

OSHA **FACT** Sheet

Do I have any legal protection if I report corporate fraud?

If you work for a publicly-traded company or its contractor, subcontractor, or agent, you have special whistleblower protection under the *Sarbanes-Oxley Act*. Only companies with a class of securities registered under Section 12 of the *Securities Exchange Act*, or that are required to file reports under Section 15(d) of that act, are covered by the *Sarbanes-Oxley Act*. To check whether the *Sarbanes-Oxley Act* protects you, visit the Securities and Exchange Commission (SEC) website, www.sec.gov, and search the EDGAR database for your employer, or your employer's contractor or agent.

What are my rights as a whistleblower?

If you work for a publicly-traded company or its contractors, subcontractors, or agents, your employer may **not** discharge or in any manner discriminate against you because you 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 internal investigation by your company.

In addition, your employer may **not** discharge or in any manner discriminate against you because you filed, caused to be filed, participated in or assisted in a proceeding, relating to an alleged violation of mail fraud, wire fraud, bank fraud, securities fraud, or violating SEC rules or regulations or federal laws relating to fraud against shareholders.

If your employer takes discriminatory action against you because you engaged in any of these protected activities, you can file a complaint with OSHA.

What are discriminatory actions?

Employer retaliation against whistleblowers who exercise their legal rights is prohibited. It is unlawful for an employer to discriminate against you in any manner because you engaged in any

protected activity. Such discrimination includes the following actions:

- Discharge
- Demotion
- Suspension
- Threats
- Harassment
- Failure to hire or rehire
- Blacklisting
- Disciplinary action

How do I file a complaint?

You must file a complaint with OSHA *within 90 days* of the alleged violation. OSHA will review the complaint to determine whether to conduct an investigation, and will conduct an investigation in accordance with the statutory requirements. OSHA will issue findings and an order on a complaint that will become the final order of the Secretary if it is not appealed. After OSHA issues its findings and order, either party may request a full hearing before an administrative law judge of the Department of Labor. An administrative law judge's decision and order may be reviewed by the Department's Administrative Review Board. If a final agency order is not issued within 180 days from the date you filed the complaint, then you may file a complaint in the appropriate district court of the United States.

What relief could I receive?

If a decision is made in your favor, you are entitled to all relief necessary to make you whole, including the following:

- Reinstatement with the same seniority status.
- Payment of back pay with interest.
- Compensation for any special damages, attorney's fees, expert witness fees, and litigation costs.

If your complaint is found to be frivolous or brought in bad faith, you may be liable for attorney's fees.

How can I get more information on safety and health?

To view details about whistleblowers and corporate fraud in Section 806 of the *Sarbanes-Oxley Act* see http://0-www.oalj.dol.gov.library.csuhayward.edu/public/wblower/refrnc/107_204_806.htm. To learn how OSHA investigates complaints filed under the *Sarbanes-Oxley Act*, go to our website at www.osha.gov, click on **O**, then click on **Offices** to get contact information for your local OSHA area or regional office, or write or call

John Spear
Director, Office of Investigative Assistance
Occupational Safety and Health Administration
200 Constitution Avenue, NW, Room N-3603
Washington, DC 20210

Telephone: 202-693-2199

To get more information on whistleblower provisions of other laws, go to www.osha.gov, click on **W** in the site index, then click on **Whistleblowers**. OSHA has various publications, standards, technical assistance, and compliance tools to help you, and offers extensive assistance through workplace consultation, voluntary protection programs,

strategic partnerships, alliances, state plans, grants, 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.