



U.S. Department of Labor

Employment Standards Administration Wage and Hour Division

Fact Sheet #44: Visits to Employers

This Fact Sheet provides general information about the laws enforced by the Wage and Hour Division.

Purpose of Visit

The Wage and Hour Division (WHD) is responsible for administering and enforcing a number of federal laws which set basic labor standards, among them:

- The Fair Labor Standards Act
- The Family and Medical Leave Act
- The Migrant and Seasonal Agricultural Worker Protection Act
- The field sanitation standards of the Occupational Safety and Health Act
- The Employee Polygraph Protection Act
- Certain employment standards and worker protections under the Immigration and Nationality Act
- Government contracts prevailing wage statutes such as the Davis-Bacon and related Acts and the McNamara-O'Hara Service Contract Act
- Garnishment provisions of the Consumer Credit Protection Act

An investigator from WHD may conduct an investigation to determine whether these laws apply to an employer. If the employer is subject to these laws, the investigator will verify that workers are paid and employed properly according to the laws administered, and that youths under age 18 are employed as provided by the child labor provisions. The WHD does not require an investigator to previously announce the scheduling of an investigation, although in many instances the investigator will advise an employer prior to opening the investigation. The investigator has sufficient latitude to initiate unannounced investigations in many cases in order to directly observe normal business operations and develop factual information quickly.

An investigator may also visit an employer to provide information about the application of, and compliance with, the labor laws administered by WHD.

Why is an employer selected for an investigation?

The WHD conducts investigations for a number of reasons, all having to do with enforcement of the laws and assuring an employer's compliance. WHD does not typically disclose the reason for an investigation. Many are initiated by complaints. **All complaints are confidential; the name of the worker and the nature of the complaint are not disclosable; whether a complaint exists may not be disclosed.**

In addition to complaints, WHD selects certain types of businesses or industries for investigation. The WHD targets low-wage industries, for example, because of high rates of violations or egregious violations, the employment of vulnerable workers, or rapid changes in an industry such as growth or decline. Occasionally, a number of businesses in a specific geographic area will be examined. The objective of targeted investigations is to improve compliance with the laws in those businesses, industries, or localities. Regardless of the particular reason that prompted the investigation, all investigations are conducted in accordance with established policies and procedures.

Investigation Procedures

Investigations may be conducted under any one or more of the laws enforced by WHD. Most employers are subject to the Fair Labor Standards Act (FLSA), which is the primary federal law of most general application requiring payment of the minimum wage and overtime premium pay, keeping certain basic payroll and employment records, and limiting the working hours and types of jobs for certain underage youths. The procedures described below for FLSA investigations are generally applicable to WHD investigations under other laws.

Section 11(a) of the FLSA authorizes representatives of the Department of Labor to investigate and gather data concerning wages, hours, and other employment practices; enter and inspect an employer's premises and records; and question employees to determine whether any person has violated any provision of the FLSA.

The WHD investigator will identify himself/herself and present official credentials. The investigator will explain the investigation process and the types of records required during the review.

An investigation consists of the following steps:

- Examination of records to determine which laws or exemptions apply. These records include, for example, those showing the employer's annual dollar volume of business transactions, involvement in interstate commerce, and work on government contracts. **Information from an employer's records will not be revealed to unauthorized persons.**
- Examination of payroll and time records, and taking notes or making transcriptions or photocopies essential to the investigation.
- Interviews with certain employees in private. The purpose of these interviews is to verify the employer's payroll and time records, to identify workers' particular duties in sufficient detail to decide which exemptions apply, if any, and to confirm that minors are legally employed. Interviews are normally conducted on the employer's premises. In some instances, present and former employees may be interviewed at their homes or by mail or telephone.
- When all the fact-finding steps have been completed, the investigator will ask to meet with the employer and/or a representative of the firm who has authority to reach decisions and commit the employer to corrective actions if violations have occurred. The employer will be told whether violations have occurred and, if so, what they are and how to correct them. If back wages are owed to employees because of minimum wage or overtime violations, the investigator will request payment of back wages and may ask the employer to compute the amounts due.

Employers may be represented by their accountants or attorneys at any point during this process. When the investigator has advised the employer of his/her findings, the employer or representative may present additional facts for consideration if violations were disclosed.

What enforcement procedures and remedies are provided under the laws administered?

While every effort is made to resolve the issue of compliance and payment of back wages at an administrative level, the FLSA also provides for the following:

- An employee may file suit to recover back wages, and an equal amount in liquidated damages, plus attorney's fees and court costs.
- The Secretary of Labor may file suit on behalf of employees for back wages and an equal amount in liquidated damages.
- The Secretary may obtain a court injunction to restrain any person from violating the law, including unlawfully withholding proper minimum wage and overtime pay.
- Civil money penalties may be assessed for child labor violations and for repeat and/or willful violations of FLSA's minimum wage or overtime requirements.
- Employers who have willfully violated the law may face criminal penalties, including fines and imprisonment.
- Employees who have filed complaints or provided information during an investigation are protected under the law. They may not be discriminated against or discharged for having done so. If they are, they may file a suit or the Secretary of Labor may file a suit on their behalf for relief, including reinstatement to their jobs and payment of wages lost plus monetary damages.

Many of the above provisions are found in other laws administered by WHD. For example, the Migrant and Seasonal Agricultural Worker Protection Act also provides for the assessment of civil money penalties, criminal sanctions, fines and imprisonment.

In the case of the government contracts statutes, contract funds may be withheld for violations under the Walsh-Healey Public Contracts Act, McNamara-O'Hara Service Contract Act, Davis-Bacon and Related Acts, and Contract Work Hours and Safety Standards Act. Administrative hearings or, in some cases, court action may be initiated to recover back pay under these laws. In addition, liquidated damages may be assessed for certain violations. Violators of these laws may also lose their Federal contracts and be declared ineligible for future contracts for a specified period.

Additional Information

Additional information, including pamphlets and fact sheets on the various provisions administered by WHD, are available both electronically on the Internet and upon request from local WHD offices. Please visit WHD's Internet Web Site Home Page (at www.wagehour.dol.gov). An interactive advisor system designed to help employers and employees understand and comply with numerous employment laws enforced by DOL is available through **elaws** (**E**mployment **L**aws **A**ssistance for **W**orkers and **S**mall Businesses), accessed at www.dol.gov/elaws. DOL's Small Business Regulatory Compliance Assistance Page is also available by accessing the DOL Home Page at www.dol.gov. To find a listing of local WHD district office addresses and phone numbers, click on the "Contact Your Local Office" hot button from the WHD Home Page (www.wagehour.dol.gov), or call our toll-free information and helpline at 1-866-4USWAGE (1-866-487-9243). Under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), small entities may comment on WHD enforcement by calling 1-888-REG-FAIR (1-888-734-3247), or writing to the Office of the National Ombudsman, U.S. Small Business Administration, 409 3rd Street, SW, MC2120, Washington, DC 20416-0005. The Ombudsman's website is <http://www.sba.gov/ombudsman/>. WHD does not consider the filing of a comment with the Ombudsman as a factor in determining how to resolve issues raised during a compliance action.

This fact sheet is intended as general information only and does not carry the force of legal opinion.

The Department of Labor is providing this information as a public service. This information and related materials are presented to give the public access to information on Department of Labor programs. You should be aware that, while we try to keep the information timely and accurate, there will often be a delay between official publications of the materials and the modification of these pages. Therefore, we make no express or implied guarantees. The *Federal Register* and the *Code of Federal Regulations* remain the official source for regulatory information published by the Department of Labor. We will make every effort to correct errors brought to our attention.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE, TTY: 1-877-889-5627
[Contact Us](#)