



**DCMA**

# No FEAR ACT TRAINING

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EEO Office:

July 2015



- **Purpose of No FEAR Training**
- **No FEAR Act Provisions**
- **Major Federal Anti-Discrimination Laws**
- **EEO Complaints Process**
- **Manager/Supervisor Responsibilities**
- **Whistleblower Protections**
- **Where to go for Help and Information**

# Why No FEAR Training?

- **The No FEAR Act provides robust protection for the rights of federal employees, former employees and applicants for employment under existing discrimination, whistleblower protection and retaliation laws.**
- **The No FEAR Act training is required by law and will teach you about the Act and other laws prohibiting discrimination and retaliation in the federal workplace.**



- **Notification and Federal Employee Anti-Discrimination and Retaliation Act (No FEAR Act) – signed into law on May 15, 2002**
- **The Act may be reviewed at:**  
<http://www.gsa.gov/portal/content/101344>
- **The No FEAR Act requires that “... Federal agencies be accountable for violations of anti-discrimination and whistleblower protection laws” by:**
  - **Providing training and notice of employee rights**
  - **Paying judgments with agency funds**
  - **Posting notices of discrimination findings**
  - **Publishing data regarding complaints and outcomes**
- **View DCMA’s No FEAR Act Notices and data at:**  
<http://www.dcmsa.mil/dcmahq/eo/nofear/index.cfm>

- **Federal employees and applicants are protected from illegal discrimination in employment matters, including harassment or hostile work environment, based on:**
  - **Race**
  - **Color**
  - **National origin**
  - **Religion**
  - **Sex (including pregnancy, gender identification, and sexual orientation when based on sex stereotyping)**
  - **Disability**
  - **Age**
  - **Genetic information**
  - **Reprisal**
  - **Other unlawful factors**
- **Illegal discrimination occurs when one employee is treated differently than another employee and treatment is based on one of the bases identified above.**

- **Anti-Discrimination laws protect employees from discrimination when terms and conditions of employment are affected.**
- **Types of covered employment actions include:**
  - **Hiring, assignments, training, promotions**
  - **Pay, leave, awards**
  - **Disciplinary and adverse actions**
  - **Requests for reasonable accommodation of disability or religious needs**

- **Title VII of the Civil Rights Act of 1964, as amended, is the foundation of U.S. Anti-Discrimination laws for all Americans**
- **Prohibits employment discrimination on the basis of:**
  - **Sex (including sexual harassment or pregnancy discrimination)**
  - **Race**
  - **Color**
  - **National Origin**
  - **Religion**
- **Prohibits reprisal for participation in the complaints process**
- **Requires reasonable accommodation of employee religious practices unless it would cause undue hardship**

- **ADEA prohibits discrimination against applicants and federal employees age 40 and over in employment decisions**
- **Protects older employees from employment actions based on stereotypes or stigmas associated with age**
- **Does not prohibit discrimination based on youth**
- **Enforcement procedure same as other discriminatory issues**



- **The ADA prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in:**
  - **Job application procedures**
  - **Hiring, firing, advancement**
  - **Compensation, job training, conditions and privileges of employment**
- **The 1992 Rehabilitation Act amendments applied most ADA standards to the Federal government**

- **Prohibits employment discrimination against individuals with disabilities**
- **A “disability” is a physical or mental impairment that substantially limits one or more major life activities including:**
  - **Seeing, hearing, breathing**
  - **Walking**
  - **Performing manual tasks**
- **A “disability” is not:**
  - **A temporary or short term illness**
  - **Inability to work in one job type, for one supervisor, in one location**
- **Employee must be qualified for position**
- **Employee is not qualified if unable to perform the essential functions of the job with or without reasonable accommodation**

- **Agency must consider “reasonable accommodation” for disabled employees or applicants meaning:**
  - **An adjustment to the work situation or environment**
  - **Enables the employee to perform the essential functions of the job**
  - **Is not an undue hardship to the agency**
- **Not required to provide accommodations specifically requested by employee; must only provide reasonable, effective accommodation**
- **No obligation by the agency to change performance standards or eliminate essential functions of position as a reasonable accommodation**
- **Must restrict use of pre-employment or employment criteria that would screen out individuals with disabilities**

- **Employers may not pay unequal wages to men and women who perform jobs that:**
  - **Require substantially equal skill, effort and responsibility**
  - **Are performed under similar working conditions within the same establishment**
- **Pay differentials are permitted if based on:**
  - **Seniority, merit**
  - **Quantity or quality of production**
  - **A factor other than sex**

- **Federal law makes it illegal to discriminate or retaliate against Federal employees because of their marital status or political affiliation**
- **Employees who believe this type of discrimination or retaliation has occurred may file a complaint with the U.S. Office of Special Counsel or the Merit Systems Protection Board**

- **Employees are protected from reprisal for exercising their rights provided under Anti-Discrimination laws**
- **Protected activities include, but may not be limited to, the following:**
  - **Filing a complaint of discrimination**
  - **Requesting a reasonable accommodation**
  - **Giving evidence or testimony to an EEO Counselor, Investigator or Administrative Judge during a hearing**
  - **Representing an employee in a discrimination case**
  - **Complaining about or protesting perceived discrimination against yourself or another employee**

- **Employees must contact an EEO counselor within 45 calendar days from the date of the occurrence or when the employee first became aware of alleged discrimination.**
- **Employees alleging age discrimination are not required to pursue a complaint through the administrative process. They also have the option of filing in Federal District Court.**
  - **If employee elects to proceed directly to Federal District Court, he/she must give the Equal Employment Opportunity Commission notice of intent to sue within 180 calendar days of the date of the alleged discrimination.**
- **Procedures and time limits for initiating an EEO Complaint are posted or at the EEO website:**  
**<https://360.dcma.mil/directorate/dco/SitePages/Home.aspx>**

# EEO Complaints Processing

- **The EEO Counselor will try to resolve the complaint and may offer an opportunity to participate in Alternative Dispute Resolution (ADR),**
- **If complaint is not resolved, employee will be provided a Notice of Right to File an EEO Complaint**
  - **Employee must file within 15 calendar days from receipt of the Notice of Right to File or complaint may be considered untimely and could be dismissed**
- **Employees covered by the Collective Bargaining Agreement who choose to pursue a discrimination complaint under the administrative grievance process may not also pursue an EEO complaint on the same matter under Title VII law**
  - **Consult the EEO Office for further guidance, if needed**



- **Complaints must be timely or they could be dismissed. In rare cases, if sufficient reasons exist, the timeframe for contacting an EEO Counselor or filing an EEO complaint may be reconsidered as being timely based on individual circumstances.**

# After a Complaint is Filed

- **Employees are entitled to a reasonable amount of official time to prepare and present complaints alleging discrimination including:**
  - **Meeting with EEO Counselors, Investigators, Administrative Judge**
  - **Preparing for and participating in EEO hearings**
- **Official time must be approved by the employee's supervisor prior to time being taken and must be reasonable (hours vs. days)**
  - **Can be rescheduled by supervisor if mission requirements are affected**

**Managers and supervisors are required to:**

- **Ensure that employees are treated fairly and equitably:**
  - **Refer to EEO's Web page: Policy Statement for EEO , available at: <https://360.dcma.mil/directorate/DCO/SiteAssets/Policy%20Letters/Policy%20Statement%20on%20Equal%20Employment%20Opportunity%20Aug142015.pdf>**
- **Ensure employees are not subjected to harassment or a hostile work environment based on their race, color, national origin, sex, age, disability, sexual preference, marital or parental status genetic predisposition, political affiliation or reprisal**
- **Take immediate and appropriate corrective action on all complaints of harassment**
- **Ensure that there are legitimate, non-discriminatory reasons for personnel actions taken**

- **Provide reasonable accommodation to individuals with disabilities**
- **Disclose medical information only to those with a need to know and keep medical information separate from personnel files**
- **Arrange for a reasonable amount of official time for employees who request time to work on EEO complaints**
- **Cooperate with EEO Counselors, Investigators and Administrative Judges**

# Whistleblower Protection Act

- **Whistleblower Protection Act, 5 U.S.C § 2302(b)(8), prohibits federal agency retaliation against employees or applicants who disclose:**
  - **Violations of law, rule or regulation**
  - **Gross mismanagement or gross waste of funds**
  - **Abuse of authority**
  - **Substantial and specific danger to public health or safety**
- **If disclosure is barred by law, or information is required by Executive Order to be kept secret in the interest of national defense or conduct of foreign affairs, then employees are only protected if disclosure is made to the Office of Special Counsel, IG, or Agency designee (e.g., DCMA Ombudsman); improper disclosures of protected information may result in discipline and/or prosecution.**
- **Employees may disclose matters related or unrelated to their jobs, but routine or required disclosures made as a part of an employee's job duties are not protected as whistleblowing activity.**

- **Managers/supervisors may not take (or threaten) personnel actions against employees or fail (or threaten to fail) to take actions in favor of employees, who make disclosures covered by the Act.**
- **If the personnel action is within the Merit System Protection Board's (MSPB) jurisdiction, employee may file a complaint with the Office of the Special Counsel (OSC) before filing an appeal with the MSPB or may go directly to MSPB with an appeal.**
- **MSPB appeals must be filed no later than 30 calendar days after the effective date of action being appealed or 30 calendar days after receipt of the agency's personnel action decision, whichever is later.**
- **If the personnel action does not fall under MSPB jurisdiction, appellant must first file a complaint with OSC before filing an appeal with MSPB.**

- For questions about Anti-Discrimination laws, your rights or to report suspected discrimination contact your EEO Office:
- Dr. Clinton M. Covert, Deputy Director, Equal Employment Opportunity, (804) 734-2457
- Mr. Ozie Bradford, EEO Manager, Affirmative Employment Program and Compliance Branch (804) 734-0802
- For additional information about Anti-Discrimination laws, policies, procedures and whistleblower protections:
  - DCMA EEO:  
<https://360.dcma.mil/directorate/dco/SitePages/Home.aspx>
  - Equal Employment Opportunity Commission:  
<http://eeoc.gov/employees/>
  - Office of Special Counsel (whistleblower info):  
<http://www.osc.gov>

## Administrative Matters:

- **Your No FEAR Act Training PLAS codes:**
  - **Process Code: D213**
  - **Program Code: NTR05**
- **Print copies of the Certificate of Completion (slide 25) and provide it to your:**
  - **Supervisor**
  - **Training Coordinator**



**Congratulations!**

**You have completed the  
NO FEAR Act Training.**

**Please click on the link below to take the  
quiz and print the completion certificate.**

**[NO FEAR Act Comprehension Check – Quiz](#)**