

Make a Note to the Record

How Federal Scientists Can Protect Science for the Public Good



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Center for
Science and Democracy
at the Union of Concerned Scientists

The purpose of this document is to inform federal scientists about best practices for documenting the use and misuse of science in policymaking. It does not constitute legal advice for dealing with the particular situation of any individual.

Many federal scientists are concerned about recent workplace changes that could imperil their agency's ability to carry out its mission and conduct science for the public good. One simple action scientists can take to protect institutional knowledge and their agency's work is to keep detailed records.

It is important for federal employees and grantees with science-related jobs to "make a note to the record" related to scientific integrity—that is, to document in real time any challenges, problems, or concerns related to an agency's ability to conduct, utilize, and communicate about science in service of its public interest mission.

Though the tips below are written with scientists in mind, they may also be useful to other federal employees and contractors.

Collect and Preserve the Data

The first critical step is to take contemporaneous notes of issues such as inappropriate changes in process, staffing, or resources; political interference with data collection, analysis, or publication; limitations placed on public or private communication (including note-taking); or any other action or inaction that intentionally diminishes the role of science in decisionmaking. In addition, standard data collection and preservation methods and protocols all should be followed, and any

suspicious deviations should be carefully documented.

Be Observant, Accurate, Timely, and Secure

When documenting problems related to the scientific process and the use of science in policymaking and communications, follow these best practices:

- **Keep a record of meetings and calls you participate in, and any documents you see.** Collect relevant documents when possible. If anyone instructs you not to take notes during a meeting or conversation, write down the information as soon as you are in a place to do so securely.
- **Ensure the information is detailed and accurate.** Note whether it is based on direct knowledge or was identified by a colleague or other individual. Record dates and times and the names and titles of individuals involved.
- **Date your notes,** and save them in a format that records the date (e.g., by emailing them to yourself or photographing them with a personal mobile phone or other device).
- **Consider saving information using your home computer, a personal email address, and/or your personal phone** (provided the information is not classified or

confidential). Any personal notes you would not want viewed by others should be stored in a private, personal location. You may also wish to keep a separate official set of notes in your office that documents instructions and decisions. This distinction between personal notes and agency records is critical; any notes that could be considered “agency records” are legally the agency’s property and therefore subject to disclosure.

- **Back up your notes** periodically, or keep them in multiple formats (e.g., both digital and hard copies).

What Will Happen with Stored Information?

Your notes kept at work, in a work email account, or on a work computer will most often remain private unless you decide to do something with them, but as notes stored at work are likely to be considered agency records, there is no guarantee of this. They may be subject to subpoenas, FOIA requests, or being viewed by supervisors. Think carefully about how to save and when to share your notes: for example, it may be prudent to separate personal notes from notes that are “agency records,” and wait to share notes until you feel it is safe and appropriate to do so.

Documenting events as they occur can also be important in case seemingly minor actions lead to something problematic enough for you or a colleague to intervene. You might decide to take action by raising your concerns with a supervisor, your agency’s scientific integrity office, your agency’s inspector general, or a union that represents you. Or, you might choose to share information with a journalist, a

nonprofit organization that assists federal employees, or a member of Congress. Ultimately, some notes can be used in the future to determine whether decisions are arbitrary, capricious, politically driven, or inadequately informed by the science.

When Does Reporting a Concern Become Whistleblowing?

Federal employees have the right to disclose information about serious wrongdoing—to “blow the whistle”—free from reprisal, as covered by the Whistleblower Protection Enhancement Act. To constitute whistleblowing, an employee must reasonably believe the information being disclosed evidences a violation of a law, rule, or regulation; gross mismanagement; a gross waste of funds; abuse of authority; a substantial and specific danger to public health or safety; or censorship related to research, analysis, or technical information that is, or will cause, any of these forms of misconduct. Disclosures can be made internally (to a co-worker, supervisor, inspector general) or externally (to a member of Congress, the Office of Special Counsel, a nonprofit organization, or the press).

Not all disclosures or expressions of concern about potential wrongdoing constitute whistleblowing; for example, reporting a violation of an agency’s scientific integrity policy may not rise to the level of a protected whistleblower disclosure. Conversely, reporting an act of gross mismanagement or abuse of authority (e.g., failing to meet cleanup deadlines that could harm a community’s water quality) would constitute whistleblowing even if it does not violate a scientific integrity or related policy.

If you are considering disclosing information that you think might rise to the level of protected whistleblowing, you should first consult with a lawyer experienced in representing whistleblowers to help ensure your disclosure has the maximum effectiveness with the minimum amount of risk. No matter what course of action you take, documenting your concerns thoroughly is essential.

Who Can Help?

If conditions in your workplace have reached a point where protecting your

agency's mission might require legal action, several organizations can provide you with resources and advice. A conversation with a lawyer arranged by any of the organizations listed below can be protected under attorney-client privilege if you request it. These organizations can help you think through how to differentiate between personal notes and public records, and how to decide whether and how to share the information you've recorded.

For more information, see:



UNION OF CONCERNED SCIENTISTS SCIENCE PROTECTION PROJECT
www.ucsusa.org/scienceprotection



GOVERNMENT ACCOUNTABILITY PROJECT (GAP)
www.whistleblower.org



PROJECT ON GOVERNMENT OVERSIGHT (POGO)
www.pogo.org



PEER'S SCIENCE LEGAL RESOURCE CENTER
www.peer.org/campaigns/whistleblowers-scientists/science-legal-resource-center



CLIMATE SCIENCE LEGAL DEFENSE FUND (CSLDF)
www.csldf.org

Your professional or scientific society may also offer resources to assist you.



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