



YOUR RIGHTS AS A FEDERAL EMPLOYEE

—enforced by—

THE U.S. OFFICE OF SPECIAL COUNSEL

- I. The U.S. Office of Special Counsel (OSC) is an independent federal agency that investigates and prosecutes allegations of prohibited personnel practices (PPP).

What is a PPP?

Under 5 U.S.C. §2302(b)(1) – (b)(13) a federal employee authorized to take, direct others to take, recommend or approve any personnel action may not:

1. Discriminate (including discrimination based on marital status and political affiliation).
Supervisor Joe refuses to promote employee Jane because Jane is a registered Republican, or his refusal is because she is a single mother. (OSC will generally defer Title VII discrimination allegations to the EEO process, rather than duplicating already existing procedures.)
2. Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.
Selecting official Joe hires applicant Jack based on Senator Smith's recommendation that Jack be hired because Jack is a constituent, or fails to hire applicant Jane because of Congressman Smith's recommendation based on the Congressman's friendship with Jane's parents.
3. Coerce the political activity of any person, or take action against any employee as reprisal for refusing to engage in political activity.
Supervisor Jane takes away significant job duties of employee Jack because Jack will not make a contribution to Jane's favorite candidate.
4. Deceive or willfully obstruct any person from competing for employment.
Supervisor Joe, located in headquarters, orders that no vacancy announcements be posted in the field office where employee Jack works because he does not want Jack to get a new job, or falsely states that there will be extensive travel in the position when he knows that there is no travel.
5. Influence any person to withdraw from competition for a position to improve or injure the employment prospects of any other person.
Supervisor Jane, in an effort to hire employee Joe, tells employee Jack that he should not apply for a position because he is not qualified and will never be selected. Employee Jack is qualified.
6. Give an unauthorized preference to a person to improve or injure the employment prospects of any particular employee or applicant.
Supervisor Jane specifies that Spanish-speaking skills are necessary for a vacant position, for the purpose of selecting employee Jack, who speaks fluent Spanish. The position, however, does not require Spanish-speaking skills.
7. Engage in nepotism.
Second-level supervisor Jane asks first-level supervisor Joe to hire her son or to promote her daughter.
8. Take a personnel action against an employee because of whistleblowing.
Supervisor Joe directs the geographic reassignment of employee Jack because Jack reported safety violations to the agency's Inspector General, or because employee Jill reported a gross waste of funds to the Office of Internal Affairs.
9. Take a personnel action against any employee because of the exercise of an appeal, complaint, or grievance right.

Supervisor Jane places employee Jack on an undesirable detail because employee Jack filed an administrative grievance about his performance rating.

10. Discriminate against an employee on the basis of conduct, which does not adversely affect the performance of the employee.
Jack's employment is terminated because he is gay.
11. Take or fail to take a personnel action, if such action would violate a veterans' preference requirement.
Supervisor Jane hired employee Jack, without considering veteran Jennifer, who was included on the list of eligible employees. (OSC's jurisdiction is for disciplinary actions only; the Dep't of Labor has jurisdiction to investigate for corrective actions.)
12. Take a personnel action against an employee which violates a law, rule, or regulation which implements a merit systems principle.
Supervisor Joe terminates the probationary appointment of employee Jack because of Jack's letter to the editor criticizing affirmative action – a valid exercise of First Amendment rights, a law implementing a merit system principle.
13. Implement or enforce a nondisclosure agreement or policy lacking notification of whistleblower rights.
A manager requires all employees in his program to sign a non-disclosure agreement that prohibits the employees from discussing the program in any way, and fails to notify employees of protected channels for making disclosures.

What can you do if you believe a PPP has been committed?

An employee who believes a PPP has been committed can file a written complaint with the U.S. Office of Special Counsel. Complaint forms are available on the Web at www.osc.gov. Employees do not need attorneys to file a complaint. OSC is an independent and prosecutorial agency. It will investigate allegations of prohibited personnel practices, and seek any corrective and disciplinary action.

II. OSC receives confidential disclosures and enforces the Hatch Act.

Receiving Confidential Disclosures (5 U.S.C. § 1213):

Current and former federal employees and applicants can confidentially report information evidencing a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. OSC has the authority to require the head of the agency concerned to investigate the matter if OSC determines that a disclosure has been made.

Enforcing the Hatch Act (5 U.S.C. § 7321-26):

The Office of Special Counsel is authorized to issue advisory opinions that respond to federal employee questions about whether or not they may engage in specific political activities under the Act. The OSC also prosecutes violations of the Hatch Act before the Merit Systems Protection Board. These violations include: using official authority to interfere with an election result; soliciting, accepting or receiving political contributions; soliciting or discouraging political activity of persons before the employing agency; and running for public office in a partisan political election.

III. OSC also enforces the Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA protects military service members and veterans from employment discrimination on the basis of their service, and allows them to regain their civilian jobs following a period of uniformed service. USERRA applies to both public and private employers. The Office of Special Counsel, in conjunction with the Department of Labor, investigates and enforces USERRA claims involving federal government employers.

USERRA complaints must be filed with the Department of Labor, Veterans Employment and Training Service (DOL-VETS) at www.dol.gov/vets.

U.S. Office of Special Counsel

1730 M Street, N.W., Suite 218 | Washington, D.C. 20036
Tel: (202) 254-3600 | Fax: (202) 254-3711 | TTY: 1-800-877-8339 |

www.osc.gov

Rev. 05/2015