



**RECOVERY ACCOUNTABILITY AND  
TRANSPARENCY BOARD**

**Notification and Federal Employee  
Antidiscrimination and Retaliation  
Act of 2002  
Annual Report  
Fiscal Year 2014**

## **I. Introduction**

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) and implementing regulations require Federal agencies to submit annual reports to the Speaker of the House of Representatives, the President *pro tempore* of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, Committee on Oversight and Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the Recovery Accountability and Transparency Board (Board), the Attorney General, the Chair of the Equal Employment Opportunity Commission (EEOC), and the Director of the Office of Personnel Management (OPM). This Board submission is in accordance with these reporting requirements. As the Board is scheduled to statutorily terminate on September 30, 2015, this will be the Board's last annual report submitted pursuant to the No FEAR Act.

## **II. Background**

The No FEAR Act was signed into law on May 15, 2002, and became effective on October 1, 2003. The No FEAR Act requires Federal agencies to be accountable for violations of antidiscrimination and whistleblower protection laws and to post certain statistical data on their websites relating to Federal-sector Equal Employment Opportunity (EEO) complaints with the agencies.

Section 203 of the No FEAR Act requires that each Federal agency submit its annual report no later than 180 days after the end of each Fiscal Year (FY). Federal agencies must report, among other things, the number of Federal court cases arising under each of the respective areas of law specified in the No FEAR Act in which discrimination was alleged; the status or disposition of cases; the amount of money required to be reimbursed; the number of employees disciplined; any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual or committed a prohibited personnel practice; an analysis of the data collected with respect to trends; and a causal analysis.

Additionally, OPM has published regulations concerning the No FEAR Act's Judgment Fund reimbursement obligations, notification and training requirements, and reporting and best practices provisions. The EEOC has issued regulations to implement the posting requirements of Title III of the No FEAR Act. The Board has prepared this report in compliance with the No FEAR Act as well as OPM and EEOC's final regulations.

## **III. Data**

### **a. Civil Cases**

Section 203(a)(1) of the No FEAR Act requires that Federal agencies include in their annual report "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged." 5 C.F.R. § 724.302(a)(1) clarifies this reporting requirement, stating that Federal

agencies must report on the “number of cases in Federal court [district or appellate] pending or resolved . . . arising under each of the respective provisions of the Federal Antidiscrimination Laws and Whistleblower Protection Laws applicable to them . . . in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved.”

The Board reports that during FY 2014 there were no Federal court cases pending. A review of the previous year indicates that there also were no Federal court cases pending in FY 2013.

**b. Reimbursement to the Judgment Fund**

Section 203(a)(3) of the No FEAR Act requires that Federal agencies include in the annual report the amount of money required to be reimbursed to the Judgment Fund by such agencies under section 201 of the No FEAR Act. 5 C.F.R. § 724.104 explains that the Treasury Department’s Financial Management Service (FMS) will provide notice to an agency’s Chief Financial Officer within 15 business days after payment from the Judgment Fund. The agency is required to reimburse the Judgment Fund within 45 business days after receiving the notice from FMS or must contact FMS to make arrangements in writing for reimbursement. Pursuant to 5 C.F.R. § 724.302(a)(2)(ii)-(iii), all such reimbursements must be reflected in the annual report.

In FY 2014, the Board was not required to make any reimbursements to the Judgment Fund as no payments were made from the Judgment Fund on behalf of the Board. A review of the previous year indicates that there also were no payments required to be reimbursed in FY 2013.

**c. Employees Disciplined for Conduct Inconsistent with Federal Antidiscrimination or Whistleblower Laws**

Section 203(a)(4) of the No FEAR Act and 5 C.F.R. § 724.302(a)(3) require that Federal agencies include in the annual report the total number of employees disciplined in connection with the cases in Federal court identified with Section III(a) of this annual report. Additionally, Section 203(a)(6)(B) of the No FEAR Act and 5 C.F.R. § 724.302(a)(5) require that Federal agencies include in the annual report the total number of employees disciplined in accordance with their agency’s applicable policy for taking disciplinary action against Federal employees, which the Board has recited in Section III(e) of this annual report, whether or not in connection with cases in Federal court.

The Board did not take any applicable disciplinary actions in FY 2014. A review of the previous year indicates that there also were no applicable disciplinary actions taken in FY 2013.

**d. Final Year-End Data Posted Under Section 301(c)(1)(B)**

The final year-end data posted on the Board’s website pursuant to Section 301(c)(1)(B) of the No FEAR Act are included in Appendix A. The final year-end data indicate that, during FY 2014, there were no complaints of discrimination and no complaints resulting in findings of discrimination.

#### **e. Description of Policy on Disciplinary Actions**

Section 203(a)(6) of the No FEAR Act and 5 C.F.R. § 724.302(a)(6) require that Federal agencies include in their annual report a detailed description of the agency's policy for taking disciplinary action against Federal employees for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws or for conduct that constitutes another prohibited personnel practice.

The Board's statements of policy, set forth below, reinforce the Board's commitment to have a workplace free from discrimination, harassment, and retaliation:

*Equal Employment Opportunity Policy Statement.* The Board is committed to the principles of equal employment opportunity and diversity in the workplace for Board employees and job applicants. Although the Board is no longer hiring as it will terminate on September 30, 2015, the Board must continue to develop and retain a highly skilled, diverse workforce to meet the demands of our mission of providing transparency of Recovery Act related funds and preventing and detecting fraud, waste, and abuse.

All Board employees must be fully committed to protecting and maintaining a workplace that ensures equality of opportunity for everyone, regardless of her or his race, color, religion, sex, national origin, age, disability, status as a parent, sexual orientation, protected genetic information, prior Equal Employment Opportunity (EEO) activity, and marital status.

Every employee must be committed to treating one another with dignity, respect, and professionalism, and Board managers and supervisors are expected to lead by example in this regard.

*Prevention of Harassment Policy Statement.* The Board will not tolerate harassment on the basis of race, color, national origin, religion, sex, age (40 and over), disability, sexual orientation, or protected activity. Harassment in this context is defined as conduct that is so offensive as to create a work environment that a reasonable person would consider intimidating, hostile, or offensive.

Employees who believe that they have been victims of harassment may, without fear of reprisal, seek the immediate assistance of a management official or the Office of General Counsel. Any manager or supervisor who becomes aware of harassment must take immediate and appropriate corrective action to ensure that the harassment stops and does not recur. Violations of the law prohibiting harassment or violations of this policy will result in appropriate disciplinary actions against the offenders, up to and including dismissal. This also includes cases where a manager or supervisor should have known about the harassment and failed to take prompt and appropriate action.

*Whistleblowing Policy Statement.* The Board is committed to protecting current and former Federal employees and job applicants from interference and retaliation when making protected disclosures. Congress enacted the Whistleblower Protection Act of 1989 to strengthen protections for Federal employees who believe they are the target of unjustified personnel

actions in reprisal for making disclosures. These disclosures include a violation of law, rule, or regulation; gross mismanagement; gross waste of funds; and abuse of authority; or a substantial and specific danger to public health or safety.

The Board will not tolerate whistleblower reprisal. Legitimate disclosure of information by employees is an invaluable resource for the oversight of government operations. It is the Board's expectation that employees be able to report these matters confidentially to the Board's Office of General Counsel or appropriate management officials at the Board. Anyone who interferes with or retaliates against any current or former employee or job applicant making a protected disclosure will be subject to appropriate disciplinary action.

*Employment and Advancement of Persons with Disabilities Policy Statement.* The Board is committed to enhancing access to employment of people with disabilities to ensure equal employment opportunity. Section 501 of the Rehabilitation Act of 1973 (Act), as amended, prohibits Federal agencies from discriminating against qualified individuals with disabilities. The Act also requires agencies to provide hiring, placement, and advancement opportunities for individuals with disabilities. Violations of this law will result in appropriate disciplinary actions against the offenders up to and including dismissal.

The Board is committed to identifying and removing any barriers for individuals with disabilities. The Board will strive to provide a work environment that welcomes qualified individuals with disabilities and effectively uses their skills, knowledge, and abilities. Each employee can play a role in identifying, reporting, and eliminating barriers for people with disabilities.

#### **f. No FEAR Training**

Section 202(c) of the No FEAR Act requires Federal agencies to provide training to their employees on the rights and remedies under Federal antidiscrimination, retaliation, and whistleblower protection laws.

The Board is composed of two types of employees: detailees from other Federal agencies and appointees. Detailees' home agencies are ultimately responsible for ensuring that their detailees receive any requisite training, and the Board is responsible for training all of its own appointees. Even so, upon request, detailees may access the requisite training.

When training is offered, Board employees are provided with training materials that address their rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws applicable to them. The materials are based substantially on the No FEAR Act Training slide presentation developed by the U.S. Office of Special Counsel and have been tailored for Board employees. Within a specified time period following receipt of the materials, Board employees are required to sign and submit a form acknowledging their review of the materials. The Board's Administration and Finance Division then monitors completion of training by Board employees. All employees are required to receive training at least every two years. New employees are required take this training within 90 days of their appointments.

#### **IV. Analysis of Trends, Causal Analysis, and Practical Knowledge Gained Through Experience**

Section 203(a)(7) of the No FEAR Act requires that Federal agencies undertake “an examination of trends, causal analysis, and practical knowledge gained through experience and any actions planned or taken to improve complaint or civil rights programs of the agency.” To date, the Board does not have any information to be examined.

#### **V. Adjustment to Budget**

Section 203(a)(8) of the No FEAR Act requires that Federal agencies include in their annual report information regarding “any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.” To date, the Board has made no such adjustment to its budget to comply with OPM’s regulation issued pursuant to section 201.

#### **VI. The Board’s Actions Planned or Taken to Improve Complaint or Civil Rights Programs Pursuant to Section 203(a)(7)(D)**

##### **Actions Planned for FY 2015**

As discussed above, there have been no reportable cases, Judgment Fund reimbursements, disciplinary actions, or discrimination complaints. In an effort to maintain a workplace free of discrimination and retaliation, the Board will continue to strive to have 100 percent of its employees trained regarding their rights and protections under EEO, retaliation, and whistleblower protection laws. Additionally, although the Board does not anticipate hiring any new employees in FY 2015, the Board will continue to strive to have 100 percent of any new employees trained within 90 calendar days of their appointments.



**APPENDIX A**  
**Equal Employment Opportunity Data Posted Pursuant**  
**to Title III of the Notification and Federal Employee**  
**Antidiscrimination and Retaliation Act of 2002 (No**  
**FEAR Act), Pub. L. 107-174**

<b>Complaint Activity</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Number of Complaints Filed	0	0	0	0	0
Number of Complainants	0	0	0	0	0
Repeat Filers	0	0	0	0	0

<b>Complaints by Basis</b>					
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Race	0	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	0	0	0
Sex	0	0	0	0	0
National Origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	0	0	0	0	0
Non-EEO	0	0	0	0	0

<b>Numbers of Complaints Alleging Each Type of Claim</b>					
<i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not be equal total complaints filed.</i>	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Appointment/Hire	0	0	0	0	0

Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full Time	0	0	0	0	0
Disciplinary Action	0	0	0	0	0
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0
Examination Test	0	0	0	0	0
Harassment	0	0	0	0	0
Non-Sexual	0	0	0	0	0
Sexual	0	0	0	0	0
Medical Examination	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0
Promotion Non-Selection	0	0	0	0	0
Reassignment	0	0	0	0	0
Denied	0	0	0	0	0
Directed	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0
Reinstatement	0	0	0	0	0
Retirement	0	0	0	0	0
Termination	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0
Time and Attendance	0	0	0	0	0
Training	0	0	0	0	0
Other	0	0	0	0	0

<b>Processing Time</b>					
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Complaints pending during fiscal year					
Average number of days in investigation stage	0	0	0	0	0



Average number of days in final action stage	0	0	0	0	0
Complaints pending during fiscal year where hearing was requested					
Average number of days in investigation stage	0	0	0	0	0
Average number of days in final action stage	0	0	0	0	0
Complaints pending during fiscal year where hearing was not requested					
Average number of days in investigation stage	0	0	0	0	0
Average number of days in final action stage	0	0	0	0	0

<b>Complaints Dismissed by Agency</b>					
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Total Complaints Dismissed by Agency	0	0	0	0	0
Average Days pending prior to dismissal	0	0	0	0	0

<b>Complaints Withdrawn by Complainants</b>					
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Total Withdrawn by Complainants	0	0	0	0	0

<b>Total Final Actions Finding Discrimination</b>					
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Total Number of Findings	0	0	0	0	0
Without Hearing	0	0	0	0	0
With Hearing	0	0	0	0	0

<b>Findings of Discrimination Rendered by Basis</b>					
<i>Note: Complaints can be filed alleging multiple Bases. The sum of the bases may not equal total complaints filed.</i>	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Total Number of Findings	0	0	0	0	0
Race	0	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	0	0	0
Sex	0	0	0	0	0
National Origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	0	0	0	0	0
Other	0	0	0	0	0
<b>Findings After Hearing</b>					
Race	0	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	0	0	0
Sex	0	0	0	0	0
National Origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	0	0	0	0	0
<b>Findings Without Hearing</b>					
Race	0	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	0	0	0
Sex	0	0	0	0	0

National Origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	0	0	0	0	0
Other	0	0	0	0	0

<b>Findings of Discrimination Rendered by Issue</b>					
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Total Number of Findings	0	0	0	0	0
Appointments/Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full Time	0	0	0	0	0
<b>Disciplinary Action</b>					
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0
Examination Test	0	0	0	0	0
<b>Harassment</b>					
Non-Sexual	0	0	0	0	0
Sexual	0	0	0	0	0
Medical Examination	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0
Promotion Non-Selection	0	0	0	0	0
<b>Reassignment</b>					
Denied	0	0	0	0	0
Directed	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0
Reinstatement	0	0	0	0	0
Retirement	0	0	0	0	0
Termination	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0

Time and Attendance	0	0	0	0	0
Training	0	0	0	0	0
Other	0	0	0	0	0
Findings After Hearing					
Findings After Hearing	0	0	0	0	0
Appointment/Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full time	0	0	0	0	0
Disciplinary Action					
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0
Examination Test	0	0	0	0	0
Harassment					
Non-Sexual	0	0	0	0	0
Sexual	0	0	0	0	0
Medical Examination	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0
Promotion Non-Selection	0	0	0	0	0
Reassignment					
Denied	0	0	0	0	0
Directed	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0
Reinstatement	0	0	0	0	0
Retirement	0	0	0	0	0
Termination	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0
Time and Attendance	0	0	0	0	0
Training	0	0	0	0	0
Other	0	0	0	0	0
Findings Without Hearing					
Findings Without Hearing	0	0	0	0	0
Appointment/Hire	0	0	0	0	0

Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full Time	0	0	0	0	0
<b>Disciplinary Action</b>					
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0
Examination Test	0	0	0	0	0
<b>Harassment</b>					
Non-Sexual	0	0	0	0	0
Sexual	0	0	0	0	0
Medical Examination	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0
Promotion Non-Selection	0	0	0	0	0
<b>Reassignment</b>					
Denied	0	0	0	0	0
Directed	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0
Reinstatement	0	0	0	0	0
Retirement	0	0	0	0	0
Termination	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0
Time and Attendance	0	0	0	0	0
Training	0	0	0	0	0
Other	0	0	0	0	0

<b>Pending Complaints Filed in Previous Years by Status</b>					
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Total Complaints from previous Fiscal Years	0	0	0	0	0
Total Complainants	0	0	0	0	0
<b>Number of Complaints Pending</b>					

Investigation	0	0	0	0	0
Hearing	0	0	0	0	0
Final Action	0	0	0	0	0
Appeal with EEOC Office of Federal Operations	0	0	0	0	0

<b>Complaint Investigations</b>					
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Pending Complaints Where Investigations Exceed Required Time Frames	0	0	0	0	0