

Philippine Copyright 2014 Rex Book Store, Inc. All Rights Reserved. No part of this Learning Device may be reproduced or distributed in any form or by any means, or stored in a database retrieval system without prior permission from Rex Book Store, Inc.





# Chapter 11: Basic Labor Law Affecting Employer- Employee Relationship

## Topic Outline:

- Labor Law for Leaders
- State Policy on Labor
- General Labor Standards
- Basic Rights of Workers
- Work Days and Work Hours
- Wage and Wage-related Benefits
- Employment of Women
- Employment of Children
- Right to Self-organization and Collective Bargaining
- Provisions regarding Health and Safety in the Workplace
- Philippine Labor Code
- Selected Provisions from the Books of the Labor Code
- Department of Labor and Employment



# Labor Law for Leaders

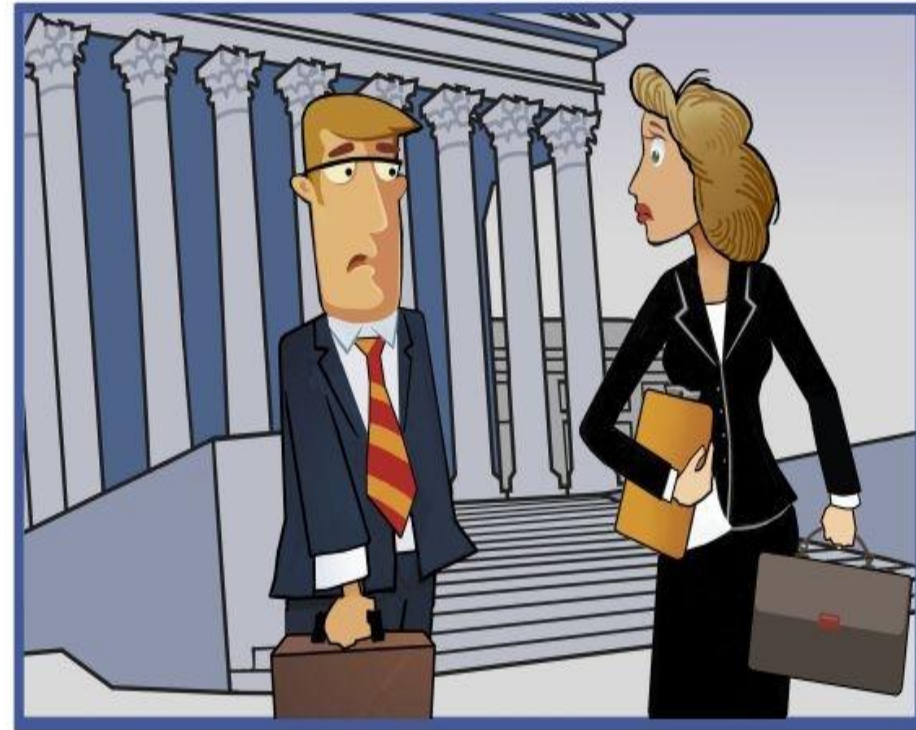
There is a need for the leaders of the organization to get a solid background and knowledge of employment and collective labor law, and how to use the labor law in their daily handling of employment matters.





## State Policy on Labor

- To promote and emphasize the primacy of CB and negotiations, including voluntary arbitration, mediation and conciliation, as modes of settling labor or industrial disputes
- To promote free trade unionism
- To foster the free and voluntary organization of a strong and united labor movement

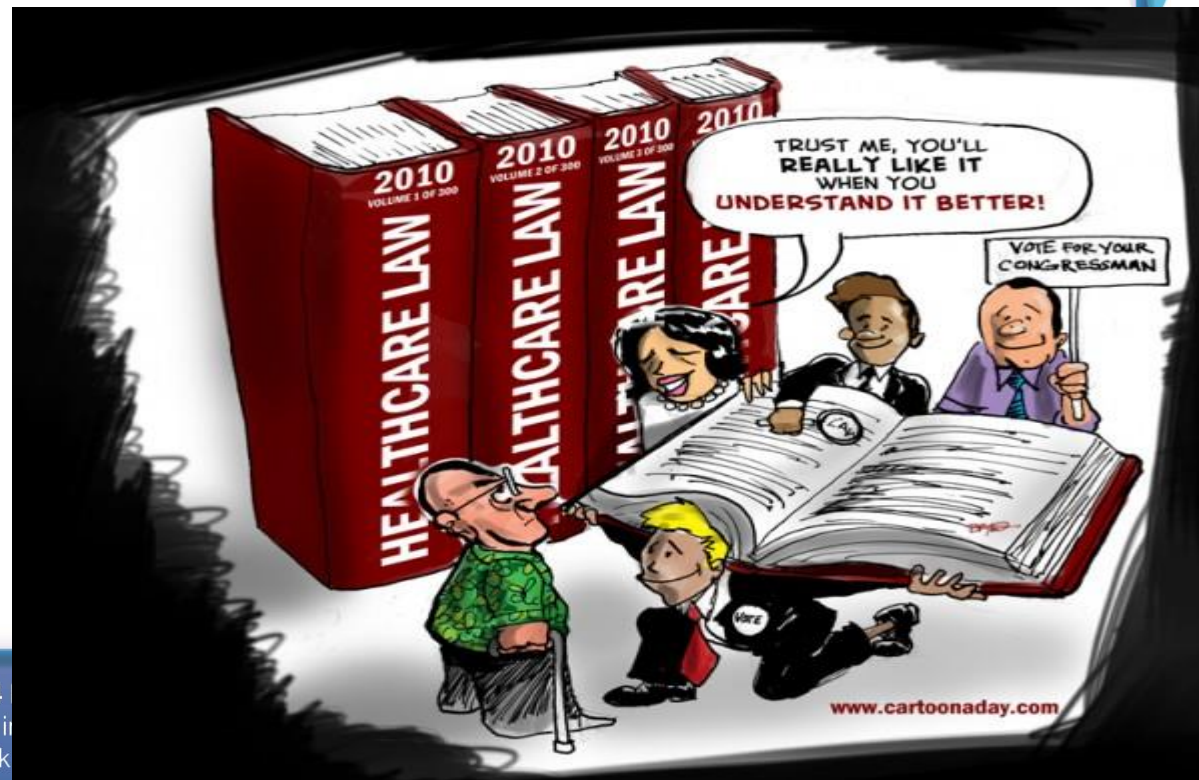


**“Labor law reform** is supported by millions...  
... unfortunately that’s people, not dollars.”



To promote the enlightenment of workers concerning their rights and obligations as union members and as employees

- To provide an adequate administrative machinery for the expeditious settlement of labor or industrial disputes
- To ensure a stable but dynamic and just industrial peace
- To ensure the participation of workers in decision and policy-making processes affecting their rights, duties, and welfare





# General Labor Standards

## Minimum Wage

Factor 365 days in a year is used in determining the equivalent annual and monthly salary of monthly paid employees.

*To compute Estimated Equivalent Monthly Rate (EEMR):*

$$\frac{\text{Applicable Daily Rate} \times 365}{12} = \text{EEMR}$$

where 365 days/year = 299 ordinary working days

52 rest days

11 regular holidays

3 special days

365 total equivalent no. of days in a year



# Premium Pay

- refers to the additional compensation for work performed within eight (8) hours on non-work days, such as rest days and special days





## Right to Holiday Pay

- refers to the payment of the regular daily wage for any unworked regular holidays





# Overtime Pay

- refers to the additional pay for work performed beyond eight (8) hours a day
- an additional compensation for the work equivalent to his regular wage plus 25% of the basic hourly rate





1. For work in excess of eight (8) hours performed on ordinary working days: Plus 25% of the hourly rate.

<b>Sector/Industry</b>	<b>Rate</b>	<b>Amount</b>
Non-agriculture	P451.00	$P451/8 \times 125\% = \mathbf{P56.38 \times 125\% \times \text{number of hours OT work}}$
Retail/Service Establishment	P414.00	$P414/8 \times 125\% = \mathbf{P51.75 \times 125\% \times \text{number of hours OT work}}$

2. For work in excess of eight (8) hours performed on a scheduled rest day or a special day: Plus 30% of the hourly rate on said days.

<b>Sector/Industry</b>	<b>Rate</b>	<b>Amount</b>
Non-agriculture	P451.00	$P451/8 \times 130\% \times 130\% = \mathbf{P56.38 \times 130\% \times 130\% \times \text{number of hours OT work}}$
Retail/Service Establishment	P414.00	$P414/8 \times 130\% \times 130\% = \mathbf{P51.75 \times 130\% \times 130\% \times \text{number of hours OT work}}$

Source:

<http://bwc.dole.gov.ph/userfiles/file/Handbook-English%20Version.pdf>



3. For work in excess of eight (8) hours performed on a special day which falls on a scheduled rest day: Plus 50% of the hourly rate on said days.

Sector/Industry	Rate	Amount
Non-agriculture	P451.00	$P451/8 \times 150\% \times 130\% = P56.38 \times 130\% \times 130\% \times \text{number of hours OT work}$
Retail/Service Establishment	P414.00	$P414/8 \times 150\% \times 130\% = P51.75 \times 130\% \times 130\% \times \text{number of hours OT work}$

4. For work in excess of eight (8) hours performed on a regular holiday: Plus 30% of the hourly rate on said days.

Sector/Industry	Rate	Amount
Non-agriculture	P451.00	$P451/8 \times 200\% \times 130\% = P56.38 \times 200\% \times 130\% \times \text{number of hours OT work}$
Retail/Service Establishment employing less than 10 workers	P414.00	Not covered by the rule on holiday pay

Source:

<http://bwc.dole.gov.ph/userfiles/file/Handbook-English%20Version.pdf>



5. For work in excess of eight (8) hours performed on a regular holiday which falls on a scheduled rest day: Plus 30% of the hourly rate on said days.

Sector/Industry	Rate	Amount
Non-agriculture	P451.00	$P451/8 \times 260\% \times 130\% = P56.38 \times 260\% \times 130\% \times \text{number of hours OT work}$
Retail/Service Establishment employing less than 10 workers	P414.00	Not covered by the rule on holiday pay

Source:

<http://bwc.dole.gov.ph/userfiles/file/Handbook-English%20Version.pdf>



## Guide Computations for OT

Ordinary day, overtime (OT)	$1 \times 1.25 = 1.25$ or <b>125%</b>
Rest day, overtime	$1.3 \times 1.3 = 1.69$ or <b>169%</b>
Special day, overtime	$1.3 \times 1.3 = 1.69$ or <b>169%</b>
Special day, rest day, overtime	$1.5 \times 1.3 = 1.95$ or <b>195%</b>
Regular Holiday, overtime	$2 \times 1.3 = 2.6$ or <b>260%</b>
Regular Holiday, rest day, overtime	$2.6 \times 1.3 = 3.38$ or <b>338%</b>
Double holiday, overtime	$3 \times 1.3 = 3.9$ or <b>390%</b>
Double holiday, rest day, overtime	$3.9 \times 1.3 = 5.07$ or <b>507%</b>



## Night Shift Differential Pay

- refers to the additional compensation of ten percent (10%) of an employee's regular wage for each hour of work performed between 10PM and 6AM
- equivalent to not less than 10% of employee's regular wage for each hour of work performed between 10PM to 6AM
- an additional 10% of OT rate (regular wage plus 25% OT pay) for each hour of work performed by an employee who is required to work between 10PM to 6AM after his work schedule



## Guide Computations for Night Shift

Ordinary day, night shift	$1 \times 1.1$	$= 1.1$	or <b>110%</b>
Rest day, night shift	$1.3 \times 1.1$	$= 1.43$	or <b>143%</b>
Special day, night shift	$1.3 \times 1.1$	$= 1.43$	or <b>143%</b>
Special day, rest day, night shift	$1.5 \times 1.1$	$= 1.65$	or <b>165%</b>
Regular Holiday, night shift	$2 \times 1.1$	$= 2.2$	or <b>220%</b>
Regular Holiday, rest day, night shift	$2.6 \times 1.1$	$= 2.86$	or <b>286%</b>
Double holiday, night shift	$3 \times 1.1$	$= 3.3$	or <b>330%</b>
Double holiday, rest day, night shift	$3.9 \times 1.1$	$= 4.29$	or <b>429%</b>



## Premium Pay Rates

The following premium pay rates apply for work performed on:

- Rest days
  - an additional 30% of the daily rate or a total of 130%
- A rest day which is also a special day
  - an additional of 50% of the daily rate or a total of 150%
- A regular holiday which is also the employee's rest day
  - an additional 60% of the regular holiday rate of 200% or a total of 260%

# Article 89 Emergency Overtime Work



- When the country is at war or when any other national or local emergency has been declared
- To prevent loss of life or property in case of an emergency
- When there is urgent work to be performed to avoid serious loss or damage to the EER
- To prevent loss or damage to perishable goods
- To prevent serious obstruction or prejudice to the business of the EER
- To take advantage of unfavorable weather conditions





## Article 95 Right to Service Incentive Leaves

- All EEs who have rendered at least one year of service from the date the EE started working, shall be entitled to a yearly service incentive leave of at least five (5) days with pay.
- This is commutable to cash if unused at the end of the year, based on salary at the date of commutation.





## Right to Paternity Leave

- All married male employees regardless if they are not living together physically with their wife because of location of work station, and regardless of employment status shall be entitled to paternity leave benefit of seven (7) days with pay.
- The paternity leave applies to the first four (4) deliveries or miscarriages of his legal wife.



## Parental Leave for Solo Parents

As provided under RA 8972, employer shall ensure solo parents (“Parental leave” shall mean leave benefits granted to a solo parent to enable him/her to perform parental duties and responsibilities where physical presence is required) provisions of the law on flexible work schedule where applicable and the grant of parental leave of not more than seven (7) working days every year.



## Article 96 Service Charges

- All EEs in establishments collecting service charges or having a policy of monitoring and pooling tips given voluntarily by customers, are entitled to share equally in 85% of all service charges or pooled tips so collected and the 15% for the management to answer for losses and breakages and for distribution to managerial employees at the discretion of the management.
- If the practice of collecting service charge is abolished, the share of covered EEs shall be considered integrated in their wages.
- These charges are collected by most hotels, restaurants and similar establishments.



## Right to Maternity Leave Benefits

- granted to every pregnant employee whether married or unmarried for her first four (4) normal or caesarian deliveries, abortion or miscarriages.
- *Days of entitlement:*
  - 60 days for normal delivery, abortion, or miscarriage
  - 78 days for caesarian section delivery

# Maternity Leave

A Novel



JULIE HALPERN



## Separation Pay

- An employee's entitlement to separation pay depends on the reason or ground for the termination of his services.
- On the other hand, where the termination is for authorized causes, separation pay is due.



## 13th Month Pay

All employers are required to pay their rank-and-file employees regardless of the nature of their employment and irrespective of the method by which their wages are paid provided they worked for at least one (1) month during a calendar year.



# Basic Rights of Workers

## Equal Work Opportunities for All

The State shall protect labor, promote full employment, provide equal work opportunity regardless of gender, race, or creed, and regulate employee-employer relations.



**DISMISSED**



## Security of Tenure

Every employee shall be assured security of tenure. No employee can be dismissed from work except for a just or authorized cause, and only after due process.



## *Just Causes:*

- Serious misconduct
- Willful disobedience of employers' lawful orders connected with work
- Gross and habitual neglect of duty
- Fraud or willful breach of trust
- Commission of crime or offense against the employer, employer's family member/s or representative
- Other analogous cases



### *Authorized Causes:*

- refer to an economic circumstance not due to the EE's fault, including:
  - the introduction of labor-saving devices;
  - redundancy;
  - retrenchment to prevent losses; and
  - closure or cessation of business.



## *Due Process*

- For Just Cause
  - Notice to employee of intent to dismiss and grounds for dismissal
  - Opportunity for employee to explain his or her side
  - Notice of decision to dismiss
  
- For Authorized Cause
  - written notice of dismissal to the employee specifying the grounds, at least 30 days before the date of termination



## Payment of Wages

- Wages shall be paid in cash, legal tender at or near the place of work. Payment may be made through a bank upon written petition of majority of the workers in establishments with 25 or more employees and within one (1) kilometer radius to a bank. Payment shall be made directly to the employees.
- Wages shall be given not less than once every two (2) weeks or twice within a month at intervals not exceeding 16 days.



## Work Days and Work Hours

- **Work day** refers to any day during which an employee is regularly required to work.
- **Hours of work** refer to all the time an employee renders actual work, or is required to be on duty or to be at a prescribed workplace.
- An employee must be paid his or her wages for all hours worked.



## Weekly Rest Day

A day-off of 24 consecutive hours after 6 days of work should be scheduled by the employer upon consultation with the workers.



# Wage and Wage-Related Benefits

- **Wage** is the amount paid to an employee in exchange for a task, piece of work, or service rendered to an employer. This includes overtime, night differential, rest day, holiday, and 13th month pay. It also includes the fair and reasonable value of board, lodging, and other facilities customarily furnished by the employer.
- Wage may be fixed for a given period, as when it is computed hourly, daily, or monthly. It may also be fixed for a specified task or result.



## Employment of Women

Women are prohibited to work at night unless allowed by the rules:

- In industrial undertakings from 10PM to 6AM
- In commercial/non-industrial undertakings from 12MN to 6AM
- In agricultural undertakings at night-time unless given not less than 9 consecutive hours of rest



## Employment of Children

- Minimum employable age is 15 years of age. A worker below 15 should be directly under the sole responsibility of parents or guardians. Work does not interfere with child's schooling/normal development.
- No person below 18 years of age can be employed in a hazardous or deleterious undertaking.



# Right to Self-Organization and Collective Bargaining

The right to self-organization is the right of every worker, free of any interference from the employer or from government to form or join any legitimate worker's organization, association, or union of his or her own choice.



# Provisions regarding Health and Safety in the Workplace

- Safe working conditions
- EC benefits for work-related contingencies
- Rights to safe and healthy conditions of work
- OSH standards
- Minimum standard on safety and health in the workplace
- Safety measures that must be observed within the premises of establishments
- Other safety requirements employers should provide to their employees



# Selected Provisions from the Books of the Labor Code

## Book I

### Pre-employment

- deals with the recruitment and placement of workers to promote and maintain a state of full employment through improved manpower training, allocation, and utilization including regulating the employment of aliens, and the establishment of a registration and/or work permit system, and to insure careful selection of Filipino workers for overseas employment in order to protect the good name of the Philippines abroad



## Book II

### Human Resources Development Program

- develops human resources, establishes training institutions, and formulates such plans and programs that will ensure efficient allocation, development, and utilization of the nation's manpower and thereby promotes employment and accelerates economic and social growth



## Book III

### Conditions of Employment

- includes provisions on working conditions and rest periods that deals with hours of work, weekly rest periods, holidays, service incentive leaves, and service charges. Provisions about wages including prohibitions regarding wages and working conditions for special groups of employees, such as employment of women, minors, house helpers, and home workers are also included in this book.



## **Book IV**

### **Health, Safety and Social Welfare Benefits**

- covers medical, dental, occupational health and safety, employees' compensation, and State Insurance Fund including the provision for medical care as amended, and adult education



## Book V

### Labor Relations

- covers the major labor laws, the role/functions of the National Labor Relation Commission (NLRC), National Conciliation and Mediation Board (NCMB), and Bureau of Labor Relation (BLR)
- gives a comprehensive discussion on labor organization, collective bargaining agreements, grievance machinery and voluntary arbitration, conciliation and mediation, strikes and lockouts
- includes act of unfair labor practices that both the employer and labor organizations may commit



## Book VI

### Post Employment

- a security of tenure law updating RA No. 1052 and RA No. 1787 known as the Termination Pay Law
- deals with the different labor laws pertaining to resignation, layoff, and retirement from the service



## **Book VII**

### **Transitory and Final Provisions**

- penal provisions, liabilities, prescription of offenses and claims and transitory provisions



# Department of Labor and Employment

- DOLE started as a small bureau in 1908. It became a department on December 8, 1933 with the passage of Act 4121.
- National government agency mandated to formulate policies, implement programs and services, and serve as the policy-coordinating arm of the Executive Branch in the field of labor and employment.



## Organization and Functions of DOLE

- are in accordance with the provisions of Executive Order No. 126, as amended, the Labor Code of the Philippines, and other relevant and pertinent legislations
- has exclusive authority in the administration and enforcement of labor and employment laws and such other laws as specifically assigned to it or to the Secretary of Labor and Employment



## Attached Agencies to DOLE

- **Employees' Compensation Commission (ECC)** – grant of benefits to workers who suffer work-related injuries, sickness, disability, or death (rehabilitation assistance to occupationally disabled workers)
- **Institute for Labor Studies (ILS)** – labor policy research and advocacy
- **Maritime Training Council (MTC)** – formulates appropriate training policies and regulates operations of privately owned maritime training center to ensure the Filipino seafarers' qualifications with International Maritime Standards



- **National Conciliation and Mediation Board (NCMB)** – settlement of labor dispute through preventive mediation, Grievance Machinery (GM), and Voluntary Arbitration (VA)
- **National Labor Relation Commission (NLRC)** – compulsory arbitration; adjudication and arbitration of OFW cases
- **National Maritime Polytechnic (NMP)** – upgrading the competence of licensed merchant marine officers and ratings to ensure the primacy of Filipino seafarers in world shipping



- **National Wages and Productivity Commission (NWPC)** – wage setting and productivity improvement, consistent with national development plans
- **Occupational Safety and Health Center (OSHC)** – continuing researches and studies on occupational safety and health, develop and implement programs for the protection of workers (Zero Accident program, facility evaluation/testing of safety devices, and occupational health examination).
- **Overseas Workers Welfare Administration (OWWA)** – extension of social, welfare, and other assistance to OFWs and their dependents



- **Philippine Overseas Employment Administration (POEA)** – supervision of the deployment of OFWs under the best possible terms, and the regulation of private sector participation in recruitment and overseas placement (Global OFW Mapping and Profiling and Manpower Registry Foreign principals accreditation/registration, Job orders monitoring, Market development and management, Adjudication and Arbitration of OFW Cases)
- **Technical Education and Skills Development Authority (TESDA)** – training and retraining of workers to produce globally competitive Filipino workers



## DOLE Bureaus

- **Bureau of Labor and Employment Statistics (BLES)** – production and analyses of labor and employment statistics
- **Bureau of Labor Relations (BLR)** – administration and enforcement of laws relating to labor-management relations; resolution of small money claims; registration of union, CBA, and workers' association; and supervision of trade union activities



- **Bureau of Local Employment (BLE)** – employment promotion and administration and enforcement of laws relating to local recruitment and placement, alien employment and apprenticeship, such as Phil-Jobnet and Skills Registry, Capability-Building Program for Employment Service Providers (both local): Public Employment Service Office (PESO), and Private Recruitment and Placement Agency (PRPA)
- **Bureau of Rural Workers (BRW)** – administration and enforcement of laws relating to rural workers



- **Bureau of Women and Young Workers (BWYW)** – administration and enforcement of laws relating to working women and young workers for the protection and promotion of their welfare and interest
- **Bureau of Working Conditions (BWC)** – administration and enforcement of laws relating to working conditions (Safety Officers Accreditation Program, resolution of labor standard cases)