

Filing Whistleblower Complaints under Section 11(c) of the OSH Act of 1970

Employees are protected from retaliation for raising workplace health and safety concerns and for reporting work-related injuries and illnesses.

Covered Employees

Section 11(c) of the *Occupational Safety and Health Act of 1970* (OSH Act) prohibits employers from retaliating against employees for exercising a variety of rights guaranteed under the OSH Act, such as filing a safety and health complaint with OSHA, raising a health and safety concern with their employers, participating in an OSHA inspection, or reporting a work-related injury or illness.

A covered employee is any private sector employee in a business affecting interstate commerce, an employee of the U.S. Postal Service, an employee of certain tribal employers, or a non-federal public sector employee in a state having an OSHA-approved state program.

Protected Activity

A person may not discharge or in any manner retaliate against an employee because the employee:

Filed any complaint or instituted or caused to be instituted any proceeding under or related to the OSH Act.

Exercised any right afforded by the OSH Act. Examples include, but are not limited to, communicating orally or in writing with management personnel about occupational safety or health matters, including asking questions or expressing concerns, requesting safety data sheets, reporting a work-related injury or illness, or requesting copies of OSHA regulations; filing a safety/health complaint with OSHA, participating in an OSHA on-site inspection.

Unfavorable Employment Actions

A person may be found to have violated Section 11(c) of the OSH Act if the employee's protected activity was a motivating factor in the person's decision to take unfavorable employment action(s) against the employee. Unfavorable employment actions may include:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failure to hire or rehire
- Intimidation
- Making threats
- Reassignment affecting prospects for promotion
- Reducing pay or hours

Deadline for Filing Complaints

Complaints must be filed within 30 days after the alleged unfavorable employment action occurs (that is, when the employee is notified of the retaliatory action).

Employees filing untimely retaliation complaints with OSHA may be referred to the National Labor Relations Board (NLRB) for possible further action.

How to File an 11(c) Complaint

An employee, or representative of an employee, who believes he or she has been retaliated against in violation of Section 11(c), may file a complaint with OSHA within 30 days (see above). Complaints may be filed verbally with OSHA by visiting or calling the local OSHA office at 1-800-321-OSHA (6742), or may be filed in writing by sending a written complaint to the closest OSHA regional or area office, or by filing a complaint online at www.whistleblowers.gov/complaint_page.html.

Written complaints may be filed by facsimile, electronic communication, hand delivery during normal business hours, U.S. mail (confirmation services recommended), or other third-party commercial carrier.

The date of the postmark, facsimile, electronic communication, telephone call, hand delivery, delivery to a third-party commercial carrier, or

in-person filing at an OSHA office is considered the date filed. No particular form is required and complaints may be submitted in any language.

To file a complaint electronically, please visit www.whistleblowers.gov/complaint_page.html.

To contact OSHA to file a complaint, please call 1-800-321-OSHA (6742) and they will connect you to the closest office; or visit www.osha.gov/html/RAmap.html.

Upon receipt, OSHA will review the complaint to determine whether it is appropriate to conduct a fact-finding investigation (e.g., whether the complaint was filed within 30 days; whether the allegation is covered by Section 11(c)). All complaints are investigated according to statutory requirements in 29 CFR 1977.

In the 27 states with OSHA-approved state plans, employees may file a complaint under Section 11(c) of the OSH Act with both the state plan and Federal OSHA. For a list of state plans, please visit: www.osha.gov/dcsp/osp.

What to do about a Dangerous Situation at Work

If workers believe working conditions are unsafe or unhealthful, it is recommended that they bring the conditions to their employers' attention, if possible.

Workers may [file a complaint](#) with OSHA concerning a hazardous working condition at any time. For information on occupational safety and health laws and regulations, visit OSHA's website at www.osha.gov.

However, workers should not leave the worksite merely because they have filed a complaint. If a worker, with no reasonable alternative, refuses in good faith to expose themselves to a dangerous condition, the worker would be protected from subsequent retaliation. Where

possible, the employee must have also sought, but been unable to obtain, a correction of the condition from the employer or OSHA. For more information, go to www.osha.gov/workers.

Results of the Investigation

If the evidence supports an employee's claim of retaliation and a voluntary settlement cannot be reached, OSHA, through the Office of the Solicitor (SOL), may litigate the case in U.S. District Court. OSHA may seek possible relief to make the employee whole, including:

- Reinstatement.
- Payment of back pay with interest.
- Compensation for special damages and other expenses the employee may have incurred as a result of the violation.
- Punitive damages.
- Other non-monetary relief.

If the evidence does not support an employee's claim of retaliation, OSHA's non-merit finding will become a final order of the Secretary of Labor unless either party objects to the determination within 15 days to the Directorate of Whistleblower Protection Programs (DWPP).

To Get Further Information

For a copy of Section 11(c) of the *Occupational Safety and Health Act* (29 U.S.C. §660(c)), the regulations (29 CFR 1977), and other information, go to www.whistleblowers.gov.

OSHA's Whistleblower Protection Program enforces the whistleblower provisions of more than twenty federal whistleblower laws. To learn more about the whistleblower statutes which OSHA enforces, view our "Whistleblower Statutes Desk Aid" at www.whistleblowers.gov/whistleblower_acts-desk_reference.pdf. You can also call OSHA at 1-800-321-OSHA (6742) if you have questions or need more information.

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; teletypewriter (TTY) number: 1-877-889-5627.

For assistance, contact us. We can help. It's confidential.



www.osha.gov (800) 321-OSHA (6742)



U.S. Department of Labor