

U.S. Department of Housing and Urban Development

Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act Report

**Prepared by the
Office of Departmental Equal Employment Opportunity
(ODEEO)**

FY 2021 Annual Report



U.S. Department of Housing and Urban Development official seal

Pursuant to the No FEAR Act of 2002



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

MEMORANDUM FOR: All HUD Employees

FROM: Marcia L. Fudge *Marcia L. Fudge*

SUBJECT: Equal Employment Opportunity Policy Statement

At the U.S. Department of Housing and Urban Development (HUD), we are committed to equal employment opportunity (EEO), celebrating diversity, and creating an inclusive and accessible work environment that prohibits discrimination, harassment, and retaliation of any kind. It is the policy of the Department to ensure that no employee or applicant for employment is denied equal opportunity because 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, or reprisal.

The Department aspires to be a diverse workforce that is representative, at all job levels, of the public we serve, which is critical in our ability to recognize inequities and eliminate potential barriers to equal employment opportunities. All HUD employees are held accountable for compliance with all nondiscrimination laws and policies. Failure to do so could result in disciplinary action, up to and including removal from Federal service. While all HUD employees are required to have at least two hours of mandatory EEO training annually, as part of the Department's ongoing efforts to foster and maintain a civil non-discriminatory work environment, we plan to have additional EEO training opportunities available throughout the year and employees are encouraged to participate as their work schedules permit.

HUD is committed to providing a universally accessible application process and all aspects of employment, including recruitment, hiring, promotion, discipline, compensation, leave, training, and any other benefit of employment will be provided without discrimination and in compliance with all nondiscrimination laws and policies.

All employees and applicants for employment are afforded legal protections against EEO violations and have the right to raise allegations of discrimination and harassment without fear of reprisal. Any employee, former employee, or applicant for employment who believes that 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 EEO@HUD.gov or (202) 708-5921. Additionally,

HUD offers Alternative Dispute Resolution (ADR) services throughout every stage of the EEO complaint process. HUD will make every effort to address and resolve workplace disputes and EEO complaints at the earliest possible opportunity. If an employee wishes to pursue ADR to resolve an EEO complaint, management is required to participate, in good faith, to seek a mutually agreeable resolution.

Thank you for your dedication to providing solutions that support fair, safe, accessible, and stable housing for our communities and your commitment to sustaining a civil, respectful, and discrimination-free work environment.



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Introduction

Purpose of Report

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174¹ was enacted to reduce the incidence of workplace discrimination within the Federal Government by holding Federal agencies accountable for violations of Federal antidiscrimination and whistleblower protection laws.² The No FEAR Act requires a federal agency to:

- Notify employees and applicants for employment about their rights under the Federal antidiscrimination and whistleblower laws.
- Provide training to its employees, including managers, on the rights and remedies available under antidiscrimination and whistleblower laws.
- Post quarterly on its public website summary statistical data about equal employment opportunity (EEO) complaints filed with the agency.

In addition, Section 203 of the No FEAR Act requires each agency to submit to Congress, the U.S. Equal Employment Opportunity Commission (EEOC), the U.S. Department of Justice, and the U.S. Office of Personnel Management, an annual report that includes the following:³

- The number, status, and disposition of discrimination and whistleblower cases (including Federal court cases) filed against the agency.
- Judgment fund reimbursements and any agency budget adjustments to meet reimbursement requirements.
- The number and type of disciplinary actions related to discrimination, retaliation, harassment, or other prohibited personnel practices and the agency disciplinary policy.
- Year-end summary EEO complaint data.
- Analysis of trends, causation, and practical knowledge gained through experience, and any actions planned or taken to improve agency complaint or civil rights programs.

The U.S. Department of Housing and Urban Development (HUD) submits this No FEAR Act report for fiscal year (FY) 2021 (Oct. 1, 2020, through Sept. 30, 2021). HUD's No FEAR Act data for the fourth quarter of FY 2021 and for prior fiscal years can be accessed at

https://www.hud.gov/program_offices/eo/nofearactfy.

¹ *The Elijah J. Cummings Federal Employees Antidiscrimination Act, which was enacted in Jan. 2021, amends the No FEAR Act.*

² *See Pub. L. No. 107-174, 116 Stat. 566 (2002)*

³ *See Pub. L. No. 107-174, §203(a)(1); see also 5 CFR §724.302(a). Appendix A to this report sets forth the No FEAR Act statutory and regulatory reporting requirements in full.*

HUD’s Mission and Structure

HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. HUD is working to strengthen the housing market to bolster the economy and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; build inclusive and sustainable communities free from discrimination and transform the way HUD does business.

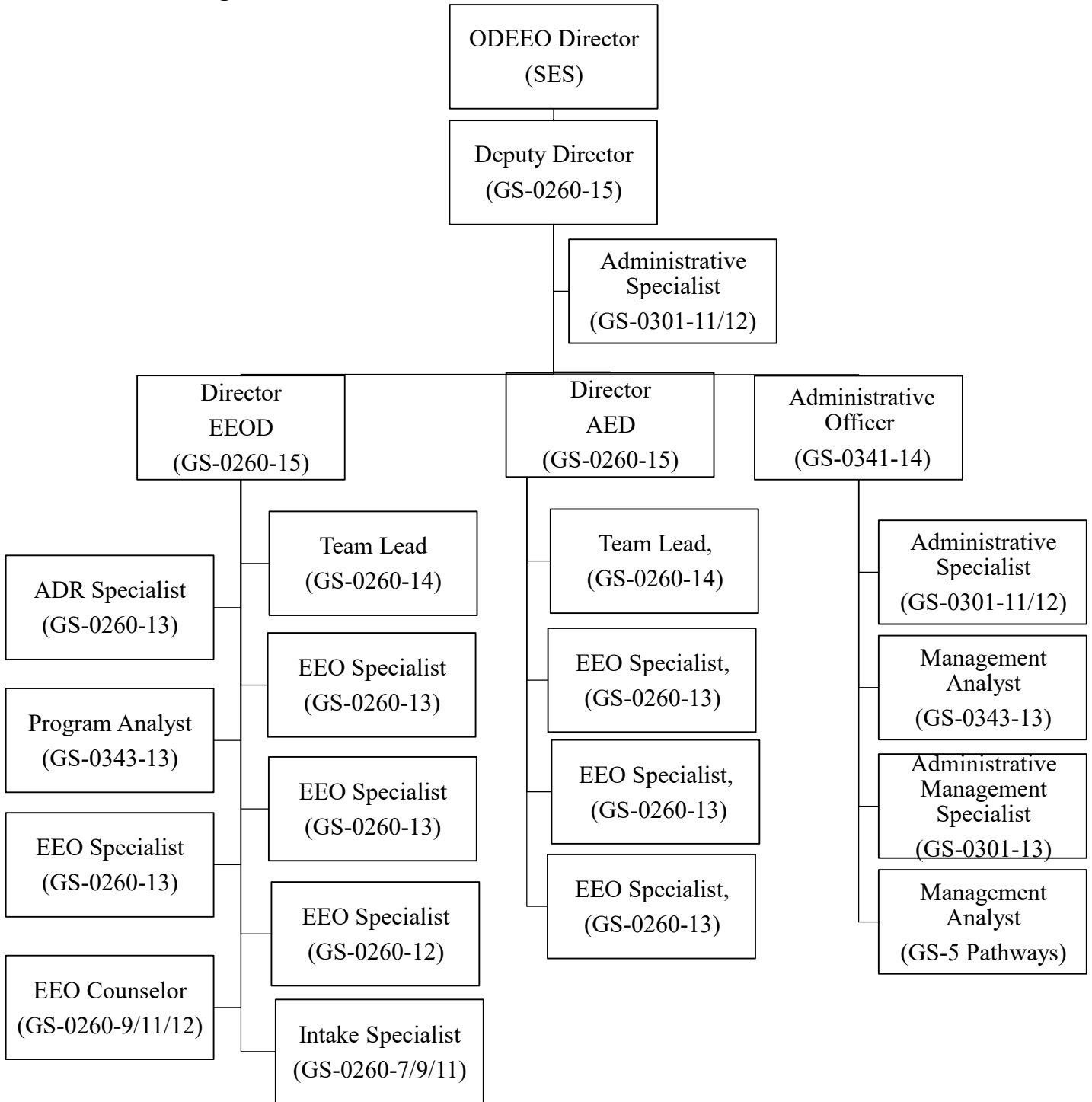
Federal District Court Cases	Judgment Fund Reimbursements	Disciplinary Actions	Findings of Discrimination	Formal Complaints
6	\$0	0	0	43

Office of Department Equal Employment Opportunity (ODEEO)

HUD’s Office of Departmental Equal Employment Opportunity (ODEEO) is responsible for ensuring the enforcement of Federal laws relating to the elimination of all forms of discrimination in the Department's employment practices and to ensure equal employment opportunity (EEO). 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. Additionally, ODEEO is responsible for leading the Department's efforts to proactively prevent unlawful discrimination. ODEEO seeks to foster an agency culture in which disputes are resolved at the lowest possible level and before a formal complaint is filed. ODEEO continues to offer training to the HUD workforce on the EEO complaint process and the responsibilities of the workforce regarding EEO. Additionally, ODEEO serves as a resource to the program office leadership by providing direction, guidance, and monitoring of key activities to ensure the successful implementation of the principles of EEO throughout the Department.

ODEEO is comprised of two (2) programmatic areas: (1) EEO enforcement; and (2) affirmative employment functions. ODEEO enforced Federal laws, regulations and directives that prohibit discrimination in the workplace and in HUD’s programs and activities. ODEEO’s vision is to be a premier civil rights program that inspires a culture of equal opportunity and equality within HUD. Its goal is to ensure an inclusive workplace free from unlawful discrimination through active engagement, training, and compliance with civil rights laws, regulations, and other guiding sources. Information can be accessed at https://www.hud.gov/program_offices/eo.

Chart 1. ODEEO Organizational Chart



Cases in Federal District Court

In FY 2021, HUD had five (5) antidiscrimination and whistleblower protection cases filed in Federal District Court with seven (7) pending from the previous year. Three (3) of the antidiscrimination cases closed in FY 2021 and nine (9) are still pending an outcome. Of the three (3) cases that closed, two (2) cases settled, none were dismissed and one (1) ended with a decision in HUD’s favor.

Judgment Fund Reimbursement

The Judgment Fund pays court judgments, awards, and settlements of lawsuits against the Federal Government.⁴ The No FEAR Act required Federal Agencies to reimburse the Judgment Fund for payments made on their behalf to employees, former employees, or applicants for employment due to claims alleging violations of Federal antidiscrimination laws, Federal whistleblower protection laws, or reprisal for legally protected activity related to those laws.⁵

HUD made \$0.00 reimbursements to the Judgment Fund in FY 2021. Between FY 2017 to 2021 HUD reimburse the Judgment Fund \$960,000 (see Table 1).

Table 1. Reimbursements to the Judgment Fund for FYs 2017-2021

Reimbursements to the Judgement Fund	2017	2018	2019	2020	2021
Amount	\$900,000	\$0.00	\$60,000	\$0.00	\$0.00

Disciplinary Actions

A review of FY 2021 disciplinary records shows no HUD employees were disciplined for improper or illegal discrimination, retaliation, harassment, or other infraction prohibited by the No FEAR Act. HUD’s policy directing disciplinary action against Federal employees for prohibited personnel practices and conduct inconsistent with the Federal antidiscrimination and whistleblower protection laws is available at 752.2 REV-3, Adverse Actions.

FY 2021 EEO Complaint Data

See Appendix C to this report for HUD's FY 2021 year-end data along with comparative data for FYs 2016 to 2021.⁶

⁴ See 31 U.S.C. §1304.

⁵ See 31 U.S.C. § 201.

⁶ Appendix C includes FY 2017 data, consistent with the EEOC's No FEAR data reporting requirements.

Analysis of Trends and Causality

Using data from HUD’s information management systems for EEO complaint processing, this section highlights trends in the EEO complaints file with HUD⁷. As table 2 shows, Complainants filed 43 formal EEO complaints in FY 2021. That is 20.37 percent less than the 54 complaints filed in FY 2020. Overall, complaints filed have decreased; formal complaints filed in FY 2021 were 40.11 percent below the five-year average of 71.8.

HUD’s complaint activity has decreased despite a 5.28 percent expansion of its workforce in just one year. As of September 30, 2021, HUD had a workforce of 7,997. On the same date in 2020, HUD had a workforce of 7,575. Although the size of HUD’s workforce peaked in 2021, the rate of complaints filed per 100 employees, 0.54 percent was still below the five-year average rate of 0.94 percent.

Table 2. Formal complaints filed and HUD workforce between FY 2017 and FY 2021

Formal Complaint Activity	2017	2018	2019	2020	2021
Complaints Filed	83	93	86	54	43
Number of Complainants	81	90	82	54	41
Repeat Filers	2	3	4	0	2
HUD Total Workforce	7,837	7,478	7,447	7,575	7,997
Complaints Filed per 100 Employees	1.06%	1.24%	1.15%	0.71%	0.54%

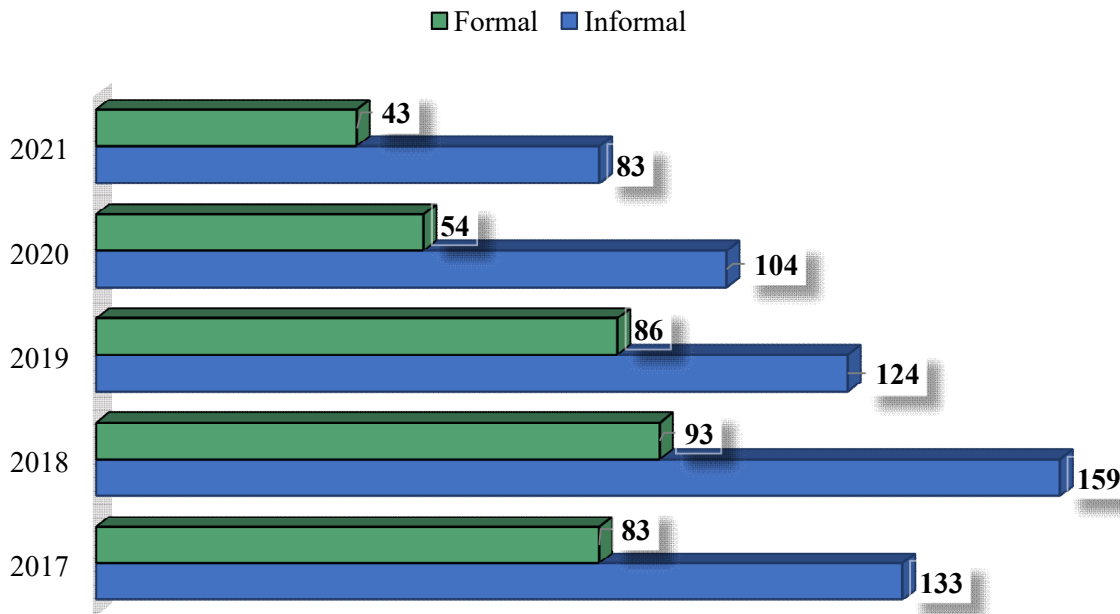
Note: This table does not include complaints carried over from the previous years.

Pre-Complaint Data

Pre-complaints (also referred to as informal complaints) are not reported in the No FEAR Act quarterly data reports but are included here to present an overall downward trend in EEO complaint activity at HUD. In FY 2021, HUD had 83 pre-complaints, 20.19 percent fewer than the previous year and is down 33.06 percent since FY 2020.

⁷ The data is current as of Oct. 15, 2020, and includes complaints filed between Oct. 1 and Sept. 30 of each year.

Figure 1. Pre-complaints and formal complaints filed FY 2017 thru FY 2021



The decrease in formal complaints between FY 2018 and 2021 is due to the trending pre-complaint filing decrease. In FY 2019, the resolution rate was 29.57 percent (34 out of 115). The resolution rate increased to 48 percent (37 out of 77) in FY 2021. As a result, fewer pre-complete filers elected to participate in the formal complaint process.⁸

Table 3. Pre-Complaints closed and resolved in FY 2017 thru 2021

Pre-complaint Activity	2017	2018	2019	2020	2021
Closed	144	166	115	104	77
Resolved	59	75	34	27	37
Resolution Rate	40.97%	45.18%	29.57%	25.96%	48.05%

⁸ Resolved pre-complaints were withdrawn, settled by agreement, or not pursued as formal complaints.

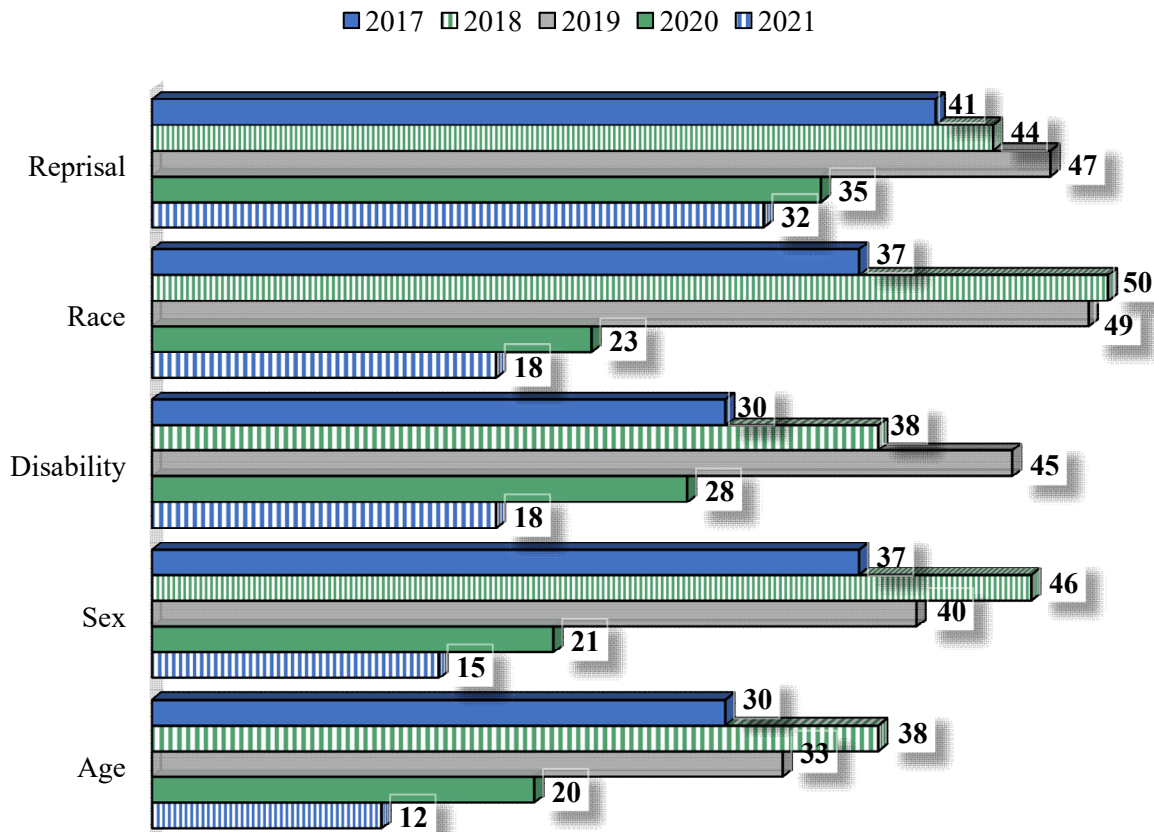
Bases of Discrimination in Formal Complaints

In FY 2021, the most alleged bases of discrimination were reprisal (32), race (18), disability (18), sex (15), and age (12).⁹ Complainants alleging discrimination based on reprisal decreased by 32.56 percent between FYs 2020 (43) and 2021 (29). Complainants alleging discrimination based on disability decreased by 55.81 percent between FYs 2020 (43) and 2021 (19).

Table 4. Top Five bases alleged FY 2017 thru 2021

Bases	2017	2018	2019	2020	2021
Reprisal	41	44	47	35	32
Race	37	50	49	23	18
Disability	30	38	45	28	18
Sex	37	46	40	21	15
Age	30	38	33	20	12

Figure 2. Top bases 2017 thru 2021



⁹ Complainants may allege multiple bases of discrimination.

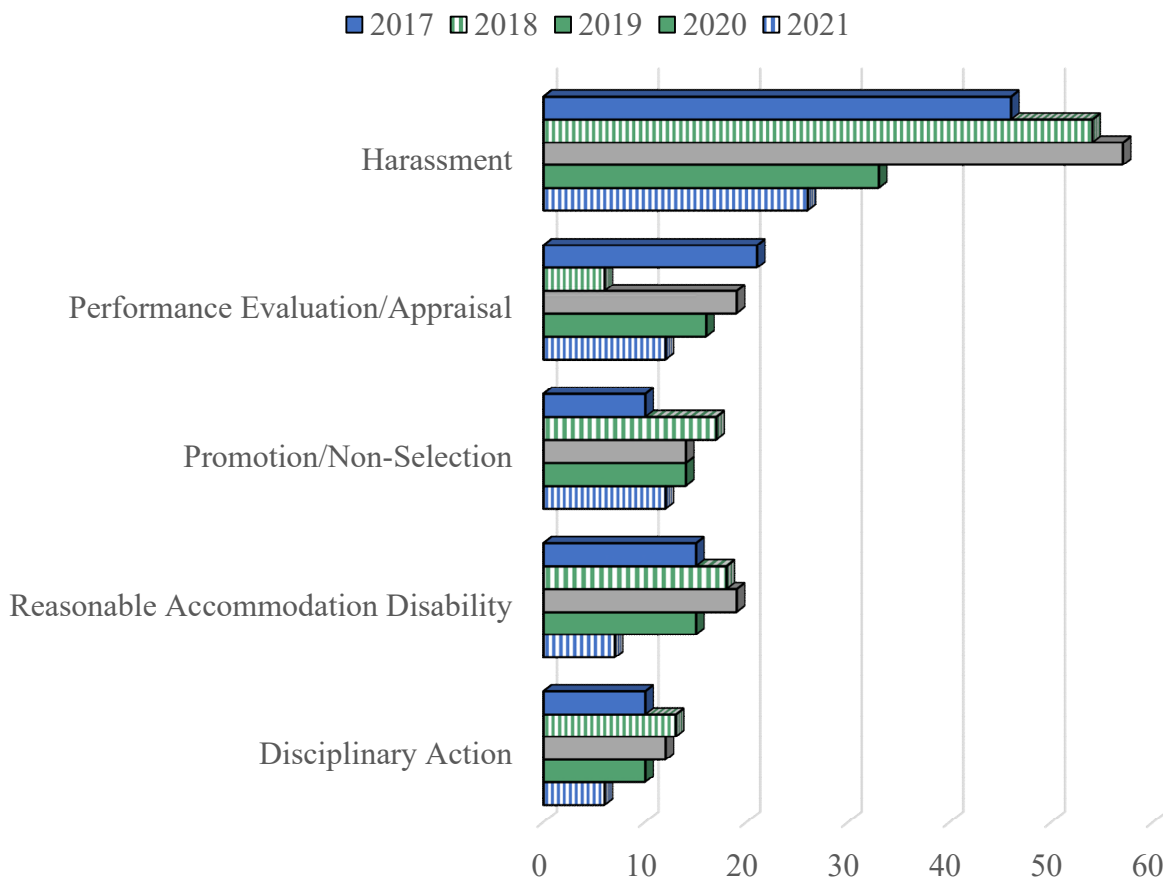
Issues in Formal Complaints

In FY 2021, harassment (26) was the most alleged issue, followed by promotion/non-selection (12), performance evaluation/appraisal (12), reasonable accommodation based on disability (7) and disciplinary action (6).¹⁰ By comparison, FY 2020’s more common issue was harassment (33), followed by performance evaluation/appraisal (16) and reasonable accommodation based on disability (15).

Table 5 Top issues alleged in formal complaints filed in FY 217 thru 2021

	2017	2018	2019	2020	2021
Harassment	46	54	57	33	26
Performance Evaluation/Appraisal	21	6	19	16	12
Promotion/Non-Selection	10	17	14	14	12
Reasonable Accommodation Disability	15	18	19	15	7
Disciplinary Action	10	13	12	10	6

Figure 3. Top issued alleged in FY 2017 thru 2021



¹⁰ Complainants may allege multiple issues of discrimination

The top bases and issues in HUD’s formal complaint filings in FY 2021 were consistent with the current Government-wide data reported by the EEOC.¹¹ The EEOC reported that in FY20, reprisal was the most frequently alleged basis followed by disability, sex, race, and age. The EEOC also reported the most frequently alleged issue was harassment followed by disciplinary action, terms and conditions of employment, promotion/non-selection, and reasonable accommodation.

Findings of Discrimination

Table 6. Findings of discrimination from FY 2017 thru 2021

	2017	2018	2019	2020	2021
Findings	0	2	2	1	0
Bases	-	Race	Race Reprisal Sex	Reprisal	-
Issues	-	Promotion/Non-Selection	Assignment of Duties Sexual Harassment Promotion/Non-Selection Terms & Conditions of Employment	Harassment	-

Practical Knowledge Gained through Experience

In analyzing HUD’s EEO Complaint trends and related information, ODEEO concluded the following:

- Additional procedures and training regarding retaliation by management may reduce the number of claims citing reprisal. Of the 43 formal complaints filed in FY 2021, (32) included allegations of reprisal. In FY 2016, FY 2020, and FY 2021, reprisal was the most alleged bases of discrimination.
- Additional procedures and training involving harassment issues in the workforce may help reduce the number of claims citing harassment. Of the 43 formal complaints filed in FY 2021, (26) (60.47%) included allegations of harassment.
- Mediation is HUD’s primary alternative dispute resolution (ADR) method. Used effectively, ADR can result in a win-win solution for all parties involved in an EEO dispute. In FY 2021, 24 percent of complainants elected to participate in ADR. ODEEO is working to increase participation in the ADR program.

¹¹ See EEOC FY 2020 Annual Report on the Federal Workforce, Table B-8, at <https://www.eeoc.gov/federal-sector/reports>.

- Since March 2020, HUD has noticed a steady decrease in the number of EEO complaints filed. This decrease in complaint activity may be attributed to the majority (93%) of HUD employees teleworking full time in FY 2021.
- EEOD is strengthening and coordinating its complaint process to accurately identify and process allegations in accordance with the EEO laws and regulations.

Program Improvements in FY 2021

Infrastructure

In FY 2021, ODEEO experienced several staffing changes and challenges. In early FY 2021, ODEEO completed the hiring of the EEOD Director and three (3) EEO Specialists. However, three (3) staff members also departed EEOD, continuing the shortage of resources. The EEOD Director is working to fill existing vacancies, so that in FY 2022, there should be a full complement of staff to continue the work of the office.

ODEEO entered FY 2021 without an electronic complaint tracking system. EEOD used SharePoint and excel spreadsheets to track and monitor all critical events for complaints and to generate reports. In September 2021, ODEEO procured a contract to obtain iComplaints, an electronic complaint tracking system. Since obtaining iComplaints, EEOD has updated the last two years of complaint data.

Complaint Processing

In FY 2021, EEOD improved its service to HUD stakeholders on many fronts. Specifically, EEOD continued implementing the use of EEO service contractors to assist with processing complaints. Additionally, EEO Case Managers were offered training opportunities throughout FY 2021, which included overview of the EEO complaint process, Report of Investigation Sufficiency Review training, and EEO Counselor's Refresher training offered by the EEOC.

Services and Proactive Engagement

In FY 2021, ODEEO kept employees engaged and informed about EEO and diversity by maintaining a regular training cadence. ODEEO continued its practice of providing training at New Employee Orientation sessions for new HUD employees. These sessions include information regarding the EEO complaints process, contact information, and timeframes. Additionally, ODEEO conducted quarterly briefings with program offices to discuss trends in the workplace, status of cases, identified triggers, provided recommendations, and created a forum to promote cultural awareness that allowed offices to communicate concerns directly with ODEEO.

Improvement Plan for FY 2022 and 2023

Infrastructure

To assist in strategically preparing for staffing needs in the future, ODEEO built a staffing model. ODEEO evaluated and itemized current staffing levels, historic and anticipated workloads, and contextual challenges and opportunities to accurately assess staffing needs going forward. This staffing model ensures ODEEO will have the proper resourcing in future years.

Complaint Processing

EEOD is refining its complaint processing and continuing its ongoing commitments to ensuring data accountability and transparency in tracking. The office is also encouraging supervisors and managers to cooperate with EEO officials and investigators throughout the complaint process (e.g., to respond to requests for information and documents in a timely and accurate manner, to participate in mediation at any stage of the complaint process, and to participate in training, especially Title VII, and EEO training).

Services and Proactive Engagement

ODEEO is publishing a monthly newsletter, “ODEEO Insider,” which is targeted to internal and external readers. The newsletter will provide an important forum through which the office educates HUD workforce and key stakeholders on significant EEO cases, general EEO complaint process information, best practices, EEO awards, and special observances.

ODEEO is creating an award program. The award recognizes employees and senior leaders who demonstrate a commitment to equal opportunity and support activities, which promotes a model EEO program. The awardee will be presented with an ODEEO coin to recognize excellent EEO contributions.

ODEEO will deploy a promotional campaign to increase awareness of the ADR program. The ADR Program Manager will collaborate with other office across HUD to market ADR. The awareness campaign will consist of informational materials (brochures), video testimonial, and whiteboard presentations and recordings to encourage participation in ADR for individuals involved in EEO and non-EEO-related conflicts.

No FEAR Act Training FY 2021

In accordance with 5 Code of Federal Regulations (C.F.R.) §724.203, all HUD employees, including managers and supervisors, are required to complete No FEAR Act training biennially, with the last cycle completed in September 2021. New employees are required to complete No FEAR Act training within 90 calendar days of the appointment. This training is available via the HUD Learning Portal. The Portal is HUD’s primary electronic platform to capture training data. During FY 2021 HUD continued placing a strong emphasis on No FEAR Act

compliance by offering training on the topic to its entire workforce, yielding 96.52 percent completion rate.

Conclusion

The information in this report highlights HUD's EEO program's successes, various challenges during FY 2021, and strategic plans for this FY and FY 2021. Despite the challenges presented because of the COVID-19 pandemic, implementing new technology, and staffing shortages, ODEEO continued instituting new initiatives, programs, and engaging the workforce to develop and strengthen HUD's EEO program. This report also illustrates ODEEO's commitment to continue its mission of promoting diversity and inclusion, fostering a workplace culture that respects differences, and empowers the full and fair participation of all employees in all aspects of HUD's work life.

APPENDIX A- Legislative & Regulatory Requirements

Section 203 (a) of the No FEAR Act (Pub. Law 107-174) provides, in pertinent part:

(a) Annual Report. — Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Chair, Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year.

(1) 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;

(2) the status or disposition of cases described in paragraph (1);

(3) the amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any;

(4) the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1);

(5) the final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2));

(6) a detailed description of —

(A) the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who — (i) discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2); or (ii) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2); and

- (B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;
- (7) an analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with Part 1614 of Title 29 of the Code of Federal Regulations) including—
 - (A) an examination of trends;
 - (B) causal analysis;
 - (C) practical knowledge gained through experience;
 - (D) any actions planned or taken to improve complaint or civil rights programs of the agency; and
- (8) any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

Subpart C of 5 CFR Part 724 (5 CFR §724.302):

- (a) Except as provided in paragraph (b) of this section, each agency must report no later than 180 calendar days after the end of each fiscal year the following items:
 - (1) The number of cases in Federal court pending or resolved in each fiscal year and arising under each of the respective provisions of the Federal Antidiscrimination Laws and Whistleblower Protection Laws applicable to them as defined in §724.102 of subpart A of this part 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;
 - (2) In the aggregate, for the cases identified in paragraph (a)(1) of this section and separated by provision(s) of law involved:
 - (i) The status or disposition (including settlement);
 - (ii) The amount of money required to be reimbursed to the Judgment Fund by the agency for payments as defined in §724.102 of subpart A of this part;

(iii) The amount of reimbursement to the Fund for attorney's fees where such fees have been separately designated;

(3) In connection with cases identified in paragraph (a)(1) of this section, the total number of employees in each fiscal year disciplined as defined in §724.102 of subpart A of this part and the specific nature, e.g., reprimand, etc., of the disciplinary actions taken, separated by the provision(s) of law involved;

(4) The final year-end data about discrimination complaints for each fiscal year that was posted in accordance with Equal Employment Opportunity Regulations at subpart G of title 29 of the Code of Federal Regulations (implementing section 301(c)(1)(B) of the No FEAR Act);

(5) Whether or not in connection with cases in Federal court, the number of employees in each fiscal year disciplined as defined in §724.102 of subpart A of this part in accordance with any agency policy described in paragraph (a)(6) of this section. The specific nature, e.g., reprimand, etc., of the disciplinary actions taken must be identified.

(6) A detailed description of the agency's policy for taking disciplinary action against Federal employees for conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice revealed in connection with agency investigations of alleged violations of these laws;

(7) An analysis of the information provided in paragraphs (a)(1) through (6) of this section in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with 29 CFR part 1614 subpart F of the Code of Federal Regulations. Such analysis must include:

(i) An examination of trends;

(ii) Causal analysis;

(iii) Practical knowledge gained through experience; and

(iv) Any actions planned or taken to improve complaint or civil rights programs of the agency with the goal of eliminating discrimination and retaliation in the workplace.

(8) For each fiscal year, any adjustment needed or made to the budget of the agency to comply with its Judgment Fund reimbursement obligation(s) incurred under §724.103 of subpart A of this part; and

(9) The agency's written plan developed under §724.203(a) of subpart B of this part to train its employees.

(b) The first report also must provide information for the data elements in paragraph (a) of this section for each of the five fiscal years preceding the fiscal year on which the first report is based to the extent that such data is available. Under the provisions of the No FEAR Act, the first report was due March 30, 2005, without regard to the status of the regulations. Thereafter, under the provisions of the No FEAR Act, agency reports are due annually on March 30th. Agencies that have submitted their reports before these regulations became final must ensure that they contain data elements 1 through 8 of paragraph (a) of this section and provide any necessary supplemental reports by April 25, 2007. Future reports must include data elements 1 through 9 of paragraph (a) of this section.

(c) Agencies must provide copies of each report to the following:

- (1) Speaker of the U.S. House of Representatives, the Honorable Nancy Pelosi
- (2) President Pro Tempore of the U.S. Senate, the Honorable Patrick Leahy
- (3) Committee on Governmental Affairs, U.S. Senate, the Honorable Gray Peter
- (4) Committee on Government Reform, U.S. House of Representatives, the Honorable, Carolyn Maloney
- (5) Each Committee of Congress with jurisdiction relating to the agency, the Honorable Sherrod Brown
- (6) Chair, Equal Employment Opportunity Commission, the Honorable Charlotte A. Burrows
- (7) Attorney General, the Honorable Merrick Garland; and
- (8) Director, U.S. Office of Personnel Management, Ms. Kiran Ahuja

APPENDIX B – Elijah Cummings Federal Employee Antidiscrimination Act

As part of the National Defense Authorization Act of 2021, Congress enacted the Elijah E. Cummings Federal Employee Antidiscrimination Act (FEAA). Designed to promote greater accountability in federal agencies' decision-making processes with respect to imposing discipline on employees found to have engaged in discrimination, the law amends the No FEAR Act to include several new sections. The new sections to the No Fear Act are as follows:

- Section 202(d) requires agencies to post a notice on its public website, no later than 90 days after any agency appeals have been exhausted, regarding each finding of discrimination at the agency. The notice must identify the date of the finding, the date of the discriminatory act, and each law that was violated, and advise employees of their rights and protections under antidiscrimination laws.
- Section 203(c) requires agencies to report to the EEOC, within 120 days of the agency's final action or Commission decision finding discrimination, whether disciplinary action had been proposed against an employee found to have engaged in discrimination and explain their rationale for taking such action. If the EEOC disagrees with an agency's decision not to impose discipline, pursuant to section 404, the EEOC can refer the matter to the Office of Special Counsel with a recommendation that they pursue disciplinary action against an employee.
- Section 207 provides agencies must have a complaint tracking system in place that can record whether disciplinary action was taken in a given case.
- Section 208 mandates that agencies place a notation in the official personnel record of any employee who receives an adverse action for engaging in conduct that violates an antidiscrimination law. The notation, which identifies the adverse action and explains the reason for the action, is placed in the employee's personnel file only after all appeals related to the adverse action are exhausted.
- Sections 401 and 403 codify the requirement that EEO directors report directly to the agency head, without being subject to control by the agency's Human Capital Officer or General Counsel. Previously, these requirements existed only in EEOC Management Directives 110 and 715 and other EEOC guidance.

The Act also amends existing provisions to require agencies to include, as part of their No FEAR Act data postings, additional information about findings of discrimination, including whether decisions regarding disciplinary action have been made, and information about pending class complaints. Finally, the Act requires agencies to ensure that their settlement agreements do not include nondisclosure provisions that would prevent employees from making disclosures to Congress, the IG, the Office of Special Counsel, or other internal investigative mechanisms related to violation of law or rules.

Appendix C - HUD FY 2021 No FEAR Act Data

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					
	2016	2017	2018	2019	2020	2021
Complaints Filed	55	83	93	86	54	43
Number of Complainants	55	81	90	82	54	41
Repeat Filers	0	2	3	4	0	2

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					
<i>Note: Complaints can be filed alleging multiple bases.</i>	2016	2017	2018	2019	2020	2021
Race	27	37	50	49	23	18
Color	13	27	28	19	14	12
Religion	2	4	10	8	3	1
Reprisal	30	41	44	47	35	32
Sex	24	37	46	40	21	15
PDA	0	0	0	0	0	0
National Origin	5	23	17	16	6	2
Equal Pay Act	2	7	5	5	3	0
Age	20	30	31	33	20	12
Disability	23	30	38	45	28	18
Genetics	1	1	0	2	2	0
Non-EEO	0	0	0	0	0	0

Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					
<i>Note: Complaints can be filed alleging multiple bases.</i>	2016	2017	2018	2019	2020	2021
Appointment/Hire	0	6	3	6	3	1
Assignment of Duties	7	6	3	9	6	3
Awards	0	2	1	3	1	2
Conversion to Full Time/Perm Status	0	0	0	0	0	0
Disciplinary Action						
• Demotion	1	0	0	0	0	1
• Reprimand	3	2	3	3	5	3
• Suspension	0	3	3	2	2	1
• Removal	1	4	2	2	1	1
• Other	0	1	5	5	2	0
Duty Hours	0	1	0	1	1	1
Perf. Eval./ Appraisal	9	21	6	19	16	12
Examination/Test	0	0	0	0	0	0
Harassment						
• Non-Sexual	24	45	51	56	33	26
• Sexual	2	1	3	1	0	0
Medical Examination	0	0	0	0	0	0
Pay including overtime	1	0	1	5	1	1
Promotion/Non-Selection	19	10	17	14	14	12
Reassignment						
• Denied	0	2	4	0	0	0
• Directed	0	0	2	7	3	1
Reasonable Accommodation Disability	10	15	18	19	15	7
Reinstatement	1	0	0	0	0	0
Religious Accommodation	0	0	1	1	0	0
Retirement	0	0	2	0	0	0
Sex-Stereotyping	0	0	1	1	0	0
Telework	0	9	4	13	5	0
Termination	3	2	5	2	1	2
Terms/Conditions of Employment	15	10	14	15	4	5
Time and Attendance	5	7	7	15	9	2
Training	2	0	4	9	6	3

Processing Time	Comparative Data					
	Previous Fiscal Year Data					
	2016	2017	2018	2019	2020	2021
Complaints pending during fiscal year						
Average number of days in investigation	386.62	418.9	278.2	299.6	234.8	266.24
Average number of days in final action	113.6	180.3	47.11	30.96	40.38	41.23
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	378.86	323.4	286	322.9	239.6	283.46
Average number of days in final action	93.12	137.3	48.92	18.56	30.17	25.48
Complaint pending during fiscal year where hearing was not requested						
Average number of days in investigation	401.32	518.7	210.3	254	231.2	236
Average number of days in final action	157.12	163.1	46.56	77.22	60.76	0

Complaints Dismissed by Agency	Comparative Data					
	Previous Fiscal Year Data					
	2016	2017	2018	2019	2020	2021
Total Complaints Dismissed by Agency	5	13	18	8	14	6
Average days pending prior to dismissal	165.6	328.5	261.8	40.13	576.1	201.5
Complaints Withdrawn by Complainants						
Total Complaints Withdrawn by Complainants	8	6	5	9	5	10

Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data											
	2016		2017		2018		2019		2020		2021	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	3		0		1		2		1		0	
Without Hearing	0	0	0	0	0	0	0	0	0	0	0	0
With Hearing	3	100	0	0	1	50	2	100	1	100	0	0

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data											
	2016		2017		2018		2019		2020		2021	
<i>Note: Complaints can be filed alleging multiple bases.</i>	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	3		0		1		2		1		0	
Race	1	33	0	0	1	100	1	50	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	1	33	0	0	0	0	2	100	1	100	0	0
Sex	0	0	0	0	0	0	1	50	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	2	67	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
Findings After Hearing	3	-	0	-	1	-	2	-	1	-	0	-
Race	1	33	0	0	1	100	1	50	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	1	33	0	0	0	0	2	100	1	100	0	0
Sex	0	0	0	0	0	0	1	50	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	2	67	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
Findings Without Hearing	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

Findings of Discrimination Rendered by Issue	Comparative Data											
	Previous Fiscal Year Data											
	2016		2017		2018		2019		2020		2021	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0	-	0	-	1	-	2	-	1	-	0	-
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	1	50	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	1	100	0	0
Sexual	0	0	0	0	0	0	1	50	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	1	100	2	100	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	1	50	0	0	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	0	-	0	-	1	-	2	-	1	-	0	-
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	1	50	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	1	100	0	0
Sexual	0	0	0	0	0	0	1	50	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	1	100	2	100	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	1	50	0	0	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 Without Hearing												
Appointment/Hire	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	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

Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data					
	Previous Fiscal Year Data					
	2016	2017	2018	2019	2020	2021
Total complaints from previous Fiscal Years	146	98	102	99	76	66
Total Complainants	138	96	100	95	73	60
Number complaints pending						
Investigation	20	2	2	1	7	8
ROI issued, pending Complainant's action	1	6	0	1	0	0
Hearing	97	84	98	87	65	40
Final Agency Action	24	4	3	9	5	4
Appeal with EEOC Office of Federal Operations	122	152	164	170	176	181

Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					
	2016	2017	2018	2019	2020	2021
Pending Complaints Where Investigations Exceed Required Time Frames	27	7	1	0	18	19

Appendix D - All EEO Categories

Bases for Discrimination:

Age	Pregnancy Discrimination Act
Color	Race
Disability	Religion
Equal Pay Act	Reprisal
Genetic Information	Sex
National Origin	

Issues for Discrimination:

Appointment/Hire	Promotion/Non-Selection
Assignment of Duties	Reassignment: Denied
Awards	Reassignment: Directed
Conversion to Full Time/Perm Status	Reasonable Accommodation Disability
Disciplinary Action: Demotion	Reinstatement
Disciplinary Action: Reprimand	Religious Accommodation
Disciplinary Action: Suspension	Retirement
Disciplinary Action: Removal	Sex-Stereotyping
Disciplinary Action: Disciplinary Warning	Telework
Duty Hours	Termination
Perf. Eval./Appraisal	Terms/Conditions of Employment
Examination/Test	Time & Attendance
Harassment Non-Sexual	Training
Harassment Sexual	Promotion/Non-Selection
Medical Examination	Reassignment: Denied
Pay Including Overtime	

Appendix E - Alternative Dispute Resolution Policy Statement



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

MEMORANDUM FOR: All HUD Employees
FROM: Marcia L. Fudge *Marcia L. Fudge*
SUBJECT: Alternative Dispute Resolution Policy Statement

The U.S. Department of Housing and Urban Development (HUD) is committed to maintaining a professional work environment by establishing and implementing policies that ensure every employee feels recognized, valued, and empowered. Our goal to create a model work environment requires that we make every effort to prevent or minimize workplace conflicts and disputes at the earliest possible stage.

The Administrative Dispute Resolution Act of 1996 provides HUD with the authority to use alternative dispute resolution (ADR) methods as an option for conflict resolution. The ADR process is used to resolve a wide range of workplace disputes in a collaborative, fair, efficient, and cost-effective manner. ADR should be used, to the maximum extent possible, to resolve Equal Employment Opportunity (EEO) complaints (informal or formal stage), grievances, workplace disputes, and employee and/or team conflicts.

While mediation is HUD's most frequently used ADR technique, the Department also offers facilitation, coaching, conciliation, negotiation, and settlement conferences as additional dispute resolution methods. HUD's ADR process provides an opportunity to preserve and strengthen workplace relationships through the understanding and clarity that can be achieved during open and honest dialogue facilitated by a third-party neutral. ADR's win-win approach allows the participants to see conflict resolution as an opportunity to reach a mutually beneficial outcome. Some additional benefits to ADR may include increased productivity, improved employee morale, a less contentious work environment, and the avoidance of prolonged legal proceedings.

When the Office of Departmental Equal Employment Opportunity (ODEEO) determines that an issue, dispute, or conflict is appropriate for the ADR process, I expect HUD's leadership to use ADR as a means to prevent or resolve workplace conflict, and to participate in good faith. If ODEEO determines that the ADR process is appropriate, leadership must provide a written explanation if they choose not to participate. ODEEO will provide that statement to the Office of the Deputy Secretary for review and approval.

Maintaining a civil and productive work environment is the responsibility of all HUD employees. Addressing conflicts to preserve professional relationships is key to achieving HUD's mission to create strong, sustainable, inclusive communities and quality affordable homes for all.

If you have a question or need assistance, please contact ODEEO at (202) 708-5921 or by email at EEO@HUD.gov.