



Workplace Whistleblower

Perspectives on whistleblower situations that employers frequently face

OSHA Publishes New Whistleblower Investigations Manual

By Meagan Newman

OSHA released an updated version of its [Whistleblower Investigations Manual](#) (CPL 02-03-005) on May 21, 2015—the first update since September 2011. The manual now reflects procedures for investigating MAP-21 whistleblower claims (protecting workers who report defects in automobiles), as well as substantive changes to Chapter 6 which covers settlement agreements and remedies.

One of the most significant changes is the level of detail regarding punitive damages, including a recognition of an employer's good faith defense to such damages. Additional substantive guidance is also provided on the topic of damages for emotional distress.

With respect to settlement agreements, the manual instructs investigators for the first time to consider including a requirement in a settlement that the employer provide training for employees or managers about whistle-blowing rights. The revised manual also makes clear, on the issue of front pay in lieu of reinstatement, that front pay may be appropriate when an employee would face "debilitating anxiety" or other risks to their mental health. Previously, investigators were instructed to consider front pay when returning the employee to work would be too disruptive.

There are a number of other changes in the revised manual that will impact how OSHA investigates whistleblower claims and how the parties may resolve them. Employers facing current or potential claims under any of the 22 whistleblower statutes investigated by OSHA should carefully evaluate the new manual and consult with their defense counsel.

[Meagan Newman](#) is Team Co-Lead of the National Whistleblower Team. If you would like further information on this topic, please contact a member of the [Whistleblower Team](#), your Seyfarth attorney or Meagan Newman at mnewman@seyfarth.com.

www.seyfarth.com

Attorney Advertising. This Workplace Whistleblower Alert is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

Seyfarth Shaw LLP Workplace Whistleblower | May 27, 2015

©2015 Seyfarth Shaw LLP. All rights reserved. "Seyfarth Shaw" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). Prior results do not guarantee a similar outcome.