

Instructions for Retaliation Screening form (LS 221)

- I. **Purpose:** To provide a means for Labor Standards investigators to determine if an employer has committed an act in violation of Section 215
- II. **Preparation:** This is a fillable pdf template. The scanned electronic copy is saved to the case file in Worker Protection Monetary Case Management system (WPM) and a hard copy in the physical case file.
- III. **Fields of Entry:**
 - A. Date Investigation Started: Month, day and year on which retaliatory investigation is started.
 - B. Case Name and Number: Found in WPM.
 - C. Investigator Name: Name of the investigator conducting the retaliation interview.
 - D. Coverage: Name of the individual who took the retaliatory action. If not the employer, explain the relationship between the individual and the employer (e.g.: spouse, manager, agent, etc.).
 - E. Protected Activity: If appropriate, choose Yes or No. Describe the activity protected under Section 215 of the Labor Law.
 - F. Underlying Complaint: Briefly describe the nature of the employee's complaint (e.g.: not paid overtime, not given meal period, etc.).
 - G. Knowledge: If appropriate, choose Yes or No. Explain whether or not the employer or other individual alleged to have taken the retaliatory action had knowledge of the protected activity.
 - H. Adverse Action: If appropriate, choose Yes or No. Explain the retaliation taken against the employee (e.g.: fired, threatened, penalized, or any manner of discrimination, etc.).
 - I. Connection (Nexus): If appropriate, choose Yes or No. Describe the causal link between the protected activity and the adverse action. Explain how much time transpired and whether there is direct or indirect evidence of retaliatory motive. Give a timeline of key events and names/contact information for any witnesses.
 - J. Employer's Reasons: Describe any explanation the employer gave to justify the alleged adverse reaction (e.g.: lateness, poor job performance, etc.) and why he/she chose to take action at this point.
 - K. Pretext: If appropriate, choose Yes or No. Explain whether or not the employer's response above is false. Describe the treatment of any employees in similar situations, any contradictions or inconsistencies in the employer's reason that makes you question the justification and whether or not the employer is following past practices/company policy.
 - L. Investigator's Recommendation: The suggested resolution by the investigator conducting the retaliation interview. Additional steps will be addressed by a Senior or Supervising Investigator.
 - M. Date Investigation Concluded: Month, day and year on which retaliatory investigation is concluded.

IV. Distribution:

- A. Original hard copy, with all supporting documentation attached, to District case file
- B. Upload scanned copy of all items in "A" to electronic case file in WPM
- C. Hard copy, with all supporting documentation attached, to Director
- D. Hard copy, with all supporting documentation attached, to Assistant Director
- E. Hard copy, with all supporting documentation attached, to Chief