

4167-2-02

Complaint by public employee.

- (A) Any public employee or public employee representative who believes that a violation of an Ohio employment risk reduction standard exists that threatens physical harm may request an inspection by giving written, dated notice to the superintendent of the violation.
- (1) The notice shall set forth with reasonable particularity the grounds for the ~~notice~~complaint, and shall be signed by the public employee or public employee representative. The names of the public employee making the ~~notice~~complaint or any employees referred to in the ~~notice~~complaint shall not appear in the ~~copy provided~~notice sent to the public employer and shall be kept confidential.
 - (2) The notice shall include:
 - (a) A description of the hazard to include, if applicable or possible, the date(s) and time(s), the location, and/or the pieces of equipment involved.
 - (b) The names of the public employee(s) or duties of the public employee(s) who are affected.
- (B) If, upon receipt of a notification, the superintendent determines that there are no reasonable grounds to believe that a violation or danger exists, the superintendent shall inform the public employee or public employee representative in writing of his determination.
- (1) The complaining party may request reconsideration of such determination by submitting a written statement of position to the superintendent. The superintendent shall submit a copy of such statement, with confidentiality of the complainant maintained, to the employer.
 - (2) The employer may submit an opposing written statement of position with the superintendent.
 - (3) The superintendent, at his or her discretion, may hold informal conferences in which the complaining party and the employer may orally present their views.
 - (4) After considering all written and oral views presented, the superintendent shall affirm, modify, or reverse the original determination and furnish the complaining party and the employer a written notification of the decisions and the reasons thereof. Such determination shall be without prejudice to the filing of a new complaint correcting any deficiencies in the original complaint that may be identified by the superintendent.

(C) If, upon receipt of a notification, the superintendent determines that there are reasonable grounds to believe that a violation or danger exists, the superintendent shall, within five business days after receipt of the notification, notify the public employer, by certified mail, return receipt requested, of the alleged violation or danger.

(1) The notice provided to the public employer or his agent shall:

~~(a) Contain a copy of the notice provided to the superintendent by the public employer or the public employee representative;~~

~~(b)~~(a) Inform the public employer of the alleged violation or danger; and

~~(c)~~(b) Notify the employer that that the superintendent will investigate and inspect the public employer's workplace as provided in rule 4167-8-01 of the Administrative Code.

(2) The public employer must respond to the superintendent concerning the alleged violation or danger within thirty days after receipt of the notice.

(a) If the public employer does not correct the violation or danger within the thirty-day period or if the public employer fails to respond within that time period, the superintendent shall investigate and inspect the public employer's workplace as provided in rule 4167-8-01 of the Administrative Code.

(b) The superintendent shall not conduct any inspection prior to the end of the thirty-day period unless requested or permitted by the public employer.

(i) If the employer requests such inspection, the superintendent shall not issue a citation with respect to any findings during the inspection prior to the close of the thirty-day period during which the employer is permitted to respond to the notice of alleged violation or danger.

(ii) If the employer successfully abates all violations or dangers identified during the inspection prior to the close of the thirty-day period during which the employer is permitted to respond to the notice of alleged violation or danger, the superintendent shall not issue a citation for the violations or dangers alleged in the complaint.

(D) The authority of the superintendent to investigate and inspect premises pursuant to this rule is not limited to the alleged violation or danger contained in the notification.

(1) The superintendent may investigate and inspect any other area of the premises where they have reason to believe that a violation or danger exists.

- (2) If the superintendent detects any obvious or apparent violation at any temporary place of employment while en route to the premises to be inspected or investigated, and that violation presents a substantial probability that the condition or practice could result in death or serious physical harm, the superintendent may use any of the enforcement mechanisms provided in this section to correct or remove the condition or practice.

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CERTIFIED ELECTRONICALLY

Certification

12/06/2018

Date

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