



U.S. DEPARTMENT OF
TRANSPORTATION

**Federal Highway
Administration**

Order

Subject
**FHWA PROCEDURES FOR ADDRESSING FINDINGS
OF DISCRIMINATION**

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4710.9

HCR-40

Par.

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1. **What is the purpose of this directive?** The purpose of this directive is to establish FHWA's accountability process for reviewing findings of discrimination and determining appropriate corrective and/or disciplinary actions when an employee engages in discrimination. FHWA will review findings of discrimination issued by the U.S. Equal Employment Opportunity Commission (EEOC), U.S. Merit Systems Protection Board (MSPB), a court of competent jurisdiction, or the Departmental Office of Civil Rights (DOCR).

FHWA is committed to creating and maintaining a workplace free of discrimination.
 2. **Is this a new directive?** Yes, this is a new FHWA directive.
 3. **What is the background concerning this directive?** On February 26, 2008, the Director of the DOCR and the Assistant Secretary for Administration tasked each Operating Administration (OA) with establishing "an accountability process for reviewing findings of discrimination and determining the appropriate follow-up action, consistent with the remedy ordered in the decision." Additionally, the OA's were required to submit a copy of their procedures for addressing findings of discrimination when filing their responses to the Fiscal Year 2008 Notification

and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) Data Questionnaire.

4. **What is the authority for this directive?** The authority is No FEAR Act.
5. **What is the Accountability Review Team?** To ensure appropriate consideration, FHWA will establish an Accountability Review Team consisting of representatives from the Office of Chief Counsel (HCC), the Office of Human Resources (HAHR), the Office of Civil Rights (HCR), and other appropriate offices. Within 2 weeks of being informed of a finding of discrimination issued by the EEOC, MSPB, courts of competent jurisdiction, or the DOCR, members of the Accountability Review Team will meet to review the finding(s) and consider appropriate corrective and/or disciplinary actions. Within 1 week of the initial meeting, the Accountability Review Team will make recommendations for corrective and/or disciplinary actions to the management official with the authority to take corrective and/or disciplinary actions.
6. **What corrective and/or disciplinary actions will FHWA take?** FHWA will take appropriate corrective and/or disciplinary actions when there is a finding of discrimination. A corrective action could entail EEOC directed training and disciplinary actions could entail oral admonishment up to removal. Mitigating or aggravating factors such as those outlined in *Douglas v. Veterans Administration*, 5 M.S.P.R. 280 (1981), and the "FHWA Employee Handbook, Guideline Table of Offenses and Penalties" will be taken into consideration when determining appropriate disciplinary actions.
7. **What are the reporting requirements?** Each quarter, FHWA will provide a report to the Departmental Office of Human Resource Management regarding whether disciplinary actions were taken against any agency official named in the findings as having engaged in discrimination. The quarterly report will include the specific statutory violation and the specific corrective and/or disciplinary actions taken by FHWA.
8. **Where can I obtain additional guidance?** If you have questions or concerns about FHWA procedures for addressing discrimination, you may contact the Office of Chief Counsel (HCC-3), Office of Human Resources (HAHR-23), or Office of Civil Rights (HCR-40).



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