OSHA EXPLAINS: How We Investigate Whistleblower Complaints under the OSH Act

You engaged in "protected activity" under the OSH Act.

For example, did you:
- Raise a workplace safety and/ or health concern to a supervisor?
- File a safety/health complaint with OSHA?
- Report a work-related injury or illness to your employer?
- Participate in/cooperate with an OSHA inspection?

→ Your employer takes an "adverse action" against you.

For example, did your employer:
- Fire you?
- Demote you?
- Reduce your hours?
- Threaten to contact immigration?

→ You or your representative file a whistleblower retaliation complaint with OSHA.

- Must be filed within **30 calendar days** after the adverse action occurs!
- The protected activity must have caused the adverse action.

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Investigator evaluates your complaint to ensure it meets minimum requirements. (WIM-Chapter 3.II.D.) Investigator will contact you with findings.

→ Complaint accepted. Employer notified of complaint and your identity. Investigation begins.

→ Investigator interviews you. You submit evidence (such as emails, text messages, written warnings, phone records, etc.) to the OSHA investigator.

↓ Complaint does not meet requirements and **you agree** that it may be closed without an investigation (administratively closed) and no right to seek further review. **Employer not notified.**

→ Complaint does not meet requirements and **you don't agree** that it may be administratively closed. Complaint is docketed for investigation, immediately dismissed, and you may seek further review. **Employer is notified.**

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Your employer sends a response to your complaint to both the OSHA investigator and you. This is known as a "position statement."

→ Investigator interviews witnesses and collects evidence as needed.

→ You respond to the position statement with a "rebuttal." You should use the rebuttal to give additional evidence to OSHA.

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If OSHA finds that retaliation did not occur, your case is closed or "dismissed."

The investigator holds a closing conference with you to explain the recommendation to dismiss.

→ You have 15 calendar days to request a review of the dismissal by OSHA's Directorate of Whistleblower Protection Programs (DWPP).

→ Case dismissal is either upheld, or case is returned for further investigation or referral for potential litigation.

If OSHA finds that retaliation occurred, we refer your case to the U.S. Department of Labor's Office of the Solicitor for potential litigation. This is known as a "merit case." You cannot sue on your own.

Common reasons complaints may not be investigated:
- You filed too late (after the 30-calendar day filing period).
- Your employer's actions were unrelated to your concern about workplace safety or health.
- You have significantly delayed or failed to respond to the investigator's inquiries.

whistleblowers.gov
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