



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

April 13, 1992

PERSONNEL MANAGEMENT LETTER NO. 92-10 (772)

SUBJECT: Whistleblower Protection Act of 1989

This is to advise you of recent developments in implementation of the Whistleblower Protection Act of 1989 (WPA) and the request that employees be given appropriate information on the subject.

In 1978, the Civil Service Reform Act established the Merit Systems Protection Board (MSPB) and the Office of Special Counsel (OSC). The Office of Special Counsel was empowered to investigate employee allegations of prohibited personnel action and reprisals for whistleblowing, issue stays of pending personnel action, and require remedial actions.

Whistleblowing as used in the above context means disclosure of information believed to evidence 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.

New provisions were enacted in 1989 to strengthen protections for whistleblowers. Under the WPA, a whistleblower gained the right to appeal directly to MSPB if OSC did not seek corrective action in response to his or her complaint. The right exists with respect to any personnel action and not only those actions normally within the purview of the MSPB's appellate review. In addition, if the MSPB found in favor of an employee, the agency would be required to rescind an earlier personnel action, returning the employee to pay status. "Interim relief" for the employee is required when a petition for review is being filed by the agency, or the appellant, to appeal an initial MSPB decision.

INQUIRIES: David E. Northup, Chief, Division of Employee Relations, Room 5205, Telephone 208-5284, Mail Stop 5203 - MIB

On January 31, 1992, OPM issued final regulations on interim relief. FPM Bulletin No. 990-89, dated February 19, 1992 has further details. Following are the highlights of those features regarding employees serving under interim appointments ordered by a MSPB initial decision in 5 CFR:

315 - Interim relief service should be counted toward completion of the probationary period.

351 - Employees serving under interim appointments should be treated for RIF purposes as if the disputed or appealed actions had not occurred.

531 - Interim within grade increases are granted which may be terminated or made permanent after the Board's final action. An employee's pay may not be fixed based solely on a rate of pay received during the period of interim relief.

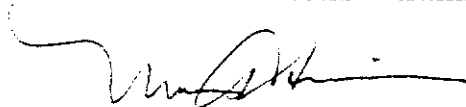
536 - Entitlement to grade and pay retention may be continued during a period of interim relief and may not be lost because of the break in service of more than one workday.

831, 841, 842 - An employee under an interim appointment has appropriate retirement coverage. If the interim relief is reversed by the Board, necessary adjustments to restore an annuity are provided as well as to reconsider eligibility for any lump sum payments.

870, 890 - An employee under an interim appointment has coverage for health benefits and life insurance.

Processing requirements have been issued by OPM in FPM Letter 296-116, dated February 25, 1992. When Departmental Manual chapters are revised, changes will be made as necessary to complement OPM guidance.

Please assure that all employees are given appropriate notice of the above changes through local communications channels.



Director of Personnel