



NOAA: Union files complaint over nondisclosure agreements

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National Weather Service employees have lodged a complaint with the U.S. Office of Special Counsel over nondisclosure agreements that they say violate the Whistleblower Protection Enhancement Act of 2012.

Under the whistleblower law, all nondisclosure agreements are required to include a statement saying they "are consistent with and do not supersede, conflict with, or otherwise alter" employee rights to be whistleblowers or report the malfeasance to an inspector general or Congress.

But over the past year, National Oceanic and Atmospheric Administration employees have been asked to sign two nondisclosure agreements that do not include that statement, prompting the National Weather Service Employees Organization and **Public Employees for Environmental Responsibility** to file a complaint with U.S. Special Counsel Carolyn Lerner.

"Despite these very specific statutory requirements, the National Weather Service, NOAA and [Department of Commerce] are presently implementing and enforcing nondisclosure agreements which violate the law," the [letter](#) says. "We seek your office's assistance in curing these prohibited personnel practices and, if appropriate, seeking disciplinary action against responsible officials."

Union officials say the agency workers were first asked to sign nondisclosure agreements in order to participate in an NWS operational workforce analysis.

National Weather Service Employee Organization Executive Vice President Bill Hopkins said that the service asked his group to send a representative to team meetings about the analysis but that the invitation was rescinded after the representative refused to sign a nondisclosure [agreement](#) that they believed would have prevented them from sharing what they learned with union members.

NOAA spokesman Christopher Vaccaro confirmed that every member of the operational workforce analysis team was asked to sign a charter that included a nondisclosure clause. He said the move was justified because "the material being shared in work streams is pre-decisional yet necessary for the work streams to view since it is their responsibility to generate their ideas and options."

Vaccaro cited 2011 [guidance](#) from the Office of Personnel Management that says, "Pre-decisional discussions, by their nature, should be conducted confidentially among the parties to the discussions."

"This confidentiality is an essential ingredient in building the environment of mutual trust and respect necessary for the honest exchange of views and collaboration," the guidance says. "Ultimately, the goal is to allow employees, through their elected labor representatives, to have meaningful input which results in better quality decision-making, more support for decisions, and timelier implementation."

Vaccaro said that the union's refusal to sign the confidentiality agreements was "unfortunate" and that members could opt to sign it at any time in order to join the team.

"Until that happens, we will and can only share information on the operations and workforce analysis project with [the union] that has already been broadly distributed," he said.

But the operational workforce analysis team charter was only one nondisclosure agreement presented to NWS employees. Commerce recently instituted a policy requiring that any settlements of unresolved grievances be accompanied by a nondisclosure agreement.

And union members were again asked to sign a nondisclosure agreement with NOAA when the agency decided to renegotiate the union's contract, the union maintains.

"When we do collective bargaining, there are between five to nine union officials at the table representing 4,500 employees, and we would not be able to communicate with them what we were negotiating," Hopkins said.

Hopkins, who has been executive vice president of the union for almost 10 years, said the agencies had not previously asked for nondisclosure agreements in similar situations. He said his union is not sure what the motivation is for the change and that they have tried to discuss the issue with Commerce, NOAA and National Weather Service officials: "They basically just say either we sign it or they won't talk to us."

The Commerce Department referred all requests for comment to NOAA.

Vaccaro said NOAA was "disappointed" that union representatives have refused to sign the agreements.

"NWS remains committed to working with NWSEO on all aspects of the organization and remains open to the opportunity for them to sign such agreements so their representatives can fully participate on each team," he wrote.

"As a taxpayer, I do find it highly disturbing that a government agency is continuing to push gag orders to hide how we are operating," Hopkins said. "What we do is the work of the American government, and it is owned by the American public, and we should not be keeping these things from them."

The Office of Special Counsel said in a statement it could not comment on any specific claim but that it will "carefully review" any complaints.

"Agencies should familiarize themselves with this provision in the Whistleblower Protection Enhancement Act," the statement says. "OSC is also available to provide training to agencies on protecting federal employees' right to blow the whistle without fear of retaliation or improper restraint."