

OSHA FACT Sheet

What are my rights as a whistleblower?

You may file a complaint with OSHA if your employer discriminates against you because you are involved in legally protected safety and health activities or report any of the following:

- Environmental concerns.
- Potential securities fraud.
- Violations of Department of Transportation rules and regulations pertaining to commercial motor carriers.
- Violations of Federal Aviation Administration rules and regulations.
- Violations of Nuclear Regulatory Commission rules and regulations.

You may file a complaint with OSHA if your employer discriminates against you because you are involved in protected safety or health concerns; you report protected environmental concerns or safety concerns involving the trucking, nuclear power, airline or pipeline industries; or you report potential securities fraud. Specific whistleblower provisions in different laws vary.

What laws with whistleblower protections does OSHA enforce?

OSHA administers the whistleblower provisions of the following laws. Note that complaints must be reported to OSHA within set time periods following the alleged discrimination as prescribed by each law listed below.

- *Asbestos Hazard Emergency Response Act* (90 days)
- *Clean Air Act* (30 days)
- *Comprehensive Environmental Response, Compensation and Liability Act* (30 days)
- *Energy Reorganization Act* (180 days)
- *Federal Water Pollution Control Act* (30 days)
- *International Safety Container Act* (60 days)
- *Pipeline Safety Improvement Act* (180 days)
- *Occupational Safety & Health Act (OSH Act)* (30 days)
- *Safe Drinking Water Act* (30 days)
- *Sarbanes-Oxley Act* (90 days)
- *Solid Waste Disposal Act* (30 days)
- *Surface Transportation Assistance Act (STAA)* (180 days)
- *Toxic Substances Control Act* (30 days)
- *Wendell H. Ford Aviation Investment and Reform Act* (90 days)

What discriminatory actions do the whistleblower provisions prohibit?

Employer retaliation against employees who exercise their legal rights is prohibited. Such discrimination may include the following actions:

- | | |
|-----------------------------------|---------------------------------|
| ■ Assigning to undesirable shifts | ■ Evicting from company housing |
| ■ Blacklisting | ■ Failing to hire or rehire |
| ■ Damaging financial credit | ■ Firing or laying off |
| ■ Demoting | ■ Intimidating |
| ■ Denying overtime or promotion | ■ Transferring |
| ■ Disallowing benefits | ■ Reassigning work |
| ■ Disciplining | ■ Reducing pay or hours |

How do I file a complaint?

If you believe your employer discriminated against you because you exercised your legal rights as an employee, contact your local OSHA office *as soon as possible* because you must file your complaint within the legal time limits. You can telephone, or fax, or mail your complaint to the OSHA office listed on the OSHA website at www.osha.gov. OSHA conducts an in-depth interview with each complainant to determine the need for an investigation. If evidence supports the worker's claim of discrimination, OSHA will ask the employer to restore the worker's job, earnings, and benefits.

If only safety or health issues under the *OSH Act* are involved, you also can file a complaint with your state if your state operates an OSHA-approved state plan, and the state will investigate your allegation. In addition, state and local government workers in these states (and states with public-employee-only state plans) may file complaints with the state. For details, see <http://www.osha.gov/fso/osp/index.html>.

Does the OSH Act protect me if I refuse to work?

You should be careful when exercising your limited right to refuse to do a job because conditions are hazardous. You only have legal protection under the *OSH Act* when **all** of the following apply:

- You must believe you face death or serious injury. And the situation must be so clearly hazardous that a reasonable person would agree with your view that the hazard might cause death or serious injury.
- The situation must be so urgent that you don't have time to eliminate the danger through regulatory channels.
- You must have tried, without success, to get your employer to correct the dangerous condition.

Even though your union contract or state law may give the right to refuse work, OSHA cannot enforce your contract or state law. Other laws with whistleblower protection also may protect your refusal to work for safety, health, or other reasons. Regardless of the unsafe condition, the employee should *never* walk off the job. For details see <http://www.osha.gov/as/opa/worker/refuse.html>.

Do I have any protection if I work in the transportation industry?

Drivers of buses and freight trucks involved in the safe operation of commercial motor vehicles are protected against discriminatory actions by their employers if the following apply:

- The commercial motor vehicle has a gross vehicle weight rating of more than 10,001 pounds.
- The vehicle is designed to carry ten or more passengers, including the driver.
- The employee refuses to violate, or reports violations of, Department of Transportation motor carrier safety regulations.

Workers involved in international shipping who report unsafe shipping containers are also protected. Employees of air carriers, their contractors or subcontractors, who raise safety concerns or violations of FAA rules and regulations may also have discrimination protection. In addition, employers, owners, and operators of pipelines, their contractors and subcontractors, who report violations of pipeline safety rules and regulations may also be protected against discriminatory actions.

Do I have any protection if I voice environmental concerns?

Yes, a number of laws protect workers who report violations of environmental laws related to drinking water and water pollution, toxic substances, solid waste disposal, air quality and air pollution, asbestos in schools, and hazardous waste disposal sites. The Energy Reorganization Act protects workers in the nuclear power industry who raise safety concerns.

Do I have any protection if I report that my employer has engaged in corporate fraud?

Employees who work for publicly traded companies are protected from discriminatory acts by their

employers, or any officer, employee, contractor, subcontractor or agent of the company because they provided information, caused information to be provided, or assisted in an investigation by a federal regulatory or law enforcement agency, a Member or committee of Congress or an employee's supervisor, or filed, caused to be filed, participated in or assisted in a proceeding, relating to an alleged violation of mail fraud, wire fraud, bank fraud, or securities fraud; violating Securities and Exchange Commission (SEC) rules or regulations or federal laws relating to fraud against shareholders.

How can I get more information on safety and health?

For more information on whistleblower statutes, please visit the Department of Labor website at <http://0-www.oalj.dol.gov/library.csuhayward.edu/libwhist.htm>. Or go to www.osha.gov, click on **W** in the site index, then click on **Whistleblowers**. In addition, OSHA has various publications, standards, technical assistance, and compliance tools to help you, and offers extensive assistance through workplace consultation, voluntary protection programs, grants, strategic partnerships, state plans, training, and education. OSHA's *Safety and Health Program Management Guidelines* (Federal Register 54:3904-3916, January 26, 1989) detail elements critical to the development of a successful safety and health management system. This and other information are available on OSHA's website.

- For one free copy of OSHA publications, send a self-addressed mailing label to OSHA Publications Office, 200 Constitution Avenue N.W., N-3101, Washington, DC 20210; or send a request to our fax at (202) 693-2498, or call us toll-free at (800) 321-OSHA.
- To order OSHA publications online, go to www.osha.gov, find **Newsroom** in the side bar on the right, click on **Publications**, and follow the instructions for ordering.
- To file a complaint by phone, report an emergency, or get OSHA advice, assistance, or products, visit us at www.osha.gov, or contact your nearest OSHA office, or call toll-free at **(800) 321-OSHA (6742)**. The teletypewriter (TTY) number is (877) 889-5627.
- To file a complaint online or obtain more information on OSHA federal and state programs, visit OSHA's website.

This is one in a series of informational fact sheets highlighting OSHA programs, policies, or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to *Title 29 of the Code of Federal Regulations*. This information will be made available to sensory-impaired individuals upon request. The voice phone is (202) 693-1999. See also OSHA's website at www.osha.gov.