

(B) providing information or participating as a witness in an investigation of a whistleblower disclosure made to the Assistant Secretary for Accountability and Whistleblower Protection, the Inspector General of the Department, the Special Counsel, or Congress;

(C) participating in an audit or investigation by the Comptroller General of the United States;

(D) refusing to perform an action that is unlawful or prohibited by the Department; or

(E) engaging in communications that are related to the duties of the position or are otherwise protected.

(2) Preventing or restricting an employee from making an action described in any of subparagraphs (A) through (E) of paragraph (1).

(3) Conducting a negative peer review or opening a retaliatory investigation because of an activity of an employee that is protected by section 2302 of title 5.

(4) Requesting a contractor to carry out an action that is prohibited by section 4705(b) or section 4712(a)(1) of title 41, as the case may be.

(d) WHISTLEBLOWER DISCLOSURE DEFINED.—In this section, the term “whistleblower disclosure” has the meaning given such term in section 323(g) of this title.

(Added Pub. L. 114-223, div. A, title II, § 247(a)(1), Sept. 29, 2016, 130 Stat. 887, § 733; renumbered § 731 and amended Pub. L. 115-41, title I, § 102(a)(2), (c), title II, § 206, June 23, 2017, 131 Stat. 865, 867, 877.)

Editorial Notes

PRIOR PROVISIONS

A prior section 731, added Pub. L. 114-223, div. A, title II, § 247(a)(1), Sept. 29, 2016, 130 Stat. 884, defined whistleblower complaint, prior to repeal by Pub. L. 115-41, title I, § 102(a)(1), June 23, 2017, 131 Stat. 865.

AMENDMENTS

2017—Pub. L. 115-41, § 102(a)(2), renumbered section 733 of this title as this section.

Subsec. (a)(2)(B). Pub. L. 115-41, § 206, substituted “10 days” for “14 days” in cl. (i) and “10-day period” for “14-day period” in cl. (ii).

Subsec. (c)(1)(A). Pub. L. 115-41, § 102(c)(1)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “filing a whistleblower complaint in accordance with section 732 of this title;”.

Subsec. (c)(1)(B). Pub. L. 115-41, § 102(c)(1)(A), redesignated subpar. (C) as (B), substituted “disclosure made to the Assistant Secretary for Accountability and Whistleblower Protection,” for “complaint in accordance with section 732 or with”, and struck out former subpar. (B) which read as follows: “filing a whistleblower complaint with the Inspector General of the Department, the Special Counsel, or Congress;”.

Subsec. (c)(1)(C) to (F). Pub. L. 115-41, § 102(c)(1)(A)(ii), redesignated subpars. (C) to (F) as (B) to (E), respectively.

Subsec. (c)(2). Pub. L. 115-41, § 102(c)(1)(B), substituted “through (E)” for “through (F)”.

Subsec. (d). Pub. L. 115-41, § 102(c)(2), added subsec. (d).

Statutory Notes and Related Subsidiaries

IMPROVEMENT OF TRAINING FOR SUPERVISORS

Pub. L. 115-41, title II, § 209, June 23, 2017, 131 Stat. 879, provided that:

“(a) IN GENERAL.—The Secretary of Veterans Affairs shall provide to each employee of the Department of Veterans Affairs who is employed as a supervisor periodic training on the following:

“(1) The rights of whistleblowers and how to address a report by an employee of a hostile work environment, reprisal, or harassment.

“(2) How to effectively motivate, manage, and reward the employees who report to the supervisor.

“(3) How to effectively manage employees who are performing at an unacceptable level and access assistance from the human resources office of the Department and the Office of the General Counsel of the Department with respect to those employees.

“(b) DEFINITIONS.—In this section:

“(1) SUPERVISOR.—The term ‘supervisor’ has the meaning given such term in section 7103(a) of title 5, United States Code.

“(2) WHISTLEBLOWER.—The term ‘whistleblower’ has the meaning given such term in section 323(g) of title 38, United States Code, as added by section 101.”

§ 732. Protection of whistleblowers as criteria in evaluation of supervisors

(a) DEVELOPMENT AND USE OF CRITERIA REQUIRED.—The Secretary, in consultation with the Assistant Secretary of Accountability and Whistleblower Protection, shall develop criteria that—

(1) the Secretary shall use as a critical element in any evaluation of the performance of a supervisory employee; and

(2) promotes the protection of whistleblowers.

(b) PRINCIPLES FOR PROTECTION OF WHISTLEBLOWERS.—The criteria required by subsection (a) shall include principles for the protection of whistleblowers, such as the degree to which supervisory employees respond constructively when employees of the Department report concerns, take responsible action to resolve such concerns, and foster an environment in which employees of the Department feel comfortable reporting concerns to supervisory employees or to the appropriate authorities.

(c) SUPERVISORY EMPLOYEE AND WHISTLEBLOWER DEFINED.—In this section, the terms “supervisory employee” and “whistleblower” have the meanings given such terms in section 323 of this title.

(Added Pub. L. 115-41, title I, § 102(a)(3), June 23, 2017, 131 Stat. 865.)

Editorial Notes

PRIOR PROVISIONS

A prior section 732, added Pub. L. 114-223, div. A, title II, § 247(a)(1), Sept. 29, 2016, 130 Stat. 884, related to treatment of whistleblower complaints, prior to repeal by Pub. L. 115-41, title I, § 102(a)(1), June 23, 2017, 131 Stat. 865.

§ 733. Training regarding whistleblower disclosures

(a) TRAINING.—Not less frequently than once every two years, the Secretary, in coordination with the Whistleblower Protection Ombudsman designated under section 3(d)(1)(C) of the Inspector General Act of 1978 (5 U.S.C. App.),¹ shall provide to each employee of the Department

¹ See References in Text note below.