CASEWORKERS: HOW TO IDENTIFY WHISTLEBLOWER MATTERS

Caseworkers in congressional offices may hear from whistleblower constituents who are seeking to inform the office about alleged wrongdoing, or who otherwise want the office's support in fending off whistleblower retaliation. This document provides introductory guidance on identifying these matters, and on how they may differ from traditional casework.

WHISTLEBLOWING AND CONGRESSIONAL OFFICES

Conceptually, whistleblowing is the act of disclosing misconduct that is a matter of public concern. Whistleblowers may be government or private sector workers, or simply concerned individuals who want to report waste, fraud, abuse or threats to public health and safety.

What Does Whistleblowing Look Like?

Constituents frequently reach out to inform their Member of Congress about wrongdoing that they have become aware of in their workplace or community. But whistleblowing comes in many forms, and no two cases will look the same.

Hypothetical Constituent Whistleblowing:

- A service member or civilian employee reports wasteful spending involving a military base in the district.
- A worker in a local factory reports threats to public health and safety.
- A local teacher discloses that federal grant money is being improperly spent on faulty resources.

Support With Retaliation

You may also hear from whistleblowers who are seeking your office's support in fending off retaliation. For example, maybe the local factory worker was fired after they reported the public health and safety threats. That individual, believing their termination to be retaliatory, may be inclined to ask their Member of Congress for help.

What's In A Name?

Some individuals may not call themselves "whistleblowers" — they may feel they are simply doing their jobs by speaking out. An individual does not need to identify as a whistleblower to be eligible for legal protections. Likewise, just because someone calls themselves a whistleblower does not mean their disclosures qualify as legally protected whistleblowing.

PROTECTED WHISTLEBLOWING

Many **federal and state laws** prohibit whistleblower retaliation. However, Congress cannot provide individuals with legal advice or grant "protected whistleblower status" since it is a legal determination.

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Rather, focus on safely and responsibly working with the whistleblower to achieve agreed upon goals.

It is appropriate to recommend that the individual consult a whistleblower attorney or **nonprofit whistleblower support organization** for legal guidance on how to engage in protected whistleblowing. And early in the process, **share guiding resources** to ensure the constituent or source is better off for having reached out.

WHISTLEBLOWING MATTERS VS TRADITIONAL CASEWORK

Whistleblowing may overlap with other casework matters, but there are some important distinctions to keep in mind:

First, whistleblowers are often key partners in helping Congress advance its oversight priorities. Accordingly, these relationships can last much longer than traditional casework as Congress carefully investigates the matter at hand.

Second, working with whistleblowers often requires staff to take additional precautions due to the sensitivity of the matter and the level of confidentiality requested. Given the added risk of retaliation, it is important to move carefully. Even if they have filled out a Privacy Release Form, strategize with the whistleblower before reaching out to external offices like any relevant federal agencies. To maintain confidentiality, the appropriate contact is often distinct from the agency's congressional liaison.

Third, there are specific laws that establish the right for whistleblowers to communicate with Congress, and Clause 21 of the House Code of Official Conduct includes requirements for **maintaining whistleblower confidentiality**.

SUPPORTING YOUR WORK WITH WHISTLEBLOWERS

Working with whistleblowers can be complex. But rest assured, the Office of the Whistleblower Ombuds has developed a **catalog of resources** that can help congressional staff work safely and effectively with whistleblower constituents or sources.

Further, the Office is available to provide House staff with confidential consultations on any whistleblower matters that the staffer may be handling. **Contact the Office** for guidance.

ADDITIONAL RESOURCES

- **Training Manual: Best Practices for Working with Whistleblowers** (HouseNet)
- **Downloadable Templates** (HouseNet)
- **Guiding Phrases for Working with Whistleblowers** (HouseNet)
- **Whistleblower Case Management Intake Workflow**
- **Working with Whistleblowers Learning Path** (Congressional Staff Academy)
- **Working with State and Local Whistleblowers**

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