

OSHA Restructures To Boost Whistleblower Program

By **Abigail Rubenstein**

Law360, New York (March 01, 2012, 7:38 PM ET) -- The U.S. Occupational Safety and Health Administration's whistleblower protection program will now report directly to the head of the agency, signaling an elevation of whistleblower enforcement as a priority for OSHA, it said Thursday.

As part of an ongoing effort to beef up its whistleblower protection efforts, OSHA, part of the Department of Labor, said the program now reports directly to the agency's Office of the Assistant Secretary instead of to its Directorate of Enforcement Programs. As such, the program will be overseen directly by Assistant Secretary of Labor Dr. David Michaels, who heads OSHA, the agency said.

"It underscores the importance of the whistleblower program to the current leadership of OSHA," said Jonathan Snare, a partner at Morgan Lewis & Bockius LLP who formerly worked in several roles at the DOL, including as assistant secretary for OSHA.

"If you're within the agency and you have direct access to the head of the agency and the front office, it helps you in the implementation of whatever you're doing," Snare said. "This means that the whistleblower program is going to get whatever resources and help it needs."

OSHA first announced that it would restructure the whistleblower program to bring it directly under the Office of the Assistant Secretary as part of a multifaceted plan for strengthening the enforcement of 21 whistleblower laws under its jurisdiction. The agency has finished formalizing the transition over the last few weeks, an OSHA spokeswoman told Law360 on Thursday.

The plan to fortify the whistleblower program stemmed from an internal top-to-bottom review of the whistleblower program the agency completed last year, as well as U.S. Government Accountability Office audits in 2009 and 2010 that found substantial problems with the program.

Implementation of the plan began with the fiscal year 2012 budget, as OSHA established a separate budgetary line item for the whistleblower program to better track and hold accountable its activities and accomplishments.

As part of the plan, OSHA released in September an updated version of its Whistleblower Investigations Manual, which had not been updated since 2003. The new edition of the manual contained revised information on case handling procedures and information on the new laws enacted since the previous update.

Other aspects of the plan involved adding investigators and bolstering its investigator training.

And in addition to the newly implemented structural change at its national office, the agency said it has launched pilot projects to evaluate structural changes in 10 field regions that could further strengthen the whistleblower program.

"The ability of workers to speak out and exercise their rights without fear of retaliation provides the backbone for some of American workers' most essential legal protections," Michaels said in a statement on Thursday. "OSHA's internal improvement initiatives, including this realignment, demonstrate the agency's steadfast commitment to strengthening a program that is critically important to the protection of worker rights."

The agency also announced Thursday that it has named Sandra Dillon, who has served as the acting director of the whistleblower program since May 2011, will lead the restructured program as its director.

--Editing by Cara Salvatore.

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