

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Labor Standards Enforcement**

NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

**Subject Matter of Regulations:
Assessment of Civil Penalties for Violations of Retaliation Laws Within the Jurisdiction of
the Labor Commissioner**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS
Sections 13900 - 13904**

NOTICE IS HEREBY GIVEN that the Labor Commissioner, Chief of the Division of Labor Standards Enforcement, Department of Industrial Relations, pursuant to the authority vested in her by Labor Code section 98.8 and in accordance with Government Code section 11346.8(c), proposes to modify the text of the following proposed regulations within proposed Subchapter 16 of existing Chapter 6, of Division 1, of Title 8, California Code of Regulations relating to the Assessment of Civil Penalties for Violations of Retaliation Laws Within the Jurisdiction of the Labor Commissioner:

Section 13902 Penalty assessments

The Labor Commissioner is proposing these regulatory text modifications after review, consideration, and adoption of suggestions submitted to the Labor Commissioner's Office during the 45-day public comment period. The Labor Commissioner wishes to update these regulations and welcomes comments from the public regarding these proposed changes.

**PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION
OF WRITTEN COMMENTS REGARDING MODIFICATIONS TO TEXT**

Members of the public are invited to present written comments regarding the proposed modifications identified below. **Only comments directly concerning the proposed modifications to the text of the regulations will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Jennifer Stevens, Legislative Analyst and Regulations Coordinator
Department of Industrial Relations
Division of Labor Standards Enforcement, Legal Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations **no later than midnight on Wednesday, February 3, 2021.**

Written comments may also be sent electronically (via email) using the following email address: DLSERegulations@dir.ca.gov

Written comments may be submitted via facsimile transmission, addressed to the above-named contact person at (916) 263-2920. Due to the inherent risks of non-delivery by facsimile transmission, the Division suggests, but does not require, that a copy of any comments transmitted by facsimile transmission also be submitted by regular mail.

Comments sent to other email addresses or facsimile numbers will not be accepted. Comments sent by email or facsimile are subject to the deadline set forth above for written comments.

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for inspection at the Department of Industrial Relations, Division of Labor Standards Enforcement, 2031 Howe Avenue, Suite 100, Sacramento, California 95825, between 9:00 A.M. and 4:30 P.M., Monday through Friday. Please contact the Division's regulations coordinator, Ms. Jennifer Stevens, at (916) 263-3400 to arrange to inspect the rulemaking file.

FORMAT OF PROPOSED MODIFICATIONS

Proposed Text Noticed for this 15-Day Comment Period - Identifying Modified Text:

The proposed changes to the text of the regulations are indicated by bold underlined text to identify additions (e.g. **added language**) and bold strikeout to identify deletions (e.g., **~~deleted language~~**) made upon the original proposed text.

SUMMARY OF PROPOSED TEXT CHANGES

Section 13902:

- Subsection (b)(2) is being deleted from the original proposed text, so that the size of an employer is no longer a consideration in penalty assessments.
- Subsection (b)(3) is renumbered as subsection (b)(2), and modified to more clearly describe what post-violation employer actions may be taken into account when making an allowance for an employer's commitment to future compliance. The modification is necessary to clarify the timing and that an employer's subsequent action must relate to and mitigate the violation as to the aggrieved employee or similarly situated employees. The listed types of employer actions is not exhaustive, and the Labor Commissioner would include consideration of other similar employer actions that demonstrably benefit the aggrieved employee or similarly situated employees in ways that lessen or reduce the impact of the violation.

CONTACT PERSON FOR INQUIRIES REGARDING PROPOSED CHANGES

Inquiries regarding the proposed modifications may be directed to:

Dorothy Chang, Staff Attorney
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Division of Labor Standards Enforcement, Legal Unit
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Los Angeles, CA 90013
213-576-7722
dchang@dir.ca.gov