



Department of Navy Notification and Federal Employee Antidiscrimination Act FY 2009 Annual Report

Narrative:

This Department of Navy (DON) report covers all activities of the Navy and Marine Corps. The primary office in DON responsible for the policy and reporting requirements of the No Fear Act is the DON Office of EEO and Diversity Management, Naval Office of EEO Complaints Management and Adjudication Division (NAVOECMA).

In 2003, DON implemented the iComplaints database tool. This tool is used by all EEO practitioners in DON to track all civilian discrimination complaints filed. This tool enables Headquarters DON to view specific cases as well as produce corporate level reports which include the Title III No Fear Act Data Report to EEOC and the Annual EEOC 462 Statistical Report of Discrimination Complaints.

Data is analyzed quarterly by NAVOECMA. This analysis is used to determine program deficiencies, trends and potential areas of liability. Information developed assists in focusing training and briefings presented to senior leadership, managers and supervisors, agency representatives, human resources and EEO professionals.

Specific accomplishments and initiatives are addressed in the appropriate sections below.

Cases in District Court (§724.302(a)(1) and (2))

At the present time DON does not have a central database which accurately captures all current cases pending in Federal court arising under each of the respective provisions of the Federal Antidiscrimination Laws and the Whistleblower Protection Laws.

We are working with the various offices involved (Office of General Counsel, Litigation, and Employee/Labor Relations Division) to ensure we capture the cases under the Antidiscrimination Laws in our iComplaints tracking system, where we input all data on discrimination complaints in the administrative process.

Through educating our EEO practitioners we have improved capturing information in the iComplaints tool and use this source exclusively for all reporting and complaints trend analyses.

Judgment Fund

All of the cases, where the judgment fund was reimbursed, were settlements at District Court. There were no findings of discrimination at the District Court level in the last three fiscal years, since the implementation of the reimbursement requirement.

Disciplinary Action (§724.302(a)(3), (4), (5) and (6))

During FY 2007 no disciplinary actions were warranted as a result of the findings of discrimination issued in the Administrative Complaints Process. It is DON policy for the Director of EEO (Assistant Secretary of the Navy (Manpower & Reserve Affairs) to issue a personal letter to the Commander of the major command when there is a finding of discrimination. This letter instructs the Command to review the facts of the case and determine the level of discipline if any. In addition, this letter instructs the Command to ensure compliance with the ordered corrective actions/relief and report on completed actions to NAVOECMA. At the present time all compliance actions are completed in less than 120 days of the final agency decision.

At the present time DON is exploring methods to capture all disciplinary actions centrally and develop means to identify such actions taken as a result of findings under the Antidiscrimination Laws or the Whistleblower Protection Act. Currently no central report exists.

The DON policy for disciplinary actions can be found at:
https://www.donhr.navy.mil/donchrm/752_SUBCHNEW.pdf.

EEO Discrimination Complaints Data (§724.302(a)(7))

The charts below reflect the complaints data required by the EEOC for FY 2004 – 2008. Over this five year period DON has experienced a significant decrease in the number of complaints filed annually. We attribute this continuous downward trend to:

- Improved training for EEO practitioners. Training stressed: clearly communicating with the aggrieved; thorough understanding of complaint policy and procedures; and, clear instructions on gathering facts in a timely manner.
- Alternative Dispute Resolution. DON activities work closely with the DON ADR program and the DOD Office of Investigations and Resolution to ensure individuals have access to ADR.
- Program Evaluation and Accountability. Through the implementation of the corporate iComplaints database tool, NAVOECMA reviews processing timelines and issues a scorecard for each major command. This scorecard has helped us identify EEO Offices requiring assistance to improve timeframes and procedures.

Basis of Formal Complaints (1614.704(d) & 1614.705)

During this five year period complaints of Reprisal, Race, Sex (male and female), Age and Disability have been the top five bases. We have found the numbers of complaints filed in these categories to be relatively consistent.

Issues of Formal Complaints (1614.704(e) & 1614.705)

In the last few years, complaints of Non-Sexual Harassment have been the most prevalent in DON. We have developed training materials for EEO practitioners on procedures to follow when dealing with harassment claims.

DON has special procedures for immediate action when harassment claims are brought forward. The management inquiry is conducted to identify and verify whether harassment has occurred and recommend actions to management to stop and prevent further harassment.

The DON Anti-Harassment Policy guidance has completed the comment phase and the policy will be sent for signature by the SECNAV in FY 10. NAVOECMA's training modules for employees, managers and supervisors regarding the anti-harassment policy will be used by field EEO Offices when providing briefings at local activities in FY10.

Processing Time (Average Days)

Significant attention has been placed on the timely processing of complaints. Through training, program evaluation and scorecard performance measures DON has been monitoring activity complaints processing. Swift intervention occurs when activities are slow or fail to process matters timely. The NAVOECMA team has worked tirelessly to assist EEO offices with improving internal procedures which may have created obstacles to timely processing. More training will be conducted in FY10 to ensure processing timeliness.

Final Decisions / Final Orders (EEOC Administrative Judge) (1614.704(h))

For the last three fiscal years DON has been in the top five agencies to timely process FADS. Consistent attention to timeliness for FADS and FOs has been maintained despite a decrease in the NAVOECMA staff assigned to this task. For FY 08, 97.9% of FADS were issued timely.

No Fear Act Training Plan and Report (§724.302(a)(9))

The No Fear Act Training Plan was issued as part of the DON Civilian Human Resources Manual (CHRM). A copy of this CHRM can be accessed at https://www.donhr.navy.mil/donchrm/CHRM_1613.pdf and is attached to this report at Section A. The DON No Fear Act Notice and Policy as well as training presentation is available at <https://www.donhr.navy.mil/NoFearAct.asp>.

Every Department of Navy Major Command has completed and reported their completion by the 30 May 2009 deadline. 96% of all DON employees have received the No FEAR training in FY09.

Jamie Kajouras

NAME

Director, Naval Office of EEO Complaints Management & Adjudication

TITLE

FEB 16 2010

SIGNATURE

Jamie Kajouras

DATE



**Department of Navy
Notification and Federal Employee Anti-Discrimination
& Retaliation Act of 2002**

Agency/Sub-element: Department of Navy, Navy-wide Aggregate

Date: 09/30/2009 FY 2009

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Title II Report Judgment Fund Reimbursement:

	FY 06 (Number/Dollar)	FY 07 (Number/Dollar)	FY 08 (Number/Dollar)	FY 09 (Number/Dollar)
Findings	0 / 0	0/0	0/0	0/0
Settlements	19/\$859,022	7/\$395,909	3/\$186,000	3/\$186,000

All of the cases, where the judgment fund was reimbursed, were settlements at District Court. There were no findings of discrimination at the District Court level in the last three fiscal years, since the implementation of the reimbursement requirement.

Title III Report - EEO Discrimination Complaint Data

(1614.704(a)-(c))	2009	2008	2007	2006	2005
Total Workforce	230,687	225,231	204,751	192,412	187,535
Total # Complaints Filed	662	689	625	635	637
Total # Individual Filers	632	642	559	578	527
Total # Repeat Filers	20	42	46	32	47

**Department of Navy
Notification and Federal Employee Anti-Discrimination
& Retaliation Act of 2002**

Basis of Formal Complaints (1614.704(d) & 1614.705)

Basis	2009	2008	2007	2006	2005
Race	244	261	244	286	281
Color	66	78	91	103	90
Religion	21	23	25	33	42
Reprisal	250	292	259	252	255
Sex	202	204	178	211	215
National Origin	79	97	102	110	109
Equal Pay Act	1	4	11	6	13
Age	193	192	174	208	234
Disability	149	155	116	135	161
Non-EEO	8	20	6	1	1

Issues of Formal Complaints (1614.704(e) & 1614.705)

Issues	2009	2008	2007	2006	2005	
Appointment/Hire	41	35	38	37	62	
Assignment of Duties	49	59	57	64	62	
Awards	10	29	13	18	23	
Conversion to Full Time	0	0	3	0	1	
Disciplinary Action	86	106	90	118	93	
Duty Hours	6	8	7	6	14	
Evaluation/Appraisal	22	23	26	35	30	
Examination/Test	0	0	0	0	0	
Harassment	Non-Sexual	224	249	167	208	206
	Sexual	27	21	22	20	15
Medical Examination	5	4	4	1	1	
Pay Including Overtime	17	21	18	18	22	
Promotion/Non-Selection	133	148	133	179	165	
Reassignment	Denied	7	7	1	11	9
	Directed	10	17	20	23	24
Reasonable Accommodation	30	34	19	20	29	
Reinstatement	1	1	0	1	1	
Retirement	2	28	9	8	15	
Termination	62	57	55	50	33	
Terms/Conditions of Employment	41	38	38	44	42	
Time and Attendance	16	28	27	18	30	
Training	18	23	17	19	17	

**Department of Navy
Notification and Federal Employee Anti-Discrimination
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Processing Time during Fiscal Year (1614.704(f))

Processing Time	2009	2008	2007	2006	2005
Complaints pending during FY					
Average days in investigation	175.54	250.13	259.79	249.43	271.43
Average days in final action	124.66	119.60	110.71	141.99	179.87
Complaint pending during FY where hearing requested					
Average days in investigation	17.32	248.02	249.75	264.05	267.70
Average days in final action	35.03	36.27	36.30	39.20	53.54
Complaint pending during FY with no hearing request					
Average days in investigation	258.32	251.69	268.38	240.25	274.33
Average days in final action	161.01	160.38	152.06	200.64	263.67

	2009	2008	2007	2006	2005
Complaints Dismissed by Agency					
Total Complaints	121	168	176	194	180
Average Days	85	84	160	243	218
Complaints Withdrawn by Complainant					
Total Complaints	82	58	71	66	60
Complaint Investigations					
Pending Complaints Exceeding Time Frame	116	90	76	72	95

Final Decisions / Final Orders (1614.704(h))

	2009	2008	2007	2006	2005
Total Findings	10	2	4	2	5
Without Hearing					
Discrimination - Number	7	0	2	1	0
Discrimination - Percentage	70%	0	50%	50%	0
With Hearing					
Discrimination - Number	3	2	2	1	5
Discrimination - Percentage	30%	100%	50%	50%	100%

**Department of Navy
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Findings of Discrimination By Basis (1614.704(i) & (j))

Basis*	2009	2008	2007	2006	2005
Total Number of Findings	10	2	4	2	5
Race	0	1	1	2	2
Color	0	0	0	1	0
Religion	0	0	0	0	0
Reprisal	4	0	1	2	3
Sex	0	0	1	1	3
National Origin	0	0	1	1	1
Equal Pay Act	0	0	0	0	0
Age	0	0	0	1	2
Disability	7	1	1	1	1
Findings After Hearing					
Total	3	2	2	1	5
Race	0	1	1	1	2
Color	0	0	0	1	0
Religion	0	0	0	0	0
Reprisal	2	0	0	1	3
Sex	0	0	1	1	3
National Origin	0	0	0	1	1
Equal Pay Act	0	0	0	0	0
Age	0	0	0	1	2
Disability	1	1	0	1	1
Findings Without Hearing					
Total	3	0	2	1	0
Race	0	0	0	1	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	0	1	0
Sex	0	0	0	0	0
National Origin	0	0	1	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	3	0	1	0	0

**Department of Navy
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Findings of Discrimination By Issue (1614.704(i) & (j))

Issues **	2009	2008	2007	2006	2005
Total Number of Findings	10	2	4	2	5
Appointment/Hire	3	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	1	0
Conversion to Full Time	0	0	0	0	0
Disciplinary Action	1	0	0	0	1
Duty Hours	0	0	0	0	0
Evaluation/Appraisal	0	0	0	0	0
Examination/Test	0	0	0	0	0
Harassment	Non-Sexual	4	1	1	0
	Sexual	0	0	0	0
Medical Examination	2	0	0	0	0
Pay Including Overtime	0	0	0	0	0
Promotion/Non-Selection	0	0	0	1	4
Reassignment	Denied	0	0	0	0
	Directed	0	0	0	0
Reasonable Accommodation	0	1	1	0	1
Reinstatement	0	0	0	0	0
Retirement	0	0	0	0	0
Termination	0	0	2	0	0
Terms/Conditions of Employment	0	0	0	0	0
Time and Attendance	0	0	0	0	0
Training	0	0	0	0	1

Pending Complaints Filed in Previous Fiscal Years by Status

	2009	2008	2007	2006	2005
Total complaints from previous FY	698	648	594	623	760
Total Complainants	601	563	529	515	567
Number complaints pending					
Investigation	16	12	10	13	22
ROI issued, pending Complainant's action	3	4	5	4	2
Hearing	204	12	10	13	22
Final Agency Action	31	41	42	38	48
Appeal with EEOC OFO	229	236	243	248	238