

Español

Si lo/la han despedido, degradado o ha sufrido cualquier otro daño porque se quejó sobre problemas de seguridad y salud o ambientales en su trabajo, OSHA podría ayudarle. Existen once leyes diferentes que prohíben el discrimen contra empleados que se quejan de situaciones peligrosas en su trabajo. OSHA está comprometido a ayudar a los trabajadores que sufren represalias por su involucramiento en actividades de seguridad y salud.

Si OSHA puede demostrar que fue tratado injustamente por su empleador, trataremos que le vuelva a emplear, le restituya sus beneficios y le pague el tiempo que estuvo sin trabajar. Si su empleador rehúsa regresarle a su trabajo, en algunos casos OSHA llevaría a corte al empleador, sin costo alguno para usted, o usted tendría derecho a una vista administrativa.

Informe inmediatamente a la oficina que aparece al final de este folleto sobre cualquier queja por discriminación. La mayoría de los trabajadores solo tienen 30 días bajo la ley para solicitar la intervención de OSHA.



U.S. Department of Labor
Occupational Safety and Health Administration

OSHA 3164 (2000)

Protecting Whistleblowers

with job
safety
and health
complaints



You're Outta Here!

No one wants to hear these words. But if you're fired because you complained about unsafe working conditions, you may have another chance.

You have a right to call attention to environmental problems and unsafe conditions. Eleven laws¹ authorize the Occupational Safety and Health Administration (OSHA) to help whistleblowers. Together, these laws protect almost all private sector workers and some federal workers. There are special protections for transportation workers and those in the nuclear energy and environmental fields.

Discrimination cases can be difficult to prove. But if you have faced retaliation for calling attention to unsafe or unhealthy working conditions, OSHA may be able to help. If you believe you have been demoted, moved to a less desirable job or shift, or fired because you acted to protect yourself or others from hazards, OSHA will investigate your complaint. If the investigation shows discrimination, in some cases OSHA can take your employer to court at no expense to you to restore your job, pay, and benefits.

¹ Occupational Safety and Health Act of 1970; Surface Transportation Assistance Act; Asbestos Hazard Emergency Response Act; International Safe Container Act; Energy Reorganization Act; Clean Air Act; Comprehensive Environmental Response, Compensation, and Liability Act; Federal Water Pollution Control Act; Safe Drinking Water Act; Solid Waste Disposal Act; Toxic Substances Control Act.

When Should I File a Complaint?

Immediately! Most workers have only 30 days under the law to report discrimination to OSHA. Even if you are pursuing other options, such as a union grievance, you should contact OSHA right away. Call the local office listed on the back page of this brochure as soon as you learn of possible discrimination so that OSHA can begin its investigation.

What Counts as Discrimination?

Any adverse action that results **directly** from your efforts to improve safety and health on the job or the environment is considered discrimination. That includes dismissal; demotion; assignment to an undesirable job or shift; loss of seniority; denial of a promotion you otherwise would have received; denial of benefits earned, such as sick leave or vacation time; harassment; blacklisting with other employers; taking away company housing; damaging your credit at banks or credit unions; reducing pay or hours.

To prove discrimination, OSHA must be able to show that your employer acted wrongly in demoting, firing, or transferring you **because** you complained about safety and health conditions on the job or the environment. You must have been treated differently than similar workers who did not complain about hazards. Further, the alleged discrimination must have occurred around the time you expressed your safety and health or environmental concerns.

What Can I Do?

Help OSHA investigate your case by documenting your complaint. Save notes from meetings with your employer. Provide copies of recent performance evaluations. Identify witnesses who can verify your story.



Where Can I File?

Local OSHA offices handle both discrimination complaints and reports of hazardous working conditions. Specially trained staff conduct discrimination investigations. Your local office address and telephone number are listed on the back page of this brochure. In some cases, your complaints must be in writing. If OSHA can't help, our investigators will try to suggest other options for you to pursue.

How Long Will the Investigation Take?

OSHA normally makes its initial finding within two or three months. The more evidence available to support your case and the more witnesses to be interviewed, the longer the case may take. But the more information, the more likely OSHA will succeed in proving your claim of discrimination.

On the other hand, if OSHA finds little support that your safety and health activities led to discrimination, your case may be dismissed for lack of merit. You may then try other avenues as listed below.

What Help Does OSHA Offer?

If the evidence shows that you have been punished for exercising your safety and health rights, OSHA will ask your employer to restore everything you lost due to discrimination. If your employer does not agree to a voluntary settlement, in some cases OSHA can take the company to court. Or you may be entitled to an administrative hearing.

If your case has merit, OSHA will try to get your job back if you were fired, restore your seniority and benefits such as vacation time, and get back pay for time you would have worked—regular and overtime—if you had stayed on the job. You may not want to return to work for an employer who has discriminated against you. That's okay. But you may still be entitled to back pay for an unjust firing. In a few cases, OSHA may also be able to obtain additional money in damages for wrongful treatment.