

AMENDMENT TO RULES COMMITTEE PRINT 117-

13

OFFERED BY MS. SPEIER OF CALIFORNIA

Add at the end of subtitle A of title VIII the following new section:

1 SEC. 8_. PROTECTIONS FOR WHISTLEBLOWERS SEEKING
2 TO ENSURE ACCOUNTABILITY AND OVER-
3 SIGHT OF COVID-19 PANDEMIC RESPONSE.

4 (a) DEFENSE CONTRACTS.—Section 2409 of title 10,
5 United States Code, is amended—

6 (1) in subsection (a)—

7 (A) by amending paragraph (1) to read as
8 follows:

9 “(1) A protected individual may not be discharged,
10 demoted, harassed, blacklisted, prejudiced by any action
11 or lack of action, or otherwise discriminated against for
12 disclosing, being perceived as disclosing, or preparing to
13 disclose (including assisting in disclosing, being perceived
14 as assisting in disclosing, and including a disclosure made
15 in the ordinary course of job duties) to a person or body
16 described in paragraph (2) information that the protected
17 individual reasonably believes is evidence of the fol-
18 lowing—

1 “(A)(i) gross mismanagement of a Department
2 of Defense contract, subcontract, grant, or subgrant
3 relating to covered funds;

4 “(ii) a gross waste of Department funds or cov-
5 ered funds;

6 “(iii) an abuse of authority related to a Depart-
7 ment contract or grant or the distribution, imple-
8 mentation, or use of covered funds, including conflict
9 of interest or partiality;

10 “(iv) any violation of any statute, rule, or regu-
11 lation related to a Department of Defense contract,
12 subcontract (including the competition for or nego-
13 tiation of a contract or subcontract), grant, or
14 subgrant, awarded or issued relating to covered
15 funds; and

16 “(v) conduct that violates, obstructs or under-
17 mines any law, rule, or regulation related to any
18 Federal contract (including the competition for or
19 negotiation of a contract) or grant, including any
20 statute, rule, or regulation with respect to any
21 Coronavirus pandemic-related program, project, or
22 activity;

23 “(B) refusing to obey an order that the pro-
24 tected individual reasonably believes would require
25 that individual to violate a statute, rule, or regula-

1 tion with respect to any covered funds, including any
2 Coronavirus pandemic-related program, project, or
3 activity;

4 “(C) gross mismanagement of a National Aero-
5 nautics and Space Administration contract, grant,
6 subcontract, or subgrant, a gross waste of Adminis-
7 tration funds, an abuse of authority relating to an
8 Administration contract or grant, or a violation of
9 law, rule, or regulation related to an Administration
10 contract (including the competition for or negotia-
11 tion of a contract), grant, subcontract, or subgrant;
12 or

13 “(D) a substantial and specific danger to work-
14 er or public health or safety.”; and

15 (B) in paragraph (2)—

16 (i) in subparagraph (A), by striking
17 “or a representative of a committee of
18 Congress” and inserting “, a representa-
19 tive of a committee of Congress, or com-
20 mission of Congress”;

21 (ii) in subparagraph (B), by inserting
22 “, including the Special Inspector General
23 for Pandemic Relief and any other Office
24 of Inspector General established by law”
25 after “Inspector General”;

1 (iii) in subparagraph (G), by striking
2 “who has the responsibility to investigate”
3 and inserting “authorized to investigate”;
4 and

5 (iv) by adding after subparagraph (G)
6 the following new subparagraphs:

7 “(H) The Pandemic Response Accountability
8 Committee.

9 “(I) An officer or representative of a labor or-
10 ganization.

11 “(J) The head of an executive agency or a des-
12 ignee of such agency head.”;

13 (2) in subsection (b)—

14 (A) in paragraph (1)—

15 (i) by striking “A person who believes
16 that the person” and inserting “A pro-
17 tected individual who believes that the pro-
18 tected individual”;

19 (ii) by striking “Space Administra-
20 tion.” and inserting “Space Administra-
21 tion, who shall review the complaint for in-
22 vestigation, and shall investigate the al-
23 leged misconduct if there previously has
24 not been such an investigation or if the ap-
25 propriate Inspector General determines

1 that the original investigation was biased
2 or otherwise inadequate.”; and

3 (iii) by striking “previously been ad-
4 dressed” and inserting “been filed”;

5 (B) by amending paragraph (3) to read as
6 follows:

7 “(3)(A) A person or body described in subsection
8 (a)(2) that receives information under paragraph (1) and
9 any other person or body to which such information is dis-
10 closed may not respond to any inquiry or disclose the iden-
11 tity or identifying information of the protected individual
12 providing the information without prior explicit written
13 consent of the protected individual.

14 “(B) If disclosure of the identity or identifying infor-
15 mation of a protected individual providing information
16 under paragraph (1) is required by law, the recipient shall
17 provide timely notice of the disclosure to the protected in-
18 dividual.

19 “(C) The Inspector General investigating alleged dis-
20 crimination under this section may not respond to any in-
21 quiry or disclose any information from or about any pro-
22 tected individual alleging such discrimination, provisions
23 of section 552a of title 5 (commonly referred to as the
24 ‘Privacy Act’), or as required by any other applicable Fed-
25 eral law.”; and

1 (C) by adding at the end the following new
2 paragraph:

3 “(5) Upon completion of an investigation under this
4 subsection into alleged misconduct disclosed by the pro-
5 tected individual, the Inspector General shall submit a re-
6 port of the findings of the investigation to—

7 “(A) the person against whom the misconduct
8 is alleged;

9 “(B) the protected individual concerned;

10 “(C) the Secretary of Defense or the Adminis-
11 trator of the National Aeronautics and Space Ad-
12 ministration, as applicable; and

13 “(D) the congressional committees of jurisdic-
14 tion.”;

15 (3) in subsection (c)—

16 (A) in paragraph (1)(B), by striking “com-
17 pensatory damages (including back pay)” and
18 inserting “compensatory and exemplary dam-
19 ages (including double back pay)”;

20 (B) by striking paragraph (7);

21 (C) by redesignating paragraphs (2)
22 through (6) as paragraphs (3) through (7), re-
23 spectively;

24 (D) by inserting after paragraph (1) the
25 following new paragraph:

1 “(2)(A) A protected individual alleging a reprisal
2 under this section shall have access to the investigative
3 file of the Office of Inspector General in accordance with
4 section 552a of title 5. The investigation by the Office of
5 Inspector General shall be deemed closed for purposes of
6 disclosure under such section when an individual files an
7 appeal to the head of an executive agency or a court of
8 competent jurisdiction.

9 “(B) In the event a protected individual alleging a
10 reprisal under this section brings a civil action under this
11 subsection, the protected individual and the non-Federal
12 employer (or the Secretary of Defense or the Adminis-
13 trator of the National Aeronautics and Space Administra-
14 tion, as applicable, in the case of a Federal personal serv-
15 ices contract involving covered funds), if applicable, shall
16 have access to the investigative file of the Office of Inspec-
17 tor General in accordance with section 552a of title 5.

18 “(C) The Inspector General may exclude from disclo-
19 sure—

20 “(i) information protected from disclosure by a
21 provision of law; and

22 “(ii) any additional information the Inspector
23 General determines disclosure of which would im-
24 pede a continuing investigation, if such information
25 is disclosed once such disclosure would no longer im-

1 pede such investigation, unless the Inspector General
2 determines that disclosure of law enforcement tech-
3 niques, procedures, or information could reasonably
4 be expected to risk circumvention of the law or dis-
5 close the identity of a confidential source.”;

6 (E) in paragraph (3), as redesignated by
7 subparagraph (C), by striking “may bring a de
8 novo action at law or equity against the con-
9 tractor to seek compensatory damages” and in-
10 serting “may bring a de novo action at law or
11 equity against any entity that violates sub-
12 section (a) to seek compensatory and exemplary
13 damages”; and

14 (F) in paragraph (4), as so redesignated,
15 by striking “paragraph (2)” and inserting
16 “paragraph (3)”;

17 (4) by striking subsection (d);

18 (5) by redesignating subsections (e) and (f) as
19 subsections (d) and (e), respectively;

20 (6) in subsection (e), as so redesignated, by
21 striking paragraph (1) and inserting the following
22 new paragraphs:

23 “(1) Nothing in this section may be construed to—

24 “(A) authorize the discharge of, demotion of, or
25 discrimination or other reprisal against a protected

1 individual for a disclosure other than a disclosure
2 protected by subsection (a); or

3 “(B) modify or derogate from a right or remedy
4 otherwise available to the protected individual.

5 “(2) State and local employees may be deemed to be
6 protected individuals and may file complaints for relief
7 under this section, and nothing in this section may be con-
8 strued to preempt, preclude, or limit the protections pro-
9 vided for public or private employees under State or local
10 whistleblower laws.”;

11 (7) by inserting after subsection (e), as so re-
12 designated, the following new subsection:

13 “(f)(1) RIGHTS RETAINED BY EMPLOYEE.—Nothing
14 in this section shall diminish the rights, privileges, or rem-
15 edies of any protected individual under any Federal or
16 State law or under any collective bargaining agreement.

17 “(2) Notwithstanding any other provision of law, a
18 protected individual shall be immune from civil and crimi-
19 nal liability for making the disclosure if the protected indi-
20 vidual would be protected from reprisal under subsection
21 (a). The protected individual shall bear the burden re-
22 quired under subsection (a) of proving that the individual
23 would be protected from reprisal under such subsection
24 for making the disclosure.

1 “(3)(A) Except as provided under subparagraph (C),
2 the rights and remedies provided for in this section may
3 not be waived by any public or private agreement, policy,
4 form, or condition of employment, including by any
5 predispute arbitration agreement.

6 “(B) Except as provided under subparagraph
7 (C), no predispute arbitration agreement shall be
8 valid or enforceable if it requires arbitration of a dis-
9 pute arising under this section.

10 “(C) Notwithstanding subparagraphs (A) and
11 (B), an arbitration provision in a collective bar-
12 gaining agreement shall be enforceable as to dis-
13 putes arising under the collective bargaining agree-
14 ment.

15 “(4) Any non-Federal employer receiving covered
16 funds (and the head of the applicable agency in the case
17 of a Federal personal services contract involving covered
18 funds) shall prominently post notice on its website and to
19 each employee of the rights and remedies provided under
20 this section in the predominant native languages of the
21 workforce.”; and

22 (8) in subsection (g)—

23 (A) in paragraph (6), by adding at the end
24 the following new subparagraph:

1 “(C) An arbitrary or capricious exercise of
2 authority that adversely affects the rights of
3 any individual, or that results in personal gain
4 or advantage to an officer or employee of the
5 Department of Defense or the National Aero-
6 nautics and Space Administration or to another
7 individual.”; and

8 (B) by adding after paragraph (7) the fol-
9 lowing new paragraphs:

10 “(8) The term ‘Coronavirus pandemic-related
11 program, project, or activity’—

12 “(A) means a program, project, or activity
13 of the executive branch of the Department of
14 Defense or the National Aeronautics and Space
15 Administration, as applicable, authorized under
16 or carried out using amounts made available
17 under an Act to respond to or to provide aid or
18 assistance to address, relief from, or funding to
19 address the outbreak of COVID–19 that is en-
20 acted before, on, or after the date of enactment
21 of this paragraph; and

22 “(B) includes any program, project, or ac-
23 tivity of the executive branch of the Department
24 of Defense or the National Aeronautics and
25 Space Administration, as applicable, authorized

1 under or carried out using amounts made avail-
2 able under—

3 “(i) the Paycheck Protection Program
4 and Health Care Enhancement Act (Public
5 Law 116–139);

6 “(ii) the CARES Act (Public Law
7 116–136);

8 “(iii) the Families First Coronavirus
9 Response Act (Public Law 116–127);

10 “(iv) the Coronavirus Preparedness
11 and Response Supplemental Appropria-
12 tions Act, 2020 (Public Law 116–123); or

13 “(v) division M or N of the Consoli-
14 dated Appropriations Act, 2021 (Public
15 Law 116–260).

16 “(9) The term ‘covered funds’ means any con-
17 tract, subcontract, grant, subgrant, loan, loan guar-
18 antee, or other payment for which—

19 “(A) the Secretary of Defense or the Ad-
20 ministrator of the National Aeronautics and
21 Space Administration, as applicable, provides
22 any portion of the funds or property that is
23 provided, requested, or demanded; or

24 “(B) any portion of the funds are appro-
25 priated or otherwise made available under or to

1 carry out a Coronavirus pandemic-related pro-
2 gram, project, or activity.

3 “(10) The term ‘employee’—

4 “(A) means an individual performing serv-
5 ices on behalf of an employer, including any in-
6 dividual working for an employer under a con-
7 tract with such employer (including a con-
8 tractor, subcontractor, grantee, subgrantee, or
9 agent of an employer); and

10 “(B) does not include—

11 “(i) a Federal employee; or

12 “(ii) a servicemember during a period
13 of military service (as those terms are de-
14 fined in section 101 of the Servicemembers
15 Civil Relief Act (50 U.S.C. 3911)).

16 “(11) The term ‘non-Federal employer’—

17 “(A) means any employer—

18 “(i) with respect to covered funds—

19 “(I) the contractor, subcon-
20 tractor, grantee, subgrantee, or recipi-
21 ent, as the case may be, if the con-
22 tractor, subcontractor, grantee, sub-
23 grantee, or recipient is an employer;
24 and

1 “(II) any professional member-
2 ship organization, certification or
3 other professional body, any agent or
4 licensee of the Federal Government,
5 or any person acting directly or indi-
6 rectly in the interest of an employer
7 receiving covered funds; or

8 “(ii) with respect to covered funds re-
9 ceived by a State or local government, the
10 State or local government receiving the
11 funds and any contractor or subcontractor
12 of the State or local government; and

13 “(B) does not mean any department, agen-
14 cy, or other entity of the Federal Government,
15 except with respect to a personal services con-
16 tractor.

17 “(12) The term ‘protected individual’ means—

18 “(A) a contractor, subcontractor, grantee,
19 or subgrantee,

20 “(B) an employee, applicant or former em-
21 ployee of a contractor, subcontractor, grantee,
22 or subgrantee, or

23 “(C) a personal services contractor
24 who engages in activity for which any discrimination
25 is prohibited under subsection (a).

1 “(13) The term ‘State or local government’
2 means—

3 “(A) the government of each of the several
4 States, the District of Columbia, the Common-
5 wealth of Puerto Rico, Guam, American Samoa,
6 the Virgin Islands, the Commonwealth of the
7 Northern Mariana Islands, or any other terri-
8 tory or possession of the United States; or

9 “(B) the government of any political sub-
10 division of a government listed in subparagraph
11 (A).”.

12 (b) CIVILIAN CONTRACTS.—Section 4712 of title 41,
13 United States Code, is amended—

14 (1) in subsection (a)—

15 (A) by amending paragraph (1) to read as
16 follows:

17 “(1) IN GENERAL.—A protected individual may
18 not be discharged, demoted, harassed, blacklisted,
19 prejudiced by any action or lack of action, or other-
20 wise discriminated against for disclosing, being per-
21 ceived as disclosing, or preparing to disclose (includ-
22 ing assisting in disclosing, being perceived as assist-
23 ing in disclosing, and including a disclosure made in
24 the ordinary course of job duties) to a person or
25 body described in paragraph (2) information that

1 the protected individual reasonably believes is evi-
2 dence of misconduct that violates, obstructs, or un-
3 dermines any law, rule, or regulation related to any
4 Federal contract (including the competition for or
5 negotiation of a contract) or grant, including any
6 statute, rule, or regulation with respect to any
7 Coronavirus pandemic-related program, project, or
8 activity, and including—

9 “(A)(i) gross mismanagement of an agency
10 contract, subcontract, grant, or subgrant relat-
11 ing to covered funds;

12 “(ii) a gross waste of covered funds;

13 “(iii) a substantial and specific danger to
14 worker or public health or safety;

15 “(iv) an abuse of authority related to the
16 distribution, implementation, or use of covered
17 funds, including conflict of interest or parti-
18 ality; and

19 “(v) any violation of any statute, rule, or
20 regulation related to an agency contract, sub-
21 contract (including the competition for or nego-
22 tiation of a contract or subcontract), grant, or
23 subgrant, awarded or issued relating to covered
24 funds; or

1 “(B) refusing to obey an order that the
2 protected individual reasonably believes would
3 require that individual to violate a statute, rule,
4 or regulation with respect to any covered funds,
5 including any Coronavirus pandemic-related
6 program, project, or activity.”; and

7 (B) in paragraph (2)—

8 (i) in subparagraph (A), by striking
9 “or a representative of a committee of
10 Congress” and inserting “, a representa-
11 tive of a committee of Congress, or a com-
12 mission of Congress”;

13 (ii) in subparagraph (B), by inserting
14 “, including the Special Inspector General
15 for Pandemic Relief and any other Office
16 of Inspector General established by law”
17 after “Inspector General”;

18 (iii) in subparagraph (G), by striking
19 “who has the responsibility to investigate”
20 and inserting “authorized to investigate”;
21 and

22 (iv) by adding after subparagraph (G)
23 the following new subparagraphs:

24 “(H) The Pandemic Response Account-
25 ability Committee.

1 “(I) An officer or representative of a labor
2 organization.

3 “(J) The head of an executive agency or a
4 designee of such agency head.”;

5 (2) in subsection (b)—

6 (A) in paragraph (1)—

7 (i) by striking “A person who be-
8 lieves” and inserting “Any person de-
9 scribed under subsection (a)(1) who be-
10 lieves”; and

11 (ii) by inserting after “to the Inspec-
12 tor General of the executive agency in-
13 volved” the following: “, who shall review
14 the complaint for investigation, and shall
15 investigate the alleged misconduct dis-
16 closed by the whistleblower if there pre-
17 viously has not been such an investigation
18 or if the Inspector General determines that
19 the original investigation was biased or
20 otherwise inadequate”;

21 (B) by amending paragraph (3) to read as
22 follows:

23 “(3) PROTECTION OF WHISTLEBLOWER IDEN-
24 TITY.—

1 “(A) IN GENERAL.—A person or body de-
2 scribed in subsection (a)(2) that receives infor-
3 mation under paragraph (1) and any person or
4 body to which the officer or entity discloses the
5 information may not exercise discretion to re-
6 spond to any inquiry or disclose the identity or
7 identifying information of the protected indi-
8 vidual providing the information without prior
9 explicit written consent of the protected indi-
10 vidual.

11 “(B) NOTICE.—If disclosure of the identity
12 or identifying information of a protected indi-
13 vidual providing information under paragraph
14 (1) is required by law, the recipient shall pro-
15 vide timely notice of the disclosure to the pro-
16 tected individual.

17 “(C) PRIVACY OF INFORMATION.—The In-
18 spector General investigating alleged discrimi-
19 nation under this section may not respond to
20 any inquiry or disclose any information from or
21 about any protected individual alleging such
22 discrimination, except in accordance with the
23 provisions of section 552a of title 5 (commonly
24 referred to as the ‘Privacy Act’), or as required
25 by any other applicable Federal law.”; and

1 (C) by adding at the end the following new
2 paragraph:

3 “(5) REPORT.—Upon completion of an inves-
4 tigation under this subsection into alleged mis-
5 conduct disclosed by the whistleblower, the Inspector
6 General shall submit a report of the findings of the
7 investigation to—

8 “(A) the person;

9 “(B) the contractor, subcontractor, grant-
10 ee, or subgrantee concerned;

11 “(C) the head of the agency; and

12 “(D) the congressional committees of juris-
13 diction.”;

14 (3) in subsection (c)—

15 (A) in paragraph (1)(B), by striking “com-
16 pensatory damages (including back pay)” and
17 inserting “compensatory and exemplary dam-
18 ages (including double back pay)”;

19 (B) by striking paragraph (7);

20 (C) by redesignating paragraphs (2)
21 through (6) as paragraphs (3) through (7);

22 (D) by inserting after paragraph (1) the
23 following new paragraph:

24 “(2) ACCESS TO INVESTIGATIVE FILE.—

1 “(A) IN GENERAL.—A protected individual
2 alleging a reprisal under this section shall have
3 access to the investigation file of the Office of
4 Inspector General in accordance with section
5 552a of title 5. The investigation by the Office
6 of Inspector General shall be deemed closed for
7 purposes of disclosure under such section when
8 an individual files an appeal to the head of an
9 executive agency or a court of competent juris-
10 diction.

11 “(B) CIVIL ACTION.—In the event a pro-
12 tected individual alleging a reprisal under this
13 section brings a civil action under this sub-
14 section, the protected individual and the non-
15 Federal employer (or the head of the applicable
16 executive agency in the case of a Federal per-
17 sonal services contract involving covered funds),
18 if applicable, shall have access to the investiga-
19 tive file of the Office of Inspector General in ac-
20 cordance with section 552a of title 5.

21 “(C) EXCEPTION.—The Inspector General
22 may exclude from disclosure—

23 “(i) information protected from disclo-
24 sure by a provision of law; and

1 “(ii) any additional information the
2 Inspector General determines disclosure of
3 which would impede a continuing investiga-
4 tion, if such information is disclosed once
5 such disclosure would no longer impede
6 such investigation, unless the Inspector
7 General determines that disclosure of law
8 enforcement techniques, procedures, or in-
9 formation could reasonably be expected to
10 risk circumvention of the law or disclose
11 the identity of a confidential source.”;

12 (E) in paragraph (3), as so redesignated,
13 by striking “may bring a de novo action at law
14 or equity against the contractor, subcontractor,
15 grantee, or subgrantee to seek compensatory
16 damages” and inserting “may bring a de novo
17 action at law or equity against any entity vio-
18 lating subsection (a) to seek compensatory and
19 exemplary damages”; and

20 (F) in paragraph (4), as so redesignated,
21 by striking “paragraph (2)” and inserting
22 “paragraph (3)”;

23 (4) by striking subsection (d);

24 (5) by redesignating subsections (e) and (f) as
25 subsections (d) and (e), respectively;

1 (6) by inserting after subsection (e), as so re-
2 designated, the following new subsection:

3 “(f) GENERAL PROVISIONS.—

4 “(1) RIGHTS RETAINED BY EMPLOYEE.—Not-
5 ing in this section shall diminish the rights, privi-
6 leges, or remedies of any protected individual under
7 any Federal or State law, or under any collective
8 bargaining agreement.

9 “(2) LIABILITY.—Notwithstanding any other
10 provision of law, a protected individual shall be im-
11 mune from civil and criminal liability if the indi-
12 vidual would be protected from reprisal under sub-
13 section (a). The protected individual shall bear the
14 burden required under subsection (a) of proving that
15 the individual would be protected from reprisal
16 under subsection (a) for making the disclosure.

17 “(3) NONENFORCEABILITY OF CERTAIN PROVI-
18 SIONS WAIVING OR OVERRIDING RIGHTS AND REM-
19 EDIES OR REQUIRING ARBITRATION OF DISPUTES.—

20 “(A) WAIVER OF RIGHTS AND REM-
21 EDIES.—Except as provided under subpara-
22 graph (C), the rights and remedies provided for
23 in this section may not be waived by any public
24 or private agreement, policy, form, or condition

1 of employment, including by any predispute ar-
2 bitration agreement.

3 “(B) PREDISPUTE ARBITRATION AGREE-
4 MENTS.—Except as provided under subpara-
5 graph (C), no predispute arbitration agreement
6 shall be valid or enforceable if it requires arbi-
7 tration of a dispute arising under this section.

8 “(C) EXCEPTION FOR COLLECTIVE BAR-
9 GAINING AGREEMENTS.—Notwithstanding sub-
10 paragraphs (A) and (B), an arbitration provi-
11 sion in a collective bargaining agreement shall
12 be enforceable as to disputes arising under the
13 collective bargaining agreement.

14 “(4) REQUIREMENT TO POST NOTICE OF
15 RIGHTS AND REMEDIES.—Any non-Federal employer
16 receiving covered funds (and the head of the applica-
17 ble agency in the case of a Federal personal services
18 contract involving covered funds) shall prominently
19 post notice on its website and to each employee of
20 the rights and remedies provided under this section,
21 in the predominant native languages of the work-
22 force.”;

23 (7) in subsection (g)—

24 (A) in paragraph (1), by striking “that is
25 inconsistent” and all that follows through the

1 period at the end and inserting the following:
2 “by a contracting officer or employee that ad-
3 versely affects the rights of any individual, or
4 that results in personal gain or advantage to
5 the officer or employee or to preferred other in-
6 dividuals.”;

7 (B) by redesignating paragraph (2) as
8 paragraph (5);

9 (C) by inserting after paragraph (1) the
10 following new paragraphs:

11 “(2) The term ‘Coronavirus pandemic-related
12 program, project, or activity’—

13 “(A) means a program, project, or activity
14 of the executive branch of the Federal Govern-
15 ment authorized under or carried out using
16 amounts made available under an Act to re-
17 spond to or to provide aid or assistance to ad-
18 dress, relief from, or funding to address the
19 outbreak of COVID–19 that is enacted before,
20 on, or after the date of enactment of this para-
21 graph; and

22 “(B) includes any program, project, or ac-
23 tivity of the executive branch of the Federal
24 Government authorized under or carried out
25 using amounts made available under—

1 “(i) the Paycheck Protection Program
2 and Health Care Enhancement Act (Public
3 Law 116–139);

4 “(ii) the CARES Act (Public Law
5 116–136);

6 “(iii) the Families First Coronavirus
7 Response Act (Public Law 116–127);

8 “(iv) the Coronavirus Preparedness
9 and Response Supplemental Appropria-
10 tions Act, 2020 (Public Law 116–123); or

11 “(v) division M or N of the Consoli-
12 dated Appropriations Act, 2021 (Public
13 Law 116–260).

14 “(3) The term ‘covered funds’ means any con-
15 tract, subcontract, grant, subgrant, loan, loan guar-
16 antee, or other payment for which—

17 “(A) the Federal Government provides any
18 portion of the funds or property that is pro-
19 vided, requested, or demanded; or

20 “(B) any portion of the funds are appro-
21 priated or otherwise made available under or to
22 carry out a Coronavirus pandemic-related pro-
23 gram, project, or activity.

24 “(4) The term ‘employee’—

1 “(A) except as provided under subpara-
2 graph (B), means an individual performing
3 services on behalf of an employer, including any
4 individual working for an employer under a
5 grant or contract with such employer (including
6 a contractor, subcontractor, grantee, sub-
7 grantee, or agent of an employer); and

8 “(B) does not include any Federal em-
9 ployee or member of the uniformed services (as
10 that term is defined in section 101(a)(5) of title
11 10).”; and

12 (D) by inserting after paragraph (5), as so
13 redesignated, the following new paragraphs:

14 “(6) The term ‘non-Federal employer’—

15 “(A) means any employer—

16 “(i) with respect to covered funds—

17 “(I) the contractor, subcon-
18 tractor, grantee, subgrantee, or recipi-
19 ent, as the case may be, if the con-
20 tractor, subcontractor, grantee, sub-
21 grantee, or recipient is an employer;
22 and

23 “(II) any professional member-
24 ship organization, certification, or
25 other professional body, any agent or

1 licensee of the Federal Government,
2 or any person acting directly or indi-
3 rectly in the interest of an employer
4 receiving covered funds; or

5 “(ii) with respect to covered funds re-
6 ceived by a State or local government, the
7 State or local government receiving the
8 funds and any contractor or subcontractor
9 of the State or local government; and

10 “(B) does not mean any department, agen-
11 cy, or other entity of the Federal Government,
12 except with respect to a personal services con-
13 tractor.

14 “(7) The term ‘protected individual’ means—

15 “(A) a contractor, subcontractor, grantee,
16 or subgrantee,

17 “(B) an employee, applicant or former em-
18 ployee of a contractor, subcontractor, grantee,
19 or subgrantee, or

20 “(C) a personal services contractor
21 who engages in activity for which any discrimination
22 is prohibited under subsection (a).

23 “(8) The term ‘State or local government’
24 means—

1 “(A) the government of each of the several
2 States, the District of Columbia, the Common-
3 wealth of Puerto Rico, Guam, American Samoa,
4 the Virgin Islands, the Commonwealth of the
5 Northern Mariana Islands, or any other terri-
6 tory or possession of the United States; or

7 “(B) the government of any political sub-
8 division of a government listed in subparagraph
9 (A).”; and
10 (8) in subsection (h)—

11 (A) by inserting “(1)” before “Nothing”;
12 and

13 (B) by adding at the end the following new
14 paragraphs:

15 “(2) Nothing in this section may be construed
16 to—

17 “(A) authorize the discharge of, demotion
18 of, or discrimination or other reprisal against a
19 protected individual for a disclosure other than
20 a disclosure protected by subsection (a); or

21 “(B) modify or derogate from a right or
22 remedy otherwise available to the protected in-
23 dividual.

24 “(3) State and local employees may file com-
25 plaints for relief under this section, and nothing in

1 this section may be construed to preempt, preclude,
2 or limit the protections provided for public or private
3 employees under State or local whistleblower laws.”.

4 (c) COMPLAINT PORTAL.—The Special Inspector
5 General for Pandemic Relief, the Pandemic Relief Ac-
6 countability Committee, and the Congressional Oversight
7 Commission shall each establish a public website where
8 any individual who believes that the individual has been
9 subjected to a reprisal prohibited under subsection (a) of
10 section 2904 of title 10, United States Code, or subsection
11 (a) of section 4712 of title 41, United States Code, as
12 amended by this section, may submit a complaint regard-
13 ing the reprisal. Any complaint so submitted shall be
14 transmitted to the relevant Office of Inspector General for
15 enforcement in accordance with such sections, including
16 notice to the complainant of the referral and relevant pro-
17 cedures.

