TO: FSIS - New Employees  
FROM: Angela Kelly  
Director  
Civil Rights Staff  
SUBJECT: New Employee Orientation Packet

May 5, 2014

On behalf of the Civil Rights Staff, we would like to take this opportunity to welcome you to the Food Safety and Inspection Service (FSIS). As you begin your tenure here in FSIS, no matter what program area or District Office you are assigned to, you will find that civil rights, equal employment opportunity, and diversity is something we take very seriously. For that reason, we have developed this packet to provide you with some valuable information regarding the Civil Rights Staff, the services we provide, as well as other pertinent information regarding EEO, Civil Rights, and Diversity.

Please take a few minutes to read and familiarize yourself with the information in this packet. As you review the information, please do not hesitate to contact a member of the Civil Rights Staff at 1-800-269-6912, or via email at AskCRD@fsis.usda.gov, if you have any questions or concerns.

Again, we welcome you to FSIS and trust that you will find your tenure here rewarding and enriching.
Office of the Director
Angela Kelly, Director
Amanda Krot, Deputy Director
Tina McLane, Management Analyst

Complaints Management Group
Danisha Montague-Lee, Team Lead
Arlene Ashton, EEO Counselor
Tamara Bond, EEO Counselor
LaWan Bryan, EEO Counselor
Emmanuel Olufotebi, Intern

Diversity and Inclusion Group
Damali Carr, Team Lead
Mila Cook, Administrative Specialist
Valerie Sewell, EEO Specialist

Mediation and Conflict Resolution Group
Becky Bell, Mediator
Jerome Sligh, Mediator
Tanja Thompson, Mediator

Policy and Compliance Group
Manuel Alba, EEO Specialist
Melissa Dull, EEO Specialist
Kenneth Johnson, EEO Specialist

5601 Sunnyside Avenue
Building I, Room 2260, Mail Drop 5261
Beltville, MD 20705-5000
Telephone: 1-800-269-6912 / 301-504-7755
Fax: 301-504-2141 / 301-504-7746
MISSION STATEMENT

The FSIS Civil Rights Staff (CRS) provides advice, guidance, and assistance on the implementation, management and compliance with Diversity, Civil Rights and EEO programs that include: Affirmative Employment Program (MD-715), Complaints Management (MD-110), Special Emphasis Program, Training, Workforce Diversity and the Alternative Dispute Resolution Program. These programs ensure fair and equal treatment in employment and program delivery.

FUNCTIONAL STATEMENT

CRS administers and ensures Agency compliance with laws, regulations, policies, and guidance that prohibit discrimination in the Federal workplace based on race, color, national origin, sex, religion, age, physical or mental disability, sexual orientation, marital, parental or familial status, political beliefs, protected genetic information, equal pay, or protected EEO activity. CRS is responsible for the processing of Equal Employment Opportunity (EEO) informal and formal complaints, and providing conflict prevention and resolution services to employees in accordance with MD-110 and other applicable laws, rules, regulations, and policies. In addition to complaints processing, CRS ensures full compliance with all aspects of Management Directive 715 (MD-715). This Directive provides policy guidance and standards for establishing and maintaining an effective affirmative employment program, which assists the Staff in ensuring compliance with Title VII of the Civil Rights Act of 1964, promoting diversity and inclusion, delivering EEO, Civil Rights, and Diversity training, implementing an Agency-wide Special Emphasis Program, and conducting Outreach. CRS also ensures Civil Rights compliance with Title VI for all Federally Assisted Programs, including program complaints of discrimination.

SIX ESSENTIAL ELEMENTS OF A MODEL EEO PROGRAM

The six essential elements of a model Title VII and Rehabilitation Act program are defined by MD-715 as:

- Demonstrated commitment from agency leadership
- Integration of EEO into the agency’s strategic mission
- Management and program accountability
- Proactive prevention of unlawful discrimination
- Efficiency
- Responsiveness and legal compliance
The Complaints Management Group (CMG) provides prompt, fair, and impartial processing of employment discrimination complaints from FSIS employees, former employees, and applicants for employment in FSIS on the basis of race, color, national origin, sex, religion, age, physical or mental disability, sexual orientation, marital, parental or familial status, political beliefs, protected genetic information, equal pay, or protected EEO activity from the initial contact until closure. CMG enforces Title VII of the Civil Rights Act of 1964, as amended; the Equal Pay Act of 1963; the Rehabilitation Act of 1973, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Genetic Information Nondiscrimination Act; the Americans with Disabilities Act as amended; USDA regulations; and Executive Orders.

Pre-complaint Process: A current or former FSIS employee or applicant for employment, who believes he/she has been subjected to discrimination or harassment on any of the bases identified above is required to participate in the informal process before filing a formal EEO complaint.

Timeliness: The aggrieved individual must contact CRS within 45 calendar days of the incident believed to be discriminatory, or in the case of a personnel action, within 45 calendar days of the effective date of the personnel action.

Maintaining Anonymity: During the informal complaint counseling process, the aggrieved individual may choose to remain anonymous. The aggrieved individual may also elect to participate in traditional counseling or alternative dispute resolution (ADR) as a means of attempting to resolve the informal complaint at the lowest level possible.

Formal Complaints: If an EEO complaint is not resolved during the informal stage, the aggrieved party is provided his/her rights on how to further pursue the complaint formally. Once a formal complaint is filed and accepted by USDA’s, Office of the Assistant Secretary for Civil Rights, the claim(s) are investigated and a report of investigation (ROI) is issued within 180 days of the filing of the formal complaint. The individual, now called a “complainant,” has two options in which to have his/her case decided as a matter of law: 1) by a “decision on the record” called a USDA Final Agency Decision; or 2) by a hearing before an Equal Employment Opportunity Commission (EEOC) Administrative Judge. Either process typically takes up to 60 calendar days or longer to be decided. Processing procedures are different for “mixed case” EEO complaints where the Merit Systems Protection Board has jurisdiction over one or more claims (i.e. demotions, suspensions of more than 14 days, removals, furloughs). Decisions that are not in the Complainant’s favor may be further appealed to the EEOC’s Office of Federal Operations or in the appropriate U.S. District Court. Procedures are different for complaints (See chart on page 5 for an At-A-Glance look at the complaints process.)

Official Time: Employees may be granted a reasonable amount of official time to present their complaint and to respond to agency requests for information, if they are otherwise in a “duty status.” The term duty status refers to an employee’s normal hours of work. What constitutes a reasonable amount of official time may vary from case to case. However, with regard to preparation time, reasonable refers to hours or portions of an hour. Employees must request official time for EEO-related matters in writing from their immediate supervisors.
EEO COMPLAINTS PROCESS (At-A-Glance)

INDIVIDUAL HAS 45 DAYS FROM THE DATE OF INCIDENT TO CONTACT EEO OFFICE

Traditional counseling 30 days. 90 days with extension

RESOLVED… Case Closed

UN-RESOLVED… Counselor issues Notice of Right to File

Individual has 15 days to file a formal complaint

No Formal Complaint Filed… Case Closed

Formal Complaint Filed

Department accepts/dismisses claims

Accepted Claims

Investigation conducted in 180 days

ROI and Election Notice is distributed 30 days

Hearing Election before AJ

Final Agency Decision by USDA

Individual may file Civil Action 180 days after filing formal complaint if no final action

Dismissed Claims

Alternative Dispute Resolution 90 days

UN-RESOLVED… Counselor issues Notice of Right to File

Individual has 15 days to file a formal complaint

Formal Complaint Filed

Department accepts/dismisses claims

Accepted Claims

Investigation conducted in 180 days

ROI and Election Notice is distributed 30 days

Final Agency Decision by USDA

Hearing Election before AJ

Individual may file Civil Action 180 days after filing formal complaint if no final action

Dismissed Claims
The Diversity and Inclusion Group (DIG) plans and coordinates Special Emphasis Program (SEP) observances and activities aimed at educating the workforce and promoting cultural awareness. In conjunction with Human Resources and other offices, numerous recruitment initiatives and community outreach are also conducted. DIG also provides EEO, Civil Rights, and Diversity related training to the FSIS workforce on an annual basis.

- **EEO AND CIVIL RIGHTS TRAINING**

  CRS is committed to providing training and technical assistance to assist FSIS employees in better understanding and preventing discrimination and harassment in the workplace. Through various EEO and Civil Rights training modules, CRS’s goal is to ensure that managers and employees are aware of their legal rights and responsibilities. Training can be requested by contacting CRS at 301-504-7755 or AskCRD@fsis.usda.gov.

- **VIDEO LIBRARY DIRECTORY**

  The library provides a list of available civil rights related videos. The videos are listed by broad categories such as sexual harassment, diversity, disability, special emphasis, etc. Within those categories, there is a brief description of each title, and most have an approximate running time. These videos are available for loan by CRS. FSIS employees may borrow videos for their training needs upon request by contacting CRS at 1-800-269-6912.

- **EQUAL EMPLOYMENT OPPORTUNITY ADVISORY COMMITTEES (EEOACs)**

  EEOACs are an organized group of employees serving as an advisory tool and communication conduit between employees and management. EEOACs routinely examine the organization’s demographics, employment trends, workplace environment and concerns, and make recommendations for improvement to management.

  Each year, EEOACs work to improve communication, examine trends, and collaborate with management to set EEO and Civil Rights goals for the program area or district, e.g., committees deliver training, publish monthly/quarterly newsletters, and coordinate special emphasis program observances. They also represent the agency in various outreach activities at grade schools, colleges, and universities.
MEDIATION AND CONFLICT RESOLUTION GROUP

Conflict prevention and resolution programs are administered by the Mediation and Conflict Resolution Group (MCRG) and are designed to help all FSIS employees prevent and resolve workplace conflicts. The Alternative Dispute Resolution (ADR) Program is an informal, fast, and confidential process to help employees resolve problems. ADR makes available a number of conflict resolution alternatives to assist employees, supervisors, and managers in resolving disputes. The MCRG provides prompt intervention services to all individuals along with an opportunity to enhance communication and improve workplace conditions.

• EQUAL EMPLOYMENT OPPORTUNITY MEDIATION

ADR services may be offered in the EEO pre-complaint and formal complaint process. If an individual accepts the offer of ADR, management must participate in good faith. Mediation involves a neutral mediator and at least two participants in dispute with each other, as well as a resolving official. Meetings occur in person or by telephone.

• EARLY INTERVENTION MEDIATION

An EI includes at least one mediator and at least two participants in dispute with each other. Meetings occur in-person or by telephone. Management is required to participate when EI is requested and appropriate. EI is an informal, voluntary and confidential process (usually non-EEO related issues) that uses mediation to help two or more parties come to a mutually agreeable resolution.

• TEAM CONFLICT RESOLUTION

TCR involves at least one mediator or facilitator and two or more participants. Attendance may be required, but participation in the process is voluntary. Some of the outcomes of a TCR include: assisting the group to address and prioritize key issues, set goals, make decisions, manage conflict and build team cohesiveness.

Conflict Management Training: Group training using a mixture of lectures, discussions, exercises and role plays to effectively help groups and teams manage conflict.

Conflict Coaching/Consultation: A partnership with employees on a one-on-one basis to help develop competencies to manage conflict. The relationship can be established based on the need for assistance with a current conflict or as a proactive measure for the future.

Facilitation: A technique to help guide and direct discussions, meetings and decision-making processes, which allows groups to work more cooperatively and effectively.

Conciliation: A technique that involves an impartial third party who shuttles back and forth between disputing parties and attempts to achieve a settlement of the dispute; typically, the participants do not meet face-to-face.

Leadership Transition: A useful and proactive approach to help new leaders succeed in workplace transition and become well-synchronized and high performing teams.

To access MCRG services, please call 1-800-860-8347 or email mcrg@fsis.usda.gov. MCRG can be contacted 24 hours a day/7 days a week. Every call is important and will be returned as quickly as possible.
The Policy and Compliance Group (PCG) conducts reviews, studies trends, and determines compliance.

• **AFFIRMATIVE EMPLOYMENT PROGRAM**

Management Directive 715 (MD-715) is the policy guidance which the Equal Employment Opportunity Commission (EEOC) provides to federal agencies for their use in establishing and maintaining effective programs of equal employment opportunity. The MD-715 provides a roadmap for creating effective equal employment opportunity (EEO) programs for all federal employees as required by Title VII and the Rehabilitation Act. This includes assessing overall workforce statistics and identifying areas of under representation, as well as identifying and eliminating workplace policies, practices, and conditions that are barriers to achieving EEO goals.

• **CIVIL RIGHTS IMPACT ANALYSIS**

All proposed Agency rules, policies, regulations, actions, or reorganizations are assessed by PCG prior to implementation. This review examines the proposal in light of any adverse impact it may have on the terms and conditions of employment of the FSIS workforce, as well as any financial and/or resource impact imposed upon the beneficiaries of agency regulated programs. The assessment identifies any civil rights impact and proposes mitigating strategies to limit the effects the proposal may have on protected groups defined by Title VII of the Civil Rights Act of 1964, as amended.

• **CIVIL RIGHTS REVIEW OF FEDERALLY ASSISTED STATE MEAT AND POULTRY INSPECTION PROGRAMS**

As required by Title VI of the Civil Rights Act of 1964, PCG assesses civil rights compliance of 27 States that receive federal financial assistance from FSIS. This review ensures that States are conducting their civil rights programs in accordance with standards that are “at least equal to” federal requirements.

• **EMPLOYMENT COMPLIANCE REVIEWS**

As required by Title VII of the Civil Rights Act of 1964, as amended, employment compliance reviews are conducted on a cyclical basis to assess each program area’s progress toward meeting the EEOC’s six essential elements for a “model agency EEO program.” Each review assesses a program’s affirmative employment plan, evaluates employee perceptions of their working environment, and provides recommendations to management on ways to correct deficiencies and improve conditions to eliminate practices or policies that constitute barriers to equal employment.
• **OUTREACH**

CRS partners with affinity groups, colleges, universities, and grant and scholarship entities in order to attract a large cadre of potential applicants to meet the 21st century hiring needs. These partnerships develop positive name recognition for FSIS and demonstrate through word and deed FSIS’s commitment for the diversity of its current and future workforce. Workforce diversity strengthens the Agency’s ability to successfully develop effective solutions to today’s challenges. Continuing to attract a talented, universal, and diverse workforce in all occupations and grade levels is critical to the FSIS mission and to its customers.

• **SPECIAL EMPHASIS PROGRAMS**

Special Emphasis Programs (SEP) are an integral part of FSIS’ CR and EEO program. The purpose of these programs is to ensure that the Agency takes affirmative steps to provide equal opportunity to minorities, women and people with disabilities in all areas of employment. The term, “Special Emphasis Programs,” refers specifically to employment related programs which focus special attention on groups that are conspicuously absent or underrepresented in a specific occupational category or grade level in the agency’s work force.

The goals of the Special Emphasis Programs are to: (1) improve employment and advancement opportunities for minorities, women and people with disabilities in FSIS; (2) identify systemic causes of discrimination against minorities, women and people with disabilities; (3) monitor the Agency’s progress in eliminating discrimination and adverse impact on minorities, women and people with disabilities in employment and agency programs; and (4) educate FSIS personnel about the cultural background of its diverse workforce.

• **SPECIAL EMPHASIS PROGRAM OBSERVANCES**

Special observances were designed to provide cultural awareness, to commemorate historic events and to promote diversity.

- January: Martin Luther King, Jr. Birthday (January 15)
- February: National Black History Month
- March: National Women’s History Month
- May: National Asian Pacific American Heritage Month
- June: National Caribbean American Heritage Month; Lesbian, Gay, Bisexual and Transgender Pride Month
- August: National Women’s Equality Day (August 26)
- September 15 – October 15: National Hispanic Heritage Month
- October: National Disability Employment Awareness Month
- November: National American Indian/Alaska Native Heritage Month; Veterans Day (November 11)
<table>
<thead>
<tr>
<th>Name</th>
<th>Role and Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emmanuel Olufotebi</td>
<td>African American Program Manager, <a href="mailto:AfricanAmericanSEPM@fsis.usda.gov">AfricanAmericanSEPM@fsis.usda.gov</a>, OA - Civil Rights Staff</td>
</tr>
<tr>
<td>Paul Zinskie</td>
<td>American Indian/Alaska Native Program Manager, <a href="mailto:AI_ANSEPM@fsis.usda.gov">AI_ANSEPM@fsis.usda.gov</a>, OFO - Philadelphia District</td>
</tr>
<tr>
<td>Anne Sylvester</td>
<td>Asian American/Pacific Islander Program Manager, <a href="mailto:AA_PISEPM@fsis.usda.gov">AA_PISEPM@fsis.usda.gov</a>, Office of Public Affairs and Consumer Education</td>
</tr>
<tr>
<td>Mark Benedict</td>
<td>Disability Employment Program Manager, <a href="mailto:NDEAMSEPM@fsis.usda.gov">NDEAMSEPM@fsis.usda.gov</a>, Office of Policy and Program Development</td>
</tr>
<tr>
<td>Mary Alvarez</td>
<td>Federal Women’s Program Manager, <a href="mailto:WomenSEPM@fsis.usda.gov">WomenSEPM@fsis.usda.gov</a>, OFO - Alameda District</td>
</tr>
<tr>
<td>Kimberly Morren</td>
<td>Lesbian, Gay, Bisexual, and Transgender Program Manager, <a href="mailto:LGBTSEPM@fsis.usda.gov">LGBTSEPM@fsis.usda.gov</a>, Office of Outreach, Employee Education and Training</td>
</tr>
<tr>
<td>Manuel Tort</td>
<td>Hispanic Program Manager, <a href="mailto:HispanicSEPM@fsis.usda.gov">HispanicSEPM@fsis.usda.gov</a>, OFO - Des Moines District</td>
</tr>
<tr>
<td>Sharon Randle</td>
<td>Veterans Employment Program Manager, <a href="mailto:VeteransSEPM@fsis.usda.gov">VeteransSEPM@fsis.usda.gov</a>, OM - Human Resources Office</td>
</tr>
</tbody>
</table>
The FSIS Civil Rights Staff provides advice, guidance, and assistance on the implementation, management and compliance with Diversity, Civil Rights and EEO programs that include: Affirmative Employment Program (MD-715), Complaints Management (MD-110), Special Emphasis Program, Training, Workforce Diversity, and the Alternative Dispute Resolution program. These programs ensure fair and equal treatment in employment and program delivery.
The No FEAR Act

Overview/Description
The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), with an effective date of October 1, 2003, requires that federal agencies be more accountable for violations of antidiscrimination and whistleblower protection laws. This course will outline the rights federal employees have under antidiscrimination and whistleblower laws and provide details on how the No FEAR Act is being implemented. This course was developed with subject matter support provided by the Labor, Employment, and Employee Benefits Law Group of the law firm of Sheehan Phimney Bass + Green PA. Please note, however, that the course materials and content are for informational purposes only and do not constitute legal advice. Nothing herein, or in the course materials, shall be construed as professional advice as to any particular situation or constitute a legal opinion with respect to compliance with any federal, state, or local laws. Transmission of the information is not intended to create, and receipt does not constitute, an attorney-client relationship. Readers should not act upon this information without seeking professional counsel. The information contained herein is provided only as general information that may or may not reflect the most current legal developments. This information is not provided in the course of an attorney-client relationship and is not intended to constitute legal advice or to substitute for obtaining legal advice from an attorney licensed in your state.

Target Audience
Federal government employees; employees of federal agencies; supervisors of federal employees; managers of federal employees; employees who buy goods and services from the private sector for the federal government; employees who deal with the public who are looking to obtain permits, licenses, and address other regulatory needs.

Expected Duration
1.0 hours

Lesson Objectives:
Introduction to the No FEAR Act
- identify the main reasons why the No FEAR Act was passed
- recognize examples of prohibited personnel practices
- identify the remedies available to federal employees who have been discriminated or retaliated against
- recognize the essential elements for creating an office environment that is free from discrimination

Agency Requirements Under the Act
- recognize examples of the types of topics that must be included to meet the training requirements under the No FEAR Act
- identify the notification requirements under the No FEAR Act
- identify the reimbursement requirements under the No FEAR Act
- identify examples of the types of information that must be included in the annual report to meet the reporting requirements of the No FEAR Act
- identify the timing requirement for filing the annual report

Course Number: fgov_01_a01_bs_emus
**Goal:** To enable you to recognize the rights of federal employees and the available remedies relative to whistleblowing and antidiscrimination laws under the No FEAR Act

---

### Table of Contents

**Course Overview**

**Introduction to the No FEAR Act**
- Behind the No FEAR Act
- Rights and Remedies

**Agency Requirements Under the Act**
- Notification and Training Requirements
- Reimbursement and Reporting Requirements
Many people do not feel able to report or give evidence about incidents of discrimination - they might feel that they will lose their jobs as a result.

Will you report discrimination?
Many people do not feel able to report or give evidence about incidents of discrimination - they might feel that they will lose their jobs as a result.

The No FEAR Act ensures that federal agencies and federal employees comply with antidiscrimination laws, and protects people who want to report discrimination.

The No FEAR Act protects you from discrimination
The No Fear Act requires that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws.

The intent of the Act is to help ensure that Federal agencies pay more attention to their EEO and whistleblower activities and act more expeditiously to resolve complaints at the administrative level.
The No FEAR Act requires federal agencies that are covered by the act to:

- provide notification and training to employees and applicants on the rights protected by the act
- produce annual reports of status and progress
- reimburse the Judgment Fund for discrimination and whistleblower-related settlements
- conduct studies on the trends and causes of discrimination complaints
Many federal agencies have developed policies in an attempt to ensure compliance with the No FEAR Act.

For example, the Federal Trade Commission requires that managers have adequate training in the management of a diverse workforce, early and alternative conflict resolution, and essential communications skills.
The No FEAR Act aims to encourage federal agencies to be more accountable for violations of antidiscrimination and whistleblower protection laws.

In this course, you will learn about the rights federal employees have under discrimination and whistleblower laws and see how the No FEAR Act is being implemented.
The Notification and Federal Employee Antidiscrimination and Retaliation Act - also known as the No FEAR Act - was designed to ensure two things.

**Note**

The No FEAR Act became effective on October 1, 2003.

In addition, the EEOC issued on the same day Management Directive 715 providing policy guidance to federal agencies outlining their responsibilities and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII (PART A) and effective affirmative action programs under Section 501 of the Rehabilitation Act (PART B).
For example, in 2002, two cases of retaliation were brought against the Environmental Protection Agency. In both instances, the agency was found liable. In one of the cases, the victim of the retaliation was awarded $600,000 in damages by the jury.

Additionally, there have been several class action suits based on discrimination brought against other federal agencies such as the FBI, the Bureau of Alcohol, Tobacco, and Firearms, and the Drug Enforcement Administration.
Complaints of discrimination were costing the government a lot of money in damages and settlements.

The complaints also affected federal agencies by reflecting badly on their records as employers, and reducing the number of hours people worked while they were involved in these complaints.
Behind the No FEAR Act

The No FEAR Act provides a multifold solution to this problem by encouraging diversity and the elimination of discrimination and retaliation. This is achieved by making the federal agencies financially accountable and responsible for each complaint that is brought against them.
Mandatory reports have been instituted to help Congress keep track of compliance issues.

Each year, every federal agency covered by the No FEAR Act must submit a report that lists every discrimination and retaliation complaint that has been brought against them.
Behind the No FEAR Act

The No FEAR Act also recognizes that antidiscrimination and whistleblower protection laws cannot be successfully implemented if people are not aware of the laws and their rights within them.

The No FEAR Act makes it compulsory for federal agencies to provide notification and training to employees on their rights and the remedies to discrimination and retaliation.

In order to encourage federal employees to exercise their rights and uphold the No FEAR Act, No FEAR Whistle awards are given to whistleblowers who have gone out of their way to fight violations of civil and human rights.
An efficient workplace is one which is free from discrimination and retaliation. The No FEAR Act was written and passed in order to:

- increase federal government agencies’ compliance with antidiscrimination laws
- prevent retaliation for whistleblowing
- improve federal government agencies’ accountability in cases of discrimination and retaliation
The No FEAR Act strengthens and helps to reinforce existing civil rights, antidiscrimination, equal employment opportunity, and whistleblowing laws.
As a whole, the No FEAR Act serves to

- enforce a system of education for federal employees on their rights
- protect federal employees from discrimination on the grounds of race, color, religion, sex, national origin, age (40 and over), disability, marital status, individual genetic information, or political affiliation
- protect federal employees from reprisal in response to whistleblowing
- enforce federal employees' right to report incidents of reprisal as a result of reporting discrimination

Job aid

Select the Laws Reinforced by the No FEAR Act job aid to learn more about the specific laws that this act reinforces.

The No FEAR Act protects you from discrimination
Federal employees should actively ensure that the rights promoted by the No FEAR Act are not violated. This can be done by avoiding the use of prohibited personnel practices.

Note

Federal employees have personnel authority when they participate in making decisions that relate to appointments, promotions, discipline, transfers, reassignments, reinstatements, pay, benefits, training, change in duties, responsibilities, or working conditions.

- discrimination
- improperly influencing employment actions
- coerce political activity
- nepotism
- retaliation for whistleblowing or exercising rights
- violating veterans’ preference
- violating merit system principles

Exercise your rights through responsibility
Six further prohibited personnel practices state that federal employees with personnel authority may not:

- improperly influence an applicant to withdraw from competition for a position
- improperly exercise influence to benefit or harm a particular employee
- violate a veterans’ preference requirement
- intentionally obstruct someone from competing for employment
- discriminate against an employee or applicant on the basis of conduct that is not job related
- violate the merit system principles

Select each prohibited personnel practice for more information.

Avoid all prohibited personnel practices
It is the view of the Equal Employment Opportunity Commission (EEOC) that if any federal employee becomes a victim of unlawful discrimination or retaliation, that employee has the right to seek a remedy.

Employees covered by a negotiated grievance procedure which permits allegations of discrimination, may elect to proceed under the negotiated grievance procedure, rather than filing a formal complaint of discrimination. You cannot do both if you are covered by the Civil Service Reform Act of 1978.
Rights and Remedies

If a federal employee has been discriminated or retaliated against, certain remedies must be available to rectify the situation.

The remedies include:

- placing victims in the position they would have occupied if the discrimination hadn’t occurred
- paying compensatory damages
- paying attorney’s fees
- reimbursing any benefits that were lost
- preventing further discrimination by stopping the specific discriminatory practices involved
One of the rights available to victims of discrimination or retaliation involves filing complaints.

If you feel that you have been a victim of discrimination or retaliation, you may wish to contact an EEO (Equal Employment Opportunity) Officer or counselor from your agency within 45 days of the retaliation.
The EEO counselor should

1. explain the details of the complaint process, including the option to attempt to resolve the issue through mediation

2. summarize and clarify your concerns of discrimination

3. attempt to resolve the matter informally before you file a formal complaint
You have the right to remain anonymous during the informal or counseling process, but once you have officially filed a complaint, your anonymity can no longer be protected.
There are several types of complaints that can be filed by applicants, employees, and former employees of federal agencies:

- individual
- class
- mixed case
- mixed case appeal

Select each type of complaint for more information.
It is important that all federal employees are aware of their right to seek a remedy regarding discrimination and retaliation in the workplace.

For example, if you feel that you were the most suitable candidate for a promotion, but you think you were passed over because you are a woman, you should consider contacting an EEO counselor.

You should also consider seeking the advice of an EEO counselor if you feel that you have been retaliated against for blowing the whistle on an unlawful discriminatory activity in your agency.
Each federal agency needs to make a concerted effort to create a discrimination-free office environment by practicing these six elements, identified by the EEOC:

1. demonstrated commitment from agency leadership
2. integration of EEO policies into the agency's strategic mission
3. proactive prevention of unlawful discrimination
4. efficient implementation of policies
5. management and program accountability
6. responsiveness and legal compliance

Leadership Commitment
Policy Integration with Mission Statement
Prevention of Discrimination
Policy Implementation
Program Management
Legal Compliance
Agency heads need to demonstrate commitment by assimilating the equal opportunity principle into everyday practice, and documenting their commitment to EEO policies. This will give equal opportunity a firm position in the agency’s culture and go a long way toward building and maintaining a workplace that is free from discrimination of any sort.
In order to integrate EEO policies into its strategic mission, each agency should:

- develop a system in which the agency's EEO director communicates regularly with the agency head about the effectiveness of antidiscrimination and antiretaliation efforts.
- allocate resources to create programs that attempt to eliminate discrimination and retaliation.
- hire supervisors and managers who have effective managerial and interpersonal skills.
- educate all employees about federal EEO laws, rights, regulations, and requirements in order to promote best workplace practices.
All federal agencies are expected to **actively attempt to prevent unlawful discrimination**, and monitoring progress is an important part of this process.

This means that at least once a year, every agency needs to conduct a self-assessment exercise that identifies areas of success and failure in creating a diverse workplace.

Where areas of failure are noted, the agency should find out what the barriers to success for certain groups are, and develop a plan to remove these barriers.
Agencies need to become **efficient and effective in implementing EEO policies** and resolving discrimination and retaliation disputes.

To this end, each agency needs to develop a program of dispute resolution that is both fast and fair.
It is equally important that there are systems in place that can be used to evaluate the effectiveness of the EEO programs that agencies have launched.

For example, an agency could track applicant data according to race, national origin, sex, and disability status.
Summary

The No FEAR Act does not introduce new laws and rights, but rather serves to enforce existing rights. Antidiscrimination laws, whistleblower protection, and equal employment opportunities are the main focus of the No FEAR Act.

The No FEAR Act identifies the remedies that are available to federal employees who have become the victims of discrimination and retaliation.

The EEOC has identified a number of elements that, when applied to each agency's work environment, will help to produce a discrimination-free workplace.