

# OSHA Announces Pilot Program to Expedite Whistleblower Claims

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When whistleblowers file a complaint with the Occupational Safety and Health Administration (OSHA), a complainant often has to wait months, or even years, to see a full resolution of his or her claims.

Often, delays are a result of the volume of complaints filed – OSHA received over 3,000 whistleblower complaints last year alone – and the expansive territory OSHA covers – the agency administers 22 whistleblower statutes.

Recognizing the need for a speedier process for employees that does not compromise their rights, OSHA has launched a new pilot program, titled “Expedited Case Processing Pilot,” in its Western region, which covers California, Nevada, Arizona, Hawaii, American Samoa, the Northern Mariana Islands, and Guam. The new program allows a whistleblower who has filed a complaint to ask OSHA to stop its investigation and issue findings in an expedited fashion that can be reviewed by a Department of Labor (DOL) administrative law judge. [Here](#) is OSHA’s press release describing the program.

## Meeting Criteria to Expedite

In announcing the program, OSHA acknowledged that the investigation process can be lengthy and therefore wants to facilitate complaints receiving a quicker determination, if possible, by electing to expedite. In order for a whistleblower’s case to move to the administrative law judge on an expedited basis, the following criteria must be met:

The claim is filed under a statute that allows for the administrative law judge to newly review, or review *de novo*, the claims.

Depending on the statute, 30 or 60 days have passed from the date the employee first filed the claim with OSHA.

OSHA has interviewed the employee.

Federal investigators have evaluated the complaint and the employee's interview to determine if the basic elements of a retaliation claim exist.

Both the employee and the employer have had the opportunity to submit written responses, meet with an OSHA investigator and present statements from witnesses.

The employee has received a copy of the employer's submissions and had an opportunity to respond.

Once the employee submits the request for an expedited process, OSHA will provide one of three responses:

1. it will dismiss the claim, which allows the employee to then file an appeal with an administrative law judge;
2. issue merit findings as quickly as possible; or
3. deny the employee’s request for the expedited process.

## Benefits of the New Program

If successful, this program will be very beneficial to [whistleblowers](#) who struggle with the delays of the current system. As employers continue running their businesses while waiting for a response from OSHA, terminated employees are often looking for work, with added difficulty if they were fired. An

expedited process can lead to quicker remedies for an aggrieved whistleblower, which include back pay, compensatory damages, punitive damages where authorized, attorney fees and reinstatement. Even if the outcome is that the employee's claim is dismissed, an administrative law judge may grant all the same remedies as OSHA.

Whistleblowers in the Western region, however, should be mindful that they must affirmatively *request* the expedited process. Without the request, OSHA will continue on its usual timeframe.