



UNITED STATES NUCLEAR REGULATORY COMMISSION

Yellow Announcement: YA-21-0062

Date: August 30, 2021

Expiration Date: July 22, 2023

TO: All NRC Employees

SUBJECT: NO FEAR ACT – ANNUAL NOTIFICATION OF EMPLOYEE RIGHTS

On May 15, 2002, Congress enacted the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act). The Office of Small Business and Civil Rights (SBCR) wants to take this opportunity to provide U.S. Nuclear Regulatory Commission (NRC) employees with an annual notification of their rights in the workplace. The intent of the Act, then and now, is to reduce the incidences of workplace discrimination by holding the NRC accountable, and to reinvigorate its obligation to provide a work environment free of discrimination and retaliation. As this information is made available to the general public, you can access the No FEAR Act data at <https://www.nrc.gov/about-nrc/civil-rights/crp/dca.html>.

Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020

Congress recently enacted the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020, which amends the No FEAR Act. The Cummings Act increases Federal agencies' accountability by requiring the following:

- **Section 207 “Complaint Processing”** - Establish a system to track each complaint of discrimination arising and adjudicated through the Equal Employment Opportunity (EEO) process from the filing of a complaint with the agency to resolution of the complaint, including whether a decision has been made regarding disciplinary action as the result of a finding of discrimination.
- **Section 208 “Notation in Personnel Record”** - If the agency takes an adverse action against an employee for an act of discrimination (including retaliation), the agency shall, after all appeals relating to that action have been exhausted, include a notation of the adverse action and the reason for the action in the personnel record of the employee.

- **Section 401 “Processing and Resolution of Complaints”** - The agency is responsible for the fair and impartial processing and resolution of complaints of employment discrimination (including retaliation).
- **Section 401 “Processing and Resolution of Complaints”** - Establish a model Equal Employment Opportunity (EEO) Program that:
 - Is not under the control, either structurally or practically, of the agency’s Office of the Chief Human Capital (OCHCO) or Office of the General Counsel (OGC);
 - Is devoid of internal conflicts of interest and ensures fairness and inclusiveness within the agency; and
 - Ensures the efficient and fair resolution of complaints alleging discrimination (including retaliation).
- **Section 402 “No Limitation on Advice or Counsel”** - Nothing shall prevent an agency or a subcomponent of an agency, or the Department of Justice, from providing advice or counsel to employees of that agency (or subcomponent, as applicable) in the resolution of a complaint.
- **Section 403 “Head of Program Supervised by Head of Agency”** - The head of each agency’s Equal Employment Opportunity (EEO) Program shall report directly to the head of the agency.
- **Section 404 “Referrals of Findings of Discrimination”** - Not later than 30 days after the date on which the Equal Employment Opportunity Commission (referred to in this section as the ‘Commission’) receives, or should have received, an agency report, the Commission may refer the matter to which the report relates to the Office of Special Counsel if the Commission determines that the agency did not take appropriate action with respect to the finding that is the subject of the report.

Antidiscrimination Laws and Reprisal

The NRC cannot discriminate against an employee (current or former) or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, national origin, religion, sex (including sexual orientation, gender identity and/or expression, and pregnancy), disability, marital status, or political affiliation. The NRC is also prohibited from subjecting employees to reprisal (retaliation) for either participating in a protected activity or opposing practices made unlawful by relevant civil rights statutes and regulations. Discrimination of this type is prohibited by one or more of the following statutes: 5 United States Code (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. You can find more information about each of these statutes at <https://www.nrc.gov/about-nrc/civil-rights/crp/eo-statutes-regs.html>.

Although not specifically listed under the No FEAR Act, and covered under other statutes or agency policy, the NRC cannot discriminate against an employee with respect to the compensation, terms, conditions, or privileges of employment because of the employee’s genetic information, age, or military service. Discrimination of these types are prohibited by 42 U.S.C. §2000ff-1, 29 U.S.C. §621, and the NRC’s [Equal Employment Opportunity \(EEO\) Policy Statement](#).

It is the mission of SBCR to protect people by enabling the NRC to have a diverse and inclusive workforce, advance equal employment opportunities for employees and applicants, and to provide a fair and impartial process throughout EEO complaint processing. It is the goal of SBCR to create a work environment free from discrimination, harassment, and reprisal (retaliation). If you believe you may have been subjected to discrimination, harassment, or reprisal, you may initiate an EEO complaint by completing the [Civil Rights EEO Programs Contact Form](#) or e-mailing EEOPrograms@nrc.gov. You must contact SBCR within 45 calendar days from the date of the alleged discriminatory event or, in the case of a personnel action, within 45 days of the effective date of the action.

The Office of Special Counsel (OSC) is an independent agency that protects Federal employees from prohibited personnel practices, including unlawful hiring practices. If you believe you have been discriminated against based on marital status or political affiliation, you may file a complaint with the U.S. Office of Special Counsel (www.osc.gov) online at <https://osc.gov/Pages/File-Complaint.aspx>.

Whistleblower Protection

OSC also protects Federal employees from whistleblower retaliation. OSC also provides an independent, secure channel for disclosing and resolving wrongdoing in Federal agencies.

An 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 a personnel action against an employee or applicant because of disclosure of information that the employee reasonably believed to be 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 such disclosure was specifically required by Executive Order to remain secret due to national security.

The NRC is prohibited from retaliating against a whistleblower employee because that individual exercised their rights under whistleblower protection laws (5 U.S.C. §2302(b)(8)). If you believe you have been the victim of retaliation for whistleblowing activities, you can contact the Office of the Inspector General at whistleblower_coordinator@nrc.gov or on 301-415-1146. The NRC encourages employees to review all the information on whistleblowing on the OCHCO [Whistleblower/Anti-Discrimination Web page](#).

Disciplinary Actions

The NRC retains the right to discipline a Federal employee who engaged in discriminatory or retaliatory conduct, up to and including removal from Federal service. There is no provision under the No FEAR Act that alters existing laws or permits the NRC to take unfounded disciplinary action against an employee or to violate the procedural rights of an employee who was accused of discrimination.

Please be sure to read this announcement in its entirety and follow the links provided for additional information. If you should have any questions about this announcement, please feel free to e-mail SBCR at EEOPrograms@nrc.gov or by telephone on 301-415-7380. Together, we can help SBCR achieve its goal of creating a workplace free from discrimination, harassment, and reprisal.

/RA/

Vonna L. Ordaz, Director
Office of Small Business and Civil
Rights

Management Directive Reference: MD 10.161, "[Civil Rights Program and Affirmative Employment and Diversity Management Program](#)," Directive Section III.E.14