



**Notification and Federal Employee
Antidiscrimination and Retaliation Act**

Annual Report

Fiscal Year 2017

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Social Security Administration (SSA) No FEAR Act Report Fiscal Year (FY) 2017

The Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act requires Federal agencies to submit an annual report to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Equal Employment Opportunity Commission (EEOC), the United States Attorney General, and the Office of Personnel Management (OPM). This report must describe (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 (Public Law 107-174). The agency must respond to the italicized items below as stated in section 203.

Section I. Summary of District Court Cases (FY 2017)

The data below show all cases and payments to the Judgment Fund in FY 2017, regardless of the case filing date. Complainants may file a single case under multiple statutes. Therefore, the number of cases pending by statute will not equal the total pending cases for the FY.

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 2017: 23
- The total pending cases alleged violations of the following laws:
 - Title VII of the Civil Rights Act (Title VII): 19 cases
 - Age Discrimination in Employment Act (ADEA): 8 cases
 - Rehabilitation Act (Disability): 6 cases
- Of the 23 total pending cases at the close of FY 2017, 16 were new cases received in FY 2017.
- The 16 new cases alleged violations of the following laws:
 - Title VII: 13 cases
 - ADEA: 4 cases
 - Rehabilitation Act (Disability): 5 cases

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

- The Federal courts disposed of 16 cases in FY 2017:
 - Dismissed/Judgment for SSA: 13
 - Judgment against SSA: 0
 - Settled: 3

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

- Total: \$300,000
- Attorney's Fees: \$0

4. *The number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1) of section 201(a) of the No FEAR Act:*

- SSA had no disciplinary actions for FY 2017 in this section.

Section II. Year-End Data

5. *The final year-end data posted under section 301(c)(1)(B) for FY 2017 (without regard to section 301(c)(2)).*

- See Attachment A for SSA's No FEAR Act data for FY 2017. 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 —*

- 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*
- 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.*

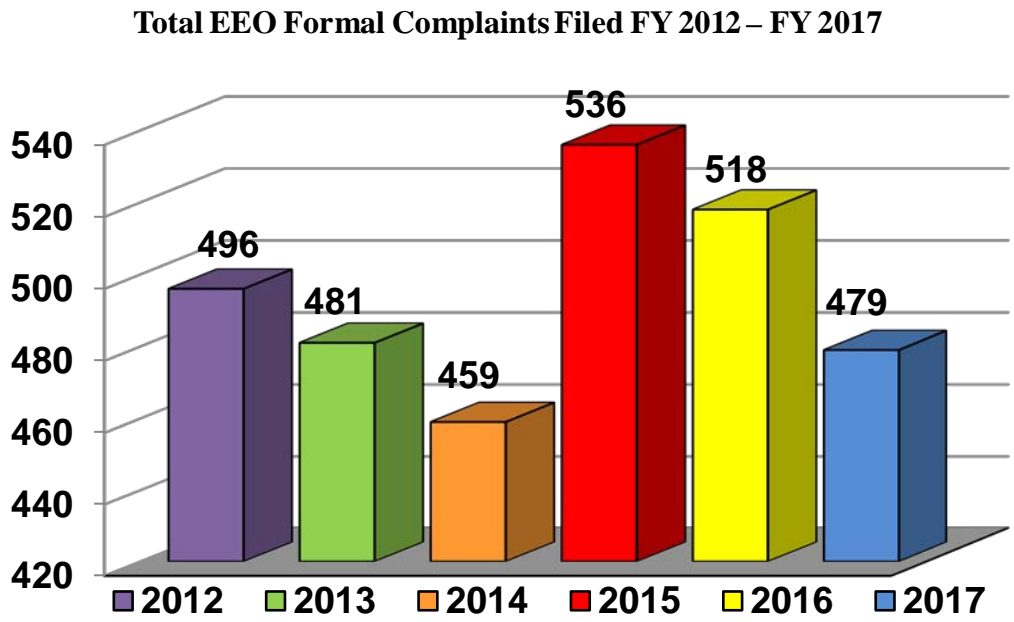
SSA imposed discipline on 12 employees in FY 2017 for engaging in actions constituting discrimination, retaliation, or harassment. The disciplinary actions included six suspensions, five reprimands, and one employee resignation per the terms of a settlement agreement in lieu of a decision on a proposed removal.

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

Over the past six fiscal years, the agency has averaged 495 formal equal employment opportunity (EEO) complaints filed per fiscal year. In FY 2017, SSA recorded 39 fewer EEO complaints filed (479) as compared to FY 2016 (518), which represents a 7.53 percent decline in the number of complaints filed. The least number of complaints filed over this six-year period continues to be in FY 2014 (459). The highest number of complaints were filed in FY 2015 (536).



The table below shows the agency's top bases (individual's alleged protected status) as Disability, Reprisal, Race, and Age, which have remained consistent for the past six years. Additionally, the agency's top issues (challenged agency action affecting individual's employment term or condition) are Harassment (Non-Sexual), Promotion/Non-Selection, Evaluation/Appraisal, and Reasonable Accommodation 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 most recent 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. A complainant may file multiple bases and issues in a single complaint.

Top Bases* Fiscal Year FY 2017	Top Issues* Fiscal Year FY 2017
Disability (261)	Harassment (Non-Sexual) (251)
Reprisal (244)	Promotion/Non-Selection (103)
Race (156)	Evaluation/Appraisal (96)
Age (142)	Reasonable Accommodation (85)

*Aggrieved individuals may file a single complaint with multiple bases and multiple issues.

Top Bases Fiscal Years FY 2012 - FY 2016	Top Issues Fiscal Years FY 2012 - FY 2016
Disability	Harassment (Non-Sexual) Promotion/Non-Selection Evaluation/Appraisal
Reprisal	Promotion/Non-Selection
Age	Evaluation/Appraisal
Race	Reasonable Accommodation

In FY 2017, SSA completed 436 investigations of EEO complaints with a timeliness rate of 74.8 percent. When compared to FY 2016, the agency completed 114 fewer investigations in 2017, and improved the timeliness rate from 43.3 percent in FY 2016 to 74.8 percent in FY 2017, which represents a 31.5 percent timeliness rate increase.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Total of Investigations Completed	339	384	352	350	550	436
Total of Timely Investigations Completed	279	155	177	103	238	326
Percent of Timely Investigations Completed	82.3%	40.4%	50.3%	29.4%	43.3%	74.8%
Total Average Days to Complete Investigations	195	252	257	287	255	208

SSA processed 60 fewer pre-complaint counseling cases in FY 2017 (938) compared to FY 2016 (998), a six percent decrease in counselings. We have maintained over 90

percent timely processing of pre-complaint counselings since FY 2014. Of the 938 counselings, 93.0 percent were timely. Our overall counseling resolution rate increased to 58 percent in FY 2017 compared to 49.9 percent in FY 2016. A pre-complaint counseling “resolution” includes a settlement, a withdrawal, or no formal complaint filed.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Total Number of Counselings Closed	917	853	909	1051	998	938
Number of Timely Counselings	871	746	821	978	944	869
Percentage of Timely Counselings	95.0%	87.5%	90.3%	93.1%	94.6%	93.0%
Percentage of Completed Counselings Resolved (Settled/ Withdrawn/No Formal Filed)	45.8%	45.1%	49.0%	48.5%	49.9%	58.0%

In FY 2017, SSA closed 39 EEO complaints with monetary corrective actions totaling \$1,566,300. This amount represents the highest amount paid for monetary corrective actions over the past six fiscal years.

Fiscal Year	Number of Cases Closed with Monetary Corrective Actions	Total Amount Paid
FY 2017	39	\$1,566,300
FY 2016	53	\$809,946
FY 2015	55	\$1,525,575
FY 2014	46	\$851,742
FY 2013	51	\$1,051,484
FY 2012	28	\$988,490

B. Practical Knowledge Gained Through Experience

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

On June 21, 2017, our agency’s Acting Commissioner, affirmed SSA’s commitment to EEO principles by issuing the agency’s annual EEO Policy to all employees. In October 2016, SSA also issued the Annual Personnel Reminders, which included sections on Discrimination, Harassing Conduct and Whistleblowing, along with SSA’s No FEAR Act Notice.

During FY 2017, SSA conducted the following activities to enhance employee awareness of workforce diversity and promote agency antidiscrimination principles:

Agency Training

- **Employee Training**
 - We replaced the existing training Video on Demand (VOD) on the reasonable accommodations process with an up-to-date VOD that covers the procedures for employees and managers.
 - We conducted a Diversity Day training and enrichment session. This two-hour session also included a panel discussion with Executives who provided tips on how to succeed in our efforts to diversify. We also provided Diversity Recruitment Training for managers on the importance of recruiting a diverse workforce.
 - We ensured that all employees received biennial training on their rights under federal antidiscrimination and whistleblower protection laws, as required by the No FEAR Act.
- **Manager Training**
 - We provided managers and supervisors, across the regions, advanced training in EEO and reasonable accommodation. Additionally, we provided Regional Executive Staff with training in Alternative Dispute Resolution (ADR).
 - We ensured that current managers and supervisors continue to receive EEO refresher training and provided EEO training to new managers and supervisors.
- **EEO Practitioner Training**
 - We arranged training for EEO Collateral Duty Counselors to receive an 8-hour refresher training that included, “how to refer harassment allegations to the Harassment Prevention Officer.” We also provided a 32 hour refresher training course for our Shared Neutral Collateral Duty Mediators.
 - We provided in-house refresher EEO training to the OCREO staff on the overall EEO Process from Pre-Complaints through Final Agency Decisions (FAD). Furthermore, we provided training for the regions. We also trained additional headquarters EEO staff members as FAD writers.
 - We participated in the 2017 EEOC Examining Conflicts in Employment Laws (EXCEL) Conference.

Demonstrated Commitment from Agency Leadership

- **Communication**
 - We briefed the Head of the Agency quarterly on the state of the EEO program at SSA.
- **Collaboration**
 - We promoted collaboration and collegiality during monthly meetings with Regional Civil Rights and Equal Opportunity Managers.
 - We enhanced our relationship with unions via regular participation in the Union forum and Affirmative Employment Program meetings.

Proactive Prevention of Unlawful Discrimination

- We continued to maintain the Barrier Analysis Program to identify and eliminate real and perceived barriers to EEO; analyzed Diversity and Inclusion survey results and EEO data; prepared a report; and, briefed the participating Deputy Commissioner-level components.
- We provided the new anti-harassment policy information to employees alleging harassment and referred these allegations to the Harassment Prevention Officers.
- We continued promoting the recruitment and hiring of veterans; veterans with disabilities; and, individuals with disabilities by using Schedule A and Veterans Recruitment Appointment authorities.

Efficiency

- **Efficiency - Case Processing**
 - We maintained regular update meetings to determine case status and processing times for each stage of the EEO process, identified bottlenecks, and, implemented procedures to expedite the completion of cases.
 - We maintained an Interagency Agreement with the United States Postal Service to help reduce SSA EEO case inventories.
 - We continued a comprehensive online library of up-to-date, legally compliant, uniform information about EEO laws, policies, and procedures for employees, managers, and EEO practitioners.

- Efficiency - Results

- We processed 60 fewer pre-complaint counseling cases in FY 2017 compared to the number of pre-complaint counseling cases in FY 2016. The number of counselings were six percent lower compared to FY 2016 counselings. This is an improvement over FY 2016 counselings that experienced decreases of two percent compared to FY 2015. Furthermore, timelines of counselings improved by two percent from FY 2016 to FY 2017 and by one percent from FY 2015 to FY 2016.
- We achieved an 85 percent compliance rate on settlement requirements.
- We facilitated EEO settlements, which increased from 295 settlements in FY 2016 to 347 settlements in FY 2017.

Outreach

- We engaged in internal and external outreach activities with agency executives, managers, and other federal, state, and local EEO practitioners nationwide to discuss EEO legal developments and ensure continued compliance with antidiscrimination laws.
- We held Special Emphasis Program (SEP) Observances and two memorial observances at SSA Headquarters. We continued hosting SEP and diversity events for regional employees that highlighted the ethnicity and culture of diverse groups in the regions, in conjunction with our eight advisory councils.
- We disseminated grant information to institutions of higher education, including Minority Serving Institutions (MSI), to provide students with advancement and educational opportunities.
- We developed and maintained relationships with local and state agencies, and Vocational Specialists within the U.S. Department of Veteran Affairs, via SSA's Special Placement Coordinator. This activity supported returning veterans seeking employment information and assistance.
- We participated in 12 career fairs throughout the country with a focus on enhancing recruiting top talent from diverse candidate pools. We participated in recruitment events hosted by colleges and universities, including MSIs; attended job fairs and career days; and provided information on agency employment opportunities to students at colleges and universities.

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

In FY 2018, SSA will continue our efforts to attain model EEO agency status by addressing the following objectives to improve our program:

- Policy and Procedures
 - Continue to focus on identifying and eliminating barriers to EEO
 - Improve EEO complaint processing to meet the mandated EEOC timeframes for processing discrimination complaints
 - Continue improving the quality, timeliness, and accuracy of our acceptance letters, Reports of Investigation, and Final Agency Decisions

- Training
 - Ensure that current managers and supervisors continue to receive EEO refresher training and provide EEO training to new managers and supervisors
 - Ensure that all employees receive biennial training on their rights under federal antidiscrimination and whistleblower protection laws, as required by the No FEAR Act

- Technology Improvements
 - Provide access to videophone technology and Video Relay Service for deaf and hard-of-hearing employees
 - Enhance the software we use to process reasonable accommodation requests to increase application performance and to expand management information capabilities

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 2012 - FY 2017)

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

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

Data as of September 30, 2017 (4th Qtr. 2017)

Complaint Activity Sec.1614.704 (a),(b), and (c)	Comparative Data (Sec.1614.705) Previous Fiscal Year Data					2017 thru 09/30
	2012	2013	2014	2015	2016	
Number of Complaints Filed	496	481	459	536	519	479
Number of Complainants	453	437	434	489	469	429
Repeat Filers	37	36	24	40	40	44

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					2017 thru 09/30
	2012	2013	2014	2015	2016	
Race	179	181	184	209	207	156
Color	37	33	26	38	37	28
Religion	12	22	16	20	24	29

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					2017 thru 09/30
	2012	2013	2014	2015	2016	
Reprisal	257	228	210	235	251	245
Sex	153	172	155	177	179	131
National Origin	49	53	47	61	82	55
Equal Pay Act	0	0	0	1	1	0
Age	193	176	184	226	195	143
Disability	163	150	149	208	202	207
Genetics	0	0	1	1	0	1
Pregnancy Discrimination Act	3	4	1	2	2	3
Non-EEO Basis	42	38	56	67	62	46

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					2017 thru 09/30
	2012	2013	2014	2015	2016	
Appointment/Hire	22	11	8	15	15	5

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					2017 thru 09/30
	2012	2013	2014	2015	2016	
Assignment of Duties	51	36	37	29	21	39
Awards	23	34	9	12	8	17
Conversion to Full-time	0	1	1	2	1	0
Disciplinary Action						
Demotion	3	7	8	3	0	5
Reprimand	21	21	11	18	20	25
Removal	5	2	2	9	2	12
Suspension	18	16	11	11	11	21
Other	8	7	2	13	4	0
Duty Hours	4	0	3	4	1	2
Evaluation Appraisal	83	69	59	77	78	98
Examination/Test	0	0	0	0	0	2
Harassment						
Non-Sexual	239	243	225	231	241	255

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					2017 thru 09/30
	2012	2013	2014	2015	2016	
Sexual	13	12	18	15	17	16
Medical Examination	0	0	0	0	0	0
Pay (Including Overtime)	22	8	8	7	9	18
Promotion/Non-Selection	158	127	138	165	158	87
Reassignment						
Denied	14	14	13	13	17	11
Directed	11	3	10	10	11	9
Reasonable Accommodation	54	50	52	83	71	104
Reinstatement	1	2	0	6	0	1
Religious Accommodation	0	0	0	0	1	5
Retirement	6	4	9	3	5	10
Telework	0	0	0	0	1	11
Termination	24	17	13	49	42	47
Terms/Conditions of Employment	30	33	24	12	15	29
Time and Attendance	57	44	36	41	32	50

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					2017 thru 09/30
	2012	2013	2014	2015	2016	
Training	18	10	8	15	12	13
Other	30	40	25	7	43	1

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					2017 thru 09/30
	2012	2013	2014	2015	2016	
Complaints pending (for any length of time) during fiscal year						
Average number of days in investigation stage	193	251	265	286	284	258
Average number of days in final action stage	87	176	140	134	69	50
Complaints pending (for any length of time) during fiscal year where hearing was requested						
Average number of days in investigation stage	191	244	243	258	281	232
Average number of days in final action stage	35	111	102	114	44	52
Complaints pending (for any length of time) during fiscal year where hearing was not requested						

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					2017 thru 09/30
	2012	2013	2014	2015	2016	
Average number of days in investigation stage	199	265	292	321	293	308
Average number of days in final action stage	154	243	186	152	77	46

Complaints Dismissed by Agency Sec.1614.704(g)	Comparative Data (Sec.1614.705) Previous Fiscal Year Data					2017 thru 09/30
	2012	2013	2014	2015	2016	
Total Complaints Dismissed by Agency	55	75	41	87	62	56
Average days pending prior to dismissal	160	147	83	88	85	102
Complaints Withdrawn by Complainants						
Total complaints Withdrawn by Complainants	55	45	41	46	45	61

Total Final Actions Finding Discrimination (Sec.1614.704 (i))	Comparative Data (Sec.1614.705) Previous Fiscal Year Data										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	4		4		0		12		12		7	
Without Hearing	0	0	0	0	0	0	4	33	10	83	7	100
With Hearing	4	100	4	100	0	0	8	67	2	17	0	0
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) Previous Fiscal Year Data										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	4		4		0		12		7		0	
Race	0	0	1	25	0	0	1	8	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	1	25	0	0	0	0	0	0	0	0
Reprisal	3	75	1	25	0	0	8	67	1	14	0	0
Sex	0	0	0	0	0	0	4	33	0	0	0	0
National Origin	0	0	0	0	0	0	1	8	0	0	0	0

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 Previous Fiscal Year Data										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Age	0	0	2	50	0	0	2	17	0	0	0	0
Disability	1	25	1	25	0	0	4	33	7	100	0	0
Non-EEO	0	0	0	0	0	0	0	1	8	0	0	0
Findings After Hearing	4	100	4	100	0	0	8	67	2	0	0	0
Race	0	0	1	25	0	0	1	13	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	1	25	0	0	0	0	0	0	0	0
Reprisal	3	75	1	25	0	0	7	88	1	50	0	0
Sex	0	0	0	0	0	0	0	3	38	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	2	50	0	0	2	25	0	0	0	0
Disability	0	0	1	25	0	0	1	13	2	100	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

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 Previous Fiscal Year Data)										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Findings Without Hearing	0	0	0	0	0	0	4	33	5	0	0	0
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	1	25	0	0	0	0
Sex	0	0	0	0	0	0	1	25	0	0	0	0
National Origin	0	0	0	0	0	0	1	25	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	3	75	5	100	0	0
Non-EEO	0	0	0	0	0	0	1	25	0	0	0	0

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)										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	4		4		0		12		7		0	
Appointment/Hire	0	0	0	0	0	0	1	8	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	1	14	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	2	17	0	0	0	0
Suspension	0	0	0	0	0	0	1	8	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

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										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Evaluation Appraisal	2	50	0	0	0	0	2	17	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	1	25	0	0	0	0	0	3	25	0	0	0
Sexual	0	0	0	0	0	0	4	33	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	3	75	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	1	25	0	0	1	8	0	0
Directed	1	25	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	1	25	1	25	0	0	3	25	6	86	0	0

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										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
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	2	17	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	1	8	0	0	0	0
Time and Attendance	1	25	0	0	0	0	2	17	1	14	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
Findings After Hearing	4	100	4	100	0	0	8	67	2	0	5	0
Appointment/Hire	0	0	0	0	0	0	1	13	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	1	50	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

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)										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Disciplinary Action												
Reprimand	0	0	0	0	0	0	2	25	0	0	0	0
Suspension	0	0	0	0	0	0	1	13	0	10	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	2	50	0	0	0	0	2	25	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	1	25	0	0	0	0	3	38	0	0	0	0
Sexual	0	0	0	0	0	0	2	25	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0

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										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Promotion/Non-Selection	0	0	3	75	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	1	25	0	0	1	13	0	0	0	0
Directed	1	25	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	1	25	1	25	0	0	0	0	1	50	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	1	13	0	0	0	0
Time and Attendance	1	25	0	0	0	0	2	25	1	50	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

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										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Findings Without Hearing	0	0	0	0	0	0	4	33	5	100	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
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

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										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
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	2	50	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	3	75	5	100	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0

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										2017 thru 09/30	
	2012		2013		2014		2015		2016			
	#	%	#	%	#	%	#	%	#	%	#	%
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	2	50	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	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					2017 thru 09/30
	2012	2013	2014	2015	2016	
Total complaints from previous Fiscal Years	685	526	428	457	536	514
Total Complainants	642	414	364	396	454	422
Number Complaints Pending						

Pending Complaints Filed in Previous Fiscal Years by Status (Sec.1614.704(l))	Comparative Data Previous Fiscal Year Data					2017 thru 09/30
	2012	2013	2014	2015	2016	
Investigation	41	54	13	95	83	77
ROI Issued, pending Complainant's action	3	2	0	2	5	0
Hearing	326	265	315	355	455	483
Final Agency Action	63	74	74	74	72	46
Appeals with EEOC Office of Federal Operations	149	131	195	236	212	300

Complaint Investigations (Sec.1614.704(m))	Comparative Data (Sec.1614.705) Previous Fiscal Year Data					2017 thru 09/30
	2012	2013	2014	2015	2016	
Pending Completion Where Investigation Exceeds Required Time Frames	64	48	80	140	65	69

Attachment B

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

(Posted July 13, 2013)

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 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

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 which 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 Notification of Federal
Employee Antidiscrimination
and Retaliation (No FEAR)
Act Notice on the Agency's
Internet Webpage

<http://www.ssa.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 are 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).