

OSHA[®] FactSheet

Whistleblower Protection for Employees in the Aviation Industry

Employees of air carriers are protected from retaliation for reporting potential aviation safety violations to their employers or the federal government.

On April 5, 2000, the *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century* (AIR21) was enacted establishing retaliation protections for employees of air carriers and their contractors or subcontractors.

Covered Employees

Under AIR21, an employee of an air carrier or its contractors or subcontractors is protected from retaliation for reporting alleged violations of federal laws related to aviation safety.

"Air carrier" is defined as a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation. It does not include foreign air carriers. "Contractor" is defined as a company that performs a safety-sensitive function by contract for an air carrier.

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, or caused information to be provided to your employer or the federal government about an alleged violation of federal laws of the Federal Aviation Administration (FAA) or any other provision of federal law related to air carrier safety. Your employer may not discharge or in any manner retaliate against you because you filed, caused to be filed, participated in, or assisted in a proceeding under one of these laws. (To obtain more information about air carrier safety laws, please visit the FAA website at, www.FAA.gov).

Limited Protections for Employees Who Refuse to Work

AIR21 does not expressly provide protection for an employee who refuses to work because of an alleged airline safety violation by an employer. The Secretary of Labor, however, interprets this statute to protect refusals to work when an employee has a reasonable belief that his or her working conditions are unsafe, and he or she does not receive an adequate explanation from a responsible official that the conditions are safe.

Unfavorable Personnel Actions

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

- 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

Deadline for Filing a Complaint

Complaints must be filed within 90 days after the alleged unfavorable personnel action occurs (that is, when you become aware of the retaliatory action).

How to File a Complaint

An employee, or representative of an employee who believes that he or she has been retaliated against in violation of this statute may file a complaint with OSHA.

The complaint should be filed with the OSHA office responsible for enforcement activities in the geographical area where the employee resides or was employed, but may be filed with any OSHA officer or employee. For more information, call your closest OSHA Regional Office:

- *Boston* (617) 565-9860
- *New York* (212) 337-2378
- *Philadelphia* (215) 861-4900
- *Atlanta* (404) 562-2300
- *Chicago* (312) 353-2220
- *Dallas* (972) 850-4145
- *Kansas City* (816) 283-8745
- *Denver* (720) 264-6550
- *San Francisco* (415) 625-2547
- *Seattle* (206) 553-5930

Addresses, fax numbers and other contact information for these offices can be found on OSHA's website, www.osha.gov, and in local directories.

Complaints must be filed in writing, by mail (we recommend certified mail), fax, or hand-delivery during business hours. The date postmarked, faxed or hand-delivered is considered the date filed.

Results of the Investigation

If the evidence supports your claim of retaliation and a settlement cannot be reached, OSHA will issue an order requiring your employer to reinstate you with the same seniority, pay back-wages, restore benefits, and other possible relief to make you whole.

OSHA's findings and order become the final order of the Secretary of Labor, unless they are objected to within 30 days.

Hearings and Review

After OSHA issues its findings and order, either party may request an evidentiary hearing before an administrative law judge of the Department of Labor. The administrative law judge's decision and order may be appealed to the Department's Administrative Review Board for review.

To Get Further Information

For more information on AIR21 and other employee whistleblower protection provisions, including copies of the statutes and regulations, go to www.osha.gov and click on the link for the "Whistleblower Protection."

For information on the Office of Administrative Law Judges procedures, decisions and research materials, go to www.oalj.dol.gov and click on the link for "Whistleblower."

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.

For more information:



U.S. Department of Labor

www.osha.gov

(800) 321-OSHA