

**Annual Report for Fiscal Year 2023
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 Accountability
Senate Committee on Finance
House Committee on Ways and Means
Senate Committee on Health, Education, Labor, and Pensions
House Committee on Education and the Workforce
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 2023
 - 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 2023
- E. PBGC's Discipline Policy for Conduct Inconsistent with Federal Antidiscrimination or Whistleblower Laws
- F. The Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020
- G. Data Analysis
 - 1. Trends
 - 2. Causal Analysis
 - 3. Knowledge Gained
 - 4. Actions Planned to Improve PBGC's EEO Program
 - 5. Agency Accomplishments and Initiatives in FY 2023
- H. No FEAR Act Training Plan

APPENDICES:

- Appendix 1 Final Year-End No FEAR Act Data for FY 2023
- Appendix 2 EEO Policy Statement, dated April 7, 2023
- Appendix 3 Anti-Harassment Policy Statement, dated April 7, 2023

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 Act 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 Accountability; 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 the Workforce; the U.S. Equal Employment Opportunity Commission; the 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) 2023.

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 976 employees (933 Permanent, 43 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 2023

Table 1 shows federal court cases pending by statute. There were two federal court cases pending at the end of FY 2023, with one case involving two statutes. No cases were resolved in FY 2023.

TABLE 1

Federal Court Cases Pending in FY 2023, Separated by Statute

Statute	Cases
Title VII of the Civil Rights Act of 1964	1
Age Discrimination in Employment Act of 1967	2
Rehabilitation Act of 1973	0
Whistleblower Protection Act	0
Equal Pay Act of 1963	0

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 three cases, with two cases filed under one statute.

As a government corporation, PBGC has corporate funds available to pay judgments and settlements. During FY 2023, PBGC paid no settlements from the Bureau of the Fiscal Service’s Judgment Fund, nor did it make any budget adjustments relating to the Judgment Fund.

TABLE 2

Status of Federal Court Cases in FY 2023, by Statute

Statute	Status	Cases
Title VII of the Civil Rights Act of 1964	Pending	1
	Dismissed	0
	Settled	0
Age Discrimination Employment Act of 1967	Pending	2
	Dismissed	0
	Settled	0
Rehabilitation Act of 1973	Pending	0
	Dismissed	0
	Settled	0
Whistleblower Protection Act	Pending	0
	Dismissed	0
	Settled	0
Equal Pay Act of 1963	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 2023

Employees Disciplined	Number of Findings	Number of Employees Disciplined
Employees Disciplined in Connection with Federal Court Cases	0	0
Employees Disciplined Whether or Not in Connection with Federal CourtCases	0	0

D. Final Year-End No FEAR Act Data for FY 2023

Attached as Appendix 1 is the PBGC’s final year-end No FEAR Act Data for FY 2023.

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 that periodically are sent to all its employees and contractors. These statements emphasize PBGC’s commitment 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 subject to appropriate disciplinary action up to and including removal from Federal service. See EEO Policy Statement (Appendix 2) and 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. The Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020

There were no findings of discrimination in FY 2023.

G. Data Analysis

Introduction

This section provides data and trend analysis on the commonly cited bases and issues in formal EEO complaints filed during Fiscal Years 2023 and 2022. The basis of a 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, equal pay, pregnancy discrimination, 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/they are seeking redress.

Table 4 shows that in FY 2023, 9 PBGC employees filed 12 formal complaints of discrimination in comparison to 9 formal complaints of discrimination filed the previous year by 8 employees. The number of repeat filers increased by 1 in FY 2023. See also Appendix 1, Part 1.

TABLE 4

Number of Formal EEO Complaints and Number of Filers

Fiscal Year	Number of Complaints Filed	Number of Complainants	Repeat Filers
2023	12	9	2
2022	9	8	1

Table 5 shows the five leading alleged bases cited in the formal EEO complaints filed in FY 2023 and FY 2022. See also Appendix 1, Part 2.

TABLE 5

EEO Bases in Formal EEO Complaints

Year	Race	Reprisal	Age	Disability	Sex
2023	6	8	8	9	5
2022	4	2	3	3	2

Table 6 shows the five leading alleged issues cited in formal EEO complaints filed in FY 2023 and FY 2022. See also Appendix 1, Part 3.

TABLE 6

Leading Issues in Formal EEO Complaints

Year	Harassment (non-sexual)	Promotion / non-selection	Reasonable Accommodation	Other Terms and Conditions of Employment	Performance Evaluation/ Appraisal
2023	4	1	5	7	0
2022	3	3	1	2	1

1. Trends

- a. The total number of formal complaints filed in FY 2023 was 12, an increase of 3 from the previous year (Table 4).
- b. The most frequently claimed protected basis in FY 2023 was disability, representing 9 complaints, compared to FY 2022, with 3 complaints filed under this basis (Table 5). Complaints alleging race, reprisal, sex, and age have been the leading alleged bases within the past four fiscal years.
- c. Complaints identifying age and reprisal were the second most frequently alleged protected bases, each representing 8 complaints filed in FY 2023. Complaints filed under race increased by 2 from the 4 complaints filed in the previous year, and complaints filed under sex increased by 3 from the 2 complaints filed in the previous year (Table 5). In FY 2023, there were 4 complaints filed both under non-EEO and color. There was an increase by 2 complaints filed under religion

and a decrease of 1 complaint filed under national origin. Pregnancy discrimination and genetics remained the same with no complaints filed in FY 2023 and FY 2022 (see Appendix 1, Part 2).

In FY 2023, there was a significant increase in formal complaints filed under two issues — other terms and conditions of employment, and reasonable accommodation — with 7 and 5 complaints filed, respectively. Issues alleging promotion/non-selection and performance/appraisal decreased in FY 2023, with 1 complaint filed under promotion/non-selection compared to 3 in FY 2022; and zero complaints filed under performance evaluation/appraisal, a decrease from 1 complaint filed in FY 2022. (Table 6) Issues alleging harassment (sexual), pay including overtime, telework, and time and attendance increased in FY 2023, with 1 complaint filed under each compared to zero complaints filed under each in the previous year. Complaints filed under the issue of termination remained the same as the previous year with 1 complaint filed (see Appendix 1, Part 3).

- 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 and the 180-day investigation requirement.

FY 2023 reflected a very slight increase in the average number of days in the formal complaint investigation stage, from 150 to 151.38 days. These time periods are due to the complexity of issues and multiple amendments filed during the FY 2022 and FY 2023 reporting periods. It is important to note that the average of 151 days in the investigative phase is still below the 180-day regulatory timeframe for completing investigations.

The average number of days in investigation increased by 1 day, from 150 days in FY 2022 to 151 days in FY 2023. See Appendix 1, Part 4.

The number of cases that were dismissed by the Agency increased from 3 in FY 2022 to 5 in FY 2023. The average number of days pending prior to dismissal increased from 29 days to 109 days, or 276% (see Appendix 1, Part 5). The increase is due to an unusual situation where the complainant initially requested a hearing by an Administrative Judge and the cases sat on the EEOC docket for months before the complainant withdrew their request for a hearing and the Agency was required to issue a final agency decision.

2. Causal Analysis

Formal EEO complaint activity increased in FY 2023 to 12 from 9 formal complaints filed the preceding year. We have not determined a specific cause for the increase. However, a reasonable assumption for the increase may be that PBGC returned to a new office headquarters after three years of employees teleworking during the COVID pandemic.

3. Knowledge Gained

PBGC will continue to educate the workforce in EEO, civil rights laws, and regulations, by providing continued training, workshops, and marketing the availability of conflict management and the Alternative Dispute Resolution (ADR) Program. 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 EEO Program

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

5. Agency Accomplishments and Initiatives in FY 2023

- PBGC's senior leadership team, including its Director, demonstrated its commitment in moving the Agency to a model EEO program status via support of barrier analysis, EEO action plans, and annual EEO training.
- PBGC's Office of Equal Employment Opportunity (OEEO) continued to engage senior leaders, human resources staff, and hiring officials to identify methods to improve equal employment opportunity via quarterly dashboards, OEEO and organizational collaboration, and through various equal employment opportunity and Diversity, Equity, Inclusion, and Accessibility (DEIA) trainings.
- The Affirmative Employment Program (AEP) completed the FY 2023 annual Management Directive-715, a report submitted to the EEOC, that assesses PBGC's status as a Model EEO Program as determined by the EEOC's six elements.
- AEP also briefed the agency head and the Executive Management Committee on the status of the agency's EEO program.
- AEP continued to collaborate with each department leader and/or the departmental point of contact to address specific departmental EEO-related concerns/needs.
- AEP continued to provide a quarterly EEO dashboard to departmental leadership to support their recruitment and succession planning efforts.
- AEP continued to engage the Affirmative Employment Committees (Disability, Hispanic, and Women), which are composed of PBGC employees in EEO-related efforts to increase equal employment opportunity.

- AEP Committee held five Brown Bag Chat sessions – Session 1: Becoming Your Own Advocate, Session 2: How to Recover from Early Failure, Session 3: Breaking the Glass Ceiling, Session 4: Embrace the Journey, and Session 5: My Path to Professional Success.
- OEEO Diversity Workshop held a discussion on discovering the Power to Uplevel Your Career Success.
- AEP Committee held a four-part series: Part 1 OEEO Disability Affirmative Employment Committee (DAEC) Four-Part Series on Culturally Competent Behavior in a Diverse Workplace - Embracing the Deaf and Hard of Hearing Culture in the Workplace. Part 2 OEEO DAEC Acceptance versus Accommodation: Creating an Inclusive Workplace. Part 3 OEEO DAEC Accessibility Matters: Cultivate a Welcoming Environment for Colleagues with Mobility Challenges. Part 4 OEEO DAEC Unmasking: Suppressing Your True Self to Fit-In.
- AEP Committee held a two-part Real Talk Series: Part 1 - Cognitive Dissonance: Navigating the Map of Conflicting Beliefs. Part 2 - Cognitive Dissonance: Navigating the Map of Conflicting Beliefs.
- AEP Affinity Chat Panel Discussion - From Representation to Realization: The Blueprint for an Inclusive Workplace.
- AEP Joint Committee Events - Session 1: Representation Matters Campaign, Session 2: AEP Joint Committee Event Representation Matters Campaign.
- AEP Book Club - Book: Using Your Difference to Make a Difference: How to Connect and Communicate in a Cross-Cultural World.
- AEP – YOUiversity: Three-session Bias Awareness Workshop.

H. 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 2023. 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 Act training was offered to all PBGC employees and PBGC’s Advisory Committee from June 7, 2023, through July 7, 2023. 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, 2023

Table of contents:

Part 1	Complaint Activity
Part 2	Complaints by Basis
Part 3	Complaints by Issue
Part 4	Processing Time
Part 5	Complaints Dismissed by Agency
Part 6	Total Final Agency Actions Finding Discrimination
Part 7	Finding of Discrimination Rendered by Basis
Part 8	Finding of Discrimination Rendered by Issue
Part 9	Complaints Pending from Previous Fiscal Years by Status
Part 10	Complaint Investigations

Part 1 Complaint Activity

Complaint Activity	2018	2019	2020	2021	2022	2023
Number of Complaints Filed	18	14	11	12	9	12
Number of Complainants	16	13	7	8	8	9
Repeat Filers	2	1	3	3	1	2

Part 2 Complaints by Basis

Complaints by Basis	2018	2019	2020	2021	2022	2023
Race	14	12	6	7	4	6
Color	3	5	1	2	2	4
Religion	3	1	0	0	0	2
Reprisal	10	9	6	7	2	8
Sex	12	11	6	9	2	5
PDA	0	0	0	0	0	0

Complaints by Basis	2018	2019	2020	2021	2022	2023
National Origin	3	1	1	2	2	1
Equal Pay Act	0	1	0	2	0	0
Age	7	10	2	6	3	8
Disability	7	3	7	4	3	9
Genetics	0	0	0	0	0	0
Non-EEO	0	0	0	1	0	4

Part 3 Complaints by Issue

Complaints By Issue	2018	2019	2020	2021	2022	2023
Appointment/Hire	4	0	1	0	0	0
Assignment of Duties*	0	2	0	1	0	0
Awards	0	0	0	0	0	0
Conversion to Full Time/Perm Status*	0	0	0	0	0	0
Disciplinary Action: Demotion	0	0	0	1	0	0

Complaints By Issue	2018	2019	2020	2021	2022	2023
Disciplinary Action: Reprimand**	0	0	0	0	0	0
Disciplinary Action: Suspension	0	2	0	0	0	0
Disciplinary Action: Removal	0	0	0	0	0	0
Disciplinary Action: Other Disciplinary Actions**	0	0	0	0	0	0
Disciplinary Action: Other 2**	0	0	0	0	0	0
Duty Hours*	0	0	0	0	0	0
Performance Evaluation/ Appraisal	1	2	2	2	1	0
Examination/Test	0	0	0	0	0	0
Harassment: Non-Sexual	2	2	3	1	3	4
Harassment: Sexual	1	0	0	0	0	1
Medical Examination	0	0	0	0	0	0
Pay including overtime	0	0	2	0	0	1
Promotion/Non-selection	2	5	1	2	3	1
Reassignment: Denied/Directed	0	0	0	0	0	0
Reassignment: Directed	0	0	0	0	0	0
Reasonable Accommodation Disability	1	2	5	2	1	5
Reinstatement*	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0

Complaints By Issue	2018	2019	2020	2021	2022	2023
Retirement*	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0
Telework	0	0	0	0	0	1
Termination	2	1	1	0	1	1
Terms/Conditions of Employment*	4	5	2	5	0	0
Time and Attendance	1	0	0	1	0	1
Training	0	0	0	0	0	0
Other Terms/Conditions of Employment*	0	0	0	0	2	7
User Defined - Other 1*	0	0	0	0	0	0
User Defined - Other 2*	3	0	0	0	0	0
User Defined - Other 3*	0	0	0	0	0	0
User Defined - Other 4*	0	0	0	0	0	0

Part 4 Processing Time

Complaints pending during fiscal year

Processing Time	2018	2019	2020	2021	2022	2023
Average number of days in investigation	174.93	171.29	124.0	136.0	150.0	151.38
Average number of days in final action	68.29	23.14	68.75	34.0	22.86	37.33

Complaints pending during fiscal year where hearing was requested

Processing Time	2018	2019	2020	2021	2022	2023
Average number of days in investigation	177.8	181.2	127.4	213.1	211.48	176.50
Average number of days in final action	24.25	15.0	81.33	27.0	22.86	41.00

Complaints pending during fiscal year where hearing was not requested

Processing Time	2018	2019	2020	2021	2022	2023
Average number of days in investigation	173.5	146.5	130.0	154.0	106.0	160.75
Average number of days in final action	127.0	50.8	31.0	41.0	0.0	35.50

Part 5 Complaints Dismissed by Agency

	2018	2019	2020	2021	2022	2023
Complaints Dismissed by Agency	10	3	3	8	3	5
Average days pending prior to dismissal	49	21	28	44.67	29.4	109.80

Complaints Withdrawn by Complainants

	2018	2019	2020	2021	2022	2023
Total Complaints Withdrawn by Complainants	15	5	0	1	0	4

Part 6 Total Final Agency Actions Finding Discrimination

Total Final Agency Actions Finding Discrimination	2018		2019		2020		2021		2022		2023	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		0		0	
Without Hearing	0	0	0	0	0	0	0	0	0	0	0	0
With Hearing	0	0	0	0	0	0	0	0	0	0	0	0

Part 7 Finding of Discrimination Rendered by Basis

Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.

Finding of Discrimination Rendered by Basis	2018		2019		2020		2021		2022		2023	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		9		0	
Race	0	0.00	0	0.00	0	0.00	0	0.00	2	22.22	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	1	11.11	0	0.00

Part 9 Complaints Pending from Previous Fiscal Years by Status

Complaints Pending from Previous Fiscal Years by Status	2018	2019	2020	2021	2022	2023
Total complaints from previous Fiscal Years	22	5	7	9	3	1
Total Complainants	19	4	5	4	2	1
Investigation	0	0	0	0	0	0
ROI issued, pending Complainant's action	0	0	0	0	0	0
Hearing	19	5	7	8	3	1
Final Agency Action	3	0	0	1	0	0
Appeal with EEOC Office of Federal Operations	9	10	1	0	8	5

Part 10 Complaint Investigations

Complaint Investigations	2018	2019	2020	2021	2022	2023
Pending Complaints Where Investigations Exceed Required Time Frames	0	0	0	0	0	0

April 7, 2023

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 33 million American workers. 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.

The core mission of the Equal Employment Opportunity Commission (EEOC or the Commission) is to prevent and remedy discrimination in America's workplaces and advance equal employment opportunity (EEO) for all. PBGC is committed to adhering to the laws that the Commission enforces. PBGC's EEO Policy Statement is published as a reminder that all PBGC employees and applicants for employment are protected and covered by federal laws and Presidential Executive Orders designed to safeguard federal employees and job applicants from discrimination. The Agency's policy further ensures that its employees and applicants for employment are treated equitably in an environment that is free from discrimination based on race, color, national origin, sex (including pregnancy, sexual harassment, gender identity, sexual orientation and non-sexual harassment based on sex), religion, age (40 and over), disability (mental or physical), family medical history, genetic information, and reprisal. PBGC's policy statement also protects against harassment based on parental and marital status. PBGC will not tolerate workplace harassment or reprisal against anyone who engages in protected activity. Employees and applicants who believe they 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 EEO process, should contact the Office of Equal Employment Opportunity (OEEO) as discussed below.

PBGC employees and applicants are also protected against retaliation. Consistent with federal laws, acts of retaliation against an employee who engages in protected activity, such as reporting discrimination or harassment or participating in the EEO process, whistleblowing, or the exercise of any appeal or grievance right provided by law will not be tolerated at PBGC. PBGC will take swift action when a PBGC employee, agent of PBGC, or non-employee is found to have engaged in discrimination, retaliation, or harassment (including sexual harassment).

All employees will have the freedom to compete on a fair and level playing field. EEO protections extend to all personnel/employment programs, and management practices/decisions,

including, but not limited to, recruitment and hiring, appraisal systems, merit promotions, training, career development programs, transfers, reassignments, benefits, and separations.

PBGC provides reasonable accommodations to employees and applicants with disabilities and for sincerely held religious beliefs, observances, and practices.

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. Collectively, we must be diligent in maintaining a workplace free from discrimination and take the responsibility to ensure that our Agency continues to be a model employer. Our goal is to serve as an example for providing equity and inclusion in the workplace through the implementation of PBGC's EEO Policy and cooperating fully with its enforcement.

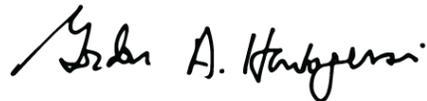
PBGC employees or applicants who believe they have been subjected to discrimination, harassment, or retaliation should contact OEEO at 202-229-4363 or email all-eeo-federal@pbgc.gov. If you decide to initiate the EEO complaint process, you must do so within 45 calendar days of the incident you felt was discriminatory 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 supervisors have a duty to participate in the 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 EEO, 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. PBGC leadership affirms our collective commitment to a workplace free of unlawful discrimination, harassment, and retaliation.

April 7, 2023

TO: ALL PBGC Staff

**FROM: Gordon Hartogensis
Director**



SUBJECT: Anti-Harassment Policy Statement

The Pension Benefit Guaranty Corporation (PBGC) policy statement establishes guidelines and procedures required by EEO laws that provide protection for a workplace free of all discriminatory harassment. The Agency's anti-harassment policy covers all the protected bases, including race, color, national origin, sex (including pregnancy, sexual harassment, gender identity, sexual orientation, and non-sexual harassment based on sex), religion, age (40 and over), disability (mental or physical), family medical history, genetic information, and reprisal. PBGC's policy statement also protects against harassment based on parental and marital status. The Agency will not tolerate workplace harassment or reprisal against anyone who engages in protected activity and is committed to providing an environment where all employees are treated with dignity and respect, and free from unlawful discrimination and/or harassment. Reprisal against employees is strictly prohibited. It is the Agency's policy not to tolerate adverse treatment of employees because they report harassment or provide information related to such complaints. Agency employees are prohibited from retaliating against and/or harassing those who report such conduct or behavior. Agency employees found to have engaged in retaliatory conduct or behavior should expect timely and appropriate corrective and/or disciplinary action up to removal from the agency.

The Equal Employment Opportunity Commission (EEOC) defines harassment as unwelcome conduct that is based on race, color, national origin, sex (including pregnancy, sexual harassment, gender identity, sexual orientation and non-sexual harassment based on sex), religion, age (40 and over), disability (mental or physical), family medical history, genetic information, and reprisal. Harassment becomes unlawful when:

- 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; or
- 3) The harassing conduct causes a significant change in the employee's terms, or condition of employment.

Examples of harassing conduct may 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 the conduct violated the law. Additionally, the Anti-Harassment Policy Statement aims to address and prevent antagonistic situations that violate the dignity of the Agency’s employees. It pertains to single or repeated incidents of intimidation, humiliation, degradation, bullying, or other undesirable verbal, non-verbal or physical conduct toward one person or a group of people. 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.

To prevent and remedy incidents of workplace harassment, PBGC officials must be made aware of the conduct or behavior as soon as possible.

No single situation constitutes harassment and harassment may be direct or indirect.

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.

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 is prohibited and will not be tolerated. In addition, PBGC is committed to protecting 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 (OEEO) at (202) 229-4363, all-EEO-federal@PBGC.gov or PBGC's Harassment Inquiry Committee (HIC):

HIC Intake Points of Contact

Paul Chalmers (OGC) – (202) 229-3555

Jaime Kunce (OGC) – (202) 229-3463

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

Wendy Lawrence (HRD) – (202) 229-3142

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. Absent extenuating circumstances, an inquiry should be completed, a decision reached, and final corrective action taken within 60 calendar days of the HIC receiving notice of the allegation. Extenuating circumstances include, but are not limited to, a delay in receiving the complainant's statement or supporting documentation.

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