

# EMPLOYMENT LAW BASICS



# Disclaimer

The information provided in this presentation does not, and is not intended to, constitute legal advice; instead, all information is for general informational purposes only. Although we try to provide the most up to date information, this presentation may not contain the most current information. You should contact your own attorney to obtain advice with respect to your particular legal matter.



# PAY TRANSPARENCY FOR PAY EQUITY ACT (SB 1162)

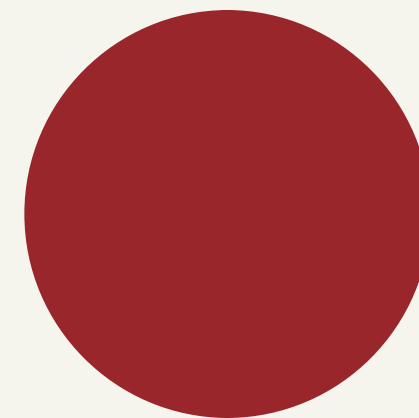
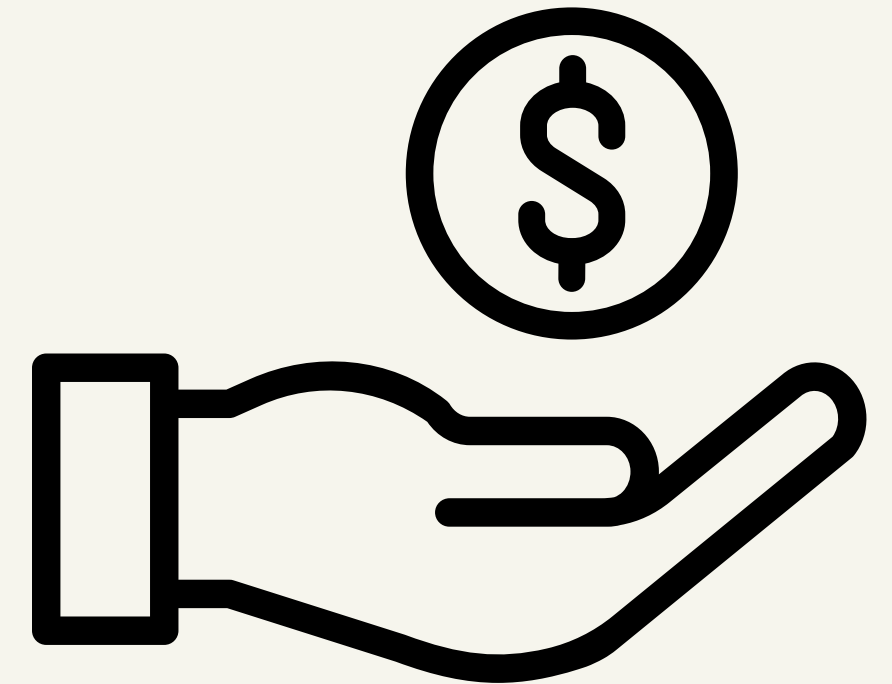
Effective January 1, 2023

- CA Employers (15+ employees) must provide a salary range on all job postings
- Upon request, an employer must provide the pay scale for the position in which the employee is currently employed
- Can file complaints regarding violations of law to the Labor Commissioner (w/in 1 year), who can issue civil penalties and injunctive relief



# WORKERS' RIGHT TO MINIMUM WAGE

- CA Minimum Wage
  - \$15.50 for all workers on January 1, 2023
- Local Minimum Wage
  - City of L.A. \$16.78 on July 1, 2023
- Industry
- Promised Wage
  - Employer must pay the rate promised



# MINIMUM WAGE

- You must get paid minimum wage even if you work by the piece or get tips
  - Your employer cannot credit your tips against the wage it owes you
- **Piece Rate** - must be paid at least minimum wage for all hours worked. (Divide piece rate earnings by total productive hours.)
  - Non-productive hours under employer's control must be separately compensated at least minimum wage - no averaging.
  - Piece rate employees also get paid breaks and overtime





# MINIMUM WAGE & CONTRACTS

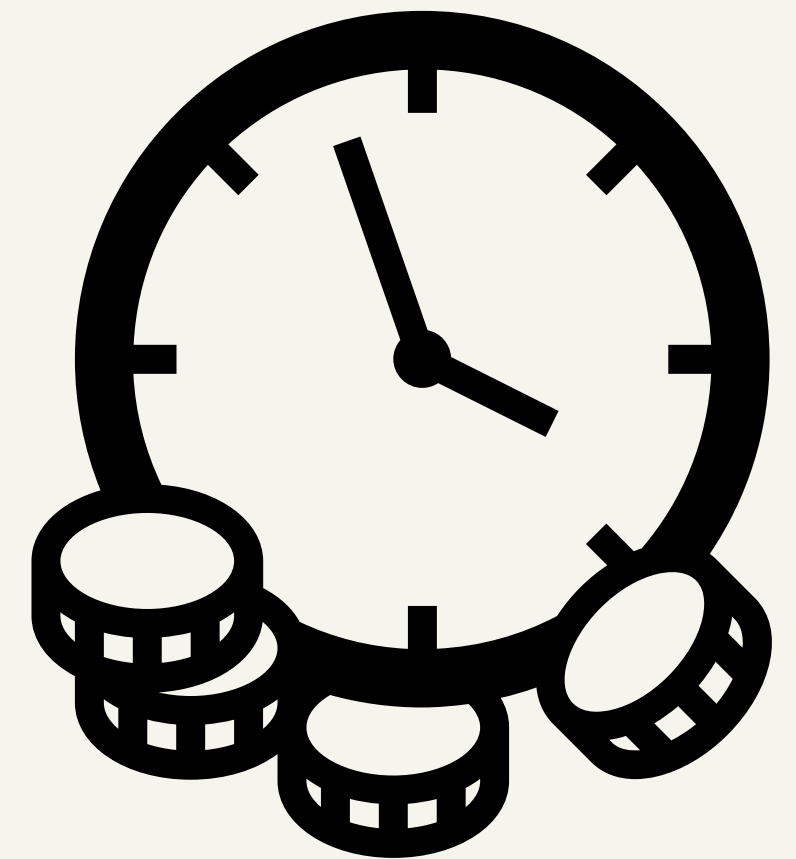


- An employee may not waive the minimum wage requirement. Such a contract is illegal and unenforceable.



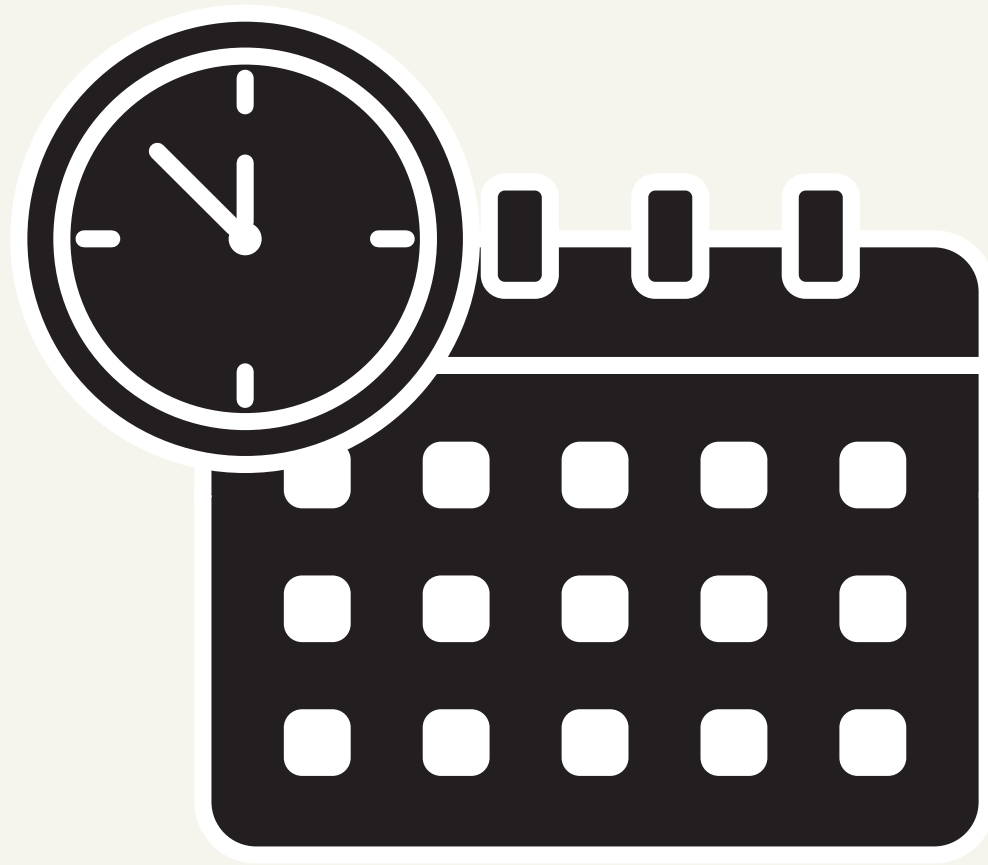
# OVERTIME

- You must be paid overtime (time and a 1/2 your regular hourly rate or pay)
  - Over 8 hours of work in one day
  - Over 40 hours in one week
  - The first 8 hours of work on the 7th consecutive day



# DOUBLE TIME

- You must be paid double-time for:





- All hours worked over 12 in one day
- After the first 8 hours of work on the 7th consecutive workday





# SICK PAY



- You're entitled to 24 hours of paid sick leave per year (48 hours in the City of Los Angeles)
  - Use for:
    - The diagnosis, care, or treatment of an existing health condition or preventive care for yourself or your family member/designated person
    - If you're a victim of domestic violence, sexual assault, or stalking
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# VACATION PAY

Your Boss IS NOT REQUIRED to give you:

- Holiday Pay
- Vacation Pay
- Extra Pay for working on holidays

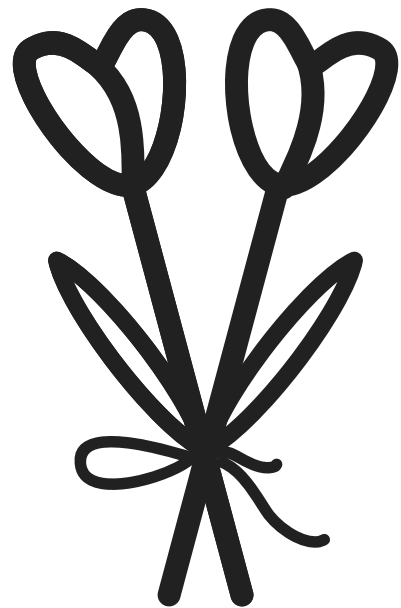


**\*\*BUT:** If your boss promises them -  
then the employer must pay

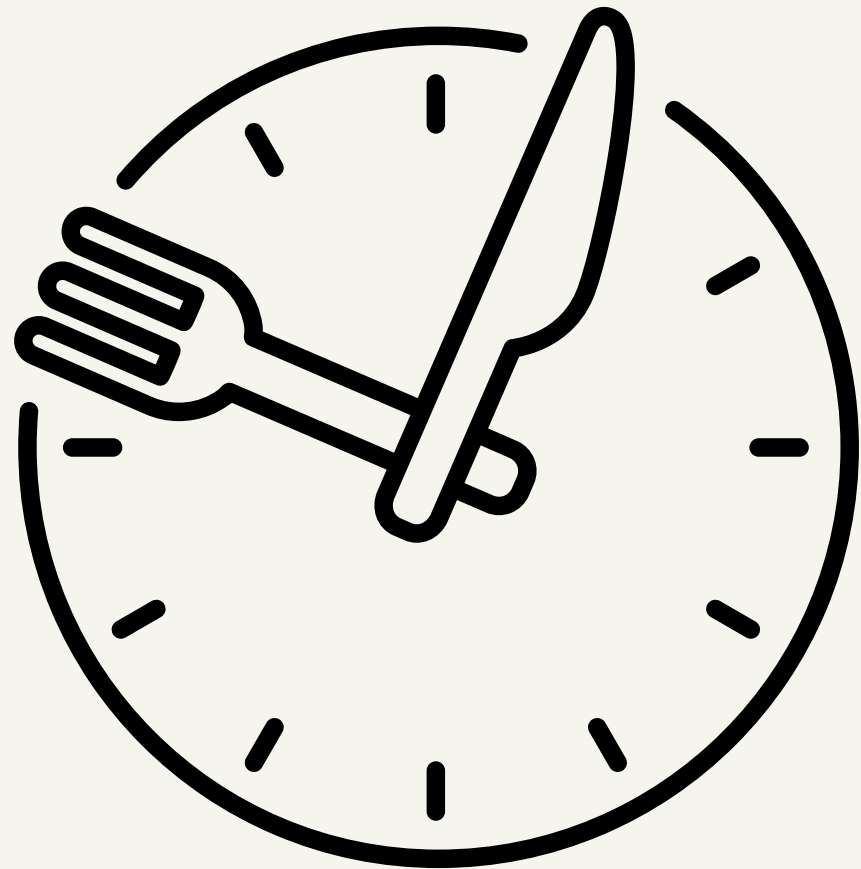
# BEREAVEMENT LEAVE ( AB 1949 )

Effective January 1, 2023

- Employers with 5 or more employees must grant employees with 5 days of unpaid bereavement leave
- Leave is separate and distinct from the 12 weeks permitted under the California Family Rights Act
- Must be employed for 30 days
- Must be taken within 3 months of the death
- Family member includes a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law
- Documentation is required upon request within 30 days
- Confidential
- Interference and retaliation prohibited



# MEAL & REST BREAKS



- Paid 10-minute rest break every 4 hours of work
- Unpaid 30-minute uninterrupted meal break every 5 hours of work

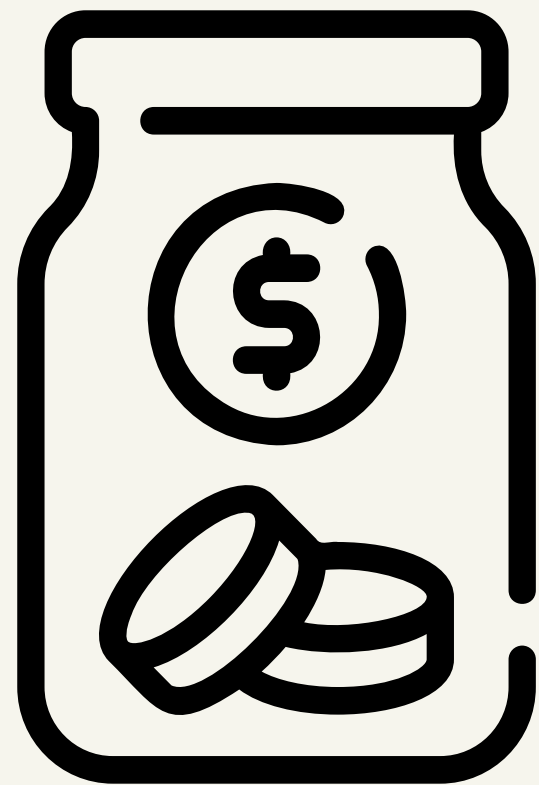
## Exceptions:

- 6 hours or less in workday
  - waiver with mutual consent
- On-duty meal break if:
  - employee gives written consent (can revoke at any time),
  - the nature of the work requires

# BREAKS – PREMIUMS

- ❑ If your employer doesn't provide rest or meal breaks:
  - Premium → 1 hour's wages for each day you don't get your meal or rest break
  - Max: 1 hourly premium each violation per day
- ❑ Statute of Limitations: 3 years

# TIPS



- Tips are the sole property of the employee (an employer cannot take any part of them).
- Credit card tips must be paid by the next regular payday following the date of the CC payment.
- The employer cannot make any deductions for credit card processing

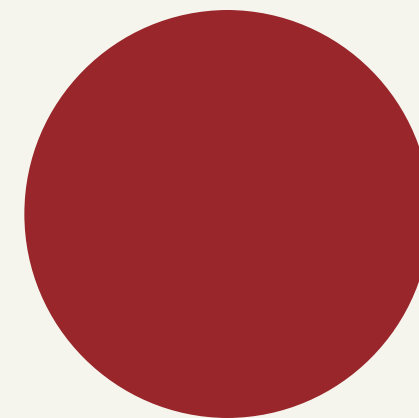
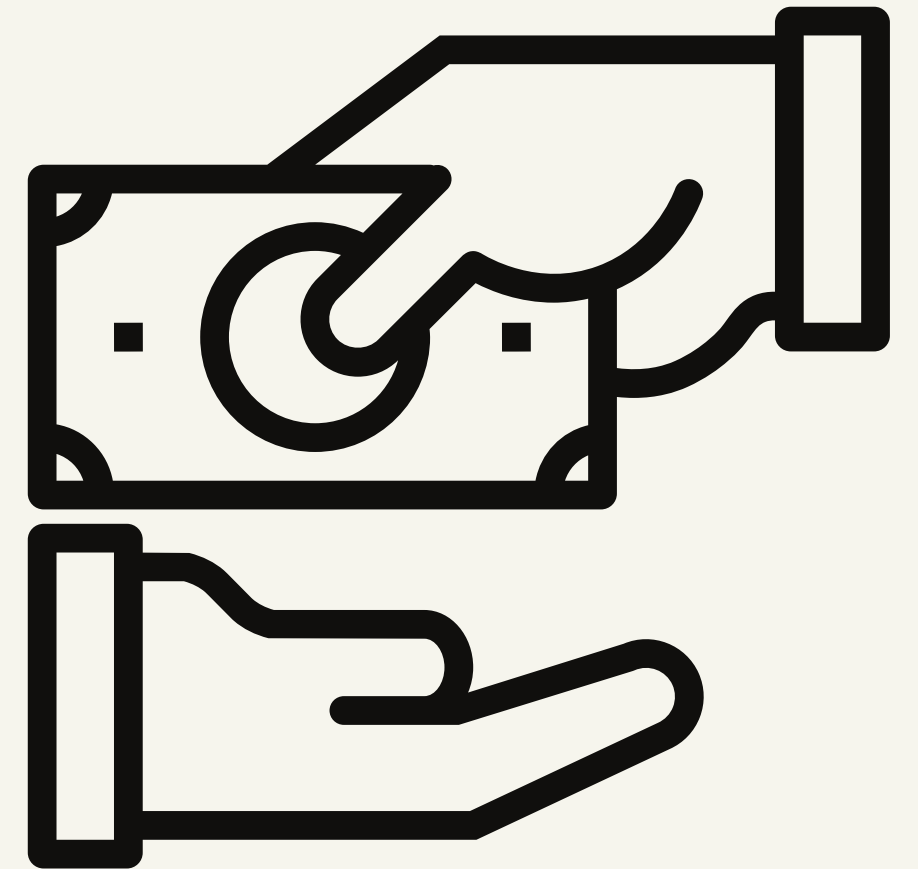
# INVOLUNTARY TIP POOLING

- Involuntary Tip Pooling is permissible if the policy is not used to compensate the owner(s), manager(s), or supervisor(s), even if these individuals should provide direct table service to a patron or are in the chain of service to a patron
- The policy must be fair and reasonable
- Distributed tips among employees who provide "direct table service" or who are in the "chain of service" are fine, provided that the employee in the chain of service bears a relationship to the customers' overall experience



# FINAL PAY

- Must be paid on your last day when:
  - laid off or fired
  - if you quit and give 3 days' notice
- Must be paid within 3 days if:
  - you quit without notice
- Paycheck must also have unused vacation time, but not unused sick time





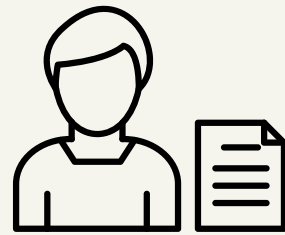
# WAITING TIME PENALTY



- 1 day's pay for each day late
- Up to 30 days

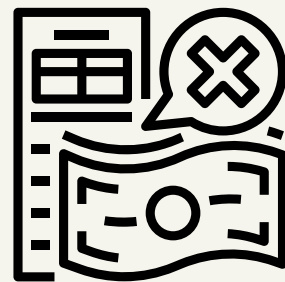
# EXCEPTIONS TO WAGE/HOUR LAWS

Generally, the rules regarding overtime and meal/rest breaks apply to private companies, not for:



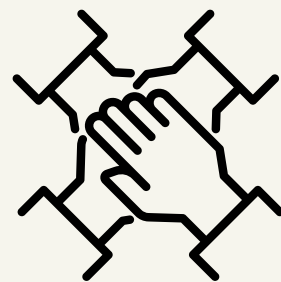
## Independent Contractors

- Employer cannot control the details of work
- Work must be outside the ordinary business of the employer
- Worker must have an independent business



## Exempt Employees

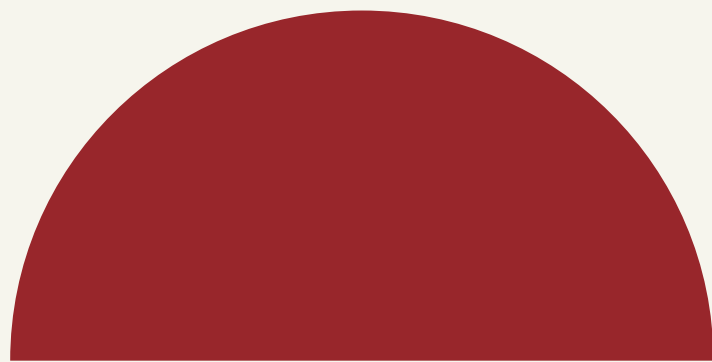
- Executives/Managers
- High-level Administrators
- Artistic/Learned Professionals
- Outside Salespersons
- Highly Compensated Computer Professionals



## Unions with Collective Bargaining Agreements

# RIGHTS TO WAGES REGARDLESS OF IMMIGRATION STATUS

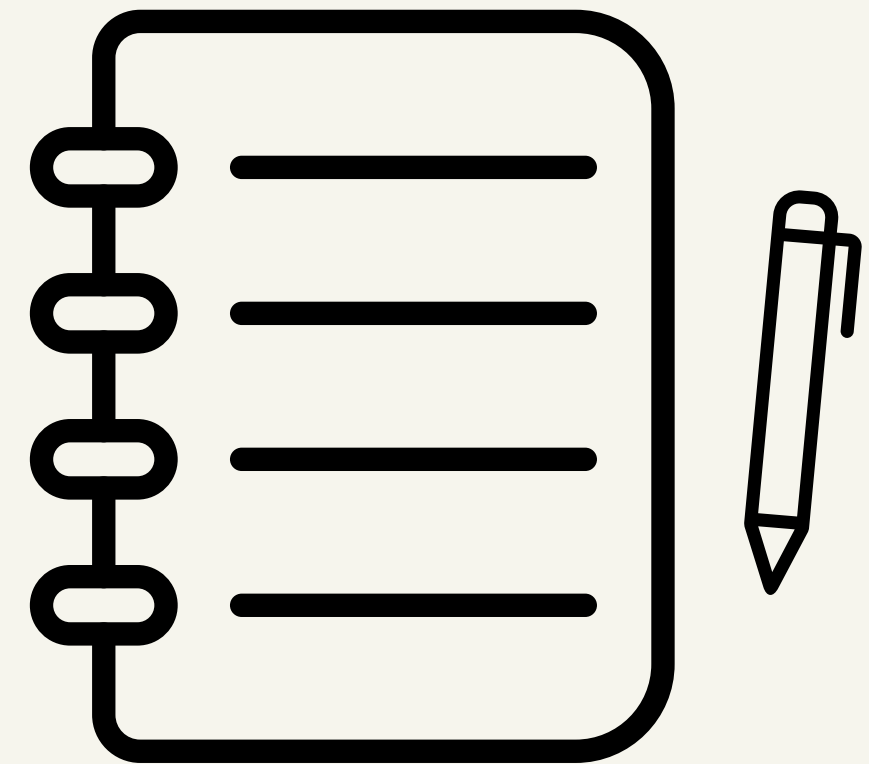
- State and federal wage and hour protections apply regardless of immigration status
- Exceptions: Remedies of reinstatement and back pay



# HOW TO PROTECT YOUR RIGHTS

## Keep Written Records

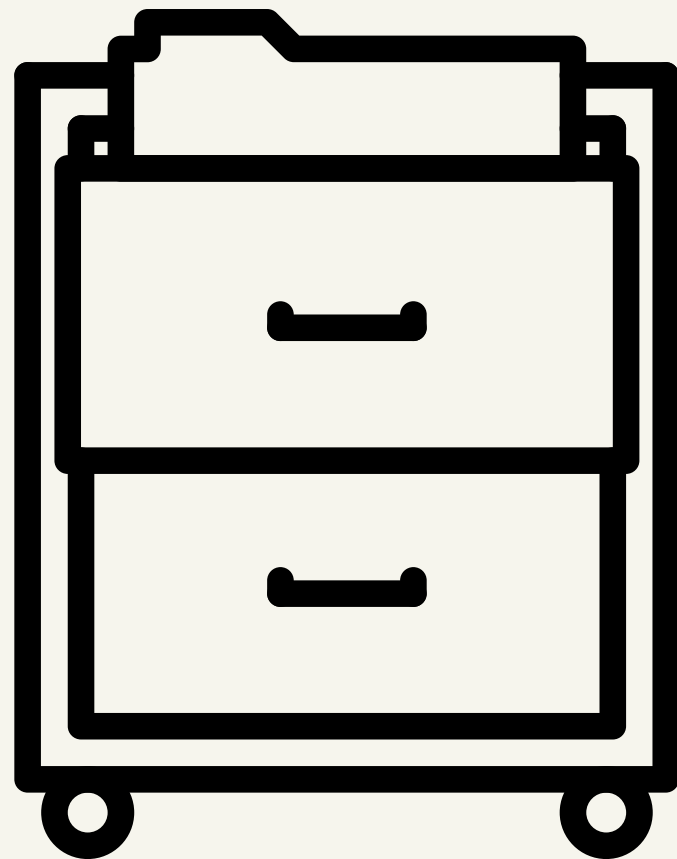
- Hours Worked
- Promises Made
- Problems
- Witnesses
- Name/contact info for other workers





# HOW TO PROTECT YOUR RIGHTS

## Save Copies



- Time Cards
- Checks
- Pay Stubs
- Employee Manual
- Union Contract
- Hand - outs



# HOW TO PROTECT YOUR RIGHTS

Get information about your employer

- Name of Company
- Name(s) of supervisors and/or owners
- Address
- Phone
- City License Numbers
- Garment Labels
- Day laborers: employer's auto license



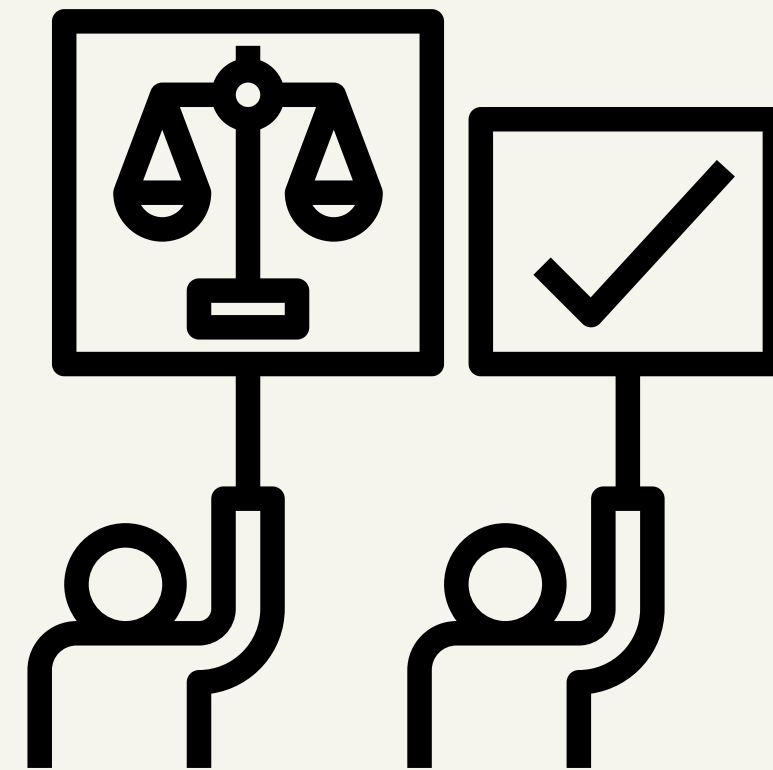
# RECOVER UNPAID WAGES

Demand Payment  
Either write a letter  
or talk to your boss  
(preferably in a  
group)

File a claim with  
the California Labor  
Commissioner or  
Small Claims Court

\*\*Advantages and  
Disadvantages of  
Each Route\*\*

# OTHER CIVIL RIGHTS AT WORK

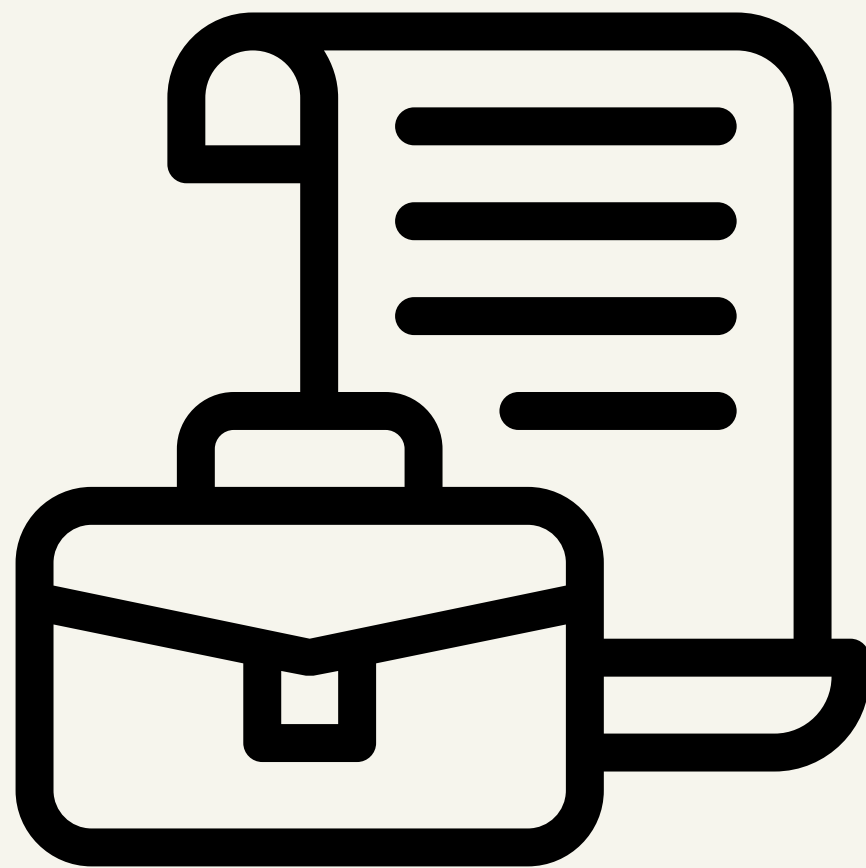







# AT- WILL EMPLOYMENT

"At Will" Employment: Employer can discharge an employee at any time for any reason (Cal. Labor Code Section 2922)



## Exceptions:

- Anti- discrimination laws
  - Breach of contract ( written or oral)
  - Breach of collective bargaining agreement
  - Breach of public policy grounded in statute or state constitution
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# DISCRIMINATION



- Race, Color
- Religion
- Sex (includes pregnancy)
- Sexual Orientation
- Gender Identity
- Gender Expression
- National Origin/Ancestry
- Age (40+)
- Genetic Info
- Marital Status
- Disability
- Medical Condition

Disparate Impact  
Disparate Treatment



# FORMS OF DISCRIMINATION

- Hiring
- Firing
- Discipline
- Pay
- Benefits
- Accommodation
- Other



# HARASSMENT

## What is Sexual Harassment?

Unwanted and unwelcome gender-based conduct of a sexual nature

## Types of Sexual Harassment

- **Quid Pro Quo** ("something for something")

### 2. **Hostile Work Environment**

(severe or pervasive --> though under CA law, a single incident may be sufficient if the harassing conduct unreasonably interfered with the employee's work performance or created an intimidating, hostile, or offensive working environment)

### Examples

- Verbal Conduct
- Sexual Advances
- Emails
- "Jokes"
- Innuendos
- Leering
- Touching
- Blocking path

# California Leave Laws

## California Family Rights Act (CFRA)

- Employers with 5+ employees must allow eligible employees (1250 hours in last year) to take up to 12 weeks job protected leave for:
  - the birth, adoption, or foster care placement of a child
  - Employee's own serious health condition
  - To care for a child, spouse, domestic partner, parent, parent-in-law, grandparent, grandchild, sibling, or someone else related by blood or in a family-like relationship ("designated person") with a serious health condition
  - A qualifying exigency related to the covered active duty or call to covered active duty of a spouse, domestic partner, child, or parent in the military



## Pregnancy Disability Leave

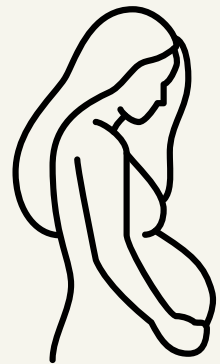
- 4 months of unpaid job protected leave
- No tenure requirement
- Provide 30 days' notice or as soon as practicable

# REASONABLE ACCOMMODATION



## Religious

Sincerely held religious belief interferes with job duties



## Pregnancy

- Advice of healthcare provider – childbirth, pregnancy, and related medical conditions



## Disability (Mental, Physical, HIV, Cancer)

- Enable employee to perform essential job functions
- "Interactive process" to determine whether a reasonable accommodation exists



## Accommodations

- Job restructuring/ modification
- Job reassignment
- Allowing time off
- Equipment

# RETALIATION

- Protected Activity
- Adverse job action
- Causal link

Employer aware of protected activity; and  
adverse action followed within a relatively  
short period of time



# SEVERANCE PAY

Exception #1: Severance pay required by an employment contract

Exception # 2: Severance pay required by a policy or practice

Exception # 3: Severance pay in exchange for a release of legal claims

Exception # 4: Mass layoff or plant closing without adequate notice





# UNEMPLOYMENT BENEFITS

- Generally, CA employees who become unemployed through no fault of their own are entitled to 6 months of Unemployment Insurance (UI) benefits
- To qualify, you must:
  - Earn enough wages during the base period
  - Lose your job through no fault of your own
  - Be ready, willing, and able to accept new work immediately
- You may apply for UI benefits via the Employment Development Department's (EDD) website at: [www.edd.ca.gov/unemployment/](http://www.edd.ca.gov/unemployment/) or by calling 1-800-300-5616

# UNEMPLOYMENT BENEFITS



## Employee/Independent Contractor

- Only Employees are entitled to unemployment insurance because their employers pay into the system.
- Misclassified employees can ask for an audit

## Laid Off

- If you are fired because your employer does not have enough work, or cannot afford to keep you, then you may apply for unemployment

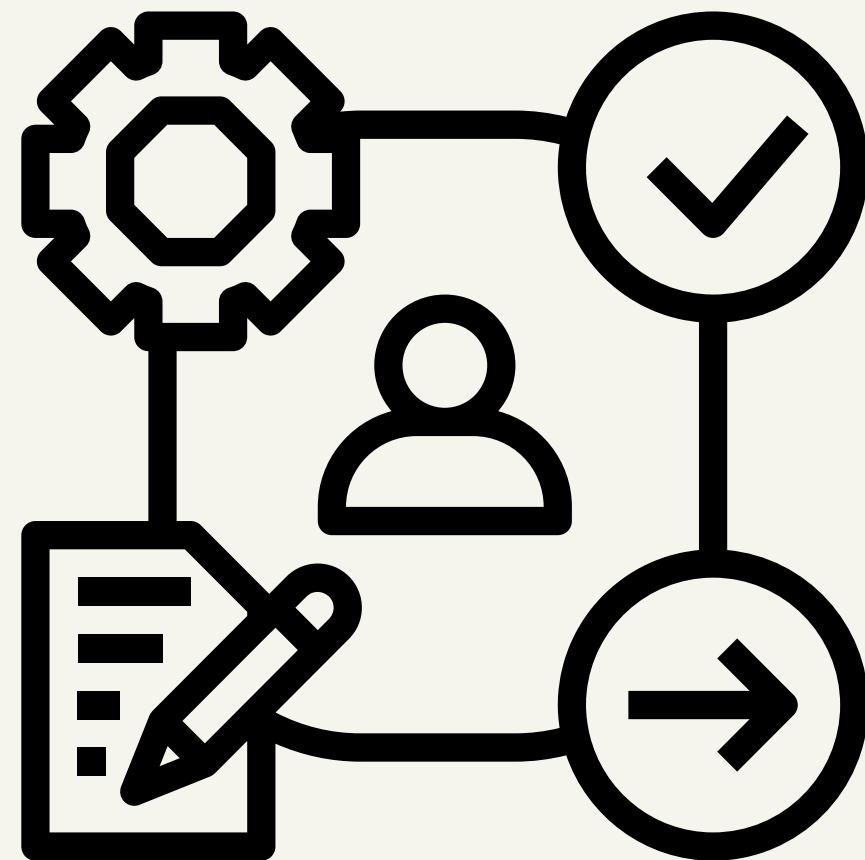
## Voluntarily Quit

- If you quit your job, you can only get benefits if you can show:
  - You had Good Cause to quit; AND
  - You did everything reasonable to keep employment before quitting

## Terminated for Reasons Other Than Misconduct

- Misconduct is a serious breach of the duties you owe your employer, either on purpose or with major carelessness
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# HOW DO EMPLOYEES PROTECT THEMSELVES



- Document everything . Keep a journal. Keep all documentation of the alleged discriminatory conduct, including e - mails. Take pictures on your phone
- Talk to other employees
- Talk to a supervisor or management or Human Resources
- Consult an attorney
- File a complaint with the **Civil Rights Department (800) 884 - 1684** or **Labor Commissioner (888) 275 - 9243**
- File a Lawsuit





# CALL LAFLA TODAY WE'RE HERE TO HELP!

CALL TO APPLY: 1 (800)-399-4529  
APPLY ONLINE: [LAFLA.ORG](https://www.lafla.org)  
APPLY IN PERSON:

## OFFICE LOCATIONS

East Los Angeles: 5301 Whittier Blvd., 4th Floor, Los Angeles, CA 90022

Ron Olson Justice Center: 1550 W. 8th Street, Los Angeles, CA 90017

Long Beach: 601 Pacific Ave., Long Beach, CA 90802

Santa Monica: 1640 5th Street, Suite 124, Santa Monica, CA 90401

South Los Angeles: 700 S. Broadway, Los Angeles, CA 90003

**IMPORTANT!**  
When you apply to  
LAFLA:

Please inform the  
intake worker that  
you learned about  
LAFLA from TODAY'S  
PRESENTATION