



Fiscal Year 2016

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

Office of the Chief Executive Officer
Office of Civil Rights and Inclusiveness

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I. EXECUTIVE SUMMARY

The Corporation for National and Community Service (CNCS) is the Federal agency that improves lives, strengthens communities, and fosters civic engagement through service and volunteering. CNCS, headquartered in Washington, DC, has field offices located throughout the regional areas.

CNCS's primary role is to provide critical federal resources and leadership to support local initiatives that tackle community challenges. We direct resources to organizations and community programs that have proven to be effective in using service at the local level to address key national priorities in Disaster Services, Economic Opportunity, Education, Environmental Stewardship, Healthy Futures, and Veterans and Military Families. Through AmeriCorps, Senior Corps and the Social Innovation Fund and our other programs and activities, more than five million Americans serve with nearly 60,000 organizations across the country.

This report, which covers fiscal year (FY) 2015 – 2016, is prepared and provides its Annual Report to Congress as required by Title II, Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (“No FEAR Act” or “Act”), Public Law 107-174. The No Fear Act aims to reduce the incidents of workplace discrimination within the federal government by holding agencies and departments accountable for violations of antidiscrimination and whistleblower protection laws, and requires an annual report. Also, CNCS reports on the number of cases that were filed in Federal district court which resulted in judgments, awards, or compromise settlements; the disposition of those cases; money required to be reimbursed; and the number of employees disciplined for discrimination, retaliation, harassment, or other infractions of a provision of law cited in Section 201(c) of the No FEAR Act.

CNCS continues to be diligent in its efforts toward achieving a model EEO program and a robust diversity/inclusion management program. The Office of Civil Rights and Inclusiveness (OCRI) is the primary driver of the Agency's work to further that mission and achieve these goals.

- OCRI advises both the Chief Executive Officer (CEO) and the Chief Human Capital Officer (CHCO) on EEO and diversity-related matters.
- OCRI continues to refine its diversity management program, which includes OnBoarding, employee engagement, and training. In accordance with the strategic plan, OCRI is in the process of rolling out a number of diversity and inclusion initiatives.

In addition to its programming role, the OCRI has the responsibility for processing informal and formal complaints of discrimination and harassment. CNCS continues to maintain a relatively low rate of formal complaints. We expect this trend to continue due to an ongoing increased effort by OCRI to actively seek resolution during the initial intake and/or the informal counseling process.

During Fiscal Year (FY) 2016, CNCS was not a party to any Federal district court cases that resulted in judgments, awards, or compromise settlements. As a result, CNCS was not required to reimburse the Judgment Fund during FY 2016. No CNCS employees were disciplined for discrimination, retaliation, harassment, or other infractions of a provision of law cited in the *No FEAR Act* stemming from Federal district court actions.

There were five Equal Opportunity (EO) complaints filed against CNCS during FY 2015. All five cases were filed under *Title VII of the Civil Rights Act of 1964* (42 U.S.C § 2000e et seq). Of the five EO cases filed in FY 2016, there were no cases that resulted in findings of discrimination by either CNCS or the Equal Employment Opportunity Commission (EEOC).

II. INTRODUCTION

The *No FEAR Act* requires Federal agencies to submit an annual report 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 the Equal Employment Opportunity Commission (EEOC). Additionally, the U.S. Office of Personnel Management's final regulation on the *No Fear Act* issued on December 28, 2006, requires that the Office of Personnel Management receive a copy of the report. This report is submitted by CNCS to satisfy these reporting requirements.

III. BACKGROUND

The *No FEAR Act* was signed into law by President George W. Bush on May 15, 2002, and became effective on October 1, 2003. The *Act* requires Federal agencies to be accountable for violations of anti-discrimination and whistleblower protection laws and to 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 not later than one-hundred eighty (180) days after the end of each fiscal year. Agencies must report on the number of Federal district 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, etc.

The President delegated responsibility to the Office of Personnel Management (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 *Act* on December 28, 2006. CNCS has prepared this report based on the provisions of the *No FEAR Act*, along with the final regulations issued by the OPM and the EEOC.

IV. DATA

A. Civil Cases

Section 203(1) of the *No FEAR Act* requires that 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.” Section 724.302 of OPM’s final regulations issued on December 28, 2006, clarifies section 203 (1) of the *No FEAR Act*, stating that Federal agencies report on the “number of cases in Federal Court pending or resolved...arising under each of the respective provisions of the Federal Anti-discrimination 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.”

CNCS reports that during FY 2016, there were no Federal district court discrimination cases resulting in payments from the Judgment Fund on behalf of the Agency. CNCS further reports that at the end of FY16 there were two pending cases in Federal district court; two of them were filed under Title VII of the Civil Rights Act of 1964 (42 U.S.C § 2000e et seq) and one also included a whistleblower claim. Both cases are in the U.S. District Court for the Eastern District of California, in Sacramento, CA and are in the hearing phase.

B. Reimbursement to the Judgment Fund

OPM published final regulations in the Federal Register on January 22, 2004, and final 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, U.S. Department of the Treasury (FMS), 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 Treasury Judgment Fund paid no monies on behalf of CNCS for discrimination cases filed in Federal district court resulting in judgments, awards, or compromise settlements during FY 2016.

C. Disciplinary Actions

Section 203(a)(4) of the *No FEAR Act* requires that agencies include in the annual Report to Congress “the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1).” Section 203(a)(1) requires that agencies report “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.” OPM’s final regulation issued December 28, 2006, provides that these cases refer to the number of discrimination cases for which the Judgment Fund paid on behalf of the agency. The regulations also define disciplinary actions to include any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal.

CNCS reports that there were no disciplinary actions arising from any Federal district court discrimination cases.

D. Final Year-End Data

The final 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 indicates that during FY 2016, there were five complaints of discrimination. Of the five complaints filed, there were no cases resulting in findings of discrimination. These five complaints alleged the following bases of discrimination: one identified sex; two identified reprisal discrimination; one identified race; two identified age; two identified disability; and one identified religion. The average total formal complaint processing time at the end of FY 2016 was 140 days per case.

E. Policy Description on Disciplinary Actions

Section 203(a)(6) of the *No FEAR Act* requires that 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 alleging a violation of any of the laws cited under section 201(a) (1) or (2). Further, the *Act* requires that, with respect to each such law, the Federal agency report on the number of employees who were disciplined in accordance with such policy and the specific nature of the disciplinary action taken.

The CEO issues primary policy statements that reinforce the Agency’s commitment to establish a workplace free from discrimination, harassment, and retaliation. CNCS’s employees are accountable for their actions in accordance with these policy statements. The policy statements are: The Civil Rights and Workforce Diversity Policy (See Appendix B), and The Civil Rights Non-Harassment Policy (See Appendix C).

The first statement emphasizes CNCS's determination to subject employees to appropriate disciplinary action for engaging in unlawful discriminatory practices or allowing discriminatory practices to exist. The second statement communicates CNCS's zero tolerance of harassment against employees on the basis of race, color, national origin, gender, age, religion, sex, disability, gender identity or expression, sexual orientation, political affiliation, marital or parental status, military service, or engaging in a protected activity. Both of the statements caution that engaging in prohibited behavior will result in appropriate disciplinary actions.

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 Anti-discrimination laws and Whistleblower Protection laws. Under Section 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 Act* training within 90 days of appointment, which can be met through an agency orientation or training program.

The OCRI at CNCS established a training plan that new and onboarding staff must complete and all employees must repeat every two years. OCRI developed a No FEAR Act PowerPoint presentation and made it available in CNCS's electronic Learning Management System (LMS). The LMS system is available to all CNCS employees and enables the Agency to ensure that employees complete the required training. In early FY17, the Agency implemented the SkillSoft Learning System which will be utilized for No Fear Act training.

V. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE

Section 203(7) of the *No FEAR Act* requires that 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."

CNCS has examined the information reported and finds that, since the effective date of the No FEAR Act, there have been a relatively low number of EO complaints filed and an overall decline in the Federal district court cases resulting in judgments, awards, and compromise settlements paid by the Judgment Fund on behalf of CNCS. The number of Federal district court cases resulting in judgments, awards, or compromise settlements filed against CNCS in FY 2016 was zero. This statistic illustrates CNCS's ongoing commitment to maintaining a diverse and inclusive workforce as well as a model EO environment.

Biennial No FEAR Act training also contributes to CNCS's low complaint total and model EO environment.

CNCS's compliance and review under this section illustrates the diversity of our workforce. Overall, CNCS continues to be more diverse than the civilian labor force. This diversity is reflected at all levels of the agency. The majority of CNCS's executive level positions are filled by discretionary appointments. As was reported in CNCS's Management Directive Report 715 to the EEOC for FY 2016, of the 84 employees at the Executive/Senior level (GS-15 and above) and Mid-level (GS 13-14), 51 percent are male and 49 percent are female. Looking at race and ethnicity at that level, 69 percent are White, 18 percent are Black, 5 percent are Hispanic or Latino, 7 percent are Asian and 1 percent identify as being of two or more races.

Looking at disabled employment for FY 2016, CNCS has a workforce with 9.7 percent disability status, a decrease from FY15 (11.7 percent). In addition, two of our employees have a targeted disability. Our disabled employees are present at most grade levels in the organization, including nine at the Executive/Senior level (GS-15 and above) and 52 at the mid-level (Grades 13-14). CNCS will continue to recruit qualified disabled employees in FY 2016.

VI. ADJUSTMENT TO BUDGET

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

CNCS did not provide such an adjustment.

VII. CNCS'S ACTIONS PLANNED/TAKEN TO IMPROVE CIVIL RIGHTS PROGRAMS

- A.** CNCS continually seeks to improve its processes for preventing and addressing discrimination. This includes offering training for staff and senior level management, and improving the agency's EEO policies and procedures (Anti-Harassment Policy).
- B.** Managers and supervisors are instructed to take the legislation seriously and are held accountable for their actions or inactions in accordance with established disciplinary policies and procedures and performance evaluations.
- C.** CNCS will continue to encourage a healthy EO/diverse and inclusive environment by including employee engagement, retention, focus on corporate culture, mentoring, and management skills training in the overall Office of Human Capital/OCRI portfolio. Training will be provided to all managers and senior leaders on unconscious bias, soft skills, conflict resolution, and mentoring.
- D.** CNCS will continue to use alternate dispute resolution methods to resolve workplace conflicts so that they can be resolved swiftly and at a high rate.

- E. CNCS will acknowledge that changes and growth in the workplace tend to trigger more complaints. Therefore, better communication from senior management to all employees about changes to policies, practices, and ongoing reorganizations, may reduce future complaints. When employees are potentially affected by change, timely and candid communication from all levels is essential to avoiding workplace conflict and/or complaints.

VIII. ACCOMPLISHMENTS

- Continued work on the redesign of diversity and inclusion program activities and services at CNCS.
- Began targeted diversity and inclusion training for the Chief Operating Officer's Division with a special focus on training for managers.
- Continued participation in Onboarding new staff with special efforts to facilitate their adjustment to CNCS's cultural environment.
- Established and refreshed agency policies on Harassment and Reasonable Accommodations.
- Provided mandatory training to all employees on preventing and addressing harassment.

APPENDIX A

CNCS NO FEAR ACT TOTALS

Number of:	2015	2016
	FY Totals	FY Totals
Complaints	6	5
Filers	6	5
Repeat Filers	0	0

Bases	2015	2016
	FY Totals	FY Totals
Sex	2	1
Age	2	2
Race	3	1
Color	3	0
Disability	3	2
National Origin	0	0
Religion	1	1
Reprisal	3	2

Issues	2015	2016
	FY Totals	FY Totals
Appointment/Hire	1	1
Assignment of Duties	1	0
Awards	0	0
Conversion to Full Time	0	0
Disciplinary action		
1. Demotion	1	0
2. Reprimand	0	0
3. Suspension	0	0
4. Removal	2	0
Duty Hours	2	0
Evaluation/ Appraisal	0	0
Examination/ Test	0	0
Harassment/ Sexual	0	1
Harassment/ Non-Sexual	2	0
Medical Exam	0	0
Pay, including Overtime	0	0
Promotion/ Non-Selection	0	0
Reassignment	0	0

Denied	0	0
Directed	0	0
Reasonable Accommodation	3	2
Reinstatement	0	0
Retirement	0	0
Termination	2	1
Terms/ Conditions of Employment	2	1
Time and Attendance	0	0
Training	0	0
Other	0	0

Processing Time (Days)	2015	2016
	FY Totals	FY Totals
Investigations	126.67 days (avg.)	140 days (avg.)
After hearing	n/a	n/a
After investigation	99 days (avg.)	90 days (avg.)

Dismissals	2015	2016
	FY Totals	FY Totals
Number of Dismissals	0	0
Days pending prior to dismissal	n/a	n/a

Civil Rights and Workforce Diversity Policy

The Corporation for National and Community Service (CNCS) is committed to achieving a diverse, energized, high-performing workforce. Key to achieving this is developing and maintaining effective leaders, managers, and employees who treat all persons with dignity and respect, without regard to non-merit factors such as race, color, national origin, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, or military service. We strive to provide a work environment free of sexual, racial, ethnic, religious, or other harassment.

As Chief Executive Officer of CNCS, I am committed to fostering a diverse workplace, a workplace that is free of discrimination or harassment in any form; that is inclusive and fair; and that encourages participation of all employees in every facet of CNCS. I am firmly committed to promoting a climate of mutual respect and appreciation for the strengths of, and differences between, all our employees.

Our mission is to provide opportunities for Americans of all ages and backgrounds to serve their communities and country. We work with national and community nonprofit organizations, faith-based groups, schools, and local agencies to engage Americans in meeting critical needs in education, the environment, public safety, homeland security, and other areas. Integral to our mission is our commitment to diversity, dignity, and equal opportunity, promoting a climate of mutual respect and appreciation for the strengths that a diverse workforce brings to bear. It is essential that our employees provide work and service environments free from discrimination, and free from sexual, racial, ethnic, religious, or other harassment.

I expect every CNCS manager, supervisor, and employee to carry out this policy. Implicit in each employee's "successful" work performance, and explicit in each supervisor's performance rating, is support of CNCS's workforce diversity and civil rights policies and programs, and the fostering of an inclusive workplace where diversity and individual differences are valued. Any person who violates this policy will be subject to appropriate disciplinary action, up to and including termination.

Any CNCS employee, former employee, or applicant for employment who believes he or she has been discriminated against in violation of civil rights laws, regulations, or this policy, or in retaliation for opposition to discrimination or participation in discrimination complaint proceedings (e.g., as a complainant or witness), should raise his or her concerns with our Office of Civil Rights and Inclusiveness (OCRI). Discrimination claims not brought to the attention of OCRI within 45 days of their occurrence may not be accepted in a formal complaint of discrimination. OCRI may be reached at (202) 606-7503 (voice), (202) 606-3472 (TTY), eo@cns.gov, or through www.nationalservice.gov.

In addition, we encourage everyone to consider our Alternate Dispute Resolution (ADR) Program as an informal way to resolve workplace conflicts. If you are interested in learning more about our ADR program, please contact OCRI at (202) 606-7503 or eo@cns.gov.

3-1-17
Date


Kim Mansaray, (Acting) Chief Executive Officer

Employee Civil Rights and Non-Harassment Policy

The Corporation for National and Community Service (CNCS) has zero tolerance for the harassment of any individual or group of individuals for any reason. CNCS is committed to treating all persons with dignity and respect. CNCS prohibits all forms of discrimination based upon race, color, national origin, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, or military service. Whether in CNCS offices or campuses, in other service-related settings such as training sessions or service sites, or at service-related social events, such harassment is unacceptable, will not be tolerated and, if found, will be subject to immediate corrective action, up to and including removal or termination of any CNCS employee or volunteer.

Slurs and other verbal or physical conduct relating to an individual's gender, race, ethnicity, religion, sexual orientation or any other prohibited basis constitute harassment when it has the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment. Harassment includes, but is not limited to: explicit or implicit demands for sexual favors; pressure for dates; deliberate touching, leaning over, or cornering; offensive teasing, jokes, remarks, or questions; letters, phone calls, or distribution or display of offensive materials; offensive looks or gestures; gender, racial, ethnic, or religious baiting; physical assaults or other threatening behavior; or demeaning, debasing, and abusive comments or actions that intimidate.

CNCS does not tolerate harassment from anyone including persons of the same or different races, sexes, religions, or ethnic origins; or from a CNCS employee or supervisor; a project or site employee or supervisor; a non-employee (e.g., client); a co-worker, or service member. Conduct directed at one person in the workplace may create an offensive environment for others.

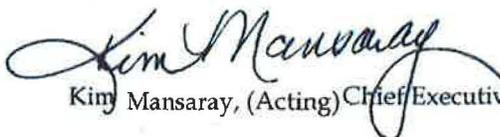
I expect CNCS supervisors and managers, when made aware of alleged harassment by employees, service participants, or other individuals, to immediately take swift and appropriate action. CNCS will not tolerate retaliation against a person who raises harassment concerns in good faith. Any employee who violates this policy or asserts a false claim of harassment with a malicious intent will be subject to appropriate discipline, up to and including termination.

Any CNCS employee, former employee, or applicant for employment who believes that he or she has been discriminated against in violation of civil rights laws, regulations, or this policy, or in retaliation for opposition to discrimination or participation in discrimination complaint proceedings (e.g., as a complainant or witness), should raise his or her concerns with our Office of Civil Rights and Inclusiveness (OCRI). Discrimination claims not brought to the attention of OCRI within 45 days of their occurrence may not be accepted in a formal complaint of discrimination. OCRI may be reached at (202) 606-7503 (voice), (202) 606-3472 (TTY), eo@cns.gov, or through www.nationalservice.gov.

Any employee who experiences or witnesses harassment in the workplace may make a report to Charles Collins, Jr., Director, Workforce Relations in accordance with CNCS Policy #OHC-06-001, "Anti-Harassment Policy and Procedures." Mr. Collins may be reached at (202) 606-6976 or CCollins@cns.gov.

In addition, we encourage employees to consider our Alternate Dispute Resolution (ADR) Program adr@cns.gov as an informal way to resolve workplace conflicts. If you are interested in learning more about our ADR program, please contact OCRI at (202) 606-7503 or eo@cns.gov.

3-1-17
Date


Kim Mansaray, (Acting) Chief Executive Officer