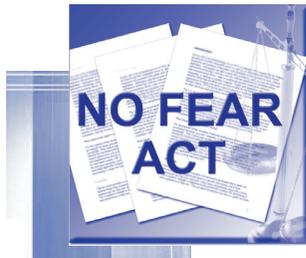




United States Department of Agriculture (USDA)

The No Fear Act



What Is the No FEAR Act?

The No FEAR Act is the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, Public Law No. 107-174. Congress passed this law on May 15, 2002.

The No FEAR Act requires Federal agencies to:

- Be accountable for violations of antidiscrimination and whistleblower protection laws
- Post quarterly, on their public website, certain statistical data relating to Federal sector equal employment opportunity complaints filed with the respective agency
- Train and notify employees of their rights and protections under the antidiscrimination and whistleblower laws
- Submit an annual report to Congress on the number of discrimination and whistleblower cases brought against the agency
- Each Federal agency must comply with the requirements of this Act

What is unlawful discrimination?

Unlawful discrimination is difference in treatment of a person or group based on a prohibited factor such as race, color, religion, national origin, sex, age or disability.

Some examples of discrimination are listed below.

- A female applicant is not appointed to a managerial position because of the perception by management that male subordinates would not respect her.
- An employee did not get promoted to a senior level position because he was considered “too old” for that position.

What types of discrimination are you protected against?

Federal laws and USDA mandates protect you against discrimination based on any of the following factors:

- Race
- Color
- Religion
- Sex (including sexual harassment)
- National origin
- Age
- Physical and/or mental disability
- Political beliefs/affiliation
- Marital status and familial status
- Sexual orientation
- Protected genetic information
- Retaliation/Reprisal

What should you do if you feel that you have been discriminated against?

- If you believe that you have been unlawfully discriminated against on the basis of any of the Federal mandates against discrimination, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the date of the matter alleged to be discriminatory or, in the case of personnel action, within 45 days of the effective date of the action.
- If you are covered by a collective bargaining agreement that encompasses allegations of discrimination, you may elect to proceed under the negotiated grievance procedures, rather than the formal complaint process. You may pursue only one avenue of redress.
- For cases involving discrimination based on marital status or political affiliation of employees, written complaints can be filed with the U.S. Office of Special Counsel. These cases can also be pursued through the agency’s administrative grievance system or negotiated grievance procedures, if applicable.

Disciplinary Actions Against Violating Employees

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal.



No FEAR Act limitations

- The No FEAR Act does not create any individual rights or remedies and does not prevent the exercise of any right otherwise available under Federal law
- The No FEAR Act does not authorize disciplinary action against a Federal employee, other than in conformance with existing law and regulation

What does the term “whistleblower” mean?

A whistleblower is a federal employee or former employee who reports misconduct to people or entities that have the power to take corrective action. A whistleblower discloses information he or she reasonably believes evidences:

- A violation of any law, rule or regulation
- An abuse of authority or regulation
- A substantial and specific danger
- Gross mismanagement to public health
- A gross waste of funds
- A substantial and specific danger to public safety

What Is Whistleblower Protection?

A federal employee authorized to take, direct others to take, recommend or approve any personnel action may NOT take, fail to take, or threaten to take any prohibited personnel action against an employee because of protected whistleblowing.

What should you do if you have been subject to whistleblower retaliation?

If you believe that you have been subject to retaliation for protected whistleblowing, you can file a complaint with the Office of Special Counsel (OSC). For more details, visit www.osc.gov.

Manager and supervisor responsibilities

Managers and supervisors have responsibilities to:

- Promote and ensure Equal Employment Opportunity
- Maintain a working environment that is free of unlawful discrimination
- Initiate disciplinary action, as appropriate
- Provide Reasonable Accommodation for qualified individuals with disabilities
- Cooperate with EEO Counselors, investigators, and other officials involved in the processing of complaints/appeals
- Provide official time for employees requesting time to work on
- Participate in the ADR process, when requested

Summary

The **No FEAR Act** was passed to ensure that your rights as employees, former employees, and applicants for employment are protected under antidiscrimination and whistleblower protection laws.

If you believe that you have been unlawfully discriminated against, you must contact the appropriate legal authorities to discuss your concerns or to file a complaint. For an EEO discrimination case, contact an EEO Counselor within 45 days of the alleged discriminatory action. If the case involves whistleblower retaliation, you should contact the Office of Special Counsel.

Under the existing laws, USDA retains the right, where appropriate, to discipline an employee who has engaged in discriminatory or retaliatory conduct, up to and including removal.

Resources

For more details, visit the following websites:

No FEAR Act Statistics (USDA wide)
http://www.usda.gov/noFEAR/allusda/index.html
EEO Complaint Process
www.ascr.usda.gov/complaint_filing_file.html
USDA Office of Civil Rights
www.ascr.usda.gov
U.S. Office of Special Counsel
www.osc.gov
U.S. Merit Systems Protection Board
www.mspb.gov
U.S. Equal Employment Opportunity Commission
www.eeoc.gov

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