

1 **“§ 722. Treatment of whistleblower complaints**

2 “(a) FILING.—(1) In addition to any other method
3 established by law in which an employee may file a whistle-
4 blower complaint, an employee of the Department may file
5 a whistleblower complaint with a supervisor of the em-
6 ployee.

7 “(2) In making a whistleblower complaint under
8 paragraph (1), an employee shall file the initial complaint
9 with the immediate supervisor of the employee.

10 “(b) NOTIFICATION.—(1) Not later than two busi-
11 ness days after the date on which a supervisor receives
12 a whistleblower complaint by an employee under this sec-
13 tion, the supervisor shall notify, in writing, the employee
14 of whether the supervisor determines that there is a rea-
15 sonable likelihood that the complaint discloses a violation
16 of any law, rule, or regulation, or gross mismanagement,
17 gross waste of funds, abuse of authority, or substantial
18 and specific danger to public health and safety. The super-
19 visor shall retain written documentation regarding the
20 whistleblower complaint and shall submit to the next-level
21 supervisor and the central whistleblower office described
22 in subsection (g) a written report on the complaint.

23 “(2) On a monthly basis, the supervisor shall submit
24 to the appropriate director or other official who is superior
25 to the supervisor a written report that includes the num-
26 ber of whistleblower complaints received by the supervisor

1 under this section during the month covered by the report,
2 the disposition of such complaints, and any actions taken
3 because of such complaints pursuant to subsection (c). In
4 the case in which such a director or official carries out
5 this paragraph, the director or official shall submit such
6 monthly report to the supervisor of the director or official
7 and to the central whistleblower office described in sub-
8 section (g).

9 “(c) POSITIVE DETERMINATION.—If a supervisor
10 makes a positive determination under subsection (b)(1) re-
11 garding a whistleblower complaint of an employee, the su-
12 pervisor shall include in the notification to the employee
13 under such subsection the specific actions that the super-
14 visor will take to address the complaint.

15 “(d) FILING COMPLAINT WITH NEXT-LEVEL SUPER-
16 VISORS.—(1) If a supervisor does not make a timely deter-
17 mination under subsection (b)(1) regarding a whistle-
18 blower complaint, or if the employee who made the com-
19 plaint determines that the supervisor did not adequately
20 address the complaint pursuant to subsection (c), the em-
21 ployee may file such whistleblower complaint with the
22 next-level supervisor who shall treat such complaint in ac-
23 cordance with this section.

24 “(2) An employee may file a whistleblower complaint
25 with the Secretary if the employee has filed the whistle-

1 blower complaint to each level of supervisors between the
2 employee and the Secretary in accordance with paragraph
3 (1).

4 “(e) TRANSFER OF EMPLOYEE WHO FILES WHIS-
5 TLEBLOWER COMPLAINT.—If a supervisor makes a posi-
6 tive determination under subsection (b)(1) regarding a
7 whistleblower complaint filed by an employee, the Sec-
8 retary shall—

9 “(1) inform the employee of the ability to vol-
10 unteer for a transfer in accordance with section
11 3352 of title 5; and

12 “(2) give preference to the employee for such a
13 transfer in accordance with such section.

14 “(f) PROHIBITION ON EXEMPTION.—The Secretary
15 may not exempt any employee of the Department from
16 being covered by this section.

17 “(g) CENTRAL WHISTLEBLOWER OFFICE.—(1) The
18 Secretary shall ensure that the central whistleblower of-
19 fice—

20 “(A) is not an element of the Office of the Gen-
21 eral Counsel;

22 “(B) is not headed by an official who reports to
23 the General Counsel;

24 “(C) does not provide, or receive from, the Gen-
25 eral Counsel any information regarding a whistle-

1 blower complaint except pursuant to an action re-
2 garding the complaint before an administrative body
3 or court; and

4 “(D) does not provide advice to the General
5 Counsel.

6 “(2) The central whistleblower office shall be respon-
7 sible for investigating all whistleblower complaints of the
8 Department, regardless of whether such complaints are
9 made by or against an employee who is not a member of
10 the Senior Executive Service.

11 “(3) In this subsection, the term ‘central whistle-
12 blower office’ means the Office of Accountability Review
13 or a successor office that is established or designated by
14 the Secretary to investigate whistleblower complaints filed
15 under this section or any other method established by law.

16 **“§ 723. Adverse actions against supervisory employ-**
17 **ees who commit prohibited personnel ac-**
18 **tions relating to whistleblower com-**
19 **plaints**

20 “(a) IN GENERAL.—(1) In accordance with para-
21 graph (2), the Secretary shall carry out the following ad-
22 verse actions against supervisory employees whom the Sec-
23 retary, an administrative judge, the Merit Systems Protec-
24 tion Board, the Office of Special Counsel, an adjudicating
25 body provided under a union contract, a Federal judge,

1 or the Inspector General of the Department determines
2 committed a prohibited personnel action described in sub-
3 section (d):

4 “(A) With respect to the first offense, an ad-
5 verse action that is not less than a 14-day suspen-
6 sion and not more than removal.

7 “(B) With respect to the second offense, re-
8 moval.

9 “(2)(A) Except as provided by subparagraph (B),
10 and notwithstanding subsections (b) and (c) of section
11 7513 and section 7543 of title 5, the provisions of sub-
12 sections (d) and (e) of section 713 of this title shall apply
13 with respect to an adverse action carried out under para-
14 graph (1).

15 “(B) An employee who is notified of being the subject
16 of a proposed adverse action under paragraph (1) may not
17 be given more than five days following such notification
18 to provide evidence to dispute such proposed adverse ac-
19 tion. If the employee does not provide any such evidence,
20 or if the Secretary determines that such evidence is not
21 sufficient to reverse the determination to propose the ad-
22 verse action, the Secretary shall carry out the adverse ac-
23 tion following such five-day period.

24 “(b) LIMITATION ON OTHER ADVERSE ACTIONS.—
25 With respect to a prohibited personnel action described in

1 subsection (c), if the Secretary carries out an adverse ac-
2 tion against a supervisory employee, the Secretary may
3 carry out an additional adverse action under this section
4 based on the same prohibited personnel action if the total
5 severity of the adverse actions do not exceed the level spec-
6 ified in subsection (a).

7 “(c) PROHIBITED PERSONNEL ACTION DE-
8 SCRIBED.—A prohibited personnel action described in this
9 subsection is any of the following actions:

10 “(1) Taking or failing to take a personnel ac-
11 tion in violation of section 2302 of title 5 against an
12 employee relating to the employee—

13 “(A) filing a whistleblower complaint in ac-
14 cordance with section 722 of this title;

15 “(B) filing a whistleblower complaint with
16 the Inspector General of the Department, the
17 Special Counsel, or Congress;

18 “(C) providing information or participating
19 as a witness in an investigation of a whistle-
20 blower complaint in accordance with section
21 722 or with the Inspector General of the De-
22 partment, the Special Counsel, or Congress;

23 “(D) participating in an audit or investiga-
24 tion by the Comptroller General of the United
25 States;

1 “(B) Whether the appropriate deciding official,
2 performance review board, or performance review
3 committee determines that the supervisor was found
4 to have committed a prohibited personnel action de-
5 scribed in section 723(b) by an administrative judge,
6 the Merit Systems Protection Board, the Office of
7 Special Counsel, an adjudicating body provided
8 under a union contract, a Federal judge, or, in the
9 case of a settlement of a whistleblower complaint
10 (regardless of whether any fault was assigned under
11 such settlement), the Secretary.

12 “(b) BONUSES.—(1) The Secretary may not pay to
13 a supervisor described in subsection (a)(2)(B) an award
14 or bonus under this title or title 5, including under chapter
15 45 or 53 of such title, during the one-year period begin-
16 ning on the date on which the determination was made
17 under such subsection.

18 “(2) Notwithstanding any other provision of law, the
19 Secretary shall issue an order directing a supervisor de-
20 scribed in subsection (a)(2)(B) to repay the amount of any
21 award or bonus paid under this title or title 5, including
22 under chapter 45 or 53 of such title, if—

23 “(A) such award or bonus was paid for per-
24 formance during a period in which the supervisor

1 committed a prohibited personnel action as deter-
2 mined pursuant to such subsection (a)(2)(B);

3 “(B) the Secretary determines such repayment
4 appropriate pursuant to regulations prescribed by
5 the Secretary to carry out this section; and

6 “(C) the supervisor is afforded notice and an
7 opportunity for a hearing before making such repay-
8 ment.

9 **“§ 725. Training regarding whistleblower complaints**

10 “(a) TRAINING.—The Secretary, in coordination with
11 the Whistleblower Protection Ombudsman designated
12 under section 3(d)(1)(C) of the Inspector General Act of
13 1978 (5 U.S.C. App.), shall annually provide to each em-
14 ployee of the Department training regarding whistleblower
15 complaints, including—

16 “(1) an explanation of each method established
17 by law in which an employee may file a whistle-
18 blower complaint;

19 “(2) an explanation of prohibited personnel ac-
20 tions described by section 723(e) of this title;

21 “(3) with respect to supervisors, how to treat
22 whistleblower complaints in accordance with section
23 722 of this title;

1 “(4) the right of the employee to petition Con-
2 gress regarding a whistleblower complaint in accord-
3 ance with section 7211 of title 5;

4 “(5) an explanation that the employee may not
5 be prosecuted or reprimed against for disclosing in-
6 formation to Congress in instances where such dis-
7 closure is permitted by law, including under sections
8 5701, 5705, and 7732 of this title, under section
9 552a of title 5 (commonly referred to as the Privacy
10 Act), under chapter 93 of title 18, and pursuant to
11 regulations promulgated under section 264(c) of the
12 Health Insurance Portability and Accountability Act
13 of 1996 (Public Law 104–191);

14 “(6) an explanation of the language that is re-
15 quired to be included in all nondisclosure policies,
16 forms, and agreements pursuant to section
17 115(a)(1) of the Whistleblower Protection Enhance-
18 ment Act of 2012 (5 U.S.C. 2302 note); and

19 “(7) the right of contractors to be protected
20 from reprisal for the disclosure of certain informa-
21 tion under section 4705 or 4712 of title 41.

22 “(b) CERTIFICATION.—The Secretary shall annually
23 provide training on merit system protection in a manner
24 that the Special Counsel certifies as being satisfactory.

1 “(c) PUBLICATION.—The Secretary shall publish on
2 the Internet website of the Department, and display
3 prominently at each facility of the Department, the rights
4 of an employee to file a whistleblower complaint and to
5 petition Congress regarding a whistleblower complaint as
6 described in paragraphs (3) and (4) of subsection (a).

7 **“§ 726. Reports to Congress**

8 “(a) ANNUAL REPORTS.—The Secretary shall annu-
9 ally submit to the Committees on Veterans’ Affairs of the
10 House of Representatives and the Senate, the Committee
11 on Oversight and Government Reform of the House of
12 Representatives, and the Committee on Homeland Secu-
13 rity and Governmental Affairs of the Senate a report that
14 includes—

15 “(1) with respect to whistleblower complaints
16 filed under section 722 during the year covered by
17 the report—

18 “(A) the number of such complaints filed;

19 “(B) the disposition of such complaints;

20 and

21 “(C) the ways in which the Secretary ad-
22 dressed such complaints in which a positive de-
23 termination was made by a supervisor under
24 subsection (b)(1) of such section;

1 “(2) the number of whistleblower complaints
2 filed during the year covered by the report that are
3 not included under paragraph (1), including—

4 “(A) the method in which such complaints
5 were filed;

6 “(B) the disposition of such complaints;
7 and

8 “(C) the ways in which the Secretary ad-
9 dressed such complaints; and

10 “(3) with respect to disclosures made by a con-
11 tractor under section 4705 or 4712 of title 41—

12 “(A) the number of complaints relating to
13 such disclosures that were investigated by the
14 Inspector General of the Department of Vet-
15 erans Affairs during the year covered by the re-
16 port;

17 “(B) the disposition of such complaints;
18 and

19 “(C) the ways in which the Secretary ad-
20 dressed such complaints.

21 “(b) NOTICE OF OFFICE OF SPECIAL COUNSEL DE-
22 TERMINATIONS.—Not later than 30 days after the date
23 on which the Secretary receives from the Special Counsel
24 information relating to a whistleblower complaint pursu-
25 ant to section 1213 of title 5, the Secretary shall notify

1 the Committees on Veterans' Affairs of the House of Rep-
2 resentatives and the Senate, the Committee on Oversight
3 and Government Reform of the House of Representatives,
4 and the Committee on Homeland Security and Govern-
5 mental Affairs of the Senate of such information, includ-
6 ing the determination made by the Special Counsel.”.

7 (b) CONFORMING AND CLERICAL AMENDMENTS.—

8 (1) CONFORMING AMENDMENT.—Such chapter
9 is further amended by inserting before section 701
10 the following:

11 “SUBCHAPTER I—GENERAL EMPLOYEE
12 MATTERS”.

13 (2) CLERICAL AMENDMENTS.—The table of sec-
14 tions at the beginning of such chapter is amended—

15 (A) by inserting before the item relating to
16 section 701 the following new item:

“SUBCHAPTER I—GENERAL EMPLOYEE MATTERS”;

17 and

18 (B) by adding after the item relating to
19 section 713 the following new items:

“SUBCHAPTER II—WHISTLEBLOWER COMPLAINTS

“721. Whistleblower complaint defined.

“722. Treatment of whistleblower complaints.

“723. Adverse actions against supervisory employees who commit prohibited
personnel actions relating to whistleblower complaints.

“724. Evaluation criteria of supervisors and treatment of bonuses.

“725. Training regarding whistleblower complaints.

“726. Reports to Congress.”.

