



# ANNUAL NO FEAR ACT NOTICE

TO: FHFA Employees

FROM: Sandra L. Thompson, Acting Director

SUBJECT: **Annual Notification of Employee Rights**

DATE: March 25, 2022

## NO FEAR ACT NOTICE

On May 15, 2002, Congress enacted the [Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002](#) (P-L 107-174) (No FEAR Act or Act). The Act requires Federal agency accountability for violations of antidiscrimination and whistleblower protection laws and states that agencies cannot run effectively if they practice or tolerate discrimination. Congress recently enacted the [Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020](#)<sup>1</sup> to amend the No FEAR Act. The Act increases federal agencies' accountability by requiring the following:

- Establishment of an EEO Complaint Tracking system;
- Notation of the adverse action and the reason for the action in the employee's personnel record;
- Fair and impartial processing and resolution of EEO complaints;
- Establishment of a Model EEO Program that is not under the control of Human Resources or the Office of General Counsel;
- Ensure that each Head of EEO program reports directly to Agency Head; and
- The EEOC must refer discrimination findings to the Office of Special Counsel, if it determines that the agency did not take appropriate action with respect to the EEOC's finding.

This document provides notice to Federal Housing Finance Agency (FHFA) employees, former employees, and applicants for employment of the right to a workplace that is free from discrimination, harassment, retaliation, and prohibited personnel practices, including reprisal for whistleblowing activities.

Please 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 the Office of Equal Opportunity and Fairness (OEOF) at 202-649-3500 or via email at [OEOFinfo@fhfa.gov](mailto:OEOFinfo@fhfa.gov).

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<sup>1</sup> Contained in Title XI, Subtitle B Sec. 1131-1138 of the National Defense Authorization Act of 2021. Attached to the end of the Annual No FEAR Act Notice



# ANNUAL NO FEAR ACT NOTICE

## **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, gender identity, and sexual orientation), 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, you must contact an EEO counselor **within 45 calendar days of the alleged discriminatory action or within 45 calendar days of becoming aware of the alleged discriminatory event or action in order to preserve your EEO complaint rights**. In the case of an alleged discriminatory personnel action, you must contact an EEO counselor **within 45 calendar days of the effective date of the action**.<sup>2</sup> For claims of constructive discharge, the 45-day limitations period begins on the employee's official date of departure from an agency.

If you believe that you have been subjected to unlawful discrimination on the basis of age (40 years of age and older) in violation of the Age Discrimination in Employment Act of 1967, you must either contact an FHFA 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 days after the alleged discriminatory action**.

If you believe you were subjected to discrimination based on marital status or political affiliation, you may file a complaint with the United States Office of Special Counsel (OSC). You may also seek assistance from OSC if you believe you have been subjected to a prohibited personnel practice based on sexual orientation or gender identity.<sup>3</sup>

For more information on EEO Counseling, please visit FHFA's intranet page at [FHFA EEO Services](#) or [EEO intranet](#) page. **Individuals may file an EEO complaint of harassment with the EEO Counselor and simultaneously may report claims of harassment through FHFA's Harassment Prevention Program in OEOF.**

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<sup>2</sup> The procedures regarding the EEO complaint process appear at 29 C.F.R. § 1614. You can find more information at [www.eeoc.gov](http://www.eeoc.gov).

<sup>3</sup> Information is available online through the OSC website at [www.osc.gov](http://www.osc.gov). The Whistleblower Disclosure Hotline is (800) 872-9855 or (202) 804-7000.



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EEO Services will process the EEO matter separate from the internal FHFA Anti-Harassment process though allegations may be addressed in both forums simultaneously. If employees contact the Anti-Harassment program first, they must also make timely contact with EEO Services if they wish to pursue an EEO complaint simultaneously.

To report harassment, contact the Harassment Prevention Hotline at (202) 649-3964 or by email at [HarassmentPrevention@fhfa.gov](mailto:HarassmentPrevention@fhfa.gov).

## **Whistleblower Protection Laws**

A federal employee with authority to take, direct others to take, recommend, or approve any personnel action must not take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of a disclosure of information that the employee or applicant reasonably believes is a violation 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 or regulation 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.<sup>4</sup>

Disclosure by an employee or applicant for employment of information that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information is also within the protection of the Whistleblower Protection Enhancement Act of 2012. As with all protected disclosures, the employee or applicant must reasonably believe that such censorship is of an actual or potential violation of law, rule, or regulation; a gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety.

## **Retaliation for Engaging in Protected Activity**

Federal agencies 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 protection laws. Each of the EEO laws prohibits retaliation, so if you believe that you are being subjected to retaliation for exercising your rights under any of the federal

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<sup>4</sup> For information regarding such disclosures, please refer to the OSC website section on “Disclosure Involves Counterintelligence or Foreign Intelligence Information” located at <https://osc.gov/Services/Pages/DU-IntelligenceInfo.aspx>.



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antidiscrimination laws and wish to pursue a legal remedy, you must follow, as appropriate, the procedures described in the antidiscrimination laws.

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 subject of whistleblower retaliation, you may file a complaint with OSC. You may also report allegations of whistleblower retaliation to the FHFA Office of Inspector General (OIG) at <http://www.fhfaoig.gov/ReportFraud> or through the OIG Hotline at 1-800-793-7724.

An employee who has experienced retaliation in the form of certain types of adverse actions because of protected communication may also file an appeal directly with the [Merit Systems Protection Board \(MSPB\)](#).

## **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 OSC provide information on their websites regarding the No FEAR Act, antidiscrimination laws, whistleblower protection, and other topics.<sup>5</sup> You can also learn more from the FHFA Office of Equal Opportunity and Fairness and the FHFA Office of General Counsel. Please follow the links referenced in 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 [5 U.S.C. § 2302\(d\)](#).

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<sup>5</sup>Additional information regarding federal antidiscrimination, whistleblower protection, MSPB, and retaliation laws can be found at the EEOC website ([www.eeoc.gov](http://www.eeoc.gov)), the OSC website ([www.osc.gov](http://www.osc.gov)), and MSPB ([www.mspb.gov](http://www.mspb.gov)). Regulations concerning the No FEAR Act appear at 5 C.F.R. § 724 and 29 C.F.R. § 1614.701.