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THE LAW ON ROUNDING WORK HOURS IN CALIFORNIA

California allows time rounding only within strict limits, so this guide explains when a rounding policy is lawful, when it underpays workers, and how the rules are changing.

This document is a PDF version of the following article:
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He writes these guides to put the state’s labor laws into plain English, in neutral terms, with a citation for every claim.

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In general, employers in California are required to pay their hourly and nonexempt employees for *all* hours they work.[1] They are also required to keep accurate records and provide regular wage statements that correctly state the total hours worked by the employee.[2]

Problems arise, however, when employers and their workers disagree about how hours are calculated. Should the employer track and pay for every *minute* worked? Every *second*? Every *fraction* of a second?

One common approach to these difficulties is called "rounding." *Rounding* is the practice of adjusting an employee's hours worked, either up or down, to the nearest increment of a certain amount. That increment is usually easier to use when calculating their hours worked, and may also be more efficient for accounting purposes.

> EXAMPLE
>
> Employers often round their employees' hours worked to the nearest tenth of an hour because paying an employee for 6.1 hours is easier than paying them for 6.09999 hours.

A rounding policy can leave an employee slightly underpaid or overpaid in any given pay period, and legal disputes arise when a policy routinely underpays. The short answer under California law is that rounding is allowed, but only if the policy is neutral on its face and as applied and does not, over a period of time, fail to pay employees for the hours they actually work.[3] Even then, two limits control: an employer may never round the time punches that bracket a meal period,[4] and the California Supreme Court is now deciding, in *Camp v. Home Depot*, whether neutral rounding survives at all when the employer's system already captures every minute an employee works,[5] which makes the practice increasingly risky for any employer that can track exact time. This article explains when a rounding policy crosses the line in California.

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CH. 01

Rounding Policies Are Allowed, but Must Be Fair

For rounding specifically, California courts have looked to the federal wage and hour regulations, which permit employers to adopt policies that round employees' hours worked.[6] A rounding policy cannot, however, consistently result in a failure to pay employees for their time worked.[7]

Put simply, employers are allowed to adopt fair rounding policies, but they can't design their rounding policies to underpay their workers. Rounding policies must follow two rules:

- The policy must be fair and neutral on its face; and
- The policy must be applied in a way that, on average, does not favor underpayment.[8]

If the policy is designed to systematically undercompensate employees, then it will be found unlawful. A policy, for example, that only ever rounded an employee's hours worked *down* and never *up*, would likely break the law.

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Additionally, the employer's rounding policy should be established *before* the employer implements it, and it must be consistently applied regardless of whether it results in overpayment.

Employers cannot create a rounding policy on a whim. Nor can they apply their rounding policy on an *ad hoc* basis, just because it might benefit them in a particular pay period. Otherwise, the employer risks the appearance that their policy was adopted for the purpose of underpaying their workers.

In applying these rules, courts have approved policies that round to the nearest tenth of an hour.[9]

Likewise, both federal and state agencies take the position that employers may round to the nearest five minutes, six minutes, or quarter-hour for purposes of calculating the number of hours worked.[10]

Two developments have narrowed this rule, and a third may reshape it. First, an employer may never apply rounding to the time punches that begin and end a meal period. In *Donohue v. AMN Services, LLC*, the California Supreme Court held that rounding is incompatible with the meal period laws, which are meant to prevent even minor infringements on an employee's right to a full, timely 30-minute break.[11] Under the same decision, time records showing a short, late, or missed meal period create a rebuttable presumption that the employer owes an additional hour of premium pay, which the employer must then rebut.[12]

Second, the California Supreme Court is now reconsidering whether neutral rounding is lawful at all when an employer already captures each minute an employee works. This question exposes a fault line in the older rule: *See's Candy* asked whether a rounding policy was neutral across the workforce as a whole, but the more recent cases ask whether it left the *individual* employee underpaid. In *Camp v. Home Depot U.S.A., Inc.*, the Court of Appeal held that where an employer can and does record exact worktime to the minute, it must pay for all of that time and cannot rely on a quarter-hour rounding policy that shorts an individual employee, even if the policy evens out across the workforce on average.[13] The employee in that case lost roughly 470 minutes, nearly a full day of pay, over about four and a half years, even though the same policy overpaid some of his coworkers. (*Camp*, *supra*, 84 Cal.App.5th 638.) At least one other Court of Appeal has since agreed with *Camp*.[14]

The Court granted review, and the case remains pending as of 2026, so *Camp* is currently citable only for its persuasive value.[15] Until the Court rules, *See's Candy* remains the governing appellate authority, but the trend is clear enough that an employer able to track exact time takes a real risk by rounding at all.

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CH. 02

Small Periods of Work Usually Must Be Paid in California

An issue closely related to rounding disputes involves the employer's obligation to track and pay for very small periods of work beyond scheduled hours. Under *federal* wage and hour law, employers generally do not have to track insubstantial or insignificant periods of time beyond the scheduled working hours.[16] The United States Supreme Court described these periods as "negligible" and held:

> When the matter in issue concerns only a few seconds or minutes of work beyond the scheduled working hours, such trifles may be disregarded.
>
> — *Anderson v. Mt. Clemens Pottery Co.* (1946) 328 U.S. 680, 692

One federal court, for example, held that an employee could not recover for the 7 or 8 minutes he spent each day reading a log book and exchanging information with coworkers, describing that work as *de minimis*. Even so, federal law requires

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employers to pay for small amounts of daily time unless it is so minuscule that it cannot, as an administrative matter, be recorded for payroll, and courts have suggested that employers using automated time clocks that can easily capture the time cannot invoke the rule to short their workers.[17]

Federal courts weigh three factors to decide whether time can be disregarded as *de minimis*:

- The administrative difficulty of recording the additional time;
- The aggregate amount of compensable time; and
- The regularity of the additional work.[18]

California law, however, is stricter. In *Troester v. Starbucks Corp.*, the California Supreme Court held that California's wage statutes and wage orders have *not* adopted the federal de minimis doctrine, and that an employer could not use it to avoid paying an employee who worked several minutes off the clock at the end of each shift.[19] The Court reasoned that California law requires employees to be paid for *all* hours worked, and that modern timekeeping technology has undercut the practical justification for disregarding small amounts of time.[20]

The Court left open only a narrow question: whether there are circumstances where compensable time is so minute or irregular that it is unreasonable to expect it to be recorded at all.[21] Outside that narrow situation, California employers must pay for the time.

Older California authority is consistent. California recognizes a general legal maxim that the law disregards trifles,[22] but *Troester* made clear that this maxim does not excuse an employer from paying for regularly occurring periods of work.

The California Division of Labor Standards Enforcement (DLSE) had suggested in its enforcement manual that California follows the federal approach to small periods of work,[23] but that manual is not binding on the courts, and *Troester* rejected the federal doctrine it had borrowed.[24]

Even before *Troester*, California courts declined to treat meaningful amounts of unpaid time as trivial. One published decision held that two to six hours of overtime per week was **not** *de minimis*.[25]

The bottom line for California is straightforward. The Labor Code requires employers to pay *all* of their employees' earned wages and to keep accurate records of all hours worked.[26] After *Troester*, an employer that fails to pay for small but regularly occurring periods of work, especially where its timekeeping system can capture that time, does so at its own risk.

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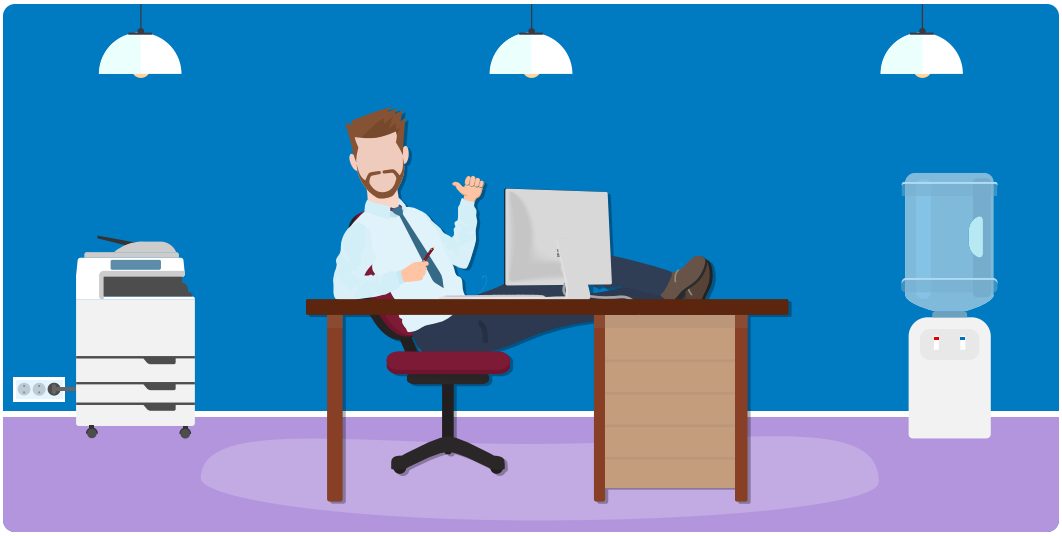
“Grace Periods” Are Allowed, but Only If No Work Is Performed



Some employers adopt a “grace period” policy, which is similar to a rounding practice. A *grace period* policy allows employees to clock in early or clock out late, but the employer assumes that no work is performed during those times and instead pays the employee according to their scheduled shift.[27]

Employers might adopt a grace period policy to allow workers using automated time clocks to punch in when they arrive, without having to worry about forgetting to punch in when they actually begin work. Employees are then free to do as they please until their shift starts.

Grace period policies are allowed in California,[28] but only if a few requirements are met:

- The employee performs no actual work during the grace period;
- The employee is not permitted to work during the grace period; and
- The employee is not subject to the employer’s control during the grace period.[29]

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An employee is subject to their employer's control if the employee is restricted from using the grace period effectively for his or her own purposes.[30]

Courts allow grace periods when employees are required to comply with company policy that prohibits them from working during the grace period. In those cases, if an employee punches into the system during the grace period, the employee is presumed to not be working during the grace period.[31]

If, however, the employee works during the grace period or the employer exercises any degree of control over the employee's conduct, the grace period does *not* apply and the employer *must* pay the employee for that time.

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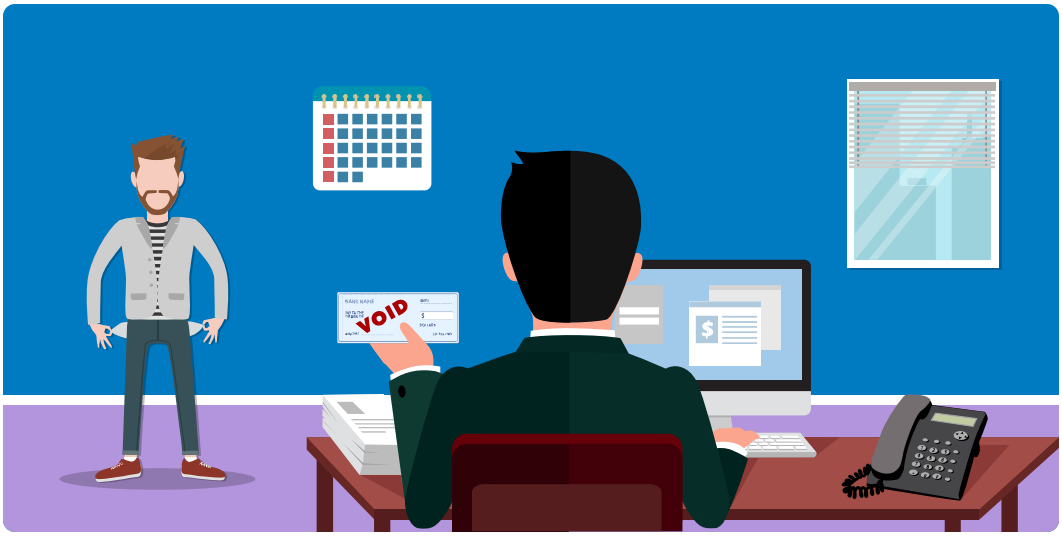
CH. 04

How to Handle a Violation of California's Rounding Laws



The first step is often to gather the evidence. An employee who suspects a rounding problem can request a copy of their pay records, which the employer must provide within 21 days, and compare the hours shown as paid against the times they actually clocked in and out over a stretch of pay periods.[32] A pattern in which the rounding almost always lands in the employer's favor is the clearest sign of an unlawful policy.

Employees who have been underpaid usually have at least three options. They can:

- Resolve the dispute informally with the employer,
- File a lawsuit in court, or
- Bring a claim for unpaid wages and penalties with a government agency.[33]

How far back a claim reaches, and what it is worth, depends on the theory. Unpaid wages from rounding can generally be recovered for three years,[34] and up to four years through an unfair competition claim.[35] Because rounding also produces inaccurate records, the same conduct can support additional penalties: a wage statement that understates the hours worked can carry penalties where the violation was knowing and intentional,[36] and an employee who has already left the job may be

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owed waiting-time penalties of up to 30 days' wages for a final paycheck that was short.[37] An employee who succeeds on a minimum wage or overtime claim is also entitled to recover reasonable attorney's fees and costs.[38]

Employees have a right to hire an employment attorney to assist or advise them with any of these options. It is often a good idea to do so, rather than trying to handle it alone.

Employees who choose to pursue a remedy for unpaid wages will need to decide whether to seek relief under federal or state law. Both federal and state law allow an employee to recover unpaid overtime that the employee earned.

Whether it is better to seek a state or federal remedy, and whether it makes sense to file an administrative claim or a lawsuit, will depend on the facts of the case.

To learn more about the process for bringing a claim for unpaid hours worked, visit How to File a Wage & Hour Claim in California: The Ultimate Guide.

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References

1 Labor Code, § 204, subd. (a) [“All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.”].

2 Labor Code, § 226, subd. (a) [“An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing . . . total hours worked by the employee . . . .”]; see also Labor Code, § 1198.5 [employee’s right to inspect employer records].

3 *See’s Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 907, 913.

4 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 61.

5 *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, review granted February 1, 2023, S277518. A grant of review leaves the Court of Appeal opinion citable only for its persuasive value. (Cal. Rules of Court, rule 8.1115(e)(1).)

6 *See’s Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 903 [“In the absence of controlling or conflicting California law, California courts generally look to federal regulations under the FLSA for guidance.”]; 29 C.F.R. § 785.48(b).

7 *Alonzo v. Maximus, Inc.* (C.D.Cal. 2011) 832 F.Supp.2d 1122, 1126 [“While few Courts have interpreted this regulation, those that have recognize that the regulation permits employers to use a rounding policy for recording and compensating employee time as long as the employer’s rounding policy does not ‘consistently result[] in a failure to pay employees for time worked.’”].

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8 *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 907.

9 *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 913 ["Relying on the DOL rounding standard, we have concluded that the rule in California is that an employer is entitled to use the nearest-tenth rounding policy if the rounding policy is fair and neutral on its face and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.'"].

10 Div. Lab. Standards Enforcement, *The DLSE Enforcement Policies and Interpretations Manual (Revised)* at 47.1 (April 2017), available here; 29 C.F.R. § 785.48(b) ["It has been found that in some industries, particularly where time clocks are used, there has been the practice for many years of recording the employees' starting time and stopping time to the nearest 5 minutes, or to the nearest one-tenth or quarter of an hour. Presumably, this arrangement averages out so that the employees are fully compensated for all the time they actually work. For enforcement purposes this practice of computing working time will be accepted, provided that it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked."].

11 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 61 ["employers cannot engage in the practice of rounding time punches . . . in the meal period context"].

12 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 61 ["time records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage"].

13 *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, 660 ["if an employer, as in this case, can capture and has captured the exact amount of time an employee has worked during a shift, the employer must pay the employee for 'all the time' worked"], review granted February 1, 2023, S277518.

14 *Woodworth v. Loma Linda University Medical Center* (2023) 93 Cal.App.5th 1038, review granted November 1, 2023, S281717 [agreeing

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with *Camp* that an employer that captures an employee's exact worktime must pay for all time worked].

15 Cal. Rules of Court, rule 8.1115(e)(1) (an opinion in a matter pending review may be cited for its potentially persuasive value and to establish an existing conflict in authority).

16 29 C.F.R. § 785.47 ["In recording working time under the Act, insubstantial or insignificant periods of time beyond the scheduled working hours, which cannot as a practical administrative matter be precisely recorded for payroll purposes, may be disregarded. The courts have held that such trifles are de minimis."].

17 *Lindow v. United States* (9th Cir. 1984) 738 F.2d 1057, 1062–1063 ["Employers, therefore, must compensate employees for even small amounts of daily time unless that time is so miniscule that it cannot, as an administrative matter, be recorded for payroll purposes."].

18 *Lindow v. United States* (9th Cir. 1984) 738 F.2d 1057, 1063 ["[I]n determining whether otherwise compensable time is de minimis, we will consider (1) the practical administrative difficulty of recording the additional time; (2) the aggregate amount of compensable time; and (3) the regularity of the additional work."].

19 *Troester v. Starbucks Corp.* (2018) 5 Cal.5th 829 ["the relevant wage order and statutes do not permit application of the de minimis rule on the facts given to us by the Ninth Circuit, where the employer required the employee to work 'off the clock' several minutes per shift"].

20 *Troester v. Starbucks Corp.* (2018) 5 Cal.5th 829, 844.

21 *Troester v. Starbucks Corp.* (2018) 5 Cal.5th 829 ["We do not decide whether there are circumstances where compensable time is so minute or irregular that it is unreasonable to expect the time to be recorded."].

22 Civ. Code, § 3533 ["The law disregards trifles."]; see *Lahman v. Hatch* (1899) 124 Cal. 1, 5.

23 Div. Lab. Standards Enforcement, *The DLSE Enforcement Policies and Interpretations Manual (Revised)* at 47.2.1 (April 2017), available here.

24 *Troester v. Starbucks Corp.* (2018) 5 Cal.5th 829.

25 *Gomez v. Lincare, Inc.* (2009) 173 Cal.App.4th 508, 527.

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26 Labor Code, §§ 204, 226.

27 *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 909.

28 *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 907–909 ["The parties agree (at least for purposes of this writ petition) that under California law a grace period (the time during which an employee punches in before his or her compensable pay is triggered) *is* allowed *if* the employee is not working or is not under the employer's control."].

29 *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 594 [defining "hours worked" under California's wage and hour laws to include all time in which the employee is "suffered or permitted to work," as well as the "time during which an employee is subject to the control of an employer"].

30 *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 583.

31 See, e.g., *Silva v. See's Candy Shops, Inc.* (2016) 7 Cal.App.5th 235, 252 ["Because employees are required to comply with company policy that prohibits them from working during the 10-minute grace period, if an employee punches into the system during the grace period, the employee is paid based on his or her scheduled start and stop time, rather than the punch time."], disapproved on another ground in *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 77.

32 Labor Code, § 226, subds. (b)-(c) [employee's right to inspect or receive a copy of payroll records; employer must comply within 21 days].

33 *Post v. Palo/Haklar & Associates* (2000) 23 Cal.4th 942, 946 ["[I]f an employer fails to pay wages in the amount, time, or manner required by contract or statute, the employee may seek administrative relief by filing a wage claim with the commissioner or, in the alternative, may seek judicial relief by filing an ordinary civil action for breach of contract and/or for the wages prescribed by statute."].

34 Code Civ. Proc., § 338, subd. (a).

35 Bus. & Prof. Code, § 17208.

36 Labor Code, § 226, subd. (e).

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37 Labor Code, § 203.

38 Labor Code, § 1194, subd. (a).

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