



**Division of Occupational Safety and Health
POLICY AND PROCEDURES MANUAL**

P & P C-7

**COMPLAINT EVALUATION AND
DOCUMENTATION**

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COMPLAINT EVALUATION AND DOCUMENTATION

AUTHORITY: California Labor Code Sections 6309, 6310 and 6312.

POLICY: It is the policy of the Division of Occupational Safety and Health to: (1) determine the validity, formality and seriousness of all complaints alleging a workplace hazard or a violation of a Title 8 Safety Order; (2) document all complaint-related information on the [Cal/OSHA 7](#); and (3) investigate imminent hazard and formal complaints by an onsite inspection, and non-formal serious and non-serious complaints by a letter to the employer (see [P&P C-7A](#)).

PROCEDURES:

A. COMPLAINT INTAKE

1. [Cal/OSHA 7](#) shall be completed by compliance personnel when the District Office is notified in-person, telephonically, electronically, or in writing of a complaint.

NOTE: Complaints can be taken by District Office Support Staff, but only after they have been trained by the District Manager (or designee) in the Complaint Processing Procedures found in this P&P and have been determined by the District Manager, after an appropriate training period, to take complaints competently.

2. During the initial evaluation of a complaint, District Office personnel shall attempt to obtain the following information:
 - a. Name, address and telephone number of the complainant, when such personal identifiers are communicated by the complainant:

NOTE: All Division personnel who take complaints that are categorized as formal shall take reasonable measures to ensure that the complainant is a current employee of the employer from whose place of employment the complaint arises.

- b. Detailed description of the hazard and location in the place of employment.
 - c. Identity of any employees who have been injured as a result of the complaint conditions.
 - d. Nature of the work performed in the area of the workplace which is the subject of the complaint.
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- e. Type and condition of any equipment or machinery in use in the subject workplace and any materials, chemicals, processes or operations involved in the complaint conditions.
 - f. How often (frequency) the work task associated with the complaint conditions is performed and for how long (duration).
 - g. How long the hazardous conditions have existed, whether the conditions have been brought to the employer's attention and, if so, whether the employer has made any attempt to correct the condition.
 - h. How many work shifts there are, what time each shift begins and during which shift the hazardous conditions occur.
 - i. Identity of any employees with symptoms which may have been caused by exposure to hazardous substances, identity of any employees who have received medical treatment for a work-related condition and the name of the condition.
 - j. How many people work in the place of employment, how many workers may be exposed to the hazardous condition(s) and their physical proximity to the hazardous condition(s).
 - k. Identity of any employee bargaining unit representative in the place of employment and the name, address, and telephone number of the bargaining unit representative and any other employee representatives.

NOTE: Upon obtaining the information as recommended by Section A.2., District Office personnel will attempt to confirm with the complainant that the content of the complaint accurately reflects complainant's concerns.

3. When communicating with complainants regarding the filing of complaints, District Office personnel will provide the complainant with the following information (excluding imminent hazard complaints, which must be immediately brought to the attention of the District Manager):
 - a. Description of the complaint process.
 - b. For non-serious hazards, if the caller is a current employee or a representative of employees, explain the distinction between the Division's response to a formal complaint versus a non-formal complaint, reviewing the options of "investigation by letter" and/or "investigation by onsite inspection", as well as the relative advantages of each.

Note: District personnel shall document the complainant's choice of response (see [P&P C-7A](#)).

4. Electronic Complaints Submitted via the OSHA Public Website
 - a. Electronic complaints submitted via the OSHA public website are received through the Cal/OSHA Program Office. The Cal/OSHA Program Offices manages a "Complaints" mailbox which is monitored daily and every incoming complaint is reviewed for jurisdiction, then it is forwarded to the District Office with jurisdiction over the work site location named in the complaint.
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- b. The Cal/OSHA District Office shall review, process, and respond to the complaint according to the internal complaint procedures. The complaint will be reviewed for completeness and the complainant, if contact information is provided, may be contacted to obtain additional information that helps clarify the complaint.
- c. The Cal/OSHA District Office shall refer any item(s) that fall outside the jurisdiction of Cal/OSHA to any and all appropriate agencies with jurisdiction over the complaint item(s) (see [P&P C-90](#)).
- d. The Cal/OSHA District office shall complete a [Cal/OSHA 7](#) form for all complaint information received and immediately enter it in OIS even if incomplete at that time. In order to facilitate the tracking of electronic complaints, the following code(s) shall be entered in the OIS Unprogrammed Activity (UPA) Additional Information field:

N-11-LOGXXXXXX

- Where N-11 indicates that the complaint was filed electronically; and
 - The digits following LOG are the unique complaint ID/log numbers assigned to the electronic complaint when processed by the Salt Lake Technical Center. The log number may vary and does not have to be exactly six digits. In entering the code, there is no space between the word LOG and the digits that follow.
- e. All complaint-related material received electronically shall be printed and date stamped with the date the material was received by the Cal/OSHA Program Office.

B. CONFIDENTIALITY AND ANTI-DISCRIMINATION PROTECTIONS

1. Labor Code Section 6309 mandates that “the name of any person who submits a complaint to the Division shall be kept confidential...” Therefore, no Division employee shall release a complainant name “unless that person requests otherwise”. Since the [Cal/OSHA 7](#) and letters to the complainant contain the name of the complainant, such documents shall also be kept confidential, unless the complainant requests otherwise.
2. During the course of a workplace inspection, compliance personnel will make every effort to protect the confidentiality of the complainant.
3. When making a complaint, each complainant shall be notified by District personnel of their right to be free from discharge or discrimination by their employer for making a workplace safety or health complaint to the Division.

NOTE: Complaints alleging employer discrimination / retaliation against employees related to health and safety issues shall be referred to the Division of Labor Standards Enforcement (DLSE) using the procedure set forth in [P&P C-90](#).

C. DETERMINING COMPLAINT VALIDITY

NOTE: All validity determinations shall be documented on the [Cal/OSHA 7](#).

1. Valid Complaint

A complaint is valid if it alleges a workplace hazard or a violation of a Title 8 Safety Order which has a reasonable basis in fact and does not represent willful harassment of the employer.

2. Invalid Complaint

a. No Reasonable Basis (Too Vague or Unsubstantiated)

(1) Lacks Specificity

A complaint is without a reasonable basis if it lacks sufficiently specific information for the District Manager to make a judgment about the existence of a hazard, or a condition which represents a violation of a Title 8 Safety Order in a particular workplace even after the complainant has been contacted by the District Manager to obtain additional specific information.

(2) Previous Inspection with Abatement Pending on Complaint Conditions

A complaint lacks a reasonable basis if it references the same condition(s) which were cited during a previous inspection by the Division of the same work area in the same workplace and the complaint is received during the time specified in the citation for abatement of the same condition(s).

(3) No Division Jurisdiction

A complaint is without a reasonable basis if it references a place of employment over which the Division of Occupational Safety and Health does not have any legal jurisdiction.

NOTE: If the District Office has any question as to the Division's jurisdiction at a particular workplace, the District Manager shall consult the Legal Unit through the Regional Manager to determine if jurisdictional authority exists (see [P&P C-11](#)).

b. Willful Harassment of the Employer

A complaint is not valid if the District Manager determines that the complaint represents willful harassment of the employer.

NOTE: A complaint may represent willful harassment of the employer if, to a reasonable person, it does not express a genuine concern about a workplace hazard, but is intended merely to annoy or irritate the employer.

D. COMPLAINT CLASSIFICATION AND INVESTIGATION IN GENERAL

All complaints shall be evaluated, classified and assigned by the District Manager, or designee, for investigation to compliance personnel within the required response times. All classification determinations, including “no inspection planned”, shall be documented on the Cal/OSHA 7.

1. Imminent Hazard Complaint

- a. A complaint alleging that any condition or practice in any place of employment constitutes a hazard or danger which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of the danger can be eliminated through regular enforcement procedures is an imminent hazard complaint, regardless of source. Examples: employees in an excavation 5 feet or deeper without shoring or sloping, employees working at a trigger height without personal fall protection, employees working in close proximity to overhead electrical lines.

NOTE 1: For health hazards, exposure to the toxic substance or other hazard must cause harm to such a degree as to shorten life or be immediately dangerous to life and health (IDLH), or cause substantial reduction in physical or mental efficiency or health, even though the resulting harm may not manifest itself immediately.

NOTE 2: For heat exposure of workers employed outdoors refer to Heat Illness Prevention Special Emphasis Program.

- b. Every effort shall be made to investigate all the imminent hazard complaints on the same day that the complaints are received.
- c. When an inspection of an imminent hazard complaint cannot be conducted immediately, the District Office may make telephonic contact with any source, including the employer who controls the workplace containing the imminent hazard, to verify the nature and extent of the hazard and to require that corrective steps be taken immediately to protect the health and safety of employees.

NOTE: When telephonic contact is made with any employer who controls the workplace containing the imminent hazard, such contact shall be considered to be Advance Notice and procedures pertaining to Advance Notice in [P&P C-1A](#) shall be followed.

2. Serious and Non-Serious Complaints

a. Serious

A complaint shall be considered to allege a serious hazard if there is a realistic possibility that death or serious physical harm could result from the hazard alleged by the complaint.

b. Non-Serious (General or Regulatory)

A complaint shall be considered to allege a non-serious hazard if there is no realistic possibility that death or serious physical harm could result from the hazard alleged by the complaint.

E. FORMAL COMPLAINT CLASSIFICATION AND INSPECTION CRITERIA

1. Definition

A complaint shall be classified as formal when it alleges a workplace hazard or a violation of a Title 8 Safety Order, and is received from an employee, an employee's representative, a representative of a government agency, or from an employer of an employee directly involved in an unsafe place of employment.

2. Types of Formal Complainants

a. Employee

For purposes of classifying a complaint as formal, the term “employee” refers to:

- (1) A currently employed employee, whose name and address is given to the District, of an employer about whose place of employment the complaint is being lodged; or
- (2) A currently employed employee, whose name and address is given to the District, of another employer, if that employee is working at or near the place of employment of the employer against whom the complaint is filed, and is exposed to hazards at that employer's place of employment.

b. Employee's Representative

For purposes of classifying a complaint as formal, the term “employee's representative” includes the following individuals who have a representational relationship with an employee at the place of employment in which the hazardous condition exists:

- (1) Attorney;
- (2) Health or Safety Professional;
- (3) Union Representative or Advocacy Group;

NOTE: If there is a formal agreement between a union and the employer, even without a current contract, the complaint will be considered formal.

- (4) Any other person acting in a bona fide representative capacity, including, but no limited to, members of the clergy, social workers, spouses and other family members, and government officials or nonprofit groups and organizations acting upon specific complaints from, and injuries of, individuals who are employees.

NOTE: Although union or advocacy complaints generally do not fall under the high profile case criteria, District Managers shall notify the Regional Manager who will subsequently notify headquarters should any significant, events/developments arise. District Managers shall use professional judgment in assessing whether to report under this requirement. Cases

generated under this Notification requirement may or may not be subject to a case review at the Headquarters level.

c. Representative of a Government Agency

(1) State or Local Prosecutor

For purposes of classifying a complaint as a formal complaint, and not a referral, a complaint from a state or local prosecutor shall be classified as a formal complaint without regard to the existence of a representational relationship between the prosecutor-complainant and any employee of the place of employment about which the complaint makes reference.

NOTE: When a complaint charging a serious violation is received from a state or local prosecutor, the District shall investigate the place of employment within 24 hours of receipt of the complaint.

(2) Other Governmental Agency Representative

A complaint from a representative of a government agency shall be classified as a formal complaint, and not a referral, without regard to the existence of a representational relationship between the governmental agency representative-complainant and any employee of the place of employment about which the complaint makes reference.

d. Employer of an Employee Directly Involved in an Unsafe Place of Employment

For purposes of classifying a complaint as formal, the term “employer of an employee directly involved in an unsafe place of employment” refers to any employer whose employees are exposed to a hazard created by another employer, e.g., a construction contractor whose employees are exposed to a hazard created by another construction contractor.

3. Types of Formal Complaints

a. Serious

A formal complaint alleging a serious hazard shall be investigated by a physical inspection of the subject place of employment within three working days of receipt of the complaint by the District Office.

b. Non-serious

After review by the District Manager (or designee) please select one of the two options below to address the complaint.

Note: This section does not apply to complaints about heat exposure of workers employed outdoors. Those complaints are covered in the Heat Illness Prevention Special Emphasis Program.

- (1) A formal complaint alleging a non-serious (general or regulatory) hazard shall be investigated by a physical inspection of the subject place of employment within 14 calendar days of the receipt of the complaint by the District Office.
- (2) The response to a formal non-serious complaint may be discussed with the complainant to review options regarding investigation by letter in lieu of onsite inspection as described in Section A.3 and [P&P C-7A](#).

NOTE 1: If the complainant agreed with an investigation by letter in lieu of investigation by onsite inspection, notification to the complainant shall be made with a letter “e” modified by adding the following: “This letter confirms that you agreed to an investigation by letter in lieu of an investigation by onsite inspection for your complaint”.

NOTE 2: In these situations where the complainant agreed to investigation by letter in lieu of onsite inspection, the complaint shall be classified as non-formal and processed according to Section F.

F. NOTIFICATION OF THE COMPLAINANT

1. Onsite Inspections

- a. If an on-site inspection was conducted and citations and/or other enforcement documents were issued, copies of any citations and other enforcement documents issued shall be enclosed with the notification letter (letter “h”) to the complainant. The complainant shall be asked to notify the District Office if the employer does not abate the hazards which were cited.
- b. If no citations were issued as a result of a complaint inspection, the complainant shall be informed of that fact through the letter “h”, and provided any pertinent reason(s) why citations were not issued. The letter should include sufficient specificity and detail so the complainant understands why no citations were issued.

EXAMPLE:

Complaint item: Construction workers are exposed to holes in the roof as they are transporting building materials across the roof.

Findings: All roof holes were guarded by temporary railings and toe boards or by covers.

EXCEPTION: Complainants do not have to be notified about the results of inspections conducted to verify employers’ satisfactory responses to letter investigations.

2. Letter (“d” or “m”) Investigations

When the complaint is investigated by means of a letter (letter “d” or “m”), the District Office shall notify the complainant by letter (letter “g”) of the results of the investigation within a reasonable time following the conclusion of the investigation, and shall ask the complainant to notify the

District Office if the employer does not correct the hazards identified in the employer's investigation. See letter "g".

3. All complainant notifications shall be mailed via regular mail to the postal address (street address or P.O. Box address) provided by the complainant when the complaint was filed, unless otherwise specified by the complainant. Complainant notifications shall be scanned and e-mailed to complainants who provided an e-mail address but no postal address when the complaint was filed.

G. OFFICE PROCEDURES

1. General Procedures

- a. When a complaint is received by the District Office, District personnel shall complete a [Cal/OSHA 7 Form](#) and enter the complaint data into OIS.

NOTE: Print the sensitive report in OIS for the complaint form. OIS System does not currently print the complainant phone number nor the compliance personnel designated to conduct an investigation. Complete these items by hand writing the information on the complaint form.

- b. District staff shall give the completed [Cal/OSHA 7](#) form to the District Manager, who shall determine the appropriate action to be taken.
- c. After a determination has been made, a copy of the complaint form is given to compliance personnel designated to conduct an investigation or generate a letter response.

NOTE 1: Trained clerical staff may also generate a letter.

NOTE 2: A copy of the complaint shall be retained and filed (binder or other method). Additionally, the complaint will be entered into the complaint log by clerical staff.

NOTE 3: Clerical staff will create a case file for the complaint as warranted (either due to assignment for inspection, or for letter response).

- d. Copies of all letters to the employer and letters and/or emails to the complainant are filed in the District Office. The District Office file shall have a Case File Summary Sheet for documentation of communication with employer or employee. Letters to the complainant shall be stamped or marked CONFIDENTIAL.
- e. Whenever the District Manager determines that the complaint is invalid, the District Office shall send a letter "a" to the complainant.
- f. District Staff may enter modifications into OIS from any source including from a photocopy of the complaint form or from information contained in employer letters.
- g. Employer and complainant letters shall be mailed through regular mail.

2. Formal Complaint Letter Procedures

a. Written

When the District Office receives a written formal complaint, (either by letter or receipt of a web complaint form), the District shall notify the complainant within 14 days, that “an inspection will be conducted and you will be informed of the results of the inspection when they are available” either by mail or email (with letter “f”), or by telephone contact.

b. Oral

When the District Office receives an oral formal complaint (by telephone or in person), or by email, letter “f” should be sent to the complainant within 14 days after receipt of the complaint.

c. When the District Office completes an on-site inspection of any type of formal complaint, the District shall send a letter “h” to the complainant with a copy of citation(s) or, if no citations were issued, a “Notice of No Violations”. See [P&P C-1A](#), [Cal/OSHA 1AX](#).

3. Non-formal Complaint Letter Procedures

a. See [P&P C-7A](#) Section E. Office Procedures

4. Complaint Closing Procedures

The District Manager may decide that a complaint will be closed for any of the following reasons:

- a. Complaint is invalid;
- b. Satisfactory letter response is received;
- c. All the inspections necessary to investigate all the complaint items have begun and the complaint has been satisfied; or
- d. No further investigative action, i.e., inspection or letter, is planned.

Attachment:

A – Notice of Alleged Safety and Health Hazards ([Cal/OSHA 7](#))

Sample C-7 Letters:

- a - [Letter to Complainant](#) -- Invalid Complaint
 - d - [Non-formal, Non-serious Complaint Notification to Employer](#)
 - e - [Notification to Complainant with Letter “d” or “m”](#)
 - f - [Acknowledgement to Complainant About Written/Oral Complaint](#)
 - g - [Notification to Complainant](#) -- Satisfactory Employer Response to Letter “d” or “m”
 - h - [Notification to Complainant](#) -- Inspection Results
 - m - [Non-formal, Serious Complaint Notification to Employer](#)
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