Fiscal Year 2014
Annual Report to Congress
on the
Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002

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I. Executive Summary

The Department of the Air Force (DAF) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act"), Public Law 107-174. The DAF report provides information on the number of cases in Federal court pending or resolved that resulted in judgments, awards, or compromise settlements; the amount of money required to be reimbursed by the Air Force; the number of employees disciplined as defined in 5 C.F.R. 724.102 and the specific nature, e.g., reprimand, etc., of the disciplinary actions taken, separated by the provisions(s) of law involved; the final year-end data about discrimination complaints for each fiscal year posted in accordance with Equal Employment Opportunity Commission (EEOC) regulations at 29 C.F.R. 1614 subpart G (implementing section 301(c) (1)(B) of the No FEAR Act); a detailed description of the agency's policy for taking disciplinary actions; an analysis of trends and practical knowledge gained through experience; any actions planned or taken to improve complaint or civil rights programs with the goal of eliminating discrimination and retaliation in the workplace; any adjustments to the budget to comply with the No FEAR Act requirements and the agency's written plan developed to train its employees.

This No FEAR Act Annual Report covers Fiscal Year (FY) 2013, from October 1, 2012 to September 30, 2013. This reporting period opened with 50 Federal court cases (Appendix A). Forty-six (46) of the cases had two or more bases. Forty-eight (48) cases alleged violations of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq) (Title VII). Two (2) cases alleged violations filed under the Age Discrimination in Employment Act (ADEA) of 1967 (29 U.S.C. §§ 631, 633(a)). There were no cases filed under the Rehabilitation Act of 1973 (Rehab. Act) (29 U.S.C. §791), and none fell under the Whistleblower Protection Act (WPA) (5 U.S.C. §2302(b)(8)).

During this reporting period there were a total of ten (10) Federal court cases closed with fourteen (14) complainants; three (3) with awards and seven (7) with no awards. One of the awards paid was from a case that opened in 2006 filed an appeal in FY11, and as a result an action against the agency was rendered and award paid in FY13. Total awards pay-out was $462K. Total attorney fees pay-out was $412.6K for two cases.

Reimbursement of the Judgment Fund for FY13 was $874.6K. This is an increase of $299.6K from what was reimbursed in FY12, (Appendix B). There were no adjustments made to the agency's budget to pay awards.

At the end of this reporting period 39 Federal court cases were pending. Of the pending Federal court cases; fifteen (15) cases are from FY13, twelve (12) case from FY12, five (5) cases from FY11, four (4) cases from FY10, one (1) case each from FY09, FY08 and FY07.

The DAF disciplined a total of nine (9) employees for infractions arising from provision of law cited in the No FEAR Act. All but two of the discipline actions resulted in a suspension the others resulted in reprimand. (Appendix C). Four (4) of the respective provisions were sexual harassment and five (5) were prohibited personnel practice. The agency's policy on disciplinary actions and penalty administration can be found in AFI 36-704, 22 July 1994, Civilian Personnel; Discipline and Adverse Actions: Guide to Disciplinary Actions, pgs. 34 – 40. (Appendix D).

The final year-end data posted on DAF's web site pursuant to Section 301(c) (1) (B) of the No FEAR Act is included in (Appendix E).

A summary of FY13 shows there were 405 complaints filed while in FY12, 485 complainants were filed, a decrease of approximately 16%. Complaints filed equated to just 0.23% of the DAF workforce. Two (2) cases were remands. This FY there was a total of two (2) complaints which resulted in findings of discrimination; both were findings without a hearing. The bases identified: retaliation and disability. The issues: non-sexual harassment, termination and "other". Complaint activity has fluctuated throughout the FYs but this FY shows a significant decline from FY08, when 468 cases were filed. Complaints filed equated to just 0.23% of the DAF workforce, two (2) cases were remands. This year there were eight (8) repeat filers while in FY12 there were twenty-five (25).

Retaliation 161 complaints) was the most filed basis this FY. In comparison, with FY12, there were 205 retaliation complaints filed, a decrease of about 21%. The second most filed basis was race (Black or African American) 158 complaints. In FY12 there were 181 complaints filed down by 13% this FY. The basis of race has been in the top three most filed bases since 2008. This FY all bases reflected a decrease while color (43) and the equal pay act (3) complaints remained the same as in FY12. Other significant decreases were in the bases of age by 23 complaints and disability by 30 complaints.

The most prevalent issues this reporting period were non-sexual harassment (133), assignments (66) and promotions/non-selection (62). The issue of sexual harassment reflected an increase of 32%, in FY12 there were 23 complaints compared to 34 complaints this FY. The most significant decrease this reporting period was in evaluation/appraisal which decreased by 35%, and non-sexual harassment which decreased by 18% in comparison to FY12. The remaining issues were unremarkable.

In the area of "complaints pending during fiscal year" the average numbers of days increased in the investigation stage by 8 days and a decrease in the average number of days in final action stage by 70 days. The area of "complaints pending during fiscal year where hearing was requested" average number of days in investigation state reflected an increase by 19 days. The most significant change was in this same area under the average number of days in final actions stage a decrease by 110 days. The area of "complaints pending during fiscal year where hearing was not requested" was unremarkable.

The agency dismissed a total of 56 complaints this FY while in FY12 68 cases were dismissed. The average days pending prior to dismissal was 40 days compared to 96 days in FY12, a significant improvement of 56 days. Total complaints withdrawn by complainants were 40 this FY compared to 57 withdrawals last FY.

In the area of "pending complaints filed in previous years by status" this FY was 388 compared to 340 in FY12. The number of complaints that were pending investigation was 20, number of complaints pending in hearing 204, number of complaints pending in final action were 162 and the number of complaints pending in appeal with EEOC Office of Federal Operations were 238.

The area of complaints investigations pending where investigation exceeding the required timeframes increased this reporting to 348 days compared to 291 days in FY12, an increase of 16% or 57 days.

The agency's training plan is found at (APPENDIX F). It outlines how the agency implemented the No FEAR training requirements. The No FEAR training statistical report for civilian employees trained will be reported in the FY14 No FEAR Report.

II. Introduction

The No FEAR Act requires Federal agencies to submit annual reports 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 Attorney General, and EEOC. Additionally, the U.S. Office of Personnel Management's (OPM) final regulation on the No FEAR Act requires that OPM also receive a copy of the report. The DAF submission is in accordance with these reporting requirements.

III. Background

The No FEAR Act was signed into law on May 15, 2002, and became effective on October 1, 2003. The Act requires Federal agencies to be accountable for violations of antidiscrimination and whistleblower protection laws and to post certain statistical data on their web sites relating to Federal sector EEO complaints filed with the agencies.

Section 203 of the No FEAR Act requires that each Federal agency submit its annual report to Congress not later than 180 days after the end of each FY. Federal agencies must report, among other things, the number of Federal court cases arising under each of the respective areas of law specified in the Act in which discrimination was alleged; the status or disposition of cases; amount of money required to be reimbursed; number of employees disciplined; any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or committed a prohibited personnel practice; and an analysis of the data collected with respect to trends, and causal analysis.

The President delegated responsibility to OPM for the issuance of regulations governing implementation of Title II of the No FEAR Act. The OPM published final regulations on May 10, 2006, concerning the reimbursement provisions of the Act; final regulations to carry out the notification and training requirements of the Act on July 20, 2006; and the final regulations to implement the reporting and best practices provisions of the No FEAR Act on December 28, 2006. The EEOC issued its final regulations to implement the posting requirements of Title III of the No FEAR Act on August 2, 2006. The DAF has prepared this report based on the provisions of the No FEAR Act and OPM and EEOC's final regulations.

IV. Data

Section 203(a)(1) of the No FEAR Act requires that Federal agencies 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." The OPM's final regulations at 5 C.F.R. § 724.302 on reporting and best practices issued on December 28, 2006, clarify section 203(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 laws 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."

Additionally, the final year-end data posted on DAF's web site pursuant to Section 301(c) (1) (B) of the No FEAR Act is included in (Appendix E). The final year-end data indicate there were 405 complaints of discrimination filed by 396 complainants. This is a decrease of 15.5% in complaints filed 0.23% of the DAF workforce.

a. Civil Cases

During this reporting period there were 50 Federal court cases pending (Appendix A). Forty-six (46) of the cases had two or more bases. Forty-eight (48) cases alleged violations of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq) (Title VII). Two (2) alleged violations filed under the Age Discrimination in Employment Act (ADEA) of 1967 (29 U.S.C. §§ 631, 633(a)). There were no cases filed under the Rehabilitation Act of 1973 (Rehab. Act) (29 U.S.C. §791), and none fell under the Whistleblower Protection Act (WPA) (5 U.S.C. §2302(b)(8)).

b. Reimbursement to the Judgment Fund

The OPM published final regulations in the Federal Register on May 10, 2006, to clarify the Agency reimbursement provisions of Title II of the No FEAR Act. These regulations state, among other things, that the Financial Management Service (FMS), a Bureau of the U.S. Department of the Treasury, will provide notice to an Agency's Chief Financial Officer within 15 business days after payment from the Judgment Fund. The Agency is required to reimburse the Judgment Fund within 45 business days after receiving the notice from FMS or must contact FMS to make arrangements in writing for reimbursement.

The reimbursement to the Treasury Judgment Fund was $874.6K for three discrimination cases filed in Federal court resulting in judgments, awards, or compromise settlements during FY13. A case that opened in 2006 filed an appeal in FY11 which resulted in findings against the agency and award paid in FY13. Of the amount reimbursed $412.6K was designated attorney's fees. The DAF has reimbursed the Treasury Judgment Fund of all monies owed to the Fund for judgments, awards, and compromise settlements for FY13. A more detailed comparative can be found in (Appendix B).

c. Types of Disciplinary Actions

Section 203(a)(4) of the No FEAR Act requires that Federal agencies include in the Annual Report to Congress the number of disciplinary actions taken for conduct inconsistent with Federal anti-discrimination and whistleblower protections. The OPM's regulation clarified that these cases refer to the number of discrimination cases for which the Judgment Fund paid on behalf of the Agency. The regulations also defined disciplinary actions to include any one, or a combination of, the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal. The OPM's final regulation also provides that irrespective of discrimination cases in Federal court, Federal agencies are to report the total number of employees disciplined and the specific nature of the disciplinary action taken in accordance with Agency policy that prescribes disciplinary action for discrimination, retaliation, or harassment conduct, and whistleblower protection law violations.

This FY a total of 9 disciplinary actions fell under the provision of No FEAR Act. Two resulted in reprimands and seven resulted in suspensions. Four of the complaints fell under sexual harassment and five fell under the prohibited personnel practices. A more detailed comparative can be found in (Appendix C).

d. Final Year-End Data Posted Under Section 301(c)(1)(B)

The final year-end data posted on DAF's web site pursuant to Section 301(c) (1) (B) of the No FEAR Act is included in (Appendix E). The following is a synopsis of the final report.

Complaint Activity

Overall, FY13 complaint activity of 405 cases reflects a decrease of 16% or 80 cases less filed in comparison to FY12. In FY12, 485 complaints were filed, and 617 were filed in FY11. Complaint activity has fluctuated throughout the FYs but this FY shows a significant decline from FY08, when 468 cases were filed. Complaints filed equated to just 0.23% of the DAF workforce, two (2) cases were remands.

Complaints by Basis

The basis of retaliation was the most filed bases and reflected the most significant decrease of 161 cases filed this reporting period in comparison to FY12 where 205 claims of retaliation were filed, a decrease of 21% this FY. The second most filed basis was of race (Black or African American) with 158 complaints. In FY12 there were 181 complaints filed a decrease of 13% this FY. This FY all bases reflected a decrease, while color (43) and equal pay act (3) remained the same from FY12. Other decreases were in the bases of age by 23 complaints and disability by 30 complaints.

Complaints by Issue

The most prevalent issues this reporting period were non-sexual harassment (133), assignments (66) and promotions/non-selection (62). The issue of sexual harassment reflected an increase of 32%, in FY12 there were 23 complaints compared to 34 complaints this FY. The most significant decrease this reporting period was in evaluation/appraisal decreased of 35%, and non-sexual harassment which decreased of 18% in comparison to FY12. The remaining issues were unremarkable.

Processing Time

In the area of "complaints pending during fiscal year" the average numbers of days showed an increased in the investigation stage of 8 days and a decrease in the average number of days in final action stage of 70 days. The area of "complaints pending during fiscal year where hearing was requested" average number of days in investigation stage reflected an increase of 19 days. The most significant change was in this same area under the average number of days in final actions stage a decrease of 110 days. The area of "complaints pending during fiscal year where hearing was not requested" was unremarkable.

Complaints Dismissed by Agency

The agency dismissed a total of 56 complaints while in FY12, 68 cases were dismissed. The average days pending prior to dismissal was 40 days compared to 96 days in FY12, a significant improvement of 56 days. Total complaints withdrawn by complainants were 40 this FY compared to 57 withdrawals last year.

Total Final Actions Finding Discrimination

There were a total of two findings of discrimination both were finding without a hearing. The bases identified in the findings were: retaliation and disability. The issues were non-sexual harassment, termination and "other".

Pending Complaints Filed in Previous Fiscal Years by Status

In the area of "pending complaints filed in previous years" this FY was 388 compared to 340 in FY12. The number of complaints pending investigation was 20, number of complaints pending in hearing 204, number of complains pending in final action 162 and the number of complaints pending in appeal with EEOC Office of Federal Operations was 238.

Complaint Investigations

Overall, complaints exceeding the required timeframes increased this reporting by 348 days compared to 291 days in FY12, an increase of 16% or by 57 days.

e. Description of Policy on Disciplinary Actions and Selecting the Penalty

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 discriminated against any individual in violation of any of the laws cited under section 201(a) (1) or (2), or committed another prohibited personnel practice that was revealed in the investigation of a complaint claiming a violation of any of the laws cited under section 201(a) (1) or (2).

(Appendix D) references the agency's disciplinary action and guidance on selecting the appropriate penalty. (Appendix C) provides number of DAF employees disciplined this reporting period for prohibitions of unlawful discrimination and discriminatory practices.

f. No FEAR Training

Section 202(c) of the No FEAR Act requires Federal agencies to provide training to their employees on the rights and remedies under Federal antidiscrimination, retaliation, and whistleblower protection laws. Under 5 C.F.R. § 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 training within 90 days of appointment, which can be met through an Agency orientation or training program.

(Appendix F) provides a detailed description of the agency's No FEAR training plan. The No FEAR training statistical report for civilian employees trained will be reported in the FY14 No FEAR Report.

V. Analysis of Trends, Causal Analysis, and Practical Knowledge Gained Through Experience

Section 203(a) (7) of the No FEAR Act requires that Federal agencies undertake "an examination of trends, causal analysis, and practical knowledge gained through experience and any actions planned or taken to improve complaint or civil rights programs of the agency." See; **VII. DAF's Actions Planned or Taken to Improve Complaint or Civil Rights Programs Pursuant to Section 203 (a)(7)(D)**

VI. Adjustment to Budget

Section 203(a) (8) of the No FEAR Act requires that Federal agencies include in their Annual Report to Congress information regarding "any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201."

The DAF has not made such an adjustment to its budget.

VII. DAF's Actions Planned or Taken to Improve Complaint or Civil Rights Programs Pursuant to Section 203 (a)(7)(D)

Air Force Equal Opportunity continued to make progress toward achieving a model EEO program during FY 2013 despite such challenges as civilian hiring freezes, reductions in manpower authorizations, and funding shortages. A list of accomplishments and initiatives to provide equal opportunity for all employees and promote an inclusive and diverse workforce that maximizes employees' potential is shown below.

EO Process Improvement.

Timeliness of Processing EEO Complaints. Timeliness of Processing EEO Complaints. In FY13, the Air Force conducted nine monthly training sessions via webinars (Defense Connect Online or DCO) since budget constraints reduced travel to workshops or conferences. Presenters included representatives from EEOC Office of Federal Operations, DoD Investigations Resolution Division, the AF EO IT Network contractor, and EO directors from various base-level offices. An average of 65 offices received the training without spending travel and lodging funds.

Affirmative Employment Program/Special Emphasis Programs:

a. **Air Force Barrier Analysis Working Group (AFBAWG)**: The AFBAWG executive team met with their respective team members at headquarters, major command, and local base levels for various perspectives. Actions taken include:

(1) Completion of an Air Force-wide civilian exit survey to capture reasons employees are voluntarily separating from the Air Force. Employees are requested to indicate disability and EEO group category. Questions include whether any issue related to a disability contributed to the employee's decision to leave the Air Force. Implementation of the Survey is projected for 2nd quarter FY14

b. MD715 Transformation: Some projects were begun to more effectively and efficiently execute the development of the annual MD715 report electronically.

(1) Business case in development for use of SharePoint as an on-line tool to roll up the following from base level to headquarters: regulatory compliance checklist, barrier analysis, and best practices.

(2) The Air Force Personnel Center has pulled MD715 data tables for major command (MAJCOM) use in barrier analysis. Such tables have been developed for local base use. Implementation of base level data tables expected CY14.

c. AF Civilian Intelligence Strategic Workforce Plan – The Air Force Intelligence Career Field Manager developed the first Air Force Civilian Intelligence (GS-0132 job classification series) Strategic Workforce Plan. The plan identifies the current posture of the Intelligence workforce (workforce demographics, attrition data, etc.), considers current and projected competencies, and identifies critical gaps to capitalize on current talents while shaping the workforce of the future.

d. Regulatory Instruction. Initiated technical and functional coordination of draft updated regulatory guidance governing the AEP/SEP/Disability Program.

e. Barrier Analysis Studies:

(1) The AF Audit Agency completed a barrier analysis study to determine whether Air Force officials effectively achieved a diverse workforce, in terms of race, ethnicity, and gender. The recommendations from the study will be used for actionable items to eliminate barriers to recruitment and retention.

(2) A civilian diversity study is in progress by a contractor on lack of advancement by particular EEO groups to senior levels (GS 15, SL/ST, and SES).

f. Participation in Asian American/Pacific Islander (AA/PI) White House Initiatives. The Director of EO initiated a meeting with representatives of the White House Initiatives (WHI) for AA/PI in an effort to enhance Air Force efforts. One unintended outcome was for the commander of the Air Force District of Washington, an Air Force major general, to serve as a military senior leader advisor for the AA/PI WHI.

Diversity Initiatives:

a. The Air Force Diversity Strategic Roadmap contains guiding priorities to attract and recruit a high quality, and diverse workforce. In FY13 the Air Force senior leadership demonstrated its commitment to making diversity an institutional priority, as evidenced by the following:

b. The Secretary of the Air Force (SecAF), Chief of Staff of the Air Force (CSAF), and Chief Master Sergeant of the Air Force signed a Declaration on Diversity to reinforce their commitment to the principles of diversity and inclusion and to recruiting, retaining and developing Airmen representative of America's broadest landscape. Continuing this commitment, the SecAF approved the AF Diversity Strategic Communications Plan.

c. The Air Force publishes an annual Diversity Outreach Calendar to 25,000 prospective applicants (updated September 2013), which contains national/local-level outreach events supported by a variety of agencies. Traditionally, the Air Force supports outreach events

that address diversity, as well as critical skills requirements (e.g., STEM, languages, etc.) needed to create a highly qualified diverse total force.

d. The SecAF and the CSAF hosted a Diversity Focus Day on 12 Jul 13 to address diversity issues within the Air Force.

e. Diversity was a 2013 USAF Fall CORONA (Four-Star) Senior Leaders Conference topic.

f. The Air Force Diversity Operations Office, HQ USAF/A1DV plans, coordinates, and provides oversight to national-level diversity outreach programs supporting AF diversity program goals and objectives. They utilize a "Total Force" approach (i.e., active duty, civilian, Guard and Reserve), including a synchronized events calendar. A1DV utilizes a return on investment report that determines which events are supported. Budget constraints significantly reduced the number of events offered in FY13 but at the grass roots level, HQ USAF/A1DV continued to plan local diversity outreach events in the National Capital Region and encouraged local commanders to conduct similar outreach events in their areas.

Hispanic Employment Initiatives:

a. The Enterprise Recruiting (ER) team at the Air Force Personnel Center (AFPC) continues its efforts on finding innovative and alternative strategies to recruit, hire and promote employees from diverse backgrounds into the Air Force Civilian Service (AFCS) workforce, to include Hispanics, in support of Executive Order (EO) 13171, Hispanic Employment in the Federal Government. Despite the workforce challenges associated with the Air Force hiring controls, ER continued to place significant emphasis on providing information on Federal employment opportunities to Hispanics through the development and use of Spanish-speaking commercials and literature. In addition, the outreach efforts were extended to the national and local Hispanic community, as well as Hispanic college/university students and faculty members who are influential with Hispanic students

b. The ER continued its partnership with the following organizations to ensure diversity representation within all AFCS occupational series: Latinos for Hire, the Hispanic Association of Colleges and Universities (HACU), Hispanic Engineer National Achievement Awards Conference (HENAAC), Mexican American Engineers and Scientists (MAES) and League of United Latin American Citizens (LULAC).

c. Due to the continued hiring challenges AFCS faced and limited budget and travel restrictions imposed in FY13, ER focused its recruiting efforts utilizing social media, diversity job boards, diversity virtual recruiting events, university career center job announcements and continued its advertising awareness campaign throughout various diversity editorials and publications, such as EOE Journal, Diversity Careers, and Hispanic Network Magazine. In collaboration with the Career Field Teams (CFTs) and its field recruiters, ER continued to find resources to attract Hispanic candidates for Pathways Interns and recent graduate positions, and hard-to-fill and mission critical occupations, with the end result being improved diversity among targeted occupations and ethnicity groups. In addition, AFCS launched a specialized online media

campaign targeting Hispanics. This media included sites such as National Association of Hispanic Nurses, Society of Hispanic Professional Engineers, and National Society of Hispanic MBAs. Our overall marketing strategy has resulted in 10% increase in candidates visiting our career portal and a 15% increase in candidates registering for job opportunities in our applicant tracking system (Recruitment Opportunity Activity or ROA System) which launched in January 2013.

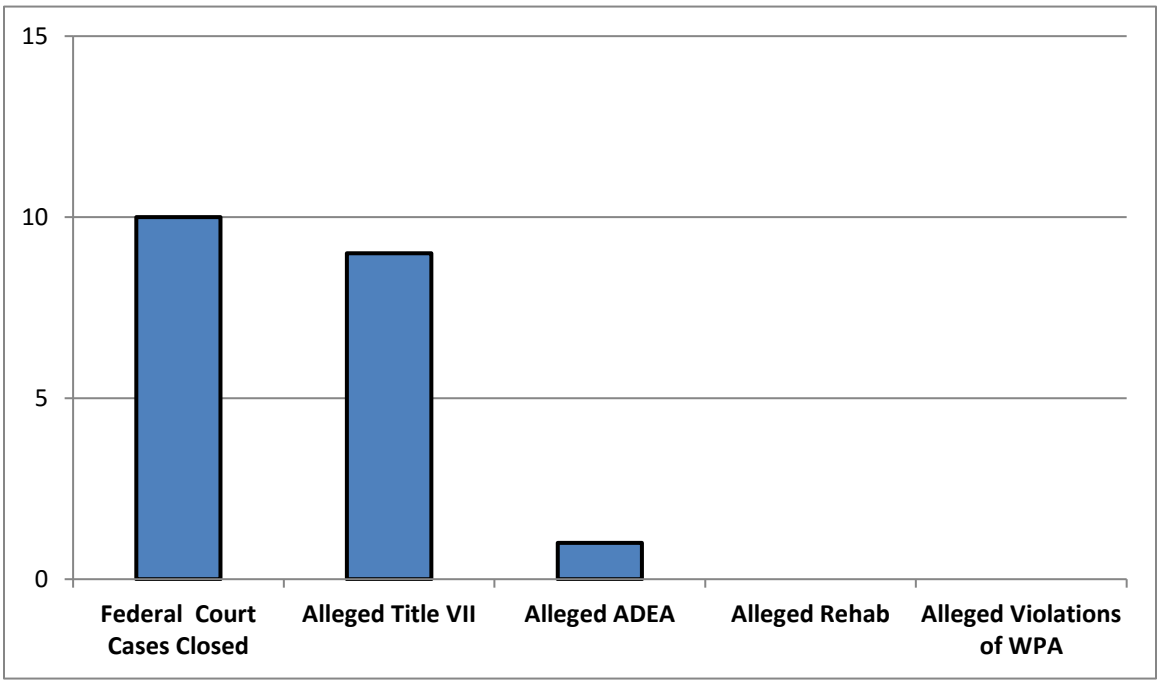
d. Finally, the ER team in partnership through its contract with OPM, developed several career field videos with testimonials from current Hispanic employees. These videos demonstrate the diversity of the AFCS and are seen and hosted on the AFCS website for public viewing. The newly revised commercial website re-launched in Sep 13 also maintains a new Diversity and Inclusion area and is intended to reach all candidates of a diverse background. This website has received over 5.6 million visitors since its original launch date in July 2010.

e. In summary, AFCS and the ER Team have increased awareness of a career with the Air Force; it has increased representation of specific EEO groups in hard-to-fill / mission critical occupations and increased the number of qualified applicants; events resulted in filling existing vacancies all while increasing Hispanic accessions by 1.2% from the previous fiscal year.

VIII. No FEAR Plan.

The agency's training plan is found at APPENDIX F. The Air Force has developed on its Advanced Distributed Learning Service (ADLS) an online "No FEAR Act" training course to carry out the requirements of the No FEAR Act Training Plan. The 30 minutes course provides instruction on all topics required by the No FEAR Act. All DAF civilian employees (executives, managers, and supervisors), and military members that supervises civilians, must accomplish training as required by 5 CFR § 724.203(d). The on-line training satisfies the initial and the biennial training requirements of 5 CFR § 724.203(e). Additionally, there is a ten question quiz with a minimum passing score of 70%. For employees without ADLS accounts (non-appropriated funds employees), the Equal Opportunity offices conduct on-site briefings using Air Force-approved No FEAR Act training lesson plans. Attendees at on-site briefing do not have to take the quiz. EO offices must train new employees as part of its orientation program within 90 calendar days of the new employees' appointment. At all on-site briefings, the EO offices must track numbers of individuals trained and report the statistics when required by AFPC/EO or high headquarters. This reporting period will not reflect the statistical data for training.

APPENDIX A: Closed Federal Court Cases by Alleged Violation



Note: A total of 10 cases closed with fourteen complainants.

APPENDIX B: Reimbursement of Judgment Fund

5 CFR §724.302 (a) (2)						
Amount of Money Reimbursed to the Justice Fund (In Thousands)						
Fiscal Year Data	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Employee	$2,550	$1,502	$190	$660	$575	$462
Attorney	N/A	N/A	N/A	N/A	$37	$412.6

APPENDIX C: Disciplinary Actions Taken

Federal Employee Discrimination and Retaliation - Disciplinary Actions Relating to Discrimination, Prohibited Personnel Practice, Whistleblower	Comparative Data Previous Fiscal Year Data					
	2008	**2009**	**2010**	**2011**	**2012**	**2013**
Total Disciplinary Actions	**7**	**10**	**14**	**8**	**10**	**9**
Reprimand	1	3	2	0	2	2
Suspension	6	6	12	8	8	7
Removal	0	0	0	0	0	0
Demoted	0	1	0	0	0	0
Respective Provisions of No FEAR						
Discrimination	1	1	3	4	0	0
Prohibited Personnel Practice	2	5	5	2	5	5
Sexual Harassment	4	4	6	2	5	4

Note: Source document CPO's Adverse Action Report 2013

APPENDIX D: AFI 36-704, 22 July 1994, Civilian Personnel; Discipline and Adverse Actions: Guide to Disciplinary Actions, pgs 34 – 40

Attachment 3

GUIDE TO DISCIPLINARY ACTIONS

NOTE: See **Section F** of this regulation for information concerning use of this guide and selection of appropriate penalties in disciplinary actions:

A3.1. Cause of Action Column:

A3.1.1. **IT IS NOT NECESSARY TO STATE A CAUSE OF ACTION EXACTLY AS SHOWN IN THIS COLUMN.** What is important is to state exactly what the employee did wrong, preferably without using legal terms suggesting crime. If such legal terms were used, it might be necessary to prove all the elements necessary to establish that the crime has been committed, including felonious intent.

A3.1.2. Cause is best identified by a specific charge or label for the offense IF that charge or label is relevant. **BE CAREFUL TO SELECT A LABEL WHICH FITS THE FACTS AND NOT TO DISTORT THE FACTS TO FIT A SPECIFIED OFFENSE IN THE GUIDE.**

Selecting the Penalty

SELECTING THE PENALTY

Use this attachment along with **Attachment 3**. It shows the interrelationships of some key factors in the disciplinary system but neither establishes additional procedural requirements nor automatically sets penalties. Other factors may also be weighed.

Information on how basic penalty1 was derived and on how favorable elements 2 were considered need not be included in notices but must be available for subsequent use. 3	Information must be included in the notices of any consideration used to increase the severity of the basic penalty. 4

1. Basic penalty is the one that would be used if there were no other considerations. It is based on:	2. Favorable elements are those considerations which tend toward the imposition of less severe penalties. Included are:	3. Unfavorable elements are considerations which tend to	4. Penalty assessed results from weighing of favorable and unfavorable factors in relationship to the offense.

a. **Offense:** 1. Character. 2. Seriousness. 3. Consequences. b. **Rehabilitative potential of penalty.** c. **Character of employee's position**	a. **Situation.** 1. Possibility of genuine misunderstanding. 2. Enticements or provocations. 3. Mitigating circumstances. b. **Employee:** 1. Length of service. 2. Quality of work history. 3. Personal reputation. 4. Past contributions. 5. Record of cooperativeness. 6. Record of achievements.	show a need for more severe action than is usually taken. Included are: a. **Penalties for past offenses within:** 1. Suspension - 3 years. 2. Reprimand - 2 years. 3. Admonishment - 2 years.[5] b. **Combination of offenses.** c. **Series of offenses.** d. **Character of other offenses.** e. **Recency of other offenses.** f. **Employee willfulness.**	a. Proposed penalty is determined on the basis of all information available at time of institution of action, and penalty is specifically stated in notice of proposed action. b. Penalty decided upon is determined based on all available information including employee's answer to notice of proposed action. Give consideration to request for compassion. State penalty decided upon and effective date in notice of decision.

APPENDIX E: No FEAR Act Report

Equal Employment Opportunity Data Posted Pursuant to the No FEAR Act

Equal Employment Opportunity Data Posted Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. 107-174

Complaint Activity	Comparative Data					
	2008	2009	2010	2011	2012	2013
Number of Complaints Filed in Fiscal Year	468	507	548	617	485	405
Number of Complainants	427	452	477	553	457	396
Repeat Filers	31	36	54	44	25	8

Complaints by Basis	Comparative Data					
	2008	2009	2010	2011	2012	2013
Race	192	209	197	239	181	158
Religion	10	18	16	20	18	17
Retaliation	203	226	274	288	205	161
Sex	152	187	165	168	161	137
National Origin	65	65	65	51	57	39
Color	59	45	59	56	43	43
Age	119	134	151	182	138	115
Disability	102	120	135	208	138	108
Equal Pay Act	2	6	8	5	3	3

Complaints By Issues	Comparative Data					
	2008	2009	2010	2011	2012	2013
Appointment	13	16	23	41	30	22
Assignment	76	63	76	91	75	66
Awards	13	11	10	10	13	11
Conversion	0	0	1	3	1	0
Disciplinary Action - Demotion	3	2	3	1	1	4
Disciplinary Action - Reprimand	27	28	23	30	24	33
Disciplinary Action - Suspension	24	26	29	31	33	39
Disciplinary Action - Removal	11	9	14	9	19	10
Disciplinary Action - Other	30	20	33	33	37	33
Duty Hours	18	21	27	21	25	15
Evaluation/Appraisal	107	115	91	99	71	46
Examination/Test	0	2	2	2	3	2
Non Sexual Harassment	134	141	168	164	163	133
Sexual Harassment	30	28	21	22	23	34
Medical Examination	3	4	9	4	6	5
Pay Including Overtime	8	23	21	29	20	14
Promotion/Non-Selection	66	107	85	97	57	62
Denied Reassignment	8	13	10	12	8	7
Directed Reassignment	23	16	28	21	20	24
Reasonable Accommodation	18	24	27	46	26	35
Reinstatement	2	0	3	3	2	2
Retirement	3	4	2	5	3	2
Termination	30	34	42	54	43	29
Terms/Conditions of Employment	71	52	72	83	68	53
Time and Attendance	34	35	26	33	30	28
Training	23	21	26	35	39	23
Other	104	125	150	157	129	91

Processing Time						
	2008	2009	2010	2011	2012	2013
Complaints Pending During Fiscal Year						
Average Number of Days in Investigation Stage	188	199	204	224	260	268
Average Number of Days in Final Action Stage	235	326	351	227	304	234
Complaints Pending During Fiscal Year Where Hearing was Requested						
Average Number of Days in Investigation Stage	200	212	206	232	262	281
Average Number of Days in Final Action Stage	90	203	105	137	180	70
Complaints Pending During Fiscal Year Where Hearing was not Requested						
Average Number of Days in Investigation Stage	184	187	204	215	255	259
Average Number of Days in Final Action Stage	342	403	480	308	441	400

Complaints Dismissed by Agency	Comparative Data					
	2008	2009	2010	2011	2012	2013
Total Complaints Dismissed by Agency	63	61	88	84	68	56
Average Days Pending Prior to Dismissal	99	60	114	63	96	40
Total Complaints Withdrawn by Complainants	51	48	50	70	57	40

Total Final Action Finding Discrimination	Comparative Data					
	2008	2009	2010	2011	2012	2013
Total Number Finding	1	2	2	4	7	2
Without Hearing	0	1	1	0	1	2
With Hearing	1	1	1	4	6	0

Findings of Discrimination Rendered by Basis	Comparative Data					
	2008	2009	2010	2011	2012	2013
Total Number of Findings	1	2	2	4	7	2
Race	1(100.00%)	0	1(50.00%)	2(50.00%)	0	0
Religion	0	0	0	1(25.00%)	0	0
Retaliation	0	2(100.00%)	1(50.00%)	0	6(85.71%)	2(100.00%)
Sex	1(100.00%)	0	0	2(50.00	0	0
National Origin	0	0	0	0	0	0
Color	0	0	1(50.00%)	0	0	0
Age	0	0	0	1(25.00%)	1(14.29%)	0
Disability	0	0	0	1(25.00%)	0	1(50.00%)
Equal Pay Act	0	0	0	0	0	0

Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings

Findings of Discrimination Rendered by Basis	Comparative Data					
	2008	2009	2010	2011	2012	2013
Findings After Hearing	1	1	1	4	7	0
Race	1(100.00%)	0	0	2(50.00%)	0	0
Religion	0	0	0	1(25.00%)	0	0
Retaliation	0	1(100.00%)	1(100.00%)	0	6(85.71%)	0
Sex	1(100.00%)	0	0	2(50.00%)	0	0
National Origin	0	0	0	0	0	0
Color	0	0	0	0	0	0
Age	0	0	0	1(25.00%)	1(14.29%)	0
Disability	0	0	0	1(25.00%)	0	0
Equal Pay Act	0	0	0	0	0	0

Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings

Findings of Discrimination Rendered by Basis	Comparative Data					
	2008	2009	2010	2011	2012	2013
Findings Without Hearing	0	1	1	0	0	2
Race	0	0	1(100.00%)	0	0	0
Religion	0	0	0	0	0	0
Retaliation	0	1(100.00%)	0	0	0	2(100.00%)
Sex	0	0	0	0	0	0
National Origin	0	0	0	0	0	0
Color	0	0	1(100.00%)	0	0	0
Age	0	0	0	0	0	0
Disability	0	0	0	0	0	1(50.00%)
Equal Pay Act	0	0	0	0	0	0

Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings

Findings of Discrimination Rendered by Issues	Comparative Data					
	2008	2009	2010	2011	2012	2013
Total Number of Findings	1	2	2	4	7	2
Appointment	0	0	1(50.00%)	0	0	0
Assignment	0	0	0	1(25.00%)	2(28.57%)	0
Awards	0	0	0	0	0	0
Conversion	0	0	0	0	0	0
Disciplinary Action - Demotion	0	0	0	0	0	0
Disciplinary Action - Reprimand	0	0	0	0	0	0
Disciplinary Action - Suspension	0	0	0	0	0	0
Disciplinary Action - Removal	0	0	0	0	0	0
Disciplinary Action - Other	0	0	0	0	1(14.29%)	0
Duty Hours	0	0	0	0	1(14.29%)	0
Evaluation/Appraisal	0	0	0	1(25.00%)	3(42.86%)	0
Examination/Test	0	0	0	0	0	0

Non Sexual Harassment	1(100.00%)	0	1(50.00%)	2(50.00%)	1(14.29%)	1(50.00%)
Sexual Harassment	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	1(14.29%)	0
Promotion/Non-Selection	1(100.00%)	0	0	0	0	0
Denied Reassignment	0	0	0	0	0	0
Directed Reassignment	0	0	0	0	1(14.29%)	0
Reasonable Accommodation	0	0	0	0	0	0
Reinstatement	0	0	0		0	0
Retirement	0	0	0		0	0
Termination	0	0	0	0	0	1(50.00%)
Terms/Conditions of Employment	0	0	0	0	1(14.29%)	0
Time and Attendance	0	1(50.00%)	0	0	2(28.57%)	0
Training	0	0	0	1(25.00%)	1(14.29%)	0
Other	0	1(50.00%)	0	0	2(26.57%)	1(50.00%)

Findings of Discrimination Rendered by Issues	**Comparative Data**					
	2008	**2009**	**2010**	**2011**	**2012**	**2013**
Findings After Hearing	1	1	1	4	7	0
Appointment	0	0	0	0	0	0
Assignment	0	0	0	1(25.00%)	2(28.57%)	0
Awards	0	0	0	0	0	0
Conversion	0	0	0	0	0	0
Disciplinary Action - Demotion	0	0	0	0	0	0
Disciplinary Action - Reprimand	0	0	0	0	0	0
Disciplinary Action - Suspension	0	0	0	0	0	0
Disciplinary Action - Removal	0	0	0	0	0	0
Disciplinary Action - Other	0	0	0	0	1(14.29%)	0
Duty Hours	0	0	0	0	1(14.29%)	0
Evaluation/Appraisal	0	0	0	1(25.00%)	3(42.86%)	0
Examination/Test	0	0	0	0	0	0

Non Sexual Harassment	1(100.00%)	0	1(100.00%)	2(50.00%)	1(14.29%)	0
Sexual Harassment	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	1(14.29%)	0
Promotion/Non-Selection	1(100.00%)	0	0	0	0	0
Denied Reassignment	0	0	0	0	0	0
Directed Reassignment	0	0	0	0	1(14.29%)	0
Reasonable Accommodation	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0
Retirement	0	0	0	0	0	0
Termination	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	1(14.29%)	0
Time and Attendance	0	1(100.00%)	0	0	2(28.57%)	0
Training	0	0	0	01(25.00%)	1(14.29%)	0
Other	0	1(100.00%)	0	0	2(28.57%)	0

Findings of Discrimination Rendered by Issues	**Comparative Data**					
	2008	**2009**	**2010**	**2011**	**2012**	**2013**
Findings Without Hearing	0	1	1	0	1	2
Appointment	0	0	1(100.00%)	0	0	0
Assignment	0	0	0	0	0	0
Awards	0	0	0	0	0	0
Conversion	0	0	0	0	0	0
Disciplinary Action - Demotion	0	0	0	0	0	0
Disciplinary Action - Reprimand	0	0	0	0	0	0
Disciplinary Action - Suspension	0	0	0	0	0	0
Disciplinary Action - Removal	0	0	0	0	0	0
Disciplinary Action - Other	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0
Evaluation/Appraisal	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0

Non Sexual Harassment	0	0	0	0	0	1(50.00%)
Sexual Harassment	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0
Denied Reassignment	0	0	0	0	0	0
Directed Reassignment	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0
Retirement	0	0	0	0	0	0
Termination	0	0	0	0	0	1(50.00%)
Terms/Conditions of Employment	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0
Training	0	0	0	0	0	0
Other	0	1(100.00%)	0	0	0	1(50.00%)

Pending Complaints Filed in Previous Years by Status	**Comparative Data**					
	2008	**2009**	**2010**	**2011**	**2012**	**2013**
Total Complaints From Previous Fiscal Years	208	215	244	286	340	388
Total Complainants	191	200	222	237	298	349
Number of Complaints Pending in Investigation	14	10	10	25	25	20
Number of Complaints Pending in Hearing	82	123	144	164	217	204
Number of Complaints Pending in Final Action	102	81	83	90	88	162
Number of Complaints Pending in Appeal with EEOC Office of Federal Operations	162	165	177	200	232	238

Complaint Investigations	Comparative Data					
	2008	2009	2010	2011	2012	2013
Pending Complaints Where Investigation Exceeds Required Time Frames	121	130	161	210	291	348

APPENDIX F: No FEAR Act Training Plan

No FEAR Training Plan

This document sets forth the Department of the Air Force's (DAF) training plan, pursuant to the Notification and Federal Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act"), Public Law 107-174, and 5 CFR Part 724.203.

Requirements of the No FEAR Act

Specifically, Section 202(c) of Title II of the No FEAR Act sets forth the following requirement: "Each Federal agency shall provide to the employees of such agency training regarding the rights and remedies applicable to such employees under the [Federal antidiscrimination and retaliation statutes and other legal authority]."

Requirements of 5 CFR Part 724

5 CFR § 724.203(a) requires the following: "Each agency must develop a written plan to train all of its employees (including supervisors and managers) about the rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws applicable to them."

5 CFR § 724.203(b) further specifies: "Each agency training plan shall describe: (1) The instructional materials and method of the training, (2) The training schedule, and (3) The means of documenting completion of training."

Next, 5 CFR § 724.203(d) requires each agency "to complete the initial training under this subpart for all employees (including supervisors and managers) by December 17, 2006. Thereafter, each agency must train all employees on a training cycle of no longer than every 2 years."

Finally, 29 CFR § 724.203(e) sets forth the following requirement: "After the initial training is completed, each agency must train new employees as part of its agency orientation program or other training program. Any agency that does not use a new employee orientation program for this purpose must train new employees within 90 calendar days of the new employees´ appointment."

The Air Force has developed on its Advanced Distributed Learning Service (ADLS) an online "No FEAR Act" training course. The 30 minutes course provides instruction on all topics required by the No FEAR Act. All AF civilian employees (including executives, managers, and supervisors) to include military members that supervises civilians must accomplish training as required by 5 CFR § 724.203(d). The on-line training satisfies the initial and the biennial training requirement of 5 CFR § 724.203(e). Additionally, there is a ten question quiz with a minimum passing score of 70%. For employees without ADLS accounts (non-appropriated funds employees), the Equal Opportunity offices conducts on-site briefings using Air Force approved No FEAR Act training lesson plans. Attendees at on-site briefings do not have to take the quiz. EO offices must train new employees as part of its orientation program within 90 calendar days of the new employees' appointment. All on-site briefings, the EO offices must track numbers of individuals trained and report the statistics when required by AFPC/EO or high headquarters.