



Missile Defense Agency



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

Missile Defense Agency Notice

On May 15, 2002, Congress enacted the *Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002*, 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 requires MDA to inform current employees, former employees, and applicants for employment, of their rights and protections available under Federal antidiscrimination, whistleblower protection, and retaliation laws.

Antidiscrimination Laws

Federal agencies cannot discriminate against employees or applicants, with respect to the terms, conditions, or privileges of employment on the basis of race, color, national origin, religion, sex (including sexual harassment; sexual orientation; gender identity; pregnancy; gender stereotyping; and lesbian, gay, bisexual, and transgender), age (40 and older), mental or physical disability, genetic information, marital status, veterans’ status, parental status, political affiliation, or reprisal for participating in protected Equal Employment Opportunity (EEO) activity. United States Code (U.S.C.) statutes prohibits discrimination on the basis of 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. Click the link to view various types of discrimination prohibited by the laws enforced by the U.S. EEO Commission (EEOC): <http://www.eeoc.gov/laws/types/index.cfm>.

If you believe you were subject to unlawful discrimination on the basis of the factors listed above, please contact MDA’s Office of Equal Opportunity and Diversity Management (EO) at equal-opportunity@mda.mil or 256-313-9659 to file an EEO complaint within 45 calendar days of the alleged discriminatory act. If you intend to sue, please give notice of intent to sue to the EEOC within 180 days of the alleged discriminatory act. Click the link to learn more about EEOC’s Federal Sector complaint process: http://www.eeoc.gov/federal/fed_employees/complaint_overview.cfm. (Reference 29 CFR 1614.)

Whistleblower Protection Laws

Federal employees with authority to take, direct others to take, or 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, personnel actions against employees or applicants based on 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 employees or applicants for making a protected disclosure is prohibited by 5 U.S.C. 2302(b) (8). If you believe that you were subject to whistleblower retaliation, you may file a written complaint, Form OSC-11, *Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity*, with the U.S. Office of Special Counsel (OSC) at 1730 M Street NW., Suite 218, Washington, DC 20036-4505, or online via their Web site at <http://www.osc.gov>.

Retaliation for Engaging in Protected Activity

Federal agencies cannot retaliate against employees or applicants because that individual exercises their rights under any federal antidiscrimination or whistleblower protections laws listed above. If you believe that you were subject to retaliation for engaging in protected activity, follow the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections above.

Disciplinary Actions

Under existing laws, agencies retain the right, where appropriate, to discipline federal employees who engage in discriminatory or retaliatory conduct, up to and including removal. If OSC initiates investigations under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the OSC to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits agencies to take unfounded disciplinary action against federal employees, or to violate the procedural rights of federal employee accused of discrimination.

Additional Information

Visit the EEOC Web site at <http://www.eeoc.gov> and the OSC Web site at <http://www.osc.gov> to learn more about federal antidiscrimination, whistleblower protection, and retaliation laws. Reference 5 CFR 724 for additional information regarding No FEAR Act regulations.

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands, or reduces rights otherwise available to employees, former employees, or applicants under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).