



# OSHA INSTRUCTION

DIRECTIVE NUMBER: TED 01-00-020

EFFECTIVE DATE: 10/08/2015

SUBJECT: Mandatory Training Program for OSHA Whistleblower Investigators

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## ABSTRACT

- Purpose:** This instruction provides National and Regional personnel with policy and guidelines for implementing competency-based training programs for OSHA Whistleblower Investigation personnel.
- Scope:** This instruction applies OSHA-wide.
- References:** (1) OSHA Instruction CSP 01-00-002 (STP 2-0.22B), State Plan Policies and Procedures Manual, March 21, 2001; (2) OSHA Instruction CSP 01-00-003 (STP 2.22A, CH-3) Changes to the State Plan Policies and Procedures Manual, February 27, 1990; (3) OSHA Instruction EAA 01-00-004, Management Accountability Program, September 15, 2010; (4) OSHA Instruction PER 05-00-001 (PER 10-1.1), OSHA Training Policy, December 14, 1979; (5) 29 CFR 1902, State Plans for the Development and Enforcement of State Standards; (6) 29 CFR 1956, State Plans for the Development and Enforcement of State Standards Applicable to State and Local Government Employees in States without Approved Private Employee Plans.
- Cancellations:** None
- State Impact:** This instruction describes a Federal program change that affects state programs. Notice of intent and equivalency are required. See paragraph VI.
- Action Offices:** National and Regional Offices.
- Originating Office:** OSHA Directorate of Training and Education.

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By and Under the Authority of

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Assistant Secretary

## **Executive Summary**

This instruction provides guidance and direction to the Occupational Safety and Health Administration (OSHA) National and Regional Offices concerning OSHA's policies and procedures for training Whistleblower Investigators. It is essential that Whistleblower Investigators have the requisite knowledge, skills, capability and varied professional backgrounds to accomplish OSHA's mission of promoting workplaces free from retaliation due to whistleblowing for America's working men and women. In this instruction, OSHA provides detailed guidance for training required during a Whistleblower Investigator's career, including recommended training that assists the Whistleblower Investigator in preparing for professional certification exams. This instruction identifies training paths that provide assistance to the regions in managing their training programs.

The goal of this instruction is to assist Whistleblower Investigators, their supervisors and managers with direction, guidance and training options that directly contribute to the Whistleblower Investigator's ability to represent OSHA with a high degree of professional expertise. In addition, the Whistleblower Investigator training program identifies a correlation between Whistleblower Investigator competency and achieving respected credentials in the fields of investigation and mediation such as Professional Certified Investigator (PCI)<sup>®</sup>, Certified Mediator, and Certified Fraud Examiner.

## **Significant Changes**

This instruction describes the new training program for OSHA Whistleblower Investigation personnel. The new requirements include:

- Implementing a three-year approach to mandatory training:
  - Year One – Each Whistleblower Investigator will be required to complete Whistleblower Investigation Fundamentals Course #1420 offered by the OSHA Training Institute (OTI) during the first year of his/her career as a Whistleblower Investigator.
  - Years Two and Three – Whistleblower Investigators will be required to complete four additional technical courses during the next two years of his/her career. The order and sequence of these courses are described in this instruction.
- This instruction gives notice that other courses designated as mandatory by OSHA's Assistant Secretary may be added to the Whistleblower Investigator's training program at any time.

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I. Purpose.

This instruction provides National and Regional Office personnel with policy and guidelines for implementing competency-based training programs for OSHA Whistleblower Investigators.

II. Scope.

OSHA-wide.

III. References.

- A. [OSHA Instruction CSP 01-00-002 \(STEP 2-0.22B\)](#), State Plan Policies and Procedures Manual, March 21, 2001.
- B. [OSHA Instruction CSP 01-00-003 \(STP 2.22A, CH-3\)](#), Changes to the State Plan Policies and Procedures Manual, February 27, 1990.
- C. [OSHA Instruction EAA 01-00-004](#), Management Accountability Program, September 15, 2010.
- D. [OSHA Instruction PER 05-00-001 \(PER 10-1.1\)](#), OSHA Training Policy, December 14, 1979.
- E. [29 CFR 1902](#), State Plans for the Development and Enforcement of State Standards.
- F. [29 CFR 1956](#), State Plans for the Development and Enforcement of State Standards Applicable to State and Local Government Employees in States Without Approved Private Employee Plans.

IV. Cancellations.

None.

V. Action Offices.

- A. Responsible Office. Directorate of Training and Education.
- B. Action Offices. All OSHA National Office Directorates and Free-Standing Offices; Regional, Area and District Offices; and State Designees.

VI. Federal Program Change.

- A. Notice of Intent and Equivalency Required. This instruction describes a Federal OSHA program change which establishes a significantly modified technical training program for OSHA personnel investigating violations of

Section 11(c) of the OSH Act and other whistleblower laws. The requirements of State Plans noted below only relate to enforcement of the whistleblower provisions of the occupational safety and health statutes that states implement under their State Plans. The provisions of this instruction that specifically relate to the enforcement of whistleblower provisions other than Section 11(c) do not apply to State Plans. Under 29 CFR 1902.3(h) and 1956.10(g), State Plans must have a sufficient number of adequately trained and qualified personnel for the enforcement the State Plan. State Plans must have a formal documented training program which is revised as necessary to reflect current practices. The State Plan training program must be at least as effective as the federal program outlined in this instruction and must result in adequately trained personnel who can conduct effective investigations. State Plan training programs are not required to utilize the OSHA Training Institute (OTI) for course work, but may operate and implement state-run training courses.

- B. Submission of State Plan Policies and Procedures. Within 60 days of the date of issuance of this instruction, State Plans must submit a notice of intent indicating if the State Plan will adopt, or already has in place, a training program that is either identical to or different from the Federal program. State adoption, either identically or differently, should be accomplished within six months. If adopting identically, the State Plan must provide the date of adoption to OSHA, due within 60 days of adoption. If the State Plan adopts or maintains a training program that differs from the Federal program, the State Plan must either post its different policies on its State Plan website and provide a link to OSHA, or provide OSHA with an electronic copy and the contact information for someone within the State Plan who can assist the public with obtaining a copy. This action must occur within 60 days of the date of adoption. OSHA will post summary information of the State Plan responses to this Instruction on its website.

VII. Goals and Objectives of Whistleblower Investigator Training.

The goal of this instruction is to provide Whistleblower Investigators and their management with training options that will directly contribute to the Whistleblower Investigator's professional expertise.

- A. Competency-Based Curriculum.
1. The OSHA Training Institute offers formal training for Whistleblower Investigators with a competency-based approach to curriculum, using the Whistleblower Investigator Functional Competency Model as a guide. A copy of the Competency Model and related OTI curriculum can be found on OSHA's Directorate of Training and Education (DTE) Intranet web pages.
  2. It is important to note that competence cannot be achieved through

formal training alone. Proficiency requires a mix of experiences over time, personal initiative to develop to the highest level of professionalism possible, and structured on-the-job training, as well as formal training.

- B. The Training Program. OTI has developed a flexible program that incorporates technology-enabled learning, self-study packages, on-the-job experiences and formal training to accommodate varying levels of experience and competence. The training program includes basic requirements as well as advanced competencies to ensure continued career development.

Supervisors and Managers are encouraged to incorporate their Region's training priorities into the training program.

1. Course #1420 Whistleblower Investigation Fundamentals: Each Whistleblower Investigator will be required to complete the #1420 Whistleblower Investigation Fundamentals course offered by OTI during their first year of employment.
2. Technical Courses: Each Whistleblower Investigator will be required to complete four additional technical courses during the first three years of employment.
3. Federal Statute Webinars: Whistleblower Investigators will be assigned to view Federal Statute webinars as the Region determines a need. These webinars will address each Federal Statute enforced by OSHA's Whistleblower Protection Program and will be available at any time the Whistleblower Investigator needs to learn about or review a statute.

- C. Assistant Secretary Training Requirements. This instruction gives notice that other courses designated as mandatory by OSHA's Assistant Secretary may be added to the Whistleblower Investigator training program at any time.

#### VIII. Mandatory Whistleblower Investigator Training.

Figure 1, below, illustrates the recommended training path.

- A. Course #1420 Whistleblower Investigation Fundamentals Course: This course must be completed within the first year of a Whistleblower Investigator's career. It is a pre-requisite for all additional courses. During the first year, additional courses can be taken at the Regional Administrator's (RA) discretion.
- B. Technical Courses: Regional Administrators will approve the chronological order in which technical courses will be taken by Whistleblower

Investigators based on Regional Office needs and in accord with this instruction.

- Course #1610: Interviewing Techniques for Whistleblower Investigators
- Course #1630: Written Communication and Report Writing for Whistleblower Investigators
- Course #2710: Legal Concepts for Whistleblower Investigators
- Course #2720: Whistleblower Complaint Resolution and Settlement Negotiations



Figure 1: Recommended Training Path

IX. Organizational Responsibilities.

- A. National Office. National Office Directorates shall support the training program, as appropriate, by providing resources, supplying current information on the status of agency programs, statutes, regulations, and directives, ensuring program consistency, and auditing Regional Office training programs.
- B. The Directorate of Administrative Programs. The Director, Directorate of Administrative Programs, will ensure to the extent possible that funding is budgeted and available to Regions for OSHA personnel to complete all mandatory training. Note that other courses designated as mandatory by OSHA's Assistant Secretary will be included in the Whistleblower Investigator's training program, thus requiring additional funding support.
- C. The Directorate of Whistleblower Protection Programs. The Director, Directorate of Whistleblower Protection Programs, will support the training program as appropriate, by providing policy guidance, subject matter expertise through Directorate staff or Whistleblower Investigator field personnel, and current information on the status of agency programs, statutes, regulations and directives. Additionally, the Director will assist in assuring program consistency and in auditing Regional Office training programs, if requested.
- D. The Directorate of Training and Education. The Director, Directorate of Training and Education, shall be responsible for educating and training OSHA personnel in the skills and knowledge required to perform their duties. Responsibilities include:
  - 1. Planning, developing and conducting Agency technical and specialized training courses and seminars.
  - 2. Conducting needs assessments and gap analyses to identify training needs.
  - 3. Maintaining and updating competency-based training information on the OSHA Intranet.
  - 4. Maintaining and updating the technology-enabled OTI course catalog on the OSHA Intranet.
  - 5. Conducting evaluations of training courses and programs.
  - 6. Annotating the Whistleblower Investigator training records to reflect waived required training and time extensions for required training.
  - 7. Preparing a courtesy report for the Regions, the Assistant Secretary,

the Deputy Assistant Secretary, and the Director of the Directorate of Whistleblower Protection Programs listing the courses that have been waived and time extensions granted by the Regional Administrator within the past twelve months. The report will be made available once per fiscal year and will reflect data from the previous twelve months only.

E. The OSHA Training Institute. The OSHA Training Institute Director shall be responsible for the scheduling and delivery of Whistleblower Investigator training. Specific responsibilities include:

1. Overseeing and conducting courses and seminars for Federal and State Whistleblower Investigators, Regional and National Office staff and other Federal Agency personnel.
2. Participating in the design and development of technical and specialized courses, including development of course materials, detailed lesson plans, and other educational aids.

F. Regional Administrator. The Regional Administrator (RA) shall direct the execution of the region-wide training and education program in accord with OSHA policy, through the designated Assistant Regional Administrator (ARA). Specifically, the RA will:

1. Approve courses in the Whistleblower Investigator's training path, the Whistleblower Investigation Fundamentals course during the first year, followed by two technical courses in the second year and two in the third year.
2. Grant waivers and time extensions in accord with the procedures explained in Sections XI and XII of this instruction.

G. Regional Training Officer/Training Designee. The Regional Training Officer/Training Designee (RTO/TD) shall serve as a focal point for each region, assisting the Assistant Regional Administrator (ARA) in coordinating and managing the region's training and education programs. For regions that do not have a designated Regional Training Officer, the Regional Administrator will determine the appropriate designee. The RTO/TD shall assist the ARA to ensure the successful implementation of the training program for Regional Whistleblower Investigators as outlined in this instruction. Specifically the RTO/TD shall:

1. Provide guidance and assistance to Whistleblower Investigators concerning information contained in this instruction as well as in Department of Labor (DOL) and OSHA training policies and procedures.
2. Implement the regional training and education program.

3. Process training requests, maintain training records, and provide training registration information to Managers, Supervisors and Whistleblower Investigators.
4. Evaluate and monitor all records of training.

H. Assistant Regional Administrator of Whistleblower Protection Programs.

The ARAs or his/her designee shall be responsible for ensuring the professional development of the Whistleblower Investigators they supervise. Specifically, the ARA shall:

1. Ensure the professional development of Whistleblower Investigators in accord with this instruction and Appendix A.
2. Identify and document through an Individual Development Plan (IDP) the training needs of Whistleblower Investigators.
3. Provide guidance consistent with the IDP process to meet the objectives outlined in this instruction.
4. Review training progress with each Whistleblower Investigator during the mid-year and annual performance reviews.
5. Assign, as needed, experienced personnel to assist in the on-the-job training of newly-hired Whistleblower Investigators.
6. Assess and document Whistleblower Investigator's abilities, send waiver requests as per section X.C. and requests for time extensions as per section XI.B. to the Regional Administrator for approval.

I. Whistleblower Investigator: The Whistleblower Investigator has the responsibility to perform to the best of his/her ability in all training programs. Specifically, the Whistleblower Investigator shall:

1. Discuss performance and training progress with his/her Supervisor.
2. Participate in the planning of training activities.
3. Fully attend, participate in, and complete all assigned training courses, seminars and other events.

X. OSHA Training Institute Courses for Whistleblower Investigators.

A. Required Training. In the interest of nationwide consistency, Whistleblower Investigators will attend all the required courses outlined in this instruction offered by the OSHA Training Institute. The information provided in this section is intended to assist Regional Administrators in determining equivalency when issuing waivers. The Directorate of Training and

Education Intranet page offers up-to-date information on course descriptions and prerequisites.

- B. Blended Courses. Blended courses include at least one web-based training requirement plus an instructor-led training requirement. The web-based training must be completed **prior** to attending the instructor-led session. There is no waiver process or equivalent to completing the online prerequisite of an OTI course. This strict requirement is due to the close link between the training offered online and the subsequent classroom (i.e., instructor-led) training.
- C. Course Sequence. The #1420 Whistleblower Investigation Fundamentals course must be completed in year one of the Whistleblower Investigator training program. It is recommended that the courses listed below should be completed in a sequence optimal to attaining professional development goals and at the discretion of the Regional Administrator.
1. Course #1420: Whistleblower Investigation Fundamentals Course. This blended course covers the fundamentals of conducting whistleblower investigations, with an emphasis on Section 11(c) of the *Occupational Safety and Health Act* (OSH Act). Whistleblower Investigators will learn to conduct intakes and screenings, plan and prepare for investigations, conduct opening conferences, collect evidence, analyze information, conduct closing conferences, and prepare basic memoranda, letters, and reports.
  2. Course #1610: Interviewing Techniques for Whistleblower Investigators. The goal of this course is to provide a practical guide for interviewing. The specific topics include interview preparation, nonverbal communication, types of interviewees, multi-cultural interviewing, empathy, and active listening. This course requires role playing and students will be assessed on the application of techniques learned. The role playing will focus on one-on-one controlled interviewing situations.
  3. Course #1630: Written Communication and Report Writing for Whistleblower Investigators. This course is designed to cover business writing, evidentiary documentation, and written analysis. Students will learn to effectively communicate complex concepts and ideas in writing and in a manner that is appropriate for the intended audience. Students will be coached to produce documents that require minimal editing and are technically sound, accurate, thorough, logical, concise, and completed in a timely manner.
  4. Course #2710: Legal Concepts for Whistleblower Investigators. The course introduces the student to frequently encountered federal statutes (e.g. Occupational Safety and Health Act (OSHA), Surface

Transportation Assistance Act (STAA), Federal Railroad Safety Act (FRSA), Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (AIR-21), and the Sarbanes-Oxley Act (SOX)). The instruction includes the essential elements of conducting investigations, including interviewing, analyzing information related to investigations, legal and regulatory sufficiency, and organizing and documenting information. Students will apply legal concepts to multiple case studies such as but not limited to, contributing vs. motivating factors, cat's paw theory, equitable tolling, work refusals, leeway doctrine, retaliation by association and testimonial evidence.

5. Course #2720: Whistleblower Complaint Resolution and Settlement Negotiations. This course covers complaint resolution policies, programs, and techniques related to whistleblower statute enforcement. An emphasis will be placed on strategies to successfully resolve complaints throughout the investigative process, including the Alternative Dispute Resolution (ADR) process, Complainant's right to withdraw, and kick-out provisions. Students will learn to negotiate and prepare OSHA settlement agreements to include preserving public policy, including calculation of appropriate damages, and review and evaluate third-party agreements in accord with established guidelines.
6. Federal Statute Webinars. The webinars on the statutes enforced by the OSHA Whistleblower Protection Programs will emphasize unique attributes of the statutes with respect to Whistleblower investigations. The Federal Statute webinars are non-mandatory and can be assigned by Supervisors or accessed by the Whistleblower Investigator to review or learn about particular statutes. The webinars will be reviewed periodically to maintain accurate content. The webinars will present statutes in the categories of:
  - a. Transportation Statutes Webinar
  - b. Environmental Statutes Webinar
  - c. Product-Related Statutes Webinar
  - d. Financial Statutes Webinar
  - e. Energy Statutes Webinar

Additional webinars will be created when new whistleblower statutes authorizing DOL enforcement are enacted.

XI. Waiver from Required Training Program.

- A. Waiver Conditions. The training program outlined in this instruction is required to be completed during the first three years of a Whistleblower Investigator's career. Regional Administrators have discretion to waive any of the required courses listed, with the exception of the Legal Concepts for Whistleblower Investigators course. Waivers shall be used rarely and shall be granted only in exceptional circumstances.
- B. Assessment and Documentation. The ARA must assess and document that the Whistleblower Investigator has demonstrated mastery of the tasks listed in the course objectives for the course being waived. After an assessment has been made, waiver requests shall be submitted in writing by the ARA to the Regional Administrator. The waiver request will document why the Whistleblower Investigator does not need to attend the specified course. The documentation will include how the Investigator has acquired the levels of knowledge, skills and abilities taught in the course for which the waiver is being requested. The documentation shall also indicate that the Investigator has institutional understanding of OSHA-specific policies and procedures. For example, criteria may include experience as a Whistleblower Investigator with an OSHA State Plan agency.
- C. Waiver Requests. Only the Regional Administrator can grant a waiver. The Regional Administrator shall respond to waiver requests in writing. Copies of responses approving waiver requests shall be provided to the Director of the Directorate of Training and Education and to the Assistant Secretary.
- D. Training Record Annotated. The Director of the Directorate of Training and Education shall annotate the Whistleblower Investigator's training record to reflect courses waived by the Regional Administrator.

XII. Time Extensions.

The time requirements for completing required courses specified in this instruction must be met. Only the Regional Administrator can grant a time extension based on extenuating circumstances.

- A. Time Extension Conditions. If there are circumstances that prevent the Whistleblower Investigator from completing the required courses, the Regional Administrator can extend the time for completion. Time extensions may not exceed 12 months.
- B. Time Extension Requests. Time extensions shall be submitted in writing by the ARA to the Regional Administrator. Time extension requests shall include the reason(s) additional time is needed, the amount of time requested and the course(s) that will be completed during the requested time extension.
- C. Time Extension Approvals. The Regional Administrator shall respond to the

time extension request in writing. Copies of the response(s) approving time extension requests shall be provided to the Director of the Directorate of Training and Education and to the Assistant Secretary.

- D. Training Record Annotated. The Director of the Directorate of Training and Education shall annotate the Whistleblower Investigator's training record to reflect the extension of time.

XIII. Monitoring the Training Program.

Monitoring the Whistleblower Investigator's progress is critical to ensure the success of the training program. Monitoring determines the benefits and effectiveness of the training received and evaluates the ability of the Whistleblower Investigator to achieve training goals and objectives.

- A. The Assistant Regional Administrator. The ARA or his/her designee shall:
1. Ensure that each Whistleblower Investigator has completed the necessary prerequisites before attending mandatory OSHA training courses.
  2. Review the Whistleblower Investigator's performance of recommended self-instruction (SI) and on-the-job training (OJT) assignments, such as those listed in Appendix A.
  3. Conduct a review with the Whistleblower Investigator following each recommended SI and OJT activity. This review identifies areas requiring further training.
  4. Determine when the Whistleblower Investigator has sufficient experience to participate fully in complaint investigation; the OJT review may be discontinued when this has been successfully accomplished.

XIV. Continuation of Whistleblower Investigator Development.

- A. Continuing Education. Non-mandatory. After year three the Whistleblower Investigator should continue to develop the knowledge and skills necessary to conduct investigations. There are many training opportunities outside traditional OSHA Training Institute courses, including but not limited to:
1. Local community college and university courses related to grammar, writing, and financial, business, and environmental sectors.
  2. Online courses offered through Learning Link and private sector training groups.

3. Technical training sessions at conferences related to whistleblower protection.
4. Public sector training institutes that offer courses related to whistleblower investigation.
5. Independent study on topics related to whistleblower investigation.

The Whistleblower Investigators should be provided time to attend training sessions and/or conduct independent study on materials related to investigations.

B. Role of Individual Development Plans. Mandatory. An Individual Development Plan (IDP) is a dynamic plan that helps the Whistleblower Investigator achieves organizational and career goals by documenting progress. IDPs are required and must be updated annually. An IDP can help a Whistleblower Investigator:

1. Acquire knowledge and skills required to achieve the functional competencies of a Whistleblower Investigator.
2. Build expertise as an OSHA Whistleblower Investigator.
3. Continue professional development throughout his/her career.

C. IDPs for the First Three-Year Period. The IDP (Form DL-80) should reflect:

1. Mandatory training required during the first three-year period as outlined in this instruction.
2. Regional training requirements.
3. Other developmental training as determined by the ARA. For example:
  - a. Supplemental training at the regional level that includes formal and/or informal mentoring by senior personnel and/or Whistleblower Investigators with specialized experience.
  - b. Participation in investigations involving various statutes or legal complexity in a variety of business sectors.

D. IDPs Developed after the Three-Year Period.

1. The IDP should follow the guidance outlined in [OSHA Instruction PER 05-00-001 \(PER 10-1.1\)](#) OSHA Training Policy.
2. An IDP helps the Whistleblower Investigator improve performance and prepare for more responsible work in accord with his/her

abilities, interests and the needs of the Agency.

- E. Professional Certification. Non-Mandatory. The course required for the Whistleblower Investigator's first year provides a foundation for professionalism and proficiency. The required technical courses provide a higher level of knowledge and skill. Professional certification can further enhance the Whistleblower Investigator's knowledge in the technical areas of whistleblower investigations.

The Professional Certified Investigator (PCI)® credential provides demonstrable proof of an individual's knowledge and experience in case management, evidence collection, and preparation of reports and testimony to substantiate findings. Those who earn the PCI are ASIS International board-certified investigators ([www.asisonline.org](http://www.asisonline.org)).

The National Association of Certified Mediators provides certification for individuals who want to focus on fundamental and practical techniques of dispute resolution, arbitration and mediation ([www.mediatorcertification.org](http://www.mediatorcertification.org)).

The Association of Certified Fraud Examiners offers the Certified Fraud Examiners (CFE) Program. The CFE denotes expertise in fraud prevention, detection and deterrence ([www.acfe.com](http://www.acfe.com)).

XV. Evaluation.

Staff from the Directorate of Training and Education evaluates the effectiveness of the training program for OSHA personnel.

- A. Established evaluation criteria include:
1. Maintaining accreditation through third-party evaluations such as the International Association of Continuing Education and Training (IACET). OTI and DTE have been accredited by IACET since 2002. Retaining accreditation requires periodic internal reviews and reaccreditation not less than every five years.
  2. Meeting or exceeding the Department of Labor's goals for effective management of personnel. This includes an annual review of the relationship between OTI training programs and the level of Whistleblower Investigator competency at various points in the Whistleblower Investigator's career.
- B. OTI and DTE distribute course evaluation surveys at the end of each class. They provide valuable feedback from the student's perspective to determine the perceived value and impact of instruction. It also serves as a tool to affect changes to course objectives, course content and presentation methods.

- C. OTI and DTE administer written tests to students both at the beginning (pre-test) and at the end (post-test) of all instructor-led courses. The pre- and post-test results can be compared to measure the effectiveness of the training to convey the objectives of the course. The results of the comparison serve as a tool for continued improvement of course content and delivery.
- D. Following attendance in an instructor-led course at OTI, after a particular time interval, DTE and OTI request feedback from the student and the student's supervisor to assess the transference of learning from the classroom to practical application in the field. This feedback contributes to continued improvement in the course and the curriculum.

## Appendix A. Recommended Whistleblower Investigator Training Activities

**Background and Description of Appendix A.** This Appendix is recommended as a guideline for Supervisors of Whistleblower Investigators.

The OSHA Training Institute (OTI) offers formalized training for Whistleblower Investigators through its competency-based approach to curriculum. As a professional, the Whistleblower Investigator will acquire additional knowledge, skills, abilities and behaviors through other sources such as Self-Instruction (SI) and On-the-Job Training (OJT) which enhance the formal training a new Whistleblower Investigator receives at OTI. This Appendix offers recommendations for both SI and OJT.

Time allotted to accomplish SI and OJT assignments should be compatible with the newly-hired Whistleblower Investigator’s current knowledge, skill and experience. The Supervisor should verify the Whistleblower Investigator’s successful completion of SI and OJT assignments. Training assignments may also be supplemented by other comparable tasks deemed appropriate and/or equivalent by the Supervisor.

Type of Activity	Activity Description	Date Completed
OJT	Identify office administrative procedures	
OJT	Overview of the Department of Labor (DOL) <ul style="list-style-type: none"> <li>• Description and responsibilities of different agencies</li> <li>• Office of Assistant Secretary for Administration and Management’s (OASAM) assistance to the new employee</li> <li>• The Solicitor of Labor’s (SOL) role</li> </ul>	
OJT	Where does the Whistleblower Investigator fit into the Agency <ul style="list-style-type: none"> <li>• Hierarchy of the Agency from Assistant Secretary to Area Office</li> <li>• Directorate of Whistleblower Protection Programs (DWPP)</li> <li>• Regional structure</li> <li>• Regional Administrator</li> <li>• Assistant Regional Administrator (ARA) responsibilities</li> <li>• Regional Supervisory Investigator (RSI) responsibilities</li> <li>• Whistleblower Investigator responsibilities</li> <li>• Federal Statutes enforced by the Agency</li> </ul>	
SI	Read DOL’s current ethics rules summarized in the “How to Keep Out of Trouble” publication	
OJT	Review the Whistleblower Investigator Training and Education Directive	

Type of Activity	Activity Description	Date Completed
	<ul style="list-style-type: none"> <li>• Directorate of Training and Education’s role</li> <li>• Whistleblower Investigator Competency Model</li> <li>• Course descriptions</li> <li>• Individual Development Plans</li> <li>• Training plan for the first three years</li> <li>• Appendix A</li> </ul>	
OJT	Investigate Resources and Tools <ul style="list-style-type: none"> <li>• The DWPP website, www.whistleblowers.com – statutes, regulations, forms, instructions and memos</li> <li>• Other useful websites commonly used by Whistleblower Investigators</li> </ul>	
OJT	Receive and become familiar with equipment including: <ul style="list-style-type: none"> <li>• Laptop &amp; Virtual Private Network (VPN) technology</li> <li>• Digital recorders</li> <li>• Mobile printers and scanners</li> </ul>	
SI	Review and become familiar with the Whistleblower Investigation Manual CPL 02-03-003	
OJT	Describe and apply the elements of a prima facie case and understand the law on the timeliness of complaints	
OJT	Review the office’s Safety and Health Management System (SHMS) chapters, including, office evacuation, Shelter in Place (SIP) and Continuity of Operations (COOP) programs	
SI	Review closed cases involving various statutes and various outcomes (dismiss, withdraw, merit, non-merit, settled, settled other)	
SI	Read 29 CFR Part 1977 after reading and reviewing Section 11(c) and other relevant sections of the OSH Act (see below)	
SI	Read and review the OSH Act: <ul style="list-style-type: none"> <li>• Which employers and employees are covered</li> <li>• Responsibilities of employers and employees</li> <li>• Section 11(c)</li> <li>• Section 8(a)</li> </ul>	
SI	Review <ul style="list-style-type: none"> <li>• Secretary’s Order 1-2012 (Delegation of Authority)</li> <li>• National Office whistleblower related policy memos and directives</li> </ul> <a href="http://intranet.osha.gov/dwpp/index.html">http://intranet.osha.gov/dwpp/index.html</a>	
OJT	Shadow Senior Whistleblower Investigator to experience: <ul style="list-style-type: none"> <li>• Complaint intake and screening</li> <li>• Opening with the Complainant</li> <li>• Docketing/preparation and sending letters</li> <li>• Preparation for investigation</li> </ul>	

Type of Activity	Activity Description	Date Completed
	<ul style="list-style-type: none"> <li>• Opening with Respondent</li> <li>• Interviews</li> <li>• Request for data/documents</li> <li>• Redacting documents before sharing with individuals outside the Department of Labor (DOL)</li> <li>• Reviewing Respondent’s position statement</li> <li>• Complainant’s rebuttal</li> <li>• Compose Report of Investigation (ROI)</li> <li>• Closing with Respondent and Complainant</li> <li>• Compose Secretary’s Findings</li> <li>• Creating, organizing, and maintaining a case file</li> <li>• Settlement and negotiation</li> <li>• State Plan review and Complaints About State Plan Administration (CASPA) and Federal Annual Monitoring Evaluations (FAMES), as applicable</li> </ul>	
OJT	Conduct intake and screening of complaints	
SI	<b>Review statutes commonly used, such as OSH Act, FRSA, STAA, AIR21, SOX</b>	
SI	Review relevant case law and legal doctrine. Consult with the Directorate of Whistleblower Protection Programs and/or the Office of the Solicitor for guidance	
OJT	Receive IMIS password and learn how to input and retrieve certain complaint data; download IMIS reports	
SI	Review responsibilities and coverage of other anti-retaliation investigative agencies, e.g., EEOC, NLRB	
SI	Describe the fundamentals of OSHA’s whistleblower protection programs to the general public, employee/employer associations, unions, other government agencies and stakeholders	
SI	Become familiar with Regional State Plan Whistleblower programs. Review State Plan equivalent to Section 11(c) statutes, regulations, and investigation procedures. Review applicable whistleblower State Plan Complaint About State Plan Administration (CASPA) and Federal Annual Monitoring and Evaluation (FAME) findings.	