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Charter School Boards & Staff In-Service

Minnesota Employment Law

MN Statute 181

Module No. 4

Salary & Wages

Payment to Current & Former Employees

MN Statute 181 Sections 03, 031, 032, 06, 101, 13, 14, 15 & 82



Minnesota charter schools are subject to MN Statute 181 - Employment Law. This law is the general employment law in the State of Minnesota that applies to all employers and employees.

One of the fiduciary duties of board members is to know the laws that apply to the school, and the charter school has a legal responsibility to notify employees of the terms and conditions of employment in the public charter school - especially since those terms and conditions are different than employment in traditional public schools.

These In-service Modules provide “bite size” lessons on Minnesota’s Employment Law for use as monthly in-services with public charter school boards and staffs. We hope that charter school boards and administrators will find these in-service modules a helpful tool.

SALARY & WAGES: PAYMENT TO CURRENT & FORMER EMPLOYEES

Minnesota’s Charter School Law – MN Statute 124.D 10, the legislature lists MN Statute 181 as a law with which a charter school and a charter school board must comply. Within the law, payments of salary and wages to current and former employees are outlined in sections 181.01-181.171.

181.03 - Certain Acts Relating to Payment of Wages Unlawful

Prohibited practices

An employer may not, directly or indirectly and with intent to defraud:

- (1) cause any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered;
- (2) directly or indirectly demand or receive from any employee any rebate or refund from the wages owed the employee under contract of employment with the employer; or
- (3) in any manner make or attempt to make it appear that the wages paid to any employee were greater than the amount actually paid to the employee.

Except as otherwise provided in section [181.13](#), an employer or a person, firm, corporation, or association may not alter the method of payment, timing of payment, or procedures for payment of commissions earned through the last day of employment after the employee has resigned or been terminated if the result is to delay or reduce the amount of payment.

An employer who violates this section is liable in a civil action brought by the employee for twice the amount in dispute.

181.031 - Employers Not to Accept Considerations for Securing Employment

An employer, or any manager, superintendent, lead supervisor, or other representative of an employer, may not, directly or indirectly, demand or accept from any employee any part of such employee's wages or other consideration, or any gratuity, in consideration of giving to or securing, or assisting in securing, for any employee any employment with such employer.

181.032 - Required Statement of Earnings by Employer

At the end of each pay period, the employer shall provide each employee an earnings statement, either in writing or by electronic means, covering that pay period. An employer who chooses to provide an earnings statement by electronic means must provide employee access to an employer-owned computer during an employee's regular working hours to review and print earnings statements.

The earnings statement may be in any form determined by the employer but must include:

- (1) the name of the employee;
- (2) the hourly rate of pay (if applicable);
- (3) the total number of hours worked by the employee unless exempt from chapter 177;
- (4) the total amount of gross pay earned by the employee during that period;
- (5) a list of deductions made from the employee's pay;
- (6) the net amount of pay after all deductions are made;
- (7) the date on which the pay period ends; and
- (8) the legal name of the employer and the operating name of the employer if different from the legal name.

An employer must provide earnings statements to an employee in writing, rather than by electronic means, if the employer has received at least 24 hours notice from an employee that the employee would like to receive earnings statements in written form. Once an employer has received notice from an employee that the employee would like to receive earnings statements in written form, the employer must comply with that request on an ongoing basis.

181.06 - Assignment of Wages; Payroll Deductions

Assignment of wages

Every assignment, sale, or transfer, however made or attempted, of wages or salary to be earned or to become due, in whole or in part, more than 60 days from and after the date of making such transfer, sale or assignment shall be absolutely void; provided however, that the foregoing restriction against transfer, sale or assignment shall not apply to any assignment, sale or transfer of that portion of wages or salary to be earned or to become due in excess of the first \$1,500 per month where such assignment is for less than five years.

Payroll deductions

A written contract may be entered into between an employer and an employee wherein the employee authorizes the employer to make payroll deductions for the purpose of paying union dues, premiums of any life insurance, hospitalization and surgical insurance, group accident and health insurance, group term life insurance, group annuities or contributions to credit unions or a community chest fund, a local arts council, a local science council or a local arts and science council, or Minnesota benefit association, a federally or state registered political action committee, or participation in any employee stock purchase plan or savings plan for periods longer than 60 days, including gopher state bonds established under section [16A.645](#).

181.101 - Wages; How Often Paid

Every employer must pay all wages earned by an employee at least once every 31 days on a regular pay day designated in advance by the employer regardless of whether the employee requests payment at longer intervals. Unless paid earlier, the wages earned during the first half of the first 31-day pay period become due on the first regular payday following the first day of work. If wages earned are not paid, the commissioner of labor and industry or the commissioner's representative may demand payment on behalf of an employee. If payment is not made within ten days of demand, the commissioner may charge and collect the wages earned and a penalty in the amount of the employee's average daily earnings at the rate agreed upon in the contract of employment, not exceeding 15 days in all, for each day beyond the ten-day limit following the demand. Money collected by the commissioner must be paid to the employee concerned.

This section does not prevent an employee from prosecuting a claim for wages. This section does not prevent a school district, other public school entity, or other school, as defined under section [120A.22](#), from paying any wages earned by its employees during a school year on regular pay days in the manner provided by an applicable contract or collective bargaining agreement, or a personnel policy adopted by the governing board. For purposes of this section, wages are earned on the day an employee works.

181.13 - Penalty for Failure to Pay Wages Promptly

(a) When any employer employing labor within this state discharges an employee, the wages or commissions actually earned and unpaid at the time of the discharge are immediately due and payable upon demand of the employee. If the employee's earned wages and commissions are not paid within 24 hours after demand, whether the employment was by the day, hour, week, month, or piece or by commissions, the employer is in default. The discharged employee may charge and collect the amount of the employee's average daily earnings at the rate agreed upon in the contract of employment, for each day up to 15 days, that the employer is in default, until full payment or other settlement, satisfactory to the discharged employee, is made. In the case of a public employer where approval of expenditures by a governing board is required, the 24-hour period for payment does not commence until the date of the first regular or special meeting of the governing board following discharge of the employee.

(b) The wages and commissions must be paid at the usual place of payment unless the employee requests that the wages and commissions be sent through the mails. If, in accordance with a request by the employee, the employee's wages and commissions are sent to the employee through the mail, the wages and commissions are paid as of the date of their postmark.

181.14 - Payment to Employees Who Quit or Resign; Settlement of Disputes

Prompt payment required

When any such employee quits or resigns employment, the wages or commissions earned and unpaid at the time the employee quits or resigns shall be paid in full not later than the first regularly scheduled payday following the employee's final day of employment, unless an employee is subject to a collective bargaining agreement with a different provision. If the first regularly scheduled payday is less than five calendar days following the employee's final day of employment, full payment may be delayed until the second regularly scheduled payday but shall not exceed a total of 20 calendar days following the employee's final day of employment.

Nonprompt payment

Wages or commissions not paid within the required time period shall become immediately payable upon the demand of the employee. If the employee's earned wages or commissions are not paid within 24 hours after the demand, the employer shall be liable to the employee for an additional sum equal to the amount of the employee's average daily earnings provided in the contract of employment, for every day, not exceeding 15 days in all, until such payment or other settlement satisfactory to the employee is made.

Settlement of disputes

If the employer disputes the amount of wages or commissions claimed by the employee under the provisions of this section or section [181.13](#), and the employer makes a legal tender of the amount which the employer in good faith claims to be due, the employer shall not be liable for any sum greater than the amount so tendered and interest thereon at the legal rate, unless, in an action brought in a court having jurisdiction, the employee recovers a greater sum than the amount so tendered with interest thereon; and if, in the suit, the employee fails to recover a greater sum than that so tendered, with interest, the employee shall pay the cost of the suit, otherwise the cost shall be paid by the employer.

Employees entrusted with money or property

In cases where the discharged or quitting employee was, during employment, entrusted with the collection, disbursement, or handling of money or property, the employer shall have ten calendar days after the termination of the employment to audit and adjust the accounts of the employee before the employee's wages or commissions shall be paid as provided in this section, and the penalty herein provided shall apply in such case only from the date of demand made after the expiration of the period allowed for payment of the employee's wages or commissions. If, upon such audit and adjustment of the accounts of the employee, it is found that any money or property entrusted to the employee by the employer has not been properly accounted for or paid over to the employer, as provided by the terms of the contract of employment, the employee shall not be entitled to the benefit of sections [181.13](#) to [181.171](#), but the claim for unpaid wages or commissions of such employee, if any, shall be disposed of as provided by existing law.

Place of payment

Wages and commissions paid under this section shall be paid at the usual place of payment unless the employee requests that the wages and commissions be sent to the employee through the mails. If, in accordance with a request by the employee, the employee's wages and commissions are sent to the employee through the mail, the wages and commissions shall be deemed to have been paid as of the date of their postmark for the purposes of this section.

181.15 - When Employee Not Entitled to Benefits

No such servant or employee who hides or stays away to avoid receiving payment, or refuses to receive the same when fully tendered, shall be entitled to any benefit under sections [181.13](#) to [181.171](#) for such time as so avoiding payment; provided, when any number of employees enter upon a strike the wages due such striking employees at the time of entering upon such strike shall not become due until the next regular pay day after the commencement of such strike.

181.82 – Benefits Based on Job Performance Prohibited

No employer may terminate or threaten to terminate:

- (1) group accident and health insurance coverage;
- (2) group life insurance coverage; or
- (3) pension benefits

for an employee, including a commissioned agent, based on the employee's job performance unless the employer has first given the employee the opportunity to continue coverage by making the same contribution the employer would have to make to continue coverage for the employee.

QUESTIONS FOR DISCUSSION WITH BOARDS AND SCHOOL STAFF

1. How often must wages be paid to current employees?
2. When an employee is discharged and requests payment that is due, how long does an employer have to comply?
3. When does an employer have to pay court fees of the employee when the employer is found guilty of a salary and wages violation?
4. When is it legal for an employee and an employer to enter into a contract in which payroll deductions are made in order to pay specific types of insurance?
5. What are the three prohibited actions that relate to intention to defraud an employer?
6. When an employee requests a non-electronic earnings statement, what actions must be taken?
7. When is it every legal for an employer to accept wages or other considerations in the selection process of an employee?

ACTIONS

- ✓ The Board has adopted a written policy on payment of salary and wages, payroll periods, etc.
- ✓ Personnel Handbook has information on payment of salary and wages, payroll periods, etc., to current and former employees consistent with MN Statute 181.
- ✓ Board has adopted policy and administration has developed procedures for payment of salary or wages when an employee quits, resigns or is terminated that are in compliance with the law.

OTHER PROVISIONS OF THE LAW RELATED TO SALARY AND WAGES

181.01 - Wages of Minors; To Whom Paid

Any parent or guardian claiming the wages of a minor in service shall so notify the employer and, if failing to do so, payment to the minor of wages so earned shall be valid.

181.04 - Assignment, Sale, or Transfer of Wages; When Not Effective

No assignment, sale, or transfer, however made or attempted to be made, of any wages or salary to be earned shall give any right of action either at law or in equity to the assignee or transferee of such wages or salary, nor shall any action lie for the recovery of such wages or salary, or any part thereof, by any other person than the person to whom such wages or salary are to become due unless a written notice, together with a true and complete copy of the instrument assigning or transferring such wages or salary, shall have been given within three days after the making of such instrument to the person, firm, or corporation from whom such wages or salary are accruing or may accrue.

181.041 - Garnishment; Assignment, Sale, or Transfer of Wages; When Not Effective

No assignment, sale, or transfer, however made or attempted, of any earned or unearned wages or salary is in any manner valid or effectual for the transfer of any salary or wages and should be disregarded if made following service of a garnishment exemption notice and within ten days prior to the receipt of the first garnishment or execution on a debt.

181.05 - Consent of Employer to Assignment Required

No assignment, sale, or transfer, however made or attempted, of any unearned wages or salary shall be in any manner valid or effectual for the transfer of any salary or wages to be earned or accruing after the making of such assignment, sale, or transfer unless the person, firm, or corporation from whom such wages or salary are to accrue shall consent thereto in writing. Any employer or agent of such employer accepting or charging any fee or commission for collecting the amount due on any such assignment, sale, or transfer shall be deemed guilty of a misdemeanor.

181.063 - Assignment of Wages, Public Employees

Any officer or employee of a county, town, city, school district, or the state, or any department thereof, has the same right to sell, assign, or transfer salary or wages as any officer of or person employed by any corporation, firm, or person.

181.07 - Assignment of Unearned Wages as Security

No assignment of or order for wages to be earned in the future to secure a loan of less than \$200 shall be valid against an employer of the person making the assignment or order until the assignment or order is accepted in writing by the employer and the assignment or order and the acceptance of the same have been filed and recorded with the clerk of the city or town where the party making the assignment or order resides, if a resident of this state, or in which the person is employed if the person is a nonresident. No assignment of or order for wages to be earned in the future shall be valid when made by a married person unless the written consent of the person's spouse to the making of the assignment or order is attached thereto.

181.09 - Recovery of Wages, Costs

When any public service corporation neglects or refuses to pay its employees, as prescribed by section [181.08](#), the wages may be recovered by action without further demand. Costs of \$10 shall be allowed to the plaintiff and included in the judgment, in addition to disbursements allowed by law.

181.58 – Surviving Spouse and Paid Wages Due

For the purposes of this section the word "employer" includes every person, firm, partnership, corporation, the state of Minnesota, all political subdivisions, and all municipal corporations.

If, at the time of the death of any person, an employer is indebted to the person for work, labor, or services performed, and no personal representative of the person's estate has been appointed, such employer shall, upon the request of the surviving spouse, forthwith pay this indebtedness, in such an amount as may be due, not exceeding the sum of \$10,000, to the surviving spouse. The employer may in the same manner provide for payment to the surviving spouse of accumulated credits under the vacation or overtime plan or system maintained by the employer. The employer shall require proof of claimant's relationship to decedent by affidavit, and require claimant to acknowledge receipt of such payment in writing. Any payments made by the employer pursuant to the provisions of this section shall operate as a full and complete discharge of the employer's indebtedness to the extent of the payment, and no employer shall thereafter be liable therefore to the decedent's estate or the decedent's personal representative thereafter appointed. Any amounts so received by a spouse shall be considered in diminution of the allowance to the spouse under section [524.2-403](#).

181.74 – Failure of Employer to Pay Benefits or Wage Supplements, Penalty

Gross misdemeanor

Any employer required under the provisions of an agreement to which the employer is a party to pay or provide benefits or wage supplements to employees or to a third party or fund for the benefit of employees, and who refuses to pay the amount or amounts necessary to provide such benefits or furnish such supplements within 30 days after such payments are required to be made under law or under agreement, is guilty of a gross misdemeanor. If such employer is a corporation, any officer who intentionally violates the provisions of this section shall be guilty of a gross misdemeanor. The institution of bankruptcy proceedings according to law shall be a defense to any criminal action under this section.

Benefits or wage supplements defined

As used in this section, the term "benefits or wage supplements" includes, but is not limited to, reimbursement for expenses; health, welfare, and retirement benefits; and vacation, separation or holiday pay.

181.171 - Court Actions; Private Party Civil Actions

A person may bring a civil action seeking redress for violations of sections [181.02](#), [181.03](#), [181.031](#), [181.032](#), [181.08](#), [181.09](#), [181.10](#), [181.101](#), [181.11](#), [181.12](#), [181.13](#), [181.14](#), [181.145](#), and [181.15](#) directly to district court. An employer who is found to have violated the above sections is liable to the aggrieved party for the civil penalties or damages provided for in the section violated. An employer who is found to have violated the above sections shall also be liable for compensatory damages and other appropriate relief including but not limited to injunctive relief.

An action brought under this subdivision may be filed in the district court of the county wherein a violation is alleged to have been committed, where the respondent resides or has a principal place of business, or any other court of competent jurisdiction.

The court shall order an employer who is found to have committed a violation to pay to the aggrieved party reasonable costs, disbursements, witness fees, and attorney fees.