



5 Workplace Laws Your Employer Might Be Violating

1. Telling employees that they can't discuss their salary with co-workers. The National Labor Relations Act says that employers can't prevent most employees from discussing wages among themselves. The reason for that is that employees can't effectively organize or unionize if they're not permitted to discuss wages or uncover potential inequities. **Despite the law, an astonishing number of employers have policies against this anyway – so many that most people think these policies normal and have no idea that they violate the law.

2. Treating employees as exempt from overtime pay. Whether or not an employee is eligible for overtime pay isn't up to the employer. It's supposed to be governed by the type of work the employee does. The federal government divides all types of jobs into one of two categories: exempt and non-exempt. If an employee's job is categorized as non-exempt, the employer must pay the employee overtime (time and a half) for all hours he or she works beyond 40 in any given week.

The exempt category is reserved for employees who perform relatively high-level executive or professional work, outside sales employees and a few other narrowly defined categories. But many employers incorrectly categorize employees as exempt when they don't actually meet the government's qualifications for the category, and thus avoid paying overtime to people who the law says should be earning it.

3. Asking or allowing employees to work off the clock. A non-exempt employee must be paid for all the time he or she works, including things outside of normal work hours, such as answering emails or taking calls from home at night or on the weekend. An employee can't waive this right even if he or she wants to. *The employer is required to pay the employee for that time.*

4. Hiring independent contractors but treating them like employees. If an employer controls when, where and how someone works, the government says that he or she is an employee and the company needs to pay his or her payroll taxes and offer the same benefits it offers to regular employees. Yet despite recent crackdowns on this by the government, many employers continue to hire independent contractors and treat them like employees – in every way but pay.

5. Disciplining employees for complaining about work on social media. The National Labor Relations Act protects employees' ability to discuss wages and working conditions with each other. The National Labor Relations Board has ruled repeatedly that employers' attempts to control or limit what employees post on social media often violate the employees' rights to engage in "protected concerted activity," and that employees must be permitted to band together to try to make changes to their employment conditions, even if all they wish to do is to complain as a group. In many cases, the NLRB has warned employers that workers have the right to say negative things about their jobs in public forums without risk. That said, the NLRB does generally permit employers to prohibit *maliciously false statements about the company, harassment, bullying, discrimination or retaliation.*

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