

Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552



September 2023

MEMORANDUM TO: All CFPB Employees, Former Employees, and Applicants for Employment at CFPB

**FROM: Rohit Chopra
Director**

SUBJECT: FY 2023 Notice on the No FEAR Act and Whistleblower Protection Laws/Prohibited Personnel Practices

The “[Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002](#),” as amended by the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020,” also known as the “No FEAR Act,” requires Federal agencies to “be accountable for violations of antidiscrimination and whistleblower protection laws.” (Pub. L. 107-174, Summary.) Congress found in passing the No FEAR Act that “agencies cannot be run effectively if those agencies practice or tolerate discrimination.” (Pub. L. 107-174, Title I, General Provisions, § 101(1).)

The No FEAR Act also requires Federal agencies, including the Bureau, to provide this Notice to Federal employees, former Federal employees, and applicants for Federal employment. This Notice is intended to inform you of the rights and protections available to you under Federal antidiscrimination, civil service, whistleblower protection, and antiretaliation laws.

Antidiscrimination Laws

A federal agency cannot unlawfully discriminate for or against any employee or applicant for employment on the basis of **race, color, religion, sex (including pregnancy, childbirth, or related medical conditions; sexual orientation; and/or gender identity), national origin, age (40 and above), disability, genetic information (including family medical history), marital status, parental status, political affiliation, military service, union activities, protected equal employment opportunity (EEO) activity, whistleblower activity, or conduct that does not adversely affect an individual’s**

performance. Discrimination on these bases – including harassment – is prohibited by Federal statutes and Executive Orders. *See* 5 U.S.C. § 2301 note (Pub. L. No. 107-174, 116 Stat. 566, as amended by Pub. L. 116-283, §§ 1131-1138); 5 U.S.C. § 2302(b); 5 U.S.C. §§ 7101-7135; 29 U.S.C. § 206(d); 29 U.S.C. § 633a; 29 U.S.C. §§ 791, 794, 794a, 794d; 38 U.S.C. §§ 4301-35; 42 U.S.C. § 1981a; 42 U.S.C. § 2000e-16; 42 U.S.C. § 2000ff et seq.; 42 U.S.C. § 2000gg et seq.; E.O. 11478; E.O. 13087; E.O. 13145; E.O. 13152; E.O. 13672.¹

Individuals must follow specific rules and meet certain deadlines to pursue rights guaranteed in applicable federal workplace antidiscrimination laws, Presidential Executive Orders, and CFPB policy. The applicable complaint process, associated rules, and timelines, depend on the nature of the matter:

- *If you believe that you have been the victim of unlawful employment discrimination at CFPB and wish to pursue a discrimination claim on the basis of **race, color, religion, sex (including pregnancy, childbirth, or related medical conditions; sexual orientation; and/or gender identity), national origin, disability, genetic information (including family medical history), parental status, and/or protected EEO activity:***

You may file an administrative complaint of discrimination with the CFPB’s Office of Civil Rights (OCR), which will process the complaint consistent with EEOC regulations at 29 C.F.R. Part 1614, EEOC Management Directive 110, applicable Executive Orders, CFPB Policy, and/or related official guidance. This administrative complaint process is sometimes referred to as the “EEO process” or “Part 1614 process.”

- To begin the process of filing a complaint with OCR to allege unlawful employment discrimination on the above protected bases, you first must contact OCR to request to speak with an 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.** Failure to meet these timeframes could result in the forfeiture of your legal right to redress the discrimination.

¹ Under some of these federal statutes, agencies such as CFPB are also prohibited from failing to provide work-connected reasonable accommodations (absent “undue hardship”) for religious observances, practices, or beliefs; limitations relating to covered disabilities; and known limitations relating to pregnancy, childbirth, or related medical conditions.

- Any individual can contact OCR to request EEO counseling by emailing CFPB_EEO@cfpb.gov. This is the preferred method of contacting OCR to request EEO counseling. However, you can also request EEO counseling by contacting OCR using any of the methods listed at the end of this Notice. Once you have made contact with OCR, an OCR representative will provide additional information related to processing your allegations. If you file a formal administrative EEO complaint, the matter is against CFPB itself as an organization – not against any specific individual(s).
- *If you are a **bargaining unit employee** and you believe that you have been the victim of prohibited employment discrimination at CFPB on the basis of **race, color, religion, sex (including pregnancy, childbirth, or related medical conditions; sexual orientation; and/or gender identity), national origin, age (40 and above), disability, genetic information (including family medical history), protected EEO activity, marital status, and/or political affiliation:***
 - You may file a grievance alleging discrimination on any of the above bases using CFPB's [negotiated grievance procedures](#).
 - *You may not file both a timely written grievance under the negotiated grievance procedures and a formal complaint of discrimination with OCR on the same matter. **If you file a timely written grievance over an issue but fail to include a related discrimination allegation, you still could be precluded from filing a formal EEO complaint of discrimination with OCR over the same matter.***
 - For more information, read the [Equal Employment Opportunity Article](#) in the CFPB-NTEU collective bargaining agreement. If you have additional questions you may also contact OCR using any of the methods listed at the end of this Notice, or the [Employee and Labor Relations team](#) in the [Office of Human Capital](#) (OHC).
- *If you believe that you have been the victim of unlawful employment discrimination at CFPB on the basis of **age (40 and above):***
 - You may proceed through the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days. (This is the same process as for an allegation of discrimination based on race, color, religion, sex, national origin, disability, genetic information, parental status, and/or protected EEO activity, as noted above.)

- *Alternatively*, you may file an age-discrimination lawsuit in an appropriate United States district court. If you choose this “direct-suit” option, you must first give the EEOC – **not** CFPB’s OCR – notice that you intend to sue CFPB. You must give the EEOC this notice at least 30 days before you file your lawsuit in court. This notice-of-intent-to-sue may be filed in writing with the EEOC, at P.O. Box 77960, Washington, D.C. 20013. You may also file the notice by facsimile (if the fax is 10 pages or less), at (202) 663-7022. Finally, you may file this notice by personal delivery to the EEOC’s Office of Federal Operations/Federal Sector Programs Branch at 131 M Street, NE, Washington, D.C. 20507. If you pursue this direct-suit option ***you must file this notice of intent to sue with the EEOC within 180 calendar days of the alleged discriminatory action. See [29 C.F.R. § 1614.201\(a\)](#).***
- ***If you believe that you have been the victim of unlawful sex-based compensation (“pay”) discrimination specifically:***
 - You may proceed through the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days. (This is the same as for an allegation of other bases of discrimination, as noted above.)
 - *Alternatively*, if your claim alleges a violation of the Equal Pay Act of 1963, you may file a civil action in a court of competent jurisdiction *within two years (or, if you believe the violation is willful, three years) of the date of the alleged Equal Pay Act violation. Contacting an EEO Counselor in the Bureau’s OCR does not suspend or toll the two- or three-year deadline for filing a civil action under the Equal Pay Act. See [29 C.F.R. § 1614.408](#).*
 - Sex-based pay disparities also may violate Title VII of the Civil Rights Act of 1964, and individuals may challenge sex-based pay discrimination simultaneously under both the Equal Pay Act and Title VII. However, if you wish to allege that a pay disparity violates Title VII, you *must* raise the Title VII allegation in the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days of an alleged discriminatory act – even if you also file an Equal Pay Act civil action over the same alleged pay disparity.
- ***If you are alleging discrimination based on marital status, political affiliation, or conduct that does not adversely affect an individual’s job performance:***
 - You may file a written complaint with the U.S. [Office of Special Counsel](#) (OSC).

- *If you are alleging discrimination based on **military service/uniformed status** (or denied reemployment rights after completing a period of military service):*
 - You may request assistance from the [Veterans' Employment and Training Service](#) (VETS) at the U.S. Department of Labor (DOL), the U.S. [Merit Systems Protection Board](#) (MSPB), or OSC, depending on the circumstances. There is no time limit for filing a complaint, although individuals are encouraged to promptly report any concerns.
- *If you are alleging discrimination based on **membership or non-membership in a union or for union activities**:*
 - You may request assistance from your union (if applicable) or the U.S. [Federal Labor Relations Authority](#) (FLRA).

Whistleblower Protection Laws/Prohibited Personnel Practices

Federal employees have the right to be free from “[Prohibited Personnel Practices](#)” (“PPPs”), including retaliation for whistleblowing and exercising certain grievance, complaint, and appeal rights (and other protected activities). The Bureau is committed to making sure that all employees are aware of their rights, as well as the safeguards that are in place to protect them.

The Whistleblower Protection Act of 1989, the Whistleblower Protection Enhancement Act of 2012, the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, and other laws collectively provide rights for all covered federal employees to make whistleblower disclosures and ensure that employees are protected from whistleblower retaliation. 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 that individual has engaged in whistleblowing.

For these purposes, [whistleblowing](#) is defined as the disclosure of information that an employee or applicant reasonably believes evidences (1) a violation of any law, rule, or regulation; (2) gross mismanagement; (3) a gross waste of funds; (4) an abuse of authority; (5) a substantial and specific danger to public health or safety; and/or (6) censorship related to research, analysis, or technical information, if such disclosure is not specifically prohibited by law and if such information is not 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). Employees may make lawful disclosures to anyone, including, for example, management officials, the Inspector General of an agency, Congress and committees of Congress and/or the [U.S. Office of Special Counsel](#) (OSC).

This Notice includes links below to information about OSC, which is an independent agency that protects federal employees from prohibited personnel practices, including whistleblower retaliation and unlawful hiring practices. OSC also provides an independent, secure channel for disclosing and resolving wrongdoing in federal agencies. [Information on the prohibition on retaliation for whistleblowing is available from this OSC fact sheet.](#)

Under 5 U.S.C. § 2302(b)(9), agency officials also are prohibited from retaliating against any covered employee because the employee (1) filed a lawful complaint, grievance or appeal; (2) testified for or helped someone else with one of these activities; (3) cooperated with or disclosed information to the Special Counsel or an Inspector General; or (4) refused to obey an order that would require the employee to violate a law, rule, or regulation. This [webpage](#) provides information on this type of retaliation.

Please also review the fact sheet, “[Your Rights as a Federal Employee](#),” which provides detailed information on the fourteen prohibited personnel practices and employees’ rights to file complaints with OSC. You can also learn more about federal civil service merit systems principles and prohibited personnel practices in this [brief guide from the Merit Systems Protection Board](#), and this [fact sheet on prohibited personnel practices](#) from OSC.

Additionally, you are encouraged to review “[Know Your Rights When Reporting Wrongs](#)” – a fact sheet that describes avenues for making whistleblower disclosures and OSC’s role in accepting complaints from federal employees, including how to make disclosures of information protected from public release by law.

If you believe that you have been the victim of a prohibited personnel practice, including whistleblower or other retaliation under 5 U.S.C. §§ 2302(b)(8) or (b)(9), you may file a written complaint ([OSC Form-14](#)) with OSC at 1730 M Street NW, Suite 218, Washington, D.C. 20036-4505, or [online](#) through the OSC website. Please consult OSC’s site for the most up-to-date guidance as paper filings are not currently being accepted due to the COVID-19 pandemic.

If you believe a prohibited personnel practice has occurred, please note there is a three-year time limitation about which you should be aware. See 5 U.S.C. § 1214 (a)(6)(A)(iii).

Retaliation for Engaging in Protected EEO-Related Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises their rights under any of the Federal antidiscrimination (or whistleblower protections) laws listed and as discussed above. If you believe that you are the victim or target of retaliation for engaging in protected activity and wish to pursue a legal remedy, you must follow, as appropriate, the procedures and timeframes described in the sections of this notice above entitled “Antidiscrimination Laws” and “Whistleblower Protection Laws/Prohibited Personnel Practices” – or, if applicable, relevant negotiated grievance procedures.

Read this [brief guide from the EEOC](#) on some of the causes of, and manager tips for avoiding, [EEO-related retaliation](#).²

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 from federal service. 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. With the passage of the Elijah E. Cummings Act Federal Employee Antidiscrimination Act of 2020, there are reporting requirements related to disciplinary action when there is a finding of discrimination.

However, under the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, an agency *must* propose certain disciplinary actions against supervisors who have engaged in certain specified acts of whistleblower retaliation or other forms of retaliation and prohibited personnel practices under civil service laws. For more information on these mandatory discipline requirements, contact OCR or the Bureau’s Legal Division.

² Similarly, it is unlawful for any individual to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Rehabilitation Act of 1973 or the Pregnant Workers Fairness Act of 2023. Such “interference” or “coercion” is a prohibited form of discrimination that can be challenged through the 29 C.F.R. Part 1614 (EEO) process described in the sections of this Notice above entitled “Antidiscrimination Laws.”

Additional Information

For further information regarding the No FEAR Act rules, see [5 C.F.R. Part 724](#) or contact the Bureau's [Office of Civil Rights](#). (See complete contact information for OCR at the bottom of this Notice.) You can find additional information about the No FEAR Act on the CFPB's intranet at http://team.cfpb.local/wiki/index.php/No_FEAR_Act_Notice. The CFPB's No FEAR Act statistics can be found on the Bureau's external website at <http://www.consumerfinance.gov/no-fear-act/>.

You can find more information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws on:

- the CFPB's intranet at <http://team.cfpb.local/wiki/index.php/EEO>
- the Office of Civil Rights's blog ([Civil Writes](#))
- the U.S. Equal Employment Opportunity Commission website at <http://www.eeoc.gov>
- the U.S. Office of Special Counsel website at <http://www.osc.gov>
- the U.S. Department of Labor Veterans' Employment and Training Service website at <https://www.dol.gov/vets/>
- the U.S. Merit Systems Protection Board website at <http://www.mspb.gov>
- the U.S. Federal Labor Relations Authority website at <http://www.flra.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 for the CFPB's Office of Civil Rights

E-mail (preferred method):

CFPB_EEO@cfpb.gov

U.S. Postal Service Mail:

Office of Civil Rights
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C., 20552

Hand-Delivery:

Office of Civil Rights
Consumer Financial Protection Bureau
1700 G Street, NW
Fourth Floor
Washington, D.C., 20552

Phone:

202-435-9EEO
1-855-233-0362
202-435-9742 (TTY)

Fax:

202-435-9598