DEPARTMENT OF DEFENSE
EDUCATION ACTIVITY
4040 NORTH FAIRFAX DRIVE
ARLINGTON, VA 22203-1635

Diversity Management & Equal Opportunity Office

06-DMEO-001
November 16, 2006

DEPARTMENT OF DEFENSE EDUCATION ACTIVITY
NOTICE

SUBJECT: Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act)

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," Public Law 107-174, which is now known as 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," Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination," Public Law 107-174, Title I, General Provisions, section 101(1).

The Act also requires the Department of Defense Education Activity (DoDEA) to provide this notice to Federal employees, former Federal employees, and applicants for Federal employment regarding the rights and protections available Federal antidiscrimination and whistleblower protection laws.

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 (including sexual harassment), 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 29 CFR § 1614.105(a). 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. 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). See 5 CFR Part 1800. In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your 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 with the U.S. Office of Special Counsel (OSC), Form OSC-11, at 1730 M Street NW, Suite 218, Washington, DC 20036-4505 or online through the OSC Web site—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.

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 further information regarding the No FEAR Act regulations, refer to 5 CFR Part 724, as well as the appropriate offices within your agency (e.g., EEO/civil rights office, human resources office or legal office). Additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws can be found at the EEOC Web site—http://www.eeoc.gov and the OSC Web site—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 the law specified in 5 U.S.C. 2302(d).

If any manager, supervisor, or employee has any questions regarding this notice, please contact the DoDEA Chief, Diversity Management & Equal Opportunity Office, or a DMEO Program Manager, telephone number (703) 588-3232.

Joseph D. Tafoya
Director