

District of Columbia Wage Payment and Collection Law

“DCWPCL”¹

D.C. Code §§ 32-1301 – 32-1312

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¹ Also known as: the Wage Payment and Collection Law (“WPCL”), the District of Columbia Wage Payment Law (“DCWPCL”), and the District of Columbia Wage Law (“DCWL”)

§ 32-1301. Definitions.

Whenever used in this chapter:

- (1) "Administrative Law Judge" means an administrative law judge of the Office of Administrative Hearings, established by § 2-1831.02.
- (1A) "Attorney General" means the Attorney General for the District of Columbia, as established by § 1-204.35.
- (1B) "Employer" includes every individual, partnership, firm, general contractor, subcontractor, association, corporation, the legal representative of a deceased individual, or the receiver, trustee, or successor of an individual, firm, partnership, general contractor, subcontractor, association, or corporation, employing any person in the District of Columbia; provided, that the word "employer" shall not include the government of the United States, the government of the District of Columbia, or any agency of either of said governments, or any employer subject to the Railway Labor Act (45 U.S.C. § 151 et seq.).
- (2) "Employee" shall include any person suffered or permitted to work by an employer.
- (2A) "Living Wage Act" means subchapter X-A of Chapter 2 of Title 2 [§ 2-220.01 et seq.].
- (2B) "Minimum Wage Revision Act" means Chapter 10 of this title [§ 32-1001 et seq.].
- (2C) "Sick and Safe Leave Act" means subchapter III of Chapter 5 of this title [§ 32-531.01 et seq.].
- (3) "Wages" means all monetary compensation after lawful deductions, owed by an employer, whether the amount owed is determined on a time, task, piece, commission, or other basis of calculation. The term "wages" includes a:
 - (A) Bonus;
 - (B) Commission;
 - (C) Fringe benefits paid in cash;
 - (D) Overtime premium; and
 - (E) Other remuneration promised or owed:
 - (i) Pursuant to a contract for employment, whether written or oral;
 - (ii) Pursuant to a contract between an employer and another person or entity; or
 - (iii) Pursuant to District or federal law.

- (4) "Mayor" means the Mayor of the District of Columbia or his designated agent or agents.
- (5) "Working day" means any day exclusive of Saturdays, Sundays, or legal holidays.

§ 32-1302. When wages must be paid; exceptions.

An employer shall pay all wages earned to his or her employees on regular paydays designated in advance by the employer and at least twice during each calendar month; except, that all bona fide administrative, executive, and professional employees (those employees employed in a bona fide administrative, executive, or professional capacity, as defined in section 7-999.1 of the District of Columbia Municipal Regulation (7 DCMR § 999.1)) shall be paid at least once per month; provided, however, that an interval of not more than 10 working days may elapse between the end of the pay period covered and the regular payday designated by the employer, except where a different period is specified in a collective agreement between an employer and a bona fide labor organization; provided further, that where, by contract or custom, an employer has paid wages at least once each calendar month, he may lawfully continue to do so. Wages shall be paid on designated paydays in lawful money of the United States, or checks on banks payable upon demand by the bank upon which drawn.

§ 32-1303. Payment of wages upon discharge or resignation of employee and upon suspension of work; employer's liability for failure to make such payment.

Unless otherwise specified in a collective agreement between an employer and a bona fide union representing his employees:

- (1) Whenever an employer discharges an employee, the employer shall pay the employee's wages earned not later than the working day following such discharge; provided, however, that in the instance of an employee who is responsible for monies belonging to the employer, the employer shall be allowed a period of 4 days from the date of discharge or resignation for the determination of the accuracy of the employee's accounts, at the end of which time all wages earned by the employee shall be paid.
- (2) Whenever an employee (not having a written contract of employment for a period in excess of 30 days) quits or resigns, the employer shall pay the employee's wages due upon the next regular payday or within 7 days from the date of quitting or resigning, whichever is earlier.
- (3) When work of an employee is suspended as a result of a labor dispute, the employer shall pay to such employee not later than the

next regular payday, designated under § 32-1302, wages earned at the time of suspension.

- (4) If an employer fails to pay an employee wages earned as required under paragraphs (1), (2), and (3) of this section, such employer shall pay, or be additionally liable to, the employee, as liquidated damages, 10 per centum of the unpaid wages for each working day during which such failure shall continue after the day upon which payment is hereunder required, or an amount equal to treble the unpaid wages, whichever is smaller.
- (5) A subcontractor, including any intermediate subcontractor, and the general contractor shall be jointly and severally liable to the subcontractor's employees for the subcontractor's violations of this chapter, the Living Wage Act, and the Sick and Safe Leave Act. Except as otherwise provided in a contract between the subcontractor and the general contractor, the subcontractor shall indemnify the general contractor for any wages, damages, interest, penalties, or attorneys' fees owed as a result of the subcontractor's violations of this chapter, the Living Wage Act, and the Sick and Safe Leave Act, unless those violations were due to the lack of prompt payment in accordance with the terms of the contract between the general contractor and the subcontractor.
- (6) When a temporary staffing firm employs an employee who performs work on behalf of or to the benefit of another employer pursuant to a temporary staffing arrangement or contract for services, both the temporary staffing firm and the employer shall be jointly and severally liable for violations of this chapter, the Living Wage Act, and the Sick and Safe Leave Act to the employee and to the District. The District, the employee, or the employee's representative shall notify the temporary staffing firm and employer of the alleged violations at least 30 days before filing a claim for these violations. Except as otherwise provided in a contract between the temporary staffing firm and its client, the temporary staffing firm shall indemnify its client for any wages, damages, interest, penalties, or attorneys' fees owed as a result of the temporary staffing firm's violations of this chapter, the Living Wage Act, and the Sick and Safe Leave Act.

§ 32-1304. Unconditional payment of wages conceded to be due.

In case of a bona fide dispute concerning the amount of wages due, the employer shall give written notice to the employee of the amount of wages which he concedes to be due, and shall pay such amount, without condition, within the time required by §§ 32-1302 and 32-1303; provided, however, that acceptance by

the employee of any payment made hereunder shall not constitute a release as to the balance of his claim. The employee or Mayor shall be able to pursue any such balance of unpaid wages and related damages, interest, costs, and penalties.

§ 32-1305. Provisions of law may not be waived.

- (a) Except as herein provided, no provision of this chapter shall in any way be contravened or set aside by private agreement.
- (b) In enforcing the provisions of this chapter, the remuneration promised by an employer to an employee shall be presumed to be at least the amount required by federal law, including federal law requiring the payment of prevailing wages, or by District law.

§ 32-1306. Enforcement, records and subpoenas.

- (a)
 - (1) The Mayor shall enforce and administer the provisions of this chapter, the Living Wage Act, the Sick and Safe Leave Act, and the Minimum Wage Revision Act, including by conducting sua sponte and complaint-initiated investigations into whether violations have occurred, holding hearings, and instituting actions for penalties. Any and all prosecutions of violations of this chapter, the Living Wage Act, the Minimum Wage Revision Act, or the Sick and Safe Leave Act undertaken in court shall be conducted in the name of the District of Columbia by the Office of the Attorney General.
 - (2)
 - (A) The Attorney General, acting in the public interest, including the need to deter future violations, may bring a civil action in a court of competent jurisdiction against an employer or other person violating this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act for restitution or for injunctive, compensatory, or other authorized relief for any individual or for the public at large. Upon prevailing in court, the Attorney General shall be entitled to:
 - (i) Reasonable attorneys' fees and costs;
 - (ii) Statutory penalties equal to any administrative penalties provided by law; and
 - (iii) On behalf of an aggrieved employee:
 - (I) The payment of back wages unlawfully withheld;
 - (II) Additional liquidated damages equal to treble the back wages unlawfully withheld; and
 - (III) Equitable relief as may be appropriate.

- (B) The Attorney General shall not in any action brought pursuant to this section be awarded an amount already recovered by an employee.
- (a-1) The Mayor shall encourage reporting pursuant to this section by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or other person reporting a violation during the course of any investigation; provided, that with the authorization of such person, the Mayor may disclose the employee or person's name and identifying information as necessary to conduct a hearing and enforce this chapter or other employee protection laws, including the Living Wage Act, the Minimum Wage Revision Act, or the Sick and Safe Leave Act.
- (b)
- (1) The Mayor shall have power to administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents, and testimony and to take depositions and affidavits in any proceedings before him.
- (2) The Attorney General shall have the power to investigate whether there are violations of this chapter, the Living Wage Act, the Sick and Safe Leave Act, or the Minimum Wage Revision Act, and administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents, and testimony and to take depositions and affidavits in connection with any such investigation.
- (c) A person to whom a subpoena authorized by this section has been issued shall have the opportunity to move to quash or modify the subpoena in the Superior Court of the District of Columbia. In case of failure of a person to comply with any subpoena lawfully issued under this section, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, it shall be the duty of the Superior Court of the District of Columbia, or any judge thereof, upon application by the Mayor or the Attorney General, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the Court or a refusal to testify therein.
- (d)
- (1) Every employer subject to any provision of this chapter or of any regulation or order issued pursuant to this chapter shall make, keep, and preserve, for a period of not less than 3 years, or the prevailing

federal standard at the time the record is created, which shall be identified in rules issued pursuant to this chapter, whichever is greater, a record of:

- (A) The name, address, and occupation of each employee;
 - (B) A record of the date of birth of an employee under 19 years of age;
 - (C) The rate of pay and the amount paid each pay period to each employee;
 - (D) The precise time worked each day and each workweek by each employee, except for employees who are not paid on an hourly basis and who are exempt from the minimum wage and overtime requirements under § 32-1004(a); and
 - (E) Any other records or information as the Mayor may prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this chapter.
- (2)
- (A) Pursuant to the investigative authority conferred upon the Mayor and the Attorney General in subsections (a) and (b)(2) of this section, respectively, and notwithstanding any other provision of law, any records an employer maintains pursuant to the requirements of this chapter, the Living Wage Act, the Sick and Safe Leave Act, and the Minimum Wage Revision Act shall be open and made available for inspection or transcription by the Mayor, the Mayor's authorized representative, or the Office of the Attorney General upon demand at any reasonable time. An employer shall furnish to the Mayor, the Mayor's authorized representative, or the Office of the Attorney General on demand a sworn statement of records and information upon forms prescribed or approved by the Mayor or Attorney General.
 - (B) No employer may be found to be in violation of subparagraph (A) of this paragraph unless the employer had an opportunity to challenge the Mayor or Attorney General's demand before a judge, including an administrative law judge.
- (e) Every employer shall furnish to each employee at the time of payment of wages an itemized statement showing the:
- (1) Date of the wage payment;
 - (2) Gross wages paid;
 - (3) Deductions from and additions to wages;

- (4) Net wages paid;
- (5) Hours worked during the pay period; and
- (6) Any other information as the Mayor may prescribe by regulation.

§ 32-1306.01. Training.

- (a) Each business owner or operator who employs an employee who is paid in accordance with § 32-1003(f) shall attend either in-person or online, on a yearly basis, at least one training on the requirements of this chapter.
- (b) Each manager who is employed by an employer that employs an employee who is paid in accordance with § 32-1003(f) shall attend in-person, on a yearly basis, at least one training on the requirements of this chapter.
- (c) Each employer that employs an employee who is paid in accordance with § 32-1003(f) shall offer, at least once annually, its employees the opportunity to attend in person or to complete online at least one training on the requirements of this chapter.
- (d) [Not funded].

§ 32-1307. Penalties.

- (a)
 - (1) An employer who negligently fails to comply with the provisions of this chapter or the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall be fined:
 - (A) For the first offense, an amount per affected employee of not more than \$2,500; and
 - (B) For any subsequent offense, an amount per affected employee of not more than \$5,000.
 - (2) An employer who willfully fails to comply with the provisions of this chapter or the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall:
 - (A) For the first offense, be fined not more than \$5,000 per affected employee, or imprisoned not more than 30 days; or
 - (B) For any subsequent offense, be fined not more than \$10,000 per affected employee, or imprisoned not more than 90 days.
 - (3) The fines set forth in paragraphs (1) and (2) of this subsection shall not be limited by § 22-3571.01.
- (b)

- (1) In addition to and apart from any other penalties or remedies provided for in this chapter or the Living Wage Act, the Mayor shall assess and collect administrative penalties as follows:
 - (A) For the first offense, \$50 for each employee or person whose rights under this chapter or the Living Wage Act are violated for each day that the violation occurred or continued; or
 - (B) For any subsequent offense, \$100 for each employee or person whose rights under this chapter or the Living Wage Act are violated for each day that the violation occurred or continued.
 - (2) In addition to the administrative penalties set forth in paragraph (1) of this subsection, the Mayor shall collect administrative penalties in the amounts set forth below for the following violations:
 - (A) Five hundred dollars for failure to provide notice of investigation to employees as required by § 32-1308.01(c)(2); and
 - (B) Five hundred dollars for failure to post notice of violations to the public, as required by § 32-1308.01(h)(2).
 - (3) This subsection shall not be construed to affect the Sick and Safe Leave Act or the Minimum Wage Revision Act.
- (c) No administrative penalty may be collected unless the Mayor has provided any person alleged to have violated any of the provisions of this section notification of the violation, notification of the amount of the administrative penalty to be imposed, and an opportunity to request a formal hearing held pursuant to Chapter 5 of Title 2 [§ 2-501 et seq.] and § 32-1308.01. If a formal hearing is requested pursuant to § 32-1308.01(e), the Mayor shall issue a final order following the hearing, containing a finding that a violation has or has not occurred. If a hearing is not requested, the person to whom notification of violation was provided shall transmit to the Mayor the amount of the penalty within 15 days following notification.
- (d) The fines set forth in this section shall not be limited by § 22-3571.01.

§ 32-1307.01. Wage Theft Prevention Fund.

- (a) There is established as a special fund the Wage Theft Prevention Fund ("Fund"), which shall be administered by the Department of Employment Services in accordance with subsection (c) of this section.
- (b) The Fund shall consist of the revenue from the following sources recovered under § 32-1307:
 - (1) Civil fines; and

- (2) Administrative penalties.
- (c) The Fund shall be used to enforce the provisions of this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, and the Living Wage Act.
- (d)
 - (1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.
 - (2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

§ 32-1308. Civil actions.

- (a)
 - (1)
 - (A) Subject to subparagraph (B) of this paragraph, a person aggrieved by a violation of this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act may bring a civil action in a court of competent jurisdiction against the employer or other person violating this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act and, upon prevailing, shall be awarded reasonable attorneys' fees and costs and entitled to relief including:
 - (i) The payment of any back wages unlawfully withheld;
 - (ii) Liquidated damages equal to treble the amount of unpaid wages;
 - (iii) Statutory penalties; and
 - (iv) Such legal or equitable relief as may be appropriate, including reinstatement of employment, and other injunctive relief.
 - (B) No person in any action brought pursuant to this section shall be awarded any amount already recovered by an employee.
 - (C) Actions may be maintained by one or more employees, who may designate an agent or representative to maintain the action for themselves, or on behalf of all employees similarly situated as follows:
 - (i) Individually by an aggrieved person;
 - (ii) Jointly by one or more aggrieved persons;

- (iii) Consistent with the collective action procedures of the Fair Labor Standards Act, 29 U.S.C. § 216(b);
 - (iv) As a class action;
 - (v) Initially as a collective action pursuant to the procedures of the Fair Labor Standards Act, 29 U.S.C. § 216(b), and subsequently as a class action;
 - (vi) By a labor organization or association of employees whose member is aggrieved by a violation of this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act; or
 - (vii) By the Attorney General for the District of Columbia, pursuant to § 32-1306.
 - (2) For the purposes of this subsection, 2 or more employees are similarly situated if they:
 - (A) Are or were employed by the same employer or employers, whether concurrently or otherwise, at some point during the applicable statute of limitations period;
 - (B) Allege one or more violations that raise similar questions as to liability; and
 - (C) Seek similar forms of relief.
 - (3) Employees shall not be considered dissimilar under this subsection solely because their:
 - (A) Claims seek damages that differ in amount; or
 - (B) Job titles or other means of classifying employees differ in ways that are unrelated to their claims.
- (b)
 - (1) The court, in any action brought under this section shall, in addition to any judgment awarded to the prevailing plaintiff or plaintiffs, allow costs of the action, including costs or fees of any nature, and reasonable attorney's fees, to be paid by the defendant. In any judgment in favor of any employee under this section, and in any proceeding to enforce such a judgment, the court shall award to each attorney for the employee an additional judgment for costs, including attorney's fees computed pursuant to the matrix approved in *Salazar v. District of Columbia*, 123 F.Supp.2d 8 (D.D.C. 2000), and updated to account for the current market hourly rates for attorney's services. The court shall use the rates in effect at the time the determination is made.

- (2) If the fees remain unpaid to the attorney at the time of any subsequent review, supplementation, or reconsideration of the fee award, the court shall update the award to reflect the hours actually expended and the market rates in effect at that time. No reduction shall be made from this rate, or from the hours actually expended, except upon clear and convincing evidence that the reduction will serve the remedial purposes of this law. Any court reviewing such a reduction shall review it de novo.
 - (3) Costs shall also include expert witness fees, depositions fees, witness fees, juror fees, filing fees, certification fees, the costs of collecting and presenting evidence, and any other costs incurred in connection with obtaining, preserving, or enforcing the judgment or administrative order.
 - (4) The District shall not be required to pay the filing fee or other costs or fees of any nature or to file bond or other security of any nature in connection with any action or proceeding under this section.
- (c)
- (1) Any action commenced in a court of competent jurisdiction on or after February 26, 2015, to enforce any cause of action for unpaid wages or liquidated damages under this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act, or any regulation issued pursuant to this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act, must be commenced within 3 years after the cause of action accrued, or of the last occurrence if the violation is continuous, or the cause of action shall be forever barred.
 - (2) This period is tolled:
 - (A) From the date the employee files an administrative complaint with the Mayor until the Mayor notifies the employee in writing that the administrative complaint has been resolved or until the administrative complaint is withdrawn by the employee, whichever is sooner; or
 - (B) During any period that the employer fails to provide the complainant with actual or constructive notice of the employee's rights.

§ 32-1308.01. Administrative actions on employee complaints.

- (a) When an employee requests administrative enforcement of this chapter, the Minimum Wage Revision Act, the Living Wage Act, and the Sick and Safe Leave Act, the Mayor shall investigate and make an initial

determination regarding alleged violations. A physically or electronically signed complaint for non-payment of earned wages shall be filed with the Mayor, no later than 3 years after the last date upon which the violation of this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act is alleged to have occurred or the date on which the employer provided the complainant with actual or constructive notice of the employee's rights, whichever is later.

- (b) If the alleged non-payment of earned wages violation is ongoing at the time of the filing of the complaint, the complaint may also seek recovery of amounts that accrue after the filing of the complaint. With regard to amounts that were due at the time the complaint was filed, an aggrieved employee may recover only those amounts that became lawfully due and payable within the 3-year period before the date the complaint was filed. This period is tolled during any period that the employer fails to provide the complainant with actual or constructive notice of the employee's rights or on other equitable grounds.
- (1) The complaint shall set forth the facts upon which it is based with sufficient specificity to determine both that an allegation of non-payment of earned wages has been made and that the other criteria stated in this section have been met.
 - (2) In addition to the other requirements of the complaint set forth in this section, the complaint shall be sworn and shall include or attach the following information:
 - (A) The complainant's name, address, and telephone number (or alternate address or telephone number if the complainant desires);
 - (B) Sufficient information to enable the Mayor to identify the employer through District records, such as the employer's name, business address, license plate number, or telephone number; and
 - (C) An explanation of the alleged violations, which may include the approximate or actual dates the violations occurred, the estimated total dollar amount of unpaid wages, and an explanation of how the total estimated amount of unpaid wages was calculated.
 - (3) The Mayor shall request additional information from the complainant to:
 - (A) Amend a charge deemed insufficient;
 - (B) Cure technical defects or omissions;
 - (C) Clarify or amplify allegations; or

- (D) Ensure that any violations related to or arising out of the subject matter set forth or attempted to be set forth in the original charge are adequately alleged in the complaint.
- (c)
- (1) The Mayor shall serve the complaint and a written notice to each respondent upon completion. The written notice shall set forth the damages, penalties and other costs for which the respondent may be liable, the rights and obligations of the parties, and the process for contesting the complaint.
 - (2) The Mayor shall also include an additional notice to employees stating that an investigation is being conducted and providing information to employees on how they may participate in the investigation. Upon receipt of service, the respondent shall post this additional notice for a period of at least 30 days.
 - (3) Within 20 days of the date the complaint and written notice are served, the respondent shall:
 - (A) Admit that the allegations in the complaint are true and pay to complainant any unpaid wages or compensation and liquidated damages owed and pay to the Mayor any fine or penalty assessed; or
 - (B) Deny the allegations in the complaint and request that the agency make an initial determination regarding the allegations in the complaint.
 - (4) If a respondent admits the allegation, the Mayor shall issue an administrative order requiring the respondent to provide relief, including the payment of any back wages unlawfully withheld, liquidated damages equal to the amount of unpaid wages, reasonable attorney fees and costs, and other legal or equitable relief as may be appropriate, including reinstatement in employment, and other injunctive relief, and which may include statutory penalties. The Mayor or Attorney General may also proceed with an audit or subpoena to determine if the rights of employees other than the complainant have also been violated.
 - (5) If a respondent denies the allegations, the respondent must notify the Mayor of that decision and may provide any written supporting evidence within 20 days of the date the complaint is served.
 - (6) If a respondent fails to respond to the allegations within 20 days of the date the complaint is served, the allegations in the complaint shall be deemed admitted and the Mayor shall issue an initial determination requiring the respondent to provide relief including

the payment of any back wages unlawfully withheld, liquidated damages equal to treble the amount of unpaid wages, statutory penalties, reasonable attorney fees and costs, other legal or equitable relief as may be appropriate, including reinstatement in employment, and other injunctive relief.

- (7) The Mayor shall issue an initial determination within 60 days after the date the complaint is served. The initial determination shall set forth a brief summary of the evidence considered, the findings of fact, the conclusions of law, and, where the Mayor finds in favor of the complainant, the initial determination shall require the respondent to provide relief, including the payment of any back wages unlawfully withheld, liquidated damages equal to treble the amount of unpaid wages, statutory penalties, reasonable attorney fees and costs, and other legal or equitable relief as may be appropriate, including reinstatement in employment, and other injunctive relief. The initial determination shall be provided to both parties and set forth the losing party's right to appeal under this section or to seek other relief available under this chapter.
- (8) In addition to determining whether the complainant has demonstrated that the employer has violated one or more provisions of this chapter, or the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act, by applying the presumption required by § 32-1305(b), the Mayor shall make an initial determination of whether the complainant is entitled to additional unpaid earned wages due to other District laws such as the Living Wage Act, the Sick and Safe Leave Act, or the Minimum Wage Revision Act.
- (9) If the Mayor fails to issue an initial determination within 60 days of the serving of a complaint, the complainant shall have a right to request a formal hearing before an administrative law judge.
- (10)
 - (A) Upon issuance of an initial determination or administrative order, not issued as a result of conciliation, the Mayor shall notify the parties, by certified mail, of their right to file for a formal hearing before an administrative law judge pursuant to subsection (e) of this section.
 - (B) If a party does not timely file for a formal hearing before an administrative law judge pursuant to subsection (e) of this section, the initial determination shall be deemed a final administrative order and shall be enforceable pursuant to subsection (g) of this section.

(d)

- (1) The Mayor shall work with the parties in an attempt to conciliate. Any conciliation agreement shall be between the respondent and the complainant and shall be reduced to an administrative order requiring the respondent to pay any unpaid wages, compensation, liquidated damages, and fine or penalty owed and requiring the respondent to cure any violations.
- (2) When an administrative order issued as a result of a conciliation agreement is subsequently breached, the Mayor or the complainant may enforce the administrative order pursuant to this section.

(e)

- (1) Within 30 days of the issuance of the initial determination or an administrative order, not issued as a result of conciliation, or within 30 days of receiving notice of a right to file for a formal hearing before an administrative law judge under this subsection, whichever is later, a party may file for a formal hearing before an administrative law judge. If the initial determination was not issued within the 60-day period specified in subsection (c)(7) of this section, a complainant may file for a formal hearing before an administrative law judge. An administrative law judge shall conduct a hearing to determine whether a violation of this chapter or the Minimum Wage Revision Act, the Living Wage Act, or the Sick and Safe Leave Act has occurred. The hearing shall be scheduled within 30 days of a request, except that the administrative law judge may grant each party one discretionary continuance due to hardship or scheduling of up to 15 days. The administrative law judge may grant any other request for continuance only for good cause.
- (2) The administrative law judge shall have the authority to administer oaths, issue subpoenas, compel the production of evidence, receive evidence, and consolidate 2 or more complaints into a single hearing where such complaints involve sufficiently similar allegations of fact to justify consolidation.
- (3) All parties shall appear at the hearing, with or without counsel, and may submit evidence, cross-examine witnesses, obtain issuance of subpoenas, and otherwise be heard. Testimony taken at the hearing shall be under oath, and a transcript shall be made available at cost to any individual unless the case is sealed. Testimony may also be given and received by telephone.
- (4) The burden of proof by a preponderance of the evidence shall rest upon the complainant, but shall shift to the respondent when the following conditions are met:

- (A) A respondent failed to keep records of an employee's hours worked, or records of compensation provided to an employee are imprecise, inadequate, missing, fraudulently prepared or presented, or are substantially incomplete; and
 - (B) A complainant presents evidence to show, as a matter of just and reasonable inference, the amount of work done or the extent of work done or what compensation is due for the work done.
- (5) Where the conditions in paragraph 4(A) and (B) of this subsection are met, the respondent must present compelling evidence of the Superior Court of the District all have the right to inquire about and receive information regarding the status of the enforcement action.
- (h) If a respondent fails to timely comply with an administrative order or conciliation agreement that has not been stayed, the Mayor shall:
- (1) Assess an additional late fee equal to 10% of the total amount owed for each month any portion of the award and any already accrued late penalty remains unpaid;
 - (2) Require the respondent to post public notice of their failure to comply in a form determined by the Mayor; and
 - (3) Consider any unpaid amount to be owed the District as past due restitution on behalf of an employee and suspend any licenses issued to do business in the District as set forth in subsection (i) of this section. Penalty amounts, including civil and criminal penalties and late fees, and any wages, damages, interest, costs, or fees awarded to an employee or representative shall be a lien upon the real estate and personal property of the person who owes them. The lien shall take effect by operation of law on the day immediately following the due date for payment, and, unless dissolved by payment, shall as of that date be considered a tax due and owing to the District, which may be enforced through any and all procedures available for tax collection.
- (i) The Mayor shall:
- (1) Deny an application for any license to do business issued by the District if, during the 3-year period before the date of the application, the applicant admitted guilt or liability or has been found guilty or liable in any judicial or administrative proceeding of committing or attempting to commit a willful violation of this chapter, the Minimum Wage Revision Act, the Living Wage Act, or the Sick and Safe Leave Act, or any other District, federal, or state law regulating the payment of wages. This subparagraph shall not apply to any person whose final administrative adjudication or judicial

- judgment or conviction was entered before February 26, 2015; and
- (2) Suspend any license to do business issued by the District if the licensee has failed to comply with an administrative order or conciliation agreement issued under this section. Once alerted to an alleged lack of compliance, the Mayor shall notify the business that its license will be suspended in 30 days until the business provides proof that it is in full compliance with the administrative order or conciliation agreement, including any requirements for accelerated payment, interest, or additional damages in the event of a breach. Before the license suspension, the business will have an opportunity to request a hearing to be held pursuant to the Administrative Procedure Act.
 - (j) The administrative remedies established in this chapter shall be in addition to any other criminal, civil, or other remedies established by law that may be pursued to address violations of this chapter and shall not prejudice or adversely affect any other action, civil or criminal, that may be brought to abate a violation or to seek compensation for damages suffered.
 - (k) Any person may be represented by counsel in any proceeding under this chapter. Any party, including corporate entities, as an alternative to counsel, may be assisted by a non-lawyer authorized by that party in accordance with 1 DCMR § 2835, except where such representation is prohibited by law or disallowed by the administrative law judge for good cause.
 - (l)
 - (1) Any party may request that a subpoena be issued by the administrative law judge. Witnesses summoned by subpoena shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the Superior Court of the District of Columbia. Fees payable to a witness summoned by subpoena issued at the request of a party shall be paid by that party.
 - (2) Within 10 days after service of a subpoena upon any person, the person may petition the administrative law judge to quash or modify the subpoena. The administrative law judge shall grant the petition if he or she finds that the subpoena:
 - (A) Requires appearance or attendance at an unreasonable time or place;
 - (B) Requires production of evidence that does not relate to the matter; or
 - (C) Does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous,

or for other good reason.

- (3) In the case of refusal to obey a subpoena, the administrative law judge or any party may seek enforcement of a subpoena issued under the authority of this chapter by filing a petition for enforcement in a court of competent jurisdiction. In the enforcement proceeding, the court may award to the party prevailing in the enforcement proceeding all or part of the costs and attorney's fees incurred in obtaining the enforcement order.
 - (4) Any person who fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, without good cause, may be fined by a court of competent jurisdiction not more than the amount set forth in § 22-3571.01 or imprisoned not more than 60 days, or both.
 - (5) Any person who makes or causes to be made any false entry or false statement of fact in any report, account, record, or other document submitted to the administrative law judge pursuant to its subpoena or other order, or who willfully mutilates, alters, or by any other means falsifies any documentary evidence, may be fined by a court of competent jurisdiction not more than the amount set forth in § 22-3571.01 or imprisoned not more than 60 days, or both.
- (m)
- (1) The administrative law judge, in any action brought under this section shall, in addition to any administrative order awarded to the prevailing plaintiff, allow costs of the action, including costs or fees of any nature, and reasonable attorney's fees, to be paid by the defendant. In any administrative order in favor of any employee under this section, and in any proceeding to enforce an administrative order, the court shall award to each attorney for the employee an additional judgment for costs, including attorney's fees computed pursuant to the matrix approved in *Salazar v. District of Columbia*, 123 F.Supp.2d 8 (D.D.C. 2000), and updated to account for the current market hourly rates for attorney's services. The administrative law judge shall use the rates in effect at the time the determination is made.
 - (2) If the fees remain unpaid to the attorney at the time of any subsequent review, supplementation, or reconsideration of the fee award, the administrative law judge shall update the award to reflect the hours actually expended and the market rates in effect at that time. No reduction shall be made from this rate, or from the hours actually expended, except upon clear and convincing evidence that the reduction will serve the remedial purposes of this law.

- (3) Costs shall also include expert witness fees, depositions fees, witness fees, juror fees, filing fees, certification fees, the costs of collecting and presenting evidence, and any other costs incurred in connection with obtaining, preserving, or enforcing the administrative order.
- (4) The District shall not be required to pay the filing fee or other costs or fees of any nature or to file bond or other security of any nature in connection with any action or proceeding under this section.
- (n) Appeals of any order issued under this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act shall be made to the District of Columbia Court of Appeals.

§ 32-1308.02. Interpretation of fees.

No inference shall be drawn, or precedent established, based on the provisions in § 32-1308 or § 32-1308.01 that provide that attorney fees shall be calculated pursuant to the matrix approved in *Salazar v. District of Columbia*, 123 F.Supp.2d 8 (D.D.C. 2000) that such fees are reasonable for any law other than this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act.

§ 32-1309. Mayor may delegate functions.

The Mayor is authorized to delegate to any agency of the government of the District of Columbia any function, power, or duty vested in or imposed upon him by this chapter.

§ 32-1310. Severability.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 32-1311. Retaliation.

- (a) It shall be unlawful for any employer to discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee or person because that employee or person has:
 - (1) Made or is believed to have made a complaint to his or her employer, the Mayor, the Attorney General for the District of Columbia, any federal or District employee, or to any other person that the employer has engaged in conduct that the employee, reasonably and in good faith, believes violates any provision of this chapter or the Living Wage Act, or any regulation promulgated pursuant to this chapter or the Living Wage Act;

- (2) Initiated or is about to initiate a proceeding under or related to this chapter;
 - (3) Provided information to the Mayor, the Attorney General for the District of Columbia, or any other person regarding a violation, investigation, or proceeding under this chapter;
 - (4) Testified or is about to testify in an investigation or proceeding under this chapter; or
 - (5) Otherwise exercised rights protected under this chapter.
- (b) An employee complaint or other communication need not make explicit reference to any section or provision of this chapter or the Living Wage Act to trigger the protections of this section. The employer, or any person acting on behalf of the employer, taking adverse action against an employee within 90 days of an employee or other person's engagement in the activities set forth in subsection (a) of this section shall raise a presumption that such action is retaliation, which may be rebutted by clear and convincing evidence that such action was taken for other permissible reasons.
- (c) An employee may bring a civil action in a court of competent jurisdiction against any employer or other person alleged to have violated the provisions of this section. The court shall have jurisdiction to restrain violations of this section regardless of an employee's dates of employment and to order all appropriate relief, including:
- (1) Assessing a civil penalty against the employer or other person of not less \$1,000 nor more than \$10,000;
 - (2) Enjoining the conduct;
 - (3) Awarding liquidated damages of an amount equal to the civil penalty to the employee;
 - (4) Awarding front pay, lost compensation, costs, and reasonable attorney's fees to the employee;
 - (5) Reinstatement of an employee to his or her former position or an equivalent position with restoration of seniority; and
 - (6) Other forms of equitable relief.
- (d) An employee may file an administrative complaint against any employer or other person alleged to have violated the provisions of this section and receive a hearing by an administrative law judge by following the same procedure as for any other violation of this chapter. If an administrative law judge finds that an employer or other person has engaged in retaliation, the administrative law judge shall, by an order which shall describe with particularity the nature of the violation, assess a civil

penalty against the employer or other person of not less than \$1,000 nor more than \$10,000. The administrative law judge shall also order all appropriate relief including:

- (1) Enjoining the conduct;
 - (2) Awarding liquidated damages of an amount equal to the civil penalty to the employee;
 - (3) Awarding front pay, lost compensation, costs, and reasonable attorneys' fees to the employee;
 - (4) Reinstatement of an employee to his or her former position or an equivalent position with restoration of seniority; and
 - (5) Other forms of equitable relief.
- (e) No administrative penalty may be collected unless the Mayor has provided the person alleged to have violated any of the provisions of this section with notification of the violation, notification of the amount of the penalty to be imposed, and notification of the opportunity to request a formal hearing held pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.] and § 32-1308.01. If a formal hearing is requested, it shall be held within 30 days of the date of the request and the Mayor shall issue a final order within 30 days after the hearing. The order shall contain a finding that a violation has or has not occurred and the amount of damages, costs, interest, or penalties owed. If the person receiving the violation does not request a hearing, the person shall transmit to the Mayor the amount of the penalty within 15 days of receipt of notification of the violation.
- (f) The court or administrative law judge in any action brought under this section shall, in addition to any judgment or administrative order awarded to the prevailing plaintiff or plaintiffs, allow costs of the action, including costs or fees of any nature, and reasonable attorney's fees as calculated under § 32-1308(b) or § 32-1308.01(m), as applicable, to be paid by the defendant.

§ 32-1312. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this chapter.