

## Whistleblower Representation

At some point in your federal career, you may see something that you believe is illegal, a gross waste of funds or possibly an abuse of authority by another employee or a supervisor. While federal employees are encouraged to disclose such wrongdoing, they often face retaliation such as changes in duties, denial of a promotion, unsupported disciplinary actions or even removal. The Whistleblower Protection Act protects federal employees from retaliation for making any disclosure that the employee reasonably believes reveals a violation of law, rule or regulation or evidences gross waste, gross mismanagement, an abuse of authority or a substantial and specific threat to public health or safety committed by a government entity, agency, or employee. The attorneys at Tully Rinckey PLLC have extensive experience representing whistleblowers subject to retaliation, including several high profile cases. Our attorneys are available to advise you regarding every stage of the process from making a disclosure to an Inspector General or other oversight agency to the filing of a claim of retaliation with the Office of Special Counsel (OSC) and the resulting investigation to any subsequent appeal to the Merit Systems Protection Board (MSPB)

.Further, if you are a federal contractor, our attorneys can advise you regarding your rights under a variety of federal statutes which provide remedies for whistleblower reprisal, including statutes which protect Department of Defense contractors and contractors who are working on contracts established through the American Recovery and Reinvestment Act. **Frequently Asked Questions About Whistleblower Protections**

What does the Federal Whistleblower Protection Act protect against?

What must I show to prove that I have been retaliated against?

Who will investigate my complaint of reprisal?

What is my remedy?

What does the Federal Whistleblower Protection Act protect against?

The Act prohibits federal employees from taking or threatening to take a personnel action against an employee because of their protected disclosures. A protected disclosure is information that you reasonably believe to be evidence of a violation of law, rule or regulation or gross waste of government funds, gross mismanagement, an abuse of authority or a

substantial and specific threat to public health or safety. Personnel actions are things such as disciplinary actions, denials of promotion, negative performance appraisals, a detail or reassignment and termination. NOTE: Employees of the Federal Bureau of Investigation, Government Accounting Office, Central Intelligence Agency and many other foreign intelligence or counterintelligence agencies are not covered by the Act.

What must I show to prove that I have been retaliated against?

You must prove that you made a protected disclosure and that as a result of that protected disclosure an agency official took an adverse action against you. Usually you will need to show that the agency official who took the adverse action against you had knowledge of the protected disclosure. You must also show a connection or nexus between the protected disclosure and the personnel action taken against you.

Who will investigate my complaint of reprisal?

The Office of Special Counsel (OSC) will investigate your claim. If they believe it has merit, OSC will request that the agency take corrective action or request that the Merit Systems Protection Board order corrective action. If OSC determines that you do not have a claim, terminates their investigation without action, you may then file what is known as an Individual Right of Action (IRA) appeal with the MSPB

. You have 65 days from the date you are notified by OSC that they are closing your claim to file with MSPB

. Alternatively, if OSC fails to take any action on your complaint within 120 days after the filing of your complaint, you may also file an IRA appeal with the MSPB

. These time frames are strictly enforced. Once at the MSPB

, the normal Board processing procedures apply.

What is my remedy?

Violations of the Act can result in disciplinary action taken against federal officials who have engaged in of whistleblower reprisal. Employees subjected to reprisal for making protected disclosures can recover back pay, reversal of any personnel actions taken against the employee, consequential damages (i.e. medical expenses, travel) and attorney fees. Compensatory damages are not available. If you are a federal employee facing wrongful termination, demotion, or other adverse action as a result of your disclosures, contact Tully Rinckey to see how our experienced federal employment and whistleblower attorneys may assist you. Our Arlington, VA. office can be reached 24 hours a day, 7 days a week at 703-525-4700 or via email at [info@fedattorney.com](mailto:info@fedattorney.com)