

Whistleblower Protection for Reporting Criminal Antitrust Violations

Workers are protected from retaliation for reporting criminal antitrust violations to their employers or the federal government, or engaging in related protected activities.

On December 23, 2020, the Criminal Antitrust Anti-Retaliation Act of 2019 (CAARA) was enacted, establishing protections for reporting criminal antitrust violations or engaging in related protected activities.

Covered Employers and Individuals

CAARA prohibits employers (or any officer, employee, contractor, subcontractor, or agent of an employer) from retaliating against covered individuals, i.e., employees, contractors, subcontractors, or agents of employers for engaging in protected activity. Employers include corporations or associations existing under and authorized by the laws of the U.S., a territory of the U.S., a State, or a foreign country.

Protected Activity

An employer may not discharge or otherwise retaliate against a covered individual for:

- Reporting information described below to the Federal Government, the individual's supervisor, or a person working for the employer who has the authority to investigate, discover, or terminate misconduct; or
- Initiating, testifying in, participating in, or otherwise assisting in Federal Government investigations or proceedings described below.

The information, investigation or proceeding must relate to:

- A criminal violation of the antitrust laws such as price fixing, bid rigging, or market division or allocation schemes, or
- A violation of another criminal law committed in conjunction with a potential violation of the criminal antitrust laws or in conjunction with an investigation by the Department of Justice of a potential violation of those laws.

What Is Retaliation?

Retaliation is an adverse action against a covered individual because of activity protected by CAARA. Retaliation can include several types of actions, such as:

- Firing or laying off
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation or harassment
- Making threats
- Reassignment to a less desirable position or actions affecting promotion prospects
- Reducing pay or hours
- More subtle actions, such as isolating, ostracizing, mocking, or falsely accusing the covered individual of poor performance
- Blacklisting (intentionally interfering with a covered individual's ability to obtain future employment)
- Constructive discharge (quitting when an employer makes working conditions intolerable due to the covered individual's protected activity)
- Reporting the covered individual to the police or immigration authorities

Deadline for Filing a Complaint

Covered individuals must file complaints within 180 days after learning of the adverse action.

How to File a CAARA Complaint

A covered individual, or their representative, can file a CAARA complaint with OSHA by visiting or calling their local OSHA office, sending a written complaint to the nearest OSHA office, or filing a complaint online. No particular form is required, and complaints may be submitted in any language.

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

The date of the postmark, fax, electronic communication, telephone call, hand delivery, delivery to a third-party commercial carrier, or in-person filing with an OSHA office is considered the date filed.

To file a complaint electronically, please visit: www.osha.gov/whistleblower/WBComplaint.

To contact an OSHA area office, please call 1-800-321-OSHA (6742) to be connected to the closest area office. Or, visit our website at <https://www.osha.gov/contactus/bystate> and click on your state to find your local OSHA office address and contact information.

When OSHA receives a complaint, the agency will first review it to determine whether certain basic requirements are met, such as whether the complaint was filed on time. If so, the agency will then investigate the complaint according to the procedures required by 29 CFR Part 1979, until OSHA promulgates procedures specific to the CAARA.

Results of the Investigation

If the evidence supports a complainant's claim of retaliation and the complainant and employer cannot reach a settlement, OSHA will issue an order requiring the employer, as appropriate, to put the complainant back to work, pay lost wages, restore benefits, and provide other possible relief. The exact requirements will depend on the facts of the case. If the evidence does not support the complaint, OSHA will dismiss the complaint.

After OSHA issues a decision, the employer and/or the complainant may request a full hearing before an administrative law judge of the Department of Labor. The administrative law judge's decision may be appealed to the Department's Administrative Review Board (ARB). The ARB's decision is subject to review by the Secretary of Labor, and a final decision may be appealed to a court of appeals. The employee may also file a complaint in federal court if the Department does not issue a final order within 180 days from the date the complaint was filed. See 15 U.S.C. § 7a-3(b)(1)(B).

To Get Further Information

For a copy of the CAARA whistleblower provision, 15 U.S.C. § 7a-3, and other information, go to www.whistleblowers.gov.

OSHA's Whistleblower Protection Programs enforce the whistleblower provisions of more than twenty federal whistleblower laws. To learn more about the whistleblower statutes that OSHA enforces, view our "Whistleblower Statutes Summary Chart" at www.whistleblowers.gov/whistleblower_acts-desk_reference.

For information on the Office of Administrative Law Judges procedures and case law research materials, go to www.oalj.dol.gov and click on the link for "Whistleblower."

For information about anti-trust laws, visit the Department of Justice Antitrust Division website at: www.justice.gov/atr.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to ensure these conditions for America's working people by setting and enforcing standards, and providing training, education, and assistance. For more information, visit www.osha.gov.

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.

