

OSHA Emphasizes Whistleblower Protection for Temporary Workers

Labor & Employment Law Update

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Last month OSHA published another bulletin as part of its series for providing guidance on safety and health compliance with respect to temporary workers. This particular bulletin reiterated OSHA's position that temporary employees have the same rights and protections as all other covered employees, including protection against retaliation for engaging in protected activity. OSHA stressed that a temporary employee who believes he or she is retaliated against for reporting injuries, participating in OSHA inspection, raising safety concerns or complaints, or engaging in any other conduct protected by the act may file a complaint with OSHA against the host employer, staffing agency, or both.

OSHA has been expressly targeting enforcement efforts related to temporary workers and separately ramping up whistleblower protections. This recent bulletin merges these two initiatives and sends a cautionary reminder to employers that use of temporary staff will not shield it from potential whistleblower liability under OSHA. As the bulletin states, a simple request from the host company to remove or replace a temporary worker can put both the host employer and staffing agency on the hook for a retaliation claim if the employee alleges he or she engaged in protected activity before being removed – this is true even if the staffing agency places the worker at another location. Retaliation claims of all types continue to rise and this is yet another area where employers that host temporary workers must proceed with caution.

OSHA is expected to continue issuing bulletins and guidance related to host employer and staffing agency responsibilities for compliance with safety and health compliance. OSHA's temporary worker initiative is updated periodically and is located at: https://www.osha.gov/temp_workers/.