

National Council on Disability



No FEAR Act Annual Report Fiscal Year 2023

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Introduction

The National Council on Disability (NCD) is an independent federal agency charged with advising the President, Congress, and other federal agencies regarding policies, programs, and practices that affect people with disabilities. NCD is comprised of a team of presidential and congressional appointees, an Executive Director appointed by the Chair, and a full-time professional staff.

NCD was statutorily created in 1978 through amendment to the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.). The authorizing statute specifies the agency's duties, administrative powers, appropriations, and parameters regarding NCD Council and staff. The statute was amended by the Workforce Innovation and Opportunity Act (P.L. 113-128) in 2014.

NCD values each employee and is committed to creating and sustaining an environment where each employee can contribute to fulfilling the mission of the agency in a healthy workplace. NCD has zero tolerance for discrimination. The agency's policies and procedures are in line with all antidiscrimination laws and merit promotion principles. NCD's Equal Employment Opportunity policy prohibits discrimination based on race, color, religion, national origin, gender, sexual orientation, age (40 years and over), disability (mental and physical), genetic information, or reprisal for any protected activity. The agency is also committed to affording employees their rights and protections available under federal antidiscrimination, whistleblower protection, and retaliation laws.

By virtue of NCD's history, mission, and focus, NCD has a proud record of advancing principles of diversity, equity, inclusion, and accessibility, in line with Executive Order 14035. That said, NCD has and will continue to build upon past successes and record and utilize and advance practices that create a diverse, equitable, inclusive, and accessible workforce that is an exemplar for the whole government.

Background

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, Public Law 107-174, went into effect on October 1, 2003. The act requires federal agencies to be accountable for violations of antidiscrimination and whistleblower protection laws and post certain statistical data relating to federal sector EEO complaints filed with the agency.

Section 203 of the No FEAR Act requires that each federal agency submit an annual report to Congress. Agencies must report:

- 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;
- The amount of money required to be reimbursed;
- The 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, causal analysis, and other forms for analysis.

Section 203 of the No FEAR Act requires federal agencies to submit annual reports to:

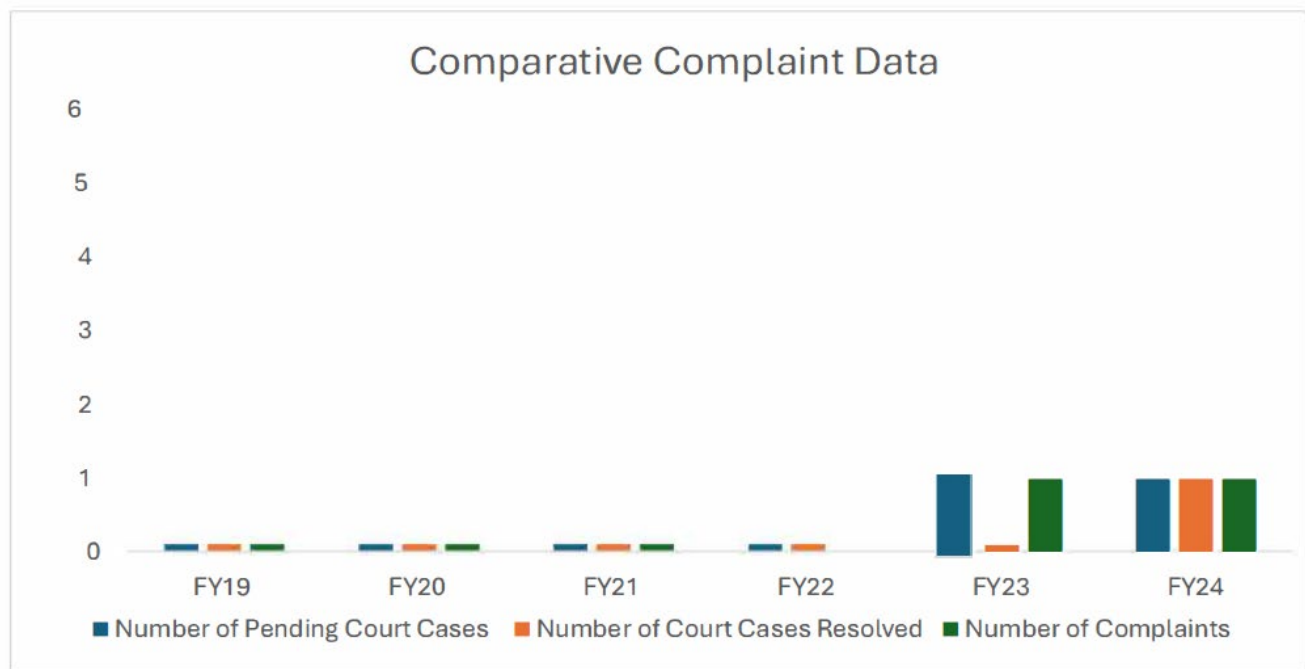
- The Speaker of the House of Representatives;
- The President Pro Tempore of the Senate;
- The Committees on Governmental Affairs of the Senate and Government Reform of the House of Representatives;
- Each committee of Congress with jurisdiction relating to the agency;
- The Attorney General;
- The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

Questions

1. The number of cases in federal court pending or resolved in each fiscal year and arising under each of the respective provisions of the federal antidiscrimination laws and whistleblower protection laws applicable to them as defined in 5 C.F.R. 724.102, in which an employee, former employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved.
 - None.
2. (a) The status or disposition of cases described in question (1); (b) the amount of money required to be reimbursed to the Judgment Fund by the agency for payments as defined in 5 C.F.R. 724.102; and (c) the amount of reimbursement to the Fund for attorney's fees where such fees have been separately designated.
 - (a) None.
 - (b) None.
 - (c) None.
3. In connection with the cases identified above, the total number of employees in each fiscal year disciplined (reprimand, suspension without pay, reduction in grade or pay, or removal) and the specific nature of the disciplinary actions taken, separated by the provision(s) of law involved.
 - None.
4. The final year-end data about discrimination complaints for each fiscal year that was posted in accordance with Equal Employment Opportunity Regulations 29 C.F.R. 1614.701, and what follows.
 - See [Appendix I](#).
5. Whether in connection with cases in federal court, the number of employees in each fiscal year disciplined in accordance with agency policy. The specific nature—for example, a reprimand—of the disciplinary actions taken must be identified.
 - None.
6. A detailed description of the agency's policy for taking disciplinary action against federal employees for conduct that is inconsistent with federal antidiscrimination laws and whistleblower protection laws or for conduct that constitutes another prohibited personnel practice revealed in connection with agency investigations of alleged violations of these laws.
 - NCD utilizes progressive discipline as a managerial tool to correct deficiencies in employee conduct and performance in compliance with agency regulations. Disciplinary actions are designed to serve as deterrents to unacceptable behavior or conduct and for correction of other situations that interfere with agency operations. NCD subscribes to the concept of progressive discipline as

applicable to the nature of any offense. Disciplinary actions against employees for conduct inconsistent with federal antidiscrimination laws and whistleblower protections or for conduct which constitutes a prohibited personnel practice are determined based on the circumstances of individual cases.

7. An analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with part 1614 of title 29 of the Code of Federal Regulations) including:
 - a. an examination of trends;
 - b. causal analysis;
 - c. practical knowledge gained through experience; and
 - d. any actions planned or taken to improve the complaint or civil rights programs of the agency.



NCD has one case in federal court pending or resolved. NCD will continue to promote a fair and inclusive workplace.

8. For each fiscal year, any adjustment needed or made to the agency's budget to comply with its Judgment Fund reimbursement obligations incurred under 5 C.F.R. 724.103.
 - None.
9. The agency's written plan developed under 5 C.F.R. 724.203(a) to train its employees.
 - Pursuant to agency policy, NCD management and staff will engage in training through FEDSEP. In consultation with EEOC staff, NCD will pursue training in

areas identified and utilize the no fee training offered by EEOC. The agency will continue to enhance EEO training to all new hires. EEO information is posted on the agency's website and whistleblower protection posters are available for all employees to view on site.

Appendix I

Equal Employment Opportunity Data Posted Pursuant to the No Fear Act:

National Council on Disability

4th Quarter FY 2023 for period ending January 31,
2024 2nd Quarter

Complaint Activity				
	2021	2022	2023	2024
Number of Complaints Filed	1	1	1	1
Number of Complainants	1	1	1	1
Repeat Filers	0	0	0	0

Complaints by Basis				
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2021	2022	2023	2024
Race	0	0	0	0
Color	0	0	0	0
Religion	0	0	0	0

Reprisal	1	1	1	1
Sex	0	0	0	0
National Origin	0	0	0	0
Equal Pay Act	0	0	0	0
Age	0	0	0	0
Disability	1	1	1	1
Genetic Information	0	0	0	0
Non-EEO	1	0	0	0

Complaints by Issue				
<i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints filed.</i>	2021	2022	2023	2024
Appointment/Hire	0	0	0	0
Assignment of Duties	1	0	0	0
Awards	0	0	0	0
Conversion to Full-time	0	0	0	0
Disciplinary Action				
Demotion	0	0	0	0
Reprimand	0	0	1	0
Removal	0	0	0	0
Suspension	0	0	1	0
Other	0	0	0	0
Duty Hours	0	0	0	0
Evaluation Appraisal	0	1	1	0
Examination/Test	0	0	0	0
Harassment				
Non-Sexual	1	1	1	1
Sexual	0	0	0	0
Medical Examination	0	0	0	0
Pay (Including Overtime)	0	0	1	0
Promotion/Non-Selection	0	0	0	0

Reassignment				
Denied	1	0	0	0
Directed	1	0	0	0
Reasonable Accommodation	0	0	1	0
Reinstatement	0	0	0	0
Retirement	0	0	0	1
Termination	0	0	0	0
Terms/Conditions of Employment	0	0	0	0
Time and Attendance	0	0	1	0
Training	0	0	0	0
Other	0	0	0	0

Processing Time				
	2021	2022	2023	2024
Complaints pending during fiscal year	0	1	1	1
Average number of days in investigation stage	0	333	333	333
Average number of days in final action stage	0	0	0	0
Complaint pending during fiscal year where hearing was requested	0	1	1	1
Average number of days in investigation stage	0	333	333	333
Average number of days in final action stage	0	0	0	0
Complaint pending during fiscal year where hearing was not requested	0	0	0	0

Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.											
		2020				2022		2023		2024	
	%	#		%	%	#	%	#	%	#	%
Total Number Findings		0				0		0		0	
Race		0		0	0	0	0	0	0	0	0
Color		0		0	0	0	0	0	0	0	0
Religion		0		0	0	0	0	0	0	0	0
Reprisal		0		0	0	0	0	0	0	0	0
Sex		0		0	0	0	0	0	0	0	0
National Origin		0		0	0	0	0	0	0	0	0
Equal Pay Act		0		0	0	0	0	0	0	0	0
Age		0		0	0	0	0	0	0	0	0
Disability		0		0	0	0	0	0	0	0	0
Genetic Information		0		0	0	0	0	0	0	0	0
Non-EEO		0		0	0	0	0	0	0	0	0
Findings After Hearing		0		0	0	0	0	0	0	0	0
Race		0		0	0	0	0	0	0	0	0
Color		0		0	0	0	0	0	0	0	0
Religion		0		0	0	0	0	0	0	0	0
Reprisal		0		0	0	0	0	0	0	0	0
Sex		0		0	0	0	0	0	0	0	0
National Origin		0		0	0	0	0	0	0	0	0
Equal Pay Act		0		0	0	0	0	0	0	0	0
Age		0		0	0	0	0	0	0	0	0
Disability		0		0	0	0	0	0	0	0	0
Genetic Information		0		0	0	0	0	0	0	0	0
Non-EEO		0		0	0	0	0	0	0	0	0
Findings Without Hearing		0		0	0	0	0	0	0	0	0
Race		0		0	0	0	0	0	0	0	0
Color		0		0	0	0	0	0	0	0	0
Religion		0		0	0	0	0	0	0	0	0

Reprisal		0	0	0	0	0	0	0	0	0	0
Sex		0	0	0	0	0	0	0	0	0	0
National Origin		0	0	0	0	0	0	0	0	0	0
Equal Pay Act		0	0	0	0	0	0	0	0	0	0
Age		0	0	0	0	0	0	0	0	0	0
Disability		0	0	0	0	0	0	0	0	0	0
Genetic Information		0	0	0	0	0	0	0	0	0	0
Non-EEO		0	0	0	0	0	0	0	0	0	0

Findings of Discrimination Rendered by Issue											
								2023		2024	
	%	#		%	%	#	%	#	%	#	%
Total Number Findings		0				0		0		0	
Appointment/Hire		0		0	0	0	0	0	0	0	0
Assignment of Duties		0		0	0	0	0	0	0	0	0
Awards		0		0	0	0	0	0	0	0	0
Conversion to Full-time		0		0	0	0	0	0	0	0	0
Disciplinary Action		0		0	0	0	0	0	0	0	0
Demotion		0		0	0	0	0	0	0	0	0
Reprimand		0		0	0	0	0	0	0	0	0
Suspension		0		0	0	0	0	0	0	0	0
Removal		0		0	0	0	0	0	0	0	0
Other		0		0	0	0	0	0	0	0	0
Duty Hours		0		0	0	0	0	0	0	0	0
Evaluation Appraisal		0		0	0	0	0	0	0	0	0
Examination/Test		0		0	0	0	0	0	0	0	0
Harassment		0		0	0	0	0	0	0	0	0
Non-Sexual		0		0	0	0	0	0	0	0	0
Sexual		0		0	0	0	0	0	0	0	0
Medical Examination		0		0	0	0	0	0	0	0	0
Pay (Including Overtime)		0		0	0	0	0	0	0	0	0
Promotion/Non-Selection		0		0	0	0	0	0	0	0	0
Reassignment		0		0	0	0	0	0	0	0	0
Denied		0		0	0	0	0	0	0	0	0

Directed		0		0	0	0	0	0	0	0	0
Reasonable Accommodation		0		0	0	0	0	0	0	0	0
Reinstatement		0		0	0	0	0	0	0	0	0
Retirement		0		0	0	0	0	0	0	0	0
Termination		0		0	0	0	0	0	0	0	0
Terms/Conditions of Employment		0		0	0	0	0	0	0	0	0
Time and Attendance		0		0	0	0	0	0	0	0	0
Training		0		0	0	0	0	0	0	0	0
Other		0		0	0	0	0	0	0	0	0
Findings After Hearing		0		0	0	0	0	0			
Appointment/Hire		0		0	0	0	0	0	0	0	0
Assignment of Duties		0		0	0	0	0	0	0	0	0
Awards		0		0	0	0	0	0	0	0	0
Conversion to Full-time		0		0	0	0	0	0	0	0	0
Disciplinary Action		0		0	0	0	0	0	0	0	0
Demotion		0		0	0	0	0	0	0	0	0
Reprimand		0		0	0	0	0	0	0	0	0
Suspension		0		0	0	0	0	0	0	0	0
Removal		0		0	0	0	0	0	0	0	0
Other		0		0	0	0	0	0	0	0	0
Evaluation Appraisal		0		0	0	0	0	0	0	0	0
Examination/Test		0		0	0	0	0	0	0	0	0
Harassment		0		0	0	0	0	0	0	0	0
Non-Sexual		0		0	0	0	0	0	0	0	0
Sexual		0		0	0	0	0	0	0	0	0
Medical Examination		0		0	0	0	0	0	0	0	0
Pay (Including Overtime)		0		0	0	0	0	0	0	0	0
Promotion/Non-Selection		0		0	0	0	0	0	0	0	0
Reassignment		0		0	0	0	0	0	0	0	0
Denied		0		0	0	0	0	0	0	0	0
Directed		0		0	0	0	0	0	0	0	0
Reasonable Accommodation		0		0	0	0	0	0	0	0	0
Reinstatement		0		0	0	0	0	0	0	0	0
Retirement		0		0	0	0	0	0	0	0	0

Termination		0		0	0	0	0	0	0	0	0
Terms/Conditions of Employment		0		0	0	0	0	0	0	0	0
Time and Attendance		0		0	0	0	0	0	0	0	0
Training		0		0	0	0	0	0	0	0	0
Other		0		0	0	0	0	0	0	0	0
Findings Without Hearing		0		0	0	0	0	0	0	0	0
Appointment/Hire		0		0	0	0	0	0	0	0	0
Assignment of Duties		0		0	0	0	0	0	0	0	0
Awards		0		0	0	0	0	0	0	0	0
Conversion to Full-time		0		0	0	0	0	0	0	0	0
Disciplinary Action		0		0	0	0	0	0	0	0	0
Demotion		0		0	0	0	0	0	0	0	0
Reprimand		0		0	0	0	0	0	0	0	0
Suspension		0		0	0	0	0	0	0	0	0
Removal		0		0	0	0	0	0	0	0	0
Other		0		0	0	0	0	0	0	0	0
Duty Hours		0		0	0	0	0	0	0	0	0
Evaluation Appraisal		0		0	0	0	0	0	0	0	0
Examination/Test		0		0	0	0	0	0	0	0	0
Harassment		0		0	0	0	0	0	0	0	0
Non-Sexual		0		0	0	0	0	0	0	0	0
Sexual		0		0	0	0	0	0	0	0	0
Medical Examination		0		0	0	0	0	0	0	0	0
Pay (Including Overtime)		0		0	0	0	0	0	0	0	0
Promotion/Non-Selection		0		0	0	0	0	0	0	0	0
Reassignment		0		0	0	0	0	0	0	0	0
Denied		0		0	0	0	0	0	0	0	0
Directed		0		0	0	0	0	0	0	0	0
Reasonable Accommodation		0		0	0	0	0	0	0	0	0
Reinstatement		0		0	0	0	0	0	0	0	0
Retirement		0		0	0	0	0	0	0	0	0
Termination		0		0	0	0	0	0	0	0	0

Terms/Conditions of Employment		0		0	0	0	0	0	0	0	0
Time and Attendance		0		0	0	0	0	0	0	0	0
Training		0		0	0	0	0	0	0	0	0
Other		0		0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status		0		
		0		
	2021	2022	2023	2024
Total complaints from previous Fiscal Years	0	1	1	1
Total Complainants	0	1	1	1
Number complaints pending				
Investigation	0	0	0	0
Hearing	0	1	1	1
Final Action	0	0	0	0
Appeal with EEOC Office of Federal Operations	0	0	0	0

Complaint Investigations				2024 Q1 Thru Q2
	2021	2022	2023	
Pending Complaints Where Investigations Exceeds Required Time Frames	0	0	0	0

No EEO Complaints Have Been Files in FY24
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* 09/20/23 (FY23 Q4) and the investigation ended on 01/31/24 (FY24 Q2)