

PART 1800—FILING OF COMPLAINTS AND ALLEGATIONS

Sec.

1800.1 Filing complaints of prohibited personnel practices or other prohibited activities.

1800.2 Filing disclosures of information.

1800.3 Advisory opinions.

AUTHORITY: 5 U.S.C. 1212(e).

§1800.1 Filing complaints of prohibited personnel practices or other prohibited activities.

(a) The Office of Special Counsel (OSC) has investigative jurisdiction over the following prohibited personnel practices against current or former Federal employees and applicants for Federal employment:

(1) Discrimination, including discrimination based on marital status or political affiliation (see §1810.1 of this chapter for information about OSC's deferral policy);

(2) Soliciting or considering improper recommendations or statements about individuals requesting, or under consideration for, personnel actions;

(3) Coercing political activity, or engaging in reprisal for refusal to engage in political activity;

(4) Deceiving or obstructing anyone with respect to competition for employment;

(5) Influencing anyone to withdraw from competition to improve or injure the employment prospects of another;

(6) Granting an unauthorized preference or advantage to improve or injure the employment prospects of another;

(7) Nepotism;

(8) Reprisal for whistleblowing (whistleblowing is generally defined as the disclosure of information about a Federal agency by an employee or applicant who reasonably believes that the information shows a violation of any law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety);

(9) Reprisal for:

(i) Exercising certain appeal rights;

(ii) Providing testimony or other assistance to persons exercising appeal rights;

(iii) Cooperating with the Special Counsel or an Inspector General; or

(iv) Refusing to obey an order that would require the violation of law;

(10) Discrimination based on personal conduct not adverse to job performance;

(11) Violation of a veterans' preference requirement; and

(12) Taking or failing to take a personnel action in violation of any law, rule, or regulation implementing or directly concerning merit system principles at 5 U.S.C. 2301(b).

(b) OSC also has investigative jurisdiction over allegations of the following prohibited activities:

(1) Violation of the Federal Hatch Act at title 5 of the U.S. Code, chapter 73, subchapter III;

(2) Violation of the state and local Hatch Act at title 5 of the U.S. Code, chapter 15;

(3) Arbitrary and capricious withholding of information prohibited under the Freedom of Information Act at 5 U.S.C. 552 (except for certain foreign and counterintelligence information);

(4) Activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking;

(5) Involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action (unless the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure); and

(6) Violation of uniformed services employment and reemployment rights under 38 U.S.C. 4301, *et seq.*

(c) Complaints of prohibited personnel practices or other prohibited activities within OSC's investigative jurisdiction should be sent to: U.S. Office of Special Counsel, Complaints Examining Unit, 1730 M Street, NW, Suite 201, Washington, DC 20036-4505.

(d) Complaints alleging a prohibited personnel practice, or a prohibited activity other than a Hatch Act violation, must be submitted on Form OSC-11 ("Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity").

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(1) The form includes a section (Part 2) that must be completed in connection with allegations of reprisal for whistleblowing, including identification of:

- (i) Each disclosure involved;
- (ii) The date of each disclosure;
- (iii) The person to whom each disclosure was made; and
- (iv) The type and date of any personnel action that occurred because of each disclosure.

(2) If a complainant who has alleged reprisal for whistleblowing seeks to supplement a pending OSC complaint by reporting a new disclosure or personnel action, then, at OSC's discretion:

- (i) The complainant will be required to document the disclosure or personnel action in the Part 2 format, or
- (ii) OSC will document the disclosure or personnel action in the Part 2 format, a copy of which will be provided to the complainant upon OSC's closure of the complaint.

(e) Form OSC–11 is available by writing to OSC at the address shown in paragraph (c) of this section; by calling OSC at (1) (800) 872–9855; or by printing the form from OSC's Web site (at <http://www.osc.gov>).

(f) Except for complaints alleging only a Hatch Act violation, OSC will not process a complaint submitted in any format other than a completed Form OSC–11. If a person uses a format other than the required OSC form to file a complaint (other than a Hatch Act allegation), the material received by OSC will be returned to the filer with a blank Form OSC–11 to complete and return to OSC. The complaint will be considered to be filed on the date on which OSC receives the completed Form OSC–11.

(g) Complaints alleging only a Hatch Act violation may be submitted in any written form to the address shown in paragraph (c) of this section, but should include:

(1) The name, mailing address, and telephone number(s) of the complainant(s), and a time when the person(s) making the complaint(s) can be safely contacted, unless the matter is submitted anonymously;

(2) The department or agency, location, and organizational unit complained of; and

(3) A concise description of the actions complained about, names and positions of employees who took these actions, if known to the complainant, and dates, preferably in chronological order, together with any documentary evidence the complainant may have.

[65 FR 64882, Oct. 31, 2000, as amended at 67 FR 78321, Dec. 24, 2002]

§ 1800.2 Filing disclosures of information.

(a) OSC is authorized by law (at 5 U.S.C. 1213) to provide an independent and secure channel for use by current or former Federal employees and applicants for Federal employment in disclosing information that they reasonably believe shows wrongdoing by a Federal agency. The law requires OSC to determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety. If so, OSC must refer the information to the agency head involved for investigation and a written report on the findings to the Special Counsel. The law does not give OSC jurisdiction to investigate the disclosure.

(b) Employees, former employees, or applicants for employment wishing to file a whistleblower disclosure with OSC should send the information to: U.S. Office of Special Counsel, Disclosure Unit, 1730 M Street, NW, Suite 201, Washington, DC 20036–4505.

(c) A disclosure of the type of information described in paragraph (a) of this section should be submitted in writing, using any of the following formats:

(1) Filers may use Form OSC–12 (“Disclosure of Information”), which provides more information about OSC jurisdiction and procedures for processing whistleblower disclosures. This form is available from OSC by writing to the address shown in paragraph (b) of this section; by calling OSC at (1) (800) 572–2249; or by printing the form from OSC's Web site (at <http://www.osc.gov>).

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(2) Filers may use another written format, but the submission should include:

(i) The name, mailing address, and telephone number(s) of the person(s) making the disclosure(s), and a time when that person(s) can be safely contacted by OSC;

(ii) The department or agency, location and organizational unit complained of; and

(iii) A statement as to whether the filer consents to the disclosure of his or her identity to the agency by OSC in connection with any referral to the appropriate agency.

[65 FR 64883, Oct. 31, 2000]

§ 1800.3 Advisory opinions.

The Special Counsel is authorized to issue advisory opinions only concerning Chapter 15 of Title 5, United States Code (dealing with political activity of State or local officers and employees) and Subchapter III of Chapter 73 of Title 5, United States Code (dealing with political activity of Federal officers and employees). Requesters may telephone the Office of Special Counsel toll free at 1-800-872-9855, or (202)/FTS 653-7143 in the Washington, DC, area, or make such requests in writing to the Office of Special Counsel, 1730 M Street, NW., Suite 201, Washington, DC 20036-4505.

[54 FR 47341, Nov. 14, 1989, as amended at 59 FR 64843, Dec. 16, 1994; 65 FR 81325, Dec. 26, 2000]

PART 1810—INVESTIGATIVE AUTHORITY OF THE SPECIAL COUNSEL

AUTHORITY: 5 U.S.C. 1212(e).

§ 1810.1 Investigative policy in discrimination complaints.

The Special Counsel is authorized to investigate allegations of discrimination prohibited by law, as defined in 5 U.S.C. 2302(b)(1). Since procedures for investigating discrimination complaints have already been established in the agencies and the Equal Employment Opportunity Commission, the Special Counsel will normally avoid duplicating those procedures and will defer to those procedures rather than

initiating an independent investigation.

[54 FR 47342, Nov. 14, 1989]

PART 1820—PUBLIC INFORMATION

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AUTHORITY: 5 U.S.C. 552(a)(3), 552(a)(4), 1212(g), 1219.

SOURCE: 54 FR 47342, Nov. 14, 1989, unless otherwise noted.

§ 1820.1 Public list.

(a) Pursuant to 5 U.S.C. 1219, the Special Counsel maintains and makes available to the public a list of:

(1) Noncriminal matters referred to heads of agencies under 5 U.S.C. 1213 (c) and (g)(1), and reports received as a result of such referrals;

(2) Matters referred by the Special Counsel to heads of agencies under 5 U.S.C. 1215(c)(2); and

(3) Matters referred to heads of agencies under 5 U.S.C. 1214(e), together with certifications from the heads of agencies under such subsection.

(b) The list is available to the public between 8:30 a.m. and 5 p.m. weekdays (except legal holidays) in the Office of Special Counsel, 1730 M Street NW., Suite 201, Washington, DC 20036-4505.

[55 FR 47342, Nov. 14, 1989, as amended at 55 FR 47839, Nov. 16, 1990; 59 FR 64843, Dec. 16, 1994; 65 FR 81325, Dec. 26, 2000]

§ 1820.2 Procedures for obtaining records under the Freedom of Information Act.

Requests for records shall be made in writing. Requests should be addressed to the Office of Special Counsel, 1730 M Street NW., Suite 201, Washington, DC 20036-4505. Requests must be clearly and prominently marked "Freedom of