

# **TRANSPORTATION SECURITY ADMINISTRATION (TSA) SECURITY SCREENERS**

## **HOW TO FILE A WHISTLEBLOWER COMPLAINT FOR PERSONNEL ACTION(S) OCCURRING BEFORE MARCH 1, 2003 WITH THE U.S. OFFICE OF SPECIAL COUNSEL**

**I. THE U.S. OFFICE OF SPECIAL COUNSEL (OSC) is an independent agency with the authority to investigate and prosecute allegations of prohibited personnel practices from federal employees. For personnel actions occurring on or after March 1, 2003, all TSA employees may file complaints with OSC under 5 U.S.C. §§ 2302(b)(1) [discrimination], (b)(8) [retaliation for protected whistleblowing], and (b)(9) [retaliation for engaging in protected activities]. OSC will process these complaints under its regular procedures, including filing petitions with the Merit Systems Protection Board, if warranted, under the authority of § 883 of the Homeland Security Act of 2002 (Pub. L. No. 107-296, 116 Stat. 2135). For personnel actions occurring before March 1, 2003, however, OSC has the more limited authority to investigate allegations of whistleblower retaliation and recommend corrective or disciplinary action when warranted. This authority is derived from a Memorandum of Understanding between OSC and TSA executed on May 28, 2002, and TSA Directive HRM Letter No. 1800-01 issued on November 20, 2002.**

### **WHAT IS WHISTLEBLOWER RETALIATION?**

Under Transportation Security Administration (TSA) Directive # HRM Letter No. 1800-01, a federal employee authorized to take, direct others to take, recommend or approve any personnel action may not:

**Take any personnel action against an employee because of protected whistleblowing.**

*EXAMPLE: Supervisor Joe directs the geographic reassignment of Employee Jack because Jack reported safety violations to senior agency officials.*

**Protected whistleblowing is defined as disclosing information which the discloser reasonably believes evidences:**

- 1.** a violation of law, rule, or regulation,
- 2.** gross mismanagement,
- 3.** gross waste of funds,
- 4.** an abuse of authority, or
- 5.** a substantial and specific danger to public health or safety.

## What You Can Do If You Believe Whistleblower Retaliation Has Occurred

If you believe that you have been subject to retaliation for protected whistleblowing you can file a written complaint with OSC. Employees do not need attorneys to file a complaint.

**All complaints must be submitted on OSC Form 11. (Complaint of Prohibited Personnel Practice or Other Prohibited Activity) OSC will not process complaints submitted in any format other than a completed Form OSC-11. Form OSC-11 may be printed directly from the OSC web site at [www.osc.gov](http://www.osc.gov) (see Forms and Publications). To receive a mailed copy of Form OSC-11, you may contact OSC at (800) 872-9855 or (202) 653-7188.**

*Note: Form OSC-11 and OSC's web site reference multiple prohibited personnel practices and discuss federal employees' right to file an appeal with the Merit Systems Protection Board (MSPB). However, as noted above, with respect to personnel actions occurring before March 1, 2003 OSC's, authority to investigate complaints from TSA security screeners is limited to allegations of whistleblower retaliation. In addition, TSA security screeners do not have the right to file appeals with the MSPB.*

## II. The U.S. Office of Special Counsel Also 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 it 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. 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 anyone with business before the employing agency; and, running for public office in a partisan election.

## Need Additional Information?

- Information on filing a whistleblower complaint: 202-653-7188 or 800-872-9855.
- Information on making a disclosure: 202-653-9125 or 800-572-2249.
- Information on the Hatch Act: 202-653-7143 or 800-854-2824
- Document Links for information on whistleblower protections provided by OSC to TSA security screeners - visit our web page: <http://www.osc.gov/tsa-info.htm>



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This document is available, in color, at <http://www.osc.gov/documents/tsa/tsa1.pdf>

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