

### ANNUAL

# NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION ACT OF 2002



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORTED BY THE OFFICE OF DEPARTMENTAL EQUAL EMPLOYMENT OPPORTUNITY

## **Table of Contents**

1. Executive Summary	2
2. Introduction	3
3. Background	8
4. Data and Results	
Complaint Activity and Disposition	9
Disciplinary Actions	9
Trend Analysis for EEO Complaint Data	10
Judgment Fund Reimbursements and Budget Adjustments	12
5. No FEAR Act Training	12
6. Practical Knowledge Gained Through Experience and Actions Planned	d or Taken to
Improve Complaint or Civil Rights Program	12
7. Conclusion	13
8. Appendices	
Appendix 1: Summary of Federal Court Cases	14
Appendix 2: Complaint Activity	17
Appendix 3: HUD's Table of Offenses and Penalties	27
Appendix 4: Secretary Carson's Policy Statements	33

#### **Executive Summary**

The U.S. Department of Housing and Urban Development (HUD) Office of Departmental Equal Employment Opportunity (ODEEO) hereby submits their "Annual Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) Report to Congress for Fiscal Year 2020," in accordance with the requirements of title II, section 203, of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, and section 5, part 724 of the Code of Federal Regulations (5 CFR § 724).

#### ODEEO's mission is as follows:

"ODEEO promotes diversity and inclusion, fosters a workplace culture that respects differences, and empowers the full and fair participation of all employees in all aspects of HUD work life."

HUD is committed to having a workplace where all employees, as well as applicants seeking employment with our organization, are given equal employment opportunity and are free from discrimination. This is reflected in HUD's FY 2020 EEO Policy Statement, signed by Secretary Benjamin S. Carson, Sr. on December 5, 2019, which states that, the Department:

"values diversity and has zero tolerance for discrimination, harassment, or retaliation. All HUD employees, whether serving the organization in a leadership, management, or staff level role, must accept full responsibility and accountability for ensuring compliance with all nondiscrimination laws and policies."

In addition, HUD is also committed to maintaining a work environment that is free from *all* forms of harassing conduct and inappropriate behavior, and to correcting any harassing conduct before it becomes severe or pervasive. This is reflected in HUD's FY 2020 Unlawful Harassment Policy Statement, also signed by Secretary Carson on December 5, 2019, which states:

"Each employee, applicant, and contractor, as well as anyone doing business with HUD, is entitled to be treated with dignity and respect and has the right to work in an environment free from harassment... This policy also provides protection from retaliation against any employee for making a good faith report of workplace harassment under this or any other policy or procedure, and for assisting with an inquiry into such allegation of harassment."

In FY 2020 HUD employed 7,853 (7,575 permanent and 278 temporary) employees. There were 64 formal equal employment opportunity (EEO) complaints filed against the Department. This represents a 25.6 percent decrease in complaint activity compared to the number of complaints (86) filed in FY 2019. HUD's complaint activity fluctuated from FY 2015 through FY 2020. The number of complaints filed and number of individuals filing complaints decreased within that span. In FY 2020, HUD reported seven Federal court cases pending and three Federal court cases filed. During FY 2020, there were two cases resolved under the various provisions in the No FEAR Act.

In FY 2020, no HUD employees were disciplined for cases involved in Federal court for violating its policies of discrimination, retaliation, harassment, or other violations of the Antidiscrimination and Whistleblower Protection laws of the No FEAR Act. HUD continues to place strong emphasis on No FEAR Act training. HUD trains its employees on the No FEAR Act on a biannual basis, and 80 percent of employees completed the training in this fiscal year.

The Office of Departmental Equal Employment Opportunity (ODEEO) assists HUD's leadership in shaping policies to protect the personal liberties of all employees by working interdependently to develop policies and plans; generating reports; conducting annual multiyear studies; forecasting trends; assessing demographics against various arbiters; delivering training and briefings; conducting oversight; adjudicating EEO complaints; integrating civil rights, diversity, and inclusion into HUD initiatives and activities; and submitting annual reports to internal and external customers, constituents, and stakeholders.

This report is prepared in accordance with section 203(a)(1) of the No FEAR Act, which requires Federal agencies to include in their annual report to Congress "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged." Office of Personnel Management (OPM) final regulations at 5 CFR 724.302 on reporting and best practices, issued on December 28, 2006, clarifies section 203(a)(1) of the No FEAR Act requiring that Federal agencies report on "the number of cases in Federal Court [district or appellate] pending or resolved . . . arising under each of the respective provisions of the Federal Antidiscrimination and Whistleblower Protection laws applicable to them . . . in which an employee, former Federal employee, or applicant, alleged a violation(s) of these laws, separating data by the provision(s) of law involved."

#### Introduction

The overall mission of HUD is "to create strong, sustainable, inclusive communities and quality affordable homes for all." HUD, a cabinet-level agency created in 1965, is tasked to engage new local and Federal partners, adjust policies and programs to better serve the American people, address common problems across a broader metropolitan geography and transform the way we do business. HUD has been committed to accomplishing its mission in part by: preventing foreclosures, enhancing access to affordable housing, revitalizing distressed communities, working to strengthen the housing market to bolster the economy and protect consumers, meeting the needs for quality affordable rental homes, utilizing housing as a platform for improving the quality of life and building inclusive and sustainable communities free from discrimination.

To ensure that employment decisions are free from discrimination, HUD conducts periodic self-assessments as to the effectiveness of its EEO programs. These self-assessments are conducted through ODEEO's Affirmative Employment Division (AED). In a continuous effort to achieve a model EEO program, HUD continues to make great strides and improvements in addressing the six essential elements as defined by the Equal Employment Opportunity Commission (EEOC) and the removal of barriers to free and open workplace competition. To maximize this effectiveness, HUD seeks to achieve an exemplary EEO program, through its national scope and program office organizations, by eradicating discrimination, retaliation, and

unconscious biases and misconduct in the workplace through the cultivation and execution of a proactive and robust affirmative employment program.

To establish the implementation and enforcement of the No FEAR Act, Federal agencies are required to report, annually, on the following:

#### **Payment of Settlements and Judgments**

Federal agencies must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.

#### **Employee Information and Education**

Federal agencies must provide annual written notification to their employees, former employees, and job applicants for employment concerning the rights and remedies available to them under the employment discrimination and whistleblower protection laws.

#### Training for Managers/Supervisors and Employees

Federal agencies must ensure that at least every 2 years, managers/supervisors and all other employees receive and complete the training requirements regarding their rights and remedies available under the employment discrimination and whistleblower protection laws. In addition, all new employees should receive the applicable training as part of the agency's new-employee orientation program. However, if an agency does not have a new-employee orientation program, all new employees must receive the applicable training within 90 days of their entry on duty.

Additionally, HUD offered Civility Training to its entire workforce during FY 2020; however, this was put on hold in June of FY 2020 due to Executive Order 13950 which prohibited training regarding Diversity and Inclusion, specifically regarding racism and sex stereotyping. Opportunity for improvement continues to exist, which HUD will embrace by continuing to capture and report on it as part of HUD's commitment to merit systems principles, and to provide protection from prohibited personnel practices for all employees, under the law.

#### **Annual Report to Congress**

Federal agencies must submit an annual report to Congress, the EEOC, the Department of Justice (Attorney General), and OPM, setting forth information about the agency's efforts to improve compliance with employment discrimination and whistleblower protection laws, and detailing the status of complaints brought against the agency, and how cases were resolved, and any disciplinary actions taken resulting from violations of discrimination and whistleblower protection laws.

#### **Posting of EEO Complaint Data on the Internet**

Federal agencies must post on the agency's public website summary statistical data relating to equal opportunity complaints filed against the agency. Information to be posted by the agency includes, among other things: the number of complaints filed; the number of persons filing those complaints; the number of persons filing multiple complaints; the bases and issues alleged in the complaints; the average length of time it takes an agency to complete certain stages of the complaint process; the number of final agency actions in which discrimination is found, broken down by issue, basis, and whether a hearing was held; the number of pending complaints that were filed in previous fiscal years, including the number of persons who filed those complaints; and the number of complaints in which an investigation was not completed in a timely manner. In addition, Federal agencies must post year-end data from previous fiscal years for comparison purposes and to assess whether and to what extent the Federal agencies are living up to their EEO responsibilities.

Pursuant to congressional and statutory requirements, HUD is providing copies of this report to the following:

- The Speaker of the U.S. House of Representatives;
- The President pro tempore of the U.S. Senate;
  - o The Committee on Homeland Security and Governmental Affairs, U.S. Senate;
- The Committee on Oversight and Government Reform, U.S. House of Representatives;
- Each committee of Congress with jurisdiction relating to the agency;
- The Chair of the Equal Employment Opportunity Commission;
- The U.S. Attorney General; and
- The Director of the U.S. Office of Personnel Management.

#### **Accomplishments**

Though FY 2020 has brough the HUD EEO office an abnormal number of challenges, the HUD EEO office has accomplished numerous goals and is continuing to achieve these goals to maintain to an exemplary EEO office. Since June of 2019, the ODEEO lost access to our complaints tracking system and our eFile complaints filing system. All reporting and tracking of complaints processed by the HUD ODEEO office had to be completed manually. Throughout the challenges FY 2020 imposed on the HUD ODEEO provided are several accomplishments we have achieved in FY 2020.

#### **Inclusive and Engaging Work Environment**

HUD continues to support its Diversity Council, which serves as an independent executive level think-tank providing advice and recommendations to the Secretary on Diversity & Inclusion related areas. The Council is comprised of Senior Executive Service (SES) representatives, Employee Resource Group (ERG) and affinity group leaders, and representatives from both HUD Unions.

HUD reviewed and analyzed the results of the Federal Employee Viewpoint Survey (FEVS), as indicated by the Employee Engagement Index (EEI) and the New IQ responses, to update its employee engagement action plans. Each quarter, HUD monitors progress against its action plans and holds an annual Secretary's Award Ceremony to recognize the outstanding contributions of its employees.

#### **Employee Resource Groups**

HUD has seven established ERGs that offer employees an opportunity to network, address common issues and concerns, and receive support from those who share similar backgrounds, experiences, or interests. Some highlights of the important work done by HUD's ERGs in FY 2020 include:

- HUD's Widening Opportunities for Women (W.O.W.) Chapter developed a Federally Employed Women (FEW) and conducted Annual Compliance Training on October 16<sup>th</sup> 202, during their monthly meeting. The training focused was "KNOW YOUR RIGHTS" as it pertains to the EEO laws governing discrimination and harassment in the workplace. WOW Planned many activities for March of 2020; however due to the pandemic many of their events were canceled.
- HUD's Asian American and Pacific Islander (APPI) held a virtual "National Meet and Greet" event during May 2020, AAPI month. HUD employees from across the nation were invited to join and socialize with other staff using small icebreakers to get to know one another. Another event AAPI held was a leadership panel with Asian American SES staff; three SES staff were invited to share their journey to becoming an SES.
- HUD's Latino Network hosted a Leadership conversation with four of HUD's leaders for Hispanic Heritage Month. A total of 100+ people attended the session via TEAMS.
- HUD's Advocates for HUD Employees with Disabilities (AHED) worked with ODEEO to provide National Disability Employment Awareness Month (NDEAM) activities in October 2020. One of these activities was a live employee panel discussion on the importance of employees complying with Section 508. A recording of this discussion was provided for those who were not able to attend the live version. AHED authored three "Day in the Life" articles in HUD Happenings throughout the month, highlighting the work and disability-related circumstances of employees with disabilities. These were very educational and received positive feedback.

#### **Planned Activities**

HUD has identified strategic activities it will take to address the hiring, professional development and advancement, and retention of groups with low participation rates. The goals, objectives, and strategic activities are aligned to HUD's MD-715, Inclusive Diversity Strategic Plan (IDSP), other Federal Equal Employment Reports and Plans, and Federal Workforce EOs.

Though we have made great strides and accomplishments in addressing and eradicating violations of employment antidiscrimination and whistleblower protection laws within HUD during FY 2020, HUD has much more work to do. The Department looks forward to continuing its support of these efforts in the future.

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#### **Background**

The ODEEO is responsible for administering and ensuring agency compliance with Federal EEO laws, regulations, policies, and guidance that prohibit discrimination in the Federal workplace based on race, color, national origin, religion, sex, age, disability, genetic information, or reprisal. The ODEEO is also responsible for preparing the agency's annual No FEAR Act report. The Office of Inspector General (OIG), Office of the Chief Human Capital Officer (OCHCO), and the Office of General Counsel (OGC) also play a role in implementing the No FEAR Act for HUD employees.

#### **Complaint Activity and Disposition**

With respect to Federal court cases, during FY 2020, HUD had a total of seven cases pending, two new cases filed, and two cases resolved ensuing from antidiscrimination statutes listed in the No FEAR Act. Among the two cases resolved, one was dismissed in favor of HUD and one was settled.

#### **Disciplinary Actions**

Section 203(a)(4) of the No FEAR Act requires that agencies include in the annual report to Congress "the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1)." For Federal court cases involving allegations of a violation of Antidiscrimination or Whistleblower Protection laws, 5 CFR 724.302 (a)(3) requires the agency to report the number of employees disciplined. The 5 CFR 724.102 defines discipline to include anyone, or a combination, of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal.

HUD reprimanded no employees involved in FY 2020 Federal court cases. Employees can be disciplined for violating HUD policies for discrimination, retaliation, harassment, and/or other violations of the Antidiscrimination and Whistleblower Protection laws included in the No FEAR Act. HUD did not remove any employees from Federal service (*see* Appendix 1).

On December 5, 2019 Benjamin S. Carson, Sr. issued his updated EEO policy statement for FY20, which mandates "values diversity and has zero tolerance for discrimination, harassment, or retaliation. All HUD employees, whether serving the organization in a leadership, management, or staff level role, must accept full responsibility and accountability for ensuring compliance with all nondiscrimination laws and policies." Secretary Carson also issued a prevention of harassment policy statement, which defines harassing behavior; mandates "zero tolerance" for harassing behavior; and instructs that "immediate correction action will be taken if it is determine that harassment has occurred." These policies are intended to: (1) provide for a workplace where all HUD employees, and applicants for employment with the Department, are given equal employment opportunity and are free from discrimination; (2) require immediate and appropriate corrective action when violations occur; (3) provide points of contact for reporting and filing a complaint; (4) require training for the workforce; (5) and protect employees from retaliation. These statements have been posted on employee bulletin boards and on HUD's intranet and public websites.

#### Trend Analysis for EEO Complaint Data

Year-end summary data for FY 2020 EEO complaint activity is included in Appendix 2. This section includes a 6-year (FY 2015 to FY 2020) trend analysis for EEO complaint data, pursuant to the No FEAR Act, section 1614.704. Overall, HUD's 6-year data snapshot shows that complaint activity fluctuated, with no specific trend line in either a positive or negative direction.

#### **Complaint Activity**

During FY 2020, individuals filed 64 complaints, with one repeat filer. While HUD's complaint activity fluctuated from FY 2015 through FY 2020, the 64 complaints in FY 2020 reflect a 25.6 percent decrease from the 86 complaints filed in FY 2019.

#### **Complaints by Bases and Issues**

In FY 2020 HUD employed 7,853 (7,575 permanent and 278 temporary) employees. There were 64 formal equal employment opportunity (EEO) complaints filed against the Department. This represents a 25.6 percent decrease in complaint activity compared to the number of complaints (86) filed in FY 2019. The most frequent bases identified in complaints of discrimination during FY 2020 were, in descending order: (1) reprisal, (2) disability, (3) race, (4) age and (5) sex. Simultaneously, the most frequent issues raised in complaints of discrimination during FY 2020 were, in descending order: (1) harassment (non-sexual)<sup>1</sup>, (2) performance evaluation/appraisal (3) promotion/non-selection (4) reasonable accommodation disability and (5) time and attendance. In summary, HUD's complaints by issues during the 6-year period were generally consistent with nonsexual harassment, reasonable accommodation disability and terms/conditions of employment issues appearing in the top five each year. In addition, the issues of performance evaluation/appraisal and promotion/non-selection appeared in the top five at least four times during FY 2015 – FY 2020.

#### **Processing Time**

HUD's average investigation times during FY 2020 averaged over the 180-calendar day timeframe but did not exceed the timeframes allotted under the 29 CFR 1614. Specifically, HUD's investigation processing times for complaints pending during the fiscal year, pending where a hearing was requested, and pending where a hearing was not requested all exceeded the proscribed regulatory time frames.

In FY 2020 the average time for final actions was greater than the regulatory time frames. Specifically, the average time for a final action where a hearing was not requested was beyond the regulatory time frame.

<sup>&</sup>lt;sup>1</sup> HUD received no allegations of sexual harassment in FY 2020, this is a decrease from FY 2019 by 100 percent.

#### **Final Agency Actions Finding Discrimination**

In FY 2020, HUD issued two final agency decisions with a finding of discrimination (with a hearing). These complaints were filed by one individual.

#### **Pending Complaints**

In FY 2020, there were 178 pending complaints from previous fiscal years, 64 complaints filed by 63 complainants. Of the number of complaints pending, 21 were pending investigation; 1 was awaiting the complainant to exercise the option of a hearing or a final agency decision; 86 were pending a hearing before the EEOC; 31 were awaiting final agency actions. In addition, HUD had 31 appeals before EEOC's Office of Federal Operations.

#### **Complaint Investigations**

The ODEEO continues working proactively to curtail all potential negative trends. In the 6-year period, the number of pending complaints where the investigation time exceeded the required time frames has steadily decreased, with an overall reduction from 35 in FY 2015 to 0 in FY 2020.

#### **Judgment Fund Reimbursements and Budget Adjustments**

During FY 2020, HUD did not reimburse any resources to the Judgment Fund.

#### **No Fear Act Training**

Section 202(c) of the No FEAR Act requires Federal agencies to provide training for employees on the rights and remedies under Antidiscrimination or Whistleblower Protection laws. Under 5 CFR 724.203, Federal agencies were required to develop a written training plan and to have trained their employees by December 17, 2006, and every 2 years thereafter. Under implementing regulations, new employees are to receive No FEAR Act training within 90 days of appointment through either the Department's orientation program or some other No FEAR Act training program.

HUD requires employees to complete No FEAR Act training every 2 years. No FEAR Act training is available through the HUD Learning Portal. The Portal is HUD's primary electronic platform to capture training data. During FY 2020 HUD continued placing a strong emphasis on the No FEAR Act by offering training on the topic to its entire workforce.

# Practical Knowledge Gained Through Experience and Actions Planned or Taken to Improve Complaint or Civil Rights Programs

To maximize effectiveness, HUD seeks an exemplary EEO and Diversity and Inclusion Program. The ODEEO resides within the Office of the Secretary, with a direct reporting line to the Secretary through the Deputy Secretary of HUD, and works independently in developing policies, procedures, and plans; generating reports; conducting annual and multiyear studies;

forecasting trends; assessing workforce demographics against various arbiters; delivering training and briefings; conducting oversight; adjudicating EEO complaints; integrating civil rights and diversity and inclusion into HUD's initiatives and activities; and submitting annual reports to internal and external customers, constituents, and stakeholders.

The ODEEO also ensures collaboration with HUD's program offices (nationwide), to help increase employees' awareness of their responsibilities in EEO and diversity and inclusion program activities. HUD continues to obtain critical information through such sources as its annual Federal Employee Viewpoint Survey, to assess the state of EEO and diversity and inclusion throughout the Department.

During FY 2019 and FY 2020, HUD was unable to main a complaint tracking system (iComplaints) for the entire year, a web-based application for processing, managing, and reporting on EEO complaints. This automated system previously allowed HUD to track complaint status to ensure responsiveness and legal compliance. This system also allowed HUD EEO program officials to retrieve data and generate reports, including No FEAR Act data and the EEOC 462 Report. Additionally, HUD was unable to implement a 462 Quarterly Reporting system as a strategy to review and assess the EEO complaint process throughout the fiscal year. Through these ongoing reporting and auditing processes, HUD's EEO offices were challenged to analyze their data and gain knowledge to make determinations on how best to address shortcomings on EEO complaint data and the compliance and timeliness of EEO complaint activities. HUD ODEEO is working with contracting and IT to gain access to an electronic tracking system.

HUD will continue to develop and implement improvements in the recruitment, hiring, retention, and development of underutilized groups of people in the workforce, such as Hispanics, veterans, and persons with disabilities. HUD continues to participate in various career fairs and outreach venues to increase recruitment and hiring of underrepresented and underserved communities.

HUD has a cornerstone responsibility for promoting the welfare and well-being of all Americans. The deference and dignity with which HUD treats employees are critical to the successful completion of its mission. To foster continuous improvement, HUD fully engages the talents and competencies of employees through the formation of a HUD-wide Diversity Council, under the leadership of the Deputy Secretary, who is appointed by the Secretary in support of Executive Order 13583. The purpose of the Diversity Council is to develop and implement a more comprehensive and integrated EEO and Diversity and Inclusion Strategic Plan. The Diversity Council is committed to identifying and adopting best practices to promote a diverse and inclusive workforce to identify and remove barriers to equal employment opportunities, consistent with merit system principles and other applicable laws and regulations.

HUD recognizes the critical role that training plays in raising awareness and fostering behaviors. In addition to the No FEAR Act training, HUD offers employees and managers training courses on the prevention of harassment in the workplace and on labor relations.

#### Conclusion

HUD's meaningful and measurable accomplishments highlighted in this report are due in part to the No FEAR Act and strong and clear policy statements on EEO, ADR, unlawful harassment, whistleblower rights, and No FEAR Act training. HUD continues to hold management officials accountable for compliance with EEO principles and policies by the placement of EEO critical elements in all senior executive service (SES) performance standards.

## **APPENDICES**

## APPENDIX 1: SUMMARY OF FEDERAL COURT CASES

#### **Summary of Complaint Activity in Federal Court**

- 1. The number of Federal court cases pending or resolved arising under the Federal Antidiscrimination Laws and Whistleblower Protection Laws (see 5 CFR 724.302(a)(1)) during FY 2020.
  - a. Total Cases Pending: 7
  - b. Total Cases Filed: 2
  - c. Total Cases Resolved: 2
  - i. Dismissed in Favor of the Department: 1
  - ii. Settled in Favor of the Complainants: 1
  - iii. Withdrawn: 0
- 2. The amount of money required to be reimbursed under the Judgment Fund established by 31 U.S.C. 1304 in connection with each of the above cases, separately identifying the aggregate amount of such reimbursements attributed to the payment of attorney's fees, if any during FY 2020 as set out below:
  - A. Total reimbursement to the Judgment Fund during FY 2020. NONE
    - a. \$0 (Title VII/Rehab. Act)
    - b. \$0 (Title VII/ADEA)
    - c. \$0 (Title VII/ADEA)
    - d. \$0 (Title VII)
  - B. The amount of reimbursement to the Judgement Fund for attorney's fees, where such fees have been separately designated during FY 2020. NONE
    - a. \$0 (Title VII/Rehab. Act)
    - b. \$0 (Title VII/ADEA)
    - c. \$0 (Title VII/ADEA)
    - d. \$0 (Title VII)
- 3. In connection with cases in Federal court identified above, HUD does not have any employees to report in FY 2020 who were disciplined and the specific nature, e.g., reprimand, etc., of the disciplinary actions taken, separated by the provision(s) of law involved. Discipline means any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal.

4. Whether or not in connection with cases in Federal court, HUD does not have any employees to report in FY 2020 who were disciplined as defined in accordance with any agency policy (i.e., for conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice). The specific nature, e.g., reprimand, etc., of the disciplinary actions taken should be identified.

## APPENDIX 2: COMPLAINT ACTIVITY

# **Equal Employment Opportunity Data Posted Pursuant to the No FEAR Act:**

# **HUD** (and below)

For 4th Quarter 2020 for period ending September 30, 2020

	Compa	rative D	ata			
	Previo	us Fiscal	Year Da	ata		2020 Thru
Complaint Activity	2015	2016	2017	2018	2019	30-Sep
Number of Complaints Filed	81	55	83	93	86	64
Number of Complainants	81	55	81	90	82	63
Repeat Filers	0	0	2	3	4	1
	Compa	rative D	ata			
Complaints by Basis	Previo	us Fiscal	Year Da	ata		2020 Thru
Note: Complaints can be filed alleging multiple bases.  The sum of the bases may not equal total complaints filed.	2015	2016	2017	2018	2019	30-Sep
Race	47	27	37	50	49	32
Color	17	13	27	28	19	13
Religion	1	2	4	10	8	2
Reprisal	41	30	41	44	46	45
Sex	33	24	37	46	40	14
PDA	0	0	0	0	0	2
National Origin	15	5	23	17	16	5
Equal Pay Act	1	2	7	5	5	6
Age	36	20	30	31	33	18
Disability	26	23	30	38	45	33
Genetics	0	1	1	0	2	2
Non-EEO	0	0	0	0	0	0

	Comparative Data									
Complaints by Issue	Previo	us Fiscal	Year Da	ata		2020 Thru				
Note: Complaints can be filed alleging multiple bases.  The sum of the bases may not equal total complaints filed.	2015	2016	2017	2018	2019	30-Sep				
Appointment/Hire	6	0	6	3	6	1				
Assignment of Duties	6	7	6	3	9	7				
Awards	0	0	2	1	3	2				
Conversion to Full Time/Perm Status	0	0	0	0	0	0				
Disciplinary Action										
Demotion	1	1	0	0	0	0				
Reprimand	4	3	2	3	3	6				
Suspension	1	0	3	3	2	5				
Removal	1	1	4	2	2	1				
Other	0	0	1	5	0	1				
Duty Hours	0	0	1	0	1	0				
Perf. Eval./ Appraisal	8	9	21	6	19	21				
Examination/Test	0	0	0	0	0	0				
Harassment										
Non-Sexual	35	24	45	51	56	37				
Sexual	1	2	1	3	1	0				
Medical Examination	0	0	0	0	0	0				
Pay including overtime	1	1	0	1	5	6				
Promotion/Non-Selection	27	19	10	17	14	19				
Reassignment										
Denied	2	0	2	4	0	7				
Directed	4	0	0	2	7	0				
Reasonable Accommodation Disability	10	10	15	18	19	16				
Reinstatement	0	1	0	0	0	0				
Religious Accommodation	0	0	0	1	1	0				
Retirement	2	0	0	2	0	1				
Sex-Stereotyping	0	0	0	1	1	0				
Telework	0	0	9	4	13	8				
Termination	0	3	2	5	2	1				
Terms/Conditions of Employment	8	15	10	14	15	2				
Time and Attendance	7	5	7	7	15	13				
Training	2	2	0	4	9	9				

Other						
User Defined - Other 1	0	0	0	0	0	0
User Defined - Other 2	0	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

	Compa	rative D	ata				
	Previo	us Fiscal	Year Da	ıta		2020 Thru	
Processing Time	2015	2016	2017	2018	2019	30-Sep	
Complaints pending during fiscal year							
Average number of days in investigation	303.4	386.6	418.9	278.2	300.18	242.22	
Average number of days in final action	116.1	113.6	180.3	47.11	27.68	38.41	
Complaint pending during fiscal year where hear	ing was re	equested					
Average number of days in investigation							
Average number of days in final action	74.9	93.12	137.3	48.92	15.12	42.36	
Complaint pending during fiscal year where hear	ing was no	ot request	ted				
Average number of days in investigation	284.4	401.3	518.7	210.3	256.52	204.75	
Average number of days in final action	167.5	157.1	163.1	46.56	77.22	34.46	
	Compa	arative D	ata				
	Provio	us Fiscal	Voor Do	ıta		2020	
	116410	us Fiscai	1 cai Da			Thru	
Complaints Dismissed by Agency	2015	2016	2017	2018	2019	30-Sep	
Total Complaints Dismissed by Agency	6	5	13	18	8	8	
Average days pending prior to dismissal	101.8	165.6	328.5	261.8	40.13	38.25	
Complaints Withdrawn by Complainants							
Total Complaints Withdrawn by Complainants	1	8	6	5	8	6	

	Compa	rative D	ata									
Total Final Agency	Previou	ıs Fiscal	Year Da	ta							20 Th	20 1ru
Total Final Agency Actions Finding	2015	2016 2017 2018 2019									30-Sep	
Discrimination	#	3     2010     2017     2018     2019       %     #     %     #     %     #     %							%	#	%	
Total Number Findings	1		3		1		2		2		2	
Without Hearing	0	0 0 0 1 100 1 50 0								0	0	0
With Hearing	1	100 3 100 0 0 1 50 2 10									2	100

	Previous Fiscal Year Data										20 1ru	
Note: Complaints can be filed alleging multiple bases.	2015		2016		2017	2017		2018		2019		-Sep
The sum of the bases may not equal total complaints and findings.	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	1		3		0		1		2		2	
Race	0	0	1	33	0	0	1	100	1	50	1	50
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	1	100	1	33	0	0	0	0	2	100	2	100
Sex	0	0	0	0	0	0	0	0	1	50	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	2	67	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings After Hearing											2	
Race	0	0	1	33	0	0	1	100	1	50	1	50
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	1	100	1	33	0	0	0	0	2	100	2	100
Sex	0	0	0	0	0	0	0	0	1	50	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	2	67	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

<b>Findings Without Hearing</b>	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

	Previo	ous Fiscal	l Year D	ata							20 Tł	20 1ru
	2015		2016		2017		201	.8	20	19	30	-Sep
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	1		0		0		1		2		2	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	1	50	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action			_									
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	1	50
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval./ Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	1	50	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay including overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	1	100	2	100	0	0
Reassignment		_			_							
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	2	100
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	1	100	0	0	0	0	0	0	1	50	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0

Other - User Define												
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0	0	0
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
Findings After Hearing	1		0		0		1		2		2	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	1	50	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action	-		1	-	1	-				-		
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	1	50
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval./ Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment	•	•		•		•	•	•		•		
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	1	50	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay including overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	1	100	2	100	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable												
Accommodation Disability	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	2	100
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	1	100	0	0	0	0	0	0	1	50	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
<i>U</i>		ı						i		·		

Other - User Define												
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0	0	0
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
									_		_	
Findings Without Hearing	0		0		0		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval./ Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay including overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable												
Accommodation Disability	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training Training	0	0	0	0	0	0	0	0	0	0	0	0
Training	U	U	U	U	U	U	U	U	U	U	U	U

Other - User Define												
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0	0	0
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

	Comparative Data					
Pending Complaints Filed	Previous Fiscal Year Data					2020 Thru
in Previous Fiscal Years by Status	2015	2016	2017	2018	2019	30- Sep
Total complaints from previous Fiscal Years	137	146	98	102	102	178
Total Complainants	136	138	96	100	98	176
Number complaints pending						
Investigation	22	20	2	2	1	21
ROI issued, pending Complainant's action	1	1	6	0	1	1
Hearing	96	97	84	98	92	86
Final Agency Action	16	24	4	3	6	31
Appeal with EEOC Office of Federal Operations	71	122	152	164	170	31
	Comparative Data					
	Previous Fiscal Year Data					2020 Thru
Complaint Investigations	2015	2016	2017	2018	2019	30- Sep
Pending Complaints Where Investigations Exceed						
Required Time Frames	35	27	7	1	0	0

## APPENDIX 3: HUD'S TABLE OF OFFENSES AND PENALTIES

## **HUD's Table of Offenses and Penalties**

#### 4-1. Introduction and Purpose

- A. The purpose of the Table of Offenses and Penalties (the Table) is to recommend to supervisors and managers appropriate penalties for offenses listed herein and in the Standards of Ethical Conduct and to provide a framework for constructive and rehabilitative discipline. The use of this Table as a guide will help to ensure appropriateness of penalty in relation to the charge, as well as relative consistency in discipline throughout the Department. A disciplinary action is intended as a constructive device and, as such, should:
  - 1. Correct offending conduct, attitude, or work habits;
  - 2. Help to maintain discipline and morale; and
  - 3. Be reasonable in its degree of severity.
- B. Progressively stronger disciplinary actions are to be applied when an employee commits repeated offenses. When an employee received corrective action for an offense that falls under one range of penalties, and later commits a different offense under the same or another Nature of Offense, the latter is considered a **second** offense and not the first offense. For example, if an employee is charged with disruptive behavior and is given an official reprimand (first offense) and is subsequently charged with insubordination (second offense), the appropriate penalty range for an insubordination charge is a 30-day suspension to removal.
- C. The Table does not cover every possible offense, but it does list the more common types of offenses and the range of penalties normally assessed for those offenses. Examples of additional offenses are discussed in the Standards of Ethical Conduct. The fact that an offense is not listed in the Table does not mean that a penalty cannot be imposed when an offense is committed. In such instances, a reasonable penalty can be determined by comparison with those listed.
- D. HUD employees may be subject to criminal prosecution when there is evidence of a possible statutory violation. It is the policy of HUD that an employee who has been arrested and held for further legal action by a magistrate court or indicted by a grand jury for an offense that is job-related should be indefinitely suspended without pay pending the outcome of the judicial process, so as not to prejudice the employee's right to the due process in the criminal case. If the employee pleads guilty or is convicted, HUD may then proceed with a removal or other appropriate action. When evidence has been developed by HUD that indicates a possible statutory violation, the Office of Inspector General will refer the matter to the Department of Justice for further investigation and possible prosecution. If the Department of Justice declines to prosecute, the employee involved in the alleged wrongdoing may then be subject to an appropriate administrative action consistent with the penalties contained in the Table.

- E. The range of penalties described in the Table is intended to serve as a guide. Greater or lesser penalties than suggested may be imposed as circumstances warrant. Any determination that the offense is "more serious" or "less serious" should be based upon the factors described in paragraph 4-2 below and must be justified in at least the decision notice.
- F. The servicing human resources office must be consulted for advice and assistance regarding the procedural requirements that must be followed when applying penalties, formal or informal. This consultation requirement includes securing advice on the merits of the charge(s), the appropriateness of the penalty being proposed, as well as consistency of penalty throughout the Department. In this connection, users of the Table should review Handbook 0752.02 REV-3, *Adverse Actions*.

#### 4-2. Application of the Table of Offenses and Penalties

- A. In selecting the appropriate penalty for a specific offense, responsible judgment must be exercised so that an employee will not be penalized out of proportion to the offense. Supervisors and managers must be as consistent as possible when proposing and imposing disciplinary or adverse actions and must not make arbitrary or capricious decisions. In more egregious situations, removal might be the appropriate penalty for the first offense of misconduct.
- B. The Douglas Factors should be considered in selecting a penalty. These factors are the following:
  - 1. The nature and seriousness of the offense, and its relationship to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.
  - 2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.
  - 3. The employee's disciplinary record (within the past 3 years, or longer in more serious cases).
  - 4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.
  - 5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the supervisor's confidence in the employee's ability to perform assigned duties.
  - 6. Consistency of the penalty with those imposed upon other employees for the same or similar offense.

- 7. Consistency of the penalty with any applicable agency table of penalties.
- 8. The notoriety of the offense or its impact upon the reputation of the agency.
- 9. The clarity with which the employee was on notice of any rules that were violated in committing the offense or had been warned about the conduct in question.
- 10. Potential for the employee's rehabilitation.
- 11. Mitigating circumstances surrounding the offense, such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter.
- 12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

#### 4.3 Administrative Guidance

A. One of the goals of personnel management is the early identification of problems so that they can be corrected with a minimum of adversity. When a situation does require correction, supervisors and managers have a wide range of options. Minor misconduct, for example, may be corrected if the supervisor or manager talks to the employee promptly about the misbehavior after the first instance. In some cases, it may be helpful to refer the employee to a trained counselor from the Employee Assistance Program, who can help the employee identify and resolve the problem underlying the misconduct.

When a more formal or severe remedy is appropriate, measures such as an official reprimand will often convince the employee to change the undesirable behavior. These actions are less severe than short suspensions or adverse actions described in Handbook 0752.02 REV-3, *Adverse Actions*, and do not attach the permanent stigma to an employee's record that short suspensions or an adverse action would.

The more common forms of traditional discipline, short of short suspension or adverse action, fall into the following major categories. These remedial corrective actions are most effective if they are taken as soon as possible after the misconduct occurs.

- 1. <u>An oral warning or admonishment.</u> This is nothing more than a face-to-face meeting where the supervisor or manager tells the employee about the misconduct and puts the employee on notice of the behavior that management expects. When this is done in a prompt, direct, and non-adversarial way, it is often all that is required.
- 2. A written letter of caution, warning, counseling, admonishment, requirements, etc. Agencies refer to this disciplinary remedy by various names. It is essentially a written equivalent of the oral warning/admonishment described above and is often used to follow up on such a face-to-face meeting. It is not put in the Official Personnel Folder (OPF), but it often warns the employee that more formal and severe action will result

if the employee does not correct the behavior. Such letters must notify the employee whether it will be used when assessing a penalty for any future misconduct.

- 3. An official reprimand. This is a written warning to an employee, usually issued when prior, more informal discipline has not corrected the misconduct, or when the misconduct is considered too serious for informal remedies. A copy of the official reprimand is placed in the employee's OPF for a period not to exceed 2 years. The official reprimand may be removed from the OPF in less than 2 years if it appears to have had the desired effect up on the employee; i.e., no recurrences, improvement in situation, etc. If there are no longer supervisors in the chain of command who are familiar with the situation or the employee is reassigned to a different organization, the employee may appeal to the current first-level supervisor for removal of the official reprimand from the employee's OPF after 1 year, under the same criteria described above. The official reprimand will normally warn the employee that failure to correct the offending behavior will result in more serious action.
- B. Suspension penalties are without pay. Annual leave, sick leave, or leave without pay cannot be substitute for a period of suspension.
- C. Depending on the circumstances involved, consideration may be given to a reduction-ingrade action (demotion) or reduction in pay in lieu of removal.
- D. Proposed disciplinary actions resulting from violations of the Standards of Ethical Conduct may require consultation, in some instances, with an agency ethics official (Office of General Counsel)

#### 4-4. Alcoholism and Drug Abuse

When proposing an action based on alcohol- or drug-related misconduct, refer to HUD's Drug-Free Workplace Plan; HUD Handbook 792.2 REV-2, Employee Assistance Program (EAP), dated August 12, 1997, and research current case law for guidance.

NOTE: The case law on alcohol- and drug-related misconduct is ever changing. Therefore, it is imperative that the current case law be researched before taking an action when alcohol- or drug-related misconduct is involved.

## APPENDIX 4: SECRETARY CARSON'S POLICY STATEMENTS



#### U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THE SECRETARY

WASHINGTON, DC 20410-0001

DEC 5 2019

MEMORANDUM FOR:

All HUD Employees

FROM:

Benjamin S. Carson, Sr.

SUBJECT:

Equal Employment Opportunity Policy Statement

The U.S. Department of Housing and Urban Development (HUD) is committed to be a workplace free of all forms of discrimination. As Secretary, I am fully committed to the principles of equal employment opportunity (EEO), eliminating unlawful discrimination in the workplace, and creating an environment that fosters harmony and respect.

Our success as a Department depends on the efforts and contributions of a diverse workforce reflective of those we are charged to serve. All HUD employment decisions are based on business needs, job requirements, and individual qualifications, without regard to race, color, religion, sex (including sexual orientation, gender identity and expressions, and pregnancy), national origin, age (40 and over), disability, marital status, parental status, veteran status, genetic information, and prior protected activity.

HUD values diversity and has zero tolerance for discrimination, harassment, or retaliation. All HUD employees, whether serving the organization in a leadership, management, or staff level role, must accept full responsibility and accountability for ensuring compliance with all nondiscrimination laws and policies. Failure to do so may result in disciplinary action up to and including removal from Federal service. We are all responsible for maintaining a civil work environment free from all forms of discrimination.

Any employee, former employee, or applicant for employment who believes they were subjected to discrimination, harassment, or retaliation based upon a protected class and elects to initiate an EEO complaint must do so within 45 days of the alleged discriminatory event by contacting the Office of Departmental Equal Employment Opportunity at (202) 708-5921.

I want to thank you for your long-standing commitment and valued support on behalf of the American people. One of the three pillars of "The Prescription for HUD" to become a model employer is to protect the investment of the U.S. taxpayers by being good stewards of the resources allocated to achieve our mission. I believe that acting with integrity, performing ethically and professionally, and treating others with civility and respect allow the Department to not only meet compliance requirements in all our endeavors but also to sustain HUD as a model employer.



## U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THE SECRETARY

WASHINGTON, DC 20410-0001

DEC 5 2019

MEMORANDUM FOR: All HUD Employees

FROM: Benjamin S. Carson, Sr.

SUBJECT: Anti-Harassment

Policy Statement

The U.S. Department of Housing and Urban Development (HUD) prohibits harassing behavior (sexual and non-sexual) in the workplace. Each employee, applicant, and contractor, as well as anyone doing business with HUD, is entitled to be treated with dignity and respect and has the right to work in an environment free from harassment.

The Department has a zero-tolerance standard for harassing behavior on the bases of race, color, religion, sex (including sexual orientation, gender identity and expressions, and pregnancy), national origin, age (40 and over), disability, marital status, parental status, veteran status, genetic information, and/or reprisal. This policy also provides protection from retaliation against any employee for making a good faith report of workplace harassment under this or any other policy or procedure, and for assisting with an inquiry into such allegation of harassment. In addition, anti-discrimination laws prohibit workplace harassment against individuals in retaliation for filing an equal employment opportunity (EEO) complaint; testifying or participating in any way during an inquiry, proceeding, and/or lawsuit under these laws; or opposing employment practices they reasonably believe discriminate against individuals. All HUD employees must refrain from engaging in harassing behaviors and misconduct in the workplace. Violations of the law prohibiting discrimination and harassment or violations of this policy may result in disciplinary action, up to and including removal.

Workplace harassment is defined as any unwelcome or offensive treatment or conduct (verbal, physical, psychological, or visual) that a reasonable person would find intimidating, hostile, or abusive and that unreasonably interferes with and is detrimental to an employee's work performance, professional advancement, and mental and physical health; causes economic harm; or creates an intimidating, hostile, and offensive work environment. Prohibited harassing behavior and misconduct includes, but is not limited to, offensive jokes, slurs, epithets or name calling, undue attention, physical assaults or threats, unwelcome touching or contact, intimidation, bullying, ridicule or mockery, insults or put-downs, constant or unwelcome questions about an individual's identity, mistreatment on social media, and offensive objects or pictures.

Preventing workplace harassment is everyone's responsibility. Executives, managers, and supervisors must ensure that every reported incident of harassing behavior and misconduct is reviewed and responded to immediately and appropriately. HUD employees who experience or witness harassing behavior or misconduct are encouraged to immediately report the incident to their first-line manager/supervisor (unless their first-line manager/supervisor is the alleged perpetrator), an appropriate

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management official, or the Office of Departmental Equal Employment Opportunity (ODEEO). Once the Department is aware of the claims of harassment, management will immediately conduct a prompt, thorough, and impartial inquiry into the claim(s).

HUD, to the greatest extent possible, will take every step to protect the confidentiality of individuals alleging harassment. Immediate and appropriate corrective action will be taken if it is determined that harassment has occurred. Employees who believe they have been harassed may also, and separately, initiate an EEO complaint with the Office of Departmental Equal Employment Opportunity by telephone at (202) 708-5921 or by email at <a href="mailto:EEO@HUD.gov"><u>EEO@HUD.gov</u></a>.



#### U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THE SECRETARY WASHINGTON, DC 20410-0001

DEC 5 2019

MEMORANDUM FOR:

All HUD Employees

FROM:

Benjamin S. Carson, Sr.

SUBJECT:

Alternative Dispute Resolution Policy Statement

The U.S. Department of Housing and Urban Development (HUD) is committed to maintaining a positive work environment that promotes productivity and individual growth by striving to resolve workplace-related issues at the lowest possible level.

The Administrative Dispute Resolution Act of 1996 authorizes and encourages Federal agencies to use alternative dispute resolution (ADR) as a preferred option to traditional forms of dispute resolution. ADR provides a forum to informally resolve employment disputes before they advance to formal complaints. The ADR process is used to resolve a wide range of workplace disputes—including Equal Employment Opportunity (EEO) complaints, grievances, workplace employee conflicts, and team conflicts—in a collaborative, fair, efficient, and cost-effective manner.

HUD's leadership encourages the use of ADR, whenever appropriate, as the initial technique to resolve or prevent conflict. Additionally, when an employee requests ADR during the EEO process, HUD's leadership is required to participate in the ADR process in good faith. The ADR techniques used by HUD include mediation, which is the most frequently used; facilitation coaching; conciliation; negotiation; and settlements.

ADR can provide faster, less expensive, less contentious, and more productive results in eliminating workplace disputes. The process presents an opportunity to preserve and strengthen workplace relationships through the understanding and clarity gained during open and honest dialogue. Other benefits to ADR may include increased customer satisfaction, increased productivity, improved employee morale, and avoidance of prolonged litigation.

As Secretary, I am dedicated to sustaining a harmonious and productive work environment where all employees are treated with dignity and respect. We are all responsible for maintaining a civil workplace. Therefore, I encourage you to consider the use of ADR when conflicts arise, as it affords us the opportunity to address the conflicts and preserve or rebuild the professional relationships that are vital to the success of our Department.

If you have a question or need assistance, please contact the Office of Departmental Equal Employment Opportunity by telephone at (202) 708-5921 or by email at EEO@HUD.gov.