

IN CALIFORNIA Janitorial

WORKERS HAVE RIGHTS

Your rights as a worker are enforced and protected by the California Department of Industrial Relations, Division of Labor Standards Enforcement (DLSE). DLSE investigates and resolves complaints about discrimination, wages, child labor, hours of work and working conditions.

You are protected under Industrial Welfare Commission wage order 5-2001.

Whether you are a documented or undocumented worker in California, you have rights protected by state laws that guarantee payment of wages for work performed. It is the policy of the California Department of Industrial Relations not to question your immigration status.

Here are some rights that protect your working conditions:



1 The right to be paid the minimum wage
You are to be paid no less than minimum wage of \$9.00 per hour, whether the pay is measured by hour or contract. With few exceptions, all wages earned are due and payable at a minimum of twice during each month on your regular payday.

2 The right to a net 10-minute rest period
You must be permitted to take a net 10-minute rest period for every four hours worked or major fraction thereof which to the extent possible shall be in the middle of each work period. If your employer does not provide you a rest period, your employer must pay you one additional hour of pay at your regular rate of pay for each workday the rest period is not allowed.

3 The right to a meal period
You are entitled to a meal period of at least 30 minutes if you work more than five hours. You must be relieved of all work duty during your meal period. Each workday you are not provided a meal period, or you perform work during your meal period, your employer must pay you one additional hour of pay at your regular rate of pay. You have the right to a clean meal and rest area.

4 The right to file a workers' compensation claim if you are injured on the job
If you are injured on the job, your employer must provide you with medical care. Depending on the extent of your injury you may have the right to medical treatment, rehabilitation and job training at no cost to you. For fact sheets, information and assistance in filing a workers' compensation claim, contact the Division of Workers' Compensation at **1-800-736-7401** or visit www.dir.ca.gov. You have the right to process your workers' compensation claim and are protected from termination.

5 The right to be provided tools, supplies and a required uniform necessary to do your work
Tools, supplies and required uniforms should be provided and maintained by your employer at no cost to you. As a janitor, your employer must provide you with proper safety equipment such as plastic gloves, eye goggles, back brace, and respiratory mask. You have the right to receive regular workplace health and safety training. If you are required to use your own vehicle for workrelated responsibilities or purchase gasoline for a company vehicle, your employer must reimburse those expenses and compensate you for your travel time.

6 The right to a pay stub or wage statement every time you are paid your wages
Whether you are paid by check or in cash, you must receive a pay stub or a written wage statement showing among other things: your employer's name, address and telephone number; your name; either your employee ID or the last 4 digits of your social security number; gross wages earned; all deductions; and the dates for the period you are being paid. You have the right to a regularly scheduled payday and your employer must post a notice at your workplace specifying the regular paydays and the time and place of payment. If your employer issues a paycheck that was returned because of insufficient funds, your employer may be penalized and required to pay you the equivalent of one day's salary for each day delayed in paying your wages (up to a maximum of 30 days).

7 The right to be properly classified. Some employees are misclassified as independent contractors.
The California Division of Labor Standards Enforcement (DLSE) has found many instances where an employer has wrongly classified employees as independent contractors, denying the employees of their rights. It makes a difference if you are classified as an employee or an independent contractor.

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California's wage and hour laws (minimum wage, overtime, meal periods and rest breaks) and anti-discrimination and retaliation laws protect employees, but they do not protect independent contractors. Employees are assisted by state agencies such as DLSE to seek enforcement of the law. Independent contractors must go to court to settle their disputes or enforce other rights under their contracts.

As an **employee** you are asked by your employer to fill out a W2 form. Your employer is then responsible to report wages; make deductions from your paycheck; and supply you with tools, supplies, protective gear, and health and safety training.

As an **independent contractor**, the person you work for files a 1099 form at the end of the year reporting they are not officially your employer and consequently not accountable for following employer responsibilities. An independent contractor is a person who owns their own (janitorial) business and will report their own income and pay their own taxes to the government.

For information on the difference between an employee and an independent contractor contact your local DLSE office listed on this flyer.

The right to be paid all wages by your employer the same day you are terminated or within 72 hours of a voluntary quit

8 If you are terminated, your employer must pay you due immediately. If you voluntarily quit without giving 72 hours prior notice, your employer must pay you within 72 hours. If your employer fails to pay you, they may be penalized and required to pay you the equivalent of one-day's salary for each day delayed in paying your wages (up to a maximum of 30 days).

The right to file a wage claim, a discrimination complaint or speak to the California labor commissioner regardless of your immigration status and without retaliation from your employer

9 You have the right (free from retaliation) to process your wage claim, attend hearings to recover unpaid wages and investigate retaliation complaints. You may discuss labor issues with the DLSE and/or your employer under protection of the law and your employer may not discharge, demote, suspend or discipline you in any manner for this reason. You may file a complaint with the labor commissioner for reinstatement, full back pay, and any other appropriate remedy if you feel you were discharged because you engaged in such activity.

Wage claim tip: Keep your own time records. Write down every day the time you begin work, when you end work, the time you take meal and rest breaks, the total hours you work and record your hourly rate.

Contact the California Division of Labor Standards Enforcement (DLSE) local district offices for labor law information, assistance and to obtain a claim form to file a complaint:

- Bakersfield** (661) 587-3060
7718 Meany Avenue, 93308
- El Centro** (760) 353-0607
1550 West Main Street, 92243
- Fresno** (559) 244-5340
770 East Shaw Avenue, Suite 222, 93710
- Long Beach** (562) 590-5048
300 Oceangate, Suite 302, 90802
- Los Angeles** (213) 620-6330
320 West 4th Street, Suite 450, 90013
- Oakland** (510) 622-3273
1515 Clay Street, Suite 801, 94612
- Redding** (530) 225-2655
250 Hemsted Drive, 2nd Floor, Suite A, 96002
- Sacramento** (916) 263-1811
2031 Howe Avenue, Suite 100, 95825
- Salinas** (831) 443-3041
1870 North Main Street, Suite 150, 93906
- San Bernardino** (909) 383-4334
464 West Fourth Street, Room 348, 92401
- San Diego** (619) 220-5451
7575 Metropolitan Drive, Suite 210, 92108
- San Francisco** (415) 703-5300
455 Golden Gate Avenue, 8th floor, 94102
- San Jose** (408) 277-1266
100 Paseo de San Antonio, Room 120, 95113
- Santa Ana** (714) 558-4910
2 MacArthur Place, Ste. 800, 92707
- Santa Barbara** (805) 568-1222
411 East Canon Perdido Street, Room 3, 93101
- Santa Rosa** (707) 576-2362
50 "D" Street, Suite 360, 95404
- Stockton** (209) 948-7770
31 East Channel Street, Room 317, 95202
- Van Nuys** (818) 901-5315
6150 Van Nuys Blvd., Room 206, 91401



photos by Robert Gumpert

Cal/OSHA
1-800-963-9424

Cal/OSHA local offices:

Northern California
(916) 263-0704

San Diego
(619) 767-2060

Los Angeles
(562) 944-9366

San Francisco Bay Area
(510) 622-2891

Minimum wage:
1-888-275-9243 (ASK-WAGE)

The simplified information contained in this flyer is provided to you from the California laws and regulations concerning wages, hours and working conditions; they are not legal interpretations of the California labor code, administrative code or the Industrial Welfare Commission wage orders. California labor laws can be found by contacting the Division of Labor Standards Enforcement (DLSE) offices or by visiting the Web sites:

www.dir.ca.gov
www.workitout.ca.gov

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