



UNITED STATES
DEPARTMENT OF TRANSPORTATION

**Fiscal Year 2019
Annual Report to Congress on the
Notification and Federal Employee
Antidiscrimination and
Retaliation Act of 2002**

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1. Purpose of Report

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174, 5 U.S.C. § 2301, *et seq.*, requires each Federal agency to submit an annual report to Congress. Representatives from the Office of the Secretary, including the Departmental Office of Civil Rights (DOCR), the Departmental Office of Human Resource Management (DOHRM), the Office of the Assistant Secretary for Budget and Programs, and the Office of the Assistant Secretary for Administration assisted in the preparation of this report on anti-discrimination activities during FY 2019, in collaboration with Department of Transportation (DOT) Operating Administrations (OAs): the Federal Aviation Administration (FAA); the Federal Highway Administration (FHWA); the Federal Motor Carrier Safety Administration (FMCSA); the Federal Railroad Administration (FRA); the Federal Transit Administration (FTA); the Maritime Administration (MARAD); the National Highway Traffic Safety Administration (NHTSA); the Pipeline and Hazardous Materials Safety Administration (PHMSA); and the St. Lawrence Seaway Development Corporation (SLSDC).

In 2002, Congress passed the No FEAR Act to hold Federal agencies financially accountable for violations of Federal antidiscrimination and whistleblower protection laws. Prior to the No FEAR Act, monetary judgments against Federal agencies were paid from the U.S. Department of Justice's Judgment Fund. With the enactment of Section 201 of the No FEAR Act, Congress mandates that Federal agencies reimburse the Judgment Fund for all judgments, awards, and settlements paid to a complainant as the result of a violation of antidiscrimination or whistleblower protection laws.

The No FEAR Act also requires that agencies provide public notice of relevant statistics on agency websites, including the number of Federal court cases involving discrimination that were filed, pending, and resolved and other information on Equal Employment Opportunity (EEO) complaints. These measures create accountability of conduct inconsistent with Federal anti-discrimination laws.

The annual report must include:

- The number of Federal court cases, pending or resolved, arising under the antidiscrimination laws and authorities included in the No FEAR Act, and the status and disposition of the cases;
- Judgment Fund reimbursements, adjustments to agency budgets to meet reimbursement requirements, and the amount of reimbursement required for attorneys' fees where such fees have been separately designated;
- The number and type of disciplinary actions related to discrimination, retaliation, or harassment;
- A detailed description of the agency's policy for taking disciplinary actions against employees for conduct inconsistent with the antidiscrimination laws referenced by the No FEAR Act;
- Year-end summary data related to Federal sector EEO complaint activity;

- An analysis of the information provided in this report, including an examination of trends, causal analysis, practical knowledge gained, and actions planned or taken to improve compliance; and
- The agency's plan to train employees on their rights under the No FEAR Act.

Pursuant to statutory requirements, DOT provides the No FEAR Act annual report to the following members of the 116th Congress:

The Honorable Michael R. Pence
President of the Senate

The Honorable Nancy Pelosi
Speaker of the House of Representatives

The Honorable Chuck Grassley
President Pro Tempore of the Senate

The Honorable Nita M. Lowey
Chairwoman, House Committee on
Appropriations

The Honorable Richard Shelby
Chairman, Senate Committee on
Appropriations

The Honorable Kay Granger
Ranking Member, House Committee on
Appropriations

The Honorable Patrick J. Leahy
Vice Chairman, Senate Committee on
Appropriations

The Honorable Frank J. Pallone, Jr.
Chairman, House Committee on Energy and
Commerce

The Honorable Mike D. Crapo
Chairman, Senate Committee on Banking,
Housing, and Urban Affairs

The Honorable Greg P. Walden
Ranking Member, House Committee on
Energy and Commerce

The Honorable Sherrod C. Brown
Ranking Member, Senate Committee on
Banking, Housing, and Urban Affairs

The Honorable Carolyn B. Maloney
Chairwoman, House Committee on Oversight
and Reform

The Honorable Roger Wicker
Chairman, Senate Committee on Commerce,
Science, and Transportation

The Honorable Jim Jordan
Ranking Member, House Committee on
Oversight and Reform

The Honorable Maria Cantwell
Ranking Member, Senate Committee on
Commerce, Science, and Transportation

The Honorable Eddie Bernice Johnson
Chairwoman, House Committee on Science,
Space, and Technology

The Honorable John A. Barrasso
Chairman, Senate Committee on Environment
and Public Works

The Honorable Frank Lucas
Ranking Member, House Committee on
Science, Space, and Technology

The Honorable Tom R. Carper
Ranking Member, Senate Committee on
Environment and Public Works

The Honorable Peter A. DeFazio
Chairman, House Committee on
Transportation and Infrastructure

The Honorable Ron H. Johnson
Chairman, Senate Committee on Homeland
Security and Governmental Affairs

The Honorable Sam Graves
Ranking Member, House Committee on
Transportation and Infrastructure

The Honorable Gary C. Peters
Ranking Member, Senate Committee on
Homeland Security and Governmental Affairs

Pursuant to statutory and regulatory requirements, DOT also provides this report to the following members of the Executive Branch:

- The Honorable Janet Dhillon, Chair, U.S. Equal Employment Opportunity Commission
- The Honorable William P. Barr, Attorney General, U.S. Department of Justice
- The Honorable Michael Rigas, Acting Director, U.S. Office of Personnel Management

2. Background

DOT's mission is to ensure our Nation has the safest, most efficient and modern transportation system in the world, which improves the quality of life for all American people and communities, from rural to urban, and increases the productivity and competitiveness of American workers and businesses. In the U.S. Department of Transportation Strategic Plan for FY 2018-2022, DOT emphasized its commitment to recruit, hire, and retain employees from all segments of American society, and to provide the training and professional development opportunities that they need to support DOT's mission.¹ As a part of that commitment, DOT seeks to lead as a model agency that is committed to fostering an inclusive workforce by having strong EEO policies and programs to proactively address and attempt to prevent discrimination, harassment, or retaliation in the workplace.

3. Results and Data

3.1 EEO Complaint Activity in Federal Court and Disposition

FY 2019 Federal Court Case Volume Remained Consistent

In FY 2019, DOT was a party to 32 Federal court cases filed under the various laws covered by the No FEAR Act. Of these cases, three cases were dismissed, two cases were disposed of by summary judgment in favor of the Agency, and five cases were settled.

The number of pending cases increased from 20 at the close of FY 2018 to 22 at the close of FY 2019. The most frequently stated allegation was race under Title VII of the Civil Rights Act of 1964 (Title VII). The most frequently raised issue was non-promotion/non-selection.

The breakdown of allegations in the 22 cases pending in Federal court is:²

- 17 cases contained claims under Title VII (42 U.S.C. § 2000e-16);
- 8 cases contained claims under the Age Discrimination in Employment Act (ADEA) of 1967 (29 U. S. C. §§ 631, 633 (a));

¹ The Strategic Plan is available online at: <https://www.transportation.gov/dot-strategic-plan>.

² More than one type of allegation can be made in a single case.

- 6 cases contained claims under the Rehabilitation Act of 1973 (Rehabilitation Act) (29 U.S.C. § 791); and,
- 6 cases contained claims of retaliation.

The breakdown of the claims resolved in Federal court:

- 10 claims concerned Title VII (42 U.S.C. § 2000e-16);
- 1 claim concerned the ADEA;
- 3 claims concerned the Rehabilitation Act; and,
- 4 claims involved allegations of retaliation.

The total number of Federal court cases in FY 2019 (32) is consistent with the number of court cases from previous years. Since FY 2013, the number of court cases has been in the low- to mid-30s, with only one year (FY 2016) where the number of cases decreased to the mid-20s. In FY 2019, the bases of race and sex were raised most often in DOT's Federal court cases, with 16 and 13 cases, respectively. That was followed by claims of discrimination based on age (10 cases), reprisal (10 cases) and disability (9 cases). The most frequently raised adverse action in DOT's Federal court cases in FY 2019 was non-selection (15). That was followed by hostile work environment, which was raised in eight cases, and reasonable accommodation, which was raised in six cases.

DOT settled five Federal court cases in FY 2019. Those cases involved allegations of reprisal, and discrimination on the basis of race, color, sex, age, and disability. Four cases involved allegations of a hostile work environment; two involved reasonable accommodation; and one involved a claim of non-promotion/non-selection.

3.2 Judgment Fund Reimbursements and Budget Adjustments

DOT reimbursed the Judgment Fund for a total of \$29,500 for two Federal court cases during FY 2019 (See Table 1). This amount represents a 93.5 percent decrease from FY 2018 reimbursements (\$458,000) for two federal court cases. Reimbursements for the Federal court cases in FY 2019 were \$27,000 and \$2,500.

3.3 Number of Employees Disciplined and Disciplinary Policy

During FY 2019, no employee was subject to disciplinary action in connection with a Federal court case. However, DOT took disciplinary action against five employees; three employees violated DOT policies concerning discrimination and two employees violated policies concerning harassment. DOT issued letters of warning to two employees, reprimanded two employees, and suspended one employee.

While several of DOT's Operating Administrations (OAs) have tables of discipline, Department-wide disciplinary policy is identified in the Secretarial Policy Statements. The Secretarial Policy Statements reinforce DOT's commitment to establishing a workplace free from discrimination, harassment, and/or retaliation. They advise employees regarding their rights and responsibilities and inform them that they will be subject to disciplinary action, up to and including dismissal, for engaging in discriminatory conduct. The Policy Statements

also emphasize the Secretary's expectation that all elements of the Department will provide full support for compliance with the requirements of the No FEAR Act, including protection of whistleblowers, and emphasize the Secretary's commitment to ensuring that harassment will not be tolerated. Secretarial Policy Statements are issued annually and are distributed to DOT employees via email, posted in common areas throughout DOT offices, and are posted electronically on DOCR's public-facing website. The Secretarial Policy Statements inform all DOT employees that they will be held accountable for any actions that are in violation of DOT policy on discrimination, harassment, and retaliation.

3.4 Summary Federal Court Case Data

Table 1: Summary of Federal Court Cases (The U.S. DOT FY 2019 No FEAR Act Annual Report required by Section 203 of the No FEAR Act and 5 C.F.R. Part 724)	
Total number of pending or resolved Federal court cases, arising under each of the respective provisions of law covered by 724.302 (a) (1)	
A. Cases Pending	22
B. Cases Resolved	10
The status or disposition of resolved cases	
Dismissed	3
Settled	5
Summary Judgment for the Agency	2
Summary Judgment for the Complainant	0
Withdrawn	0
Award	0
Total Resolved Cases	10
Funds required to be reimbursed by DOT under Section 201 in connection with each case	
Title VII, Rehabilitation Act	\$2,500
Title VII, ADEA	\$27,000
Attorney's Fees	\$0
Total Reimbursement to the Judgement Fund	\$29,500
Number of employees disciplined for discrimination, retaliation, harassment, or any other provision of the law referred:	0
The number of employees disciplined because of violating Departmental policy:	5
Disciplinary Actions Taken:	2 employees received reprimands; 2 employees received letters of warning; 1 employee received a suspension.

3.5 Analysis of Complaints

From FY 2018 to FY 2019, there was a nearly 8 percent decrease in EEO complaints, and a 6 percent decrease in the number of complainants. During FY 2019, 245 complainants filed a total of 250 formal EEO complaints with DOT. The ratio of complainants (245) to the total DOT workforce, is 0.46 percent, which is lower than the most recently published government-wide average of 0.52 percent (per the Equal Employment Opportunity Commission (EEOC) Annual Report on the Federal Work Force Fiscal Year 2018, Table B-1, <https://www.eeoc.gov/federal/reports/tables.cfm>).

3.5.1. Trends and Analysis

FY 2018-2019 EEO Complaint Volume Declined; Complaints based on Color and Disability Increased

From FY 2018 to FY 2019, the number of EEO complaints filed and the number of complainants declined.

Overall, since FY 2014, EEO complaints have decreased by 22.4 percent and the total number of complainants has decreased by 16.4 percent.

Retaliation has consistently been the most common basis for complaints, with an average of 167 such complaints filed on an annual basis between FY 2014 and FY 2019. Sex (126) and race (108) were the next highest reported bases for complaints, on average, during this same period.

The number of complaints filed on every basis but disability and color have decreased since the last fiscal year. The number of complaints based on disability increased by 18.6 percent; the number of complaints on the basis of color increased by 19.1 percent.

In FY 2019, the most frequently raised type of adverse action was harassment (non-sexual), with 150 complaints filed; harassment has been the most frequently raised adverse action each year since FY 2010. In FY 2019, harassment was followed by promotion/non-selection, which was raised in 70 complaints, assignment of duties, which was raised in 52 complaints, and disciplinary action, which was raised in 49 complaints. While the number of complaints by issue generally stayed the same, or decreased, from FY 2018, the number of complaints based on assignment of duties and reasonable accommodation increased by 10 percent and 12 percent, respectively.

In FY 2019, the formal complaint processing time during the investigative stage was 218 days, which includes the time during which investigations were not being completed due to a lapse in government funding. This is an increase from the FY 2018 processing time of 185 days. From FY 2014 to FY 2019, the annual average time for DOT's processing of formal complaints during the investigative stage was 164 days.

3.6 Findings of Discrimination

There were five findings of discrimination rendered in FY 2019. Three findings were following a hearing before the EEOC, and two were following an appeal to EEOC's Office of Federal Operations. The bases for discrimination in the findings were age, race, color, sex, disability, genetic information, and reprisal. The findings were issued pertaining to discrimination in non-selection, hostile work environment, and disclosure of medical information.

This is comparable to the number of findings in previous years. In FY 2018, there were a total of five findings. One finding was following a hearing before the EEOC, three were following an appeal to EEOC's Office of Federal Operations, and one was a Final Agency Decision. The bases for discrimination in the findings were retaliation, sex, age, national origin, and race. The findings of discrimination were issued pertaining to disciplinary action (other), demotion, non-selection, training, terms and conditions of employment, and sexual harassment.

In FY 2017, there were a total of four findings of discrimination based on disability and retaliation. Those findings were issued pertaining to disciplinary action (other), reasonable accommodation, disclosure of medical information, and non-selection. Since FY 2013, non-selection has been the most frequent issue raised in which discrimination has been found (8 findings), followed closely by hostile work environment (7 findings).

4. Accomplishments, Training, and Awareness

Accomplishments: Agency Efforts Focused on Proactive Prevention and Prompt Action to Address Discrimination and Harassment

DOT focused on improving Departmental policies to promote safe and productive work environments

DOT efforts to engage employees and management on maintaining safe, productive, and inclusive work environments have contributed to the Department being recognized as the fifth best place to work among large government agencies, per the Partnership for Public Service's 2019 Report, and the Department's Federal Employee Viewpoint Survey data, which indicate a net positive work experience. In the 2018 Federal Employment Viewpoint Survey, 73 percent of DOT employee respondents recommended the Department as a good place to work. In addition, a majority of DOT employees (59%) said that the Department's policies and programs promoted diversity in the workplace and 75 percent of employees said that prohibited personnel practices were not tolerated in the Department. DOT's efforts to create a positive and inclusive workplace are in furtherance of DOT's Strategic Plan for 2019-2022, published in February 2018, which prioritizes recruiting talent from all segments of American society, enhancing workforce development and training, and improving employee engagement overall.

In June 2019, the Department issued a Policy Framework for the Prevention of Harassment, which required each of the OAs and the Office of the Secretary to create an anti-harassment

program designed to address harassing behavior before it rises to the level of unlawful harassment. The Framework also directed each of the OAs to designate an Anti-Harassment Coordinator to accept, investigate, and report on complaints of harassment, and to implement appropriate and corrective action where there is a finding of harassing behavior. Many of the OAs prepared draft Anti-Harassment Program Procedures during FY 2019, and all of the OA procedures were approved and issued just after the end of the Fiscal Year. The Framework is designed to address harassing behavior and create a more positive and safe work environment and, as a result, reduce the number of EEO complaints.

DOT has fostered partnerships between civil rights and human resources staff to improve organizational culture and increase understanding of EEO principles.

DOT's Departmental Office of Civil Rights (DOCR) partnered closely with the Departmental Office of Human Resources (DOHRM) and participated in HR working groups to share knowledge and ensure that EEO principles are integrated into the Department's recruitment, hiring, and advancement efforts.

DOCR also worked with the OAs to support a partnership between the Special Emphasis Program Managers (SEPMs) and Employee Resource Groups (ERGs). As a part of that collaboration, the groups held regular meetings to identify goals and priorities for recruitment, hiring, and professional development efforts. The group's first activity was to plan a speed mentoring session in 2020 for employees seeking advice or information about the next steps in their careers.

FHWA's Office of Civil Rights partnered closely with the OA's Human Resources Employee Relations staff to support reasonable accommodation processing and to provide additional support in the development and implementation of FHWA's anti-harassment program.

DOT established programs to proactively address EEO issues.

DOT's Center for Alternative Dispute Resolution provides mediation, facilitation, and conflict coaching services to help resolve disputes early and at the lowest level. The Center offers orientations on how to utilize the Alternative Dispute Resolution (ADR) process, as well as ADR-related informational and skill-based training workshops, to provide employees, including managers and supervisors, with opportunities to learn in a diverse environment and to recognize ways to work productively and interactively to address issues they face. The Center also offers mediation skills trainings to DOT employees biannually, which both prepare DOT employees to participate in mediations as a collateral duty, and teach critical communication skills that can improve their ability to address conflict in the workplace.

FHWA has an active Diversity Management Committee (DMC) in place to create an inclusive organizational environment that provides equitable access to experiences and developmental opportunities. This will allow all FHWA employees to realize their full potential and maximize their contributions to the Agency's mission and their service to the American people. During FY 2019, the DMC partnered with DOT ERGs to deliver

presentations to provide information to FHWA employees about the groups, their missions, and the benefits of participation.

FAA's Office of Civil Rights has initiated a Conflict Coaching Program with the goal of providing a proactive alternative to the agency's suite of Alternative Dispute Resolution options. Conflict Coaching is a one-on-one process where a client works with a trained coach to explore the options for handling a potential or current conflict. The client could be a manager, employee, or an aggrieved person involved in the informal EEO complaint process. Clients are encouraged by their coach to develop their conflict competencies in a proactive manner which will help them increase their confidence and effectiveness managing conflict for the instant issue and beyond. The sessions are voluntary and confidential. Client surveys have shown that 89 percent of participants would recommend Conflict Coaching and use the service again.

Due to extensive efforts to capture the attention of agency employees, the program has continued to grow over the last three years and is on track to continue that growth in FY 2020. To meet that growth, the program has focused on training a cadre of 23 collateral coaches, establishing lead coaches in various geographic locations, and providing regular training to maintain skills.

This proactive approach to conflict offers a viable alternative to employees contemplating filing informal EEO complaints. The goal is to develop a program that will have a significant impact on reducing or eliminating discrimination in the future. During FY 2019, 80.5 percent of survey respondents felt that Conflict Coaching improved their conflict situations.

Training: Agency-wide Focus on Harassing Behavior and on Leadership and Management Practices

DOT focused on trainings to improve workplace culture and prevent harassment.

DOCR and DOHRM, as well as individual OAs, offer resources and training sessions on appropriate workplace behavior. DOCR continued to provide communication trainings to give DOT employees the skills to navigate workplace conflicts.

DOCR maintains the Civil Rights Learning Center, a collective initiative of the Civil Rights offices across the Department to foster continuous learning of the highest quality. Across OAs, training is delivered in-person, via instructor-led video teleconference, and through the employee learning management system, DOTLearns, Adobe Connect, and Aviation Training Network Broadcasts.

In FY 2019, FMCSA implemented mandatory online civility training for all employees and managers. This training was a continuance of the pilot training that FMCSA completed in partnership with DOCR several years ago. Since the completion of the pilot, FMCSA's Office of Civil Rights conducted face-to-face training with several offices in headquarters and in the field. All of the participants expressed positive reviews of the training.

MARAD conducted Prevention of Harassment, Anti-Bullying, and Unconscious Bias training for all employees during FY 2019, to proactively address harassing behaviors. MARAD also provided mediation training for all EEO Counselors.

FAA offered a wide variety of training programs on EEO topics.

FAA's EEO Training Institute implemented new online training to help eliminate discrimination in FAA. Participants can access the training on their mobile devices in addition to their laptops. Among the trainings offered were: Bridging the Diversity Gap; Maintaining a Cohesive Multigenerational Workforce; and Your Role in Workplace Diversity. The EEO Training Institute also offered several micro-learning opportunities on topics such as the Americans with Disabilities Act (ADA), diversity and inclusion, EEO laws, sexual harassment prevention, and workplace bullying.

FAA's Office of Civil Rights (ACR) also participated in many in-person trainings. ACR partnered with the Office of Aviation Safety (AVS) to provide EEO Diversity and Inclusion training to AVS managers and employees during the annual AVS EEO Training Week, which took place in August 2019. ACR trainers provided several EEO courses through webinars and participants also completed online EEO training during the week.

FAA's Office of Civil Rights Eastern Service Area (ESA) conducted 34 EEO training events during which they facilitated 73 separate classes. During these events, the ESA trained over 495 managers and over 817 employees in an effort to create a positive work environment and reduce the number of EEO complaints.

DOT created targeted trainings for managers and supervisors to proactively prevent EEO issues before they arise.

DOCR hosted several training sessions for OST managers and leaders. After a review of DOT's EEO complaint data, DOCR recognized that poor communication skills played a role in many EEO complaints, even those that did not rise to the level of unlawful discrimination or harassment. As a result, DOCR led trainings on general leadership skills, as well as executive communication.

DOHRM continues to offer dynamic executive coaching to General Schedule (GS)-15 managers and members of the Senior Executive Service (SES) to improve leadership performance and employee engagement. DOCR played an essential role throughout FY 2019 in providing new managers with training on the EEO process, the reasonable accommodation process, executive communication, and other EEO-related topics.

During FY 2019, FRA conducted an analysis of EEO complaint data and determined that there was a correlation between complaint frequency and manager experience; the data indicated that less experienced managers more frequently engaged in behaviors that led to complaints. To address this, FRA developed an in-person training for small groups of

managers to provide an overview of civil rights laws and procedures followed by a substantial time for interactive participation.

FHWA's Office of Human Resources Employee Relations team delivered seven two-day Employee Relations Bootcamp training courses to managers, supervisors, and team leaders that highlighted areas such as prohibited personnel practices, EEO rights and responsibilities, the anti-harassment program, and reasonable accommodation procedures. During these courses, the Office of Special Counsel also provided a presentation on prohibited personnel practices and whistleblower protections.

During FY 2019, MARAD conducted training on Anti-Retaliation, EEO roles and responsibilities, and ADR for all managers and supervisors. PHMSA also conducted a New Supervisors Training that included information on civil rights and the provisions of the No FEAR Act. SLSDC offered training programs to managers and supervisors on several topics, including the EEO complaint process, reasonable accommodation, civility and prevention of workplace harassment, and diversity and inclusion. On June 4, 2019, SLSDC's annual Supervisory Training included training on EEO topics. During that training, supervisors and managers participated in a session that included a discussion of the production, "EEO Pitfalls: Educating Federal Managers to Avoid Complaints."

Awareness: Inclusion and Diversity Emphasized in Departmental Awareness Programs

DOT increased employee awareness of EEO rights and responsibilities.

DOT requires all new employees to receive a basic introduction to their rights and responsibilities under applicable civil rights laws. Many OAs, including FTA and MARAD, participate in the DOT's New Employee Orientation program, where the No FEAR Act and EEO rights and responsibilities are discussed in detail. Several OAs also host their own new employee orientation sessions, and include EEO information in those as well.

In FY 2019, PHMSA distributed a notice to all employees and supervisors on avenues available to them for addressing discrimination and whistleblower violations. Additionally, the notice is posted to the internal PHMSA website for all employees to access. SLSDC's annual Engineering and Maintenance Awareness Day, and Lock Operations and Marine Services Orientation, all included sessions on a variety of EEO topics.

DOT and OAs hosted special observance events to increase cultural awareness.

Throughout FY 2019, DOT and the OAs led and participated in many special observance month events, commemorating National Disability Employment Awareness Month, African American History Month, Women's History Month, Asian/Pacific American Heritage Month, and Hispanic Heritage Month. This included both Department-level events, and OA-level events, such as fireside chats, documentary film screenings, educational discussions, and professional development seminars

5. No FEAR Act Training: Marked increase in training efforts

Section 202 of the No FEAR Act requires Federal agencies to provide training for their employees on the rights and remedies under Federal antidiscrimination, retaliation, and whistleblower protection laws. 5 of CFR. § 724.203 requires Federal agencies to develop a written training plan and to have trained their employees by December 17, 2006, and every two years thereafter. Under these regulations, new employees are to receive No FEAR Act training within 90 days of appointment.

DOT requires the inclusion of electronic No FEAR Act training in each employee's e-Learning development plan. Including this training in the development plan with set deadlines helps to ensure that new employees complete the training within 90 days of hire and that employees continue to take their No FEAR Act training within the two-year cycle required by the No FEAR Act. In FY 2019, DOT transitioned to a new Department-wide learning system, DOTLearns, to provide online training to employees.

In FY 2019, 75.5 percent of the 3,172 new DOT employees completed No FEAR Act training within 90 days of appointment. This is consistent with FY 2018's 90-day completion rate of 75.3 percent.

Some operating administrations implement additional programs to help ensure No FEAR Act training requirements are met. For example, NHTSA's Office of Civil Rights requires that all new employees complete online No FEAR Act Training within 90 days of onboarding. To meet this requirement, NHTSA conducts regular check-ins with staff to ensure that No FEAR Act Training is completed, and also sends out individual email reminders to employees who are overdue or approaching their training due date. Completion rates and updates are provided to NHTSA leadership and management teams during meetings throughout the year to emphasize the importance of the training and to ensure all employees meet the training requirement.

6. Actions Planned, Taken, and Practical Knowledge Gained to Improve the Program

6.1 Pursuant to Section 203(a)(7)(D), DOT Plans to Implement These Actions:

- Continue to perform analyses on recruitment, on board, and/or outreach efforts, and identify triggers to understand the causes of low participation of diverse groups in certain areas of the workforce.
- Strive to achieve a bi-annual goal of educating all employees of their rights and protections under antidiscrimination, retaliation, and whistleblower protection laws.
- Provide oversight to ensure that all OAs are implementing effective anti-harassment programs.
- Ensure that new employees receive No FEAR Act training within 90 days of their appointment through DOTLearns. Further, through the new employee orientation program, ensure that new employees receive the information regarding their rights and protections under anti-discrimination, retaliation, and whistleblower protection laws.

- Finalize an updated No FEAR Act training module to ensure that the training is effective, informative, and accessible for all employees.
- Continue to innovate on adult-learning that expands the interdependency of leadership success with equity and access.
- Ensure that complainants and respondents are apprised of the opportunity for mediation and ADR throughout the informal and formal complaint process. This promotes early resolution of complaints, and saves resources and staff time.
- Improve partnerships across the Department to strategically address some of the frequent bases of EEO complaints.
- Collaborate with veterans' programs to increase hiring of veterans, including those with targeted disabilities.

6.2 Practical Knowledge Gained

- The Office of the Secretary and the OAs play a vital role in meeting the reporting requirements of the No FEAR Act. As a result, to the extent resources allow, DOT will continue to work on the development of information systems that facilitate and automate the process of gathering and analyzing data so that it is accessible to everyone.
- The trend analyses inherent in No FEAR Act reporting is shared with all DOT offices to spur relevant action planning to address a range of issues, including potential barriers to employment and advancement of individuals from diverse backgrounds.

Appendix A – Summary Data

Table 2: Total Complaints Filed and Complainants Filing, FY 2014 to FY 2019						
	2014	2015	2016	2017	2018	2019
Number of Complaints Filed	322	348	294	266	271	250
Number of Complainants	293	323	284	259	262	245
Repeat Filers	14	8	10	7	9	6

Table 3: Complaints by Basis, FY 2014 to FY 2019						
Basis	2014	2015	2016	2017	2018	2019
Race	142	158	102	100	107	100
Reprisal	184	199	161	158	161	138
Sex	149	130	120	115	138	106
Age	136	128	109	96	102	86
Disability	93	111	109	95	86	102

Table 4: Top Complaints Filed by Issue, FY 2014 to FY 2019						
Issue	2014	2015	2016	2017	2018	2019
Harassment (Non-Sexual)	130	160	146	134	173	150
Promotion/Non-Selection	87	87	71	61	79	70
Disciplinary Action	23	32	20	34	63	49
Assignment of Duties	22	23	14	29	47	52
Reasonable Accommodation	28	23	31	32	33	37
Terms and Conditions of Employment	13	10	6	31	37	32
Training	24	27	15	22	34	30
Termination	10	27	26	25	27	24

Table 5: Findings of Discrimination by Basis, FY 2014 to FY 2019						
Basis	2014	2015	2016	2017	2018	2019
Age	2	1	0	0	1	2
Color	0	1	0	0	0	2
Disability	1	1	3	2	0	3
Equal Pay	0	0	0	0	0	0
National Origin	1	0	0	0	1	0
Race	1	1	1	0	1	2
Religion	0	0	0	0	0	0
Reprisal	1	2	3	2	4	3
Sex	0	0	3	0	1	1

Table 6: Findings of Discrimination by Issue, FY 2014 to FY 2019						
Issue	2014	2015	2016	2017	2018	2019
Assignment of Duties	1	0	0	0	1	0
Harassment	1	1	2	0	1	3
Medical Examination	0	1	1	0	0	0
Promotion/Non-Selection	0	0	0	1	2	2
Reasonable Accommodation	0	0	1	1	0	0
Terms/Conditions of Employment	1	1	0	2	0	0
Training	0	0	2	0	1	0
Disclosure of Medical Information	0	0	0	1	0	2

Table 7: Federal Court Cases with Alleged Violation of Law, FY 2014 to FY 2019						
	2014	2015	2016	2017	2018	2019
Total Court Cases	33	33	25	35	33	32
Alleged Title VII Violation	29	29	19	30	26	25
Alleged Age Discrimination in Employment Act Violation	9	7	5	4	7	9
Alleged Rehabilitation Act Violation	5	3	2	10	13	7
Alleged Whistleblower Protection Act Violation	0	2	1	0	0	0
Alleged Equal Pay Act Violation	0	0	0	0	0	0
Alleged Retaliation	9	6	14	17	13	9

Table 8: Formal Complaint Processing Time in Days, FY 2014 to FY 2019						
	2014	2015	2016	2017	2018	2019
Investigation Stage	139	138	141	166	185	218
Final Action Stage	42	42	62	85	57	67

Table 9: Annual Total Reimbursements to the Judgment Fund by Amount, FY 2014 to FY 2019						
	2014	2015	2016	2017	2018	2019
Total Reimbursements	\$1,116,156	\$1,009,500	\$307,000	\$568,113	\$458,000	\$29,500

Table 10: Pre-Complaint Processing Timelines, FY 2014 to FY 2019						
Rate of Individuals Counseled within Mandatory Timeframe	2014	2015	2016	2017	2018	2019
	90.00%	96.10%	98.10%	98.48%	95.65%	98.13%

Table 11: Reimbursements to Judgment Fund by Number of Cases, FY 2014 to FY 2019						
Cases Resulting in Reimbursements	2014	2015	2016	2017	2018	2019
	7	3	3	5	2	2

Appendix B – EEO Data Posted Pursuant to the No FEAR Act

	Comparative Data Previous Fiscal Year Data					2019
	2014	2015	2016	2017	2018	
Number of Complaints Filed	322	348	294	266	271	250
Number of Complainants	293	323	284	259	262	245
Repeat Filers	14	8	10	7	9	6

Complaints by Basis <i>Note: Complaints can be filed alleging multiple bases of discrimination. The sum of the bases may not equal total complaints filed.</i>	Comparative Data Previous Fiscal Year Data					2019
	2014	2015	2016	2017	2018	
Race	142	158	102	100	107	100
Color	65	74	42	46	47	56
Religion	21	20	14	20	15	14
Reprisal	184	199	161	152	161	138
Sex (including complaints filed under Equal Pay Act [EPA])	153	133	120	115	138	106
National Origin	42	40	29	40	31	31
Age	134	128	109	96	102	86
Disability	93	111	109	95	86	102
Non-EEO basis	18	15	10	8	15	12
Genetics	4	4	3	3	4	0
PDA	4	3	1	0	5	4

Complaints by Issue <i>Note: Complaints can be filed alleging multiple issues. The sum of the bases may not equal total complaints filed.</i>	Comparative Data Previous Fiscal Year Data					2019
	2014	2015	2016	2017	2018	
Appointment/Hire	18	34	13	13	10	9
Assignment of Duties	22	23	14	29	47	52
Awards	7	7	5	6	9	6
Conversion to Full Time	0	0	0	0	1	0
Disciplinary Action						
Demotion	2	2	1	2	3	3
Reprimand	6	9	3	7	17	18
Removal	1	4	3	5	6	10
Suspension	12	12	11	12	20	17
Other	2	8	4	6	15	1
Duty Hours	3	3	5	8	10	11
Evaluation/Appraisal	20	19	19	39	45	33
Examination/Test	1	6	1	2	4	1
Harassment						
Non-Sexual	130	160	146	151	173	150
Sexual	12	8	10	16	16	13
Medical Examination	0	3	2	4	4	1
Pay (including overtime)	21	10	13	14	26	18
Reassignment						
Promotion/Non-Selection	87	87	71	63	79	70
Denied	5	5	4	5	13	11
Directed	13	8	8	11	17	9
Reasonable Accommodation	28	25	31	32	33	37
Reinstatement	0	0	0	2	0	0
Retirement	5	4	11	5	5	6
Termination	10	27	26	25	27	24
Terms/Conditions of Employment	13	10	6	31	37	32
Time and Attendance	19	14	4	16	34	27
Training	24	26	15	22	34	30

Processing Time	Comparative Data Previous Fiscal Year Data					2019
	2014	2015	2016	2017	2018	
Complaints pending (<i>for any length of time</i>) during fiscal year						
Average number of days in investigation stage	138.87	137.87	140.86	166.08	185.1	218.9
Average number of days in final action stage	42.37	41.91	62.45	85.05	56.83	67.37
Complaints pending (<i>for any length of time</i>) during fiscal year where hearing was requested during fiscal year						
Average number of days in investigation stage	150.78	141.31	141.64	158.81	191.18	257.42
Average number of days in final action stage	26.8	35.39	47.95	72.03	51.8	69.86
Complaints pending (<i>for any length of time</i>) during fiscal year where hearing was not requested						
Average number of days in investigation stage	142.72	129.16	13.927	177.62	167.41	211.29
Average number of days in final action stage	58.15	51.04	79.38	98.07	64.69	62.11

Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data					2019
	2014	2015	2016	2017	2018	
Total Complaints Dismissed by Agency	61	92	75	23	36	43
Average days pending prior to dismissal	46	812	15	35	71	76
Total Complaints Withdrawn by Complainants	16	20	16	15	12	13

Total Final Actions Finding Discrimination	Comparative Data Previous Fiscal Year Data										2019	
	2014		2015		2016		2017		2018			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	2		3		4		4		5		5	
Without Hearing	0	0	0	0	0	0	0	0	1	20	0	0
With Hearing	2	100	3	100	4	100	4	100	4	80	5	100

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data											
	2014		2015		2016		2017		2018		2019	
<i>Note: Complaints can be filed alleging multiple bases of discrimination. The sum of the bases may not equal total complaints and findings.</i>	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	2		3		4		4		5		5	
Race	1	50	1	33.3	1	25.0	0	0	1	20	2	40
Color	0	0	1	33.3	0	0.0	0	0	0	0	2	40
Religion	0	0	0	0	0	0.0	0	0	0	0	0	0
Reprisal	1	50	2	66.7	3	75.0	1	25.0	3	60	3	60
Sex (including complaints filed under EPA)	0	0	0	0	3	75.0	0	0	2	40	1	20
National Origin	1	50	0	0	0	0.0	0	0	1	20	0	0
Age	2	100	2	66.7	0	0.0	0	0	1	20	2	40
Disability	1	50	1	33.3	3	75.0	3	75.0	0	0	3	60
Non-EEO basis	0	0	0	0	0	0.0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0.0	0	0	0		1	20
Pregnancy Discrimination Act (PDA)	0	0	0	0	0	0.0	0	0	0	0	0	0
Findings After Hearing	2		3		4		4		4		5	
Race	1	50	1	33.3	1	25.0	0	0	0	0	2	40
Color	0	0	1	33.3	0	0.0	0	0	0	0	2	40
Religion	0	0	0	0	0	0.0	0	0	0	0	0	0
Reprisal	1	50	2	66.7	3	75.0	1	25.0	3	75	3	60
Sex (including complaints filed under EPA)	0	0	0	0	3	75.0	0	0	2	50	1	20
National Origin	1	50	0	0	0	0.0	0	0	1	25	0	0
Age	2	100	2	66.7	0	0.0	0	0	1	25	2	40
Disability	1	50	1	33.3	3	75.0	3	75.0	0	0	3	60
Non-EEO basis	0	0	0	0	0	0.0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0.0	0	0	0	0	1	20
PDA	0	0	0	0	0	0.0	0	0	0	0	0	0
Findings Without Hearing	0		0		0		0		1		0	
Race	0	0	0	0	0	0	0	0	1	100	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0

Sex (including complaints filed under EPA)	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO basis	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0

Findings of Discrimination Rendered by Issue (Part 1)	Comparative Data Previous Fiscal Year Data											
	2014		2015		2016		2017		2018			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number of Findings	2		3		4		4		5		5	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	1	20	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	1	33.3	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	1	25	1	25	1	20	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation/Appraisal	0	0	0	0	0	0	0	0	1	20	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	1	50	2	66.7	2	50	0	0	0	0	3	60
Sexual	0	0	0	0	0	0	0	0	1	20	0	0
Medical Examination	1	50	0	0	1	25	0	0	0	0	0	0
Pay (including overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	3	100	0	0	1	25	2	40	2	40
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	2	66.7	0	0	1	25	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0

Termination	0	0	1	33.3	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	1	50	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	1	25.0	0	0	2	40

Findings of Discrimination Rendered by Issue (Part 2)	Comparative Data Previous Fiscal Year Data											
	2014		2015		2016		2017		2018			
	#	%	#	%	#	%	#	%	#	%	#	%
Findings After Hearing	2		3		4		4		4		5	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	1	25	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	1	25	1	25	1	25	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation/Appraisal	0	0	0	0	0	0	0	0	1	25	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	1	50	1	33.3	2	50	0	0	0	0	3	60
Sexual	0	0	0	0	0	0	0	0	1	25	0	0
Medical Examination	1	50	0	0	1	25	0	0	0	0	0	0
Pay (including overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	3	100	0	0	1	25	1	25	2	40
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	2	66.7	0	0	1	25	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	1	33.3	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	1	50	0	0	0	0	0	0	0	0	0	0

Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	1	25	0	0	2	40

Findings of Discrimination Rendered by Issue (Part 3)	Comparative Data Previous Fiscal Year Data										2019	
	2014		2015		2016		2017		2018			
	#	%	#	%	#	%	#	%	#	%	#	%
Findings Without Hearing	0	0	0		0		0		1		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (including overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	1	100	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data Previous Fiscal Year Data					2019
	2014	2015	2016	2017	2018	
Total Complaints from Previous Fiscal Years	506	530	591	605	621	685
Total Complainants	410	426	471	491	509	571
Number Complaints Pending						
Investigation	84	97	91	91	96	105
Hearing	297	292	333	382	402	447
Final Agency Action	20	26	31	48	61	66
Appeal with EEOC Office of Federal Operations	105	115	136	84	62	67

Complaint Investigations	Comparative Data Previous Fiscal Year Data					2019
	2014	2015	2016	2017	2018	
Pending Completion Where Investigation Exceeds Required Time Frames	7	7	3	15	44	52

