

## SUBCHAPTER 1613

### NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION ACT OF 2002-NOTIFICATION AND TRAINING

References: (a) 5 CFR Part 724

Attachments: (1) Department of the Navy No FEAR Act Notification Statement  
(2) No Fear Act Training Annual Report

1. Purpose. To issue the Department of the Navy's (DON) implementing instruction to carry out the notification and training requirements and assign responsibilities associated with the Notification and Federal Employees Antidiscrimination and Retaliation Act of 2002 (No FEAR Act).

2. Background. Reference (a) established the requirements for notification and training of Federal employees under the No FEAR Act. This instruction sets forth DON's requirements and outlines the training plan to comply with the intent of reference (a).

3. Policy. It is DON policy to provide a workplace free of discrimination and retaliation. As such, it is essential that the rights of employees, former employees and applicants for employment covered by Federal antidiscrimination and whistleblower protection laws be protected. Notifying present and former employees and applicants for employment of their rights under antidiscrimination and whistleblower protection laws, combined with on-going training of current employees, will increase DON's accountability and compliance with pertinent laws.

4. Applicability. This guidance pertains only to Federal employees. Pursuant to section 205 of the No FEAR Act, neither the Act nor this guidance creates, 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).

5. Responsibilities.

a. The Secretary of the Navy (SECNAV) will ensure that all Agency civilian employees are provided information regarding their rights in accordance with the provisions of the No Fear Act.

b. The Assistant Secretary of the Navy (ASN) (Manpower and Reserve Affairs (M&RA)), as DON Director of EEO, shall establish policy for implementing the notification and training provisions of reference (a).

c. The Deputy Assistant Secretary of the Navy (DASN) (Civilian Human Resources (CHR)) is hereby delegated the authority to establish policy and procedures for ensuring all echelon 1 and 2 commands are in compliance with the requirements of reference (a). The DASN(CHR) has authority to further delegate these responsibilities to enforce compliance with this instruction.

d. Director, Office of Civilian Human Resources (OCHR) serves as DON primary point of contact for policy and guidance on implementation of the provisions of the No Fear Act.

e. Director, Naval Office of EEO Complaints Management and Adjudication (NAVOECMA) monitors compliance with DON policy and prepares agency reports. As such, NAVOECMA will:

(1) Respond to all external reporting requirements of the No Fear Act for DON commands and activities, and;

(2) Ensure the DON HR website is regularly updated with current, accurate information regarding the provisions of the No Fear Act.

f. The Chief of Naval Operations, Commandant of the Marine Corps, Assistant for Administration Office of the Under the Secretary of the Navy, and heads of echelon 2 commands will ensure subordinate commands comply with the requirements of this instruction.

g. Command Deputy Equal Employment Opportunity Officer (CDEEOO). Each CDEEOO will report annually to NAVOECMA by January 20 the completion of No Fear Act training in accordance with section 6.(c) of this instruction.

h. Human Resources Offices (HRO), as the local provider of Civilian HR/EEO services will provide assistance for commands/activities to accomplish the requirements of this instruction.

i. Commanders, Commanding Officers, Officers-in-Charge, heads of activities are accountable for securing the notification and training for all assigned civilian personnel, reporting to the major command, and discharging all assigned responsibilities in a timely and economic manner.

## 6. Procedures.

### a. Notification Requirements.

(1) In accordance with reference (a), DON must provide notice to all of its employees, former employees, and applicants for Federal employment about the rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws applicable to them. The notice under this part must be titled, "No FEAR Act Notice."

(2) The DON No Fear Act Notice can be found at <https://www.donhr.navy.mil/NoFearAct.asp>. Echelon I and II commands must establish a hyperlink from the Command Web Site to the official notice.

(3) The No Fear Act Notice must be initially issued within 60 calendar days of implementation of reference (a). New employees must receive a copy of this notification within 90 calendar days of entering on duty. Thereafter, the notice must be provided by the end of each successive fiscal year, and any posted materials must remain in place until replaced or revised.

(4) The notification must be provided in paper (e.g., letter, poster or brochure) and/or electronic form (e.g., e-mail, internal agency electronic site, or Internet Web site).

(5) Hard copies of the notice must be posted in the workplace and made available to employees upon request.

(6) Applicants will have access to the notice via position vacancy announcements.

b. Training Requirements.

(1) This instruction serves as DON's written plan to train all employees, including military supervisors and managers of civilian employees, about the applicable rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws.

(2) Initial training for all employees (including supervisors and managers) must be completed by December 17, 2006. Thereafter, each command will ensure that all employees are trained on a training cycle of no longer than every 2 years.

(3) All new employees must be trained within 90 calendar days of appointment, on the provisions of the guidance as part of the local employee orientation or other training program. All new employees must receive No Fear Act training

(4) No Fear Act training may be accomplished as follows:

(a) Dissemination and/or presentation of briefing developed by NAVOECMA is available at: <https://www.donhr.navy.mil/NoFearAct.asp>.

(b) No FEAR Act computer based training is available at the Navy Knowledge Online Website: <https://www.nko.navy.mil/portal/splash/index.jsp>.

(c) Review of all EEO and/or Supervisor and Manager training provided during FY 06 to determine if the full intent of reference (a) was received by each participant. Verification will be documented by each CDEEOO in the Commands annual report to NAVOECMA. Examples of the content may be reviewed by NAVOECMA to substantiate that the training requirement has been met.

(d) Ensure that all contractor-provided No FEAR Act training meets the requirements of reference (a). Commands are free to utilize General Services Administration (GSA) approved vendors to ensure timely compliance.

c. Reporting Requirements.

(1) Each echelon I and II command will track and maintain records of training completed by subordinate commands.

(2) The Command Deputy EEO Officer is responsible for providing the command annual report of completed training to NAVOECMA by 20 January. The report format is included as an attachment to this instruction.

7. Action. The DASN(CHR) will issue and update No Fear Act directives that conform with this policy. Addressees must adhere to the Civilian Human Resources Manual (CHRM) and related updates.

## Attachment (1)



# Department of Navy

## Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002

### Department of Navy (DON) Notice

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Pub. L. 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Pub. L. 107-74, Title I, General Provisions, Section 101(1).

The Act also requires that DON inform current employees, former employees and applicants for employment, of the rights and protections available under Federal antidiscrimination, whistleblower protection and retaliation laws.

### Antidiscrimination Laws

A Federal agency may not discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, 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.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, 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 with your agency. See, e.g., 29 CFR 1614.

If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 days of the alleged discriminatory action.

If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

#### Whistleblower Protection Laws

A Federal 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 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 prohibited by law and 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 20036-4505 or online through the OSC Web site--<http://www.osc.gov>.

#### Retaliation for Engaging in Protected Activity

A Federal agency may not retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protections 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 Antidiscrimination 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, 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. 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 an agency 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, refer to 5 CFR 724, as well as Human Resources Office servicing your location or on the website <http://www.donhr.navy.mil/NoFearAct.asp>.

Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site--<http://www.eeoc.gov> and the OSC Web site--<http://www.osc.gov>.

#### Existing Rights Unchanged

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

**ANNUAL REPORT OF TRAINING COMPLETED  
IN ACCORDANCE WITH  
NO FEAR ACT**

**Major Claimant Name:** \_\_\_\_\_

**Command DEEO:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

<b>Method of Training</b>	<b>Total # Civilian Employees</b>	<b>Supervisors/ Managers</b>	<b>Non-Supervisory Employees</b>	<b>New Employee Orientation</b>
Briefing				
Online				
Orientation				
Contractor				

**Certified by:**

\_\_\_\_\_  
**Signature** **Date**  
**Commander/EEO Officer**

\_\_\_\_\_  
**Signature** **Date**  
**Command DEEO**