

WAGE THEFT PREVENTION & HARMONIZATION ORDINANCE 2015



GOALS

- ❖ **Develop an enforcement process that ensures workers receive owed compensation as quickly as administratively possible.**
- ❖ **Deter violations of labor standards using increased penalties and other remedies.**
- ❖ **Provide flexibility in enforcement so as to not unduly penalize genuine mistakes.**

PRIVATE RIGHT OF ACTION

- ❖ **PSST, MWO, WT (not JAO)**
- ❖ **Effective date dependent on size of business:**
 - **April 1, 2016 for businesses with 50 or more employees, and**
 - **April 1, 2017 for businesses with fewer than 50 employees**

INCREASED REMEDIES FOR WORKERS

❖ PSST, MWO, WT - Unpaid wages or compensation

- Treble Damages (3x the amount owed)

❖ JAO (i.e. Fair Chance Ordinance)

- **1st violation** – up to \$500 to aggrieved party
- **2nd violation** – up to \$1000 to aggrieved party
- **3rd violation** – up to \$5000 to aggrieved party
 - Penalties paid to aggrieved party

❖ All ordinances - Retaliation

- Up to \$5000 + reinstatement or up to 3x front pay in lieu of reinstatement

STRENGTHENED PENALTIES

- ❖ **PSST, MWO, WT - Tiered civil penalties**
 - **1st violation** – (discretionary) up to \$500 per aggrieved party
 - **2nd violation** – up to \$1000 per aggrieved party
 - **3rd violation** – up to \$5000 per aggrieved party
- ❖ **All ordinances - Chart of fines for each ordinance**

ENCOURAGING WORKER REPORTS

❖ **Increased protections against retaliation**

- Rebuttable presumption of unlawful retaliation for adverse actions within 90 days of protected activity
- Unlawful retaliation = protected activity is a “motivating factor” in any adverse action
- Remedies = reinstatement or up to 3x front pay; penalty to aggrieved party up to \$5,000; and fine to agency of \$1000 per aggrieved party

❖ **Confidentiality requirements in all ordinances**

❖ **U Visa certification**

- Employees who report certain wage theft violations to can apply for a nonimmigrant status visa for themselves and family members

GETTING MONEY TO WORKERS

❖ Mitigation of penalties if workers are quickly paid

- Within 10 days – penalties waived
- Within 15 days – penalties halved
- After 20 days – penalties remain

❖ Collections agency

❖ Liens and garnishing wages

❖ Deposit of funds or bond as interim relief

❖ Business license revocation for unpaid final orders

❖ City Contract debarment

- No bidding until the amount in the final order is paid in full
- No bidding for two years for two or more final orders within five years
- Debarment provisions in the labor standards ordinances are in addition and separate from debarment provisions in Chapter 20.70 for prevailing wage

ENFORCEMENT PROCEDURES

- ❖ Same enforcement procedure for all ordinances
- ❖ Investigations start with or without complaints
- ❖ Statute of limitations is 3 years for all ordinances
- ❖ Same definition of “employee” and “employer” to support joint employer liability

IMPORTANT DATES

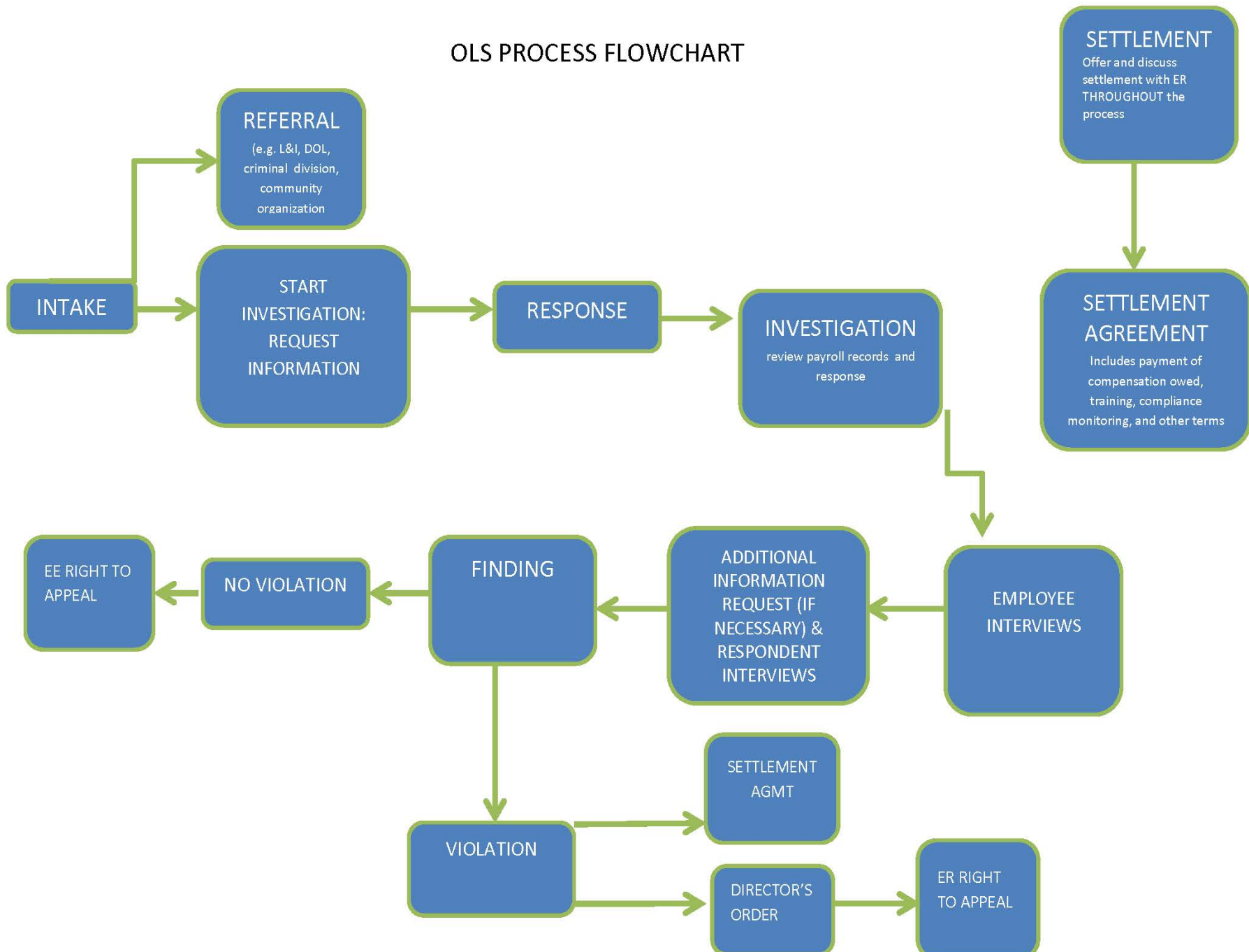
❖ **April 1, 2016**

- Private right of action for claims against businesses with 50 or more employees
- Workplace poster enforcement for all ordinances
- Written PSST policy
- Written “notice of employment information” for all existing and future employees (exempt and non-exempt)

❖ **April 1, 2017**

- Private right of action for claims against businesses with fewer than 50 employees

OLS PROCESS FLOWCHART



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