

November 14, 2014

MEMORANDUM FOR: FHFA Employees

FROM: Melvin L. Watt,
Director

SUBJECT: **Annual Notification of Employee Rights**

This notice documents that FHFA employees are aware and understand the right to a workplace that is free from discrimination, retaliation, or prohibited personnel practices, including reprisal for whistleblowing activities. I encourage you to read this notice in its entirety and follow the links provided below for additional information. If you have any questions about this notice, you may contact Sharron Levine, Director of the Office of Minority and Women Inclusion, or Brian Guy, FHFA Manager of Equal Employment Opportunity (EEO) Services.

NO FEAR ACT NOTICE

On May 15, 2002, Congress enacted the “Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002” (No FEAR Act or Act). The Act holds federal agencies accountable for violations of antidiscrimination and whistleblower protection laws. In further support of the Act, Congress found that “agencies cannot be run effectively if those agencies practice or tolerate discrimination” Public Law 107-74, Title I, General Provisions, Section 101(1).

The Act requires FHFA to provide notice to federal employees, former federal employees, and applicants for federal employment of the rights and protections available to them under federal antidiscrimination, whistleblower protection, and retaliation laws.

Antidiscrimination Laws

A federal agency may not discriminate against an employee, former employee, or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, age, disability, genetic information, marital status, or political affiliation. Discrimination on these bases is prohibited by one or more of these statutes: 5 U.S.C. § 2302(b)(1), 29 U.S.C. § 206(d), 29 U.S.C. § 631, 29 U.S.C. § 633a, 29 U.S.C. § 791, 42 U.S.C. § 2000e-16 and 42 U.S.C. § 2000ff.

If you believe that you have been subjected to unlawful discrimination on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, age, disability, or genetic information, you must contact an EEO counselor **within 45 calendar days of the alleged discriminatory action**. In the case of a discriminatory personnel action, you must contact an

EEO counselor **within 45 calendar days of the effective date of the action** before you can file a formal complaint of discrimination with the agency.¹

If you believe that you have been subjected to unlawful discrimination on the basis of age, you must either contact an EEO counselor **within 45 calendar days of the alleged discriminatory action or personnel action, or give notice of intent to file a lawsuit** in Federal Court to the Equal Employment Opportunity Commission (EEOC) **within 180 calendar days of the alleged discriminatory action**.

For more information on EEO counseling, please visit the FHFA's EEO intranet page at <http://intranet.fhfa.gov/Default.aspx?Page=312>, or the EEO internet page at <http://www.fhfa.gov/AboutUs/Policies/Pages/Equal-Employment-Opportunity.aspx>.

If you believe you were subjected to discrimination based on marital status or political affiliation, you may file a written complaint with the United States Office of Special Counsel (OSC).² The OSC will also investigate claims of discrimination based on sexual orientation.

Whistleblower Protection Laws

A federal employee with authority to take, direct others to take, or recommend or approve any personnel action, must not use that authority to take, or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that he or she reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

The Whistleblower Protection Enhancement Act of 2012 recently added that disclosure of information by an employee or applicant for employment that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information shall also come within the protection of the Whistleblower Protection Act. The employee or applicant must reasonably believe that such censorship is or will cause violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. § 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the OSC. Contact information is provided in footnote two.

¹ The procedures regarding the EEO process appear at 29 C.F.R. § 1614. You can find more information at www.eeoc.gov.

² The Office of the Special Counsel is located at 1730 M Street NW., Suite 218, Washington, DC 20036-4505 and information is available online through the OSC Web site www.osc.gov.

Retaliation for Engaging in Protected Activity

A federal agency may not retaliate against an employee, former employee, or applicant because that individual exercises his or her rights under any of the federal antidiscrimination or whistleblower protections laws. If you believe that you are being subjected to retaliation for engaging in protected activity, in order to pursue any legal remedy, you must follow, as appropriate, the procedures described in the antidiscrimination laws and whistleblower protection laws sections. You may also report allegations of retaliation to the FHFA Office of Inspector General (OIG) at <http://www.fhfaoig.gov/ReportFraud> or through the OIG hotline telephone number at 1-800-793-7724.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal. However, if OSC has initiated an investigation under 5 U.S.C. § 1214, agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation 5 U.S.C. § 1214(f). Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a federal employee or to violate the procedural rights of a federal employee who has been accused of discrimination.

Additional Information

The EEOC and the OSC provide more information on their web sites regarding the No FEAR Act, antidiscrimination laws, whistleblower protection and other topics.³ For further information regarding the No FEAR Act regulations, refer to 5 C.F.R. § 724. You can also learn more from EEO Services and the Office of General Counsel. I encourage each of you to follow the links referenced in the footnotes of this notice and familiarize yourself with these laws and regulations.

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee, or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. § 2302(d).

³ Additional information regarding federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site (www.eeoc.gov) and the OSC Web site (www.osc.gov). FHFA has posted two pamphlets, “Your Rights as a Federal Employee” and “Prohibited Personnel Practices” at <http://www.fhfa.gov/AboutUs/Policies/Pages/Prohibited-Personnel-Practices.aspx>. The pamphlet, “The Role of the U.S. Office of Special Counsel” (OSC) is located at the OSC website and provides information about the Whistleblower Protection Act of 1989. This pamphlet also provides telephone numbers for reporting purposes. You can access it at <https://osc.gov/Resources/oscrole.pdf>. Regulations concerning the No FEAR Act appear at 5 C.F.R. § 724.