

**Annual Report for Fiscal Year 2021  
under the  
Notification and Federal Employee Antidiscrimination  
and Retaliation Act of 2002**

**Report Prepared for:**  
**Speaker of the House of Representatives**  
**President pro tempore of the Senate**  
**Senate Committee on Homeland Security and Governmental Affairs**  
**House Committee on Oversight and Reform**  
**Senate Committee on Finance**  
**House Committee on Ways and Means**  
**Senate Committee on Health, Education, Labor and Pensions**  
**House Committee on Education and Labor**  
**Equal Employment Opportunity Commission**  
**Office of Personnel Management**  
**Attorney General of the United States**

**Report Submitted by:**  
**Pension Benefit Guaranty Corporation**

## Table of Contents

- A. Introduction**
- B. Federal Court Cases Arising Under the Federal Antidiscrimination or Whistleblower Laws**
  - 1. The Number of Federal Court Cases Pending or Resolved in FY 2021**
  - 2. Status or Disposition of Federal Court Cases Including the Amount of Money Required to be Reimbursed to the Judgment Fund and Any Budget Adjustments Relating to the Judgment Fund**
- C. Employees Disciplined for Conduct Inconsistent with Federal Antidiscrimination or Whistleblower Laws**
- D. Final Year-End No FEAR Act Data for Fiscal Year 2021**
- E. PBGC's Discipline Policy for Conduct Inconsistent with Federal Antidiscrimination or Whistleblower Laws**
- F. Data Analysis**
  - 1. Trends**
  - 2. Causal Analysis**
  - 3. Knowledge Gained**
  - 4. Actions Planned to Improve PBGC's EEO Program**
- G. No FEAR Act Training Plan**

### APPENDICES:

- Appendix 1 Final Year-End No FEAR Act Data for FY 2021**
- Appendix 2 EEO Policy Statement, dated July 8, 2020**
- Appendix 3 Anti-Harassment Policy Statement, dated September 19, 2020**

**A. Introduction**

This report is prepared by the Pension Benefit Guaranty Corporation (PBGC) in accordance with the requirements of Title II, Section 203, of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR or Act). The Act requires federal agencies to submit an annual report to the Speaker of the House of Representatives; the President pro tempore of the Senate; the Senate Committee on Homeland Security and Governmental Affairs; the House Committee on Oversight and Reform; the Senate Committee on Finance; the House Committee on Ways and Means; the Senate Committee on Health, Education, Labor and Pensions; the House Committee on Education and Labor; the U.S. Equal Employment Opportunity Commission; Office of Personnel Management, and the Attorney General of the United States.

The Act holds federal agencies accountable for violations of antidiscrimination and whistleblower protection laws relating to federal employment. The report contains data and analysis concerning equal employment opportunity (EEO) complaint activity at PBGC, including federal court cases, and resulting disciplinary actions during Fiscal Year (FY) 2021.

It is the law of this nation and the policy of PBGC to prohibit discrimination in the workplace. PBGC is committed to maintaining an environment that provides equal employment opportunity to its total workforce of 949 employees (901 Permanent, 48 Temporary), as well as applicants for employment.

**B. Federal Court Cases Arising Under the Federal Antidiscrimination or Whistleblower Laws**

**1. The Number of Federal Court Cases Pending or Resolved in FY 2021**

As shown below in **Table 1**, there was a total of five federal court cases pending at the end of FY 2021. Some of these cases involved more than one statute.

**TABLE 1  
Federal Court Cases Pending in FY 2021, Separated by Statute**

Title VII of the Civil Rights Act of 1964	5
Age Discrimination in Employment Act of 1967	3
Rehabilitation Act of 1973	1
Whistleblower Protection Act	0
Equal Pay Act of 1963	0

There were no cases resolved (settled) in FY 2021.

**2. Status or Disposition of Federal Court Cases Including the Amount of Money Required to be Reimbursed to the Judgement Fund and Any Budget Adjustments Relating to the Judgement Fund**

**Table 2** shows the status and disposition of federal court cases by statute. The table shows a total of five cases, some involving more than one statute.

As a government corporation, PBGC has corporate funds available to pay judgments and settlements. During FY 2021, PBGC paid no settlements from the Judgment Fund, nor did it make any budget adjustments relating to the Judgment Fund.

**TABLE 2**  
**Status of Federal Court Cases in FY 2021, by Statute**

<b>Title VII of the Civil Rights Act of 1964</b>	<b>5</b>
Pending	2
Dismissed	3
Settled	0
<b>Age Discrimination Employment Act of 1967</b>	<b>3</b>
Pending	1
Dismissed	2
Settled	0
<b>Rehabilitation Act of 1973</b>	<b>1</b>
Pending	0
Dismissed	1
Settled	0
<b>Whistleblower Protection Act</b>	<b>0</b>
Pending	0
Dismissed	0
Settled	0
<b>Equal Pay Act of 1963</b>	<b>0</b>
Pending	0
Dismissed	0
Settled	0

**C. Employees Disciplined for Conduct Inconsistent with Federal Antidiscrimination or Whistleblower Laws**

Table 3 shows no findings of discrimination and no employees disciplined for having been found to have engaged in discrimination in violation of the civil rights laws.

**TABLE 3  
Employees Disciplined for Conduct Inconsistent with Federal Antidiscrimination or Whistleblower Laws in FY 2021**

<b>Employees Disciplined in Connection with Federal Court Cases</b>	
Number of Findings	0
Number of Employees Disciplined	0
<b>Employees Disciplined Whether or Not in Connection with Federal Court Cases</b>	
Number of Employees Disciplined	0

**D. Final Year-End No FEAR Act Data for FY 2021**

Attached as Appendix 1 is the PBGC’s final year-end No FEAR Act Data for FY 2021.

**E. PBGC’s Discipline Policy for Conduct Inconsistent with Federal Antidiscrimination or Whistleblower Laws**

PBGC is committed to maintaining a workplace that promotes productivity, professionalism, and an environment that protects the dignity of all its workers. PBGC issues policy statements, which periodically are sent to all its employees and contractors. The statements provide that PBGC is committed to ensuring that its employees and applicants for employment are treated equitably in an environment that is free from discrimination and harassment based on race, religion, color, sex, pregnancy, sexual orientation, gender identity, parental status, marital status, national origin, age, disability, family medical history or genetic information. All employees are responsible for exhibiting professional conduct and behavior in the workplace and cooperating in the enforcement of this policy. Further, individuals engaging in conduct or behavior that violates this policy may be subjected to appropriate disciplinary action up to and including removal from Federal service. See EEO Policy Statement (Appendix 2), Anti- Harassment Policy Statement (Appendix 3).

PBGC maintains a directive on disciplinary and adverse actions, outlining the procedures for addressing employee misconduct, including a table of suggested penalties for various infractions. The table has been in effect since 2007 and includes several categories addressing conduct that is inconsistent with federal antidiscrimination or whistleblower

laws. Using a progressive discipline approach, and depending on the nature of the misconduct, the penalties can range from a written reprimand for a first offense to removal from duty.

**F. Data Analysis**

**Introduction**

This section provides data and trend analysis on the commonly cited bases and issues in formal EEO complaints for Fiscal Years 2021 and 2020. The basis of the complaint is the protected characteristic the complainant alleges to form the motivation for the discriminatory behavior. The bases protected by EEO statutes are race, color, religion, national origin, sex, disability, age, genetic information, and retaliation/reprisal (for participating in the EEO complaint process or for opposing practices made illegal under the EEO laws.)

The issue of a complaint is the specific subject matter about which an individual is alleging a discriminatory incident for which he/she is seeking redress.

**Table 4** shows that in FY 2021, 8 PBGC employees filed 12 formal complaints of discrimination in comparison to 11 formal complaints of discrimination filed the previous year by 7 employees. There was an increase in the number of filers from the previous year’s total of 7 individuals; however, the number of repeat filers, 3, remained the same. See also Appendix 1.

**TABLE 4  
Number of Formal EEO Complaints and Number of Filers**

<b>Fiscal Years</b>	<b>Number of Complaints Filed</b>	<b>Number of Complainants</b>	<b>Repeat Filers</b>
2021	12	8	3
2020	11	7	3

**Table 5** shows an analysis of the five leading alleged bases cited in the formal EEO complaints filed in FY 2021 and FY 2020.

**TABLE 5  
EEO Bases in Formal EEO Complaints at PBGC**

<b>Year</b>	<b>Race</b>	<b>Reprisal</b>	<b>Age</b>	<b>Disability</b>	<b>Sex</b>
2021	7	7	6	4	9
2020	6	6	2	7	6

In FY 2021 sex was the most frequently alleged basis, with 9 cases filed, an increase from the previous year with 6 cases filed under that basis. Race and reprisal were the

second most frequently alleged bases, with 7 cases filed under each basis respectively, an increase from the previous year under each basis. Age was the third most frequently alleged basis with 6 cases filed in FY 2021, an increase compared to 2 cases filed under that basis in FY 2020. Formal complaints filed in FY 2021 under the basis of disability decreased by 3, with 4 cases filed in FY 2021 compared to the previous year's 7 cases. Additionally, formal complaints filed in FY 2021 under other bases include color and national origin, with 2 complaints filed under each basis, and 1 complaint filed under a non-EEO basis. No complaints were alleged under the Genetics and Pregnancy Discrimination Act in the reporting period.

**Table 6** shows a trend analysis of the five leading alleged issues cited in formal EEO complaints filed in FY 2021 and FY 2020.

**TABLE 6  
Leading Issues in Formal EEO Complaint**

<b>Year</b>	<b>Harassment (Non-Sexual)</b>	<b>Promotion/ Non- Selection</b>	<b>Reasonable Accommodation</b>	<b>Terms and Conditions of Employment</b>	<b>Performance Evaluation/Appraisal</b>
<b>2021</b>	1	2	2	5	2
<b>2020</b>	3	1	5	2	2

The leading issue in FY 2021 was terms and conditions of employment with 5 complaints filed representing an increase from 2 complaints filed in FY 2020. The second leading issues were promotion/non-selection, reasonable accommodation, and performance evaluation/appraisal, each with 2 complaints filed.

The 2 complaints filed under promotion/non-selection was an increase from 1 in FY 2020; the 2 complaints filed under reasonable accommodation was a decrease from 5 in FY 2020; and the 2 complaints filed under performance evaluation/appraisal was the same as in FY 2020. Complaints filed under harassment (non-sexual) decreased from 3 in FY 2020 to 1 in FY 2021.

**1. Trends**

- a. The total number of formal complaints filed in FY 2021, 12, increased by 1 from the previous year.
- b. The largest trending decrease in alleged basis was disability. Complaints alleging disability as a basis went from 8 complaints in FY 2018 to 4 complaints in FY 2021, a 50% decrease.
- c. The most frequently claimed protected basis in FY 2021 was sex, representing 9 complaints, compared to FY 2020, with 6 complaints filed under this basis. Complaints alleging race and sex have been two of the leading alleged bases in the past 4 fiscal years. The protected basis in which the fewest complaints

were filed was equal pay, where only 1 to 2 complaints were filed under the basis in the past 4 years. Complaints identifying reprisal and age were the second most frequently alleged protected bases, representing 7 and 6 complaints filed respectively in FY 2021. Reprisal increased to 7 in FY 2021 from 6 in FY 2020, and age increased to 6 in FY 2021 from 2 in the previous year. Complaints filed under national origin, color, equal pay and non-EEO had a slight increase, while complaints filed under the basis of disability decreased from 7 to 4. Genetics and Pregnancy Discrimination Act claims remained the same with no complaints filed in FY 2021 and FY 2020.

In FY 2021, there was an increase to 5 in formal complaints filed on issues alleging terms and conditions of employment, from 2 in FY 2020. Complaints filed on issues alleging reasonable accommodation and harassment (non-sexual) decreased by 3 and 2, respectively, from 5 and 3, respectively, in FY 2020. Formal complaints alleging promotion/non-selection increased to 2 in FY 2021 compared to 1 in FY 2020, while complaints identifying performance/evaluation remained the same at 2 in FY 2021 and FY 2020.

- d. This section contains data on: (1) the average number of days for completion of each stage of the EEO process; (2) pending complaints at various stages of the EEO process; and (3) pending formal complaints exceeding the 180-day investigation requirement.

FY 2021 reflected an increase in the average number of days, 136, in the formal complaint investigation stage. This is likely due to the increase in the number of formal complaints filed during the FY 2021 reporting period. It is important to note that the average of 136 days in the investigative phase is still significantly below the 180-day regulatory timeframe for completing investigations.

The total average number of days in investigation increased by 12 days, from 124 days in FY 2020 to 136 days in FY 2021, an increase of 9.7%. In FY 2021 compared to FY 2020, the average number of days in investigations (including investigations of cases that were withdrawn) increased, the average number of days in final agency action decreased, and the average number of days in cases that were dismissed increased. The Agency will continue to strive to achieve the 180-day requirement and assess processing times at the investigative stage.

## **2. Causal Analysis**

Formal EEO complaint activity increased by 9.1% in FY 2021, or an increase in total formal complaints filed by 1 over the preceding year. PBGC will continue as a leading Agency in its commitment to outreach, Office of Equal Employment Opportunity (OEEO) Affirmative Employment Committees and focus groups, affinity groups, employee training, and diversity workshops.



### **3. Knowledge Gained**

PBGC will continue to educate the workforce in Equal Employment Opportunity, civil rights laws, and regulations, by providing continued trainings, workshops and marketing the availability of conflict management and Alternative Dispute Resolution (ADR). ADR is an option at all stages of the EEO process and PBGC managers and employees are educated on the benefits of ADR. The Agency and its leadership strongly promote and advocate employee outreach, employee training and zero tolerance of workplace discrimination. PBGC has also invested in providing training and seminars in leadership development, managing workforce generations, disability awareness and work-life balance.

### **4. Actions Planned to Improve PBGC's Equal Employment Opportunity Program**

PBGC senior leaders, managers, and supervisors hold themselves accountable for achieving the EEO elements and standards via their performance plans.

Agency initiatives and accomplishments in FY 2021:

- PBGC's senior leadership team, including its Director, demonstrated commitment to moving the Agency to a model EEO program status via support of barrier analysis and annual EEO training.
- OEEO offered EEO training for employees and supervisors.
- OEEO reviewed and established a schedule for ongoing EEO training courses in FY 2022.
- The Human Resources Department (HRD) continued to offer a comprehensive leadership development training program for managers and supervisors with courses focused on diversity, inclusion, and unconscious bias, as well as a Leadership/Executive Coaching Program with International Coaching Federation (ICF) certified coaches available to employees at the SL, GS-15, and GS-14 grade levels.
- Agency senior leaders provided continued support for barrier analysis by providing organizational points of contact to work with OEEO so that equal opportunity and diversity and inclusion are integrated into their departmental action plans and the Agency's overall strategic operations. The goal is to be proactive in the prevention of discrimination.
- OEEO continued to engage senior leaders, human resources staff, and hiring officials to examine ways to improve recruitment and retention and discuss process improvement to determine whether the recruitment and selection process should be refined internally.
- OEEO continued its book club with discussions focused on topics that support equity, diversity, and inclusion to create a more engaged workforce.
- OEEO continued YOUiversity, a bias awareness program.
- PBGC's Affirmative Employment Committees assisted in barrier analysis program development to support PBGC's EEO program.
- PBGC's Diversity Equity Inclusion and Accessibility Council sponsored a Community Day titled "Pension Hidden Figures."
- PBGC's Section 508 Compliance Team continued to conduct multiple

virtual “Acclimate to Section 508” Learning Series courses throughout the year.

- In FY 2021, Office of Policy and External Affairs (OPEA) continued targeted recruitment outreach for underrepresented groups.
- Office of Management and Administration (OMA) enhanced developmental opportunities by establishing a career ladder position which is promotable to GS-13 grade level.
- Office of Benefits Administration (OBA) continued to work with HRD on a workforce planning strategy that will allow recruitment of recent graduates at the GS-07/09 grade level with career ladders to GS-13. Additionally, OBA continued to work with HRD to recruit and hire three Schedule A candidates for career ladder positions.
- Office of Negotiations and Restructuring (ONR) enhanced developmental opportunities by offering technical skills training to develop performance of staff, and soft skills training to enhance communication skills. In addition, actuaries continued to have extensive professional education opportunities including webinars conducted by the Society of Actuaries, the Conference of Consulting Actuaries, and the American Academy of Actuaries.
- In FY 2021, ONR onboarded 10 external hires including one Schedule A applicant.
- Office of Information Technology (OIT) continued to work with HRD to develop recruitment strategies targeted at underrepresented groups.
- Office of the Chief Financial Officer (OCFO) continued to work with HRD to hire persons with targeted disabilities through Schedule A appointing authority.
- In FY 2021, Office of the General Counsel (OGC)’s diversity outreach efforts included recruitment of four females for the summer law clerk program. All four accepted offers of permanent employment at the end of the program. In addition, OGC made eight hires in FY 2021. Of these hires, 66% were Women, 38% were Black or African American, and 25% were disabled veterans. OGC enhanced developmental opportunities by promoting a Mexican American to Assistant General Counsel.

## **G. No FEAR Act Training Plan**

The No Fear Act requires mandatory bi-annual training and PBGC met this requirement by completing the training in FY 2021. The No FEAR Act training addressed PBGC’s ongoing obligation to provide training to new employees within 90 days of onboarding and to existing employees every two years under the No FEAR Act. The training addressed the rights and remedies available under the employment discrimination and whistleblower protection laws; the history of the No FEAR Act and its requirements; identifying anti-discrimination laws, issues, protected classes, and obligations under the No FEAR Act; the history of the Whistleblower Protection Act and recognized categories of whistleblower protection; and where and how to report suspected violations of the Whistleblower Protection Act. No FEAR training was offered to all PBGC employees from August 2, 2021, through August 27, 2021. PBGC completed the required training at a 100% rate.

**Equal Employment Opportunity Data Posted Pursuant to the No FEAR Act**  
**Pension Benefit Guaranty Corporation (PBGC)**  
For the Fiscal Year ended September 30, 2021

Part I Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					FY 2021
	2016	2017	2018	2019	2020	
Number of Complaints Filed	29	16	19	14	11	12
Number of Complainants	28	15	17	13	7	8
Repeat Filers	1	1	2	1	3	3

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					FY 2021
	2016	2017	2018	2019	2020	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	25	10	15	12	6	7
Color	18	5	3	5	1	2
Religion	18	5	3	5	1	0
Reprisal	24	10	11	9	6	7
Sex	27	10	13	11	6	9
PDA	0	0	0	0	0	0
National Origin	7	5	3	1	1	2
Equal Pay Act	0	1	0	1	0	2
Age	23	7	8	10	2	6
Disability	1	3	8	3	7	4
Genetics	0	1	0	0	0	0
Non-EEO	0	1	0	0	0	1

Part III Complaints By Issue	Comparative Data					
	Previous Fiscal Year Data					FY 2021
	2016	2017	2018	2019	2020	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Appointment/Hire	2	2	5	0	1	0
Assignment of Duties	7	1	0	2	0	1
Awards	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0
<b>Disciplinary Action</b>						
Demotion	1	0	0	0	0	1
Reprimand	2	0	0	0	0	0
Suspension	0	0	0	2	0	0
Removal	0	1	0	0	0	0
Other 1	0	0	0	0	0	0
Other 2	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0
Perf. Eval./ Appraisal	5	3	1	2	2	2
Examination/Test	0	0	0	0	0	0
<b>Harassment</b>						
Non-Sexual	3	8	2	2	3	1
Sexual	0	1	1	0	0	0

Part III Complaints By Issue	Comparative Data					
	Previous Fiscal Year Data					FY 2021
	2016	2017	2018	2019	2020	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Medical Examination	0	0	0	0	0	0
Pay including overtime	8	1	0	0	2	0
Promotion/Non-Selection	11	1	2	5	1	2
<b>Reassignment</b>						
Denied	0	0	0	0	0	0
Directed	0	1	0	0	0	0
Reasonable Accommodation Disability	1	1	1	2	5	2
Reinstatement	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0
Retirement	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0
Telework	1	1	0	0	0	0
Termination	0	1	2	1	1	0
Terms/Conditions of Employment	18	2	4	5	2	5
Time and Attendance	0	0	1	0	0	1
Training	0	0	0	0	0	0
<b>Other</b>						
User Defined - Other 1	0	0	0	0	0	0
User Defined - Other 2	0	1	3	0	0	0
User Defined - Other 3	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0

Processing Time	Comparative Data					
	Previous Fiscal Year Data					FY 2021
	2016	2017	2018	2019	2020	
Complaints pending during fiscal year						
Average number of days in investigation	242.47	395.19	174.93	171.29	124.0	136.00
Average number of days in final action	67.0	31.33	68.29	23.14	68.75	34.00
Complaints pending during fiscal year where hearing was requested						
Average number of days in investigation	247.07	404.61	177.8	181.2	127.4	213.10
Average number of days in final action	42.5	31.33	24.25	15.0	81.33	27.00
Complaints pending during fiscal year where hearing was not requested						
Average number of days in investigation	178.0	318.4	173.5	146.5	130.0	154.00
Average number of days in final action	3637.0	0.0	127.0	50.8	31.0	41.00

Part V Complaints Dismissed by Agency	Comparative Data					
	Previous Fiscal Year Data					FY 2021
	2016	2017	2018	2019	2020	
Total Complaints Dismissed by Agency	1	3	11	3	3	8
Average days pending prior to dismissal	178	123	57	21	28	44.67
<b>Complaints Withdrawn by Complainants</b>						
Total Complaints Withdrawn by Complainants	7	4	15	5	0	1













Findings of Discrimination Rendered by Issue	Comparative Data											
	Previous Fiscal Year Data										FY 2021	
	2016		2017		2018		2019		2020			
	#	%	#	%	#	%	#	%	#	%	#	%
User Defined – Other 2	0	0	0	0	0	0	0	0	0	0	0	0
User Defined – Other 3	0	0	0	0	0	0	0	0	0	0	0	0
User Defined – Other 4	0	0	0	0	0	0	0	0	0	0	0	0

Part IX Complaints Pending from Previous Fiscal Years By Status	Comparative Data						
	Previous Fiscal Year Data					FY 2021	
	2016	2017	2018	2019	2020		
Total complaints from previous Fiscal Years	47	55	5	5	7	9	
Total Complainants	40	48	19	4	5	4	
<b>Number complaints pending</b>							
Investigation	13	2	0	0	0	0	
ROI issued, pending Complainant's action	0	0	0	0	0	0	
Hearing	31	49	19	5	7	8	
Final Agency Action	0	1	3	0	0	1	
Appeal with EEOC Office of Federal Operations	11	10	10	10	1	0	

Part X Complaint Investigations	Comparative Data						
	Previous Fiscal Year Data					FY 2021	
	2016	2017	2018	2019	2020		
Pending Complaints Where Investigations Exceed Required Time Frames	1	1	0	0	0	0	



Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

Appendix 2

July 8, 2020

**TO:** All PBGC Staff

**FROM:** Gordon Hartogensis  
Director

**SUBJECT:** Equal Employment Opportunity Policy Statement

The Pension Benefit Guaranty Corporation (PBGC) protects the retirement incomes of nearly 37 million American workers in nearly 25,000 private-sector defined benefit pension plans. For PBGC to do its job well, we must continue to strive for inclusion, cooperation, and respect for the talents that a diverse workforce can bring to any successful venture.

PBGC is committed to ensuring that its employees and applicants for employment are treated equitably in an environment that is free from discrimination based on race, religion, color, sex, pregnancy, sexual orientation, gender identity, parental status, marital status, national origin, age, disability, family medical history, genetic information or reprisal. Employees and applicants who believe they may have experienced discrimination on any of these bases, or who believe they may have been retaliated against for exercising the right to go through the Equal Employment Opportunity (EEO) process, should contact the Office of Equal Employment Opportunity (OEEO) as discussed below.

All employees will have the freedom to compete on a fair and level playing field. Equal employment opportunity covers all personnel/employment programs, management practices, and decisions, including, but not limited to, recruitment, hiring, merit promotions, transfers, reassignments, training and career development, benefits and separations.

All employees are responsible for exhibiting professional conduct and behavior in the workplace and cooperating in the enforcement of this policy. Individuals engaging in conduct or behavior that violates this policy may be subject to appropriate disciplinary action up to, and including, removal from Federal service.

If you believe you may have been subjected to discrimination or retaliation, you should contact OEEO at 202-229-4363 or email [all-eeo-fed@pbgc.gov](mailto:all-eeo-fed@pbgc.gov) immediately. OEEO offers a confidential and neutral early intervention process to address concerns without your having to initiate the EEO complaint process. If, however, you decide to initiate the EEO complaint process, you must do so within 45 calendar days of the incident or the date you became aware of the incident. Where an aggrieved individual elects and OEEO determines that Alternative Dispute Resolution (ADR) is appropriate, managers and/or supervisors have a duty to participate in PBGC's ADR process.

In our work processes, PBGC will create avenues for full participation to enable excellence and innovation that is realized through collaboration of diverse ideas, experiences, and perspectives. By working together to promote the principles of equal opportunity, we will ensure that all

employees and applicants for employment have an opportunity to succeed and contribute to PBGC's mission of protecting America's retirement security.



Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

September 19, 2020

**TO:** All PBGC Staff

**FROM:** Gordon Hartogensis  
Director

**SUBJECT:** Anti-Harassment Policy Statement

The Pension Benefit Guaranty Corporation (PBGC) has a policy providing for a work environment free from all forms of harassment. For example, in addition to providing the protection required by EEO laws from harassment based on race, color, religion, sex (including pregnancy, sexual harassment, gender identity, sexual orientation, and non-sexual harassment based on sex), national origin, age, disability (mental or physical), genetic information or reprisal, PBGC's policy also protects against harassment based on parental and marital status.

Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Examples include (but are not limited to):

- making negative comments about an employee's personal religious beliefs, or trying to convert them to a certain religious ideology;
- using racist slang, phrases, or nicknames;
- making remarks about an individual's skin color or other ethnic traits;
- displaying racist drawings, or posters that might be offensive to a particular group;
- making offensive gestures;
- making offensive reference to an individual's mental or physical disability;
- sharing inappropriate images, videos, e-mails, letters, or notes of an offensive nature;
- offensively talking about negative racial, ethnic, or religious stereotypes; or
- making derogatory age-related comments

While isolated incidents of harassment generally do not violate federal law, the goal of the Anti-Harassment Policy Statement is to address and eliminate harassing conduct at the earliest possible stage, regardless of whether it violated the law.

Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile, or offensive working environment. Such conduct may include:

- an employer or supervisor conditioning promotion, job assignments, or other tangible job benefits based on acquiescence to unwelcome sexual conduct, or penalizing an individual for refusing to participate in such conduct;
- sexist or stereotypical remarks about a person's clothing, body, appearance, or activities;
- sexually oriented jokes, stories, remarks, or discussions;
- descriptions of sexual acts;
- posting or displaying sexually graphic pictures anywhere in the workplace;
- deliberately touching, pinching, patting, or giving inappropriate looks to another person;
- pressure for dates or sexual activity;
- unwelcome telephone calls, e-mail messages, social network postings or letters of a sexual nature; or
- demands for sexual favors.

In sexual harassment, the harasser may be male or female, and the victim may be of the opposite sex or the same sex as the harasser. Even a consensual relationship between the harasser and the victim may involve sexual harassment. For example, if the victim agrees to sexual behavior out of fear of retaliation, the conduct of the other party may still constitute sexual harassment despite the victim's consent. The focus is on whether the conduct was unwelcome, not consensual.

All employees are responsible for exhibiting professional conduct and behavior in the workplace and cooperating in the enforcement of this policy. Individuals engaging in conduct or behavior that violates this policy may be subject to appropriate disciplinary action up to, and including, removal from Federal service. Supervisors must strive to maintain and promote a work environment free of harassment. To prevent and remedy incidents of workplace harassment, PBGC officials must be made aware of the conduct or behavior as soon as possible

PBGC will not tolerate the creation of a hostile work environment and will address reported workplace harassment promptly. Individuals who believe they are being harassed or subjected to a hostile work environment are encouraged to tell the alleged harasser (orally or in writing) to stop, keep a record of the events, immediately report the behavior, and cooperate in any inquiry regarding allegations of harassment. Retaliation for reporting workplace harassment or for assisting in any inquiry concerning a report of harassment also will not be tolerated. In addition, PBGC will protect the confidentiality of employees who bring harassment claims, to the extent possible.

PBGC employees who believe they have been harassed or have been subjected to a hostile work environment should report the matter immediately to their immediate supervisor, another management official, PBGC's Office of Equal Employment Opportunity (OEEEO) at (202) 229-

4363, [all-federal-EEO@PBGC.gov](mailto:all-federal-EEO@PBGC.gov), or PBGC's Harassment Inquiry Committee (HIC). The HIC intake points of contact are:

Paul Chalmers (OGC) – (202) 229-3555;

Jaime Kunce (OGC) – (202) 229-3463;

Arrie Etheridge (HRD) – (202) 229-3728;

Karen Esser (HRD) – (202) 229-3275;

Upon receipt of a harassment allegation, the Agency will conduct a prompt, thorough, and impartial inquiry, if appropriate. The fact-finding inquiry will commence within 10 calendar days of the HIC receiving notice of a harassment allegation. The agency will take immediate and appropriate corrective action when harassment occurs, and such corrective action must be taken within 60 days of receiving notice of a harassment complaint.

Additional information about the HIC is available on SharePoint at <http://pbgcgov.sharepoint.com/EEO/Pages/AntiHarassment.aspx>

An employee who reports allegations of harassment or hostile work environment to the HIC, a PBGC supervisor/manager, or HRD has **not** filed an EEO complaint. An employee who wishes to file an EEO complaint must contact PBGC's EEO Office within 45 calendar days of the alleged harassing conduct or the date they became aware of the harassing conduct. Failure to do so may result in the dismissal of the EEO complaint.

**The federal sector EEO discrimination complaint process cannot be initiated by reporting harassment or hostile work environment to a supervisor or management official, HRD or by contacting the Employee Assistance Program (EAP) or union.**

This policy applies to all PBGC employees. Related questions or requests for information should be directed to OEEO Director, Brenecia Watson, (202) 229-6868.