

(Added Pub. L. 115-188, §2(a), June 21, 2018, 132 Stat. 1490.)

§ 728. Misuse of Department purchase cards

(a) IN GENERAL.—(1) The Secretary shall prohibit any employee of the Department who the Secretary or the Inspector General of the Department determines has knowingly misused a purchase card from serving as a purchase card holder or approving official.

(2) Such a prohibition shall be in addition to any other applicable penalty.

(b) MISUSE.—For purposes of this section, the term “misuse” means—

- (1) splitting purchases;
- (2) exceeding applicable purchase card limits or purchase thresholds;
- (3) purchasing any unauthorized item;
- (4) using a purchase card without being an authorized purchase card holder; or
- (5) violating ethics standards.

(Added Pub. L. 115-407, title V, §501(a), Dec. 31, 2018, 132 Stat. 5376.)

SUBCHAPTER II—WHISTLEBLOWER COMPLAINTS

§ 731. Adverse actions against supervisory employees who commit prohibited personnel actions relating to whistleblower complaints

(a) IN GENERAL.—(1) In accordance with paragraph (2), the Secretary shall carry out the following adverse actions against supervisory employees (as defined in section 7103(a) of title 5) whom the Secretary, an administrative judge, the Merit Systems Protection Board, the Office of Special Counsel, an adjudicating body provided under a union contract, a Federal judge, or the Inspector General of the Department determines committed a prohibited personnel action described in subsection (c):

(A) With respect to the first offense, an adverse action that is not less than a 12-day suspension and not more than removal.

(B) With respect to the second offense, removal.

(2)(A) An employee against whom an adverse action under paragraph (1) is proposed is entitled to written notice.

(B)(i) An employee who is notified under subparagraph (A) of being the subject of a proposed adverse action under paragraph (1) is entitled to 10 days following such notification to answer and furnish evidence in support of the answer.

(ii) If the employee does not furnish any such evidence as described in clause (i) or if the Secretary determines that such evidence is not sufficient to reverse the determination to propose the adverse action, the Secretary shall carry out the adverse action following such 10-day period.

(C) Paragraphs (1) and (2) of subsection (b) of section 7513 of title 5, subsection (c) of such section, paragraphs (1) and (2) of subsection (b) of section 7543 of such title, and subsection (c) of such section shall not apply with respect to an adverse action carried out under paragraph (1).

(b) LIMITATION ON OTHER ADVERSE ACTIONS.—With respect to a prohibited personnel action described in subsection (c), if the Secretary carries out an adverse action against a supervisory

employee, the Secretary may carry out an additional adverse action under this section based on the same prohibited personnel action if the total severity of the adverse actions do not exceed the level specified in subsection (a).

(c) PROHIBITED PERSONNEL ACTION DESCRIBED.—A prohibited personnel action described in this subsection is any of the following actions:

(1) Taking or failing to take a personnel action in violation of section 2302 of title 5 against an employee relating to the employee—

(A) making a whistleblower disclosure to the Assistant Secretary for Accountability and Whistleblower Protection, the Inspector General of the Department, the Special Counsel, or Congress;

(B) providing information or participating as a witness in an investigation of a whistleblower disclosure made to the Assistant Secretary for Accountability and Whistleblower Protection, the Inspector General of the Department, the Special Counsel, or Congress;

(C) participating in an audit or investigation by the Comptroller General of the United States;

(D) refusing to perform an action that is unlawful or prohibited by the Department; or

(E) engaging in communications that are related to the duties of the position or are otherwise protected.

(2) Preventing or restricting an employee from making an action described in any of subparagraphs (A) through (E) of paragraph (1).

(3) Conducting a negative peer review or opening a retaliatory investigation because of an activity of an employee that is protected by section 2302 of title 5.

(4) Requesting a contractor to carry out an action that is prohibited by section 4705(b) or section 4712(a)(1) of title 41, as the case may be.

(d) WHISTLEBLOWER DISCLOSURE DEFINED.—In this section, the term “whistleblower disclosure” has the meaning given such term in section 2323(g) of this title.

(Added Pub. L. 114-223, div. A, title II, §247(a)(1), Sept. 29, 2016, 130 Stat. 887, §733; renumbered §731 and amended Pub. L. 115-41, title I, §102(a)(2), (c), title II, §206, June 23, 2017, 131 Stat. 865, 867, 877.)

PRIOR PROVISIONS

A prior section 731, added Pub. L. 114-223, div. A, title II, §247(a)(1), Sept. 29, 2016, 130 Stat. 884, defined whistleblower complaint, prior to repeal by Pub. L. 115-41, title I, §102(a)(1), June 23, 2017, 131 Stat. 865.

AMENDMENTS

2017—Pub. L. 115-41, §102(a)(2), renumbered section 733 of this title as this section.

Subsec. (a)(2)(B). Pub. L. 115-41, §206, substituted “10 days” for “14 days” in cl. (i) and “10-day period” for “14-day period” in cl. (ii).

Subsec. (c)(1)(A). Pub. L. 115-41, §102(c)(1)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “filing a whistleblower complaint in accordance with section 732 of this title;”.