Employee Safety Complaints: Take It Seriously

Workplace safety is essential to running an efficient and productive business. Ingraining safety practices into your company ultimately leads to safer working conditions and healthier employees. Companies are responsible for ensuring safe work environments for all employees and employers need to be actively aware of potential safety hazards in their plants and offices.

One of the best ways to ensure workplace safety is to have open communication between workers and management regarding all safety issues. It is important to realize that supervisors and management set the safety attitude of the company. Companies should train leaders to create a culture of shared responsibility of safety awareness. One of the most important things a supervisor can do is take all employee safety complaints and comments seriously.

Any time a safety concern is raised, immediate attention needs to be placed on the issue. Understanding the reasoning and potential hazards behind the complaint, no matter how small, is not only important to keeping employees healthy but also important to protecting the company legally. There are a number of safety laws that employers need to be aware of and keep up-to-date on.

Important Laws Regarding Safety Complaints and Employer Responsibilities

OSH Act

Employers have a general duty responsibility under the Occupational Safety and Health Act to provide a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees, and comply with standards, rules, and regulations issued under the Act.

Potential Company Liabilities if Complaints are Ignored:

▲ Under this Act, employees have the right to file a formal complaint with OSHA if safety concerns are being disregarded by the company. OSHA will then conduct an investigation and issue fines for safety violations. For this reason, employers need to respect all safety complaints raised and take care of them independently in order to avoid lengthy and costly OSHA investigations.

▲ Another risk that companies face when ignoring a safety complaint is Employee Refusal to Work. Under this act, it is legal for employees to refuse to work if the following four factors are met:

a. employee has a reasonable, good faith belief that conditions are unsafe;

b. a real danger of serious injury or death exists;

c. the company has had the opportunity to correct the problem (when possible); and

d. there is no time for OSHA to intervene. Allowing safety concerns to escalate to this point results in decreased production and falling employee morale.

National Labor Relations Act (NLRA)

This law limits the means with which private sector employers may react to workers in the private sector who create labor unions, engage in collective bargaining, and take part in strikes and other forms of concerted activity to improve workplace conditions including health and safety conditions.
Potential Company Liabilities if Complaints are Ignored:

▲ Under the NLRA employees can refuse to work as long as the action is concerted (involves more than one worker) and is done in “good faith.” The refusal does not have to involve a “serious” hazard and the Act covers any work the employee believes is hazardous whether or not it can be proven to be dangerous.

▲ The National Labor Relations Board (NLRB) would protect a refusal to work (for both union and non-union employees) if conditions were unsafe or if employees had a “reasonable and honest belief” that the work presented a safety hazard. The NLRB can then investigate the complaint and potentially take the case before an Administrative Law Judge.

State Laws

Many states have additional safety laws that employers need to take into consideration. Be sure to have a full understanding of any additional safety regulations your state may have.

Important Note: Be careful when making employment decisions involving individuals that have issued safety complaints. Retaliation against an employee who complains about unsafe working conditions is prohibited under both the NLRA and the OSH Act and an employee may seek protection under these laws if they feel employment decisions have been made unfairly. Specifically under the OSH Act, employers are prevented from punishing employees for exercising safety and health rights under the Whistleblower Protection laws. These whistleblower laws forbid employers for punishing or discriminating against employees for safety complaints at risk of fines and/or imprisonment.

Handling Safety Complaints

▲ Regard Each Complaint Seriously – Every concern that is brought to the company’s attention needs to be promptly investigated and mitigated no matter how big or small the hazard may seem. Being proactive prevents:

   a. Criminal Penalties – if a company willfully ignores a safety complaint that results in a significant injury, the company and certain lead management may be criminally liable.

   b. OSHA citations – ignored safety complaints may lead to a formal OSHA complaint being filed by an employee that results in an official inspection. If OSHA or the state finds that the company willfully violated the law, higher fines will be imposed.

   c. Increased Workers’ Compensation Costs – addressing safety concerns immediately makes for a safer work place with fewer injuries. If a company chooses to ignore a complaint and an injury occurs due to that safety hazard, the company is put at risk for being sued by the employee for negligence. It is important to also be aware of the fact that if a company allows extremely unsafe working conditions that injure or kill an employee, the company may lose the protection of workers’ comp law and be sued with no limit on damages.

▲ Create a Culture of Safety – Create a relationship between employees and management that enables open and respectful communication of safety concerns. Encourage employee comments and suggestions regarding safety. This gives employees a comfort level to talk to the company about safety concerns instead of going to OSHA, a lawyer or other resources—thereby giving the company the opportunity to fix the safety issue and prevent injuries or unnecessary federal or state audits.

▲ Keep Safety at the Forefront of Job Activities – Do not wait for an OSHA investigation to make sure that employees are wearing the correct personal protective equipment and following safety procedures. Be vigilant about maintaining safety within the company’s work ethics and standards so that, in the event that an audit does occur, the company is fully prepared and not at risk for citation.