

**U.S. OFFICE OF PERSONNEL MANAGEMENT**

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## OUR INSPECTOR GENERAL WHISTLEBLOWER PROTECTION INFORMATION

# Whistleblower Rights and Protections

If you know of fraud, waste, abuse, mismanagement, or a substantial and specific danger to public safety or health involving Office of Personnel Management (OPM) programs and operations, you may report it to the OPM Office of the Inspector General (OIG) using the [OIG Hotline](#). You may also consult the website of the [U.S. Office of Special Counsel \(OSC\)](#). General information is summarized in the OSC publication entitled “[Know Your Rights When Reporting Wrongs](#).”

Whistleblowers play a critical role in keeping our Government honest, efficient, and accountable. Whistleblower disclosures can save lives as well as billions of taxpayer dollars. OPM employees, contractors, subcontractors, and grantees are protected from retaliation for making a “protected disclosure.” A disclosure is protected if it is based on a reasonable belief that wrongdoing has occurred and if the disclosure is made to a person or entity that is authorized to receive it.

Pursuant to the Inspector General Act of 1978, as amended, the OPM OIG has designated a Whistleblower Protection Coordinator to educate OPM employees about prohibitions against retaliation for “blowing the whistle,” employees’ rights and remedies for any alleged retaliation for making a protected disclosure, and whistleblower protection training. OPM employees may contact the Whistleblower Protection Coordinator at [OPMOIGWhistleblower@opm.gov](mailto:OPMOIGWhistleblower@opm.gov).

*Please note that the OIG Whistleblower Protection Coordinator and OPM OIG staff are prohibited from acting as a legal representative, agent, or advocate for any individual. This website is intended to provide basic information only, and it is not intended to be a substitute for legal counsel. Information and legal rights and remedies may change without notice on this website.*

## Whistleblower Protection for Federal Employees, Former Employees, and Applicants for Employment

### Protected Disclosures

A “protected disclosure” includes any disclosure of information that an employee, former employee, or applicant for employment reasonably believes evidences—

- violation of any law, rule, or regulation;
- gross mismanagement;
- gross waste of funds;
- abuse of authority; or
- substantial and specific danger to public health or safety.

Disclosures of such wrongdoing are covered by whistleblower protections regardless of whether they are made to the OIG, the OSC, a supervisor or someone higher up in management, or a member of Congress or congressional committee—provided that the disclosure is not specifically prohibited by law (see [Special Procedures for Disclosures Involving Classified Information](#) below) and the information does not have to be kept secret in the interest of national defense or the conduct of foreign affairs.

## Confidentiality

The OPM OIG has a [Hotline](#) that allows employees to make confidential disclosures. The OIG is prohibited from disclosing an employee's identity without the employee's consent unless the OIG determines that such disclosure is unavoidable or is compelled by court order.

If you file a disclosure with OSC, your identity will not be shared outside OSC without your consent. OSC may disclose your identity only if OSC determines that it is necessary because of an imminent danger to public health or safety or an imminent violation of any criminal law.

## Prohibited Personnel Practices

Federal whistleblower protection law provides legal remedies for employees or job applicants who face retaliation for making protected disclosures of fraud, waste, abuse, mismanagement, or substantial and specific danger to public safety or health.

Retaliation includes almost any personnel action, failure to take a personnel action, or threat to take a personnel action, which adversely affects the whistleblower, such as:

- A non-promotion;
- A disciplinary action;
- A detail, transfer or reassignment;
- An unfavorable performance evaluation;
- A decision concerning pay, benefits or awards; or
- A significant change in duties, responsibilities or working conditions.

## Filing a Complaint of Whistleblower Retaliation or Threatened Retaliation

If you are an OPM employee or an applicant for employment at OPM, and you believe you have been or may be subjected to whistleblower retaliation, you have several avenues for seeking recourse.

- **The OPM OIG Hotline.** The OPM OIG investigates allegations of whistleblower retaliation against OPM employees and applicants for employment at OPM. Following an investigation, the OIG issues a report of its findings to OPM and may recommend that OPM take voluntary corrective or disciplinary action as appropriate to remedy the situation. The OIG also may refer the complaint to the OSC for further action (see below). OPM employees who report their allegations to the OPM OIG may still file retaliation complaints with the OSC or Merit Systems Protection Board (MSPB) as described below, though the OSC may opt not to become involved until the OIG's investigation is concluded. Please note that employees and applicants for employment at agencies other than OPM should refer to their own agency's guidelines regarding whistleblower protection. [Click here to learn how to contact the OPM OIG Hotline.](#)
- **The Office of Special Counsel.** OSC is an independent federal agency with responsibility to receive, investigate, and prosecute allegations of prohibited personnel practices, including whistleblower retaliation. OSC has authority to seek corrective action (such as back pay and reinstatement) on behalf of victims of whistleblower retaliation, either by negotiation with the employing agency or by seeking an order from the MSPB. Additionally, OSC is authorized to file complaints at the MSPB to seek disciplinary action against individuals who commit prohibited personnel practices. More information on how OSC processes complaints may be found on their [website](#).
- **The Merit Systems Protection Board.** Generally, an employee alleging whistleblower retaliation may bring an individual right of action to the MSPB only if the employee has first filed a complaint with the OSC and the OSC has opted not to seek corrective action on the employee's behalf. However, certain

personnel actions are appealable directly to the MSPB, regardless of whether whistleblower retaliation is a component of the complaint. More information on how the MSPB processes [whistleblower](#) appeals may be found on the MSPB's website.

## Special Procedures for Disclosures Involving Classified Information

A disclosure of fraud, waste, or abuse that includes classified information is not a protected disclosure under the whistleblower laws unless the disclosure is made in accordance with the laws and rules that govern the proper handling and transmission of classified information. For example, you are not protected for disclosing classified information to an unauthorized recipient, even if you reasonably believe that the information is evidence of fraud, waste or abuse. You can make a protected disclosure of classified information to the OIG, but the information **may not be transmitted** using the OIG's unclassified hotline. For more information on how to properly provide classified information to the OIG, please contact the OIG's [Hotline](#) or the OIG Whistleblower Protection Coordinator at [OPMOIGWhistleblower@opm.gov](mailto:OPMOIGWhistleblower@opm.gov).

## Nondisclosure Agreements: Special Requirements

The Whistleblower Protection Enhancement Act of 2012 prohibits agencies from issuing or enforcing nondisclosure agreements, policies, or forms that do not contain the following statement:

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

## Special Prohibition on Retaliatory Security Clearance Actions

[Presidential Policy Directive 19 \(PPD-19\)](#) makes it unlawful for an agency to take any action affecting an employee's eligibility for access to classified information in reprisal for making a protected disclosure.

PPD-19 requires OPM and other Federal agencies to establish a review process that enables an employee to appeal an action affecting the employee's eligibility for access to classified information, if the employee believes that the action was taken in reprisal for a protected disclosure. This process includes an OIG investigation and report to the Director of OPM that may recommend corrective or disciplinary action. Any OPM employee whose security clearance is denied or revoked should receive a notice from OPM's Facilities, Security and Emergency Management office that addresses the [review and appeals process](#).

# Whistleblower Protection for OPM Contractors, Subcontractors, Grantees, Sub-Grantees, and Personal Services Contractors

Federal law protects employees of Federal contractors, subcontractors, grantees, sub-grantees, and personal service contractors from reprisal concerning protected disclosures about Federal contracts or grants. 41 U.S.C. § 4712.

## How to File Whistleblower Retaliation Complaints

Employees of contractors, subcontractors, grantees, sub-grantees, and personal services contractors, may file reprisal complaints through the [OIG Hotline](#). Protected employees have three years from the date of the alleged retaliatory action to file a reprisal complaint.

## **Protected Disclosures Under Contractor Whistleblower Protection Laws**

As provided, these protected employees of Federal contractors, subcontractors, grantees, sub-grantees, and personal services contractors, may not be discharged, demoted, or otherwise discriminated against for making a protected disclosure about a Federal contract or grant that the employee reasonably believes is evidence of:

- gross mismanagement of a Federal contract or grant;
- an abuse of authority relating to a Federal contract or grant;
- a substantial and specific danger to public health or safety; or
- a violation of law, rule, or regulation related to a Federal contract or grant.

## **Authorized Recipients of Protected Disclosures**

Protected disclosures in this context include information shared with:

- Members of Congress or representatives of congressional committees;
- an Inspector General;
- the Government Accountability Office;
- a Federal employee responsible for contract or grant oversight or management;
- an authorized official of the Department of Justice or other law enforcement agency;
- a court or grand jury; or
- a manager or other employee of the contractor, subcontractor, grantee, sub-grantee, or personal services contractor who has responsibility for investigating, discovering, or addressing misconduct.

## **Process for Investigating and Responding to Contractor Employees' Whistleblower Retaliation Complaints**

Within 180 days following receipt of a complaint, or within any extended time period up to 180 days as agreed to with the complainant, the OPM OIG will either:

- Investigate the complaint and submit a report of findings to the Director of OPM, the person who submitted the complaint, and the person's employer; or
- Dismiss the complaint based on a determination that it is frivolous, fails to allege a violation of the whistleblower protection law, or has already been addressed in another judicial or administrative proceeding initiated by the complainant.

The Director will review the OPM OIG's report and determine whether there is sufficient basis to conclude that the contractor or subcontractor has subjected the employee to a prohibited reprisal. The Director will issue an order within 30 days following receipt of the report either denying relief or directing one or more of the following corrective actions:

- Order the contractor or subcontractor to take affirmative action to abate the reprisal;
- Order the contractor or subcontractor to reinstate the complainant to the position held before the reprisal, providing compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply if the reprisal had not been taken; and
- Order the contractor or subcontractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably

incurred by the complainant for, or in connection with, bringing the complaint, as determined by the Director.

If the Director denies relief or if no action has been taken within 210 days of receipt of the complaint (or 30 days following expiration of any extension agreed to between OPM OIG and the complainant), the complainant may bring an action in an appropriate United States district court against their employer as provided in 41 U.S.C. § 4712. Complainants should consult 41 U.S.C. § 4712 for more information regarding filing deadlines.

If the Director orders a corrective action and the contractor or subcontractor fails to comply, the Director will file an action for enforcement in the appropriate United States district court. The complainant may also file or join such an action seeking enforcement of such an order.

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