

TITLE 8. INDUSTRIAL RELATIONS
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 6. DIVISION OF LABOR STANDARDS ENFORCEMENT
ADDING SUBCHAPTER 16: ASSESSMENT OF CIVIL PENALTIES FOR VIOLATIONS
OF RETALIATION LAWS WITHIN THE JURISDICTION OF THE LABOR
COMMISSIONER

Section 13900. Scope of regulations.

These regulations shall apply to the penalty provisions contained in the retaliation laws within the jurisdiction of the Labor Commissioner's Office which authorize penalties not exceeding ten thousand dollars (\$10,000) per violation, per employee affected. These laws are enforced by the Division of Labor Standards Enforcement's Retaliation Investigations Unit, pursuant to procedures set forth in Labor Code sections 98.7 and 98.74.

Note: Authority: Sections 95, 98.8, 1019.1, Labor Code. Reference: Sections 98.6, 98.7, 98.74, 1019.1, 1102.5, and 2814, Labor Code.

Section 13901. Definitions.

As used in this subchapter, "respondent" shall mean the employer or individual person against whom a penalty has been assessed or could be assessed, under the applicable statute authorizing the penalty.

Note: Authority: Sections 95, 98.8, 1019.1, Labor Code. Reference: Sections 98.6, 98.7, 98.74, 1019.1, 1102.5, and 2814, Labor Code.

Section 13902. Penalty assessment.

(a) Each violation will generally be subject to the maximum statutory penalty of ten thousand dollars (\$10,000) per employee affected.

(b) If during an investigation, a respondent argues that the appropriate penalty is below the statutory maximum of ten thousand dollars (\$10,000), the Labor Commissioner shall consider the nature and seriousness of the violation based on the evidence obtained during the course of the investigation. Consideration of the nature and seriousness of the violation will include, but is not limited to, the type of violation, the economic or mental harm suffered, and the chilling effect on the exercise of employment rights in the workplace, and shall be considered to the extent evidence obtained during the investigation concerned any of these or other relevant factors.

(c) In an appeal proceeding under Labor Code section 98.74, review of an assessed penalty shall be based on the evidence obtained during the investigation.

Note: Authority: Sections 95, 98.8, 1019.1, Labor Code. Reference: Sections 98.6, 98.7, 98.74, 1019.1, 1102.5, and 2814, Labor Code.

Section 13903. Joint and several liability.

If more than one respondent is found liable for a penalty, each respondent shall be jointly and severally liable.

Note: Authority: Sections 95, 98.8, 1019.1, Labor Code. Reference: Sections 98.6, 98.7, 98.74, 1019.1, 1102.5, and 2814, Labor Code.