



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

MEMORANDUM

TO: All Surface Transportation Board Employees

FROM: Ann Begeman, Chairman

DATE: August 24, 2020

SUBJECT: No FEAR Act 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.” Public Law 107-174, Summary. In support of this purpose, Congress found that “agencies cannot be run effectively if those agencies practice or tolerate discrimination.” Public Law 107-174, Title I, General Provisions, section 101(1).

The Act requires agencies to provide this notice to employees, former employees, and applicants for employment to inform you of the rights and protections available to you under Federal antidiscrimination, whistleblower protection, and retaliation laws.

Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the bases 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), 631, 633a and 791, and 42 U.S.C. § 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the bases of race, color, religion, sex, national origin or disability, you must contact the Board’s 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 with the Board. See, e.g., 29 CFR Part 1614. If you believe that you have been the victim of unlawful discrimination on the bases 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 calendar 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), 1730 M Street, N.W., Suite 218, Washington, DC 20036-4505, or online through the OSC Web site: <http://www.osc.gov>.

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 be evidence of 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 OSC.

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination and 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 Antidiscrimination Laws and Whistleblower Protection Laws or, if applicable, in the Board's administrative grievance procedures to pursue a remedy.

Disciplinary Actions

Under 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 Part 724, as well as the appropriate offices within the Board (e.g., EEO or Office of Human Resources). 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).

Contact Information

Any employee, former employee, or applicant for employment with the Surface Transportation Board who believes he or she has been subjected to reprisal, and wishes to pursue an EEO complaint must contact an STB EEO official within 45 calendar days of the date of the alleged discriminatory, harassing, or reprisal action, or, in the case of a personnel action, within 45 calendar days of the effective date of the personnel action. The EEO Director can be reached at (202) 245-0289 or eeo@stb.gov.