



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

FISCAL YEAR 2018

Enclosure

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Attachment:

Fiscal Year 2018 No FEAR Act Data Posted on the NRC Web Site

I. Executive Summary

The U.S. Nuclear Regulatory Commission (NRC or agency) provides its fiscal year (FY) 2018 annual report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174.

The NRC's mission is to license and regulate the Nation's civilian use of radioactive materials to provide reasonable assurance of adequate protection of public health and safety, and to promote the common defense and security, and to protect the environment. A five-member Commission heads the NRC. The President designates one member as Chairman and official spokesperson. The Executive Director for Operations carries out the policies and decisions of the Commission. During FY 2018, the agency had approximately 3,100 permanent employees. The NRC's Headquarters is located in Rockville, MD, and its regional offices are in King of Prussia, PA; Atlanta, GA; Lisle, IL; and Arlington, TX. The agency's Technical Training Center is in Chattanooga, TN. Because staff members are located throughout the country, the agency must be especially attentive to providing all employees proper notification of their rights under the No FEAR Act through online training and agency network announcements. The agency has been successful in this task.

The Partnership for Public Service ranked the NRC in 11th place for midsized agencies and one of the best places to work in the Federal Government based on the results of the 2018 Federal Employee Viewpoint Survey. The NRC was ranked 6th for its support for diversity. National publications have highlighted the NRC's commitment to diversity.

In FY 2018, the agency experienced a decrease in informal complaint activity and an increase in formal complaint activity compared with FY 2017. Most of the complaints filed were brought under Title VII of the Civil Rights Act of 1964, as amended, or the Age Discrimination in Employment Act of 1967, as amended. In FY 2018, race, age, and sex were the most frequent bases of alleged discrimination. In addition, harassment (nonsexual), assignment of duties, and performance evaluations or appraisals were the most frequent issues. The NRC issued five final agency decisions during FY 2018.

During FY 2018, the agency had one equal employment opportunity (EEO) lawsuit in Federal District Court. The U.S. Department of Justice has filed an answer on behalf of the agency, and no further action has been taken. The NRC currently has no whistleblowing cases pending in Federal District Court. There were no reimbursements to the Judgment Fund.

The NRC provides an ancillary process for allegations of harassment to be presented under the NRC's Policy for Preventing and Eliminating Harassing Conduct in the Workplace (the antiharassment policy). During FY 2018, 55 claims of violations of the antiharassment policy were filed. Of these, five were found to be violations of the antiharassment policy. Of the five violations, two were closed and are currently with management for appropriate corrective action. Additionally, one case resulted in reassignment to a non-supervisory position for the offender. Another offender was issued a written admonishment and reassigned to another organization. The offender in the final finding separated from the agency prior to the issuance of any corrective action.

Since the enactment of the No FEAR Act, the NRC continues to realize many positive changes in the workplace. Examples include the following:

- Continuing support for the No FEAR Act by the Commission and senior agency executives through policy statements and discussion in key meetings;

- Continuing support and promotion of the NRC’s Diversity and Inclusion Strategic Plan, which includes the Comprehensive Diversity Management Plan goals and strategies to achieve a positive and discrimination-free environment;
- Implementing a Diversity Management and Inclusion Council consisting of agency executives, EEO advisory committee members, and others to assist the agency in developing a more comprehensive, integrated, and strategic focus on diversity and inclusion in the workplace;
- Briefing the Commission biannually on the accomplishments and plans of the agency’s EEO affirmative employment and diversity management program;
- Upholding agency values known as ISOC CER—integrity, service, openness, commitment, cooperation, excellence, and respect—as a guide for fostering an open, collaborative work environment for all employees;
- Posting notices on whistleblower rights and protections in all facilities, as required by the Office of Special Counsel, for agency certification under 5 U.S.C. Section 2302(c);
- Developing and implementing training programs and briefings for managers and employees on the No FEAR Act, EEO, diversity management, the NRC antiharassment policy, reasonable accommodation, and alternative dispute resolution (ADR);
- Continuing the implementation of DIALOGUE—Diversity Inclusion Awareness Leading Organizational Growth, Understanding, and Engagement—in which small groups of managers and employees participate in facilitated forums to discuss diversity topics in an open environment;
- Introducing the Privilege Walk, an exercise used to raise awareness of unconscious bias through small groups and designed to lead participants to reflect on the different areas in their lives where they have privilege as well as the areas where they do not;
- Implementing the NRC Leadership Model, which emphasizes observable behaviors that are representative of leadership characteristics, including receptivity to new ideas and thinking and diversity in thought;
- Continuing to support a workplace where diverse views, alternative approaches, critical thinking, collaborative program solving, unbiased evaluations, and honest feedback are encouraged, recognized, and valued;
- Implementing changes to the agency’s reasonable accommodation policies and procedures in compliance with amendments to the regulations governing Section 501 of the Rehabilitation Act to include the provision of personal assistant services;
- Implementing changes to the Senior Executive Service Candidate Development Program (SES CDP);
- Processing EEO complaints promptly to ensure that cases are dispositioned in a timely manner;

- Continuing to facilitate the “Speed of Trust” initiative, consisting of workshops to provide opportunities for strengthening mutual trust among agency leaders, supervisors, and staff; and
- Continuing to raise awareness of and promote the agency’s ADR program to resolve EEO complaints at the earliest stage.

II. Introduction

On May 15, 2002, President George W. Bush signed into law the No FEAR Act, which took effect on October 1, 2003. The act requires each Federal agency to be accountable for making violations of antidiscrimination and whistleblower protection laws publicly known and to post on its Web site a summary of statistical data relating to Federal-sector EEO complaints filed with its agency. Section 203 of the No FEAR Act requires that each Federal agency submit an annual report to Congress no later than 180 days after the end of each FY. The agencies must report the number of Federal District Court cases arising from each area of law specified in the act in which discrimination was alleged, the status or disposition of cases, the amount of money to be reimbursed to the Judgment Fund, the number of employees disciplined, any policies implemented that are related to appropriate disciplinary actions against a Federal employee who discriminated against any individual or committed a prohibited personnel practice, and an analysis of the data collected with respect to trends and causes.

The NRC’s Office of Small Business and Civil Rights (SBCR) is responsible for administering and ensuring NRC compliance with Federal EEO laws, regulations, policies, and guidance that prohibit discrimination in the Federal workplace based on race, color, national origin, religion, sex (including pregnancy, gender identity, and sexual orientation), age, disability, genetic information, or reprisal. SBCR is also responsible for preparing the agency’s annual No FEAR Act report. The Office of the Inspector General, OCHCO, and the Office of the General Counsel also play roles in implementing the No FEAR Act for the NRC.

III. Data Posted for FY 2018

As required by the No FEAR Act, the NRC promptly posts and displays a link to its No FEAR Act data on its public Web site ([No FEAR ACT](#)). The agency updates this information no later than 30 calendar days after the end of each quarter. The attachment provides details.

The NRC’s informal and formal complaint activity is relatively low—less than 1 percent of the agency’s workforce filed informal EEO complaints, and approximately 0.5 percent filed formal complaints. These results can be attributed to the NRC’s continual effort to maintain a positive work environment and to the resolution of workplace disputes before the informal complaint process is initiated. The following sections provide more information on the informal and formal complaints filed against the agency.

A. FY 2018 Informal and Formal Complaint Activity

During FY 2018, 22 new informal complaints were filed, and three informal complaints were carried over from the previous FY. Of the total 25 informal complaints, 22 were closed during FY 2018. Individuals filed 20 new formal complaints against the agency, and 20 were carried over from the previous FY. Of the total 40 formal complaints, 19 were closed during FY 2018.

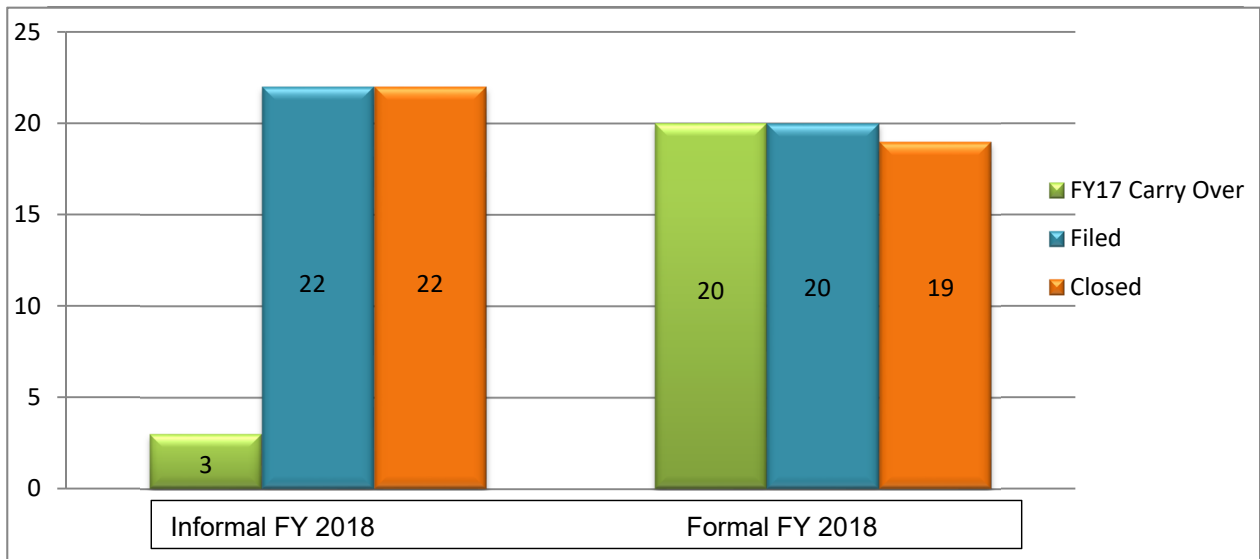


Figure 1: FY 2018 informal and formal complaint activity

During FY 2018, the agency investigated eight cases, seven of which were completed in accordance with EEOC regulatory timeframes. At the end of FY 2018, five cases were pending investigation. The agency issued five final agency decisions during FY 2018 and had no findings of discrimination. In FY 2018, the agency settled 14 formal and two informal cases using various resolution techniques, including mediation and facilitated discussion. The NRC attributes the low complaint activity to the use of early intervention to resolve workplace disputes, the agency's ADR program, and NRC No FEAR Act training of all employees. In addition, all new managers and supervisors receive 1 day of EEO and Diversity training, and all continuing managers and supervisors receive a full day of refresher training every 3 years.

B. Bases and Issues

The FY 2018 complaint data show that complainants identified gender, race, reprisal, and age as the most frequently filed bases for complaints. Additionally, the data show that complainants identified harassment (nonsexual), assignment of duties, and performance evaluations or appraisals as the most common issues in complaints filed. Several complaints contained multiple bases and issues. The attachment provides details.

IV. Civil Cases—Reimbursement to the Judgment Fund

Section 203(1) of the No FEAR Act requires each agency to state in its annual report the number of civil cases arising from the Whistleblower Protection Act and antidiscrimination laws, the status of such cases, and the amount of money reimbursed to the Judgment Fund. During FY 2018, the agency had one EEO lawsuit in Federal District Court. The U.S. Department of Justice has filed an answer on behalf of the agency, and no further action has been taken. The NRC currently has no whistleblowing cases pending in Federal District Court.

Pursuant to the reporting requirements of Title 5 of the *Code of Federal Regulations* (5 CFR) Part 724, "Implementation of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," the NRC reports that, in FY 2018, it made no reimbursements to the Judgment Fund in connection with any lawsuits.

V. Disciplinary Actions

Section 203(a)(6) of the No FEAR Act requires the annual report of each agency to describe in detail the policy that it implements relating to disciplinary actions imposed against a Federal employee found to have discriminated against any individual in violation of any law cited under Section 201(a)(1) or (2) or to have 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). Furthermore, the act requires that the agency report the number of employees disciplined in accordance with such policy and the specific nature of the disciplinary action.

The NRC's antidiscrimination policy provides for appropriate disciplinary action to be taken against any employee found to have discriminated against an individual or to have engaged in other prohibited personnel actions, including retaliation for lawful whistleblowing activities or for exercising an appeal, complaint, or grievance right. During FY 2018, 55 claims of violations of the antiharassment policy were filed. Of these, five were found to be violations of the antiharassment policy. Of the five violations, two were closed recently and are currently with management for appropriate corrective action. Additionally, one case resulted in reassignment to a non-supervisory position for the offender. Another offender was issued a written admonishment and reassigned to another organization. The offender in the final finding separated from the agency prior to the issuance of any corrective action.

VI. Training Requirement for No FEAR Act

Section 202(c) of the No FEAR Act requires each agency to provide training to its employees about their protections and responsibilities under the act. The training explains the rights, responsibilities, and remedies available to NRC employees under antidiscrimination and whistleblower protection laws. New employees are required to complete the training within 90 calendar days of entering into employment. As of December 31, 2017, 99 percent of all employees completed the training.

VII. Trends, Analysis, and Practical Knowledge

Section 203(7) of the No FEAR Act requires each agency to examine trends, causal analyses, practical knowledge gained through experience, and any actions completed or planned to improve the complaint or civil rights program of each agency.

An analysis of complaints filed during FY 2018 shows the agency experienced a decrease in informal complaint activity and an increase in formal complaint activity compared with FY 2017. Most of the complaints filed were brought under Title VII of the Civil Rights Act of 1964, as amended, or the Age Discrimination in Employment Act of 1967, as amended. In FY 2018, race, age, and sex were the most frequent bases of alleged discrimination. In addition, harassment (nonsexual), assignment of duties, and performance evaluations or appraisals were the most frequent issues.

Of the eight investigations, seven were processed within the EEOC regulatory timeframes. The agency's average processing time for investigations decreased from 275 calendar days in FY 2017 to 273 calendar days in FY 2018.

The NRC continues to make progress in developing standard operating procedures and internal controls to improve investigations. The agency has ongoing contractual arrangements to procure investigative services, including an interagency agreement with the U.S. Postal Service.

The NRC also employs EEO investigators on its staff. The agency's civil rights staff has considerable experience in processing EEO complaints. This knowledge base contributes significantly to the following:

- Ongoing improvement in communication with complainants and managers;
- High-quality EEO training for supervisors and managers to prevent discrimination;
- Effective training for collateral duty EEO counselors on the No FEAR Act, ADR, reasonable accommodation, and EEO case law;
- Interagency agreements to assist other Federal agencies with EEO complaint processing, including EEO counseling and EEO investigations; and
- Effective dissemination of information and clarification of changes to the ADR program.

The NRC uses its ADR program to help resolve workplace EEO disputes. The NRC is committed to promoting ADR to mitigate actions that may give rise to EEO complaints, and it shares the availability of the ADR program with all parties. To increase the overall ADR participation rate, the agency continues to promote the program through periodic training sessions and other interactive events. For FY 2018, these activities included ongoing training on the ADR program for NRC managers and supervisors. The agency continues to support ADR through participation in the interagency Federal Shared Neutrals Program. NRC employees conduct mediations for other Federal agencies, and Shared Neutrals Program mediators facilitate mediation as a method to resolve complaints initiated at the NRC.

SBCR continues to interact with other Federal agencies, the Federal EEO and Civil Rights Council, and the Small Agency Council to gain and share knowledge and best practices in civil rights.