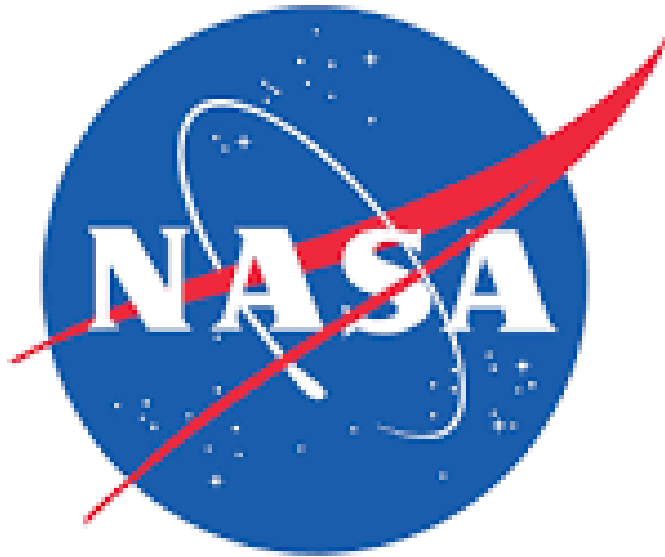


FISCAL YEAR 2023



NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NO FEAR ACT

ANNUAL REPORT TO CONGRESS

Table of Contents

INTRODUCTION.....	2
EXECUTIVE SUMMARY.....	2
PURPOSE OF REPORT.....	3
I. NO FEAR ACT DATA ANALYSIS.....	3
A. Civil Cases in Federal District Court and Disposition.....	3
B. Judgment Fund Reimbursement and Budget Adjustment.....	3
C. Posting of EEO Complaints Processing Statistics.....	3
D. Number of Employees Disciplined.....	3
E. Disciplinary Actions Taken in Connections with Civil Cases.....	4
F. Disciplinary Actions Taken in Connection with Other Civil Cases.....	4
G. Discipline Policy.....	4
II. TRENDS AND CAUSAL ANALYSIS.....	4
A. EEO Complaint Activity.....	4
B. Bases and Issues of Discrimination in EEO Complaint.....	5
C. No Fear Act Training Plan.....	6
III. IMPROVEMENTS IN NASA'S EEO AND DIVERSITY PROGRAM.....	6
IV. APPENDIX. No Fear Act Posting.....	7

INTRODUCTION

The National Advisory Committee for Aeronautics (NACA) was formed on March 3, 1915, with a charter to “supervise and direct the scientific study of the problems of flight, with a view to their practical solution.” The National Aeronautics and Space Act was signed into law on July 29, 1958, and created the National Aeronautics and Space Administration (NASA) from the National Advisory Committee for Aeronautics (NACA). NASA is recognized as the premier Federal Agency that explores the secrets of the universe for the benefit of all. NASA is an independent agency of the United States Government responsible for the civilian space program, as well as aeronautics and aerospace research. NASA has kept our Nation on the cutting edge of aeronautics and space exploration for over half a century and drives advances in science, technology, exploration, and discovery to enhance knowledge, innovation, economic vitality, stewardship of the Earth’s resources, and solutions to national and global challenges. NASA’s five-core values are safety, integrity, teamwork, excellence, and inclusion. The key to the Agency’s success is the employees that come from many diverse backgrounds who are united by a common purpose.

The Office of Diversity and Equal Opportunity (ODEO) assists the Agency in accomplishing its mission by providing programmatic leadership and continually evaluating the Agency’s policies, procedures, and practices to identify and address challenges and opportunities relating to equal employment opportunity (EEO) and diversity, equity, inclusion, and accessibility (DEIA). The Associate Administrator for ODEO provides executive leadership and oversight for the effective management of EEO and DEIA programs, resources, Agency-wide initiatives, and external civil rights requirements.

EXECUTIVE SUMMARY

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (“No FEAR Act”), Public Law 107-174, was signed into law on May 15, 2002, and became effective on October 1, 2003. The No FEAR Act is intended to reduce workplace discrimination within the Federal Government by making agencies and departments more accountable for violations of antidiscrimination and whistleblower protection laws. On January 21, 2021, the law was amended to include the Elijah Cummings Federal Employee Antidiscrimination Act of 2020. First, the No FEAR Act governs the process of reimbursements to the Treasury Department’s judgment fund by agencies, from their budgets, for judgments against agencies and settlements for discrimination in the workplace. Additionally, the No FEAR Act requires Federal agencies to be accountable for violations of antidiscrimination and whistleblower protection laws, in part by requiring that each Federal agency post quarterly on its public Web site certain statistical data relating to Federal-sector EEO complaints filed with each agency.

PURPOSE OF REPORT

Section 203 of the No FEAR Act specifically requires each Federal agency to 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 (EEOC), and the Attorney General, an annual report with specific information relating to each agency's EEO complaints activity. The report is required to be delivered to all parties within 180 days after the end of the fiscal year. NASA summarized its activities to ensure accountability for antidiscrimination and whistleblower laws related to employment and submits its Annual No FEAR Act Report to Congress for Fiscal Year (FY) 2023. NASA has prepared this report based on the provisions of the No FEAR Act and its implementing regulations.

I. NO FEAR ACT DATA ANALYSIS

A. Civil Cases in Federal District Court and Disposition

In FY 2023, NASA reported seven (7) pending civil actions filed in Federal District Court. This was an increase of one case, compared to the six (6) cases pending against the Agency in various Federal District Courts in FY 2022.

B. Judgment Fund Reimbursements and Budget Adjustment

In FY 2023, no NASA payments were made to the Bureau of the Fiscal Service, United States Department of the Treasury. In FY 2023, there were no judgments against NASA from cases pending or resolved in Federal District Court. Subsequently, no budget adjustments were necessary.

C. Posting of EEO Complaints Processing Statistics

The FY 2023 year-end data regarding NASA's administrative discrimination complaints process was posted on the Agency's website in accordance with the EEOC regulations at 29 CFR Part 1614, Subpart G (implementing Section 301(c)(1)(B) of the No FEAR Act). *See Appendix for NASA No FEAR Act data for FY 2023.* In addition to posting the annual report, Section 1614.703(a), NASA timely posted the statistical data pertaining to EEO complaints each quarter (quarterly report).

D. Number of Employees Disciplined

In FY 2023, no employees were disciplined with respect to Federal District Court cases involving allegations of a violation of Federal Antidiscrimination or Whistleblower Protection laws, 5 C.F.R. 724.302(a)(3).

In FY 2023, no findings of discrimination were issued by either Final Agency Decision, the EEOC, the Merit Systems Protection Board, the Office of Special Counsel, or a Federal court.

E. Disciplinary Actions Taken in Connection with Civil Cases

In FY 2023, NASA did not take any disciplinary actions in connection with civil action cases against responding management officials.

F. Disciplinary Actions Taken in Connection with Other Civil Cases

In FY 2023, there were no findings of discrimination as a result of EEO complaints raised through the Agency's EEO complaints process.

G. Discipline Policy

NASA proactively informs employees of the penalties for committing acts of discrimination and enforces clear and concise EEO and antidiscrimination policies and procedures. The policies clarify employee rights and responsibilities. Managers and supervisors share the responsibility for successful implementation of these policies. NASA follows the guidance contained in its *Desk Guide for Table of Disciplinary Offenses and Penalties* for determining whether and to what extent formal disciplinary action is necessary in dealing with issues of employee misconduct. This Desk Guide, posted on the "NASA People" website under the link entitled "NASA Desk Guides," is accessible to all NASA employees at:

https://searchpub.nssc.nasa.gov/servlet/sm.web.Fetch/NDG03_TableofPenalties.pdf?rhid=1000&did=778169&type=released

In addition, the Agency's EEO and Anti-Harassment Policy Statements from the NASA Administrator communicate the Agency's commitment to promoting equal opportunity in employment and prohibiting harassment in the workplace, as well as notifying employees of potential disciplinary actions for conduct in violation of these policies. ODEO disseminates these policies annually to Agency senior leadership. These policies are available to all employees on the NASA ODEO website at:

<https://www.nasa.gov/offices/odeo/policy-and-publications>.

II. TRENDS AND CAUSAL ANALYSIS

A. EEO Complaint Activity

This analysis focuses on the FY 2023 reporting period. NASA's civil service workforce increased from 17,021 Full Time Equivalents (FTE) in FY 2022 to 17,480 FTE in FY 2023. In FY 2023, fifty-seven (57) informal counselings were initiated, representing a 35

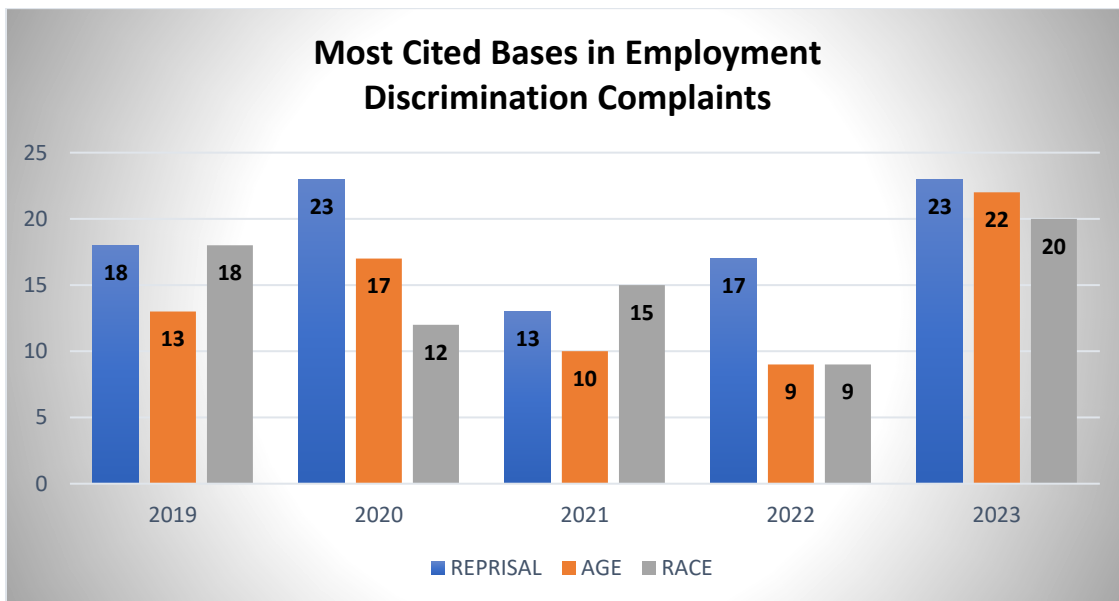
percent decrease from eighty-eight (88) informal counselings initiated in FY 2022.¹ In FY 2023, there were forty-two (42) formal complaint filings, compared to fifty (50) formal complaint filings in FY 2022 representing a 16 percent decrease.² In FY2023, NASA timely completed 100 percent of the EEO investigations (23) with an average processing time of 189 days. In FY 2022, the average processing time for EEO investigations (13) was 172 days.

In FY 2023, sixteen (16) informal counselings were withdrawn/no complaints filed, representing a 36 percent decrease from twenty-five (25) withdrawn/no complaints filed in FY 2022. In FY 2023, one (1) formal complaint was withdrawn representing a 67 percent decrease compared to three (3) formal complaints withdrawn in FY 2022. Alternative Dispute Resolution (ADR) was offered for 12 formal complaints. ADR was rejected by complainants in three cases. A total of 9 formal cases went to ADR in FY23.

In FY 2023, NASA was 100 percent timely in the issuance of Final Agency Decisions (FADs), with an average processing time of 53 days. In FY 2022, the average processing time was 58 days.

B. Bases and Issues of Discrimination in EEO Complaint

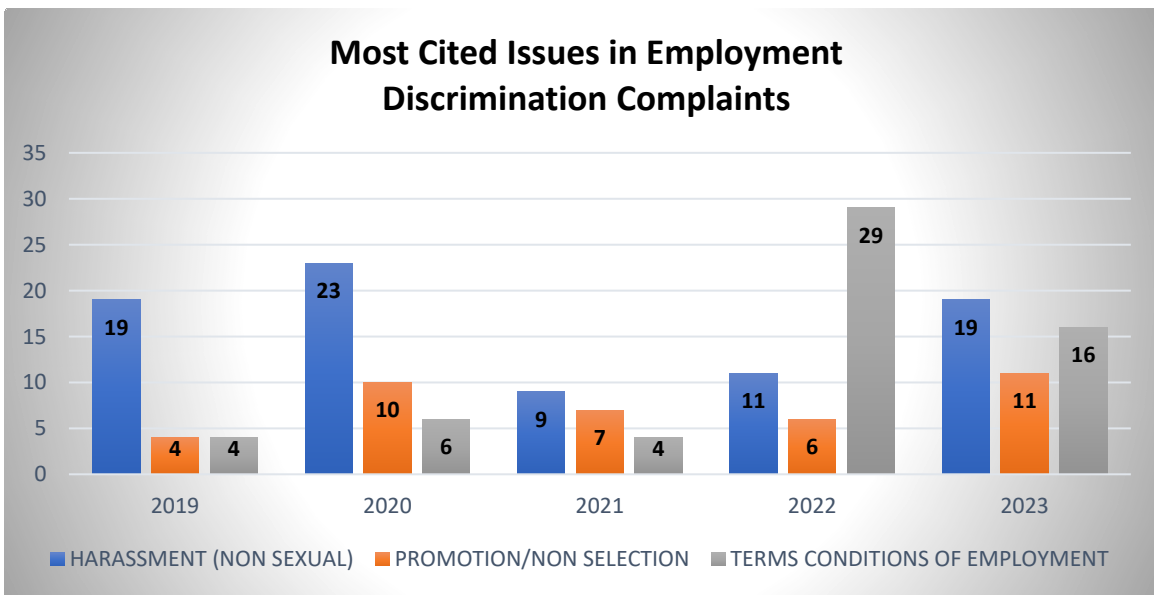
Figure 1 – The most frequently cited bases filed in FY 2023 were reprisal (23 complaints), age (22 complaints), and race (20 complaints). *Note: the total numbers below will not match the number of actual complaints because each complaint could cite multiple bases. E.g., one complainant could claim discrimination based on race, age, gender and reprisal. That would be one case, and four bases.*



¹ “Informal cases” refers to pre-complaint cases. See 29 C.F.R. 1614.105

² “Formal cases” refers to individual complaints. See 29 C.F.R. 1614.106.

Figure 2 – The most cited issues in discrimination complaints filed in FY 2023 were harassment (non-sexual, 19 complaints), terms/conditions of employment (16 complaints), and promotion/non-selection (11 complaints). Although harassment was the primary issue filed in FY 2023, the data reflect a 42 percent decline in complaints of harassment (11 complaints) filed in FY 2022. The Agency remains committed to creating and maintaining an inclusive workplace, which includes the administrative of a broad, proactive, and effective Anti-Harassment Program. The program identifies multiple avenues of redress for claims of harassment and does not limit employees to the EEO process. *Note: the total numbers below will not match the number of actual complaints because each complaint could cite multiple bases. E.g., one complainant could claim discrimination based on race, age, gender and reprisal. That would be one case, and four bases.*



C. No FEAR Act Training Plan

NASA provided training to all employees in accordance with the training requirements of the No FEAR Act of 2002. NASA mandates that all civil servant employees complete an on-line No Fear training module using the System for Administration, Training, and Educational Resources for NASA (SATERN). The Agency requires new employees to take the training during orientation.

III. IMPROVEMENTS IN NASA’S EEO AND DIVERSITY PROGRAMS

NASA continues to review and modify procedures in accordance with EEOC regulations, monitor complaint activity, and promote ADR as a viable and cost saving alternative to traditional EEO discrimination complaint processing. ODEO recently undertook an EEO process improvement effort in which ODEO revised its standard operating procedures, streamlined NASA’s EEO process, created a community of practice to share best practices

and increase consistency, and developed a SharePoint site to help inform all employees of the EEO process. Lastly, ODEO will be filling an EEO Informal Team Lead permanent position to help manage and strengthen both the ADR program and the Informal EEO complaints process.

NASA continues to focus on collecting and analyzing workforce data to comply with the EEOC's guidelines for a model EEO program, incorporate mechanisms for identifying triggers, analyze barriers, and develop action plans to eliminate barriers. The Agency evaluates groups that show low participation rates in the workforce, low rates of promotion and developmental opportunities, and high rates of separations.

APPENDIX

**Equal Employment Opportunity Data Posted
Pursuant to the No FEAR Act:**

NASA (includes sub-level offices)

For 4th Quarter 2023 for period ending September 30, 2023

Part 1 Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2023 Thru 09-30
	2018	2019	2020	2021	2022	
Number of Complaints Filed	62	36	39	20	50	42
Number of Complainants	59	32	36	19	44	38
Repeat Filers	3	3	3	1	5	3

Part 2 Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2023 Thru 09-30
	2018	2019	2020	2021	2022	
<small>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</small>						
Race	27	22	12	13	9	20
Color	11	7	9	7	5	9
Religion	2	3	5	2	25	4
Reprisal	38	19	23	13	17	23
Sex	28	14	18	6	7	15
PDA	0	0	0	0	0	1
National Origin	7	6	8	5	5	10
Equal Pay Act	1	0	0	0	0	0
Age	19	14	17	10	9	22
Disability	20	13	16	1	24	12
Genetics	0	0	0	0	9	2
Non-EEO	7	0	1	0	0	1

Part 3 Complaints By Issue	Comparative Data					
<p><i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i></p> <p><i>Starting in FY2022, issues marked with: * are reported under Other Terms / Conditions of Employment. ** are reported under Other Disciplinary Actions.</i></p> <p><i>The reporting of Reassignment Claims has been changed from two separate Denied and Directed rows to one combined row: the first row now accommodates both "Reassignment: Denied/Directed" and the second row has been deprecated for the current FY starting in FY2023.</i></p>	Previous Fiscal Year Data					2023 Thru 09-30
2018	2019	2020	2021	2022		
Appointment/Hire	5	6	5	2	1	5
Assignment of Duties*	1	1	1	0	3	0
Awards	2	1	0	0	2	1
Conversion to Full Time/Perm Status*	1	0	0	0	0	0
Disciplinary Action						
Demotion	2	0	1	0	0	1
Reprimand**	1	1	0	0	0	0
Suspension	3	1	0	0	1	1
Removal	1	1	3	1	1	2
Other Disciplinary Actions**	0	0	0	0	0	3
Other 2**	0	0	0	0	0	0
Duty Hours*	1	0	0	0	0	0
Perf. Eval./ Appraisal	8	8	4	1	4	6
Examination/Test	0	0	0	0	0	0
Harassment						
Non-Sexual	34	19	23	9	12	19
Sexual	0	0	2	0	1	0
Medical Examination	0	0	0	0	0	0
Pay including overtime	1	1	0	0	2	1
Promotion/Non-Selection	15	5	10	7	6	11
Reassignment						
Reassignment: Denied/Directed	1	0	0	2	1	2
Directed	4	2	3	1	1	1
Reasonable Accommodation Disability	6	4	7	1	0	1
Reinstatement*	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0
Retirement*	0	0	1	0	0	0
Sex-Stereotyping	0	0	0	0	0	0
Telework	1	2	1	0	0	2
Termination	5	2	6	2	2	7
Terms/Conditions of Employment*	4	5	6	4	28	0
Time and Attendance	1	3	2	0	1	2
Training	2	2	0	1	0	1
Other Terms/Conditions of Employment*	0	0	0	0	0	16
User Defined - Other 1*	0	0	0	0	0	0
User Defined - Other 2*	0	0	0	0	0	0
User Defined - Other 3*	0	0	0	0	0	0
User Defined - Other 4*	0	0	0	0	0	0

Findings Without Hearing	0	0	0	0	0	1	0	0	0	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties*	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status*	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action											
Demotion	0	0	0	0	0	0	0	0	0	0	0
Reprimand**	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0
Other Disciplinary Actions**	0	0	0	0	0	0	0	0	0	0	0
Other 2**	0	0	0	0	0	0	0	0	0	0	0
Duty Hours*	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval. / Appraisal	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0
Harassment											
Sexual	0	0	0	0	0	0	0	0	0	0	0
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	1	100	0	0	0	0
Pay including overtime	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0
Reassignment											
Reassignment: Denied/Directed	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	0	0	0	0	0	0	0	0	0	0	0
Reinstatement*	0	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0	0
Retirement*	0	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment*	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0
Other Terms/Conditions of Employment*	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 1*	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2*	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3*	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4*	0	0	0	0	0	0	0	0	0	0	0

Part 9 Complaints Pending from Previous Fiscal Years By Status	Comparative Data					
	Previous Fiscal Year Data					2023 Thru 09-30
	2018	2019	2020	2021	2022	
Total complaints from previous Fiscal Years	61	59	35	28	27	33
Total Complainants	39	44	26	21	20	30
Number complaints pending						
Investigation	0	0	0	0	2	15
ROI issued, pending Complainant's action	1	0	0	0	0	1
Hearing	42	43	33	27	22	8
Final Agency Action	12	11	0	0	1	0
Appeal with EEOC Office of Federal Operations	7	17	17	11	14	17

Part 10 Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					2023 Thru 09-30
	2018	2019	2020	2021	2022	
Pending Complaints Where Investigations Exceed Required Time Frames	0	1	2	0	5	0