



Division of Occupational Safety and Health POLICY AND PROCEDURES MANUAL

P & P C-7A NON-FORMAL COMPLAINT EVALUATION AND INVESTIGATION

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NON-FORMAL COMPLAINT EVALUATION AND INVESTIGATION

P&P C-7A
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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.

PROCEDURES:

A. NON-FORMAL COMPLAINT CLASSIFICATION

1. A complaint shall be classified as a non-formal complaint when it alleges a workplace hazard or a violation of a Title 8 Safety Order, and it is lodged by (1) an employee-complainant who does not or cannot give his or her name and address to the District Office; (2) an employee representative who cannot give the name and address of the employee whom they represent to the District Office; or (3) a non-employee. See [P & P C-7](#) (Section E) for the definition of an employee and an employee's representative.

NOTE 1: In situations where a complainant is a current employee and agrees to an investigation by letter in lieu of onsite inspection, the complaint shall be classified as non-formal even though the status of the complainant would render the complaint formal.

NOTE 2: Complaints received from a former employee (not currently employed by employer) shall be considered to be non-formal complaints.

NOTE 3: If an employee seeking to file a complaint is reluctant to give his or her name, the complaint shall be classified as non-formal. Employee-complainants shall not be pressured to give their name to the District Office.

B. NON-FORMAL, SERIOUS COMPLAINT (LETTER “M” INVESTIGATIONS)

1. A non-formal complaint alleging a serious hazard shall be investigated by telephone contact followed by a facsimile or email letter in lieu of an onsite inspection according to the procedures in this section unless one or more of the following exceptions are met:

EXCEPTIONS:

- (a) Complaint references a hazard which has already resulted in a permanently disabling injury or illness (e.g., amputation, blindness, hearing loss, or 3rd degree burns) and there is a reasonable belief that the hazard still exists.
- (b) Complaint arises from an establishment that has a significant history of noncompliance with occupational safety and health regulations or standards as determined by the District Manager (e.g., if the employer has a history of any willful, repeat or failure-to-abate citations, the District Manager may assign the current complaint for an onsite inspection).
- (c) Complaint references an establishment whose address was provided however the employers' business name (or identity) cannot be determined from the complainant, or from any other source available to the Division.
- (d) Complaint is one which the District Manager believes should be investigated by means of an onsite inspection.
- (e) Complaint references heat exposure to workers employed outdoors (See DOSH Heat Illness Prevention Special Emphasis Program (SEP)).

NOTE: Prior to initiating an onsite inspection in response to a non-formal, serious complaint, the District Manager shall first obtain approval from the Regional Manager.

2. When taking a non-formal, serious complaint, the District Office personnel shall:
 - a. Inform the complainant that he/she will be receiving a copy of the employer's written response to the Division;
 - b. Obtain the employer's name (or employer contact person), the employer's telephone number, and the employer's facsimile number or email address; and
 - c. Obtain, if applicable, the name, address and telephone and facsimile number or email address of any collective bargaining unit representative of the employees affected by the complaint hazard(s).

NOTE: Inform the complainant that the complaint has been classified as non-formal and that the Division may investigate the complaint by means of telephonic contact/ followed by facsimile or email letter instead of an onsite inspection.

3. Initiating Telephone Contact (Letter "m" Investigations)
 - a. Either the District Manager or compliance personnel assigned to investigate a non-formal serious complaint shall initiate telephone contact with the employer, or the highest ranking representative of the employer, within three working days of receipt of the complaint by the District Office.

When successful telephonic contact is made with the employer, or the highest ranking representative of the employer, the District Manager or investigating compliance personnel shall:

- (1) Notify the employer of the existence of the complaint;
- (2) Describe the hazards alleged in the complaint and, if appropriate, the specific Title 8 standards allegedly violated;
- (3) Inform the employer that they are required to investigate the complaint item(s) and abate any hazards which are discovered during the employer's investigation;
- (4) Inform the employer that they will be receiving a letter by facsimile or email (or by regular mail if the employer does not have facsimile or email capability) from the Division describing the complaint item(s) and the specific standard(s) which are alleged to have been violated. Also, that the employer is required to post a copy of this letter in a prominent location in their workplace where it is readily accessible for employee review for at least three working days or until the hazard is corrected, whichever is longer;

NOTE: The District Manager or investigating compliance personnel is responsible for obtaining the employer's facsimile number or email address if such information was not already provided by the complainant.

- (5) Request that the employer provide the Division in writing (preferably by facsimile or email), within five working days of the employer's receipt of the Division's faxed or emailed letter, a response describing the results of the employer's investigation of the complaint items, and a description of any actions taken, in the process of being taken and/or planned by the employer to correct the hazard(s). The response must include any applicable measurements or monitoring results, invoices for equipment purchases, any photographs or video, or any other evidence which the employer believes would specifically document correction of the alleged hazard(s). Also, that the employer is required to post a copy of its response to the Division next to the complaint letter for at least three working days or until the hazard is corrected, whichever is longer;

NOTE: Complaints that allege a health (exposure) hazard which requires sampling or monitoring may necessitate additional time for investigation and abatement. When the District Manager makes a determination that the employer is willing to conduct sampling or monitoring (or have sampling or monitoring performed by another entity), then an appropriate time shall be fixed for the employer to conduct sampling and to report the result(s) to the Division.

- (6) Inform the employer that a copy of the employer's letter from the Division, and all subsequent correspondence concerning investigation of the complaint will be sent to the complainant, if complainant's contact information is known to the Division;
- (7) Inform the employer that if the Division determines that the employer's response is:
 - (a) Unsatisfactory, for any reason, the Division will conduct an onsite inspection of the employer's workplace;
 - (b) Satisfactory, the assertions made in 20% of the satisfactory letter(s) could be verified by means of an onsite inspection.

4. Unable to Make Telephone Contact

If successful telephone contact cannot be made with the employer within three working days, the District Manager shall assign the complaint for an onsite inspection, which should be initiated within three working days from the assignment of the complaint for an onsite inspection.

5. Notification to the Employer (Letter “m”) by Facsimile or E-mail

- a. The District Manager or investigating compliance personnel shall send to each employer who is successfully contacted by telephone a Complaint Notification Letter (letter “m”) by facsimile or email within three working days after telephone contact was made.

NOTE: If an employer does not have facsimile or email capability, then the District shall send the employer a Complaint Notification Letter (letter “m”) by regular mail.

6. Notification to the Complainant (Letter “e”)

The District Manager or investigating compliance personnel shall send a Notification to Complainant Letter (letter “e”) to the complainant (if the identity of the complainant is known) via regular mail together with a copy of letter “m”.

7. Employer Response – Refer to Section D - Employer Response to Letters “m” or “d” within this Policy.

C. NON-FORMAL, NON-SERIOUS COMPLAINTS (LETTER “D” INVESTIGATIONS)

1. Non-formal complaints alleging a non-serious (general or regulatory) hazard shall be investigated by a letter asking the employer to conduct an investigation of the workplace in lieu of an inspection by the District Office.

EXCEPTION: The District Manager may, with the approval of the Regional Manager, assign a non-formal, non-serious complaint for onsite inspection.

2. Notification to the Employer (Letter “d”)

- a. After receipt and initial evaluation of a non-formal, non-serious complaint, the District Manager, investigating compliance personnel, or appropriately trained support staff shall prepare a letter (letter “d”) to send to the employer by regular mail, or by facsimile or email. The letter shall:

(1) Notify the employer of the existence of the complaint;

(2) Describe the hazards alleged in the complaint and, if appropriate, the specific Title 8 standards allegedly violated;

(3) Inform the employer that the employer is required to investigate the complaint item(s) and to abate any hazards which are discovered during the employer's investigation;

- (4) Inform the employer that they are required to post a copy of the Division's letter (letter "d") in a prominent location in their workplace where it is readily accessible for employee review for at least three working days or until the hazard is corrected, whichever is longer;
- (5) Inform the employer that they are required to provide the Division in writing within 14 calendar days of the employer's receipt of the Division's letter, a response describing the results of the employer's investigation of the complaint items, and a description of any actions taken, in the process of being taken and/or planned by the employer to correct the hazard(s), including any applicable measurements or monitoring results, invoices for equipment purchases, any photographs or video, or any other evidence which the employer believes would specifically document correction of the alleged hazard(s). Also, that the employer is required to post a copy of its response to the Division next to the complaint letter for at least three working days or until the hazard is corrected, whichever is longer;

NOTE: Complaints that allege a health (exposure) hazard which requires sampling or monitoring may necessitate additional time for investigation and abatement. When the District Manager makes a determination that the employer is willing to conduct sampling or monitoring (or have sampling or monitoring performed by another entity), then an appropriate time shall be fixed for the employer to conduct sampling and to report the result(s) to the Division.

- (6) Inform the employer that a copy of the employer's letter from the District Manager, and all subsequent correspondence concerning investigation of the complaint, will be sent to the complainant; and
- (7) Inform the employer that if the Division determines that employer's response is:
 - (a) Unsatisfactory, for any reason, the Division will conduct an inspection of the employer's workplace;
 - (b) Satisfactory, the assertions made in 10% of satisfactory letters could be verified by means of an onsite inspection.

3. Notification to the Complainant (Letter "e")

If the complainant's name and address are known, the District Office shall send a letter to the complainant explaining that the employer has been asked to investigate the complaint (letter "e"). A copy of the District's letter to the employer (letter "d") shall be included with the letter to the complainant. The complainant shall be sent a copy of all subsequent correspondence between the Division and the employer.

NOTE: In situations where a complainant is a current employee and agrees to an investigation by letter in lieu of 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".

4. Employer Response – Refer to Section D - Employer Response to Letters “m” or “d” within this Policy.

D. EMPLOYER RESPONSE TO LETTERS “m” or “d”

1. Employer Response

a. Satisfactory Response

If the District Office receives a satisfactory response from the employer, the District Manager or investigating compliance personnel shall:

- (1) Document receipt of the employer's satisfactory response on the Case File Summary Sheet;

NOTE 1: A satisfactory response is one which indicates that the employer performed an investigation of the complaint items and either determined that a hazard was present and undertook appropriate corrective actions, or determined that no hazard was present.

NOTE 2: If the employer informs the District Manager that they have developed a plan to correct the hazards but has not yet had time to implement the plan, the District Manager shall communicate with the employer (by telephone, facsimile, or e-mail) to determine what interim protective steps will be taken until the corrective action can be completed, and, later, whether the hazard has been adequately corrected. Based on the information provided regarding implementation of the corrective action plan, the District Manager shall determine whether an onsite inspection of the workplace is necessary.

- (2) Send a notification to the complainant (letter “g”) with a copy of the employer's response (if the identity and address of the complainant is known); and
- (3) Close the complaint in OIS if abatement of all complaint items has been documented.
- (4) Employer Requests Extension of Time

Letter “m” – If the employer contacts the District Manager within five working days of receiving a Complaint Notification Letter (letter “m”) requesting an extension of time to respond, the District Manager has the discretion, after making a determination about the employer's good faith, to grant extensions of time.

Letter “d” – If the employer contacts the District Manager within 14 calendar days of receiving a Complaint Notification Letter (letter “d”) requesting an extension of time to respond, the District Manager has the discretion, after making a determination about employer's good faith, to grant extensions of time.

b. Unsatisfactory Employer Response to Letters “m” or “d”

- (1) When the District Manager receives an unsatisfactory response from the employer

the District Manager may either:

- (a) Attempt to work with the employer by telephone to secure a satisfactory response; or
- (b) Assign the complaint for onsite inspection:

- 1. Letter “m” – The onsite inspection should be initiated within three working days from the receipt of the unsatisfactory response.
- 2. Letter “d” – The onsite inspection should be initiated within 14 calendar days from the receipt of the unsatisfactory response.

(2) When, during a letter investigation, the complainant informs the Division that no corrective action has been taken, or that the corrective action is inadequate, the District Office must make a determination whether there is indeed reason to believe that further corrective action is needed. If so, the District Office can either work with the employer to ensure sufficient corrective action, or assign the matter for onsite investigation.

- (a) The determination of the District Office must be documented in the file.
- (b) The District Office must inform the Complainant about the decision, along with the results of any request for further corrective action or onsite investigation.
- (c) Even if a letter investigation has been closed, communication from a complainant suggesting that the employer’s corrective action has been inadequate must be considered and evaluated by the District Office.

c. No Employer Response to Letters “m” or “d”

Letter “m” – When the District Manager does not receive any response from the employer to the Complaint Notification Letter (letter “m”) within five working days, the District Manager shall either:

- (1) Contact the employer to ensure that the facsimile or email letter was received, and make a determination (based on the employer's good faith) whether an extension of time (up to an additional five working days) would be appropriate to grant; or
- (2) Assign the complaint for an onsite inspection which should be initiated within three working days from the date the employer’s response was due.

Letter “d” – When the District Manager does not receive a response from the employer to the Complaint Notification Letter (letter “d”) within 14 calendar days, the District Manager shall either:

- (1) Contact the employer to ensure that the letter was received, and make a determination (based on the employer's good faith) whether an extension of time (up to an additional 14 calendar days) would be appropriate to grant; or
- (2) Assign the complaint for an onsite inspection, which should be initiated within 14 calendar days from the date employer’s response was due.

d. Satisfactory Employer Letter Response Inspection

The District Manager may select for onsite inspections 20% of the satisfactory letter “m” responses received and 10% of the satisfactory letter “d” responses.

The purpose for the inspection is to verify and ensure that the employer's investigative and corrective actions correspond to those asserted in the employer's letter response.

E. OFFICE PROCEDURES

1. General Procedures

- a. When a complaint is received by the District Office, District personnel shall complete a complaint form (Cal/OSHA 7) 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 handwriting the information on the complaint form.

- b. District staff shall give the completed complaint 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 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. 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 been initiated and the complaint has been satisfied; or
- d. No further investigative action, i.e., inspection or letter, is planned.

Sample C-7A 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"](#)
 - g - [Notification to Complainant](#) -- Satisfactory Employer Response to Letter "d" or "m"
 - m - [Non-formal, Serious Complaint Notification to Employer](#)
-