

Whistleblower Protection for Employees in the Aviation Industry

Air carriers and their contractors and subcontractors are prohibited from retaliating against employees for reporting alleged violations of Federal laws related to aviation safety or engaging in other protected activities.

The *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century* (AIR21), 49 U.S.C. § 42121, provides retaliation protections for employees of air carriers and employees of their contractors or subcontractors.

Covered Employees

Under AIR21, an employee of an air carrier or an employee of an air carrier's contractors or subcontractors is protected from retaliation for engaging in protected activities.

"Air carrier" is defined as a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation. It does not include foreign air carriers. "Contractor" is defined as a company that performs a safety-sensitive function by contract for an air carrier. "Subcontractor" is not defined in AIR21 or its regulations, but OSHA interprets the term to include an individual or business firm that contracts to perform safety-sensitive functions on part or all of another's contract.

Protected Activity

If your employer is covered under AIR21, it may not discharge or in any other manner retaliate against you because you provided information to, are about to provide information to, or caused information to be provided to your employer or the federal government relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration (FAA) or any other provision of Federal law relating to air carrier safety.

Your employer may not discharge or in any manner retaliate against you because you filed, caused to be filed, testified in, participated in, or assisted in a proceeding under one of these categories of law.

Also, your employer may not discharge or in any other manner retaliate against you for refusing to perform work assignments that you reasonably believe would cause you to violate any order, regulation, or standard of the FAA or any other provision of Federal law relating to air carrier safety.

What Is Retaliation?

Retaliation is an adverse action against an employee because of activity protected by AIR21. Retaliation can include several types of actions, such as:

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

Deadline for Filing Complaints

Complaints must be filed within 90 days after the alleged retaliatory action (that is, when the employee is notified of the action).

How to File an AIR21 Complaint

An employee, or his or her representative, can file an AIR21 complaint with OSHA by visiting or calling his or her local OSHA office, sending a written complaint to the closest 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, hand delivery during business hours, U.S. mail (confirmation services recommended), or other 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 at an OSHA office is considered the date filed.

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

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 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 complaint will then be investigated according to the procedures required by 29 CFR Part 1979.

Results of the Investigation

If the evidence supports an employee's complaint of retaliation and a settlement cannot be reached, OSHA will issue an order requiring the employer to, as appropriate, put the employee 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 employee's complaint, OSHA will dismiss the complaint.

After OSHA issues a decision, the employer and/or the employee 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.

To Get Further Information

For a copy of the AIR21 whistleblower provision, 49 U.S.C. § 42121, the regulations (29 CFR Part 1979), 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 Desk Aid" 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."

To obtain more information about Federal laws relating to air carrier safety and FAA regulations and standards, please visit the FAA website at www.faa.gov.

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 men and women 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.



U.S. Department of Labor

