

NATIONAL TRANSPORTATION SAFETY BOARD



Fiscal Year 2024

Annual Report on the Notification and Federal  
Employee Antidiscrimination and Retaliation Act  
of 2002

P.L. 107-174

Prepared by the Office of Equal Employment  
Opportunity

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## Introduction

The National Transportation Safety Board (NTSB) is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant events in other modes of transportation—railroad, transit, highway, marine, pipeline, and commercial space. We determine the probable cause of the accidents we investigate, and issue safety recommendations aimed at preventing them from recurring. In addition, we conduct transportation safety research studies and deliver a family assistance program, which includes facilitating the recovery and identification of fatally injured passengers involved in accidents we investigate and communicating with the families of passengers involved in accidents throughout our investigations. We also serve as the appellate authority for enforcement actions involving aviation and mariner certificates issued by the Federal Aviation Administration (FAA) and US Coast Guard, and we adjudicate appeals of civil penalty actions taken by the FAA.

The NTSB derives its authority from Title 49 *United States Code (U.S.C.)* Chapter 11; and established in Title 49 *Code of Federal Regulations (CFR)* Chapter VIII.

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) requires federal agency accountability for violations of antidiscrimination and whistleblower protection laws. Federal agencies must notify employees and applicants for employment about their rights under the federal antidiscrimination and whistleblower laws.<sup>1</sup>

The No FEAR Act requires each federal agency to report quarterly on its public website summary statistical data related to equal employment opportunity (EEO) complaint filings and to report annually on the agency's efforts to improve compliance with employment discrimination and whistleblower protection laws, as well as detail the status of complaints brought against the agency under these laws. This report covers fiscal year (FY) 2024 and the 5-year reporting period between FY 2020 and FY 2024.

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<sup>1</sup> On January 1, 2021, Congress enacted the Elijah E. Cummings Act to amend the No Fear Act.

## **Claims in Federal Court Arising Under Federal Antidiscrimination or Whistleblower Laws**

### **I. Types of Claims in Federal Court and Status**

In FY 2024, two new formal cases were brought against the agency in Washington, DC, District Court alleging violations under Title VII of the Civil Rights Act of 1964.

### **II. The Judgment Fund**

On May 10, 2006, the Office of Personnel Management published final regulations in the *Federal Register* clarifying the agency reimbursement provisions of Title II of the No FEAR Act. These regulations, among other things, state that the Federal Management Service, US Department of the Treasury (FMS), will provide notice to an agency's chief financial officer within 15 business days after payment from the Judgment Fund. The agency is required either to reimburse the Judgment Fund within 45 business days after receiving the notice from the FMS or to contact the FMS in writing to arrange for reimbursement. Additionally, pursuant to section 203(a)(8) of the No FEAR Act, federal agencies must include in their annual report to Congress information regarding any adjustments to their budget to reimburse Judgment Fund payments. During this reporting period, the NTSB did not have any payments resulting from discrimination findings.

### **III. Disciplinary Action**

Section 203(a)(4) of the No FEAR Act requires that agencies include in their annual reports the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law covered by the Act. During FY 2024, the NTSB did not discipline any employees for discrimination, retaliation, harassment, or any other infraction of any provision of law covered by the Act.

## Final Year-End No FEAR Act Data for FY 2020 through FY 2024

### I. FY 2024 Discrimination Complaint Data

The following section provides a detailed overview of the formal complaints filed against the agency during the reporting period, including the number of complaints, complainants, and the bases and issues alleged.

**Table 1** provides information about the number of formal EEO complaints filed during the 5- year reporting period. During FY 2024, two individuals filed a total of two formal discrimination complaints.

**Table 1: NTSB Complaint Activity for the Period FY 2020 through FY 2024**

	2020	2021	2022	2023	2024
Number of NTSB employees	407	401	414	433	440
Number of formal complaints filed	2	1	2	7	2
Number of complainants	2	1	2	6	2
Repeat filers	0	0	0	1	0
Complaints filed as a percentage of total NTSB workforce	.49	0.25	.48	1.61	.45

Table 2 reflects the bases and types of discrimination alleged in the complaints filed from FY 2020 through FY 2024.

**Table 2: NTSB Complaint Activity for the Period FY 2020 through FY 2024 by Bases of Discrimination**

	2020	2021	2022	2023	2024
Race	0	1	1	3	2
Color	0	1	1	1	2
Religion	0	0	0	0	0
Reprisal	1	1	2	4	2
Sex	0	0	0	2	2
National origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	1	0	0	2	2
Disability	1	0	1	3	2
Genetic information	0	0	0	0	0
Non-EEO	0	0	0	0	0

## FY 2024 No FEAR Act Report to Congress

**Table 3** reflects formal EEO complaints by issue filed from FY 2020 through FY 2024.

**Table 3: NTSB Complaint Activity for FY 2020 through FY 2024 by Issue**

	2020	2021	2022	2023	2024
Appointment/Hire	1	0	0	0	0
Assignment of duties	1	3	0	0	2
Awards	0	0	0	0	0
Conversion to full time	0	0	0	0	0
Disciplinary action					
<i>Demotion</i>	0	0	0	0	0
<i>Reprimand</i>	0	0	0	0	0
<i>Removal</i>	0	0	0	0	0
<i>Suspension</i>	0	0	0	0	0
<i>Other</i>	0	0	0	1	0
Duty hours	1	0	0	0	0
Evaluation/Appraisal	1	0	0	2	0
Examination/Test	0	0	0	0	0
Harassment					
<i>Non-sexual</i>	1	0	1	4	1
<i>Sexual</i>	0	0	0	0	0
Medical Examination	0	0	0	0	0
Pay (including overtime)	0	0	0	0	0
Promotion/Nonselection	0	1	1	1	0
Reassignment					
<i>Denied</i>	0	0	0	0	0
<i>Directed</i>	0	0	0	0	0
Reasonable accommodation	0	0	1	1	1
Reinstatement	0	0	0	0	0
Religious accommodation	0	0	0	0	0
Retirement	0	0	0	0	0
Sex stereotyping	0	0	0	0	0
Telework	0	0	0	0	0
Termination	0	0	0	0	0
Terms/Conditions of employment	1	0	0	3	1
Time and attendance	0	0	0	0	1
Training	0	0	0	0	0
Other	0	1	0	2	1

**Number of Complaints:** There were two formal complaints in FY 2024, compared to seven formal complaints in FY 2023. The number of formal complaints filed this FY aligns with the historical average number of complaints prior to FY 2023. The most frequently alleged issues at the NTSB in FY 2024 were race, color, sex, disability, reprisal, and age.

**Table 4** shows that the agency took timely final actions in FY 2024 in matters involving final agency decisions and the number of complaints currently pending.

**Table 4: NTSB Complaint Processing Time for the Period FY 2020 through FY 2024**

	2020	2021	2022	2023	2024
<b>Complaints Pending During Fiscal Year</b>					
Average number of days in investigation stage	155	140	157	128.8	147
Average number of days in final action stage	32	53	56	25	20.25
<b>Number of Complaints Pending</b>					
Investigation	5	7	0	0	4
180-day investigation notice	0	0	0	0	0
Hearing	1	3	5	3	1
Final action	1	0	0	0	0
Appeal with EEOC Office of Federal Operation	0	0	2	0	1

In FY 2024, one harassment allegation was filed, and the inquiry was reviewed and processed in accordance with the NTSB Anti-Harassment Policy, Procedures, and Responsibilities as amended.

The EEOC identifies three types of final actions taken by agencies: 1) a final notice by an agency following a decision by an administrative judge, or 2) a final agency decision in all other circumstances, and 3) full dismissal as it relates to acceptance letters.<sup>2</sup> The NTSB continues to meet its required final action timeframes. In FY 2024, the agency issued one final agency decision within 23 days, which is within the recommended 60-day EEOC timeframe.

<sup>2</sup> EEOC Management Directive 110, Chapter 5, Agency Processing of Formal Complaints, Part VI Final Actions, [http://www.eeoc.gov/federal/directives/md-110\\_chapter\\_5.cfm#\\_Toc425745246](http://www.eeoc.gov/federal/directives/md-110_chapter_5.cfm#_Toc425745246).

## II. Examination of Trends and Causal Analysis

From FY 2020 through FY 2024, 12 individuals filed 14 complaints. These complaints fell into the following categories:

- Reprisal: 10
- Race discrimination: 7
- Sex discrimination: 4
- Age discrimination: 5
- Disability discrimination: 7
- Discrimination based on color: 5<sup>3</sup> (see **Table 2**)

According to the most recent Equal Employment Opportunity Commission (EEOC) data, the most frequently alleged bases of discrimination in small agencies in the federal government were reprisal, sex, and race. More generally, the most alleged bases of discrimination across the entire federal government were reprisal, sex, and disability.<sup>4</sup>

As shown in **Table 3** above, the most common issues raised by NTSB employees over the 5- year period were non-sexual harassment (7), terms/conditions of employment (5), and other (4).<sup>5</sup> According to the most recently available EEOC data, the most frequently raised issues in the federal government were disciplinary actions, non-sexual harassment, and terms/conditions of employment. The EEOC data show that employees in small agencies in the federal government frequently raised issues in the category of non-sexual harassment, terms/conditions of employment, and performance evaluations/appraisals.<sup>6</sup> Below are observations about the complaints filed against the NTSB in FY 2024.

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<sup>3</sup> Because employees can allege multiple issues in a single complaint, the aggregate number of issues is more than the total number of complaints filed.

<sup>4</sup> EEOC Form 462 data tables for FY 2018 for small agencies and grand total, <https://www.eeoc.gov/federal/reports/tables.cfm> This is the most recent data available.

<sup>5</sup> Terms/conditions of employment is a broad issue category that encompasses items such as leave, breaks, and office assignments.

<sup>6</sup> EEOC Form 462 data tables for FY 2018 for small agencies and grand total, <https://www.eeoc.gov/federal/reports/tables.cfm> This is the most recent data available.

## Practical Knowledge

The NTSB recognizes the importance of having agency executives and managers model the behavior expected from the workforce and proactively engage employees to prevent discrimination and resolve conflicts. Further, the agency values a workplace in which employees know their rights and understand the various protections available to them. In FY 2024, the NTSB continued to strengthen these areas in the following ways:

- The agency has taken steps to ensure employees know about their available protections, including posting the EEO and Anti-Harassment policies on common area bulletin boards and on the NTSB intranet, and discussing employee protections during in-person New Employee Orientation.
- To ensure efficiencies, complaint data and paper files are being transitioned to digital format.
- Agency employees received No FEAR Act training, via FedTalent, during New Employee Orientation.
- Civil Treatment training for all employees. This training focused on civility and respect for agency colleagues as we work to maintain our operational values and commitment to achieving the NTSB mission.
- The OEEO developed a variety of toolkits and articles that were shared with the NTSB workforce highlighting employees' rights and responsibilities with respect to equal employment opportunity and retaliation.

## **Actions to Improve Equal Employment Opportunity Program**

Pursuant to the requirements of EEOC Management Directive 715, the agency evaluates its EEO program annually. The NTSB will continue to educate the workforce about alternate dispute resolution and anti-harassment to ensure awareness and understanding about the law and applicability for the agency. The NTSB will continue to publicly post its Affirmative Action Plan for Recruitment, Hiring, Advancement, and Retention of Persons with Disabilities, in accordance with 29 CFR § 1614.203(d)(4).

It is imperative for the OEEO to conduct a fair and impartial assessment and to ensure all parties involved in the EEO process are well-informed. As such, the OEEO will continue to schedule one-on-one monthly case updates with parties, named officials, and witnesses.

## **Training Efforts**

In FY 2024, the NTSB continued to use FedTalent to assist with online interactive professional development. As it relates to the OEEO, this system provides more ways to train employees in conflict resolution and employee rights through eLearning and live sessions in addition to tracking attendance.

## **No FEAR Act Training Plan**

In FY 2024, the NTSB completed the agencywide mandatory No FEAR Act training in accordance with the No Fear Act, Public law 107-174, which consisted of two modules, in July 2024. One module was dedicated to the No FEAR Act requirements, and the second portion covered the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020 to the No FEAR Act, which created additional agency accountability, beginning in 2021, for acts of discrimination and retaliation.

All new agency employees in FY 2024 completed the No FEAR Act training within the first 90 days of onboarding, in accordance with NTSB requirements. Overall, the NTSB had a completion rate of 93 percent for No FEAR Act training in FY 2024.

In FY 2025, the NTSB will continue to ensure all staff are trained on the No FEAR Act.

## **Appendix**

- I. Equal Employment Opportunity Policy Statement - December 2023**
- II. No FEAR Act Data - FY 2024**
- III. Table of Penalties**