



UNITED STATES
DEPARTMENT OF TRANSPORTATION

Fiscal Year 2021
Annual Report to Congress on the
Notification and Federal Employee
Antidiscrimination and
Retaliation Act of 2002

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1. Background

In 2002, Congress passed 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.*, 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 required Federal agencies to 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.

In addition, the No FEAR Act requires agencies to 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.

The No FEAR Act also requires each Federal agency to report annually to Congress on its complaints of discrimination, Federal court cases involving discrimination, and activities to prevent discrimination and retaliation.

In doing so, Federal agencies report on:

- 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 those 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 of Federal sector EEO complaint activity;
- An analysis of the information provided in this report, including an examination of trends, causal analysis, lessons learned, and actions planned or taken to improve compliance; and
- The agency's plan to train employees on their rights under the No FEAR Act.

Representatives from the U.S. Department of Transportation's (DOT or the Department) Office of the Secretary, including the Departmental Office of Civil Rights (DOCR), the Departmental Office of Human Resource Management (DOHRM), and the Office of the Assistant Secretary for Administration assisted in the preparation of this report on anti-discrimination activities during FY 2021, in collaboration with the Office of Inspector General and the DOT's 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 Great Lakes St. Lawrence Seaway Development Corporation (GLS).

Pursuant to statutory requirements, DOT provides the No FEAR Act annual report to the following members of the 117th Congress:

The Honorable Kamala Harris
President of the Senate

The Honorable Nancy Pelosi
Speaker of the House of Representatives

The Honorable Patrick Leahy
President Pro Tempore of the Senate
Chairman, Senate Committee on
Appropriations

The Honorable Rosa L. DeLauro
Chairwoman, House Committee on
Appropriations

The Honorable Richard Shelby
Vice Chairman, Senate Committee on
Appropriations

The Honorable Kay Granger
Ranking Member, House Committee on
Appropriations

The Honorable Sherrod Brown
Chairman, Senate Committee on Banking,
Housing, and Urban Affairs

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

The Honorable Patrick J. Toomey
Ranking Member, Senate Committee on
Banking, Housing, and Urban Affairs

The Honorable Cathy McMorris Rodgers
Ranking Member, House Committee on
Energy and Commerce

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

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

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

The Honorable James Comer
Ranking Member, House Committee on
Oversight and Reform

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

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

The Honorable Shelley Moore Capito
Ranking Member, Senate Committee on
Environment and Public Works

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

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

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

The Honorable Rob Portman
Ranking Member, Senate Committee on
Homeland Security and Governmental Affairs

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

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

- The Honorable Charlotte A. Burrows, Chair, U.S. Equal Employment Opportunity Commission
- The Honorable Merrick B. Garland, Attorney General, U.S. Department of Justice
- The Honorable Kiran Ahuja, Director, U.S. Office of Personnel Management

2. DOT's Mission

DOT's mission is to deliver the world's leading transportation system, serving the American people and economy through the safe, efficient, sustainable, and equitable movement of people and goods.

In FY 2021, DOT established a DOT-wide Workforce Equity Team, as a part of its efforts to implement Executive Order 14035, Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce. This team is finalizing the first DOT Diversity, Equity, Inclusion, and Accessibility (DEIA) Strategic Plan, which outlines DOT's strategies, priorities, and actions to improve DEIA throughout the Agency. DOT already has established policies and programs to lead as a model agency by working to proactively address and prevent discrimination, harassment, and retaliation in the workplace. Through the Workforce Equity Team, DOT also will implement additional policies and programs to build on that success and improve equity and inclusion across the Agency.

3. Results and Data

3.1 EEO Complaint Activity in Federal Court and Disposition

FY 2021 Federal Court Case Volume Increased Slightly

The total number of Federal court cases in FY 2021 (41) increased from last year (36). Since FY 2013, the number of court cases has been in the low-to mid-30s range, with only one year where the number of cases decreased. The number of pending cases also increased, from 25 at the close of FY 2020 to 27 at the close of FY 2021.

In FY 2021, the most frequently raised bases in Federal court cases were race (201) and sex (15). Almost half of the cases involved allegations of retaliation; there were 12 cases involving allegations of harassment, 11 cases involving allegations of discrimination in non-selection, and 4 cases involving reasonable accommodation.

The breakdown of allegations in the 27 cases pending in Federal court is as follows:¹

- 21 cases contain claims under Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-16);

¹ More than one type of allegation can be made in a single case.

- 8 cases contain claims under the Age Discrimination in Employment Act (ADEA) of 1967 (29 U.S.C. §§ 631, 633 (a));
- 8 cases contain claims under the Rehabilitation Act of 1973 (Rehabilitation Act) (29 U.S.C. § 791); and,
- 14 cases contain claims of retaliation.

The breakdown of the Federal court cases that were resolved is as follows:

- 11 cases concerned Title VII;
- 3 cases concerned the ADEA;
- 3 cases concerned the Rehabilitation Act; and,
- 6 cases involved allegations of retaliation.

In FY 2021, fourteen cases were closed. Of those, courts granted summary judgment in three cases, all of which were in favor of the Department. The Department prevailed at hearing in two cases. Three cases ended in settlement, five were dismissed, and one was withdrawn.

3.2 Reimbursements and Budget Adjustments in FY 2021

DOT reimbursed the Judgment Fund a total of \$43,951,538 for three Federal court cases. (See Table 1). This amount was based on three cases settled: one for \$150,000, one for \$1,538, and one for \$43,800,000.²

3.3 Number of Employees Disciplined and Disciplinary Policy

Although several of DOT's OAs have tables of penalties, Department-wide disciplinary policy is contained in the Secretarial Policy Statements, which make clear the Secretary's commitment to establishing and maintaining a workplace free from discrimination, harassment, and/or retaliation. The policy statements advise employees regarding their rights and responsibilities and inform all DOT employees that they will be held accountable for any actions that are in violation of DOT policies on discrimination, harassment, and retaliation. The statements specifically say that employees will be subject to disciplinary action, up to and including dismissal, for engaging in discriminatory conduct. In addition, Department leadership expects everyone to comply with the requirements of the No FEAR Act, including protection of whistleblowers and prevention of retaliation. Harassment will not be tolerated.

DOT's Secretarial Policy Statements are issued annually and are distributed to DOT employees via email, posted in common areas throughout DOT offices, and posted electronically on DOT's public-facing website. In addition, due to the coronavirus disease 2019 (COVID-19) pandemic, many OAs have established new policies to distribute the statements electronically through their specific intranet sites to allow wide dissemination to all employees, including those working remotely.

² This was a settlement of a longstanding ADEA lawsuit with FAA involving several hundred plaintiffs.

In FY 2021, in enforcing the above policies, DOT disciplined a total of nine employees, all based on harassment. One employee was removed, five employees were suspended, and three employees received a reprimand.

3.4 Summary Federal Court Case Data

Table 1: Summary of Federal Court Cases DOT FY 2021 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	27
B. Cases Resolved	14
The status or disposition of resolved cases	
Dismissed	5
Settled	3
Summary Judgment for the Agency	3
Agency Prevailed at Hearing	2
Withdrawn	1
Award	0
Total Resolved Cases	14
Funds required to be reimbursed by DOT under Section 201 in connection with each case	
Title VII, Rehabilitation Act, ADEA	\$150,000
Title VII	\$1,538
ADEA	\$43,800,000
Total Reimbursement	\$43,951,538
Number of employees disciplined for discrimination, retaliation, harassment, or any other provision of the law referred:	9
The number of employees disciplined because of violating Departmental policy:	9
Disciplinary Actions Taken:	Three employees received reprimands, five employees received suspensions, and one employee was removed.

3.5 Analysis of Complaints

From FY 2020 to FY 2021, DOT experienced a 35% decrease in EEO complaints and a nearly 36% decrease in the number of complainants. During FY 2021, 170 complainants filed a total of 177 EEO complaints with DOT. The ratio of complainants (170) to the total DOT permanent workforce (53,188) is 0.31 percent, which is lower than the most recently published government-wide average of 0.48 percent (per the Equal Employment Opportunity Commission (EEOC) Annual Report on the Federal Work Force Fiscal Year 2019, Table B-1, <https://www.eeoc.gov/federal/reports>).

3.5.1. Trends and Analysis

FY 2020-2021 EEO Complaint Numbers Decreased; the Percentage of Complaints Based on Race Increased.

In FY 2021, DOT experienced a significant decrease in EEO complaints; DOT received two thirds of complaints that it received in the previous year. Many Federal agencies have reported a similar trend during this period.

In FY 2021, the most frequently raised basis was reprisal; it continues to be the most frequently raised basis for EEO complaints over the last five fiscal years. Reprisal was followed by race, sex, and disability allegations. Due to the decrease in EEO complaints, the number of complaints on every basis decreased. However, there were changes in the rates at which bases were raised. In FY 2020, race was raised in nearly 36% of complaints while in FY 2021, race was raised in 42% of complaints. Complaints based on sex remained consistent from FY 2020 (38%) to FY 2021 (37%). In contrast, over that same period, complaints based on color decreased significantly (by 46 percent). Age was raised in nearly 36% of complaints in FY 2020, and only 31% of complaints in FY 2021. Similarly, disability was raised in 39% of complaints in FY 2020, and only 33% of complaints in FY 2021.

Also, harassment continues to be the most frequently raised issue in FY 2021 complaints, which follows the trend over last five years. Harassment (non-sexual) was alleged in over 65% of EEO complaints. However, the number of harassment claims increased from FY 2020, where harassment was raised in 60% of EEO complaints. After harassment, the next most frequently raised issue was promotion/non-selection, which was raised in 22% of complaints. Reasonable accommodation was raised as an issue in 11% of complaints.

3.6 Findings of Discrimination

In FY 2021, one Final Agency Decision was issued concluding that the agency discriminated on the basis of race, sex, and reprisal. The employment issues concerned performance management, training, and harassment (non-sexual). Based on that Final Agency Decision, DOT took a number of corrective actions, including management training, disciplinary action, and additional EEO policy postings.

That single finding of discrimination in FY 2021 represents a decrease from previous years; DOT had four findings in FY 2020, and five findings in both FY 2019 and FY 2018. In FY 2020, the bases for discrimination in the findings were age, race, national origin, color, sex, disability, and reprisal. EEOC issued a finding of discrimination involving the denial of a reasonable accommodation. Three Final Agency Decisions were made on complaints containing allegations of harassment (non-sexual), two were also based on reassignment, and one was based on sexual harassment.

In FY 2019, the bases for discrimination in the findings were age, race, color, sex, disability, genetic information, and reprisal. The findings were issued for discrimination in non-selection, harassment (non-sexual), and disclosure of medical information.

In FY 2018, the bases for discrimination in the findings were retaliation, sex, age, national origin, and race. The findings of discrimination were issued for disciplinary action, demotion, non-selection, training, terms and conditions of employment, and sexual harassment.

4. Accomplishments, Training, and Awareness

Anti-Discrimination and EEO Policies

During FY 2021, DOT Secretary Buttigieg issued Civil Rights Policy statements on topics including equal employment opportunity, No FEAR Act rights and responsibilities, harassment, and the employment and advancement of people with disabilities. DOT posted those statements at its headquarters office as well as on its public website. DOT also enhanced its No FEAR training, described below, to include these Secretarial statements. Several DOT Operating Administrations also shared the statements through additional internal communications.

In FY 2021, DOT issued a new Departmental Reasonable Accommodation Order. Among the changes, supervisors and managers are no longer permitted to request employee medical documentation for reasonable accommodation; the Order requires each Operating Administration (OA) to designate a disability advisor who is responsible for requesting, receiving, and reviewing employee medical documentation, to function as an additional safeguard against unintentional disclosure of employees' medical information. Throughout the year, every OA began developing new reasonable accommodation procedures to effectively implement this Order.

As described above, the majority of complaints filed at DOT and in the Federal government are harassment allegations. To address this, DOOCR and DOHRM have strengthened DOT's anti-harassment program. The offices also partner to oversee OA anti-harassment programs. DOOCR and DOHRM conducted an annual review of the OA programs, which included a review of harassment complaint data and trends. The OA programs ensured that all employees and supervisors/managers received training on the anti-harassment program. Some OAs also provided additional workshops and skills-based trainings to support a safe and inclusive workplace.

In support of Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, the U.S. Merchant Marine Academy (USMMA) is drafting a transgender policy. This document will establish guidance with recommendations, points of contact, and best practices to address the unique challenges that a transgender Midshipman may face.

Advancing Diversity, Equity, Inclusion, and Accessibility

In FY 2021, as a part of the Department's implementation of Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, and Executive Order 14035, Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce, DOCR partnered with DOHRM to establish a Workforce Equity Team dedicated to improving diversity, equity, inclusion, and accessibility (DEIA) in the DOT workplace. This team reviewed Departmental policies, programs, and practices to identify best practices and barriers to DEIA. As a part of this work, the team conducted a preliminary DEIA Assessment of DOT, which is being used to support the development of DOT's DEIA Strategic Plan in FY 2022.

DOCR also continued to partner with DOHRM to host the Department's Special Emphasis Program Manager (SEPM)/Employee Resource Group (ERG) community of practice. The group met quarterly in FY 2021 to discuss strategies to advance diversity and inclusion across the Department, and to share OA best practices and activities.

FAA's Office of Civil Rights collaborated with the FAA Office of Human Resource Management to develop the first FAA DEIA Strategic Plan, which focused on four areas: Leadership, Culture, Workforce, and Data Collection. FAA has established an implementation team and is continuing to develop FAA-wide activities. During the summer of 2021, the FAA Administrator and Deputy Administrator held three nationwide diversity listening sessions to hear directly from the FAA workforce on DEIA issues. In July 2021, FAA also sponsored its first annual Diversity, Equity, and Inclusion Symposium. During the symposium, FAA leadership expressed their strong commitment to DEIA and attendees participated in dynamic and interactive virtual booths and attended a variety of sessions.

In April 2021, the FTA Administrator hosted a moment of reflection listening session for FTA employees related to discrimination, diversity, inclusion, and civility. Faculty at MARAD's USMMA formed a Culture Group, which meets regularly to identify strategies to create an inclusive work and educational environment.

Throughout FY 2021, 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, including hosting outside speakers. NHTSA established a Cultural Heritage Employee Working Group that provides an opportunity for employees to volunteer in the planning and participation of Special Emphasis Programs.

Anti-discrimination, Anti-harassment, EEO, and DEIA Trainings

DOT and its OAs hosted many trainings throughout FY 2021 to support a safe, inclusive workplace culture. Many of these trainings focused specifically on EEO and nondiscrimination topics, including reasonable accommodation, while others focused on communication skills to create a more productive and civil work environment. For example, DOT's New Employee Orientation includes a section on EEO rights and responsibilities, as well as the points of contact for the EEO and Anti-Harassment Programs in each OA. In addition, as mentioned above, all OAs hosted regular trainings on their anti-harassment programs and on creating a safe workplace culture.

FAA hosted a number of trainings throughout FY 2021, including:

- **Civility Matters:** This training was a part of the FAA Office of Civil Rights Harmony and Respect Campaign. This skills-based training for FAA leaders supported the development of a positive workplace culture and increased employee engagement.
- **Managing EEO Responsibilities for Managers:** This training for managers provided information on addressing and navigating EEO responsibilities, identifying communication techniques to address employee concerns, and proactively preventing workplace conflicts and resolving issues at the lowest level.
- **Americans with Disabilities Act Workshop:** This workshop for FAA's Civil Rights, Legal, Medical, and Human Resources offices focused on best practices in processing requests for reasonable accommodation.

FHWA's Office of Civil Rights hosted a Virtual EEO Awareness Symposium in FY 2021, which included various sessions, such as:

- **Which Lane Are You In?:** This session provided guidance on processes for Management, EEO, Employee Relations, Anti-Harassment, Grievance, Departmental Alternative Dispute Resolution (ADR), and Reasonable Accommodations.
- **Successful Practices in Accessibility Workshop:** This session focused on the importance of accessibility, agency accessibility regulatory and policy requirements as well as tools and resources to consider to ensure accessibility for all.
- **Special Emphasis: Employee Resource Group Panel:** This session highlighted DOT's Employee Resource Groups, including Hispanics in Transportation (HIT), Federally Employed Women (FEW), DOT Gay, Lesbian, Bisexual and Transgender Employees and Allies Advocacy Group (DOT PRIDE), DOT Asian Pacific American Employees Council, and African American Leaders in Transportation (AALT) (FHWA Employees only) ERGs.

FHWA also hosted trainings during FY 2021, including:

- **Employee Relations Bootcamps:** FHWA's Office of Human Resources hosted Employee Relations Bootcamps for managers, supervisors, and team leaders on topics including EEO rights and responsibilities, the anti-harassment program, and reasonable accommodation processing.

- **EEO and Reasonable Accommodation Training:** These sessions covered workplace conflict, reasonable accommodation requests, and information about the EEO process.
- **Leading for Respect and Respectful Workplace:** FHWA's Anti-Harassment Coordinator hosted these trainings on the prevention of harassment and the creation of a safe workplace culture.

MARAD established a brown-bag series for supervisors and managers on EEO basics, anti-harassment, and conflict resolution. MARAD also led a mandatory training on EEO and anti-harassment for managers and supervisors at the U.S. Merchant Marine Academy.

NHTSA hosted a required training on implicit bias, which included skills to challenge biases in decision-making.

EEO Complaint Processing

DOCR has allocated resources to improve its EEO complaint processing. FAA's Office of Civil Rights detailed additional resources to DOCR to assist with acceptance letters and legal sufficiency reviews of reports of investigations. This partnership has built OA capacity in understanding the formal EEO complaint process.

FAA's Office of Civil Rights implemented a number of initiatives to streamline the informal EEO complaint process. They completed all EEO counseling in a timely manner and all counselor reports within 15 days of request by DOCR. They also worked to improve accuracy in the completion of the National Intake Process for new EEO cases, which allows issues to be resolved more quickly and more efficiently.

5. No FEAR Act Training

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. Title 5 of C.F.R § 724.203 requires agencies to develop a written training plan and train 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 ensure that new employees complete the training within 90 days of appointment and that employees continue to take their No FEAR Act training within the required two-year cycle.

In FY 2021, 67.8 percent of the 2,565 new DOT employees completed No FEAR Act training within 90 days of appointment. This is a decrease from the FY 2020 completion rate of 74.4 percent. During FY 2021, there was a technical problem with DOT's training platform, DOT Learns, and the No FEAR training inadvertently was removed from many new employees' training plans; once the problem was resolved, the training was assigned to employees' learning plans and all employees were expected to complete the training. DOT

relaunched a new, up-to-date training that includes information on DOT's new anti-harassment program at the end of FY 2021.

Some OAs implement additional measures to help ensure No FEAR Act training requirements are met. For example, NHTSA's Office of Civil Rights conducts regular check-ins with staff to ensure that No FEAR Act training is completed. 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. FTA required the inclusion of the No FEAR Act training in each employee's DOT Learns development plan and encouraged new employees to complete the training within 30 days of appointment.

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 conduct analyses on recruitment, onboard, and/or outreach efforts, and identify the root causes of low participation of diverse groups in certain areas of the workforce.
- Strive to achieve a biennial goal of educating all employees of their rights and protections under antidiscrimination, retaliation, and whistleblower protection laws.
- Ensure that new employees receive No FEAR Act training within 90 days of their appointment through DOT Learns. Further, through the employee orientation program, continue providing new hires information regarding their rights and protections under anti-discrimination, retaliation, and whistleblower protection laws.
- Continue to innovate on adult-learning that expands the interdependency of leadership success with equity and access.
- Provide oversight to ensure that all OAs are implementing effective anti-harassment programs.
- Ensure 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 and collaboration across the Department to strategically address some of the frequent bases of EEO complaints.
- Partner with HR offices across the Department to ensure that recruitment, professional development, and accountability measures all incorporate the principles of equity and inclusion.
- Ensure that the anti-harassment program is utilized effectively to address workplace issues before they rise to the level of unlawful discrimination or harassment.
- Collaborate with veterans' programs to increase hiring of veterans, including those with targeted disabilities.

6.2 Practical Knowledge Gained

- DOT's 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 2016 to FY 2021						
	2016	2017	2018	2019	2020	2021
Number of Complaints Filed	294	266	271	250	273	177
Number of Complainants	284	259	262	245	265	170
Repeat Filers	10	7	9	6	6	7

Table 3: Complaints by Basis, FY 2016 to FY 2021						
Basis	2016	2017	2018	2019	2020	2021
Reprisal	161	158	161	138	153	113
Race	102	100	107	100	98	75
Sex	120	115	138	106	105	65
Disability	109	95	86	102	108	58
Age	109	96	102	86	98	55

Table 4: Top Complaints Filed by Issue, FY 2016 to FY 2021						
Issue	2016	2017	2018	2019	2020	2021
Harassment (Non-Sexual)	146	134	173	150	164	116
Promotion/Non-Selection	71	61	79	70	84	39
Disciplinary Action	20	34	63	49	29	39
Assignment of Duties	14	29	47	52	52	33
Reasonable Accommodation	31	32	33	37	41	20
Evaluation/Appraisal	19	39	45	33	46	19
Terms and Conditions of Employment	6	31	37	32	34	19
Time and Attendance	4	16	34	27	23	17
Training	15	22	34	30	22	16

Table 5: Findings of Discrimination by Basis, FY 2016 to FY 2021						
Basis	2016	2017	2018	2019	2020	2021
Age	0	0	1	2	1	0
Color	0	0	0	2	1	0
Disability	3	2	0	3	1	0
Equal Pay	0	0	0	0	0	0
National Origin	0	0	1	0	1	0
Race	1	0	1	2	1	0
Religion	0	0	0	0	0	0
Reprisal	3	2	4	3	2	1
Sex	3	0	1	1	2	0

Table 6: Findings of Discrimination by Issue, FY 2016 to FY 2021						
Issue	2016	2017	2018	2019	2020	2021
Assignment of Duties	0	0	1	0	1	0
Harassment	2	0	1	3	4	0
Medical Examination	1	0	0	0	0	0
Promotion/Non-Selection	0	1	2	2	1	0
Reasonable Accommodation	1	1	0	0	1	0
Terms/Conditions of Employment	0	2	0	0	0	0
Training	2	0	1	0	0	1
Disclosure of Medical Information	0	1	0	2	0	0
Performance Evaluation	0	0	0	0	0	1

Table 7: Federal Court Cases with Alleged Violation of Law, FY 2016 to FY 2021						
	2016	2017	2018	2019	2020	2021
Total Court Cases	25	35	33	32	36	41
Alleged Title VII Violation	19	30	26	25	29	32
Alleged Age Discrimination in Employment Act Violation	5	4	7	9	6	11
Alleged Rehabilitation Act Violation	2	10	13	7	7	11
Alleged Whistleblower Protection Act Violation	1	0	0	0	0	0
Alleged Equal Pay Act Violation	0	0	0	0	0	0
Alleged Retaliation	14	17	13	9	16	20

Table 8: Formal Complaint Processing Time in Days, FY 2016 to FY 2021						
	2016	2017	2018	2019	2020	2021
Investigation Stage	141	166	185	218	298	300
Final Action Stage	62	85	57	67	64	161

Table 9: Annual Total Reimbursements for No FEAR Act cases by Amount, FY 2016 to FY 2021						
	2016	2017	2018	2019	2020	2021
Total Reimbursements	\$307,000	\$568,113	\$458,000	\$29,500	\$282,000	\$43,951,538

Table 10: Pre-Complaint Processing Timelines, FY 2016 to FY 2021							
Rate of Individuals Counseled within Mandatory Timeframe	2016	2017	2018	2019	2020	2021	
		98.10%	98.48%	95.65%	98.13%	98.15%	96.5%

Table 11: Reimbursements for No FEAR Act cases by Number of Cases, FY 2016 to FY 2021						
Cases Resulting in Reimbursements	2016	2017	2018	2019	2020	2021
		3	5	2	2	3

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

Total Complaints	Comparative Data Previous Fiscal Year Data					2021
	2016	2017	2018	2019	2020	
Number of Complaints Filed	294	266	271	250	273	177
Number of Complainants	284	259	262	245	265	170
Repeat Filers	10	7	9	6	6	7

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					2021
	2016	2017	2018	2019	2020	
Race	102	100	107	100	98	75
Color	42	46	47	56	30	30
Religion	14	20	15	14	13	10
Reprisal	161	152	161	138	153	113
Sex (including complaints filed under Equal Pay Act [EPA])	120	115	138	106	105	65
National Origin	29	40	31	31	47	20
Age	109	96	102	86	98	55
Disability	109	95	86	102	108	58
Non-EEO basis	10	8	15	12	16	9
Genetics	3	3	4	0	3	2
Pregnancy Discrimination Act (PDA)	1	0	5	4	1	3

Complaints by Issue		Comparative Data					
		Previous Fiscal Year Data					
<i>Note: Complaints can be filed alleging multiple issues. The sum of the bases may not equal total complaints filed.</i>		2016	2017	2018	2019	2020	2021
Appointment/Hire		13	13	10	9	9	5
Assignment of Duties		14	29	47	52	52	33
Awards		5	6	9	6	10	0
Conversion to Full Time		0	0	1	0	1	0
Disciplinary Action	Demotion	1	2	3	3	2	3
	Reprimand	3	7	17	18	14	9
	Removal	3	5	6	10	5	3
	Suspension	11	12	20	17	8	14
	Other	4	6	15	1	0	10
Duty Hours		5	8	10	11	3	9
Evaluation/Appraisal		19	39	45	33	46	19
Examination/Test		1	2	4	1	0	0
Harassment	Non-Sexual	146	151	173	150	164	116
	Sexual	10	16	16	13	16	9
Medical Examination		2	4	4	1	0	8
Pay (including overtime)		13	14	26	18	33	12
Promotion/Non-Selection		71	63	79	70	84	39
Reassignment	Denied	4	5	13	11	11	6
	Directed	8	11	17	9	11	7
Reasonable Accommodation		31	32	33	37	41	20
Reinstatement		0	2	0	0	0	1
Retirement		11	5	5	6	11	2
Termination		26	25	27	24	32	15
Terms/Conditions of Employment		6	31	37	32	34	19
Time and Attendance		4	16	34	27	23	17
Training		15	22	34	30	22	16

Processing Time	Comparative Data Previous Fiscal Year Data					2021
	2016	2017	2018	2019	2020	
Complaints pending (for any length of time) during fiscal year						
Average number of days in investigation stage	140.86	166.08	185.1	218.9	298.35	299.96
Average number of days in final action stage	62.45	85.05	56.83	67.37	64.07	161.40
Complaints pending (for any length of time) during fiscal year where hearing was requested during fiscal year						
Average number of days in investigation stage	141.64	158.81	191.18	257.42	305.94	293.37
Average number of days in final action stage	47.95	72.03	51.8	69.86	47.44	124.48
Complaints pending (for any length of time) during fiscal year where hearing was not requested						
Average number of days in investigation stage	139.27	177.62	167.41	211.29	303.39	306.04
Average number of days in final action stage	79.38	98.07	64.69	62.11	82.27	247.56

Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data					2021
	2016	2017	2018	2019	2020	
Total Complaints Dismissed by Agency	75	23	36	43	22	17
Average days pending prior to dismissal	15	35	71	76	49	51
Total Complaints Withdrawn by Complainants	16	15	12	13	20	9

Total Final Actions Finding Discrimination	Comparative Data Previous Fiscal Year Data										2021	
	2016		2017		2018		2019		2020			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	4		4		5		5		4		1	
Without Hearing	0	0	0	0	1	20	0	0	3	75	1	100
With Hearing	4	100	4	100	4	80	5	100	1	25	0	0

Findings of Discrimination Rendered by Basis	Comparative Data												
	Previous Fiscal Year Data												
	2016		2017		2018		2019		2020		2021		
	#	%	#	%	#	%	#	%	#	%	#	%	
<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	4		4		5		5		4		1		
Race	1	25.0	0	0	1	20	2	40	1	25	1	100	
Color	0	0.0	0	0	0	0	2	40	1	25	0	0	
Religion	0	0.0	0	0	0	0	0	0	0	0	0	0	
Reprisal	3	75.0	1	25.0	3	60	3	60	2	50	1	100	
Sex (including complaints filed under EPA)	3	75.0	0	0	2	40	1	20	2	50	1	100	
National Origin	0	0.0	0	0	1	20	0	0	1	25	0	0	
Age	0	0.0	0	0	1	20	2	40	1	25	0	0	
Disability	3	75.0	3	75.0	0	0	3	60	1	25	0	0	
Non-EEO basis	0	0.0	0	0	0	0	0	0	0	0	0	0	
Genetics	0	0.0	0	0	0	0	1	20	0	0	0	0	
PDA	0	0.0	0	0	0	0	0	0	0	0	0	0	
Findings After Hearing	4		4		4		5		1		0		
Race	1	25.0	0	0	0	0	2	40	1	100	0	0	
Color	0	0.0	0	0	0	0	2	40	1	100	0	0	
Religion	0	0.0	0	0	0	0	0	0	0	0	0	0	
Reprisal	3	75.0	1	25.0	3	75	3	60	1	100	0	0	
Sex (including complaints filed under EPA)	3	75.0	0	0	2	50	1	20	1	100	0	0	
National Origin	0	0.0	0	0	1	25	0	0	0	0	0	0	
Age	0	0.0	0	0	1	25	2	40	0	0	0	0	
Disability	3	75.0	3	75.0	0	0	3	60	1	100	0	0	
Non-EEO basis	0	0.0	0	0	0	0	0	0	0	0	0	0	
Genetics	0	0.0	0	0	0	0	1	20	0	0	0	0	
PDA	0	0.0	0	0	0	0	0	0	0	0	0	0	
Findings Without Hearing	0		0		1		0		3		1		
Race	0	0	0	0	1	100	0	0	0	0	1	100	
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	1	33.3	1	100	

Sex (including complaints filed under EPA)	0	0	0	0	0	0	0	0	0	1	33.3	1	100
National Origin	0	0	0	0	0	0	0	0	0	1	33.3	0	0
Age	0	0	0	0	0	0	0	0	0	1	33.3	0	0
Disability	0	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	0
Genetics	0	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	0

Findings of Discrimination Rendered by Issue (Part 1)	Comparative Data Previous Fiscal Year Data										2021		
	2016		2017		2018		2019		2020				
	#	%	#	%	#	%	#	%	#	%	#	%	
Total Number of Findings	4		4		5		5		4		1		
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0	
Assignment of Duties	0	0	0	0	1	20	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	
	Reprimand	0	0	0	0	0	0	0	0	0	0	0	
	Removal	0	0	0	0	0	0	0	0	0	0	0	
	Suspension	0	0	0	0	0	0	0	0	0	0	0	
	Other	1	25	1	25	1	20	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	1	20	0	0	0	0	1	100	
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0	
Harassment	Non-Sexual	2	50	0	0	0	0	3	60	3	75	1	100
	Sexual	0	0	0	0	1	20	0	0	1	25	0	0
Medical Examination	1	25	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	1	25	2	40	2	40	0	0	0	0	
Reassignment	Denied	0	0	0	0	0	0	0	0	0	0	0	
	Directed	0	0	0	0	0	0	0	2	50	0	0	
Reasonable Accommodation	0	0	1	25	0	0	0	0	1	25	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	1	100	

Other	0	0	1	25. 0	0	0	2	40	0	0	0	0
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Findings of Discrimination Rendered by Issue (Part 2)	Comparative Data											2021	
	Previous Fiscal Year Data												
	2016		2017		2018		2019		2020		#	%	
	#	%	#	%	#	%	#	%	#	%	#	%	
Findings After Hearing	4		4		4		5		1		0		
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0	
Assignment of Duties	0	0	0	0	1	25	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	
	Reprimand	0	0	0	0	0	0	0	0	0	0	0	
	Removal	0	0	0	0	0	0	0	0	0	0	0	
	Suspension	0	0	0	0	0	0	0	0	0	0	0	
	Other	1	25	1	25	1	25	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	1	25	0	0	0	0	0	0	
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0	
Harassment	Non-Sexual	2	50	0	0	0	0	3	60	0	0	0	
	Sexual	0	0	0	0	1	25	0	0	0	0	0	
Medical Examination	1	25	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	1	25	1	25	2	40	0	0	0	0	
Reassignment	Denied	0	0	0	0	0	0	0	0	0	0	0	
	Directed	0	0	0	0	0	0	0	0	0	0	0	
Reasonable Accommodation	0	0	1	25	0	0	0	0	1	100	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	1	25	0	0	2	40	0	0	0	0	

Findings of Discrimination Rendered by Issue (Part 3)	Comparative Data Previous Fiscal Year Data										2021		
	2016		2017		2018		2019		2020				
	#	%	#	%	#	%	#	%	#	%	#	%	
Findings Without Hearing	0		0		1		0		3		1		
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	
	Reprimand	0	0	0	0	0	0	0	0	0	0	0	
	Removal	0	0	0	0	0	0	0	0	0	0	0	
	Suspension	0	0	0	0	0	0	0	0	0	0	0	
	Other	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	1	100	
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	3	100	1	100
	Sexual	0	0	0	0	0	0	0	0	1	33.3	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	1	100	0	0	0	0	0	0	
Reassignment	Denied	0	0	0	0	0	0	0	0	0	0	0	
	Directed	0	0	0	0	0	0	0	0	2	66.6	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	1	100	
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					2021
	2016	2017	2018	2019	2020	
Total Complaints from Previous Fiscal Years	591	605	621	685	744	901
Total Complainants	471	491	509	571	617	750
Number Complaints Pending						
Investigation	91	91	96	105	113	119
Hearing	333	382	402	447	474	538
Final Agency Action	31	48	61	66	117	156
Appeal with EEOC Office of Federal Operations	136	84	62	67	40	49

Complaint Investigations	Comparative Data Previous Fiscal Year Data					2021
	2016	2017	2018	2019	2020	
Pending Completion Where Investigation Exceeds Required Time Frames	3	15	44	52	46	62