



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 201
Washington, D.C. 20036-4505

March 15, 2002

Notice: OSC Policy on Legal Representation at OSC Interviews

Effective April 15, 2002, the Office of Special Counsel (OSC) will require that witnesses and subjects who choose to have legal representation at investigative interviews conducted by OSC investigators and attorneys complete an OSC Designation of Representation form. OSC will not permit legal counsel to be present at an OSC investigative interview without a signed form.

As you may know, historically OSC has permitted witnesses and subjects to have personal legal counsel present to provide advice and counsel during OSC investigative interviews. OSC designates as "subjects" those agency officials who recommended, initiated, approved and/or threatened to take the personnel action(s) at issue in the investigation. Witnesses are generally employees who have information about the matter under investigation, but who do not have responsibility for the personnel actions at issue. The investigator will inform the agency liaison which employees have been identified as potential subjects in the investigation, and will also inform the employees who have been so designated.

OSC recognizes that agencies often make agency attorneys available to provide personal representation to their employees at these interviews. OSC does not, however, permit agencies to have agency counsel present at these interviews for the purpose of representing the agency. Situations occasionally arise in which it is not clear in what capacity agency attorneys are serving or whose interests they are representing.

To ensure compliance with its policies, OSC is now requiring individuals who wish to have personal legal counsel present during their OSC investigative interviews to complete a Designation of Representation form. A copy of this form is enclosed. The Designation of Representation form must be completed before OSC will permit a witness or a subject to be represented by counsel at the OSC interview. Please note that the attorney must also sign the form, indicating that he or she is serving as the employee's personal legal representative.

OSC has developed an information sheet, "Your Role in an OSC Investigation," to answer some of the questions most frequently asked by agency employees who are interviewed in OSC prohibited personnel practice and Hatch Act investigations. It also explains employees' rights and responsibilities in connection with OSC investigations, including OSC's policies with respect to representation at interviews.

OSC investigators will provide copies of "Your Role in an OSC Investigation" and the Designation of Representation forms to the agency liaison or point of contact, after they have made the initial contact to inform the agency about the investigation. Copies are also available on OSC's web site at www.osc.gov. (Click on "Publications.")