National Guides



Littler on Whistleblowing and Retaliation

Scope of Discussion. This publication provides an overview of federal whistleblower protections under a variety of statutes, including the statutes assigned to the Occupational Safety and Health Administration (OSHA) for investigation and the array of statutes covering the financial industry, including the Sarbanes-Oxley Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act. The publication also discusses whistleblower protections afforded to government contractors by the False Claims Act and other statutes and how retaliation claims are handled under the various federal discrimination laws. A discussion on some of the hot topics in whistleblowing and retaliation law is also included. The last section offers strategies to handle whistleblowing and retaliation claims, including guidance on how to conduct a whistleblowing investigation.

The focus of this publication is federal law. Although some state law distinctions may be included, the coverage is not comprehensive.

1. OVERVIEW OF FEDERAL WHISTLEBLOWER PROTECTIONS

- 1.1 Introduction
- 1.2 Federal Whistleblower Protections Assigned to the Occupational Safety and Health Administration
- 1.3 Financial Industry Whistleblower Protections
- 1.4 Federal Whistleblower Protections for Government Contractors
- 1.5 State Whistleblowing Claims

2. RETALIATION CLAIMS UNDER FEDERAL DISCRIMINATION LAWS

- 2.1 Elements of a Retaliation Claim
- 2.2 Protected Activity
- 2.3 Adverse Action
- 2.4 Causal Relationship Between Protected Activity & Adverse Action

3. HOT TOPICS IN WHISTLEBLOWING & RETALIATION LAW

- 3.1 Theft of Confidential Information
- 3.2 Attorney as Whistleblower
- 3.3 Stepping out of the Role
- 3.4 Arbitration of Whistleblower Claims
- 3.5 Drafting Whistleblower Policies & Settlement or Severance Agreements



4. PRACTICAL GUIDELINES FOR EMPLOYERS

- 4.1 Developing Effective Compliance & Ethics Programs and Drafting Reporting & Nonretaliation Policies
- 4.2 Sample Reporting and Antiretaliation Policy
- 4.3 Sample Language for Employer Severance & Separation Agreements
- 4.4 Federal Sentencing Guidelines Self-Assessment Checklist
- 4.5 Potential Whistleblower Exit interview Checklist
- 4.6 Practical Suggestions for Handling Theft of Confidential Information by a Whistleblower

