

Client Information

Basic Employee Rights in Connecticut

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EQUAL OPPORTUNITY
EMPLOYER

A SELECTIVE OVERVIEW

The rights of employees are protected and defined by both federal and state laws. Connecticut has enacted a number of laws specifically designed to protect employees, and this pamphlet will briefly discuss these laws. This pamphlet is not intended to be an exclusive listing of all legal rights potentially available to an employee. For example, the pamphlet does not discuss the benefits available to employees under Connecticut's Workers' Compensation Act and Unemployment Compensation Act.

DISCHARGE AND DISCIPLINE

As a general rule, an employee who is hired for an indefinite period of time can be terminated at the will of the employer, with or without cause, unless he or she is covered by an employment contract or a collective bargaining agreement. Under this rule, an employee is likewise free to quit at any time for any reason. There are a number of limitations, however, on the right of an employer to discharge an employee.

In Connecticut, a number of laws exist which specifically prohibit an employer from discharging or otherwise disciplining employees who engage in certain conduct. Commonly known as "retaliation" statutes, these laws make it unlawful for Connecticut employers to discharge or discipline employees who engage in the following activities:

- reporting to a public agency violations or suspected violations by their employer of any state or federal laws or regulations (commonly known as "whistleblowing");
- exercising important fundamental rights guaranteed by the federal and state constitutions (freedom of religion, speech and press, assembly, etc.);
- exercising the right to form, join, or assist any labor organization for the purposes of collective bargaining;
- serving on jury duty;
- exercising their rights under Connecticut's Workers' Compensation Act or Unemployment Compensation Act;
- filing a complaint of discriminatory treatment with or participating in any proceeding before the Connecticut Commission on Human Rights and Opportunities (CCHRO);
- filing a complaint with the labor commissioner or otherwise exercising their rights under Connecticut's wage and hour laws;
- having wages garnished (up to a maximum of seven times) in accordance with a support order from the court;
- exercising their rights to information regarding toxic substances;
- filing an occupational safety and health complaint;
- refusing to take a polygraph test;
- exercising their rights pursuant to Connecticut's Family and Medical Leave Act;
- smoking; and

- alerting a fellow employee of a hazardous condition or refusing in good faith to be exposed to the condition.

Connecticut courts have recently recognized other restrictions regarding an employer's ability to terminate employees at any time and for any reason. They have adopted a so-called "public policy" exception to the employment "at-will" doctrine which prohibits employers from discharging an employee where the reason for the discharge violates an important "public policy." The discharge of an employee for the following activities has been held to be a violation of public policy: refusing to commit illegal or unethical acts, refusing to falsify records, disclosing price fixing activity, and disclosing activities harming the environment.

An employer may not be able to discharge an employee where a contract is implied from the existence of written documents, such as a personnel policy manual, or from oral statements made by the employer's representatives.

WAGE AND HOUR

In addition to federal wage and hour laws, Connecticut has statutes concerning the payment of wages and other fringe benefits to employees. Employees are entitled to time-and-one-half their usual hourly rate for hours worked in excess of forty hours in any given work week. There are certain categories of employees who do not qualify for time and a half pay, such as exempt employees. Most exempt employees can be categorized as either executive, administrative, professional personnel, or outside salespersons.

Employers are required to pay wages on a weekly basis and on a regularly scheduled pay day. Employers may, however, obtain a waiver from the labor commissioner to permit the payment of wages on a biweekly or monthly basis.

An employer may not make arbitrary deductions from an employee's paycheck unless the employer is required to do so by state or federal law; the employee has authorized a deduction in writing for medical, surgical, hospital care payments, or union dues; or the employer has received written authorization and approval for such deductions from the labor commissioner. In a dispute over the amount of wages owed to an employee, the employer must pay all wages conceded by the employer to be due. The employee may sue to recover the balance of the wages owed. An employee suing for wages, if successful, may recover twice the full amount of such wages, with costs and reasonable attorney fees allowed by the court.

Whenever an employee voluntarily terminates his or her employment, is laid off, or is suspended as a result of a labor dispute, the employer must pay earned wages in full no later than the next regular pay day. However, when an employer discharges an employee, the employer must pay the employee's wages in full no later than the next business day following the date of discharge. An employer is generally required to pay terminated employees accrued fringe benefits (i.e., vacation, sick pay, etc.) only if the employer's policy or a collective bargaining or individual employment agreement provides for such payment.

An employer is required to inform all employees, in writing, at the time of hire, of their wage rate, hours of employment, and wage payment schedules. Employers are

also required to notify all employees, either individually in writing or through a posted notice maintained in a place accessible to its employees, of any employment practices and policies or change therein with regard to wages, vacation pay, sick leave, health and welfare benefits, and comparable matters.

EMPLOYMENT DISCRIMINATION

In addition to the federal statutes prohibiting employment discrimination, Connecticut has enacted a broad statute which addresses discrimination in the workplace. The Connecticut Fair Employment Practices Act prohibits employers, employment agencies, and labor organizations from engaging in discriminatory employment practices. The act makes it unlawful to refuse to hire, employ, discharge, or discriminate against an employee in compensation or in conditions of employment because of the employee's "race, color, religious creed, age, sex, sexual orientation, marital status, national origin, ancestry, genetic information, present or past history of mental disorder, mental retardation, learning disability or physical disability, including, but not limited to blindness." The act also prohibits sexual harassment and the discriminatory advertising of employment opportunities.

In addition, the act has several specific provisions concerning pregnancy, making it unlawful for an employer to: (1) terminate a woman's employment because of her pregnancy; (2) refuse to grant a reasonable leave of absence for pregnancy; (3) deny compensation in the form of accrued disability or leave benefits; (4) refuse to reinstate the employee to her original job or to an equivalent position with equivalent pay and accumulated benefits, unless in the case of a private employer, in which the employer's circumstances have so changed as to make it impossible or unreasonable to do so; and (5) refuse to make a reasonable effort to transfer a pregnant employee to a suitable, available, temporary position where the employer or employee reasonably believes that continued employment in the position held by the pregnant employee may cause injury to the employee or her fetus. Further, the act prohibits an employer from requesting information from any applicant which relates to the individual's child-bearing age or plans, pregnancy, the function of his or her reproductive system, use of birth control methods, or the individual's familial responsibilities unless the information is directly related to a job function.

DRUG TESTING

A Connecticut statute regulates urinalysis drug testing of employees in the private sector. The statute prohibits an employer from taking adverse personnel actions against an employee solely on the basis of a positive urinalysis drug test unless such positive drug test was confirmed by a second urinalysis test.

Job applicants must be given written notice of the intent to give a urinalysis drug test and a copy of any positive test result. A positive test result must also be confirmed by a separate and independent test.

Generally, urinalysis drug tests must be conducted in private without observers, and the results must be kept confidential. The law prohibits an employer from requiring an employee to submit to a urinalysis drug test unless the employer has a "reasonable suspicion" that the employee is under the influence of alcohol or drugs and that this affects or could adversely affect the employee's job performance.

The statute also permits random urinalysis drug testing for certain private employees who: a) are in high-risk or safety-sensitive positions designated by the labor commissioner, b) are covered by federal regulations, or c) are voluntarily participating in an employer-sponsored employee assistance program (EAP). Notice of the request for such designation and of the designation must be posted at the affected worksite. Public sector employees, while not covered by this statute, are protected from drug testing in certain circumstances as a result of the constitutional protection against unreasonable searches and seizures.

SAFETY AND HEALTH

Safety and health issues are primarily regulated by the federal government under the Occupational Safety and Health Act. There are also significant state laws regulating safety and health issues in Connecticut.

Employees have the right to information concerning carcinogenic substances in the workplace. Employers must post a list of all carcinogenic substances which it uses or

produces in the manufacture of any item, product, or material or which it uses or produces for purposes of research, experimentation, or treatment. This list must be readily available for viewing by current and prospective employees and must be updated within ninety days of the effective date of any changes.

Employees also have the right to information concerning hazardous and toxic substances in the workplace. An employer must inform a job applicant or prospective employee of any chemicals, toxic substances, radioactive materials, or other substances which it uses or produces which the employer should have reasonable cause to believe will cause birth defects or constitute a hazard to an employee's reproductive system or to a fetus when an employee is exposed to any such substance in the course of his or her job assignment. The employer must post a sign, at a visible location, which informs employees that they have the right to information from the employer regarding the toxic substances which the employer uses or produces. Each employer shall, at its own expense, when required by the labor commissioner, provide lung function tests to each employee who, in the course of employment, comes into contact with chemicals, materials, gases, or other substances which have been identified as toxic and hazardous under federal Occupational Safety and Health Standards.

Nonsmoking employees have the right to work in smoke-free areas. Upon request, an employer must establish one or more work areas sufficient to accommodate nonsmokers. Employers are permitted to designate an entire business facility as a nonsmoking area.

Employees cannot be required to work seven and one-half or more consecutive hours without either an unpaid meal break of thirty minutes between the first two and last two hours of the shift or a paid break of thirty minutes during the entire period.

PRIVACY RIGHTS

A number of Connecticut statutes protect the privacy rights of employees. For example, several laws prohibit the disclosure of personnel and medical files without the employee's prior written consent. An employer's disclosure of information in its possession regarding an employee's arrest record is especially restricted.

Several Connecticut statutes ensure that employees receive reasonable access to their own personnel files and medical records. Upon receipt of a written request from the employee, the employer must provide the employee with a copy of his or her personnel file. Connecticut also has enacted a statute which prohibits employers from requiring employees to submit to a polygraph test as a condition of obtaining or continuing employment. Employees cannot be disciplined for refusing to take the test.

Connecticut employers are prohibited from using electronic surveillance to record or monitor the activities of employees in areas designated for health, or personal comfort or for safeguarding their possessions. In addition, employers who engage in electronic monitoring of employees must give prior written notice to all employees who may be affected, informing them of the types of monitoring which may incur unless the employer has reasonable grounds to believe that employees are engaged in conduct which is violative of law, violates the labor rights of the employer or the employer's employees, or creates a hostile workplace environment and where the electronic monitoring may produce evidence of this misconduct. It is also unlawful for employers or unions to intentionally overhear or record employee discussions pertaining to employment contract negotiations between the parties.

Connecticut courts have also permitted lawsuits for defamation, invasion of privacy, intentional infliction of emotional distress, and other causes of action in order to help preserve and protect the privacy rights of individuals.

FAMILY AND MEDICAL LEAVE

Under the U.S. and Connecticut Family and Medical Leave Acts, certain employers are required to provide unpaid leave to employees under certain circumstances. To be eligible for leave under the Federal Act, the employee must have worked for the employer at least twelve months and have worked at least 1,250 hours during the twelve-month period preceding the first day of leave. In order to be eligible for leave under the Connecticut Act, the employee must have worked for the employer at least twelve months and have worked at least 1,000 hours during the twelve-month period preceding the first day of leave. Under the Federal Act, employers with fifty or more employees have to provide up to twelve work weeks of leave over a twelve-month period. Under the Connecticut Act, certain employers with seventy-five or more

employees must provide sixteen work weeks of leave over a two-year period.

This leave can be taken for the following circumstances: the birth, adoption, or foster care placement of a child; (2) a serious health condition of a child, spouse, or parent of the employee; or (3) the serious health condition of an employee. A serious health condition is any illness, injury, impairment, or physical or mental condition which involves inpatient care in a hospital, hospice, nursing home, or residential medical care facility or continuing or outpatient treatment by a health care provider. If foreseeable, the employee must provide at least thirty days notice before taking the leave. Employees may also be required to provide certain information, including medical certification, during the leave and notice of their intent to return to work.

The leave period may be reduced by the amount of other leave, including paid vacation and personal or family leave, and in certain circumstances, sick leave or other benefits that the employer otherwise provides.

After the leave, the employee is entitled to return to his or her original position if it is available or, if not, to an equivalent one. If an employee returning from a medical leave is no longer able to perform his or her original job, the employer must provide a suitable job, if one is available. Returning employees are entitled to fringe benefits which had accumulated at the beginning of the leave.

CONTINUATION OF INSURANCE BENEFITS

An employee who becomes ineligible to participate in an employer's group health insurance plan may continue coverage, at his or her own expense, for eighteen months or until able to obtain alternative group insurance coverage. The surviving or former spouse of an employee and the dependents covered by the group plan may also continue coverage, at their own expense, for up to thirty-six months.

When a plant closes or relocates, an employer with more than 100 employees must continue health insurance coverage for those employees who remain unemployed up to a maximum of 120 days after the plant relocation or closing date. Employees may be able to extend this period by another eighteen months at their own expense.

CONNECTICUT STATE AGENCIES

Department of Labor - www.ctdol.state.ct.us

Wage & Workplace Standards Division	(860)263-6790
Occupational Health & Safety (OSHA)	(860)566-4550
State Board of Labor Relations	(860)566-4398
State Board of Mediation & Arbitration	(860)566-4394

Connecticut Commission on Human Rights & Opportunities (CCHRO) - www.state.ct.us/chro

toll free (800)477-5737

FEDERAL AGENCIES

U.S. Department of Labor - www.dol.gov/dol

Occupational Health & Safety (OSHA)	(860)566-4550
Wage and Hour	(860)263-6790
National Labor Relations Board	(860)240-3522

Equal Employment Opportunities Commission (EEOC) - www.eeoc.gov

(617)565-3200 or toll free (800)669-4000

