DEPARTMENT OF VETERANS AFFAIRS WHISTLEBLOWING

OFFICE OF THE WHISTLEBLOWER OMBUDS
COACHING THE HOUSE ON BEST PRACTICES

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OVERVIEW

The Department of Veterans Affairs (VA) is one of the largest executive branch agencies in terms of quantity of employees and geographic scope.

This resource focuses on laws and offices relevant for VA employee, contractor, and grantee whistleblower disclosures and retaliation. VA patients, veteran beneficiaries, and other non-employee whistleblowers may consider reporting concerns to relevant VA offices such as the **VA Office of Inspector General**, or externally to Congress or veterans service organizations, for instance.

Individuals considering blowing the whistle should do so under advisement of a whistleblower attorney.

RELEVANT LAWS: VA EMPLOYEE, CONTRACTOR, AND GRANTEE WHISTLEBLOWING

VA's broad mandate means that the scope of potential whistleblower disclosures from VA employees, contractors, and grantees, is vast. Statutes also require the VA to adhere to whistleblowing-relevant mandates such as disciplinary action for retaliators.

Whistleblower Protection Act (WPA)

The WPA is the primary whistleblower law covering most executive branch employees — including most VA medical and non-medical professionals. The WPA prohibits retaliation against applicants and employees who blow the whistle on misconduct such as a violation of law, rule, or regulation; a gross waste of funds; or a substantial and specific threat to public health and safety. Congress is a protected audience for WPA disclosures, and the law provides for independent investigation and enforcement through the Office of Special Counsel and Merit Systems Protection Board. See also the Office's **Whistleblower Protection Act Fact Sheet**.

Federal Contractor and Grantee Protections

VA contractors, subcontractors, grantees, subgrantees, and personal services contractors also have whistleblower protections (41 U.S.C. § 4712). The law prohibits retaliation against covered employees who make a protected disclosure related to the contract or grant. For example, if the VA hypothetically contracted with a medical device provider, the law would prohibit that provider from retaliating against its own employees. Congress is a protected audience for whistleblower disclosures, and rights are administered through the VA's Office of Inspector General. See also the Office's **Federal Contractor and Grantee Whistleblowing Fact Sheet**.

VA Patient Protection Act of 2016

The VA Patient Protection Act requires the VA secretary to take certain disciplinary actions against VA supervisors found to have committed a prohibited personnel action against an employee, including those found to have engaged in whistleblower retaliation (38 U.S.C. § 731).

VA Accountability and Whistleblower Protection Act of 2017

This law codified the VA's Office of Accountability and Whistleblower Protection (OAWP), discussed below. The law restricts the VA from taking disciplinary action against employees who have made protected disclosures until certain procedural requirements are met, such as obtaining approval from the Office of Special Counsel or completing investigations into the whistleblower's claims. It also outlines disciplinary action against supervisors who engage in whistleblowers retaliation.

Other Laws

Other laws also prohibit reprisal against an employee's assertion of their rights. For example, **equal employment opportunity laws**.

Legal Disclaimer: This document is for general informational purposes only. Its contents are not legal advice.

KEY OFFICES

There may be several entities involved in investigating or enforcing VA-relevant claims.

Office of Special Counsel (OSC) and Merit Systems Protection Board (MSPB)

OSC is the independent agency responsible for enforcing the WPA. The MSPB is the administrative court that hears certain whistleblower retaliation claims under the WPA. See the **Whistleblower Protection Act Fact Sheet** for more background. Notably, OSC also **plays a central role** in enforcing certain claims under the Uniformed Services Employment and Reemployment Rights Act (USERRA), relevant for service member and veteran anti-discrimination rights.

VA Office of Inspector General (OIG)

The VA OIG oversees the agency through audits, inspections, and investigations of programs and operations. Whistleblowers are critical partners in an OIG's work, and it may investigate VA-relevant disclosures from any source.

While the OIG **states** that it generally does not investigate whistleblower retaliation complaints from VA employees, it may refer employees to an investigatory office such as OSC or OAWP as appropriate. By law, the OIG is the primary investigator of whistleblower retaliation complaints filed by VA contractors and grantees.

The VA OIG is required by law to designate a **Whistleblower Protection Coordinator (WPC)**. They ensure that agency employees are educated on their whistleblower rights, and facilitate communications between the inspector general and outside entities such as congressional offices. While the WPC cannot provide legal advice to whistleblowers, they are available to support whistleblowers in navigating the various VA channels and may also be a helpful point of contact for congressional offices.

Office of Accountability and Whistleblower Protection (OAWP)

OAWP receives and investigates whistleblower disclosures involving senior VA leaders. It also receives and investigates whistleblower retaliation complaints made against VA supervisors. When OAWP receives allegations that are not within its jurisdiction to investigate, it refers the allegation to the appropriate entity—for example, the Office of Inspector General or the VA Office of the Medical Inspector.

OAWP also maintains a **Whistleblower Navigator** program to provide confidential assistance to individuals looking to make a disclosure.

Other Relevant Offices

- **Office of the Medical Inspector (OMI)**: Receives and investigates disclosures related to healthcare services under the VA Health Administration.
- **Patient Advocacy Program**: A resource for all veterans and their families who receive care at VHA facilities and clinics. Patient advocates are available to assist with specific questions, concerns, or disagreements about medical treatment.
- **VA Office of Resolution Management**: Administers complaints from VA employees who are challenging retaliation for participating in the Equal Employment Opportunity program.

Non-Federal Entities

- **State and local VA offices** — Counsel and assist veterans with accessing their rights and benefits under state and federal laws.
- Veterans Service Organizations — A broad term for organizations that aid and serve veterans and service members, ranging from **federally-recognized** service organizations to local nonprofits.
- **The Joint Commission** — A nonprofit organization that accredits and investigates VA medical centers, and accepts and may investigate related disclosures.

ADDITIONAL RESOURCES

Veterans Crisis Line: Dial 988 then press 1, chat online at **veteranscrisisline.net**, or text 838255

Department of Veterans Affairs: **Helpful VA Phone Numbers**

Department of Veterans Affairs: **Investigative Entities: What's the Difference**

VA Office of Inspector General: **Whistleblower Protection Program Overview**

Congressional Research Service: **Veterans Service Organizations (VSOs) Frequently Asked Questions**