



UNITED STATES
DEPARTMENT OF TRANSPORTATION

**Fiscal Year 2022
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 (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/or 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 in 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, causes, 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 (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 2022 in collaboration with the Office of the Inspector General and DOT's operating administrations (OAs). DOT is comprised of nine 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 118th Congress:

- The Honorable Kamala Harris, President of the Senate
- The Honorable Kevin McCarthy, Speaker of the House of Representatives
- The Honorable Patty Murray, President Pro Tempore of the Senate, Chair, Senate Committee on Appropriations
- The Honorable Susan Collins, Vice Chair, Senate Committee on Appropriations
- The Honorable Kay Granger, Chair, House Committee on Appropriations
- The Honorable Rosa DeLauro, Ranking Member, House Committee on Appropriations
- The Honorable Sherrod Brown, Chair, Senate Committee on Banking, Housing, and Urban Affairs
- The Honorable Tim Scott, Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs
- The Honorable Cathy McMorris Rodgers, Chair, House Committee on Energy and Commerce
- The Honorable Frank J. Pallone, Jr., Ranking Member, House Committee on Energy and Commerce
- The Honorable Maria Cantwell, Chair, Senate Committee on Commerce, Science, and Transportation
- The Honorable Ted Cruz, Ranking Member, Senate Committee on Commerce, Science, and Transportation
- The Honorable James Comer, Chair, House Committee on Oversight and Reform
- The Honorable Jamie Raskin, Ranking Member, House Committee on Oversight and Reform
- The Honorable Tom R. Carper, Chair, Senate Committee on Environment and Public Works

- The Honorable Shelley Moore Capito, Ranking Member, Senate Committee on Environment and Public Works
- The Honorable Frank Lucas, Chair, House Committee on Science, Space, and Technology
- The Honorable Zoe Lofgren, Ranking Member, House Committee on Science, Space, and Technology
- The Honorable Gary C. Peters, Chair, Senate Committee on Homeland Security and Governmental Affairs
- The Honorable Rand Paul, Ranking Member, Senate Committee on Homeland Security and Governmental Affairs
- The Honorable Sam Graves, Chair, House Committee on Transportation and Infrastructure
- The Honorable Rick Larsen, 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 2022, DOT issued its first Diversity, Equity, Inclusion, and Accessibility (DEIA) Strategic Plan, which outlines DOT's strategies, priorities, and actions to improve DEIA throughout the Department. DOT has already 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 implementation of its DEIA Strategic Plan, DOT also will implement additional policies, programs, and activities to build on that success and to focus on creating a positive, productive, inclusive, equitable, and accessible work environment.

3. Results and Data

3.1 EEO Complaint Activity in Federal Court and Disposition

FY 2022 Federal Court Case Volume Held Steady

The total number of Federal court cases involving EEO complaints in FY 2022 (40) was consistent with the total number of Federal court cases FY 2021 (41). The number of pending cases decreased slightly, from 27 at the close of FY 2021 to 25 at the close of FY 2022.

In FY 2022, the most frequently raised bases of discrimination in DOT's Federal court cases were race (20) and sex (17). Almost half of the cases involved allegations of retaliation. There were 15 cases involving allegations of harassment, 13 cases involving allegations of discrimination in non-selection, and 4 cases involving reasonable accommodation.

The breakdown of allegations in the 25 cases pending in Federal court at the close of FY 2022 is as follows:¹

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

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

- 12 cases involved Title VII;
- 4 cases involved the ADEA;
- 4 cases involved claims under the Rehabilitation Act; and
- 8 cases involved allegations of retaliation.

DOT closed 15 cases during FY 2022. In 7 of those, courts granted summary judgment for DOT. Of the remaining cases, 4 ended in settlement and 4 were dismissed.

3.2 Reimbursements and Budget Adjustments in FY 2022

DOT reimbursed the Judgment Fund a total of \$113,900 for 3 Federal court cases (comprised of: \$9,900, \$20,000, and \$84,000). (See Table 1)

3.3 Number of Employees Disciplined and Disciplinary Policy

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

Although several of DOT's OAs have tables of penalties, Department-wide disciplinary policy is contained in the Secretarial Civil Rights Policy Statements, which assert the Secretary's commitment to establishing and maintaining a workplace free from discrimination, harassment, and retaliation. The policy statements advise DOT employees of 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 all employees to comply with the requirements of the No FEAR Act, in order to promote the protection of whistleblowers and prevent retaliation.

The Secretary of Transportation issues the Secretarial Civil Rights Policy Statements annually. They 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, many OAs have established new policies to distribute the statements electronically through their intranet sites to allow widespread dissemination to all employees, including remote workers.

During FY 2022, two DOT employees received reprimands.

3.4 Summary Federal Court Case Data

Table 1: Summary of Federal Court Cases DOT FY 2022 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 5 C.F.R. §724.302 (a)(1)	
A. Cases Pending	25
B. Cases Resolved	15
The status or disposition of resolved cases	
Dismissed	4
Settled	4
Summary Judgment for the Agency	7
Agency Prevailed at Hearing	0
Withdrawn	0
Award	0
Total Resolved Cases	15
Funds required to be reimbursed by DOT under Section 201 of the No FEAR Act in connection with each case	
Title VII and ADEA	\$9,900
ADEA	\$20,000
Rehabilitation Act	\$84,000
Total Reimbursement	\$113,900

Number of employees disciplined for discrimination, retaliation, harassment, or any other provision of the law referenced	2
The number of employees disciplined for violating Departmental policy	2
Disciplinary Actions Taken	Two employees received reprimands.

3.5 Analysis of Complaints

After a significant decrease in complaints in FY 2021 (35% decrease, 177 total complaints), DOT experienced a 33% increase in the number of complaints in FY 2022, which coincided with an increase in on-site work and was consistent with the number of complaints pre-pandemic. During FY 2022, 231 complainants filed a total of 236 complaints with DOT. The ratio of complainants (231) to the total DOT permanent workforce (52,998) is 0.45 percent, which is lower than the most recently published government-wide average of 0.49 percent.²

3.5.1 Trends and Analysis

FY 2022 EEO Complaint Numbers Increased; the Percentage of Complaints Based on Race Decreased.

In FY 2022, DOT experienced a significant increase in EEO complaints. DOT received 33% more complaints in FY 2022 than it received in the previous year when remote work rates increased because of the pandemic. The most frequently raised basis was reprisal, which continues a long-standing trend in DOT complaints and is consistent with government-wide complaint data.³ Reprisal was followed in frequency by race, disability, and sex (including sexual orientation and gender identity).

During FY 2022, reprisal was raised in more than half of all complaints (55%). Race was raised in 34.7% of complaints and disability was raised in 34.3% of complaints. Sex was raised in 32.6% of complaints. This is a shift from FY 2021, when allegations of race and sex were more prevalent (42% and 37% respectively). Disability saw a slight rate increase from FY 2021, when it was raised in 33% of complaints.

Harassment continued to be the most frequently raised issue in complaints during FY 2022, which follows a ten-plus year trend at DOT. Harassment (non-sexual) was raised in 65.7% of complaints, which is consistent with its occurrence in FY 2021 (65% of complaints). After harassment, the next most frequently raised issue was promotion/non-selection, which was

² See Equal Employment Opportunity Commission (EEOC) Annual Report on the Federal Work Force Fiscal Year 2020, <https://www.eeoc.gov/federal-sector/reports>.

³ See Equal Employment Opportunity Commission (EEOC) Annual Report on the Federal Work Force Fiscal Year 2019, Table B-1, <https://www.eeoc.gov/federal/reports>.

raised in 26.3% of complaints. This is a slight increase from FY 2021, when promotion/non-selection was raised in 22% of complaints. Reasonable accommodation was raised in 6.4% of complaints in FY 2022, a decrease from previous years. It was raised in 11% of complaints in FY 2021 and 15% of complaints in FY 2020.

3.6 Findings of Discrimination

In FY 2022, DOT had 4 findings of discrimination. The bases for discrimination were race (2 findings), reprisal (2 findings), religion (1 finding), and national origin (1 finding). The issues identified were harassment (non-sexual) (2 findings), promotion/non-selection (1 finding), assignment of duties (1 finding), and religious accommodation (1 finding). The finding based on failure to provide a religious accommodation was the agency's first religious accommodation finding.

The overall number of findings during FY 2022 is consistent with DOT's findings in FY 2018 through FY 2020. DOT had 4 findings in FY 2020 and 5 findings each in FY 2019 and FY 2018. In FY 2021, DOT had only one Final Agency Decision finding. The bases of that finding were race, sex, and reprisal, and the issues cited were performance management, training, and harassment (non-sexual).

4. Accomplishments, Training, and Awareness

Anti-Discrimination and EEO Policies

During FY 2022, Secretary Buttigieg issued Civil Rights Policy Statements on equal employment opportunity, No FEAR Act rights and responsibilities, harassment, and the employment and advancement of people with disabilities. DOT posted those statements in its headquarters office as well as on its public website. DOT also enhanced its No FEAR training to cover these Secretarial statements.

As described above, the majority of complaints filed at DOT and in the Federal government are harassment allegations. DOT issued a Departmental anti-harassment policy in FY 2019, which required each OA to establish its own anti-harassment program and identify an anti-harassment coordinator to implement the program. DOOCR and DOHRM partner closely to oversee OA anti-harassment programs. This includes an annual review of OA anti-harassment programs, which consists of an analysis of harassment complaint data and trends. DOOCR and DOHRM also have established a community of practice for OA anti-harassment coordinators to provide guidance, share best practices, and work collaboratively to address challenges. Per DOT's policy, all employees and supervisors/managers receive annual training on the anti-harassment program. In addition, some OAs provide workshops and skills-based trainings to support a safe and inclusive workplace.

In FY 2022, DOOCR and FMCSA established regular and recurring status update meetings to discuss internal and external complaint processing and other model EEO program goals and objectives.

In FY 2022, the FAA Office of Civil Rights launched an FAA Civil Rights App. This app keeps users/customers up-to-date and well-informed of current FAA civil rights events and provides easy to access information, resources, and news about the FAA's EEO Program and National External Program. The app helps users better understand civil rights laws, policies, and regulations relating to the EEO complaint process, reasonable accommodation, the Americans with Disabilities Act (ADA), the Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) Programs, Title VI of the Civil Rights Act of 1964, and other Federal government civil rights requirements. Additionally, the app provides instructions on how to file an EEO complaint and includes important links to contacts, program resources and employment opportunities.

FAA conducted a climate assessment for the Central Service Area Cleveland Technical Operations District. These assessments are instrumental to reducing and eliminating discrimination within the FAA by proactively addressing issues before they become EEO complaints.

During FY 2022, FAA continued to participate in quarterly meetings with the Office of Aerospace Medicine to explore and discuss emerging medical questions and issues related to COVID-19 and reasonable accommodations for employees with disabilities. FAA also expanded these meetings to new offices to provide space for continued dialogue about opportunities to support employees with disabilities and strengthen the reasonable accommodation process.

FAA's Office of Civil Rights continued to implement several 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. They also worked to improve accuracy in the National Intake Process for new EEO cases, which allows for issues to be resolved more quickly and more efficiently, and to support upgrades to the Customer Feedback Database, which allows customers to provide feedback 24 hours per day. In FY 2022, FAA implemented the Civil Rights Scheduler web-based application to support EEO complaint case management.

As part of FTA's commitment to fostering a work environment free of harassing conduct, in FY 2022 FTA continued to implement its Order 4200.1A, Policy for the Prevention of Harassment, to ensure that proper steps are taken to deal with harassing conduct as it arises. This policy meets the EEOC's recommended elements for a model anti-harassment program and enhances FTA's ability to protect its employees from harassing conduct.

In January 2022, MARAD issued its Administrative Orders on Anti-Harassment and Equal Employment Opportunity Policies to all employees. Both orders help foster a work environment free of discrimination. MARAD also issued and posted a current listing of collateral duty EEO Counselors to ensure that MARAD employees know points of contact to discuss allegations of discrimination or harassment.

In support of Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, MARAD, through its United States Merchant Marine Academy facility (USMMA), drafted a Transgender Policy for Midshipmen Students with recommendations, points of contact, and best practices.

PHMSA developed a new all-employee newsletter, *EEO Chronicles*, which provides articles on eliminating discrimination in the workplace and highlights recent EEOC cases. This newsletter also provides information on all of the avenues available to assist someone who believes they have experienced discrimination.

Advancing Diversity, Equity, Inclusion, and Accessibility

In FY 2022, DOT issued its Diversity, Equity, Inclusion, and Accessibility (DEIA) Strategic Plan for FY 2022 through FY 2026.⁴ The DEIA Strategic Plan identifies research, analysis, and policy and programmatic initiatives in five key areas: outreach, recruitment, and hiring; leadership and professional development; workplace culture; retention; and accountability. Although DOCR and DOHRM lead DOT's Workforce Equity Team and developed the DEIA Strategic Plan, DEIA is a whole-DOT initiative and responsibility. The DEIA Strategic Plan sets the expectation and commitment that DEIA will be a priority throughout all DOT program offices and lines of business.

During FY 2022, as a part of the DEIA work, DOT kicked off initiatives related to workforce data analysis, partnerships with organizations serving formerly incarcerated individuals, creation of a DOT college roadshow, updates to DOT's exit survey, hosting a leadership summit for GS-13 through GS-15 and Senior Executive Service employees, and support for employee resource groups. In addition, many OAs identified staff, or onboarded new staff, to serve as DEIA program managers and lead OA engagement in this important initiative.

During FY 2022, FAA established an Equity Orders Workgroup to track ongoing DEIA and Equity projects within the organization. FAA also established a team to lead the implementation of FAA's first Diversity and Inclusion Strategic Plan. FAA implemented a DEIA Scorecard program to provide each FAA line of business or office with current workforce demographic data, as well as best practices and recommendations for improvement.

FMCSA established a Recruitment Technical Advisory Group (RTAG) that develops corporate recruitment strategies to reach underrepresented employee groups and integrate Diversity, Equity, and Inclusion goals. RTAG's objective is to concentrate on FMCSA's branding by explaining who it is and what it does, and to make FMCSA more visible and attractive to applicants.

FRA's Administrator engaged in events throughout the year to demonstrate leadership commitment to DEIA. In FY 2022, the Administrator engaged with employee groups concerning prevention of harassment and discussed DEIA at FRA employee town halls.

In FY 2022, FTA's Office of Talent and Organizational Development continued to use trend analysis from two questions on the Federal Employee Viewpoint Survey (FEVS) to assess

⁴ DOT's DEIA Strategic Plan is available at: <https://www.transportation.gov/careers/dot-deia-strategic-plan>

the impact of its annual initiatives to foster and promote a workplace free from harassment and discrimination.

FTA continued to perform analyses on recruitment, onboarding, and outreach efforts and worked to understand triggers that cause low participation of diverse groups in certain areas of the workforce. The FTA Office of Administration developed a dashboard providing demographic analysis of FTA regional offices compared with the public they serve. In September 2022, the Associate Administrator for Administration provided each office with its respective report to gain a better perspective of the diversity makeup of their offices, along with a supplemental guide for hiring managers to view demographic analysis and understand how to use this data without engaging in prohibited practices while promoting job announcements to representative groups. This effort also provides FTA leadership with a better idea of the diversity in offices over time.

In FY 2022, NHTSA hosted meetings and information sessions with employee resource groups (ERGs), to provide opportunities for employee engagement and to encourage employees to participate in DOT ERGs.

PHMSA's agency-wide Diversity, Equity, and Inclusion Process Improvement Initiative (PII) has focused on identifying data sources, such as exit surveys, agency-wide surveys, and recruitment initiatives to improve DEIA across the agency. PHMSA has also led Department-wide recruitment efforts at minority serving institutions and recently joined the Operation Warfighter that matches qualified wounded, ill and injured service members with federal internships in order for them to gain valuable work experience during their recovery and rehabilitation.

Throughout FY 2022, DOT and its OAs held a variety of special emphasis program events and observances to commemorate and celebrate special emphasis months. FHWA's Office of Civil Rights hosted several monthly observances to provide cultural awareness, enhance the workplace environment by promoting diversity, and to celebrate and recognize achievements in transportation and public service.

FRA conducted special emphasis program events throughout the year, that celebrated cultures and broadened awareness of DEIA. FRA's Administrator spoke at every FRA special emphasis month event. Information about these programs was distributed via email, intranet, and social media platforms.

In alignment with the Administration's and the Department's priorities related to DEIA, FTA realigned functions to strengthen its special emphasis program. In FY 2022, FTA continued to lead agency-wide agencywide special emphasis observances and sent out all-staff monthly sociocultural awareness facts and information. FTA held virtual observances for programs such as African American History Month and Women's History Month and also supported DOT-sponsored special emphasis observances.

MARAD either led or participated in nine special emphasis program activities helping to raise cultural awareness with a goal of encouraging employees to appreciate, value, understand, and celebrate similarities and differences.

In FY 2022, NHTSA's cultural heritage working group continued to develop special emphasis programs, enhance employee engagement, and promote DEIA with strong leadership support. NHTSA hosted seven special emphasis program observances, as well as a new series entitled, *Cultural Illuminations*.

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

DOT and its OAs hosted many trainings throughout FY 2022 to support a safe and inclusive workplace culture. Many of these trainings focused 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 and provides the points of contact for the EEO and anti-harassment programs in each OA. In addition, all OAs hosted regular trainings on their anti-harassment programs and about creating a safe workplace culture.

FAA held its second annual FAA DEIA Symposium in June 2022. The Symposium, titled *Pivot Point: Putting it into Practice*, provided an opportunity for FAA leadership to demonstrate DEIA alignment with FAA's mission. In July 2022, FAA hosted an EEO Best Practices Exchange Forum for EEO and DEIA offices across the government and private sector to share best practices and experiences in EEO programs, processes, and complaint systems.

FAA also provided two trainings through its Center of Excellence for EEO Learning: *Harmony and Respect – Civility Matters* and *Let's Talk about Reasonable Accommodations*. *Harmony and Respect – Civility Matters* provided FAA employees the skills to achieve positive business results through a civil work environment. *Let's Talk about Reasonable Accommodations* provided an overview of DOT's reasonable accommodation order, and FAA's reasonable accommodation procedures.

Throughout FY 2022, FHWA delivered multiple trainings on EEO and reasonable accommodations, covering topics including workplace conflict, requesting reasonable accommodation, and points of contact within FHWA and DOT for EEO and reasonable accommodation.

In May 2022, FHWA hosted its annual *Virtual EEO Awareness Symposium*, which included several sessions covering the EEO process, the anti-harassment program, alternative dispute resolution, the reasonable accommodation processes, and prohibited personnel practices. FHWA also hosted a *Gender Inclusivity Awareness Session* for managers, supervisors, and team leaders. The workshop provided background on the impact of gender inclusivity, particularly for non-binary and transgender employees, and discussed specific steps and skills to use to create an inclusive workplace environment.

In July and August 2022, FHWA's Office of Human Resources, in collaboration with their Office of the Chief Counsel, delivered two in-person multi-day *Employee Relations Bootcamps* for supervisors, managers, and team leaders. The bootcamps covered topics including prohibited personnel practices, EEO rights and responsibilities, the anti-harassment program, and reasonable accommodations.

In October and November 2021, FHWA held *Leading for Respect* trainings for supervisors and managers, focused on the prevention of harassment and creating respectful workplaces. FHWA also held *Respect in the Workplaces* training for all employees, which focused on respectful and inclusive workplaces. In January 2022, FHWA held an *Anti-Harassment Fact Finders Workshop* focusing on common issues, lessons learned, best practices, and process improvements. In July 2022, FHWA held a training for its Western Federal Lands Highway Division covering the Anti-Harassment process, challenging conversations, and bystander intervention.

In an effort to address the issues related to transitioning into a hybrid work environment, FRA provided mandatory training and best practices to all supervisors throughout FY 2022. Training topics included the EEO Complaint Process, Reasonable Accommodations, and the Anti-Harassment Program. All supervisors were informed that their participation in the training would be considered in their performance. FRA also optimized its special emphasis observances by incorporating EEO and DEIA training as part of those events.

FTA requires all new supervisors to attend a three-day *New Supervisor Residency Program*, which includes information about leadership, as well as whistleblower protection. FTA offers this program to supervisors across the Department and included 67 new supervisors in FY 2022.

During FY 2022, FTA hosted a *Building Trust* training for its executive management team focused on strategies for building trust in the workplace and creating an environment of psychological safety for all employees.

In FY 2022, GLS provided training to supervisors and managers on the EEO complaint process, reasonable accommodation process, and diversity and inclusion. GLS also provided annual anti-harassment training to GLS employees.

MARAD hosted mandatory training for all U.S. Merchant Marine Academy (USMMA) managers/supervisors on *EEO Principles (Part II)*, and all MARAD managers and supervisors on *Harassment in the Workplace*.

MARAD also hosted a training for all USMMA staff (36 attendees) on *Harassment and Discrimination* in the workplace based on national origin and race. The session included discussions on the issues facing the Asian American and Native Hawaiian/Pacific Islander communities and the need for support and advocacy.

In FY 2022, NHTSA required all new employees to complete *Implicit Bias Awareness Training*. All managers, supervisors, and team leads were required to complete *Implicit Bias Mitigation Training*. The sessions focused on how implicit bias affects decision making and gave employees a better understanding of how their own bias plays a role in thinking and

decision making. In addition, tools were provided to the workforce to address these behaviors.

In FY 2022, DOT's Volpe Center required all employees to attend EEO training and reasonable accommodations training. Beyond the required DOT Learns modules, Volpe employees participated in sessions that included real-world scenarios, question-and-answer sections, and information about relevant regulations, policy, and internal practices.

The Volpe Center also required all GS-14 and above employees and managers to attend conflict management training. The purpose of the training is to create a commonly understood approach to conflict management and demonstrate consistent expectations around handling workplace conflict, while promoting diversity, equity, and inclusion principles to reduce and eliminate discrimination in the workplace.

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. 5 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 training 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 2022, 75.2 percent of the 3,598 new DOT employees completed No FEAR Act training within 90 days of appointment. This is an increase from FY 2021 (67.8 percent completion rate).

Some OAs implemented additional measures to help ensure No FEAR Act training requirements are met. For example, NHTSA's Office of Civil Rights regularly reviewed No FEAR Training completion reports and sent reminders about No FEAR Act Training to employees throughout the year. Completion rates and updates were 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 required 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, onboarding, and/or outreach efforts, and identify the root causes of low participation of diverse groups in DOT's mission-critical occupations.
- Strive to achieve a biennial goal of educating all employees of their rights, responsibilities, 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 with information regarding their rights, responsibilities, and protections under anti-discrimination, retaliation, and whistleblower protection laws.
- Continue to innovate on adult learning and professional development that demonstrates diversity, equity, and inclusion as key components of successful leadership.
- Conduct program reviews of OA anti-harassment programs to ensure that they comply with Departmental and EEO policy and align with best practices for addressing harassing workplace behavior.
- Ensure complainants and respondents are apprised of the opportunity for mediation and ADR throughout the informal and formal EEO complaint process. This promotes early resolution of complaints and saves resources and staff time.
- Improve partnerships and collaboration across the Department to address proactively the higher frequency bases of EEO complaints.
- Partner with HR offices across the Department to ensure that recruitment, professional development, and accountability measures incorporate the principles of equity and inclusion.
- Ensure that DOT and its OAs effectively utilize the anti-harassment program 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 to ensure 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 2017 to FY 2022						
	2017	2018	2019	2020	2021	2022
Number of Complaints Filed	266	271	250	273	177	236
Number of Complainants	259	262	245	265	170	231
Repeat Filers	7	9	6	6	7	5

Table 3: Top Complaints by Basis, FY 2017 to FY 2022						
Basis	2017	2018	2019	2020	2021	2022
Reprisal	158	161	138	153	113	131
Race	100	107	100	98	75	82
Disability	95	86	102	108	58	81
Sex	115	138	106	105	65	77
Age	96	102	86	98	55	64

Table 4: Top Complaints Filed by Issue, FY 2017 to FY 2022						
Issue	2017	2018	2019	2020	2021	2022
Harassment (Non-Sexual)	134	173	150	164	116	155
Disciplinary Action	40	77	53	41	46	67
Promotion/Non-Selection	61	79	70	84	39	62
Evaluation/Appraisal	39	45	33	46	19	37
Time and Attendance	16	34	27	23	17	30
Training	22	34	30	22	16	29
Medical Examination	4	4	1	0	8	19
Appointment/Hire	13	10	9	9	5	16
Termination	25	27	24	32	15	17
Reasonable Accommodation	32	33	37	41	20	15

Table 5: Findings of Discrimination by Basis, FY 2017 to FY 2022						
Basis	2017	2018	2019	2020	2021	2022
Age	0	1	2	1	0	0
Color	0	0	2	1	0	0
Disability	2	0	3	1	0	0
Equal Pay	0	0	0	0	0	0
National Origin	0	1	0	1	0	1
Race	0	1	2	1	0	2
Religion	0	0	0	0	0	1
Reprisal	2	4	3	2	1	2
Sex	0	1	1	2	0	0

Table 6: Findings of Discrimination by Issue, FY 2017 to FY 2022						
Issue	2017	2018	2019	2020	2021	2022
Assignment of Duties	0	1	0	1	0	1
Harassment	0	1	3	4	0	2
Medical Examination	0	0	0	0	0	0
Promotion/Non-Selection	1	2	2	1	0	1
Reasonable Accommodation	1	0	0	1	0	0
Terms/Conditions of Employment	2	0	0	0	0	0
Training	0	1	0	0	1	0
Disclosure of Medical Information	1	0	2	0	0	0
Performance Evaluation	0	0	0	0	1	1
Religious Accommodation	0	0	0	0	0	1

Table 7: Federal Court Cases with Alleged Violation of Law, FY 2017 to FY 2022						
	2017	2018	2019	2020	2021	2022
Total Court Cases	35	33	32	36	41	40
Alleged Title VII Violation	30	26	25	29	32	33
Alleged Age Discrimination in Employment Act Violation	4	7	9	6	11	12
Alleged Rehabilitation Act Violation	10	13	7	7	11	12
Alleged Whistleblower Protection Act Violation	0	0	0	0	0	0
Alleged Equal Pay Act Violation	0	0	0	0	0	0
Alleged Retaliation	17	13	9	16	20	19

Table 8: Formal Complaint Processing Time in Days, FY 2017 to FY 2022						
	2017	2018	2019	2020	2021	2022
Investigation Stage	166	185	218	298	300	157
Final Action Stage	85	57	67	64	161	176

Table 9: Annual Total Reimbursements for No FEAR Act cases by Amount and Number of Cases, FY 2017 to FY 2022						
	2017	2018	2019	2020	2021	2022
Total Reimbursements	\$568,113	\$458,000	\$29,500	\$282,000	\$43,951,538	\$113,900
Cases Resulting in Reimbursements	5	2	2	3	3	3

Table 10: Pre-Complaint Processing Timelines, FY 2017 to FY 2022						
Rate of Individuals Counseled within Mandatory Timeframe	2017	2018	2019	2020	2021	2022
	98.48%	95.65%	98.13%	98.15%	96.5%	93.9%

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

Total Complaints	Comparative Data Previous Fiscal Year Data					2022
	2017	2018	2019	2020	2021	
Number of Complaints Filed	266	271	250	273	177	236
Number of Complainants	259	262	245	265	170	231
Repeat Filers	7	9	6	6	7	5

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					2022
	2017	2018	2019	2020	2021	
Race	100	107	100	98	75	82
Color	46	47	56	30	30	46
Religion	20	15	14	13	10	34
Reprisal	152	161	138	153	113	131
Sex (including complaints filed under Equal Pay Act [EPA])	115	138	106	105	65	77
National Origin	40	31	31	47	20	39
Age	96	102	86	98	55	64
Disability	95	86	102	108	58	81
Non-EEO basis	8	15	12	16	9	27
Genetics	3	4	0	3	2	9
Pregnancy Discrimination Act (PDA)	0	5	4	1	3	2

Complaints by Issue		Comparative Data Previous Fiscal Year Data					
		2017	2018	2019	2020	2021	
<i>Note: Complaints can be filed alleging multiple issues. The sum of the bases may not equal total complaints filed.</i>							
Appointment/Hire		13	10	9	9	5	16
Assignment of Duties		29	47	52	52	33	0
Awards		6	9	6	10	0	11
Conversion to Full Time		0	1	0	1	0	0
Disciplinary Action	Demotion	2	3	3	2	3	1
	Reprimand	7	17	18	14	9	0
	Removal	5	6	10	5	3	14
	Suspension	12	20	17	8	14	0
	Other	6	15	1	0	10	17
Duty Hours		8	10	11	3	9	0
Evaluation/Appraisal		39	45	33	46	19	37
Examination/Test		2	4	1	0	0	6
Harassment	Non-Sexual	151	173	150	164	116	155
	Sexual	16	16	13	16	9	7
Medical Examination		4	4	1	0	8	19
Pay (including overtime)		14	26	18	33	12	14
Promotion/Non-Selection		63	79	70	84	39	62
Reassignment	Denied	5	13	11	11	6	12
	Directed	11	17	9	11	7	6
Reasonable Accommodation		32	33	37	41	20	15
Reinstatement		2	0	0	0	1	0
Retirement		5	5	6	11	2	0
Termination		25	27	24	32	15	17
Terms/Conditions of Employment		31	37	32	34	19	0
Time and Attendance		16	34	27	23	17	30
Training		22	34	30	22	16	29

⁵ In FY 2022, the Equal Employment Opportunity Commission instituted a number of changes to complaint data reporting and consolidated several issues in complaints. As a result, in many issue categories it appears as though there are no complaints.

Processing Time	Comparative Data Previous Fiscal Year Data					2022
	2017	2018	2019	2020	2021	
Complaints pending (<i>for any length of time</i>) during fiscal year						
Average Number of Days in Investigation Stage	166.08	185.1	218.9	298.35	299.96	156.57
Average Number of Days in Final Action Stage	85.05	56.83	67.37	64.07	161.40	175.77
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	158.81	191.18	257.42	305.94	293.37	142.49
Average Number of Days in Final Action Stage	72.03	51.8	69.86	47.44	124.48	83.77
Complaints pending (<i>for any length of time</i>) during fiscal year where hearing was not requested						
Average Number of Days in Investigation Stage	177.62	167.41	211.29	303.39	306.04	168.53
Average Number of Days in Final Action Stage	98.07	64.69	62.11	82.27	247.56	223.24

Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data					2022
	2017	2018	2019	2020	2021	
Total Complaints Dismissed by Agency	23	36	43	22	17	27
Average Days Pending Prior to Dismissal	35	71	76	49	51	45
Total Complaints Withdrawn by Complainants	15	12	13	20	9	3

Total Final Actions Finding Discrimination	Comparative Data Previous Fiscal Year Data										2022	
	2017		2018		2019		2020		2021			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	4		5		5		4		1		4	
Without Hearing	0	0	1	20	0	0	3	75	1	100	0	0
With Hearing	4	100	4	80	5	100	1	25	0	0	4	100

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data											
	2017		2018		2019		2020		2021		2022	
#	%	#	%	#	%	#	%	#	%	#	%	
<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		5		5		4		1		4	
Race	0	0	1	20	2	40	1	25	1	100	2	50
Color	0	0	0	0	2	40	1	25	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	1	25
Reprisal	1	25.0	3	60	3	60	2	50	1	100	2	50
Sex (including complaints filed under EPA)	0	0	2	40	1	20	2	50	1	100	0	0
National Origin	0	0	1	20	0	0	1	25	0	0	1	25
Age	0	0	1	20	2	40	1	25	0	0	0	0
Disability	3	75.0	0	0	3	60	1	25	0	0	0	0
Non-EEO Basis	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	1	20	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
Findings After Hearing	4		4		5		1		0		4	
Race	0	0	0	0	2	40	1	100	0	0	2	50
Color	0	0	0	0	2	40	1	100	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	1	25
Reprisal	1	25.0	3	75	3	60	1	100	0	0	2	50
Sex (including complaints filed under EPA)	0	0	2	50	1	20	1	100	0	0	0	0
National Origin	0	0	1	25	0	0	0	0	0	0	1	25
Age	0	0	1	25	2	40	0	0	0	0	0	0
Disability	3	75.0	0	0	3	60	1	100	0	0	0	0
Non-EEO Basis	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	1	20	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	0		1		0		3		1		0	
Race	0	0	1	100	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	1	33.3	1	100	0	0

Sex (including complaints filed under EPA)	0	0	0	0	0	0	1	33.3	1	100	0	0
National Origin	0	0	0	0	0	0	1	33.3	0	0	0	0
Age	0	0	0	0	0	0	1	33.3	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											
		2017		2018		2019		2020		2021			
		#	%	#	%	#	%	#	%	#	%	#	%
Total Number of Findings		4		5		5		4		1		4	
Appointment/Hire		0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties		0	0	1	20	0	0	0	0	0	0	1	25
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	1	25	1	20	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	1	20	0	0	0	0	1	100	1	25
Examination/Test		0	0	0	0	0	0	0	0	0	0	0	0
Harassment	Non-Sexual	0	0	0	0	3	60	3	75	1	100	2	50
	Sexual	0	0	1	20	0	0	1	25	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		1	25	2	40	2	40	0	0	0	0	1	25
Reassignment	Denied	0	0	0	0	0	0	0	0	0	0	0	0
	Directed	0	0	0	0	0	0	2	50	0	0	0	0
Reasonable Accommodation		1	25	0	0	0	0	1	25	0	0	0	0
Religious Accommodation		0	0	0	0	0	0	0	0	0	0	1	25
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	1	100	0	0

Other	1	25. 0	0	0	2	40	0	0	0	0	0	0
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Findings of Discrimination Rendered by Issue (Part 2)		Comparative Data											
		Previous Fiscal Year Data											
		2017		2018		2019		2020		2021		2022	
#	%	#	%	#	%	#	%	#	%	#	%		
Findings After Hearing		4		4		5		1		0		4	
Appointment/Hire		0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties		0	0	1	25	0	0	0	0	0	0	1	25
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	1	25	1	25	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	1	25	0	0	0	0	0	0	1	25
Examination/Test		0	0	0	0	0	0	0	0	0	0	0	0
Harassment	Non-Sexual	0	0	0	0	3	60	0	0	0	0	2	50
	Sexual	0	0	1	25	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		1	25	1	25	2	40	0	0	0	0	1	25
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		1	25	0	0	0	0	1	100	0	0	0	0
Religious Accommodation		0	0	0	0	0	0	0	0	0	0	1	25
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		1	25	0	0	2	40	0	0	0	0	0	0

Findings of Discrimination Rendered by Issue (Part 3)		Comparative Data											
		Previous Fiscal Year Data											
		2017		2018		2019		2020		2021		2022	
#	%	#	%	#	%	#	%	#	%	#	%		
Findings Without Hearing		0		1		0		3		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	1	100	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	3	100	1	100	0	0
	Sexual	0	0	0	0	0	0	1	33.3	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	1	100	0	0	0	0	0	0	0	0
Reassignment	Denied	0	0	0	0	0	0	0	0	0	0	0	0
	Directed	0	0	0	0	0	0	2	66.6	0	0	0	0
Reasonable Accommodation		0	0	0	0	0	0	0	0	0	0	0	0
Religious 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	1	100	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					2022
	2017	2018	2019	2020	2021	
Total Complaints from Previous Fiscal Years	605	621	685	744	901	975
Total Complainants	491	509	571	617	750	808
Number Complaints Pending						
Investigation	91	96	105	113	119	141
Hearing	382	402	447	474	538	578
Final Agency Action	48	61	66	117	156	189
Appeal with EEOC Office of Federal Operations	84	62	67	40	49	67

Complaint Investigations	Comparative Data Previous Fiscal Year Data					2022
	2017	2018	2019	2020	2021	
Pending Completion Where Investigation Exceeds Required Time Frames	15	44	52	46	62	5