



NCUA Policy on Protecting Whistleblowers with Access to Classified Information

1. Introduction

In accordance with Presidential Policy Directive 19 (PPD-19), *Protecting Whistleblowers with Access to Classified Information*, dated October 10, 2012, any National Credit Union Administration ("NCUA") official who has the authority to take, direct others to take, recommend, or approve any action affecting the eligibility of an NCUA employee or contractor (each hereinafter an "individual") for access to classified information, shall not, with respect to such authority, take or fail to take, or threaten to take or fail to take, any action affecting such individual's eligibility for access to classified information as a reprisal for a protected disclosure.

2. Protected Disclosure

Under PPD-19, each of the following actions may constitute a protected disclosure, provided such an action does not result in the individual disclosing classified information or other information contrary to law:

- a) a disclosure of information by the individual to a supervisor in the individual's direct chain of command up to and including the Chairman or a Member of the NCUA Board, a to the NCUA Inspector General, or to an employee designated by any of the above officials for the purpose of receiving such disclosures, that the individual reasonably believes evidences: (i) a violation of any law, rule or regulation; or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety;
- b) any communication described by and that complies with: subsection (a)(1), (d), or (h) of a section 8H of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3); a subsection (d)(5)(A) of section 17 of the Central Intelligence Agency Act of 1949 (50a U.S.C. 403q); or subsection (k)(5)(A), (D), or (G) of section 103H of the National Security Act of 1947 (50 U.S.C. 403-3h); a
- c) the exercise of any appeal, complaint, or grievance with regard to the violation of PPD-19; a
- d) a lawfully participating in an investigation or proceeding by NCUA regarding a violation of PPD-19; or a
- e) cooperating with or disclosing information to the NCUA Inspector General or any employee of its Office of Inspector General (together "the NCUA IG") in connection with an audit, inspection, or investigation the NCUA IG conducts. a

3. Review Process

Individuals are encouraged to seek a review of personnel actions they allege to be in violation of PPD-19. The review process shall, to the fullest extent possible, be consistent with and integrated into the policies and procedures used to review security clearance determinations under Section 5.2 of Executive Order 12968 (August 2, 1995), as amended, 60 FR 40245, 40252 (Aug. 7, 1995). The review process shall provide for the protection of classified national security information and intelligence sources and methods.

a. Inspector General Review

As part of the review process, the NCUA IG shall conduct a review to determine whether an action affecting eligibility for access to classified information violated this policy. Upon a finding of reprisal, the NCUA IG may recommend that the NCUA Board acting through its Chairman or his or her designee ("Chairman"), reconsider the individual's eligibility for access to classified information and recommend that the Agency take other corrective action to return the employee, as nearly as practicable and reasonable, to the position such employee would have held had the reprisal not occurred.

b. Agency Consideration of IG Recommendations

The Chairman shall carefully consider the NCUA IG's findings and recommended actions. To the extent authorized by law (including the Back Pay Act), corrective action may include, but is not limited to, reinstatement, reassignment, reasonable attorneys' fees, other reasonable costs, back pay and related benefits, travel expenses, and compensatory damages.

4. Appeal Process by External Review Panel

An individual alleging a reprisal who has exhausted the NCUA IG review process may request an external review by a three-member panel of Inspectors General ("External Review Panel") chaired by the Inspector General of the Intelligence Community, on behalf of the Director of National Intelligence (DNI). If such a request is made, the Inspector General of the Intelligence Community shall decide, in his or her discretion, whether to convene the External Review Panel and, if so, shall designate two other panel members from among the Inspectors General of the following agencies: Departments of State, Treasury, Defense, Justice, Energy, Homeland Security, and the Central Intelligence Agency. The NCUA IG may not serve as a member of the External Review Panel. The External Review Panel shall complete a review of the claim, which may consist of a file review, as appropriate, within 180 days.

If the External Review Panel determines that the individual was the subject of a personnel action affecting his or her eligibility for access to classified information prohibited by Section B of PPD-19, the panel may recommend that the Chairman take corrective action to return the individual, as nearly as practicable and reasonable, to the position such individual would have held had the reprisal not occurred and that the Chairman reconsider the individual's eligibility for access to classified information.

The Chairman shall carefully consider the recommendation of the External Review Panel pursuant to the above paragraph and, within 90 days, inform the panel and the DNI of what action he or she has taken. If the Chairman fails to so inform the DNI, the DNI shall notify the President.

5. Cooperation and Availability of PPD-19 Policy

With respect to matters covered by this policy, NCUA shall cooperate with the NCUA IG, the Inspector General of the Intelligence Community, and any External Review Panel and provide such information and assistance that each may request, to the extent permitted by law.

NCUA shall further, to the extent practicable, make the protections and review processes set forth herein publicly available to employees who make protected disclosures.