

WHISTLEBLOWER PROTECTIONS AND OBLIGATIONS OF EMPLOYEES

This notice informs District government employees of their protections and obligations under the District law covering whistleblowing (D.C. Official Code § 1-615.51 *et seq.*) (2001 Ed.; 2006 Repl.). The provisions in this law apply to employees of all District government agencies, including but not limited to employees of subordinate agencies, independent agencies, and the D.C. Public Schools, Board of Trustees of the University of the District of Columbia, and District of Columbia Housing Authority. Pursuant to law, District government employees have the following rights or protections, and responsibilities or obligations:

PROTECTIONS AND RIGHTS

- Constitutional rights to first Amendment freedoms of expression, assembly, and individual privacy, including free expression of opinions on all public issues, including those related to the duties that they are assigned to perform. The right to assemble in public places for the free discussion of matters of interest to themselves and to the public and the right to notify, on their own time, fellow employees and the public of these meetings.
- The right to disclose corruption, dishonesty, incompetence, or administrative failures, without fear of retaliation. The disclosure may include unlawfully suppressed information concerning illegal or unethical conduct that threatens or is likely to threaten public health or safety; or information that involves the unlawful appropriation or use of public funds; or information that tends to impeach the testimony of employees of the District government before committees of the Council, or responses of employees to inquiries from members of the Council concerning the implementation of programs, including information that involves the use of public funds.
- The right to communicate with and to respond fully, freely, openly, and candidly to inquiries from Members and committees of the Council of the District of Columbia.
- The right to humane, dignified, and reasonable conditions of employment that allow for career development and job enrichment, and for the unhindered discharge of job responsibilities.
- Employee access to his or her own personnel file, medical report file, or any other file or document concerning his or her status or performance within his or her agency, except as otherwise provided in D.C. Official Code § 1-631.01 *et seq.* (2001 Ed.; 2006 Repl.).

OBLIGATIONS AND RESPONSIBILITIES

- Every employee of the District government is required to make protected disclosures as soon as the employee becomes aware of the violation or misuse of resources. **Protected disclosures** are conveyed to a supervisor or public body, and must relate to fraud, waste, abuse of authority, or a substantial and specific danger to the public health and safety.
- **Public disclosures** include, but are not limited to information about violations of law, rule or regulation, procurement and contract issues that are not merely technical or minimal in nature; misuse of government resources, including gross mismanagement, gross misuse or waste of public resources or funds, and abuse of authority in connection with the administration of a public program or the execution of a public contract.
- Every District government supervisor shall make all protected disclosures involving any violation of law, rule, regulation, or contract as soon as the supervisor becomes aware of the violation. The failure of a supervisor to act upon a specific protected disclosure is a basis for administrative action, including termination.
- Upon receipt of an adjudicative finding that a protected activity was a contributing factor in an alleged prohibited personnel action, the agency head shall immediately institute disciplinary action against the offending supervisor.

PROHIBITION

A supervisor shall not threaten to take or take retaliatory or any other prohibited personnel action against an employee because of the employee's protected disclosure or because of an employee refuses to comply with an illegal order. Violation of this prohibition constitutes a complete affirmative defense for a whistleblower to a prohibited personnel action in an administrative review, challenge, or adjudication of that action.

ENFORCEMENT

An employee aggrieved by a prohibited personnel action or retaliatory action as a result of making a protected disclosure may bring a civil action in the Superior Court of the District of Columbia, or challenge the supervisor's action in an administrative review, arbitration, or adjudication of that action. A civil action shall be filed within 1 year after a violation occurs or within 1 year after the employee first becomes aware of the violation. Judicial relief and damages include, but are not limited to, injunction, reinstatement to the same position held before the prohibited personnel action or to an equivalent position, and reinstatement of the employee's seniority rights, restoration of lost benefits, back pay and interest on back pay, compensatory damages, reasonable costs and attorney fees.

ADDITIONAL INFORMATION

Employees and supervisors interested in learning more about their rights and responsibilities on this subject may refer to the full text of the District government whistleblower law in D.C. Official Code § 1-615.51 *et seq.* (2001 Ed.; 2006 Repl.), as amended; or contact the Office of the Inspector General at 1-800-521-1639.

If you have any questions about your duties, protections which may cover you, including any limits on those protections, or possible financial incentives for reporting misconduct, Thorn Pozen, Special Counsel and D.C. Ethics Counselor, in the Office of the Attorney General; the Office of the Inspector General; or the Office of the General Counsel in the Executive Office of the Mayor.

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