

(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.

training regarding whistleblower disclosures, including—

(1) an explanation of each method established by law in which an employee may file a whistleblower disclosure;

(2) the right of the employee to petition Congress regarding a whistleblower disclosure in accordance with section 7211 of title 5;

(3) an explanation that the employee may not be prosecuted or reprised against for disclosing information to Congress, the Inspector General, or another investigatory agency in instances where such disclosure is permitted by law, including under sections 5701, 5705, and 7732 of this title, under section 552a of title 5 (commonly referred to as the Privacy Act), under chapter 93 of title 18, and pursuant to regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191);

(4) an explanation of the language that is required to be included in all nondisclosure policies, forms, and agreements pursuant to section 115(a)(1) of the Whistleblower Protection Enhancement Act of 2012 (5 U.S.C. 2302 note); and

(5) the right of contractors to be protected from reprisal for the disclosure of certain information under section 4705 or 4712 of title 41.

(b) **MANNER TRAINING IS PROVIDED.**—The Secretary shall ensure, to the maximum extent practicable, that training provided under subsection (a) is provided in person.

(c) **CERTIFICATION.**—Not less frequently than once every two years, the Secretary shall provide training on merit system protection in a manner that the Special Counsel certifies as being satisfactory.

(d) **PUBLICATION.**—The Secretary shall publish on the Internet website of the Department, and display prominently at each facility of the Department, the rights of an employee to make a whistleblower disclosure, including the information described in paragraphs (1) through (5) of subsection (a).

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

(Added Pub. L. 115-41, title I, §102(a)(3), June 23, 2017, 131 Stat. 866.)

Editorial Notes

REFERENCES IN TEXT

Section 3(d)(1)(C) of the Inspector General Act of 1978, referred to in subsec. (a), is section 3(d)(1)(C) of Pub. L. 95-452, which was set out in the Appendix to Title 5, Government Organization and Employees, and was repealed and restated as section 403(d)(1)(C) of Title 5 by Pub. L. 117-286, §§3(b), 7, Dec. 27, 2022, 136 Stat. 4209, 4361.

Section 264(c) of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (a)(3), is section 264(c) of Pub. L. 104-191, which is set out as a note under section 1320d-2 of Title 42, The Public Health and Welfare.

Section 115(a)(1) of the Whistleblower Protection Enhancement Act of 2012, referred to in subsec. (a)(4), is section 115(a)(1) of Pub. L. 112-199, which is set out as a note under section 2302 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 733 was renumbered section 731 of this title.

[§§ 734 to 736. Repealed. Pub. L. 115-41, title I, § 102(a)(1), June 23, 2017, 131 Stat. 865]

Section 734, added Pub. L. 114-223, div. A, title II, §247(a)(1), Sept. 29, 2016, 130 Stat. 888, related to evaluation criteria of supervisors and treatment of bonuses.

Section 735, added Pub. L. 114-223, div. A, title II, §247(a)(1), Sept. 29, 2016, 130 Stat. 889; amended Pub. L. 114-315, title VIII, §802(1), Dec. 16, 2016, 130 Stat. 1591, related to training regarding whistleblower complaints. See section 733 of this title.

Section 736, added Pub. L. 114-223, div. A, title II, §247(a)(1), Sept. 29, 2016, 130 Stat. 889, related to reports to Congress on whistleblower complaints.

Editorial Notes

PRIOR PROVISIONS

Prior sections 740 to 763, 765 to 779, 781 to 788, and 801 to 806 were renumbered sections 1940 to 1963, 1965 to 1979, 1981 to 1988, and 2101 to 2106 of this title, respectively.

SUBCHAPTER III—EXECUTIVE

MANAGEMENT FELLOWSHIP PROGRAM

§741. Executive Management Fellowship Program

(a) **FELLOWSHIP PROGRAM.**—There is in the Department an Executive Management Fellowship Program. The purpose of the program shall be to provide—

(1) eligible employees of the Veterans Benefits Administration and the Veterans Health Administration with training and experience in the private sector; and

(2) eligible employees of a private-sector entity with training and experience in the Department of Veterans Affairs.

(b) **FELLOWSHIP.**—(1) A fellowship provided under this section is a 1-year fellowship during which—

(A) with respect to a Department participant, the participant receives training and experience at a private-sector entity that is engaged in the administration and delivery of health care or other services similar to the benefits administered by the Secretary; and

(B) with respect to a private-sector participant, the participant receives training and experience at the Veterans Benefits Administration or the Veterans Health Administration.

(2) The Secretary shall enter into such agreements with private-sector entities as are necessary to carry out this section.

(c) **SELECTION OF RECIPIENTS.**—(1) In August of each year, the Secretary shall select—

(A) not fewer than 18 and not more than 30 eligible employees of the Veterans Benefits Administration and the Veterans Health Administration to receive a fellowship under this section; and

(B) not fewer than 18 and not more than 30 eligible employees of private-sector entities to receive a fellowship under this section.

(2) To the extent practicable, the Secretary shall select eligible employees under subparagraphs (A) and (B) of paragraph (1) from among