

EMPLOYEE RIGHTS AND REMEDIES

Employee Rights and Remedies include Prohibited Personnel Practice, Whistleblower Protection Act, and the Hatch Act. Some of the key statutes are the Civil Service Reform Act of 1978 (P.L. 98-454), Whistleblower Protection Act of 1989 (P.L. 103-242), 1993 Federal Hatch Act (P.L. 103-94). The responsibilities of agency officials are the following. Persons with personnel management authority are responsible for: a. preventing prohibited personnel practices, b. complying with and enforcing civil service laws, rules and regulations, c. ensuring employees are informed of their rights and remedies under 5 U.S.C. chapters 12 and 23. The covered personnel actions are appointment or promotion; detail, transfer, reassignment, reinstatement, restoration, or reemployment; adverse or disciplinary actions; performance evaluations; decisions about certain pay, benefits, awards, education or training; decisions to order psychiatric testing or examination; any other significant change in duties, responsibilities or working conditions. For prohibited personnel practice, covered positions are: competitive service, career Senior Executive Service (SES), excepted service, department of veterans' affairs appointed under title 38, and U.S. code for medical care personnel. Any individual who exercises personnel authority shall not: (a) discriminate based on race, color, religion, sex, national origin, age, handicapping condition, marital status or political affiliation; (b) solicit or consider an employment recommendation based on the factors other than personal knowledge or records of job-related abilities or characteristics; (c) coerce the political activity of any person's refusal to engage in political activity of any person's refusal to engage in political activity; (d) deceive or willfully obstruct a person from competing for employment; (e) influence a person to withdraw from competition for any position to improve or injure the prospects of any other person for employment; (f) give an unauthorized preference or advantage to any employee or applicant to improve or injure the prospects of any other person for employment; (g) engage in nepotism; (h) take, fail to take, or threaten to take a personnel action against an employee for any disclosure of information which the employee reasonably believes evidences a violation of 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; (I) take, fail to take, or threaten to take a personnel action against an employee for the exercise of an appeal, complaint or grievance right, testifying for or assisting another in the exercise of such a right, cooperating with or disclosing information to an inspector general or the special counsel, or refusing to obey an order that would require the individual to violate a law; (j) discriminated based on personal conduct not adverse to on-the-job performance of an employee, applicant or other; (k) violate any law, rule, or regulation. The office of special counsel is authorized to : investigate prohibited personnel practices and other activities prohibited by civil service law, rule or regulation, and initiate appropriate corrective and disciplinary action; provide a safe channel for Whistleblower disclosures by federal employees, former employees, and applicants for employment; provide advice on political activity applicable to federal, state and local government employees. The Merit Systems Protection Board (MSPB) is authorized to: (a) hear and decide cases filed by federal employees and the office of special counsel; (b) order, in cases involving alleged reprisal for Whistle blowing, a stay of personnel action or corrective action; (c) issue and enforce witness protection orders. Corrective Action is a remedy for prohibited personnel practices (including reprisal for Whistle blowing). Examples of corrective Action include job restoration, reimbursement of attorney's fees, back pay, medical and other costs and damages. Disciplinary action may be sought by the office of special counsel for: prohibited personnel practice (including reprisal for Whistleblower), Hatch Act violations, and other violations of civil service law, rule or regulation. Disciplinary action may be sought by the office of special counsel from: The Merit System Protection Board, Agency Heads (for uniformed service members, contractors), and the President (for Foreign Service). Possible penalties include removal, reduction in grade, suspension or reprimand, debarment from federal employment (up to five years), and civil penalty (up to \$1,000). Rights of a charged employee include the opportunity to respond, legal representation, and a written decision. Reprisal for Whistle blowing is prohibited for an employee with personnel authority to take, fail to take, or threaten to take personnel action against an employee or applicant because of any disclosure of information which the employee or applicant reasonably believes evidences a violation of any law, rule or regulation, gross mismanagement, gross waste of funds, an abuse of authority, or substantial and specific danger to public health and safety. An Individual Right of Action (IRA) is limited to claims of actual and threatened reprisal for a whistleblower. An IRA can be filed by employee, former employee or an applicant for employment. An individual may only file an IRA after requesting assistance from office of special counsel, which may seek a stay of personnel action and corrective action. An IRA can be filed with the Merit Systems Protection Board (MSPB) if the Office of Special Counsel: closes the case after investigation or does not seek corrective action within 120 days. The MSPB can also order a stay of personnel action and corrective action. Corrective Action in Whistleblower reprisal matters can be obtained if disclosure of information