

Whistleblower Protection for Public Transportation Agency Workers

Individuals working for public transportation agencies are protected from retaliation for reporting potential safety or security violations to their employers or to the government.

On August 3, 2007, the *National Transit Systems Security Act* (NTSSA), 6 U.S.C. § 1142, became law as part of *The Implementing Recommendations of the 9/11 Commission Act* (Public Law 110-53), establishing retaliation protections for public transportation agency workers.

Covered Employees

In general, NTSSA covers employees of a public transportation agency or its contractors or subcontractors (such as employees of manufacturers of operational equipment for public transportation agencies). Employees of providers of other passenger transportation, such as school bus, charter, or sightseeing transportation are not covered; however, these employees may be protected against retaliation for complaining about workplace safety and health conditions under the *Surface Transportation Assistance Act of 1982* (STAA) or Section 11(c) of the federal *Occupational Safety and Health Act* or an equivalent state law.

Protected Activity

If your employer is covered under NTSSA, it may not discharge you or in any other manner retaliate against you because you:

- Provided information to, caused information to be provided to, or assisted in an investigation by a federal regulatory or law enforcement agency, a member or committee of Congress, or your employer about an alleged violation of federal laws, rules, or regulations related to public transportation safety and security, or about fraud, waste, or abuse of federal grants or other public funds intended for public transportation safety or security.
- Refused to violate or assist in a violation of any federal law, rule or regulation relating to public transportation safety or security.

- Filed a complaint, caused a proceeding to be brought or testified in a proceeding under one of these laws, rules or regulations.
- Reported a hazardous safety or security condition.
- Refused to work when confronted with an imminent hazardous safety or security condition.
- Refused to authorize the use of any safety- or security-related equipment, track, or structures if those structures present an imminent hazardous safety or security condition.

You may also be covered if you were perceived as having engaged in the activities described above.

What Is Retaliation?

Retaliation is an adverse action against an employee because of activity protected by the NTSSA. Retaliation can include several types of actions, such as:

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

Time Limits for Filing Complaints

Complaints must be filed within 180 days after the alleged retaliatory action occurred or after the date on which the employee became aware of the action.

How to File a NTSSA Complaint

An employee can file a NTSSA complaint with OSHA by visiting or calling his or her 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.html.

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/html/RAmap.html and click on your state to find your local OSHA office address and contact information.

When OSHA receives a complaint, the agency first reviews 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 1982.

Results of the Investigation

If the evidence supports an employee's complaint of retaliation, OSHA will issue an order requiring the employer to, as appropriate, put the employee back to work, pay lost wages, restore benefits, and 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. The employee may also file a complaint in federal court if the Department does not issue a final decision within 210 days. See 6 U.S.C. § 1142.

To Get Further Information

For a copy of NTSSA, 6 U.S.C. § 1142, the regulations (29 CFR 1982), and other information, go to www.whistleblowers.gov.

OSHA's Whistleblower Protection Programs enforces the whistleblower provisions of more than twenty federal whistleblower laws. To learn more about the whistleblower statutes which 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.oalj.dol.gov and click on the link for "Whistleblower."

For information on transportation safety laws and regulations, visit the Federal Transit Administration's website at www.fta.dot.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 working men and women 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: (877) 889-5627.



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