

National Science Foundation
The Notification and Federal Employee Antidiscrimination
And
Retaliation Act of 2002 ("No FEAR Act")
Section 203(a)

Introduction

The National Science Foundation (NSF) is pleased to present its report on the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act") covering Fiscal Year (FY) 2020, which summarizes many of NSF's significant achievements in its equal employment opportunity (EEO) programs. NSF is committed to achieving equality for all employees through its management decisions, personnel actions, and programs that are designed to address such issues.

In accordance with the Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 715, NSF conducts an annual analysis of its workforce to ensure agency personnel policies, principles, and practices provide employment opportunities for all employees, particularly minorities, women and individuals with disabilities. NSF's EEO complaint program, which includes alternative dispute resolution and early intervention, provides for a prompt, fair, and impartial review of allegations of discrimination and other employment-related concerns.

Although the number of complaints fluctuates from year to year. This year, NSF did experience an increase in filed informal complaints. During Fiscal Year (FY) 2020, a total of 17 informal complaints were initiated, and 11 formal complaints were carried over from FY 2017, FY 2018, and FY 2019 for a total of 28 active complaints (informal and formal). Of the 17 informal complaints filed in FY 2020, 8 were settled and withdrawn, 9 progressed to the formal complaints process. The 11 formal complaints carried over from FY 2017, FY 2018, and FY 2019 continued to progress through the formal EEO process. Of the 11 active formal complaints on hand from the previous years and the 9 formal complaints filed in FY 2020, 2 complaints were consolidated, and 12 complaints were closed, leaving 7 active formal complaints at the end of FY 2020. The EEOC issued no findings of discrimination against NSF in FY 2020.

There were no cases filed in Federal court against NSF under the Federal antidiscrimination laws or whistleblower protection laws. NSF follows overall agency adverse and disciplinary action practices, procedures, and case law on determining appropriate action to be taken based on the nature of the offense when there is a violation. Additionally, NSF continues to regularly assess its practices and policies to ensure compliance with EEO laws and to avoid systemic barriers to EEO.

Of the 1505 employees onboard in FY 2020, 749 (50%) completed the existing online No FEAR training module included in Tab 1, and 97 (6%) received the training via new employee orientation included in Tab 3.

NSF has an online training module that has been used since FY 2015 for existing employees on the provisions of the No FEAR Act, in which recertification training is required every two years.¹ The 2020 Analysis, which provides an overview of the data required by the No FEAR Act, is attached as Tab 2. Additionally, this Analysis addresses on-going initiatives that demonstrate NSF's commitment to ensuring a diverse and dynamic workforce that is poised to carry out NSF's mission into the 21st century.

¹ The recertification training requirement is a bi-annual process and odd-numbered years reflect a higher number of employees having taken the training due to the entire workforce taking it the first year.

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TAB 1

T-1: No FEAR Act Awareness Training (Academy Learn online training)²

² Please contact NSF's Office of Diversity and Inclusion for more information regarding this training.

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TAB 2

T-2: 2020 ANALYSIS – Section 203(a)(7)

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2020 ANALYSIS – Section 203(a)(7)

A. Trend Analysis

During Fiscal Year (FY) 2020, a total of 17 informal complaints were initiated, and 11 formal complaints were carried over from FY 2017, FY 2018, and FY 2019 for a total of 28 active complaints (informal and formal). Of the 17 informal complaints filed in FY 2020, 8 were settled and withdrawn, 9 progressed to the formal complaints process. The 11 formal complaints carried over from FY 2017, FY 2018, and FY 2019 continued to progress through the formal EEO process. Of the 11 active formal complaints on hand from the previous years and the 9 formal complaints filed in FY 2020, 2 complaints were consolidated, and 12 complaints were closed, leaving 7 active formal complaints at the end of FY 2020. The EEOC issued no findings of discrimination against NSF in FY 2020.

B. Disciplinary Action

No NSF employees have been disciplined in connection with any Federal court case due to any forms of discrimination, retaliation, harassment, or any other infraction of laws included in the No FEAR Act in FY 2020.

There were 14 complaints filed under Title VI of the Civil Rights Act of 1964, as amended, and 12 were administratively closed with no findings. There were 13 complaints filed under Section 504 of the Rehabilitation Act of 1973 and 8 complaints were administratively closed with no findings. There were 26 complaints filed under Title IX of the Education Amendments of 1972, as amended, 18 complaints were administratively closed with no findings, and one was closed due to insufficient evidence. All complaints progressed through their respective processes with a no violation finding to date.

C. Final Year-end Data Posted Under Section 301 (c) (1) (B)

The final year-end data indicates that during FY 2019, there were 17 complaints of discrimination filed with no findings of discrimination.

D. Description of Policy on Disciplinary Actions

Section 203 of the No FEAR Act requires that Federal agencies' Annual Reports to Congress include a detailed description of the agencies disciplinary policies related to laws covered in the No FEAR Act.

There are two policy statements that reinforce NSF's commitment to establishing a workplace free from discrimination, harassment, and/or retaliation. These policies advise employees that they will be subject to disciplinary action for engaging in discriminatory misconduct, and/or advise employees about their rights and responsibilities. NSF employees are accountable for their actions with respect to these policy statements, which include:

- The Policy Statement on Equal Opportunity and the Prevention of Harassment Policy emphasizes NSF's determination to subject employees to appropriate disciplinary action for engaging in unlawful discriminatory and harassment practices; and
- The Prohibited Personal Practices, Whistleblower Protections, and the Hatch Act Memorandum that expresses the agency's commitment to addressing violations of the Prohibited Personnel Practices, Whistleblower Protection, and the Hatch Act. Such violations will not be tolerated.

E. Causal Analysis

The Office of Diversity and Inclusion (ODI) conducted an analysis of the informal complaints initiated in FY 2020, for potential trends and/or barriers. A review of the complaints showed no significant findings during this time period.

F. Practical Knowledge Gained through Experience

NSF is committed to equal employment opportunity (EEO) principles and practices in all of its management decisions and personnel activities. It is the goal of NSF to develop and retain a high-quality, diverse workforce that is representative of our nation's diversity. NSF believes that a culturally diverse environment promotes better communication, ideas, and trust between individuals. Therefore, NSF will continue its emphasis on attracting the best candidates from a variety of sources, selecting and advancing the best qualified employees based upon merit, training its managers and employees on their EEO rights and responsibilities, providing equal opportunities to all individuals, and providing a prompt, fair and impartial review and adjudication of any allegations of discrimination.

G. Actions Planned/Taken to Improve Agency Complaint or Civil Rights Program

During FY 2020, NSF's noteworthy accomplishments include the following:

- ODI continued to update the Notification of Federal Employee Anti-discrimination and Retaliation Act (No FEAR Act) data on its website in accordance with the No FEAR Act of 2002.
- ODI continued to be cognizant of the regulatory requirements of timely processing complaints and continued to strive in adhering to this requirement. ODI has always had in place an efficient and expeditious process of employing contractor services for ODI counseling, investigations, alternative dispute resolution (ADR), and final agency

decisions (FAD).

- NSF continued to regularly assess its practices and policies to ensure compliance with EEO laws and to avoid systemic barriers to EEO. NSF continued its very successful reasonable accommodations program that provides employees, applicants, visitors and panelists with disabilities with reasonable accommodations.
- In FY 2020, the Department of Defense Computer/Electronic Accommodation Program (CAP) provided 8 NSF reasonable accommodations, which is a decrease of 76% from FY 2019.

Additionally, the total expenses incurred for reasonable accommodations from NSF's "centralized fund" showed a 57% decrease from \$108,897 in FY 2019 to \$46,740 in FY 2020.

- ODI, in addition to the on-line training module, continued to conduct the No FEAR Act training as part of the New Employees Orientation (NEO). Employees were provided information on their rights under the antidiscrimination and whistleblower laws. Approximately 97 new employees received this training during FY 2020.
- ODI revised its EEO training materials for New Employee Orientation (NEO). EEO briefings for various offices at their request provided the framework for all supervisors and managers to be provided EEO training via a web-based module followed by live discussion sessions.
- ODI continued its focus on assisting the agency to best achieve model EEO status by focusing on the following principles: demonstrated commitment to EEO from agency leadership; integration of EEO into the agency's strategic mission; management and program accountability; proactive prevention of unlawful discrimination; efficiency; and responsiveness and legal compliance, in which significant strides were made in addressing the remaining actions necessary to successfully complete the Model EEO Agency checklist.
- ODI continues its participation on The Department of Justice Interagency Working Group charged with Title VI initiatives.
- ODI continues its participation on The Department of Justice Interagency Working Group charged with Title IX compliance issues.
- ODI continues its participation in OPM's Diversity and Inclusion 60+ Federal Agencies Strategic Partnership group.
- ODI continues its participation on the Alternative Dispute Resolution Working Group.

- NSF continued to emphasize its Strategic Plan, 2018-2022, which focused on embracing an inclusive, diverse, and continually changing workforce with a commitment to recruiting, retaining, and deepening the expertise and capabilities of the entire workforce.
- NSF's various directorates and offices actively participated in nine Special Emphasis Programs.

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TAB 3

T-3: No FEAR Act Awareness Training FY 2020 (Live training)³

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