

# Whistleblower Protection



## THE WHISTLEBLOWER PROTECTION PROGRAM

**Kristen Rubino**  
**Region I Whistleblower Protection**  
**Program**

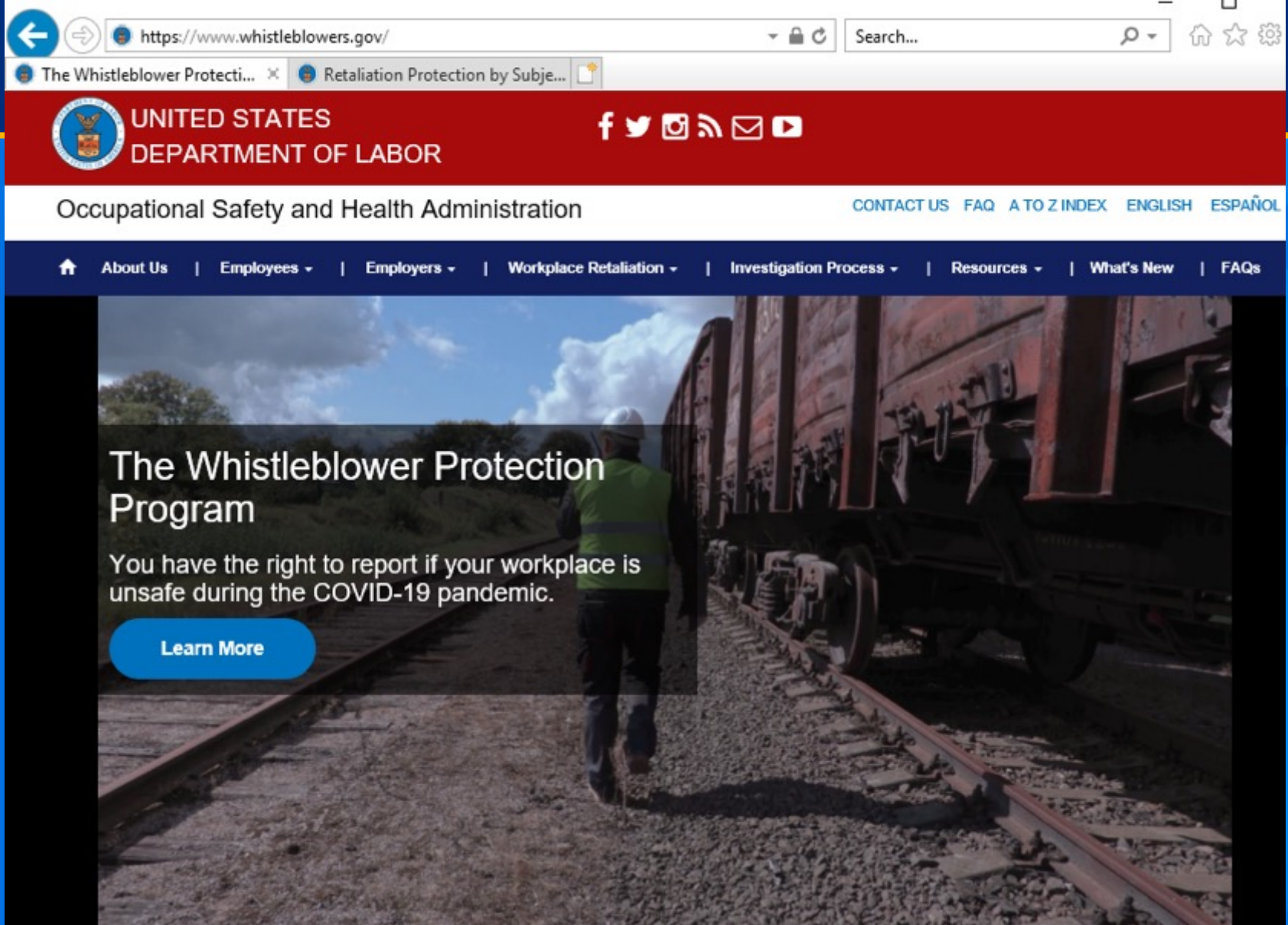
# The Occupational Safety and Health Act of 1970



# Federal OSHA Enforces 25 Whistleblower Statutes

1. Occupational Safety & Health Act of 1970 §11(c) (OSHA)
2. Surface Transportation & Assistance Act of 1982 §405 (STAA)
3. Asbestos Hazard Emergency Response Act of 1986 §211 (AHERA)
4. International Safe Container Act of 1977 §7 (ISCA)
5. Safe Drinking Water Act of 1974 §1450 (SDWA)
6. Federal Water Pollution Control Act, Amendments of 1972 §507 (FWPCA)
7. Solid Waste Disposal Act of 1976 §7001 (SWDA)
8. Clean Air Act, Amendments of 1977 §322 (CAA)
9. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 §10 (CERCLA)
10. Toxic Substance Control Act §23 (TSCA)
11. Energy Reorganization Act of 1978 §211 (ERA)
12. Wendell H. Ford Aviation Investment and Reform Act for the 21st Century §519 (AIR 21)
13. Sarbanes-Oxley Act of 2002 §806 (SOX)
14. Pipeline Safety Improvement Act of 2002 §6 (PSIA)
15. Federal Railroad Safety Act (as amended by §1521 of the 9/11 Act) (FRSA)
16. National Transit Security Systems Act §1413 (NTSSA)
17. Consumer Product Safety Improvement Act §219 (CPSIA)
18. Patient Protection and Affordable Care Act §1558 (ACA)
19. Dodd-Frank a.k.a. Consumer Financial Protection Act §1057 (CFPA)
20. Seaman's Protection Act, (as amended by §611 of the CGAA) (SPA)
21. FDA Food Safety Modernization Act §402 (FSMA)
22. Moving Ahead For Progress in the 21<sup>st</sup> Century Act (MAP21)
23. Taxpayer First Act (TFA) 26 U.S.C. § 7623(d)
24. Anti-Money-Laundering Act of 2020, Public Law No: 116-283
25. Criminal Antitrust Anti-Retaliation Act, Public Law No: 116-257

# whistleblowers.gov



The screenshot shows a web browser window with the URL <https://www.whistleblowers.gov/>. The browser tabs include "The Whistleblower Protecti..." and "Retaliation Protection by Subje...". The website header features the United States Department of Labor logo and the text "UNITED STATES DEPARTMENT OF LABOR". Social media icons for Facebook, Twitter, Instagram, RSS, Email, and YouTube are displayed. The main navigation bar includes "Occupational Safety and Health Administration" and links for "CONTACT US", "FAQ", "A TO Z INDEX", "ENGLISH", and "ESPAÑOL". A secondary navigation bar lists "About Us", "Employees", "Employers", "Workplace Retaliation", "Investigation Process", "Resources", "What's New", and "FAQs". The main content area features a large image of a worker in a high-visibility vest walking on railroad tracks next to a train. Overlaid on this image is the text "The Whistleblower Protection Program" and "You have the right to report if your workplace is unsafe during the COVID-19 pandemic." A blue button labeled "Learn More" is positioned below the text.

<https://www.whistleblowers.gov/>

The Whistleblower Protecti... x Retaliation Protection by Subje...

UNITED STATES  
DEPARTMENT OF LABOR

f t i r e y

Occupational Safety and Health Administration

CONTACT US FAQ A TO Z INDEX ENGLISH ESPAÑOL

Home About Us | Employees v | Employers v | Workplace Retaliation v | Investigation Process v | Resources v | What's New | FAQs

## The Whistleblower Protection Program

You have the right to report if your workplace is unsafe during the COVID-19 pandemic.

[Learn More](#)

# What is a Whistleblower Complaint?

- In a nutshell:
  - An person may not take an adverse action against an employee because the employee engages in protected activity.

# What is Protected Activity?

- Examples of protected activities include:
  - Providing protected information to supervisor
  - Providing protected information to Gov't
  - Cooperating in an inspection/investigation
  - Testifying in proceedings
  - Statute Specific Protections, such as:
    - Reporting a work related illness or injury
    - Refusing to do unsafe tasks in some circumstances
    - Refusing to violate the law in some statutes



# What Are Adverse Actions?

- Firing or laying off
- Blacklisting (giving a “bad reference”)
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours

# Work Refusals

- Some statutes protect an employee who refuses to violate the law.
- Under Section 11(c)
  - (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 OSHA.



# Best Practices for Employers

- 1. Make sure subordinate supervisors understand employee whistleblower rights under.**
- 2. Have an environment where employees feel free to express safety concerns. (Safety culture)**
- 3. Adequate documentation of employee issues.**
- 4. Uniform application of company policies.**

# Best Practices for Employees

1. Educate yourself on your rights
2. Be respectful, make concerns in good faith
3. Document everything
4. Recording conversations can be tricky from a legal perspective.
5. Save texts, emails, and don't get a new phone without saving your information.

# Questions?

**Kristen Rubino**

**Assistant Regional Administrator**

**Whistleblower Protection Programs**

**U.S. Department of Labor - OSHA**

**15 Sudbury Street, Room E-340**

**Boston, MA 02203**

**Tel. (617) 565-9857**

**<https://www.whistleblowers.gov/>**

**[Rubino.Kristen@dol.gov](mailto:Rubino.Kristen@dol.gov)**



**THE WHISTLEBLOWER  
PROTECTION PROGRAM**