

BUREAU OF LABOR AND INDUSTRIES

DIVISION 10

WHISTLEBLOWING DISCLOSURES BY EMPLOYEES

**Protection from Discrimination for Reporting Violations of Law or Aiding
Criminal, Civil or Administrative Proceeding**

[Public and Private Employee Protection from Discrimination for Reporting Criminal Activity or Statutory Violation or Initiating or Aiding Administrative, Criminal or Civil Proceeding]

839-010-0100

Prohibited Discrimination by Employers

(1) ORS 659A.199 prohibits any employer with one or more employees in Oregon from discharging, demoting, suspending, or in any manner discriminating or retaliating against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported information to anyone that the employee believes is evidence of a violation of any state or federal law, rule or regulation.

(2) ORS 659A.230 prohibits any employer with one or more employees in Oregon from [*knowingly*] discriminating or retaliating against an employee because the employee has in good faith, **or the employer believes the employee has:**

(a) Reported to any person, orally or in writing, criminal activity by any person;

(b) Reported to any person, orally or in writing, any activity the employee [*in good faith*] believed to be criminal [*or caused criminal charges to be brought against any person whether by the complainant's information or by a complaint, as defined in ORS 131.005(3) and (4)*];

(c) Caused criminal charges to be brought against any person, whether by the complainant's information or by a complaint, as defined in ORS 131.005(3) and (4);

(d) [*(c)*] Cooperated with a law enforcement agency criminal investigation, whether or not under subpoena;

(e) [*(d)*] Brought a civil proceeding against an employer; or

(f) [*(e)*] Testified at a civil proceeding or criminal trial, whether or not under subpoena. (With regard to civil proceedings, see also OAR 839-010-0140.)

(3) [(2)] ORS 659A.233 prohibits any employer with one or more employees in Oregon from discriminating or retaliating against a current, former, or any other employer's employee because the employee has in good faith:

- (a) Reported possible violations of ORS chapter 441, ORS 443.400 to 443.455;
- (b) Testified at an unemployment compensation hearing; or
- (c) Testified at a hearing conducted pursuant to ORS chapter 657.

(4) [(3)] ORS 652.355 prohibits any employer with one or more employees in Oregon from discriminating or retaliating against a current, former, or any other employer's employee because:

- (a) The employee has made a wage claim or has discussed with anyone, inquired of anyone, or consulted an attorney or agency about a wage claim; or
- (b) The employee has caused to be instituted, has testified in or is about to testify in any proceedings under or related to ORS 652.310 to 652.414.

(5) [(4)] ORS 659A.060 prohibits any employer with one or more employees in Oregon from discharging or in any other manner discriminating against a current, former, or any other employer's employee because:

- (a) The employee has made an oral or written complaint to anyone that the employee has not been paid wages in accordance with ORS 653.010 to 653.261;
- (b) The employee has caused to be instituted or is about to cause to be instituted or has testified or is about to testify in any proceeding under or related to ORS 653.010 to 653.261.

[(5) As used in section (1) of this rule, "knowingly" means the employer knows or believes the employee engaged in the reporting acts described above.]

Stat. Auth.: ORS 659A.805, ORS 652.355(2) & ORS 653.060(2)

Stats. Implemented: ORS 659A.230, ORS 652.355 & ORS 653.060, **ORS 659A.199**

839-010-0140

Protection in Activities Related to Civil Proceedings

Under ORS 659A.230 and these rules, an employee is protected in activities related to civil proceedings. A civil proceeding, as used in ORS 659A.230 and these rules, includes a proceeding before an administrative agency or a court. The employee is protected under the statute if:

- (1) The employee has brought, in good faith, a civil proceeding against an employer.
 - (a) Bringing a civil proceeding, as used in ORS 659A.230 and the rules, includes filing complaints to or cooperation with administrative agencies as well as courts.
 - (b) An employee is considered to have initiated a civil proceeding when the employee has contacted an administrative agency the employee believes in good faith to have jurisdiction and the ability to sanction the employer.

(c) The employer against whom a civil proceeding is filed or initiated need not be the employee's current employer.

(2) The employee has testified in good faith, whether or not under subpoena, in any civil proceeding.

(3) The employer [*knows or*] believes that the employee has engaged in the civil proceedings acts described above.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.230