



**REPORT
A LABOR
VIOLATION**
TO THE CALIFORNIA
LABOR COMMISSIONER'S
**BUREAU OF FIELD
ENFORCEMENT**

The Labor Commissioner's Office,

also called the Division of Labor Standards Enforcement (DLSE), is part of the California Department of Industrial Relations. The Labor Commissioner's Office is the state agency that investigates complaints of labor law violations. It enforces labor standards to ensure employees are not permitted to work under substandard, unlawful conditions. It also protects employers who comply with the law from having to compete with those who do not.

YOU DO NOT NEED A SOCIAL SECURITY NUMBER OR PHOTO IDENTIFICATION TO FILE A COMPLAINT.

YOU MAY FILE A COMPLAINT REGARDLESS OF YOUR IMMIGRATION STATUS.

YOU DO NOT NEED A LAWYER AND THE LABOR COMMISSIONER WILL PROVIDE AN INTERPRETER IN YOUR LANGUAGE.

VIOLATION OF BASIC LABOR LAW PROTECTIONS SUCH AS NOT PAYING MINIMUM WAGE AND OVERTIME IS CALLED **WAGE THEFT**. REPORT EMPLOYERS WHO COMMIT WAGE THEFT TO THE LABOR COMMISSIONER.

THE LABOR COMMISSIONER'S OFFICE ENFORCES LABOR LAWS THROUGH THE FOLLOWING UNITS:

THE WAGE CLAIM ADJUDICATION UNIT reviews and decides individual claims for unpaid wages and other labor law violations.

THE GARMENT WAGE CLAIM ADJUDICATION UNIT reviews and decides claims filed by garment workers under the Garment Worker Protection Act, a law known as AB 633.

THE BUREAU OF FIELD ENFORCEMENT (BOFE) investigates reports of employers' failure to provide minimum wage, overtime, or meal and rest periods to groups of workers. BOFE also investigates complaints against employers for violations of workers' compensation, child labor, recordkeeping, licensing, and registration laws.

THE PUBLIC WORKS UNIT investigates violations of labor laws on public works construction projects. Prevailing wages are wages that are higher than the state minimum wage and are required for workers on most public construction projects.

THE RETALIATION COMPLAINT INVESTIGATION UNIT investigates complaints of retaliation. Retaliation occurs when an employer takes actions such as firing a worker, or reducing hours or pay because the worker took steps to enforce his or her labor rights.

THE JUDGMENT ENFORCEMENT UNIT helps workers collect their wages after the Labor Commissioner determines that an employer owes unpaid wages.

HOW TO REPORT A LABOR VIOLATION



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ABOUT BOFE

The Bureau of Field Enforcement (BOFE) investigates reports of widespread violations that affect groups of workers. If you have information about a business or employer that violates labor laws, such as failure to pay minimum and overtime wages, you may file a “Report of Labor Law Violation” with BOFE. A BOFE representative will review the report to determine whether to investigate the employer. If BOFE starts an investigation, it may inspect the worksite, issue citations for violations, work with the employer to correct the problem, and collect any unpaid wages owed to workers.

BOFE focuses on industries in which labor law violations are common, such as agriculture, restaurant, janitorial, warehouse, hotel, garment, car wash, and construction. BOFE does not investigate individual wage claims. To pursue your own claim for unpaid wages, you should file a wage claim with the Labor Commissioner’s Wage Claim Adjudication Unit, in addition to filing a BOFE report. A notice of your wage claim will be sent to your employer.

CALIFORNIA LABOR LAWS PROTECT ALL WORKERS REGARDLESS OF IMMIGRATION STATUS. THE LABOR COMMISSIONER’S OFFICE WILL NOT ASK ABOUT YOUR IMMIGRATION STATUS OR REPORT YOUR IMMIGRATION STATUS TO OTHER GOVERNMENT AGENCIES.



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HOW TO FILE A REPORT OF LABOR LAW VIOLATION

CHECK THE DEADLINE

- You must file reports for violations of minimum wage, overtime, illegal deductions from pay, or unpaid reimbursements within **three years**.
- You must file reports based on a written contract within **four years**.

Complete and file the “Report of Labor Law Violation” form with the Labor Commissioner’s district office closest to where you worked. The complaint form provides a checklist of labor law violations for you to select from. This form is available in English and Spanish at all of the office locations and on the agency’s website (www.dir.ca.gov/dlse).

If you go in person to file your report at an office of the Labor Commissioner, there may be interpreters to help you in your language. However, if you need an interpreter, it is a good idea to bring someone who can interpret for you at this first visit. After you file a report and indicate your language on the form, an interpreter will be provided as needed.

Submit the report with copies of any documents that may support your complaint. Do not provide an original document, as it may not be returned to you. The Labor Commissioner will attempt to keep your name confidential but in certain situations, workers’ names may be revealed to the employer.

BOFE will review your complaint and decide whether to start an investigation of the employer. If BOFE decides to investigate, a Deputy Labor Commissioner (BOFE Deputy) will be assigned to conduct the investigation and may contact you for more information about your complaint. BOFE Deputies do not provide case updates to the public while an investigation is ongoing.



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WHAT TO EXPECT DURING A WORKPLACE INSPECTION

As part of the investigation, BOFE Deputies may inspect a worksite for evidence of labor law violations.

DURING THE INSPECTION, BOFE DEPUTIES MAY DO THE FOLLOWING:

- Interview the employer (including manager and supervisors) about suspected violations and review payroll and timekeeping records.
- Interview workers about hours of work, wages, rest breaks, and other working conditions. These interviews will take place outside of the worksite and away from the employer's view whenever possible. If you are nervous about speaking to BOFE Deputies at your worksite, you may ask for their business cards and call them after the inspection.

If you provide information to BOFE Deputies, your personal information will not be revealed unless required by law.

After the worksite inspection, BOFE Deputies may contact workers to collect more information and documentation. Workers with information about the employer's labor law violations may be asked to serve as witnesses. Your participation in the investigation is completely voluntary.

Sometimes, BOFE conducts inspections with other State agencies. For example, the Division of Occupational Safety and Health (Cal/OSHA) may join the investigation if there are suspected health and safety violations, and the Employment Development Department (EDD) may join if there are suspected tax and payroll violations. These agencies may also ask for your assistance in answering questions or providing documentation.



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FINAL STEPS OF THE BOFE INVESTIGATION PROCESS

If BOFE finds certain labor law violations, such as unpaid wages, it can issue citations against the employer. Citations can require the employer to correct violations, pay all workers unpaid wages, and pay civil penalties to the Labor Commissioner.

Employers may appeal citations in order to have the amounts reduced or to have the citations dismissed. If an employer appeals, a hearing will be held at the Labor Commissioner's Office to review the evidence submitted by the BOFE Deputy and the employer. Witnesses will be asked to testify at the hearing, including workers who play an important role by providing personal testimony. In some cases, BOFE relies on statements from workers who saw or experienced the labor law violations in order to prove that they occurred. For example, if there are no employer records that show unpaid wages, the BOFE Deputy may need workers to testify in order to prove that work was done without pay.

If the employer loses the citation appeal hearing, the Labor Commissioner will attempt to collect the total citation amount from the employer. If the employer contests the Hearing Officer's decision, the employer can appeal the decision in Superior Court. In addition, the Labor Commissioner may file a civil lawsuit against employers to stop ongoing violations or work with other government agencies to pursue criminal charges. In that case, BOFE Deputies may ask workers to testify in a civil lawsuit or criminal prosecution of the employer.

If your address or phone number changes after you have filed a complaint, be sure to contact the BOFE Deputy assigned to your case to provide updated information so that you can still be reached.

YOU MAY FILE A BOFE REPORT FOR VIOLATIONS OF THE FOLLOWING LABOR LAWS:

Minimum Wage: Almost all employees in California must receive the minimum wage as required by State law, whether they are paid by piece rate, commission, hourly, or by salary.

Overtime: Most workers in California must receive overtime pay of:

- 1.5 times the regular rate of pay for all hours worked over 8 hours in a workday or over 40 hours in a week.
- Double the regular rate of pay for all hours worked over 12 hours in a workday.

If a worker works 7 days in a workweek, the worker must be paid:

- 1.5 times the regular rate of pay for the first 8 hours on the 7th day.
- Double the regular rate of pay for all hours worked over 8 hours on the 7th day.

Be aware that overtime laws do not apply to all workers and certain workers, such as domestic workers and farm workers, are covered by different overtime laws.

Meal and Rest Breaks: Most workers in California must receive an uninterrupted 30-minute meal period for every 5 hours worked and a paid 10-minute rest period for every 4 hours worked. You may be entitled to a rest break even if you work less than 4 hours. Certain workers such as domestic workers and farm workers are covered by different meal and rest break laws.

Unlawful Deductions from Pay: Your employer may not withhold or deduct wages from your pay, except for withholdings required by law (such as social security tax). Common violations include deductions for uniforms or tools.

Reimbursement of Expenses: You must receive reimbursement for expenses such as supplies and tools needed for your job, including the cost of mileage if you are required to use your personal car for work (other than commuting to and from your job). However, if you earn at least twice the minimum wage, your employer can require you to provide certain hand tools customarily used in your occupation.

Reporting Time Pay: If you report to work expecting to work your usual schedule, but receive less than half of your usual hours, you must still be paid for at least half of your usual hours (for a minimum of at least 2 hours). For example, a farm worker who reports to work for an 8-hour shift and only works for 1 hour must receive 4 hours of pay—1 for the hour worked, and 3 as reporting time pay, so that the worker receives pay for at least half of the expected 8-hour shift.

Split Shift Premium: If you are required to work 2 or more shifts a day with an unpaid break of more than an hour, your employer may be required to pay a “split shift premium,” which is calculated based on your rate of pay.

Paydays: You have the right to a regularly scheduled payday, and your employer must post a notice at your workplace of the regular paydays, and the time and place of payment.

Record Keeping and Pay Stubs: Employers must keep records for each employee of daily hours worked and rate of pay. Whether you are paid by check, in cash, or otherwise, your employer must provide a pay stub or wage statement that details the total hours worked, wages earned, deductions, and your employer’s name and address. If you are paid by piece rate, the statement should also show the number of piece rate units completed and the piece rate per unit.

Workers’ Compensation Insurance Coverage: Your employer must have workers’ compensation insurance in case you get injured or sick on the job.

Child Labor: Minors under the age of 18 must have work permits. Under no circumstances can employers permit minors to work in any hazardous occupations. In general, minors may work no more than 4 hours on a school day and 8 hours on non-school days, depending on the time of day the work is scheduled. Some industries such as farm work and entertainment may have different work hour limitations.

FAQs

1. Can I report a labor violation anonymously?

Yes. However, filing a report without providing your name or contact information may prevent or delay an investigation if BOFE Deputies need more information in order to continue.

2. When will I receive the money that is owed to me?

BOFE will send you the wages it recovers on your behalf once investigations and citations are complete, which may take anywhere from a few months to a few years. If the employer refuses to pay or appeals the citations, your payment may be delayed. You may try to recover your unpaid wages separately by filing an individual wage claim. If you file a wage claim and the Labor Commissioner orders your employer to pay you wages, you can try to collect wages directly from your employer.

3. What if my boss fires, demotes, or punishes me for reporting a labor violation?

California law states that it’s illegal for employers to fire or punish you for exercising your workplace rights. For example, employers cannot threaten you with deportation, fire you or send you home, or prevent you from getting another job because you filed a BOFE report. If your employer does retaliate, you can file a complaint for retaliation with the Labor Commissioner’s Retaliation Complaint Unit.

4. Can I file a report if I was misclassified as an independent contractor?

California’s labor laws do not apply to independent contractors. However, if you believe that you have been improperly classified as an independent contractor, you may file a report of labor law violations. Some employers misclassify their employees as independent contractors in order to avoid paying legally required wages, workers’ compensation insurance, and payroll taxes. If the person or business that hired you treats you as an independent contractor but it controls how you do your work, it is possible that you are actually an employee and not an independent contractor. The Labor Commissioner will consider multiple factors in order to determine whether workers have been misclassified as independent contractors.

5. What if my employer makes me give back the money I get from BOFE?

It is illegal for your employer to request that you to return any money to them. If this happens, contact the BOFE Deputy assigned to the investigation immediately.



LABOR COMMISSIONER'S OFFICE LOCATIONS

BAKERSFIELD

(661) 587-3060

EL CENTRO

(760) 353-0607

FRESNO

(559) 244-5340

LONG BEACH

(562) 590-5048

LOS ANGELES

(213) 620-6330

OAKLAND

(510) 622-3273

REDDING

(530) 225-2655

SACRAMENTO

(916) 263-1811

SALINAS

(831) 443-3041

SAN BERNARDINO

(909) 383-4334

SAN DIEGO

(619) 220-5451

SAN FRANCISCO

(415) 703-5300

SAN JOSE

(408) 277-1266

SANTA ANA

(714) 558-4910

SANTA BARBARA

(805) 568-1222

SANTA ROSA

(707) 576-2362

STOCKTON

(209) 948-7771

VAN NUYS

(818) 901-5315