DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND
5001 EISENHOWER AVENUE, ALEXANDRIA, VA 22333 - 0001

REPLY TO
ATTENTION OF

AMCPE-C

10 JUN 1999

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Prohibited Personnel Practices

1. The Office of Special Counsel (OSC) is an independent agency which has jurisdiction to investigate and prosecute federal employees who engage in prohibited personnel practices (PPP). Specifically, federal employees who have authority to take, direct others to take, recommend, or approve any personnel action can be investigated and prosecuted when the facts reveal that they have violated 5 U.S. Code 2302(b).

2. The OSC has authority to receive confidential information from current/former employees and applicants exposing gross mismanagement, waste of funds, abuse of authority, substantial and specific danger to public health or safety, violation of any law, rule, or regulation and violations of the Hatch Act.

3. All employees should be made aware of their rights concerning (PPP). The enclosure, which was prepared by OSC, provides additional information about PPP, including examples. Thus, please share this information with the work force. For the sake of convenience, recommend permanently placing the enclosure on bulletin boards where the information can be readily accessible to employees.

4. The point of contact for this action is Teresa Greene, DSN 767-3408 or (703) 617-3408.

5. AMC -- Your Readiness Command...Serving Soldiers Proudly!

FOR THE COMMANDER:

for Bruce R Lowrey, COL GS

Encl

MELINDA McMILLON DARBY
Deputy Chief of Staff
for Personnel

DISTRIBUTION:
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YOUR RIGHTS AS A FEDERAL EMPLOYEE

ENFORCED BY

THE U.S. OFFICE OF SPECIAL COUNSEL

I. THE U.S. OFFICE OF SPECIAL COUNSEL (OSC) is an independent agency that investigates and prosecutes allegations of prohibited personnel practices (PPP).

WHAT IS A PROHIBITED PERSONNEL PRACTICE (PPP) UNDER OSC's JURISDICTION? A federal employee authorized to take, direct others to take, recommend or approve any personnel action may not, under 5 U.S.C. § 2302(b):

- **Discriminate (including discrimination based on marital status and political affiliation)** *EXAMPLE: Supervisor Joe refuses to promote Employee Jane because Jane is a registered Republican.*
- **Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.** *EXAMPLE: Selecting Official Joe hires Applicant Jack based on Senator Smith's recommendation that Jack be hired because Jack is a constituent.*
- **Coerce the political activity of any person, or take action against any employee as reprisal for refusing to engage in political activity.** *EXAMPLE: Supervisor Jane takes away significant job duties of Employee Jack because Jack will not make a contribution to Jane's favorite candidate.*
- **Deceive or willfully obstruct any person from competing for employment.** *EXAMPLE: Supervisor Joe, located in Headquarters, orders that no vacancy announcements be posted in the field office where Employee Jack works because he does not want Jack to get a new job.*
- **Influence any person to withdraw from competition for a position to improve or injure the employment prospects of any other person.** *EXAMPLE: Supervisor Jane, in an effort to hire Employee Joe, tells Employee Jack that he should not apply for a position because he is not qualified and will never be selected. Employee Jack is qualified.*
- **Give an unauthorized preference to a person to improve or injure the employment prospects of any particular employee or applicant.** *EXAMPLE: Supervisor Jane specifies that Spanish-speaking skills are necessary for a vacant position, for the purpose of selecting Employee Jack, who speaks fluent Spanish. The position, however, does not require Spanish-speaking skills.*
- **Engage in nepotism.** *EXAMPLE: Second-level Supervisor Jane asks First-level Supervisor Joe to hire her son.*
- **Take a personnel action against an employee because of whistleblowing.** *EXAMPLE: Supervisor Joe directs the geographic reassignment of Employee Jack because Jack reported safety violations to the agency's Inspector General.*
- **Take a personnel action against any employee because of the exercise of an appeal, complaint, or grievance right.** *EXAMPLE: Supervisor Jane denies training opportunities to Employee Jack because Employee Jack filed an administrative grievance about his performance rating.*
- **Discriminate against an employee on the basis of conduct, which does not adversely affect the performance of the employee.** *EXAMPLE: Supervisor Joe, a teetotaller, denies Employee Jane a promotion because he objects to Employee Jane's frequenting of bars on Saturday nights.*
- **Take or fail to take a personnel action, if such action would violate a veterans' preference requirement.** *Example: Supervisor Jane hired Employee Jack, without considering Veteran Jennifer, who was included on the list of eligible employees. (OSC's jurisdiction is for disciplinary actions only; the Dept. of Labor has jurisdiction to investigate for corrective actions.)*
- **Take a personnel action against an employee which violates a law, rule, or regulation which implements a merit systems principle.** *EXAMPLE: Supervisor Jane terminates the probationary appointment of Employee Jack because of Jack's letter to his congressional representative complaining about inefficient delivery of services by his agency (a valid exercise of First Amendment rights, which is a law that implements a merit systems principle).*

FNCCOSURE

What You Can Do If You Believe A PPP Has Been Committed:

An employee who believes a PPP has been committed, and who has not already filed an appeal to the MSPB or a grievance under a collective bargaining agreement challenging that PPP, can file a complaint with OSC. Complaints must be in writing, and complaint forms are available on the Web at www.osc.gov. You do not need an attorney to file a complaint. OSC will investigate allegations of PPPs and, where warranted, seek corrective and/or disciplinary action.

II. The U.S. Office of Special Counsel Also Receives Confidential Disclosures and Enforces The Hatch Act.

RECEIVING CONFIDENTIAL DISCLOSURES:

Current and former federal employees and applicants can confidentially report information evidencing a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. The OSC has the authority to require the head of the agency concerned to investigate the matter if OSC determines that there is a substantial likelihood that the information evidences a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. Disclosure forms are available on the OSC web-site.

ENFORCING THE HATCH ACT:

The OSC issues advisory opinions about the Hatch Act in response to employees' questions about whether or not they may engage in specific political activities under the Act. OSC also investigates allegations of Hatch Act violations, and prosecutes suspected violators before the Merit Systems Protection Board. These violations include: engaging in political activity while on-duty or in a government office; using official authority to interfere with an election result; soliciting, accepting or receiving political contributions; and running for public office in a partisan political election.

Need Additional Information?

- Information on filing a complaint: **202-653-7188** or **800-872-9855**
- Information on making a disclosure: **202-653-9125** or **800-572-2249**
- Recently updated, and detailed, information on OSC and its procedures– visit our web page: **http://www.osc.gov**
- Recently updated, and detailed, information on OSC in our brochure: **"The Role of the U.S. Office of Special Counsel"** (GPO # 028-004-00105-9) by calling 202-512-1800 – the GPO Bookstore

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