

certain State or local officers and employees. An individual can seek an advisory opinion from OSC:

(1) *By email to:* hatchact@osc.gov;

(2) *By mail to:* U.S. Office of Special Counsel, Hatch Act Unit, 1730 M Street NW, Suite 218, Washington, DC 20036–4505; or

(3) *By phone at:* (800) 854–2824 (toll-free), or (202) 804–7002 (in the Washington, DC area).

PART 1810—INVESTIGATIVE AUTHORITY OF THE SPECIAL COUNSEL

Sec.

1810.1 Investigative policy in certain discrimination and retaliation complaints.

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AUTHORITY: 5 U.S.C. 301 and 1212(e).

SOURCE: 87 FR 63407, Oct. 19, 2022, unless otherwise noted.

§ 1810.1 Investigative policy in certain discrimination and retaliation complaints.

OSC is authorized to investigate allegations of discrimination and retaliation prohibited by law, as defined in 5 U.S.C. 2302(b)(1) and (b)(9)(A)(ii). Because procedures for investigating discrimination and retaliation complaints have already been established in the agencies and the Equal Employment Opportunity Commission, OSC will usually avoid duplicating those procedures and will defer to those procedures rather than initiating an independent investigation.

§ 1810.2 Access to agency information in investigations.

(a) Pursuant to 5 U.S.C. 1212(b)(5), OSC is authorized to have timely access to all agency records, data, reports, audits, reviews, documents, papers, recommendations, information, or other material that relate to an OSC investigation, review, or inquiry.

(b) A claim of common law privilege, such as the attorney-client privilege, may not be used by any agency, or officer or employee of any agency, to with-

hold information from OSC. By providing such information to OSC, an agency will not be deemed to have waived the common law privilege against a non-Federal entity or against any individual in any other proceeding.

(c) In the event of contumacy or failure of an agency to comply with any request under this section, the Special Counsel shall submit a report to the committees of Congress with jurisdiction over OSC and the applicable agency.

§ 1810.3 Termination of certain OSC investigations.

(a) Pursuant to 5 U.S.C. 1214(a)(6), within 30 days of receiving a complaint alleging that a prohibited personnel practice occurred, OSC may terminate an investigation of the allegation without further inquiry if:

(1) The same allegation, based on the same set of facts and circumstances, had previously been:

(i) Made by the individual and investigated by OSC; or

(ii) Filed by the individual with the Merit Systems Protection Board;

(2) OSC does not have jurisdiction to investigate the allegation; or

(3) The individual knew or should have known of the alleged prohibited personnel practice more than 3 years before the allegation was received by OSC.

(b) Within 30 days of terminating an investigation described in paragraph (a), OSC shall notify the individual, in writing, of the basis for terminating the investigation.

§ 1810.4 Investigative policy regarding agency liaisons.

Agency liaisons facilitate their agency's cooperation with OSC's investigations by ensuring that agencies timely and accurately respond to OSC's requests for information and witness testimony, as well as by assisting with the resolution of complaints. To maintain the integrity of OSC's investigations and to avoid actual or perceived conflicts, agency liaisons should not have current or past involvement in the personnel actions at issue in the assigned case.