

National Science Foundation
The Notification and Federal Employee Antidiscrimination
And
Retaliation Act of 2002 ("No FEAR Act")
Section 203(a) (7) Analysis

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) 2014, 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, historically, NSF has not experienced a large number of complaints, and fiscal year FY 2014 is no exception. During FY 2014, a total of 12 informal complaints were initiated, and 12 formal complaints were carried over from FY 2013 for a total of 24 active complaints (informal and formal).¹ Of the 12 informal complaints filed in FY 2014, five were withdrawn, three were settled, and one was still in counseling at the end of the fiscal year. The remaining five informal complaints progressed through the administrative complaint process and remained in inventory along with the 12 formal complaints carried over from FY 2013, in which seven were closed for a total of 10 complaints at the end of FY 2014. The EEOC issued a finding of discrimination against NSF on one of the closed cases in which monetary damages and attorney’s fees were awarded to the employee.

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.

¹ Note that not all informal complaints progress to the formal stage.

In FY 2014, 1,099 employees (68%) completed the existing online No FEAR training module, 55 (3.4%) employees completed classroom training and 256 (16%) new employees received the training via new employee orientation.² The remaining employees will take the online module in FY 2015. In FY 2014, NSF developed an online training module to be used in FY 2015 for existing employees on the provisions of the No FEAR Act, in which recertification training is required every two years.³ The 2014 Analysis, which provides an overview of the data required by the No FEAR Act, is attached as Enclosure 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.

² 1,611 total workforce employees

³ 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.

Report to Congress
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(No FEAR Act)
National Science Foundation
For Period Covering October 1, 2013, to September 30, 2014

TAB 1

T-1: No FEAR Act Awareness Training (Academy Learn online training)⁴

⁴ Please contact NSF's Office of Diversity and Inclusion for more information regarding this training.

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TAB 2

T-2: 2013 ANALYSIS – Section 203(a)(7)

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2014 ANALYSIS – Section 203(a)(7)

A. Trend Analysis

During Fiscal Year (FY) 2014, a total of 12 informal complaints were initiated, and 12 formal complaints were carried over from FY 2013 for a total of 24 active complaints (informal and formal).⁵ Of the 12 informal complaints filed in FY 2014, five were withdrawn, three were settled, and one was still in counseling at the end of FY 2014. The remaining five informal complaints progressed through the administrative complaint process and remained in inventory along with the 12 formal complaints carried over from FY 2013. Of those 17 complaints, seven were closed for a total of 10 complaints at the end of FY 2014.

There were no complaints filed under Title VI of the Civil Rights Act of 1964, as amended, and no complaints were filed under Section 504 of the Rehabilitation Act of 1973. One complaint was filed under Title IX of the Education Amendments of 1972, as amended, with no finding of discrimination.

B. Causal Analysis

During fiscal years 2013 and 2014, there was an increase of one informal complaint. While NSF has not historically experienced a large number of complaints, the Office of Diversity and Inclusion (ODI), conducted an analysis of the informal complaints initiated in FY 2014 for potential trends and/or barriers. A review of the complaints showed two new informal complaints were filed from employees with existing complaints.

C. 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.

⁵ Note that not all informal complaints progress to the formal stage.

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

During FY 2014, 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 investigations and alternative dispute resolution (ADR).
- NSF continued its agency-wide distribution of EEO and Harassment Policy Statements signed by the Director and Deputy Director (policies are distributed annually). All EEO and related brochures were updated and provided at training sessions, which include: EEO complaint brochure, the Early Intervention Program (EIP) brochure, Reasonable Accommodations brochure, Prevention of Sexual Harassment and Diversity booklets, and *Guide to Etiquette and Behavior for Communicating and Working with Individuals with Disabilities* brochure. The relevant documents were also provided to employees during the complaint initial intake process.
- 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 2014, the Department of Defense Computer/Electronic Accommodation Program (CAP) provided 104 NSF reasonable accommodations, which is an increase of 593% from FY 2013. Additionally, the total expenses incurred for reasonable accommodations from NSF's "centralized fund" showed a 23% decrease from FY 2013.⁶
- 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 256 new employees received this training during FY 2014.⁷
- 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. Additionally, ODI provided an overview of its services at every NSF Program Managers Seminar.
- ODI continued its focus on assisting the agency 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

⁶ CAP provides information based on the number of accommodations, not the number of employees assisted.

⁷ A copy of the presentation offered in NEO appears at Enclosure 3.

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 the White House Initiative on Title IX.
- ODI continued development of its first Title IX Compliance Review Plan, which lays the framework for NSF's compliance review program. NSF will conduct two Title IX compliance reviews in FY 2015.
- NSF continued to emphasize its Strategic Plan, 2006 - 2014, which focused on the agency's commitment to diversity and to its workforce in its goal of "Learning - cultivate a world-class, broadly inclusive science and engineering workforce, and expand the scientific literacy of all citizens" as well as in its internally focused goal of "Stewardship – support excellence in science and engineering research and education through a capable and responsive organization."
- NSF's various directorates and offices actively participated in eight Special Emphasis Programs and a series of Diversity Dialogue Series that were held throughout the year, in which they co-sponsored events, recommended guest speakers, moderated the programs, or introduced the guest speakers.

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TAB 3

T-3: No FEAR Act Awareness Training FY 2013 (Live training)⁸

⁸ Please contact NSF's Office of Diversity and Inclusion for more information regarding this training.