

PART 1800—FILING OF COMPLAINTS AND ALLEGATIONS

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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) *Prohibited personnel practices.* The Office of Special Counsel (OSC) has investigative jurisdiction over the following prohibited personnel practices committed 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) *Other prohibited activities.* 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) *Procedures for filing complaints alleging prohibited personnel practices or other prohibited activities (other than the Hatch Act).* (1) Current or former Federal employees, and applicants for Federal employment, may file a complaint with OSC alleging one or more prohibited personnel practices, or other prohibited activities within OSC's investigative jurisdiction. Form OSC-11

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(“Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity”) must be used to file all such complaints (except those limited to an allegation or allegations of a Hatch Act violation - *see* paragraph (d) of this section for information on filing Hatch Act complaints).

(2) Part 2 of Form OSC-11 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.

(3) Except for complaints limited to alleged violation(s) of the Hatch Act, OSC will not process a complaint filed in any format other than a completed Form OSC-11. If a filer does not use Form OSC-11 to submit a complaint, OSC will provide the filer with information about the form. The complaint will be considered to be filed on the date on which OSC receives a completed Form OSC-11.

(4) Form OSC-11 is available:

(i) By writing to OSC, at: Office of Special Counsel, Complaints Examining Unit, 1730 M Street NW., Suite 218, Washington, DC 20036-4505;

(ii) By calling OSC, at: (800) 872-9855 (toll-free), or (202) 653-7188 (in the Washington, DC area); or

(iii) Online, at: <http://www.osc.gov> (to print out and complete on paper, or to complete online).

(5) A complainant can file a completed Form OSC-11 with OSC by any of the following methods:

(i) By mail, to: Office of Special Counsel, Complaints Examining Unit, 1730 M Street NW., Suite 218, Washington, DC 20036-4505;

(ii) By fax, to: (202) 653-5151; or

(iii) Electronically, at: <http://www.osc.gov>.

(d) *Procedures for filing complaints alleging violation of the Hatch Act.* (1) Complaints alleging a violation of the Hatch Act may be submitted in any written form, but should include:

(i) The complainant’s name, mailing address, telephone number, and a time when OSC can contact that person

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about his or her complaint (unless the matter is submitted anonymously);

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

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

(2) A written Hatch Act complaint can be filed with OSC by any of the methods listed in paragraph (c)(5)(i)-(iii) of this section.

[68 FR 66695, Nov. 28, 2003]

§ 1800.2 Filing disclosures of information.

(a) *General.* 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. OSC must 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 it does, the law requires OSC to 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 authorize OSC to investigate the subject of a disclosure.

(b) *Procedures for filing disclosures.* Current or former Federal employees, and applicants for Federal employment, may file a disclosure of the type of information described in paragraph (a) of this section with OSC. Such disclosures must be filed in writing (including electronically - *see* paragraph (b)(3)(iii) of this section).

(1) Filers are encouraged to use Form OSC-12 (“Disclosure of Information”) to file a disclosure of the type of information described in paragraph (a) of this section with OSC. This form provides more information about OSC jurisdiction, and procedures for processing

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whistleblower disclosures. Form OSC-12 is available:

(i) By writing to OSC, at: Office of Special Counsel, Disclosure Unit, 1730 M Street NW., Suite 218, Washington, DC 20036-4505;

(ii) By calling OSC, at: (800) 572-2249 (toll-free), or (202) 653-9125 (in the Washington, DC area); or

(iii) Online, at: <http://www.osc.gov> (to print out and complete on paper, or to complete online).

(2) Filers may use another written format to submit a disclosure to OSC, 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 OSC can contact that person about his or her disclosure;

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

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

(3) A disclosure can be filed in writing with OSC by any of the following methods:

(i) By mail, to: Office of Special Counsel, Disclosure Unit, 1730 M Street NW., Suite 218, Washington, DC 20036-4505;

(ii) By fax, to: (202) 653-5151; or

(iii) Electronically, at: <http://www.osc.gov>.

[68 FR 66696, Nov. 28, 2003]

§ 1800.3 Advisory opinions.

The Special Counsel is authorized to issue advisory opinions only about political activity of state or local officers and employees (under title 5 of the United States Code, at chapter 15), and political activity of Federal officers and employees (under title 5 of the United States Code, at chapter 73, subchapter III). A person can seek an advisory opinion from OSC by any of the following methods:

(a) By phone, at: (800) 854-2824 (toll-free), or (202) 653-7143 (in the Washington, DC area);

(b) By mail, to: Office of Special Counsel, Hatch Act Unit, 1730 M Street NW., Suite 218, Washington, DC 20036-4505;

(c) By fax, to: (202) 653-5151; or

(d) By e-mail, to: hatchact@osc.gov.

[68 FR 66697, Nov. 28, 2003]

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—FREEDOM OF INFORMATION ACT REQUESTS; PRODUCTION OF RECORDS OR TESTIMONY

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1820.1 General provisions.

1820.2 Requirements for making FOIA requests.

1820.3 Consultations and referrals.

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1820.5 Responses to requests.

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1820.7 Fees.

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1820.9 Other rights and services.

1820.10 Production of official records or testimony in legal proceedings.

AUTHORITY: 5 U.S.C. 552 and 1212(e); Executive Order No. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

SOURCE: 72 FR 40711, July 25, 2007, unless otherwise noted.

§ 1820.1 General provisions.

This part contains rules and procedures followed by the Office of Special Counsel (OSC) in processing requests for records under the Freedom of Information Act (FOIA), as amended, at 5 U.S.C. 552. These rules and procedures