

WHISTLEBLOWER PROTECTION PLAN

March, 2007

TABLE OF CONTENTS

STATUTORY LANGUAGE.....	3
INTRODUCTION.....	4
Basic Policy—N.P.R. 8715.1, Occupational Safety and Health Programs	5
Alternate Reporting Avenues.....	6
Center or Facility Safety and/or Health official	6
Complaint Heirachy.....	6
Inspector General.....	8
NASA Safety Reporting System (NSRS)	9
Educational Opportunities	10

Pursuant to Sec. 110(c) of the National Aeronautics and Space Administration Authorization Act of 2005 (P.L. 109-155) the following plan describes the steps taken by NASA to protect from retaliation NASA employees who raise concerns about substantial and specific dangers to public health and safety or about substantial and specific factors that could threaten the success of a mission.

STATUTORY LANGUAGE

Section 110 of the NASA Authorization Act of 2005 (P.L. 109-155) contains the following language:

(a) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan describing steps to be taken by NASA to protect from retaliation NASA employees who raise concerns about substantial and specific dangers to public health and safety or about substantial and specific factors that could threaten the success of a mission. The plan shall be designed to ensure that NASA employees have the full protection required by law. The Administrator shall implement the plan not more than one year after its transmittal.

(b) **GOAL.**—The Administrator shall ensure that the plan describes a system that will protect employees who wish to raise or have raised concerns described in subsection (a).

(c) **PLAN.**—At a minimum, the plan shall include, consistent with Federal law—

- (1) a reporting structure that ensures that the officials who are the subject of a whistleblower’s complaint will not learn the identity of the whistleblower;
- (2) a single point to which all complaints can be made without fear of retribution;
- (3) procedures to enable the whistleblower to track the status of the case;
- (4) activities to educate employees about their rights as whistleblowers and how they are protected by law;
- (5) activities to educate employees about their obligations to report concerns and their accountability before and after receiving the results of the investigations into their concerns; and
- (6) activities to educate all appropriate NASA Human Resources professionals, and all NASA managers and supervisors, regarding personnel laws, rules, and regulations.

(d) **REPORT.**—Not later than February 15 of each year beginning with the year after the date of enactment of this Act, the Administrator shall transmit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the concerns described in subsection (a) that were raised during the previous fiscal year. At a minimum, the report shall provide—

- (1) the number of concerns that were raised, divided into the categories of safety and health, mission assurance, and mismanagement, and the disposition of those concerns, including whether any employee was disciplined as a result of a concern having been raised; and

(2) any recommendations for reforms to further prevent retribution against employees who raise concerns.

INTRODUCTION

The greatest challenge NASA faces is safely flying the Space Shuttle to assemble the International Space Station prior to retiring it in 2010, while bringing new human spaceflight capabilities on-line soon thereafter. We must understand that, given proper goals, human spaceflight is a strategic capability for this Nation, and we must not allow it to slip away. In January, we in the NASA family remembered those whom we have lost in the exploration of space. In the aftermath of the *Columbia* tragedy, President Bush addressed the NASA workforce, saying: “In your grief, you are responding as your friends would have wished – with focus, professionalism, and unbroken faith in the mission of this agency.” We must commit ourselves to that focus, professionalism, and unbroken faith every day in order to carry out the tasks before us.

In analyzing not only the root causes, but also the systemic reasons behind the *Columbia* accident, the Columbia Accident Investigation Board (CAIB) made critical observations that guided the formulation of our present civil space policy and revisions to NASA’s safety reporting systems. The CAIB noted that “deficiencies in communication... were a foundation for the *Columbia* accident.” Since then NASA has taken many steps to improve communication, particularly of safety concerns.

First and foremost, NASA continues to work cooperatively with the Office of Special Counsel in enforcing the protections provided by the Whistleblower Protection Act of 1989, 5 U.S.C. § 1201. This Act strengthened and improved protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices and establishing that the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers, from prohibited personnel practices. NASA’s Whistleblower Protection Plan follows the principle embodied in this statute that while disciplining those who commit prohibited personnel practices may be used as a means by which to help accomplish that goal, the protection of individuals who are the subject of prohibited personnel practices remains the paramount consideration.

In NASA’s reporting plan it is preferred that safety and health concerns be reported at the lowest level that is capable of resolving the concern. In most cases this means reporting to an individual’s supervisor. In addition, at NASA, multiple alternative communication paths are available to employees if they need to report concerns outside of their chain of command. NASA recognized after the Challenger Shuttle mishap that employees may still be reluctant to report concerns. To address these concerns NASA established an anonymous safety reporting channel, the NASA Safety Reporting System (NSRS), which can be viewed as a single point to which all complaints can be made without fear of retribution. Rather than force an employee into any one course of action, NASA’s plan

provides alternate options to report safety concerns, so that if employees can't report their concern to their supervisor, the employees can select the appropriate alternative with which they are most comfortable. Thus while there is not one single point of contact for all complaints, each option provides a single point of contact.

This structure meets the requirements of section 110: identities may be kept secret; each system provides a single point to which all complaints can be made; procedures are available to track status of a case, but with full anonymity; and education activities for employees and managers.

Basic Policy—NASA Procedural Requirement 8715.1, Occupational Safety and Health Programs

NASA has designed a robust process that assures that employees are free to raise concerns regarding health and safety. The processes described herein ensure that NASA employees have the full protection required by law in the event that they raise concerns about substantial and specific dangers to public health and safety or about substantial and specific factors that could threaten the success of a mission. Systems are in place that can provide anonymity to those employees that choose to report health and safety concerns.

The Basic Policy for reporting safety problems or concerns is defined within NASA Procedural Requirements (N.P.R.) 8715.1 Occupational Safety and Health Programs, dated August 9, 1999. This document establishes the broad responsibilities related to occupational safety and health for the Agency as well as the formal safety reporting requirements.

NASA explicitly states the rights of employees with respect to reporting concerns within NPR 8715.1, including the right to be free from retribution for reporting safety or health concerns.

Section 2.5.5 of NPR 8715.1 states that “Employees have the right to report unsafe and unhealthful working conditions to appropriate officials.”

Section 2.7 of NPR 8715.1 states that “No employee shall be subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthful working condition, participation in the activities of the Agency’s occupational safety and health programs, or the exercise of any right or privilege afforded by Section 19 of the Act, Executive Order 12196, or 29 CFR Part 1960.”

Along with these rights, employees also have defined responsibilities, including a responsibility to report safety and health concerns.

Section 2.4.2 of NPR 8715.1 states that “Employees are responsible for the following: Using established procedure to report suspected safety or health hazards.”

Alternate Reporting Avenues

Center or Facility Safety and/or Health Official

While the typical report of a safety or health concern would be reported to an individual's supervisor, NASA recognizes that there may be circumstances where reporting to a supervisor might present concerns to an employee. Therefore, alternate reporting avenues within, and external to, NASA are available to employees. The Center or Facility Safety and/or Health Official is one such alternative as defined in Section 4.4.1 of NPR 8715.1.

NPR 8715.1 designates the Chief Health and Medical Officer as the Designated Agency Safety and Health Official in response to the requirements of 29 CFR 1960.6 and Executive Order 12196.

"2.1.2 OSHA requires that each agency head designate an official with sufficient authority and responsibility to represent effectively the interest and support the agency head in the management and administration of the agency occupational safety and health program (Requirement 22004). The current Designated Agency Safety and Health Official (DASHO) for NASA is the Chief Health and Medical Officer. The DASHO holds responsibility for assuring that all OSHA regulatory requirements at the Agency level are fulfilled or implemented (Requirement 31542). The DASHO is responsible for assuring that safety and health officials are appointed at appropriate levels with adequate budgets and staffs to implement occupational safety and health programs at all operational levels as required by 29 CFR Part 1960.6, paragraph (c) (Requirement 31775)."

In practice the Chief Safety and Mission Assurance Officer and the Chief Health and Medical Officer share responsibilities. The Chief Safety and Mission Assurance Officer provides oversight of safety concerns and the Chief Health and Medical Officer provides oversight of health concerns.

"2.1.3 The safety and health functions at NASA are administered by two separate functional offices. The safety function is managed by the Office of Safety and Mission Assurance and the health function is managed by the Office of the Chief Health and Medical Officer. The DASHO and the Chief Safety and Mission Assurance Officer, as members of the NASA Operations Management Council, provide for senior management involvement and oversight of NASA's Occupational Safety and Health Program."

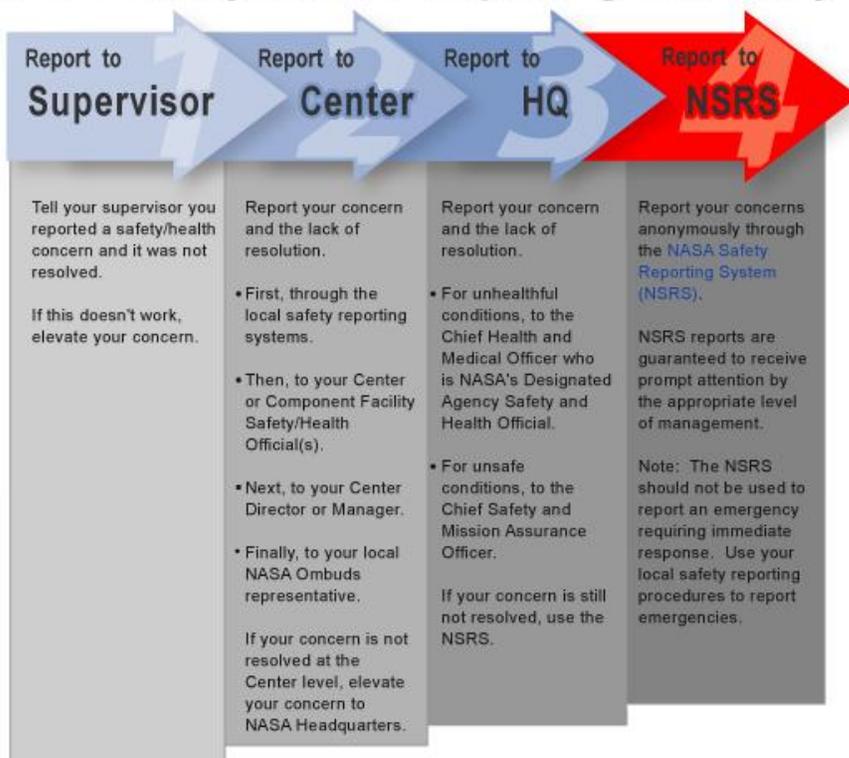
Safety Reporting Hierarchy

In NASA's reporting plan it is preferred that safety and health concerns be reported at the lowest level that is capable of resolving the concern. Reporting at this level ensures that

the report goes to someone that can quickly take action to resolve the concern whereas reporting to a higher level of the organization may delay resolution of the concern. In most cases this means reporting to an individual's supervisor.

If, however, an employee and supervisor disagree on an important issue, and the employee believes the issue merits a higher level review, the employee should suggest to the supervisor that they discuss the issue with the person next highest in the chain of supervision. The employee should feel free to move up the chain of supervision without the supervisor's consent. At NASA, multiple communication paths are available to employees if they need to report concerns outside of their chain of command. These alternatives are identified in a hierarchy that also serves as the model for escalating concerns that may not have been adequately resolved at a lower level. This hierarchy is defined in NPR 8715.1 paragraph 2.8 and an elementary graphic representation of the process can be found below and on NASA's website at http://www.nasa.gov/audience/safety/reporting/Safety_reporting.html.

NASA Safety/Hazard Reporting Hierarchy



2.8 Resolution of Complaints

2.8.1 Where an employee has made a report of a suspected unsafe or unhealthful condition to his/her supervisor and is dissatisfied with the abatement action taken, the following appeal route (in order of preference) is available:

2.8.1.1 Center or Component Facility Safety/Health Official(s), as appropriate.

2.8.1.2 Center Director or Manager.

2.8.1.3 Designated Agency Safety and Health Official (for unhealthful conditions)/Chief Safety and Mission Assurance Officer (for unsafe conditions).

2.8.1.4 NASA Safety Reporting System (NSRS).

2.8.1.5 Office of Federal Agency Safety and Health Programs - OSHA/DOL.

2.8.2 Complaints or grievances may also be registered through the NASA grievance procedures, through those procedures contained in agreements negotiated with recognized labor organizations, or through the NASA Office of Inspector General.”

All of these officials are bound by law and Agency requirements to provide a safety reporting and resolution process that is free from reprisal. Note also that in addition to the people listed above, NASA has established an agency-wide Ombuds program. Each Center has appointed an Ombuds, and alternate ombuds, available to civil servants to raise issues of concern in a confidential environment. Furthermore, recently the NASA Engineering and Safety Center has established an anonymous reporting capability for technically oriented concerns.

Office of Inspector General (OIG)

The OIG, pursuant to the Inspector General Act (IG Act) and in conformance with other applicable laws, Executive orders, and Federal regulations, conducts independent and objective audits, investigations and other reviews of NASA programs and operations. No NASA official, including the Administrator, may prevent or prohibit the IG from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena. It is NASA’s policy, through NPD 9800.1A, to abide by the requirements established for the Agency under the IG Act and to otherwise cooperate with the OIG in the performance of its statutory duties.

Any NASA employee who observes crime, fraud, waste, abuse, or mismanagement or receives an allegation of crime, fraud, waste, abuse, or mismanagement from a Federal employee, contractor, grantee, contractor or grantee employee, or any other source shall report such observation or allegation to the OIG. An employee may make such a report personally by contacting any OIG employee; calling the OIG Hotline (1-800-424-9183), which has been established specifically for receiving confidential reports; by mailing to the NASA Inspector General, P.O. Box 23089, L'Enfant Plaza Station, Washington, DC

20026; or by sending a message to the NASA OIG Cyber Hotline at <http://oig.nasa.gov/hotline.html>. To ensure free and unimpeded access to the OIG, an employee may ask for confidentiality, which shall be provided under the terms of the IG Act. Employees are not required to report to their supervisors their contacts with the OIG.

NASA Safety Reporting System (NSRS)

Even with these requirements in place NASA recognized after the Challenger Shuttle mishap that employees may still be reluctant to report safety concerns. To address these concerns NASA established an anonymous safety reporting channel, the NASA Safety Reporting System (NSRS), which can be viewed as a single point to which all complaints about safety and/or hazards can be made without fear of retribution.

The NSRS as identified in NPR 8715.1 serves as a supplement to the other reporting activities listed. NSRS reporting forms (OMB No. 2700-0063) are available from locations at every NASA activity and in many NASA contractor facilities as well as on the internet. A “reporter” completes a form and mails it to the NSRS contractor. The NSRS contractor reviews each report and removes any personally identifying information from the report and forwards a summary of the report to the NASA Office of Safety and Mission Assurance for action. NASA never sees the original report or any of the personally identifying information contained within the NSRS report.¹ The NSRS contractor retains any identifying information from the original report (if any) only until NASA can determine if sufficient information is available to understand the concern identified. If additional information is needed to understand the concern, only the NSRS contractor contacts the reporter. Once NASA has determined that sufficient information is available to investigate the concern the NSRS contractor returns the identifying material to the reporter. No identifying material is retained by the NSRS contractor. The NSRS contractor also provides the reporter with a case number that can be used to track progress of the investigation on the web using standard codes to identify the investigation status and the resulting closure of the investigation. NASA assigns independent investigators to evaluate each NSRS report and keeps the investigation open until any, and all, corrective actions are implemented. Not knowing the identity of the NSRS reporter precludes the NSRS investigators from disclosing the reporter’s identity. In addition as an added precaution to prevent inadvertent clues that might help to identify an NSRS reporter, NSRS investigators generally conduct their investigations without disclosing that they are performing an NSRS investigation.

Additional information regarding the NSRS may be found at the following NASA web site:

<http://www.hq.nasa.gov/nsrs>

¹ Except for reports that identify criminal activity that are provided to the NASA Office of the Inspector General.

Educational Opportunities

The table below indicates those educational opportunities that inform employees about their rights as whistleblowers and their protections under federal law and those educational activities for NASA managers, supervisors and Human Resources professionals regarding personnel laws, rules and regulation.

Activities to educate employees about their rights as whistleblowers and how they are protected by law	Activities to educate all appropriate NASA Human Resources (HR) professional, and all NASA Managers and Supervisors, regarding personnel laws, rules, and regulations:
Agencywide Activities	Agencywide Activities
Notification and Federal Employee Anti-Discrimination and Retaliation of 2002 (NO FEAR) Act Training established in System for Administration, Training, and Educational Resources for NASA (SATERN) which includes whistleblowers protection training and is required every two years.	NO FEAR Training established in the System for Administration, Training, and Educational Resources for NASA (SATERN) which includes whistleblowers protection training and is required every two years.
Link established and information provided through on-line New Employee Orientation Program at http://employeeorientation.nasa.gov	Equal Opportunity and Diversity Overview Briefing was given to all supervisors and managers, which included whistleblower activities
Link established from NASA People website to the Office of Special Counsel (OSC) website	An on-line supervisory/manager training module is being developed for SATERN and expected implementation in 2007
Posted information about whistleblowers rights on the NASA Shared Services Center (NSSC) Employee Notice website	

An agency wide Conflict Management Initiative (CMI) that includes training to identify and address workplace conflicts before they grow into complaints is being implemented as a pilot at a number of NASA Centers and the goal is to conduct the training for all employees at Headquarters and all Centers. The training will satisfy the No FEAR Act training requirement.	CMI training for managers and supervisors will satisfy the No FEAR Act training requirement.
Center-Specific Activities	Center-Specific Activities
Displaying poster in different locations	Training provided annually
Provide information to new employees during orientation and by slide presentations and other forms of communication	Provide briefings to supervisors and managers
Memos, notices, and wallet cards distributed to employees about Whistleblower Protection Act (WPA), Prohibited Personnel Practices (PPP) and Merit Systems Principles	Memos, notices, and wallet cards distributed to employees about WPA, PPP, and Merit Systems Principles
Link established at the center to http://nasapeople.nasa.gov	Link established from NASA People website to the OSC website
“Your Rights as a Federal Employee” pamphlet being provided to new employees	Training provided at each NASA Center using a variety of sources (i.e., Center personnel using OSC slides presentations; speakers from OSC; OSC’s CD’s; OSC’s power point presentations and various on-line training programs, etc.)
Employees notified about whistleblower rights through internal forms of communication at each Center	Written material developed by OSC about whistleblowers provided to HR, supervisors, and managers.

In order to educate employees about their obligations to report their concerns NASA has created a web page to educate the NASA workforce and help them understand their obligations and how they should go about safety and hazard reporting, and to place this webpage at a high enough level within the NASA webpage hierarchy so that people could reasonably find it. The web site location is:

http://www.nasa.gov/audience/safety/reporting/Safety_reporting.html

Alternatively, it can be reached from the main NASA home page by the following hyper-link trail: from NASA's top level home page (<http://www.nasa.gov>), click on the red box on the left side of the screen that says "+ for Employees" – on this new page, click on the right hand side black box that says "If It's Not Safe, Say So – Report Any Safety Concerns to NASA", and that will take you to the "Safety Reporting Homepage".

Additionally NASA has placed NSRS poster displays (which include NSRS forms and program brochures) at all NASA facilities, and through an outreach program we also offer those displays to our offsite NASA contractors. We also provide our NSRS posters in other languages (Spanish, French, Portuguese, Japanese, etc) for use with our joint/international partners and programs. Upon request, we also provide a staffed NSRS booth/display at annual safety events held at NASA facilities.

Typically, the NSRS poster displays at the NASA facilities can be found in each building, usually in the same locations where Federal laws require the posting of OSHA rules and regulations. At NASA HQ we have a poster display with reporting forms and brochures in the main (west) lobby, as well as in the break areas/vending machine areas on each floor of this building, and there is also a display in the lobby area of the Chief Safety Officer's suite. We also have small NSRS poster displays in every communal conference pod and meeting room in this building. The TV screens in the HQ building elevator lobbies periodically flash brief awareness reminders about the NSRS.