



# No Fear Act Report

For Fiscal Year 2005

October 01, 2004 through September 30, 2005

Mine Safety and Health Administration (MSHA)

U.S. Department of Labor

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**I. Basic Information:** Title III of the No Fear (Notification and Federal Employee Anti-discrimination and Retaliation) Act requires agencies to post certain statistical information on their public websites concerning complaints of employment discrimination filed with them under 29 C.F.R. Part 1614. The data in this report complies with this Act.

Due to migration of complaint records to a new database, data calculations for fiscal year 1999 and 2000 may be incomplete in certain categories.

**II. Contact Information:** Civil Rights Center, Room N-4123, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone number (202) 693-6500, TTY-(202) 693-6515/16, Email: CivilRightsCenter@dol.gov.

### III. Definitions of Terms and Acronyms Used in the Report.

**Informal Complaint:** Complaint of alleged discrimination that is filed no more than 45 calendar days following an alleged discriminatory event or action.

**Counseling:** The period of the Informal Complaint process, not to exceed 90 calendar days, where an EEO Counselor conducts an initial fact-finding of the alleged discriminatory event or action.

**Formal Complaint:** Complaint of Alleged Discrimination that is filed no more than 15 calendar days following the completion of the Informal Complaint process.

**Investigation:** Phase of the Formal Complaint process where an EEO Investigator conducts the formal gathering of information, obtains signed Affidavits, and prepares an investigative report.

**Hearing:** Phase of the EEO process following the investigation where the complainant has elected to have a hearing of the facts before an EEOC Administrative Judge.

**Appeal:** Phase of the EEO process where the complainant has elected to contest a decision on their complaint by the filing of an appeal through the EEOC's Office of Federal Operations.

**Final Agency Action:** Phase of the EEO process where the Civil Rights Center informs the complainant that a decision has been rendered on their complaint. In this document the complainant is also made aware of their appeal rights.

**Issue:** The issue of a complaint is the matter about which the individual is complaining. The issue sets forth the alleged discriminatory incident for which the individual seeks redress.

**Basis:** The basis of the complaint is the discriminatory factor asserted by the complainant that is protected by the statute under which the complaint is filed. The bases protected by the non-discrimination statutes are: race, color, religion, national origin, sex, disability, age and reprisal.



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**Fiscal Year:** The period of time between October 1 and September 30.  
(ex.: 10/1/02 – 9/30/03)

**Repeat Filer:** An individual that has filed more than one complaint within a fiscal year.

**Individual Filer:** An individual that has filed only one complaint within a fiscal year.

## IV.

1. Number of Complaints Filed: 8
2. Number of Individual Filers: 8
3. Number of Repeat Filers: 0
4. Number of those complaints filed in which each of the following bases of alleged discrimination was raised\*:

Basis	No. of Occurrences
Age	1
Disability	4
National Origin	1
Race	2
Reprisal	3
Sex	1

\* More than one basis may be stated in a complaint therefore, the total number of occurrences may exceed the total number of complaints filed.

5. Number of those complaints in which each of the following issues of alleged discrimination was raised:



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<b>Issue</b>	<b>No. of Occurrences</b>
Appointment/Hire	2
Assignment of Duties	3
Failure to Accommodate	2
Harrassment-Nonsexual	1
Others	0
Reinstatement	1
Terms/Conditions of Employment	2
Time and Attendance	1



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Average length of time to complete Investigation and Final Agency Action Stages :

	<b>Investigation</b> (Avg. days)	<b>Final Agency Action</b> (Avg. days)
6. All complaints pending for any length of time	281	214
7. All complaints pending for any length of time in which a hearing was not requested	272	214
8. All complaints pending for any length of time in which a hearing was requested	294	0

9. Number of complaints dismissed : 5

9 a). Average length of time such complaints were pending prior to dismissal: 246.60 days

10. Total number of findings with discrimination in this fiscal year : 0

	<b>Number of Actions</b>	<b>Percentage</b>
10 a). Number of Final Agency Actions involving a finding of discrimination without hearing	0	0.00%
10 b). Number of Final Agency Actions involving a finding of discrimination with hearing	0	0.00%

Of the Total Number of Final Agency Actions rendered, basis involved in those actions in which discrimination was found:

11.

<b>Basis</b>	<b>Without Hearing (Number)</b>	<b>Without Hearing (Percent)</b>	<b>After Hearing (Number)</b>	<b>After Hearing (Percent)</b>
Age	0	0.00 %	0	0.00 %
Color	0	0.00 %	0	0.00 %



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Disability	0	0.00 %	0	0.00 %
Equal Pay	0	0.00 %	0	0.00 %
National Origin	0	0.00 %	0	0.00 %
Race	0	0.00 %	0	0.00 %
Religion	0	0.00 %	0	0.00 %
Reprisal	0	0.00 %	0	0.00 %
Sex	0	0.00 %	0	0.00 %
Non EEO Basis	0	0.00 %	0	0.00 %
<b>Total</b>	<b>0</b>	<b>0.00%</b>	<b>0</b>	<b>0.00 %</b>

12. Of the Total Number of Final Agency Actions rendered, issue(s) involved in those actions in which discrimination was found:



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Issue	Without Hearing (Number)	Without Hearing (Percent)	After Hearing (Number)	After Hearing (Percent)
Appointment/Hire	0	0.00 %	0	0.00 %
Assignment of Duties	0	0.00 %	0	0.00 %
Awards	0	0.00 %	0	0.00 %
Conversion to Full-Time	0	0.00 %	0	0.00 %
Disciplinary Act-Demotion	0	0.00 %	0	0.00 %
Disciplinary Act-Other	0	0.00 %	0	0.00 %
Disciplinary Act-Reprimand	0	0.00 %	0	0.00 %
Disciplinary Act-Suspension	0	0.00 %	0	0.00 %
Disciplinary Act-Termination	0	0.00 %	0	0.00 %
Duty Hours	0	0.00 %	0	0.00 %
Equal Pay Act Violation	0	0.00 %	0	0.00 %
Evaluation/Appraisal	0	0.00 %	0	0.00 %
Examination/Test	0	0.00 %	0	0.00 %
Failure to Accommodate	0	0.00 %	0	0.00 %
Harrassment-Nonsexual	0	0.00 %	0	0.00 %
Harrassment-Sexual	0	0.00 %	0	0.00 %
Others	0	0.00 %	0	0.00 %
Pay Including Overtime	0	0.00 %	0	0.00 %
Performance Improvement Plan	0	0.00 %	0	0.00 %
Promotion/Non-Selection	0	0.00 %	0	0.00 %
Reassignment-Directed	0	0.00 %	0	0.00 %



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Reassignment-Request Denied	0	0.00 %	0	0.00 %
Reinstatement	0	0.00 %	0	0.00 %
Retirement	0	0.00 %	0	0.00 %
Terms/Conditions of Employment	0	0.00 %	0	0.00 %
Time and Attendance	0	0.00 %	0	0.00 %
Training	0	0.00 %	0	0.00 %
<b>Total</b>	<b>0</b>	<b>0.00 %</b>	<b>0</b>	<b>0.00%</b>



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13. Total Number of complaints pending for any length of time during FY- 2005 : 33

13 a). Number first filed before FY- 2005 : 25

13 b). Number of individuals who filed those complaints prior to FY- 2005 : 24

13 c). Number of those complaints respectively pending at the following steps of the complaint process:

Investigation	Hearing	Final Agency Action	Appeal
11	2	1	6

13 d). Of the total number of complaints pending in FY- 2005 total number of complaints in which the agency has not completed its investigation within the required 180 days : 6

13 e). Of the total number of complaints pending in FY- 2005 total number of complaints in which the agency has not completed its investigation within the required 360 days : 1