



AKOSH

Whistleblower Fact Sheet

Alaska Occupational Safety and Health (AKOSH) is responsible for enforcing Alaska Statute 18.60.089, which says it is unlawful for an employer to retaliate against an employee for engaging in a protected activity.

What is a Protected Activity? (See 8AAC 61.480)

- Filing a safety/health complaint with AKOSH
- Participating in an AKOSH enforcement inspection or proceeding
- Reporting workplace safety/health concerns to management
- Reporting /Filing workplace injuries, illnesses, or fatalities
- Any right provided under AS 18.60.010-105

What is Retaliation?

A person taking an unfavorable employment action against an employee may be found to have violated AS 18.60.089 if the employee would not have experienced the unfavorable employment action(s) but for their protected activity.

Examples include, but are not limited to:

- Firing or laying off
- Demoting
- Disciplining
- Blacklisting
- Denying overtime
- Cutting hours

How AKOSH Determines Whether Retaliation Took Place

The investigation seeks evidence showing:

- The employee engaged in protected activity (PA);
- The employer knew about the protected activity;
- The employer took an adverse action;
- Motivating factor(s) for adverse action(s), including perpetuating a chilling effect in the workplace to intimidate workers: and
- Any other information material to the complaint(s) and defense(s).

AKOSH Actions Regarding Retaliation

Settlement Agreements are the most expedient way to address the complaint and seek a 'make whole' remedy for the employee. AKOSH seeks to discuss settlement upon initial contact with the parties.

If the evidence supports the employee's allegation and a settlement cannot be reached, AKOSH will recommend that the Commissioner of Labor request the Attorney General to bring an action in Superior Court against the violator (the employer who retaliated).

Limited Protections for Employees Who Refuse to Work

You have a limited right under the OSH Act to refuse to do a job because conditions are hazardous. You may do so under the OSH Act only when (1) you believe that you face *death or serious injury* (and the situation is so clearly hazardous that any reasonable person would believe the same thing); (2) you have tried to get your employer to correct the condition, and there is no other way to do the job safely; and, (3) the situation is so urgent that you do not have time to eliminate the hazard through regulatory channels such as calling AKOSH. Regardless of the unsafe condition, you are not protected if you simply walk off the job. For details, see <https://www.osha.gov/right-to-refuse.html>.

Union grievance processes are most appropriate for complaints involving Collective Bargaining Unit (CBU) contract terms. AKOSH / OSHA PA may also apply.

Filing a Complaint

If you believe your employer retaliated against you because you engaged in the above protected activity(ies), you must file a complaint within 30 days of the unfavorable personnel action. For more information call **907-269-4940**.

<https://labor.alaska.gov/lss/oshhome.htm>

<https://www.osha.gov/whistleblower/WBComplaint.html>