

## **Employment**

### TRUTHFULNESS IN HELP WANTED ADS

#### ***How Do I Know If A Job Is Legitimate?***

A legitimate-looking job might be a cover for a fraudulent scam to access your personal information or con you out of your money. Act cautiously to avoid being a fraud victim during your next job search.

#### **General Advice To Avoid A Job Scam:**

- Never post a resume on the Internet with your home address, date of birth, or social security number.
- When you post your resume online read the site's privacy policy to make sure you can easily delete your resume from the site when you want.
- Do not blindly trust a job offer requiring you to transfer money in order to secure an employment position.
- If someone offers you a job after seeing your resume online, but persistently seeks more of your personal information you would be wise to call the company to verify that the person is legitimate. Look up the company's phone number online or in the telephone book rather than calling a number given to you by the person offering the job.
- An advertisement in a newspaper or magazine may attempt to copy the image of a well-known company or government agency in order to look legitimate. You should contact the actual company or government agency to make sure the ad is really sponsored by the respective entity before calling the number given in the ad.

#### ***What Are Some Resources For Finding A Legitimate Job?***

Check out the UNL Career Services Office for your job search at <http://www.unl.edu/careers/>. You can also try Nebraska Workforce Development at <http://nejoblink.dol.state.ne.us/>. For general advice in planning your career see the Youth at Work website at <http://youth.eeoc.gov/resource.html>.

### YOUR RESPONSIBILITIES AS AN EMPLOYEE

#### ***Can My Employer Fire Me For No Reason?***

Although it may seem strange it is true. Your employer can fire you for no apparent reason because Nebraska is an "at-will" employment state. "At-will" means an employer can terminate an employee without providing any reason. However, there are exceptions. The main exception is that you cannot be fired for discriminatory purposes. Both state and federal laws prohibit workplace discrimination.

The Nebraska Fair Employment Practice Act (FEPA) <http://www.neoc.ne.gov> provides legal protection for employees who are members of a protected class and victims of discriminatory employment practices. You may have heard of Title VII of the Civil Rights Act of 1964 <http://www.eeoc.gov/policy/vii.html>, the federal government's version of anti-discrimination legislation. Both acts include many of the same provisions.

#### ***What Types of Discrimination Are Illegal Under Nebraska Fair Employment Practice Act FEPA?***

It is illegal for an employer to discriminate against an individual because of her race, color, birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group.

Employers must reasonably accommodate an employee or prospective employee's religious belief unless this causes the employer undue hardship.

Discriminating by directly requesting sexual favors or by creating a hostile environment for persons of either gender in the workplace, or failing to treat pregnancy the same as any other temporary illness or condition is illegal.

It is discriminatory for an employer to not provide reasonable accommodations for individuals with disabilities. A disability is a physical or mental impairment that substantially limits one or more major life activities. To show a disability there must be a record of the impairment or the person must be regarded as having the impairment. The federal government enacted The Americans with Disabilities Act (ADA) <http://www.eeoc.gov/policy/ada.html> to specifically address issues facing disabled individuals.

It is illegal for an employer to discriminate against an individual because he is age 40 or older.

Discriminating against an individual based on his/her marital status is illegal. Marital status is a protected class in Nebraska, but is not protected in all states.

***Is Homosexuality Protected by Federal or State Legislation?***

No, neither the United States' government nor the state of Nebraska has enacted anti-discrimination legislation for homosexuals in the workplace.

***When Does Workplace Discrimination Occur?***

Workplace discrimination may occur at anytime when you are seeking a job or after you have been hired. It could happen during a promotion or with a compensation policy or when you are fired. It can also occur when a workplace fails to accommodate a disabled worker or an employee's religious practice or when an employer fails to prevent harassment on the job.

***Does The Nebraska Discrimination Law Apply To All Employers?***

Not necessarily. A place of employment must be a "covered entity" for the Nebraska Fair Employment Practice Act (FEPA) to apply. Private and non-profit employers generally need to employ 15 or more persons to be "covered." State and local government subdivisions, employment agencies and labor organizations are "covered" no matter how many persons are employed.

***How Do I Make a Discrimination Complaint?***

You must first file your complaint with the Nebraska Equal Employment Opportunity Commission (NEOC), an administrative branch of the state government. The NEOC is required to make a preliminary investigation into your allegations to determine if there is reasonable cause to believe discrimination may have occurred. An investigation by the NEOC must be complete before further legal action can be taken (such as a lawsuit). More information about this process is available at the NEOC's website at <http://www.neoc.ne.gov/>.

The NEOC office can be reached by phone at (402) 471-2024 or toll-free at 1-800-642-6112. The office is located in Lincoln at the State Office Building, 301 Centennial Mall, on the fifth floor. It is recommended to make an appointment instead of just dropping by, to ensure an NEOC representative is available to meet with you. Offices are also located in Omaha and Scottsbluff.

If you have a claim you need to file it within 300 days of when you experienced the alleged harm. Federal law gives you 180 days.

***Is Filing With The NEOC My Only Option?***

Where federal law applies, you can also file with the United States Equal Employment Opportunity Commission (EEOC). The EEOC enforces Title VII of the Civil Rights Act, which includes discrimination based on race, color, religion, sex, national origin, age, or disability. To file with the EEOC: You must contact the nearest office by mail or in person. The nearest office from Lincoln is in Kansas City. The address is Gateway Tower II, 4<sup>th</sup> & State Ave., 9<sup>th</sup> Floor, Kansas City, KS, 66101. The phone number is (913) 551-5655. See <http://www.eeoc.gov/facts/howtofil.html> for more information. You must file within

180 days from when the alleged discrimination occurred. The deadline may be extended to 300 days if the incident is also a violation of state or local law.

***I Think I May Have A Discrimination Claim, But I Am Worried That I Will Be Fired For Bringing It—What Can I Do?***

It is illegal for an employer to fire someone for bringing a claim or speaking out about discrimination. This action is called retaliation and it is illegal. Nebraska law protects anyone who attempts to enforce anti-discrimination laws. An employer is breaking the law if you are fired, harassed, or treated differently for bringing an action. Retaliation is illegal even if a claim turns out to lack reasonable cause.

**GETTING PAID**

***What Is the Minimum Amount I Can Legally Be Paid?***

The current minimum wage in Nebraska is \$5.15, which is the same amount set by the federal government under the Fair Labor Standard Act (FLSA). States are entitled to set a higher minimum wage, but are prohibited from setting a lower minimum wage than the federal standard. The FLSA can be accessed at the Department of Labor's website, which is <http://www.dol.gov/esa/whd/flsa>.

If you are under the age of 20 your employer can pay you \$4.25 for the first 90 consecutive days of your employment. If you reach the age of 20 before 90 days has occurred then your wage must be raised to \$5.15. An exception to this exception is if in hiring you the employer displaces other workers, then you must get \$5.15.

For more information on the minimum wage, check out the Wage and Hour Division of the Department of Labor's website at <http://www.wagehour.dol.gov> or call the toll-free number at 1-866-4USWAGE.

***Does The Minimum Wage Apply To Waiters And Waitresses?***

If you receive tips as a regular part of your job then your employer is only required to pay you \$2.13 an hour (plus whatever tips you earn). However, your minimum wage must equal \$5.15 per hour with your tips included, or your employer is required to make up the difference.

***What About Overtime Payments?***

You must work over 40 hours a week in order to be eligible for overtime pay. The Fair Labor Standard Act sets the overtime rate of payment to be at minimum one and one-half times your regular rate of pay.

**NOT GETTING PAID**

***What Can I Do If I Do Not Get Paid?***

You are entitled to be adequately compensated for any work you agree to do with the consent of your employer. If you do not receive your paycheck first contact your employer because it may have been a mistake. If you still are not getting paid then you are entitled to back-pay. Contact the Nebraska Workforce Development by going to the following website with email addresses <http://www.dol.state.ne.us/nwd/center.cfm?PRICAT=5&SUBCAT=5A&ACTION=safety> for more information about back-pay. You may need legal assistance if your employer refuses to comply with wage requirements.

***I'm Not Getting Paid Equally As The Male Employees Where I Work—What Can I Do?***

It is illegal for an employer to pay either sex more than the other for the same amount and type of work. Nebraska implemented the Equal Pay Act (EPA) in order to prevent pay discrimination on the basis of sex and the EPA mirrors the federal law. The type of work done by men and women does not have to be identical, but it must be comparable for the law to apply. All employers who are covered by the Fair Labor Standards Act are subject to the EPA, which includes basically all employers. Inform your employer about the violation. If no changes are made then you should contact the NEOC. The filing deadline for these

claims in Nebraska is 4 years. However, if you want to also file a sex discrimination claim at the same time then this complaint must be filed within 300 days.

## JOB APPLICATIONS

### ***What Do I Have To Report When A Job Application Asks About My Criminal Record?***

Being truthful on a job application is always the best option. Read the instructions and the question very carefully and be honest. If the question asks if you have ever been arrested, remember that a ticket for a Minor In Possession of Alcohol or Driving Under the Influence of Alcohol or Maintaining a Disorderly House, or any other misdemeanor, even though you were never physically taken to jail, the ticket is considered an arrest. And remember that even if you did pretrial diversion for a ticket/arrest, the police department that issued the ticket will always keep a record of the ticket/arrest. If you do pretrial diversion the charge will show up on police records as dismissed, meaning you have no conviction.

### ***Do I Have To Include That I Was Fired From My Last Job On My Application?***

If the application asks for this information it is always better to be truthful and explain the circumstances of why you were fired. Try not to fudge the truth of what happened because if the truth later comes out after you are hired, then you may end up getting fired for lying on your application. You could also list a supervisor at your former place of employment that you had a good relationship with for a more positive explanation of your employment record.