



UNITED STATES
DEPARTMENT OF TRANSPORTATION

Fiscal Year 2018
Annual Report to Congress on the
Notification and Federal Employee
Antidiscrimination and
Retaliation Act of 2002

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1. Purpose of Report

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174, 5 U.S.C. § 2301, *et seq.*, requires each Federal agency to submit an annual report to Congress no later than 180 days after the end of each fiscal year. Based on this requirement, the Fiscal Year (FY) 2018 report is due no later than March 29, 2019. Representatives from the Office of the Secretary, including the Departmental Office of Civil Rights (DOCR), the Departmental Office of Human Resource Management (DOHRM), the Office of the Assistant Secretary for Budget and Programs, and the Office of the Assistant Secretary for Administration assisted in the preparation of this report, in collaboration with Department of Transportation (DOT) Operating Administrations (OAs): the Federal Aviation Administration (FAA); the Federal Highway Administration (FHWA); the Federal Motor Carrier Safety Administration (FMCSA); the Federal Railroad Administration (FRA); the Federal Transit Administration (FTA); the Maritime Administration (MARAD); the National Highway Traffic Safety Administration (NHTSA); the Pipeline and Hazardous Materials Safety Administration (PHMSA); and the St. Lawrence Seaway Development Corporation (SLSDC).

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

Additionally, the No FEAR Act has requirements regarding public notice of relevant statistics on agency websites, including the number of complaints filed, pending, and resolved and other items of information. These measures create accountability of conduct inconsistent with Federal anti-discrimination laws.

The annual report must include:

- The number of Federal court cases, pending or resolved, arising under the antidiscrimination laws and authorities included in the No FEAR Act, and the status and disposition of the cases;
- Judgment Fund reimbursements, adjustments to agency budgets to meet reimbursement requirements, and the amount of reimbursement required for attorneys' fees where such fees have been separately designated;
- The number and type of disciplinary actions related to discrimination, retaliation, or harassment and the agency's policy relating to appropriate disciplinary action;
- Year-end summary data related to Federal sector equal employment opportunity (EEO) complaint activity;

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

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

The Honorable Michael R. Pence
President of the Senate

The Honorable Nancy Pelosi
Speaker of the House of Representatives

The Honorable Chuck Grassley
President Pro Tempore of the Senate

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

The Honorable Richard Shelby
Chairman, Senate Committee on
Appropriations

The Honorable Kay Granger
Ranking Member, House Committee on
Appropriations

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

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

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

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

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

The Honorable Elijah E. Cummings
Chairman, House Committee on Oversight
and Reform

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

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

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

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

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

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

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

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

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

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

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

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

- The Honorable Victoria A. Lipnic, Acting Chair, U.S. Equal Employment Opportunity Commission
- The Honorable William P. Barr, Attorney General, U.S. Department of Justice
- The Honorable Margaret Weichert, Acting Director, U.S. Office of Personnel Management

2. Background

DOT's mission is to ensure our Nation has the safest, most efficient and modern transportation system in the world, which improves the quality of life for all American people and communities, from rural to urban, and increases the productivity and competitiveness of American workers and businesses. In the U.S. Department of Transportation Strategic Plan for FY 2018-2022, DOT emphasized its commitment to recruit, hire, and retain employees from all segments of American society, and to provide the training and professional development opportunities that they need to support DOT's goals. The Strategic Plan can be found at: <https://www.transportation.gov/dot-strategic-plan>. To this end, DOT seeks to achieve exemplary EEO programs, and to lead as a model agency by eliminating the practice or tolerance of any form of discrimination or retaliation within the workplace.

3. Results and Data

3.1 EEO Complaint Activity in Federal Court and Disposition

FY 2017 and FY 2018 Federal Court Case Volume Remained Consistent

For FY 2018, DOT was a party to 33 Federal court cases filed under the various laws covered by the No FEAR Act. Of these cases, seven cases were dismissed, one case was withdrawn, three cases were disposed of by summary judgment in favor of the Agency, and two cases were settled. At the time of reporting, 20 cases are still pending.

The number of pending cases decreased from 22 in FY 2017 to 20 in FY 2018. The most frequently stated allegation was retaliation under Title VII of the Civil Rights Act of 1964 (Title VII).

The breakdown of allegations in the 20 cases pending in Federal court is as follows:¹

- 17 cases contained claims under Title VII (42 U.S.C. § 2000e-16);

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

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

The breakdown of the claims resolved in Federal court:

- 9 claims concerned Title VII (42 U.S.C. § 2000e-16);
- 2 claims concerned the ADEA;
- 7 claims concerned the Rehabilitation Act; and
- 5 claims involved allegations of retaliation.

The total number of Federal court cases has remained fairly steady from FY 2013 to FY 2016. In FY 2017 and FY 2018, the number of cases increased and has remained consistent. There were 24 total cases in FY 2013, 21 in FY 2014, 22 in FY 2015, 25 in FY 2016, 35 in FY 2017, and 33 in FY 2018. The bases of race and sex were raised most often in DOT's Federal court cases in FY 2018, with 14 cases each. That was followed by disability and reprisal, which each accounted for 13 cases. Age was raised as a basis in eight Federal court cases. The most frequently raised adverse action in DOT's Federal court cases in FY 2018 was non-selection (13). That was followed by hostile work environment, which was raised in nine cases, and reasonable accommodation, which was raised in eight cases.

DOT settled two Federal court cases in FY 2018. Those cases involved allegations of race and disability discrimination, and reprisal. One case involved reasonable accommodation.

3.2 Judgment Fund Reimbursements and Budget Adjustments

DOT reimbursed the Judgment Fund for a total of \$458,000 for two Federal court cases during FY 2018. This amount represents a 19 percent decrease from FY 2017 reimbursements (\$568,113) for five Federal court cases. Reimbursements for each of the Federal court cases in FY 2018 were: \$13,000 and \$445,000.

3.3 Number of Employees Disciplined and Discipline Policy

During FY 2018, no employee was subject to disciplinary action in connection with a Federal court case. DOT did, however, take disciplinary action against two employees for violating DOT policies concerning discrimination and harassment. DOT suspended one employee, and reduced the grade of another.

Section 203 of the No FEAR Act requires the Annual Report to Congress to include a detailed description of the agencies' disciplinary policies related to laws covered by the No FEAR Act. Agencies must specify disciplinary policies for Federal employees who discriminate against any individual in violation of any of the laws covered by the No FEAR Act, or who commit any other prohibited personnel practice that was revealed in the investigation of a complaint claiming a violation of the Federal antidiscrimination and whistleblowing laws.

Five Secretarial Policy Statements reinforce DOT’s commitment to establishing a workplace free from discrimination, harassment, and/or retaliation. The Policy Statements are issued annually. They advise employees regarding their rights and responsibilities and inform them that they will be subject to disciplinary action for engaging in discriminatory conduct. In effect, all DOT employees are accountable for their actions according to the Policy Statements.

3.4 Summary Federal Court Case Data

Table 1: Summary of Federal Court Cases (The U.S. DOT FY 2018 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	20
B. Cases Resolved	13
The status or disposition of resolved cases	
Dismissed	7
Settled	2
Summary Judgment for the Agency	3
Summary Judgment for the Complainant	0
Withdrawn	1
Award	0
Total Resolved Cases	13
Funds required to be reimbursed by DOT under Section 201 in connection with each case	
Title VII, Rehabilitation Act	\$13,000
Rehabilitation Act	\$300,000
Attorney’s Fees	\$145,000
Total Reimbursement to the Judgement Fund	\$458,000
Number of employees disciplined for discrimination, retaliation, harassment, or any other provision of the law referred:	There were no disciplinary actions taken against any employee in connection with a Federal court case during FY 2018.
The number of employees disciplined because of violating Departmental policy:	2
Disciplinary Actions Taken:	<ul style="list-style-type: none"> • Suspension • Reduction in Grade

3.5 Analysis of Complaints

There was a nearly two percent increase in complaints and a 1.2 percent increase in complainants from FY 2017 to FY 2018. Specifically, 262 complainants filed a total of 271 formal EEO administrative complaints with DOT in 2018. The ratio of complaints (271) to the total DOT workforce (54,357) is 0.49 percent; the most recently published government-wide average is 0.51 percent (per the Equal Employment Opportunity Commission (EEOC) Fiscal Year 2015 Annual Report on the Federal Workforce Part I).

3.5.1. Trends and Analysis

FY 2017-2018 EEO Complaint Volume Remained Steady; Race Complaints Rose

From FY 2017 to FY 2018, the number of EEO complaints filed and the number of complainants rose slightly, after a long period of decline. The total number of complaints increased by 1.9 percent, and the total number of complainants increased by 1.2 percent. The number of complaints filed and complainants in FY 2018 still represents a large decline from just five years ago; there are 27.5 percent fewer complaints than in FY 2013 and 24.3 percent fewer complainants than in FY 2013.

Retaliation has consistently represented the most common basis for complaints, with an average of 176 such complaints filed on an annual basis between FY 2013 and FY 2018. Sex-based (138) and race-based (107) complaints were the next highest reported bases for complaints, on average, during this same period. After a long trend of declining numbers of complaints filed for each of these bases from FY 2013, the number of complaints filed on the basis of retaliation, race, and sex have all increased, compared to FY 2017 figures. Race-based complaints in FY 2018 increased by 6.5 percent when compared to FY 2017, while retaliation and sex-based complaints increased by 1.9 percent and 16.7 percent, respectively.

In FY 2018, the most frequently raised type of adverse action was harassment (non-sexual), with 173 complaints filed; harassment has been the most frequently raised adverse action since FY 2013. In FY 2018, harassment was followed by promotion/non-selection, which was raised in 79 complaints, and assignment of duties, which was raised in 47 complaints. Reasonable accommodation was raised in 33 complaints.

In FY 2018, the formal complaint processing time during the investigative stage was 185 days. From FY 2013 to FY 2018, the annual average time for DOT's processing of formal complaints during the investigative stage was 154 days.

3.6 Findings of Discrimination

There were five findings of discrimination rendered in FY 2018. One finding was following a hearing before the EEOC, three were following an appeal to EEOC's Office of Federal Operations, and one was a Final Agency Decision. The bases for discrimination in the findings were retaliation, sex, age, national origin, and race. The findings of discrimination

were issued pertaining to disciplinary action (other), demotion, non-selection, training, terms and conditions of employment, and sexual harassment.

This is comparable to data from previous years. In FY 2017, there were a total of four findings of discrimination. Three findings were following a hearing before the EEOC, and one was following an appeal to the EEOC's Office of Federal Operations. The bases for discrimination in the findings were disability and retaliation. The findings of discrimination were issued pertaining to disciplinary action (other), reasonable accommodation, disclosure of medical information, and non-selection. FY 2016 had the same number of findings (four), based on race, reprisal, sex, and disability. The FY 2016 findings were issued pertaining to allegations of disciplinary action (other), non-sexual harassment, reasonable accommodation, and promotion.

4. Accomplishments, Training, and Awareness

Accomplishments: Increased Employee Engagement & Inclusion, and Preventive Harassment Efforts Central to Agency Efforts

DOT worked to improve Departmental policies and guidance to eliminate discrimination

DOT's efforts to engage employees to ensure a civil, inclusive, and discrimination-free workplace have contributed to the Agency recently being recognized as the fourth best place to work among large government agencies, per the Partnership for Public Service's 2018 Report. DOT's continued high employee satisfaction reflects a sustained departmental effort to communicate with the workforce and respond to employee concerns. To that end, DOT's Strategic Plan for FY 2018-2022, published in February 2018, identifies the importance of attracting, developing, and retaining DOT employees by improving employee engagement, recruiting talent from all segments of American society, and enhancing workforce development and training. DOT leadership recognizes the importance of a healthy work environment in retaining quality employees, with emphasis on proactively addressing workplace civility and conflict resolution through policy initiatives, awareness, and training.

At the OA level, as an example, MARAD has also focused on updating and disseminating policies addressing discrimination and harassment. In FY 2018, MARAD updated its Maritime Administrative Order's on Equal Employment Opportunity and drafted standard operating procedures for the Reasonable Accommodation process. These documents provide for better clarity and direction for MARAD employees to understand expectations of a discrimination-free work environment. MARAD also digitally published policy statements issued by the Secretary of Transportation, and posted them throughout high-traffic areas in MARAD headquarters, the US Merchant Marine Academy, and their Strategic Sealift fleets locations.

DOT has focused on creating partnerships throughout the Department to increase engagement with EEO and anti-harassment principles.

DOT drives these principles—reducing or eliminating discrimination, harassment, and retaliation in the workplace—through departmental policies and guidance. DOCR continued

to partner closely with various Human Resources (HR) subject matter experts and participate in HR working groups to share and acquire knowledge that may minimize barriers or drive equity and inclusion concerns.

As part of the Department's Diversity and Inclusion Strategic Plan, managers and supervisors are encouraged to support employee participation in resource groups. To this end, DOCR and DOHRM developed a strategic plan to foster collaboration between Special Emphasis Program Managers (SEPMs) and Employee Resource Groups (ERGs). The strategic collaboration will involve SEPMs and ERG leaders working jointly on both short-term projects and long-term projects. This is designed to identify ways in which SEPMs and ERGs can work more closely with other leaders at DOT. Some OA's are already engaged in best practices in this area; for example, FHWA Human Resources Employee Relations staff work closely with the FHWA Civil Rights Disability Program Manager to support reasonable accommodations throughout our workforce.

DOT also continues to utilize its Center for Alternative Dispute Resolution (CADR) to provide mediation, facilitation, and conflict coaching services to help resolve disputes early and at the lowest level. The CADR offers orientation on how to utilize the Alternative Dispute Resolution (ADR) process, as well as ADR-related informational and skill-based training workshops, to provide employees, including managers and supervisors, with opportunities to learn in a diverse environment and to recognize the frequency of the issues they face.

Furthermore, the DOHRM continues to offer dynamic executive coaching to General Schedule (GS)-15 managers and members of the Senior Executive Service (SES) to improve leadership performance and employee engagement. Civil rights compliance continues to be an essential component in manager and SES performance planning. Throughout FY 2018, DOCR played an essential role in providing new managers with information on the EEO process, the reasonable accommodation process, executive communication, and other EEO-related issues.

Additionally, in FY 2018, FAA and FHWA had active committees working to address diversity and inclusion. In FAA, the Office of Civil Rights chaired an EEO/Diversity and Inclusion Action Committee, which actively engaged in supporting FAA Diversity and Inclusion goals related to reasonable accommodation requests, EEO training, and ADR.

FHWA has an active Diversity Management Committee (DMC), which works to cultivate and advance several initiatives designed to improve organizational culture and raise awareness on the importance of having a diverse and inclusive organization. In FY 2018, the committee selected and trained 24 new Diversity Champions for a total of 68 champions from 64 different offices across the organization. In an effort to drive change and increase buy-in, the DMC made strides to make partnership an emphasis this year. The DMC partnered with the iExchange to host an agency-wide webinar on Generational Diversity titled "Bridging the Workforce Generational Gap." The DMC also identified all FHWA and DOT Special Emphasis Groups and their respective coordinators to support employee resource groups and leverage resources to partner or collaborate on complimentary initiatives

and projects. The DMC also conducted diversity presentations at each of this year's Discipline Support System Seminars. Additionally, the DMC sponsored the Women's Forum, a platform to promote open communication, which provides an opportunity for all employees to participate, and identify challenges in the workplace - especially those impacting women.

Training: Communication and Workplace Behavior were the Focal Point

DOT focused on improving communication and encouraging appropriate workplace behavior

In addition, DOCR conducted a trend analysis of DOT's EEO complaints and identified communication issues as a factor in many EEO complaints. In response, DOCR developed an executive communication curriculum for new supervisors at DOT, designed to address many of the communication challenges that form the underlying issues for EEO complaints at DOT.

The DOCR and DOHRM, as well as individual OAs, offer resources and training sessions on appropriate workplace behavior. The DOCR-sponsored Civil Rights Learning Center serves as a Department-wide resource for training materials related to appropriate workplace behavior, as well as many other Civil Rights topics.

Additionally, DOCR develops and distributes standardized civil rights trainings throughout DOT. The DOCR also maintains the Civil Rights Learning Center, which is a collective initiative of the Civil Rights offices across the Department to foster continuous learning of the highest quality. Across OAs, training is delivered in-person, via instructor-led video teleconference, and through the Employee Learning Management System, DOTLearns, Adobe Connect, and Aviation Training Network Broadcasts. For example, the new employee orientation sessions explicitly state the expectations for all employees to ensure a discrimination and harassment free work environment. In addition, the Office of the Secretary mandated that all supervisors attend a civility session, offering ideas on how to handle difficult conversations.

Furthermore, as part of its ongoing workforce EEO education and training efforts, in May 2018, DOT held its sixth annual DOT Civil Rights Virtual Symposium. The symposium, entitled "Speaking with One Voice: Gaining the Competitive Edge," was a three-day virtual event connecting stakeholders and perspectives across the U.S. The target audience included DOT's employees, employees from other Federal agencies and local state government; EEO, Diversity & Inclusion, and Civil Rights professionals; and members of the public with an interest in transportation and civil rights topics. The symposium theme focused on proactive civil rights compliance as a tool to improve organizational performance and covered numerous EEO-related topics, including recognizing and providing reasonable accommodations; the organizational benefits of confronting and discussing workplace harassment; effective recruitment and hiring strategies for both managers and employees; and leadership competencies for an inclusive organization.

In addition to the symposium, DOCR conducted numerous training sessions for DOT employees. To allow for participation by employees from across the country, sessions were also offered virtually. These sessions covered various civil rights topics such as Prevention of Workplace Harassment, Unconscious Bias, Reasonable Accommodation, the EEO Complaint Process, and Bullying and Civility. These sessions were led by Civil Rights instructors at DOT Headquarters and various DOT locations across the country. At the OA level, civil rights and training leaders provided education through brown bag lunches and organization-wide instruction on equity and inclusion topics.

Several OAs included EEO topics in Supervisory and Managerial Training

Many OAs include EEO topics in their mandatory supervisory and management training classes. On March 1, 2018, SLSDC held an annual Supervisory Training program, which included sessions on EEO topics. FHWA regularly provides mandatory training to all new Team Leaders and Managers on Critical Human Resource Skills, including reasonable accommodations, prohibited personnel practices, and diversity and inclusion. Team Leaders, Supervisors, and Managers are also required to participate in online training on Ethics, Whistleblower Protections and Prohibited Personnel Practices. In FY 2018, FHWA's Human Resources also developed a one-day Employee Relations (ER) Bootcamp for managers which includes in-person training on a variety of subjects including reasonable accommodations, Whistleblower rights and Prohibited Personnel Practices, including a prohibition on discrimination and retaliation.

In FY 2018, PHMSA trained all supervisors and managers on prohibited personnel practices, most specifically reprisal, bias, and prevention of harassment. The PHMSA Administrator expanded the training to include all managers and supervisors and to require mandatory attendance. Additionally, the training sessions were expanded to include training on prevention of harassment, performance management, and other important issues for PHMSA.

OAs developed and implemented trainings on Civility and Communication Skills

FAA's EEO Training Institute implemented new training in FY 2018, on communicating with tact, diplomacy, and professionalism, and a training called "How Was Your Day?" that addressed overcoming unconscious bias, embracing diversity and inclusion, preventing harassment, and standing up to bullying.

FMCSA provided civility training via virtual and in-person sessions during FY 2018. In addition, FMCSA is currently making the training available to DOT's virtual training system.

OAs Continued to Implement General EEO Trainings and Provide Updates on EEO Topics

In FY 2018, FAA's Office of Civil Rights partnered with the Office of Aviation Safety (AVS) to provide EEO Diversity and Inclusion training to 500 AVS managers and employees during the annual AVS EEO Training Week. Civil rights trainers provided several courses through webinars and participants also completed online EEO training during the week. Other offices are planning to have similar annual events to promote EEO training.

FMCSA's Office of Civil Rights also provided EEO updates to over 300 employees at the Eastern and Southern Service Centers in-service training. The updates consisted of an overview of the EEO complaint process, the EEOC's Guidance on Anti-Harassment, and the relationship between the Agency's Strategic Plan and the EEO program.

MARAD's Office of Civil Rights conducted training for managers, employees, throughout the OA's subcomponents, regarding their rights and responsibilities. In addition, SLSDC's annual Engineering and Maintenance Awareness Day included presentations on EEO topics. FRA's Office of Civil Rights successfully trained all of its field employees on reasonable accommodation in a series of live, instructor led two-hour sessions.

FHWA provided training on Sexual Harassment

In the Spring of FY 2018, FHWA's Office of Civil Rights rolled out a series of online and in-person training sessions titled Recognizing and Preventing Sexual Harassment in the Workplace. The sessions were designed to help FHWA employees to understand, explain, and respond appropriately to sexual harassment in the workplace. FHWA's training sessions entailed a combination of real world case studies, EEO Law, and statistics. As of October 1, 2018, most FHWA employees had either participated in a Webinar, In-person Session, or watched the recording.

Awareness around inclusive workplace behaviors emphasized in FY 2018

DOT has also enhanced its efforts to promote awareness of ways to foster a workplace free from discrimination and strategies to identify and prevent workplace behaviors that contribute to discrimination and/or inappropriate conduct in response to the persistence of harassment and retaliation-based complaints.

In FY 2018, MARAD lead several special observances—Hispanic Heritage Month, African American History Month, and Women's History Month. National Disability Employment Awareness Month was celebrated through a revolving slideshow highlighting the contributions and importance of persons with disabilities in the workforce. MARAD also supported other special emphasis observances, including the Secretary's Asian American Pacific Islander Heritage Month event and the Department's Women's History Month event.

NHTSA's Office of Civil Rights participated in an OA-wide Poster Fair; the Office of Civil Rights staffed an information table and answered questions and provided resources about NHTSA's EEO program. In addition, NHTSA provided employees with EEO resource booklets on civility in the workplace. NHTSA played an active role in the planning efforts for DOT-wide special emphasis observances, including a Women's History Month program, a Hispanic Heritage Month program, and a National Disability Employment Awareness Month program.

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

Section 202 of the No FEAR Act requires Federal agencies to provide training for their employees on the rights and remedies under Federal antidiscrimination, retaliation, and whistleblower protection laws. Title 5 of C.F.R. § 724.203 requires Federal agencies to develop a written training plan and to have trained their employees by December 17, 2006, and every two years thereafter. Under these regulations, new employees are to receive No FEAR training within 90 days of appointment through the Agency's orientation program or some other form of No FEAR Act training.

DOT requires the inclusion of electronic No FEAR Act training in each employee's e-Learning development plan. The process of including this training in the development plan helps to ensure that employees take their No FEAR Act training within the two-year cycle required by the No FEAR Act, and that new employees complete the training within 90 days of hire. In FY 2018, DOT used the Training Management System (TMS) and FAA's electronic Learning Management System (eLMS) to include the required training in every employee's learning plan, a practice that began in FY 2011. In FY 2019, DOT transitioned to a new Department-wide learning system, DOTLearns, to provide online training to employees. In FY 2018, 75.3 percent of the 3,439 new DOT employees completed No FEAR Act training within 90 days of appointment. This represented a substantial increase from FY 2017's 90-day completion rate of 52 percent.

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

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

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

- Complete and implement new anti-harassment prevention policy and procedures in FY 2019.
- Continue to perform analyses on recruitment, on board, and/or outreach efforts, and triggers to understand the causes of low participation of diverse groups in certain areas of the workforce.
- Strive to achieve a bi-annual goal of educating all employees of their rights and protections under antidiscrimination, retaliation, and whistleblower protection laws.
- Ensure that new employees receive No FEAR Act training within 90 days of their appointment through electronic e-Learning plan. Further, through the new employee orientation program, ensure that new employees receive the information regarding his/her

rights and protections under anti-discrimination, retaliation, and whistleblower protection laws.

- Provide necessary updates to the No FEAR Act training module to continue to ensure accessibility for all employees.
- Continue to innovate on adult-learning that expands the interdependency of leadership success with equity and access.
- Ensure that complainants and respondents are apprised of the opportunity for mediation and ADR throughout the informal and formal complaint process. This promotes early resolution of complaints, and saves resources and staff time.
- Collaborate with veterans' programs to increase hiring of veterans, including those with targeted disabilities.

6.2 Practical Knowledge Gained

- The Office of the Secretary and the OAs play a vital role in meeting the reporting requirements of the No FEAR Act. As a result, to the extent resources allow, DOT will continue to work on the development of information systems that facilitate and automate the process of gathering and analyzing data so that it is accessible to everyone.
- The trend analyses inherent in No FEAR Act reporting is shared with all DOT offices to spur relevant action planning, not only to accomplish training, but also to address a range of issues, including potential barriers to employment of individuals from diverse backgrounds.

Appendix A – Summary Data

Table 1: Total Complaints Filed and Complainants Filing, FY 2013 to FY 2018						
	2013	2014	2015	2016	2017	2018
Number of Complaints Filed	374	322	348	294	266	271
Number of Complainants	346	293	323	284	259	262
Repeat Filers	24	14	8	10	7	9

Table 2: Complaints by Basis, FY 2013 to FY 2018						
Basis	2013	2014	2015	2016	2017	2018
Race	164	142	158	102	100	107
Reprisal	195	184	199	161	158	161
Sex	141	149	130	120	115	138
Age	95	136	128	109	96	102
Disability	104	93	111	109	95	86

Table 3: Top Complaints Filed by Issue, FY 2013 to FY 2018						
Issue	2013	2014	2015	2016	2017	2018
Harassment (Non-Sexual)	119	130	160	146	134	173
Promotion/Non-Selection	88	87	87	71	61	79
Disciplinary Action	33	23	32	20	34	63
Training	41	24	27	15	19	34
Reasonable Accommodation	19	28	23	31	32	33
Reassignment	14	18	13	12	32	30
Termination	47	10	27	26	25	27
Other	49	17	3	4	1	14
Appointment/Hire	9	18	34	13	14	10

Table 4: Findings of Discrimination by Basis, FY 2013 to FY 2018						
Basis	2013	2014	2015	2016	2017	2018
Age	2	2	1	0	0	1
Color	0	0	1	0	0	0
Disability	0	1	1	3	2	0
Equal Pay	0	0	0	0	0	0
National Origin	0	1	0	0	0	1
Race	3	1	1	1	0	1
Religion	0	0	0	0	0	0
Reprisal	3	1	2	3	2	4
Sex	7	0	0	3	0	1

Table 5: Findings of Discrimination by Issue, FY 2013 to FY 2018						
Issue	2013	2014	2015	2016	2017	2018
Appointment/Hire	0	0	0	0	0	0
Assignment of Duties	1	1	0	0	0	1
Harassment	2	1	1	2	0	1
Medical Examination	0	0	1	1	0	0
Promotion/Non-Selection	3	0	0	0	1	2
Reasonable Accommodation	0					
Termination	0	0	0	0	0	0
Terms/Conditions of Employment	0 0	1 0	1 1	0 1	2 0	0
Training	1					

0 0 2 0 1

Table 6: Federal Court Cases with Alleged Violation of Law, FY 2013 to FY 2018						
	2013	2014	2015	2016	2017	2018
Total Court Cases	44	33	33	25	35	33
Alleged Title VII Violation	25	29	29	19	30	26
Alleged Age Discrimination in Employment Act Violation	18	9	7	5	4	7
Alleged Rehabilitation Act Violation	7	5	3	2	10	13
Alleged Whistleblower Protection Act Violation	0	0			0	0
Alleged Equal Pay Act Violation	0	0			0	0
Alleged Retaliation	0	9	6	14	17	13

2 1
0 0

Table 7: Formal Complaint Processing Time in Days, FY 2013 to FY 2018						
	2013	2014	2015	2016	2017	2018
Investigation Stage	155	139	138	141	166	185
Final Action Stage	214	42	42	62	85	57

Table 8: Annual Total Reimbursements to the Judgment Fund by Amount, FY 2013 to FY 2018						
	2013	2014	2015	2016	2017	2018
Total Reimbursements	\$570,881	\$1,116,156	\$1,009,500	\$307,000	\$568,113	\$458,000

Table 9: Pre-Complaint Processing Timelines, FY 2013 to FY 2018						
Rate of Individuals Counseled within Mandatory Timeframe	2013	2014	2015	2016	2017	2018
	94.90%	90.00%	96.10%	98.10%	98.48%	95.65%

Table 10: Reimbursements to Judgment Fund by Number of Cases, FY 2013 to FY 2018						
Cases Resulting in Reimbursements	2013	2014	2015	2016	2017	2018
	5	7	3	3	5	2

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

	Comparative Data Previous Fiscal Year Data					2018
	2013	2014	2015	2016	2017	
Number of Complaints Filed	374	322	348	294	266	271
Number of Complainants	346	293	323	284	259	262
Repeat Filers	24	14	8	10	7	9

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					2018
	2013	2014	2015	2016	2017	
Race	164	142	158	102	100	107
Color	79	65	74	42	46	47
Religion	23	21	20	14	20	15
Reprisal	195	184	199	161	152	161
Sex (including complaints filed under Equal Pay Act [EPA])	144	153	133	120	115	138
National Origin	54	42	40	29	40	31
Age	136	134	128	109	96	102
Disability	104	93	111	109	95	86
Non-EEO basis	19	18	15	10	8	15
Genetics	3	4	4	3	3	4
PDA	2	4	3	1	0	5

Complaints by Issue <i>Note: Complaints can be filed alleging multiple issues. The sum of the bases may not equal total complaints filed.</i>	Comparative Data Previous Fiscal Year Data					2018
	2013	2014	2015	2016	2017	
Appointment/Hire	9	18	34	13	13	10
Assignment of Duties	27	22	23	14	29	47
Awards	11	7	7	5	6	9
Conversion to Full Time	0	0	0	0	0	1
Disciplinary Action						
Demotion	3	2	2	1	2	3
Reprimand	7	6	9	3	7	17
Removal	2	1	4	3	5	6
Suspension	19	12	12	11	12	20
Other	2	2	8	4	6	15
Duty Hours	5	3	3	5	8	10
Evaluation/Appraisal	21	20	19	19	39	45
Examination/Test	3	1	6	1	1	5
Harassment						
Non-Sexual	119	130	160	146	151	173
Sexual	9	12	8	10	16	16
Medical Examination	1	0	3	2	4	4
Pay (including overtime)	14	21	10	13	14	26
Reassignment						
Promotion/Non-Selection	88	87	87	71	63	79
Denied	1	5	5	4	5	13
Directed	14	13	8	8	11	17
Reasonable Accommodation	19	28	25	31	32	33
Reinstatement	0	0	0	0	1	0
Retirement	4	5	4	11	5	5
Termination	47	10	27	26	25	27
Terms/Conditions of Employment	3	13	10	6	30	37
Time and Attendance	11	19	14	4	16	34
Training	41	24	26	15	19	31

Processing Time	Comparative Data Previous Fiscal Year Data					2018
	2013	2014	2015	2016	2017	
Complaints pending (for any length of time) during fiscal year						
Average number of days in investigation stage	155.18	138.87	137.87	140.86	166.08	185.1
Average number of days in final action stage	213.69	42.37	41.91	62.45	85.05	56.83
Complaints pending (for any length of time) during fiscal year where hearing was requested during fiscal year						
Average number of days in investigation stage	159.71	150.78	141.31	141.64	158.81	191.18
Average number of days in final action stage	303.84	26.8	35.39	47.95	72.03	51.8
Complaints pending (for any length of time) during fiscal year where hearing was not requested						
Average number of days in investigation stage	147.46	142.72	129.16	13.927	177.62	167.41
Average number of days in final action stage	67.73	58.15	51.04	79.38	98.07	64.69

Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data					2018
	2013	2014	2015	2016	2017	
Total Complaints Dismissed by Agency	105	61	92	75	23	34
Average days pending prior to dismissal	33	46	812	15	35	71
Total Complaints Withdrawn by Complainants	25	16	20	16	15	12

Total Final Actions Finding Discrimination	Comparative Data Previous Fiscal Year Data										2018	
	2013		2014		2015		2016		2017			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	2		2		3		4		4		5	
Without Hearing	0	0	0	0	0	0	0	0	0	0	1	20
With Hearing	2	100	2	100	3	100	4	100	4	100	4	80

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data											
	2013		2014		2015		2016		2017		2018	
<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	6		2		3		4		4		5	
Race	3	50	1	50	1	33.3	1	25.0	0	0	1	20
Color	0	0	0	0	1	33.3	0	0.0	0	0	0	0
Religion	0	0	0	0	0	0	0	0.0	0	0	0	0
Reprisal	4	67	1	50	2	66.7	3	75.0	1	25.0	3	60
Sex (including complaints filed under EPA)	5	83	0	0	0	0	3	75.0	0	0	2	40
National Origin	0	0	1	50	0	0	0	0.0	0	0	1	20
Age	2	33	2	100	2	66.7	0	0.0	0	0	1	20
Disability	0	0	1	50	1	33.3	3	75.0	3	75.0	0	0
Non-EEO basis	1	17	0	0	0	0	0	0.0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0.0	0	0	0	
Pregnancy Discrimination Act (PDA)	0	0	0	0	0	0	0	0.0	0	0	0	0
Findings After Hearing	6		2		3		4		4		4	
Race	3	50	1	50	1	33.3	1	25.0	0	0	0	0
Color	2	67	0	0	1	33.3	0	0.0	0	0	0	0
Religion	1	33	0	0	0	0	0	0.0	0	0	0	0
Reprisal	3	100	1	50	2	66.7	3	75.0	1	25.0	3	75
Sex (including complaints filed under EPA)	4	133	0	0	0	0	3	75.0	0	0	2	50
National Origin	1	33	1	50	0	0	0	0.0	0	0	1	25
Age	2	67	2	100	2	66.7	0	0.0	0	0	1	25
Disability	1	33	1	50	1	33.3	3	75.0	3	75.0	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 Without Hearing	0		0		0		0		0		1	
Race	0	0	0	0	0	0	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	0	0	0	0

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

Findings of Discrimination Rendered by Issue (Part 1)	Comparative Data Previous Fiscal Year Data										2018	
	2013		2014		2015		2016		2017			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number of Findings	6		2		3		4		4		5	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	1	17	0	0	0	0	0	0	0	0	1	20
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	1	33.3	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	1	25	1	25	1	20
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	20
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	3	50	1	50	2	66.7	2	50	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	1	20
Medical Examination	0	0	1	50	0	0	1	25	0	0	0	0
Pay (including overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	4	67	0	0	3	100	0	0	1	25	2	40
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	2	66.7	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	1	33.3	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	1	50	0	0	0	0	0	0	0	0

Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	1	17	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	1	25.0	0	0

Findings of Discrimination Rendered by Issue (Part 2)	Comparative Data Previous Fiscal Year Data										2018	
	2013		2014		2015		2016		2017			
	#	%	#	%	#	%	#	%	#	%	#	%
Findings After Hearing	6		2		3		4		4		4	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	1	17	0	0	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	0	0	0	0	0	0	1	25	1	25	1	25
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	25
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	3	50	1	50	1	33.3	2	50	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	1	25
Medical Examination	0	0	1	50	0	0	1	25	0	0	0	0
Pay (including overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	4	67	0	0	3	100	0	0	1	25	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	0	0	0	0	2	66.7	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	1	33.3	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	1	50	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	1	17	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	1	25	0	0

Findings of Discrimination Rendered by Issue (Part 3)	Comparative Data Previous Fiscal Year Data										2018	
	2013		2014		2015		2016		2017			
	#	%	#	%	#	%	#	%	#	%	#	%
Findings Without Hearing	0	0	0		0		0		0		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	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (including overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	1	100
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data Previous Fiscal Year Data					2018
	2013	2014	2015	2016	2017	
Total Complaints from Previous Fiscal Years	459	506	530	591	605	621
Total Complainants	358	410	426	471	491	509
Number Complaints Pending						
Investigation	97	84	97	91	91	96
Hearing	252	297	292	333	382	402
Final Agency Action	30	20	26	31	48	61
Appeal with EEOC Office of Federal Operations	80	105	115	136	84	62

Complaint Investigations	Comparative Data Previous Fiscal Year Data					2018
	2013	2014	2015	2016	2017	
Pending Completion Where Investigation Exceeds Required Time Frames	15	7	7	3	15	48