

# Workers' Rights



## Occupational Safety and Health Act of 1970

“To assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health...”

This publication provides a general overview of worker rights under the Occupational Safety and Health Act (OSH Act). This publication does not alter or determine compliance responsibilities which are set forth in OSHA standards and the OSH Act. Moreover, because interpretations and enforcement policy may change over time, for additional guidance on OSHA compliance requirements the reader should consult current administrative interpretations and decisions by the Occupational Safety and Health Review Commission and the courts.

This document, *Workers' Rights*, replaces *Employee Workplace Rights*.

Material contained in this publication is in the public domain and may be reproduced, fully or partially, without permission. Source credit is requested but not required.

This information will be made available to sensory-impaired individuals upon request. Voice phone: (202) 693-1999; tele-typewriter (TTY) number: 1-877-889-5627.

# Workers' Rights

---

U.S. Department of Labor

Occupational Safety and Health Administration

OSHA 3021-09R 2011



U.S. Department of Labor  
Hilda L. Solis, Secretary of Labor

# Contents

|  |    |
|--|----|
| <b>Introduction</b>  | 3  |
| Worker Protection is the Law of the Land   | 3  |
| Workers' Rights under the OSH Act  | 3  |
| <b>Employer Responsibilities</b>   | 4  |
| <b>Who Does OSHA Cover</b>   | 5  |
| Private Sector Workers   | 5  |
| State and Local Government Workers   | 5  |
| Federal Government Workers   | 5  |
| Not Covered under the OSH Act  | 6  |
| Worker Rights in State-Plan States   | 6  |
| <b>Right to a Safe and Healthful Workplace</b>   | 7  |
| Employers' "General Duty"  | 7  |
| OSHA Standards: Protection on the Job  | 7  |
| Right to be Provided Protective Equipment<br>Free of Charge                                    | 8  |
| Right to Information   | 8  |
| <b>OSHA Worksite Investigations</b>  | 10 |
| Right to File a Complaint with OSHA to Request<br>an On-site OSHA Inspection                   | 11 |
| Rights of Workers during an Inspection   | 13 |
| Workers' Rights following Issuance of Citations  | 14 |
| Right to Information If No Inspection is Conducted<br>or No Citation Issued                    | 14 |
| Right to Use Your Rights:<br><i>Protection from Discrimination</i><br>Whistleblower Protection | 15 |
| If There is a Dangerous Situation at Work  | 16 |
| Additional Whistleblower Protections   | 16 |
| <b>More Resources and Information</b>  | 21 |
| OSHA Educational Materials   | 22 |
| OSHA Consultation Service for Small Employers  | 22 |
| OSHA's Alliance Program  | 23 |
| NIOSH Health Hazard Evaluation:<br>Getting Help on Health Hazards                              | 23 |
| <b>How to Contact OSHA</b>   | 24 |
| <b>OSHA Regional Offices</b>   | 25 |

## Introduction

### **Worker Protection is the Law of the Land**

You have the right to a safe workplace. The *Occupational Safety and Health Act of 1970* (OSH Act) was passed to prevent workers from being killed or otherwise harmed at work. The law requires employers to provide their employees with working conditions that are free of known dangers. The OSH Act created the Occupational Safety and Health Administration (OSHA), which sets and enforces protective workplace safety and health standards. OSHA also provides information, training and assistance to employers and workers.

Contact us if you have questions or want to file a complaint. We will keep your information confidential. **We are here to help you.**

### **Workers' Rights under the OSH Act**

The OSH Act gives workers the right to safe and healthful working conditions. It is the duty of employers to provide workplaces that are free of known dangers that could harm their employees. This law also gives workers important rights to participate in activities to ensure their protection from job hazards. This booklet explains workers' rights to:

- File a confidential complaint with OSHA to have their workplace inspected.
- Receive information and training about hazards, methods to prevent harm, and the OSHA standards that apply to their workplace. The training must be done in a language and vocabulary workers can understand.
- Review records of work-related injuries and illnesses that occur in their workplace.
- Receive copies of the results from tests and monitoring done to find and measure hazards in the workplace.
- Get copies of their workplace medical records.
- Participate in an OSHA inspection and speak in private with the inspector.
- File a complaint with OSHA if they have been retaliated or discriminated against by their employer as the result of requesting an inspection or using any of their other rights under the OSH Act.

- File a complaint if punished or discriminated against for acting as a “whistleblower” under the additional 20 federal statutes for which OSHA has jurisdiction.

A job must be safe or it cannot be called a good job. OSHA strives to make sure that every worker in the nation goes home unharmed at the end of the workday, the most important right of all.

## Employer Responsibilities

Employers have the responsibility to provide a safe workplace. **Employers MUST provide their employees with a workplace that does not have serious hazards and must follow all OSHA safety and health standards.** Employers must find and correct safety and health problems. OSHA further requires that employers must try to eliminate or reduce hazards first by making feasible changes in working conditions – switching to safer chemicals, enclosing processes to trap harmful fumes, or using ventilation systems to clean the air are examples of effective ways to get rid of or minimize risks – rather than just relying on personal protective equipment such as masks, gloves, or earplugs.

Employers **MUST** also:

- Inform employees about hazards through training, labels, alarms, color-coded systems, chemical information sheets and other methods.
- Train employees in a language and vocabulary they can understand.
- Keep accurate records of work-related injuries and illnesses.
- Perform tests in the workplace, such as air sampling, required by some OSHA standards.
- Provide hearing exams or other medical tests required by OSHA standards.
- Post OSHA citations and injury and illness data where workers can see them.
- Notify OSHA within eight hours of a workplace fatality or when three or more workers are hospitalized.
- Prominently display the official OSHA poster that

describes rights and responsibilities under the OSH Act.

## Who Does OSHA Cover

### Private Sector Workers

Most employees in the nation come under OSHA's jurisdiction. OSHA covers most private sector employers and employees in all 50 states, the District of Columbia, and other U.S. jurisdictions either directly through Federal OSHA or through an OSHA-approved state plan. State-run health and safety plans must be at least as effective as the Federal OSHA program. To find the contact information for the OSHA Federal or State Program office nearest you, call 1-800-321-OSHA (6742) or go to [www.osha.gov](http://www.osha.gov).

### State and Local Government Workers

Employees who work for state and local governments are not covered by Federal OSHA, but have OSH Act protections if they work in those states that have an OSHA-approved state plan. The following 22 states or territories have OSHA-approved programs:

|                |            |                |
|----------------|------------|----------------|
| Alaska         | Arizona    | California     |
| Hawaii         | Indiana    | Iowa           |
| Kentucky       | Maryland   | Michigan       |
| Minnesota      | Nevada     | New Mexico     |
| North Carolina | Oregon     | South Carolina |
| Tennessee      | Utah       | Vermont        |
| Virginia       | Washington | Wyoming        |
| Puerto Rico    |            |                |

Four additional states and one U.S. territory have OSHA-approved plans that cover public sector employees only:

|             |                |            |
|-------------|----------------|------------|
| Connecticut | Illinois       | New Jersey |
| New York    | Virgin Islands |            |

Private sector workers in these four states and the Virgin Islands are covered by Federal OSHA.

### Federal Government Workers

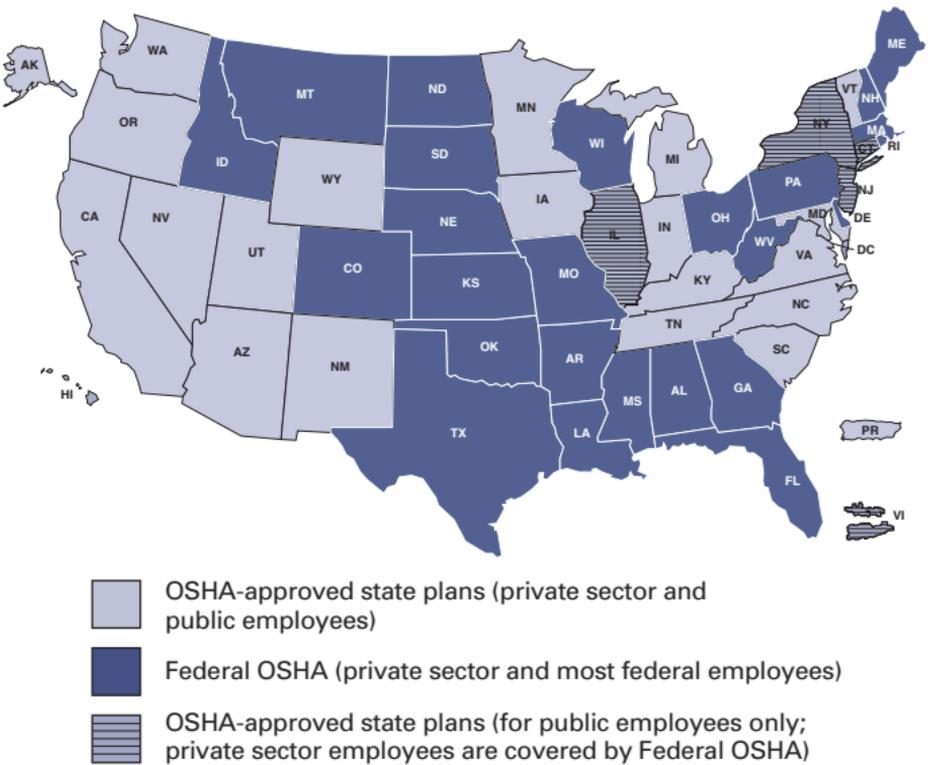
Federal agencies must have a safety and health program that meets the same standards as private employers. Although OSHA does not fine federal agencies, it does monitor federal agencies and

responds to workers' complaints. The United States Postal Service (USPS) is covered by OSHA.

### Not Covered under the OSH Act

- Self-employed;
- Immediate family members of farm employers; and
- Workplace hazards regulated by another federal agency (for example, the Mine Safety and Health Administration, Federal Aviation Administration, Coast Guard).

### OSHA-Approved State Plans



### Worker Rights in State-Plan States

States that assume responsibility for their own occupational safety and health programs must have provisions at least as effective as Federal OSHA's, including the protection of employee rights.

Any interested person or group, including employees, with a complaint concerning the operation or administration of a state program may submit a complaint to the appropriate Federal OSHA regional administrator. (See contact list at the end of this booklet). This is called a Complaint About State Program Administration (CASPA). The complainant's name will be kept confidential. The

OSHA regional administrator will investigate all such complaints, and where complaints are found to be valid, require appropriate corrective action on the part of the state.

## **Right to a Safe and Healthful Workplace**

### **Employers' "General Duty"**

Employers have the responsibility to provide a safe and healthful workplace that is free from serious recognized hazards. This is commonly known as the General Duty Clause of the OSH Act.

### **OSHA Standards: Protection on the Job**

OSHA standards are rules that describe the methods that employers must use to protect their employees from hazards. There are four groups of OSHA standards: General Industry, Construction, Maritime, and Agriculture. (General Industry is the set that applies to the largest number of workers and worksites). These standards are designed to protect workers from a wide range of hazards.

These standards also limit the amount of hazardous chemicals, substances, or noise that workers can be exposed to; require the use of certain safe work practices and equipment; and require employers to monitor certain hazards and keep records of workplace injuries and illnesses.

Examples of OSHA standards include requirements to:

- Provide fall protection, such as a safety harness and lifeline;
- Prevent trenching cave-ins;
- Ensure the safety of workers who enter confined spaces such as manholes or grain bins;
- Prevent exposure to high levels of noise that can damage hearing;
- Put guards on machines;
- Prevent exposure to harmful levels of substances like asbestos and lead;
- Provide workers with respirators and other needed safety equipment (in almost all cases, free of charge);

- Provide healthcare workers with needles and sharp instruments that have built-in safety features to prevent skin punctures or cuts that could cause exposure to infectious diseases; and
- Train workers using a language and vocabulary they understand about hazards and how to protect themselves.

Employers must also comply with the General Duty Clause of the OSH Act. This clause requires employers to keep their workplaces free of serious recognized hazards and is generally cited when no specific OSHA standard applies to the hazard.

### **Right to be Provided Protective Equipment Free of Charge**

In some situations it is not possible to completely eliminate a hazard or reduce exposures to a safe level, so respirators, goggles, earplugs, gloves, or other types of personal protective equipment are often used by themselves or in addition to other hazard control measures. Employers must provide most protective equipment free of charge. Employers are responsible for knowing when protective equipment is needed.

### **Right to Information**

OSHA gives workers and their representatives the right to see information that employers must collect on hazards in the workplace. Workers have the right to know what hazards are present in the workplace and how to protect themselves. Many OSHA standards require various methods that employers must use to inform their employees, such as warning signs, color-coding, signals, and training. Workers must receive their normal rate of pay to attend training that is required by OSHA standards and rules. The training must be in a language and vocabulary that workers can understand.

#### **Right to Know about Chemical Hazards**

The Hazard Communication standard, known as the “right-to-know” standard, requires employers to inform and train workers about hazardous chemicals and substances in the workplace. Employers must:

- Provide workers with effective information and training on hazardous chemicals in their work area. This training must be in a language and vocabulary that workers can understand;
- Keep a current list of hazardous chemicals that are in the workplace;
- Make sure that hazardous chemical containers are properly labeled with the identity of the hazardous chemical and appropriate hazard warnings; and
- Have and make available to workers and their representatives Material Safety Data Sheets (MSDS) for each substance that provide detailed information about chemical hazards, their effects, how to prevent exposure, and emergency treatment if an exposure occurs.

### **Right to Know about Laws and Your Rights**

Employers must display the official OSHA Poster, *Job Safety and Health: It's the Law*, in a place where workers will see it. It can be downloaded from the OSHA website, [www.osha.gov](http://www.osha.gov). Pre-printed copies can also be obtained from OSHA.

### **Right to Get Copies of Workplace Injury and Illness Records**

OSHA's Recordkeeping Rule requires employers in higher-hazard industries with more than ten employees to keep accurate and complete records of work-related injuries and illnesses. (Certain low-hazard workplaces such as offices are not required to keep such records). Employers must record any serious work-related injury or illness on the OSHA Form 300. A serious injury or illness is one that required medical treatment other than first aid, restricted work or days away from work. (Details of each incident are entered on a separate form, the OSHA Form 301). This OSHA Form 300 becomes an ongoing log of all recordable incidents. Each year from February 1 through April 30, employers must post a summary of the injury and illness log from the previous year (OSHA Form 300A) in a place where workers can see it. Workers and their representatives have the right to receive copies of the full OSHA Form 300 log. Following a request, employers must make copies available at the end of the next business day.

These injury and illness logs are important because they provide a comprehensive guide to possible hazards in the workplace that may need correcting. The logs should be used to focus on areas with high injury and illness rates, and to find and fix hazards in order to prevent future occurrences.

### **Right to Exposure Data**

Many OSHA standards require employers to run tests of the workplace environment to find out if their workers are being exposed to harmful levels of hazardous substances such as lead or asbestos, or high levels of noise or radiation. These types of tests are called exposure monitoring. OSHA gives workers the right to get the results of these tests.

### **Right to Your Medical Records**

Some OSHA standards require medical tests to find out if a worker's health has been affected because of exposures at work. For example, employers must test for hearing loss in workers exposed to excessive noise or for decreased lung function in workers exposed to asbestos. Workers have a right to their medical records. Workers' representatives also have a right to review these records but they must first get written permission from the worker to gain access to their medical information.

## **OSHA Worksite Investigations**

OSHA conducts on-site inspections of worksites to enforce the OSHA law that protects workers and their rights. Inspections are initiated without advance notice, conducted using on-site or telephone and facsimile investigations, and performed by highly trained compliance officers. Worksite inspections are conducted based on the following priorities:

- Imminent danger;
- A fatality or hospitalizations;
- Worker complaints and referrals;
- Targeted inspections – particular hazards, high injury rates; and
- Follow-up inspections.

Inspections are conducted without employers knowing when or where they will occur. The employer is not informed in advance that there will be an inspection, regardless of whether it is in response to a complaint or is a programmed inspection.

## **Right to File a Complaint with OSHA to Request an On-site OSHA Inspection**

On-site inspections can be triggered by a worker complaint of a potential workplace hazard or violation. If your workplace has unsafe or unhealthful working conditions, you may want to file a complaint. Often the best and fastest way to get a hazard corrected is to notify your supervisor or employer.

Current workers or their representatives may file a written complaint and ask OSHA to inspect their workplace if they believe there is a serious hazard or that their employer is not following OSHA standards or rules. **Workers and their representatives have the right to ask for an inspection without OSHA telling their employer who filed the complaint.** It is a violation of the Act for an employer to fire, demote, transfer or discriminate in any way against a worker for filing a complaint or using other OSHA rights.

A complaint can be filed in a number of ways:

**1. Mail or submit the OSHA Complaint Form –** Download the OSHA complaint form from our website (or request a copy from your local OSHA regional or area office), complete it and then fax or mail it back to your nearest OSHA regional or area office. Written complaints that report a serious hazard and are signed by a current worker or representative and submitted to the closest OSHA area office are given priority and are more likely to result in on-site OSHA inspections. A worker or their representative can request (on the form) that OSHA not let their employer know who filed the complaint. Please include your name, address and telephone number so we can contact you to follow up. This information is confidential.

**2. Online** – Go to the online Complaint Form on the OSHA website, at [www.osha.gov](http://www.osha.gov). Complaints that are sent in online will most likely be investigated using OSHA's phone/fax system whereby the employer is contacted by phone or fax (not an actual inspection) about the hazard. **A written complaint that reports a serious hazard and is signed by a current worker(s) or their representative and mailed or otherwise submitted to an OSHA area or regional office is more likely to result in an on-site OSHA inspection.** Complaints received online from workers in OSHA-approved state plan states will be forwarded to the appropriate state plan for response.

**3. Telephone** – Call your local OSHA regional or area office at 1-800-321-OSHA (6742). OSHA staff can discuss your complaint and respond to any questions you have. **If there is an emergency or the hazard is immediately life-threatening, call your local OSHA regional or area office.**

### **Who else can file a complaint?**

Employee representatives, for the purposes of filing a complaint, are defined as any of the following:

- An authorized representative of the employee bargaining unit, such as a certified or recognized labor organization.
- An attorney acting for an employee.
- Any other person acting in a bona fide representative capacity, including, but not limited to, members of the clergy, social workers, spouses and other family members, health care providers and government officials or nonprofit groups and organizations acting upon specific complaints or injuries from individuals who are employees. In general, the affected employee should have requested, or at least approved, the filing of the complaint on his or her behalf.

In addition, anyone who knows about a workplace safety or health hazard may report unsafe conditions to OSHA, and OSHA will investigate the concerns reported.

## **Rights of Workers during an Inspection**

During an inspection, workers or their representatives have the following rights:

- Have a representative of employees, such as the safety steward of a labor organization, go along on the inspection;
- Talk privately with the inspector; and
- Take part in meetings with the inspector before and after the inspection.

When there is no authorized employee representative, the OSHA inspector must talk confidentially with a reasonable number of workers during the inspection.

Workers are encouraged to:

- Point out hazards;
- Describe injuries or illnesses that resulted from these hazards;
- Discuss past worker complaints about hazards; and
- Inform the inspector of working conditions that are not normal during the inspection.

### **Following the Inspection**

At the end of the inspection, the OSHA inspector will meet with the employer and the employee representatives in a closing conference to discuss any violations found and possible methods by which any hazards found will be abated. If it is not practical to hold a joint conference, the compliance officer will hold separate conferences.

When the OSHA area director determines that there has been a violation of OSHA standards, regulations, or other requirements, the area director issues a citation and notification of proposed penalty to an employer. A citation includes a description of the violation and the date by when the corrective actions must be taken. Depending on the situation, OSHA can classify a violation as serious, willful, or repeat. The employer can also be cited for failing to correct a violation for which it has already been cited. Employers must post a copy of a citation in the workplace where employees will see it.

## **Workers' Rights following Issuance of Citations**

Workers and employers can contest citations once they are issued to the employer. Workers may only contest the amount of time the employer is given to correct the hazard. Workers or their representatives must file a notice of contest with the OSHA area office within 15 days of the issuance of a citation.

Employers have the right to challenge whether there is a violation, how the violation is classified, the amount of any penalty, what the employer must do to correct the violation and how long they have to fix it. Workers or their representatives may participate in this appeals process by electing "party status." This is done by filing a written notice with the Occupational Safety and Health Review Commission (OSHRC).

The OSHRC hears appeals of OSHA citations. They are an independent agency separate from the Department of Labor. For more information, write to:

U.S. Occupational Safety and Health  
Review Commission  
1120 20th Street NW, 9th Floor  
Washington, DC 20036  
Phone: 202-606-5400 Fax: 202-606-5050  
[www.oshrc.gov](http://www.oshrc.gov)

## **Right to Information if No Inspection is Conducted or No Citation Issued**

The OSHA area director evaluates complaints from employees or their representatives according to the procedures defined in the OSHA Field Operations Manual. If the area director decides not to inspect the workplace, he or she will send a letter to the complainant explaining the decision and the reasons for it.

OSHA will inform complainants that they have the right to request a review of the decision by the OSHA regional administrator. Similarly, in the event that OSHA decides not to issue a citation after an inspection, employees have a right to further clarification from the area director and an informal review by the regional administrator.

## **Right to Use Your Rights: Protection from Discrimination Whistleblower Protection**

The OSH Act prohibits employers from discriminating against their employees for using their rights under the OSH Act. These rights include filing an OSHA complaint, participating in an inspection or talking to the inspector, seeking access to employer exposure and injury records, raising a safety or health issue with the employer, or any other workers' rights described above.

Protection from discrimination means that an employer cannot retaliate by taking "adverse action" against workers, such as:

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

You can file a **discrimination** complaint with OSHA if your employer has punished you for using any employee rights established under the OSH Act. If you have been retaliated or discriminated against for using your rights, you must file a complaint with OSHA within **30 days of the alleged adverse action**. Contact your local OSHA office by calling 1-800-321-OSHA (6742), or send a letter to your closest regional or area office. No form is required. In states with approved state plans, employees may file a complaint with both the State and Federal OSHA.

**If you believe that you have been discriminated against, call 1-800-321-OSHA (6742) to be connected to the nearest OSHA area office to report your complaint. You must file your complaint within 30 days of the alleged discrimination.**

## Thank You for previewing this eBook

You can read the full version of this eBook in different formats:

- HTML (Free /Available to everyone)
- PDF / TXT (Available to V.I.P. members. Free Standard members can access up to 5 PDF/TXT eBooks per month each month)
- Epub & Mobipocket (Exclusive to V.I.P. members)

To download this full book, simply select the format you desire below

