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Maine Employee Rights Guide December 2000

Maine Department of Labor

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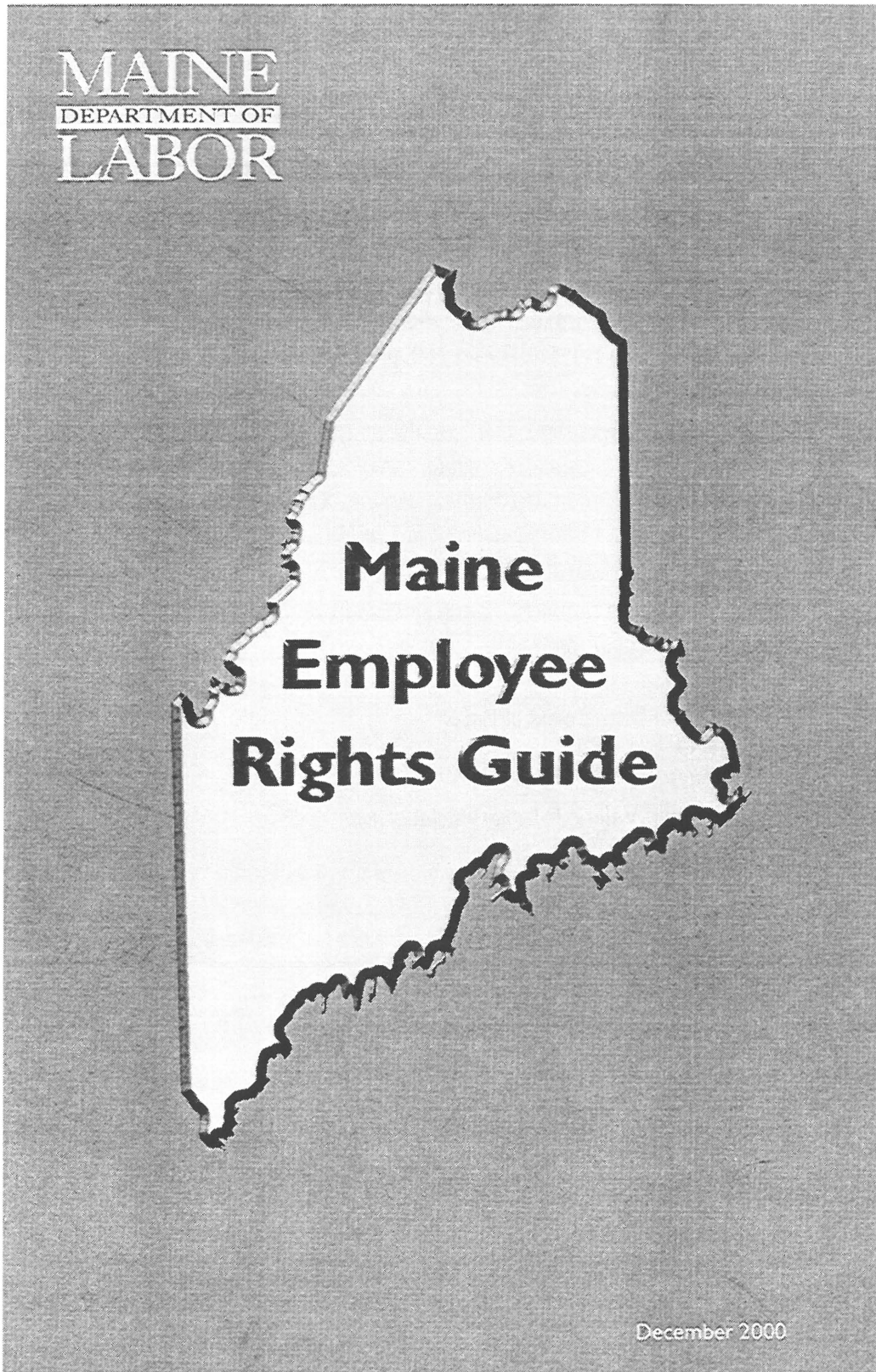
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The **Maine Employee Rights Guide** describes your rights and responsibilities under Federal and State Employment Laws.

The Federal Law that covers employment is the Fair Labor Standards Act (FLSA). Maine Employment Law can be found in 26 M.R.S.A. § 591-871.

Not all employment activities are regulated by law. For more information, you may contact the Maine Department of Labor at 207-624-6400, TTY 1-800-794-1110, or the agencies listed on page 19.

The Maine Department of Labor can also assist you with other employment needs such as job seeking, career counseling and assistance with education and training services. These services are available through a statewide network of CareerCenters. For the location nearest you, please call 1-888-457-8883.

Should you want to comment on any services from the Maine Department of Labor, feel free to write to:

Commissioner
Maine Department of Labor
P.O. Box 259
Augusta, ME 04332-0259
e-mail: Valerie.R.Landry@state.me.us

The information in this pamphlet is current as of the date of publication. For updates on regulations, contact the agencies listed.

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Breaks

In a business with three or more employees working at one time, employees have the right to take a 30- minute break after 6 hours of work unless there is a written agreement otherwise.

? Frequently Asked Questions:

1. "Does my employer have the right to say I can't leave the building during my break?"

Answer: Yes.

2. "Does my employer have to pay me for break-time?"

Answer: No.



For more information, call Maine Department of Labor, Wage and Hour Division (207-624-6410, TTY 1-800-794-1110).

Child Labor

Child labor laws cover when, where and how young people may work.

People under 16 need a work permit except for domestic or farm work. This is true even if you work for your parents.

If you have a job offer, you can get a permit from your school. Bring proof of age.



This table shows when teens* may work.

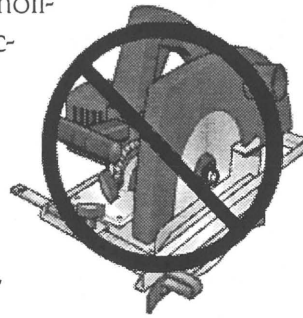
<p>Under 16 (DOL approved Work Permit required)</p> <p>Work hours</p> <ul style="list-style-type: none"> ● Not before 7 am or after 7 pm anytime during the school year ● Not during school hours ● 7 am - 9 pm during the summer ● No more than 6 days in a row <p>Maximum hours-school in session</p> <ul style="list-style-type: none"> ● 18 hours a week, but not over 3 hours a day on school days, including Fridays <p>Maximum hours-school not in session</p> <ul style="list-style-type: none"> ● 40 hours a week ● 8 hours a day 	<p>Ages 16 & 17 (enrolled in school)</p> <p>Work hours</p> <ul style="list-style-type: none"> ● Not before 7 am on a school day ● Not after 10 pm the night before a school day ● No more than 6 days in a row ● Not after midnight on a day that does not precede a school day ● Not before 5 am on a non-school day <p>Maximum hours-school in session</p> <ul style="list-style-type: none"> ● 20 hours a week, but not over: <ul style="list-style-type: none"> ● 4 hours a day on a school day ● 8 hours a day on last day of school week or on unscheduled school closure day ● 28 hours in week with unscheduled school closure <p>Maximum hours-school not in session</p> <ul style="list-style-type: none"> ● 50 hours a week ● 10 hours a day
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*There are some exceptions for co-op (work-study) students, and students with an alternative educational plan with a work component.

Child labor laws also protect young people from doing certain dangerous work.

In many workplaces, no worker under 18 may:

- Drive a motor vehicle on the job.
- Use powered equipment like a circular saw, hoist, box crusher, meat slicer, paper-products machine, or bakery machine.
- Work in excavation, wrecking, demolition, logging, saw milling, manufacturing and storing explosives, or roofing.
- Work where there is exposure to radiation.
- Perform any hazardous job in manufacturing, mechanical shops, dry cleaners or bakeries.



In addition to the above, in many workplaces no one 14 or 15 years old may:

- Do baking or cooking on the job (except at a serving counter).
- Work in dry cleaners, commercial laundries, or bakeries (except in sales or office work).
- Do building, construction, warehouse work, or manufacturing work.
- Work in freezers or meat coolers.
- Work in most jobs at hotels, motels, and commercial places of amusement.
- Load or unload a truck, railroad car or conveyor.
- Work at any hazardous occupation.
- Work without a work permit.
- Operate power equipment including lawn mowers and cutting machines.

Additional child labor laws may apply and state rules are due to change in 2001. Check with the Maine Department of Labor, Wage and Hour Division (207-624-6410, TTY 1-800-794-1110), or the U.S. Wage and Hour Office (207-780-3344).

Closing or Relocating Workplaces

WARN

If your company plans to close or move, and it has 100 or more workers, your employer must give you at least 60 days notice. (The Workers Adjustment and Retraining Notification Act, "WARN," 29 U.S.C. § 2101)

Severance Pay

If a business with 100 or more employees closes or relocates, the business must notify the Maine Department of Labor or employees in advance. In many instances, employees who have worked at that business for three or more years must get severance pay. If the employee has to sue to get severance pay, he or she may get the legal costs back. (26 M.R.S.A. § 625-B)

For more information, call the Maine Department of Labor, Wage and Hour Division (207-624-6410, TTY 1-800-794-1110).

Collective Bargaining (Unions)

Employees have a right to form or join unions.

The National Labor Relations Act gives those who work in private companies the right to form unions and to bargain with employers.

The Maine Labor Relations Board regulates union activities in most public workplaces and some farming workplaces.

The Maine Strikebreaker law (26 M.R.S.A. § 851-856) stops employers from hiring strikebreakers during a labor dispute.

For more information, call:

Maine Labor Relations Bd.
90 State House Station
Augusta, ME 04333
(207-287-2015)
TTY (207-287-4330)

National Labor Relations Bd.
Thomas P. O'Neill Jr., Fed Bldg.
10 Causeway St., Room 601
Boston, MA 02222-1072
(617-565-6700)
TTY (617-565-6470)

Discrimination and Harassment

Unlawful Discrimination

Employers must not discriminate against workers because of race, religion, color, sex, age, national origin, or mental or physical disability.

It is not legal for a person to be treated as unequal because he or she is in one of these groups.

Everyone has a right to work in a place where there is no discrimination.

Disabilities

The federal Americans with Disabilities Act (42 U.S.C. § 12101) and the Maine Human Rights Act (5 M.R.S.A. §§ 4551-4660-A) protect workers who have disabilities. Employers may not discriminate against workers with disabilities in hiring or firing. Employers also must make reasonable accommodations for such workers' disabilities.

Sexual Harassment

Sexual harassment on the job is against the law.

You have the right to work in a place free of sexual harassment.

No one can make you put up with sexual comment or physical contact to keep a job.

Laws that apply in your workplace are posted there. Take a look at the posters in your workplace so you will know where to find information if you need it. See page 11 for a list of those posters.

Here are some examples of sexual harassment:

- unwelcome sexual advances,
- unwanted hugs, touching or kisses,
- suggestive or obscene remarks,
- requests for sexual favors.

Domestic Violence

Employment Leave for Victims of Domestic Violence

An employee who is a victim of domestic violence must be allowed time off from work with or without pay to prepare for and attend court proceedings; receive medical treatment; or obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

For more information, call the Maine Coalition to End Domestic Violence (207-941-1194).

Drug Testing

If it is required under Federal law, you can be asked to take a drug test. If the company has a drug policy approved by the State, you may be tested.

Under the law, an employer can use a positive test result to:

- refuse to hire someone,
- fire an employee,
- discipline an employee,
- change an employee's work.

Those who apply for jobs may be tested only if they are offered work or are placed on a waiting list for a job. Employers who test under the law must give those tested a copy of their policy.

❓ Frequently Asked Questions:

1. "Can I say no to a drug test?"

Answer: Yes, but if you do so, your employer may have the right to legally fire you or to refuse to hire you.

2. "I tested positive, but I don't agree with these results. What can I do?"

Answer: State Law allows you to set aside part of the sample for testing at a lab you choose. Your employer must tell you how you can appeal the result.

3. "Can I be fired for a positive drug test result?"

Answer: State Law does not require your employer to fire you. In fact, with the first positive result, your employer must offer you up to 6 months of rehabilitation. In most cases, you must be able to get your old job back when you complete the rehabilitation.

4. "My employer uses breathalyser testing for alcohol. Can they do that?"

Answer: Yes. Employers may test in this way whenever they wish.

For more information on drug testing policy, call Maine Department of Labor (207-624-6410, TTY 1-800-794-1110).

Family and Medical Leave

Maine firms employing 15 or more workers and all public agencies must give up to 10 weeks of unpaid but job-protected leave, if:

- a worker or the worker's child, parent or spouse has a serious illness,
- a child is born to the worker,
- a child of 16 or less is placed for adoption with the worker.

To get this leave, the employee must have worked for the company for at least 12 months in a row.

The employee must be allowed to come back to the same job, or one like it, after the Leave.

The federal Family and Medical Leave Act (29 U.S.C. § 2601) provides up to 12 weeks of unpaid but job-protected leave to employees of public agencies as well as private employers who have 50 or more workers within 75 miles. To qualify, you must have worked for your employer at least 1,250 hours in the previous year.

For more information, call Maine Department of Labor, Wage and Hour Division (207-624-6410, TTY 1-800-794-1110), or U.S. Department of Labor, Wage and Hour Division (207-780-3344 or 207-945-0330).



Hiring and Firing

Hiring

You cannot be denied a job or fired from a job because of:

- your race
- your gender
- your age
- your ancestry
- your religion
- where you were born
- the color of your skin
- a disability

Ending Employment

If you are fired, you can ask your employer why, and your employer must tell you in writing why you were fired within 15 days.

To get this notice, ask for it in writing.

Your employer may not fire you because:

- of illegal discrimination,
- you refused to do an unsafe job,
- you reported an unsafe condition,
- you were called for jury duty,
- your wages were garnished,
- you filed a workers' compensation claim.



❓ Frequently Asked Questions:

1. "Can I be fired without a good reason?"

Answer: Yes. An employer can fire an employee without notice or cause as long as you are not discriminated against.

There may be a union agreement that says you can only be fired for certain reasons.

In that case, the contract rule must be followed.

2. "What if my employer discriminated against me when I was fired?"

Answer: This is against the law.

If you think there was discrimination, call the Maine Human Rights Commission (207-624-6050, TTY 207-624-6064).

3. "When does my employer have to pay my last wages after I get done?"

Answer: Your employer must pay your wages plus any vacation pay by the next regular pay day after your job ends (not more than 2

weeks). You can ask for your pay on or after the regular pay date. If your employer will not pay, you can file a complaint with the Maine Department of Labor, Wage and Hour Division (207-624-6410, TTY 1-800-794-1110).

4. "How do I know if I have a right to severance pay?"

Answer: You sometimes have a right to severance pay if the company has moved 100 miles or more away or has shut down, and the company employed over 100 people during the year.

For more information, call Maine Department of Labor, Wage and Hour Division (207-624-6410, TTY 1-800-794-1110).

Mediation

If a dispute occurs and legal action is needed, you can get advice from a trained person (a mediator) who can help you find answers that both you and your employer can live with. Call the Maine Association of Dispute Resolution Professionals, (207-865-9588) for more information about this.

Overtime

Limits on Mandatory Overtime

An employer may not require an employee to work more than 80 hours of overtime in any consecutive two-week period. There are exceptions, such as emergency, essential services, or salaried executive employees.

For more information, call Maine Department of Labor, Wage and Hour Division (207-624-6410, TTY 1-800-794-1110).

Pension and Health Benefits

ERISA

Federal Law (ERISA at 29 U.S.C. § 1001) protects your benefit plans, including pension and health insurance. You can obtain a summary of your employer's retirement plan. If you do not get it, the person in charge may have to pay you money and attorney's fees for getting it.

For more information, call U.S. Department of Labor, Pension and Welfare Benefits Administration (617-565-9600).

COBRA

Federal law (COBRA at 29 U.S.C. § 1161(a)) also gives you the right to have your medical insurance continued for 18 months after your employment ends at your expense.

For more information, call U.S. Department of Labor, Pension and Welfare Benefits Administration (617-565-9600).

Preference for Maine Workers and Contractors

State law (26 M.R.S.A. § 1301-1315) gives preference to Maine workers and contractors on state-funded construction jobs over \$10,000. It also sets a prevailing minimum wage rate for construction projects for these jobs.

For more information, call Maine Department of Labor (207-624-6400, TTY 1-800-794-1110).

Privacy

You can see your entire personnel file and make a copy if you wish. You can do this while you are employed or after you leave the workplace.

Ask, in writing, to see your file.

You must have access to your file during normal working hours within 10 days after your employer gets your written request.

Employers may not use lie detectors as a condition of employment.

For more information, call Maine Department of Labor, Wage and Hour Division (207-624-6410, TTY 1-800-794-1110).

Required Posters

Employers must display certain posters in the workplace where workers can see them.

"Business Answers" can send you the following posters free of charge. Call 1-800-872-3838 or 207-287-3153, TTY 207-287-2656. For more information about individual posters, call the agencies listed:

State of Maine Required Posters

Minimum Wage	Maine Dept. of Labor 207-624-6400, TTY 1-800-794-1110
Whistleblowers Protection Act	Maine Dept. of Labor 207-624-6400, TTY 1-800-794-1110
Workers' Compensation	Maine Workers' Compensation Commission 207-287-3751, TTY 207-287-6119
Video Display Terminal Law (where employees use computers 4 or more hours a day)	Maine Dept. of Labor 207-624-6400, TTY 1-800-794-1110
Notice Relative to the Regulation of Employment (includes child labor)	Maine Dept. of Labor 207-624-6400, TTY 1-800-794-1110
Occupational Safety and Health Regulations (for public places of employment only)	Maine Dept. of Labor 207-624-6400, TTY 1-800-794-1110
Sexual Harassment	Maine Human Rights Commission, 207-624-6050, TTY 207-624-6064

Federal Government Required Posters

Equal Employment Opportunity is the Law	U.S. Equal Opportunity Commission 1-800-669-3362, TTY 1-800-800-3302
Fair Labor Standards Act-Federal Minimum Wage	U.S. Department of Labor, Wage and Hour Division 207-780-3344
Employee Polygraph Protection Act	U.S. Department of Labor, Wage and Hour Division 207-780-3344
Job Safety and Health Protection (for private businesses)	U.S. Department of Labor, OSHA, 207-941-8177

The "Maine Employment Security Law" poster is required for employers who pay unemployment tax. It can be ordered from the Maine Department of Labor (207-287-3176, TTY 1-800-794-1110).

The best way to find out if you may qualify for benefits is to call an Unemployment Call Center. Below are the telephone numbers. Call the one closest to where you live.

Augusta	(207)624-7560	Portland	(207)822-4128
Bangor	(207)561-4600	Presque Isle	(207)768-6800
Biddeford	(207)286-1500	Rockland	(207)596-4380
Calais	(207)454-1077	Sanford	(207)324-5461
Fort Kent	(207)834-2450	Skowhegan	(207)474-4930
Lewiston	(208)753-2800	TTY	1-888-457-8884

If you do not have a telephone, you can use one free of charge at any Department of Labor CareerCenter. (See telephone number on inside front cover).

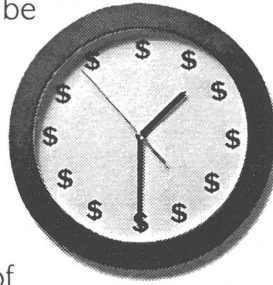
You can also find out if you qualify by mailing in a claim form. Claim forms can be found at any Department of Labor CareerCenter and many town offices.

There is information you will have to give people at the Call Center if you apply by phone, or if you apply by mail. Have the following information ready when you call or if you mail in a form.

1. Your social security number.
2. The names, addresses, and telephone numbers of employers that you worked for during the last 18 months, as well as when you started and stopped working and the reason you are currently not working.

Wages

- You must be paid at least \$5.15 per hour.
Maine does not have a training wage or student wage below \$5.15 per hour.
- Employees who get tips must be paid at least \$2.58 per hour. If this rate plus tips for the week does not average \$5.15 per hour, the employer must pay employees the difference.
- Employees get overtime pay of 1½ times their hourly rate after 40 hours of work per week. This applies to most employees. A poster stating these rules must be shown in the workplace.
- Employers must pay wages to employees on an established day or date at regular intervals not to exceed sixteen days.
- You must be paid for the work you perform. If you leave a job, you must be paid in full within a reasonable time.
- Employers cannot deduct from an employee's pay for things such as broken merchandise or bills not paid by customers.
- An employer who violates employment laws may have to pay penalties, additional wages and lawyers' fees.
- Employees of businesses that close can receive up to two weeks pay through the Maine Wage Assurance Fund if the business had no assets or filed for bankruptcy .



? Frequently Asked Questions:

1. "If a holiday occurs on a work day, does my employer have to pay overtime for working the holiday?"

Answer: No. An employer does not have to pay overtime for less than 40 hours a week worked.

2. "My employer changed my regular schedule and now says I have to work overtime. I wasn't told this when I was hired. Is this legal?"

Answer: Yes. Employers have the right to change work schedules. They can require you to work overtime, but not in excess of 80 hours of actual overtime in any two-week period.

3. "Does my employer have to pay benefits like sick time, vacation or holidays?"

Answer: No. Paid benefits are extras. They are not required by law.

For more information, call Maine Department of Labor, Wage and Hour Division (207-624-6410, TTY 1-800-794-1110) or U.S. Department of Labor, Wage and Hour Division (207-780-3344).

Whistleblowers Protection Act

It is against the law (26 M.R.S.A. §§ 831-840) for an employer to fire or threaten you because:

- you reported a law violation,
- you reported a risk to health and safety,
- you would not do something that was a danger to your life or to someone else's, and you asked your employer to fix it,
- you are part of a government investigation.

You are protected by this law ONLY if you tell your supervisor about what you think is wrong. You must allow enough time for your supervisor to fix it or have a good reason to think that he or she will not correct the problem.

A poster about this must be at your workplace.

? Frequently Asked Questions:

1. "Can I be fired if I report a workplace problem or violation?"

Answer: No.

2. "If I lose my job for what looks like discrimination, what should I do?"

Answer: File a complaint with the Maine Human Rights Commission within 6 months of the end of your employment at 51 State House Station, Augusta, ME 04333 (207-624-6050, TTY 207-624-6064).

Workers' Compensation

This is insurance paid for by the employer. It gives benefits to employees who get hurt on the job.

Most public and private employers have this insurance for their workers. You must follow the rules to get the benefits.

Check the poster which must be at the workplace for more information.



? Frequently Asked Questions:

1. "If I get hurt at work, what should I do?"

Answer: Tell your supervisor or a manager as soon as you can.

2. "What should my employer do?"

Answer: Your employer must fill out a "first report" of the injury within 7 days. You should get a copy. If you lost a day at work, your employer will notify the Workers' Compensation Board. If your employer does not do this, call a regional Workers' Compensation Board office. Ask to speak to a Troubleshooter.

3. "What if my employer won't pay my claim?"

Answer: If this happens, your employer will file a Notice of Controversy (NOC). This will say why the employer does not want to pay your claim.

If your employer files a NOC, a Troubleshooter will call you to hear your side. If you know about the NOC and a Troubleshooter has not called you within 2 weeks, call a regional Workers' Compensation Board office and ask to speak to a Troubleshooter.

Workers' Compensation Board Office telephone numbers:

Augusta	207-287-2308 or 1-800-400-6854 TTY: 207-287-6119
Bangor	207-941-4550 or 1-800-400-6856
Caribou	207-498-6428 or 1-800-400-6855
Lewiston	207-783-5490 or 1-800-400-6857
Portland	207- 822-0840 or 1-800-400-6858

Resources

Maine State Government Agencies

Maine Department of Labor

Bureau of Labor Standards, 45 State House Station,
Augusta, ME 04333-0045 (207-624-6400,
TTY 1-800-794-1110)

<http://janus.state.me.us/labor/bls.htm>

Workplace Safety & Health Division, (207-624-6400)

SafetyWorks! (1-877-SAFE-345)

Wage & Hour, (207-624-6410)

Migrant and Immigrant Services,

Hot line: (1-800-234-8848)

Bureau of Employment Services, 55 State House
Station, Augusta, ME 04333-0055 (207-624-6390,
TTY: 1-800-794-1110)

For the CareerCenter nearest you: 1-888-457-8883

Bureau of Unemployment Insurance

Unemployment Claims Call Centers:

207-753-2800 (Lewiston)	207-561-4600 (Bangor)
207-768-6800 (Presque Isle)	207-624-7560 (Augusta)
207-286-1500 (Biddeford)	207-454-1077 (Calais)
207-834-2450 (Fort Kent)	207-822-4128 (Portland)
207-596-4380 (Rockland)	207-324-5461 (Sanford)
207-474-4930 (Skowhegan)	TTY: 1-888-457-8884

<http://www.state.me.us/labor/ucd/homepag1.htm>

Maine Human Rights Commission, 51 State House
Station, Augusta, ME 04333, (207-624-6050,
TTY 207-624-6064)

Maine Department of Human Services

Bureau of Health, Division of Community and Family Health, Partnership for a Tobacco-Free Maine, 11 State House Station, Augusta, ME 04333-0011 (207-287-4625, TTY 207-287-8015)

Maine Labor Relations Board, 90 State House Station, Augusta, ME 04333-0090 (207-287-2015, TTY 207-287-4330)
<http://janus.state.me.us/mlrb/homemlrb.htm>

Maine Workers' Compensation Board, 24 Stone St., Augusta, 04330-5220 (207-287-2308, TTY 207-287-6119)
Regional Offices:

Augusta 1-800-400-6854, Bangor 1-800-400-6856,
Caribou 1-800-400-6855, Lewiston 1-800-400-6857,
Portland 1-800-400-6858

<http://www.state.me.us/wcb/wcbhome.htm>

Federal Government Agencies

National Labor Relations Board

Thomas P. O'Neill, Jr., Federal Building, 10 Causeway Street, Rm 601, Boston, MA 02222-1072 (617- 565-6700, TTY 617-565-3204)

U.S. Equal Employment Opportunity Commission

JFK Federal Bldg., Room 475, Government Center, Boston, MA 02203 (1-800-669-4000 or 617-565-3200)

U.S. Department of Labor

Wage and Hour Division (207-780-3344 and 207-945-0330)
Occupational Safety and Health Administration (OSHA)

Bangor (207- 941-8177)

Pension and Welfare Benefits Administration

(617- 565-9600)

