



PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

No FEAR Act Annual Report FY 2022

February 8, 2023

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Privacy and Civil Liberties Oversight Board
No FEAR Act Report
Fiscal Year (FY) 2022

INTRODUCTION

In 2002, Congress passed the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174, 5 U.S.C. § 2301, et seq., to hold Federal agencies accountable for violations of Federal antidiscrimination and whistleblower protection laws.

In addition, the No FEAR Act requires that agencies provide public notice of relevant statistics on agency websites, including the number of Federal court cases involving discrimination that were filed, pending, and resolved and other information on Equal Employment Opportunity (EEO) complaints.

The No FEAR Act also requires each Federal agency to report annually to Congress on its complaints of discrimination, Federal court cases involving discrimination, and activities to prevent discrimination and retaliation.

In doing so, Federal agencies report on eight things:

1. The number of court cases arising under the antidiscrimination laws and authorities included in the No FEAR Act;
2. The status and disposition of those cases;
3. Judgment Fund reimbursements, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any;
4. The number and type of disciplinary actions related to discrimination, retaliation, harassment, or related infractions;
5. Year-end summary data related to EEO complaint activity;
6. A detailed description of the PCLOB's policy for taking disciplinary actions against employees for discrimination or prohibited personnel practices;
7. An analysis of the information provided in this report, including an examination of trends, causal analysis, practical knowledge gained, and actions planned or taken to improve compliance or civil rights programs; and
8. Validation of PCLOB's plan to train employees on their rights under the No FEAR Act.

Pursuant to statutory requirements, PCLOB provides the No FEAR Act annual report to the following Congressional offices:

- Speaker of the House of Representatives
- President pro tempore of the Senate
- Senate Committee on Homeland Security and Governmental Affairs
- House of Representatives Committee on Oversight and Reform
- Senate Committee on Appropriations
- House of Representatives Committee on Appropriations
- Senate Committee on Judiciary
- House of Representatives Committee on Judiciary
- Senate Select Committee on Intelligence
- House Permanent Select Committee on Intelligence

Pursuant to statutory and regulatory requirements, PCLOB also provides this report to the following members of the Executive Branch:

- Chair, U.S. Equal Employment Opportunity Commission
- Attorney General, U.S. Department of Justice
- Director, U.S. Office of Personnel Management

Section I. Summary of District Court Cases (FY 2018 to FY 2022)

1. *The number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of the agency was alleged.*

	TOTAL FILED: 0 cases				
	FY 18	FY 19	FY 20	FY 21	FY22
Title VII (race, color, religion, sex, national origin)	0	0	0	0	0
Age	0	0	0	0	0
Sex (Equal Pay Act)	0	0	0	0	0
Disability (Section 501 of the Rehabilitation Act of 1973)	0	0	0	0	0
Whistleblower protection laws, 5 U.S.C. §§ 2302(b)(1)-(9)	0	0	0	0	0

- 2.
- a. *The status or disposition of cases described in paragraph (1). N/A*
- 3.
- a. *Reimbursement to the Judgment Fund for separately designated attorney's fees. N/A*
- b. *Money reimbursed to the Judgment Fund. N/A*
4. *The number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1).*

	TOTAL NUMBER EMPLOYEES DISCIPLINED: 0				
	FY 18	FY 19	FY 20	FY 21	FY22
FY Totals	0	0	0	0	0

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

See Attachment A.

6. *A detailed description of the policy implemented by that agency 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), 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 with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken.*

PCLOB has implemented an EEO policy, a supplemental EEO Question and Answer guidance document, and an Anti-Harassment policy. These policies and guidance documents prohibit discrimination and harassment based on a protected class or whistleblower activity and prohibit retaliation for exercising rights on either basis. The PCLOB is working with the EEOC to update these policies.

The PCLOB is also completing its re-certification for the Office of Special Counsel's 2302(c) certification program, which ensures that the PCLOB prevents prohibited personnel practices, complies with applicable civil service laws against these practices, and informs employees about these practices. The PCLOB continues to comply with all related policies and guidance.

The PCLOB is developing a disciplinary policy to handle workplace conduct, including a table of penalties. The policy includes the provision of appropriate disciplinary actions for employees who have engaged in discrimination or prohibited personnel actions.

Section II. Analysis of Administrative Complaints

7. *An analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with part 1614 of title 29 of the Code of Federal Regulations) including:*
- a. *an examination of trends;*
 - b. *causal analysis;*
 - c. *practical knowledge gained through experience; and*
 - d. *any actions planned or taken to improve complaint or civil rights programs of the agency.*

There have been no administrative complaints to analyze.

Attachment A

Administrative EEO Complaint Data (FY 2018-FY 2022)

Complaint Activity	Comparative Data				
	Previous Fiscal Year Data				
	2018	2019	2020	2021	2022
Number of Complaints Filed	0	0	0	0	0
Number of Complainants	0	0	0	0	0
Repeat Filers	0	0	0	0	0

Complaints by Basis	Comparative Data				
	Previous Fiscal Year Data				
	2018	2019	2020	2021	2022
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>					
Race	0	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	0	0	0
Sex	0	0	0	0	0
National Origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	0	0	0	0	0
Genetic Information	0	0	0	0	0
Non-EEO	0	0	0	0	0

Complaints by Issue	Comparative Data				
	Previous Fiscal Year Data				
	2018	2019	2020	2021	2022
<i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints filed.</i>					
Appointment/Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0
Disciplinary Action					
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0

Examination/Test	0	0	0	0	0
Harassment					
Non-Sexual	0	0	0	0	0
Sexual	0	0	0	0	0
Medical Examination	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0
Reassignment					
Denied	0	0	0	0	0
Directed	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0
Reinstatement	0	0	0	0	0
Retirement	0	0	0	0	0
Termination	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0
Time and Attendance	0	0	0	0	0
Training	0	0	0	0	0
Other	0	0	0	0	0

Processing Time	Comparative Data				
	Previous Fiscal Year Data				
	2018	2019	2020	2021	2022
Complaints pending during fiscal year					
Average number of days in investigation stage	0	0	0	0	0
Average number of days in final action stage	0	0	0	0	0
Complaint pending during fiscal year where hearing was requested					
Average number of days in investigation stage	0	0	0	0	0
Average number of days in final action stage	0	0	0	0	0
Complaint pending during fiscal year where hearing was not requested					
Average number of days in investigation stage	0	0	0	0	0
Average number of days in final action stage	0	0	0	0	0

Complaints Dismissed by Agency	Comparative Data				
	Previous Fiscal Year Data				
	2018	2019	2020	2021	2022
Total Complaints Dismissed by Agency	0	0	0	0	0
Average days pending prior to dismissal	0	0	0	0	0
Complaints Withdrawn by Complainants					
Total Complaints Withdrawn by Complainants	0	0	0	0	0

[illegible][illegible]

[illegible][illegible]

[illegible]

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

Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data				
	Previous Fiscal Year Data				
	2018	2019	2020	2021	2022
Total complaints from previous Fiscal Years	0	0	0	0	0
Total Complainants	0	0	0	0	0
Number complaints pending					
Investigation	0	0	0	0	0
Hearing	0	0	0	0	0
Final Action	0	0	0	0	0
Appeal with EEOC Office of Federal Operations	0	0	0	0	0

Complaint Investigations	Comparative Data				
	Previous Fiscal Year Data				
	2018	2019	2020	2021	2022
Pending Complaints Where Investigations Exceeds Required Time Frames	0	0	0	0	0

Attachment B

No FEAR Act Training Plan

PCLOB administers No FEAR Act training to all new employees as part of the onboarding process. All PCLOB employees have completed the biennial No FEAR Act training for FY 2022, and will again for FY 2023.

Delivery of Training	Training Schedule	Training Completion Date
PCLOB training presentation delivered by Shared Service Provider The PCLOB maintains training records for each employee in the agency's files.	Upon onboarding. Biennial training for entire agency.	100% of PCLOB employees who completed No FEAR training upon onboarding. 100% of PCLOB employees completed biennial training No FEAR Act training for FY 2021 and will again for FY 2023.