

APPENDIX 4

REQUEST FOR BOARD ACTION BY A BOARD MEMBER

Requester: Joyce L. Connery March 31, 2021

Brief description of Requested Action:

Chair Connery requests that the Board approve the policy statements attached regarding the Agency's EEO and No Fear Act policies.

Attachments (init) 2

Summarize any time sensitive considerations:

Requestor signature On File March 31, 2021

Assistant Executive secretary On File March 31, 2021



DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Washington, DC 20004-2901

March xx, 2021

DEFENSE NUCLEAR FACILITIES SAFETY BOARD No FEAR Act Notice

The “Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,” otherwise known as the “No FEAR Act,” requires Federal agencies like the Defense Nuclear Facilities Safety Board (DNFSB) to “be accountable for violations of antidiscrimination and whistleblower protection laws.” Congress found in passing the No FEAR Act that “agencies cannot be run effectively if those agencies practice or tolerate discrimination.” Pub. L. 107-74, Title I, General Provisions, § 101(1).

The No FEAR Act also requires Federal agencies, like the DNFSB, to provide this notice to Federal employees, former employees, and applicants for employment. This notice is intended to inform you of the rights and protections available to you under Federal antidiscrimination, civil service, whistleblower protection, and anti-retaliation laws.

Antidiscrimination Laws

A Federal agency cannot discriminate or tolerate harassment against any employee or applicant for employment on the basis of race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age, disability, genetic information, reprisal, marital status, parental status, political affiliation, military service, protected equal employment opportunity (EEO) activity, whistleblower activity, or any other non-merit factor. Discrimination on these bases is prohibited by Federal statutes and Executive Orders. *See* 5 U.S.C. §§ 2302(b); 5 U.S.C. §§ 7101-7135; 29 U.S.C. § 206(d); 29 U.S.C. § 633a; 29 U.S.C. § 791; 38 U.S.C. §§ 4301-35; 42 U.S.C. § 2000e-16; 42 U.S.C. § 2000ff et seq.; E.O. 11478; E.O. 13087; E.O. 13145; E.O. 13152; E.O. 13672.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, age, disability or reprisal, you must contact an 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. A description of the Defense Nuclear Facilities Safety Board’s (DNFSB) policies and procedures for filing an EEO complaint can be found on the DNFSB intranet or by contacting the EEO Manager.

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). If you are alleging discrimination based on military service, you may request assistance from the Veterans' Employment and Training Service (VETS) at the Department of Labor (DOL), the Merit Systems Protection Board (MSPB), or OSC, depending on the circumstances.

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 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: <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.

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.

However, under the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, an agency must propose certain disciplinary actions against supervisors who have engaged in certain specified acts of whistleblower retaliation or other forms of retaliation and prohibited personnel practices under civil service laws.

Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 CFR Part 724. You can find additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws on the EEOC website at <http://www.eeoc.gov>, on the OSC website at <http://www.osc.gov>, on the MSPB website at <http://www.mspb.gov>, or on the VETS website at <https://www.dol.gov/vets>.

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).

I fully support the principles of the No FEAR Act, and I am committed to providing a workplace environment that is free from discrimination. It is the DNFSB's policy to prohibit employment discrimination and interference or retaliation when protected disclosures are made.

The EEO Manager, along with Agency leadership will ensure the proper implementation of the No FEAR Act's mandatory requirements. I expect all offices to offer their full support to ensure compliance with the requirements of the No FEAR Act. You may obtain further information regarding the No FEAR Act by contacting the EEO Manager for assistance.

Joyce L. Connery
Chair



DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Washington, DC 20004-2901

March xx, 2021

DEFENSE NUCLEAR FACILITIES SAFETY BOARD EQUAL EMPLOYMENT OPPORTUNITY POLICY

The Defense Nuclear Facilities Safety Board (DNFSB) is committed to achieving and maintaining a diverse and inclusive workforce free of discrimination, harassment and retaliation. We value differences and draw strength from the innovation and creativity that diversity brings to our work. DNFSB is committed to a culture of inclusion, integrity, dignity and respect.

It is DNFSB's policy to provide equal opportunity in all personnel/employment programs, practices, and decisions, and to work to prevent and effectively address discrimination in all forms. The DNFSB prohibits discrimination based on race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age, disability, genetic information, marital status, veteran's status, political affiliation, and reprisal for engaging in protected activity or other non-merit based factors. These protections extend to all management practices and decisions, including recruitment and hiring practices, appraisal systems, promotions, training, and career development programs. Consistent with federal laws, reprisal against those who initiate discrimination complaints, exercise the appeals or grievance right, serve as witnesses or otherwise oppose discrimination is strictly prohibited.

Managers and supervisors must be alert to issues of discrimination and must work together with employees for the prompt and equitable resolution of disputes.

DNFSB has developed a written Equal Employment Opportunity Program which sets forth policies, practices and procedures for discrimination complaints and appeals. Any DNFSB employee or applicant who believes that he or she has been subjected to discrimination or retaliation and would like to initiate an EEO complaint must contact an EEO counselor within 45 calendar days from the day the discrimination occurred. You can find additional information about the EEO program on DNFSB's intranet or by contacting the EEO Manager.

In the event of a workplace EEO dispute, employees also have the option of using the DNFSB's Alternative Dispute Resolution program, as a part of resolving the conflict. This program offers mediation, an informal, problem-solving process where parties voluntarily agree to attempt to

resolve their difference with the assistance of a neutral third party, as part of the EEO complaint process.

Employees will be subject to appropriate disciplinary action if they are found to have engaged in discrimination, harassment or retaliation. Harassment of any form, including sexual harassment, is unacceptable and will not be tolerated.

Our skilled workforce must represent the diversity of America. Promoting diversity and inclusion is a joint endeavor; all employees, regardless of hiring mechanism or position, must actively support and adhere to this policy. DNFSB's commitment to EEO, diversity and inclusion is not only a legal obligation but is also a moral imperative (we treat others with respect and value the humanity of each and every person) and a business imperative (to attract and retain talent, to be innovative to enhance our workplace culture, and to deliver the best value on behalf of the American people).

Equal employment opportunity, diversity and inclusion are at the heart of what makes an effective and productive workforce. DNFSB is dedicated to removing impediments to inclusion by enforcing EEO laws and policies, advancing diversity, and providing an environment free of discrimination and harassment where all employees are valued and can contribute to their fullest potential.

Joyce L. Connery
Chair

AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: RFBA from Chair Connery to Approve 2021 NO FEAR Policy Statement and EEO Statement

Doc Control#: 2021-300-0017

The Board acted on the above document on 04/01/2021. The document was Approved.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING	COMMENT	DATE
Joyce L. Connery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	04/01/2021
Thomas Summers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/31/2021
Jessie H. Roberson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/31/2021

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Board Members.

Shelby Qualls
Executive Secretary to the Board

Attachments:

1. Voting Summary
2. Board Member Vote Sheets

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

NOTATIONAL VOTE RESPONSE SHEET

FROM: Joyce L. Connery

SUBJECT: RFBA from Chair Connery to Approve 2021 NO FEAR Policy Statement and EEO Statement

Doc Control#: 2021-300-0017

DATE: 04/01/2021

VOTE: Approved

COMMENTS:

None

Joyce L. Connery

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

NOTATIONAL VOTE RESPONSE SHEET

FROM: Thomas Summers

SUBJECT: RFBA from Chair Connery to Approve 2021 NO FEAR Policy Statement and EEO Statement

Doc Control#: 2021-300-0017

DATE: 03/31/2021

VOTE: Approved

COMMENTS:

None

Thomas Summers

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

NOTATIONAL VOTE RESPONSE SHEET

FROM: Jessie H. Roberson

SUBJECT: RFBA from Chair Connery to Approve 2021 NO FEAR Policy Statement and EEO Statement

Doc Control#: 2021-300-0017

DATE: 03/31/2021

VOTE: Approved

Member voted by email.

COMMENTS:

None

Jessie H. Roberson