**KNOW YOUR LEGAL RIGHTS**

**Legal Protections for Whistleblowers**

By Will Kramer

Imagine that when you go to work tomorrow, you learn that your employer is knowingly breaking the law. It’s something serious and you believe your employer may be causing real harm. You’re not in a position to change jobs right now and you definitely can’t afford to get fired. You try looking the other way and telling yourself it’s not your problem, but you have trouble sleeping and can’t stop thinking about it. What would you do?

People who find themselves in this situation are in an incredibly difficult position. The sad reality is that if the employee wants to keep their job, the safest option is usually to do nothing. Calling attention to an employer’s unethical, dangerous, or illegal activity is an easy way for an employee to get branded as a troublemaker—and most employers do not want to employ troublemakers.

At the same time, even though it is a huge risk for the employee, reporting such activity is often in the public’s best interest. To help reduce the risk faced by employees and promote the public interest, the United States Congress and many state legislatures have passed laws that can protect and even reward people who blow the whistle on their employer’s wrongful activity.

**Whistleblower protections and rewards**

There are two basic types of whistleblower laws: those that offer legal protections to employees who engage in protected activities like reporting their employer to the proper authorities, and those that reward people who help the government uncover and prosecute fraud.

In general, whistleblower protections make it illegal for an employer to terminate or retaliate in any way against an employee who is covered by the law. However, it is important to understand that even though such retaliation is illegal, that does not mean that an employer won’t do it. The primary function of whistleblower protections is to give employees the right to seek money from their employer to compensate them for the illegal retaliation. For example, an employee who qualifies for whistleblower protections may be able to recover the wages they lost if they were fired. Some laws also allow whistleblowers to seek compensation for the stress and other emotional harm they experienced as a result of the retaliation.

Whistleblower rewards are designed to encourage people to report certain kinds of fraud, such as when a healthcare company charges Medicare for services it didn’t actually provide, or when publicly traded companies lie to their investors. Instead of only compensating an employee for the harm they suffered as a result of retaliation, whistleblower rewards are determined based on the total amount of money the government recovers from the employer. Under different programs, whistleblowers can be eligible to receive between 10%-30% of the government’s recovery. Because fraud against the government can involve vast amounts of money, the size of the reward to a successful whistleblower can be life changing. In May 2023, the U.S. Securities and Exchange Commission (SEC) [awarded $279 million to a single whistleblower](https://www.sec.gov/news/press-release/2023-89#:~:text=The%20Securities%20and%20Exchange%20Commission,of%20SEC%20and%20related%20actions.).

**How to get help**

Whistleblower laws are complex and only certain types of activities in certain industries qualify for protection. There are more than 50 federal whistleblower laws with different requirements that work in different ways. The Occupational Safety and Health Administration (OSHA) enforces more than 20 of those laws and maintains <https://www.whistleblowers.gov/>, a helpful website where employees can file a whistleblower complaint if they have experienced illegal retaliation. In addition to protections for employees who report violations of workplace safety and health regulations, OSHA enforces whistleblower laws relating to industries and subjects including:

* Transportation services, including airlines, commercial motor carriers, maritime shipping, pipelines, and railroads
* Consumer product, motor vehicle, and food safety
* Environmental violations and money laundering

Because the laws are so complicated, and because there are usually very short deadlines to file a complaint after retaliation occurs, it is important to seek advice from an experienced lawyer as soon as possible—ideally before blowing the whistle on your employer’s wrongful activity. Depending on the strength of your case (especially if you have evidence of fraud against the federal government or investors), it may be possible to obtain legal representation on a contingency basis. This means that instead of charging you upfront on an hourly basis, a lawyer may be willing to take your case in exchange for a percentage of your recovery if you are successful.

Becoming a whistleblower is very risky, stressful, and the process to get compensated for any retaliation you suffer is lengthy and includes many obstacles. Learning more about your rights can help you make better decisions and achieve better outcomes if you find yourself in this difficult situation.

*Will Kramer is an attorney at Pines Bach LLP in Madison. Before becoming a lawyer, he* [*blew the whistle*](https://projects.jsonline.com/news/2017/2/15/chemicals-left-in-barrels-leave-many-at-risk.html) *on a multinational corporation that was* [*illegally handling and disposing of hazardous waste at three facilities in Wisconsin*](https://www.jsonline.com/story/news/investigations/burned/2022/11/23/industrial-firm-hit-with-breaking-pollution-laws-settles-for-1-65-mil/69657493007/)*. His practice includes representing whistleblowers, unions, and employees in discrimination complaints and other employment disputes.* *Atty. Kramer is a member of the State Bar of Wisconsin Lawyer Referral and Information Service, which connects Wisconsin residents with lawyers throughout the state. Learn more at* [wislaw.org](file:///%5C%5Cnet.wisbar.org%5Cshares%5CDepts%5CComm%5CComm%5CPublic%20Relations%5C2023%20Media%5CLRIS%5CApril%202023%5CHealthcare%20Power%20of%20Attorney%5Cwislaw.org).