

THE NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION ACT (No FEAR Act)

On March 3, 2011, Secretary Steven Chu issued a memorandum for all DOE employees, entitled “Equal Employment Opportunity and Diversity Policy Statement”. In his policy statement, Secretary Chu expressed his commitment to equal employment opportunity and diversity, and his support of the rights of employees to participate in the EEO process without fear of reprisal. The Secretary’s statement accords with the principles of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (the “No FEAR Act”).

The No FEAR Act is designed to reduce and prevent discrimination and retaliation, and to hold agencies and individuals accountable for their actions. The Act is also designed to promote the prompt resolution of complaints at the administrative level.

PROHIBITION AGAINST DISCRIMINATION

Pursuant to antidiscrimination laws, statutes, regulations and Executive Orders, the Department may not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, political affiliation, genetic information, or sexual orientation, in any term, condition or privilege of employment.

The No FEAR Act reinforces a number of Federal antidiscrimination laws, including: Title VII of the Civil Rights Act of 1964; the Equal Pay Act of 1963; the Age Discrimination in Employment Act of 1967 (ADEA); Sections 501 and 505 of the Rehabilitation Act of 1973; and The Civil Rights Act of 1991.

WHISTLEBLOWER PROTECTION

Under whistleblower protection laws, the Department may not take a personnel action, threaten to take a personnel action, or refuse to take a personnel action because an employee or applicant made a protected disclosure. A protected disclosure is information the employee reasonably believes to be evidence of: violations of law, rule or regulation; gross mismanagement; gross waste of government funds; an abuse of authority; or a substantial and specific danger to public health or safety. (However, there is no such protection if the disclosure of such information is specifically prohibited by law, or such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.)

The Department is prohibited from retaliating against an employee or applicant for employment because that individual has exercised any of his or her rights under any of the Federal antidiscrimination or whistleblower protection laws. Whenever an employee or applicant exercises rights under these laws, they are engaging in protected activity. The Act requires that DOE take “appropriate disciplinary actions” against employees who violate civil rights or retaliation laws.

The Act also requires agencies to ensure that managers receive training in managing a diverse workforce, essential communication skills, and alternative dispute resolution (ADR). An effective ADR program can assist in resolving EEO and other workplace disputes at the lowest level, by providing a safe forum for open and productive discussions, without fear of retaliation. DOE maintains an active ADR program in the headquarters Office of Dispute Resolution, and in ADR offices at DOE facilities nationwide.

In his “Equal Employment Opportunity and Diversity Policy Statement”, the Secretary stated that, “Together, we will foster a culture of inclusion, mutual trust and respect. This will allow all employees an equal opportunity to achieve their full potential.” Doing so will also ensure that the Department upholds the principles of the No FEAR Act.

If you have any questions regarding the No FEAR Act, or if you need additional information, please contact your local Civil Rights Office.