



## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### **MEMORANDUM FOR ALL ACUS EMPLOYEES**

October 1, 2016

FROM: Matthew L. Wiener, Executive Director

SUBJECT: Policy Statement on Equal Employment Opportunity, Non-Discrimination, Diversity, Harassment, and Whistleblower Protection; No FEAR Act Notice

Since the re-establishment of ACUS in 2010, this agency has maintained a clean record of non-discrimination, inclusiveness, and diversity in all of our activities and operations. I believe that the agency's staff has been diligent in observing and complying with the applicable laws and agency policy statements issued from time to time relating to these matters. The following information will serve as an official Policy Statement on Equal Employment Opportunity, Non-Discrimination, Diversity, Harassment, and Whistleblower Protection, as well as the annual notice required by the No FEAR Act of 2002, Pub. L. 107-174.

The Administrative Conference of the United States is committed to enforcing a zero-tolerance policy for any form of discrimination or harassment in the workplace, including physical, psychological or sexual harassment. Related to this commitment is a determination to seek diversity and to ensure the rights of employees under the federal whistleblower protection laws and policies that prohibit reprisals.

Every employee of ACUS is responsible for helping to ensure equal employment opportunity (EEO) and for complying with EEO laws and other federal policies to prevent discrimination, harassment, and reprisal. Each of us has a role in maintaining an environment of equal opportunity and must take personal responsibility for adhering to the principles that guarantee equal opportunity for all.

It is important that we always foster a culture of inclusion and respect at ACUS and promote an environment that embraces diversity. This agency is committed to providing and maintaining a work environment that is free from discrimination. This includes assurance of EEO for its employees and applicants without regard to race, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, marital or parental status, protected genetic information, pregnancy, or political affiliation. This policy covers all persons and every facet of employment, including, but not limited to, recruitment and hiring, promotions, pay, benefits, assignments, evaluations, awards, training, career development, working conditions, discipline, and adverse actions.



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Furthermore, our policy of non-discrimination is applicable to all aspects of employee behavior with respect to the membership of the Administrative Conference, the agency's consultants and contractors, employees of other federal agencies, and all other persons with whom we may interact in the course of carrying out the mission of this agency. ACUS takes allegations of discrimination, retaliation, and harassment seriously, and staff members are directed to carry out the agency's activities with the utmost fairness, integrity, and equality of opportunity. Any concerns regarding discrimination, harassment or retaliation should be brought to the attention of the Chairman and/or senior management.

### **No FEAR Act Notice**

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002" (No FEAR Act), 116 Stat. 566, Pub. L. 107-174 (5 U.S.C. 2301 note). The Act is intended to hold Federal agencies accountable for violations of antidiscrimination and whistleblower protection laws. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Sec. 101(1), Pub. L. 107-174. The Conference provides this No FEAR Act notice to inform its current employees, former employees, and applicants for employment of the rights and protections available under Federal antidiscrimination, whistleblower protection, and retaliation laws, as required by the Office of Personnel Management, 5 CFR § 724.202.

### **Antidiscrimination Laws**

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis 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), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791, and 42 U.S.C. 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an 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 of discrimination with your agency. See, e.g., 29 CFR 1614. If you believe that you have been the victim of unlawful discrimination on the basis 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.

Because the Conference is a very small agency, it has entered into an agreement with the General Services Administration (GSA) for EEO services, including, but not limited to, counseling and



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Alternative Dispute Resolution (ADR) services. EEO counselors are available by contacting GSA's EEO Office at their centralized intake hotline and mailbox. Email: [eeo@gsa.gov](mailto:eeo@gsa.gov). Telephone: 202-501-4571. You may also file a written complaint of discrimination with that office.

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) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

### **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 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 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 U.S. Office of Special Counsel at 1730 M Street NW, Suite 218, Washington, DC 20036-4505 or online through the OSC Web site: [www.osc.gov](http://www.osc.gov).

### **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 or 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 sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.



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### **Disciplinary Actions**

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws, 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 information regarding the No FEAR Act regulations, refer to 5 CFR 724, or contact the General Counsel's Office at the Conference, 1120 20<sup>th</sup> Street, NW, Suite 706 South, Washington, DC 20036, (202) 480-2080. Additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws can be found at [www.eeoc.gov](http://www.eeoc.gov) and [www.osc.gov](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).