

**FEDERAL MARITIME COMMISSION  
OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY**



**FISCAL YEAR 2023 ANNUAL REPORT TO CONGRESS**

**NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND  
RETALIATION ACT OF 2002 (No FEAR Act), P.L. 107-174**

## TABLE OF CONTENTS

INTRODUCTION.....	2
EXECUTIVE SUMMARY .....	3
FORMAL EEO COMPLAINT DATA .....	4
Complaint Processing .....	4
Investigations .....	5
Investigation Processing Timeframes.....	5
Hearings .....	6
Final Agency Actions .....	7
Findings of Discrimination .....	7
Bases .....	7
DISCIPLINE.....	8
JUDGMENT FUND .....	8
TRAINING .....	9
ACRONYMS AND ABBREVIATIONS.....	10
APPENDIX A.	FMC ORGANIZATIONAL CHART
APPENDIX B.	FINAL YEAR-END NO FEAR ACT DATA
APPENDIX C.	EEOC ANNUAL FEDERAL EEO STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS (FORM 462)
APPENDIX D.	CO-63 – FMC WORKFORCE DISCIPLINE AND ADVERSE ACTIONS

## INTRODUCTION

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (commonly known as the “No FEAR Act”), Public Law 107-174, was enacted on May 15, 2002. The No FEAR Act directed Federal agencies to post quarterly equal employment opportunity (EEO) complaint data on their public websites, reimburse the Judgment Fund, and submit annual reports to Congress.

In accordance with Section 203 of the No FEAR Act, this Annual Report to Congress includes data and analysis in the following categories:

- Number of employees disciplined for discrimination, retaliation, and harassment pursuant to the Federal Maritime Commission’s policy regarding disciplinary actions for such violations;
- Amount of money reimbursed to the judgment fund, and adjustments needed to comply with reimbursement requirements;
- Final year-end statistical data posted; and
- Examination of trends, causal analysis, experiential knowledge, and actions (taken or planned) to improve complaint or civil rights programs.

This report is being provided to the Speaker of the U.S. House of Representatives, the President pro tempore of the U.S. Senate, the U.S. Senate Committee on Homeland Security and Governmental Affairs, the U.S. House Committee on Oversight and Government Reform, each committee of Congress with jurisdiction over the agency, the U.S. Equal Employment Opportunity Commission (EEOC), the U.S. Attorney General, and the U.S. Office of Personnel Management.

**NOTE: The Federal Maritime Commission/Office of Equal Employment Opportunity prepared this report. Should questions or concerns arise, please contact Ms. Camella Woodham, Director, OEEO, at 202-523-5849.**

## EXECUTIVE SUMMARY

The Federal Maritime Commission (FMC or Commission) is an independent agency that has sole jurisdiction in the U.S. over competition, practices, and service in the ocean shipping industry. Its mission is to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.

The Office of Equal Employment Opportunity (OEEO) within the FMC is staffed by the EEO Director and three (3) collateral duty EEO Counselors. During Fiscal Year (FY) 2023, the OEEO has continued to fulfill its mandate to ensure equal employment opportunity and prevent harassment and retaliation at FMC.

In FY 2023, the FMC supported 129 full-time permanent employees. The following data highlights No FEAR Act metrics for the FMC for FY 2023:

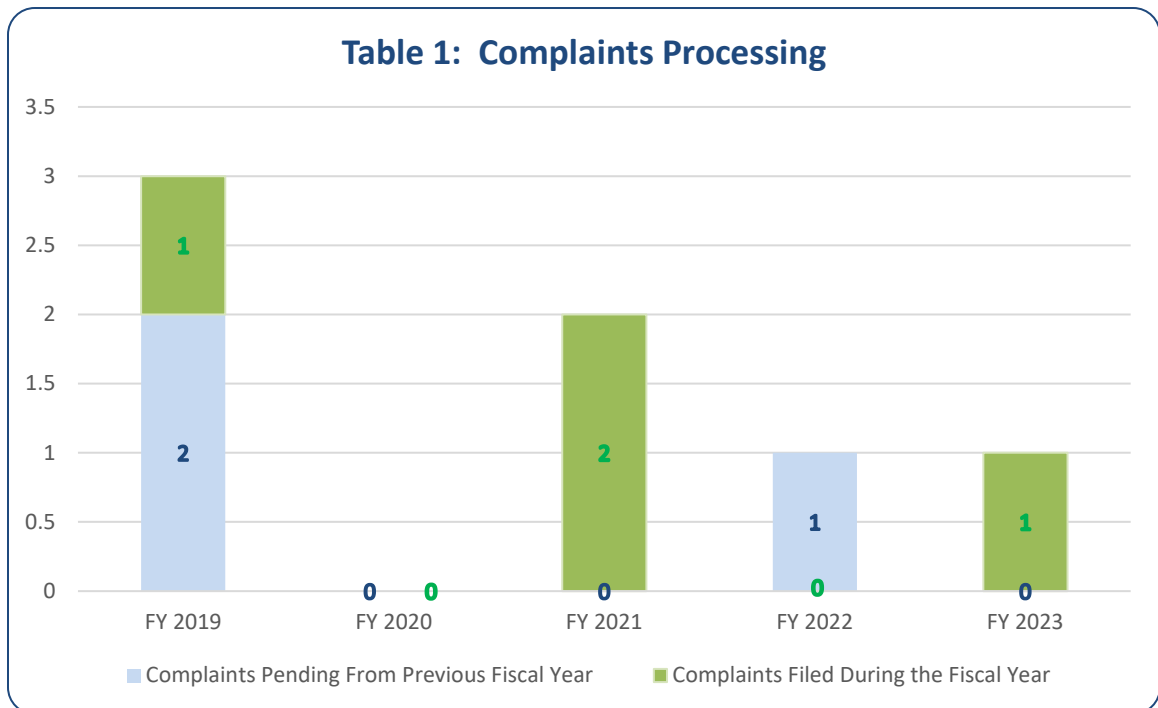
- 1 new formal complaint filed;
- 0 complaints settled during the formal stage;
- 0 complaints pending investigation at the beginning of the reporting period;
- 1 complaint pending investigation at the end of the reporting period;
- 0 final agency decisions issued;
- 0 requests for a hearing before an EEOC Administrative Judge;
- 1 EEOC Appeal decision rendered (affirms final agency decision no cause finding);  
and
- 1 EEOC Reconsideration decision rendered (affirms appeal decision no cause finding).

## FORMAL EEO COMPLAINT DATA

The FMC posts No FEAR Act data on the EEO page on its main website. Final year-end data for FY 2023 is found at Appendix B. The 2023 EEOC Annual Federal EEO Statistical Report of Discrimination Complaints is found at Appendix C.

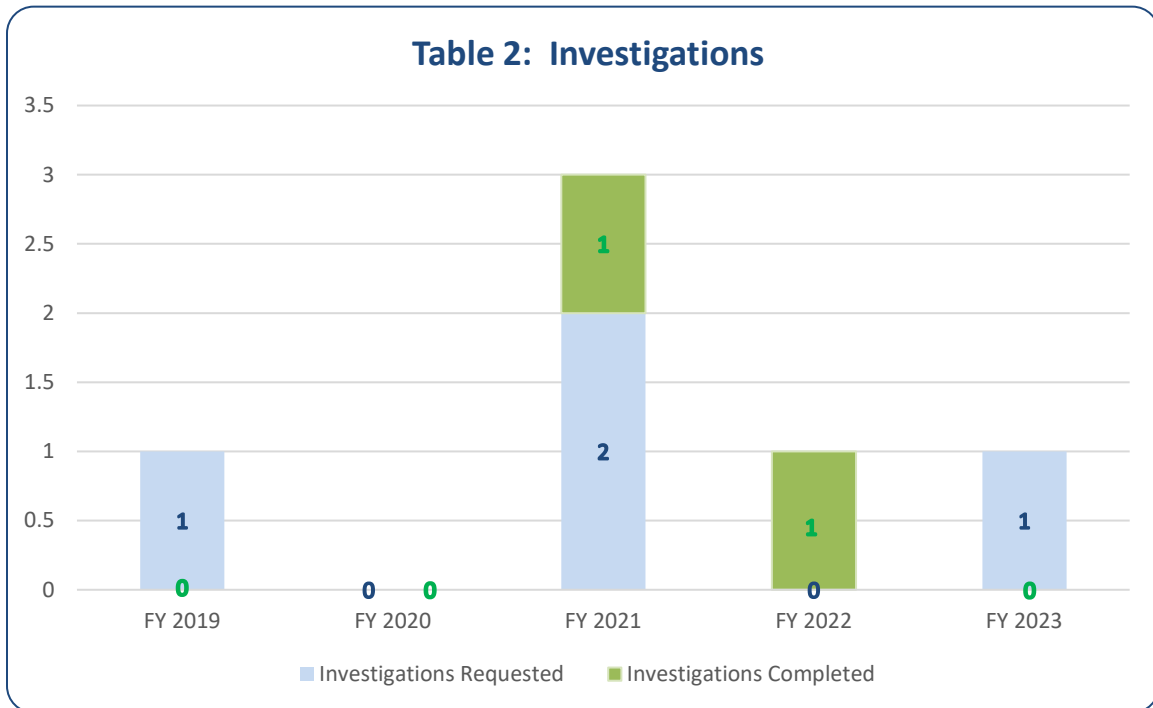
### Complaint Processing

One complaint was filed during FY 2023, representing an increase from the zero complaints filed in FY 2022. No complaints filed during the previous year were pending investigation at the start of FY 2023. (See Table 1).



## Investigations

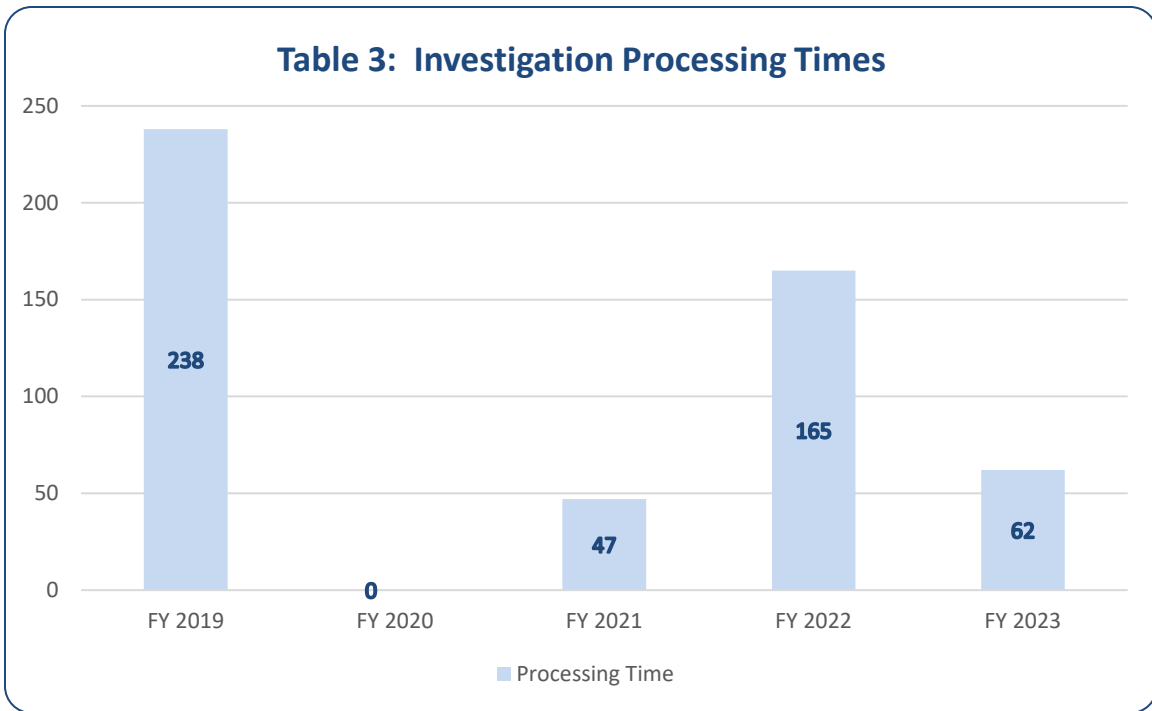
One complaint was filed in FY 2023. As of 09/30/2023, the one complaint was pending investigation for 62 days.



## Investigation Processing Timeframes

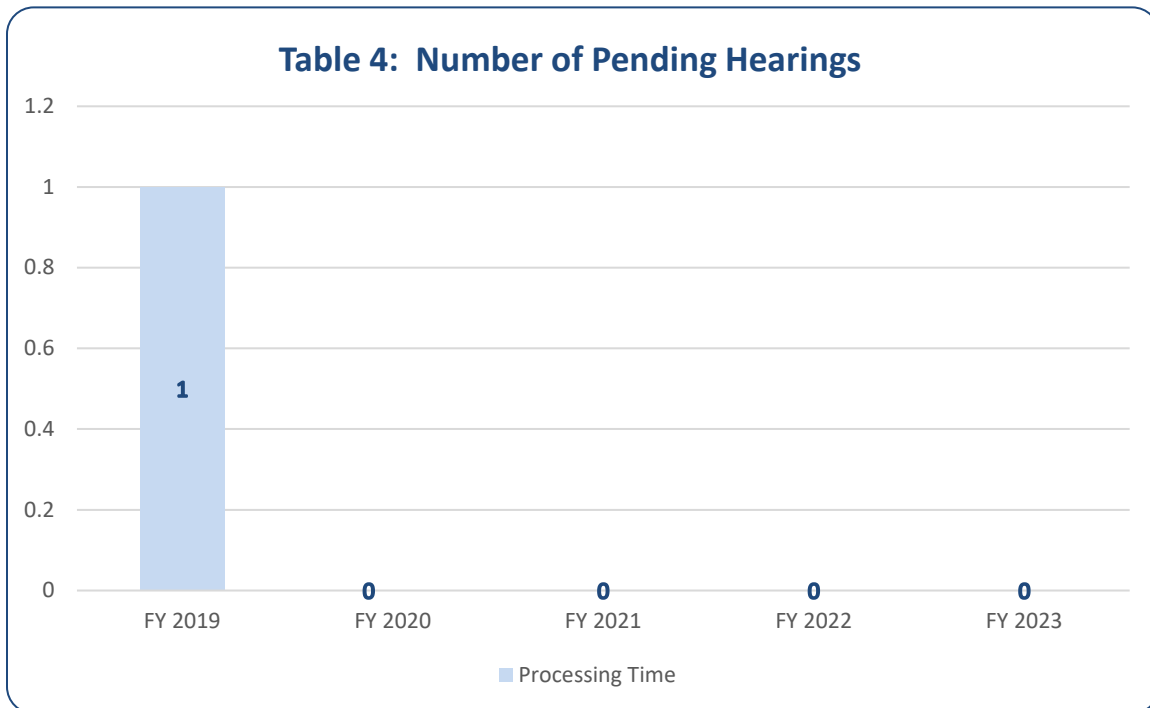
Average processing time for investigations was calculated from the time the complaint was filed to the end of the investigation phase. One investigation was initiated during FY 2023 and was investigated for 62 days within that period. (See Table 3).

NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION (NO FEAR) ACT OF 2002  
FEDERAL MARITIME COMMISSION



### Hearings

At the end of FY 2023, there were no complaints pending a hearing before the EEOC. (See Table 4).



## Final Agency Actions<sup>1</sup>

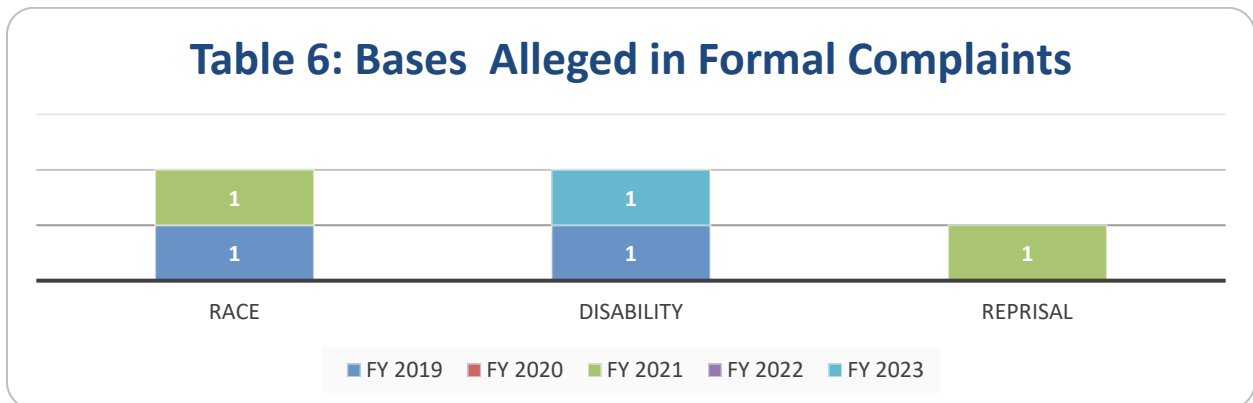
No Final Agency Actions (FAA) were issued during FY 2023.

## Findings of Discrimination

There were no findings of discrimination against the FMC from FY 2019 through FY 2023.

## Bases

From FY 2019 through FY 2023, the bases alleged in complaints filed were: race (2 complaints), reprisal (1 complaint), and disability (2 complaints). (See Table 6). Please note there were no complaints filed in FY 2020 and FY 2022.



<sup>1</sup> Final Agency Actions include procedural Acceptance/Dismissals (A/D), Final Agency Decisions (FAD) on merit, and Final Orders (FO) from Administrative Judge (AJ) decisions.



## DISCIPLINE

This section pertains to the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of law cited in Title II, Section 203(a)(4) of the No FEAR Act.

There were no findings of conduct inconsistent with Federal antidiscrimination or whistleblower protection laws. No disciplinary actions taken during FY 2023 were taken on the basis of conduct in violation of, or for actions inconsistent with, Federal antidiscrimination or whistleblower protection laws.

Federal Maritime Commission, *Commission Order No. 63, Workforce Discipline and Adverse Actions*, outlines the agency's policy on this subject. (See Appendix C). The policy provides guidance on violations of protected activity under the No FEAR Act-related statutes in the Table of Penalties. The policy requires consideration of the following in instituting penalties:

- employee's obligation to be aware of pertinent rules or regulations;
- significance or frequency of violations; and
- degree of adverse effect on production, morale, maintenance of discipline, external relationships, or reputation of the agency.

In addition, there may be no discrimination against an employee for political beliefs, marital status, genetic information, physical/mental disability, sex, race, religion, color, national origin, age, or reprisal.

## JUDGMENT FUND

The U.S. Department of the Treasury manages the Judgment Fund, which is available for court judgments and the Justice Department settlements of actual or imminent lawsuits against the Government. The No FEAR Act requires federal agencies to reimburse the Judgment Fund for personnel discrimination payments made in accordance with 28 U.S.C. §§ 2414, 2517, 2672, or 2677. <https://fiscal.treasury.gov/judgment-fund/>.

An agency is considered non-compliant if it fails to reimburse or make timely arrangements for reimbursement. As required by 5 C.F.R. § 724.105, the U.S. Treasury posts an annual non-compliance report on its website: <https://fiscal.treasury.gov/judgment-fund/reimbursing-judgment-fund.html>.

In FY 2023, there were no court judgments against the FMC or instances where contingent liability was documented for pending EEO cases. The FMC had no cases that required monetary reimbursement to the Judgment Fund during this reporting period.

## **TRAINING**

The FMC's No FEAR Act Training course addressed antidiscrimination, reprisal, and whistleblower protection laws. The course provided information on the EEO complaint process as well as the rights, responsibilities, and contact information for both informal and formal avenues of redress available to all personnel.

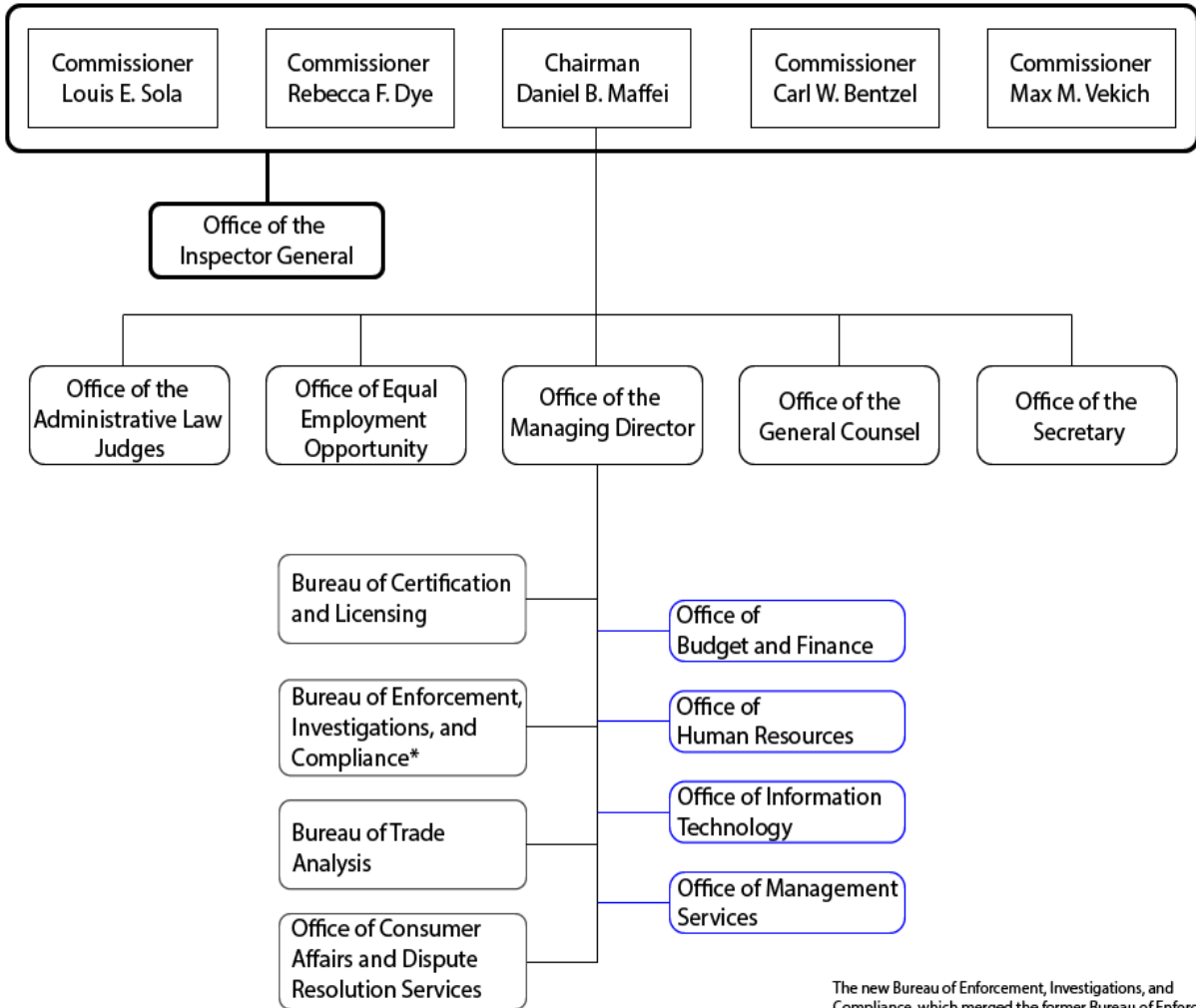
The official FMC No FEAR Act training module tested the employees' knowledge and application of the course material through examples/situations on the topics of whistleblowing, antidiscrimination, and reprisal. This electronic delivery system secured agency accountability for meeting and tracking educational goals of FMC employees.

Completion of the No FEAR Act training is mandatory for all FMC employees (including Senior Executives). At the end of FY 2023, the FMC reported 100 percent completion of the No FEAR Act training requirement for new employees. Additionally, the FMC reports 100% completion of the No FEAR Act biennial training requirement for all employees administered in FY 2022.

## **ACRONYMS AND ABBREVIATIONS**

AJ	Administrative Judge
EEO	Equal Employment Opportunity
FMC	Federal Maritime Commission
FAD	Final Agency Decision
FY	Fiscal Year
No FEAR Act	Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002
OEEEO	Office of Equal Employment Opportunity
OPM	Office of Personnel Management

# APPENDIX A



The new Bureau of Enforcement, Investigations, and Compliance, which merged the former Bureau of Enforcement and Area Representatives into a new bureau, will be reflected in an upcoming rulemaking.

# APPENDIX B

# Federal Maritime Commission 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  
End of Fiscal Year 2023

<b>Complaint Activity</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Complaints on Hand at the Beginning of the Reporting Period	3	0	0	1	1
Number of Complaints Filed During Reporting Period	1	0	2	0	0
Number of Complainants During Reporting Period	1	0	2	1	1
Repeat Filers	0	0	1	0	0

<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>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Race	1	0	1	1	1
Color	0	0	0	0	0
Religion	0	0	0	0	0
Reprisal	0	0	1	0	0
Sex (Male)	0	0	0	0	0
Sex (Female)	0	0	0	0	0
National Origin	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	1	0	0	0	1
Genetic Information	0	0	0	0	0
Non-EEO basis	0	0	0	0	0

<b>Complaints by Issue</b> <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Appointment/Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0
<b>Disciplinary Action</b>					
Demotion	0	0	0	0	0
Reprimand	0	0	0	0	0
Suspension Removal	0	0	0	0	0
Removal	0	0	0	0	0

Warning	0	0	0	0	0
Other	0	0	0	0	0
Duty Hours	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0
Examination/Test	0	0	0	0	0
<b>Harassment</b>					
Non-Sexual	1	0	1	0	1
Sexual	0	0	0	0	0
Medical Examination	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0
Promotion/Non-Selection	1	0	1	1	1
<b>Reassignment</b>					
Denied	0	0	0	0	0
Directed	0	0	0	0	0
Reasonable Accommodation (Disability)	0	0	0	0	0
Reinstatement	0	0	0	0	0
Retirement	0	0	0	0	0
Termination	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0
Time and Attendance	0	0	0	0	0
Training	0	0	0	0	0
Telework	0	0	0	0	0
Religious Accommodation	0	0	0	0	0
Other	1	0	0	0	0

<b>Investigations</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>Investigations Completed During the Reporting Period</b>	3	0	1	1	0
Average number of days in investigation stage	238	0	47	165	0
<b>Complaints pending for any length of time during fiscal year where hearing was requested</b>	1	0	0	0	0
Average number of days in investigation stage	201	0	0	0	0
<b>Complaints pending for any length of time during fiscal year where hearing was not requested</b>	2	0	2	1	1
Average number of days in investigation stage	257	0	97	165	62

<b>Complaints Dismissed by Agency</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Total Complaints Dismissed by Agency	2	1	0	0	0
Average days pending prior to dismissal	85	58	0	0	0
<b>Complaints Withdrawn by Complainants</b>					
Total Complaints Withdrawn by Complainants	0	0	1	0	0

<b>Total Final Actions Finding Discrimination</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Total Number of Findings (#)	0	0	0	0	0
Total Number of Findings (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Without Hearing (#)	0	0	0	0	0



Without Hearing (%)	0.00%	0.00%	0.00%	0.00%	0.00%
With Hearing (#)	0	0	0	0	0
With Hearing (%)	0.00%	0.00%	0.00%	0.00%	0.00%

<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>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>Total Number of Findings (#)</b>	0	0	0	0	0
<b>Total Number of Findings (%)</b>	0.00%	0.00%	0.00%	0.00%	0.00%
Race (#)	0	0	0	0	0
Race (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Color (#)	0	0	0	0	0
Color (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Religion (#)	0	0	0	0	0
Religion (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Reprisal (#)	0	0	0	0	0
Reprisal (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Sex (#)	0	0	0	0	0
Sex (%)	0.00%	0.00%	0.00%	0.00%	0.00%
National Origin (#)	0	0	0	0	0
National Origin (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Age (#)	0	0	0	0	0
Age (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Disability (#)	0	0	0	0	0
Disability (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Genetic Information (#)	0	0	0	0	0
Genetic Information (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Non-EEO (#)	0	0	0	0	0
Non-EEO (%)	0.00%	0.00%	0.00%	0.00%	0.00%
<b>Findings After Hearing (#)</b>	0	0	0	0	0
<b>Findings After Hearing (%)</b>	0.00%	0.00%	0.00%	0.00%	0.00%
Race (#)	0	0	0	0	0
Race (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Color (#)	0	0	0	0	0
Color (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Religion (#)	0	0	0	0	0
Religion (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Reprisal (#)	0	0	0	0	0
Reprisal (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Sex (#)	0	0	0	0	0
Sex (%)	0.00%	0.00%	0.00%	0.00%	0.00%
National Origin (#)	0	0	0	0	0
National Origin (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Age (#)	0	0	0	0	0

Age (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Disability (#)	0	0	0	0	0
Disability (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Genetic Information (#)	0	0	0	0	0
Genetic Information (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Non-EEO (#)	0	0	0	0	0
Non-EEO (%)	0.00%	0.00%	0.00%	0.00%	0.00%
<b>Findings Without Hearing (#)</b>	0	0	0	0	0
<b>Findings Without Hearing (%)</b>	0.00%	0.00%	0.00%	0.00%	0.00%
Race (#)	0	0	0	0	0
Race (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Color (#)	0	0	0	0	0
Color (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Religion (#)	0	0	0	0	0
Religion (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Reprisal (#)	0	0	0	0	0
Reprisal (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Sex (#)	0	0	0	0	0
Sex (%)	0.00%	0.00%	0.00%	0.00%	0.00%
National Origin (#)	0	0	0	0	0
National Origin (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Age (#)	0	0	0	0	0
Age (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Disability (#)	0	0	0	0	0
Disability (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Genetic Information (#)	0	0	0	0	0
Genetic Information (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Non-EEO (#)	0	0	0	0	0
Non-EEO (%)	0.00%	0.00%	0.00%	0.00%	0.00%

<b>Findings of Discrimination Rendered by Issue</b> <i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints and findings.</i>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>Total Number of Findings (#)</b>	0	0	0	0	0
<b>Total Number of Findings (%)</b>	0.00%	0.00%	0.00%	0.00%	0.00%
Appointment/Hire (#)	0	0	0	0	0
Appointment/Hire (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Assignment of Duties (#)	0	0	0	0	0
Assignment of Duties (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Awards (#)	0	0	0	0	0
Awards (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Conversion to Full-time (#)	0	0	0	0	0
Conversion to Full-time (%)	0.00%	0.00%	0.00%	0.00%	0.00%
<b>Disciplinary Action</b>					

Demotion (#)	0	0	0	0	0
Demotion (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Reprimand (#)	0	0	0	0	0
Reprimand (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Suspension (#)	0	0	0	0	0
Suspension (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Removal (#)	0	0	0	0	0
Removal (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Other (#)	0	0	0	0	0
Other (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Duty Hours (#)	0	0	0	0	0
Duty Hours (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Evaluation Appraisal (#)	0	0	0	0	0
Evaluation Appraisal (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Examination/Test (#)	0	0	0	0	0
Examination/Test (%)	0.00%	0.00%	0.00%	0.00%	0.00%
<b>Harassment</b>					
Non-Sexual (#)	0	0	0	0	0
Non-Sexual (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Sexual (#)	0	0	0	0	0
Sexual (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Medical Examination (#)	0	0	0	0	0
Medical Examination (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Pay (Including Overtime) (#)	0	0	0	0	0
Pay (Including Overtime) (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Promotion/Non-Selection (#)	0	0	0	0	0
Promotion/Non-Selection (%)	0.00%	0.00%	0.00%	0.00%	0.00%
<b>Reassignment</b>					
Denied (#)	0	0	0	0	0
Denied (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Directed (#)	0	0	0	0	0
Directed (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Reasonable Accommodation (Disability) (#)	0	0	0	0	0
Reasonable Accommodation (Disability) (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Reinstatement (#)	0	0	0	0	0
Reinstatement (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Retirement (#)	0	0	0	0	0
Retirement (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Termination (#)	0	0	0	0	0
Termination (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Terms/Conditions of Employment (#)	0	0	0	0	0
Terms/Conditions of Employment (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Time and Attendance (#)	0	0	0	0	0
Time and Attendance (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Training (#)	0	0	0	0	0

Training (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Religious Accommodation (#)	0	0	0	0	0
Religious Accommodation (%)	0.00%	0.00%	0.00%	0.00%	0.00%
Other (#)	0	0	0	0	0
Other (%)	0.00%	0.00%	0.00%	0.00%	0.00%

<b>Pending Complaints Filed in Previous Fiscal Years by Status</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Total Complaints from Previous Fiscal Years	2	0	0	1	0
Total Complainants	2	0	0	1	0

<b>Number of Complaints Pending</b>					
Investigation	2	0	0	0	0
Hearing	0	0	0	0	0
Final Agency Action	0	0	0	0	0
Appeal with EEOC Office of Federal Operations	0	0	0	1	0

<b>Complaint Investigations</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Pending Completion Where Investigation Exceeds Required Time Frames	0	0	0	0	0

# APPENDIX C

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART I - PRE-COMPLAINT ACTIVITIES**

	COUNSELING	INDIVIDUALS
INTENTIONALLY LEFT BLANK		
<b>TOTAL COMPLETED/ENDED COUNSELING</b>		
<b>C. TOTAL COMPLETED/ENDED COUNSELINGS</b>		
C.1. COUNSELED WITHIN 30 DAYS	1	1
C.2. COUNSELED WITHIN 31 TO 90 DAYS	0	0
C.2.a. COUNSELED WITHIN WRITTEN EXTENSION PERIOD NO LONGER THAN 60 DAYS	1	1
C.2.b. COUNSELED WITHIN 90 DAYS WHERE INDIVIDUAL PARTICIPATED IN ADR	0	0
C.2.c. COUNSELED WITHIN 31-90 DAYS THAT WERE UNTIMELY	0	0
C.3. COUNSELED BEYOND 90 DAYS	0	0
C.4. COUNSELED DUE TO REMANDS	0	0
<b>D. PRE-COMPLAINT ACTIVITIES</b>		
D.1. ON HAND AT THE BEGINNING OF THE REPORTING PERIOD	0	0
D.2. INITIATED DURING THE REPORTING PERIOD	1	1
D.3. COMPLETED/ENDED COUNSELINGS	1	1
D.3.a. SETTLEMENTS (MONETARY AND NON-MONETARY)	0	0
D.3.b. WITHDRAWALS/NO COMPLAINT FILED	0	0
D.3.c. COUNSELINGS COMPLETED/ENDED IN REPORTING PERIOD THAT RESULTED IN COMPLAINT FILINGS IN REPORTING PERIOD	1	1
D.3.d. DECISION TO FILE COMPLAINT PENDING AT THE END OF THE REPORTING PERIOD	0	0
D.4. COUNSELINGS PENDING AT THE END OF THE REPORTING PERIOD	0	0

<b>E. NON-ADR SETTLEMENTS WITH MONETARY BENEFITS</b>			
	COUNSELING	INDIVIDUALS	AMOUNT
E. NON-ADR SETTLEMENTS WITH MONETARY BENEFITS TOTAL	0	0	\$0.00
E.1. COMPENSATORY DAMAGES	0	0	\$0.00
E.2. BACKPAY/FRONTPAY	0	0	\$0.00
E.3. LUMP SUM PAYMENT	0	0	\$0.00
E.4. ATTORNEY FEES AND COSTS	0	0	\$0.00
E.5. OTHER NON-ADR SETTLEMENTS W/ MONETARY BENEFITS	0	0	\$0.00

<b>F. NON-ADR SETTLEMENTS WITH NON-MONETARY BENEFITS</b>		
	COUNSELING	INDIVIDUALS
F. NON-ADR SETTLEMENTS WITH NON-MONETARY BENEFITS TOTAL	0	0
F.1. HIRES	0	0
F.2. PROMOTIONS	0	0
F.3. EXPUNGEMENTS	0	0
F.4. REASSIGNMENTS	0	0
F.5. REMOVALS RESCINDED	0	0
F.6. ACCOMMODATIONS	0	0
F.7. TRAINING	0	0
F.8. APOLOGY	0	0
F.9. DISCIPLINARY ACTIONS	0	0
F.9.a. RESCINDED	0	0
F.9.b. MODIFIED	0	0
F.10. PERFORMANCE EVALUATION MODIFIED	0	0
F.11. LEAVE RESTORED	0	0
F.12. NEUTRAL REFERENCE	0	0
F.13. OTHER NON-ADR SETTLEMENTS W/NON-MONETARY BENEFITS	0	0

<b>G. ADR SETTLEMENTS WITH MONETARY BENEFITS</b>			
	COUNSELING	INDIVIDUALS	AMOUNT
G. ADR SETTLEMENTS WITH MONETARY BENEFITS TOTAL	0	0	\$0.00
G.1. COMPENSATORY DAMAGES	0	0	\$0.00
G.2. BACKPAY/FRONTPAY	0	0	\$0.00
G.3. LUMP SUM PAYMENT	0	0	\$0.00
G.4. ATTORNEY FEES AND COSTS	0	0	\$0.00
G.5. OTHER ADR SETTLEMENTS W/ MONETARY BENEFITS	0	0	\$0.00

<b>H. ADR SETTLEMENTS WITH NON-MONETARY BENEFITS</b>		
	COUNSELING	INDIVIDUALS
H. ADR SETTLEMENTS WITH NON-MONETARY BENEFITS TOTAL	0	0
H.1. HIRES	0	0
H.2. PROMOTIONS	0	0
H.3. EXPUNGEMENTS	0	0
H.4. REASSIGNMENTS	0	0
H.5. REMOVALS RESCINDED	0	0
H.6. ACCOMMODATIONS	0	0
H.7. TRAINING	0	0
H.8. APOLOGY	0	0
H.9. DISCIPLINARY ACTIONS	0	0
H.9.a. RESCINDED	0	0
H.9.b. MODIFIED	0	0
H.10. PERFORMANCE EVALUATION MODIFIED	0	0
H.11. LEAVE RESTORED	0	0
H.12. NEUTRAL REFERENCE	0	0
H.13. OTHER ADR SETTLEMENTS W/NON-MONETARY BENEFITS	0	0

<b>I. NON-ADR SETTLEMENTS</b>		
	COUNSELING	INDIVIDUALS
TOTAL	0	0

**PART II - FORMAL COMPLAINT ACTIVITIES**

0	A. COMPLAINTS ON HAND AT THE BEGINNING OF THE REPORTING PERIOD
1	B. COMPLAINTS FILED
0	C. REMANDS (sum of lines C1+C2+C3)
0	C.1. REMANDS (NOT INCLUDED IN A OR B)
0	C.2. REMANDS (INCLUDED IN A OR B)
0	C.3. NUMBER OF ADDITIONAL REMANDS IN THIS REPORTING PERIOD THAT ARE NOT CAPTURED IN C.1 OR C.2 ABOVE
0	C.4. ADDITIONAL CLOSURES IN THIS REPORTING PERIOD NOT REFLECTED IN F. OR H. THAT RESULTED FROM REMANDS
1	D. TOTAL COMPLAINTS
1	E. COMPLAINTS IN LINE D THAT WERE NOT CONSOLIDATED
0	F. COMPLAINTS IN LINE E CLOSED DURING REPORT PERIOD
0	G. COMPLAINTS IN LINE D THAT WERE CONSOLIDATED
0	H. COMPLAINTS IN LINE G CLOSED DURING REPORT PERIOD
1	I. COMPLAINTS ON HAND AT THE END OF THE REPORTING PERIOD (Line D - (F+H)) + [(C2 + C3) - C4]
1	J. INDIVIDUALS FILING COMPLAINTS (Complainants)
0	K. NUMBER OF JOINT PROCESSING UNITS FROM CONSOLIDATION OF COMPLAINTS

**PART III - AGENCY RESOURCES, TRAINING, REPORTING LINE**

**A. AGENCY & CONTRACT RESOURCES**

	AGENCY		CONTRACT	
	NUMBER	PERCENT	NUMBER	PERCENT
<b>A.1. WORKFORCE</b>				
A.1.a. TOTAL WORK FORCE	129			
A.1.b. PERMANENT EMPLOYEES	129			
<b>A.2. COUNSELOR</b>	3		0	
A.2.a. FULL-TIME	0	0	0	0
A.2.b. PART-TIME	0	0	0	0
A.2.c. COLLATERAL DUTY	3	100	0	0
<b>A.3. INVESTIGATOR</b>	0		1	
A.3.a. FULL-TIME	0	0	0	0
A.3.b. PART-TIME	0	0	1	100
A.3.c. COLLATERAL DUTY	0	0	0	0
<b>A.4. COUNSELOR/INVESTIGATOR</b>	0		0	
A.4.a. FULL-TIME	0	0	0	0
A.4.b. PART-TIME	0	0	0	0
A.4.c. COLLATERAL DUTY	0	0	0	0

**B. AGENCY & CONTRACT STAFF TRAINING**

	COUNSELORS		INVESTIGATORS		COUNS/INVESTIG	
	AGENCY	CONTRACT	AGENCY	CONTRACT	AGENCY	CONTRACT
<b>B.1. STAFF - TOTAL</b>	3	0	0	1	0	0
<b>B.1.a. NEW STAFF RECEIVING AT LEAST 32 HOURS OF TRAINING</b>	0	0	0	0	0	0
<b>B.1.b. EXPERIENCED STAFF RECEIVING AT LEAST 8 HOURS OF TRAINING</b>	3	0	0	1	0	0
<b>B.1.c. TRAINING REQUIREMENT NOT MET</b>	0	0	0	0	0	0

**C. REPORTING LINE**

1.	EEO DIRECTOR'S NAME:	Camella Woodham				
1a.	DOES THE AGENCY DIRECTOR REPORT TO THE AGENCY HEAD?	<table border="1"> <tr> <td align="center">YES</td> <td align="center">NO</td> </tr> <tr> <td align="center">X</td> <td></td> </tr> </table>	YES	NO	X	
YES	NO					
X						
2.	IF NO, WHO DOES THE EEO DIRECTOR REPORT TO?					
	PERSON					
	TITLE					
3.	WHO IS RESPONSIBLE FOR THE DAY-TO-DAY OPERATION OF THE EEO PROGRAM IN YOUR DEPARTMENT/AGENCY/ORGANIZATION?					
	PERSON	Camella Woodham				
	TITLE	EEO Director				
4.	WHO DOES THAT PERSON REPORT TO?					
	PERSON	Daniel Maffei				
	TITLE	Chairman				

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

PART IV - BASES AND ISSUES ALLEGED IN COMPLAINTS FILED (Part 1)

ISSUES OF ALLEGED DISCRIMINATION	BASES OF ALLEGED DISCRIMINATION											
	RACE						COLOR	RELIGION	REPRISAL	TOTAL ALL BASES BY ISSUE	TOTAL ALL COMPLAINTS BY ISSUE	TOTAL ALL COMPLAINANTS BY ISSUE
	AMERICAN INDIAN OR ALASKA NATIVE	ASIAN	NATIVE HAWAIIAN/ OTHER PACIFIC ISLANDER	BLACK OR AFRICAN AMERICAN	WHITE	TWO OR MORE RACES						
A. APPOINTMENT/HIRE	0	0	0	0	0	0	0	0	0	0	0	0
C. AWARDS	0	0	0	0	0	0	0	0	0	0	0	0
E. DISCIPLINARY ACTION	0	0	0	0	0	0	0	0	0	0	0	0
E.1. DEMOTION	0	0	0	0	0	0	0	0	0	0	0	0
E.3. SUSPENSION	0	0	0	0	0	0	0	0	0	0	0	0
E.4. REMOVAL	0	0	0	0	0	0	0	0	0	0	0	0
E.6 OTHER DISCIPLINARY ACTIONS	0	0	0	0	0	0	0	0	0	0	0	0
G. PERF. EVAL./APPRAISAL	0	0	0	0	0	0	0	0	0	0	0	0
H. EXAMINATION/TEST	0	0	0	0	0	0	0	0	0	0	0	0
I. HARASSMENT	0	0	0	0	0	0	0	0	0	1	1	1
I.1. NON-SEXUAL	0	0	0	0	0	0	0	0	0	1	1	1
I.2. SEXUAL										0	0	0
J. MEDICAL EXAMINATION	0	0	0	0	0	0	0	0	0	0	0	0
K. PAY INCLUDING OVERTIME	0	0	0	0	0	0	0	0	0	0	0	0
L. PROMOTION/NON-SELECTION	0	0	0	0	0	0	0	0	0	0	0	0
M. REASSIGNMENT	0	0	0	0	0	0	0	0	0	0	0	0
N. REASONABLE ACCOMMODATION										0	0	0
P. RELIGIOUS ACCOMODATION								0	0	0	0	0
R. SEX-STEROTYPING										0	0	0
S. TELEWORK	0	0	0	0	0	0	0	0	0	0	0	0
T. TERMINATION	0	0	0	0	0	0	0	0	0	0	0	0
V. TIME AND ATTENDANCE	0	0	0	0	0	0	0	0	0	0	0	0
W. TRAINING	0	0	0	0	0	0	0	0	0	0	0	0
X. OTHER TERMS/CONDITIONS OF EMPLOYMENT	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL ALL ISSUES BY BASES	0	0	0	0	0	0	0	0	0	0	0	0



ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

PART IV - BASES AND ISSUES ALLEGED IN COMPLAINTS FILED (Part 1)

ISSUES OF ALLEGED DISCRIMINATION	BASES OF ALLEGED DISCRIMINATION											
	RACE						COLOR	RELIGION	REPRISAL	TOTAL ALL BASES BY ISSUE	TOTAL ALL COMPLAINTS BY ISSUE	TOTAL ALL COMPLAINANTS BY ISSUE
	AMERICAN INDIAN OR ALASKA NATIVE	ASIAN	NATIVE HAWAIIAN/ OTHER PACIFIC ISLANDER	BLACK OR AFRICAN AMERICAN	WHITE	TWO OR MORE RACES						
TOTAL ALL COMPLAINTS FILED BY BASES	0	0	0	0	0	0	0	0	0			
TOTAL ALL COMPLAINANTS BY BASES	0	0	0	0	0	0	0	0	0			

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

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REPORTING PERIOD: FY 2023

PART IV BASES AND ISSUES ALLEGED IN COMPLAINTS FILED (Part 2)

ISSUES OF ALLEGED DISCRIMINATION	BASES OF ALLEGED DISCRIMINATION												TOTAL ALL BASES BY ISSUE	TOTAL ALL COMPLAINTS BY ISSUE	TOTAL ALL COMPLAINANTS BY ISSUE
	SEX			PREGNANCY DISCRIMINATION ACT	NATIONAL ORIGIN		EQUAL PAY ACT		AGE	DISABILITY		GINA			
	MALE	FEMALE	LGBT		HISPANIC / LATINO	OTHER	MALE	FEMALE		MENTAL	PHYSICAL				
A. APPOINTMENT/HIRE	0	0	0	0	0	0			0	0	0	0	0	0	0
C. AWARDS	0	0	0	0	0	0			0	0	0	0	0	0	0
E. DISCIPLINARY ACTION	0	0	0	0	0	0			0	0	0	0	0	0	0
E.1. DEMOTION	0	0	0	0	0	0			0	0	0	0	0	0	0
E.3. SUSPENSION	0	0	0	0	0	0			0	0	0	0	0	0	0
E.4. REMOVAL	0	0	0	0	0	0			0	0	0	0	0	0	0
E.6. OTHER DISCIPLINARY ACTIONS	0	0	0	0	0	0			0	0	0	0	0	0	0
G. EVALUATION/APPRaisal	0	0	0	0	0	0			0	0	0	0	0	0	0
H. EXAMINATION/TEST	0	0	0	0	0	0			0	0	0	0	0	0	0
I. HARASSMENT	0	0	0	0	0	0			0	1	0	0	1	1	1
I.1. NON-SEXUAL	0	0	0	0	0	0			0	1	0	0	1	1	1
I.2. SEXUAL	0	0	0	0	0	0			0	0	0	0	0	0	0
J. MEDICAL EXAMINATION	0	0	0	0	0	0			0	0	0	0	0	0	0
K. PAY INCLUDING OVERTIME	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
L. PROMOTION/NON-SELECTION	0	0	0	0	0	0			0	0	0	0	0	0	0
M. REASSIGNMENT	0	0	0	0	0	0			0	0	0	0	0	0	0
N. REASONABLE ACCOMMODATION DISABILITY				0						0	0	0	0	0	0
P. RELIGIOUS ACCOMMODATION												0	0	0	0
R. SEX-STEROTYPING	0	0	0									0	0	0	0
S. TELEWORK	0	0	0	0	0	0			0	0	0	0	0	0	0
T. TERMINATION	0	0	0	0	0	0			0	0	0	0	0	0	0
V. TIME AND ATTENDANCE	0	0	0	0	0	0			0	0	0	0	0	0	0
W. TRAINING	0	0	0	0	0	0			0	0	0	0	0	0	0
X. OTHER TERMS/CONDITIONS OF EMPLOYMENT	0	0	0	0	0	0			0	0	0	0	0	0	0
TOTAL ALL ISSUES BY BASES	0	0	0	0	0	0	0	0	0	1	0	0			

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

PART IV BASES AND ISSUES ALLEGED IN COMPLAINTS FILED (Part 2)

ISSUES OF ALLEGED DISCRIMINATION	BASES OF ALLEGED DISCRIMINATION											TOTAL ALL BASES BY ISSUE	TOTAL ALL COMPLAINTS BY ISSUE	TOTAL ALL COMPLAINANTS BY ISSUE	
	SEX			PREGNANCY DISCRIMINATION ACT	NATIONAL ORIGIN		EQUAL PAY ACT		AGE	DISABILITY					GINA
	MALE	FEMALE	LGBT		HISPANIC / LATINO	OTHER	MALE	FEMALE		MENTAL	PHYSICAL				
TOTAL ALL COMPLAINTS FILED BY BASES	0	0	0	0	0	0	0	0	0	0	0	0			
TOTAL ALL COMPLAINANTS BY BASES	0	0	0	0	0	0	0	0	0	0	0	0			

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART IV C - BASES AND ISSUES ALLEGED IN SETTLEMENTS (Part 1)**

ISSUES OF ALLEGED DISCRIMINATION IN SETELEMETS	BASES OF ALLEGED DISCRIMINATION IN SETELEMETS														
	RACE						COLOR	RELIGION	REPRISAL	NUMBER COUNSELING SETTLEMENT ALLEGATIONS	NUMBER COUNSELINGS SETTLED BY ISSUE	NUMBER INDIVIDUALS SETTLED WITH BY ISSUE	NUMBER COMPLAINT SELEMENT ALLEGATIONS	NUMBER COMPLAINTS SETTLED BY ISSUE	NUMBER COMPLAINANTS SETTLED WITH BY ISSUE
	AMERICAN INDIAN OR ALASKA NATIVE	ASIAN	NATIVE HAWAIIAN /OTHER PACIFIC ISLANDER	BLACK/ AFRICAN AMERICAN	WHITE	TWO OR MORE RACES									
A. APPOINTMENT/HIRE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
C. AWARDS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E. DISCIPLINARY ACTION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E.1. DEMOTION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E.3. SUSPENSION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E.4. REMOVAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E.6. OTHER DISCIPLINARY ACTIONS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
G. PERF. EVAL./APPRAISAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
H. EXAMINATION/TEST	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
I. HARASSMENT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
I.1. NON-SEXUAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
I.2. SEXUAL									0	0	0	0	0	0	0
J. MEDICAL EXAMINATION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
K. PAY INCLUDING OVERTIME	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
L. PROMOTION/NON-SELECTION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M. REASSIGNMENT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
N. REASONABLE ACCOMMODATION										0	0	0	0	0	0
P. RELIGIOUS ACCOMODATION									0	0	0	0	0	0	0
R. SEX-STEROTYPING										0	0	0	0	0	0
S. TELEWORK	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
T. TERMINATION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
V. TIME AND ATTENDANCE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
W. TRAINING	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
X. OTHER TERMS/CONDITIONS OF EMPLOYMENT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
I. COUNSELING SETTLEMENT ALLEGATIONS	0	0	0	0	0	0	0	0	0						

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART IV C - BASES AND ISSUES ALLEGED IN SETTLEMENTS (Part 1)**

ISSUES OF ALLEGED DISCRIMINATION IN SETELEMETS	RACE						COLOR	RELIGION	REPRISAL	NUMBER COUNSELING SETTLEMENT ALLEGATIONS	NUMBER COUNSELINGS SETTLED BY ISSUE	NUMBER INDIVIDUALS SETTLED WITH BY ISSUE	NUMBER COMPLAINT SELLEMENT ALLEGATIONS	NUMBER COMPLAINTS SETTLED BY ISSUE	NUMBER COMPLAINANTS SETTLED WITH BY ISSUE
	AMERICAN INDIAN OR ALASKA NATIVE	ASIAN	NATIVE HAWAIIAN /OTHER PACIFIC ISLANDER	BLACK/ AFRICAN AMERICAN	WHITE	TWO OR MORE RACES									
1.1A. NUMBER OF COUNSELINGS SETTLED	0	0	0	0	0	0	0	0	0						
1.1B. NUMBER OF COUNSELEES SETTLED WITH	0	0	0	0	0	0	0	0	0						
2. COMPLAINT SETTLEMENT ALLEGATIONS	0	0	0	0	0	0	0	0	0						
2.2A. NUMBER OF COMPLAINTS SETTLED	0	0	0	0	0	0	0	0	0						
2.2B. NUMBER OF COMPLAINANTS SETTLED WITH	0	0	0	0	0	0	0	0	0						

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART IV C - BASES AND ISSUES ALLEGED IN SETTLEMENTS (Part 2)**

BASES OF ALLEGED DISCRIMINATION IN SETTLEMENTS

ISSUES OF ALLEGED DISCRIMINATION IN SETELEMETS	SEX			PDA	NATIONAL ORIGIN		EQUAL PAY ACT		AGE	DISABILITY		GINA	NUMBER COUNSELING SETTLEMENT ALLEGATIONS	NUMBER COUNSELINGS SETTLED BY ISSUE	NUMBER INDIVIDUALS SETTLED WITH BY ISSUE	NUMBER COMPLAINT SETTLEMENT ALLEGATIONS	NUMBER COMPLAINTS SETTLED BY ISSUE	NUMBER COMPLAINANTS SETTLED WITH BY ISSUE
	MALE	FEMALE	LGBT		HISPANIC LATINO	OTHER	MALE	FEMALE		MENTAL	PHYSICAL							
A. APPOINTMENT/HIRE	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
C. AWARDS	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
E. DISCIPLINARY ACTION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
E.1. DEMOTION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
E.3. SUSPENSION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
E.4. REMOVAL	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
E.6. OTHER DISCIPLINARY ACTIONS	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
G. EVALUATION/APPRaisal	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
H. EXAMINATION/TEST	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
I. HARASSMENT	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
I.1. NON-SEXUAL	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
I.2. SEXUAL	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
J. MEDICAL EXAMINATION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
K. PAY INCLUDING OVERTIME	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
L. PROMOTION/NON-SELECTION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
M. REASSIGNMENT	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
N. REASONABLE ACCOMMODATION DISABILITY				0						0	0	0	0	0	0	0	0	0
P. RELIGIOUS ACCOMMODATION												0	0	0	0	0	0	0
R. SEX-STEROTYPING	0	0	0										0	0	0	0	0	0
S. TELEWORK	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
T. TERMINATION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
V. TIME AND ATTENDANCE	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
W. TRAINING	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
X. OTHER TERMS/CONDITIONS OF EMPLOYMENT	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0
1. COUNSELING SETTLEMENT ALLEGATIONS	0	0	0	0	0	0	0	0	0	0	0	0						

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART IV C - BASES AND ISSUES ALLEGED IN SETTLEMENTS (Part 2)**

BASES OF ALLEGED DISCRIMINATION IN SETTLEMENTS

ISSUES OF ALLEGED DISCRIMINATION IN SETELEMENTS	SEX			PDA	NATIONAL ORIGIN		EQUAL PAY ACT		AGE	DISABILITY		GINA	NUMBER COUNSELING SETTLEMENT ALLEGATIONS	NUMBER COUNSELINGS SETTLED BY ISSUE	NUMBER INDIVIDUALS SETTLED WITH BY ISSUE	NUMBER COMPLAINT SELLEMENT ALLEGATIONS	NUMBER COMPLAINTS SETTLED BY ISSUE	NUMBER COMPLAINANTS SETTLED WITH BY ISSUE
	MALE	FEMALE	LGBT		HISPANIC LATINO	OTHER	MALE	FEMALE		MENTAL	PHYSICAL							
1.1A. NUMBER OF COUNSELINGS SETTLED	0	0	0	0	0	0	0	0	0	0	0	0						
1.1B. NUMBER OF COUNSELEES SETTLED WITH	0	0	0	0	0	0	0	0	0	0	0	0						
2. COMPLAINT SETTLEMENT ALLEGATIONS	0	0	0	0	0	0	0	0	0	0	0	0						
2.2A. NUMBER OF COMPLAINTS SETTLED	0	0	0	0	0	0	0	0	0	0	0	0						
2.2B. NUMBER OF COMPLAINANTS SETTLED WITH	0	0	0	0	0	0	0	0	0	0	0	0						

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART IV D - BASES AND ISSUES FOUND IN FAD's AND FINAL ORDERS (Part 1)**

BASES OF DISCRIMINATION FOUND IN FAD's AND FINAL ORDERS

ISSUES OF DISCRIMINATION FOUND IN FAD's AND FINAL ORDERS	RACE						COLOR	RELIGION	REPRISAL	NUMBER OF FAD FINDINGS BY ISSUE	NUMBER OF FADs WITH FINDINGS BY ISSUE	NUMBER OF COMPLAINTS ISSUED FAD FINDINGS BY ISSUE	NUMBER OF AJ DECISION FINDING BY ISSUE	NUMBER OF AJ DECISION WITH FINDING BY ISSUE	# FINAL ORDER FINDINGS FULLY IMPLEMENTED BY ISSUE	# FINAL ORDERS w/ FINDINGS FULLY IMPLEMENTED BY ISSUE	# COMPLAINTS ISSUED FINAL ORDERS w/ FINDINGS FULLY IMPLEMENTED BY ISSUE
	AMERICAN INDIAN /ALASKA NATIVE	ASIAN	NATIVE HAWAIIAN /OTHER PACIFIC ISLANDER	BLACK/ AFRICAN AMERICAN	WHITE	TWO OR MORE RACES											
A. APPOINTMENT/HIRE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
C. AWARDS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E. DISCIPLINARY ACTION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E.1. DEMOTION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E.3. SUSPENSION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E.4. REMOVAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
E.6. OTHER DISCIPLINARY ACTIONS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
G. PERF. EVAL./APPRAISAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
H. EXAMINATION/TEST	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
I. HARASSMENT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
I.1. NON-SEXUAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
I.2. SEXUAL									0	0	0	0	0	0	0	0	0
J. MEDICAL EXAMINATION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
K. PAY INCLUDING OVERTIME	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
L. PROMOTION/NON-SELECTION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M. REASSIGNMENT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
N. REASONABLE ACCOMMODATION									0	0	0	0	0	0	0	0	0
P. RELIGIOUS ACCOMODATION									0	0	0	0	0	0	0	0	0
R. SEX-STEROTYPING										0	0	0	0	0	0	0	0
S. TELEWORK	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
T. TERMINATION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
V. TIME AND ATTENDANCE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
W. TRAINING	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
X. OTHER TERMS/CONDITIONS OF EMPLOYMENT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
I. Final Agency Decision Findings	0	0	0	0	0	0	0	0	0								



ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART IV D - BASES AND ISSUES FOUND IN FAD's AND FINAL ORDERS (Part 1)**

ISSUES OF DISCRIMINATION FOUND IN FAD's AND FINAL ORDERS	RACE						COLOR	RELIGION	REPRISAL	NUMBER FAD FINDINGS BY ISSUE	NUMBER OF FADs WITH FINDINGS BY ISSUE	NUMBER COMPLAINEN ISSUED FAD FINDINGS BY ISSUE	NUMBER AJ DECISION FINDING BY ISSUE	NUMBER AJ DECISION WITH FINDING BY ISSUE	# FINAL ORDER FINDINGS FULLY IMPLEMENTED BY ISSUE	# FINAL ORDERS w/ FINDINGS FULLY IMPLEMENTED BY ISSUE	# COMPLAINANTS ISSUED FINAL ORDERS w/ FINDINGS FULLY IMPLEMENTED BY ISSUE
	AMERICAN INDIAN /ALASKA NATIVE	ASIAN	NATIVE HAWAIIAN /OTHER PACIFIC ISLANDER	BLACK/ AFRICAN AMERICAN	WHITE	TWO OR MORE RACES											
1.1a. Number FADs with Findings	0	0	0	0	0	0	0	0	0								
1.1b. Number Complainants Issued FAD Findings	0	0	0	0	0	0	0	0	0								
2. AJ Decision Findings	0	0	0	0	0	0	0	0	0								
2.2a. Number AJ Decisions With Findings	0	0	0	0	0	0	0	0	0								
3. Final Agency Order Findings Implemented	0	0	0	0	0	0	0	0	0								
3.3a. # of Final Orders (Fos) With Findings Implemented	0	0	0	0	0	0	0	0	0								
3.3b. # of Complainants issued FOs with Findings Implemented	0	0	0	0	0	0	0	0	0								

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART IV D - BASES AND ISSUES FOUND IN FAD's AND FINAL ORDERS (Part 2)**

ISSUES OF DISCRIMINATION FOUND IN FAD's AND FINAL ORDERS	SEX			PDA	NATIONAL ORIGIN		EQUAL PAY ACT		AGE	DISABILITY		GINA	NUMBER FAD FINDINGS BY ISSUE	NUMBER OF FADs WITH FINDINGS BY ISSUE	NUMBER COMPLAINEE ISSUED FAD FINDINGS BY ISSUE	NUMBER AJ DECISION FINDING BY ISSUE	NUMBER AJ DECISION WITH FINDING BY ISSUE	# FINAL ORDER FINDINGS FULLY IMPLEMENTED BY ISSUE	# FINAL ORDERS w/ FINDINGS FULLY IMPLEMENTED	# COMPLAINTS ISSUED FINAL ORDERS FULLY IMPLEMENTED BY ISSUE
	MALE	FEMALE	LGBT		HISPANIC LATINO	OTHER	MALE	FEMALE		MENTAL	PHYSICAL									
A. APPOINTMENT/HIRE	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
C. AWARDS	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
E. DISCIPLINARY ACTION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
E.1. DEMOTION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
E.3. SUSPENSION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
E.4. REMOVAL	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
E.6. OTHER DISCIPLINARY ACTIONS	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
G. EVALUATION/APPRaisal	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
H. EXAMINATION/TEST	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
I. HARASSMENT	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
I.1. NON-SEXUAL	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
I.2. SEXUAL	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
J. MEDICAL EXAMINATION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
K. PAY INCLUDING OVERTIME	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
L. PROMOTION/NON-SELECTION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
M. REASSIGNMENT	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
N. REASONABLE ACCOMMODATION DISABILITY				0						0	0	0	0	0	0	0	0	0	0	0
P. RELIGIOUS ACCOMMODATION													0	0	0	0	0	0	0	0
R. SEX-STEROTYPING	0	0	0										0	0	0	0	0	0	0	0
S. TELEWORK	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
T. TERMINATION	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
V. TIME AND ATTENDANCE	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
W. TRAINING	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
X. OTHER TERMS/CONDITIONS OF EMPLOYMENT	0	0	0	0	0	0			0	0	0	0	0	0	0	0	0	0	0	0
I. Final Agency Decision Findings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART IV D - BASES AND ISSUES FOUND IN FAD's AND FINAL ORDERS (Part 2)**

BASES OF DISCRIMINATION FOUND IN FAD's AND FINAL ORDERS

ISSUES OF DISCRIMINATION FOUND IN FAD's AND FINAL ORDERS	SEX			PDA	NATIONAL ORIGIN		EQUAL PAY ACT		AGE	DISABILITY		GINA	NUMBER FAD FINDINGS BY ISSUE	NUMBER OF FADs WITH FINDINGS BY ISSUE	NUMBER COMPLAINEE ISSUED FAD FINDINGS BY ISSUE	NUMBER AJ DECISION FINDING BY ISSUE	NUMBER AJ DECISION WITH FINDING BY ISSUE	# FINAL ORDER FINDINGS FULLY IMPLEMENTED BY ISSUE	# FINAL ORDERS w/ FINDINGS FULLY IMPLEMENTED FINDINGS	# COMPLAINANTS ISSUED FINAL ORDERS W/ FINDINGS FULLY IMPLEMENTED BY ISSUE
	MALE	FEMALE	LGBT		HISPANIC LATINO	OTHER	MALE	FEMALE		MENTAL	PHYSICAL									
1.1a. Number FADs with Findings	0	0	0	0	0	0	0	0	0	0	0	0								
1.1b. Number Complainants Issued FAD Findings	0	0	0	0	0	0	0	0	0	0	0	0								
2. AJ Decision Findings	0	0	0	0	0	0	0	0	0	0	0	0								
2.2a. Number AJ Decisions With Findings	0	0	0	0	0	0	0	0	0	0	0	0								
3. Final Agency Order Findings Implemented	0	0	0	0	0	0	0	0	0	0	0	0								
3.3a. # of Final Orders (Fos) With Findings Implemented	0	0	0	0	0	0	0	0	0	0	0	0								
3.3b. # of Complainants issued FOs with Findings Implemented	0	0	0	0	0	0	0	0	0	0	0	0								

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART V - SUMMARY OF CLOSURES BY STATUTE**

A. STATUTE	(IF A SINGLE COMPLAINT HAS MULTIPLE STATUTES RECORD EACH ON THE APPROPRIATE LINE.)
0	A.1. TITLE VII
0	A.1.a. PREGNANCY DISCRIMINATION ACT (PDA)
0	A.2. AGE DISRIMINATION IN EMPLOYMENT ACT (ADEA)
0	A.3. REHABILITATION ACT
0	A.4. EQUAL PAY ACT (EPA)
0	A.5. GENETIC INFORMATION NONDISCRIMINATION ACT (GINA)
0	B. TOTAL BY STATUTES - THIS NUMBER MAY BE LARGER THAN THE TOTAL NUMBER OF COMPLAINTS CLOSED. (A1+A1a +A2+A3+A4+A5)

**PART VI - SUMMARY OF CLOSURES BY CATEGORY**

	TOTAL NUMBER	TOTAL DAYS	AVERAGE DAYS
A. TOTAL NUMBER OF CLOSURES	0	0	0.00
A.1. WITHDRAWALS	0	0	0.00
A.1.a. NON-ADR WITHDRAWALS	0	0	0.00
A.1.b. ADR WITHDRAWALS	0	0	0.00
A.2. SETTLEMENTS	0	0	0.00
A.2.a. NON-ADR SETTLEMENTS	0	0	0.00
A.2.b. ADR SETTLEMENTS	0	0	0.00
A.3. FINAL AGENCY ACTIONS	0	0	0.00
B. FINAL AGENCY DECISIONS WITHOUT AN ADMINISTRATIVE JUDGE DECISION	0	0	0.00
B.1. FINDING DISCRIMINATION	0	0	0.00
B.2. FINDING NO DISCRIMINATION	0	0	0.00
B.3. DISMISSAL OF COMPLAINTS	0	0	0.00
C. FINAL AGENCY ORDERS WITH AN ADMINISTRATIVE JUDGE (AJ) DECISION	0	0	0.00
C.1. AJ DECISION FULLY IMPLEMENTED	0	0	0.00
C.1.a. FINDING DISCRIMINATION	0	0	0.00
C.1.b. FINDING NO DISCRIMINATION	0	0	0.00
C.1.c. DISMISSAL OF COMPLAINTS	0	0	0.00
C.2. AJ DECISION NOT FULLY IMPLEMENTED	0	0	0.00
C.2.a. FINDING DISCRIMINATION	0	0	0.00
C.2.a.i. AGENCY APPEALED FINDING BUT NOT REMEDY	0	0	0.00
C.2.a.ii. AGENCY APPEALED REMEDY BUT NOT FINDING	0	0	0.00
C.2.a.iii. AGENCY APPEALED BOTH FINDING AND REMEDY	0	0	0.00
C.2.b. FINDING NO DISCRIMINATION	0	0	0.00
C.2.c. DISMISSAL OF COMPLAINTS	0	0	0.00

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART VI - SUMMARY OF CLOSURES BY CATEGORY (Continued)**

	TOTAL NUMBER	TOTAL DAYS	AVERAGE DAYS
D. FINAL AGENCY MERIT DECISIONS (FAD) ISSUED	0	0	0.00
D.1. COMPLAINANT REQUESTED IMMEDIATE FAD	0	0	0.00
D.1.a. AGENCY ISSUED FAD WITHIN 60 DAYS OF RECEIPT OF FAD REQUEST	0	0	0.00
D.1.b. AGENCY ISSUED FAD MORE THAN 60 DAYS BEYOND RECEIPT OF FAD REQUEST	0	0	0.00
D.2. COMPLAINANT DID NOT ELECT HEARING OR FAD	0	0	0.00
D.2.a. AGENCY ISSUED FAD WITHIN 60 DAYS OF END OF 30-DAY ELECTION PERIOD	0	0	0.00
D.2.b. AGENCY ISSUED FAD MORE THAN 60 DAYS BEYOND END OF 30-DAY ELECTION PERIOD	0	0	0.00
D.3. HEARING REQUESTED; AJ RETURNED CASE TO AGENCY FOR FAD WITHOUT AJ DECISION (3a+3b)	0	0	0.00
D.3.a. AGENCY ISSUED FAD WITHIN 60 DAYS OF RECEIPT OF AJ RETURNED CASE FOR FAD ISSUANCE	0	0	0.00
D.3.b. AGENCY ISSUED FAD MORE THAN 60 DAYS AFTER RECEIPT OF AJ RETURNED CASE FOR FAD ISSUANCE	0	0	0.00
D.4. FINAL AGENCY DECISION ISSUED ON A MIXED CASE (4a+4b)	0	0	0.00
D.4.a. AGENCY ISSUED FAD WITHIN 45 DAYS AFTER INVESTIGATION	0	0	0.00
D.4.b. AGENCY ISSUED FAD MORE THAN 45 DAYS AFTER INVESTIGATION	0	0	0.00

**PART VII - SUMMARY OF FORMAL COMPLAINTS CLOSED BY TYPES OF BENEFITS**

	NUMBER	AMOUNT
A. TOTAL COMPLAINTS CLOSED WITH BENEFITS	0	
B. TOTAL CLOSURES WITH MONETARY BENEFITS TO COMPLAINANT	0	\$0.00
B.1. BACK PAY/FRONT PAY	0	\$0.00
B.2. LUMP SUM PAYMENT	0	\$0.00
B.3. COMPENSATORY DAMAGES	0	\$0.00
B.4. ATTORNEY FEES AND COSTS	0	\$0.00
D. INTENTIONALLY LEFT BLANK		
B.5. OTHER MONETARY BENEFITS	0	\$0.00
E. TOTAL CLOSURES WITH NON-MONETARY BENEFITS TO COMPLAINANT	0	
F. TYPES OF BENEFITS IN NON-MONETARY CLOSURES	NUMBER OF CLOSURES THAT RECEIVED MONETARY BENEFITS AS WELL	NUMBER OF CLOSURES THAT RECEIVED ONLY NON-MONETARY BENEFITS
F.1. HIRES	0	0
F.2. PROMOTIONS	0	0
F.3. EXPUNGEMENTS	0	0
F.4. REASSIGNMENTS	0	0
F.5. REMOVALS RESCINDED	0	0
F.6. ACCOMMODATIONS	0	0
F.7. TRAINING	0	0
F.8. APOLOGY	0	0
F.9. DISCIPLINARY ACTIONS	0	0
F.9.a. RESCINDED	0	0
F.9.b. MODIFIED	0	0
F.10. PERFORMANCE EVALUATION MODIFIED	0	0
F.11. LEAVE RESTORED	0	0
F.12. NEUTRAL REFERENCE	0	0
F.13. OTHER NON-MONETARY BENEFITS	0	0

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
 STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
 (REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

**PART VIII - SUMMARY OF PENDING COMPLAINTS BY CATEGORY**

	NUMBER PENDING	NUMBER OF DAYS	AVERAGE DAYS	DAYS PENDING OLDEST CASE	OLDEST DOCKET #
A. TOTAL COMPLAINTS PENDING (SAME AS PART II Line I)	1	62			
A.1. COMPLAINTS PENDING WRITTEN NOTIFICATION	0	0	0	0	
A.1a. COMPLAINTS PENDING DECISION TO ACCEPT/DISMISS	0	0	0	0	
A.2. COMPLAINTS PENDING IN INVESTIGATION	1	62	62	62	
A. 2a. COMPLAINTS PENDING 180 DAY INVESTIGATION NOTICE	0	0	0	0	
A.3. COMPLAINTS PENDING IN HEARINGS	0	0	0	0	
A.4. COMPLAINTS PENDING A FINAL AGENCY ACTION	0	0	0	0	

**PART IX - SUMMARY OF INVESTIGATIONS COMPLETED**

	TOTAL	TOTAL DAYS	AVERAGE
A. INVESTIGATIONS COMPLETED DURING REPORTING PERIOD	0	0	0.00
AGENCY INVESTIGATIONS			
A.1. INVESTIGATIONS COMPLETED BY AGENCY PERSONNEL	0	0	0.00
A.1.a. INVESTIGATIONS COMPLETED IN 180 DAYS OR LESS	0	0	0.00
A.1.b. INVESTIGATIONS COMPLETED IN 181 - 360 DAYS	0	0	0.00
A.1.b.1. TIMELY COMPLETED INVESTIGATIONS	0	0	0.00
A.1.b.2. UNTIMELY COMPLETED INVESTIGATIONS	0	0	0.00
A.1.c. INVESTIGATIONS COMPLETED IN 361 OR MORE DAYS	0	0	0.00
A.2. AGENCY INVESTIGATION COSTS	\$0.00		\$0.00
CONTRACT INVESTIGATIONS			
A.3. INVESTIGATIONS COMPLETED BY CONTRACTORS	0	0	0.00
A.3.a. INVESTIGATIONS COMPLETED IN 180 DAYS OR LESS	0	0	0.00
A.3.b. INVESTIGATIONS COMPLETED IN 181 - 360 DAYS	0	0	0.00
A.3.b.1. TIMELY COMPLETED INVESTIGATIONS	0	0	0.00
A.3.b.2. UNTIMELY COMPLETED INVESTIGATIONS	0	0	0.00
A.3.c. INVESTIGATIONS COMPLETED IN 361 OR MORE DAYS	0	0	0.00
A.4. CONTRACTOR INVESTIGATION COSTS	\$0.00		\$0.00







**PART XII - SUMMARY OF EEO ADR PROGRAM ACTIVITIES**

**EEO ADR RESOURCES**

<b>A. NO LONGER COLLECTED</b>	
<b>B. EMPLOYEES THAT CAN PARTICIPATE IN EEO ADR</b>	129
<b>C. RESOURCES THAT MANAGE EEO ADR PROGRAM (DOES NOT INCLUDE NEUTRALS AS REPORTED IN PARTS X. &amp; XI.)</b>	1
C.1. IN-HOUSE FULL TIME (40 HOURS EEO ADR ONLY)	0
C.2. IN-HOUSE PART TIME (32 HOURS EEO ADR ONLY)	0
C.3. IN-HOUSE COLLATERAL DUTY (OTHERS/NON-CONTRACT)	1
C.4. CONTRACT (ANOTHER FEDERAL AGENCY/PRIVATE ORGANIZATIONS)	0
<b>D. EEO ADR FUNDING SPENT</b>	AMOUNT
	\$0.00

**E. EEO ADR CONTACT INFORMATION**

E.1. NAME OF EEO ADR PROGRAM DIRECTOR / MANAGER	Camella Woodham
E.2. TITLE	EEO Director
E.3. TELEPHONE NUMBER	202-579-2561
E.4. EMAIL	cwoodham@fmc.gov

**F. EEO ADR PROGRAM INFORMATION**

F.1. Does the agency require the alleged responsible management official to participate in EEO ADR?	YES	NO
F.1a. If yes, is there a written policy requiring the participation?	X	
F.2. Does the alleged responsible management official have a role in deciding if the case is appropriate for EEO ADR?		X

**CERTIFICATION AND CONTACT INFORMATION**

I certify that the EEO complaint data contained in this report, EEOC Form 462, Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints, for the reporting period October 1, 2022 through September 30, 2023 is accurate and complete.

NAME OF CERTIFYING OFFICIAL:	Camella Woodham
TITLE OF CERTIFYING OFFICIAL:	EEO Director
TELEPHONE NUMBER:	(202) 579-2461
E-MAIL:	cwoodham@fmc.gov
SIGNATURE OF CERTIFYING OFFICIAL: (Enter PIN to serve as your electronic signature)	
DATE:	25-10-2023
NAME OF PREPARER:	Camella Woodham
TITLE OF PREPARER:	EEO Director
TELEPHONE NUMBER:	(202) 579-2461
E-MAIL:	cwoodham@fmc.gov
DATE:	18-10-2023

ANNUAL FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
STATISTICAL REPORT OF DISCRIMINATION COMPLAINTS  
(REPORTING PERIOD BEGINS OCTOBER 1ST AND ENDS SEPTEMBER 30TH)

AGENCY OR DEPARTMENT: Federal Maritime Commission

REPORTING PERIOD: FY 2023

### Form 462 Comments

Part Name	COMMENT( expression left   evaluation symbol   expression right   value1   value2   comment )
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# APPENDIX D



# FEDERAL MARITIME COMMISSION WORKFORCE DISCIPLINE AND ADVERSE ACTIONS

**COMMISSION ORDER 63**

**EFFECTIVE: September 5, 2007**

*Supersedes C.O. 63, effective November 4, 2004*

## CONTENTS

		PAGE
Section 1.	Policy and Authority	1
Section 2.	Responsibilities	2
Section 3.	Coverage	3
Section 4.	Representation and Recordkeeping	4
Section 5.	Admonitions	5
Section 6.	Reprimands	6
Section 7.	Suspensions for Fourteen Days or Less	7
Section 8.	Suspensions for More than Fourteen Days; Reductions in Grade or Pay; Furloughs for Thirty Days or Less; Removals	10
Section 9.	Exceptions to the Thirty-Day Advance Notice Period	12
Section 10.	Appeals Process	13
Section 11.	Applicability of Other Laws and Directives	15
APPENDICES	<ol style="list-style-type: none"> <li>1. Definitions</li> <li>2. Suggested Table of Penalties</li> <li>3. Sample Letter of Reprimand</li> <li>4. Sample Advance Written Notice of Proposal to Suspend for Fourteen Days or Less</li> <li>5. Sample Decision to Suspend for Fourteen Days or Less</li> <li>6. Sample Advance Written Notice of Proposal to Remove Based on Unacceptable Conduct</li> <li>7. Sample Decision to Remove Based on Unacceptable Conduct</li> </ol>	

### **Section 1. Policy and Authority**

(a) The Federal Maritime Commission ("FMC") will maintain a constructive, disciplined work environment in which both management and employees recognize and carry out their responsibilities; reasonable rules, standards of conduct, and performance are clearly communicated and consistently enforced; supervisors set a good example; aspects of conduct and performance needing improvement are identified in a way that respects the employee's dignity; employees are treated fairly and encouraged to

improve; and good performers are recognized. Disciplinary or adverse action will be taken without regard to marital status, political affiliation, race, color, religion, sex, sexual orientation, national origin, age or handicapping condition; and with proper regard for the employee's privacy and constitutional rights. Disciplinary action or adverse action are taken only as necessary and will be taken in a prompt and equitable manner. Employees are encouraged to seek the assistance of a counselor through the Employee Assistance Program ("EAP"), when appropriate. The EAP provides help in correcting unsatisfactory conduct and/or performance before disciplinary action becomes necessary; but it does not replace the methods of dealing with problem employees as described in this Order. Referral of the employee to the EAP is not a bar to disciplinary action, and appropriate disciplinary action may be taken after referral if the employee refuses to participate, or if there is no acceptable improvement in conduct and/or performance. It may be appropriate and necessary in certain instances to take immediate action where the employee is dangerous or disruptive to the work setting.

(b) When standards of conduct are communicated clearly, most employees will act responsively and in accordance with a manager's expectations. However, if misconduct does occur, it usually disrupts the work of an office and can create additional problems if it is not dealt with properly. It is important that discipline be administered in a timely and consistent manner to provide a positive effect upon the workforce.

(c) This Order implements Federal statutes; regulations of the Office of Personnel Management ("OPM") and the Merit Systems Protection Board ("MSPB" or "Board"); and establishes FMC policy which applies to management proposals regarding workforce discipline and adverse actions, e.g., admonishments, reprimands, suspensions, involuntary reductions in grade or pay, furloughs for 30 days or less, or employee removals for reasons of misconduct and/or performance. Adverse action statutes and regulations are contained in 5 U.S.C. Chapters 43 and 75 and 5 C.F.R. Parts 432 and 752. Definitions of specific workforce discipline and adverse action terminology are contained in Appendix 1. The provisions of this Order will be administered in conjunction with relevant policies and procedures outlined in Commission Orders 115, *Performance Management System*; 120, *Senior Executive Service Performance Management System*; 65, *Administrative Grievance System*; and 52, *Equal Employment Opportunity*. Agency supervisors and other management officials will closely adhere to the aforementioned and carefully consider current guidance on the processing of adverse actions issued by OPM in administering the provisions of this Order.

## **Section 2. Responsibilities**

(a) **Managers and supervisors** are responsible for determining the need for, preparing, and issuing oral admonitions, written admonitions, and reprimands, advance written notice of proposals to suspend for fourteen days or less, or for more than fourteen days; reductions in grade or pay; furloughs for thirty days or less; and removals. Management officials are encouraged to seek assistance prior to the issuance of any disciplinary action but must consult the Office of Human Resources prior to the issuance of a letter of reprimand or more severe action. Managers and supervisors should keep employees informed of rules, regulations, and standards of conduct, and maintain conduct and discipline according to policy and established procedures; maintain a work environment which promotes good employee-

management relations; and gather, analyze, and carefully consider available facts and circumstances before recommending or taking disciplinary action, and ensure that efforts are made to minimize the impact of nondisciplinary adverse actions, e.g., furloughs for 30 days or less.

(b) The **Director of Human Resources** is responsible for prescribing instructions for the appropriate use and orderly processing of disciplinary and adverse actions, reviewing all notices of proposed actions and decisions to ensure procedural adequacy and consistency with OPM, MSPB, and FMC requirements, and advising on the merits, rationale, or appropriateness for the action or proposed penalties (see Appendix 2, *Suggested Table of Penalties*).

(c) The **General Counsel** is responsible for reviewing all notices of proposed adverse action and decision letters prior to issuance to ensure compliance with legal requirements.

(d) The **Director of Administration**, is responsible for appointing a “deciding official,” being cognizant of issues such as agency priorities and cost factors. Where recusal is necessary, the Chairman will designate the deciding official.

(e) **Employees** are responsible for carrying out their assigned duties conscientiously; respecting the administrative authority of those directing their work; observing laws, regulations, and policies governing their conduct; and assuring that their off-duty conduct discredits neither FMC nor the Federal service.

### **Section 3. Coverage**

(a) All employees are covered by the provisions of this Order except the following, which are exempt:

- (1) Presidential appointees;
- (2) Occupants of positions of a confidential or policymaking nature as defined by the OPM and excepted from the competitive service (Schedule C employees);
- (3) Reemployed annuitants;
- (4) Experts and consultants serving on temporary appointments of one year or less;
- (5) Individuals serving probationary or trial periods under an initial appointment;
- (6) Individuals serving under temporary appointments;
- (7) Administrative Law Judges; and
- (8) Employees downgraded as a result of reclassification and who are entitled to grade retention under 5 U.S.C. 5362.

(b) Procedures in this Order cover the following types of disciplinary or adverse actions:

- (1) Oral admonition;
- (2) Written admonition;
- (3) Letter of reprimand;
- (4) Suspension of fourteen days or less;
- (5) Suspension of more than fourteen days;
- (6) Reduction in grade or pay;
- (7) Furlough for thirty days or less; and
- (8) Removal.

(c) The following actions are excluded from coverage by this Order:

- (1) Adverse actions taken for security reasons under 5 U.S.C. 7532;
- (2) Actions taken pursuant to OPM decisions which do not allow administrative discretion;
- (3) Reduction-in-force actions taken pursuant to 5 U.S.C. 3502;
- (4) Actions terminating temporary promotions;
- (5) Actions reducing the grade of a supervisor or manager who has not completed the probationary period associated with the supervisory appointment, if the reduction is to the grade held prior to becoming a supervisor or manager;
- (6) Involuntary retirements subject to 5 C.F.R. 842.206; and
- (7) Position classification decisions, except when a reduction in grade results from a classification decision and the employee is not entitled to grade retention under 5 U.S.C. 5362.

#### **Section 4. Representation and Recordkeeping**

(a) Employees have the right to be represented by an attorney or other representative when responding to a proposed adverse action. Agency employees who are asked to serve as representatives must obtain prior authorization from the Director of Administration through their bureau and/or office directors. If authorized, they will be provided a reasonable amount of official time to present the appeal. Representatives from outside locations are not entitled to

travel costs associated with their participation. The Director of Administration may disallow the employee's choice of representative if there is a conflict of interest or position, release of the employee would cause unreasonable cost to the Government, or priority work assignments preclude an employee's release to serve as a representative. The disallowance must be in writing and specifically state the basis for disallowance.

(b) The proposing official (normally the supervisor) must establish a case file when an employee is given a notice of proposed action. The file must ultimately contain the notice of proposed action, any correspondence or notation of conversation with the employee concerning the action or its rationale, documentation in support of the charges, any written summary of an oral response, a copy of the final decision, and a copy of the employee's appeal, where applicable. The proposing official will transmit the file to the deciding official upon issuance of the notice of proposed action. The deciding official will transmit the file to the Office of Human Resources after issuing a decision on the matter.

(c) A transcript of the response to a proposed action is not required for inclusion in a case file when procedures in this Order provide an opportunity for oral reply. However, the person hearing the reply must prepare a summary for the record. The summary will be made available to the employee, who will be given a reasonable amount of time (normally one day) to review the document.

## **Section 5. Admonitions**

(a) An employee may be admonished for first offenses and minor violations concerning a deficiency in conduct and/or performance. An oral or written admonition ordinarily follows a discussion of the deficiency between the supervisor and the employee. The supervisor will retain a copy of the written admonition or notes of oral admonitions for one year, and destroy the case file if there are no further offenses within a year. If further offenses of a similar nature occur within the same year, such records will be kept until a year following the latest instance of misconduct and/or poor performance.

(b) An oral admonition must:

(1) Clearly describe the deficiency in conduct and/or performance and cite, as appropriate, the time, place, and circumstances leading to the admonition;

(2) Advise the employee of the importance of correcting the deficiency, how the deficiency may be corrected, a time frame within which the correction should be accomplished, and any special attention or assistance that will be provided;

(3) Provide the telephone number(s) and information regarding EAP services, as appropriate;

(4) Warn the employee that future offenses of a similar nature may result in more severe disciplinary action; and



(5) Make a personal note of the oral admonition so that it may be referenced in the event of repetition.

(c) Written admonitions must:

(1) Include reference to any prior oral admonition or discussion of the problem;

(2) State specific reasons for the written admonition, including a clear description of the deficiency in conduct and/or performance, and as appropriate, reference to the time, place, and circumstances leading to the written admonition;

(3) Advise the employee of the importance of correcting the deficiency, how the deficiency may be corrected, a time frame within which the correction should be accomplished, and any special attention or assistance that will be provided;

(4) Provide the telephone number(s) and information regarding the EAP services, as appropriate; and

(5) Warn the employee that future offenses of a similar nature may result in more severe disciplinary action.

## **Section 6. Reprimands**

(a) Reprimands may be used to censure an employee formally concerning a deficiency in conduct and/or performance in cases which are not so serious as to warrant an adverse action but are sufficiently serious to warrant a reprimand that will be a matter of temporary record in the employee's Official Personnel Folder ("OPF"). A letter of reprimand may be appropriate, for example, in the case of repeated violations of a similar nature for which the employee has been admonished but little or no corrective action on the part of the employee has resulted.

(b) Letters of reprimand (see Appendix 3, *Sample Letter of Reprimand*) must:

(1) State that the letter is an official reprimand;

(2) State specific reasons for the reprimand, including a clear description of the deficiency in conduct and/or performance, and the time, place, and circumstances leading to the reprimand;

(3) Reference any documents confirming counseling, admonitions, or reprimands given to the employee for similar problems;

(4) Advise the employee of the importance of correcting the deficiency, how the deficiency may be corrected, a time frame within which the correction should be accomplished, and any special attention or assistance that will be provided;

(5) Advise the employee that the action may be grieved under the procedures described in Commission Order 65, *Administrative Grievance System*;

(6) State that unless there are future similar incidents, the reprimand will be filed in the employee's OPF for a period not to exceed one year from the date of the letter of reprimand;

(7) Provide the telephone number(s) and information about EAP services, as appropriate; and

(8) Refer the employee to the Office of Human Resources to answer questions about the reprimand.

(c) The letter of reprimand is filed on the left-hand side of the OPF for a period normally not to exceed one year from the date of the letter of reprimand. It may be withdrawn from the OPF prior to the end of one year if the employee leaves the agency or upon a finding by the official who issued it that the reprimand was unjustified, unwarranted or otherwise improper.

#### **Section 7. Suspensions for Fourteen Days or Less**

(a) Suspensions taken under this section for misconduct are initiated to promote the efficiency of the service.

(b) The following procedural requirements must precede the issuance of this proposal when the reason for the action is unacceptable performance (under the authority of 5 C.F.R. Part 432):

(1) The employee must have been informed in writing of any aspects of his/her performance which have been unacceptable. This notification must have been approved by a person at a higher level in the organization than the rating official or by a Commissioner or Administrative Law Judge if there is none at a higher level; and

(2) The employee must have been issued a notice of opportunity to improve performance, identifying the critical element(s) in which the employee's performance was unacceptable, and a description of the minimal standard(s) for retention in the Federal service.

(c) Employees against whom such actions are proposed must be given an advance written notice (see Appendix 4, *Sample Advance Written Notice of Proposal to Suspend for Fourteen Days or Less*). This notice, issued by the proposing official, must state the:

(1) Proposed action;

(2) Length of the proposed suspension;

(3) Specific reasons that form the basis for the proposal and that support the proposed action. The notice must list critical element(s) and standard(s) for performance that have been

unacceptable, as well as specific examples of such unacceptable performance (where action is proposed in part under the authority of 5 C.F.R. Part 432);

(4) Advise that the action is being proposed to promote the efficiency of the service;

(5) Inform the employee of the right to be represented by an attorney or other representative;

(6) Advise the employee and/or his/her representative of the location where he/she may review all supporting evidence, information, and other material used to form the basis for the proposed action;

(7) Advise the employee of his/her right to reply orally and/or in writing to the notice; to furnish affidavits and other documentary evidence in support of the answer; that a reasonable amount of official time will be granted to the employee and the employee's representative, if any, to review the material relied upon by management to support its proposal and to prepare an answer (the amount of time will be determined on a case-by-case basis but will not be less than four hours);

(8) State the time limit for submitting a reply (normally ten calendar days);

(9) Advise that any reply to the advance written notice will be fully considered before a final decision is made (oral replies must be summarized in writing by the deciding official and placed into the record);

(10) Advise the employee of the name, title, and office address of the deciding official, and that replies should be made to the deciding official;

(11) Advise the employee that a final written decision stating the specific reasons that formed the basis for the decision will be issued at the earliest practicable date after the time allowed for the employee's reply;

(12) Provide the telephone number(s) and information about EAP services, as appropriate; and

(13) Include the notation, "I hereby acknowledge receipt of this notice." with space for the date and the employee's signature on one copy of the notice.

(d) The decision letter (see Appendix 5, *Sample Decision to Suspend for Fourteen Days or Less*) must be given to the employee on or before the effective date of the action, and be issued by the deciding official within twenty working days, if feasible, following the receipt of the employee's reply or within ten working days, if feasible, if the employee does not respond. The decision letter must:

(1) Confirm the proposed action, reduce the proposed action to a less severe action, or cancel the proposed action;.

(2) Inform the employee of the effective date and length of any suspension, or of any lesser disciplinary action, as appropriate;

(3) State the specific reasons identified in the advance written notice that formed the basis for the final decision;

(4) Advise the employee that the action being taken is for such cause as will promote the efficiency of the service, as appropriate;

(5) Advise the employee that replies from the employee, or his/her representative, to the advance written notice were fully considered in reaching the final decision;

(6) Advise the employee that the action taken may be grieved under the formal procedure described in Commission Order 65, *Administrative Grievance System*, as appropriate;

(7) Provide the telephone number(s) and information about EAP services, as appropriate; and

(8) Include the notation, "I hereby acknowledge receipt of this letter." with space for the date and the employee's signature on one copy of the letter.

(e) The following records, which may be reviewed by the employee and his/her representative, must be retained in a separate file maintained in the Office of Human Resources:

(1) A signed and dated copy of the advance written notice;

(2) Copies of written replies, affidavits, or other documentation furnished by the employee and his/her representative;

(3) A copy of the written summary of oral replies made by the employee and his/her representative;

(4) A signed and dated copy of the decision letter;

(5) Evidence or information relied upon in reaching the final written decision;

(6) A copy of any documents implementing the final written decision;

(7) A copy of any request for information from the record received from the employee or his/her representative; and

(8) Copies of other supporting or relevant information.

**Section 8. Suspensions for More than Fourteen Days; Reductions in Grade or Pay; Furloughs for Thirty Days or Less; Removals**

(a) Actions taken under this section must be for such cause as will promote the efficiency of the service, and be supported by information that will satisfy the “preponderance of the evidence” standard, as defined in Appendix 1. The connection between the employee’s conduct and the agency’s ability to discharge its responsibilities must be described when an adverse action is proposed based on an employee’s off-duty conduct. The following procedural requirements must precede the issuance of the proposal whenever the action proposed is based in part on reasons of unacceptable performance under 5 C.F.R. Part 432.

(1) The employee must have been informed in writing of any aspects of his/her performance which have been unacceptable. This notification must have been approved by a person at a higher level in the organization than the rating official or by a Commissioner or Administrative Law Judge if there is none at the higher level; and

(2) The employee must have been issued a notice of opportunity to improve performance, including the identification of critical element(s) in which the employee’s performance was unacceptable, and a description of the minimal standard(s) for retention in the Federal service.

(b) An employee against whom action is proposed must be given advance written notice (see Appendix 6, *Sample Advance Written Notice of Proposal to Remove Based on Unacceptable Conduct*). This notice, issued by the proposing official, must:

- (1) State the proposed action;
- (2) State the length of a proposed suspension, as appropriate;
- (3) Be given to the employee at least thirty days before the proposed effective date of the action;

(4) State the specific reasons that form the basis for the proposed action. The notice must list critical elements and standards for performance that have been unacceptable, as well as specific examples of such unacceptable performance, where action is proposed in part under the authority of 5 C.F.R. Part 432;

(5) Advise that the action is being proposed to promote the efficiency of the service;

(6) Inform the employee of the right to be represented by an attorney or other representative;

(7) Advise the employee and/or his/her representative of the location where he/she may review all supporting evidence, information, and other material used to form the basis for the proposed action;

(8) Advise the employee of his/her right to reply orally, in writing, or both, to the notice; to furnish affidavits and other documentary evidence in support of the answer; and that a reasonable amount of official time will be granted to the employee and/or his/her representative, if any, to review the material relied upon by management to support its proposal, secure affidavits and prepare an answer (the amount of time will be determined on a case-by-case basis but will not be less than four hours);

(9) State the time limit for submitting a reply (normally fifteen work days);

(10) Advise that the action will be effected not earlier than thirty days from the date the employee receives the advance written notice;

(11) State the name, title, and office address of the deciding official to whom replies should be addressed;

(12) Advise that replies to the advance written notice will be fully considered before a final decision is made (oral replies must be summarized in writing by the deciding official and placed into the record);

(13) Advise the employee that a final written decision stating the specific reasons that formed the basis for the decision will be issued at the earliest practicable date after the time allowed for the employee's reply;

(14) Provide the telephone number(s) and information about EAP services, as appropriate; and

(15) Include the notation, "I hereby acknowledge receipt of this notice." with space for the date and the employee's signature on one copy of the notice.

(c) The decision letter must be given to the employee before the effective date of the action, and be issued by the deciding official within twenty working days, if feasible, following receipt of the employee's reply or within ten working days, if feasible, if the employee does not respond. The decision letter (see Appendix 7, *Sample Decision to Remove Based on Unacceptable Conduct*) must:

(1) Confirm the proposed action, reduce the proposed action to a less severe action, or cancel the proposed action;

(2) Inform the employee of the effective date and exact nature of any action taken, as appropriate;

(3) State the specific reasons that were identified in the advance written notice that formed the basis for reaching the final decision;

(4) Advise the employee that the action being taken is for such cause as will promote the efficiency of the service, as appropriate;

(5) Advise the employee that any replies from the employee or his/her representative to the advance written notice were fully considered in reaching the final decision;

(6) Notify the employee of his/her right of appeal, if any, to the MSPB, the time limit for making such appeal, and the address of the appropriate Board office for filing an appeal, as appropriate;

(7) Advise the employee that a copy of the Board's rules and regulations and a copy of the Board's appeal form are attached to the letter; and

(8) Include the notation, "I hereby acknowledge receipt of this letter." with space for the date and the employee's signature on one copy of the letter.

(d) The following records, which may be reviewed by the employee and his/her representative, must be retained in a separate file maintained in the Office of Human Resources:

(1) A signed and dated copy of the advance written notice;

(2) Copies of written replies, affidavits, or other documentation furnished by the employee or his/her representative;

(3) A copy of the written summary of oral replies made by the employee or his/her representative;

(4) A signed and dated copy of the decision letter;

(5) Evidence or information that formed the basis for reaching the final written decision;

(6) A copy of any document implementing the final written action;

(7) Copies of requests for information from the record received from the employee or his/her representative; and

(8) Copies of other supporting or relevant information.

## **Section 9. Exceptions to the Thirty-Day Advance Notice Period**

(a) The advance written notice and opportunity to answer are not necessary for furlough without pay due to unforeseeable circumstances, e.g., a lack of appropriations, sudden breakdowns in equipment, acts of God, sudden emergencies requiring immediate curtailment of activities, etc.

(b) The full advance notice period is not required when there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed. An emergency adverse action should not be based solely on the fact that an employee

has been arrested for a crime. The decision to take an emergency adverse action should be based on the misconduct leading to the arrest, and that misconduct should be the reason(s) stated in the advance written notice. The notice must show the connection between the employee's conduct and the agency's ability to carry out effectively its responsibilities in such cases. Under these circumstances, the Commission may invoke the provisions applicable to commission of a crime and:

(1) Give the employee an advance written notice of less than thirty calendar days and provide a required minimum of at least seven calendar days for reply (the exact amount of advance notice will depend upon the circumstances of the situation); or

(2) Place the employee in a nonduty status with pay, not to exceed ten calendar days, as is necessary to effect the action when action is required immediately to remove the employee from the work premises because of circumstances. The employee may be given an advance written notice of less than thirty calendar days and provide a minimum of seven calendar days to reply.

(c) In those circumstances where the employee's continued presence in the workplace may pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the employee's bureau or office director should consult with the Director of Human Resources regarding the use of the following alternatives:

(1) Assigning or detailing the employee to other duties where the problem is avoided;

(2) Placing the employee on leave with his/her consent;

(3) Placing the employee on involuntary sick or other leave when the agency has medical documentation demonstrating physical or mental incapacitation;

(4) Carrying the employee in an appropriate leave category (annual or sick leave, leave without pay, or absence without leave) if he/she is absent for reasons not originating with the FMC;

(5) Curtailing the notice period when the agency can invoke the "crime provision," as previously described; or

(6) As a last resort, placing the employee in a paid, nonduty status during all or part of the advance notice period, as necessary.

## **Section 10. Appeals Process**

(a) Procedures for appeals.

(1) A written appeal filed by an employee with the MSPB must be received within thirty days after the effective date of the action or within thirty days after the date the agency



decision letter is received, whichever is later. If the employee has entered into a written agreement with the agency to try to resolve the dispute through an alternative dispute resolution (“ADR”) process before filing an appeal, he/she has an additional thirty days, for a total of sixty days, to file an appeal. See Appendix 1, *Definitions*, and Commission Order 52 (“C.O. 52”), *Equal Employment Opportunity*, for further information on the ADR process.

(2) Two copies of both the appeal and all attached documentation must be sent to the MSPB. A copy also must be sent to the Office of Human Resources.

(3) An appellant has the right to a hearing before an MSPB presiding official (for which a transcript will be kept), and to be represented by an attorney or other representative.

(4) Only those employees (“covered employees”) described in Section 3 of this Order are entitled to appeal adverse actions to the Board.

(b) Standards of evidence.

(1) An adverse action taken by the agency under 5 U.S.C. Chapter 75 (Conduct) will be sustained only if the decision is supported by a preponderance of the evidence. An adverse action taken by the agency under 5 U.S.C. Chapter 43 (Performance) will be sustained if the decision is supported by substantial evidence.

(2) Notwithstanding the requirements of evidence, the agency’s decision will not be sustained if the appellant shows harmful error in the application of agency procedures; shows the decision was based on a prohibited personnel practice as described in 5 U.S.C. 2302(b); or shows the decision was not in accordance with the law.

(3) The initial decision of the Board is final unless the MSPB agrees to reopen and reconsider a case based on a petition from a party to the appeal or from the OPM, or unless the MSPB decides to reopen a case on its own motion. Petitions for reconsideration or reopening must be filed within 35 days of the issuance of the initial decision.

(4) If the MSPB elects to reopen and reconsider a case, it may, following its review, affirm or reject, in whole or in part, the initial decision.

(c) Allegations of discrimination.

(1) Allegations of unlawful discrimination raised in conjunction with disciplinary or adverse actions are processed under the Commission’s discrimination complaint procedures described in C.O. 52. Initiation of the complaint procedure does not automatically delay or suspend the adverse action procedure.

(2) When an employee has raised the issue of discrimination (either orally or in writing) prior to the issuance of a decision on an action appealable to the MSPB, a special advisory will be included with the agency decision (see Appendix 7, footnote 2).

**Section 11. Applicability of Other Laws and Directives**

Provisions of this Order are subject to modification by changes in pertinent statutes, regulations and controlling issuances by authority outside the Commission. In such cases, and until the Order is modified, applicable provisions of the Order will be considered automatically amended or superseded, effective on the date specified in such controlling issuance.

By the Commission.



Bryant L. VanBrakle  
Secretary

Distribution: MO



## DEFINITIONS

**Admonition** - a discussion or memorandum which expresses warning and disapproval concerning a deficiency in conduct and/or performance which is not recorded in the employee's Official Personnel Folder.

**Adverse action** - a personnel action by which an employee is suspended; reduced in grade or pay; furloughed for thirty calendar days or less; or removed.

**Alternative Dispute Resolution ("ADR")** - a process involving a variety of techniques (e.g., mediation) used to resolve disputes in place of formal legal procedures.

**Appeal** - a request made to the Merit Systems Protection Board or the Equal Employment Opportunity Commission, as appropriate, for review of an adverse action taken by the agency.

**Critical element** - an identified component of a position and employee performance plan consisting of one or more duties and responsibilities which is of such importance that unacceptable performance in the element would result in unacceptable performance in the position.

**Days** - a period of **consecutive** calendar days which includes weekends.

**Deciding official** - an individual who has been delegated authority to issue a decision concerning a proposed disciplinary or adverse action.

**Disciplinary action** - an action taken by management to correct an employee's delinquency and/or misconduct.

**Employee representative** - the employee's choice of an individual to provide and/or assist (or serve as his/her spokesperson) in the preparation of a response to an adverse action.

**Furlough** - a nondisciplinary adverse action which temporarily places an employee in a nonpay and nonduty status for thirty days or less due to a lack of work or funds.

**Mediation** - the intervention of a neutral third party into a dispute to assist the disputing parties to voluntarily negotiate a jointly acceptable resolution of the problem.

**Non-critical element** - a component of an employee's position and performance plan which is of sufficient importance to warrant written appraisal but does not meet the definition of a critical element as previously defined.

**Official Personnel Folder** - an official repository of records, documents, papers and reports of personnel actions effected during an employee's Federal service.

**Opportunity period** - a time period of not less than ninety days during which an employee is given the opportunity to bring his/her performance up to the minimal standard for retention in the Federal service.

**Performance** - the employee's accomplishment of assigned work as specified by the critical and non-critical elements of his/her position and performance plan.

**Performance standard** - a statement of the expectations or requirements established for a critical element or non-critical element at a particular rating level, e.g., quality, quantity, timeliness, manner of performance, etc.

**Preponderance of the Evidence** - that degree of evidence which a reasonable mind, considering the record as a whole, might accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not.

**Proposing official** - a designated agency official with delegated authority to issue an advance written notice of proposed disciplinary or adverse action.

**Reassignment** - a personnel action involving the movement of an employee from one position to another within the same agency without a change in grade or basic pay.

**Reduction in grade** - an adverse personnel action involving the involuntary assignment of an employee to a position at a lower classification grade level for cause.

**Removal** - an adverse personnel action involving the involuntary separation of an employee from employment with the agency (except when taken as a reduction-in-force action).

**Reprimand** - a letter which formally censures an employee concerning a deficiency in conduct and/or performance.

**Substantial evidence** - that degree of relevant evidence which a reasonable mind, considering the record as a whole, might accept as adequate to support a conclusion that the matter asserted is true.

**Suspension** - an adverse personnel action which places an employee in a temporary nonpay, nonduty status for disciplinary reasons.

## SUGGESTED TABLE OF PENALTIES

The decision logic table on the following pages may be used as a **guide** for selecting appropriate penalties in disciplinary actions involving employee misconduct. The table shows the interrelationships of disciplinary causes and actions. The table neither establishes procedural requirements, nor automatically sets penalties. Depending on the circumstances, a penalty may be more or less severe than those listed in the table. This guide does not presume to cover all possible offenses; however, it does attempt to include most issues that are likely to apply in the agency. Other factors to be weighed are: character, gravity, recency, and consequences of the offense; mitigating circumstances; length of service; quality of work; personal reputation; past contributions; and record of cooperation.

**Nature of Offense Column.** It is not necessary to state the nature of the offense exactly as shown in this column. It is important, however, to state exactly what the employee did wrong (identified by a specific charge) in simple, clear language. Be careful to select a charge which fits the facts and not to distort the facts to fit a specific offense in the guide.

**Accumulation of Offenses.** The time period (reckoning period) over which offenses are cumulative for purposes of assessing progressively stronger penalties varies for different offenses. Generally, the reckoning period in the decision logic tables for No. 1, *Attendance-related offenses*; No. 14, *Delay in carrying out or failure to carry out instruction in a reasonable time*; and No. 16, *Sleeping, loafing, or failure to attend to duties*, is one year, e.g., management can use like offenses up to one year old in determining the penalty for a current offense. For all other offenses in the decision logic table, which can generally be grouped together as reflecting character traits, the reckoning period is indefinite and should be considered on a case-by-case basis.

NATURE OF OFFENSE	1 <sup>st</sup> OFFENSE	2 <sup>nd</sup> OFFENSE	3 <sup>rd</sup> OFFENSE
<b>1. Attendance-related offenses.</b>			
a. Unexcused Tardiness. (Includes delays in reporting at the scheduled starting time, returning from lunch or break periods, and returning after leaving work station on official business.) Penalty depends on length and frequency of tardiness.	Oral admonishment.	Oral admonishment to 1-day suspension.	Oral admonishment to 5-day suspension. <b>NOTE:</b> Penalty for 4 <sup>th</sup> offense may warrant a 5-day suspension to removal.
b. Absence without leave (“AWOL”). (AWOL is charged in one-hour increments and suggested penalties generally are not applicable for tardiness of ½ hour or less. See #1a above. Includes leaving the work station without permission.) Penalty depends on length and frequency of absences. Removal may be appropriate for a 1 <sup>st</sup> or 2 <sup>nd</sup> offense if the absence is prolonged.	Reprimand to 5-day suspension.	1- to 14-day suspension.	5-day suspension to removal.
c. Failure to follow established leave procedures.	Reprimand to 5-day suspension.	1- to 5-day suspension.	5-day suspension to removal.
<b>2. Breach of safety regulation or practice.</b>			
a. Where imminent danger to persons or property <u>is not</u> involved.	Reprimand to 1-day suspension.	1- to 14-day suspension.	5-day suspension to removal.
b. Where imminent danger to persons (“persons” includes self) or property <u>is</u> involved. Penalty depends on seriousness of injury or potential injury, and extent or potential extent of damages to property. Safety regulations may include requirements to report accident or injury.	Reprimand to removal.	3-day suspension to removal.	Removal.
<b>3. Breach of security regulations or practice, e.g., failure to implement/maintain security control for which an employee is responsible and aware, exceeding authorized access to, or disclosure to unauthorized persons of personally identifiable information; failure to report known or suspected loss of control or unauthorized access or disclosure of restricted information; failure to instruct, train or supervise employees regarding security responsibilities.</b>			
a. Where restricted information <u>is not</u> compromised and breach is <u>unintentional</u> .	Reprimand to 5-day suspension; removal of authority to access information or systems based on disregard or a pattern of error in safeguarding personally identifiable information.	1- to 14-day suspension; removal of authority to access information or systems based on egregious disregard or a pattern of error in safeguarding personally identifiable information.	5-day suspension to removal; removal of authority to access information or systems based on egregious disregard or a pattern of error in safeguarding personally identifiable information.

NATURE OF OFFENSE	1 <sup>st</sup> OFFENSE	2 <sup>nd</sup> OFFENSE	3 <sup>rd</sup> OFFENSE
b. Where restricted information <u>is</u> compromised and breach is <u>unintentional</u> .	Reprimand to removal; removal of authority to access information or systems based on disregard or a pattern of error in safeguarding personally identifiable information.	30-day suspension to removal; removal of authority to access information or systems based on egregious disregard or a pattern of error in safeguarding personally identifiable information.	Removal.
c. <u>Intentional</u> violation.	30-day suspension to removal; removal of authority to access information or systems based on egregious disregard or a pattern of error in safeguarding personally identifiable information.	Removal.	
<b>4. Offenses related to intoxicants. Actions involving these offenses should be reviewed to ensure the requirements of drug- and alcohol-abuse programs are met.</b>			
a. Alcohol-related:			
(1) Unauthorized possession of alcoholic beverages while on Government premises or in duty status.	Reprimand to 5-day suspension.	5- to 14-day suspension.	14-day suspension to removal.
(2) Unauthorized use of alcoholic beverages while on Government premises or in duty status.	Reprimand to 14-day suspension.	14- to 30-day suspension.	30-day suspension to removal.
(3) Reporting to or being on duty while under the influence of alcohol.	Reprimand to 30-day suspension.	14-day suspension to removal.	Removal.
(4) Sale or transfer of an alcoholic beverage while on Government premises or in a duty status or while any person involved is in a duty status.	Reprimand to removal.	Removal.	
b. Drug-related:			
(1) Unauthorized possession of a drug or controlled substance while on Government premises or in a duty status.	5- to 30-day suspension.	14-day suspension to removal.	Removal.
(2) Unauthorized use of a drug or controlled substance while on Government premises or in a duty status.	14-day suspension to removal.	30-day suspension to removal.	Removal.
(3) Reporting to or being on duty while under the influence of an unauthorized drug or controlled substance.	30-day suspension to removal.	Removal.	
(4) Sale or transfer of an unauthorized drug or controlled substance while on Government premises or in a duty status or while any person involved is in a duty status.	30-day suspension to removal.	Removal.	



NATURE OF OFFENSE	1 <sup>st</sup> OFFENSE	2 <sup>nd</sup> OFFENSE	3 <sup>rd</sup> OFFENSE
<b>5. Making false, malicious or unfounded statements against co-workers, supervisors, subordinates, or Government officials which tend to damage the reputation or undermine the authority of those concerned.</b>	Reprimand to removal.	14-day suspension to removal.	30-day suspension to removal.
<b>6. Abusive or offensive language, gestures or other conduct [also see "Discourtesy," No. 7 below].</b>	Reprimand to 10-day suspension.	5-day suspension to removal.	30-day suspension to removal.
<b>7. Discourtesy.</b>	Oral admonishment to 1-day suspension.	Reprimand to 5-day suspension.	1-day to 10-day suspension. <b>NOTE:</b> Penalty for 4 <sup>th</sup> offense within one year may be 14-day suspension to removal.
<b>8. Stealing (actual or attempted)/Unauthorized possession of Government property or property of others.</b>			
a. Where substantial value is <u>not</u> involved.	Reprimand to removal.	Reprimand to removal.	5-day suspension to removal.
b. Where substantial value is <u>involved</u> .	14-day suspension to removal.	Removal.	
<b>9. Using Government property or Government employees in duty status for other than official purposes. Penalty depends on the value of the property or amount of employee time involved, the nature of the position held by the offending employee, and other factors. For misuse of Government travel, credit, or purchase card, see #35 below.</b>	Reprimand to removal.	1-day suspension to removal.	14-day suspension to removal.
<b>10. Misuse of official Government credential.</b>	Reprimand to removal.	5-day suspension to removal.	14-day suspension to removal.
<b>11. Deliberate misrepresentation, falsification, exaggeration, concealment or withholding of a material fact, or refusal to testify or cooperate in an official proceeding.</b>	Reprimand to removal.	1-day suspension to removal.	5-day suspension to removal.
<b>12. Loss or damage to Government property, records, or information [also see #28 below]. Penalty depends on value of property or extent of damage, and degree of fault attributable to employee.</b>	Reprimand to 14-day suspension.	Reprimand to removal.	14-day suspension to removal.
<b>13. Offenses related to fighting. Penalty depends on such factors as provocation, extent of any injuries, and whether actions were defensive or offensive in nature.</b>			
a. Threatening or attempting to inflict bodily harm.	Reprimand to 14-day suspension.	14-day suspension to removal.	30-day suspension to removal.
b. Hitting, pushing or other acts against another without causing injury.	Reprimand to 30-day suspension.	14-day suspension to removal.	Removal.
c. Hitting, pushing or other acts against another causing injury.	30-day suspension to removal.	Removal.	
<b>14. Delay in carrying out or failure to carry out instruction in a reasonable time.</b>	Reprimand to removal.	Reprimand to removal.	5-day suspension to removal.

<b>NATURE OF OFFENSE</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> OFFENSE</b>
<b>15. Insubordinate defiance of authority, disregard of directive, refusal to comply with proper order.</b>	Reprimand to removal.	5-day suspension to removal.	Removal.
<b>16. Sleeping, loafing, or failure to attend to duties.</b>			
a. Where <u>no</u> danger to persons or property is involved.	Oral admonishment to 1-day suspension.	Reprimand to 5-day suspension.	5-day suspension to removal.
b. Where danger to persons or property <u>is</u> involved.	Reprimand to removal.	14-day suspension to removal.	30-day suspension to removal.
<b>17. Negligent performance of duties.</b>			
a. Where wastage or other cost is <u>insubstantial</u> .	Oral admonishment to reprimand.	Reprimand to 5-day suspension.	5- to 30-day suspension.
b. Where wastage or other cost is <u>substantial</u> .	1- to 5-day suspension.	5-day suspension to removal.	30-day suspension to removal.
<b>18. Offenses related to gambling.</b>			
a. Participating in an unauthorized gambling activity while on Government premises or in duty status.	Oral admonishment to reprimand.	1- to 5-day suspension.	5- to 30-day suspension.
b. Operating, assisting, or promoting an unauthorized gambling activity while on Government premises on in a duty status or while others involved are in a duty status.	14-day suspension to removal.	Removal.	
<b>19. Participating in a strike, work stoppage, slowdown, sickout, or other job action.</b>	Removal.		
<b>20. Indebtedness where agency operations or reputation are affected.</b>	Oral admonishment to reprimand.	Reprimand to 5-day suspension.	5-day suspension.
<b>21. Sexual harassment.</b>	Reprimand to removal.	5-day suspension to removal.	30-day suspension to removal.
<b>22. Discrimination based on race, color, sex, sexual orientation, religion, national origin, age, marital status, political affiliation, or handicap.</b>	Reprimand to removal.	5-day suspension to removal.	30-day suspension to removal.
<b>23. Interference with an employee's exercise of, or reprisal against an employee for exercising, a right to grieve, appeal or file a complaint through established procedures.</b>	Reprimand to removal.	5-day suspension to removal.	30-day suspension to removal.
<b>24. Reprisal against an employee for providing information to an Office of Inspector General (or equivalent), the Office of Special Counsel, an EEO investigator, or for testifying in an official proceeding.</b>	30-day suspension to removal.	Removal.	
<b>25. Reprisal against an employee for exercising a right provided under 5 U.S.C. 7101 et seq. (governing Federal labor-management relations).</b>	Reprimand to removal.	5-day suspension to removal.	30-day suspension to removal.
<b>26. Violation of an employee's constitutional rights (i.e., freedom of speech/association/religion).</b>	Reprimand to removal.	5-day suspension to removal.	30-day suspension to removal.
<b>27. Finding by MSPB of refusal to comply with MSPB order or violation of statute causing issuance of Special Counsel complaint.</b>	Suspension.	Removal.	

NATURE OF OFFENSE	1 <sup>st</sup> OFFENSE	2 <sup>nd</sup> OFFENSE	3 <sup>rd</sup> OFFENSE
<b>28. Directing, expecting or rendering services not covered by appropriations [5 U.S.C. 3103].</b>	Removal.		
<b>29. Prohibited political activity.</b>			
a. Violation of prohibition against political contributions [5 U.S.C. 7323].	Removal.		
b. Violation of prohibition against campaigning or influencing elections [5 U.S.C. 7324 and 7325].	30-day suspension to removal.	Removal.	
<b>30. Failure to deposit into the Treasury money accruing from lapsed salaries or from unused appropriations for salaries [5 U.S.C. 5501].</b>	Removal.		
<b>31. Soliciting contributions for a gift for a superior; making a donation as a gift to a supervisor; accepting a gift from an employee receiving less pay [5 U.S.C. 7351].</b>	Removal.		
<b>32. Action against national security [5 U.S.C. 7532].</b>	Suspension or removal.	Removal.	
<b>33. Wilfully using or authorizing the use of a government passenger motor vehicle or aircraft for other than official purposes [31 U.S.C. 1349(b)].</b>	30-day suspension to removal.	Removal.	
<b>34. Mutilating or destroying a public record [18 U.S.C. 2071].</b>	Removal.		
<b>35. Using Government contractor-issued travel, credit, or purchase card for non-official travel or unauthorized purchases [41 CFR Part 301-51, et al; Chapters 41 and 48 of the U.S.C.; 18 U.S.C. 287].</b>	Reprimand to removal.	10-day suspension to removal.	14-day suspension to removal.

**SAMPLE LETTER OF REPRIMAND**

Date

Name of Employee  
Duty Station

Dear \_\_\_\_\_ :

The purpose of this letter is to officially reprimand you for an unsatisfactory attendance record, including excessive tardiness. This reprimand informs you of the seriousness of the problem and of the need for prompt correction of these deficiencies.

Specifically, you were absent without approved leave ("AWOL") on the following occasions:

January 3, 2002	8:15 a.m. to 9:30 a.m.
January 18, 2002	8:15 a.m. to 4:45 p.m.
April 1, 2002	8:15 a.m. to 12:00 p.m.
April 2, 2002	8:15 a.m. to 4:45 p.m.
April 15, 2002	8:15 a.m. to 9:15 a.m.

Your work schedule requires you to be at work from 8:15 a.m. to 4:45 p.m. You were tardy on the following dates:

February 11, 2002	Arrived at work at 8:40 a.m., 25 minutes late
March 4, 2002	Arrived at work at 8:55 a.m., 40 minutes late
March 14, 2002	Arrived at work at 9:00 a.m., 45 minutes late
April 22, 2002	Arrived at work at 8:50 a.m., 35 minutes late

On each of these occasions of absence or tardiness, you have failed to receive my advance approval for leave. On January 25, 2002, and again on April 3 and 15, 2002, I discussed with you your previous absences and informed you that you were being charged AWOL. You did not provide sufficient reasons for the periods of absence. I admonished you during these discussions that continued absence without approval and tardiness could not be condoned and would result in disciplinary action.

You must immediately correct these problems by seeking my advance approval for any period of absence from work. Failure to obtain my advance approval will result in more severe disciplinary action. Whenever another employee, in my absence, is acting as your supervisor, you must obtain approval for any leave or absence from that person.

Since I wish to ensure that any problems of a personal nature which may be affecting your work are resolved as quickly as possible, I believe that you may benefit from the assistance of a

counselor from the Commission's Employee Assistance Program ("EAP"). To arrange to meet with a counselor, please call 1-800-222-0364. The counselor can assist you in resolving any problems which may be having an adverse impact on your job performance and conduct. I wish to stress that your participation in the EAP is voluntary, and any information exchanged between you and the counselor will be treated in a strictly confidential manner.

The merit of this reprimand may be grieved under the procedures described in Commission Order 65, *Administrative Grievance System*.

A copy of this letter, along with any written comments you may wish to make, will be maintained in your Official Personnel Folder<sup>1</sup> for a period of one year. If there is no recurrence of this type of incident for one calendar year from the date of this letter, it will be removed from your personnel folder and destroyed. Should you leave the Commission's employment within the next year, any reprimands will be removed from your personnel folder and destroyed.

Please sign and date the attached copy of this letter and return that copy to me. Your signature does not mean that you agree with this letter, but merely indicates that you have received it.

Sincerely,

Immediate Supervisor

Attachment

I hereby acknowledge receipt of this letter.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date:

<sup>1</sup>If the subject of the reprimand is a performance issue covered in the performance standards, the reprimand is to be filed in the Employee Performance File.

**SAMPLE ADVANCE WRITTEN NOTICE OF PROPOSAL  
TO SUSPEND FOR FOURTEEN DAYS OR LESS**

Date

Name of Employee  
Duty Station

Dear \_\_\_\_\_ :

This is a formal notice that I propose to suspend you for three working days for the reasons listed below. This proposal is for such cause as will promote the efficiency of the service (include background statement regarding prior warnings, counselings, and attempts to assist employee in correcting problem).

Reason No. 1 (State specific reason.)

Specification No. 1 (Describe specific instances that support the reason.)

Specification No. 2 (Describe specific instances that support the reason.)

Reason No. 2 (State specific reason.)

Specification No. 1 (Describe specific instances that support the reason.)

Specification No. 2 (Describe specific instances that support the reason.)

(Discuss any circumstances that aggravate the seriousness of the misconduct.)

You have a right to reply to this proposal orally or in writing, or both. You may also submit affidavits and other documentary evidence in support of your answer. Any reply must be made or submitted within fifteen (15) work days after you receive this notice. The deciding official will be (name), (title), room, telephone number \_\_\_\_\_. If you wish to reply orally, you must telephone the deciding official for an appointment.

You have the right to a representative to assist you in preparing and presenting your reply. You will have to pay any expense you may incur in obtaining the services of a representative. You are entitled to a reasonable amount of official time to prepare and present your reply. You must make arrangements with your supervisor if you wish to use official time. If you choose to be represented, you must notify the deciding official in writing of your representative's name, and either or both of you may respond to this proposal within the time limit specified above.

Full consideration will be given to any reply you make, if you choose to make one, before a decision is made. You will receive a written decision whether or not you make a reply. Such decision will be made as soon as practicable after the date the reply is received or due.

Since I wish to ensure that any problems of a personal nature which may be affecting your work are resolved as quickly as possible, I believe that you may benefit from the assistance of a counselor from the Commission's Employee Assistance Program ("EAP"). To arrange to meet with a counselor, please call 1-800-222-0364. The counselor can assist you in resolving any problems which may be having an adverse impact on your job performance and conduct. I wish to stress that your participation in the EAP is voluntary, and any information exchanged between you and the counselor will be treated in a strictly confidential manner.

If you have any questions on your rights or the procedures involved in this matter, you may contact (name), Office of Human Resources, on telephone number (202) 523-5773. You or your representative have a right to review the material upon which this proposal is based. You may do so by calling (name of deciding official), on telephone number (\_\_\_\_\_), to make necessary arrangements.

Please acknowledge receipt of this letter in the space provided on the enclosed copy and return it to the undersigned. Your signature does not mean that you agree with this letter, but merely shows that you received it.

Sincerely,

Proposing Official  
Title  
Organization

Enclosure

I hereby acknowledge receipt of this letter:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date:

**SAMPLE DECISION TO SUSPEND FOR FOURTEEN DAYS OR LESS**

Date

Name of Employee  
Duty Station

Dear \_\_\_\_\_ :

A letter of (date) informed you of a proposal to suspend you for three days because of (reasons).

I have given full consideration to the information you presented in your letter of (date) and in your oral reply of (date). I find that the reasons cited in the proposal are supported by the evidence, and warrant your suspension.<sup>1</sup> Accordingly, in order to improve the efficiency of the service, it is my decision that you be suspended for three days, effective (date). A statement summarizing the reasons for this adverse action will be reflected on the Standard Form 50, *Notification of Personnel Action*, by which this suspension is formally and permanently documented.

Since I wish to ensure that any problems of a personal nature which may be affecting your work are resolved as quickly as possible, I believe that you may benefit from the assistance of a counselor from the Commission's Employee Assistance Program ("EAP"). To arrange to meet with a counselor, please call 1-800-222-0364. The counselor can assist you in resolving any problems which may be having an adverse impact on your job performance and conduct. I wish to stress that your participation in the EAP is voluntary, and any information exchanged between you and the counselor will be treated in a strictly confidential manner.

The merits of this decision may be grieved under the formal procedure described in Commission Order 65, *Administrative Grievance System*.

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<sup>1</sup>If fewer than all reasons given in the proposal notice were relied on in arriving at the decision, those reasons which were sustained, and, therefore, relied on, should be stated in the decision.



Please acknowledge receipt of this letter in the space provided on the enclosed copy and return it to the undersigned. Your signature does not mean that you agree with this letter, but merely shows that you received it.

Sincerely,

Deciding Official  
Title  
Organization

Enclosure

I hereby acknowledge receipt of this letter.

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

**SAMPLE ADVANCE WRITTEN NOTICE OF PROPOSAL  
TO REMOVE BASED ON UNACCEPTABLE CONDUCT**

Date

Name of Employee  
Duty Station

Dear \_\_\_\_\_ :

This is a formal notice that I propose to remove you from your position of (title, series, grade, office and location) no earlier than thirty (30) days from the date you receive this notice. This proposal is made for such cause as will promote the efficiency of the service. (Include background statement of counseling, warnings, and efforts to correct the problems.) The reasons for this proposed action are:

Reason No. 1 (State specific reason.)

Specification No. 1 (Describe specific instances that support the reason.)  
Specification No. 2 (Describe specific instances that support the reason.)

Reason No. 2 (State specific reason.)

Specification No. 1 (Describe specific instances that support the reason.)  
Specification No. 2 (Describe specific instances that support the reason.)

(Discuss any circumstances that aggravate the seriousness of the misconduct. Any reference to the employee's past disciplinary record in determining the severity of the penalty should be discussed with your personnel specialist to ensure a correct citation.)

You have a right to reply to this proposal orally or in writing, or both. You may also submit affidavits and other documentary evidence in support of your answer. Any reply must be made or submitted within fifteen (15) work days after you receive this notice. The deciding official will be (name), (title), room, telephone number \_\_\_\_\_. If you wish to reply orally, you must telephone the deciding official for an appointment.

You have the right to a representative to assist you in preparing and presenting your reply. You will have to pay any expense you may incur in obtaining the services of a representative. You are entitled to a reasonable amount of official time to prepare and present your reply. You must make arrangements with your supervisor if you wish to use official time. If you choose to be represented, you must notify the deciding official in writing of your representative's name, and either or both of you may respond to this proposal within the time limit specified above.

Full consideration will be given to any reply you make, if you choose to make one, before a decision is made. You will receive a written decision whether or not you make a reply. Such decision will be made as soon as practicable after the date the reply is received or due.

Since I wish to ensure that any problems of a personal nature which may be affecting your work are resolved as quickly as possible, I believe that you may benefit from the assistance of a counselor from the Commission's Employee Assistance Program ("EAP"). To arrange to meet with a counselor, please call 1-800-222-0364. The counselor can assist you in resolving any problems which may be having an adverse impact on your job performance and conduct. I wish to stress that your participation in the EAP is voluntary, and any information exchanged between you and the counselor will be treated in a strictly confidential manner.

If you have any questions on your rights or the procedures involved in this matter, you may contact (name), Office of Human Resources, on telephone number (202) 523-5773. You or your representative have a right to review the material upon which this proposal is based. You may do so by calling (name of deciding official), on telephone number (\_\_\_\_\_), to make necessary arrangements.

Please acknowledge receipt of this letter in the space provided on the enclosed copy and return it to the undersigned. Your signature does not mean that you agree with this letter, but merely shows that you received it.

Sincerely,

Proposing Official  
Title  
Organization

Enclosure

I hereby acknowledge receipt of this letter.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date:

**SAMPLE DECISION TO REMOVE BASED ON  
UNACCEPTABLE CONDUCT**

Date

Name of Employee  
Duty Station

Dear \_\_\_\_\_ :

A letter of (date) informed you of a proposal to remove you from your position of (title, series, grade, office, and location). I have given full consideration to that letter, your submission of (date) and your oral reply of (date). I find that reason number 2 was not supported by a preponderance of evidence and is withdrawn. I find, however, that reason number 1 and both specifications in that reason are supported by a preponderance of the evidence and warrant your removal to promote the efficiency of the service.

I have considered in mitigation your previously satisfactory work record and your statements of regret. I believe, however, that a less severe penalty than removal would be inadequate. Therefore, it is my decision that you be removed effective (date).<sup>1</sup>

You have the right to appeal this action to the Merit Systems Protection Board (insert appropriate address). An appeal may be filed anytime during the period beginning with the day after the effective date of the action until no later than 30 days after the action or within thirty days after the date you receive this notice, whichever is later. If you have entered into a written agreement to try to resolve the dispute through an alternative dispute resolution (“ADR”) process before filing an appeal, you are entitled to an additional thirty days, for a total of sixty days, to file an appeal. The petition for appeal must be in writing and signed by you or your representative. Two copies of the petition and any other pleadings must be submitted to the Merit Systems Protection Board and another copy forwarded to the Director of Human Resources, Federal Maritime Commission. Copies of the Merit Systems Protection Board Practice and Procedure,

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<sup>1</sup>If the decision is to impose a lesser penalty than that originally proposed, or to dismiss the proposed adverse action entirely, then language appropriate to the decision should be inserted.

