

Have You Noticed? Pilot Program Protects Federal Grant Workers from Whistleblower Retaliation

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SUMMARY

A pilot program enacted by Congress went into effect last spring to protect whistleblowers who are working on federal grants. While it remains under the radar, this program is worth your review, as it not only imposes new substantive non-retaliation obligations on institutions of higher education, but also requires institutions to publish notices of the law to all employees working on federal grants.

The pilot program, which will remain in effect through January 2017, specifically prohibits any government contractors, subcontractors, or grantees from discharging, demoting, or otherwise engaging in any reprisals against an employee who, in good faith, reports what he or she believes is mismanagement of federal grant or contract funding, a danger to the public welfare, or a violation of law related to the administration of the grant. See 41 U.S.C. § 4712(a)(1).

Employees who claim to have been subjected to covered retaliation must “submit a complaint with the Inspector General of the executive agency involved.” See *id.* at § 4712(b). The Inspector General must then investigate the employee’s allegations, and may either order relief for the employee against the institution or deny relief. If the Inspector General denies relief, the employee may file a civil complaint in federal court, see *id.* at § 4712(c)(2), and available remedies include reinstatement, front and back pay, and attorneys fees and costs. See *id.* at § 4712(c)(1)(b).

In addition to the substantive requirements and remedies discussed above, the statute also affirmatively mandates that “grantees . . . inform their employees in writing of the rights and remedies” available under the pilot program in “the predominant native language of the workforce.” See *id.* at § 4712(d).

If your institution receives federal grants but you have not yet adopted policies reflecting the terms of the pilot program or published a notice to your employees and contractors, we encourage you do so. If you have any questions about the pilot program or would like assistance crafting a notice or updating your policies to reflect these anti-retaliation rules, please contact the author, who would be happy to assist.

This Alert was written by Joshua W.B. Richards, a member of the firm’s Higher Education Practice. Joshua can be reached at 215.972.7737 or jrichards@saul.com. This publication has been prepared by the Higher Education Practice for information purposes only.

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