



Instruction Sheet for Filing a Retaliation Complaint for Public Sector Workplaces in Massachusetts

The Massachusetts Whistleblower Protection Program

Public sector employers are prohibited from retaliation against employees who raise concerns about safety and health at their workplace. The Department of Labor Standards (DLS) administers a Whistleblower Protection Program to investigate complaints of retaliation related to workplace safety.

How to file a Retaliation Complaint

Complaints must be submitted within 30 days after the adverse action was taken by the employer against the employee.

Submit a *Retaliation Complaint Form* or contact DLS with information requested in the form.

Visit mass.gov/info-details/protection-from-workplace-safety-retaliation.

- Massachusetts Department of Labor Standards
- Email: safepublicworkplacemailbox@mass.gov
- Phone: (508) 616-0461 x1 Fax: (508) 822-2033
- Mail: 100 Cambridge Street, Suite 500, Boston MA 02114, Attention: WSHP.

Who may submit a Retaliation Complaint

Any employee, or representative of employees, who believe that their employer retaliated against them because they engaged in protected activity under 454 CMR 25.00, "Occupational Safety and Health for Public Sector Workers."

What happens after I file a Retaliation Complaint?

You will receive an email from DLS confirming receipt of your complaint. A DLS Whistleblower Investigator will be assigned to the complaint. The investigator is a neutral fact finder and does not represent the employee nor the employer.

DLS will not open an investigation if the complaint was submitted more than 30 days after the retaliation occurred.

The DLS investigator will review your complaint to confirm there is a possible connection between the employer's adverse action and protected safety and health activity. The DLS investigator will contact the employee by phone to get additional information. If information meets the requirement for an investigation with merit, then an investigation will be opened. A case is not opened for all retaliation complaints.

DLS will then provide the employer with your complaint and ask the employer to provide a written response. DLS will request supporting documentation from the employer about the employer's reason for taking adverse action against the employee. The complainant will have an opportunity to file a rebuttal to the employer's statement. Once the documents have been collected, DLS will make a determination.

Whistleblower investigations vary in length of time. At the conclusion of the investigation DLS will issue a findings letter to both parties, which will include information about the remedies, if applicable. The complainant will be responsible for any attorney or other fees incurred as part of the case.

A successful Retaliation Complaint will be able to show a connection between the adverse action taken by the employer and the employee's safety and health activities. An unsuccessful Retaliation Complaint occurs when the employer is able to show that the adverse action was due to other reasons that were not related to safety and health.

Requirements of a Successful Retaliation Complaint

- 1. Deadline:** The complaint must be filed within 30 days of the retaliation.
- 2. Protected Activity:** The employee engaged in a protected activity prior to the retaliation. Examples include: filed a safety complaint with DLS; complained to management about unsafe conditions; reported an employee injury or accident; refused to perform an unsafe or illegal task; or participated in a DLS safety inspection.
- 3. Adverse Action:** The employer took action that negatively affected the employee. Examples include: termination; discipline; demotion; reduced work hours; change of schedule; denial of benefits, failure to promote; harassment or intimidation.
- 4. Knowledge by Employer:** A person involved in the decision to take adverse action against the employee had knowledge that the employee engaged in protected activity.
- 5. Connection:** There must be reasonable cause to believe that the adverse action was conducted as a result of the employee's protected safety and health activity, at least in part.

What are the Results of a Successful Retaliation Complaint?

When the DLS investigation determines that the employer's adverse action was due to of an employee's protected safety and health activity, the DLS findings may require that the employer provide relief. Examples include: removal of discipline record; removal of suspension; back pay for wages lost during suspension; job reinstatement.