



SOCIAL SECURITY

Office of Human Resources

March 25, 2016

Enclosed is the Social Security Administration's (SSA) Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act Report for fiscal year (FY) 2015. 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 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 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 President pro tempore of the Senate, the Speaker of the House of Representatives, 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 2015 No FEAR Act Report to the members of the 114th United States Congress:

The Honorable Paul D. Ryan
Speaker of the House of Representatives

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

The Honorable Jason Chaffetz
Chairman, House Committee on Oversight and Government Reform

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

The Honorable Tom Cole
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 Bob Goodlatte
Chairman, House Committee on the Judiciary

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

The Honorable Tom Price
Chairman, House Committee on the Budget

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

The Honorable Joseph R. Biden, Jr.
President of the Senate

The Honorable Orrin Hatch
President Pro Tempore

The Honorable Orrin Hatch
Chairman, Senate Committee on Finance

The Honorable Ron Wyden
Ranking Member, Senate Committee on Finance

The Honorable Dean Heller
Chairman, Subcommittee on Social Security, Pensions, and Family Policy,
Senate Committee on Finance

The Honorable Sherrod Brown
Ranking Member, Subcommittee on Social Security, Pensions, and Family Policy,
Senate Committee on Finance

The Honorable Ron Johnson
Chairman, Senate Committee on Homeland Security and Governmental Affairs

The Honorable Tom Carper
Ranking Member, Senate Committee on Homeland Security and Governmental Affairs

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

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

The Honorable Charles Grassley
Chairman, Senate Committee on the Judiciary

The Honorable Patrick Leahy
Ranking Member, Senate Committee on the Judiciary

The Honorable Mike Enzi
Chairman, Senate Committee on the Budget

The Honorable Bernie Sanders
Ranking Member, Senate Committee on the Budget

The Honorable Susan Collins
Chairwoman, Senate Special Committee on Aging

The Honorable Claire McCaskill
Ranking Member, Senate Special Committee on Aging

The Honorable Lamar Alexander
Chairman, Senate Committee on Health, Education, Labor and Pensions

The Honorable Patty Murray
Ranking Member, Senate Committee on Health, Education, Labor and Pensions

Also pursuant to the No FEAR Act requirements, we are providing our Fiscal Year 2015 No FEAR
Act Report to the following members of the Executive Branch:

The Honorable Jenny R. Yang
Chair, U.S. Equal Employment Opportunity Commission

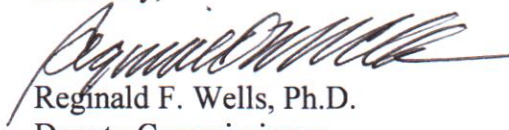
The Honorable Loretta E. Lynch
Attorney General, U.S. Department of Justice

The Honorable Beth F. Cobert
Acting Director, U.S. Office of Personnel Management

Our Office of Civil Rights and Equal Opportunity prepared this No FEAR Act Report pursuant
to Congressional requirements.

If you have any questions, please contact Judy Chesser, Deputy Commissioner for Legislation
and Congressional Affairs, at 202-358-6030. If your staff has any questions, they may contact
Kojuan Almond, Associate Commissioner for Civil Rights and Equal Opportunity, at
410-965-4531.

Sincerely,

A handwritten signature in black ink, appearing to read "Reginald F. Wells", written in a cursive style.

Reginald F. Wells, Ph.D.
Deputy Commissioner
for Human Resources

Enclosure



Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act

Annual Report

Social Security Administration

Fiscal year 2015





**Notification and Federal Employee
Antidiscrimination and
Retaliation (No FEAR) Act
Annual Report
Fiscal Year (FY) 2015**

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Social Security Administration (SSA) No FEAR Act Report Fiscal Year (FY) 2015

The No FEAR Act requires Federal agencies to submit to Congress, the Equal Employment Opportunity Commission (EEOC), the United States Attorney General, and the Office of Personnel Management (OPM), an annual report describing: (1) the 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 the agency must respond.

Section I. Summary of District Court Cases (FY 2015)

The data below show all cases and payments to the Judgment Fund in FY 2015, regardless of the case filing date. Since complainants may file a single case under multiple statutes, the number of cases 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 2015.

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 2015: 22
- The total pending cases alleged violations of the following laws:
 - Title VII of the Civil Rights Act (Title VII): 15 cases
 - Age Discrimination in Employment Act (ADEA): 7 cases
 - Rehabilitation Act (disability): 7 cases
- Of the total pending cases at the close of FY 2015, 14 were new cases received in FY 2015.
- The 14 new cases alleged violations of the following laws:
 - Title VII: 9 cases
 - ADEA: 4 cases
 - Rehabilitation Act (disability): 1 case

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

- Federal court cases concluded in FY 2015: 13
 - Dismissed/Judgment for SSA: 9
 - Judgment against SSA: 0
 - Settled: 4

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:

- Total: \$265,000
- Attorney's Fees: \$40,992

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 disciplined one employee (Reprimand).

Section II. Year-End Data

5. *The final year-end data posted under section 301(c)(1)(B) for FY 2015 (without regard to section 301(c)(2)).*
 - See Attachment A for SSA's No FEAR Act data for FY 2015. SSA updates the data quarterly and posts the information online at <http://www.ssa.gov/eo/nofear>.

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*
 - See Attachment B for SSA's Notification of Federal Employee Antidiscrimination and Retaliation Act Disciplinary Policy.
 - 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.*

SSA imposed discipline on 13 employees in FY 2015 for engaging in actions constituting discrimination, retaliation, or harassment. The disciplinary actions included two reprimands, seven suspensions, and four terminations. Additionally, we provided counseling and required participation in EEO Sensitivity Training, where appropriate.

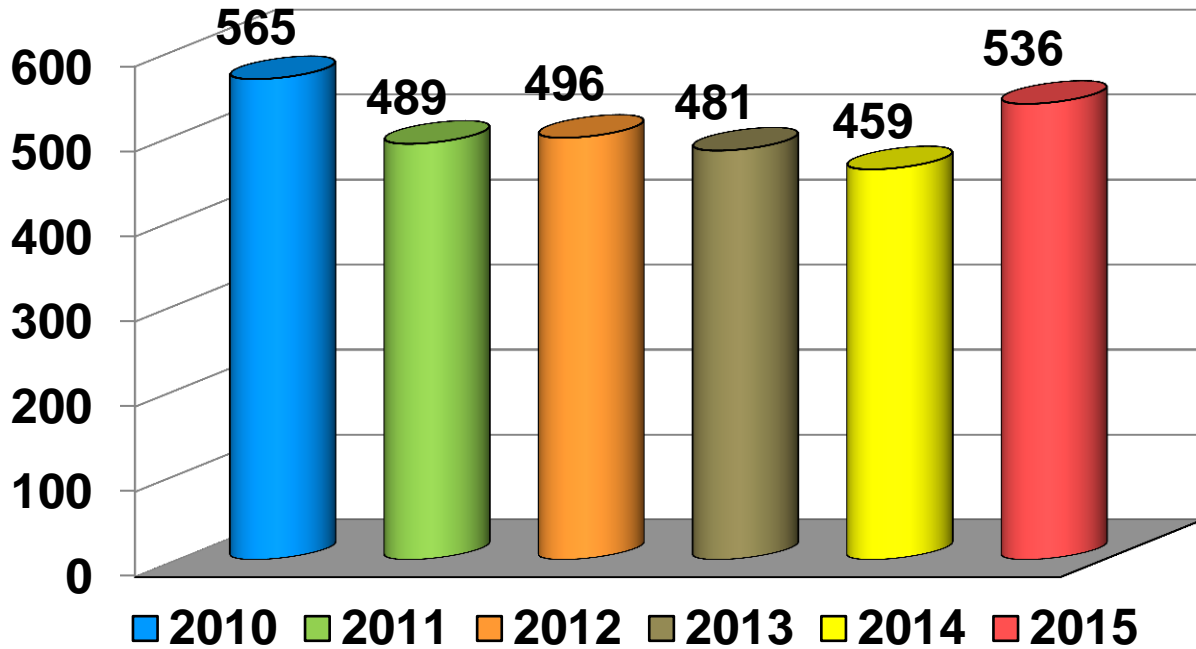
Section IV. Analysis of Discrimination Complaints

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.*

A. Examination of Trends and Causal Analysis

In FY 2015, SSA recorded the highest number of EEO complaints filed since FY 2011. This is in sharp contrast to FY 2014, where we experienced the lowest number of formal complaints filed compared to the past five years. In FY 2015, there were 77 more complaints filed (536) compared to FY 2014 (459). Over the last five fiscal years, the agency averaged 504 EEO complaints filed. FY 2010 remains the year with the highest number of cases filed, with 565 complaints, five percent more than in FY 2015.

Total EEO Formal Complaints Filed FY 2010 – FY 2015



The chart below shows the Agency’s top three bases as Reprisal, Age, and Race, which have remained consistent for the past six years. The Agency’s top two issues, Harassment (Non-Sexual) and Promotion/Non-Selection have remained consistent over the past six years. The top bases for all Federal agencies are Reprisal, Race, and Sex, as reported in the EEOC’s FY 2014 Annual Report on the Federal Work Force. The top issues for all Federal agencies are Harassment (Non-Sexual), Disciplinary Action, and Terms/Conditions of Employment.

Top Three Bases Fiscal Years FY 2015	Top Three Issues Fiscal Years FY 2015
Reprisal (235)	Harassment (Non-Sexual) (231)
Age (226)	Promotion/Non-Selection (165)
Race (209)	Reasonable Accommodations (83)
Top Three Bases Fiscal Years FY 2010 - FY 2014	Top Three Issues Fiscal Years FY 2010 - FY 2014
Reprisal	Harassment (Non-Sexual)
Age	Promotion/Non-Selection
Race	Evaluation/Appraisal

In FY 2015, SSA completed 350 investigations of EEO complaints with a timeliness rate of 29 percent. The number of timely investigations decreased by 21 percent compared to FY 2014 (50 percent timely). The Agency has taken substantial steps to address these issues.

	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015
Total of Investigations Completed	482	408	339	384	352	350
Total of Timely Investigations Completed	399	296	279	155	177	103
Percent of Timely Investigations Completed	82.8%	72.5%	82.3%	40.4%	50.3%	29.4%
Total Average Days to Complete Investigations	175	190	195	252	257	287

SSA processed 142 more pre-complaint counseling cases in FY 2015 (1,051) compared to FY 2014 (909), a 15.6 percent increase. We have steadily improved our timely processing of pre-complaint counselings since FY 2013. Of the 1,051 counselings, 93.1 percent were timely, a three percent increase from FY 2014 (90.3 percent). Although our overall resolution rate decreased slightly, to 48.5 percent in FY 2015 compared to 49 percent in FY 2014, the percentage of settlements alone increased by three percent in FY 2015 (12 percent) compared to FY 2014 (nine percent). A pre-complaint counseling “resolution” includes pre-complaint counseling that resulted in a settlement, a withdrawal, or no formal complaint filed.

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Total Number of Counselings Closed	972	903	917	853	909	1051
Number of Timely Counselings	896	847	871	746	821	978
Percentage of Timely Counselings	92.2%	93.8%	95.0%	87.5%	90.3%	93.1%
Percentage of Completed Counselings Resolved (Settled/Withdrawn/No Formal Filed)	41.6%	45.7%	45.8%	45.1%	49.0%	48.5%

In FY 2015, SSA closed 55 EEO complaints with monetary corrective actions totaling \$1,525,575. These amounts reflect nine additional complaints and \$673,833 more in payouts than in FY 2014. The breakdown for monetary actions in FY 2015 consisted of back pay/front pay (\$21,938), lump sum payments (\$774,522), compensatory damages (\$248,507) and attorneys’ fees and costs (\$480,608).

Fiscal Year	Number of Cases Closed with Monetary Corrective Actions	Total Amount Paid
FY 2015	55	\$1,525,575
FY 2014	46	\$851,742
FY 2013	51	\$1,051,484
FY 2012	28	\$988,490
FY 2011	26	\$120,909
FY 2010	44	\$310,063

B. Practical Knowledge Gained Through Experience

As the agency administers the Social Security programs and provides services that meet the changing needs of the public, we also endeavor to meet the needs of our valued staff. Our employees are the key to the agency's success, providing the highest quality service to the American public. For the agency to meet its goals, a high-performing workforce is critical. We must continue to attract, retain, develop, motivate, and reward a diverse workforce and foster a culture of continuous improvement.

A commitment to our talented and richly diverse employees enables the agency to maintain its ranking in the Top Ten Federal Agencies "Best Places to Work" report for the seventh consecutive year. SSA ranked sixth overall for large agencies. Data showed a 2.8-point increase in SSA employee job satisfaction and commitment from 2014.

SSA is strongly committed to the principles of EEO and the successful implementation of its EEO Program. This commitment is seen at all levels of the agency, from the Acting Commissioner of Social Security, Carolyn W. Colvin, to the agency's senior executives, managers, and employees, all of whom are dedicated to creating and maintaining an environment free from discrimination, retaliation, and harassment.

SSA is committed to fostering a diverse and inclusive work environment, where EEO applies to all, and where employment decisions are merit-based. Our EEO policy clearly conveys our commitment to EEO, intolerance of discrimination and harassment of any kind, and our effort to ensure that all individuals have an equal opportunity for success. We disseminate the EEO Policy annually to all employees.

On June 19, 2015, Acting Commissioner Carolyn W. Colvin reaffirmed SSA's commitment to EEO principles when she issued the agency's annual EEO Policy to all employees. We also issued our Annual Personnel Reminders, which included sections on Discrimination/Harassing Conduct and Whistleblowing, along with SSA's No FEAR Act Notice.

In FY 2015, SSA conducted the following activities to enhance employee awareness of workforce diversity and promote agency antidiscrimination principles:

- achieved seven additional Essential Elements that the EEOC requires from agencies in order to attain model EEO agency status;
- completed all but two of the 60 EEOC Program Evaluation Report recommendations;
- prepared and issued seven standard operating procedures (SOPs), one for each EEO practice area, to standardize EEO policies and procedures and ensure uniform case processing across every agency EEO office;

- funded blanket purchase agreements for services with 13 contractors to provide workload support;
- finalized an EEO contractor product deficiency checklist and SOP;
- developed an automated template and SOP requiring monthly reporting by EEO contractors, to hold contractors accountable;
- maintained an Interagency Agreement with the United States Postal Service to help reduce EEO case inventories;
- conducted a pilot using EEO Specialists as Task Managers to expedite direct communication with contractors and developed a transition plan for permanent implementation;
- prioritized workloads to ensure integrity in workload processing and eliminate aged cases;
- created independent oversight of data accuracy in iComplaints, our complaint processing tracking system;
- issued to all EEO Counselors a revised EEO Counseling Report, placing more emphasis on resolution;
- developed a survey for Alternative Dispute Resolution (ADR) participants to provide feedback on their mediation experience;
- refined the Office of Civil Rights and Equal Opportunity's (OCREO) business reports to capture workload status and improve dissemination and readability of data and metrics;
- instituted weekly meetings to determine case status and processing times for each stage of the EEO process; identified bottlenecks and implemented procedures to move cases;
- processed 15.6 percent more EEO counselings and still improved timeliness by three percent;
- improved timeliness of Acknowledgment Letters by 62 percent, achieving nearly 100 percent timeliness;
- processed 22 percent more Final Agency Decisions (FADs) and still improved the timeliness of complainant-requested FADs by 25 percent, agency-requested FADs by three percent, and EEOC Administrative Judge-requested FADs by eight percent;
- achieved 99 percent timeliness in settlement requirements compliance, matching the FY 2014 accomplishment;
- monitored 28 percent more EEO case settlement effectuations in FY 2015 than FY 2014;
- implemented iAccommodate 2.1 nationwide, improving the public accommodation request tracking system by making data entry seamless for direct service employees and improving data quality;

- delivered a Diversity & Inclusion (D&I) Survey to all employees to measure employee perceptions of diversity, inclusion, and EEO in the workplace; received a statistically significant response rate;
- established the Barrier Obliteration Program (BOP) to proactively identify and eliminate real and perceived barriers to EEO; analyzed D&I Survey results and EEO data; prepared a report and briefed the first Deputy Commissioner-level component participating in BOP;
- continued the long-standing practice of meeting with the Acting Commissioner and agency senior executives to provide detailed analyses of the workforce composition of their components, discuss trends, and provide recommendations on improving areas of underrepresentation;
- engaged in outreach activities with agency executives and managers nationwide to discuss EEO legal developments and ensure continued compliance with antidiscrimination laws;
- analyzed and provided recommendations on Senior Executive Service Candidate Development Program and Advanced Leadership Program selection rates compared to applicant rates, to ensure diversity in the selection process;
- implemented Veterans Inspired, Nimble, and Empowered Program (VINE) permanently in OCREO; VINE is a program to increase engagement, provide support, and increase new hire retention among OCREO's veterans;
- supported internships for 24 students in the Washington Interns for Native Students program, providing Native American students with professional work experience, leadership skills, and an understanding of our agency's mission (the internships also provided a \$300,072 contribution to Tribal Colleges and Universities);
- held eight Special Emphasis Program (SEP) Observances and two memorial observances at SSA Headquarters;
- held the first Headquarters Unity Celebration, honoring workforce diversity with exhibits highlighting the many nationalities of SSA employees; our theme was "Diversity Works at SSA!"
- continued hosting SEP and diversity events for regional employees that highlighted the ethnicity and culture of diverse groups represented in the regions, in conjunction with our eight advisory councils;
- launched the Minority Serving Institutions (MSI) Reporting System nationwide, to facilitate tracking MSI support activities and automate the annual MSI Report to the Department of Education;
- collaborated with the Office of Retirement and Disability Policy to disseminate grant information to institutions of higher education, including MSIs, to provide students with advancement opportunities;
- continued visiting Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribal Colleges and Universities, and Asian American and Native American Pacific Islander Serving Institutions to recruit a diverse workforce;
- participated in recruitment events hosted by colleges and universities, including Minority Serving Institutions; attended job fairs and career days; and provided information on agency employment opportunities to students at colleges and universities;

- networked with the educational leaders at the Historically Black Colleges and Universities Conference;
- submitted to the Office of Personnel Management the annual Report on Hispanic Employment in SSA, per Executive Order 13171, documenting Hispanic representation in SSA;
- reminded employees of the reasonable accommodation program and the importance of providing information on their disability status, if applicable;
- updated the Reasonable Accommodation (RA) Wizard application to automate the RA request initiation process;
- launched EEO One Stop, a comprehensive online library of up-to-date, legally compliant, uniform information about EEO laws, policies, and procedures, for employees, managers, and EEO practitioners;
- introduced wEEO Radio, an innovative mechanism to disseminate EEO training to managers via bimonthly “radio broadcasts” (teleconferences) in a talk show format; the first broadcast featured distinguished guests from the EEOC, Department of Agriculture, and Department of the Interior;
- held the first EEO Innovations Summit (at Headquarters and via live broadcast), hosting 50 individuals from Federal, state, and local EEO partners in a forum to showcase and share innovative practices and build coalitions;
- completed in-person ADR training to all Headquarters managers; revised the ADR training for field managers nationwide, and delivered it to them via Interactive Video Tele-training; updated the ADR Video-on-Demand and posted it to OCREO’s website;
- provided 32 hours of EEO training to new EEO Counselors from eight regions; developed refresher training for existing Counselors;
- trained additional OCREO staff members as FAD writers;
- sent multiple OCREO staff members to Contracting Officer Representative training;
- provided ongoing training on iComplaints to new and tenured EEO Specialists;
- sent 16 employees to the EXCEL training conference and two employees to the Federal Dispute Resolution conference;
- held a week-long meeting with Regional Civil Rights and Equal Opportunity (CREO) Managers to provide training, share best practices, and standardize procedures;
- arranged for high-quality training for managers and staff on topics such as EEO skills, team-building, communication, creativity/innovation, conflict management, ethics, and unconscious bias, to increase awareness and promote workforce diversity, sensitivity, and antidiscrimination principles;

- sent the Cultural Diversity Team to Special Emphasis Program training and Barrier Analysis training;
- arranged a three-day Inclusive Leadership training for all OCREO employees, to enhance teamwork, engagement, and morale;
- promoted the use of the Employee Assistance Program throughout the agency;
- created an employee empowerment program in OCREO with integrated short and long term component visions and goals, to boost morale and increase engagement;
- established an Innovations Workgroup to solicit employee ideas via town hall meetings, surveys, a suggestion box, and regular “Take-10” new-hire meetings; managers vet and implement ideas;
- instituted monthly All-Hands meetings with programs to help employees understand their contribution to the agency mission, discuss career motivation and development, and learn the missions of sister components;
- implemented a Training and Skills Gap Assessment Tool allowing supervisors and employees to identify required competencies; targeted training expenditures to address the identified gaps and increase staff proficiency;
- implemented a “SEE” initiative to assess organizational **S**ustainability, **E**fficiency, and **E**ffectiveness within OCREO;
- reorganized the complaints processing function under one manager for efficiency and organizational sustainability;
- upgraded iComplaints to generate counseling reports directly, reducing redundancy and improving accuracy;
- acquired an Executive Dashboard for iComplaints to prepare standard and custom reports, validate data, and identify problematic reporting areas;
- promoted 15 OCREO employees; hired four new employees from a diverse external candidate pool into EEO Specialist and Expert Consultant positions; and transitioned 13 new employees received via end-of-year hiring or reassignment;
- entered into contracting agreements with two expert consultants to provide guidance on short and long-range strategic plans, EEO policy development, training, and quality enhancement;
- established a culture that holds managers and employees accountable for performance;
- issued regular “OCREO M&M’s” (Meaningful Messages) via email to promote a culture of excellence;
- prepared quarterly and monthly EEO statistical reports and ad hoc reports for the Acting Commissioner and Deputy and Regional Commissioners;

- participated in two Regional Human Resources Management Assessments to review EEO operations;
- continued interagency benchmarking, meeting with the Department of Labor and General Services Administration to build relationships and identify best practices;
- promoted collaboration and collegiality during monthly meetings with Regional Civil Rights and Equal Opportunity Managers;
- increased collaboration and transparency with unions via regular participation in Forum and Affirmative Employment Program meetings;
- briefed the Acting Commissioner regularly on the state of EEO at SSA;
- drafted for FY 2016 issuance a new ADR Policy holding managers accountable for EEO compliance and ADR participation; the Policy includes procedures for reporting egregious managerial delays;
- complied and implemented the terms of a decision by EEOC involving employees having certain disabilities, which resulted in an increased number of disability claims filed;
- augmented our Anti-Harassment Workgroup by enhancing our Anti-Harassment Policy, providing harassment prevention training to numerous agency personnel, and continuing development of our Standard Operating Procedures for issuance in first quarter FY 2016 to ensure uniform processing of harassment complaints; and
- finalized guidance clarifying the role of the Office of the General Counsel in the EEO process.

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

In FY 2015, SSA will address the following objectives to improve our program:

- continue efforts to attain model EEO agency status;
- monitor the effectiveness of the seven SOPs issued for each EEO practice area and update as necessary;
- continue to monitor EEO contractor quality and timeliness and make changes to address deficiencies;
- continue improving EEO complaint processing to meet the required timeframes for processing discrimination complaints;
- continue the Barrier Obliteration Program, focusing on components with the highest percentage of EEO complaints per capita;
- continue meeting with the Acting Commissioner and agency senior executives to provide detailed analyses of the workforce composition, and to discuss EEO legal developments and ensure continued compliance with antidiscrimination laws;
- continue to update and market EEO One Stop, our comprehensive online library of EEO materials;

- present bimonthly wEEO Radio training “broadcasts” to continue disseminating EEO training to managers;
 - host a second EEO Innovations Summit for individuals from Federal, state, and local EEO partners to showcase and share innovative practices and build coalitions;
 - plan and implement FY 2016 EEO Counselor training;
 - continue soliciting employee ideas through the Innovations Workgroup, to obtain program improvement suggestions from EEO case processing specialists;
 - continue identifying required competencies through the Training and Skills Gap Assessment Tool, to provide targeted training opportunities, increase staff proficiency, and maximize limited resources;
 - continue assessing OCREO’s organizational Sustainability, Efficiency, and Effectiveness through the “SEE” initiative;
 - disseminate to all SSA employees an enhanced Anti-Harassment Policy and Standard Operating Procedures, to ensure uniform processing of harassment complaints;
 - issue the ADR Policy and continue efforts to increase management and employee use of mediation for early, positive resolutions to EEO complaints;
 - continue studying harassment complaint data to determine whether trends or anomalies exist;
 - continue collecting and analyzing Applicant Flow Data from the USA Staffing Program Office at OPM; and
 - fulfill bargaining obligations to prepare for expanding the Veterans Inspired Nimble and Empowered Program within the Office of Human Resources.
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.*

There are no anticipated adjustments to comply with the requirements under section 201.

Attachment A

Equal Employment Opportunity (EEO) Complaint Data (FY 2010 - FY 2015)

Equal Employment Opportunity Data Posted Pursuant to the No FEAR Act: SSA Internal Complaint Activity

Data as of September 30, 2015

Complaint Activity Sec. 1614.704 (a), (b), and (c)	Comparative Data (Sec. 1614.705) Previous Fiscal Year Data					2015 thru 09/30
	2010	2011	2012	2013	2014	
Number of Complaints Filed	565	489	496	481	459	536
Number of Complainants	510	448	453	437	434	489
Repeat Filers	44	35	37	36	24	40

Complaints by Basis Sec. 1614.704(d) <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	Comparative Data (Sec. 1614.705) Previous Fiscal Year Data					2015 thru 09/30
	2010	2011	2012	2013	2014	
Race	215	214	179	181	184	209
Color	37	37	37	33	26	38
Religion	25	24	12	22	16	20
Reprisal	260	236	257	228	210	235
Sex	171	152	153	172	155	177
National Origin	67	42	49	53	47	61
Equal Pay Act	0	0	0	0	0	1
Age	236	202	193	176	184	226
Disability	153	140	163	150	149	208
Genetics	0	1	0	0	1	1
Pregnancy Discrimination Act	0	0	3	4	1	2
Non-EEO Basis	57	45	42	38	56	67

Complaints by Issue Sec. 1614.704 (e) <i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints filed.</i>	Comparative Data (Sec. 1614.705) Previous Fiscal Year Data					2015 thru 09/30
	2010	2011	2012	2013	2014	
Appointment/Hire	22	15	22	11	8	15
Assignment of Duties	60	50	51	36	37	29
Awards	49	24	23	34	9	12
Conversion to Full-time	3	3	0	1	1	2
Disciplinary Action						
Demotion	7	9	3	7	8	3
Reprimand	32	26	21	21	11	18
Removal	9	3	5	2	2	9
Suspension	30	25	18	16	11	11
Other	4	4	8	7	2	13
Duty Hours	3	1	4	0	3	4
Evaluation Appraisal	83	78	83	69	59	77
Examination/Test	1	0	0	0	0	0
Harassment						
Non-Sexual	231	211	239	243	225	231
Sexual	17	13	13	12	18	15
Medical Examination	0	0	0	0	0	0
Pay (Including Overtime)	14	13	22	8	8	7
Promotion/Non-Selection	161	157	158	127	138	165
Reassignment						
Denied	11	13	14	14	13	13
Directed	9	9	11	3	10	11
Reasonable Accommodation	43	47	54	50	52	83
Reinstatement	0	2	1	2	0	6
Retirement	2	8	6	4	9	3
Termination	51	56	24	17	13	49
Terms/Conditions of Employment	49	43	30	33	24	12
Time and Attendance	59	49	57	44	36	41
Training	21	27	18	10	8	15
Other	46	39	30	40	25	7

Processing Time Sec. 1614.704(f) the average length of time it has taken an agency to complete, respectively, investigation in final action for:	Comparative Data (Sec. 1614.705) Previous Fiscal Year Data					2015 thru 09/30
	2010	2011	2012	2013	2014	
Complaints pending (for any length of time) during fiscal year						
Average number of days in investigation stage	174	185	193	251	265	286.49
Average number of days in final action stage	89	76	87	176	140	134.46
Complaints pending (for any length of time) during fiscal year where hearing was requested						
Average number of days in investigation stage	172	183	191	244	243	258.03
Average number of days in final action stage	15	35	35	111	102	113.73
Complaints pending (for any length of time) during fiscal year where hearing was not requested						
Average number of days in investigation stage	180	190	199	265	292	320.65
Average number of days in final action stage	131	132	154	243	186	151.59

Complaints Dismissed by Agency Sec. 1614.704(g)	Comparative Data (Sec. 1614.705) Previous Fiscal Year Data					2015 thru 09/30
	2010	2011	2012	2013	2014	
Total Complaints Dismissed by Agency	73	86	55	75	41	87
Average days pending prior to dismissal	115	103	160	147	83	87.64
Complaints Withdrawn by Complainants						
Total complaints Withdrawn by Complainants	41	61	55	45	41	46

Total Final Actions Finding Discrimination (Sec. 1614.704 (i))	Comparative Data (Sec. 1614.705) Previous Fiscal Year Data										2015 thru 09/30	
	2010		2011		2012		2013		2014			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	3		2		4		4		0		12	
Without Hearing	0	0	0	0	0	0	0	0	0		4	100
With Hearing	3	100	2	100	4	100	4	100	0		8	100

Findings of Discrimination Rendered by Basis Sec. 1614.704(i) <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	Comparative Data (Sec. 1614.705)										2015 thru 09/30	
	Previous Fiscal Year Data											
	2010		2011		2012		2013		2014		#	%
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	3	---	2	---	4	---	4	---	0	---	12	---
Race	0	0	1	0	0	0	1	25	0	0	1	8
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	1	25	0	0	0	0
Reprisal	1	33	1	50	3	75	1	25	0	0	8	67
Sex	0	0	0	0	0	0	0	0	0	0	4	33
National Origin	0	0	0	0	0	0	0	0	0	0	1	8
Age	2	67	1	50	0	0	2	50	0	0	2	17
Disability	0	0	0	0	1	25	1	25	0	0	4	33
Non-EEO	0	0	0	0	0	0	0	0	0	0	1	8
Findings After Hearing	3	100	2	100	4	100	4	100	0	0	8	67
Race	0	0	1	50	0	0	1	25	0	0	1	13
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	1	25	0	0	0	0
Reprisal	1	33	1	50	3	75	1	25	0	0	7	88
Sex	0	0	0	0	0	0	0	0	0	0	3	38
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	2	67	1	50	0	0	2	50	0	0	2	25
Disability	0	0	0	0	0	0	1	25	0	0	1	13
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	0	0	0	0	0	0	0	0	0	0	4	33
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	1	25
Sex	0	0	0	0	0	0	0	0	0	0	1	25
National Origin	0	0	0	0	0	0	0	0	0	0	1	25
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	0	0	0	0	0	0	0	0	3	75
Non-EEO	0	0	0	0	0	0	0	0	0	0	1	25

Findings of Discrimination Rendered by Issue Sec. 1614.704(j) Findings of Discrimination Rendered by Basis Sec. 1614.704(i)	Comparative Data (Sec. 1614.705 Previous Fiscal Year Data)										2015 thru 09/30	
	2010		2011		2012		2013		2014			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	3		2		4		4		0		12	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	1	8
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	2	17
Suspension	0	0	0	0	0	0	0	0	0	0	1	8
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	1	33	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	2	50	0	0	0	0	2	17
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	1	25	0	0	0	0	3	25
Sexual	0	0	0	0	0	0	0	0	0	0	4	33
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	67	2	100	0	0	3	75	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	1	25	0	0	1	8
Directed	0	0	0	0	1	25	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	1	25	1	25	0	0	3	25
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	2	17
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	1	8
Time and Attendance	0	0	0	0	1	25	0	0	0	0	2	17
Training	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
Findings After Hearing	3	100	2	100	4	100	4	100	0	0	8	67
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	1	13
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												
Reprimand	0	0	0	0	0	0	0	0	0	0	2	25
Suspension	0	0	0	0	0	0	0	0	0	0	1	13
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	1	33	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	2	50	0	0	0	0	2	25
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	1	25	0	0	0	0	3	38
Sexual	0	0	0	0	0	0	0	0	0	0	2	25
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	67	2	100	0	0	3	75	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	1	25	0	0	1	13
Directed	0	0	0	0	1	25	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	1	25	1	25	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	1	13
Time and Attendance	0	0	0	0	1	25	0	0	0	0	2	25
Training	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
Findings Without Hearing												
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												
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	2	50
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	3	75
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	2	50
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	0	0	0	0	0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status (Sec. 1614.704(l))	Comparative Data Previous Fiscal Year Data					2015 thru 09/30
	2010	2011	2012	2013	2014	
Total complaints from previous Fiscal Years	745	783	685	526	428	457
Total Complainants	611	646	642	414	364	396
Number complaints pending						
Investigation	50	40	41	54	13	95
ROI Issued, pending Complainant's action	0	1	3	2	0	2
Hearing	257	303	326	265	315	355
Final Agency Action	46	43	63	74	74	74
Appeals with EEOC Office of Federal Operations	131	152	149	131	195	236

Complaint Investigations (Sec. 1614.704(m))	Comparative Data (Sec. 1614.705) Previous Fiscal Year Data					2015 thru 09/30
	2010	2011	2012	2013	2014	
Pending Completion Where Investigation Exceeds Required Time Frames	60	60	64	48	80	140

Attachment B

SSA's Notification of Federal Employee Antidiscrimination and Retaliation (No FEAR) Act Disciplinary Policy

NOTIFICATION OF FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION (No FEAR) ACT DISCIPLINARY POLICY

BACKGROUND

The No FEAR Act holds Federal agencies accountable for violations of antidiscrimination and whistleblower protection laws. It also requires Federal agencies to notify employees of their rights and remedies under the employment discrimination and whistleblower protection laws.

1. PURPOSE

This document establishes our disciplinary policy and procedures for ensuring that we take appropriate disciplinary or corrective action if discrimination or whistleblower violations occur. In accordance with Federal law, this policy strengthens our existing anti-discrimination and retaliation policies and encourages resolution of complaints at the earliest possible opportunity.

2. POLICY

Consistent with Federal law, it is our policy to treat employees and applicants for employment fairly and equitably, with dignity and respect, regardless of race, color, national origin, sex (including sexual harassment, pregnancy, and gender identity), religion, age, disability, political affiliation, sexual orientation, marital status, parental status, genetic information (including family history), or military service. Discrimination and harassment on any of these bases, and retaliation against employees who oppose discrimination, violate Federal laws and this policy. We will not tolerate any form of discrimination, harassment, or retaliation against employees who exercise their equal employment opportunity (EEO) rights or report misconduct, gross mismanagement, waste, fraud, or abuse under the Whistleblower Protection Act (WPA), and we will continue to take necessary measures to protect their confidentiality.

Managers and supervisors are responsible for observing and enforcing applicable laws. We hold our managers, supervisors, and all other employees accountable for discrimination and whistleblower violations. While our *No FEAR Act Disciplinary Policy* applies solely to executives, managers, and supervisors, we will apply other appropriate policies to other employees who discriminate or commit whistleblower violations. Management will work with the Office of Civil Rights and Equal Opportunity (OCREO), the Office of the General Counsel (OGC), and the Office of Labor-Management and Employee Relations (OLMER) to fully evaluate claims or other indications of unlawful discrimination or retaliation. We retain the authority to determine whether disciplinary or other corrective action is warranted under Federal law or agency policy.

3. SCOPE

Management will work with OCREO, OGC, and OLMER to effectively administer these procedures in accordance with Federal law and policy.

4. SPECIAL INSTRUCTIONS

Management will use these procedures in conjunction with our Annual Personnel Reminders, the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch, and any other applicable agency or Government-wide policy or regulation.

5. DEFINITIONS

For purposes of this policy:

- a. "Agency Counsel/Representative" means the agency's legal representative in the matter in question. Typically, this will be an employee of OGC, OLMER, or the Regional Labor Relations/Employee Relations (LR/ER) staff (including the Division of Quality Service in the Office of Disability Adjudication and Review).
- b. "Corrective Action" means measures taken that are not disciplinary or adverse actions (e.g., training, policy changes).
 - (1) "Initiating Corrective Action" means taking firm steps toward scheduling the corrective action.
 - (2) "Effectuating Corrective Action" means completing or realizing the corrective action.
- c. "Decision" means a determination reached after considering the facts and any applicable law. It refers to a final arbitration award, following decision on appeal or exceptions, if any, or a final determination of a Federal court or administrative body (e.g., Equal Employment Opportunity Commission (EEOC), Merit Systems Protection Board (MSPB), or Federal Labor Relations Authority (FLRA), following appeal, if applicable). This policy also applies to situations where we informally resolve disputes before an administrative or judicial decision is issued, but after reaching a management determination that discrimination occurred.
- d. "Delegated Management Official" means the management official to whom the Commissioner has delegated authority to propose or decide an official action.
- e. "Deputy Commissioner" means component Deputy Commissioner.
- f. "Disciplinary Action" means measures taken to correct the conduct of an employee and may include a letter of reprimand, suspension, reduction in grade or pay, or removal from Federal service.

- (1) “Initiating Disciplinary Action” means issuing a proposal to discipline.
- (2) “Issuing Disciplinary Action” means issuing a letter of reprimand or a decision to discipline.
- (3) “Effectuating Disciplinary Action” means carrying out the discipline.

g. “Douglas Factors” are the pertinent mitigating and aggravating factors we consider in determining an appropriate penalty for misconduct. They are:

- (1) nature and seriousness of the offense;
- (2) employee’s job level and type of employment;
- (3) employee’s disciplinary record;
- (4) employee’s work record;
- (5) effect on supervisory confidence in the employee’s ability to perform assigned duties;
- (6) consistency of penalty with that for similar offenses;
- (7) consistency of penalty with any applicable table of penalties;
- (8) notoriety of offense;
- (9) employee’s notice of rules;
- (10) employee’s potential for rehabilitation;
- (11) mitigating circumstances; and
- (12) adequacy of alternative sanctions to deter future misconduct.

h. “Final Agency Decision (FAD)” means our conclusive determination, disposing of all issues involved in a formal EEO complaint.

6. COVERED ACTIONS

In accordance with Section 8 (below), we will initiate a review to determine whether disciplinary or corrective action is warranted under the following circumstances:

- a. A FAD that includes a finding of discrimination;
- b. Final EEOC, MSPB, FLRA, or arbitration decisions that include findings of discrimination or violations of the WPA;
- c. Federal court decisions that include findings of discrimination or violations of the WPA; and
- d. Informal resolutions based on SSA management’s decision that the underlying facts clearly demonstrate that a manager has violated the antidiscrimination or whistleblower protection laws.

Situations other than FADs, administrative findings, judicial findings, or informal resolutions may constitute covered actions under this policy. For example, a case may be withdrawn or dismissed for procedural reasons (e.g., timeliness), but management

nevertheless determines that a management official has violated the antidiscrimination or whistleblower protection laws. In view of Federal mandates to initiate appropriate disciplinary or corrective action for violations of the antidiscrimination or whistleblower protection laws, we must consider potential covered actions on a case-by-case basis.

7. RESPONSIBILITIES AND PROCEDURES

a. All employees are responsible for fostering a work environment free of discrimination or retaliation.

b. OCREO, OGC, OLMER, and appropriate component management will share copies of Covered Actions and pertinent case files as described below:

(1) The agency counsel/representative must send any Covered Action not issued by OCREO and a copy of the pertinent case file(s) to the Associate Commissioner for OCREO, OLMER or the responsible Regional LR/ER Office, and the responsible Deputy Commissioner or equivalent executive. The agency counsel/representative must provide these documents as expeditiously as possible, but no later than two business days after receiving the Covered Action.

(2) If OCREO issues a FAD or receives a Covered Action before the agency counsel/representative receives it, OCREO will send a copy of the Covered Action along with a copy of the pertinent case file(s) to OLMER or the responsible Regional LR/ER Office, OGC, and the responsible Deputy Commissioner or equivalent executive. OCREO will provide these documents as expeditiously as possible, but no later than two business days after receiving or issuing the Covered Action.

c. Within ten business days of receiving a copy of the Covered Action, OLMER or the responsible Regional LR/ER Office, in conjunction with the servicing OGC office, will gather any additional case files and review the underlying circumstances leading to the Covered Action. OLMER or the responsible Regional LR/ER Office, in conjunction with the servicing OGC office, will document in a report the results of its review, including a recommendation on what disciplinary or corrective action (if any) is appropriate. OLMER or the responsible Regional LR/ER Office will forward the report to OCREO and to the appropriate component management, including the delegated management officials and the responsible Deputy Commissioner or equivalent executive. OLMER or the responsible Regional LR/ER Office will issue the report within 30 calendar days of receiving the Covered Action, or within any shorter time frame required to ensure that we satisfy an order of the EEOC, MSPB, FLRA, or arbitrator.

d. Management will fully consider the report issued by OLMER or the Regional LR/ER Office in determining whether to take disciplinary or corrective action. In all instances, management must consult with OLMER or the appropriate Regional LR/ER Office and the servicing OGC office in determining whether to take disciplinary or corrective action, and if so, the appropriate action to take. In so doing, management will evaluate the facts and apply the Douglas Factors to determine the appropriate penalty. Within the time frames

prescribed below, the Deputy Commissioner, equivalent executive, or designee must provide a written justification to OCREO in all instances where there is a decision not to take disciplinary or corrective action.

(1) A delegated management official deciding to take disciplinary or corrective action must initiate the action and notify OCREO and, if applicable, the responsible Regional Civil Rights and Equal Opportunity (CREO) staff within the time frame prescribed in final orders of the EEOC, MSPB, FLRA, or arbitrator.

The Deputy Commissioner, equivalent executive, or designee must report on initiating disciplinary action, issuing disciplinary action, effectuating disciplinary action, initiating corrective action, or effectuating corrective action to OCREO and, if applicable, to the responsible Regional CREO staff within ten business days of receiving the report from OLMER or the responsible Regional LR/ER Office. Additionally, the Deputy Commissioner, equivalent executive, or designee must report these events within any shorter time frame required to ensure that any applicable EEOC, MSPB, FLRA, or arbitrator order is satisfied. The Deputy Commissioner, equivalent executive, or designee also will report to OCREO any subsequent event canceling or rescinding disciplinary or corrective action. These reports are due to OCREO and, if applicable, to the responsible Regional CREO staff no later than ten business days after the subsequent event.

(2) A delegated management official declining to take disciplinary or corrective action must seek Deputy Commissioner, equivalent executive, or designee concurrence as soon as possible, so the executive may provide timely written justification to OCREO and, if applicable, to the responsible Regional (CREO) staff. The Deputy Commissioner, equivalent executive, or designee must provide the written justification no later than ten business days after receiving the report from OLMER or the responsible Regional LR/ER Office. Additionally, the Deputy Commissioner, equivalent executive, or designee must provide the written justification within any shorter time frame required to ensure that we satisfy any applicable EEOC, MSPB, FLRA, or arbitrator order.

e. At the end of each fiscal year, in accordance with the No FEAR Act, OCREO will prepare an annual report setting forth the number of disciplinary or corrective actions taken under this policy. The report will set forth the specific nature of the disciplinary or corrective action and will identify the Covered Action giving rise to the review that led to the disciplinary or corrective action. OCREO will submit the annual report to Congress, the EEOC, Department of Justice, and Office of Personnel Management (OPM) no later than 180 days after the end of the fiscal year.

8. PREVENTIVE MEASURES

OCREO will continue the practice, started in 2006, of training all managers and employees concerning their rights and remedies under the Federal antidiscrimination and whistleblower protection laws. OCREO will repeat this training every two years and will ensure that it is

user-friendly and that managers and employees have sufficient notice of this training. OCREO views this requirement as a continuing opportunity to ensure compliance with the No FEAR Act, thereby preventing discrimination and the need for disciplinary or corrective action.

9. RESOURCES

For further information regarding the No FEAR Act, please refer to [5 CFR 724](#) and our No FEAR Act Notice, located at <http://www.ssa.gov/eo/nofear/>. In addition, OPM's specific antidiscrimination policies relating to equal employment opportunity and prohibited personnel practices are located on OPM's website at http://www.opm.gov/about_opm/nofear. Additional information on Federal antidiscrimination, whistleblower protection, and retaliation laws are located on the EEOC website at www.eeoc.gov and on the Office of Special Counsel's (OSC) website at <http://www.osc.gov/library.htm#NoFearAct>.

If employees believe they have been the victim of whistleblower retaliation, they may file a written complaint (Form OSC-11--<http://www.osc.gov/forms.htm>) with OSC at 1730 M Street NW, Suite 218, Washington, D.C. 20036-4505, or online through the OSC website.

Attachment C

SSA's No FEAR Act Notice
Posted on the
Agency's Internet Webpage
<http://www.socialsecurity.gov/eo/nofear/>

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. 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 upon 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 Agency 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 CFR 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—<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 CFR 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). Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found 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).