

KNOW YOUR RIGHTS

EMPOWERMENT INSIDE DETENTION

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INTRODUCTION

"Do not get lost in a sea of despair. Be hopeful, be optimistic. Our struggle is not the struggle of a day, a week, a month, or a year, it is the struggle of a lifetime. Never, ever be afraid to make some noise and get in good trouble, necessary trouble." Late Rep. John Lewis

The fight for labor rights justice has a long track record in history which shows that many of the roots of the problems we face today can be traced back to the early 1800s. The labor movement in the United States and internationally grew out of the need to protect the common interests and wellbeing of workers as well as making sure that workplaces are safe.

Throughout history, labor unions and organized strikes were created and conducted to protest against low wages, wage cuts, dangerous work conditions, poor living conditions, lack of proper food, lack of proper medical attention and a feudal domination of their lives from the capital class. Movements such as the rebellion of 1877 in West Virginia, the 1912 "Bread and Roses" strike in Massachusetts, the Great Flint Sit Down Strike of 1936-1937, and the farmworker movement demonstrated how large corporations and wealthy business owners have used their power to influence US and international policies to expand their profit over people's labor. For example, in 1942, the US and Mexico signed "The Bracero Program " which allowed nearly 4.6 million Mexican workers to enter the US temporarily to work on farms, railroads and in factories until 1964 to solve World War II labor shortages. However, this program proved to be exploitative; it undercut wages and was utilized to break strikes led by farmworkers and to impede union organizing.

To this day, the exploitation of labor performed by immigrants has not ceased. In fact, it's become normalized to pay immigrants detained in private, for-profit prisons, like those run by The GEO Group, \$1 dollar per day for an 8-hr shift. Compare this to George C Zoley, CEO of The GEO Group, who made \$11,836,480 in total compensation in 2021. These big corporations are making billions of dollars in profit a year at the expense of our sufferings, preventing us from being with our families, giving us humiliating labor wages, really bad medical treatment, and high cost for essential necessities including phone calls and poor quality commissary. The undignified treatment by the whole GEO administration chain-of-command has gotten us to the point where we draw the line and say "enough is enough".

Though exercising our freedom of speech may bring consequences in detention such as being blacklisted and sent to solitary or hostile environments created by guards to divide us, we must create the energy, persistence, and be an inspiration for others, following the footsteps of the leaders detained in Tacoma, Washington who managed to make a big impact on GEO. None of the labor movement achievements thus far would have happened without the effort, organization and advocacy of our leader brothers and sisters who came before us. We must look to the past not only for inspiration, but for the tools we need to continue the fight. As late Congressman John Lewis stated, this struggle is a struggle of a lifetime and we must organize to put up a fight for justice and our freedom.

LABOR HISTORY IN THE UNITED STATES

The freedom of workers to organize is widely recognized as a fundamental human right across the world. In the U.S., this right is protected by the U.S. Constitution and U.S. law. Additionally, California law explicitly protects workers who participate in organizing and work stoppages under California Labor Code section 923.

For centuries, unions have fought for—and worked to strengthen—the humane standards that protect and uplift Americans today. These essential laws and programs include child labor laws, antidiscrimination laws, health and safety laws, and the federal minimum wage.

Labor organizing benefits all workers. It has existed in the U.S. and California for years. (https://www.laccd.edu/DHLL/Documents/Resources/CA_US_Labor_History_Timeline.pdf). For example, as early as 1849, carpenters in San Francisco and Sacramento, California held a successful strike for increased wages. A few years later, in 1863, the San Francisco Trades Union formed to support a tailors' strike. The first recorded California farmworker strike occurred in 1903 in Oxnard. Importantly, during the 1800's, immigrant workers faced racial labor representation barriers. However, the Oxnard Strike of 1903 (the first successful interracial strike) broke these barriers, inspiring future multiethnic labor organizing. This became significant in the nation's history of strengthening protections for laborers. (<https://www.chicagohistory.org/wp-content/uploads/2021/02/Oxnard3.pdf>).

By joining together, working people continue to transform not just their workplaces but sectors and communities. Here are a few recent examples:



Familias Unidas por la Justicia (FUJ):
Boycotting Berries to Protect Farmworkers.
<https://www.ilr.cornell.edu/mobilizing-against-inequality/post/familias-unidas-por-la-justicia-boycotting-berries-protect-farmworkers>

Eliminating Below-Minimum Wages For Farmworkers

In 2017, Familias Unidas por la Justicia (FUJ) and Sakuma Brothers Berry Farm, one of the Pacific Northwest's largest berry growers, signed a collective bargaining agreement that ensures good wages for the more than 500 immigrant farmworkers who harvest berries at the farm. Through strikes, informational pickets, and other efforts, FUJ gained national support for its successful efforts to change a host of practices at the farm, including 12-hour-plus workdays. (<https://www.epi.org/publication/how-todays-unions-help-working-people-giving-workers-the-power-to-improve-their-jobs-and-unrig-the-economy/>).

CONTINUATION . . .

Hunger and Labor Strikes in Northwest Detention Center in Tacoma, Washington

In 2017, detained immigrants went on hunger strike to protest the conditions and extremely low wages at the for-profit Northwest Detention Center in Tacoma, Washington. Hunger strikers demanded better food, hygiene, and medical care within the prison owned by GEO. They also launched work stoppages to protest the fact that they were paid only \$1 a day to cook, to clean, and to do laundry necessary to keep the prison running. A lawsuit was filed against GEO for violating Washington's minimum wage law, and a jury agreed that GEO was failing to pay adequate wages to detained leaders.

(https://www.democracynow.org/2017/4/14/immigrants_on_hunger_strike_over_conditions).



Banner created by activists supporting the hunger strikers outside the jail.

https://www.democracynow.org/2017/4/14/700_immigrants_on_hunger_strike_at

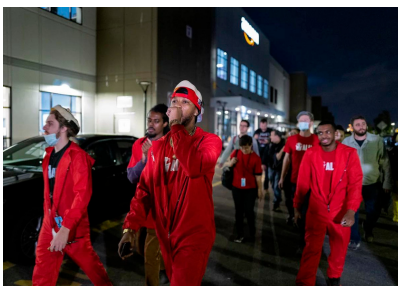


Teachers and school personnel protest inside the West Virginia state capitol.

https://www.washingtonpost.com/local/education/w-va-teachers-remain-on-strike--and-on-edge--over-bill-that-would-bring-charter-schools-and-private-school-vouchers-to-the-state/2019/02/20/e9f092b0-3558-11e9-854a-7a14d7fec96a_story.html

Teachers Strike for Better Schools and Fair Pay

In February 2018, teachers and school employees in West Virginia engaged in a statewide strike to demand fairer wages and better teaching and learning conditions for students. After shutting down schools for nine days, educators received a 5% pay raise. The strike in West Virginia, led by teachers Emily Comer and Jay O'Neal, inspired strikes around the nation. The leaders encouraged teachers in other states: "We told them: 'If we can do it, anyone can.'" (<https://www.politico.com/interactives/2018/politico50/emily-comer-jay-oneal/>).



Chris Smalls (center), president of the Amazon Labor Union, joins supporters as they march and chant at the Amazon distribution center in Staten Island on Oct. 25, 2021.

<https://www.npr.org/2022/04/02/1090353185/amazon-union-chris-smalls-organizer-staten-island>

Organizers Form the First Amazon Union

Chris Smalls led a walkout at the start of the pandemic in 2020 to protest working conditions at the Staten Island, New York Amazon warehouse where he worked. He was fired the same day. Amazon claimed he had violated quarantine and safety measures. But he said he was fired in retaliation for his activism. An Amazon lawyer described him as "not smart," which only motivated him to create the first union in Amazon history in the U.S. "Amazon doesn't become Amazon without the people," Chris Smalls said. "And we make Amazon what it is."

CONTINUATION . . .



Hunger strikers at Mesa Verde ICE Processing Center in Bakersfield captured by drone during a sit-in protest on April 10, 2020. (Credit: Tania Bernal, California Immigrant Youth Justice Alliance)

Detained Leaders at Mesa Verde (MV) and Yuba County Jail (YCJ) Host Strikes

In July 2020, detained leaders at MV and YCJ held strikes demanding fairer wages and better food, hygiene, and medical care. Detained leaders announced, "Mesa Verde runs off of our labor. We are the ones who prepare and serve the food, who clean the bathrooms and the dorms. We are paid \$5 per week for our official jobs, and the rest we do for free. We will not work and we will not collaborate with GEO. We refuse to make it easier for you to continue unnecessarily caging and murdering us." (<https://www.centrolegal.org/undocumented-immigrants-held-in-two-different-detention-facilities-host-strikes-protesting-inaction-from-state-leaders-as-covid-19-spreads/>).

By exercising your right to organize, you are participating in a collective fight that has existed since the 1800s and continues to make an important impact today. Your activism is historical, powerful, and meaningful.



Art by Eileen Jimenez

IMPORTANT ACTORS THAT WILL BE DISCUSSED IN THIS HANDBOOK



Who is The GEO Group, Inc. (GEO)?

GEO is a private prison company paid by the federal government to imprison people. GEO made over 2.2 billion dollars in 2021. GEO does not have power to release people from detention.

GEO does not have a role in bond hearings or immigration proceedings. GEO is in charge of disciplinary hearings. They also make decisions on where to house someone, and answer grievances.

*This also applies to other private corporations such as MTC and Core Civic.



U.S. Immigration
and Customs
Enforcement

Who is Immigration and Customs Enforcement (ICE)?

ICE is a federal law enforcement agency within the Department of Homeland Security (DHS). Founded in 2003 (yes, very recent!) ICE decides release request decisions. They also can decide grievance appeals for people who fear retaliation. This agency is also the opposing counsel in bond hearings and immigration proceedings.



Who is the Department of Homeland Security (DHS)?

The United States Department of Homeland Security (DHS) is the U.S. federal executive department responsible for public security. To be an "executive" department means that it is under the President's power, which is why DHS policies will often change from president to president.



Who is a Deportation Officer (DO)?

A deportation officer is an employee under ICE.

They arrest, transport, detain and remove undocumented individuals. DO's do not have the power to make any decisions in court.



What is Immigration Court?

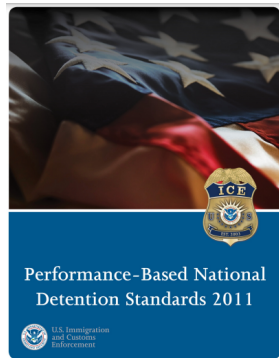
Immigration Court is the entity in which immigration judges conduct removal proceedings, where they decide if a person can stay in the US or will be deported. They also conduct bond hearings.



What is the role of an Immigration Judge (IJ)?

An Immigration Judge may grant/reject any type of immigrant relief/benefit. The IJ makes the final decision at the Immigration Court level.

CONTINUATION . . .



What is the PBNDS?

The PBNDS is the Performance-Based National Detention Standards. This is the manual that ICE created for detention standards across the country.



Who is Congress?

It is the legislature of the federal government in the United States. It is composed of the House of Representatives and the Senate. Congress also funds ICE. The Congressional House of Representatives can help play a role in a person's release from immigration if there's political will. We encourage you to investigate who your representative is.



What is the CA Department of Industrial Relations (DIR)?

DIR administers and enforces California laws governing wages, hours and breaks, overtime, retaliation, workplace safety and health, apprenticeship training programs, and medical care and other benefits for injured workers. Cal OSHA, an agency of the DIR, is responsible for investigating complaints about health and safety at worksites.



What is the U.S. Department of Labor (DOL)?

Formed in 1913, the U.S. DOL is another federal executive department responsible for enforcing federal labor standards and occupational (workplace) safety, and promoting workers' well-being. The DOL enforces many laws, including the Fair Labor Standards Act (FLSA), which establishes minimum wage standards and overtime pay, and the Occupational Safety and Health Act of 1970, which regulates the safety and health conditions employers are required to maintain and is administered by the Occupational Safety and Health Administration (OSHA), an agency of the DOL.

ASSERTING YOUR RIGHTS USING THE PBNDs

SECTION 1: THE GREIVANCE SYSTEM
SECTION 2: RIGHTS AGAINST RETALIATION
UNDER THE PBNDs

THE GRIEVANCE SYSTEM



GRIEVANCE

PURPOSE - To empower individuals inside immigration detention to advocate for their living conditions to improve. The section will also help those inside understand the process of the grievance procedure. Remember: retaliation for using the grievance process is prohibited by the PBNDS!

What is a grievance?

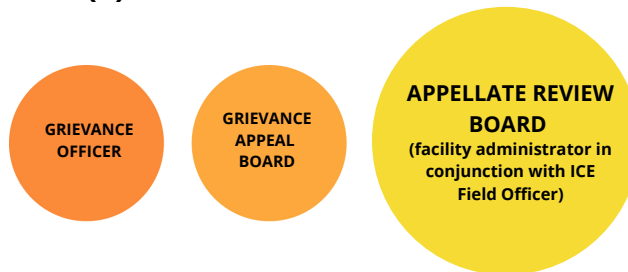
A formal way to exercise one's rights through filing a document explaining your complaints and seeking what you want to change or what you want to accommodate.

Types of grievances

There are two types of grievances:

Informal	Formal
- A type of request where you communicate (verbally) to the facility or administration to the staff available; does not include documentation - Does not go to the higher ups, complaint remains with staff - Detainee is free to bypass informal grievance process at any point and proceed directly to the formal grievance stage	- Filing a document that's given a case number with what you want to change or bring to staff attention Helpful Tip: Cite the PBNDS! - Everything reported under this case number is documented - this goes through 3 levels (1st level grievance officer, 2nd level grievance appeal board, 3rd level appellate review)

The Three (3) Levels of the Formal Grievance Process



Staff Misconduct Grievance

Detainees can file a staff misconduct grievance that will follow the same 3 steps mentioned above and can also send a copy of the grievance to the Office of Inspector General for simultaneous investigation. FAX 202-254-4297

*****Retaliation is prohibited for filing any type of grievance mentioned above (see PBNDS 6.2(V)(G))*****

Getting a copy of your grievance

According to the PBNDS, you have a right to a copy of your grievance disposition within five days. PBNDS 6.2 (V)(D)

Appealing directly to ICE

According to the PBNDS, you have a right to appeal directly to ICE ERO if you are not satisfied with the facility's response, OR if you fear retaliation from the facility.

The image shows a handwritten grievance form titled "GOLDEN STATE ICE DETAINEE GRIEVANCE FORM". It includes fields for "CASE #", "Detainee ID Number", "Detainee Name (Nombrre de detenu)", "Date of Grievance", and "Date Grievance is Received". A "Statement of Grievance" section contains handwritten text in Spanish. At the bottom, there are fields for "Grievance Responder", "Grievance Coordinator/ISA", and "Date".

GEO and ICE's Disciplinary System

KNOW YOUR RIGHTS

PURPOSE - To empower people in immigration detention by providing a guide to GEO's and ICE's disciplinary systems and information on your rights in the disciplinary process.

ABOUT THIS SECTION - As a reminder, GEO is a private prison company paid by the federal government (The Department of Homeland Security or DHS) to imprison people in their custody. GEO has the responsibility to provide for the needs of the individuals in their custody. GEO must also strictly abide by ICE's Performance-Based National Detention Standard (PBNDS). Thus, this section starts with providing an outline of GEO's disciplinary system, which must be in accordance with ICE's PBNDS. The section will also discuss your rights at each step of GEO's disciplinary process and finally it explains when ICE can get involved in the disciplinary process.

GEO'S DISCIPLINARY SYSTEM

GEO Supervisory Rank:
Before we begin discussing
GEO's disciplinary process,
it's important to
understand GEO's
supervisory ranking to
know who you need to
speak to in order to assert
your rights at each step of
GEO's disciplinary process.



**Facility Administrator
(also known as Warden)**

**Assistant Facility Administrator
(also known as Assistant Warden)**

Chief of Security

Lieutenant

CONTINUATION . . .

GEO's Disciplinary System Steps:

Step One: GEO rule violation is reported

When a GEO rule violation is reported (also known as a “write-up”), an **investigation will begin within 24 hours of the time the violation is reported.** PBNDS 3.1(V)(E)(1). This investigation is done by a GEO disciplinary committee. PBNDS 3.1(II)(10). Typically the disciplinary committee is a GEO Lieutenant. The GEO disciplinary committee is responsible for further investigating and making a decision about the incident and may impose minor sanctions or refer the matter to a higher level disciplinary panel, typically a GEO Chief of Security. PBNDS 3.1(II)(10).



What are your rights during the investigation process?

1. You have a right to have this investigation completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation. PBNDS 3.1(V)(E)(3). Exceptional circumstances means something out of the ordinary or unexpected.
2. You have a right to have the incident report investigated objectively and impartially, ordinarily by a person of supervisory rank. PBNDS 3.1(II)(6). The investigating officer shall have no prior involvement in the incident, as either a witness or officer at the scene. PBNDS 3.1(V)(E).
3. You have a right to remain silent at every stage of the disciplinary process. PBNDS 3.1(V)(E)(2).
4. You have a right to have the facility record personal observations and other potentially material information about the incident. PBNDS 3.1(V)(E)(7).
5. You have a right to have the facility prepare a factual report of the investigation including the location of any physical evidence. PBNDS 3.1(V)(E)(8).
6. You have a right to have the facility advise you in writing of your rights in the language you understand, and to have translation or interpretation services provided, as needed. PBNDS 3.1(II)(8).
7. You have the right to receive a copy of the incident report and notice of charges **immediately after the conclusion of any investigation.** PBNDS 3.1(V)(E)(4).



CONTINUATION . . .

Step Two: Written statement is issued



After the conclusion of the investigation, if the GEO disciplinary committee, typically a GEO Lieutenant, refers the matter to a higher level disciplinary panel, typically GEO Chief of Security or Facility Administrator, you will receive a written statement of the charges and specific rules allegedly violated, and you will have notice of a disciplinary hearing. PBNDS 3.1(V)(E)(4).

What are your rights throughout the disciplinary process?

- You have the right to remain silent at every stage of the disciplinary process, PBNDS 3.1(V)(E)(2), and to have the facility advise you in writing of your rights in the language you understand. PBNDS 3.1(II)(8).
- You have the right at all steps of the disciplinary process, to have accurate and complete records maintained. PBNDS 3.1(II)(16).

Step Three: Disciplinary hearing is held

You have the right to a disciplinary hearing which is conducted by a disciplinary panel, typically GEO Chief of Security or Facility Administrator. The disciplinary panel is responsible for conducting formal hearing on incident reports referred from investigations and may impose higher level sanctions. PBNDS 3.1(V)(H).

If you give written consent, the hearing can be held in less than 24 hours after the “write up” or “incident report” is referred to the disciplinary panel, typically GEO Chief of Security or Facility Administrator. PBNDS 3.1(V)(F)(2). However, if you need more time to gather evidence for your hearing, you can refuse to consent; in this case, the disciplinary hearing will be held no later than seven days, excluding weekends and holidays, after the violation. PBNDS 3.1(V)(F)(2).

What happens at the disciplinary hearing?

- The disciplinary panel will decide whether you committed the rule violation or prohibited act as charged, based on a “preponderance of the evidence” standard (meaning, there's more than a 50% chance that you violated the rule). PBNDS 3.1(V)(F)(4).
- The disciplinary panel should consider written reports, statements and physical evidence and may call witnesses to testify. PBNDS 3.1(V)(F)(2).
- You have a right to have a staff representative at the disciplinary hearing upon request or automatically if you are illiterate, have limited English language skill or need special assistance. PBNDS 3.1(V)(G).
- The disciplinary panel should hear your arguments or your staff representative’s arguments. PBNDS 3.1(V)(F)(3).
- The disciplinary panel can impose sanctions if you are found guilty. PBNDS 3.1(V)(F)(2).

CONTINUATION . . .



What are your rights at the disciplinary hearing?

1. You have the right to remain silent at any stage of the disciplinary process. PBNDS 3.1(V)(E)(2).
2. You have the right to attend the hearing or waive your appearance. PBNDS 3.1(V)(F)(2).
3. You have the right to present evidence, including witness testimony on your own behalf or through a staff representative. PBNDS 3.1(V)(F)(4); PBNDS 3.1(V)(G)(7).
4. You have the right to request continuances of your disciplinary hearing. Circumstances warranting a continuance of a hearing might include: defense preparation, physical or mental illness, security, and disciplinary transfer. PBNDS 3.1(V)(J).
5. You have a right to obtain a copy of the disciplinary panel decision which must contain the reason for the decision and sanctions imposed. PBNDS 3.1(V)(F)(3). 
6. You have a right to have the disciplinary hearing conducted by an objective and impartial panel. The UDC shall not include the reporting officer, the investigating officer, or an officer who witnessed or was directly involved in the incident, except in the unlikely event that every available officer witnessed or was directly involved in the incident. PBNDS 3.1(V)(F).
7. If you are diagnosed with a mental illness or mental disability, or demonstrate symptoms of mental illness or mental disability, a mental health professional, preferably the treating clinician, shall be consulted to provide input as to your competence to participate in the disciplinary hearing, any impact your mental illness may have had on your responsibility for the charged behavior, and information about any known mitigating factors in regard to the behavior. PBNDS 3.1(II)(9).
8. The facility shall not hold you accountable for your conduct if a medical authority finds you mentally incompetent. For purposes of these standards, a mentally incompetent individual is defined as an individual who is unable to appreciate the difference between appropriate and inappropriate behavior, or between "right" and "wrong." Such an individual is not capable of acting in accordance with those norms and therefore, cannot be held responsible for their "wrongful" actions. PBNDS 3.1(V)(A)(7).
9. If you have a mental disability or mental illness but are found competent, the disciplinary process shall consider whether your mental disabilities or mental illness contributed to your behavior when determining what type of sanction, if any, should be imposed. A mental health professional should also be consulted as to whether certain types of sanctions, (e.g. placement in disciplinary segregation, loss of visits, or loss of phone calls) may be inappropriate because they would interfere with supports that are a part of your treatment or recovery plan. PBNDS 3.1(V)(A)(8).

CONTINUATION . . .

Sanctions:

Staff may **not** impose or allow imposition of the following sanctions: corporal punishment; deprivation of food services (including the use of Nutraloaf or “food loaf”); deprivation of clothing, bedding or items of personal hygiene; deprivation of correspondence privileges; deprivation of legal access and legal materials; or deprivation of indoor or outdoor recreation, unless such activity would create a documented unsafe condition within the facility. **Any sanction imposed shall be approved by the GEO facility administrator and reviewed by the ICE Field Office Director.** PBNDS 3.1(V)(A)(5).

Step Four: Appeal of Disciplinary Decision

You have a right to appeal a disciplinary decision through the formal grievance system **within 15 days of notice of the disciplinary decision.**

Appeal Procedure:

1. Complete Grievance Form detailing the basis of appeal
2. Drop form in “Grievance box” in housing unit
3. Grievance Coordinator will pick up form during normal work week
4. Appeal will be reviewed by the warden or facility administrator
5. You should receive a response ordinarily within 5 days.

What are your rights during the appeal process? No staff member shall harass, discipline, punish or otherwise retaliate against you for filing a complaint or grievance.

If you feel that you are being retaliated against by GEO’s disciplinary process, these are your rights:

- You have the right to protection from abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment. PBNDS 3.1(V)(B)(1).
- You have the right to freedom from discrimination. Disciplinary action may not lack a rational basis, be retaliatory, or be based on race, religion, national origin, gender, sexual orientation, disability or political beliefs. PBNDS 3.1(V)(B)(2).
- You have the right to pursue a grievance without fear of retaliation. PBNDS 3.1(V)(B)(3).
- You have the right to send and receive mail. PBNDS 3.1(V)(B)(5).
- You have the right to due process including the prompt resolution of a disciplinary matter. PBNDS 3.1(V)(B)(6).

CONTINUATION . . .

- You shall be informed of facility rules and regulations, prohibited acts, disciplinary sanctions that may be imposed, your rights in the disciplinary system and the procedure for appealing disciplinary findings in a language you understand. PBNDS 3.1(V)(B).
- You have the right at each step of the disciplinary and appeal process, **to be advised in writing of your rights in a language you understand; translation or interpretation services shall be provided as needed.**
PBNDS 3.1(II)(8)
 - *If you have limited English proficiency (LEP), you shall receive translation or interpretation services. If you have a disability, you shall receive appropriate accommodations in order to meaningfully participate in the disciplinary process. PBNDS 3.1(II)(20).*
- You have the right at all steps of the disciplinary process, to have accurate and complete records maintained. You shall receive copies of all reports, exhibits and other documents considered or generated in the hearing process, except if the disclosure of such documents poses an imminent threat to the safety, security and orderly conduct of the facility staff or other detainees, or if the document or other evidence is otherwise protected from disclosure. PBNDS 3.1(II)(16).
- If you are found not guilty at any stage of the disciplinary process, the incident records shall not be placed or retained in your file, even if these records are retained elsewhere for statistical or historical purposes. PBNDS 3.1(II)(17).



When does ICE/ERO get involved?

Although the GEO handbook states that “all misconduct will be reported to ICE,” it is unclear when ICE actually gets involved in the disciplinary process. However, here is what we do know: it is clear that the PBNDS encourages the facility (GEO) to handle disciplinary proceedings informally.

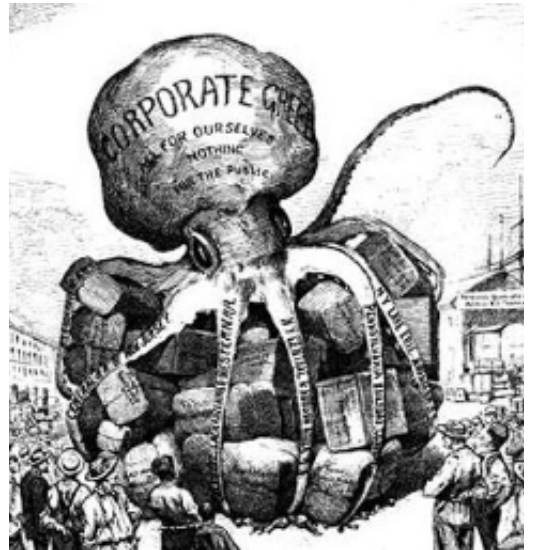
PBNDS 3.1(II)(4); 3.1(II)(5); 3.1(V)(B); 3.1(V)(F). We also know of instances in which attorneys of leaders have contacted ICE about disciplinary issues and ICE did not know about the incident. In the past, ICE has said that they do not get involved unless the situation was deemed “egregious”.

Important note: ICE always has discretion to get involved and could use this disciplinary record in court proceedings when it is relevant in their case. For example ICE might try to use a disciplinary record in a bond hearing to show that you are a danger to society.

RIGHTS AGAINST RETALIATION UNDER THE PBNDS

PURPOSE - When a powerful group of labor organizers successfully threatens corporate profits, employers often resort to retaliation to try to weaken organizing efforts through scare tactics. This section aims to empower inside leaders to maintain the strength of their organizing efforts by knowing what types of retaliation to expect and by pushing back against retaliation that is expressly forbidden.

This section lists out the ways that GEO's own contract limits its ability to retaliate, and focuses on retaliation that inside leaders have reported, including placement in RHU, limits on communication with the outside, and verbal harassment. While this section only focuses on limits to retaliation listed in the PBNDS, other areas of law (like the First Amendment and labor law) also limit GEO's ability to retaliate against organizing efforts.



LIMITS ON GEO BLOCKING / SLOWING / MONITORING COMMUNICATION WITH THE OUTSIDE

- “Staff may not impose ... deprivation of correspondence privileges [or] deprivation of legal access and legal materials... unless such activity would create a documented unsafe condition within the facility.” PBNDS 3.1(V)(A)(5).
- “A detainee’s call to a court, a legal representative, DHS OIG, DHS CRCL or for the purposes of obtaining legal representation, may not be electronically monitored without a court order.” PBNDS 5.6(V)(B).

LIMITS ON GEO’S RETALIATORY VERBAL HARASSMENT

- Folks in detention have the right to protection from “personal abuse” and “harassment.” PBNDS 3.1(V)(B).
- “Disciplinary action may not be capricious or retaliatory.” PBNDS 3.1(V)(A)(3).
[“Capricious” means lacking a rational basis]



Image created by Julio Salgado

CONTINUATION . . .

LIMITS ON GEO'S RETALIATORY USE OF RHU

Rights in disciplinary RHU - There have been some instances in which GEO has placed detained organizers in disciplinary RHU for the listed "prohibited act" of "engaging in or inciting a group demonstration." PBNDS Appendix 3.1.A. The chart below focuses on the rights that you are owed if you are placed in disciplinary RHU.

Process for placing someone in RHU	Limits to length of time in RHU	Rights for those with disabilities in RHU	Access to medical evaluations in RHU
You can only be placed in RHU after a hearing in which staff find (1) that you committed a prohibited act (Appendix 3.1.A), and (2) there are no alternatives that will "adequately regulate your behavior." PBNDS 2.12(V)(B)	30 days is the limit per incident. PBNDS 2.12(II)(10); 2.12(V)(B)(1).	Those with "a medical or mental illness" must be removed from segregation if staff determine that RHU has "deteriorated" their medical or mental health, and where an "alternative placement is available." PBNDS 2.12(V)(P).	You must receive a mental health evaluation before being placed in RHU, and monthly "face-to-face" mental health evaluations after that. PBNDS 2.12(V)(P).
You must be given a document laying out the reasons for the placement before being placed in RHU.* PBNDS 2.12(V)(B)(1)(a)-(b)	This 30-day limit can only be ignored "in extraordinary circumstances" such as the violations listed at 100-109 Appendix 3.1.A (which does <i>not</i> include "engaging in / inciting a group demonstration." PBNDS 2.12(II)(10); 2.12(V)(B)(1).	Those with serious mental illness (e.g. bipolar, schizophrenia) must receive a mental health consult within 72 hours of placement in RHU, weekly reviews of placement, and weekly face-to-face visits with a mental health provider. PBNDS 2.12(V)(P)(1).	Those in RHU must have "regular access" to health care staff. PBNDS 2.12(II)(13).
GEO has to notify ICE that you have been placed in RHU when you have been in RHU for 14 days, 30 days, and at every 30 day interval after the first 30 days. PBNDS 2.12(V)(C)(1).	"After the first 30 days... the facility administrator shall send a written justification for the continued segregation to the Field Office Director." PBNDS 2.12(V)(B)(1).	The facility must provide "enhanced opportunities for ... therapeutic activities and additional unstructured out-of-cell time for detainees with [a serious mental illness], to the extent such activities can be conducted while ensuring the safety of the detainee, staff and other detainees." PBNDS 2.12(V)(P)(1).	Health care personnel have to conduct face-to-face medical assessments at least once per day and follow up with a complete evaluation "where reason for concern exists." PBNDS 2.12(V)(P).
For those with mental illness, serious medical illness, or serious physical disabilities, ICE must be notified immediately of a placement in RHU. PBNDS 2.12(V)(C)(2).	The original placement length determined at the hearing cannot be extended, but can be shortened based on staff recommendations. PBNDS 2.12(V)(B)(3)(b)(3)	Those held in RHU must "be provided appropriate accommodations and professional assistance for disabilities and/or other special needs ... on an equal basis as those in the general population." PBNDS 2.12(V)(G).	

***Placement in RHU alone does not warrant the use of restraints while in RHU or during movement around the facility. PBNDS 2.12(V)(E). Restraints should only be used if "necessary as a precaution against escape during transfer, for medical reasons... or to prevent self-injury, injury to others, or serious property damage." PBNDS 2.12(V)(E).**

CONTINUATION . . .

Access to services in disciplinary RHU - The chart below focuses on the required access to services for those placed in disciplinary RHU. Individuals placed in administrative segregation are required to be provided “access to programs, services, visitation, counsel and other services available to the general population to the maximum extent possible.” PBNDS 2.12(V)(A)(1)(c)(9).

Services GEO can always limit in RHU	Services GEO can cut for “safety or security reasons”	Services GEO can cut off in RHU with “compelling reasons”	Services GEO cannot limit in RHU	Services GEO is supposed to expand in RHU
Reading material. PBNDS 2.12(V)(L)(2).	Individual and group recreation. PBNDS 2.12(II)(14).	Law library: Denying “access to the law library must be supported by compelling security concerns” and must be “for the shortest period required for security.” PBNDS 2.12(V)(Y).	Sending and receiving mail. PBNDS 2.12(II)(15)	Out-of-cell time: “The facility should seek ways to increase the minimum amount of time that detainees in the SMU spend outside their cells. PBNDS 2.12(V)(AA).
Television viewing. PBNDS 2.12(V)(L)(2).	Religious services. PBNDS 2.12(V)(V).	Family visitation: While “disruptive detainees” can be prevented from accessing visitation during normal hours, visitation can be totally cut off only for those that “would present an unreasonable security risk.” PBNDS 2.12(V)(T).	Hygiene: Those in RHU must be able to shave and shower at least 3x per week (PBNDS 2.12(V)(R)) and must have equal access to laundry, haircuts, clothing, and bedding as compared to those in GP (PBNDS 2.12(V)(R)).	Services available during out-of-cell time: “In addition to recreation, out-of-cell time might include opportunities for education, clinically appropriate therapies, skill-building, and social interaction with staff and other detainees.” PBNDS 2.12(V)(AA).
Commissary or vending machine purchases. PBNDS 2.12(V)(L)(2)	Personal legal materials. PBNDS 2.12(V)(X).	Phone calls: GEO can restrict phone access only if “access is used for criminal purposes or would endanger any person, or if the detainee damages the equipment provided.” PBNDS 2.12 (V)(BB).	Meals. PBNDS 2.12(V)(Q)	In-cell services: The facility should also seek ways “to offer enhanced in-cell opportunities.” PBNDS 2.12(V)(AA).
		Recreation: Recreation time can be denied only if “the detainee’s recreational activity may unreasonably endanger safety or security.” PBNDS 2.12(V)(Z).	Legal visits. PBNDS 2.12(V)(U)	

ASSERTING YOUR RIGHTS AT COURT

SECTION 1: BOND PROCEEDINGS
SECTION 2: IMMIGRATION PROCEEDINGS

BOND PROCEEDINGS

PURPOSE - The purpose of this section is to describe how your labor organizing may impact your bond hearing and what you can do to show the immigration judge that your labor organizing is something positive and beneficial for all workers.

WHO IS PRESENT AT BOND HEARINGS AND WHAT IS THEIR ROLE

- An immigration judge decides whether or not to grant bond. To grant bond, the immigration judge needs to find that a person will not be a “flight risk” (a risk that you will fail to appear for your future court dates) or a “danger to the community” if released from detention.
- **An ICE attorney** is present at bond hearings and represents the government.
- The ICE attorney **does not** represent you and **is not** on your side. They will not introduce positive evidence for you. That means that the ICE attorney will not provide the judge with evidence that you have been working while detained.
- The ICE attorney may provide evidence that you are a “flight risk” or a “danger to the community”
- The ICE attorney may try to argue that a person is a “danger to the community” if a person has a disciplinary record (or write-ups) while in ICE custody. They can ask GEO for disciplinary records that appear in a person’s detention file and share these records with the judge.
- GEO **does not** participate in bond hearings.



DISCIPLINARY RECORDS & DEFENDING YOUR RIGHTS BEFORE YOUR BOND HEARING

- Some “Prohibited Acts” that could appear in a person’s disciplinary record are:
 - Engaging in or inciting a group demonstration
 - Encouraging others to participate in a work stoppage or to refuse to work
 - Interfering with a staff member in the performance of duties
 - Conduct that disrupts or interferes with the security or orderly operation of the facility
- You have rights in the disciplinary system and can appeal disciplinary findings. PBNDS 3.1(II)(1).
- When preparing to appeal, it is important to know that disciplinary action may not be retaliatory nor based on race, religion, national origin, gender, sexual orientation, disability or political beliefs. PBNDS 3.1(V)(A)(3). If you believe that GEO took disciplinary action against you as a form of retaliation for your labor organizing or discriminated against you, you can include that information in your appeal.
- Also, under the Voluntary Work Program - Working conditions must comply with all applicable federal, state, and local work safety laws and regulations. PBNDS 5.8(II)(5). If GEO took disciplinary action against you because you were protesting unsanitary or unsafe working conditions as part of your labor organizing, you can include this information in your appeal.

PREPARING FOR YOUR BOND HEARING & GATHERING SUPPORTING EVIDENCE

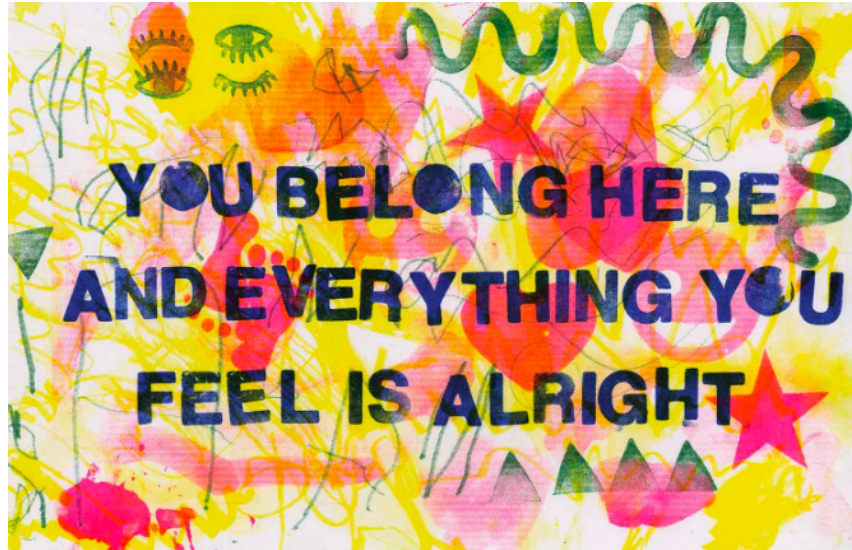
- When preparing for a bond hearing, you should request your disciplinary record.
 - If you received write-ups for participating in a strike or peaceful protest, you can argue in your bond case that, as part of the strike or peaceful protest, you were participating in labor organizing in order to advocate for improved working conditions for all workers, which is something that unions have been doing for years in the United States. (See Labor History in the United States and California section).
 - To support your argument that you are not a “danger to the community” when participating in labor organizing, you can submit support letters from people, such as fellow detained leaders or your family members, who could corroborate your reasons for participating in the strike.
 - You can also include the attached letter of support of Emily Comer, one of the teachers who led the historical labor strike in West Virginia. (See Appendix and Labor History in the United States and California section).
 - If you filed grievances describing the unsanitary or unsafe working conditions in detention before participating in the strike, you can also include these grievances as part of your evidence to show the judge that you attempted to resolve issues with GEO before the strike, but GEO failed to remedy your grievances.
 - You can also include the Pangea Legal Services Press Releases that are found in the Appendix which highlight your advocacy and reasons for participating in the strike.
 - Additionally, to dispel any write-ups, you can reach out to the media and tell your story about the unjust conditions and treatment inside of the detention center.
 - You can also include the articles found in the Appendix as part of your evidence.
 - Finally, we can help Pack the Court during your bond hearing. We can ask community members to attend your bond hearing to show the immigration judge that many people appreciate your labor activism, support your release on bond, and do not think you are a danger.

GEO may try to scare you out of participating in a labor strike or peaceful protest by threatening to use your labor activism against you in your bond hearing, but remember, they do not participate in bond hearings. Your right to participate in labor organizing is protected by law. You have the right to tell your side of the story and to prove to the immigration judge that you are not a “danger to the community.”



Art by Eileen Jimenez

IMMIGRATION PROCEEDINGS



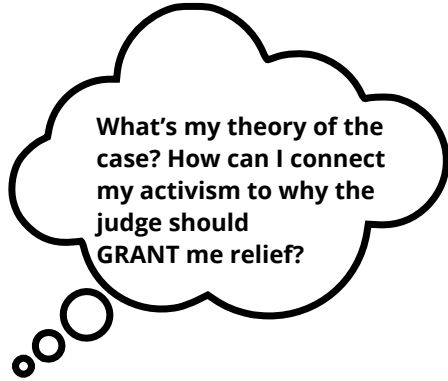
PURPOSE - The purpose of this section is to flag how ICE's retaliation to your organizing efforts might impact your immigration case. This will be accomplished by going through the relevant bars to commonly filed forms of relief at immigration court. This section will NOT cover what is required to APPLY for these forms of relief, although materials on that can be mailed at your request.

BACKGROUND - By now, you will have read that there are many avenues for challenging any charge that GEO or ICE raises against you for activism within their facilities and you should exercise these rights in advance of your immigration hearing!

KEY TERMS

'THEORY OF THE CASE' - What narrative will YOU present to frame your activism in the most favorable way? How will ICE try to frame your activism in the most negative way? Framing matters because DISCRETION matters.

DISCRETION - Some forms of relief are discretionary, meaning the Immigration Judge has the choice to decide whether or not to grant the relief based on whether they think you deserve it. In contrast, some forms of relief are mandatory, meaning that the Immigration Judge must grant the application if you meet the requirements.



What's my theory of the case? How can I connect my activism to why the judge should GRANT me relief?



CONTINUATION . . .

- Your participation in the labor strike could count as a ***positive basis for discretion*** if you or your attorney frame it as your exercise of a historical right enshrined in robust federal and state-wide protections that is serving to make the workplace safer for us all.
- Your participation in the labor strike could count as a ***positive basis for discretion*** if it's linked to a history of long-term employment and highlighting that you desire to work and are a breadwinner in your family. You could contrast that with the \$1 / day in wages (which aren't enough for you to support your family) and state that you aren't willing to jeopardize your health for this wage (because the labor conditions in detention are so bad).
- Your participation in the labor strike could count as a ***positive basis for discretion*** if you gather support letters from other inside leaders and advocates attesting to the non-violent nature of your participation and showcasing other positive qualities that you've been able to develop and demonstrate through your activism.
- Your participation in the labor strike could ***count negatively against you*** under the immigration judge's discretionary analysis if GEO and ICE succeed in framing your participation as violent or coercive in any way. This is another reason why you should challenge every write-up against you and create your OWN paper trail.

What kinds of relief are commonly pursued in immigration court?

- Asylum - is a ***discretionary*** form of relief. You must prove that you have a reasonable possibility of future persecution on account of race, religion, nationality, political opinion, or membership in a particular social group.
- Withholding of Removal ("WOR") - is a ***mandatory*** form of relief. You must prove that your life or freedom will more likely than not be threatened on account of race, religion, nationality, political opinion or membership in a particular social group.
- Protection Under the Convention Against Torture ("CAT") - is a ***mandatory*** form of relief. You must prove that you are more than likely to be tortured by the government or by actors that the government willingly allows to torture you.

CONTINUATION . . .

- LPR Cancellation of Removal - is a **discretionary** form of relief. First, you must prove three main things to be eligible for this relief: 1) you have been an LPR for at least 5 years; 2) you have lived continuously in the U.S. for at least 7 years; and 3) you have not been convicted of an aggravated felony. Depending on when and how you entered the U.S., if or when you committed certain criminal offenses, and when you were placed in removal proceedings, your 7 years of continuous residence may be affected, even if you have technically lived in the U.S. for over 7 years. Once you have met these three requirements, the judge will then make a decision about whether to grant LPR Cancellation of Removal based on their *discretion*.
- Non-LPR Cancellation of Removal - is a **discretionary** form of relief. First, you must prove four main things to be eligible for this relief: 1) you have been physically present in the United States for at least ten years; 2) you have had “good moral character” for ten years; 3) you have not been convicted of certain crimes; and 4) your deportation would cause exceptional and extremely unusual hardship to her LPR or U.S. citizen spouse, child, or parent. Once you have proven these four requirements, the judge will then make a decision about whether to grant non-LPR Cancellation of Removal based on their *discretion*.

Certain Bars that May Come Up Based on ICE’s Retaliation Against Activism

- Let’s start with the **safety net**. No activity - that you participated in in the US or elsewhere in the world - should bar you from eligibility for **Protection Under the Convention Against Torture**. You could get a million write-ups and STILL be eligible for this protection.
- It’s very unlikely that write-ups for your non-violent participation in the labor strike will be a bar to **Withholding of Removal**. Remember, it is a mandatory form of relief. However, there is one bar that may be relevant here: the **particularly serious crime bar**. You will be barred from applying for Withholding of Removal if all of the following happens:
 - (1) You are convicted for activity related to the labor strike (this would mean that you are separately charged in a criminal proceeding and either plead guilty to that charge or are found guilty at the end of a trial);
 - (2) This conviction(s) is/are found to constitute an **“aggravated felony;”**
 - (3) The **length of the sentences** corresponding to your convictions adds up to **more than five years**.

CONTINUATION...

- **The particularly serious crime bar also applies in the asylum context, and the rule is different because asylum is the most generous form of relief.** You could be barred from asylum if all of the following happens:
 - You are convicted for activity related to the labor strike (this would mean that you are separately charged in a criminal proceeding and either plead guilty to that charge or are found guilty at the end of a trial);
 - This conviction is found to constitute an aggravated felony. One conviction constituting an aggravated felony could bar you from applying for asylum.



Keep Your Mind Free, by Damon Locks

ADDITIONAL PROTECTIONS IF YOU'RE FACING RETALIATION FOR PROTECTED ACTIVITY

SECTION 1: FILING A COMPLAINT WITH THE DFEH,
EEOC, DLSE, OR CAL OSHA

SECTION 2: WORKPLACE BASED U-VISAS

SECTION 3: PROSECUTORIAL DISCRETION

FILING A COMPLAINT WITH THE DFEH, EEOC, DLSE, OR CAL OSHA

PURPOSE - The purpose of this section is to introduce you to agencies that enforce the California labor code, including minimum wage, overtime, workplace safety, and illegal discrimination laws. The appendix has forms from some of the agencies mentioned below. At the bottom is a short table explaining those agencies, but before we get there, here is some background information and definitions that might be useful as you get a handle on CA employment law.



BACKGROUND - Thanks to a strong labor movement and powerful unions, California has some of the best laws for workers in the United States. California also has state agencies that make sure workers can enforce their workplace rights.

Unfortunately, many of these agencies lack resources and can take years to process a complaint, and others might not accept a complaint without help from an advocate in preparing them.

Special Note - If you file charges with state employment/labor agencies, consider asking those agencies (e.g. DLSE [California Division of Labor Standards Enforcement]) to provide a letter of support for your bond hearing.

HOW TO USE THE REPORTING FORMS

- Be sure to keep a copy for yourself or for sharing with advocates and organizers on the outside. Sometimes the agencies need to be pressured to take cases or move cases along.
- Know that the agencies are delayed and may not take cases as fast as we would like them to.
- Use the table at the end of this section to figure out which agencies you can file complaints with.
- In the appendix, there are forms for some of the agencies that prefer forms (DLSE) and resources to file online or over the phone with other agencies (DFEH, EEOC, Cal. OSHA)

CONTINUATION . . .

INDEX OF IMPORTANT TERMS

- **California Minimum Wage:** \$15.00/hour as of August 1, 2022.

- **Overtime:**
 - Overtime pay is 1.5 times an employee's regular rate of pay.
 - In California, eligible employees are entitled to overtime in three scenarios. (Separate rules apply to domestic workers and farm workers.)
 - i. After working 8 hours in a single day.
 - ii. After working 40 hours at their regular rate of pay in a single week.
 - iii. On the seventh day of work in a single workweek. (Most employers' workweeks are from Sunday through Saturday, but an employer can also set a workweek from Monday to Sunday or any other continuous seven-day period).

- **Discrimination:** Being treated differently or unfairly. Discrimination in employment is illegal **when the treatment is based on a personal characteristic or status, such as sex or race.**
 - Not every form of discriminatory or unfair treatment is illegal.
 - Discrimination can be expressed through "harassment," when a boss, supervisor, or co-worker says or does something that creates an intimidating, hostile or threatening work environment. Harassment is illegal **if it is based on a personal characteristic or status protected under anti-discrimination laws.**
 - To be illegal, the harassment must be so "severe or pervasive" that it interferes with the employee's ability to perform the job.
 - There are various federal laws prohibiting employment discrimination:
 - Title VII of the Civil Rights Act of 1964 ("Title VII") prohibits discrimination based on **race, color, sex (including sexual harassment), national origin (including characteristics related to one's national origin, such as language), religion, and pregnancy.**
 - The Americans with Disabilities Act ("ADA") prohibits discrimination on the basis of disability.
 - The Age Discrimination in Employment Act ("ADEA") prohibits discrimination based on age (40+).
 - California's main anti-discrimination law in employment is the Fair Employment and Housing Act ("FEHA"), which prohibits discrimination based on race, color, sex (including sexual harassment), national origin, ancestry, disability, sexual orientation, gender identity (including being transgender), medical condition (cancer), pregnancy, marital status, and military status.
 - Additional protections against discrimination are found in the California Labor Code, including protections for crime victims who testify at trials, employees who take time off for jury duty, and victims of domestic violence, sexual assault and stalking.
 - The time period to file a charge in California is different depending on if you file with the EEOC or the DFEH. You must file your charge within the time period or you will lose your right to sue your employer.
 - EEOC: you must file your charge within 300 days of the last act of discrimination.
 - DFEH: you must file your charge within 3 years of the last act of discrimination.

CONTINUATION . . .

INDEX OF IMPORTANT TERMS

- **Disability:**

- Not everyone with a medical condition is protected from discrimination. In order to be protected, a person must be qualified for their job and have a disability as defined by the law.
- A person can show that they have a disability in one of three ways:
 - if they have a physical or mental condition that substantially limits a major life activity (such as walking, talking, seeing, hearing or learning, or operation of a major bodily function).
 - A person has a disability if they have a history of a disability (such as cancer that is in remission).
 - A person has a disability if they are *believed to have* a physical or mental impairment that lasts longer than six months and that isn't minor (even if they don't have such an impairment)
- CA definition of disability is broader than the federal law defining disability

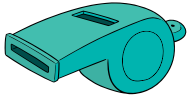
- **Reasonable accommodation:**

- *Employers are required to make reasonable accommodations to the work environment for people with disabilities. [And only for people with disabilities]*
- A reasonable accommodation is any change in the work environment to help a person with a disability apply for a job, perform the duties of a job or enjoy the benefits and privileges of employment. The most common examples of reasonable accommodations include:
 - Adjusting work schedules
 - Amending job duties
 - Relocating the work area
 - Granting leave for medical care
 - Providing technological assistance

- **Retaliation:**

- Retaliation is when an employer takes “adverse action” against an employee because they have exercised a “protected legal right.” Many state and federal laws protect employees from employer retaliation.
- Examples of protected legal rights include:
 - Seeking information or legal advice on your workplace rights
 - Notifying anyone about a possible violation of legal rights in your workplace
 - Complaining that you or someone else is owed unpaid wages
 - Complaining about harassment or discriminatory treatment on the job
 - Complaining about unsafe working conditions
 - Talking with your co-workers about your wages or workplace concerns, including the possibility of unionizing
 - Filing a workers’ compensation claim
 - Filing or participating in a complaint with a governmental agency, like the U.S. Equal Employment Opportunity Commission (EEOC), the California Labor Commissioner (DLSE) or Department of Fair Employment and Housing (DFEH), or other workplace rights agency (e.g., Cal OSHA)
 - Filing a lawsuit against your employer, or supporting co-workers who have filed a lawsuit
 - Whistleblowing (alerting governmental agencies about your employer’s unlawful practices)
- If you choose to file with DLSE, you must do so within 180 days (6 months) of the retaliatory act. DLSE is supposed to investigate and issue a decision within 60 days of receiving your complaint ***[Note: it usually takes much longer].*** If DLSE finds that your employer has unlawfully retaliated against you, penalties may include suspension of the employer’s business license and/or a fine.

CONTINUATION . . .



Retaliation for Reporting Discrimination

- If you have been retaliated against for complaining about discrimination in the workplace — if you or others complained about being treated worse than other employees because of your race, sex, gender identity/expression, national origin, color, religion, disability, age (40 or older), military/veteran status, or pregnancy status – you may file a retaliation complaint with either the Equal Employment Opportunity Commission (“EEOC”) or the California Department of Fair Employment and Housing (“DFEH”).
 - For a list of ways to file with the EEOC, visit their website at <http://www.eeoc.gov/employees/howtofile.cfm>. (Or see appendix)
 - If you are filing with the EEOC, you have 300 days from the date of the retaliation to file your complaint.
 - For a list of ways to file with the DFEH, visit their website at http://www.dfeh.ca.gov/Complaints_ComplaintProcess.htm. (Or see appendix)
 - If you are filing with the DFEH, you have one year from the date of retaliation to do so.
- If you were retaliated against because you complained about *health or safety conditions* at the workplace, you may also file a claim with the federal Office of Safety and Health Administration (“OSHA”).
 - A claim form with OSHA is available at <https://www.osha.gov/whistleblower/WBComplaint.html>. You can also call or send a letter to your OSHA Regional office:
 - (661) 588-6400
 - Bakersfield Office, 7718 Meany Ave, Bakersfield, CA 93308
 - In general, you have 30 days from your employer’s retaliatory act to file a claim with OSHA. However, this time period may be longer depending upon the specific OSHA violation you report.
 - If you filed a health or safety complaint with California’s Office of Safety and Health Administration (“Cal/OSHA”) and were retaliated against, you may also file a claim with the DLSE.
 - The DLSE complaint form is available at www.dir.ca.gov. If you choose to file with DLSE, you must do so within 180 days (6 months) of the retaliatory act.
- You cannot be fired simply because you engaged in a political protest, which is considered protected political activity in California. Specifically, California Labor Code 1102 does not allow your employer to discharge, or threaten to discharge you for following any particular “course or line” of political action or activity, such as a gathering or march to protest actions by federal, state, or local government officials. Similarly, Labor Code 96(k) and 98.6 protect you from being demoted, disciplined or discharged for “lawful conduct occurring during non-working hours away from the employer’s premises.”
 - However, you can be disciplined or fired if you missed work without permission while you engaged in the protest (unless your employer never disciplines employees for missing work for any other reason). You can also be disciplined or fired if your political activities significantly disrupt your employer’s business.
 - Any employer who violates Cal Labor Code 1102 is guilty of a misdemeanor. The violation is punishable, in the case of an individual, by imprisonment in the county jail not to exceed one year or a fine not to exceed \$1,000, or both. If the employer is a corporation, the violation is punishable by a fine not to exceed \$5,000.

CONTINUATION . . .

FURTHER RESOURCES: If you have further questions about filing complaints related to retaliation, wage payment, working conditions, discrimination, or workplace health, consider calling Legal Aid at Work's hotline (Legal Aid at Work: (415) 404-9093) or other workers' rights programs.

Agency Name(s)	Types of Legal Arguments	Time Limits
DFEH (Department of Fair Employment and Housing)	Discrimination based on race, sex, national origin, religion, pregnancy, age, disability, marital status, sexual orientation, gender identity, domestic violence/stalking, and military status	Filing with DFEH three years from the discriminatory act, but statutory and equitable grounds exist to extend filing deadline
EEOC (Equal Employment Opportunity Commission)	Discrimination based on race, sex, national origin, religion, pregnancy, age, disability, military status, and debtor status	180 days from date of discrimination, 300 days from the day if state/local law prohibits employment discrimination on same basis
DLSE (Division of Labor Standards and Enforcements aka The Labor Commissioner)	California labor code violations, primarily wage violations (minimum wage, overtime, sick time, workers' comp), but also retaliation	One year to file for "violations of a statute that amounts to a penalty or forfeiture" (so if the law says there's a \$ penalty for violating this statute) and 3 years for claims that don't have a \$ penalty, like minimum wage, overtime, and unreimbursed expenses
Cal. OSHA (Division of Occupational Safety and Health)	Violations of health and safety requirements in California workplaces; retaliation (including threats, discharge, demotion, or suspensions) for reporting hazards	None for notifying about unsafe conditions but six months from retaliation with DLSE

WORKPLACE BASED U-VISAS

To be eligible for a U visa, you must show:

1. That you have suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity that occurred in the United States;
2. Possess information concerning the qualifying criminal activity;
3. Be helpful in the investigation of this criminal activity;
4. Be eligible to be "admitted" into the US or show that you qualify for a waiver for illegal re-entries to the US, past criminal history, etc., through showing concretely how you are a different person today that will not make the same mistakes you made in the past.



Qualifying Crimes

You must show that you were a victim of a "qualifying crime" to apply for a U-Visa. Below are some of the most common workplace based qualifying crimes:

Extortion

Elements:

- When a threat or fear is used to force you to give up something of value (for example, money or a service)

OR

- When someone receives something of value from you (this might be a public official who says that they are entitled to the thing of value due to their title and position)
- Example: In one case recently certified for extortion, a worker requested unpaid wages from his employer, only to be threatened with a false report of his immigration status to local law enforcement officials
- *Screening question: Did ICE or GEO staff ever threaten violence, report your immigration status, or threaten to/destroy your reputation to obtain property, money, or force you to do something you didn't want to do?*

Blackmail

- When you feel forced to comply with a demand because somebody threatens to reveal something about you (this could be a true thing or a lie)
- Example: In its U-visa certification protocol, the NLRB has specified that "blackmail may include interfering with protected activity through illegal threats of retaliation such as threats to call immigration authorities or threats to "blacklist" employees"

CONTINUATION . . .

False Imprisonment

- When someone stops you from being able to move against your will without any legal basis
- Example: An employer refuses to allow you to leave a room or worksite by physically blocking the exit, or by locking workers in at a worksite
- *Screening question: Has ICE or GEO staff ever forced you into a space where you did not want to go in order to make you do work in that space?*

Felonious assault

- Assault is the intentional attempt by a person, by force or violence, to injure another person
- *Screening question: Have you ever been subject to violence or an attempt to commit violence, including beating with or without a weapon, by ICE or GEO staff?*

Involuntary servitude, peonage, trafficking

- Elements: When you are forced to work under –
 - Any scheme, plan, or pattern intended to cause you to believe that, if you did not start or continue to work, you or another person would suffer serious harm or physical restraint; or
 - The abuse or threatened abuse of the legal process.

22 U.S.C. § 7102(5)

- Supporting facts: wage violations, inadequate food, housing, medical care, clothing, verbal/physical abuse, restricted contact with loved ones, use of locks/fences to restrict mobility
- *Screening Questions: Have you ever experienced any of the following in relation to your work at GSA/MV?*
 - Threats of deportation
 - Threat to contact law enforcement/immigration to compel work
 - Threats, curses, yelling, intimidation, including threats to call police or law enforcement agencies or to use physical force
 - Seizure of identity documents, travel documents, passports
 - Underpayment of wages, with requirements to pay off debts
 - Physical assault, including hitting, punching, shaking, beating, and choking
 - Deprivation of medical care
 - Restriction on basic necessities, including food, clothing, sleep, and decent living conditions
 - Control of financial accounts and wage payments

CONTINUATION . . .

Obstruction of Justice, Perjury, Witness Tampering

- 8 C.F.R. § 214.14(a)(14)(ii):
 - You have been harmed (directly or indirectly) by someone who tried to negatively influence or stop any pending legal proceeding through use of threats or force
 - This was done purposefully, at least in part, to prevent someone from being held accountable for criminal activity OR to allow the perpetrator to continue the abuse through manipulation of the legal system
- Examples: Destruction, alteration, or falsification of records, including labor certification, wage/hour records, and birth certificates
- *Screening Questions: Did ICE or GEO staff ever:*
 - *Intimidate or threaten you to delay or prevent testimony in an “official proceeding”?*
 - *Alter, destroy, conceal records?*
 - *Hinder, delay, or prevent communication to authorities?*
 - *Threaten to damage property or cause bodily harm to delay or prevent witness participation?*

CERTIFYING AGENCY

- Before you can apply for a U-Visa, you must get a law enforcement agency to certify that you were a victim of “qualifying crime” and that you have been helpful with their investigations.
 - **Federal Agencies**
 - U.S. Department of Labor
 - Will only certify for the following U-visa qualifying crimes:
 - Involuntary servitude
 - Peonage
 - Trafficking
 - Obstruction of Justice
 - Witness Tampering
 - Equal Employment Opportunity Commission
 - Will certify any U-visa qualifying crime
 - Must relate to unlawful employment discrimination
 - National Labor Relations Board
 - Will certify any U-visa qualifying crime
 - Must be related to an unfair labor practice that the NLRB is currently investigating
 - **State Agencies**
 - California Division of Labor Standards Enforcement (DLSE)
 - California Department of Fair Employment and Housing (DFEH)
 - Local Law enforcement (Bakersfield or McFarland police departments)
 - May investigate crimes involving physical violence
 - If they investigate, they will come to the facility to interview you and others involved



CONTINUATION . . .

SUBSTANTIAL MENTAL OR PHYSICAL ABUSE

- To apply for a U-Visa, you have to show that the harm you suffered was severe, prolonged, aggravated your mental health or other pre-existing health conditions, and/or was otherwise very serious.
- **Screening Questions:**
 - *Did you suffer a direct injury?*
 - *After suffering the qualifying crime, have you experienced a lack of motivation, a loss in the interest to live, lower self-esteem, more fatigue or an inability to sleep, becoming angry or irritable more easily, feeling overwhelmed, or anything similar to this?*
 - *Before you suffered this qualifying crime, do you know if you struggled with anxiety, depression, post-traumatic stress disorder or some other mental health issue?*
- **Tips:**
 - Make sure to connect the harm you suffered back to the qualifying crime. It's important to be able to say: "After X happened, I suffered Y." And then explain *how* X caused Y.



OTHER REQUIREMENTS

- If you have a criminal record or past immigration violations, you may need to request a waiver to be able to get the U-visa.
- A **waiver is like a pardon**. You need to submit evidence that letting you stay in the US is *in the public interest*.
- The U-visa process can take a long time. If you have a case before the Immigration Court, the judge may not want to give you time to apply for the U-visa. For that reason, you should *start the process as soon as possible*.
- If you are deported, you can still apply for the U-visa from outside the United States.

U-VISA BENEFITS

- If you are detained, applying for a U-visa is a positive factor if you file a release request;
- Lawful status for up to four years;
- Automatic grant of employment authorization;
- Eligibility to adjust status to that of a lawful permanent resident after three years (and then to become a US citizen);
- Might be able to apply for your family members to also get the same status as you
 - If you file a U-Visa and you are older than 21, you can file your U-Visa for you and also name your spouse and unmarried children under the age of 21.
 - If under the age of 21 at the time of filing, you can also name your parents spouse, children, and unmarried siblings under 18.

Artwork in this Section

"Our Rage is Sacred" - By Estefanía Rivera

"Can't Shut Us Up, Can't Shut Us Down" - By Roger Peet

"Falling Star" - Melody Yang

PROSECUTORIAL DISCRETION



PURPOSE

The purpose of this section is to flag how GEO Group's and/or ICE's retaliation against you and your organizing efforts might impact a request for prosecutorial discretion that you send to ICE or another agency, like the Department of Labor. To do this, this section will explain a bit about what ICE and other agencies are **supposed to** consider when they answer a release request.

BACKGROUND

ICE's Prosecutorial Discretion

- ICE has the power to release people from immigration detention. This comes from ICE's prosecutorial discretion authority. Certain laws and policies include the factors that ICE, as a governmental agency, is **supposed to** consider when deciding who to release.
- However, the decision-making process for ICE release requests historically has been very unclear. Also, under these same laws and policies, ICE has a lot of power to grant or deny requests with little to no explanation.
- So, this section will provide what we know and what we see to the best of our ability, but it is important to note that an ICE release request is a difficult process to predict.

Department of Labor Support

- DOL (US Department of Labor, see Important Actors section) recently released information about their process for considering requests for support for immigration related prosecutorial discretion for workers involved in labor disputes.
- This means that workers who are experiencing a labor dispute at their worksite can notify DOL of the labor dispute and request that DOL submit a "Statement of DOL Interest" in support of request to DHS for immigration-related prosecutorial discretion.
- Because this is a new process, we do not currently have any examples of DOL submitting one of these Statements of DOL Interest in an individual case.
- We encourage you to try to ask for their support, but with the understanding that DOL may not give their support in the current situation, where detained workers are on strike from their jobs in the detention centers.

PROCESS FOR PROSECUTORIAL DISCRETION REQUESTS TO ICE

See template request in the Appendix at pg. 97.

Who makes the decision to grant or deny a release request?

ICE makes the decisions about release requests. GEO Group, or other private contractors that ICE contracts to run their detention facilities, do NOT make these decisions.

CONTINUATION . . .

What laws/policies currently give ICE the power to release individuals from detention?

Under the law, ICE has the discretionary authority to release people from immigration detention. This is as broad as it sounds. However, there are other laws and policies that also affect ICE's broad authority/power.

- For example, under the law, people with certain criminal offenses are considered to be under "mandatory detention," meaning, they "have to" stay detained.
- As another example, people who the government believes have engaged in "terrorism" or "espionage" are generally considered to be under mandatory detention.

ICE creates memoranda (memos) about how they will use their power to arrest and detain immigrants in the US. Here are some examples of ICE Memos:

Mayorkas Memo: At the moment (August 2022), the ICE enforcement memo called the Mayorkas Memo *is no longer in place*. You should NOT ask ICE to release you based on this memo.

Doyle Memo: Even though you should NOT use the Mayorkas Memo, some of the same principles are contained in the Doyle Memo which ICE attorneys are supposed to use when considering "prosecutorial discretion" for people in immigration court. You can reference the Doyle Memo to understand more about:

- ICE's power/prosecutorial discretionary authority; and
- ICE's enforcement priorities: a) threat to national security, b) threat to public safety, and c) threat to border security

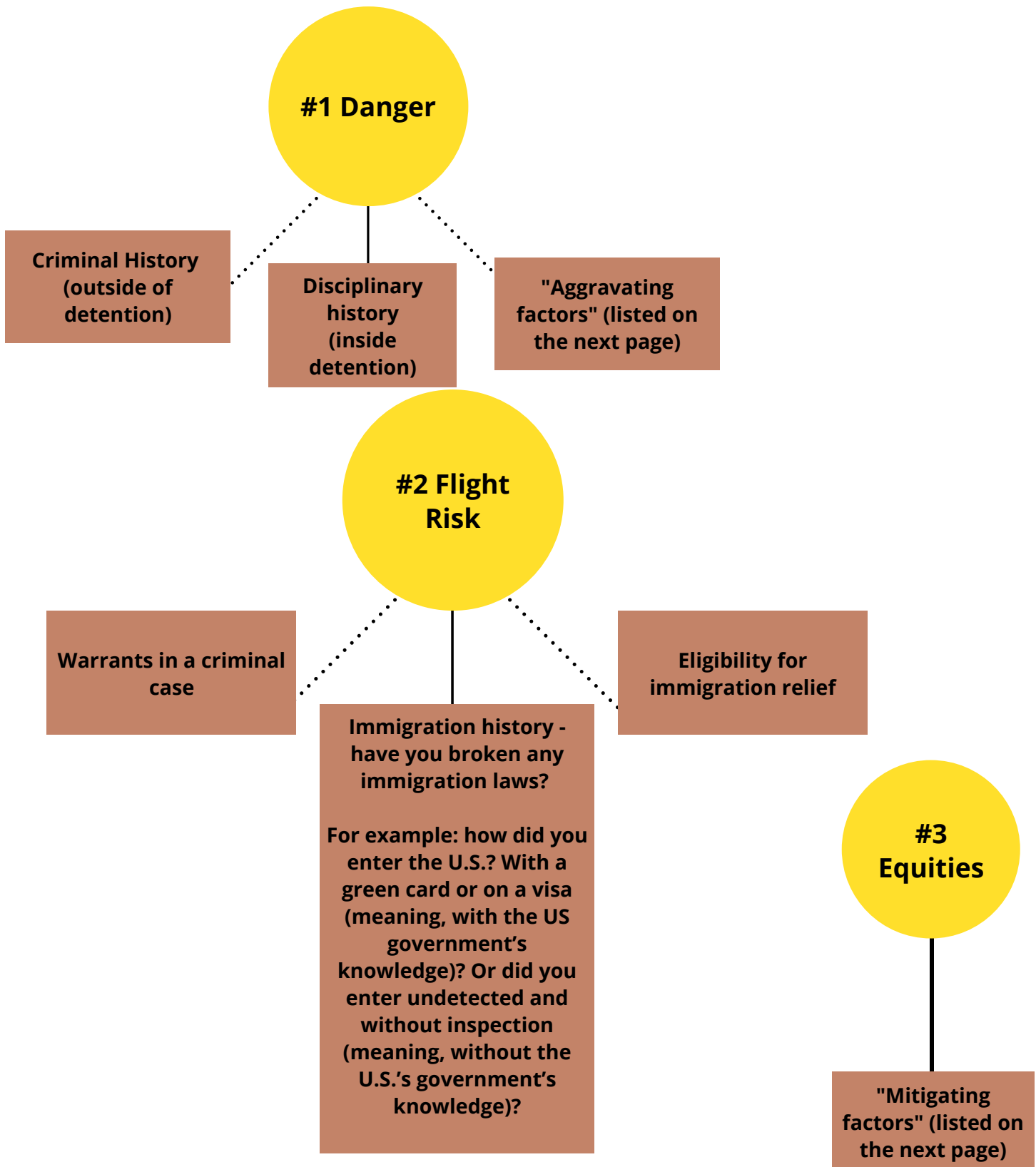
Morton Memo on Prosecutorial Discretion for Certain Victims, Witnesses, and Plaintiffs (see Appendix at pg. 93): This memo is from June 2011, but *it is still in effect*. That means you CAN ask ICE to release you based on this memo.

- On page 2 of the memo, it says that when ICE officers are using their prosecutorial discretion to detain or release a noncitizen, they should give special consideration to cases where the noncitizen is a victim of a crime, a witness to a crime, or someone pursuing legitimate civil rights complaints. It also says that special attention should be given to noncitizens who are "plaintiffs in non-frivolous lawsuits regarding civil rights or liberties violations," and noncitizens "engaging in a protected activity related to civil or other rights (for example, union organizing or complaining to authorities about employment discrimination or housing conditions) who may be in a non-frivolous dispute with an employer, landlord, or contractor."
- As some of you may know, the Dollar-A-Day Lawsuit was just filed against GEO Group, on behalf of noncitizens detained at Mesa Verde and Golden State Annex who have exposed the many employment, labor, and other civil rights violations that GEO Group is committing in those facilities. This lawsuit – and also a peaceful protest or strike against civil rights violations – could be an example of what this ICE memo is directing ICE to consider.

CONTINUATION . . .

What are the relevant factors that ICE considers when deciding a release request?

In general, ICE will consider three main things when deciding to release someone or keep them detained:



CONTINUATION . . .



When considering these three main things above, ICE states that it will consider **“mitigating”** and **“aggravating”** factors when it uses its prosecutorial discretion power.

Mitigating factors

are facts or circumstances that lessen the severity or culpability of a crime/offense/bad act.

Some examples of mitigating factors are: Old or young in age; long presence in the U.S.; a mental condition that may have contributed to committing the bad act; a physical or mental health condition that requires care or treatment; status as a victim of a crime; victim, witness or party in a legal proceeding, including relating to human trafficking and labor exploitation (see the Morton Memo, Appendix at 93); the impact of deportation on family, such as loss of provider or caregiver; whether the noncitizen is eligible for humanitarian protection or other immigration relief; military or other public service of the noncitizen or their immediate family; time passed since a crime was committed and evidence of rehabilitation; and whether a conviction was vacated or expunged.

Aggravating factors

are facts or circumstances that increase the severity or culpability of crime/offense/bad act.

Some examples of aggravating factors are: The seriousness of an offense or conviction; the length and nature of the sentence imposed; the nature and degree of harm caused to the victim or the community by the criminal offense; the sophistication of the criminal offense; use or threatened use of a firearm or dangerous weapon; a serious prior criminal record; and prior immigration history (like prior entries without inspection, or prior deportations).

Do write-ups fit into any of these elements?

Technically, yes. ICE can consider any write-ups from inside detention when they make decisions about a release request. In general, ICE will probably use them against you.

However, it is up to *you* how you frame any write-ups, especially those that may be related to you engaging in a strike or demonstration because your civil rights are being violated.

- For example, you could use the language in the **Morton Memo** (see Appendix at pg. 93) to show:
 - That ICE should release you because you are “engaging in a protected activity related to civil or other rights (for example, union organizing or complaining to authorities about employment discrimination or housing conditions) who may be in a non-frivolous dispute with an employer, landlord, or contractor,” or
 - That ICE should release you because you are “a plaintiff in non-frivolous lawsuits regarding civil rights or liberties violations” (like the dollar-a-day lawsuit).
- You could also use the resources and information on the history of labor strikes in the U.S. to support your right to engage in these activities and your release request.

CONTINUATION . . .

Does agreeing to work for GEO Group fit into any of these elements?

Technically, no.

Working inside of the detention center does not show that you are not dangerous, and it does not show that you are not a flight risk.

What else can you do to get support for your ICE release request?

Call your elected official and tell them the ICE is unfairly detaining you. Explain your situation and why you believe ICE should release you.



- You and your loved ones have the right to ask your representatives (senators and congress members) for help.
- You/your loved ones can call them, write to them, and request a meeting with them to ask that they advocate for your release.
- You can also ask your community to help pressure your representatives to advocate for your release.



PROCESS FOR ASKING DOL TO SUPPORT YOUR PROSECUTORIAL DISCRETION REQUEST TO ICE

*Just a reminder that this process is new, so we don't have examples yet of how this will work, especially for folks in detention who are engaged in a labor strike/dispute with Geo, their employer.

*If you have any questions about the process, you can email statementrequests@dol.gov before submitting your request. See Appendix at pg. 103 for the frequently asked questions.

CONTINUATION . . .

What does DOL have to do with prosecutorial discretion in DHS/ICE proceedings?

DOL has an interest in protecting workers at their places of work. The job of the agency is to make sure labor laws are not being violated by employers. If those laws are being violated, DOL is tasked with enforcing those laws.

DOL has recently announced a new policy offering to give support letters to noncitizens in labor disputes. They are calling these letters a “Statement of DOL Interest.”

This means you can report to DOL that you are in a labor dispute with your employer and ask DOL to give you a “Statement of DOL Interest” to show their support for you (and your fellow workers, if others are involved)

DOL’s new policy is specifically focused on immigrant workers who want DOL’s support when they ask DHS/ICE to exercise prosecutorial discretion in their immigration case or in immigration-related matters.

What is a “Statement of DOL Interest”?

The Statement of DOL Interest lets DHS know that DOL believes DHS’s use of its prosecutorial discretion for employees at a particular worksite is necessary for DOL to effectively carry out its mission, and that it supports workers’ requests for immigration-related prosecutorial discretion. We believe it may take the form of a letter of support.



Example of when a Statement of DOL Interest could be helpful:

Workers have faced retaliation for complaining about their wages or working conditions, and fear retaliatory immigration action if they participate in a DOL investigation or legal proceeding. DHS’s use of prosecutorial discretion may help to alleviate that fear and further DOL’s investigation or enforcement action. Worker participation strengthens DOL’s ability to get a remedy and/or make sure employer’s are complying with labor and employment laws.

CONTINUATION . . .



What are the relevant factors that DOL will consider when deciding whether to provide support (a Statement of DOL Interest) in a worksite's labor dispute?

- Workers are experiencing retaliation, threats of retaliation, or fear of retaliation and/or may be too scared to report violations of the law or participate in DOL enforcement
- Immigration enforcement could be an instrument used to undermine DOL's enforcement of laws in the area or industry and/or give rise to further immigration-based retaliation
- DOL needs witnesses to participate in its investigation and/or possible enforcement
- DHS's use of prosecutorial discretion would support DOL's interest in holding labor law violators accountable for such violations;
- Immigration enforcement concerning workers who may be witnesses to or victims of a violation of laws within DOL's jurisdiction could impede DOL's ability to enforce the labor laws or provide all available remedies within its jurisdiction

How do I ask DOL to tell DHS that I am in a labor dispute with my employer and ask DOL to support my request that DHS exercise immigration-related prosecutorial discretion?

A request may be made by a worker or by an advocate or representative.
Requests may be made on behalf of a group of workers.

CONTINUATION . . .

**Address your email to:
statementrequest@dol.gov**

**Subject line:
“Request for Statement of DOL Interest”**

**In the body of the email:
Provide enough information about the worksite that is the
subject of the labor dispute so that the DOL can identify it.
(For example, the business/name, address/location, and work
performed at the worksite)**

**Include in the email any facts that support your request and the
factors DOL considers (listed above), including but not limited to:**



**A description of the labor dispute and how it is related to the
laws enforced by DOL**



**A description of any retaliation or threats workers at the
worksite may have witnessed or experienced related to
labor disputes; and**



**A description of how fear among workers at the worksite of potential
immigration-related retaliation or other immigration enforcement in
the future is likely to deter workers from reporting violations related to
the labor dispute to DOL or otherwise cooperating with DOL. Specify the
time, place, and manner of any relevant facts.**

CONTINUATION . . .

In the email, DO NOT include:



Individual workers' immigration histories or needs



Sensitive, personally identifiable information, including dates of birth, social security numbers, or A numbers.

What happens after I email DOL a request for support?

DOL will decide if it is going to give you support in the form of a Statement of DOL Interest.

If DOL decides to offer this support to you in your labor dispute, it will either send the Statement of DOL Interest to you, or to both you and DHS.

Will the DOL keep my information confidential?

As much as the law allows, DOL will keep requests for a Statement of DOL Interest confidential.

DOL will share Statements of DOL Interest with DHS, but such Statements typically will not contain any personally identifiable information of any individual without their prior permission and notification.

How long will it take DOL to respond to my request?

At the moment, DOL is hoping to respond to requests within 30 days. If they do not respond within 30 days with a decision, DOL will hope to provide a status update every 30 days until a decision is made.



Don't underestimate the power of your voice and your experience, and that of your community!

CONCLUSION

Thank you for reading this handbook. We hope that after reading this, you feel empowered and prepared to continue your fight. We want you to know that you have a community behind you as you fight for your liberation. As you have read, labor and union movements in the United States have a long history. The consequences of capitalism have resulted in profits over lives, **including our lives.** This has been seen in history over and over again by those who fought to obtain labor and union rights. For many people it wasn't easy but it was necessary.

There were many sacrifices made in order to demand change. If we allow ourselves to be complacent right now and wait for those in power, like The GEO Group, to recognize us as humans with rights, it will never happen. There have to be those who courageously take up this challenge at the risk of their own personal safety to say "enough is enough". It is imperative for all of us inside detention to come together, like other leaders have in the past, to demand to be treated with dignity and respect.

Will you stand idly by or will you join in this movement of history in the making?



We leave you with this poem for self-reflection:

it takes courage to raise our voices to demand our
freedom in a world lacking compassion,
but lets come together,
uplift,

support,

and encourage each other.
come together to shape a world full of dignity, love and
respect for one another.
to fight for a world without cages.
a world where justice heals communities.

- rising with community
dcl, entre la miel y el fuego, pg 84

APPENDIX

1	Forms for Wage Complaints + Labor Law Violations	pg.47
2	Morton Memo	pg.93
3	Sample Release Request Under the Morton Memo	pg.97
4	Department of Labor FAQs for Statement of DOL Interest Requests	pg.103

Evidence in Support of Bond Proceedings

*Mesa Verde - Pangea Legal Services, Detained Immigrant Workers Formally Announce Labor Strike, Press Release - Labor Strikers Collective, 7 June. 2022

*Golden State Annex - Pangea Legal Services, Golden State Annex Price-Gouging Initiates Labor Strike, Press Release - Golden State Annex Labor Strikers Collective, 17 June. 2022

*Immigrant detainee workers strike at California Detention Centers to Protest Low Pay and Hazardous Conditions (WSWS.org)

*Immigrant Detainees Strike Over Working Conditions, California Regulators Investigate (KQED Article)

*Letter of Support from Emily Comer, Teacher and Labor Organizer

pg.107

Who We Are

This has been a collaboration between detained labor strikers at Mesa Verde Detention Facility & Golden State Annex, formerly detained folks, and the following organizations: California Collaborative for Immigrant Justice (CCIJ), Centro Legal de la Raza, Dolores Street Community Services (DSCS), The Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCRSF), El Concilio Family Services, and Pangea Legal Services

Call Bakersfield CalOSHA Office — (661) 588-6400

Please include the following information, if available:

- Name, address, and telephone number of the worksite
 - Mesa verde: +1-661-859-1028
 - GSA: +1 - (661) 792-2731
- Type of business
- Name and job title of the manager at the worksite
- Your name, address, telephone number, and email address
- Detailed description of the hazard
- If worksite is large, the specific location of the hazard
- Operations, equipment, machinery, and chemicals used at the worksite
- Work tasks performed near the hazard
- How often the work tasks are performed and for how long at any one time
- Number of work shifts, the time that each shift begins, and the shift when the hazard occurs
- Number of employees at the worksite, number of employees who may be exposed to the hazard, and how close the employees are to the hazard
- Employees injured or having symptoms caused by the hazard and whether the employees have received medical treatment for their injuries or symptoms
- How long the hazard has existed, whether the employer knows about the hazard, and whether the employer has tried to correct the hazard
- How long you expect the hazard will continue to exist at the worksite
- If there is an employee bargaining unit representative for the worksite, the person's name and contact information
 - [Can give inside organizer leaders' contact information? Possibly a danger of retaliation if so]

Llame Oficina de CalOSHA de Bakersfield —
(661) 588-6400

Incluya la siguiente información, si está disponible:

- Nombre, dirección y número de teléfono del lugar de trabajo
 - Mesa verde: +1-661-859-1028
 - GSA: +1 - (661) 792-2731
- Tipo de negocio
- Nombre y cargo del gerente en el lugar de trabajo
- Su nombre, dirección, número de teléfono y dirección de correo electrónico
- Descripción detallada del peligro
- Si el lugar de trabajo es grande, la ubicación específica del peligro
- Operaciones, equipo, maquinaria y productos químicos utilizados en el lugar de trabajo
- Tipos de trabajo realizados cerca del peligro.
- Con qué frecuencia se realizan las tareas laborales y durante cuánto tiempo en un momento dado
- Número de turnos de trabajo, la hora en que comienza cada turno y el turno en que ocurre el peligro
- Número de empleados en el lugar de trabajo, número de empleados que pueden estar expuestos al peligro y qué tan cerca están los empleados del peligro
- Empleados lesionados o con síntomas causados por el peligro y si los empleados han recibido tratamiento médico por sus lesiones o síntomas
- Cuánto tiempo ha existido el peligro, si el empleador sabe sobre el peligro y si el empleador ha tratado de corregir el peligro
- Cuánto tiempo espera que el peligro continúe existiendo en el lugar de trabajo
- Si hay un representante de la unidad de negociación de empleados para el lugar de trabajo, el nombre de la persona y la información de contacto
 - [*¿Puede darles los nombres de los organizadores y líderes principales?*]

The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at www.eeoc.gov.

- Online - Use the EEOC Public Portal to Submit an Inquiry, Schedule an Appointment, and File a Charge
 - <https://publicportal.eeoc.gov/Portal/Login.aspx>
- Phone
 - Oakland Local EEOC Office
 - 1301 Clay Street
 - Suite 680-N
 - Oakland, CA 94612-5217
 - Phone 1-800-669-4000
 - Fax 510-637-3235
 - TTY 1-800-669-6820
 - ASL Video Phone 844-234-512

Existen plazos estrictos para presentar cargos por discriminación laboral. A fin de preservar la capacidad de la Comisión para la Igualdad de Oportunidades en el Empleo (Equal Employment Opportunity Commission, EEOC) de actuar en representación suya y proteger su derecho a iniciar una demanda privada si fuese necesario en última instancia, debe comunicarse con la EEOC apenas sospeche que se produjo un hecho de discriminación: Comisión para la Igualdad de Oportunidades en el Empleo de los Estados Unidos, 1-800-669-4000 (línea gratuita) o 1-800-669-6820 (línea gratuita TTY para las personas con problemas auditivos). Puede encontrar información sobre las sucursales de la EEOC en www.eeoc.gov o en la mayoría de las guías telefónicas en la sección Gobierno Federal o Gobierno de los Estados Unidos. También puede obtener información adicional sobre la EEOC, incluso cómo presentar un cargo, en www.eeoc.gov.

LABOR COMMISSIONER, STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT
BUREAU OF FIELD ENFORCEMENT

IS THIS REPORT RELATED TO COVID-19? NO ☐ YES ☐
RELATED TO PAID SICK LEAVE (PSL/SPSL)? NO ☐ YES ☐

OFFICE USE ONLY
TAKEN BY: _____ DATE FILED: _____ INDUSTRY: _____

Please print legibly or type. Fill out this form if you would like to report a widespread violation of workplace laws (e.g., wage and hour, child labor, workers' compensation, or recordkeeping laws) by an employer that affects all or a group of employees working for the employer. If you are claiming only unpaid wages on behalf of yourself and do not wish to report a widespread violation of the law by your employer that also affects other workers, then fill out the DLSE Form 1 (Initial Report or Claim) to file an individual wage claim, instead of this form.

REPORT OF LABOR LAW VIOLATION

SECTION 1. REPORTING PARTY (INDIVIDUAL OR REPRESENTATIVE)

NAME OF REPORTING PARTY: _____ IF INTERPRETER IS NEEDED, INDICATE LANGUAGE: _____
ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____
HOME PHONE: (____) _____ CELL/OTHER PHONE: (____) _____ E-MAIL (if available): _____

If you are represented by a lawyer or other advocate, enter your ADVOCATE and ORGANIZATION information:

NAME: _____ ORGANIZATION NAME: _____
ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____
HOME PHONE: (____) _____ CELL/OTHER PHONE: (____) _____ E-MAIL (if available): _____

SECTION 2. EMPLOYER REPORTED

EMPLOYER BUSINESS NAME: _____
ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____
PHONE: (____) _____ TYPE OF BUSINESS: _____ TOTAL EMPLOYEES: _____
ENTITY TYPE: ☐ CORPORATION ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ LLC ☐ LLP ☐ OTHER (explain): _____
OWNER'S NAME: _____ NAME AND JOB TITLE OF PERSON IN CHARGE: _____

	ADDRESS CITY, STATE, ZIP	EMPLOYER STILL OPERATING THERE?	BUSINESS HOURS	TOTAL EMPLOYEES
EMPLOYER'S MAIN WORK LOCATION		☐ YES ☐ NO ☐ UNKNOWN		
OTHER WORK LOCATION (if any, whether or not you worked there)		☐ YES ☐ NO ☐ UNKNOWN		
OTHER WORK LOCATION (if any, whether or not you worked there)		☐ YES ☐ NO ☐ UNKNOWN		

IS THE EMPLOYER COVERED BY WORKERS' COMPENSATION INSURANCE? ☐ YES ☐ NO ☐ UNKNOWN

IS THERE A UNION CONTRACT? ☐ YES ☐ NO DID YOUR JOB INVOLVE PUBLIC WORKS? ☐ YES ☐ NO

EMPLOYER'S VEHICLE LICENSE PLATE NUMBER: _____

SECTION 3. WORK HOURS AND WAGES

DO YOU OR DID YOU WORK FOR THE EMPLOYER? ☐ YES ☐ NO IF "YES":
DATE OF HIRE: ____/____/____ LAST DAY OF WORK (if applicable): ____/____/____ ☐ QUIT ☐ FIRED ☐ STILL EMPLOYED

DID THE EMPLOYER DESIGNATE WHAT TIME THE WORKDAY BEGAN FOR EMPLOYEES? ☐ YES ☐ NO ☐ DON'T KNOW IF "YES":
WHAT TIME DID THE EMPLOYER DESIGNATE? ____ ☐ AM ☐ PM

DID THE EMPLOYER DESIGNATE WHICH DAY OF THE WEEK THE WORKWEEK BEGAN? ☐ YES ☐ NO ☐ DON'T KNOW IF "YES":
WHAT DAY DID THE EMPLOYER DESIGNATE? ☐ SUNDAY ☐ MONDAY ☐ TUESDAY ☐ WEDNESDAY ☐ THURSDAY ☐ FRIDAY ☐ SATURDAY

WHAT IS THE **NORMAL OR STANDARD WORK SCHEDULE** FOR EMPLOYEES DURING THE WEEK? PROVIDE YOUR BEST ESTIMATE OF THE START AND END TIMES AND NUMBER OF HOURS WORKED FOR EACH WORK DAY. (If employees did not work standard schedules, skip to the next question.)

SUNDAY	START TIME: ____ ☐ AM ☐ PM	END TIME: ____ ☐ AM ☐ PM	HOURS WORKED: ____	TOTAL HOURS WORKED PER WEEK:
MONDAY	START TIME: ____ ☐ AM ☐ PM	END TIME: ____ ☐ AM ☐ PM	HOURS WORKED: ____	
TUESDAY	START TIME: ____ ☐ AM ☐ PM	END TIME: ____ ☐ AM ☐ PM	HOURS WORKED: ____	
WEDNESDAY	START TIME: ____ ☐ AM ☐ PM	END TIME: ____ ☐ AM ☐ PM	HOURS WORKED: ____	
THURSDAY	START TIME: ____ ☐ AM ☐ PM	END TIME: ____ ☐ AM ☐ PM	HOURS WORKED: ____	
FRIDAY	START TIME: ____ ☐ AM ☐ PM	END TIME: ____ ☐ AM ☐ PM	HOURS WORKED: ____	
SATURDAY	START TIME: ____ ☐ AM ☐ PM	END TIME: ____ ☐ AM ☐ PM	HOURS WORKED: ____	

SECTION 3. WORK HOURS AND WAGES (continued)DO EMPLOYEES WORK DIFFERENT SCHEDULES OR IRREGULAR HOURS SO YOU CANNOT PROVIDE A STANDARD WORK SCHEDULE? ☐ YES ☐ NO

IF "YES," BRIEFLY DESCRIBE THE DIFFERENT SCHEDULES OR IRREGULAR WORK HOURS AS BEST AS YOU CAN: _____

WHEN IS THE NORMAL OR STANDARD SCHEDULED MEAL PERIOD FOR EMPLOYEES?

START TIME: _____ ☐ AM ☐ PM END TIME: _____ ☐ AM ☐ PM

THERE IS NO STANDARD SCHEDULED MEAL PERIOD

WHAT IS THE AVERAGE LENGTH OF TIME FOR AN EMPLOYEE'S MEAL PERIOD? _____ ☐ MINUTES ☐ HOURS

WHO SET THE WORK SCHEDULE? (FULL NAME AND JOB TITLE/POSITION): _____

WHAT DAY IS PAY DAY? ☐ DAILY☐ WEEKLY ON _____ ☐ BI-WEEKLY ON (Once every two weeks) _____☐ MONTHLY ON _____ ☐ SEMI-MONTHLY ON (Twice a month) _____

WHO PAYS EMPLOYEES? (FULL NAME AND JOB TITLE/POSITION): _____

ARE EMPLOYEES PAID BY THE HOUR? ☐ YES ☐ NO IF "YES," HOW MUCH? \$ _____ PER HOUR

VARIES (EXPLAIN): _____

ARE EMPLOYEES PAID A FIXED AMOUNT OF WAGES (OR SALARY), REGARDLESS OF THE NUMBER OF HOURS WORKED? ☐ YES ☐ NOIF "YES," HOW MUCH? \$ _____ ☐ PER DAY ☐ PER WEEK ☐ EVERY 2 WEEKS ☐ SEMI-MONTHLY ☐ MONTHLY

VARIES (EXPLAIN): _____

ARE EMPLOYEES PAID BY PIECE RATE? ☐ YES ☐ NO IF "YES," HOW MUCH? \$ _____ PER (Describe Unit) _____

PIECE RATES VARY (EXPLAIN): _____

HOW ARE EMPLOYEES PAID? ☐ CHECK☐ CASH☐ BOTH CHECK & CASH ☐ OTHER METHOD (EXPLAIN): _____☐ METHOD OF PAYMENT VARIES PER EMPLOYEE OR JOB POSITION (EXPLAIN): _____IF EMPLOYEES ARE PAID IN CASH, DOES THE EMPLOYER KEEP CASH PAYMENT RECORDS OR LOGS? ☐ YES ☐ NO ☐ DON'T KNOWDOES THE EMPLOYER KEEP TIME RECORDS OF HOURS WORKED BY EMPLOYEES? ☐ YES ☐ NO ☐ DON'T KNOWWHAT LANGUAGES ARE SPOKEN BY EMPLOYEES? ☐ ENGLISH ☐ SPANISH ☐ MIXTEC ☐ TRIQUE ☐ CANTONESE ☐ MANDARIN ☐ KOREAN
☐ VIETNAMESE ☐ TAGALOG ☐ CAMBODIAN ☐ HMONG ☐ THAI ☐ PUNJABI ☐ HINDI ☐ RUSSIAN ☐ OTHER: _____**SECTION 4. SUSPECTED VIOLATIONS OF EMPLOYER***The boxes below describe conduct by an employer that violates the law. Please put a check mark in the box(es) if the employer engages in, or any employee or employees have experienced, any of the following violations:*☐ **NO WORKERS' COMPENSATION INSURANCE**☐ **CHILD LABOR VIOLATIONS:**

- ☐ No valid work permit(s)
- ☐ No valid entertainment work permit(s)
- ☐ Minor(s) work excessive or prohibited hours
- ☐ Minor(s) work in hazardous conditions

Estimated number of minors affected: _____

☐ **MINIMUM WAGE VIOLATIONS:**

- ☐ Paid below minimum wage
- ☐ Not paid at all for overtime hours worked
- ☐ Not paid for all hours worked, including unpaid travel time and try-out time
- ☐ Paycheck issued with insufficient funds
- ☐ Asked employee to pay back wages paid
- ☐ No split shift premium pay

Estimated number of employees affected: _____

☐ **OVERTIME VIOLATIONS:**

- ☐ Not paid daily overtime for hours worked over 8 hours per day (or 10 hours per day for farmworkers)
- ☐ Not paid weekly overtime for hours worked over 40 hours per week
- ☐ Not paid double time for hours worked over 12 hours per day
- ☐ Not paid overtime for working on the 7th consecutive workday in a workweek

Estimated number of employees affected: _____

SECTION 4. SUSPECTED VIOLATIONS OF EMPLOYER (continued)

☐ OTHER UNPAID WAGES: ☐ Wages are not paid at the contracted rate ☐ No reporting time premium pay ☐ No premium pay for missing meal or rest periods <i>Estimated number of employees affected:</i> _____	☐ PAY STUB VIOLATIONS: ☐ Paid by check or cash without an itemized wage deduction statement ☐ Itemized wage deduction statement provided but not accurate and/or incomplete ☐ Itemized wage deduction statement not provided at least semi-monthly <i>Estimated number of employees affected:</i> _____
☐ MEAL PERIOD VIOLATIONS: ☐ 30-minute off-duty meal period not provided by the end of the 5th hour of work ☐ Second 30-minute off-duty meal period not provided when working more than 10 hours ☐ Meal period provided but less than 30 minutes ☐ Warehouse Distribution Center: quota prevents compliance with meal period <i>Estimated number of employees affected:</i> _____	☐ REST BREAK VIOLATIONS: ☐ For work days between 3.5 hours and up to 6 hours per day, not allowed to take a 10-minute rest break ☐ For work days of more than 6 hours and up to 10 hours per day, not allowed to take two 10-minute rest breaks ☐ For work days of more than 10 hours and up to 14 hours per day, not allowed to take three 10-minute rest breaks ☐ Warehouse Distribution Center: quota prevents compliance with rest breaks <i>Estimated number of employees affected:</i> _____
☐ PAY DATE VIOLATIONS: ☐ No fixed pay date ☐ Late payment of wages <i>Estimated number of employees affected:</i> _____	☐ RECORD KEEPING VIOLATIONS: ☐ Daily time records are not kept or inaccurate ☐ Payroll records are not kept or inaccurate ☐ No notice to new hires (under Labor Code Section 2810.5)
☐ BUSINESS EXPENSE VIOLATIONS: ☐ Uniforms not reimbursed or illegally charged to employees ☐ Tools, supplies or equipment not reimbursed or illegally charged to employees ☐ Illegal charges for cash shortages, breakage, or loss of equipment <i>Estimated number of employees affected:</i> _____	☐ FAILURE TO POST: ☐ Applicable Industrial Welfare Commission Order not posted ☐ Minimum Wage Order 2001 not posted ☐ Pay day notice not posted ☐ Workers' compensation insurance notice not posted ☐ Rate of compensation not posted (for farmworkers only) ☐ Paid Sick Leave not posted
☐ MISCLASSIFICATION: ☐ Employees misclassified as independent contractors ☐ Salaried employees misclassified as exempt employees <i>Estimated number of employees affected:</i> _____	☐ LICENSING/REGISTRATION VIOLATIONS: ☐ Unlicensed construction contractor ☐ Contracted with unlicensed construction contractor ☐ Unlicensed farm labor contractor ☐ Unregistered garment contractor or manufacturer ☐ Unregistered car wash ☐ Unregistered janitorial employer
☐ FAILURE TO PROVIDE LACTATION ACCOMMODATIONS <i>Estimated number of employees affected:</i> _____	☐ WAREHOUSE DISTRIBUTION CENTERS ☐ Description of quota not provided ☐ Quota prevents compliance with meal period ☐ Quota prevents compliance with rest period ☐ Quota prevents use of bathroom facilities ☐ Quota prevents compliance with health and safety laws ☐ Other (briefly explain): _____ ☐ <i>Estimated number of employees affected:</i> _____
☐ GARMENT MANUFACTURING ☐ Piece rate pay <i>Estimated number of employees affected:</i> _____	☐ OTHER VIOLATIONS (briefly explain): _____ ☐ <i>Estimated number of employees affected:</i> _____
☐ PAID SICK LEAVE VIOLATIONS ☐ No paid sick leave ☐ No notice of available sick leave on itemized wage statement or separate writing <i>Estimated number of employees affected:</i> _____	

Please provide any other information about your complaint that you believe it is important for the Labor Commissioner to know:

Please provide the following information for any minors under the age of 18 who work for the employer:

FULL NAME (first and last name, and any "nick" names)	AGE	JOB POSITION/ TYPE OF WORK PERFORMED	NORMAL WORK SCHEDULE	HOW WAS THE MINOR PAID (by check, in cash, both cash and check, or other method)?

MAY YOUR NAME BE USED IN AN INVESTIGATION? ☐ YES ☐ NO

DO YOU WANT DLSE TO KEEP YOUR NAME AND CONTACT INFORMATION CONFIDENTIAL? * ☐ YES ☐ NO

I HEREBY CERTIFY THAT THE INFORMATION ABOVE IS A TRUE STATEMENT TO THE BEST OF MY KNOWLEDGE.

SIGNED: _____ DATE: _____

PRINT NAME: _____

* DLSE will maintain confidentiality as appropriate in each case and to the extent provided for under the law. Information may need to be released in some cases.

UNIDAD DE FISCALIZACIÓN DE CAMPO

¿ESTE INFORME ESTÁ RELACIONADO CON COVID-19? NO ☐ SÍ ☐
¿ESTÁ RELACIONADO CON HORAS DE ENFERMEDAD PAGADAS (PSL/SPSL)? NO ☐ SÍ ☐

SOLO PARA USO OFICIAL

RECIBIDO POR: _____ FECHA PRESENTADO: _____
INDUSTRIA: _____

Por favor escriba de forma legible o a computadora. Complete este formulario si le gustaría denunciar la violación generalizada de leyes en el lugar de trabajo (por ejemplo, salario y horas, trabajo infantil, compensación por accidente laboral o leyes del mantenimiento de registros) por un empleador que perjudica a todos o a un grupo de empleados que trabajan para el empleador. Si usted está reclamando solo salarios adeudados en su nombre y no quiere denunciar la violación generalizada de una ley por su empleador que también perjudica a otros trabajadores, entonces complete el formulario DLSE Formulario 1 (informe inicial o denuncia) para presentar una denuncia individual de salario, en vez de este formulario.

INFORME DE VIOLACIÓN DE LA LEY LABORAL

SECCIÓN 1. DENUNCIANTE (INDIVIDUAL O REPRESENTANTE)

NOMBRE DEL DENUNCIANTE: _____ SI NECESITA UN INTÉRPRETE, INDIQUE EL IDIOMA: _____
DIRECCIÓN: _____ CIUDAD: _____ ESTADO: _____ CÓDIGO POSTAL: _____
TELÉFONO FIJO: (____) _____ CELULAR/OTRO TELÉFONO: (____) _____
CORREO ELECTRÓNICO (si tiene): _____

Si usted está siendo representado por un abogado u otro defensor, escriba la información de su DEFENSOR y ORGANIZACIÓN:

NOMBRE: _____ NOMBRE DE LA ORGANIZACIÓN: _____
DIRECCIÓN: _____ CIUDAD: _____ ESTADO: _____ CÓDIGO POSTAL: _____
TELÉFONO FIJO: (____) _____ CELULAR/OTRO TELÉFONO: (____) _____
CORREO ELECTRÓNICO (si tiene): _____

SECCIÓN 2. EMPLEADOR DENUNCIADO

NOMBRE DE LA COMPAÑÍA DEL EMPLEADOR: _____
DIRECCIÓN: _____ CIUDAD: _____ ESTADO: _____ CÓDIGO POSTAL: _____
TELÉFONO: (____) _____ TIPO DE COMPAÑÍA: _____ TOTAL DE EMPLEADOS: _____
TIPO DE ENTIDAD: ☐ CORPORACIÓN ☐ INDIVIDUAL ☐ SOCIEDAD ☐ LLC ☐ LLP ☐ OTRO (explicar): _____
NOMBRE DEL DUEÑO: _____ NOMBRE Y PUESTO DEL ENCARGADO: _____

	DIRECCIÓN CIUDAD, ESTADO, CÓDIGO POSTAL	¿EL EMPLEADOR SIGUE OPERANDO ALLÍ?	HORARIO LABORAL	TOTAL DE EMPLEADOS
LUGAR DE TRABAJO PRINCIPAL DEL EMPLEADOR		☐ SÍ ☐ NO ☐ DESCONOZCO		
OTRO LUGAR DE TRABAJO (si lo hay, ya sea que usted trabajó allí o no)		☐ SÍ ☐ NO ☐ DESCONOZCO		
OTRO LUGAR DE TRABAJO (si lo hay, ya sea que usted trabajó allí o no)		☐ SÍ ☐ NO ☐ DESCONOZCO		

¿EL EMPLEADOR ESTÁ ASEGURADO CON UN SEGURO DE COMPENSACIÓN POR ACCIDENTE DE TRABAJO? ☐ SÍ ☐ NO ☐ DESCONOZCO

¿EXISTE UN CONTRATO CON UN SINDICATO? ☐ SÍ ☐ NO ¿SU TRABAJO IMPLICA OBRAS PÚBLICAS? ☐ SÍ ☐ NO

NÚMERO DE PLACA DEL VEHÍCULO DEL EMPLEADOR: _____

SECCIÓN 3. HORAS DE TRABAJO Y SALARIO

¿USTED TRABAJA O SIGUE TRABAJANDO PARA EL EMPLEADOR? ☐ SÍ ☐ NO SI RESPONDIÓ "SÍ":
FECHA DE CONTRATACIÓN: ____ / ____ / ____ ÚLTIMO DÍA DE TRABAJO (si corresponde): ____ / ____ / ____
☐ RENUNCIÓ ☐ DESPEDIDO ☐ SIGUE TRABAJANDO

¿EL EMPLEADOR DESIGNÓ A QUÉ HORA COMIENZA A TRABAJAR LOS EMPLEADOS? ☐ SÍ ☐ NO ☐ NO LO SÉ SI RESPONDIÓ "SÍ":
¿QUÉ HORA DESIGNÓ EL EMPLEADOR? ____ ☐ AM ☐ PM

¿EL EMPLEADOR DESIGNÓ QUÉ DÍA DE LA SEMANA COMIENZA LA SEMANA LABORAL? ☐ SÍ ☐ NO ☐ NO LO SÉ SI RESPONDIÓ "SÍ":
¿QUÉ DÍA DESIGNÓ EL EMPLEADOR? ☐ DOMINGO ☐ LUNES ☐ MARTES ☐ MIÉRCOLES ☐ JUEVES ☐ VIERNES ☐ SÁBADO

¿CUÁL ES EL HORARIOS DE TRABAJO NORMAL O ESTÁNDAR PARA LOS EMPLEADOS DURANTE LA SEMANA? PROPORCIONE SU MEJOR ESTIMADO DE LAS HORAS DE COMIENZO Y FINALIZACIÓN Y LA CANTIDAD DE HORAS TRABAJADAS EN CADA DÍA LABORAL. (Si los empleados no trabajaban en horarios estándar, salté la siguiente pregunta).

SECCIÓN 3. HORAS TRABAJADAS Y SALARIO (continuo)

DOMINGO	COMIENZO: _____ ☐ AM ☐ PM	FINALIZACIÓN: _____ ☐ AM ☐ PM	HORAS TRABAJADAS: _____	TOTAL DE HORAS TRABAJADAS POR SEMANA: _____
LUNES	COMIENZO: _____ ☐ AM ☐ PM	FINALIZACIÓN: _____ ☐ AM ☐ PM	HORAS TRABAJADAS: _____	
MARTES	COMIENZO: _____ ☐ AM ☐ PM	FINALIZACIÓN: _____ ☐ AM ☐ PM	HORAS TRABAJADAS: _____	
MIÉRCOLES	COMIENZO: _____ ☐ AM ☐ PM	FINALIZACIÓN: _____ ☐ AM ☐ PM	HORAS TRABAJADAS: _____	
JUEVES	COMIENZO: _____ ☐ AM ☐ PM	FINALIZACIÓN: _____ ☐ AM ☐ PM	HORAS TRABAJADAS: _____	
VIERNES	COMIENZO: _____ ☐ AM ☐ PM	FINALIZACIÓN: _____ ☐ AM ☐ PM	HORAS TRABAJADAS: _____	
SÁBADO	COMIENZO: _____ ☐ AM ☐ PM	FINALIZACIÓN: _____ ☐ AM ☐ PM	HORAS TRABAJADAS: _____	

¿LOS EMPLEADOS TRABAJAN EN HORARIOS DIFERENTES U HORAS IRREGULARES ENTONCES NO SE PUEDE PROPORCIONAR UN HORARIO DE TRABAJO ESTÁNDAR? ☐ SÍ ☐ NO

SI RESPONDIÓ "SÍ", DESCRIBA BREVEMENTE LOS DISTINTOS HORARIOS U HORAS IRREGULARES DE LA MEJOR FORMA QUE PUEDA:

¿CUÁL ES EL HORARIO NORMAL O ESTÁNDAR PARA EL RECESO PARA COMER DE LOS EMPLEADOS?

COMIENZO: _____ ☐ AM ☐ PM FINALIZACIÓN: _____ ☐ AM ☐ PM ☐ NO HAY UN HORARIO ESTÁNDAR DE RECESO PARA COMER

¿CUÁL ES EL TIEMPO PROMEDIO DEL RECESO PARA COMER DE UN EMPLEADO? _____ MINUTOS _____ HORAS

¿QUIÉN ORGANIZA LOS HORARIOS DE TRABAJO? (NOMBRE COMPLETO Y PUESTO/CARGO): _____

¿QUÉ DÍA SE LE PAGAN EL SUELDO? ☐ DIARIO

☐ SEMANALMENTE EL _____ POR QUINCENA EL (Una vez cada dos semanas) _____

☐ MENSUALMENTE EL _____ CADA MEDIO MES EL (Dos veces por mes) _____

¿QUIÉN LE PAGA A LOS EMPLEADOS? (NOMBRE COMPLETO Y PUESTO/CARGO): _____

¿A LOS EMPLEADOS SE LES PAGAN POR HORA? ☐ SÍ ☐ NO SI RESPONDIÓ "SÍ", ¿CUÁNTO? \$ _____ POR HORA

VARÍA (EXPLICAR): _____

¿A LOS EMPLEADOS SE LES PAGA UN SUELDO (SALARIO) FIJO INDEPENDIENTEMENTE DE LA CANTIDAD DE HORAS TRABAJADAS? ☐ SÍ ☐ NO

SI RESPONDIÓ "SÍ", ¿CUÁNTO? \$ _____ ☐ POR DÍA ☐ POR SEMANA ☐ POR QUINCENA ☐ CADA MEDIO MES ☐ MENSUALMENTE

VARÍA (EXPLICAR): _____

¿A LOS EMPLEADOS SE LES PAGA POR PIEZA? ☐ SÍ ☐ NO SI RESPONDIÓ "SÍ", ¿CUÁNTO? \$ _____ POR (describa la unidad) _____

EL DESTAJO VARÍA (EXPLICAR): _____

¿CÓMO SE LES PAGA A LOS EMPLEADOS?

☐ CHEQUE ☐ EFECTIVO

☐ CHEQUE Y EFECTIVO ☐ OTRO MÉTODO (EXPLICAR): _____

☐ EL MÉTODO DE PAGO VARÍA POR CADA EMPLEADO Y EL CARGO (EXPLICAR): _____

SI A LOS EMPLEADOS SE LES PAGA EN EFECTIVO, ¿EL EMPLEADOR CONSERVA REGISTROS O INFORMES DEL PAGO? ☐ SÍ ☐ NO ☐ NO LO SÉ

¿EL EMPLEADOR CONSERVA UN REGISTRO DE LAS HORAS TRABAJADAS POR LOS EMPLEADOS? ☐ SÍ ☐ NO ☐ NO LO SÉ

¿QUÉ IDIOMAS HABLAN LOS EMPLEADOS? ☐ INGLÉS ☐ ESPAÑOL ☐ MIXTECO ☐ TRIQUI ☐ CANTONÉS ☐ MANDARÍN ☐ COREANO

☐ VIETNAMITA ☐ TAGALO ☐ CAMBOYANO ☐ HMONG ☐ TAILANDÉS ☐ PUNJABÍ ☐ HINDI ☐ RUSO ☐ OTRO: _____

SECCIÓN 4. SOSPECHAS DE VIOLACIONES DEL EMPLEADOR

Las casillas a continuación describen la conducta de un empleador que viola la ley. Por favor, tildar las casillas si el empleador realiza alguna, o si algún empleado o empleados han sido víctimas, de cualquiera de las siguientes violaciones:

☐ **FALTA DE SEGURO DE COMPENSACIÓN POR ACCIDENTE DE TRABAJO**

☐ **VIOLACIONES DE TRABAJO INFANTIL:**

- ☐ Sin permiso de trabajo válido
- ☐ Sin permiso de trabajo de entretenimiento válido
- ☐ Menores trabajan en exceso u horas prohibidas
- ☐ Menores trabajan en condiciones peligrosas

Número estimado de menores afectados: _____

SECCIÓN 4. SOSPECHAS DE VIOLACIONES DEL EMPLEADOR (continuo)

☐ VIOLACIONES DE SALARIO MÍNIMO:

- ☐ Pagaron menos del salario mínimo
- ☐ No paga en absoluto las horas extras trabajadas
- ☐ No paga por todas las horas trabajadas, incluso el tiempo de traslado y el tiempo de prueba
- ☐ Problemas con los cheques de pago con fondos insuficientes
- ☐ Le pidieron al empleado que devolviera el salario pagado
- ☐ Sin paga de prima por turnos divididos

Número estimado de empleados afectados: _____

☐ VIOLACIONES DE HORAS EXTRAS:

- ☐ No paga a diario por las horas extras trabajadas en exceso de 8 horas por día (o 10 horas por día para los trabajadores agrícolas)
- ☐ No paga semanalmente las horas extras trabajadas en exceso de 40 horas semanales
- ☐ No paga el doble por las horas trabajadas en exceso de 12 horas por día
- ☐ No paga horas extras por trabajar el 7mo día consecutivo en una semana laboral

Número estimado de empleados afectados: _____

☐ OTROS SALARIOS NO PAGADOS:

- ☐ Los salarios no se pagan a la tarifa acordada
- ☐ No se informa el tiempo de paga superior
- ☐ Falta de prima por no tomarse los recesos para las comidas o los de descanso

Número estimado de empleados afectados: _____

☐ VIOLACIONES DEL TALÓN DE PAGOS:

- ☐ Pagado con cheque o en efectivo sin un detalle de las deducciones del salario
- ☐ Se detallan las deducciones del salario, pero no es exacto/o está incompleto
- ☐ No se proporciona un detalle de las deducciones del salario por lo menos una vez al mes

Número estimado de empleados afectados: _____

☐ VIOLACIONES A LOS RECESOS PARA COMER:

- ☐ No se proporciona un receso para comer fuera del servicio de 30 minutos al final de la 5ta hora trabajada
- ☐ No se proporciona un receso para comer fuera del servicio de 30 minutos cuando se trabaja más de 10 horas
- ☐ Se proporciona un receso para comer pero es menos de 30 minutos

Número estimado de empleados afectados: _____

☐ VIOLACIONES A LOS RECESOS DE DESCANSO:

- ☐ Para los días de trabajo entre de 3.5 horas y hasta 6 horas al día, no está permitido tomarse un receso de 10 minutos
- ☐ Para los días de trabajo de más de 6 horas y hasta 10 horas al día, no está permitido tomarse un receso de 10 minutos
- ☐ Para los días de trabajo de más de 10 horas y hasta 14 horas al día, no está permitido tomarse un receso de 10 minutos

Número estimado de empleados afectados: _____

☐ VIOLACIONES DE LA FECHA DE PAGO:

- ☐ No hay una fecha de pago fija
- ☐ Pago tardío de salarios

Número estimado de empleados afectados: _____

☐ VIOLACIONES DE MANTENIMIENTO DE REGISTROS

- ☐ Los registros diarios no se conservan o son imprecisos
- ☐ Los registros de la nómina salarial no se conservan o son imprecisos
- ☐ No se le da aviso a los nuevos empleados (según el Código Laboral artículo 2810.5)

☐ VIOLACIONES DE GASTOS EMPRESARIALES:

- ☐ No se reembolsa el gasto de los uniformes o se le cobra ilícitamente a los empleados
- ☐ Herramientas, suministros o equipo no reembolsado o se le cobra ilícitamente a los empleados
- ☐ Cargos ilícitos por faltante de caja, rotura o pérdida de equipo

Número estimado de empleados afectados: _____

☐ INCUMPLIMIENTO DE AVISO:

- ☐ No se publicó la Orden de la Comisión de Bienestar Industrial correspondiente
- ☐ No se publicó la Orden sobre el salario mínimo 2001
- ☐ No se publicó cuándo se paga el sueldo
- ☐ No se publicó el aviso del seguro de indemnización por accidente de trabajo
- ☐ No se publicó la tasa de compensación (solo para trabajadores agrícolas)

☐ CLASIFICACIÓN ERRÓNEA:

- ☐ Empleados clasificados erróneamente como contratistas independientes
- ☐ Empleados asalariados clasificados erróneamente como empleados exentos

Número estimado de empleados afectados: _____

☐ VIOLACIÓN DE LICENCIAS/REGISTROS:

- ☐ Contratista de construcción sin licencia
- ☐ Contratado con contratista de construcción sin licencia
- ☐ Contratista de trabajo agrícola sin licencia
- ☐ Contratista de vestimenta o fabricante no registrado
- ☐ Lavado de vehículos no registrado

☐ INCAPACIDAD DE PROPORCIONAR UN LUGAR PARA LA LACTANCIA

Número estimado de empleados afectados: _____

☐ OTRAS VIOLACIONES (explique brevemente):

Número estimado de empleados afectados: _____

Por favor, proporcione cualquier otra información acerca de su denuncia que usted crea que es importante que sepa el comisionado laboral:

SECCIÓN 4. SOSPECHAS DE VIOLACIONES DEL EMPLEADOR (continuo)

Por favor, proporcione la siguiente información de cualquier menor de 18 años que trabaja para el empleador:

NOMBRE COMPLETO (nombre y apellido, y cualquier apodo)	EDAD	PUESTO DE TRABAJO/TIPO DE TRABAJO QUE REALIZA	HORARIO HABITUAL DE TRABAJO	¿CÓMO LE PAGAN AL MENOR (con cheque, en efectivo, con cheque y efectivo u otro método)?

¿SE PUEDE UTILIZAR SU NOMBRE EN UNA INVESTIGACIÓN? ☒ SÍ ☐ NO

¿QUIERE QUE LA DLSE MANTENGA SU NOMBRE E INFORMACION DE CONTACTO CONFIDENCIAL? * ☒ SÍ ☐ NO

POR MEDIO DE LA PRESENTE CERTIFICO QUE LA INFORMACIÓN PROPORCIONADA PREVIAMENTE ES UNA DECLARACIÓN VERDADERA SEGÚN MI LEAL SABER Y ENTENDER.

FIRMA: _____ FECHA: _____

ESCRIBA NOMBRE: _____

** La DLSE mantendrá la confidencialidad según sea apropiado en cada caso y en la medida prevista ante la ley. Puede ser necesario tener que divulgar la información en algunos casos.*

INSTRUCTIONS FOR FILING A WAGE CLAIM

- 1) Fill out and submit the “Initial Report or Claim” Form (DLSE Form 1). If you do not understand how to fill out any part of the Form, please read the “**Guide to Completing Initial Report or Claim Form**” (attached to these Instructions).
- 2) Along with your completed “Initial Report or Claim” Form, submit these **additional DLSE Forms** if any of the following situations apply to you:
 - o If your **work hours and/or days of work varied or were irregular, and** you are claiming **unpaid wages (for overtime or non-overtime hours worked) or meal and rest period violations**, then also fill out and submit the **DLSE Form 55**. Fill out the DLSE Form 55 as best as you can, based on your best estimate of hours worked or any of your own records that you kept of your hours worked.
 - o If you are claiming **commission pay**, then also fill out and submit the **DLSE Form 155**.
 - o If you are claiming **vacation wages**, then also fill out and submit the **DLSE “Vacation Pay Schedule”** form.
 - o If you are represented by an attorney, you may submit a calculation prepared by your attorney in lieu of the above computation forms.
- 3) Along with your completed “Initial Report or Claim” Form, submit **one COPY** of the following documents, if you have them (**DO NOT SEND ORIGINAL DOCUMENTS**):
 - o **Time records.** Provide a COPY of any of your own records you kept of the hours and dates you worked that you believe support your claim. This could include, for example, your notes, journals, diaries, or calendars in which you marked your hours worked.
 - o **Paychecks and Pay Stubs.** Provide a COPY of any paychecks and pay stubs you received showing the wages you were paid during your claim period.
 - o **Dishonored (or “Bounced”) Paycheck(s).** If you were paid with a paycheck that could not be cashed by you because your employer has no account with the bank or insufficient funds in the account from which the check was drawn, provide a COPY of any such dishonored check(s) or other documentation from the bank that indicates the check could not be cashed.
 - o **Notice of Employment Information.** Provide a COPY if you received a Notice from your employer after January 1, 2012 that indicates your basic employment information including your rate of pay, any overtime rate of pay, whether you were paid by the hour, shift, day, week, salary, piece, commission, or otherwise, and your regular payday. Your employer may have called this a “Notice to Employee” and may reference the Labor Code Section that applies, Section 2810.5.
- NOTE: It is the employer’s legal responsibility to keep accurate employee time and payroll records, and to provide employees with pay stubs each time they are paid (or at least semimonthly). In order to file a claim, you are not required to keep your own time records or to have the documents above. These documents are being requested only if you have them because they may help DLSE better understand your claim.***
- 4) If your employment was covered by a **union contract**, provide a copy of your Collective Bargaining Agreement.

WHAT TO EXPECT AFTER YOU FILE YOUR CLAIM

- 1) **Settlement Conference.** In most cases, you will receive a Notice from the Labor Commissioner setting a date and time for a “Conference” in which DLSE will discuss your claim with you and whether your claim has a legal basis to proceed. At the Conference, you and your employer will have an opportunity to discuss settlement of your claim. For the Conference, you do NOT need to bring any witnesses, but be prepared to discuss whether you have any witnesses who can testify for you at a hearing, and generally what they will testify about (if your claim does not settle). Bring a **copy (not the original)** of any document that supports your claim, but do not bring documents you have already submitted with the Initial Report or Claim Form.
- 2) **Hearing.** If your claim does not settle at the Conference and has a legal basis to proceed to a hearing, you will receive a Notice from the Labor Commissioner setting a date and time for a hearing on your claim. You should be prepared to present evidence to prove your claim (for example, your testimony, the testimony of any witnesses if you have any witnesses, and/or documents if you have supporting documents). Therefore, you should be prepared to bring witnesses and documents if you have them. If you have documents that support your claim, bring the **original documents plus two sets of copies** to the hearing. At the end of the hearing, the hearing officer will explain what will happen next.

Guide to Completing “Initial Report or Claim” Form (DLSE Form 1)

Preliminary Questions

1. **Public Works.** An employee or former employee can file a complaint for prevailing wages that were not paid on a public works project. “Public works” as defined in Labor Code Sections 1720 to 1720.3 include “construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds.” If you worked on a public works project, you should STOP here. Do not fill out this form but instead, please fill out the **PW-1 claim form (entitled “Public Works – Initial Report”)**. You may ask DLSE staff for a copy of the PW-1 form or download it at: <http://www.dir.ca.gov/dlse/HowToFilePWComplaint.htm>
2. **Retaliation.** It is unlawful for an employer to retaliate or discriminate against you (for example, fire, threaten to fire, demote, suspend or discipline you) because you complain about your working conditions, file a wage claim with DLSE, or provide information to DLSE or any government agency about your working conditions. Check the “YES” box if you have filed a retaliation complaint with the Labor Commissioner, and enter the **date you filed the complaint**. If you have not filed a retaliation complaint but would like to file one, you may ask DLSE staff for a copy of the retaliation complaint form or download it at: <http://www.dir.ca.gov/dlse/HowToFileRetaliationComplaint.htm>
3. **Union Contract?** Check “YES” if your employment was covered by a **union contract**. If you checked “YES,” then attach a copy of the Collective Bargaining Agreement.
4. **Other Employees Filing Wage Claims?** Check “YES” if you know that other employees are filing wage claims against your employer.

PART 1: Language Assistance & Representation

- 5 a. **Interpreter Needed?** Check “YES” if your primary language is not English and you want an interpreter to assist you.
 - b. **Language.** If you checked “YES” to Box 5a indicating that you need an interpreter, enter the language of the interpreter needed.
- 6 a. **Name of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the **name and organization** of the person who is assisting you.
 - b. **Phone Number of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the **phone number** at which your advocate can be contacted.
 - c. **Mailing Address of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the **mailing address** of your lawyer or other advocate. Include the street name and number, as well as any floor or suite number, city, state, and zip code. DLSE will mail copies of information related to your claim to the address of your advocate that you enter here.

PART 2: Your Information

7. **Your First Name.** Enter your **first name**.
8. **Your Last Name.** Enter your **last name**.
9. **Your Home Phone Number.** Enter your **home telephone number, with area code**.
10. **Other Phone Number.** Enter the phone number, with area code, of **another phone** at which DLSE can reach you (for example, a **cell phone** that you use).
11. **Your Date of Birth.** Enter your **date of birth**. Include the month, day, and year.
12. **Your Mailing Address.** Enter your mailing address. Include the street name and number, as well as any floor or apartment number, city, state, and zip code. DLSE will mail copies of information related to your claim to your address that you enter here. **You must inform DLSE immediately of any change in your mailing address.**

PART 3: Claim Filed Against (Employer Information)

13. **Employer/Business Name(s).** Enter the **complete name** of your employer against whom you are filing the claim, to the best of your knowledge. If your employer has more than one business name (including a “doing business as” or DBA name), list all names that you know. **If you are a garment worker or car wash worker, and your employer has closed its business and opened up under a new name, list both the new name (if you know it) and the previous name of your employer.**
14. **Employer License Plate Number.** Enter your employer’s vehicle **license plate number**, if you know this information.
15. **Phone Number of Employer.** Enter the **telephone number** of your employer, **with area code**, if you know this information.
16. **Address of Employer/Business.** Enter the **last known address** of your employer. List the street name; number; floor, suite or room number (if any); city; state; and zip code. This address may be different from the address where you worked (which you should list in Box 17). **If you are a garment worker or car wash worker, and your employer has changed its business address since you worked for the employer, list both the new business address and the previous address, if you know this information.**
17. **Address Where You Worked.** Enter the **address where you performed work**, if different from the address you listed in Box 16. List the street name; number; floor, suite or room number (if any); city; state; and zip code.
18. **Name of Person in Charge.** Enter the **first and last name of the person in charge** at the location where you worked, if you know the name. This could be the owner, your supervisor, a manager, or another person who ran the business or oversaw your work.
19. **Job Title/Position of Person in Charge.** Enter the **job title** of the person in charge, if known. Example: “Floor Manager.”

20. **Type of Business.** Enter the **type of business or industry** in which you worked for your employer.
21. **Type of Work Performed.** Enter the **type of work you did for your employer.**
22. **Total Number of Employees.** Enter the approximate total number of workers employed by your employer, if you know.
23. **Still in Business?** Check “YES” if you know that your employer is still operating its business.
24. **Description of Business Entity.** Check the box indicating whether your employer is a corporation, individually owned, a partnership, a limited liability company (LLC), or limited liability partnership (LLP), if you know this information.

Part 4: Final Wages / Bounced Checks

25. **Date of Hire.** Enter the **month, day, and year that you were hired** by your employer.
26. **Employment Status.** Indicate whether you **still work** for your employer; whether you **quit** your job (include the date that you quit); whether you were **discharged** (include the date that you were discharged); or whether another situation applies (check the “other” box and briefly specify your situation – for example, “on disability leave”).
- 27 a. **Quit with 72 Hours Notice?** If you quit with 72 hours notice, check “YES.”
- b. **Date of Final Paycheck.** If you quit, check “YES” if you have received your final paycheck including all wages owed, and then enter the **month, day, and year** that you received your final paycheck. Under the law, if you quit with 72 hours notice (and you do not have a written contract for a definite period of employment), your final paycheck is due at the time of quitting. If you quit **without** giving 72 hours notice (and you do not have a written contract for a definite period of employment), your final paycheck is due no later than 72 hours after quitting.
28. **Discharged?** If you were discharged, check “YES” if you have received your final paycheck including all wages owed, and then enter the **month, day, and year** that you received your final paycheck. Under the law, if you were discharged, your final paycheck is due and payable immediately.
- 29 a. **Method of Payment.** Check the box to indicate if you were paid by: check, cash, both check and cash, or other method.
- b. **Paycheck Could Not Be Cashed?** Check “YES” if you were paid by check **and** any of your paychecks could not be cashed because your employer has no account with the bank or insufficient funds in the account from which the check was drawn.

Part 5: Hours You Typically Worked

30. **Usually Worked the Same Hours?** Check the box indicating whether you usually worked the same hours and days per week, or instead whether your work hours and/or days of work varied per week or were irregular. **If your work hours or days of work were irregular and you are claiming unpaid wages (for overtime or non-overtime hours worked) or meal and rest period violations, submit the DLSE Form 55 (filled out as best as you can, based on your best estimate of hours worked or any of your own records that you kept of your hours worked).**
31. **Your Typical Work Hours.** Fill out this table ONLY if you generally worked the same number of hours per week. (If your work hours were too irregular to estimate a typical workweek, DO NOT fill out this table, but fill out the DLSE Form 55 instead.) **For each day that you worked in your typical workweek, give your best estimate of the times that you started and stopped working, and that you took for an uninterrupted meal period of at least 30 minutes in which you were relieved of all duty.**
- ∞ **“DAY 1” is the first day of your workweek, “DAY 2” is the second day of your workweek, and so on.** A workweek is any 7 consecutive 24-hour periods, starting with the same calendar day each week, beginning at any hour on any day, so long as it is fixed and regularly recurring. If you do not know what your workweek is and it is not established by your employer, DLSE will use the calendar week starting from 12:01 a.m. on Sunday to midnight on Saturday, with each workday ending at midnight; thus, “DAY 1” of your workweek would be Sunday; “DAY 2” of your workweek would be Monday, and so on.
 - ∞ **Time work started and ended.** For each day that you worked in your typical workweek, enter the time you typically began and ended your day of work, and check the corresponding box for either “am” or “pm.”
 - ∞ **1st meal period start and end time.** For each day that you worked in your typical workweek, if you took an uninterrupted meal period of at least 30 minutes in which you were relieved of all duty, enter the time you typically began and ended your meal period, and check the corresponding box for either “am” or “pm.”
 - ∞ **2nd meal period start and end time.** For each day that you worked in your typical workweek, if you took a second uninterrupted meal period of at least 30 minutes in which you were relieved of all duty, enter the time you typically began and ended your meal period, and check the corresponding box for either “am” or “pm.”
 - ∞ **ONLY IF YOU WORKED A SPLIT SHIFT.** For each day that you worked in your typical workweek, enter the **time your 1st shift ended** (under “1st Shift ended at”) and check the box for either “am” or “pm.” Then enter the **time your 2nd shift began** (under “2nd Shift started at”) and check the box for either “am” or “pm.” Example: Your employer scheduled you to work 2 shifts on the same workday, from 8 am to 12 pm, and then from 5 pm to 9 pm. Under “1st Shift ended at” enter “12 pm.” Under “2nd Shift started at” enter “5 pm.” **If you did not work a split shift, do not fill out these boxes.**

Part 6: Payment of Wages

32. **Fixed Amount (“Salaried” Employee)?** Check “YES” if you were paid or promised a fixed amount of wages regardless of the number of hours you worked. Then enter how much money you were **actually paid**, and how frequently (such as per day or every 2 weeks, etc.). If you were promised a different amount, enter that amount, and how frequently you were to be paid.

- 33a. **Hourly Pay?** Check “YES” if you were paid by the hour. Then enter how much you were actually paid per hour. If you were promised a different hourly pay than you received, also enter that amount.
- b. **More than One Hourly Rate?** Check “YES” if you were paid or promised various hourly rates, based on your hours worked or different job tasks, then briefly describe your situation. Example: “Paid \$10 per hour for 30 hours unloading truck, and \$8 per hour for 15 hours checking inventory.”
34. **Paid by Piece Rate?** Check “YES” if you were paid by piece rate.
35. **Paid by Commission?** Check “YES” if you received commission pay.

Part 7: Wages, Compensation & Penalties Owed

36. **Claim(s) and Amount(s).** (NOTE: For claims marked by ***, attach a separate computation form. For vacation pay, fill out the “Vacation Pay Schedule” form; for commission pay, fill out the DLSE Form 155.)
- ∞ **Check the box for each claim you are making, and fill in the claim period and amount earned / claimed.**
 - o **NOTE: Meal period wages.** An employer may not require any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission (IWC). If an employer fails to provide an employee with a meal period in accordance with an applicable order of the IWC, a non-exempt employee may seek one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided. Under most IWC orders, an employer may not employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, or for a work period of more than ten (10) hours without providing a second meal period of not less than 30 minutes, subject to certain waivers by mutual consent or other exceptions. The employee must be relieved of all duty during the 30-minute meal period. **Check the IWC order that applies to you.** No matter how many meal periods are missed in one workday, only one meal period premium is imposed for that day.
 - o **NOTE: Rest period wages.** In general, the IWC orders require employers to authorize and permit non-exempt employees to take rest periods, which insofar as practicable shall be in the middle of each work period. If an employer does not provide an employee a rest period in accordance with an applicable order of the IWC, a non-exempt employee may seek one additional hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. For example, the total amount of rest period time required is 10 minutes if you work more than two hours and up to six hours; 20 minutes if you work more than six hours and up to 10 hours; 30 minutes if you work more than 10 hours and up to 14 hours. However, a rest period does not need to be authorized for employees whose total daily work time is less than three and one-half (3.5) hours. In addition, certain employees are subject to special rest period rules. **Check the IWC order that applies to you.** Authorized rest period time is counted as hours worked and should not be deducted from wages. No matter how many rest periods are missed in one workday, only one rest period premium is imposed for that day.
 - ∞ **Subtotal.** Add together all amounts earned/ claimed, and enter this subtotal.
 - ∞ **Total Amount Paid.** If your employer paid you any compensation relating to your claim(s), enter the total amount paid. For any wages paid, enter the gross amount paid to you.
 - ∞ **Grand Total Owed.** From the **Subtotal** of amounts earned/ claimed, **subtract the Total Amount Paid.**
37. **Penalties.** Check the box(es) if you are also claiming:
- ∞ **Waiting time penalties [Labor Code Section 203].** You may be able to recover waiting time penalties if you were discharged or quit and your employer willfully failed to pay your wages either: at the time you were discharged; at the time of quitting if you gave 72 hours notice; or 72 hours after quitting if you did not give notice. The wages of the employee continue as a penalty from their due date at the same rate until paid or until an action is filed in court. Penalties may continue for up to 30 calendar days and are computed by multiplying the employee’s daily wage rate by the number of days since the payment of wages became due.
 - ∞ **Penalties for “bounced” or dishonored checks [Labor Code Section 203.1].** You may be able to recover such penalties if you were paid with a paycheck that could not be cashed by you because your employer has no account with the bank or insufficient funds in the account from which the check was drawn, and you attempted to cash that check within 30 days of receiving it. You may be entitled to recover a penalty of one day’s pay for each day those wages remain unpaid or until an action is commenced, up to 30 calendar days.

SIGN & DATE THE FORM.

CLEAR

PRINT

Initial Report or Claim

FOR OFFICE USE ONLY

Taken by:

Case#:

Date filed:

IS THIS CLAIM RELATED TO COVID-19? NO ☐ YES ☐

If yes, explain: ☐ Business shut down ☐ Business layoff ☐ Sick leave unpaid/denied ☐ Exclusion pay unpaid

☐ Other (specify):

PRELIMINARY QUESTIONS

1. Is your claim about a **public works project**? [If your answer is "YES," STOP here, DO NOT FILL OUT THIS FORM, and fill out the "PW-1" claim form instead. If your answer is "NO," proceed with this form.]

2. Have you filed a **retaliation complaint** against your employer with the Labor Commissioner?

☐ YES, on: / /
Month Day Year

☐ NO [If you have been retaliated against, you may file a retaliation complaint by filling out another form, "RCI 1 Form"]

3. Is there a **union contract covering your employment**?

☐ YES [If "YES," attach a copy of the Collective Bargaining Agreement.]

☐ NO

4. Are other employees also filing wage claims against your employer? ☐ YES ☐ NO ☐ I DON'T KNOW

Part 1 : LANGUAGE ASSISTANCE & REPRESENTATION

5a. Do you need an interpreter?

☐ YES ☐ NO

5b. If you checked "YES" to Box 5a, enter the language needed

6a. If you are being assisted with your claim by a lawyer or other advocate, enter your ADVOCATE'S NAME and ORGANIZATION

6b. ADVOCATE'S PHONE

()

6c. Your ADVOCATE'S MAILING ADDRESS (Number, Street, Floor, Suite)

CITY

STATE

ZIP CODE

Part 2 : YOUR INFORMATION

7. Your FIRST NAME

8. Your LAST NAME

9. HOME PHONE

10. OTHER PHONE

11. BIRTH DATE

()

()

11a. Your EMAIL ADDRESS

12. Your MAILING ADDRESS (Street Number, Street Name, Apartment Number)

CITY

STATE

ZIP CODE

Part 3 : CLAIM FILED AGAINST (EMPLOYER INFORMATION)

13. EMPLOYER / BUSINESS NAME(S)

14. EMPLOYER'S VEHICLE LICENSE PLATE #

15. EMPLOYER PHONE

()

15a. EMPLOYER'S EMAIL ADDRESS

16. ADDRESS of EMPLOYER / BUSINESS (Street Number, Street Name, Floor, Suite):

CITY

STATE

ZIP CODE

17. ADDRESS where you worked, if different from Box 16 (Number, Street, Floor, Suite):

CITY

STATE

ZIP CODE

18. NAME of PERSON IN CHARGE (First Name, Last Name)

19. JOB TITLE / POSITION of PERSON IN CHARGE

20. TYPE OF BUSINESS

21. TYPE OF WORK PERFORMED

22. TOTAL NUMBER OF EMPLOYEES

23. EMPLOYER STILL IN BUSINESS?

☐ YES ☐ NO ☐ DON'T KNOW

24. Check which box describes your employer, if you know: ☐ CORPORATION ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ LLC ☐ LLP

PRINT YOUR NAME: _____

Part 4 : FINAL WAGES / BOUNCED CHECKS

25. DATE OF HIRE ____/____/____ Month Day Year	26. Check which box applies to you: ☐ Still working for employer ☐ QUIT on ____/____/____ Month Day Year ☐ DISCHARGED on ____/____/____ Month Day Year Other (specify): _____
27a. If you QUIT , did you give 72 hours notice before quitting? ☐ YES ☐ NO	27b. If you QUIT , have you received your final payment of wages including all wages owed? ☐ YES, on: ____/____/____ Month Day Year ☐ NO
28. If you were DISCHARGED , have you received your final payment of wages including all wages owed? ☐ YES, on: ____/____/____ Month Day Year ☐ NO	
29a. How were your wages paid? ☐ BY CHECK ☐ BY CASH ☐ BY BOTH CASH & CHECK ☐ OTHER: _____	29b. If paid by check, did any of your paychecks "bounce" (for example, paycheck could not be cashed because employer has insufficient funds)? ☐ YES ☐ NO

Part 5 : HOURS YOU TYPICALLY WORKED

30. Check which box applies: ☐ My work hours and days of work were usually the same each week that I worked.

☐ My work hours and/or days of work varied per week or were irregular. **If you checked this box and you are claiming unpaid wages or meal and rest period violations, you should also fill out and submit the DLSE FORM 55.**

31. If your work hours and days of work were usually the same each week, give your **BEST ESTIMATE** below of the hours you usually worked and any time you took for a duty-free meal period during your **TYPICAL workweek**. **DO NOT fill this out if your work hours were too irregular to estimate a typical or average workweek (instead fill out the DLSE Form 55).**

	TIME WORK STARTED	TIME WORK ENDED	1st MEAL START TIME (if applicable)	1st MEAL END TIME (if applicable)	2nd MEAL START TIME (if applicable)	2nd MEAL END TIME (if applicable)	ONLY IF YOU WORKED A SPLIT SHIFT:	
DAY 1 of your workweek:	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	1st shift ended at ____ ☐ am ____ ☐ pm	2nd shift started at ____ ☐ am ____ ☐ pm
DAY 2 of your workweek:	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	1st shift ended at ____ ☐ am ____ ☐ pm	2nd shift started at ____ ☐ am ____ ☐ pm
DAY 3 of your workweek:	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	1st shift ended at ____ ☐ am ____ ☐ pm	2nd shift started at ____ ☐ am ____ ☐ pm
DAY 4 of your workweek:	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	1st shift ended at ____ ☐ am ____ ☐ pm	2nd shift started at ____ ☐ am ____ ☐ pm
DAY 5 of your workweek:	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	1st shift ended at ____ ☐ am ____ ☐ pm	2nd shift started at ____ ☐ am ____ ☐ pm
DAY 6 of your workweek:	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	1st shift ended at ____ ☐ am ____ ☐ pm	2nd shift started at ____ ☐ am ____ ☐ pm
DAY 7 of your workweek:	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	____ ☐ am ____ ☐ pm	1st shift ended at ____ ☐ am ____ ☐ pm	2nd shift started at ____ ☐ am ____ ☐ pm

Part 6 : PAYMENT OF WAGES

32. Were you paid or promised a **FIXED amount of wages per pay period**, no matter how many hours you worked (for example, \$400 per week, regardless of how many hours you worked)? YES ☐ NO ☐

I was paid \$ _____ per ☐ day ☐ week ☐ every 2 weeks ☐ month ☐ semi-monthly

I was promised \$ _____ per ☐ day ☐ week ☐ every 2 weeks ☐ month ☐ semi-monthly

33a. Were you an **HOURLY** employee? YES ☐ NO ☐

I was paid \$ _____ per hour.

I was promised \$ _____ per hour.

33b. If you were an **HOURLY** employee, were you paid or promised **more than one hourly rate** (based on the hours you worked or different job tasks)? ☐ YES ☐ NO

If YES, please specify: _____

34. Were you paid by **PIECE RATE**? ☐ YES ☐ NO

35. Were you paid by **COMMISSION**? ☐ YES ☐ NO

Part 7 : WAGES, COMPENSATION & PENALTIES OWED

36. CLAIMS (Check all boxes below that apply)	CLAIM PERIOD: START DATE (Month/ Day/ Year)	CLAIM PERIOD: END DATE (Month/ Day/ Year)	AMOUNT EARNED / CLAIMED
☐ REGULAR WAGES (for non-overtime hours)			\$
☐ OVERTIME WAGES (including double time)			\$
☐ MEAL PERIOD WAGES			\$
☐ REST PERIOD WAGES			\$
☐ SPLIT SHIFT PREMIUM			\$
☐ REPORTING TIME PAY			\$
☐ COMMISSIONS ***			\$
☐ VACATION WAGES ***			\$
☐ BUSINESS EXPENSES			\$
☐ UNLAWFUL DEDUCTIONS			\$
☐ PAID SICK LEAVE			\$
☐ PAID SICK LEAVE Supplemental Paid Sick Leave			\$
☐ OTHER [provide separate explanation]			\$
ENTER SUBTOTAL (add all Amounts Earned/Claimed):			\$
ENTER TOTAL AMOUNT PAID:			\$
GRAND TOTAL OWED [Subtotal minus Total Amount Paid]:			\$

37. Check box(es) if you are claiming:

☐ Waiting time penalties [Labor Code §203]

☐ Penalties for “bounced” checks (checks issued with insufficient funds) [Labor Code §203.1]

☐ Penalties for late payment wages [Labor Code §210]

☐ Liquidated damages for late payment wages [Labor Code §1194.2]

The amounts claimed are based on my best estimates at this time and may be adjusted based on further information, or based on assistance with my claim provided by DLSE.

Signed: _____

Date: _____

Print Name: _____

INSTRUCCIONES PARA LLENAR UN RECLAMO DE SALARIO

- 1) Llene y presente la forma “Reporte Inicial o Reclamo” (Forma 1 DLSE). Si usted no entiende como llenar ninguna de las partes de la forma, por favor lea la **“Guía para Completar el Reporte Inicial o la Forma de Reclamo”** (adjunta a estas instrucciones).
- 2) Junto con su “Reporte Inicial o Reclamo” completo, presente las **Formas DLSE adicionales**, si cualquiera de las siguientes situaciones aplican en su caso:
 - o Si sus **horas de trabajo y/o días de trabajo variaban o eran irregulares** y usted esta reclamando **salarios no pagados (por horas extras u horas regulares trabajadas)** o **por violaciones a su periodo de comida y descanso**, entonces también llene y presente la **Forma DLSE 55**. Llene la Forma DLSE 55 lo mejor que pueda, basado en la mejor estimación de horas trabajadas o cualquiera de sus propios registros que haya guardado de sus horas trabajadas.
 - o Si usted reclama **comisiones de pago**, entonces también llene y presente la **Forma DLSE 155**.
 - o Si usted reclama **salarios de vacaciones**, entonces también llene y presente la forma **DLSE “Programa de Pago de Vacaciones”**
 - o Si a usted lo representa un abogado, podría presentar un cálculo preparado por su abogado en vez de las formas de cálculo anteriormente mencionadas.
- 3) Junto con su Forma de “Reporte Inicial o Reclamo” completa, presente **una COPIA** de los siguientes documentos, si usted los tiene (**NO MANDE DOCUMENTOS ORIGINALES**):
 - o **Registros de Tiempo**. Proporcione una COPIA de cualquiera de sus propios registros que haya guardado de las horas y fechas que usted trabajó y que usted crea que respalden su reclamo. Esto puede incluir, por ejemplo, sus notas, publicaciones, diarios o calendarios en los cuales usted haya marcado sus horas de trabajo.
 - o **Cheques de Pago y Comprobantes de Pago**. Proporcione una Copia de cualquiera de los cheques de pago y comprobantes de pago que haya recibido, mostrando los salarios que a usted le pagaban durante su periodo de reclamo.
 - o **Cheque de Pago(s) Deshonroso (o “Rebotado”)**. Si a usted le pagaron con un cheque que no se pudo cobrar, por que su patrón no tiene cuenta con el banco o no tiene fondos suficientes en la cuenta de la cual el cheque fue elaborado, proporcione una COPIA de cualquiera de esos cheques deshonrados u otra documentación del banco, indicando por qué no se pudo cobrar ese cheque.
 - o **Aviso de Información de Trabajo**. Proporcione una COPIA si usted recibió un Aviso de su patrón después del 1ro de Enero del 2012, que indique su información laboral básica, incluyendo su tarifa de pago, cualquier cantidad de pago por horas extras, ya sea que a usted le pagaron por horas, turno, día, salario semanal, por obra, comisión o de alguna otra manera y su día de pago regular. Su patrón a lo mejor le llamó a esto “Aviso al Empleado” y puede hacer referencia al Código de Sección Laboral que aplica, Sección 2810.05.

NOTA: Es la responsabilidad legal del patrón el de mantener precisos los tiempos del empleado y registros de nómina y proporcionar a los empleados comprobantes de pago cada vez que se les pague (o por lo menos quincenalmente). Para presentar un reclamo, usted no está obligado a mantener sus propios registros de horarios o tener los documentos mencionados anteriormente. Estos documentos han sido pedidos solo si usted los tiene porque podrían ayudar al DLSE a entender mejor su reclamo.

- 4) Si su empleo fué cubierto por medio de un **contrato de unión**, proporcione una copia de su Acuerdo de Negociación Colectiva.

QUE ESPERAR DESPUÉS DE PRESENTAR SU RECLAMO

- 1) **Conferencia de Acuerdo**. En la mayoría de los casos, usted recibirá un Aviso del Comisionado de Labor estableciendo el día y hora para una “Conferencia” en la cual la DLSE va a discutir su reclamo con usted y si su reclamo tiene bases legales para proceder. En la Conferencia, usted y su patrón tendrán la oportunidad de discutir un acuerdo para su reclamo. Para la Conferencia usted **NO** necesita traer ningún testigo, pero esté preparado para discutir si usted tiene algún testigo que pueda testificar por usted en la audiencia, y generalmente acerca de lo que van a testificar (si su reclamo no llega a un acuerdo). Traiga una **copia (no el original)** de cualquier documento que apoye su reclamo, pero no traiga documentos que ya haya presentado con su Reporte Inicial o Forma de Reclamo.
- 2) **Audiencia**. Si su reclamo no llega a un acuerdo en la Conferencia y tiene bases legales para proceder a una audiencia, usted recibirá un Aviso del Comisionado de Labor estableciendo una fecha y hora para una audiencia sobre su reclamo. Debe estar preparado para presentar evidencia para probar su reclamo (por ejemplo, su testimonio, el testimonio de cualquier testigo, si es que tiene uno y/o documentación si es que tiene documentos de apoyo). Por lo tanto, debe estar preparado para traer testigos y documentos, si es que cuenta con ellos. Si cuenta con documentos que apoyen su reclamo, traiga **los documentos originales más dos juegos de copias** a la audiencia. Al final de la audiencia, el oficial de la audiencia le explicará que sucederá después.

Guía para Completar el “Reporte Inicial o Reclamo” (Forma DLSE 1)

Preguntas Preliminares

1. **Obras Públicas.** Un empleado o ex-empleado puede presentar una denuncia por salarios prevalecientes que no le fueron pagados en un proyecto de obras públicas. “Obras Públicas” como está definido en el Código Laboral Secciones 1720 a la 1720.3 incluye “construcción, alteración, demolición, instalación, o trabajo de reparación bajo contrato y pagado por completo o en parte de fondos públicos.” Si usted trabajó en un proyecto público, usted debe DETENERSE aquí. No llene esta Forma, en vez de eso, por favor llene la **forma de reclamo PW-1 (titulada “Obras Públicas–Reporte Inicial”)**. Le puede preguntar al personal del DLSE por la copia de una forma PW-1 o descargarla en: <http://www.dir.ca.gov/dlse/HowToFilePWComplaint.htm>
2. **Represalias.** Es ilegal de parte de un patrón, tomar represalias o discriminarle (por ejemplo, despedirle, amenazar con despedirle, degradarle, suspenderle o disciplinarle) solo porque usted se quejó sobre sus condiciones de trabajo, presentó un reclamo de salario con la DLSE, o brindó información a la DLSE o a cualquier agencia de gobierno, acerca de sus condiciones de trabajo. Marque la casilla de “SI” si ha presentado una queja por represalias con el Comisionado de Labor y ponga la **fecha en que presentó la queja**. Si usted no ha presentado una queja por represalias, pero le gustaría presentar una, le puede preguntar al personal de la DLSE por una copia de la forma para queja o descargarla en: <http://www.dir.ca.gov/dlse/HowToFileRetaliationComplaint.htm>
3. **¿Contrato de Unión?** Marque “SI”, si su empleo fue cubierto por un **contrato de unión**. Si usted marcó “SI,” entonces adjunte una copia del Acuerdo de Negociación Colectiva.
4. **¿Otros Empleados han Presentado Reclamos de Salario?** Marque “SI”, si usted sabe que otros empleados han presentado reclamos de salario contra su patrón.

PARTE 1: Asistencia de Idioma Y Representación

- 5 a. **¿Necesita Intérprete?** Marque “SI” si su lengua natal no es el Inglés y si usted quiere que le asista un intérprete.
 - b. **Idioma.** Si usted marcó “SI” en la casilla 5a, indicando que necesita un intérprete, escriba el idioma del intérprete que necesita.
- 6 a. **Nombre del Abogado.** Si usted está siendo asistido con su reclamo, por un abogado u otro defensor, escriba el **nombre y organización de la persona que le está asistiendo**.
 - b. **Número de Teléfono del Abogado.** Si usted esta siendo asistido con su reclamo por un abogado u otro defensor, escriba **el número de teléfono** en el cual su abogado puede ser contactado.
 - c. **Dirección de correo del Abogado.** Si usted esta siendo asistido con su reclamo por un abogado u otro tipo de defensor, escriba la **Dirección de correo** de su abogado u otro defensor. Incluya el nombre de la calle y el número, así como el número de piso o suite, ciudad, estado y código postal. La DLSE va a enviar copias de la información relacionada a su reclamo a la dirección de su abogado, la cual usted ingresó aquí.

PARTE 2: Su Información

7. **Su Nombre.** Escriba su **nombre**.
8. **Su Apellido.** Escriba su **apellido**.
9. **El Número de Telefono de su Hogar.** Ingrese el **Número de Telefono de su Hogar, con código de area**.
10. **Otro Número de Telefono.** Ingrese el número de telefono, con código de area, de **otro teléfono** en el cual DLSE pueda localizarle (por ejemplo el **teléfono celular** que usted use).
11. **Su Fecha de Nacimiento.** Ingrese su **Fecha de Nacimiento**. Incluya mes, día y año.
12. **Su Dirección de correo.** Ingrese su dirección de correo. Incluya el nombre y número de la calle, así como cualquier piso o número de departamento, ciudad, estado y código postal. La DLSE enviará copias por correo de la información relacionada con su reclamo, a la dirección de correo que ingresó aquí. **Usted debe informarle al DLSE inmediatamente de cualquier cambio en su dirección de correo.**

PARTE 3: Demanda Interpuesta Contra (Información del Patrón)

13. **Patrón/Nombre(s) del (los) Negocio(s).** Escriba el **nombre completo** de su patrón contra quien usted está presentando el reclamo, lo más que usted sepa. Si su patrón tiene más de un nombre de negocio (incluyendo “haciendo negocio como” o nombre DBA), enliste todos los nombres que usted conozca. **Si usted es un trabajador de la confección o un trabajador de lava coches, y su patrón ha cerrado su negocio y lo abrió bajo un nuevo nombre, mencione ambos nombres, el nuevo (si usted lo sabe) y el nombre anterior de su empleador.**
14. **Número de Placa de Licencia del Patrón.** Escriba el **número de placa** del vehículo de su patrón, si usted sabe esta información.
15. **Número de Teléfono de su Patrón.** Escriba el **número de teléfono** de su patrón, **con código de area**, si usted sabe esta información.
16. **Dirección del Patrón/Negocio.** Escriba la **última dirección conocida** de su patrón. Liste el nombre de la calle; número; piso, suite o número de cuarto (en cualquier caso); ciudad; estado; y código postal. Esta dirección podría ser diferente a la dirección donde usted trabajó (lo que usted debe listar en la casilla 17). **Si usted es un trabajador de la confección o un trabajador de lava coches y su patrón ha cambiado la dirección de su negocio** desde que usted trabajó para su patrón, **liste ambas direcciones, la del nuevo negocio y la dirección previa**, si usted sabe esta información.
17. **Dirección de Donde Usted Trabajaba.** Escriba la **dirección donde usted desarrollaba su trabajo**, si es diferente que la dirección que usted listó en la casilla 16, entonces liste el nombre de la calle; número; piso; suite o número de cuarto (cualquiera de estas); ciudad; estado y código postal.
18. **Nombre de la Persona a Cargo.** Escriba el **nombre y apellido de la persona a cargo** en el lugar donde usted trabajaba, si es que sabe el nombre. Podría ser el dueño, supervisor, un gerente u otra persona que se encargara del negocio o que revisara su trabajo.

19. **Puesto/Posición de la Persona a Cargo.** Introduzca el **puesto** de la persona responsable, si es que lo sabe. Ejemplo: “Gerente de Piso.”
20. **Tipo de Negocio.** Escriba el **tipo de negocio o industria** en la cual usted trabajó para su patrón.
21. **Tipo de Trabajo Desempeñado.** Escriba el **tipo de trabajo que usted desempeñó para su patrón.**
22. **Total de Número de Empleados.** Escriba aproximadamente el número de empleados contratados por su patrón, si es que lo sabe.
23. **¿Todavía en el Negocio?** Marque “SI”, si usted sabe que su patrón sigue operando su negocio.
24. **Descripción de la Entidad del Negocio.** Marque la casilla indicando si su patrón es una corporación, único dueño, sociedad, compañía de responsabilidad limitada (LLC, por sus siglas en inglés), si usted sabe esta información.

Parte 4: Salario Final / Cheques Rebotados

25. **Fecha de Contratación.** Escriba el **mes, día, y año en que usted fue contratado** por su patrón.
26. **Situación Laboral.** Indique si usted **sigue trabajando** para su patrón; si es que usted **renunció** a su trabajo (indique el día en que renunció); si es que fue **despedido** (incluya la fecha en que fue despedido); o si alguna otra situación aplica (marque la “otra” casilla y brevemente especifique su situación - por ejemplo, “permiso por incapacidad”).
- 27 a. **¿Renuncia con Notificación de 72 Horas?** Si usted renunció con una notificación de 72 horas, marque “SI”.
- b. **Fecha del Último Cheque.** Si usted renunció, marque “SI”, si usted ha recibido su último cheque de pago, incluyendo todos sus salarios debidos, escriba el **mes, día, año** en que usted recibió su cheque de pago final. Bajo la ley, si usted renuncia con una notificación de 72 horas (y usted no cuenta con un contrato escrito por un periodo definido de trabajo), su cheque de pago final debe estar listo al momento en que usted renuncie. Si usted renuncia **sin** haber dado una notificación de 72 horas (y usted no cuenta con un contrato escrito por un periodo definido de trabajo), su cheque de pago final debe estar listo en no más de 72 horas después de haber renunciado.
28. **¿Despedido?** Si usted fue despedido, marque “SI”, si usted ya recibió su cheque final de pago, incluyendo los salarios a deber y después escriba el **mes, día y año** en que usted recibió su cheque final de pago. Bajo la ley, si usted fue despedido, su cheque final de pago debe estar listo y pagable inmediatamente.
- 29 a. **Método de Pago.** Marque la casilla que indica si a usted le pagaron por medio de: cheque, efectivo, ambos cheque y efectivo o por otro método.
- b. **¿El Cheque de Pago No Se Puede Cobrar?** Marque “SI”, si a usted le pagaron por medio de cheque y cualquiera de sus cheques no pudo ser cobrado porque su patrón no tiene cuenta con el banco o los fondos son insuficientes en la cuenta de la cual el cheque fue girado.

Parte 5: Horarios en los que Usted Trabajaba Usualmente

30. **¿Usualmente Usted Trabajaba Las Mismas Horas?** Marque la casilla que indica si usted usualmente trabajaba las mismas horas y días por semana o en vez usted trabajaba horas y/o días variados o variaban por semana o eran irregulares. **Si sus horas de trabajo o días de trabajo eran irregulares y usted está reclamando salarios no pagados (por horas-extras o regulares trabajadas) o violaciones de tiempo de comida o de periodos de descanso, presente la Forma DLSE 55 (Ílénela lo mejor que usted pueda, basado en su mejor cálculo de horas trabajadas o cualquiera de sus propios archivos, que usted haya guardado de sus horas trabajadas).**
31. **Sus Típicas Horas de Trabajo.** Llene esta tabla SOLAMENTE si usted generalmente trabajó el mismo número de horas por semana. (si sus horas de trabajo eran tan irregulares como para calcular una típica semana laboral, NO llene esta tabla, pero si llene La Forma DLSE en vez.) **Por cada día que usted trabajó en su típica semana laboral, dé su mejor cálculo de los tiempos en que usted empezaba y terminaba de trabajar y que tomó para un interrumpido periodo de comida de al menos 30 minutos, en los cuales se liberó de todas sus actividades laborales.**
 - **“DÍA 1” es el primer día de su semana de trabajo, “DÍA 2” es el segundo día de la semana de trabajo y así sucesivamente.** Una semana laboral consta de 7 periodos consecutivos de 24-horas, empezando con el mismo día del calendario cada semana, empezando a cualquier hora, en cualquier día, mientras este compuesto y regularmente recurrente. Si usted no sabe cual es su semana laboral y no está establecida por su patrón, la DLSE usará el calendario laboral, empezando desde las 12:01 a.m. del Domingo a la medianoche del Sábado, con cada día de trabajo terminando a la media noche; por lo tanto, el “DÍA 1” de su semana laboral va a ser el Domingo; “DÍA 2” de su semana será el Lunes y así consecutivamente.
 - **El Tiempo de Trabajo Empezó y Terminó.** Por cada día que usted trabajó en su típica semana laboral, escriba la hora en que usted usualmente empezaba y terminaba su día de trabajo y marque la casilla correspondiente por “am” o “pm”.
 - **Comienzo y Final del 1er periodo de comida.** Por cada día que usted trabajó en su típica semana laboral, si usted tomó un periodo de comida, de al menos 30 minutos, en el cual usted se liberó de todas las labores, ingrese la hora en que usted usualmente empezaba y terminaba su periodo de comida, y marque las casillas correspondientes de “am” o “pm”.
 - **Comienzo y Final del 2do periodo de comida.** Por cada día que usted trabajó en su típica semana laboral, si usted tomó un Segundo interrumpido periodo de comida, de al menos 30 minutos, en el cual usted se liberó de todas las labores, escriba la hora en que usualmente usted comenzaba y terminaba su periodo de comida, marque las casillas correspondientes de “am o “pm”.
 - **SOLAMENTE SI TRABAJÓ TURNOS SEPARADOS.** Por cada día que usted trabajó en su típica semana laboral, escriba la **hora en que su 1er turno terminó** (bajo “El 1er Turno terminó a las”) marque la casilla de “am” o “pm.” Después escriba la **hora en que su 2do turno comenzó** (bajo “El 2do Turno comenzó a las”) marque la casilla de “am” o “pm.” Ejemplo: Su patrón le programó trabajar 2 turnos en el mismo día laboral, de las 8 am a las 12 pm y después de las 5 pm a las 9 pm. Bajo “El 1er Turno terminó a las” escriba “12 pm.” Bajo “El 2do Turno comenzó a las” introduzca “5 pm.” **Si usted no trabajó turnos separados, no llene estas casillas.**

Parte 6: Pago de Salarios

32. **¿Cantidad Fija (Empleado “Asalariado”)?** Marque “SI” si a usted le pagaron o le prometieron una cantidad fija de salarios, sin importar el número de horas que usted trabajó. Después escriba cuánto dinero a usted **efectivamente le pagaban**, y con que frecuencia (como por ejemplo, por día o cada dos semanas, etc.). Si a usted le prometieron una cantidad diferente, introduzca la cantidad y con qué frecuencia se la iban a pagar.
- 33 a. **¿Pago por Hora?** Marque “SI” si a usted le pagaban por hora. Después escriba qué cantidad a usted efectivamente le pagaban por hora. Si a usted le prometieron un pago por hora diferente al que recibió, también escriba esa cantidad.
- b. **¿Más de una Tarifa Por Hora?** Marque “SI” si a usted le pagaban o le prometieron varias tarifas por hora, basados en la cantidad de horas trabajadas o en diferentes labores, después brevemente describa su situación. Ejemplo: “Pago de \$10 por hora por 30 horas por descargar un camión, y \$8 por hora por 15 horas por revisar inventario.”
34. **¿Pago por pieza?** Marque “SI” si a usted le pagaban por pieza.
35. **¿Pago por Comisión?** Marque “SI” si usted recibía pago por comisión.

Parte 7: Salarios, Compensaciones Y Penalidades Debidas

36. **Reclamo(s) y Monto(s).** (NOTA: Por reclamos marcados por ***, adjunte una forma de cálculo separada. Para pago de vacaciones, llene la forma de “Horario de vacaciones pagadas”; pago por comisión, llene la Forma DLSE 155.)
- **Revise la casilla por cada reclamo que está haciendo y llene el periodo de reclamo y el monto ganado/reclamado.**
 - o **NOTA: Salarios de Periodos de Comida.** Un patrón no debe exigir que ningún empleado trabaje durante cualquier periodo de comida, mandado por una orden aplicable de la Comisión de Bienestar Industrial (IWC, por sus siglas en inglés). Si un patrón falla en brindar al empleado un periodo de comida de acuerdo a una orden de la IWC, sin excepción el empleado puede pedir una hora adicional de pago bajo la tarifa regular de compensación por cada día de trabajo del periodo de comida que no se le dio al empleado. Bajo la mayoría de las órdenes de la IWC, un patrón no puede contratar a una persona por un periodo de trabajo de 5 horas, sin un periodo de comida de no menos de 30 minutos, o por un periodo de trabajo de mas de 10 horas sin proveerle un segundo periodo de comida de no menos de 30 minutos, sujeto a cierta renuncia por mutuo consentimiento u otras excepciones. El empleado debe ser liberado de todas las actividades laborales durante el periodo de comida de 30 minutos. **Revise la orden de la IWC que le aplique a usted.** No importa cuantos periodos de comida se pierdan en 1 día laboral, solo una prima de periodo de comida es impuesta por ese día.
 - o **NOTA: Salarios de Periodos de Descanso.** En general, las ordenes de la IWC requieren a los patrones autorizar y permitir a los empleados periodos de descanso en general, que hasta el momento lo más práctico debe ser a la mitad de la jornada laboral. Si un patrón no le proporciona al empleado un periodo de descanso de acuerdo a una orden aplicable por la IWC, un empleado no exento puede buscar una hora adicional de pago a la tarifa de compensacion regular de pago del empleado por cada dia que este periodo no se le dio. El tiempo de descanso autorizado, deben ser basados en el total de horas trabajadas diariamente, con una tarifa neta de tiempo de descanso de 10 minutos por cada 4 horas o mayor fracción del mismo. Por ejemplo, el total de tiempo de descanso requerido es de 10 minutos si usted trabaja más de 2 horas y hasta 6 horas; 20 minutos si usted trabaja más de 6 horas y hasta 10 horas; 30 minutos si usted trabaja más de 10 horas y hasta 14 horas. Sin embargo, un periodo de descanso no debe ser autorizado a los empleados cuyo día de trabajo laboral sea de 3.5 horas diarias. Además, ciertos empleados están sujetos a reglas especiales del periodo de descanso. **Verifique la orden del IWC que le aplique a usted.** El resto del tiempo autorizado es contado como horas trabajadas y deben ser deducidos de los salarios. No importa cuantos periodos de descanso se pierdan en 1 día laboral, solo la prima del 1er día de trabajo está impuesta.
 - **Subtotal.** Sume las cantidades ganadas/reclamadas juntas y escriba este subtotal.
 - **Cantidad Total Pagada.** Si su patrón le pagó cualquier compensación relativo a su reclamo(s), escriba la cantidad total pagada. Por cualquier salario pagado, escriba el importe bruto pagado a usted.
 - **Gran Total debido.** Del **Subtotal** de las cantidades ganadas/reclamadas, **reste la Cantidad Total Pagada.**
37. **Penalizaciones.** Marque la casilla(as) si usted también esta reclamando:
- **Penalizaciones por Tiempo de Espera [Código del Trabajo Sección 203].** Usted podría recuperar penalizaciones por tiempo de espera si usted fue despedido o renunció y su patrón falló en pagarle sus salarios también: en el momento que fue despedido; en el momento de renunciar, si usted dio una notificación de 72 horas; o 72 horas después de renunciar si usted no dio ninguna notificación. Los salarios de los empleados continúan siendo una penalización desde la fecha de vencimiento, con la misma tarifa hasta que se pague o hasta que haya una acción presentada en la corte. Las penalizaciones pueden continuar hasta 30 días de calendario y son computadas por la multiplicación de la tarifa del salario diario del empleado por el número de días que el pago de salarios venció.
 - **Penalizaciones por cheques “rebotados” o deshonorosos [Código del Trabajo Sección 203.1].** Usted podrá recobrar tales penalizaciones si a usted le pagaron con un cheque que no se pudo cobrar, por que su patrón no tiene cuenta con el banco o por que los fondos de la cuenta de la cual el cheque fué girado son insuficientes y usted intentó cobrar ese cheque en los 30 días de haberlo recibido. Usted tendrá derecho a recobrar una penalización de un día de pago, por cada día que esos salarios permanezcan sin pagar o hasta que una acción haya iniciado, hasta 30 días de calendario.

FIRME Y FECHÉ LA FORMA.

BORRAR

IMPRIMIR

Informe o Reclamo Inicial

PARA USO OFICIAL ÚNICAMENTE

Recibido por:

Caso #:

Presentado en la fecha:

¿ESTE RECLAMO ESTÁ RELACIONADO CON EL COVID-19? NO ☐ SÍ ☐ En caso afirmativo, explique:

☐ Cierre de negocio ☐ Despido ☐ Horas de enfermedad impagas/negadas ☐ Pago de exclusión no pagado
☐ Otro (especificar):

PREGUNTAS PRELIMINARES

- ¿Su reclamo se trata de una obra pública? [Si su respuesta es "SÍ", DETÉNGASE AQUÍ, NO COMPLETE ESTE FORMULARIO, complete el formulario de reclamo "PW-1". Si su respuesta es "NO" continúe con este formulario].
- ¿Ha completado una denuncia de represalia contra su empleador con el Comisionado Laboral?
☐ SÍ, en: / / Año ☐ NO [Si tomaron represalias contra usted, puede presentar una denuncia por represalia con el formulario, "FORMULARIO DLSE 205"].
- ¿Hay un contrato sindical que proteja su empleo?
☐ SÍ [Si su respuesta es "SÍ," adjunte una copia del convenio colectivo vigente.]
☐ NO
- ¿Hay otros empleados que vayan a presentar demandas salariales contra su empleador? ☐ SI ☐ NO ☐ NO LO SÉ

Parte 1: ASISTENCIA CON EL IDIOMA & REPRESENTACIÓN

5a. ¿Necesita un intérprete? ☐ SÍ ☐ NO	5b. Si contestó que "SÍ" en el recuadro 5a ingrese el idioma que necesita		
6a. Si lo está asistiendo con su reclamo un abogado o un defensor, ingrese el NOMBRE DE SU ABOGADO y LA ORGANIZACIÓN		6b. TELÉFONO ABOGADO ()	
6c. La DIRECCIÓN DE SU ABOGADO (número, calle, piso, suite)		CIUDAD	ESTADO CODIGO POSTAL

Parte 2: SU INFORMACIÓN

7. Su NOMBRE	8. Su APELLIDO	9. TELÉFONO FIJO ()	10. OTRO TELÉFONO ()	11. FECHA DE NACIMIENTO
11a. Su CORREO ELECTRÓNICO				
12. Su DIRECCIÓN (número, calle, número de departamento)		CIUDAD	ESTADO	CÓDIGO POSTAL

Parte 3: RECLAMO PRESENTADO EN CONTRA DE (INFORMACIÓN DEL EMPLEADOR)

13. EMPLEADOR / NOMBRE DEL NEGOCIO(S)		14. NÚMERO DE MATRÍCULA DEL VEHÍCULO DEL EMPLEADOR	15. teléfono EMPLEADOR	
		15a. DIRECCIÓN DEL EMPLEADOR		
16. DIRECCIÓN del EMPLEADOR / NEGOCIO (número, calle, piso, suite):		CIUDAD	ESTADO	CÓDIGO POSTAL
17. DIRECCIÓN donde usted trabaja, si trabaja en una dirección diferente del recuadro (número, calle, piso, suite):		CIUDAD	ESTADO	CÓDIGO POSTAL
18. NOMBRE de la PERSONA A CARGO (nombre, apellido)		19. PUESTO / POSICIÓN de LA PERSONA A CARGO		
20. TIPO DE NEGOCIO	21. TIPO DE TRABAJO REALIZADO	22. NÚMERO TOTAL DE EMPLEADOS	23. ¿EL EMPLEADOR SIGUE CON EL NEGOCIO ABIERTO? ☐ SÍ ☐ NO ☐ NO LO SÉ	
24. Seleccione la opción que describe a su empleador, si lo sabe: ☐ SOCIEDAD ANÓNIMA ☐ INDIVIDUO ☐ SOCIEDAD ☐ LLC ☐ LLP				

Parte 4: ÚLTIMOS SALARIOS / CHEQUES REBOTADOS

25. FECHA DE CONTRATACIÓN Mes / Día / Año	26. Seleccione la opción que corresponda: ☐ me DESPIDIERON el ____ / ____ / ____ Mes Día Año ☐ Otros (especificar): _____ Todavía trabajo para el empleador ☐ RENUNCIÉ el ____ / ____ / ____ Mes Día Año
27a. Si RENUNCIÓ, ¿dió aviso 72 horas antes de hacerlo? ☐ SÍ ☐ NO	27b. Si RENUNCIÓ, ¿recibió el pago de su último salario, incluido el salario debido? ☐ SÍ, en: ____ / ____ / ____ Mes Día Año ☐ NO
28. Si lo DESPIDIERON, ¿recibió el pago de su último salario, incluido el salario debido? ☐ SÍ, en: ____ / ____ / ____ Mes Día Año ☐ NO	
29a. ¿Cómo le pagaban su salario? ☐ CHEQUE ☐ EFECTIVO ☐ CHEQUE Y EFECTIVO ☐ OTRO: _____	29b. Si le pagaban con cheque, ¿le "rebotaron" alguno (por ejemplo, no pudo cobrar el cheque porque el empleador tenía fondos insuficientes)? ☐ SÍ ☐ NO

Parte 5: HORAS QUE POR LO GENERAL TRABAJABA

30. Seleccione la opción que corresponda: ☐ Mis horas y días de trabajo eran, por lo general, iguales cada semana de trabajo.

☐ Mis horas de trabajo o días de trabajo variaban cada semana o eran irregulares. **Si seleccionó esta opción y reclama un salario o periodo de comida impaga y el incumplimiento de periodos de descanso, también tiene que completar y presentar el FORMULARIO DLSE 55.**

31. Si sus horas y días de trabajo eran, generalmente, iguales todas las semanas, proporcione a continuación su MEJOR CÁLCULO de las horas en las que solía trabajar y todas las veces que tuvo un periodo de comida sin interrupciones durante su semana laboral TÍPICA. NO complete esto si sus horas laborales eran muy irregulares como para estimar una semana laboral típica o promedio (en cambio, complete el formulario DLSE 55).

	EL HORARIO LABORAL COMENZABA	EL HORARIO LABORAL FINALIZABA	HORARIO DE INICIO 1ra COMIDA (si corresponde)	HORARIO DE FINALIZACIÓN 1ra COMIDA (si corresponde)	HORARIO DE INICIO 2da COMIDA (si corresponde)	HORARIO DE FINALIZACIÓN 2da COMIDA (si corresponde)	SOLO SI TRABAJÓ EN HORARIO CORTADO:
DÍA 1 De su semana laboral:	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	1er turno finalizó a las: ____ ☐ a. m. ☐ p. m. 2do turno comenzó a las: ____ ☐ a. m. ☐ p. m.
DÍA 2 de su semana laboral:	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	1er turno finalizó a las: ____ ☐ a. m. ☐ p. m. 2do turno comenzó a las: ____ ☐ a. m. ☐ p. m.
DÍA 3 de su semana laboral:	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	1er turno finalizó a las: ____ ☐ a. m. ☐ p. m. 2do turno comenzó a las: ____ ☐ a. m. ☐ p. m.
DÍA 4 de su semana laboral:	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	1er turno finalizó a las: ____ ☐ a. m. ☐ p. m. 2do turno comenzó a las: ____ ☐ a. m. ☐ p. m.
DÍA 5 de su semana laboral:	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	1er turno finalizó a las: ____ ☐ a. m. ☐ p. m. 2do turno comenzó a las: ____ ☐ a. m. ☐ p. m.
DÍA 6 de su semana laboral:	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	1er turno finalizó a las: ____ ☐ a. m. ☐ p. m. 2do turno comenzó a las: ____ ☐ a. m. ☐ p. m.
DÍA 7 de su semana laboral:	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	☐ a. m. ____ ☐ p. m.	1er turno finalizó a las: ____ ☐ a. m. ☐ p. m. 2do turno comenzó a las: ____ ☐ a. m. ☐ p. m.

Parte 6: PAGO DE SALARIOS

32. ¿Le pagaron o se comprometieron a pagarle una **cantidad FIJA de salario por día, sin importar cuántas horas trabajara** (por ejemplo, \$400 por semana, sin importar las horas trabajadas)? ☐ SÍ ☐ NO

Me pagaron \$_____ por ☐ día ☐ semana ☐ por quincena ☐ mes ☐ bimensual

Se comprometieron a pagarme \$_____ por ☐ día ☐ semana ☐ por quincena ☐ mes ☐ bimensual

33a. ¿Era un empleado que cobraba **POR HORA**? ☐ SÍ ☐ NO

Me pagaban \$_____ por hora.

Se comprometieron a pagarme \$_____ por hora.

33b. Si era un empleado **por HORA**, ¿se le abonó o comprometieron a pagar **más de un pago por hora** (basado en las horas que trabajó o distintas tareas)? ☐ SÍ ☐ NO

Si respondió "Sí", describa: _____

34. ¿Recibía pago **por pieza**? ☐ SÍ ☐ NO

35. ¿Le pagaban **COMISIÓN**? ☐ SÍ ☐ NO

Parte 7 : SALARIOS, REMUNERACIÓN & SANCIONES ADEUDADAS

36. RECLAMOS (Seleccione todas las que correspondan)	PERÍODO DE RECLAMO: FECHA DE INICIO (Mes/Día/Año)	PERÍODO DE RECLAMO: FECHA DE FINALIZACIÓN (Mes/Día/Año)	CANTIDAD OBTENIDA / RECLAMADA
☐ SALARIOS REGULARES (sin horas extras) (Regular Wages)			\$
☐ SALARIO DE HORAS EXTRAS (incluido el tiempo doble) (Overtime Wages)			\$
☐ SALARIOS DE PERÍODO DE COMIDA (Meal Period Wages)			\$
☐ SALARIO DE PERÍODOS DE DESCANSO (Rest Period Wages)			\$
☐ HORARIO SEPARADO COMPENSADO (Split Shift Premium)			\$
☐ PAGO POR PRESENTARSE A TRABAJAR (Reporting Time Pay)			\$
☐ COMISIONES *** (Commission Wages)			\$
☐ VACACIONES PAGADAS*** (Vacation Wages)			\$
☐ GASTOS DE NEGOCIO (Business Expenses)			\$
☐ DEDUCCIONES ILEGALES (Unlawful Deductions)			\$
☐ HORAS DE ENFERMEDAD PAGADAS (Sick Leave)			\$
☐ HORAS DE ENFERMEDAD PAGADAS – BENEFICIO SUPLEMENTARIO (Supplemental Sick Leave)			\$
☐ OTRO [proporcione una explicación por separado]			\$
INGRESE EL SUBTOTAL (agregue todos los importes obtenidos/reclamados)			\$
INGRESE EL MONTO TOTAL PAGADO:			\$
SUMA TOTAL ADEUDADA [Subtotal menos el monto total abonado]:			\$

37. Seleccione las casillas que esté reclamando: ☐ Multas por retraso en los pagos [Código laboral §203]

☐ Multas por cheques "rechazados" (cheques emitidos con fondos insuficientes) [Código laboral §203.1]

☐ Multas por pago de salarios tardíos [Código laboral §210]

☐ Daños liquidados por pago de salarios tardíos [Código laboral §1194.2]

Los montos reclamados están basados en mis cálculos más aproximados en este momento y pueden modificarse basados en información adicional o basado en la ayuda con mi reclamo proporcionado por DLSE.

Firma: _____

Fecha: _____

Su Nombre en Letras de Molde: _____

INSTRUCTIONS AND GUIDE FOR FILING A RETALIATION COMPLAINT

Fill out and submit the “Retaliation Complaint” Form (RCI 1). Please read the following Instructions to ensure that you are completing the Form correctly. Please respond fully to all questions. An incomplete Form will result in delayed processing.

WHAT TO EXPECT AFTER YOU FILE YOUR COMPLAINT

- 1) **Investigation.** In most cases, you will receive a letter from the Labor Commissioner letting you know to whom your complaint has been assigned. After this happens, a deputy will contact you to interview you, and will also most likely interview your witnesses, the employer, and the employer’s witnesses. In addition to the investigation, the deputy may also discuss settlement options with you.
- 2) **Conference & Hearing.** In some cases, you may be asked to come to an office of the Labor Commissioner for a conference or a hearing. If you receive one of these notices, the deputy will explain what you need to bring with you.
- 3) **Determination.** After the deputy concludes his or her investigation, he or she will write a report and the Labor Commissioner’s Office will make a decision, known as a determination, on your case. If the decision is in your favor, the Labor Commissioner’s Office will work with the employer to enforce the decision. If the decision is in the favor of the employer, in certain very limited circumstances you may have a right to an appeal, the details of which you will be described in the determination.
- 4) **Staying in Touch.** It is your responsibility to keep the deputy informed of any address or telephone number changes. If the deputy is unable to locate you, he or she may be forced to close your case.

GUIDE TO COMPLETING “RETALIATION COMPLAINT” FORM (RCI 1)

PRELIMINARY QUESTIONS

These questions are in relation to your current complaint.

1. **Health and Safety Complaint.** If you have made a health and safety complaint to your employer that is related to the complaint you are filing, please check “YES” and indicate the date that you made the complaint, to whom, and that person’s title.
2. **Health and Safety Related Retaliation Complaint.** It is unlawful for an employer to retaliate or discriminate against you (for example, fire, threaten to fire, demote, suspend, or discipline you) because you complain about health and safety. Check the “YES” box if you have made a health and safety related retaliation complaint with the Labor Commissioner’s Office or any other government agency, and enter the date you filed the complaint and the name of the government agency to whom you complained. If you have a health and safety related retaliation complaint, you may also file a complaint with Federal OSHA within 30 days of the event. For information about filing a complaint with Federal OSHA, go to <http://www.OSHA.gov>.
3. **Labor Commissioner Investigation.** It is unlawful for an employer to retaliate or discriminate against you (for example, fire, threaten to fire, demote, suspend, or discipline you) because you speak with a Labor Commissioner Investigator about your working conditions, including speaking with an agent of the Labor Commissioner’s Bureau of Field Enforcement (BOFE). Check the “YES” box if you spoke with a Labor Commissioner investigator (for example, during an inspection of your workplace) about your working conditions, and enter the date on which the conversation took place and the name of the investigator.
4. **Wage Claim.** It is unlawful for an employer to retaliate or discriminate against you (for example, fire, threaten to fire, demote, suspend, or discipline you) because you filed a wage claim with the Labor Commissioner. Check the “YES” box if you filed a wage claim and enter the date on which you filed. If you have not filed a wage claim and would like to file one, you may ask the staff at the Labor Commissioner’s Office for a copy of the wage claim form or download it at <http://www.dir.ca.gov/dlse/HowToFileWageClaim.htm>.
5. **Other Employees Filing Retaliation Claims?** Check “YES” if you know that other employees are filing a retaliation complaint against your employer.

PART 1: Language Assistance & Representation

- 6. a. **Interpreter Needed?** Check “YES” if your primary language is not English and you want an interpreter to assist you.
- 6. b. **Language.** If you checked “YES” to Box 6a indicating that you need an interpreter, enter the language of the interpreter needed.
- 7. a. **Name of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the name and organization of the person who is assisting you.
- 7. b. **Phone Number of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the phone number at which your advocate can be contacted.
- 7. c. **Mailing Address of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the mailing address of your lawyer or other advocate. Include the street name and number, as well as any floor or suite number, city, state, and zip code. The Labor Commissioner’s Office will mail copies of information related to your claim to the address of your advocate that you enter here.
- 7. d. **Email Address of Advocate.** If you are being assisted with your claim by a lawyer or other advocate, enter the email address of your lawyer or other advocate.

PART 2: Your Information

- 8. **Your First Name.** Enter your **first name**.
- 9. **Your Last Name.** Enter your **last name**.
- 10. **Your Home Phone Number.** Enter your **home telephone number, with area code**.
- 11. **Other Phone Number.** Enter the phone number, with area code, of **another phone** at which the Labor Commissioner’s Office can reach you (for example, a **cell phone** that you use).
- 12. **Your Date of Birth.** Enter your **date of birth**. Include the month, day, and year.
- 13. **Your Mailing Address.** Enter your mailing address. Include the street name and number, as well as any floor or apartment number, city, state, and zip code. The Labor Commissioner’s Office will mail copies of information related to your claim to your address that you enter here. **You must inform the Labor Commissioner’s Office immediately of any change in your mailing address.**
- 14. **Email Address.** If you have an email address, please enter it here.

PART 3: Employer Information

- 15. **Employer/Business Name(s).** Enter the **complete name** of your employer against whom you are filing the claim, to the best of your knowledge. If your employer has more than one business name (including a “doing business as” or DBA name), list all names that you know. **If you are a garment worker or car wash worker, and your employer has closed its business and opened up under a new name, list both the new name (if you know it) and the previous name of your employer.**
- 16. **Employer License Plate Number.** Enter your employer’s vehicle license plate number, if you know this information.
- 17. **Phone Number of Employer.** Enter the **telephone number** of your employer, **with area code**, if you know this information.
- 18. **Address of Employer/Business.** Enter the **last known address** of your employer. List the street name; number; floor, suite or room number (if any); city; state; and zip code. This address may be different from the address where you worked (which you should list in Box 19). **If you are a garment worker or car wash worker, and your employer has changed its business address since you worked for the employer, list both the new business address and the previous address, if you know this information.**
- 19. **Address Where You Worked.** Enter the **address where you performed work**, if different from the address you listed in Box 18. List the street name; number; floor, suite or room number (if any); city; state; and zip code.
- 20. **Name of Person in Charge.** Enter the **first and last name of the person in charge** at the location where you worked, if you know the name. This could be the owner, your supervisor, a manager, or another person who ran the business or oversaw your work.
- 21. **Job Title/Position of Person in Charge.** Enter the **job title** of the person in charge, if known. Example: “Floor Manager.”
- 22. **Type of Business.** Enter the **type of business or industry** in which your employer was conducting business.
- 23. **Type of Work Performed.** Enter the **type of work you did for your employer**.
- 24. **Total Number of Employees.** Enter the approximate total number of workers employed by your employer, if you know.
- 25. **Still in Business?** Check “YES” if you know that your employer is still operating its business.
- 26. **Description of Business Entity.** Check the box indicating whether your employer is a corporation, individually owned, a partnership, a limited liability company (LLC), or limited liability partnership (LLP), if you know this information.

PART 4: EMPLOYMENT STATUS

27. **Date of Hire.** Enter the date you were hired. Enter an approximate date if you don't remember the exact date.
28. **Work Status.** Indicate whether you **still work** for your employer; whether you **quit** your job (include the date that you quit); whether you were **discharged** (include the date that you were discharged); whether you were **suspended** (include the date that you were suspended); or whether another situation applies (check the "other" box and briefly specify your situation – for example, "on disability leave").
29. **Rate of Pay.** If you no longer work for the employer, what was your final rate of pay? Example, \$10 per hour. If you are still working for the employer, leave this field blank.
30. **Job Title.** What is your current or final job title? Even if you no longer work for the employer, this information is important to provide.

PART 5: YOUR COMPLAINT

Please be aware that this specific portion of your complaint may be shared with your employer, so do not write the name of any witness for you, such as another employee, colleague, or co-worker that witnessed what happened.

31. **Change at Work.** Employers cannot punish employees for making discrimination or harassment complaints or participating in workplace investigations. Punishment doesn't just mean firing or demotion: It can include other negative employment actions, from being denied a raise or a transfer to a more desirable position to missing out on training or mentoring opportunities. What is the change that happened at work that caused you to come file this complaint? Some of the common reasons are termination, suspension, demotion, change in hours, change in pay, discipline, transfer, and termination. Threats of any of the above may also be considered retaliation. If none of the boxes relates to your case, please indicate other and describe the change at work that gives rise to your complaint in the space beside it. Please note the names of any person who took part in the action, such as your employer, manager, or supervisor. Describe briefly what happened. The action taken is often referred to as the "adverse action."
32. a. **Why Did the Change at Work Happen?** Why did the change, or adverse action, take place? Do you know why your employer took the action you checked off or described in Question 31? Retaliation occurs when an employer punishes an employee for engaging in legally protected activity. For example, getting fired because your employer believes you filed a wage complaint is retaliation, because filing a wage complaint is a legally protected activity. What reason would the employer give to explain the changes you experienced? What right did you exercise, or action did you take? Please describe this clearly.
32. b. **Employer Knowledge.** How did your employer know or suspect the action you took in Question 32a? Did you tell him? Did someone else? Did your manager or supervisor see it happen or say something to let you know she was aware of your activity in Question 32a? Please describe clearly.

Partial List of Protected Activities under California Law

- Complaining about or asserting a right under the Labor Code, which the Labor Commissioner has the power to enforce. For example, complaining about non-payment of overtime, minimum wage, meal or rest breaks, not being provided with itemized statement, or misclassified as an independent contractor or as an exempt employee, requesting a suitable space for breastfeeding, etc. (Labor Code section 98.6).
- Requesting time off for jury duty (Labor Code section 230(a)).
- Requesting time off to attend to a sick child, parent, spouse or domestic partner (protection applies only if employer provides sick leave and you have not exhausted your sick leave entitlement) (Labor Code section 233).
- For employees who are victims of domestic violence, requesting time off to seek medical attention, psychological assistance and such other services (protection applies only if employer has 25 or more employees) (Labor Code section 230.1).
- For employees (including immediate family members) who are victims of a crime, requesting time off to attend to judicial proceedings (Labor Code section 230.2(b)).
- Disclosing information to a government or law enforcement agency where you reasonably believe the information discloses a violation of law. For example, filing a wage claim, cooperating in an investigation by our investigators during an inspection, reporting a health and safety issue to Cal-OSHA (Labor Code section 1102.5).

LABOR COMMISSIONER, STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS – DIVISION OF LABOR STANDARDS ENFORCEMENT

- Complaining about health and safety issues to your employer, your union or a government agency such as Cal-OSHA (Labor Code section 6310).
- Refusing to work where performance of work would result in a “real and apparent hazard” to the employee or coworkers. “Real and apparent hazard” suggests that serious bodily harm or death may result if you perform the work. (Labor Code section 6311).
- Discussing or disclosing your wages, or refusing to agree not to disclose your wages (Labor Code section 232).
- Engaging in political activity of your choice (Labor Code section 1101-1102).
- Taking time off to donate your organ(s) or bone marrow (Labor Code section 1512).
- Complaining about violation of licensing laws and other laws relating to child day care facilities (Health & Safety Code 1596.881).
- Inquiring to the Employment Development Department (EDD) about your rights under the Unemployment Insurance Code or testifying in any proceeding by that agency (Unemployment Insurance Code section 1237).

The above is not a complete list. For a complete listing of the anti-retaliation statutes enforced by the Labor Commissioner, please see <http://www.dir.ca.gov/dlse> or visit your local Labor Commissioner's Office.

PART 6: WITNESSES

If anyone saw or heard anything in connection with the retaliation you are complaining about, please give us their name, title, address, phone number. Briefly describe what they witnessed. **This information is confidential, and the Labor Commissioner will not reveal their identities unless it becomes necessary to do so to proceed with the investigation or for the enforcement of the Labor Commissioner's Determination.**

PART 7: REMEDIES

What do you hope happens as a result of your complaint? If retaliation is proven, employers may have to pay you for your lost wages, reinstate you to your former position, delete any reference to the negative action in your personnel file, post a notice to other employees regarding the retaliation, penalties, and/or agree not to retaliate in the future. Please think carefully about what specifically could resolve this problem for you today.

NEW EMPLOYMENT

Have you started a new job? If you found a new job and you are currently working, check “Yes.” If you are not currently working, check “No.”

Name of new employer. Fill in the name of your current employer if you are currently working at a new job. If you are not currently working, leave blank.

Date you started new job. Fill in the date you began working at your new job. If you are not currently working, leave blank.

Rate of pay. If you are currently working for a new employer, what is your current rate of pay? Example, \$10 per hour. If you are not currently working, leave blank.

AUTHORIZATION TO RELEASE INFORMATION

If you have a health and safety related complaint, please fill out both authorization forms. If your complaint is not related to health and safety, please only fill out the release of personnel file. The personnel file release will allow the investigator access to your employment records for a period of one year.

COMPLAINTS NOT HANDLED BY THE LABOR COMMISSIONER

Work-Related Injury: Complaints of retaliation or discrimination due to a work-related injury, other than misdemeanor complaints, should be filed with the Worker's Compensation Appeals Board. Call 1-800-736-7401 for more information.

Discrimination Based on Race, Religion, Medical Condition, Sexual Orientation, Familial Status, Sex, Marital Status, or National Origin: These cases are handled by the Department of Fair Employment and Housing. Please see <http://www.dfeh.ca.gov> or call 1-800-864-1684 or the Equal Employment Opportunity Commission at <http://www.eeoc.gov> or call 1-800-669-4000.

Retaliation Complaint

PLEASE PRINT OR TYPE ALL INFORMATION

Refer to the accompanying Guide to assist you in filling out this form.

FOR OFFICE USE ONLY		
Taken by:	Office:	Employee Name:
Date filed:	Violation:	Case #:
Wage Complaint: ☐ YES ☐ NO	Action:	SIC #:

PRELIMINARY QUESTIONS

****The following questions are asked in relation to your current complaint ****

1. Have you made a health and safety complaint to your employer or supervisor? ☐ YES, on: _____ To whom: _____, Title: _____ ☐ NO
2. Have you made a health and safety related retaliation complaint against your employer with a government agency? ☐ YES, on: _____ With whom: _____ ☐ NO [If you have a health & safety related retaliation complaint, you may also make a complaint with Federal OSHA within 30 days of the alleged event.]
3. Did you speak with a Labor Commissioner Investigator during an inspection at your worksite? ☐ YES, on: _____ With whom: _____ ☐ NO
4. Have you made a wage claim against your employer with the Labor Commissioner? If so, where? _____ ☐ YES, on: _____ ☐ NO [If you have unpaid wages, you may file a wage claim by filling out another form, "DLSE FORM 1."] Month Day Year
5. Are other employees also filing retaliation claims against your employer? ☐ YES ☐ NO ☐ I DON'T KNOW

Part 1: LANGUAGE ASSISTANCE & REPRESENTATION

6a. Do you need an interpreter? ☐ YES ☐ NO	6b. If you checked "YES" to Box 6a, enter the language needed:			
7a. If you are being helped with your claim by a lawyer or other advocate, enter your ADVOCATE'S NAME and ORGANIZATION:			7b. ADVOCATE'S PHONE	
7c. Your ADVOCATE'S MAILING ADDRESS (Number, Street, Floor, Suite)	CITY	STATE	ZIP CODE	d. Your ADVOCATE'S EMAIL

Part 2: YOUR INFORMATION

8. Your FIRST NAME	9. Your LAST NAME	10. HOME PHONE	11. OTHER PHONE	12. BIRTH DATE
13. Your MAILING ADDRESS (Street Number, Street Name, Apartment Number)		CITY	STATE	ZIP CODE
14. EMAIL				

Part 3: EMPLOYER INFORMATION

15. EMPLOYER / BUSINESS NAME(S)		16. EMPLOYER'S VEHICLE LICENSE PLATE #		17. EMPLOYER PHONE	
18. ADDRESS of EMPLOYER / BUSINESS (Street Number, Street Name, Floor, Suite):		CITY		STATE	ZIP CODE
19. ADDRESS where you worked, if different from Box 18 (Number, Street, Floor, Suite):		CITY		STATE	ZIP CODE
20. NAME of PERSON IN CHARGE (First Name, Last Name)		21. JOB TITLE / POSITION of PERSON IN CHARGE			
22. TYPE OF BUSINESS	23. TYPE OF WORK PERFORMED	24. TOTAL NUMBER OF EMPLOYEES	25. EMPLOYER STILL IN BUSINESS? ☐ YES ☐ NO ☐ DON'T KNOW		
26. Check which box describes your employer, if you know: ☐ CORPORATION ☐ INDIVIDUAL /DBA ☐ PARTNERSHIP ☐ LLC ☐ LLP					

PRINT YOUR NAME: _____

FOR OFFICE USE ONLY

Case #:

Part 4: EMPLOYMENT STATUS

27. DATE OF HIRE _____/_____/_____ Month Day Year	28. Check which box applies to you: ☐ Still working for employer ☐ QUIT on ____/____/____ Month Day Year ☐ DISCHARGED on ____/____/____ Month Day Year ☐ Suspended on ____/____/____ ☐ Other (specify): _____ Month Day Year	
29. If you no longer work for the employer, what was your final rate of pay? \$ _____ / _____ (for example, \$10/hour)	30. Last job title with Employer Job Title: _____	

Part 5: YOUR COMPLAINT

INSTRUCTIONS: Please see the Instructions Sheet to help you answer the following questions. Give a written statement to each question. An incomplete form will result in delays. While it is important to know the names of management involved, **do not include the names of the any of your witnesses on this page.**

31. What changes have occurred at work that caused you to make this complaint?

- ☐ Termination ☐ Suspension ☐ Demotion ☐ Change in hours ☐ Change in pay ☐ Other : _____
- ☐ Disciplinary action/written warning ☐ Threat ☐ Transfer ☐ Forced to resign/quit

Date of change in employment: ____/____/____

Name(s) of person(s) carrying out change: _____ Title: _____

_____ Title: _____

Please describe what happened.

32a. What reason would the employer give for the changes that you experienced that are described in question 31 above? What right did you exercise or action did you take that happened before the change in your employment described in question 31?

32b. Describe how your employer knew about the activity or actions (e.g., exercising your rights) in question 32a.?

PRINT YOUR NAME: _____

FOR OFFICE USE ONLY
Case #:

***THIS PAGE IS CONFIDENTIAL ***

Part 6: WITNESSES

All witnesses are confidential, and the Labor Commissioner will not reveal their identities unless it becomes necessary to proceed with the investigation or to enforce the Labor Commissioner's determination.

33. Please list any witnesses to the events described in questions 31, 32a. and 32b.

Name: _____ Title: _____

Address: _____

Phone Number: _____ Email Address: _____

Describe what they saw or heard in connection to your complaint: _____

Name: _____ Title: _____

Address: _____

Phone Number: _____ Email Address: _____

Describe what they saw or heard in connection to your complaint: _____

Name: _____ Title: _____

Address: _____

Phone Number: _____ Email Address: _____

Describe what they saw or heard in connection to your complaint: _____

Part 7: REMEDIES

Briefly describe what kind of remedy you are seeking. What do you hope happens as a result of filing this complaint?

NEW EMPLOYMENT

Have you started a new job? ☐ Yes ☐ No

Date you started new job: ____ / ____ / ____ (DD/MM/YY)

Name of New Employer: _____

Rate of pay: \$ ____ / ____ (for example, \$10/hour)

I hereby certify that the information I have provided is true to the best of my knowledge and/or recollection.

Signed: _____ Date: _____

Print Name: _____

AUTHORIZATIONS TO RELEASE INFORMATION

PERSONNEL FILE RELEASE:

I, _____, hereby authorize _____
(Full name) (Employer name)
to release my Personnel records to the Division of Labor Standards Enforcement. I specifically
authorize the release of all records in my personnel file.

This authorization is valid for a period of one year from the date of my signature.

Signature of Employee

Date of Signature

Cal-OSHA RELEASE: If you have a health and safety related complaint, please fill out the following release.

I authorize a DLSE investigator to inspect the original file contents and to be provided with a **complete** copy of the file, including the complaint that I filed with Cal-OSHA against the employer named above. By my signature I authorize a Cal-OSHA representative to discuss my complaint and the file detailing the correspondence and investigation into my complaint with the Division of Labor Standards Enforcement.

Signature

Date

Print Name

INSTRUCCIONES Y GUÍA PARA PRESENTAR UNA QUEJA SOBRE REPRESALIAS

Llene y presente el Formulario de “Queja sobre represalias” (RCI 1). Por favor lea las instrucciones siguientes para que pueda llenar el Formulario correctamente. Por favor responda a todas las preguntas completamente. Una forma incompleta causará retrasos en el procesamiento.

QUÉ ESPERAR DESPUÉS DE PRESENTAR UNA QUEJA

- 1) **Investigación.** En la mayoría de los casos, usted recibirá una carta del Comisionado de Labor dándole a conocer a quién se le ha asignado su queja. Luego, un diputado lo contactará para entrevistarle, y también es muy probable que entreviste a sus testigos, al empleador y al testigo del empleador. Además de la investigación, el diputado puede discutir opciones de conciliación con usted.
- 2) **Conferencia y audiencia.** En algunos casos, se le puede pedir que venga a la División de Enforzamiento de Normas Laborales (DLSE, por sus siglas en inglés) para una conferencia o audiencia. Si recibe una de estas notificaciones, el diputado le explicará qué necesita traer.
- 3) **Determinación.** Luego que el diputado concluya su investigación, hará un reporte y la DLSE hará cumplir la decisión, conocida como determinación, en su caso. Si la decisión es a favor de usted, la DLSE trabajará con el empleador para hacer cumplir la decisión. Si la decisión es a favor del empleador, usted tendrá el derecho de apelar, de lo cual se le explicará en la determinación.
- 4) **Mantenerse en contacto.** Es su responsabilidad mantener al diputado informado de los cambios de dirección o número de teléfono. Si el diputado no puede ubicarlo, podrá verse obligado a cerrar su caso.

GUÍA PARA LLENAR EL FORMULARIO DE “QUEJA SOBRE REPRESALIAS” (RCI 1)

PREGUNTAS INICIALES

Estas preguntas son en relación a su queja actual

1. **Queja sobre salud y seguridad.** Si usted ha presentado una queja sobre salud y seguridad a su empleador que está relacionada con la queja que está presentando, por favor marque la respuesta “Sí” e indique la fecha en que presentó la queja, a quién la dirigió, y el cargo de dicha persona.
2. **Salud y seguridad relacionadas con la queja sobre represalias.** Es ilegal que un empleador tome represalias contra usted o lo discrimine (por ejemplo, que lo despidan, que lo amenace con despedirlo, que lo degrade, suspenda o discipline) por el hecho de que usted haya presentado una queja sobre salud y seguridad. Marque la casilla “Sí” si ha presentado una queja sobre represalias relacionada con la salud y seguridad ante la DLSE o cualquier otro organismo gubernamental, y ponga la fecha en que presentó la queja y el nombre del organismo gubernamental ante el cual la presentó. Si ha presentado una queja sobre represalias relacionada con la salud y seguridad, también puede presentar una queja ante la autoridad federal de OSHA, dentro de los 30 días del acontecimiento. Para más información sobre la presentación de la queja ante la autoridad federal de OSHA, visite www.OSHA.gov.
3. **Investigación del Comisionado de Labor.** Es ilegal que un empleador tome represalias contra usted o lo discrimine (por ejemplo, que lo despidan, que lo amenace con despedirlo, que lo degrade, suspenda o discipline) por el hecho de que usted hable con un investigador del Comisionado de Labor acerca de sus condiciones de trabajo, incluyendo el hablar con un agente de la Oficina de Aplicación de la Ley en el Campo (BOFE) del Comisionado de Labor. Marque la casilla “Sí” si habló con un investigador del Comisionado de Labor (por ejemplo durante una inspección de su centro de trabajo) acerca de sus condiciones de trabajo, y ponga la fecha en que dicha conversación ocurrió y el nombre del investigador.
4. **Reclamo de salarios.** Es ilegal que un empleador tome represalias contra usted o lo discrimine (por ejemplo, que lo despidan, que lo amenace con despedirlo, que lo degrade, suspenda o discipline) por el hecho de que usted haya presentado un reclamo

sobre salarios ante el Comisionado de Labor. Marque la casilla “Sí” si presentó un reclamo de salarios y ponga la fecha de dicha presentación. Si no presentó un reclamo de salarios y quisiera presentar uno, puede pedirle al personal de la DLSE una copia de la forma de reclamo de salarios o descargarlo en <http://www.dir.ca.gov/dlse/HowToFileWageClaim.htm>.

5. **¿Están otros empleados presentando reclamos sobre represalias?** Marque “Sí” si sabe que otros empleados están presentando una queja sobre represalias contra su empleador.

PARTE 1: Asistencia con el idioma y representación

6. a. **¿Necesita un intérprete?** Marque “Sí” si su idioma nativo no es el inglés y desea que lo asista un intérprete.
7. b. **Idioma.** Si marcó “Sí” en la casilla 6a indicando que necesita un intérprete, ponga el idioma en que necesita la interpretación.
- a. **Nombre del defensor.** Si lo está asistiendo un abogado u otro defensor con su reclamo, ponga el **nombre y organización** de la persona que le esté asistiendo.
- b. **Nombre y número de teléfono del defensor.** Si lo está asistiendo un abogado u otro defensor con su reclamo, ponga el **número de teléfono** al cual se pueda contactar a su defensor.
- c. **Dirección del defensor.** Si lo está asistiendo un abogado u otro defensor con su reclamo, ponga la **dirección de correo** de su abogado u otro defensor. Incluya el número de calle, el nombre de la calle, el piso o número de oficina, ciudad, estado y código postal. La DLSE enviará por correo copias de la información relacionada con su reclamo a la dirección de su defensor ingresada aquí.
- d. **Dirección de correo electrónico del defensor.** Si lo está asistiendo un abogado u otro defensor con su reclamo, ponga la **dirección de correo electrónico** de su abogado u otro defensor.

PART 2: Su información personal

8. **Primer nombre.** Ponga su **primer nombre**.
9. **Apellido.** Ponga su **apellido**.
10. **Su número de teléfono.** Ponga su **número de teléfono de la casa, incluyendo el código de área**.
11. **Otro número de teléfono.** Ponga el número de teléfono, incluyendo el código de área de **otro teléfono** al cual pueda llamarlo la DLSE (por ejemplo, un **teléfono** celular que use).
12. **Fecha de nacimiento.** Ponga su **fecha de nacimiento**. Incluya el mes, día y año.
13. **Dirección.** Ponga su dirección. Incluya el número de calle, el nombre de la calle, el piso o número de apartamento, ciudad, estado y código postal. La DLSE le enviará por correo copias de la información relacionada con su reclamo a la dirección que ponga aquí. **Usted debe dar aviso de inmediato a la DLSE sobre cualquier cambio de dirección de correo electrónico.**
14. **Dirección de correo electrónico.** Si tiene una dirección de correo electrónico póngala aquí.

PART 3: Información del empleador

15. **Nombre del empleador/negocio.** Ponga el **nombre completo** de su empleador contra el cual está presentando el reclamo, entenderá lo mejor de su conocimiento. Si su empleador tiene más de un nombre comercial (incluya “nombre ficticio”), ponga todos los nombres que conozca. **Si usted es un trabajador de la ropa o es lavador de carros, y su empleador ha cerrado su negocio y ha abierto bajo un nuevo nombre, ponga tanto el nuevo nombre (si lo conoce) como el nombre anterior de su empleador.**
16. **Número de placa del auto de su empleador.** Ponga el **número de placa del auto de su empleador**, si lo conoce.
17. **Número de teléfono del empleador.** Ponga el **número de teléfono** de su empleador, **incluyendo el código de área**, si conoce esta información.
18. **Dirección del empleador/negocio.** . Ponga la **última dirección conocida** de su empleador. Ponga el número de calle, el nombre de la calle, piso, número de oficina (si existe); ciudad, estado, código postal. Esta dirección puede ser diferente a la dirección donde usted trabajaba (la cual debe enumerarse en la casilla 19). **Si usted es un trabajador de la ropa o es lavador de autos, y su empleador ha cambiado la dirección del negocio desde que usted trabajó para el empleador, ponga tanto la nueva dirección como la antigua dirección del negocio**, si conoce esa información.

19. **Dirección en la que usted ha trabajado.** Ponga la dirección en la que usted ha trabajado, de ser diferente a la dirección que puso en la casilla 18. Ponga el nombre de la calle, número, , piso, número de oficina (si existe); ciudad, estado y código postal.
20. **Nombre de la persona a cargo.** Ponga el **primer nombre y apellido de la persona a cargo** del lugar donde usted trabajó, si conoce esa información. Ésta puede ser el propietario, su supervisor, un gerente u otra persona que administraba el negocio o supervisaba su trabajo.
21. **Título del cargo/Posición de la persona a cargo.** Ponga el **título del cargo/posición de la persona a cargo**, de conocer dicha información. Por ejemplo: “Supervisor de piso”.
22. **Tipo de negocio.** Ponga el **tipo de negocio o industria** que su empleador tenía.
23. **Tipo de trabajo realizado.** Ponga el **tipo de trabajo realizado por usted para su empleador.**
24. **Total de número de empleados.** Ponga el total aproximado de número de trabajadores empleados por su empleador, de conocer dicha información.
25. **¿Está todavía operando el negocio?** Marque “Sí” si sabe que su empleador está todavía operando su negocio.
26. **Descripción del tipo de empresa.** Marque la casilla indicando si u empleador es una sociedad anónima, individuo, sociedad de personas, o sociedad de compañía limitada (LLC), o sociedad colectiva de responsabilidad limitada (LLP), de conocer dicha información.

PARTE 4: ESTADO DE EMPLEO

27. **Fecha de contratación.** Ponga la fecha en que fue contratado. Ponga la fecha aproximada si no recuerda la fecha exacta.
28. **Estado del trabajo.** Indique si **todavía trabaja** para su empleador; si **dejó** el trabajo (incluya la fecha que lo dejó); si fue **despedido** (incluya la fecha en que fue despedido); si fue **suspendido** (incluya la fecha en que fue suspendido); o si aplica otra situación (marque la casilla “otros” y explique brevemente su situación – por ejemplo, “permiso por incapacidad”).
29. **Salario por hora.** Si ya no trabaja para el empleador, ¿cuál fue su salario final? Ejemplo, \$10 por hora. Si todavía está trabajando para el empleador, deje este espacio en blanco. .
30. **Título del cargo.** ¿Cuál es el título del cargo actual que tiene? Aun cuando ya no trabaje para el empleador, es importante que proporcione esta información.

PARTE 5: SU QUEJA

Por favor sea conciente que esta parte específica de su queja puede ser compartida con su empleador, por lo que no debe poner el nombre de ningún testigo de usted, tal como el de otro empleado, colega o compañero de trabajo que haya sido testigo de lo sucedido.

31. **Cambio en el trabajo.** Los empleadores no pueden castigar a los empleados por presentar quejas de discriminación u hostigamiento o participar en investigaciones en el centro de trabajo. El castigo no solo significa el despido o degradación: puede incluir otras acciones negativas en el empleo, desde negar un aumento o transferir al empleado a una posición más deseable pero con pérdida de oportunidades de entrenamiento o de recibir consejo o guía en el trabajo. ¿Cuál fue el cambio que se produjo en el trabajo que motivó que usted presente esta queja? Una de las razones comunes son la terminación, suspensión, degradación, cambio de horas, cambio en el pago, disciplina, transferencia y terminación. Las amenazas de cualquiera de las acciones anteriores pueden considerarse como actos de represalia. Si ninguna de las respuestas de las casillas describe su caso, por favor indique otras razones y describa el cambio que causó que presentara su queja. Por favor anote los nombres de cualquier persona que tome parte en la acción, como su empleador, administrador o supervisor. Describa brevemente qué pasó. La acción tomada es a menudo referida como la “acción adversa”.
32. a. **¿Por qué se produjo el cambio en el trabajo?** ¿Por qué se produjo el cambio o acción adversa en el trabajo? ¿Sabe usted por qué su empleador tomó la acción que usted marcó como respuesta en la pregunta 31? La represalia ocurre cuando un empleador castiga a un empleado por participar en actividades que tienen amparo legal. Por ejemplo, es una represalia si usted es despedido porque su empleador cree que usted ha presentado una queja sobre salarios, porque la presentación de una queja sobre salarios es una acción amparada por la ley. ¿Qué razón daría el empleador para explicar los cambios que usted experimentó? ¿Qué derecho ejercería o que acción tomaría usted? Por favor explique con claridad.

32. b. **Conocimiento del empleador.** . ¿Cómo sabía o sospecharía su empleador la acción que usted tomó en la pregunta 32a? ¿Se lo dijo usted? ¿Se lo dijo otra persona? ¿Vio su supervisor o administrador lo que pasó o dijo algo para hacerle saber a usted que era conciente de la acción que usted tomó en la pregunta 32A? Por favor explique con claridad.

Lista de actividades protegidas bajo la ley de California

- El quejarse o hacer valer un derecho bajo el Código de Labor que el Comisionado de Labor tiene el poder de hacer cumplir. Por ejemplo, el quejarse acerca del no pago de horas extras, salario mínimo, comidas o descansos, el no recibir un estado de cuenta detallado, o el ser clasificado como un contratista independiente o como empleado exento, el solicitar un espacio apropiado para la lactancia materna, etc. (Sección 98.6 del Código de Labor).
- El solicitar permiso para actuar como jurado (sección 230a del Código de Labor).
- El pedir permiso para asistir a un hijo, a los padres, al cónyuge o pareja en caso de enfermedad (sección 233 del Código de Labor).
- Para los empleados que sean víctimas de violencia doméstica, el pedir tiempo libre para buscar atención médica, asistencia psicológica y otros servicios similares (la protección se aplica solo si el empleador tiene 25 o más empleados). (Sección 230.1 del Código de Labor)
- El divulgar información a las autoridades del orden o de gobierno, cuando usted crea, que sea razonable, que la divulgación de información es sobre una violación de la ley. Por ejemplo, el presentar una queja sobre salarios, el cooperar en una investigación realizada por nuestros investigadores durante una inspección, el reportar un problema de salud o seguridad a Cal-OSHA (sección 1102.5) del Código de Labor).
- El quejarse acerca de problemas de salud y seguridad ante su empleador, su unión o una autoridad del gobierno, tal como Cal-OSHA). (Sección 6310 del Código de Labor)
- El rehusarse a trabajar cuando el desempeño de labores pudiera resultar en un “peligro real y aparente” para el empleado o compañeros de trabajo. El “peligro real y aparente” sugiere que una lesión corporal grave o la muerte puede resultar si usted desempeña el trabajo (sección 6311 del Código de Labor).
- El discutir o divulgar su salario, o rehusarse a aceptar a no divulgar su salario (sección 6311 del Código de Labor)
- El participar en actividades políticas de su preferencia (sección 1101-1102 del Código de Labor).
- El pedir permiso para la donación de órganos (sección 1512 del Código de Labor).
- El quejarse acerca de la violación de las leyes de permiso y otras leyes relacionadas con las guarderías infantiles (Código de Salud y Seguridad 1596.881).
- El indagar en el Departamento de Desarrollo del Empleado (EED) sobre sus derechos bajo el Código de Seguro del Desempleo o el testificar en un procedimiento regulado por dicho organismo gubernamental (sección 1237 del Código de Salud y Seguridad)

Lo anterior no es una lista completa. Para una lista completa de la legislación contra las represalias cuyo cumplimiento esté a cargo del Comisionado de Labor, por favor visite www.dir.ca.gov/dlse visite la oficina local de la DLSE.

PARTE 6: TESTIGO

Si alguien vio o escucho algo en relación con las represalias de su queja, por favor denos su nombre, cargo, dirección, número de teléfono. Describa brevemente de qué fueron testigos dichas personas. **Esta información es confidencial y el Comisionado de Labor no divulgará sus identidades, a menos que resulte necesario para proceder con la investigación o para hacer cumplir la decisión del Comisionado de Labor.**

PARTE 7: SOLUCIONES

¿Qué espera como resultado de su queja? Si se prueban las represalias, el empleador podría tener que indemnizarle por la pérdida de salarios, reincorporarlo a su posición anterior, eliminar cualquier referencia a la acción negativa en su historia personal, colocar un anuncio informando a otros empleados acerca de las represalias, sanciones y/o aceptar no recurrir a las represalias en el futuro. Por favor, piense con detenimiento acerca de que es lo que concretamente podría resolver este problema para usted hoy.

NUEVO EMPLEO.

Ha comenzado un nuevo empleo.

Si encontró un nuevo trabajo y está trabajando actualmente, marque “Sí”. Si no está trabajando actualmente marque “No.”

Nombre del nuevo empleador. Ponga el nombre de su nuevo empleador si está trabajando actualmente en un nuevo trabajo. Si no está trabajando actualmente deje el espacio en blanco.

Fecha en la que empezó el nuevo trabajo. Ponga la fecha en que empezó sus labores en el nuevo trabajo. Si no está trabajando actualmente, deje el espacio en blanco.

Salario por hora. Si está trabajando actualmente para un nuevo empleador, ¿cuál es el salario por hora? Por ejemplo, \$10 por hora. Si no está trabajando actualmente, deje el espacio en blanco.

AUTORIZACIÓN PARA DIVULGAR INFORMACIÓN

Si usted tiene una queja relacionada a la salud y seguridad, por favor llene ambos formularios de autorización. Si su queja no está relacionada a la salud y seguridad, por favor sólo llene la autorización de divulgación del archivo personal. La autorización de divulgación del archivo personal le permitirá al investigador a tener acceso a su historial laboral por un plazo de un año.

QUEJAS NO MANEJADAS POR EL COMISIONADO DE LABOR

Accidente relacionado con el trabajo: Las quejas sobre represalias o discriminación debido a un accidente relacionado al trabajo, además de una queja por delitos menores, deben ser presentadas ante la Junta de Apelación de Compensación al Trabajador. Para más información, llame al 1-800-736-7401

Discriminación basada en la raza, religión, condición médica, orientación sexual, condición familiar, sexo, estado civil o nacionalidad: Estos casos son manejados por el Departamento de Igualdad de Empleo y Vivienda. Por favor, visite www.dfeh.ca.gov o llame al 1-800-884-1684. O para contactar al Departamento de Igualdad de oportunidades de Empleo visite www.eeoc.gov o llame al 1-800-669-4000.

Queja sobre Represalias

POR FAVOR ESCRIBA O IMPRIMA TODA LA INFORMACION
Consulte la guía adjunta si necesita ayuda para llenar este formulario.

SÓLO PARA USO DE LA OFICINA		
Recibida por:	Oficina:	Nombre del empleado:
Fecha en que se llenó:	Violación:	Caso #:
Queja sobre salarios: ☐ SÍ ☐ NO	Acción:	SIC #:

PREGUNTAS INICIALES

**Se le hacen las preguntas siguientes en relación con su queja actual **	
1. ¿Ha presentado una queja sobre salud y seguridad a su empleador o supervisor? ☐ SÍ, el: ____/____/____ Ante quién: _____, Cargo: _____ ☐ NO	
2. ¿Ha presentado una queja sobre salud y seguridad relacionada con la queja de represalia contra su empleador ante una agencia del gobierno? ☐ SÍ, el: ____/____/____ Ante quién: _____ ☐ NO [Si ha presentado una queja sobre represalias relacionada con la salud y seguridad , también debe presentar una queja ante la autoridad federal de OSHA dentro de los 30 días del evento alegado.]	
3. ¿Habló con un investigador del Comisionado de Labor durante una inspección del centro de trabajo? ☐ SÍ, el: ____/____/____ Ante quién: _____ ☐ NO	
4. ¿Ha presentado un reclamo de salarios contra su empleador ante el Comisionado de Labor? ¿Dónde? ☐ SÍ, el: ____/____/____ ☐ NO [Si tiene salarios no pagados, puede presentar un reclamo de salarios llenando otra forma, "DLSE FORM 1."] Mes Día Año	
5. ¿Están otros empleados presentando también reclamos contra su empleador? ☐ SÍ ☐ NO ☐ NO SÉ	

Parte 1: ASISTENCIA CON EL IDIOMA Y REPRESENTACIÓN

6a. ¿Necesita un intérprete? ☐ SÍ ☐ NO		6b. Si marcó "SÍ" en la casilla 6a, escriba el idioma en que necesita ayuda:		
7a. Si usted está siendo ayudado por un abogado u otro defensor, escriba el nombre del DEFENSOR y la ORGANIZACIÓN:				7b. NÚMERO DE TELÉFONO DEL DEFENSOR ()
7c. DIRECCIÓN DE CORREO DEL DEFENSOR (Número, calle, piso, suite)	CIUDAD	ESTADO	CÓDIGO POSTAL	7d. DIRECCION DECORREO ELECTRÓNICO DEL DEFENSOR

Parte 2: SU INFORMACIÓN

8. PRIMER NOMBRE	9. APELLIDO	10. TELÉFONO DE CASA ()	11. OTRO TELÉFONO ()	12. BIRTH DATE
13. DIRECCIÓN DE CORREO (No. de calle, nombre de la calle, No. de apartamento)		CIUDAD	ESTADO	CÓDIGO POSTAL
14. CORREO ELECTRONICO				

Parte 3: INFORMACIÓN DEL EMPLEADOR

15. NOMBRE DEL EMPLEADOR / NEGOCIO		16. # DE PLACA DEL VEHÍCULO DEL EMPLEADOR		17. TELÉFONO DEL EMPLEADOR ()
18. DIRECCIÓN DEL EMPLEADOR / NEGOCIO (Número de calle, Nombre de lacalle, Piso, Suite):		CIUDAD	ESTADO	CÓDIGO POSTAL
19. DIRECCIÓN donde trabajó, si es diferente de la casilla 18 (Número , nombre , piso, suite):		CIUDAD	ESTADO	CÓDIGO POSTAL
20. NOMBRE de la PERSONA A CARGO (nombre, apellido)		21. TITULO DEL CARGO / POSICIÓN de la PERSONA A CARGO		
22. TIPO DE NEGOCIO	23. TIPO DE TRABAJO REALIZADO	24. TOTAL NÚMERO DE EMPLEADOS	25. ¿ESTÁ EL EMPLEADOR TODAVÍA OPERANDO EL NEGOCIO? ☐ SÍ ☐ NO ☐ NO SÉ	
26. Marque la casilla que mejor describa a su empleador, si usted sabe : ☐ CORPORACION ☐ INDIVIDUO /NOMBRE FICTICIO ☐ SOCIEDAD COLECTIVA ☐ LLC ☐ LLP				

SU NOMBRE EN LETRA DE MOLDE: _____

SÓLO PARA USO DE LA OFICINA

Caso #:

Parte 4: ESTADO DE EMPLEO

27. FECHA DE CONTRATACIÓN _____/_____/_____ Mes Día Año	28. Marque la casilla que describe mejor su caso: ☐ Sigue trabajando para empleador ☐ DEJÉ el trabajo el ____/____/____ ☐ DESPEDIDO el ____/____/____ Mes Día Año ☐ Suspendido el ____/____/____ ☐ Otros (especifique): _____ Mes ____ Día ____ Año ____
29. Si ya no trabaja para el empleador, ¿Cuál fué su salario final? \$ _____/_____ (por ejemplo, \$10 por hora)	30. Último título de trabajo que tuvo con en el empleador Título del Trabajo: _____

Parte 5: SU QUEJA

INSTRUCCIONES: Por favor consulte la Hoja de Instrucciones para ayudarle a responder las preguntas siguientes. Dé una respuesta por escrito a cada pregunta. Un formulario incompleto causará retrasos. Aunque es importante saber los nombres del personal administrativo de la compañía, no incluya los nombres de ninguno de los testigos de usted en esta página.	
31. ¿Qué cambios han ocurrido en el trabajo que causó que usted hiciera esta queja? ☐ Terminación ☐ Suspensión ☐ Degradación ☐ Cambio de horas ☐ Cambio del pago ☐ Otros : _____ ☐ Acción disciplinaria/advertencia por escrito ☐ Amenaza ☐ Transferencia ☐ Forzado a renunciar/dejar el trabajo Fecha de cambio de empleo: ____/____/____ Nombre (s) de persona (s) que realizaron el cambio: _____ Título: _____ Por favor, explique lo ocurrido. _____ Título: _____ _____ _____ _____ _____	
32a. ¿Qué razón daría el empleador para explicar los cambios que usted experimentó y que son descritos en la pregunta 31 anteriormente? ¿Qué derecho ejerció o que acción tomó usted antes del cambio en su empleo descrito en la pregunta 31? _____ _____ _____ _____ _____ _____ _____	
32b. Describa cómo sabía su empleador sobre la actividad o acciones (por ejemplo, ejercer sus derechos) en la pregunta 32a. _____ _____ _____ _____	

SU NOMBRE EN LETRA DE MOLDE: _____

SÓLO PARA USO DE LA OFICINA
Caso #:

ESTA PÁGINA ES CONFIDENCIAL

Parte 6: TESTIGOS

Todos los testigos son confidenciales y el Comisionado de Labor no divulgará sus identidades, a menos que resulte necesario para proceder con la investigación o para hacer cumplir la decisión del Comisionado de Labor.

33. Por favor liste testigos de los eventos descritos en las preguntas 31, 32a. y 32b.

Nombre: _____ Título: _____

Dirección: _____

Número de teléfono: _____ Dirección de correo electrónico: _____

Describa qué vieron u oyeron ellos en conexión con su queja: _____

Nombre: _____ Título: _____

Dirección: _____

Número de teléfono: _____ Dirección de correo electrónico: _____

Describa qué vieron u oyeron ellos en conexión con su queja: _____

Nombre: _____ Título: _____

Dirección: _____

Número de teléfono: _____ Dirección de correo electrónico: _____

Describa qué vieron u oyeron ellos en conexión con su queja: _____

Parte 7: SOLUCIONES

Describa brevemente qué tipo de solución está solicitando. ¿Qué espera usted que suceda como resultado de la presentación de esta queja?

NUEVO EMPLEO

¿Ha empezado un nuevo empleo? ☐ Sí ☐ No

Fecha en que empezó el nuevo empleo: ____/____/____
Mes Día Año

Nombre del nuevo empleador: _____

Salario por hora: \$ ____/____ (por ejemplo \$10 por hora)

Yo, por medio de la presente, certifico que la información que he proporcionado es verdadera y correcta a lo mejor de mi conocimiento y entender.

Firma: _____ Fecha: _____

Nombre: _____

AUTORIZACION PARA DIVULGAR INFORMACIÓN

REVELACIÓN DE ARCHIVO PERSONAL:

I, _____, autorizo a _____
(Nombre completo) (Nombre de empleador)
que divulgue mi historia personal a la División de Enfozamiento de Normas Laborales (DLSE).
Yo específicamente autorizo la divulgación de mi todos los registros de mi archivo personal.

Esta autorización es válida por el periodo de un año de la fecha de mi firma.

Firma del empleado

Fecha de firma

Divulgación de Cal-OSHA: Si tiene un reclamo relacionado con la salud y seguridad, por favor llene la siguiente autorización de divulgación.

Yo autorizo al investigador de DLSE para que inspeccione el contenido del archivo original y para que reciba una copia **completa** del archivo, incluida la queja que presenté ante Cal-OSHA contra el empleador nombrado arriba. Mediante mi firma, yo autorizo al representante de Cal-OSHA para discutir mi queja y el archivo donde se detalla la correspondencia e investigación de mi queja con la División de Enfozamiento de Normas Laborales (DLSE).

Firma

Fecha

Nombre en letra de molde

JUN 17 2011



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: All Field Office Directors
All Special Agents in Charge
All Chief Counsel

FROM: John Morton
Director 

SUBJECT: Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs

Purpose:

This memorandum sets forth agency policy regarding the exercise of prosecutorial discretion in removal cases involving the victims and witnesses of crime, including domestic violence, and individuals involved in non-frivolous efforts related to the protection of their civil rights and liberties. In these cases, ICE officers, special agents, and attorneys should exercise all appropriate prosecutorial discretion to minimize any effect that immigration enforcement may have on the willingness and ability of victims, witnesses, and plaintiffs to call police and pursue justice. This memorandum builds on prior guidance on the handling of cases involving T and U visas and the exercise of prosecutorial discretion.¹

Discussion:

Absent special circumstances or aggravating factors, it is against ICE policy to initiate removal proceedings against an individual known to be the immediate victim or witness to a crime. In practice, the vast majority of state and local law enforcement agencies do not generally arrest victims or witnesses of crime as part of an investigation. However, ICE regularly hears concerns that in some instances a state or local law enforcement officer may arrest and book multiple people at the scene of alleged domestic violence. In these cases, an arrested victim or witness of domestic violence may be booked and fingerprinted and, through the operation of the Secure

¹ For a thorough explanation of prosecutorial discretion, see the following: Memorandum from Peter S. Vincent, Principal Legal Advisor, Guidance Regarding U Nonimmigrant Status (U visa) Applicants in Removal Proceedings or with Final Orders of Deportation or Removal (Sept. 25, 2009); Memorandum from William J. Howard, Principal Legal Advisor, VAWA 2005 Amendments to Immigration and Nationality Act and 8 U.S.C. § 1367 (Feb. 1, 2007); Memorandum from Julie L. Myers, Assistant Secretary of ICE, Prosecutorial and Custody Discretion (Nov. 7, 2007); Memorandum from William J. Howard, Principal Legal Advisor, Prosecutorial Discretion (Oct. 24, 2005); Memorandum from Doris Meissner, Commissioner, Immigration and Naturalization Service, Exercising Prosecutorial Discretion (Nov. 17, 2000).

Communities program or another ICE enforcement program, may come to the attention of ICE. Absent special circumstances, it is similarly against ICE policy to remove individuals in the midst of a legitimate effort to protect their civil rights or civil liberties.

To avoid deterring individuals from reporting crimes and from pursuing actions to protect their civil rights, ICE officers, special agents, and attorneys are reminded to exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints. Particular attention should be paid to:

- victims of domestic violence, human trafficking, or other serious crimes;
- witnesses involved in pending criminal investigations or prosecutions;
- plaintiffs in non-frivolous lawsuits regarding civil rights or liberties violations; and
- individuals engaging in a protected activity related to civil or other rights (for example, union organizing or complaining to authorities about employment discrimination or housing conditions) who may be in a non-frivolous dispute with an employer, landlord, or contractor.

In deciding whether or not to exercise discretion, ICE officers, agents, and attorneys should consider all serious adverse factors. Those factors include national security concerns or evidence the alien has a serious criminal history, is involved in a serious crime, or poses a threat to public safety. Other adverse factors include evidence the alien is a human rights violator or has engaged in significant immigration fraud. In the absence of these or other serious adverse factors, exercising favorable discretion, such as release from detention and deferral or a stay of removal generally, will be appropriate. Discretion may also take different forms and extend to decisions to place or withdraw a detainer, to issue a Notice to Appear, to detain or release an alien, to grant a stay or deferral of removal, to seek termination of proceedings, or to join a motion to administratively close a case.

In addition to exercising prosecutorial discretion on a case-by-case basis in these scenarios, ICE officers, agents, and attorneys are reminded of the existing provisions of the Trafficking Victims Protection Act (TVPA),² its subsequent reauthorization,³ and the Violence Against Women Act (VAWA).⁴ These provide several protections for the victims of crime and include specific provisions for victims of domestic violence, victims of certain other crimes,⁵ and victims of human trafficking.

Victims of domestic violence who are the child, parent, or current/former spouse of a U.S. citizen or permanent resident may be able to self-petition for permanent residency.⁶ A U nonimmigrant visa provides legal status for the victims of substantial mental or physical abuse as

² Pub. L. No. 106-386, §§101-113, 114 Stat. 1464, 1466 (codified as amended in scattered sections of the U.S.C.).

³ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 1464, 1491 (codified as amended in scattered sections of the U.S.C.).

⁴ Pub. L. No. 106-386, §§1001-1603, 114 Stat. 1464, 1491 (codified as amended in scattered sections of the U.S.C.).

⁵ For a list of the qualifying crimes, see INA §101(a)(15)(U)(iii).

⁶ See INA §101(a)(51).

a result of domestic violence, sexual assault, trafficking, and other certain crimes.⁷ A T nonimmigrant visa provides legal status to victims of severe forms of trafficking who assist law enforcement in the investigation and/or prosecution of human trafficking cases.⁸ ICE has important existing guidance regarding the exercise of discretion in these cases that remains in effect. Please review it and apply as appropriate.⁹

Please also be advised that a flag now exists in the Central Index System (CIS) to identify those victims of domestic violence, trafficking, or other crimes who already have filed for, or have been granted, victim-based immigration relief. These cases are reflected with a Class of Admission Code "384." When officers or agents see this flag, they are encouraged to contact the local ICE Office of Chief Counsel, especially in light of the confidentiality provisions set forth at 8 U.S.C. § 1367.

No Private Right of Action

These guidelines and priorities are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

⁷ See INA §101(a)(15)(U).

⁸ See INA §101(a)(15)(T).

⁹ See Memorandum from John P. Torres, Director, Office of Detention and Removal Operations and Marcy M. Forman, Director, Office of Investigations, Interim Guidance Relating to Officers Procedure Following Enactment of VAWA 2005 (Jan. 22, 2007).

Date/fecha: _____

ERO Assistant Field Office Director

Re: Request for Release under ICE Prosecutorial Discretion Guidance on Victims, Witnesses, Participants, and Plaintiffs in Protected Civil Rights Activities

I am writing to request that I be released from ICE custody pursuant to ICE's guidance on prosecutorial discretion for certain victims, witnesses, and plaintiffs, because I have engaged in protected activity related to my civil rights.

On June 17, 2011, John Morton, ICE Director, issued the memorandum "Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs" (hereinafter "Morton Memo").¹ The Morton Memo states that ICE should "exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases" of those pursuing civil rights complaints. The memo further states that "particular attention should be paid" to "plaintiffs in non-frivolous lawsuits regarding civil rights or liberties violations" and "individuals engaging in a protected activity related to civil or other right" related to a dispute with an employer or contractor. Recent lawsuits and their successes against GEO Group in California and Washington are evidence of the non-frivolous nature of such cases.²

As detailed below, my involvement in a civil rights lawsuit and/or other protected civil rights activity, including protesting labor violations by my employer, GEO Group, places me within the Morton Memo's priority categories for discretion.

In addition, I am not a national security risk or a border security risk. I am also not a public security risk for the reasons below.

Finally, I believe that my release is in the public interest for the reasons below.

¹ Memorandum, John Morton, Director, Immigration and Customs Enforcement, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (June 17, 2011), <https://www.ice.gov/doclib/foia/prosecutorial-discretion/certain-victims-witnesses-plaintiffs.pdf>. The Morton Memo has not been rescinded or enjoined by a court.

² *State v. GEO* was brought by the Washington Attorney General on behalf of detained immigrants at GEO's Northwest facility. In November 2021, a jury found for the plaintiffs, and GEO Group was ordered to pay \$17.3 million in back pay for workers and \$5.3 million in unjust enrichment gained through using \$1-a-day labor. The California lawsuit, *Novoa v. GEO*, was brought on behalf of detained workers at GEO's Adelanto facility. In January 2022, a federal judge issued a preliminary decision finding that detained workers in Adelanto's Voluntary Work Program are employees under CA law, including CA's minimum wage law. Order on Motions for Partial Summary Judgment, *Raul Novoa, et. al. v. GEO Group*, Case no. EDCV 17-2514 JGB (C.D. Cal., Jan. 25, 2022). Another recently filed case in California, *Hernandez Gomez v. Geo Group*, Case No. 1:22-at-00532 (ED. Cal., July 13, 2022), seeks to hold GEO Group accountable for numerous serious civil rights violations related to its Voluntary Work Program, including forced labor and failure to pay minimum wage as required under California law.

(Please check the boxes that apply / marque todas las casillas que correspondan):

☐

I am a plaintiff in a non-frivolous lawsuit regarding civil rights and liberties violations / Soy demandante en una demanda judicial sobre derechos y libertades civiles

☐

I am a plaintiff in the lawsuit *Hernandez Gomez v. Geo Group*, Case No. 1:22-at-00532 (ED. Cal., July 13, 2022) (“Dollar-a-Day Lawsuit”) / Soy demandante en la demanda judicial que se llama *Hernandez Gomez v. Geo Group*, Case No. 1:22-at-00532 (ED. Cal., July 13, 2022); or / o

☐

The name of the case I am part of is called / El nombre del caso del que soy parte se llama:

☐

I am engaging in a protected activity related to my civil or other rights / Estoy participando en una actividad protegida relacionada con mis derechos civiles o de otro tipo (For example, if you are engaged in a work stoppage or labor strike because of employment violations you are experiencing, explain that activity here; or if you are involved in a civil rights complaint against the conditions and/or treatment at the detention facility, explain that here / Por ejemplo, si está involucrado en un paro laboral o huelga laboral debido a violaciones laborales que está experimentando, explique esa actividad aquí; o si está involucrado en una denuncia de derechos civiles contra las condiciones y/o el trato en el centro de detención, explique eso aquí):

☐

I have been a witness in a labor or housing dispute, or made a labor or housing complaint / Soy testigo/a en un conflicto laboral o de vivienda, o hice una denuncia laboral o de vivienda

Describe what you witnessed and how you assisted in the investigation, or where and how you made a complaint / Describe lo que fuiste testigo, y cómo ayudaste en la investigación/caso, o con quien y como hiciste una denuncia

☐

I was the victim of a serious crime and I cooperated with the investigation of that crime / Soy víctima de un delito grave y ayudé en la investigación de ese delito³

Describe the crime against you, including where and when it happened / *Describe el delito cometido en tu contra, incluyendo dónde y cuando lo sucedió*

Describe how you assisted in the investigation, including what agency/police department investigated and how you helped them / *Describe cómo ayudaste en la investigación, incluyendo cuál agencia o departamento de policía lo investigó y cómo les ayudaste*

³ In addition to the Morton Memo, subject to the August 10, 2021 ICE Directive 11005.3, “Using a Victim-Centered Approach with Noncitizen Crime Victims” (“ICE Crime Victims Directive”), non-citizen victims of crime should receive special consideration.³ **Absent “exceptional circumstances” as defined in the directive, “ICE will refrain from taking civil immigration enforcement action against known beneficiaries of victim-based immigration benefits** and those known to have a pending application for such benefits.” ICE Crime Victims Directive at 2 (emphasis added). The civil immigration enforcement actions specified in the directive include decisions to detain or release from custody. *Id.* at 3. Moreover, the directive does not limit prosecutorial discretion to those who have already filed for victim-based immigration benefits, but rather apply to any noncitizen crime victim. *Id.* at 1.

☐

I have completed or plan to complete these programs or classes/Completé o completaré los siguientes programas o clases de rehabilitación:

☐

I have community and family support / Tengo el apoyo de la comunidad y/o mi familia (Explain if you have US citizen or permanent resident family members, children who are dependent on you for support, work history and any community members that support you / *Explica si tienes familiares ciudadanos o residentes permanentes, hijos que dependen de ti para apoyo financiero, historia de empleo, y otro apoyo de la comunidad*)

☐

I have other positive factors that outweigh my convictions / Tengo otros factores positivos que superan mis convicciones

☐

I suffer from a serious physical or mental illness / Sufro de una enfermedad física o mental grave

I have these health conditions / Tengo estas condiciones de salud:

Medications I take / Medicamentos que tomo:

My plan if released / Mi plan si salgo de detención:

(Include where and with whom you will live (their name, address and phone number, if possible). Include information about how you will get to that place. If you plan to go to a rehab program or shelter, please include the name of the program or shelter and why you believe they will accept you. / *Incluye donde y con quien vas a vivir (el nombre, la dirección y el número de teléfono de la persona con quien vivirás, si es posible). Incluye información de cómo llegarás a ese lugar. Si tu plan es entrar a un centro de rehabilitación o albergue, por favor escribe el nombre del lugar y porque crees que te van a permitir entrar.*)

Additionally, I believe that my release is in the public interest for the following reasons:

(Please list other reasons you think ICE should release you. Examples: rehabilitation programs or classes you completed; US citizen or permanent resident family members, children who are dependent on you for support, and work history / *Escribe cualquier otra razón porque crees que ICE debe liberarte. Ejemplos: programas de rehabilitación o clases que cumpliste; miembros de tu familia ciudadanos o residentes permanentes, hijos que dependen de ti para apoyo financiero, y historia de empleo*)

Thank you for reviewing my request. I also request that, should you deny my request, you provide me with a decision in writing explaining the reasons for the denial.

Sincerely,

_____ (sign here/*firma aqui*)

Name (*Nombre*):

A Number (*Numero A*):

Attach any documents you'd like to include and submit to your deportation officer/*Adjunta cualquier documento que quiere incluir y entrégaselo a su oficial de deportación*



Process for Requesting Department of Labor Support for Requests to the Department of Homeland Security for Immigration-Related Prosecutorial Discretion During Labor Disputes

Frequently Asked Questions For Workers and Their Representatives

1. Does the Department of Labor take requests to express support for immigration-related prosecutorial discretion for workers involved in labor disputes?

Yes. We consider such requests on a case-by-case basis. Particularly because the Department of Labor (“DOL” or “Department”) does not inquire into immigration status as part of DOL investigations or proceedings, DOL remains open to requests from workers to express DOL support for their requests to the Department of Homeland Security (DHS) seeking immigration-related prosecutorial discretion. For DOL to effectuate the laws under its jurisdiction, regardless of immigration status, workers must feel free to participate in the Department’s investigations and proceedings without fear of retaliation or immigration-related consequences.

DOL’s mission and effective enforcement depends on the cooperation of workers. However, vulnerable workers who lack work authorization or sufficiently “portable” immigration status are often reluctant to report violations, engage with government enforcement agencies, or otherwise exercise their rights. For example, undocumented workers who experience labor law violations may fear that cooperating with an investigation will result in the disclosure of their immigration status or that of family members, or that it will result in immigration-based retaliation from their employers and adverse immigration consequences for themselves or their family. As a result, both workers and the Department face barriers to equitable and effective enforcement of workplace rights and protections, and the many employers that adhere to labor and employment laws face unfair competition.

DOL has long supported prosecutorial discretion on a case-by-case basis, to further enforcement of laws within DOL’s jurisdiction.

This document clarifies the Department’s process for workers and their representatives to request DOL’s support for DHS to exercise prosecutorial discretion on a case-by-case basis to strengthen DOL’s enforcement and worker protection efforts.

2. How do I ask DOL to notify DHS about a labor dispute with my employer and support my request that DHS exercise immigration-related prosecutorial discretion?

Workers who are experiencing a labor dispute at their worksite can notify DOL of the labor dispute and request that DOL submit a “Statement of DOL Interest” in support of a request to DHS for immigration-related prosecutorial discretion. Requesters should send the request to statementrequests@dol.gov with the subject line “Request for Statement of DOL Interest.” In the emailed request, requesters are encouraged to provide enough information for the Department to identify the worksite that is the subject of the labor dispute.

Additionally, requesters are invited to include facts that support any factors listed in FAQ #3 that DOL may consider in responding to these requests, including but not limited to:

- A description of the labor dispute and how it is related to the laws enforced by DOL;
- A description of any retaliation or threats workers at the worksite may have witnessed or experienced related to labor disputes; and
- A description of how fear among workers at the worksite of potential immigration-related retaliation or other immigration enforcement in the future is likely to deter workers from reporting violations related to the labor dispute to DOL or otherwise cooperating with DOL. As relevant, please specify the time, place, and manner of any such facts.

DOL may contact the requester with questions or for additional information necessary to evaluate the request, so it will be helpful to include reliable contact information for the requester. A request may be made by a worker or by an advocate or representative. Requests may be made on behalf of a group of workers.

NOTE: DOL will evaluate requests to determine whether a labor dispute related to a law enforced by DOL exists at a particular worksite and whether and how immigration-related prosecutorial discretion for workers at the worksite would help DOL carry out its enforcement mission and priorities. For more information, see FAQ #3. Disclosure of individual worker names may not be necessary to establish that a labor dispute exists, depending on, for instance, DOL's additional corroborating information.

In the emailed request, requesters should not disclose:

- Individual workers' particular immigration histories or needs;
- Sensitive personally identifiable information, including dates of birth, Social Security Numbers, or Alien Registration Numbers.

Questions about the process outlined above may also be directed to statementrequests@dol.gov before a request is submitted.

3. What factors will the Department consider when deciding whether to provide a Statement of DOL Interest in a worksite's labor dispute?

DOL will assess each request on a case-by-case basis and in consideration of its specific enforcement needs. Factors that may be considered include, but are not limited to:

- DOL's need for witnesses to participate in its investigation and/or possible enforcement;
- Whether DHS's use of immigration-related prosecutorial discretion would support DOL's interest in holding labor law violators accountable for such violations;
- Whether workers are experiencing retaliation, threats of retaliation, or fear retaliation and/or may be "chilled" from reporting violations of the law or participating in DOL enforcement;
- Whether immigration enforcement concerning workers who may be witnesses to or victims of a violation of laws within DOL's jurisdiction could impede DOL's ability to enforce the labor laws or provide all available remedies within its jurisdiction;
- Likelihood that immigration enforcement could be an instrument used to undermine DOL's enforcement of laws in the geographic area or industry and/or give rise to further immigration-based retaliation.

The Department will weigh factors listed above based on the specific circumstances of the labor dispute. DOL may contact the requester with questions or for additional information necessary to evaluate the request.

4. After I submit my request to DOL for a “Statement of DOL Interest” in a labor dispute, what will DOL do?

DOL will determine whether its enforcement interests justify support for a request of prosecutorial discretion by DHS. If so, and in its discretion, DOL may send both DHS and the requester a Statement of DOL Interest informing DHS that DOL believes DHS’s use of its prosecutorial discretion for employees at a particular worksite is necessary for DOL to effectively carry out its mission, and that therefore it supports workers’ requests for immigration-related prosecutorial discretion.

For example, where workers have faced retaliation for complaining about their wages or working conditions, and fear retaliatory immigration action if they participate in a DOL investigation or legal proceeding, DHS’s use of prosecutorial discretion may help to alleviate that fear and further DOL’s investigation or enforcement action. Worker participation strengthens DOL’s ability to obtain redress and employer compliance.

5. How do individual workers who experience a labor dispute ask DHS to exercise its immigration-related prosecutorial discretion in their case?

Workers seeking immigration-related prosecutorial discretion from DHS must make such requests directly to DHS. This FAQ provides information about how a worker could seek a Statement of DOL Interest regarding a labor dispute involving their employer. A worker may wish to first seek a Statement of DOL Interest from DOL and then include it as part of a request to DHS asking for the exercise of prosecutorial discretion in their case.

NOTE: Workers may have additional bases for requesting DHS’s exercise of prosecutorial discretion that are not addressed in this FAQ. For more information, you may wish to seek immigration legal advice. For a list of pro bono legal service providers visit: <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>. A specific outcome for any individual worker cannot be guaranteed; each worker should consider seeking counsel to better understand the individual implications of submitting a request for the use of prosecutorial discretion to DHS.

6. Does a Statement of DOL Interest in a worksite’s labor dispute convey any immigration status or protection to a worker?

No. A Statement of DOL Interest in a labor dispute does not confer immigration status, nor any specific immigration protection, to individual workers. Instead, individual workers may choose to include the Statement of DOL Interest as part of a request directed to DHS that asks DHS to use its prosecutorial discretion.

7. Does the Statement of DOL Interest guarantee that DHS will use immigration-related prosecutorial discretion in a particular case?

No. The decision of whether to exercise immigration-related prosecutorial discretion rests solely with DHS. Support for prosecutorial discretion from DOL does not guarantee that DHS will exercise prosecutorial discretion favorably in any individual case. Individual workers must independently request that DHS exercise its prosecutorial discretion in favor of their request.

8. Which agencies within the Department will consider issuing a Statement of DOL Interest concerning immigration-related prosecutorial discretion?

DOL will currently consider requests for Statements of DOL Interest related to enforcement of laws within the jurisdiction of the Wage and Hour Division (WHD), the Occupational Safety and Health Administration (OSHA), the Office of Federal Contract Compliance Programs (OFCCP), and the Office of Labor-Management Standards (OLMS).

9. Will DOL keep the information contained in my request confidential?

In keeping with DOL's standard practices, to the maximum extent permitted by law, DOL will keep requests for a Statement of DOL Interest confidential. DOL will share Statements of DOL Interest with DHS, but such Statements typically will not contain any personally identifiable information of any individual without their prior permission and notification.

10. How long does the Department expect it will take to respond to these requests?

The Department will endeavor to respond to the requester within 30 days with a determination on the request or a status update. DOL will seek to provide status updates every 30 days after a request remains under consideration.

11. What should a requester expect if the Department declines to provide a Statement of DOL interest in a worksite's labor dispute?

If DOL decides not to provide a Statement of DOL Interest in a labor dispute, the requester or their representative will be informed of the decision as soon as possible. Statements of DOL Interest are wholly discretionary.

If the Department decides not to provide a Statement of DOL Interest in a labor dispute, DOL **will not** communicate with DHS about the request. DOL **does not** enforce worksite immigration law and **will seek to enforce** the relevant laws within its jurisdiction regardless of workers' immigration status.

12. What role does DOL play in DHS's adjudication of an individual worker's request for DHS's use of immigration-related prosecutorial discretion?

The decision about whether to use immigration-related prosecutorial discretion rests solely with DHS. DOL or other law enforcement agencies may inform DHS of a need for immigration enforcement discretion to carry out their missions and may respond to requests for additional information from DHS regarding requests for immigration enforcement discretion.

13. What if I want to add additional information to my initial request to DOL for a Statement of DOL Interest?

Information about the request generally may be supplemented as needed by the requester using the email address provided above.

14. Where can I get more information about whether I should request a Statement of DOL Interest and/or seek DHS's use of immigration-related prosecutorial discretion?

You may wish to seek immigration law advice before deciding whether to request a Statement of DOL Interest or whether to submit a request for the use of prosecutorial discretion to DHS. For a list of pro bono legal service providers visit: <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>. A specific outcome for any individual worker cannot be guaranteed; each worker should consider seeking counsel to better understand the individual implications of submitting a request for the use of prosecutorial discretion to DHS.

15. Can DOL provide a Statement of DOL Interest in a labor dispute to DHS without receiving a request for such a statement?

Yes. Where appropriate, the Department issues Statements of DOL Interest or similar requests regarding a worksite's labor dispute on its own without receiving a request to further the enforcement of its own laws.

Contact: Esperanza Cuautle | 415-254-0475 | advocate[[@](mailto:advocate@pangealegal.org)]pangealegal.org

June 7, 2022

FOR IMMEDIATE RELEASE

Detained Immigrant Workers Formally Announce Labor Strike

Labor strikers issue demands for private prison operator to fulfill

BAKERSFIELD, CA – Today is the 40th day since the individuals detained at the Mesa Verde ICE Detention Facility have been on a labor strike. This is the second labor strike launched within eight months at the facility owned and operated by The GEO Group. Workers enrolled in the “voluntary work program” – who earn \$1 per day to clean the dormitories – coordinated a work stoppage due to the unsanitary and unsafe conditions the private prison operator has subjected them to throughout the ongoing COVID-19 pandemic.

“We don’t understand the hypocrisy: outside of detention we’re not allowed to work because of our immigration status, and here we’re told we *can* work but they only pay us \$1 a day. We feel they’re taking advantage of us and our situation,” said a labor striker inside Mesa Verde. The labor strike is inspired by the mass labor movement and worker unionization taking place across the country, where workers are demanding a living wage, better working conditions, and better worker treatment.

Labor strikers in immigrant detention call on supporters to help amplify their demands:

Detainee treatment: That all individuals detained are treated with respect and dignity by all Mesa Verde officers;

Voluntary Worker Program: That the number of volunteer workers increase to 12 and the worker salary be in accordance with CA Labor Law minimum wage of \$15 per hour;

Facility issued linen and clothing: Per Performance Based National Detention Standards (PBNDS), detained individuals “shall be issued clean clothing, climatically suitable and presentable.” We’re constantly being issued old, torn and unserviceable or indelibly stained linen and clothing. We request this practice to cease. Furthermore, climatically suitable clothing issued: 1) shorts for the summer and 2) sweatpants and wool blankets for winter. Three days of laundry for jumpsuits and an extra pair of shoes to use for the recreational yard.

Personal Hygiene Items: We request hygienic supplies including razors that don’t give razor burns, irritation or cuts to skin (preferably double-blade), shaving cream, deodorant, dental flossers and better quality toothbrushes.

Food Service: We request that hot water be available during all meals. Per PBNDS “better quality food, proportioned servings, food (meals) cooked properly,” more access to and properly washed fruit given at every meal.

Maintenance: Per PBNDS, “safe potable water shall be available throughout the facility”. We request that maintenance to fix and sustain livable conditions in the facility.

Visitation: In accordance with the announcement by ICE regarding a new visitation guidance, we urge a full fledge and reinstatement of in-person visitation at the MV facility just like at GSA, by June 16, 2022. In addition, we request that free virtual visitation be made available so each person at MV has an equal opportunity to see their family members, friends and loved ones.

Health Care: We request that proper health care be provided by MV to all detained individuals, e.g. hire a doctor to be on site and not shared with another facility, to be referred to outside specialists promptly, and offer preventative health care like providing sunscreen in the summer.

Requests to convene a meeting with the facility administrator has been met with hostility, nonetheless, the labor strikers welcome open negotiations with The GEO Group.

Many participants in the “volunteer worker program” rely on the \$1 per day compensation to call their family members and loved ones or purchase items in commissary, which are often expired or moldy, as a new report has found. A fundraiser has been launched to support the labor strikers’ efforts.

###

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Contact: Esperanza Cuautle | 510-910-9325 | advocate[[@](mailto:advocate@pangealegal.org)]pangealegal.org

June 17, 2022

FOR IMMEDIATE RELEASE

Golden State Annex Price-Gouging Initiates Labor Strike

Inedible food in commissary marked-up and heavily taxed

MCFARLAND, CA – Immigrant workers detained at the Golden State Annex (GSA) issued the following statement due to the exorbitant cost of commissary items that are often sold past expiration date, and are now being heavily taxed without advanced notice:

“We are individuals detained at the Golden State Annex. We might be detained here due to our civil immigration matters, however, we are also workers inside this facility. Many of us participate in the “volunteer worker program” to lift some of the financial burden our families must deal with due to the extremely high cost of phone calls and commissary items. We are being exploited for our labor and are paid \$1 per day to clean the dormitories. Meanwhile, private prison corporations like The GEO Group receive tens of millions each year to accommodate us detained in ICE custody.

The food that is provided to us at GSA lacks any level of nutritional value. In fact, we are consistently served spoiled milk and inedible food with foreign objects found in them, as a new report has found. Those of us who get food at the dining hall last are regularly served watered down food because the facility allegedly ran out. GSA is well-aware that many of us rely on the \$1 we earn to purchase items from the commissary to supplement our daily diets as well as make phone calls to our families and loved ones. The commissary items, such as tortillas, Honey Buns, chips, and meat pouches, are not nutritious. The worst part is they are sold past their expiration date, as evident by the mold that grows on the items and their stale flavor.

If this was not enough, GSA increased both prices and taxes on items that we buy frequently without advanced notice. We buy commissary once a week and GSA is pretty much taking a week's worth of pay in taxes per order. Are the millions of taxpayer dollars and profits not enough for The GEO Group? This is a clear sign of exploitation and cruel treatment of every individual at this facility.

Lastly, we stand in solidarity with the workers detained at the Mesa Verde ICE Processing Center who are on their 50th day of strike protesting the unsanitary conditions the facility puts them through, especially during the ongoing pandemic, a situation many of us here also experienced. These are not isolated events as The GEO Group has made clear that their priorities lie in profits over people, a business model that inherently violates human rights to increase profit margin.

We will be on strike until the facility eliminates the commissary tax, provides a variety of items that are not expired, and reduces prices on popular items.”

###

Many participants in the “volunteer worker program” rely on the \$1 per day compensation to call their family members and loved ones or purchase items in commissary, which are often expired or moldy, as a new report has found. A fundraiser has been launched to support the labor strikers’ efforts.

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Immigrant detainee workers strike at California detention centers to protest low pay and hazardous conditions

Max Jones

🕒 29 June 2022

Immigrant detainee workers are on strike in at least two California immigrant prisons, after mounting violations and labor abuses, according to reports received by Northern California Public Radio Station KQED, which received information about the strike directly from detainees.

Unsafe working conditions and heinously low wages have propelled the strike. Workers, who are defined as “housing porters,” reported cleaning bathrooms and dormitories for the nominal wage of \$1 a day, despite the \$15 an hour minimum wage in California.

The two private federal immigrant detention centers in California where the strikes are occurring are operated by the GEO Group, Inc., one of the largest private prison corporations in the United States.

According to statements from detainees to KQED, the migrants in Golden State Annex in McFarland (near Bakersfield in Central California) have been striking since June 6 and in the Mesa Verde Immigration and Customs Enforcement (ICE) Processing Center in Bakersfield since April 28. They are demanding to be paid the minimum wage, as well as sanitary and safe working conditions.

Strikers at Golden State Annex noted in their statement, “We are being exploited for our labor and are being paid \$1 per day to clean the dormitories. ... Meanwhile, private prison corporations like The GEO Group receive tens of millions each year to accommodate us detained in ICE custody.”

The GEO is a sprawling international corporation raking in a revenue of \$551 million in the first quarter of 2022 and operates security facilities in the US, United Kingdom, Australia and South Africa, according to its own website.

These labor strikes are happening as California’s Division of Occupational Safety and Health, also known as Cal/OSHA, is investigating the unsanitary conditions at the Golden State Annex in McFarland due to a complaint filed by the California Collaborative for Immigrant Justice last month on behalf of seven detainees. The complaint accuses GEO of maintaining unsafe facilities, with large spots of black mold in the showers and black fibrous dust particles pushed into the dormitory’s air through HVAC vents.

Mold spores in the air can cause asthma, allergic rhinitis, eczema, respiratory infections such as bronchitis and more, according to the California Department of Health. Doctors for one of the seven detainees in the complaint, Vladimir, discovered a spot on his lung through an X-ray. He told KQED,

“I am afraid because my lung has been impacted. I have problems breathing. ... The dust and mold are bad for our health, and unfortunately, we are in a place where it feels that they don’t care about our health.”

GEO has replied to the workers’ protest by denying there is a strike at either facility, telling KQED, “Choosing not to participate in a voluntary program cannot constitute a labor strike.” This claim shows the corporation’s unwillingness to even acknowledge the grievances of their exploited labor force or even the most rudimentary of workers’ rights.

While GEO is given millions of dollars from the US government to barbarically detain immigrants, they exploit the cheap labor of these immigrants and force them to return their paltry wages for basic necessities that are marked up in prison commissaries. Akin to a company store, this cycle can only be compared to forced labor.

COVID-19 has ripped through jails and prisons for migrants and non-migrants alike across the country throughout the pandemic, highlighting the disregard for human life by the ruling class. Like all the other state-run and for-profit facilities, GEO has flagrantly deprived detainees of basic safety measures during the pandemic, with more than half of all detainees at the Mesa Verde ICE Processing Facility in Bakersfield testing positive for COVID-19 in 2020 due to lack of safety measures, resulting in a class action lawsuit that earned the victims settlements, according to the *Bakersfield Californian*.

Seeking to tamp down popular anger sparked by the exposure of these conditions, President Joe Biden signed an executive order barring the Department of Justice from renewing contracts with for-profit prisons. This resulted in private prison corporations such as GEO shifting more attention and resources to immigration detention facilities which do not fall under the ban.

The GEO and the private prison industry have spent considerable amounts of capital on politicians who enact policies that result in more immigrants getting detained and, therefore, guarantee more profits for the corporation.

According to the National Immigration Justice Center, ICE’s more than 200 immigrant detention centers were given \$3 billion for maintenance by Congress in 2021. Between January 2017 and April 2020, 39 adults died in ICE custody or quickly after being released.

Prison labor is a sizeable economic force in the United States. A June 15 report by the ACLU revealed that prison workers produced \$11 billion worth of goods and services annually, with compensation ranging between a punishing 13 cents to 52 cents per hour. More than half of this wage is spent by prisoners on hygiene products and medical care. Of the prisoners polled, 70 percent said they could not afford basic necessities, and 76 percent said they work under the threat of punishment. Prison workers in Alabama, Arkansas, Florida, Georgia, Mississippi, South Carolina and Texas do most of their work without any compensation at all.

The inhuman conditions in federal prisons have also sparked a hunger strike by 80 inmates at the federal prison in Sheridan, Oregon, according to federal public defender Lisa Hay. She claims that inmates should be released due to inhumane conditions that are unconstitutional. At least six inmates have died in the Federal Correctional Institution in Sheridan since March 2020, allegedly not due to COVID-19.

The dangerous conditions forced upon immigrants and refugees, caused by the policies enacted by Democrats and Republicans and currently enforced by the Biden administration, have resulted in repeated tragedies and reflect a deep hostility to the working class. The Biden administration has continued Donald Trump's "Remain in Mexico" policy and has arrested more immigrants in 2021 than any single year of the Trump presidency.

On June 27, at least 51 undocumented immigrants died crammed into a truck in 103 degree Fahrenheit temperatures in San Antonio, Texas, trying to avoid the Border Patrol and to escape the conditions of their home countries resulting from the intervention of US imperialism.

This comes just a few days after Spanish and Moroccan police took the lives of 37 refugees and injured hundreds attempting to cross the Moroccan border into the Spanish exclave of Melilla. The massacre took place right before a NATO summit held in Madrid, where the PSOE/Podemos government demanded that NATO consider migration as a "hybrid threat," in order to justify stepped-up repression of refugees and imperialist actions in Africa.

On June 13 it was announced that the U.S. Supreme Court had ruled in favor of the Biden administration's challenge of the three lower court rulings that entitled non-citizens to a potential bail hearing while waiting for their objections to deportation to be resolved. These reactionary rulings will result in countless immigrants, who are no threat to society and pose no risk of fleeing, to be trapped and incarcerated, while private corporations exploit their labor through force.

Earlier this June, Australia's Home Affairs Minister Clare O'Neil went to Sri Lanka to demand that President Gotabaya Rajapakse's despised regime stop desperate asylum seekers from leaving their home country, showing the anti-refugee sentiments of the ruling class in Australia.

In 2021, a record 86 million people were estimated to have been forcibly displaced from their homes, a testament to the impact of imperialism and income inequality around the world. The capitalist ruling elite in every country reacts to this reality with disregard for human rights and hostility to the working class through increased measures of oppression against immigrants and refugees.

The militarization of the US-Mexico border and the crackdown on basic human rights for immigrants do not speak to the strength of US imperialism but its weakness and desperation. The working class is an international class and must unite across capitalist borders in order to fight these atrocities and uphold the right of workers to live and work where they please, free from harassment and repression.



NEWS

Immigrant Detainees Strike Over Working Conditions, California Regulators Investigate

**LISTEN** 02:53By [Farida Jhabvala Romero](#) Jun 22 **Save Article**

Protesters gathered outside the Golden State Annex immigrant detention center in McFarland, Calif. on May 29, 2022. The event was part of a statewide effort to call attention to conditions for immigrant detainees. *(Courtesy of Joyce Xi and the*

Dozens of immigrants who clean dormitories and bathrooms for just \$1 a day while locked up at federal detention centers in California are waging a labor strike.

The detainees, who are being held at two privately run facilities in the Bakersfield area as they fight deportation, have been protesting compensation well below the state's \$15/hour minimum wage for weeks. These workers, known as "housing porters," are also demanding the private operator of these facilities address alleged hazardous conditions, inedible food and other issues.

'We are being exploited for our labor and are being paid \$1 per day to clean the dormitories. Meanwhile, private prison corporations like The GEO Group receive tens of millions each year to accommodate us detained in ICE custody.'

—Statement from Golden State Annex strikers

Both of the U.S. Immigration and Customs Enforcement facilities facing a work stoppage — Golden State Annex in McFarland since June 6 and the Mesa Verde ICE Processing Center in Bakersfield for 55 days, according to immigrant advocates — are operated by The GEO Group, one of the largest for-profit prison companies in the U.S.

"We are being exploited for our labor and are being paid \$1 per day to clean the dormitories," strikers at Golden State Annex said in a statement released last week. "Meanwhile, private prison corporations like The GEO Group receive tens of millions each year to accommodate us detained in ICE custody."

Many detainees participate in the volunteer working program to afford what they say are high-cost phone calls and commissary items such as dental floss and tortillas.

GEO, which runs four out of seven active immigration detention centers in California, reported total revenues of \$551 million in the first quarter of 2022. The Florida-based company also operates secure facilities in the United Kingdom, Australia and South Africa.

Sponsored

State regulators launch investigation

The labor strikes come as California's Division of Occupational Safety and Health, also known as Cal/OSHA, is investigating conditions for workers detained at Golden State Annex, in response to a complaint alleging serious violations at the facility.

The complaint to Cal/OSHA, which was filed by the California Collaborative for Immigrant Justice last month on behalf of seven detainees, charges that they work and live in a toxic environment that includes black mold patches up to 10 inches wide in the showers, and black fibrous dust particles that HVAC vents spew into the dormitories.

The company has also allegedly failed to provide these workers with proper protective equipment, cleaning materials and training on how to handle mold-infested areas, according to the complaint.

"The environment here is very, very unsanitary," said Garcia, one of the housing porters who complained to state regulators. "The mold in the showers... is very dangerous, we shouldn't be cleaning there. We've raised the issue countless times with the administration with no result, no solution."

'The environment here is very, very unsanitary. The mold in the showers... is very dangerous, we shouldn't be cleaning there. We've raised the issue countless times with the administration with no result, no solution.'

—Housing Porter Garcia

KQED is not using the full names of complainants, who have requested anonymity from Cal/OSHA during its investigation because they fear retaliation during detention.

The agency, which declined to comment on its inspection, has six months to issue citations if any violations are found.

A California bill enacted last year, AB 263, clarifies that private operators of immigrant detention centers must follow all state occupational health and safety regulations and public health orders.

Vladimir, who was included in the complaint, said he developed a persistent cough and shortness of breath while working at Golden State Annex. He said X-ray images revealed a dark spot in one of his lungs, but it remains undiagnosed. He fears it is connected to exposure to mold.

Breathing mold spores can lead to asthma, respiratory infections, cough and difficulty breathing, according to the California Department of Public Health.

“I am afraid because my lung has been impacted. I have problems breathing,” the father of five said in Spanish. “The dust and mold are bad for our health and unfortunately, we are in a place where it feels that they don’t care about our health.”

The GEO Group responds

A spokesperson for GEO said the company strongly rejects the allegations while also denying a strike is taking place.

“Our ICE Processing Centers, including the Golden State Annex, are maintained in accordance with all applicable federal sanitation standards, with or without the contributions of Voluntary Work Program participants,” the spokesman said in a statement. “Choosing not to participate in a voluntary program cannot constitute a labor strike.”

‘We want California to use its authority to protect the health and safety of these workers. And that means going in to inspect the facility. And we want them to take appropriate action, be that fines, be that requiring GEO to address some of these issues.’”

—Legal Director Lisa Knox, California Collaborative for Immigrant Justice

The company also rejected the allegation that Golden State Annex has not adequately implemented COVID-19 protections required for employers in California. State rules include notifying employees within one business day if they were exposed to an infected person, and training workers on the employer’s policies to protect them from virus hazards.

Attorney Lisa Knox, who helped detainees submit the Cal/OSHA complaint, said GEO’s health and safety record shows the company can’t be trusted to fix current problems at detention centers on its own.

“We want California to use its authority to protect the health and safety of these workers. And that means going in to inspect the facility,” said Knox, legal director at the California Collaborative for Immigrant Justice. “And we want them to take appropriate action, be that fines, be that requiring GEO to address some of these issues.”

Knox and other advocates have requested that California’s attorney general investigate additional potential labor issues at the detention center, such as minimum wage violations.

A spokesperson for California Attorney General Rob Bonta's Office said the office is reviewing that request, but declined to comment further.

"To protect its integrity, we're unable to comment on a potential or ongoing investigation," the spokesperson wrote in an email.

A federal judge in Riverside ruled earlier this year that detainees working at another GEO-run facility in Southern California are considered employees under state law, Knox said.

Is it wage theft? Dispute playing out in other states

Last fall, a federal judge in Washington state ordered GEO to pay \$23.2 million for failing to pay minimum wage to immigrant detainees who volunteered to cook and clean for \$1 a day while held at a facility in Tacoma. The lawsuit was brought by Washington state's attorney general and other plaintiffs.

GEO responded to the ruling by reportedly closing its worker program at the Tacoma detention center. The company is seeking to reverse the judge's order before the 9th U.S. Circuit Court of Appeals, arguing that states lack the authority to dictate how much to pay detainees because the work program they volunteer for is established by the federal government and is paid for by federal dollars.

MORE STORIES

ICE Misusing Solitary Confinement for COVID-19 Quarantine, Detainees Say

'People Are Terrified': SF Judge Orders COVID-19 Testing at ICE Facility

Government Watchdog: ICE Isn't Tracking All the Parents It Detains

Last month, Bonta joined more than a dozen other attorney generals to support the state of Washington in the ongoing lawsuit against GEO.

“Washington’s Minimum Wage Act advances the important public interest states have in protecting their workers and the broader community from the economic burdens that result from unscrupulous and exploitative employment practices,” according to the brief filed with the Ninth Circuit Court of Appeals last month.

Cal/OSHA has inspected at least one other immigration detention center in the state for worksite violations. After a guard at the Otay Mesa Detention Center in San Diego died of COVID-19 last year, the agency fined the facility’s operator, CoreCivic Inc., more than \$23,000 for, in part, failing to meet reporting requirements about the death, according to agency records. CoreCivic contested the fines, and the case remains open.

Immigrant advocates say Cal/OSHA’s inspection of Golden State Annex is the first in California to be prompted by a complaint on behalf of detained workers.

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KQED

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July 22, 2022

In 2018 and 2019 I had the opportunity to take part in two statewide teacher strikes. Together, my coworkers and I won a raise, stopped cuts to our state healthcare plan, and won educational protections for public school students across West Virginia. These experiences left me with a deep understanding that all workers must have the same right to peacefully withhold their labor and demand human dignity on the job.

Incarcerated workers are no exception. Although you face added challenges, your fight for better pay and working conditions is in line with a long history of teachers, nurses, farm workers, UPS drivers, and countless other workers striking and winning in this country. I stand with you as you continue this worthy effort.

Solidarity,

Emily Comer

A handwritten signature in black ink, appearing to read 'Emily Comer', with a stylized, flowing script.

Teacher, West Virginia