



**REPORT
A LABOR
VIOLATION
ON A PUBLIC
CONSTRUCTION
PROJECT
TO THE CALIFORNIA LABOR
COMMISSIONER'S OFFICE**

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 minimum 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.

VIOLATIONS OF PREVAILING WAGE LAWS ON PUBLIC WORKS PROJECTS IS CALLED **WAGE THEFT**. REPORT EMPLOYERS THAT 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 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, 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 ON A PUBLIC CONSTRUCTION PROJECT



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ABOUT BOFE'S PUBLIC WORKS UNIT

The Public Works Unit of the Labor Commissioner's Office investigates violations of prevailing wage laws on public works construction projects. You may file a public works complaint if you have information that an employer committed any of the following violations:

- Unpaid prevailing wages, including unreported hours; prevailing wages are higher hourly wages and are required for work on public works projects.
- Unpaid overtime, including overtime prevailing wage rates required for weekends and holidays.
- Unpaid travel reimbursements or benefits, such as medical, 401(k) plans, enhanced unemployment or other benefits.
- Misclassification of pay grades, which determine the range of salaries on public works projects.
- Paychecks returned due to insufficient funds.

Public works complaints should be filed as soon as possible in order for the Labor Commissioner to complete its investigation and issue assessments within 18 months of the project's completion. The Labor Commissioner cannot take any action on public works complaints after this time period has passed.

IF YOU EXPERIENCED ADDITIONAL LABOR VIOLATIONS OR WERE NOT WORKING ON A PUBLIC WORKS PROJECT, YOU MAY FILE A WAGE CLAIM WITH THE WAGE CLAIM ADJUDICATION UNIT OR REPORT THE LABOR VIOLATION TO THE BUREAU OF FIELD ENFORCEMENT (BOFE). FOR MORE INFORMATION, CONTACT THE LABOR COMMISSIONER'S OFFICE.



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HOW TO FILE A PUBLIC WORKS COMPLAINT

Anyone who wishes to report a violation of the state's public works laws can file a public works complaint with the Labor Commissioner. Current or former employees must complete and file the Public Works – Worker Complaint form (available in English and Spanish), while other members of the public must use the Public Works – Public Complaint form. These forms are available at any of the Labor Commissioner's Office locations and online at www.dir.ca.gov/dlse. If you file your report in person at the Labor Commissioner's Office and need an interpreter, it is recommended that you bring someone who can interpret for you at the first visit. After you file a complaint, an interpreter will be provided as needed.

You will need to provide information about the public works project, the employer, the awarding body, and the general contractor on the complaint form. The awarding body is the government entity that owns the project and awarded it to the general contractor. Submit the complaint form with copies of your supporting documents. Do not submit originals, as they may not be returned to you. After filing your complaint, you will receive a Notification of Complaint Filed with the name of the investigator assigned to your case. The Labor Commissioner will keep your complaint confidential to the maximum extent possible under the law but in certain situations, may be required to disclose copies of complaints to employers.

Complaints regarding work in the following counties should be submitted to the Labor Commissioner's Long Beach office: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, or Ventura.

DLSE – BOFE Public Works
Attn: Complaints Unit
300 Oceangate, Suite 850
Long Beach, CA 90802

Complaints regarding work in all other counties should be delivered to the Labor Commissioner's Sacramento office:

DLSE – BOFE Public Works
Attn: Complaints Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825



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WHAT TO EXPECT DURING AN INVESTIGATION

The Public Works Unit actively monitors public works projects and may initiate investigations at any time. Investigators may take the following actions:

- Review (“audit”) payroll and time records to determine whether the employer has paid all prevailing wages as required by law.
- Interview workers involved with the project about potential violations. Investigators interview workers outside of the worksite and away from the employer’s view whenever possible. If you are nervous about speaking to investigators at your worksite, ask them for their business cards to call them after the inspection. Meetings can be arranged during non-work hours at another public place such as a restaurant.
- Inspect the worksite(s) for evidence of failure to pay or post notices of prevailing wage rates.

The Public Works Unit conducts certain 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 California 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. Your participation is completely voluntary.



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FINAL STEPS OF THE BOFE PUBLIC WORKS INVESTIGATION PROCESS

If the Public Works Unit finds a violation, an investigator with the Labor Commissioner will issue a Civil Wage and Penalty Assessment (CWPA) which determines the amount of unpaid wages owed to workers, as well as penalties the contractor or subcontractor owes.

A contractor may appeal the assessment within 60 days. If the contractor loses the appeal, the Labor Commissioner will file a judgment and collect the assessment amount. If a contractor or subcontractor cannot pay the amount assessed, the Labor Commissioner can obtain the amount owed from the awarding body (the agency that awarded the contract for public work).

Update the Public Works Unit of any change in your address or phone number in case the Labor Commissioner collects your unpaid wages.

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.

PUBLIC WORKS PROJECTS INCLUDE ANY CONSTRUCTION OR DEVELOPMENT PAID FOR IN WHOLE OR IN PART BY PUBLIC FUNDS.

In some instances, maintenance contracts with government agencies can also trigger public works laws. Examples of construction projects include roads, parks, and buildings owned by the government. Maintenance contracts may include landscaping projects and cleaning or replacement of traffic signal lights.

KNOW YOUR RIGHTS ON A PUBLIC WORKS PROJECT:

Prevailing Wage: For work on a project in California paid for by the public, you must be paid “prevailing wage,” a special kind of minimum wage that is higher than the state minimum wage.

Fringe Benefits: In addition to prevailing wage rates, you may receive fringe benefits such as medical insurance, compensation for job-related injuries and illness, a retirement plan, vacation and holiday pay, and safety trainings. Some contractors may have to pay you the benefits in wages instead of providing fringe benefits.

Overtime: If you work more than 8 hours per day on a weekday or work on a Saturday, Sunday, or holiday on a public works project, you must be paid a higher overtime or premium prevailing wage rate. Limited exceptions to this rule can be found in section 4.1.7 of the public works manual, available online at www.dir.ca.gov/dlse/PWManualCombined.pdf.

Meal and Rest Breaks: Most workers in California must receive an uninterrupted 30-minute unpaid 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.

Deductions from Pay: Except for wages that are withheld as required by law (such as social security tax), your employer may not withhold or deduct wages from your pay. For example, employers cannot deduct wages for uniforms and tools required for the job.

Reimbursement of Expenses: You must receive reimbursement for expenses, including supplies and tools needed for your job and the cost of mileage if you are required to use your personal car for work (other than commuting to and from your job site). 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.

Travel and Subsistence: Your employer may also be responsible to pay for travel to a project and “subsistence,” or cost of living. Email publicworks@dir.ca.gov to inquire about whether you should be paid for travel and subsistence on your job.

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).

Posting Requirement: The director of the California Department of Industrial Relations determines the prevailing wage rates payable for different crafts and work classifications in each part of the state. All employers on public works projects must post required laws and notices in a prominent place where they can be viewed easily. These notices inform all employees about wage and hour, health and safety, and family leave laws.

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.

Shift Differential Time: Additional prevailing wage rates may need to be paid if your work start time begins after 11:00 a.m. You may be entitled to a higher rate for swing shift hours, such as beginning your day after 11:00 a.m., or for “graveyard hours,” such as working after 4:00 or 5:00 p.m.

FAQs

1. Who is covered by prevailing wage laws?

In general, prevailing wages must be paid to all workers employed on a public works project worth over \$1,000. Some projects under \$25,000 may receive special permission from the director of the Department of Industrial Relations to pay less than prevailing wage.

2. How do I know what the prevailing wage is and how it is calculated?

All contractors must post required prevailing wage laws and notices in a prominent place where they can be viewed by all employees. The director of the Department of Industrial Relations calculates each prevailing wage rate based on the amount paid to a majority of workers engaged in that same craft, classification or type of work in a given geographical area. If there is no single rate paid to a majority, the rate paid to the greater number of workers determines the prevailing wage rate.

3. Can I file a report if I am classified as an independent contractor?

California’s labor laws do not apply to independent contractors. However, you may file a report if you believe that you have been improperly classified as an independent contractor. Some employers misclassify employees as independent contractors in order to avoid paying legally required wages and to avoid paying for costs such as workers’ compensation insurance. The Labor Commissioner will consider many factors when determining whether workers have been misclassified as independent contractors.

4. When will I receive my unpaid prevailing wages?

Investigations and assessments take anywhere from 30 days to several months. The Public Works Unit will send you the wages it recovers on your behalf. If the contractor refuses to pay, your payment will be delayed while the Labor Commissioner tries to collect the amount from the awarding body.

5. What if my boss fires, demotes or punishes me for reporting a public works violation?

California law prohibits employers from retaliating against workers for exercising workplace rights. In addition, it is against the law for your employer to report or threaten to report your citizenship or immigration status because you have exercised your labor rights. If your employer retaliates against you, you can file a retaliation complaint with the Labor Commissioner’s Retaliation Investigation Unit.

6. What can I do if the deadline to file a public works complaint has passed?

If 18 months have passed since the project’s completion, the Labor Commissioner’s Office cannot investigate the employer or issue an assessment. However, you may file a civil lawsuit in superior court if you do so within the deadline to file. You must file a civil lawsuit for statutory violations of prevailing wage, minimum wage, overtime, illegal deductions from pay, or unpaid reimbursements within three years.



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