

Subpart A—Reimbursement of Judgment Fund

§ 724.101 Purpose and scope.

This subpart implements Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 concerning the obligation of Federal agencies to reimburse the Judgment Fund for payments. The regulations describe agency obligations and the procedures for reimbursement and compliance.

§ 724.102 Definitions.

In this part:

Agency means an Executive agency as defined in 5 U.S.C. 105, the United States Postal Service, or the Postal Rate Commission;

Antidiscrimination Laws refers to 5 U.S.C. 2302(b)(1), 5 U.S.C. 2302(b)(9) as applied to conduct described in 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.

Applicant for Federal employment means an individual applying for employment in or under a Federal agency;

Discipline means any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal.

Employee means an individual employed in or under a Federal agency;

Former Employee means an individual formerly employed in or under a Federal agency;

Judgment Fund means the Judgment Fund established by 31 U.S.C. 1304;

No FEAR Act means the “Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002;”

Notice means the written information provided by Federal agencies about the rights and protections available under Federal Antidiscrimination Laws and Whistleblower Protection Laws.

Payment, subject to the following exception, means a disbursement from the Judgment Fund on or after October 1, 2003, to an employee, former employee, or applicant for Federal employment, in accordance with 28 U.S.C. 2414, 2517, 2672, 2677 or with 31 U.S.C. 1304, that involves alleged discriminatory or retaliatory conduct described in 5 U.S.C. 2302(b)(1) and (b)(8) or (b)(9) as applied to conduct described in 5

U.S.C. 2302(b)(1) and/or (b)(8) or conduct described in 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. For a proceeding involving more than one disbursement from the Judgment Fund, however, this term shall apply only if the first disbursement occurred on or after October 1, 2003.

Training means the process by which Federal agencies instruct their employees regarding the rights and remedies applicable to such employees under the Federal Antidiscrimination Laws and Whistleblower Protection Laws.

Whistleblower Protection Laws refers to 5 U.S.C. 2302(b)(8) or 5 U.S.C. 2302(b)(9) as applied to conduct described in 5 U.S.C. 2302(b)(8).

[71 FR 27187, May 10, 2006, as amended at 71 FR 41098, July 20, 2006; 71 FR 78037, Dec. 28, 2006]

§ 724.103 Agency obligations.

A Federal agency (or its successor agency) must reimburse the Judgment Fund for payments covered by the No FEAR Act. Such reimbursement must be made within a reasonable time as described in § 724.104.

§ 724.104 Procedures.

(a) The procedures that agencies must use to reimburse the Judgment Fund are those prescribed by the Financial Management Service (FMS), the Department of the Treasury, in Chapter 3100 of the Treasury Financial Manual. All reimbursements to the Judgment Fund covered by the No FEAR Act are expected to be fully collectible from the agency. FMS will provide written notice to the agency’s Chief Financial Officer within 15 business days after payment from the Judgment Fund.

(b) Within 45 business days of receiving the FMS notice, agencies must reimburse the Judgment Fund or contact FMS to make arrangements in writing for reimbursement.

§ 724.105 Compliance.

An agency’s failure to reimburse the Judgment Fund, to contact FMS within 45 business days after receipt of an FMS notice for reimbursement under § 724.104 will be recorded on an annual

§ 724.106

basis and posted on the FMS Web site. After an agency meets the requirements of § 724.104, the recording will be eliminated no later than the next annual posting process.

§ 724.106 Effective date.

This subpart is effective on October 1, 2003.

Subpart B—Notification of Rights and Protections and Training

SOURCE: 71 FR 41098, July 20, 2006, unless otherwise noted.

§ 724.201 Purpose and scope.

(a) This subpart implements Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 concerning the obligation of Federal agencies to notify all employees, former employees, and applicants for Federal employment of the rights and protections available to them under the Federal Antidiscrimination Laws and Whistleblower Protection Laws. This subpart also implements Title II concerning the obligation of agencies to train their employees on such rights and remedies. The regulations describe agency obligations and the procedures for written notification and training.

(b) Pursuant to section 205 of the No FEAR Act, neither that 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).

§ 724.202 Notice obligations.

(a) Each agency must provide notice to all of its employees, former employees, and applicants for Federal employment about the rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws applicable to them.

(b) The notice under this part must be titled, “No FEAR Act Notice.”

(c) Each agency must provide initial notice within 60 calendar days after September 18, 2006. Thereafter, the notice must be provided by the end of each successive fiscal year and any

5 CFR Ch. I (1–1–10 Edition)

posted materials must remain in place until replaced or revised.

(d) After the initial notice, each agency must provide the notice to new employees within 90 calendar days of entering on duty.

(e) Each agency must provide the notice to its employees in paper (e.g., letter, poster or brochure) and/or electronic form (e.g., e-mail, internal agency electronic site, or Internet Web site). Each agency must publish the *initial* notice in the FEDERAL REGISTER. Agencies with Internet Web sites must also post the notice on those Web sites, in compliance with section 508 of the Rehabilitation Act of 1973, as amended. For agencies with components that operate Internet Web sites, the notice must be made available by hyperlinks from the Internet Web sites of both the component and the parent agency. An agency may meet its paper and electronic notice obligation to former employees and applicants by publishing the initial notice in the FEDERAL REGISTER and posting the notice on its Internet Web site if it has one.

(f) To the extent required by law and upon request by employees, former employees and applicants, each agency must provide the notice in alternative, accessible formats.

(g) Unless an agency is exempt from the cited statutory provisions, the following is the minimum text to be included in the notice. Each agency may incorporate additional information within the model paragraphs, as appropriate.

MODEL PARAGRAPHS

NO FEAR ACT NOTICE

On May 15, 2002, Congress enacted the “Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,” 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 this agency to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform you of the rights and protections available to you under