



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: May 22, 2023

TO: Honorable Mayor and Members of the City Council

FROM: Christiana Gauger, Chief Compliance Officer

SUBJECT: Fiscal Year 2023 Earned Sick Leave and Minimum Wage Enforcement

The purpose of this memorandum is to provide a summary report of activities conducted by the Earned Sick Leave and Minimum Wage Program (Program) within the Compliance Department, as required by San Diego Municipal Code (SDMC) §39.0113(q). The Program enforces the Earned Sick Leave and Minimum Wage Ordinance (Ordinance) and provides outreach and education services.

Enforcement

Investigations are based off complaints received and the Program's annual directed investigation work plan.¹ Complaints include formal written complaints, tips, or anonymous information received by the Program as well as referrals from City departments, government agencies, or community advocates. Complaints may be filed directly on the Program's website, by email or telephone, or in-person. Investigations include interviewing complainants and potential witnesses, conducting site visits, and auditing relevant payroll and business records. The Program routinely conducts employer-wide investigations in response to complaints, allowing investigators to maintain the confidentiality of complainants, reduce employee fear of retaliation, address noncompliant company practices, and recover wages on behalf of all impacted employees.

If violations of the Ordinance are established, the Program may issue a Notice of Violation, conduct an informal settlement conference, or assist the business in performing self-correction to achieve compliance. If a settlement or compliance is not reached, the Program issues a formal determination in the form of a Notice and Order which the employer may appeal to an independent administrative hearing officer.

Complaints

Program staff investigate all alleged violations of the Ordinance, including minimum wage, earned sick leave, retaliation, and notice/posting requirements. Complaints alleging wage and labor violations beyond the scope of the Ordinance and outside the Program's jurisdiction are referred to the appropriate enforcement agency, such as the State of California Division of Labor Standards Enforcement (DLSE). For Fiscal Year 2023, as of May 19, 2023, the Program received 39 formal complaints, initiated 36 directed investigations, and recovered \$123,895 in back wages on behalf of 331 San Diego workers.

¹ Complaint-based investigations take priority over directed investigations.

Table 1 below summarizes the Program’s enforcement activities since the implementation of the Ordinance on July 11, 2016:

Table 1: Minimum Wage Enforcement Activities

	Fiscal Year 2023 (through 5/19/23)	Total Since July 11, 2016
Complaints/Tips Received	39	1,007
Directed Investigations Initiated	36	286
Total Remedies Recovered for Employees ²	\$123,895	\$1,243,239
Total Employees Receiving Remedies	331	3,027
Total Penalties Received by City	-	\$97,200

Directed Investigations

Since fiscal year 2019, the Program has implemented an annual directed investigation workplan. Directed investigations are strategic, proactive investigations that are initiated by the Program without receiving a formal worker complaint. Proactive investigations are intended to assist vulnerable, low-income employees working in industries where data shows violations are likely to occur and the workforce is unlikely to file complaints. The Program selects industries for directed investigations by analyzing data and information collected from various sources, including Program complaints and directed investigations, U.S. Department of Labor, California Labor Commissioner’s Office, information from the public and community organizations, and statistics on industries that employ high numbers of vulnerable, low-income workers, including workers of color, women, immigrants, refugees, and people with disabilities. Since the plan’s inception, directed investigations have recovered over \$240,340 for 647 San Diego workers.

Outreach & Education

The primary goal of the Program is to ensure employers are complying with the Ordinance, specifically that employees who work in San Diego receive no less than the City’s minimum wage, are guaranteed the right to take paid sick leave, and are free from retaliation when asserting their rights. The Program continues to take a proactive, multimedia approach to conducting community outreach and education, including providing resources and information online, contracting radio and MTS advertisements, distributing printed posters and brochures directly to organizations and businesses, attending in-person educational events, and presenting at live webinars and trainings. The Program’s public engagement activities focus on ensuring that workers are aware of their rights and that employers understand their obligations under the Ordinance.

Outreach and education activities for Fiscal Year 2023 included:

- Citywide media release issued for the 2023 minimum wage increase
- Direct outreach and engagement to 29 employer organizations and 35 employee organization groups, including San Diego Employer Association, California Restaurant Association, Asian Business Association of San Diego, San Diego Hispanic Chamber of

² Remedies reflect actual payments made by employers to current and former employees and does not include amounts assessed by the Program but not yet paid. In addition to monetary remedies, some investigations result in workers also receiving reimbursement of earned sick leave hours in accordance with Ordinance requirements.

- Commerce, Gaslamp Quarter Association, Employee Rights Center, San Diego Unified School District, Home Start, Chicano Federation, and San Diego Workforce Partnership
- Reminder email regarding the 2023 minimum wage increase sent to over 1,100 employers and employees via the Program’s email distribution list
 - Direct assistance to citizens and businesses via dedicated phonenumber and email
 - Inclusion of informational inserts with Business Tax Certificate mailings to over 100,000 registered San Diego businesses
 - Radio commercial campaign “Have You Heard?” with iHeatMedia Entertainment broadcasted in English and Spanish
 - Conducting live informational trainings with the San Diego Black Workers Center and San Diego Housing Commission
 - Presenting Program information at in-person events such as the City of San Diego Career Fair at the Balboa Park Club, Promise Zone Career Expo at the San Diego downtown library, Fresh Start Fair at the Jacob Center for Innovation, and job fairs hosted by the San Diego Unified School District
 - Hosting the first annual Wage and Labor live webinar with the County of San Diego Office of Labor Standards and Enforcement
 - Updating Program FAQs to address commonly asked compliance questions and translating employee brochures and employer handouts into Chinese, Tagalog, and Vietnamese
 - Advertisements on San Diego MTS bus and trolley lines in English and Spanish

Figure 1: MTS Advertisement



Minimum Wage Increase

Prior to October 1, 2022, the Program announced the City’s 2023 minimum wage rate of \$16.30 per hour. The City’s minimum wage increases annually at a rate consistent with the increase in the cost of living, measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers.³ Currently, the City’s minimum wage surpasses the State of California minimum wage rate of \$15.50⁴ and federal minimum wage rate of \$7.25.

³ SDMC §39.0107(b)(3)

⁴ Department of Industrial Relations, News Release, 2022-102, December 14, 2022

Based on current statutory language and U.S. Bureau of Labor Statistics data, the Program anticipates the City's minimum wage will continue to be higher than both State and federal minimum wage rates in 2024.

Program staff worked closely with the Communications Department to issue a citywide media release to announce the City's minimum wage increase.⁵ Required notices and other outreach and education materials reflecting the new minimum wage were made available on the Program's webpage.

Conclusion

The Program continues to fully enforce the Earned Sick Leave and Minimum Wage Ordinance while supporting the purpose and intent of the Ordinance as stated in §39.0101 which in part reads: This Division ensures that employees who work in the City receive a livable minimum wage and the right to take earned, paid sick leave to ensure a decent and healthy life for themselves and their families.

As of May 19, 2023, over the life of the Program, enforcement efforts have resulted in 3,027 San Diego workers receiving over \$1,243,239 in restitution for violations under the Ordinance. The Program will continue to actively engage the community, conduct both employee and employer focused outreach, and evaluate the enforcement process to find efficiencies through the upcoming fiscal year. If you have questions or would like more information, please contact the Office of Labor Standards and Enforcement Program Manager Erin Lea-Endrelunas at eleaendrelun@saniego.gov.

Christiana Gauger

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cc: Honorable City Attorney, Mara Elliott
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⁵ [City of San Diego Hourly Minimum Wage Will Increase to \\$16.30 Effective Jan.1,2023](#)