



New OSHA Directive to Assist in Early Resolution of Whistleblower Complaints

Insights

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On August 19, 2015, OSHA issued new policies and procedures (Compliance Directive: [CPL 02-03-006](#)) for applying a new process for resolving whistleblower disputes. This directive is OSHA's attempt to institute an early resolution process. This process will be used in conjunction with a regional Alternative Dispute Resolution (ADR) program, as part of OSHA's overall enforcement of whistleblower statutes. The ADR programs offer whistleblower parties opportunities to negotiate settlements with the assistance of a neutral, confidential OSHA representative who has subject-matter expertise in whistleblower investigations. The [Administrative Dispute Resolution Act of 1996](#) requires each federal agency to "adopt a policy that addresses the use of alternative means of dispute resolution and case management."

According to Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels, "The Alternative Dispute Resolution process can be a valuable alternative to the expensive and time-consuming process of an investigation and litigation. It will provide whistleblower complainants and respondents the option of exploring voluntary resolution of their disputes outside of the traditional investigative process."

From October 2012 to September 2013, OSHA piloted the new ADR program in regions 5 and 9, two out of its ten regions. The successful pilot proved that the early resolution ADR process is a successful method for helping parties reach mutual and voluntary outcomes for their whistleblower cases. The program adequately demonstrated that having a staff dedicated to facilitating settlement negotiations, provided efficient and effective services that are desired by complainants and respondents.

CPL 02-03-006 also will make changes to the 2012 guidance (DIR 12-01 (CPL 02)). The change thus ends several deadline requirements, but it still encourages complainants and employers to reach settlements (193 OHD, 10/5/12). According to the OSHA press release, this directive does not prohibit OSHA whistleblower investigators to suggest other methods of dispute resolution such as the use of third-party mediators.

OSHA enforces whistleblower provisions of 22 statutes which protect employees who report violations regarding securities laws, trucking, airline, nuclear power, pipeline, environmental, rail, maritime, health care, workplace safety and health regulations, and consumer product safety laws.

Related People



Edwin G. Foulke, Jr.

Partner

404.240.4273

Email