

Coronavirus: Laws enforced by the California Labor Commissioner's Office

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COVID-19 Related Protections

This presentation focuses on protections relevant to COVID-19 emergency:

- Paid sick leave
- Reporting time
- Protection against retaliation

And many other laws!



Paid Sick Leave

For full-time and part-time employees

- Accumulate paid sick leave hours from first day of work
- 1 hour for ever 30 hours worked
- Can use hours after 90 days
- Minimum hours an employee can accumulate:
 - 24 hours a year or 3 days
- Employer needs to provide in writing :
 - Cap on hour accrual
 - 48 hours or 6 days
 - Limit on hour usage a year
 - 24 hours a year or 3 days



Use of Paid Sick Leave Hours



If you used all your paid sick leave hours or don't have any available, talk with your employer about other possible options.

Workers can use their hours for:

- Absences due to illness
- Diagnosis, care or treatment of an existing health condition
- Preventive care for the employee or the employee's family member.
- Preventive care may include self-quarantine as a result of potential exposure to COVID-19
- Employer cannot require an employee to use paid sick leave
 - It is the worker's choice

Options for Parents with School-aged Children

Employees at worksites with 25 or more employees may also be provided:

- Up to 40 hours of leave per year for specific school-related emergencies
 - Such as school closures
- Employer's policies determine if leave is paid or not
 - Cannot mandate that employees use paid sick leave
- Parent may use any available paid sick leave to be with their child as preventive care



Reporting Time Pay

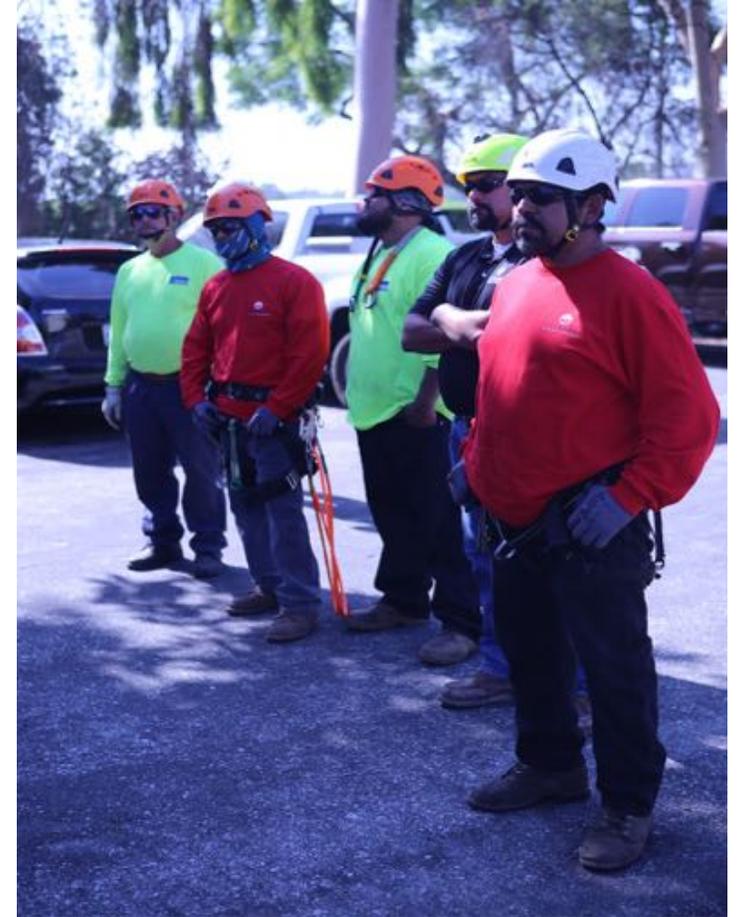
If an employee reports for their regularly scheduled shift but is required to work fewer hours or sent home:

The employer must pay the employee at least half of their regular hours.

For example: A worker who reports to work for an 8-hour shift and only works for 1 hour must receive 4 hours of pay:

- 1 for the hour worked
- 3 hours for reporting time

The minimum reporting time pay is 2 hours.



Pay for Exempt Employees

An employee is exempt if they are paid at least the minimum required salary and meet the other qualifications for exemption.

According to federal requirements:

- Full weekly salary is paid if any work is performed during the week
 - If they do not work the full week because employer failed to make work available
- Reduced pay if no work is performed during a week
- No deductions for absences of less than a full day for personal reasons or sickness— if worked partial day
- If sick leave hours are available, partial day deductions can be made
 - If no sick leave hours accrued no deductions can be made
- Deductions can be made if absent from work a full day

Rights Against Retaliation

Workers cannot be fired or have their hours reduced because they exercised their labor rights

Laws against retaliation:

- Labor Code §98.6 – Protects employees who exercise their labor rights such as file a claim for wage theft with the Labor Commissioner's Office
 - Up to \$10,000 in civil penalties for each violation paid to the worker
- Labor Code §1102.5 – Protects against retaliation for disclosing information to a government or law enforcement agency, to a person with authority over the employee, or to another employee who has the authority to investigate, discover, or correct a violation where an employee reasonably believes that the information discloses a violation of a to a person in authority of possible labor law violations
 - Up to \$10,000 in civil penalties for each violation paid to the Labor Commissioner's Office

Rights Against Retaliation

Worker's Health and Safety

Labor Code section 6310 protects employees who:

- Request personal protective equipment
- Ask questions about safety protocols
- Seek assistance from local, state, or government agencies related to workplace safety or file worker health or safety related complaint with these agencies.
- Ask questions or complain to their supervisor, manager or owner about workplace health or safety

Rights Against Retaliation

Worker's Health & Safety

Labor Code section 6311 protects employees who refuse to perform work that violates an occupational safety or health standard or order ***and*** creates a real and apparent hazard that puts the employee or their co-workers in imminent danger.

In most areas of California, Coronavirus appears to create the real and apparent hazard referred to in this law.

Rights Against Retaliation

Worker's Health & Safety

Coronavirus

Both Labor Code sections 6310 and 6311 protect employees who raise questions and concerns related to Coronavirus, personal protective equipment and employer policies related to shelter-in-place requirements.

Retaliation Related to Immigration Status

Labor Code §244(b): Reporting or threatening to report an employee, former employee, or prospective employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee, former employee, or prospective employee, to a federal, state, or local agency constitutes an adverse employment action for purposes of establishing a violation of an employee's rights.

- Complaints for immigration-related retaliation can be filed with the Labor Commissioner's Office under this section in conjunction with L.C. 98.6 for having exercised labor rights.



Unfair Immigration-Related Practices

Labor Code §1019(a): Prohibits an employer from unfair immigration-related practices linked to immigration in retaliation for workers exercising certain rights under the labor code or a local law. Unfair immigration-related practices include:

1. Requesting more or different documents than required by federal
2. Refusing to honor documents that appear genuine
3. Using **E-Verify** at time or manner not required by federal law
4. Threatening to file or filing a false police report or false report with any state/federal agency
5. Threatening to contact or contacting immigration authorities

Remedy: Pursuant to Labor Code §1019.1 the LCO can assess a \$10,000 penalty to employers who violate this statute, the penalty is payable to the harmed employee. A court may suspend all licenses held by the violator for up to 14 days for the first violation, 30 days for a second violation, and 90 days for a third violation

Labor Laws that Protect Immigrant Workers

- Labor Code §90.2 (a) Employers are required to provide notice to employees of any inspection of I-9 Employment Eligibility Verification forms or other employment records by an immigration agency by posting a notice within 72 hours of receiving the notification of inspection.
- Labor Code §1024.6 Employers are required to provide notice to employees of any inspection of I-9 Employment Eligibility Verification forms or other employment records by an immigration agency by posting a notice within 72 hours of receiving the notification of inspection.

Best Practices to Protect Workers from Retaliation

1. Understand and comply with the employer's policies and procedures
2. Clearly communicate and document protected activity
3. Document threats
 - Who, date, time, what was said
 - Confirm communication with employer via text message and save copy of the text
4. Witnesses
 - Identify people who heard or saw any relevant communication
 - Report your experience to co-workers who are credible and would testify
5. Review your situation with an advocate
6. File a timely claim



If you believe you have suffered retaliation

File an on-line retaliation complaint

- Go to <https://www.dir.ca.gov/dlse/HowToFileRetaliationComplaint.htm>
 - For additional information and directions
 - You will receive an email acknowledging the receipt of your complaint
- Due to the Governor's stay-at-home order expect a delay in the processing of complaints or other documents sent by mail.
 - You will not receive an acknowledgment of the complaint if it is sent by mail.

For More Information

Contact the Labor Commissioner's Office
nearest you, call or email:

(844) 522-6734 / dlse2@dir.ca.gov

Or visit the website:
WageTheftsACrime.com

Or send email with COVID question to
LCO-COVID-19@dir.ca.gov

For General COVID information:
COVID19.CA.GOV

