



## Let's Go Legal Employment Law

Speakers: Jodi Nishioka and Brenda Tausch Lapora

**00:00:00 Video description:** *Let's Go Legal! The right road to compliance and protection. An animated smart car drives down a country road on a sunny day. On the bottom of the screen are the Nonprofit Association of Washington logo, the shape of the state of Washington made of colorful shapes with the words "Nonprofit Association of Washington" under it, and the Communities Rise Logo, the word "Communities" arching over the word "Rise" with two curved yellow lines intersecting underneath.*

**00:00:04 Video description:** *The screen fades to white. The text "Employment" appears. A drawing of three people in a circle appears on the right side of the screen.*

**00:00:05 Jodi:** Cars have drivers and passengers. The people in your car matter. For nonprofits, you may have paid employees and volunteers, and of course, there are rules that apply.

**00:00:16 Video description:** *The Let's Go Legal color wheel appears on the screen. The color wheel is split into five sections with an orange smart car with a license plate that says "LGL" at the center. The five sections are labeled, state law (orange), federal law (red), fundraising (purple), employment (blue), and intellectual property (green). A line in the shape of a "T" comes off each section connecting icons and words related to each section. The video zooms into the employment section of the color wheel. Text next to the employment icon reads, "The people in your car matter." There are five icons next to the color wheel: a stack of coins, a magnifying glass, a hand with a heart on it, a calculator, and a circle with a slash through the middle.*

**00:00:17 Jodi:** There are five key areas of employment law for nonprofits to be aware of.

**00:00:22 Video description:** *Text that reads "Minimum wage" appears next to the icon of the stack of coins.*

**00:00:22 Jodi:** First, minimum wage and overtime. We all know that there is minimum wage and overtime rules that apply to workers. Minimum wage can get confusing because there are different requirements at the federal, state, and sometimes local level.

**00:00:37 Video description:** *The screen fades to white. The text appears, "You must always pay the highest minimum wage that applies."*

**00:00:37 Jodi:** You must always pay the highest minimum wage that applies. Please check your local minimum wage laws

**00:00:44 Video description:** *The prior text disappears. New text appears, "Nonprofit hours must be paid for all hours worked and are not allowed to volunteer for their organization."*

**00:00:44 Jodi:** and remember nonprofit staff must be paid for all hours worked and are not allowed to volunteer for their organization.

**00:00:53 Video description:** *The LGL color wheel zoomed into the employment section appears on the screen again.*

**00:00:53 Jodi:** Here's something important to pay attention to. Should you pay your staff hourly or a predetermined salary? This goes to the question of whether the employee is exempt or nonexempt. This is important because minimum wage and overtime rules apply to nonexempt employees and do not pertain to exempt employees. They have a separate set of rules.

**00:01:19 Video description:** *Text that reads "Hiring" appears next to the magnifying glass icon.*

**00:01:19 Jodi:** Second, hiring. The two main topics that come into hiring are, quote, at-will and employee verification. At-will means that employees can quit whenever they want and employers can terminate whenever they want. All employees need to be verified for hiring.

**00:01:39 Video description:** *Text that reads "Non-employees" appears next to the icon of the hand with a heart.*

**00:01:40 Jodi:** Third, nonprofits have many people who support their mission that are not employees. These include unpaid interns, volunteers, and independent contractors. While there is a lot of best practice on how to engage volunteers, there are a few laws that pertain to them. Unpaid interns, on the other hand, have rules that ensure that the intern has a beneficial educational experience. There is an important point here to make around independent contractors. Many nonprofits try to save money by hiring independent contractors instead of employees, however, this is not allowed. If someone is misclassified, the organization may have to pay back payroll taxes and penalties.

**00:02:29 Video description:** *Text that reads "Payroll" appears next to the calculator icon.*

**00:02:30 Jodi:** Fourth, payroll. You have to pay your employees and your payroll taxes. This is one area where board members can be held individually liable.

**00:02:43 Video description:** *Text that reads "Anti-discrimination" appears next to the icon of a circle with a slash through the middle.*

**00:02:43 Jodi:** Fifth, anti-discrimination law policies. You cannot discriminate. If you need a reminder on the protected classes, see the kit. Let's hear from lawyer Brenda Tausch Lapora about employment law.

**00:03:01 Video description:** *The screen fades to black and a video of a light skinned person with shoulder length brown hair wearing a green sweater fades in. Behind them is a light grey wall. The LGL color wheel appears in the left corner with the speaker's name, Brenda Tausch Lapora.*

**00:03:01 Brenda:** There are two common mistakes that we see being made when it comes to employment law. The first is classification of employees. So if an employee is acting like an employee, things like working regular hours or doing ongoing work, that person should be classified as an employee. So take executive directors. Executive directors usually should be classified as employees and not independent contractors. And then the second area where we see a lot of mistakes are with employees being treated as volunteers.

**00:03:35 Video description:** *The screen fades to white. Text appears on screen that says "As a general rule: Employees cannot volunteer for the organization."*

**00:03:35 Jodi:** Building on what Brenda was saying, the general rule is that employees cannot volunteer for the organization. For example, let's say there's a local humane society that is having an annual walkathon.

**00:03:46 Video description:** *The text shifts to the side and an animated banner that says "walkathon" appears with a table that says "registration."*

**00:03:47 Jodi:** An employee who works the event should be paid for their time working at the walkathon.

**00:03:53 Video description:** *Three drawn smiling faces appear under the walkathon banner.*

**00:03:53 Jodi:** There are exceptions to this rule for employees whose job description is not at all related to the walkathon.

**00:03:58 Video description:** *Three more drawn smiling faces appear. The second group of faces is labeled with text that reads "IT staff can volunteer." The first group of faces is labeled with text that reads "Fundraising/event staff must be paid."*

**00:03:59 Jodi:** For example, the IT support staff could potentially volunteer at the walkathon, but the fundraising or special events staff cannot volunteer and must be paid for their time.

**00:04:12 Video description:** *The words on the side of the screen change to "Best practice: Pay all employees for their work and do not treat them as volunteers."*

**00:04:11 Jodi:** However, it is a best practice to pay all employees for their work and to not treat them at all as volunteers to avoid any potential violations.

**00:04:22 Video description:** *The LGL color wheel appears on screen with a list of key documents that appear one by one: "at will policy, anti-discrimination policy, and independent contractor policy."*

**00:04:22 Jodi:** There are some key documents to review and keep up to date: an at will policy, an anti-discrimination policy, and the independent contractor checklist if anyone is paid as an independent contractor.

**00:04:37 Video description:** *A preview of the Employment Law Checklist appears on the screen with a large green check mark.*

**00:04:37 Jodi:** Your kit includes a checklist to help you move forward.

**00:04:40 Video description:** *The checklist moves off screen to reveal the animated smart car driving across the screen. There are two drawn trees and three drawn people. The car stops and the people get into the car.*

**00:04:40 Jodi:** Those are the basics of what you need to know about employment law.

**00:04:45 Video description:** *Let's Go Legal! The right road to compliance and protection. An animated smart car drives down a country road on a sunny day.*

**00:04:52 Video description:** *The screen fades to white with a pencil drawing of a country road through some hills. Download the Let's Go Legal guide: [nonprofitwa.org/learn](https://nonprofitwa.org/learn). Tell your board about Boards In Gear (BIG) & Finance Unlocked for Nonprofits (FUN) also available from Nonprofit Association of Washington.*

**00:04:57 Video description:** *Let's go Legal was guided by a team of legal advisors. We greatly appreciate their contribution: Brenda Tausch Lapora, Jodi Nishioka, Judy Andrews, Nancy Stephens, and Taylor Ball. Their contribution should not be viewed as legal advice.*

**00:05:01 Video description:** *Let's Go Legal was created by Nonprofit Association of Washington and Communities Rise, and was sponsored by the Washington Office of the Secretary of State. ©2022 Nonprofit Association of Washington. All rights reserved. Music: Smiling Cars by David Szesztay*

**00:05:04 Video description:** *The screen fades to black. 3 Choices Creative Communications. [3greatchoices.com](http://3greatchoices.com).*