
Office of Inspector General

Management Advisory Report on
Civil Rights Matters (Sexual Harassment)
Involving FAA

Federal Aviation Administration

Report Number MA-1998-022

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U.S. Department of
Transportation

Office of the Secretary
of Transportation

Office of Inspector General

Memorandum

Subject: **ACTION:** Management Advisory Report on
Civil Rights Matters (Sexual Harassment)
Involving FAA

Date: October 21, 1997

From: ~~Report Number: MA-1998-022~~

Raymond DeCarli
Deputy Inspector General

Reply to
Attn of:

To: Federal Aviation Administrator
Director, Departmental Office of Civil Rights

Background and Objectives

The Office of Inspector General (OIG) conducted a review of sexual harassment cases at the Federal Aviation Administration (FAA). The objective was to determine the number of sexual harassment cases pending and resolved, including the case age, status, and processing time. Sexual harassment, as defined in Title 29 Code of Federal Regulations (CFR) 1604.11, is unwelcome sexual advances, requests for sexual favors, or physical conduct of a sexual nature.

The Departmental Office of Civil Rights' (DOCR), within the Office of the Secretary, has the responsibility for processing all formal internal discrimination complaints, which includes complaints of sexual harassment. FAA, on the other hand, has the authority to resolve informal allegations of discrimination through Equal Employment Opportunity counseling or by using Alternative Dispute Resolution. Attachment 1 contains a flowchart of the Federal Sector Complaint process and identifies the DOCR and FAA involvement.

Results

We found as of August 22, 1997, that FAA had 83 sexual harassment cases in the DOCR Case Management Automated System. The 83 cases were entered into the Case Management Automated System after it was developed in November 1995.

As of August 22, 1997, 36 of the 83 cases were closed, 39 were open, and 8 were under appeal. Attachments 2 and 3 provide the distribution of FAA sexual harassment cases by DOCR and FAA regions.

Closed Cases

Our review of the closed cases showed that 12 of 36 cases (33 percent) had a finding of discrimination. Specifically, 10 cases were settled and 2 were informally resolved. We also found that 24 of the 36 cases (67 percent) were closed without a finding of discrimination. Final agency decisions were issued for 7 cases, complainants withdrew 2 cases, and DOCR dismissed 15 cases (attachment 4).

Open Cases

The 39 open cases have not been processed to the point where a finding of discrimination can be made. Our analysis of these cases showed the following:

- The controller work force represents about one-third of the total FAA employees. However, 28 of the 39 cases (72 percent) were from air traffic offices. Further, 15 of the 39 cases (38 percent) were from six air traffic offices. The six offices included the New York Air Route Traffic Control Center (ARTCC), New York Air Traffic Control Center (ATCT), Atlanta ARTCC, St. Louis ATCT, Cincinnati ATCT, and the Eastern Region Air Traffic Division. Details by FAA organizations and occupations are shown in attachments 5 and 6.
- Sixty-four percent (25 of the 39) of the open cases were filed against co-workers as compared to 36 percent (14 of the 39) filed against supervisors. Sexual harassment cases can result when a supervisor alters an employee's job conditions as a result of the employee's refusal to submit to sexual demands. However, we found that more cases were filed against co-workers (attachment 7).
- The 39 open cases contained 49 allegations of sexual harassment because 5 cases contained more than one allegation. For example, in one case the complainant alleged a co-worker made unwanted sexual advances, left sexual notes, and attempted rape. Our analysis of the 49 allegations showed that 21 (43 percent) were due to some type of verbal abuse, such as sexually explicit jokes, and degrading or demeaning language. Further, 12 of the 49 allegations (24 percent) were due to unwanted sexual advances (attachment 8).

Processing of Sexual Harassment Cases

We found that the average age for the open cases was 454 days, with a range from 11 to 1,455 days. We also determined that 38 percent (15 of the 39) of the open cases are

currently under investigation. These investigations are conducted by the six DOCR regions. The average age of cases under investigation was 214 days, with a range from 11 to 627 days. However, Title 29 CFR 1614.108 states that the complaint investigation should be completed within 180 days of the date a complaint was filed. Also, 23 percent (9 of the 39) of the open cases were pending an issuance of a final agency decision for an average of 258 days. 29 CFR 1614.10 states a final agency decision must be issued within 60 days of: (1) receiving notice that a complainant has requested an immediate decision, (2) the end of the 30-day period for requesting a hearing if a timely hearing request has not been received from the complainant, and (3) receiving the findings and conclusions of an administrative judge. The remaining 15 open cases were awaiting acceptance or dismissal at the DOCR regions or awaiting a hearing at the Equal Employment Opportunity Commission. Attachments 9 and 10 show statistics on the processing time of the 39 open sexual harassment cases. Additionally, a joint review by DOCR, General Counsel, Federal Transit Administration, and OIG is examining the DOCR process to identify actions needed to improve DOT responsiveness to complaints.

Actions Taken/Needed

On September 12, the FAA Administrator issued a new policy statement on sexual harassment. This policy statement reaffirms the agency position that sexual harassment will not be tolerated in the workplace and advises that disciplinary actions will be taken against employees who engage in inappropriate conduct.

FAA currently provides sexual harassment training to employees, but does not have core requirements for this training. By developing core requirements, FAA would be able to ensure that employees are sensitive to, and aware of, the need to avoid the five types of sexual harassment identified in attachment 8.

As you are aware, Representative Juanita Millender-McDonald, a member of the House Subcommittee on Aviation, Committee on Transportation and Infrastructure, has asked for hearings to investigate allegations of sexual harassment against female air traffic controllers at the FAA. We have provided the results of our work to the Committee.

If I can answer any questions or be of further assistance, please feel free to contact me on (202) 366-6767.

Attachments

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