



*UNITED STATES*  
**DEPARTMENT OF TRANSPORTATION**

**Fiscal Year 2020  
Annual Report to Congress on the  
Notification and Federal Employee  
Antidiscrimination and  
Retaliation Act of 2002**

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## 1. Background

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 financially accountable for violations of Federal antidiscrimination and whistleblower protection laws. Prior to the No FEAR Act, monetary judgments against Federal agencies were paid from the U.S. Department of Justice's Judgment Fund. With the enactment of Section 201 of the No FEAR Act, Congress mandates that Federal agencies reimburse the Judgment Fund for all judgments, awards, and settlements paid to a complainant as the result of a violation of antidiscrimination or 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:

- The number of Federal court cases, pending or resolved, arising under the antidiscrimination laws and authorities included in the No FEAR Act, and the status and disposition of the cases;
- Judgment Fund reimbursements, adjustments to agency budgets to meet reimbursement requirements, and the amount of reimbursement required for attorneys' fees where such fees have been separately designated;
- The number and type of disciplinary actions related to discrimination, retaliation, or harassment;
- A detailed description of the agency's policy for taking disciplinary actions against employees for conduct inconsistent with the antidiscrimination laws referenced by the No FEAR Act;
- Year-end summary data related to Federal sector EEO complaint activity;
- 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; and
- The agency's plan to train employees on their rights under the No FEAR Act.

Representatives from the Department of Transportation's (DOT or the Department) Office of the Secretary, including the Departmental Office of Civil Rights (DOCR), the Departmental Office of Human Resource Management (DOHRM), and the Office of the Assistant Secretary for Administration assisted in the preparation of this report on anti-discrimination activities during FY 2020, in collaboration with DOT's Operating Administrations (OAs): the Federal Aviation

Administration (FAA); the Federal Highway Administration (FHWA); the Federal Motor Carrier Safety Administration (FMCSA); the Federal Railroad Administration (FRA); the Federal Transit Administration (FTA); the Maritime Administration (MARAD); the National Highway Traffic Safety Administration (NHTSA); the Pipeline and Hazardous Materials Safety Administration (PHMSA); and the Great Lakes St. Lawrence Seaway Development Corporation (GLS).

Pursuant to statutory requirements, DOT provides the No FEAR Act annual report to the following members of the 117<sup>th</sup> Congress:

The Honorable Kamala Harris  
President of the Senate

The Honorable Nancy Pelosi  
Speaker of the House of Representatives

The Honorable Patrick Leahy  
President Pro Tempore of the Senate  
Chairman, Senate Committee on  
Appropriations

The Honorable Rosa L. DeLauro  
Chairwoman, House Committee on  
Appropriations

The Honorable Richard Shelby  
Vice Chairman, Senate Committee on  
Appropriations

The Honorable Kay Granger  
Ranking Member, House Committee on  
Appropriations

The Honorable Sherrod Brown  
Chairman, Senate Committee on Banking,  
Housing, and Urban Affairs

The Honorable Frank J. Pallone, Jr.  
Chairman, House Committee on Energy and  
Commerce

The Honorable Patrick J. Toomey  
Ranking Member, Senate Committee on  
Banking, Housing, and Urban Affairs

The Honorable Cathy McMorris Rodgers  
Ranking Member, House Committee on  
Energy and Commerce

The Honorable Maria Cantwell  
Chairman, Senate Committee on Commerce,  
Science, and Transportation

The Honorable Carolyn B. Maloney  
Chairwoman, House Committee on Oversight  
and Reform

The Honorable Roger Wicker  
Ranking Member, Senate Committee on  
Commerce, Science, and Transportation

The Honorable James Comer  
Ranking Member, House Committee on  
Oversight and Reform

The Honorable Tom R. Carper  
Chairman, Senate Committee on Environment  
and Public Works

The Honorable Eddie Bernice Johnson  
Chairwoman, House Committee on Science,  
Space, and Technology

The Honorable Shelley Moore Capito  
Ranking Member, Senate Committee on  
Environment and Public Works

The Honorable Frank Lucas  
Ranking Member, House Committee on  
Science, Space, and Technology

The Honorable Gary C. Peters  
Chairman, Senate Committee on Homeland  
Security and Governmental Affairs

The Honorable Peter A. DeFazio  
Chairman, House Committee on  
Transportation and Infrastructure

The Honorable Rob Portman  
Ranking Member, Senate Committee on  
Homeland Security and Governmental Affairs

The Honorable Sam Graves  
Ranking Member, House Committee on  
Transportation and Infrastructure

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

- The Honorable Charlotte A. Burrows, Chair, U.S. Equal Employment Opportunity Commission
- The Honorable Merrick B. Garland, Attorney General, U.S. Department of Justice
- The Honorable Kathleen McGettigan, Acting Director, U.S. Office of Personnel Management

## **2. DOT's Mission**

DOT's mission is to ensure our Nation has the safest, most efficient and modern transportation system in the world, which improves the quality of life for all American people and communities, from rural to urban, and increases the productivity and competitiveness of American workers and businesses. The U.S. Department of Transportation Strategic Plan for FY 2018-2022 emphasized DOT's commitment to recruit, hire, and retain employees from all segments of American society, and to provide the training and professional development opportunities that they need to support DOT's mission.<sup>1</sup> As a part of that commitment, the Department has established policies and programs to lead as a model agency by proactively addressing and attempting to prevent discrimination, harassment, or retaliation in the workplace.

## **3. Results and Data**

### **3.1 EEO Complaint Activity in Federal Court and Disposition**

#### **FY 2020 Federal Court Case Volume Increased Slightly**

The total number of Federal court cases in FY 2020 (36) increased slightly from last year (32), but is generally consistent with the number of court cases from previous years. Since FY 2013, the number of court cases has been in the low-to mid-30s range, with only one year where the number of cases decreased. The number of pending cases also increased slightly, from 22 at the close of FY 2019 to 25 at the close of FY 2020.

In FY 2020, the most frequently raised bases in Federal court cases were race (20) and sex (15). Almost half of the cases involved allegations of retaliation; there were 11 cases involving allegations of harassment, and 7 cases involving reasonable accommodation.

The breakdown of allegations in the 25 cases pending in Federal court is:<sup>2</sup>

- 21 cases contained claims under Title VII (42 U.S.C. § 2000e-16);
- 4 cases contained claims under the Age Discrimination in Employment Act (ADEA) of 1967 (29 U. S. C. §§ 631, 633 (a));

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<sup>1</sup> The Strategic Plan is available online at: <https://www.transportation.gov/dot-strategic-plan>.

<sup>2</sup> More than one type of allegation can be made in a single case.

- 4 cases contained claims under the Rehabilitation Act of 1973 (Rehabilitation Act) (29 U.S.C. § 791); and,
- 13 cases contained claims of retaliation.

The breakdown of the Federal court cases that were resolved:

- 8 cases concerned Title VII;
- 2 cases concerned the ADEA;
- 3 cases concerned the Rehabilitation Act; and,
- 3 cases involved allegations of retaliation.

In FY 2020, eleven cases were closed. Of those, the courts granted summary judgment in four cases, three of which were in favor of the Department, and one that was in favor of the plaintiff. The parties settled two cases.

### **3.2 Reimbursements and Budget Adjustments in FY 2020**

DOT reimbursed a total of \$282,000 for three Federal court cases. (See Table 1). This amount was based on two cases settled (one for \$200,000, including attorney's fees, and the other for \$2,000) and on the court's entry of summary judgment in favor of plaintiff (\$80,000 in attorney's fees).

### **3.3 Number of Employees Disciplined and Disciplinary Policy**

While several of DOT's OAs have tables of penalties, Department-wide disciplinary policy is contained in the Secretarial Policy Statements, which state the Secretary's commitment to establishing and maintaining a workplace free from discrimination, harassment, and/or retaliation. The Secretary advises employees regarding their rights and responsibilities. The Secretary also informs all DOT employees that they will be held accountable for any actions that are in violation of DOT policy on discrimination, harassment, and retaliation. The Secretary states specifically that employees will be subject to disciplinary action, up to and including dismissal, for engaging in discriminatory conduct. In addition, the Secretary expects everyone to comply with the requirements of the No FEAR Act, including protection of whistleblowers and prevention of retaliation. The Secretary, in the strongest terms possible, states that harassment will not be tolerated.

DOT's Secretarial Policy Statements are issued annually and are distributed to DOT employees via email, posted in common areas throughout DOT offices, and posted electronically on DOT's public-facing website. In addition, due to the coronavirus disease 2019 (COVID-19) pandemic, many OAs have established new policies to distribute the statements electronically through their specific intranet sites to allow wide dissemination to all employees, including those working exclusively from home.

In FY 2020, in enforcing the above policies, DOT disciplined a total of 10 employees, all based on harassment. Three employees were removed, three employees received a suspension, and four employees received a reprimand.

### 3.4 Summary Federal Court Case Data

<b>Table 1: Summary of Federal Court Cases</b> <b>DOT FY 2020 No FEAR Act Annual Report required by Section 203 of the No FEAR Act and 5 C.F.R. Part 724)</b>	
<b>Total number of pending or resolved Federal court cases, arising under each of the respective provisions of law covered by 724.302 (a) (1)</b>	
<b>A. Cases Pending</b>	25
<b>B. Cases Resolved</b>	11
<b>The status or disposition of resolved cases</b>	
<b>Dismissed</b>	5
<b>Settled</b>	2
<b>Summary Judgment for the Agency</b>	3
<b>Summary Judgment for the Complainant</b>	1
<b>Withdrawn</b>	0
<b>Award</b>	0
<b>Total Resolved Cases</b>	11
<b>Funds required to be reimbursed by DOT under Section 201 in connection with each case</b>	
<b>Title VII, Rehabilitation Act</b>	\$100,000
<b>Title VII</b>	\$2,000
<b>Attorney's Fees</b>	\$180,000
<b>Total Reimbursement</b>	\$282,000
<b>Number of employees disciplined for discrimination, retaliation, harassment, or any other provision of the law referred:</b>	10
<b>The number of employees disciplined because of violating Departmental policy:</b>	10
<b>Disciplinary Actions Taken:</b>	Four employees received reprimands, three employees received suspensions, and three employees were removed.



### 3.5 Analysis of Complaints

From FY 2019 to FY 2020, DOT experienced a 9 percent increase in EEO complaints, and an 8 percent increase in the number of complainants. During FY 2020, 265 complainants filed a total of 273 EEO complaints with DOT. The ratio of complainants (265) to the total DOT permanent workforce (53,551) is 0.49 percent, which is lower than the most recently published government-wide average of 0.52 percent (per the Equal Employment Opportunity Commission (EEOC) Annual Report on the Federal Work Force Fiscal Year 2018, Table B-1, <https://www.eeoc.gov/federal/reports/tables.cfm>).

#### 3.5.1. Trends and Analysis

##### **FY 2019-2020 EEO Complaint Numbers Increased; Complaints based on Reprisal, Age, and Disability Increased**

In FY 2020, the 9 percent increase in cases was based on reprisal, disability, and sex, the most frequently raised protected class. During that same period, there was an increase in complaints based on reprisal, age, national origin, and disability. The number of complaints based on race and sex, in contrast, stayed consistent from FY 2019 to FY 2020. In contrast, over that same period, complaints based on color decreased significantly (by 46 percent).

The most frequently raised issue in FY 2020 complaints was harassment, which has been the case at the Department for the last five years. While the number of complaints based on disciplinary action and training decreased, DOT saw an increase in the number of complaints based on promotion/non-selection, evaluation/appraisal, reasonable accommodation, and pay. Some of these changes may be due to the change in work environment. From March 2020 through the end of FY 2020, the Department was in either Phase 1 or Phase 2 of the Framework for DOT's Return to Normal Operations, allowing many employees to remain on maximum telework status.

### 3.6 Findings of Discrimination

There were four findings of discrimination in FY 2020. The bases for discrimination in the findings were age, race, national origin, color, sex, disability, and reprisal. EEOC issued a finding of discrimination involving the denial of a reasonable accommodation. Three Final Agency Decisions were made on complaints containing allegations of harassment, two were also based on reassignment, and one was based on sexual harassment.

This is consistent with the number of findings in previous years. There were five findings of discrimination rendered in FY 2018 and FY 2019. In FY 2019, the bases for discrimination in the findings were age, race, color, sex, disability, genetic information, and reprisal. The findings were issued for discrimination in non-selection, hostile work environment, and disclosure of medical information.

In FY 2018, the bases for discrimination in the findings were retaliation, sex, age, national origin, and race. The findings of discrimination were issued for disciplinary action, demotion, non-selection, training, terms and conditions of employment, and sexual harassment.

#### **4. Accomplishments, Training, and Awareness**

##### **Accomplishments: Agency Efforts Focused on Proactive Prevention and Prompt Action to Address Discrimination and Harassment**

DOT focused on improving Departmental policies to promote safe and productive work environments.

DOT efforts to engage employees and management on maintaining safe, productive, and inclusive work environments have contributed to the Department being recognized as the fifth best place to work among large government agencies, per the Partnership for Public Service's 2019 Report. DOT's Strategic Plan for 2018-2022, published in February 2018, prioritizes recruiting talent from all segments of American society, enhancing workforce development and training, and improving employee engagement overall.

In FY 2020, the Department established its anti-harassment program. The program is designed to create a more positive, productive and safe work environment by addressing harassing behavior immediately. DOOCR and DOHRM collaborated to oversee the development and implementation of this important program. Each OA developed and established anti-harassment program procedures, and designated an anti-harassment coordinator responsible for accepting, investigating, and completing a report on complaints of harassment, and ensuring implementation of appropriate and corrective action where there is a finding of harassing behavior. DOOCR sponsored harassment investigations training for all anti-harassment program staff, and many OAs provided their anti-harassment teams with additional training as well. In addition, the OAs developed training on the program and are in the process of ensuring that all employees and managers are trained on their rights and responsibilities regarding the prevention and reporting of workplace harassment.

DOT has fostered partnerships between civil rights offices and other offices throughout DOT to improve organizational culture and increase understanding of EEO principles.

Throughout FY 2020, DOOCR reviewed Departmental policies from a variety of OAs and OST offices to ensure that they included EEO, diversity, and accessibility. DOOCR worked closely with a number of offices to provide additional information about EEO principles and the importance of ensuring that civil rights and transportation equity is embedded in all of the Department's work. DOOCR also partnered closely with DOHRM and OST's HR office, and participated in HR working groups to share knowledge and ensure that EEO principles are integrated into the Department's recruitment, hiring, and advancement efforts. This included collaboration on recruitment strategies, the anti-harassment program, and the development of new reasonable accommodation procedures.

DOCR also worked with DOHRM and the OAs to support a partnership between the Special Emphasis Program Managers and Employee Resource Groups. As a part of that collaboration, DOCR and DOHRM hosted meetings bi-monthly to identify goals and priorities for recruitment, hiring, and professional development efforts, to identify ways to support DOT's Employee Resource Groups, and to discuss steps that the Department could take to improve the work environment and prevent discriminatory or harassing conduct.

DOT established programs to proactively address EEO issues.

DOT's Center for Alternative Dispute Resolution (Center) provides mediation, facilitation, and conflict-coaching services designed to resolve disputes early and at the lowest level. The Center offers orientations on how to utilize the alternative dispute resolution (ADR) process, as well as ADR-related informational and skill-based training workshops, to provide employees, including managers and supervisors, with opportunities to learn in a diverse environment and to recognize ways to work productively and interactively to address challenging situations. The Center also offers mediation skills trainings to DOT employees, which both prepare DOT employees to participate in mediations as a collateral duty and teach critical communication skills that can improve their ability to address conflict in the workplace.

FHWA has an active Diversity Management Committee in place to foster an inclusive organizational environment that provides equitable access to work experiences and developmental opportunities. This affords all FHWA employees the opportunity to realize their full potential, pursue their career goals, and maximize their contributions to the Agency's mission and their service to the American people. In February 2020, the FHWA Committee partnered with their Offices of Civil Rights, Chief Counsel, and Human Resources to provide training on the anti-harassment program, EEO complaint process, and employee relations program.

FMCSA focused on using mediation as a tool to resolve conflict in early stages of the EEO complaint process. As a part of this effort, FMCSA's Office of Civil Rights collaborated with FMCSA's Office of Chief Counsel, DOT's Office of the General Counsel, DOCR, and the FMCSA Administrator to encourage the use of mediation and other resources, where appropriate, to resolve conflicts.

FAA's Office of Civil Rights continued its Conflict Coaching Program with the goal of providing a proactive alternative to the agency's suite of ADR options. Conflict Coaching is a one-on-one process where a client works with a trained coach to explore options for handling a potential or current conflict. The program is open to managers, employees, or individuals involved in the informal EEO complaint process. Clients are encouraged by their coach to develop their conflict competencies in a proactive manner that will help them increase their confidence and effectiveness managing conflict for the instant issue and beyond. The sessions are voluntary and confidential. According to FAA's surveys, 100 percent of participants would recommend Conflict Coaching and use it again.

This proactive approach to conflict resolution offers a viable alternative to employees contemplating filing informal EEO complaints. The goal is to develop a program that will have a significant impact on reducing or eliminating discrimination in the future.

**Training: Agency-wide Focus on Harassing Behavior and on Leadership and Management Practices**

In FY 2020, DOT's engagement with employees focused on basic communication skills and tools to prevent harassment and promote awareness of EEO programs.

Throughout DOT, communications, harassment, and EEO training is delivered in-person, via instructor-led video teleconference, and through the employee learning management system, DOTLearns, Adobe Connect, and Aviation Training Network Broadcasts.

DOCR and DOHRM, as well as individual OAs, offer resources and training sessions on appropriate workplace behavior and management skills. DOCR provided communication trainings to give DOT employees the skills to navigate challenging conversations and workplace conflicts.

FHWA's Office of Civil Rights developed and delivered a series of virtual EEO and reasonable accommodation training sessions to four state FHWA division offices, as well as the Office of Corporate Research, Technology, and Innovation Management, to ensure that employees were familiar with the EEO complaint and reasonable accommodation processes. FHWA plans to expand these sessions to cover all FHWA offices in FY 2021 and FY 2022.

FMCSA's Office of Civil Rights collaborated with the Director of the Department's Center for ADR to conduct a 2-day training session for a FMCSA field office on improving communication between managers and staff. FMCSA is scheduled to present this training to additional offices in FY 2021.

FAA offered a wide variety of training programs on EEO topics.

FAA's EEO Training Institute launched several new virtual trainings in FY 2020. FAA launched three new online micro-learning opportunities to prevent harassment in FAA: Harassment Prevention Made Simple, Managers – Sexual Harassment Prevention Made Simple, and Managers – Harassment Prevention Made Simple. In response to the COVID-19 pandemic, the Institute launched a new instructor-led course on managing EEO responsibilities for returning to normal operations. The course discussed EEO responsibilities, including reasonable accommodations, communication techniques, and preventing workplace conflicts.

FAA's Office of Civil Rights also partnered with the Office of Aviation Safety (AVS) to provide EEO Diversity and Inclusion training to AVS managers and employees during the annual AVS EEO Training Week, which was held virtually in July 2020. Civil rights trainers provided courses on a variety of topics throughout the week, including harassment

prevention, reasonable accommodations, diversity and inclusion, preventing retaliation, social media and harassment, and management responsibilities.

DOT created targeted trainings for managers and supervisors to proactively prevent EEO issues before they arise.

DOCR hosted several training sessions for OST managers and leaders. After a review of DOT's EEO complaint data, DOCR recognized that poor communication skills played a role in many EEO complaints, even those that did not rise to the level of unlawful discrimination or harassment. As a result, DOCR led trainings on general leadership skills, as well as executive communication.

DOHRM offered dynamic executive coaching to General Schedule-15 managers and members of the Senior Executive Service to improve leadership performance and employee engagement. Civil rights compliance continues to be an essential component in manager and Senior Executive Service performance planning.

FHWA's Office of Human Resources Employee Relations team delivered a 2-day Employee Relations Bootcamp training course to managers, supervisors, and team leaders that highlighted areas such as prohibited personnel practices, EEO rights and responsibilities, the anti-harassment program, and reasonable accommodation procedures. During this course, the Office of Special Counsel also provided a presentation on prohibited personnel practices and whistleblower protections.

In June 2020, FHWA's Office of Civil Rights delivered a training series on both external and internal civil rights programs, including the anti-harassment program, EEO complaint process, and reasonable accommodation process, to FHWA Division and Deputy Division Administrators.

Throughout FY 2020, GLS offered training programs to managers and supervisors on several topics, including the EEO complaint process, reasonable accommodation, civility and prevention of workplace harassment, negotiating workplace conflicts, and diversity and inclusion. In addition, over a 10-week period, GLS supervisors received tips on active listening skills, motivating employees, workplace productivity, employee retention strategies, and change management techniques.

During FY 2020, MARAD sponsored three required management training sessions on inclusive leadership and effective communication.

### **Awareness: Inclusion and Diversity Emphasized in Departmental Awareness Programs**

DOT increased employee awareness of EEO rights and responsibilities.

DOT requires all new employees to receive a basic introduction to their rights and responsibilities under applicable civil rights laws. In FY 2020, DOCR updated the new employee training module on EEO rights and responsibilities, and included information

about the Department's new anti-harassment Program. Many OAs, including FTA, NHTSA, PHMSA, FMCSA, FRA, and MARAD, participate in the DOT's New Employee Orientation program, where No FEAR Act and EEO rights and responsibilities are discussed in detail. Several OAs also host their own new employee orientation sessions that include EEO information.

#### DOT and OAs hosted special observance events to increase cultural awareness.

Throughout FY 2020, DOT and the OAs led and participated in many special observance month events, commemorating National Disability Employment Awareness Month, African American History Month, Women's History Month, Asian/Pacific American Heritage Month, and Hispanic Heritage Month. This included both Department-level events and OA-level events, such as documentary film screenings, guest speakers, educational discussions, and professional development seminars.

### **5. No FEAR Act Training**

Section 202 of the No FEAR Act requires Federal agencies to provide training for their employees on the rights and remedies under Federal antidiscrimination, retaliation, and whistleblower protection laws. Title 5 of CFR. § 724.203 requires agencies to develop a written training plan and to have trained their employees by December 17, 2006, and every two years thereafter. Under these regulations, new employees are to receive No FEAR Act training within 90 days of appointment.

DOT requires the inclusion of electronic No FEAR Act training in each employee's e-Learning development plan. Including this training in the development plan with set deadlines helps ensure that new employees complete the training within 90 days of hire and that employees continue to take their No FEAR Act training within the required two-year cycle.

In FY 2020, 74.4 percent of the 3,549 new DOT employees completed No FEAR Act training within 90 days of appointment. This is a slight decrease from the FY 2019 completion rate of 75.5 percent. During FY 2020, there was a technical problem with DOT's training platform, DOTLearns, and the No FEAR training was inadvertently removed from many new employees' training plans; in the meantime, DOT is relaunching a new, up-to-date training that includes information on DOT's new anti-harassment program.

Some OAs implement additional measures to help ensure No FEAR Act training requirements are met. For example, NHTSA's Office of Civil Rights conducts regular check-ins with staff to ensure that No FEAR Act training is completed. Completion rates and updates are provided to NHTSA leadership and management teams during meetings throughout the year to emphasize the importance of the training and to ensure all employees meet the training requirement.

### **6. Actions Planned, Taken, and Practical Knowledge Gained to Improve the Program**

## **6.1 Pursuant to Section 203(a)(7)(D), DOT Plans to Implement These Actions:**

- Continue to conduct analyses on recruitment, on board, and/or outreach efforts, and identify triggers to understand the root causes of low participation of diverse groups in certain areas of the workforce.
- Strive to achieve a biennial goal of educating all employees of their rights and protections under antidiscrimination, retaliation, and whistleblower protection laws.
- Ensure that new employees receive No FEAR Act training within 90 days of their appointment through DOTLearns. Further, through the employee orientation program, continue providing new hires information regarding their rights and protections under anti-discrimination, retaliation, and whistleblower protection laws.
- Finalize an updated No FEAR Act training module to ensure that the training is timely, effective, informative, and accessible for all employees.
- Continue to innovate on adult-learning that expands the interdependency of leadership success with equity and access.
- Provide oversight to ensure that all OAs are implementing effective anti-harassment programs.
- Ensure that complainants and respondents are apprised of the opportunity for mediation and ADR throughout the informal and formal complaint process. This promotes early resolution of complaints, and saves resources and staff time.
- Improve partnerships across the Department to strategically address some of the frequent bases of EEO complaints.
- Collaborate with HR offices across the Department to ensure that recruitment, professional development, and accountability measures all incorporate the principles of equity and inclusion.
- Ensure that the anti-harassment program is utilized effectively to address workplace issues before they rise to the level of unlawful discrimination or harassment.
- Collaborate with veterans' programs to increase hiring of veterans, including those with targeted disabilities.

## **6.2 Practical Knowledge Gained**

- DOT's Office of the Secretary and the OAs play a vital role in meeting the reporting requirements of the No FEAR Act. As a result, to the extent resources allow, DOT will continue to work on the development of information systems that facilitate and automate the process of gathering and analyzing data so that it is accessible to everyone.
- The trend analyses inherent in No FEAR Act reporting is shared with all DOT offices to spur relevant action planning to address a range of issues, including potential barriers to employment and advancement of individuals from diverse backgrounds.

## Appendix A – Summary Data

Table 2: Total Complaints Filed and Complainants Filing, FY 2015 to FY 2020						
	2015	2016	2017	2018	2019	2020
Number of Complaints Filed	348	294	266	271	250	273
Number of Complainants	323	284	259	262	245	265
Repeat Filers	8	10	7	9	6	6

Table 3: Complaints by Basis, FY 2015 to FY 2020						
Basis	2015	2016	2017	2018	2019	2020
Reprisal	199	161	158	161	138	153
Disability	111	109	95	86	102	108
Sex	130	120	115	138	106	105
Race	158	102	100	107	100	98
Age	128	109	96	102	86	98

Table 4: Top Complaints Filed by Issue, FY 2015 to FY 2020						
Issue	2015	2016	2017	2018	2019	2020
Harassment (Non-Sexual)	160	146	134	173	150	164
Promotion/Non-Selection	87	71	61	79	70	84
Assignment of Duties	23	14	29	47	52	52
Evaluation/Appraisal	19	19	39	45	33	46
Reasonable Accommodation	23	31	32	33	37	41
Terms and Conditions of Employment	10	6	31	37	32	34
Pay (including Overtime)	10	13	14	26	18	33
Termination	27	26	25	27	24	32
Disciplinary Action	32	20	34	63	49	29



<b>Table 5: Findings of Discrimination by Basis, FY 2015 to FY 2020</b>						
<b>Basis</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Age	1	0	0	1	2	1
Color	1	0	0	0	2	1
Disability	1	3	2	0	3	1
Equal Pay	0	0	0	0	0	0
National Origin	0	0	0	1	0	1
Race	1	1	0	1	2	1
Religion	0	0	0	0	0	0
Reprisal	2	3	2	4	3	2
Sex	0	3	0	1	1	2

<b>Table 6: Findings of Discrimination by Issue, FY 2015 to FY 2020</b>						
<b>Issue</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Assignment of Duties	0	0	0	1	0	1
Harassment	1	2	0	1	3	4
Medical Examination	1	1	0	0	0	0
Promotion/Non-Selection	0	0	1	2	2	1
Reasonable Accommodation	0	1	1	0	0	1
Terms/Conditions of Employment	1	0	2	0	0	0
Training	0	2	0	1	0	0
Disclosure of Medical Information	0	0	1	0	2	0

Table 7: Federal Court Cases with Alleged Violation of Law, FY 2015 to FY 2020						
	2015	2016	2017	2018	2019	2020
Total Court Cases	33	25	35	33	32	36
Alleged Title VII Violation	29	19	30	26	25	29
Alleged Age Discrimination in Employment Act Violation	7	5	4	7	9	6
Alleged Rehabilitation Act Violation	3	2	10	13	7	7
Alleged Whistleblower Protection Act Violation	2	1	0	0	0	0
Alleged Equal Pay Act Violation	0	0	0	0	0	0
Alleged Retaliation	6	14	17	13	9	16

Table 8: Formal Complaint Processing Time in Days, FY 2015 to FY 2020					
	2015	2016	2017	2018	2019
Investigation Stage	138	141	166	185	218
Final Action Stage	42	62	85	57	67
					64

Table 9: Annual Total Reimbursements for No FEAR Act cases by Amount, FY 2015 to FY 2020					
	2015	2016	2017	2018	2019
Total Reimbursements	\$1,009,500	\$307,000	\$568,113	\$458,000	\$29,500
					\$282,000

Table 10: Pre-Complaint Processing Timelines, FY 2015 to FY 2020					
	2015	2016	2017	2018	2019
Rate of Individuals Counseled within Mandatory Timeframe	96.10%	98.10%	98.48%	95.65%	98.13%
					98.15%

Table 11: Reimbursements for No FEAR Act cases by Number of Cases, FY 2015 to FY 2020					
	2015	2016	2017	2018	2019
Cases Resulting in Reimbursements	3	3	5	2	2
					3

## Appendix B – EEO Data Posted Pursuant to the No FEAR Act

	Comparative Data Previous Fiscal Year Data					2020
	2015	2016	2017	2018	2019	
Number of Complaints Filed	348	294	266	271	250	273
Number of Complainants	323	284	259	262	245	265
Repeat Filers	8	10	7	9	6	6

Complaints by Basis  <i>Note: Complaints can be filed alleging multiple bases of discrimination. The sum of the bases may not equal total complaints filed.</i>	Comparative Data Previous Fiscal Year Data					2020
	2015	2016	2017	2018	2019	
Race	158	102	100	107	100	98
Color	74	42	46	47	56	30
Religion	20	14	20	15	14	13
Reprisal	199	161	152	161	138	153
Sex (including complaints filed under Equal Pay Act [EPA])	133	120	115	138	106	105
National Origin	40	29	40	31	31	47
Age	128	109	96	102	86	98
Disability	111	109	95	86	102	108
Non-EEO basis	15	10	8	15	12	16
Genetics	4	3	3	4	0	3
Pregnancy Discrimination Act (PDA)	3	1	0	5	4	1

Complaints by Issue  <i>Note: Complaints can be filed alleging multiple issues. The sum of the bases may not equal total complaints filed.</i>	Comparative Data Previous Fiscal Year Data					2020
	2015	2016	2017	2018	2019	
Appointment/Hire	34	13	13	10	9	9
Assignment of Duties	23	14	29	47	52	52
Awards	7	5	6	9	6	10
Conversion to Full Time	0	0	0	1	0	1
<b>Disciplinary Action</b>						
Demotion	2	1	2	3	3	2
Reprimand	9	3	7	17	18	14
Removal	4	3	5	6	10	5
Suspension	12	11	12	20	17	8
Other	8	4	6	15	1	0
Duty Hours	3	5	8	10	11	3
Evaluation/Appraisal	19	19	39	45	33	46
Examination/Test	6	1	2	4	1	0
<b>Harassment</b>						
Non-Sexual	160	146	151	173	150	164
Sexual	8	10	16	16	13	16
Medical Examination	3	2	4	4	1	0
Pay (including overtime)	10	13	14	26	18	33
<b>Reassignment</b>						
Promotion/Non-Selection	87	71	63	79	70	84
Denied	5	4	5	13	11	11
Directed	8	8	11	17	9	11
Reasonable Accommodation	25	31	32	33	37	41
Reinstatement	0	0	2	0	0	0
Retirement	4	11	5	5	6	11
Termination	27	26	25	27	24	32
Terms/Conditions of Employment	10	6	31	37	32	34
Time and Attendance	14	4	16	34	27	23
Training	26	15	22	34	30	22

Processing Time	Comparative Data Previous Fiscal Year Data					2020
	2015	2016	2017	2018	2019	
Complaints pending (for any length of time) during fiscal year						
Average number of days in investigation stage	137.87	140.86	166.08	185.1	218.9	298.35
Average number of days in final action stage	41.91	62.45	85.05	56.83	67.37	64.07
Complaints pending (for any length of time) during fiscal year where hearing was requested during fiscal year						
Average number of days in investigation stage	141.31	141.64	158.81	191.18	257.42	305.94
Average number of days in final action stage	35.39	47.95	72.03	51.8	69.86	47.44
Complaints pending (for any length of time) during fiscal year where hearing was not requested						
Average number of days in investigation stage	129.16	13.927	177.62	167.41	211.29	303.39
Average number of days in final action stage	51.04	79.38	98.07	64.69	62.11	82.27

Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data					2020
	2015	2016	2017	2018	2019	
Total Complaints Dismissed by Agency	92	75	23	36	43	22
Average days pending prior to dismissal	812	15	35	71	76	49
Total Complaints Withdrawn by Complainants	20	16	15	12	13	20

Total Final Actions Finding Discrimination	Comparative Data Previous Fiscal Year Data										2020	
	2015		2016		2017		2018		2019			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	3		4		4		5		5		4	
Without Hearing	0	0	0	0	0	0	1	20	0	0	3	75
With Hearing	3	100	4	100	4	100	4	80	5	100	1	25

Findings of Discrimination Rendered by Basis	Comparative Data Previous Fiscal Year Data										2020	
	2015		2016		2017		2018		2019			
	#	%	#	%	#	%	#	%	#	%	#	%
<i>Note: Complaints can be filed alleging multiple bases of discrimination. The sum of the bases may not equal total complaints and findings.</i>												
Total Number Findings	3		4		4		5		5		4	
Race	1	33.3	1	25.0	0	0	1	20	2	40	1	25
Color	1	33.3	0	0.0	0	0	0	0	2	40	1	25
Religion	0	0	0	0.0	0	0	0	0	0	0	0	0
Reprisal	2	66.7	3	75.0	1	25.0	3	60	3	60	2	50
Sex (including complaints filed under EPA)	0	0	3	75.0	0	0	2	40	1	20	2	50
National Origin	0	0	0	0.0	0	0	1	20	0	0	1	25
Age	2	66.7	0	0.0	0	0	1	20	2	40	1	25
Disability	1	33.3	3	75.0	3	75.0	0	0	3	60	1	25
Non-EEO basis	0	0	0	0.0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0.0	0	0	0	0	1	20	0	0
PDA	0	0	0	0.0	0	0	0	0	0	0	0	0
Findings After Hearing	3		4		4		4		5		1	
Race	1	33.3	1	25.0	0	0	0	0	2	40	1	100
Color	1	33.3	0	0.0	0	0	0	0	2	40	1	100
Religion	0	0	0	0.0	0	0	0	0	0	0	0	0
Reprisal	2	66.7	3	75.0	1	25.0	3	75	3	60	1	100
Sex (including complaints filed under EPA)	0	0	3	75.0	0	0	2	50	1	20	1	100
National Origin	0	0	0	0.0	0	0	1	25	0	0	0	0
Age	2	66.7	0	0.0	0	0	1	25	2	40	0	0
Disability	1	33.3	3	75.0	3	75.0	0	0	3	60	1	100
Non-EEO basis	0	0	0	0.0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0.0	0	0	0	0	1	20	0	0
PDA	0	0	0	0.0	0	0	0	0	0	0	0	0
Findings Without Hearing	0		0		0		1		0		3	
Race	0	0	0	0	0	0	1	100	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	33.3

Sex (including complaints filed under EPA)	0	0	0	0	0	0	0	0	0	0	1	33.3
National Origin	0	0	0	0	0	0	0	0	0	0	1	33.3
Age	0	0	0	0	0	0	0	0	0	0	1	33.3
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO basis	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0

Findings of Discrimination Rendered by Issue (Part 1)	Comparative Data Previous Fiscal Year Data										2020	
	2015		2016		2017		2018		2019			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number of Findings	3		4		4		5		5		4	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	1	20	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	1	33.3	0	0	0	0	0	0	0	0	0	0
Removal	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
Other	0	0	1	25	1	25	1	20	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	1	20	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	2	66.7	2	50	0	0	0	0	3	60	3	75
Sexual	0	0	0	0	0	0	1	20	0	0	1	25
Medical Examination	0	0	1	25	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	3	100	0	0	1	25	2	40	2	40	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	2	50
Reasonable Accommodation	2	66.7	0	0	1	25	0	0	0	0	1	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	1	33.3	0	0	0	0	0	0	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	1	25.0	0	0	2	40	0	0

Findings of Discrimination Rendered by Issue (Part 2)	Comparative Data Previous Fiscal Year Data										2020	
	2015		2016		2017		2018		2019			
	#	%	#	%	#	%	#	%	#	%	#	%
Findings After Hearing	3		4		4		4		5		1	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	1	25	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	0	0
Removal	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
Other	0	0	1	25	1	25	1	25	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	1	25	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	1	33.3	2	50	0	0	0	0	3	60	0	0
Sexual	0	0	0	0	0	0	1	25	0	0	0	0
Medical Examination	0	0	1	25	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	3	100	0	0	1	25	1	25	2	40	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	2	66.7	0	0	1	25	0	0	0	0	1	100
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	1	33.3	0	0	0	0	0	0	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	1	25	0	0	2	40	0	0

Findings of Discrimination Rendered by Issue (Part 3)	Comparative Data Previous Fiscal Year Data										2020	
	2015		2016		2017		2018		2019			
	#	%	#	%	#	%	#	%	#	%	#	%
Findings Without Hearing	0		0		0		1		0		3	
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												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	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
Suspension	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	3	100
Sexual	0	0	0	0	0	0	0	0	0	0	1	33.3
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	1	100	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	2	66.6
Reasonable Accommodation	0	0	0	0	0	0	0	0	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	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

<b>Pending Complaints Filed in Previous Fiscal Years by Status</b>	<b>Comparative Data Previous Fiscal Year Data</b>					<b>2020</b>
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	
Total Complaints from Previous Fiscal Years	530	591	605	621	685	744
Total Complainants	426	471	491	509	571	617
<b>Number Complaints Pending</b>						
Investigation	97	91	91	96	105	113
Hearing	292	333	382	402	447	474
Final Agency Action	26	31	48	61	66	117
Appeal with EEOC Office of Federal Operations	115	136	84	62	67	40

<b>Complaint Investigations</b>	<b>Comparative Data Previous Fiscal Year Data</b>					<b>2020</b>
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	
Pending Completion Where Investigation Exceeds Required Time Frames	7	3	15	44	52	46