theft in Working Workers' Property* (Mimeo) - October 9, 2014, using FBI crime data and data on wage-and-hour violation settlements (dollars recovered for workers) from federal and state departments of labor, attorneys general, and NLRB Economic Consulting.

ECONOMIC POLICY INSTITUTE

Jeremy's documenting strategies...

- Record of work hours (CALENDAR)
 - Check stubs (FOLDER)
 - Journal of tips received (JOURNAL)
 - Collecting coworkers contact info (JOURNAL/PHONE)
-

—
A global pandemic plus polar vortex mean that most of Olive Italiano's business has switched to take-out orders. Jeremy no longer has tables to wait and is helping package customer orders .

Before the pandemic, Jeremy was paid a tipped sub-minimum wage in addition to his tips. Can his employer continue doing this now?

Depends

Issue areas

Minimum wage differences

Wage theft

Minimum wages

- Minimum wage is the lowest amount per hour an employer can pay a worker. The federal minimum wage is \$7.25 and sets the floor for US workers.
 - Minimum wage levels vary by state, county, city, and even by occupation. Local and state governments have passed their own minimum wage laws.
 - There are also sub-minimum wages for workers under 18, tipped workers, and some workers with disabilities.
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2021 Minimum wages

CITY OF CHICAGO

\$14.00/hour (\$15 after 7/1/21)

\$21.00/overtime hours

\$8.40/tipped wage

\$10.00/YOUTH*

COOK COUNTY

\$13.00/hour**

\$19.50/overtime hours

\$6.60/tipped wage

ILLINOIS (outside Cook)

\$11.00/hour (after 1/1/21)

\$6.60/tipped wage

\$8.50/YOUTH

INDIANA

\$7.25/hour

\$2.13/tipped wage

WISCONSIN

\$7.25/hour

\$2.13/tipped wage

IOWA

\$7.25/hour

\$4.35/tipped wage

***Beginning, January 1, 2020, if a worker under 18 works more than 650 hours for the employer during any calendar year, they must be paid the regular (over 18 wage).**

***Many Cook County municipalities have opted-out of the minimum wage increase. They are still subject to the Illinois minimum wage increases.*

Jeremy's documenting strategies...

- Record of work hours
 - Check stubs
 - Journal of tips received
 - Collecting coworkers contact info
-

Brianna is 7-months pregnant and works as a cashier at Dollar Commander in Kankakee. Her OB/GYN says she cannot be on her feet for an 8-hour shift.

Can she be fired for not being able to stand and operate her cash register?

NO

Potential issue areas

Discrimination

Accommodations

- An accommodation is a change in a working situation to improve a worker's ability to do job.
 - *Examples: making aisles on work floor wide enough for a worker in a wheelchair, changing work schedule for a worker over 40 years old (age related), or enabling a pregnant worker to have more seated work time to avoid back stress.*
 - Under the Illinois Pregnancy Accommodation Law (Public Law 098-1050), employers must allow pregnant women who want to work during pregnancy reasonable job accommodations, such as to take more frequent bathroom breaks or to get help with heavy work or limit lifting.
-

Illegal discrimination

- Brianna must be accommodated and given a chair/have her register lowered. Alternatively, she could rotate her work with another position where she does not need to be on her feet for 8 hours (Equal Employment Opportunity Commission; Illinois Department of Human Rights).
 - <https://www.youtube.com/watch?v=zBljVXHl1aA>
-

Briana's documenting strategies...

- Record of work hours
 - Personnel file/past incidents
 - Journaling incidents with discriminatory behavior/comments (DATE, TIMES, EVENT with factual info, WITNESSES)
 - Collecting coworkers contact info to prove different treatment
-

Thank you!

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