



### Who are Domestic Workers (DWs)?

Domestic workers are nannies, childcare providers, attendants to people with disabilities and seniors, housecleaners, cooks & gardeners. They work in private homes, whether they are directly hired by the household or by an agency.

### What laws cover domestic workers?

Both federal and state laws provide coverage to domestic workers. Together, these laws provide minimum wage and overtime coverage to all domestic workers in California. The law makes a distinction between the types of work performed and whether the worker is a live-in or live-out.

### Who are personal attendants and companions?

Under state law, **personal attendants** are caregivers and childcare providers who spend at least 80% of their time providing caregiving services such as supervision, feeding, and dressing for children, elderly or people with disabilities.

Under federal law, **companions** are caregivers who provide fellowship and protection such as conversation; reading; games; crafts; and accompanying the person on walks, on errands, to appointments, or to social events. Assistance with daily care activities cannot be more than 20% of the total hours worked per week.

### All domestic workers have the right to minimum wage.

The **minimum wage in California in 2016 is \$10 per hour**. Many domestic workers work in cities that have higher minimum wages. For example:

- San Francisco - \$13.00 / hour; Will increase to \$14.00 / hour on July 1, 2017
- Oakland - \$12.86 / hour
- Los Angeles County \$10.50 / hour
- Learn the min. wage of your city, go to [www.cadomesticworkers.org/resources](http://www.cadomesticworkers.org/resources)

### All DWs with few exceptions have the right to overtime pay between CA and federal laws:

#### Live-Out Personal attendants have the right to:

- 1.5 x 'regular rate of pay' for work over 9 hours in a day and/or 40 hours in a week

#### Live-In personal attendants and companions hired by household have the right to:

- 1.5 x 'regular rate of pay' for work over 9 hours in a day and/or 45 hours in a week

#### Live-out DWs who are not personal attendants have the right to:

- 1.5 x 'regular rate of pay' for work over 8 hours in a day and/or 40 hours in a week
- 2 x for work over 12 hours in a day
- 1.5 x 'regular rate of pay' for the first 8 hours on the 7th consecutive day
- 2 x for work over 8 hours on the 7th consecutive day

#### Live-in DWs who are not personal attendants hired by agency have the right to:

- 1.5 x 'regular rate of pay' for work over 9 hours in a day and/or 40 hours in a week
- 1.5 x 'regular rate of pay' for the first 9 hours on the 6th and 7th consecutive day
- 2 x 'regular rate' for work over 9 hours on the 6th and 7th consecutive day

#### Live-in DWs who are not personal attendants hired by household have the right to:

- 1.5 x 'regular rate of pay' for work over 9 hours in a day
- 1.5 x 'regular rate of pay' for the first 9 hours on the 6th and 7th consecutive day
- 2 x for more than 9 hours on the 6th or 7th consecutive day

**Personal attendants who provide services through In Home Support Service (IHSS) or Department of Developmental Services (DDS) and who are not companions or live-ins hired by the household have the right to:**

- 1.5 x 'regular rate of pay' for work over 40 hours in a week

### What is my 'regular rate of pay'?

- For an hourly employee, the 'regular rate of pay' is the regular hourly wage.

**For employees paid a flat daily rate or salary, the regular rate of pay is calculated differently under state and federal law.**

- Under California law, the salary or flat daily rate is divided by the total regular, non-overtime hours, not to exceed 8 for daily and 40 for weekly.
- Under federal law, the flat daily rate is divided by the total number of hours worked in a day or week.
- If you are paid a monthly salary, multiply the monthly salary by 12 (months) and then divide it by 52 (weeks) to calculate the weekly salary.
- If the 'regular rate of pay' is below the min. wage, the min. wage will be used as the regular rate of pay.

### The right to meal and rest breaks

All domestic workers (*except for personal attendants*) have the right to:

**A 30 minute unpaid meal break for work periods more than 5 hours;** a 2nd meal period of 30 min. for shifts more than 10 hours/day. You can give up your meal period if you work a total of 6 hours per day or less.

**10 minute paid rest breaks** for shifts from 3.5 to 6 hours, 20 minute total rest periods for shifts of 6 to 10 hours, and 30 minute total rest periods for shifts of 10 to 14 hours.

**Employers must pay 1 additional hour of pay** at the employee's 'regular rate of pay' for each workday that there is a rest or meal break violation.

**Domestic workers who cannot leave the premise and/or cannot leave their client unattended or alone,** are entitled to pay for all hours worked, including sleep time.

**Employers can take a credit towards the minimum wage for providing meals and lodging,** but there must be a written agreement with the employee and there are strict limits on the amount of credit that can be taken. For more information, please visit [www.cadomesticworkers.org/resources](http://www.cadomesticworkers.org/resources).

### All immigrants have rights, regardless of status!

- All workers are covered by basic wage and hour laws, regardless of immigration status. This means **whether or not you have papers**, you have the right to claim the wages you are owed and to speak up about your rights.
- If police or immigration agents come to your home or the home of your employer, you do not have to let them in unless they have a warrant *signed by a judge*. Ask them to show you the warrant. Officers can only search areas listed on the warrant. A warrant of removal/deportation (ICE warrant) does not allow officers to enter a home without consent.
- If you are stopped, arrested or detained by police or immigration agents, do not resist. You have the right to remain silent. If you are asked about your immigration status, you do not have to answer. You have the right to a lawyer and local police must provide one. ICE custody will not provide a lawyer, but you may ask for a list of free or low-cost legal services.

### Protection from injury, discrimination, and unjust firing

**Many Domestic workers have the right to workers' compensation** benefits to provide medical care and compensation to workers who have job-related injury.

**All domestic workers have protection by California State harassment laws** when they are sexually harassed by their employer or experience harassment because of their race, ethnicity, or religion.

**It is illegal for an employer to fire you or threaten to fire you for exercising your workplace rights,** such as demanding minimum wage or filing a claim.

### Keeping Records and Timesheets

- It is important that all workers **keep records for days and hours worked and wages paid** as proof in case your rights are violated.
- If you are being harassed, write down details including dates, time, location, & what happened.

**Come visit your local workers' rights organization! Join the movement for Dignity in the Home today!**



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Visit [www.cadomesticworkers.org/resources](http://www.cadomesticworkers.org/resources) for more information!