

As of 19 January 2018

50 U.S. Code § 3234. *Prohibited personnel practices in the intelligence community*

(a) Definitions In this section:

(1) Agency The term “agency” means an executive department or independent establishment, as defined under sections 101 and 104 of title 5, that contains an intelligence community element, except the Federal Bureau of Investigation.

(2) Covered intelligence community element The term “covered intelligence community element”—

(A) means—

(i) the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

(ii) any executive agency or unit thereof determined by the President under section 2302(a)(2)(C)(ii) of title 5 to have as its principal function the conduct of foreign intelligence or counterintelligence activities; and

(B) does not include the Federal Bureau of Investigation.

(3) Personnel action The term “personnel action” means, with respect to an employee in a position in a covered intelligence community element (other than a position excepted from the competitive service due to its confidential, policy-determining, policymaking, or policy-advocating character) or a contractor employee—

(A) an appointment;

(B) a promotion;

(C) a disciplinary or corrective action;

(D) a detail, transfer, or reassignment;

(E) a demotion, suspension, or termination;

(F) a reinstatement or restoration;

(G) a performance evaluation;

(H) a decision concerning pay, benefits, or awards;

(I) a decision concerning education or training if such education or training may reasonably be expected to lead to an appointment, promotion, or performance evaluation; or

(J) any other significant change in duties, responsibilities, or working conditions.

(4) Contractor employee The term “contractor employee” means an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of a covered intelligence community element.

(b) Agency employees Any employee of an agency who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of a covered intelligence community element as a reprisal for a lawful disclosure of information by the employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), the Inspector General of the Intelligence Community, the head of the employing agency (or an employee designated by the head of that agency for such purpose), the appropriate inspector general of the employing agency, a congressional intelligence committee, or a member of a congressional intelligence committee, which the employee reasonably believes evidences—

(1) a violation of any Federal law, rule, or regulation; or

(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) Contractor employees

(1) Any employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of a covered intelligence community element who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any contractor employee as a reprisal for a lawful disclosure of information by the contractor employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), the Inspector General of the Intelligence Community, the head of the contracting agency (or an employee designated by the head of that agency for such purpose), the appropriate inspector general of the contracting agency, a congressional intelligence committee, or a member of a congressional intelligence committee, which the contractor employee reasonably believes evidences—

(A) a violation of any Federal law, rule, or regulation (including with respect to evidence of another employee or contractor employee accessing or sharing classified information without authorization); or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(2) A personnel action under paragraph (1) is prohibited even if the action is undertaken at the request of an agency official, unless the request takes the form of a nondiscretionary directive and is within the authority of the agency official making the request.

(d) Enforcement The President shall provide for the enforcement of this section.

(e) Existing rights preserved Nothing in this section shall be construed to—

(1) preempt or preclude any employee, contractor employee, or applicant for employment, at the Federal Bureau of Investigation from exercising rights provided under any other law, rule, or regulation, including section 2303 of title 5; or

(2) repeal section 2303 of title 5.

(July 26, 1947, ch. 343, title XI, § 1104, as added Pub. L. 113–126, title VI, § 601(a), July 7, 2014, 128 Stat. 1414; amended Pub. L. 115–118, title I, § 110(a), Jan. 19, 2018, 132 Stat. 15.)