



## Filing a Complaint

- Options to file your safety and health complaint.
- To file a discrimination complaint.
- When can a complaint be filed.
- Who can complain.
- What information must the employee provide.
- Examples of specific questions for health hazards
- How federal OSHA responds to complaints.



### En Español

The Occupational Safety and Health Act of 1970 gives employees and their representatives the right to file a complaint and request an OSHA inspection of their workplace if they believe there is a serious hazard or their employer is not following OSHA standards. Further, the Act gives complainants the right to request that their names not be revealed to their employers.

Complaints from employees and their representatives are taken seriously by OSHA. It is against the law for an employer to fire, demote, transfer, or discriminate in any way against a worker for filing a complaint or using other OSHA rights.

OSHA will keep your information confidential. We can help.

## Worker Rights

Workers are entitled to [working conditions](#) that do not pose a risk of serious harm. To help assure a safe and healthful workplace, OSHA also provides workers with the right to:

- Ask OSHA to inspect their workplace;
- Use their rights under the law without retaliation and discrimination;
- Receive information and training about hazards, methods to prevent harm, and the OSHA standards that apply to their workplace. The training must be in a language you can understand;
- Get copies of test results done to find hazards in the workplace;
- Review [records of work-related injuries and illnesses](#);
- Get copies of their [medical records](#);

For more information, visit the [Workers' page](#)

**If you think your job is unsafe and you want to ask for an inspection, contact us. It is confidential. If you have been fired, demoted, transferred or discriminated against in any way for using your rights under the law, you must file a complaint with OSHA within 30 days of the alleged discrimination.**

## Complaint Filing Options

You have these options to file your safety and health complaint:

- Online** - Go to the Online [Complaint Form](#). Written complaints that are signed by workers or their representative and submitted to an OSHA Area or Regional office are more likely to result in onsite OSHA inspections. Complaints received on line from workers in OSHA-approved state plan states will be forwarded to the appropriate state plan for response.
- Download and Fax/Mail** - Download the OSHA [complaint form](#)\* [[En Español](#)]\* (or request a copy from your local [OSHA Regional or Area Office](#)), complete it and then fax or mail it back to your local OSHA Regional or Area Office. Written complaints that are signed by a worker or representative and submitted to the closest OSHA Area Office are more likely to result in onsite OSHA inspections. Please include your name, address and telephone number so we can contact you to follow up. This information is confidential.
- Telephone** - your local [OSHA Regional or Area Office](#). OSHA staff can discuss your complaint and respond to any questions you have. **If there is an emergency or the hazard is immediately life-threatening, call your local OSHA Regional or Area Office or 1-800-321-OSHA.**

## To File your Discrimination Complaint

File a **discrimination** complaint if your employer has punished you for using any [employee rights](#) established under the OSHA act. If you have been punished or discriminated against for using your rights, you must file a complaint with OSHA within 30 days of the alleged reprisal for most complaints. No form is required, but you must call or file a letter with the OSHA Area Office nearest you **within 30 days of the alleged discrimination**. To file a discrimination complaint with OSHA, call 1-800-321-OSHA (6742). It's confidential, and they will connect you with your local OSHA office. In states with approved state plans, employees may file a complaint with both the [State](#) and [Federal OSHA](#).

If you have been punished or discriminated against for [refusing to work](#) when faced with an imminent danger of death or serious injury, and there is insufficient time for OSHA to inspect, you must file a complaint with OSHA within 30 days of the alleged reprisal.

## When Can a Complaint Be Filed?\*

OSHA recommends that employees try to resolve safety and health issues first by reporting them to their supervisors, managers or the safety and health committee. At any time, however, employees can complain to their local [OSHA Area or Regional Office](#) and ask for an inspection or an investigation. (Complaints to federal OSHA from workers in states with OSHA-approved state plans will be forwarded to the appropriate state plan for response.)

**\* Note: Discrimination complaints must be filed within 30 days of the alleged discrimination.**

## Who Can Complain?

Employees or their representatives have a right to request an inspection of a workplace if they believe there is a violation of a safety or health standard, or if there is any danger that threatens physical harm, or if an "[imminent danger](#)" exists. Employee representatives, for the purposes of filing a complaint, are defined as any of the following:

- a. An authorized representative of the employee bargaining unit, such as a certified or recognized labor organization.
- b. An attorney acting for an employee.
- c. Any other person acting in a bona fide representative capacity, including, but not limited to, members of the clergy, social workers, spouses and other family members, and government officials or nonprofit groups and organizations acting upon specific complaints and injuries from individuals who are employees.

In addition, anyone who knows about a workplace safety or health hazard may report unsafe conditions to OSHA, and OSHA will investigate the concerns reported.

## What Information Must the Employee Provide?

Employees or their representatives must provide enough information for OSHA to determine that a hazard probably exists. Workers do not have to know whether a specific OSHA standard has been violated in order to file a complaint.

**The following are examples of the type of information that would be useful to OSHA when receiving a complaint. It is not necessary to have the answers to all these questions in order to file a complaint. The list is provided here as a guide to help you provide as much complete and accurate information as possible:**

- How many employees work at the site and how many are exposed to the hazard?
- How and when are workers exposed?
- What work is performed in the unsafe or unhealthful area?
- What type of equipment is used? Is it in good condition?
- What materials and/or chemicals are used?
- Have employees been informed or trained regarding hazardous conditions?
- What process and/or operation is involved?
- What kinds of work are done nearby?
- How often and for how long do employees work at the task that leads to their exposure?
- How long (to your knowledge) has the condition existed?
- Have any attempts been made to correct the problem?
- On what shifts does the hazard exist?
- Has anyone been injured or made ill as a result of this problem?
- Have there been any "near-miss" incidents?

## The following are some additional examples of specific questions for health hazards:

- Do any employees have any symptoms that they think are caused by the hazardous condition or substance?
- Have any employees been treated by a doctor for a work-related disease or condition? What was it?

## How does federal OSHA Respond to Complaints?

See **Chapter 9 of the Field Operations Manual**, available in [PDF\\*](#).

\* **Accessibility Assistance:** Contact OSHA's Office of Communications at 202-693-1999 for assistance accessing PDF documents.

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## Federal OSHA Complaint Handling Process

OSHA evaluates each complaint to determine how it can be handled best--an off-site investigation or an on-site inspection. Workers who would like an on-site inspection must submit a [written request](#). Workers who complain have the right to have their names withheld from their employers, and OSHA will not reveal this information. At least one of the following eight criteria must be met for OSHA to conduct an on-site inspection:

1. A written, signed complaint by a current employee or employee representative with enough detail to enable OSHA to determine that a violation or danger likely exists that threatens physical harm or that an [imminent danger](#) exists;
2. An allegation that physical harm has occurred as a result of the hazard and that it still exists;
3. A report of an [imminent danger](#);
4. A complaint about a company in an industry covered by one of OSHA's local or national emphasis programs or a hazard targeted by one of these programs;
5. Inadequate response from an employer who has received information on the hazard through a phone/fax investigation;
6. A complaint against an employer with a past history of egregious, willful or failure-to-abate OSHA citations within the past three years;
7. Referral from a [whistle blower](#) investigator; or
8. Complaint at a facility scheduled for or already undergoing an OSHA inspection.

### Phone/Fax Investigation

OSHA's phone/fax method enables the agency to respond more quickly to hazards where none of the eight criteria listed above are met or where the employee or employee representative requests the phone/fax method. OSHA telephones the employer, describes the alleged hazards and then follows up with a fax or a letter. The employer must respond within five days, identifying in writing any problems found and noting corrective actions taken or planned. If the response is adequate, OSHA generally will not conduct an inspection. The employee who filed the original complaint will receive a copy of the employer's response. If still not satisfied, the complainant may then request an on-site inspection.

### Inspection Priorities

OSHA's top priority for inspection is an imminent danger--a situation where workers face an immediate risk of death or serious physical harm. Second priority goes to any fatality or catastrophe--an accident that requires hospitalization of three or more workers. Employers are required to report fatalities and catastrophes to OSHA within eight hours.

Third priority is employee complaints and referrals. Lower inspection priorities include inspections targeted toward high hazard industries, planned inspections in other industries and, finally, follow-up inspections to determine whether previously cited violations have been abated.

### Evaluating Employee Complaints

Before beginning an inspection, OSHA staff must be able to determine from the complaint that there are reasonable grounds to believe that a violation of an OSHA standard or a safety or health hazard exists. If OSHA has information indicating the employer is aware of the hazard and is correcting it, the agency may not conduct an inspection after obtaining the necessary documentation from the employer.

Complaint inspections generally are limited to the hazards listed in the complaint, although other violations in plain sight may be cited as well. The inspector may decide to expand the inspection based on his/her professional judgment or conversations with workers.

Complaints are not necessarily inspected in "first come, first served" order. OSHA ranks complaints based on the severity of the alleged hazard and the number of employees exposed. That is why lower priority complaints can often be handled more quickly using the phone/fax method than through on-site inspections.

### Worker Involvement in OSHA Inspections

The [OSH Act](#) gives the workers' representative the right to accompany the OSHA inspector during the inspection. The representative is chosen by the union (if there is one) or by the employees, never by the employer.

If the employees are represented by more than one union, each union may choose a representative. Normally, the representative of each union will not accompany the inspector for the entire inspection, but will join the inspection when it reaches the area where those union members work.

Workers have a right to talk privately to the inspector on a confidential basis whether or not a workers' representative has been chosen. Workers are encouraged to point out hazards, describe accidents or illnesses that resulted from those hazards and relate past worker complaints about hazards. Workers should also inform the inspector if working conditions are not the same as usually exist in the workplace.

### Keeping Workers And Worker Representatives Informed

After OSHA conducts a phone/fax investigation or an on-site inspection, the agency sends a letter to the worker or worker representative who filed the complaint outlining the findings, including citations and proposed penalties. Copies of citations also must be posted by the employer at or near the site of the violation. This assures that all workers who might be exposed to a hazard are aware of it and understand the need and the schedule for correction.

**States Operating Approved Safety and Health Programs**

States with [OSHA-approved state plans](#) provide the same protections to workers as federal OSHA, although they may follow slightly different complaint processing procedures. There are currently 23 states and jurisdictions operating OSHA-approved state occupational safety and health programs that cover both the private sector and state and local government authorities. Two other states operate approved state plans that cover state and local government employees only. Complaints to federal OSHA from workers in states with OSHA-approved state plans will be forwarded to the appropriate state plan for response.

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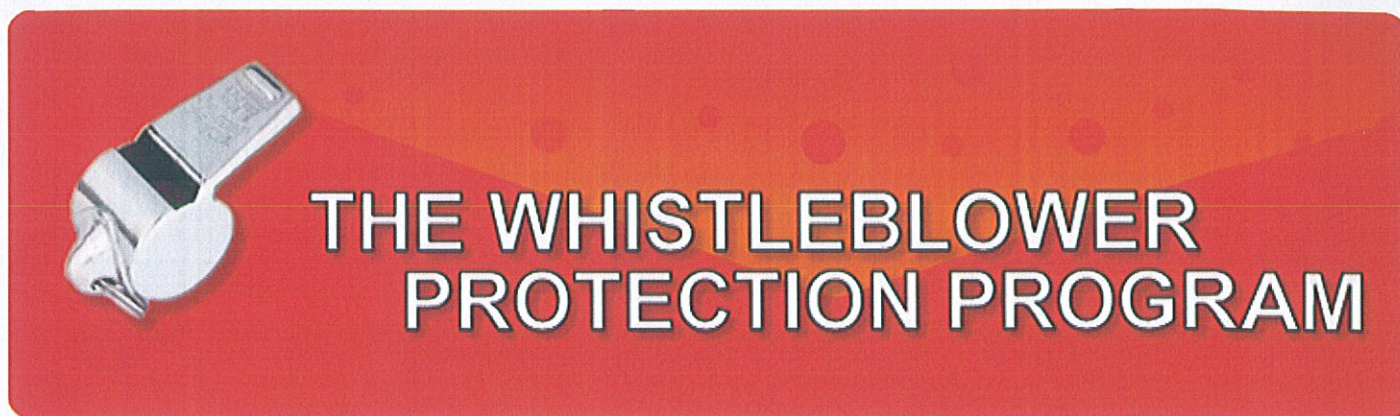
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OSHA's Whistleblower Protection Program enforces the whistleblower provisions of more than twenty whistleblower statutes protecting employees who report violations of various workplace safety, airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health insurance reform, motor vehicle safety, nuclear, pipeline, public transportation agency, railroad, maritime, and securities laws. Rights afforded by these whistleblower acts include, but are not limited to, worker participation in safety and health activities, reporting a work related injury, illness or fatality, or reporting a violation of the statutes.

**Protection from Discrimination**

Protection from discrimination means that an employer cannot retaliate by taking "adverse action" against workers, such as:

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

Whistleblower News Bulletin	
<b>January 29, 2013</b>	OSHA holds first meeting of the Whistleblower Protection Advisory Committee <span style="float: right; font-weight: bold; font-size: 1.2em;">WPAC</span>
<b>December 13, 2012</b>	<a href="#">Secretary of Labor announces new members of Whistleblower Protection Advisory Committee</a>
<b>October 2, 2012</b>	<a href="#">OSHA's Alternative Dispute Resolution pilot program for whistleblower complaints</a>
<b>July 16, 2012</b>	<a href="#">Memorandum of Agreement OSHA, Federal Railroad Administration sign agreement to protect workers from retaliation</a>
<b>March 12, 2012</b>	<a href="#">Memorandum from OSHA Deputy Asst. Sec. Richard E. Fairfax: Employer Safety Incentive and Disincentive Policies and Practices</a>

**Workplace Safety and Health**

The OSH Act prohibits employers from discriminating against their employees for exercising their rights under the OSH Act. These rights include filing an OSHA complaint, participating in an inspection or talking to an inspector, seeking access to employer exposure and injury records, and raising a safety or health complaint with the employer. If workers have been retaliated or discriminated against for exercising their rights, they must file a complaint with OSHA within 30 days of the alleged adverse action.

Since passage of the OSH Act in 1970, Congress has expanded OSHA's whistleblower authority to protect workers from discrimination under twenty-one federal laws. Complaints must be reported to OSHA within set timeframes following the discriminatory action, as prescribed by each law. These laws, and the number of days employees have to file a complaint, are:

- [Environmental and Nuclear Safety Laws](#)
- [Transportation Industry Laws](#)
- [Consumer and Investor Protection Laws](#)

KNOW YOUR RIGHTS

OSHA's whistleblower statutes protect you from retaliation. [Learn more\\*...](#)

\*Accessibility Assistance: Documents posted on these pages that are not HTML formatted are available as text-enabled PDF documents and are noted accordingly. If

additional assistance is needed with reading/reviewing the documents please contact Bob Patterson at (202) 693-2129.

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