

# Injury and Illness Prevention Programs

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Training from the New Jersey  
Work Environment Council



## **An Introduction to OSHA, Rights and Responsibilities Under OSHA Law, Whistleblower Laws Enforced by OSHA, & Filing an OSHA Complaint**

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## **You Have the Right to a Safe Workplace**

**The Occupational Safety and Health Act of 1970 (OSH Act)** was passed to prevent workers from being killed or seriously harmed at work. The Act created the Occupational Safety and Health Administration (OSHA), which sets and enforces protective workplace safety and health standards.

Employers must also comply with the **General Duty Clause**, section 5(a)1, of the OSH Act, which requires employers to keep their workplace free of serious recognized hazards. This clause is generally cited when no OSHA standard applies to the hazard.

# Rights and Responsibilities Under OSHA Law

## Employer Responsibilities

**Employers MUST provide their employees with a workplace that does not have serious hazards and follow all relevant OSHA safety and health standards.** Employers must find and correct safety and health problems. OSHA further requires employers to try to eliminate or reduce hazards first by making changes in working conditions rather than just relying on masks, gloves, ear plugs or other types of personal protective equipment (PPE). Switching to safer chemicals, enclosing processes to trap harmful fumes, or using ventilation systems to clean the air are examples of effective ways to get rid of or minimize risks.

Employers **MUST** also:

- Inform employees about hazards through training, labels, alarms, color coded systems, chemical information sheets and other methods.
- Keep accurate records of work-related injuries and illnesses.
- Provide safety training to workers in a language and vocabulary they can understand.
- Perform tests in the workplace, such as air sampling required by some OSHA standards.
- Provide required personal protective equipment at no cost to workers\*
- Provide hearing exams or other medical tests required by OSHA standards.
- Post OSHA citations, injury and illness data, and the OSHA poster in the workplace where workers will see them.
- Notify OSHA within 8 hours of a work-related fatality or within 24 hours of all work-related inpatient hospitalizations, all amputations and all losses of an eye. (1-800-321-OSHA [6742]).
- Prominently display the official OSHA *Job Safety and Health – It’s the Law* poster that describes rights and responsibilities under the OSH Act.
- **Not discriminate or retaliate against a worker for using their rights under the law.**

\* Employers must pay for most types of required personal protective equipment.

## **Workers' Rights:**

- Working conditions that do not pose a risk of serious harm.
- File a confidential complaint with OSHA to have their workplace inspected.
- Receive information and training about hazards, methods to prevent harm, and the OSHA standards that apply to their workplace. The training must be done in a language and vocabulary workers can understand.
- Receive copies of records of work-related injuries and illnesses that occur in their workplace
- Receive copies of the results from tests and monitoring done to find and measure hazards in their workplace.
- Receive copies of their workplace medical records.
- Participate in an OSHA inspection and speak in private with the OSHA inspector.
- File a complaint with OSHA if they have been retaliated or discriminated against by their employer as the result of requesting an inspection or using any of their other rights under the OSH Act.
- File a complaint if punished or discriminated against for acting as a “whistleblower” under the 21 additional federal laws for which OSHA has jurisdiction.

## **OSHA's Whistleblower program: protection from discrimination**

To help ensure that workers are free to participate in safety and health activities, Section 11(c) of the OSH Act prohibits any person from discharging or in any manner retaliating or discriminating against any worker for exercising rights under the Act. These rights include raising safety and health concerns with an employer, reporting a work-related injury or illness, filing a complaint with OSHA, seeking an OSHA inspection, participating in an OSHA inspection and participating or testifying in any proceeding related to an OSHA inspection.

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;
- Denying of benefits;
- Failing to hire or rehire;
- Intimidation;
- Making threats;
- Reassignment affecting prospects for promotion; or
- Reducing pay or hours.

If a worker believes an employer has discriminated against them for exercising their safety and health rights, they should contact their local OSHA office right away.

To file a complaint under Section 11(c), contact the nearest OSHA office within 30 days of the discrimination. **No form is needed, but workers must call OSHA within 30 days of the alleged discrimination** (at 1-800-321-OSHA [6742]). For more information, please visit [www.whistleblowers.gov](http://www.whistleblowers.gov).

## **If there is a Dangerous Situation at Work**

If a worker believes working conditions are unsafe or unhealthful, OSHA recommends that he or she bring the conditions to the employer's attention, if possible. A worker may file a complaint with OSHA concerning a hazardous working condition at any time.

However, workers should not leave the worksite merely because they have filed a complaint. If the condition clearly presents a risk of death or serious physical harm, there is not sufficient time for OSHA to inspect, and, where possible, a worker has brought the condition to the attention of the employer, the worker may have a legal right to refuse to work in a situation in which he or she would be exposed to the hazard. *It is recommended that the workers request from their employers alternative tasks that would not expose them to the hazard.*

If a worker, with no reasonable alternative, refuses in good faith to expose himself or herself to a dangerous condition, he or she would be protected from subsequent retaliation. The condition must be of such a nature that a reasonable person would conclude that there is a real danger of death or serious harm and that there is not enough time to contact OSHA and for OSHA to inspect. Where possible, the worker must have also sought from his or her employer, and been unable to obtain, a correction of the condition. For more information go to [www.osha.gov/workers](http://www.osha.gov/workers).

### **Additional Whistleblower protections**

Since passage of the OSH Act in 1970, Congress has expanded OSHA's whistleblower protection authority to protect workers from discrimination under a total of 22 federal laws. These laws protect workers who report violations of various workplace safety, airline, commercial motor carrier, consumer product, environmental, financial reform, healthcare reform, nuclear, pipeline, public transportation agency, railroad, maritime and securities laws. Complaints must be reported to OSHA within set timeframes following the discriminatory action, as prescribed by each law.

## **Filing a Complaint**

### **Hazardous Workplace Complaints**

If a workplace has unsafe or unhealthful working conditions, workers may want to file a complaint. Often the best and fastest way to get a hazard corrected is to notify a supervisor or employer.

Workers or their representatives may file a complaint online or by phone, mail, email or fax with the nearest OSHA office and request an inspection. A worker may also ask OSHA not to reveal his or her name.

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. If you think your job is unsafe and you want to ask for an inspection, OSHA. 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.

You have these options to file your safety and health complaint: Online, Download and Fax/Mail, 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. File a discrimination complaint if your employer has punished you for using any employee rights established under the OSH Act or for refusing to work when faced with an imminent danger of death or serious injury and there is insufficient time for OSHA to inspect. 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. In states with approved state plans, employees may file a complaint with both the State and Federal OSHA.

To file a complaint, call 1-800-321-OSHA [6742] or contact the nearest OSHA regional, area, state plan, or consultation office listed at [www.osha.gov](http://www.osha.gov). The teletypewriter (TTY) number is (877) 889-5627.

**Written, signed complaints submitted to OSHA area offices are more likely to result in an on-site OSHA inspection.** Most online or unsigned complaints are resolved informally over the phone with the employer.

Complaints from workers in states with an OSHA-approved state plan will be forwarded to the appropriate state plan for response. Workers can call 1-800-321-OSHA [6742] to request a complaint form from their local OSHA office or visit [www.osha.gov/pls/osha7/eComplantForm.html](http://www.osha.gov/pls/osha7/eComplantForm.html) to download the form.

Completed forms should be faxed or mailed to the local OSHA office. Include your name, address and telephone number so that OSHA can contact you.

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

Reference: All about OSHA, OSHA 3302-01R 2013,  
[http://www.osha.gov/Publications/all\\_about\\_OSHA.pdf](http://www.osha.gov/Publications/all_about_OSHA.pdf)