



Fiscal Year 2015
Annual Report to Congress
on the
Notification and Federal Employee
Antidiscrimination and Retaliation
Act of 2002

TABLE OF CONTENTS

I.	Executive Summary.....	3-5
II.	Introduction.....	5
III.	Background.....	5
IV.	Data.....	5-7
	a. EEO Cases in Federal District Court	
	b. Reimbursement to the Judgment Fund	
	c. Disciplinary Actions and Description of Policy on Disciplinary Actions (Excerpt)	
	d. Final Year-End Data Posted Under Section 301 (c) (1) (B)	
V.	Analysis of Trends, Causal Analysis, and Practical Knowledge Gained Through Experience.....	7-11
VI.	Adjustment to Budget.....	11
VII.	Actions Planned or Taken to Improve Complaint or Civil Rights Programs: Pursuant to Section 203 (a)(7)(D).....	11-13
VIII.	No FEAR Plan.....	13
	APPENDIX A: Closed Federal Court Cases by Alleged Violation.....	14
	APPENDIX B: Reimbursement of the Judgment Fund.....	15
	APPENDIX C: Disciplinary Actions and Description of Policy on Disciplinary Actions..	16-17
	APPENDIX D: No FEAR Act Report.....	18-26
	APPENDIX E: No FEAR Act Training Plan.....	27-28

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) 2015, from October 1, 2014 to September 30, 2015. During this reporting period twenty-three (23) Federal court cases were either open or have been closed. *Seventeen (17) cases alleged violations of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq) (Title VII), ten (10) bases fell under the Rehabilitation Act of 1973 (Rehab. Act) (29 U.S.C. §791), and seven (7) fell under the Age Discrimination in Employment Act (ADEA).

This reporting period closed eight (8) Federal court cases (Appendix A); two (2) closed with awards, one (1) case was withdrawn, one (1) case dismissed with prejudice, and four (4) cases were closed by Summary Judgment. Of the cases that closed, five (4) were from FY14 or earlier and four (4) were from FY15. *Additionally, of the cases that closed eight (8) alleged bases that fell under the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq) (Title VII); four (4) alleged bases that fell under the Rehabilitation Act, and two (2) alleged bases fell under the Age Discrimination in Employment Act (ADEA). Total awards paid-out \$12.5K (Appendix B), none was paid out in attorney fees. This was the least amount of money paid out since FY10, when \$190K was paid out (Appendix B).

*Note: a complaint can have more than one basis.

There were no adjustments made to the agency’s budget to pay awards, and the agency had to reimburse the Judgment Fund \$12.5K (paid out in awards).

At the end of this reporting period fourteen (14) Federal court cases were pending. (Appendix A).

The DAF disciplined a total of seven (7) employees for infractions arising from provision of law cited in the No FEAR Act. One (1) disciplinary action resulted in a reprimand, and six (6) resulted in suspension. (Appendix C). Two (2) of the respective provisions was based on race discrimination, two (2) were based on prohibited personnel practice and three (3) fell under the

infraction of sexual harassment. 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 C).

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 D).

The agency's training plan is found at (Appendix E). It outlines how the agency implemented the No FEAR training requirements. This reporting period **180,972** DAF employees and military supervisors of civilian employees were trained.

A summary of FY15 complaint statistical data shows there were 421 complaints filed with 410 complainants and 11 repeat filers. Complaints filed equated to just 0.25% of the DAF workforce. There were no findings of discrimination. The top three most frequently cited bases: race (175), retaliation (166) and disability (140). These were the same top three bases identified in the FY14 No FEAR Report; race (165), retaliation (186) and disability (128). The top three most frequent personnel actions cited: assignment of duties (58), non-sexual harassment (147) and promotion/non-selection (78). In FY14 these were the same top three most prevalent personnel actions cited.

In the area of processing time "complaints pending during fiscal year" the average numbers of days in investigation stage was 220 in FY15, an increase of five (5) days from FY14 which reported 215 days. The average number of days in final action stage in FY15 rose by 211 days. In FY15, 468 days was reported in comparison to FY14 which reported 257 days.

The area of "complaints pending during fiscal year where a hearing was requested" average number of days in investigation state reflected a decreased of five (5) days, in FY15, 212 compared to 217 reported in FY14. The area of "average number of days in final action stage" increased by 26 days, this fiscal year reported 159 days whereas FY14 reported 133 days.

In the area of "complaints pending during fiscal year where hearing was not requested" the average number of days in investigation stage was 226 days; an increase of fifteen (15) days compared to 211 days reported in FY14. The average number of days in final action stage increased significantly, 602 days reported this fiscal year while in FY14, 354 days were reported, a jump of 248 days.

The agency dismissed a total of 54 complaints this fiscal year while in FY14, 60 cases were dismissed. The average days pending prior to dismissal in FY15 was 67 days a significant decrease in comparison to FY14 where 136 days were pending prior to dismissal. The number of complaints that were withdrawn by complainants in FY15 was thirty-five (35), in FY14, 46 complaints were withdrawn.

The agency had no findings of discrimination this reporting period.

In the area of "pending complaints filed in previous years by status" this fiscal year the number of complaints pending in investigation 46; number of complaints pending in hearing 290; number of complaints pending in final action 301 and the number of complaints pending in appeal with

EEOC Office of Federal Operations 266. All areas reflected an increased from FY10, see (Appendix D).

The area of complaints investigations pending where investigation exceeds the required timeframes increased this reporting to 442 days compared to 396 days reported in FY14, an increase of 11.6% or 46 days.

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 discrimination 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 Fiscal Year. 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.”

a. EEO Cases in Federal District Court

This No FEAR Act Annual Report covers Fiscal Year 2015, from October 1, 2014 to September 30, 2015. During this reporting twenty-three (23) Federal court cases were either open or have been closed. There were fourteen (14) new cases opened this reporting period. Seventeen (17) cases alleged violations of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq) (Title VII), ten (10) bases fell under the Rehabilitation Act of 1973 (Rehab. Act) (29 U.S.C. §791), and seven (7) fell under the Age Discrimination in Employment Act (ADEA). (Note: a complaint can have more than one basis.)

This reporting period closed eight (8) Federal court cases (Appendix A); two (2) closed with awards, one (1) case was withdrawn, one (1) case dismissed with prejudice, and five (4) cases were closed by Summary Judgment. Of the cases that closed, four (4) were from FY14 or earlier and four (4) were from FY15. Additionally, of the cases that closed, eight (8) alleged bases that fell under the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq) (Title VII); four (4) alleged bases that fell under the Rehabilitation Act, and two (2) alleged bases fell under the Age Discrimination in Employment Act (ADEA). (Note: a complaint can have more than one basis.) Total awards paid-out \$12.5K (Appendix B), none was paid out in attorney fees. This was the least amount of money paid out since FY10, when \$190K was paid out (Appendix B).

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.

This reporting period \$12.5K was reimbursed to the Treasury Judgment Fund and no attorney fees were paid. (Appendix B).

c. Disciplinary Actions and Description of Policy

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.

Additionally, 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).

During this reporting period a total of 7 disciplinary actions fell under the provision of No FEAR Act. One resulted in a reprimand and six resulted in suspensions. Two (2) complaints fell under race discrimination, three (3) complaints fell under sexual harassment and two (2) complaints fell under the prohibited personnel practices. A more detailed comparative can be found in (Appendix C), and references of the agency's disciplinary action and guidance on selecting the appropriate penalty.

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 D). The following is a synopsis of the final report.

e. No FEAR Act Training Plan

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 E) provides a detailed description of the agency's No FEAR training plan.

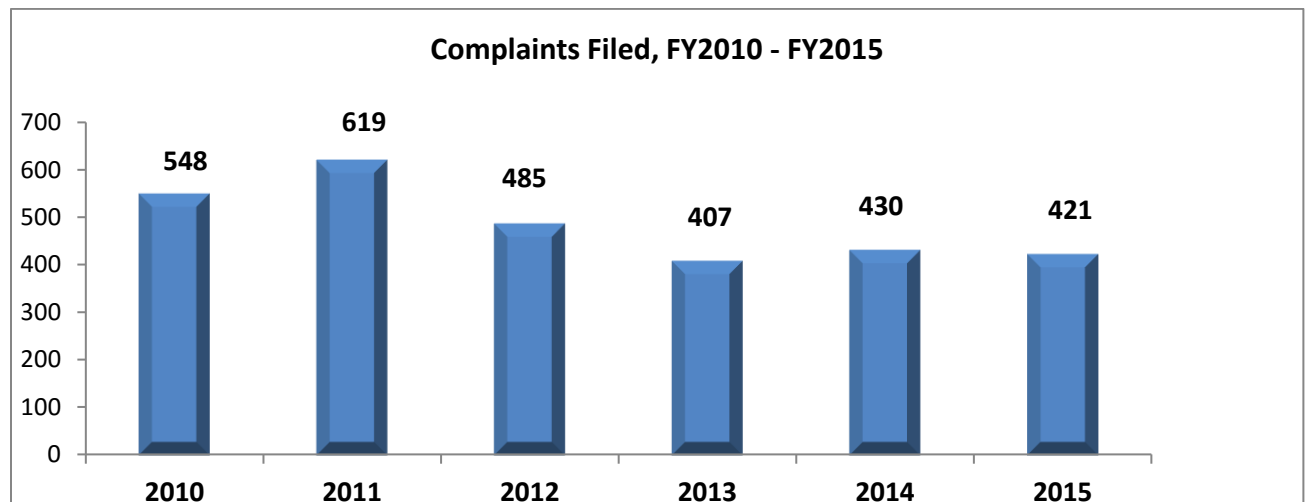
During this reporting period **180,972** DAF employees and military supervisors of civilian employees were trained.

V. Analysis of Trends and Causality

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.”

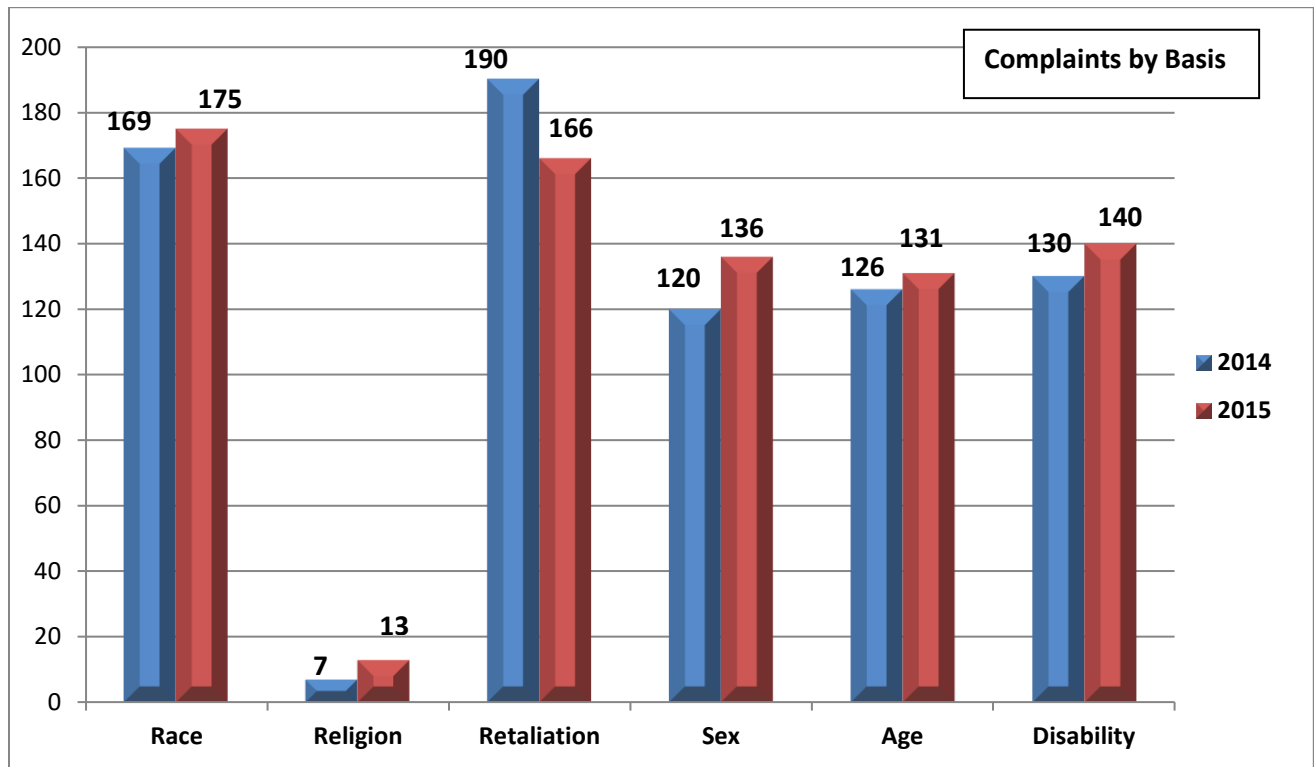
Complaint Activity

FY15 complaint activity of 421 cases reflects a decrease of 2% or 9 fewer cases filed in comparison to FY14 which reported 430 cases filed. In FY13, 407 complaints were filed, and 548 were filed in FY10. Complaint activity fluctuated somewhat the last four fiscal years but in FY11 it shows a significant decline, when 619 cases were filed. Complaints filed this reporting period equated to just 0.25% of the DAF workforce.



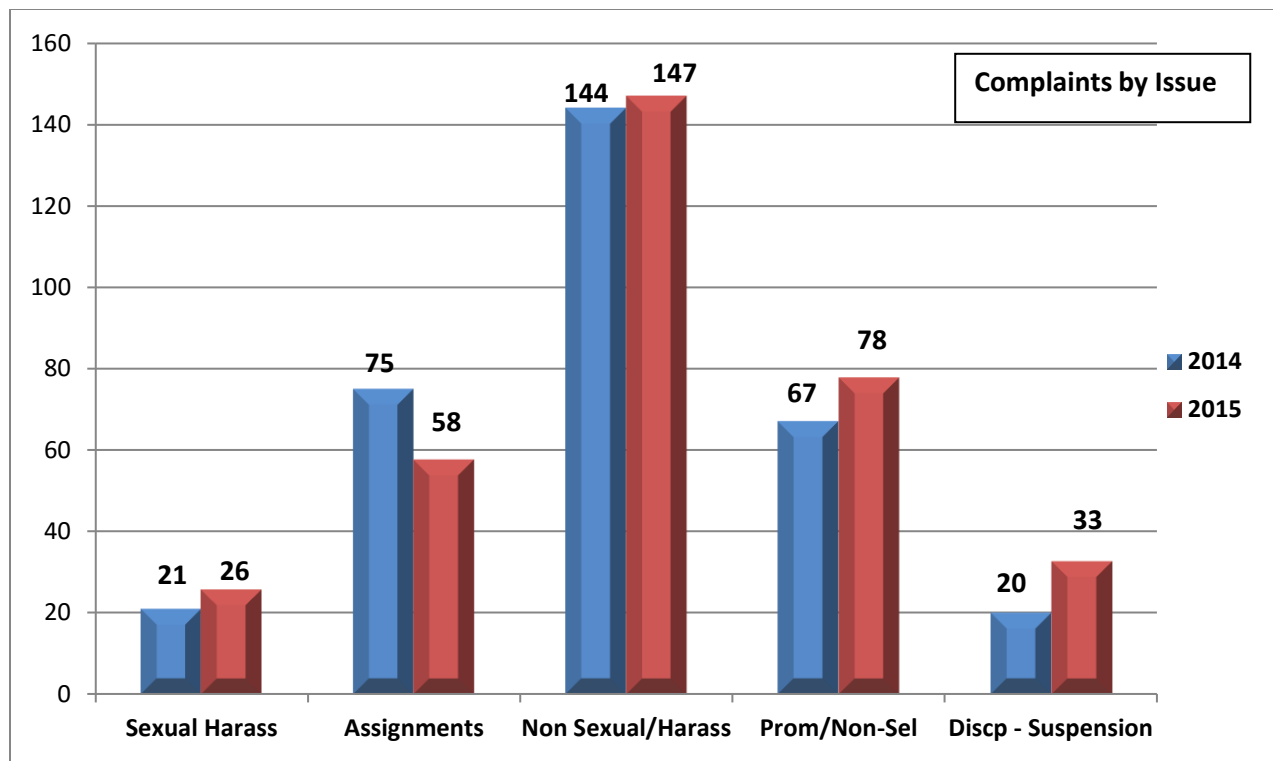
Complaints Filed

The number of complaints filed in FY15 (421) was slightly lower than in FY14 (430). There are no discernible trends from last three years; but, in FY12 the number of complaints filed went down by 134 cases from FY11.



Complaints by Basis

The basis of race was the most filed bases this fiscal year followed by retaliation and disability. These were the same top three bases cited in FY14. Race reflected an increase of 3.55% compared to FY14 and compared to FY13 showed an increase of 10%. Disability also showed an increase of 7.7% as compared to FY14 and comparing to FY13 had a significant increase of 32% or 34 cases. This fiscal year retaliation reflected the most significant decreased by 12.6% or 24 cases. Also showed a decreased was the areas of National Origin and Color, while the Equal Pay Act remained the same from FY14 with two (2) filings.



Complaints by Issue

The most prevalent personnel actions cited this reporting period were non-sexual harassment (147), assignments (58) and promotions/non-selection (78). Again, the same three top personnel actions cited in FY14; non-sexual harassment (144), assignments (75) and promotions/non-selections (67). From these personnel actions assignments reflected the most significant increase of 29.3% while non-sexual harassment showed a slight change. The issue of conversion has not been cited since FY12 when only one (1) issue was cited. Examination/Test reflected zero compared to two (2) issues alleged in FY14; Medical Examination reflected a decrease of 45.4%, in comparison to FY14.

Processing Time

In the area of processing time “complaints pending during fiscal year” the average numbers of days in investigation stage increased by five (5) days compared to FY14; but, decreased by fifty (50) compared to FY13. The average number of days in final action stage rose by 211 days in comparison to FY14, which reported 257 days. The area of “complaints pending during fiscal year where hearing was requested” average number of days in investigation stage reflected little changes from FY14, 217 days, while in FY15 indicated 212 days, a decrease of 5 days. The area of “average number of days in final action stage” doubled compared to FY13 when it took 76 days, but 159 days this fiscal year, while in FY14 reflected an increase by 26 days or 19.5%. Finally, in the area of “complaints pending during fiscal year where hearing was not requested” the average number of days in investigation stage was 602, a significant increase compared to FY14 when the average was 354 days. This is the most significant increase since FY10 which reported an average of 480 days

Complaints Dismissed by Agency

The agency dismissed a total of 54 complaints this fiscal year while in FY14, 60 cases were dismissed. The average days pending prior to dismissal was 67 days a significant decrease from FY14 where 136 days were pending prior to dismissal. The numbers of complaints withdrawn by complainants were 35.

Total Final Actions Finding Discrimination

The agency had no findings of discrimination this reporting period.

Pending Complaints Filed in Previous Fiscal Years by Status

In the area of “pending complaints from previous years” this fiscal year 638 complaints by 595 complainants compared to 479 complaints in FY14 by 444 complainants. The number of complaints pending investigation was 46, number of complaints pending in hearing 290, number of complaints pending in final action 301 and the number of complaints pending in appeal with EEOC Office of Federal Operations was 266.

Complaint Investigations

Overall, complaints exceeding the required timeframes increased this reporting by 46 days. This fiscal year reported 442 compared to 396 days in FY14, an increase of 10.4%.

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)

A. Improvements in EEO Program

The Air Force continued to make significant progress toward achieving a model EEO program during FY15. The Secretary of the Air Force (SecAF), Chief of Staff of the Air Force (CSAF), and Chief Master Sergeant of the Air Force (CMSAF) signed a Diversity and Inclusion (D&I) memorandum in March 2015 to all Airmen which emphasized the importance and value of promoting and leveraging diversity in each organization. The AF Barrier Analysis Working Group (AFBAWG), chaired by the AF EO Director, identified several barriers to recruitment and

selection, which were addressed through policy changes in a memorandum signed in April 2015 by the Assistant Deputy Chief of Staff, Manpower, and Reserve Affairs.

B. Disability Program

The Disability Program continued to set new records and receive appropriate recognition. The representation rate of Individuals with Disabilities (IwDs) for the Permanent Workforce exceeded the AF goal of 8% to 12.13%, compared to 11.45% in FY14. The AF Disability Program Manager (DPM) and Director, Airman Force Development (AF/A1D), developed a procedure to ensure reasonable accommodation is provided when individuals with disabilities (IwDs), including disabled veterans, are identified/selected for training and development programs. It involves centralized funding with a financial commitment of \$250,000 for AF employees with disabilities who attend AF sponsored training and development programs starting in FY16. AF is exploring expanding centralized funding for reasonable accommodations in all instances. This and other accomplishments led to the Air Force being awarded the Secretary of Defense trophy for having the best military service Disability program in DoD for a fourth consecutive year.

C. EEO Complaints Program

1. The Air Force Directorate of Equal Opportunity, HQ USAF/A1Q, hosted and conducted an Air Force-wide Functional Training Workshop in August 2015 to provide required refresher and other training to 250 EEO, HR, legal, and other professionals. The workshop included a panel and speakers from the LGBT community, which were some of the top-rated sessions. Feedback from participants about the overall workshop was overwhelmingly positive.

2. The Air Force Directorate of Equal Opportunity, HQ USAF/A1Q, formed an AF-wide Compliance Analysis Working Group (AFCAWG) to improve the timely and efficient processing of EEO complaints through networking, best practices, and mentoring. The group is made up of EEO, legal, and HR specialists at the headquarters, MAJCOM, and local base levels. Some expected benefits are: reduction in case losses (and payout awards) due to procedural errors, improved processing, and enhanced collaboration, mentoring, and networking.

3. A list of accomplishments and initiatives to identify and address barriers, provide equal opportunity for all employees, and promote an inclusive and diverse workforce that maximizes employees' potential is shown below.

D. AFPC Recruitment Office Initiatives

1. The CSAF and 20+ senior leaders participated in a D&I Focus Day. This event focused on ideas for recruitment, training, development and retention of female rated personnel across the Air Force. In order to further explore the ideas generated, a High Performance Team (HPT) of cross-functional subject matter experts was convened and led by a D&I champion (Major

General Van Ovost). The HPT developed prioritized recommendations for review by CSAF and SECAF.

2. The AFBAWG briefed Air Force senior leaders on issues affecting recruitment and retention of IwDs and Individuals with Targeted Disabilities (IwTD). New initiatives were adopted to enhance the use of Schedule A and retention of IwDs and IwTD.

3. The Air Force recognizes the strain fiscal limitations have placed on the recruiting efforts of many of our unique tech-focused communities, especially the AF Intelligence community. To supplement specialty-specific diversity recruiting efforts, the Air Force has significantly increased national outreach at events targeting diverse Science, Technology, Engineering, and Math (STEM)-focused audiences. Specific events include the national conferences for the Society of Women Engineers, the National Society of Black Engineers, the League of Latin American Citizens and various others, which together provide access to over 60K diverse students/professionals for entry-, mid- and senior-level positions from private and public sectors who could serve in an ISR capacity.

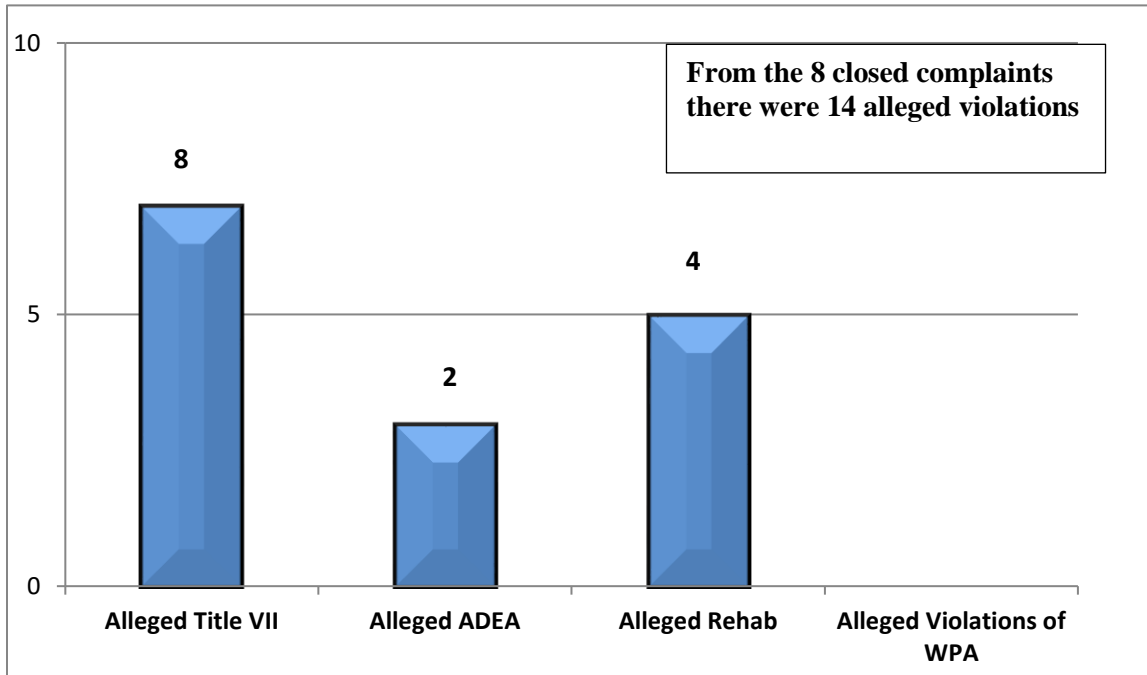
4. The Air Force PALACE ACQUIRE intern program yielded the highest percentage of female (80%) to males (20%) selected for positions in the AF Intelligence Community. The average for previous five years was 43% females and 57% males.

VIII. No FEAR Plan.

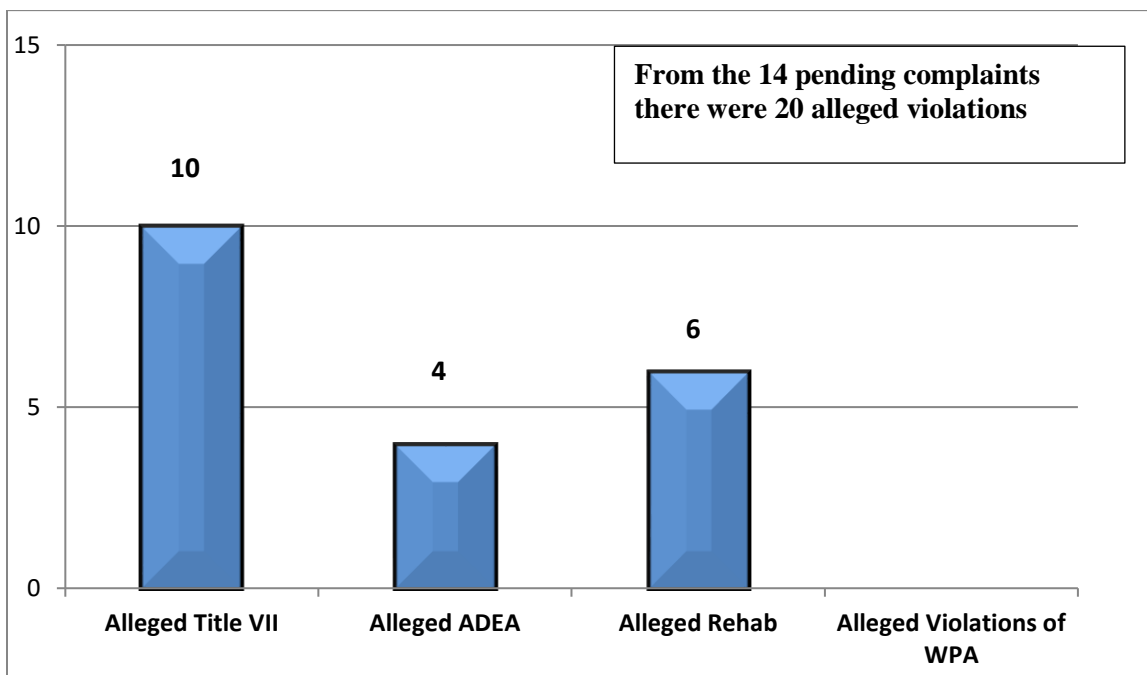
The agency's training plan is found at APPENDIX E. The Air Force has developed on its Advanced Distributed Learning Service (ADLS) an online "No FEAR Act" training course to carry out the requirements of the No FEAR Act Training Plan. The 30 minutes course provides instruction on all topics required 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 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. At all on-site briefings, the EO offices must track numbers of individuals trained and report the statistics when required by AFPC/EO or higher headquarters.

APPENDIX A

Closed Federal Court Cases by Alleged Violations



Federal Court Cases Pending by Alleged Violations



APPENDIX B: Reimbursement to the Judgment Fund

5 CFR §724.302 (a) (2)						
Monetary Federal Court Cases (In Thousands)						
Fiscal Year Data	2010	2011	2012	2013	2014	2015
Employee	\$190	\$660	\$575	\$462	\$415	\$12.5
Attorney	\$0	\$0	\$37	\$412.6	\$0	\$0

APPENDIX C: Disciplinary Actions Taken

Federal Employee Discrimination and Retaliation - Disciplinary Actions Relating to Discrimination, Prohibited Personnel Practice, Whistleblower	Comparative Data					2015
	Previous Fiscal Year Data					
	2010	2011	2012	2013	2014	
Total Disciplinary Actions	14	8	10	9	9	7
Reprimand	2	0	2	2	3	1
Suspension	12	8	8	7	6	6
Removal	0	0	0	0	0	0
Demoted	0	0	0	0	0	0
Respective Provisions of No FEAR						
Discrimination	3	4	0	0	1	2
Prohibited Personnel Practice	5	2	5	5	3	2
Sexual Harassment	6	2	5	4	5	3

Note: Source document CPO's Adverse Action Report 2015 (1st, 2nd, 3rd and 4th Quarter)

AFI 36-704, 22 July 1994, Civilian Personnel; Discipline and Adverse Actions: Guide to Disciplinary Actions, (Excerpt)

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

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.

<p>Information on how basic penalty¹ was derived and on how favorable elements² were considered need not be included in notices but must be available for subsequent use.³</p>	<p>Information must be included in the notices of any consideration used to increase the severity of the basic penalty.⁴</p>
--	---

<p>1. Basic penalty is the one that would be used if there were no other considerations. It is based on:</p> <p>a. Offense:</p> <ol style="list-style-type: none"> 1. Character. 2. Seriousness. 3. Consequences. <p>b. Rehabilitative potential of penalty.</p> <p>c. Character of employee's position</p>	<p>2. Favorable elements are those considerations which tend toward the imposition of less severe penalties. Included are:</p> <p>a. Situation.</p> <ol style="list-style-type: none"> 1. Possibility of genuine misunderstanding. 2. Enticements or provocations. 3. Mitigating circumstances. <p>b. Employee:</p> <ol style="list-style-type: none"> 1. Length of service. 2. Quality of work history. 3. Personal reputation. 4. Past contributions. 5. Record of cooperativeness. 6. Record of achievements. 	<p>3. Unfavorable elements are considerations which tend to show a need for more severe action than is usually taken. Included are:</p> <p>a. Penalties for past offenses within:</p> <ol style="list-style-type: none"> 1. Suspension - 3 years. 2. Reprimand - 2 years. 3. Admonishment - 2 years.⁵ <p>b. Combination of offenses.</p> <p>c. Series of offenses.</p> <p>d. Character of other offenses.</p> <p>e. Recentness of other offenses.</p> <p>f. Employee willfulness.</p>	<p>4. Penalty assessed results from weighing of favorable and unfavorable factors in relationship to the offense.</p> <p>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.</p> <p>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.</p>
---	---	---	--

APPENDIX D: 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					
	2010	2011	2012	2013	2014	2015
Number of Complaints Filed in Fiscal Year	548	619	485	407	430	421
Number of Complainants	476	554	457	397	411	410
Repeat Filers	55	45	25	9	17	11

Complaints by Basis	Comparative Data					
	2010	2011	2012	2013	2014	2015
Race	197	239	181	159	169	175
Religion	16	20	18	18	7	13
Retaliation	275	290	205	164	190	166
Sex	165	169	161	138	120	136
National Origin	65	51	57	39	45	44
Color	59	56	43	44	45	40
Age	152	182	138	117	126	131
Disability	136	208	138	106	130	140
Equal Pay Act	5	5	3	3	2	2

Complaints By Issues	Comparative Data					
	2010	2011	2012	2013	2014	2015
Appointment	23	41	30	22	11	29
Assignment	76	91	75	66	75	58
Awards	10	10	13	11	19	14
Conversion	1	3	1	0	0	0
Disciplinary Action -	3	1	1	4	1	4

Demotion						
Disciplinary Action - Reprimand	23	30	24	34	28	30
Disciplinary Action - Suspension	29	32	33	39	20	33
Disciplinary Action - Removal	14	9	19	10	2	7
Disciplinary Action - Other	33	34	37	33	27	29
Duty Hours	27	21	26	15	18	24
Evaluation/Appraisal	93	101	76	47	61	54
Examination/Test	2	2	3	2	2	0
Non Sexual Harassment	171	169	171	136	144	147
Sexual Harassment	20	22	23	34	21	26
Medical Examination	9	4	6	4	11	6
Pay Including Overtime	21	29	20	14	14	17
Promotion/Non-Selection	85	97	57	62	67	78
Denied Reassignment	10	12	8	7	13	10
Directed Reassignment	28	21	20	24	21	12
Reasonable Accommodation	27	46	26	34	39	38
Reinstatement	3	3	2	2	1	5
Retirement	2	5	3	2	2	4
Termination	42	54	43	29	27	22
Terms/Conditions of Employment	73	86	68	53	57	48
Time and Attendance	26	33	30	28	38	26
Training	26	35	39	24	28	26
Other	149	158	129	89	92	97

Processing Time						
	2010	2011	2012	2013	2014	2015
Complaints Pending During Fiscal Year						
Average Number of Days in Investigation Stage	204	225	261	270	215	220
Average Number of Days in Final Action	351	227	301	241	257	468

Stage						
Complaints Pending During Fiscal Year Where Hearing was Requested						
Average Number of Days in Investigation Stage	206	232	265	281	217	212
Average Number of Days in Final Action Stage	105	137	176	76	133	159
Complaints Pending During Fiscal Year Where Hearing was not Requested						
Average Number of Days in Investigation Stage	204	215	253	263	211	226
Average Number of Days in Final Action Stage	480	308	441	383	354	602

Complaints Dismissed by Agency	Comparative Data					
	2010	2011	2012	2013	2014	2015
Total Complaints Dismissed by Agency	88	84	65	54	60	54
Average Days Pending Prior to Dismissal	114	63	97	40	136	67
Total Complaints Withdrawn by Complainants	50	70	57	40	46	35

Total Final Action Finding Discrimination	Comparative Data					
	2010	2011	2012	2013	2014	2015
Total Number Finding	2	4	7	2	0	0
Without Hearing	1	0	0	2	0	0
With Hearing	1	4	7	0	0	0

Findings of Discrimination Rendered by Basis	Comparative Data					
	2010	2011	2012	2013	2014	2015
Total Number of Findings	2	4	7	2	0	0
Race	1(50.00%)	2(50.00%)	0	0	0	0
Religion	0	1(25.00%)	0	0	0	0
Retaliation	1(50.00%)	0	6(85.71%)	2(100.00%)	0	0
Sex	0	2(50.00%)	0	0	0	0
National Origin	0	0	0	0	0	0
Color	1(50.00%)	0	0	0	0	0
Age	0	1(25.00%)	1(14.29%)	0	0	0
Disability	0	1(25.00%)	0	1(50.00%)	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					
	2010	2011	2012	2013	2014	2015
Findings After Hearing	1	4	7	0	0	0
Race	0	2(50.00%)	0	0	0	0
Religion	0	1(25.00%)	0	0	0	0
Retaliation	1(100.00%)	0	6(85.71%)	0	0	0
Sex	0	2(50.00%)	0	0	0	0
National Origin	0	0	0	0	0	0
Color	0	0	0	0	0	0
Age	0	1(25.00%)	1(14.29%)	0	0	0
Disability	0	1(25.00%)	0	0	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					
	2010	2011	2012	2013	2014	2015
Findings Without Hearing	1	0	0	2	0	0
Race	1(100.00%)	0	0	0	0	0
Religion	0	0	0	0	0	0
Retaliation	0	0	0	2(100.00%)	0	0
Sex	0	0	0	0	0	0
National Origin	0	0	0	0	0	0
Color	1(100.00%)	0	0	0	0	0
Age	0	0	0	0	0	0
Disability	0	0	0	1(50.00%)	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 Issues	Comparative Data					
	2010	2011	2012	2013	2014	2015
Total Number of Findings	2	4	7	2	0	0
Appointment	1(50.00%)	0	0	0	0	0
Assignment	0	1(25.00%)	2(28.57%)	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	1(14.29%)	0	0	0
Duty Hours	0	0	1(14.29%)	0	0	0
Evaluation/Appraisal	0	1(25.00%)	3(42.86%)	0	0	0
Examination/Test	0	0	0	0	0	0
Non Sexual Harassment	1(50.00%)	2(50.00%)	1(14.29%)	1(50.00%)	0	0
Sexual Harassment	0	0	0	0	0	0

Medical Examination	0	0	0	0	0	0
Pay Including Overtime	0	0	1(14.29%)	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0
Denied Reassignment	0	0	0	0	0	0
Directed Reassignment	0	0	1(14.29%)	0	0	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	1(50.00%)	0	0
Terms/Conditions of Employment	0	0	1(14.29%)	0	0	0
Time and Attendance	0	0	2(28.57%)	0	0	0
Training	0	1(25.00%)	1(14.29%)	0	0	0
Other	0	0	2(28.57%)	1(50.00%)	0	0

Findings of Discrimination Rendered by Issues	Comparative Data					
	2010	2011	2012	2013	2014	2015
Findings After Hearing	1	4	7	0	0	0
Appointment	0	0	0	0	0	0
Assignment	0	1(25.00%)	2(28.57%)	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	1(14.29%)	0	0	0
Duty Hours	0	0	1(14.29%)	0	0	0
Evaluation/Appraisal	0	1(25.00%)	3(42.86%)	0	0	0
Examination/Test	0	0	0	0	0	0
Non Sexual Harassment	1(100.00%)	2(50.00%)	1(14.29%)	0	0	0

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

Findings of Discrimination Rendered by Issues	Comparative Data					
	2010	2011	2012	2013	2014	2015
Findings Without Hearing	1	0	1	2	0	0
Appointment	1(100.00%)	0	0	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	0	0	0	1(50.00%)	0	0

Harassment						
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	1(50.00%)	0	0
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	0	0	1(50.00%)	0	0

Pending Complaints Filed in Previous Years by Status	Comparative Data					
	2010	2011	2012	2013	2014	2015
Total Complaints From Previous Fiscal Years	245	288	346	383	479	638
Total Complainants	222	238	302	346	444	595
Number of Complaints Pending in Investigation	10	26	25	22	23	46
Number of Complaints Pending in Hearing	144	164	219	194	223	290
Number of Complaints Pending in Final Action	83	90	92	163	230	301

Number of Complaints Pending in Appeal with EEOC Office of Federal Operations	176	198	231	246	249	266
---	-----	-----	-----	-----	-----	-----

Complaint Investigations	Comparative Data					
	2010	2011	2012	2013	2014	2015
Pending Complaints Where Investigation Exceeds Required Time Frames	162	212	296	343	396	442

APPENDIX E: 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 this 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. For all on-site briefings, the EO offices must track numbers of individuals trained and report the statistics when required by AFPC/EO or higher headquarters.