



HOT TOPICS

**NORTH DAKOTA DEPARTMENT OF LABOR
AND HUMAN RIGHTS**

SESSION OVERVIEW

- Department Scope Overview
- Facts, Stats, & Hot Issues (and how to prevent them)
- Statutory and Process Enhancements
- Q&A

DEPARTMENT SCOPE



Wage & Hour Division

- Minimum Wage & Overtime, Equal Pay, Child Labor, Labor Unions, Employment Agencies, Wage Collection, Independent Contractor Verification



Human Rights Division

- Discrimination in employment, housing, public services, public accommodations, and credit transactions.



Education & Awareness

- Broaden awareness of wage and hour issues and human rights protections through public education and outreach.

WAGE & HOUR DIVISION



Minimum Wage & Overtime, *N.D.C.C. ch. 34-06*



Equal Pay, *N.D.C.C. ch. 34-06.1*



Child Labor, *N.D.C.C. ch. 34-07*



Labor Union, *N.D.C.C. ch. 34-12*



Employment Agency, *N.D.C.C. ch. 34-13*



Wage Collection, *N.D.C.C. ch. 34-14*

HUMAN RIGHTS DIVISION

Discrimination Claims

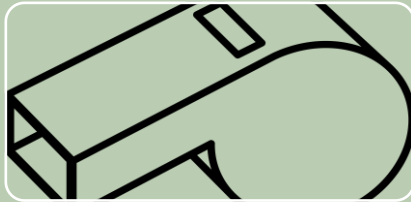


Human Rights Act, *N.D.C.C. ch. 14-02.4*



ND Housing Discrimination Act, *N.D.C.C. ch. 14-02.5*

Retaliation Claims



ND “Whistleblower” law, *N.D.C.C. ch. 34-01-20*



ND Public Employee Relations Act, *N.D.C.C. ch. 34-11.1-04.1*



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STATS, FACTS AND HOT ISSUES

WAGE AND HOUR – STATS AND FACTS

2019-2021 BIENNIUM

- Public contacts: 5,833
- Claims filed: 639
- Claims closed: 689
- Pending: 58

WAGE AND HOUR – HOT ISSUES

- Wages not paid
- Overtime not paid
- Vacation not paid
- Unauthorized deduction

WHAT YOU CAN DO

- Wages not paid
 - ND requires payday at least once per 30 days
 - Changes in rate of pay
- Overtime
 - Required for hours over 40 in a workweek for non-exempt employees
 - Not always “time and a half”
- Vacation
 - Have a CLEAR policy
 - Know the significance of “earned and available for use”
- Unauthorized deduction
 - Must be authorized in writing by employee



**THE AWARD FOR
MOST
PREVENTABLE
GOES TO...**

FINAL PAYCHECK

HUMAN RIGHTS– FACTS

2019-2021 BIENNIUM

- Public contacts: 1,772
- Claims filed: 459
- Claims closed: 474
- Pending: 82

DISCRIMINATION—HOT TOPICS

NORTH DAKOTA

1. Retaliation
2. Disability (formerly tied for #1)
3. Sex
4. Race
5. Age

EEOC 2020

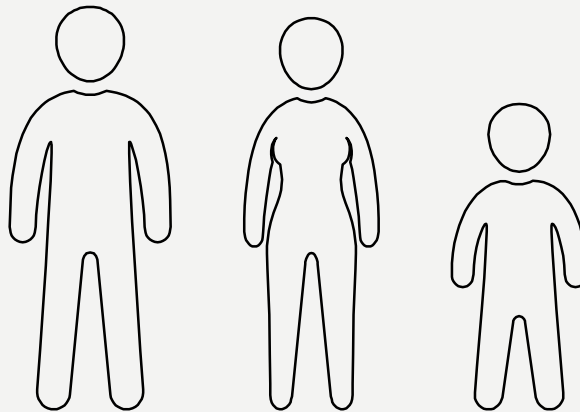
1. Retaliation
2. Disability
3. Race
4. Sex
5. Age

WHAT YOU CAN DO

- Disability
 - Reasonable Accommodation: HR and managers must be well-versed in their ability to identify their responsibility in engaging in the “interactive process” to assist a person with a disability.
 - Service/Companion Animal: Rapidly growing claim, yet widely misunderstood.
- Volunteers
 - May not be employees but may have protections against discrimination
- Retaliation
 - Both the most common claim at state and federal level, and most commonly successful BECAUSE the underlying claim needn’t have merit in order for a claim of retaliation to succeed.
 - Your handbook should include an anti-retaliation policy; your employees should be trained.

WHAT YOU CAN DO...CONTINUED

- Other (Race, Sex, Age, etc.)
 - Policy: It is crucial to include an anti-discrimination policy in your handbook, it should be acknowledged in writing, routinely updated, and consistently enforced.
 - Formally document performance issues and employment decisions. Apply policies and practices consistently for all employees.
 - Training: Managers and staff should be trained at least annually on the company's anti-harassment policy.





**THE AWARD FOR
MOST
PREVENTABLE
GOES TO...**

UNDERSTANDING “HARASSMENT”

INVESTIGATOR'S ADVICE...

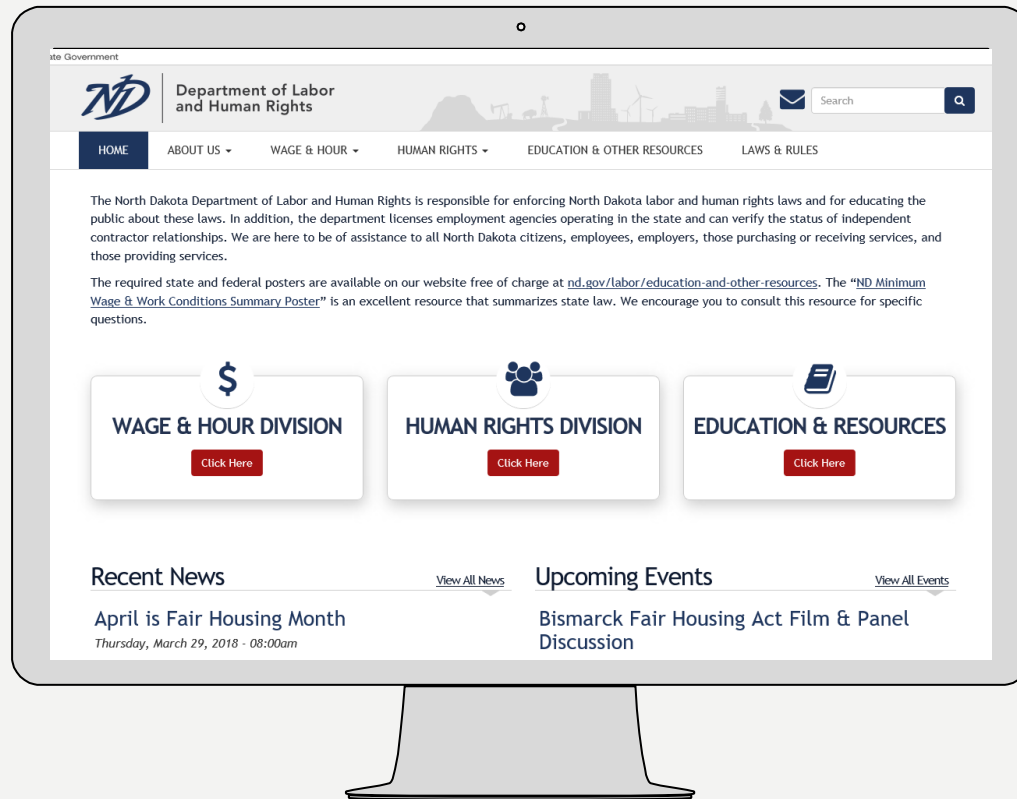
- KEEP great payroll records (accurate time cards, pay stubs showing detailed deductions)
- Know the difference between exempt/non-exempt and hourly/salary (not the same)
- Do not make final paycheck deductions without written authorization; do not withhold final paychecks for any reason
- Review your vacation/PTO policy against statute – is it legal?
- Understand your obligation under the ADA (reasonable accommodations)

THE COMMISSIONER'S ADVICE...

- Know the law
- Have a great employee handbook
- Be consistent
- Train your managers and employees
- Document, document, document!
- Be nice

RECENTLY ADDED...

- Statutory floor / ceiling for wage claim = \$125 / \$15,000
- Improved online forms
- Sexual Orientation Protections
- COVID issues



Questions?

www.nd.gov/labor

labor@nd.gov

701-328-2660

1-800-582-8032 (Toll-Free)



THANK YOU

FROM THE NORTH DAKOTA
DEPARTMENT OF LABOR AND HUMAN
RIGHTS