



July 3, 2025

## DOL Ends Practice of Seeking Liquidated Damages in Administrative Wage-Hour Settlements

On June 27, 2025, the U.S. Department of Labor's Wage and Hour Division (WHD) issued [Field Assistance Bulletin \(FAB\) 2025-3](#), immediately prohibiting the agency from requesting or collecting liquidated damages during the pre-litigation resolution of Fair Labor Standards Act (FLSA) investigations. The bulletin rescinds FAB 2021-2 and limits WHD-supervised settlements to back wages only; liquidated damages may now be pursued solely through litigation.

The Department's public release emphasized that eliminating liquidated-damage demands should "foster more effective dispute resolution and ensure more fair, timely outcomes for American workers and businesses."

### Why the Change?

- Statutory Limits - § 216(c) authorizes WHD to supervise back wages only. Congress reserved liquidated damages for courts that can weigh an employer's "good-faith" defense under § 260.
- Efficiency Concerns – DOL data showed that adding liquidated damages lengthened investigation stages by roughly 28 percent and delayed payment to workers.
- Administrative-law Principles – The Department concluded it lacked a clear Congressional grant to impose liquidated damages without judicial process.

### Key Points of FAB 2025-3

Provision	New Policy	Practical Effect
Scope of WHD Authority	WHD may only supervise payment of unpaid minimum wages or overtime (§ 216(c))	Liquidated damages are off the table unless WHD files suit
Effective Date	Applies prospectively to all matters opened on or after June 27, 2025	Existing settlements signed before that date remain unchanged
Rescinded Guidance	Withdraws FAB 2021-2 and any regional practices authorizing liquidated damages administratively	Restores pre-2010 position that liquidated damages are a strictly judicial remedy
Litigation Procedures	Regional offices may still demand liquidated damages once litigation is filed	Employers can face heightened exposure only if a case proceeds to court.

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