



# U.S. DEPARTMENT OF TRANSPORTATION

Fiscal Year 2008

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

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## I. Executive Summary

The U.S. Department of Transportation (DOT) 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 DOT report provides information on the number of cases that were filed in Federal court that resulted in judgments, awards or compromise settlements; the status or disposition of those cases; money required to be reimbursed; 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; an analysis of trends and practical knowledge gained through experience; and recommendations.

There were 40 Federal court cases pending during Fiscal Year (FY) 2008. Of these 40 cases, 28 (70 percent) included alleged violations of the Civil Rights Act of 1964 (42 U.S.C. § 2000e *et seq*) (Title VII). There were 10 cases (25 percent) that included allegations of the Age Discrimination in Employment Act (ADEA) of 1967 (29 U.S.C. §§ 631, 633(a)); eight cases (20 percent) included alleged violations of the Rehabilitation Act of 1973 (Rehab. Act) (29 U.S.C. §791); and two cases (5 percent) included violations of the Whistleblower Protection Act (5 U.S.C. § 2302(b)(8)).<sup>1</sup> In addition, seven Federal court cases were resolved during the fiscal year. All seven cases resulted in payments from the Judgment Fund and alleged violations of Title VII. There were no judgments, awards, or compromise settlements paid from the Judgment Fund on behalf of DOT for retaliation under the Whistleblower Protection Act.

In FY 2008, DOT experienced an increase in the number of Federal court cases that resulted in judgments, awards and compromise settlements in comparison to the previous fiscal year. The DOT reimbursed the Judgment Fund a total of \$2,763,633.97 during FY 2008, for Federal court judgments, awards and compromise settlements. There were no separately designated attorneys' fees. The DOT did not discipline any employees for discrimination, retaliation, harassment or other infractions of a provision of law cited in the No FEAR Act stemming from the Federal court cases during FY 2008.<sup>2</sup> However, DOT took 21 disciplinary actions against employees for violating antidiscrimination, harassment or retaliation policies.

There were 374 administrative complaints filed against DOT during FY 2008.<sup>3</sup> Among those 374 complaints, the greatest number of cases filed included claimed violations of Title VII.<sup>4</sup> During FY 2007, there were 475 administrative complaints filed against

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<sup>1</sup> Some of these Federal court cases involved more than one antidiscrimination law. For example, a case may have included violations of Title VII and the ADEA. Therefore, the total number of cases reported are the actual numbers of cases pending, but each case may involve more than one antidiscrimination law.

<sup>2</sup> Although no disciplinary action was taken in the one case in FY 2008 resulting in a finding of discrimination, the responsible manager did receive a written reprimand on April 17, 1997, resulting from an equal employment opportunity (EEO) administrative decision related to this Federal court case.

<sup>3</sup> These 374 complaints were filed by 351 individuals.

<sup>4</sup> According to the Equal Employment Opportunity Commission (EEOC) Form 462 Annual Federal Equal Employment Report of Discrimination Complaints for FY 2008, 524 complaints involved claims of Title

DOT. By comparison, the number of administrative complaints filed during FY 2008 declined by 21 percent from FY 2007. Among these administrative complaints, there were two that resulted in findings of discrimination from hearings before an administrative judge. Both cases included violations of Title VII. No DOT employees were disciplined for discrimination, retaliation, harassment or other infractions of a provision of law cited in Section 201(c) of the No FEAR Act.<sup>5</sup>

Although there was an increase by 75 percent of the number of Federal court judgments, awards, and compromise settlements in FY 2008; in comparison to FY 2007, the 75 percent represents an increase of three cases. Overall, DOT has experienced a declining trend in the number of Federal court judgments, awards and compromise settlements during the past 5 years. The DOT believes there are several reasons for this overall decline. The No FEAR Act requires Federal agencies to reimburse the Judgment Fund resulting from any judgments, awards, and compromise settlements for Federal court cases involving antidiscrimination, retaliation, and whistleblower protection laws. This reimbursement requirement may have contributed to the overall decline in the number of cases. Notwithstanding this requirement; however, in FY 2008, DOT reimbursed a total of \$2,763,633.97 to the Judgment Fund in comparison to a reimbursement of \$488,533.95 to the Judgment Fund in FY 2007. This substantial increase by 82 percent in the amount of payments reimbursed to the Judgment Fund in FY 2008 was primarily due to one Federal court case which had been in litigation for several years. This case alone yielded a payment of \$2,055,800.63. Aside from this one case, DOT still reimbursed the Judgment Fund \$707,833.34 in FY 2008, an increase of 45 percent from the \$488,533.95 in FY 2007.

The DOT believes that another reason for the decline in the number of Federal court cases over the past 5 years, the substantial reduction in administrative complaints filed between FY 2007 and FY 2008 and, the decline in the number of findings of discrimination is that DOT's senior management continues to strive to create a model EEO work environment pursuant to the EEOC's Management Directive (MD) 715. The Departmental Office of Civil Rights (DOCR) held trimester meetings with senior officials from the Operating Administrations<sup>6</sup> (OAs) to discuss affirmative employment goals and civil rights initiatives to attain a model work environment. Representatives from the Offices of the General Counsel and Human Resource Management also attended. At these meetings, an internal self-assessment scorecard was used as a common work tool to assess achievements and identify areas that needed emphasis for

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VII, including claims of the Equal Pay Act ("EPA") (29 U.S.C. § 216(b)); 118 involved claims of the ADEA, and 58 involved claims of the Rehab. Act.

<sup>5</sup> Section 201(c) provides the law applicable under the No FEAR Act, i.e., 5 U.S.C. §2302(b) (1), §2302(b) (8), §2302(b) (9) and §2302(d).

<sup>6</sup> The OAs include the Federal Aviation Administration, Federal Highway Administration, Federal Transit Administration, National Highway Traffic Safety Administration, Maritime Administration, Federal Railroad Administration, Federal Motor Carrier Safety Administration, Pipeline and Hazardous Materials Safety Administration, Research and Innovative Technology Administration, Saint Lawrence Seaway Development Corporation, and Surface Transportation Board. DOCR met with each OA with the exception of the Surface Transportation Board.

improvement. The EEOC recognized this work tool as a best practice in FY 2008, and DOCR presented this work tool at the EEOC's EXCEL conference in FY 2008.<sup>7</sup>

In addition to the accountability factor, DOT has taken several actions since the enactment of the No FEAR Act. (See Appendix A.) In addition to the mandatory training on EEO laws and rights and remedies required by the No FEAR Act and the U.S. Office of Personnel Management's (OPM's) implementing regulations, DOT provided training on diversity, Whistleblower Protection Act (WPA), prohibited personnel practices, conflict resolution and alternate dispute resolution (ADR).<sup>8</sup> The DOT also has increased its emphasis on encouraging employees to resolve workplace issues at the earliest stages. This increased attention to early resolution of workplace issues, briefings, and training on the No FEAR Act also may have had an impact in the overall declining number of Federal court cases over the past 5 years resulting in fewer judgments, awards and compromise settlements, a lesser number of findings of discrimination in both court and administrative cases, and the increase in the number of settlements resulting from Federal court cases.

To facilitate the analytical review of past No FEAR Act fiscal year information and trends, DOT needs a comprehensive ONEDOT database system that will interface with civil rights, legal, human resources, and financial management programs in DOT. Additionally, timely communication with DOT's employees about major changes regarding pending or ongoing reorganizations, policies, and practices is crucial for early resolution of potential employee workplace concerns. Finally, DOT recognizes that training in ADR and conflict management skills for supervisors and managers is critical to resolving workplace conflicts before they become formal complaints.

## 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. The DOT submission is in accordance with these reporting requirements.

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<sup>7</sup> EXCEL is the acronym for "Examining Conflicts in Employment Law."

<sup>8</sup> This FY, 64 percent of DOT's managers received basic ADR orientation training as reported in DOT's EEOC Form 462 Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints.

### **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 antidiscrimination and whistleblower protection laws and to post certain statistical data on its web sites relating to Federal sector EEO complaints filed with the Agency.

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, on 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 former 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 DOT 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 § 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. Civil Cases

The DOT reports that during FY 2008, there were a total of 40 Federal court cases pending. (See Appendix H, Figure 1.) Among these 40 cases, 28 cases (70 percent) included claimed violations of Title VII; 10 cases (25 percent) included claimed violations of the ADEA; eight cases (20 percent) included claimed violations of the Rehab. Act, and two cases (5 percent) included claimed violations of the Whistleblower Protection Act.<sup>9</sup> Also, for FY 2008, there were a total of seven Federal court cases resolved. All seven cases resulted in payments from the Judgment Fund -- one case involved a finding of discrimination, and the other six were settlements. All included claimed violations of Title VII. (See Appendix H, Figure 3.) There were no judgments, awards or compromise settlements paid from the Judgment Fund on behalf of DOT for retaliation under the Whistleblower Protection Act (WPA).

Although from FY 2003 through FY 2007, data indicate that there has been an overall decline of 74 percent in the number of Federal court cases resulting in judgments, awards or compromise settlements involving violations of antidiscrimination laws, during FY 2008, there was an increase of three cases (75 percent) more than in FY 2007. (See Appendix H, Figure 2.) A review of previous FYs indicates that DOT's Annual Report to Congress in FY 2007 reflected four Federal court cases that resulted in payments from the Judgment Fund. Among those four cases, all involved violations of Title VII. There were no judgments, awards, or compromised settlements paid from the Judgment Fund on behalf of DOT for retaliation under the WPA in FY 2007. In FY 2006, there were a total of nine Federal court cases that resulted in payments from the Judgment Fund. Among these nine cases, seven (78 percent) included claimed violations of Title VII, and two cases (22 percent) included claimed violations of the ADEA. In FY 2005, there were a total of 10 Federal court cases resulting in payments from the Judgment Fund. All of the 10 cases were filed under Title VII. The DOT's Annual Report to Congress in FY 2004 reflected 12 Federal court cases that resulted in payments from the Judgment Fund, about half of the number of cases in FY 2003. Among these 12 cases, seven (58 percent) included claims of Title VII; three cases (25 percent) included claims of the Rehab. Act, and two cases (17 percent) included claims of the ADEA. There were 23 Federal court cases that resulted in payments from the Judgment Fund for FY 2003. Among the 23 cases, 18 cases (78 percent) included claims of Title VII; two cases (9 percent) included claims of the Rehab. Act; and three cases (13 percent) included claims of the ADEA. In each of these past FYs, there were no Federal court cases for which the Judgment Fund paid monies on behalf of DOT for retaliation under the WPA.

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<sup>9</sup> Some of these Federal Court cases involved more than one antidiscrimination law. For example, a case may have included violations of Title VII and the ADEA. Therefore, the total number of cases reported are the actual numbers of cases pending, but each case may involve more than one antidiscrimination law.

#### 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.

The Treasury Judgment Fund paid \$2,763,633.97 on behalf of DOT for discrimination cases filed in Federal court resulting in judgments, awards, or compromise settlements during FY 2008. There were no attorneys' fees separately designated. The DOT has reimbursed the Treasury Judgment Fund for monies owed to the Judgment Fund for all judgments, awards, and compromise settlements for FY 2008.

The DOT continues to work with FMS to improve and streamline the FMS notification process to DOT OAs. Improvements to the FMS notification process will enable DOT OAs to respond more promptly and efficiently.

#### c. Types of Disciplinary Actions

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 that is inconsistent with Federal antidiscrimination 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 DOT reports that in FY 2008 there were no disciplinary actions arising from the seven Federal court discrimination cases resulting in payments from the Judgment Fund or the two administrative decisions in which findings of discrimination were found.

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.

DOT reports 21 disciplinary actions in FY 2008 as listed below:

- 1 – 14-day Suspension
- 2 – 10-day Suspensions
- 4 – 3-day Suspensions
- 1 – 2-day Suspensions
- 7 – 1-day Suspension
- 6 – Letters of Reprimand

d. Final Year-End Data Posted Under Section 301(c)(1)(B)

The final year-end data posted on DOT's web site pursuant to Section 301(c)(1)(B) of the No FEAR Act is included in Appendix B. The final year-end data indicate that during FY 2008, there were 374 complaints of discrimination and 2 complaints resulted in findings of discrimination.<sup>10</sup> Both findings were issued as a result of hearings before administrative judges and were violations of Title VII.

e. Description of Policy on Disciplinary Actions

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).

Four Secretarial policy statements issued by the former Secretary of Transportation reinforce DOT's commitment to establish a workplace free from discrimination, harassment, and retaliation. These policies warn employees of disciplinary action for engaging in discriminatory misconduct. The DOT's employees are accountable for their actions with respect to these policy statements. The policy statements include the:

1. *Equal Employment Opportunity*: This policy statement emphasizes DOT's determination to subject employees to appropriate disciplinary action for engaging in unlawful discriminatory practices or allowing discriminatory practices to exist. (See Appendix C.)
2. *Prevention of Harassment*: This policy statement communicates DOT's zero tolerance of harassment against employees on the basis of race, color, national origin, religion, age (40 and over), sex, disability, sexual orientation, or engaging in protected activity. (See Appendix D.)

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<sup>10</sup> These 374 complaints were filed by 351 individuals.

3. *Whistleblowing*: This policy statement communicates DOT's commitment to protecting employees and job applicants from interference or retaliation when making protected disclosures. (See Appendix E.)
4. *Employment and Advancement of Persons with Disabilities*: This policy statement communicates DOT's strong commitment to be a model employer for persons with disabilities, especially persons with targeted disabilities,<sup>11</sup> by encouraging the advancement of employment opportunities and improving the work environment by identifying and removing barriers to hiring, retaining and promoting those qualified for DOT's mission, and by prohibiting discrimination. (See Appendix F.)

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 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 2 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 program or a training program.

The Secretary delegated responsibility to the OAs and all departmental offices to establish training plans that were to prescribe how training will be conducted initially, for current staff and every 2 years thereafter, and how new employees were to be trained. To assist the OAs and all departmental offices, a No FEAR PowerPoint presentation was developed and placed in the DOT's electronic Learning Management System (eLMS). The eLMS is available to all DOT employees, and provides an efficient way to assign and document employee learning events. The OAs and all departmental offices use this training technology to deliver No FEAR training.

Through December 31, 2008, approximately 90 percent of DOT employees were retrained on the No FEAR Act through eLMS using the No FEAR presentation.

## **V. Analysis of Trends, Causal Analysis, and Practical Knowledge Gained Through Experience**

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." The DOT has examined the information reported and finds that since the effective date of the No FEAR Act, there has been a decline in the number of Federal court cases resulting in judgments, awards and compromise settlements paid by

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<sup>11</sup> The EEOC refers to "targeted disabilities" as follows: deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of limb and/or spine.

the Judgment Fund. From FYs 2004 to 2007, the number of Federal court cases resulting in judgments, awards or compromise settlements had declined by 68 percent. (See Appendix H, Figure 2.) However, with the increase in FY 2008, the overall decline between FY 2004 and FY 2008 is 42 percent.

The number of administrative cases filed with DOT has declined between FY 2004 and FY 2008. There was a 21 percent decline between FY 2007 and FY 2008. (See Appendix I, Figure 1.) In FY 2008, the three leading bases among these administrative complaints were age, gender, and reprisal/race. (See Appendix I, Figure 2.) These were the same leading bases in FY 2007. Those individuals filing complaints in FY 2008 raised the issues of promotion/non-selection, and harassment (non-sexual) most often. (See Appendix I, Figure 3.) Promotion/non-selection was one of the leading issues this fiscal year, and this number has increased slightly from the previous year. (See Appendix I, Figure 3.)

The total number of final actions<sup>12</sup> finding discrimination declined slightly in FY 2008 in comparison to FY 2007, and include findings of discrimination when a hearing was requested. (See Appendix I, Figure 4.) However, the greatest number of findings with hearings occurred in FY 2005. (See Appendix I, Figure 6.) The leading bases of discrimination without a hearing were race and reprisal. (See Appendix I, Figure 7.)

In FY 2008, there were 374 cases filed in comparison to the 475 cases filed in FY 2007. (See Appendix I, Figure 1.) Although it is hard to explain specifically what caused this reduction, DOT attributes the reduction to education and training about employees' rights and protections under antidiscrimination, retaliation and whistleblower protection laws, better communication, early intervention and the use of ADR to resolve workplace disputes before they become complaints. Statistics for FY 2008 indicate that at the EEO pre-complaint stage, 549 ADR counselings were offered.<sup>13</sup> Among the 549 ADR counselings at the pre-complaint stage of the process, 125 (23 percent) actually participated in ADR. Among the 125 ADR counselings, 33 (26 percent) were resolved and only 27 (22 percent) formal complaints were filed. Counselees rejected ADR in 197 of the 549 cases, approximately 36 percent of the time, and DOT rejected the use of ADR in 227 of the 549 cases, approximately 41 percent of the time. The DOT has not conducted any study to ascertain the reasons behind the counselees' and its managers' or supervisors' rejection of the use of ADR at the pre-complaint stage. However, it appears that providing additional training to employees, including managers and supervisors may enhance their understanding of the use of ADR and its benefits.

In the formal process, statistics indicate that once an EEO complaint has been filed, the use of ADR has shown encouraging results. The DOT offered ADR in a number of

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<sup>12</sup> The term "final action" refers to the action that an agency takes either following an administrative judge's decision to implement fully that decision or to not implement fully the decision and file an appeal to the EEOC's Office of Federal Operations. Final action also can refer to the action that the Agency takes when the Agency either dismisses an entire complaint under 29 C.F.R. § 1614.107, receives a request for an immediate final decision, or does not receive a reply to the notice issued under 29 C.F.R. § 1614.108(f).

<sup>13</sup> The EEOC Form 462 Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints for FY 2008.

discrimination cases through its ONEDOT Sharing Neutrals Program. According to DOT's FY 2008 EEOC Form 462, "Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints" for FY 2008, ADR was offered in 14 EEO formal complaints.<sup>14</sup> Among the 14 complaints offered ADR, 12 (86 percent) participated in ADR, the Agency rejected the use of ADR in two complaints. Among the 12 complaints accepted for ADR, there were five complaints, or 42 percent, of these cases resulted in a resolution. The DOT has demonstrated that by offering ADR to individuals involved in the EEO process, successful resolution can be achieved. Therefore, DOT believes that more education in conflict resolution, early intervention, and greater use of ADR at the pre-complaint phase of EEO complaints will enhance employees' understanding about ADR. The goal is to ultimately reduce the number of formal complaints.

There may be some reasons for the increase in the number of Federal court discrimination cases in which judgments, awards and compromise settlements were paid to the Judgment Fund during FY 2008 in comparison to previous FYs, and for the decline in the number of administrative discrimination complaints filed with DOT. With respect to the Federal court cases, DOT believes that the increase in the number of cases for FY 2008 is not significant in comparison to the overall decline since FY 2004. The number of Federal court cases this FY increased from four to seven. Overall, there has been an overall decline from FY 2004 to FY 2008, and DOT still believes that the primary reason is that Federal agencies are now required by the No FEAR Act to reimburse the Judgment Fund for judgments, awards and compromise settlements resulting from cases pending in Federal court. This requirement serves as an incentive for managers to take greater caution in making decisions based on legitimate nondiscriminatory reasons.

The DOT reimbursed a total of \$2,763,633.97 to the Judgment Fund in FY 2008, in comparison to \$488,533.95 in FY 2007, and the number of Federal court cases increased by 43 percent. Although there was a slight increase in the number of Federal court cases in FY 2008, there was a significant increase in the amount of money reimbursed to the Judgment Fund. This significant increase was primarily the result of one case that had been litigated for a number of years.<sup>15</sup> The accumulation of interest and attorneys' fees increased over this period of time. Had this case been resolved sooner, the Agency may have reduced this amount significantly. However, notwithstanding this one case, DOT still experienced an increase in payments reimbursed to the Judgment Fund by 31 percent. From FYs 2004 to 2008, DOT had 59 percent average decline in the number of Federal court cases involving antidiscrimination and retaliation laws. (See Appendix H, Figure 2.) Although the increase in the number of Federal court cases does not always yield a substantial increase in the amount of money reimbursed to the Judgment Fund, it did in FY 2008 in comparison to FY 2007. Likewise a decline in the

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<sup>14</sup> The EEOC regulations at 29 C.F.R §1614.602 require Federal agencies to provide data on the discrimination complaints processing, including alternative dispute resolution, on a fiscal year basis.

<sup>15</sup> This one case resulted in a total reimbursement of \$2,055,800.63. This figure included attorneys' fees and interest although these amounts were not separately designated in the Treasury Judgment Fund notice to DOT.

number of Federal court cases does not always result in a reduction in the amount of payments to the Judgment Fund. This is always determined on a case-by-case basis.

Another action believed to be responsible for the overall decline in the number of cases between FY 2004 and FY 2008, and for the decline in administrative discrimination cases filed with DOT from FY 2007 to FY 2008, is that over 95 percent of DOT's employees, including supervisors and managers, received the mandatory No FEAR training on the EEO laws, rights, and remedies in FY 2007. By the end of the next 2-year training cycle that occurred on December 17, 2008, approximately 90 percent of all DOT employees received this mandatory training. The DOT continues to stress training as a mechanism for reducing the number of Federal court judgments, awards and compromise settlements for discrimination cases.

In addition to the No FEAR Act's provisions to address accountability, DOT's senior management places emphasis on maintaining a model EEO work environment pursuant to the EEOC MD 715. The DOOCR leadership, along with representatives from the Offices of the General Counsel and Human Resource Management, meet with Heads of the OAs on a trimester basis to assess several key internal and external civil rights initiatives. Among the several internal civil rights initiatives assessed is training for managers, supervisors, and all employees on anti-discrimination and anti-harassment laws, the No FEAR Act, and managing workplace conflicts. The OAs utilize an internal self-assessment scorecard as a common work tool to assess their achievements and identify areas that need further emphasis. The DOOCR uses the information obtained during these trimester meetings to provide the Secretary with a report on the progress of DOT in meeting the No FEAR Act and EEOC's statutory requirements. This management tool was recognized as a best practice by EEOC in FY 2008, and the DOOCR team presented this management tool at the EEOC's EXCEL Conference in FY 2008.

The DOT has gained practical knowledge and experience since the first year of implementing the No FEAR Act, and continues to recognize the importance of a centralized database that would interface with the DOOCR and Human Resource Management, Offices of the General Counsel and Chief Financial Officer, and the OAs' civil rights, human resources, and legal offices. Because these organizations play a vital role in meeting the reporting requirements of the Act, DOT will work to develop an information system to facilitate the process of gathering information and data from secretarial offices and OAs. Additionally, during FY 2008, DOT identified no delays in processing reimbursements to the Judgment Fund. As a result, reimbursements were made within the required 45 day period.

## **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 DOT did not provide such an adjustment based on OPM’s regulations.

## **VII. DOT’s Actions Planned or Taken to Improve Complaint or Civil Rights Programs Pursuant to Section 203 (a)(7)(D)**

### **Actions Planned**

- 1) Identify a number of approaches in this report that may reduce complaints of discrimination, retaliation, and violation of whistleblower laws, and facilitate data collection for purposes of meeting the requirements under the Act. This includes continued training on EEO laws, whistleblower protections, prohibited personnel practices, diversity, conflict resolution, and improved communications.
- 2) Strive to have 100 percent of employees trained regarding their rights and protections under EEO, retaliation and whistleblower laws, and conflict resolution skills.
- 3) Make every effort to have all managers trained in managing a diverse workforce.
- 4) Acknowledge that organizational changes in the workplace tend to generate more complaints and encourage better communication from senior management to all employees about changes to policies and practices, reorganizations, and competitive sourcing initiatives may ameliorate future complaints.
- 5) Revise and strengthen the current Alternative Dispute Resolution Order, and encourage greater participation in mediation to resolve EEO and civil rights disputes.
- 6) Acquire or develop a ONEDOT centralized tracking database system that interfaces with civil rights, legal, human resources, and financial management programs throughout DOT. This centralized tracking database system would facilitate the processing of information needed for the Annual Report to Congress pursuant to the Act.

**Action Taken**

In February 2008, the Department issued a policy to address findings of discrimination. The policy requires OAs and all departmental offices to implement procedures for addressing such findings. The OAs and the departmental offices have begun drafting implementing procedures which are expected to lead to improved communication to employees that discriminatory actions are addressed in accordance with DOT and OAs policies.

## **APPENDIX A: Update on DOT's Accomplishments**

### **NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION (No FEAR) ACT**

This Appendix highlights the U.S. Department of Transportation's (DOT) accomplishments in implementing the No FEAR Act (also referred to as the Act) during Fiscal Year (FY) 2008. The DOT has pursued the requirements of this important legislation as indicated in the actions highlighted below:

#### **A. Policy Statements**

*Secretarial Emphasis:* On June 11, 2008, the Secretary of Transportation issued No FEAR Act and Whistleblowing Policy Statements that provide clear and mandatory guidance to DOT employees, former employers and applicants for Federal employment. (See Appendices E and G.) These Secretarial Policy Statements fully support the principles and requirements of the Act and strictly prohibit EEO discrimination, harassment, and interference/retaliation when making protected disclosures as specified in the whistleblower protection laws.

During the reporting period, DOT vigorously pursued its commitment to be a model Federal employer and was highly recognized in being ranked fourth among Federal agencies in Equal Employment Opportunity Commission's (EEOC's) EEO Program Compliance Assessment (EPCA).

In February 2008, the Department issued policy to address findings of discrimination and required the OAs and all departmental offices to implement procedures for addressing such findings. The OAs and the departmental offices have begun implementing procedures, which are expected to lead to improved communication to employees that discriminatory actions are addressed in accordance with DOT and modal administration policies.

#### **B. Employee Awareness and Training**

The Department maintained a comprehensive training program for all managers, supervisors and employees concerning No FEAR Act and EEO rights and responsibilities, including other related matters. The DOT training objectives strategically place emphasis on proactive prevention of unlawful discrimination. The success of employee awareness and training sessions may have contributed to the

21 percent reduction of formal EEO complaints during FY 2008 when compared to FY 2007. Major FY 2008 DOT training sessions addressed the following categories:

- No FEAR initial and refresher training;
- Federal laws that make discrimination and retaliation in the workplace illegal;
- EEO Complaint Process;
- Conflict Management and Resolution;
- Alternative Dispute Resolution (ADR); and
- Guidance and strategies to enhance recruiting, hiring, advancing and promoting EEO for individuals with targeted disabilities.

### **C. Disciplinary Action**

***Standard Operating Procedures:*** The Department has taken aggressive action to implement Title II of the No FEAR Act requiring appropriate disciplinary measures be taken for employee or supervisory conduct inconsistent with antidiscrimination and whistleblower protection laws. Not only has DOT implemented policy regarding findings of discrimination, it has agreed to accept the OPM's advisory guidelines issued to ensure that appropriate disciplinary action is taken for conduct inconsistent with Antidiscrimination Laws and Whistleblower Protection Laws.

***DOT Strategic Plan:*** The Plan specifies that the Department will sustain a work environment free from discrimination by identifying and enforcing equal employment and diversity performance standards at the management level. It stresses the enforcement of disciplinary measures towards any employee that violates EEO laws.

### **D. EEOC Federal Agency Ranking Table**

EEOC ranked DOT as number 4 among 58 Federal agencies in performance of major EEO critical elements. The critical elements include: (1) Demonstrated Commitment from Agency Leadership; (2) Integration of EEO into the Agency's Strategic Mission; (3) Management and Program Accountability; (4) Proactive Prevention of Unlawful Discrimination; (5) Efficiency in the EEO Process; and (6) Responsiveness and Legal Compliance. The DOT's ranking by the EEOC validates the Department's obligation to create a work environment free of discrimination.

### **E. DOCR EEO Self-Assessment Scorecard for Organizational Accountability, Compliance, Performance Measurement and Program Management**

The Scorecard involves trimester meetings hosted by the Departmental Office of Civil Rights (DOCR) with DOT Secretarial and OAs' senior management leaders. The meetings assess, plan, address, and monitor affirmative employment and public civil rights compliance matters. The Scorecard tracks and responds to 12 internal and external civil rights initiatives. The four internal initiatives that enhance the Department's successful achievement of No FEAR Act antidiscrimination requirements include:

- EEO and conflict resolution training;
- improving application rates and/or hiring and retention of groups with low participation rates;
- addressing the low participation rates of certain groups in the GS12-15 pay grades; and,
- increasing the use of Alternative Dispute Resolution (ADR) in the EEO complaint process.

The DOCR prepares an end-of-year Annual Scorecard and summary report that is provided to the Secretary for review. These documents addressed the progress and major actions achieved by each DOT organization over the course of the fiscal year. The scorecard serves as an effective EEO program implementation, measurement, evaluation, and management tool. The Secretary acknowledged DOCR and OA leadership team for the excellence of the scorecard during the DOT 2008 Annual Awards Ceremony.

The EEOC recognized the DOT Scorecard as a "best practice" and promoted its use by other Federal agencies. The DOCR Deputy Director and several staff members hosted a workshop discussing the Scorecard during the 2008 EEOC Annual EXCEL Conference in Chicago, Illinois. The workshop explained the Scorecard process and how to track agency progress in meeting the EEOC model program requirements. Several of the attendees requested DOT to provide material so that they might implement the Scorecard process within their agencies. The EXCEL Conference is the EEOC's annual flagship training and leadership event.

**APPENDIX B: DOT No FEAR 2008 Fiscal Year Totals**  
**(NOTE: This is a required format provided by the U. S. Equal Employment Opportunity Commission.)**

*The U.S. Department of Transportation (All Operating Administrations)*

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## 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 Previous Fiscal Year Data				
	2004	2005	2006	2007	2008
Number of Complaints Filed	493	408	484	475	374
Number of Complainants	477	376	434	451	351
Repeat Filers	24	27	34	21	23

\* - No data

# - Number

% - Percent

<b>Complaints by Basis</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	<b>Comparative Data            Previous Fiscal Year Data</b>				
	2004	2005	2006	2007	2008
Race	121	133	167	150	120
Color	49	66	67	53	51
Religion	15	12	14	19	17
Reprisal	147	155	208	150	173
Sex (including complaints filed under Equal Pay Act)	137	113	174	159	129
National Origin	106	47	50	51	34
Age	109	155	192	162	118
Disability	59	70	71	73	58

<b>Complaints by Basis</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	<b>Comparative Data</b> <b>Previous Fiscal Year Data</b>				
	2004	2005	2006	2007	2008
Non-EEO basis	*	*	51	8	5

<b>Complaints by Issue</b> <i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints filed.</i>	<b>Comparative Data</b> <b>Previous Fiscal Year Data</b>				
	2004	2005	2006	2007	2008
Appointment/Hire	19	36	10	23	6
Assignment of Duties	24	26	39	36	24
Awards	7	12	15	9	16
Conversion to Full-time	1	1	0	1	0

<b>Complaints by Issue</b> <i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints filed.</i>	<b>Comparative Data            Previous Fiscal Year Data</b>				
	2004	2005	2006	2007	2008
Demotion	1	1	2	3	3
Reprimand	9	9	11	17	10
Removal	1	2	5	8	8
Suspension	20	19	16	12	13
Other	3	8	11	17	11
Duty Hours	3	8	10	14	9
Evaluation Appraisal	11	20	22	15	26
Examination/Test	0	1	1	1	1

<b>Complaints by Issue</b> <i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints filed.</i>	<b>Comparative Data            Previous Fiscal Year Data</b>				
	2004	2005	2006	2007	2008
Non-Sexual	5	5	44	71	59
Sexual	29	45	5	8	8
Medical Examination	3	0	2	2	3
Pay (Including Overtime)	9	26	21	11	15
Promotion/Non-Selection	87	91	126	86	91
Denied	6	19	10	6	1
Directed	13	16	10	11	15
Reasonable Accommodation	14	22	16	20	12

<b>Complaints by Issue</b> <i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints filed.</i>	<b>Comparative Data            Previous Fiscal Year Data</b>				
	2004	2005	2006	2007	2008
Reinstatement	2	6	3	1	2
Retirement	5	4	11	9	5
Termination	9	8	28	23	24
Terms/Conditions of Employment	32	18	29	31	13
Time and Attendance	11	26	33	26	14
Training	20	31	30	25	31
Other	29	27	10	51	50

<b>Processing Time</b>	<b>Comparative Data Previous Fiscal Year Data</b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
<b>Complaints pending (<i>for any length of time</i>) during fiscal year</b>					
Average number of days in investigation stage	*	*	203.62	192.97	235.88
Average number of days in final action stage	*	*	56.98	152.26	110.14
<b>Complaints pending (<i>for any length of time</i>) during fiscal year where hearing was requested</b>					
Average number of days in investigation stage	*	*	205.6	124.20	235.29
Average number of days in final action stage	*	*	43.76	25.58	10.03

<b>Processing Time</b>	<b>Comparative Data Previous Fiscal Year Data</b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
<b>Complaints pending (<i>for any length of time</i>) during fiscal year where hearing was not requested</b>					
Average number of days in investigation stage	*	*	205.6	195.34	236.24
Average number of days in final action stage	*	*	43.76	215.59	175.91
<b>Complaints Dismissed by Agency</b>	<b>Comparative Data Previous Fiscal Year Data</b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Total Complaints Dismissed by Agency	179	224	200	111	114

<b>Complaints Dismissed by Agency</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
	<b>2004</b>		<b>2005</b>		<b>2006</b>		<b>2007</b>		<b>2008</b>	
Average days pending prior to dismissal	883		340		174		160		135	
<b>Complaints Withdrawn by Complainants</b>										
Total complaints Withdrawn by Complainants	*		*		17		17		32	
<b>Total Final Actions Finding Discrimination</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
	<b>2004</b>		<b>2005</b>		<b>2006</b>		<b>2007</b>		<b>2008</b>	
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
Total Number Findings	8		10		2	0	7		2	
Without Hearing	2	25%	1	10%	0		3	43%	0	

<b>Total Final Actions Finding Discrimination</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
	<b>2004</b>		<b>2005</b>		<b>2006</b>		<b>2007</b>		<b>2008</b>	
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
With Hearing	6	75%	9	90%	2	100%	4	57%	2	100%
<b>Findings of Discrimination Rendered by Basis</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	<b>Comparative Data (Sec. 1614.705 Previous Fiscal Year Data</b>									
	<b>2004</b>		<b>2005</b>		<b>2006</b>		<b>2007</b>		<b>2008</b>	
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
Total Number Findings	22		25		2		7		2	
Race	6	27%	4	16%	0		2	29	1	50%
Color	1	5%	4	16%	0		1	14	0	

<b>Findings of Discrimination Rendered by Basis</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	<b>Comparative Data (Sec. 1614.705 Previous Fiscal Year Data)</b>									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Religion	0		2	8%	0		0	0	0	
Reprisal	1	5%	9	36%	0		4	57	1	50%
Sex (including complaints filed under Equal Pay Act)	7	32%	4	16%	0		0	0	0	
National Origin	0		1	4%	0		0	0	0	
Age	4	18%	0		1	50%	2	29	0	
Disability	3	14%	0		1	50%	1	14	0	
Non-EEO	*		*		*		0	0	0	

<b>Findings of Discrimination Rendered by Basis</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	<b>Comparative Data (Sec. 1614.705 Previous Fiscal Year Data)</b>									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
<b>Findings After Hearing</b>	19		20		2		4		2	
Race	5	26%	3	15%	0		0		1	50%
Color	1	5%	2	10%	0		0		0	
Religion	0		1	5%	0		0		0	
Reprisal	1	5%	6	30%	0		3	75%	1	50%
Sex (including complaints filed under Equal Pay Act)	6	31%	4	20%	0		0		0	

<b>Findings of Discrimination Rendered by Basis</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	<b>Comparative Data (Sec. 1614.705 Previous Fiscal Year Data)</b>									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
National Origin	0		1	5%	0		0		0	
Age	3	16%	2	10%	1	50%	0		0	
Disability	3	16%	1	5%	1	50%	1	25%	0	
Non-EEO	*		*		*		0		0	
<b>Findings Without Hearing</b>	3		1		0		3		2	
Race	1	33%	1	100%	0		1	33%	1	50%
Color	0		0		0		0		0	

<b>Findings of Discrimination Rendered by Basis</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	<b>Comparative Data (Sec. 1614.705 Previous Fiscal Year Data)</b>									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Religion	0		0		0		0		0	
Reprisal	0		0		0		0		1	50%
Sex (including complaints filed under Equal Pay Act)	1	33%	0		0		0		0	
National Origin	0		0		0		0		0	
Age	1	33%	0		0		2	67%	0	
Disability	0		0		0		0		0	
Non-EEO	0		0		0		0		0	

<b>Findings of Discrimination Rendered by Basis</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	<b>Comparative Data (Sec. 1614.705 Previous Fiscal Year Data)</b>									
	<b>2004</b>		<b>2005</b>		<b>2006</b>		<b>2007</b>		<b>2008</b>	
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
<b>Findings of Discrimination Rendered by Issue</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
	<b>2004</b>		<b>2005</b>		<b>2006</b>		<b>2007</b>		<b>2008</b>	
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
<b>Total Number Findings</b>	8		10		2		7		2	
Appointment/Hire	0		0		0		1	17	1	50%
Assignment of Duties	1	11%	1	10%	0		0	0	0	0

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Awards	0		0		0		0	0	0	0
Conversion to Full-time	0		0	0	0		0	0	0	0
Demotion	0		0		1	10%	0		0	0
Reprimand	0		0		0		0		0	0
Suspension	0		0		0		0		0	0
Removal	0		0		0		0		0	0
Other	*		*		*		*		*	0

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Duty Hours	0		0		0		0		0	0
Evaluation Appraisal	0		0		1	10%	0		0	0
Examination/Test	0		0		0		0		0	
Non-Sexual	1	11%	1	10%	0		0		0	
Sexual	0		0		0		0		0	
Medical Examination	0		0		0		0		0	
Pay (Including Overtime)	0		0		0		1	17	0	

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Promotion/Non-Selection	3	27%	1	10%	1	50%	1	17	1	50%
Denied	2	18%	0		0		1	17	0	
Directed	0		1	10%	0		0		0	
Reasonable Accommodation	0		0		1	50%	0		0	
Reinstatement	0		0		0		0		0	
Retirement	0		0		0		0		0	
Termination	0		0		0		0		0	

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Terms/Conditions of Employment	2	18%	3	30%	0		1	17	0	
Time and Attendance	0		0		0		0		0	
Training	0		1	10%	0		0		0	
Other	0		0		0		1	17	0	
<b>Findings After Hearing</b>	8		12		2		4		2	
Appointment/Hire	0		0		0		0	0	1	50%
Assignment of Duties	1	13%	1	8%	0		0	0	0	0

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Awards	0		0		0		0	0	0	0
Conversion to Full-time	0		0		0		0	0	0	0
Demotion	0		1	8%	0		0		0	
Reprimand	0		0		0		0		0	
Suspension	0		0		0		0		0	
Removal	0		0		0		0		0	
Other	*		*		*		*		*	

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Duty Hours	0		0		0		0		0	
Evaluation Appraisal	0		1	8%	0		0		0	
Examination/Test	0		0		0		0		0	
Non-Sexual	1	13%	1	8%	0		0		0	
Sexual	0		0		0		0		0	
Medical Examination	0		0		0		0		0	
Pay (Including Overtime)	0		0		0		1	33	0	

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Promotion/Non- Selection	2	25%	0		1	50%	0		1	50%
Denied	2	25%	0		0		0		0	
Directed	0		1	8%	0		0		0	
Reasonable Accommodation	0		0		1	50%	0		0	
Reinstatement	0		0		0		0		0	
Retirement	0		0		0		0		0	
Termination	0		0		0		0		0	

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Terms/Conditions of Employment	2	25%	3	25%	0		1	33	0	
Time and Attendance	0		0		0		0		0	
Training	0		1	8%	0		0		0	
Other	0		3	25%	0		1	33	0	
<b>Findings Without Hearing</b>	1		0		0		3		0	
Appointment/Hire	0		0		0		1	33	0	
Assignment of Duties	0		0		0		0		0	

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Awards	0		0		0		0		0	
Conversion to Full-time	0		0		0		0		0	
Demotion	0		0		0		0		0	
Reprimand	0		0		0		0		0	
Suspension	0		0		0		0		0	
Removal	0		0		0		0		0	
Other	*		*		*		*		0	

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Duty Hours	0		0		0		0		0	
Evaluation Appraisal	0		0		0		0		0	
Examination/Test	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	

Findings of Discrimination Rendered by Issue	Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008	
	#	%	#	%	#	%	#	%	#	%
Promotion/Non-Selection	0		0		0		1	33	0	
Denied	0		0		0		1	33	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	1	100%	0		0		0		0	

<b>Findings of Discrimination Rendered by Issue</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
	<b>2004</b>		<b>2005</b>		<b>2006</b>		<b>2007</b>		<b>2008</b>	
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
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>Pending Complaints Filed in Previous Fiscal Years by Status</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
	<b>2004</b>		<b>2005</b>		<b>2006</b>		<b>2007</b>		<b>2008</b>	
Total complaints from previous Fiscal Years	*		*		688		609		718	

<b>Pending Complaints Filed in Previous Fiscal Years by Status</b>	<b>Comparative Data Previous Fiscal Year Data</b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Total Complainants	*	*	513	237	561
Investigation	*	*	276	101	85
Hearing	*	*	295	251	85
Final Agency Action	*	*	60	46	68
Appeal with EEOC Office of Federal Operations	*	*	1	2	1

<b>Complaint Investigations</b>	<b>Comparative Data Previous Fiscal Year Data</b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>

Complaint Investigations	Comparative Data Previous Fiscal Year Data				
	2004	2005	2006	2007	2008
Pending Completion Where Investigation Exceeds Required Time Frames	*	*	50	79	41

\* No data  
# number  
% percent

*This page was last modified on January 31, 2009.*

## **APPENDIX C: Equal Employment Opportunity Policy Statement**

### **Equal Employment Opportunity Policy Statement 2008**

Every employee at the U.S. Department of Transportation is responsible for maintaining a work environment that is free of discrimination. When any employee or applicant for employment is discriminated against, the work of this Department suffers, opportunities for achievement are lost, and the ability of our employees to reach their full potential is jeopardized.

We must eliminate all barriers to equal employment opportunity for employees and applicants for employment. We also must ensure that our recruitment and selection processes support the full consideration of talented individuals from groups that were not well represented in the past. All supervisors and managers must ensure that employees receive equal opportunity to obtain the training needed to maintain core competencies and develop to their full potential. We must counsel and mentor all of our employees, and acknowledge accomplishments through formal recognition and opportunities for advancement. Personnel actions must be based upon merit factors, without bias or prejudice.

There is zero tolerance of discrimination in the workplace. Any departmental employee determined to have engaged in unlawful discriminatory practices, and any employee in a position of authority who fosters an environment that allows discriminatory practices to exist will be subject to appropriate disciplinary action. Violations of the law prohibiting unlawful discriminatory practices will result in appropriate disciplinary actions against the offenders, up to and including dismissal.

Employees who believe they have been discriminated against on the basis of race, color, national origin, religion, sex, age (40 and over), disability, or sexual orientation; subjected to reprisal for opposing discrimination in the agency; or hindered from participating in the employment discrimination complaint process are encouraged to contact their Office of Civil Rights or the Departmental Office of Civil Rights.

I am committed to ensuring the Department is a model workplace where every employee is valued and has an opportunity for fully contributing to the accomplishment of our mission. I ask you to join me in this commitment. I am counting on each of you to do your part.

Mary E. Peters

## **APPENDIX D: Prevention of Harassment Policy Statement**

### **Policy Statement on the Prevention of Harassment 2008**

The U.S. Department of Transportation has zero tolerance for harassment on the basis of race, color, national origin, religion, sex, age (40 and over), disability, sexual orientation, or protected activity. Harassment in this context refers to unwelcome comments or conduct that is so objectively offensive as to alter the conditions of employment. It is an illegal and offensive form of discrimination that undermines professional, cooperative working relationships, and violates the law and Department policy. As Secretary of Transportation, I am committed fully to our longstanding policy that harassment is wholly unacceptable, will not be tolerated, and must not occur.

Any employee who believes that he or she has been the victim of harassment may, without fear of reprisal, use the Department's informal and formal programs to prevent and eliminate harassment, seek assistance of an Equal Employment Opportunity counselor, or contact the Department's Offices of Civil Rights. Any manager or supervisor who becomes aware of such unacceptable behavior must take immediate and appropriate corrective action, and has a responsibility to ensure that harassment stops and does not recur. This also includes cases in which a manager or supervisor should have known about the harassment and failed to take prompt and appropriate corrective action. Violations of the law prohibiting harassment or violations of this policy will result in appropriate disciplinary actions against the offenders, up to and including dismissal.

Everyone is entitled to a work environment that is free from harassment. Prevention is the best tool we have. I ask all employees to join me in implementing and communicating this policy.

Mary E. Peters

## **APPENDIX E: Whistleblowing Policy Statement**

### **Policy Statement on Whistleblowing 2008**

The U.S. Department of Transportation is committed to protecting Federal employees, former Federal employees, and job applicants from interference when making protected disclosures and from retaliation for having made protected disclosures. Congress enacted the Whistleblower Protection Act of 1989 to strengthen protections for Federal employees who believe they are the target of unjustified personnel actions in reprisal for making disclosures about a violation of law, rule, or regulation, a gross waste of funds or mismanagement, an abuse of authority, or a substantial and specific danger to public health or safety. President Bush signed the Notification and Federal Employee Antidiscrimination and Retaliation Act (No Fear) into law on May 15, 2002. This Act makes Federal agencies directly accountable for violations of antidiscrimination and whistleblower protection laws.

Neither I nor any member of the Department's leadership team will tolerate whistleblower reprisal. Legitimate disclosure of information by employees is an invaluable resource for the oversight of government operations. Therefore, it is my expectation that employees be able to confidently report these matters to the Department's Office of Inspector General, the U.S. Office of Special Counsel, or appropriate management officials at the Department. Anyone who interferes with or retaliates against any employee making a protected disclosure will be subject to appropriate disciplinary action.

I am committed to maintaining the Department's role as an employer that respects the rights of Federal employees, former Federal employees, or job applicants to raise legitimate concerns without fear of reprisal. I ask everyone to join me in implementing and communicating this important policy.

Mary E. Peters

## **APPENDIX F: Employment and Advancement of Persons with Disabilities Policy Statement**

### **Policy Statement on Employment and Advancement of Persons with Disabilities 2008**

I am committed firmly to ensuring the U.S. Department of Transportation is a model employer of people with disabilities. I strongly encourage outreach and the selection and advancement of individuals with disabilities whose qualifications meet our mission needs. Particular emphasis is placed on such individuals with severe disabilities, often referred to as “targeted disabilities.”

Section 501 of the Rehabilitation Act of 1973 prohibits Federal agencies from discriminating against qualified individuals with disabilities. The Act also requires agencies to provide hiring, placement, and advancement opportunities for individuals with disabilities. Violations of this law will result in appropriate disciplinary actions against the offenders, up to and including dismissal.

The Department is expected to face a significant challenge in recruiting candidates to fill vacancies created by departing employees. However, this challenge should present increased opportunities to hire individuals with disabilities, especially those with targeted disabilities. The Department is committed to identifying and removing any barriers to hiring, retaining, and promoting individuals with disabilities.

Our goal is to provide a work environment that welcomes qualified individuals with disabilities and effectively utilizes their skills, knowledge, and abilities. When requested, appropriate work site adjustments and technology will be provided in accordance with DOT Order 1011.1, “Procedures for Processing Reasonable Accommodation Requests by Job Applicants and Employees with Disabilities” (available on DOT’s web site at <http://www.dotcr.ost.dot.gov/Documents/DotPart/RAPolicy/10101.doc>). Each of us has a responsibility to report any barriers to meeting our goal. Together, we can make the Department a better workplace for every employee. Join me in advancing employment opportunities and improving the work environment for persons with disabilities in our workforce.

Mary E. Peters

## **APPENDIX G: No FEAR Act Policy Statement**

### **Policy Statement on the Implementation of the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002 (Public Law 107-174) 2008**

On May 15, 2002, President Bush signed the No FEAR Act (“the Act”), which requires Federal agencies to be accountable for violations of antidiscrimination and whistleblower protection laws. The Act also requires Federal agencies to: (a) notify and train Federal employees, former Federal employees, and applicants for Federal employment of their rights and protections available to them under the Federal antidiscrimination, whistleblower protection and retaliation laws; and (b) post statistical data relating to Federal sector Equal Employment Opportunity (EEO) complaints on their public web sites.

The Act mandates that Federal agencies will provide annual reports to Congress on: (a) the number of cases that were filed in Federal district court resulting in judgments, or awards or compromised settlements; (b) the disposition of those cases; (c) the money required to be reimbursed; and (d) the number of employees disciplined for discrimination, retaliation, harassment, or other infractions of a provision of law cited in the Act.

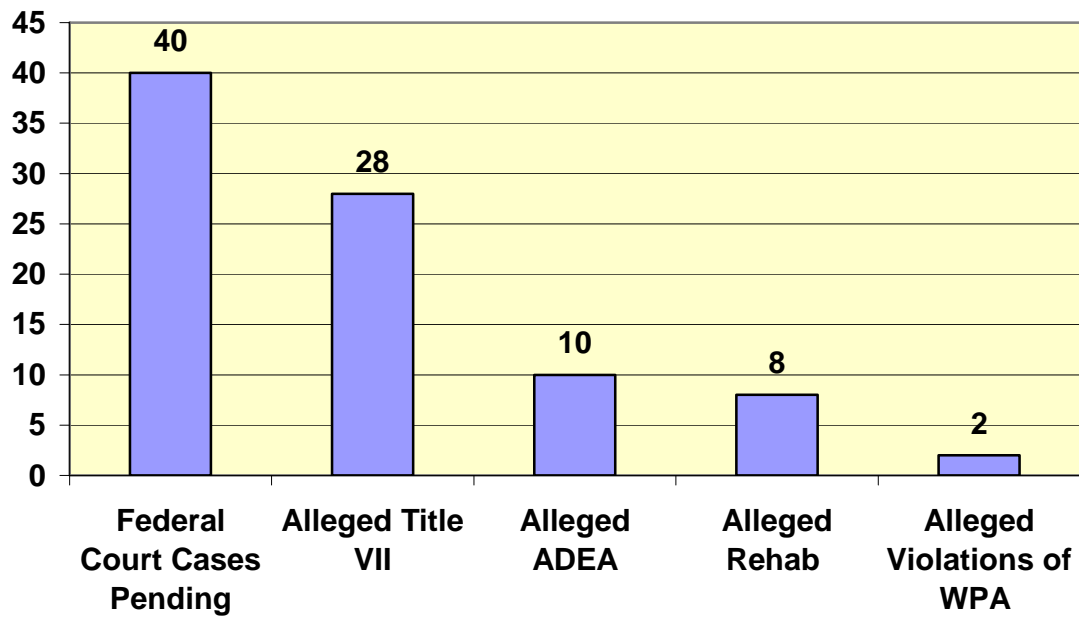
I fully support the principles of the Act and it is the Department’s policy to strictly prohibit EEO discrimination, harassment, and interference/retaliation when making protected disclosures as specified in the whistleblower protections laws. For more detailed information concerning the rights and protections of Federal employees, former employees, and applicants for Federal employment under the Act, you may refer to the Department’s web site at: [www.dotcr.ost.dot.gov/asp/nofear.asp#2](http://www.dotcr.ost.dot.gov/asp/nofear.asp#2) or contact the Departmental Office of Civil Rights’ Compliance Operations Division at (202) 366-9370, TTY (202) 366-0663, or toll-free (866) 355-7147.

The Department’s goal is to be a model Federal employer, and I have charged the Assistant Secretary for Administration and the Director of the Departmental Office of Civil Rights with joint responsibility for effectively implementing the No FEAR Act’s requirements. I expect all departmental offices and operating administrations to provide their full support and necessary resources, as required, to ensure our complete compliance with the Act. This also includes the timely submission of all requested information for the annual report to Congress.

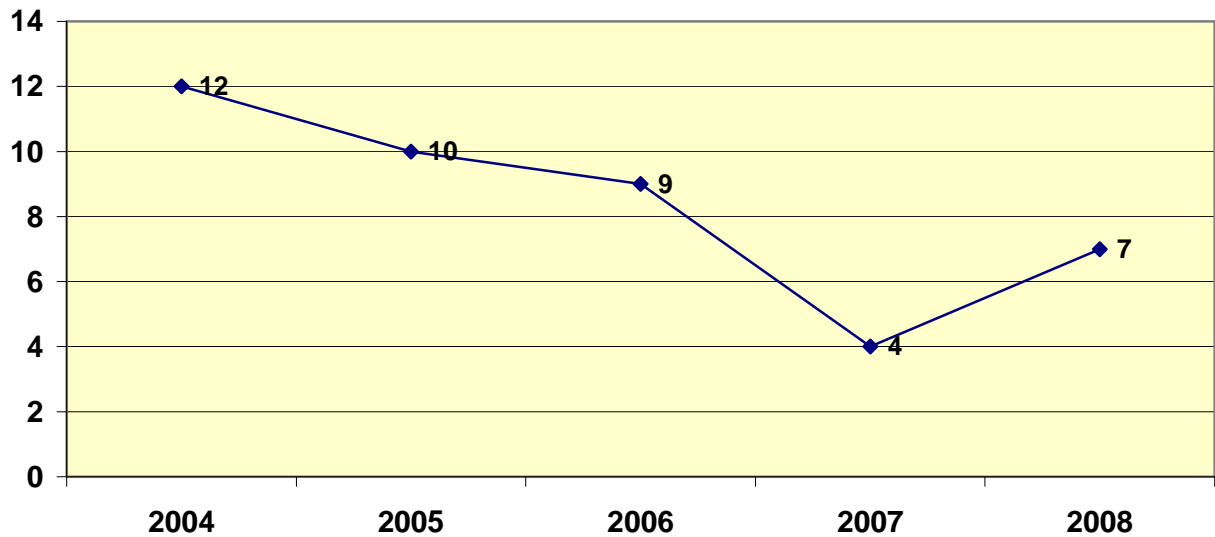
Mary E. Peters

**APPENDIX H: Civil Cases**

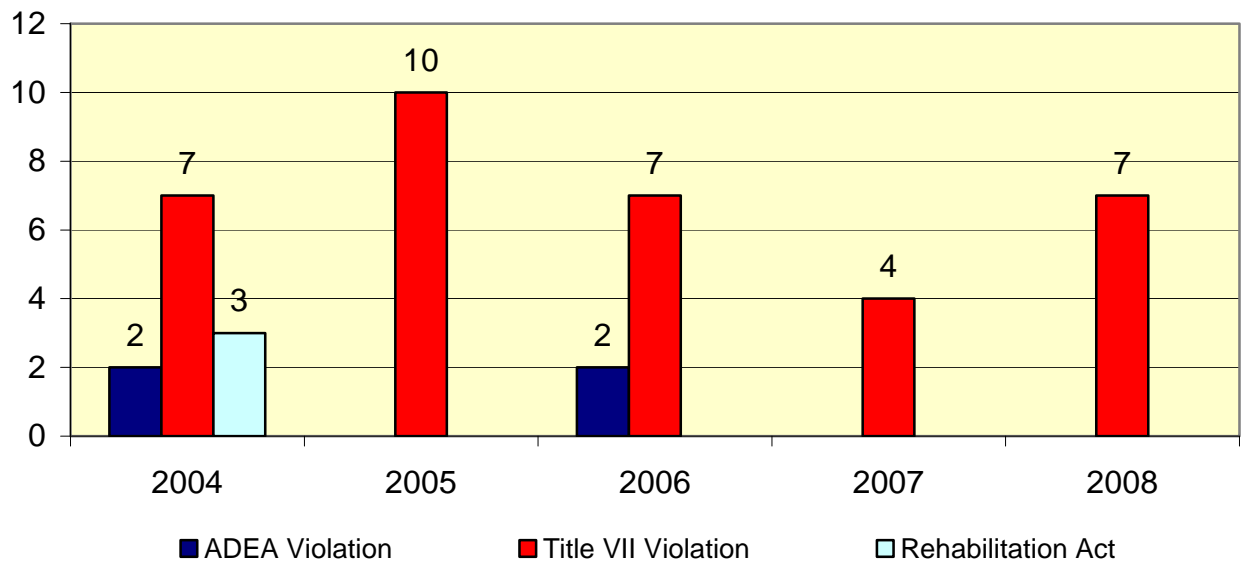
**Figure 1**  
**2008 Number of Pending Federal Court Cases by Alleged Violation**



**Figure 2**  
**Number of Cases that Resulted in Reimbursements to the**  
**Judgment Fund**

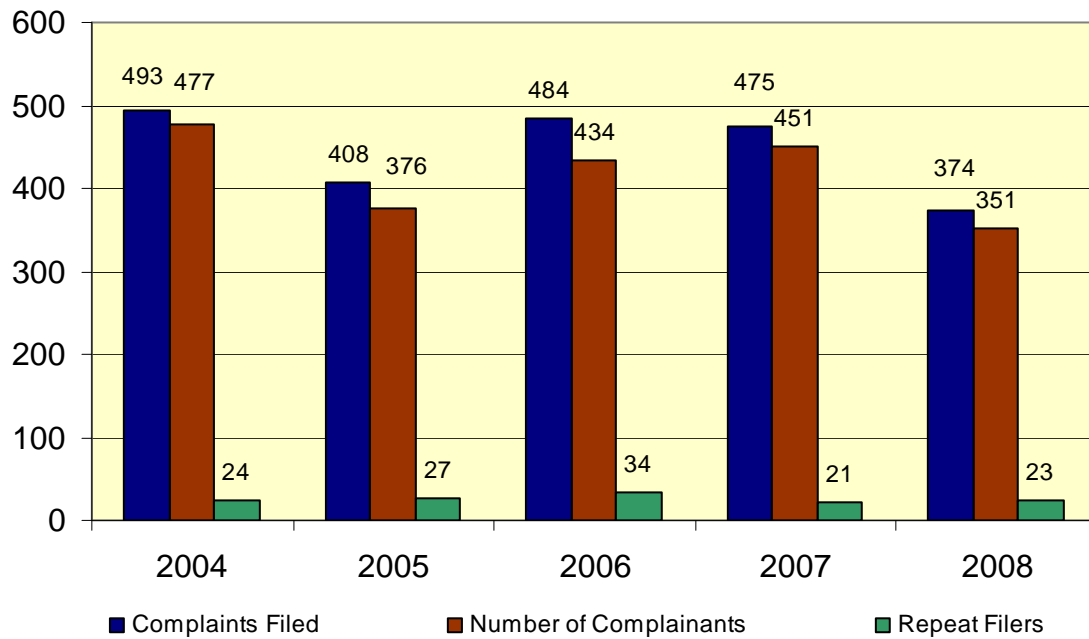


**Figure 3**  
**Number of Cases that Resulted in Reimbursements to the**  
**Judgment Fund by Antidiscrimination Law**

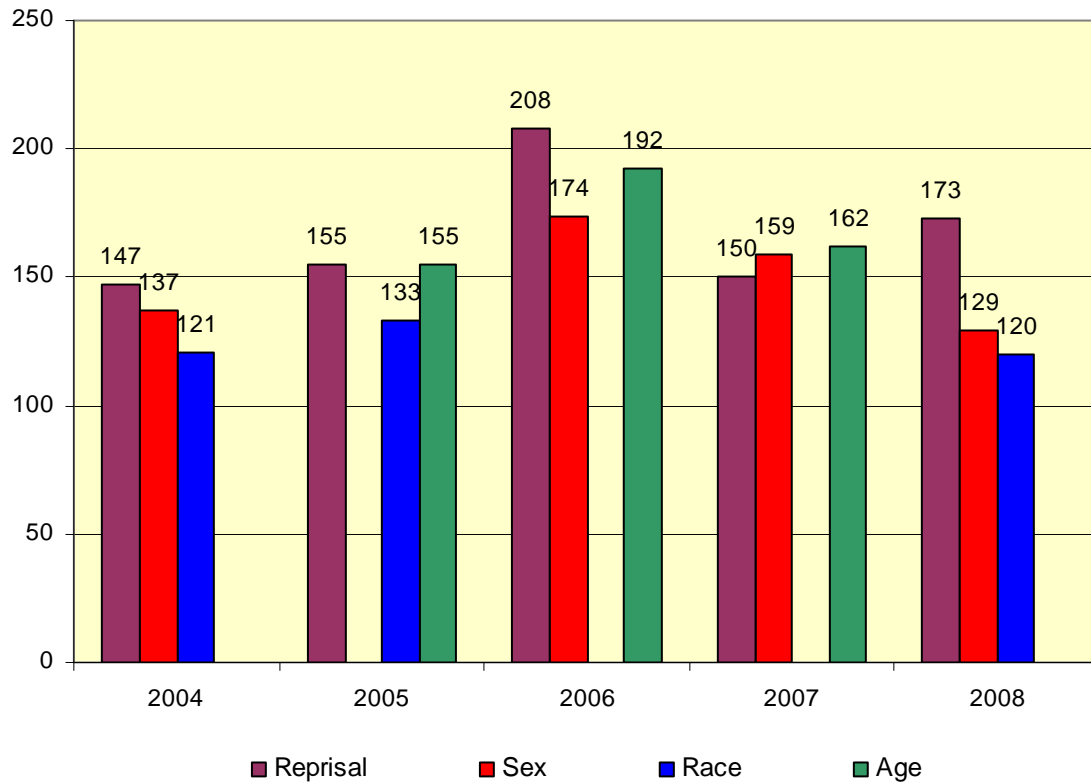


**APPENDIX I: Administrative Cases**

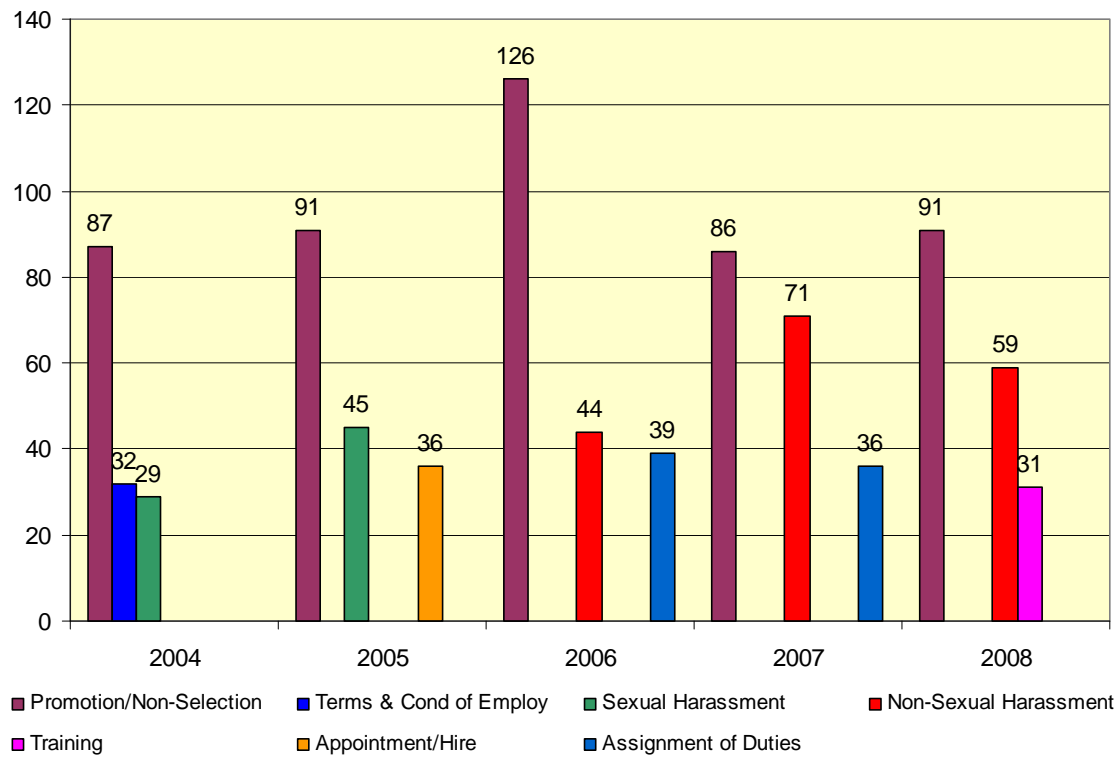
**Figure 1**  
**Complaints Filed**



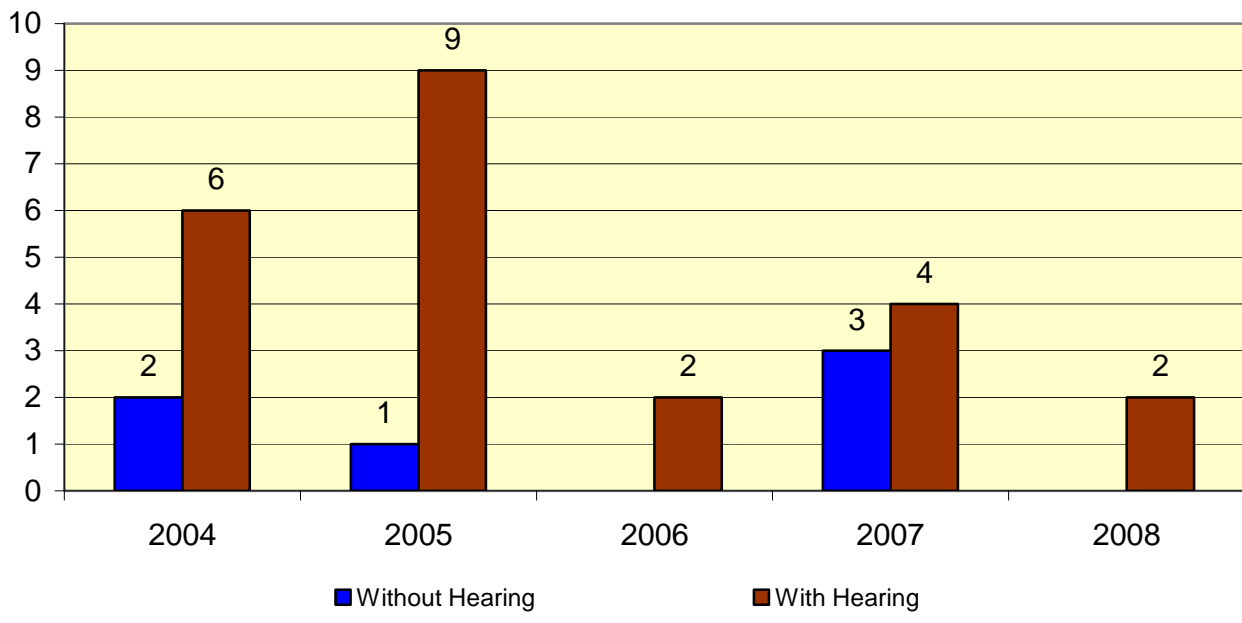
**Figure 2**  
**Top Three Complaints by Basis**



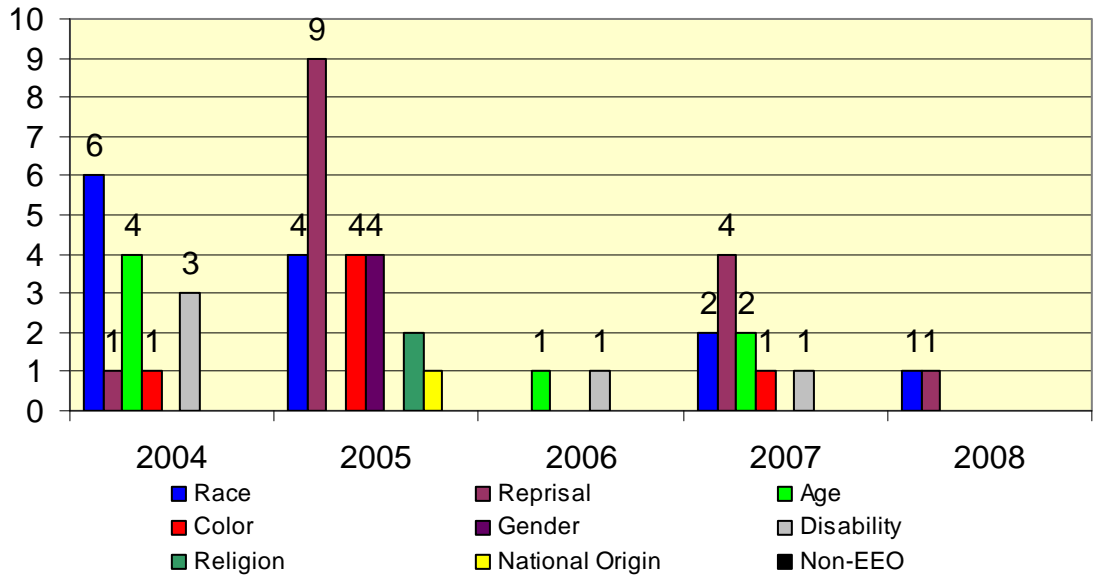
**Figure 3**  
**Top Three Complaints by Issue**



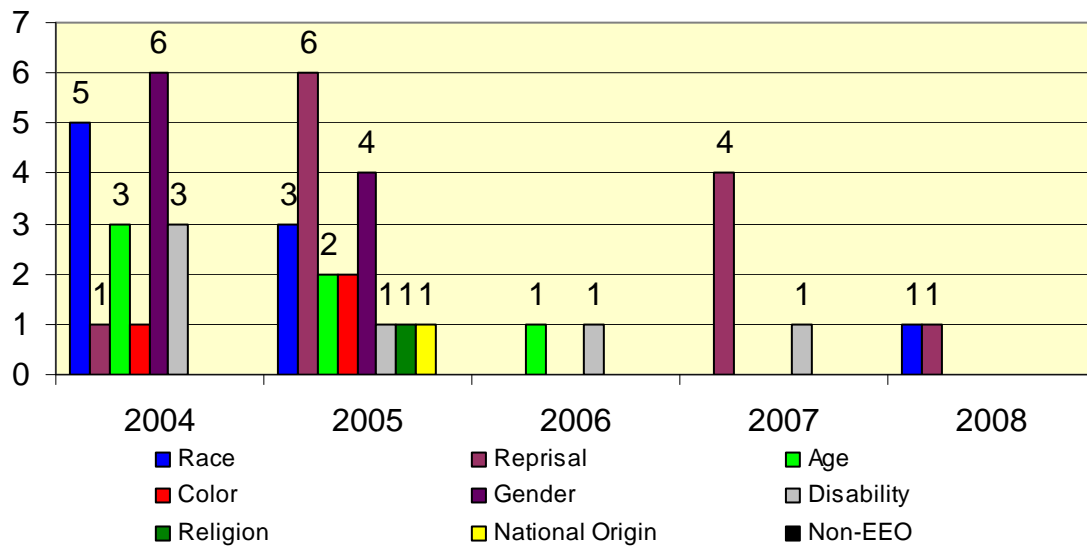
**Figure 4**  
**Number of Final Actions Finding Discrimination With or Without Hearing**



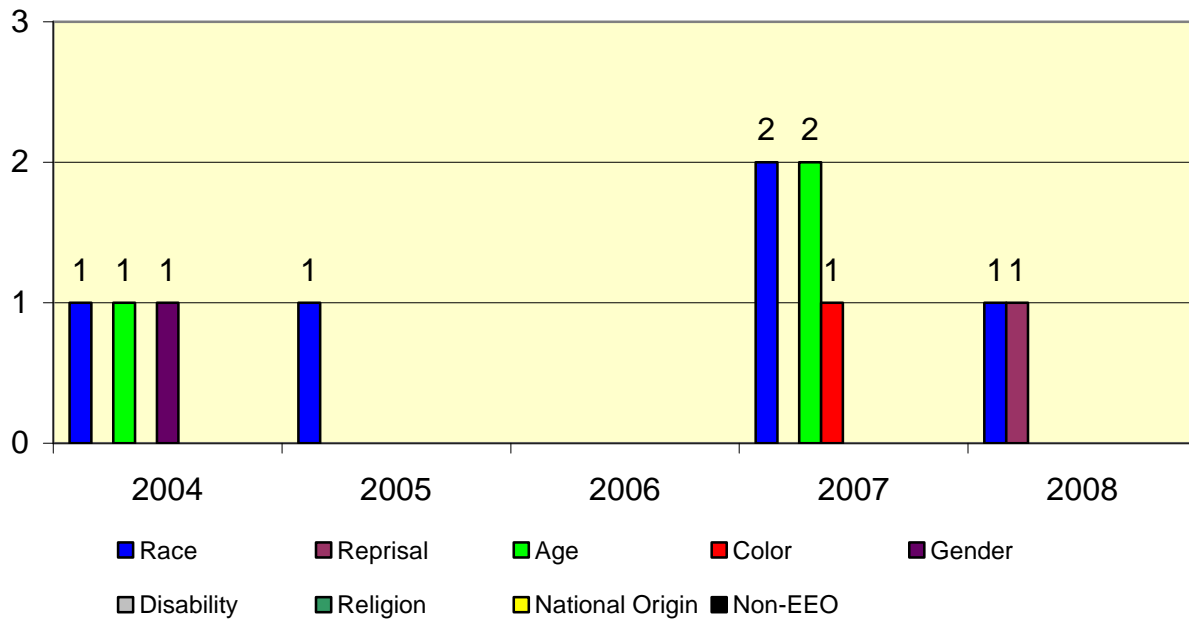
**Figure 5**  
**Number of Findings of Discrimination by Basis**



**Figure 6**  
**Number of Findings of Discrimination by Basis**  
**After Hearing**

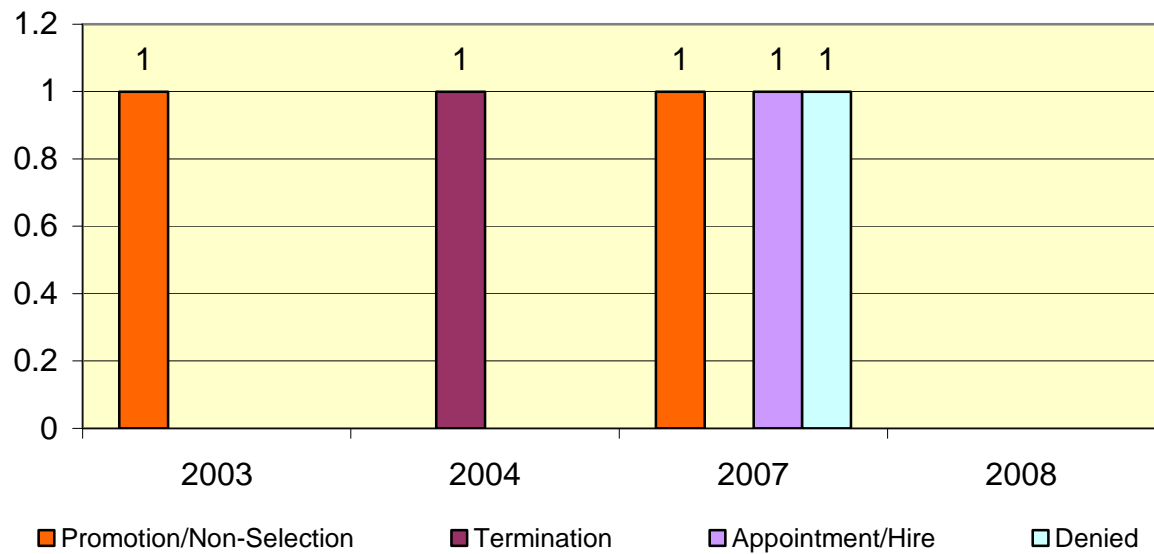


**Figure 7**  
**Number of Findings of Discrimination by Basis Without Hearing**





**Figure 10**  
**Number of Findings of Discrimination by Issue Without Hearing**



The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
Washington, DC 20515

Dear Madam Speaker:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

This report specifically provides information in several areas: (1) information regarding the number of cases under the respective areas of law cited in the No FEAR Act where discrimination was alleged; (2) the status or disposition of those cases; (3) the amount of money required to be reimbursed by DOT to the Judgment Fund in connection with such cases; (3) the number of employees disciplined for discrimination, retaliation, harassment or any other infractions of any provision of law referred to under the Act; (4) final year-end data; (5) detailed description of agency policy relating to appropriate disciplinary actions; (6) an analysis of trends and knowledge gained; (7) adjustments, if any, to the budget to comply with the requirements contained in the No FEAR Act; and (8) recommendations.

An identical letter has been sent to each entity designated to receive this report as listed in Section 203 of the No FEAR Act, as well as to the U.S. Attorney General, the Chair of the U.S. Equal Employment Opportunity Commission, and the Director of the U.S. Office of Personnel Management.

Sincerely yours,

Ray LaHood

Enclosure

The Honorable Joseph R. Biden, Jr.  
President of the Senate  
Washington, DC 20510

Dear Mr. President:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Joseph I. Lieberman  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Thad Cochran  
Vice Chairman  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

Dear Senator Cochran:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Christopher J. Dodd  
Chairman  
Committee on Banking, Housing and Urban Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Richard C. Shelby  
Ranking Member  
Committee on Banking, Housing and Urban Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Shelby:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable John D. Rockefeller, IV  
Chairman  
Committee on Commerce, Science, and Transportation  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Kay Bailey Hutchison  
Ranking Member  
Committee on Commerce, Science and Transportation  
United States Senate  
Washington, DC 20510

Dear Senator Hutchison:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Barbara Boxer  
Chairwoman  
Committee on Environment and Public Works  
United States Senate  
Washington, DC 20510

Dear Madam Chairwoman:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable James M. Inhofe  
Ranking Member  
Committee on Environment and Public Works  
United States Senate  
Washington, DC 20510

Dear Senator Inhofe:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Daniel K. Inouye  
Chairman  
Committee on Appropriations  
United States Senate  
Washington, DC 20515

Dear Mr. Chairman:

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Dave Obey  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Jerry Lewis  
Ranking Member  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Lewis:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

This report specifically provides information in several areas: (1) information regarding the number of cases under the respective areas of law cited in the No FEAR Act where discrimination was alleged; (2) the status or disposition of those cases; (3) the amount of money required to be reimbursed by DOT to the Judgment Fund in connection with such cases; (3) the number of employees disciplined for discrimination, retaliation, harassment or any other infractions of any provision of law referred to under the Act; (4) final year-end data; (5) detailed description of agency policy relating to appropriate disciplinary actions; (6) an analysis of trends and knowledge gained; (7) adjustments, if any, to the budget to comply with the requirements contained in the No FEAR Act; and (8) recommendations.

An identical letter has been sent to each entity designated to receive this report as listed in Section 203 of the No FEAR Act, as well as to the U.S. Attorney General, the Chair of the U.S. Equal Employment Opportunity Commission, and the Director of the U.S. Office of Personnel Management.

Sincerely yours,

Ray LaHood

Enclosure

The Honorable James L. Oberstar  
Chairman  
Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable John L. Mica  
Ranking Member  
Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Mica:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Henry A. Waxman  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Joe Barton  
Ranking Member  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Barton:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Bart Gordon  
Chairman  
Committee on Science and Technology  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Ralph Hall  
Ranking Member  
Committee on Science and Technology  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Hall:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

This report specifically provides information in several areas: (1) information regarding the number of cases under the respective areas of law cited in the No FEAR Act where discrimination was alleged; (2) the status or disposition of those cases; (3) the amount of money required to be reimbursed by DOT to the Judgment Fund in connection with such cases; (3) the number of employees disciplined for discrimination, retaliation, harassment or any other infractions of any provision of law referred to under the Act; (4) final year-end data; (5) detailed description of agency policy relating to appropriate disciplinary actions; (6) an analysis of trends and knowledge gained; (7) adjustments, if any, to the budget to comply with the requirements contained in the No FEAR Act; and (8) recommendations.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Edolphus Towns  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Darrell Issa  
Ranking Member  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Issa:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Eric H. Holder, Jr.  
U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Mr. Attorney General:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

The Honorable Stuart J. Ishimaru  
Acting Chairman  
U.S. Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507

Dear Mr. Ishimaru:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure

Mr. John Berry  
Director  
U.S. Office of Personnel Management  
1900 E Street, NW  
Washington, DC 20415

Dear Mr. Berry:

I am pleased to send you the enclosed copy of the U.S. Department of Transportation's (DOT) Fiscal Year 2008 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), P.L. 107-174.

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Sincerely yours,

Ray LaHood

Enclosure