



# Notification and Federal Employee Antidiscrimination and Retaliation Act Report

FISCAL YEAR 2024

Office of Civil Rights and Equal Employment Opportunity

## PURPOSE

Congress passed the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 – the “No FEAR Act” – to hold Federal agencies more accountable for violations of antidiscrimination and whistleblower protection laws. Congress found that “requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight over compliance by agencies with the law.”

Accordingly, the No FEAR Act requires each agency, no later than 180 days after the end of each fiscal year, to submit a report to the Speaker of the U.S. House of Representatives, the President pro tempore of the U.S. Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Chair of the Equal Employment Opportunity Commission (EEOC), and the Attorney General of the United States. Regulations from the Office of Personnel Management (OPM) implementing the No FEAR Act, 5 Code of Federal Regulations (C.F.R.) Part 724, Subpart C, also require the submission of this annual report to the Director of OPM.

The Annual report must provide the following information:

- The number of federal court cases, pending or resolved, arising under the No FEAR Act laws and the status and disposition of the cases;
- Judgment Fund reimbursements and adjustments to agency budgets to meet reimbursement requirements;
- The number and type of disciplinary actions related to discrimination, retaliation, or harassment and the agency’s policy relating to appropriate disciplinary action;
- Year-end summary data related to federal-sector EEO complaint activity;
- An analysis of trends, causation, and practical knowledge gained through experience, and actions planned or taken to improve complaint or civil rights programs; and
- The agency’s plan for No FEAR Act-related training.

The International Boundary and Water Commission (IBWC) prepares and submits this report to comply with these statutory and regulatory requirements.

IBWC’s No FEAR Act data, including the Agency’s most recent No FEAR Act Notice, and quarterly data, can be accessed from the homepage of the IBWC’s website at

<https://www.ibwc.gov/home.html>.

The primary purpose of the No Fear Act of 2002, Public Law 107-174, is to improve Federal agency accountability for violations of the anti-discrimination and whistleblower protection laws related to employment and to ensure that employees, applicants for employment, and former employees know their rights under anti-discrimination laws and the Whistleblower Protection Act.

By improving accountability, the number of incidents of workplace discrimination within Federal government is reduced.

This report covers FY 24 (October 1, 2023 to September 30, 2024).

## **5 CFR § 724.302 Reporting Obligations**

### **5 CFR § 724.302(a)(1)**

**The number of cases in Federal court pending or resolved in each fiscal year and arising under each of the respective provisions of the Federal Antidiscrimination Laws and Whistleblower Protection Laws applicable to them as defined in § 724.102 of subpart A of this part in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved;**

The number of cases in Federal court pending or resolved in each fiscal year arising under the respective provisions of the Federal Antidiscrimination Laws and Whistleblower Protection Laws, as defined in § 724.102 of subpart A of this part, in which an employee, former Federal employee, or applicant alleged a violation of these laws, is zero. No cases have been reported under these provisions for the specified period.

### **5 CFR § 724.302(a)(2)**

**In the aggregate, for the cases identified in paragraph (a)(1) of this section and separated by provision(s) of law involved:**

- (i) The status or disposition (including settlement);**
- (ii) The amount of money required to be reimbursed to the Judgment Fund by the agency for payments as defined in § 724.102 of subpart A of this part;**
- (iii) The amount of reimbursement to the Fund for attorney's fees where such fees have been separately designated;**

The cases identified in 5 CFR § 724.302(a)(1), separated by provision(s) of law involved, show the following:

- (i) There are no cases with a status or disposition, including settlement, to report for the specified period.**
- (ii) No amount of money has been required to be reimbursed to the Judgment Fund by**

the agency for payments as defined in § 724.102 of subpart A of this part.

- (iii) No reimbursement to the Fund for attorney's fees has occurred, as no such fees have been separately designated.

**5 CFR § 724.302(a)(3)**

In connection with cases identified in paragraph (a)(1) of this section, the total number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part and the specific nature, e.g., reprimand, etc., of the disciplinary actions taken, separated by the provision(s) of law involved;

In connection with the cases identified in 5 CFR § 724.302(a)(1), there have been no employees disciplined in each fiscal year as defined in § 724.102 of subpart A of this part. As such, there are no disciplinary actions, including reprimands or other actions, to report for the specified period.

**5 CFR § 724.302(a)(4)**

The final year-end data about discrimination complaints for each fiscal year that was posted in accordance with Equal Employment Opportunity Regulations at subpart G of title 29 of the Code of Federal Regulations (implementing section 301(c)(1)(B) of the No FEAR Act);

The final year-end data about discrimination complaints for each fiscal year, posted in accordance with Equal Employment Opportunity Regulations at subpart G of title 29 of the Code of Federal Regulations (implementing section 301(c)(1)(B) of the No FEAR Act), is as follows:

Closing Fiscal Year	Hearing No.	Date Hearing Requested	Closure Date	Status
FY 20	451-2016-00005X	4/24/2015	6/30/2020	Closed. Summary Judgement was granted in favor of the Agency.
FY 21	451-2019-00177X	6/5/2019	10/20/2020	Closed. Summary Judgement was granted in favor of the Agency.
FY 21	451-2018-00272X	8/29/2028	7/22/2021	Closed. Summary Judgement was granted in favor of the Agency.
FY 22	451-2021-00098X	12/29/2020	12/14/2021	Closed. Summary Judgement was granted in favor of the Agency.
FY 23	450-2023-00074X	12/12/2022	4/5/2023	Closed. Summary Judgement was granted in favor of the Agency.
FY 23	450-2021-00179X	3/4/2021	7/11/2023	Closed. Summary Judgement was granted in favor of the Agency.
FY 23	450-2024-00346X	8/12/2024		Open. The hearing before the EEOC Administrative Judge is pending, with no final decision issued as of the end of the fiscal year.
FY 24	450-2023-00223X	4/27/2023	10/10/2023	Closed. Withdrawal of Complaint.
FY 24	450-2024-00160X	2/27/2024	4/1/2024	Closed. Complaint Dismissed.
FY 25	451-2025-00006X	10/12/2024		Open. The hearing before the EEOC Administrative Judge is pending, with no final decision issued as of the end of the fiscal year.

Closing Fiscal Year	Appeal No.	Date Appeal Filed	Closure Date	Status
FY 21	2021001091	12/1/2020	4/6/2021	Closed. Withdrawal of Complaint.
FY 21	2021000366	10/20/2020	7/8/2021	Closed. Decision was granted in favor of the Agency.
FY24	2024002328	2/23/2024	7/2/2024	Closed. Decision in favor of the Agency; complainant has the option to request a hearing or an immediate final decision.
FY 25	202400131	7/5/2024	10/16/2024	Closed. Complainant elected to request a hearing before an EEOC Administrative Judge.

#### 5 CFR § 724.302(a)(5)

Whether or not in connection with cases in Federal court, the number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part in accordance with any agency policy described in paragraph (a)(6) of this section. The specific nature, e.g., reprimand, etc., of the disciplinary actions taken must be identified.

No employees were disciplined in connection with any cases in Federal court during the fiscal year, as defined in § 724.102 of subpart A of this part.

#### 5 CFR § 724.302(a)(6)

A detailed description of the agency's policy for taking disciplinary action against Federal employees for conduct that is inconsistent with Federal Antidiscrimination Laws and *Whistleblower* Protection Laws, or other prohibited personnel practices identified during agency investigations of alleged violations of these laws;

The International Boundary and Water Commission (IBWC) maintains a strong commitment to ensuring a workplace free from harassment, discrimination, and retaliation. This commitment is reflected in several key policies, including the Anti-Harassment Policy and Procedures and the Employee Code of Conduct.

At the core of these efforts is the Anti-Harassment Policy and Procedures, outlined in Directive SD.I.07024 and updated in 2022. This policy explicitly prohibits both EEO and non-EEO harassment, setting clear expectations for employee behavior. EEO harassment includes any conduct based on protected categories such as race, color, religion, gender, age, disability, national origin, genetic information, and retaliation for prior EEO activity. The policy emphasizes that such behavior, whether verbal, non-verbal, or physical, must not interfere with an individual's work performance or create a hostile or offensive environment. Non-EEO harassment refers to behaviors unrelated to these protected categories but still prohibited, such as bullying, inappropriate jokes, or insults.

To ensure awareness and compliance, the agency mandates that all employees participate in annual training and engage in a workplace harassment prevention campaign, which includes visible posters throughout the workplace. As part of the No FEAR Act program, this training educates employees and management on how to identify, report, and address harassment, including protection for whistleblowers and issues related to fraud, waste, and abuse. The agency is also committed to ensuring no

retaliation occurs against those who report harassment or engage in EEO activities, in full compliance with Whistleblower Protection Laws.

When harassment is reported, immediate action is required from supervisors and management, including maintaining confidentiality to the extent possible and initiating prompt inquiries. The Human Resources Office (HRO) plays a crucial role in investigating allegations and taking corrective actions. If an inquiry finds that harassment or misconduct has occurred, appropriate disciplinary actions are taken, ranging from counseling and reprimands to more severe penalties such as suspension or removal from federal service. For misconduct involving managerial or supervisory staff, disciplinary actions may include reassignment or removal to ensure accountability at all levels.

In addition to the Anti-Harassment Policy, the agency issues annual policies on Harassment Prevention, Equal Employment Opportunity (EEO), and Non-Discrimination, reaffirming its commitment to a discrimination-free workplace. These policies clearly state that all employees, contractors, and visitors must adhere to the highest ethical standards, and violations will be addressed promptly.

Further, the agency's Employee Code of Conduct outlines fourteen core principles that guide employees' ethical behavior, based on Executive Order 12674 and 5 CFR part 2635. Originally established on June 7, 2016 (as per the Employee Code of Conduct Manual, SD.I.08015-M-1), the Code emphasizes the importance of ethical behavior and the public trust in federal service. Violations of these principles may result in disciplinary action, including potential prosecution for conflicts of interest or unethical conduct. Employees must review and certify their understanding of the Code of Conduct regularly, as mandated by the Commissioner.

To further enhance the agency's approach to employee conduct, the Employee Conduct Manual was created on October 24, 2018 (as per Directive SD.I.08015). This manual provides clear, agency-wide procedures for identifying, documenting, and addressing misconduct. It is specifically designed to assist management, particularly supervisors and executives, in consistently addressing violations of conduct expectations. The manual emphasizes progressive discipline, ensuring that disciplinary actions are proportional to the severity of the misconduct.

#### **5 CFR § 724.302(a)(7)**

An analysis of the information provided in paragraphs (a)(1) through (6) of this section in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with 29 CFR part 1614 subpart F of the Code of Federal Regulations. Such analysis must include:

- (i) An examination of trends;
- (ii) Causal analysis;

- (iii) Practical knowledge gained through experience; and
- (iv) Any actions planned or taken to improve complaint or civil rights programs of the agency with the goal of eliminating discrimination and retaliation in the workplace.

### Examination of Trends

Over the past five fiscal years (FY 20 - FY 24), the agency has made significant progress in addressing workplace concerns, with key trends in Equal Employment Opportunity (EEO) complaints providing valuable insights. Issues such as non-selection for positions, hostile work environments, and harassment have been actively addressed, contributing to an overall healthier work environment. The agency has also shown great commitment to addressing complaints related to religious discrimination concerning COVID-19 vaccine mandates, reflecting its adaptability to evolving workplace dynamics. Additionally, the agency has made progress in tackling retaliation claims and ensuring that employees feel safe when voicing concerns.

It's important to note that this analysis includes both pre-complaints and formal complaints, which reflects the agency's holistic approach to addressing concerns. Pre-complaints provide early indications of potential issues, allowing the agency to resolve matters before they escalate into formal complaints. While the workforce has expanded from FY 2020 (234 employees) to FY 2024 (279 employees), the increase in complaints has remained relatively proportional, signaling that the agency's internal processes are effectively scaling to meet the needs of a growing team. As shown in the table below, the steady growth of the agency's workforce has not led to an overwhelming rise in complaints, demonstrating that the agency is successfully managing and preventing workplace issues.

**Agency Employee Count (FY 2020 to FY 2024)**

<b>Fiscal Year</b>	<b>Employee Count (Permanent and Temporary)</b>
<b>FY 2020</b>	<b>234</b>
<b>FY 2021</b>	<b>240</b>
<b>FY 2022</b>	<b>259</b>
<b>FY 2023</b>	<b>254</b>
<b>FY 2024</b>	<b>279</b>

This demonstrates the agency's ability to maintain a low rate of complaints as the workforce grows, underscoring the effectiveness of its approach to fostering a supportive work environment.

## Trends in Complaint Types and Discrimination Allegations

In examining the types of complaints, non-selection and hostile work environments continue to be areas of focus. However, the agency has shown excellent responsiveness, especially in FY 2022 when the agency addressed religious discrimination complaints related to the COVID-19 vaccine mandates. The rise in these complaints highlights the agency's responsiveness to emerging concerns and its commitment to protecting employees' religious rights while balancing public health policies.

## Trends in Complaint Types by Fiscal Year

**Trends in Complaint Types by Fiscal Year**

<b>Fiscal Year</b>	<b>Non-Selection</b>	<b>Hostile Work Environment</b>	<b>Retaliation</b>	<b>Denial of Accommodation</b>	<b>Religious Discrimination</b>	<b>Harassment</b>
FY20	2	3	0	1	0	1
FY21	0	0	1	0	0	0
FY22	2	1	0	0	5	0
FY23	2	3	1	0	0	1
FY24	1	2	0	1	0	0

The data also shows the agency's ongoing efforts to address discrimination across various categories, including race, age, sex, and disability. Although race remains a common issue in complaints, the agency's proactive approach in addressing these concerns has helped keep the number of incidents relatively low compared to its growing workforce.

## Complaints by Discrimination Allegation

**Complaints by Basis of Discrimination**

<b>Fiscal Year</b>	<b>Race</b>	<b>Age</b>	<b>Sex</b>	<b>Disability</b>	<b>Religion</b>	<b>Retaliation</b>	<b>National Origin</b>	<b>Color</b>
FY20	3	3	2	1	1	1	1	1
FY21	1	0	0	1	0	1	0	0
FY22	2	1	2	0	5	0	0	0
FY23	4	1	2	1	0	1	0	1
FY24	2	1	2	1	0	0	0	0

## Employee Count vs. Complaints

The agency's growing workforce, from 234 employees in FY 2020 to 279 employees in FY 2024, is matched by an increasing but relatively stable number of complaints. This data



shows the agency's continued ability to maintain a low complaint rate relative to its workforce size, which reflects the effectiveness of its internal complaint-handling processes and preventative measures.

**Employee Count vs. Complaints**

<b>Fiscal Year</b>	<b>Employee Count</b>	<b>Total Complaints</b>	<b>Complaints per 100 Employees</b>
FY20	234	8	3.42
FY21	240	3	1.25
FY22	259	10	3.86
FY23	254	8	3.15
FY24	279	5	1.79

This shows that despite a steady increase in the workforce, complaints have remained manageable, with a notable decrease in complaints per 100 employees in FY 2024, demonstrating the continued success of the agency's internal processes.

### **Causal Analysis**

Several factors contribute to these positive trends. The agency's workplace culture appears to be improving, with fewer instances of hostile work environments and harassment. The agency has focused on providing adequate accommodations to employees with disabilities and has taken steps to ensure that complaints are addressed in a timely manner. The increase in religious discrimination complaints during FY 2022 reflects the agency's responsiveness to evolving concerns, especially in the context of the COVID-19 vaccine mandate.

### **Practical Knowledge Gained Through Experience**

From practical experience, it is clear that the Conflict Resolution Program has played a vital role in maintaining a positive work environment. With a 100% participation rate, the program has been instrumental in resolving issues at the earliest stages, thus reducing the need for formal complaints and legal proceedings. In addition to this, the Anti-Harassment Program provides an additional layer of early intervention through EEO and non-EEO inquiries and investigations, allowing managers to inquire into and address employee relations issues before they escalate. This process helps identify and resolve workplace concerns promptly, ensuring a more proactive approach to maintaining a respectful and supportive work environment.

Moreover, the agency's commitment to EEO and No FEAR Act training ensures that both employees and managers are well-equipped to prevent and address discrimination, harassment, and retaliation. As the agency's workforce continues to grow, from 259 employees in FY 2022 to 279 employees in FY 2024, it is crucial that these programs continue to scale. The Conflict Resolution Program and resources for the Anti-Harassment

program, will need to evolve to meet the needs of a larger workforce while maintaining its high level of effectiveness.

### **Actions Taken and Planned to Improve Complaint or Civil Rights Programs**

The IBWC has successfully implemented several initiatives that have helped reduce discrimination and retaliation in the workplace. The Conflict Resolution Program has played a key role in addressing issues at an early stage, and its 100% participation rate reflects employee trust in the agency's ability to resolve disputes fairly. Additionally, the agency's comprehensive harassment prevention and non-discrimination training, including EEO and No FEAR Act training, has helped educate both employees and managers on their rights and responsibilities.

A key component of the agency's proactive approach to addressing workplace concerns is its EEO and non-EEO inquiries and investigations processes, which are conducted under the Anti-Harassment Program. These inquiries are separate from an employee or applicant filing a formal EEO complaint and are designed to address potential concerns at an early stage, before they escalate into formal disputes. The Anti-Harassment Program provides a layer of protection for both employees and the agency by identifying and addressing workplace issues informally, mitigating the risk of further complications.

These internal investigations help identify patterns of behavior and resolve issues quickly, ensuring that employees feel safe and supported in voicing concerns without fear of retaliation. Importantly, the EEO and non-EEO investigations process is separate from formal EEO complaints, which means that employees can seek a resolution through these informal channels without initiating a formal legal process. This separation allows the agency to maintain a more flexible and responsive approach to addressing issues, ultimately leading to a more efficient and effective resolution process.

Additionally, these internal investigations play an essential role in the agency's broader strategy to address concerns proactively. Resolving potential issues early and informally through the Anti-Harassment Program allows the agency to prevent matters from escalating into formal EEO complaints. This proactive approach not only helps maintain a positive and respectful workplace but also minimizes the risk of lengthy legal proceedings, underscoring the agency's commitment to a fair and inclusive work environment.

As the agency grows, it is essential to continue strengthening its training initiatives and to ensure that employees are aware of the resources available to them. The agency will also continue to enhance internal complaint-handling processes to ensure that they remain efficient and effective as the workforce expands.

The agency's proactive efforts, including the Conflict Resolution Program and Anti-Harassment Program, have led to a reduction in formal complaints and contributed to a positive work environment. The agency's internal processes are designed to prevent discrimination, harassment, and retaliation at the earliest stages, ensuring that concerns

are addressed promptly and effectively.

**5 CFR § 724.302(a)(8)**

For each fiscal year, any adjustment needed or made to the budget of the agency to comply with its Judgment Fund reimbursement obligation(s) incurred under § 724.103 of subpart A of this part; and

There were no cases in the fiscal year that required an adjustment to the agency's budget for Judgment Fund reimbursement obligations under § 724.103 of subpart A of this part.

**5 CFR § 724.302(a)(9)**

The agency's written plan developed under § 724.203(a) of subpart B of this part to train its employees.

The agency's written plan developed under § 724.203(a) of subpart B outlines a comprehensive training strategy designed to ensure all employees are fully informed of their rights and responsibilities under the Federal Antidiscrimination Laws and Whistleblower Protection Laws. This plan includes mandatory annual Equal Employment Opportunity (EEO) and No FEAR Act training for both employees and managers, with the goal of fostering a work environment free from discrimination, harassment, and retaliation.

The training program is structured to be accessible, engaging, and informative, ensuring that all employees, regardless of their position, understand the critical components of these laws and how they apply to the workplace. It also includes regular updates to ensure compliance with new regulatory changes and to address emerging challenges in the workforce. The program emphasizes leadership engagement, with senior management actively supporting and participating in training sessions, reinforcing the agency's commitment to a discrimination-free workplace at all levels.

Additionally, the plan is continuously evaluated and improved based on feedback, demonstrating the agency's ongoing commitment to maintaining a fair and respectful workplace for all employees. This strategic training approach reflects the agency's proactive efforts to uphold the highest standards of ethics and accountability, ensuring employees are equipped with the knowledge and tools to identify, report, and address any potential violations of discrimination and whistleblower protection laws.

**5 CFR § 724.302(b)**

The first report also must provide information for the data elements in paragraph (a) of this section for each of the five fiscal years preceding the fiscal year on which the first report is based to the extent that such data is available. Under the provisions of the No FEAR Act, the first report was due March 30, 2005, without regard to the status of the regulations.

There were no cases or data elements available for the five fiscal years preceding the fiscal year on which this report is based, as required under 5 CFR § 724.302(b). Consequently, no data is provided for those years. The agency has complied with all reporting requirements under the No FEAR Act to the extent that such data was available.

#### **5 CFR § 724.302(c)**

**Agencies must provide copies of each report to the following:**

- (1) Speaker of the U.S. House of Representatives;**
- (2) President Pro Tempore of the U.S. Senate;**
- (3) Committee on Governmental Affairs, U.S. Senate;**
- (4) Committee on Government Reform, U.S. House of Representatives;**
- (5) Each Committee of Congress with jurisdiction relating to the agency;**
- (6) Chair, Equal Employment Opportunity Commission;**
- (7) Attorney General; and**
- (8) Director, U.S. Office of Personnel Management.**

#### **CONCLUSION**

This report highlights the significant strides the IBWC has made in adhering to the No FEAR Act and its commitment to fostering a work environment free from discrimination, harassment, and retaliation. The agency's proactive efforts, including the successful implementation of its Conflict Resolution Program, robust EEO and No FEAR Act training initiatives, and comprehensive internal policies, have resulted in a positive trend of reduced complaints and a healthy, respectful workplace culture.

To continue improving on these successes, the agency remains dedicated to identifying areas for continuous improvement. IBWC's ongoing efforts to ensure compliance with merit system principles, protect employees from prohibited personnel practices, and uphold the rights of whistleblowers reflect its unwavering commitment to the principles of fairness, transparency, and accountability. Moving forward, the agency will continue to refine and strengthen its policies and practices to ensure that it meets the evolving needs of its growing workforce, all while maintaining a discrimination-free environment for its employees.

As part of its ongoing enhancement of the EEO and Civil Rights Program, the agency has recently added a new Employee EEO Specialist, strengthening its team to better manage and address EEO complaints, investigations, and inquiries. In addition, the agency has appointed a new internal collateral duty EEO investigator, enhancing its internal capacity to respond more efficiently to EEO and non-EEO related matters on behalf of the agency. Further, the agency plans to recruit additional collateral duty mediators and investigators, ensuring the program has sufficient personnel to handle workplace concerns effectively.

A key part of these enhancements is the agency's plan for more robust EEO training for supervisors. This training will equip supervisors with the skills necessary to conduct thorough internal inquiries

into both EEO and non-EEO allegations, ensuring that concerns are addressed promptly, fairly, and in alignment with agency policies. Supervisors will be trained to identify issues early, manage investigations, and promote a respectful work environment, strengthening the agency's overall approach to addressing workplace issues before they escalate.

Looking ahead, the agency will continue to refine and strengthen its policies and practices to ensure that they meet the evolving needs of its growing workforce. With a workforce expanding from 259 employees in FY 2022 to 279 employees in FY 2024, the agency remains committed to maintaining an effective, responsive, and scalable complaint-handling system. The IBWC will continue its focus on creating a discrimination-free environment for employees, enhancing internal processes, and providing the necessary resources and training to address workplace concerns swiftly and effectively.