



News & Trending
PUBLICATIONS & ALERTS

ETRENDS - OSHA EXPANDS WHISTLEBLOWER PROTECTION

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The Occupational Safety & Health Act (“OSH Act”) requires that employers provide a “safe and healthful workplace.” The OSH Act also prohibits employers from retaliating against “whistleblowers,” workers who complain to their employer, the Occupational Safety and Health Administration (“OSHA”), or another governmental agency about alleged workplace safety violations. Congress recently has expanded OSHA’s whistleblower authority to prohibit retaliation and to protect workers who report alleged violations of various federal laws, including those related to workplace safety.

Possible retaliation against employees who complain can include:

- Applying or issuing a policy which provides for an unfavorable personnel action due to activity protected by a whistleblower law enforced by OSHA;
- Blacklisting;
- Demoting;
- Denying overtime or promotion;
- Disciplining;
- Denying benefits;
- Failing to hire or rehire;
- Firing or laying off;
- Intimidation;
- Making threats;
- Reassignment to a less desirable position, including one adversely affecting prospects for promotion;
- Reducing pay or hours; and
- Suspension.

New OSHA rules regarding the handling of whistleblower complaints for employees working for commercial motor carriers, railroad carriers, and public transportation agencies are anticipated by the end of the year.

Whistleblower complaints may lead to an investigation and, if the employee has been discharged, mandatory reinstatement of the employee, payment of back wages, and other possible remedies to make the employee whole. Employers should familiarize themselves with OSHA’s whistleblower laws and review their employee training programs and policies to minimize the chances of retaliatory action stemming from employee complaints.

PROFESSIONALS

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