GEORGIA

HR Law Reference Guide



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WAGE AND HOUR LAWS

MINIMUM WAGE 1

OVERTIME 1

TIPPED MINIMUM WAGE 1

TIP POOLING AND SHARING 2

PREVAILING WAGES 2

SUBMINIMUM WAGES 2

- Employees with Disabilities 2
- Trainees 2
- Apprentices 2
- Learners 3
- Student Learners 3
- Student Workers 3

HOURS WORKED 3

- Workweek 3
- Meals and Breaks 3
- Nursing Mother Breaks 4
- Waiting Time 4
- On-call Time 4
- Sleeping Time 5
- Travel Time 5
- Meeting, Lecture, and Training Time 5
- Show Up and Reporting Time 5

MINIMUM WAGE AND OVERTIME EXEMPTIONS 5

- Executive Exemption 5

Administrative Exemption 6
Professional Exemption 6
Outside Salesman Exemption 6
Computer Employee Exemption 6
Other Minimum Wage and Overtime Exemptions 6

LEAVE LAWS

BEREAVEMENT LEAVE 7
HOLIDAY LEAVE 7
State Legal Holidays 7
Private Employers 8
Public Employers 8
JURY DUTY LEAVE 8
SICK LEAVE 9
VACATION LEAVE 9
VOTING LEAVE 10

WAGE PAYMENT LAWS

FREQUENCY OF WAGE PAYMENTS 11
MANNER OF WAGE PAYMENTS 11
DIRECT DEPOSIT 11
PAYROLL CARD 11
PAYMENT UPON SEPARATION FROM EMPLOYMENT 12
WAGES IN DISPUTE 12
DEDUCTIONS FROM WAGES 12
UNIFORMS, TOOLS, AND OTHER EQUIPMENT NECESSARY FOR EMPLOYMENT 13

PRE-HIRE MEDICAL, PHYSICAL, OR DRUG TESTS **13**

NOTICE OF WAGE REDUCTION **13**

STATEMENT OF WAGES (PAY STUB) **13**

RECORDKEEPING REQUIREMENTS **13**

NOTICE REQUIREMENTS **13**

SEVERANCE PAY **14**

DISCLAIMER

WAGE AND HOUR LAWS

MINIMUM WAGE

Georgia's current minimum wage is **$5.15**.

Georgia's minimum wage law does not apply to employers who are subject to the federal Fair Labor Standards Act when the federal Fair Labor Standards Act requires employers to pay a minimum wage greater than the Georgia's minimum wage. GA Code 34-4-3(c)

Georgia minimum wage laws also do not apply to the following employers:

- employers with sales of $40,000 per year or less;
- employers with five (5) employees or less
- employers of domestic employees;
- employers who are farm owners, sharecroppers, or land renters;

GA Statute 34-4-3

OVERTIME

Georgia labor laws do not have laws governing the payment of overtime. GA Dept. of Labor FAQ. Federal overtime laws apply. See FLSA: Overtime for more information regarding overtime requirements.

TIPPED MINIMUM WAGE

Georgia's minimum wage law does not contain a provision that allows employers to pay employees a rate less than the standard minimum wage rate. However, most employers in Georgia are exempt from its minimum wage act because they are subject to the federal Fair Labor Standards Act. GA Statute 34-4-3(c)

Thus, employers may pay employees who receive tips or gratuities a minimum wage of $2.13, subject to the requirements of the federal Fair Labor Standards Act. See GA. Dept. of Labor.

TIP POOLING AND SHARING

Georgia minimum wage law does not address tip/gratuity pooling. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the requirements for tip/gratuity pooling set forth in that law would likely apply.

PREVAILING WAGES

Georgia does not have a prevailing wage law that governs wage rates on government projects or service contracts.

Under certain circumstances, employers in Georgia may be required to pay residents wage rates established by federal prevailing wage rates and rules. The prevailing wage rates may be different from the federal and state's standard minimum wage rates.

Employees may be eligible for prevailing wages if they work on government or government-funded construction projects or perform certain government services. See the Davis-Bacon and Related Acts, McNamara-O'Hara Service Contract Act (SCA), and Walsh-Healey Public Contracts Act (PCA) for more information about prevailing wages.

SUBMINIMUM WAGES

Employees with Disabilities

Georgia's minimum wage law does not address employees with disabilities. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding employees with disabilities set forth in that law would apply.

Trainees

Georgia's minimum wage law does not address trainees. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding trainees set forth in that law would apply.

Apprentices

Georgia's minimum wage law does not address apprentices. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding apprentices set forth in that law would apply.

Learners

Georgia's minimum wage law does not address learners. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding learners set forth in that law would apply.

Student Learners

Georgia's minimum wage law does not address student learners. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding student learners set forth in that law would apply.

Student Workers

Georgia's minimum wage law does not address student workers. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding student workers set forth in that law would apply.

HOURS WORKED

Georgia's minimum wage law does not address when an employee's time must be counted as hours worked for calculating wages. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the definition of hours worked set forth in that law would apply.

Workweek

Georgia's minimum wage law does not address what constitutes a workweek. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the definition of workweek set forth in that law would apply.

Meals and Breaks

Georgia labor laws do not have any laws requiring an employer to provide a meal period or breaks to employees, thus the federal rule applies. The federal rule does not require an employer to provide either a meal (lunch) period or breaks.

However, if an employer chooses to do so, breaks, usually of the type lasting less than 20 minutes, must be paid. Meal or lunch periods (usually 30 minutes or more) do not need to be paid, so long as the employee is free to do as they wish during the meal or lunch period. DOL: Breaks and Meal Periods.

Nursing Mother Breaks

Georgia labor laws require employers to provide employees who are nursing mothers with reasonable breaks times to express breast milk unless:

- the employer has fewer than 50 employees and
- doing so would create an undue hardship on the operations of the employer

Employers must pay employees who are not paid on a salary basis at their regular rate of compensation for the time taken by employees to express milk unless the employees are working away from any of the employer's worksites. For employees paid on a salary basis, employers may not require employees to use paid leave or reduce the employees' salary for taking nursing breaks during the workday.

Employers must provide nursing mother employees with private locations where nursing mothers may express breast milk. Bathrooms do not meet the minimum standards for the nursing mothers' location.

Whether an employer will suffer an undue hardship involves how significant the difficulty or expense of meeting the legal standard for nursing mother breaks will be related to such factors as:

- the size of the business
- its financial resources
- the nature and structure of its operation

GA Statute 34-1-6

Waiting Time

Georgia's minimum wage law does not address when an employer must count waiting time as hours worked for purposes of minimum wage and overtime requirements. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the definition of waiting time set forth in that law would apply.

On-call Time

Georgia's minimum wage law does not address when an employer must count on-call time as hours worked for purposes of minimum wage and overtime requirements. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the definition of on-call time set forth in that law would apply.

Sleeping Time

Georgia's minimum wage law does not address when an employer must count sleeping time as hours worked for purposes of minimum wage and overtime requirements. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the definition of sleeping time set forth in that law would apply.

Travel Time

Georgia's minimum wage law does not address when an employer must count travel time as hours worked for purposes of minimum wage and overtime requirements. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the definition of travel time set forth in that law would apply.

Meeting, Lecture, and Training Time

Georgia's minimum wage law does not address when an employer must count meeting, lecture, or training time as hours worked for purposes of minimum wage and overtime requirements. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the definition of meeting, lecture, and training timemeeting time set forth in that law would apply.

Show Up and Reporting Time

Georgia law does not require employers to pay employees for reporting or showing up to work if no work is performed. An employer is also not required to pay an employee a minimum number of hours if the employer dismisses the employee from work prior to completing their scheduled shift. Employers are only required to pay employees for hours actually worked.

MINIMUM WAGE AND OVERTIME EXEMPTIONS

Executive Exemption

Georgia minimum wage law does not address executive employees. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding executive employees set forth in that law would apply.

Administrative Exemption

Georgia minimum wage law does not address administrative employees. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding administrative employees set forth in that law would apply.

Professional Exemption

Georgia minimum wage law does not address professional employees. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding professional employees set forth in that law would apply.

Outside Salesman Exemption

Georgia minimum wage law does not address outside salesman. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding outside sales employees set forth in that law would apply.

Computer Employee Exemption

Georgia minimum wage law does not address computer systems analyst, computer programmer, software engineer, or other similarly skilled worker. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, the rules and regulations regarding computer systems analysts, computer programmers, software engineers, or other similarly skilled workers set forth in that law would apply.

Other Minimum Wage and Overtime Exemptions

Georgia minimum wage law does not address other exemptions. However, because most employees working in Georgia are subject to the federal Fair Labor Standards Act, any other exemption set forth in that law would apply.

LEAVE LAWS

BEREAVEMENT LEAVE

Georgia law does not require employers to provide employees bereavement leave or leave to attend funerals. Bereavement leave is leave that is taken by an employee due to the death of another individual, usually a close relative. Employers may choose to provide bereavement leave and may be required to comply with any bereavement policy or practice they maintain.

HOLIDAY LEAVE

The State of Georgia has designated several days each calendar year as state holidays. The implications of these state holidays on public employers and private employers is discussed below. Georgia has adopted the federal holidays for its legal holidays. GA Statute 1-4-1; OPM Federal Holidays

State Legal Holidays

The following list contains the state holidays recognized by Georgia.

- New Year's Day (January 1)
- Martin Luther King, Jr. Birthday (3rd Monday in January)
- Washington's Birthday (3rd Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (1st Monday in September)
- Columbus Day (2nd Monday in October)
- Veterans Day (November 11)
- Thanksgiving Day (4th Thursday in November)
- Christmas Day (December 25)

GA Statute 1-4-1

Click here for a list of federal holidays.

Private Employers

Private employers in Georgia are not required to close on any of the listed holidays. Additionally, private employers are not required to allow employees to take either paid or unpaid time off on the holidays nor are they required to pay employees any premium wage rates to employees who work on the holidays. Private employers may establish policies or practices granting employees time off on any of the listed holiday or agree to pay premium wage rates to employees who work on those days. Employers who establish such policies or practices may be required to comply with them.

Public Employers

The governor is required to close state offices and facilities 12 days per year to observe legal holidays and other specified holidays. The 10 legal holidays listed above must be included in the 12 days designated by the governor. Additionally, the governor must designate either January 19, April 26, or June 3, or a suitable date in lieu thereof to commemorate the events now observed by such dates. GA Statute 1-4-1

JURY DUTY LEAVE

Georgia law makes it illegal for an employer to discharge, discipline, or otherwise penalize an employee for taking leave for the purposes of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order.

It is also illegal for an employer to threaten an employee with discharge, discipline, or any other adverse employment action for taking leave for the purposes of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order. GA Statute 34-1-3.

Georgia does not have any laws specifically requiring employers to provide paid leave for an employee to perform jury service. However, the Attorney General issued an opinion in 1989 interpreting GA Statute 34-1-3 as requiring employers to pay employees for jury service leave. In 199, the Attorney General issued another opinion in which it was stated that an employee would have a private right of action (they could file a civil claim in state court) against their employer for penalizing employees for being absent for jury duty leave. Georgia AG Official Opinion 95-13

any counties have adopted the Attorney General's position when providing direction to jurors, however, no court has addressed the viability of the Attorney General's opinion.

SICK LEAVE

In Georgia, employers are not required to provide employees with sick leave, either paid or unpaid. See GA Dept. of Labor FAQ: Sick Leave. If an employer chooses to provide sick leave benefits, it must comply with the terms of its established policy or employment contract.

An employer in Georgia may be required to provide an employee unpaid sick leave in accordance with the Family and Medical Leave Act or other federal laws.

VACATION LEAVE

In Georgia, employers are not required to provide employees with vacation benefits, either paid or unpaid. If an employer chooses to provide such benefits, it must comply with the terms of its established policy or employment contract.

An employer may lawfully establish a policy or enter into a contract denying employees payment for accrued vacation leave upon separation from employment. See *Shannon v. Huntley's Jiffy Store, Inc.*, 329 S.E.2d 208, 174 Ga. App. 125 (1985).

An employer may lawfully establish a policy or enter into a contract disqualifying employees from payment of accrued vacation upon separation from employment if they are terminated. See *Ryvos v. St. Mary's Hospital*, 393 S.E.2d 739, 195 Ga. App. 474 (1990); *Shannon v. Huntley's Jiffy Store*, Inc., 329 S.E.2d 208, 174 Ga. App. 125 (1985).

An employer may also lawfully establish a policy or enter into a contract disqualifying employees from payment of accrued vacation upon separation from employment if they fail to comply with specific requirements, such as giving two weeks notice or being employed as of a specific date of the year. See *Amoco Fabrics & Fibers Co. v. Ray*, 510 S.E.2d 591,235 Ga. App. 821 (1998).

An employer is required to pay accrued vacation to an employee upon separation from employment if its policy or contract requires it. See *Shannon v. Huntley's Jiffy Store, Inc.*, 329 S.E.2d 208, 174 Ga. App. 125 (1985).

Georgia's Legislature and its courts are silent regarding whether an employer must pay an employee for accrued vacation upon separation from employment if the policy or contract is silent regarding the matter. However, because of the contractual emphasis Georgia courts place on vacation policies, it is unlikely an employer would be obligated to pay an employee accrued vacation upon separation from employment if its policy or contract is silent regarding the matter, unless the employer has a practice of doing so.

Although Georgia's Legislature and its courts are silent regarding the matter, it is likely an employer may cap the amount of vacation leave an employee may accrue over time. See *Shannon v. Huntley's Jiffy Store, Inc.*, 329 S.E.2d 208, 174 Ga. App. 125 (1985).

An employer would also likely be free to implement a "use-it-or-lose-it" policy requiring employees to use their leave by a set date or lose it. See *Shannon v. Huntley's Jiffy Store, Inc.*, 329 S.E.2d 208, 174 Ga. App. 125 (1985).

VOTING LEAVE

Georgia law requires employers to provide an employee up to two (2) hours of leave to vote if:

- the employee gives the employer reasonable notice of the need to take time off, and
- the polls are not open for at least two (2) hours before the employee's shift begins or after it ends.

Georgia law does not require employers to pay employees for voting leave. Also, the employer may determine that hours an employee may be absent to vote to minimize the disruption to business operations.

GA Statute 21-2-404.

WAGE PAYMENT LAWS

FREQUENCY OF WAGE PAYMENTS

Georgia requires employers, except those in the farming, sawmill, and turpentine industries, to pay all employees all wages due on paydays selected by the employer, with paydays being divided between at least two (2) equal pay periods per month. This rule does not apply to company officials, superintendents, or other heads or subheads of departments who are paid a stipulated salary. They may be paid monthly or annually. GA Statute 34-7-2

MANNER OF WAGE PAYMENTS

Georgia employers, except those in the farming, sawmill, and turpentine industries, may only pay employees, except company officials, superintendents, or other heads or subheads of departments who are paid a stipulated salary, by:

- cash
- check
- payroll card account
- direct deposit, with the employee's consent

GA Statute 34-7-2

DIRECT DEPOSIT

Georgia permits an employer to pay an employee by direct deposit, but only after receiving the consent of the employee. An Georgia employer may not require an employee to be paid by direct deposit. GA Statute 34-7-2

PAYROLL CARD

Georgia permits employer to pay employees by payroll card account. To pay employees by payroll card account, employers must provide employees with a written explanation of any fees associated with the payroll card account. Employers must provide the written explanation at least 30 days prior to the date such payroll card account is to become available. For employees hired after employers decide to pay employees by payroll card account, the employers must provide the written explanation at the time the employers hire the employees.

Payroll card account means an account that is directly or indirectly established to which electronic fund transfers of wages or salaries are made on a recurring basis, whether the account is operated or managed by the employers or a third-party payroll processor, a depository institution, or any other person.

GA Statute 34-7-2

PAYMENT UPON SEPARATION FROM EMPLOYMENT

Georgia does not have any laws dictating when an employer must pay wages to employees who:

- have been fired or discharged;
- voluntary quit or resign;
- have left work due to a labor dispute or strike; or
- are laid off

WAGES IN DISPUTE

Georgia does not have any laws requiring an employer to pay an employee wages conceded to be due when involved in a wage dispute with the employee.

DEDUCTIONS FROM WAGES

Georgia does not have any laws regarding what deductions may or may not be taken from an employee's paycheck or whether an employee must provide written consent prior to any deduction. The lack of a law prohibiting deductions likely means an employer can withhold or deduct wages from an employee's pay check for:

- cash shortages
- breakage, damage, or loss of the employer's property
- dishonored or returned checks
- required uniforms
- required tools
- other items necessary for employment

In accordance with federal law, an employer may not make deductions for any of the above-listed items if it would cause the employee to earn less than federal minimum wage for the period in which the deduction was made. DOL Fact Sheet #16.

UNIFORMS, TOOLS, AND OTHER EQUIPMENT NECESSARY FOR EMPLOYMENT

Georgia does not have any laws prohibiting an employer from requiring an employee to purchase a uniform, tools, or other items necessary for employment.

PRE-HIRE MEDICAL, PHYSICAL, OR DRUG TESTS

Georgia does not have any laws prohibiting an employer from requiring an applicant or employee to pay the cost of a medical examination or the cost of furnishing any records required by the employer as a condition of employment.

NOTICE OF WAGE REDUCTION

Georgia does not have any laws addressing when or how an employer may reduce an employee's wages or whether an employer must provide employees notice prior to instituting a wage reduction. However, a wage reduction can only be applied to hours worked after the change and cannot be applied to hours already worked.

STATEMENT OF WAGES (PAY STUB)

Georgia does not have any laws requiring employers to provide employees at the time of payment any notice of wages paid, wage rates, deductions, or other wage payment information.

RECORDKEEPING REQUIREMENTS

An employer must maintain records showing the hours worked by each employee and the wages paid to each employee. The law does not designate a minimum amount of time the information must be kept. GA Statute 34-4-5

Federal law requires every employer covered by the Fair Labor Standards Act (FLSA) to keep certain records for each covered, nonexempt worker, for at least 3 years. For more information, visit FLSA.

NOTICE REQUIREMENTS

When an employee is separated from employment, regardless of the reason, an employer is required to complete GA Dept. of Labor Form DOL-800 Form DOL-800, "Separation Notice." In the case of mass layoffs or other mass separations, the employer must complete Form DOL-402 and Form DOL-402A. The employer must provide a completed Form DOL-800 to an employee on the last day the employee works. If the employee is not available on the last day of their

employment, the employer must mail the employee a copy of Form DOL-800 within three (3) days of the last day of work. GA Statute 34-8-190

SEVERANCE PAY

Georgia labor laws do not require employers to provide employees with severance pay. Dept. of Labor FAQ: Severance. If an employer chooses to provide severance benefits, it must comply with the terms of its established policy or employment contract.

DISCLAIMER

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