**12-179 DEPARTMENT OF LABOR**

 **BUREAU OF LABOR STANDARDS**

 **BOARD OF OCCUPATIONAL SAFETY AND HEALTH**

**Chapter 8: OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR WHISTLEBLOWER/DISCRIMINATION IN THE PUBLIC SECTOR**

**Summary**: The purpose of this Chapter is to incorporate by reference where applicable rules governing Occupational Safety and Health as promulgated by the Federal Occupational Safety and Health Administration at 29 CFR Part 1977 as of June 1, 2018.

**8.1 Prohibition Against Discrimination**

As set forth in 26 M.R.S. §570, a person may not discharge or in any manner discriminate against an employee because that employee has filed any complaint concerning an alleged occupational safety or health hazard or has testified or is about to testify in any proceeding relating to employee safety and health or because of the exercise by the employee on behalf of the employee or others of any right under this chapter.

Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of this section may, within 30 days after the alleged violation occurs, file a complaint with the director, alleging discrimination. Upon receipt of the complaint, the director shall conduct an investigation as the director determines is appropriate. If upon investigation the director determines that the provisions of this chapter have been violated, the director shall bring an action in the Superior Court in the county in which the alleged violation occurred. In any action, the Superior Court has jurisdiction, for cause shown, to restrain violations of this section and order all appropriate relief, including rehiring or reinstatement of the employee to the employee's former position with back pay.

Within 90 days of the receipt of a complaint filed under this section, the director shall notify the complainant of the director's determination.

**8.2 Incorporation by Reference**

 In addition to the provisions of state law in the preceding section, the State Board of Occupational Safety and Health adopts where applicable to public employees under the authority of the Board the *Standards for Occupational Safety and Health* as promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration as Title 29 *Code of Federal Regulations*, Part 1977, revised as of June 1, 2018.

**8.3 Exception:**

All references to Secretary of Labor in 29 CFR Part 1977 shall mean Director, Bureau of Labor Standards.

STATUTORY AUTHORITY:

 26 MRS §§ 569, 570

EFFECTIVE DATE:

 July 7, 2019 – filing 2019-110