



ANNUAL NO FEAR ACT NOTICE

TO: FHFA Employees

FROM: Joseph M. Otting, Acting Director

SUBJECT: **Annual Notification of Employee Rights**

DATE: March 18, 2019

NO FEAR ACT NOTICE

This document provides notice to Federal Housing Finance Agency (FHFA) employees of the right to a workplace that is free from discrimination, harassment, retaliation, and prohibited personnel practices, including reprisal for whistleblowing activities. This notice is provided pursuant to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act or Act), which requires 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.

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 Sharron Levine, Director of the Office of Minority and Women Inclusion (OMWI), or Brian Guy, Director of Equal Employment Opportunity (EEO) Services.

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, gender (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 on the basis of race, color, religion, gender (including pregnancy, gender identity, and sexual orientation), national origin, age, disability, or genetic information, you must contact an EEO counselor **within 45 calendar days after the alleged discriminatory action or within 45 calendar days after 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 after the effective date of the action**.¹ For claims of constructive discharge, the 45-day limitations period begins on the employee's official date of departure from an agency.

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



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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 after 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.

For more information on EEO counseling, please visit FHFA's EEO intranet page at <http://intranet.fhfa.gov/default.htm#/1197>, 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 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.²

Individuals may report claims of harassment via the EEO complaint process or through FHFA's Harassment Prevention Program. Harassment allegations may be addressed in both forums simultaneously. If employees make contact with the Harassment Prevention Office first, they must also make timely contact with EEO Services if they wish to pursue an EEO complaint simultaneously. If they file a complaint with EEO Services first, EEO Services will process the EEO matter and refer their allegations to the Harassment Prevention Office. To obtain additional information about FHFA's [Anti-Harassment Policy, Procedures, and Responsibilities](#), or to report harassment, contact the Harassment Prevention Hotline at (202) 649-3964 or by email at 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 revealed 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.³

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

² Information is available online through the OSC website at www.osc.gov. The Whistleblower Disclosure Hotline is (800) 872-9855 or (202) 804-7000.

³ For information regarding such disclosures, please refer to the OSC website section on "Referral of Counterintelligence or Foreign Intelligence Information" located at <https://osc.gov/Pages/DOW-ReferralCounterIntelInfo.aspx>.



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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 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.

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.⁴ You can also learn more from EEO Services 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).

⁴Additional information regarding federal antidiscrimination, whistleblower protection, and retaliation laws can be found at the EEOC website (www.eeoc.gov) and the OSC website (www.osc.gov). Regulations concerning the No FEAR Act appear at 5 C.F.R. § 724 and 29 C.F.R. § 1614.701.