# CALIFORNIA BUSINESS & INDUSTRIAL ALLIANCE

*Reforming PAGA for California's Employers Since 2017*

August 18, 2026

Danielle West
Rulemaking and Program Analyst
Labor and Workforce Development Agency
1416 Ninth Street (MIC-55), Sacramento, CA 95814
Danielle.West@labor.ca.gov

**RE: OAL Notice File Number Z2026-0121-03 – Comments on the August 3, 2026 Modifications to the Proposed PAGA Regulations and on the Documents Added to the Rulemaking File**

Dear Ms. West,

CABIA appreciates the opportunity to comment on the additional proposed changes too necessary PAGA reforms.

We strongly support the motivation behind this rulemaking, which is to curb the worst abuses of our state's PAGA law. However, there are some significant shortcomings in what has been proposed, which we identified in our March 23rd comment. This revision does not sufficiently address the shortcomings.

**The problem is still getting worse**

We have analyzed the state's PAGA settlement data through June of this year.

| Year | Settled cases | Total settlements | Attorney payouts |
|---|---:|---:|---:|
| 2024 | 1,806 | $1,615,876,118 | $508,854,185 |
| 2025 | 2,420 | $2,206,018,128 | $740,408,061 |
| 2026 (through June) | 1,471 | $1,241,875,534 | $413,786,089 |

From 2024 to 2025, settled cases rose 34 percent, settlement dollars rose 37 percent, and attorney payouts rose 46 percent. 2026 is running ahead of that. At the current pace, this year finishes around 2,900 settled cases and $2.48 billion, with roughly $828 million going to plaintiffs' attorneys.

All of this is happening after the 2024 reforms. The most recent six months of it happened while this rulemaking was pending.

And settlements are only the part you can see. Your own database shows roughly 9,000 PAGA notices filed every year, with small businesses settling to avoid potential crushing financial penalties. ‘

**Your appendices tell the rest of the story**

For years our members described abusive PAGA filing practices and were told they were offering anecdotes. Now the practices are on the record:

- One attorney filed 24 PAGA notices in a single day in April 2026. (App. N.)
- One attorney filed 28 notices over three consecutive days in October 2025. One of them went out with the words “Employee” and “Company” still in it as template placeholders. (App. M.)
- One attorney filed six in a day. A single firm’s month of filings is in the file. (Apps. K, L.)

Appendix M shows that a notice went out to a California employer, got filed with the State, and nobody read it first.

CABIA continues to contend that PAGA is unconstitutional and should be eliminated. Short of that, the agencies charged with administering this delegation should do the job the statute assigns them: Review the notice;. Require attorneys to comply with the statute’s straightforward notice requirements; Investigate the cases; and stop handing the State’s enforcement power to financially incentivized private lawyers.

**Reforms that We Support**

Several of these changes will help. We are grateful you have proposed them, and we support them.

To be specific:

- The requirement that a notice state the facts and theories behind each violation is the most important provision you have written. The examples you provide are exactly what our members experience: a claim that employees were denied reimbursement for personal cell phones, with nothing about how phones were used or how often; a claim of meal and rest violations with nothing about whether any break was late, short, interrupted or missed. Nobody can investigate that, correct it, or cure it. Generalized or vague allegations, and allegations that just paraphrase the statute, are not sufficient.

- We also support barring violations and theories from a lawsuit if they were never in the notice. That is already the law. (*Uribe v. Crown Building Maintenance Co.* (2021) 70 Cal.App.5th 986, 1003; *Hubbs v. Big Lots Stores, Inc.* (C.D.Cal. 2018) 2018 WL

5264141, at *3 [PAGA claims are "limited to the specific theories mentioned in the PAGA notice letter"].) Our members see a notice alleging meal period problems in general terms, and then a complaint months later adding rounding, on-duty meal agreements, unpaid pre-shift and post-shift work, uniform maintenance, and derivative wage statement and waiting time claims that never went to you at all.

- Lastly, we support the rest of the administrative changes: requiring the responsible attorney to give a name, bar number and real contact information instead of an info@ address; requiring the right portal link and certified mail tracking numbers; the employee certification; the added settlement submission requirements; the public list of designated filers, which you should commit to updating within ten days; and your statement that Agency silence on a settlement is not Agency approval. That last one has been misused in briefing for years and you are right to shut it down.

**Areas That Need Improvement**

*Designation of High-Frequency Filers*

You designate an attorney at 100 notices in twelve months, and a firm at 200. By your own count that reaches just 12 attorneys and eight to ten firms, out of roughly 9,000 notices a year. We recommend:

- Lower the thresholds to 25 notices per attorney and 50 per firm over twelve months.
- Add a rate trigger: 10 or more notices in any 30-day period, or five or more in any seven days.
- Count a notice against every attorney named on it or identified in the portal, so a firm cannot stay under the line by rotating who signs.

*Increase Consequences for High-Frequency Filers*

Put high-frequency filers under prefiling screening. If you will not go that far, at least require a facial sufficiency review before the notice is accepted, using the tolling provisions you already drafted for prefiling screening. Those provisions protect the employee's limitations period and hold the employer's clock until acceptance. The machinery is already written. Using it costs you no additional authority and removes the incentive to file first and build the file later.

Require prefiling screening for high-frequency filers. If full prefiling screening is not adopted, at a minimum require a facial-sufficiency review before accepting a PAGA notice. The existing tolling provisions for prefiling screening can be used for this purpose: they protect the employee's limitations period while pausing the employer's response deadline until the notice is accepted. This framework is already drafted and would not require additional statutory authority. It would also discourage the filing of bare-bones notices simply to preserve a claim, with the expectation that the allegations will be developed later.

*Don't let the warning requirement gut the non-compliant filer rule*

To designate someone as a non-compliant filer, you need three or more non-compliant notices in twelve months and continued filing after a warning from you. Nothing requires you to issue a warning. Nothing sets a deadline for issuing one. Nothing makes the warning public. Three bad notices and no warning means no designation.

The Labor Commissioner's Office has been funded by employers since 2010. It took in roughly $900 million in employer funding over five years, plus about $250 million in PAGA penalties it appears not to have spent, and it wants another $197 million this year. Where did it go? In the first six months of 2026, $413,786,089 went to plaintiffs' attorneys out of PAGA settlements. The money in this system is not scarce. It is going somewhere other than enforcement.

We recommend:

- Issue a warning within 30 days of identifying a third non-compliant notice.
- Designate on any non-compliant filing after that.
- Post warnings on the public list, labeled as warnings.
- Report every year how many warnings you issued, how many designations you made, and how many notices you rejected. Nobody changes behavior over a rule they cannot see being used.

*Give employers a way to challenge a junk notice*

You recognize your authority to tell a filer a notice is deficient and let them amend. The employer, which is the party actually served and the party this whole requirement is supposed to protect, gets no way to ask for that and you have no obligation to answer.

Meanwhile the employer's clock runs. Inside a short window it must decide whether to cure, hire counsel, and start pulling time and payroll records. For a shop with forty employees that is real money spent before anyone checks whether the notice was any good. And the employer knows exactly what it is looking at: the average PAGA settlement is $844,239. That number is the leverage a junk notice carries, and it is why notices that would not survive scrutiny still get paid.

Let an employer served with a notice ask you for a deficiency determination within 20 days, require a written answer within 30 days, and toll the employer's response and cure deadlines while it is pending.

*Say clearly that a boilerplate notice is not a valid notice*

You should state clearly that a notice that fails your specificity rule is not a valid notice, does not start the employer's obligation to respond or cure, and cannot support a lawsuit until it is fixed.

Without that, the rule is a drafting tip. The attorney who filed 24 notices in a day will file 24 slightly longer notices in a day.

You are not inventing a new pleading standard. The courts got there first. A notice has to be "specific enough such that the LWDA and the defendant can glean the underlying factual basis for the alleged violations," and a "string of legal conclusions with no factual allegations or theories of liability to support them" does not let you "intelligently assess the seriousness of the alleged violations." (*Gunther v. Alaska Airlines, Inc.* (2021) 72 Cal.App.5th 334, 350.) Code section references that just rephrase the statute are not enough either. (*Uribe, supra,* 70 Cal.App.5th at p. 1004; *Brown v. Ralphs Grocery Co.* (2018) 28 Cal.App.5th 824, 835-836.)

*A firm should not shed a designation by changing its name*

We asked for this in March and we are asking again. A designation attached to a firm name is worth very little if the firm can rebrand out of it, and your public list is only useful if the names on it match the practices actually filing notices. Require any filer to disclose whether it shares common ownership, management or control with a designated attorney or firm, and make a successor firm inherit the designation. Otherwise the rotating-signature problem just becomes a rotating-letterhead problem.

*Section 17462 punishes the employers who fix problems early*

You would bar any settlement reached after a notice but before a lawsuit from releasing PAGA claims.

This is the unintended consequence: An employer gets a notice, investigates right away, finds a real violation, fixes it, and offers to make the affected employees whole. Under this rule that employer still cannot get finality. Nothing short of litigation ends its exposure to the State.

Instead, let the parties submit the agreement to you with the same documents and the same 45-day review you require for court settlements, and make the release void if you object. If you will not do that, at least confirm that the rule does not block a release obtained through the cure process or a release of an employee's own individual claims.

Two more important details:

- Say how the new specificity and exhaustion rules apply to notices already filed before the effective date, including whether such a notice can support a later lawsuit and whether it can be amended without restarting your review and investigation periods.
- For notices alleging safety and health violations, require the filer to give the location and the dates. Without that, Cal/OSHA has nowhere to start an inspection.

## Let's Get Reform Right

The record you have built, especially Appendices K, M and N, makes the case for acting, and we think it holds up if someone challenges you. What we are asking for is narrow. It rests on the record already in front of you, and most of it reuses provisions you have already drafted.

I am available to answer questions and would be pleased to appear at a hearing to describe in greater detail what our members are dealing with.

Thanks,

**Tom Manzo**

Founder and President, CABIA