



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 27, 2010

MEMORANDUM

To: FEC Staff

From: Kevin R. Salley
Acting Director, EEO Office

Subject: Annual Issuance of the Notification and Federal Employees Antidiscrimination and Retaliation Act of 2002

In accordance with the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), the following information is being provided to you, the employees of the Federal Election Commission (FEC), as an **annual notice of your rights and remedies under the applicable federal antidiscrimination and whistleblower protection laws.**

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 PublicLaw107-174). Notification requirements of the No FEAR Act require that federal agencies provide the following information to their employees, former employees and applicants for employment, in order to inform them of their rights and protections available under federal anti-discrimination 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, disability, genetic information, pregnancy, race, color, religion, sex, 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: <http://www.fec.gov/eo/eo.shtml>). 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 sexual orientation or status as a parent, please contact the OSC at (202) 653-7188 and/or the MSPB at (202)653-6772 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/facts/fs-orientation_parent_marital_political.html.

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 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 218, Washington, DC, 200364505 or online through the OSC Website, <http://www.osc.gov>.

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 in order 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, whistleblower 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).