

Fiscal Year 2014 No FEAR Act Annual Report to Congress

U.S. International Trade Commission

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Overview

The mission of the U.S. International Trade Commission (USITC) is to administer U.S. trade remedy laws within its mandate in a fair and objective manner; provide the President, the United States Trade Representative (USTR), and Congress with independent, quality analysis, information, and support on matters relating to tariffs and international trade and competitiveness; and maintain the Harmonized Tariff Schedule of the United States. USITC conducts periodic self-assessments of its Equal Employment Opportunity (EEO) programs against six essential elements identified as standards for a model EEO program by the Equal Employment Opportunity Commission (EEOC).

To maximize effectiveness, USITC seeks to achieve exemplary EEO programs and lead as a model agency by eliminating discrimination, retaliation, or bias conduct within the workplace.

The No FEAR Act, Public Law 107-174, requires federal agencies to be publicly accountable for violations of Antidiscrimination and Whistleblower Protection laws. Federal agencies must post both quarterly and annual statistical data for federal sector EEO complaints on its public website, reimburse the Treasury Judgment Fund (Judgment Fund) for any payments made, and notify employees and applicants for employment about their rights under Antidiscrimination and Whistleblower Protection laws.

The No FEAR Act and its implementing regulations also require federal agencies to report annually on the following:

- The number of Federal Court cases arising under the respective areas of law cited in the No FEAR Act where discrimination was alleged, the status or disposition of cases, and the amount required to be reimbursed to the Judgment Fund;
- The number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to under the Act, and specific nature of the disciplinary action taken, separated by provisions of law;
- The final year-end data on discrimination complaints for the fiscal year;
- A detailed description of agency policy relating to appropriate disciplinary actions;
- An analysis of trends, causation, and practical knowledge gained through experience;
- Actions planned or taken to improve complaint or civil rights programs; and
- Any adjustments to the budget.

Pursuant to congressional and statutory requirements, this report is being provided to the following:

- Speaker of the U.S. House of Representatives;
- President Pro Tempore of the U.S. Senate;
- Committee on Governmental Affairs, U.S. Senate;
- Committee on Government Reform, U.S. House of Representatives;
- Each Committee of Congress with jurisdiction relating to the agency;
- Chair, Equal Employment Opportunity Commission;
- Attorney General; and
- Director, U.S. Office of Personnel Management.

The achievements during Fiscal Year (FY) 2014 have paved the way for meaningful and measureable improvements in USITC's EEO and Diversity programs. We look forward to continuing to provide information on the successes of these programs in future reports.

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Executive Summary

The No FEAR Act aims to reduce the incidents of workplace discrimination within the federal government by holding agencies and departments accountable for their actions. Section 203 of the No FEAR Act and the Office of Personnel Management (OPM) regulations implementing Title II of the No FEAR Act require each federal agency to prepare and submit an annual report. Accordingly, this report covers information for FY 2014.

During FY 2014, USITC received one (1) EEO complaint. This represents an average of complaint activity for complaints filed since FY 2011. The most frequent bases of discrimination, in descending order, were: (1) age, (2) race, (3) sex, and (4) disability. Simultaneously, the most frequent issues raised, in descending order, were: (1) promotion and non-selection, (2) reasonable accommodation, and (3) termination.

USITC's complaint activity consistently average one per year, mostly from applicants due to non-selection. FY 2014, USITC reported zero (0) Federal Court cases pending or filed and one (1) open case at EEOC. The average investigation time was less than the regulatory timeframe.

In FY 2014, USITC did not have any reimbursements, settlements, findings, or disciplinary actions for violating its policies for discrimination, retaliation, harassment, and/or other violations of the Antidiscrimination and Whistleblower Protection laws included in the No FEAR Act.

USITC continues to place strong emphasis on No FEAR Act training. During FY 2013 all agency employees participated in No FEAR Act Training. To ensure the agency maintains 100% participation, all incoming employees received the training during FY 2014.

The Office of Equal Employment Opportunity (EEO Office) and the Diversity and Inclusion Council assist USITC's leadership in shaping policies to protect the personal liberties of all employees. These groups develop policies and plans, generate reports, deliver training and briefings, conduct oversight, process EEO complaints, and integrate civil rights and civil liberties into USITC's initiatives and activities.

During FY2014, to foster continuous improvement and to engage the talents and competencies of employees, the USITC formed an organization-wide Diversity and Inclusion Council. The Council is committed to proactively identifying and adopting best practices to promote a diverse workforce, in an inclusive environment, and to identify and remove barriers to equal employment opportunities, consistent with merit system principles and applicable law.

Data and Results

This report is prepared in accordance with Section 203(a)(1) of the No FEAR Act which requires federal agencies to include in their annual report to Congress “the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged.” OPM’s final regulations at 5 CFR 724.302 on reporting and best practices, issued on December 28, 2006, clarify Section 203(a)(1) of the No FEAR Act stating that federal agencies report on “the number of cases in Federal Court [district or appellate] pending or resolved ... arising under each of the respective provisions of the Federal Antidiscrimination and Whistleblower Protection laws applicable to them ... 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.”

Complaint Activity and Disposition

During FY 2014, USITC reported zero (0) Federal Court cases ensuing from Antidiscrimination statutes listed in the No FEAR Act.

Judgment Fund Reimbursements and Budget Adjustments

Section 203 (a)(8) of the No FEAR Act requires that agencies include in their annual report to Congress information about “any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.” Section 201 requires federal agencies to pay awards for discrimination and retaliation violations out of their own budgets. They are required to reimburse the Judgment Fund within a reasonable time of any such award.

USITC had no findings of discrimination or retaliation, therefore, no budget adjustments were made.

Disciplinary Actions

Section 203(a)(4) of the No FEAR Act requires that agencies include in the annual report to Congress “the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1).” For Federal Court cases involving allegations of a violation of Antidiscrimination or Whistleblower Protection laws, 5 CFR 724.302 (a)(3) requires the agency to report the number of employees disciplined. The 5 CFR 724.102 defines discipline to include any one, or a combination, of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal.

During FY 2014, no USITC employees were involved in any Federal Court cases. Additionally, there were no findings of discriminatory, retaliatory, or harassing practices. Therefore, there were no disciplinary actions taken on any employee for violating the agencies' policies on discrimination, retaliation, harassment, and/or other violations of the Antidiscrimination and Whistleblower Protection laws included in the No FEAR Act.

Section 203 (a)(6) of the No FEAR Act requires that federal agencies include in their annual report to Congress a detailed description of the policy implemented by the agency relating to disciplinary actions imposed against a federal employee who discriminates against any individual in violation of any of the laws cited under section 201(a)(1) or (2), or who committed another prohibited personnel practice which was revealed in the investigation of a complaint claiming a violation of any of the laws cited under section 201(a)(1) or (2).

On June 14, 2014, President Obama appointed Meredith M. Broadbent as USITC's Chairman. On June 30, 2014, Chairman Broadbent issued her EEO policy statements. The policies were issued to: (1) cover all forms of harassment, (2) require immediate and appropriate corrective action, (3) provide points of contact for reporting and filing a complaint, (4) define necessary legal terms, (5) require training for the workforce, and (6) protect employees from retaliation. These statements have been posted in employee work areas and on USITC's intranet and its public websites. Other USITC policies require all employees to cooperate in EEO investigations. These policies also require the agency to take appropriate disciplinary action against those engaging in unlawful discriminatory practices or allowing discriminatory practices to exist.

Trend Analysis for EEO Complaint Data

Year-end summary data for FY 2014 EEO complaint activity included in this section presents a three-year (FY 2012 to FY 2014) trend analysis for EEO complaint data, pursuant to the No FEAR Act, Section 1614.704. Overall, the data shows an average of one (1) complaint annually.

Complaint Activity

Of the complaints made against the USITC during FY 2012, 2013, and FY 2014, two (2) were from applicants, and one (1) was from an individual as defined by EEOC.

USITC's complaint activity remained consistent from FY 2013 through FY 2014. There were no repeated filers during the three-year period.

Complaints by Bases and Issues

The most frequent bases of discrimination, in descending order, were: (1) age, (2) race, (3) sex, and (4) disability. Simultaneously, the most frequent issues raised, in descending order, were: (1) promotion and non-selection, (2) reasonable accommodation, and (3) termination.

In summary, the bases and issues cited above have remained as the top five for the three-year period.

Processing Time

The average investigation time when a hearing was requested or not was less than the regulatory timeframe under 29 CFR 1614, overall, no major differences in the average investigation time were identified during the three-year period.

Final Actions Finding Discrimination

FY 2012 through 2014, USITC did not issue any final actions or findings of discrimination.

Pending Complaints

From FY 2012 through 2014 USITC data revealed one (1) pending complaint at the beginning of all three fiscal years. Each of the pending complaints was in the hearing stage at EEOC.

Complaint Investigations

In the three-year period, all complaints were investigated within the regulatory timeframe.

No Fear Act Training

Section 202(c) of the No FEAR Act requires federal agencies to provide training for employees on the rights and remedies under Antidiscrimination or Whistleblower Protection laws. Under 5 CFR 724.203, federal agencies were required to develop a written training plan and to have trained their employees by December 17, 2006, and every two years thereafter. Under implementing regulations, new employees are to receive No FEAR Act training within 90 days of appointment through either an agency's orientation program or some other No FEAR Act training program.

USITC provides No FEAR Act training to new hires during new-hire orientation. Further, USITC requires employees to complete No FEAR Act training every two years. No FEAR Act training is available through the USITC Learning Portal and in classroom. The Portal is USITC's primary electronic platform to capture training data. During FY 2013 all agency employees received No FEAR Act training and during FY 2014

all new employees received No FEAR Act training. USITC continues to place strong emphasis on No FEAR Act training and will report the results in the 2015 No FEAR Annual Report.

Practical Knowledge Gained Through Experience and Actions Planned or Taken to Improve Complaint or Civil Rights Programs

To maximize effectiveness, USITC seeks to have exemplary EEO and Diversity programs. The Office of EEO Office and the Diversity and Inclusion Council reports to the Office of the Chairman to provide advice on civil rights and civil liberties issues. Both the EEO Office and the Diversity and Inclusion Council assist USITC's leadership in shaping policies to protect the personal liberties of all employees. These organizations work inter-dependently to develop policies and plans, generate reports, forecast trends, assess demographics, deliver training and briefings, conduct oversight, process EEO complaints, integrate civil rights and civil liberties into USITC's initiatives and activities, and submit annual reports to internal and external customers, constituents, and stakeholders.

USITC's EEO leadership ensures collaboration with management to help increase employees' awareness of their responsibilities in EEO program activities and Diversity. In FY 2014, USITC conducted EEO Compliance Reviews and participated in outreach events in addition to reviewing civil rights records, public notifications, and plans of work for meeting affirmative employment objectives and initiatives. USITC continues to obtain critical information, through such sources as its annual Federal Employee Viewpoint Survey, to assess the state of EEO and Diversity throughout the organization.

USITC will continue to develop and implement improvements in the recruitment, hiring, retention, and development of under-represented classes of people in the workforce, such as veterans and people with disabilities. USITC continues to participate in various events to increase recruitment and hiring of under-represented groups.

The dignity with which USITC treats employees are critical to the successful completion of its mission. To foster continuous improvement in this area, USITC fully engages the talents and competencies of employees through the formation of an USITC-wide Diversity and Inclusion Council in support of Executive Order 13583. The purpose of the Council is to develop and implement a more comprehensive and integrated Diversity and Inclusion Strategic Plan. The Council is committed to identifying and adopting best practices to promote a diverse workforce, in an inclusive environment, and to identify and remove barriers to equal employment opportunities, consistent with merit system principles and applicable laws.

During New Employee Orientations, employees are introduced to USITC's non-discrimination policies, reasonable accommodation, and the required No FEAR Act training by a representative from the USITC EEO Office. The EEO Policy statement and the Non-Discrimination Policy statement are available on

USITC's website and are provided to new employees during orientation. Additionally, information regarding the EEO program, administrative and judicial processes, and reasonable accommodation procedures are available to employees on the USITC website.

During FY 2014, the EEO staff received the required eight-hour refresher training.

USITC recognizes the critical role that training plays in raising awareness and fostering behaviors. In addition to the No FEAR Act training, USITC provides employees and managers training on the prevention of harassment in the workplace and other EEO related training.

Conclusion

USITC's meaningful and measurable successes spelled out in this report are due to the strong and clear policy statements on workplace discrimination, harassment, and the No FEAR Act issued by the Chairman. Nonetheless, there are still opportunities for advancement which USITC will continue to capture and report on as part of its commitment to abide by and support merit systems principles, and to provide protection from prohibited personnel practices for all employees under the law.

Appendix

Complaints Activity	2014				2013				2012				2011				2010			
	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4
Complaints carried over from previous fiscal year	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0
Complaints filed in fiscal year	0	0	0	1	1	2	0	1	2	0	1	0	1	0	1	0	1	0	1	0
Complaints closed in fiscal year	0	0	0	0	0	1	0	0	1	0	0	1	0	0	1	0	0	1	0	0
Pending Complaints	0	0	0	0	0	1	0	0	1	0	0	1	0	0	1	0	0	1	0	0

Complainants	2014				2013				2012				2011				2010			
	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4
Complainants carried over from previous fiscal year	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0
Complainants in fiscal year	0	0	0	1	1	2	0	1	2	0	1	0	1	0	1	0	1	0	1	0
Complainants who filed 2 or more complaints in fiscal year	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Complaints by Basis	2014				2013				2012				2011				2010			
	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4
Total Complaints				1				2				2				0				1
Race	0	0	0	0	1	1	0	1	1	0	0	1	0	0	0	0	0	0	0	1
Color	0	0	0	0	1	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	1	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0
Sex	0	0	0	0	1	0	0	1	0	0	0	1	0	0	0	0	0	0	0	1
Disability	0	0	0	0	1	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0
Age	0	0	0	1	2	2	0	2	2	0	0	2	0	0	0	0	0	0	0	1
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO Basis	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Complaints by Issue	2014				2013				2012				2011				2010			
	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4
Appointment/hire	0	0	0	1	1	1	0	1	1	0	0	1	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Awards	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1

Conversions to full-time	0		0				0		0		0		0	
<u>Disciplinary Action:</u>	0		0		0		0		0		0		0	
a) Demotion	0		0		0		0		0		0		0	
b) Reprimand	0		0		0		0		0		0		0	
c) Suspension	0		0		0		0		0		0		0	
d) Removal	0		0		0		0		0		0		0	
e) Retaliation	0		0		0		0		0		0		0	
f) Other	0		0		0		0		1		0		0	
Duty Hours	0		0		0		0		0		0		0	
Evaluation/appraisal	0		0		0		0		0		0		1	
Examination/test	0		0		0		0		0		0		0	
Harassment:	0		0		0		0		0		0		0	
a) Non-Sexual	0		0		0		0		0		0		0	
b) Sexual	0		0		0		0		0		0		0	
Medical Examination	0		0		0		0		0		0		0	
Pay Including overtime	0		0		0		0		0		0		0	
Promotion/Non-Selection	0		0		0		1		1		1		0	1
<u>Reassignment:</u>	0		0		0		0		0		0		0	0
a) Denied	0		0		0		0		0		0		0	0
b) Directed	0		0		0		0		0		0		0	0
Reasonable Accommodation	0		0		0		0		1		0		0	0
Reinstatement	0		0		0		0		0		0		0	0
Retirement	0		0		0		0		0		0		0	0
Termination	0		0		0		0		1		0		0	0
Terms/condition of employment	0		0		0		0		0		0		0	0
Time and Attendance	0		0		0		0		0		0		0	0
Training	0		0		0		0		0		0		0	0

Complaints Pending From Previous Fiscal Year by Status	2014				2013				2012				2011				2010			
	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4
Investigation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hearing	1	1	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0
Final agency action	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Appeals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Written notice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Average Processing Time of Pending Complaints (In Days)	2014				2013				2012				2011				2010				
	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	

Investigation	0	0	0	20	83	0	0	0
Hearing Requested	195	285	375	465	366	334	0	0
No hearing Requested	0	0	0	0	0	0	0	0
Final agency action	0	0	0	0	0	0	0	0

Pending Complaints not Timely Investigated	2014				2013		2012		2011		2010
	Qtr 1	Qtr 2	Qtr 3	Qtr 4							
Pending Investigations over 180 days	0	0	0	0	0	0	0	0	0	0	

Complaints Dismissed Without An Investigation	2014				2013		2012		2011		2010
	Qtr 1	Qtr 2	Qtr 3	Qtr 4							
Total Complaints	0	0	0	0	0	0	0	0	0	0	
Average pending time in days	0	0	0	0	0	0	0	0	0	0	

Finding of Discrimination/Final Agency Actions by Total Complaints	2014				2013				2012		2011		2010
	Qtr 1		Qtr 2		Qtr 3		Qtr 4						
	#	%	#	%	#	%	#	%	#	%	#	%	#
With hearing	0		0		0		0		0		0		0
Without hearing	0		0		0		0		0		0		0

Finding of Discrimination/Final Agency Action by Basis	2014				2013				2012		2011		2010
	Qtr 1		Qtr 2		Qtr 3		Qtr 4						
	#	%	#	%	#	%	#	%	#	%	#	%	#
Race	0		0		0		0		0		0		0
Color	0		0		0		0		0		0		0
Religion	0		0		0		0		0		0		0
National Origin	0		0		0		0		0		0		0
Sex	0		0		0		0		0		0		0
Disability	0		0		0		0		0		0		0
Age	0		0		0		0		0		0		0
Reprisal	0		0		0		0		0		0		0
Equal Pay	0		0		0		0		0		0		0

Finding of Discrimination/Final Agency Action by Issue	2014				2013		2012		2011		2010
	Qtr 1	Qtr 2	Qtr 3	Qtr 4							

	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#
Appointment/hire	0		0		0	0	0		0		0		0		0
Assignment of duties	0		0		0	0	0	0	0	0	0	0	0	0	0
Awards	0		0		0		0	0	0	0	0	0	0	0	0
Conversion to full-time	0		0		0		0	0	0	0	0	0	0	0	0