

OSHA Piloting Whistleblower Program

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To further protect workers who report violations of law, safety and health, the U.S. Department of Labor's Occupational Safety and Health Administration is launching a pilot for its first severe violator enforcement program for employers that continually and willfully disregard the rights of whistleblowers.

OSHA's "Whistleblower-Severe Violator Enforcement Program" will be similar to its enforcement Severe Violator Enforcement Program which includes employers that routinely ignore federal workplace safety and health regulations. W-SVEP became effective on May 27, 2016, in the agency's Kansas City Region, which includes employers in Kansas, Missouri and Nebraska, and those companies under federal enforcement in Iowa.

"W-SVEP will focus on employers that engage in egregious behavior and blatant retaliation against workers who report unsafe working conditions and violations of the law," said Karena Lorek, OSHA's acting regional administrator in Kansas City. "When employers retaliate against workers who exercise their legal rights, other workers may suffer a chilling effect and fear exercising their rights to speak up. Problems don't get fixed, and workers get hurt. Employers that act in that manner deserve greater public scrutiny and a powerful response from OSHA."

The criteria for inclusion on the W-SVEP log will include:

- All significant whistleblower cases.
- Cases deemed worthy of either litigation or the issuance of merit Secretary's Findings in connection with egregious citations, a fatality, or a rate-based incentive program for work-related injuries.
- A merit whistleblower case where the employer is already on the enforcement SVEP log.
- A company with three or more merit whistleblower cases within the past three years.

Once an employer is determined to have met one of the criteria listed above, OSHA will place them on the W-SVEP log. After three years, a company may petition the regional administrator for a follow-up visit and removal from the program. At that time, OSHA will complete a comprehensive review of the company's policies and practices to determine if they have addressed and remedied the retaliation and its effects sufficiently.

Since OSHA implemented the severe violator program for health and safety enforcement cases in 2010, companies deemed as severe violators have made significant improvements.

"We hope that the W-SVEP pilot will be the catalyst that causes companies to change their behavior and instill a culture that restores employee confidence and reshapes the employer's perspective on whistleblowing," Lorek added. "In the past three years, four large regional employers would have met the criteria for inclusion in W-SVEP."

OSHA enforces the whistleblower provisions of 22 statutes protecting employees who report violations of various airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health care reform, nuclear, pipeline, worker safety, public transportation agency, railroad, maritime and securities laws.

Employers are prohibited from retaliating against employees who raise various protected concerns or provide

protected information to the employer or to the government. Employees who believe that they have been retaliated against for engaging in protected conduct may file a complaint with the U.S. Secretary of Labor to request an investigation by OSHA's Whistleblower Protection Program. Detailed information on employee whistleblower rights, including fact sheets, is available at <http://www.whistleblowers.gov>.

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