

NLRB and OSHA Enter Into Memorandum of Understanding to Share Information and Make Referrals

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OSHA and NLRB Announce New Memorandum of Understanding to Share Information and Make Referrals

- OSHA and the NLRB recently announced that the two agencies had agreed to establish a “process for information sharing and referrals, training, and outreach between the agencies.”
- The memorandum of understanding focuses on strengthening the agencies’ partnership to enhance enforcement of anti-retaliation and whistleblower provisions found in the National Labor Relations Act and the Occupational Safety and Health Act, among other statutes and regulations.
- The agreement expands on already existing cooperative efforts and coordination between the agencies

The first sentence of the [memorandum of understanding](#) between the two agencies cites the Occupational Safety and Health (OSH) Act’s anti-retaliation provision, Section 11(c), 29 U.S.C. § 660(c), as well as various statutory whistleblower provisions that OSHA is charged with enforcing.

As many who read this are already aware, Section 11(c) of the OSH Act prohibits employers from firing or discriminating against any employee because the employee filed a complaint or participated in an OSHA-related proceeding.

The recent interagency announcement continues the labor friendly policies of the current administration and continues OSHA's trend of an enforcement-heavy approach. With this announcement, employers can expect enforcement efforts to be more coordinated through the agencies.

Douglas L. Parker, assistant secretary of labor for occupational safety and health, explained that “[e]veryone should be able to exercise their legal rights in the workplace without fear of losing their job or other forms of punishment.”

On its face, this agreement is an effort to increase awareness of the federal protections afforded to employees under whistleblower and anti-retaliation laws. The agencies even linked a [handout](#) that provides a direct link to OSHA's complaint web page.

Clearly, the dialogue and sharing of information between the NLRB and OSHA will see an uptick. But is the new agreement really so “scary”? Perhaps not. It comes as no surprise that executive and independent agencies share information. In its own [press release](#), the NLRB highlighted that this agreement “expands on the historic interagency coordination.”

For employers, this is an important reminder that dealings with one agency may mean indirect or interrelated dealings with another.

The memorandum of understanding will remain in effect for five years. Employers may be challenged by an increased number of whistleblower complaints during that time. However, the full impact of this agreement will reveal itself in the months and years to come.

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