

Fair pay



Safe workplaces

New protections



# ART IS LABOR



Learn more [Chicago.gov/CreativeWork](https://Chicago.gov/CreativeWork)

# For Employers of Creative Workers: Know the Labor Laws

Tuesday, July 9, 2024  
10 a.m. – 11 a.m.  
Zoom

# Presenters



# Agenda

## **Chapter 1:** Introductions

- About the Campaign
- Definitions

## **Chapter 2:** Chicago's Labor Laws

## **Chapter 3:** Misclassification

## **Chapter 4:** Illinois Freelance Worker Protection Act

## **Chapter 5:** Resources

## **Chapter 6:** Q&A

# Chapter 1: Introduction



# About the Campaign



**an education and awareness  
campaign for creative workers  
and creative sector employers**

## Purpose

- Respond to citywide priorities, planning efforts, and departmental recommendations
- Address the real-time conditions of Chicago's creative workforce, and support sector-wide conversations around improved labor practices

## Partners & Process

- DCASE, BACP, and BACP's Office of Labor Standards
- Advisory Committee made up of 11 members (many from orgs and entities that have connections to independent workers)
- Public Communications Inc., providing design support and development of visual assets

# Definitions

## What is Creative Work?

Creative Work is not simply, nor quickly, defined, it's an overarching term to capture the breadth of activity within the creative sector (artistic and cultural industries, including nonprofit organizations, creative businesses, museums and art galleries, music, film and television, digital media, theater, dance, craft, fashion, publishing, architecture and design; also activities involving the development, production, dissemination and preservation of creative goods and services, as well as related endeavors such as education and management), and also the breadth of activity of creative practitioners working in other fields.

## Who are we talking about when we talk about Creative Workers?

A creative worker is anyone who earns income from creative, cultural or arts-based pursuits, or works within the creative sector as an employee (full-time or part-time), independent contractor, entrepreneur or gig worker.

A non-exhaustive list of titles includes...



## Creative Workers...a non-exhaustive list...

- Graphic Designer
- Art Director
- Animator
- Fashion Designer
- Choreographer
- Glass Artist
- UX Designer
- Copywriting
- Photographer
- PR Rep.
- Web Developer
- Architect
- Marketing Manager
- Filmmaker
- Ceramicist
- Technical Writer
- Dancer
- Editor
- Actor
- Muralist
- Attorney
- Set Designer
- Lighting Designer
- Multimedia Artist
- Engineer
- Artist Manager
- Business Manager
- DJ
- Singer
- Merchandise
- Intern
- Arts Blogger
- Producer
- Stagehand
- Auxiliary Medical Services
- Publicist
- Event Space Manager
- Cultural Producer
- Camera Operator
- Curator
- Wardrobe Attendant
- Poet
- Grant writer
- Usher
- Director of Photography
- Teaching Artist
- Sculptor
- Ticket Services Representative
- Concession worker
- Percussionist
- Security
- Building Services
- Video Game Designer
- Makeup Artist
- Illustrator
- and so many more...

# Definitions

## What are common definitions for labor protections?

- **Employer** means a person who gainfully employs at least one Employee (in the capacity of employee and not an independent contractor)
- **Employee** means an individual that performs work for an employer in the capacity of an employee, as distinguished from a contractor, determined pursuant to Internal Revenue Service guidelines.
- W-2 v. 1099 Independent Contractor





# What laws apply?

## Independent Workers & Contractors

- Illinois Freelance Worker Protection Act (FWPA)

## Both Groups

- IL & Federal Classification / Misclassification
- Chicago Wage Theft
- Chicago Anti-Retaliation
- Chicago Discrimination and Harassment Ordinances

## Employees

- Chicago Minimum Wage
- Chicago Paid Leave and Paid Sick and Leave Ordinance
- Chicago Fair Workweek

**Chapter 2:**  
**Chicago**  
**Labor Laws**



# Chicago Labor Laws Overview

## Chicago Office of Labor Standards

**MISSION** – The Office of Labor Standards (OLS) is dedicated to promoting and enforcing Chicago’s labor laws.

## Chicago Labor Laws

- ★ [Minimum Wage](#)
- ★ [Paid Leave and Paid Sick and Safe Leave](#)
- ★ [Fair Workweek](#)
- ★ [Wage Theft](#)
- ★ Anti-Retaliation (provisions in each law)
- ★ [Domestic Worker Contract requirements](#)

**This presentation is intended to offer general guidance on Chicago's Labor Protection Ordinances.**

**OLS cannot provide legal advice.**

**Employers should consult their own legal counsel to determine any actions that they should or shouldn't take to comply with the Ordinances.**

# Minimum Wage

\$ MINIMUM WAGE				
SETS MINIMUM WAGE IN CHICAGO (MCC 6-105)				
July 1, 2024, Effective Date	Standard Employer 4 or more employees	Youth Workers	Tipped Workers	
			Standard Employer	Youth
Min Wage	\$16.20	\$15.00	\$11.02	\$10.20
Overtime Min Wage	\$24.30	\$22.50	\$19.12	\$17.70

All Domestic Workers must receive at least the \$16.20 minimum wage.  
If the tipped wage plus tips does not equal the minimum wage, the Employer must make up the difference.

**Note:**

All Domestic Workers must receive at least the \$16.20 Minimum Wage.

# Tipped Wage Credit (Phaseout)

## MCC 6-105-030

### CHICAGO'S TIPPED WAGE CREDIT

Beginning July 1, 2024, Chicago will commence a 5-year phase out of its tipped wage credit. The tipped wage credit is 40% of the full Chicago minimum wage until June 30, 2024. *If the tipped wage plus tips does not equal the minimum wage, the Employer must make up the difference.*

#### Tipped Wage Credit Phaseout

- July 1, 2024, the tipped wage credit will be reduced to 32% of the Chicago Minimum Wage
- July 1, 2025, the tipped wage credit will be reduced to 24% of the Chicago Minimum Wage
- July 1, 2026, the tipped wage credit will be reduced to 16% of the Chicago Minimum Wage
- July 1, 2027, the tipped wage credit will be reduced to 8% of the Chicago Minimum Wage
- July 1, 2028, no tip wage credit will exist, tipped workers will make the full Chicago Minimum Wage.

For more information, [follow this link.](#)

# Paid Leave and Paid Sick & Safe Leave Ordinance

## What does it provide & who does it cover?

- Guarantees up to five (5) days of Paid Leave and five (5) days of Paid Sick Leave for most of Chicago's workers.
- **Covered Employee** means an Employee who, works at least 80 hours for an Employer within any 120-day period while physically present within the geographic boundaries of the City.

## Definitions & proof/documentation

- **Paid Leave** means time that is provided by an Employer and can be used for any reason and is NOT Paid Sick Leave.
  - Not required to provide an Employer with a reason to use Paid Leave and may not be required to provide documentation as proof of use or in support of the use of Paid Leave.
- **Paid Sick Leave** means time that is provided by an Employer and can be used to recover from illness, take care of a family member, address domestic violence situations, and public health emergencies.
  - An Employer may request documentation only after an Employee uses Paid Sick Leave for three (3) consecutive work-days.

For more information, [follow this link.](#)

# Fair Workweek

## What rights are provided?

- Initial estimate of days & hours to be worked
- Notice of schedule changes
- Right to decline unscheduled hours offered less than 14 days in advance
- Predictability pay for unscheduled or cancelled work
- 50% pay for any hours (hrs) cancelled less than 24 hrs before start of shift
- Right to rest (to decline hours scheduled within 10 hrs of end of yesterday's shift)
- Right to rest pay (to 1.25x pay for shifts that begin within 10 hrs of end of yesterday's shift)

## What industries does this apply to?

Building Services, Healthcare, Hotels, Manufacturing, Restaurants, Retail, Warehouse Services

## What other factors impact who this covers?

- Only Employees
- The employee must perform most work in Chicago.
- The employee must have a max. salary of \$61,149.35/year or \$31.85/hour.
- The employee must work for an Employer in a covered industry employing 100+ employees, 50 of whom are covered.

For more information, [follow this link.](#)

# Wage Theft

## What is it?

**Wage theft is the failure to pay workers the full wages to which they are legally entitled. Wage theft can take many forms, including but not limited to:**

- Minimum wage violations: Paying workers less than the legal minimum wage
- Overtime violations: Failing to pay nonexempt employees time-and-a-half for hours worked in excess of 40 hours per week
- Off-the-clock violations: Asking employees to work off-the-clock before or after their shifts
- Meal break violations: Denying workers their legal meal breaks
- Pay stub and illegal deductions: Taking illegal deductions from wages or not distributing pay stubs
- Tipped minimum wage violations: Confiscating tips from workers or failing to pay tipped workers the difference between their tips and the legal minimum wage
- Employee misclassification violations: Misclassifying employees as independent contractors to pay a wage lower than the legal minimum

**For more information, [follow this link.](#)**





# That's a lot of information!

## What is required of Employers?

**Every employer must post in a conspicuous place at each facility located in the City of Chicago a notice advising the Covered Employee of:**

- Current minimum wage
- Fair Workweek (if applicable)
- Paid Leave and Paid Sick Leave
- Wage Theft

**With the first paycheck issued to a Covered Employee, and annually with a paycheck issued within 30 days of July 1st, every employer must provide a notice advising the Covered Employee of:**

- Current minimum wage
- Fair Workweek (if applicable)
- Paid Leave & Paid Sick Leave

OLS provides model policies and checklists for employers [here](#).



# Chapter 3: Classifying Workers / Employees or Independent Contractors



# Classifying Employees

## Who dictates whether an individual is classified/ misclassified?

The Office of Labor Standards, State of Illinois Department of Labor, and U.S. Department of Labor all have ways to evaluate and enforce the appropriate classification of workers.

In Illinois:

### Who is / Who's Not Covered: Independent Contractor Test










According to the IWPCA, "employee" includes any worker who performs work for an employer, unless that worker is a bona fide independent contractor:

- (1) free from control and direction over the performance of his work; and
- (2) performing work which is either **outside the usual course of business** or is performed outside all of the places of business of the employer unless the employer is in the business of contracting with third parties for the placement of employees; and
- (3) is in an **independently established trade, occupation, profession or business.**

*(emphasis added)*

# Fair Labor Standards Act (Federal)

The [U.S. Department of Labor](#) provides the following chart to help individuals determine if they are independent contractors or employees.

Are You An Employee Or An Independent Contractor?		
 Indicators of an Employee	-OR-	Indicators of an Independent Contractor
Working for someone else's business		In business for themselves
Generally, can only earn more by working additional hours		Can increase profit through business decisions
Typically uses the employer's materials, tools and equipment		Typically provides their own materials, tools and equipment and uses them to extend market reach
Typically works for one employer or may be prohibited from working for others		Often works with multiple clients
Continuing or indefinite relationship with the employer		Temporary relationship until project completed
Employer decides how and when the work will be performed		Decides how and when they will perform the work
Employer assigns the work to be performed		Decides what work or projects they will take on

*These are general concepts. All relevant facts about the work relationship should be considered as a whole, and the existence or absence of any particular fact does not require a particular outcome.*

# Chicago Commission on Human Relations (CCHR)

## Who is CCHR?

The Commission on Human Relations promotes appreciation of Chicago's diversity and works to eliminate prejudice and discrimination. Commissioners, advisory councils, and staff conduct pro-active programs of education, intervention, and constituency building to discourage bigotry and bring people from different groups together.

The Commission enforces the **Chicago Human Rights Ordinance** and the **Chicago Fair Housing Ordinance**, which prohibit discrimination within the city of Chicago in the following areas:

- **Housing**
- **Employment**
- **Credit Transactions**
- **Bonding**
- **Public Accommodations**

Persons who feel they have been discriminated against in Chicago because of their membership in a protected class may file a Complaint with the Commission.

## What actions does the Commission take?

The Commission investigates discrimination complaints, then, if there is substantial evidence of a violation, the Commission conducts an administrative hearing and issues a ruling, which may impose fines, damages, and injunctive relief if a violation was proved.

The Commission implements the Hate Crimes Ordinance by monitoring hate crimes in Chicago and aiding victims.

**A complaint must be filed within 365 days of the alleged discrimination.** Prevailing complainants may receive out-of-pocket damages, emotional distress damages, injunctive relief, attorney's fees and costs, and in some cases, punitive damages. A respondent found liable must also pay a fine to the City.

For more information, [follow this link.](#)

# CCHR Resources

**Commission on Human Relations**  
CCHR enforces the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance

[CCHR Home](#) | [Brochures](#) | [Don't Ignore It, Report It Flyers](#) | [Forms and Publications in English and Other Languages](#) | [Contact us](#)

Home / Departments / Commission on Human Relations

**CCHR**  
Chicago Commission on Human Relations

**CHICAGO COMMISSION ON HUMAN RELATIONS**  
2024 HATE CRIMES AND HATE INCIDENTS REPORT  
June 27, 2024

Nancy C. Andrade  
Chair & Commissioner

Mayor Brandon Johnson

2024 Hate Crimes and Hate Incidents Report

**THINK BEFORE YOU HATE**

**HATE CRIME vs. HATE INCIDENT**

**WHAT IS A HATE CRIME?**  
A criminal act motivated by bias against someone's race, color, gender identity, age, religion, disability, national origin, ancestry, or sexual orientation.

**CRIME + HATE = HATE CRIME**

Call 911!  
Report HATE CRIMES to Chicago Police.

**WHAT IS A HATE INCIDENT?**  
A non-criminal act motivated by bias against someone's race, color, gender identity, age, religion, disability, national origin, ancestry, or sexual orientation.

**NON-CRIMINAL ACT = HATE = HATE INCIDENT**

Call 311!  
Report HATE INCIDENTS to the City.

**CCHR** **CHICAGO**

[@ChicagoCHR](#) [@ChicagoCHR](#) [@ChicagoCHR](#)

[cchr.org](https://cchr.org)

Download the Think Before You Hate flyer

**Department Main Office**

Commission on Human Relations  
Phone: 312.744.4111  
TTY: 312.744.1088  
Fax: 312.744.1081  
Contact Us  
740 North Sedgwick Street  
Suite 400  
Chicago, IL 60654  
Get Directions

**Department Facts**

About Us:

**CCHR**  
Chicago Commission on Human Relations

**Sexual Harassment**  
Don't Ignore It-Report it!

Sexual Harassment in employment is prohibited. A sexual harassment victim can be either the same sex or the opposite sex of the harasser.

Examples of sexual harassment include:

- Unwelcome sexually suggestive comments, gestures, e-mails, or pictures
- Unwelcome physical contact
- Requesting sexual favors for employment benefits
- Threats that suggest a relationship (sexual or personal) is necessary for better treatment in the workplace (ex. employment, promotion)

Employers can be held responsible for:

- The conduct of supervisors and other representatives
- The conduct of non-supervisory/managerial staff, if the employer is aware of misconduct and fails to take corrective action

If you believe you have been a victim of sexual harassment in employment, don't ignore it, report it to the CCHR.

Contact us at (312) 744-4474  
Email: [cchr@cityofchicago.org](mailto:cchr@cityofchicago.org)

Website: [Chicago.gov/cchr](https://Chicago.gov/cchr)  
[@ChicagoCHR](#) [@ChCCHR](#)

**CCHR**  
Chicago Commission on Human Relations

**Gender Identity Discrimination**  
Don't Ignore It-Report it!

Discrimination based on a person's gender identity is illegal.

Gender identity means the actual or perceived appearance, expression, identity or behavior, of a person as being male or female, whether or not that appearance, expression, identity or behavior is different from that traditionally associated with the person's designated sex at birth.

Examples of gender identity discrimination include:

- Prohibiting a person from choosing the restroom, locker room or changing room of their choice
- Subjecting a customer to derogatory slurs, ridicule, and other harassment based on their gender identity
- Refusing to hire, promote, or provide equal treatment to an applicant or employee because of their gender identity
- To refuse to rent or sell housing, or in other ways limit equal access to housing because of a person's gender identity

If you believe you have been a victim of gender identity discrimination, don't ignore it, report it to the CCHR.

Contact us at (312) 744-4474  
Email: [cchr@cityofchicago.org](mailto:cchr@cityofchicago.org)

Website: [Chicago.gov/cchr](https://Chicago.gov/cchr)  
[@ChicagoCHR](#) [@ChCCHR](#)

**CCHR**  
Chicago Commission on Human Relations

**Employment Discrimination**  
Don't Ignore It-Report it!

The Chicago Human Rights Ordinance prohibits discrimination in employment based on:

Race	Ancestry
Color	Sexual Orientation
Religion	Marital Status
Disability	Parental Status
Age (over 40)	Military Status
Gender Identity	Criminal History
National Origin	Credit History
Sex (including Sexual Harassment)	Source of Income

It is a violation of the law to discriminate in:

- Hiring
- Classification
- Grading
- Discharge
- Discipline
- Compensation
- Other terms or conditions of employment

If you believe you have been a victim of employment discrimination, don't ignore it, report it to the CCHR.

Contact us at (312) 744-4474  
Email: [cchr@cityofchicago.org](mailto:cchr@cityofchicago.org)

Website: [Chicago.gov/cchr](https://Chicago.gov/cchr)  
[@ChicagoCHR](#) [@ChCCHR](#)

For additional resources, follow this link.

**Chapter 4:**  
**IL Freelance Worker  
Protection Act**



# Illinois Freelance Worker Protection Act (FWPA)

## What is it?

The FWPA provides protections for freelance workers in Illinois. Under the law, freelance workers are entitled to all of the following:

- A written contract that includes:
  - Name and contact information of both the hiring entity and freelance worker
  - Itemization of products and services
  - Rate and method compensation
  - Date of compensation due
  - Dates of services to be provided
- Full payment for the services by the due date in the contract, or if the due date is not specified, within 30 days of completing the services outlined in the contract
- Protection from retaliation and/or other negative action for exercising rights under the FWPA



# FWPA continued...

## Who is considered a freelance worker under the law?

Freelance workers must meet all of the following criteria under the law:

- Independent contractor
- Providing products or services in Illinois or works for a hiring entity located in Illinois
- Value of work equal to or greater than \$500 over a 120-day period (can be multiple contracts)

## When does it apply?

The FWPA applies to contracts taking effect **after July 1, 2024.**

## What tools are available?

FAQs and sample contracts in 11 languages are available on the Illinois Department of Labor [website](#).

## Who can I contact with questions?

Email: [dol.freelance@illinois.gov](mailto:dol.freelance@illinois.gov)

For more information, [follow this link](#).



# Forthcoming Laws

## What should I be planning for from the State?

### Pay Transparency Requirements

On January 1, 2025, employers with at least 15 employees will be required to include the pay scale for a position in any job posting.

For more information, [read the full public act.](#)



# Chapter 5: Resources



# OLS Resources & Contact Information

Visit the OLS site for Educational Resources on every Chicago Labor Law

[Link to the OLS Website](#)

Watch OLS Webinars on YouTube (Spanish & English)

[Link to OLS's YouTube Playlist](#)

Contact the OLS for one-on-one Consultations

**Phone:**

312-744-2211

**Email:**

[bacplaborstandards@cityofchicago.org](mailto:bacplaborstandards@cityofchicago.org)

**Mailing Address:**

2350 West Ogden Avenue, 2nd Floor  
Chicago, IL 60608

[bacpoutreach@cityofchicago.org](mailto:bacpoutreach@cityofchicago.org)

# DCASE Resources & Contact Information

## Contact DCASE

**Email:**

[CulturalResources@cityofchicago.org](mailto:CulturalResources@cityofchicago.org)

## Attend upcoming Cultural Resources Office Hours

[Sign Up for Office Hours \(Available the 3rd Wednesday of every month\)](#)

## Visit the Creative Work & Creative Worker Resource websites

[Link to the Creative Work page \(with resources for employers\)](#)

[Link to the Creative Worker Resource page](#)

# Chicago.gov/CreativeWork

## Creative Worker Rights

**i** Learn more about labor laws and protections & ask questions at a July webinar!

- Tuesday, July 9, 10am – For **Employers** of Creative Workers: Know the Labor Laws | [Register](#)
- Tuesday, July 16, 10am – For **Creative Workers**: Know Your Rights | [Register](#)
- Martes 23 de julio, 10am – **Empleadores** de Trabajadores Creativos: Conozca las leyes laborales aplicables | [Registrarse](#)
- Martes 30 de julio, 10am – **Trabajadores Creativos**: Conozca sus derechos laborales | [Registrarse](#)



[Homepage](#) | [Background](#) | [For Workers](#) | [For Employers](#)

Creative workers are the foundation of Chicago's rich arts and culture landscape.

From artists to ushers to techs to administrators, and so many others, creative workers are fueling the imagination and design that are the backbone of Chicago's businesses, organizations, and communities.

Artists and arts workers, a subset of creative workers, are 3.6x more likely than the general workforce to be self-employed. They are also more likely to work multiple jobs and often earn income for their creative production through grants, residencies, and fellowships.

# Partner Organizations & Resources

## Accessibility Compliance & Resources

- [Mayor's Office for People with Disabilities](#)
- [3Arts](#)

## Model Contracts

- [Illinois Department of Labor](#)
- [Chicago DanceMakers Forum](#)

## Organizational Capacity-building Webinars & Support

- [Lawyers for the Creative Arts](#)
- [Arts Alliance Illinois Help Desk](#)

# Upcoming Webinars

## For Creative Workers: Know Your Rights

Tuesday, July 16, 10 a.m.

[Register](#)

## Empleadores de Trabajadores Creativos: Conozca las leyes laborales aplicables

Martes 23 de julio, 10 a.m.

[Registrarse](#)

## Trabajadores Creativos: Conozca sus derechos laborales

Martes 30 de julio, 10 a.m.

[Registrarse](#)

### Accessibility

Auto-captioning will be provided through Zoom. To make accessibility requests, please contact BACP at [BACPoutreach@cityofchicago.org](mailto:BACPoutreach@cityofchicago.org), 312-744-6060.





# Email Addresses

## OLS

- [bacplaborstandards@cityofchicago.org](mailto:bacplaborstandards@cityofchicago.org)
- [bacpoutreach@cityofchicago.org](mailto:bacpoutreach@cityofchicago.org)

## DCASE

- [CulturalResources@cityofchicago.org](mailto:CulturalResources@cityofchicago.org)

## IL Department of Labor

- [dol.freelance@illinois.gov](mailto:dol.freelance@illinois.gov)

# Chapter 6: Q&A



Fair pay

CREATIVE  
WORKER  
RIGHTS

Safe workplaces

New protections



# ART IS LABOR



Learn more [Chicago.gov/CreativeWork](https://Chicago.gov/CreativeWork)

THANK YOU!