



**SOCIAL SECURITY**  
Office of Human Resources

March 29, 2012

Enclosed is the Social Security Administration's (SSA) Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act Report for fiscal year (FY) 2011. Congress intended the No FEAR Act to reduce the incidence of workplace discrimination within the Federal Government by making agencies and departments more accountable. SSA's mission is to deliver Social Security services that meet the changing needs of the public. Our service principles include adherence to the law and cultural sensitivity. To maximize our effectiveness, we seek to achieve an exemplary Equal Employment Opportunity (EEO) program.

The No FEAR Act requires agencies to prepare an annual report describing: (1) their efforts to improve compliance with the employment discrimination and whistleblower protection laws; and (2) the status of complaints brought against the agency under these laws. The No FEAR Act Annual Report must include specific information on each agency's EEO complaints activity (including Federal district court cases) and resulting disciplinary actions, Judgment Fund reimbursements, and an analysis of trends, causation, and practical knowledge gained through experience.

The No FEAR Act requires agencies to submit their reports to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Senate Committee on Governmental Affairs, the House Committee on Government Reform, each committee of Congress with jurisdiction relating to the submitting agency, the Equal Employment Opportunity Commission, and the Attorney General. Therefore, we are providing our FY 2011 No FEAR Act Report to the following members of the 112th United States Congress:

The Honorable Joseph R. Biden  
President of the Senate

The Honorable Daniel Inouye  
President Pro Tempore, U.S. Senate

The Honorable John Boehner  
Speaker of the House of Representatives

The Honorable Max Baucus  
Chairman, Senate Committee on Finance

The Honorable Orrin Hatch  
Ranking Member, Senate Committee on Finance

The Honorable Debbie Stabenow  
Chairman, Subcommittee on Social Security, Pensions, and Family Policy  
Senate Committee on Finance

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The Honorable Tom Coburn  
Ranking Member, Subcommittee on Social Security, Pension, and Family Policy  
Senate Committee on Finance

The Honorable Joseph I. Lieberman  
Chairman, Senate Committee on Homeland Security and Governmental Affairs

The Honorable Susan M. Collins  
Ranking Member, Senate Committee on Homeland Security and Governmental Affairs

The Honorable Tom Harkin  
Chairman, Subcommittee on Labor, Health and Human Services, Education, and Related  
Agencies, Senate Committee on Appropriations

The Honorable Richard Shelby  
Ranking Member, Subcommittee on Labor, Health and Human Services, Education, and  
Related Agencies, Senate Committee on Appropriations

The Honorable Patrick J. Leahy  
Chairman, Senate Committee on the Judiciary

The Honorable Charles E. Grassley  
Ranking Member, Senate Committee on the Judiciary

The Honorable Kent Conrad  
Chairman, Senate Committee on the Budget

The Honorable Jeff Sessions  
Ranking Member, Senate Committee on the Budget

The Honorable Herb Kohl  
Chairman, Senate Special Committee on Aging

The Honorable Bob Corker  
Ranking Member, Senate Special Committee on Aging

The Honorable Tom Harkin  
Chairman, Senate Committee on Health, Education, Labor and Pensions

The Honorable Michael B. Enzi  
Ranking Member, Senate Committee on Health, Education, Labor and Pensions

The Honorable Sam Johnson  
Chairman, Subcommittee on Social Security  
House Committee on Ways and Means

The Honorable Xavier Becerra  
Ranking Member, Subcommittee on Social Security  
House Committee on Ways and Means

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The Honorable Darrell Issa  
Chairman, House Committee on Oversight and Government Reform

The Honorable Elijah Cummings  
Ranking Member, House Committee on Oversight and Government Reform

The Honorable Dennis Rehberg  
Chairman, Subcommittee on Labor, Health and Human Services, Education, and Related  
Agencies, House Committee on Appropriations

The Honorable Rosa DeLauro  
Ranking Member, Subcommittee on Labor, Health and Human Services, Education, and  
Related Agencies, House Committee on Appropriations

The Honorable Lamar Smith  
Chairman, House Committee on the Judiciary

The Honorable John Conyers, Jr.  
Ranking Member, House Committee on the Judiciary

The Honorable Paul Ryan  
Chairman, House Committee on the Budget

The Honorable Chris Van Hollen, Jr.  
Ranking Member, House Committee on the Budget

Also pursuant to the No FEAR Act requirements, we are providing our Fiscal Year 2011 No FEAR  
Act Report to the following members of the Executive Branch:

The Honorable Jacqueline A. Berrien  
Chair, U.S. Equal Employment Opportunity Commission

The Honorable Eric H. Holder  
Attorney General, U.S. Department of Justice

The Honorable John Berry  
Director, U.S. Office of Personnel Management

Respectfully submitted,



Alan S. Frank  
Acting Associate Commissioner  
for Civil Rights and Equal Opportunity

Enclosure



**Notification and Federal Employee  
Antidiscrimination and Retaliation Act  
(No FEAR) of 2002**

**No FEAR Act Annual Report**

**Social Security Administration**



*Fiscal Year 2011*



**Notification and Federal Employee  
Antidiscrimination and  
Retaliation (No FEAR) Act  
Annual Report  
Fiscal Year (FY) 2011**

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**Social Security Administration (SSA)**  
**No FEAR Act Report**  
**Fiscal Year (FY) 2011**

The No FEAR Act requires each agency to submit to Congress, the Equal Employment Opportunity Commission (EEOC), the Attorney General, and the Office of Personnel Management (OPM) an annual report describing: (1) each agency's efforts to improve compliance with the employment discrimination and whistleblower protection laws; and (2) the status of complaints brought against the agency under these laws. The reporting requirements are in section 203 of the No FEAR Act; each italicized paragraph below reflects a specific paragraph in section 203 to which our agency must respond.

**Section I. Summary of District Court Cases (FY 2011)**

The data below show all cases and payments to the Judgment Fund in FY 2011, regardless of the case filing date. Since complainants file under multiple statutes, the numbers will not total. Also, the total number of cases settled, pending, and adjudicated will not equal the total number filed because of cases filed before FY 2011.

*1. The number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) of the No FEAR Act, in which discrimination on the part of the agency was alleged:*

- Total pending cases at close of FY 2011: 29
- The 29 cases alleged violations of the following laws:
  - Title VII of the Civil Rights Act: 24 cases
  - Age Discrimination in Employment Act (ADEA): 7 cases
  - Rehabilitation Act (disability): 6 cases
- Of the 29 pending cases at the close of FY 2011, 15 were new cases.
- The 15 new cases alleged violations of the following laws:
  - Title VII: 14 cases
  - ADEA: 2 cases
  - Rehabilitation Act (disability): 3 cases

*2. The status or disposition of cases described in the above response:*

- The Federal courts disposed of 13 cases in FY 2011:
  - Dismissed/Judgment for SSA: 11
  - Judgment against SSA: 1
  - Settled: 1

*3. The amount of money required to be reimbursed by the agency under section 201 in connection with each case, separately identifying the aggregate amount of the reimbursements attributable to the payment of attorneys' fees, if any:*

- \$198,794.53 Total
- \$126,034.84 Attorney's Fees

Note: This amount includes awards/settlements for two cases. For one of these cases, the district court decided the case and awarded the fees in FY 2011, but our agency did not reimburse the judgment fund until October 17, 2011 (FY 2012).

4. *The number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1) of section 201(a) of the No FEAR Act.*
  - SSA had no disciplinary actions resulting from a judgment against SSA in Federal court. In the one case decided against SSA, the responsible management official retired from Federal service before we could impose discipline.

## **Section II. Year-End Data**

5. *The final year-end data posted under section 301(c)(1)(B) for FY 2011 (without regard to section 301(c)(2)).*
  - See Attachment A.

## **Section III. Disciplinary Policies and Administrative Discipline**

6. *A detailed description of —*
  - A. *The agency's policy implemented relating to appropriate disciplinary actions against a Federal employee who —*
    - i. *discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2) of the No FEAR Act, or*
    - ii. *committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2), and*
      - Our agency follows OPM's policy guidance for disciplinary actions against employees who violate the anti-discrimination laws. We use a variety of methods to inform employees about what constitutes inappropriate conduct that could lead to discipline and the penalties for the discipline. We provide the information to employees in each new employee orientation, annual equal employment opportunity (EEO) training, ethics training, and informal discussions between managers and employees. In addition, we post on the intranet and provide paper copies of the Standards of Conduct for Employees of the Executive Branch and policies on EEO, labor and employee relations, and the No FEAR Act. We follow the No FEAR Act requirements and in all cases, consider the appropriate disciplinary action.
  - B. *With respect to these laws, the number of employees disciplined in accordance with the agency's policy and the specific nature of the disciplinary action taken.*
    - We imposed discipline on ten employees in FY 2011 for engaging in actions constituting discrimination, retaliation, or harassment: two reprimands, five suspensions, and three removals.



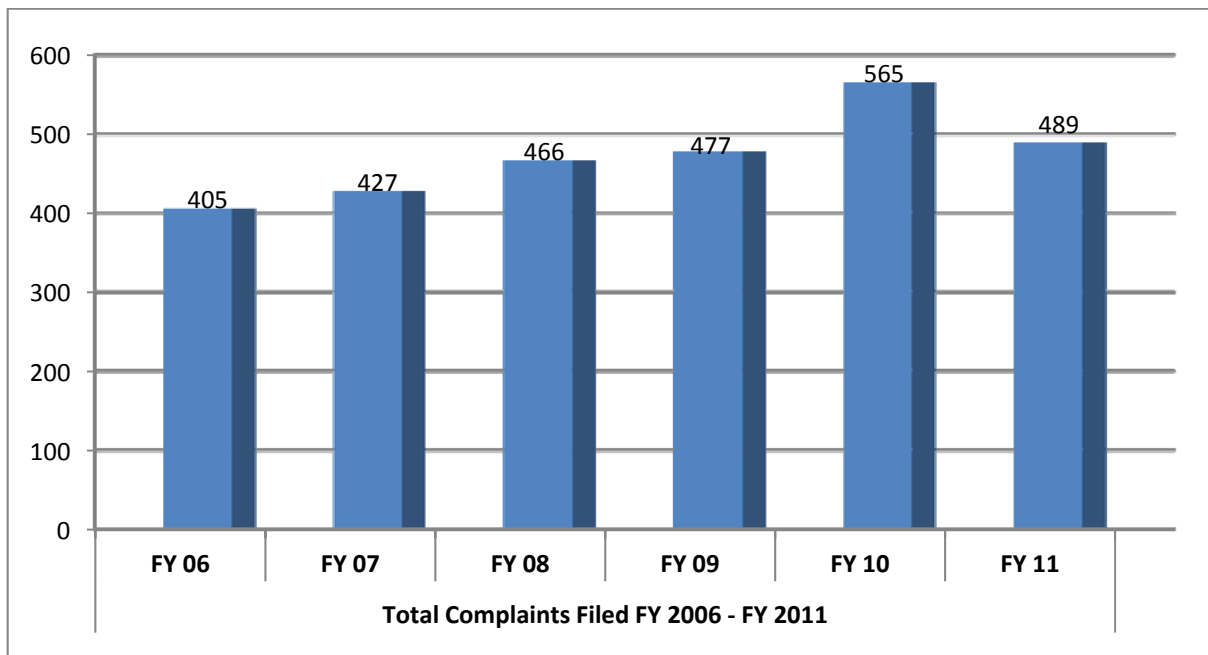
## Section IV. Analysis of Discrimination Complaints

7. An analysis of the information described under paragraphs (1) through (6) above (in conjunction with data the agency provided to the Equal Employment Opportunity Commission in compliance with 29 C.F.R. Part 1614), including:

- a. An examination of trends;
- b. Causal analysis;
- c. Practical knowledge gained through experience; and
- d. Any actions planned or taken to improve the agency's complaint or civil rights programs.

### Examination of Trends and Causal Analysis

Our complaint activity reveals a 13.5 percent decrease in complaints filed from FY 2010 (565 complaints) to FY 2011 (489 complaints). The FY 2011 reduction in complaint activity reverses a four-year trend of increases in complaints filed. In addition, the percentage of our employees who filed formal EEO complaints decreased from 0.72 percent of the workforce in FY 2010 (510 complainants) to 0.67 percent in FY 2011 (448 complainants).



For FYs 2009-2011, the top basis was reprisal and the top issue was harassment (non-sexual). Other top bases for the past five fiscal years included race and age; other top issues included promotion/non-selection, evaluation/appraisal, and time and attendance. Our top bases and issues are consistent with those from other Federal agencies, as reported in the EEOC's Annual Report on the Federal Workforce.

<b>Top Three Bases</b>	<b>Top Three Issues</b>
<b>Fiscal Year 2011</b>	<b>Fiscal Year 2011</b>
Reprisal	Harassment (non-sexual)
Race	Promotion/Non-Selection
Age	Evaluation/Appraisal
<b>Fiscal Year 2010</b>	<b>Fiscal Year 2010</b>
Reprisal	Harassment (non-sexual)
Age	Promotion/Non Selection
Race	Evaluation/Appraisal
<b>Fiscal Year 2009</b>	<b>Fiscal Year 2009</b>
Reprisal	Harassment (non-sexual)
Age	Promotion/Non Selection
Race	Evaluation/Appraisal
<b>Fiscal Year 2008</b>	<b>Fiscal Year 2008</b>
Age	Promotion/Non Selection
Reprisal	Harassment (non-sexual)
Race	Evaluation/Appraisal
<b>Fiscal Year 2007</b>	<b>Fiscal Year 2007</b>
Reprisal	Promotion/Non Selection
Race	Harassment (non-sexual)
Age	Time and Attendance
<b>Fiscal Year 2006</b>	<b>Fiscal Year 2006</b>
Reprisal	Promotion/Non Selection
Race	Harassment (non-sexual)
Sex	Time and Attendance

We are taking action to heighten employee and management awareness of how EEO issues arise in the workplace, with the hope that greater understanding and increased communication will lead to fewer complaints. We train thousands of managers and employees on EEO every year. In FY 2011, our Office of Civil Rights and Equal Opportunity (OCREO) successfully planned, coordinated, and implemented an agency-wide EEO Training Program designed to train employees and managers in all aspects of EEO and civil rights. Members of the EEO Training Cadre conducted EEO training throughout the agency for more than 700 new and current managers and employees in FY 2011, to ensure a workplace that is free from all forms of discrimination, harassment, and retaliation. We also continually update the Cadre's EEO Training Manual, developed for use as a uniform template to conduct agency-wide EEO training.

In FY 2011, OCREO collaborated with our Office of Learning to develop and produce a Video on Demand (VOD) to provide proactive training and information on cultural sensitivity and awareness. We also developed a No FEAR Act VOD training module, with mandatory viewing for all employees. The VOD remains available for all of our new employees. We will provide No FEAR Act training again in FY 2013 by updating the previous VOD and requiring mandatory viewing.

In addition, OCREO created a “Managers Only” webpage to provide managers and supervisors with a better understanding of their EEO roles and responsibilities. The webpage contains several VODs covering discrimination, harassment, retaliation, reasonable accommodation, and cultural diversity.

In FY 2010, we completed 82.8 percent of our investigations timely (a 47 percent increase over the previous year). We attribute the increase to new internal processing efficiencies we implemented, and a new Blanket Purchase Agreement in FY 2010 for our contract investigators, which significantly improved the Report of Investigations process.

In FY 2011, we completed 72.5 percent of our investigations timely. Several operational factors contributed to the decrease in timeliness, including staffing shortages and operational inefficiencies due to a loss of employee institutional knowledge. We are currently drafting a new operational strategic plan that will address all complaint mission inefficiencies.

<b>Fiscal Year</b>	<b>Complaints Filed</b>	<b>Total Completed Investigations</b>	<b>Average Days</b>	<b>% Timely</b>
FY 2011	489	408	188	72.5%
FY 2010	565	482	174	82.8%
FY 2009	477	509	249	35.6%
FY 2008	466	238	281	29.4%
FY 2007	427	220	226	43.6%
FY 2006	405	311	253	40.8%

In FY 2011, we closed 28 EEO complaints with monetary corrective actions, totaling \$120,909. The monetary actions consist of back pay/front pay (\$13,391), lump sum payments (\$51,893), and attorneys’ fees and costs (\$55,625).

<b>Fiscal Year</b>	<b># of Cases Closed with Monetary Corrective Actions</b>	<b>Total Amount Paid</b>
2011	28	\$120,909
2010	44	\$310,063
2009	33	\$245,500
2008	29	\$190,905
2007	29	\$364,800
2006	20	\$114,294

In FY 2011, we completed 903 informal counselings; we timely processed 93.8 percent and reached resolution through settlement or withdrawal in 45.7 percent.

	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
Total # Completed Counselings	753	843	884	913	972	903
# Timely	481	598	621	784	896	847
% Timely	63.9%	70.9%	70.2%	85.9%	92.2%	93.8%
% of Completed Counselings Resolved (Settled/Withdrawn)	47.8%	48.6%	47.6%	45.9%	41.6%	45.7%

We continue to fine-tune our Alternative Dispute Resolution (ADR) program, which provides mediators worldwide within 48 hours of an ADR request. We are aggressively marketing our ADR program to improve participation and resolution rates. Our marketing efforts include training managers on the benefits of ADR. Several of our Regional Commissioners now require managers to indicate their reason for declining to participate in ADR. OCREO continues to explore making ADR participation mandatory for all management officials. In FY 2011, we maintained an 86 percent ADR offer rate.

<b>Fiscal Year</b>	<b>Counselings/ Complaints</b>	<b>ADR Offers</b>		<b>ADR Participation</b>	
	<b>#</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
FY 2011 Completed Pre-Complaint Counselings	903	774	85.7%	370	41.0%
FY 2010 Completed Pre-Complaint Counselings	972	845	86.9%	437	45.0%
% Change FY 2010 to FY 2011	-7.1%	-8.4%		-15.3%	
FY 2011 Formal Complaint Closures	489	376	76.9%	69	14.1%
FY 2010 Formal Complaint Closures	530	419	79.1%	93	17.5%
% Change FY 2010 to FY 2011	-7.7%	-10.3%		-25.8%	

The agency held nine Special Emphasis Program Observances to celebrate diversity and the contributions of individuals from all minority groups. The observances included our first Headquarters Lesbian, Gay, Bi-sexual, and Transgender program.

In FY 2010, we awarded a contract to conduct our first formal barrier analysis study. The study will identify barriers to equal opportunity and implement agency-wide action plans to remove the identified barriers. The contractor will provide extensive training to our personnel. The contractor is currently conducting its analysis and will conclude a substantial portion of its work by the end of FY 2012. We expect to continue the contract in FY 2013 and beyond.

## B. Practical Knowledge Gained through Experience

Because of our rich diversity and our commitment to our employees, the Partnership for Public Service ranked us as one of the Top Ten Federal Agencies “Best Places to Work” for the third consecutive year. In FY 2011, we ranked #3 in the 21<sup>st</sup> Annual Top 20 Government Agencies in *CAREERS & the disABLED* magazine. We accomplished this by diligently engaging in human capital planning focused on mission-critical and leadership competencies. That leadership is essential to fulfilling our mission of delivering Social Security services that meet the changing needs of the public.

Our workforce planning includes thorough and comprehensive analyses that are the foundation of our data-driven human capital strategies. These strategies serve as the impetus for recruitment, development, and retention initiatives aimed at attracting, hiring, developing, and maintaining a skilled, diverse, and multi-generational workforce.

In FY 2011, the agency conducted the following activities based on an analysis of workforce demographics, development and training needs, and human capital initiatives:

- We continued our long-standing practice of meeting with the agency’s senior executives to provide them with detailed analyses of the workforce composition of their staffs. We discussed trends and made recommendations on how to improve the agency’s workforce in areas of underrepresentation. In addition, we provided yearly and quarterly hiring, separation, and transfer data broken down by race, gender, ethnicity, age, disability, veteran status, and occupational category.
- We used our employee performance management systems to assess employees’ and managers’ knowledge, skills, and abilities. Through open lines of communication and proactive involvement by top management, we identified and scheduled appropriate leadership and diversity training to close knowledge gaps.
- Our Dallas Region (encompassing Arkansas, Louisiana, New Mexico, Oklahoma, and Texas) developed a comprehensive Succession Management Plan to better prepare for leadership succession. The Succession Management Plan focuses on recruitment, development, and retention of a diverse workforce and consists of five tracks built around our 16 critical leadership competencies.
- We conducted a mandatory Leadership Training Program (Transition to Leadership 401) for new managers and supervisors. We focused course discussions on changing demographics and the value of a multi-generational, multi-cultural workforce. Fifty percent of the training focused on communication, team building, and diversity competencies.
- We teamed with the Department of Labor to lead an interagency council composed of multiple Federal agencies, including OPM, to plan and execute the Fourth Annual Federal Hispanic Career Advancement Summit in Bethesda, MD. Approximately 800 Federal employees attended the summit, including 75 of our employees.
- We hosted diversity celebrations nationwide to celebrate diverse cultures and educate managers and employees on cross-cultural differences. Some components developed and distributed to their employees newsletter articles or memorandums concerning the commemorative events.

- OCREO offered “brown-bag” lunchtime training sessions on EEO topics, including diversity, to all Headquarters employees.
- Our National Recruitment Staff held quarterly nationwide conference calls with all of the recruitment leads in our components to exchange best practices for attracting and hiring a diverse, multi-generational workforce.
- Executives and employees participated in the National Coalition for Equity in Public Service Diversity Summit in Washington, D.C. A member of our senior staff served as keynote presenter at the summit and shared our best practices for recruiting a diverse workforce.
- Many managers and employees from our Headquarters components and the Dallas Region participated in the Alamo Federal Executive Board’s “Partners in Equality” Conference in San Antonio, TX. A member of our senior staff served as keynote presenter and shared our best recruitment practices for recruiting a diverse workforce.
- Our Chicago Region (encompassing Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin) developed a diversity and inclusion website where employees can find resources related to diversity and inclusion and share their stories.
- Seattle Region managers (encompassing Alaska, Idaho, Oregon, and Washington) attended a training course entitled “Recruiting and Accommodating People with Disabilities” to learn about strategies to make a diverse workforce a strength.
- All managers and employees in our Philadelphia Region (encompassing the District of Columbia, Delaware, Maryland, Pennsylvania, Virginia, and West Virginia) viewed a DVD entitled “PLEASE Respect My Generation – 5 Generations at Work.”
- Managers in our Office of Communications participated in the following courses:
  - “Ensuring a Respectful Workplace – Diversity and Generational Gap Training;” and
  - “Diversity Fundamentals – Understanding the Lenses Thru Which You See.”
- Our Office of Disability Adjudication and Review created a SharePoint site for managers and EEO Advisory Councils to augment cross-cultural communications. The Councils can post, share, and distribute information.
- All regions trained managers on Category Rating and the benefits of hiring using the Schedule A and Veteran’s Hiring Authorities.
- Our recruitment efforts continued to include visits to Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribal Colleges and Universities, and affinity organization conferences.
- In an effort to inform and recruit diverse, multi-cultural, multi-generational students from high schools, colleges, and universities nationwide, we attended events targeting minority groups, including Individuals with Disabilities’ and veterans’ groups.

- Our National Recruitment Guide highlights the agency's commitment to find and attract highly qualified applicants of diverse backgrounds and provides comprehensive strategies for recruiting a diverse applicant pool. The recruitment materials emphasize diversity and include a variety of posters, videos, and other displays to encourage minority candidates to consider our employment opportunities. Our recruitment cadres use these materials at all recruitment events.
- Our Office of the Inspector General employed a variety of strategies for recruiting underrepresented minority groups and aligning their staffing with the Civilian Labor Force data. Their efforts yielded increases in minority group hiring, including Hispanic males and females, Asian/Pacific Islander males, and Native American males.
- Our Denver Region (encompassing Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming) continued its Tribal Outreach and Training Initiative. Members of a workgroup collaborated with the 29 American Indian Reservations to build better relations and educate tribal communities about our mission and career opportunities.
- We participated in American University's American Indian Program/Washington Internships for Native Students (WINS) program. The WINS program offers students of sovereign American Indian, Alaska Native, and Native Hawaiian nations the opportunity to build leadership skills while living, studying, and interning in the Washington, D.C. area. From FY 2009 through FY 2011, we sponsored 22 WINS students, and are committed to continuing our sponsorship.

### **C. Actions Planned to Improve Agency Complaint or Civil Rights Program**

In FY 2012, the agency will address the following plan objectives to improve our program:

- Collect and analyze applicant flow data through USAJOBS;
- Conduct a study to determine the feasibility of upgrading the EEO performance measure for all agency managers and supervisors;
- Ensure that managers and supervisors receive annual EEO refresher training;
- Explore the possibility of mandatory management participation in ADR;
- Submit timely No FEAR reports;
- Continue to make effective EEO training available to all employees;
- Continue to improve EEO complaint processing so we remain able to meet the required timeframes for processing discrimination complaints;
- Increase the timely issuance of Final Agency Decisions;
- Implement the hiring, marketing, training, and communication initiatives in Executive Order 13548; and
- Continue working with our barrier analysis contractor to identify and resolve potential barriers to equal opportunity.

8. *Any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.*

Not Applicable.

## **Attachment A**

### **Equal Employment Opportunity (EEO) Complaint Data (FY 2006 - FY 2011)**



# Equal Employment Opportunity Data Posted Pursuant to the No FEAR Act: Social Security Administration

Fiscal Year 2006 – Fiscal Year 2011

\*\*Mixed Cases are Included in this report.\*\*

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2011
	2006	2007	2008	2009	2010	
Number of Complaints Filed	405	427	466	477	565	489
Number of Complainants	357	385	421	413	510	448
Repeat Filers	35	26	31	51	44	35
Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2011
	2006	2007	2008	2009	2010	
<i>Note: Complaints can have multiple bases. The sum of the bases may not equal total complaints filed.</i>	2006	2007	2008	2009	2010	2011
Race	174	184	174	181	214	215
Color	22	12	18	27	36	35
Religion	10	10	12	17	25	24
Reprisal	202	190	197	229	259	238
Sex	144	149	137	154	169	152
National Origin	57	53	62	51	67	41
Equal Pay Act	12	1	0	1	0	0
Age	135	165	199	211	236	204
Disability	128	116	163	156	153	142
Non-EEO	18	33	33	42	58	44

Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2011
<i>Note: Complaints can have multiple bases. The sum of the bases may not equal total complaints filed.</i>	2006	2007	2008	2009	2010	
Appointment/Hire	14	2	18	14	22	15
Assignment of Duties	33	30	43	46	60	49
Awards	26	55	35	33	49	24
Conversion to Full-time	1	5	0	1	3	3
Disciplinary Action						
Demotion	3	4	7	3	7	9
Reprimand	25	21	27	18	32	26
Suspension	33	32	19	9	30	25
Removal	8	6	7	11	9	3
Other	2	0	2	5	4	2
Duty Hours	5	2	5	4	3	1
Evaluation Appraisal	14	22	60	68	82	77
Examination/Test	1	0	0	0	1	0
Harassment						
Non-Sexual	121	101	135	176	231	210
Sexual	7	7	8	13	17	13
Medical Examination	0	0	0	0	0	0
Pay (Including Overtime)	17	6	15	24	14	13
Promotion/Non-Selection	131	149	177	160	161	156
Reassignment						
Denied	14	12	10	11	11	12
Directed	7	13	9	9	9	9
Reasonable Accommodation	47	38	55	58	43	47
Reinstatement	0	0	2	1	0	2

Retirement	5	7	8	5	2	8
Termination	35	25	27	43	51	56
Terms/Conditions of Employment	13	7	11	1	5	6
Time and Attendance	54	60	44	45	53	44
Training	17	19	23	31	21	27
Other	35	39	77	66	96	101
<b>Processing Time</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2011</b>
	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	
Complaints pending during fiscal year						
Average number of days in investigation	253.00	226.39	280.62	249.23	173.78	188.18
Average number of days in final action	359.42	304.44	153.25	178.99	205.14	155.47
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	229.78	200.06	275.85	247.37	172.11	187.45
Average number of days in final action	36.56	97.43	14.95	34.07	7.78	41.96
Complaint pending during fiscal year where hearing was not requested						
Average number of days in investigation	273.81	252.89	285.85	250.89	175.26	188.70
Average number of days in final action	507.06	447.25	239.41	256.88	283.93	260.78
<b>Agency-Dismissed Complaints</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2011</b>
	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	
Total Complaints Dismissed by Agency	93	96	75	81	92	99
Average days pending prior to dismissal	109	226	82	184	92	99
<b>Complaints Withdrawn by Complainants</b>						

Total Complaints Withdrawn by Complainants	49		30		41		77		41		53	
<b>Total Final Agency Actions Finding Discrimination</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2011</b>	
	<b>2006</b>		<b>2007</b>		<b>2008</b>		<b>2009</b>		<b>2010</b>			
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
Total Number Findings	6		5		3		0		3		2	
Without Hearing	0	0	1	20	0	0	0	0	0	0	0	0
With Hearing	6	100	4	80	3	100	0	0	3	100	2	100
<b>Findings of Discrimination by Basis</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2011</b>	
	<b>2006</b>		<b>2007</b>		<b>2008</b>		<b>2009</b>		<b>2010</b>			
	<i>Note: Complaints can have multiple bases. The sum of the bases may not equal total complaints and findings.</i>											
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
<b>Total Number Findings</b>	6		5		3		0		3		2	
Race	4	67	1	20	0	0	0	0	0	0	1	50
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	1	17	0	0	0	0	0	0	0	0	0	0
Reprisal	2	33	0	0	1	33	0	0	1	33	1	50
Sex	2	33	3	60	1	33	0	0	0	0	0	0
National Origin	2	33	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	3	50	0	0	1	33	0	0	2	67	1	50
Disability	2	33	2	40	2	67	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings After Hearing</b>												
	6		4		3		0		3		2	
Race	4	67	1	25	0	0	0	0	0	0	1	50
Color	0	0	0	0	0	0	0	0	0	0	0	0

Religion	1	17	0	0	0	0	0	0	0	0	0	0
Reprisal	2	33	0	0	1	33	0	0	1	33	1	50
Sex	2	33	3	75	1	33	0	0	0	0	0	0
National Origin	2	33	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	3	50	0	0	1	33	0	0	2	67	1	50
Disability	2	33	1	25	2	67	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings Without Hearing</b>	0		1		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	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	0	0	0	0	0	0
Sex	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
Equal Pay Act	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	1	100	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings of Discrimination by Issue</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2011</b>	
	<b>2006</b>		<b>2007</b>		<b>2008</b>		<b>2009</b>		<b>2010</b>			
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Total Number Findings</b>	6		4		3		0		3		2	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	1	17	0	0	1	33	0	0	0	0	0	0
Awards	3	50	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
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	1	25	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	1	33	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	2	33	0	0	1	33	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	2	33	2	50	1	33	0	0	2	67	2	100
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	1	17	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	1	25	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	1	33	0	0	0	0	0	0
Time and Attendance	2	33	0	0	0	0	0	0	0	0	0	0
Training	1	17	1	25	0	0	0	0	0	0	0	0
Other – User Defined	0	0	0	0	0	0	0	0	0	0	0	0

<b>Findings After Hearing</b>	6		4		3		0		3		2	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	1	17	0	0	1	33	0	0	0	0	0	0
Awards	3	50	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
<b>Disciplinary Action</b>												
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
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	1	25	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	1	33	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
<b>Harassment</b>												
Non-Sexual	2	33	0	0	1	33	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	2	33	2	50	1	33	0	0	2	67	2	100
<b>Reassignment</b>												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	1	17	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	1	25	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	1	33	0	0	0	0	0	0

Time and Attendance	2	33	0	0	0	0	0	0	0	0	0	0
Training	1	17	1	25	0	0	0	0	0	0	0	0
Other – User Defined	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings Without Hearing</b>	0		0		0		0		0		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
Suspension	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
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	0	0
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 – User Defined	0	0	0	0	0	0	0	0	0	0	0	0
<b>Pending Complaints Filed in Previous Fiscal Years by Status</b>	<b>Comparative Data</b>						<b>2011</b>					
	<b>Previous Fiscal Year Data</b>											
	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>							
Total complaints from previous Fiscal Years	724	604	575	692	745	783						
Total Complainants	587	487	478	574	611	646						
Number of complaints pending												
Investigation	10	25	66	48	50	39						
ROI issued, pending Complainant's action	2	1	4	4	0	1						
Hearing	157	117	169	241	240	293						
Final Agency Action	127	59	49	48	63	75						
Appeal with EEOC Office of Federal Operations	87	97	68	84	133	152						
<b>Complaint Investigations</b>	<b>Comparative Data</b>						<b>2011</b>					
	<b>Previous Fiscal Year Data</b>											
	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>							
Pending Complaints Where Investigations Exceed Required Time Frames	46	85	182	83	61	62						

## **Attachment B**

### **SSA's No FEAR Act Notice Posted on the Agency's Internet Webpage**



## *EEO Data Posted Pursuant to the No FEAR Act*

### **No FEAR Act Notice**

On May 15, 2002, Congress enacted the “Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,” which is now known as the No FEAR Act (Act). One purpose of the Act is to “require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws.” Public Law 107-174, Summary. In support of this purpose, Congress found that “agencies cannot be run effectively if those agencies practice or tolerate discrimination.” Public Law 107-174, Title I, General Provisions, section 101(1).

The Act also requires this agency to provide this notice to Federal employees, former Federal employees, and applicants for Federal employment to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

### **Antidiscrimination Laws**

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. § 2302(b)(1), 29 U.S.C. § 206(d), 29 U.S.C. § 631, 29 U.S.C. § 633a, 29 U.S.C. § 791, and 42 U.S.C. § 2000e-16.

This agency also prohibits discrimination based on parental status and sexual orientation. Executive Order 13152 states explicitly that discrimination based on an individual’s status as a parent is prohibited within the Executive Branch of the Federal Government. The right to address sexual orientation discrimination derives from SSA policy.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, disability, parental status, or sexual orientation, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with the agency. See, e.g., 29 C.F.R. § 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the agency’s administrative or negotiated grievance procedures, if such procedures apply and are available.

### **Whistleblower Protection Laws**

A Federal employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to

public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. § 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036-4505, or online through the OSC Web site at <http://www.osc.gov>.

### Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

### Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws, up to and including removal. If OSC has initiated an investigation under 5 U.S.C. § 1214, however, according to 5 U.S.C. § 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

### Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 C.F.R. Part 724. You may also contact the Office of Civil Rights and Equal Opportunity (Headquarters), the appropriate Civil Rights and Equal Opportunity office (Regions), or the Civil Rights and Equal Opportunity Manager (Office of Disability Adjudication and Review). You may find additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws at the EEOC Web Site <http://www.eeoc.gov> and the OSC Web Site <http://www.osc.gov>.

### Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands, or reduces any rights otherwise available to any employee, former employee, or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. § 2302(d).