DEPARTMENT OF THE ARMY
US ARMY INSTALLATION MANAGEMENT COMMAND
HEADQUARTERS, UNITED STATES ARMY GARRISON, FORT BLISS
1 PERSHING ROAD
FORT BLISS, TEXAS 79916-3803

REPLY TO ATTENTION OF:

IMBL-EE

POLICY MEMORANDUM # 18

10 December 2012

SUBJECT: Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) (Public Law No. 107-174, May 15, 2002)

1. The No FEAR Act requires Federal agencies be accountable for violations of anti-discrimination and whistleblower protection laws. The Act also requires the command to provide this notice to Federal employees, former Federal employees, applicants for Federal employment and to inform you of the rights and protections available to you under Federal antidiscrimination, whistleblower protection and retaliation laws. A summary of your rights and protection under these laws is provided below:

a. Antidiscrimination Laws.

(1) 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. 2000 e-16.

(2) 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) office within 45 calendar days of the action or practice alleged to be discriminatory, or, in the case of a personnel action, within 45 calendar days of the effective date of the action and/or, when the aggrieved became aware of the alleged discriminatory action or practice.

(3) If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO office as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 days of the alleged discriminatory action.

(4) 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). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through administrative or negotiated grievance procedures, if such procedures apply and are available.

b. Whistleblower Protection Laws.

(1) 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 specially required by Executive orders to be kept secret in the interest of national defense or the conduct of foreign affairs - if so restricted by law or Executive Order, the disclosure is only protected if made to the Special Counsel, the Inspector General, or comparable agency official.

(2) 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, 1730 M Street NW, Suite 218, Washington, DC 20036-4505 or online through the OSC Web site: www.osc.gov.

c. 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. 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, administrative or negotiated grievance procedures in order to pursue any legal remedy.

d. 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. 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.

e. 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).

2. The No FEAR Act reaffirms our commitment to ensure that all Federal employees feel free to come forward with allegations of discrimination, wrongdoing, or misconduct, by making sure that all Federal employees are aware of their rights.

3. As the Fort Bliss Garrison Commander, I am personally committed to ensuring that Federal employees are informed of their rights and protections under the No FEAR Act. Discrimination against an employee or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, sex, sexual orientation, religion, national origin, age, disability, reprisal, marital status, political affiliation, parental status, or genetic predisposition is unacceptable and will not be tolerated within this command. Retaliation against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protections laws is prohibited. Disciplinary actions will be taken when an employee has engaged in discriminatory or retaliatory conduct, up to and including termination of employment.

4. Additional Information. For further information regarding the No FEAR Act regulations, refer to 5 CFR 724, as well as the EEO Office. Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site: www.eeoc.gov and the OSC Web site: www.osc.gov.

5. A copy of this policy will be posted on all official bulletin boards, official websites and made available upon request. Corrective action will be taken in the case of any violation of this policy. The proponent of this policy is the EEO Office, (915) 568-3510.

BRANT V. DAYLEY
COL, AD
Commanding

DISTRIBUTION:
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