



DEPARTMENT OF DEFENSE
EDUCATION ACTIVITY
4800 MARK CENTER DRIVE
ALEXANDRIA, VA 22350-1400

FEB 14 2014

MEMORANDUM FOR ALL DEPARTMENT OF DEFENSE EDUCATION ACTIVITY
NON-BARGAINING UNIT EMPLOYEES

SUBJECT: Mandatory Notification and Federal Employee Anti-Discrimination and
Retaliation Act Training

The purpose of this memorandum is to release the Notification and Federal Employee Anti-Discrimination and Retaliation (NoFEAR) Act on-line training to all non-bargaining unit employees.

The NoFEAR Act requires the Department of Defense Education Activity (DoDEA) to provide training and a notice to federal employees, former federal employees, and applicants for federal employment to inform them of their rights and protections available under federal anti-discrimination, whistleblower protection, and retaliation laws. The notice is located at: http://www.dodea.edu/Offices/DMEO/upload/11_DMEO_002.pdf.

The NoFEAR Act training must be completed by all permanent and temporary non-bargaining unit employees. Newly hired employees must complete the training within 90 calendar days of employment. All employees are required to complete refresher training every two years to ensure continued understanding of their rights and responsibilities. The NoFEAR Act training is found at https://webapps.dodea.edu/app_banner/banner.cfm?return_url=%2FETP. From the home page, click "OK," then "User Login," after logging in select "Trainings," and the NoFEAR Act training. Employees are required to provide the certificate at the end of the training to their supervisor and keep a copy for their records. The course takes approximately 30 minutes to complete.

DoDEA is committed to having a workplace that is free of discrimination and retaliation for whistleblowing. It is essential that the rights of employees, former employees, and applicants for employment be protected under the anti-discrimination and whistleblowing protection laws.

If you have any questions regarding the content of this training, please contact Ms. Alina Doreste-Johnson, Chief, Diversity Management and Equal Opportunity office at (571) 372-0964 or Alina.Doreste@hq.dodea.edu.

A handwritten signature in black ink, appearing to read "Adrian B. Talley".

Adrian B. Talley
Acting Director

DEPARTMENT OF DEFENSE EDUCATION ACTIVITY

NoFEAR ACT NOTICE

On May 15, 2002, Congress enacted the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, known as the NoFEAR Act. One purpose of the 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 run effectively if those agencies practice or tolerate discrimination.

Federal employees, former Federal employees and applicants for Federal employment are encouraged to review the following information on the rights and protections available to them under Federal antidiscrimination and whistleblower protection laws.

ANTIDISCRIMINATION LAWS

Directors, managers and supervisors are responsible for ensuring that the work environment is free from discrimination based on the following protected groups: race, color, religion, sex (including pregnancy, and gender stereotyping), national origin, age (40 and older), disability (mental and/or physical), genetic information or reprisal for participation in previous Equal Employment Opportunity (EEO) activity. A Federal agency also cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 United States Code (USC) 2302(b)(1), 29 USC 206(d), 29 USC 631, 29 USC 633a, 29 USC 791 and 42 USC 2000e-16.

If you believe that you have been the victim of discrimination on the basis of race, color, religion, sex, national origin, age, disability, genetic information, or reprisal, you should contact the Department of Defense Education Activity (DoDEA), Diversity Management and Equal Opportunity (DMEO) office at (571)-372-0964 or a local servicing DMEO office, at: <http://www.dodea.edu/Offices/DMEO/contacts.cfm>. Contact must be made within 45 calendar days of the alleged discriminatory act, or in the case of a personnel action, within 45 calendar days of the effective date of the action. Informal resolution through mediation or counseling will be attempted prior to filing a formal complaint of discrimination.

If you are alleging equal pay or age discrimination, you have the right to file an administrative complaint under 29 Code of Federal Regulations (CFR) 1614, or to bypass the administrative process and file a civil action in U.S. District Court. In the latter case, you must file a Notice of Intent to Sue, pursuant to 29 CFR Section 1614.201(a), after giving the U.S. Equal Employment Opportunity Commission (EEOC) not less than 30 days notice of your intent to file such an action. Such notice must be filed in writing to the EEOC, 131 M Street, NE, Suite 4NW02F, Washington DC 20507-0100, within 180

days of the occurrence of the alleged unlawful practice. 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) or pursue a discrimination complaint.

The Uniformed Service Employment and Reemployment Rights Act (USERRA) protects the job rights of individuals who voluntarily or involuntarily leave employment to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past/present members of the uniformed services, and applicants to the uniformed services. The U.S. Department of Labor, Veterans Employment and Training Service (VETS), is authorized to investigate and resolve complaints of USERRA violations. For information in filing a complaint, contact VETS at 1-866-4-USA-DOL or visit its website <http://www.dol.gov/vets>.

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, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to be evidence of violations of law, rule or regulation; gross mismanagement; gross waste of funds; 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 USC 2302(b)(8). If you believe that you are 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 201, Washington, DC 20036-4505 or online through the OSC website: <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 or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

ALTERNATIVE DISPUTE RESOLUTION

DoDEA offers Alternative Dispute Resolution (ADR) services to its employees to address informal or formal allegations of discrimination as an alternative to formal administrative procedures or litigation, to the maximum extent appropriate. Mediation is the Agency method used to provide parties the opportunity to resolve disputes without the need for a lengthy investigation or costly litigation. When used in appropriate circumstances, mediation can yield results that are faster, less expensive, and less contentious than formal administrative processes. Mediation is an alternative method to formal processes, not a replacement. If settlement does not occur, the right to pursue formal processes still exists. For more information contact the DMEO office. For non-EEO related workplace disputes, contact the DoDEA Center for Early Dispute Resolution (CEDR) at: (571) 372-7778, CEDR@hq.dodea.edu, or <http://www.dodea.edu/Offices/CEDR/index.cfm>. CEDR provides confidential, impartial assistance to help address and resolve concerns and differences encountered at DoDEA.

DISCIPLINARY ACTIONS

Under the existing laws, each agency retains the right, where appropriate, to discipline Federal employees 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 USC 1214, however, according to 5 USC 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the NoFEAR 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 NoFEAR Act regulations, refer to 5 CFR Part 724, as well as the DMEO office. Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC website at: <http://www.eeoc.gov> and the OSC website at <http://www.osc.gov>.

EXISTING RIGHTS UNCHANGED

Pursuant to Section 205 of the NoFEAR 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 USC 2302(d).