

Pilot Program for Enhancement of Employee Whistleblower Protection (41 U.S.C. 4712)

The federal government has enacted a pilot program, which remains in effect until January 1, 2017, to add in protecting employees from reprisal by employers for having engaged in certain whistleblowing activities in connection with federal grants and contracts. The program -- the Pilot Program for Enhancement of Employee Whistleblower Protection -- is codified at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act (Public Law 112-239, enacted January 2, 2013). This Program applies to all employees working for contractors, grantees, subcontractors, and sub-grantees on federal grants and contracts.¹

Under the program, an "employee of a contractor, subcontractor, grantee [or sub-grantee] may not be discharged, demoted, or otherwise discriminated against" as a reprisal for whistleblowing. "Whistleblowing" means disclosing information the employee "reasonably believes is evidence of" any of the following:

- Gross mismanagement of a federal contract or grant;
- The gross waste of federal funds;
- An abuse of authority relating to a federal contract or grant;
- A substantial and specific danger to public health or safety; or,
- A violation of law or regulation related to a federal contract or grant (including the competition for, or negotiation of, a contract or grant).

Whistleblower protections are triggered if the employee discloses the above type of information to any of the following:

- A member of Congress, or a representative of a Congressional committee;
- An Inspector General;
- The Government Accountability Office;
- A federal employee responsible for contract or grant oversight or management at the relevant agency;
- An authorized official from the Department of Justice, or other law enforcement agency;
- A court or grand jury; or,
- A management official or other employee of the contractor, subcontractor, grantee, or sub-grantee who has responsibility to investigate, discover or address misconduct.

Whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.

The University of Rochester is committed to complying with this Pilot Program and to ensuring that employees are not discharged, demoted, or otherwise discriminated against as a reprisal for whistleblowing, and is initiating procedures to comply with the requirements of this new program, including providing this notice to employees of the rights and remedies under the Pilot Program. Additional details, including procedures for filing complaints, may be found in the full statute [41 U.S.C. 4712](#) (Section 828) and at Federal Regulations, [48 C.F.R. 3.908](#).

Under the University's Code of Conduct, employees have a duty to report any suspected violation of laws and regulations. Disclosure or reporting of the types of activities covered by the Pilot Program may be raised in a variety of ways, including through a managerial employee of your college, school, or unit, by contacting the Office of Research and Project Administration [275-5373] or by contacting the Office of Counsel [276-3677].

Alternatively, claims of behavior reasonably believed to constitute misconduct or to be improper or unethical may be reported anonymously through the University's Integrity Hotline at 585-756-8888. No one acting on behalf of the University will retaliate against an individual for having made a report in good faith.

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¹ Per the statute, these provisions do not apply to grantees or contractors of federal awards from the Department of Defense, NASA, Coast Guard, or any element of the intelligence community as defined in Section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).