



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Director

Tuesday, September 30, 2008

**MEMORANDUM FOR: Heads Of Executive Departments And Agencies**

FROM: Michael W. Hager, Acting Director

Subject: No FEAR Disciplinary Best Practices and Advisory Guidelines

I am pleased to release the attached report, *Disciplinary Best Practices and Advisory Guidelines Under the No FEAR Act*. The report discusses the results of a study by OPM of agency best practices for taking disciplinary action for conduct inconsistent with “Antidiscrimination Laws” and “Whistleblower Protection Laws” as defined in 5 CFR 724.102. The report also provides advisory guidelines agencies may follow in taking such disciplinary actions. The study and the advisory guidelines were required by the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act).

The No FEAR Act and OPM’s regulations at [5 CFR 724.404](#) require that each agency provide a written statement to the Speaker of the U.S. House of Representatives; the President Pro Tempore of the U.S. Senate; the Chair, Equal Employment Opportunity Commission (EEOC); the Attorney General; and the Director, OPM, describing the extent to which the agency will follow the advisory guidelines. The specific content of the written statements is prescribed in the regulations. The statements must be submitted within 30 working days of the date of this report.

I strongly encourage agencies to draw on the best practices discussed in the report and follow the advisory guidelines to strengthen compliance with the Antidiscrimination and Whistleblower Protection Laws. As Congress noted in enacting the No FEAR Act: “Federal agencies cannot be run effectively if those agencies practice or tolerate discrimination.”

Any questions on the advisory guidelines may be directed to OPM’s Center for Workforce Relations and Accountability Policy by telephone at 202-606-2930 or by email at [cwrap@opm.gov](mailto:cwrap@opm.gov).