

Higher Education Support Professionals: The Fear of Speaking Out

By Linda K. Johnsrud

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Support professionals in higher education bear broad responsibilities to serve the academic enterprise, but have virtually no authority.¹ While supporting the primary functions of the academy, they may witness questionable behaviors and activities on the part of faculty, senior administrators, and other staff members—including carelessness, waste, and fraud. Speaking out when these behaviors occur may be desirable and important. But the willingness of support staff to speak out depends on their sense of security in their positions, the climate fostered in their work unit, and knowledge of existing protections.

This chapter examines the protections afforded support professionals who speak out about activities they believe are inappropriate, unethical, or illegal. “Whistleblower,” the colloquial term applied to colleagues who speak out, is formally defined as “an employee who refused to engage in and/or reports illegal or wrongful activities of his employer or fellow employees.”² Federal and state statutes provide the most definitive protections for whistleblowers, while institutions may offer additional protection for staff members who report illegal or unsafe conduct. Collective bargaining contract language may also protect covered staff from reprisal for exercising their contractual rights. Other concerns—such as poor management, abusive supervision, or negligence—may be neither illegal nor contractual violations. Addressing these important concerns requires a campus climate that values the contributions—and criticisms—of support professionals.

SPEAKING OUT

Most visible cases involving reprisal, retribution, or retaliation for speaking out revolve around tenure and promotion, research fraud, and sexual or racial harassment or discrimination. Faculty members or students typically initiate these cases. The next largest group of cases involves high-level college or university administrators accused of fiscal mismanagement or of misusing funds. Boards or external agencies often bring these cases. About 60 percent of the employees in higher education are support staff, but cases involving these colleagues rarely appear in the media.³ There may be fewer cases, but more likely, existing

situations are rarely made public or receive press coverage.

The cases that *do* appear suggest the problems encountered by support professionals who speak out. Here are some examples from *The Chronicle of Higher Education*:

California State University at Fullerton reached a tentative settlement last week to pay its former personnel director \$457,000 to settle his state-court lawsuit, which accused the institution of unfair retaliation against him. In his lawsuit, [name deleted] also contended that university administrators retaliated against him for helping whistleblowers at the university process complaints to the California Bureau of State Audits about the university's alleged mishandling of government funds. A subsequent investigation by the Bureau of State Audits found that improper governmental activities had taken place, and [name deleted] contended that his superiors blamed him for those independent findings as well. (*Chronicle of Higher Education*, 2002)

The U.S. Equal Employment Opportunity Commission has found cause to believe that the general counsel of the University of Houston System subjected two female employees to a hostile working environment, and that they suffered retaliation for complaining. University officials, however, say the general counsel [name deleted] is merely a demanding manager whose efforts to shape up an inefficient office were resisted by the complainants. (*Chronicle of Higher Education*, 2000)

A British government accounting office has called on the country's universities to set up "whistle-blowing procedures" to enable staff members to air concerns about administrative and financial abuses and shortcomings. "The authors of the anonymous allegations which led to the investigation [and evidence of "serious wrongdoing] stated that because of a climate of fear and intimidation this was the only way to make their concerns known." (*Chronicle of Higher Education*, 1998)

Thirty-nine former staff members of Howard University have sued the institution for \$136.5 million in damages, claiming that they were wrongfully fired.... [But] the lawsuit, filed in Superior Court here, argues that the university used the restructuring to

get rid of employees who had fallen out of favor for various reasons. Some, the complaint says, had previously filed grievances against their supervisors, accusing them of sexual harassment or of race or gender discrimination. "Instead of doing it according to restructuring, they did it according to reprisal, said [name deleted], a 1950 alumna of Howard's law school." (*Chronicle of Higher Education*, 1995)

For more than two years, medical-center administrators tried to silence the staff members who were reporting problems. Three women ultimately came forward as whistleblowers; each suffered retaliation and was forced out of her job. The University began an internal audit based on the whistleblowers' reports in February 1994, and in September appointed three outside panels to investigate the alleged clinical and fiscal misconduct. The clinic was closed early last month. University lawyers negotiated settlements with the three whistleblowers this spring to compensate them for the institution's actions against them, agreeing to pay them a total of \$919,000. But the agreements barred the women from working anywhere in the University of California system, ordered them not to talk about the scandal or their treatment by the university, and barred them from making "any disparaging statements to any person or entity about the university and/or its employees." (*Chronicle of Higher Education*, 1995)

Each case received press coverage upon becoming a lawsuit or a formal complaint to an external body. Fear of retaliation explains why many more incidents that probably occur—or are perceived by support staff to occur—are never revealed. "Speaking out" may range from voicing concerns and suggestions for improvement to whistleblowing. Support professionals may consider any form of speaking out too risky because they are often treated as invisible members of the academic community and often feel unappreciated and vulnerable.⁴ These colleagues have fewer protections from retrenchment—no tenure—and often bear the brunt of administrative cost containment efforts.⁵ Fear of retribution—ranging from social discomfort to lack of support to dismissal—for speaking out is not therefore surprising.

PROTECTION FOR WHISTLEBLOWERS

The fear of retaliation may prevent employees from speaking out to help curtail wrongdoing by institutional personnel.⁶ Government and institutions have therefore adopted whistleblower protections. One indicator of the success of these protections in curtailing employee fears: Whistleblowing now occurs more frequently. Whistleblower complaints at the California State University system, for example, roughly doubled since 1999.⁷

Federal Protections. The Whistleblower Protection Act, passed by Congress in 1989, forbids retaliatory action by federal employers against any federal employee who blows the whistle.⁸ Other federal statutes protect non-federal employees. These statutes focus on four areas: environment, labor relations, workplace health and safety, and workplace discrimination.⁹ Specific procedures differ by statute, but the employer is usually “prohibited from discharging or in any way discriminating against an employee simply because the employee has filed a complaint, instituted a proceeding, or testified in any proceeding or investigation under or related to the relevant statute.”¹⁰ The definition of discrimination, which also varies by statute, may include demotions, transfers, or actions that create a hostile working environment such as intimidation, threats, restraints, coercion, or black-listing. An employee must file a claim of retaliation under the appropriate federal statute. Alleging retaliation after disclosing a workplace safety violation, for example, comes under the whistleblowing provision of the Occupational Safety and Health Act.¹¹

To establish that retaliation for whistleblowing has occurred, an employee must show that:

1. He or she engaged in some statutorily protected expression,
2. He or she suffered an adverse action by the employer, and
3. The employer took the adverse action because he or she engaged in the protected expression.¹²

The law does not list potential adverse actions because, the Seventh Circuit Court notes, “unfortunately its forms are as varied as the human imagination will permit.”¹³

Colleges and universities are especially concerned about scientific fraud. The Office of Research Integrity, in the U.S. Department of Health and Human Services, proposed rules to curtail this fraud. The rules required universities receiving federal funding for research to set up programs to prevent research misconduct and to provide due-process protections to whistleblowers who accuse co-workers of research-related misconduct.¹⁴ College officials objected to the rules as overly prescriptive, and the proposal was suspended.¹⁵ Universities are now encouraged to institute voluntary training for faculty, students, and staff.

A 1986 amendment to the False Claims Act made it easier and even profitable for whistleblowers to pursue claims in cases where they alleged misuse of federal funds. The act allowed private citizens with evidence of potential fraud to initiate lawsuits on the government’s behalf and to collect 15 to 30 percent of any damages awarded. But in 2000, the U.S. Supreme Court ruled that whistleblowers could not sue states or their agencies, including public colleges, under this act.¹⁶ This ruling lessens the likelihood of frivolous or false claims, but it also reduces the incentive for public colleges and universities to ensure their personnel are not engaged in wrongdoing.

State Whistleblower Statutes. Statutes in at least 30 states protect whistleblowers.¹⁷ These statutes differ as to who they define as protected employees, what conduct is prohibited, the procedures employees must follow to be protected, the specific actions that are protected, and the damages available. Statutes also vary on how certain an employee must be about the misconduct of an employer or co-worker before they are protected. Most statutes do not require absolute certainty, but the language ranges from the need for “reasonable belief” to an indication that the accusation was made in “good faith.” But some states may award legal fees to employers if it is established that the employee’s claims were without basis in law or fact.¹⁸

Institutional Policies. Colleges and universities have an interest in handling accusations of wrongdoing before they are made public. Institutional policies that protect whistleblowers against retaliation are intended to encourage employees to report their

concerns internally and to ensure protection from the actions of supervisors or others who may be involved in the alleged misconduct.¹⁹ Such policies also signal the academic community that the institution takes seriously the obligation to ensure that workplace conduct is respectful, ethical, and law-abiding.

Institutional policies may include sanctions for knowingly making a false claim, including a fine to cover the costs of an investigation, reprimand, suspension, demotion, or dismissal.²⁰ But the institution should protect the whistleblower from retaliation whether or not the claim is determined to have merit. For example, the U.S. Sixth Circuit Court of Appeals determined in January 2000 that retaliatory harassment by a supervisor of an employee who has complained of other harassment—such as race, sex, and handicap—is actionable under Title VII, even if the underlying harassment is not actionable.²¹

PROTECTION FOR EXERCISING BARGAINED RIGHTS

Collective bargaining agreements provide a key protection for support professionals who speak out. The percentage of higher education support professionals with union representation varies by occupational group. In 1995, 14.8 percent of professional technical employees, 37.2 percent of clerical employees, and 42.8 percent of blue-collar workers were unionized.²² But education support professional (ESP) contracts are a barometer to judge the extent and the nature of attention paid to any issue relevant to all workers in these categories.

NEA's 2002 Higher Education Contract Analysis System (HECAS) includes 229 support professional contracts.²³ A keyword analysis of these contracts revealed no direct references to "whistleblowing," but 80 (35 percent) contracts contained references to protection from reprisal or retaliation. Of these 80 contracts, 79 covered public institutions; 67 (84 percent) covered two-year colleges, and 13 (16 percent) covered four-year institutions. Nine different national bargaining agents were represented, but two agents represented nearly 60 percent of the contracts: the National Education Association (NEA) with 32 contracts (40 percent), and the American Federation of Teachers (AFT) with 15 contracts (19 percent).

Independent unions bargained another 10 contracts (13 percent). More than half of the 80 contracts came from four states: California—26 (33 percent), Illinois—11 (14 percent), New Jersey—10 (13 percent), and New York—10 (13 percent).

Reprisal clauses referred most often to protection against retaliation for union activity—exercising contracted bargaining unit rights—and to protection against reprisal for filing or participating in a grievance. Some contracts also protected employees from reprisal when participating in a discrimination complaint, reporting a health or safety concern, or exercising rights in the event of removal or other disciplinary action. Here are examples of protective language for each eventuality.

Exercising Contracted Bargaining Unit Rights. Of the 80 contracts that addressed protection from reprisal and retaliation, 18 contracts (23 percent) provided broad coverage to support professionals for membership and non-membership in the union and more specifically, for exercising any and all contractual rights. Three examples show the breadth of this language.

No Discrimination on Account of Associate Activity: Neither the District nor the Association shall impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees because of their exercise of rights guaranteed by law. (Article 11 Non-Discrimination, San Joaquin Delta Community College District, #CA095)

Employees may join and take an active role in the lawful activities of the Union without fear of any kind of reprisals from the County or its agents. (Article VI Rights of Employees, Ulster County Community College, #NY121)

The Employer/University Administration and the Union agree that there shall be no discrimination or reprisals of any kind, subtle or overt, against any bargaining unit member because of his/her membership or non-membership in the Union or participation or non-participation in Union activities. (Article 2 Union Rights, University of Massachusetts, #MA010)

The protection provided in these examples encompasses all activities related to union membership and non-membership and the

exercise of rights included in the bargaining unit contract. Unionized support professionals assert that their rights have been denied primarily via the grievance procedure outlined in virtually all contracts.

Filing or Participating in a Grievance.

Of the 80 contracts, 53 (66 percent) protected support professionals who filed a grievance or participated in a grievance procedure. This statement of purpose provides an elegant guarantee against reprisal:

Whereas, the establishment and maintenance of a harmonious and cooperative relationship between the College and the employees is essential to the operation of the College, it is the purpose of this procedure to secure, at the lowest possible administrative level, equitable solutions to the alleged grievances of employees through procedures under which they may present grievances free from coercion, interference, restraint, discrimination or reprisal, and by which the College and the employees are afforded adequate opportunity to dispose of their differences without the necessity of time-consuming and costly proceedings before administrative agencies or in the courts. (Article 4 Grievance Procedure, 4.1 Statement of Purpose, Niagara County Community College, #NY078)

The following clauses clearly state that the language covers all the players.

No reprisals of any kind will be taken by the Board, the President of the College, the Association, or by any members or representative of the Administration of the College, against any aggrieved person, any member of the Association, or any other participant in the grievance procedure by reason of such participation. (Article 13, Mt. San Antonio Community College District, #CA134)

No reprisals shall be taken by either the grievant, Association, or the University against any participant in the grievance procedure by reason of such participation. (Article E Right and Responsibilities of the Grievant, University and Association, University of Maine System, #ME115)

No reprisals shall be taken against any unit member for initiating or participating in any grievance. No member of the unit shall be discharged, disciplined, reprimanded or reduced in rank or compensation, or deprived of any professional advantage or given an adverse evaluation of his/her

professional services without just cause. Any such action asserted by the Board or any agent or representative thereof, shall be subject to the grievance procedure herein set forth. (Article 9.6 Cumberland County College, #NJ147)

No reprisals of any kind shall be taken by the Board or the Union against an employee because of his participation in this grievance procedure. The Union shall not participate in reprisals of any kind against administrators or supervisors for any testimony or decisions given because of their participation in this grievance procedure. (Article VI Grievance Procedure, Section 6.8, Black Hawk College, #IL093)

These provisions protect employees who file grievances without regard to the substance of the grievance as long as it relates to working conditions covered by the contract. Some contracts include language that protects employees in specific situations, but these provisions occurred in only one or two contracts each.

Filing or Participating in a Discrimination Complaint. Many contracts have a nondiscrimination section, but the following language protects employees specifically for speaking out about discrimination they have witnessed.

Luzerne County Community College does not discriminate with regard to race, color, sex, sexual preference, disability, age, veteran status, national origin, religion, or political affiliation in the administration of its educational programs, activities, admission or employment practices. Any acts of reprisal, retaliation or harassment taken against an individual because he/she has filed a discrimination complaint, testified about matters related to a complaint, or otherwise assisted a complaint inquiry are forbidden and may result in severe disciplinary action. (Luzerne County Community College, #PA118)

Reporting a Health or Safety Concern. The following contract language provides broad protection to employees who pursue health or safety concerns.

Employees and the Association may exercise all of their legal rights to secure a safe and healthful workplace without reprisals of any kind. (Article X Employee Health and Safety, Section 10.1 Non-Discrimination, Oakton Community College, #IL200)

Similarly, after detailing procedures for reporting any unsafe working conditions or practices, the following contract protects employees who pursue their concerns with an outside agency.

Nothing in this Article shall prevent an employee from submitting a complaint to the Accident Prevention Division of the Oregon Workers' Compensation Department or from exercising any other rights granted under Federal or State laws relating to safety without fear of reprisal or recrimination; but when any complaint or investigation request is filed with any governmental authority it shall terminate any grievance filed alleging a violation of this Article by the same employee since the parties do not wish to duplicate investigations and create possibly conflicting determinations. (Article 9 Health and Safety, 9.7, Portland Community College District, #OR085)

The Roger Williams University contract provides another example of protection related to health and safety. After asserting that the university shall provide and maintain safe working conditions relating to employee health, welfare, and safety, the contract states that if the employee is assigned to another area due to these conditions:

The employee shall not suffer reprisals nor shall it be the responsibility for the employee to complete primary work assignments due to said conditions. (Article VII Conditions of Employment, b., Roger Williams University, #RI044)

Rights Regarding Removal or Discipline. Two contracts address the discharge of an employee or disciplinary action taken against an employee. These contracts detail the rights of employees in these cases and protect employees who exercise those rights:

An employee shall not be coerced or intimidated or suffer any reprisals either directly or indirectly that may adversely affect his hours, wages, or working conditions as the result of the exercise of his rights under this article. (Article 7 Removal and Other Disciplinary Actions, Broome Community College, #NY105)

An employee shall not be coerced, intimidated, or caused to suffer any reprisals, either directly or indirectly as the result of

the exercise of the employee's rights under this Article. (Article 10 Permanent Status/Discipline and Discharge Action, Genesee Community College, #NY126)

Rights Regarding Transfer, Reassignment, or Reclassification. Employee protections may differ depending on whether or not the transfer is voluntary.

A voluntary transfer or voluntary reassignment is defined as a transfer or reassignment which has been requested by the employee. There shall be no reprisal against voluntary transfer or voluntary reassignment procedures. (Article 14 Procedure for Voluntary Transfer or Voluntary Reassignment—Other than Temporary, B. 1 & 2, Los Angeles Community College, #CA136)

Filling Vacancy in Temporary Positions with a Bargaining Unit Employee: Offer the temporary position to any bargaining employee selected by the Employer at its sole discretion. The employee may refuse the temporary position and the Employer agrees not to impose any reprisals should the employee refuse the position. (Article 10.2 Filling Vacancies in Temporary Positions, B., Southwestern Oregon Community College, #OR092)

This contract protects employees seeking a reclassification of their position.

No Employee shall suffer any retaliation as a result of the filing of a classification appeal. (Article XVI Classification Review, Section C., Flathead Valley Community College, #MT029)

Right to Disclose Information. Most contractual language aims to protect employees from reprisal for claiming their rights under the contract. One contract protected employees who speak out about legal violations, mismanagement, or abuse:

The Employer shall not take reprisal against an employee for disclosure of information by that employee to a member of the General Assembly, the Legislative Service Bureau, the Legislative Fiscal Bureau or the respective caucus staff of the General Assembly, or for disclosure of information which the employee reasonably believes is evidence of a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. (Article 10 No Reprisal, University of Northern Iowa, #IA052)

THE CLIMATE FOR SPEAKING OUT

There are numerous protections for employees who express concerns about conduct they witnessed or experienced that they believe is wrong. Depending on the wrongdoing, protections for workers who speak out exist in federal and state law, institutional policy, and bargaining unit contracts. But the confidence felt by an employee in these protections depends on the climate of the campus and of the work unit.

A recent survey of support professionals at one university elicited these comments on the climate for speaking out:²⁴

We have been subjected to what I feel is a hostile work environment. This feeling seems to be felt by my peers, but everyone fears retaliation if we speak out.

We need a way to evaluate our supervisors, or have open discussions without reprisal.

I personally feel that if there is a problem, you had better find a way to get out of the department, keep it to yourself, except of course to your spouse or close co-worker for personal protection.

Thank you for accepting my opinion in this forum, because I cannot share my true opinion in my department without fear of retaliation.

We need an impartial body to mediate disputes between staff and supervisors. There's nowhere to go where you won't be heard by your boss.

Whistleblowers don't often get past their departments or colleges because heads and deans don't want to be bothered, so the employee must seek another position.

Support professionals on this campus felt reluctant to speak out. These workers were not necessarily commenting on violations of law or policy, but they felt vulnerable in their positions, particularly relative to their supervisors. Insecure or poorly trained supervisors may construe even well-intended, constructive suggestions as personal attacks. Support staff may fear to speak out because of possible ramifications. No codified protection will

matter if individuals mistrust the ability of the system to protect them.

Support professionals may be unwilling to risk other demoralizing actions, even if they do not fear dismissal. Paperwork is delayed, requests go to the bottom of the pile, and communication is stilted. These actions—often covert and difficult to identify and prevent—can destroy employee morale and an easy-going give-and-take workplace atmosphere.

CULTIVATING A CLIMATE THAT SUPPORTS SPEAKING OUT

Protections against retribution are vital, but ensuring a respectful, safe, and ethical workplace requires a climate that welcomes all employee suggestions and criticisms. The climate should also nurture quality supervisors who are secure in their skills and in their ability to enhance the performance of the unit. Campus administrators can employ several strategies to ensure a welcoming climate—*assuming they wish to instill such a climate.*²⁵ How much whistleblowing is too much from the point of view of those who have to respond? Some whistleblowers may be heroes, but others may be petty whiners or constant complainers. Here's how to create a climate that encourages and supports the former, and dissuades the latter.

Selection, Training and Accountability of Supervisors. The quality of supervision is a source of tension for many support professionals. Supervisors are often selected and promoted for their technical or functional expertise while their ability to manage other workers goes unassessed. Expertise may be necessary, but it does not guarantee the successful monitoring, motivating, and evaluating of workers in their charge. On-the-job training of supervisors is important, but initial selection criteria should include personal dispositions that may be impossible to cultivate, such as interpersonal skills, communication skills, respect for differences, and concern for the welfare of others.

All new supervisors should receive training when hired or promoted, and enhanced training throughout their tenure. Supervisors must know institutional policies regarding whistleblowing, health and safety, performance evaluation, salary administration, promotion,

transfer, and reclassification. Managers must also understand their responsibility to prevent retaliation, harassment, and discrimination and to promote a safe, ethical, and respectful workplace. Last, supervisors must realize that creating a climate where employees freely express their concerns will increase morale and result in a higher standard of performance and productivity.

Managers must be accountable for the quality of their supervision. The boss's perspective on supervisor performance and productivity is not enough. Subordinates also deserve an opportunity to evaluate their supervisors. Bosses should share systematically elicited confidential and constructive feedback from subordinates with supervisors to promote professional development. Bosses should mandate manager training to upgrade their supervisory skills, if suggested by the outcomes of these evaluations. Supervisors who continue to create a hostile work environment, to abuse or retaliate against employees, or to neglect policies or employee protections should be relieved of their supervisory responsibilities.

Alternative Avenues. Institutions may also create a climate of openness by providing alternatives for voicing complaints without fear of retaliation. Employees are entitled to safe, confidential assistance when problems cannot be resolved within their unit. Informal consultation may eliminate the need for formal and confrontational approaches and may lessen the likelihood of reprisal.

Alternatives may include ombudsmen or other campus resources designed to resolve conflicts or disputes. Senior administrators and union representatives must carefully delineate the role of these alternatives. The power differential between support staff and their supervisors is substantial. Requiring the support staff member to confront the situation or a supervisor directly may not be perceived as a safe alternative. The process should include a conscientious effort to examine and investigate the validity of complaints, determine solutions, if needed, and communicate the outcome to the employee. Colleges should widely promote and facilitate access to alternative resources available to support staff.

Attention to the Quality of Work Life. Trust, mutual respect, and a "we are all in

this together" ethos characterize a supportive climate. Contract language that builds constructive working relationships *and* provides legal protections for employees can help to build such a climate. Campus-based professional associations can also promote dialogue between support professionals and senior administrators and faculty. Senior administrators and faculty are often surprised to learn that support staff believe their efforts go unappreciated and unrecognized. Honoring the contributions of all employees builds a climate of safety and respect. A college president can establish an ethos of civility and respect by example and by expecting all administrators with supervisory responsibilities to model those values.²⁶

CONCLUSION

Support professionals may fear to speak out for many reasons; no degree of protection will reduce a feeling of vulnerability for some colleagues. But colleges must enable employees to act in the best interests of the organization, and should view whistleblowing as a service. Colleges and universities with sound internal policies and an open climate will be better able to respond to complaints and concerns before they become public and/or incur legal ramifications. Support professionals—providers of vital services to our academic enterprise—deserve protection when acting in good faith to safeguard the institution.

NOTES

¹ The National Center for Education Statistics provides data on eight classes of employees: 1. Executive/administrative/managerial; 2. Faculty (instruction and research); 3. Instructional and research assistants; 4. Technical and paraprofessional; 5. Other professionals (support/service); 6. Clerical and secretarial; 7. Skilled crafts; 8. Service/maintenance. This analysis excludes executives, faculty, and instructional and research assistants, and focuses on the five groups of education support professionals. The data source is the 1997 Staff Survey, part of the Integrated Postsecondary Education Data System (IPEDS), an annual survey conducted by the National Center for Education Statistics, U.S. Department of Education.

² Black's Law Dictionary 1596 (6th ed. 1990) as cited in Burling & Matthews, 1992.

³ The breakdown for the remaining 40 percent of employees: Faculty—35 percent, executive-administrative-managerial staff—five percent.

⁴ Rhoades and Maitland, 1998.

⁵ Johnsrud, 2000.

⁶ The following discussion provides information; it is not intended to provide legal advice or counsel.

⁷ Helwick and McClain, 2002.

⁸ Burling and Matthews, 1992.

⁹ Burling and Matthews, 1992, list 24 statutes that include protections for employees who report suspected violations by their employers: Age Discrimination in Employment Act, 29; Civil Rights Act of 1871, 42; Civil Rights Act of 1964, Title VII, 42; Civil Service Reform Act, 5; Clean Air Act, 42; Employer Retirement Income Security Act, 29; Energy Reorganization Act, 42; Fair Labor Standards Act, 29; False Claims Act, 31; Federal Mine Health and Safety Act, 30; Job Training and Partnership Act, 29; Longshoreman's and Harbor Worker's Compensation Act, 33; Migrant and Seasonal Agricultural Workers Protection Act, 29; National Labor Relations Act, 42; Occupational Safety and Health Act, 29; Safe Containers for International Cargo Act, 46; Safe Drinking Water Act, 42; Solid Waste Disposal Act, 42; Superfund, 42; Surface Mining Control and Reclamation Act, 29; Surface Transportation Act, 49; Toxic Substance Control Act, 15; U.S. Constitution, Amendments 1 & 14; Water Pollution Control Act, 33.

¹⁰ Burling and Matthews, 1992, 4.

¹¹ *Ibid.*, 3-4.

¹² Olson & Associates, February 2000.

¹³ *Ibid.*, 1.

¹⁴ Brainard, 2000.

¹⁵ Brainard, 2002.

¹⁶ Hebel, 2000.

¹⁷ States with statutes protecting public and private sector employees: California, Connecticut, Maine, Minnesota, Montana, New Jersey, and New York. States with statutes protecting public sector employees from discharge for reporting their employer's unlawful conduct: Arizona, Colorado, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Washington, and Wisconsin (Burling & Matthews, 1992, 7).

¹⁸ *Ibid.*, 14.

¹⁹ Helwick and McClain, 2002.

²⁰ *Ibid.*, B13.

²¹ Bodman, Longley and Dahling, 2000.

²² Hurd, 1995.

²³ NEA's HECAS database includes over 600 faculty and staff contracts for two-year and four-year campuses. The 229 contracts for support staff cover 165 different colleges; several institutions have contracts with more than one ESP unit. The database includes contracts negotiated by bargaining agents of 21 national unions.

²⁴ Johnsrud, et al. (2002). The Millennium Project Phase II: Classified Staff and Appointed Personnel. Volume I: Summary Report. Volume II: Appendices. The University of Arizona: Office of the President.

²⁵ Helwick and McClain.

²⁶ Johnsrud, et al. (2002).

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