



**Notification and Federal Employee
Antidiscrimination and Retaliation Act Report**

FISCAL YEAR 2021

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I. Executive Summary

The U.S. Nuclear Regulatory Commission (NRC or agency) provides its “Annual Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) Report to Congress for Fiscal Year 2021” as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174. This report summarizes the agency’s activities to ensure accountability for anti-discrimination and whistleblower laws related to employment.

The NRC is an independent agency established by the Energy Reorganization Act of 1974 that began operations in 1975 as a successor to the licensing and regulatory activities of the Atomic Energy Commission. The NRC’s mission is to license and regulate the Nation’s civilian use of radioactive materials to provide reasonable assurance of adequate protection of public health and safety and to promote the common defense and security and to protect the environment. The NRC is headed by five Commissioners appointed by the President of the United States, and confirmed by the U.S. Senate, to serve staggered 5-year terms. The President designates one of the Commissioners to serve as Chairman. The Commission as a whole formulates policies and regulations governing the safety and security of nuclear facilities and radioactive materials, issues orders to licensees, and adjudicates legal matters brought before it. The Executive Director for Operations carries out the policies and decisions of the Commission. During Fiscal Year (FY) 2021, the agency had approximately 2,681 permanent employees. The NRC’s Headquarters is in Rockville, MD, and its Regional Offices are in King of Prussia, PA; Atlanta, GA; Lisle, IL; and Arlington, TX. In addition, the agency also has a Technical Training Center located in Chattanooga, TN. While NRC staff members are located throughout the country, the agency must be especially attentive to providing all employees proper notification of their rights under the No FEAR Act through on-line training and agency network announcements. The agency continues to be successful in this task.

The Partnership for Public Service ranked the NRC in 12th place for mid-sized agencies and one of the best places to work in the Federal Government based on the results of the 2020 Best Places to Work in the Federal Government rankings. The NRC was ranked 7th for its “Effective Leadership”, ranked 6th for its “COVID: Supportive Leaders”, and ranked 2nd for its “COVID: Employees Well-Being” categories respectively. National publications continue to highlight the NRC’s commitment to diversity.

Since the enactment of the No FEAR Act, the NRC continues to realize many positive changes in the workplace. Examples include the following:

- Demonstrates continuous support for the No FEAR Act by the Commission and senior agency executives through policy statements and discussions in key meetings.
- Implemented the “Agency Desired Culture Initiative” to align our workplace culture with our transformation vision to ensure that we are consistently valuing and supporting behaviors and norms that help us best accomplish our mission. Culture sets the tone and expectations for how we interact with each other; how we make decisions; how we get work done; and how we are expected to innovate and collaborate with one another.
- Continues to support and promote of the NRC’s Inclusive Diversity Strategic Plan, which includes the diversity, equity, inclusion, and accessibility (DEIA) goals and strategies to achieve a positive and discrimination-free environment.

- Revised the NRC’s anti-harassment policy entitled “Anti-Harassment Policy and Procedures for Preventing and Eliminating Harassing Conduct in the Workplace” to ensure full compliance with the Equal Employment Opportunity Commission (EEOC).
- Maintains the Diversity Management and Inclusion Council consisting of agency executives, Equal Employment Opportunity (EEO) advisory committee members, and others to assist the agency in developing a more comprehensive, integrated, and strategic focus on diversity and inclusion in the workplace.
- Demonstrates its commitment to the Initiative on Civility, Awareness, Respect and Engagement known as “iCARE” to assist with agency efforts in facilitating deeper understandings and appreciation of cultural diversity and inclusion related issues amongst employees and promote individual personal and professional growth and effectiveness through the processes of listening, introspection, and building acceptance for differing perspectives.
- Continues to brief the Commission biannually on the accomplishments and plans of the agency’s EEO affirmative employment and diversity management program.
- The NRC’s Office of Small Business and Civil Rights (SBCR) announced a new way for employees to make an EEO contact or file a complaint through the use of an e-File Secure Portal where employees can electronically request to contact an EEO Counselor, file an informal complaint, request Alternative Dispute Resolution (ADR), submit documents, and receive real-time status updates on their EEO complaints.
- The NRC’s SBCR launched a new internal software entitled “Entellitrak” in leveraging technology to assist with processing of EEO complaints of discrimination, harassment, and retaliation in the workplace. Entellitrak is a state-of-the-art EEO case management software that will allow SBCR to effectively manage workloads, provide better reporting capabilities, and maintain data integrity which includes an upgrade complete with built-in business rules to ensure compliance with the agency’s mandatory reporting requirements.
- Continues to uphold agency values known as ISOCER—integrity, service, openness, commitment, cooperation, excellence, and respect—as a guide for fostering an open, collaborative work environment for all employees.
- Posting notices on whistleblower protection rights in all facilities, as required by the Office of Special Counsel, for agency certification under 5 U.S.C. Section 2302(c).
- Develops and implements training programs and briefings for managers and employees on the No FEAR Act, EEO, diversity management, the NRC’s anti-harassment policy, reasonable accommodation, and ADR.
- Continues with DIALOGUE —Diversity Inclusion Awareness Leading Organizational Growth, Understanding, and Engagement—in which small groups of managers and employees participate in facilitated forums to discuss diversity topics in an open environment.

- Remains committed to the NRC Leadership Model, which emphasizes observable behaviors that are representative of leadership characteristics, including receptivity to new ideas and diversity in thought.
- Continues to support a workplace where diverse views, alternative approaches, critical thinking, collaborative problem solving, unbiased evaluations, and honest feedback are encouraged, recognized, and valued.
- Demonstrates its commitment to the agency's reasonable accommodation policies and procedures in compliance with amendments to the regulations governing Section 501 of the Rehabilitation Act to include the provision of personal assistant services.
- Implemented changes to the Senior Executive Service Candidate Development Program (SES CDP) selection process that results in more diverse groups of candidates and selectees for the agency's SES CDP classes.
- Continues to process EEO complaints promptly to ensure that cases are dispositioned in a timely manner.
- Continues to facilitate the "Speed of Trust" initiative, consisting of workshops to provide opportunities for strengthening mutual trust among agency leaders, managers and supervisors, and employees.
- Continues to raise awareness of the agency's ADR program as a voluntary option to resolve disputes and conflicts at the earliest and lowest possible level.

II. Introduction

The NRC's overall responsibility is to protect public health and safety in the civilian uses of radioactive materials. It has the following main regulatory functions:

- Establish standards and regulations.
- Issue licenses, certificates, and permits.
- Ensure compliance with established standards and regulations.
- Issue adjudicatory decisions.
- Conduct research, adjudication, risk and performance assessments to support regulatory decisions.

The NRC carries out these regulatory functions to regulate nuclear power plants, fuel cycle facilities, and other civilian uses of radioactive materials, such as nuclear medicine programs at hospitals and academic activities at educational and research institutions. The NRC also uses these functions to regulate such industrial applications as gauges, irradiators, and other devices that contain radioactive material. The NRC also licenses the import and export of radioactive materials and works closely with other Federal agencies and international counterparts to enhance global nuclear safety and security.

The NRC regulates 93 commercial nuclear power reactors operating in 28 States at 55 sites; 31 research and test reactors; about 4,600 people licensed to operate reactors; 25 nuclear reactors in various stages of decommissioning; 81 independent spent fuel storage installations; 16 licensed fuel cycle facilities; 3 uranium recovery sites; and approximately

2,200 research, medical, industrial, government, and academic materials licensees. The NRC also has issued 6 reactor early site permits, 5 reactor design certifications, and 12 combined licenses for new reactors. In addition, the NRC has agreements with 39 States (Agreement States) which have assumed regulatory responsibility for the use of certain radioactive materials. These Agreement States oversee approximately 17,000 materials licenses. The NRC works closely with these Agreement States to ensure that they maintain adequate and compatible regulatory programs.

The Director of the NRC's SBCR has been delegated the overall responsibility for small business, civil rights, diversity, equity, and inclusion, and minority serving institution programs and activities. SBCR provides agencywide guidance and standards for establishing and maintaining effective programs and activities. To meet these objectives, SBCR assists the NRC's leadership in shaping policies to protect and ensure the principles of EEO of all employees by: developing policies and procedures; generating workforce analysis and reporting requirements; conducting annual multi-year studies and research; delivering trainings and briefings; conducting oversight and monitoring; processing EEO complaints; integrating civil rights, diversity, equity, inclusion, and engagement into the NRC's initiatives and activities; and submitting annual reports to internal and external customers, constituents, and stakeholders. In being responsible for the preparing of the agency's Annual No FEAR Act Report, SBCR also collaborates with the Office of the Inspector General, the Office of the Chief Human Capital Officer, and the Office of the General Counsel, who also have major roles in implementing the No FEAR Act for the NRC.

This "Annual Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) Report to Congress for Fiscal Year 2021" covers the period of October 1, 2020, to September 30, 2021. During FY 2021, the NRC employed 2,681 permanent employees. There were 24 pre-complaint (informal) activities initiated and 15 formal complaints filed in FY 2021. Reprisal, Sex, Race, Age, and Color were the most common bases filed in FY 2021. The most prevalent issues during this reporting period were Harassment (Non-Sexual), Non-Selection/Promotion, Performance Appraisal, Assignment of Duties, and Disciplinary Actions.

III. Purpose of this Report

On May 15, 2002, President George W. Bush signed the Notification and Federal Employee Anti-discrimination and Retaliation Act (No FEAR Act), which increases Federal agency accountability for acts of discrimination or reprisal against employees. This act, which took effect on October 1, 2003, makes Federal agencies individually accountable for violations of anti-discrimination and whistleblower protection laws related to employment and ensures that employees, applicants for employment, and former employees know their rights under anti-discrimination laws and the Whistleblower Protection Act. Section 203 of the No FEAR Act specifically requires that, not later than 180 days after the end of each FY, each Federal agency must submit to the Speaker of the House of Representatives, the President pro tempore of the 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 Equal Employment Opportunity Commission, and the Attorney General an annual report with specific information relating to each agency's EEO complaints activity. Regulations from the U.S. Office of Personnel Management (OPM) implementing the No FEAR Act, 5 CFR, Part 724, Subpart C, also require the submission of this annual report to the Director of OPM.

The Annual No FEAR Act Report must provide the following information:

- The number, status, and disposition of Federal court cases, pending or resolved, arising under the laws covered by the No FEAR Act.
- Judgment Fund reimbursements and adjustments to the NRC budget to meet reimbursement requirements.
- The number and type of disciplinary actions related to discrimination, retaliation, or harassment and the NRC's policy relating to appropriate disciplinary action.
- Final year-end summary data related to the NRC's EEO complaint activity for the FY.
- An analysis of trends, causation, and practical knowledge gained through experience.
- Actions planned or taken to improve the NRC's discrimination complaint program.
- The agency's No FEAR Act training plan.

IV. No FEAR Act Legal Coverage

The laws covered in the No FEAR Act include:

- Title VII of the Civil Rights Act of 1964, *as amended*, as it applies to federal agencies, 42 U.S.C. § 2000e-16 (race, color, religion, sex, national origin, and reprisal)
- The Age Discrimination in Employment Act of 1967, as amended, as it applies to federal government employment, 29 U.S.C. § 633a (age (40 and over) and reprisal)
- The Equal Pay Act of 1963, as amended, 29 U.S.C. § 206(d) (sex-based wage differentials and reprisal)
- Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 (physical and mental disabilities and reprisal)
- The Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff et seq. (genetic information about an individual or individual's family members and reprisal)
- The Civil Service Reform Act of 1978, 5 U.S.C. § 2302 (prohibited personnel practices in connection with whistleblowing)
- The Whistleblower Protection Act of 1989, 5 U.S.C. 2302b, Pub.L. 101-12 as amended, protects federal whistleblowers who work for the government and report the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to public health and safety
- Elijah E. Cummings Federal Employees Antidiscrimination Act of 2020 (Pub. L. 107-174), amends the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) to strengthen Federal anti-discrimination laws enforced by the Equal Employment Opportunity Commission and expand accountability within the Federal Government

v. Data Analysis and Results

As required by the No FEAR Act, the NRC promptly posts and displays a link to its No FEAR Act data on its public Web site ([No FEAR Act](#)). The agency updates this information no later than thirty (30) calendar days after the end of each quarter. See Appendix 7 for more details.

The NRC's informal and formal complaint activity is relatively low in comparison to other Agencies of similar size—approximately 1.0 percent of the agency's total workforce filed informal EEO complaints, and approximately 0.7 percent filed formal complaints. These results can be attributed to the NRC's desired culture initiative, and continuing efforts to reeducate the workforce and provide robust training and cultural awareness seminars on the importance of EEO/Civil Rights, diversity, equity, inclusion, and engagement initiatives for all employees. The following sections provide more information on the informal and formal complaints filed against the agency.

A. EEO Complaint Activity and Disposition

During FY 2021, 24 pre-complaint (informal) complaints were initiated, and 2 pre-complaints were on-hand at the beginning of the reporting period (i.e., remained from the previous FY) for a total of 26 pre-complaints. Of the total 26 pre-complaints, 22 were completed/counseling ended during FY 2021. Individuals filed 15 new formal complaints against the agency, and 29 were on-hand at the beginning of the FY for a total of 44 formal complaints. Of the total 44 formal complaints, 12 were closed during FY 2021.

Monitoring and Oversight of EEO Complaint Activity

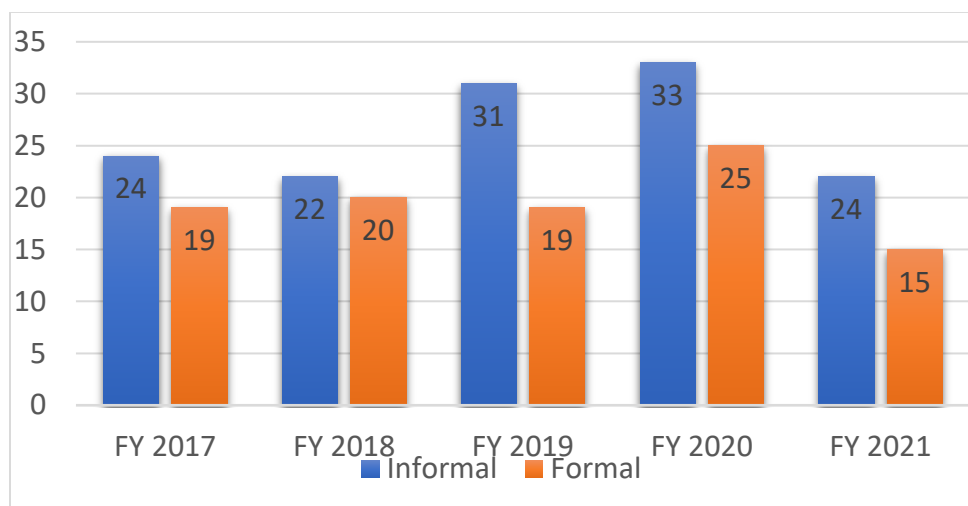


Figure 1: Pre-complaint (Informal) and Formal Complaint Activity

During FY 2021, the agency completed a total of 20 investigations in accordance with EEOC regulatory timeframes. At the end of FY 2021, eight complaints were pending investigation. The agency issued three final agency decisions during FY 2021 and had no findings of discrimination. In comparison to other Federal agencies of similar size, the NRC's complaint activity is relatively low which is attributed to the use of early intervention to resolve workplace disputes, the agency's ADR Program, and the agency continuing efforts to provide No FEAR Act training to all employees. The NRC uses internal expertise to train managers and supervisors on EEO and diversity. All

managers/supervisors and team leaders receive a full day of EEO and Diversity training in addition to refresher training every 3 years on various EEO and DEIA related topics.

B. Bases and Issues

The FY 2021 complaint data shows that reprisal, sex, race, age, and color were the most frequently filed bases for complaints. Additionally, the data shows that harassment (non-sexual), non-selection/promotion, performance appraisal, assignment of duties, and disciplinary actions were the most common issues identified in complaints filed. Note: Complaints may be filed alleging multiple bases and issues and the sum of the bases reflected in the complaint data may not equal to the total complaints filed. The attachment provides details.

VI. Civil Cases—Reimbursement to the Judgment Fund

Section 203(a)(1) of the No FEAR Act requires each agency to state in its annual report the number of civil cases arising from the Whistleblower Protection Act and anti-discrimination laws, the status of such cases, and the amount of money reimbursed to the Judgment Fund. During FY 2021, the agency had three EEO lawsuits pending in U.S. Federal District Court. In addition, the NRC had two whistleblowing protection cases in the U.S. Court of Appeals for the Fourth Circuit.

Pursuant to the reporting requirements of Title 5 of the *Code of Federal Regulations* (5 CFR) Part 724, "Implementation of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," the NRC reports that, in FY 2021, it made no reimbursements to the Judgment Fund in connection with any lawsuits.

VII. Disciplinary Actions

Section 203(a)(6) of the No FEAR Act requires the annual report of each agency describe the policy that it implements relating to disciplinary actions imposed against a Federal employee found to have discriminated against any individual in violation of any law cited under Section 201(a)(1) or (2) or to have committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under Section 201(a)(1) or (2). Furthermore, the act requires that the agency report the number of employees disciplined in accordance with such policy and the specific nature of the disciplinary action.

The NRC's antidiscrimination policy provides for appropriate disciplinary action to be taken against any employee found to have discriminated against an individual or to have engaged in other prohibited personnel actions, including retaliation for lawful whistleblowing activities or for exercising an appeal, complaint, or grievance right. During FY 2021, 34 claims of anti-harassment policy violations were filed which resulted in no findings. The most commonly alleged basis for harassment was race, followed closely by sex (gender).

VIII. No FEAR Act Training Plan

The NRC adheres to the requirements of the No FEAR Act by providing biennial training for all its employees. A global message is issued to all employees announcing the training cycle, which for this reporting period is 2021-2022. In addition, the NRC issues its No FEAR Act Notice annually to all employees via the agency's internal and external websites, to inform them of the

available rights and protections under Federal anti-discrimination and whistleblower protection laws.

The NRC No FEAR Act training was revised in 2022 to clarify recent changes to the EEOC case law and whistleblower regulations. SBCR examined trends and incorporated information in the revised biennial No FEAR Act training course on issues relating to harassment, retaliation, and reasonable accommodation. In FY 2022, the NRC will administer the No FEAR Act training to all employees to include managers and supervisors. The NRC will track and monitor the number of employees completing the training and issue notifications to those who have not completed it within the mandatory training cycle. All new NRC employees are advised during the New Employee Orientation Program of the requirement to complete their No FEAR Act training within 90 days of on-boarding.

ix. Trends, Analysis, and Practical Knowledge

Section 203(a)(7) of the No FEAR Act requires each agency to examine trends, causal analyses, practical knowledge gained through experience, and any actions completed or planned to improve the complaint or civil rights program of each agency.

In reaffirming the NRC's unwavering commitment to the principles of EEO and eliminating unlawful discrimination, harassment, and retaliation in the workplace, SBCR briefed the Commission on the state of the EEO program and provided awareness of issues and trends and solicited their perspectives and recommendations in strengthening the agency's EEO Program.

During the FY 2021 reporting period, the NRC provided quarterly EEO and Diversity training opportunities for managers and employees. All managers and supervisors are required to attend EEO and Diversity training every 3 years. The training focuses on Affirmative Employment, Diversity and Inclusion, Merit System Principles and Prohibited Personnel Practices, Unconscious/Implicit Bias, Reasonable Accommodation, Harassment, EEO Complaint Process and ADR. The NRC will continue to review and modify procedures in accordance with EEOC regulations, monitor complaint activity, and promote the benefits of ADR as a viable and cost saving alternative to traditional EEO discrimination complaint processing.

An analysis of complaints filed during FY 2021 shows the agency experienced a decrease in pre-complaint (informal) and formal complaint activity compared with FY 2020. Most of the complaints filed were brought under Title VII of the Civil Rights Act of 1964, as amended, and/or the Age Discrimination in Employment Act of 1967, as amended and the Rehabilitation Act of 1973, as amended. In FY 2021, reprisal, sex, race, age, and color were the most common bases of alleged discrimination. In addition, harassment (non-sexual), non-selection/promotion, performance appraisal, assignment of duties, and disciplinary actions were the most common issues.

Of the 20 total investigations completed in FY 2021, 10 were untimely, as they were not processed within the EEOC regulatory timeframes. In addition, the agency's average processing time for investigations increased from 262 calendar days in FY 2020 to 283 calendar days in FY 2021. At the end of FY 2021, eight complaints were pending investigation.

In addition, the NRC continues to focus on collecting and analyzing workforce data to comply with the EEOC's guidelines for a model EEO program, particularly by incorporating mechanisms for identifying triggers, analyzing barriers, and developing action plans to eliminate barriers. The NRC, in accordance with its EEOC Management Directive 715, routinely conducts barrier

analyses where it evaluates groups that show low participation rates in the workforce, focusing on promotions, separations, awards, and developmental opportunities.

The NRC continues to make progress in developing standard operating procedures and improving internal controls measures to ultimately meet the regulatory timeframes for completing investigations. The agency utilizes investigative services, including an Inter-Agency Agreement with the contractor U.S. Postal Service National EEO Investigative Services.

The agency's civil rights staff has considerable experience in processing EEO complaints. This knowledge base contributes significantly to the following:

- SBCR Director's continuous efforts to issue an "Annual No FEAR Act Notice" to all agency employees.
- Posting on the agency's website the summary updates of statistical No FEAR Act data related to EEO complaints filed.
- On-going improvement in communication with complainant's and managers.
- High-quality EEO training for managers and supervisors to prevent discrimination.
- Effective dissemination of information and clarification of changes to the EEO and ADR program.
- Development of a new way for employees to make an EEO contact or file a complaint through the use of an e-File Secure Portal where employees can electronically request to contact an EEO Counselor, file an informal complaint, request ADR, submit documents, and receive real-time status updates on their EEO complaints.
- Launching of "Entellitrak", a next generation web-based application used to collect case management components to meet the NRC's EEO business requirements to enhance case processing and management functionalities (i.e., inputting, processing, tracking, managing, and reporting on EEO complaint activities), and components customized to efficiently process and report EEO cases in every stage of the EEO process, from intake to resolution. Other benefits of the new Entellitrak system for NRC employees includes: 1) reduction in case backlog and processing times; 2) identification of areas/offices that are doing well or are in need of improvement; 3) and timely and accurate submissions of annual reporting requirements to the EEOC.

SBCR continues to maintain interactions with other Federal agencies, the Federal EEO and Civil Rights Council, and the Small Agency Council to gain and share knowledge and best practices in civil rights.

x. Conclusion

The NRC's meaningful and measurable accomplishments highlighted in this report are due in part to the No FEAR Act and its training, and strong and clear policy statements on EEO, ADR, Diversity and Inclusion, Anti-Harassment, Whistleblower Rights, and Reasonable Accommodation Procedures. The NRC continues to hold management officials accountable for compliance with EEO principles and policies by the placement of EEO critical elements in all SES performance appraisals and standards. Additionally, the NRC offers annual "EEO and Diversity Training for Managers and Supervisors" and periodic Anti-Harassment Training to its

entire workforce. The NRC will continue report on its commitment to merit systems principles and protect all employees from prohibited personnel practices under the law.