



UNITED STATES DEPARTMENT OF COMMERCE
OFFICE OF INSPECTOR GENERAL

Whistleblower Protection Frequently Asked Questions (FAQs)

1. Q: What is the Whistleblower Protection Enhancement Act of 2012?

A: In 2012 Congress passed and the President signed into law the [Whistleblower Protection Enhancement Act](#) (WPEA), directing every Inspector General to designate a Whistleblower Protection Ombudsperson whose primary purpose is to educate employees about the prohibitions on retaliation for protected disclosures, and the rights and remedies afforded to those retaliated against. It is important to note the law explicitly bars the Ombudsperson from providing legal counsel or advocating for employees.

2. Q: Who is considered a whistleblower under the Act?

A: Government employees who make protected disclosures in specified categories.

3. Q: What is a protected disclosure?

A: A protected disclosure is anything reported that the disclosing individual reasonably believes evidences a violation of any law, regulation, or rule, as well as gross mismanagement or waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Protected disclosures can be made to many individuals, including to a supervisor, someone higher up in management, or a member of Congress, as described in Question 4 below.

4. Q: How do you make a disclosure?

A: Federal employees have many options to make a protected disclosure. They include:

- Telling a supervisor, someone higher up in management, or a member of Congress;
- Reporting the issue to their agency's [Office of Inspector General \(OIG\)](#);
- Filing a complaint with the [Office of Special Counsel \(OSC\)](#), an independent federal agency that investigates prohibited personnel practices, including whistleblower retaliation claims.

5. Q: Can I keep my identity confidential?

A: Yes. The Department of Commerce OIG has a [hotline](#) that allows employees to make confidential disclosures. Inspectors General are prohibited from disclosing an employee's identity without the employee's consent; however, if it is determined that disclosure is unavoidable, the IG may have to disclose such information. Federal employees may also file a complaint anonymously. The confidentiality of complainants to [OSC](#) is similarly protected.

6. Q: Are whistleblowers protected from retaliation?

A: Yes. The [Whistleblower Protection Act, as amended](#) prohibits retaliation. This means it is unlawful for agencies to take or threaten to take a personnel action against an employee because he or she disclosed wrongdoing or other issues protected by the Whistleblower Protection Act. Personnel actions can include a poor performance review, demotion, suspension, termination, or revocation or downgrade of a security clearance. In addition, the law prohibits retaliation for:

- Filing an appeal, complaint, or grievance;
- Helping someone else file an appeal, complaint, grievance, or testifying on a complainant's behalf;
- Cooperating with or disclosing information to the [OSC](#) or an Inspector General; or
- Refusing to obey an unlawful order.

7. Q: Are disclosures to Congress protected?

A: Yes. Federal law has established that a federal employee has the right to communicate with and provide information to Congress.

8. Q: What can you do if you believe whistleblower retaliation occurred?

A: If you believe that an agency has retaliated against you because of your whistleblowing, you can:

- File a complaint with [OSC](#), which may seek corrective action when warranted;
- File a union grievance; or
- If you have been subject to or threatened with certain types of personnel actions, you can file an appeal with the [Merit Systems Protection Board \(MSPB\)](#) and assert whistleblower retaliation as a contributing factor. Depending on the type of personnel action at issue, you may be required to first file a complaint with [OSC](#).

Please note the OIG can only recommend corrective action or remedies to the Agency whereas OSC can request or recommend corrective action to the Agency, and if the Agency does not comply, OSC can petition the MSPB to compel action.

9. Q: What relief is available to an employee who has suffered retaliation for whistleblowing?

A: Many forms of relief are available. They include:

- Job restoration;
- Reversal of suspensions or other adverse actions;
- Back pay and benefits;

- Other reasonable and foreseeable consequential damages, such as medical costs, travel expenses, and other out-of-pocket costs;
- Compensatory damages; and
- Attorney fees and costs.

10. Q: Can a manager be held accountable for retaliating against a whistleblower?

A: Yes. [OSC](#) may seek disciplinary action against any employee who commits a prohibited personnel practice. If an agency fails to take disciplinary action, then [OSC](#) can bring a disciplinary action case to the [MSPB](#) against the employee who committed the prohibited personnel practice. If the [MSPB](#) finds that an individual has committed a prohibited personnel practice, it can order disciplinary action, including removal or reduction in grade, debarment from Federal employment for up to 5 years, suspension, reprimand, or a fine of up to \$1,000.

11. Q: As the employee of a contractor, subcontractor, or grant recipient, am I protected from retaliation for whistleblowing?

A. Section 828 of the [National Defense Authorization Act for Fiscal Year 2013](#) extended whistleblower protections to employees of government contractors, subcontractors, and grant recipients. The law prohibits reprisal against employees of contractors, subcontractors, or grantees for coming forward with information that they reasonably believe is evidence of “gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, 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 (including the competition for or negotiation of a contract) or grant.” A contractor employee who believes that he or she has been subjected to prohibited reprisal may submit a complaint through the [OIG Hotline](#).

12. Q: To whom may questions regarding the Whistleblower Protection Program be addressed?

A: Any questions or issues related to whistleblowing protections at the Department of Commerce may be addressed with the OIG Whistleblower Protection Ombudsperson, Cecelia Wilson, at 202-482-1099.

The Ombudsperson’s role is to educate employees about prohibitions on retaliation for protected disclosures, as well as the rights and remedies for employees who are retaliated against for making protected disclosures. The Whistleblower Protection Ombudsperson is available to speak directly with employees who have questions about prohibited personnel practices, retaliatory actions, and about whistleblower rights, and potential remedies that exist for employees that face retaliation. However, please note that the [WPEA](#) explicitly prohibits the Whistleblower Protection Ombudsperson from acting as a legal representative, agent, or advocate for employees.

REPORT

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