

EXISTING POLICY RESOLUTIONS DOCUMENT

SEIU LOCAL 503, OREGON PUBLIC EMPLOYEES UNION

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APPENDIX 1 – ATTACHMENT TO “JUST CAUSE FOR OREGON” ESP/IA #5/201814

Note: The Existing Policy Resolutions Document contains policies adopted at General Council over a period of 4 years. See SEIU Local 503, OPEU Administrative Policies and Procedures (AP&P), Article V. For all 2018 resolutions, including both policy resolutions and resolutions containing amendments to the Bylaws or AP&Ps, see the Be It Resolved Summary. The 2018 Be It Resolved Summary is published online at: <http://seiu503.org/wp-content/uploads/2018/09/2018-Be-It-Resolved-Summary-Bylaws-and-APP.pdf>

SEIU LOCAL 503, OPEU EXISTING POLICY RESOLUTIONS DOCUMENT
2016 TO DATE

BYLAWS COMMITTEE

SEIU BYLAWS GENDER NEUTRAL LANGUAGE (BL #2/2016)

SEIU Local 503's Bylaws have been amended throughout to reflect gender neutral language.

Status: Implemented August 2016.

ECONOMIC & SOCIAL POLICY/INTERNATIONAL AFFAIRS COMMITTEE

SEEK SOLUTIONS TO OREGON'S HOUSING CRISIS IMPACT ON OREGON FAMILIES AND THE HOMELESS (ESP/IA #1/2016)

That SEIU 503 acknowledges that the housing crisis in Oregon is real and is clearly a working family issue, especially presenting a hardship to the low income and needs immediate and meaningful solutions; and

That SEIU 503, OPEU, work with Labor, Community, Faith partners and political leaders for solutions that better protect tenants' rights and welfare and provide for more affordable and suitable housing and shelter, including but not limited to rent control, housing subsidies, inclusionary housing zoning, adequate shelters, space and support programs for the homeless.

Status (Last Updated Prior to 2018 General Council): Housing legislation failed by one vote in the 2017 legislative session. Work is ongoing with community partners, Fair Shot and housing advocates. We are working to hold legislators accountable that held up the housing bill in the 2017 session.

ACTING AGAINST CLIMATE CHANGE (ESP/IA #2/2016)

That SEIU, Local 503, OPEU acknowledges that climate change in its scope and impact is a real and immediate threat to human civilization and influenced by human practices that are controllable; and

That SEIU 503, OPEU, support efforts that reduce fossil fuel extraction and production, curb carbon emissions and other related pollution from industries and transportation, promote the production and use of alternative, clean fuels, such as wind, solar and hydro, to ensure a healthy climate for all; and

That SEIU 503, OPEU seek solutions to curb climate change, including, but not limited to supporting buying local and buying regionally efforts, and supporting and encouraging recycling, reuse and conservation practices on collective and personal levels; and

That SEIU 503, OPEU support "just transition" initiatives and programs to ensure the welfare of workers and their families who are displaced or relocate out of fossil fuel production and fossil fuel-intensive industries through re-training and re-location into clean energy production and clean-powered industries; and

That SEIU 503, OPEU, continue to work with other unions and environmental organizations, through such efforts as the Apollo BlueGreen Alliance and Climate Jobs PDX to advocate that alternative fuels and clean fuel economy jobs are family wage union jobs.

Status (Last Updated Prior to 2018 General Council): SEIU 503 acknowledges that climate change is real and advocates for climate policies and practices that protect the environment. SEIU 503 actively participates in the BlueGreen Alliance.

CONTINUING TO WORK FOR A FAIR SHOT FOR ALL (ESP/IA #3/2016) (AMENDED)

That SEIU 503, OPEU, will continue to work through the Fair Shot For All Coalition for policies to ensure working families have the opportunities that allow full participation in the American Dream, including the financial security to provide for themselves and their families as part of an economy which truly respects and serves all, and that they have the security of essentials, such as adequate and affordable housing, safe and wholesome communities, comprehensive healthcare, quality education at all levels, paid family leave and a secure retirement, which should be the rights for all Oregonians.

Status (Last Updated Prior to 2018 General Council): SEIU 503 remains a strong partner with the Fair Shot for All coalition.

STANDING STRONG IN NOVEMBER AND BEYOND (ESP/IA #4/2016)

That we will work with all our efforts and energy to:

- Pass A Better Oregon tax fairness measure
- Elect candidates endorsed by our union so we can win in the legislature on our Fair Shot and budget priorities
- Defeat divisive ballot measures that seek to attack or divide workers and our communities
- Continue to stand strong in the face of attacks on our union and our communities and keep up the fight for a just and vibrant society for all

Status (Last Updated Prior to 2018 General Council): SEIU 503 worked incredibly hard to pass A Better Oregon, win for union-endorsed candidates and defeat divisive ballot measures. We work to elect endorsed candidates. SEIU 503 stands by its vision to create a just and vibrant society for all in the face of attacks. Ongoing work.

15 AND A UNION (ESPIA #5/2016)

That SEIU 503, OPEU, continues to make it a priority to respond to the need of workers to organize for better wages, benefits and working conditions and to inspire, motivate and support such efforts, whether through our union's campaign or those of other unions; and

That SEIU 503, OPEU continue the effort of supporting such organizing campaigns as Oregon Cares, Airport Workers Fast Food Services workers, and other campaigns to organize low wage workers as an opportunity for them not just to win higher salaries but to also recognize the power of collective action and solidarity through a union to improve their welfare as workers and have a voice on the job and build the Labor Movement in this country to the greatest strength possible.

Status (Last Updated Prior to 2018 General Council): SEIU 503 continues to work for and support lifting up wages, improving working conditions, and building power for all workers, especially low-wage workers, through a collective voice. SB 1532 enacted, effective January 2016 through 2022, increases Oregon's minimum wage annually on July 1 of each year.

BARRIER OR PATHWAY TO GOOD JOB PERFORMANCE AND RELATIONSHIPS (ESP/IA #1/2018) (AMENDED)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU that SEIU 503 will prioritize making translation more seamless, and ensure that all workers, regardless of their language can fully participate in their union. All contract summaries and grievance procedures shall be translated into the top languages that workers in those contracts speak.

BE IT FURTHER RESOLVED will make translation and the need for materials in other languages a priority in contract bargaining. Bargaining teams should be encouraged to ask for employers to provide materials and workplace expectations in the languages that their workers speak and help pay for translation of contracts and grievance procedures.

Status: Passed at 2018 General Council.

REVENUE REFORM AND WORKING OREGONIANS WEALTH RESTORATION (ESP/IA #2/2018) (AMENDED)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU that SEIU Local 503 shall continue to prioritize the development and enactment of campaigns to increase taxes collected from the wealthy and corporations, either through the legislature or via initiatives; and

BE IT FURTHER RESOLVED that these taxes will fund services, and will make sure that we are increasing wages for our lowest paid members and maintaining the strong benefit system members have prioritized over the years; and

BE IT FURTHER RESOLVED that the tax will not primarily be on working Oregonians and will hold low-wage workers harmless, with a goal of funding ways to decrease their tax burden; and

BE IT FURTHER RESOLVED that SEIU Local 503 shall explore ways to tax low-wage, low-benefit corporations that force taxpayers to provide the basic needs of the employees of those corporations and of those employees' families.

Status: Passed at 2018 General Council.

DIGNITY AND RESPECT FOR HEALTH WORKPLACES: STOP BULLYING AND HARASSMENT IN THE WORKPLACE (ESP/IA #3/2018)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU THAT TOGETHER WE RISE, SEIU 503 AND ITS MEMBERSHIP, with other unions, allies, business and community organizations will advocate and advance to prevent workplace bullying

and harassment, via recommendations, including but not limited to the following:

1. That SEIU 503 AND ITS MEMBERS will lead the way to work at being the first state to introduce and pass Anti-Bullying legislation, with legislators working with union leadership to re-introduce and pass strong and enforceable legislation that will hold public and private organizations accountable to existing OSHA and EEOC legislation and new legislation that have “teeth”, with transparent, accountable and enforceable mechanisms to address workplace harassment and bullying and other abusive and discriminatory practices in the workplace environment. Legislation may include legal recourse for employees who have been harmed psychologically, physically, or economically by being deliberately subjected to abusive work environments; and
2. That SEIU 503 AND ITS MEMBERS will stridently continue efforts such as petitions, collect and provide information and testimony, to local, city, state legislators and to organizational leadership, of culture of abuse of the systemic occupational health hazard of abusive workplace environments; and
3. That the Bureau of Labor and Industries Commission (BOLI) establishes a transparent and accountable tracking and annual or bi-annual reporting mechanism or system of employer and employee workplace harassment incidents via formal grievances, investigations, outcomes and corrective measures.

BE IT FURTHER RESOLVED THAT a true commitment to stopping workplace bullying must be part of the Union’s “safe workplace” initiative in all workplaces, which protects the rights and dignity of all workers; and that SEIU 503, leaders and represented members will work with local, city, and state governance, community allies, and employers to ensure that there are accountability systems for tracking and reporting, with benchmarking goals:

1. That employers have organizational cultures in which harassment is not tolerated, and in which respect and civility are promoted:
 - a. With regular organization-wide climate/culture assessment of all their workplaces for the risk factors associated with bullying and harassment;
 - b. exploring ideas for minimizing those risks; and
 - c. communicating widely and modeling a consistent commitment to accountable benchmarked and measurable goals.
2. That Employers devote sufficient resources to bullying and harassment prevention efforts, to:
 - a. ensure that such efforts are effective, and to reinforce the credibility of leadership’s commitment to creating a workplace free of harassment,
 - b. establish quantifiable and accountable measures that hold mid-level managers and front-line supervisors accountable for preventing and/or responding to workplace harassment, including through the use of metrics and performance reviews;

3. That Employers' anti-harassment policies include particular details about:
 - a. how to complain of harassment; such that transparent and accountable reporting structures of observed harassment are communicated frequently to employees, in a variety of forms and methods; and
 - b. Anti-harassment and anti-Bullying policies should include how employers should be alert for any possibility of retaliation against an employee who reports harassment, and what steps and actions should be taken to ensure that such retaliation does not occur.

4. That Employers adopt a values-based priority for Dignity and Respect in the Workplace such that there is institution-wide Anti-Bullying, Anti-Harassment, and Bystander Intervention training and other best practice trainings, to empower coworkers and to give workers the tools to intervene when they witness harassing behavior, and other trainings toward harassment prevention.

BE IT FURTHER RESOLVED THAT WORKPLACE HARASSMENT AND BULLYING IS UNACCEPTABLE, AND THAT TOGETHER WE RISE FOR HEALTHY, SAFE, INCLUSIVE, RESPECTFUL WORKPLACE CULTURES AND FOR WORKPLACE ENVIRONMENTS THAT RESPECT THE DIVERSITY AND DIGNITY OF ALL WORKERS.

Status: Passed at 2018 General Council.

DIGNITY AND RESPECT FOR GENDER EQUALITY (ESP/IA #4/2018)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU: that SEIU 503 staff and members will consult with SEIU 503's locals and sub-locals to consider the efficacy of further survey efforts for Higher Ed employees and others not yet surveyed throughout the state as well as consider other methodologies, if needed, to hold employers accountable for eliminating workplace sexual harassment and eradicating the mechanisms that have discouraged survivors from coming forward, and translate results into action not limited to:

- Leadership: Approaching Directors and their higher-level staff, and agency heads in the State about training on identifying sexual harassment and for actions to take with regard to reporting it, with an annual or bi-annual assessment report of workplace climate with accountable and measurable actions and goals.
- Reporting: Giving selected people in the organization responsibility for receiving reports, to increase the odds that victims can talk to someone with whom they are comfortable.
- Train Seriously and Often: The most effective training is at least four hours, in person and interactive and tailored for the particular workplace culture or environment viz. an administrative unit's training would differ from a trades or forestry operation's training.

BE IT FURTHER RESOLVED that SEIU 503 will advocate and advance gender parity at all organizations, for women in leadership across all industries - from legislatures to boardrooms to executive suites and management to academia - with equal pay and opportunity to foster a better work environment, and for greater representation of women, women of color, immigrant women, indigenous women, and lesbian, bisexual, transgender women, and non-binary and gender nonconforming workers

BE IT FURTHER RESOLVED that SEIU 503 will work with legislators for legislation that better penalizes sexual misconduct viz. statutory definition of sexual harassment, prohibiting mandatory arbitration agreements for sexual harassment complaints and banning nondisclosure agreements within sexual harassment settlements except under limited circumstances.

Status: Passed at 2018 General Council.

JUST CAUSE FOR OREGON (ESP/IA #5/2018)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU as follows:

Section 1. As a Union we support the adoption of an Oregon statute similar to Montana's Wrongful Discharge from Employment Act** Montana Code Ann. 39-2-901 (1987) in order to provide "Just Cause" job security standards for contracts of employment in Oregon; and

Section 2. To request that our voting representatives on the Fair Shot Campaign promote this as a legislative priority prior to the 2023 legislative session; and

Section 3. To send a request to CAPE, to consider this question in questionnaires and interview questions during candidate endorsement process.

Note: The Montana statute referenced was included as an attachment to the resolution passed and is attached hereto in Appendix 1.

Status: Passed at 2018 General Council.

FAIR SHOT COALITION (ESP/IA #6/2018)

BE IT RESOLVED by the General Council of SEIU Local 503, OPEU that SEIU Local 503, OPEU will continue to support Fair Shot for All, in coalition with other Fair Shot for All members, in order to win paid family and medical leave; stable housing, including tenant protections; expanded eligibility to a regular Oregon driver license for all Oregon residents, regardless of citizenship status; a judicial system that is fair to all, including the vulnerable, by ensuring the right to counsel is not denied; and adequate and stable revenue so that Oregon can make needed investments in programs and services.

Status: Passed at 2018 General Council.

COMMITMENT TO CONTINUE TO ORGANIZE (ESP/IA #7/2018)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU: That SEIU Local 503 is committed to organizing care providers across the continuum of long term care; and

That SEIU Local 503 is committed to organizing care providers in emerging occupations in community-based health care; and

That SEIU Local 503 is committed to expanding personal support work by giving Oregonians with developmental disabilities more choices to live at home with independence and dignity; and

That SEIU Local 503 is committed to continuing to organize workers in residual units of state government and temporary workers in the public sector; and

That SEIU Local 503 is committed to using members as external organizers because experience shows that organized workers are extremely effective messengers to help unorganized workers see the value of forming a union.

Status: Passed at 2018 General Council.

EMPLOYEE REPRESENTATION COMMITTEE

ASSURING SEIU 503'S PRIME RESPONSIBILITY – THE PROTECTION AND BEST REPRESENTATION OF UNION MEMBERS WHEN THEY NEED UNION REPRESENTATION BY THEIR ELECTED UNION STEWARDS (ER #1/2018) (AMENDED)

BE IT RESOLVED by the General Council of SEIU Local 503, OPEU, that the resources of the Member Resource Center be protected from redeployment for any other purposes, so it is available to Union Stewards while performing their important responsibility to our member employees.

BE IT FURTHER RESOLVED, that the MRC may be closed for not more than four full day all staff meetings per year. Outside of those scheduled training or closures due to inclement weather or other scheduled building closures, should the staff of the Member Resource Center be unavailable, the Union will provide alternative resources to ensure an adequate level of service to our serving Union stewards and member employees are maintained without interruption during normal working hours.

Status: Passed at 2018 General Council.

RESOLUTION TO FIGHT JANUS BY STRENGTHENING THE MEMBERSHIP BASE (ER #3/2018) (AMENDED)

BE IT RESOLVED by the General Council of SEIU Local 503, OPEU that SEIU 503 will prioritize the strategic shifting of resources towards internal organizing and to the Member Resource Center (MRC), to give more organizers more time in the field and give the MRC more resources

to assist with homecare, public-employee and other sub-local related questions.

BE IT FURTHER RESOLVED that our union will expand the Member Leader Development Program (MLDP). The Member Leader Development Program will develop a wave that focuses on developing stewards.

BE IT FURTHER RESOLVED that the Stewards' Committee will be responsible for monitoring the implementation of this resolution and reporting progress to the Board of Directors. The Stewards' Committee will submit a comprehensive plan for approval to the Board of Directors by January 31st, 2019.

Status: Passed at 2018 General Council.

ADDRESSING MEMBERS' TRAINING NEEDS (ER #5/2018)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU that in order to better address the needs and support the success of all members, our union should take a leadership role in advancing training and workforce development for public services workers and care providers; and

BE IT FURTHER RESOLVED that, where feasible and advantageous to members, our union should take on the role of providing such training or other benefits; and

BE IT FURTHER RESOLVED that, in so doing, we will be guided by the desire to ensure that workers understand the connection between our union and these new programs/benefits; that curriculum is developed by frontline workers, and where appropriate engages consumers and meets the needs of those receiving direct care or services; that we seek best curriculum and practices from other training programs; that the training is seen by managers and employers as a win-win benefit; and that trainings are accessible to all members across regional, linguistic, and cultural differences.

Status: Passed at 2018 General Council.

UNION ACCESS TO REPRESENTED WORKERS (ER #6/2018)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU that SEIU Local 503, OPEU will seek agreements with government leaders, campaign for legislation, and negotiate collective bargaining agreements that will expand and ensure access to workers in the workplace or through their work. This includes new employee orientations, trainings, benefits and contract education, and other opportunities for face-to-face contact. The Union will seek to maximize opportunities for such events to be on paid time during work hours in workplaces, and to contact new employees as soon as possible.

Status: Passed at 2018 General Council.

UNION OPERATIONS COMMITTEE

ESTABLISH A SPECIAL COMMITTEE ON DIRECT DUES (UO #3/2018)

BE IT RESOLVED by the General Council of SEIU Local 503, OPEU: That the SEIU Local 503 President shall promptly appoint a Special Committee on Direct Dues. The Committee shall include representation from care providers, public service members, a statewide officer, and key staff from SEIU Local 503 departments in Legal, Data, and Systems. The Committee shall explore the introduction of a direct dues payment system and make recommendations for implementation to the Board of Directors. The Board of Directors shall evaluate the Committee's recommendations and, as approved by the Board, shall refer any recommendation requiring a modification of the SEIU Local 503 bylaws to a General Council vote.

Status: Passed at 2018 General Council.

MEMBERSHIP AFFAIRS COMMITTEE

EXPANDING COMMUNITY INVOLVEMENT AND MEMBERSHIP THROUGH AFFILIATED ORGANIZATIONS (MA #1/2016)

That SEIU 503 will explore creating an affiliated non-profit organization that could pursue grants and other resources, and develop new programs that link SEIU members, clients and the broader community around shared interests; and

That SEIU 503 will pursue creating an affiliated non-profit organization if after exploration this is a viable course as determined by the Board of Directors.

Status (Last Updated Prior to 2018 General Council): SEIU Local 503 entered a partnership with Family Forward Oregon and after the pilot decided it was not the right partnership to create that non-profit. This is something that is still being explored for CareWorks, to bring caregivers, members and non-members, consumers and allies together in a non-profit organization. This is also being explored through the Real Choice Initiative (RCI) where we are looking to support people with intellectual and developmental disabilities who want to live independently in their own homes and not in a group home setting. Non-profits are being explored, but one has not been deemed viable yet.

HALL OF FAME AND HISTORY (MA #4/2018) (AMENDED)

BE IT RESOLVED by the General Council of SEIU Local 503, OPEU, that the General Council approves the creation of an SEIU Local 503, OPEU Hall of Fame and History to be located at Union Headquarters in honor of those who have made outstanding contributions to the Union and its mission; and

BE IT FURTHER RESOLVED, that the Board of Directors shall establish the rules for induction into the Hall of Fame and History; and

BE IT FURTHER RESOLVED, that Hall of Fame inductees shall be honored at each General

Council in a manner determined by the Board of Directors.

Status: Passed at 2018 General Council.

KEEPING MEMBERS SAFE (MA #5/2018) (AMENDED)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU: SEIU 503 must create clear guidelines and protocols for staff and member leaders to follow if ICE shows up at our meeting spaces.

BE IT FURTHER RESOLVED, these guidelines should reflect the core values of SEIU 503 and contain clear instruction around protecting our members' confidential information as well as instruction that we do everything within our rights to keep ICE from coming in to our private meeting spaces.

BE IT FURTHER RESOLVED that SEIU 503 will make sure the appropriate staff are trained to carry out these protocols.

BE IT FURTHER RESOLVED that SEIU 503 leadership work with all employers of SEIU members to ensure they have, and that their employees understand, policies and procedures for government agencies to protect the confidentiality of all information they collect from all Oregonians.

Status: Passed at 2018 General Council.

EDUCATING MEMBERS AND SUPPORTING, RECRUITING, AND DEVELOPING OPPRESSED AND MARGINALIZED MEMBERS (MA #7/2018)

BE IT RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU that SEIU 503 will provide education on the importance of equity and inclusion and build this into our meetings, conferences and trainings so that members understand that we must address these issues to build a stronger movement for economic justice.

BE IT FURTHER RESOLVED BY THE GENERAL COUNCIL OF SEIU LOCAL 503, OPEU that SEIU 503 will make efforts to recruit and support members from oppressed groups in our Union to be active in our Union and build their leadership through programs such as the Leadership Academy and our Member Leader Development Program.

Status: Passed at 2018 General Council.

APPENDIX 1 – ATTACHMENT TO “JUST CAUSE FOR OREGON” ESP/IA #5/2018

Attachment to Resolution

MONTANA WRONGFUL DISCHARGE FROM EMPLOYMENT ACT

Montana Code Ann. 39-2-901 (1987)

Short title

§ 901. This part may be cited as the "Wrongful Discharge From Employment Act."

Purpose

§ 902. This part sets forth certain rights and remedies with respect to wrongful discharge. Except as limited in this part, employment having no specified term may be terminated at the will of either the employer or the employee on notice to the other for any reason considered sufficient by the terminating party. Except as provided in 39-2-912, this part provides the exclusive remedy for a wrongful discharge from employment.

Definitions

§ 903. In this part, the following definitions apply:

- (1) "Constructive discharge" means the voluntary termination of employment by an employee because of a situation created by an act or omission of the employer which an objective, reasonable person would find so intolerable that voluntary termination is the only reasonable alternative. Constructive discharge does not mean voluntary termination because of an employer's refusal to promote the employee or improve wages, responsibilities, or other terms and conditions of employment.
- (2) "Discharge" includes a constructive discharge as defined in subsection (1) and any other termination of employment, including resignation, elimination of the job, layoff for lack of work, failure to recall or rehire, and any other cutback in the number of employees for a legitimate business reason.
- (3) "Employee" means a person who works for another for hire. The term does not include a person who is an independent contractor.
- (4) "Fringe benefits" means the value of any employer-paid vacation leave, sick leave, medical insurance plan, disability insurance plan, life insurance plan, and pension benefit plan in force on the date of the termination.
- (5) "Good cause" means reasonable job-related grounds for dismissal based on a failure to satisfactorily perform job duties, disruption of the employer's operation, or other legitimate business reason.
- (6) "Lost wages" means the gross amount of wages that would have been reported to the internal revenue service as gross income on Form W-2 and includes additional compensation deferred at the option of the employee.

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- (7) "Public policy" means a policy in effect at the time of the discharge concerning the public health, safety, or welfare established by constitutional provision, statute, or administrative rule.

Elements of wrongful discharge

§ 904. A discharge is wrongful only if:

- (1) it was in retaliation for the employee's refusal to violate public policy or for reporting a violation of public policy;
- (2) the discharge was not for good cause and the employee had completed the employer's probationary period of employment; or
- (3) the employer violated the express provisions of its own written personnel policy.

Remedies

§ 905. (1) If an employer has committed a wrongful discharge, the employee may be awarded lost wages and fringe benefits for a period not to exceed 4 years from the date of discharge, together with interest thereon. Interim earnings, including amounts the employee could have earned with reasonable diligence, must be deducted from the amount awarded for lost wages.

(2) The employee may recover punitive damages otherwise allowed by law if it is established by clear and convincing evidence that the employer engaged in actual fraud or actual malice in the discharge of the employee in violation of 39-2-904(1).

(3) There is no right under any legal theory to damages for wrongful discharge under this part for pain and suffering, emotional distress, compensatory damages, punitive damages, or any other form of damages, except as provided for in subsections (1) and (2).

Limitation of actions

§ 911. (1) An action under this part must be filed within 1 year after the date of discharge.

(2) If an employer maintains written internal procedures, other than those specified in 39-2-912, under which an employee may appeal a discharge within the organizational structure of the employer, the employee shall first exhaust those procedures prior to filing an action under this part. The employee's failure to initiate or exhaust available internal procedures is a defense to an action brought under this part. If the employer's internal procedures are not completed within 90 days from the date the employee initiates the internal procedures, the employee may file an action under this part and for purposes of this subsection the employer's internal procedures are considered exhausted. The limitation period in subsection (1) is tolled until the procedures are exhausted. In no case may the provisions of the employer's internal procedures extend the limitation period in subsection (1) more than 120 days.

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(3) If the employer maintains written internal procedures under which an employee may appeal a discharge within the organizational structure of the employer, the employer shall within 7 days of the date of the discharge notify the discharged employee of the existence of such procedures and shall supply the discharged employee with a copy of them. If the employer fails to comply with this subsection, the discharged employee need not comply with subsection (2).

Exemptions

§ 912. This part does not apply to a discharge:

(1) that is subject to any other state or federal statute that provides a procedure or remedy for contesting the dispute. Such statutes include those that prohibit discharge for filing complaints, charges, or claims with administrative bodies or that prohibit unlawful discrimination based on race, national origin, sex, age, handicap, creed, religion, political belief, color, marital status, and other similar grounds.

(2) of an employee covered by a written collective bargaining agreement or a written contract of employment for a specific term.

Preemption of common-law remedies

§ 913. Except as provided in this part, no claim for discharge may arise from tort or express or implied contract.

Arbitration

§ 914. (1) Under a written agreement of the parties, a dispute that otherwise could be adjudicated under this part may be resolved by final and binding arbitration as provided in this section.

(2) An offer to arbitrate must be in writing and contain the following provisions:

(a) A neutral arbitrator must be selected by mutual agreement or, in the absence of agreement, as provided in 27-5-211.

(b) The arbitration must be governed by the Uniform Arbitration Act, Title 27, chapter 5. If there is a conflict between the Uniform Arbitration Act and this part, this part applies.

(c) The arbitrator is bound by this part.

(3) If a complaint is filed under this part, the offer to arbitrate must be made within 60 days after service of the complaint and must be accepted in writing within 30 days after the date the offer is made.

(4) A party who makes a valid offer to arbitrate that is not accepted by the other party and who prevails in an action under this part is entitled as an element of costs to reasonable attorney fees incurred subsequent to the date of the offer.

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(5) A discharged employee who makes a valid offer to arbitrate that is accepted by the employer and who prevails in such arbitration is entitled to have the arbitrator's fee and all costs of arbitration paid by the employer.

(6) If a valid offer to arbitrate is made and accepted, arbitration is the exclusive remedy for the wrongful discharge dispute and there is no right to bring or continue a lawsuit under this part. The arbitrator's award is final and binding, subject to review of the arbitrator's decision under the provisions of the Uniform Arbitration Act.