

# **DOSH DIRECTIVE**

**Department of Labor and Industries**  
**Division of Occupational Safety and Health**

*Keeping WA workers safe.*

## **1.95 Work Place Safety & Health Complaints**

**Date: June 27, 2007**

### **I. Scope and Application**

This Enforcement Directive provides clarification and guidance to all DOSH staff regarding classification and response to employee complaints and reports of workplace hazards. This directive will remain in effect until the WISHA Compliance Manual can be updated and supersedes the following complaint handling policy provided in the current manual:

- 1) Chapter II, Section B.1. and 2. "Definitions"
- 2) Chapter II, Section C. "Identity of Complainant" (first paragraph)
- 3) Chapter II, "Note" under Section D.1.
- 4) Chapter II, "Note" under Section G.
- 5) Chapter II, "Complainant Letter" (first paragraph) – Page II-14.
- 6) Chapter II, "Letter Template" (first paragraph) – Page II-27.

For ease of reference, a copy of this Directive should be added to the Compliance Manual, preceding Chapter II.

### **II. References**

RCW 49.17.110

Chapter 42.56 RCW, Public Disclosure Act

### **III. Background**

Pursuant to Chapter 49.17 RCW, employers are required to provide a safe and healthy work place to their employees. RCW 49.17.110 delineates the procedures for employees or employee representatives to file work place safety and health complaints. The complaint handling procedures in Chapter II of the WISHA Compliance Manual do not accurately reflect the requirements of the WISHA statute.

#### **IV. Compliance and Consultation Protocols**

*A. Who may file a DOSH safety and health “complaint”?*

In accordance with RCW 49.17.110, any employee or representative of employees, who in good faith believes that a violation of a safety or health standard exists, may file a complaint with the department requesting an inspection of the workplace.

*B. How does an employee or representative of employees file a complaint with DOSH?*

RCW 49.17.110 requires that work place safety and health complaints be submitted in writing and signed by the employee or the representative of employees. Complaints submitted under RCW 49.17.110 must also explain in specific detail the grounds for the complaint. Information submitted verbally to the Department by an employee or representative of employees will not be treated as a complaint. The Department will process such information as a “referral” as described in Section F. below.

If an employee or representative of employees asks to submit a complaint verbally, you must advise them that RCW 49.17.110 requires complaints to be in writing in order for the confidentiality provision to apply. You may offer to help them file the complaint, especially if they request anonymity. You may offer to send information, but you may not write the complaint for them.

Note: RCW 49.17.110 states: “any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees.”

*C. How does DOSH define “representative of employees?”*

A representative of employees includes: 1) an immediate family member of the employee; 2) an individual or organization who has written authorization to act on behalf of an employee; 3) a recognized or certified collective bargaining agent of an employee; 4) the legal representative of a deceased or legally incapacitated employee; 5) the elected labor organizations representing employees at a specific worksite; or 6) employee elected representatives on a specific workplace safety committee for the employee in question.

*D. If an employee files a DOSH work place safety and health complaint, will DOSH classify the source of the complaint as confidential?*

Yes. The source of the complaint will be classified as confidential providing such complaints satisfy the requirements of RCW 49.17.110. A complainant’s confidentiality will be maintained by DOSH if it has been specifically requested by the complainant. An exception may result if DOSH is required by court order to

release this information during the course of litigation. If the confidentiality section of the complaint form has not been completed, or questions remain regarding confidentiality, DOSH will contact the complainant prior to initiating a complaint inspection.

E. *Is a copy of the formal complaint required to be provided to the employer?*

Yes. During the opening conference of a complaint inspection, a copy of the formal complaint must be provided by the DOSH inspector to the employer or his/her representative. If the complainant has requested confidentiality, all personal identifiers (i.e., complainant name, address, work title, etc.) must be removed from the employer's copy.

If DOSH receives a signed formal employee complaint which is hand written and the complainant requests confidentiality, the hand written complaint shall be typed and printed using the complaint form in the WIN system. The individual transcribing the written complaint into the typed WIN form must sign the printed complaint form and shall include a brief signed statement confirming that the form is a transcribed copy of an actual employee-signed complaint and that an original complaint exists. The original complaint shall be maintained by DOSH in a confidential complaint file.

Under no circumstances may a handwritten copy of an employee complaint where the complainant requests confidentiality be provided to the employer.

F. *How are other reports of workplace safety and health hazards addressed by DOSH?*

Reports of workplace safety and health hazards submitted by former employees or other individuals not identified in Section C above, and information received from current employees verbally, are not covered by RCW 49.17.110. These reports will be classified and processed as a "referral." A "referral" will be processed in accordance with the guidelines established in the WISHA Compliance Manual, Chapter II.

G. *Will DOSH maintain confidentiality for former employees and all other individuals reporting workplace hazards?*

Workplace hazard reports not qualifying as a "complaint" under the provisions of RCW 49.17.110 will not be subject to the confidentiality protections of that provision. However, other protections and disclosure exemptions set forth in the Washington Public Disclosure Act, chapter 42.56 RCW, may apply to protect the identity of the individual submitting the information.

Approved: \_\_\_\_\_  
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For further information about this or other DOSH Directives, you may contact DOSH at P.O. Box 44650, Olympia, WA 98504-4650 – or by telephone at (360) 902- . You may also review policy information on the DOSH website (<http://www.lni.wa.gov/Safety>).