

June 7, 2011

**Young Workers, Know Your Rights!**  
**California Laws Protect Your Rights to be Paid the Minimum Wage and Overtime**



With so many people unemployed today, it's getting much harder for anyone to find work. For younger workers – especially those who have to help pay the bills or support themselves - it's even more difficult to find a good-paying job. Worse yet, many employers often take advantage of young workers by failing to pay them their hard-earned wages.

This fact sheet answers the common questions that come up for young workers to help them stand up for their rights under California law to be paid the minimum wage and overtime pay. We hope the fact sheet is shared with friends, co-workers, parents and teachers to help educate young workers about their hard-fought workplace rights and to build a stronger young workers' rights movement.

**1. What is the minimum wage in California and how is it calculated?** The minimum wage in California is \$8.00 an hour. Every hour you work more than 8 hours a day or beyond 40 hours a week must be paid at one and a half times your pay. These extra hours are called "overtime." For example, if you are paid the minimum wage, overtime pay would be \$12.00 an hour. If you work more than 12 hours in a day, you must be paid double the employer's hourly wage (or \$16 an hour at the minimum wage). Some cities and counties in California have a higher "living wage" that applies to many employers. For example, in San Francisco, all workers are entitled to be paid at least \$9.92 an hour under the city's living wage law.

**2. Are minors required to be paid the minimum wage in California?** No, not in all situations. There are no exceptions for high school graduates or anyone over 18 – these young workers must be paid the minimum wage, the same as any other worker. However, any minor who is 14 to 17 years old must be paid at least 85% of the minimum wage (or \$6.80 an hour). Plus, for an employer to pay a minor less than the minimum wage, minors cannot make up more than 25% of the company's total workforce (the 25% limit doesn't apply during school vacations, including the summer breaks). A company that employs anyone under the age of 18 must receive a permit to do so and written authorization from the minor's parents or guardian.

**3. Can an employer ask me to work for less than the wage required by California law?** No, the employer cannot ask you to “waive” your rights to the minimum wage. The law is the law, and it cannot be changed by an agreement made between the employer and the worker, even if it’s a voluntary agreement.

**4. Am I allowed to take time off during work for a meal?** Yes, after working 5 hours, California employers are required to give you at least a 30-minute meal break. The only time an employer can avoid providing a meal break is if you worked less than 6 hours in the day and you voluntarily agree to “waive” the meal time break. But the agreement has to be truly voluntary, not forced on the worker by the employer.

**5. Can a camp pay me less than the California minimum wage?** Yes, under California law, an “organized camp” (that is, a camp that meets the strict standards of the American Camping Association) is allowed to pay a worker less than the minimum wage, but only under special rules. Most important, the employer has to pay the camp employee at least 85% of the minimum wage (or \$6.80 per hour). The employer can also deduct the value of lodging and meals provided by the camp.

**6. If I work in a restaurant or other business for tips, am I entitled to be paid the minimum wage?** Yes, in California, even if you get tips you must be paid the minimum wage, just like any other worker. In addition, the employer is not allowed to count any tips you earned toward the calculation of the minimum wage requirement. If the tip was charged by the customer on a credit card, the employer must pay you the value of the tips by the next pay period. If you are a waiter or waitress, the employer can require you to share your tips with the restaurant’s busboys.

**7. Can I be paid less than the minimum wage for babysitting?** Yes, if you babysit in a customer’s home, you are not required to be paid the California minimum wage.

**8. If I work as an intern, can the company pay me less than the minimum wage?** Yes, if you are working as an intern and getting serious training in new skills -- especially if it’s an internship connected to an academic program -- then the employer does not have to pay you the minimum wage. But be sure the employer doesn’t abuse this situation.

Under the law, it’s not enough for the employer to just label your position as an “internship” or have you sign an agreement saying so. What’s important is that the job actually provides real skills training, and that you are the one who is receiving the primary benefit of the experience, not the employer. A private for-profit business can hardly ever get around paying the minimum wage because of these rules. It’s also critical that you are not performing the work of another paid employee or replacing someone who worked with the employer before you. If all these conditions are not met, you may well be an “employee” of the company – not an “intern” - which means you should be paid the minimum wage and overtime.

**9. My employer says I can be paid less than the minimum wage because I am a “trainee”?**

**Is that legal in California?** In California, if you start working and you have no previous or related experience in that particular job (whether you are a minor or not), you can be paid less than the minimum wage under a special exception that applies just to “learners.” However, you cannot be paid less than 85% of the minimum wage (or \$6.80 an hour). In addition, no one can be paid the 85% “learner” wage once he or she has worked more than 160 hours. After working 160 hours, the worker must be paid the full minimum wage, just like any other worker.

**10. If I have a problem with my employer not paying me the wage required by the law, what should I do? What if the employer fires me for complaining about my rights?** It’s called “wage theft” if you were not paid the wages you were owed under the law. You have the right to file a complaint with the California Division of Labor Standards Enforcement to get the wages you are owed (and possibly additional amounts in penalties) or file a lawsuit in court. It is an easy process to file a complaint with the state, but it is very important to keep track of your hours to have a record of what you are owed.

If an employer “retaliates” against you for complaining about not being paid what’s required by the law – even if it turns out you were not entitled to the minimum wage or overtime pay– the company will face serious penalties. For more information about your rights to paid the minimum wage and overtime in California, see the state’s website (<http://www.dir.ca.gov/dlse/dlse.html>) or the website of The Legal Aid Society, Employment Law Center (<http://www.las-elc.org/factsheets/minimum-wage.html>).

**Get Involved!  
Organize & Educate**

Young workers are getting active around the country to learn about their workplace rights and to organize together to fight for stronger protections on the job and better enforcement of the current laws. One of the most exciting organizations in the U.S. – Young Workers United – is located in the San Francisco Bay Area (<http://www.youngworkersunited.org/>). Another helpful on-line worker rights resource for young people, parents and teachers in California is the website [www.youngworkers.org](http://www.youngworkers.org).