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California Workplace - **Know Your Rights**

As a worker in California, you are entitled to know and exercise your workplace and constitutional rights. Labor laws, including but not limited to standards for wages, hours, and health and safety, apply to all workers in the state regardless of immigration status.

It is against the law for your employer to retaliate against you for exercising your rights, including:

- Filing a complaint with the Labor Commissioner, Cal/OSHA, the Civil Rights Department, or another government agency.
- Asking about your employer's compliance with federal, state, or local law.
- Talking with others about their rights or helping them exercise their rights under federal, state, or local law.

Examples of illegal retaliation include firing you, reducing your work hours, or threatening to report you or a relative to immigration authorities because you exercised your rights.

Workplace Protections Related to Immigration Status

Your right to Notice of Immigration Inspections (*Labor Code § 90.2*)

If your employer receives notice of an upcoming immigration agency's inspection of I-9 Employment Eligibility Verification forms or other employment records, your employer must post a notice informing workers and their union representative, if applicable, within 72 hours of receiving that notice.

Your protections against unfair immigration-related practices (*Labor Code §§ 1019-1019.2*)

Under California law, it is unlawful for employers to retaliate against you or threaten immigration-related action when you exercise your rights. An employer is prohibited from taking any of the following actions because you exercised your rights:

- Refusing to accept identification documents during the I-9 process (proof of ID and federal permission to work) that appear to be genuine.
- Using E-Verify in a way not required or authorized by law.
  - For example, using E-Verify to reverify employment eligibility for an employee when not legally required to do so or screening only specific workers rather than all workers in a workplace without a legitimate basis for doing so.
- Reporting or threatening to report you or your family to immigration authorities.
- Filing or threatening to file any false report to the police or a state or federal agency.

Your right to designate an emergency contact (*Labor Code § 1555*)

Your employer **must** allow you to provide them with emergency contact information and to indicate if you want the emergency contact to be notified if you are arrested or detained at work. If you are arrested or detained at work and your employer has knowledge of it, they **must** notify your designated emergency contact if you choose that option.

Your right to organize a union or engage in protected activity in the workplace

Most employees in California have the right to organize, join, or participate in union activities. Employees also have the right to jointly act with co-workers to address workrelated issues and concerns to improve working conditions or for the purpose of collective bargaining. **This means you have the right to join with coworkers to request better working conditions or raise work-related concerns, including about wages, hours, health and safety, and other terms of employment.** You also have the right to not participate in union activities or protected activities. It is illegal for your employer to:

- Interfere with or discourage your union activity or protected activities.
- Threaten you, or retaliate or discriminate against you, because of your union support or protected activities.

Your rights when interacting with law enforcement, including immigration agents, in the workplace

California workers have certain rights and protections under the U.S. Constitution, ***regardless of their immigration status***, including when law enforcement (including a federal immigration agent) approaches you. In addition, under California law, state and local law enforcement cannot assist federal agencies such as ICE with immigration enforcement in most circumstances.

Your right to be free from unreasonable searches (*U.S. Constitution, 4th Amendment*)

- If law enforcement, including immigration agents, ask if they can search you or your personal belongings, unless they have a judicial warrant specifically authorizing a search of your person or your personal belongings, you have the right to say no.
- If the officer conducts the search, even if you say no – remain calm, do not physically resist, and do not run.

Law enforcement can enter *public areas* without a warrant. Public areas may include a lobby, waiting room, public dining area, or parking lot of a workplace. In most circumstances, law enforcement needs a *judicial warrant*, signed by a judge, to enter *non-public areas* of your workplace without consent. Non-public areas may include a breakroom, employee restroom, workspace, or any area marked as employees only. Administrative forms, such as an I-200 or I-205, are not a judicial warrant.

In California, your employer is prohibited from providing voluntary consent to an immigration enforcement agent to enter *non-public* areas of the workplace. Without a judicial warrant, your employer must refuse entry to immigration enforcement to *non-public* areas of the workplace.

More detailed information can be found in the DOJ's and LCO's joint Immigrant Worker Protection Act FAQ (*https://oag.ca.gov/system/files/media/ab450-faqs.pdf*).

Your right to be free from unreasonable seizures (*U.S. Constitution, 4th Amendment*)

- You are protected against unreasonable seizures, which includes detaining or arresting you.
- Law enforcement must have a reasonable suspicion of wrongdoing before they can stop and question or search you. You can ask "Am I being detained?" or "Am I free to leave?" If the officer says that you are not being detained or you are free to leave, then you can walk away calmly.
- An arrest requires probable cause and occurs when a person is taken into custody by law enforcement officers.
- Law enforcement agents do not need a judge-signed warrant to arrest someone in public.
- You have the right to speak to a lawyer if you are arrested. You may be pressured to sign documents. You do not have to sign anything without speaking to an attorney.

Your right to remain silent (*U.S. Constitution, 5th Amendment*)

- Anything you say to law enforcement officers can be used against you in court.
- You have the right to remain silent, even if you are asked about your immigration status.
- If you wish to remain silent, clearly state so, request to speak with an attorney **and then remain silent**.
- Do not provide false information, false identification, or false documents to an officer. Providing false documents is a federal offense and may carry severe immigration consequences for noncitizens.

Your right to record interactions with law enforcement in public spaces under the 1st Amendment

The public has the right to observe and record officers and government officials carrying out their duties in public. If you choose to record, you should stand a safe distance away and do not interfere with the officer's actions. Physical obstruction or verbal escalation can put your safety at risk and may lead to criminal charges.

Access to legal representation

If you are arrested, you have the right to an attorney. If you cannot afford an attorney, you can get a government-appointed attorney to represent you in a criminal case.

However, if you are arrested by U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), which includes Border Patrol, for civil immigration violations, you have the right to consult with a lawyer, but the government is not required to provide a lawyer for you. If you are arrested by ICE or CBP, you may invoke your right to speak with an attorney before saying or signing anything. You may also ask to speak to your consulate who may provide assistance.

Workers' Compensation

You have the right to workers' compensation benefits if you are injured or become ill because of your job. The benefits provide you with medical care for your injury/illness, partially replace the wages you lose while you are recovering, and help you return to work. For additional information, visit *www.dir.ca.gov/dwc/* or call 1-800-736-7401.

Who can I contact if I believe my rights have been violated?

If you believe your rights have been violated, below is a list of government agencies where you can seek assistance:

California Department of Industrial Relations (DIR):

California Labor Commissioner's Office (LCO)
Information: (833) LCO-INFO (833-526-4636)
Immigration helpline: (855) 526-7775
www.dir.ca.gov/dlse/

California Division of Occupational Safety and Health (Cal/OSHA)
(833) 579-0927
https://www.dir.ca.gov/dosh/

California Division of Workers Compensation (DWC)
(800) 736-7401
dir.ca.gov/dwc/

Other California Agencies:

California Attorney General (AG)
(800) 952-5225
www.oag.ca.gov

California Civil Rights Department (CRD)
(800) 884-1684
calcivilrights.ca.gov/

California Agricultural Employees
Agricultural Labor Relations Board (ALRB)
(800) 449-3699
www.alrb.ca.gov

California Public Sector Employees and Transportation Network Company Drivers
Public Employment Relations Board (PERB)
(916) 322-3198
perb.ca.gov

Federal Agencies:

Private Sector Employees
National Labor Relations Board (NLRB):
(844) 762-6572
www.nlrb.gov

Federal Employees
U.S. Federal Labor Relations Authority (FLRA):
(771) 444-5801
https://www.flra.gov/

Railway and Airline Employees
National Mediation Board (NMB):
(202) 692-5000
https://nmb.gov/NMB_Application/

Non-Governmental Organizations:

You may also contact a nonprofit legal or community-based organization for assistance. For a list of organizations that partner with state agencies to help workers to understand their rights visit *www.dir.ca.gov/dlse/Nonprofit-Legal-and-Community-Based-Organizations-Serving-Workers.html*.

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