

December 17, 2021

To all Federal Election Commission (FEC) employees:

This memorializes the annual notice of your rights and remedies under the applicable federal antidiscrimination and whistleblower protection laws, as they relate to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act). *An initial version of this notice was issued via agency-wide email on the date referenced above.*

### **No FEAR Act Notice**

On May 15, 2002, Congress enacted the **Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act)**. One purpose of the Act is to "...require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws" (see Public Law 107-174). Notification requirements of the No FEAR Act require that federal agencies provide the following information to their employees, former employees and applicants for employment, to inform them of their rights and protections available under federal antidiscrimination and whistleblower protection laws.

### **Antidiscrimination Laws**

The FEC may not discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the bases of age (40 and over), disability, genetic information, pregnancy, race, color, religion, sex (including sexual orientation and gender identity), national origin, 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 (see also: <https://www.fec.gov/about/equal-employment-opportunity/>). If you believe that you have been the victim of unlawful discrimination on one or more of these bases, 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 against the FEC. See, 29 CFR §1614. Further, if you believe that you have been the victim of unlawful discrimination specifically on the basis of age, you must either contact an EEO counselor within 45 days **or** if you wish to bypass the administrative process, you may give notice of intent to file suit against the FEC to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based marital status or political affiliation, you may file a written complaint with the [U.S. Office of Special Counsel \(OSC\)](#) and/or the [Merit Systems Protections Board \(MSPB\)](#), as applicable. If you are alleging discrimination based on

status as a parent, please contact the OSC at (202) 804-7000 and/or the MSPB at (202) 653-7200 to determine whether grounds exist for a prohibited personnel practice complaint under 5 U.S.C. 2302(b)(10) (the Civil Service Reform Act). Additional information is available at <http://www.eeoc.gov/federal/otherprotections.cfm>

## **Whistleblower Protection Laws**

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use the 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 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/are being retaliated against for making a protected disclosure of wrongdoing or gross mismanagement - to FEC management, the FEC Office of the Inspector General (OIG), or to a member of Congress - you may file a complaint online either with the FEC [OIG](#) or the [OSC](#).

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

The FEC cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal anti-discrimination 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 anti-discrimination laws and whistleblower protection laws sections, or, if applicable, the administrative or negotiated grievance procedures to pursue any legal remedy.

## **Disciplinary Actions**

Under the existing laws, the FEC retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with federal anti-discrimination 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 Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits the FEC 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, please refer to 5 CFR Part 724, as well as the EEO Office. Additional information regarding Federal anti-discrimination, protection and retaliation laws can be found, as applicable, on the EEOC's website at <http://www.eeoc.gov> and the OSC's website at <http://www.osc.gov>.

### **Existing Rights Unchanged**

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice create, 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).

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