

Whistleblower Protection for Employees in the Aviation Industry

Certain aviation industry employers 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, certain aircraft manufacturers and designers, and employees of their contractors, subcontractors, or suppliers.

Covered Employees

Under AIR21, employees of the following types of employers are protected from retaliation for engaging in certain protected activities related to aviation safety:

- Air carriers (holders of an air carrier operating certificate under 49 U.S.C. § 44705)
- Aircraft manufacturers and designers (holders of type, supplemental type, production, or airworthiness certificates under 49 U.S.C. § 44704)
- Such entities' contractors performing functions related to aviation safety, subcontractors, and suppliers

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 aviation 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 aviation 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
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failure to hire or rehire
- Intimidation or harassment
- Making threats
- Reassignment to a less desirable position or actions affecting promotion prospects
- Reducing pay or hours
- More subtle actions, such as isolating, ostracizing, mocking, or falsely accusing the employee of poor performance
- Blacklisting (intentionally interfering with an employee's ability to obtain future employment)
- Constructive discharge (quitting when an employer makes working conditions intolerable due to the employee's protected activity)
- Reporting the employee to the police or immigration authorities

Deadline for Filing Complaints

Complaints must be filed within 90 days after the employee learns of the alleged adverse action.

How to File an AIR21 Complaint

An employee, or an employee's representative, can file an AIR21 complaint with OSHA by visiting or calling the 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.

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.pdf.

For information on the Office of Administrative Law Judges procedures and case law research materials, go to www.dol.gov/agencies/oalj/topics/information/Information_for_Whistleblowers.

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 workers 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.



**Occupational
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