



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

April 29, 2016

MEMORANDUM TO ALL DEPARTMENT EMPLOYEES

Subject: Policy Statement on Equal Employment Opportunity (EEO) and the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002 and the Whistleblower Protection Enhancement Act of 2012 (WPEA)

As the Secretary of the U.S. Department of Education (ED), I believe that providing equal employment opportunity (EEO) to all employees and applicants for federal employment is an integral part of ED's ability to fulfill its mission. ED is committed to achieving and ensuring a strong, effective, high-performing, and diverse workforce that is free of discrimination and harassment in any form. We must continue to view it as our personal responsibility to work together to eliminate any discrimination and barriers to EEO in the workplace and to foster a talented, skilled, and diverse workforce that is reflective of our nation.

Equal Employment Opportunity

ED will not tolerate discrimination on the basis of race, color, age, national origin, sex (including transgender status, gender identity, sexual orientation, and pregnancy), religion, disability, genetic information, marital status, status as a parent, or political affiliation, or retaliation for opposing discriminatory practices and/or participating in the discrimination complaint process.¹ This applies to all terms and conditions of employment including, but not limited to, recruitment, hiring, promotions, transfers, reassignments, training, career development, benefits, and separation.

ED officials, managers, and supervisors must continue to work with employees to identify and eliminate any barriers to EEO in the workplace so that all employees and applicants are given equal opportunity to attain federal employment and to reach their full potential. I firmly believe that promoting EEO in the

¹ ED has internal procedures that permit employees to raise complaints of discrimination based on status as a parent, marital status, or political affiliation with the Office of Management, Office of Equal Employment Opportunity Services.

workplace supports ED's goal of being a model employer able to attract and retain a highly skilled and diverse workforce.

If an employee believes that he or she has been discriminated against on the basis of race, color, age, national origin, sex (including transgender status, gender identity, sexual orientation, and pregnancy), religion, disability, genetic information, marital status, status as a parent, political affiliation, or in retaliation for opposing discriminatory practices and/or participating in the discrimination complaint process, he or she may file a complaint by contacting an EEO counselor at the Office of Management, Office of Equal Employment Opportunity Services by e-mail at om_eeos@ed.gov or by telephone at (202) 401-3560, within 45 calendar days of the alleged discriminatory event(s).

An employee who is alleging discrimination based on marital status, status as a parent, or political affiliation may file a written complaint with the U.S. Office of Special Counsel (OSC). Further information on how to file complaints with OSC is available on the OSC Web site at <https://osc.gov/>.

As an alternative, bargaining unit employees may also pursue a discrimination complaint by filing a grievance through ED's negotiated grievance procedures. Additional information on the negotiated grievance procedures is in the Personnel Manual Instruction 771-1, "Employee Grievances," which is available on ED's Web site at https://connected.ed.gov/Documents/pmi_771-1P1.doc.

Alternative Dispute Resolution (ADR)

To maintain a respectful, productive, and collaborative work environment, in accordance with the U.S. Equal Employment Opportunity Commission's regulations and guidelines and the Administrative Dispute Resolution Act of 1996, ED promotes the use of the alternative dispute resolution (ADR) process to resolve workplace disputes before the disputes advance to a formal complaint stage. The ADR process is used to resolve a wide range of workplace disputes, including EEO and grievance-related matters, in a cooperative, cost-effective, and timely manner. All employees are strongly encouraged to cooperate and engage in the ADR process. For additional information on the ADR process, please contact the Office of Management, ADR Center by e-mail at ADR_center@ed.gov or by phone at (202) 245-7520.

No FEAR Act

On May 15, 2002, the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) was enacted. The 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)).

Section 301 of the No FEAR Act requires each federal agency to post summary statistical data pertaining to complaints of employment discrimination filed against it by employees, former employees, and applicants for employment. The specific data to be posted is further described in section 301(b) of the Act and 29 CFR 1614.704. ED's summary data of complaints filed against the agency is located at <http://www.ed.gov/about/offices/list/om/reports.html>.

WPEA

In November 2012, President Obama signed the Whistleblower Protection Enhancement Act of 2012 (WPEA), which amends whistleblower protections for federal employees by: clarifying the scope of protected disclosures, tightening requirements for nondisclosure agreements, expanding the penalties imposed for violating whistleblower protections, and establishing a Whistleblower Protection Ombudsman.

The No FEAR Act and WPEA protect federal employees from unlawful discrimination and reprisal for participation in protected EEO and whistleblowing activity for reporting illegal acts of employers. Under the WPE Act, ED 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 federal employee may seek corrective action from the Merit Systems Protection Board (MSPB) regarding any personnel action that is proposed or taken against him or her as a result of whistleblowing, as defined in 5 U.S.C. 2302(b)(8). Further information regarding filing whistleblower claims is available on the MSPB Web site at www.mspb.gov.

In support of my policy regarding EEO, all managers, supervisors, and employees are required to complete a mandatory online EEO Training on a biennial basis. Current employees will need to complete this training within a two-year cycle. For new employees, the training must be completed within 90 days of their start date.

I know that I can count on all ED employees to play their part in ensuring that ED achieves an effective, high-performing, and diverse workforce that is free of discrimination and harassment. This responsibility belongs to all of us.

/s/

John B. King, Jr.