

UNITED STATES ACCESS BOARD
Annual Report for Fiscal Year 2022
Under the Notification and Federal
Employee Antidiscrimination and
Retaliation Act of 2002

Report Prepared for:

Speaker of the U.S. House of Representatives

President Pro Tempore of the U.S. Senate

Committee on Homeland Security and Governmental Affairs,

U.S. Senate

Committee on Judiciary, U.S. Senate

U.S. Equal Employment Opportunity Commission

Attorney General

U.S. Office of Personnel Management

I. INTRODUCTION

This report is prepared by the U.S. Access Board (Access Board or Board) pursuant to the requirements of Title II, Section 203, of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act or Act). The Act requires federal agencies to submit this annual report to the Speaker of the U.S. House of Representatives; the President Pro Tempore of the U.S. Senate; the Senate Committee on Homeland Security and Governmental Affairs; the House Committee on Oversight and Reform; the Senate Committee on the Judiciary; the House Committee on the Judiciary; the U.S. Equal Employment Opportunity Commission; the Attorney General; and the U.S. Office of Personnel Management.

The Access Board is an independent federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards. Created in 1973 to ensure access to federally funded facilities, the Board is now a leading source of information on accessible design. The Board develops and maintains design criteria for the built environment, transit vehicles, information and communication technology, and medical diagnostic equipment under the Americans with Disabilities Act of 1990 (ADA) and other laws. It also provides technical assistance and training on these requirements and enforces accessibility standards that apply to federally funded facilities under the Architectural Barriers Act of 1968 (ABA).

The Access Board is a micro-agency with a maximum of 30 full-time employees when fully staffed and 13 presidentially appointed part-time special government employees who serve as the Public members on the agency's Board. This report contains data and analysis concerning equal employment opportunity (EEO) complaint activity at the Access Board. For fiscal year 2022 the Access Board had one new complaint. Over the past five fiscal years the Access Board has only had two EEO Complaints and one Federal Court case.

II. FY 2022 COMPLAINT DATA

A. Civil Cases

During FY 2022, there were zero new cases filed against the Access Board in federal courts. The Access Board has only had one case filed in a federal District Court under Federal Antidiscrimination Laws or Whistleblower Protection Laws in the past five years, in FY 2019. This case was dismissed from federal court in FY 2021 as the result of a settlement reached in a case arising out of the same facts challenging whistleblower discrimination filed by the plaintiff in the federal civil action before the Merit Systems Protection Board (MSPB).

B. Reimbursement to the Judgement Fund

During FY 2022 there were no federal district court discrimination cases which resulted in payment from the Judgment Fund on behalf of the Access Board

C. Types of Disciplinary Actions

There were no disciplinary actions arising from any federal district court discrimination cases in FY2022.

D. EEO Formal Complaints Final Fiscal Year Data

The final fiscal year-end data posted pursuant to Section 301(c)(1)(B) of the No FEAR Act are included in Appendix A. The final year-end data indicate that during FY 2022 there was one new formal EEO complaint alleging discrimination.

E. Policy Description on Disciplinary Actions

Access Board employees are accountable for their actions in accordance with the Access Board's Equal Employment Opportunity Policy Statement, which was last issued on July 5, 2022 by Executive Director Sachin Pavithran. This Policy Statement emphasizes the Access Board's determination to provide a fair and equitable workplace and subject employees to appropriate disciplinary action for engaging in unlawful discriminatory practices or allowing discriminatory practices to exist. This Statement emphasizes the importance of equal employment opportunity that helps the Board achieve its mission of promoting equality for people with disabilities. The Access Board's anti-harassment policy and procedures provide for the prompt investigation of claims of harassment outside of the EEO complaints process.

F. No FEAR Act Training

The Access Board is planning to provide training to all staff and managers of the Access Board in FY23.

III. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCES

There were no federal district court cases resulting in judgements, awards, or compromise settlements filed against the Access Board in FY2022. The Board has examined information reported from past fiscal years, namely the one federal district court case which was filed in FY2019 and dismissed in FY2021 as the result of a settlement agreement in the MSPB case, and believes that one case in the past five years illustrates the Access Board's ongoing commitment to maintaining a diverse and inclusive workforce. Additionally, as noted in the FY2021 NFA report, the Access Board worked on and has now updated both its Anti-Harassment Policy and its EEO Complaint Procedures. Both policies were circulated to all staff after issuance.

IV. ADJUSTMENT TO BUDGET

The Access Board did not make any adjustments to the budget in FY 2022 to comply with the requirements of Section 201 of the No FEAR Act.

V. ACTIONS TAKEN/PLANNED TO IMPROVE CIVIL RIGHTS PROGRAMS AT THE ACCESS BOARD

The Access Board continually seeks to improve its ability to prevent and address discrimination. The Access Board in the past few years that Board has successfully updated all of its anti-discrimination policies, including our Administrative Grievance Policy, Anti-Harassment Policy, and EEO Policies and Procedures. Additionally, the Access Board hired an outside contractor to provide a Diversity, Equity, Inclusion, and Accessibility training in FY2023.

APPENDIX A

U.S. Access Board

No Fear Act Data

FY 2022

I. COMPLAINT ACTIVITY (FY 2018 TO FY2022)

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Number of Complaints Filed	1	0	0	0	1
Number of Complainants	1	0	0	0	1
Repeat Filers	0	0	0	0	0

II. COMPLAINTS BY BASIS (FY 2018 TO FY 2022)

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Race	1	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	1	0	0	0	0
Sex	1	0	0	0	0
National Origin	1	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	1	0	0	0	1
Genetic Information	0	0	0	0	0
Non-EEO Basis	0	0	0	0	0

III. COMPLAINTS BY ISSUE

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Appointment /Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0

Conversion to Full-Time	0	0	0	0	0
Disciplinary Action	1	0	0	0	0
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	1	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0
Examination/Test	0	0	0	0	0
Harassment	1	0	0	0	0
Non-Sexual	0	0	0	0	0
Sexual	0	0	0	0	0
Medical Examination	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0
Promotion/Non-Selection	1	0	0	0	0
Reassignment	0	0	0	0	0
Denied	0	0	0	0	0
Directed	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	1
Reinstatement	0	0	0	0	0
Retirement	0	0	0	0	0
Termination	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0
Time and Attendance	0	0	0	0	0
Training	0	0	0	0	0
Other	0	0	0	0	0

IV. PROCESSING TIME

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Complaints Pending (<i>for any length of time</i>) During Fiscal Year	1	1	0	0	1
Average Number of Days in Investigation Stage	14	308	0	0	116

Complaints pending (<i>for any length of time</i>) during fiscal year where hearing was requested	1	1	0	0	0
Average number of days in final action stage	0	0	0	0	0
Complaints pending (<i>for any length of time</i>) during fiscal year where hearing was not requested	0	0	0	0	1
Average number of days in final action stage	0	0	0	0	46

V. COMPLAINTS DISMISSED BY AGENCY

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Total Complaints Dismissed by Agency	0	0	0	0	0
Average days pending prior to dismissal	0	0	0	0	0
Complaints withdrawn by Complainants	0	0	0	0	0

VI. COMPLAINTS WITHDRAWN BY COMPLAINANTS

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Total complaints withdrawn by Complainants	0	0	1	0	0	0

VII. TOTAL FINAL ACTIONS FINDING DISCRIMINATION

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Total Number Findings	0	0	0	0	0
Without Hearing	0	0	0	0	0
With Hearing	0	0	0	0	0

VIII. FINDINGS OF DISCRIMINATION RENDERED BY BASIS

A. Total Number of Findings

	FY 2018 (# %)	FY 2019 (# %)	FY 2020 (# %)	FY 2021 (# %)	FY 2022 (# %)
Race	0	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	0	0	0
Sex	0	0	0	0	0
National Origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	0	0	0	0	0
Genetic Information	0	0	0	0	0
Non-EEO Basis	0	0	0	0	0

B. Findings After Hearing

	FY 2018 (# %) ^s	FY 2019	FY 2020	FY 2021	FY 2022
Race	0	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	0	0	0
Sex	0	0	0	0	0
National Origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	0	0	0	0	0
Genetic Information	0	0	0	0	0
Non-EEO Basis	0	0	0	0	0

C. Findings Without Hearing

	FY 2018 (# %)	FY 2019	FY 2020	FY 2021	FY 2022
Race	0	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	0	0	0
Sex	0	0	0	0	0
National Origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	0	0	0	0	0
Genetic Information	0	0	0	0	0
Non-EEO Basis	0	0	0	0	0

IX. FINDINGS OF DISCRIMINATION RENDERED BY ISSUE

A. Total Number Findings

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Appointment /Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full-Time	0	0	0	0	0
Disciplinary Action	0	0	0	0	0
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0
Examination/Test	0	0	0	0	0
Harassment	0	0	0	0	0

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

B. Findings After Hearing

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Appointment /Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full-Time	0	0	0	0	0
Disciplinary Action	0	0	0	0	0
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0
Examination/Test	0	0	0	0	0

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

C. Findings Without Hearing

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Appointment /Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full-Time	0	0	0	0	0
Disciplinary Action	0	0	0	0	0
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0

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

D. Findings After Hearing

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Appointment /Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full-Time	0	0	0	0	0
Disciplinary Action	0	0	0	0	0
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Removal	0	0	0	0	0
Suspension	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0

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

X. PENDING COMPLAINTS FILED IN PREVIOUS FISCAL YEARS BY STATUS

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Total complaints from previous Fiscal Years	1	0	0	0	0
Total Complainants	1	0	0	0	0
Number Complainants Pending	1	1	0	0	0
Investigation	1	1	0	0	0
Hearing	0	0	0	0	0
Final Agency Action	0	0	0	0	0

Appeal with EEOC Office of Federal Operations	0	0	0	0	0

XI. COMPLAINT INVESTIGATION

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Pending Completion Where Investigation Exceeds Required Time Frames	0	1	0	0	0