

**Congress of the United States**  
**Washington, DC 20515**

December 9, 2020

The Honorable Eugene Scalia  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Dear Secretary Scalia,

Published reports indicate that the Occupational Safety and Health Administration (OSHA) has failed to investigate the majority of complaints related to workplace safety and COVID-19, including retaliation claims. At the same time, the timeliness of OSHA investigations has worsened, potentially delaying the abatement of serious worker safety violations in the midst of this pandemic. Given that OSHA is the frontline defense for worker safety in this country, we write to seek greater clarity regarding these distressing reports.

The National Employment Law Project (NELP) recently released a report in which it analyzed OSHA's public data and found that only one in five COVID-19 related retaliation complaints were slated for investigation and, even more shockingly, only two percent of these complaints had been resolved, and over half of the complaints were discharged without investigation.

Further, an August 2020 report by the Department of Labor's Office of Inspector General (OIG) shows that OSHA's full-time staffing has decreased since March, when COVID-19 began impacting the U.S. on widespread scale, and the timeliness of complaint investigations has worsened, while the number of retaliation complaints has increased significantly during the pandemic. According to the OIG, investigations now take an average of 279 days to complete, an increase of 41 days from the 238 days reported in 2015, and an increase of 129 days from the 150 days reported in 2010. The report cautions, "the potential exists for even greater delays in closing investigations" and said the agency needs to improve its handling of whistleblower complaints. "When OSHA fails to respond in a timely manner, it could leave workers to suffer emotionally and financially," the report added, "and may also lead to the erosion of key evidence and witnesses."

The OIG's report notes that, despite the aforementioned issues, the Trump administration has boasted that OSHA's whistleblower program is running smoothly. In April, you personally assured the public, "We are fielding and responding to calls from workers worried about their health, and sometimes from workers who believe they've been illegally disciplined by their employer for expressing health concerns. We will not tolerate retaliation."

As this once in a lifetime public health crisis continues to worsen and put this country's frontline workers at tremendous personal risk, it is more important than ever that OSHA fulfill its duty to ensure that employers are keeping their workers safe from unnecessary exposure to COVID-19. Further, OSHA must make sure workers can submit complaints without fear of retaliation when they do not feel safe. We are concerned that, without a properly functioning enforcement agency and a lack of a nationally enforceable OSHA COVID-19 standard, this country's frontline workers will be forced to continue risking their lives for their paychecks. This is both a moral failing and a grave danger to our communities. If we allow COVID-19 to run roughshod through American workplaces, an end to this pandemic will remain out of reach.

We respectfully request the following information:

1. How many COVID-19-related retaliation complaints have been submitted? How many were found to have merit? How many were found to have no merit? How many were appealed? What was the result of those appeals? How many were dismissed? How many were settled with the complainant? How many were referred to litigation? And how many were found to have a valid cause of action and still no action was taken?
2. Given the increase in retaliation complaints over the past eight months, are you planning on changing any processes or procedures to accelerate quality outcomes of complaints to OSHA?
3. OSHA has also received more than 9,000 worker safety and health complaints on COVID-19 during the past eight months. How does the Department account for the difference between complaints received and the few on-site inspections conducted?
4. How many on-site workplace inspections has OSHA conducted related to COVID-19 and non-COVID-19 complaints since March 2020?
5. How many Compliance Safety and Health Officers (CSHOs) does OSHA have on-board now? (Please distinguish between supervisory CSHOs and non-supervisory CSHOs.) What supervisory positions in the field are open or in acting capacity? (Regional Administrators, Deputy Regional Administrators, Assistant Regional Administrators and Area Office Directors) What efforts is OSHA making to hire more field investigators and supervisors? Is OSHA working to remedy delays in investigations in other ways? If so, please describe those efforts.

Please provide responses to these questions no later than December 23, 2020. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Andy Levin". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

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