

COMPLAINTS ADDRESSED BY HIOSH

If you would like to report safety and/or health hazards at your workplace OR you have been discriminated against on the basis of safety and health issues, you have the right to file a complaint with HIOSH [[Section 8 of Chapter 396 HRS](#)]

HIOSH responds to safety and health complaints covered under its program either by a phone/fax investigation OR an on-site inspection. A complaint submitted with the person's name and signature is more likely to result in an on-site inspection.

HIOSH responds to discrimination complaints by conducting an investigation.

**Please review the following prior to submitting your complaint.
Including as much of the requested information will help in the handling of
your complaint.**

Types of Complaints

Safety & Health

If you are a past or present employee or a representative of employees and believe that a violation of the occupational safety and health standards, rules or regulations exists, you can file a complaint in person, by telephone, by fax, by mail or electronically.

[\[http://hawaii.gov/labor/hiosh/pdf/standards/12-51.pdf\]](http://hawaii.gov/labor/hiosh/pdf/standards/12-51.pdf)

Discrimination

If you are an employee and believe that you have been discharged or otherwise discriminated against as a result of engaging in activities related to workplace safety and health, a written letter with an original signature must be submitted within 60 days of the discharge or other discriminatory act(s).

[\[Section 8\(e\) of Chapter 396 HRS and
http://hawaii.gov/labor/hiosh/pdf/standards/12-57.pdf\]](#)

If you are not an employee of a state or a county government agency, you must also file a discrimination complaint with the OSHA Regional Office below within 30 days of the discriminatory act or you will lose your right to pursue a federal claim under section 11(c) of the federal Occupational Safety and Health Act of 1970 after the conclusion of the HIOSH investigation.

Regional Administrator
U.S. Department of Labor
Occupational Safety and Health Administration
90 7th Street, Suite 18100
San Francisco, California 94103

Confidentiality

Except for those complainants alleging discrimination violations under Hawaii Revised Statutes 396-8(e), names of all complainants and witnesses shall be withheld from the employer unless the complainants or witnesses give prior permission to the release of their names.

HIOSH Response to Safety and/or Health Complaints

On-site Inspection

At least one of the following eight criteria must be met for HIOSH to conduct an on-site inspection:

1. A written, signed complaint by a current employee or employee representative with enough detail to enable HIOSH to determine that a violation or danger likely exists that threatens physical harm or that an imminent danger exists; [*imminent danger refers to conditions or practices in any place of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of the danger can be eliminated through the enforcement procedures otherwise provided by the law*]
2. An allegation that physical harm has occurred as a result of the hazard and that it still exists;
3. A report of an imminent danger;
4. A complaint about a company in an industry covered by one of HIOSH's local or national emphasis programs or a hazard targeted by one of these programs;
5. Inadequate response from an employer who has received information on the hazard through a phone/fax investigation;
6. A complaint against an employer with a past history of egregious, willful or failure-to-abate HIOSH citations within the past three years;
7. Referral from a whistle blower investigator; or
8. Complaint at a facility scheduled for or already undergoing an HIOSH inspection.

Phone/Fax Investigation

The HIOSH phone/fax method enables us to respond more quickly to hazards where none of the eight criteria listed above are met or where the employee or employee representative requests the phone/fax method. The employer is contacted by telephone and provided with a description of the alleged hazard(s). A letter is generated, faxed and then mailed to the employer. We request that the employer conduct a thorough investigation of the alleged hazard(s), and take immediate, appropriate action if necessary to correct the violation of hazard(s). It is our goal to assure that hazards are promptly identified and eliminated. The employer must respond within five working days, identifying in writing any problems found and noting corrective actions taken or planned.

If the response is adequate, you (the complainant) will be furnished with a copy of the employer's response, as well as information on your right to dispute that response, and of the right to request an inspection if the alleged hazard persists.

If there is no employer response or an inadequate employer response is received after the allotted five working days, the employer may be contacted before an on-site inspection is scheduled. Ultimately, if the employer provides no response or an inadequate response, or if HIOSH determines from other information that the condition has not been or is not being corrected, an on-site inspection will be scheduled.

HIOSH Response to Discrimination Complaints

Once your written complaint is received, it will be evaluated to determine if the alleged discrimination meets the requirements for an investigation. If determined that a field investigation is warranted, an investigator will be assigned to your case. The investigation will include interviews with you, your employer and witnesses related to your discrimination to determine if a violation of the Occupational Safety and Health Law has occurred.

Examples of Discrimination

You have the right to file a complaint with HIOSH if you have been discriminated against because of your involvement in safety and health activities. Some examples of discrimination as a result of your involvement in safety and health activities include, but are not limited to, firing, demotion, transfer, layoff, losing opportunity for overtime or promotion, exclusion from normal overtime work, assignment to an undesirable shift, denial of benefits such as sick leave or vacation time, blacklisting with other employers, taking away company housing, and reducing pay or hours. [Section 8(e) of Chapter 396 HRS and Chapter 12-57 HAR]

Filing a Safety and/or Health Complaint

Instructions: Please include the following information in your complaint. Be as detailed and thorough as possible in your descriptions of applicable information. Lack of information may cause a delay in our response to your complaint. Please sign and date your complaint.

A. Employee Information

1. Your Name
2. Your Mailing Address
3. Your Contact Number

B. Employer Information

1. Employer Name
2. Employer Site Address (*where alleged hazard exists*)
3. Employer Mailing Address
4. Employer Telephone Number
5. Employer Fax Number
6. Name of Top Management Official (*person authorized to speak for the company, e.g. owner, president, etc.*)
7. How many people work in the establishment?

C. Employee and/or Union Representative

1. Name of Representative
2. Address
3. Telephone Number

D. Description of Hazard

1. What is the hazard?
2. Hazard Location (*specify the particular building or worksite where alleged hazard exists*)
3. Describe the unsafe or unhealthy working conditions.
4. What work is done in the unsafe and/or unhealthy area?
 - a. Describe the type of work
 - b. The type and condition of equipment in use
 - c. The materials (e.g., chemicals) being used
 - d. The process/operation involved
 - e. The kinds of work being done near the hazardous area
5. How are the workers exposed to this hazard?
6. How many workers are exposed to the hazardous conditions?
7. How near do these workers get to the hazard?
8. With what frequency are workers doing that task that leads to the exposure?
Continuously? Everyday? Every week? Rarely?
9. How long has the condition existed (so far as can be determined)?
10. Shiftwork
 - a. How many shifts are there?
 - b. What time do they start?
 - c. On which shift does the hazardous condition exist?
11. Have there been any recent spills, releases, or accidents?
12. Personal Protective Equipment (PPE)
 - a. What PPE (*e.g., hearing protection, gloves, respirators, etc.*) is required by the employer relevant to the alleged exposure?
 - (1) Describe all PPE used (*be as specific as possible*)
 - (2) Include the manufacturer's name and any identifying number

- b. Is the PPE used by employees?
- 13. Has this hazard(s) been brought to the employer's attention?
If yes, when and by whom?
- 14. Correction of Hazard
 - a. Have any attempts been made to correct the condition?
 - b. If yes, who took these actions?
 - c. What were the results?

E. Additional Information for Complaints of Health Hazards

- 1. Exposure to Employee
 - a. Has the employer administered any tests to determine employee exposure levels to the hazardous conditions or substance?
 - (1) Describe the tests.
 - (2) Can the employees get the results (as required by the standard)?
 - (3) What were the results?
 - b. Do any employees have symptoms that may have been caused by exposure to hazardous substances?
- 2. Methods of Controlling the Hazards
 - a. What engineering controls are in place in the area(s) in which the exposed employees work? (*Examples may include fans or other ventilation methods, acoustical insulation to reduce exposure to high noise levels, etc.*)
 - b. What administrative or work practice controls has the employer put in place? (*Examples may include reducing the amount of time employee works at a task; personal hygiene; housekeeping and maintenance*).
 - c. Are respirators worn to protect against health hazards?
 - (1) If yes, what kind?
 - (2) What exposures are they protecting against?
 - d. Is the complaint related to noise?
 - (1) Is any hearing protection provided?
 - (2) Is it worn by employees?
 - (3) Do employees receive audiograms on a regular basis?
- 3. Other
 - a. Have any employees ever been treated by a physician for a work-related disease or condition? What was it?
 - b. Have there been any "near miss" incidents? If yes, please explain. (*Near miss – near misses describe incidents where no property was damaged and no personal injury sustained, but where, given a slight shift in time or position, damage and/or injury easily could have occurred*).

F. Additional Information for Complaints of Safety Hazards

- 1. Under what adverse or hazardous conditions are employees required to work?
- 2. Have any employees been injured as a result of this hazardous condition?
 - a. If yes, what happened?
 - b. When did this happen?
- 3. Have there been any "near miss" incidents?

Filing a Discrimination Complaint

Instructions: Please include the following information in your written complaint. Be as detailed and thorough as possible in your description of applicable information. Lack of information may cause a delay in our response to your complaint. Please sign and date your letter. Since an original signature is required, please mail or drop off your letter to HIOSH.

Remember: If you are not an employee of a state or a county government agency, you must also file a discrimination complaint with the OSHA Regional Office below within 30 days of the discriminatory act or you will lose your right to pursue a federal claim under section 11(c) of the federal Occupational Safety and Health Act of 1970 after the conclusion of the HIOSH investigation.

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U.S. Department of Labor
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San Francisco, California 94103

A. Complainant Information

1. Complainant's Name
2. Mailing Address
3. Contact Phone Number
4. What is/was your job title/description?
5. What type of work do/did you do?
6. Name and title of your immediate supervisor

B. Employer Information

1. Employer Name
2. Mailing Address
3. Contact Phone Number

C. Safety and/or Health Concerns/Complaints

1. Did you have any concerns/complaints of safety and/or health issues in your workplace?
2. If yes, what were your concerns/complaints?

D. Reporting of Concerns/Complaints

1. Report to management
 - a. Did you report these concerns/complaints to management?
 - b. If yes, when (date) did you make a report to management?
 - c. How did you report these concerns/complaints (written and/or verbal)?
 - d. Whom did you report this to (name and job title)?
 - e. Was there any response to your concern/complaint? What resulted from it?
2. Did you report these concerns/complaints to HIOSH or other agency?

E. Discrimination

1. How were you discriminated against?
2. In your opinion, why did your employer take this action?
3. When was this action taken?
4. Did your employer give you an explanation or reason why this action was taken?