



NO FEAR ACT ANNUAL
REPORT TO CONGRESS

October 1, 2012 – September 30, 2013



Office of Minority and Women Inclusion

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INTRODUCTION

The Federal Housing Finance Agency (FHFA) was established by the Housing and Economic Recovery Act of 2008 (HERA). From 2009 through 2013, FHFA was led by Acting Director Edward J. DeMarco. President Barack Obama nominated, and the United States Senate confirmed, Melvin L. Watt to serve as FHFA's Director in 2013. Director Watt was sworn in as the first Senate-confirmed Director of FHFA on January 6, 2014.

The agency's mission is to ensure that the government-sponsored enterprises (GSEs) operate in a safe and sound manner so that they serve as a reliable source of liquidity and funding for housing finance and community investment. FHFA is responsible for the effective supervision, regulation, and housing mission oversight of the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Bank (FHLBank) System, which includes 12 Banks and the Office of Finance. Since 2008, FHFA has also served as conservator of Fannie Mae and Freddie Mac.

This report, which covers fiscal year (FY) 2009 through FY 2013, is prepared in accordance with the requirements of Title II, Section 203, of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act). The No FEAR Act, Public Law 107-174, requires that federal agencies be publicly accountable for violations of antidiscrimination and whistleblower protection laws. Federal agencies must post both quarterly and annual statistical data relating to federal sector Equal Employment Opportunity (EEO) complaints on their public websites, reimburse the U.S. Department of the Treasury Judgment Fund for any payments made, and notify employees and applicants for employment about their rights under the federal antidiscrimination and whistleblower laws.

FHFA is committed to fostering an inclusive work environment where diversity is respected and leveraged to better serve the agency's mission. This is reflected in FHFA's 2013 EEO Policy Statement, issued by then Acting Director Edward DeMarco, which highlights the agency's:

...commitment to equal opportunity for all employees regardless of race, gender, sexual orientation, religion, color, national origin, age, disability, prior protected activity, parental status, marital status, and protected genetic information. The objective of this policy is to provide access to processes that address and prevent discrimination, harassment, or reprisal for all FHFA employees, applicants and former employees.¹

¹ FHFA EEO Policy Statement signed by former Acting Director Edward J. DeMarco, April 26, 2013, <http://www.fhfa.gov/webfiles/25138/4-26-13%20EEO%20Policy%20Statement%20to%20FHFA%20Staff.pdf>.



Pursuant to statutory requirements, FHFA is providing copies of this report to the Speaker of the U.S. House of Representatives; President Pro Tempore of the U.S. Senate; U.S. Senate Committee on Homeland Security and Governmental Affairs; U.S. House of Representatives Committee on Oversight and Government Reform; U.S. Senate Committee on Banking, Housing, and Urban Affairs; U.S. House of Representatives Committee on Financial Services; Chair of the Equal Employment Opportunity Commission (EEOC); U.S. Attorney General; and Director of the U.S. Office of Personnel Management.

CLAIMS IN FEDERAL COURT ARISING UNDER FEDERAL ANTIDISCRIMINATION OR WHISTLEBLOWER LAWS

I. TYPES OF CLAIMS IN FEDERAL COURT AND DISPOSITION STATUS

Since Fiscal Year 2009, two federal court cases have alleged a total of three claims concerning federal antidiscrimination laws—one case is still pending and the second settled in 2009. The pending case was filed in FY 2013 and alleges a violation of the Age Discrimination in Employment Act (ADEA) of 1967.² The settled case was originally brought against the Federal Housing Finance Board, one of two federal agencies merged in 2008 to form FHFA, prior to 2009. This complainant alleged violations of Title VII of the Civil Rights Act of 1964 and the ADEA, and the parties settled the case in 2009. No cases or claims concerning whistleblower laws have been filed from FY 2009 through FY 2013. Table 1 shows the disposition status of claims in federal court.

II. THE JUDGMENT FUND AND ANY BUDGET ADJUSTMENTS RELATING TO THE JUDGMENT FUND

FHFA made no budget adjustments relating to the U.S. Department of the Treasury Judgment Fund during the period FY 2009 through FY 2013. FHFA is a non-appropriated agency and, therefore, does not utilize the Judgment Fund.

² Although the case was pending in FY 2013, the agency was not served until FY 2014.



TABLE 1: DISPOSITION STATUS OF CLAIMS IN FEDERAL COURT BY STATUTE FOR FY 2009 THROUGH FY 2013

STATUS OF FEDERAL CLAIMS BY STATUTE	FY 2009	FY 2010	FY 2010	FY 2011	FY 2013
Title VII of the Civil Rights Act of 1964	1	0	0	0	0
Pending	0	0	0	0	0
Dismissed	0	0	0	0	0
Settled	1	0	0	0	0
Age Discrimination in Employment Act of 1967	1	0	0	0	1
Pending	0	0	0	0	1
Dismissed	0	0	0	0	0
Settled	1	0	0	0	0
Rehabilitation Act of 1973	0	0	0	0	0
Pending	0	0	0	0	0
Dismissed	0	0	0	0	0
Settled	0	0	0	0	0
Whistleblower Protection Act	0	0	0	0	0
Pending	0	0	0	0	0
Dismissed	0	0	0	0	0
Settled	0	0	0	0	0
Equal Pay Act of 1963	0	0	0	0	0
Pending	0	0	0	0	0
Dismissed	0	0	0	0	0
Settled	0	0	0	0	0

III. FORMAL FINDINGS OF MISCONDUCT AND RESULTING DISCIPLINARY ACTIONS

Table 2 documents employees disciplined for conduct inconsistent with federal antidiscrimination or whistleblower laws as a result of a case adjudicated by federal court. This table shows that there were no formal findings of discrimination and, as a result, no employees were disciplined for engaging in discrimination in violation of federal antidiscrimination or whistleblower protection laws.



TABLE 2: NUMBER OF EMPLOYEES DISCIPLINED FOR CONDUCT INCONSISTENT WITH FEDERAL ANTIDISCRIMINATION OR WHISTLEBLOWER LAWS FOR THE PERIOD FY 2009 THROUGH FY 2013

EMPLOYEES DISCIPLINED IN CONNECTION WITH FEDERAL COURT CASES

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Number of Findings	0	0	0	0	0
Number of Employees Disciplined	0	0	0	0	0

EMPLOYEES DISCIPLINED IN ADMINISTRATIVE CASES

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Number of Findings	0	0	0	0	0
Number of Employees Disciplined	0	0	0	0	0

To correct misconduct or inappropriate behavior, FHFA will apply discipline in a fair and equitable manner that promotes the efficiency of the agency. Corrective action will be commensurate with the seriousness of the misconduct and comparable offenses under like circumstances will be treated similarly across the agency.

These disciplinary procedures are designed to enable management to appropriately address the misconduct, with a goal of ensuring the behavior is not repeated or emulated, and ensure due process as required by 5 U.S.C. § 75 and 5 C.F.R. Part 752 for the individual charged with the misconduct.

FHFA managers must show that the disciplinary actions they take promote the efficiency of FHFA operations and meet legal requirements. Written proposal and decision notices must state the charge(s) clearly and detail the reason(s) upon which the disciplinary action is based. Managers must include the evidence upon which the charge is based, reflect the connection (nexus) between the charge(s) and agency efficiency, and establish the reasonableness of the discipline, including, among other factors, the egregiousness of the behavior, how clearly the individual was on notice that the behavior was unacceptable, and the individual’s prior history of performance and behavior. This analysis is normally conducted by the offending individual’s immediate supervisor with the advice and guidance of the Office of Human Resources Management (OHRM) and the Office of General Counsel (OGC). The result is a determination as to the seriousness of the action to be taken or proposed in response to the behavior.

Disciplinary actions may range from verbal counseling to termination. First line supervisors issue less serious actions such as verbal or written counseling or a written reprimand. More serious actions involving a suspension from duty, a reduction in grade level, or a termination require that the immediate supervisor propose the action



to a higher level of management and provide due process protections, including a right to respond. Based upon the proposal and the evidence supporting it, the individual's response to it, and advice and guidance from OHRM and OGC, the higher level of management will decide an appropriate level of discipline to be effected that may be less than, but no more than, the level of discipline proposed.

FINAL YEAR-END NO FEAR ACT DATA FOR FISCAL YEAR 2009 THROUGH FISCAL YEAR 2013

Appendix 1 provides five years of administrative complaint activity. This information was posted on the agency's internal and external websites.

INTERNAL FINDINGS OF MISCONDUCT AND RESULTING DISCIPLINARY ACTIONS

There were no findings of discrimination as a result of internal investigations and no employees were disciplined for engaging in conduct inconsistent with federal antidiscrimination or whistleblower laws during the period FY 2009 through FY 2013. In December 2013, FHFA issued a policy statement on the prevention and elimination of workplace harassment, which is posted on the agency's intranet and internet sites (See Appendix 2).

DATA ANALYSIS

I. ANALYSIS OF FISCAL YEAR 2013 COMPLAINT DATA

During FY 2013, four FHFA employees filed a total of four formal administrative complaints that included a total of six allegations of discrimination. Two of the complainants alleged multiple bases in their complaints, while the other two alleged a single basis.

The leading bases or types of discrimination alleged in these complaints were reprisal (2), gender (2), and age (2). The two leading issues alleged in formal complaints were assignment of duties and harassment (non-sexual).



II. EXAMINATION OF TRENDS AND CAUSAL ANALYSIS

From FY 2009 through FY 2013, employees filed a total of 31 complaints, resulting in an average of 6.2 complaints per year. Employees filed ten complaints during FY 2012 and three complaints during FY 2011. In both FY 2010 and FY 2009, employees filed seven formal complaints.

Of the 31 complaints filed between FY 2009 and FY 2013, 25 alleged race as a discriminatory basis. During the same period, 15 complaints alleged reprisal and sex discrimination, and 12 alleged age discrimination. The most common complaint issues were promotion/non-selection, assignment of duties, pay, and harassment (non-sexual). Complaints filed each fiscal year are included in Table 3 as a percentage of the FHFA’s total workforce.

TABLE 3: NUMBER OF FHFA EMPLOYEES AND OVERALL NUMBER OF COMPLAINTS FILED

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Number of FHFA Employees ³	428	457	519	572	594
Number of Complaints Filed	7	7	3	10	4
Complaints Filed as a Percent of Total Workforce	1.63%	1.53%	0.58%	1.75%	0.67%

The average number of days for investigating complaints increased during the period from FY 2009 to FY 2013. In FY 2009, seven formal complaints averaged 112 days in the investigation stage. In FY 2013, there were 11 in-process formal complaints, and the length of a complaint’s investigation stage increased to 284 days. The EEOC’s FY 2011 Annual Report on the Federal Workforce listed the average time it takes a federal agency to complete an investigation as 183 days.⁴

³ The OIG posts their No Fear Data separately from FHFA and they administer No Fear compliance for OIG employees. Therefore, these numbers do not include OIG employees.

⁴ U.S. EEOC Office of Federal Operations, Annual Report on the Federal Workforce Part I, EEO Complaints Processing, Part 1, page 12, <http://www.eeoc.gov/federal/reports/fsp2011/upload/FY-2011-Annual-Report-Part-IMaster.pdf>.



FHFA is undertaking efforts to lower investigation timeframes through new internal procedures and long-term investigation resources. Equal Employment Opportunity services purchased a case management database to help with case tracking and monitoring. The agency is also using the procurement process to obtain long-term investigation and counseling services via the General Services Administration (GSA) schedule. Additionally, layers of review are now in place to keep track of case deadlines.

III. KNOWLEDGE DEVELOPMENT

FHFA continually seeks to improve its processes for preventing and addressing discrimination. This includes offering trainings for staff and senior level management, offering agency events, and improving the agency's EEO policies and procedures.

Staff feedback has contributed to FHFA's development of training and leadership programs. In addition to gaining knowledge through the complaint process itself, FHFA participated in the annual Federal Employee Viewpoint Survey (FEVS) sponsored by the Office of Personnel Management. In 2012 and 2013, FHFA obtained reports for offices and divisions across the agency in addition to the single agency-wide report that FHFA has historically received. This provided much greater insight and allowed the agency to identify certain organizational units that were performing well. These results and the follow-up discussions with employees about them helped to significantly shape the FHFA leadership programs.

Several training initiatives occurred during 2013. FHFA invited all staff—and made attendance mandatory for all supervisors and executives—to attend a session on how hidden biases are pervasive in organizational decision-making processes, as well as in interpersonal engagement. The speaker, Dr. Mahzarin Banaji, author of *Blindspot: Hidden Biases of Good People*, discussed how social cognition of behavior is influenced by hidden biases that emerge from cultural attitudes about age, gender, race, ethnicity, religion, social class, sexuality, disability status, and nationality. Further, FHFA developed and initiated an Executive Leadership Program during 2012 that continued into 2013 to enhance agency leadership practices and organizational effectiveness. This program was designed to accelerate leadership skills development.

Agency executives were the first to complete the development programs, and significant improvements in leadership development scores were received by those who completed the program versus those who had not. In addition, the agency came within 1/10 of one point from being the most improved agency in government on FEVS during 2013. The data indicates that, based upon employee feedback, our leadership development efforts are having a positive effect on the overall workforce.

The agency also launched a new series of information exchanges introducing employees to experts and points of contact for support and assistance in looking into EEO-based conflicts. The Knowledge Integration Tuesdays (KIT) series offered content every three weeks. Future planned topics include reasonable accommodations for



persons with disabilities, EEO procedures, and employee relations. Previous sessions addressed performance management, EEO Fundamentals, and religious accommodation. The KIT series is designed to provide employees with information and a connection to the people who are responsible for these processes. Additionally, all FHFA employees are encouraged to participate in agency events observing African American history; Women's history; Asian-Pacific American heritage; Holocaust Remembrance; Lesbian, Gay, Bisexual and Transgendered history; Hispanic heritage; Native American heritage; and Disability awareness.

FHFA also designed a new protocol for addressing EEO-based harassment and provided training to all members of management about this new process and their obligations related to EEO harassment legal requirements. FHFA continues to promote alternative dispute resolution (ADR) as an option to resolve disputes at all stages of the EEO process.

IV. ACTIONS TO IMPROVE FHFA'S EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

FHFA is revising its policies and procedures for the administration of the EEO complaint process, ADR, and reasonable accommodations for employees with disabilities. FHFA also developed a new performance evaluation process, which the agency implemented in 2013.

FHFA has begun the following actions to improve the EEO program:

- Updating the FHFA EEO intranet site and displaying posters to boost knowledge and awareness of the process;
- Securing long-term investigation and counseling support through GSA contract services;
- Revising forms used in the EEO process and improving internal procedures;
- Developing EEO staff through expanded diversity and advanced EEO training opportunities;
- Strengthening existing partnerships and developing new ones within the agency;⁵
- Establishing and refreshing agency policies on EEO, Harassment, and ADR;⁶

⁵ EEO Services is working with the FHFA Office of Budget and Financial Management to provide contract counseling and investigation support, and with the Office of Technology and Information Management to increase electronic file security. The relationship with ORHM and OGC is essential for providing employees with other avenues available for addressing workplace concerns.

⁶ FHFA's updated EEO policy was issued on April 26, 2013.



- Implementing an automated data system to assist in preparing reports and tracking EEO complaint activity; and
- Providing mandatory training to all non-management employees on preventing and addressing harassment.

NO FEAR ACT TRAINING PLAN

In compliance with the recurring training and documentation requirements of 5 C.F.R. § 724.203(b) and (d), FHFA developed and issued an internal No FEAR Act training module to all employees during FY 2009. The training module included updates in the law, was Section 508 compliant, was accessible electronically to all employees via FHFA's intranet, and tracked all employee completions. During FY 2012 and 2013, new employees were provided with No FEAR Act training within the 90 day period after entering duty. The agency is developing new training programs that will be presented to employees beginning in the spring of 2014.

FHFA published a No FEAR Act Notice (the Notice) in the *Federal Register* on March 21, 2013 (see Fed. Reg. 17403) and published it on the FHFA internal and external websites. This Notice replaced two prior notices published by FHFA's predecessor agencies and provides information to all FHFA employees, former employees, and applicants for employment about the rights and remedies that are available to them under the federal antidiscrimination and whistleblower protection laws (see Appendix 3). Additionally, during new employee orientation, a copy of the Notice is provided to all new employees in an orientation packet, and all new employees are provided an overview of the Notice. Further the agency intends to issue a 2014 No FEAR Act Notice with the Director's signature.



Appendix 1

Equal Employment Data Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No Fear Act), Public Law 107–174

* The Federal Housing Finance Agency (FHFA) was created on July 30, 2008, when the President signed into law the Housing and Economic Recovery Act of 2008. As a result, there is no comparative data for the fiscal year 2007.

- **Complaint Activity**
- **Complaints by Basis**
- **Complaints by Issue**
- **Processing Time**
- **Complaints Dismissed by Agency and Withdrawn by Complainants**
- **Total Final Actions Finding Discrimination**
- **Findings of Discrimination Rendered by Basis**
- **Findings of Discrimination Rendered by Issue**
- **Pending Complaints Filed in Previous Fiscal Years by Status**
- **Complaint Investigations**

Complaint Activity

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2013
	2008	2009	2010	2011	2012	
Number of complaints filed	2	7	7	3	10	4
Number of complainants	2	7	2	3	10	4
Repeat filers	0	0	1	0	0	0

Complaints by Basis

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2013
	2008	2009	2010	2011	2012	
<i>Note: Complaints can be filed alleging multiple bases. The sum</i>	2008	2009	2010	2011	2012	2013

Pay (including overtime)	1	1	0	1	4	1
Promotion/nonselection	2	3	0	1	8	1
Reassignment						
Denied	0	1	1	0	0	0
Directed	0	1	0	0	0	0
Reasonable accommodation	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0
Retirement	0	0	0	0	1	0
Termination	0	0	1	0	2	0
Terms/conditions of employment	0	0	0	0	0	1
Time and attendance	0	1	0	0	0	1
Training	0	1	0	0	1	0
Other	0	0	1	0	1	0

Processing Time

Processing Time ¹	Comparative Data					
	Previous Fiscal Year Data					2013
	2008	2009	2010	2011	2012	
Complaints pending during fiscal year						
Average number of days in investigation stage	112	113	154	102	206	284
Average number of days in final action stage	21	40	136	302	91	160
Complaints pending during fiscal year where hearing was requested						
Average number of days in investigation stage	0	0	0	96	221	369
Average number of days in final action stage	0	0	0	0	15	114
Complaints pending during fiscal year where hearing was not requested						
Average number of days in investigation stage	112	113	169	104	203	265
Average number of days in final action stage	21	40	149	353	108	173

Complaints Dismissed by Agency and Withdrawn by Complainants

	Comparative Data

¹ All averages do not count the end date.

Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to full time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary action	0	0	0	0	0	0	0	0	0	0	0	0
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/test	0	0	0	0	0	0	0	0	0	0	0	0
harassment	0	0	0	0	0	0	0	0	0	0	0	0
Nonsexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (including overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/nonselection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment	0	0	0	0	0	0	0	0	0	0	0	0
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/conditions of employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status

Pending Complaints Filed in Previous Fiscal	Comparative Data
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Years by Status		Previous Fiscal Year Data					2013 ²
		2008 ³	2009	2010	2011	2012	
Total complaints from previous fiscal years		0	1	7	5	4	9
Total complainants		0	1	7	5	4	9
Number complaints pending							
	Investigation	0	0	4	1	3	3
	Hearing	0	0	0	1	1	2
	Final action	0	0	2	2	0	2
	Appeal with EEOC Office of Federal Operations	0	1	1	1	0	1

Complaint Investigations

Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					2013
	2008	2009	2010	2011	2012	
Pending complaints where investigations exceed required time frames	0	1	5	1	7	7

² There is one complaint that is still in the Acceptance/Denial of Claims phase. This complainant is not counted in the "Number Complaints Pending" section.

³ FHFA was not established until July 2008.



Federal Housing Finance Agency

PREVENTION AND ELIMINATION OF HARASSMENT IN THE WORKPLACE POLICY STATEMENT

The Federal Housing Finance Agency (FHFA) is committed to maintaining a positive, productive work environment in which all employees are free to put forth their best effort and have an opportunity to succeed as a result. To facilitate that type of environment, the FHFA will not tolerate workplace harassment of any employee (either by another employee or non-employee), will promptly investigate allegations of harassment, and, where allegations are substantiated, will take appropriate action. Further, the FHFA will not tolerate retaliation against any employee for reporting harassment under this or any other policy, for assisting in any inquiry about a report of harassment, or for opposing discrimination or harassment.

Harassment is any objectively offensive conduct based on race, sex (whether or not of a sexual nature and including same-gender harassment), sexual orientation, religion, color, national origin, age, disability, family medical history or genetic information, political affiliation, or status as a parent, military service, or any other non-merit based factor. Examples of offensive conduct include:

- Offensive verbal conduct such as obscene language, epithets, suggestive statements or innuendo, or derogatory comments.
- Unwelcome physical conduct, such as touching or gestures.
- Creating or displaying offensive graphic materials in the workplace that relate to the race, sex, sexual orientation, religion, color, national origin, age, disability, genetic information, political affiliation, status as a parent, or military service of an employee.
- Retaliation for an employee's opposition to discrimination or participation in the discrimination complaint process.

Any of these behaviors may be considered harassment if a person experiencing the conduct does not welcome it. Harassment occurs when:

- Submission to offensive conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- Submission to or rejection of offensive conduct by an individual is used as the basis for tangible job decisions affecting that individual; or
- Offensive conduct unreasonably interferes with or is intended to interfere with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

The anti-discrimination statutes and this policy are not a general civility code. However, we all should seek a workplace free of harassment that provides a collegial atmosphere of open and honest communication and a commitment to fair exchanges of ideas and resolution of workplace disputes.

This Anti-Harassment Policy applies to all FHFA employees. Violations of the policy will result in disciplinary actions, up to and including termination. You should feel free to discuss any questions or concerns related to harassment with your supervisor, the Office of Human Resources Management, or the Manager of Equal Employment Opportunity Services without fear of reprisal. Confidentiality will be provided to every extent possible.


Edward J. DeMarco
Acting Director, FHFA

12-18-2013
Date

Billing Code: 8070-01-P

FEDERAL HOUSING FINANCE AGENCY

[No. 2013-N-03]

No FEAR Act Notice

AGENCY: Federal Housing Finance Agency.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Agency (FHFA or agency) is providing notice to all its employees, former employees, and applicants for employment about the rights and remedies that are available to them under the Federal antidiscrimination laws and whistleblower protection laws. This notice fulfills FHFA's notification obligations under the Notification and Federal Employees Antidiscrimination Retaliation Act as implemented by Office of Personnel Management regulations.

FOR FURTHER INFORMATION CONTACT: Nancy Burnett, Acting Associate Director of the Office of Minority and Women Inclusion, Nancy.Burnett@fhfa.gov, (202) 649-3017; Brian Guy, Manager of EEO Services, Brian.Guy@fhfa.gov, (202) 649-3019; or Janice Kullman, Associate General Counsel, Janice.Kullman@fhfa.gov, (202) 649-3077 (not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

SUPPLEMENTARY INFORMATION: On May 15, 2002, Congress enacted the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,

which is now known as the No FEAR Act (No FEAR Act), (Public Law 107-174). One purpose of the No FEAR Act is to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws. In support of this purpose, Congress found that agencies cannot be run effectively if those agencies practice or tolerate discrimination.

The No FEAR Act also requires Federal agencies to inform Federal employees, former Federal employees, and applicants for Federal employment of the rights and protections available to them under Federal antidiscrimination and whistleblower protection laws.

Establishment of a New Independent Agency

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA), (Public Law 110-289), established FHFA as an independent agency of the Federal Government. HERA also combined the staffs of the Office of Federal Housing Enterprise Oversight (OFHEO), the Federal Housing Finance Board (FHFB), and the Government-Sponsored Enterprise mission office of the Department of Housing and Urban Development. Although each predecessor agency published its own No FEAR Act notice during 2006 (See 71 FR 63761 (Oct. 31, 2006) and 71 FR 70525 (Dec. 5, 2006)), FHFA is now publishing its own notice to affirm its commitment to the requirements of the No FEAR Act.

Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, or political affiliation.

Discrimination on these bases is prohibited by one or more of the following 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, and 42 U.S.C. 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your agency. See, e.g., 29 CFR 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, 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 is 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.

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 U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site at <http://www.osc.gov>.

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections of this notice or, if applicable, FHFA's administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the OSC to discipline employees for, among


other activities, engaging in prohibited retaliation. 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

For further information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the appropriate offices within your agency (e.g., OMWI's branch of EEO Services, Office of Human Resource Management, or Office of General Counsel). Additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws can be found at the EEOC Web site at [http:// www.eeoc.gov](http://www.eeoc.gov) and the OSC Web site at <http://www.osc.gov>.

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).



Edward J. DeMarco,
Acting Director, Federal Housing Finance Agency.

3-12-13
Date