
KNOWLEDGE IS POWER

Workers' Rights Trainings and the Pathway to Improving Conditions in California's Fast Food Industry



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STEP
FORWARD
FOUNDATION



About The Authors

Step Forward Foundation

Step Forward Foundation provides pro bono legal services and training to uplift and to empower underserved and underrepresented communities, specializing in immigration, family, and employment law with a focus on supporting survivors of domestic violence, human trafficking, and sexual assault. Step Forward also conducts training, outreach, and education on workers' rights with the Santa Clara County Office of Labor Standards Enforcement and the Fair Workplace Collaborative and as Regional Co-Lead for the COVID/California Worker Outreach Project to English, Vietnamese, Spanish, Mandarin, and Tagalog speaking workers. Step Forward has provided legal support and training to hundreds of fast food workers and continues to provide ongoing training in wage and hour law, discrimination and harassment, retaliation, leave laws, benefits, and health and safety. Step Forward Foundation also operates a free Legal Advice Line in conjunction with the Santa Clara County Office of Labor Standards Enforcement. Attorneys who speak English, Spanish, Vietnamese, Tagalog, and Mandarin take calls from workers from many industries including numerous fast food workers who are seeking legal advice and representation. Fast food workers frequently call with wage and hour, paid sick leave, workplace violence, sexual harassment, discrimination and benefit issues. The Legal Advice Line also receives calls from employers who are seeking information about current laws.



California Fast Food Workers Union, SEIU

The California Fast Food Workers Union unites fast food workers across brands and locations, and it is the first of its kind in the country. This historic union builds on the 10 years of workers organizing in the state, which began with the Fight for \$15 and a Union. Our Union is fighting to achieve racial and economic justice and transform fast food jobs in the Golden State by fighting for fair pay, safe and healthy workplaces and a voice for all workers in the fast food industry. Through our fight for a voice on the job, we're showing low wage workers everywhere that when we organize, strike, and build a movement, we all can win a seat at the table and improve lives and our communities.



Key Findings & Recommendations

- **Results of the 2023 California Fast Food Know Your Rights Worker Survey show workers do not know about their rights on the job and broadly lack information about essential benefits and programs.** The survey was conducted with 300 workers at 213 fast food locations in 83 cities across California in July and August 2023. Respondents work at fast food restaurants owned by 32 different brands including McDonald's, Jack in the Box, Subway, Carl's Jr., Burger King, Taco Bell, KFC, Wendy's, and many others.
- **88 percent of workers surveyed were unable to correctly answer a majority of questions about basic workplace rights** including paid sick leave, hours of work, overtime pay, and meal and rest breaks.
- **93 percent of workers surveyed have not heard about or do not know how to access most key benefits and programs that they or their families may be entitled to.** Workers were asked whether they knew about and knew how to access paid sick leave, paid family leave, pregnancy disability, Family Medical Leave Act (FMLA), California Family Rights Act, disability insurance, and workers' compensation.
- **Fast food workers' knowledge of rights and benefits does not improve with years on the job.** Long-time fast food workers (five or more years in the industry) do not have significantly better knowledge of their rights on the job compared to all respondents.
- **Fast food workers report being given incorrect or no information by management across virtually all categories of rights, including health and safety, wage and hour, child labor protections, and essential benefits.** Under the law, employers are required to inform workers about their rights. According to both the 2023 Know Your Rights Worker Survey and the accounts of workers in hundreds of complaints filed with state and local regulatory agencies, however, California fast food employers frequently fail to provide workers this information.
- **This first-of-its-kind survey is a step toward addressing the gap in academic and policy research on the extent of workers' awareness of their rights.** Scholars have observed that lack of knowledge of workplace rights is associated with increases in all types of measured injury outcomes.¹
- **Under the fast food franchise business model, global brands concentrate profit at the corporate level while shielding themselves from liability for workplace violations, driving franchisees to seek profit by controlling costs, including by cutting corners on safety and utilizing wage theft and retaliation.** This model provides little incentive for employers to inform workers of their rights, as required by law.
- **Know Your Rights training by independent third parties is needed to ensure fast food workers are informed of their rights.** Step Forward Foundation provides a model of effective Know Your Rights training for low-wage workers, including fast food workers.

- Effective training must be interactive and must engage workers in discussions of real-life scenarios they may face. Training must be also comprehensive and cover topics including the application processes for essential programs and benefits and the processes for filing claims with relevant state agencies. Training should also connect workers with resources such as legal advice lines and local legal aid organizations. Finally, effective training must include ample time for workers to ask questions.
- While voluntary training programs can be powerful, with over half a million Californians working in fast food, broad policy solutions are critical to ensure all workers in this industry know their rights and how to uphold them. Fast Food Fair Work policies proposed by workers and their advocates in the cities of San Jose and Los Angeles aim to do just that.





“I started bleeding a lot and I told management that I felt bad, my kidneys hurt and that there was something wrong with me and it was something very personal and I wanted to leave, and management told me, ‘You can’t leave, I need you to give breaks to the other workers.’ I didn’t tell them I was pregnant because I didn’t know for sure. I felt like I wanted to cry so I went and cried alone in the bathroom. Around 5 p.m.

I told management that I thought I might die. I wanted them to know that I was seriously ill and I could die, and that I was very upset. They did not respond to me.

Finally, around 7 or 8 p.m. management told me that I had given breaks to all the people who needed breaks, so I could leave. I went to the hospital and they told me that I was miscarrying and I had a procedure.

About 10 days later, I was back in the hospital and they told me I had an ectopic pregnancy and they operated on me. The doctor told me that ectopic pregnancies are life-threatening and that I could have hemorrhaged and died.

I missed work for about five weeks because it is taking time for me to recover and regain my strength. I only received two days of paid sick leave, because that is all I had left. Management did not provide me with information about pregnancy disability benefits or other programs that might have benefited me.”

Laura Reyes
Burger King, San Jose

I. Introduction

Violations of workers' rights are widespread in California's fast food industry. At their fast food jobs, workers frequently face wage theft², harassment and discrimination³, and health and safety hazards including extreme heat and toxic exposures⁴, life-threatening violence⁵, and a lack of protections against communicable diseases like COVID-19.⁶ A majority of fast food workers polled say employers cut their hours or retaliate in some other way if they report these or other problems,⁷ which deters workers from speaking up. One factor contributing to all of these issues is the fact that California fast food workers generally lack knowledge and information about their rights on the job to begin with.

The 2023 California Fast Food Know Your Rights Worker Survey finds that California fast food workers are largely unaware of their rights at work.⁸ Eighty-eight percent of workers surveyed were unable to correctly answer a majority of questions about basic workplace rights including paid sick leave, hours of work, overtime pay, and meal and rest breaks. Respondents had an average score of just 30 percent on a series of nine questions regarding these rights. Ninety-three percent of workers surveyed said they did not know about or did not know how to access most key benefits and programs that they or their families may be entitled to if they are sick or injured. Workers were asked about paid sick leave, paid family leave, pregnancy disability, Family Medical Leave Act (FMLA), the California Family Rights Act, disability insurance, and workers' compensation. On average, respondents did not know about or did not know how to access six out of these seven programs.

California's labor laws exist to protect workers from abuses and unsafe conditions, and the agencies that enforce these laws put special emphasis on the importance of protecting workers in vulnerable populations who experience workplace violations most frequently.⁹ When workers lack knowledge of their rights on the job or are prevented from exercising their rights out of fear of retaliation, as is often the case in fast food, they are unable to



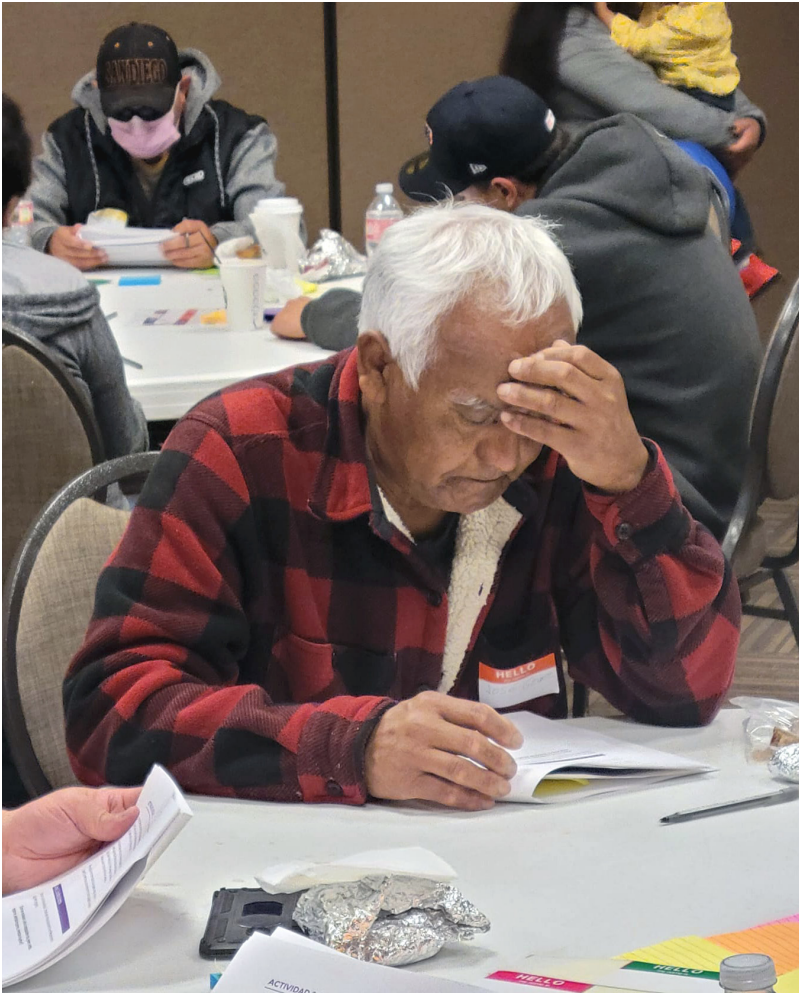
benefit from these protections as the laws intend. Without knowledge of and access to critical benefits and programs, workers may lose needed income when they are already stretched to make ends meet, or may feel forced to come into work when they are injured or sick. These factors contribute to economic insecurity among fast food workers and can exacerbate health and safety risks impacting these workers, their families and their communities.¹⁰

The high poverty rate among California's fast food workers makes them particularly vulnerable to workplace violations and especially likely to experience economic insecurity as a result of a violation. Fast food has a greater share of its workers in poverty than any

other industry.¹¹ In California, one in six families with a fast food income earner lives below the federal poverty line.¹² Nearly half of California fast food workers are cost-burdened with respect to housing, spending more than 30 percent of their income to remain housed.¹³ These economic realities disproportionately impact communities of color, women, and immigrant workers. Eighty percent of California's fast-food workers are people of color and 60 percent are Latino/a. Sixty-eight percent are women, and more than a quarter are immigrants.¹⁴

The fast food industry's franchise business model compounds these problems by prioritizing productivity over compliance with labor standards.¹⁵ Under this model, global fast food brands concentrate power and profit at the corporate level while shielding themselves from liability for workplace violations, leaving franchisees to shoulder the burden of high operating costs and

narrow profit margins.¹⁶ This system drives franchise operators to control costs where they can, such as by keeping staffing levels low, cutting corners on worker training, forgoing health and safety protections, and in some cases using wage theft and retaliation as tools to achieve some degree of financial gain.¹⁷ In an industry that incentivizes workplace violations, employers are not positioned to ensure that workers are adequately informed about their rights or empowered to exercise them.



Under existing laws, employers are required to inform workers of their rights in many areas, such as the minimum wage rate, overtime pay, meal and rest breaks, and workplace safety.¹⁸ Fast food employers often fail to provide this information, however, or else fail to provide it in a manner or language that workers understand. In many cases, employers provide information that is incorrect. Complaints filed by California fast food workers with state and local regulatory agencies document examples of management providing incorrect information across numerous categories of rights, including paid sick leave, overtime pay, off-the-clock work, meal breaks and rest breaks, excessive heat and toxic exposures, workplace violence, and injuries.¹⁹

A key solution to these challenges is to ensure that all fast food workers receive regular workers' rights training provided by qualified, independent third parties. Guaranteeing that workers across California's fast food industry are informed about their rights, in a language and manner they understand, and have the information they need to exercise those rights, will help prevent employers from taking advantage of these workers while creating a pathway for workers to use their voices to improve standards and conditions for all.





“I was forced to work through my treatments for uterine cancer because management did not allow me to take my sick pay and they did not tell me I could have gotten disability income while I recovered. I also lost income to care for my mother when she died of liver cancer and again I was not allowed to take my sick pay or told about Paid Family Leave.

When I got very sick with COVID and thought I was going to die, I missed work for about seven weeks with fever and trouble breathing, and then extreme fatigue. I wasn’t allowed to use my sick pay, or given information about disability insurance. When the 2022 COVID-19 Supplemental Paid Sick Leave bill was signed, management didn’t inform me that I qualified for retroactive COVID pay, even though I had sent them my positive COVID test. I had to go to the churches for free food, and rely on my son, who also works in fast food, to help pay our bills, because my husband’s income is only enough to pay the rent.

Since I started working at Jack in the Box over seven years ago, I have not been able to take my available sick time, was never paid COVID sick leave, have not been able to take breaks due to short staffing, and was not provided information about programs that would have allowed me to take care of myself and my family when we are sick without worrying how I will put food on the table.

I know I am not alone. Workers across the fast food industry are subjected to similar experiences, without the tools to defend themselves. I did not know that there are many laws and programs put in place to protect workers like me, especially in our times of need, such as when we or a family member are sick. If we don’t know about these laws, they are meaningless to us. No one should have to work through their cancer treatments or take care of a dying parent without even knowing about the paid leave programs we are entitled to that could help us survive.”

Filiberta Sanchez

Jack in the Box, Berkeley

2023 California Fast Food Know Your Rights Worker Survey: Summary of Results

Overview

Across the board, survey responses indicate that California fast food workers do not know about their rights on the job, and broadly lack information about essential benefits and programs to which they may be legally entitled.



- **88 percent** of workers surveyed (263/300) were unable to correctly answer a majority of questions about basic workplace rights including paid sick leave, hours of work, overtime pay, and meal and rest breaks. Respondents had an average score of just 30 percent on a series of nine questions regarding these rights.



- **93 percent** of workers surveyed (280/300) have not heard about or do not know how to access most key benefits and programs that they or their families may be entitled to. Workers were asked whether they knew about and knew how to access paid sick leave, paid family leave, pregnancy disability, FMLA, California Family Rights Act, disability insurance, and workers' compensation. On average, respondents have not heard about or do not know how to access **six out of seven benefits** and programs covered in the survey.



Paid Sick Leave

- **None** of the fast food workers surveyed (0/300) know the circumstances under which they are able to take paid sick leave.
- **Over 50 percent** of respondents (151/300) have not heard about paid sick leave or do not know how to access it.



Overtime Pay

- **91 percent** of respondents (273/300) do not know their rights regarding overtime pay.



Meal & Rest Breaks

- **73 percent** (219/300) do not know how much additional pay they are entitled to if they are forced to work through a meal break or rest breaks.
- When asked a series of five questions regarding their rights to meal and rest breaks, **62 percent** answered two or fewer of the five questions correctly. Only **3 percent** of respondents (8/300) answered all five questions correctly.



Benefits and Programs

- **83 percent** have not heard about Workers' Compensation or do not know how to access it.
- **80 percent** have not heard about Disability Insurance or do not know how to access it.
- **77 percent** have not heard about Pregnancy Disability or do not know how to access it.
- **89 percent** have not heard about Paid Family Leave or do not know how to access it.
- **90 percent** have not heard about FMLA or do not know how to access it.
- **94 percent** have not heard about the California Family Rights Act or do not know how to access it.



Long-time fast food workers (5+ years in the industry) compared with all respondents

- Long-time fast food workers (those who have worked in fast food for five years or longer) do not have significantly better knowledge of their rights on the job, compared with all respondents (including those who are new to the industry).
- On average, long-time fast food workers are only **2 percent** more likely to know about their rights regarding hours of work, overtime and pay, meal and rest breaks, and the circumstances under which they can take paid sick leave, compared with all respondents.
- Long-time fast food workers are also only **2 percent** more likely to have heard about and know how to access benefits and programs that they or their families may be entitled to, compared with all respondents.

Methodology The 2023 California Fast Food Know Your Rights Worker Survey gathered responses from 300 workers at 213 fast food locations in 83 cities across California. The survey was conducted in July and August of 2023 and offered in Spanish and English. Survey respondents worked at restaurants in 32 different fast food brands operating in California, including McDonald's, Jack in the Box, Subway, Carl's Jr., Burger King, Taco Bell, KFC, Wendy's, and many others. Respondents were asked a series of questions about their rights at work, including questions about hours of work, meal and rest breaks, overtime pay, and benefits and programs including paid sick leave, paid family leave, pregnancy disability, FMLA/California Family Rights Act, disability insurance, and workers compensation. Of the 300 respondents, 126 are long-time fast food workers (those who have worked in the fast food industry for five years or longer).

II. Existing Research

Despite the well-documented prevalence of workers' rights violations in California, there has been little policy research or academic scholarship on the extent of workers' knowledge, or lack of knowledge, of their rights on the job. A thorough survey of academic literature and public policy research related to workers' rights turned up no scholarly articles, studies, or surveys focusing primarily on the question of workers' knowledge of their rights. According

to Peter M. Smith, public health professor and president of the Institute for Work & Health in Toronto, this finding is not surprising.²⁰ "In developing our framework for defining work contexts that give rise to increased risk of injury, we identified workers' awareness of their rights as one factor among many others that could affect workplace safety outcomes," Smith observed. "That said, I'm not aware of much, if any, research where workers' knowledge of their rights is the main outcome being examined, and certainly nothing outside of the occupational health and safety context."²¹

Previous studies designed to measure the prevalence of workers' rights violations have actually sought to avoid asking workers questions about their knowledge of their rights. A landmark 2009 survey of over 4,000 workers in Chicago, Los Angeles, and New York, for example, employed a questionnaire that was designed

to allow the survey's authors to determine whether employment and labor laws were being violated "without relying on workers' own knowledge of these laws."²² This strategy of gathering "raw inputs" from workers rather than relying on workers' knowledge of their rights, however, is itself an implicit acknowledgment that many – if not most – workers are likely unaware that their rights are being violated.

As mentioned above, one area where workers' lack of awareness regarding their rights has been empirically studied – albeit as part of a larger inquiry – is occupational health and



safety (OH&S). In developing models to measure OH&S vulnerability in workplaces, scholars have observed through surveys that “poor awareness of workplace rights and responsibilities . . . [is] associated with increased prevalence of all types of measured injury outcomes.”²³ This has led OH&S experts to suggest that “increased knowledge of legislated rights and responsibilities related to OH&S among workers and supervisors” is an “important factor . . . to improve OH&S and reduce injuries.”²⁴ These findings suggest that workers’ knowledge of their rights can impact conditions in the workplace.

The significance of workers’ knowledge (or lack of knowledge) regarding their rights has also been shown indirectly by the fact that workers are less likely to file complaints about violations of their rights in industries with high levels of violations.²⁵ Scholars have suggested that workers in these industries are less likely to come forward, in part, “because they lack information about their rights.”²⁶



The lack of documentation of the extent of workers’ lack of knowledge about their rights is notable considering how widely recognized the problem is among advocates who work with workers in the fast food industry and other low-wage industries. The attorneys at the Step Forward Foundation, who have provided legal support to thousands of California workers in low-wage industries, including fast food, report that the overwhelming majority of these workers do not know about their workplace rights. It is in response to this widespread lack of awareness among workers that Step Forward provides Know Your Rights Trainings to workers on topics including wage theft, harassment, discrimination, retaliation, OH&S, and state benefits.

The experience of Step Forward’s attorneys is consistent with that of other advocates. According to Alexandra Suh, executive director of the Koreatown Immigrant Workers Alliance (KIWA) in Los Angeles, “KIWA works with thousands of workers in low-wage industries in Los Angeles every year, and we often find a great need for know your rights trainings to get workers up to speed on both how they’re being taken advantage of by their employers and how they can fight against it.”²⁷ The widespread lack of awareness has also been observed by Maria Marroquin, executive director of the Day Worker Center of Mountain View, an organization that connects day workers with employers and offers various worker support programs, including workshops about workers’ rights. “Our know your rights training workshops are some of our most popular program offerings,” Marroquin shared, “and it’s clear why: the need among our clients is immense.”²⁸

The 2023 California Fast Food Know Your Rights Worker Survey is the first survey we are aware of to definitively show what worker advocates and experts have widely assumed: that workers in the fast food industry are largely unaware of their rights at work.



III. Rights on the Job - Key Areas of Training for Fast Food Workers

WAGE AND HOUR

A vast majority of California fast food workers – 85 percent – have experienced at least one form of wage theft at work, according to a 2022 survey, and 57 percent have experienced multiple forms.²⁹ Examples of wage theft fast food workers commonly face include paid sick leave violations, minimum wage and overtime violations, meal and rest break issues, unpaid work, and problems with paychecks. Systemic wage theft in this industry contributes significantly to the poverty and economic instability that fast food workers are disproportionately likely to face.³⁰

The Step Forward Foundation provides workers with wage and hour training that covers topics including misclassification (exempt v. nonexempt and independent contractor v. employee), minimum wage and penalties for failure to pay minimum wage, how to calculate overtime, tips and tip pooling, meal and rest breaks and related penalties, off the clock work, late pay and penalties, reporting time pay, unlawful deductions, California's Equal Pay Act, final pay and penalties, sick pay laws, and Labor Commission claim filing and procedures. The training is interactive and the attendees work through real-life scenarios.

Training sessions are always followed by multiple questions from fast food workers who have been victims of wage theft. Fast food workers also call Step Forward's Legal Advice Line with questions about wage and hour violations.

Paid Sick Leave

Established in 2015 and updated January 1, 2024, California's Paid Sick Leave (PSL) law allows most workers to take at least 40 hours of paid sick leave each year.³¹ This includes full-time, part-time and temporary workers who work at least 30 days within a year for the same employer in California and complete a 90-day employment period before taking any paid sick leave. Under the law, workers can take paid sick leave for themselves or a family member, for preventive care or diagnosis, care or treatment of an existing health condition, or for specified purposes if they are a victim of domestic violence, sexual assault or stalking. Family members include the employee's parent, child, spouse, registered domestic partner, grandparent, grandchild, sibling or designated person. Preventive care includes annual physicals or flu shots. A worker may decide how much paid sick leave they want to use (for example, whether they want to take an entire day, or only part of a day).

The findings of the 2023 Know Your Rights Worker Survey indicate that a majority of fast food workers lack information about their rights regarding paid sick leave.³² Over half (151/300) of respondents report that they have not heard about paid sick leave or do not know how to access it. Of all workers who participated in the survey, none (0/300) were able to correctly identify all the circumstances under which they are entitled to take paid sick leave.

Violations of paid sick leave laws are the most common form of wage theft experienced by California fast food workers, according to one survey.³³ A significant share of these workers are unable to access the modest amount of paid sick leave they are entitled to under California law because employers refuse to pay them. In the 2022 wage theft survey noted above, 28 percent of fast food workers reported not being allowed to use the sick time they have available, and 14 percent reported having accrued and available sick leave disappear from their pay stubs without having used it.

When employers fail to provide workers with accurate information about paid sick leave, refuse to allow workers to use the sick leave they have available, or retaliate against them for asking about or attempting to use their paid sick leave, the economic and health impacts can be devastating.

The COVID-19 pandemic brought into sharp focus the importance of paid sick leave as a means of preventing the spread of communicable diseases among workers and the general public. But when emergency sick leave requirements were passed, these policies were frequently ignored by fast food employers.³⁴ Despite being covered by state and federal extended paid sick leave policies including the Federal CARES Act, and COVID-19 Supplemental Paid Sick Leave (SPSL) at the state level in California, fast food workers frequently reported COVID-19-related paid sick leave violations during the height of the pandemic, including



“I was very worried because I didn’t have money to pay for March rent. I had never been so desperate.

Since I missed work when I was sick and asked for my paid sick leave, management retaliated against me, cutting my regular schedule from 25 to 30 hours per week down to just 10 hours per week. When I asked management about getting my sick pay I was given the run-around. First they told me they don’t pay unless you bring a doctor’s note. I went to the clinic in person and got a paper note and texted an image of it to management, and they said that was not good enough, I needed to bring in the paper note to them, so I did, but I still didn’t get paid. Then they told me I needed to show them my pay stub so they could see how much sick time I had, so I brought in my pay stub and they told me that I only had one hour of sick pay on my pay stub, and I said that isn’t true, I had 17 hours in December 2022 and I hadn’t used any. They told me ‘Your sick hours disappear in December.’ It is true that my sick hours did disappear from my pay stub in December, but I did not use my sick hours, they just disappeared.”

Balbina Velazquez
Wetzel’s Pretzels, Santa Clara

employers refusing to pay workers extended paid sick leave as required by law and even denying workers unpaid sick leave, forcing them come to work while sick with COVID-19 or COVID-like symptoms.³⁵

In 2021, during the height of the pandemic, workers at a Castro Valley Jack in the Box reported an ongoing pattern of their employer denying them sick pay and COVID quarantine pay. Workers also reported incorrect and inconsistent sick pay information on their wage statements.³⁶

“When we ask for sick pay or COVID pay, we just get the run-around,” the workers said in a statement about the wage theft complaint they filed in October 2021. “When Jeannett asked about sick pay, she was told that sick days probably start to accumulate after one year,” the workers stated. “When she asked about COVID quarantine pay, she was told it was only available to workers that tested positive for COVID. When Ingrid was sick with COVID, she did not get paid for the four days of work she missed home sick with symptoms including chills and a fever, trouble breathing and a terrible cough. Ingrid’s husband urged her to stay home to recover, but she had to return to work after one week because there was no sick pay or quarantine pay.” It wasn’t until September 2021, after workers took action and delivered a petition to management demanding COVID safety and COVID pay, that some of them finally received the COVID pay and sick pay they were owed.³⁷

At least five workers got sick during a COVID outbreak at a San Jose McDonald’s in January 2022.³⁸ Management did not notify workers, provide testing, provide information about monitoring for COVID symptoms, quarantine close contacts, or provide information about COVID-related benefits to which the workers may have been entitled. Management failed to pay Guillermina Blancas all of the COVID-related pay she was owed, and she had to seek rental assistance from Santa Clara County. Another worker, Silvia Guzman, had to

As of January 1, 2024, workers will be entitled to five days or 40 hours of paid sick leave, whichever is greater if they have worked at least 30 days. For example, if a worker works 10 hours per day five days per week, the worker will be entitled to 50 hours of paid sick leave. If a worker works six hours per day five days a week, the worker will be entitled to 40 hours of paid sick leave. The sick leave will be available after the worker has worked 90 days. The employer can provide the sick leave all at once or it can accrue at a rate of one hour for every 30 hours worked. If the employer uses the accrual method, the employer must provide at least three days or 24 hours by the 120th calendar day and five days or 40 hours by the 200th calendar day. The paid sick leave that is available to the worker must be on the workers’ pay stub.

Step Forward has trained fast food workers on paid sick leave and represented fast food workers in paid sick leave violation cases. Since the new law is different from the previous law, it is very important fast food workers receive training so they can understand it and assert their rights. Workers are also generally unaware that, as of 2023, employers must provide paid sick leave not only for the employee and child, adopted child, foster child, grandparent, grandchild, sibling, registered domestic partner, and spouse but also for a designated person. Workers are limited to one designated person per 12-month period for paid sick days.

borrow money after management denied her COVID paid leave and also refused to allow her to use her sick pay, even though she had a doctor's note excluding her from work for 10 days. Like Guillermina, Silvia was forced to seek rental assistance from the County. "Without sick pay and COVID pay, many of us can't afford to stay home when we are sick, which is especially dangerous during a pandemic," the workers stated in a June 2022 wage theft complaint.

Unpaid Work

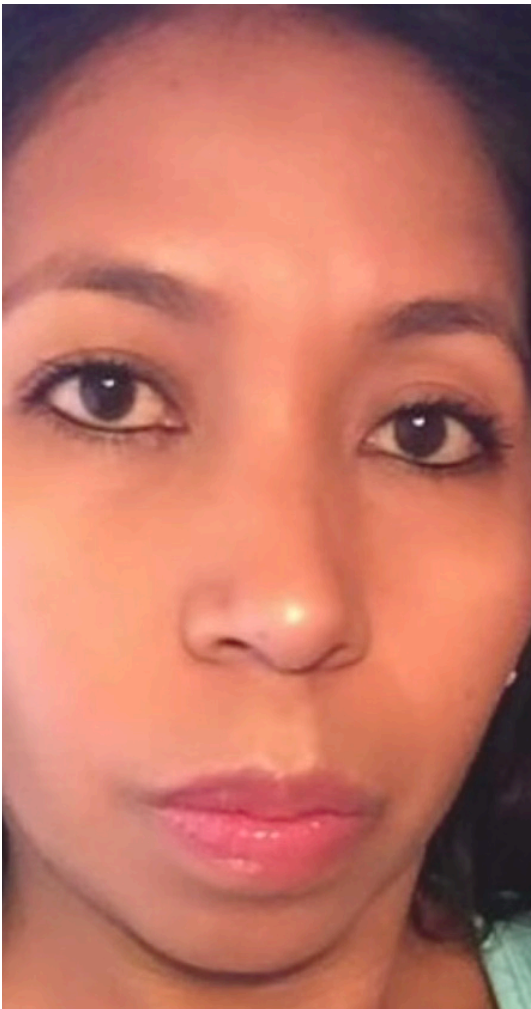
State and federal labor laws mandate that hourly workers be paid for all the time that they work, but in many cases fast food employers require workers to work for free.³⁹ Examples of unpaid work violations include employers requiring workers to begin working before clocking in or continue working after clocking out, requiring workers to work entire shifts off the clock, and altering timekeeping records to avoid paying for time worked.

Working at a Wendy's in Rancho Cucamonga, Devonte Kilgore experienced numerous violations of his rights on the job, including managers routinely requiring him to work for free. He often worked as many as 120 hours per pay period, but his employer paid him for only a fraction of these hours.⁴⁰ "I have been working to the point of extreme exhaustion to support myself," Kilgore said in a May 2022 wage theft complaint filed with the California Labor Commissioner's office. "Since about October 2021 I have been working about 60 hours each week at this Wendy's, but they only pay me for about 18.5 hours per week."

Fast food workers frequently report to Step Forward's Advice Line or trainers that they have not received their final paychecks. It is also common for fast food workers to receive their paychecks late or receive no pay at all for off the clock work. Step Forward has seen cases where employers do not pay fast food workers for cleaning up at the end of day. Once fast food workers know their rights, they are more likely to request their pay from their employer or file claims with the Labor Commissioner's office if they are still unpaid.

At a Carl's Jr. in San Jose, Baltazar Martinez regularly worked overtime without pay – an average of three to four hours of unpaid overtime every two-week pay period.⁴¹ After being subject to this form of wage theft for more than two years, Martinez filed a wage claim with the Office of the State Labor Commissioner documenting a total of 198 unpaid overtime hours. "For example, if I worked eight hours of overtime, I would only see five hours on the check, and three hours would be entirely missing," Martinez said in the September 2023 wage theft complaint.

In March 2020, at the beginning of the pandemic, Selene Venacio was one of just a few people still working at a Wendy's in Oakland.⁴² Many workers had gotten sick, and others quit because they didn't want to risk their health for such low wages. Selene and her few remaining coworkers worked very long shifts, often six days a week. Despite putting in extra hours to help keep the store open, Selene was frequently forced to work off-the-clock because her employer refused to pay her for all the time she worked.



“Management cheated me out of my overtime hours, forcing me to work off-the-clock unpaid. I regularly had to clock out after my scheduled shift was over, and keep working. I often started work at 5:30 a.m. and didn’t get home until after 5 p.m., six days a week.

Every pay period, I would ask management why I wasn’t getting paid for all my hours, and they would tell me that HR did not believe that I was working so much overtime, so they would not write the checks.

Every two weeks when I got paid I would check my pay stub and see how many hours I was missing. I would ask the store manager, ‘What about my hours?’ and she would say ‘Ah, are you going to start with that again?’ I stopped complaining about these things at a certain point, because I decided it would be better for my health to just stop asking, because it was very stressful to be so angry about not getting paid, so I just accepted it.”

Selene Venacio
Wendy’s, Oakland

Minimum Wage and Overtime

Fast food workers also frequently experience forms of wage theft in which employers pay them lower wage rates than they are legally owed, including minimum wage and overtime violations. Under California law, all workers must be paid:

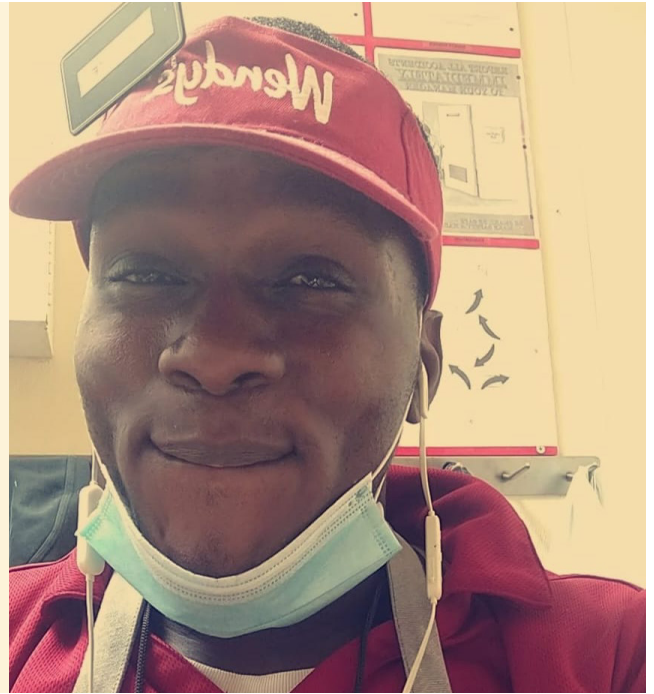
- at least minimum wage when working up to eight hours in one day or 40 hours in one week;
- time and a half for any hours worked beyond eight in one day or 40 in one week, or on the seventh consecutive day in a work week; and
- double time for any hours worked beyond 12 in one day, 48 in one week or eight on the seventh consecutive work day in one week.⁴³

California employers are required to notify employees at the time of hire of their rates of pay and the basis of those rates, and to notify workers in writing of changes to rates of pay or to ensure that changes are reflected on timely wage statements.⁴⁴

In addition to forcing him to perform entirely unpaid work, Devonte Kilgore believes that his employer sometimes paid him less than the minimum wage at the Rancho Cucamonga Wendy’s where he worked.⁴⁵

“My Earning Statement dated March 18, 2022, said that my hourly rate had been changed from \$13 to \$15, but this does not make sense because at some point the minimum wage should have been \$14. My girlfriend was making fun of me saying, ‘Why are you getting paid \$13, I’m getting paid \$20.’ I said, ‘That is because you work in nursing, fast food is different.’ And she said, ‘No, the minimum wage is \$14.’ And I thought she was just being funny and she didn’t know what she was talking about, but now I think she was right and **I was getting paid below the minimum wage.**”

Devonte Kilgore
Wendy’s, Rancho Cucamonga



The results of the 2023 Know Your Rights Worker Survey indicate that an overwhelming majority (91 percent) of California fast food workers do not know their rights regarding overtime pay.⁴⁶ Aura Lilia Lopez was new to the workforce and wasn’t informed of her rights when she began working at a Lynwood Papa John’s in 2021.⁴⁷ For months, Lopez closed the store six to seven nights per week, with management often refusing to let her take legally-mandated breaks, and failing to pay her the overtime pay she was owed.

Employers utilize a variety of illegal overtime avoidance schemes, including paying workers cash for off-the-clock work, instructing workers to clock in under different names so that overtime hours are not counted, spreading hours worked in a single week across multiple weeks, and paying workers with multiple paychecks for work at two or more locations owned by the same employer.⁴⁸

When Fernando Valencia began working a significant amount of overtime at a Vallejo McDonald’s, his employer forced him to work most of his overtime hours under a second name at the regular rate of pay.

“[Management] told me that I needed to punch my overtime hours under the name [of an employee] who was a former worker still in the payroll system,” Valencia said in a January 2023 wage theft complaint. “I did not understand at the time that this was an overtime avoidance scheme.”⁴⁹

In Step Forward’s experience, overtime pay violations are rampant in California’s fast food industry. Training is critical so workers understand how to calculate overtime through scenarios, charts, and real life examples. At the know your rights training that Step Forward provides, there are multiple questions about overtime calculations and remedies for violation of overtime laws.



“Wage theft was a problem the whole time that I worked at Papa John’s.

For four months, from November 2021 through February 2022, I ended up closing the store six to seven nights a week and I didn’t get breaks or overtime pay. I was typically working about 48 to 56 hours per week then. Working at Papa John’s Pizza was my first real job. I didn’t know English or anything about the Papa John’s Pizza system.

I didn’t know my rights, and I didn’t know about double time pay on the seventh consecutive work day.”

Aura Lilia Lopez
Papa John’s, Lynwood

Meal Breaks and Rest Breaks

Under California law, employers must provide workers with an uninterrupted 30-minute unpaid meal break when working more than five hours in a day, an additional 30-minute unpaid meal break when working more than 12 hours in a day, and a paid 10-minute rest break for every four hours worked.⁵⁰ Workers are entitled to a second 10-minute rest break on shifts longer than six hours.

Meal and rest breaks laws play an important role in supporting worker health and safety and safeguarding against workplace hazards. Research shows that breaks are essential for employee health and recovery, and that workers who frequently miss breaks or experience frequent interruptions of their breaks are more likely to experience various health problems including back pain, faintness, fatigue, physical exhaustion, and emotional exhaustion.⁵¹ Multiple studies have found that work breaks are important for the prevention of workplace injuries and accidents.⁵²

Fast food workers often don’t know their rights regarding meal and rest breaks. In the 2023 Know Your Rights Worker Survey, participants were asked a series of five questions regarding their rights to meal and rest breaks.⁵³ Only 3 percent of respondents (8/300) were able to answer all five questions correctly. The majority (62 percent) answered two or fewer of the five questions correctly.



“For over a decade, I worked during my meal breaks and rest breaks and I thought it was normal. The managers asked me to help them when I was on my breaks and I went to help. I thought it was normal to work during breaks so I did it, and everyone did it.”

Angelica Hernandez
McDonald's, Monterey Park

Meal and rest break violations are common in fast food, with many workers being forced to work through their breaks, or having them interrupted by work, without being paid as required by law.⁵⁴ Workers often cite severe understaffing as a factor that prevents them from taking breaks. Managers may also provide workers with incorrect information, denying workers the breaks they are entitled to and the compensation they are owed if breaks are missed.

HEALTH AND SAFETY

Under California law, employers must follow workplace safety and health requirements to prevent hazards and protect workers.⁵⁵ Specifically, CalOSHA requires employers to develop and maintain an effective written Injury and Illness Prevention Program (IIPP) to ensure the

Step Forward hears frequently from workers whose employers fail to provide meal periods or rest breaks or do not relieve fast food workers of all duty during break times as provided by law. Workers are also often unaware that employers must provide them one hours' pay for all missed meal periods in a day and one hours' pay for all missed rest breaks in a day or a maximum of two hours in a day.

Employers are also required to keep records of meal periods. Workers often do not know that, by law, they have a right to request their payroll records. California Labor Code §226 requires that employers keep employee's dates of employment, hourly rates, hours worked, time records, total

hours worked, and gross and net wages earned available for a minimum of three years. This labor code also states that upon reasonable request, this information must be made available to the employee “no later than 21 calendar days from the date of the request.” A failure to comply within this timeframe entitles the worker to recover a \$750.00 penalty from the company.

Many fast food workers are also unaware of the name of the state agency that enforces wage and hour law, of the address and hours of operation of the agency, of how and where to file a claim in person or online, and of the statute of limitations. In every training and on the Advice Line Step Forward provides this information to workers.

During trainings and on the Legal Advice Line, Step Forward has heard from fast food workers who have experienced violence at work including some who have sustained serious injuries from customers who have assaulted them, as well as workers who have sustained burns on their arms and hands from hot oil splatters, and workers who report a lack of sanitation at their fast food workplaces. It is also common for Step Forward to receive calls on the Legal Advice Line and questions during training sessions from fast food workers about excessive heat and heat related illnesses that they are experiencing.

safety and health of workers while on the job, which must contain elements including identifying and mitigating hazards, training and injury response.

Senate Bill 553, a new California law aimed at helping to combat the epidemic of workplace violence, will go into effect July 1, 2024.⁵⁶ SB 553 strengthens California's existing law by requiring employers to develop workplace violence prevention plans as part of their injury and illness prevention programs with specific

components and procedures. It also requires employers to record violent workplace incidents or threats in a violent incident log, provide effective training to all employees and maintain records related to the workplace violence prevention plan.

The prevalence of health and safety hazards California fast food workers face is well-documented, as is the widespread failure of fast food employers to keep workplaces safe by preventing hazards and providing workers with necessary training and protections. Health and safety hazards frequently reported in California fast food workplaces include excessive heat and toxic exposure, workplace violence, and a lack of COVID-19 protections, among many other problems, as detailed in hundreds of complaints workers have filed with CalOSHA and other regulatory agencies, and multiple studies published in recent years.⁵⁷



“On July 2, 2023, it was hot outside and even hotter in the kitchen, and management told me I couldn’t take drinking water from the store. They said, ‘Here we do not give anything away, not water nor soda.’ I had to work for the rest of my shift without water. The problem of excessive heat has been ongoing since I started working here. In the four years I have been here, the AC has never worked properly. Working in these hot conditions makes me feel desperate and causes me to have headaches.

I have never been given training about how to monitor for symptoms of heat illness, or what to do in case of heat illness.

We also do not get cooling nor water breaks.”

Blanca Salgado
Carl’s Jr., San Jose

Lack of Training and Information on Workplace Hazards

It is common for workers to lack knowledge of their rights regarding health and safety on the job, in part because employers often provide them with incorrect information about workplace safety requirements, in addition to failing to provide them with adequate training.⁵⁸ Without accurate information regarding workplace hazards, and without training on topics like recognizing heat illness, safe lifting practices, or how to properly clean and reconnect gas grills, workers are at higher risk of endangering themselves and others.

In July 2023, as outdoor temperatures in San Jose climbed above 95 degrees, it was even hotter in the kitchen of the Carl's Jr. where Blanca Salgado works.⁵⁹ The AC was not working properly – it had been in a constant cycle of breaking down, getting fixed temporarily, and then breaking down again. Blanca and her coworkers had been dealing with extreme heat in the kitchen on hot days for years, often experiencing symptoms of heat related illness including headaches and excessive sweating.

The CalOSHA IIPP standard requires California employers to take steps to mitigate workplace hazards, inform workers about these hazards, and train them in safe practices. But management at the Carl's Jr. where Salgado works took none of these actions with respect to the hazard of excessive heat at this store.

Workplace Violence

California fast food workers often report that employers fail to put adequate safety measures in place and fail to provide necessary training when it comes to the hazard of workplace violence.⁶⁰ In a complaint filed with CalOSHA in November 2023, Jaylene Loubet and her coworkers at a Los Angeles McDonald's detailed the ongoing problem of life-threatening violence they experienced at work, including a man who threatened customers with a knife a few months earlier.⁶¹ Loubet wasn't trained by McDonald's management on how to deal with violence, and did not know that her employer was supposed to have an IIPP in place to prevent and mitigate violence and other hazards.

Step Forward regularly receives calls and questions from fast food workers who experience workplace violence and sustain serious injuries, sometimes requiring hospitalization, because customers viciously attack them. Employers typically take no action to protect fast food workers, and the workers are not aware of their right to a safe workplace. Training will raise awareness that fast food workers are entitled to a safe workplace and that there are laws that require employers to protect them from violence in the workplace.

CalOSHA guidelines call for "emergency medical care and debriefing employees" after violent incidents take place, and state that employers should provide post-event trauma counseling to workers who desire such intervention after workplace assaults, in order to reduce the short and long-term physical and emotional effects of these incidents.⁶² But fast food workers report that employers fail to take these steps in many cases.



“On two occasions while working at Winchell’s I was threatened with violence by men armed with guns, and I have been forced to run for my life. The trauma of these incidents has taken an emotional and physical toll upon me, and I am upset that management has not done more to prepare and protect us.

In November 2022, I was working at the drive-through window with a coworker who was preparing the next order. When the car pulled up the two men inside asked me how much their order was and to open the register. When I responded that their sandwich was still being made, the man in the passenger seat pulled out a gun and aimed it at me. I shouted at my coworker to run and I hid under the coffee maker. The men remained there for around 20 seconds before driving off. I suffer from high blood pressure, and was in shock from what had happened. I asked management if I could go home to recover but I was told to finish my shift. The following day I was still feeling unwell, and my blood pressure was high. I reached out to management with proof asking to remain home, but they told me that I needed to work that day as well.

Less than two months later, two men wearing hoodies and gaiters began knocking on the door around 2 a.m. after the lobby was closed, and began trying to break the window with a hammer. As the glass shattered, I noticed that one of the men had a gun tucked into his belt. I ran to the end of the store where the baker had the door open. He told me to run because the men had already entered the store. We ran down the block trying to find help, and eventually went to a nearby gas station where a woman helped us to call the police. By the time the officers arrived and entered the store the men were gone, having stolen some cash.

These horrible experiences had a huge impact on my health. I felt like I needed to see a doctor and get a consultation about how these events affected my condition. But management did not provide any support or counseling. Their only advice was that I should search for a free clinic.”

Mayra Contreras

Winchell’s Donut House, Lynwood

COVID-19 and other Communicable Illnesses

A 2021 study by Physicians for Social Responsibility Los Angeles found that fast food workplace transmission of COVID-19 was likely a significant, ongoing contributor to the spread of the disease throughout California during the first year of the pandemic.⁶³ The study's findings suggested a widespread lack of compliance with basic public health guidelines at fast-food establishments, involving a lack of training, resources, oversight and enforcement in areas of preventive guidance, in addition to noncompliance related to physical workspaces, essential work tasks and standard practices.⁶⁴

The study found that, in 86 percent of fast food establishments analyzed where a worker was diagnosed with COVID-19, employers did not notify or quarantine close contacts of the worker. In 71 percent of establishments analyzed where a worker had been diagnosed

with COVID-19, employers failed to ensure that workers who showed clear COVID-19 symptoms were excluded from the workplace, and in 54 percent of all establishments analyzed, employers did not provide sick and quarantine pay per regulations.

At the height of the COVID outbreak and continuing to this day, Step Forward hears from fast food workers who have contracted COVID and are forced to work without masks or protective equipment. When COVID paid sick leave was in effect, one of the most common complaints was the failure of fast food employers to provide the COVID paid sick leave that the state had mandated. Trainers and advice line attorneys often had to provide workers with resources to show to their employers or to call employers before workers received the COVID sick pay to which they were entitled.

Employers' failure to exclude symptomatic workers from the workplace and failure to provide workers with required sick leave were found to be widespread practices at fast food establishments during the pandemic that may have contributed significantly to the spread

of COVID-19 in California. These management practices – and the threats they pose to the health of workers and the public – are not limited to situations related to COVID-19, as fast food workers often report being required to work sick and being denied sick leave when experiencing symptoms of other communicable illnesses.

At a McDonald's in East Los Angeles, workers reported an ongoing pattern of management forcing them to work sick, which led to grave consequences for workers and posed serious risks to public health.⁶⁵ In one case, Bertha Montes, a worker was visibly sick at work and told management that she was sick and needed to go home. Management forced her to continue working for three hours before she was allowed to leave. "That was the last time we saw Bertha at work," a group of 31 coworkers stated in a subsequent CalOSHA complaint. "We learned that Bertha was hospitalized, and she died about five weeks later. It is not right that management did not let Bertha leave work when she said she was sick." The complaint details numerous examples of workers being forced to work sick, including with contagious illnesses such as COVID-19 and stomach flu.

Elizabeth Martinez, who worked at the same location, recalled throwing up at work with the

stomach flu.⁶⁶ Martinez asked if she could go home, but management did not allow her to leave. Instead, they told her to just throw up in the back of the store and be sure to throw away the bag of vomit in the garbage before returning to work in the kitchen. “They didn’t let me go home, just like what they did to Bertha,” Martinez said in the OSHA complaint. “They didn’t let me leave until someone else came to replace me, just like Bertha. They didn’t let her leave until someone else came to replace her, and then she died.”

This was not the first time that management at this McDonald’s required Martinez to continue working while visibly sick. Several months earlier, she began experiencing COVID symptoms at work, and told management that she thought she had COVID and wanted to leave.⁶⁷ Management forced her to work several more hours before she was allowed to go home. Elizabeth tested positive for COVID after work that day. “I texted management to tell them I couldn’t work because I had COVID,” Martinez recalled. “They didn’t offer me any information about COVID pay or how to get paid, but I had learned about COVID pay and I asked for it and I got it this time. The first time I had COVID I missed two weeks of work and I didn’t get any COVID pay.”

CHILD LABOR

Violations of child labor laws have more than tripled in the last 10 years, while violations in the food service industry have shot up almost six-fold, according to a Washington Post analysis of Labor Department data.⁶⁸ The government has routinely cited fast food employers for these abuses in recent years.⁶⁹ Examples of child labor violations common in fast food include children working during school hours in violation of the law; children using dangerous equipment; and children working longer or later hours than legally permitted, including night-shift work.⁷⁰

Step Forward has seen an increasing number of child labor violations in the fast food industry. The training Step Forward provides covers the hours that minors can work depending on their age and whether school is in session, the need for a work permit, types of work that minors are not permitted to perform, and laws that are applicable to all workers including children. Step Forward provides resources including a chart that workers can access to determine if an employer is violating child labor laws by requiring minors to work more hours than permitted or in hazardous jobs.

In California, work permits for minors are typically issued by school officials to eligible students, to ensure that minors’ employment does not interfere with educational requirements.⁷¹ It is within the discretion of school officials to determine whether minors who are subject to California’s compulsory education laws may obtain work permits and be allowed to work. School officials also have the discretion to limit minors’ work activities, including by limiting maximum work hours and by imposing additional occupational restrictions or requirements. For example, a school district may require that minors maintain a certain grade point average in order to be issued a work permit.

Minors who work in fast food report that their employers do not inform them of their rights on the job, or that managers compel them to work hours or perform job duties that are not permitted under the law.



“I missed high school most days since I started working at McDonald’s. I couldn’t remember all the classes I was taking and I was not sure if I was passing my classes.

My teacher kept asking me when I was going to be back in school. If it were up to me, I would have only worked after school and on the weekends. I depend on this job because I use the money to buy clothes and food for me and my younger brother, and I am saving up for a car. I want to keep working at this McDonald’s because it is close to my house and I can walk to work, which is important because I don’t have a car. I went to school regularly before I got this job. It is not fair that McDonald’s made me work instead of being in school.

When management interviewed me for this job, they asked me how old I was and I told them I was 17. They asked me if I was in school and I said yes. They asked when I could work and I told them I could work from 2 p.m. until whatever time, and they said okay. At first I worked after school from 2:15 p.m. until 10 p.m., and sometimes I was told to stay until 11 p.m. or 12 p.m. or later. Then I started being scheduled for morning shifts during school, usually about four days a week.

One Sunday when I was scheduled to work until 12:30 a.m. I told management I wanted to go home earlier because I was a minor and I wanted to go to school, and they wanted me to work even later.”

Adrian Ramos

McDonald’s, East Los Angeles

Johmara Romero began working at Popeye’s in Oakland when she was a 17-year-old high school student. Romero was often pressured by management to work longer or later hours than she was legally allowed, including being called into work during school hours and being kept at work until 11 p.m. on school nights. These violations not only interfered with Romero’s education, but also put her safety at risk as she and her coworkers were regularly subjected to life-threatening violence at work.

“I wrote on my job application that I was 17 years old, and in the hiring interview, the manager asked me if I was in school and I said ‘Yes,’ so management at Popeye’s knew I was a 17-year-old high school student, but they did not ask me for a work permit,” stated

Romero, who filed a child labor complaint along with a coworker against their employer in May of 2023.⁷² “I am often scheduled to work until 10 p.m., but sometimes when my shift is over the manager tells me, ‘You are staying until 11.’ One time I worked until 11 p.m. on a school night and I was late for school the next morning because I overslept. Another time they called me into work at noon on a school day, even though school goes until 2:30 p.m., because they were short-staffed, so I skipped school that day.”

In addition to the child labor complaint they filed, Romero and another coworker who was also a minor filed a complaint with CalOSHA about the violent incidents they frequently experienced at work.⁷³ “Not only is management not taking sufficient action to protect us from violence at the store, but there is also an urgent lack of training at all levels within the store on de-escalation and how to handle violent situations,” the workers stated in the complaint. “Our customers can be aggressive,” Romero said in a statement. “I have anxiety, and it gets bad when it gets loud and people start yelling. Sometimes people start arguing with the security guard or they’ll argue with us. Sometimes they throw stuff at employees.”

When Adrian Ramos began working at an East Los Angeles McDonald’s at the age of 17, he told management that he was a minor and that he only wanted to work outside of school hours, so his job would not interfere with his education.⁷⁴ When management began scheduling him during school hours and requiring him to work until 12 a.m. or later on school nights, Adrian felt he didn’t have a choice because he needed to keep the job to support himself and his younger brother.

RETALIATION

California law protects workers against retaliation for exercising their labor rights.⁷⁵ The Retaliation Investigation Unit (RIU) of the California State Labor Commissioner’s office investigates workplace retaliation complaints including:

- Termination, suspension, transfer or demotion
- Reduction in pay or hours
- Disciplinary actions or threats
- Unfair immigration-related practices

In the fast food industry, workers often face retaliation for speaking up about labor violations and other problems they experience at work. The above-cited 2022 wage theft survey found that nearly one-third of California fast food workers had experienced retaliation for wage theft related issues.⁷⁶ Additional studies have found that retaliation is common when fast food workers raise concerns about sexual harassment,⁷⁷ COVID-19 protections,⁷⁸ and other health and safety hazards at work.⁷⁹ It is especially common for fast food workers to experience retaliation for taking sick days, asking about sick pay, and speaking up about not being paid correctly.⁸⁰

On top of the multiple forms of wage theft Devonte Kilgore endured working at Wendy’s, he also faced racism on the job and was retaliated against for speaking up about it.⁸¹ Kilgore’s



“Management retaliated against me by cutting a day of work each week from my regular schedule (Thursdays) for missing a day of work on October 5 because I felt sick and nauseated from sewer gas exposure at my job working at another Jack in the Box.

This caused me to pay November’s rent late, and then I received a letter from the landlord saying they were proceeding with eviction because of my late payment. Then on November 24, 2023, I was suspended indefinitely from work in retaliation for calling in sick for one day when I texted the manager that I had diarrhea and she still asked me to come in to work. In food service, we aren’t supposed to work with diarrhea, but management sent me six text messages telling me to come to work sick anyway because there was no one to cover me.

I share a one-bedroom home with my 15-year-old daughter and my adult son who also works in fast food and helps pay the bills.

I work very hard and often work double shifts to support my family. Retaliation for calling in sick at work threatens to push us into homelessness.

After filing retaliation and wage theft complaints with the Labor Commissioner’s Office and a worker health and safety complaint with CalOSHA on November 29, 2023, and having an action at the store on November 30, management paid me my sick pay and partially restored my work schedule.

I learned about my rights from Fight for \$15 and I fought back, but the same things happen to fast food workers across California every day.”

Lourdes Farfan
Jack in the Box, San Jose

manager incorrectly told him that he was not allowed to report harassment to HR, and then cut his schedule from more than full time down to just one three-and-a-half hour shift per week.

“A coworker called me the N-word and he and the general manager both laughed at me about it. When I talked to the general manager about it they sent me home. I reported the incident to HR, and since then I had my hours cut in retaliation,” Kilgore said of his experience.⁸² When he asked the general manager why his schedule had been cut, the manager told him “Because you went to HR. If you have a problem you are supposed to come to me, not HR.”

Step Forward has heard from numerous fast food workers who are afraid to report violations because of fear of retaliation. Immigration related threats are common despite being prohibited by the Labor Code. Training can help fast food workers document retaliation or immigration related threats so they can more easily prove their cases. In most cases, workers are unaware of the need for concerted action, that is action by more than one worker or on behalf of other workers, when they are reporting poor working conditions that don't rise to the level of violations of the law in order to pursue a legal remedy.

A new law, SB 497, effective January 1, 2024, creates a rebuttable presumption of retaliation if the employer retaliates within 90 days of the date that the worker reports a violation to the supervisor or the employer learns that the worker has reported the violation to a government agency. It is important for workers to learn to carefully document the date of their protected activity and the retaliation to take advantage of the law. Additionally, workers are generally unaware that there is a one year statute of limitations to file a claim.

HARASSMENT AND DISCRIMINATION

The California Civil Rights Department (CRD) investigates complaints related to workplace harassment and discrimination. The Fair Employment and Housing Act (FEHA), enforced by the CRD, applies to public and private employers and employment agencies. Workers may also file federal discrimination and harassment claims at the Equal Employment Opportunity Commission (EEOC). California state law tends to be more protective than federal law, but, if a worker files a claim with the EEOC, the claim is automatically cross-filed at the state CRD.⁸³

The FEHA prohibits harassment by an employer of one or more employees in a protected category against an employee, an applicant, an unpaid intern or volunteer, or a contractor.⁸⁴ Protected classes are race, religion, national origin, gender including sexual orientation, gender identity, pregnancy, disability, medical condition and age (over 40). The FEHA also prohibits retaliation for reporting claims of harassment or discrimination based on a protected class. The statute of limitations is now three years for all claims.

Employers of five or more employees are required to provide sexual harassment training to supervisory and nonsupervisory employees, and CRD accepts complaints when a person believes that an employer has not complied with these training and education requirements.⁸⁵

Sexual harassment, race discrimination and harassment, and disability discrimination and harassment are among the most common issues that fast food workers who call Step Forward's Legal Advice Line or attend the trainings experience. Sexual harassment takes the form of crude sexual comments, texts, or photos, stalking, asking for dates, and hugging, kissing, touching or rape.

In one case, the supervisor asked a fast food worker to meet him for a work-related discussion. When she did, he kissed her and asked her to go to a hotel with him. She refused. Her employers then gave her the heaviest work and eventually

fired her. A co-worker also grabbed the worker, hugged, and kissed her. Workers also made derogatory comments about the worker's national origin. In several other cases, fast food employers failed to accommodate workers with disabilities and required them to do work in excess of their doctors' limitations.

Workers are often unaware of how to deal with workplace harassment or where and how to file a claim at the CRD or EEOC. Most fast food workers are unaware that these agencies exist. Training can provide fast food workers with the resources they need to address these issues at work or pursue claims.

BENEFITS AND PROGRAMS

Numerous state and federal programs exist to support workers and their families if they are sick or injured. California employers are required by law to provide workers with information about many of these programs, but fast food workers often report that they are unaware of them. In the 2023 Know Your Rights Worker Survey, fast food workers were asked about their knowledge of paid sick leave, paid family leave, pregnancy disability, Family Medical Leave Act (FMLA), the California Family Rights Act (CFRA), disability Insurance, and workers' compensation. Eighty percent of the time, workers responded that they do not know about or do not know how to access these benefits and programs.⁸⁶ Specifically:

- Over 50 percent of respondents have not heard about paid sick leave or do not know how to access it.
- 83 percent of respondents have not heard about workers' compensation or do not know how to access it.
- 80 percent of respondents have not heard about disability insurance or do not know how to access it.
- 77 percent of respondents have not heard about pregnancy disability or do not know how to access it.
- 89 percent of respondents have not heard about paid family leave or do not know how to access it.
- 90 percent of respondents have not heard about FMLA or do not know how to access it.
- 94 percent of respondents have not heard about the California Family Rights Act (CFRA) or do not know how to access it.

In complaints filed with CalOSHA, the State Labor Commissioner's Office, and other state and local regulatory agencies, workers often report that their employers fail to provide them

with required information about these essential benefits and programs, or that employers provide them with incorrect information.

When Jonathan Villanueva started working at an East Los Angeles McDonald's, management told him that if he got hurt on the job, he would have to pay for it.⁸⁷ When he injured his shoulder moving boxes in the freezer, he did not report the injury or go to the doctor because he thought he would be responsible for medical bills that he couldn't afford. Jonathan did not know about workers' compensation, and was never trained on how to safely lift and carry boxes, or how to work safely in the freezer. "I didn't tell anyone about hurting my shoulder at the time because during the orientation the manager told us if something happens and we get hurt on the job, it would come out of our paychecks," Villanueva said in a May 2023 complaint filed with CalOSHA.

In addition to covering physical injuries, California law also provides for workers' compensation to cover a wide range of psychiatric injuries resulting from job related mental stress.⁸⁸ These provisions are especially important for workers recovering from violent incidents, which occur commonly in fast food work places. Guidance from the Division of workers' compensation recommends critical incident debriefings and training for affected workers as soon as possible after violent incidents occur, and states that post trauma support groups and individual counseling may also be helpful for victims of these incidents.⁸⁹

For years, Iliana Garcia experienced ongoing incidents of violence at the Napa Jack in the Box where she worked, including being held at gunpoint.⁹⁰ Management did not provide her with any resources or information about workers' compensation.

"A man put a gun to my head at the drive-thru window and asked for food," Garcia said in a statement after filing a complaint with CalOSHA in December 2022. "I closed the window and ran toward the fryer and told management. They didn't call the police, they just said, 'There are things that happen.' [Son cosas que pasan.] They didn't offer me any support or a ride home, they just expected me to keep working as usual."

The California Family Rights Act (CFRA) provides eligible workers with up to 12 weeks of unpaid, job-protected leave to care for their own serious health condition or a family member (child, spouse, registered domestic partner, parent, grandparent, grandchild, or sibling or designated person defined as any individual related by blood or whose association with the employee is the equivalent of a family relationship) with a serious health condition, or to bond with a new child, adopted child, or foster child within one year of the child's birth, adoption, or foster care placement.⁹¹ California law requires covered employers with five or more employees to provide workers disabled by pregnancy, childbirth, or related medical conditions with unpaid, job-protected Pregnancy Disability Leave (PDL) and/or



accommodations. California employers are also required by law to provide information about CFRA and PDL to their employees.

The California Civil Rights Department (CRD) also enforces the bereavement leave and the new reproductive loss event leave law. California employers with five or more employees are also required to provide five days of unpaid bereavement leave. As of January 1, 2024, they are also required to provide five days of unpaid leave for a “reproductive loss event,” defined as “the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction.” In Step Forward’s experience, fast food employers are generally unaware of recent changes in the law, and, if they are aware, rarely inform workers of these rights.

While working at a San Jose Burger King in April 2023, Laura Reyes told management that her kidneys hurt, that there was something very wrong and that she needed to leave.⁹² Management would not let her leave work, and told her that she had to stay and cover breaks for other workers. After working four more hours, Reyes was allowed to leave work and went to the hospital. Reyes eventually had surgery for an ectopic pregnancy, which can be fatal. She missed more than a month of work, but only received two days of paid sick leave. Her employer did not provide her with information about Pregnancy Disability Leave or other available benefits.

Step Forward Advice Line attorneys have received calls and trainers have fielded questions from pregnant fast food workers whose employers have failed to accommodate them during pregnancy even when they bring in a doctor’s note. Pregnant workers are generally unaware that they are permitted to take four weeks before the birth and six weeks leave after the birth for a normal pregnancy and four weeks before the birth and eight weeks leave for a Cesarean birth but that they are also allowed to take up to four months leave for a medical condition related to the pregnancy. They are also often unaware that they are entitled to State Disability Insurance (SDI) benefits from the Employment Development Department (EDD) during this time. Many workers do not know that, if there are five or more workers, if they have worked for 1,250 hours in the prior year (25 hours per week), and if they have worked at least a year, they are permitted to take up to 12 weeks of leave for bonding within one year. During the bonding period, they are eligible for PFL. Fast food workers are also often unaware that bonding leave is available to both parents, foster parents or adopted parents.

Both on the Advice Line and at the trainings, fast food workers report that employers provide them with inaccurate information about their leave entitlement, and Step Forward has to provide the workers with resources to provide to their employers before they receive the leave. In one case, an employer ordered a worker back to work when he had four more weeks of CFRA leave. The employer erroneously believed that, since PFL from the state is only for eight weeks, the worker was not entitled to 12 weeks under the CFRA. Workers who take CFRA leave for a designated person may not know that PFL from the state is unavailable to them and that they will receive no pay during their leave.

Workers also lack knowledge about how to navigate the various benefits such as unemployment, SDI, and PFL, especially if they are monolingual or not computer literate, and often have no knowledge of how to access paper forms and how to fill out the forms. Training is critical to provide fast food workers with this information.

IV. Solutions

Training by independent third parties needed to ensure workers are informed of their rights

Employers are required under the law to inform workers about their rights. As the 2023 Know Your Rights Worker Survey and the accounts of workers in complaints filed with state and local regulatory agencies make clear, however, California fast food employers frequently fail to provide workers the information they need. When fast food employers do provide information about workplace rights, it is often not communicated in an accessible manner for workers, or in a language that they understand, or it is incorrect. Without knowledge of their rights on the job, fast food workers can't count on the protections that California's labor laws are intended to ensure them. In cases where workers are aware of their rights and attempt to exercise them, they can face retaliation from employers and may not know what steps they can take to protect themselves.



"I think we need training on what to do when there is a gas leak, and management needs to take gas leaks seriously. We don't get proper training here.

When I ask about training, the managers tell me, 'At McDonald's, you work with 99 percent common sense.' But that isn't true, everything isn't just common sense, we need training."

Mariel Garcia
McDonald's, East Los Angeles

Fast food employers operate within an industry structure that incentivizes workplace violations and prioritizes productivity over compliance with labor laws.⁹³ In an industry where 85 percent of workers say they face wage theft,⁹⁴ health and safety hazards are rampant, and child labor violations are widespread and on the rise, workers cannot rely on employers to inform workers about their rights, or ensure that they are empowered to exercise them.

A critical solution to these systemic challenges is to ensure that all fast food workers receive regular workers' rights training provided by qualified, independent third-parties. Ensuring that workers across California's fast food industry are educated about their rights, and provided the information they need to exercise those rights, will create a pathway for workers to use their voices to improve standards and conditions across the industry.

“After I sprained my hand at my second job and had to miss work, I asked management for two days of sick pay. They responded, ‘You only work two days [per week], the rights [to sick pay] are for those who work full time only.’ This is not true – under California law, paid sick leave is available to full time and part-time workers.

Even when my pay stubs show that I have 24 hours of ‘available’ California Paid Sick Leave, I am not allowed to use it.

The City of Berkeley required additional paid sick leave, but I am not allowed to take that either, and it is not shown on my pay stub as required, so I didn’t know about it until I got involved with the Fight for \$15. Since I started working at this Jack in the Box over seven years ago, I have not been allowed to take my available paid sick leave when I am sick.

Management also does not allow me to take my rest breaks, and I often have to work through my meal breaks because there is no one to cover me, because of short-staffing.

I knew about rest breaks from other jobs that I have had, and when I asked why I didn’t get rest breaks at Jack in the Box, the store manager said, ‘All jobs are different. Here, breaks are given if we can, and they aren’t given if we can’t.’ I knew this wasn’t correct, but I couldn’t do anything about it. One time when I asked to be able to take my meal break, the manager said, ‘Do you think I care about your meal break?’ and I wasn’t allowed to take it.

I learned from the Fight for \$15 that if I am forced to work through my breaks I am supposed to be compensated, but this never happens.”

Filiberta Sanchez

Jack in the Box, Berkeley



As noted in a 2021 paper by labor and policy experts Janice Fine, Daniel J. Galvin, Jenn Round and Hana Shepherd, published by the Washington Center for Equitable Growth, community-based organizations that are embedded in low-wage worker communities are essential to addressing employer non-compliance and in high violation industries.⁹⁵ Through their relationships and local credibility, these groups are uniquely positioned to provide effective training to vulnerable workers and help empower them to exercise their rights under the law.

Policy Solutions

While voluntary programs like those provided by Step Forward have proven the viability of Know Your Rights training as a powerful tool to educate and empower workers including those in fast food, the reach of these programs is intrinsically limited. With over half a million Californians working in fast food, broader policy solutions are needed to ensure that all workers in this industry are informed of their rights and know how to exercise them.

Workers and their advocates in San Jose and Los Angeles, including the California Fast Food Workers Union, have proposed new policies to educate workers about their rights at work and how to uphold them. The proposals would require fast food businesses city-wide to ensure employees attend an annual Know Your Rights training administered by qualified, independent third-party organizations familiar with issues faced by fast-food workers. Training would provide workers with the tools and contacts needed to help stop the abuses they experience at work. Employers would be required to pay for the training and compensate workers for their time.

In Step Forward's experience, fast food employers are either unaware of worker rights and current laws, do not provide accurate information, or are not interested in informing workers of their rights. It is important that trainers are familiar with current law, changes in the law, and new laws; understand how to navigate the government agencies that enforce these laws and are familiar with benefit and claim forms and how to fill them out; are able to provide resources to workers; and have years of experience utilizing training methods that are effective for fast food workers in California. Employers are often unaware of basic laws, let alone changes in the laws, and have little or no experience providing effective training or training methods in workers' rights or the law to fast food workers. Employers also lack information on available resources or how to navigate

government agencies and file claims for benefits or violations.

After training, workers often have follow-up questions that only experienced and knowledgeable trainers can answer. Employers who are violating the law will be reluctant to answer questions or provide information that workers need. Employers regularly provide inaccurate information either because they lack knowledge or because they want to deter workers from exercising their rights. Workers will often be hesitant to ask employers about workplace violations and remedies because they fear retaliation. Only a third party independent trainer has the incentive, knowledge, and experience to provide effective training to fast food workers and the information and resources that workers need.

In 2023, California fast food workers won a historic victory with the passage of a law that created the California Fast Food Council.⁹⁶ Set to convene in March 2024, this first-of-its-kind statewide council, composed of fast food workers, government appointees, and industry leaders, will have the ability to set standards and improve conditions across the industry. The Fast Food Council will have the opportunity to monitor and evaluate the success of local fast food workers' rights training policies in cities like San Jose and Los Angeles, and explore the need for state level approaches to chart the path for industry-wide access to Know Your Rights trainings for all fast food workers across California.



"I didn't realize there was so much wage theft at this Subway store until I went to a workers' rights training. The truth is that information is power. When you learn about your rights, you can fight for them. I am fighting for overtime pay for the overtime hours I work, I want to get paid my available paid sick leave when I get sick, and I want to be able to take meal breaks and rest breaks."

Paulina Guerrero
Subway, San Jose

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