On August 14, 2020, the U.S. Department of Labor Office of Inspector General ("OIG")—the Department’s watchdog—released a report finding that the COVID-19 global pandemic has significantly increased the number of whistleblower complaints received by the Occupational Safety and Health Administration ("OSHA"). OSHA’s Whistleblower Program enforces 23 statutes that prohibit employers from retaliating against employees when they report employer violations of various workplace safety, consumer product, environmental, financial reform, and securities laws.

In the report, the OIG noted that the pandemic has resulted in a 30% jump in whistleblower complaints during the four-month period of February 2020 through May 2020 as compared to the same period in 2019—from approximately 3,150 complaints in 2019 to approximately 4,100 in 2020. Of the whistleblower complaints filed from February 2020 through May 2020, approximately 1,600 (39%) were related to COVID-19, such as claims that someone was retaliated against for claiming violations of guidelines regarding social distancing or personal protective
The report also noted that a shortage of investigators, coupled with the increase in complaints, has caused delays in completing investigations. The OIG made three recommendations to OSHA: filling a handful of vacant whistleblower investigator positions, considering an extension of its pre-pandemic pilot program nationwide to more efficiently screen complaints, and creating a “caseload management plan” that improves the agency’s ability to evenly divide up investigations among its investigators.

The report serves as a reminder to employers of just one of the many risks present in the current environment. While whistleblower investigations might take longer than usual for the time being, the OIG report has brought COVID-19 workplace safety to the forefront and employers can expect OSHA to treat whistleblower complaints seriously. What can employers do to protect themselves? There is no fail safe solution, and in an environment like the current one, complaints are going to happen. Listening to the concerns of employees and following guidance from the CDC, OSHA, and state authorities will help employers minimize the risk.

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