

**WEST VIRGINIA DIVISION OF LABOR
WAGE & HOUR SECTION
EMPLOYEE WAGE COMPLAINT (RFA) PROCESS**

Wage payment investigations are initiated by the filing of a Request for Assistance (RFA) form with the Wage & Hour Section of the Division of Labor. To be accepted for investigation, all complaints must involve an employment relationship between the worker and the company involved and must be filed by an employee directly related to the complaint. Wage complaints filed by independent contractors or third parties are not accepted.

Methods for Filing an RFA

When filing a Request for Assistance (RFA), the employee must first decide whether to file the complaint using a paper RFA form, or to file using the electronic version that's available on the Division's website. The main difference between the two choices is that the electronic version is automatically available for processing on the next business day after submission, while the paper RFA takes additional time to arrive through the mail. As the electronic version of the RFA does not allow for the submission of attachments, a paper RFA form must be used when submitting additional records or documentation.

Proper Completion of the RFA

Regardless of which RFA form is used, the most important thing is that the RFA is completed properly. Incomplete or missing information will delay any investigation, however, when the missing information involves the complainant's crucial contact information the complaint may not even be assigned.

Some of the more common problems we experience concerning the completion of the RFA involves the following:

- The complaint includes information that is unreadable or otherwise incomplete.
- The information concerning the complainant's contact information is incomplete. *We require a complete name and address for the complainant and when available, a phone number and/or email address for a point of contact. When leaving a phone number, a number where the complainant may be reached during the regular work hours of 8:00 a.m. and 6:00 p.m. is preferred.*

- The business name of the employer is required. *Do not confuse the actual name of the business with the name of the business owner, store manager, immediate supervisor, etc. If not available otherwise, the company's legal business name is available on their business license. There should be a posting of that license somewhere at the place of business.*
- The employer's mailing address or contact information is not provided.
- The complainant did not indicate the address or location where the work was performed.
- A description of the type of complaint being filed was not provided.
- The amount of wages or fringe benefits owed was not stated. *When the exact amount is not known, an estimate may be provided.*

Providing Documentation to Support the Complaint

Although not required, complainants that file using a paper RFA form may also submit additional evidence to support their complaint with the RFA. When filing an RFA electronically, complainants are not provided the option of submitting additional attachments, however, the opportunity to submit that type of information will be provided later.

When the complainant would like to submit supporting evidence with their complaint but is unsure as to the type of information that would be helpful, he or she may choose something appropriate from the list of supporting documentation provided below, or send nothing and wait to discuss the issue with the investigating officer.

Examples of specific supporting documentation include:

Fringe Benefit Claims – A copy of the company's written policy stating the terms and conditions for how the benefit is earned and paid.

Commissions – A copy of the company's policy on how they pay commissions as well as any sales records that may apply.

Unpaid Hours - Any records you may have showing the hours you worked such as personal calendars, schedules, time sheets, etc.

Unauthorized Wage Deductions - A copy of your check stub or list of deductions as otherwise provided that shows the amount of the deduction taken and how it was described.

Original Documents

When records or documentation of any kind are submitted with the complaint, we ask that copies are provided rather than originals. Complainants that do not have the ability to make their own copies may submit a request for the Division to copy and return their original documents. Should such instructions not be provided, the Division will not be responsible for the preservation or return of original source documents.

Investigative Procedures

Wage complaints are assigned to a labor compliance officer for investigation. The complainant will be contacted by the investigating officer within a few days of receiving the complaint for the purpose of conducting an interview and taking the complainant's statement. The interview process is the complainant's opportunity to provide the investigating officer with information and/or evidence to support his or her claim and to explain the specific violation. The complainant should be prepared to supply the officer with specific information such as the number of work hours that remain unpaid as well as the dates those hours were worked, etc.

Maintaining Contact with the Complainant

The number of times an officer will need to contact a complainant during the investigation varies from case to case. However, the ability to make that contact when necessary is crucial to continuing the investigation. Once an officer has made multiple attempts to contact a complainant without any response, a final written request will be sent to the complainant requesting they contact the officer. If there is no response to that letter within the time frame stated, the case will be closed without further action.

Once the complainant has been interviewed and the complaint found to be under the jurisdiction and authority of the Division, the next step will be for the investigating officer to contact the employer, or former employer, for the purpose of obtaining the records necessary to either verify or dispute the complaint. If the officer determines wages are owed, an audit will be performed and presented to the employer for payment. Non-monetary violations will be presented to the employer either verbally or in writing. Anytime a complaint cannot be substantiated, all parties are notified of that decision and the investigation closed.

While we do not encourage unnecessary phone calls to the investigating officer, we do ask that complainants always report any new information that may be relevant to the investigation. We also ask that the officer be notified should the employer satisfy the complaint after it was filed.