



**U.S. AbilityOne Commission
Office of Inspector General**

The Honorable Charles E. Grassley
Member
United States Senate Committee on the Budget
624 Dirksen Senate Office Building
Washington, DC 20510

February 14, 2025

Dear Senator Grassley,

This responds to your March 11, 2024, request that the Office of Inspector General (OIG) review all nondisclosure policies, forms, agreements, and related documents specific to the U.S AbilityOne Commission to ensure the anti-gag provision is included, as required by law.

In response to your request, my office initiated a document request with the Commission. We requested that the Commission provide us with all agency records regarding non-disclosure agreements involving AbilityOne Commission's employees. In response to our document request, the Commission stated that it "doesn't have a nondisclosure policy." And added, "Nor do we have any standing forms, agreements, or other documents routinely used for such purposes."

After a clarification was requested by the OIG, the Commission further stated that they do not have relevant documents that are covered by 5 U.S.C. 2302(b)(13). Secondly, the Commission stated that they are "neither developing nor aware of any need to develop an NDA with any employee(s)." The Commission also acknowledged that if anything should change, "then of course any NDA would fully comply with the letter of 5 U.S.C. 2302(b)(13)."

Based on our communications with the Commission and their written responses to our request, the OIG has concluded there are no documents responsive to our request. Therefore, we did not identify any instances of Commission employees signing a non-disclosure agreement with the agency.

If you or your staff have further questions, please contact me, or Laretta Joseph, Assistant Inspector General for Evaluation and Acting Assistant Inspector General for Audit at ljoseph@oig.abilityone.gov.

I am available to discuss any concerns or questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Stefania Pozzi Porter". The signature is written in a cursive style.

Stefania Pozzi Porter
Inspector General

United States Senate
WASHINGTON, DC 20510

March 11, 2024

VIA ELECTRONIC TRANSMISSION

Ms. Stefania Pozzi Porter
Inspector General
U.S. AbilityOne Commission

Dear Inspector General Porter:

Whistleblowers are patriots and the government's most powerful tool in rooting out waste, fraud, abuse, and misconduct. Nevertheless, federal agencies continue to implement nondisclosure policies and similar agreements without the inclusion of the "anti-gag" provision as required by law.¹ This failure has a chilling effect that discourages whistleblowers from reporting allegations of misconduct to Congress, Inspectors General (IG), and the Office of Special Counsel (OSC). The "anti-gag" provision has been included in almost every appropriations bill since 1988 and was codified in the Whistleblower Protection Enhancement Act.²

The anti-gag law requires all federal agency nondisclosure policies, forms, or agreements to include the following explicit statement notifying the employee of their rights to report wrongdoing:

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General or the Office of Special Counsel of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.³

Appropriation law prohibits the use of government funds to enforce these agreements if they fail to contain the anti-gag provision.⁴

¹ 5 USC § 2302(b)(13); Pub. L. No. 117-328

² *Id.*

³ 5 USC § 2302(b)(13).

⁴ Pub. L. No. 117-328.

Even though Congress made it abundantly clear that employees are required to be informed of their rights to make legally protected disclosures, there's a growing trend among federal agencies to use nondisclosure policies and similar agreements without the inclusion of the anti-gag provision in violation of the law.⁵ This is unacceptable.

The importance of whistleblowers knowing their rights under the law cannot be stated enough, and federal agencies should encourage their employees to disclose allegations of waste, fraud, and abuse. Federal agencies cannot be allowed to conceal their wrongdoing behind illegal nondisclosure policies and related actions. Accordingly, I request that you review all nondisclosure policies, forms, agreements, and related documents specific to your agency to ensure the anti-gag provision is included as required by law.

Thank you for your prompt review and response. If you have any questions, please contact Brian Randolph on my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget

⁵ See Letter from Senators Grassley and Johnson to Inspector General Horowitz (Apr. 19, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_johnson_to_justice_deptinspectorgeneralfbiantigagprovision.pdf; Letter from Senators Grassley and Johnson to Inspectors General Horowitz and George (Jun 6, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_johnson_to_dojoigtiga_-_whistleblower_retaliation.pdf; Letter from Senators Grassley and Johnson to Internal Revenue Service Commissioner Werfel (Jun. 6, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_johnson_to_irs_-_protected_whistleblower_disclosure.pdf; Letter from Senator Grassley, Senator Johnson, Representative Smith, and Representative Comer to Special Counsel Kerner (Jul. 5, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_johnson_comer_jordan_smith_to_osc_-_whistleblower_retaliation.pdf; Letter from Senator Grassley to Health and Human Services Secretary Becerra, Administration for Children and Families Acting Assistant Secretary Hild, and Office of Refugee Resettlement Director Marcos (Nov. 21, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_to_hhs_acf_and_orr_-_whistleblower_protections.pdf; Letter from Senator Grassley to Acting Special Counsel Gorman (Nov. 21, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_to_osc_-_hhs_whistleblower_protections.pdf; Letter from Senator Grassley to DOJ-OIG Horowitz (Feb. 12, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_doj_oig_-_protected_whistleblower_disclosures.pdf; Letter from Senator Grassley to Bureau of Alcohol, Tobacco, Firearms, and Explosives Director Dettelbach (Feb. 12, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_atf_-_protected_whistleblower_disclosures.pdf; Letter from Senator Grassley to Inspector General Horowitz (Mar. 8, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_doj_inspector_general_-_eoir_disclosures_to_congress.pdf; Letter from Senator Grassley to Attorney General Garland (Mar. 8, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_doj_-_eoir_disclosures_to_congress.pdf; Letter from Senator Grassley to Executive Office for Immigration Review Director David Neal (Mar. 8, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_executive_office_for_immigration_review_-_eoir_disclosures_to_congress.pdf.