



## **THE SECRETARY OF VETERANS AFFAIRS WASHINGTON**

**March 9, 1999**

### **MEMORANDUM TO ALL EMPLOYEES**

#### **RE: WHISTLEBLOWER PROTECTION**

In 1989, the Whistleblower Protection Act was enacted to strengthen protections, for Federal employees who believe they have been subjected to unjustified personnel actions in reprisal for their whistleblowing activities. In 1994, whistleblower protections were extended to VA's health care professionals appointed under Title 38. VA employees should be knowledgeable of the rights and protections accorded them by law.

Neither I nor any member of the leadership of this Department will tolerate whistleblower reprisal in the Department of Veterans Affairs. Each of us has an important role to play in promoting an environment in which employees feel free to come forward with their legitimate concerns without fear of reprisal.

Several years ago, the Department required that all investigative reports of complaints of reprisal be reviewed by senior executives, including reprisal for whistleblowing. Reports involving field facilities are reviewed by Network or Area Directors, or Associate Deputy Under Secretaries for Operations. For Headquarters, the review is conducted by Administration Heads, Assistant Secretaries and Other Key Officials. This procedure permits the determination of whether the personal intervention of VA's senior managers is required and ensures that appropriate action is taken when individuals are found guilty of reprisal. The above requirement does not apply, however, to reports of complaints of reprisal involving equal, employment opportunity (EEO) discrimination. Allegations of reprisal in discrimination complaints, like EEO complaints themselves, should be brought to the attention of a VA Office of Resolution Management counselor at 1-888-737-3361, which is a toll-free number.

I encourage you to familiarize yourself with these protections and I remind every manager of this Department's responsibility to maintain a workplace that respects its employees' ability, indeed right, to raise legitimate concerns without fear of retribution. More detailed information about whistleblower protection is provided on the reverse side of this memorandum.

**/s/ Original Signed  
Togo D. West**

## **Whistleblowing and Whistleblower Protections**

It is a prohibited personnel practice for an agency to subject you to a personnel action if the action is threatened, proposed, taken, or not taken because of whistleblowing activities. Whistleblowing means disclosing information that you reasonably believe is evidence of a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. You are protected if you make such a disclosure to the Special Counsel or the Inspector General. You are also protected if you make such a disclosure to any other individual or organization (e.g., a congressional committee or the media), provided that the disclosure is not specifically prohibited by law.

Employees have a number of ways to challenge personnel actions they believe to be based on their whistleblowing activities.

- If the personnel action is appealable to the Merit Systems Protection Board (MSPB) (e.g., suspension for more than 14 days, reduction in grade, reduction in pay, or termination), the employee may raise the whistleblower concerns in the MSPB appeal. Information about MSPB appeal rights is available from your servicing Human Resources Management Office or by contacting the Clerk of the Board, U.S. Merit Systems Protection Board, 1120 Vermont Ave, NW., Washington, DC 20419. If the personnel action is appealable under a VA appeal procedure (e.g., title 38 disciplinary procedures), the employee may raise the whistleblower concerns in that VA appeal.
- If the personnel action is grievable under a negotiated grievance procedure contained in a labor-management agreement, the employee may raise the whistleblower concerns in the grievance.
- In some cases, the matter might also be appealable under VA's administrative grievance procedure (e.g., a non-bargaining unit employee's dissatisfaction involving a reassignment.)
- If the matter is not otherwise appealable to the MSPB (e.g., reassignment, non-selection, title 38 disciplinary actions), the employee may raise the issue with the independent Office of Special Counsel (OSC). The OSC can be contacted by calling the OSC hotline at 1-800-872-9855, or by writing to: Office of Special Counsel, 1730 M Street NW., Washington, DC 20036-4505.
- Employees may also raise a whistleblower reprisal claim with VA'S Office of Inspector General. The OIG Hotline number is 1-800-488-8244,

Information about appeal rights, and grievance procedures is available from your servicing Human Resources Management office. In addition, MSPB has published a pamphlet, *Questions and Answers About Whistleblower Appeals*. A copy of this pamphlet can be obtained from your Human Resources Management office or through the internet on the MSPB web site under MSPB Forms and Publications <http://www.mspb.gov>.