



# AKOSH

## Whistleblower Fact Sheet

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*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

### What is Retaliation?

Your employer may be found to have retaliated against you if your protected activity was a contributing or motivating factor in its decision to take unfavorable personnel action against you. Such actions may include:

- 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;
- The employer knew about the protected activity;
- The employer took an adverse action; and
- The evidence suggests that *but for* the protected activity, the decision to take the adverse action against the employee would not have been made; and,
- Examine evidence to determine the merit of the allegation that retaliation took place.

### 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 <http://www.osha.gov/as/opa/worker/refuse.html>.

AKOSH/OSHA cannot enforce union contracts or state laws that give employees the right to refuse to work.

### Filing a Complaint

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

<http://www.labor.state.ak.us/lss/oshhome.htm>